UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:) **Investigation No.:**
1,1,1,2-TETRAFLUOROETHANE (R-134a)) **731-TA-1313**
FROM CHINA) **(FINAL)**

Pages: 1 - 225
Place: Washington, D.C.
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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation No.:
1,1,1,2-TETRAFLUOROETHANE) 731-TA-1313
(R-134a) FROM CHINA) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, February 23, 2017

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Rhonda K. Schmidtlein, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Vice Chairman David S. Johanson (presiding)

Commissioner Irving A. Williamson

Commissioner Meredith M. Broadbent

Commissioner F. Scott Kieff

Staff:

William Bishop, Supervisory Hearings and Information Officer

Sharon Bellamy, Records Management Specialist

Yasmyne Hilliard, Student Intern

Joanna Lo, Investigator

Jeffrey Clark, International Trade Analyst

Cindy Cohen, International Economist

David Boyland, Accountant/Auditor

Michael Haldenstein, Attorney/Advisor

Douglas Corkran, Supervisory Investigator

APPEARANCES:

Opening Remarks:

Petitioners (James R. Cannon, Jr., Cassidy Levy Kent (USA) LLP)

Respondents (Max F. Schutzman, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

In Support of the Imposition of Antidumping Duty Order:

Cassidy Levy Kent (USA) LLP

Schagrin Associates

Washington, DC

on behalf of

The American HFC Coalition and its individual members

District Lodge 154 of the International Association of Machinists and Aerospace Workers

Richard Rowe, President and Chief Executive Officer, Arkema, Inc.

Glenn Haun, Director of Sales, Arkema, Inc.

Matthew T. Ritter, Global Business Director, Fluorochemicals, Arkema, Inc.

Dean McCoy, Arkema, Inc., International Association of Machinists and Aerospace Workers

Magen L. Buterbaugh, Global Business Director, Fluorochemicals and General Manager North America, The Chemours Company, LLC

In Support of the Imposition of Antidumping Duty Order:

James Bachman, Commercial Director North America, The Chemours Company, LLC

Lesley A. Aulick, Global Business and Market Manager, Refrigerants, The Chemours Company, LLC

Antonio Carillo Rule, Chief Executive Officer, Mexichem, S.A. de C.V.

Peter Geosits, Commercial Director, Mexichem Fluor, Inc.

John Pacillo, Operations Director, Mexichem Fluor, Inc.

Deirdre Maloney, Senior Trade Advisor, Cassidy Levy Kent (USA) LLP

James R. Cannon, Jr., Nazak Nikakhtar, Paul W. Jameson and Christopher T. Cloutier - Of Counsel

In Opposition to the Imposition of Antidumping Duty Order:
Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP
Washington, DC
on behalf of
Zhejiang Quhua Fluor-Chemistry Co., Ltd.
Sinochem Environmental Protection Chemicals Co., Ltd.
Zhejiang Sanmei Chemical Industry Co., Ltd.
Jiangsu Bluestar Green Technology Co., Ltd.

John Mathew, Chief Operating Officer, Vision Global Technology, Inc.

Deborah Dayton, President, Weitron, Inc.

Jim Dougan, Vice President, Economic Consulting Services

Cara Groden, Economist, Economic Consulting Services

Max F. Schutzman, Ned H. Marshak and Kavita Mohan - Of Counsel

deKieffer & Horgan, PLLC
Washington, DC
on behalf of
AutoZone, Inc.

John Lammers, Vice President of Merchandising, AutoZone, Inc.

J. Kevin Horgan - Of Counsel

Rebuttal/Closing Remarks:

Petitioners (James R. Cannon, Jr., Cassidy Levy Kent (USA) LLP)

Respondents (Ned H. Marshak, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

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P R O C E E D I N G S

9:40 a.m.

MR. BISHOP: Will the room please come to order?

VICE CHAIRMAN JOHANSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation No. 731-TA-1313 Final, involving 1,1,1,2 Tetrafluoroethane from China, more commonly known as R-134a. The purpose of this investigation is to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States by reason of imports from 134a from China.

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

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information.

Please speak clearly into the microphones and state your name for the record for the benefit of the court reporter. If you will be submitting documents that contain information you wish classified as Business Confidential, your request should comply with Commission Rule 201.6. Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that all witnesses for today's hearing have been sworn in. There are no other preliminary matters.

VICE CHAIRMAN JOHANSON: Thank you. Very well. Let us begin with opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioner will be given by James R. Cannon, Jr., Cassidy Levy Kent.

STATEMENT OF JAMES R. CANNON

MR. CANNON: Good morning. I'm Jim Cannon, Cassidy Levy Kent. I'm appearing today on behalf of the American HFC Coalition. The Coalition filed this case to remedy the severe injury the domestic industry has suffered by reason of surging imports of 134a from China. The Commission at this point I think is familiar with this industry. Mexichem filed an anti-dumping case and countervailing duty petition in 2013.

In November 2014, the majority of the Commission reached a negative determination, finding no injury or threat. Within hours after the vote in that case, customers called and cancelled orders. Customers also demanded rebates or credits on sales that had already been made. Imports from China surged back into the market. They regained the market share and then some in 2015. The industry is back because imports from China increased from 19 percent in 2013, the last year of your first case, to now 30 percent of the market.

These imports are being dumped in the U.S. market on margins found by Commerce yesterday, dumping margins of 150 percent or more. Imports have now captured 30 percent of the market by offering prices that are below, consistently below U.S. producers' prices. As a result, the unfairly traded imports have had a substantial negative impact on the domestic industry.

In 2013, U.S. shipments stood out something north of $300 million. In 2015, U.S. shipments are $220 million, a lot of $80 million two years. Domestic market share has fallen from 80 percent in 2013, when we were last here, to now 68.5 percent, a more than ten percentage point decline. Domestic industry production and capacity utilization have fallen. Sales revenues fell, operating profits fell, net income before tax, they've all declined over the Period of Investigation.

In other words, the record contrasts sharply with the first case. Consider in the prior investigation, imports were declining in the last year of the investigation, 2013, coming off of a supply shortage. Imports in the last two years of this investigation are increasing. They increased in 2015 and they doubled in volume in 2016. In the prior case, the industry was earning double digit profits in the first two years of investigation, and was profitable throughout.

In this case, profits are uniformly lower and there are losses in 2015 and losses in 2016. In the prior investigation, the domestic -- the Commission found most importantly overselling. In the prior investigation, the Commission concluded there was majority overselling. In this case, the facts are dramatically different.

In fact, as you will see, the list prices, the list price circulated by importers is below the domestic producers' price. So Chinese imports have seized a full ten points of market share by using low prices, underselling the market. They've done this for a reason that hasn't changed. China has excess capacity. They have 220,000 tons of capacity. They have enough capacity to supply the entire world market.

According to Chinese industry sources, monthly publications in China, the industry is operating at less than 50 percent capacity in China. Taken together, the record facts in this case establish that Chinese producers have exported at dumped prices and consistently undersold U.S. producer prices.

As a result of these low prices from China, importers of subject merchandise have increased their market penetration at the expense of U.S. producers. Given the dramatic decline in the performance of the domestic industry, the increase in subject imports, the evidence of underselling, the domestic industry was materially injured by imports from China and otherwise threatened with immediate material injury if dumped Chinese imports are permitted to continue. With that, I thank you for your attention and I look forward to presenting today.

MR. BISHOP: Opening remarks on behalf of Respondents will be given by Max F. Schutzman, Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt.

STATEMENT OF MAX SCHUTZMAN

MR. SCHUTZMAN: Good morning Mr. Vice Chairman, members of the Commission. Again, I am Max Schutzman of Grunfeld Desiderio here representing Chinese respondents. The Commission staff has identified five separate markets within which R-134a is sold. However, Chinese exports are sold in significant quantities principally in only one, the automotive aftermarket.

You will recall it was the inability of the domestic producers to supply the needs of the market for R-134a before and during the POI of the first R-134a investigation that opened the door for appreciable quantities of Chinese exports to enter the automotive aftermarket, and it was these shortages that were a significant factor in your negative injury determination in that first investigation.

Although the production and market shortfalls that the Commission found to be an important condition of competition then did not recur to the same extent during the present POI, the uncertainty created by that condition continues to be felt by U.S. purchasers of R-134a. It is for this reason and others that we discuss in our prehearing brief that U.S. purchasers continued to source from China during this POI.

So this situation remains in this investigation, a significant condition of competition, as documented in the data before you and as you will hear from Respondents' witnesses. The POI in the previous investigation was 2011 through June 2014. The POI in this investigation is 2013 through September 2016.

Accordingly, there can be no question that there was no injury occurring during the period within which these POIs overlap, a period of 18 months from 2013 through June 2014. Moreover, industry performance in 2014 was skewed because of that earlier investigation, since it was not until the end of 2014 that the Commission issued its negative injury determination.

So the critical period the Commission must essentially analyze here is the period from 2014 to March 3rd, 2016, the date the petition was filed here, during which period conditions in the industry were normalized. Simply, in spite of their representations and protestations to the contrary, U.S. producers have insufficient capacity to satisfy the needs of the U.S. market, and it is because of this that purchasers continue to source from China. Any adverse volume effects that occurred during the POI were not attributable to Chinese imports.

In terms of adverse price effects, the pricing data on the record show a number of instances of underselling by Chinese imports, and I might add overselling as well, but this should not be considered significant, since U.S. producer shipments are concentrated where imports from China do not meaningful compete, such as in the OEM market.

Moreover, if imports from China were adversely impacting U.S. prices, one would expect U.S. average unit values to decrease when subject imports increased, and vice-versa. However, there are many instances and data where U.S. prices increased or decreased in tandem with increases or decreases in subject import volume.

Thus, the prevalence of instances in which U.S. prices moved with rather than against trends in subject import volumes calls into serious question any link between subject imports and their effect on U.S. prices. To be sure, you will hear from Respondents' witnesses that U.S. producers rather than vendors of Chinese R-134a are the price leaders in this market, and in further confirmation of this the data before you demonstrate the changes in the domestic industry's ratio of cost of goods sold to net sales were unrelated to the levels of subject imports.

Moreover superficially, the data regarding the domestic industry's performance gives the impression of an industry that was in decline. However, the numbers do not tell the real story, since there are anomalies which you must consider as we point out in our prehearing brief that are driving much of what appears at first blush to be a decline in industry performance.

Finally in terms of threat, capacity utilization rates in China remain extremely high, and contrary to what you heard from Mr. Cannon this morning and as the staff noted, there are no plans to increase production capacity in China for R-134a. Chinese producers concentrate their efforts on a large Chinese domestic market, driven by a growing automotive market in China, where R-134 is not being phased out as it is in the U.S.

Additionally, exports to the U.S. from China as a share of total Chinese shipments were lower in 2015 than they were in 2013, despite the problems experienced by the U.S. industry in supplying U.S. purchasers. Accordingly, we respectfully urge the Commission to find the absence of material injury or the threat thereof to the U.S. industry by reason of imports of 134a from China. Thank you.

MR. BISHOP: Would the panel in support of the imposition of the anti-dumping duty order please come forward and be seated?

(Pause.)

MR. BISHOP: Mr. Cannon, you may begin when you're ready.

STATEMENT OF JAMES R. CANNON, JR.

MR. CANNON: Thank you. Before we turn to the witnesses, I'd just like to respond quickly to what we heard in the opening statement from counsel for Respondents. The Chinese producers and the importers are essentially offering two theories in response to the facts.

First, they're arguing that U.S. customers desire Chinese imports to protect against a shortage, or that they had some concern about reliability. Second, they argue that the importers are confined to the aftermarket and don't impact prices in all segments of the market.

So the major flaw with their first argument is the widespread underselling. It makes no sense. If customers desired Chinese imports and drew them into the market to protect their supply chain, logically they would pay more for those imports, not less. In the first case, that's what the record showed. Because of a supply shortage, there was overselling. Imports were being pulled into the market.

In this case, the record is the opposite. Having gotten a taste for the U.S. market, the Chinese producers have now attempted to expand their market share by offering low prices. We know this from the purchaser responses to the lost sales/lost revenue questionnaire. In the staff report, the public version, which I would like to on the side note I appreciate how much was made public in this case, it's very useful to help the discussion. But in the purchaser responses to the lost sales/lost revenue questionnaire, you see that 16 out of 17 purchasers shifted from domestic producers to imports. Why? Because the prices were lower. Not a single one of these 16 purchasers cited reliable supply or a shortage or a refusal to supply. The evidence isn't there, and so this case is not like the first case, principally because of a very different record with regard to prices.

Next, Respondents argue that imports are confined to the automotive aftermarket. But that's not true. Importantly and substantially, imports have now spread first into the HVAC aftermarket. This wasn't happening in the first case, but now you see from the questionnaire responses and from Appendix E, there's widespread market penetration in the HVAC auto market.

There's also import penetration in every market, including even OEM automotive, automobile producers. So OEM automobile producers are now buying Chinese imports, and there will be testimony, you will hear today, that customers in every segment are aware of the Chinese prices; these prices are emailed everywhere in the market and they cite these prices when we attempt to sell.

So on these two important critical differences, I just ask you to listen to the testimony. Please ask questions about it. As you examine the C tables and the pricing data in particular, and as you listen to the testimony, we ask you to consider how different this record is and make your decision on the record before you. So with that, I'd like to turn it over to Rich Rowe.

STATEMENT OF RICHARD ROWE

MR. ROWE: Thank you, Jim. Vice Chairman, other members of the Commission, good morning. My name is Richard Rowe and I'm the president and CEO of Arkema, Inc. I am honored to be back in front of you this morning, back in front of the Commission on behalf of Arkema and the American HFC Coalition.

I appeared before you last June in the investigation concerning imports of HFC blends and components from China. Today we join with Chemours, Mexichem and other members of the Coalition to address the impact of unfairly traded imports of 134a coming from China. R-134a is the most widely used refrigerant in automobiles and home refrigerators.

The Commerce Department has determined that imports from China are being dumped in the United States at margins in excess of 148 percent. Chinese imports of this material surged into the market until preliminary duties were imposed last October, and as compared with the first nine months of 2015, imports from China have more than doubled in volume in 2016.

Chinese imports have captured 30 percent of the U.S. market by offering R-134a at prices substantially below U.S. market prices. As a result of these unfairly priced imports, Arkema has suffered plummeting sales, falling production, unused capacity and financial losses. Without relief from Chinese dumping, prices will continue to fall, our market share will decline further, and U.S. jobs and investment will be destroyed.

I've been with Arkema for 28 years, and in that period of time I've had responsibility for several of our business units, as well as Arkema, Inc's supply chain. From July 2011 until June of 2015, I had global responsibility for our fluorochemicals business unit, which includes R-134a. As Arkema, Inc.'s CEO, I oversee all of our North American operations and business activities.

Our R-134a plant in Calvert City, Kentucky is Arkema's flagship plant in the United States. We began production in 1997 and currently employ approximately 260 full-time employees. We've invested over $177 million in the production of R-134a at Calvert City, and it's Arkema's only manufacturing plant for fluorochemicals in the Americas. We continue to make significant capital investments and improvements at that site.

Calvert also produces other fluorochemicals, and the continuing production of R-134a is key to the performance of the entire plant, as 134a accounts for a significant portion of the total production at Calvert City. Our production of 134a therefore carries a substantial part of the fixed costs that are borne by all of the products that we manufacture at the site.

If we're forced to further cut production of R-134a, the allocated cost shared with the other product lines produced at the site will increase, threatening their profitability and potentially undermining the overall sustainability of the site.

Our plant operates most efficiently and safely when it runs on a continuous basis. Our target is to run 24 hours a day, seven days a week and to fill our capacity. This operating model enables us to spread our costs over a high volume of production. Chinese dumping of 134a has had a severe impact on our production and operating rates. Our U.S. sales volumes declined every year during the Period of Investigation.

I direct your attention to Confidential Exhibit No. 1, and the first bullet point on that exhibit. Our production also declined significantly during the Period of Investigation, and the details of those declines are further identified in the second and third bullet points of that same exhibit. Needless to say, the capacity utilization figures identified in the confidential exhibit were extremely problematic for a continuous unit operation constructed to run as close as possible to 100 percent.

Compared to the other businesses that I oversee, both within fluorochemicals and more broadly, the R-134a business is seriously underperforming. Overall, our average prices have also declined substantially, as you can see in the fourth bullet point of that same confidential exhibit. In combination, falling sales volumes and declining prices caused Arkema's net sales revenues to decline to a significant degree, which is shown in the fifth bullet point of the confidential exhibit.

As a result of the loss of sales revenues, our operating profits for R-134a declined substantially from 2013 to 2015, and we incurred losses during the first nine months of 2016. In fact, although the Commission's questionnaire didn't ask for the full year data, I can confirm that R-134a operations suffered operating losses over the full year in 2016.

The increase in Chinese imports at below market prices is particularly damaging, because it's targeted at the largest and most enduring segment of the R-134a market, the automotive aftermarket. Chinese manufacturers have dumped product into this important segment because of increasing restrictions on the use of R-134a in other regions of the world.

For example, Europe started phasing down R-134a in 2011. Effective in January of 2017, this year, the MAPP directive banned the use of 134a altogether in new cars. In the United States, the Environmental Protection Agency adopted regulations in 2015 that require a similar ban of 134a in new cars starting in the model year 2021.

As a result of the EPA regulations, some U.S. car makers have begun to shift away from R-134a, and the U.S. market for 134a will decline over the coming 10 to 15 years. It's an extended time. However, and this is key, even with this future decline, there will remain for many years a significant U.S. market for R-134a.

It's for this reason that we continue to invest in our Calvert City facilities. We believe that the remaining U.S. market should sustain Arkema's investments, provided that we can compete fairly and are not forced to meet artificially low prices set by dumped Chinese imports. The reason I say the size of the market will remain significant in the midterm is because the EPA regulations will continue to permit the use of R-134a in new vehicles until 2021, as well as for the servicing market, the aftermarket for automobiles.

Given that new vehicles stay on the road for more than a decade, our participation in the automotive aftermarket will allow us to generate adequate revenues, sustain our Calvert City operations, and invest in the next generation of fluorochemicals. It's indisputable that the Chinese have built enormous capacity to produce R-134a and other fluorocarbons.

There's been a proliferation of investment in China for 134a without any regard for the global market demand. In fact, Chinese producers have continue to add capacity despite the EU MAPP directive and other fluorocarbon regulations coming into play. The result is a world market that's clearly oversupplied, and Chinese producers are motivated to stay in business by selling products at virtually any price into any market that will take it.

Arkema by contrast can't operate on this basis. We require an adequate return on sales in order to maintain our plant, to sustain our workforce, to continue to invest capital and to develop the next generation of refrigerants. Although we manage costs aggressively, the bottom line is as a result of Chinese dumping of 134a, our return on investment in this business does not meet the expectations of our shareholders or the benchmark set by other business units within Arkema.

For these reasons, Arkema and the American HFC Coalition asks the Commission to make an affirmative determination. Our industry has been materially injured by dumped imports from China. We need your help to maintain an innovative, highly competitive industry and maintain both jobs and production here in the United States of America. Thank you for your attention.

MR. CANNON: Thank you, Rich. Next we will hear from Antonio Carillo.

STATEMENT OF ANTONIO CARILLO RULE

MR. CARILLO RULE: Good morning, members of the Commission. For the record my name is Antonio Carillo Rule and I'm the Chief Executive Officer of Mexichem, the parent company of Mexichem Fluor. I'm a Mexican citizen living in Mexico and running one of Mexico's largest companies, but I have deep ties to the United States. I have an MBA from the Wharton School of the University of Pennsylvania and I'm still on the board of that great institution.

I have lived on and off for close to ten years in this country and when my twin boys were born, the first document I got from the hospital said "congratulations on your new Texans". I also have the honor of serving on the board of a great Texas Institution, Dr. Pepper. So even though I am a Mexican I feel at home doing business in the U.S.

I have deep admiration for this country, its culture, its citizens and its institutions. Prior to taking my position I was Senior Vice President of Trinity Industries in Dallas, Texas. During that time, I have responsibility over Trinity's wind tower division. So I have firsthand experience with the effect of unfair trade on U.S. Industry.

Mexichem is just completing a 1.5 billion dollar investment in an ethane cracker joint venture with Oxichem in Ingleside, Texas. This plan will turn U.S. Methane coming from shale gas into ethylene. The ethylene will be turned into a chemical called VCM by Oxichem and then exported to Mexichem's plants in Latin America to produce PVC. The Ingleside plant created hundreds of jobs and more than 200 permanent jobs in that region.

At the same time, Mexichem is building a Greenfield facility in Tennessee and expanding capacity in Utah, Texas and Nevada for the production of specialized piping to be used in fiber optics. Mexichem is committed to growing its business in the United States and continuing to create good paying jobs for workers in this country.

Today, our revenues in the U.S. account for approximately 20 percent of our total sales while sales in Mexico are only 4 percent. Even though we are a company headquartered in Mexico, our growth strategy is based on expanding our business in the U.S. as well as other regions of the world. Mexichem's strategy has been developed around three pillars: being responsible to the environment, providing positive social impact in the communities where we are present and delivering economic value to our shareholders.

Today, Mexichem is part of the Mexican Stock Exchange Sustainable Index and was named to the International FTSE4Good sustainable index for developing countries. Mexichem bought the refrigerant gas business from INEOS in 2010 and renamed it Mexichem Fluor. I am accompanied today by John Pacillo Mexichem Fluor's

Operations Director and Peter Josephs, Mexichem Fluor's Commercial Director.

We operate a plant in San Gabriel Louisiana producing R-134a a safe, nontoxic, non-flammable, and zero ozone depleting refrigerant gas. This is the only product made at this facility. From inception, the plant and all the equipment at the plant was and has been for the past 25 years dedicated to the production of R-134a. We do not and cannot produce other refrigerants at the plant and we cannot retrofit the plant to produce the new generation of refrigerant gases.

Our process requires major periodic investments to keep the plant operating under the highest safety and efficiency standards. During this maintenance period we provide over 400 high-skilled, well-paying jobs to the local community in addition to the full-time jobs at the plant. We are extremely proud of our safety record. We have not had one time accident at the plant since its startup in 1992.

Mexichem operates the single largest fluorspar mine in the world in San Luis Potosi, Mexico. Fluorspar is the main raw material needed to produce hydrofloric acid or HF which is the main ingredient in R-134a. We produce HF in Mexico and transfer it to our own U.S. facility at market prices based on transfer prices started performed annually by Deloitte in accordance with International Tax Authority Regulations.

As the Department of Commerce has found, China has had no market economy under mining sector including fluorspar mines are dominated by government ownership. During 2015 and 2016, the operating profit of Mexichem's R-134a operations fell significantly directly as a result of pricing pressures caused by dumped imports from China. AS I mentioned before, producing R-134a requires significant periodic investments to keep the plant in safe operating conditions at high efficiency ratios.

While raw material costs fluctuate, all other costs such as labor, healthcare, maintenance continue to increase. Mexichem is committed to the refrigerant industry. It is our intention to invest in capacity for the new generation on refrigerant gasses assuming we can come to agreements on intellectual property with other players in the industry.

These investments would be major, creating hundreds of temporary jobs and significantly increasing our permanent jobs. However, as you know, China has a track record of overbuilding capacity and then dumping products around the world. Therefore, to keep investing in the current facility and to consider new investments in the industry, our board requires to know that he U.S. Government will stop injurious Chinese dumping of refrigerant gases.

On behalf of the 78 full time employees at Mexichem Fluor in Saint Gabriel, Louisiana and the hundreds of additional jobs dependent on our plant at that location, I ask you to prevent unfairly traded imports from China from destroying our business and that you allow us to do what we do best which is to produce R-134a in a safe, efficient and environmentally compliant manner. Thank you.

MR. CANNON: Thank you, Antonio. Next we will hear from Magen Buterbaugh.

STATEMENT OF MAGEN L. BUTERBAUGH

MS. BUTERBAUGH: Good morning. I'm Magan Buterbaugh, the Global Business Director for Fluorochemicals and also the North America General Manager for Chemours. I've been with Chemours and its predecessor DuPont for over 16 years. Chemours was created in 2015 as a spinoff from DuPont. Our refrigerants business therefore has a long history. We have an 85 year legacy in the refrigerant business starting with DePont's invention of CFCs or chlorofluorocarbons in the 1930's under the trade name Freon.

We have been producing refrigerants since the 1930's and we have the largest R-134a capacity in North America. We then developed R-134a in the 1970's and we are now at the forefront of the development and sale of the next generation of refrigerants which will substantially reduce the global warming potential of refrigerant gases.

Following the presentations from Arkema and Mexichem, I would like to address a few issues from the perspective of Chemours. First, let me address our marketing strategy. At Chemours, we have always offered a branded packaged product for retail sale. Our product is sold under the Freon brand and formally sold under the Suva brand names.

In recent years Freon, a global, leading refrigerant brand essentially has little value in a marketplace when competing with dumped imports from China where price is really the key factor. Turning to market segments R-134a is used in several different applications, the largest application is automotive air conditioning.

Since 2004, every new car produced in the United States started using R-134a. There are two automotive market segments for R-134a. The smaller segment of the auto market is the OEM market. OEM auto manufacturers such as GM, Ford, Toyota, etc. purchase R-134a in bulk railcars or tank trucks for use in new cars. The largest share of the auto market and the largest market segment for R-134a is the automotive aftermarket.

To supply the automotive aftermarket, Chemours packages the majority of R-134a production in 30-pound cylinders that you can see there on the left or 12 ounce cans that carry our trade name Freon. We typically do not sell to large repackagers that purchase in bulk and then fill their own packages. So our brand of products compete head to head with the 30-pound cylinders or 12-ounce cans imported directly from China.

The 30-pound cylinders are sold to auto repair shops that perform maintenance on your car. The 12-ounce cans are sold to retailers that supply the do-it-yourself market. We sell packaged R-134a to supply both the service market and to retailers that supply the do-it-yourself market.

Other market segments include the stationary air conditioning market or chillers. These are air conditioning systems for large office buildings. A small part of this segment include sales to OEM manufacturers such as Johnson Controls but again the largest portion of this market is the stationary aftermarket. We sell Freon branded R-134a and 30-pound cylinders to distributors who in turn sell to contractors that service the chiller market.

Another significant market for R-134a is foam production where manufacturers for polyurethane foam or polystyrene foam, etc. purchase R-134a in bulk for use in their foam manufacturing. These end users include companies such as Dow or Owens Corning. We supply bulk rail cars or truck loads to customers in this segment.

