UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation Nos.:**
FINE DENIER POLYESTER STAPLE FIBER	**) 701-TA-579-580 AND**
FROM CHINA, INDIA, KOREA, AND TAIWAN	**) 731-TA-1369-1372 (FINAL)**

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UNITED STATES OF AMERICA

BEFORE THE

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IN THE MATTER OF:	) Investigation Nos.:
FINE DENIER POLYESTER STAPLE FIBER	) 701-TA-579-580 AND
FROM CHINA, INDIA, KOREA, AND TAIWAN	) 731-TA-1369-1372
	) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Wednesday, January 17, 2018

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

Vice Chairman David S. Johanson

Commissioner Irving A. Williamson

Staff:

Sharon Bellamy, Records Management Specialist

Tyrell Burch, Program Support Specialist

Yasmyne Hilliard, Student Intern

Jordan Harriman, Investigator

Andrew Knipe, International Economist

Emily Kim, Accountant/Auditor

Courtney McNamara, Attorney/Advisor

Elizabeth Haines, Supervisory Investigator

APPEARANCES:

Opening Remarks:

Petitioners (Paul C. Rosenthal, Kelley Drye & Warren LLP)

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

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

Kelley Drye & Warren LLP

Washington, DC

on behalf of

DAK Americas LLC

Nan Ya Plastics Corporation, America

Auriga Polymers Inc.

Mark Ruday, Senior Vice President, Fibers Business Unit, DAK Americas LLC

Richard Lane, Senior Manager of Public Affairs, Trade Relations and Corporate Communications, DAK Americas LLC

Michael Sparkman, Senior Business Manager, Nan Ya Plastics Corporation, America

John Freeman, Assistant Director of Sales, Nan Ya Plastics Corporation, America

Thomas Brekovsky, Vice President, Polymers and Fibers, Auriga Polymers Inc.

Nik Casstevens, Vice President, Palmetto Synthetics LLC

APPEARANCES (Continued):

Alejandro Sanchez, Director of PSF Sales and Marketing, DAK Americas

Gina E. Beck, Economist, Georgetown Economic Services LLC

Paul C. Rosenthal, Kathleen W. Cannon, David C. Smith and Brooke M. Ringel - Of Counsel

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

Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP

Washington, DC

on behalf of

The China Chamber of Commerce for Import and Export of Textile and Apparel

Jiangsu Huaxicum Co., Ltd.

Jiangyin Yangxi International Trade Co., Ltd

Jiangyin Hailun Chemical Fiber Co., Limited

Jiangyin Huahong Chemical Fiber Co., Limited

(collectively "Chinese Respondents")

Cara Groden, Economist, Economic Consulting Services, LLC

Ned H. Marshak and Jordan C. Kahn - Of Counsel

APPEARANCES (Continued):

Arent Fox LLP
Washington, DC
on behalf of
Reliance Industries, Ltd. ("RIL")

Anil Rajvanshi, Senior Executive Vice President, RIL
Matthew M. Nolan and Andrew Jaxa-Debicki - Of Counsel

Rebuttal/Closing Remarks:

Petitioners (Paul C. Rosenthal and Kathleen W. Cannon, Kelley Drye & Warren LLP)

Respondents (Ned H. Marshak, Grunfeld Desiderio Lebowitz Silverman and Klestadt LLP and Matthew M. Nolan, Arent Fox LLP)

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P R O C E E D I N G S

9:33 a.m.

VICE CHAIRMAN JOHANSON: Good morning. On behalf of the United States International Trade Commission I welcome you to this hearing in the final phase of investigation No. 701-TA-579 to 580 and 731-TA-1369 to 1372 involving Fine Denier Polyester Staple Fiber from China, India, Korea and Taiwan.

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 as materially retarded by reason of imports of Fine Denier Polyester Staple Fiber from China, India, Korea and Taiwan.

Schedule setting forth the presentation of this hearing, Notices of Investigation and transcript order forms are available at the Public Distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table. All witnesses must be sworn in by the Secretary before presenting testimony.

I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary. Speakers are reminded not to refer in their remarks or answers to questions to business proprietary information. Please speak clearly into the microphone and state your name for the record for the benefit of the court reporter.

If you will be submitting documents that contain information you wish classified as business confidential your request should comply with Commission Rule 201.6. Madam Secretary, are there any preliminary matters?

MS. BELLAMY: No, Mr. Chairman.

VICE CHAIRMAN JOHANSON: Very well, let's begin with opening remarks.

MS. BELLAMY: Opening remarks on behalf of Petitioners Paul C. Rosenthal; Kelley, Drye and Warren, LLP. Mr. Rosenthal, you have five minutes.

STATEMENT OF PAUL C. ROSENTHAL

MR. ROSENTHAL: Good morning, Commissioners. On behalf of the producers of fine denier polyester fiber I'll summarize the key elements of our case and the testimony you are about to hear today.

The Commission previously has investigated imports of course denier polyester fiber from China, Korea and Taiwan. That higher denier fiber goes into products such as stuffing for couches and pillows. The product at issue in this case is made from the same raw materials using the same process as those other products but is of narrower thicknesses and is used for textile and nonwoven applications.

The course denier and the fine denier products and cases share a common thread; unintended and that is producers from several Asian countries have used low, unfair prices to increase their imports into the United States. Those low-priced imports have taken significant market share and caused the Domestic Industry to lower its prices and revenues. The result has been material injury.

While the Commission has some familiarity with the polyester fiber industry generally at this point it is worth noting some key conditions of competition. First and foremost, the production of these products is very capital-intensive not unlike the seal industry that you are very familiar with.

Second, the nature of the production process requires continuous production. It is extremely costly to stop and restart an operation. As a result of those first two factors, once a company has made an investment in a fine denier factory, as many companies around the world have done, it's imperative to keep that factory running.

The record of this Investigation unfortunately demonstrates that the Subject Foreign Producers have kept their plants running by unloading increasing volumes of low-priced imports into the declining U.S. Market. The record shows that Subject Import volumes increased from an already significant level in 2014 and surged dramatically in just three years.

Subject Imports market share increased significantly as well and now Subject Imports occupy a major portion of the U.S. Market. The Subject Imports volumes have been able to increase because of lower prices. It is really that simple. When you look at both direct and indirect sales the evidence of underselling in the record is very strong.

Against their economic interests many purchasers corroborate the underselling data by reporting that they bought the Subject Imports because they were lower priced, they bought them because they were lower priced. Those purchasers also report several instances accounting for a large volume of sales in which they switched from domestic import sources because of price.

Similarly, purchasers report that Domestic Producers lowered their prices in order to compete against imports. These are very important facts in your record. The result of the low priced imports is predictable. All the trade and financial variables have declined. Capacity, production, shipments, capacity utilization are all down. Likewise, all measures of profitability have declined as well and are at unsustainable levels.

At the Staff Conference, Respondents' counsel conceded the increase in Subject Imports' volumes and market share as well as lower prices and in their prehearing briefs; in this case, Respondents attempt to escape responsibility for these declines by using two arguments.

First, they claim that Domestic Industry cannot supply certain products and second, a 29-day outage at DAK allegedly compelled purchasers to seek imports and never come back. Those are the key arguments that they make. As their witnesses and their data will explain however these products are in fact produced in the United States and will be produced in higher volumes but for the Subject Imports.

Second, the less than one month outage during the entire 45-month Period of Investigation did not result in supply constraints. There has been and remains plenty of capacity to supply the needs of the Domestic Market. In fact, Respondents cannot explain why there is such rampant underselling if Purchasers cannot obtain product from the Domestic Industry.

Nor can the Respondents explain why Purchasers admit to switching from domestic to import sources due to lower prices. As the Domestic Industry witnesses will explain, none of the Respondents' arguments has merit. Subject Imports have used the tried and true method of unfair pricing to gain market share and to suppress U.S. Producers prices and to cause material injury to the

Domestic Industry.

As the witness in the entire record will make clear, affirmative determinations are warranted here. Thank you.

MS. BELLAMY: Opening remarks on behalf of Respondents Ned H. Marshak of Grunfeld Desiderio Lebowitz Silverman and Klestadt, LLP. Mr. Marshak, you have five minutes.

STATEMENT OF NED H. MARSHAK

MR. MARSHAK: Good morning. I appear here today on behalf of Chinese Producers to ask the Commission to find its Subject PSF exports have neither materially injured our Domestic Industry nor threatened the Domestic Industry with material injury.

I would like to thank Petitioners for making my opening statement easier for me to write than is normally the case. Page 1, line 1 Petitioners began their prehearing brief with the direct quotation from my closing statement at the June 21, 2017 Staff Conference. They wrote that I testified "things don't look good".

When I read their brief in preparing for this hearing I thought "jeez, did I really say that? What was I thinking?" So I went back and looked at the transcript and this is what I said "Oh my gosh, why even bother? The imports are increasing absolutely. They are taking a greater share of the market. Pricing is close. Petitioners have said that their profits are going down. We are realists. Based on the public record, things don't look that good.

But in this case, as in all your cases, that's just the beginning of the analysis. There are many cases where you have a loss of market share and declining profitability and you still find no injury or even no reason of indication of injury. Why? Because you look at the questionnaire responses and that's where this case is going to be won or lost."

That is what I said in June and that is exactly what I intended to say in my opening remarks today. We lost at the preliminary stage but as we all know in a final stage investigation finding a reasonable indication of material injury or threat is not sufficient to support an affirmative determination.

