

# UNITED STATES INTERNATIONAL TRADE COMMISSION

---

In the Matter of: )  
 ) Investigation Nos.:  
CERTAIN LINED PAPER SCHOOL ) 701-TA-442-443  
SUPPLIES FROM CHINA, INDIA, ) 731-TA-1095-1097 (Review)  
AND INDONESIA )

Pages: 1 through 291

Place: Washington, D.C.

Date: June 12, 2012

---

## HERITAGE REPORTING CORPORATION

*Official Reporters*

1220 L Street, N.W., Suite 600

Washington, D.C. 20005

(202) 628-4888

contracts@hrccourtreporters.com

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: )  
 ) Investigation Nos.:  
 CERTAIN LINED PAPER SCHOOL ) 701-TA-442-443  
 SUPPLIES FROM CHINA, INDIA, ) 731-TA-1095-1097 (Review)  
 AND INDONESIA )

Tuesday,  
June 12, 2012

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

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, CHAIRMAN  
IRVING A. WILLIAMSON, VICE CHAIRMAN  
DANIEL R. PEARSON, COMMISSIONER  
SHARA L. ARANOFF, COMMISSIONER  
DEAN A. PINKERT, COMMISSIONER  
DAVID S. JOHANSON, COMMISSIONER

APPEARANCES: (Cont'd.)

Staff:

BILL BISHOP, HEARINGS AND MEETINGS COORDINATOR  
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT  
AMY SHERMAN, INVESTIGATOR  
AL GOETZL, INTERNATIONAL TRADE ANALYST  
AIMEE LARSEN, ECONOMIST  
MARY KLIR, ACCOUNTANT/AUDITOR  
MARC BERNSTEIN, ATTORNEY  
ELIZABETH HAINES, SUPERVISORY INVESTIGATOR

In Support of the Continuation of the Antidumping and  
Countervailing Duty Orders:

On behalf of The Association of American School Paper  
Suppliers (AASPS):

NEIL A. MCLACHLAN, Executive Vice President, Mead  
Products LLC  
JAMES MITCHELL, Senior Vice President, Mead  
Products LLC  
HAL A. RAHN, President, Norcom, Inc.  
GEORGE Y. ROBINSON, Vice President of Sales, Top  
Flight, Inc.  
LEEANN FOSTER, Assistant to the International  
President, United Steelworkers  
DR. SETH T. KAPLAN, Senior Economic Advisor,  
Capital Trade, Inc.

ALAN H. PRICE, Esquire  
TIMOTHY C. BRIGHTBILL, Esquire  
MAUREEN R. THORSON, Esquire  
Wiley Rein LLP  
Washington, D.C.

APPEARANCES: (Cont'd.)

In Opposition to the Continuation of the Antidumping and  
Countervailing Duty Orders:

On behalf of Pt. Pabrik Kertas Tjiwi Kimia, Tbk. (Tjiwi  
Kimia):

MARTINUS ALFIAN, Business Unit Head, Sales and  
Marketing Stationery Export, Tjiwi Kimia  
DR. BRIAN KELLY, Economist, Brian Kelly  
Incorporated  
ARVIND GUPTA, Director, Tjiwi Kimia  
FERRY HARIJADI, Business Unit Manager, Office  
Products Converting Division, Tjiwi Kimia  
TOM LAWLOR, Director of Sales and Marketing,  
Charta Global

MICHAEL T. SHOR, Esquire  
MATTHEW ROESSING, Esquire  
Arnold & Porter LLP  
Washington, D.C.

On behalf of FFI International; Lodha Offset Limited;  
Marisa International; Navneet Publications (India)  
Ltd.; Pioneer Stationery Pvt. Ptd.; Riddhi Enterprises;  
Sab International and SGM Paper Products (Indian  
Producers):

DILIP SAMPAT, President, Navneet Publications  
(India) Ltd.  
BRUCE MALASHEVICH, President, Economic Consulting  
Services, LLC  
LAUREN VISEK, Staff Economist, Economic Consulting  
Services, LLC

MARK D. DAVIS, Esquire  
Davis & Leiman P.C.  
Washington, D.C.

I N D E X

	PAGE
OPENING STATEMENT OF ALAN H. PRICE, ESQUIRE, WILEY REIN LLP	7
OPENING STATEMENT OF MARK D. DAVIS, ESQUIRE DAVIS & LEIMAN P.C.	11
OPENING STATEMENT OF MICHAEL T. SHOR, ESQUIRE, ARNOLD & PORTER LLP	13
TESTIMONY OF ALAN H. PRICE, ESQUIRE, WILEY REIN LLP	16
TESTIMONY OF HAL A. RAHN, PRESIDENT, NORCOM, INC.	23
TESTIMONY OF NEIL A. MCLACHLAN, EXECUTIVE VICE PRESIDENT, MEAD PRODUCTS LLC	30
TESTIMONY OF GEORGE Y. ROBINSON, VICE PRESIDENT OF SALES, TOP FLIGHT, INC.	38
TESTIMONY OF LEEANN FOSTER, ASSISTANT TO THE INTERNATIONAL PRESIDENT, UNITED STEELWORKERS	44
TESTIMONY OF TIMOTHY C. BRIGHTBILL, ESQUIRE, WILEY REIN LLP	49
TESTIMONY OF DR. SETH T. KAPLAN, SENIOR ECONOMIC ADVISOR, CAPITAL TRADE, INC.	51
TESTIMONY OF MARTINUS ALFIAN, BUSINESS UNIT HEAD, SALES AND MARKETING STATIONERY EXPORT, TJIWI KIMIA	180
TESTIMONY OF DR. BRIAN KELLY, ECONOMIST, BRIAN KELLY INCORPORATED	187

I N D E X

	PAGE
TESTIMONY OF DILIP SAMPAT, PRESIDENT, NAVNEET PUBLICATIONS (INDIA) LTD.	161
TESTIMONY OF BRUCE MALASHEVICH, PRESIDENT, ECONOMIC CONSULTING SERVICES, LLC	168
CLOSING STATEMENT OF TIMOTHY C. BRIGHTBILL, ESQUIRE WILEY REIN LLP	277
CLOSING STATEMENT OF MICHAEL T. SHOR, ESQUIRE ARNOLD & PORTER LLP	285
CLOSING STATEMENT OF MARK. D. DAVIS, ESQUIRE DAVIS & LEIMAN P.C.	288

P R O C E E D I N G S

(9:30 a.m.)

1  
2  
3 CHAIRMAN OKUN: Good morning. On behalf of  
4 the U.S. International Trade Commission I welcome you  
5 to this hearing on Investigation Nos. 701-TA-442-443  
6 and 731-TA-1095-1097 (Review) involving Certain Lined  
7 Paper School Supplies From China, India, and  
8 Indonesia.

9 The purpose of these five-year review  
10 investigations is to determine whether revocation of  
11 the countervailing duty orders on certain lined paper  
12 school supplies from India and Indonesia and/or the  
13 revocation of the antidumping duty orders on certain  
14 lined paper school supplies from China, India, and  
15 Indonesia would be likely to lead to continuation or  
16 recurrence of material injury within a reasonably  
17 foreseeable time.

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

24 All witnesses must be sworn in by the  
25 Secretary before presenting testimony. I understand

1 the parties are aware of time allocations. Any  
2 questions regarding the time allocations should be  
3 directed to the Secretary.

4 Speakers are reminded not to refer in their  
5 remarks or answers to questions to business  
6 proprietary information. Please speak clearly into  
7 the microphones and state your name for the record for  
8 the benefit of the court reporter. If you'll be  
9 submitting documents that contain information you wish  
10 classified as business confidential, your requests  
11 should comply with Commission Rule 201.6.

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

14 MR. BISHOP: No, Madam Chairman.

15 CHAIRMAN OKUN: Very well. Let us begin  
16 with opening remarks.

17 MR. BISHOP: Opening remarks on behalf of  
18 those in support of continuation of the orders will be  
19 by Alan H. Price, Wiley Rein.

20 CHAIRMAN OKUN: Good morning, Mr. Price.

21 MR. PRICE: Good morning, Chairman Okun,  
22 Vice Chairman Williamson and members of the  
23 Commission. I would like to start today by thanking  
24 the Commission for your votes in 2006 because you  
25 saved this domestic industry and its workers.



1           Five years ago, the U.S. lined paper school  
2 supply industry was in a state of collapse. Nearly  
3 every trade and financial indicator in the industry  
4 was in decline. Profits were down sharply. Clients  
5 were closing. Production and shipments were falling,  
6 and the U.S. industry was losing market share rapidly.

7       Bidding by dumped and subsidized imports was  
8 depressing prices across the industry. Domestic  
9 producers were on the verge of shutting down.

10           With trade relief in place, this industry  
11 was given a second chance, and that second chance is  
12 working. We thank you for that. The evidence in this  
13 case is remarkable. The orders have benefitted the  
14 industry and its workers, allowing them to stabilize  
15 and even increase capacity production, sales and  
16 profits from their low point. U.S. producers have  
17 added new domestic manufacturing lines and are once  
18 again competitive with fairly traded imports.

19           But the conditions of competition that  
20 prevail in this market make it imperative that these  
21 orders remain in place. Purchasers of lined paper are  
22 even more concentrated among a smaller number of  
23 larger retailers than at the time of the original  
24 investigation. These retailers are intensively price  
25 focused, and they switch suppliers based upon minimal

1 price differences. Even loss of a single item at a  
2 major retailer can be devastating.

3 In fact, purchasers find lined paper from  
4 the United States and the subject countries to be  
5 totally interchangeable. They have never stopped  
6 buying out-of-scope paper products from the subject  
7 producers, and more and more of them are now importing  
8 directly.

9 Subject producers for their part have  
10 maintained their ability and interest to supply this  
11 market. If anything, they have increased their  
12 capacity, and all three countries continue to export  
13 large quantities of lined product to the United  
14 States. Subject producers will sell here by  
15 leveraging their dumped and highly subsidized pricing  
16 to obtain large volume accounts and particularly by  
17 moving up the value chain from commodity to value  
18 added lined paper products.

19 Because all three countries compete in the  
20 same way and under the same conditions of competition,  
21 all three must remain under order. The bidding data  
22 shows that India competes head-to-head on the highest  
23 volume products at the biggest retailers. They need  
24 to stay under order.

25 Indonesia's best argument is that its

1 environmental practices are so damaging that they  
2 can't come back to the U.S. market. We don't believe  
3 that, and neither should you. China didn't even  
4 bother to show up in this investigation. These orders  
5 must stay in place against them as well.

6 If any of these orders are revoked against  
7 any of these countries, dumped and subsidized pricing  
8 will once again materially injure the U.S. industry.  
9 As the second chart here shows, we have a natural  
10 experiment, and the showing here is profound. The  
11 contrast between the top line, which is the domestic  
12 industry where relief was granted, and the nonsubject  
13 paper lined products speaks for itself about the  
14 importance of keeping these orders in place.

15 The three countries were and remain uniquely  
16 disruptive. Producers in India, Indonesia and China  
17 stand willing and able, despite their laundry list of  
18 unpersuasive arguments to the contrary, to compete for  
19 key U.S. accounts using dumped and subsidized pricing.

20 Even where they do not win bids, they drive down  
21 pricing, and where they do U.S. producers will lose  
22 volumes necessary to keep their factories operating  
23 and their workers employed, workers who often are in  
24 the sole plant in small towns.

25 The U.S. industry has weathered the first

1 wave of dumped and subsidized pricing only because of  
2 your timely intervention. If they are again forced to  
3 face dumped and subsidized pricing from any one of  
4 these subject producers they may not survive a second  
5 blow. For all of these reasons, we thank you again  
6 and we ask that you not tinker with these crucial  
7 orders.

8 For the future of these companies and, just  
9 as important, for the future of the workers and their  
10 families we ask that the Commission keep all of these  
11 orders in place. Thank you.

12 CHAIRMAN OKUN: Thank you.

13 MR. BISHOP: Opening remarks on behalf of  
14 those in opposition to continuation of the orders will  
15 be by Michael T. Shor, Arnold & Porter, and Mark D.  
16 Davis, Davis & Leiman.

17 MR. DAVIS: Good morning.

18 CHAIRMAN OKUN: Good morning, Mr. Davis.  
19 You want to get that off your thing.

20 MR. DAVIS: Thank you. I was blinded by the  
21 light.

22 CHAIRMAN OKUN: There you go.

23 MR. DAVIS: Good morning, Madam Chairman and  
24 members of the Commission. I'm very glad to be able  
25 to be here today. The Indian producers are very

1 pleased to be able to have this opportunity to appear  
2 and participate in the sunset review. It gives them a  
3 chance to free them from a case that was never really  
4 about India in the first place.

5 Indian imports were a tiny, negligible part  
6 of the U.S. market at the time of the original  
7 investigation, but because of the cumulation rules the  
8 Commission folded India into a case which was and is  
9 really about imports from China. Indian CLPSS has  
10 continued to be sold in the United States, despite the  
11 orders, at about the same volume as before the orders.

12 India has maintained its very small, same stable  
13 market share.

14 The CVD and dumping margins for India have  
15 remained very small during the entire sunset POR, in  
16 the single digits, but the cost and trouble of annual  
17 compliance with administrative reviews are  
18 considerable. So now, five years into the order,  
19 we're glad to have the opportunity to set the record  
20 straight. With a more realistic cumulation standard,  
21 the Commission can now formally recognize that India  
22 has always had and continues to have only a minuscule  
23 presence in the U.S. market, and there's no realistic  
24 incentive or potential for any later increase after  
25 revocation.

1           Now, the Petitioners apparently realize that  
2           India on its own has not and will not have any  
3           discernable adverse impact on the United States.  
4           Thus, as you just saw, they rely on cumulating India  
5           with the other subject countries and try to divert  
6           attention to extraneous data not on the factual record  
7           when making their arguments as to India. However, the  
8           great volume of evidence on the record prove that  
9           there's no realistic chance of increase in Indian  
10          production capacity or U.S. sales in the foreseeable  
11          future.

12                 In our presentations today we'll demonstrate  
13          that the Indian market has and can have no discernable  
14          impact on the U.S. market. We have first person  
15          testimony from one of the Indian producers, as well as  
16          careful professional analysis of the record. We're  
17          confident that you'll find that this review gives the  
18          Commission at last the opportunity to recognize that  
19          the Indian producers should not have been in this case  
20          in the first place and to revoke the orders as to  
21          India. Thank you very much.

22                 CHAIRMAN OKUN: Thank you. Good morning,  
23          Mr. Shor.

24                 MR. SHOR: Good morning. I am here today on  
25          behalf of Tjiwi Kimia, the sole Indonesian producer

1 who has exported CLPSS to the United States. We are  
2 seeking decumulation for Indonesia and a negative  
3 injury determination on the basis of significantly  
4 changed circumstances since the orders.

5 First, imports of CLPSS from Indonesia were  
6 no longer present in the U.S. market after the orders.

7 The import statistics upon which Petitioners rely  
8 cover out-of-scope other lined paper products.  
9 Indeed, Petitioners know better. They go shopping to  
10 check. Take a look at their Exhibit 3. They went to  
11 eight different retailers looking for imported lined  
12 paper products. They provide 42 examples. Not one is  
13 CLPSS from Indonesia. The same is true for all of the  
14 items on the table in front of you.

15 Second, environmental and sustainable issues  
16 now are a major concern for the large retailers who  
17 dominate the U.S. market. This severely curtails the  
18 ability of Tjiwi Kimia to sell lined paper products in  
19 the U.S. market. The import data for out-of-scope  
20 OLPP products proves our point. U.S. imports from  
21 Indonesia of OLPP dropped 81 percent from 2006 to  
22 2011. They dropped further in the first quarter of  
23 2012. When Petitioners argue that our depiction of  
24 environmental concerns is overstated, ask them how  
25 they explain that decline.

1           Third, Tjiwi Kimia has no incentive to  
2           increase exports of CLPSS to the U.S. It has no  
3           excess capacity. It has no inventories of CLPSS in  
4           the English sizes the U.S. market requires. It  
5           currently is selling all of the lined paper products  
6           it can produce to other markets where it earns higher  
7           net returns than it could be selling CLPSS in the  
8           United States. If Dr. Kaplan tries to convince you  
9           otherwise by comparing average unit values across  
10          markets, ask him why he testified in the original  
11          investigation that such comparisons were invalid due  
12          to differences in product mix.

13                 Fourth, with the return on investment of 52  
14          percent in 2011 and operating income of 15.4 percent,  
15          the domestic industry is no longer injured or  
16          vulnerable. The domestic industry recovered, all  
17          while production volumes did not recover from before  
18          the order, while their market share continued to  
19          decline and while cutting their workforce by 45  
20          percent when they promised you when they last appeared  
21          before you that they would call back laid off workers.

22          These facts suggest that their original injury  
23          arguments were flawed to begin with. Thank you very  
24          much.

25                         CHAIRMAN OKUN: Thank you.



1           MR. BISHOP:  Would the first panel, those in  
2           support of continuation of the antidumping and  
3           countervailing duty orders, please come forward and be  
4           seated?

5           Madam Chairman, all witnesses have been  
6           sworn.

7           (Witnesses sworn.)

8           CHAIRMAN OKUN:  All right, Mr. Price.  Are  
9           you ready to proceed, or you're waiting for --

10          MR. PRICE:  Give us one second, okay?

11          (Pause.)

12          CHAIRMAN OKUN:  Please proceed.

13          MR. PRICE:  Good morning again.  I'm Alan  
14          Price, counsel for Petitioners.  I'm going to start  
15          with a brief overview of some of the issues in the  
16          case and then we'll have our industry witnesses.

17                 So let's start with the first slide.  It  
18          tells you a lot about what you need to know about the  
19          effectiveness of these orders.  Before these orders  
20          were imposed, the Commission found that subject  
21          imports undersold U.S. producer certain lined paper  
22          products by double digit margins "depressing domestic  
23          prices to a significant degree".  Underselling allowed  
24          subject import volumes to "increase substantially" and  
25          subject imports "reduced the domestic industry's

1 production and shipments and sale levels  
2 significantly".

3 After the orders were imposed, subject  
4 imports fell substantially. The average prices for  
5 both subject and domestic certain lined paper  
6 increased. U.S. operating margins and profits  
7 reversed their downward trend, and U.S. production,  
8 net sales and market share stabilized and even  
9 increased. So, the subject imports will continue to  
10 compete similarly if these orders are revoked.

11 Do they continue to export? Yes, the  
12 producers in all three countries continue to export to  
13 major retailers. Are they export oriented? Yes. All  
14 three subject countries are export oriented. In fact,  
15 the U.S. is now India's largest leading export market.

16 Have they expanded capacity? Yes. Reporting  
17 producers increased their capacity, and we will add  
18 that many subject producers in all three countries did  
19 not reply to the Commission's questionnaires.

20 Is the product fungible? Yes. Purchasers  
21 overwhelmingly found that the merchandise from all  
22 three countries was interchangeable. And do they  
23 offer comparably low prices? Yes. The purchasers  
24 also found that the merchandise from all three  
25 countries was comparable in price.

1 Will they have a discernable adverse impact?

2 Indian producers that submitted questionnaires, and  
3 that was a distinct minority of Indian producers, have  
4 exported more and more certain lined paper to the U.S.  
5 market each year. Multiple Indian producers are  
6 actively bidding and obtaining accounts with large  
7 retailers, and a number of those bidders did not  
8 supply you with questionnaires.

9 Substantial export subsidies and export  
10 performance requirements promote low-priced imports,  
11 and according to the purchaser questionnaires -- I  
12 refer you to 217 of your report -- Indian prices are  
13 perceived by the purchasers to be superior, i.e.,  
14 lower than U.S. prices.

15 Now, Indonesia has been an active supplier  
16 of lined paper products and related products to the  
17 U.S. market. They have undersold in the original  
18 investigation in all quarterly price comparisons, and  
19 while there may be questions asked to the exact  
20 composition of imports, they have the lowest AUVs of  
21 any subject countries in the official import  
22 statistics. I would add that Indonesian producers  
23 benefit from truly massive subsidies.

24 China increased production in exports of  
25 paper products since the original investigation, and

1 it remains active in the market particularly on other  
2 lined paper products.

3 Turning to the next slide, the subject  
4 producers have the ability and interest to supply the  
5 U.S. market. The official import statistics indicate  
6 that subject producers have continued to supply both  
7 certain lined paper and other lined paper to the U.S.  
8 market. Lined paper and related products from all  
9 three subject countries can be found on U.S. retailer  
10 shelves. Overall, lined paper capacity, production  
11 and exports from all three subject countries have  
12 increased since the original orders went into effect.

13 Now, there are a variety of claims made by  
14 the Indonesians that their products simply are not  
15 accepted -- their paper products are not accepted, I  
16 repeat -- on U.S. retailer shelves. But we had no  
17 problem finding their paper products and lined paper  
18 and related products on the retailer shelves. These  
19 environmental concerns really don't hold water, and  
20 you see the names of major retailers in the United  
21 States and we have many of the samples right there.  
22 We can go through them later.

23 Now, the Indonesian imports will return.  
24 First of all, TK is not the only Indonesian producer  
25 or exporter. TK has access to non Indonesian paper

1 through its parent, APP, which is a massive paper  
2 producers this Commission is well familiar with from  
3 the Glossy Paper case.

4           There have been a lot of changes also. APP,  
5 while it doesn't want to talk about it in this  
6 hearing, has taken impressive steps to address the  
7 environmental concerns that have been raised. TK has  
8 just been qualified for the EU's ecolabel  
9 certification, and just last week APP announced new  
10 sustainable forestry practices to address the concerns  
11 that have been laid out.

12           The bottom line is that if the orders on  
13 Indonesia are removed the retailers will once again  
14 leverage the availability of dumped and subsidized  
15 Indonesian product to drive down domestic prices, and  
16 Indonesian producers will capture large volume  
17 accounts.

18           Now let's turn quickly to Indian imports.  
19 Indian producers are highly dependent on exports.  
20 They receive substantial export subsidies, and large  
21 producers are required by law to export at least 50  
22 percent of their production each year. The U.S. is  
23 their top export market. Many companies that  
24 participate in U.S. bidding did not file questionnaire  
25 responses at all with the Commission, and the Indian

1 and U.S. back-to-school seasons are different,  
2 contrary to what counsel for the Indians said in their  
3 brief.

4 Indian importers will return. Imports will  
5 return in larger quantities and at lower prices  
6 without the order. The purchasers found Indian CLPSS  
7 interchangeable with U.S. and other subject product.  
8 The so-called quality distinctions that the Indians  
9 claim exist in these products, most of the purchasers  
10 were unaware of them or found them irrelevant, and the  
11 bottom line is that the U.S. store shelves are full of  
12 Indian subject merchandise.

13 Now, it is true that the orders against  
14 India had somewhat lower margins. The orders against  
15 India we would say are critical to the condition of  
16 the U.S. industry and its pricing and profits. As we  
17 can see from this slide, with lower duties the Indian  
18 producers have been very active in the U.S. market,  
19 but at higher prices than before the order went into  
20 effect. Those higher prices have produced higher  
21 profit margins for the U.S. industry.

22 The bottom line here is that if the orders  
23 on India are removed retailers will once again  
24 leverage the availability of dumped and subsidized  
25 pricing to drive down domestic pricing, and Indian

1 producers will capture a larger volume of U.S.  
2 accounts.

3 And let's go back to this slide which I  
4 showed you earlier, and let's put it into greater  
5 context here. It's probably one of the most  
6 interesting natural experiments I've seen, and it  
7 shows why these orders are the linchpin for  
8 maintaining domestic production.

9 I'm really shocked at Mr. Shor's  
10 presentation here because what this slide shows is  
11 that production of school paper supplies stabilized  
12 and increased since 2005 as a result of this order.  
13 In contrast, production of the other lined paper  
14 products in the United States basically vanished. It  
15 disappeared. So this relief is the linchpin for  
16 keeping production in the United States, keeping jobs  
17 in the United States and keeping workers employed.

18 The products subject to this order will go  
19 the way of other lined paper products. U.S. producers  
20 will find themselves where they were in 2005 with  
21 collapsing production, sales, market share, prices and  
22 employment if you revoke any of these orders. The  
23 U.S. companies will be forced to consider offshoring  
24 production or just simply going out of business.  
25 These orders must -- I repeat, must -- stay in place.

1 Thank you.

2 I would now like to introduce Hal Rahn of  
3 Norcom.

4 MR. RAHN: Good morning, Chairman Okun and  
5 members of the Commission and staff. My name is  
6 Harold A. Rahn, and I'm the president of Norcom, Inc.,  
7 a manufacturer of lined paper school supplies located  
8 in Georgia. I have over 18 years of experience in  
9 this industry. Five years ago, I testified before the  
10 Commission urging you to impose antidumping and  
11 countervailing duty orders on certain lined paper  
12 school suppliers from India, Indonesia and China,  
13 given the devastating impacts that these unfairly  
14 traded imports were having on my company.

15 I am grateful -- very grateful -- that you  
16 listened. Since the orders were imposed, Norcom has  
17 come back from the brink as the orders have allowed us  
18 to remain in business. Today I'm here with the same  
19 urgency that I had five years ago. I'm here to tell  
20 you that maintaining the orders on lined paper school  
21 supplies from India, Indonesia and China is absolutely  
22 necessary to ensure that Norcom maintains its U.S.  
23 operations.

24 Prior to the orders, Norcom's business was  
25 on a downward spiral due to dumped and subsidized



1 pricing from these countries. At bids and auctions  
2 with our main retailers, we were being forced to make  
3 bigger and bigger price concessions that reduced  
4 margins below a level that could support our cost.

5 In the fall of 2003, we were informed by our  
6 largest customer that in order to maintain any volume  
7 for back-to-school 2004 we would have to meet a price  
8 that was drastically lower than the previous year.  
9 That account represented over \$80 million in sales.  
10 We had no choice at all but to meet their lower price,  
11 which took our profits down by more than \$8 million in  
12 2004. For back-to-school 2005, the situation  
13 deteriorated even further. Despite aggressive cost  
14 reduction efforts, we were notified in February of  
15 2005 that we were losing 25 percent of the business at  
16 our largest account.

17 Without the orders, I doubt that Norcom or  
18 its workers would be here today. Thanks to you and  
19 your decision the situation is improved, but it  
20 remains extremely tenuous. With the orders in place,  
21 Norcom has been able to increase its market share,  
22 production and, most important of all, employment, as  
23 well as maintain cashflow and profits. These  
24 improvements are allowing Norcom to start making  
25 investments that we need to make, but simply could not

1 afford to make when faced with massive quantities of  
2 dumped and subsidized imports.

3 We are a small business, and one mistake in  
4 investment can put us at great risk. Since the orders  
5 were put in place, we have pursued important  
6 expansions, but their success really depends on the  
7 trade orders. In February of 2008, Norcom purchased  
8 and installed an additional wirebound notebook line,  
9 and in March of 2011 we acquired and installed a new  
10 composition book line. So we are bringing production  
11 of these products back to America, but these  
12 investments will not succeed if dumped and subsidized  
13 imports are allowed back into the market.

14 We are also looking at other opportunities  
15 for reinvestment, additional manufacturing and  
16 distribution capacity. We see many, many new  
17 marketplaces ahead. However, these changes depend on  
18 the orders being maintained. If the orders are  
19 revoked, all the gains that Norcom and its employees  
20 have made over the past five years will disappear, and  
21 all of our proposed investment projects will no longer  
22 be viable.

23 The overwhelming majority of Norcom's lined  
24 paper business is devoted to the production of  
25 commodity lined paper products, which puts us on the

1 front lines of competition against India, Indonesia  
2 and China. As the Commission is aware, commodity  
3 lined paper products such as filler paper, composition  
4 books and one-subject notebooks are at the heart of  
5 the lined paper market.

6 Because of these orders, we have been able  
7 to keep our business afloat, bringing back product  
8 lines and making necessary and continued investments.

9 However, if the orders are revoked and subject  
10 imports are allowed to once again enter the U.S.  
11 market at dumped and subsidized prices, U.S. commodity  
12 lined paper products will be among the first to go.

13 Even with the orders in place, India,  
14 Indonesia and China producers have continued to ship  
15 lined paper and other related products to the United  
16 States. Lined paper producers from all three  
17 countries have maintained a presence in the U.S.  
18 market, and products from all three countries are  
19 widely accepted today. We go head-to-head against  
20 these companies all the time.

21 The idea that Indian producers lack capacity  
22 to support the U.S. market is simply wrong. Over the  
23 past few years, Indian lined paper producers have had  
24 no problem bidding aggressively and shipping  
25 significant volumes of subject merchandise to the U.S.

1       retailers. In fact, many Indian companies have  
2       networks of smaller converters, which means they can  
3       readily expand their capacity to take away business  
4       from the U.S.

5               We have lost several large retail accounts  
6       to Indian producers such as Kersawal and other Indian  
7       producers not present here today. These lost sales  
8       involve products that are at the heart of our business  
9       like 70-count notebooks and composition books, and  
10      even when we do not lose the business competing offers  
11      from subject producers continually force the prices  
12      lower in order to maintain the account.

13             Price is, by the way, the number one  
14      determining factor on all of these sales. It's not  
15      about the brightness of the paper or paper weight or  
16      quality. It's all about price. I do not even know  
17      how the Indian producers can make this claim with a  
18      straight face because we have lost plenty of sales to  
19      their allegedly noncompetitive subject imports.

20             I also understand that Indonesian producer  
21      TK claims it can't sell in the United States because  
22      its products are environmentally unsound. Frankly,  
23      that is the worst reason to remove the dumping order  
24      that I've ever heard. They're cutting down their rain  
25      forest, so you should let them back into the U.S.

1 market. I don't see the logic there at all.

2 Moreover, despite very questionable  
3 environmental practices, Indonesian producers continue  
4 to export their lined paper and related goods,  
5 including envelopes and legal pads, to the United  
6 States, so unfortunately these sustainability concerns  
7 are not really a barrier to Indonesian exports.

8 TK's claim that it does not have the  
9 capacity to ship here is also unpersuasive. I know  
10 that Indonesia lined paper producers use the same  
11 equipment that I do to produce certain lined paper  
12 school supplies based on my visit to TK. With minimal  
13 investment, I have been able to substantially increase  
14 the amount of lined paper that I'm able to produce  
15 using very similar or the same machines, so I really  
16 don't understand how the claim that they are unable to  
17 do the same is valid.

18 If you let even one of the three countries  
19 out of the order, there will be rapid and damaging  
20 effects for my company and its employees. We face  
21 constant pressure on price and the constant threat of  
22 losing accounts with our largest customers. If the  
23 orders are revoked, subject producers will be able to  
24 drastically drop their prices across the board.

25 Just as they did in 2004 and 2005, their

1 imports will significantly underbid and undersell U.S.  
2 product, rapidly capturing market share and  
3 significantly decreasing prices across the market.  
4 Within a year, we would expect foreign competition  
5 from these countries to significantly impact our  
6 production and would easily anticipate Norcom's  
7 production dropping by as much as 50 to even 100  
8 percent. We would face the same fate as Mead did when  
9 it shut down its composition line in 2005.

10 Without orders on all three countries in  
11 place, our future is grim. There is no doubt in my  
12 mind that with subject imports increasing and their  
13 dumped and subsidized pricing leaving us unable to  
14 compete in the market, we would quickly find ourselves  
15 in the position of being unable to maintain our U.S.  
16 production. Needless to say, this result would be  
17 devastating for the workers that call Norcom home, for  
18 the Georgia communities that depend on us, for our  
19 domestic suppliers such as paper companies like New  
20 Page, wire companies like Bekaert, printing companies,  
21 carton companies, railroads and many others and their  
22 workers.

23 Norcom, its workers and our industry  
24 sincerely thank you for your work to promote fair  
25 trade in this market, and I ask you to continue to do

1 so by maintaining these orders. If you revoke the  
2 orders, I really fear that Norcom and many other  
3 domestic producers will be forced to cease U.S.  
4 production, the very result that trade orders are  
5 intended to prevent.

6 Thank you again for your attention to this  
7 critical matter, and I am happy to answer any  
8 questions that you may have.

9 MR. PRICE: Thank you. I would now like to  
10 introduce Mr. Neil McLachlan of Mead Products.

11 MR. McLACHLAN: Good morning, Chairman Okun,  
12 members of the Commission and staff. My name is Neil  
13 McLachlan of Mead Products, LLC, and our main office  
14 is in Kettering, Ohio. We maintain manufacturing  
15 plants, distribution facilities and sales offices  
16 throughout the country.

17 I'm here today to urge the Commission to  
18 maintain antidumping and countervailing duty orders on  
19 lined paper school supplies from India, Indonesia and  
20 China. These orders have been essential to our  
21 company's survival over the past five years. There is  
22 no doubt that without the trade orders in place  
23 imports of the subject countries will enter the United  
24 States in large quantities and at dumped and  
25 subsidized prices, once again injuring our industry.

1           I'd like to start by emphasizing the  
2 positive effects that the current order has had on  
3 Mead. Five years ago, dumped and subsidized imports  
4 from these three countries were overwhelming the U.S.  
5 market unfairly, taking substantial sales volumes at  
6 our most important accounts. This eroded our prices,  
7 as we were forced to meet dumped import price levels  
8 in order to stay competitive and even to purchase  
9 imports ourselves.

10           After a 50 percent drop in volume, several  
11 plant closures and all the job losses that they  
12 entailed, Mead faced the question of whether to  
13 maintain its U.S. production of these products at all.

14           In short, imports from these three countries were  
15 significantly hurting our business and our workers,  
16 our suppliers and the communities in which we operate.

17           Today the trade orders have stabilized what  
18 is a still fragile U.S. market, helping to prevent the  
19 price erosion and loss of our manufacturing assets.  
20 The orders have allowed us to reconnect our selling  
21 price to the cost of materials. Subject imports are  
22 still present in the market, but they are more often  
23 at fairly traded price levels.

24           The orders have also enabled us to begin to  
25 undertake important capital improvements to increase



1 our U.S. manufacturing capabilities. As a result,  
2 we've been able to preserve the very production assets  
3 and jobs that would have otherwise been lost due to  
4 these imports.

5 While the orders have benefitted our U.S.  
6 production operations, we remain vulnerable. Each of  
7 these orders is necessary to prevent subject producers  
8 from using such pricing to quickly overtake the U.S.  
9 market again. We are at risk because imports of lined  
10 paper school supplies are driven by large retailers  
11 with significant purchasing power.

12 Our main customers -- the mass retailers,  
13 the superstores, the drugstores -- have all the power  
14 here. They are driven by an intensely competitive  
15 retail environment, and each seeks to outdiscount the  
16 other in order to show that they have the best prices  
17 on lined paper and other back-to-school products.  
18 They will switch suppliers for a fraction of a penny  
19 difference.

20 These retailers have the ability to directly  
21 import themselves in large quantities the subject  
22 merchandise at the lowest price. If the orders are  
23 revoked for any of these three countries, retailers  
24 would quickly take advantage of unfairly priced offers  
25 from those without duties. The result is that we

1 would have to match these prices or lose critical  
2 volume and the jobs that they create.

3 One of the primary benefits of the trade  
4 case has been to slow the movement of India, Indonesia  
5 and China from commodity products, such as filler  
6 paper, into higher value added products such as our  
7 domestically produced Five Star line of multi-subject  
8 and polycover notebooks. The cost in value of a  
9 Five Star notebook can be many times that of a  
10 commodity notebook.

11 Simplistic claims that the lined paper  
12 products are bought and sold entirely on a weight  
13 basis are nonsense. With the orders in place, Mead  
14 has been able to maintain its share of the value added  
15 notebook market, which is the core of our domestic  
16 production. But even with these orders, we are facing  
17 new and increased competition from the subject  
18 producers.

19 Let me give you an example. For back-to-  
20 school in 2012, one of the largest retailers in the  
21 country contracted with an Indian producer to supply  
22 huge quantities of value added notebooks that will  
23 replace volume of our domestic Mead Five Star  
24 notebooks. The Indian producer undercut our prices by  
25 a significant amount, and the volume that we lost in

1 this one sale is eye-popping.

2 Even a single loss of a sale like this can  
3 have a devastating effect on our production, our  
4 profits and our entire line of business. Given the  
5 unique nature of this market, shares can shift and  
6 prices and volume can collapse quickly. Indonesian  
7 producers are asking for revocation, and there is no  
8 doubt in my mind that the intent is to aim squarely at  
9 Mead's Five Star business, which Indonesian producers  
10 claim is imported. That is flatly incorrect. In  
11 fact, it's the heart of our U.S. production.

12 And Indonesia complains the U.S. market is  
13 not worth their time, but TK is still here today  
14 asking for unfettered access to this market. That  
15 company in particular is set up for high volume  
16 production and would not be content to nibble around  
17 the edges of our business. It's clear to me that the  
18 producers would start by attacking our value added  
19 business in force and take all the profit from this  
20 category.

21 Indeed, if the orders were revoked as to any  
22 one of these countries, dumped and subsidized pricing  
23 would again set the standard for the U.S. market,  
24 resulting in lower prices and lower volume for  
25 domestic producers. We know this because we continue

1 to see the product from all three countries in the  
2 United States.

3 We compete against these imports for  
4 retailers' business not only on certain lined goods,  
5 but with regard to other lined goods and related  
6 office products like envelopes and calendars.  
7 Producers in the subject countries are well known and  
8 accepted by our major retailers. They bid  
9 aggressively, and they continue to take business from  
10 us.

11 Our experience with Indonesian envelopes is  
12 instructive here. Like many of the Indonesian  
13 producers, Mead produces envelopes in addition to our  
14 lined paper products. Our envelopes compete head-to-  
15 head with the Indonesian product. In the last year,  
16 we have lost several major accounts for boxed  
17 envelopes to those suppliers. The gap between our  
18 pricing and their pricing was substantial. In fact,  
19 this Indonesian supplier is now threatening to take  
20 away the rest of our envelope business. This  
21 demonstrates what would occur in the school product  
22 segment if the orders on certain lined paper products  
23 are revoked.

24 This lost sale gives me an opportunity to  
25 address claims that Indonesian product can't be sold

1 here in the United States because of environmental  
2 concerns. Their paper products are already here  
3 competing for and winning business, and while  
4 retailers would like to factor in sustainability if  
5 dumped pricing becomes available again prices will win  
6 out over environmental concerns. Our customers won't  
7 have a choice. They'll be competing for sales of  
8 these products against other retailers who are  
9 offering dumped and subsidized merchandise. In that  
10 race to the bottom, Mead and its workers will lose.

11 If you go into large retailers today it's  
12 easy to find notebooks, composition books, filler  
13 paper and other lined products such as legal pads,  
14 memo books and index cards from the subject producers.

15 The orders have helped raise the landed cost of  
16 subject suppliers to make them more fairly priced in  
17 our market. Revoking the orders would allow these  
18 countries to once again use their dumped and  
19 subsidized prices to capture large volume accounts and  
20 increase their market share.

21 All three subject countries have the  
22 capability and capacity to ship large quantities of  
23 certain lined goods here. They have never stopped  
24 supplying the market. They have increased their  
25 production capacity since 2005. China is now the

1 world's largest producer of paper products. Indian  
2 producers have nearly doubled their certain lined  
3 production capacity over the last five years, and  
4 Indonesia has vastly increased its capacity and  
5 exports as well.

6 If the orders are revoked, we would soon be  
7 faced with increased direct competition imports from  
8 our large retail customers. We would also be forced  
9 to increase imports ourselves. We would have to  
10 decide what to make here versus what to buy from  
11 somewhere else.