In the 2014 investigation, my colleague Greg Rubin explained it was easier for imports from China to penetrate the automotive aftermarket for a couple of reasons. First, many distributors in the automotive and stationary aftermarket purchased packaged material on a spot basis meaning customers negotiate price on an order by order basis at their discretion. These importers such as Sinochem Nigbo and BMP offered low prices on price lists widely circulated throughout the market.

Second, there is a logistics cost advantage to importing packaged material versus bulk. However, since 2013 Chinese Imports have moved into all market segments. For example, importers like BMP have now also made major inroads into the stationary aftermarket due to their low prices. Even our OEM customers that purchase on a contract basis will site competing Chinese price quotes when we are negotiating contracts.

In summary, the various channels of distribution and the types of packaging may be complicated but the outcome is not. Imports from China are undercutting our prices and capturing sales volume in every part of the market.

Before I conclude, I'd like to address one issue that arose in 2014. Chemours performs scheduled maintenance and inspections every two years at our Corpus Christi R-134a facility. We refer to this as a scheduled turnaround. It is a planned event where we shut down our plant for several weeks in order to perform planned maintenance, any necessary repairs and equipment inspections. This is essential to ensure that our plants operate safely and are environmentally compliant.

Before the shutdown, we will run the plant full capacity to build inventory levels ahead of the scheduled turnaround. In November of 2014 at about the same time the first antidumping case was terminated, we had a scheduled turnaround. After performing equipment inspections, we found an equipment issue that had to be repaired in order to safely restart our plant.

As a result we extended the turnaround in order to make those necessary repairs. Because we had built significant inventory levels in advance of the planned shutdown, we continue to supply our customers from our own inventory and we make contingency plans to purchase R-134a from other Domestic Producers to supplement our own inventory levels which later was required.

We had no issue obtaining the necessary volume to supplement our own inventory levels from the Domestic Producers in the middle of the peak season. We met all of our contractual obligations. We continued to participate in the spot market where we could earn a reasonable return. We fulfilled all of our customer orders. Throughout the period, we continued to run our production lines filling 30-ounce disposable cylinders and 12-ounce cans.

Because other Domestic Producers have plenty of capacity, this event did not have any impact on product availability in the market. In fact, the Chinese were undercutting our price throughout the entire period and continued to do so in 2015. Therefore, this bears no resemblance to the 2010/2011 global supply situation in the prior investigation.

At Chemours, we are committed to producing R-134a in the United States and to continue to supply R-134a to all segments of the market if we can return to acceptable profitability levels. We just invested millions to repair and upgrade our plant, however the bottomless supply of low price Chinese Imports threatens to destroy our business. When the Chinese Imports increased in 2015, prices fell across the market and in 2016 the situation became even worse. Chemours suffered substantial losses in 2015 and in 2016.

We cannot hope to earn an adequate return on our investment and return to profitable operations if the unfairly traded Chinese Imports continue to capture market share and drive market prices downward. Chemours therefore joins Arkema, Mexichem and the entire HFC coalition and together we ask the Commission to provide relief from the dumped imports of R-134a from China. Thank you.

MR. CANNON: Thank you, Magen. Next we will have testimony from Glenn Haun.

STATEMENT OF GLENN HAUN

MR. HAUN: Good morning, Members of the Commission. I'm Glenn Haun, Director of Fluorochemical sales for Arkema Incorporated. I'm the senior manager of Arkema's sales force in North and South America and I have been in the HVAC and fluorochemicals business since 1984.

Let me first address the conditions of competition in the U.S. Market. Most importantly R-134a is a chemical commodity and interchangeable regardless of the source. For example, when we well to OEM customers or to major repackers and distributors we will ship R-134a in a tanker truck or by rail. The bulk containers do not distinguish Arkema's product from our competitors. All R-134a meets standard global specifications as stated on the packaging.

Even when we sell to distributors for the automotive replacement market, the product is typically packaged in a 30-pound cylinder as you can see from the example that we have provided on the table in front of you. To distinguish R-134a from other refrigerants, the cylinders are painted light blue. We have taken that cylinder out of the box so you can see the color of it.

In my experience, customers are looking for a light blue cylinder and not a brand name. As a result, we compete with Chinese R-134a on the basis of price. Whether they are buying on the spot market or on a contract basis our customers insist on the lowest price. We encounter Chinese Imports in every single R-134a channel.

Competition with Chinese Imports is particularly fierce in the automotive aftermarket. For many years this market segment was one of the largest segments served by Arkema. Our producer questionnaire response shows that the automotive aftermarket was our top market segment in terms of sales as recently as 2014. However, after the Commission's negative vote on November 11, 2014, customers immediately called us and emailed us cancelling delivery orders for all of 2015.

Chinese Imports then surged into the automotive aftermarket. Prices very quickly felt to low levels that we cannot match. Our 2015 sales to the automotive aftermarket were only a fraction of our sales in 2014. In response, we fought to recover sales volume in the automotive aftermarket in 2016. Versus competition in China we were forced to cut prices in order to regain any market share.

Our questionnaire response demonstrates that we cut prices sharply in order to compete with imports from China and regain our position in the automotive aftermarket. My declaration included in our prehearing brief shows that we were forced to cut prices at major distributor accounts in order to recover the sales volume in 2016.

Even though we continued to reduce prices substantially throughout the Period of Investigation, we were unable to match the low prices offered for Chinese Imports. For example, we partnered with two of our distributors who were invited to bid in a reverse auction in 2016. I have also included details of this in my declaration. Although we quoted very low prices in order to secure more sales volume, Chinese Imports captured the business.

Chinese Imports also compete unfairly for sales to OEMs. We identified lost sales to a major air conditioning manufacturer in the preliminary phase of this investigation. We also identified lost sales to major manufacturers of foam products. When we call on these accounts to negotiate contracts or spot purchases the customers are always aware of the low prices offered by Chinese Imports. Our longstanding customers force us to match those unfair prices or lose the business.

In my prior testimony to the Commission I identified MBP International as well as Jack McAdams and

Southcorp. All of these importers send email blasts on a weekly and monthly basis. We have included examples in the public hearing exhibits. On these price lists you will see the price for a 30-pound cylinder and if I could get Ricky to go to the Jack McAdams slide, if you all look at that slide that price for example on the slide may show a 58 dollar per cylinder price, if you divide that by 30 pounds that price converts to a 1.93/pound in the cylinder delivered to a customer.

These are list prices and they undersell our bulk prices. As shown by these exhibits, BMP and other importers offer R-134a to automotive and HVAC customers at the identical low price. Because these low prices are circulated throughout the market, the Chinese prices set the market. It is difficult to find any customers that are not aware of these Chinese prices.

At many of our OEM accounts and our largest distributor accounts, we negotiate annual or long-term contracts. Typically our long-term contracts will specify the price and quantity to be supplied. However in almost every case, we have an immediate release clause. We therefore must renegotiate even out contract sales in order to match the low prices offered by Chinese Imports. We cannot escape the downward pressure on prices that is the result of increasing unfairly traded imports.

The loss of sales in the automotive aftermarket in particular was a major blow to our business. In 2016, imports continued to increase, market prices continued to fall and our performance is not sustainable. For these reasons, we ask the Commission on behalf of our employees to make an affirmative determination. Thank you.

MR. CANNON: Thank you, Glenn. Next we will hear from Pete Geosits.

STATEMENT OF PETER GEOSITS

MR. GEOSITS: Good morning, Vice Chairman and members of the Commission. My name is Peter Geosits and I'm the Americas Commercial Director for Mexichem Fluor, Inc. I've been in the chemical industry for 30 years and I have 20 years of experience in the refrigerants business.

I would like to go into greater detail than Magen regarding the various segments for R-134a. The largest use for R-134a is of the refrigerant and vehicle air conditioning systems. Approximately 95 percent of motor vehicles in the replacement market at this time operate with R-134a as a refrigerant. The vehicle market is composed of sales to OEM producers who generally have yearly or multi-year contracts and who receive the product in bulk tank trucks or on a just in time delivery basis.

We sell to all the big three. OEM buyers for the major auto companies are among the most knowledgeable purchasers in American Industry. They have used spot prices from the aftermarket when negotiating their OEM contract. They also buy from manufacturers foreign or domestic to resell for a replacement market to their dealerships. As a result of the U. S. Automotive fleet size, aftermarket sales of R-134a for vehicle air condition are approximately three times the size of the OEM market.

Sales in the aftermarket can typically be the distributors who will purchase R-134a in bulk in tank trucks or tank cars. The distributors then repackage the gas into 30-pound cylinders or 12-ounce containers for resale to auto dealerships, service centers, service stations or to large auto parts chains and big box retailers. Competition with the Chinese is severe in the aftermarket, which is the largest market sector for R-134a.

Sales for the aftermarket are generally done on a spot basis although some large customers may secure longer price guarantees for a specified volume of purchases. Another segment of the market for R-134a is in stationary or commercial air conditioning. These are typically large units that will provide cooling for office buildings, stores or airports. Sales are made to large OEMs who produce and fill the units. There are also sales through distribution to the HVAC maintenance companies that service refrigerant gases in these building units.

There is an overlap in distributors who would sell R-134a to both the vehicle aftermarket and the HVAC aftermarket. The largest national distributors for the aftermarket are now making significant direct purchases of R-134a from Chinese suppliers such as Sinochem in both bulk and 30-pound cylinders and our sales have suffered as a result.

As the head of our marketing efforts for the Americas, I supervise our team of four salespeople. Let me now focus on what has changed since your negative determination three years ago. Through below-market pricing, the Chinese are quickly increasing their share of the market and I have to fight back on price. Let me be as clear as I possibly can. Chinese exporters undercut my prices and caused prices for R-134a to fall rapidly in 2015 and early 2016.

The imposition of preliminary antidumping duties definitely helped pricing in the market. After your last final negative determination was made, distributors demanded rebates or threatened they would take their business elsewhere. Those rebates cost us several million dollars. I cannot think of any clearer proof of causation of injury than the direct impact on our prices of unfair Chinese prices in the market.

Put another way, our experience through 5 years and two different dumping cases is that the only factor influencing the prices of R-134a in the U.S. Market is the availability or lack of availability of dumped Chinese R-134a in the market. Any distributor or retailer making any other claim on prices is giving you a self-serving story, not grounded in facts. In fact, some customers have begun to use reverse auctions in order to obtain the lowest prices for R-134a.

For example, confidential exhibit 2 to our testimony includes a screen shot from a live auction that was held by a major purchaser. This auction took place in 2015 and we bid to supply bulk and packaged R-134a. After the auction we were informed that our prices did not make the top 5 and that the winning bid was submitted by Chinese Producers.

Exports represent a significant portion of our sales from our St. Gabriel Louisiana plant. There are no R-134a plants in North or South America outside of the U.S. Therefore these markets have long been served by plants located in the United States or Europe. However as you can see from our questionnaire, the Chinese are destroying our export markets as well.

Without the duties against subsidized and dumped imports, I do not foresee Mexichem Fluor to be able to remain in the R-134a business and as Antonio has told you, we will not be able to build a new plant to serve the next generation of refrigerant gases. Therefore, on behalf of our company and our valued employees, I ask that you make an affirmative determination so that duties can be imposed. Thank you.

MR. CANNON: Thank you, Pete. Jim Bachman will present next.

STATEMENT OF JAMES BACHMAN

MR. BACHMAN: Good morning. My name is Jim Bachman and I'm the North American Commercial Director for the Chemours Company.

I've been in this industry for more than two decades. Over my many years in the industry, I've never seen prices as low as the prices offered on Chinese imports of 134a. If you turn to the public exhibits, we've prepared a chart showing the decline in market prices for 134a since 2013.

On the chart we have plotted our average prices and referenced attempts that we've made over the period to increase prices. The top line on the chart is the average price for a 12-ounce can of 134a, and the bottom line represents the price for a 30-pound cylinder of 134a, and you can see they track each other pretty well.

Again, these are prices that we obtained in the automotive aftermarket. After the first antidumping duty petition was filed in October of 2013, we announced a price increase of 50 cents per pound. By this point, our business was losing money and substantial cost-cutting measures were underway.

As you can see from the exhibit, the majority of our customers refused to buy at the higher prices, and our average prices did not increase. Then again in March of 2014, we announced a price increase of 30 cents per pound.

This time, only because preliminary duties were applied by the Department of Commerce in April did we experience an uplift in pricing. Subsequently, when the first investigation was terminated in November of 2014, price levels fell almost immediately.

In the automotive aftermarket prices fell to even lower levels than we had experienced before the antidumping duty case was filed.

After the Coalition filed a new case in March of 2016, we again attempted to raise prices. In April of 2016, we announced a price increase of 50 cents per pound. As before, this increase was unsuccessful. In fact, it was not until November 2016, again after preliminary duty rates had been applied, that we were actually able to move our price up in the spot aftermarket.

As I said, this public slide shows our pricing history in the automotive aftermarket. Our experience in the stationary aftermarket has been very similar. However, in the OEM market segments, automotive foam and stationary, we typically sell on a contract basis.

Consequently, prices in these segments did not increase in 2014 when duties were imposed. By the time we had renegotiated our contracts, the AD case had been terminated and we were unable to raise prices. In fact, in these segments we have failed to obtain a price increase during the entire Period of Investigation.

Apart from the duties and the brief but positive effect on our prices in the aftermarket segments, we have seen our sales steadily decline over the entire Period of Investigation. If you'll turn to confidential exhibit 3, this is an email correspondence between Chemours and a major customer in the summer of 2015.

As you can see, this customer holds a reverse auction for 134a every year. After Chemours spun off from DuPont, we asked to participate in the reverse auction. You can see that at the bottom of page 2. We indicate there in the next-to-the-last paragraph, "Chemours will participate in the" blank "auction next week." So willingness to participate in the auction.

Although the customer acknowledged that DuPont had participated in past auctions--in the next paragraph you'll see, "you participated last year under DuPont"--the email goes on to say that we were not awarded the business because our price was too high. And you'll see that on the top of page 3 there in the first paragraph.

This response is characteristic and deeply disheartening. Even our best long-term customers tell me that they cannot resist the low prices offered on imports from China.

Now if you'll turn to confidential exhibit 4, it contains a correspondence between BMP, one of the largest importers of Chinese 134a, and a large retailer in the automotive aftermarket. The relevant portions of the email are circled. This email chain discusses 6-1/2 million pounds of Chinese product that BMP is carrying in inventory into the 2017 season, and you can see that on the last page of the circled item on the last page. It talks about 180,000 30-pound cylinders, a bunch of iso tanks, and quite a few cans.

The email underscores BMP's commitment to sell at 10 to 15 percent below other suppliers' prices. You can see that there on page 1, circled. And on occasion at even lower prices in order to, in BMP's own words, get their customers hooked on our crack. And you can see that on page 2, circled.

This is what we face day in and day out in the marketplace. In my view, the evidence is unmistakable. We have lost business, reduced our workforce, and sold R-134a below the cost of production because we cannot escape the price levels established in the marketplace by dumped Chinese imports.

The fact that we were able to increase prices only after we filed the antidumping case and preliminary duties were applied demonstrates the link between our prices and the prices set by the Chinese 134a imports.

For our business to recover, and even to survive, we need continued relief from the effects of unfair trade. Thank you, very much.

MR. CANNON: Thank you, Jim. Next-who is next?-- Dean McCoy. Next we will hear from Dean McCoy.

STATEMENT OF DEAN MCCOY

MR. McCOY: Good morning. My name is Dean McCoy. I work in the Tank Car Loaders Group at Arkema's production facility in Calvert City, Kentucky. I am a member of the International Association of Machinists and Aerospace Workers, Local Lodge 1969, which represents workers in our plant.

I have served as Chief Steward, Maintenance Steward, and currently the Financial Secretary for Local 1969, and have worked at Arkema for nearly 26 years. I have also in the past led the Calvert City United Fund drive within the plant.

Given my various positions with the Union, hands-on work in the plant, and in the industry, and commitment to the community, I know that our jobs and the welfare of our community are at risk. I am proud that Local Lodge 1969 and our International Union are tireless fighters on behalf of U.S. workers, especially when it comes to issues of illegal dumping by China that threaten our livelihood and am pleased to appear before you today.

For the past nine years I have worked in the Loaders Group. This group loads all refrigerants and byproducts that leave the plant into rail cars or trailers. We take care of all the storage of all refrigerants at the plant, including R-134a, and monitor all the tanks that refrigerants are stored in prior to loading.

I have also worked in the R-134a unit. I was in the first maintenance group in the R-134a group which began operation in 1997. I spent four years in the maintenance group as a pipefitter/welder, and then spent seven years as an operator. The largest production unit we have in our plant is the R-134a.

Three operators work on every shift and are assigned the following duties: gas phase, liquid phase, and outside. They work 12-hour shifts with two of the four shifts working each day. We operate 24 hours a day, 365 days a year. It is highly skilled work, and it takes several years to become an experienced operator. Operators in the 134a are the highest paid jobs and the highest classification in the plant.

There's a 120-day training process to become an operator in the 134a unit. This includes classroom training, control room training, and outside duties' training.

Upon completing this training, there's a written test that must be passed, as well as a walk-around, outside hands-on test that also must be passed in order to qualify as an operator. Once qualified, operators work in the control room with the experienced operator in 12-hour shifts where they continue to learn about the process for the next several years.

Every three years, there is a re-certification process. Both written and performance tests must be taken and passed for an operator to remain certified as a 134a operator.

We have a good collective bargaining agreement with Arkema. The solid wages and benefits for the IAM as negotiated have been very good for Arkema, Calvert City, and the surrounding area. These wages and benefits are critical for the health of our local economy where there are only a few big employers remaining.

We are in a very rural area located about 25 miles from Paducah, Kentucky, and have employees who commute 50 to 60 miles to work each day. We have lost industries, including a tire plant, a compressor plant, and recently a steel mill, that have either shut down or moved.

Our region can't afford to lose any more jobs. There are simply too few jobs in the area, let alone the ones that pay decent wages and benefits that have been negotiated in our collective bargaining agreement.

The illegal dumping activity by China not only hurts workers at Arkema, but Calvert City in general. It affects our vendors, suppliers, and other small businesses in the area. It also has an impact on the national economy as cargo services, namely railroads and trucking companies, lose business because of the unfair competition from China.

I have raised two girls, sent them both to college, because of my job at Arkema, and now I have a grandchild. Many of my fellow workers also have sent family members, their kids, to college because of the decent standard of living. We want our children and grandchildren to have these same opportunities.

We are asking you to take all actions to prevent unfair competition from China which threatens our jobs, our community, and our national economy.

Thank you for your time.

MR. CANNON: Thank you, Dean. May I ask how much time we have?

MR. BISHOP: You have nine minutes remaining.

MR. CANNON: So very quickly, before we conclude, I would like to go through the remaining public exhibits. So if we'll switch to the next exhibit, here you see the market share change over the course of this case.

The trend is obvious. So the tall bar is the domestic industry. The domestic industry since 2014 has steadily declined in market penetration. It's in the 2016, nine months less than 70 percent of the market. The red bar growing is the Chinese import penetration, and the blue are all nonsubject.

So this really is a market in which there are essentially two choices here: Chinese imports and domestic supply. Although there are producers outside of the United States, prices here are so low it is not attractive for them to ship to the United States.

Next? This shows the trend in domestic shipments over the period. And so in the last case, your Period ended in 2013. Briefly in 2014, while duties were in place, domestic sales revenues increased slightly, but domestic sales revenues have steadily declined. This is shown by the bars. So the green bars show on the left-hand scale domestic sales revenues have steadily declined. And these are commercial shipments.

The line appearing above is the average unit value. This is the average unit value representing the price. So prices have declined, and revenues have declined. Let's move to the next one.

This is the impact on profits. You see the green bar is the operating income, and the blue is the net income. As soon as even 2014, operating income is--straining my eyes--it's dropped to a single-digit level. And when you look at net income, net income is negative even in 2014. And then in 2015 and 2016, both operating income and net income are substantially in the negative, approaching negative six percent on net income before tax.

This again is entirely different than what you saw in the first case. The next slide shows, pertinent to the threat argument, the size of China's capacity relative to the U.S. market. The U.S. market is the largest market for 134a. China has multiple times more capacity than is necessary to supply the U.S. market. The ratio is 220,000 metric tons in China versus the U.S. market size of about 80,000 short tons.

The next slide has some quotes from the China Fluoride Materials Monthly Report published in China. The December 2016 report. So this is three months after the duties are in place. This is current, in fact. And you see in China press they are talking about manufacture strategies to limit production, a move intended to ease over-capacity, and to support price increases.

The average operating rate in China was 50 percent in January to March, 45 percent in April to June--which is usually the peak period--and 40 percent in July-September, and 45 percent in October-November.

So despite the handful of Chinese producers who have given you their data and who claim to be operating at full capacity, the industry as a whole in China is obviously operating well below full capacity.

The last chart shows the trend in imports on a quarterly basis. This chart is telling. You see that before the first case, before duties were imposed in 2014 in the second quarter, there was a huge buildup in imports in the first quarter of 2014.

This is the key part of the year. You recall this is a seasonal business. Refrigerants are sold, especially in the auto market, in the summer. And so imports had already built up a huge inventory in 2014. Therefore, even with duties in place, the impact was very limited.

Then moving forward into 2015, you see the imports surging back into the market, particularly in the second quarter, in time for the summer season selling refrigerants.

And in 2016, the first quarter they reached an all-time high, triggering us to file a new case. In 2016, the second quarter imports continue to rise. So this is the basis for asking the Commission to find critical circumstances.

We asked for critical circumstances in the first case based on the huge buildup in inventory in Q-1, 2014. By the time we moved to 2016, imports are now 30 percent of the market. And you heard the quote and saw the email that Glen quoted with reference to "crack." That email is dated November 2016, and refers to something like 9 million pounds in inventory, and they're still offering at these low prices months after the duties have gone in place because they built such a huge inventory in the United States.

That is a basis for an affirmative decision regarding critical circumstances. So there I'll stop and we welcome your questions. Thank you.

VICE CHAIRMAN JOHANSON: Alright, we will now begin with questions. We will begin with Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you, Mr. Vice Chairman.

The--I guess this is probably one of the first cases that I voted on when I got to the Commission, and you guys are back pretty promptly, and I was just trying to get a sense on--and I know you're going through that a little bit there, but just on what your thinking was. We came to the negative in December of 2014, and then we were in this appeals process with the Court of International Trade. And you decided to refile before that process was concluded.

How did you come to that decision?

MR. CANNON: So I'll invite the industry folks to answer that, but I will observe that the first case was filed by Mexichem. Arkema, for example, did not participate. Chemours appeared and supported Mexichem's case. But the Coalition, which is now the entire industry, I think felt that the industry conditions had deteriorated so quickly that it was important to refile.

MR. HAUN: This is Glenn Haun with Arkema. I'll be glad to address that question. Arkema was not part of the first case. We, you know, certainly have been in the heart of the problem, you know, since then, and even before then. And based on, you know, my testimony, as I said, you know, we've seen prices that are well below what we can afford to sell at in all market segments now.

So certainly we cannot afford to sell at the prices that are being quoted by the Chinese in all product--in all market segments, not just the automotive.

We have had, as the confidential business information will show you, we have had unused capacity during the entire Period of Investigation. So we are very anxious, you know, to regain a position in the market that allows us to make the money. And the confidential business information that we provided will also show you the challenges we face as a manufacturer in this market, and the fact that we're not in a position to be able to sell at the prices that are rampant throughout the industry based on what China is doing through multiple outlets now in the U.S., not just in the automotive aftermarket.

COMMISSIONER BROADBENT: Mr. Haun, what was your thinking about not participating in the first petition?

MR. ROWE: Commissioner, I think the--it was, frankly speaking, a new process for Arkema. We're a relatively young company. We just passed our 10-year anniversary, and at that point in time I think it was--we weren't as familiar with the process, to be very frank and open.

COMMISSIONER BROADBENT: That's fine.

MR. CARILLO: This is Antonio Carillo with Mexichem. So I have participated in my previous experience in similar case against wind towers from China. So I have some experience in this issue. And as Mexichem we produce the same chemical in Japan. And the reason we started this case a few years ago was because we had seen our markets not only in the U.S. but outside of the U.S. being eroded.

In Japan our plants were operating at 40 percent capacity. This had been eaten basically by the Chinese industry. And all over Asia, also in Latin America. So when we started seeing this price, I joined Mexichem in 2012 and I have seen the decline in margins coming substantially. So that's my experience in seeing what's happened to our markets in different parts of the world and I decided to go ahead and file a petition a few years ago. So that's the reason we went ahead, because I have some experience and we have seen this trend not only in the U.S. but outside of the U.S. in a very significant way.

MS. BUTERBAUGH: This is Magen Buterbaugh from Chemours. If I could just add, I think for us it's pretty clear why we're here. We are trying very hard to preserve the U.S. domestic industry in 134a.

I think we all testified as business leaders that we are essentially at the point where we cannot continue to operate at these profitability levels. So time is of the essence. We did participate in the first case as a supporter to Mexichem when they filed, and we certainly were leading the effort to refile as soon as possible.

I think the evidence that Jim just showed in some of the charts are pretty clear. The imports didn't stop. As a matter of fact, they came flooding back into the market at record levels in 2015 and '16.

We have seen absolutely no price relief whatsoever. As a matter of fact, the chart shows that all of us, our collective pricing is declining in the period. And we can't compete. So I think we are here at a point where we have to have relief from the dumped imports if we want to continue to have a domestic industry.

MR. BACHMAN: And this is Jim Bachman. If I could just add to that, one other claim that the Respondents made in the first case was that the capacity in China was built to supply the growing China market, and they had no objective to grow their presence in the U.S. market or export markets, that it was primarily designed for China.

You can see from the evidence in this case that that is not true. By the fact that they're growing their exports into the U.S. market every year, you can see the threat that's happening here. That capacity was not designed just to supply the China or the Asia market. They have designs on continuing to do what they have done, and the evidence is very clear in this case.

MR. GEOSITS: This is Peter Geosits from Mexichem. Just to clarify, this industry can compete, but we want an opportunity to compete fairly. We don't want to compete against unfairly traded goods in this country, and that is just a point I wanted to clarify.

COMMISSIONER BROADBENT: What is the difference in the overall U.S. policy towards this chemical versus the overall Chinese Government policy towards this chemical? I understand that our EPA is trying to phase it out. Have the Chinese signed onto the Conventions that the United States has signed onto? And are they implementing?

MR. CANNON: Matt, do you want to take that?