With those of us who have access to the confidential record know the data for the final, which includes 37 purchaser questionnaire responses is significantly more robust in the record which the Commission reviewed at the preliminary stage. So what all will this record show? What do we know that I can talk about today? And here I need to tread carefully because a small number of Domestic Producers is resulting in much of the critical information being deemed proprietary.

We know that purchasers were very concerned when DAK closed its Cape Fear Production facility shortly before the POI. We know that purchasers could not risk disruption in the supply chain caused by the potential inability or unwillingness of domestic mills to meet their needs.

We know that some domestic producers experienced disruptions in supply during the POI. We know that Domestic Producers are not capable of meeting U.S. demand. We know that certain types of PSF, post consumer recycled shortcuts synchronized in black are not produced in significant quantities in the United States.

Petitioners would like the Commission to believe that this case is a slam-dunk, no brainer. It's not. What we know from the public record is enough to make this case very interesting and when the confidential record is also considered as it must be, very interesting becomes very problematic for Petitioners especially when the impact of an affirmative finding will have a severe adverse impact on Domestic Producers PSF downstream products.

Finally, I'd like to conclude this opening statement with a question for Petitioners. What would you have done if you were a PSF customer in 2013 facing DAK's decision to close its Cape Fear facility, which had been supplying you with PSF needed to meet your tight production schedule and your customers' needs?

Would you have continued to rely on DAK as a sole source of supplier? And if you did what would you have told your customers, your shareholders and U.S. consumers when you, as discussed in your preliminary Staff Report at 2-9 to 13, were placed on controlled order entry, received less product ordered, were faced with extended delivery times, were unable to obtain specific types of products?

We recognize the Commission is required by law to examine the impact of Subject Imports on the industry as a whole, producing the domestic like product. At the same time however the Commission has in the past and should also in this case, look behind the gross data.

Increases in market share which on your face quote "don't look good" and ask why and if the answer to "why" reveals that purchasers acted reasonably and responsibly by looking offshore for subject merchandise and if price declines tracked declines in raw material costs and if gross industry data have skewed downwards for reasons unrelated to low price imports, then the Commission should reach a negative determination as required by law and which is in the best interest of the United States. Thank you.

MS. BELLAMY: Will Petitioners please come forward?

MR. ROSENTHAL: Thank you. We are ready to begin. Our first witness this morning will be Michael Sparkman.

STATEMENT OF MICHAEL SPARKMAN

MR. SPARKMAN: Good morning, my name is Michael Sparkman and I'm the Senior Business Manager for Nan Ya Plastics Corporation America. Nan Ya is a U.S. producer of fine denier polyester staple fiber and one of the petitioners in this case. I have worked for Nan Ya for over 18 years in both technical service and fine denier sales.

Nan Ya's polyester fiber manufacturing facilities are located in Lake City, South Carolina where we also produce course denier and low melt fiber. The Lake City plant covers 700 acres and has been producing fine denier and these other polyester staple fibers for over 25 years.

I would like to describe for you today the product as a subject of this case, fine denier, and give you an understanding of how it is produced and used by our customers. I will also share with you how our company has been affected by unfairly priced imports from the Subject Countries.

Fine denier is a manmade fiber similar in appearance to cotton or wool. The principal physical characteristics of fine denier include diameter or denier, length, finish, luster and the crimp of the fiber, which affects the fiber's tenacity or strength. Regardless of whether fine denier is made from either virgin or recycled inputs which were originally virgin the product is chemically identical.

There is simply no difference at all in the physical characteristics of fine denier whether produced from virgin or recycled inputs. All fine denier has similar physical characteristics notably the denier and cut length and is sold through the same channels of distribution to the end users.

Other types of fine denier that Respondents have identified such as black fiber and short cut of fine denier are not different products but are simply examples of types of fine denier. They comprise a relatively small part of the market and are like other fine denier products except for the difference in color and cut length.

I've brought some samples to pass around for you and I will describe them and then take them over to the clerk here. So the first is the actual product. This is staple fiber. It has an appearance of cotton in both appearance and feel. This is a yarn made 100 percent from polyester staple fiber. This is a circular knit piece of fabric that would then be cut and sewn into an athletic t-shirt again made with polyester. Then this is an example of a non-woven fabric which is actually stitch bond with a spun yarn and this would be used in drapery material.

Our customers generally convert the fine denier either to yarn for weaving or knitting into fabrics or to a non-woven product. Textiles produced from fine denier are known for soft surface texture, washability, dyeability; resistance to stretching, shrinking, wrinkles, abrasion and moisture. Non-woven fabrics made from fine denier also provides specific functions such as cushioning, thermal and acoustical filtration and sterility.

Vertically integrated fine denier producers like my company strive to run a continuous high volume production process to maintain efficiencies. The nature of production is such that it is very expensive and disruptive to cease and resume production. So maintaining a high level of capacity utilization is critical for producers in our industry.

The fact, plus the nature of the oil and natural gas feedstocks we are dealing with means that our plants much have sophisticated chemical processing equipment and technology. Fine denier production is highly capital intensive. Nan Ya produces a wide variety of types of fine denier including the types Respondents erroneously claimed were not produced in the United States.

We produce a range of thickness of fine denier including thicknesses below 1.5 denier, we produce high tenacity fiber. We produce siliconized fiber. We produce optically bright and fine denier. Despite the ability of Nan Ya and other U.S. Producers to manufacture high quality fine denier we have been harmed by unfairly priced imports from China, India, Korea and Taiwan.

Fine denier is a very price sensitive business. Margins are extremely tight so lower prices of 1 or 2 cents less than our prices greatly impact our bottom line. As a consequence of unfairly low import prices from the Subject Countries, Nan Ya has lost significant sales and market share because we cannot compete with the low price the producers are offering.

Let me give you a concrete example, at Staff Conference one of the Purchasers testified that he had to buy Subject Imports because of the lack of reliable domestic supply. He said he wanted a second source, not lower prices. The problem is that the purchaser is to be gentle and accurate.

Nan Ya had a relationship with this purchaser for many years. We had commitments from them for many truckloads of material. Rather than buy their commitment levels from us, they bought the lower priced imports instead. Why? Lower price. They would rather buy lower-priced imports that take 6-8 weeks to obtain rather than our product which could be delivered in 3-4 days. The purchaser clearly preferred low prices over reliability and convenient second source.

In 2014, we had plans to add 45 million pounds of capacity, hired 25 employees and had made significant investments toward that goal. Instead we took a different strategy to deal with imports. Rather than lower our prices and immediately suffer reduction in profitability we lost some sales. As a result, we had to idle some of our fine denier production leading to a reduction in our fine denier work force. In addition, we have had prolonged reactor shutdowns due to business lost to low-priced imports. This resulted in lower capacity utilization and a less efficient production process. By the end of 2016 it was obvious that this strategy was not sustainable. We had lost sales to imports to such a degree that we had to aggressively reduce our prices in an attempt to stem those lost sales.

As a result, our financial conditions declined in 2017, driven down by price cuts we were forced to take to compete with the low-priced imports.

MR. SPARKMAN: Nan Ya has suffered both lost sales and financial injury from these unfairly traded imports. Simply put, Nan Ya cannot remain competitive in the industry if unfairly traded imports continue to enter the U.S. market and cause injury to Nan Ya's business. Thank you very much.

STATEMENT OF MARK RUDAY

MR. RUDAY: Good morning. My name is Mark Ruday and I am a senior vice president of DAK Americas Fibers business unit. I have spent 26 years in the chemical and fiber industry. I appreciate the opportunity to be here today to tell you about DAK's fine denier business and the injury that imports from China, India, Korea, and Taiwan have caused to our company.

Although this is the first trade case on fine denier that the domestic industry has brought, this is not my first experience with unfairly traded imports. I lived through the previous waves of unfairly traded imports of polyester staple fiber of 3 denier and above.

Because of my experience with the coarse-denier polyester staple fiber cases, I recognized that what our fine denier business has been confronted with is strikingly similar to what I saw many years ago. Surging imports from the subject countries at cut-throat pricing that we simply cannot meet, resulting in a devastating impact on our bottom line.

We know that our customers are choosing subject imports at their unreasonably low prices over our product. They can do this because the subject imports are interchangeable and compete directly with domestically produced fine denier. Customers have told me that they want to continue buying from -- fine denier from us, they value the quality of our product and the services we provide, but they tell us the subject import prices are so low, that they simply cannot turn down those offers.

The subject imports' aggressive underselling has allowed them to capture sales and market share at our expense. As a result, we have either cut our prices to retain sales, and even then have still lost orders. Customers that used to take advantage of DAK's volume discounts switched to subject imports instead because the imports' prices are lower than any discount we could give.

Other customers, including those with whom we have had longstanding relationships, have used any excuse to move to subject imports. At the staff conference last year, I listened to other parties from the other side claim that DAK had not been able to supply them because we closed our Cape Fear facility in North Carolina in 2013.

That is simply not true. The volume that Cape Fear produced for the U.S. market was easily shifted to your Cooper River facility in Moncks Corner, South Carolina with no impact on our supply.

In fact, DAK continues to have excess fine denier capacity to supply even more orders. And by the way, we were forced to close Cape Fear due to unfair import competition which is why they employ that that facility qualified and received trade adjustment assistance.

