# UNITED STATES
# INTERNATIONAL TRADE COMMISSION

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| **In the Matter of:** | **) Investigation No.:** |
| **EMULSION STYRENE-BUTADIENE RUBBER FROM** | **) 731-TA-1334-1337** |
| **BRAZIL, KOREA, MEXICO, AND POLAND** | **) (FINAL)** |

**Pages: 1 - 205**
**Place: Washington, D.C.**
**Date: Thursday, June 29, 2017**

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UNITED STATES OF AMERICA

BEFORE THE

INTERNATIONAL TRADE COMMISSION

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| IN THE MATTER OF: | ) Investigation No.: |
| EMULSION STYRENE-BUTADIENE RUBBER | ) 731-TA-1334-1337 |
| FROM BRAZIL, KOREA, MEXICO, AND | ) (FINAL) |
| POLAND | ) |

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, June 29, 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:

Chairman Rhonda K. Schmidtlein

Commissioner Irving A. Williamson

Commissioner Meredith M. Broadbent

Staff:

Bill Bishop, Supervisory Hearings and Information Officer

Sharon Bellamy, Records Management Specialist

Tyrell Burch, Legal Document Assistant

Nathanael Comly, Investigator

Celia Feldpausch, Investigator

Raymond Cantrell, International Trade Analyst

Emily Burke, International Economist

Charles Yost, Accountant/Auditor

Jane Dempsey, Accountant/Advisor

Fred Ruggles, Supervisory Investigator

Opening Remarks:

Petitioner (Matthew T. McGrath, Barnes, Richardson & Colburn, LLP)

Respondents (William C. Sjoberg, Adduci, Mastriani & Schaumberg, LLP)

In Support of the Imposition of Antidumping Duty Orders:

Barnes, Richardson & Colburn, LLP

Washington, DC

on behalf of

Lion Elastomers LLC

Jesse Zeringue, Chief Executive Officer, Lion Elastomers LLC

Will Howard, Vice President for Sales, Lion Elastomers LLC

Bobby Rikhoff, Consultant, Industrial Management Services

Andrew Szamosszeggi, Principal, Capital Trade, Inc.

Matthew T. McGrath and Stephen W. Brophy - Of Counsel

In Opposition to the Imposition of Antidumping Duty Orders:

Adduci, Mastriani & Schaumberg LLP
Washington, DC
on behalf of
Industrias Negromex, S.A. de C.V. ("Negromex")
INSA LLC ("INSA")

Tomas Acevedo, Commercial Director, INSA

Jose Plaza, Commercial Manager (America), INSA

Daniela Quintero, Commercial Intelligence Manager, INSA

Cesar Perez, Global Sales Manager, INSA

Maria Teresa Chavez Martinez, Senior Corporate Counsel Contracts M&A and IP, Desc Corporativo S.A. de C.V. (a subsidiary of Grupo KUO)

Thomas S. Prusa, Economist, Rutgers University

William C. Sjoberg, Deanna Tanner Okun and Rowan M. Dougherty - Of Counsel

Alston & Bird
Washington, DC
on behalf of
ARLANXEO Brasil S.A.
ARLANXEO USA LLC ("ARLANXEO")
John Sawaya, Head of TSR NAFTA Business Unit, ARLANXEO
Ethan Sigler, Account Manager, ARLANXEO
Mary Pauken, Vice President Global Purchasing, Cooper Tire & Rubber Co.
Kenneth Weigel and Anna Karass - Of Counsel

Trade Pacific PLLC
Washington, DC
on behalf
Kumho Petrochemical Co. Ltd.
Bonjae Ku, General Manager/Synthetic Rubber Overseas Sales Team, Kumho Petrochemical Co. Ltd.
Jarrod M. Goldfeder and Aqmar Rahman - Of Counsel

Rebuttal/Closing Remarks:
Petitioner (Matthew T. McGrath, Barnes, Richardson & Colburn, LLP)
Respondents (Kenneth Weigel, Alston & Bird)

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P R O C E E D I N G S

(9:35 a.m.)

MS. BELLAMY: Will the room please come to order.

CHAIRMAN SCHMIDTLEIN: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on investigation numbers 731-TA-1334 to 1337 final involving emulsion styrene-butadiene rubber from Brazil, Korea, Mexico, and Poland.

The purpose of these investigations 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 is materially retarded by reason of less than fair value imports from Brazil, Korea, Mexico and Poland of ESBR.

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 pubic 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 to be classified as business confidential, your requests should comply with Commission Rule 201.16.

Madam Secretary, are there any preliminary matters?

MS. BELLAMY: No, Madam Chairman.

CHAIRMAN SCHMIDTLEIN: Very well. Let's begin with opening remarks.

MS. BELLAMY: Opening remarks on behalf of petitioner Matthew T. McGrath, Barnes, Richardson & Coburn, LLP.

CHAIRMAN SCHMIDTLEIN: Welcome, Mr. McGrath.

OPENING REMARKS OF MATTHEW MCGRATH

MR. MCGRATH: Thank you and good morning, Madam Chair. I'm Matt McGrath of Barnes, Richardson & Coburn representing Lion Elastomers, a manufacturer of emulsion styrene-butadiene rubber solely for the merchant market.

The original petitioners included Lion and East West Copolymer of Baton Rouge, Louisiana. As you know, East West declared bankruptcy and shut down their operations on

March 31st of this year. We no longer represent them. They -- there, they lost -- they eliminated 160 jobs.

There can be little doubt that the persistent presence of unfairly priced imports played a major role in their demise. They have just withdrawn and today we talk about the material injury to the industry and the threat posed to the remaining ESPR industry, specifically to Lion.

For East West Copolymers, I'm afraid this will be more of a coroner's inquiry. For the record, I also like to note that the unions that represent Lion workers at Port Neches, the USW Local 228, Goodyear workers Operating Engineers Local 426 in Houston, and the workers at the now closed East West plant Operating Engineers Local 216 have all expressed their support and continue to express their support for this petition.

First of all, we ask the Commission in our brief and -- to consider trends and relevant data from a 2013 starting point instead of just formulaically looking at 2014 as a condition of competition. We know that they usually take a shorter period.

That would be consistent, we think, with respondents focus on events at the end of 2013 as being the most relevant to changes that took place since then and we think it's relevant to causation.

When we appeared here last August, a number of indicators were pointing in the wrong direction for these producers. They only got worse. Import volume became permanently higher after 2013. So the price effects of that volume became more pronounced.

Subject market share doubled. Net assets, capital expenditures declined. Capacity utilization has declined to dangerous levels for the remaining producer. Production and shipments declined and the number of production and related workers have declined by half since 2013. Hours worked have declined significantly.

Price is important here. We're going to talk a lot about price today. As a commodity product, ESBR is easily interchangeable among all these producers in the same grades. As the respondents have pointed out, several of the U.S. purchasers, large tire manufacturers, intentionally spread their sourcing amongst several suppliers, both domestic and foreign, because the product is so interchangeable. That gives dumped imports greater leverage in capping the prices of domestic suppliers. Contract prices are tied by formula to styrene and butadiene prices. No one challenges that.

But they also have to provide for some margin to allow that all the producers can recover other material costs, overhead, and profit. Otherwise, none of these companies here would be in business. That fixed conversion price component is the fulcrum of injury here. Our witnesses will discuss how constant pressure to reduce that component has forced them into perennial red ink and one of them into bankruptcy.

Most troubling, the domestic industry, including the captive producer, experienced no profits or deepening operating losses throughout the three and a half years covered by the questionnaire, with only small profit appearing in the first quarter of this year due to the departure of East West from the market.

East West's actual financial data, we were able to get, which was then submitted to staff later than the questionnaires came in, also shows that their losses were more significant than the industry as a whole. And we trust the Commission will be able to take that data into account.

Furthermore, there is an imminent threat of material injury posed to the remaining producers of ESBR. The industry is clearly vulnerable, based on recent financial trends. Demand is declining. There's considerable excess capacity among the four countries. Some have product shifting capabilities. And they are all export oriented.

The exporters' current excess inventories are high. And there's a prospect of new third country trade remedy restrictions. All of these factors point to an affirmative threat decision. We ask the Commission to make such a finding and authorize corrective action before this industry disappears and certainly before the merchant market industry disappears. Thank you.

CHAIRMAN SCHMIDTLEIN: Thank you. We will now move to respondent's opening statement.

MS. BELLAMY: Opening remarks on behalf of respondents William C. Sjoberg, Adduci, Mastriani & Schaumberg, LLP.

OPENING REMARKS OF WILLIAM SJOBERG

MR. SJOBERG: Good morning, Madam Chairman, Commission staff. My name is Will Sjoberg. On behalf of Negromex and the other joint respondents, we thank you for this opportunity to present the facts.

As set forth in petitioner's opening statement, the petitioner will present a story that the case is all about import prices and they're being materially injured or threatened with material injury by reason of the subject imports.

A careful analysis of the facts, however, demonstrates such is not the case. You will hear the petitioner argue today that the Commission should extend the period of investigation to include 2013. We believe there's no reasonable basis for such action as Mr. Goldfeder will explain later during our presentation.

As shown in the slide, imports are down. During the period of investigation, the volume of subject imports decreased 20.2 percent, while the domestic industry gained market share. Dr. Prusa will demonstrate price as a function of the market price of the components, BD and styrene, not import prices. You will see an economic analysis of the close correlation between the price of BD and styrene and the price of ESBR. Purchasing decisions are made on factors other than price. We submit that the Commission cannot analyze causation using the price data in a vacuum. Import versus domestic price must be considered in the context of the conditions of competition, including but not limited to security of supply, reliability of supply, quality, strategic versus nonstrategic supply, requisite technical certification, present and future substitutes, and limited import competition.

You will hear from a major tire company purchaser of ESBR that supply diversity and supply reliability rank above price in making a purchase or signing a contract for ESBR. Price is unknown in the majority of the ESBR purchases. Indeed, if you will hear that when contracts are signed, neither party knows the price that will ultimately be paid. Moreover, you will hear about how prices are tied to the future price of BD and styrene through different contract formula tied to these objective published future raw material prices. In short, a simple price to price comparison is not even possible in the majority of ESBR sales in the United States.

You will also hear from petitioners about the condition of the domestic industry. While petitioner will attempt to blame its condition on imports, the joint respondents urge the Commission to again not consider that condition at face value, but rather consider the condition of the industry in the context of the conditions of competition.

There are a number of related -- number of reasons unrelated to imports that have affected the economic condition of Lion. As shown in the slide, the only constant in the U.S. industry during the POI was Goodyear. And importantly, it is not here complaining.

Moreover, we have reason to believe that East West recently withdraw its support for the petition. The petitioner Lion surprised U.S. ESBR purchasers in late 2013 by closing while it was negotiating contracts for 2014, thereby leaving U.S. ESBR users in the lurch, having to scramble for supply in 2014. East West then just as unexpectedly reopened the Baton Rouge facility. However, because it was unable to contract for 2014, East West was forced to rely on the relatively thin spot market for ESBR.

Then at the end of 2014, Lion purchased the

Ashland plant at Port Naches, Texas.  Again, this purchase in December was at the end, if not after, the 25 contract season.

Finally in March 2017, East West filed for bankruptcy.  As shown in the slide, none of these changes in the industry were the result of imports.  Clearly, Lion cannot claim imports caused it to close a facility when 12 months later, it purchased a new facility.

Moreover, East West bankruptcy was caused by actions unrelated to imports.  Of course, these changes made U.S. purchasers of ESBR nervous about supply and reliability and caused them to look to imports to satisfy demand. Indeed, in 2014, imports were critical to supply what U.S. companies had believed they would be able to purchase from Lion's Baton Rouge facility.

Considering all of these changes, none of which were the result of imports, it is unbelievable that Lion now claims imports are causing it material injury.

With respect to threat of material injury, it simply does not exist.  There is now one U.S. producer of ESBR that is not affiliated with the tire company.  There are a number of U.S. purchasers of ESBR that basically buy only domestic product.  So if that U.S. producer fails to reasonably supply ESBR with its economic condition not improved significantly is up to the U.S. industry to succeed. Thank you very much.

CHAIRMAN SCHMIDTLEIN: Thank you very much. Madam Secretary, will you please call the first panel?

MS. BELLAMY: Would the first panel please come forward? Thank you.

CHAIRMAN SCHMIDTLEIN: You may begin when you're ready.

MR. MCGRATH: Thank you, Madam Chair. Again, Matt McGrath on behalf of Lion Elastomers. I'll just give a brief introduction to the witnesses and allow them to speak seriatim after that and give their own introductions as to their backgrounds.

First witness today is Jesse Zeringue, who appeared also before the panel in the preliminary determination or preliminary investigation. He is the president and CEO of Lion Elastomers.

After him will be Robert Rikhoff. He is a consultant, formerly employed by East West Copolymer. He's now a consultant to the industry, including Lion, followed by Will Howard, vice president of sales for Lion Elastomers. So he's got considerable insight into how the sales and pricing process works there.

And then at the end of that, Our economist Andrew Szamosszeggi will be talking about all of the injury factors and threat factors, including the pricing mechanisms and some of the econometrics that were discussed by the respondents.

So with that, and then, if there's time after that, depending on what the timing situation is, I will be offering a few comments about some of the legal issues.

I'm sorry for a bit of misdirection.  We did have a request from the representative of the Operating Engineers Union to testify.  So he appears on the agenda, but it turns out that he was unable to for purposes of other demands that were going on, but my understanding is they will be submitting another statement in support of the petition.  That is the union that represents the plant that was recently closed in Baton Rouge.

So with that, Mr. Zeringue?

STATEMENT OF JESSE ZERINGUE

MR. ZERINGUE:  I'm Jesse Zeringue and I am CEO and president of Lion Elastomers, LLC, one of the two remaining U.S. producers of emulsion styrene-butadiene rubber.  Unfortunately, since we last appeared here in the preliminary investigation last summer, our co-petitioner East West Copolymer was unable to continue competing in this brutal commodity market, ceased operations in March, and declared bankruptcy in April, eliminating many jobs in the process.

I've been in my current position since 2013 and prior to that, have served in roles as executive vice president and vice president. I also have various manufacturing and commercial roles with DSM Copolymer and have spent almost 30 years in the chemical industry, all but one of those in the elastomer and polymer businesses.

As you know, Lion manufactures ESBR at its plant in Port Neches, Texas, which was purchased by Lion from Ashland Chemical in 2014. Ameripol Synpol, a previous owner, was one of the petitioners in the last investigation of ESBR in 1999.

Lion's product lines include EPDM, which is used in the automotive, construction, lubricant, and coating industries. Lion also produces hot polymerized ESBR, as used in applications such as adhesives and sealants. These products do not compete with copolymerized ESBR, which is the subject of this investigation.

Lion entered the U.S. ESBR industry in 2005 with the purchase of its Baton Rouge facility from DSM, another of the original petitioners, which exited the business after the previous investigation.

Lion decided to close that facility at the end of 2013 and its previous management team re-established it two months later as East West Copolymer. Lion decided to remain in the ESBR business by purchasing the Ashland facility in Port Naches, Texas.

As you will hear today, the ESBR business is very price sensitive and is a commodity business. Within the same IISRP grades of certain ESBR, those products key to tire manufacturers' products are fungible between the ESBR suppliers.

While the product of any ESBR producer in the world must be qualified by our manufacturing customers, particularly by tire manufacturers, the formulas for tire tread compounds do not change significantly among the varying suppliers of ESBR, resulting in low switching costs between the manufacturers of ESBR in the same grades.

The only exception are a relatively few specialty proprietary grades made to unique specifications for certain customers. The majority is purchased by U.S. tire manufacturers who formulate tread compounds to import desired characteristics of tires being produced, resulting in limited substitution between ESBR and other types of elastomers.

In the preliminary investigation, some claims were made that solution styrene-butadiene rubber, or SSBR, was being substituted more often for ESBR in tires. However, we do not see conditions that make this prevalent in the replacement tire market. SSBR is made in a different manner on different equipment, and is used mainly by OEM tire manufacturers for new tires to meet the mileage standard both in the U.S. and in Europe.

It is more expensive than ESBR and more difficult to process, so its substitutability is limited. While natural rubber is used in conjunction with ESBR, its substitutability is limited to certain formula parameters beyond which the performance characteristic of the finished tire will suffer.

ESBR, like many sectors which are tied to the petrochemical industry, is priced partially by a formula which reflects the cost of the primary inputs, in this case butadiene and styrene. We don't disagree that some portion of the price declines and increases in this market, reflecting the declining and increasing cost of the petrochemical-based raw materials.

Most contracts for the delivery of ESBR recognize this by tying a portion of the price to published price levels for styrene and butadiene and depending upon the ratio of those components in the cost of the specific grade of ESBR.

Those ratios are fairly fixed for the specific grade. So it would be inaccurate to say that contract pricing formulas incorporate an average ratio of each in all grades. The portion of the price quote which is critical in this market and where damage to the industry has occurred is in the fixed conversion cost of the price calculation, sometimes referred to as the adder. This conversion fee is expressed in cents per pound of ESBR and it does not increase or decrease with the two raw materials.

A buyer with sufficient volume requirements can and does negotiate deeper cuts in the fixed conversion cost portion of the price calculation, which is intended to cover the ESBR manufacturer's other material costs, of which there are many, fixed overhead costs, and a profit margin, if any. The presence of dumped competition in the market gives these buyers the leverage to do this and to continue testing how low the market floor can go.

We have encountered this pressure from all major buyers and there's no protected part of the market where we are immune from the customer pressure on the conversion price, even if we win this business repeatedly.

Since 2012, our conversion price has declined by approximately 35 percent across our ESBR contract customers. Have you -- as you have seen from our submission, some of this results in lost sales and some in lost revenues as we keep cutting to preserve the market. Our financial information shows very clearly that the profit portion of the price has disappeared. And our capacity utilization information shows that we have lost volume as well.

Virtually every large customer now can try to dictate this conversion price each year by leveraging producers from these four countries against Lion. In response to our efforts to prevent further cuts, one of the large customers in the most recent round of contract negotiations also told us that they really didn't care if the U.S. producers went out of business since they had enough foreign producers available who would meet the price demand. This is a major difference between the conditions existing now versus 20 years ago.

Any declines in ESBR prices during the last four years went well beyond declining costs of styrene and butadiene. Any price increases barely covered those costs.

Any additional volume Lion picked up when East West had to close is certainly not evidence of permanent improving condition for us. Our existence is just as threatened as it had been when we filed this petition. We have definitely suffered material injury at the hands of subject imports sold at less than fair value and ask that the Commission authorize corrective action. I thank you for your attention and am happy to answer any questions.

STATEMENT OF BOBBY RIKHOFF

MR. RIKHOFF: Good morning, Madam Chair and members of the Commission. I am Bobby Rikhoff, currently with industrial Management Services, consultant to the polymer and elastomer industry. When I appeared here last August in this investigation, I was the vice president of operations and co-owner of East West Copolymer. Before that, I was the plant manager at Lions Baton Rouge facility for six years. And before that, I was in operations management at Chemtura and several -- and served at various roles at its predecessor company Uniroyal Chemical. I've been involved in the ESBR business for nearly 10 years and the rubber industry for over 20.

As you know, East West ceased operations and filed for bankruptcy protection in April. The serious threats we warned the Commission about last August ultimately came to pass. Chronic low pricing by too many producers and several consecutive years of operating losses left us no choice, but to close down the plan and over 160 workers have lost or will be terminated.

It is my understanding that the respondents in this investigation have argued that prices of ESBR from various manufacturers of this commodity chemical can't be compared to one another, because the amount paid by tire manufacturing customers on annual contract sales is tied to the published cost for emulsion butadiene and styrene indexed to the date of delivery. If it were that simple, we might still be in business.

Every customer we ever negotiated with pressured us to lower the conversion cost factor of our prices to the point that the net was a loss to the company. Whether the import cost went up or down, it made no difference. A few pennies moved on conversion price, moved the sale, and with it, the volume necessary to keep capacity utilization a little higher.

In my role as vice president of operations, I was responsible for the day to day operations of the Baton Rouge facility, as well as financial planning, sales and marketing, and labor relations. I was involved in the significant effort to reopen the shuttered facility in 2014, the day to day efforts to yield a return, the negotiation with customers, and the difficult decision to close again in 2017 because of too many years of low -- too much global supply, too low a price.

In the period since 2013, at least during the part of it when East West and its predecessors were still producing ESBR, imports gained a permanently increased market share at permanently reduced prices and margins.

We were seeing diminishing returns even during the brief period we had been able to recover lost sales and much lower prices. Any arguments that production has increased or imports have decreased since that unusual year of 2014 fails to account for the permanent changes that occurred during that brief production period hiatus.

Imports ramped up to replace some of the domestic supply. Before 2014, we estimated subject import volumes to be about 10 percent of the market.  Since then, we estimate that it has been at least 20 percent of U.S. consumption and saw no relief in 2015 and 2016.

When East West reopened the plant after only a few months, the higher import volumes never returned to previous 2013 levels and pricing pressure was even greater than before.  We had to cut back each year on the fixed conversion fee portion of contract sales and saw similar pressures on spot sales, which are not indexed to rise with raw materials.  So they bore an additional level of risk.

The difference between the last time you looked at this industry 20 years ago and now is definitely the downward pressure on the fixed factor of the pricing formula, combined with the higher volume presence of imports in the market.

Customers simply follow the market down, which is fed by an excess supply of foreign ESBR and diverted to the U.S. by other countries trade restraints, as well as their weaker demand.

In my former position at East West, I also worked with the Operating Engineers Union, which had a long time presence at the Baton Rouge plant.  They cooperated diligently in helping us incorporate efficiencies to get the plant operating again and in the best position to be profitable.  The number of total workers, wages, and hours declined since 2013, reflecting those joint efforts, but with the continuing degradation of the fixed price factor, this was not sufficient to offset the damage done by cheap imports.

We urge the Commission to acknowledge the obvious injury done to the industry by dumped imports. The industry remains under threat, as was East West at this time last year. Ultimately, customers will get less diversity and reliability, not more. I will be happy to respond to any questions. Thank you.

STATEMENT OF WILL HOWARD

MR. HOWARD: Good morning, Madam Chair and Members of the Commission. My name is Will Howard and I am the Vice President of Lion Elastomers LLC. I'm responsible for the sales of ESBR and all lines in elastomers sold by Lion. Prior to assuming this position, I was President of Capacity Resources and Vice President of Protrade International for 23 years. I was engaged in the global distribution of polymers including ESBR.

While I have recently joined the ESBR production industry, I have been involved in ESBR sales and distribution for many years. Sales of ESBR are made primarily to replacement and OTR tire manufacturers through annual contracts to a lesser extent through spot sales. Price changes to customers differ between the two methods but are driven largely through the same factors: The cost of butadiene, styrene and in some grades of ESBR the oil extender that might be added and a conversion factor.

During the Period of Investigation and the end of 2016, contract sales were charged a butadiene aggregation fee. The aggregation fees were fees that BD suppliers charged producers of ESBR and pass through to contract customers. But most importantly the conversion factor is added to these index and raw material costs to recover material overhead and margin.

I have been involved in both contract price negotiations and spot market sales. The latter are generally made to customers whose volume needs are lower, sporadic or supplemental. Some spot sales may be made to customers who are also contract annually for larger volume and need additional supply. The difference between the two types of sales is that the spot prices are driven entirely by supply and demand instead of specific formulas.

It is usually a buyer's market for spot sales who have even greater leverage to influence our prices using competing import quotes. All of the subject countries have been able to affect our prices this way, including those which are shipped lower volumes such as Poland. While U.S. demand for tire increased since 2013, the U.S. Tire manufacturers' demand for ESBR for replacement tires declined during that period.

Tire imports increased in a number of U.S. antidumping and countervailing duty petitions were filed resulting in orders against imported tires. From my previous experience in the distribution market I could see that reduced foreign production of tires for export to the U.S. Market led to the diversion of some foreign ESBR to the United States. There is excess global capacity of ESBR with a combined capacity in such Subject Countries alone, more than two times the U.S. capacity including Goodyear.

The contract price negotiations with large customers involved offers and counter offers which bring various suppliers into the process since all standard grades of ESBR are highly interchangeable among manufacturers, this makes it extremely easy for price driven customers to state that one or more importers' products are cheaper than our offer price and we need to reduce our price to maintain our share or we will lose the business.

We see examples of this pressure in the spot price negotiations on a regular basis. Just last week a buyer approached us and said we are asking 0.10 cents were pound more than his European import offer and that we needed to get our spot price in line with that. I hear the same from other spot customers on a regular basis. Our ability to accept the spot price depends on the circumstances of each case but we see pressure from all Subject Imports in the spot market as well as contract sales.