MR. RITTER: Sure. Matt Ritter with Arkema. There is currently no domestic regulation for the use of 134a in China. There is a global international regulation that's coming into place, but it is not in force and will not be in force for about 10 to 15 years in the developing countries.

The United States has two programs, one through what's called the CAF program, the Corporate Average Fuel Economy, and then through the EPA SNAP program, which regulate the material.

COMMISSIONER BROADBENT: Okay, and what are the goals under those programs as they currently stand in terms of phase-out?

MR. RITTER: Matt Ritter speaking. The EPA SNAP program is very clear. It's a ban on the materials, and EPA has set a ban on the use of 134a in new vehicles for model year, beginning model year 2021.

The Corporate Average Fuel Economy, or CAF program, is a program that's managed by EPA and the National

Highway Transportation Association. The goal of the program is to increase the fuel economy on vehicles and as part of that goal, they are allowed to use certain options for incentives.

One of those incentives is to replace the refrigerant in the vehicle with--replace 134a with a lower GWP, Global Warming Potential, chemical. And they gain certain incentives that can be applied toward their miles-per-gallon.

So for instance if they want to build a larger vehicle that does not meet the compliance targets set by the rule, they can use these incentives to reach that target.

COMMISSIONER BROADBENT: Okay. So but we're all agreed that this industry is being slammed by all sorts of domestic regulations, and suffering a huge decline in demand?

MR. RITTER: Matt Ritter speaking again. For new vehicles, that is correct. And they have set targets, the EPA has set targets for model year 2021.

The CAFE rule has a very limited effect on the demand for new vehicles because it's a voluntary program for these incentives. And under that program, there are many different options to gain those incentives, not just through the changing of the refrigerant. You can, for instance, light-weight the vehicle through start-step technology.

They are all options that can be used to gain those incentives.

And I would add that the aftermarket is not affected by any of these rules. So cars remain on the road for a long period of time. The EPA, or Department of Transportation estimates that this is beyond 10 years, and that market can completely be served by cars containing 134a if they were originally built with that molecule in the vehicle.

COMMISSIONER BROADBENT: Okay. Thank you.

Mr. Vice Chairman, I think the clock is a little goofy, but I'll yield now. Thank you.

VICE CHAIRMAN JOHANSON: Alright. The next Commissioner up is Commissioner Kieff.

COMMISSIONER KIEFF: I join my colleagues in thanking you all for coming and presenting, and I think it's really a great opportunity, this case, for the Commission to show itself to be flexible in taking in new information.

So I, having voted negative, remain completely open in the new case to new ideas, and especially to the kind of targeted arguing and explaining you've been giving so far that is very helpful to me. It explains what's different about this case from the last one, and I just want to encourage you to also tell us if we've--at least tell me, but I think all of us--if we got something wrong. It's a feature, not a flaw, of our system for you to be able to tell us that we got something wrong.

So it's in the spirit of that that I want to try to dive into a couple of questions. So the first one is, as I understand one of the threads in our last opinion was kind of how the aftermarket and the auto market were behaving. And I just want to ask you, if you could, to highlight, have there been any changes in either the auto market or the aftermarket since our last decision that you think weigh especially heavily towards an affirmative in this case?

MS. BUTERBAUGH: This is Magen Buterbaugh with Chemours. I'll start. I think what you're referring to is the Automotive OEM segment versus the aftermarket segment as one example, but there are other markets I would like to address as well.

COMMISSIONER KIEFF: Great.

MS. BUTERBAUGH: I think --- and maybe you missed some of the direct testimony--we testified specifically to the fact that what's different is that in the first investigation we found the Chinese imports primarily targeting the automotive aftermarket, for a few reasons, which I went over.

In this investigation, as I testified earlier, what's very clear is they are present in every single market segment in the U.S. for 134a. We find them in the OEM direct. We find them in the aftermarket for automotive. We find them in stationary. And one of the key points I made earlier is that for example BMP has made significant inroads into the stationary aftermarket due to their low prices. So I think that's a key differentiator from what we saw the first time to what we're seeing today.

It's really in every segment. And I think the undercutting of our price is very clear in those segments, as well. So we see them in both aftermarket and in OEM across the various segments.

COMMISSIONER KIEFF: And what is your kind of take on the Respondent's view that the fluctuations in volume and the fluctuations in price don't match up that well, and that in their view therefore the price --- there's not a price effect in this case?

MS. BUTERBAUGH: Magen Buterbaugh with Chemours again. Obviously I respectfully disagree with that statement. Mr. Bachman testified earlier and showed on the chart just one example of the 134a sold in the automotive aftermarket. And it was very clear that there was no price uplift during the entire Period of Investigation, with the exception of when preliminary duties went into effect. And coincidentally, as soon as the case went negative, the price plummeted again to even further lower levels than in the prior investigation.

So I think we consistently see prices being--
declining throughout the time period. They're declining in
all the market segments, and I think that shows very clearly
what is happening, from my standpoint.

MR. BACHMAN: And if I could just add to that--
this is Jim Bachman with Chemours. There's also a timing
question here. Oftentimes the imports start coming in
oftentimes in the fourth quarter, December, January,
February. Those products get sold over the next four or
five months. So when you're looking at matching up the
timing to what's happening on price versus the import
records, you can get some issues with timing there as well.

COMMISSIONER KIEFF: And I'm sorry, Mr. Haun?

MR. HAUN: Yes, Commissioner Kieff, thank you for
recognizing that, and I also appreciate your comments in
flexibility and being open. I mean we're here because we
really need relief. We are, as I believe somebody said,
we're not looking to eliminate competition; we're just
looking to have everybody be fair and be on the same page.

`I can't speak for the entire industry, but I can
speak very closely for what Arkema has seen during the
period of investigation. And as I testified earlier, I'm
just going to repeat it, you know, we saw some benefit of
volume increases, and pricing increases in 2014 similar to
what Chemours did, only after the duties were put in place.

And as I testified earlier also, I mean by phone was ringing literally minutes after, you know, the decision came out negative in November 2014, and we had customers cancel orders on us cover the balance of 2014, and some covering all of 2015.

And in my prehearing brief, there's a declaration from me with documentation from customers on exactly how much volume that was, to the point where, you know, our 2015 sales to the automotive aftermarket literally were only a fraction of our sales in 2014. And that was one of our major market segments.

So we've really been, you know, hurt by the industry, hurt by the Chinese prices and all the imports that have been coming in.

COMMISSIONER KIEFF: Let me, if I could, shift to Mr. Cannon, although he may be ready to chime in anyway. Is it your sense that your disagreement with the afternoon panel is mainly over what actually is happening? Or the significance that flows from what is happening? In other words, is it a factual disagreement, or a legal disagreement? Or is it both?

MR. CANNON: I think we're fighting about the facts. And the record, I think, it's relatively clear that there's a big distinction between this case and the first case. And as a follow up to what they were saying, I was going to point to the staff report, III-X, is the page. At the bottom of that table, it shows you the pricing, the average and the values in each segment so you can see OEM and automotive after market and then stationary and stationary after market in form and other.

And what you see there is that throughout this period of time the lowest price market is the automotive after market. And they agree with us that Chinese are heavily in the automotive after market there. They're one of the pink slides. Exhibit 7 shows their market share in the different segments and so clearly they are large in that segment.

In the first case, factually, at least in 2011 and 2012, the automotive after market was the highest priced marked, in part, because of the global shortage of raw material. That global shortage has ended and the Chinese imports not only didn't recede, they have piled on. And in the specific market where they themselves say they are most concentrated the prices are the lowest. So I think it is -- I suppose I should say how do you interpret these facts?

COMMISSIONER KIEFF: Sorry, if I may, just please add one more sentence.

MR. CANNON: Well, we obviously interpret these facts to mean that unlike the first case in the segment in which there's the greatest amount of head-to-head competition, we are experiencing the lowest prices because it's a fungible commodity traded on the basis of price. It's unquestioned in the purchaser questionnaires and therefore our prices have been driven to the lowest level in exactly the market where the Chinese focus.

COMMISSIONER KIEFF: Thanks. I'm sorry. I didn't mean to cut you off like that.

MR. CARILLO RULE: I just wanted to make a conceptual comment. And I think the main disagreement with their argument is they believe if they only compete in after market the rest of the markets are completely irrelevant. And if you look at most industries, when you sell to an OEM, the OEM expects to get the best price in everything they buy and that's generally the case.

So when you come into this industry and you see that the after market is being sold at lower prices than the OEMs, of course, they demand the lowest price and that was not the case five years ago. Normally, your cost are higher to serve the after market than the OEMs because you're ship in larger bulk, et cetera. So it's impossible to have a conceptual understanding that the aftermarket is most times, is being cheaper than the OEMs and that's the way our customers, the OEMs, see it.

COMMISSIONER KIEFF: It makes sense. And then let me, as I wrap up the time here, encourage Mr. Cannon in the post-hearing to just include a segment of the brief that tries to take some of the factual components of your adversarial's case and explain to us why you win even if they're right on some of those facts. Because I think if I'm hearing you correctly they could be right on a number of their facts, but you'd still win.

MR. CANNON: Thank you.

COMMISSIONER KIEFF: Thanks.

VICE CHAIRMAN JOHANSON: Alright, I would like to thank all of you for appearing here today, especially Mr. Carillo. You came all the way from Mexico. We appreciate you being here to inform us further on the industry.

This is a very interesting product. I feel like I know it pretty well now since you all have been here before, although when I first moved to D.C. at age 23, my air conditioner broke in my car and I never got it fixed and I survived, but I can attest that it's a bit more pleasant to have an air-conditioned car than not.

I'm going to being with a question for Ms. Buterbaugh. You mentioned this morning the plant in Corpus Christi, Texas, which went out of operation for a period of time what happened to U.S. prices and U.S. imports during that the Chermours Corpus Christi plant was out of commission and how long was the plant out of operation.

MS. BUTERBAUGH: Thank you. Magen Buterbaugh with Chermours. The answer to your second question is several months and I'll be glad to detail that for you in a post-hearing brief. And the first question, I believe, was related to price during the period of our outage. Prices, again, as shown, the U.S. domestic industries were falling. I think this is a significant factor in that if there was such an alleged shortage prices would not decline.

VICE CHAIRMAN JOHANSON: What happened with imports during that period of time?

MS. BUTERBAUGH: They were increasing in 2015. During the original period of the outage, of course, the negative ruling had just happened, so imports surged back into the market later in 2015. So during the period of our outage, they were probably lower and I think Jim could probably comment, but they came surging back in the second quarter of 2015, is my recollection.

VICE CHAIRMAN JOHANSON: And again, this was an unplanned outage.

MS. BUTERBAUGH: No, that's incorrect.

VICE CHAIRMAN JOHANSON: But the length of time was unplanned, is that right?

MS. BUTERBAUGH: I'm sorry?

VICE CHAIRMAN JOHANSON: The length of time of the outage was unplanned.

MS. BUTERBAUGH: Correct. Magen Buterbaugh with

Chemours.

Just to be clear, it was a planned outage that we had built inventory for that was extended once we had uncovered an equipment issue that had to be repaired before we safely restarted, so it was an extended outage, but it was a planned outage.

VICE CHAIRMAN JOHANSON: This might be proprietary, but how long was the outage scheduled for?

MS. BUTERBAUGH: Magen Buterbaugh with Chermours.

I'll speak generally that our outages for the turnaround are scheduled for roughly 30 to 35 days or longer. In a post-hearing brief, I'll be glad to articulate how long this one was scheduled for. I'll have to go back and check.

VICE CHAIRMAN JOHANSON: Alright, thank you. And so even so the outage was longer than planned, it appears, you still had sufficient inventory to cover your market during that period of time?

MS. BETERBAUGH: Magen Buterbaugh with Chermours.

Correct. Two things occurred. First, we always build significant inventory in advance of a planned turnaround in the event that it is extended, so we plan accordingly to make sure we have reliable supply. So we did have our own inventory levels that we had through the period. And second, once we realized we would potentially be extending that outage, we approached domestic producers to supplement our inventory levels with domestic purchases, which we later required and we were able to get all of our needs from the domestic producers during the entire period of the outage.

VICE CHAIRMAN JOHANSON: Alright, thank you for your response.

How should the Commission interpret the decline in the cost of good sold/net sales ratio in the interim period comparison when imports were increasing?

MR. CANNON: Let me think how public can I be here?

VICE CHAIRMAN JOHANSON: I understand that. If you can't be very public, you can do it in the post-hearing.

MR. CANNON: Thanks.

VICE CHAIRMAN JOHANSON: I'll just leave it there.

The staff report notes on page 518 that -- this is a quote: "The general trend for most pricing products was flat due to declining prices in 2013, relatively large price increases in 2014, followed by price decreases in 2015 and then a slight price increase in 2016."

What can explain these trends?

MR. GEOSITS: Peter Geosits, Mexichen. I think those trends could be explained by the imposition of duties during those periods. In 2014, anti-dumping duties came into affect. And as you heard before, producers in the U.S. were able to raise prices.

As soon as the negative determination came out in November of 2014, prices crashed again and imports surged. I think the same phenomena took place in 2016 where we had anti-dumping duties imposed prices again went up and as a result we're still in that period waiting for a decision on our final determination.

VICE CHAIRMAN JOHANSON: Mr. Haun?

MR. HAUN: Yes, this is Glen Haun.

What I would like to add to that is I believe you know the major prices increases and decreases that you're seeing in that Chemours's detailed on their PowerPoint presentation is indicative of what happens in the automotive after market, but the challenge we have faced in the overall OEM business, which are the large customers who take tank trucks and railcars from us, you know we've seen not a gradual decrease, but a major decrease during the period of investigation with a number or if not all of our OEMs. And I'll be sure to include details of that in our post-hearing brief, so we'll share customers' OEM prices during each year of the POI.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Haun.

MS. NIKAKTHAR: And this is Ms. Nikakthar from Cassidy, Levy Kent back here. And I'm sorry. It took me a few minutes to pull up the data.

You had asked about the costs of goods sold and the net sales ratio. And again, I apologize. It took me a few minutes to sort of pull the data. You asked about the increase. We address it in our brief, but I did want to put out that some of the data -- and I'm trying to be very careful with proprietary information. Some of the data needs to be understood in the context of Chemours shutdown and how that impacts the information, but in Exhibit 11 in our brief we actually removed the affect of the financial performance of the Chemours shutdown and the data we presented shows still on an industry-wide basis significant declines in revenues and operating profits and the financial performance of the industry.

VICE CHAIRMAN JOHANSON: Thank you, Ms. Nikkakhtar. I'll take a special look at that later. Thank you for raising that issue.

On page 26 of the Respondent's brief, they state that the automotive after market is the only end use application market segment in which there is competitive overlap of any real consequence. I think you all have stated you disagree with that. Could you explain that a bit further because their statements seems quite conclusive and yours seems quite conclusive, so I'm kind of wondering what is going on here.

MR. BACHMAN: If I could please. This is Jim Bachman with Chemours.

The price sheets that are sent out by China competitors, such as BMP, are distributed very, very broadly in the industry. Those same price sheets go to folks in the automotive after market and importantly, in the stationary after market as well, so clearly a crossover between the two after market segment.

And I will tell you, and we put it into our loss sales/loss revenue data, there are numerous instances where we have lost business or had to reduce our price in other segments, stationary OEM segments, in the foam segment because the Chinese are offering prices well below domestic manufacturers prices, so this is not a strictly mobile or auto after market phenomenon.

MR. GEOSITS: Peter Geosits, Mexichen. We concur with Mr. Bachman.

Underselling is not just in the auto after market. We see it in all segments. And as Mr. Bachman points out, prices are transparent to customers in all segments. These things go out to everyone, so everyone's aware of those prices and we see the affect in all segments.

MR. CANNON: So we have an exhibit, which summarizes the confidential data. It's Exhibit 7 in the pink sheets. And what we've done here is taken this from Table E-1, which in the staff report is in Appendix E, and we sort of put multiple tables together so that you can see the actual trends.

So we had the first case, which, of course, was in 2011 and '12. And at that point, the Chinese are concentrated in the auto after market. And so you see in 2013 see how large their market share is in the automotive after market and it continues to grow, but you see in the other markets is where they spread, right?

So having captured the lion's share or nearly of the automotive after market, half of it almost, right, they're now moving into the other markets. And you see in the stationary after market, which is sort of akin to the automotive in the sense that you would expect to see a lot of spot marketing pricing. They're selling 30-pound cylinders. It's easier to get into. They've really grown substantially in that market. And then you see them moving from a point of zero to significant penetration.

So this is the beginning stage, having first entered the sort of spot market -- gas stations, service-type centers. They are now moving into the other markets and they are, in fact, actually achieving significant penetration by 2016. So they are present in addition to the fact, as all the witnesses have testified, we have to answer to their offers. When they make offers in these markets, we have to respond.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Cannon. My time has expired. Commissioner Williamson?

COMMISSIONER WILLIAMSON: Thank you. And do want to express my appreciations for all the witnesses for coming today.

First question deals with industry employment performance. The domestic production declined during the POI substantially, whereas a number of workers and hours worked held steady. What explains the different in trends in production versus employment?

MR. PACILLO: John Pacillo with Mexichen. I'll take a crack at that one.

These are large plants, major investments, lots of effort required to maintain those investments. And as Dale pointed out in his testimony, the large investment and the people that operate the plants he described their training and qualification program, probably over two years long. And so if we have a decline in production, we just can't -- laying off people doesn't solve that problem. We need the people to run the plant, whether we're running at 100 percent or whether we're running at 50 percent it takes pretty much the same number of people.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. ROWE: Rich Rowe.

Commissioner Williamson, I think I would just echo John's comments a bit.

The producers invest a tremendous amount in the training and development of our employees and Dean, I think, outlined that very clearly. It also, I'd say, is reflective, as we've spoken, of the commitment that the producers have to be in this industry and to serve customers in the markets for the long term, so it's only after a considerable amount of consideration that we would take a move to try and downsize, if you will, if that's absolutely the case. And certainly, we're here before you because we fear that parts of the industry are approaching that sort of situation.

COMMISSIONER WILLIAMSON: Okay.

MS. BUTERBAUGH: Magen Buterbaugh with Chemours.

I would just like to say that I concur with both to Arkema and Mexichen in regards to as your production changes the employee ratio may not because you have to continue to have highly skilled, trained employees to run your plants. And as both of them commented, they're built to run basically 24/7, so I think both of them -- we just concur with both of their statements.

COMMISSIONER WILLIAMSON: Okay, thank you for those answers.

Mr. McCoy, you describe very well the training and all workers go through and I was wondering whether or not the imports have forced workers to make any adjustments and have to have had to make adjustments in response to this threat from the imports.

MR. MCCOY: This is Dean McCoy of Arkema.

COMMISSIONER WILLIAMSON: I know there's a certain amount of mental stress in worrying about long your job is going to be there.

MR. MCCOY: That is what I was going to address that during the time of lower production or when you hear that the market's changing and stuff you know that is a concern of all the workers in the plant of you know am I'm going to be able to keep my job? What's going on? You know you continue to try to work safe and try to follow all the regulations and it a stressful time that you do have to focus more on what you're doing to keep the production at where it's at.

COMMISSIONER WILLIAMSON: Okay.

MR. MCCOY: I hope that answers your question.

COMMISSIONER WILLIAMSON: It does.

And the companies may also address this. Has there been any impact in terms of how much the number of new employees you might've taken on if this situation were different or what kind of investment you would've been making in the workers if you didn't have this threat of imports?

MS. BUTERBAUGH: Magen Buterbaugh with Chemours.

I think it's pretty clear that we articulated that there's essentially no investment in this business at this point, other than the required capital to provide maintenance at our plant to safely operate, to be environmentally compliant, et cetera. Over the period of investigation, looking at hiring employees in a business that is essentially not profitable is out of the question.

COMMISSIONER WILLIAMSON: How do you distinguish that from the fact that we know the product is eventually going to get phased out, even if you were talking 10 years away?

MS. BUTERBAUGH: Again, I think, just to be clear, the largest segment of the market is automotive after market and this is expected to be around for 10, 15 plus years, so none of the current regulations or expected ones will impact some of the largest segments of the 134-A market. So again, from our standpoint, we're looking at running a long-term business in 134-A, again, assuming that we have remedy from the low-priced, dumped imports. So I think from our standpoint, we're trying to look at making the middle investments to make the plant run over the long term because we don't have investment economics at this point.

We're trying to maintain staff to continue our sales to support the domestic industry because, again, we do see that there is a long-term plan for 134-A, but with the current pricing of the low-priced Chinese imports and we're losing share and we're losing price we're unprofitable. It can't be sustainable.

MR. GEOSITS: Peter Geosits from Mexichen.

I concur with Magen's comments, but also want to amplify.

Innovation is hampered by the inability to sustain profits in the current business that we have. We've talked about new generation products and the ability to invest in those products is going to depend upon whether or not we have a profit-making venture and at this point you've seen the numbers on our profits, so it certainly would have an impact on future investment and innovation for our companies.

COMMISSIONER WILLIAMSON: Does it also affect the research that's put into trying to develop these new products?

MR. GEOSITS: Peter Geosits, Mexichen.

Yes, it would. The available dollars for research may be less as a result of lower profits from our 134-A operations.

COMMISSIONER WILLIAMSON: Aren't those arguments that your present plant wouldn't be converted to using a different variant on the chemical of this product?

MR. PACILLO: John Pacillo, Mexichen.

That's correct. The large majority of our plant would not be applicable for replacement refrigerate product.

COMMISSIONER WILLIAMSON: Even if you don't know the nature of the new product, new replacement?

MR. PACILLO: Well, we have a pretty good idea about the nature of the new product.

COMMISSIONER WILLIAMSON: Okay.

MR. PACILLO: And we know it'll have very similar physical properties to our 134-a, so we know that our equipment that currently houses 134-a would be useful in housing the 1234-YF as well, but not necessarily all of the other production equipment required to make it.

COMMISSIONER WILLIAMSON: Okay. But would you still make use of those?

MR. PACILLO: John Pacillo with Mexichen.

That really depends on how the future of 134-a goes relative to the future of the replacements and for Mexichen our opportunity to enter the market.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers.

MR. HAUN: Commissioner?

COMMISSIONER WILLIAMSON: Sure.

MR. HAUN: Glen Haun, speaking for Arkema.

I would like to address your comment or your question relative to employment. So at Arkema and the plant that Dean works at you know we not only produce the R134-a, as we testified in the previous case, you know we produce R32 at that plant and we also blend and then package into cylinders all of the products that we sell, so that's R-134-a and blends.

We have looked at and had planned on, initially, increasing our employment at the plant to package more cylinders as a result of successful blends and components case in addition to success on the 134-a case. I hate to say it, but as I predicted on the component case, you know we now have a number of people in the U.S. blending in small facilities and competing against us at very low prices.

We would like to expand our 134-a packaging line and sell more 134-a in 30-pound cylinders, as you see on the table, but we can't do so at prices that the Chinese are selling at. And if we have fair competition, we'll be able to do that and expand our employment and hire more people in Calvert. Thank you.

COMMISSIONER WILLIAMSON: Thank you for that answer.

MR. CARILLO RULE: This is Antonio Carillo with Mexichen.

COMMISSIONER WILLIAMSON: Sure.

MR. CARILLO RULE: I just wanted to address your question on the phase down of 134. And you're right in the sense that 134 is being faced with all these regulations and eventually it will start phasing down. In Europe, there's also regulations phasing it down. I think the big question here is whether we're going to have an orderly phase down or a disorderly phase down.

And if we continue in the way we're handling business, it's not even good for our customers, for the industry, for anyone to have a disorderly phase down of this very important chemical that we all produce, so an orderly phase down during this period I think is very important and to keep the industry profitable during this period is extremely important.

COMMISSIONER WILLIAMSON: Okay, thank you. That helps.

One other question, the domestic industry exported a significant amount, but declining shares of its production over the period of investigation. So why did we have this phenomenon of the exports going down? Were the EU restrictions -- were there other things that adversely affected the exports in addition to the Chinese competition?

MS. BUTERBAUGH: Magen Buterbaugh with Chemours. I'll address that and I'm sure the others will comment.

For us, in terms of exports, the EU regulations actually have nothing to with that. For us, we actually are a majority, a quota holder in that region.

There's one reason our exports have been declining in the period and that is because just like in the U.S. where the Chinese are bringing in large amounts of dumped imports they are doing the same thing in our export markets and that really is the reason, in entirety, that our exports are declining in the period.

COMMISSIONER WILLIAMSON: Okay.

MR. GEOSITS: Peter Geosits, Mexichen.

We concur with Magen. We find that the low prices that Chinese product are placed at in our export markets are below the costs were we would be profitable, so our export sales have suffered as a result.

COMMISSIONER WILLIAMSON: Okay.

MR. HAUN: And Glen Haun with Arkema.

We would concur. We had been exporting larger volumes of 134-A out of the U.S., but we're not able to do so based on the price out of China being so low.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers.

VICE CHAIRMAN JOHANSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: Thank you.

Continuing on the export theme, if you look at Table C-1, the average unit value for exports seems to increase over the POI, while U.S. shipments average unit values decline simultaneously as export AUV increased as U.S. export shipments decreased as did the domestic industry profitability. Then when exports increased in interim 2016 so did the domestic industry's operating income margins. How do we tease out the affect of imports versus the decline in the export market as an impact on the industry?

MS. BUTERBAUGH: Magen Buterbaugh with Chemours.

I'll just give a couple points. I think if you look at -- I'll speak for Chemours and just in general. One of the primary export markets for us is obviously Latin America. Prices are declining significantly due to Chinese imports into that region. If you look at Asia, essentially, we're finding it's very difficult to compete, again, low price Chinese.

If you look at Europe, for example, and this could be a mixed affect, where there is regulations in place on AFCs, which you heard Rich Rowe testify to, the European -- directives, the domestic producers at this table hold a significant portion of the quota in that region and prices are increasing, in general, in there. So it could be a mixed affect of where exports were going when they were available versus other places, which is one example.

And I think we can address more specifics in our post-hearing brief, if necessary.

MR. CANNON: So although, commendably, almost the entire C-Table is public. They don't see the export average unit values to which you're referencing and so I think we need to address that post-hearing, but it is true that Respondents have tried to make something out of exports. In fact, the majority of their sales are domestic sales, the large majority. They built their plants in the United States. That is their backyard in their home market and so you --

COMMISSIONER BROADBENT: But we're the largest global exporter or the second largest, right?

MR. CANNON: You mean next to China?

COMMISSIONER BROADBENT: Yes, second largest global export.