12 If left unchecked, Indian, Indonesian and  
13 Chinese volumes and price would likely make domestic  
14 production impossible, and we would be compelled to  
15 purchase from overseas. We saw this happen in 2003  
16 and 2005, and we will surely see it happen again if  
17 the orders are removed. I truly believe we would  
18 shutter the remaining U.S. production if this were to  
19 occur.

20 In August, back-to-school bidding for next  
21 year will begin. Your decision here will have an  
22 immediate impact on our prices and our volume for next  
23 year. Given the high seasonality of the school supply  
24 business, the concentration of high volume accounts  
25 among a few major retailers, a domestic producer could

1 be destroyed within a single year, losing the bulk of  
2 its business to dumped and subsidized product  
3 basically overnight.

4 If you let any one of these three countries  
5 out of the orders so that they can resume quoting  
6 dumped and subsidized prices the whole market will be  
7 forced lower, and Mead will quickly be forced to  
8 choose between devastating price drops or lost sales  
9 volume.

10 On behalf of my company and its employees  
11 who are represented here today, I ask the Commission  
12 to carefully consider the evidence before you and  
13 determine that maintaining the existing orders against  
14 unfairly traded imports of lined school supplies from  
15 India, Indonesia and China is necessary to prevent  
16 reoccurring injury to our industry and to its workers.

17 Thank you for your consideration.

18 MR. PRICE: Thank you. I would now like to  
19 introduce Mr. George Robinson of Top Flight.

20 MR. ROBINSON: Good morning, Chairman Okun,  
21 Vice Chairman Williamson and Commissioners. My name  
22 is George Robinson. I am the Vice President of Sales  
23 for the Retail Division of Top Flight, Inc., a small,  
24 family-owned and operated manufacturer of lined paper  
25 school supplies located in Tennessee.

1           Prior to the imposition of the orders on  
2           certain lined paper school supplies from India,  
3           Indonesia and China, Top Flight's operations were in a  
4           dismal state. Unfairly priced lined paper imports  
5           from the subject countries placed so much pricing  
6           pressure on the U.S. market that Top Flight was forced  
7           to cut factory output, cut employment, cut capital  
8           expenditures, selling margins and even outsource  
9           production of some of its certain lined paper school  
10          supplies.

11           In fact, in 2005 I lost several of my  
12          largest orders to dumped and subsidized products from  
13          India and China. These losses forced Top Flight to  
14          lay off 15 percent of its workforce, many of whom I  
15          worked with as a teenager. Given these circumstances,  
16          in July of 2005 Top Flight was considering shutting  
17          down domestically and relocating some or all of its  
18          manufacturing offshore.

19           We were simply at a loss for how to solve  
20          the dilemma that we were facing -- sharply declining  
21          volumes, sharply declining employment, profits -- all  
22          resulting from unfairly priced imports. At the time  
23          we were losing bids by such margins that the winning  
24          price was below our manufacturing price. Because of  
25          the declines in our company's performance, our primary



1 lender asked us to find a new bank.

2           However, thanks to the Commission's  
3 imposition of the orders on Indian, Indonesian and  
4 Chinese lined paper products Top Flight's position  
5 began to improve and the U.S. became more competitive.

6       Dumped and subsidized product exited the U.S. market,  
7 and the pricing of the remaining imports improved due  
8 to the orders. The result of these developments has  
9 been a reconnection between the cost of the  
10 manufactured lined paper products and the price  
11 charged for them.

12           With this reconnection of price and cost,  
13 our shipments, our margins, our profits and our  
14 staffing all improved, and our production is once  
15 again competitive in the market. Thanks to our margin  
16 and volume improvements, we established a new banking  
17 relationship that continues to this day. Because of  
18 the orders, Top Flight has been able to operate  
19 profitably and develop new products and new customers  
20 even through the economic downturn and stabilize a  
21 company that had been spiraling downward only a few  
22 years prior.

23           I can tell you from my experience that these  
24 improvements will all be lost if any one of the three  
25 subject countries are let out of the order. Prices

1 would immediately fall, and we would find ourselves  
2 under pressure to reduce pricing, to reduce production  
3 and to reduce employment.

4 The lined paper producers in all three  
5 countries maintain strong, ongoing relationships with  
6 U.S. retailers and the industry by continuing to sell  
7 other lined goods and related products here. These  
8 companies can hurt us quickly. Revocation of the  
9 orders would simply open the market to the same mills,  
10 the same companies, the same decision makers that  
11 harmed my company and its employees with dumped and  
12 subsidized imports back in 2005.

13 In fact, India remains a significant concern  
14 even with the trade remedy orders in place to keep  
15 Indian lined paper products priced fairly. It is no  
16 secret that the Indian suppliers, many of whom did not  
17 even provide a questionnaire response to the  
18 Commission, are actively competing and winning price  
19 competitions for subject merchandise. My staff and I  
20 continue to be contacted by these Indian suppliers who  
21 offer what they call rock bottom prices for subject  
22 merchandise.

23 If the orders are revoked, Indian producers  
24 would be able to instantly begin quoting lower prices  
25 on more products than they are currently able to do

1 with the orders in place. We would have to drop our  
2 prices as well, and we would likely lose out on  
3 significant large volume accounts. In other words,  
4 the loss of the Indian orders would have an immediate  
5 effect on Top Flight.

6 The same holds true with respect to  
7 Indonesia. Our people have visited Asia Pulp and  
8 Paper and other facilities in Indonesia. They use the  
9 same high volume machines that we do, and they have  
10 large amounts of capacity available. These machines  
11 are very advanced and can pump out significant volumes  
12 of merchandise in a short period of time.

13 Despite what the Indonesians may claim,  
14 Indonesian lined paper is readily accepted in the U.S.  
15 market. I have no doubt that without the Indonesian  
16 orders in place dumped and subsidized subject  
17 merchandise from Indonesia would quickly re-enter the  
18 U.S. market and have a devastating impact on our  
19 company and our workers.

20 Certainly lined paper school supplies are  
21 the bread and butter of our business and the  
22 cornerstone of our customer needs. Although Top  
23 Flight supplies many products to its customer base,  
24 our ability to domestically produce competitively  
25 priced lined paper products is the foundation of our

1 business model. Without this base, our company would  
2 crumble.

3 We would also note that we need financing to  
4 keep our business going. However, our bank is acutely  
5 aware of the existence of the orders and reviews their  
6 status on a semi-annual basis, most recently  
7 characterizing the orders as critically important to  
8 our success. Thus, it is clear that if the Commission  
9 revokes the orders with respect to any one of the  
10 subject countries the present character of our company  
11 would be very much in danger.

12 Thanks to your decision back in 2006, Top  
13 Flight remains a U.S. manufacturer of lined paper  
14 school suppliers. I've been working at the company  
15 since I was 15 years old. Today, I work with my  
16 father, my uncle and three of my first cousins, as  
17 well as over 150 Chattanooga area residents. For us,  
18 Top Flight is our home away from home, and I would  
19 hate to see its character change.

20 We are a U.S. company that prides itself in  
21 providing good jobs to its workers, but in order to  
22 continue to do so it is imperative that the Commission  
23 keep all three countries under order. Although the  
24 orders have brought new life to our company, I have no  
25 doubt that we will find ourselves right back where we

1 started in 2005 if they are revoked. This time around  
2 the downward price spiral will be much greater.  
3 Indian, Indonesian and Chinese lined paper supplies  
4 would simply need to revisit their customers from only  
5 a few years back in order to reclaim their lost  
6 business using dumped and subsidized pricing.

7 With the bidding of back-to-school season  
8 2013 starting only in August, maintaining these orders  
9 on all three countries is essential for the continued  
10 health and survival of my company and its workers. As  
11 a result, on behalf of Top Flight and its workers I  
12 strongly encourage you to maintain these orders.  
13 Thank you for your time, and I'll be happy to answer  
14 your questions that you may have.

15 MR. PRICE: I would now like to introduce  
16 Ms. Leeann Foster of the United Steelworkers of  
17 America.

18 MS. FOSTER: Good morning, Chairwoman Okun  
19 and members of the Commission. I am Leeann Foster,  
20 Assistant to the International President of the United  
21 Steel, Paper and Forestry, Rubber, Manufacturing,  
22 Energy, Allied Industrial and Service Workers  
23 International Union, or the USW. My union is North  
24 America's largest manufacturing union with 850,000  
25 active members.

1           We represent over 100,000 workers in the  
2 paper industry. I have been personally involved in  
3 the industry for 16 years in my role with the  
4 International union. The USW has members working for  
5 Mead Products and Roaring Spring Paper Products, two  
6 large paper converters located in Blair and Roaring  
7 Spring, Pennsylvania, respectively.

8           I would like to begin by thanking the  
9 Commission for the opportunity to testify before you  
10 on behalf of USW members whose livelihoods literally  
11 depend upon the continuation of the orders against  
12 dumped and subsidized imports of certain lined paper  
13 school supplies from India, Indonesia and China.

14           I would also like to extend my personal  
15 thank you to the USW members working in the industry  
16 who are in the audience today. I would like to ask  
17 them to stand and be recognized. These workers and US  
18 members traveled here from Pennsylvania to express  
19 their support for keeping the orders in place.

20           Five years ago, our members' jobs and  
21 livelihoods were on the line. The USW lined paper  
22 industry was in dire straights as a result of dumped  
23 and subsidized imports from the subject countries.  
24 Several U.S. production facilities closed, product  
25 lines shut down, shipments, production and capacity

1 declined, and inventories rose.

2 Our members lost jobs, lost hours, lost  
3 overtime, lost wages and lost benefits. It was clear  
4 that subject imports were having a devastating effect  
5 on the industry and its workers. As a result, the  
6 Commission appropriately imposed antidumping and  
7 countervailing duty orders against certain lined paper  
8 school supplies from India, Indonesia and China.

9 Since these orders were imposed, they have  
10 worked as they were intended. In the past five years,  
11 big box retailers have not been able to purchase  
12 dumped and subsidized imports from the subject  
13 countries. As a result, as you have heard here today,  
14 the domestic industry's position has stabilized and  
15 capacity, shipment volumes and capacity utilization  
16 have all improved.

17 Generally, at the same time USW members  
18 working in the U.S. lined paper industry have been  
19 able to maintain their jobs, their hours and their  
20 standard of living. For example, just last week USW  
21 members at New Page, a supplier to the lined paper  
22 sector, ratified a new four-year master contract that  
23 will bring added protection to 4,500 workers and help  
24 the company emerge from Chapter 11 bankruptcy as a  
25 stable employer in the paper industry.

1           As was the case five years ago, our future  
2 now ultimately lies in your hands. If the orders were  
3 to be revoked, USW members would almost immediately  
4 suffer the same harm that they endured before the  
5 orders were in place. It is clear that Indian,  
6 Indonesian and Chinese lined paper producers all  
7 remain interested in selling here, and in fact they  
8 continue to do so.

9           Without the orders in place to ensure that  
10 their imports are priced fairly, the U.S. industry and  
11 our members would find themselves right back in the  
12 same precarious position as in 2005. Nothing would  
13 prevent Indian, Indonesian and Chinese producers of  
14 lined paper from again selling subject merchandise in  
15 the United States for the lowest price possible,  
16 driving down U.S. prices, capturing significant market  
17 share and again cause harm to our members.

18           Once this happens, many U.S. lined paper  
19 producers would quite likely rely more heavily on  
20 imports to save at least some portion of domestic  
21 production. Even more troubling, they could move  
22 their production operations offshore, which would end  
23 the jobs of our members here and have a devastating  
24 impact on our members, their families and their  
25 communities.



1                   Clearly our union understands what can  
2                   happen when unfair trade poses such a direct threat to  
3                   domestic industries. Companies often react by moving  
4                   offshore. But while companies like the paper  
5                   companies involved here might be able to move their  
6                   production operations offshore to survive, our members  
7                   cannot. Rather, workers find themselves left behind  
8                   without a job.

9                   This would be particularly painful in the  
10                  midst of a fragile economic recovery and with  
11                  unemployment levels remaining so stubbornly high.  
12                  Consequently, I cannot stress enough that revoking the  
13                  orders would very likely be nothing short of  
14                  disastrous for our members, not to mention the  
15                  communities they live and spend in.

16                 Further, I understand that the Indonesians  
17                 blame the precarious position of the domestic industry  
18                 in 2005 on the industry's workforce being far too  
19                 large during 2003 through 2005. The workers,  
20                 including our members who lost their jobs or saw their  
21                 wages and benefits decline before these orders were  
22                 imposed, would strongly disagree.

23                 They were not sitting idle, but working and  
24                 productive until unfairly traded imports from the  
25                 subject countries came in and caused harm, so I do not

1 agree with such a claim and neither do USW members,  
2 some of whom are here today and who are depending upon  
3 the continuation of these orders for their continued  
4 survival in this industry.

5 On behalf of the USW members who make lined  
6 paper products, our retirees who depend on this  
7 industry's health for their retirement security and  
8 all of the communities they support, I urge the  
9 Commission to act to ensure that subject imports do  
10 not cause the same harm that they did five years ago  
11 and maintain the orders against certain lined paper  
12 school supplies from India, Indonesia and China.  
13 Thank you, and I also would be happy to answer any  
14 questions.

15 MR. BRIGHTBILL: Good morning. Tim  
16 Brightbill from Wiley Rein. As we did five years ago,  
17 we've brought in today a sample of a large number of  
18 products, domestic products and subject imports, which  
19 are interchangeable which have very comparable quality  
20 which compete on the basis of price.

21 I'm happy to answer questions in regard to  
22 this and go through the products in more detail, but  
23 for now I'll just leave them here. But it is  
24 remarkable the extent to which these paper products  
25 continue to compete head-to-head at major U.S.

1 retailers and to compete on the basis of price.

2 So we have certain lined paper school  
3 supplies, including one-subject notebooks, poly  
4 notebooks, filler paper, more one-subject notebooks,  
5 again U.S. and subject producers. We have other lined  
6 paper products, most notably legal pads, again  
7 Indonesia and India represented, and then we have  
8 related products such as envelopes, again U.S. and  
9 Indonesia represented here as well.

10 The second stack of larger products to my  
11 left and your right is from Mead Products in  
12 particular, and that demonstrates two other arguments  
13 that we need to refute from Respondents. First of  
14 all, Respondents erroneously claimed on page 12 of  
15 their brief that more complex lined paper products  
16 that have pockets, dividers and things like that are  
17 not generally produced in the United States at all.  
18 That is completely incorrect.

19 As you heard Neil say, Five Star is the bulk  
20 of Mead's domestic production. We invite you to  
21 review these domestically produced goods, probably  
22 produced by the workers in the back of the room, 30  
23 million units per year made in the United States.

24 Speaking of units, Respondents have also  
25 argued that the Commission is improperly measuring

1 these products by using units rather than paper  
2 weight. Again, I'm happy to answer that question  
3 later, but it's important for you to know that you got  
4 it right five years ago by using units rather than  
5 weight.

6 That's how the import statistics are  
7 gathered. That is how retailers measure the product  
8 in units, not weight. This issue was reviewed by the  
9 Court of International Trade, which also upheld what  
10 the Commission did five years ago. So your staff  
11 report is correct as it was five years ago. Thank  
12 you.

13 MR. PRICE: Mr. Kaplan?

14 MR. KAPLAN: Good morning, Commission. I'm  
15 Seth Kaplan of Capital Trade. I'd like to go over  
16 some of the economic conditions of the industry and  
17 review some of the legal issues from an economic  
18 perspective.

19 First, I want to discuss the conditions of  
20 competition, which Alan discussed earlier. These  
21 conditions allow intense price competition in the  
22 market. All the foreign producers are here. They  
23 need to export here, some by law. They are all with a  
24 major retailer selling on price for fungible products.  
25 They have expanded capacity. They are actively

1 bidding in customers right now, and they are bidding  
2 with low prices.

3 But several things have happened over the  
4 last several years that have intensified the  
5 competition. First, the evolution of distribution in  
6 the United States has moved from distributors to  
7 brokers to direct imports by purchasers. There are no  
8 intermediaries anymore. All the larger retailers know  
9 and deal directly with the foreign producers, and this  
10 allows for intense and immediate price competition.

11 Second, the evolution of price determination  
12 over time. At one point this industry worked with  
13 price lists, both foreign and domestic. Then it moved  
14 to an RFP or bid process where the foreign producers  
15 were asked to bid at these large retailers.

16 Today, much of the prices are determined  
17 through multiple bids and auctions, so there is direct  
18 contact between major retailers with producers in all  
19 the major countries, the subject countries and the  
20 United States, and they go back multiple times to get  
21 the best price. So you have a situation now where the  
22 conditions of competition have intensified the effects  
23 of imports on the market and dumped imports.

24 I want to call attention to Alan's slide  
25 once again with the two markets. This is an unusual

1 case in the sense that the scope is narrower than the  
2 like product. The like product consists of certain  
3 lined paper school supplies and other paper products.

4 The other paper products aren't covered by the scope,  
5 but they're in the like product. They're gone.

6 They're toast. They are eliminated from the U.S.  
7 market because of imports from the subject countries.

8 The products covered under the scope have  
9 been doing well, and if you take a look at this graph  
10 you'll see that after the order U.S. profits improved,  
11 subject import market share declined, and this order  
12 has been effective.

13 On the ability and interest of the foreign  
14 producers to enter, I just ask you to do what  
15 economists do, as scary as that might sound. Look at  
16 actual behavior. Do not look at self-interest  
17 statements. We can look to the actual behavior here.

18 And what do we see? We see imports of subject  
19 product from all three countries, related products  
20 from all three countries and other paper products from  
21 all three countries.

22 These countries are actively bidding in the  
23 United States. These countries go to trade shows to  
24 try to sell to U.S. retailers. These producers have  
25 direct lines of communication with the largest

1       retailers in the United States. On the other hand,  
2       you have them saying we have no interest. These facts  
3       contradict those interests. India might talk about  
4       capacity constraints. Much of the paper products  
5       there are produced by hand. There is a billion people  
6       to add to capacity in that country.

7                 Finally, let me look at the effects of  
8       revocation and once again look at this graph. This  
9       will reverse should any of the three countries be let  
10      off. This is the poster child for effective relief.  
11      This is a case where the Commission stopped dumped  
12      imports.

13                In over five years, these imports left the  
14      market and the domestic industry has improved.  
15      They've invested. They've hired back people. This is  
16      one of the most effective orders I've seen in over 70  
17      cases I've participated in as a consultant and many  
18      cases I've participated in when I was on the staff of  
19      the Commission. This is exactly what the law is  
20      about.

21                In terms of prices, we've seen the same  
22      effects. Prices have increased. These imports have  
23      affected prices previously and quantities previously  
24      through the bid process. We've seen in this graph  
25      once again that shipments have risen, and we've seen

1 that prices have risen. This industry is susceptible  
2 to a return of subject imports, and this would reverse  
3 if the orders were removed from a single country.

4 Once again, I would ask you to take a close  
5 look at that. That is what you want, effective relief  
6 from unfair imports. This is exactly the scenario the  
7 law contemplated. The actions taken by all these  
8 producers are the exact actions the Commission would  
9 have wished for -- rehiring employees, increasing  
10 investment, increasing market share. Thank you very  
11 much.

12 MR. PRICE: That concludes our direct  
13 presentation. We reserve the remainder of our time  
14 for rebuttal.

15 CHAIRMAN OKUN: Thank you. Before we begin  
16 our questions this morning, let me take this  
17 opportunity to thank all of you for being here, in  
18 particular those members of industry who have taken  
19 the time to appear and to answer our questions. We  
20 very much appreciate you doing that.

21 And also a special welcome to the workers  
22 who have traveled here from Pennsylvania. We  
23 appreciate you being here, and we hope that this  
24 proceeding is informative for you. And to you, Ms.  
25 Foster, for representing labor on the panel as well.



1 Thank you for being here.

2 I will start the questions this morning, and  
3 I'll direct this to producers. In looking at the  
4 chart that was before us and focusing on that,  
5 obviously we have seen the market penetration of  
6 subject imports declining from the peak levels  
7 observed during the original investigation, but the  
8 domestic market share has not increased. To the  
9 contrary, it continued to decline after imposition of  
10 the orders and mainly fluctuated downward between 2006  
11 and 2010, although with an increase in 2011.

12 In light of this historical pattern, would  
13 any increase in subject imports after revocation of  
14 the orders merely replace nonsubject imports, which we  
15 saw happen after the order was imposed? What would  
16 that mean for the industry?

17 MR. BRIGHTBILL: I'm trying to find the  
18 question in there. I'm sorry.

19 CHAIRMAN OKUN: Okay. I'll try and simplify  
20 it, which is sometimes when we put an order in place,  
21 and Dr. Kaplan just said a very effective order in  
22 terms of where you saw market penetration. Sometimes  
23 in other cases what you see is the domestic market  
24 share increasing because they gain volume back from  
25 the subject imports.

1           In this case we don't see that, and I wonder  
2           what that means if we were to revoke the order.  Would  
3           there just be displacement with other nonsubjects in  
4           that instance?

5           MR. BRIGHTBILL:  I think we saw volume  
6           increase immediately after the order and as the order  
7           was put in place.  We didn't rebound.  We've grown  
8           slightly since then, but clearly we're not alone in  
9           the marketplace.  We still have a highly competitive  
10          marketplace, but it's on a fairly traded basis today,  
11          not on one that was clearly damaging and injurious to  
12          the industry.

13          We are stable.  We're more sustainable today  
14          than we were prior to the order, and the only thing  
15          that really has changed in the competition side is the  
16          imposition of the orders.  The dynamics of that  
17          business continue to leave us vulnerable to these  
18          subject imports that are able to come in and would  
19          reverse that position of sustainability and viability  
20          of our domestic industry very quickly.

21          To remind you of that, there are many  
22          subject producers, particularly China, India and  
23          Indonesia, who have increased capacity.  They compete  
24          on prices, unfairly dumped margins in the past.  It's  
25          a highly seasonal business, and we have concentration

1 of sales with very few customers so it's very easy for  
2 these producers to quickly come into our market and  
3 reverse the sustainable trend that we have today.

4 MR. ROBINSON: Commissioner Okun?

5 CHAIRMAN OKUN: Yes?

6 MR. ROBINSON: George Robinson from Top  
7 Flight. We had recently sent some of our certain  
8 lined paper school supply production overseas in order  
9 to combat the extreme pricing pressure that we were  
10 experiencing in the market prior to the orders.

11 Following those orders, we reshored or  
12 brought back that production to our factory. We were  
13 able to maintain our workforce. We were able to  
14 restabilize a company that was in financial trouble  
15 after 90 years of successful operation. We were at a  
16 loss as to what to do.

17 And so the benefit of the orders was that we  
18 were able to keep the dumped and subsidized products  
19 from India, Indonesia and China out of the country and  
20 that trade began to take place in a fair manner with  
21 fair pricing according to U.S. law. We participate in  
22 that environment today. We maintain our sales. We  
23 work very hard every day to try to build our sales, to  
24 try to build the utilization of our factory and try to  
25 build other aspects of our business.

1           But with these orders you saved my company,  
2           and with these orders we are able to -- we do have the  
3           ability and the manufacturing capacity and the  
4           workforce to further build our company successfully  
5           into the future, thanks to the orders.

6           MR. RAHN: Commissioner, Hal Rahn from  
7           Norcom. Norcom is probably the most concentrated  
8           again on the commodity side, and since the order we  
9           have significantly increased our U.S. production  
10          capacity, as well as our throughput, if you will, of  
11          paper going through our plant that's also coming from  
12          U.S. paper mills and added approximately 50, 60 jobs.

13          And when we talk about a capacity number  
14          there may be something like -- it's probably  
15          proprietary, but it's safe to say that on items like  
16          composition books we are now one of the largest  
17          producers in the world because we brought that  
18          production back into the country as a direct result of  
19          the order that's in place today.

20          CHAIRMAN OKUN: I don't want to touch on  
21          confidential information. I know your individual  
22          producer experience may be different, but just looking  
23          at the record generally is this an industry where  
24          maximizing capacity utilization is not essential to  
25          obtaining profitable performance?

1           MR. RAHN:  Again, Hal Rahn at Norcom.  In an  
2           operation like ours, which is highly commodity driven,  
3           it's very important to us to have the maximum  
4           utilization.  We don't always have it, but we would  
5           certainly try to have year round production or some  
6           semblance of year round production, but we are all in  
7           an incredibly seasonable business so there are times  
8           when we have to back off maybe a little bit in the  
9           fall.

10           It's a very similar business to most  
11           manufacturing companies where it is critical for us to  
12           have general ongoing production to maintain staffing  
13           requirements, as well as keep our manufacturing cost  
14           at the best possible place.

15           CHAIRMAN OKUN:  Do other producers want to  
16           comment on capacity utilization and financial  
17           performance?

18           MR. ROBINSON:  Commissioner, it's George  
19           Robinson from Top Flight.  At Top Flight we do not  
20           operate our equipment as much as we would like to.  We  
21           have open capacity in our factory, and it's  
22           significant.  We work very hard within the seasonal  
23           business in the seasonal business timeframe to make  
24           the best use of our equipment that we possibly can.

25           I think the point is that we cannot make

1 more money if the pricing is not such that it allows  
2 us to make a profit on the item, and before the  
3 dumping orders were in place we were unable to make  
4 money at higher capacity utilization.

5 We want to make more product. We want to  
6 win more bids today. We just haven't won enough to be  
7 at 100 percent capacity. If we were at 100 percent  
8 capacity we would increase our capacity just like the  
9 Indonesians and the Indians and the Chinese would. If  
10 they are at capacity then they will add capacity  
11 because it's profitable to do that.

12 So we have the ability to produce more. We  
13 work every day to try to sell more product now that we  
14 have a fair trade environment in the U.S. market. We  
15 are actively involved in trying to build new business  
16 that goes through our factory and to build our  
17 business in a profitable manner. Yes.

18 CHAIRMAN OKUN: Okay. Returning to the  
19 nature of competition with nonsubjects, one of the  
20 other changes from the original investigation is the  
21 composition of the nonsubjects that were in the market  
22 at that time has changed dramatically. I mean,  
23 Vietnam was almost nowhere I think and now accounts  
24 for a large source of nonsubject imports.

25 Can you talk about are you knowledgeable

1 about their product? Are they competing in different  
2 products than subject imports or the same? What's the  
3 nature of the competition with the major nonsubjects,  
4 and is that different than it was or is with the  
5 subject imports in terms of product mix or prices?

6 MR. McLACHLAN: To answer your question --  
7 this is Neil McLachlan with Mead -- they're largely  
8 the same products. The things that come from Vietnam  
9 and Mexico, though, are different from the Chinese,  
10 Indian and Indonesian because they're not doing the  
11 same sort of practices that those three subject  
12 countries are.

13 We're better today because of the orders  
14 against those three countries, and we do have and do  
15 see some of those other countries, nonsubject  
16 countries, appear in our marketplace. They are at our  
17 bids, but they don't practice the same way as the  
18 subject producers do.

19 We are being vigilant. Clearly we are  
20 vulnerable and we continue to be concerned about those  
21 volumes that are coming into the country from those  
22 nonsubject areas, and if things change I'm certain  
23 that we'll be back here having a different kind of  
24 conversation than we're having today.

25 CHAIRMAN OKUN: Okay. Any other comments on

1 the nature of nonsubject competition, either the  
2 product mix or the pricing practices?

3 MR. ROBINSON: I agree with Neil's  
4 characterization of the nonsubject country producers.

5 CHAIRMAN OKUN: Dr. Kaplan, I don't have  
6 much time left. Is there anything you would want to  
7 add with respect to competition with nonsubjects?

8 MR. KAPLAN: Sure. I think the effects of  
9 the nonsubject relative to the subject could be seen  
10 by comparing the profitability of the industries when  
11 the subject imports were present and now when the  
12 nonsubject imports are present.

13 So I think plainly from that you could see  
14 that the nonsubjects are behaving differently at this  
15 point than the subject countries were before. Thank  
16 you.

17 CHAIRMAN OKUN: Thank you. My red light has  
18 come on. Vice Chairman Williamson?

19 VICE CHAIRMAN WILLIAMSON: Thank you, Madam  
20 Chairman. I do want to express my appreciation to all  
21 the witnesses for your testimony and to the workers  
22 for coming today.

23 Just to finish up on that last subject, I  
24 don't know if, Mr. Brightbill, you wanted to add  
25 something on that?



1           MR. BRIGHTBILL: Well, just that you have  
2 bidding data in the staff report as well, and the  
3 bidding data shows -- I can't get into it too much  
4 because of confidentiality, but there is the U.S.  
5 going head-to-head with subject, as well as in some  
6 cases nonsubject.

7           And I think when you look at the pricing  
8 that's being offered by the various parties it's very  
9 telling and speaks to some of the points that the  
10 witnesses just made about how damaging India,  
11 Indonesia and China are and how generally nonsubject  
12 did not have the same effect.

13           VICE CHAIRMAN WILLIAMSON: Does anyone have  
14 any explanation for why the nonsubjects are behaving  
15 the way they are? Have they learned a lesson, or they  
16 just haven't gotten the point of behaving as the  
17 others?

18           MR. McLACHLAN: Perhaps they have, but also  
19 perhaps they look at the market and like what they see  
20 a little bit and they don't want to disrupt that, and  
21 they know what has happened in the past to others who  
22 have.

23           So thank you for putting the order in place.  
24        There's no doubt that without that order we'd be in a  
25 different situation, and perhaps those countries would

1 also be doing the same sort of run to the bottom that  
2 the three subject countries have done.

3 VICE CHAIRMAN WILLIAMSON: Okay. Thank you  
4 for that. I was just curious about it.

5 During the original period of investigation,  
6 domestic producers either imported or brokered  
7 transactions for a substantial quantity of subject  
8 imports. Since the imposition of the orders, how has  
9 this practice changed with respect to subject or  
10 nonsubject imports? If this is business proprietary,  
11 you can answer posthearing.

12 MR. RAHN: This is Hal Rahn with Norcom.  
13 Since the order, we again have been able to increase  
14 our own manufacturing capabilities in terms of  
15 capacity and utilization. However, we do still bring  
16 some product in as necessary to balance certain needs  
17 at a particular time.

18 I think one critical point is that we are  
19 very, very competitive people, and the three guys here  
20 compete with each other on a very high level, as well  
21 as with other foreign countries that are fairly  
22 trading merchandise in our country, so I think that's  
23 an important point for us.

24 VICE CHAIRMAN WILLIAMSON: Okay.

25 MR. ROBINSON: Commissioner, Top Flight

1 imported --

2 VICE CHAIRMAN WILLIAMSON: Mr. Robinson?

3 MR. ROBINSON: -- a small share of our  
4 certain lined product prior to the orders, and after  
5 the orders we imported even a smaller amount. We are  
6 not capable of making all the product within the  
7 scope.

8 The composition book is not an item that Top  
9 Flight has the manufacturing capability. We don't own  
10 the machine that Norcom owns and we are put into a  
11 position where we purchase that. We do purchase that  
12 item overseas. That item has grown a little bit  
13 probably in the last five years, but the large  
14 majority of all CLPSS that Top Flight markets and  
15 sells is made in Chattanooga.

16 VICE CHAIRMAN WILLIAMSON: Thank you.

17 MR. McLACHLAN: We are in a very similar  
18 position. The amount of imports for our company has  
19 decreased significantly since the orders were put in  
20 place, and that represents a very small portion of our  
21 product lines. We have two real reasons for doing  
22 that. One is it's either small, intricate handwork  
23 pieces that we shouldn't set up here or it's a result  
24 of damage done and the original orders were put in  
25 place.

1           We don't have a composition book line today.  
2           We did before the damage was done by China, Indonesia  
3           and India, who dumped product here unfairly. We  
4           haven't recovered that capability yet and we do import  
5           some of that, but it's very small, and it's  
6           significantly less than we did before. There's no  
7           doubt in my mind that all three of these subject  
8           countries will return to us and start to do that, and  
9           we would be forced to go offshore even for our core  
10          Five Star product line should the orders be revoked.

11           So I'm very concerned about that, but the  
12          good news today is that we don't import the quantities  
13          we did before, and we're focused very much on  
14          supporting our domestic market and our domestic  
15          production.

16           VICE CHAIRMAN WILLIAMSON: Thank you. Ms.  
17          Foster, I was wondering. How has the domestic  
18          workforce become more competitive? What role did the  
19          orders play in maybe dealing with that?

20           I know someone else earlier talked about a  
21          lot more hand production overseas, so I assume lead  
22          workers in the U.S. are going to have to be more  
23          efficient to complete.

24           MS. FOSTER: Sure. Thank you for the  
25          question, Commissioner. Well, both of the facilities

1 that we represent were literally on the brink of  
2 closing. Now they're operating fully. There's been  
3 contract negotiations with the Mead facility. We've  
4 made changes to healthcare benefits.

5 More importantly, we've worked hard with  
6 both Mead and Roaring Spring to be flexible. There's  
7 been changes to work rules and other items so that the  
8 company can bring machines in, move machines around in  
9 order for the company to remain competitive.

10 I want to emphasize that both of these  
11 facilities and I believe the other producers that are  
12 in, their facilities are in rural areas. These are  
13 family supporting jobs in rural areas where the  
14 communities very much rely on these jobs.

15 We've gone to the mat for the employers to  
16 be able to compete and to survive, but we're only able  
17 to do that and that's only possible if the unfairly  
18 traded goods do not come back from these three  
19 countries. We're only able to work with an employer  
20 that is there.

21 If any of these three orders are lifted  
22 literally the two facilities that we represent could  
23 literally go away overnight and along with our members  
24 and their jobs the communities themselves that rely on  
25 those jobs. These are rural communities again, and

1 the survival of these communities rely on these jobs.

2 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

3 Do any of the producers want to add anything to that?

4 MR. McLACHLAN: I can echo the comments just  
5 made about our workforce in Blair, some of whom are  
6 present here today. Clearly we are very proud of our  
7 workforce there and what they do for the company.  
8 They work hard. They're flexible. They're smart  
9 about what they do, and they work safely every day.  
10 They're an important part of how we compete in this  
11 market. They're not afraid to compete on a level  
12 playing field.

13 When they get harmed is when we have  
14 unfairly dumped and subsidized products come into this  
15 market, and by virtue of the orders put in place we  
16 haven't had to compete differently. We're happy with  
17 that. We'd like to keep as much here as we possibly  
18 can, and these orders help do that.

19 VICE CHAIRMAN WILLIAMSON: Okay. Thank you  
20 for those answers.

21 At page 19 of the industry's brief you state  
22 that retailers use extremely low price CLPSS to drive  
23 foot traffic during the back-to-school season. I was  
24 just wondering. How is the domestic industry able to  
25 earn a profit if your sales are based on a loss

1 leader?

2 MR. RAHN: Hal Rahn with Norcom. Our  
3 industry again is we're selling at a profitable level  
4 to the retailer. Since the order, we're able to do  
5 that at a level that enables us to make some profit.

6 The retailer manages their business  
7 differently in that they make the decisions as to how  
8 they would compete with each other, whether they would  
9 sell at a price that may -- how they sell their  
10 product we are really not involved in. Some will  
11 market it or promote it at a different level than  
12 others, and they can highly compete with each other  
13 using our product as a loss leader, but we do not sell  
14 it to them at a loss.

15 VICE CHAIRMAN WILLIAMSON: Thank you.

16 MR. ROBINSON: Commissioner, it's a  
17 fascinating decision making --

18 VICE CHAIRMAN WILLIAMSON: Mr. Robinson?

19 MR. ROBINSON: I'm sorry. George Robinson  
20 from Top Flight. It's a fascinating decision making  
21 process to work with a retailer and then find out that  
22 they're going to sell the item 25, 35 cents below the  
23 price they paid you for it. You begin to run the  
24 numbers.

25 The market condition is that this product is

1 central to the education of our kids, certain lined  
2 paper school supplies. This is what the kids use in  
3 the classroom. These items are the items that are  
4 used for note taking, for preparing handwritten  
5 notices and that sort of thing. It is vitally  
6 important to just about every family that has  
7 children.

8           And so it has been determined as being one  
9 of the most -- if not the most -- promotional event of  
10 the year, second only to Christmas, for large U.S.  
11 retailers. It creates an incredibly intensive price  
12 negotiation in order to minimize the loss because  
13 that's what they're doing. They're looking at am I  
14 going to lose 30 cents? Am I going to lose 35 cents?

15       And when they're selling millions -- in some cases  
16 hundreds of millions -- of units of certain lined  
17 goods in a matter of three weeks it is ruthless  
18 competition, and we all participate in that  
19 competition, in that competitive market.

20           Since the orders, that competitive market  
21 has had fair pricing thanks to the orders. Before the  
22 orders the pricing was brutal. India, Indonesia and  
23 China were selling at dumped and subsidized prices,  
24 which resulted in losses. It resulted in bids going  
25 below my manufacturing cost because that's the nature



1 of the market and that's the nature of the retail  
2 buyer. That's their job. Get the lowest price they  
3 can. It doesn't matter if it's George from Top Flight  
4 or if it is the Indonesians or the Indians or the  
5 Chinese.

6 VICE CHAIRMAN WILLIAMSON: My time has  
7 expired, so I'll have to come back to this question.  
8 Thank you.

9 CHAIRMAN OKUN: Commissioner Pearson?

10 COMMISSIONER PEARSON: Thank you, Madam  
11 Chairman. Welcome to all of you. I can assure you  
12 that I never imagined when I joined the Commission in  
13 2003 how privileged I would be to be able to learn  
14 about so many interesting paper products. I didn't  
15 look at the Commission as a place that did much paper.  
16 You know, the record would show that we have had this  
17 opportunity more than once.

18 This is a somewhat unique paper case too  
19 relative to the others. Let me start with one thing  
20 that seems to make it different. Mr. Price, in your  
21 opening statement you had indicated that the orders  
22 saved the industry and its workers, and what I'm  
23 wondering is how consistent is that statement with the  
24 very meaningful reduction in employment that we saw  
25 between 2005 prior to when the orders went into effect

1 and then 2006 after they were in effect, because we  
2 saw employment drop from 942 to 498 or almost half.

3 MR. PRICE: Thank you, Commissioner Pearson.

4 It's Alan Price from Wiley Rein. You know, the hard  
5 part about doing these trade cases is that you're  
6 trying to catch what we've always called the falling  
7 knife. If you file it too early everyone says we're  
8 about to get killed and there's no injury to show,  
9 even though everyone knows it's about to occur. If  
10 you file it too late, you see what happened on other  
11 lined paper products. It's just gone, okay, and it  
12 happens incredibly quickly.

13 These producers had the courage, despite  
14 immense opposition from their retail partners in the  
15 original investigation, to move forward and try to  
16 save these product lines and their jobs in the United  
17 States. They couldn't save every job, couldn't do  
18 everything. They managed to stop things from getting  
19 any worse.

20 When we filed the case in 2005, Mead was  
21 literally shutting down the last major composition  
22 book line in the United States. The last one. This  
23 is that little black and white book there that  
24 everyone had in first grade. It was essentially gone.

25 There was a little bit left in Roaring Spring. It

1 was going. Everything was going.

2 You know, bottom line is it takes a while  
3 for people to bring lines back. We're just starting  
4 to see these lines come back. These are mostly pretty  
5 small businesses. Hal Rahn just brought production  
6 back of that line and it just came back part of the  
7 way through 2011 after a year and a half of planning.