Our tire customers mentioned that they had plenty of ESBR suppliers who are eager to do business with them and to see to North America and as long as our pricing was competitive and in line with our global accounts we would continue to be rewarded with share.  This same buyer stated that our conversion factor was higher than all overseas producers.  We did retain some of this business but only by meeting the conversion factor demand.

I can confirm that the presence of all Subject Importers in the U.S. Market has had a definite impact on our ability to obtain a profitable return on sales.  I am happy to respond to any questions.  Thank you.

STATEMENT OF ANDREW SZAMOSSZEGGI

MR. SZAMOSSZEGGI:  Good morning, Madam Chair. Commissioner Broadbent.  My name is Andrew Szamosszegi.  I am a Principal at Capital Trade and I am here on behalf of Petitioner Lion.

The market for emulsion styrene-butadiene rubber is not for the faint of heart.  Demand is trending downward. There is global excess capacity and forgive me if this sounds familiar, Chinese capacity growth has created pressures in the global market.  China is not a Respondent in this case but it does play a central role in explaining how we got to where we are today.

Because of Chinese capacity growth in ESBR and replacement tires, other country-specific factors, Respondents have experienced declining home-market shipments and declining exports to third-country markets. To make up for these shortfalls they aggressively pursued U.S. business during the 4th quarter of 2013.

The low prices and lack of volume available to Domestic Producers pushed one firm to close its facility at the end of that quarter. Even after that facility came back online after new ownership, the Subject Imports used aggressive pricing to maintain their elevated market share as U.S. demand was declining. The Domestic Industry's performance was poor throughout the POI culminating in a bankruptcy of the Baton Rouge Facility and a loss of high wage jobs.

Slide 3 provides an overview of my presentation. It begins with conditions of competition and then describes the macrotrends that demonstrate why respondents were so intent on obtaining U.S. contracts during the 4th quarter of 2013.

Next are injury and threat. I conclude with an assessment of Respondents' key economic argument that underselling cannot be injurious because prices are determined by input costs. Slide 4 summarizes four key conditions of competition. First, the market for ESBR is a price sensitive market. Second, U.S. demand for ESBR has been declining. Third, the U.S. Industry has had and continues to have sufficient capacity to supply the Domestic Market at fair prices. Four, the closure and subsequent bankruptcy of the facility in Baton Rouge affects how the Commission should assess trends.

There is no question that the market for ESBR is a price sensitive market. According to the prehearing report, 6 of 20 purchasers reported price was a very important factor in purchasing decisions and fourteen of twenty purchasers reported that they usually or sometimes purchased the lowest price product.

The products at issue are based on accepted standards for various grades. The domestic subject and non-subject products are comparable on nearly every purchasing factor. The products are interchangeable and usually always meet minimum quality specifications. Most purchasers and importers report non-price factors are only sometimes or never significant.

So important is price to both buyers and sellers that prices are determined by formulas. Prices vary with at least butadiene prices and styrene prices. Negotiated prices also include as you heard a conversion fee to cover other costs and profit. Obviously price is important.

Otherwise why are there formulas?  Why are conversion fees negotiated on a yearly basis?  Again, it's because they are important to both producers and contract purchasers of ESBR.

Slides 6 and 7 deal with declining demand.  Both sides agree on this:  Demand for ESBR is derived primarily from demand for tires using ESBR.  Slide 6 shows that U.S. demand for tires is growing slowly, more importantly for ESBR consumption, U.S. tire production has been flat.  Sales of U.S. produced retreaded tires have been declining.

As for capacity, in some investigations the industries coming before the Commission are running full out and cannot meet growing demand.  That is not the case here. The Domestic Producers have enough capacity to service domestic demand.

Finally, the temporary closure and subsequent reopening of the Baton Rouge facility is an important condition of competition for the Commission to consider. The closure, as I noted at the opening, occurred because the contract negotiation season at the end of 2013 failed to support price increases needed for the sustainability of the business.

This affected the Subject Imports in 2014 but the Baton Rouge facility reopened under new ownership during the first quarter, had inventory to sell in the rest of the year and participated in the next two negotiating cycles. Because of this series of events, comparisons between 2013 on the one hand and 2015 and 2016 on the other are more probative than comparisons that use 2014 as a base here.

We're not asking for an extension of the Period of Investigation only that the Commission consider the 2013 data in its trade analysis when possible. The 2013 data have already been tabulated and it would be helpful to include these data in the Staff Report.

Respondents make it seem like they were dragged into the U.S. Market kicking and screaming. The truth is the trends in the international markets for tires and ESBR drove them to enter the U.S. Market. Timing is important. Trade data show that Subject Imports initially picked up in December 2013 during the contract period. What happened?

The Commission has had a number of tire cases involving China in recent years. China has in fact become a major force in the production and export of tires particularly in the replacement market and has become a major consumer of ESBR. China imports ESBR but also produces it. Several years ago it began adding substantial amounts of capacity, and I know you've heard this before too, this led to a drop in global particularly Asian capacity utilization.

Slide 10 shows the two trends on the same graph based on GTIS trade data for China. China's exports of tires expanded almost 41 percent between 2010 and 2014. That is a lot of tires. At the same time, China's imports of ESBR declined by 25 percent through 2014 and continue to shrink. These two trends have resulted in weakening demand for subject ESBR at home and in their non-U.S. Markets.

Korea, the top exporter of USBR to China in 2010 was hit particularly hard. This slide shows China's imports of USBR from Korea have plummeted. Korea's exports to India have also plummeted and India initiated an anti-dumping action against Korea in 2016. In Mexico and Brazil the story has more to do with tires. Brazil's economy has performed poorly in recent years which has helped increase demand for cheaper Chinese tires and reduce demand for domestic autos.

By way of illustration, the next slide charts Brazil's monthly automotive output. Decline has been profound. In Mexico, tires have also been the story. Chinese exports of tires to Mexico increased by 50 percent in 2013 to 2015. The results of these trends are evidenced in the cumulative data on Foreign Producers shown in table 719 of the Prehearing Staff Report.

There have been substantial declines in Respondents exports to non-U.S. destinations and their home market shipments since 2015. These trends put pressure on subject capacity utilization, pressure that respondents alleviated by increasing exports of ESBR to the United States at a time when everyone agrees that U.S. consumption of ESBR was declining.

This background is critical to consider when evaluating the injury arguments put forth by the two sides in this investigation. As Respondents' Markets were deteriorating at home and in third countries, their exports to the United States increased sharply and prevented their capacity utilization from deteriorating further. They claim they were sucked in because of the closure of the Baton Rouge plant, but the Subject Imports began increasing their presence prior to the announced closure and remained in the market after the plant had reopened.

Using 2013 as a base year, the Subject Imports increased in absolute terms and relative to production and consumption. The increase in volume of Subject Imports during this period is significant and Respondents' elevated presence in the market from 2015 and 2016 while all three Domestic facilities were operating and demand was declining is significant as well.

The price effects of the Subject Imports are also significant. Respondents argue that the use of formulas renders the Commission's pricing data to be meaningless. This argument is convenient when there is predominant underselling and when you go from a period of mixed underselling in 2013 to underselling of 76 percent of observations during the 2014 to 2016 period.

By volume 86 percent of the Subject Imports undersold the Domestic Product. This is significant underselling. How did this underselling affect the Domestic Producers? The Staff Report data on raw materials cost and utilities cost of the Domestic Industry in table 4-4 of the Staff report are instructive. Those data demonstrates the Domestic cost for styrene and butadiene declined from 2014 to 2016 but revenues declined to a greater extent.

The Domestic Industry in other words was subject to a cost price squeeze. The Variance Analysis in the Staff Report Table 6-5 and Producer Ratios of Cogs to Sales in tables 6-6 are also consistent with the cost price squeeze. So we have underselling and margin compression at a time of falling demand. These constitute significant price effects.

Respondents go to a great effort to divert the Commission from these inconvenient pricing facts. They are basically telling you that underselling by the Subject Imports does not matter but the price competition from the Domestic Industry does. But if pricing does not matter why is it that the Subject Imports undersold non-Subject Imports? That is what the public AUVs show in Slide 21 and that is what the confidential pricing data in Appendix D of the Staff Report show.

So while Respondents are telling you that price does not matter, the record is telling you that the Subject Countries undersold Domestic Producers and non-Subject Imports and captured market share while U.S. demand for USBR was falling and their markets at home and abroad were shrinking.

Effects orders from the non-Subject Countries represented by the higher AUVs in Slide 21 had pursued U.S. business with lower dumped prices you see from the Subject Imports, they would have experienced large gains too. Also note how the subject AUVs increased after the filing of the Petition while the non-subject AUVs did not.

With the Subject Imports continuing to undersell Domestic Producers and maintain an elevated market share the Domestic Industry's trade, financial and employment performance was poor from 2014 to 2016. We cannot show these data but there has been declining output and capacity utilization, shipment quantity and value, net sales, gross profits, operating profits and net income and production related workers and hours.

Data on assets are confidential. The trend on assets and return on assets are in the prehearing report but we had a producer enter bankruptcy because it was unable to generate sufficient cash flow through operations. This failure is directly attributable to the prolonged pressure applied by the Subject Imports beginning with negotiations in the 4th quarter of 2013.

The significant increase in the Subject Imports quantities starting in December of 2013 and the significant underselling starting in 2014. The Domestic Industry is also threatened with injury by reason of the Subject Imports. After years of pressure by the Subject Imports one producer has already gone bankrupt and the remaining firm devoted to the merchant market is under severe financial strain.

The conditions of competition accentuate this vulnerability. According to Subject Producers projected home market sales and exports to third country markets will remain depressed in 2017 and 2018. The volume of excess capacity will remain significant relative to annual U.S. consumption. Growth and domestic demand for ESBR is expected to remain modest and Subject Country inventories abroad are high.

The next two slides concern the Respondents' regression analysis and underselling. Slide 25 summarizes our views. We think the analysis is flawed, misleading, misinterpreted. For now, I will just make three points. First, we believe there are technical issues with the analysis and encourage the Staff to have a research economist review the methodology and results.

Second, put two of the pricing products including the largest pricing product by volume. The impact of the Subject AUV is economically and statistically significant on the domestic price, indicating that the Subject Imports do have adverse price effects.

Second, the technical problems can be illustrated by a single example where we regress styrene-butadiene rubberized series against prices for copper and sugar using the same methodology used in Respondents Exhibit 7. As you can see, the fit here is pretty good even though copper and sugar are not butadiene and styrene.

The reality is that no one is denying that input prices are important to the price of this product, however in negotiations pricing includes amounts that are linked to the key input prices and the fixed conversion fee. This fee is the real thing. It is negotiated during the 4th quarter and purchasers pressure Domestic Producers to reduce their conversion fees using the availability of Subject Imports as leverage. Thank you very much for your attention.

MR. McGRATH: Thank you to all the witnesses. I just have a couple of finishing comments here, as I want to address a few legal questions in anticipation of your questions. With respect to like product, I don't think there are any additional issues that have been raised here.

It appears that it's not being contested, that it consists of the Series 1500-1700 USBR and the like product co-extensive with the scope.

It excludes blends of USBR with other polymers. It excludes -- it does not cover carbon black, master batch or latex. Also solution SSBR is not covered, and Mr. Zeringue talked about the fact that it's made in different equipment and different facilities.

With respect to cumulation, we covered also in our brief. I don't think that's an issue, but all the subject and domestic product are clearly fungible. They're in the same geographic markets at the same time. They're sold through the same channels of distribution and simultaneously present in the U.S. market. They should be cumulated.

With respect to the captive production provision, we concur with the preliminary determination, your preliminary determination that that provision does not need to be applied here. The qualifiers do not fit. But we also agree that it should be considered as a condition of competition. It does have an impact, the fact that Goodyear is primarily there to produce to ESBR for its own consumption producing tires, and in fact it came across with the introductory statement from Respondents here.

Looking at who the stable suppliers are

throughout the period, one of the things they pointed out was that Goodyear was a stable supplier. Well, Goodyear is not a reliable supplier for the larger market, since their primary goal was going to be serving their own needs. But it is available on the merchant market. So it is -- we're asking it be considered a condition of competition, which is what I believe you found in the preliminary.

One other issue. I think only one of the Respondents has argued that some imports should be decumulated for purposes of threat, since you have that option to do so. I think the points that they were arguing, it was just the one

Korean producer who argued it, about volume trends being different. We don't see that the volume trends are all that different.

There's some decline in products from one country versus another, but in terms of their entrance into the market, their presence in the market, their ups and downs, I don't think that we see a big difference in volume trends. Pricing trends are not much different. There you can again look at the underpricing data and see the number of instances and how that applied to the different countries that were involved.

And another, the other factor that they cited that should be looked at, differences in capacity utilization. I think that is probably not that significant given the fact that that can move substantially, especially with respect to Korea, since they had high capacity utilization at certain points, low capacity utilization, lower at other points and also are constrained by other trade remedy orders that can affect them and that might also affect their capacity utilization.

So we believe that you should not decumulate and just continue to cumulate for purposes of threat. So any other issues, we're happy to all address together, and that closes our direct presentation. Thank you.

CHAIRMAN SCHMIDTLEIN: All right. Thank you very much. I'd like to thank all the witnesses for being here today. We very much appreciate it, and we will start the Commissioner questions with Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you, Chairman Schmidtlein. I appreciate the witnesses testifying and not taking the entire hour. I think we got a lot of information efficiently and I appreciate that. I guess I'll probably start just to get one thing out of the way. It always bothers me when people say they're going to appear and then somehow they disappear the day before the hearing, and I don't know if you all had a witness that was planned to come from East-West, but is it East-West?

MR. McGRATH: Yes.

COMMISSIONER BROADBENT: Westco Polymer. Was there a witness planning to come?

MR. McGRATH: No, there was no --

COMMISSIONER BROADBENT: No. They were just listed there and then you no longer represented them?

MR. McGRATH: We listed them as representing them. They notified us that they wanted us to withdraw from our presentation. In fact, I heard from their bankruptcy lawyer saying please do not represent them anymore. They have no assets or facilities. So I mean that I think is a normal process for a company in bankruptcy.

We were never officially engaged to represent the trustee in bankruptcy. I don't believe there is an assigned trustee in bankruptcy yet. So that's the extent of the contact that they made. I don't think there was anything significant about it, other than they no longer wanted to be represented.

COMMISSIONER BROADBENT: Okay. But when you filed the prehearing brief, you indicated they were supporting. What was their status at the time of the prehearing brief?

MR. McGRATH: At the time, they had not -- they had not changed their status. They had not notified us of any change of position. We continued to represent them but they were no longer operating. We were simply -- it was more of a legacy representation, since we had started this process representing them and all continuously up until they declared bankruptcy. We continued to represent them. That was in -- right at the end of March, beginning of April.

So there was -- there was not an official cut of that representation. But we did, we did learn last week that they were advised. I mean I am not familiar with the bankruptcy, but they were advised to end any contracts of representation or other activities, given the fact that they were in bankruptcy and they now had to deal with trustees and creditors committees and things like that.

So they were not officially planning to appear or bring somebody here. Oh, I should add, it's important to note, that Mr. Rikhoff is not here to represent East-West and is not authorized to represent them. He is here as a former employee. He is here as a consultant. So he's able to answer some questions but not as a -- not officially in the capacity of representing their position on anything.

So as far as I know, they are in a neutral position. They've withdrawn support and withdrawn representation. They haven't opposed, but that's their position.

COMMISSIONER BROADBENT: Well, who can answer the question why they went bankrupt?

MR. McGRATH: I think Mr. Rikhoff probably has some of what he can tell us. If there's an area that he can't get into, I think he'll let you know.

COMMISSIONER BROADBENT: Mr. Rikhoff.

MR. RIKHOFF: Good morning. Bobby Rikhoff. We went bankrupt due to the lack of generation of income over the last several years, and just were unable to continue operation and pay bills, your typical bankruptcy. We could not generate a profit at the prices that we were pushed to go to.

COMMISSIONER BROADBENT: Okay. This will be, I guess, for Lion. Based on the public statements of Mr. Zeringue, when you purchased the Port Neches plant, is it accurate to say that the Texas production facility was superior to the Baton Rouge facility?

MR. ZERINGUE: It's accurate to say that that facility produced other polymers besides emulsion SBR, cold polymerized ESBR. The hot polymerized ESBR competes in a different market segment, has a different level of profitability, different pricing mechanisms. So it was -- it was a nice addition to the portfolio that generated some profit.

The condition of the asset in Port Neches was well maintained through the ownership of ISP International.

COMMISSIONER BROADBENT: Okay. What

investments would have been needed to bring the Baton Rouge plant up to the level of maintenance of the Port Neches plant?

MR. ZERINGUE: It would have been -- it's hard to say because they're a little bit of apples and oranges. The Port Neches facility also has its own deep sea dock facility associated with the site. The Baton Rouge plant did not have that. That facility allows us to import butadiene and styrene from basically anywhere in the world. The Baton Rouge plant did not have that capability.

So there was more infrastructure in the site itself, not just the same sort of reactors and finishing lines. Not being a mechanical engineer, I can't tell you exactly what the investment level would have been to try to bring the Baton Rouge facility up to an apples to apples comparison, but I imagine it would have been fairly significant.

COMMISSIONER BROADBENT: Okay. Prior to the East-West declaration of bankruptcy, is it fair to say that East-West was your primary domestic competitor?

MR. ZERINGUE: Primary domestic competitor, yes.

COMMISSIONER BROADBENT: And how did you compare the competition with East-West compared to the competition from Goodyear?

MR. ZERINGUE: Goodyear, as Mr. McGrath said, primarily produces ESBR to serve its own ESBR requirements for its own tire businesses. There are some legacy accounts that were former Goodyear entities like Goodyear engineered products produces conveyor belts. That has gone through several name changes and ownerships.

So it was Vance and now it's owned by Conti, Continental Tire named Conti, and they had presence in those accounts. We would see Goodyear in and out of the spot market every so often. It just really depends -- it would depend a lot on how hard Goodyear was running its own tire plants as to how much available ESBR they had for the merchant market.

But getting back to the competition between the domestic suppliers, what I can tell you is those two businesses have competed for 70 years. So it's not like this is a new phenomenon. Through that span of 70 years, there has been many changes in ownerships at both sites. The Baton Rouge site was -- well, both sites were originally for the war effort in World War II, but at one time the Baton Rouge facility was owned by Sears and Roebuck, Armstrong Pirelli, Mark IV Industries, DSM.

So and you know, similar sort of legacy of the Port Neches site. So there's been a number of ownership changes throughout that 70 year span, but both of those sites have competed for a very long time.

COMMISSIONER BROADBENT: Okay. Mr. Zeringue, what information is relayed to U.S. purchasers following the sale of the Baton Rouge facility to East-West, in terms of ability to supply the market?

MR. ZERINGUE: I'm sorry. Could you repeat that again?

COMMISSIONER BROADBENT: Yeah. What information ^^^^ what kind of communication did you have with the U.S. purchasers after the Baton Rouge facility was sold to East-West, in terms of supply, changes in supply and so forth? What were your discussions with the purchasers?

MR. ZERINGUE: Well, the time gap between the time that we sold the site to East-West and the time that we acquired Port Neches. So after we sold the site to East-West, we really didn't have a reason to have contact with SMR. RIKHOFF: consumers until we acquired the Port Neches site at the end of 2014.

COMMISSIONER BROADBENT: So really no communication during that period?

MR. ZERINGUE: The communications actually happened prior to us deciding to shut the site down. So as one of the slides illustrated in the opening statement by the Respondents, it was stated that in -- in December of 2013, we announced that we were going to shut the site down, and that was sort of indicated to be some sort of turmoil.

But the reality was that we -- it was sort of a chicken and an egg situation. We had gone out in the fourth quarter, as they also illustrated, in price negotiations and we tried desperately to get price improvements on all of our contracts, and what we were faced with is that we could not improve the pricing at all, and we were left with looking at another year of unprofitability.

So we did not enter into any contracts in 2013. We tried to get price increases and when we couldn't, then a strategic decision was made to shut the site down, and then we had those communications with the customers. So it wasn't -- it wasn't but, you know, that came after. We tried to get the price increases, but just could not get it and the marketplace forced us to again look at another uneconomical year for the business.

COMMISSIONER BROADBENT: But I'm just trying to -- from the purchasers' standpoint, how are they to assess the market. They didn't really have any idea you were coming back in at some point and kind of voluntarily took yourself out?

MR. ZERINGUE: Correct. So again, after we sold the site to East-West, we had no communication. Between the time that we announced that we were going to shut the site down, we did make inventory available to customers for a period of time to help them bridge between that ending contract period and the time that they could find alternative supply.

COMMISSIONER BROADBENT: But if you were a purchaser, how would you manage that situation?

MR. ZERINGUE: Well, all the purchasers were able to find alternative material. I don't think anybody shut a tire plant down because we had idled, announced idling the plant or shutting the plant down. Again, as stated earlier, these products are very fungible and the purchasers found material readily available.

MR. SZAMOSSZEGGI: Andrew Szamosszeggi from Capital Trade. I think also there were increasing imports. If you look in the prehearing staff report, which shows 2013 data, you started to see an uptake in imports in December of 2013 and January of 2014 already, even though there was, you know, it usually takes a few months to order things and get it here, at least a few months.

And so imports had already started to accumulate at the end of 2013 and beginning of 2014, reflecting the fact that they had already obtained some contracts in the fourth quarter.

COMMISSIONER BROADBENT: Okay, thank you.

CHAIRMAN SCHMIDTLEIN: Great. Thank you very much. Just following up on that line of questioning about the impact of supply disruption, I just wanted to get a clarification, I guess, because Mr. Rikhoff, when I listened to your testimony, you made a statement about the fact that subject import volumes never returned to the levels that they were at in 2013, after the plant was reopened, and that suggested to me that you were sort of acknowledging that subject imports were pulled into the market from '13 to '14 because of, you know, the disruption in supply.

And then when I listen to Mr. Szamosszeggi, I hear you say well -- and I'll give you a chance to speak in a moment. But it sounded like the global over-capacity problem with ESBR was what was causing, and the various things going on with China and Korea and Brazil was what was causing subject imports to come to this market. So can you give me some clarification on that?

MR. RIKHOFF: Bobby Rikhoff. Yes ma'am. So the reference of 2013 is pre-fourth quarter 2013. Subject imports were significantly lower, did increase late in the fourth quarter and they never went back down. Along that line, future East-West Pro Polymer management and sales force did go in December of 2013 and January of 2013 (sic) and went and visited every single contract customer, notifying them that we were going to reopen the facility as East-West, and we were down for a total of two months, shutting down January 22nd and restarting March 25th in the market.

CHAIRMAN SCHMIDTLEIN: And so my question is though given that sort of surprise of disruption, do you think that subject imports increased from '13 to '14 in part because of that?

MR. RIKHOFF: Certainly that had an additive effect on it. Subject imports were already increasing before the announcement was even made. I was the guy standing next to Jesse Zeringue, telling the plant site in December 3rd of 2013 that we were going to shut down the site, because we could not get the support and the resources needed from the customers in order to sustain the business. I'm standing right next to him and you know, imports had already started going up.

Through the two month outage that there was no production during that time, we are telling customers -- East-West was at that time telling customers we were coming online. We were buying the facility and starting back up, and we were back up March 25th. At that point in time, we were back in the market and you could expect a year, you know. People had to fill contracts and everything along that line.

So you would expect 2014 to be a disruption of volume, imports certainly making that way. When we came back online and were starting to go up, the fight with the imports that are trying to keep the traction in the market, they just kept dropping prices, I mean just to ridiculous levels to maintain their foothold. That is word for word what customers were telling us.

CHAIRMAN SCHMIDTLEIN: So if I understand correctly, contracts are typically annual contracts?

MR. RIKHOFF: Yes ma'am.

CHAIRMAN SCHMIDTLEIN: And are negotiated in the fourth quarter of every year?

MR. RIKHOFF: Yes ma'am.

CHAIRMAN SCHMIDTLEIN: So when you were negotiating those 2014 contracts, I guess in the fourth quarter of 2013; correct? So you were already having to inform your customers that there was going to be --

MR. RIKHOFF: There were no contracts from 2014.

CHAIRMAN SCHMIDTLEIN: There was no contracts. So when you --

MR. RIKHOFF: There were no contracts in 2014.

CHAIRMAN SCHMIDTLEIN: So when you reopened two months later, what were you selling based on?

MR. RIKHOFF: We were selling based in the spot market.

CHAIRMAN SCHMIDTLEIN: Just on the spot

market?