MR. CANNON: What I was going to say is if you're thinking about the financial data and the declines and you look at the data and the average unit value of the exports is increasing, then the fall and losses and the lack of operating profits and net sales are not because we're getting higher prices in the export market. It's because the imports into the United States are driving down our average unit values, are driving down our revenues. As our slide showed, we've lost, what, $80 million in two years.

COMMISSIONER BROADBENT: In 2014, why wasn't the domestic industry able to capture all of China's lost market share, but instead split it with non-subjects?

MR. CANNON: So, I don't know that I would say they split it, but we have a slide that shows the quarterly data, the annual one that shows the non-subject share, so you can get an idea of the magnitude here. So, when the Chinese volume declined for a brief period, for a six-month period, it allowed some nonsubject imports to enter the market, too, because now price levels rose, as we discussed earlier, the staff report was talking about that trend.

We do see higher prices, particularly in the automotive after-market. We have a spot market. We see higher prices in the third quarter of 2014. And so that allowed other countries to export to the United States, participate in the market, at indeed fairly traded prices.

It's interesting -- this is one of the few cases where, if you want to test the hypothesis of what happens when you have fair trade, you can see it in 2014. Now going to the quarterly slide--which I really wanted to get to--what happens here is you have this huge surge in the first quarter of 2014.

So even though the volume of Chinese imports goes away, they have this large inventory at the front end hanging on through the season, through the most important part of the season, so late in the season we were able to increase prices, but at that point, the Chinese had already captured significant volume.

And so indeed, in conditions of fair prices, some other exports entered the market. That doesn't mean that the domestic industry wasn't relieved or assisted, at least, in part, by the fact of having two of these in place.

MR. HAUN: This is Glenn Haun. Just to add to that. I would also point out that, you know, as somebody mentioned earlier, seasonality is a huge part of what we do. The products that you're seeing on the table are the primary volumes sold in the United States. 30 lb. cylinders and 12 oz. cans and other cans. There's almost an indefinite life on those products. So they're not perishable. They don't go bad. They can sit around for years.

And in fact, you know, people we see selling products of all types in the U.S. are many times, many years old. So for us, the big impact in '14 really was the problem when imports surged in Q1 of 2014, and it's honestly the same thing we're going to see in 2017 because the imports surged so much in 2016, at the end of 2016.

COMMISSIONER BROADBENT: Okay. So, just a side question, Mr. Haun. Was 2016 a warmer year than 2015? Is that why demand was higher in 2016?

MR. HAUN: In theory, it may have been a little warmer, but I think when you take into account all of the markets and the regions around the country, it's hard to say that it was warmer. It certainly felt like it was warmer to me personally, but I live in the northeast. I think people on the West Coast may not have said that. So I'm not sure we can pinpoint it to the temperature variation or not.

COMMISSIONER BROADBENT: Okay. Ms. Buterbaugh, you mentioned that turn-arounds occur every two years, with one occurring in 2014. Was there another one scheduled in 2016?

MS. BUTERBAUGH: Magen Buterbaugh with Chemours. I was just trying to get my year straight. Yes, there was.

COMMISSIONER BROADBENT: Okay. And then, are U.S. purchasers aware of this sort of two-year turn-around cycle?

MS. BUTERBAUGH: Generally speaking, we don't announce this for any reason, because again, we planned for the outages when they come every two years, for us it's every two years -- I'm not speaking for the rest of the industry. So I doubt that any purchaser would even know, generally speaking, when our turn-around is. We plan them according to our plant schedule and what we think is the right timing to do so.

COMMISSIONER BROADBENT: And then how do the purchasers know that there won't be more supply shortages?

MS. BUTERBAUGH: I want to reiterate what I said earlier, that from Chemours' standpoint -- and I think the rest of the domestic industry would acknowledge this -- in the period of investigation, there was no supply shortage. We bought what we needed to supplement our inventory levels. We fulfilled all of our customer requirements, our contractual obligations, participated in the spot market, and so there is plenty of domestic capacity and was evidence--with one of the largest plant being down from the domestic producers--to cover both an outage such as that, as well as the existing demand.

So I think it's pretty clear the domestic industry can support both the domestic industry and where necessary, have flexibility for exports as well.

MR. PACILLO: John Pacillo with Mexichem. If I could just add a little bit to what Magen has said. We were the beneficiaries of some of Chemours' purchases during that time period. We were able to supply Chemours what they required, build our inventory for our own shutdown in the fourth quarter of 2015, and we still had excess capacity due to unfairly traded product from China.

MR. HAUN: Just to add to that from Arkema. As the confidential information shows, we had significant unused capacity the entire time of the period of investigation. So we're anxious to sell out our plant every year. We haven't been able to do so, only because of the prices. Thank you.

MR. CANNON: So if you look even in the public staff report, right in the middle, you have capacity utilization, and what you see there is the worst year for the U.S. industry of capacity utilization was 2015. So there was plenty of capacity available, both to help Chemours through a temporary shutdown, and to supply the U.S. market.

This is nothing like what happened in 2010 or 2011 when there was a global shortage. There were no letters, there was no force majeure, there were no allocations. There are no mentions in the sixteen purchasers who moved their volume because of price. There's no mention about a shortage of supply in the record because there wasn't a shortage.

MR. HAUN: This is Glenn Haun from Arkema. Just to add a little more insight to that, two of the people I think you're going to hear testify later represent either retailers or companies selling into the U.S. market. Two of the three I've never heard from, or anybody on my team has heard from, to sell them product. So if they claim a shortage, you know, I'll be glad to provide my phone number to them anytime. Thank you.

VICE CHAIRMAN JOHANSON: Commissioner Kieff.

COMMISSIONER KIEFF: I have no further questions for the panel, and I just look forward to the post-hearings and the afternoon panel and to better wrapping up the joining of the issues here. And thank you all so much for coming and presenting.

VICE CHAIRMAN JOHANSON: I finished my last round of questions discussing with you all presence of the subject imports in the aftermarket, as well as other sectors of the market. I'm going to continue with that line of questions.

Does pricing in the automotive aftermarket affect pricing in other parts of the market such as sales to automotive or stationary OEMs or phone providers?

MR. GEOSITS: Peter Geosits, it's Mexichem. It absolutely does. For example, pricing in the automotive aftermarket is generally available to the automotive OEM buyer as well. They may be the same person, they may be different people, but they're in the same company and they're aware of what is being purchased.

So as a result, that OEM buyer certainly knows what the price is in the aftermarket, and if that price is significantly lower, they're going to raise that concern and say, "Why can my company buy product in the aftermarket at this price, but you want to charge me more for it in the OEM side?" So they absolutely are aware of that.

MR. HAUN: Two points I'd like to make. One, so just to make sure we understand and we educate you a little better. So if we talk about an automotive OEM, the automotive OEM could be purchasing product for their own new vehicle use, so putting in small charges into each air conditioner in an automobile. Or they could be buying for the service shops that they own. So the service shops would, of course, most likely buy in the 30 lb. cylinders.

As these price sheets are distributed eternally across the country by the Chinese suppliers, they are very regularly going to the OEM aftermarket channel and the OEM manufacturing channel. So the price per pound is easily calculated as I said before. If they look at a 30 lb. cylinder, they know it's advertised at $58.00, it comes to a $1.90 per pound. They can easily compare that to the manufacturing OEM side, can easily compare that to what price he or she is paying. That's the first point I wanted to make.

The second point I wanted to make is, you know, as you've seen in my declaration beforehand, the confidential information shows one of our long-term Foam accounts was quoted in an e-mail from me by saying I can get -- and this is an account we had and when we -- careful what

I provide, but I think I can provide some of this publicly. At the end of 2015, we had been selling to this customer large volumes for, you know, seven or eight years of 134 in bulk. He told me, you can secure my business in 2016 with a "Buy-it-Now Price of X", and that price was 20% lower, and he went on to say, "I can get that price from China, so if you want it, you can get the Buy-it-Now price at X."

So in one year, between 2015 supply and 2016, he wanted me to drop my price 20% and the major driver--the only driver behind that--was because he had a price from China at X, and X is explained in the e-mail. So the price is prevalent now in all market segments, at least it has been with myself and my sales reps who cover all the accounts for me.

MR. BACHMAN: This is Jim Bachman with Chemours. I would concur with the statement made by both Mexichem and Arkema in this case. Those same price letters that get distributed in the auto aftermarket and get seen by the auto OEMs are the same price letters that get distributed in the stationary aftermarket and get seen by the stationary OEM. So the same exact phenomenon happens there.

JCI builds new equipment. They also have an aftermarket arm. In the aftermarket they see the price that's shared internally with their OEMs. And it's not only a threat of the lower price, we've actually lost volume sales at OEMs, who are purchasing China imports at lower prices. So it's not just the threat of them importing and penetrating some of these other markets. They're actually doing it. We have clear cases where we've lost business, lost market share at segments well beyond the automotive aftermarkets.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Bachman and Mr. Haun. And I'm going to continue on this just a little bit. And I think I know what your answer is, but I'd like to hear you all discuss this anyway.

Does the concentration of the subject imports in the automotive aftermarket segment provide a degree of insulation from competition for the domestic industry? If they're focused in this one area?

MR. CANNON: I think, to maybe restate so that I understand, are you asking us does the fact that the imports have a higher market share in automotive aftermarket mean that we're somehow insulated in the other markets?

VICE CHAIRMAN JOHANSON: Yes.

MR. HAUN: First of all, we're not insulated. We've, as I've said, testified earlier, our 2015 sales in the auto aftermarket were only a fraction of our sales in 2014. So meaning, we lost major volume in the auto aftermarket in 2015 based on the prices that China was offering through various outlets in the U.S. And as I just testified, one of our Foam customers, and many of our Foam customers in other automotive OEMs have constantly pointed to--and to confirm with Jim Bachman, what he said, at least from Arkema's standpoint--we have also lost volume to automotive OEMs to Chinese sources. So it's not that we're insulated. In fact, in our case, we've lost volume in the auto aftermarket and our other markets have all been affected.

MR. BACHMAN: This is Jim Bachman with Chemours. Just to reiterate, I mean, this is one of the distinctions between the first case and this case. In the first case, most of the penetration had been in the auto aftermarket, and the respondents claimed that they had no designs on growing their presence in the U.S. market, and exactly the opposite has happened.

They've expanded well beyond the auto aftermarket as I've stated and Glenn has stated. And we've put into our information on lost sales, lost revenue data, and they've grown their participation in all segments in the U.S. market. So, very different than the first case.

MR. GEOSITS: I agree. We have found low-priced imports from China in all segments of the market, not just automotive aftermarket. And continue to see those offers with greater frequency.

MS. NIKAKHTAR: And this is Nazak Nikakhtar from

Cassidy Levy Kent. I just do want to underscore a point that we've raised several times. And it's really worth emphasizing again. The prices you see in one segment of the market, they permeate through the rest of the segments of the market. You've got educated buyers. You've got the same buyers. They use the low Chinese prices in one segment of the market to get leverage and compel the U.S. sellers in those markets to lower their prices to match the Chinese market. It permeates the different market segments.

VICE CHAIRMAN JOHANSON: Thank you for your responses.

MR. CANNON: So in our brief, and I was looking for the page, but there are two purchasers who are a brand name, big-time chemical manufacturer, who's purchasing foam. And if you read their purchaser questionnaire, they say right in there, "We quote the Chinese prices to the domestic producers when they come and try to bid for our business."

And so, it is not only our testimony, but this record shows the purchasers agree with us. Now, having said all of that, think about this gradual decline long-term and where this market is headed. The market that's going to be left, the biggest market, the biggest part, the market left for this industry is the automotive aftermarket. So even if the Chinese win no other markets, that market is the jewel long-term, and that's the market they need to load their capacity. So don't lose sight of that, please, and be distracted by these arguments about other market segments, notwithstanding that they're in all the other market segments.

VICE CHAIRMAN JOHANSON: All right. Thank you for your responses. The yellow light has come on, so I will go ahead and go to Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. This has been touched on a little bit, but I wanted to clarify it. In 2015, apparent consumption declined by about 10% while imports from China increased. And the interim date of 2016 seemed to imply that apparent consumption is coming back to the 2013, 2014 levels. So what happened in 2015? Someone mentioned something about climate, but I was wondering. What happened? Or was the actual decline of consumption really followed by an increase in 2016? In demand?

MR. GEOSITS: We believe that there was no decline in consumption. We think that was an inventory effect that was impacted by anti-dumping duties that were enacted in 2014, second half of 2014. When those duties came into effect, many purchasers in the U.S. market moved back to U.S. producers and took product into inventory.

As you know, the product is a seasonal product. Not many people are using air conditioning in the second half of the year. They use air conditioning in the summer. And that product is generally produced in the fall, packaged sometime in the winter and goes out in the spring. Some people took the opportunity when anti-dumping duties were imposed to buy product from domestic producers.

And there was significant amount of product that was purchased because of the uncertainty of the case, and that product wasn't consumed in 2014. It was actually consumed in 2015. So I believe what you're seeing there is an inventory adjustment factor and most of the product was sold in 2014, remained in repackers' and distributors' inventory until they sold it the following year.

COMMISSIONER WILLIAMSON: Okay, so if you went to the major end-users and said how much of this stuff did you use in 2015, it would've been maybe slightly more than before or the same?

MR. GEOSITS: I believe it would be broadly similar to the previous year.

COMMISSIONER WILLIAMSON: Okay. Thank you.

MR. HAUN: I would confirm the same thing happened with Arkema. We had large customers stock up. And again, I think it's also to Mr. Cannon's testimony, the impact on market demand and market pricing has really been shown in the anti-dumping process here on 134.

So we sell major orders -- customers order from us in the second half of 2014, which then they sat on that inventory, because they weren't able to sell it and came back to us for relief on pricing and we weren't able to sell them in 2015 because the prices from China were so low. Thank you.

COMMISSIONER WILLIAMSON: How often does someone replace their refrigerant? And is it different for the automotive sector as opposed to the stationary?

MR. BACHMAN: There's an infinite life for refrigerant gas, typically somebody's only replacing the gas if they've had a burnout in the compressor or if the system leaked or something like that. Years ago people thought that their gas was only good for three or four years and it had to be replaced because the molecules wore out -- that's not true.

So people only are replacing gas if they'd had a leak or a burnout in the compressor, some mechanical failure in a system is typically what --

COMMISSIONER WILLIAMSON: Both for the automotive and non-automotive?

MR. BACHMAN: Yes, in the OEM segment, they're actually filling new equipment. Just in the aftermarket -- the aftermarket, automotive and stationary aftermarkets, yes.

MR. CANNON: I think there is, though, isn't there -- someone here had told me this. Isn't there an industry standard or EPA number for automobiles, how many years they think they're going to need to replace?

COMMISSIONER WILLIAMSON: I'm gonna go back and check my repair records.

MR. HAUN: So if my memory serves me and I don't have this date in front of me, so Matt Ritter's behind me. So if Matt might respond after, I'd appreciate it, but it's my knowledge that there's two hundred and sixty million cars roughly on the road in the U.S., so I'll speak about automotive first.

Those cars are estimated right now to have an annual life of about 11.4 years. Typically, the cars need a recharge or some additional refrigerant put in after five years. So if you do the math, you're going to have a number of cars being serviced for quite some time, and I think that goes to Mr. Cannon's point earlier, that although we have been really affected in all segments of our business, we're very concerned about the auto aftermarket because we plan on selling 134a made from Arkema for the next ten to fifteen years. In the other --

COMMISSIONER WILLIAMSON: Sounds like you're not going to get very many chances to sell it to any particular car?

MR. HAUN: You're right. We are challenged and that's the industry that we're in. And each manufacturer of equipment, whether it's HVAC equipment or automotive equipment, you know, companies are all trying to make their systems better, tighter, so we don't leak. And we're also trying to save the environment by doing so. Matt, if you have anything to clarify or add to that, I'd appreciate it.

MR. RITTER: No. I agree with what Mr. Haun stated.

MR. BACHMAN: Just to wrap this up. There are calculated average leak rates by segment that the people have. In the supermarket segment, for example, leak rates are much higher than they are in stationary air conditioning or in mobile aftermarket so there's a calculated leak rate that EPA has.

And so these automobiles that are on the road that Glenn talks about needing a recharge every five years. If the date is correct, that would mean that there's maybe a 5% leak rate per year and it gets to the point where it needs to be recharged over a certain period of time. That's all been calculated. There are averages. We can supply the information if you have interest.

COMMISSIONER WILLIAMSON: No, but it does give you a sense of how the -- the nature of the market.

MR. BACHMAN: Right.

COMMISSIONER WILLIAMSON: Thank you. A couple of other questions. How have changes in raw material prices affected the R-134a prices since 2013?

MS. BUTERBAUGH: Essentially, in the period of investigation since 2013, raw material prices have essentially had no impact on price. The only impact that has happened or affected price has been the amount of low-priced Chinese imports in the market.

MR. GEOSITS: We concur with Chemours' and Magen's response.

MR. CARILLO: This is Antonio Carillo with Mexichem. Let me just give you a little more color on this because as I testified, we produce one of the main raw materials which is CHF and the fluorspar mine. We are the largest producers of the main raw material, which is fluorspar.

And the main reason why you don't see any impacts is because most of the impact happened before 2013. Before 2013 the price of the raw material, which is fluorspar, was roughly $500 per ton and today is a fraction of that. So what's happening in the air conditioning market today has happened already in the raw materials, and it's because China is dumping fluorspar around the world at very, very low prices. So what you're seeing in this panel is the result of the end of the chain, but the same thing is happening throughout the chain in all the raw materials.

COMMISSIONER WILLIAMSON: Okay, so even though raw material price -- I mean commodity prices have been going down and all that, you're saying it just doesn't make a big impact here?

MR. CARILLO: It did in 2012 and before, but since 2013, the prices have been completely depressed. So that's why you don't --

COMMISSIONER WILLIAMSON: And they've just stayed depressed?

MR. CARILLO: They just stayed depressed, and that's why you don't see any impact in the numbers here.

MR. PACILLO: John Pacillo with Mexichem. I think you need to separate raw material effect on production cost from raw material effect on the price that you're selling at. And in this case, there's no correlation. Your price that you're selling at is being driven by unfairly product from China, regardless of what happens to your costs.

COMMISSIONER WILLIAMSON: Okay. So would that imply that you wouldn't have an impact unless raw material prices suddenly shot way up?

MR. PACILLO: It affects your profitability if raw material costs go up, because you're not able to recapture that cost by increasing your price because China product is setting the price, not you.

MR. CARILLO: So to clarify, in 2012, raw materials came down dramatically and they have stayed really low.

COMMISSIONER WILLIAMSON: Okay.

MR. CARILLO: The only thing that has changed is price. So price has been coming down and down and shrinking the margin between raw material costs for the last four or five years.

COMMISSIONER WILLIAMSON: Okay, thank you. I had to pause, because Mr. Cannon knows. We've seen an awful lot of cases where the argument's been the raw material prices have been dragging down the prices and not the imports. Thank you.

One last question. I'd asked you not all domestic producers perform the same, due to specific production issues. In recognizing the Commission must evaluate the industry as a whole, how should we consider these differences? And can we separate the effect of subject imports from the effect of production issues? To the extent you can address it now or if you want to address it post-hearing, that'd be fine.

MR. CANNON: So we address this essentially on our brief. And I certainly will address it in the post-hearing. Legally, the Commission is essentially required to look at the industry as a whole by the statute and the case law. Logically, in this case, you should look at the industry as a whole.

Why? Well, as you heard testimony, particularly for example for Chemours. When they were shut down, they purchased from the other domestic producers. So Arkema and Mexichem actually, their operations improved. Their profitability improved because they were selling to Chemours, which had nothing to do with import competition, but they got that added volume. So if you don't include Chemours' cost, then you aren't getting a picture of what happened to the industry as a whole.

And then lastly, each of these companies has a different strategy in essence. At one extreme, you have Mexichem. They sell principally in bulk. Railcars, truckloads. They don't do much packaging. They are lean and mean. They want to sell volume.

You have at the other end Chemours. Their strategy is different. They have more employees. They're running packaging lines. They're filling 30 lb. cylinders, they're filling smaller cylinders. They're a brand name. So they have a very different approach to the market. They're trying to sell without selling through distributor repackers.

So the cost structure at the two extremes is different, and I would say Arkema falls in the middle of this. So the reason the statute tells you to look at the industry as a whole is because you want to capture this kind of thing, right? They have very different approaches to the market, and what you see from this case is none of those approaches work.

Every strategy fails to secure adequate return on investment or profitability when confronted with Chinese imports in bulk, in 30 lb. and 12 oz. cans at lower prices. So for that reason, too, you should look at all of it.

COMMISSIONER WILLIAMSON: Okay. Thank you for that. Final question --

VICE CHAIRMAN JOHANSON: Actually, Irving, do you mind if we --

COMMISSIONER WILLIAMSON: Oh, I'm sorry. Excuse me? No one's touched on critical circumstances. How do we account for seasonality and looking at the pre- and post-petition levels of imports in inventories? In dealing with the question of critical circumstances.

MR. CANNON: So if we pull our slide, which was the last public slide, the quarterly slide, what you see is there is a peak that is seasonal, and you can compare the first and second quarters of 2015, for example, where you have peak, with what happened in 2016.

So in this case, the petition was filed in the first quarter and imports went up. So it isn't just that they went up relative to the low points. They increased to the all-time high in the second quarter of 2016 when immediately after the petition was filed.

And so that is the sort of inventory build-up and surge -- I can't really talk about inventories without the confidential record. But I think even on a seasonable basis, looking at the data, you see a surge. And we did this in our brief, using the monthly data, side-by-side, the years across the top and the months running down, and what you see is that month-to-month, there are substantial increases, 60% and more every month, versus any prior month.

So that accounts for the seasonal basis and shows that this was an unprecedented surge in imports.

MR. HAUN: This is Glenn Haun. Can I add to that?

COMMISSIONER WILLIAMSON: Sure.

MR. HAUN: I'm not supposed, sure if I'm supposed to do this, but I would beg for you to please, you know, support critical circumstances in this case. The declaration that I provided had information from one of my customers that they received from a customer of theirs, claiming that BMP had significant volumes, that they were going to sell it at a lowest price out there, and had even detailed how much they have.

And by the import reports, you know, we can show somehow they're pulling imports in through various companies. We know it's BMP, we know it's LMJ Supply, we know it's assured comfort. You know, we need relief as an industry to at least get back to a profitability level for us that's acceptable for us as corporations. So I really do beg for your confirmation on critical circumstances. Thank you.

MS. NIKAKHTAR: And this is Nazak Nikakhtar from Cassidy Levy Kent. I just wanted to add that Commerce announced its final determination yesterday, and it did find affirmative critical circumstances.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers. Sorry I was --

VICE CHAIRMAN JOHANSON: No, no, that's just fine. I'm just not used to running a hearing, and when you go away over, I don't know what to do. So anyway, Commissioner Broadbent.

COMMISSIONER BROADBENT: Yeah. Just one more question for Mr. Cannon related to the rebates. If the 2014 provisional duties increased prices and then got the Commission's negative determination and purchasers were suddenly asking for all these rebates, is the effect of the rebates on profitability properly classified as being caused by subject imports?

MR. CANNON: I'm still processing. Maybe you can repeat the question?

COMMISSIONER BROADBENT: The provisional duties were put in place in 2014, and then you got the negative Commission determination, and then suddenly as I understand your testimony, purchasers are asking for rebates. I just wondered under the law, I mean is the effect of the rebates on profitability, on industry profitability, do we properly classify that as being caused by subject imports?

MR. CANNON: Yes. The imports offered to return to the market as soon as -- well the customers called us hours after the vote, and in one case cancelled orders and in the other cases demanded rebates. So those rebates were the directly result of the available volume at even lower prices than before the duties went in place.

So in fact, any rebate that got paid in 2015 was the direct result of the import competition. We were threatened basically. We will pull your orders. We will cancel the volume unless you rebate this money. So that was plainly due to import competition.

VICE CHAIRMAN JOHANSON: All right. I have just a few more questions. Can the level of subject imports in 2015 be viewed as return to normalcy after the effects of the previous investigation on R-134a?

MR. CANNON: We have a slide with the Chemours prices that kind of is a useful visual for what happened in the market, right. So this notion about return to normalcy was first advanced in the past case, right, in the 2013-2014 case. The argument there was because of a supply shortage prices were very high, and the decline in prices was some return to normalcy, right.

So in this case what we have is before there are any duties imposed in 2013, prices are higher than 2015 or a good part of 2016. You can see it a little more granularly, and we can talk about it in our brief. But if you look in the pricing products, where you really have an apples to apples, you can see that looking at the quarters. Compare 2013 to 2015.

2015 prices are not a return to the '13 level. They are lower than the '13 level, and in fact you see it in the operating profits too. The companies made less money in 2015.

MR. HAUN: This is Glenn Haun with Arkema. You know, I would ask to go to Slide 7 on domestic producers lost share. There you go. So you know, if you look at the chart here, you'll see yes, you'll see what share, the China market share versus the U.S., and you'll see how it's increasing in 2016. So is it increasing share what the Commission wants? I'm sure it's not necessarily the share you're looking for, just the market has traded right, you know.

We're not looking to do anything other than have, you know, the playing field leveled for us and the price of China is certainly -- the pricing for 134a out of China is what's driving the share up in their case and down in our case, and again, you know, I plead for your support on the case and also for critical circumstances, because my concern is, you know, we're really going to be challenging in 2017 with all the imports that have recently come in in 2016. Thank you.

MS. MALONEY: Commissioner Johanson, if I could just add one point to Mr. Cannon?

VICE CHAIRMAN JOHANSON: Yes.

MS. MALONEY: I think in Exhibit 8 of our prehearing, we looked at underselling in just the 2015 and 2016 period, and you can see that it actually intensified during that period. So --

VICE CHAIRMAN JOHANSON: All right. Thank you, Ms. Maloney. Are there any underlying issues in the domestic industry for R-134a that may have caused the negative performance of U.S. producers since 2013? In other words, is the financial performance of all three U.S. producers comparable? In the Chinese respondents' post-hearing -- prehearing brief at pages 42 to 43 addresses some of these issues. If the responses are business proprietary, please submit these answers in your post-hearing brief.

MR. CANNON: I think, I know that the staff asked each of the producers about this issue. It's a very difficult issue to ask because they don't know each other's cost structure. So we will have to address this, I think, in post-hearing. But I will observe as I was saying earlier, their approaches to the market are different, and so therefore their cost structure is somewhat different, right.