Respondents have also pointed out the loss of electrical power at our Cooper River site in November of 2015. That resulted in just a 20 name -- day outage for our fine denier production operations. It had virtually no impact on our ability to supply product during that period. We had product in inventory and were able to supply all existing customer orders.

DAK has operated with significant idle capacity over the past several years. So it is a gross overstatement to suggest that domestic supply was significantly constrained based on outage that lasted just 29 days.

What our outage did do was provide an excuse for customers to seek out low-priced import sources. One of our largest customers decided to take the vast majority of his business to subject imports. It was not the case of our customer wanting a second source of supply. Instead, this customer took the bulk of its business to a foreign producer as a sole source. The only sales this customer that we retained were a small volume of a much more technically demanding product.

We were only able to gain some business back from this customer and another who had also moved to imports by reducing our prices to an unsustainably low level in 2017.

While we weren't able to raise our prices to the slightly more reasonable level after we filed this trade case, our customers made it clear that they would go right back to the low-priced subject imports if we lost.

In fact, one customer tried to negotiate the contract with us by suggesting a higher price if we won the case and a lower price if we lost. This shift to buying imports was clearly never about DAK's capacity to supply fine denier, but rather about the allure of low-priced subject imports.

I understand the respondents cite statements in the annual report of our company -- parent company Alpek for the proposition that declining demand caused DAK's problem. First, the statements in the Alpek report address the overall polyester fiber industry, most of which is coarse denier, not fine denier.

Second, it is true that U.S. demand for fine denier declined somewhat in 2016, but not to the degree of our sales decline. What really declined in 2016 was demand for DAK's fine denier product as purchasers shifted to buying subject imports instead.

As I just described, DAK lost one of its major customer in 2016 to the low-priced imports. That loss had nothing to do with overall demand changes.

There is no guarantee of business when we are constantly being undersold by fine denier imports from the subject countries. Customer contracts in this industry are really only price agreements and not volume commitments. That means that with much greater frequency over the past several years, our customers have been choosing to renegotiate, break, or not renew price agreements when faced with low-price import offers. Very often, our customers explicitly asked us to meet or beat a subject import price to keep the business.

These deep discounts have chipped at our margins. Our major operating or our raw materials, Monoethylene Glycol or MEG and purified Terephthalic Acid or PTA.

These raw materials are essentially a pass^^through in the majority of our price agreements. So we have continued to face downward pricing pressure and an impossibly tight squeeze on our margins, the adder to the raw material index prices, no matter what raw material prices we're doing.

We are losing money and we are losing volume. If we cannot cut prices low enough, we lose sales and customers to imports. And we cannot afford to lose sales because we have to maintain high operating rates to maximize efficiency in energy intensive fine denier production. There is no in between for us. We are either producing optimal efficiency or we are shutting down.

I would note that the four producers in the subject countries also face the same dilemma, which is why they have been churning out such massive volumes of fine denier for exports to the United States to be sold at virtually any price.

DAK's financial outlook changed dramatically over the period of investigation. Early on, we felt confident about our ability to obtain acceptable returns on our fine denier investments in the market based on expected growth and demand. In early 2015, we invested several million dollars to upgrade our Cooper River site to add 25 million pounds of fine denier production capacity.

We were only able to utilize that additional capacity for five months before the negative impact of the unfair competition from the subject imports forced us to reduce the speed of equipment and produce less volume.

Around the same time, we invested over $18 million to install new polyester staple fiber in our facility at our Pearl River site in Mississippi. This new expansion of our fiber business was focused on fine denier production. This new capacity of 230 million pounds per year was planning to come on line in the second half of 2016, bringing with it nearly 90 new full time jobs, but unfairly traded subject imports came surging into the U.S. market in the intervening years and we were hit hard. DAK had to make the very difficult decision to postpone this project indefinitely.

We should be able to earn a rate reasonable rate of return on investments in our fine denier business. I could have the new Pearl River facility up and running in nine months if it made economic sense to so. Instead, I am forced to ask whether it makes economic sense to keep producing fine denier at all. Our sales volume is unsustainable, which has led to sharp declines in our capacity utilization in the past several years.

Our margins are under extreme pressure and our profitably has been abysmal. We have already had to make tough decisions that have impacted our employees, including reducing wages and benefits.

The situation is not going to improve on its own. If fine denier imports from China, India, Korea, and Taiwan are not required to trade on fair terms, we will be forced into a partial or complete shutdown of production. We will not be able with stand continuing financial declines and lost market share beyond what we have already suffered.

If prices do not go up, and if our profits do not improve, we will have to shut down. This is not an exaggeration, but an operational reality. If we close our facility, 350 DAK employees and many other supporting personnel will be out of jobs. That will be devastating to the small community of just about 10,000 people in Moncks Corner, South Carolina.

On behalf of DAK and our employees, I urge the Commission to find imports from the four subject countries are causing material injury to the domestic fine denier industry. Thank you.

STATEMENT OF THOMAS BREKOVSKY

MR. BREKOVSKY: Good morning. My name is Tom Brekovsky. I am vice president of Polymer and Fiber for Auriga Polymers, Inc. I've been employed at Auriga and its predecessor companies including Hoechst Celanese, KoSa and INVISTA for almost 30 years. I began my career in the polyester business in 1989 with Hoechst Celanese. I have been in my current position since 2008 and responsible for the polymer and fiber businesses of Auriga.

I am here today because my company is in a tenuous situation due to the large and growing volumes of imports from China, India, Korea, and Taiwan over the past several years. Auriga has been increasingly ^^^^ Auriga has increasingly been faced with low^^priced offers by subject imports during our customer negotiations.

Price is paramount in our customers' purchasing decisions. Our customers are savvy and look at various competitive offers. They use these offers as leverage in our sales and contract negotiations. We are in a situation where we must respond. We either have to lower our price to meet the imports or we have to let go of the business.

Price is the driving force in buying decisions when comparing our product to subject imports. The quality of the imported fine denier products is comparable to ours. If customers can buy fine denier from subject countries at lower prices, they will and indeed have. We are not losing business subject ^^^^ business to subject countries for reasons of quality or inability to supply a product.

Subject import increases also have not been in response to any shortages of supply of fine denier in the U.S. market. Auriga has had available capacity throughout the last three years. In fact, we would like to increase our sales to our customers further, but have been prevented from doing so due to the unfairly low-priced offers by the subject countries.

We cannot remain in business when forced to compete with companies that price our ^^^^ they price below our costs and are willing to undercut our prices however long we reduce them. The low-import quotes have also caused customers to push back against price increases that Auriga has attempted in an effort to improve our profitability.

With the loss in volume to dumped imports, we experienced declines in production and sales since 2015. As we tried to maintain prices, we lost sales to the subject imports. By 2017, we had no choice but to reduce our prices to compete with the imports, which hurt our bottom line.

The import prices remain at extremely low levels that are not sustainable for our company.

I would also note that changes in raw material costs are not the reason for our industry's injury. Our price negotiations generally take into account raw material cost fluctuations through mechanisms that can be adjusted on a monthly basis.

Over the past three years, raw material costs have fluctuated and the pricing within our agreements has allowed our prices to change as well. We are not locked into some other price independent of cost changes.

Instead, it is the lower prices of subject imports that we have to compete against that is harming our prices and our profits.

Demand is also not an explanation for the injury we have suffered. Demand has declined somewhat over the 2014 to 2016, but subject import volumes have taken a larger share of the market, causing our market share to fall and our production shipments to decline.

The fine denier business is highly capital intensive, so maintaining high operating rates to maximize efficiencies is extremely important. The increased volume of subject imports leans to reduced U.S. production of shipments over the period of investigation have not only cost us market share, but have affected our production efficiencies.

We regained a few sales after the case was filed. Without an affirmative determination and relief from the unfair imports that are exported by subject countries with huge capacity, Auriga will face ongoing and substantial business losses. If the Commission does not impose duties, we cannot remain competitive in the fine denier Polyester Staple Fiber market. Thank you.

STATEMENT OF NIK CASSTEVENS

MR. CASSTEVENS: Good morning. My name is Nik Casstevens and I'm the vice president of Palmetto Synthetics, a domestic producer of fine denier polyester staple fiber. I have been with Palmetto for 14 years and have been in the staple fiber industry for over 24 years.

My company is not a petitioner in these unfair trade cases, but Palmetto fully supports this investigation. Palmetto focuses on small runs of less common fine denier staple fibers such as black, colored, and short cut fibers. The damage we have suffered, however, is just as harmful as that experienced by the other domestic producers. The last three years have been especially difficult for Palmetto due to lost sales and declining prices for fine denier during this period.

When I testified at the preliminary conference, our hope was that off-setting, anti-dumping, and countervailing duties on imports from the subject countries would reverse this trend. Frankly, even the preliminary imposition of duties to date has only had modest effect on our volume while prices remain unsustainably low.

Unlike the petitioners, we purchased virgin Polyester Resin from other producers or recycled bottle flake on the open market and used these various forms of Polyester Resin to produce our product lines.

We've produced black fibers, colored fibers, white fibers from both virgin and recycled inputs. For our recycled white fine denier, we purchase recycled and clean bottled flake, which we then melt in extreme. The resulting product as Mr. Sparkman stated is identical whether we use virgin or recycled inputs. In fact, customers would not even know which input was used to make the product unless we told them.