MR. RIKHOFF: Yes ma'am, and we had some customers that strongly supported us from our previous contract business with Lion Copolymer. So we did have some base load that we were fortunate and able to have in 2014.

CHAIRMAN SCHMIDTLEIN: Okay, and so then you had to wait until the end of 2014 to regain --

MR. RIKHOFF: Contracts.

CHAIRMAN SCHMIDTLEIN: Those contracts that you couldn't fill for that year?

MR. RIKHOFF: That we were out of that market for that year.

CHAIRMAN SCHMIDTLEIN: You were out of the market totally for that year, okay. And do you know where your customers went? Did they all go to subject imports? Did they go to another -- because there was another -- there was another domestic supplier? There was Goodyear, right, although they consume all of their --

MR. HOWARD: And Ashland was there at the time.

CHAIRMAN SCHMIDTLEIN: And Ashland was there, right, okay.

MR. RIKHOFF: Some volume went to them, and then you can see the increased volume in 2014 that certainly of imports, that certainly filled that void.

CHAIRMAN SCHMIDTLEIN: And did you see some of your customers go to non-subject imports during that time?

MR. RIKHOFF: We saw some of them go to domestic suppliers also.

CHAIRMAN SCHMIDTLEIN: And to domestic suppliers, okay. And so when at the end of 2014 when you were now trying to regain those customers, where did you see -- you saw competition from all of those sources at the end of 2014?

MR. RIKHOFF: In the 2014 negotiation for 2015, just about every single customer was pushing us against Asian and European pricing coming in. We were not being pressed against the other domestic guys supplying at this price. No. We were being pressed against just absolutely low prices, that I will quote a customer saying we wouldn't even meet with them anymore, because something had to be wrong if they could offer that low of a price. That is a worldwide producer of tires that stated that to me.

CHAIRMAN SCHMIDTLEIN: And I'm just curious. Do you all have any contemporaneous emails or, you know, are these negotiations done through that way?

MR. RIKHOFF: They're done face to face.

CHAIRMAN SCHMIDTLEIN: I mean in other cases we -- they're all, they're done face to face. Okay.

Sometimes depending on the industry, we do see these negotiations going on through email and so forth, and sometimes we do have --

MR. RIKHOFF: Finalization and numbers and submittals of numbers, it certainly does. It goes by emails, but the conversations of how, how you get there is face to face.

CHAIRMAN SCHMIDTLEIN: Is verbal.

MR. RIKHOFF: Yes ma'am.

CHAIRMAN SCHMIDTLEIN: Okay. Why is demand for ESBR going down in the United States?

MR. RIKHOFF: The demand of ESBR is kind of steady and going down in the United States because the Tier 1 tires are being utilized and produced by solution SBR. That is the OEM tires. The replacement tire market is where ESBR is being largely utilized, and that has seen some shifts. The largest percent of an industry that dropped was off the road tires, which has a similar anti-dumping --

CHAIRMAN SCHMIDTLEIN: Right. There's orders on passenger tires and passenger and light truck tires, and then off road but not bus and trucks.

MR. RIKHOFF: Right. So the bus/truck and off the road, off the road is made with 100 percent ESBR rubber, no solution SMR. RIKHOFF: rubber and that industry's down over 40 percent, you know. It drives with the mining industry, the agricultural industry.

CHAIRMAN SCHMIDTLEIN: I see. So it's really the oil and gas that's driving down that.

MR. ZERINGUE: I'm sorry, Jesse Zeringue. Also, ESBR is used extensively in conveyor belting. So as the mining industry, particularly coal industry declined, the demand for ESBR in those conveyor belts also declined with the decline in the need for those belts.

CHAIRMAN SCHMIDTLEIN: I see. So okay. Mr. Szamosszeggi, you had a comment?

MR. SZAMOSSZEGGI: I'm sorry. Andrew Szamosszeggi, Capital Trade. I'm sorry. Also, and we'll break this out, retread tires for truck and bus also use ESBR in the compound, and there was a couple year decline in demand in that as well.

CHAIRMAN SCHMIDTLEIN: Okay. So would you say that SSBR is playing a role in driving down demand or not? I mean I know that it's somewhat substitutable, that it's a higher priced product. It's used in OEM mostly, so does that have -- does that play a role at all?

MR. RIKHOFF: The OEM industry over the last several years, this didn't just happen overnight, the OEM industry has shifted to SSBR. That portion has largely been done. What the decrease has been has been, which you have anti-dumping suits on all of them, is the OTR, the bus and truck.

CHAIRMAN SCHMIDTLEIN: Well, we don't have bus and truck.

MR. RIKHOFF: Right.

CHAIRMAN SCHMIDTLEIN: Bus and truck is not, there was not --

MR. RIKHOFF: Right. So and then passenger tires. The lower tier passenger tires are made with ESBR, not SSBR. SSBR is very expensive and drives properties that just make it uneconomical to put into Tier 2, lower Tier 2 and all of Tier 3 tires, and that's what we're seeing, a decline in the production of those tires in the U.S.

CHAIRMAN SCHMIDTLEIN: So do you think going forward that this has bottomed out and it's going to be flat, or do you think it's going to continue to go down?

MR. RIKHOFF: So the OTR industry is on its way out. It follows the mining, as Jesse said, you know, conveyor belt and all that. The last two quarters have been a bright side for the mining and agricultural industry. That industry is largely driven by steel and other things.

Once the steel tariff went into play, that has really increased the steel industry in the United States, which drives the equipment needed and there was always a lag on that because they have to try and make money again before they could start buying the equipment, instead of running on the dilapidated equipment which is reported widely throughout that industry, and coal certainly follows the same regimen and we are at the low end of the coal, as you could see, you know.

That just dropped like a brick. So we have seen that coming back. So you know all trends, you know, by the Bureau of Statistics and all those, all trends are showing positive right now in those directions.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. ZERINGUE: Yes ma'am, Jesse Zeringue.

CHAIRMAN SCHMIDTLEIN: Mr. Zeringue.

MR. ZERINGUE: Also in considering the increase in solution SSBR demand, it has to be taken in concert with the increase in automotive production. I believe over 90 percent of solution SSBR goes into OEM tires. So it stands to reason as there are increases in automotive production, there's going to be an increase in demand for solution SBR, not that it's necessarily replacing emulsion SBR.

Because as replacement tire market is stagnant to slightly declining, the automotive industry is fairly robust, meaning that there's a fairly healthy demand for solution SBR.

CHAIRMAN SCHMIDTLEIN: Okay, all right thank you. My time is up. Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, and I appreciate the witnesses for coming today. Just to follow on that last question, if the OEMs are using the solution SBR, doesn't that sort of imply that in the future that more replacement tires would use it, or is it that when you buy a replacement tire -- well, I've never thought to ask whether it's SBR or SSBR.

But it would seem like people, particularly maybe the first replacement, would be more likely to want to use something closer to what you got originally. This may not be in the next couple of years, but that would seem to be a long term trend.

MR. ZERINGUE: Sure. Jesse Zeringue. So where -- the key property that's important when you're using solution SSBR is that it has a better hysteresis, and hysteresis is how the tire dissipates heat, okay. So the better you can dissipate heat, the lower the rolling resistance, the better the fuel economy. So I would I guess ask anyone here when you walk into a tire store, I don't believe there's any of us here that walk in and say I want the most fuel efficient tire you have.

What you look for is performance, tread wear. Very few people even acknowledge the fact that there's a fuel economy connection with the tires. That tends to track fuel prices. So in places like Western Europe and Japan, where fuel prices are very expensive, there's a significant amount of that replacement tire market that is serviced by tires that utilize solution SBR. But here in the United States, very few people express that concern when they're buying tires.

COMMISSIONER WILLIAMSON: Right, because no one tests the older used vehicle for their fuel efficiency. It's when you originally manufacture that it matters.

MR. ZERINGUE: Yes, and those tires tend to be generally more expensive because solution SMR. RIKHOFF: is more expensive.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. RIKHOFF: Bobby Rikhoff. That's what I was going to add. Those tires can be over twice or three times the cost of another tire that you could put on your automobile. That solution SBR could be double the price of emulsion SBR, depending on what grades and what they're using.

COMMISSIONER WILLIAMSON: Okay, thanks.

MR. SZAMOSSZEGGI: Andrew Szamosszeggi. Just one last quick comment. Corporate average fuel economy, regulations are applied to the new tires, and so the auto makers try to get every last mile per gallon out of those tires that they can. You don't have that in the replacement sector.

COMMISSIONER WILLIAMSON: Yes, that's what I was saying. No one tests the -- good, okay. Thank you. Okay. That helps explain that. Just a question on China. I think there's been some reference to it. Your chart shows something about the Chinese exports of ESBR. I was just wondering, given their capacity, why hasn't China been a major exporter during recent years, and is this is likely to change?

MR. McGRATH: A major changer, a major exporter of SBR?

COMMISSIONER WILLIAMSON: Yes.

MR. RIKHOFF: Bobby Rikhoff. So China was importing from Europe and other sections of Asia their SBR shortfall of their demand. So what they did is they continued to bring capacity online, and that is being consumed in China.

What got displaced in China was the European material being supplied to China and the other Asian affiliates around China supplying into China. So they're just now--they're bringing up capacity to their demand, and they are actually going to be over capacity on their supply side here also.

COMMISSIONER WILLIAMSON: Okay, so we can expect to see more exports out of China going forward?

MR. RIKHOFF: You could. Now they also predict that they're going to have a billion cars over there in another 10 years, and that certainly would eat up the capacity of everything that they're building for.

COMMISSIONER WILLIAMSON: Okay, thank you.

Does Lion currently have sufficient SBR cap to get capacity at its Port Neches, Texas, plant to fully replace the East-West capacity that is no longer available?

MR. ZERINGUE: Yes. We have already replaced some, and we still have another 25 percent of the capacity available to supply more, should we need to.

COMMISSIONER WILLIAMSON: Okay. Now is that product used in the tire market?

MR. ZERINGUE: Yes, sir.

COMMISSIONER WILLIAMSON: Okay. Okay, thank you. Let's see. What assets did Lion buy from East-West following its bankruptcy? Are there production assets that Lion didn't buy? Yes?

MR. ZERINGUE: We acquired the site. So, you know, we believe that there's value in the asset. It's very early in the process. What we're doing now is we're assessing the condition of the assets on the site. We have not owned that facility in three years, so depending on our assessment of the condition of the assets will drive where we end up in a strategic decision on what we do with it.

COMMISSIONER WILLIAMSON: Okay. And are those assets capable of producing ESBR?

MR. ZERINGUE: Yes, sir.

COMMISSIONER WILLIAMSON: Okay, thanks. Was there another company bidding for that, those assets before you got it? And if so, what was the company, if you can say?

MR. ZERINGUE: I'm actually not sure if I can.

COMMISSIONER WILLIAMSON: Okay, if you want to do it post-hearing, that's fine. It can be done post-hearing, if you're able to do it.

MR. ZERINGUE: It's probably record, so yes, there were two other companies bidding on the site as well.

COMMISSIONER WILLIAMSON: Okay. Okay. What is the principal end use of ESBR latex?

MR. ZERINGUE: It goes into fabric coatings, carpet backing, coatings for the paper industry. It's non-tire related. Gloves is a big one.

COMMISSIONER WILLIAMSON: Is it a pretty small share of the market?

MR. ZERINGUE: Relative to tire, it is.

COMMISSIONER WILLIAMSON: Okay. Which synthetic rubbers compete directly with ESBR? And has the price and availability of these products affected global demand for ESBR during the Period of Investigation?

MR. ZERINGUE: Of course we've talked about solution ESBR already. Natural rubber is interchangeable to some degree, not exclusively. You cannot do a one-for-one change-out. Generally, tread compounds are somewhere in the 40 to 60 ratio, natural to synthetic rubber. That ratio can move 60-40 in some direction, but you can't do a wholesale replacement of those and still meet the requirements of the tire that's required.

MR. SZAMOSSZEGGI: Andrew Szamosszeggi. Just-- Bobby Rikhoff may want to talk about this as well, but there are also some fixed costs associated between switching-- between natural rubber and synthetic rubber within a particular formula. You can't just like flick a switch. So that also limits substitutability to some extent.

COMMISSIONER WILLIAMSON: To what extent will these other synthetics affect demand in the future, the imminent future? Mr. Rikhoff?

MR. RIKHOFF: You're asking for synthetics? Or the natural rubber also?

COMMISSIONER WILLIAMSON: The synthetic rubbers.

MR. RIKHOFF: So synthetic rubbers, the Solution SBR and Emulsion SBR?

COMMISSIONER WILLIAMSON: Yes.

MR. RIKHOFF: So it's all geographical. As Jesse pointed out before, you know in Europe where petro is three times our cost, that's a price driver for more tier one tires to be bought by automobile owners. In the United

States where we're looking at a very long term period of low prices due to shale gas and that industry, and the reserves along that line, every single prediction you see says we have a 10-year window of low natural gas and low oil prices.

COMMISSIONER WILLIAMSON: Okay, the--we talked a lot about the solution. The other synthetics that were mentioned, would they have any impact? Do they have a similar impact?

MR. RIKHOFF: They're not interchangeable.

COMMISSIONER WILLIAMSON: Okay.

MR. RIKHOFF: Just Solution SBR.

COMMISSIONER WILLIAMSON: Okay. Good. Thank you.

MR. ZERINGUE: This is Jesse. Just one more comment on solution, is that there really isn't a general purpose solution SBR grade. These grades are fairly specific to the compound being produced, and in many cases are very proprietary--so much so that a fair amount of the major tire producers are backward integrated into Solution SBR.

So Mechelen and American Synthetic, which is National Solution SBR Plant, Goodyear owns their own synthetic Solution SBR plant, as does Firestone. So these are very proprietary grades, and they're really not fungible.

COMMISSIONER WILLIAMSON: Okay. Thank you. What is the difference between ESBR different series? For example, how does the ESBR 1600 differ from the 1800 or the 1900 series?

MR. RIKHOFF: The different series would pertain to maybe what filler they have in it. So like let's say a 1500 series does not have filler in it like oil or carbon black added. A 1700 series has oil added. 1800 series can have carbon black and oil added. So we're generally talking about 1500 and 1700 series.

Now within those series, there are differences and different grades. Some of those could have to be how they're produced, what emulsifiers are actually utilized in those grades in order to give them their end tack and their end physical properties, and also the amount of styrene can vary. And what our discussion is, is in the lower bound styrene, not high-bound styrene of 50 percent or higher percent styrene. A typical grade of 1500 is 23.5 percent styrene.

COMMISSIONER WILLIAMSON: Okay. And the particular tire manufacturer would specify which of these different grades to run?

MR. RIKHOFF: Absolutely. Yes, sir.

COMMISSIONER WILLIAMSON: Good. Okay. Thank you for those answers.

MR. RIKHOFF: Yes, sir.

COMMISSIONER BROADBENT: Mr. Rikhoff, when you were negotiating annual contracts in the fourth quarter of 2014, had East-West already lost its certified supplier status? Or did that occur later?

MR. RIKHOFF: That--through 20, through 2014 we utilized much of our spot production to qualify at the facilities. And we were able to get production in there that did not--that continued our qualification at many facilities. Like our two largest customers, we were able to keep supplying them that year and did not have to requalify. At some other facilities we did have to requalify. And in addition to that, by 2015 we were actually qualified at additional plant sites that we hadn't been qualified in in my 10 years at Lion Copolymer and East-West. So that certainly was one of the challenges of East-West in 2014, was working on qualifications.

COMMISSIONER BROADBENT: Yes?

MR. ZERINGUE: This is Jesse Zeringue. To that end, just to maybe add a little bit of clarity, there are many customers who buy both on contract and hold out a certain amount of their requirements to buy on a spot basis as well.

So it makes it--you know, in that instance then it could still be a contract customer who is buying on spot. So they're still able to use those polymers that maybe once supplied on contract but are now supplied on spot.

COMMISSIONER BROADBENT: Well given that many U.S. purchasers require suppliers to be certified, why do you think East-West allowed themselves to lose their certification, if they were in such a competitive market and subject producers were certified?

MR. RIKHOFF: Lose their certification? I'm not understanding what you mean. Do you mean qualification at tire customers? Through their ISO 9000 imports of whatever requirement, when there was a discontinuation of supply from January, or the shutdown of the facility from January to the reopening and re-startup of the facility in March, that triggered some facilities in their ISO and their quality organizations to require us to requalify our material through their process, which we did through most of 2014 and into 2015.

So it wasn't the fact that East-West allowed it to lapse. It was the end customers own procedures and policies that dictated that we would have to requalify since there was an extended period of shutdown at that site.

COMMISSIONER BROADBENT: Mr. Rikhoff, you state that in 2014 your customers were citing import prices in your negotiations for future 2015 contracts, putting pricing pressure on you.

There is some business confidential information, but if you look at the 2015 financial data, specifically the relationship between net sales values and raw material costs, you see improvement in the industry's prices relative to those raw material costs.

Then in 2016 when you have two U.S. producers, you see this ratio increasing again. And the bankruptcy of East-West didn't occur until after Lion came back into production.

Can you help me explain where we see in our data the real effect of subject imports?

MR. RIKHOFF: So the effect of subject imports were the low-price offers--and I want to really key on this--the fixed conversion costs, that factor.

So when we're negotiating contracts, there is a set percent of butadiene. There's a set percent of styrene that is generally the same for all producers. They are within the specification of those grades of rubber.

So what you're doing is you're negotiating on a portion of that formula that is called "that fixed factor." So that fixed factor is what the customer is pushing us on and saying, instead of it being, let's say if the total price of the material is a dollar, the butadiene and styrene are taking up 75 cents, and that fixed portion is 25 cents, which then covers another 20 raw materials that are utilized in the emulsification and processing of that rubber, the energy, the electricity, all of your operating costs, manufacturing costs, all that is in that 25 cents. And then you have in that 25 cents the profitability of the company.

And so when they're negotiating, they are negotiating on that. There is no negotiating on the percent of BD and the percent of styrene in it. They're negotiating on why I have this guy offering this price. You need to go down 5 more cents. And you're negative.

But that's the pressure. And certainly in 2014 going into 2015, we're a new company, East-West was at that time. We're trying to get back in there. And so, you know, we have to meet at least close to what they're offering to get the business.

If you don't have any volume, you don't have a business to even try and protect. So, you know, we're working on, and we had the financial backing to continue to go in and say, alright, through 2015 we're going to sit there and continue to work and build up volume. We know prices are low. 2016 will push. 2016 they pushed again and another decrease in that fixed factor.

So that was just a cascading effect right there, and we were being quoted against European and Asian producers, amongst with other producers in the Americas, and just everywhere. There are so many different customers, the diversity of all the supply coming in, they can always find someone, or a handful of people to push you against.

And if you didn't meet that, we did not get the business. We significantly lost business during each contract negotiation that we walked away from because we couldn't afford to operate at those negative levels. So it wasn't a matter of someone not being able to supply. They had to just simply walk away. We did not get the business by playing hardball. We lost it.

MR. McGRATH: Commissioner Broadbent, if I could also add, in answering that question, where do you see--of the data, where do you see the impact? Two points in particular.

We will submit a time series of the conversion factor and what it has done over time over this period time. Because obviously we're making our argument here on the price, that that figure keeps going down and down because of the pressure of the dumped imports during that period of time.

We can demonstrate it. And Mr. Zeringue testified that it's gone down across all of their contracts by 25 percent over the last four years, five years. So that will be a confidential submission.

To the extent we have that information about East-West, we can do the same.

The other place to see the impact, quite frankly, is the financial numbers themselves. I'm not sure how the Respondents can argue that there's an improving situation when it's constantly in the red. There are very few incidents throughout where any of the three producers--maybe a little bit more so for Goodyear--but where any of the three producers can show that they're getting any profit.

It may be less of a loss, or more of a loss from one year to the next, or from one quarter to the next, but the bottom line here is that is why they went out of business. They couldn't get that price up.

The same is true for why did they close that facility originally at the end of 2013? Well, we've got something of a chicken and egg argument here, and we'll hear more from the Respondents. They're going to put the blame on us for closing.

The fact is, we closed because of the pressure from them. Trying to figure out where did this cycle start, their chart that they showed at the beginning talked about, one of the -- is title U.S. ESB producers have created chaos in the market.

Well importers had created chaos in the ESBR U.S. producers. It's a difference in the perspective in how you look at it. So we will be happy to submit the time series to show those conversion factors and the contract price going down so that you can see how that happened over the last four years and decide for yourself.

Compare it to the 10 to 44 percent dumping margins that have been found for these Respondents.

MR. SZAMOSSZEGGI: Just--Andrew Szamosszeggi, Capital Trade. One quick point.

In a lot of these contract negotiations they are told that it's an Asian or a European manufacturer. It's not always identified by a specific country. So the way you can actually tell, eventually, and the way these guys, you know, when they're trying to figure out what they should do when they feel like they're being dumped on, is you look at the AUV data, and the AUV data shows one group of countries at very low prices compared to other groups of countries.

And so even though it's--during negotiations, it's Asian, it's European, the trade data and the under-selling data are both clear who is doing the under-selling and providing the price pressure.

COMMISSIONER BROADBENT: Okay. Mr. Zeringue, why did Lion decide to re-enter the market in 2016? If the market's prices were being suppressed by import competition, what made it attractive, particularly since it had decided to leave in 2014?

MR. ZERINGUE: So this is Jesse Zeringue. So we acquired that business in December of 2014. And the reasons that we thought the business would be a good fit for us is we didn't exit the ESBR market because we hated the market. We exited the market because it was unprofitable.

So when we took a look at the Port Neches facility, it offered things that we did not have in the Battery site. I spoke earlier about the ability for us to bring in one of our key raw materials, butadiene, by deep-sea vessel that allows us to import material from Europe, or Asia, as well as we have two different pipeline supplies into the plant itself for domestic supplies. Well, we have 18 million pounds of storage capacity that we can utilize if we want to buy butadiene offshore. We had none of those things available to us at the Battery site.

In addition to the infrastructure that we talked about, now we also had--we saw value in the hot polymerized ESBR line because it was non-tire related. We do have another business. We have an EPDM business that services mostly the automotive industry. So it' was a really--that part of the ESBR business, the hot polymer side, was a good fit in the non-tire segment that we participate in as well.

COMMISSIONER BROADBENT: Okay. Thank you.

MR. ZERINGUE: You're welcome.

CHAIRMAN SCHMIDTLEIN: Just a follow-up, I guess, on a couple of questions about the recent--your recent experience with conversion factors, the adder.

I see in, I believe it's in Exhibit 2 to the

Respondent's brief, that raw material costs have gone up here in 2017. I guess butadiene and styrene have both gone up. And so we see the average unit values for subject/nonsubject, as well as U.S. shipments and net sales, AUVs, all have gone up quite a bit in the interim period in 2017.

And so my question is, do you see your adder also going up in this interim period? Because obviously I understand that the AUV is going up because--you know, it's tied to raw material costs. Raw material costs are going up. So by formula the number is going to go up. But has the adder also gone up?

MR. ZERINGUE: Those are negotiated annually. So our contracts for this year are basically set, and we in fact honor our contracts. So for the volumes that we've contracted, we are honoring that conversion fee.

You know, we've been able to sporadically get some improvement on small volume of incremental sales, but again that goes back to the supply/demand situation. We have not started negotiating contracts yet for 2018, so i would have a better answer for you in the fourth quarter of this year.

CHAIRMAN SCHMIDTLEIN: So did you see any positive impact from the filing of the Petitions?

MR. ZERINGUE: Certainly in volume. Do you mean for the antidumping petition?

CHAIRMAN SCHMIDTLEIN: Yes, I mean in terms of your price negotiation. Did that have any impact, even though the preliminary duties were not in place at the end of the quarter?

MR. ZERINGUE: Well I think the timing worked against us on that. That decision came out very late in the year. We tried to hold off on our contract negotiations as long as we could, but in fairness to the customers they have to know what they're getting before they start their calendar year.

So we were not able to really leverage that decision just because of the timing of it.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. McGrath, this is a question for you. With regard to the 2013 data, and you've made the point that you're not asking the Commission to extend the Period of Investigation that we would normally look at, but you want us to look at that in the context of the conditions of competition?

MR. McGRATH: Yes. That was our proposal, since you normally look at that three-year period. We think it's important to also look at 2013 and what was happening then. And that would include looking at its data, because of the fact that there was a significant change from 2013 to '14.

It's an entirely different characterization of the data when you only limit it to '14.  By that time, the increase had gone up and there was a new normal.  Instead of a 10 percent market presence, there was 20, 25 percent, as the new level that we were dealing with and fighting.