If you're a company that puts a much higher portion of your product into a 12 ounce can or a 30 pound cylinder, then you have different costs. You have the labor associated with that, packing associated with that that the other producers selling in bulk do not have. And so just at that sort of 30,000 feet level, you wouldn't expect to see the same costs.

In fact, the observation works in every single case where there's more than one producer. I've never been a case where every domestic producer had the same costs. So if I have five companies, there will always be a high one and a low one, and that's no reason to disaggregate.

VICE CHAIRMAN JOHANSON: Thank you.

MS. NIKAKHTAR: This is Nazak Nikakhtar from Cassidy Levy Kent. When you do look at Table C-1 and the industry as a whole, you do see the net sales quantity declining. You see the corresponding net sales value declining, and you also see in the aggregate, as cost of goods sold declines over the period, the net sales value declines even more.

So when you look at that sort of experience as a whole, you see the continued deterioration of the industry, of their financial experience.

VICE CHAIRMAN JOHANSON: Thank you. I appreciate your responses. I have just one more question, and this deals with the issue of threat. I thought I might as well go ahead and raise it. Mr. Schutzman, Respondent's counsel, mentioned in his opening statement this morning that Chinese capacity utilization is high.

Moreover, on page 46 of their prehearing brief, Respondents point to a high capacity utilization rate reported by Chinese industry. The projected rate for this year is 98 percent. I think you all have a different take on this. Could you all please discuss that?

MR. CANNON: Absolutely. Mr. Schutzman's data are based on the questionnaire responses essentially submitted by his clients, which is a small universe out of the entire Chinese industry. They don't account for 220,000 tons of capacity. They don't account for at least ten Chinese producers who were represented by lawyers or who were suppliers to the largest importer into the U.S., TTI, which is also represented by an attorney and they appeared or submitted data at the Commerce Department. They did not submit questionnaires here.

So in this case, like many cases where we see imports from China, the Chinese industry as a whole has elected not to give you data. Therefore, we have turned to market research reports by IHS; we've turned to publications available widespread in China and to other sources that are authoritative as best as we can find reasonably to supply the missing information.

The missing information, quoted in the Chinese press, indicates that they're operating at less than 50 percent capacity.

MR. HAUN: Yeah. This is Glenn Haun with Arkema. Just to add to what Jim said, you know, we're a global corporation. We have operations around the world, and in addition to the documentation that Jim provided that I believe is public information, we can supply additional information in the post-hearing brief on monthly updates that we get out of China by ^^^^ by R-134a, by production plant and will provide that to confirm what we talked about. There's massive, massive over-capacity and unused capacity out of China right now.

VICE CHAIRMAN JOHANSON: All right, thank you.

Ms. Buterbaugh?

MS. BUTERBAUGH: Magen Buterbaugh with Chemours. I was just going to say for the record that we concur, that we have the same information or similar information from our competitive intelligence sources, from published market data, from monthly China reports that clearly show there is at least 220,000 tons of capacity, and that it can support the worldwide demand over by itself, and that their operation utilization rates are much closer to the 50 percent range. So I just wanted to add that on record as well.

VICE CHAIRMAN JOHANSON: All right, thank you. That concludes my questions. Do you have any other Commissioners? Commissioner Williamson.

COMMISSIONER WILLIAMSON: Not a question, but I just wanted to express my appreciation for having the statements of each of the witnesses in writing beforehand. It was really very, very helpful. I know it takes time to prepare, but I want to say it's very appreciated. Thank you.

MR. CANNON: You're welcome.

VICE CHAIRMAN JOHANSON: All right. Any other Commissioners? Does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you, Vice Chairman Johanson. Staff has no additional questions.

VICE CHAIRMAN JOHANSON: All right, thank you. We will now recess for lunch. Oh yes, I'm sorry. Does opposing counsel have any questions? All right, thank you. We will now recess for lunch. We will come back at 1:15.

(Whereupon, a luncheon recess was taken.)

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

MR. BISHOP: Will the room please come to order?

VICE CHAIRMAN JOHANSON: All right. We will resume our hearing on Tetraflouroethane R-134a from China, and Respondents may begin.

MR. SCHUTZMAN: Mr. Vice Chairman, thank you for the opportunity to present Respondents' panel. Respondents' first witness will be John Mathew. John is the chief operating officer of Vision Global Technology. John.

STATEMENT OF JOHN MATHEW

MR. MATTHEW: Thank you. Good afternoon. My name is John Mathew. I'm the chief operating officer of Vision Global Technology, Incorporated, based on Decatur, Alabama. Vision is a Native American owned company that specializes in engineering support, logistics for manufacturing procurement of different products, depending on the needs of our customers.

Together with its sister company, Vision Real, also in Decatur, we employ about 70 people. One of our products resourced for our U.S. customers is R-134a refrigerant for the automotive aftermarket. Vision filed an importers questionnaire response with the Commission in connection with this investigation. During the Period of Investigation, we imported from China R-134a in bulk, which was sold to repackers, R-134a in 30 pound containers sold to distributors, and R-134a in 12 ounce cans, also sold to distributors.

We also imported R-134a from third country suppliers. Our R-134a is sold nationwide. Our company's chief executive officer, Roger Minor, is far more experienced in the purchase and sale of R-134a than I. Unfortunately, he's out of the country on business and is unable to be here. I have, however, discussed our company's R-134a business with him and can relate to you our company's experience with the product.

R-134a is a commodity product. The product produced in China is functionally identical to the product produced in the U.S. and is of comparable quality. I know that this investigation is about Chinese origin. R-134a is illegally or allegedly, excuse me, underselling the domestically manufactured product.

But Vision's experience in selling R-134a in the U.S., however, is to the contrary. Our experience is that the U.S. producers are the price leaders. We have had a number of instances where we've lost orders in the aftermarket for our Chinese origin R-134a to domestic producers and vendors of domestically produced R-134a because of price.

In other words, our prices for Chinese R-134a were higher than theirs, and we lost the orders as a result. Once the preliminary anti-dumping and countervailing duties went into effect, Vision unfortunately discontinued its imports of R-134a from China and has relied principally on third country sources of supply such as India.

Even though Vision is a known importer and vendor of R-134a, no U.S. producer or a producer's representative, or authorized repacker has ever solicited our business or made any attempt to sell us R-134a. We have also taken initiative to reach out to them and try to buy it domestically, the domestic produced 12 ounce cans at a wholesale, but have been unable to do so.

Thank you for the opportunity to speak today, and considering my testimony.

MR. SCHUTZMAN: Mr. Vice Chairman, the next witness is John Lammers. Mr. Lammers is the vice president of Merchandising at AutoZone.

STATEMENT OF JOHN LAMMERS

MR. LAMMERS: Good afternoon. Again, my name is John Lammers, and I am vice president of Merchandising for AutoZone. With me is Kevin Horgan, our international trade counsel from deKieffer and Horgan, and I'm here to testify on behalf of AutoZone with two goals.

First, I would like to explain to the Commission why AutoZone needed to supplement its domestic

R-134a purchases with sources from China, and second I would like to offer AutoZone's perspective on the R-134a market. At all times, AutoZone considers the customer, especially the U.S. customer in its sourcing decisions. Based on our experience and purchasing trends, AutoZone believes that consumers need R-134a regardless of availability.

However, hard-working American consumers should not be penalized with a lack of supply for critical product. I am surprised to find myself before you again so soon. I spoke previously with you on behalf of AutoZone in 2014, and at that time the Commission determined that no material injury existed, and it is my belief that nothing has changed in the market since 2014 to support a reexamination.

I would like to provide you with information about AutoZone's role in the current market. AutoZone is a leading retailer and distributor of automotive replacement parts and accessories in the United States. We began operations in 1979 and we have evolved into a public company traded on the New York Stock Exchange and listed among the Fortune 500.

We currently operate over 5,800 retail stores in the United States, Puerto Rico, Mexico and Brazil. We have more than 84,000 employees total and more than 60,000 in the U.S. Each of our stores carries an extensive product line for various vehicles including new and remanufactured auto parts, maintenance items and accessories in store and online. We do not derive revenue from repairs.

We also have three subsidiaries offering parts, sales and automotive repair software solutions, and we have a commercial sales program that provide local, regional, national repair garages, dealers and service stations with parts. Our business is committed to providing quality parts to the U.S. consumer to meet those demands for replacement parts and accessories.

Our kind of customers are the average hard-working Americans who have difficulty affording professional vehicle care, and may struggle to maintain their aging cars themselves. I have been with AutoZone for nearly five years. Prior to that, I was with Advanced Auto Parts for over four years. In total, I have been in the automotive aftermarket for 20 years, and have 20 years' experience in the refrigerant market.

As the vice president of Merchandising AutoZone, I am responsible for sales margin and sourcing of assorted parts and chemical categories. In my previous role as merchandising director, I oversaw the sourcing of R-134a, as well as supply chain and price negotiations.

Within the automotive sector, there are two subcategories of end users or distribution channels. The first distribution channel is the original equipment manufacturers or OEMs, who are automotive manufacturers sourcing R-134 in bulk directly from U.S. producers. To my knowledge, the Chinese do not supply any R-134a to U.S. OEMs. The second distribution channel and the channel which AutoZone specializes is the automotive aftermarket.

This segment of the market includes automotive repair shops, car dealerships and auto part retailers like AutoZone. AutoZone has been supplying R-134a to the automotive aftermarket since approximately 1994, when its predecessor R-12 was phased out due to environmental regulations.

Our expertise is in supplying to vehicle repair shops and do-it-yourself individuals or DIYers, who need R-134a for their air conditioning systems in their cars. R-134a is a seasonal product. Negotiations for our purchasing begin in late summer, so orders can be placed in early fall. We then arrange for delivery towards the end of the year through the spring of the following year.

R-134a gas business consists of two segments that are primarily sourced out of the U.S. One is the straight gas business and the other is R-134a with additives, which allow customers to complete the job themselves. The straight gas business is only about 35 percent of our total R-134a business. The remaining 65 percent of R-134a business consists of R-134a with additives, which has been and continues to be sourced domestically, simply because there's no other source for these products outside the U.S.

To meet customer needs, AutoZone sources 30 pound cylinders or 12 ounce cans of straight R-134a for repackagers such as IDQ, National Refrigerant and Tech Chemical Company, which purchases it in bulk and repackages. We also source these products as imports from China.

30 pound cylinders are sold mostly to repair shops and 12 ounce cans are sold to do-it-yourselfers and also some repair shops. Larger shops prefer the value of the cylinder, but small shops sometimes want 12 ounce cans because they do not perform many AC repair jobs.

Prior to 2010, AutoZone sourced R-134a directly from U.S. companies like IDQ, National Refrigerant and Tech Chemical Company. Beginning in 2009 and through 2011, U.S. suppliers struggled to obtain product due to material shortages and the economic downturn. AutoZone had to turn to alternative Chinese companies to meet customer demand, due to record-setting temperatures as well as expanded uses of R-134a in home insulation.

In 2011, AutoZone began to import R-134a from China in iso containers to be repacked in 30 pound cylinders and 12 ounce cans in the U.S. through third parties. This allowed AutoZone to meet the demand of U.S. consumers and customers, by having direct access to producers while exercising control over the production process and quality. After the supply disruption, AutoZone determined it could no longer rely solely on U.S. manufacturers as a sole source of product.

Between 2013 and 2014, domestic can sales represented 91 percent of the total R-134a business, including both straight gas and gas with additives. Cylinders represented nine percent of the total R-134a business. Beginning in 2014, companies like AutoZone began importing from China again following the resolution of the 2014 U.S. ITC matter.

Any increase in Chinese product within the U.S. market was the result of businesses' ability to again resume sourcing. Between 2014 and '16, AutoZone made attempts to source directly from U.S. manufacturers with no success. AutoZone encountered obstacles in sourcing from U.S. manufacturers such as Chemours, and at the time Chemours refused to provide AutoZone with pricing information during attempted negotiations of a contract.

Given this, AutoZone could not proceed with business due to this lack of pricing transparency. However, AutoZone found the Chinese manufacturers such as Blue Star, San Mae, Juha and Sinochem were willing to meet AutoZone's sourcing demands and needs and were transparent on up front pricing and terms.

AutoZone is one of the largest purchasers in the aftermarket, yet domestic producers do not solicit our business. AutoZone presumes that companies such as Mexichem and Arkema are prepared to sell only to domestic repackagers or distributors who supply to AutoZone, but not to AutoZone directly, due to assumed exclusive relationships with packagers in an effort to foster closer business relationships.

AutoZone requested quotes from Chemours between 2013 to the present, with no response. Even as late as August 2016, AutoZone continued to attempt to source directly from Mexichem. In August, a meeting was scheduled between our groups, but approximately two weeks prior to the meeting AutoZone was informed that Mexichem was cancelling the meeting with no reason or alternative dates given.

AutoZone's practice is to conduct reverse options to identify new suppliers for 30 pound cylinders and private label 12 ounce cans of R-134a. In 2019, Chemours submitted -- excuse me in 2009, Chemours submitted a blind bid. However, its terms and conditions were not competitive enough to warrant an award of business over other domestic and Chinese suppliers.

In 2015, Mexichem similarly submitted a bid.

However, Chinese suppliers, some of which had higher bids, were awarded business due to other favorable terms and conditions and allowances. AutoZone can provide additional reverse auction information through supplementary post-hearing submissions and briefing. Beginning in 2011, AutoZone turned to Chinese manufacturers to meet customer demands. That sourcing effort required AutoZone to pay higher prices in 2011 as compared to 2007 through 2010 market. Due in part to Mexichem's consolidation with INEOS for both Chinese R-134a as well as domestic product.

As a benefit, AutoZone sourcing of Chinese product allow for greater control over its supply and quality review processes. In addition, sourcing product from China ensured AutoZone could meet customer demand. From time to time, AutoZone has also sourced R-134a from countries such as Belgium to meet similar demands that are unfulfilled by U.S. manufacturers, and AutoZone will be forced to continue to look to other countries such as India and locations in Europe and South America to meet this demand in the absence of U.S. suppliers willing to work with retailers.

AutoZone does not believe it can reasonably rely on U.S. manufacturers as a sole source of R-134a. While domestic producers claim sales declines due to Chinese product, AutoZone suggests that domestic producers look to their own unwillingness to supply U.S. companies as the cause. We have an obligation to our shareholders and customers who cannot afford to be left with no options to meet demand.

It is apparent demand for product is not dependent on price. Customers need R-134a to fix air conditioners, even if the price is not comfortable. Due to weather changes, all it would take is a combination of hot weather, shortage of materials and lack of product availability to create a shortage similar to what we experienced in 2010. We anticipate that demand for this product will also continue in Mexico and Brazil, with demand projected to increase substantially in the years to come as the car population increases.

AutoZone's business is dependent on its ability to offer the customer a solution or option to repair minor leaks for less than what a shop would charge. Obviously, not all these can be repaired by a do-it-yourself customer, but this is an option prior to a major repair bill that was not possible years ago.

We have a responsibility to our customers to ensure that demand is met and have the flexibility with our supply chain. Domestic producers seem unwilling to meet our needs, though AutoZone would prefer and has attempted to source domestically. This is one of the only products that

AutoZone can't buy domestically or in bulk from U.S. producers, or as a private label branded product.

We can purchase only from repackagers. We are also bound by some repackagers' refusal to bottle our bulk product due to the demands by domestic producers, and I believe it is important to note that many of the refrigerant companies, repackagers and distributors in the U.S. can and do also source their products from overseas, based on needs and cost.

AutoZone generally regards both Mexichem and Chemours to be the U.S. market leader in terms of supply, based on information from U.S. packagers that indicate both companies control the market. We understand these companies to also control the OEM market. Given that dominance, any increase in internal purchasing from 2014 to the present was only due to renewed availability to purchase following the 2014 U.S. ITC matter. Any increase in purchasing by AutoZone was due to its inability to source domestically.

It is our position that the Petitioners' filings before the U.S. ITC are an effort by U.S. manufacturers to leverage trade regulations to create an artificial constriction on the market, maintain an unfair hold on industry and drive the U.S. market back to conditions that existed between 2010 and 2014.

The prices in 2010 and 2011 cited by the U.S.

manufacturers were unusually high due to the U.S. manufacturers' own practices, and U.S. companies should not expect that artificial pricing to continue. Any alleged injury was caused mostly by U.S. producers' own unwillingness to provide adequate supply to companies like AutoZone.

Sourcing from China actually protects the American consumer by offering critical supply of a critical product. Reverting or continuing 2010 to 2011 trends will only harm U.S. consumers, many who cannot afford professional car care and struggle to maintain their aging vehicles themselves.

We are committed to continuing to provide our customers with products in a market that allows us to serve our customers. I thank you for the opportunity to speak with you today, and I'm happy to answer any questions you may have. Thank you.

MR. SCHUTZMAN: The next witness will be Deb Dayton. Deb is the president of Weitron, Inc.

STATEMENT OF DEBORAH DAYTON

MS. DAYTON: Good afternoon, Mr. Vice Chairman and members of the Commission. I am Deborah Dayton, president of Weitron, Inc., one of the largest packagers and distributors of 134a for the automotive aftermarket. I take no position on the case today, but I am here to oppose the implementation of critical circumstances.

As a little background on our company, our headquarters office, main warehouse and plant are located in Newark, Delaware. We also have regional warehouses and storage facilities in Santa Fe Springs, California, Springfield, Virginia, Richmond, Virginia, Orlando, Florida, Mooresville, North Carolina and Elkton, Maryland. We are a 100 percent American owned company that has been in business in the U.S. since 1995.

We purchase, package and sell a variety of refrigerant products, including 134a, that we procure from both domestic and Chinese sources. We purchase bulk 134a and other products from several members of the Petitioner coalition, i.e., Arkema, Mexichem, Chemours, Honeywell, Amtrol and Worthington.

We package 134a into 30 pound cylinders and 12 ounce cans in our Newark facility. We also purchase bulk 134a from Chinese producers and likewise fill the same products in our Kunshan, China facility. These products are sold principally to automotive aftermarket distributors for the replacement market, both here in the U.S. and in China.

As the years have progressed since our start, we've established ourselves both in the automotive and in other refrigerant markets as the high quality, high level of service, high integrity and reputable firm in the industry.

When we opened up our facility in Kunshan, China, it was with the original intent to supply quality refrigerants to the Chinese domestic market.

However, as our business of 134a grew in the U.S., we began to supplement our purchases from China for the U.S. market. I would like to bring up specifically a couple of points relating to critical circumstances.

First, I would like to discuss the seasonal aspects of this business, and second, I would like to show where the product imported during the critical circumstances period did not undermine the remedial effect of any future anti-dumping duty order on this product. As you have heard and are well aware, 134a is a seasonal product for which demand is driven primarily by the weather.

For example, in 2016 over 61 percent of our sales in 134a in 30 pound cylinders were sold in the four months February through May, while only four percent of the same product in the four months September through December. Given the instantaneous demand that occurs in our business, I regularly purchase large amounts of product in the several months preceding the season, in order to be able to satisfy our customer demand.

This year was no exception. Because we have bought and packaged 134a globally for over 15 years, half of our packaging capacity is located in China. I felt that I would be unable to satisfy our 2017 seasonal demand if I relied solely on our packaging capacity in the U.S. using domestic suppliers.

Although we can and have added domestic packaging capacity, it takes time to order and install the equipment and to hire and train the people to safely run it. We couldn't accomplish all of this in the short time period between the filing of the petition and the start of the critical circumstance period. Therefore, the imports during this period were intended to ensure product availability for our high demand in the early spring.

Furthermore, if you look at the data that we submitted over a long period of time that more accurately mitigates the effect of seasonality, you can see that we actually imported less Chinese material during the full year 2016 than we had compared to full year 2015 and the full year 2014. In fact, we imported 29 percent less in 2016 compared to 2015.

Second, in the Tariff Act the Commission must consider for critical circumstances if there's indication that "the remedial effect of the anti-dumping order will be seriously undermined." Clearly, this is not the case as evidenced by domestic pricing since the petition was filed. For example, I have purchased product from one vendor in January 2017 at a price that is 70 percent higher than the price that I purchased the exact same product from the exact same vendor pre-petition in February 2016.

Other domestic vendors have realized similar increases, despite the fact that the anti-dumping order is not yet even finalized. Obviously the purchases during the critical circumstances period have not undermined even the preliminary dumping order, as the increase in prices is certainly unbiased market evidence of that. I would also like to specifically address Commissioner Williamson's questions to the Petitioners this morning regarding the seasonality aspect of critical circumstances.

The Petitioners refer to the large volume of imports in the first quarter and second quarter of 2016, and imply that these imports were made to and would subvert the remedial effect of any anti-dumping order in 2017. First of all, I believe the first quarter 2016 volume was imported to support 2016 seasonal business. The petition was not filed until March 3rd, 2016, so no importer, even if they did want to stockpile 134a, would have had the time to order from China after March 3rd, 2016 and get it into the U.S. by the end of the first quarter.

Therefore, those orders were all placed before the petition was even filed, and therefore likely for seasonal 2016 demand. Although there was some additional volume imported in the second quarter of 2016, prices of

134a increased substantially shortly afterwards, as shown in the Petitioners' PowerPoint presentation.

This indicates again the lack of evidence that material imported during the critical circumstances period had any effect on subverting possible anti-dumping duties. So although the Petitioners pleaded for the imposition of critical circumstances, the facts simply don't substantiate the case for it.

While I cannot speak for other companies, I can tell you unequivocally that the imports during the critical circumstances period by Weitron are typical of our purchasing, inventory and selling activities in the seasonal market from year to year. While there may be variations based upon the weather, customer opportunities, packaging capacities and other business reasons, our post-petition experience in 2016/17 was essentially no different than in any other season.

On the way to my office, I have a poster hung that outlines the philosophy of my company. It starts with "What is a customer? A customer is the most important person ever in this facility, in person, by mail, by phone." When I walked by it yesterday I realized I should probably update it to also include "by email and by Twitter."

But my point is I purchased imported 134a to have inventory to satisfy the most important person in my business, and I don't think I should be penalized with a retroactive critical circumstance finding because of that decision. Finally, I would like to say that I am proud to have the opportunity to provide steady and reliable manufacturing jobs for over 50 American employees.

Some are young, just starting off, and some have been with us since the start of our company, but they all are part of my family. Although I did try to cover my gray hairs, you can see that I'm certainly closer to retirement than I am to college. But I think that almost everyone in this room, domestic and Chinese producers alike, would attest to the fact that I come to work every day with a passion for growing and continuing this company for the benefit of our present and future employees.

An affirmative critical circumstances ruling will definitely impact my company and most importantly my employees. Given that the timing and volume of the imports are consistent with seasonal fluctuations, that there was no intent to subvert the effect of an anti-dumping duty, that our domestic packaging capacity was limited, and we had to rely on our Chinese playing capacity, and that the inventory that was imported post-petition has not had an undermining effect on the anti-dumping order, as evidenced by increased domestic pricing. I urge you to consider a negative ruling on critical circumstances.

MR. SCHUTZMAN: Respondents economic testimony will now be delivered by Jim Dougan, Vice President of Economic Consulting Services. Jim?

STATEMENT OF JAMES DOUGAN

MR. DOUGAN: Good afternoon Commissioners and Commission staff. My name is Jim Dougan of Economic Consulting Services and appearing on behalf of Respondents today.

My testimony will discuss how the record evidence supports a negative determination with respect to both current material injury and threat of material injury by reason of subject imports from China.

To begin with, there are a number of important conditions of competition and conceptual points that set the context in which we argue the evidence in this case should be viewed. The first point is that, as everyone is well aware, the first 18 months of the current POI from January 2013 through June 2014 were also covered by the POI in the prior case, which I will refer to as the 2014 case.

In the 2014 case, the Commission determined that subject imports were not causing and were not treating to cause material injury; thus, Respondents submit that the Commission has already determined that there was no injury or threat of injury by reason of subject imports through June of 2014.

Since the Commission vote was in November 2014, however, the whole of 2014 was affected by the market disruptions caused by the pendency of the investigation. Specifically, subject import volume was lower than it otherwise would've been and market prices, particularly in the second half of the year, were higher than they otherwise would've been. As I will discuss later in my testimony, Petitioners' pre-hearing briefs have made certain arguments with regard to market conditions in 2014 that aren't supported by the record evidence or even of their testimony and presentation today. Moreover, any trends between 2014 and 2015 must be viewed in the context of the market disruptions caused by the pendency of the 2014 case.

Second point related to the prior case is that there were significant supply shortages beginning in 2010 and running through 2011 and into early 2012 that changed the conditions of competition in the U.S. market permanently. While these shortages had been remedied by the beginning of the current POI in 2013, as discussed by Mr. Lammers today, customers experience in the marketplace during this period made them reluctant to rely upon domestic suppliers only as they'd been forced to do in the past, so they maintained the relationships they'd developed with producers in China to ensure that they had a continuity of supply.

U.S. producers' testimony in the 2014 case cited in Respondents' pre-hearing brief at pages 15 to 16 made clear that domestic producers' priority is to supply their contract customers, even those contract customers in export markets before they serve customers in the U.S. spot market. The staff report, at page 5-3, shows that contract customers accounted for the vast majority of U.S. producers' commercial shipments, as specific number is confidential. In contrast, the vast majority of importers' shipments, 72.5 percent, are to the spot market. Moreover, the automotive after market, unlike the automotive OEM or stationary OEM markets, is primarily served on a spot basis.

Thus, while this segment is the largest in the market, it is also the market segment most affected by the variations caused by domestic producers' supply difficulties and therefore the market segment that has come to rely most heavily on supply from subject imports. How these factors impacted volume shifts in the market over the current POI, especially in light of domestic producers persistent supply difficulties will be demonstrated later in my testimony.

The third point related to the supply shortage is that despite Petitioners' claims, the domestic industry does not have sufficient available capacity to supply the U.S. market. This is support, not only by the basic trade data shown on a table at page 17 at Respondents' pre-hearing brief, but also by the fact that purchasers representing a very substantial portion of total purchasers reported that they'd experienced supply constraints with getting R-134-A from domestic suppliers during the POI.

The confidential data are presented at pages 27 and 28 and Exhibit 5 to Respondents' pre-hearing brief and this contradicts Mr. Cannon's statement this morning that there was no mention of shortages in the record.

The fourth point, which is more conceptual, but important to keep in mind when weighing the evidence is that the record does not support the existence of a causal nexus between subject imports and the condition of the domestic industry. This supply is to volume affects, prices affects, and impact and I'll reference it throughout my presentation today.