8 As we were talking with him about it,  
9 without revealing confidential information, he was  
10 saying to us hey, if the Indians or Indonesians get  
11 out of this order I'm dead on these product lines. I  
12 need to keep this order here. These things are  
13 critical.

14 So not everything is perfect. I wish we  
15 could have saved all 900 jobs. Things are coming  
16 back. They're coming back perhaps not as fast on the  
17 production side as we would like, but they are coming  
18 back. And people are more automated. That's part of  
19 being competitive.

20 So this order has essentially been critical  
21 for saving what we have and leading to the restoration  
22 of domestic production. I have very rarely been more  
23 proud of seeing an order in place and really  
24 accomplishing what this order has done. It is so  
25 stark. It is so transparent that I think it speaks

1 for itself. This order basically prevented this from  
2 going the way of other lined paper products, just  
3 completely being decimated.

4 COMMISSIONER PEARSON: Okay. Ms. Foster, do  
5 you have any perspective on the employment decline in  
6 this industry?

7 Because as we look over the full period of  
8 the record, we do see a really quite meaningful  
9 decline, which admittedly has come back a little bit  
10 again lately, but that drop between 2005 and 2006  
11 really caught my attention because normally we think  
12 when an order goes into effect it ought to save jobs,  
13 and on this record you look at it and think my gosh,  
14 the order killed jobs.

15 MS. FOSTER: I do have some perspective. I  
16 mean, I would say that I think that before the order  
17 took effect we were just losing jobs at an alarming  
18 rate and so you're seeing before the order took effect  
19 and even after the order took effect you're seeing  
20 just the effect of the onslaught of the dumped product  
21 is what you're seeing and I think what the producers  
22 had to do to react to that, which was consolidate.

23 And in fact what Mead did was consolidate up  
24 into Blair where our members work, and even in that  
25 facility they had layoffs and just recently have

1 returned everyone to work. I want to emphasize that  
2 returning those people to work from layoff has  
3 restored lives and restored a community because when  
4 you're on layoff in a small community like that where  
5 you have no viable options -- these are manufacturing  
6 jobs. These are family supporting jobs. There aren't  
7 any other manufacturing jobs in the area where you can  
8 support your family.

9 I invite the Commission to come to Blair and  
10 see Blair. It's a small, rural town in the middle of  
11 Pennsylvania, and when you're laid off from a family  
12 supporting job, a manufacturing supporting job, there  
13 aren't any other viable opportunities to you.

14 So being able to return to work, that's what  
15 this order meant to them. Yes, there has been a  
16 decline in employment, but this is a declining  
17 industry as a whole and that's the perspective that  
18 you need to put around this entire lined paper sector  
19 is an overall declining industry.

20 With the onslaught of BlackBerrys and iPads  
21 and everyone pays their bills on line and all of that,  
22 that is where this industry sits and within where  
23 lined paper sits, but what bolsters this sector is  
24 what the producers just talked about. You have school  
25 aged kids. They're always going to need this product

1 and so demand is relatively stable.

2 But the dumping I think caused the immediate  
3 effect of loss of jobs, but thank God we had the order  
4 that came into effect and now the demand has remained  
5 stable and employment has returned relative to where  
6 it was when the order was put into place.

7 COMMISSIONER PEARSON: Okay. Well, and  
8 certainly we see fairly commonly that in industries  
9 that productivity increases due to mechanization or  
10 computerization and the number of employees might then  
11 decline, so that very likely is going on here as well.

12 Mr. McLachlan, in your statement you  
13 indicated that the industry remains vulnerable. Could  
14 you point to another case in which the Commission has  
15 made a vulnerability finding when the industry's  
16 return on investment has exceeded 50 percent in each  
17 of the past four years?

18 MR. MCLACHLAN: I'm not familiar with other  
19 cases, Commissioner. I'm sorry. I'm familiar with  
20 this one. What I can tell you about our profitability  
21 is that it's a direct result of the orders that have  
22 been placed and it will immediately reverse if the  
23 orders are revoked, and so I would encourage you to  
24 keep that in mind.

25 The dynamics of our market are unique. We

1 have this highly seasonal, highly promotable fungible  
2 product that is interchangeable with others, and I can  
3 tell you that these people are waiting to flood the  
4 market one more time with dumped and subsidized  
5 products should you revoke the orders, and we will see  
6 that profitability reverse. We will see the  
7 sustainability of the 498 people that we have employed  
8 today reverse, and we'll start to see jobs and product  
9 move overseas.

10 In addition to that, the risk is clear today  
11 even with the orders in place. We have just lost one  
12 of our largest accounts on Five Star, which is the  
13 heart and soul of what we product in Pennsylvania, and  
14 we have lost that to an Indian producer at  
15 substantially lower prices. I'll be happy to share  
16 the specifics with you in the post-hearing brief. But  
17 I'm not aware of other Commission cases.

18 COMMISSIONER PEARSON: Neither am I although  
19 counsel will surely advise me in the post-hearing if  
20 there are some, okay.

21 My experience in open and competitive  
22 marketplaces suggests that it's really, really unusual  
23 for an industry that doesn't have some intellectual  
24 property or something special to allow it to earn  
25 above market earnings for a period of years. So, I'm

1 just trying to figure out what's going on here. Why  
2 has this industry made so very much money over the  
3 period of review?

4 MR. ROBINSON: Commissioner, George Robinson  
5 from Top Flight.

6 I don't agree that we have made an  
7 outrageous amount of money over the period of review.

8 We lost -- I mean Top Flight individually was losing  
9 money leading up to the orders, and once the orders  
10 were in place we experienced the exit of the dumped  
11 and subsidized products from India, Indonesia, and  
12 China, and we had fair trade practice in the U.S.  
13 market resulting in that re-connection that we have  
14 all spoken about of the cost and the selling price.

15 COMMISSIONER PEARSON: Right. My time has  
16 expired so pardon the interruption, but the basic  
17 observation is that in an open marketplace one would  
18 have expected other firms to enter because of the  
19 amount of money that's being made, but we'll go back  
20 to that later, so Madam Chairman, I better pass.

21 CHAIRMAN OKUN: Commissioner Aranoff.

22 COMMISSIONER ARANOFF: Thank you, Madam  
23 Chairman, and welcome to all of this morning's  
24 witnesses.

25 I want to follow up on some of the arguments



1 that are being made with respect to environmental  
2 standards and this product. We have the Indonesian  
3 Respondents claiming that retailers in the U.S., at  
4 least some of the large majors, have imposed  
5 requirements for certain environmental certifications  
6 like FSC and other certifications, and that they won't  
7 buy products that don't have that certification.

8 As I understood the testimony from this  
9 panel, it was that those are more hortatory, that the  
10 retailers would like to meet those standards, but they  
11 don't actually require them and they will buy products  
12 that don't have them. And so I wanted to clarify that  
13 that is in fact your argument. Mr. Price is nodding.

14 MR. MCLACHLAN: I would suggest it's more  
15 than just that. There are many of our Q retailers who  
16 will accept AP&P product, product from TK, product  
17 from Indonesia, and you can see that without  
18 reservation. You see a lot of that product on the  
19 shelves today.

20 In addition to that, those that do have  
21 concern, and there are some, can get certified fiber  
22 sourced by these converters that are here today from  
23 other sources, and they have seen AP&P ramp up its own  
24 certified fiber sourcing which they could switch to  
25 their own converting plants and produce the subject

1 merchandise were it not for the dumped -- for the  
2 orders against the dumped and subsidized good.

3 They have the capacity ready. They can get  
4 the paper and they could start to come here for those  
5 customers who have that preference.

6 MR. ROBINSON: Commissioner Aranoff. It's  
7 George Robinson from Top Flight.

8 In addition to what Neil said, I would just  
9 like to let you know that zero, that no Top Flight  
10 customers require certification of the paper. It's  
11 really something that is available in the marketplace.

12 It's available to Top Flight as it is to Norcom, to  
13 Mead, to really any paper converter that's out there.

14 It's no certification. It's available and currently  
15 we have no customers that require it. There are many,  
16 many more customers in the United States, the large  
17 majority of customers make no requirements and make no  
18 claims and essentially give no credit for the  
19 certification.

20 MR. PRICE: Alan Price with Wiley Rein.

21 We brought some samples here, and we brought  
22 some samples to actually talk about the certification  
23 issue as part of this. We have legal pads here. We  
24 have an order that doesn't cover legal pads so the  
25 Indonesians have been very active in the legal pad

1 market. We have CVS legal pads from Indonesia. We  
2 have Walgreen's legal pads from Indonesia. We have  
3 Dollar General legal pads from Indonesia.

4 Now, we've talked a lot also about related  
5 product and I think you heard me talk about having its  
6 product recently pulled off the shelves for Indonesian  
7 product in the envelope area, and the question is is  
8 the paper source saying critical, okay? And here are  
9 a couple of examples.

10 These are retailers that you and I  
11 understand every day. We pulled off the shelf for  
12 Office Depot, pulled off the shelf for Target right  
13 here. This happened very recently, this one. There  
14 was actually Mead product still left in some of the  
15 ancillary product lines with SFC certification labels  
16 on it. It didn't really matter because they just  
17 shifted for the low price and the large volume, and  
18 left a handful of low volume products left on the  
19 shelves here.

20 So, left in the retail environment itself  
21 these things are nice, but these retailers are  
22 intensely competitive and faced with lower prices  
23 unfortunately will go for the lower pricing. And if  
24 you check those Indonesian products you will see no  
25 SFC certification stamps on any of them.

1                   COMMISSIONER ARANOFF: Dr. Kaplan.

2                   MR. KAPLAN: Yes. I just want to point out  
3 that oftentimes the Commission is confronted with  
4 competing claims, and the Commission has to sift  
5 through the credibility and the evidence in some ways  
6 indirectly, and what I think is so important about  
7 this case is direct evidence in front of you. So,  
8 there is competing claims, but we can see major  
9 retailers substituting foreign product for domestic  
10 product when the foreign product doesn't have the  
11 certification. It's not a document. It's not a claim  
12 about a third market. It's a piece of physical  
13 evidence.

14                   I've always noticed that because I have been  
15 on the other side of the aisle in three-sevens a lot  
16 and there is always physical evidence there. And here  
17 oftentimes we can't have that, especially in a future  
18 looking case involving a sunset review.

19                   So, I just wanted to note that you have in  
20 front of you and in this case actual evidence and  
21 physical samples, and you also have with respect to  
22 competition people showing up at trade shows actual  
23 bids. There is less speculation than you normally  
24 have to make in conducting this counter-factual  
25 exercise, and I think that evidence weighs heavily in

1 favor of our position. Thank you.

2 COMMISSIONER ARANOFF: I appreciate that,  
3 and the other piece of evidence that I'd like to see  
4 and don't see on the record that I invite all parties  
5 to submit post-hearing if you can is if there are  
6 corporate policies for the large retailers with  
7 respect to purchasing paper that involves sustainable  
8 harvesting, I would like those to be put on the  
9 record. In particular, obviously if they don't have  
10 policies, that tells you one thing. If they have  
11 policies and the language is hortatory, that tells me  
12 something else. If they have policies and the  
13 language is mandatory, that's different. So if there  
14 are policies or corporate statements that could be put  
15 on the record for the major retail purchasers, that  
16 would be very helpful. Thanks.

17 One of the arguments that was made, and Mr.  
18 McLachlan, you responded to it in part, was that a lot  
19 of the higher end products that have mixed elements in  
20 a spiral notebook with pockets and other inserts have  
21 to be assembled by hand, and that that can't be done  
22 affordably in the U.S. You've mentioned that you do  
23 make those products in the U.S. Are they assembled by  
24 hand or by machine?

25 MR. MCLACHLAN: Most of the small amounts of

1 imports that we bring in today are things that are  
2 assembled by hand or have some substantial handwork  
3 done, things that we can't do in the United States, or  
4 things that we have lost the machine capability to do  
5 because of the damage that was done prior to the  
6 orders being put in place.

7 MR. ROBINSON: Commissioner, Top Flight  
8 assembles all products whether they are fancy with  
9 pockets and poly covers and inserts or not, they are  
10 all assembled by machine in Chattanooga. It's really  
11 the only efficient way in the United States to  
12 manufacture these products, and we have a machine  
13 that's made by Bielomatik that is very productive and  
14 does all that in-line. You hang a roll on one end and  
15 you get a finished notebook off the other end.

16 MR. MCLACHLAN: Commissioner, generally the  
17 price we bring in have some components. Those are the  
18 ones that we tend to import, comp. books, but also  
19 Five Star Advance. These products which are made in  
20 Blair still have pockets, still have dividers, still  
21 have some of the inserting components that you were  
22 referring to, but those are done in our Blair plant,  
23 and we've managed to automate, as George has, some of  
24 those processes in order to retain jobs here.

25 COMMISSIONER ARANOFF: Okay.

1 MR. RAHN: Also, Hal Rahn from Norcom.

2 All of our value-added notebooks that have  
3 multiple components to them are done in an automated  
4 fashion as well.

5 MR. PRICE: Alan Price from Wiley Rein. Let  
6 me just add one thing.

7 You know, during the original investigation  
8 there was a lot made out of certain scope exclusions  
9 for some very specific products, and there was sort of  
10 the allegation those are radically going to expand,  
11 and was gaming the market and so forth.

12 A number of those products aren't even  
13 imported or sold in the United States anymore. They  
14 have essentially disappeared, and I'll be happy to  
15 provide you the volume of what's imported of those  
16 exempt items from Mead. They have declined  
17 dramatically and are truly insignificant compared to  
18 that total volume. These producers did exactly what  
19 they said they wanted to do here which was to preserve  
20 domestic production.

21 COMMISSIONER ARANOFF: Okay. Let me try and  
22 get in one more question before I run out of time.

23 Mr. Price, I think it was in your opening  
24 statement but it may have been in someone else's  
25 testimony. There was a statement that the number of

1 major retailers who are purchasing the product have  
2 become smaller since the original period of  
3 investigation, and I wanted to ask you to expand on  
4 that to the extent you can publicly, and then if not,  
5 confidentially, who is no longer there or who has  
6 merged or what the changes are in terms of the major  
7 purchasers.

8 MR. PRICE: So, talking to my clients what  
9 they would say is the concentration of sales has  
10 actually become more concentrated within that pool of  
11 a dozen major names. And so while there are dozen  
12 major names it's even become fiercer at a couple of --  
13 you know, a couple of them are even taking more  
14 volume. There has been some consolidation further at  
15 the drug, in the drug chain area since this order went  
16 into place, so those are a couple of the years.

17 MR. ROBINSON: The bidding process combines,  
18 combines the buying power in a very dramatic way, and  
19 we would be happy to explain that to you as time wears  
20 on.

21 COMMISSIONER ARANOFF: Okay. I have run out  
22 of time but I will come back to this in the next  
23 round. Thank you, Madam Chairman.

24 CHAIRMAN OKUN: Commissioner Pinkert.

25 COMMISSIONER PINKERT: Thank you, Madam



1 Chairman, and I thank all of you for being here today  
2 to help us understand this industry and the prospects  
3 for the industry.

4 Commissioner Pearson asked a question that  
5 at least alluded to the possibility that new entrants  
6 could come into the industry to bring down the level  
7 of profitability of the industry. Is there some  
8 limitation on raw material inputs for U.S. producers  
9 that prevents new entrants from coming into the  
10 industry?

11 MR. ROBINSON: George Robinson from Top  
12 Flight.

13 I'm not aware of any raw material shortfalls  
14 worldwide, in the United States or anywhere else that  
15 would limit the ability of new players to come into  
16 the marketplace. The only -- I can't think of any  
17 limitations in that regard.

18 MR. PRICE: Alan Price from Wiley Rein.

19 One thing that is critical is that we often  
20 always think of these cases as dumping cases, but are  
21 Indian nation and Indian producers here have very  
22 substantial subsidies, and that means that they are  
23 very differently characterized and positioned in the  
24 marketplace versus some of the other non-subject  
25 players in terms of their ability to drive down

1 pricing.

2 COMMISSIONER PINKERT: Dr. Kaplan, any  
3 thoughts about new entrants into the industry?

4 MR. KAPLAN: I'd like to preference the new  
5 entrants issue with just my understanding of the size  
6 of the potential import volume relative to the  
7 industry, and I think this goes to the profit question  
8 you're asking.

9 Sometimes you're just faced with a situation  
10 where you get fairly significant swings and it's kind  
11 of almost like an on-off situation. Even with some  
12 profitability, the domestic industry was just about to  
13 shutdown and move abroad before. Now you're seeing  
14 under the order that they're doing significantly  
15 better, but they are starting to face more intense  
16 competition which would be an entrant from fairly  
17 traded imports at this point. So, I view them as  
18 entrants, and both as countries but as individual  
19 companies, so you are starting to see new entry from -  
20 - not domestically, from abroad.

21 And second, I want to caution the Commission  
22 relative to some industries where they see where there  
23 is very minor price changes, many producers in very  
24 developed markets with marginal changes in imports.  
25 This is one where it's a bit like on and off, and my

1 concern is that you look and you say, boy, this has  
2 been a successful order. It's turned things around.

3 This isn't a safeguards case. There is  
4 unfair imports at significant margins and significant  
5 subsidy rates with large capacity and actively  
6 bidding, ready to re-enter, and I think what the  
7 executives here have expressed and what I'm talking  
8 about by entry is that this could turn the switch  
9 again. This isn't like, well, they are doing pretty  
10 well now, and companies have brought back jobs and  
11 reinvested. They have adjusted as in a safeguards  
12 case.

13 There is no adjustment to subsidized dumped  
14 imports at the capacity levels and the prices that  
15 these are coming in. Don't look at the profitability  
16 levels and say, okay, they can -- unlike a safeguards  
17 case -- these guys could stand on their own two feet.

18 The amount of volume, the amount of excess capacity,  
19 the dumping margins, the incentives that these  
20 companies have, especially in China to move paper, and  
21 Indonesia to move paper. The value-added from  
22 punching it and stuff is less interesting than  
23 moving their underlying paper products that they're  
24 producers of.

25 This industry will be swamped and face the

1 same situation it had before should the orders be  
2 removed. So, I just wanted to -- you know, I'm  
3 looking and so are you, you are used to looking at  
4 steel. You're used to looking at chemicals. Marginal  
5 rates, highly capital-intensive. This is a different  
6 type of structure, and if imports are let in you're  
7 going to see those profits disappear like they did  
8 before, and these producers forced to go overseas.

9 You saw at one point they had brokerage.  
10 You've seen that in other industries where the prices  
11 are so low to remain in the industry and to be  
12 profitability they have to import the dumped products,  
13 and they're in a situation where they said we can't do  
14 that anymore. We either going to have to leave and  
15 produce abroad or we're going to become resellers.

16 They decided to bring the case, get the  
17 industry in shape, but all that could be reversed if  
18 the orders were removed. So, it's a long answer but  
19 there are entries from fairly traded and there is big  
20 concerns that unfairly traded come in you're going to  
21 see a major reversal given the sensitivity and if not  
22 the vulnerability certainly the -- Alan?

23 MR. PRICE: Susceptibility.

24 MR. KAPLAN: Susceptibility to dump and  
25 subsidize imports.

1 MR. PRICE: Alan Price, Wiley Rein.

2 You heard testimony just earlier today from  
3 Mead about the loss of huge volume for 2012 to India  
4 for product that competes against the one subject  
5 version of this. The volume is stunning. It's on-  
6 off. Boom. The price was lower, it moved. It's at  
7 one of America's largest retailers. We've actually  
8 identified them in our brief, okay. This stuff can  
9 shift to the subject countries in an instant and it's  
10 devastating. And so I've seen a lot of cases, but  
11 this has a unique characteristic at how fast this can  
12 move, how competitive this environment is, and if you  
13 go back and look at how quickly basically the lined  
14 paper industry outside of where we receive relief just  
15 existed.

16 I mean, this is on-off, it's in-out. This  
17 industry is vulnerable. This industry is susceptible.

18 It may not fit the classic paradigm, but not every  
19 case, as we all know, is sui generis. and so the  
20 paradigms don't always apply but the law does, and  
21 this industry, I would say to you, is quite  
22 vulnerable.

23 COMMISSIONER PINKERT: Now, without regard  
24 to how it might impact the analysis here at the  
25 Commission, I'm wondering whether the industry people

1 on the panel can testify as to whether Indonesia is  
2 more of a threat in the next year or two to the U.S.  
3 industry than is India.

4 MR. ROBINSON: Commissioner, this is George  
5 Robinson from Top Flight.

6 We consider India, Indonesia and China all  
7 to be significant threats to the U.S. market as it  
8 stands today. They have demonstrated they have the  
9 capacity, the export orientation and the willingness  
10 and the interest in the U.S. market to do business  
11 here. In 2004, '3, 2005, they demonstrated that they  
12 would use dumped and subsidized pricing to enter the  
13 market and to take business from our companies, and to  
14 take jobs from our workers. We believe that that's  
15 what they will do again.

16 COMMISSIONER PINKERT: No, I understand your  
17 point about what was happening before the order, but  
18 I'm asking a question about current market conditions  
19 and looking at the worldwide presence of Indonesia  
20 versus India and whether there is a difference in  
21 terms of what might happen in the next year or so.

22 MR. ROBINSON: Yes, sir. George Robinson  
23 again.

24 We see what happens next as being no  
25 different from what happened before. What's changed

1 in the market is that the U.S. market now has fair  
2 trade. Before we did not have fair trade. And if you  
3 revoke the orders we will lose fair trade and we'll  
4 lose the volumes, and we believe that applies to  
5 China, India, and Indonesia as a group and we believe  
6 that each of the countries operate in similar  
7 fashions. That's what they were doing before, and we  
8 believe that's what they will do again.

9 MR. MCLACHLAN: I would agree with George.  
10 There is no difference between these three subject  
11 countries. They do have a big impact on our business  
12 collectively and individually. Clearly, India has  
13 increased its volumes here. The U.S. is not their  
14 largest export market, and only a few companies,  
15 unfortunately, were reviewed by the Commission, and so  
16 we don't have all the data, but it's clear that they  
17 are looking to us to sell high volumes at very low  
18 prices, and Indonesia is just the same. They are here  
19 today. They are clearly interested in this market.  
20 We see them every day at the retailer. We see them  
21 every day at the shows that are put on. They are very  
22 present in other lined paper products. They are  
23 clearly accepted by our large customers, the few  
24 customers that really count for large volumes, and  
25 they have very large capacity. That capacity that

1 they've had in the past has not gone away. It is able  
2 to be directed directly at us, and it's clear that  
3 this is one of the most homogeneous, easy to enter,  
4 highly volatile markets around, and they are very  
5 interested in this market. Nothing has changed.

6 MR. RAHN: Hal Rahn with Norcom.

7 I think it's very difficult for us to make a  
8 distinction perhaps of what could happen or what would  
9 happen, but I think it is fair to say that if you're  
10 looking or speaking specifically, say Indonesia, the  
11 reason there is not more sale PSS on this table is  
12 because of the order, not because of a decision to  
13 leave the market. It's because of product being not  
14 fairly traded, and once the order came then there was  
15 a different direction taken. It's very hard for us to  
16 speak about maybe what they would do, but we do know  
17 what they could do.

18 For instance, we have, again, installed a  
19 composition book, brought back large numbers of  
20 composition books to this country to be manufactured.

21 They possess a machine that could do something very  
22 similar in a very, very quick fashion, and with some  
23 sort of support that we don't have to enable us to --  
24 we just have to be competitive, which we are.

25 COMMISSIONER PINKERT: A quick comment from



1 Mr. Price. I'm past the time for this round.

2 MR. PRICE: Okay. The quick comment is  
3 that, you know, you have the Indian producers have  
4 come in. You've got limited questionnaire data saying  
5 we're very y different. What's fascinating is that  
6 you have bidding data and you only have questionnaire  
7 coverage from half of the people who supposedly bid  
8 from India, and these are the purchasers telling you  
9 who is bidding. They are very significant players you  
10 don't have data from. There is immense capacity there  
11 and immense ability.

12 COMMISSIONER PINKERT: Thank you. Thank  
13 you, Madam Chairman.

14 CHAIRMAN OKUN: Commissioner Johanson.

15 COMMISSIONER JOHANSON: Thank you, Madam  
16 Chairman, and I would also like to thank all of you  
17 for appearing here today and in particular the workers  
18 who drove all the way down from Pennsylvania to  
19 observe this hearing. I would also like to welcome  
20 Jake Frischknecht who is a summer clerk for me this  
21 summer. He is a law student at George Washington  
22 University, and he has very ably helped me prepare for  
23 today's hearing. So thanks, Jake.

24 I would like to begin by following up on  
25 Commissioner Pinkert's questions dealing with

1 Indonesia. He started speaking on Indonesia. But we  
2 have the situation where Indonesia contends that they  
3 have no existing unused production capacity, and that  
4 there is no plan to increase production activity.  
5 That, of course, counters what we've been told this  
6 morning by Petitioners. I'd like to have you all  
7 comment on that and perhaps, in particular, Mr. Rahn,  
8 since you stated you have actually been to Indonesia  
9 and observed production there. Could you perhaps  
10 address this issue? Thank you.

11 MR. RAHN: Thank you, sir. Again, Hal Rahn  
12 from Norcom.

13 I think the essence is they have equipment  
14 that is perfectly capable and was put in place in the  
15 '97-98 timeframe specifically to make product for the  
16 United States. When I say that I mean product that's  
17 sized and fits exactly into the CLPSS volume, size,  
18 mix. As a result of the order I'm sure that knew what  
19 they needed to do, which was adapt to other  
20 marketplaces. However, given the type of equipment  
21 they have, which is the same type essentially that we  
22 all have, it would not be unreasonable to think at all  
23 that in a matter of some short period of time that  
24 they could essentially take the ticker machine from  
25 being an A4 or a metric size back to the size that is

1 exactly the same size as our market because that's how  
2 their machinery was originally tooled.

3 So, I think our point is that their capacity  
4 is very, very swingable so they could come back into  
5 our market if they chose to.

6 COMMISSIONER JOHANSON: Mr. Robinson?

7 MR. MCLACHLAN: Commissioners, George  
8 Robinson.

9 I haven't personally visited any converters  
10 in Indonesia, but people from Top Flight have visited  
11 the converters, and the equipment that they purchased  
12 in 1997 is just like the equipment that we have in  
13 Chattanooga. It is fully capacity of manufacturing  
14 U.S. product at U.S. sizes. Despite the fact that  
15 they may not have any inventory on it, they are  
16 certainly capable of producing high volumes of  
17 product.

18 If the U.S. market opens up to them with the  
19 revocation of the orders, then they will -- I think  
20 their attitude about investing -- making small  
21 investments in order to expand production will be  
22 simply made. These people were very involved in the  
23 U.S. market before. There is really no reason to  
24 believe that they should not -- would not come back if  
25 they are given the opportunity by the loss of the

1 orders.

2 So, that's the reason we are here today is  
3 to ask you to maintain the orders in order to keep the  
4 people that were dumping five years ago out of the  
5 market so that we can trade fairly and maintain,  
6 sustain and build our companies and the opportunities  
7 for the workers of our companies.

8 MR. RAHN: Commissioner Johanson, one more  
9 comment too.

10 COMMISSIONER JOHANSON: Yes.

11 MR. RAHN: I think another critical point is  
12 one of the uniquenesses of that particular facility is  
13 it's on a site with one of the largest paper mills.  
14 So, the reality is the only barrier to any entry if it  
15 were capacity could be capacity of productive CLPSS  
16 capacity could be remedied fairly quickly because I'm  
17 sure that from a paper supply standpoint there is no  
18 shortage in the same -- essentially the same facility.

19 COMMISSIONER JOHANSON: Yes, I thank you for  
20 your responses.

21 And to continue on my first question, and  
22 this is perhaps best answered by Mr. Rahn again. You  
23 touched upon this in kind of a small way. But there  
24 is a whole issue of converting metric to the U.S.  
25 sizes. Respondents contend that this is an issue for

1       them increasing shipments to the United States. Could  
2       you perhaps explain to me as to what process is  
3       involved to change sizes?

4               MR. RAHN: I wouldn't consider myself an  
5       expert on this but I do understand it and deal with  
6       it, at least from our facility. We all have the same  
7       equipment, again, Bielomatik equipment, that's German  
8       highly automated equipment. Typically these machines  
9       are made in a fashion where they have beds or they are  
10      made specifically to fit a size product, whether it be  
11      a 9 by 11 or 10.5 by 8 in our marketplace, or whether  
12      it be A4 for some other marketplace size. It's a  
13      matter of changing certain pieces along the pathway of  
14      the machine that can be changed.

15             Essentially the machine stays the same. You  
16      just will replace a component or a section with the  
17      U.S. type size, and they should have these sizes I  
18      would think since all the machines originally had U.S.  
19      size capabilities.

20             MR. ROBINSON: In addition to that,  
21      Commissioner, George Robinson here from Top Flight, it  
22      takes a matter of hours, if they are good, to only a  
23      couple of days, if they don't do it very often, to  
24      change from metric sizes to U.S. sizes. In 1997, when  
25      they purchased those machines they were making U.S.

1 product. They have the tooling. They have  
2 everything. The machine fundamentals is how it's  
3 described, are capable of producing both A4, metric  
4 sizes and U.S. sizes, so there is no question in my  
5 mind that that's the case of the machinery in  
6 Indonesia. They can produce product for us, and if  
7 they have that capability we believe they will, and we  
8 believe they will come to the U.S. market, and we  
9 believe they will return to their dumping and their  
10 subsidized pricing practices that hurt our industry  
11 badly back in 2005.

12 COMMISSIONER JOHANSON: Thank you.

13 Yes, Mr. McLachlan?

14 MR. MCLACHLAN: I would simply agree with my  
15 colleagues here. These sizes can be easily changed.  
16 We don't have single minute change of dyes but we have  
17 pretty darn close to it for different rulings and  
18 different sizes that we do. Our workers that are  
19 present here today have done a good job of driving  
20 productivity and lack of downtime as they reduce that,  
21 and they've invented new ways within our factory to  
22 make those changes more quickly. I'm certain that the  
23 Indonesians with their sophistication have done the  
24 same thing. We all run the same equipment no matter  
25 where you go in the world, and this particular factory

1 has that.

2 In addition to that, I would add that they  
3 have the added advantage of being able to add simpler  
4 processes, not just high-speed equipment, but they can  
5 simply add some ruling equipment. It's very cheap.  
6 It's easy to get up. It gives you high volumes, and  
7 they would do handwork to finish the product, and it  
8 would come here. That would be one of the first steps  
9 they would do if they find themselves, which I would  
10 suspect they wouldn't, in that capacity-constrained  
11 situation.

12 COMMISSIONER JOHANSON: Yes. Thank you for  
13 your responses. And now I have a question concerning  
14 domestic-like product.

15 In the prehearing brief Petitioners argue  
16 the legal pads without covers should be excluded from  
17 the domestic-like product. Could one of you please  
18 explain why Petitioners are seeking to exclude these  
19 products from the like product definition?

20 MR. PRICE: Let me start with a little bit  
21 of the history on this case for a little bit. We  
22 tried to create when we wrote the scope of this case  
23 an order that was actually enforceable at the border,  
24 which is always a difficult thing. So we said, oh, we  
25 want to include everything. We said we'll include

1 legal pads with covers on them. There are really  
2 essentially no legal pads with covers in any volume  
3 sold or made anywhere. The legal pad market is this,  
4 and this is what the volume is. But things like that  
5 were used to essentially broaden the market out.

6 The machines generally used to make this and  
7 to be our different machines. The workforce by and  
8 large is a different set of workers. I don't see this  
9 on my daughter's school supply list. I bet none of  
10 you have seen this on your kids' supply list. They  
11 are not substitutes. I could actually pretty much  
12 tell you that's probably true with all of the other  
13 out-of-scope lined paper products. I don't think  
14 anyone knows what stenography is anymore. Essentially  
15 we had some odd ducks out there. There is yes, a  
16 steno pad that goes even beyond the scope, so if you  
17 look at the other lined paper products I would submit  
18 to you probably they are also equally outside of the  
19 like product. You wouldn't have seen us keeping CLPSS  
20 production if consumers were readily going to switch  
21 if they perceive these other things to be substitutes.  
22 There are preferences.

23 So, we would say all of these -- like these  
24 items are really separate like products. Having said  
25 that I don't think it makes a significant difference



1 in your analysis. We didn't think it made a  
2 significant difference in your analysis in the  
3 original investigation, and much of it as much a  
4 statement of sort of why we define the like product as  
5 we did.

6 If you look at those other size out-of-scope  
7 product, they are insignificant in volume. Pretty  
8 bright lines ultimately when you look at it because my  
9 kid doesn't take school notes on index cards. They  
10 don't hand in their assignment on index cards. They  
11 don't hand in their assignments on this. They don't  
12 hand in their assignments on a little 3 by 5 book.  
13 They don't hand in their assignments on steno pads.  
14 By and large the like product we proposed CLPSS  
15 reflected a unique market with pretty unique  
16 perception to it, and it was driven by the  
17 practicalness of what the school market was.

18 So, I would say not only looking back at it,  
19 I know we said legal pads should be out, but we  
20 actually would say you should probably just look at  
21 CLPSS ultimately as a separate and unique like  
22 product. I don't thin it's outcome determinative, but  
23 it is a point of what the like product should be, and  
24 we'll go back and again go through the like product  
25 factors one more time in our post-conference brief.

1                   COMMISSIONER JOHANSON: All right, that  
2 would be helpful, and my time has expired so I have  
3 one more question if you could just answer it in your  
4 post-hearing brief, and if you want to respond to this  
5 later, Mr. McLachlan, during my second round you can,  
6 okay?

7                   Could you all just explain if legal pads  
8 with covers are produced in the United States as  
9 opposed to legal pads without covers? That would be  
10 helpful. Thank you.

11                  CHAIRMAN OKUN: All right. I guess this is  
12 a date where this is my last hearing that I will chair  
13 as Chairman, and looking back at the different cases  
14 that I've heard over that time this is certainly one  
15 that was of great interest. As other Commissioners  
16 observed, we see lots and lots of products, but this  
17 one when it was here in the original investigation, of  
18 course, I had school-age children and of course I  
19 still have school-age children, so we're in the  
20 process of purging those things as we get to the end  
21 of the year, and you know, so very familiar with the  
22 school products, and the different variations that we  
23 had before us and why it was an interesting analysis  
24 as we went through it the first time.

25                  So, with that in mind, though, I'm not going

1 to choose to revisit our like product decision from  
2 those earlier days. So let me turn to producers and  
3 ask about demand trends, and as you're looking forward  
4 what do you see and what impact have some of the  
5 changes in technology had on the market, and what do  
6 you expect them to see, and how do you combat that?

7 I mean, certainly with my own kids we see  
8 not so much in this like product, but whether the move  
9 towards electronic textbooks, doing a lot of math  
10 problems online with your computer. How is that  
11 impacting your business and what are you doing to keep  
12 your market growing?

13 MR. MCLACHLAN: I'll just give you a sense  
14 of the overall demand, and I would suggest that it's  
15 flat at best within our market today. These products  
16 are still standard issue. It's a bit like joining the  
17 army. You become a GI, you get a gun and a pair of  
18 boots. You go to school and you get a list from a  
19 teacher and she tells you what subject notebooks she  
20 would like to have or he would like to have in the  
21 classroom, and how to arrange those, and what colors  
22 there are, and so you get a certain number of those.

23 So, school-age children is probably the  
24 biggest determiner of basic demand for the subject  
25 merchandise. And as you know U.S. populations have

1       been flat. The changes are really driven by  
2       attendance, school attendance, and also by  
3       immigration. So, we haven't seen any real growth in  
4       demand over the period nor do we predict much over the  
5       next few years, and that intensifies the competition  
6       that we see, particularly at retail, as these few  
7       retailers try to grab for the remaining school  
8       children that are available to buy these products and  
9       drive other purchases as they use these as a lost  
10      leader, so demand for our particular product really is  
11      fairly flat.

12                   MR. ROBINSON: George Robinson from Top  
13      Flight.

14                   We refer to it as flat but it's also stable.

15      It's a mature market, but it's a market that's in  
16      demand because you and I both had to go and buy our  
17      kids school supplies. As I got to go to the sample  
18      room, unfortunately, maybe you went to the sample  
19      table from five years ago. But the demand for the  
20      product is significant. It is, again, the cornerstone  
21      promotional product line for the back to school  
22      promotion, which we all know is huge. I mean,  
23      retailers don't lose 35 cents on an item that they  
24      sell millions of pieces of when it's not a significant  
25      matter in the economic work that it exists, which is

1 back to school and supplying the school children that  
2 Neil was referring to.

3 So, it's intensely important to us as  
4 companies and to our workers. It's apparently very  
5 attractive to producers from the world, and five years  
6 ago it was very attractive to the companies that  
7 wanted that business so badly that they sold it at  
8 dumped and subsidized levels, and were taking business  
9 from us. So, the demand isn't growing substantially.

10 The school children base is -- I think it's beginning  
11 to taper off a little bit, so we know that the market  
12 is mature. We also know that we're not selling Rolex  
13 watches, and we survived the economic downturn that  
14 we're really still in quite nicely because the demand  
15 for our product was stable. We're not selling a Rolex  
16 watch. We're selling something that somebody pays a  
17 nickel for and they have to have, and they have to  
18 have for their kids to learn, and people will spend  
19 money on their kids. So, the market demand is strong.

20 Our companies and our industry will -- I'm sure there  
21 are product development people are working on  
22 developing companion products to go along with iPads  
23 and iPhones and that sort of thing, but the  
24 cornerstone for the business is still CLPSS, and the  
25 demand is there and we're happy to have it.

1           Thank you very much for putting those orders  
2           in place in 2006 because it's provided the domestic  
3           producers and its workers an opportunity to  
4           sustainably keep our businesses afloat and to keep our  
5           families afloat even during the economic downturn.

6           CHAIRMAN OKUN: Any other comments about  
7           demand? Dr. Kaplan, did you want to add anything on  
8           forecasts?

9           MR. KAPLAN: No, I think it's driven, as you  
10          could tell, by demand by the kids going back to  
11          school, the number of kids in school, and hasn't been  
12          affected yet by the kind of electronic devices yet.  
13          Kids are still working in paper, and as you can see  
14          it's less affected by the general economic cycle and  
15          other products, so I'll defer.

16          CHAIRMAN OKUN: Okay. My own experience,  
17          the fact that I sit up here now with the computer  
18          means I use a lot less of those legal pads, I would  
19          say, so I think we quite actually ordering them in my  
20          office.

21          On the Indonesia capacity question we spent  
22          a lot of time on it but the one thing I just want to  
23          make sure in the responses we've heard about the  
24          argument of whether their capacity is in fact very  
25          similar or not is in the brief at pages 16 and 17 they

1 had focused on the products mix issue, and if you can  
2 just for purposes of post-hearing make sure you've  
3 responded directly to that particular point so that I  
4 understand what the argument is there.

5 MR. PRICE: Yes, we will be happy to do it  
6 in the post-hearing brief.

7 CHAIRMAN OKUN: Okay. And then I know  
8 Commissioner Aranoff has asked you to, and I'll also  
9 ask the Respondents to provide if anyone has any  
10 evidence of policies with regard to the environmental  
11 certification argument, but I guess the other question  
12 I had on that is just whether in your own promotional  
13 efforts to your purchasers, whether you think you get  
14 any premium or are marketing to get a premium because  
15 you can meet these certifications. Can you talk to  
16 that side of it?