CHAIRMAN SCHMIDTLEIN: If we were to extend the POI to include 2013, what other data would we be looking at besides the volume and--

MR. McGRATH: I think I would defer to Andrew.

MR. SZAMOSSZEGGI: Probably financial data as well, the pricing products I think we had four in the prelim, and we have six now.  But you could look at the trends in the pricing products, too.

CHAIRMAN SCHMIDTLEIN: Um-hmm.  And are you aware of any cases where we haven't extended the POI but we've just taken certain parts of the data and looked beyond the POI?

MR. McGRATH: I don't have any at my fingertips. I could certainly do some research on that.  But it is--you have pretty side discretion to look at everything in terms of what is conditions of competition--what are the conditions of competition?     And I think we're in agreement, both Respondents and Petitioners, that there were significant events that happened at the end of 2013, the beginning of 2014.  We interpret them somewhat differently, and I think they are going to propose to be selective and how to use it.  We would say take a look at the data.  You collected it in the prelim.  You have the 2013 numbers from the preliminary determination.

CHAIRMAN SCHMIDTLEIN: So you wouldn't be opposed to that?  You wouldn't object to that?

MR. McGRATH: Using the 2013 numbers?

CHAIRMAN SCHMIDTLEIN: All of the data, yeah.

MR. SZAMOSSZEGGI: I mean the volume analysis is obviously more important for that.  But if you want to look at the financial condition of the firm, and the subsequent increase in share, and I think also in 2014 as Robbie said, you had an increase in import volume that was, you know, it was a chicken and the egg thing, but obviously for some it was important to get imports up.

So the question is, it's like when a relative comes over for a visit and just kind of like overstays his welcome. That's kind of what happened here.  I mean we understand '14 is '14, so then what happens in '15 and '16? And if you just limit your view to the '14 through '16, then, I mean you can still find injury on the basis of like constant pressure on the domestic industry by under-sold subject imports and reduced profit.

So I still think you can find injury on that basis, but I think the 2013 data on volume and price are informative.  The most informative.  Financial data, you can look at that, too. Pricing data, it's difficult to compare.

CHAIRMAN SCHMIDTLEIN: Okay. Alright, I actually have no further questions.

So, Commissioner Williamson?

COMMISSIONER WILLIAMSON: Okay, thank you.

Mr. Szamosszeggi, in responding to the pre-hearing brief at Exhibit 5, they adjusted the price comparisons to deal with product swaps. And I was wondering if you agree with their approach? And if so, why? Or why not? And if you want to do it now, or else post-hearing?

MR. SZAMOSSZEGGI: It's hard to do a pricing product--a pricing analysis using the wrong prices. You have to use the prices of the products that were sold into the markets. So we disagree with the approach.

As for the volume effects of the swap, we don't think there were such large volume effects. We also disagree with that approach. But even taking account of the change in volumes due to the swap, there's still a significant increase.

COMMISSIONER WILLIAMSON: Okay. Thank you.

MR. McGRATH: If I could add--

MR. SZAMOSSZEGGI: We will be more direct in post-hearing.

COMMISSIONER WILLIAMSON: Okay. Thank you.

MR. McGRATH: And if I could add, we took a look at that swap situation and, assuming that's what's being suggested here that the price figures be substituted instead of the price from the domestic producer to the U.S. importer who then sold them to another U.S. customer, all we can say is the price from the domestic producer is the price from the domestic producer. I don't see how you can substitute other prices for those prices and have a basis for analysis, just because there is a swap arrangement elsewhere in the world.

COMMISSIONER WILLIAMSON: Okay. Thank you. If anti-duty orders are imposed, are there nonsubject countries that have sufficient surplus capacity to make up any additional shortfalls in the U.S. domestic industry's production?

MR. McGRATH: Excuse me? Shortfalls in U.S.?

COMMISSIONER WILLIAMSON: If there are shortfalls--I don't know whether you would agree that there--

MR. ZERINGUE: Yes. I mean the industry as a whole, the global industry, is running at about 70 percent utilization rate. So there's capacity.

MR. McGRATH: There are numerous other producers around the world that haven't been subject here. It's just that they have not been shipping that much to the United States. These four, five producers are the ones that make up the largest share of all of it.

MR. ZERINGUE: Places like Germany, China, you know, former Czech, India.

COMMISSIONER WILLIAMSON: Okay, thank you.

Let's see. Do you agree with the Respondents that ESBR is primarily sold from inventory?

MR. McGRATH: Excuse me? Primarily sold from inventory?

COMMISSIONER WILLIAMSON: Yes, I think that was their contention.

MR. McGRATH: I'm sorry, if we could clarify that, that ESBR is sold in the United States to all customers primarily from inventory?

COMMISSIONER WILLIAMSON: Yes, um-hmm.

MR. ZERINGUE: Most chemicals and polymers, the product is produced to stock, not to order. So I mean we base our production and grade slate on what customers tell us they need, but we don't specifically make this pound for that customer. We basically make the stock and then supply.

MR. McGRATH: But there's something of a combination of factors here, in the fact that 70 percent or so is made pursuant to contract gives the producer the opportunity to plan their production in a manner that's going to meet that need for the next month, or the next two months or three months.

So they plot out their production throughout the year based on the contract. It is going into an inventory, and that's why there's some available for spot sales.

MR. ZERINGUE: Yes, spot is more of a, I wouldn't necessarily call it a "made to order," but it's more akin to a made-to-order process.

COMMISSIONER WILLIAMSON: And I guess that would answer this question: How quickly can you accommodate changes in customers' volume requests?

MR. ZERINGUE: We can accommodate fairly quickly because customers tend to buy very similar grades. Again, these 1500 and 1700 series are very fungible, which means that most of these tire companies use very similar grades.

So it's easy to handle the ebbs and flows from one customer and another.

MR. MCGRATH: If I could just add one more point. From time to time, because of the fact that production is plotted over the year based on contracts, in large part, there may be times when, if a large customer wants a significant amount more, or wants to take delivery of part of the year's supply faster than the way it was plotted out in the original contract, there may be some delays in meeting that request.

I mean the company attempts to, but sometimes it's set up the contract over the period where there's a range of delivery volume and it may take a little longer to accommodate a contract purchasers' request to speed up delivery. They still honor deliveries and honor contract customers' requests ahead of all else, because they are contract customers.

MR. ZERINGUE: And also, you know, if there's a significant uptick, then we would have to negotiate for higher supplies of butadine and styrene, and sometimes that takes several weeks to align those raw material supplies up as well. So there could be a slight lag in that, but only for significant upticks.

COMMISSIONER WILLIAMSON: Okay. That raises the question, were there any shortages of raw material during any point in the POI? And did this affect production and building to supply ESBR to customers?

MR. ZERINGUE: So in the first quarter of this year, butadine was fairly tight. So again, referencing my last comment, when we got inquiries from our contract customers for more product, we had to arrange to get more butadine. We contract butadine to mirror our contract SBR sales. Which means this pushed us out into the spot market for butadine, which we did.

And we worked with customers to say, "Listen, we can supply you, but we have to buy butadine at this spot price. Are you willing to accept that?" And some of our customers were willing, and some were not, and they found sources from somewhere else. But that would be the only period where we had, I won't say inability to get supply, but we did not have enough contracted supply and we had to buy those raw materials on the spot market.

COMMISSIONER WILLIAMSON: Thank you. Can you explain the term "prime product" in "our prime product's interchangeable with non-prime products"?

MR. ZERINGUE: So each customer has a specification, and for these products, it's very similar across the customer base. And in production, like any production, you always make some amount of material, hopefully small amount, that doesn't meet the specification. So that would be a non-prime product.

Some customers are able to take things that are slightly non-prime because some customers like custom compounds because they compound their own material and they can blend away some of this. But for the most part, the tire companies don't want off-specification material.

COMMISSIONER WILLIAMSON: Okay. Questionnaire responses indicate longer lead times for U.S. shipments from inventory, compared to those that are produced to order. Can you explain this?

MR. ZERINGUE: I'm not quite certain who's producing to order?

COMMISSIONER WILLIAMSON: I guess it would be the same supplier.

MR. ZERINGUE: So lead time for most imports, depending on the origin, is anywhere from four to six weeks. So that's a much longer lead time than any domestic supplier would have to supply product. Whether or not the importer holds inventory in the U.S. is really irrelevant because they still have a four- to six-week lead time to get material from the site of production to the U.S.

COMMISSIONER WILLIAMSON: Okay. But is there any difference in the lead time between U.S. shipment from inventory compared to those that are produced to order?

MR. ZERINGUE: I really don't think so.

COMMISSIONER WILLIAMSON: Okay.

MR. ZERINGUE: But what I'm struggling with is to figure out the make-to-order question. I don't know if anybody -- well, we supply make-to-order.

COMMISSIONER WILLIAMSON: Okay. Well, if we need clarification, we'll come back post-hearing. How are contract prices negotiated with new customers?

MR. ZERINGUE: Well, as illustrated in the respondents' opening argument, they're done annually and they are almost done in the fourth quarter. So by October, we start having conversations with customers about the volume requirements, where they think the fixed conversion fees are headed.

In the past, there was issues with, as Mr. Howard stated, aggregation fees for butadine that we were only able to recover for the POI, and the remaining of the POI we basically had to eat those costs and that came out of margin as well. But these contracts are done in the fourth quarter of the current year for the coming year.

Which is why, as I said earlier, which is why we made the decision to shut down the facility in December of 2013 because we started in October trying to get price increases to improve the profitability and when that was met with substantial resistance, and it was not successful in getting those increases, then we have to take the decision to not enter into contracts for that following year.

COMMISSIONER WILLIAMSON: Okay. Thank you. Just one last quick question for post-hearing. Can you provide the pricing formula you typically use in annual contracts and estimate how much of your 2016 sales were made based on the formula pricing? This is for post-hearing.

MR. ZERINGUE: I think we have about 70% of our sales are formula-based, contract-based.

COMMISSIONER WILLIAMSON: Okay. And if you could do the answer the price --

MR. ZERINGUE: That can be provided in post-hearing.

COMMISSIONER WILLIAMSON: Okay, good. Thank you.

MR. MCGRATH:  That's, when you said formula-based, that's contract, which means partially formula and partially fixed conversion fee.

COMMISSIONER WILLIAMSON:  Okay, thank you.

CHAIRMAN SCHMIDTLEIN:  Great.  All right.  That concludes the commissioners' questions.  Does staff have any questions for this panel?

MR. RUGGLES:  Fred Ruggles, Office of Investigation.  Staff has no questions.

CHAIRMAN SCHMIDTLEIN:  All right, thank you.  Do respondents have any questions for this panel?

MS. OKUN:  No questions for this panel.

CHAIRMAN SCHMIDTLEIN:  All right, thank you.  So we will now -- thank you very much.  Let me thank you again for the witnesses all appearing here today.  We really do appreciate it very much.  And I will dismiss you at this time.

MR. ZERINGUE:  Madam Chairman, Commissioners, thank you very much.

CHAIRMAN SCHMIDTLEIN:  You're welcome.  All right.  And given that we are still before lunch, we're going move directly to the respondents' panel.  So Madame Secretary, will you please call the next panel?

MS. BELLAMY:  Will the respondents please come forward?

(New panel being seated.)

MS. BELLAMY: Will the room please come to order?

CHAIRMAN SCHMIDTLEIN: All right. Thank you very much. You all may begin when you're ready.

MR. SJOBERG: Good morning. My name is Will Sjoberg and I'm speaking on behalf of Negromex and the other joint respondents. Today you will hear from a major tire company purchaser of ESBR. That representative and representatives from Negromex and ARLANXEO will discuss the conditions of competition. Included in that discussion will be another representative of Negromex, who will address available substitutes for ESBR.

After which time, ARLANXEO will address underselling and competition in the market. That address will be followed by a representative from Kumho, who will address clean-origin imports in the market. As that discussion relates to the volume of subject imports, counsel for Kumho will also discuss the decrease of volume of subject imports in the context of what appears to be a petitioner-driven issue of whether to extend the POI.

Dr. Prusa will close the joint respondents' case in chief with an in-depth discussion of ESBR prices and the factors that drive those prices. We will now hear from Mary

Pauken of Cooper Tire.

STATEMENT OF MARY PAUKEN

MS. PAUKEN: Good morning. My name is Mary Pauken. I'm the Vice President of Global Purchasing for Cooper Tire & Rubber Company, and I've worked for Cooper for almost thirty years. I'm responsible for Cooper's direct and indirect purchasing worldwide. As the ITC knows, Cooper buys a large amount of ESBR in the United States.

I'm here to share Cooper's perspective on the U.S. ESBR market from the 2014 to 2017 period of investigation. Specifically, I would like to discuss the factors that go into our purchasing decisions and ESBR purchasing process, which explains why Cooper buys imports.

We consider a number of factors in purchasing ESBR, or for that matter, any raw material. Our sourcing objectives for raw materials, including ESBR, are, first and foremost, securing reliable and qualified ESBR to support our tire plants. In addition, the product quality and service, price, our strategic supplier relationships, technical support, and trust are also important factors in our decisions.

Please understand that price and value are very important to Cooper. Materials account for 50% to 65% of the cost of a tire. We must buy materials at a globally competitive price in order for our tires to compete in the marketplace. We are not vertically integrated like some of our direct U.S. competition, and we also do not have the same volume leverage of the largest tire companies who buy ESBR.

We rely on our suppliers to partner with us and sell us good quality ESBR at a competitive market price. Securing supply is the number one most important objective for purchasing. Without ESBR, we do not make tires. We specifically buy from a number of suppliers to manage our supply risk. We typically have three or more ESBR suppliers each year, so we must import to achieve the supply diversity that we require.

There is simply not a sufficient number of reliable U.S. producers. For a while, in 2013 and 2014, there were only two U.S. suppliers, but unexpectedly in 2014, East West bought and reopened the Baton Rouge plant. This was not expected by the market. It was also a surprise when Lion re-entered the market when they purchased the Port Neches facility from Ashland.

Today we are back to two U.S. ESBR suppliers, and we do not see that number increasing. We must buy imported ESBR to manage our supply risk. We only purchase ESBR from companies and their specific plants that are technically qualified to supply our plants. As a regular course of business, we work to certify new suppliers throughout the year, so that we can ensure a diversity of suppliers.

Both Lion and East West were among our certified suppliers.  Their products meet our technical specifications, but their product has a large variation within the specification, as compared to others, which results in inefficiency in our production processes.

Directly related to security of supply is the reliability of our suppliers.  We have had reliability issues with the petitioning ESBR producers.  In early December 2013, Lion announced the closure of Baton Rouge. This was at the tail-end of the 2014 negotiation season. Losing a supplier at this late point in the sourcing process causes the industry to scramble and source the volume with other suppliers.

Upon announcement of the Baton Rouge closure, another U.S. supplier tried to raise the contract price on us.  To remain competitive in the tire industry, we had to rely on other U.S. and foreign suppliers.  Without the support of the subject imports, we would not have been able to manage our supply risk and remain competitive.

We have had previous reliabilities with Lion. In 2011, they defaulted on an agreement in mid-December to supply us volume in 2012, opting instead to sell that volume into Asia where the price of synthetic rubber was higher during that period. Again, without subject imports, we would not have been able to satisfy our requirements and our sourcing objectives.

More recently, we signed an annual contract with East West for 2017. This was the second time during the period of investigation that the owners of the Baton Rouge facility failed to fulfill their contracted volume. Cooper Tire cannot rely solely on U.S. ESBR to supply and to support our business.

Cooper looks to buy ESBR from producers who view Cooper as more than just a single sale, but rather as a relationship partner. In my view, this is a relationship-based industry. So great customer service and commitment to our business are important factors in purchasing decisions. We want suppliers we trust, who will work with us to meet our supply needs and not exploit us in the event of an ESBR shortage by raising our prices. These qualities are what distinguish importers from Lion.

There are suppliers who are of strategic importance to Cooper because they can supply multiple rubber products for all tire plants, and can supply our plants around the world. This is important for many reasons, one of which is so we can leverage our volume globally. The subject imports supply us rubber in our plants outside the U.S. We can utilize our high-volume regions to our advantage in our lower-volume regions. Lion does not have global production and they do not supply us outside of the U.S.

Finally, as a tire company, we like to source from companies that are actively engaged in improving their products and developing new ones to meet the increasing performance requirements of tires. In addition, we value suppliers who provide us technical and processing support to assist us in improving the overall performance of our tires and the efficiency of our plant operations.

Lion provides us no new products and no technical support. These are important factors in our purchasing decisions and we will prefer ESBR suppliers who can offer these services.

I have a few comments I can make on price and how we purchase ESBR. We develop and follow annual strategic strategies for ESBR. We make a thorough analysis of the global ESBR supply and demand, regional monomer supply and pricing forecasts, the financial health of our suppliers, and the service and quality performance of our existing supply base to establish sourcing strategies.

Most of the ESBR Cooper uses in the U.S. is purchased through annual contracts. Annual contracts are used at most major tire companies that produce in the U.S., and are typically negotiated in the fourth quarter of the preceding year. For example, the annual contracts for 2017 were negotiated between September and December of 2016.

The annual contract negotiations are a very iterative process with multiple rounds of negotiations with potential suppliers. In September and October, we send out requests for quotations, or RFQs, to all suppliers who are qualified to supply us ESBR. Usually the final contract is not signed until December.

Typically we get back responses from eight to ten suppliers. In their responses, suppliers provide their pricing for a particular volume and grade. Not all suppliers offer to sell us all grades. Most suppliers do not even offer all the volume for a specific grade. Keeping with our risk-based sourcing objectives, we generally want three or more suppliers for each grade.

We review each of these offers and figure out how the offer fits into our portfolio of global rubber requirements and our sourcing strategy. We then provide feedback to the suppliers about their offers. The feedback is on both volume and price. After reviewing our feedback, we get back revised offers from ESBR suppliers. Generally, a couple of suppliers will drop out after receiving our feedback.

The contracts use a formula to set the price. The contract does not have a firm fixed price and suppliers offer us similar, but different, formulas which may differ on reasonable pricing benchmarks for butadine, styrene and oil. There is also a fixed component of the formula which is used to set the price.

Our ESBR price fluctuates monthly based on the formula and the regional market price for butadine, styrene and oil. Regional monomer prices vary, and we do try to leverage and manage our costs by buying from a number of global suppliers. Based on our strategy, we may leave some volume uncommitted in the case the spot market prices are more favorable than our contract prices.

There has been a global oversupply of ESBR for the last five years, and directionally, monomer prices have also decreased, which has resulted in overall lower global market prices for ESBR and for that matter, all other commodities that we purchase, with the exception of the price spike in Q1 of 2017 for all commodity prices.

Also, Cooper's requirement for ESBR has decreased. We've seen aggressive U.S. competition for our business. Since East West purchased Baton Rouge, we have been increasing our contract volume with them every year, as they show sustainability in the marketplace. We also have purchased from Lion during the subject period.

For reasons described earlier, these U.S. suppliers do not add value, so they must compete on price.

In 2016, we saw aggressive U.S. supplier pricing to win volume, which drove down the overall U.S. ESBR prices down and we saw it again in 2017. We still followed our sourcing strategy and bought from domestic and importers in both years.

Because contract negotiations are iterative and many factors go into our ESBR purchasing decisions, we do not view any particular ESBR producer as a price leader across the investigation period. In addition to annual contracts, we occasionally buy ESBR on the spot market.

There are two reasons for purchasing in the spot market. The first is our demand forecast is wrong and we need additional ESBR supply. The second is to take advantage of lower prices in the spot market if we think ESBR will be long.

Because the price of ESBR is driven by benchmarks for butadine, styrene and oil, we can lower our average price if there's a price drop in one of the benchmarks around the world. But also, when there is global oversupply of ESBR, spot prices are usually lower than contract prices, as producers look to leverage their fixed costs and keep their plants optimized.

Imports are crucial to our business for a couple of reasons: First and foremost, as I mentioned, a stable ESBR supply is crucial to the success of our operations.

The importance of a reliable supply is why we maintain at least three, and frequently more, suppliers, and are consistently trying to approve new suppliers for all of our tire plants. It is also why the subject imports are so important, as there has been just two consistent U.S. merchant market producers for part of the period of investigation.

Second, while there has been a global oversupply of ESBR, domestic supply has not been reliable and has required us to look to imports to cover our requirements. As recently as this spring, one U.S. ESBR producer was not able to meet our demand. We experienced these types of shortages when the Baton Rouge facility was shuttered in 2013 and again in 2017.

When there are ESBR shortages, we typically see the domestic producer setting aggressive prices in order to take advantage of purchasers, not showing the partnership and commitment we look for in our suppliers.

Let me be clear on one issue. Imports are not a cause of the situation that is facing Lion and that did face East West. An anti-dumping order will not fix Lion's problems. We are now down to two U.S. ESBR producers. This is just not acceptable to Cooper.

Should the Commission find injury and anti-dumping order imposed, Cooper will evaluate all its options to remain relative and competitive in the tire industries. These may include accelerating the switch from ESBR to Solution SBR and its formulas. Solution SBR is a product that improves the performance of tires.

Cooper will also look for alternative ESBR suppliers from countries not subject to this petition, and alternative rubber products. Thank you for the opportunity to be heard. This is a very important case for Cooper and I look forward to your questions after the presentation. Thank you.

STATEMENT OF TOMAS ACEVEDO

MR. ACEVEDO: Good morning, ladies and gentlemen, my name is Tomas Acevedo. I'm the commercial director for Negromex. I have worked for the company for more than 23 years and I'm here today to talk about the relationships of our company with our customers.

Industrias Negromex has five decades of experience as synthetic rubber producer. Over the years, we have developed a very close relationship with our customers not only in Mexico, but also in the United States, Latin America, and Europe.

Our clients in the United States market have remained constant over the years due to several factors. Among them adaptation to customer's need, investment in R & D specialty products, investment in new equipment to produce new grades for example Carbon black master batch, hot styrene butadiene rubber, and silica masterbatch.

Strategic partnership with our customers is a key factor for us. In 2013, Cooper & Negromax made public that we jointly filed for a new patent for a process to produce hydrophobated silica, Silica Master Batch, and rubber products. Cooper had used this Silica Master Batch to produce -- manufacture premium passenger tires and which driving a number of benefits from technology, including improving mixing productivity and flexibility, the elimination of volatile organic compound emissions associated with the standard silanization process of mixing silica and improves silica dispersion in tire tread formulation, which led to better tracking, wear, and roller resistance performance in tires.

As the tire industry and industrial market has developed, so have we, from new regulations that require our customers to change the ingredients that they use in their formulas, oil for instance, to the development of new products to meet industry standards.

One example is "Tire Labeling Program," which is intended to reduce CO2, increase fuel efficiency, and improve both miles and safety.

We believe that the development of knowledge within the supplier-customer relationship is an aggregated value that transcends the price.

Since the early nineties, we have diversified raw material supply chain by investing in own petrochemical terminal and storage facilities. By investing in these type of assets, we have become owners of our own destiny and turned out company into one of the most reliable suppliers to the United States market. This business strength minimizes the possibilities of failure to deliver to our customers due to the unplanned or planned outage of raw materials in the United States.

New synergies created within our group, through the joint venture between our parent companies KUO and Repsol in October 2015, have opened the doors to the development of new family of products such as Solution SBR and Rubber Chemicals.

Changes within our company have allowed us to acquire in a very short time more technical knowledge capabilities to help our customers strive new -- in their segments across the rubber industry from tires, retread, compounding, adhesives, chewing gum, just to mention a few.

Finally, it is very important to mention that SBR users have changed their buying patterns in the last few years by diversifying and including not only regional suppliers but also global players due to all the benefits that such relationships bring. Such relationships include and are not limited to financial strength, know how, new technologies, diversified family of products, international customer service and plants around the world that can supply to any of our customer's locations.

Thank you very much for this opportunity to speak today. And I look forward to answering your questions.

STATEMENT OF JOHN SAWAYA

MR. SAWAYA: Good morning. My name is John Sawaya. I am the NAFTA regional head of ARLANXEO USA. I have worked for ARLANXEO USA since 2003 and I am responsible for and very familiar with the synthetic rubber market, which includes the ESBR market in the United States.

I'm here today to explain who we are and to share our perspective of the U.S. ESBR market during the period of investigation 2014, 2017. Our ARLANXEO is part of a global organization that was created in 2016 as a joint venture between LANXEO and Saudi Aramco. ARLANXEO produces a number of rubber products, predominantly for the tire industry. As shown on this slide, products are made at various locations around the world. However, ESBR for our global needs is only produced in Brazil.