Now when analyzing volume affects, a very important condition of competition is the distinct market segments into which R-134-A is sold. Subject merchandise imported to serve the automotive after market is not competing with or taking share from, say, domestic shipments to the automotive OEM segment or stationary OEM segment or foam expansion markets.

So looking at volume and market share trends in the individual market segments is critical for the Commission's analysis of volume affects. In this case, unlike in many cases, the Commission has very robust information regarding shipments and market shares in specific market segments over the entire POI. The Commission can therefore assess whether market share changes observed in the total market are representative of actual competitive dynamics when market segment data show otherwise.

The more granular analysis is especially relevant when, as in this case, the overall apparent consumption data are measured using import statistics which show import entries rather than shipments of imports and, thus, do not provide as precise a picture of actual consumption in any given period as the shipment data do. The Commission should not draw a conclusion of adverse volume affects based only on total market data.

In their briefs, Petitioners' claim that subject imports have been rapidly gaining share in all segments, but this simply is not true. Tellingly, the data that Petitioners' use to support this claim in Table 3 at page 16 to Cassidy Levy's brief are not market shares, but rather the share of total imports shipped to each segment. The actual segment market share data shown at Appendix E to the staff report tell a different story.

While the data are confidential, subject imports either maintained or lost market share between the part-year periods in three of the six market segments. In the three segments where they gained market share, the volumes of increases are truly, truly tiny. And this is because, as shown at staff report, Table E-1 and at page 12 to Respondents' brief, subject imports only have a meaningful presence in two of the six segments and in one of these subject import market share declined between the interim periods. Respondents will present an analysis using the confidential data in the post-hearing brief.

We also submit that the Commission consider the revised calculations in Exhibit 4 to our pre-hearing brief, which reallocated swapped quantities of R-134-A from the other category into the actual end use segments into which we know from other questionnaire responses that they were shipped. In particular, we suggest that the Commission look at shifts in volumes and market shares in the automotive after market which all parties agree is the segment with the most direct competitive overlap.

Respondents submit that the trends are entirely consistent with the Commission's understanding of the conditions of competition developed in the 2014 case. That is, this is the segment served last by domestic producers on a spot basis after meeting the needs of their contract customers; thereby, requiring purchasers to seek supply from China when domestic supply is constrained. You could see here in 2014 when domestic supply was available and import supply was constrained by the pendency of the 2014 case how the market shares changed.

In 2015, domestic supply was constrained by unplanned production outages, but import supply was more available due to the conclusion of the case. And between the interim periods domestic supply constraints were remedied with observable results in domestic shipments to and market share in this segment regardless of the presence of subject imports.

Respondents submits that the dynamics in this segments explain all or effectively all of the shifts in total share over the POI, but any market share gains by subject imports between the interim periods revealed in the segment shipment data are much smaller than those shown in the overall consumption and market share data. This makes sense because, again, the segment consumption data are composed of U.S. shipments of imports while the overall consumption data are based on imports.

Petitioners themselves recognize this fact when they've argued that interim 2016 consumption is inflated because much of the import volume went into inventories rather than being shipped into the market. But if this is the case, then subject imports actually volume and market share in inflated too.

Petitioners may assert that either the imports in 2016 entered the marketplace and took share from domestic producers as shown in the apparent consumption calculations or they went into importers inventories and threatened to do future harm and undermine the effectiveness of any remedy applied. It must be one or the other. It can't be both.

In our post-hearing brief, Respondents will provide alternative consumption calculations using questionnaire data that show results similar to those in the segment consumption tables from the staff report, Appendix E.

Turning to price affects, there was no price depression by reason of subject imports over the POI. As described at pages 33 and 36 of the Respondents' pre-hearing brief, there is no causal link between trends in subject import volume and market share and domestic prices, either in the pricing product data or in the market segment data. That is, domestic prices did not move in response to subject import volume fluctuations in a way that would provide evidence of price depression.

In response to a question on this point this morning, one of the domestic industry witnesses said that that was due to lags in import data and when they entered the market, but that would not apply to the pricing data which affect shipments in the time period in which they're recorded.

In the Cassidy Levy pre-hearing brief, Petitioners have attempted to make a price depression argument with regard to 2014 claiming that the preliminary duties imposed during that year did not have an affect on prices because of the large volume of imports arriving in the first half of that year. But a glance at Figures 5-1 through 5-6 of the staff report or even Slide 6 of their own presentation show price spikes in the second half of 2014 and soundly refused that argument.

If they're looking for a source of the net sales AUV may have gone down a good place to look is the changes in the AUV data, staff report Table 3-5.

There was, likewise, no suppression by reason of subject imports. Changes in the cogs-to-sales ratios were driven by domestic producers internal cost issues. In particular, by costs associated with the maintenance and supply issues experienced by domestic producers. This is clear from the fact that the industry's cogs-to-sales ratio did not respond in any observable sense to trends in subject imports. There is no causal link and this clearly drove Vice-Chairman Johanson's question this morning, observing that the cogs-to-sales ratio declined between interim periods despite an increase in subject import volume and market share.

Moreover, given that both raw material prices and apparent consumption were declining over the POI, subject imports did not prevent price increases that otherwise would've occurred. And this is the problem or one of the problems with Petitioners' Slide 6. This shows the price trends over time over the POI. And they've noted that they were unable to raise prices, but except for times when preliminary duties were imposed.

But the Commission has often recognized that in times when raw material prices are declining or flat and demand is declining or flat domestic producers wouldn't be expected to be able to impose price increases. So the fact that the price increases only went through when preliminary duties were in effect I think says a lot about what the actual market conditions were during this period and why the prices were what they were.

While sales allegations by domestic producers are overstated due to what appear to be some confusion on the part of responding purchasers and in any event, are small or relative apparent consumption during the POI, especially given the significant supply disruptions. See the confidential data at Respondents' pre-hearing brief at page 38.

And while there was underselling observed in the aggregate on record during the POI, Respondents submit that it wasn't significant as an indicator of adverse price affects. This was because the majority of domestic pricing products sales volumes concentrated in pricing products different from the products in which subject import pricing volume was concentrated. See the discussion at Respondents' pre-hearing brief, pages 30 to 34.

Petitioners have claimed that the Commission should consider direct imports of both 134-A in its underselling analysis, but Respondents disagree, unlike other cases in which direct imports might provide the only commercial sale and only point of competition between domestic merchandise and imports. In this case, the bulk direct imports are repackaged and sold into the downstream market and they're resold as products 2 through 5 where the price comparisons are already represented in the data. Therefore, including the direct imports in the Commission's analysis would results in double counting, something staff recognizes at staff report page 5-21.

Moreover, as noted at page 35 of Respondents' pre-hearing brief, the largest direct imports have cited supply difficulties experienced by domestic producers during the POI, indicating at least some of this volume would not be imported directly if sufficient supply was available from domestic producers.

Finally, Petitioners own arguments with regard to underselling undermine their theory of the case. They argue that underselling increased late in the POI in 2015 and 2016 relative to earlier in the POI. If this true, though, and if R-134-A is an interchangeable product sold on the basis of price and the lowest price always gets the sale, what is the explanation for the market share trends observed in the automotive after market shown earlier at Slide 7? The facts don't add up and the causal nexus does not hold.

Changing now to impact, Respondents' pre-hearing brief at pages 40 to 44 and Exhibits 7 and 8 present existence analysis of just how the domestic industry's results are affected by the aberrational results of one producer. Contrary to Petitioners' claims, we are not arguing that this producer's results should be removed from the Commission's aggregation, but rather that for purposes of the Commission's causation analysis it should consider how the trends in industry performance would look where this producer's cost structure to resemble more closely that of its domestic industry counterparts and were not so impacted by internal issues having nothing to do with subject imports. The Commission should not attribute to subject imports any injury to the domestic industry that arises from other factors.

Respondents' analysis clearly shows that absent these other facts, the domestic industry does not appear to be experiencing any injury at all, let alone injury by reason of subject imports. But in fact, the Commission need not even adopt Respondents' pro forma financial analysis to observe the lack of any causal link between subject imports and the condition of the domestic industry.

Between 2013 and 2014, subject import volume and market share fell sharply. There were preliminary duties imposed. There was market disruptions associated with the pendency of the case. And yet, domestic producers' performance declined. Between the interim periods, subject import volume and market share increased, yet, the domestic industry's performance improved.

Petitioners have presented no compelling evidence why this is so and the Commission should therefore reach a negative determination with respect to current material injury by reason of subject imports.

Finally, with regard to threat, Petitioners' have attempted to conjure an image of excess Chinese capacity primed to enter the U.S. market if trade remedy is not granted. Their narrative simply is not supported by the record evidence. Petitioners note that reporting foreign producers have increased capacity by 20 percent since 2013. As shown in the staff report, Table 7-3, these capacity expansions were completed by 2015, but exports to the U.S.

market by these same producers, in fact, declined in 2015 as compared to 2013. This increased capacity clearly was not installed to serve the U.S. market.

Petitioners also point to other firms in China who haven't participated in this investigation as evidence of overcapacity; however, foreign producer export coverage is robust in this investigation. There's no reason to suspect significant under reporting. Exports to the United States by foreign producers providing questionnaire responses accounted for 82 percent of U.S. imports under the R-134-A AGS category in 2015.

This is not just a small universe of Mr. Schutzman's clients. This is very robust coverage for foreign producers. The Petitioners would like you to believe this is one of those cases where you get responses from 10 percent of the coverage of the exporting to the United States. This simply is not that case and the Commission should give that argument no weight.

When one considers that the Chinese exports who don't produce R-134-A themselves aren't included in this figure. If confirms of the foreign producers questionnaire data are not systematically under reported and certainly not to the degree alleged by Petitioners. Questionnaire data also show that foreign producers were operating at very high capacity utilization over the POI, increasing from 94 percent in 2013 and 2015 to 95 percent in part year 2016. They maintained an increase to their utilization ever after a 20 percent increase in capacity. There's no evidence of any significant overcapacity on this record.

Petitioners also assert that Chinese excess capacity cannot be absorbed by the home market, but foreign producer shipments to the home market have increased in every year of the POI. Chinese home market shipments exceeded exports to both the U.S. market and to third countries in every instance as well. In fact, as of 2015, home market shipments make up the majority of Chinese producers' shipments and that is not predicted to change for the foreseeable future.

And again, you heard from this morning that while there are regulatory restrictions being imposed on the use of R-134-A, both in the United States and in Europe and in other countries, there are no such restraints being imposed in China, so therefore the fact that they would be adding this capacity and production to serve a growing Chinese market makes sense.

And I will also point out that exports to the United States did not exceed 10 percent of foreign producers' total shipments at any time during the POI. The assertions that this additional capacity was added to be pointed at the U.S. market are simply baseless.

In sum, representative data on the record in this investigation do not lend credence to Petitioners' claims of overcapacity in China, nor do their arguments that producers in China are focused on the U.S. market in a way that would lead to significant increases in exports in the imminent future.

For these reasons and for all other reasons delineated in detail in Respondents' pre-hearing brief, the Commission should reach a negative determination with respect to current material injury and threat. Thank you.

And I have just a couple other points -- okay. Just to respond to a few other things that we heard this morning, one, it's Confidential Exhibit 1 from Petitioners. I can't get into the numbers, but those numbers don't line up to what's in the questionnaire response to the U.S. producer in question. They're quite different. I would invite the Petitioners to explain that and the Commissioners to ask for an explanation because it's a much more significant change in production than is represented in the U.S. producer's question.

Also, on Slide 8, this is a misleading chart because it shows a decline in domestic industry shipments, 2013, 2014, and 2015 and then January to September 2016. So the trend that's being observed between 2015 and 2016 is between a full-year period and part-year period. Granted, there was a decline between '14 and '15, but I don't think you'll see anything of the same magnitude, if at all, in 2016. In fact, I believe you'll show that there is a substantial increase in U.S. shipments between part-year '15 and part-year '16. So again, this is a very misleading chart and the Commission should not give it any weight.

I think that that's it for now. I'm happy to respond to any questions. Thank you.

MR. SCHUTZMAN: Mr. Vice Chairman, that completes Respondent's presentation.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Schutzman. Questioning will begin this afternoon with Commissioner Kieff.

COMMISSIONER KIEFF: Thank you, Mr. Vice Chairman, and thank you to the panel for coming and presenting. Let me just mention that, although I will be leaving early today, I will be reviewing not only the transcript but the posthearing submissions, and look forward to everything will be presented.

So let me just dive in directly as a follow up to the questions I was asking the morning panel. Do you see your main disagreement with your opposing panel as one about fact, or law? And how is that disagreement going to drive the outcome of the case?

MR. MARSHAK: Commissioner, Ned Marshak. I think it's both facts and law. If you look, for example, on the facts is the market penetration in the other segments of the industry other than the automotive aftermarket.

You know, there are certain facts on the record regarding the penetration in those other segments. We think they are absolutely de minimis and minimal, and going down, and Petitioner is saying somehow all of a sudden we have a major problem in all the other market segments. That's probably facts.

COMMISSIONER KIEFF: Okay, so on that fact they seem to suggest that one of the big changes from our prior decision was the imports in segments, in a couple of segments. And that there's confidential data that, at least when I looked at it, had numbers that were sufficiently greater than zero that they did not strike me as de minimis. So in the posthearing, can you explain why the numbers in their confidential sheets, the handout, for those segments are either not correct, or are correct but need to be seen against a benchmark that will make me realize they really are de minimis? I take it that's the kind of only two responses that could be made to the data on their sheets?

MR. MARSHAK: Yes, I believe there is a factual and legal issue as to penetration in other market segments and whether it's important in this case, and a lot of it will be from our economic analysis that Mr. Dougan is doing.

And then legally, you know, whether that's important, whether that's sufficient to contribute to any injury.

We believe that the competition is in--the real competition is in one segment, and we've explained that. And we don't think the other segments are really that significant.

COMMISSIONER KIEFF: And can you hit me again with the kind of headline of your argument about the auto market? Why is that not head-to-head competition?

MR. MARSHAK: There is.

COMMISSIONER KIEFF: Okay.

MR. MARSHAK: But that's for Mr. Dougan--I mean, there's competition in the automotive aftermarket, but we don't believe it's injurious for a lot of the economic reasons in Mr. Dougan's testimony in our brief.

COMMISSIONER KIEFF: So let me just make sure. So, Mr. Dougan, are you saying it's not injurious to their business in that market? Or it's not otherwise impacting pricing overall? Or both?

MR. DOUGAN: I would argue both. And it's difficult to get into here, but I think again some of the shifts in market share as shown in the chart there, which sort of kept any numbers off of it--

COMMISSIONER KIEFF: Goes toward that point?

MR. DOUGAN: And how--and because it's such a large part of the market, and because it's a disproportionately large portion of where the imports are, how--the total market penetration of the imports look and their total volumes look is obviously affected by what's going on here. But you kind of need to scratch the surface a little bit look at the market--the segment underneath for what's going on with the competitive dynamics rather than how this may affect the market overall.

COMMISSIONER KIEFF: And let me ask, then, and maybe this is the wrong--maybe this is the legally incorrect counterfactual, in which case the lawyers should tell me that, but let me ask the economic counterfactual before the lawyer tells me it's the wrong one to ask.

Are you saying that if Chinese imports were not in the U.S. market they would not be doing materially better?

(Pause.)

Or maybe a slightly more precise way of saying it, we presume in an ITC case that a margin exists. Someone else sets the margin. That's Commerce. So as part of my hypothetical, it's not--my premise is: No Chinese imports with the margins set by Commerce are in the U.S. market.

Are you saying that in that alternative state of the world, they would be doing no better than they are now?

MR. DOUGAN: My response to that would be, I mean effectively that would give the domestic producers a near monopoly on the market, at least in the current world supply situation. So one would expect that they would--

COMMISSIONER KIEFF: Well that's a great argument against Title VII.

MR. DOUGAN: Right.

COMMISSIONER KIEFF: But we have to apply Title VII.

MR. DOUGAN: I'll leave that one to--

MR. MARSHAK: We realize we have Title VII, but we also say we're talking about the real world. And in the real world, we're saying domestics can't supply this automotive market. They don't have enough capacity to supply. And something is always going to go wrong.

COMMISSIONER KIEFF: So are you saying they don't have enough capacity to fully supply it? Because I thought--I mean, I take it their argument is, at bottom--well let me put it this way. Their revealed preference by the money they're spending for their non-pro bono lawyers to be here, and the money they spend on the non-pro bono air fare for themselves to be here, is that they will be earning more money than that cost if they went. Right? That, we know.

Now they could be doing the math wrong on that, and obviously that happens in all litigation sometimes, but let's assume they got the math right on that by a big enough margin that they'd be doing much, much better.

Is that enough for a Title VII case to get to a 'yes' for them?

MR. MARSHAK: No, it's not.

COMMISSIONER KIEFF: Okay.

MR. MARSHAK: And we like to talk about--

COMMISSIONER KIEFF: Great--

MR. MARSHAK: And in that scenario, you are going to have an affirmative determination in every single case. I mean I think it kind of takes out an essential element--

COMMISSIONER KIEFF: Well just to be clear, replacement benefit test, things like that, backfill on causation. It just so happens that Chinese imports in this particular market happen to not likely have nonsubject import replacement benefit available to them. Right?

MR. MARSHAK: There was some nonsubject imports, you know, in 2014. There's a lack of capacity to nonsubject imports. They couldn't supply the whole market. They had to get imports from third countries in that time period when the Chinese were out of the market because of the pendency of the case.

So that's not entirely correct. I mean, it was there. And they would say that, you know, one ton of the nonsubject imports is injurious as long as they had capacity. And if you go down that route--

COMMISSIONER KIEFF: Are you--again, slippery slope arguments are always tricky. I don't know that we have to agree with them that the straw that breaks the camel's back is sufficient for a Title VII. But I don't know that they're making that argument.

I think that they're making that argument that they have enough excess capacity to sell enough into the domestic market at enough greater prices that, absent the margins the Chinese imports might still be in the market but they'd be doing better while they're in the market.

MR. MARSHAK: I think also there's competition in the market between the companies. You know, is that driving down prices? When you look at the individual pricing products to pricing products, there's, you know, what's going on in shorting pricing products even if there's no Chinese competition, you know, possibly they're injuring themselves. Because you look at the pricing products where there may be Chinese imports, where they may not be Chinese imports, different market segments.

So there's a lot going on there. Just the fact that there could be, you know, one more domestic ton produced, or, you know--

COMMISSIONER KIEFF: Yeah, we all get that just one more one doesn't work. I guess the question is--

MR. MARSHAK: I realize that, but there's a lot more going on in this industry than what they're saying is going on.

COMMISSIONER KIEFF: Okay, great. Mr. Lammers?

MR. LAMMERS: Thank you. John Lammers, AutoZone. I would argue they probably may not be doing much better simply because there are other--this is a global, as you know, a global economy.

As I mentioned in my testimony, we purchase from a European manufacturer our 134a. There are currently manufacturing capacity in India. So I'm not sure that they would, based on where I see the global supply going right now.

COMMISSIONER KIEFF: Alright. Well, look, my time is up and I think you're joining the right issues, and I think that I just look forward to both sides touching sabers with each other on these points so that we can figure out who wins the duel so that we can better understand how the record will teach us about what's likely going to be happening in the market, if there were or were not an affirmative determination.

But that's really--your finger is on the right part of the case. So thank you.

VICE CHAIRMAN JOHANSON: Alright, thank you. And I'm going to begin my questions. Getting back to an issue that I raised with Ms. Buterbaugh this morning of Chemours, this morning I asked her about the impact of the curtailment of production at a plant in Corpus Christi, Texas, owned by Chemours.

She stated that Chemours, through stored materials and other domestic producers, they were able to supply adequately the U.S. market during the time that the Corpus Christi, Texas, plant was out of commission.

Do Respondents have an opinion on the impact in the market of the curtailment of pertuxen at the Corpus Christi, Texas, plant?

MR. LAMMERS: Well, actually --- John Lammers from AutoZone--I really can tell you, simply because, as I stated in my testimony, they have been unwilling to even discuss selling to us in the last few years. So I really don't have an opinion or knowledge of that having a disruption in the market or not.

MR. DOUGAN: Vice Chairman Johanson, again I would hesitate to answer this completely in this forum given that there's some confidential information involved, but there was--there's some correspondence on this issue in the record.

I believe there's a footnote in Petitioner's prehearing brief where they talk about how everything as basically fine, and they were able to handle and fulfill all of the needs. I think there's a couple of points there.

One, digging into the numbers a little bit, I'm not sure it quite all adds up, but I'll give a more complete response with confidential data.

And the other is, are there--you know, is this a situation where, you know, we fulfill--they fulfill their contractual requirements? They built inventories and procured necessary other supply to do that. But, you know, as we pointed out, there's a large portion of the market that's a spot market. And I believe Ms. Buterbaugh said that they participated in the spot market.

But did they participate to the same degree? Was it to a diminished degree? Are there customers out there who buy on the spot market who, you know, basically were at the back of the queue in that situation? I think the evidence supports the fact that there were.

So, you know, was it a sort of a cataclysmic effect on the marketplace where no one could get volume from anybody because Chemours had to shut down? I don't think anybody is arguing that.

But certainly there was some tightness, and I think it goes to again Mr. Lammers's point and how the conditions of competition has changed since 2010 where, you know, purchasers are increasingly reluctant to rely on U.S. producers when, you know, these things seem to happen every once in a while.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Dougan. The reason I'm bringing this up is because there are only a few producers of this product in the U.S., in the United States, right? And to have one producer out of the market for a period of time I would think would lead to some impact in the market which would be noticeable. Maybe I'm wrong on that.

MR. DOUGAN: Well, you know, and I think the answer from the witnesses this morning was very careful. You know, they said the outage wasn't unplanned. But I mean certainly it wasn't--but then they eventually conceded that, well, it wasn't planned to go on for months. And I think that amounts to, you know, a distinction without a difference.

So if you're someone in the marketplace looking to get R-134a--by the way, the witnesses also said that they don't necessarily announce to their customers when they're going to do the turnarounds because they feel like they don't have to if they've been doing things right and built up enough inventory to serve them.

In this case, you know, they themselves didn't know that this was going to last this long, so how could their customers have known? And they couldn't have built up enough sufficient inventory to ride out the storm. So they then did have to get that from their domestic counterparts.

But, you know, the idea that this just had no effect on the surface of the water here in the marketplace I think is a bit of a stretch.

VICE CHAIRMAN JOHANSON: Alright, thank you, Mr. Dougan.

I'm going to ask you all a question identical to a question I asked this morning. And that is, does price in automotive aftermarket affect price in other parts of the market such as sales to automotive or stationery OEMs or foam producers?

MR. DOUGAN: The industry witnesses can answer this from personal experience, but there isn't any evidence on the record that points to that here. You know, the only way you could maybe take a shot at looking at that would be if the pricing product data were specific to OEM versus, you know, distributors and retailers. But of course all of the--you know, because imports basically don't sell to OEMs to any significant degree.

All the pricing products are for sales to, you know, distributors and retailers, which is by design from Petitioners. If they had wanted to maybe have evidence on the record how this phenomenon happened, they should have requested that some of the pricing products be in sales to OEMs so we could observe that.

But as it is, there's nothing on the record that says this.

VICE CHAIRMAN JOHANSON: Yes, Ms. Dayton?

MS. DAYTON: Im going to answer that and say partially yes and partially no. If you look at the, like BMP and ICOL price sheets, there are from the Chinese importers, there are a cylinder listed on there that says 134HVAC cylinders. There's two different valves on the type of cylinders that are sold, one to the stationery market is an HVAC valve, and the one to the auto market is an auto valve.

So you can easily distinguish on 30-pounders what's going into the HVAC market and what's going into the auto market. So they definitely, the importers definitely impacted the HVAC market because they are blast emailing these prices out that have HVAC valves.

In addition to that, there's HVAC products on those sheets. There's 410a, there's 407c. Those are all HVAC products, not automotive products. So they were definitely impacting the HVAC side of the 134a business.

That being said, on the OEM side I don't sell the OEM so I'm not professing to be an expert at that, but the OEMs tend to get their deliveries in ISO containers, or tanker trucks in bulk containers. It's very difficult for the Chinese and just-in-time deliveries to their manufacturing plants. So it's very difficult for the

Chinese to infiltrate that market because they mostly sell package material. And so it's very difficult for them to get into the OEM market.

So the Petitioners did argue: Well, they still use that as, you know, kind of father to try to get their prices down. I don't know if they do or not because I don't call on the OEMs themselves, but I will say for delivery purposes it's difficult for the Chinese to go in there because they're sold in a bulk tanker truck versus in 30-pounders.

So I think the answer is somewhat 'yes' and somewhat 'no.'

VICE CHAIRMAN JOHANSON: Thank you, Ms. Dayton. Perhaps you could help me better see what is being sent from China to the United States. Is it in the 30-pound containers? Or is it in individual containers like Mr. Lammers, you might use at AutoZone, which you would put in your car?

MS. DAYTON: It's brought in in both. I mean, people do bring in bulk 134a, but that bulk is generally packaged into the 30-pounds and the 12-ounce.

VICE CHAIRMAN JOHANSON: And so you take it and you repackage it?

MS. DAYTON: Well, you know, like if I brought bulk In I would package in the 30 pounds, because it's very hard to supply that bulk to an OEM because they're all just-in-time deliveries and et cetera, and you have to have pumps on your tankers, and approved by the OEMs and everything. So it's very difficult to bring bulk in from the Chinese and sell it to an OEM.

So even though there is bulk being brought in, a lot of that is going into the automotive aftermarket, or the HVAC--it will also go in the HVAC market. There's no question that Chinese imports have also impacted the HVAC market, as you see on the price sheets. You know, there's a line on the price sheet that says 134a HVAC cylinders. They're marketing to the HVAC industry.

VICE CHAIRMAN JOHANSON: Okay, thank you. Yes, Mr. Lammers?

MR. LAMMERS: Yes, a further comment in regards to AutoZone. We have purchased in the past ISO containers, and had a third party contractor repackage them.

VICE CHAIRMAN JOHANSON: The ISO containers? Is that the 30 pound?

MR. LAMMERS: No, the ISO container is just a big huge tank. It's big enough to sit on the flatbed truck, 18-wheel. So you can kind of visualize what that looks like. We send it to a repackager who then puts it in 12-ounce cans and 30--pound cylinders.

The majority of what we import, though, from

China is the R-134a already packaged in 30-pound cylinders and 12-ounce cans.

VICE CHAIRMAN JOHANSON: Yes, Mr. Marshak?

MR. MARSHAK: Table 49 I think is going to give you a lot of your answers to this question.