Respondents have argued that there is no U.S. production of shortcut fibers. That is incorrect. In fact, I know William Barnett has several short cut fiber lines in its facility in Kinston, North Carolina. And of course, Palmetto also produces shortcut fine denier.

We began producing shortcut fibers in 2015, but made the choice to limit our production to certain higher end applications, such as siliconized shortcut fiber for insulation, given the dismally low pricing for the commodity-type shortcut polyester staple fibers.

Like other products, imports of shortcut fiber have driven pricing so low that we knew we cannot compete in the commodity market. We have significant available capacity to increase production and sales of shortcut fibers. The only reason we have not sold more shortcut fiber is because of low-priced imports.

Palmetto produces shortcut fibers on the same production lines and with the same employees that we produce our other types of fine denier. Although the packaging process for shortcut fibers is typically different in sacks or in boxes, we have added the ability to also bail our shortcut fibers, just like our other fine denier products. All fine denier is cut to length, so the only difference in so-called shortcut fibers is the shorter length.

Our largest selling product is black fine denier. Generally in the one and a half denier range. We sell our black fiber and colored fiber primarily to yarn spinners who combine our fibers with cotton to make heather yarn. Heather yarn is then made into grey T-shirts and other apparel.

Our black fiber can also be used in 100 percent black polyester yarns. In addition, black fiber is used in non-woven applications, such as thermal bond and needle punch products, where it is mixed with low melt fibers to produce non-woven products for various end uses. Those end uses include insulation, automotive applications like hood, trunk liners, and seat backing.

We compete head to head with fine denier imports in all these color types and have seen our sales of fiber and our prices erode significantly over the last few years. For example, the price for black fine denier has declined dramatically by approximately 50 percent between 2014 and today. Despite dropping our prices significantly, we are still losing sales to imports.

Again, we have available capacity to produce and sell more black fine denier fibers, but can't at current pricing levels. Our total volume on black fine denier has decreased by 33 percent since 2014. The vast majority of that fiber has been replaced from -- by fiber from China and India.

Subject imports have adversely affected our sales of post-consumer recycled and colored fine denier fibers as well. We have seen similar, if not more significant, reduction in volume as well as in pricing.

In many instances, the fiber has landed at close to our raw material cost. These are just a few of examples of our longstanding customers replacing Palmetto's fine denier with subject imports. The continued loss of business and significant erosion in the pricing for fine denier fibers has cost my company both sales and revenues and harmed us in other ways.

In 2015, plans were drawn up and presented to Palmetto for a new fine denier production line. By late 2015, however, market conditions had deteriorated so severely, that our plans to add another black production line had to be shelved indefinitely, along with the jobs that would have been created. We still have not been able to pursue that expansion.

Palmetto is the largest employer in Williamsburg County, South Carolina, along with Nan Ya Plastics, another petitioner in this case that straddles both Florence and Williamsburg Counties. We joined with the petitioners in this case because our business cannot survive under these conditions. We hope that the Commission will take action to reverse the injurious effects imports have had on our ability to preserve the jobs of workers and the profitability of our company. Thank you.

STATEMENT OF KATHLEEN W. CANNON

MS. CANNON: Good morning. I'm Kathleen Cannon of Kelley Drye, and I will conclude our presentation by summarizing the main arguments on behalf of the Petitioners in this case.

First, the like product should be defined to mirror the scope of this investigation and consist of fine denier polyester staple fiber. This definition was adopted by the Commission preliminarily based on its six factor test and is supported by the final record of this case. The Chinese producers state that they accept the Commission's single like product definition.

Reliance argues that black fiber, short cuts of fiber and siliconized fiber are each different like products. Reliance's arguments, however, are predicated on the product that Reliance produces in its production process and facilities in India. Legally, the domestic like product must be defined based on the domestic product and the U.S. production operations, not those of the foreign producer.

As Mr. Casstevens just testified, Palmetto produces black fine denier and short cuts of fine denier in the United States in the same facilities using the same processes as other fine denier, and the physical characteristics of the products are largely the same. The minor variations of color, length or silicon coating are inefficient to distinguish these fiber types as different like products.

Based on this like product definition, the domestic industry consists of all U.S. producers of fine denier, as shown on Chart 3. The main producers of fine denier are the three petitioners, DAK, Auriga and Nan Ya, as well as Palmetto Synthetics and William Barnett and Sons.

Barnett is a U.S. producer of short-cut fiber.

Respondents agree that no company should be excluded from the domestic industry as a related party. As shown on Chart 4, the statutory negligibility threshold is met for each subject country.

Next, cumulation. The Commission should continue to cumulate imports from all subject countries as it did preliminarily, given the reasonable overlapping competition as shown on Chart 5. The Chinese producers do not challenge cumulation, but Reliance urges that India be decumulated. In fact, there is significant overlap in the U.S. commercial market, both in sales of black fiber from India, as you heard Mr. Casstevens testify, and in sales of other types of fiber from India.

I would refer you to Appendix D and Section 5 of the prehearing report for indications of some of that overlap. Much of this information is confidential, so we will address it further in our post-hearing brief. But I would note that this overlap exists even excluding the re-exported imports on which Reliance focuses. Let me turn now to the three statutory factors of volume, price and impact. As you see in Chart 6, and I'm now referring to your pink handout, because most of this is confidential, the volume of imports from the subject countries is substantial on an absolute basis.

Subject imports accounted for the vast majority of all imports in 2016. As shown in Chart 7, the subject imports also increased significantly in volume from 2014 to 2016. You see substantial growth on both a pound and a percentage basis. As shown in Chart 8, as a share of the U.S. market, subject imports are sizable and surging. Over the past three years, there's been a slight demand decline for fine denier, yet the subject imports continue to grow.

That allowed subject imports to substantially increase their market share from an already significant base. One important condition of competition here is the significant level of direct imports from foreign producers. We are seeing direct imports increasingly across many cases, as customers avoid paying a markup to another importer or selling agent and benefit to an even greater degree by sourcing the low-priced imports directly from the foreign producer.

Here too, direct imports accounted for the largest volume of imports in the pricing products reported. The Commission has recognized in sugar and in other cases that it should look at direct import prices where, as here, those prices account for the majority of the reported import sales in the pricing products. Respondents would have you ignore these direct import prices, claiming they are at a different level of trade from U.S. prices. But as we explained in our brief, the landed duty-paid values at U.S. ports that the importers reported are at the exact same level as the U.S. FOB plant prices reported by U.S. producers.

As Chart 10 shows, direct imports are consistently sold at prices below those of U.S. producers. That is true both on a quarterly basis and to an even greater degree on a volume basis. Even if you were to adjust the direct import prices by the small percentage of additional costs that the importers reported, which we don't think is appropriate, you would still find substantial underselling.

The quarterly pricing data on indirect sales made through importers show a mixed pattern of overselling and underselling. Chart 11 aggregates the direct and indirect import price comparisons. The results is predominant underselling by subject imports, both by volume and by quarter. This extensive underselling by subject imports is inconsistent with Respondent claims of U.S. supply constraints.

Tight supply would allow imports to sell at higher prices. That they wore instead undercutting U.S. producer prices this extensively indicates it was price, not supply, that was driving these sales. Purchasers confirm that the subject imports were lower priced and that they shifted significant purchases to subject imports due to price. As you see on Chart 12, 23 purchasers reported shifting purchases of fine denier from domestic producers to subject imports. Fifteen conceded that the import prices were lower; 11 stated that price was the primary reason for the purchase.

The total volume that they admitted shifting due to price was more than 36 million pounds, and note that in order to shift from the U.S. product to subject imports, the U.S. producer had to be selling fine denier of a competitive type with subject imports. This table reaffirms both the direct competition between the domestic product and subject imports, as well as the importance of price in purchasers' decisions to buy the imports instead of the U.S. product.

Confidential Chart 13 shows that the lower priced import did not only cause U.S. producer to lose sales, they also depressed U.S. producer prices. Substantial price declines took place between first quarter 2014 and third quarter 2017 in each of the price descriptors for which the Commission collected data. While Respondents try to blame the declining costs entirely for this price decline, the data show that the U.S. prices declined by more than cost, leading to the industry's financial downturn.

Purchasers also reported that the domestic industry reduced prices during the period to compete with subject imports, as you see on Confidential Chart 14. Again, if the subject imports were products that the U.S. producers could not supply as Respondents claim, why would the domestic producers agree to reduce their prices to compete with subject imports? The adverse impact of these surging volumes of low-priced imports on the domestic industry has been severe.

Chart 15 shows the substantial reductions in key trade variables, production, shipments and capacity utilization that the industry has suffered. The one variable that increased significantly was U.S. inventories, as producers were increasingly unable to sell products. Producers had available capacity and available product in inventory, but they suffered sales declines because of the surging volumes of unfair imports, again reemphasizing that none of these impacts would have occurred if the domestic industry were not competing against the subject imports.

As Chart 16 shows, the industry's financial variables plummeted to an even greater degree. The industry experienced substantial declines in net sales and in all profit variables, growth, net and operating profits. The decline in the industry's net and operating profits, as shown in Chart 16 on a dollars basis, is staggering. The ratio of profits to net sales is abysmal and unsustainable.

The injury the industry suffered over the three year period continued in interim 2017. Subject import volumes declined only slightly from interim 2016 levels, so their overall market share continued at a level well above their 2014 level, while the U.S. industry's share remained depressed. Domestic prices remained low, profits anemic and capacity underutilized in 2017, a period well after the alleged supply constraints that the Respondents cite.