17 MR. RAHN: This is Hal Rahn with Norcom.

18 As a company, we choose to whenever possible  
19 to provide a paper, a sheet of paper in our notebooks  
20 that has some sort of certification. As a company  
21 policy, we are working hard, as I'm sure everyone else  
22 is, on our sustainability side, trying to minimize the  
23 effects and do things better, so it's more of a choice  
24 that we're making as a company in most cases for sure.

25 CHAIRMAN OKUN: Producers.

1                   MR. ROBINSON: Commissioner, George Robinson  
2 here.

3                   CHAIRMAN OKUN: Yes.

4                   MR. ROBINSON: We do not promote the fact  
5 that we have paper certifications. It is on the  
6 product. It is simply a mark, and we enjoy no premium  
7 whatsoever in the pricing of our product as a result  
8 of the certifications that we do apply to the product.  
9 We compete in the market that is very price driven,  
10 and that market is very intensively competitive, and  
11 that's why we are so fearful and believe the industry  
12 to be vulnerable because even with forestry  
13 certifications that you put on your product if the  
14 orders are to be removed it will simply be another  
15 blood bath of pricing when the people that  
16 demonstrated in 2005 that they were going to operate  
17 at low levels will come back in and operate at those  
18 low levels, and prices can't -- the customer wants to  
19 know what's your price. They don't want to know what  
20 your certification is. They want to know what your  
21 price is and that's how the conversation starts, and  
22 every conversation follows after that relates to  
23 price.

24                   CHAIRMAN OKUN: Mr. McLachlan?

25                   MR. MCLACHLAN: Yes, I would echo the



1 sentiments of the other panel members. We are good  
2 stewards of the environment. We have a legacy of that  
3 from our prior parent company, Midwest Veco, and  
4 before that Mead. We would like the environment to  
5 count in this case but in this particular market  
6 around lined paper products it's clear that our  
7 experience is that it isn't. We don't get a better  
8 price. We don't get a premium. We don't get a better  
9 look at more of the volume that's available to us.  
10 And if it was removed, I would echo George's statement  
11 that these three countries will return to dumping  
12 product with subsidized margins, and we will start to  
13 see that become less relevant, not more relevant,  
14 going forward.

15 CHAIRMAN OKUN: My time is about to expire,  
16 but for you, Mr. Price, and this can be for post-  
17 hearing, as you know in your original investigation I  
18 did not accumulate subject imports from Indonesia and  
19 India with subject imports for China for purposes of  
20 threat. With the accumulation different, it would be  
21 whether I'm exercising my discretion to cumulate under  
22 the sunset rules. I know you argue a different  
23 cumulation now and you have new Commissioners before  
24 you, so I know you'll continue to do that.

25 But for purposes of post-hearing if you

1 would look at my cumulation and brief, whether  
2 conditions have changed as I saw them on that record,  
3 and whether they are similar or different, and how I  
4 should look at cumulation in a discretionary context  
5 for purpose of this review.

6 MR. PRICE: We will be happy to address in  
7 the post-hearing brief, and I note that Mr. Kaplan and  
8 I have already addressed some of the changes in the  
9 marketplace.

10 CHAIRMAN OKUN: Thank you. Vice Chairman  
11 Williamson.

12 VICE CHAIRMAN WILLIAMSON: Thank you, Madam  
13 Chairman.

14 In my last round I was finishing up on this  
15 question of lost leader, the role of -- this product  
16 is the lost leader. I think some of you had some  
17 additional comments.

18 And I also wanted to add a question. Mr.  
19 Robinson, I think you said something about, and I'm  
20 not sure I heard you right, that bidding for 2012  
21 begins only in August, and that seemed like an awful  
22 short time.

23 MR. ROBINSON: Did I say '12. It's 2013.  
24 I'm sorry. I was shocked there.

25 VICE CHAIRMAN WILLIAMSON: Okay. I don't

1 know if anyone remembers comments they -- additional  
2 comments they wanted to make on the role of the --  
3 this product as a lost leader. Mr. Kaplan?

4 MR. KAPLAN: Yes, thank you, Commissioner.

5 You know, lost leaders generally are  
6 products that are considered necessities that draw  
7 people into the store for other products that are more  
8 discretionary and have higher markups. So, you look  
9 at situations where at least in my family, you know,  
10 the school supply shopping if you could combine it  
11 with the school clothes shopping for the new year, and  
12 other items that are -- you know, fall-based school  
13 starting-based items, you will do that, and I think  
14 the stores really recognize that. They recognize that  
15 everyone has to have these supplies, and at the same  
16 time they hope to be selling at a place like WalMart  
17 back to school clothes and other products where they  
18 will be making a significant amount of money because  
19 other than the Christmas season, as was mentioned  
20 earlier, this is a huge shopping season.

21 Although it's a lost leader, and in some  
22 ways because of it the price competition is intense,  
23 every penny you are losing by selling at a lower price  
24 is something that you're very uninterested in if you  
25 are a WalMart or a Target, and I think this goes to

1 the question I can tie it up with the sustainability  
2 issue. What we've seen in this Commission over the  
3 last five years is all these kind of areas where  
4 companies try to differentiate themselves or our paper  
5 is brighter, or we're sustainable, and we see it  
6 industry across industry. If that product is sold at  
7 WalMart, Target and a couple other retailers like  
8 that, they become a lot less interested in all these  
9 differentiating features. It really has come down to  
10 price, and over time that condition of competition has  
11 really become the most important thing.

12 So, the differences between country  
13 sustainability or nonsustainability, brightness, if  
14 that mattered at all five years ago, which I don't  
15 think it did, it certainly doesn't matter today.

16 VICE CHAIRMAN WILLIAMSON: Okay.

17 MR. KAPLAN: Thank you.

18 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

19 Indonesia responded in a claim in the staff  
20 report data on imports from Indonesia comprise almost  
21 exclusively out-of-scope product, and I was wondering  
22 if you agree with these assertions. And I think  
23 someone had, and Mr. Price, in your statement that  
24 there are questions about the data.

25 MR. BRIGHTBILL: I can start on that.

1           CHAIRMAN OKUN:    Sure.

2           MR. BRIGHTBILL:   Tim Brightbill, Wiley Rein.

3           We have seen competition from all of the  
4           subject import countries on certain lined, on other  
5           lined, and on related products.  The HTS data is what  
6           you used in the staff report and that shows -- that is  
7           what that data shows.  There was a change to the  
8           Harmonized Tariff Schedule categories during this  
9           period of view to try and zero in more closely on the  
10          notebooks that are within the scope of this case, but  
11          whether or not you use that more narrow category or  
12          the broader one that's currently in the prehearing  
13          report it doesn't change the fundamental conditions of  
14          competition, and it doesn't change your analysis  
15          fundamentally.

16          All the subject countries continue to supply  
17          the U.S. market.  It's to a lesser extent on CLPSS  
18          because of the effect of the dumping orders.  And I'd  
19          also just point out that, again, these classifications  
20          and these issues were fought out in the original  
21          investigation.  Respondents also had an opportunity at  
22          the start of this sunset review to raise these data  
23          issues, and they chose to wait until their brief to  
24          now say that the report is wrong in some way.

25          So, we think you can rely on the report the

1 way it is. Even if you were to look at the more  
2 narrow categories, the same trends apply.

3 VICE CHAIRMAN WILLIAMSON: Okay, thank you  
4 for that answer.

5 We already talked about the question of the  
6 environmental certification, but what I wasn't clear  
7 is and I think someone made reference to this. How  
8 quickly could the Indonesians cure the problem as far  
9 as this certified paper to use in their products?

10 MR. ROBINSON: Commissioners, George  
11 Robinson from Top Flight.

12 The certification is actually a mill, it  
13 starts as a mill certification, so it's certifying the  
14 roll stock that the paper converter chooses to  
15 purchase, and so the requirement of the paper  
16 converter is really a fairly simple process compared  
17 with what the mills have to go through. It's a fairly  
18 simple process of a 10 or 20-page document that is  
19 really very simple. It is more of an audit and a  
20 paperwork flow in order to be able to transfer that  
21 authorization over.

22 Whether the company is coming from the  
23 producers in China or India or Indonesia, all of these  
24 companies, and you're speaking specifically to  
25 Indonesia, but all three of these countries could very

1 simply receive the certifications and many converters  
2 in those countries do have the certification, and they  
3 could then provide certified product if that were to  
4 be a requirement of the U.S. market, although it is my  
5 personal experience that very few of the U.S.  
6 retailers today absolutely require that certification.

7 So, the Indonesia claim that they are unable  
8 to do business in the U.S. because they don't carry  
9 the certification really is not a true statement in my  
10 mind because they can buy paper that's certified and  
11 through a very simple audit process they can receive  
12 certification as a converter and transfer the paper  
13 certification to the product and satisfy any  
14 particular retailer that may make that request.

15 VICE CHAIRMAN WILLIAMSON: So you're saying  
16 there are suppliers in Indonesia who supply --

17 MR. ROBINSON: APP has the, or TK has the  
18 ability to buy paper from any mill in the world just  
19 like we do, and I'm not aware -- I have no knowledge  
20 as to what certifications Indonesian paper mills have  
21 and what they don't have. We don't buy paper roll  
22 stock out of Indonesia, but I know that they can buy  
23 paper from APP's mill in China, or they could buy  
24 paper from others, and they may carry certifications.

25 I believe that either Alan or Neil has referenced

1 certification recently awarded to APP or TK.

2 VICE CHAIRMAN WILLIAMSON: Okay. Is there a  
3 price premium for certified paper?

4 MR. ROBINSON: I'm sorry?

5 VICE CHAIRMAN WILLIAMSON: Is there any  
6 price premium?

7 MR. ROBINSON: For certified paper?

8 VICE CHAIRMAN WILLIAMSON: Yes.

9 MR. ROBINSON: Some mills try to ask for  
10 premium and some mills do not ask for a premium. Our  
11 paper mill that we do business with does not ask for a  
12 premium for certified paper. To the best of my  
13 knowledge and experience, most paper mills do not.

14 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

15 On Table 3-4 of the staff report indicates  
16 that domestic producers have held sizeable quantities  
17 of inventories of lined paper during the period of  
18 review, and I was wondering if you could say why this  
19 is and what determines the level of inventories that  
20 you hold? And if you don't have an answer readily  
21 available, you can do it post-hearing.

22 MR. PRICE: This is Alan Price from Wiley  
23 Rein.

24 So, we have a very highly seasonal industry.  
25 Most of the product is sold essentially for back to



1 school, so the product is about to hit the shelves  
2 literally in the next few weeks. It's produced,  
3 inventoried, then put on the shelves. But it also  
4 means when you look at capacities, capacities can be  
5 changed. You know, from last year and how you load  
6 your plant last year has nothing to do with how you're  
7 going to load your plant this year. It's depends on  
8 what orders you win. It depends on where your  
9 opportunities are, and so the fact is when you have  
10 inventory it means that you're in a position to supply  
11 your current sales, but it's always about future  
12 sales, and what we're talking about right now already  
13 is back to school '13. Back to school '12 is done.  
14 Inventories in this category today are done. Those  
15 can be serviced from those inventories moving forward.  
16 What you have is a situation where essentially these  
17 mills -- ours/theirs -- are wide open to convert paper  
18 going forward.

19 VICE CHAIRMAN WILLIAMSON: Okay, thank you.

20 My time is about to expire so thank you for those  
21 answers.

22 CHAIRMAN OKUN: Commissioner Pearson.

23 COMMISSIONER PEARSON: Thank you, Madam  
24 Chairman.

25 Perhaps the only contribution that I've been

1 able to make to the investigative process in Title VII  
2 cases was to suggest in the early goings when I got  
3 here that it might be nice to have return on  
4 investment information in addition to the operating  
5 margin because at that time, the staff reports just  
6 were providing the operating margin, and so I asked  
7 politely, do we have the information necessary to  
8 calculate ROI, and the staff came back and said, yes,  
9 yes, we can do that, and so, and I thought it would be  
10 helpful to have that information because there are  
11 those cases when we would see a divergence between  
12 operating margin and ROI, and certainly that's the  
13 case here.

14           The operating margin in this investigation  
15 looks, to me, fairly normal. It's within the range  
16 that one might expect for an industry that is doing  
17 well. The real surprise comes from the throughput  
18 that the industry obviously has running lots of units  
19 at that 15 percent operating margin or whatever, and  
20 then you build up this overall return on investment  
21 that is high enough that the industry appears to have  
22 earned more than enough in the past four years to pay  
23 for all its assets twice.

24           It's an enviable position to be in, but it  
25 brings me back to a question about the relationship

1 between price levels and market share. Could the U.S.  
2 industry build market share by reducing prices?

3 MR. MCLACHLAN: For many of the commodity  
4 prices, to improve the consumption by the student,  
5 reducing prices wouldn't matter. They're essentially  
6 free today at 10 cents a notebook. So if we lowered  
7 our price, nothing would happen at retail, and so to  
8 improve consumption, which is what we're talking  
9 about, not just demand from us, clearly, a change  
10 there wouldn't do that.

11 COMMISSIONER PEARSON: I agree. I think  
12 it's a bit much to expect demand in the marketplace to  
13 increase, but we observe on this record a very  
14 substantial level of imports of both nonsubject and  
15 subject product and it's selling at some price in the  
16 U.S. market, and so I'm just curious. As you compete  
17 against those imported products, if you were offering  
18 a somewhat lower price, would you get a higher share  
19 of the market and drive out some of those imports?

20 MR. ROBINSON: This is George Robinson from  
21 Top Flight. I'm confused because the business that  
22 we've done --

23 COMMISSIONER PEARSON: So am I. Makes two  
24 of us.

25 MR. ROBINSON: It happens often. The

1 business that we're not winning we are taking down to  
2 extraordinarily low margins, well below any margin  
3 that you might be referring to, to the point where we  
4 begin to wonder if we go any lower, will we not, will  
5 we possibly lose money.

6 COMMISSIONER PEARSON: Then how are you  
7 getting any business in that case? Are you selling  
8 some products that are unique and for which there's no  
9 competition from imports?

10 MR. ROBINSON: Our prices are affected.  
11 Prices are determined through a bid, the bidding  
12 process that we really haven't discussed today, but  
13 the bidding process begins with an assortment  
14 basically being published in interest by a retailer to  
15 purchase product, and we will respond to that with  
16 pricing. Sometimes, or we will always start with a  
17 price that's good for us and that we believe is market  
18 competitive, and then the conversation really gets  
19 interesting after that.

20 Sometimes we can talk for a long time. We  
21 can have several bids in the process, several  
22 requotes, and we can stay in the business and end up  
23 winning, and other times it's a short conversation  
24 because our price wasn't good enough and they  
25 eliminate us from the conversation.

1           We're competing with Neil, we're competing  
2           with Hal, we're competing with people from India in  
3           the CLPSS market and from nonsubject countries every  
4           day. We win enough, fortunately, to maintain our  
5           factory and to maintain our business, unlike the times  
6           before the dumping case when we were not winning  
7           enough, when we were losing money, when we didn't know  
8           where to go.

9           So the pricing is determined in a very free,  
10          open market environment. We compete with the people  
11          that show up. If these dumping orders go away, we  
12          know for a fact, we believe as a group and as an  
13          industry, that India, Indonesia and China will show up  
14          with the same pricing practices that they used before  
15          and they will effectively take away the business that  
16          they took away before, which will render us back into  
17          a state of losing money and possibly losing a bank and  
18          having to consider things that aren't good for the  
19          company and aren't good for the workers that we employ  
20          today.

21                 COMMISSIONER PEARSON: Okay, but on this  
22          record, looking at some meaningful overselling by some  
23          of the importers, how are you seeing that play out in  
24          the marketplace? Are the oversellers driving down  
25          price or who's doing that? Mr. Price?

1           MR. PRICE: Actually, I want to let Neil  
2 answer the question. Then I do have a comment on the  
3 overselling.

4           COMMISSIONER PEARSON: Okay. Thank you.

5           MR. MCLACHLAN: Perhaps some of the  
6 confusion can be cleared up by thinking about how ROI  
7 is calculated. I'm not sure. I should be sure --  
8 sorry, Commissioner -- on how your ROI calculation is  
9 done. Does it just cover plant, property and  
10 equipment, or does it also include the other assets  
11 that are invested in the business?

12           COMMISSIONER PEARSON: Total assets,  
13 including operating --

14           MR. MCLACHLAN: Receivables, inventory,  
15 everything else.

16           COMMISSIONER PEARSON: Yes.

17           MR. MCLACHLAN: Because those are the vast  
18 majority. So when you made a claim a minute ago that  
19 we could repay our assets, our fixed assets, very  
20 quickly many times over, most of our assets are  
21 actually invested in the working capital that's in the  
22 business.

23           COMMISSIONER PEARSON: Right. If I said  
24 fixed, I apologize, because that would be a total  
25 asset. Thank you for the clarification.

1           Mr. Robinson, I had been asking you about  
2 the overselling. Do you have experience with that in  
3 the U.S. market where, for instance, the Indians might  
4 be selling at a higher price than you are?

5           MR. ROBINSON: I have not experienced India  
6 selling at a price -- well, we have lost bids to India  
7 many times over during the period of investigation for  
8 certain lined goods. We have lost business to India  
9 both in certain lined and in other lined products, so  
10 we haven't experienced much overselling.

11           It's possible that the fact that we have an  
12 assortment of product, that gives us some advantage or  
13 maybe a relationship that we have them, but I know  
14 that the majority of the people that we compete with  
15 are attending the same trade shows that we're  
16 attending, they're invited to the same bidding events  
17 that we're participating in, and I assume that they  
18 are quoting the best price that they can given the  
19 condition, and we're quoting the best price that we  
20 can given the condition.

21           If we won every opportunity, then we would  
22 be a larger company than we are. We don't win every  
23 opportunity. We try very hard to win every  
24 opportunity, but we want to make sure that we make  
25 money in the meantime.

1 COMMISSIONER PEARSON: Okay. Thank you.

2 Mr. Price?

3 MR. PRICE: So let me hit a few different  
4 things here. First of all, if you look at the  
5 purchaser questionnaires, they perceive the Indian  
6 pricing to be superior to the U.S. pricing so that  
7 they're saying is they perceive it to be lower. The  
8 bid prices have been forced up substantially by this  
9 order. You can see that in the pricing data I put up  
10 earlier. They've raised their prices because of this  
11 order, and that's directly translated to the domestic  
12 industry's improved profit margin.

13 Third is that the pricing data in this case  
14 is kind of interesting because in some ways you're  
15 measuring how much you sold to Walmart, versus Target,  
16 versus K-Mart or Sears, and it's probably not as, it  
17 has an impact as to which bid you won, but the Indians  
18 are having very powerful effects at individual bids  
19 and undermining the prices, and the purchasers are  
20 telling you in how they perceive and what they're  
21 getting in the marketplace that they perceive their  
22 prices to be lower.

23 So the pricing data set you have I would say  
24 is not reflective fully of what the purchasers  
25 perceive, and how the market actually is behaving is



1 partially a function of who wins what bid at what  
2 account and the exact differences they may have in the  
3 way they're competing their business.

4 COMMISSIONER PEARSON: Okay. Dr. Kaplan?

5 MR. KAPLAN: Just, also, a lot of retailers  
6 like to multiple source, so, you know, potential  
7 shareships are limited if consumers, or purchasers in  
8 this case, large retailers, wish to sustain multiple  
9 sources, which many do now for a surety of supply.

10 COMMISSIONER PEARSON: Okay. Thank you.  
11 Before yielding the microphone, I would just like to  
12 support the Chairman's request for some analysis of  
13 how what seemed to me to be an eminently reasonable  
14 and thoughtful approach to cumulation that was taken  
15 six years ago by former Commissioner Hillman, and the  
16 Chairman and me, I do want to understand what's  
17 changed on this record that would make that approach  
18 to cumulation no longer appropriate, so I know you'll  
19 be providing that. With that, I have no further  
20 questions. I want to thank all panelists. I yield  
21 the mic.

22 CHAIRMAN OKUN: Commissioner Aranoff?

23 COMMISSIONER ARANOFF: Thank you, Madam  
24 chairman. I wanted to go back to the question that I  
25 was in the middle of in my last round, and I had asked

1 about whether there had been a reduction in the number  
2 of retailers and that was what was making the market  
3 more competitive, and the answer that I got was with  
4 the exception of some consolidation of drug stores,  
5 that wasn't really what was going on, and so I wanted  
6 to go back and clarify that.

7 Does it have to do with the way that  
8 purchasers take bids? Have the online auctions become  
9 more prevalent than they were during the original  
10 period of investigation?

11 MR. ROBINSON: George Robinson from Top  
12 Flight. Commissioner, the bidding process is very  
13 similar looking to the way it was before; however, it  
14 is a more, even a more price-driven marketplace than  
15 it was before. I believe that Dr. Kaplan referred to  
16 it when he talked about, when he showed his charts  
17 where the brokers and the distributors, and now it's a  
18 one to one relationship between the retailers and the  
19 producers, the relationship is closer.

20 These large retailers have buying offices in  
21 India, they have buying offices in China, they have  
22 buying offices in the leading countries that supply  
23 them. They're dealing directly with the factory,  
24 they're not dealing through people that might apply  
25 mark up, and so the intensity of the price competition

1 is increased, the ease in capturing that low price is  
2 intensified. It's easier to get good prices because  
3 you're eliminating some middle people that are part of  
4 the process. For that reason, we believe that the  
5 loss of the orders will have a very, very sudden  
6 impact.

7           You know, it was mentioned earlier that I  
8 had misspoken and said that back to school season  
9 August 2012 is right around the corner, but August  
10 2012 is right around the corner, but the 2013 back to  
11 school season process begins in August. Your  
12 decision, I believe, is July or August. We'll see  
13 immediate results. We'll see an immediate impact of  
14 your vote. If you vote to revoke these orders, then  
15 the pricing will be apparent immediately. It will  
16 affect the financial condition, the production output,  
17 the employment levels immediately because we plan, in  
18 August and September, for the rest of the year.

19           We plan what we're going to produce, we plan  
20 what customers we'll support, we plan investment  
21 opportunities, if that's where we are in the  
22 marketplace that day. Those decisions will be  
23 impacted immediately by your decisions, so, you know,  
24 I'll ask you again, please maintain the orders because  
25 it is going to be highly critical in the continuation,

1 successful continuation, of our U.S. operations.

2 COMMISSIONER ARANOFF: Okay. Want to just  
3 get a clarification because I understand what you're  
4 saying, that once you get rid of the middlemen and you  
5 have a direct relationship between the purchasers and  
6 the foreign producers, that it can intensify  
7 competition. Given that relationship, are purchasers  
8 still using online auctions as a way to buy the  
9 product or are they just going directly to the  
10 manufacturers and saying, you know, what's your best  
11 price?

12 MR. ROBINSON: The processes are all still  
13 present. Some of the retailers will contact people  
14 that they contacted before. They'll open up a file  
15 folder and see who they talked to last year and invite  
16 them to participate in pricing for the coming year.  
17 Others will have very formal RFI, you know, requests  
18 for information, requests for quote, requests for  
19 samples. Some people will hold those meetings in  
20 their home office, some will try to do that in other  
21 locations.

22 I know that we have some U.S. retailers that  
23 hold their meetings in Hong Kong and U.S.  
24 manufacturers who are, you know, quoting no imported  
25 prices are required to go to Hong Kong in order to

1 negotiate pricing for a company that might be just a  
2 couple hours down the road. So the processes,  
3 Commissioner, are very, very similar to what they were  
4 five years ago, but the price competition is no less.

5           There are probably slightly fewer online  
6 auctions that are live, the reverse auctions, but  
7 there are more multilevel bidding processes today than  
8 there were before. You may have an online auction  
9 where the top six price bidders were then invited to  
10 the home office to make a broader presentation and to  
11 also deliver a new quote, and then they may eliminate  
12 those three and invite the final, or eliminate three  
13 of the six and then ask for a new quote, and then the  
14 process continues. So that's, you know, generally the  
15 way it's done. They use the internet, but they also  
16 use submitted bids just via the internet, or third  
17 party sources, or what have you.

18           COMMISSIONER ARANOFF: Okay.

19           MR. MCLACHLAN: Just like to add to that,  
20 Commissioner. You know, the number of accounts isn't  
21 necessarily the issue here as much as the  
22 concentration of sales. We see more of these volumes  
23 going to fewer hands as some of the bigger retailers  
24 take more of the market that's out there. Regarding  
25 bids, George is right that all types are used, but

1 today, they're broader and they're deeper. The number  
2 of accounts who use them, the number who use them as  
3 often as they do.

4 Then, also appropriate here is the number  
5 that are on our types of products has increased as  
6 well. The pipelines, to the Asian sources in  
7 particular, are even more robust than they were just  
8 five years ago. They've built clearer, better  
9 capability, former major customers, into those sources  
10 of supply, and so that concentration of sales  
11 continues to be pushed, and the propensity to use  
12 these other sources as a primary source continues to  
13 grow.

14 COMMISSIONER ARANOFF: Okay. So let me just  
15 -- Mr. Rahn, did you want to add anything?

16 MR. RAHN: This is Hal Rahn from Norcom. I  
17 think one just quick comment is that the processes, as  
18 both guys mentioned, are essentially the same. The  
19 difference, I think, is because of the order. We are  
20 in a better position and in a very highly competitive  
21 environment where we're still able to compete  
22 worldwide because at this point we're not competing  
23 against someone that subsidized or is dumping product.

24 The auctions are very tough, but I think  
25 because of the order, and hopefully because of the

1 continuation of the order, we, as an industry, are  
2 able to compete in these auctions even though they are  
3 very difficult.

4 COMMISSIONER ARANOFF: Okay. Let me change  
5 over to a different subject now. My colleagues had  
6 raised the issue of metric-sized products being made  
7 abroad, and you all discussed how those machines can  
8 be converted. A second issue that was raised by some  
9 of the Respondents was the fact that they have  
10 machinery that's dedicated to certain lined paper  
11 products that aren't sold in the U.S. market at all.  
12 They had mentioned staple pinned products and some  
13 other sorts of folded products that they said they had  
14 machinery that was dedicated to that and that couldn't  
15 make a product that anyone in the U.S. wanted to buy.

16 Would you agree that that is dedicated  
17 equipment and that the Commission should be  
18 disregarding any capacity that's dedicated to those  
19 sort of products when looking at potential for  
20 increased exports to the U.S.?

21 MR. RAHN: This is Hal Rahn with Norcom. I  
22 think it's certainly possible that there could be  
23 dedicated equipment to a particular product that may  
24 not be pertinent to the United States. I think the  
25 reality is that they all do have equipment beyond that

1 that could immediately be converted back or to our  
2 size product, or, I think as George mentioned,  
3 there's, it doesn't take very long if you have the  
4 paper source and labor that is favorable and  
5 government subsidies to immediately begin some sort of  
6 hand operation to intensify your capacity. That's  
7 really the reality.

8 MR. ROBINSON: Commissioner, George Robinson  
9 from Top Flight. I believe Indonesia claimed that  
10 they bought their last piece of equipment in 1997. I  
11 believe that in 2005 there were found to be guilty of  
12 dumping, or selling dumped and subsidized product in  
13 the United States. That same equipment is there  
14 today. They can use it to harm the industry the way  
15 they harmed the industry before. You know, they did  
16 it once to us, shame on them. They do it twice to us,  
17 shame on us for letting it happen.

18 I truly believe that if they have equipment  
19 that they can use for the U.S. market, they will.  
20 They did it in the past, I think they'll do it in the  
21 future. If there's a business opportunity for a  
22 businessperson, I believe that they're going to take  
23 advantage of it. We know they have the machinery and  
24 the manufacturing capacity, and so we are, you know,  
25 concerned and feel very vulnerable about the fact that



1 they can come back in and start returning to those old  
2 practices.

3 COMMISSIONER ARANOFF: Dr. Kaplan, I know  
4 you wanted to add something.

5 MR. KAPLAN: Yes. I mean, the Commission  
6 has always found that foreign capacity information is  
7 information that is a high variability in terms of its  
8 reporting. I just want to point out things that could  
9 affect it here that are important.

10 First, there's a lot of nonreporting  
11 companies everywhere, and the Commission should be  
12 aware of that, that the capacity numbers are only a  
13 partial reflection of the actual capacity. The second  
14 is is that capacity could change with the number of  
15 ships. The third thing is is that the executives of  
16 these companies have reported that in their meetings,  
17 when the Indians, for example, have shown up, they've  
18 never shown any concern about unit limitations of  
19 which they're willing to bid on. I think that's  
20 extremely important. When asked how much they could  
21 supply, the answer is always more. Sometimes these  
22 are issues with the executives where they want them to  
23 broker the Indian product. So this is not secondhand  
24 information, this is firsthand information.

25 Finally, with respect to India, a lot of the

1 work is done by hand and so you're not really facing  
2 capacity constraints from capital equipment, but only  
3 from the number of people available to work. In  
4 India, that is a nonissue. So thank you.

5 COMMISSIONER ARANOFF: Thank you very much  
6 for all those answers. I don't have any further  
7 questions for this panel.

8 CHAIRMAN OKUN: Commissioner Pinkert?

9 COMMISSIONER PINKERT: Thank you, Madam  
10 Chairman.

11 Dr. Kaplan, you may remember that you were  
12 mentioned by name in one of the opening statements and  
13 I want to give you an opportunity to state for the  
14 record whether you think that AUV comparisons of  
15 pricing pre, and post, order are appropriate in this  
16 case.

17 MR. KAPLAN: There are product mix issues.  
18 The Commission has always looked at AUVs, but have  
19 understood that they only supply a limited amount of  
20 information, that direct comparisons are better. I  
21 thought that it was interesting that the one  
22 representative of the company that had 100 percent  
23 underselling on the correct way of a product by  
24 product basis wanted to come in and talk about their  
25 pricing relative to the U.S. market.

1           I think their pricing relative to the U.S.  
2 market was reflected in the original investigation and  
3 in every single product, in every single quarter, for  
4 every single comparison they undersold. So I'll go  
5 along with him, you don't have to look at the AUVs.  
6 Look at the original record and I think you'll find  
7 more than you need to know about what past Indonesian  
8 pricing will be and what you'd expect future  
9 Indonesian pricing to be.

10           COMMISSIONER PINKERT: What I'm interested  
11 in trying to understand for purposes of this question  
12 is whether the orders had an impact on pricing, and,  
13 in particular, on the prices that were available to  
14 the domestic industry, so what's the best way for me  
15 to look at that?

16           MR. KAPLAN: Well, I think one of the things  
17 you could look at, and I think you'll want to look at  
18 pricing, as well as profitability, I had a chart that  
19 showed that for each of the products, U.S. pricing  
20 rose. It was hard to make Indonesian comparisons  
21 because the margins were so significant they couldn't  
22 sell in the United States, to a large degree. You  
23 have the early comparisons where they undersold, you  
24 had the U.S. profitability and prices during that  
25 period.

1           To see the effects of the order, you could  
2 see that prices rose. One of the things that we get a  
3 concern about and said it was affected by imports, the  
4 imports were removed, our prices rose. We said that  
5 affected profitability. The imports were removed or,  
6 you know, were made to trade fairly, our profitability  
7 rose. So I think the evidence of the effect of the  
8 order could be seen in many places, but particularly  
9 in pricing and profitability. That's the reason --  
10 we've all testified, based on our experiences with so  
11 many cases, how effective this order has been.

12           It did affect prices, it did affect  
13 shipments, it did affect profitability, and listening  
14 to the representatives here, it affected the actual  
15 existence of this industry in the United States. You  
16 saw that OPP is gone. This is the representative of  
17 the industry that produced the product that's subject  
18 to the scope, and they're still here, so that's a  
19 third measure of how the order was affective on  
20 pricing and profitability. I hope that's helpful, and  
21 I addressed your question. I'd be happy to address in  
22 the posthearing brief anything that I missed.

23           COMMISSIONER PINKERT: I'd appreciate that.

24           Obviously, in looking at this question of pricing by  
25 the domestic industry, one place to look is in average

1 unit value, so, but you've admitted that there's a  
2 concern about product mix in making those kinds of  
3 comparisons so I'm trying to figure out if there's a  
4 better way, other than simply inferring it from  
5 profitability, to understand what the impact on  
6 pricing was of the imposition of the orders. Mr.  
7 Price?

8 MR. PRICE: You can look at the pricing  
9 products, if prices went up there, but I would also  
10 submit that both, here, they both, both of those  
11 reinforced each other, so the domestic AUVs went up  
12 and the pricing products went up. So you're seeing a  
13 benefit to the specific products you're looking at,  
14 and you're seeing a benefit overall. The fact that  
15 those reinforce each other tell you that this order  
16 was very significant.

17 As the chart I put up there is that, one of  
18 the things is that Indian prices went up a lot on the  
19 specific pricing products, and that price increase is,  
20 in many respects, a significant reason, and they were  
21 the lowest margins. We all recognized they had the  
22 lowest dumping margins here and the lowest subsidy  
23 margins here, so they became, in essence, the, you  
24 know, more of the floor of where the market went, but  
25 that enabled the industry to increase and capture that

1 difference in their profitability, so we see profit  
2 margins increase, interestingly, very correlated to  
3 the pricing that increased here.

4 COMMISSIONER PINKERT: Thank you. Perhaps  
5 you could go back to what you understood about the  
6 investigation, the original investigation, to explain  
7 why those other products that have been decimated by  
8 the imports, according to your testimony, were not  
9 included in the scope of that petition.

10 MR. PRICE: Yes. Let me just say this was a  
11 falling knife. A lot of producers of the other  
12 products, uncovered legal pads, for example, are -- I  
13 have Mr. Shor's legal pad. We were joking about it.  
14 It was made by a company called Ampad, okay? It's  
15 made in Mexico. A lot of these people were literally  
16 marching with their feet. It's a different market.  
17 It is a business market. This is a school market.  
18 You know, they had may have faced similar competitive  
19 pressures because the retail, you know, environment in  
20 terms of auctions are quite similar, but they marched  
21 with their feet.

22 These guys who sell on the school market are  
23 a different set of producers, by and large. You don't  
24 make uncovered legal pads. Mead doesn't make any  
25 uncovered legal pads. I think anyone here who had

1 made uncovered legal pads is insignificant of any.  
2 It's essentially a different set of producers who were  
3 making that product. They essentially exited. We had  
4 different producers, different machinery being used,  
5 and so those were different products.

6 Then you sort of wander around the fringes  
7 and where you really -- you know, I would say the  
8 distinctions here between CLPSS and what we left out  
9 and other lined paper are more, I've seen, you know,  
10 size. Size is a distinction in pipe products all over  
11 the place. I mean how many times has my friend, Mr.  
12 Schagrin, defined a different like product based upon  
13 a different size. Is it? Absolutely.

14 Did they get, produce with different workers  
15 for different applications? Yes, you know? So are  
16 steno books going to a school market? No. My kid  
17 couldn't hand in their school homework. Could they be  
18 made on the same equipment? Yes, but are they? Not  
19 really. They aren't even really not made to any  
20 significant quantity to begin with. So somehow or  
21 other, rather than defining from the scope of the  
22 product and then saying what's identical, or most  
23 similar, things got confused.

24 I'll accept the blame for things getting  
25 confused in the original investigation, okay? I mean,

1 that's, you know, I didn't advocate it well enough.  
2 I'll accept that blame. But the reality is if these  
3 things were all economic substitutes and these things  
4 were practical substitutes, we would have seen the  
5 whole market shift from CLPSS with relief and go over  
6 to lined paper. The domestic industry still wouldn't  
7 have receive relief, if you want to put it into sort  
8 of an antitrust analysis.

9 This industry, I would say when we look at  
10 the like product, there are bright enough lines so  
11 that the scope should be, the like product should be  
12 identical with the scope here. Having said that, we  
13 think we win either way, as we did in the original  
14 investigation, but fundamentally, that scope is  
15 identical to that like product.

16 COMMISSIONER PINKERT: Thank you.

17 MR. BRIGHTBILL: Tim Brightbill. Just  
18 briefly, I mean two things come to mind. One is you  
19 bring a case where you know you're injured, and for  
20 the people sitting at the table here, the heart and  
21 soul of what they make is these school supplies and  
22 there are vast differences between school supplies and  
23 business supplies: when they're sold, how they're  
24 sold, all the things that we've run through.

25 We defined the scope of the case. You all



1 defined a different like product. Turns out they were  
2 injured, too. When we decide what to bring a case on,  
3 it's what's most important to these guys here and  
4 where they focus, and that's what the scope was.

5 MR. PRICE: All right. Their machinery is  
6 really focused on the subject merchandise. It's not  
7 focused on this other stuff out there.

8 COMMISSIONER PINKERT: Thank you. Dr.  
9 Kaplan, you get the last word on this issue on this  
10 panel.

11 MR. KAPLAN: Okay. I just wanted to kind of  
12 point a fine point on what Tim was saying is, you  
13 know, we chose the scope thinking the like product was  
14 the same as the scope and you disagreed, so the reason  
15 we didn't have an expanded scope is that our  
16 understanding was, both on the supply side and the  
17 demand side, that these were two different like  
18 products. So, yes, well, why didn't you bring it on  
19 that one as part of the scope? We thought it was a  
20 different industry.

21 We're offering again that it still is a  
22 different industry and you could change the like  
23 product definition, but as Alan was saying, we don't  
24 believe it affects the outcome of the case. So we  
25 chose, you know, if we had chose the scope and a

1 broader like product, I think your question would have  
2 been more on point, but you chose the broader like  
3 product, so that's why we chose the scope, because we  
4 thought the like product was narrower.

5 COMMISSIONER PINKERT: I assume you mean you  
6 in the corporate sense and not any of the particular  
7 Commissioners that you might be referring to.

8 MR. KAPLAN: No. Of course it's a corporate  
9 sense, but, you know, it happens. Sometimes the like  
10 product's expanded by the Commission. When I meant  
11 you, I meant the Honorable Commission and the  
12 Honorable Commissioner.

13 COMMISSIONER PINKERT: Thank you. I  
14 appreciate the clarification, and I have no further  
15 questions for this panel.

16 CHAIRMAN OKUN: Commissioner Johanson?

17 COMMISSIONER JOHANSON: Thank you, Madam  
18 Chairman. I'd now like to ask a question regarding  
19 India, and likely, price. If price plays an important  
20 role in purchasing decisions, as Petitioners claim,  
21 what explains the gains in Indian market share despite  
22 majority overselling?

23 MR. PRICE: I'll address that real quickly,  
24 which is the customers say they perceive the Indian  
25 prices. The purchasers, your own purchaser

1 questionnaires say that the Indian prices are  
2 perceived to be lower than domestic pricing, okay? So  
3 that's number one.

4           The way your questionnaires collect pricing  
5 data at this point is that when you look at the  
6 pricing series, in essence, you may be evaluating  
7 Walmart, against K-Mart, against Target, whatever the  
8 dynamics of those individual bids are different,  
9 slightly, and you're creating the appearance of  
10 overselling or underselling sometimes by the discrete  
11 bid, composition of bids you won or lost at, okay? So  
12 what the customers are saying is these are the low  
13 priced guys, and we need these guys here, and we want  
14 these guys here, and they will have a dramatic impact  
15 on pricing.

16           The amount of underselling you found, even  
17 with the data that's collected, is still quite  
18 significant. It's not like they had no underselling  
19 here. This is a lot of underselling going on in a  
20 product where basically, you know, if they got a tenth  
21 of a penny lower at Dollar General, if that was the  
22 account that the Indians won, they won that business.