VICE CHAIRMAN JOHANSON: Okay, I'll take a look at that. Thank you. My time is about to expire, so I am going to pass on the questions to Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. I want to thank all the witnesses for coming this afternoon.

Mr. Matthew, why were you unable to obtain R-134a from domestic producers? I don't think that was made clear.

MR. MATHEW: When we contacted the three domestic producers, we had received a response from one. The other we had no response. No communication. The others we're still trying to work on getting quotes from them.

COMMISSIONER WILLIAMSON: Was this at a particular time? To the extent you can, or if you want to do it posthearing, what's the context?

MR. MATHEW: I believe I'll have to go get all that information for you for the posthearing.

COMMISSIONER WILLIAMSON: Okay. I'm just trying to assess the significance of why it was, like was there great tightness, or prices were going up and you didn't want that price, or what.

MR. MATHEW: It's been months, probably six, seven months, since we've been in this business. We've been out of the business because of these issues. And so because of that we've been looking for additional sources.

We found a source in India. We've been contacting sources domestically, but have not had success there. We've had success getting some responses from India. But yet those pricing that we're getting from them is just not competitive in the market.

COMMISSIONER WILLIAMSON: You mean competitive with the prices being offered by the Chinese, or by the domestics?

MR. MATHEW: By the domestics. So we're not winning our bids. And so essentially we're going out of business for this type of product.

COMMISSIONER WILLIAMSON: Okay. Anything you could provide post-hearing would be helpful.

Ms. Dayton, in your critical--in your arguments I think you said that, and I assume it was for you, that imports were greater I think in 2015 than they were in 2016. And I assume you were talking about what you were bringing in. Because when we look at at least the data for the interim periods, it looks like the imports in 2016 were much greater.

So I was wondering, do you know why the

difference?

MS. DAYTON: Yes. I was referring to my own. And my point that I was trying to make was that my buying pattern was the same, or even a little less in 2016, that there was no intention to subvert any imposition of any duties.

And the other point that I was trying to bring out, like the first quarter of 2016, yes, it showed a big amount of product being brought in, but I don't think that was again to subvert any duties because no one even knew at that time that there was even a petition that was going to be filed. I mean, it wasn't filed until March 3rd. There's no way that anybody, when they saw the petition on March 3rd, could get product in by March 31st into this country. You have to order it. The Chinese producers have to make it. And then you have to put it on a boat and get it here, and there's no way that can happen in three or four weeks.

It's generally a two to three month time between the time people order it. So I think people were ordering in that first quarter of 2016 simply for the seasonal market. And, you know, maybe it was larger because pricing was good for Chinese product, but I don't think that it was to try to subvert any duty or try to get product in advance of any duty, which is why I don't think that critical circumstance should be imposed.

COMMISSIONER WILLIAMSON: What about when one takes a look at the whole interim period, the whole nine-month period? Clearly the imports were much greater than they were, at least with the data we have, it would indicate they were much greater than they were the year before.

What's the explanation for that?

MS. DAYTON: I mean I think, personally I think it's because pricing in general from China was lower than pricing in the U.S. So for the first quarter, you know, if you look at the whole nine months, the first quarter was--which was one of the major spikes, had nothing to do with the fact of the antidumping duty. The first quarter was just because pricing in Chinese product was lower than elsewhere and people were bringing it in to try to sell it in the marketplace in 2016.

There were a lot of Chinese brokers that popped up in this time frame since the last duty that wanted to gain market share in the United States. And they were able to get competitive Chinese product and establish themselves in the market. There were a lot of new player in the 134a market in 2015 and '16 that are hell bent on trying to get market share in this country.

MR. MARSHAK: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Yes?

MR. MARSHAK: We think when you look at the data for the entire industry, and that's Table 44, and we discussed it in our prehearing brief and we'll discuss it more in our post-hearing brief, you know, there may be an increase of imports, but it's not to the levels that are necessary to have an affirmative determination on whether that increase seriously undermined remedial impact of any order.

So it's higher, but not, you know, not super-duper high that you could reach that next level to have it seriously undermined determination. And also, the data in this table doesn't take into account seasonality at all.

So I think what Ms. Dayton is talking about, you have to look at the data, the increase as it relates --- looking at seasonality also. In addition to the increase, you have to look at one of the reasons for the increase to before or after is because of seasonality, and it's also because of the possibility that there would be no product.

COMMISSIONER WILLIAMSON: Except I think what she's saying is if you look from, shall we say, from 2015 season to the 2016 season, there's a whole lot more stuff coming in in 2016 than in 2015. Is that my understanding?

MS. DAYTON: Yes, and I'm saying that's because pricing was such that made it favorable for some of these brokers to bring in from China.

COMMISSIONER WILLIAMSON: Okay, and I understand that about there's a thousand players out there who want to get the business.

MS. DAYTON: Right. Exactly. It's a commodity market and there's people who, you know, make deals and want to bring some in.

For example, even this one big retailer that was referred to by the Petitioners that for years and years and years had been with domestic suppliers, this year got taken by a Chinese supplier. It was a reverse auction and they got taken by a Chinese supplier. That was probably, I forget what the exact volume is, but I think it was like 4 or 5 million pounds of material.

So there's other factors. If the pricing is better, people come in and bring material in from China.

MR. MARSHAK: But you're bringing in material because you're going to have to sell it in the season when you're going to sell it. So you're bringing it in before the season when you're going to sell it. And you just look at the data you have in your--

COMMISSIONER WILLIAMSON: But--

MR. MARSHAK: --take that into account.

COMMISSIONER WILLIAMSON: The peak season is when, for bringing it in for that year? Is it the first quarter?

The first and second quarter?

MR. MARSHAK: I'm going to have to --- we'll discuss that in the post-hearing, exactly when it is. I don't want to say something now that could be wrong.

COMMISSIONER WILLIAMSON: We do have somebody here who is selling in the market, so--

MR. MARSHAK: Right, so when you bring it in, you bring it in before you sell it. So you bring it in, and you have to build up your inventory, and then you're going to sell it off in the summer season. So you bring it in before.

COMMISSIONER WILLIAMSON: My question, though, is are you still bringing it in in June if you're expecting to sell it in the, shall we say, 2016 season?

MR. LAMMERS: Yes. AutoZone does. We buy, as I said in my testimony, we make our purchasing decisions in the fall. And then we stage our orders out through really, really for the first half of the year.

So we were still receiving orders that we had placed in the fall of 2015 up through June of 2016.

COMMISSIONER WILLIAMSON: Okay.

MS. DAYTON: And that's what I contend, that those large volumes that you see in first and second quarter 2016, a lot of those orders were placed well before. I mean the first quarter, obviously, well before the petition was filed on March 3rd. But I think John would even attest that they place their orders even for second quarter well before March 3rd of any given year.

COMMISSIONER WILLIAMSON: Was any--go ahead, I'm sorry. Go ahead and finish.

MS. DAYTON: And so even those second quarter orders, many of those were likely placed well before the petition was even filed.

COMMISSIONER WILLIAMSON: Was there anything about the anticipated demand in the U.S. market that was different between '16 and '15? Mostly we've been talking about the supply that people have been offering. Was there any changes in the demand, on the demand side?

MS. DAYTON: I don't think there was any significant changes in demand. I think the change was just the proportion between Chinese and domestic supply, which is part of the reason that domestic suppliers are complaining because there was a change in supply. A lot of Chinese were coming into the market in 2016.

MR. DOUGAN: Except--this is Jim Dougan --- except maybe Ms. Dayton hasn't looked at the record, but there is a substantial increase in shipments by domestic producers between the interim periods, as well. So that would suggest that there was an increase in demand.

COMMISSIONER WILLIAMSON: Any idea what might be driving that?

MR. LAMMERS: Weather.

COMMISSIONER WILLIAMSON: Weather?

MR. LAMMERS; Weather, yes. In '16, we supply-- AutoZone subscribes to a lot of weather trend data that forecast out weather, because, not just this, we sell batteries, and all kinds of seasonal-related products, so we need to know what's going on weather-wise.

2016 was hotter overall than '15. And particularly in certain parts of the country. So we did see demand increase over the previous year of what we're selling in our stores.

COMMISSIONER WILLIAMSON: Okay. Good. I'm sorry, my time has expired. Thanks.

VICE CHAIRMAN JOHANSON: Yes, Commissioner Broadbent.

COMMISSIONER BROADBENT: Let's see. So in looking at the 2015 and the interim 2016 data, the increasing value of subject imports and corresponding decline in profitability of the domestic industry, why is this not causally linked?

MR. DOUGAN: There actually is an increase in domestic profitability between the interim periods.

COMMISSIONER BROADBENT: Oh, is that right? Oh sorry. Is that right? I don't know. I'm confused, all right. On to the next one. If the domestic industry, Mr. Marshak, as you argue cannot supply the U.S. market, why aren't subject imports commanding a price premium?

MR. DOUGAN: You know, we talked about this in preparing for the hearing and in preparing the briefs, because we understand one of Petitioner's is well, this isn't like 2010, this isn't like 2011 where there was this global shortage and you had this huge price spike, and that's true, because that was a one-time, hopefully one-time I guess effect.

But it was also something that changed the conditions of competition permanently. That price spike, and Mr. Lammers can support me on this one because we talked about it at lunch, you know, that was a time when this was available really, at least in the U.S. market, from the domestic producers. So it took a while for the purchasers even to get Chinese imports into the market, and the spike arose sharply in part because domestic producers could basically control it and tell everyone to get to the back of the line and/or pay some enormous premium to get anything.

So at the time the Chinese stuff came in, they were at prices that were around that maybe even overselling. But it was also this kind of sea change type of experience that changed the conditions of competition permanently, such that purchasers in this market were not going to get caught in that position again.

And so they maintained their supply relationship with China and from the data it looks like they even started getting some from non-subject sources as well, such that, you know, the supply disruptions that occur in the marketplace, especially if it's, you know, there's only three U.S. producers.

But even if it's just one of them as opposed to the 2010 thing which affected everybody in the marketplace, you know, there has already been sort of baked into the market an understanding that these guys aren't the only game in town, that you no longer -- now you're going from three suppliers to two. You've already got supply chains in place from alternative sources.

So you know, there was a restriction. There was lack of availability from one U.S. producer. But there wasn't a lack of availability from other sources. And so -- and there was -- the expectation wasn't -- was sort of baked into the -- was no longer baked into the marketplace, that you are restricted to the suppliers. So you would have a much -- first of all, there's a much less severe supply shortage, and secondly, it was much greater understanding that these folks weren't the only game in town.

COMMISSIONER BROADBENT: Okay. So you're arguing that really the legacy of 2010-2011 is permanent, that the domestic industry can't overcome it and there's nothing they can do to reassert the market. Maybe Mr. Lammers --

MR. DOUGAN: Well, I mean John can answer. But just to, you know, the way to overcome that is not to like have a plant go down for half a year right after they spend an ITC investigation telling everybody that they can supply the market.

MR. LAMMERS: Yeah. Again going back to my testimony, this is an issue of concerns on supply not price. Consumers are going to pay what the price, what the market price is that we sell, based on they have to fix their air conditioner. So we actually benefit from a P&L standpoint if pricing goes up. But we're not in it for this; we're in it to take care of our customers and we have to have supply.

We do not want to disappoint our customers who depend on us, and we've been burned earlier, and we cannot allow ourselves to be put in that situation again.

COMMISSIONER BROADBENT: Okay. Mr. Lammers, a random question. I heard you say that you're buying it from production in Europe. That's probably not legally sold in Europe, is that right? They can only sell it here?

MR. LAMMERS: No. I don't know -- I can't speak to all the regulations in Europe. When we were --

this was back in, again in the fall of 2014, when this was up the last time.

We were making our buys for 2015 or trying to. We were having difficulty securing all the supply. So we went to this European manufacturer and we made some purchases from them, and then we're looking to them again, since they have continued to be in the market.

COMMISSIONER BROADBENT: Okay, but if we understand the regulation, this stuff is not legally sold in Europe right now, right?

MR. LAMMERS: I don't -- again, I'm not an expert on this. I know there were some -- there was talk, there was some rules going through that required the elimination of R-134a. I know companies like Mercedes-Benz pushed back, because they felt it was a fire hazard.

COMMISSIONER BROADBENT: Oh that's right, yeah.

MR. LAMMERS: Yeah, but I don't know how that case ended. But I do know that this particular factory is still producing and is willing to sell to the U.S.

MR. DOUGAN: Commissioner Broadbent, Tim Dougan. I think pages I-31 and 32 of the staff report, it looks like the EU regulation, the ban is for new automobile types as of January 1st, 2017. But presumably for the aftermarket in Europe, they can still sell it.

COMMISSIONER BROADBENT: That's it. Yeah, that's right.

MS. DAYTON: There's a regulation called the F-GAS regulation, and it does regulate HFCs in Europe only. So there's a certain amount that can be either produced or imported into Europe, and they have regulations on how much can be used or produced in Europe. But if it's produced in Europe for shipment to the United States, that's totally legal to do.

COMMISSIONER BROADBENT: Okay. Mr. Schutzman, in the Commission's prior determination, although it was a negative nonetheless we found the volume to be significant in absolute terms and relative to consumption, and those volume levels were lower than they are in this case. How does that affect your argument?

MR. DOUGAN: Jim Dougan from ECS. I mean I think that, you know, apart from maybe 2014 where the volumes were affected by the pendency of the case, I don't think we are trying to argue that the volumes of imports from China are significant in absolute terms. I mean they have a double digit share of the marketplace, but that that is not significant in terms of -- in terms of causation or in any way leading to injury because of necessity of maintaining that alternative source of supply.

COMMISSIONER BROADBENT: Okay, Mr. Vice

Chairman. I think that's all the questions I have for the time being.

VICE CHAIRMAN JOHANSON: All right, thank you Commissioner Broadbent, and I'm going to ask yet another question that I asked of the Petitioners this morning, and that is does a concentration of the subject imports from the auto aftermarket segment provide a degree of insulation from competition for the domestic industry?

MR. DOUGAN: Jim Dougan from ECS. I mean I think to some degree. You said a degree of insulation. I mean I think that that's true. The imports are not competing in any meaningful way to the OEM market for some of the reasons that Ms. Dayton, about just in time supply and various fittings and the form in which the product is imported, and so the answer is yes.

VICE CHAIRMAN JOHANSON: Okay. Mr. Lammers, I have a question for you and for anyone else who might want to answer it. But you spoke this morning about reverse auctions, or rather this afternoon you spoke about reverse auctions. How common are reverse auctions in the R-134a market, and in what part of market are they used?

MR. LAMMERS: Well, I can't speak for my competitors or the market. I can just speak for AutoZone. We have for commodity items like this and others, from time to time we do have what we call reverse auctions. We use it to look at new suppliers as well as current suppliers. We look at pricing and availability in the marketplace. We have these generally prior to the time that we want to place orders for the season.

So in this particular case, we hold them and usually late summer/early fall, and as a standard practice.

VICE CHAIRMAN JOHANSON: Okay, and how do they operate? I'm just kind of curious about this. I don't know reverse auctions.

MR. LAMMERS: There is -- there's basically software and basically how it works is we send invitations out about a month or so prior to the auction. We put the word out to our local representatives that we're having this. We ask suppliers to respond if they want to participate, and at a date or date to respond.

Then we offer guidance to how to participate in it, you know. We work with them one on one to show them how they should be bidding, how the whole process works, and then we have a -- then the auction is held at a particular day at a given time.

VICE CHAIRMAN JOHANSON: So it's just an auction then?

MR. LAMMERS: Uh-huh.

VICE CHAIRMAN JOHANSON: Okay, this whole reverse word has kind of confused me a bit.

COMMISSIONER BROADBENT: Because the prices go lower and lower.

VICE CHAIRMAN JOHANSON: Okay, I get it.

MR. LAMMERS: I'm sorry?

VICE CHAIRMAN JOHANSON: Yeah. Commissioner Broadbent said that it's because the prices go lower and lower. That's where it departs.

MR. LAMMERS: Well, they can see --

VICE CHAIRMAN JOHANSON: Those are her words.

MR. LAMMERS: No, I know. Sorry Commissioner Broadbent. It is true, but let me make one thing very clear. We don't make our final decisions based on whoever has the lowest price, okay, and we clearly state that in all communications on these reverse auctions. In the case where a manufacturer who we have no prior purchasing experience with, after the auction we then engage in conversations with them because we just don't buy from whomever.

If there's a manufacturer that we're not familiar with, we need to go and audit their factory to make sure there's no violations of labor laws, that they can actually supply the demand that we need. So the reverse auction is just a starting point of us making our final decisions.

VICE CHAIRMAN JOHANSON: Okay. Thank you Mr.

Lammers. Mr. Schutzman, were you going to say something?

MR. SCHUTZMAN: Commissioner Johanson, I think it's called a reverse auction because an auction is typically a seller's event, and this is precipitated by a buyer.

VICE CHAIRMAN JOHANSON: Okay, I understand. I've never participated in an auction, so I just -- the only thing I know about auctions is what I see on TV, where some guy with a hammer speaking very quickly. So that's why I asked the questions. I just don't know a lot about them.

MR. LAMMERS: Just to further what I said, again a good example of this was the reverse auction we had in 2015, where Mexichem did provide a quote, although it was a last minute quote. We again, because it was the first time that we'd ever heard from them, we wanted to engage in further dialogue with them, and we weren't having any success.

We finally then went to a repackager that we do business with that buys from them directly, to say can you help us out here because we're interested in doing business with them, and that's when eventually we got a meeting on the calendar for August and to which they cancelled. So we were not able to see their factory, know their people, to really get a good feel if they could supply us the way we needed to be supplied.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Lammers. Ms. Dayton or Ms. Lammers, you all might have an answer to this. The last time that the ITC looked at this market, there was only one U.S. government producer of the 12 ounce can use in retail sales. Has that situation changed, and if so, can you provide a little background on what might have happened?

MS. DAYTON: Yes. I believe there's at least a couple of Chinese producers now that have Department of Transportation approval for those cans. It used to be 100 percent by Sexton Can, who has -- there's a DOT exemption you need to put 134a in a 12 ounce can. I believe there's a couple more now in China that are able to make that DOT exempt can.

VICE CHAIRMAN JOHANSON: Okay. Mr. Lammers.

MR. LAMMERS: There was one company who developed this can, the DOT approved can that had a patent on the actual can. Basically, if it overheated, the can popped out, the bottom popped out as opposed to blowing up, and which is a good thing. So that they had a patent, and I believe that, like all patents, that ran out and so other people were able to get in and get their DOT can approved.

VICE CHAIRMAN JOHANSON: As far as you know, has that impacted the market at all?

MR. LAMMERS: Not that I'm aware of.

VICE CHAIRMAN JOHANSON: Okay, and one more technical issue, and Ms. Dayton, you might have addressed this before but maybe I didn't fully catch it. Can inventory in one form, let's say at 30 pound container with an HVAC valve be converted to another form, let's say a 30 pound container with an automotive valve?

MS. DAYTON: There are people who make fittings that will convert an HVAC with an automotive, but generally that's -- I'd say it's a very, very small percent that's done in the industry. Generally, the HVAC people know to buy HVAC cylinders and automotive know to buy auto cylinders.

Sometimes people will make a mistake and then they'll buy a fitting to convert it. But generally I'd say the huge majority of the material, if it says HVAC it's going into the HVAC industry with that kind of valve, and if it's auto it's going into the auto side.

Everybody in the industry knows the difference. It's been around for a long time, I think, since 1996 or around that period of time. So it's been around a long time, so people know the difference in the valves.

VICE CHAIRMAN JOHANSON: All right. Thank you, Ms. Dayton. I want to ask you a question regarding China, which might have been discussed this morning but I wanted to raise it again. In connection with the various environmental agreements that have been discussed, has the Chinese government made any commitments on reductions in the use or production of R-134a?

MR. MARSHAK: We don't believe so, but we will definitely get back to our clients and check the Chinese government's position on 134a use in China, and sales to third countries. We'll put that in our post-hearing brief.

VICE CHAIRMAN JOHANSON: Okay. Thank you, Mr. Marshak. Related to that, something struck me at page 48 of your brief. Respondents referred to R-134a as more environmentally friendly, and I recognize that this statement is comparing R-134a to the HCSC refrigerant R-22. But I'm also wondering how that characterization squares with various environmental treaties that are being discussed at length in our staff report?

MR. MARSHAK: I mean this is page 48 of our brief?

VICE CHAIRMAN JOHANSON: Right. I believe that is the case.

MR. MARSHAK: I'm just looking for the reference, and I'll be able to give you the answer.

(Pause.)

MR. MARSHAK: Could I possibly -- if I remember correctly, we're talking about the demand for

R-134a being more environmentally friendly than the R-22.

VICE CHAIRMAN JOHANSON: Right.

MR. MARSHAK: So the Chinese are going to be able to sell more R-134a right in the Chinese home market and to third countries. R-134a is the next generation after the R-22, and now it's going to be replaced in the U.S. and the EU by, you know, another generation.

VICE CHAIRMAN JOHANSON: So the U.S. and the EU are in effect a step ahead?

MR. MARSHAK: I think they're a step ahead of the rest of the world in this, you know. Eventually everybody's going to be on to the next generation, but I think the U.S. and the EU are well ahead of China and the other developing countries, you know. Many, many countries, the third country markets that China has a lot of exports to and the primary markets for the Chinese, rather than the very relatively small market of the U.S.

VICE CHAIRMAN JOHANSON: All right, thank you. Ms. Dayton, did you want to add something?

MS. DAYTON: Actually, there was a Kigali amendment that was signed by over 200 countries, including China in the latter part of 2016, and the U.S. also signed that amendment. That was to reduce HFC production, which includes R-134a, and that is still up for ratification by the U.S. Senate. But the Chinese did sign that as well as the U.S. signed that amendment.

VICE CHAIRMAN JOHANSON: All right. Thank you, Ms. Dayton. My time has expired. Commissioner Williamson.

COMMISSIONER WILLIAMSON: Okay, thank you. I have a question about critical circumstances. In your brief, you cite legislative history that says that critical circumstances was designed for where exporters and importers seek to increase shipments of the subject merchandise into the importing country before an anti-dumping and countervailing duty order is imposed.

In your brief, you also say that the normal seasonal buildup of inventories was accelerating in 2016 because of the possibility that duties would be applied. So isn't that second statement comparable to what -- and you say and that's what happened here? Isn't that saying that that's why critical circumstances are appropriate, would be appropriate?

MR. MARSHAK: We think critical circumstances are absolutely not appropriate in this case. We have -- has there been an increase in imports? Yes. But a lot of it was because of seasonality. When you look at what the increase actually was, it's not sufficient to meet the very, very high standard for the seriously undermine standard. You have to have really a separate injury because of this increase of importation to beat the clock, and we don't believe there's a separate injury.

If it's -- a lot of the increased imports were because of seasonality. If you do reach an affirmative determination, we believe this would just be, you know, part of it. It wouldn't be a separate injury to the industry because of this incredible increase of imports, because we don't believe there was an incredible increase of imports. The facts just do not support an affirmative determination in this case.

COMMISSIONER WILLIAMSON: But that second quote I said, where you said that there was seasonal buildup of inventories in 2016 because of the possibility that duties would be applied. So you're saying yeah, there was an increase, but it wasn't -- it didn't reach the standard that you would find critical circumstances?

MR. MARSHAK: Yes. In many, many, many cases there's going to be an increase in imports, and you're going to see the increase in imports because the Department of Commerce is going to find that there are massive imports. So to even get here, to get in the position at the International Trade Commission, you have to find first there is massive imports, which the Department of Commerce finds there's an increase.

But then you have to find that those massive imports, that the increase that the Department of Commerce seriously undermines the remedial effect of the order, and that's a very high, a very, very high standard. It's not just that there is an increase, but that increase has to seriously undermine. So it has to have a direct separate impact, and we don't believe that existed.

COMMISSIONER WILLIAMSON: Okay. I get your point there. What about -- but in making this statement about the increase in imports coming in because of the --, are you also saying that there are inventories that were ready to go for the upcoming season, that were brought in before the preliminary duties were imposed?

MR. MARSHAK: Yes. I mean there -- if you look at the data, there are inventories before and there are inventories, you know, after. You're building up the inventories at the end of the year, at the beginning of the year for the summer season. So you have -- you're always going to have an inventory buildup in this industry, and here you have an inventory buildup.

A lot of what you see or a lot of what Petitioners are talking about, this incredible inventory, this buildup, it's really just a normal buildup as Ms. Dayton testified. It's a normal buildup to sell in the summer, which somehow because of the timing of this petition, somehow could look like it's to beat the clock.

But a lot of it is just really the normal buildup for the summer.

COMMISSIONER WILLIAMSON: Okay. One question on price of the direct import data. Now you take issue with the direct import cost data and argue that one-time subject imports should not be compared against the U.S. producers' price twice. This is page 34 of your brief. My question is whether the U.S. producers are competing against -- is whether U.S. producers are competing against the subject imports in both those incidences, first for the bulk sale and later for the sale of the smaller container?

If this is the case, it is not it proper -- isn't it proper for the Commission to consider both of these sales on a pricing analysis?

MR. DOUGAN: Jim Dougan from ECS. We'll provide a longer answer in post-hearing when we can, you know, use some data to look at this. But I mean we're going to say no. But I think also the important thing to recognize here is that it would be double-counting and it would particularly be so the hypothetical that you have given is the situation where there is a competitive sale to the repackager, and then the competitive resale of the, you know, 12 ounce can or 30 pound container.

And I think, you know, the -- and certainly what we've heard in some instances is that the direct imports are coming, not necessarily because of -- because of lack of competition from domestic producers, but because of the domestic producers aren't willing to supply it in the form that the repackagers want it.

Now in that sense, it is appropriate to say, you know, if someone is -- Ms. Lammers is saying I can't get the supply I needed in bulk form for the repackaging. Now if you're talking about something that gets resold, that uses import R-134a and that gets resold. In comparison, that 30 pound container gets resold in comparison against a U.S. producer, then most definitely that is an appropriate competitive price comparison.

But if the repackager of that in the first place wasn't able to get that supply from a domestic producer, you know, because they don't want to sell it to someone who competes downstream against them or something of that nature ^^^^

COMMISSIONER WILLIAMSON: Or they don't want to sell it at the price that the other person wants.

MR. DOUGAN: I beg your pardon?

COMMISSIONER WILLIAMSON: Or the domestic producer doesn't want to sell it at the price that the repackager is asking, saying they want.