You heard the industry witnesses describe some of the negative effects their companies have suffered due to subject imports. Production curtailments, cancelled investment projects, idled operations, the potential need to shut down operations entirely and resulting job losses. Chart 18 provides more specifics on those effects.

The causal nexus between the domestic industry's injury and the subject imports is strong. As shown in Chart 19, subject imports directly displaced U.S. market share over the period of investigation. The gain in subject import market share and resultant loss in domestic industry share is sizeable. All, all of the market share the U.S. industry lost was to the subject imports.

This shift is not simply subject imports gaining ground in a few specialty types of fine denier not supplied by the domestic industry. This is an almost one for one shift away from domestic producers to the subject imports instead in just two years. Other factors cannot be blamed for the industry's trade and financial decline. As shown in Chart 20, non-subject imports are a small and declining part of the U.S. market. In fact, the non-subject imports lost market share to the subject imports too over the period.

Chart 21 shows the demand for fine denier declined over the period, but not nearly to the same degree as the U.S. industry's production and shipments. The reason U.S. production and shipments fell to a greater degree than demand is explained by Chart 22. Even while demand declined, subject imports surged rapidly into the U.S. market, resulting in significant market share increases to the detriment of competing U.S. producers.

This surge in low-priced subject imports results in lost U.S. sales, reduced domestic production, idled capacity, declining revenue and plunging industry profits. So how do Respondents explain this import surge in a declining market. They claim that the subject imports were pulled into this market, both by U.S. industry overall supply constraints and by the lack of U.S. production of certain types of fine denier.

Chart 23 addresses the supply constraint claim. Data in your prehearing report show that the domestic industry has operated with increasing levels of idle capacity over the Period of Investigation. The DAK outage lasted only 29 days, and both DAK and other U.S. producers met purchaser needs during that period. The outage was simply an excuse for some purchasers to buy low-priced imports. Those purchasers would not agree to buy the U.S. product at reasonable prices until after we filed this case and provisional duties were looming.

The increase in U.S. inventory levels over the period further belies claims that there was no domestic product available. Further, if a supply constraints truly existed, subject imports should have been sold at a premium, not at prices well below the U.S. producer prices.

Respondents also focus extensively on imports of certain types of fine denier that they claim they were forced to import because the domestic industry doesn't make these products. Chart 24 reviews those product types. Regarding the post-consumer recycled product, as you hear our industry witnesses testify, whether fine denier is made from virgin or recycled material, it is completely interchangeable. Customers do not even know the inputs without being told.

To the extent there is some small niche of customers that specifically seek a recycled input, domestic producer Palmetto is able to supply that. With respect to black fiber, while Respondents argue that domestic producers do not make black fiber, you heard Mr. Casstevens testify about Palmetto's production and sale of this product. Palmetto would like to sell more black fiber and even explored a capacity expansion, and has current idle capacity to make more black fiber. But it cannot increase its sales of black fiber because of the low-priced import competition.

Further, your database shows that this product comprises a very small share of the overall fine denier market and cannot explain the import surge. Finally, Respondents argue about the need to import shortcut fibers. But two U.S. producers, Palmetto and Barnett, produce shortcut fiber. Domestic shortcut fiber sales are also adversely affected by the low prices of subject imports, as Mr. Casstevens testified, preventing more U.S. sales of this type of fiber as well.

Reliance focuses heavily on re-exported import volumes from India and arguing that there are minimal imports sold in the U.S. market. We agree with Respondents that volumes of imports that are re-exported should not be counted as U.S. commercial shipments. But Respondents' calculations are faulty because they are mixing databases. If the Commission adjusts for re-exported volumes, as you see in our Confidential Chart 25, it must use the volume data reported in the questionnaires too and not the very different and lower volumes in the Census data, because the Census data already exclude the re-exported product.

Chart 25 shows the India import volumes and market shares based on questionnaire data adjusted to remove re-exports. As you see, these market shares remain significant and increasing, both for India individually and for the subject imports overall. Other record data confirm that subject imports are not isolated in niche products. Chart 26 shows the volume of subject reported were products in pricing descriptors 1 through 4 of the Commission's database.

There is direct competition between the U.S. product and subject imports in each of these product types. The volumes of just these four product types accounted for the majority of subject imports over the Period of Investigation. Subject imports are not surging because they are selling different types of fine denier unavailable from U.S. producers. They are gaining ground because they undercut U.S. producer prices on the vast majority of sales.

Nor will the industry's condition improve absent relief. In this final phase of the case, the Commission has received no questionnaire responses from subject producers in Korea or Taiwan. For Taiwan, we urge you use the data the subject producers submitted preliminarily, along with supplemental information we've provided.

While your database is incomplete, as you see in Chart 27, the data that the subject foreign producers have submitted shows sizeable capacity and significant idle capacity available that would be able to supply a substantial part of the U.S. market. Further, the subject producers are export-oriented. As Chart 28 shows, China, India, Korea and Taiwan are four of the top five global exporters of polyester staple fiber, and shown in Chart 29, the United States is the number one export market for polyester staple fiber exports by every one of the subject countries.

Given the highly vulnerable condition of the U.S. industry, the facts pose an imminent threat of further injury to the domestic industry. Relief from these injurious trading practices is badly needed. Thank you. That concludes our testimony, and we would be happy to answer your questions.

CHAIRMAN SCHMIDTLEIN: Okay. Thank you all very much. I'd like to thank all the witnesses for being here today to help us understand this case, and we will begin the questioning with Vice Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you Chairman

Schmidtlein, and I would like to thank all of you for appearing here today. I would also like to welcome a new member of my staff, Herman Corsino, who is sitting behind me. Herman worked as a legal clerk in my office last spring. He practiced intellectual property law for six years in Puerto Rico, and he got an LLM last year at Georgetown University and I'd like to welcome him back.

To begin with my questions, you state in your prehearing brief that demand increased over the Period of Investigation. This statement is based on shipment data from the C table of the staff report. However, firm responses paint a very different picture, with the vast majority of reported overselling increasing with demand over the Period of Investigation. How do you square these different interpretations in demand trends?

MS. CANNON: Kathy Cannon. I think that you're probably hearing about different aspects of the market, Commissioner Johanson, and some are going up and some are going down, and overall we're seeing a slight decrease in the market. But I can certainly ask the industry witnesses if they'd like to elaborate further on where they're seeing some of the bright spots and some of the downturns.

MR. SPARKMAN: Michael Sparkman. It is true that we've seen some bright spots in our industry. But overall, we do continue to see decline for demand for our products. Obviously the bright spots would be in the non-woven industry. These are primarily going into products such as wipes or drapery or other items. A lot of these are short use items that get disposed of rather quickly, and so they tend to generate increased demand.

Obviously in the wipes industry, that seems to continue to grow and grow. In the textile industry, where fibers are knit or woven into fabrics for clothing, those especially in the weaving side have continued to decline as more products, more interest outside of -- outside of clothing for discretionary income, as well as maybe some push into the knit sector.

VICE CHAIRMAN JOHANSON: Okay. Mr. Brekovsky, go ahead.

MR. BREKOVSKY: Tom Brekovsky. No, I just wanted to add too, Mr. Sparkman had said that non-wovens was an area of strength and but specifically for us, we sell into that area and we have not seen that trend. We've actually seen it decline over the period for the non-wovens.

MS. CANNON: Kathy Cannon. Let me just add one other thing, Commissioner Johanson. When we were discussing this and Mr. Ruday's testimony alluded to this as well. When the Commission asks about demand, often the companies think about demand in terms of demand for their product and not specifically demand overall for the market. So often the responses are demand for my product is down, because they're losing product sales to imports.

So they're not necessarily suggesting overall consumption in the way the Commission looks at it. They're talking about demand for their product being down because they are not able to sell as low-priced imports take more and more of their sales and they're being specific to their company, and that was true with respect to some of the comments in the annual report, as Mr. Ruday testified for DAK.

VICE CHAIRMAN JOHANSON: Okay, so Mr. Rosenthal?

MR. ROSENTHAL: So when we talk about demand declining, we're looking at the same database that you are because that's an aggregate of all the different experiences and shipment data that we see, and you can see. So that's the most objective measure of demand we've got, as opposed to the subjective measures of purchasers and customers saying well my sales are up, or my sales are down. What we see in the record is the aggregate. And it's declining slightly, demand.

VICE CHAIRMAN JOHANSON: Okay. Thank you for your responses. I just was a little confused when preparing for the hearing because rarely do the parties disagree on something as basic as whether or not demand is up or down.

So that struck me immediately.

Could you all please clarify your argument on how the Commission should use direct import data in making its overselling or underselling analysis?

You state that: In your opinion, direct imports and commercial shipments should be considered at the same level of trade.

Please help us understand your argument on how the Commission should compare the direct import purchase cost data to producers' price data.

MS. CANNON: Kathy Cannon. Yes, they are at the same level of trade. And I think part of the confusion as to them being at potentially different levels of trade was generated by initial language in the Commission's questionnaire that talked about purchase cost data, which implied that you were really looking at simply a price that was paid by an importer to the foreign producer without taking into account the cost to bring it to the United States.

But when we look more closely at the specific language of the importer questionnaire, your questionnaire directs the importer to report a landed duty paid value that include all of the costs to clear the product through Customs.