We are a global supplier of rubber products to all major tire companies. Each year, we enter contracts, which may be global, regional, or country specific, depending on the customer under which we commit to sell certain volumes of rubber products, including ESBR.

The agreements do not require us to supply all of our products to every one of their plants. While we may supply a U.S. tire company with our range of products, we do not necessarily supply them with ESBR in the United States.

ARLANXEO's Brazilian plants are operating at a high capacity utilization rate, which limits our ability to fulfill increased demand over the short term. For example, we were unable to fully supply customers when East West closed earlier this year.

ARLANXEO USA began importing and inventorying ESBR in the U.S. due to the requests from existing U.S. customers who were buying our other rubber products for tires. Our U.S. customers wanted another source of ESBR to ensure stability and reliability of supply.

ARLANXEO provides strategic advantages to its customers. We are uniquely positioned to supply tire manufacturers. We sell all major synthetic rubbers required by tire companies. We are a global company. We supply companies globally.

ARLANXEO is constantly investing in new technology and working to develop new products to improve our customers' tires. We know that the synthetic rubber industry is relationship based and that customer loyalty and commitment are essential to success.

In addition to importing ESBR produced by ARLANXEO Brazil, ARLANXEO USA sources ESBR from Goodyear Tire Company. First, we went to a swap agreement between the two companies. The swap agreement has been in effect for most of the period of the investigation. Under the swap agreement, ARLANXEO USA obtains 1502 ESBR from Goodyear. In exchange, ARLANXEO Brazil provides ESBR to Goodyear for its use in Brazil.

The price used in the swap is artificial and above the market price. However, the price is irrelevant as the swap is based on quantity. We are concerned that the staff pre-hearing report uses these artificial prices and not the ARLANXEO USA sales prices.

ARLANXEO warehouses their U.S. produced ESBR in Houston, Texas, along with the Brazilian produced ESBR. ARLANXEO sells the U.S. and Brazilian ESBR interchangeably and at the same price. In other words, 1502 from Brazil cannot be underselling the Goodyear 1502 as we charge exactly the same price for all 1502.

This also means that our sales in the U.S. market of 1502 cannot be characterized as imported product as we are selling Goodyear and Brazilian ESBR interchangeably to the same customers.

The swap agreement and ARLANXEO's commitment to its customers are crucial to understanding ARLANXEO USA's import trends. ARLANXEO understands that if it commits to supply ESBR, it must ensure that it is able to supply it timely. Otherwise, this would adversely affect our entire business with the customer.

Shipping times from Brazil and the United States can be lengthy and unpredictable. This means we need to have sufficient U.S. inventory to meet changing U.S. customer demands. We must plan to meet the maximum volume committed as we know the most important requirement of tire customers is reliability.

When the swap is in place, imports from Brazil are lower. When the swap is not in place or believed to be ending, ARLANXEO USA increases the imports so that we have adequate inventory for our customers. Thus, our imports increase.

We do not sell excess inventory in the spot market. Rather, when the swap arrangement is restored or when demand falls, we decrease imports and work off of inventory to our contract customers.

To conclude, it is ARLANXEO's experience that the instability in the U.S. market between 2014 and 2017 caused U.S. customers to lose confidence in domestic industry and to diversify their suppliers, thereby relying on imports for a small portion of their ESBR needs.

Thus, any injury to domestic injury was self-inflicted and not in any way related to imports from Brazil. Thank you.

STATEMENT OF JOSE PLAZA

MR. PLAZA: Good afternoon. My name is Jose Plaza. I'm America's commercial manager for Industrias Negromax.

I'm going to talk about substitutes of emulsion SBR. Let's start with Solution SBR or SSBR. Regulatory pressure in the developed markets on automotive manufacturers to reduce $CO_2$ emissions and implementation of tire labeling programs have increased demand for low rolling resistance tires.

This has led to changing tread compounds for light and medium sized vehicles, sorry, favoring tread based on SSBR, Nd-Polybutadiene and silica reinforcement, rather than natural rubber, ESBR and carbon black. This trend is also moving to the emerging markets, both for domestic original equipment sales and export to the developed markets.

The transition from ESBR to SSBR was accelerated in the United States after the implementation of the tire labeling program in Europe in 2012. As this authority has seen through the questionnaire's responses, demand of emulsion SBR in the United States declined during the POI and will continue to decline in the near future.

It is Negromex believe that the tire industry in the United States will continue to evolve into a specialty market that will provide U.S. consumers with higher performance tires that incorporate higher content of SSBR. And this change will have a negative impact in the market size of emulsion SBR.

Polybutadiene rubber, also known as BR, could be also a substitute of emulsion SBR. The usage of this type of material can improve grip in the tire and retread segment. This substitution practice has been seen in North America and South America in recent years.

Natural rubber, as mentioned in previous briefings, natural rubber can also be a substitute of emulsion styrene-butadiene rubber up to a certain percentage depending on the type of application. For tires, there is a certain level of substitution, depending on the producer's formula.

Compounds, some emulsion SBR purchasers mix the emulsion SBR with carbon blacks, oils, process aids and many other components. This operation could be internal or external. The series 1500 and 1700 could be mixed outside of the United States and then imported into the United States as a compound for processing in the domestic tire market, conveyor belt market, and other markets to avoid the anti-dumping tariffs.

This situation could also harm the U.S. rubber industry. For instance, some conveyor belt producers source their mixing formulas from U.S. compounders that use emulsion SBR from the subject countries. Local compounders' participation has been affected because now conveyor belt producers are importing the compound from mixers in Canada that use emulsion SBR from subject countries in order to reduce their costs importing an out of scope product.

This example shows how this tariff is damaging the competitiveness of the local rubber compounders and promoting imports from other countries. It is possible that the situation may extend to other market segments.

In conclusion, there are several alternatives in the market that can be used to replace emulsion SBR, depending on the segment and the target properties required by the customers. Thank you very much.

STATEMENT OF ETHAN SIGLER

MR. SIGLER: Good afternoon. I am Ethan Sigler, global tire account manager at ARLANXEO USA. I oversee rubber sales to U.S. tire producer accounts, so I am very familiar with customers ESBR purchasing decisions and how the ESBR market works.

I have worked in the rubber industry for 20 years in both the U.S. and globally. I understand the time period at issue is 2014 to 2017. The U.S. ESBR market experienced supply disruption and uncertainty of supply during this period despite a global oversupply of ESBR. These shortages and supply disruptions would have put U.S. customers' supply chains at risk if they could not purchase subject imports.

The first disruption to the U.S. market occurred when Lion closed the Baton Rouge facility at the end of 2013 during the negotiation of annual contracts for 2014. This timing restricted East West in supplying the spot market as annual contracts for 2014 had been concluded at the close of 2013.

East West was eventually able to grow its sales, but U.S. customers remained reluctant to commit significant volumes to East West due to concerns over its financial stability and reliability.

Long term security of supply is one of, if not the primary decision making driver for U.S. tire producers. The shortage of butadiene in the beginning of 2017 drove butadiene prices to levels that created cash issues for ESBR producers. The time between production to sale and payment is up to six months. This raw material spike coincided with the closure of East West. We understand that East West asked customers to prepay for material or secure raw materials on their behalf in order to continue production.

Also during this period, Ashland announced the sale of the Port Neches facility to Lion in Q4 2014. This ownership change introduced uncertainty into the U.S. ESBR market, particularly for 2015, as this change was announced during the negotiation of annual contracts for 2015.

This uncertainty resulted in a hesitancy to commit significant contract volumes to Lion, particularly in light of its poor reputation in the market.

In the 2014 to 2017 time period, the only stable U.S. producer has been Goodyear. However, Goodyear Chemicals' primary purpose is to supply Goodyear tire facilities on a global basis. Goodyear is positioned as both a supplier and a competitor to the U.S. tire market, results in most customers ensuring that at least one additional stable source of ESBR is incorporated into their supply base.

The instability of U.S. producers, other than Goodyear, has been the primary driver of increased demand for imports. ARLANXEO was a natural source for ESBR as we sell all other major types of synthetic rubber to U.S. tire companies. U.S. tire companies need imports because the U.S. ESBR industry has been unreliable and unable to consistently supply customer needs. Today, with only two U.S. producers, imports are a necessity.

Almost all of our sales of ESBR, at least 95 percent, are made under annual contracts to tire companies. ARLANXEO USA is not the ESBR price leader. We try to maintain pricing. Each year, we enter into the contract negotiations at or above the price of the prior year based on our formula.

Price reductions are only conceded in some cases and within limits when required by the buyer to meet competitive prices.

For 2014, only Ashland and Goodyear had the ability to enter into contracts. For 2015, we competed with Goodyear, East West, and Ashland. In 2016, the competition was Goodyear, East West, and Lion.

Competition from Lion and East West drove down prices for 2016 contracts, as these companies attempted to regain or grow ESBR supply to U.S. tire companies that had been reluctant to source significant quantities in 2014-15, due to the uncertainty surrounding these suppliers.

Price reductions were the mechanism employed to accomplish this. This competition continued into 2017. We lost business in 2017 because domestic suppliers offered lower prices. We were not willing to offer the prices that were needed to match these domestic suppliers.

ARLANXEO rarely sells into the spot market with the vast majority of our sales volume coming from annual contracts. Sales not covered by annual contracts are generally to smaller companies, who do not purchase annually, but rather on an ongoing basis.

We have sold ESBR on a spot basis to global customers in the U.S. in times of material shortage when needed for their U.S. operations. In the United States, there are companies that we understand prefer to buy their ESBR from local sources.

Thank you for the opportunity to appear today. I look forward to answering questions.

STATEMENT OF BONJAE KU

MR. KU: Good afternoon. My name is Bonjae Ku. I'm the general manager of synthetic rubber for the overseas sales team at Kumho Petrochemical. Kumho is the largest ESBR producers in Korea and second largest in the world. In addition to ESBR, Kumho has production lines which produce polybutadiene rubber, nitrile rubber, SSBR, and NB latex.

Kumho has invested in offering a broad product line of quality products so that it can satisfy the needs of its tire making customers around the world.

I'm here today to share Kumho's perspective on the U.S. ESBR market and the factors that drive our selling decisions. Most important, before this case was even filed, Kumho had already decided to reduce its ESBR sales to the U.S. market substantially. We considered a number of factors in deciding to reduce our focus on the U.S. for

ESBR.

First, the main consumers for ESBR in the U.S. are tire makers. Like in Europe and Japan, tire makers in the U.S. are moving away from using ESBR as new and better synthetic rubbers are becoming widely available. These tire companies have shown growing preference in purchasing SSBR rather than ESBR.

Second, Kumho recently made large scale investment to switch its ESBR production lines to NB latex, which is stronger future demand in other markets. As a result, Kumho significantly reduced its ESBR capacity. We have no intention to increase ESBR capacity in the near future.

Third, Kumho has found that other countries offer better options in terms of demand for ESBR. This is especially true for China, India, and Indonesia, where demand has grown significantly in the past several years and is expected to continue.

These countries have become Kumho's main markets for ESBR, because of urbanization and increasing use of four-wheel vehicles there. Also, Kumho has geographic advantage in serving demand in these countries both in terms of logistics and customer services. Kumho has shifted its business focus to take advantage of these new product and third countries' opportunities.

The petitioners argues that price is the primary factor that buyers in the U.S. consider when making their ESBR purchase decisions. Of course, price is considered -- concerns in any buyer-seller transaction. However, my 20 plus years of experience in the rubber business taught me that customers require stable supply and quality control products more than anything else.

Lower prices do not matter if a supplier cannot deliver production time in the necessary volumes or in compliance with the specifications. On this last point, car makers in particular have exacting safety standards for every single part, especially for the tires. Nothing short of highest quality tires is acceptable. And that means that tire manufacturer demand nothing short of high quality rubber and according to their delivery schedule. Once an ESBR producer fails to meet customers' expectations for quality or reliability, it is very hard to get their business back, even if their products offers the most competitive price.

And as there are limited number of ESBR suppliers and tire manufacturers, a situation like that can influence another buyer's decision when considering different bids. I understand that concerns regarding reliability and consistency of supply is why one ESBR maker has been uncompetitive in the U.S. since at least 2013.

I want to make one final point. Kumho has been in the U.S. market since the 1980s. Kumho's reliability and quality products are why it was able to make sales in the U.S. To my knowledge, Kumho has never gotten business simply by offering the lowest price. And many times, we get business, even though we offer higher price than our competitors. If the U.S. industry's hurting, it is not because of the prices of ESBR imports from Korea. Thank you.

STATEMENT OF JARROD GOLDFEDER

MR. GOLDFEDER: Good afternoon. I am Jarrod Goldfeder with Trade Pacific, counsel to Kumho. The Petitioner assumes in its prehearing brief and the handouts that it provided today that the Period of this Investigation will be the four-plus years beginning in 2013, although at the same time they're stating that they're not seeking an expansion of the POI.

Of course the Commission's practice in virtually every investigation is to limit its injury analysis to the three most recent calendar years, plus any subsequent partial year periods as the Commission has done thus far in this case.

The Petitioner has presented no factual or legal circumstances that compel the Commission to depart from its normal practice and expand the investigation period.

The record as it stands permits the Commission to have a full understanding of the conditions of competition, the business cycles, and other economic factors relevant to the injury analysis over a sufficiently long period. If the Petitioner truly wished the Commission to expand the POI to begin in 2013, the appropriate time to make that request was no later than its comments to the draft questionnaires for this final phase.

However, the Petitioner did not make any such requests. In fact, they filed no comments on the draft questionnaires at all. There is no reason to consider their 11th hour request now. It is too late to begin collecting 2013 data from all respondents, and it would be unreasonable to mix and match this final phase record with the 2013 data submitted in the preliminary phase, given critical differences in the data. For example, the differences in the products for which pricing data was gathered.

For these reasons, the Commission should adopt its normal POI here. Indeed, it is clear from the Petitioner's pursuit of an expanded POI that they are unhappy with the data trends beginning as of January 2014 because, as we have explained, the data do not support their injury case.

In that regard I refer you to slide 5 of our handout that is on the screen. These figures here come from the text of the Commission's staff report.

Recognizing that our public comments are necessarily limited because of the small number of parties, I will say only that, as this slide shows, between 2014 and 2016 the volume of subject imports decreased by 20.2 percent, while apparent U.S. consumption decreased as well.

Importantly, the domestic industry gained market share at the expense of subject imports. And while I cannot get into the confidential data, I will say that the record confirms the absence of a causal link between subject import levels and the domestic industry's condition which supports a finding of no injury.

Thank you.

STATEMENT OF THOMAS S. PRUSA

MR. PRUSA: Good afternoon. My name is Tom Prusa. I'm a professor and the Chair of the Economics Department at Rutgers University.

I am going to discuss pricing issues. This morning the Petitioners over-simplified and, to an extent, misrepresented how ESBR purchase decisions are made and how ESBR prices are set.

A few minutes ago we heard Ms. Pauken of Cooper Tire discuss the factors that affect the big tire companies' purchasing decisions. Her testimony makes it clear that large buyers value many aspects of the supply relationship and do not make their decisions simply on the lowest price.

That being said, let's look carefully at ESBR pricing. There are several important issues.

First, the importance of BD and styrene costs on how producers price ESBR.

Second, the prices for the key inputs vary substantially both over a calendar year and across markets.

Third, I will discuss what we can learn about pricing by looking at U.S. customers who do not purchase subject imports.

As discussed in the prehearing staff report. ESBR is made by combining about one part styrene to three parts BD. While the proportions can vary somewhat from grade to grade, what is relevant for the pricing is that the general formulas are understood by all the participants in the markets.

Information on monthly BD and styrene prices is widely known and commonly agreed upon. They are published. Customers and producers all look at the same benchmark input prices and evaluate ESBR pricing in light of these input costs.

Because I want to discuss domestic producers' pricing, let me begin by plotting quarterly North American BD and styrene prices. I note that in practice contract and spot prices for ESBR change every month, reflecting the monthly changes in BD and styrene prices.

However, in this presentation I put the prices on a quarterly basis in order to allow them to be compared with the quarterly pricing product data that the Commission has collected.

As you can see, prices for the inputs have experienced big swings during the period. One simply cannot understand ESBR price movements without considering what was happening with BD and styrene prices.

Early in the period, styrene fell by 38 percent, and BD fell by 49 percent. Then in the second half of the period, prices rose sharply. Styrene by 30 percent, and BD by a remarkable 183 percent. These are staggeringly large input price changes.

Not surprisingly, given how large a proportion BD and styrene are in the cost of producing ESBR, the product prices closely reflect the input price changes. In a confidential exhibit submitted with the prehearing brief, I detail how the price of each pricing product reflect the BD and styrene cost.

To get a sense of the argument, in this figure I plot the pricing for one of the pricing products along with the price of styrene. To preserve confidentiality, I removed the labels for the pricing product axis. As one can see, the price of ESBR and styrene are very closely related.

I note that this figure only plots styrene against the product price. The exhibit also shows a similar plot for BD and the product price.  Both charts clearly pass what is sometimes called "the eyeball test."  That's a term economists sometimes use when the visual evidence is so strong it's obvious with your own two eyes.

In the exhibit I got beyond the visual evidence and do some statistical analysis.  I find that the two inputs explain approximately 99 percent of the price movements in ESBR domestic pricing products over the period.

Said differently, if the Commission wants to understand why ESBR prices went up or went down at any point during the period, it needs to look at BD and styrene prices.  In the exhibit I ran additional statistical analysis where, in addition to input costs, I included the volume of subject imports and the AUV for subject imports.

The additional statistical analysis reveals that once input costs are accounted for, there's essentially no impact of either the volume and the price of subject imports on domestic ESBR prices.

The second point I want to make is with regards to the role of formula pricing and cost differences across different regions in the world.  As discussed, ESBR is made by combining BD and styrene.  Their proportions are widely known, and the ESBR prices reflect those proportions and the input costs.

A large fraction of ESBR is sold pursuant to annual contracts. This is a highly organized market. All the tire firms engage in negotiations during the last quarter of one calendar year for sales that will occur during the following calendar year.

These contracts specify pricing for the next 12 months as a function of yet unknown BD and styrene prices. In the confidential brief, we provide some of the actual formulas used by subject suppliers.

What I can say at this public hearing, and what's important for the Commission, is that not every supplier and purchaser use the same formula. For purposes of this discussion, a couple of examples might help.

For example, one contract might specify the August price as a function of 70 percent of the August BD price and 25 percent of the June styrene price two months earlier. Plus a fixed conversion amount.

Another contract might stipulate that the August price is 75 percent of the July BD price--that is, a month before--and 20 percent of the July styrene price--that is, one month before. You have contracts that have all sorts of different lags to the inputs.

Not only do the exact months and costs and percentages vary across contracts, some contracts use the prices in Asia and Europe, not just the Gulf Coast prices. There are several important consequences of the formula-driven nature of the contracts.

First, these contracts are signed in December of the prior year. There is no way a purchaser can predict which of its suppliers will have the lowest price in say the following August, as the fixed conversion amount is dwarfed by movements in BD and styrene.

Will it be the supplier whose formula is tied to the June styrene price? Or will it be the supplier whose formula is tied to the July styrene price who actually has the lowest price in August?

Moreover, the product pricing data collected by the Commission collects pricing data across customers and suppliers. So it's mixing contracts across these various groups. Thus, the observed price differences across countries reflects in part these differences in formulas for different suppliers.

Second, even if one ignores the difference in monthly specifications, one cannot ignore the fact that formulas for different suppliers are based on different regional benchmarks. For example, one would assume that Lion and Goodyear use North American benchmark pricing. There's also a European benchmark, and an Asian benchmark. And the BD and styrene prices in these other markets vary substantially from each other and over the year.

Thus, even if a customer designs contracts in November in an attempt to have each producer supply ESBR at similar cost in various months, it is unlikely, if not downright impossible, for the firm to actually receive the same price due to how input prices vary across markets.

Here on the slide the 2015 contract year is an example of this. As shown in this chart, on the left side of the slide the BD price was about the same in all markets in late 2014, which is the period when the contracts were being signed.

However, within a few months, the price of BD began to diverge across markets. By the middle of 2015, the Asian price of BD was about 50 percent higher than other markets. As a result, ESBR sourced from an Asian supplier would be significantly higher priced than ESBR sourced from a domestic company.

The higher price tells the Commission nothing about the Asian producer's decision-making in the middle of 2015. Rather, we're seeing the impact of relative cost movements. Notice also that by the end of 2015, the cost gap had narrowed. So we should expect the narrowing in the price gap between the companies.

Now Lion might assert that the lower import prices in late 2015 was an example of foreign suppliers competing unfairly, but in fact it simply reflects movements in input costs. The charts also reveal relative pricing of European and domestic suppliers, and the cost advantage varies from month to month and quarter to quarter.

At some point in the year, Lion and other U.S. producers had lower costs, and at other points in the year domestic producers had higher BD and styrene costs. The movements in costs directly affect ESBR prices.

As we've shown in an exhibit to our brief, these kinds of input price movements across markets is not unique to 2015. To the contrary, they happen every year but in ways that are hard, if not impossible, to predict when the contracts are being signed.

In this slide, I look at 2017. These cost variations are a very important part of the story, and that's why the purchasers need to diversify their ESBR supply across markets--across suppliers, excuse me. If they do not, they run the very real risk of purchasing all their ESBR from the highest cost region in the world.

In 2017 the price movements explain not only the increase in U.S. pricing, but also the final crisis affecting East-West. As seen in the slide, beginning in late 2016 BD prices began to rise sharply in Asia. Within a few months, the Asian BD prices were more than double what they were just a few months prior.

North American and European BD prices surged a couple months later. All three regions experienced more than a 100 percent increase in their BD prices by the end of the first quarter 2017.

As shown in the slide, the chart on the right side of the slide, styrene prices also surged, especially in Europe, up by more than 60 percent. These price movements had two important consequences.

First, the spike in BD created a cash flow problem for East-West. In November 2016, East-West had anticipated paying about $1,000 a metric ton for BD. However, by March the actual cost was $2,400 a ton for BD. By early 2017, BD and styrene were higher cost than they were at any time in the entire period.

Given my understanding of how ESBR contracts are designed, had East-West been able to purchase suitable quantities of BD and styrene in February and March, it would have been compensated with higher ESBR prices in future months. ESBR contracts generally pass through the input costs with a month or two lag. Yet, East-West had only planned for cost outlays based on BD and styrene costs what they were in late 2016. It simply could not source the required inputs.

Second, Lion and Goodyear were able to receive substantially higher prices for ESBR as they moved into the first quarter 2017. These price hikes reflect record high input costs, not a result of the antidumping case.

One other crucial issue is related to Arlanxeo-Goodyear swap. This is ESBR that's produced by Goodyear here in the United States, transferred to Arlanxeo North America, shipped to Houston, and then sold in the United States. This is not imports. The transfer price is not market based. It's artificial. This affects both the reported domestic pricing product and also Arlanxeo's pricing product. It also affects the volumes in this case.

The staff report pricing does not capture the swap. As we show in Exhibit 5 of the brief, once the swap is accounted for the under-selling story changes significantly. I can't say much more due to confidentiality, but I can say the exhibit confirms Arlanxeo's public statements about how it prices 1502.

I have one final comment on pricing. Lion has emphasized in its prehearing brief and in its testimony this morning that it was forced to lower its prices in order to compete for subject--with subject suppliers. It's a compelling story. It allows Lion to deflect responsibility for its losses on others.

Unfortunately for Lion, the record evidence collected by the Commission in this investigation contradicts these assertions. I urge the Commission to carefully consider the reported evidence regarding the pricing by domestic firms to purchasers who buy little, or in some cases no subject imports.

As we discuss in the brief, due to some unique aspects in this case the Commission can infer pricing when the only competition was domestic suppliers. The pricing in these sales contradicts the assertion that subject imports were the price leaders.

The record demonstrates that even when Lion only had competition from its domestic competitors, it priced very aggressively in order to maintain market share vis-a-vis U.S. competitors. How aggressively?

As discussed in the brief, we believe a significant share of Lion's total losses are attributable to its sales to customers who did not buy imported ESBR. How can Lion argue its low prices are by reason of subject imports when it offered low prices without any import competition to these customers? While there was not any import competition, there was plenty of domestic competition. Thank you for your time.

MR. WEIGEL: Ken Weigel. That concludes our presentation. Thank you.

CHAIRMAN SCHMIDTLEIN: Alright, thank you very much. I would like to thank all the witnesses for being here today. So since we are at 12, almost 12:35, we are going to take a very short break for lunch and then come back and begin the questioning with the Commissioners. So why don't we, let's be back at one o'clock and we'll start at that point.