23       It went. It was having a dramatic effect, and it  
24 affected the bidding in the marketplace. So these  
25 were very significant price effects. They had very

1 dramatic effects. When the order went into place, the  
2 record shows that Indian prices went up, domestic  
3 prices went up, and domestic profitability went up.  
4 With that, the domestic industry has been much more  
5 successful.

6 MR. MCLACHLAN: So perhaps I can bring some  
7 clarity to my experience with Indian products most  
8 recently. 2012, which is not in your data and so it's  
9 not included, but we'd be happy to give you some  
10 specifics in posthearing, we have lost a major account  
11 on a major portion of our five-star domestically-  
12 produced notebooks specifically to India and because  
13 of significantly lower prices. To give you an idea of  
14 it, we produce about 30 million books in Blair. Eight  
15 million was the order, and so that is substantial, and  
16 will affect us, and comes in a big chunk very quickly  
17 and comes very late in the season.

18 So we'll give you the specifics on all of  
19 the different prices and what we've seen there, but I  
20 can assure you that the Indians clearly are targeting  
21 not just the commodity basic products that we have  
22 sold at back to school, but our value added products  
23 as well, and they have squarely in their cross-hairs  
24 and are ready to bring their increased capacity, their  
25 penchant for low prices and their ability to ship to

1 large customers very high volumes very quickly. We  
2 see this as a huge threat, and so we ask you to  
3 continue. Despite the fact that they've got the  
4 dumping orders in place already, they've managed to  
5 take that share.

6 MR. RAHN: Commissioner? Hal Rahn with  
7 Norcom. I would like to reflect the record exactly  
8 the same thing. You wouldn't see the 2012 data, but  
9 we at Norcom have also lost two significant bids and  
10 pieces of business to Indian pricing that will hit the  
11 marketplace in the next two to three weeks. So it's  
12 alive and well in spite of having an order in place,  
13 and without it, it will just, it can just only get  
14 worse.

15 MR. PRICE: Alan Price. I just want to add  
16 one other thing, that unlike the original  
17 investigation, you actually collected some bidding  
18 data in this case, and it's incomplete, and it's  
19 spotty and it's not, there are some limitations to it,  
20 but significantly, there were four major bidders here.

21 Four, okay? The best known accounts in the United  
22 States that were Indian, okay, two of them -- two of  
23 them -- you don't have questionnaires from, so how you  
24 judge the underselling at this, you know, at this  
25 point when you don't have data sets that are

1 necessarily fully reflective of all information, how  
2 you judge their interest and their capacity going  
3 forward -- you know that there's a lot more interest  
4 in this market than you have questionnaires from at  
5 this point.

6 COMMISSIONER JOHANSON: All right. Thank  
7 you for your responses. My next question follows up  
8 the line of questions of Commissioner Pearson. I  
9 would like for you all to explain how the domestic  
10 industry has been able to become more profitable  
11 despite losing market share.

12 MR. ROBINSON: Thanks to the margins, we're  
13 able to get more for the product when we sell it.  
14 Without the orders -- without the orders -- our prices  
15 would have been at the lower levels that they were in  
16 2005, and 2004 and 2003 when we could -- you cannot  
17 produce enough at that point at those prices to make  
18 money. The industry was in the final straights of  
19 really dying, the domestic industry was. I know that  
20 my company was in a horrible state. I've already  
21 talked about that. Getting ready to lose the bank,  
22 major layoffs, having to say goodbye to people that I  
23 worked with as a teenager.

24 The orders have allowed us to raise prices  
25 on a unit basis and the net result of our production

1 activity, and our wise use of capital, and our  
2 experience in running our machines and experience in  
3 running our business has resulted in that we've been  
4 able to regain profitability at whatever capacity  
5 level we are. It's a seasonal business. We are given  
6 indication of what customers are going to order and we  
7 build to that capacity.

8 We're not building on forecasts or building  
9 to maximum capacity, then try to sell it. We're  
10 building to orders where, in many cases, there is long  
11 lead time, there is intense price negotiation that  
12 precedes that commitment, and so, you know, we know,  
13 as a company, and I believe we know as an industry,  
14 that we're vulnerable to lower prices coming into the  
15 marketplace, and those lower prices can come from  
16 India, Indonesia and China if the orders are revoked,  
17 and it can result in us really losing this  
18 profitability that seems to be such a concern.

19 MR. RAHN: Commissioner, we've discussed at  
20 Norcom -- this is Hal Rahn at Norcom. You know, when  
21 you look at the whole set of data, I think everything  
22 is obviously compressed into one, but we've been very  
23 fortunate as a company and we have not lost market  
24 share. As a matter of fact, the order, again, going  
25 back, has enabled us to add capacity in wire bounds,

1 we've added capacity in the composition books and  
2 we're utilizing more capacity in other areas.

3 We just may have different product mixes  
4 that we are -- and we feel like we could continue to  
5 gain market share where available. You know, we are,  
6 as we mentioned earlier, we're in a very stable  
7 marketplace, but I think we can anticipate losing a  
8 lot of market share immediately if this order is  
9 revoked.

10 COMMISSIONER JOHANSON: Go ahead.

11 MR. MCLACHLAN: I would comment,  
12 Commissioner, that we work hard every day to compete.  
13 We try to drive productivity wherever we can, and  
14 we're now seeing the benefits of those pieces of hard  
15 work come through essentially because of the order  
16 that was put in place by the Commission. That is the  
17 one thing that has truly changed in this market and  
18 has returned us to the position that we see today, and  
19 it would swiftly go back the other way if these orders  
20 were revoked because the dynamics haven't changed in  
21 our market.

22 We're still vulnerable, and we would quickly  
23 reverse that position if any of the three, China,  
24 Indonesia, or India, were able to compete in the same  
25 way they did back in 2003 through 2006. They have the



1 capacity, they have the penchant for price  
2 competition. We're seeing that despite the orders.  
3 It's a highly seasonal business that's easy to enter,  
4 and we have very high concentration of sales. Those  
5 are unique dynamics that would take that profitability  
6 away quickly.

7 COMMISSIONER JOHANSON: Yes, Mr. Price?  
8 Quickly, because I would like to follow-up briefly.  
9 Thanks.

10 MR. PRICE: Yes. So the one thing is you  
11 talk about share. The other thing is to look at  
12 actual production. From 2005, the production of,  
13 domestic production of lined paper school supplies has  
14 increased, so the industry is putting more product  
15 over more, on their machines since 2005, and so that's  
16 a very significant change.

17 COMMISSIONER JOHANSON: Could the imposition  
18 of the orders have resulted in loss in market share?  
19 Mr. Robinson, you spoke about the ability of the U.S.  
20 industry to increase its prices. Could that have  
21 resulted in loss of market share, possibly, with more  
22 imports coming in from nonsubject countries? Briefly,  
23 please, because my time has expired. Thank you.

24 MR. ROBINSON: I don't believe that our  
25 price increases have resulted in dramatic loss of

1 business. We've raised prices to a point where we  
2 needed to in order to be profitable, and the orders  
3 have allowed us, and having fair trade in the U.S. has  
4 allowed us that ability to do that. Our goal at the  
5 time of the orders going into place was to find  
6 solvency, to find profitability and to maintain our  
7 company in the character that it was and that we  
8 desired, and that is as a U.S. manufacturer that  
9 focuses on certain lined paper school supplies.  
10 Thankfully, your orders allowed us to do that.

11 COMMISSIONER JOHANSON: All right. Thank  
12 you. My time has expired.

13 CHAIRMAN OKUN: Let me see if there are any  
14 remaining questions from Commissioners.

15 (No response.)

16 CHAIRMAN OKUN: Seeing none, let me turn to  
17 staff to see if staff have questions of this panel.

18 Marc, I'm not sure your microphone is on.

19 MR. BERNSTEIN: There.

20 CHAIRMAN OKUN: Yes.

21 MR. BERNSTEIN: This is Marc Bernstein,  
22 Office of General Counsel. I have a couple of quick  
23 questions for counsel about the domestic like product.  
24 Based on your prehearing brief, I thought you were  
25 advocating the domestic like product should be

1 everything in the category we had called, for purposes  
2 of the report, LPP, other than legal pads without  
3 covers. During the course of the hearing, Mr. Price  
4 seems to be arguing that, well, we should just be, the  
5 like product should just be defined to be co-extensive  
6 with the scope, in other words, using the rubric of  
7 our report, CLPSS. Am I stating your current position  
8 correctly?

9 MR. PRICE: Yes. Actually, you are, because  
10 as we looked at the data some more, if you go back to  
11 that fundamental sort of graph, and this goes back to  
12 really what happened and the complete collapse out of  
13 the lined paper products industry, and there's  
14 basically none outside of CLPSS left, pretty much goes  
15 to show you that it's a different industry and a lot  
16 clearer than we even, than I even perceived based upon  
17 the initial cut of the data. So we will address that  
18 in the posthearing brief, but, you know, your data  
19 covers CLPSS, and we think that is a clear and  
20 distinct like product here.

21 Most of, a lot of the other stuff that was  
22 left out there -- by the way, once you get past  
23 uncovered legal pads, there really isn't that much in  
24 between. There's just not, you know, there's, you  
25 know, steno pads. There's no one who has taken

1 stenography in about 20 or 30 years, so it sort of  
2 exists out there, but there's no volume of it. So  
3 it's a pretty bright line, we think, at the end of the  
4 day. Steno pads, by the way, are typically made by  
5 the office products producers that were a different  
6 group of people. So we'll be happy to address that in  
7 the brief.

8 MR. BERNSTEIN: Okay. I would indicate,  
9 just for the record, that two of us here at the table  
10 are using, have steno pads, I think two of us are  
11 using uncovered legal pads and one is using loose  
12 sheets of paper, and I'm also using a computer. The  
13 other thing that I would note for a question is I'm a  
14 little bit unclear whether your argument is dependent  
15 on changes that have happened in product  
16 characteristics, or what has happened with the  
17 industry since imposition of the first order, or your  
18 statement in response to one of the questions which  
19 seemed to me almost on the lines of we didn't argue  
20 this artfully enough during the original  
21 investigation.

22 I mean I think in your posthearing  
23 submission it would assist us if there are new facts  
24 out there that you think support this, or if you're  
25 arguing the same thing again, I guess then it goes to

1 the question you've been asked by other Commissioners  
2 in other contexts, why shouldn't we reach the same  
3 result?

4 MR. PRICE: So I'll be happy to address this  
5 in our brief, but I think one of the things that  
6 happened is there have been some factual changes  
7 there, and some of it is just now the changes in some  
8 of the production that has occurred has made this even  
9 clearer, and so there's new evidence that we'll be  
10 happy to address because the evidence on the record is  
11 pretty dramatic that there are pretty bright lines  
12 between CLPSS and the rest of lined paper. Otherwise,  
13 as I said, you would have seen all of our kids use  
14 legal pads.

15 I know people in Washington like to look at  
16 their offices and say somehow or other we're  
17 representative of the world and, but uses and  
18 consumption habits are incredibly different, you know?

19 The world buys at Walmart. You have to go about 20  
20 miles to find the closest Walmart from here, unless  
21 they build one up in Rockville soon. So the world is  
22 really quite different, the usage and consumption  
23 patterns are quite different. So we'll address the  
24 changes in the marketplace, we'll address the  
25 differences in the evidence and I'd be happy to do so

1 in the posthearing.

2 MR. BERNSTEIN: I'll note in 2013 there's  
3 supposed to be a Walmart about a mile away from here,  
4 but other than that, I have no further questions or  
5 comments.

6 MR. PRICE: There are changes occurring,  
7 even in Washington.

8 CHAIRMAN OKUN: Do those in opposition to  
9 imposition of the order have questions for this panel?

10 MR. SHOR: This is Mike Shor for Indonesian  
11 Respondents. We have no questions.

12 CHAIRMAN OKUN: Okay. Well, then, this  
13 would be a good time to take a break for lunch, but  
14 before we do so, let me take this opportunity to again  
15 thank all the witnesses on this first panel. We thank  
16 you for being here, for answering our questions.

17 Mr. Price, I see you have --

18 MR. PRICE: I just want to say one thing  
19 since I won't be presenting the closing argument for  
20 Petitioners today. Commissioner, or Chairman Okun, it  
21 has been a pleasure seeing you over the years, and I  
22 look forward to seeing you in other contexts. I  
23 understand this is your last hearing, as Chairman at  
24 least, and it's been a pleasure appearing before you.  
25 I just want to say that for the record.

1 I also want to say, Commissioner Johanson,  
2 welcome to the Commission. This is also the first  
3 hearing I've been at since you've been serving, and  
4 just wanted to say congratulations and welcome aboard.

5 CHAIRMAN OKUN: Thank you very much for  
6 those comments. I appreciate that. Well, I'll remind  
7 parties that the room is not secure, so please take  
8 any confidential business information with you. With  
9 that, we will recess until 2:00.

10 (Whereupon, at 12:55 p.m., the hearing in  
11 the above-entitled matter was recessed, to reconvene  
12 at 2:00 p.m. this same day, Tuesday, June 12, 2012.)

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26





1 policy favors domestic sales and reserves the entire  
2 domestic industry to small-scale producers, and small  
3 scale is defined as total investments of less than a  
4 million dollars. An industry bigger than that in  
5 India is virtually unheard of. The industry is  
6 entirely made up of small-scale companies who have  
7 absolutely no export requirement at all.

8 So I just wanted to make that very clear.  
9 Also, just to kind of preview where we're going this  
10 afternoon, I also wanted to refer to this, the key  
11 OLPP experiment that both Mr. Price and Mr. Kaplan  
12 showed that purports to show that the unprotected  
13 portion of the LLP market somehow was inundated by  
14 imports.

15 I don't know if that's true in general, but  
16 certainly it is not the case for India. OLPP, just  
17 like CLPSS, stayed exactly -- well, nearly exactly the  
18 same, very stable, very small, no growth. The Indian  
19 import level into the United States from both sectors  
20 of the like product is very much the same.

21 And finally, I want to just clarify that we  
22 actually do have very good data in this case from the  
23 Indian Respondent. If you look at the responses from  
24 the companies that did respond, they account for maybe  
25 1 percent of the imports that are represented for the

1 CLPP HTS in the staff report.

2 So I just want to try to walk back that  
3 argument that we heard multiple times today that  
4 somehow there is a vast, looming, unreported Indian  
5 industry out there. We got very good responses, and I  
6 think our data is very representative.

7 Now, let's move on to the substance of our  
8 presentation. I'd first like to ask Mr. Dilip Sampat,  
9 who is from Navneet, to present to the Commission.

10 MR. SAMPAT: Good afternoon. My name is  
11 Dilip Sampat, and I am president, international  
12 business, of Navneet Publications. I am here today --

13 MALE VOICE: A little louder.

14 MR. SAMPAT: Is that okay? I am here today  
15 to describe to you the constraint on India's capacity  
16 expansion, and to show you some product samples.

17 But first, I would like to address the  
18 additional producers that Petitioners mention in their  
19 prehearing brief in an attempt to falsely claim Indian  
20 capacity is underreported or that Indian capacity is  
21 growing. I have worked in the paper industry for 15  
22 years, and I personally gathered the group of Indian  
23 producers together to respond in this review. I'm  
24 very aware of the Indian producers in the market that  
25 currently export to the United States, and I can

1 assure you that anyone that has not responded to ITC  
2 questionnaire in this review is either insignificant,  
3 bankrupt, or no longer exporting.

4 For example, Blue Bird, mentioned in the  
5 Petitioners' brief, has nearly shut down all of its  
6 operation and is no longer relevant in the market.  
7 They also mention about Sundaram Paper, but that  
8 company is a typical producer of pin-bound exercise  
9 books that can supply only the African and Indian  
10 market. It has no exports to the United States and  
11 has no capacity to produce products that are salable  
12 in the United States.

13 You heard mention of the producer Kejriwel  
14 by one of the domestic industry witnesses as an Indian  
15 producer that outbid domestic producer. Kejriwel  
16 India previously exported to the U.S. It no longer  
17 makes any U.S. exports. Kejriwel USA is exclusively a  
18 distributor, and the products it sells in the United  
19 States are from various countries.

20 Similarly, they mentioned about three paper  
21 mills named JK Paper, ITC, and Bilt. These three are  
22 all the producers of the bulk paper, and are neither  
23 producer nor an exporter of converted paper products  
24 of any kind, including the subject products. The  
25 Petitioners discussed -- sorry. The Petitioners'

1 discussion of increasing capacity at paper mills is  
2 irrelevant. Anyway, India is a net importer of bulk  
3 paper because our capacity of paper production is  
4 insufficient to satisfy the local demand.

5           Now let me talk a little about the capacity  
6 constraint the Indian producer has. Indian law  
7 reserves the production of school notebooks to small-  
8 scale industries. Almost all of the Indian producers  
9 of the subject merchandise are small-scale industry  
10 and have the capability to produce only their domestic  
11 Indian market. The Indian law defines the small-scale  
12 as total investment in plant of only 50 million  
13 rupees, which is about \$1 million U.S. dollars.

14           Only a few of these small-scale companies  
15 have export capabilities, and any expansion by  
16 companies producing for the domestic market to add  
17 export market capacity would be prevented by the  
18 investment cap imposed by the government requirement  
19 that they remain small-scale industries. This is one  
20 of the reasons that India's share of U.S. market has  
21 been limited to about 3 percent, both during the five-  
22 year POR and the period prior to the investigation.

23           The total exports from India of these  
24 products to all countries averaged barely 0.5 percent  
25 of worldwide market share over the past five years.

1 In other words, India as a country does not have a  
2 large capacity to offer in any way, neither in the  
3 past nor in the future.

4 Now let me show some samples of what Indian  
5 producers generally produce for their domestic Indian  
6 market. Can we see the -- these are called the pin-  
7 bound exercise books. And these are called the staple  
8 binding, which are typically used in the Indian  
9 market. Let me pause while you are looking.

10 (Pause.)

11 MR. SAMPAT: Most of the Indian producers  
12 have built their capacity considering the Indian  
13 market, which is growing at more than 10 percent. The  
14 major Indian notebooks are all these pin-bound, that  
15 is, staple-bound notebook, and these same pin-bound  
16 products also dominate the school supply market in  
17 Africa and elsewhere outside America.

18 By contrast, the products sold in the U.S.  
19 are never pin-bound, but are always sewn or spiral  
20 bound. Because of the strong demand for pin-bound  
21 notebooks in India, Africa, and elsewhere, a huge  
22 portion of our reported capacity is tied up in the  
23 machines, such as staple-pinning machines, that  
24 produce products that are not marketable in the United  
25 States.

1           What is important is that the machines that  
2           are used to make pin-bound products can only make the  
3           pin-bound products. Such machines cannot make sewn or  
4           spiral-bound products. Thus, there is no possibility  
5           that capacity that is devoted to the Indian product  
6           could be shifted to the United States market, and that  
7           restricts the total capacity available to make the  
8           United States product.

9           Now let me explain availability scenario in  
10          India. The great majority of the paper available in  
11          India is made of recycled or agro-waste pulp. While  
12          this has advantages, because it is eco-friendly, it  
13          also has a lower strength, lower cleanliness, and  
14          lower brightness compared to the wood paper pulp.  
15          U.S.-made paper is almost all made from virgin-grade  
16          wood pulp, and thus has a better strength and  
17          brightness.

18          I have brought some typical U.S. school  
19          products that are produced in India and exported to  
20          the United States to compare with similar products  
21          produced by the Petitioners in the United States. I  
22          am sending around three most commonly U.S. products.  
23          One is filler paper. Another is spiral notebook. And  
24          the last is composition book.

25                   (Pause.)

1                   MR. SAMPAT: I'm providing a sample each of  
2 U.S.-made products and Indian-made products. As you  
3 can see, there are important product differences  
4 between our Indian-made products and the Petitioners'  
5 U.S.-made product. First, you can easily tell that  
6 the paper in the Indian product is a different color  
7 with a different construction and with a visible  
8 inclusion of waste particles in the paper. This is  
9 because of the recycled or waste source of fibers as  
10 compared to the U.S. product, which is almost all made  
11 of virgin wood pulp.

12                   Also, if you look at the 150-page filler  
13 paper that I have provided, you can see not only how  
14 the Indian filler paper color is noticeably different;  
15 also when you compare the thickness of the two  
16 products side by side, the stack of Indian paper is  
17 significantly thinner than the U.S. product, even  
18 though both products are 150 pages.

19                   When you look at the spiral notebook and  
20 composition notebook from India and then U.S., again  
21 you can see that there is a noticeable difference  
22 between the two of them. If you feel the pages in the  
23 notebook, you will notice the Indian paper is  
24 noticeably thinner and less smoother.

25                   The point to take from these samples is that

1 pricing comparisons without taking the difference in  
2 weight and brightness are not fair comparison, as  
3 Indian product is made from extremely different inputs  
4 than U.S. product. These are different products, and  
5 a retailer or a distributor presented with these two  
6 products would undoubtedly see the differences.

7 Finally, a word about inventories and the  
8 seasonality. I wish to point out that all of the  
9 Indian producers produce all of their export orders,  
10 including their U.S. export products, on made-to-order  
11 basis. They produce for exports only after receiving  
12 a sales order. No Indian producer maintains an  
13 inventory of U.S. products. If any company reported  
14 inventories of the subject products, that would have  
15 been entirely for the Indian market.

16 The Petitioners today claimed that the  
17 Indian and U.S. back-to-school seasons do not overlap.  
18 In the U.S., school starts in August or September. In  
19 India, school usually starts in July or August. The  
20 busy period for U.S. and India, both markets, is March  
21 to June. The Petitioners claim that our back-to-  
22 school period in India is November to May is  
23 completely false.

24 In conclusion, I would like to restate that  
25 the Indian producers are small in capacity and



1 insignificant in world trade, including the United  
2 States. And the exports from India are of reclaimed  
3 fibers, which are not in competition or with  
4 comparison with the U.S. market.

5 Thank you for your time and attention in  
6 this matter.

7 MR. DAVIS: Thank you very much. Now I'll  
8 ask Bruce Malashevich of ECS to speak.

9 MR. MALASHEVICH: Good afternoon, Madam  
10 Chairman, members of the Commission. I'm Bruce  
11 Malashevich of Economic Consulting Services, and I'm  
12 pleased to introduce my colleague, Ms. Lauren Visek,  
13 who is at the witness table for the first time today.

14 I'd like to begin my testimony by focusing  
15 on the introduction to Petitioners' prehearing brief.  
16 And I do so because I think we can all assume that any  
17 party's strongest arguments will be featured in some  
18 way right in the introduction or executive summary.

19 Well, let me begin. In the very first page  
20 of Petitioners' narrative in the introduction there is  
21 an error of fact and a revealing line graph. The  
22 error is in the statement that imports from all three  
23 subject countries exited after the order was put in  
24 place. Of course, that statement is incorrect with  
25 respect to the behavior of imports from India.

1           The line graph is revealing because it  
2 purports to show a correlation between the decline in  
3 *total* subject imports and improvements in the domestic  
4 industry's condition. I ask you please to look side  
5 by side with my Public Exhibit 1 and the pink page  
6 excerpt I took from the introduction to Petitioners'  
7 brief, which I put before you for your convenience.  
8 It's only one page.

9           My Public Exhibit 1 repeats Petitioners'  
10 exercise methodologically with respect to subject  
11 imports only from India. Exhibit 1 shows the opposite  
12 correlation when imports from India are examined  
13 separately. Please see our brief at pages 18 to 20  
14 for greater detail involving APO data. I would also  
15 note that Dr. Kaplan's Exhibit 6 is essentially a  
16 public reproduction of the line graph on page 1 of  
17 Petitioners' introduction. So my remarks pertain both  
18 to Dr. Kaplan's hearing exhibit today as well as the  
19 introduction to Petitioners' prehearing brief.

20           Now I ask that you turn to my Public Exhibit  
21 2. The differences in the relative behavior of  
22 subject imports is apparent with respect to the  
23 individual countries. Petitioners' statement on page  
24 2 of their brief, to the effect that all three subject  
25 countries operate very similarly and have similar

1 effects likewise is obviously incorrect.

2 In contrast to other subject countries that  
3 effectively reduce substantially, or in the case of  
4 Indonesia exited the market entirely for CLPSS after  
5 imposition of the orders, Indian producers competed  
6 fairly in the market and even slightly increased their  
7 exports to the United States.

8 On page 4 of their introduction, Petitioners  
9 incorrectly claim that many Indian producers failed to  
10 respond to the Commission's questionnaires. In fact,  
11 Indian producers that received the questionnaire  
12 responded, excepting only companies no longer active  
13 or companies that are insignificant. Exhibit 3 to my  
14 public set of exhibits shows that coverage in relation  
15 to official import statistics shows nearly 100 percent  
16 coverage in 2011.

17 Despite the high rate of coverage in foreign  
18 producers reported data in 2011, Petitioners expend a  
19 significant amount of time and paper discussing  
20 certain Indian producers that were not sent  
21 questionnaires by the ITC. I trust that Mr. Sampat in  
22 his earlier testimony has set the record straight in  
23 this regard.

24 If anything, Petitioners' discussion of  
25 Indian producers that have been increasing capacity is

1 evidence of the strong growth within the Indian  
2 market, not a threat to the United States. In its  
3 analysis, I recommend the Commission focus on the  
4 current set of reporting Indian producer exporters who  
5 account for all or nearly all of the exports to the  
6 United States in 2011 when assessing the production  
7 and capacity in India.

8 On page 4 of their introduction, Petitioners  
9 also erroneously claim that the Indian industry has  
10 substantial capacity to expand exports to the United  
11 States. Mr. Sampat addressed that issue in some  
12 detail. I would also call your attention to my Public  
13 Exhibit 4. India's so-called excess capacity was  
14 equivalent to only 1 percent of U.S. consumption in  
15 2011.

16 Even assuming that all of India's so-called  
17 excess capacity somehow made it to the United States,  
18 it is such a small and insignificant amount that it  
19 would not cause discernible adverse impacts on the  
20 domestic industry. It's clear that Indian exports to  
21 the U.S. otherwise pose no threat to the domestic  
22 industry. Further detail in this regard can be found  
23 on pages 13 and pages 27 through 29 of the Indian  
24 industry's brief containing APO data.

25 Similar errors occur throughout the body of

1 Petitioners' brief with regard to its discussion of  
2 India. Beyond miscategorizing the behavior of Indian  
3 imports into the U.S. market, Petitioners used faulty  
4 figures when describing the changes in the state of  
5 the Indian industry that exports to the United States.

6 Petitioners allege that the Indian producers nearly  
7 doubled their production capacity and that their  
8 export shipments to the United States have increased  
9 by more than 600 percent.

10 Even on the surface these statistics are  
11 erroneous when you compare the data in table I-1 of  
12 the prehearing report, which shows imports to the  
13 United States from India have increased by a mere 5  
14 percent rather than 600 percent over the POR. The so-  
15 called increase in both capacity and shipments  
16 reported by Indian producers that Petitioners  
17 emphasize is really a sleight of hand owing to the  
18 varying coverage by Indian producers in the reported  
19 data throughout the POR.

20 As can be seen in my Public Exhibit 3,  
21 coverage of imports to the U.S. from India was nearly  
22 100 percent in 2011, but it was beneath 20 percent for  
23 a majority of the POR because of changes in the set of  
24 Indian companies reporting. A number of those  
25 companies went bankrupt or otherwise withdrew from the

1 market.

2           Clearly, looking again at Exhibit 3, clearly  
3 the changes alleged by Petitioners are biased upward  
4 as the data in the first half of the POR are missing  
5 Indian exporters that discontinued operations or had  
6 ceased exporting to the United States by the end of  
7 the POR.

8           Indian Respondents urge the Commission to  
9 place little or no weight on the data for Indian  
10 producers between 2006 and 2009 because the data are  
11 not representative of the Indian industry that  
12 exported to the U.S. during that period.

13           Once again, the devil is in the details.  
14 Petitioners make the argument that the share of total  
15 Indian reported shipments going to the United States  
16 increased over the POR. Well, that is a number that  
17 is distorted by the difference -- increasing coverage  
18 by Indian producers over the years. If you compare  
19 2005, the last year of the original investigation, and  
20 2011, the last year of the POR, again looking at my  
21 exhibit, the volumes are approximately the same. And  
22 the underlying data show that the share of total  
23 Indian shipments going to the home market actually  
24 increased, and the share of total shipments going to  
25 the United State declined. That's the proper

1 comparison to make, 2005 and 2011.

2 In sum, presuming that the introduction to  
3 Petitioner's prehearing brief contains Petitioner's  
4 principal arguments of their theory of the case, every  
5 single statement that involves India is demonstrably  
6 incorrect. For a sense of the competitiveness of  
7 Indian prices, I would urge the Commission to examine  
8 the last paragraph of the discussion on bid data on  
9 page 5-23 in the prehearing staff report, as well as  
10 the discussion of underselling and overselling by  
11 Indian Respondents included on pages 14 through 18 of  
12 the Indian prehearing brief. Again, the contained  
13 data are APO.

14 I'd like to add one last word regarding  
15 decumulation. As discussed above, contrary to  
16 Petitioners' assertions, subject imports do not  
17 exhibit simultaneous presence in the marketplace or  
18 similar conditions of competition. Likewise, there is  
19 no significant overlap in the channels of distribution  
20 between U.S.-produced shipments and subject imports  
21 from India.

22 I strongly urge you to examine APO table 2-1  
23 in the prehearing staff report to prove this point.  
24 You will learn who dominates sales in the retailer  
25 segment that Petitioners claim, quote, "exacerbates

1 the market's focus on price," unquote. For further  
2 elaboration, I would also refer you to pages 20  
3 through 26 of the Indian industry's prehearing brief.

4 Although decumulation is appropriate, the  
5 release of Indian product from the orders is not  
6 dependent upon it because it is clear that Indian  
7 imports have not caused and will not cause a  
8 discernible adverse impact on the domestic industry.

9 My last point is simply to echo what Mr.  
10 Davis said earlier. Petitioners paid a lot of  
11 attention on comparing and contrasting the behavior of  
12 subject imports and non-subject imports of the like  
13 product over, before, and after the orders. The  
14 intention was to show a lot of Chinese interest in  
15 switching out of subject product to OLPP. It was used  
16 to demonstrate the continuing interest of Indonesia by  
17 their participation in nonsubject but related  
18 products.

19 Well, look at, if you would, please, much of  
20 the data are APO. I'm looking at public table C-3 of  
21 the prehearing report, which addresses activity in the  
22 OLPP segment of the like product. If Indian had all  
23 this excess capacity, had all this export orientation,  
24 why would its market share of OLPP products be so  
25 tiny? I ask you that question. And likewise, Mr.



1 Sampat testified, why would India's share of world  
2 trade be 0.5 percent. That doesn't translate into any  
3 likely discernible impact to me. Thank you.

4 MR. DAVIS: Thank you very much, Mr.  
5 Malashevich. Before I turn the rest of the portion of  
6 this panel over to Mr. Shor, I would just like to  
7 formally request that our exhibits be entered into the  
8 record.

9 CHAIRMAN OKUN: Without objection. Mr.  
10 Shor?

11 MR. SHOR: Good afternoon, Madam Chairman  
12 and members of the Commission. Before I turn the  
13 panel over to my witnesses today, I'd like to address  
14 two issues that arose this morning.

15 First, I'd like to follow up on Commissioner  
16 Williamson's question about the import data. The  
17 domestic industry's position appears to be that you  
18 should continue to rely on the import data in the  
19 prehearing report because that's what you did in the  
20 original investigation. But they ignore the fact that  
21 two significant things have changed.

22 First, the tariff classifications have  
23 changed. There is now new statistical breakouts in  
24 the notebook classification that distinguish between  
25 notebooks in the CLPSS size range and notebooks

1 outside the size range. So you now have a new tariff  
2 classification -- it's 4820102060 -- that you know  
3 covers only OLPP. There are no CLPSS products in that  
4 classification.

5 Petitioners tell you nonetheless to keep it  
6 in. I submit to you, you have no discretion  
7 whatsoever to include as CLPSS products you know are  
8 not CLPSS.

9 The other thing that is interesting about  
10 that tariff classification, when you look at the data  
11 you can tell that it accounts for the overwhelming  
12 majority of what the prehearing report refers to as  
13 subject imports. So not only do you know that your  
14 data for 2010 and 2011 are wrong, but it also tells  
15 you that the data you have for prior years are also  
16 distorted because most of the imports in that  
17 classification, as in the later years, are OLPP.

18 The second thing that has changed in this  
19 investigation is that you have an alternative data  
20 source. You had orders in place where you did not  
21 prior to 2006. Contrary to what Mr. Brightbill has  
22 stated, we did not wait until our prehearing report to  
23 raise this issue. We've been discussing it with staff  
24 for some time. We have requested that staff go to  
25 Customs and gather the net import data.

1           We understand that staff has done so. So  
2 you now have the actual data. We haven't seen it yet.

3       I would like to ask that it be provided to us as soon  
4 as possible and not wait until the final staff report,  
5 in case there is anything we want to address. But we  
6 are confident that those data will show at most a few  
7 random imports. For whatever reason, there is always  
8 randomness in the data. There are people who make  
9 mistakes. There are misclassifications.

10           But I also want you to -- I want to focus on  
11 the fundamental contradiction in Petitioners'  
12 testimony regarding the import data. They tell you  
13 that this is a highly price-sensitive product, that  
14 the major purchasers fight over every penny on the  
15 sale. And yet they would have you believe that there  
16 is some purchaser out there that is paying 138 percent  
17 duty on this product. It doesn't make any sense, and  
18 it's not happening.

19           The second issue I'd like to address also is  
20 Petitioner's experiment, the chart they had up on the  
21 board this morning about the dramatic differences  
22 between the trends in domestic shipments of OLPP  
23 versus CLPSS. We think they're looking at the wrong  
24 experiment. We passed out a chart just now that we  
25 think has the proper experiment. It is a table

1 showing OLPP imports from Indonesia. Remember they  
2 told you -- they put on display other line paper  
3 products from Indonesia, legal pads and the like.  
4 They said -- and this is a direct quotation from Dr.  
5 Kaplan -- don't look at what they tell you. Look at  
6 their actual behavior. And then Dr. Kaplan proceeded  
7 to ignore the actual behavior.

8           These are the data on the actual imports of  
9 OLPP from Indonesia over the period of this review.  
10 They decline by 81.6 percent. I remember that number  
11 because it's such a good number. And I submit to you  
12 they have no explanation at all for that chart. When  
13 they tell you that Indonesia has excess capacity, they  
14 could add more capacity, they're interested in the  
15 U.S. market, don't worry about environmental issues,  
16 customers don't care, if you get rid of the orders,  
17 they'll immediately begin shipping CLPSS to the United  
18 States -- this data contradicts that entire argument  
19 by virtue of the actual behavior.

20           They cannot explain at all why these imports  
21 dropped so dramatically. If environmental problems  
22 weren't an issue, we would have switched from shipping  
23 CLPSS to the United States to shipping OLPP. It  
24 didn't happen. The imports are declining. That chart  
25 alone largely proves our case.

1                   I'll now introduce Martinus Alfian, from  
2 Tjiwi Kimia.

3                   MR. ALFIAN: Good afternoon, Madam Chairman,  
4 members of the Commission. My name is Martinus  
5 Alfian. I'm the head of export sales and marketing  
6 for Tjiwi Kimia Stationery Business Unit. I'm  
7 responsible for sales and marketing for all exported  
8 stationery products that includes all lined paper  
9 products, including CLPSS.

10                  I have worked in this position for six  
11 years, and I have worked at Tjiwi Kimia for seven  
12 years. My testimony will cover three issues. First,  
13 I will discuss the history of Tjiwi Kimia's  
14 enforcement in the U.S. market for lined paper  
15 products, both CLPSS and out-of-scope OLPP, and the  
16 nature of that market.

17                  Second, I will explain how Tjiwi Kimia  
18 adjusted to antidumping and countervailing duty orders  
19 by increasing its sales of CLPSS and OLPP to targeted  
20 growing markets with higher prices and reaching full  
21 capacity utilization.

22                  Third, I will explain why the U.S. CLPSS  
23 market no longer is attractive for us and why exports  
24 of CLPSS to the U.S. are not likely if the orders are  
25 revoked.

1           Let me begin with our history of lined paper  
2 sales in the U.S. market. In 1997, after fire  
3 destroyed our lined paper converting facility, we  
4 installed all new automatic machinery. That greatly  
5 expanded our capacity to produce lined paper products,  
6 including CLPSS. We identified the U.S. market for  
7 growth because of its unique characteristics.

8           There are relatively small numbers of large  
9 purchasers. On the plus side, it meant that with just  
10 one of those large purchasers, we could sell what for  
11 us would be a large volume to help to up our new  
12 capacity. On the minus side, those large purchasers  
13 have market power, were fairly price sensitive, and  
14 used billing and option mechanism to drive prices  
15 down.

16           Given our excess capacity situation, it made  
17 sense for us at the time to target a few high-volume  
18 customers, even if it meant lower margins relatively  
19 to other markets. The overwhelming majority of our  
20 U.S. sales of CLPSS were made to one large retailer,  
21 and our shipments grew as that customer expanded into  
22 online trading as well -- online retailing, peaking in  
23 2002.

24           By the time the trade cases were filed in  
25 2005, our shipments of CLPSS to the U.S. had been in

1 decline for several years. We have succeeded in  
2 largely filling up our new capacity, and we're focused  
3 on improving profitability. In the U.S., we sought to  
4 push our prices higher. We lost sales as a result.

5 After petitions were filed, we stopped our  
6 shipments of CLPSS to the U.S. in December 2005. Our  
7 customers would not accept the risks of unknown duty  
8 rates, and once the orders were imposed, our customers  
9 would not pay duty rates starting at 138 percent. It  
10 is our firm belief that the official import data as  
11 used in the prehearing report reflect out-of-scope,  
12 out-of-line paper products we ship to the U.S. under  
13 the same tariff having the stuff used to identify  
14 CLPSS.

15 These products include index cards, grade-  
16 ruled steno pads, outsized spinal notebooks, spinal  
17 index card books, legal pads, mini-composition books,  
18 and the like, not CLPSS. The loss of the U.S. CLPSS  
19 market to us in 2006 was significant, but not hugely  
20 so. By then we had grown our lined paper business in  
21 other markets such that U.S. CLPSS sales accounted for  
22 very roughly 3 to 4 percent of our overall lined paper  
23 volume, but we still needed a plan to try to recoup  
24 that volume.

25 Our strategic objective was to diversify our

1 customer base and improve our profitability above what  
2 we had earning in the U.S. market. There was no other  
3 market in which we could target a couple of purchasers  
4 to pick up our lost volume. We had no choice but to  
5 target smaller countries and small customers.

6 We targeted three areas in particular, which  
7 are identified in our prehearing brief. These markets  
8 all were identified based on their potential for  
9 continuing growth and more favorable net pricing than  
10 we had lost in the United States. All are located  
11 closer to us than the United States and entailed lower  
12 shipping costs, which added our goal of achieving  
13 greater profitability.

14 This effort took time, and it was expensive,  
15 I mean, a lot more expensive than it had been to  
16 secure a few large CLPSS customers we had had in the  
17 U.S. In 2006 and 2007, I personally took about 210  
18 flights to meet with existing and potential customers  
19 in over 37 countries. If you count my whole staff, we  
20 traveled about twice that amount. And we were  
21 successful in meeting our strategic objective. We  
22 succeeded in increasing our shipments significantly in  
23 all of our targeted market.