So the importers are in those pricing data reporting essentially an FOB port price. They're adding in their Customs duties. They're adding in ocean freight. All of those components of their costs are included in the landed duty paid prices that are in the importer data, which make them analogous to the FOB plant prices that the U.S. producers report, both of which exclude U.S. inland freight. So you still have apples to apples.

And in fact the one thing the Commission staff did in this case, in response to some comments we filed on the questionnaire, was to make explicit when asking were there any additional costs incurred that you were not to include if you were an importer any of those other costs like ocean freight. And you will see in your database, summarized in our chart on direct imports, that the additional costs that were reported now are very minimal.

So even though we think those additional costs like warehousing are already subsumed, even if you look at them they aren't very much. So at this point basically the importers are agreeing that those prices that they're reporting and the prices we're reporting are about the same. There aren't really these additional cost elements that would suggest a different level of trade, as the Commission had believed in the past based on the way that these data are specifically being requested in that questionnaire.

VICE CHAIRMAN JOHANSON: Thank you, Ms. Cannon.

Can you please comment on the role of raw materials in setting prices?

This industry appears to have relatively high raw material costs as a share of the costs of goods sold, and there appears to be some correlation between raw material price trends and fine denier PSF trends.

It was also mentioned by a number of firms in questionnaire data that there is at least a close relationship. Can you please expand on what in your view that relationship is?

MR. RUDAY: So, Mark Ruday, DAK Americas. There is a very close relationship between raw materials and the pricing of the products. The way the product is priced the majority of the time is based on movements in raw materials to published indexes, plus an adder, or what we could consider an adder or a conversion fee.

So most pricing moves in lockstep with raw materials, but then there is stressful negotiations on the adder. And that's where subject imports, when you see pricing from subject imports, you're getting attacked, or you're getting pressure on the adders. And thus raw materials are passed through, but then the adders are continuing to decline over the last couple of years due to the subject imports.

VICE CHAIRMAN JOHANSON: And there have indeed been declines in raw material prices; correct?

MR. RUDAY: There have been both increases and decreases in raw materials over the subject period. It's the adder that is negotiated and where the pressures arise.

VICE CHAIRMAN JOHANSON: Okay.

MR. RUDAY: Raw materials make up about 75 percent of the--you know, or more of the product cost, depending on the price of the raw materials.

VICE CHAIRMAN JOHANSON: Okay. Thank you, Mr. Ruday.

And the yellow light is now on, so I will come back to you all in couple of minutes, unless you have anything else to add on raw material costs?

(No response.)

VICE CHAIRMAN JOHANSON: No? Okay, thank you.

CHAIRMAN SCHMIDTLEIN: Okay, Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you, Madam Chairman. And I do want to express my appreciation to all the witnesses for coming today and presenting your testimony.

I'll start off with a few questions about the sheer cut, black, and PCR products. Why isn't there more production for PCR sheer cut and black or colored PSF and silicone micro dernier?

I understand Mr. Casstevens talked about that from their company, but in general does somebody want to talk about that?

MR. CASSTEVENS: Nik Casstevens, yes. For most of those products, for the black in particular, we operate from an extruder-forward position. As where the Petitioners operate from a chemical base. So the contamination opportunity for the chemical base producers is much greater than it is for us. So it allows us to do a lot more specialized products.

COMMISSIONER WILLIAMSON: Does that mean that--so these specialized products are produced on a separate production line? Or is it--

MR. CASSTEVENS: No. All of our production lines are the same, and we can manufacture these products on all of our equipment.

COMMISSIONER WILLIAMSON: Okay--

MR. RUDAY: So let me clarify. These specific products you're referring to can be made on the same lines that make other fine denier products. They may require certain tweaks or investments of equipment, or higher costs and/or potential, you know, in the case of black, protection against potential contamination.

So we could at DAK Americas make those investments in equipment to make those products, whatever the means are, to protect from other fine deniers, but we've never been able, due to the pricing in the industry almost solely from subject imports, we've never been able to justify such an investment.

So it has never been to the extent from an economic rate of return our ability to make investments to make those products due to the low priced subject imports in those areas.

COMMISSIONER WILLIAMSON: Okay, but what's the--Mr. Casstevens is starting with a product that's already been--you're starting with a different product than the other--

MR. CASSTEVENS: Nik Casstevens. At Palmetto we start with a PET resin which we purchase, as I mentioned in my testimony, from PET producers.

COMMISSIONER WILLIAMSON: Okay. So--

MR. RUDAY: So let me clarify. Mr. Casstevens--

COMMISSIONER WILLIAMSON: I don't think we did a tour for this product, so--

MR. RUDAY: Mark Ruday, DAK Americas. So let me clarify. Mr. Casstevens starts with a chip that is made of 100 percent polyester, and then he extrudes that chip, melts it back down and spins it.

COMMISSIONER WILLIAMSON: Okay.

MR. RUDAY: Whereas, the rest of the Petitioners, we actually have a chemical process which still makes polyester, it makes the exact same product that Mr. Casstevens starts with, but we start from a chemical process where we make the chip but instead of actually forming a chip we just spin it directly.

So it's the exact same chemical composition. It's the exact same raw materials in the end. We just start a little bit further back in with the chemical process.

COMMISSIONER WILLIAMSON: Okay, and because of that...

MR. RUDAY: Because of that chemical process--

COMMISSIONER WILLIAMSON: 530A or something like that, it's going to be--

MR. RUDAY: It's much easier to add--for example, it's much easier to add black to a chip than it is to a chemical process and have it all cleaned up.

COMMISSIONER WILLIAMSON: Okay. Tours have been extremely valuable for this job.

MR. SPARKMAN: Mr. Commissioner--Michael Sparkman with Nan Ya Plastics. I'd just like to state again for the record that we make siliconized fiber.

COMMISSIONER WILLIAMSON: Okay.

MR. SPARKMAN: And we make siliconized fiber on the exact same lines that we make all of our fine denier products. There is no--we don't have to make any difference in how we process that product to make a siliconized fibers. Only a slight change in the coating at the very last step of the process that makes it siliconized versus something else on that.

We've also looked at doing black, and shortcut fibers as well. And again, similar to as what Mr. Ruday testified, they would require some investment. But right now we can't even make return on the current investment that we have because of the low price.

COMMISSIONER WILLIAMSON: Okay. Go ahead.

MR. ROSENTHAL: Paul Rosenthal. There is one important point in Mr. Casstevens' testimony I think that bears reemphasis. And that is, when you look at the percentage of the market that is for example black fiber, it would be pretty small. You also see in your staff report how much is produced in the U.S. and sold in the U.S.

What Mr. Casstevens testified was that they actually have the capacity to make and sell a lot more. And, to supply a greater share of the U.S. market for that black fiber. And I would argue the same is true of shortcut fiber between Mr. Casstevens' company and also William Barnett and Company.

The reason why that additional supply isn't being sold by U.S. producers is because of the low-priced imports. So in one way, when you look at the staff report--and I did-

-we don't supply much of the market on those. And the answer is not because we can't but because of the import competition.

COMMISSIONER WILLIAMSON: Okay. And Mr. Casstevens, how long has your company been around?

MR. CASSTEVENS: Our company was founded in 1998, and we've been selling black polyester in particular since 2001 into the market, and haven't seen the negative pressure on pricing that we've seen in the last three years ever before.

COMMISSIONER WILLIAMSON: Thank you. And I guess everybody is either in South Carolina and North Carolina--everybody is in South Carolina and North Carolina. So I guess people know who is producing what there. Is that a fair statement?

MR. CASSTEVENS: Yes, sir, that would be a fair statement.

COMMISSIONER WILLIAMSON: Okay, thank you. I just wanted to make sure I understood that.

Maybe for you, Mr. Casstevens, how does the--and maybe for others who make more than one product--how do you allocate your production capacity between subject and nonsubject--actually, this is for everybody--between subject and nonsubject product?

MR. RUDAY: So all of our equipment can produce any of the products, can produce both subject and nonsubject, so essentially we allocate our capacity based on price. So where price is the determinant, or the margin is the major determining factor in what we--how we allocate our production capacity. And when subject imports are at low pricing, we may allocate our capacity in a different methodology, or we can change the capacity very simply in a day or less back to a different product.

COMMISSIONER WILLIAMSON: Okay, thank you. Actually going back, the PCR, is that--we talked about the black and the silicon, but what about PCR? Is that something that everybody could use--could make if there's demand?

MR. SPARKMAN: The PCR can be added to the product. It would be extruded and then added to the molten polymer by any of us.

COMMISSIONER WILLIAMSON: Okay.

MR. SPARKMAN: But we don't do that because there are additional costs. And again, we can't compete with products that don't have the higher cost input such as PCR. It would be even more difficult to do so with a higher cost input.

COMMISSIONER WILLIAMSON: Okay. And is an adequate available supply of post-consumer waste in the U.S. to make PCR in the U.S.?

MR. CASSTEVENS: There is an adequate supply--

COMMISSIONER WILLIAMSON: I mean I used to work at the Port Authority in New York and New Jersey, and one of our major exports was scrap waste and things like that. So--

MR. CASSTEVENS: Nik Casstevens. There is an adequate supply for the current demand in the U.S. There's not more PCR fiber made in the U.S. because the pricing on the imports is so low you can't compete. The supply chain to get the resin, or to get the flake is a costly supply chain.