Let me remind you that the hearing room is not secure, so please take your confidential information and papers with you, and we will reconvene at one o'clock. So we stand in recess.

(Whereupon, at 12:35 o'clock p.m., the meeting was recessed, to reconvene at 1:00 o'clock p.m., this same day.)

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

MS. BELLAMY: Will the room please come to order?

CHAIRMAN SCHMIDTLEIN: Alright, good afternoon. We will begin the questions with Commissioner Broadbent this afternoon.

COMMISSIONER BROADBENT: Thank you Chairman Schmidtlein. Let's see I guess these will probably be for the first panel, the first bunch there. If prices tracked raw material costs over the PUI why is it that on a four year basis industry's ratio of raw materials to net sales values fluctuated?

Would we expect this ratio to remain constant due to the close relationship of the two raw materials and sales values -- maybe Mr. Prusa you could start?

MR. PRUSA: Yes it is one of these things that I think what you see -- so all the contract prices are being indexed off. Benchmark is probably prices. It's unclear that the individual companies are either buying their Butadiene and Styrene at these benchmark prices.

So one of the challenges is if they were not purchasing at those prices -- contracts are being set off with what their input prices might be. I also will say that given the nature of the record there is some surprise in your comment posted with some surprising changes in costs that did occur over the years.

But as a broad stroke there is a tightening of this margin. I think part of it is the prices of some of the domestic from their purchasing inputs.

COMMISSIONER BROADBENT: Maybe you could just walk me through that a little bit in terms of contract benchmarks and so forth. As a practice matter what prices are we talking about?

MR. PRUSA: So the companies can also clarify but the way I was informed is that the contract prices are all set with these published input costs. It is very standard in the industry, it seems like the published costs are not a point of disagreement.

The question is whether individual companies are able to procure these inputs at the published prices.

MR. SIGLER: Just to clarify for imports. We are generally producing to inventory and then shipping this material to the U.S. and storing it in the U.S. and selling it at the current market raw material cost which may not coincide with the production and raw material costs.

We are producing ESBR to inventory.

COMMISSIONER BROADBENT: Right.

MR. SIGLER: We are also importing this into the U.S. so there can be a time lag between pricing products based on the current raw material cost and the actual raw material cost at the time of production with a lag in between the production.

COMMISSIONER BROADBENT: So what sets the costs that the purchaser buys it at?

MR. SIGLER: At the current month raw material cost.

COMMISSIONER BROADBENT: Okay. Mr. Zeringue stated that there is a price component designed to cover non-raw material costs and some profit and that within the life of a contract this component remains fixed and does not fluctuate with raw materials.

Even if overall prices for ESBR fluctuate with raw material prices, is it possible that the industry's fixed price component was suppressed over the POI?

MR. PRUSA: Tom Prusa -- so I think the question is I'm not sure you can make that inference. So the Commission didn't collect data on this fixed fee. I think there is a question -- I agree with you there is no doubt about it that this margin gotten compressed is negative.

The question is what is the source of that? Is it inefficiencies in high cost of procurements on behalf of one or more of the domestic firms, or is it the conversion fee? So that's the question.

I don't have data on the conversion fees. Even if the conversion fees didn't get compressed but one or more domestic firms were having the problem of procurement and they had some unnatural challenges due to these changes in corporate structure that may have affected what kind of prices they were able to procure.

So I'm not sure you can make that inference with the data that the Commission has. I agree on the -- .

COMMISSIONER BROADBENT: Okay.

MR. WEIGEL: -- The acquisition cost of the Butadiene and Styrene is not necessarily at the published price so you can't -- what you are saying. If your raw material costs change differently than the published pricing --

MR. PRUSA: Again one example, Tom Prusa -- East-West for instance had a pipeline from an Exxon facility in Baton Rouge. So East-West had a direct supply of BD from that preferred supplier. They also supplied BD -- I think it is fair to say from not just that company but that would mean that Exxon would have an incentive to be priced higher as its preferred relationship with the East-West facility.

I think you heard Lion talk about some of the ideas -- that may not mean these domestic industries, for pricing at the same as the published prices. The contract prices are at the published prices.

MR. WIEGEL: Just to add that look at the East/West bankruptcy -- it's impossible to tell but you assume that most of it in some places were disadvantaged --

COMMISSIONER BROADBENT: Okay. Can you walk me through how you think intra-industry competition looked for the clients in the prices over the period of investigation?

MR. PRUSA: I will take the first crack at this. This is Tom Prusa. So we had East/West come back into business after -- they missed the contract cycle -- the 2014 cycle, during that time. So that meant that they were in the spot market entirely and were receiving -- for the prices the spot market is more desirable, consistency of volume, higher prices in that market.

So then they came in into the following year -- this is how we read it, with a change in ownership at Port Neches and a desire to regain contract volume -- some of the contract volume that had formerly been in East/West was now at the national -- .

So from what we ascertained is that Lion and East/West were trying to retain these customers and this became especially fierce within one year in the period where they both had no change in ownership, it was the last full year at the very end and that's where some additional information is on the record that shows aggressive pricing from these two to gain market share for large customers.

So I think they were both interested in gaining volume and securing the solid relationship with the contract buyers with that pricing. We heard Mary from Cooper saying that these two don't bring some of the other qualities that the other suppliers bring so they put it into the price.

MR. WIEGEL: Mary, you may want to -- but you can't say anything in public.

MS. PAUKEN: Yes sir, Mary Pauken. Yes, in 2013 Lion announced their closure at the very tail end of the negotiation process. Prior to that point Cooper, as well as everybody else believed that they would get their volume from that relationship.

And some contracts could have already been completed and others were closing up. When they close up at that point in time when they announce a closure, did everyone find sources for that? Yes they likely did but some of them went into January and left us without having the contract of volume and unsure where we would go.

We went to the Petitioners in this room, particularly after the second U.S. supplier came in and wanted to raise our price on the day after the announcement of closure. It would have left us extremely uncompetitive and it did affect their volume.

We did have to go somewhere else -- to the suppliers in this room and the other U.S. suppliers in our volume cover at a market and competitive price. Heading into when East/West came back into the market in March in reference to Bobby's comments earlier, they did come out and visit us prior to that opening.

We related to them at that point in time our concern for their ability to supply us and that we absolutely could not get into a contract with them at that point because we had already done all of our contracts.

And so they understood that, they understood they were going to be in the spot market likely for that whole year. We did buy spot from them contrary to maybe some people, we actually would like to have U.S. supply available to include in the U.S.

But we need that supply to be reliable and we need to trust them and we need them to continue to develop new products. Yes BR is going to go away. It is going to decline. We do use solution SBR in our products so the replacement market does use it and will continue to grow their use of it.

So when Lion then purchased the Port Neches facility in December in '14 we were really realistically through our contracts with Ashland at that point in time. The contract was actually signed under Lion's letterhead but the negotiations had occurred at that time.

So you know, as far as competitive pricing, Lion -- Ashland and Lion Port Neches did lose volume in the 14 contract negotiations and obviously East/West didn't have it. As I stated in my comments earlier, we continued to contract volume that would occur with East/West.

We were trying to support them back into the marketplace but they don't add value and they have to compete on price. I wasn't confident in their reliability supply. I took a risk, I got burned in 2017. I contracted -- I was almost back up to contract volume pre-2014 with East/West in '17 and by the end of January I had to get out of that contract and move my volume to the suppliers in this room who always bail us out.

So you know, in 2016 they were very aggressive on pricing. They wanted their volume back. East/West was told repeatedly you have to earn it back and prove to us that you can continue to supply us and ship your orders on time with quality product.

COMMISSIONER BROADBENT: Thank you.

CHAIRMAN SCHMIDTLEIN: Okay, Miss Pauken I would like to follow-up with some questions based on your testimony and I think some of the answers you just gave me.

In your testimony you talked about price and value is very important to people and I just heard you say that East/West is competing on price. So my question is -- do the subject imports not compete on price as well?

MS. PAUKEN: No I do not think in my statement, you know I assert that price is important, price --

CHAIRMAN SCHMIDTLEIN: Price -- so I just wanted to clear up and Respondent's aren't arguing that there was no price competition between domestic producers and subject imports, am I right about that -- or -- because I see even on the slide by Mr. Prusa, which I spilled water on, sorry, pricing, competition among domestic suppliers is fierce and you are looking at products where there is no subject import competition.

So my question is are you saying that there is no price competition between subject imports and domestic product where they are selling?

MR. PRUSA: I think the answer to your question is that multiple customers -- not just Cooper, talk about the additional qualities that some of the subject suppliers bring to the partnership and that has inherent value that means it is not just unique of price.

The difference is the two -- East/West Lion -- Goodyear has it different. Right now, but the other two are really competing on one particular -- because they don't bring the other a sense of non-price value to the relationship.

CHAIRMAN SCHMIDTLEIN: The reliability of their supply?

MR. PRUSA: The reliability of supply, quality of supply --

CHAIRMAN SCHMIDTLEIN: Okay. Getting to that competition on price is it based on the fixed conversion factor that we have talked about? Is that where the price competition is? Or is it also based on the -- you know I understand there is a formula this is not unusual. We have a lot of cases where there are able contracts and there is a tie to raw material costs.

So I understand that there were ties, explicit ties in the context to those raw material processes and that the formula was different and the benchmarks that people use were made to cut the price and costs is different in the context.

Are you trying to compete on those formulas? In other words are the suppliers and the purchasers trying to speculate about which of those benchmarks is going to be more available to them and that's part of the price competition in the contracts?

Was it really based on this conversion effort?

MS. PAUKEN: Well to be clear on the benchmarks, they take their supply of those and so you will pay your benchmark formula to off --

CHAIRMAN SCHMIDTLEIN: Wherever you are getting it?

MS. PAUKEN: Yeah, wherever they are getting it.

CHAIRMAN SCHMIDTLEIN: They are getting it, yeah.

MS. PAUKEN: Yeah. In fairness in that pass-thru you can see the volatility -- you know, there's a long-standing history to try to pass through those costs to us.

CHAIRMAN SCHMIDTLEIN: Right.

MS. PAUKEN: And to try to assist and make sure that those supplier have always accessed those monitors so that they can make the proper reforms right, so we are not trying to disadvantage anyone with the policy and we can negotiate how the capacity of those past year formula and maybe there are others way that others are doing capacity.

We take capacity based on the formula -- and then there is the base cost and not all base costs are the same.

CHAIRMAN SCHMIDTLEIN: Is that the adder or the conversion cost?

MS. PAUKEN: Yeah, yeah.

CHAIRMAN SCHMIDTLEIN: Okay so this is, right okay.

MS. PAUKEN: So that fixed cost is a component that is negotiated and it is negotiated but you have to have some manipulation to it to get yourself to some reasonable apples to apples comparison. But you are also, you know, considering the pawn in those markets is that those regions that you are looking at buying from -- we are trying to average our price to the lowest possible that we can and balance our objectives for the suppliers

Not everybody -- in fact there is no one that I pay the same price for -- the same base price or same price every month. They are not equal and they are never going to be equal. Again, some of that is driven by value.

CHAIRMAN SCHMIDTLEIN: Okay and I understand the argument that because of supply disruptions and you want a reliable source of supply you diversify your specific pawns so my question is -- and the answer is going to be swaps, but given that that's the case then why did we see so much underselling?

In other words if the subject imports have this advantage that they bring to the table a reliable source of supply and that the diverse source of supply, they are competing on this added right -- why do we see such consistent underselling?

Because if you are them then I would think you would want to say, "I'm going to charge you more. Right -- you need me, you need me right because these people aren't reliable and I am reliable," so why do we see so much underselling in each other and I know you don't have access to the HBO but --

MR. WEIGEL: This is Ken Weigel. First of all the part of staff report does show underselling.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. WEIGEL: I was sort of surprised and I attributed to --

CHAIRMAN SCHMIDTLEIN: Is that -- are you talking about the summary chart?

MR. WEIGEL: Yes, the summary chart.

CHAIRMAN SCHMIDTLEIN: Okay yeah.

MR. WEIGEL: So we have been trying to figure out what is occurring and we think part of it could be timing because again you are collecting quarterly prices and prices are monthly.

Part of it is the swap because you have an artificial price in there on the domestic side.

CHAIRMAN SCHMIDTLEIN: Let me ask you about the swap. I see that you all want to include the price that the Brazilian company is selling to U.S. customers -- a product that is fined from Goodyear?

MR. WEIGEL: No.

CHAIRMAN SCHMIDTLEIN: No?

MR. WEIGEL: No, no, no.

CHAIRMAN SCHMIDTLEIN: That's the way I understood it.

MR. WEIGEL: No, what we want to include -- what the swap is -- is to avoid shipping costs and this is somewhat typical I mean in my experience. They will swap products in the U.S. by quantity with product of Brazil so we don't have to ship it back and forth.

When they do that swap for their accounting purposes they have a -- what's called "price" that they use for accounting. So this is an internal movement of goods from Goodyear to Arlanxeo USA and then at the same time Arlanxeo Brazil will move an equivalent quantity of the SBR to Brazil to Goodyear because Goodyear makes tires there.

CHAIRMAN SCHMIDTLEIN: But they are not related companies right?

MR. WEIGEL: Arlanxeo USA? Yes they are all part --

CHAIRMAN SCHMIDTLEIN: No, to Goodyear?

MR. WEIGEL: No they are not related to Goodyear.

CHAIRMAN SCHMIDTLEIN: They are not related to Goodyear, so those transfers are only transfers right?

MR. WEIGEL: No.

CHAIRMAN SCHMIDTLEIN: Why is that? Between Goodyear and Arlanxeo?

MR. WEIGEL: They are not at -- it's a price that they agree upon but it is not a market price. It's not until Arlanxeo sells it that it is a market price.

CHAIRMAN SCHMIDTLEIN: Why would that be a market price when you don't have related parties doing business?

MR. WEIGEL: Because of how they negotiate the price. The price is not -- and we can't go into a lot of detail here, obviously in the public forum, but it is not a non-party price.

It is not a non-party price that you see in the marketplace.

MR. SIGLER: Ethan Sigler. Goodyear does produce tires in Brazil and that they supply themselves internally with BSPR. They were shipping product from Houston to Brazil at the same time we were shipping products made in Brazil to Houston.

There was the natural fit where we could supply --

CHAIRMAN SCHMIDTLEIN: Why don't we just take your product and use it in Arlanxeo and you take our product and use it in Brazil in the same place as transferring. I don't understand why that is not reflected on the books that they treat these companies as one transaction when they are not related?

MR. SIGLER: So to set the transaction price we wanted to pick a published market and there is a published BSPR 1502 price that is public. This price is higher than the market price.

From our perspective this didn't necessarily matter because we would be buying at the higher than market price in the U.S. but we were also selling in Brazil at a higher than market price. These cancelled out and saved the freight. This was due to choosing this published marker, the same source that -- prices are published. I can't explain exactly why this marker is higher than the market.

CHAIRMAN SCHMIDTLEIN: So and that is the price that has been included in the pricing product data? Right, so you all agreed upon a price and that got reported to the ITC and now you want to say oh I'm sorry, that's not really the price that we wanted to have reflected? Like, that's just the price that we picked?

MR. WEIGEL: No, what you are trying to determine is whether we are underselling in the marketplace, not whether an inter-company transaction --

CHAIRMAN SCHMIDTLEIN: But it is not an inter-company transaction -- I mean it's an inter-company but it is not inter-related right?

MR. WEIGEL: Right.

CHAIRMAN SCHMIDTLEIN: These are two separate companies?

MR. WEIGEL: That's true but as you just heard the price they picked is not the market price and so you are negative on underselling being skewed by that price. What if they pick something 20% below the market?

CHAIRMAN SCHMIDTLEIN: But they are two market participants right? That's my point. So you have two market participants, you have agreed on a transaction and picked a price and now you want to come in and say oh, wait a minute, that exactly is too high, that was higher than what we really had agreed to had we been selling it to each other.

MR. WEIGEL: But it is not a price to like tire companies and that's the thing. When you are comparing the underselling --

CHAIRMAN SCHMIDTLEIN: But Goodyear is a tire company.

MR. WEIGEL: Pardon?

CHAIRMAN SCHMIDTLEIN: Goodyear is a tire company.

MR. WEIGEL: No, Arlanxeo is not and so you have got Goodyear -- the price of Goodyear selling to Arlanxeo and you are comparing that to prices Arlanxeo was selling to tire companies and other companies are selling to tire companies.

So you are taking apples and oranges in your domestic price and analysis, that's our point. You are looking at two different levels of trade in two different places. We are not saying, for tax purposes I did not have a discussion with him about it.

CHAIRMAN SCHMIDTLEIN: I'm wondering if anyone from the IRS is here and if they might be interested in this conversation right?

MR. WEIGEL: It's just -- our point is you are asking why is this underselling showing up -- in talking to everyone we can't really figure out why. As was said this morning when they go in, they go in at last year's price and it's an area to explain -- it's a figurative process and there are multi-contract negotiations.

But in looking at this underselling that was one of the issues. Another potential issue you were just talking about -- because why are the average unit values which you saw this morning which are not again -- those are clearly inter-company prices with Brazilian industry.

But why are they higher from Germany? Well we believe it is because there are reasons that are not being accounted.

So there is something going on with the pricing information that we see and figure out but we can -- if you look in one part of the staff report it's pretty concise, it's pretty clear of two things.

One, you have got price leaders as East/West is one -- and then second you have got responses that are generally saying prices are confident. And then you go to the underselling part, it doesn't fit. They just don't go together so we think there is something wrong with the underselling part of it but we can't explain exactly why.

We think it is a couple of things, we think it may be in the way it is reported, but it is obviously big swings as you saw in price and if you have got one month compared to the wrong month they you are going to get underselling.

And you have a constant -- during a lot of the POI's constant drift one way direct to the price and the POI swings. And then there is also, excuse me, you also have to remember you don't East/West pricing data.

And so your pricing data is incomplete. You have East/West pricing data in the prelim but those are different products and so in this -- for these I think six products.

CHAIRMAN SCHMIDTLEIN: And that's because by the time we collected it they left.

MR. WEIGEL: They were still in business. They are still -- East/West still exists today. One of our panelists here knows the CEO of East/West. They are still --

CHAIRMAN SCHMIDTLEIN: They are still producing --

MR. WEIGEL: They are not producing.

CHAIRMAN SCHMIDTLEIN: I see.

MR. WEIGEL: And again they are not here which I think is you know, but if you have pricing data that is a mix of customers with a mix of months, it has swap data and it doesn't have these -- and we think if all of those, if possible, which we don't think it is to correct all of those we think we would be looking a lot different.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. WEIGEL: We are the seller of a broad range of products we are not here competing on ESBR. They have a lot of other products in U.S. production, it's a global company.

CHAIRMAN SCHMIDTLEIN: Alright I appreciate that thank you. Why don't I -- I've gone --

COMMISSIONER WILLIAMSON: Well, if it's on this issue, yes go ahead please.

CHAIRMAN SCHMIDTLEIN: Okay, and then I'm going to turn it over to --

MS. PAUKEN: I mean I believe, based on my discussions with Greg Nelson, the CEO of East-West here within the last few weeks, they no longer support this petition. So you know, his intention is that they are withdrawing from the petition.

COMMISSIONER WILLIAMSON: Okay, thank you. Well, I want to welcome all the witnesses and thank you for being here today. I want to start -- they're bankrupt right? They're going out of business right. So I almost want to say so what? But I guess let's go back to the question of the swaps, because tell me ^^^^ well, can you post-hearing -- I don't know. Do we have data on what percentage of the pricing products do swaps make up? What would the picture look like if they -- if you took those out?

Because I mean there's an awful lot of underselling here, and I don't know whether that day is available or have you -- I know you've made adjustments, but I'm not sure exactly how you made those adjustments.

MR. WEIGEL: We provided, I believe, in our prehearing brief, the data, complete data on the swap product being resold in the U.S. market. So you have the quantity value of the swap data. The Commission now has it. In fact, with our prehearing brief, it's one of the exhibits to it. I don't know which one is in there --

COMMISSIONER WILLIAMSON: Okay, okay. I'll look at that post hearing. So what's the conclusion from that?

MR.PRUSA: If you look at the exhibit, that the underselling is far more mixed and there's a lot of overselling. So the data that we submitted shows to the customers that are getting these various swap products, and you can see that the pricing is exactly the same as the import prices.

So when you adjust for the swap, you get right here we'll give a post-hearing, but it's a much more mixed underselling issue. In fact, there's a lot of overselling.

COMMISSIONER WILLIAMSON: Okay, and do you also include what percentage of the volume is covered by these?

MR. PRUSA: Most of this is Product 1, which is where most of the volume is.

MS. PAUKEN: For Brazil.

COMMISSIONER WILLIAMSON: Yeah, and what percentage of the Brazilian trade is covered or swap transactions? You can do a post-hearing if you want.

MR. PRUSA: I don't have that number off the top of my head.

MR. WEIGEL: I think we'd want to do that in the post-hearing brief, even if we had the numbers.

COMMISSIONER WILLIAMSON: Yeah, no I understand that. But you see what I'm getting at.

MR. PRUSA: Commissioner Williamson, may I make one comment on the so what? I think the so what does matter about East-West.

COMMISSIONER WILLIAMSON: How?

MR. PRUSA: Because East-West could testify to what their perception is as to what their problems were in the market, right? So I don't -- Lion this morning has a view of why East-West went bankrupt. In our brief, we believe a big part of the story is not the story that Lion tells, and we don't have East-West here to tell us what extent were they, when they were in the market, this is getting back to earlier questions about where the price pressure is coming from, it would have been very helpful to have East-West talk about ^^^^ and we don't have their pricing data.

Who were they pricing against? These are important questions to understand if there's injury, where was the source of that injury coming from? We don't know that. I have a view. I know the Lion people this morning have a view. That's a gaping hole right now and the so what is so what. It matters a lot I think.

COMMISSIONER WILLIAMSON: Okay well. I'm sorry if I said "so what," but as I said, we don't have the evidence. Did they support the original petition?

MR. WEIGEL: They did. They supported the original petition, and then I think Mary can speak to this, but I think recently withdrew the support.

MS. PAUKEN: Yes.

COMMISSIONER WILLIAMSON: Okay. No, I can understand why. You know, if you went out of business, it doesn't matter. But okay, but until we -- okay. Thank you. There is something to wonder about here, but we don't have much to go on there.

MR. WEIGEL: You know, as the professor was saying, it's a question of why did they go out of business, and we have one view, Lion has a different view, and we will be addressing that more in our post-hearing brief.

COMMISSIONER WILLIAMSON: Okay. Does any of the SBR product produced by either Goodyear or ARLANXEO cross the U.S. border? In other words, any of the product that's involved in the swaps?

MR. SIGLER: Ethan Sigler. No, it does not.

COMMISSIONER WILLIAMSON: Okay, and are the swap sales, are they called transfers, or are they actually -- actual sales of the product?

MR. SIGLER: These are -- these are sales.

COMMISSIONER WILLIAMSON: Sales, okay.

MR. SIGLER: But the sale to the end customer to the industry, to the market, is from ARLANXEO to the customer.

COMMISSIONER WILLIAMSON: But the price of the swaps though, that's a negotiated price between the swappers?

MR. SIGLER: Yes. It's negotiated but based on published markers.

COMMISSIONER WILLIAMSON: Okay. So since you haven't already, can you explain the adjustment to the data in the price comparisons?

PROFESSOR PRUSA: Yeah, for post-hearing?

COMMISSIONER WILLIAMSON: That's fine, yeah. That would be clear. Okay, good. Thank you.

PROFESSOR PRUSA: Yeah.

COMMISSIONER WILLIAMSON: Commissioner Schmidtlein has already asked the question about why if there's all these quality issues and why do we see so much underselling, I guess the same question could be asked why if the butadiene and styrene are such an important factor in the price of the product, you know, why do we see so much underselling?

MR. PRUSA: This gets back to why we spent a considerable amount of time both in the brief and in the presentation talking about pricing. We think that the pricing products are mixing. This is again, this is a more severe issue right now for subject Respondents. Had this been an industry, a domestic industry let's just imagine, where there six domestic producers, all have provided pricing products with their mix of different formulas.

Some of these problems that we're explaining that when you're comparing across different subject suppliers would also be the case if we had more. We more or less have one domestic pricing supplier. So some of these complications that are mixing into our pricing products. I know it's a pricing product. I understand it's Contract 1502. But the contract formulas are varying across the suppliers.

So we're missing different months. That's one of our issues. The second issue is this ARLANXEO swap. The ARLANXEO swap is not accounted for in the pricing data, right. So we're -- we are --

COMMISSIONER WILLIAMSON: Is it not accounted for or are you saying it's accounted for incorrectly?