24 By 2008, our CLPSS equipment was operating  
25 at full capacity. By 2011, our overall worldwide



1 CLPSS shipment volumes had returned to 2005 level. I  
2 want to emphasize that the growth in CLPSS capacity  
3 and production we experienced from 2006 to 2011 was  
4 not an expansion, but simply our climbing back to  
5 level -- to 2005 level.

6 We have not added any new or upgraded CLPSS  
7 production equipment since 1997, and have no plans to  
8 do so. The large investment we made in 2006 and 2007  
9 to target new markets and customers has proven to be  
10 worth it. Today, I can say with confidence that our  
11 lined paper business actually benefitted from losing  
12 the U.S. CLPSS market. Our CLPSS and OLPP markets  
13 today are much more diversified. We are getting  
14 higher net prices by selling overwhelmingly in markets  
15 not dominated by large purchasers with market power.  
16 The constant price pressure that was the rule in the  
17 U.S. market is more the exception in our current  
18 markets.

19 Our CLPSS and overall lined paper products'  
20 profitability is higher than it was in 2005. Even  
21 apart from environmental issues, which I will discuss  
22 next, there is no reason for us to return to the U.S.  
23 CLPSS market if the orders are revoked. It made  
24 economic sense to sell to the U.S. when we had excess  
25 capacity and need to target high-volume customers even

1 at lower profit margins than were available in other  
2 markets. Now that we are capacity-constrained, every  
3 new market and customer has an opportunity cost. For  
4 any new customer, we have to give up or reduce  
5 shipping -- or reduce shipments to an existing  
6 customer. We will only shift sales for higher prices  
7 and larger returns.

8 When we do free up lined paper capacity,  
9 such as when we lose a customer or deliberately phase  
10 out shipments to a particular customer or market,  
11 we're able to read that production and increase  
12 shipments to our growing target markets. Each of  
13 these targets -- each of these markets generates  
14 larger profits than we would earn by making CLPSS  
15 sales to the U.S.

16 Finally, I want to address environmental  
17 issues. Purchasers' and consumers' concern over these  
18 issues have drastically lowered demand for our  
19 products in the United States, and would severely  
20 limit our ability to sell CLPSS products in the United  
21 States, even if we had an incentive to do so, which we  
22 do not.

23 I can tell you from the first-hand  
24 experience that attacks by organizations such as  
25 Greenpeace and then World Wildlife Fund have curtailed

1 demand for our products in the United States. Large  
2 retailers react fairly negatively to demonstrations at  
3 their stores, and to other forms of pressure from  
4 these and similar groups. They are very attuned to  
5 consumer sensibilities, and American consumers are  
6 highly sensitive to certain environmental issues.

7 I estimate that even if the orders were  
8 revoked, 90 percent of the U.S. CLPSS market would be  
9 closed off to us due to environmental issues. As  
10 detailed in our prehearing brief, environmental  
11 issues, especially our inability to obtain FSC  
12 certification, have caused us to lose large and  
13 important customers, including our largest and most  
14 important U.S. customer.

15 These are not issues we can solve in the  
16 foreseeable future due to forestry practices affecting  
17 all Indonesian pulp and pulp wood producers. FSC  
18 requirements effectively prevent certification for  
19 paper products sourced from plantations as to at least  
20 after November 1994. Indonesia did not begin issuing  
21 plantation licenses until 1996.

22 Petitioners say we can solve these  
23 environmental certification issues by importing base  
24 paper from China or elsewhere. But they would not  
25 make economic sense. We would incur higher shipping

1 costs for what is very low value input product, and  
2 then we would then have no use for paper currently  
3 produced by Tjiwi Kimia. The basic business objective  
4 of my business unit is to add value to Tjiwi Kimia's  
5 own paper.

6 To see the impact of this environmental  
7 issue, just look at our sales of out-of-scope, other  
8 lined paper products to the United States. Over the  
9 past five years, they have declined dramatically.  
10 Quite simply, the U.S. market, particularly the large  
11 retail purchasers, is now a very unattractive market  
12 for Indonesia paper products. This is especially  
13 significant because it was the ability to sell  
14 significant volumes to large retail purchasers that  
15 attracted Tjiwi Kimia to the U.S. market in the first  
16 place.

17 With prices higher elsewhere, the U.S. CLPSS  
18 market no longer offers anything to attract us. Thank  
19 you very much. I would now like to introduce Dr.  
20 Brian Kelly.

21 MR. KELLY: Thank you. Good afternoon,  
22 Madam Chairman, members of the Commission. My name is  
23 Brian Kelly. In my testimony today, I will explain  
24 why import of CLPSS from Indonesia are not likely to  
25 increase absent the orders, and why such imports are

1 not likely to have any discernible adverse impact on  
2 the domestic lined paper industry following  
3 termination.

4 As a starting point, I want to emphasize Mr.  
5 Alfian's point that Indonesian CLPSS exports to the  
6 United States declined in tonnage terms during the  
7 original investigation period from 2003 to 2004.  
8 Indonesia's market share in the U.S. was very low and  
9 declining. This is not a case where the order stemmed  
10 a rising tide of Indonesian exports.

11 Also from the original investigation, I want  
12 to note the familiar fact that the like product  
13 defined by the Commission covered and continues to  
14 cover a broader range of merchandise than that subject  
15 to the order. The Department of Commerce defined the  
16 subject merchandise in a complex manner such that one  
17 product might be within the scope, and another very  
18 similar product outside the scope.

19 The Commission recognized that this was  
20 unworkable for the injury analysis and defined the  
21 like product as being all lined paper products.  
22 Consequently, we can analyze trends in imports of the  
23 like product from Indonesia for the period of review,  
24 even though imports of subject merchandise were either  
25 nonexistent or de minimis.

1           Let me now turn to the reasons that  
2           increases in CLPSS imports from Indonesia are unlikely  
3           if the orders are terminated. Then I'll close with  
4           the powerful corroborative evidence provided by the  
5           trends in other lined paper products, the out-of-scope  
6           portion of the like product, during the review period.

7           The first key fact in the analysis of likely  
8           export behavior absent the orders is that Tjiwi Kimia  
9           is operating at full capacity and has been for several  
10          years. The production lines that can produce subject  
11          products are operating flat out.

12          The second key fact is that current  
13          inventories reflect production to order, that is, they  
14          are committed to particular customers. Further, they  
15          are in metric sizes that are not used in the United  
16          States. Because of full capacity and the inability to  
17          switch inventories to U.S. exports, Tjiwi Kimia could  
18          increase exports to the United States only through the  
19          sacrifice of sales to other markets. Thus the  
20          relevant economic question becomes how does the U.S.  
21          CLPSS market look compared to Tjiwi Kimia's current  
22          lined paper product markets.

23          So turn to the third key fact. Prices in  
24          Tjiwi Kimia's current markets are higher than prices  
25          in the United States. To reach this conclusion, I

1 started with the U.S. pricing on the individual  
2 products presented in section 5 of the prehearing  
3 staff report. For four of these five products, Tjiwi  
4 Kimia was able to identify highly similar products  
5 sold in other markets. I compared the current  
6 pricing, year 2011, in these markets to the pricing  
7 reflected in the staff report appropriately adjusted  
8 for freight.

9 I included the results in my prehearing  
10 analysis. These show that I the large majority of  
11 cases -- and I'll deal with the exceptions in a moment  
12 -- across all four products, Tjiwi Kimia's current  
13 prices exceed those that it could realize in the  
14 United States. Because it currently realizes higher  
15 net prices elsewhere, Tjiwi Kimia has no incentive to  
16 shift sales to the U.S. CLPSS market.

17 The exceptions I mentioned do not detract  
18 from this conclusion. They all involve either  
19 products that are unimportant in the market at issue,  
20 or markets where Tjiwi Kimia already is reducing  
21 shipments in favor of higher priced markets it has  
22 targeted for further growth.

23 My conclusion also is supported by Tjiwi  
24 Kimia's business plan. That plan includes a strategy  
25 called "grow head and cut tail." What does that mean?

1 In light of its capacity constraints, Tjiwi Kimia  
2 already is in the process of reducing lined paper  
3 sales to these less profitable markets so that it can  
4 increase sales to its more profitable growing markets.

5 The termination of the orders would create no reason  
6 for the company to change the strategy outlined in its  
7 business plan, for the net real prices realized under  
8 that plan exceed those that the company could realize  
9 in the United States.

10 Obviously, but importantly for the  
11 Commission's analysis, the data confirm that Tjiwi  
12 Kimia would have no incentive to increase subject  
13 exports at prices that undercut U.S. producer prices.

14 I also applied the analysis to prices for  
15 2010, although I was not able to include this in my  
16 prehearing analysis due to time constraints. I will  
17 include this in the post-hearing materials. This  
18 analysis confirms that 2011 is not a fluke, but that  
19 Tjiwi Kimia's current markets have been more  
20 attractive than the U.S. CLPSS alternative for some  
21 time.

22 So we have three key facts: full capacity  
23 utilization, inventories that cannot be diverted to  
24 the U.S. market, and more attractive and expanding  
25 markets than the U.S. CLPSS market. Combined, these



1 show that Tjiwi Kimia has no incentive to increase  
2 exports to Indonesia following termination of the  
3 orders.

4 Other evidence confirms that the U.S. is not  
5 an attractive market for Tjiwi Kimia. Earlier, I  
6 described the fact that CLPSS is only part of the like  
7 product. Tjiwi Kimia completely stopped exports of  
8 CLPSS prior to the original imposition of the orders  
9 and has not resumed them during the period of review.

10 However, other lined paper products within the like  
11 product were not subject to the higher duties that  
12 stopped sales of CLPSS.

13 Consequently, the sales of these products  
14 during the period of review provide a very good  
15 indication of what would have been the path of CLPSS  
16 absent the orders. I stress that the other lined  
17 paper products are part of the same like product as  
18 CLPSS, subject to the same economic and competitive  
19 forces.

20 With that prologue, let's turn to what has  
21 actually happened. The bar chart you have in front of  
22 you shows that OLPP imports during the period of  
23 review, as compiled in the prehearing report and  
24 updated to include first quarter of 2012, and it tells  
25 a very simple story. The U.S. market for the like

1 product has become progressively less attractive  
2 during the review period. In 2011, imports of OLPP  
3 from Indonesia stood at less than 20 percent of the  
4 2006 level.

5 I remind you these are not products subject  
6 to any antidumping or countervailing duty remedies.  
7 The trend is continuing in 2012, with first quarter  
8 sales down a further 41 percent on a year over year  
9 basis. Further, the responses to the importer  
10 questionnaires separately show that every importer  
11 substantially decreased its imports of OLPP from  
12 Indonesia in 2010 and again in 2011.

13 As part of the same like product as CLPSS,  
14 the other lined paper product trend provides  
15 convincing evidence that the earlier analysis is  
16 correct. The U.S. market is not attractive for Tjiwi  
17 Kimia.

18 A similar point can be made with reference  
19 to Tjiwi Kimia's sales to Canada. Canada is the  
20 market most similar to the U.S., with many of the same  
21 customers. Canada does not have AD or CVD barriers in  
22 place against CLPSS. Yet from 2006 to 2011, Tjiwi  
23 Kimia's CLPSS exports to Canada also declined by a  
24 large percentage. The actual number is provided in  
25 our brief.

1           Tjiwi Kimia's exports of CLPSS are unlikely  
2           to have any discernible adverse impact after  
3           termination. An analysis of pricing indicates that it  
4           would not make economic sense for the company to  
5           switch sales to the United States from other market.  
6           Also, given full capacity utilization, new production  
7           is not available for the U.S. market.

8           The trends in U.S. imports of the like  
9           product during the review period powerfully  
10          corroborate this, as do the declines in sales to  
11          Canada. Consequently, any increase in sales of CLPSS  
12          following termination would likely be so small as to  
13          not have any discernible adverse impact on U.S.  
14          producers.

15          Thank you for your time.

16          MR. SHOR: Madam Chairman, that concludes  
17          our presentation. I would like to ask that our chart  
18          be admitted to the record, and I would like to reserve  
19          any remaining time for rebuttal.

20          CHAIRMAN OKUN: Okay. Well, without  
21          objection, I would remind counsel for everyone that  
22          you should give the information to the exhibits to the  
23          secretary first before providing them directly to us  
24          or to the parties. But then we will accept it into  
25          the record.

1           Before we begin our questions this  
2           afternoon, let me take this opportunity to thank this  
3           panel very much for being here. I particularly  
4           appreciate those of you who have traveled a great  
5           distance to appear and to answer our questions. We  
6           very much appreciate the opportunity to question you  
7           directly, and just a reminder to restate your name for  
8           the benefit of the court reporter when you respond to  
9           our questions.

10           And we'll start the questions this afternoon  
11           with Vice Chairman Williamson.

12           VICE CHAIRMAN WILLIAMSON: Thank you, Madam  
13           Chairman. And I too want to express my appreciation  
14           for the witnesses coming, especially those who have  
15           traveled a long way.

16           I want to begin with questions for the  
17           Indian Respondents. At page 23 and 24 of your brief,  
18           you argue that Indian product is of lower quality than  
19           the U.S. product, and therefore the two products are  
20           not fungible. And I was wondering how you reconciled  
21           this claim with tables 2-8 and 2-9 of the staff  
22           report, which indicate that the products are basically  
23           similar, you know, U.S. and Indian product are similar  
24           and generally interchangeable.

25           MR. DAVIS: Well, I think the staff report

1 must be referring to purchaser responses.

2 VICE CHAIRMAN WILLIAMSON: Yes, probably so,  
3 in the questionnaire.

4 MR. DAVIS: Well, I mean, generically they  
5 are similar. But there is no question, as Mr. Sampat  
6 has demonstrated, that there are very different  
7 physical differences between them. And so while they  
8 can both be written on, while they can both be used  
9 for the same thing, the overall perception of the  
10 products is very different.

11 VICE CHAIRMAN WILLIAMSON: Yes. The  
12 differences that we notice -- I mean, I assume that  
13 that has to do with the quality of the paper, the  
14 inputs. Does that reflect your capacity, or does that  
15 reflect that's what you're able to sell in the Indian  
16 market? Or that's what the --

17 MR. DAVIS: That's what the Indian producers  
18 have available as their raw material. The product --  
19 the raw paper available in India is largely recycled  
20 waste pulp paper. And that's not the clear, white,  
21 smooth wood pulp paper that we're used to in the  
22 United States. So it's a very different product.

23 MR. MALASHEVICH: Commissioner, if I could  
24 add -- Bruce Malashevich, for the record. Also, we  
25 have learned during our work in this case that India

1 is a country very poor in timber, and there are  
2 restrictions on how much can be harvested for such  
3 things as paper production. And to import paper is  
4 extremely cost prohibitive.

5 So they work with the local materials that  
6 are available. And as mentioned, this is basically  
7 recycled agricultural waste. Now, to some consumers  
8 that are sensitive to ecological issues, that's a good  
9 thing and, you know, they don't care. Maybe they even  
10 pay a little more for it. But to others, it looks  
11 sort of dirty and has a very -- it has a thinner,  
12 rougher feel, and has particles in it that you  
13 wouldn't find in the white paper.

14 So, yes, you can take each and write on it.

15 Yes, in that respect, they are both usable. But  
16 they're not fungible because their physical appearance  
17 does turn some people off.

18 VICE CHAIRMAN WILLIAMSON: And this was true  
19 before the orders went into effect? I guess the  
20 question I'm wondering about, if a store in the U.S.  
21 -- no. They're using it as a loss leader, and they're  
22 concerned about how much is it going to cost -- if  
23 their customers buy it because it's a great deal and,  
24 you know, there is -- as I said, the data we have here  
25 from the purchasers' data seems to show no indication

1 that they say it's considered a poorer quality or that  
2 it's not acceptable quality for maybe the customers  
3 they want to say it to -- sell it to.

4 MR. MALASHEVICH: Well, I --

5 VICE CHAIRMAN WILLIAMSON: I mean, I  
6 remember when I was buying paper for my kids. You  
7 know, you looked at that huge 500-page package or  
8 something, well, half the price of something else, and  
9 you might say, this seems to be fine.

10 MR. MALASHEVICH: I take your point,  
11 Commissioner. But I think the other side of that is  
12 with India collectively accounting for low a single-  
13 digit share of the U.S. market, I think it's a fact  
14 that shows in itself that the product does not have  
15 widespread acceptance in the market. And also apart  
16 from the subjective responses purchasers have given to  
17 the Commission's questionnaires, I think the data on  
18 underselling are decidedly mixed in favor of  
19 overselling. And I think that would be a more  
20 compelling piece of evidence than a statement by the  
21 Petitioners in response to what I've already said is a  
22 very vague kind of question that can mean different  
23 things to different people.

24 VICE CHAIRMAN WILLIAMSON: Okay. But do you  
25 have statements from, say, large purchases -- I mean,

1 they're saying no we don't want the Indian product  
2 because it doesn't meet our specks? This is often  
3 what we hear when people come in and talk about the  
4 quality differences.

5 MR. DAVIS: I don't think we have anything  
6 on the record at this point.

7 VICE CHAIRMAN WILLIAMSON: Okay. Okay  
8 because that's -- what about you have also indicated  
9 that the product from India is mostly oversold  
10 domestic prices, and I was just wondering, how could  
11 it be of such poor quality and yet still sell for a  
12 higher price?

13 MR. DAVIS: Maybe we shouldn't be using the  
14 term poor quality, all right?

15 VICE CHAIRMAN WILLIAMSON: Okay.

16 MR. DAVIS: It's a different quality. It's  
17 a different color, a different input, a different  
18 product. There are some customers who like that, all  
19 right. There are some customers who like the fact  
20 that they can say this is a recycled product, no trees  
21 were harmed in the production of this product, but  
22 there are other customers who like the smooth  
23 consistent surface.

24 And so, I mean, I can't speak for the  
25 industry in general, but customer preference varies,



1 and so you'll get some customers who will be willing  
2 to pay full price. You'll get some customers who are  
3 going to say, no, they don't want it.

4 VICE CHAIRMAN WILLIAMSON: And some  
5 customers that say for this price it does fine. I can  
6 write on it. I can read it. Yeah.

7 MR. DAVIS: But obviously that doesn't carry  
8 the day because the Indian market remains very, very  
9 small, the Indian share of the market remains very,  
10 very small.

11 MR. MALASHEVICH: Pardon me, Commissioner.

12 VICE CHAIRMAN WILLIAMSON: Yes.

13 MR. MALASHEVICH: But while you were  
14 speaking before, I found something that might be even  
15 more responsive to your concern and it comes right out  
16 of the pre-hearing report. I'm looking at the public  
17 version. It's on page Roman 2-50. There's a  
18 statistical chart.

19 VICE CHAIRMAN WILLIAMSON: What's the chart  
20 number?

21 MR. MALASHEVICH: It's table number 2-6.

22 VICE CHAIRMAN WILLIAMSON: Okay.

23 MR. MALASHEVICH: Okay. And my colleague  
24 brought to my attention something, quite frankly, I  
25 had not noticed before but it's pertinent to your

1 request.

2           Look at the column on the right. The number  
3 of purchasers indicating no familiarity with the  
4 product. Then as you move left, among those having  
5 familiarity with the product, five said they were  
6 sometimes interchangeable, six say they were never  
7 interchangeable, and only one say they're always  
8 interchangeable.

9           So I respectfully submit this is a rather  
10 good expression of what I've been trying to say not as  
11 artfully that, you know, the questionnaires as  
12 drafted, you know, are interpreted differently, but  
13 also following the letter of the questionnaire, it's  
14 clear that many had no familiarity and among those who  
15 did, interchangeability is much more qualified than  
16 Petitioners suggest.

17           VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
18 I'll take a look at that in light of the other tables  
19 too.

20           Okay. What about the question of why you  
21 would have the overselling if people consider the  
22 product of a lower quality?

23           MR. MALASHEVICH: Well, as I mentioned, some  
24 do and others appear to place some value on the fact  
25 that it consists entirely of recycled materials. I'm

1 taking an educated guess to that effect. Of course,  
2 we can't interview people who respond to the  
3 Commission's questionnaire unless they're our clients,  
4 but I think that is a reasonable explanation.

5 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.

6 Okay, in your brief, you emphasize the  
7 growth in home market shipments by reporting Indian  
8 producers. This is your brief on page 2729. However,  
9 Table 4-7 shows that the share of Indian shipments  
10 exported to the U.S. market increase by 60 percent  
11 between -- from 2006 to 2011 while the share decline  
12 for the Indian home market -- oh, well, the share  
13 destined for the Indian home market declined by 13  
14 percent. Wouldn't this indicate that India is  
15 becoming more export focused to go in the U.S. market?

16 MR. MALASHEVICH: I don't have the table in  
17 front of me, but I'm very familiar with it and I  
18 addressed it in my testimony.

19 VICE CHAIRMAN WILLIAMSON: Okay, yes.

20 MR. MALASHEVICH: That is, in fact, what  
21 that table shows. But if you look at my public  
22 exhibit -- forgive me. Public Exhibit 3, it shows you  
23 have a change in the coverage among the Indian  
24 producers changed, improved very markedly thanks to  
25 Mr. Sampat's tenacious efforts to achieve cooperation

1 with the Commission's investigation, and that's why,  
2 as I testified earlier, the relevant comparison points  
3 would be 2005 from the original POI versus 2011.

4 Those are the years with the highest  
5 participation rates in relation to the published data  
6 on imports, and they show the reverse of what's shown  
7 in the report beginning with the year 2006. It's a  
8 very important distinction.

9 VICE CHAIRMAN WILLIAMSON: So you mean it's  
10 just a matter of the reporting coverage or?

11 MR. MALASHEVICH: That's right. As you can  
12 see in 2006 in relation to everybody's best  
13 understanding of what imports were, exporters -- the  
14 current set of exporting -- of reporting Indian  
15 producer exporters accounted for only 13 percent and  
16 that went up to 91 percent in the year 2006.

17 So it's only by looking at 2011 to 2005 that  
18 you can a reasonable appreciation for what, how, in  
19 fact, the shares of total Indian shipments going to  
20 the whole market versus the United States change and,  
21 in fact, they changed in the opposite direction from  
22 what Petitioner's comparison was based on.

23 VICE CHAIRMAN WILLIAMSON: Okay. Thank you.  
24 My time has expired. Thank you.

25 CHAIRMAN OKUN: Commissioner Pearson.

1                   COMMISSIONER PEARSON: Thank you, Madam  
2 Chairman. Permit me to extend my welcome to all of  
3 you.

4                   Mr. Davis, let me begin with you. You base  
5 your cumulation argument on no discernable adverse  
6 impact. Now, I have been quite open in the past to  
7 considering no discernible adverse impact under  
8 different circumstances or variety of circumstances.

9                   In this case with regard to the Indian  
10 producers, their capacity, production, and export to  
11 the United States all tended to increase during the  
12 period of review.

13                   Can you provide an example with a similar  
14 fact pattern where either the Commission as a whole or  
15 whether -- where I have made a no discernible adverse  
16 impact finding?

17                   MR. DAVIS: Well, I'll be glad to do that  
18 kind of review for you in our response, but first let  
19 me say that I think the pattern that you suggested  
20 isn't exactly what really happened. I think a lot of  
21 the data is based on this confusion about the HTS  
22 categories and that the real Indian experience with  
23 the subject merchandise with the CLPSS is very flat,  
24 very steady, and not a lot of growth in either  
25 capacity or sales, but let me elaborate on that in our

1 comments later.

2 COMMISSIONER PEARSON: Okay, but even if you  
3 go with that small and flat presence of Indian product  
4 in the United States, as you put it, when that is a  
5 pattern that has prevailed during the period of  
6 review, have I or has the Commission made a no  
7 discernible adverse impact finding under that  
8 circumstance because you're talking about a  
9 marketplace that has been affected by the order.

10 MR. DAVIS: Yes, let me respond in our  
11 comments.

12 COMMISSIONER PEARSON: Okay. Mr. Davis  
13 again, in the event of revocation, do you believe that  
14 imports from India would compete under different  
15 conditions of competition in the U.S. market relative  
16 to imports from China?

17 MR. DAVIS: In the event of revocation, we  
18 think that the Indian experience wouldn't change very  
19 much at all because the Indian focuses on the domestic  
20 market, the domestic sales, where they find small  
21 opportunities in the United States. They've taken  
22 them, but for the most part, Indian producers are  
23 focused on markets outside of the United States. So  
24 we don't think it's going to change very much at all,  
25 and whether it's going to be different from China, we,

1 you know, that's not for us to say.

2 COMMISSIONER PEARSON: Well, I understand it  
3 may not be, but if we were to write an opinion  
4 decumulating based on conditions of competition in the  
5 U.S. market, it would be something that would be very  
6 helpful to have a record on which to base such a  
7 finding.

8 MR. DAVIS: Certainly it appears that the  
9 Chinese experience in the U.S. market is vastly  
10 different from the Indian experience in the U.S.  
11 market over the last five years.

12 COMMISSIONER PEARSON: How about  
13 differences, if any, between how imports from India  
14 would compete in the U.S. market with imports from  
15 Indonesia in the event of revocation?

16 MR. DAVIS: Well, again, maybe we should  
17 take a moment and analyze this in our post-hearing  
18 comments.

19 COMMISSIONER PEARSON: Okay, well, I would  
20 encourage you to do that.

21 In the meantime, Mr. Shor, do you have any  
22 observations or thought on that?

23 MR. SHOR: I would love to jump in on that,  
24 Commissioner Pearson. As we said in our brief, we  
25 thing environmental and sustainability issues severely

1 limit Indonesia's ability to sell CLPSS in the United  
2 States at any price, so the conditions of competition  
3 for Indonesia due to environmental issues distinguish  
4 Indonesia from both India and China, as well as from  
5 U.S. domestic producers.

6 COMMISSIONER PEARSON: Okay, and --

7 MR. KELLY: This is Brian Kelly.

8 COMMISSIONER PEARSON: Okay. Mr. Kelly,  
9 yes.

10 MR. KELLY: If I may add to this,  
11 Commissioner, this is Brian Kelly, the trans and other  
12 lined paper products seem to provide direct evidence  
13 supporting Mr. Shor's comments.

14 As you saw, Indonesia's have declined  
15 dramatically. If I heard correctly from domestic's  
16 testimony earlier today, Chinese exports have of other  
17 lined paper products have not shown the same pattern,  
18 so apparently China's exports of the like product are  
19 subject to very different economic considerations than  
20 Indonesia's.

21 COMMISSIONER PEARSON: Okay, and any  
22 perspective on differences between India and  
23 Indonesia?

24 MR. KELLY: In addition, I'll just echo Mr.  
25 Shor's comments on the environmental factors.



1                   COMMISSIONER PEARSON: Okay. If we  
2 accumulate all three countries, should we see this  
3 case as an affirmative or as a negative?

4                   MR. SHOR: Negative.

5                   COMMISSIONER PEARSON: You have reasons for  
6 suggesting that or you will develop them in the post-  
7 hearing submission?

8                   MR. SHOR: We can address that in our post-  
9 hearing brief. We think this is a case for  
10 decumulation. You know, obviously the Chinese aren't  
11 here. They didn't answer any questionnaires. We  
12 understand we face an uphill battle.

13                   I don't think there's ever been a case  
14 involving China where the Chinese producers haven't  
15 responded and there was cumulation and you went  
16 negative. So I don't know what we're going to say in  
17 our post-hearing brief on that, but we understand the  
18 problems.

19                   But this case is different as Dr. Kelly  
20 mentioned. You had different trends and imports  
21 before the orders for the reasons you decumulated  
22 Indonesia and India in the original investigation and  
23 you have different trends on OLPP products after the  
24 orders. That suggest strongly that there are  
25 different conditions of competition for the different

1 countries.

2 COMMISSIONER PEARSON: Okay, well, one of  
3 the reasons that I'm finding this question of  
4 cumulation somewhat vexing is that Petitioners seem  
5 not to be at all impressed with the reasoning that  
6 Commissioner Hillman, Chairman Okun, and I used  
7 several years ago, and they are requesting that we  
8 change that position. Okay?

9 Neither Indian or Indonesian Respondents  
10 seem to be terribly impressed with our reasoning  
11 either, so I'm taking flack from all sides here that's  
12 why I would like, if possible to --

13 MR. SHOR: If that's your impression,  
14 Commissioner Pearson, I sincerely apologize. I was  
15 very impressed with your reasoning and --

16 COMMISSIONER PEARSON: Well --

17 MR. SHOR: -- reasoning on the initial  
18 investigation.

19 COMMISSIONER PEARSON: If I'm correct, Mr.  
20 Shor, you are building the built of your decumulation  
21 argument around the changing environmental  
22 circumstanced.

23 MR. SHOR: Right, but we also pointed the  
24 fact that in the original investigation period there  
25 were different trends and imports and Indian

1 Indonesia, on the other than, and Indian and  
2 Indonesian imports were declining at the time of the  
3 original investigation. It was only China that was  
4 increasing.

5 And that was one of the things you pointed  
6 to, and that is certainly highlighted in our brief,  
7 and I apologize if we didn't highlight it enough. I  
8 will certainly not make the same mistake in the post-  
9 hearing brief.

10 COMMISSIONER PEARSON: Okay, well, I take no  
11 offense, but I will appreciate whatever clarity can be  
12 brought to this issue because it's -- as you point out  
13 with Chinese Respondents not here, there is a problem  
14 for us in terms of how we deal with that. And if we  
15 end up cumulating, then you know, it could have a  
16 difference in the outcome, yeah.

17 Madam Chairman, I think I'll cut it off  
18 there. I will yield back a little time which is not  
19 my normal practice, but I've muddied the water enough  
20 for right now. Thanks.

21 CHAIRMAN OKUN: Commissioner Aranoff.

22 COMMISSIONER ARANOFF: Thank you, Madam  
23 Chairman, and welcome to everyone on this afternoon's  
24 panel. I want to continue on this issue of whether  
25 environmental standards are a barrier to increased

1 imports from Indonesia.

2 The domestic producers came this morning and  
3 they put some examples on the table of products that  
4 were from Indonesia. Some I think were in scope.  
5 Some were out-of-scope products but they were private  
6 labeled to some major U.S. retailers, and their  
7 argument to us was you can see with your own eyes that  
8 environmental concerns are not keeping these retailers  
9 from putting their own names on these products.

10 MR. SHOR: Let's be clear. Every single  
11 product they put on the table from Indonesia was out  
12 of scope. Not one was in scope. Not one was CLPSS.  
13 Not one photograph in their brief is CLPSS.

14 COMMISSIONER ARANOFF: Okay. Well, that's a  
15 good --

16 MR. SHOR: Okay. The other products --

17 COMMISSIONER ARANOFF: -- clarification, but  
18 it still doesn't explain why the retailers don't see  
19 an environmental risk.

20 MR. SHOR: Look at the chart. This is the  
21 volumes of all those products they put on the table.  
22 This is the volume of those products. They have  
23 declined by 81.6 percent.

24 Yes, you can go to CVS and, yes, you can go  
25 to Dollar General and, yes, you can go to Walgreens

1 and find small volumes of our products -- and by the  
2 way, those are all Tjiwi Kimia products, all the lined  
3 paper products. They're not anybody else's. They're  
4 all ours.

5 They're all declining. Every single one of  
6 the purchaser responses shows declining purchases from  
7 us. So yes, the volumes are there, but they are  
8 declining and they are declining due to environmental  
9 considerations.

10 COMMISSIONER ARANOFF: How can we tie the  
11 declines to the environmental considerations on the  
12 record?

13 MR. SHOR: I don't think it matters what you  
14 tie it to. I don't think it matters whether you call  
15 it environmental considerations, or whether you call  
16 it price reasons, or whatever.

17 The Petitioners' whole story this morning  
18 was that Indonesians have the capacity, they will want  
19 to ship to the U.S. market. They can buy more  
20 equipment, but it's not happening with other lined  
21 paper products.

22 It is doing exactly the opposite, so why is  
23 it they think that CLPSS products would behave  
24 differently from what's happening with OLPP? That's  
25 the difference that they can't explain.

1           Everything they say, Your Honor, we accept  
2 their characterization of the U.S. market, right?  
3 It's large purchasers with market power that are  
4 selling at, trying to get the lowest prices possible  
5 because they're using them as loss leaders.

6           Okay. That makes U.S. prices lower than  
7 anyplace else in the world. There is no other market  
8 that shares those characteristics. We are exactly on  
9 the other side of the world. There's no place that's  
10 more expensive to us to ship than the U.S. market.

11           So if it's the lowest priced market in the  
12 world, it's the furthest and most expensive for us to  
13 ship, and we've used our capacity to ship everywhere  
14 else in other markets, why would we shift to the U.S.  
15 market?

16           COMMISSIONER ARANOFF: Okay. Okay. So  
17 that's --

18           MR. SHOR: This -- whether you call it  
19 price-based or whether you call it environmental-based  
20 proves our case because it shows that imports are  
21 declining.

22           COMMISSIONER ARANOFF: Right. Okay. So the  
23 second part of that is a supply-based argument, and  
24 the first part of that is a demand-based argument, so  
25 I do want to keep them separate.

1           On the demand side, and this is a question  
2           that also goes to the domestic producers from this  
3           morning, everyone has made their arguments today on  
4           the assumption that the conditions of competition in  
5           the market for OLPP products, the out-of-scope  
6           products, are exactly the same and, I mean, I guess  
7           justifiably so because the Commission found them to be  
8           the same like product at least in the U.S. market.

9           On the other hand, if the Petitioners are  
10          right and those products, even if they're the same  
11          like product, tend to be used more in a business  
12          setting and less in a school setting, and if one  
13          assumes that a business setting is going to be  
14          somewhat more subject to recessionary tendencies in  
15          the U.S. market than the school setting where the  
16          people are going in retail and buying these things as  
17          loss leaders anyway not paying very much for them  
18          because they need them, it could be that there are  
19          differences.

20          It could be that the downward trends that  
21          you're seeing in OLPP products are responding to  
22          completely different economic circumstances than the  
23          school -- the more closely associated school supply  
24          products.

25          MR. SHOR: Well, but I think it cuts the

1 other way. If what you're saying is true and the  
2 legal pad market is different and it's not subject to  
3 the sensitivities of the back-to-school season, it's  
4 not sold as a loss leader, that would suggest there's  
5 not as much price sensitivity and the margins are  
6 perhaps higher. You wouldn't get this. If anything  
7 it's an even stronger case for us then.

8 COMMISSIONER ARANOFF: Okay. All right.  
9 Fair enough. I don't think we're ever going to answer  
10 that question one way or the other.

11 MR. SHOR: But could I take a moment and  
12 address the like-product issue if that's a context for  
13 this question?

14 COMMISSIONER ARANOFF: It wasn't really, but  
15 if you want to talk about it, go ahead. I'm sure  
16 it'll make Mr. Bernstein happy.

17 MR. SHOR: Those of you who were on the  
18 Commission for the original investigation, remember  
19 there was always a lot of confusion in this case about  
20 what was covered and what was not covered, what was in  
21 scope, what was a life product.

22 I submit to you, it's time to stop playing  
23 those games. You know, the domestic industry did not  
24 raise any like product issue in response to the Notice  
25 of Initiation.



1           In their pre-hearing brief, they made an  
2           argument not even in their brief but in an appendix  
3           that you should take out legal pad. They didn't  
4           define what legal pads are. Are they talking about  
5           only the 14 inch pads, or what about the 11 inch pads,  
6           or what about the 8 inch pads?

7           Now they say it should be CLPSS, but you  
8           heard me testify that CLPSS doesn't include their Five  
9           Star products. That's excluded from CLPS, but that's  
10          30,000 units. That's their main product. Is that in?  
11          Is that out?

12          I don't know what they're talking about,  
13          okay, and I think it's time to stop this changing, you  
14          know, goal posts. I would like to know what they  
15          think the like products should be because it's not  
16          clear to me, and every submission they make and every  
17          argument they make, it changes.

18          And I think the Commission needs a clear  
19          idea of what it is they're arguing. Are the Five Star  
20          products which are not CLPSS, do they say that's part  
21          of the like product or what? I have no idea what they  
22          want in this case.

23          COMMISSIONER ARANOFF: Okay. Well, I  
24          understand your frustration. I'm just going to go --  
25          let's see.

1           On the environmental issue, I just want to  
2           turn to the Indian producers for a moment and ask  
3           whether you think that environmental certification is  
4           easy for Indian producers to obtain and whether it  
5           matters at all to sales in the U.S. market.

6           MR. SAMPAT: As I understand the question,  
7           right, you're asking me the environmental  
8           certification to send the material to the United  
9           States? Is that the question?

10          COMMISSIONER ARANOFF: I'm asking you first  
11          whether it's easy for Indian producers to qualify for  
12          environmental certification and, second, whether that  
13          matters when making sales to the United States.

14          MR. SAMPAT: Some mean that having  
15          environment certification. Not do all the mean are  
16          having a certification. And most of the material what  
17          Indian exporters are exporting to United States are  
18          recycle or fiber, so not many customers are asking for  
19          the certifications because it is -- there is no wood  
20          contained in that.

21          COMMISSIONER ARANOFF: Okay. Thank you very  
22          much.

23          MR. GUPTA: I'd like to add something over  
24          here. My name is Arvind Gupta. I'm from --

25          THE COURT: I'm not sure your microphone is

1 on, Mr. Gupta.

2 MR. GUPTA: My name is Arvind Gupta, and I'm  
3 from Tjiwi Kimia. Regarding environmental concerns,  
4 definitely there are environmental concerns in America  
5 and definitely Tjiwi Kimia has been a target of these  
6 concerns.

7 APP overall has been a big target of these  
8 concerns, and the concerns come from very large  
9 retailers. There are two, three segments of the  
10 market in the United States.

11 So where Tjiwi Kimia is at present in the  
12 United States are the lower rung market. So you have,  
13 you know, the higher players in the market, the bigger  
14 retailers in the market which, you know, our largest  
15 customer, he cut us off from supplies to that  
16 particular customer. We were cut off in 2008  
17 completely, and that trend has continued.

18 So like what Mr. Shor is showing in his  
19 graph, he's showing a declining trend. That trend is  
20 because various retailers have been cutting Tjiwi  
21 Kimia off from this market, and where we are left now  
22 is at the lower end. So that's a concern for all of  
23 us.

24 COMMISSIONER ARANOFF: Okay. I'll stop  
25 there since my time is almost up. Thank you very

1 much.

2 THE COURT: Commissioner Pinkert?

3 COMMISSIONER PINKERT: Thank you, Madam  
4 Chairman, and I join my colleagues in thanking all of  
5 you for being here today and helping us to understand  
6 what's going on in this industry and what's likely to  
7 happen in the industry.

8 I want to begin by asking Dr. Malashevich  
9 for a clarification in regard to the pattern of  
10 imports of OLPP. Are you saying that the pattern for  
11 India is different from the pattern for Indonesia, and  
12 if so, in what way is the pattern different?

13 MR. MALASHEVICH: No. My testimony on that  
14 subject was taking off Petitioners theory that if a  
15 country is constrained by the orders on subject  
16 merchandise, their zeal for participating in the U.S.  
17 market would have been rechanneled into LLPP.

18 And by the crude statistical measures we  
19 have, that was certainly true for China. But in terms  
20 of India, there was really no material change in their  
21 share of OLPP over time and that share being at a  
22 minuscule level that shows to me, again, apply  
23 Petitioners' theory, there is not the over capacity in  
24 India looking for a home. There is not the export  
25 orientation in the United States on the part of India.