COMMISSIONER WILLIAMSON: I'm sorry? Why is it so costly?

MR. CASSTEVENS: Collection. Washing. Cleaning. So there's several steps to the process before you have clean flake to make a high-quality PCR fiber.

COMMISSIONER WILLIAMSON: So things that are made overseas, are they getting--is that process for them cheaper, possibly?

MR. CASSTEVENS: Possibly. Also the quality of the bottles that come in, the quality of the fiber, the color. The products here in the U.S., because of the less PVC contamination, less glue, it costs, the raw material are more. So the selling price of the fiber is more.

MR. ROSENTHAL: Commissioner Williamson, I think it's fair to say that there are ultimate customers in the U.S., some high-end retailers, who will pay the additional price because they want to say to their customers that there's a certain amount of post-consumer recycled material in their product.

But the vast majority of companies are not willing to pay the increased price for that. And so the U.S. producers have a hard time competing against low-priced imports who aren't charging that much for their inputs.

COMMISSIONER WILLIAMSON: We were talking before about a PCR shoe, the price of that, so I hear what you're saying.

MR. RUDAY: Mark Ruday with DAK Americas. This is a follow-up. DAK Americas actually has a PCR, a very large PCR facility where we do recycle bottles back into flake that can be used into either making fiber or making back into bottles, or making carpet, or different applications. We have never been able to make the economics work--economics, or pricing, due to low prices, of making that work into our facility, even though it could be extruded into the--to make fiber. It's never economically worked and we could never justify the additional investment, even though we have a large site that's not running 100 percent today in the PCR business.

COMMISSIONER WILLIAMSON: Okay.

MR. ROSENTHAL: It took me a long time to figure out, when they were talking about the PCR, they weren't referring to me.

(Laughter.)

COMMISSIONER WILLIAMSON: I have no further questions. Thank you.

CHAIRMAN SCHMIDTLEIN: We could start using that, though.

(Laughter.)

CHAIRMAN SCHMIDTLEIN: To follow up on these questions about the specialized products, Mr. Rosenthal--we'll stick with Mr. Rosenthal for now--you were just talking about the fact that U.S. producers could produce more of each of these.

And so I just wanted to understand that a little more, because--and I know this is all bracketed--but it appears in the staff report, the charts on pages roman numeral IV-11 through 17, right? There are various tables showing what the U.S. shipments were from U.S. producers, and then U.S. importers from the subject countries.

And so my first question I guess is do each of the four U.S. producers have the capacity to make all of these products? Or are we talking about it's specific to one or two of the companies?

MR. ROSENTHAL: Each of them do not have the capacity to produce each of the products.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. ROSENTHAL: And some of them, like Mr. Casstevens' company, can produce each of those, but they are smaller. But they can produce a lot more. Some of them don't have the current capacity to produce those, but with some additional equipment they could if the price were right. And I'm summarizing the testimony and my understanding right now.

CHAIRMAN SCHMIDTLEIN: Okay. So if you could just unpack that for me. So Palmetto Synthetics produces right now black and colored. Is that right?

MR. CASSTEVENS: We currently produce all the fibers that have been mentioned--shortcut, black, colored, and PCR. Yes, ma'am.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, and--

MR. CASSTEVENS: And we have chosen not produce more because of the current pricing levels of the imports coming in.

CHAIRMAN SCHMIDTLEIN: Okay. So do you produce what I guess I call the nonspecialized, then? Or your shipments have just gone down? When you say you've chosen not produce more, you haven't shifted to a different type?

MR. CASSTEVENS: We have shifted some production to other products not defined in your arena.

CHAIRMAN SCHMIDTLEIN: I see. So not part of the scope here.

MR. CASSTEVENS: Yes.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, and so for the other companies here, can you tell me what you produce of the specialized products?

MR. RUDAY: Mark Ruday, DAK Americas. We currently do not produce any of the three products you mentioned. We could produce black fibers today. We have not chosen to produce that due to the low pricing and the costs. We would have to have small investments to produce both the siliconized and the shortcut.

CHAIRMAN SCHMIDTLEIN: But for black you wouldn't have to make any changes?

MR. RUDAY: For black we would not have to make any additional investments other than to purchase certain raw materials that we already have equipment to input into, yes.

MR. SPARKMAN: Michael Sparkman from Nan Ya. Again, the one specialized--the kind being excluded was--but was mentioned by the defendant counsel this morning was the siliconized fiber. And we do manufacture the siliconized fiber. In fact, we could cover the entire need plus of that product.

Additionally, we have done studies to look into producing black, to look into producing PCR, to look into producing shortcut fibers. These are products that we would love to get into, as well.

But again, our studies have revealed that the low-cost price of the import prohibits us from making that investment.

CHAIRMAN SCHMIDTLEIN: So when did you start looking into that? When did you begin those studies?

MR. SPARKMAN: Not each one at the same time.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. SPARKMAN: We looked at shortcut probably, honestly, before I even came to sales as a technical service. We looked at shortcut. We've been looking at black for--

CHAIRMAN SCHMIDTLEIN: So would that have been within the last year or two years, three years?

MR. SPARKMAN: No, that would have been 10 years ago.

CHAIRMAN SCHMIDTLEIN: Oh, 10 years ago? Okay.

MR. SPARKMAN: We looked --but we looked at black within the last three to four years, especially as demand for black has, at least in our opinion, has been increasing.

We have been approached by several of our customers over the last few years inquiring about recycle, and coming to me and saying: Mr. Sparkman, can Nan Ya make recycle for us?

And the fact of the matter is that once we go into what the costs of that recycle would be, the customer has lost interest in the product.

CHAIRMAN SCHMIDTLEIN: And would you have to make any changes to your equipment to manufacture any of these?

MR. SPARKMAN: Each one would require just slight equipment changes. Shortcut would require a slightly different packaging system for it.

We would have to add some small extruder lines to inject the black or the PCR into the feedstream.

CHAIRMAN SCHMIDTLEIN: Okay.

Thank you--

MR. BREKOVSKY: Tom Brekovsky, Auriga Polymers. No, we do not produce black siliconized or shortcut today. I think it's similar. We could if we made the investment. PCR we have the capacity to produce PCR today. We produce very small amounts. We could produce more if needed. But the other three we don't produce today.

CHAIRMAN SCHMIDTLEIN: And can you give me some context for what type of investments would be required to produce the other three?

MR. BREKOVSKY: As Auriga we haven't seriously looked at investments for those other three, so I couldn't comment on that.

CHAIRMAN SCHMIDTLEIN: Okay. Maybe Mr. Sparkman, you said you all have looked at it. So can you give me a ballpark of what you're talking about when you say it would require some small investments?

MR. SPARKMAN: You're referring to financially?

CHAIRMAN SCHMIDTLEIN: Yes.

MR. SPARKMAN: Could we do that posthearing?

CHAIRMAN SCHMIDTLEIN: Certainly. Yes. And I think it would be helpful just to understand, too, whether that would require additional training for your employees. You know, is the process similar? Just what the changes would be would be helpful.

MS. BECK: Commissioner Schmidtlein, just to add Gina Beck from GES. In addition, to Palmetto currently producing short cut another U.S. producer, Barnett, is also producing

CHAIRMAN SCHMIDTLEIN: Okay, that's helpful. Alright let me switch gears a little bit. I still have a few minutes left. To go back to the conversation about the price declines and I believe Vice-Chairman Johanson asked about the relationship with raw material costs and so forth. And in the summary, I think, Ms. Cannon, you talked about that the data showed that prices have gone down more than cost and so I assume you're talking about -- are you talking about the data in the staff report at VI-V, this is where you get the breakout of the changes in AUVs versus the changes in the raw materials and COGs?

MS. CANNON: Yes.

CHAIRMAN SCHMIDTLEIN: Okay. So one question I had is given -- you know this is all bracketed information, but it's pretty close and show how should the Commission, though, take that into account in terms of these decreases and the fact that we've got demand going down. So how can we -- for price declines how can we be confident that we're not attributing a price decline to subject imports that should be attributed to the combination of the decrease in demand with these changes in cost given how close they are?

MS. CANNON: Alright, well, I would say the demand chart we showed which shows that the demand decline, while it's gone down some, it's not nearly gone down as much as the domestic production and gemans have gone down. We're experiencing a much greater volume effect, which is also affecting our financials, so it's pulled down.

The surge in the subject imports that happened while you were losing demand in the market affected our volumes as well. So we kind of got a double whammy here. We had somewhat of a demand climb, but a surge in subject imports causing U.S. production and shipments to fall to a far greater degree than demand fell accompanied by, as you saw in the pricing table we provided, extensive underselling.

I mean the underselling is rampant, so you see that the subject imports in virtually almost all the comparisons you've got on the volumes are underselling. And when you have that type of behavior going on it's hard to assume that this small decline in demand is what caused the industry's financial condition to deteriorate the staggering affect that it did.

Instead, I would suggest that the combination of these really significant plunging volume affects where we lost so much sales accompanied by that underselling of imports that, as you heard Mr. Ruday testify, prevented them not only from increasing their adders, but forced those adders down. That was the one part of their price that they can control combine is really what is causing the financial effects that are so severe that you're seeing in the database.