MR. DOUGAN: Well I mean, you know, I think we have some evidence on the record, not only testimony but in questionnaire responses that it's not. I mean in a lot of these instances it's not about price at that level of trade. So anyway, I'll provide a longer answer in the post-hearing. But you know, I don't think that the fact that there is a hypothetical point of competition should mean that you compare prices for the same ton two times.

COMMISSIONER WILLIAMSON: I can understand nor comparing, doing it twice, but at least looking at the relationships and seeing if that has an impact. I'm not talking about double-counting. I'm just talking about --

MR. DOUGAN: So in what sense? So what would that analysis entail?

COMMISSIONER WILLIAMSON: I mean since you -- if you have competition in both incidences, both when you're doing the bulk sale and also in the repackaged or the smaller container being sold, there is competition there.

MR. DOUGAN: I guess how would you --

COMMISSIONER WILLIAMSON: To make them different parts of the domestic industry.

MR. DOUGAN: I mean to acknowledge that there is -- that some people buy in bulk and some people repackage and resell. I mean I guess I'm trying to understand what the proposed form of analysis you're suggesting it would be.

COMMISSIONER WILLIAMSON: I haven't thought about it, but it's something that we do in our pricing products though, right? We try to look at the comparable level of sale.

MR. DOUGAN: Uh-huh, and I guess what I'm arguing is that for the most part you have it, because you have -- certainly for the products that are repackaged and sold, you have those price comparisons and you can draw the conclusions that you need to from that.

COMMISSIONER WILLIAMSON: Which there was significant -- with all of them, there was significant underselling, at least according to our pricing tables.

MR. DOUGAN: Anyway, I'll have to --

COMMISSIONER WILLIAMSON: Okay.

MR. DOUGAN: I'll answer it more fully. You raise an interesting point, but I'll answer it more fully when I have the data in front of me.

COMMISSIONER WILLIAMSON: Okay, thanks, good. Thank you. I was wondering, this may be addressed -- Respondents were pointing out that five purchasers indicated, experienced supply constraints for the domestic product. I wasn't clear. On those complaints, were they because there was a shortage of the domestic product during the POI, and if so, why wouldn't you expect to see price rises?

MR. DOUGAN: I don't -- I think the nature of the question is just a yes or no question. I don't know that they -- I'll have to look specifically at the responses. But as I answered I believe in response -- it may have been in response to Commissioner Broadbent here you're -- you know, it's -- there's when they won't sell to you and then there's, you know, there's a shortage in the marketplace.

And I think when there's an understood lack of availability, either because they won't quote you or because you understand that a plant is down and has a reduced capacity, it's a little bit different than a situation in which, you know, like you had in 2010 or 2011 when you did see the price increases. So maybe I don't know if Mr. Lammers can respond to that with some real world information.

MR. LAMMERS: Well again, my real world experience is that they wouldn't quote us. They wouldn't -- they acknowledged they didn't want to do business with us. So I mean there's a lot of reasons why that could be.

COMMISSIONER WILLIAMSON: What was their explanation to you?

MR. LAMMERS: I don't -- none. So I have to surmise that it's either there is a shortage or they want to protect other customers or whatever. But you know, we're the largest auto parts retailer in the country. You know, most people solicit our business. So I don't have an answer.

COMMISSIONER WILLIAMSON: Okay. Post-hearing I'll invite them if they have an answer, because as you said you are the largest, and used to people paying attention to you.

MR. MARSHAK: We think if they don't sell to us, it's really their problem to convince you that there should be injury.

COMMISSIONER WILLIAMSON: And they often come back and say well at the prices that they were demanding, we won't sell to them.

MR. MARSHAK: Well, let them give proof that it's prices. I think what we're saying here is they just won't sell for whatever reason, and they're not saying it's because of prices.

COMMISSIONER WILLIAMSON: Okay. Well, if you have any documentation that says no, we're not going to sell to you because we're just not going to sell to you, I invite both sides to do that post-hearing if they have anything that substantiates that. Because so often we get this question, you know, they won't do it, and somebody else says no, we won't do it, not at that price.

So if there's anything you have to clear that up, that would help shed some more light on that. My time has expired, so thank you.

VICE CHAIRMAN JOHANSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: I don't have further questions, but I just want to thank all the witnesses for participating today.

VICE CHAIRMAN JOHANSON: Alright, I have two more questions, and this is another technical question. How long can R-134a be kept in inventory and are there any regulations that may affect 134 stored in inventory?

MR. LAMMERS: To my knowledge, there is no shelf live, if you will, on our 134a, as long as you keep it in a controlled environment. I mean when I say "controlled" an environment where temperatures don't go up 200 degrees or something like, so a standard warehouse, for example, that there's really no shelf life.

VICE CHAIRMAN JOHANSON: Okay, thank you. Ms. Dayton?

MS. DAYTON: The molecule itself is very stable and will not degrade over years and years and years. The only condition is that it's in a steel cylinder and with a rubber gasket in the valve. So as the rubber deteriorates and the valve and/or the steel rust, then you wouldn't want to keep the cylinder any longer than that, so probably multiple years -- four, five, six kind of years in a warehouse environment.

VICE CHAIRMAN JOHANSON: Alright, thank you.

And I have one more question. Mr. Schutzman, you noted in your opening statement today that Chinese capacity utilization is very high and you all also mention that in your brief. Could you please respond to the Petitioners comments this morning regarding capacity utilization in China?

MR. SCHUTZMAN: Yes, Commissioner, we will do that in detail in the post-hearing brief, but Mr. Marshak happens to have some of the information which he can provide to you in just a moment.

VICE CHAIRMAN JOHANSON: Okay, thank you.

MR. MARSHAK: I'd like to discuss it right. Based on the public information that the Petitioners put in their pre-hearing brief, for example, Exhibit 14, they have non-participating Chinese producers of fluoro chemicals and what they're saying is they have 13 companies here -- and that's Exhibit 14 of Petitioners' pre-hearing brief. They list 13 companies and they say this is proof that there are all these additional producers in China.

Well, we've asked our clients and none of these 13 companies are actually producers of R-134a. What you have is you have companies that are affiliated with our clients who've given us their full production capacity and you have a whole bunch of resellers. So what's happening is there's information out there on the Internet or wherever, which is confidential from Petitioners saying there's producers here or there's capacity and that is not actual production of R-134a.

We believe that we account for -- I'm not going to say everything, but you know a very large percentage of the actual capacity to actually produce R-134a in China, which is distinguished from repackaging or being a trading company and these are our clients who've responded to the Commissioner's questionnaire. And if you look at the data comparing to our foreign producer questionnaire responses compared to the import data, we represent over 80 percent, a very, very large proportion. And when you look at our data, you'll see that our companies who are the major producers in China, if not the only producers in China, sell less than 10 percent of the R-134a to the United States and really selling to the Chinese home market and to third countries.

Now there's confidential information that Petitioners put in their brief that you have this massive, massive capacity in China. We don't believe that that's accurate. That could be some theoretical capacity. That could double count. We believe we've done a very good job at looking at the actual production capacity in China and especially the companies in China who are producers who are selling for export to the United States.

VICE CHAIRMAN JOHANSON: Alright, thank you.

I have one follow-up question to that and that is if this product is being phased out in many countries why is production so high in China?

MR. MARSHAK: It's not being phased out right away. It may be being phased out in the world over time, but there's going to be a tremendous amount of demand for this product in China, in developing countries where you have more cars on the road. There're more cars on the road. There're more old cars on the road. There's more need for our 134a. And we've given you, for your clients, the countries and the quantities where we sell our 134a. We sell our 134a all over the world to many, many countries. And as the world economy's developing countries buy more cars, sell more cars, more cars on the road there's going to be more use of 134a.

VICE CHAIRMAN JOHANSON: Alright, thank you, Mr. Marshak. That concludes my questions and I would like to thank all of you for appearing here today.

Yes, Commissioner Williams?

COMMISSIONER WILLIAMSON: Just a few more questions. Okay, after our 2014 negative decision, the Petitioners have been asserting that immediately after that decision purchasers began cancelling orders and requesting price reduction from domestic producers. So since we do have a number of purchasers here, I was wondering if they care to say what their experience was following that decision in 2014.

MR. LAMMERS: Yes, on behalf of AutoZone, we did not do any such activity. We had -- again, as I said, we'd already purchased in the fall of 2014 a substantial part of the needs that we felt we needed for 2015 before this had been resolved and afterwards we continued to buy whatever at the price whatever was available. We never went back to our supplies and said you need to give us a rebate or anything like that, so again, that's what AutoZone did.

COMMISSIONER WILLIAMSON: Okay. Do you hear of other folks acting differently?

MR. LAMMERS: I did not.

COMMISSIONER WILLIAMSON: Okay. Ms. Dayton?

MS. DAYTON: I can say I was probably guilty of doing some of this, cancellation of orders. I did not ask for any rebates or money back, but the price did increase in advance of the ruling and certainly the price decreased after the ruling, so it didn't make sense to purchase material from the domestic suppliers at the pre-decision pricing. It was significantly higher and the end user price went down and also the purchase price went down immediately after the hearing.

COMMISSIONER WILLIAMSON: Okay.

MS. DAYTON: So I probably did have orders on the books that I did cancel.

COMMISSIONER WILLIAMSON: Okay. I think this decision was in November. Was that early enough for people to import stuff for 2015 at the reduced prices I given that this is seasonal product?

MR. LAMMERS: Well, I believe wasn't the final ruling in December of 2014?

COMMISSIONER WILLIAMSON: Yes. So it was very late in 2014. What does that mean about -- were people able to order for 2015 or had they already placed their orders for 2015?

MR. LAMMERS: Well, again, AutoZone had already placed their orders at much higher prices for what we felt we needed for about half of the season of the 2015 season. And then after the ruling came out, we went and sourced our needs for the second half.

COMMISSIONER WILLIAMSON: Okay. Ms. Dayton?

MS. DAYTON: You know as I testified, like 61 percent of our sales are from February to May and all of our customers demanded -- you know we sell on a basis, so all of our customers demanded lower-priced material for that 2015 season.

COMMISSIONER WILLIAMSON: Okay.

MS. DAYTON: So in fact, we took some degree of loss on some of the inventory that we had purchased pre-determination date, but we didn't continue to buy at the higher price.

COMMISSIONER WILLIAMSON: Okay, thank you. Thank you for those answers.

I asked this question this morning, so I would be curious to hear what you all have to say about it. How have changes in raw material prices affected the R-134a prices since 2013, any thoughts on that?

MR. DOUGAN: Jim Dougan from ECS.

I mean I think the answer you got this morning is that they didn't and I think that that's probably true in the sense that they were flat to declining. And I think this is not -- maybe it was you, Commissioner Williamson, that said this isn't like one of the steel cases we're arguing that it's so highly correlated, right, it doesn't drive it or like I guess PET resin where there's one of the thing that's formulaic pricing.

It's not anything like that, but we raised in the context of price suppression to suggest that, look, you know when you've got a situation where the raw material prices are flat or declining mildly you're -- this isn't the situation where there are price increases that otherwise would've occurred. This isn't like when the HF shortage happened in 2010 where -- I mean that was what drove the shortage. It wasn't actually the production of the R-134a, right? It was the shortage of the HF that went into it, I believe. So that's what's drove the spike and the shortage in supply and you don't have anything like that going on here.

COMMISSIONER WILLIAMSON: This morning I think they argued that the decline happened before the period of the POI and it sort of just stayed low after that, so that they felt that the decline in raw material prices hadn't really affected.

MR. DOUGAN: Yeah, the decline from 2010 occurred because 2010 was sort of an abnormal, aberrational level.

COMMISSIONER WILLIAMSON: So in other words, any decline in prices we saw during this period wouldn't be because of raw material prices dropping is what you're saying.

MR. DOUGAN: But also demand. I mean demand was also down from '13 to '15 and raw material prices were -- I mean the staff report says that they were declining.

COMMISSIONER WILLIAMSON: Okay. Thank you. That's all the questions that I have, so I want to thank the panel for their testimony.

VICE CHAIRMAN JOHANSON: I'd like to thank all of you for testifying here today as well.

Does staff have any questions?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you Vice-Chairman Johanson, staff has no additional questions.

VICE CHAIRMAN JOHANSON: Thank you. Do Petitioners have any questions?

MR. CANNON: No, Vice-Chairman, we have no questions.

VICE CHAIRMAN JOHANSON: Alright, then I will note remaining time. Petitioners have four minutes of direct and five minutes of closing for a total of nine minutes.

Respondents have 10 minutes of direct and 5 minutes of closing for 15 minutes. And Petitioners can now come forward and give their closing statement.

VICE CHAIRMAN JOHANSON: I'd like to thank the respondent panel for participating today. Thank you.

MR. BISHOP: Closing remarks on behalf of petitioner will be given by James R. Cannon, Jr., Cassidy Levy Kent. Mr. Cannon, you have nine minutes.

CLOSING STATEMENT OF JAMES R. CANNON, JR.

MR. CANNON: Thank you. Let me start by saying that it was clear from the afternoon session that any argument about a supply interruption or a shortage has now been dismissed. There was no supply disruption. There was no shortage. In the words of Mr. Dougan, there was no cataclysmic event.

In fact, the domestic industry was fully able to supply the U.S. market and fundamentally the purpose of this case is not to prevent the Chinese imports from shipping product to the United States, whether they're hell-bent on it or not. This is to correct unfairly traded imports by imposing duties. They are certainly free to sell if they pay the duty or if they increase their price and stop dumping.

Now, I want to start with this argument that somehow conditions of competition are permanently changed. So I want you to recall the 2014 case. In that case, the ITC found that there was a supply shortage, that imports declined when this shortage ended and the market normalized.

If you look at your C-Table, which is in the record here and I will put it in my post-hearing brief, if you look at your C-Table in this record from the 2014 case, imports declined in the last year as the shortage ended and that is what you would expect, right? Nothing has changed. There was no race for a reliable source of supply.

What happened was, they kept dropping the price. We went from a record in which there was overselling to a record in which there is underselling extensively. And that explains the shift. The correlation is clear -- the domestic industry lost market share and imports increased their market share because they were selling at lower prices.

The next argument that's made is that the domestic producers cannot satisfy all U.S. demand. Well, of course, that is never a requirement. As I said, imports from China can supply the demand if they're supplied at fair prices. Imports from Japan, which I think we heard testimony, is operating at 50% capacity. Imports from the EU, which is facing long-term decline in demand. Imports from India are all free to supply this market. But they're not really necessary.

If you look at the C-Table, look at 2014. That's the lowest year of imports. In 2014 in the public C-Table, the import penetration by China was 11%. Domestic producer capacity utilization was 89%. The Chinese imports could've been out of the market entirely and the domestic industry could've been running full-out and supplied the entire market.

And on top of that, there were something like 67,000 short tons of exports. Now, domestic producers did not build plants in the United States to supply foreign markets. They built the plants here to supply this market. In fact, they have a cost disadvantage when they export, so it doesn't really make economic sense. If, in fact, there were no Chinese product in this market, the evidence shows you the domestic industry could supply the full market.

Next, the respondents have argued that purchasers reported supply constraints. Exhibit 8 in our pink sheets, the last one--I leave it to you to read at your leisure--quotes from the responses of these companies. Every single one of them talks about price. That's why they purchased the imports. Not a supply constraint.

Now, we've heard a lot about the extended turnaround at Chemours. We got the admission it wasn't cataclysmic, but when all the testimony's in, it's kind of a mountain out of a molehill. This happens in industry.

The other domestic producers stepped in, and when you look at the capacity utilization rate, it was the lowest that year. So it was a non-event. And that explains why prices didn't increase. If there really had been a supply shortage, prices would've increased. You would've seen what you saw in 2010 and '11 and that's not what happened.

Respondents go further though. They say that you need to exclude one of the domestic producers because they're aberrational. They argued this in the last case and you did not exclude the company. In fact, you verified them. It is the case that some companies have a higher cost than others, but you don't throw them out.

And yet, look at their proposal. They want you to use the average of the other two companies and just plug in those costs. Even though the operating conditions are different. The company has a different business model. It is an absurd proposal.

We heard testimony that the OEMs do not buy from China. The record shows otherwise. The OEMs do buy from China. In fact, you can see it on the price sheets. In our public exhibits we have the price sheets that were being referred to, and they show the HVAC price and they show the auto price. The exhibit from iCool, for example, the first one. Or the Jack McAdams. Look at the price. It's identical. The importers are offering the same price in different market segments, and that's why you're starting to see prices in all the market segments come down.

Next, AutoZone claimed that they bring in ISO tanks, and they get U.S. repackers to put them in their own cans. The can we have, wherever it went to, says on the back of it, the can's made in the United States. The R-134a is made in China and the can's direct imported, already in a U.S. can. So there should be an empty can to China filling it with 134a and shipping it back. That's how cheap the Chinese 134a is.

And that's really AutoZone's true motivation here. They're holding a reverse option and inviting everyone to bid so they can drive the price down. If you look at the screenshot. The screenshot is on the pink sheets. The screenshot shows how reverse option works. It's tough on my eyes. I should've brought my reading glasses.

If you look right in the middle, you see the pricing, you see 1.1, 1.2, you see what was being offered, a 30 lb. cylinder, a whole lot of it, some ISO tanks. Next to that, you see rank. All right? That tells you, when you're online, putting in your price, how do you stand against the other bidders?

So as you're online, you see your number, rank, and you know, "Oh, my price is too high. I'd better cut it if I want to be Number 1 and get the business." All right? So I don't know what the discussion is about terms and conditions or other factors which AutoZone may use, but at least in this example of a reverse option, it is blatantly obvious to anyone trying to bid that it's all about price.

AutoZone also, I would point out, said they were all about the customer. So, prices moved up and down for these cans. That can that we saw, right now you can buy it for about $2.75 a can on the price list, which we circulated. It sells at retail for $12.99, so AutoZone is making a 70% markup on this product. They didn't change that price when the duties went on or when the duties went off, because they make plenty of money here. They just like buying it at the lowest price. In fact, it's a little bit --

VICE CHAIRMAN JOHANSON: Your time is expiring, you'll have to wrap up, please.

MR. CANNON: So let me say. I don't want to leave you without quoting witnesses, Weitron. Indeed, there are new players in this market, PMP, Jack McAdams, other importers and indeed they are hell-bent on gaining market share. That's why we had to refile the case. And that's why you see the surge. And for that reason, you should make an affirmative determination. I apologize.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Cannon.

MR. BISHOP: Rebuttal and closing remarks on behalf of respondents will be given by Ned H. Marshak, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt. Mr. Marshak, you have fifteen minutes.

CLOSING STATEMENT OF NED H. MARSHAK

MR. MARSHAK: Thank you. Good afternoon. First, I'm going to have a little bit of fun. It's 75 degrees in the middle of February. It's getting warmer every day and every year, but global warming is not manmade, so there's no need for any environmental controls ever. Demand for our 134a will go through the roof in the U.S., China and throughout the world. There never was sufficient capacity to meet this demand in the United States or anywhere else in the world. There never was injury, never will be threat, case closed. We win. Or maybe.

It's 75 degrees in the middle of February. It's getting warmer every day and every year. But global warming is manmade. The world will expedite measures to control the environment. Demand for our 134a will contract, both in the United States and worldwide. And the big, bad Chinese menace will continue to ship humongous quantities of our R-134a to the United States in order to save each and every plant in China, whether known or unknown at this time. And the American industry is doomed. There always has been injury and always will be injury. Case closed. We lose.

But that's not how the law works or how the Commission works. This is not how decisions in Title 7 cases are made or how decisions in Title 7 cases should be made or how they ever have been made or ever will be made. The world is not black or white or hot or cold. We thank the Commission for conducting this investigation. It's conducted all of its investigations from 1979, and even before the -- in Title 7 was enacted, according to law and practice.

By carefully considering all statutory factors, by determining whether substantial evidence supports an affirmative determination as to whether an industry in the United States has been materially injured or threatened with material injury, by reason of subject imports in the country under investigation.

We thank the Commission and its staff for the courteous and professional manner in which it has conducted this investigation by asking for all relevant information, by asking probing questions and by carefully analyzing all the arguments presented by the parties.

This is not a simple case. In 2014 when the Commission was first asked to determine the impact of Chinese R-134a on domestic producers, the Commission's task was much easier. In that case, we believe that the facts were clear-cut. There undeniably was a severe shortage of American-made R-134a in the United States from 2010 to the beginning of 2012.

R-134a customers' all-important in the important automotive replacement market had no choice but to seek alternative sources of supply from China. The Chinese were pulled into the market out of necessity. And the Commission decided that increased imports were necessary to meet consumer demand, and any problems encountered by domestic producers were self-inflicted and were not caused by Chinese exports.

Fast-forward two years. The domestic industry is once again asked for relief, but this time conditions of competition in the R-134a industry are much more complex.

But as you have heard today, we believe that the Commission should reach the same result as it did in R-134a(1).

First, we have a period of investigation in which normal market conditions have been skewed by two investigations. The first in 2013 through November 2014, when the requirement of significant cash deposits in the specter of an anti-dumping order led to a decline in Chinese exports.

And then again in 2016, when the specter returned. The Commission needs to look at these trends in the covered POI in light of these shocks to the market because of the imposition and prohibitive provisional measures, the removal of which also is a shock to the market.

Second, we have an industry in which demand can clearly be divided into five distinct market segments, automotive OEM, automotive aftermarket, stationary OEM, stationary aftermarket, Foam and propellant, with all other uses being combined into an "other" category. The Commission has asked for and received plenty and valued information from each segment. You can see the clear differences in market conditions in each. And the Chinese imports have virtually no real presence, no real impact in any of these segments, other than the automotive aftermarket.

Notwithstanding testimony of petitioners, we believe the facts speak for themselves, that the real Chinese market share isn't only in one market. We will further discuss this very important issue in our post-hearing brief in response to Commissioner Kieff's questions and the questions of the other commissioners.

In our opinion, when you look at the automotive market, you have to determine the reasons why Chinese 134a has penetrated this market, and whether there is sufficient difference in market conditions between the automotive aftermarket and other markets, which support a finding that any arguably poor performance to the domestic industry can be attributable to Chinese imports.

For example, how prices declined in all markets, even where Chinese imports did not have any presence. Are trends in sales quantities the same or different in the various markets? And that lead to a third important condition of competition.

The R-134a industry is capital-intensive. This case is not really about American production workers or American production jobs. The jobs in this case are in the supply chain. In AutoZone, sixty thousand American workers. And this case is also not about though the additional R-134a capacity in the United States in the future. R-134a is produced at only three facilities in the United States and in a limited number of facilities in a limited number of countries worldwide.

New facilities will not be constructed in the U.S. R-134a is being phased out in the U.S. and the EU, and will be replaced by a new and improved generation of refrigerants with patents owned by the members of this domestic industry. So the question is whether the production facilities, Chemours and Arkema and Mexichem, are entitled to production protection.

Where there are problems, if any, in the past, present and future, are the result of Chinese imports. Or whether these problems arise from the nature of this product and would've existed whether or not Chinese imports had been pulled into the market.

We believe that the inherent nature of R-134a and the conditions of competition summarized today by Mr. Dougan and discussed by Mr. Matthew of Vision Technology and Mr. John Lammers of AutoZone and Deb Dayton of Weitron, support a believe that the real conditions of competition underlying to perform to the domestic industry, producing R-134 right in the United States are not related to Chinese imports.

Chemours, Arkema, Mexichem were not able to satisfy domestic demand in 2010 to 2012. And for any number of reasons are not satisfying all demands in 2015 and 2016.

The theoretical capacity of these companies supply the market with R-134a significantly different than what goes on in the real world.

There was a perfect storm in 2010, 2012, and there were major supply problems in 2015. The shortages, the inability to supply are not flukes. They're an inherent nature of this product. There is always something. There always will be something. And domestic producers have decided they will not sell R-134a directly to one of the most important players in this market, AutoZone.

And domestic producers have placed their automotive aftermarket customers at the back of the line. These customers had no choice but to look to China for the product in the POI in R-134a(1). And they have no choice but to continue to look to China in the current POI.

This critical condition of competition is not changed. It will not change. And it is for these reasons discussed in more detail in our pre-hearing brief and our post-hearing brief, that we believe that the Commission should reach a negative determination of current injury.

Next is threat. This case really isn't about threat. If there's no present injury to the domestic industry, we believe that the Commission will have no choice but to find there is no threat. The factors relating for threats speak for themselves. There are not massive unused capacity in China. We will discuss this further in our post-hearing brief. We discussed it for a little bit here today.

The U.S. market is not the reason why Chinese producers are build R-134a facilities in China. Sales to the U.S. have been less than 10% of Chinese sales throughout the world. The U.S. is importing, but it's by far the least important market for the Chinese compared to third-country markets and the home market.

Chinese 134a is sold in significantly greater quantities for consumption in the Chinese home market and to third-country export markets. It is sold for export to the United States. And sales in these markets will increase in the future as more old cars are on the road in China and developing countries throughout the world.

Finally, critical circumstances. As the Commission is aware, this is an extraordinary remedy. For the Commission to reach an affirmative determination it must find that the increase in imports, which the Department of Commerce has found they're massive, this increase greatly and insidiously weakened or subverted the effect of the order.

The massive imports by themselves must have seriously undermined the remedial impact of an order. In this case they have not. The data supporting a negative critical circumstance or determination are confidential. But the real-world impact of that data is clear from the testimony you heard today.

Deb Dayton of Weitron discussed seasonality. This is true for her company and all companies. R134a is a seasonal product. And Weitron and other importers needed to build up R-134a supply following the filing of this petition on March 3rd, 2016, to meet anticipated demand in the spring and summer. Additional R-134 came into the country, but it was necessary to meet demand in the summer because the duties would be prohibitive at that time.

Without this buildup, U.S. consumers would not have been able to cool their cars. This is important for the United States. It's important for the industry and in any event, the case regarding R-134a, material injury and threat, we believe is close. The case regarding critical circumstances, when you look at the facts, we believe that this is a case where you should not reach a seriously undermined determination. Thank you.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Marshak. I will now give the closing statement. Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript, must be filed by March 2nd, 2017.

Closing of the record and final release of data to parties is scheduled for March 17th, 2017. And final comments are due March 21st, 2017. And with that, this hearing is adjourned.

(Whereupon the hearing was adjourned at 3:42 p.m.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: 1,1,1,2-Tetrafluoroethane (R-134a) from China

INVESTIGATION NOS.: 731-TA-1313

HEARING DATE: 2-23-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 2-23-17

SIGNED: Mark A. Jagan
Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Duane Rice
Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

SIGNED:

Gaynell Catherine
Signature of Court Reporter