1       So it was in that context that I gave my testimony.

2                   COMMISSIONER PINKERT: Thank you. Now, I  
3       want to ask the entire panel the next question. Is  
4       there a world-wide oversupply of paper products that  
5       are subject to this domestic-like product, in other  
6       words, the domestic-like product inclusive of OLPP?

7                   MR. MALASHEVICH: I have not studied that  
8       question, Commissioner. I would only note that at  
9       least in the case of the Indian industry, the  
10      testimony you heard earlier today is that the goods  
11      for the subject merchandise of that type are produced  
12      on a made-to-order basis, and there are other demands  
13      on capacity from other markets.

14                  Also, we have a very, I think, unusual from  
15      the Commission's point of view feature in this product  
16      globally that globally it largely goes to school  
17      children in one fashion or another.

18                  The global population, of course, continues  
19      to expand and from what I casually read in the public  
20      press and have studied in detail with respect to  
21      India, governments around the world are spending more  
22      and more money on education, especially in those areas  
23      where incomes are rising considerably such as East  
24      Asia.

25                  So I can only make a guess that supply is

1 much more controlled in the case of Indian industry  
2 producing only to order as opposed to from inventory,  
3 and demand is about as steady as one can expect in a  
4 very turbulent world.

5 MR. GUPTA: Arvind Gupta from Tjiwi Kimia.  
6 Regarding this position of supply and demand in all  
7 markets, so you know, you have markets like already  
8 mentioned where populations are growing and the  
9 children populations especially are growing. So you  
10 have large demands available.

11 Whereas the supply position is constrained,  
12 let me put it very honestly. Supply positions are  
13 constrained, and you know, we are producing more and  
14 more to supply these markets where the product  
15 required is quite different from that what is required  
16 in the American market.

17 So you have the African market. You have  
18 various other markets in the world where you require  
19 stable products which are not accepted in the United  
20 States market.

21 Our strategy at Tjiwi Kimia also has been we  
22 have -- we've been working at full capacity for the  
23 last four years now. Our sales team has done an  
24 excellent job of bringing us back on line after 2005.

25 And we've built up markets all over the

1 world, especially three areas which I've already  
2 mentioned in our brief. And therein lies the fact  
3 that, you know, we've been having this, you know, our  
4 business plan is grow ahead and cut too. So  
5 what we've been doing is we've been trying to grow  
6 those markets where we get additional profitability,  
7 additional margins and cut off those markets where we  
8 don't have that kind of advantage.

9 And there is a supply constraint situation,  
10 and we're trying to best utilize our resources to get  
11 more profitability for our company. Thank you.

12 COMMISSIONER PINKERT: Thank you.

13 Mr. Alfian, did you have any additional  
14 comment on that?

15 MR. ALFIAN: No. I'm fine. Thank you.

16 COMMISSIONER PINKERT: Thank you.

17 Now, you heard the discussion earlier today  
18 about average unit values and you made some reference  
19 to it, I think, too in your presentations. Just to be  
20 clear about this, can you state whether you believe  
21 that prices have generally increased in the U.S.  
22 market post orders?

23 MR. SHOR: This is Mike Shor. Both pre and  
24 post orders, prices were increasing. That's one of  
25 the things the domestic industry didn't make clear in

1 their testimony this morning.

2 Their case the last time was not a price  
3 case. It was a volume case, and if you look at what  
4 was going on in the original investigation in the  
5 staff report, if you look at the pricing comparisons,  
6 if you look at the average unit value for certain  
7 lined paper school supply products, everything was  
8 increasing. That trend continued in the current  
9 period.

10 Some of that is not just pricing. Remember,  
11 the raw material here is paper, and you have a chart  
12 in your pre-hearing report talking about how paper  
13 prices increased throughout the period.

14 So part of what's going on, the prices have  
15 been continually increasing since the last  
16 investigation period though the current investigation  
17 period. Yes, we think that's the case in the U.S.  
18 market. Absolutely.

19 COMMISSIONER PINKERT: And are you saying  
20 that there's no discontinuity in the increases, or is  
21 that something that you can address in the post-  
22 hearing?

23 MR. SHOR: I can address that in the post-  
24 hearing, yes, but I will say there is no  
25 discontinuity. I think we put the numbers in a



1 footnote in our brief.

2           There was a large increase over the original  
3 period of investigation in product-specific pricing  
4 and in overall unit values for CLPSS.

5           COMMISSIONER PINKERT: Thank you. So what  
6 is your view -- and I'm asking the entire panel, but  
7 Mr. Shor, please feel free to answer.

8           What is your view about the reason for the  
9 improvement in domestic industry performance and I  
10 think there, there really is something of a  
11 discontinuity pre-order and post-order. So I would  
12 ask that you address that to the best that you can.

13           MR. SHOR: Yeah. I think there is a danger  
14 of what I'll call the fallacy of causation. That is,  
15 they point to the fact that you imposed this order and  
16 profitability increased, therefore, it must have been  
17 the order that increased the profitability.

18           What I heard this morning was very  
19 interesting including some things we didn't know. We  
20 did know that they dramatically reduced employment in  
21 the domestic industry, so that increases efficiency.  
22 That lowers costs.

23           What we learned this morning was that there  
24 was a dramatic increase in automation. We talked  
25 about how these products that previously had to be

1 made by hand inserting the dividers and things into  
2 their Five Star products. They bought new equipment,  
3 and they become highly automated.

4 So I think what's going on in the domestic  
5 industry and certainly one explanation is that they  
6 became much more efficient. They increased  
7 automation. They invested in technology. They  
8 reduced employment, and all of those things contribute  
9 to improving profitability.

10 COMMISSIONER PINKERT: And to the best of  
11 your knowledge, those changes that improved and  
12 enhanced performance would have broken out along the  
13 post-order pre-order?

14 MR. SHOR: Well, yeah. It's remarkable as  
15 Commissioner Pearson observed this morning. If you  
16 look at employment figures, there's a dramatic break  
17 pre and post order. There was a big change. You know  
18 --

19 COMMISSIONER PINKERT: Thank you.

20 MR. SHOR: -- one other thing along the same  
21 line, they tried to say this morning that, well, don't  
22 look at OLPP. Just look at what happened in CLPSS,  
23 and after the order, they said production increased.  
24 That's not true.

25 If you look at what happened in production

1 in CLPS, it continued to decline in the U.S. industry  
2 for four years after the order. It didn't start to  
3 increase until 2010.

4 So when they say that the improvement and  
5 profitability after the order came about because they  
6 were able to increase production of CLPSS, it's just  
7 not true. It didn't happen until 2010.

8 COMMISSIONER PINKERT: Thank you.

9 Thank you, Madam Chairman.

10 THE COURT: Commissioner Johanson.

11 COMMISSIONER JOHANSON: Thank you, Madam  
12 Chairman, and also I'd like to thank all of you for  
13 appearing here today.

14 I'm looking at Wiley Rein's handout of this  
15 morning of you all have that in front of you. If you  
16 could turn to page 10. This is a question for the  
17 Indian producers.

18 The second bullet states that in India,  
19 large -- that Indian producers receive large --  
20 receive substantial export subsidies and large  
21 producers are required by law to export at least 50  
22 percent of their production each year.

23 I was wondering, could you all address that  
24 contention that Indian exporters or large producers  
25 are required to export 50 percent of their production

1 annually?

2 MR. DAVIS: Yes. I'd be glad to.

3 COMMISSIONER JOHANSON: Thank you.

4 MR. DAVIS: The fact is, the Indian industry  
5 for this product is by Indian law reserved to small-  
6 scale enterprises, and so any company that has -- in  
7 order to qualify as a small-scale enterprise, a  
8 company has to maintain its investments at no more  
9 than 50 million rupees or a million dollars.

10 The penalty for exceeding the \$1 Million  
11 limit is that you're not required -- you're not given  
12 full access to the domestic market. Instead, you're  
13 required as a penalty to export at least 50 percent of  
14 your output. The point of that is to try to preserve  
15 the domestic market which is considered more valuable  
16 in India to the small-scale producers.

17 Now, the result of this is that almost every  
18 producer in India is a small-scale producer. There is  
19 to our knowledge only one that has exceeded that \$1  
20 Million limit.

21 And so while the Petitioners -- I guess you  
22 could say it's technically true that a large-scale  
23 producer would be required to export 50 percent, there  
24 aren't any or there is only one which is actually a  
25 medium-scale producer.

1           So for purposes of this discussion, that is  
2 simply not relevant. Of the hundreds and hundreds of  
3 producers in India and the staff report correctly  
4 notes that it's a very fragmented industry, they are  
5 all, with one exception, small scale and, therefore,  
6 they're completely outside of that requirement for any  
7 export minimum.

8           MR. MALASHEVICH: Commissioners, this is  
9 Bruce Malashevich. I'd just like to add a point on  
10 the issue of the export subsidy side of Petitioners'  
11 statement.

12           I think we can all accept that the commerce  
13 department vigorously conducts its investigations.  
14 The pre-hearing report contains all the findings made  
15 to date with respect to India. I think, you know,  
16 people can reach their own conclusions on whether it's  
17 substantial, or small, or whatever, but all the data  
18 are there.

19           There is one development, however, that I  
20 invite Mr. Sampat to address on one particular program  
21 that the Department previously had found to be part of  
22 the subsidy.

23           MR. SAMPAT: I believe that the CVD -- the  
24 main component in the CVD is one of the program which  
25 was called a DPB which I think was mentioned in one of

1 the brief which last year Government has abolished  
2 that.

3 So this DPB program is no more in existence.

4 So I believe that there is no more incentives left  
5 for Indian industry anymore.

6 COMMISSIONER JOHANSON: Thank you, and I  
7 apologize if this was explained in the pre-hearing  
8 brief. We have to go through a whole lot of material  
9 when we read these, and so I apologize if I don't  
10 recall.

11 But the one large Indian producer, do you  
12 all happen to know how much of that producer's exports  
13 constitute total exports from India to the United  
14 States?

15 MR. DAVIS: We'd like to keep that in the  
16 proprietary record.

17 COMMISSIONER JOHANSON: I understand.

18 MR. DAVIS: We'll take that in post-hearing.

19 COMMISSIONER JOHANSON: Okay. Thank you. I  
20 appreciate that. My next question deals with likely  
21 price.

22 During the period of review, subject imports  
23 from India generally gained market share even as they  
24 oversold the domestic like product in the majority of  
25 price comparisons.

1           If imports from India are higher priced and  
2 of lower quality as you all state, what explains these  
3 gains in the U.S. market?

4           MR. MALASHEVICH: I'll start out and invite  
5 my colleagues to chime in as they wish.

6           I think the reality is that the market share  
7 collectively of the Indian producers in the United  
8 States is very small, low single digits. So there can  
9 be special situations where product is needed and it  
10 happens to be available or, as I mentioned earlier,  
11 because the Indian product is produced entirely with  
12 recycled materials which can be unattractive  
13 cosmetically to some purchasers but can be attractive  
14 to others. And it's quite plausible they'd be willing  
15 to pay a modest premium in order to buy a product with  
16 that quality.

17           COMMISSIONER JOHANSON: All right. Thank  
18 you for your response.

19           I now have a question for the Indonesian  
20 producers, and this deals with raw materials. We  
21 heard today that in India there are constraints on  
22 production due to the lack of wood or low amount of  
23 wood pulp in the market due to restrictions on  
24 forestry.

25           Does Indonesia -- in Indonesia, does the

1 availability of raw materials place a limitation on  
2 your ability to increase capacity and production?

3 MR. GUPTA: Arvind Gupta from Tjiwi Kimia.  
4 Raw materials is not a problem in Indonesia. You  
5 know, where does this stationery product come from,  
6 CLPSS? Where does it come from? It comes from a  
7 converting process, so you have to have available the  
8 raw material that's in your base roll in the base  
9 paper that comes off the paper machine, and therein  
10 lies the constraint. So you have to have paper  
11 machines available which can then produce more paper  
12 and then supply to your converting facilities, and you  
13 have to have larger converting facilities.

14 So as far as raw material, you know, our  
15 paper machines are all taken care of with our own pulp  
16 production. More or less, you know, 90 percent of our  
17 pulp comes from our internal facilities, our internal  
18 forestry. And once we have that paper available,  
19 where is it all going? So most of it goes to high-  
20 value product, which, you know, we have so many  
21 different products. We have tissue. We have  
22 quartered papers. We have carbonless papers. We have  
23 cast coated papers. We have any number of items. One  
24 of them also happens to be stationery.

25 Stationery, we have a converting facility,



1 and that converting facility is full for the last four  
2 years. We built this converting facility in 1997  
3 after we were hit with a fire, and we have not  
4 expanded this facility since that point of time.

5 We have no reason to expand that capacity  
6 further. Why? Because each capacity expansion or  
7 each capital expense requires a decision which is more  
8 related to return on investments.

9 So, where do we want to invest our money is  
10 where we get the best possible return, and that's not  
11 happening in the stationery world. There are several  
12 other areas in paper production, and our conversion,  
13 you know, and our high-value products downstream where  
14 we can get much better return, and that's what the  
15 company is doing.

16 So whether it be in China, or in India, or  
17 in Indonesia, so we have our eyes set on that  
18 particular portion of the markets where we can get a  
19 much better return on our money on our investment, and  
20 that doesn't happen to be stationery at the present  
21 point in time.

22 COMMISSIONER JOHANSON: Are there restraints  
23 on raw materials in Indonesia?

24 MR. GUPTA: No.

25 COMMISSIONER JOHANSON: Okay.

1           MR. GUPTA: There are no restraints on raw  
2 materials like I just told you, but we have -- you  
3 know, the raw material is sufficient for our paper  
4 production, and all of our machines have been -- you  
5 know, all of our paper machines have been operating at  
6 full capacity for the last several years now.

7           We've been through the 2008 economic crisis.  
8 We've been through last year's -- no. This year's  
9 European crisis. Last year's European crisis,  
10 monetary crisis, and our paper production hasn't  
11 faltered at all.

12           COMMISSIONER JOHANSON: All right. Thank  
13 you. I have another question to on capacity, but I  
14 will wait until the second round of questions as my  
15 time is about to expire. Thank you.

16           CHAIRMAN OKUN: Thank you again for the  
17 responses so far. I know that Commissioner Aranoff  
18 has requested the parties put on the record any  
19 information that they can with respect to retailers'  
20 policies on these environmental certifications, but I  
21 wondered, I think Mr. Alfian, I think it was your  
22 testimony that 90 percent of the U.S. market was  
23 closed to Indonesian product?

24           MR. ALFIAN: Yes, correct.

25           CHAIRMAN OKUN: Can you elaborate on that?

1           MR. ALFIAN: Yes, like this. Because --  
2 thank you, Madam.

3           Basically, we've been surveyed for the past  
4 three years. I think that's the exact period that we  
5 want to see the feature from this business as overall.  
6     Okay?

7           And then in the U.S. market, segmented into  
8 three layers. So the big retailers, and then second-  
9 layer retailers, and then of course, drug stores or  
10 dollar stores like 99 Cents and those stuff.

11          So the big retailers only occupy by three or  
12 four now major retailers. And then like the  
13 Petitioners say, you know, well I mean, we can come  
14 back any time and ,yes, basically I mean, you know,  
15 we've been friends for 15 years with those retailers  
16 and they say no to us on the first place.

17          And the second place, they occupied about 70  
18 percent of the market for total market. Okay. On the  
19 second layer is occupying about 15 to 20 percent. So  
20 that's how actually the numbers come up about 90  
21 percent.

22          And that -- I mean, the last 10 percent,  
23 basically, is only the dollar store or like the close-  
24 out stores or like, you know, the small, small stores,  
25 and basically it's like 1,000 stores throughout the

1 United States.

2 And sometimes they do have direct import  
3 policy, and sometimes they don't have the capability  
4 to direct imports. So this is what I meant. The 90  
5 percent basically close off because of the  
6 environmental issue because the big retailers, three  
7 out of four said no already, sorry. No FSE. No U.S.  
8 and then --

9 CHAIRMAN OKUN: And just when you say that,  
10 when they say no FSE, no U.S. --

11 MR. ALFIAN: Yes.

12 CHAIRMAN OKUN: Did they say that in  
13 response to a bid? I mean, do you have --

14 MR. ALFIAN: Yes. Yes.

15 CHAIRMAN OKUN: -- in other words, I'm  
16 looking for --

17 MR. ALFIAN: No, no. Even like because of  
18 the bids to us, they don't let us do the bids at all.

19 So I mean, like you know, on the email, even like --  
20 you know, now they don't talk to us.

21 Well, like I said, you know, we've been  
22 friends, so we talk outside. So during the operations  
23 or day-to-day on the office, we don't talk. Even they  
24 don't pick up our phones. That's how they do it.

25 So the last statement they did for no to

1 U.S. because of the FSE because we don't actually have  
2 the FSE and then I don't think in the foreseeable  
3 future like we will have the FSE because of the  
4 principle difference between the FSE principle and  
5 then, of course, our principle in Indonesia.

6 And then, when we tried two years ago to  
7 call these four major retailers, but they don't pick  
8 up the phone. And they didn't reply to email. So I  
9 think the no from three years ago still fight it until  
10 today.

11 CHAIRMAN OKUN: Okay, and then, just help me  
12 understand the difference between exporting here  
13 versus exporting to the EU or other markets where  
14 there are --

15 MR. ALFIAN: it's different. Basically, I  
16 think -- maybe like you're asking us, like, why we're  
17 here and then somehow, like you know, we're telling us  
18 a different story, so --

19 CHAIRMAN OKUN: No, no. A different  
20 question. I'm just asking whether the certification  
21 is different, whether you've tried to get certified  
22 for other countries?

23 MR. ALFIAN: No, I don't because other  
24 country basically treated us fairly, and then I think  
25 we are like, you know, like business to business

1 corporate. Meaning, like, you know all what we did,  
2 basically, is traditional negotiation, okay?

3 So basically every year we submitted our  
4 proposal. This is our price for this year. This is  
5 our price for next year. This is a price for next two  
6 years. And they said, okay, no problem or, no, it  
7 doesn't work.

8 This environmental issue, no problem. On  
9 the EU, I mean, those three areas, no problem.

10 CHAIRMAN OKUN: Yes, Mr. Gupta.

11 MR. GUPTA: This is Arvind Gupta from Tjiwi  
12 Kimia. So, regarding the EU, what Martinus has not  
13 mentioned to you is that the EU operates under a  
14 government-to-government relationship. So the EU has  
15 what is called the flag it warranty association  
16 program in which a government-to-government  
17 negotiation process has taken place with the  
18 Indonesian Government and they have -- the European  
19 Governments have agreed, the European Commission has  
20 agreed to follow on a warranty basis the  
21 sustainability or the certification requirements set  
22 up by the Indonesian Government.

23 The Indonesian Government has certification  
24 under the SVLK rules, and these are the certification  
25 requirements going into the future. And all

1 Indonesian companies who want to supply to Europe have  
2 to get themselves registered under SVLK regulations,  
3 certification requirements.

4 So it's a government-to-government process  
5 and, therefore, it's I think much more simpler and  
6 better. The American system, however, does not really  
7 address this environmental concern on a government-to-  
8 government basis.

9 What you have over here is you're trying to  
10 take care of the environmental concerns and illegal  
11 logging through what is called the Lazy Act  
12 declaration requirements, and those requirements do  
13 not require paper products to be part of the  
14 declaration.

15 Now what happens in this country is that the  
16 impression groups like Greenpeace and WWF can  
17 pressurize retailers by getting into demonstrations  
18 and campaigns with these retailers and stop the  
19 purchase of paper products from Indonesia, and this is  
20 what has been happening in this country, ma'am.

21 CHAIRMAN OKUN: Okay.

22 MR. ALFIAN: Madam, my name is Martin from  
23 Tjiwi Kimia. I just want to add. I'm Mr. Alfian.  
24 Basically the difference, while in Europe the  
25 Greenpeace and WWF basic price rise, all the

1 retailers, same thing like the big retailers over  
2 here, but basically when they price rise the retailers  
3 in Europe, they don't care. They believe whatever the  
4 fact says on the reporting and everything.

5 But here, I think on the last large  
6 retailers, maybe I mean already in the exhibit and it  
7 was the last, I mean, the last big retailers, big  
8 retailer that actually dealt with us five years ago  
9 and then I think harassment is there already, so they  
10 said I cannot take it anymore. Greenpeace,  
11 everything, demonstrate in front of my retailer, all  
12 retailers throughout the United States, and this is  
13 crazy. Sorry and goodbye. That's what they say.

14 CHAIRMAN OKUN: Okay. Well, I appreciate  
15 all those comments. And then for post hearing, just  
16 if you can connect what's on the record with the  
17 argument, Mr. Shor, that you've made about what the  
18 numbers show and how that relates to the environmental  
19 concerns, I'd appreciate seeing that.

20 Can you speak at all to the non-subject  
21 products either with your experience in the U.S.  
22 market maybe for the Indians or in overseas markets  
23 with Vietnam.

24 You know, the record here indicates that  
25 when primarily the Chinese went out of the market in a



1 big way that Vietnam, who had not been a big player  
2 came into the market.

3 Do you have any knowledge of Vietnam and  
4 pricing or the types of products? Do they have any of  
5 these same issues that you would face either  
6 environmental certifications or recycling. I mean,  
7 what are they selling? Does anyone know?

8 MR. GUPTA: Arvind Gupta from Tjiwi Kimia  
9 again. Vietnam, you know, the product that they're  
10 selling over here is what we understand is CLPSS, and  
11 what really concerns me is when I look at the  
12 Vietnamese market and when I look at their production  
13 facilities and what I understand from their production  
14 within their country is that they just don't have  
15 enough paper what they can convert and sell to the  
16 United States and other countries, you know.

17 So what really concerns me is where this  
18 paper is coming from. So what I feel is that it's  
19 just a runoff from China, so the Chinese paper is  
20 coming into Vietnam, getting converted, and then being  
21 shipped to the United States.

22 So how that overall affects the situation, I  
23 really don't know but what -- because when I try to  
24 study the overall production capability and the  
25 overall market situation in Vietnam, then I just don't

1 understand where they're getting their base paper from  
2 and how they're able to convert and sell in such large  
3 quantities to the United States.

4 So to me it just seems like an extension of  
5 the Chinese production.

6 CHAIRMAN OKUN: To your knowledge, do you  
7 know if the retailers have blocked them for similar  
8 environmental concerns or certification issues?

9 MR. GUPTA: No, never.

10 MR. ALFIAN: No. This first year.

11 MR. GUPTA: No.

12 MR. ALFIAN: Never.

13 CHAIRMAN OKUN: Okay. Well, my red light  
14 has come on. Vice Chairman Williamson.

15 VICE CHAIRMAN WILLIAMSON: Thank you, Madam  
16 Chairman. Just continuing on the same line, do you  
17 know, is the Vietnamese production, those companies  
18 that are the foreign investors are -- I mean, is APP  
19 involved in the Vietnamese production, do you know?

20 MR. GUPTA: No.

21 MR. ALFIAN: No.

22 VICE CHAIRMAN WILLIAMSON: No?

23 MR. GUPTA: No.

24 VICE CHAIRMAN WILLIAMSON: So you mean there  
25 are Vietnamese firms that are --

1 MR. ALFIAN: No, Chinese.

2 VICE CHAIRMAN WILLIAMSON: -- Chinese firms  
3 that are invested in Vietnam?

4 MR. GUPTA: APP is no way involved in any  
5 production in Vietnam.

6 VICE CHAIRMAN WILLIAMSON: Excuse me?

7 MR. GUPTA: APP is not involved in --

8 MR. ALFIAN: No affiliates to Vietnam.

9 VICE CHAIRMAN WILLIAMSON: Okay. Just  
10 Chinese firms. Okay.

11 MR. MALASHEVICH: Pardon me, Commissioner,  
12 there is one further small point I should mention.  
13 Appended to our brief is a letter we sent to the  
14 Commission dated February 28th, the context being  
15 comments on the draft questionnaire at the time, but  
16 there is a table that looks at the change in imports  
17 from China versus the change in imports from Vietnam,  
18 the former going down, the latter going up.

19 And you'll see in the statistics, all of  
20 which are public, the change down in volume is almost  
21 identical to the change up, so that indirect support  
22 for the testimony you just heard on the moment of  
23 Chinese production activity from China to Vietnam.

24 VICE CHAIRMAN WILLIAMSON: Okay.

25 MR. SHOR: Commissioner Williamson.

1 VICE CHAIRMAN WILLIAMSON: Yes.

2 MR. SHOR: It looks like -- this is Mike  
3 Shor for Tjiwi Kimia. It looks to us like the Chinese  
4 simply ship their production machinery to Vietnam, and  
5 it's Chinese companies that are producing in Vietnam.

6 But you might ask the domestic industry more  
7 about it. I have a Mead college ruled notebook here  
8 and a Mead Five Star notebook here. Both of these  
9 were produced in Vietnam. So the domestic industry is  
10 involved in Vietnam. The Indonesian industry is not.

11 VICE CHAIRMAN WILLIAMSON: Okay. Thank you  
12 for that clarification. It's not the first time that  
13 would have happened.

14 So for the Indian producers, you contend at  
15 page 22 of your pre-hearing brief that the large  
16 majority of the need for producers are small and  
17 fragmented, and I was just wondering, are the firms  
18 that export subject merchandise to the U.S., would  
19 they because they're the smaller fragmented -- I mean,  
20 is that --

21 MR. DAVIS: Yes. All of them are with, I  
22 mentioned, the exception of one. There's only one  
23 company that falls outside the small enterprise  
24 category.

25 VICE CHAIRMAN WILLIAMSON: Okay.

1           MR. DAVIS: But the exporters are among the  
2 small group, so they can only -- I mean, they're  
3 limited to the amount that they can produce and they  
4 can't expand their capacity because the Government  
5 limitation.

6           VICE CHAIRMAN WILLIAMSON: We've had a lot  
7 of testimony about how the purchasers in the United  
8 States have sort of become more consolidated, that  
9 there are only a few. These small family firms, how  
10 do they deal with these large purchasers? Are they  
11 like doing a cooperative arrangement, or how does --

12           MR. DAVIS: There are buying agents that  
13 actually go to India, and they go around and find  
14 willing bidders.

15           VICE CHAIRMAN WILLIAMSON: Okay. And then  
16 they would provide the product to the U.S. purchaser?

17           MR. DAVIS: Yes, that's right. That's what  
18 we understand.

19           MR. MALASHEVICH: I would only add,  
20 Commissioner, a little detail in the sense the product  
21 tends to be shipped. I'm aware of no exceptions.  
22 It's priced FOB, port in India, and the agent, the  
23 customer, whomever, arranges for movement to the  
24 United States and prices the product here as they  
25 choose.

1                   VICE CHAIRMAN WILLIAMSON: Okay. Good.  
2 Thank you. Mr. Shor?

3                   MR. SHOR: One thing to note. All of the  
4 major U.S. purchasers of these products have offices  
5 and buying agents in Asia. You don't have to deal  
6 with them in the United States.

7                   VICE CHAIRMAN WILLIAMSON: Okay. And I  
8 guess this is a trend that's been going on for some  
9 time, Mr. Alfian?

10                  MR. ALFIAN: It becomes like more trends,  
11 and I think they're having like two, three buying  
12 office, especially in Sinchen and Wangcho is what I  
13 can tell.

14                  VICE CHAIRMAN WILLIAMSON: Okay. So in  
15 terms of the U.S. purchaser, they're not worried about  
16 which plant is it produced it, which small firm was  
17 the producer or seller as long as the product meets  
18 their specs and the consolidator in Asia gets the  
19 product, is that correct?

20                  MR. DAVIS: I believe that's right, yes.

21                  VICE CHAIRMAN WILLIAMSON: Okay. Okay.  
22 Thank you. That's helpful. For Tjiwi Kimia, you  
23 claim in your brief that you did not install any new  
24 production equipment during the period of review.  
25 Yet, the questionnaire response that you submitted

1 indicated increases in both capacity and production as  
2 measured in pieces during the period of review. You  
3 appear in your brief to suggest that these increases  
4 merely reflect changes in product mix. I was  
5 wondering if, and this could be done post-hearing,  
6 could you please specify in greater detail in your  
7 post-hearing brief the nature of these changes in  
8 product mix.

9 MR. SHOR: I can do that now, Commissioner.  
10 There was no increase in equipment, no improvement in  
11 equipment since 1997. What happened after the order,  
12 obviously we lost CLPSS sales to the United States, so  
13 there was immediately in CLPSS as production.

14 VICE CHAIRMAN WILLIAMSON: Yes.

15 MR. SHOR: The machines that produce CLPSS,  
16 most of them also produced other lined paper products  
17 like index cards are produced on the same machines that  
18 produce filler paper. Spiral notebooks you can  
19 produce in many sizes in scope and out of scope and  
20 the same with note pads. You have to allocate the  
21 capacity to the different products so when CLPSS  
22 production dropped, more of the capacity gets  
23 allocated to other lined paper products and less to  
24 CLPSS. What looks like an increase over the period  
25 then in CLPSS was simply a return to the levels that

1 you saw in 2005. Overall, if you add CLPSS and OLPP  
2 together, there is no change in capacity at all. That  
3 capacity is flat, so it's merely the allocation  
4 between CLPSS and OLPP, and it becomes utterly  
5 irrelevant once we got to 2009 and reached full  
6 capacity because then everything was being utilized,  
7 so whether you call it OLPP or CLPSS, there's no  
8 additional capacity to produce any lined paper  
9 products.

10 VICE CHAIRMAN WILLIAMSON: Okay. So if you  
11 look at the capacity utilization figures, when the two  
12 are together, that's going to be --

13 MR. SHOR: Correct. Correct. It's just  
14 adding the different components of OLPP and CLPSS to  
15 get to LPP. Pardon all the letters.

16 VICE CHAIRMAN WILLIAMSON: Okay. Good.  
17 We've been hearing it all day so that helps. Good,  
18 and actually, with that, I have no further questions,  
19 and I want to thank the witnesses for their testimony  
20 this afternoon. Thank you.

21 MR. SHOR: Thank you.

22 CHAIRMAN OKUN: Commissioner Pearson.

23 COMMISSIONER PEARSON: Thank you, Madam  
24 Chairman. I believe I just have one question, and it  
25 follows up on the discussion of other Commissioners



1 regarding non-subject imports. My recollection from  
2 the original investigation was that Brazil was a major  
3 supplier to the United States, and we haven't been  
4 talking about them today. Mr. Malashevich, Mr. Kelly,  
5 do you know anything about what's happened there, and  
6 have the Brazilians dried up and blown away, or what's  
7 happening?

8 MR. SHOR: Just give me one second,  
9 Commissioner. I think in our brief on page 42, what  
10 you saw immediately after the order in 2006 and 2007  
11 was a huge increase in imports from Brazil. You went  
12 from roughly 66 million in 2005 to 173 million units  
13 in 2006, and then it started declining, and basically,  
14 Brazil lost market share to the other countries we've  
15 been talking about, principally Vietnam, Egypt and  
16 Mexico, so that would suggest that the prices of the  
17 Vietnamese product were cheaper. They were gaining  
18 market share. Also, Brazil has a large and growing  
19 home market, so they may have been focused on the home  
20 market. The people to ask are Mead. They have a  
21 plant in Brazil. They would know more about what's  
22 going on there than us.

23 MR. MALASHEVICH: And I have nothing further  
24 to add, Commissioner, beyond recitation of the  
25 statistics you just heard.

1 COMMISSIONER PEARSON: Okay.

2 MR. KELLY: This is Brian Kelly. My  
3 understanding is Mead also may have or will be opening  
4 a plant in Mexico, and so what you're maybe seeing is  
5 Mead's re-balancing a worldwide production for various  
6 reasons, but I can't be sure.

7 COMMISSIONER PEARSON: Okay. Well, thank  
8 you for that, and then permit me to extend a question  
9 to the domestic industry for post hearing. If there's  
10 anything that we should know about, what's gone on  
11 with imports from Brazil and whether you can elaborate  
12 on that, that would be great.

13 MR. PRICE: Be happy to elaborate. Thank  
14 you.

15 COMMISSIONER PEARSON: Thank you. With  
16 that, Madam Chairman, I believe I have no more  
17 questions. The other Commissioners did such a great  
18 job of asking questions that they kind of ticked off  
19 mine one after another, so thanks very much to all of  
20 you for being here with us today.

21 CHAIRMAN OKUN: Commissioner Aranoff?

22 COMMISSIONER ARANOFF: Thanks, Madam  
23 Chairman. I just want to kind of wrap up a few  
24 clarifications for some of the subjects being  
25 discussed. We've talked about the fact that all but

1 one of the producers in India are small converters.  
2 One of the arguments that the domestic producers made  
3 in their brief was that the conversion work is  
4 basically outsourced to these small converters by  
5 large Indian paper companies, and that it's really the  
6 large paper producers, as I understood them to be  
7 arguing, that are running the show.

8 It's really the capacity of these large  
9 paper producers that the Commission should be looking  
10 at when we're looking at the ability of Indian  
11 producers to increase exports to the U.S., the  
12 implication being, I guess, that you could just set up  
13 a whole bunch of more small converters under the limit  
14 and use that method to increase exports, so I wanted  
15 to ask the Indian witnesses to respond to that.

16 MR. DAVIS: Well, we noted that the three  
17 examples that they mentioned that supposedly are doing  
18 this kind of outsourcing, all of the evidence that the  
19 Petitioners themselves provided specifies that  
20 everything that they're doing in that downstream  
21 converting is for the domestic market. There's no  
22 indication that any of them has ever exported. I  
23 mean, we looked for exporters, right? We were trying  
24 to create the group of all the exporters we could find  
25 to participate, and there's nobody like that we're

1 aware of.

2 COMMISSIONER ARANOFF: But there are in fact  
3 large Indian paper companies that are supplying the  
4 base paper to the converters, or is that not correct?

5 MR. SAMPAT: No, they don't supply the paper  
6 to the converters. They're supposed to buy the paper  
7 and supply them. They're basically a marketing  
8 company. They focus on their paper supply because  
9 they in the making of packaging paper or specialty  
10 paper. The three mills which we are talking about,  
11 they are a specialty paper manufacturing company or a  
12 high-grade paper manufacturing, but just to extend  
13 their product in India, they are just marketing  
14 company buying a converted product from the small  
15 company, then just market the school products in  
16 India.

17 COMMISSIONER ARANOFF: Okay. But so where  
18 are the small Indian converters getting their base  
19 paper from? Are they getting it --

20 MR. SAMPAT: There are so many small  
21 agriculturally-based and recycle paper mills.

22 COMMISSIONER ARANOFF: So they're also  
23 buying it from small suppliers of the base paper?

24 MR. SAMPAT: Yes, yes, yes.

25 COMMISSIONER ARANOFF: Okay. Thank you.

1           MR. DAVIS: The other thing in that context  
2 that's important to remember is that India is a net  
3 importer of bulk paper. India doesn't have spare  
4 paper that it needs to find way of value adding and  
5 get it out of the country as an export. India is  
6 importing paper.

7           COMMISSIONER ARANOFF: Okay. Also, Mr.  
8 Davis, I just wanted a clarification one thing you had  
9 said. In your brief, you indicate that the size limit  
10 for these Indian converters is 10 million rupees or  
11 under \$200,000, and today you testified it was about  
12 five times that much.

13          MR. DAVIS: That was a mistake.

14          COMMISSIONER ARANOFF: Which one is correct?

15          MR. DAVIS: We were correct today. We'll  
16 have discussion of this in our post conference, but we  
17 misread the regulation, and for service industries,  
18 it's the 10 million rupees, production industries,  
19 it's 50 million, so we'll correct that for the record  
20 in our brief.

21          COMMISSIONER ARANOFF: Okay. Thanks. With  
22 respect to Indian Imports, domestic producers cite to  
23 certain recent bid information and compelling evidence  
24 of the likelihood that Indian imports would compete  
25 aggressively on price if the orders were revoked. I

1       assume you've seen the information to which they're  
2       referring. Is there anything that you can do to  
3       respond today or otherwise post hearing?

4               MR. DAVIS: We're in a bit of a difficult  
5       situation with that because we can't really discuss it  
6       with our client. It's all BPI, so we'll see if we can  
7       shed some light on it, but we know who the exporters  
8       are, and they're part of our group, and anything else  
9       is hypothetical or maybe somebody puffing. We don't  
10      know what it is, but it's hard for us because we can't  
11      go to the producers we know and say who are these  
12      guys, and what do you think about them.

13             COMMISSIONER ARANOFF: Okay. All right. I  
14      appreciate that. I understand that is a difficulty.

15             MR. MALASHEVICH: Excuse me, Commissioner,  
16      I'd just like to add that I listened very attentively  
17      to the Petitioners' testimony this morning, and  
18      really, I think you have to weigh and determine if  
19      you're going to make a decision to continue orders  
20      against India based upon some last-minute anecdotal  
21      offerings as opposed to the record as a whole, which,  
22      from where I sit as an economist, is so compelling it  
23      should not be outweighed by a few last-minute Hail  
24      Mary passes.

25             COMMISSIONER ARANOFF: Okay. Earlier today,

1 the domestic producers were asked by one of my  
2 colleagues how difficult it is to switch back and  
3 forth between making U.S.-sized products and metric-  
4 sized products, and they testified that you use the  
5 same machines. There's a few pieces that you have to  
6 change, but if you've ever served the U.S. market,  
7 you've got those pieces lying around, so it might take  
8 a few hours or maybe a few days if you're clumsy.  
9 Would you agree with that characterization?

10 If one wanted to switch from metric sizes to  
11 sizes for the U.S. market that it wouldn't be that  
12 difficult or that costly to make that shift?

13 MR. DAVIS: In the case of India, the big  
14 distinction is the finishing of the booklet. The  
15 majority production is for those pin-bound booklets  
16 that you saw. That machine cannot be used at all for  
17 making the U.S. sewn or spiral-bound product. Those  
18 are just completely different machines. There's no  
19 amount of adjusting or resizing that would let you do  
20 that.

21 They're completely different, and so, I  
22 mean, possibly the Petitioners are talking about these  
23 large reel to finish machines where maybe you can go  
24 from an A-4 size to a U.S. size by some adjustment,  
25 but that's not what's happening in India. In India,

1 the machines that make the pin-bound products are just  
2 entirely separate from the machines that make the  
3 other products, and there is no shifting back and  
4 forth. It's simply not possible.

5 COMMISSIONER ARANOFF: So you're saying that  
6 the machines that make the other products, say filler  
7 paper or a spiral-bound notebook, which are made in at  
8 least some quantities --

9 MR. DAVIS: Yes, those are dedicated for  
10 only U.S. production.

11 COMMISSIONER ARANOFF: They can't be shifted  
12 to metric sizes?

13 MR. DAVIS: Yes, but they're not sold in  
14 India. I mean, those products are not ever sold in  
15 India.

16 COMMISSIONER ARANOFF: Right. But they  
17 could be sold in Europe or somewhere else, or you're  
18 saying nobody in India is making it in non-U.S. sizes?

19 MR. SAMPAT: Yes, for the typical U.S.  
20 market, and that is not salable in India.

21 COMMISSIONER ARANOFF: Right.

22 MR. DAVIS: But do you sell filler paper in  
23 metric sizes to Europe?

24 MR. SAMPAT: No. You mean metric size and  
25 United States size?



1           MR. DAVIS: Any filler paper in Europe  
2 outside the U.S.

3           MR. SAMPAT: No. As I understand the  
4 question, either the sizes of United States, can I  
5 sell it in India or any other country?