MR. PRUSA: No. Just all of the Goodyear data that's swapped is considered a Goodyear domestic sale, when in fact it's not being sold. It's being transferred to ARLANXEO. It's ARLANXEO and then ARLANXEO's providing it to its customers at exactly the same prices that it's providing its other product to, its imported product.

So part of the problem is is that you're getting a price on domestic price. The domestic industry, a big chunk is part of a swap arrangement that's not reflective of an actual their pricing in the market.

COMMISSIONER WILLIAMSON: So that sort of implies if our pricing data is showing underselling of what they're supplying from Brazil, and you're saying what they are selling the swap -- well I don't see how that changes the issue, the impact of underselling.

MR. WEIGEL: It does, because -- this is Ken Weigel.

COMMISSIONER WILLIAMSON: Oh, I mean because that's domestic product?

MR. WEIGEL: Right. Well two things. One is

--

COMMISSIONER WILLIAMSON: So there should be less underselling.

MR. PRUSA: No, because -- sorry.

MR. WEIGEL: No. First of all, the Commission did not request prices from ARLANXEO at which it sold the merchandise it received in the Goodyear swap. That was not a question. It is --

COMMISSIONER WILLIAMSON: Okay. So you're saying that --

MR. WEIGEL: We submitted that information in the prehearing brief. But what Mr. Sigler said was they priced the swap at a benchmark price that is above the market price. So the Commission, in its information collection for domestic prices from Goodyear, is including the swap information, which is above the market price, its published price.

So what we're saying is, and it's a swap. So what we're saying is it should stay in the domestic sales, because it is a domestic sale, but it's a domestic sale being made to the market by ARLANXEO USA. ARLANXEO USA sells, they make product here in the U.S. They sell various products here in the U.S., and this is treated just like any other product they sell in the U.S., and they just don't -- you know, they don't make it --

COMMISSIONER WILLIAMSON: In other words, you would prefer that we treated when ARLANXEO sold that Goodyear product that it's got in the swap, you'd prefer that that be in the pricing product rather than what was in it. Is that what you're saying?

MR. WEIGEL: Correct.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. WEIGEL: Thank you. It's confusing, I know.

COMMISSIONER WILLIAMSON: Okay. But no, I think that was helpful. I want to talk about wanting to have multiple suppliers, and I was just curious, Ms. Pauken. How do you -- how does one allocate? When you have multiple suppliers, how do you allocate between those suppliers? Does the lowest-priced person get the most volume or --

MS. PAUKEN: No. In fact they don't. You know, there's a -- you know, it's not just one grade that you're buying. There is a mix of synthetic rubbers that the tire industry uses. This petition only covers two series of grades of the emulsion SBR. But there's, as others have referenced, polybutadine and then there's halobutyl and things that ^^^^ solution SBRs and elsewhere.

So again, we are looking for in some cases a package of those materials from select suppliers or some combination of grades. So mix becomes very important, because not all of them make and sell all the mix or all the different grades that we need in our production. So we again have to do business with certain suppliers to get certain grades, and in order to leverage the best price, just like volume on a global scale can help you with price, your mix and volume of different grades can also help you do that.

So that's one element. Another element that I spoke about is trying to make sure that we get a blended impact of the global benchmarks for all these inputs into the rubber, because if I just consistently bought U.S. ESBR, I would be disadvantaged most of the time against maybe others in the U.S. that are buying imports, but certainly for imports of finished product coming into the country.

So it allows us to actually kind of manage our costs in the tire in the U.S. To pass an increase into the marketplace takes some time on your finished product. So we are certainly trying to buy our business enough time to do its assessment and move a price into the marketplace, particularly when prices are going up, to be able to minimize the impact to our profitability.

We're a LIFO company, so we take those raw material costs immediately into the cost of our tire. So we are trying to balance how we impact the company's performance based on also how we sell out our tires. So that's another element of trying to piece this together. And then, you know, as I said in there, I'm -- people lose their jobs for shutting tire plants down.

So you know, the first thing I train every buyer and planner on my team is don't shut a tire plant down. I mean all hands on deck. So that security of supply can't, you know, be undervalued. I need to make sure our plants have what they need to make tires, or our company takes severe cost penalties for shutting a plant down. It's very expensive.

So you know, reliability becomes extremely important, as I alluded earlier.

COMMISSIONER WILLIAMSON: I'm going to ask you to wrap up, just because I'm going way over.

MS. PAUKEN: Okay, all right. I'm finished then.

COMMISSIONER WILLIAMSON: Okay, good. Thank you very much.

CHAIRMAN SCHMIDTLEIN: Commissioner Broadbent.

COMMISSIONER BROADBENT: Okay. Mr. Prusa, you state that because we don't have conversion costs or base price data, we can't assume that the industry's margins deteriorated because of price suppression. Petitioners report that they plan to submit that data in the post-hearing, and I'm assuming that they will show the conversion cost declining for the domestic industry. How can you react to this? How will you react to this?

MR. PRUSA: I'd sure like to see who they were bidding with on this particular jobs, who were they lowering their conversion fees for, right. So we know from the data that there is a number of these cases where they're competing against other domestics, and that's where they're lowering their conversion fees are. Again, it's a question of what's the source and it appears to be in a lot of these cases it was domestic competition that the source of their pressure for a conversion fee, if that's what it shows. I'm not sure but --

COMMISSIONER BROADBENT: Yeah, okay.

MR. PRUSA: It's important to remember that as Mr. Sawaya said earlier in his testimony, they sell ESBR globally and they have global contracts, but they don't sell it to every ^^^^ they sell rubber products to every U.S. tire producer, but not ESBR.

So there is some limited competition here, and so it's important that when you look at the information, you look at information where there is competition between imported and domestics, and not domestic and domestic, which as Professor Prusa was saying, that's -- we're seeing that here, and there's some companies, tire companies that they may supply them ESBR in plants in other parts of the world, but just not here.  There's only so much ESBR they can produce and sell.

COMMISSIONER BROADBENT:  Okay.  Ms. Pauken, China is the world's largest tire producer and it will appear to potentially have an abundance of ESBR capacity available for export.  Yet when you look at the trade data reported by Chinese Customs, it really indicates the opposite, as global exports over the past five years have declined, while China's import dependency has increased substantially.

In your view will the current Chinese global ESBR trade situation continue during the foreseeable future, and what are the major reasons for these trends?

MS. PAUKEN:  Could you clarify what you're asking there at the end, on what will continue?  I'm sorry.

COMMISSIONER BROADBENT:  Well, the fact that their exports are falling and their domestic demand for ESBR was growing.  So it would be less of an overcapacity situation where they're flooding the market with exports globally.

MS. PAUKEN:  China?

COMMISSIONER BROADBENT:  China, yeah.

MS. PAUKEN:  On ESBR.

COMMISSIONER BROADBENT:  Yeah.  I can read it once more.

MS. PAUKEN: No. I just want to clarify you're talking on China. We don't find a tremendous amount of interest in China selling ESBR to us. I don't know the trade data into the United States. There has been, you know, the tire industry in China has been slow the last few years. I think also with their increased interest in environmental concerns, we have actually seen ESBR producers in China stop producing.

They also tend to stop producing when the cost of the inputs becomes too high. So I'm not sure I'm clearly answering your question, because I'm not sure I can.

COMMISSIONER BROADBENT: Yeah, but you're kind of backing up the idea that potentially China's not going to be exporting a huge amount of this product on the world market?

MS. PAUKEN: I don't expect that in the near future, no.

COMMISSIONER BROADBENT: Okay.

MR. SAWAYA: And Commissioner Broadbent, we can attest to that from coming from the supplier point of view. We don't see ESBR volumes coming from China into the U.S. market.

COMMISSIONER BROADBENT: Okay good. Kuaho and Hankauk, the Korean producers, and this would be open to however wants to comment, are bringing new passenger vehicle and light truck tire capacity onstream in the United States, and Giti, I guess it's G-I-T-I of China will soon start up a new state of the art BPLT plant in South Carolina.

I think Goodyear is going to start up a new BPLT high performance tire plant in Mexico that may draw off additional domestic suppliers of ESBR. Please comment on any of these developments and the potential for a significant increase in future U.S. ESBR demand and trade owing to the new tire production on this continent.

MR. SIGLER: Ethan Sigler. I think we will see increased rubber demand in North America, in the U.S. in particular, due to all of these new facilities that have been announced. There are quite a bit of capacity which is directed towards the OEM market, which should be new demand.

But there's also aftermarket sales which could replace either imports or existing production, all right. So much of the OEM demand will be SSBR versus ESBR, but we still do expect to see increased ESBR demand from these new facilities.

COMMISSIONER BROADBENT: Does anybody else want to comment on that?

MR. ACEVEDO: We concur. The demand of ESBR and SSBR is going to increase in North America for all these new developments -- capacity. In Mexico, for instance, there is one global producer who's going to set up a plant there, actually two, and that's going to increase the demand in North America. I think that's positive news.

COMMISSIONER BROADBENT: Okay, thank you. Mr. Weigel, the Petitioner says that significant surplus ESBR capacity is available from subject countries, who in aggregate operated at about 87 percent in 2016, and then somewhat higher in future productions.

In your opinion, is a realistic maximum sustainable rate of capacity utilization, you know, what is realistic in terms of how much capacity utilization and also please comment on Petitioners' statements implying that Respondents' surplus capacity is potentially available to target increasing shipments to the U.S.?

MR. WEIGEL: Okay. I think it's probably better answered by my clients who makes ESBR than I am. In fact, we've talked to the client about that. I don't know, John, if you can comment on that. But there reaches a point where you can't ^^^^ I don't know if you can ever get to 100 percent.

MR. SAWAYA: Yeah, it's tough to get to 100 percent and the regional differences will also vary depending on the cost of the raw materials, and whether it's favorable or not to produce the product and ultimately ship it. So I think you'll always see, even alluding to the fact that you won't get to that 100 percent capacity.

MR. PRUSA: I want to add one thing, and I think Mr. Sawaya, you commented in your written testimony that in fact at least for ARLANXEO, the most recent period is an example that after East-West shut down earlier this year, it sounds like there were customers who wanted ARLANXEO to sell more and ARLANXEO said we don't, we can't sell you more. They were already.

So that might -- sounds like to me the domestic industry arguing that there's a lot more at this capacity, when in practice earlier this year we saw ARLANXEO couldn't do it.

MR. SAWAYA: That's correct. Basically what Mr. Prusa's referring to is during the time period let's say following March 2017.

COMMISSIONER BROADBENT: Okay, and then I just had a last question for Mr. Prusa. Can you summarize again, I know you've talked about this, what explains overall the increase in the industry's COGS to net sales ratio between 2014 and 2016?

MR. PRUSA: It sounds like this should be something maybe I'll write something on post-hearing for you on this --

COMMISSIONER BROADBENT: Yeah, that would be helpful.

MR. PRUSA: Several times we kind of come back to this, and I'll take some time and write that up for you.

COMMISSIONER BROADBENT: Thank you.

CHAIRMAN SCHMIDTLEIN: Okay. All right, thank you. So I guess following up some more on the conversation about the pricing products and the formulas in the contracts and so forth, if I understand correctly that is -- forms part of the basis for your argument that the pricing product information is meaningless? Am I right about that?

MR. PRUSA: Hard to make inference, as much inferences about underselling as it would be but for these formulas, right. I think it's very difficult, since we have particularly some confidential data about ARLANXEO. We can tell and we actually look at the prices. That's not the case. This is the exhibit. So I think these formulas make it very difficult to infer all the underselling. Yes, that's correct.

CHAIRMAN SCHMIDTLEIN: Well, isn't that -- how is this different though from any other case, where all the producers have different input cost? In the course of their business and the prices that they are reporting to the ITC reflect what their input costs are, and those input costs are determined by however, right? It could be a formula, it might be something else. But all of these produces are going to have different input costs based on where they buy their product around the world.

MR. WEIGEL: We're not saying that the data aren't, you know, we're questioning the data. But our point is that when there's the competition to win the contract, you don't know who's going to be the lower or the higher price. If you went out today and bought five stocks, how do you know which one will be the highest in December, which one will be the lowest?

CHAIRMAN SCHMIDTLEIN: I understand.

MR. WEIGEL: That's I think the important point here, is Petitioners are arguing price competition from imports because imports have declined, but the price competition is causing them to reduce prices. What we're saying is when the competition occurs, it is in November-December the prior year and what you're looking at is the results of that competition, but those results are largely driven by market factors.

And so you can't say well, there's head to head competition. It would be easy. If you had head to head competition and people were biding a dollar, two dollars, whatever in November and that was the price for the year, then I would say okay, competition in price is occurring at the time of the contract, and then you can look at the results over the year.

CHAIRMAN SCHMIDTLEIN: But it sounds like you're saying that just because the input costs are fluctuating, right, which is my point, that in every case a producer's input costs for their, whatever they're using is going to be different from another producers, and your point is well so when we see this fluctuation, they didn't know how it was going to fluctuate at the beginning of the year?

MR. WEIGEL: Right, because each -- as set forth in our prehearing brief, the formulas are different and as Professor Prusa stated, they pick different months. They're just different.

CHAIRMAN SCHMIDTLEIN: But that's true in every case we have. Every case we have, that would be the case. Input costs are going to be different.

PROFESSOR PRUSA: Yeah, but your inferring -- my point would be is you're inferring from a pricing product that is dominated by BD and styrene. You're inferring from that in the pricing product data what the nature is of the competition quarter after quarter. My issue is that you have this price that's what's measured, and again I understand that is since the market price and has since for that contract.

But that's actually being dominated by something that's completely uninformative to you to understand the nature of competition. That's the point about how you interpret price, and that is not true, the case in other cases where it's clear that the September prices, the two companies were bringing, I don't know, steel bar in at a September price.

This is a September price that they had no idea who would turn out to be, and we're getting a lot of inference about well this is showing the underselling. This is showing that input prices varied a lot across suppliers.

CHAIRMAN SCHMIDTLEIN: So what if we look at just the spot market or what if we look at just the totals, right? So the public information, the page in the staff report that is publicly available, right, which shows the total number of quarters and the total volume that was undersold.

Again putting aside your argument about the correct price for the swaps with ARLANXEO in Brazil, right, as to whether or not we take the price that you actually used or whether we take a different price and incorporate that in the data. If you look at the chart, is that -- would you say that --

MR. PRUSA: I'm not sure.

CHAIRMAN SCHMIDTLEIN: It's on page 5-21, which shows 285 million pounds of underselling, 155 quarters versus 45 million pounds overselling in 49 quarters. So if we're not going to look at it on time basis, right, because your point is when you look at the products they're done on a contract basis, they're done at one point in time. Then does this inform? Does this inform our analysis?

MR. PRUSA: Except in the fact that a large fraction of the domestic industry, right. So I get your sense to take a step back, look at a bigger picture. This is a -- we have a problem here where a lot of informative price information that's going to be aggregated into a domestic industry summary statistic, domestic industry pricing product, when we're seeing a big chunk of what was happening among domestic prices here and that's the frustrating part --

CHAIRMAN SCHMIDTLEIN: Because they don't compete with subject imports?

MR. PRUSA: Because they didn't report.

CHAIRMAN SCHMIDTLEIN: Because East-West. Okay, you're talking about East-West.

MR. PRUSA: That's right. I understand you have the point too, that's correct. That's very interesting, that first point on not competing. But no. My point is going to your aggregate statistic, then it's like well, wait a second. We can't certainly talk publicly about the share of the market held by East-West. But we certainly know it's significant, and we have no idea how they were pricing in particular over the last --

We understand that in 2014, when they first came back in, they were just trying to get sales to keep --

to start the factory up. But in 2015 and 2016, they were trying to get contract sales. We have no idea what East-West was doing in the market, and that would change your understanding of what this average domestic price is.

CHAIRMAN SCHMIDTLEIN: Uh-huh.

MR. PRUSA: So you could instead, if you wanted, you could look at say one individual company's price. That might be a more informative statistic, because we can't understand, we don't understand what this very important domestic competitor was doing. So I still struggle with that.

CHAIRMAN SCHMIDTLEIN: Uh-huh, okay.

MR. WEIGEL: And just I think Commissioner, you are also suggesting maybe looking just at the spot market. But the spot market is very thin, and really would not tell the story. I think it's true that no one could survive in selling ESBR if they're only in the spot market.

CHAIRMAN SCHMIDTLEIN: Well, you're looking at Product 2 spot market for 1502?

MR. WEIGEL: I only have the public version here, and the public version I don't think divides it out into the ^^^^

CHAIRMAN SCHMIDTLEIN: Okay, and so why would you call that a thin ^^^^

MR. WEIGEL: Pardon me?

CHAIRMAN SCHMIDTLEIN: A thin market from the subject import side? Is that your --

MR. WEIGEL: Yeah. As ARLANXEO testified, they essentially sell in what -- if you have to divide the market into contract and spot, their sales in the spot market are just not under contract and not really spot market prices first.

Second, we have submitted -- there was some mistake in the information submitted for Product 2 for ARLANXEO. It was submitted after the staff report came out. So I assume that will be corrected in the final staff report. Then the third point is the spot market's so small. It's a couple percent of ARLANXEO's sales.

CHAIRMAN SCHMIDTLEIN: Uh-huh, okay. Okay. I just had one other question for Ms. Pauken. I think you were talking about China and I'm curious if you can say, does Cooper buy from any non-subject countries?

MS. PAUKEN: Yes.

CHAIRMAN SCHMIDTLEIN: And is it --

MS. PAUKEN: Let me clarify. In China?

CHAIRMAN SCHMIDTLEIN: Well, any of the non -- any other countries besides the four that are subject to this?

MS. PAUKEN: Yes, yes.

CHAIRMAN SCHMIDTLEIN: Okay, and I guess maybe for the post-hearing, would you -- would Cooper be able to provide us with a percentage of where your supply comes from, based on country ^^^^

MS. PAUKEN:  Globally?

CHAIRMAN SCHMIDTLEIN:  Yeah.

MS. PAUKEN:  Okay.

CHAIRMAN SCHMIDTLEIN:  Origin, yeah.  Country of origin.

MS. PAUKEN:  Okay, sure.

CHAIRMAN SCHMIDTLEIN:  Okay, okay, great.  I have no more questions.  Commissioner Broadbent?  No. Commissioner Williamson.

COMMISSIONER WILLIAMSON:  Thank you.  Ms. Pauken, I was wondering, give us an idea of how costly is it to convert from using the ESBR to using the SSBR, because you talked about that being a factor.  If the orders were to go on, that would probably accelerate it.  So I was just wondering how significant is that switch?  I mean I understand that the SSBR is more expensive and it's going to increase the cost of the product.

MS. PAUKEN:  Yeah.  So are you talking about in the production process or --

COMMISSIONER WILLIAMSON:  Right, yeah.  How easy.

MS. PAUKEN:  It clearly does require a

different manufacturing process from the mixing standpoint of mixing your compounds. Solution SBR, again as I believe Lion referred to, is oftentimes most times mixed with a silica, to get the benefits in the tire that you need.

That requires a different mixing process, a longer mix time and a little harder mixing to get that, to get the compound thoroughly mixed before you can pass it downstream into the process of extruding, etcetera. So there is a incremental processing burden to using those materials.

COMMISSIONER WILLIAMSON: But it doesn't require new equipment or a different equipment?

MS. PAUKEN: It can require different types of mixers, but still requires a mixer. There's different types of mixers that are out there that can handle those types of materials better.

COMMISSIONER WILLIAMSON: Okay. No, I was just wondering given the ^^^^ also, is there sort of like a cap on the price of ESBR, which, if it gets to that price, people are going to sort of flock to SSBR?

MS. PAUKEN: Sure. You know, Cooper is continuing to make the move to solution SBR. I believe it was you earlier that asked a question about if you're in the replacement market tire, you're really downstream of the original OE product, right, that has been alluded to as mostly using solution SBR. We have no choice but to go that direction as well, because the consumer needs to have a tire that performs the same on their car when it's time to make the replacement of that. So we are moving our way to solution SBR and --

COMMISSIONER WILLIAMSON: So you would disagree with the Petitioners about when they -- I think I posed that question this morning.

MS. PAUKEN: Well yes, yes.

COMMISSIONER WILLIAMSON: Or to a degree.

MS. PAUKEN: Yeah, to a degree, yes. I mean we are moving to solution SBR. I have run analyses based on the preliminary tariffs that are out there, and there are what I would call solution SBR grades that are becoming commodity grade, meaning like a 1502. Goodyear has sold their technology to many on how to make solution SBR, and those what I would call original grades that were being used by the larger OE tire makers and others, those are now becoming available in the marketplace to us, and based on where the tariffs are as a preliminary standpoint, the gap is closing, and the gap is not going to be big enough for us not to seriously consider making the move to solution SBR in place of the SBR, because we're going to get an enhanced tire performance benefit, and the cost differential is going to be worth doing it.

COMMISSIONER WILLIAMSON: Okay, thank you. Mr. Plaza, would you want to comment on this, because I was going to ask you if you -- is there any particular advantage. No? Do you agree with Petitioners' statement that the high cost makes it unlikely that SSBR will replace ESBR?

MR. WEIGEL: Ken Weigel. I think Mr. Sigler wants to comment on that.

COMMISSIONER WILLIAMSON: Okay, sure. Yeah, go ahead.

MR. SIGLER: Yeah. Just along the same issue, I think SSBR is a continually evolving product and there's a lot of new technical innovation to meet new tire demands for OEM and otherwise, and I think Ms. Pauken was exactly right, that there are many different generations of this product, and the more commodity end of the spectrum for SSBR is becoming very close to the price of ESBR.

The new fourth-fifth generation new materials might be substantially more expensive, but commodity SSBR is very quickly approaching the price of ESBR.

COMMISSIONER WILLIAMSON: Okay, thank you. Anyone else want to comment on this?

MR. WEIGEL: The only thing I would like to add --

COMMISSIONER WILLIAMSON: Oh okay, I'm sorry.

MR. WEIGEL: --is that there are other competing products, as you heard. There's the carbon black master batch, which is I think in many instances made by compounders, and it's important that the Commission keep in mind that it's not just tire companies that this, an affirmative determination would adversely impact. It is also compounders, and it's not going to shift what the compounders use. It's going to shift the compounders from the United States to Canada and Mexico.

So there are already compounders out there in Canada who are taking business away, and we've heard from some of the U.S. compounders, that they're losing business to the Canadians in that compounding area. So for example one person we talked to, they make whitewalls. I didn't even know you could still buy a whitewall tire, but apparently you can.

But they were complaining about this case, and how their Canadian competitors are being significantly advantaged by it. So there's this carbon black master batch which is ^^^^ uses ESBR, but as you make a tire, it's my understanding and Mary can comment more on this, that you take the ESBR and natural rubber and some there carbon black, mix them together, and so it all depends on where you do the mixing. Those products are specifically excluded from the scope.

MS. PAUKEN: I would add black master batch, it also improves the efficiency of your mixing. So you can mix more through your mixer if you use a black master batch. But today it is slightly more expensive than mixing the individual components yourself.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. PLAZA: Well basically it was just to mention or confirm what they were mentioning about the SSBR now more available is the technology and the capacity, and they are becoming more competitive. So that's the future, and in the case of the compounding, as I mentioned too, there is additional capacity for mixing these kind of rubbers out of the U.S. and then make the import.

So this is also a problem of competitiveness for the local compounders. So it's also risk, and besides the natural role that we already mentioned and the polybutadine, and in some cases that you can make a specific compounding to replace to replace the -- .

COMMISSIONER WILLIAMSON: Okay, thank you. Thanks for those answers. Ms. Pauken, is there any particular advantage to having a domestic source of ESBR? If so, what advantage does the domestic source provide over the imported source?

MS. PAUKEN: I would tell you, you know, on the face of it a domestic supplier usually can react quicker to your missed forecasts, which happens more than you think. So if you, you know don't forecast correctly and your plants need additional rubber, traditionally you can get that quicker and faster from a local supplier. However, because of the lack of reliability in our U.S. producers, when we buy from imports we require them to hold inventory locally for us.

So we get the same benefit of having -- they're behaving like a local producer by having that inventory available to us, so that we can just pick up the phone and ask for a load to be shipped. So from that standpoint, the benefits of being local supply, that gap really closes.

COMMISSIONER WILLIAMSON: Okay. Is that part of what -- when you talk about value, is that part of the --

MS. PAUKEN: Sure, yeah. I mean value is being able to provide us the customer service when we need it. In that particular case, maybe a shortage of rubber. But it's only one of the aspects of value.