6           MR. DAVIS: No. No, the former.

7           COMMISSIONER ARANOFF: No.

8           MR. DAVIS: Do you sell filler paper outside  
9 the United States?

10          MR. SAMPAT: No, we don't sell.

11          MR. DAVIS: That was my understanding. The  
12 filler paper is a U.S. product that is sold only in  
13 the United States by Indian producers.

14          MR. MALASHEVICH: Also, I think you'll find  
15 statistical support for that, Commissioner, in the  
16 prehearing report. I forget exactly which table, but  
17 it's the one that displays the reported shipments by  
18 India to various destinations, home market, United  
19 States, et cetera, and I think if you look at the  
20 exports to Europe, they are very small.

21          COMMISSIONER ARANOFF: Okay. I mean, Europe  
22 was an example, but --

23          MR. MALASHEVICH: It's just not a big market  
24 for them.

25          COMMISSIONER ARANOFF: Okay. Okay. All

1 right. So let me ask the Indonesian producers, and I  
2 want to make sure we separate. I understand that if  
3 you're making a product that requires a while  
4 different production process like stapling that you  
5 can't sell in the U.S., lets put that capacity aside,  
6 but for capacity that's producing spiral or sheets or  
7 something like that, can you go back and forth?

8 MR. SHOR: Yes. This is Mike Shor for the  
9 Indonesian producers. For our exercise book lines,  
10 those are these things. I think it's the same product  
11 that the Indonesians call it the pin product. It's  
12 stapled on the inside. These are produced only for  
13 markets outside the United States. For the loose leaf  
14 lines, the pad lines and the spiral notebook lines, it  
15 is possible to reconfigure the machinery.

16 The Indonesians will tell you it takes about  
17 a day to change the cutters and to resize it, and you  
18 need different sized rolls of paper. It takes about a  
19 day to change it. You do not go back and forth. You  
20 can switch from one to the other, but it's too  
21 expensive to say on Monday and Tuesday, we're going to  
22 produce for the U.S. market, and then on Thursday,  
23 we're going to change for the European market.

24 We produce about 300 and something days a  
25 year, change back, you're losing about one percent of

1 production just by the changeover, so you would  
2 dedicate machines for one country or the other, so  
3 what that means for Indonesia is unless the U.S.  
4 market is large enough, it's not going to be of  
5 interest to them. You can't switch back and forth.

6 COMMISSIONER ARANOFF: Okay.

7 MR. GUPTA: Arvind Gupta from Tjiwi Kimia.  
8 One very important thing that Mike just mentioned was  
9 the base paper at the back end, so you need that base  
10 paper also in particular sizes, so it's just not a  
11 question of the sizes being changed on the machine,  
12 but your base paper also needs to be available in  
13 adequate quantity with the proper sizing, so that  
14 means you're carrying that much more and venturing  
15 your base paper production, so it really has to be  
16 economically viable if you want to shift over.

17 COMMISSIONER ARANOFF: Okay. And I  
18 appreciate those answers. Madam Chairman, I have one  
19 more question. Is it all right if I finish?

20 CHAIRMAN OKUN: Yes, go ahead and finish.

21 COMMISSIONER ARANOFF: Thank you. Mr. Shor,  
22 I just wanted to clarify. There were a number of  
23 arguments made today about how the Commission was  
24 going to measure import volume, and we talked about  
25 particular HTS codes and whether or not they should be

1 included, and we talked about units versus weight, but  
2 in your brief, you also made mention of value, and so  
3 I just wanted to clarify for the record, are you  
4 advocating a value-based measurement?

5 MR. SHOR: No, we're not.

6 COMMISSIONER ARANOFF: Okay. All right.  
7 Thank you very much. Thank you, Madam Chairman.

8 CHAIRMAN OKUN: Commissioner Pinkert.

9 COMMISSIONER PINKERT: Thank you, Madam  
10 Chairman. Going back to your testimony in response to  
11 one of my questions, Dr. Malashevich, I went back and  
12 looked at Table C-3, this is on the market shares of  
13 OLPP products, and I don't want to say anything that  
14 proprietary here, so I'm going just couch this in very  
15 general terms. If you look at the period from 2006 to  
16 2010, in other words excluding 2011, it does not  
17 appear to me that China is driving the changes in  
18 market share of the domestic producers.

19 So what I'd like to do is ask everybody,  
20 including the domestic industry, to take a look at  
21 that period from 2006 to 2010 for OLPP, tell me who's  
22 gaining market share, who's losing market share, where  
23 the losses in market share are attributable to and how  
24 does this affect the arguments that we've heard today  
25 both about the changes in market share for the

1 Indonesian producers of OLPP, the Indian producers of  
2 OLPP as well as the U.S. producers, so this is not  
3 really a question for right now but for the post  
4 hearing. Dr. Kaplan?

5 MR. KAPLAN: Yes, just for clarification.  
6 Excuse me. Clarification. There's three tables.  
7 Commissioner Pinker, I think the question is which  
8 table are you focused on.

9 COMMISSIONER PINKERT: C-3.

10 MR. MALASHEVICH: But that's not OLPP.

11 MR. KAPLAN: Yes, C-3 is LPP, not OLPP.

12 MR. MALASHEVICH: It's C-7 that's OLPP.

13 MR. KAPLAN: So I just want to clarify which  
14 of the --

15 COMMISSIONER PINKERT: Perhaps the tables  
16 are numbered differently. I only have the public  
17 version in front of me, but in this, it's Table C-3,  
18 and it says Other Lined Paper Products, OLPP.

19 MR. KAPLAN: Okay. Table C-3 is OLPP. Page  
20 C-3 is different.

21 COMMISSIONER PINKERT: I was referring to  
22 table.

23 MR. KAPLAN: Got you. Okay.

24 COMMISSIONER PINKERT: If I said C-3, I  
25 meant Table C-3.

1 MR. KAPLAN: Got you.

2 COMMISSIONER PINKERT: Anyway, I'm asking  
3 everybody to take a look at that, but do you have a  
4 comment about that right now, Dr. Malashevich, without  
5 getting into any proprietary information?

6 MR. MALASHEVICH: Well, on the public page  
7 I'm looking at, Table C-3, all the numbers for U.S.  
8 consumption quantity and value are redacted, so I'd  
9 like to reserve please for post hearing.

10 COMMISSIONER PINKERT: Absolutely.  
11 Absolutely. Mr. Shor?

12 MR. SHOR: I mean, that table's our chart.  
13 Indonesia, no matter how you slice it, dice it or cut  
14 it up is going way, way down over the period.

15 COMMISSIONER PINKERT: All right. But  
16 again, if you could address where the losses in market  
17 share can be attributed or to what the losses in  
18 market share for other entities can be attributed,  
19 that would be helpful. Again, you're looking at that  
20 period from 2006 to 2010. It doesn't look like China  
21 is driving the movement. It's only if you look at  
22 2011 that it appears that China is driving the  
23 movement.

24 MR. SHOR: Yes, it's a little difficult  
25 because staff lumped everything together, right? They

1 gave you Indonesia and India, and they didn't give all  
2 of the other individual countries, but China does  
3 increase by a fair bit from 2006 to 2008 as well. We  
4 don't know if it's China. We just know it's not us.

5 COMMISSIONER PINKERT: Okay. Well, if you  
6 don't have anything to add to that, that's fine. Mr.  
7 Alfian.

8 MR. ALFIAN: Martinus Alfian from Tjiwi  
9 Kimia. Well, one of those big retailers basically  
10 they shifted this one to Egypt, and that one Egypt and  
11 some other part like Vietnam. I think those two, like  
12 maybe you need to take a look on that one. Maybe  
13 Egypt.

14 COMMISSIONER PINKERT: Yes. Thank you.

15 MR. ALFIAN: Because the big retailers like  
16 one or two for sure from Egypt for OLPP. It's for  
17 sure.

18 COMMISSIONER PINKERT: Thank you. Now  
19 staying with the Indian producers, and now I'm going  
20 2006 to 2011, so I don't want to be confusing about  
21 what period I'm looking at. Did the share of India's  
22 shipments to its own home market change during that  
23 period from 2006 to 2011, and if so, why?

24 MR. MALASHEVICH: Well, Commissioner  
25 Pinkert, my testimony earlier, and I think in response

1 to the question from Vice Chairman Williamson, is that  
2 we think it's inappropriate to compare 2006 to 2011 in  
3 that respect because the coverage of the total imports  
4 from India was so much lower at that period of time.  
5 As you move forward in time to 2011, you get a greater  
6 share of Indian companies participating in the  
7 questionnaire exercise net of those that withdrew or  
8 went bankrupt in the intervening period.

9 Our strong recommendation is that the only  
10 appropriate point of comparison in looking at shifts  
11 in Indian shipments among market destinations would be  
12 the last year of the original POI where there were  
13 similarly a very high participation rate from India.  
14 When you perform that comparison, 2005 to 2011 where  
15 you have the maximum participation during both  
16 periods, in fact, the share of total shipments going  
17 to home market in India increased, and the share of  
18 total shipments going to United States declined. It's  
19 a very different picture than the incomplete data show  
20 for '05.

21 COMMISSIONER PINKERT: Thank you. Now,  
22 finally, as you know, there was a lot of discussion  
23 with the domestic industry panel about the effect of  
24 the orders on pricing, and I want to address a  
25 question specifically to the Indian producers. Did



1 the order cause Indian producers to change their  
2 pricing in the U.S. market, and what would be the best  
3 way to do that kind of analysis? Again, I'm not  
4 talking about underselling, I'm talking about their  
5 own pricing over time.

6 MR. SAMPAT: I don't know generally about  
7 other companies, but my experience and what I heard  
8 from the people that the prices over a period of time  
9 has gone up, but what Indian industry's supplying in  
10 the United States is a niche product which is only  
11 eco-friendly paper, and eco-friendly paper prices are  
12 a little better than the non-eco-friendly paper, so in  
13 my opinion, the prices have gone up compared to prior  
14 to investigation prices, yes.

15 COMMISSIONER PINKERT: But it's your  
16 testimony that the order didn't have any impact on the  
17 pricing? It's just a natural trend?

18 MR. SAMPAT: Yes, because the general trend  
19 of, increment of general inflation and the paper  
20 prices also affected the prices going upward, and of  
21 course because the U.S. prices has gone up generally  
22 by and large, so that also helped to increase the  
23 price. All the market prices has gone up, I think.

24 COMMISSIONER PINKERT: Thank you. Dr.  
25 Malashevich, I would ask you for the post hearing to

1 take a look at that pricing data and address the  
2 question, which I addressed to Mr. Shor earlier about  
3 whether there's a discontinuity surrounding the  
4 imposition of the order or at about the time of the  
5 imposition of the order in the pricing trend for the  
6 Indian imports into the United States.

7 MR. MALASHEVICH: I'll be happy to do that,  
8 Commissioner Pinkert. I would just say right off the  
9 cuff here is I just want to remind you the only  
10 pricing the Indian producers are aware of is their  
11 price FOB to the purchase whereas the pricing data  
12 that enter into the prehearing report are from the  
13 point of view of the importer, and the importer resets  
14 that price in whatever manner they do, so our ability  
15 to contribute to that is limited, but we'll do our  
16 best.

17 COMMISSIONER PINKERT: Yes, whatever you can  
18 do to help to understand whether the order had an  
19 impact on the pricing by the Indian producers in the  
20 U.S. market, that would be helpful.

21 MR. MALASHEVICH: I understand. We'll do  
22 our best. Thank you.

23 COMMISSIONER PINKERT: Thank you. Thank  
24 you, Madam Chairman. I have no further questions for  
25 this panel. I appreciate the answers, and I look

1 forward to the additional information in the post  
2 hearing.

3 CHAIRMAN OKUN: Commissioner Johanson?

4 COMMISSIONER JOHANSON: Thank you, Madam  
5 Chairman, and I have a question for the Indonesian  
6 producers. In your brief, you state that inventories  
7 are dedicated to specific customer orders, and that is  
8 at page 43. Are these contracts, or are they merely a  
9 arrangements, and if they are contracts, how long do  
10 the contracts last, and when do they expire?

11 MR. ALFIAN: They're usually for one to two  
12 years contract. That's the longest one.

13 COMMISSIONER JOHANSON: All right. Thank  
14 you, and now I'd like to go back to my favorite  
15 subject once again, and that's capacity. I know we  
16 dealt a fair amount with that today. How easy would  
17 it be to add capacity in Indonesia? How long would  
18 that take? Would it be costly? Could you perhaps go  
19 into more depth on that? Thank you.

20 MR. SHOR: I think Mr. Gupta already  
21 answered that question. The only way for Tjiwi Kimia  
22 to add capacity would be to buy additional equipment.  
23 That is not a priority for them. Tjiwi Kimia is a  
24 big company. They're part of the Asia Pulp and Paper  
25 Group. All investment, all capital expenditures are

1 evaluated against one another for priorities and  
2 return on investment, and it's not in the foreseeable  
3 future as improving or increasing stationery  
4 production on anyone's horizon.

5 MR. GUPTA: Arvind Gupta from Tjiwi Kimia.  
6 I think Mike has already answered that question, but  
7 just to add on, no. Whenever you're talking about  
8 capacity expansions, then we are looking at various  
9 trade-offs. We're looking at return of investment  
10 like I've already spoken about, and the priorities for  
11 our companies at present is totally different. I'm  
12 not sure how much I can really say over here, but  
13 we're looking at production which is not stationery or  
14 stationery related. We're looking at value additions  
15 in other areas. Maybe we can touch on that in our --

16 MR. SHOR: We can address it further in the  
17 post hearing. I could add one other thing. It is not  
18 simply a function of buying another machine. I mean,  
19 I was over at the plant. The conversion facility is  
20 full.

21 MR. GUPTA: Yes.

22 MR. SHOR: So they would have to at least  
23 build another building before they could add  
24 additional machinery.

25 MR. GUPTA: Yes.

1           MR. SHOR: And those types of investments  
2 are not under consideration.

3           COMMISSIONER JOHANSON: Thank you, and this  
4 might be proprietary, but given that you've expanded  
5 exports to other countries, I assume you would  
6 consider expanding production? I don't know.

7           MR. GUPTA: No. We've expanded capacity.

8           COMMISSIONER JOHANSON: Capacity rather.

9           MR. GUPTA: We've expanded production, or  
10 we've sold more product to other countries definitely,  
11 but what we have done is we've brought ourselves to  
12 the same level of 2005, so now all our production  
13 capacity is taken care of. For the last three or four  
14 years, we've been operating at 100-percent capacity,  
15 and like what I've already mentioned in the past  
16 during this testimony is that we are going through the  
17 process of grow ahead and curtail, so that means that  
18 we are trying to expand in those markets where we get  
19 additional margin, where we get better margin and to  
20 cut off those markets where we do not have that  
21 sufficient margin. We've already addressed in our  
22 hearing brief the three major trust areas where Tjiwi  
23 Kimia has been expanding in the last three or four  
24 years, and obviously expansions in those areas have  
25 come about with increases in other parts of the world,

1 and we've explained to you in greater detail in the  
2 hearing brief, and I'm sure we'll add to that further  
3 in our post-hearing brief as well.

4 COMMISSIONER JOHANSON: Yes.

5 MR. SHOR: Just to be clear so there's no  
6 confusion, Tjiwi Kimia has no plans and is not  
7 considering expanding capacity to produce any lined  
8 paper products period.

9 MR. ALFIAN: Martinus Alfian from Tjiwi  
10 Kimia. Maybe I'm going to add, Mr. Shor, basically  
11 what we did and we do is product mix and country mix.  
12 That's what we do from our existing capacity that we  
13 build up in 1997, so we try to shift the product and  
14 shift the country to maximize our profitability.  
15 That's what we do. Thank you.

16 COMMISSIONER JOHANSON: Thank you. Well,  
17 that concludes my questions, and thank you all for  
18 appearing here today.

19 CHAIRMAN OKUN: I think I just have a couple  
20 of things to finish up. One, I did want to get your  
21 impression of demand conditions both in the United  
22 States and in the markets in which you sell your  
23 product. In the recently foreseeable future, how do  
24 you see demand? The Petitioners describe the U.S. as  
25 a mature market. Do you have any disagreement with

1 our description of the U.S. market?

2 MR. GUPTA: Arvind Gupta from Tjiwi Kimia.  
3 I think the producers' position on the U.S. market is  
4 quite okay. I mean, this is a stable market except  
5 that on a long-term basis, I mean, presently yes, the  
6 situation might be stable, but on a long-term basis,  
7 there is going to be a decline because of the advent  
8 of electronics and electronic-based products, gadgets,  
9 you are going to see a decline in this market whereas  
10 there are sufficient markets around the world which  
11 have a fantastic growth potential, and that's because  
12 of people still getting educated in those countries,  
13 in that part of the world, those parts of the world.

14 People are still getting educated. There's  
15 still a lot of uneducated people going around, kids  
16 who need to go to school, and that's the place where  
17 growths are going to take place, but the product  
18 requirements over there are different from that which  
19 exist in the American market, so you're going to have  
20 more and more production of these exercise, stapled  
21 products, exercise books. You're going to have more  
22 production of that kind of product, whereas on a long-  
23 term basis, the American market is going to see a slow  
24 decline. Martinus, maybe you'd like to add something  
25 to this?

1           MR. ALFIAN: Yes. Well, I think the basic  
2 product will be there, but maybe like we're going to  
3 have more value-added products towards the existing  
4 and basic products, so that's what actually the people  
5 want to see, and this is actually the common term from  
6 all those retailers that I've been talking to, even  
7 though their your friends. They're more towards the  
8 value-added products.

9           That's what they foresee in the U.S. market.  
10          In the U.S. market, yes, for the next three years, so  
11 this basic product basically the producers in the U.S.  
12 very good, and then they got all the machines and  
13 everything, but we need to look at on the value-added  
14 products towards the next three years, and that's what  
15 the retailers see, and for sure that's the retailers  
16 based on the feedback from the end users, which us,  
17 okay? Thank you.

18          CHAIRMAN OKUN: Thank you. Do the Indian  
19 producers have anything to add with respect to demand  
20 other than the United States or in other markets?

21          MR. DAVIS: Well, as we stated in our brief,  
22 the Indian domestic market is growing wildly, at least  
23 10 percent a year, and so that's where all of the  
24 action is for Indian producers. The U.S. market is a  
25 flat market, not a lot of opportunity, so their focus



1 is in India.

2 CHAIRMAN OKUN: Okay. Thank you for those  
3 responses, and then I think my final question, and not  
4 even a question, I guess I would just join with  
5 Commissioner Pearson in asking post hearing for a  
6 discussion on the cumulation issues, obviously did not  
7 consider a noticeably adverse impact previously, and  
8 so of course, for a sunset review, it's certainly  
9 appropriate to argue it.

10 To the extent that you find support for, I  
11 mean, looking at that, for me, it's been a very high  
12 threshold or depending on how you look at that, a  
13 stable presence in the U.S. market has not been a case  
14 where I have no discernable adverse impact, so to the  
15 extent you want to look back to the original arguments  
16 we made in our dissent and see if they're applicable  
17 or not as the Petitioners have gone through and made a  
18 number of arguments with respect to changes, so I just  
19 ask for that post hearing from both counsel.

20 Let me see if there are any other questions  
21 from colleagues. Seeing none, let me turn to staff to  
22 see if they have questions for this panel?

23 MS. HAINES: Elizabeth Haines. Staff has no  
24 questions.

25 CHAIRMAN OKUN: Do those in support of

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

3 MR. PRICE: We have no questions for the  
4 panel.

5 CHAIRMAN OKUN: Okay. Well, before we turn  
6 to closing and rebuttal, let me take this opportunity  
7 to thank all of you, all the witnesses again for being  
8 here this afternoon, for all the responses. We very  
9 much appreciate your presence here in answering our  
10 many questions and to your post-hearing submissions,  
11 and before we have the panels go back, let me just  
12 review the time remaining.

13 Petitioners have a total of 14 minutes  
14 remaining, nine from their direct and five for  
15 closing. Respondents have a total of 11 minutes  
16 remaining, six from direct and five for closing. If  
17 there is no objection from counsel, we would just  
18 follow our normal business of combining your closing  
19 and rebuttal time, so with that, let's take a couple  
20 of moments to let the witnesses go back to seats and  
21 to bring counsel up for closing arguments.

22 (Pause.)

23 CHAIRMAN OKUN: All right. It looks like we  
24 are ready to proceed.

25 MR. KAPLAN: Thank you very much. I want to

1 move to two points, one of them was a point that a lot  
2 of time was spent on. Commissioner Johanson and  
3 others asked about market share, and since this case  
4 is a duty and order against certain lined paper school  
5 supplies, those are really the place you'd expect to  
6 see the share increase, and that data, you have to  
7 search for it in the report, so I'd please ask you to  
8 turn to page C-5, it's Table C-2.

9 The second line down has producers' share,  
10 and you'll notice that actually producers' share  
11 increased over the period of review. U.S. producers'  
12 share increased. Now, I went to the old report, it's  
13 not available here, and looked at U.S. producers'  
14 share in 2005, and you see, and I can't give the  
15 number because it's confidential, but a large and  
16 significant increase from 2005 to 2006.

17 This case is tricky because the like product  
18 is bigger than the scope, but if you look at the part  
19 of the like product that competes with the scope, as  
20 many of the Commissioners suggested we look at, you  
21 have to dig around a bit, there is a big, big share  
22 increase, so your concerns about the domestic industry  
23 having prices go up and not have share rise are not  
24 supported by the data. I understand your concerns  
25 because it's hard to dig through this, but we'll file

1 this in the brief, but we note that U.S. producers'  
2 share for CLPP increased.

3 You cannot see 2005, but if you did, you'd  
4 notice it increased a real lot, technical economics  
5 term, it has prices rising, profits rising. Once  
6 again, my characterization of this is the poster child  
7 for effective is true, rise in share, rise in prices,  
8 rise in profits. I'd like you to turn to the next  
9 page, which is C-7, and this was another concern the  
10 commission had, which was about employment over the  
11 period of review.

12 The employment numbers are available, and  
13 they show that employment, production workers, also  
14 increased, and the increase was significant, so over  
15 the period of review, rising profits, prices, share  
16 and employment, just what you'd expect to see in an  
17 effective order in an industry that was going to  
18 disappear. The second thing I'd like to do briefly is  
19 address Dr. Kelly's study about the incentives.

20 I think there's three things about the study  
21 that create problems. The first is that Dr. Kelly  
22 uses weight rather than units. This is an issue  
23 that's been going on for six years, and the  
24 Commission's made an opinion. He criticizes the  
25 Commission for using units. He says the Commission is

1 incorrect to use units, and yet, the original case, we  
2 decided to use units, the trade data is kept in units,  
3 the customers buy in units. This report is in units.

4 There were no comments from the Respondents  
5 about not using units with the original questionnaire  
6 went out, and the purchasers buy in units, so I think  
7 that he's a little late to the party here with respect  
8 to that. The second point was he used data that was  
9 old, and things have changed over time in terms of  
10 relative prices around the world because exchange  
11 rates have changed for one thing.

12 Finally, the study's undocumented. It looks  
13 like an expert report. I work, as I said, on the  
14 other side of the aisle. Expert reports require six  
15 months of discovery, multiple depositions, opposing  
16 expert reports, testimony in Court. Generally, what  
17 we do here is we do smaller studies and provide our  
18 data to both the staff and the other side, so I'm not  
19 impugning at all Dr. Kelly, but we don't have the  
20 ability to review the study.

21 For one thing, he says we're using the most  
22 similar products. Well, I'd like to see all the  
23 products they sell, and I'd like to argue about them,  
24 which ones are the most similar or agree with them.  
25 We can't do that, so the study is deficient because it

1 uses the wrong units and suggests the Commission was  
2 incorrect. It's ungrounded in the period of time it  
3 uses, and there's no review by either the Commission  
4 or the opposing side to confirm whether or not the  
5 study has merit. Thank you very much.

6 MR. BRIGHTBILL: Tim Brightbill for Wiley  
7 Rein. Several other rebuttals, and we'll elaborate in  
8 our post-hearing brief. Mr. Malashevich, if he put  
9 his most important argument first, I would just point  
10 out that he misquoted or misunderstood page 1 of our  
11 brief. We said after the orders went into effect  
12 dumped and subsidized imports from the three subject  
13 countries exited the market. We didn't say all  
14 imports, but dumped and subsidized imports did exist  
15 the market, and I think he would agree with that.

16 On India, you heard discussion regarding  
17 large-scale versus small-scale producers, how the  
18 industry is reserved for small producers. Regardless  
19 large or small, look at India's growing export  
20 emphasis throughout the period of review. The U.S.,  
21 as I said before, now India's leading export market.  
22 As Mr. Ron testified, India can leverage either small  
23 or large producers. It uses, as Commissioner Aranoff  
24 recognized, either papers producers or other small  
25 producers that have networks of converters to leverage

1 capacity.

2 As Mr. Robinson testified, when India is  
3 asked how much it can supply, it never says no. There  
4 was a question about whether this is a price case or a  
5 volume case. We strongly disagree with Mr. Shor's  
6 claim that this was not a price case five years ago.  
7 I think we've provided plenty of testimony as to how  
8 the very intense bidding process drives prices lower,  
9 and even if the sale is eventually won by the U.S.  
10 industry, the price effects are profound. That  
11 happens on every bidding process, and that process has  
12 only intensified.

13 TK testified before you, and I think I wrote  
14 the quote correctly, that our business benefitted from  
15 losing the U.S. market. Well, if that's so, why are  
16 they here today? I would submit to you that the  
17 reason is that one major U.S. account is worth dozens  
18 of the smaller accounts that they've spent a lot of  
19 time and money to develop, and I have no doubt, as  
20 Neil McLachlan testified, that they would be back here  
21 and targeting value-added products like Mead 5-Star.

22 The quality question, I think Vice Chairman  
23 Williamson accurately asked how is the Indian product  
24 oversold if the quality is worse? The quality is  
25 comparable. You can look at pre-hearing report, Table

1 2-A for that evidence. This is not an issue of  
2 recycled materials. I've passed around samples of the  
3 two leading products, 70-count notebooks and comp  
4 books. They are comparable quality, and your  
5 prehearing report also says that.

6 It shows for the U.S. versus India and the  
7 U.S. versus Indonesia they have comparable quality in  
8 terms of minimum quality requirements, quality meeting  
9 industry standards and paper brightness, so you asked  
10 the question on quality three different times, and you  
11 found that U.S. and India comparable, and U.S. and  
12 Indonesia comparable as well. With regard to the like  
13 product, I just have to clarify yet again that Mead 5-  
14 Star is subject merchandise. It is certain lined  
15 paper school supplies. Mead produces 30 million units  
16 of it, all domestically produced. That should be  
17 crystal clear.

18 On the other hand, I strongly disagree with  
19 Mr. Shor's claim that the problem that the domestic  
20 industry had was too many workers or that there has  
21 been some dramatic increase in automation. The folks  
22 from Blair, Pennsylvania, can tell you and George and  
23 Howe can tell you there hasn't been a dramatic change  
24 in automation. That is speculative, and it's wrong.

25 Indonesia stated that it can convert its



1 machines over to produce English sizes in a single  
2 day, so they can rapidly change. On the other hand,  
3 if they wouldn't change every day of the week, that  
4 just means they're going to go after larger accounts  
5 when they come back to the United States. Rather than  
6 switch over every day, they're going to switch to get  
7 big accounts like those that are here in the United  
8 States. I'd also point out with regard to capacity  
9 you've heard interesting discussion from both India  
10 and Indonesia. India conceded they had the U.S.  
11 capacity before, like to know where it went. It  
12 didn't go anywhere.

13 I think you should also look at how  
14 Indonesia and how TK reported their capacity. If you  
15 look at their questionnaire response, it suggests that  
16 what they reported is more of a guideline, not a hard  
17 limit. There's also no relation to how they reported  
18 capacity in the original investigation. One last  
19 point on India. They did concede today that they  
20 compete in the Tier 3 I think they called it, the  
21 lower dollar stores, Dollar General, this kind of  
22 thing.

23 Well, as the domestic industry was pointing  
24 out to me on the break, that is what sets the price  
25 point for Tier 1 and Tier 2, so the pricing where

1 India is in the market and bidding, that's what's  
2 going to go on at the chain ultimately, to the  
3 Walmarts and Targets and the big retailers of the  
4 world, and so again, that's how the bidding process  
5 transmits prices and transmits injury quickly in this  
6 industry, so with that, let me turn to a brief close.

7 Thank you to the Commission for your actions  
8 five years ago and your consideration of our key  
9 points today, and thank you, Chairman Okun, for your  
10 service as Chair and Commissioner. Please keep in  
11 mind these trade remedy orders worked. You have seen  
12 the stark contrast between the condition of this  
13 industry in 2003 to 2005 compared with the last five  
14 years, and I listened all afternoon for an explanation  
15 of that, and I didn't hear any convincing explanations  
16 from the other side.

17 The effects of these orders on volume,  
18 pricing and industry performance are remarkable, and  
19 they are unmistakable. With regard to cumulation,  
20 there are different approaches. The Commission should  
21 consider certain lined paper imports from these three  
22 countries cumulatively. Lined paper school supplies  
23 from these three all compete similarly, and they will  
24 do so upon revocation.

25 The key conditions of competition have not

1 changed, and they would not change upon revocation.  
2 What are those key conditions? Intense price  
3 competition, a large number of suppliers that are  
4 considered interchangeable by a limited number of  
5 large purchasers that allows subject imports to use  
6 those low-price offers to drive down bidding and  
7 capture market share. Those key conditions as  
8 Commissioner Pearson asked have not changed since the  
9 original investigation.

10 All three countries continue to export to  
11 the United States. All three are expert oriented,  
12 even more so than during the original investigations.

13 If you want proof of that, we will submit in our  
14 post-hearing brief the lineup of who is going to be  
15 showing up at the ECRM Trade Show in September in  
16 Dallas, and it includes both Indian and Indonesian  
17 multiple producers. They're looking for business  
18 here. All three have expanded their capacity. All  
19 three have comparable pricing according to the staff  
20 report data from purchasers.

21 Next, imports from each of the subject  
22 countries will have a discernable adverse impact on  
23 the U.S. market if the orders are revoked. For India,  
24 subject imports have maintained and increased their  
25 presence in the United States since the order. The

1 production is export oriented due to India's export  
2 subsidies and its legal requirements. As I pointed  
3 out, a majority of their production is now exported  
4 abroad. The United States is India's primary export  
5 market for these products.

6 Indian production and capacity are  
7 significantly larger, and, Commissioner Pearson, you  
8 asked where production, exports and capacity are up,  
9 doesn't that indicate there will be a discernable  
10 adverse impact? The answer is yes, it does. They are  
11 here. They're bidding on major products and accounts.  
12 They're taking away business from the domestic  
13 industry. They are undercutting prices in the bidding  
14 process.

15 Indonesia is also a major exporter of  
16 merchandise. Its lined paper goods and related  
17 products are readily accepted by the biggest retailers  
18 here in the United States. Indonesia was the leading  
19 under seller, unanimous underselling, 100 percent in  
20 the original investigation. TK's claims about being  
21 shut out of the market due to its environmental  
22 practices are flatly contradicted by the products you  
23 saw here earlier today on the table.

24 They claim that they benefitted from losing  
25 the U.S. market. Again, I would ask if they

1 benefitted, why are they here today at all? Chine, no  
2 Chinese producers responded. China is the world's  
3 largest exporter of paper products. You have its  
4 most-recent government five-year plan for paper, and  
5 it remains active in the U.S. market. Revocation of  
6 these orders on any of these three countries will lead  
7 to material injury within a very quick, and certainly  
8 a reasonable, foreseeable period of time.

9           You'll see it in volume. You'll see it in  
10 pricing, and you'll see it in terms of workers and  
11 production and shipments. Your decision will have a  
12 real and immediate impact on this U.S. industry and  
13 its fate. As you heard, the bidding for next year's  
14 back-to-school season starts this August. If these  
15 orders are revoked on any of these three countries,  
16 India, Indonesia, China will use this complex price-  
17 driven bidding process to take this market back to  
18 where it was a few years ago.

19           Respondents argue in the end it wasn't us in  
20 the first place. We're not here today. If you remove  
21 the orders, we won't come back, but it was them five  
22 years ago from all three countries that caused the  
23 harm. It is them competing against us today and  
24 taking away business on these very same products, on  
25 the legal pads on the shelf next door, and on the

1 envelopes down the next aisle, and it will be them  
2 coming back with a vengeance if any of those three  
3 countries are allowed back in.

4 I apologize for going over my time. We ask  
5 you not to let that happen. Thank you very much.

6 CHAIRMAN OKUN: Not to let you go over your  
7 time or? Now I'd like to hear from Respondents. I  
8 was giving you extra time because you said nice things  
9 about me, so I was trying to subtract that out, but  
10 anyway. Thank you. We turn to closing for those in  
11 opposition of the orders.

12 MR. SHOR: Thank you. Well, since it worked  
13 for the domestic industry, let me start by saying nice  
14 things about Chairman Okun. I didn't look back and  
15 see whether you voted with me or against me more often  
16 than not, but I do think you always ask piercing  
17 questions, and I do thank you for your service on the  
18 Commission.

19 Let me start by answering the question why  
20 we are here. We are here because we have a statutory  
21 right to be here. Mr. Brightbill certainly wouldn't  
22 argue that you should vote for the Chinese because  
23 they're not here. Therefore, you shouldn't vote  
24 against the Indonesians simply because they are here.  
25 The Indonesians view this anti-dumping order as a

1 stain against their reputation, and they are looking  
2 to protect their reputation. They also had advice  
3 from counsel that the best time to win a sunset review  
4 is when they didn't need to, so that's another reason  
5 why they are here.

6 Focusing on the issues and the case, it was  
7 very interesting to hear Dr. Kaplan's initial  
8 testimony which focused on looking at CLPSS data  
9 separately. I'm not aware of any precedent before the  
10 Commission where you divided the like product and  
11 looked at part of it separately from the other  
12 product. As long as the like product in this case is,  
13 as it should be, all lined paper products, then there  
14 is no basis to look at CLPSS separately. Their market  
15 share is declining. Their production is declining,  
16 but their profits all are up.

17 Let me address also Dr. Kaplan's attack on  
18 Dr. Kelly's testimony. The use of weight rather than  
19 units, Dr. Kaplan is confounding different issues.  
20 The reason Dr. Kelly used weight in his price  
21 comparisons is because he's comparing different  
22 products. As everyone agrees, the sizes of the  
23 product sold in other markets are different in the  
24 U.S. The number of pages are different, so we were  
25 not using weight rather than units because we disagree

1 with using units as a basis for the trade data.  
2 Rather, it was a way of getting some common unit of  
3 measure to compare prices.

4 The sheets of paper are different sizes for  
5 different markets. There is different number of pages  
6 in the spiral notebooks. It was the only way to  
7 compare products. Otherwise, there would be no price-  
8 to-price comparisons at all. As to the charge that  
9 Dr. Kelly used old data. He used 2011 data. That's  
10 the newest data there is. I don't know what other  
11 suggestion.

12 The final point I make about Dr. Kelly's  
13 analysis is Dr. Kaplan didn't suggest anything better.

14 The only evidence on the record in this case of  
15 relative prices is that analysis. There was no  
16 testimony by any domestic industry witness to  
17 controvert the testimony of the Indonesian witnesses  
18 and Dr. Kelly's analysis that prices are higher in all  
19 of their main markets elsewhere, and that shouldn't be  
20 surprising given the testimony about the nature of the  
21 U.S. market.

22 It is dominated by a few large producers  
23 with pricing power that use auctions and other  
24 mechanisms to drive down prices. That is why the U.S.  
25 market has the lowest prices for these products. That



1 is why prices are higher in all of the other markets  
2 to which the Indonesians sell, so whether or not he  
3 wants to pot shots about Dr. Kelly's analysis, I  
4 challenge Dr. Kaplan to provide some other evidence to  
5 the Commission because you can only make your  
6 decisions on the basis of the evidence before you.

7 My final point is to go back to our blue  
8 chart. That is our case in a nutshell. I asked at  
9 least five times during the course of the hearing for  
10 the domestic industry to provide some explanation  
11 given their theories of this case in what would happen  
12 if the orders were removed, how they could explain why  
13 Indonesian imports into the United States of other  
14 lines paper products declined by 81.6 percent.

15 They didn't have any explanation in their  
16 initial testimony. They didn't have any explanation  
17 in their rebuttal testimony. They didn't have any  
18 explanation in their brief, and I'm sure they will  
19 have no explanation in their post-hearing brief. That  
20 is, in a nutshell, our case. Unless there's some  
21 reason to believe that certain lined paper school  
22 supplies will behave differently from OLPP under those  
23 conditions, that evidence, those charts, prove our  
24 case. Thank you very much.

25 MR. DAVIS: The Indian producers also thank

1 the Commission for your attention and your thoughtful  
2 questions, and I hope you found our presentation to be  
3 helpful. We believe, as you have heard, that the  
4 issues as to India are very narrow. India has shown  
5 that it has a small, very stable presence in the U.S.  
6 market, and the APO pricing data shows that India is  
7 not the price leader.

8           Its sales are constrained by Indian  
9 government limits on industry size and by better  
10 opportunities in a robustly growing domestic India  
11 market, and its sales in the U.S. and its potential  
12 for growth is limited by very different product  
13 characteristics and shifting of production from  
14 domestic use to the U.S. export use is simply not  
15 conceivable.

16           Revocation will not change that. The parade  
17 of horrors that are kind of named by the industry  
18 witnesses today, it's all about China. India itself  
19 does not have any possibility to impact the U.S.  
20 market, and we believe the orders should be revoked as  
21 to India. Thank you very much.

22           CHAIRMAN OKUN: Thank you very much. As I  
23 was bringing my last hearing to a close, I was  
24 forgetting the closing statement, Mr. Secretary, but  
25 now I have it. Post-hearing briefs, statements

1 responsive to questions, requests of the Commission  
2 and corrections to the transcript must be filed by  
3 June 21, 2012. The closing of the record and final  
4 release date to the parties is July 23, 2012, and  
5 final comments are due July 25, 2012.

6 This is the last time I bring down the gavel  
7 as Chairman, so I will save my comments and thanks for  
8 Thursday's vote, but I did want to thank for the  
9 parties that are here for your comments today, and I  
10 didn't know what hearing it would be at the end of my  
11 Chairmanship, but you who are here both from  
12 Petitioners' side and Respondents' side who have had  
13 the opportunity to see lots of great attorneys do a  
14 lot of good work, and it's been a pleasure to hear  
15 you, and in particular to hear so many industry  
16 witnesses from around the world from U.S. industries  
17 appear here, and I hope that continues in the future.

18 With that, no other business before the  
19 Commission, this hearing is adjourned.

20 (Whereupon, at 5:04 p.m., the hearing in the  
21 above-entitled matter was concluded.)

22 //

23 //

24 //

25 //

**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Certain Lined Paper School Supplies from  
China, India and Indonesia

**INVESTIGATION NO.:** 701-TA-442-443, 731-TA-1095-1097

**HEARING DATE:** June 12, 2012

**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: June 12, 2012

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

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

SIGNED: Rebecca McCrary  
Signature of Proofreader

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

SIGNED: Gabriel Gheorghiu  
Signature of Court Reporter