COMMISSIONER WILLIAMSON: Okay, okay, thank you. I asked this question this morning. Which of the synthetic rubbers compete directly with ESBR? We've already talked about the SSBR, but what about the others, the other synthetics?

MS. PAUKEN: Well, I'll speak for Cooper and then some of the suppliers may want to comment. We also, as INSA referenced earlier, a silica master batch that we developed with them. We use that in place of it. Polybutadine, as mentioned earlier, as well. Natural rubber to some degree as well can all act interchange -- not interchangeably. I think the comments earlier that there is some formula adjustments that do need to be made for some of those. But they're not significant formula adjustments that you would not consider doing them very quickly if the cost of any of our inputs today would change.

In fact, we often monitor the price of natural rubber and ESBR, and then those price differences become big enough, we will change our formulas to move in that amount that can be adjusted in the formulas, to keep the performance of that compound.

COMMISSIONER WILLIAMSON: Okay, thank you. Thank you.

CHAIRMAN SCHMIDTLEIN: All right? No more questions? Okay. Did the staff have any questions for this -- oh, I'm sorry.

MS. BURKE: This is Emily Burke. I just want to ask one more question on the swaps. Does ARLANXEO and Brazil ever swap with Goodyear in the United States product?

MR. WEIGEL: This is Ken Weigel. Sorry, I can't really look there and have the microphone. ARLANXEO is one large company globally, and so you have ARLANXEO Brazil providing the ESBR to Goodyear, and then Goodyear providing the ESBR to ARLANXEO USA. So it's -- because they're part of the same global organization, I'm not really sure of your question, you know.

MS. BURKE: Does product from Brazil come into the United States in a swap?

MR. WEIGEL: No, no.

MS. BURKE: Okay. That was my question.

MR. WEIGEL: The reason for the swap is to avoid the shipping cost from Brazil to the U.S. So they're the same product. They just -- one's there, one's here and they both need it.

CHAIRMAN SCHMIDTLEIN: Okay. Commissioner Williamson, you had one more question?

COMMISSIONER WILLIAMSON: Since there was so much talk about this, I was wondering how are contract prices negotiated with your customers. Do you negotiate the individual components of your pricing formulas?

MR. SIGLER: Generally, this is Ethan Sigler. Generally it is the fixed conversion fee which is negotiated. I think as was alluded to earlier, there can be certain aspects of the formula which are negotiated, whether the month that's referenced or the marker. But this is the exception rather than the rule. It is generally the fixed conversion fee that's negotiated, the fixed conversion fee and the volume for the upcoming year.

COMMISSIONER WILLIAMSON: Okay, and is that generally once that's negotiated, that's fixed for the contract period?

MR. SIGLER: The fixed -- yes. The fixed conversion fee is fixed for the year.

COMMISSIONER WILLIAMSON: Okay, thank you. Oh excuse me, I'm sorry.

MR. ACEVEDO: It's basically the same concept. We negotiate based on the volume on a yearly basis, the components of the formula are the composition based on raw materials, and a base price, a fixed factor that is stable for the rest of the year.

COMMISSIONER WILLIAMSON: So you're saying the negotiation on the conversion fee would be --

MR. ACEVEDO: No. We establish that factor and it's fixed.

COMMISSIONER WILLIAMSON: Oh it's fixed, okay, yeah. But you do negotiate before it's --

MR. ACEVEDO: Yeah, we try to keep it always stable, always stable you know every time that we negotiate every year, you know, with our customers.

COMMISSIONER WILLIAMSON: Oh but you -- at the time -- when you do a renegotiation of the contract, you do negotiate that component of it?

MR. ACEVEDO: Not necessarily.

COMMISSIONER WILLIAMSON: Not necessarily. I got you. Okay.

MR. WEIGEL: Commissioner, in our prehearing brief, we took the various formulas used by Respondents and showed how they reacted to different changes, and I think it's pretty informative. If you can look at that, you can get a good idea of what's happening with the formulas. They are different, and then how they react to different, using different months and different geographic locations. And so we used actual data from 2016, as you may have seen, and what starts out in March as the low price is not the low price in December.

COMMISSIONER WILLIAMSON: Okay, okay. Thank you for those answers.

CHAIRMAN SCHMIDTLEIN: Okay, thank you. Do Petitioners have any questions for this panel?

MR. McGRATH: Excuse me. No questions.

CHAIRMAN SCHMIDTLEIN: Okay, thank you. So we'll now move to closing statements, and I will dismiss you. I thank you all again for coming today. It's been very helpful.

So with regards to time allocations, those in support of the Petition have twenty minutes from direct and five minutes for closing, for a total of twenty-five minutes. Those in opposition to the Petition have five minutes from direct, plus five minutes for closing, for a total of ten minutes.

So, Mr. McGrath, you may begin when you're ready.

MR. McGRATH: Thank you, Madam Chairman.

We have a team rebuttal, combination rebuttal and closing statement here, because it makes more sense I think to do it that way. And we have a number of things that we would like to talk about.

First, I was going to ask Mr. Zeringue to discuss some of the issues that were raised by Cooper today, and some of which are not entirely accurate, and some of which are actually quite supportive of some of our arguments.

Then Mr. Szamosszeggi is going to talk about some of the pricing analysis that's been discussed here today.

And then I will finish it up with some observations about a few other issues on competitiveness and the existence of price pressure in the market amongst the limited number of producers there are globally that are serving this market.

So I'll leave it to Mr. Zeringue.

CLOSING REMARKS OF JESSE ZERINQUE

MR. ZERINGUE: Thank you. Jesse Zeringue. Just to add a little color and maybe some clarity to some of the earlier comments, there was a reference made to Lion not living up to a contract, or honoring a contract, or filling a contract in 2011.

What happened that year is, if you recall we said multiple times that these contracts are negotiated in the fourth quarter of the year for the coming year. And I believe I also testified that we negotiate our butadiene contracts simultaneously to mirror what we end up contracting on ESBR.

So during that period of time we were also negotiating our butadiene contracts for the coming year as well. And what we were faced with is a further contraction of available butadiene. So we had to make business decisions on which pieces of business we would spend our valuable butadiene molecules on.

And Cooper is very good at what they do, and with the price pressures that we were faced with at the time, that piece of business was going to be the lowest, if not the lowest, close to the lowest margin piece of business we had on contract.

So we had to make a business decision on where we were going to use our butadiene molecules. So we did not have a signed contract yet. We were in the iterations of negotiation, as was testified to earlier, and Greg Nelson, the CEO of Lion at the time, and myself, visited Cooper in

December and said we will not be able to supply you all of that volume. We can supply half. But we wanted to do that before we actually signed the contract.

In contrast, we did have an executed agreement last year, and I believe it was August when we were told by Cooper that we had to remove the aggregation fee from the butadiene component of the pricing or the volume would be in jeopardy.

So I just wanted to add some clarity here on that contract issue.

A comment was also made that the volume was moved to Asia. We--you know, I don't have the data in front of me, but I believe for that year we only shipped 10 percent of our volume to Asia that year.

Someone mentioned white sidewalls on tires. The white in the white sidewalls is EPDM and Reliant does in fact supply EPDM to that market segment, although it was very small. So we do participate in other parts of the segment.

And I believe that's all the clarifying statements I had.

MR. McGRATH: Okay, I will have a few other comments but I would like for Andrew to talk now about price.

CLOSING REMARKS OF ANDREW SZAMOSSZEGGI

MR. SZAMOSSZEGGI: Thank you. Andrew Szamosszeggi. Boy, we heard a lot of different things about why the under-selling comparisons shouldn't be used by the Commission.

I heard, and I'm sure I missed some, the prices are determined by raw materials. The existence of a spot between Arlanxeo and Goodyear. Rebates on nonsubject imports. Mix of customers. The use of quarterly data when there are monthly prices, or costs. Different formulas, funding, East-West missing.

Look, we have--I don't know what the number was--well over 150 price comparisons for the Commission to look at. We have average unit value data that re plain. What all these data show are that there is consistent under-selling, regardless of formulas, regardless of what is going on with butadiene in Asia or anywhere else, we have consistent under-selling over the entire Period of Investigation.

They tried to make that go away. It can't go away. They've put together regressions, a series of regressions. Those regressions on technical grounds are going to produce the same or very similar lines. That's what a regression is supposed to do, especially the methodology that they used. And we're going to spend a lot of time on that in our post-hearing submission.

So the final analysis, you have a record in front of you, and that record, whether it is three or four years, shows very consistent underselling.

The cost/price squeeze. Respondents were asked about the cost/price squeeze and they didn't have an answer. They don't know. They tried to drag East-West into it, even though there are data on the record without East-West which also show a cost/price squeeze.

So you have under-selling, predominant under-selling, and you have a cost/price squeeze. And you have two instances of market disruption experienced by the domestic industry. Why? Our Respondent friends try to make that out as being caused by these guys, Jesse and East-West, just being unreliable, when the reality is they're the ones, the Respondents are the ones in the market who are demanding the low prices, getting in excess capacity volumes from Asia and from Brazil where their home markets and their export markets are going down, and trying to get them in here and negotiate lower conversion fees.

And that's where the injury comes from. Because if the conversion fee is lower, you're covering less of your costs. So you have the cost/price squeeze. And then you get less gross profit, less operating income, less net income, less cash flow, and ultimately when things are tight, when there's a little uncertainty or a sudden change in the raw materials market, you get a bankrupt. Why? Because the firms has been under constant pressure for four years because of the subject imports.

The subject imports caused the closure in 2013. They were a contributing factor. In 2014, that facility started up again and it was unable in 2015 and 2016 to increase its volume. I don't know. There's a very, very clear causation case here.

They don't understand the under-selling data. I think Jesse does, and I think Goodyear does, too.

On threat, there's been some confusion about demand. My statement was that there's probably going to be modest growth in demand, but you also hear that there are certain segments. Bobby said that there are certain ESBR segments that are picking up a little bit now. Those constitute about 10 percent of the domestic market. So they're not going to drive things.

And you heard Respondent say that in the future you're going to see more shift towards SSBR. So I think that for your threat analysis if you need to make it, demand is going to be relatively flat in the imminent future.

Excess capacity. You heard one producer say you can't get to 100 percent, look at your record. And you can look and see among the firms in the record whether or not it's possible to get close to 100 percent.

Another thing you heard late in the day is that-- and this may not have been true in 2013 but now the subject imports have a much better infrastructure here to accumulate and hold in inventory ESBR, and that makes the domestic industry even more vulnerable to threat.

And they are vulnerable also because they've been losing money for three or four years, and there are volatile input prices. Demand is declining, and imports are coming into the market and are a much larger share of the market than they were in 2013.

With that, I'll turn it over to Matt.

CLOSING REMARKS OF MATTHEW T. MCGRATH

MR. McGRATH: Thank you very much. While I'm thinking of it, this question, where is East-West? It's kind of like "Where's Waldo?" or something. East-West is not here. East-West doesn't exist. They are a company, probably a shell of a company. I did not withdraw our representation until I was notified yesterday by the attorney in bankruptcy for the company that we no longer would have a contract to represent them, and asked me to no longer represent them. That's it.

As far as what I think Ms. Pauken said about Mr. Nelson's position, I talked to him last week and had a pleasant enough exchange. He didn't say anything about withdrawing, but the fact of the matter is his position is not East-West's position. He no longer works for East-West. He has not worked for East-West since May 26th. There are no employees still working for East-West.

So his position or his thoughts are his opinions about the case. I don't know what he's talked to her about. The company has no position. They're no longer represented, pursuant to instructions from their attorney-in-bankruptcy.

A couple of important questions here I don't think were answered, and one of them. Commissioner Broadbent, you had asked a couple of times about what's the reason for that increase in COGs-to-sales ratio in 2016. And you know what our answer is going to be. It's probably a combination of increase in BD prices, BD costs in 2016, but definitely compression of that conversion factor that continued on each year. As Mr. Zeringue testified during direct testimony, that compression, that reduction each year pushing it down, pushing it down to the point where it's in the negative range, that is certainly a sign of injury if there would be any. That's the cost/price squeeze.

They had no answer to that question and I can see why. Incidentally, the conversion--I don't know if I heard anybody today talk about how big the conversion factor is, in that in the overall price calculation I think it's about--we'll submit some information on that, but just as a rough estimate it's around 30 or 35 percent of the contract price.

That's a big factor. And it's declined, as Mr. Zeringue testified, by 25 percent over the last four years. So that's a factor. We'll give you the range for various customers to try to let you see that.

Another argument that has been made in a couple of different ways, mostly by Mr. Prusa, was that if you take a look at certain accounts that are not being supplied by any of the subject producers here, the subject imports, that will somehow let you figure out who it is was the competition there. And it will infer that competition that resulted in losses in connection with the sales to those customers had to be directly between Lion and East-West, and that would necessarily have to be the case simply because they're not being supplied by any foreign producer.

Well that doesn't necessarily mean anything. The fact that the two of them are competing against each other, as they do against each other and against subject imports that are being dumped, doesn't mean that the subject imports are going to win the sale necessarily. There might be an existing relationship that keeps the sale with one of the domestic producers. They may not spread their sales to other subject producers, but the presence of quotes from other subject producers certainly causes compression in that price.

We also just heard testimony that the conversion factor is in many cases renegotiated every year. That's been our experience, and that's been the source, as I said at the outset, the source the--the fulcrum of injury here has been the renegotiated price.

With respect to the swaps, I just don't see that there's any other way to look at this than they are as you recognized, Commissioner, they are transfers between two unrelated companies, and I think all you can do is record them as they are booked by whoever reported them. It's a sale from a U.S. entity to an unrelated purchaser. It's a U.S. product to an unrelated purchaser. I think that has to be the price. I haven't heard anything that would suggest that really ought to be changed.

So we're definitely in favor of leaving that as it is. But if you were to change it, I think that it would also be true that you'd have to modify the Goodyear financial information as well, since you'd be using a price that's not the actual price. And so the Goodyear financial information would probably have to be changed, as well.

Another question I don't think we heard the answer to, or we heard a couple of different--I guess Andrew was just covering a few different things--why would there be so many periods of under-selling? If there were reliability issues, other factors of value that were being offered including bundles of other products, other kinds of services, why wouldn't that all be at a value? Why would there be such a--so much apparent under-selling sometimes by significant margins?

And I think to that the best we can say is that all of those other factors that are being touted as good reasons to see the importers as adding greater value are also reasons why those importers who have been found to be dumped by margins ranging from 10 to 44 percent have greater leverage to be able to try to pressure and compress the conversion cost factor that is being assessed.

Oh, incidentally, I know there was some talk about how all of the suppliers are using factors in their contracts which use only index prices, or index costs for butadiene and styrene in their particular regional markets.

I know that Lion has been experiencing pressure in the marketplace for all of the companies quoting for these customers to try to come up with apples to apples quotes. And in many cases pressure is being placed on everybody to use a particular index. There are certain purchasers abroad who are pressuring Lion to use a foreign index rather than the Gulf index, and vice versa: pressure on Koreans to use the Gulf Index instead of the Asian Index.

So it's not necessarily the case that all the time they're using a different index. But in any event, it is an index for actual--it should be an index for actual prices, according to the argument that's being made by Mr. Prusa.

So that should be a wash and it shouldn't result in declining conversion costs. It shouldn't result in COGs greater than net sales. It shouldn't result in any of the factors that we're seeing here.

So in conclusion, I think we have to take a look at the record as it is, which shows considerable under-selling. It shows tremendous--many years, and interim quarters of losses. Whether you go back to 2013 or not, that is going to remain the same. What will be different, if you go back to 2013, is that you'll see that jump in import volume.

As Mr. Szamosszeggi said, if you want to use just '14 to the current time, we still think that there's a fair amount of evidence of injury here. It's not just the volume of imports nominally showing some decline in that period of time, even though they showed an increase if you went back to 2013. It's the significance of imports that you're supposed to evaluate.

So with that, we appreciate your listening to us. And I would like to close with just one comment that I thought was very telling from the preliminary hearing, which I'm not sure whether you saw the entire transcript of it, but one of the witnesses today was very forthcoming in the preliminary conference. And I thought that it fit very well with some of the arguments we were making. And that was Mr. Plaza from INSA.

He said, quote, "Currently there's an over-supply of emulsion SBR, solution SBR, and natural rubber. This is a situation that's not only happening in the U.S., but happening world-wide, including Mexico, Latin America, and Asia. We know this because we export to all regions and we have seen how the prices have decreased due to excessive natural rubber, synthetic rubber, and other raw materials."

We agree with that. We believe that there is an excess of supply. He went on to say, when asked about how negotiations were likely to go this year--and this was, remember, August of last year--and we were sitting there, Lion and East-West, and he said, negotiations--he was asked by Commission staff--he said, "Negotiations I don't think are going to change. The situation of the local suppliers" meaning East-West and Lion, "I think is going to be complicated because imports from other countries are already here for two years. They have a good position. So I think the situation is going to be hard, and I don't think that's going to change much.

That is true. That is what both companies found. And one of them is out of business. So I would be remiss if

I didn't reiterate once again that the unions accounting for all of the production here in the United States do support this Petition, regardless of what the company positions might be, or their existence might be, and they are in support, as we are, of a finding of an affirmative determination.

I would also--I usually start a final statement by thanking the staff. The staff has been very conscientious in making sure, especially with the difficult job of trying to get data from a company that's no longer in business, that is a challenge. We feel that we did get some data. We're hoping that can be added, some actual data from the company, that that can be added to your record and that that will support an affirmation determination as well.

Thank you, very much.

CHAIRMAN SCHMIDTLEIN: Thank you very much.

MS. BELLAMY: Closing remarks on behalf of Respondent, Kenneth Weigel on behalf of Alston & Bird. You have ten minutes.

CLOSING REMARKS OF KENNETH WEIGEL

MR. WEIGEL: Thank you.

We've heard a lot today, heard a lot over the last few weeks actually in getting ready for the hearing. What we've heard today we believe is that there is no clear nexus between the subject imports and any material injury that Lion is suffering. And I'll go into a number of reasons.

It's a difficult case to talk about in public because there are so few participants in the case, and most of the data is confidential. Just as an initial point, I want to make it clear that we understand that Mr. Rikhoff was not testifying as a witness for East-West, but he was testifying in his personal, or as a consultant. And I think that's very important to remember as you consider his testimony. It is not the testimony of East-West. He is not, in my understanding, a representative of East-West here.

So a number of critical factors we believe support aq negative determination. This is a difficult case, we believe, in that you've got two factors that you're trying to figure out what's going on. And let me at least give you our explanation in a public sense, and we'll give you more of this in our post-conference briefs.

First, you've got imports going down. They're not taking sales away. So then the question is: What's happening to the U.S. industry?

Everyone refers to the pricing data. We think it's questionable, and we think it is not determinative of a sale. As Mary Pauken from Cooper said, reliability and security of supply are key factors in purchasing decisions.

She can get the lowest price she wants, but if that tire plant shuts down they've got a big problem and she personally has a big problem.

Professor Prusa showed that monomer prices drive ESBR prices, not imports. The monomers, as we saw in the movement, and I calculated, hopefully I did it right, but $100 change in the price of a monomer is 4 cents per pound, of the monomer, not necessarily of ESBR because then there's a formula that takes various percentages of that monomer into the pass-through.

Here there's little, if any, head-to-head competition. As you mentioned, you could find head-to-head competition in the spot market, but we just don't have data there on the record really in the spot market. It's a very thin market, and it wouldn't necessarily show injury to the U.S. industry if you only looked at the spot market because it's so small and the industry is being driven by sales to tire companies.

Another point that I heard this morning, and that I've been thinking about as I look at the Commission--at the numbers, some of the numbers in the staff report, it's like 4 out of 12 say this, or 2 out of 3 say this. There's no weighting of those factors. There's a raw number, and if you have 10 people who buy very little saying one thing, and 3 people who buy a lot saying another thing, the fact that

10 say it doesn't necessarily mean it's correct.

We don't believe, and we've talked about this a lot today, that the under-selling data is probative. We think a lot of the data--we know the data reflects the swap issue, and as their economist said, you should be looking at the price into the market. And we agree with that.

Look at the price into the market. What are the tire companies paying? Not what Arlanxeo is paying in the swap. The prices in the market are a reflection of the contract formulas. And those formulas differ. You heard, I think it was Mr. McGrath, just say the companies would like to have everyone using the same formula. I certainly would agree with the companies. I am sometimes amazed that Ms. Pauken can do the analysis she has to do to try to make an apples-to-apples comparison, because the formulas are different. So you're not only trying to predict the future, you're also trying to make every formula the same.

The average unit values from financial statements may be telling. Average unit values for imports? They don't tell you anything here, because Arlanxeo is a related-company transaction. I believe Mexico is a related company transaction. I think Synthos might be. And so you can't really look at the import statistics and use that to say this is their market price.

Obviously Arlanxeo USA makes money. They need to stay in business. Again, in considering the under-selling data, I think it's important that the purchasers reported that Lion, East-West, and Intertech were the price leaders, not the subject imports. You saw three names there. You didn't see an import.

But you do see customers characterizing prices as comparable. And again, the lack of East-West data. When you only have three companies in the U.S. market, and only two that are really only in the merchant market, missing one of those two is very important.

And it's not that, you know--yes, you can use the information on the record, but you can't necessarily use that information to make an affirmative finding. You can't assume that East-West, if it supplied its data, would show that it was selling at higher prices. You know, if you're going to make an assumption, I think the assumption you would have to make is they were under-selling. I know the Commission doesn't do this. I unfortunately encounter it all the time at the Commerce Department where there is an assumption if you don't provide the data, and it's an adverse assumption.

It's telling that only Lion is here today complaining about import competition. Goodyear is not here. I heard speculation in their closing about Goodyear. Again, it's just speculation. Goodyear is not a petitioner. It's not complaining, and in your staff report it states to the public Goodyear's position and it's not supporting the Petition.

East-West, as we've talked about, and I think there will be more developments on this over the next week, has dropped its support for the Petition.  I don't think it's just a money issue, from what I hear.

About import competition as well, I'm trying to reconcile what I've been hearing today.  I've heard today, you know, to use 2013 and not to use 2013.  And that if you--that someone said, well imports were fine in 2013.  And then I'm hearing Lion closed because of imports in 2013.  I don't know what the status is, but I don't think you need 2013.

I don't think there's a reasonable basis for the Commission to deviate from its normal practice, and to use--to expand the Period of Investigation.  In fact, you haven't even been asked to expand the Period of Investigation, just to consider it as a condition of competition, but it's not a condition of competition.

I believe they're trying to get the expansion of the POI without claiming it's an expansion of the POI.  And gain, the data would be even more incomplete if you expanded the POI.

We just don't believe what Lion is saying and blaming its issues on imports. The data just don't support that. And we'll go into that more in our post-hearing brief as we did in our pre-hearing brief, but I've talked to people about the Ashland plant in Port Neches. It was a viable plant for years from what I've been told.

We think the record shows that Lion's injury is self-inflicted and a result of competition with East-West. First, you've heard today that this is a relationship business, and purchasers consider quality supply availability and reliability more important than price.

Mary Pauken explained to you what happened. And now we hear from Lion that they had a reason for doing what they did. Anyway, they did it. We think that ultimately the competition between East-West and Lion is causing the issues that Lion is complaining of.

Imports are needed by the U.S. industry. The ITC just found the U.S. tire industry is not injured. Now the tire industry is coming to you saying we need multiple sources of supply, not just Lion. Reliability issues, and Mr. McGrath said you can't rely on Goodyear? Who can the U.S. tire industry rely upon?

Imports have been drawn in by the lack of reliable suppliers in the U.S. industry. It's not that imports are rushing in. Imports are not up. Imports are down. They've been drawn in. This is a complicated case, and I trust the Commission will look closely at the facts in our post-hearing brief, and look forward to a negative determination.

Thank you.

CHAIRMAN SCHMIDTLEIN: Okay, thank you very much. Alright, this brings us to the end of the hearing. Post-hearing briefs, statements responsive to questions, and requests of the Commission and corrections to the transcript must be filed by July 7th, 2017.

Closing of the record and final release of data to parties will be July 28th, 2017. And final comments are due August 1st, 2017.

I would just like to thank all of the witnesses, again, for coming, and their counsel. And with that, this hearing is adjourned.

(Whereupon, at 2:57 o'clock p.m., Thursday, June 29, 2017, the above-entitled hearing was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Emulsion Styrene-Butadiene Rubber from Brazil, Korea, Mexico, and Poland

INVESTIGATION NOS.: 731-TA-1334-1337

HEARING DATE: 6-29-17

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: 6-29-17

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
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
Court Reporter