MR. ROSENTHAL: Commissioner, I just want to add one thing. If you got to Chart 14 in our confidential charts this is corroboration for what my colleague, Ms. Cannon, said. The purchasers are telling you that the domestic producers lowered their prices to compete with subject imports. So that to me basically puts the nail in the coffin of Respondents' arguments that all that's happening is that the industry is responding to demand declines or just moving its prices in accordance with the changing raw material prices or costs.

CHAIRMAN SCHMIDTLEIN: But you all don't dispute that changes in raw material prices have an affect on the price.

MR. ROSENTHAL: Oh, no. In fact, we totally agree with that. The prices have gone up. They've gone down. Because, as Mr. Ruday testified, raw material costs and their formulas account for about 75 percent of the price.

The problem is that the adder, the actual margins that you get for the -- the profits you get or the payment you get for the fabrication of those raw materials has been squeezed and that's why the profitability has declined.

CHAIRMAN SCHMIDTLEIN: Okay, alright, thank you. Vice-Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein. My colleagues, Chairman Schmidtlein and Commissioner Williamson were speaking were earlier about different products that are issue today and I have a question regarding shortcut fibers. What makes a fiber shortcut? Is it the length defined by the classification, such as ASTM standards or other industry standards?

MR. SPARKMAN: Shortcut, Commissioner, is exactly what it sounds like; the fiber is cut to a very short length, typically, between 5 and 10 millimeters where a more standard cut would be 37 to 38 millimeters.

VICE CHAIRMAN JOHANSON: So there are no official standards, though, which provide that classification?

MR. SPARKMAN: I'm going to defer to Mr. Casstevens.

VICE CHAIRMAN JOHANSON: Okay.

MR. CASSTEVENS: I'm not sure if there is an ASTM standard, but shortcut, as Mr. Sparkman said, 5 to 10 millimeters is sort of the industry terminology.

VICE CHAIRMAN JOHANSON: Okay, so folks in your industry they agree upon what this is.

MR. CASSTEVENS: Yes.

VICE CHAIRMAN JOHANSON: Okay, thanks for that clarification.

Chinese Respondents have alleged that there have been no significant lost sales or lost revenue in the domestic industry during the period of investigation. This can be seen in the Chinese brief at page 2. Could you all please respond?

MS. CANNON: The product shifting table that we showed you I think is pretty convincing evidence of sales that were shifted from the U.S. industry to the subject imports that a significant volume purchasers admitted were due to price. Their contention that there weren't lost sales is reflected in some comments of purchasers that are confidential. I can't go into specifically, but a lot of them were with respect to comments about supply constraints. And as you've heard from our industry witnesses today, the 29-day outage at DAK is not a supply constraint that would have allowed the significant surge in subject import volumes that you're seeing. So even though purchasers may have cited to that antidotal, and therefore denied that there was a lost sale due to price, which is why it shows up that way in the table, in fact, they admitted for most of them that they were lower prices.

You see there's a significant volume shift and the information shows that the supply was very much available from the U.S. industry, which our industry witnesses could elaborate on if you would like to hear more about that.

MR. ROSENTHAL: Commissioner Johanson, I think that one of the helpful things about the questionnaire instrument that you're using is that you've gotten a little bit further away from the totally subjective lost sales confirmations that were used in the past where a purchaser would when asked whether a sale was lost based on a fact they would say, no, that was a sale for a $1.98 that was lost. It was a different price and therefore they deny it or a different volume, et cetera.

What you've got here in this Chart 12 is a very or closer to an objective analysis here. Did you buy subject imports? Were subject imports priced lower? Was the lower price a reason for switching? Now I know there's some discussion about is switching meaning that it's a lost sale? In our view, it does. You've gone from one source, the domestic source, to an import source because of lower price because you've said that as a purchaser that price was a primary reason for buying the subject import instead of the domestic. To us, that's a lost sale and you can see that there's 36 million pounds that the Respondents admitted to.

In my way of thinking, by the way, this is a very small portion of the true lost sales because the Respondents rarely make this admission against their interests and I think that the actual amount of lost sales is much higher than this. But even if it's just 36 million pounds that is material, that is significant, and a lost of volume and revenue for the domestic industry.

VICE CHAIRMAN JOHANSON: Thank you. Mr. Rosenthal, you state that you think that lost sales are actually higher?

MR. ROSENTHAL: Yes.

VICE CHAIRMAN JOHANSON: What would make you think that?

MR. ROSENTHAL: Because we have alleged other lost sales, whereas the other Respondents say, no, no, no, we didn't switch because of price. We switched for some other reason. And frankly, you're relying on purchasers to say, oh, yes, we switched for that other reason or for price and with all respect to them I don't believe everyone is totally forthcoming in admitting that they switched because of price as opposed to some other reason. So they always -- there's a tendency, shall we say, to downplay price as a reason for switching and to emphasize something else.

So when I see the number of admissions here, and that's what they are, admissions for switching I regard that as probably a lower percentage of the actual times when the switching occurred because of price. We certainly allege more lost sales in our submissions than the Commission confirmed, but just because the Respondents denied it doesn't mean that they didn't really buy because of price.

MS. CANNON: If I could just add one other thing Commissioner Johanson, one of my pet peeves on this table, which I otherwise like very much this approach of asking the purchasers, you know, did they shift and was it lower priced is that it says was price the primary reason for the shift. Legally, price doesn't have to be the primary reason. If price is a reason for the shift, the courts have recognized that that's sufficient. It can be other factors that influence their decision to shift as well. They can say, oh, yes, it's quality and price and I'm going to put quality number one, but if price was one of the reasons they shifted and they've admitted it's lower prices that's sufficient to call that a lost sale, but that's not necessarily being picked up in the database because of the question if it was a primary reason. And in the subjective view of a purchaser, they may decide that's not their primary reason. So that would also lead to potential understatement of this number in your lost sales confirmations.

MS. RINGEL: I'd also remind you of witness testimony here today, specifically, Mr. Ruday's testimony regarding his experience with one of DAK's largest customers that only brought business back to DAK when DAK lowered its prices to unsustainable levels and then subsequently tried to renegotiate the price agreement contingent on winning or losing this case. It was about price for that particular customer, which is one of DAK's largest customers and not about supply or any other claim about other reason for shifting and that has been the experience of the domestic industry as the witnesses have testified today.

VICE CHAIRMAN JOHANSON: Thank you, Ms. Ringel and others. And staying on that issue, the whole issue of supply, Respondents have spent quite a bit of energy discussing different factors in the U.S. market of impact supply, such as the close of the Cape Fear facility, shutdown of the BPA or the British Petroleum Facility, the electrical outage at the DAK facility. Didn't that have some impact on -- that had an impact on the market by reducing supply. Why is the argument of the Respondents not tenable?

MR. ROSENTHAL: I think we should go through each one of those.

VICE CHAIRMAN JOHANSON: I appreciate that because, once again, they spent a lot of energy going through that.

MR. ROSENTHAL: Certainly. And I will defer to the industry witnesses. You heard some of the testimony already, but I will say that the Cape Fear closure has come up in a number of staple fiber and PET resin cases and I would argue at this point it should be considered the Cape Fear mongering argument. That facility closed in 2013. It produced a variety of different products and it was very, very clear that imports were a cause of the closure. But Mr. Ruday testified that when that closed they had ample capacity elsewhere to supply the market, so it did not have an impact on the supply. And I'll let him amplify that and go onto the other alleged events.

MR. RUDAY: I was going to say exactly that. When we shut down Cape Fear facility, we had ample supply and transitioned all of the Fine Denier products to our Cooper River or our Monk's Corner facility and there was no loss or no non -- all commitments of existing orders and all commitments were maintained through our Cooper River facility.

Again, that facility closed because of low subject import pricing and made it uneconomical, so I think the Petitioners want to cite event-by-event, so I'll let other people talk about possibly the Cape Fear closure at this time before moving on.

MR. LANE: I would also like to highlight Mr. Ruday's comments that we didn't shut that facility down overnight. We made public all the public announcements that we were considering shutting that facility down. And then once we made the decision to shut that facility down, it was at least a year later or nearly a year later before it was shut down, so there was more than adequate time to vet all opportunities for supply and the handle the situations and that's exactly what we did in that time period.

MR. RUDAY: That's correct. There was a very, very long lead time. In addition, I'd like to in my testimony reiterate that we did get trade assistance -- you know help or assistance for all of our employees because we proved that you know it was an import issue or subject imports. I'd like to make that comment.

MR. ROSENTHAL: The essential point I know you were asking about is what impact did that have on supply to the market and the answer is that there was plenty of access capacity at the other Cooper River facility to supply the market. And in fact, DAK made additional investments there and those were very, very well known.

MR. SPARKMAN: A lot of this focus has been on DAK and their shutdown of the Cape Fear plant and of their other shutdown. And first of all, I'd like to state that it would seem that both the Defendants and many that have testified in this have forgotten that there are other producers of staple fiber in the industry today. You know we had anticipated and expected that we would see an increase in volume when they shutdown. Obviously, a reduction of their production capability should've reflected in an increase in products that we were selling; however, we didn't see that. What we saw was a shift to the low cost imports.

You also asked about the BP shutdown and I think we could address that a little bit more directly because we are the largest customer of BP. And I can tell you that during that time we did not short any of our staple fiber customers due to good inventory management on our side. We had high inventories going into it. We allocated our resources appropriately and were able to supply our customers through that BP force majeure event without any issue to supplying any of our customers.

MR. FREEMAN: We get our PTA from the BP facility in Cooper River that had the fire in August of 2014 and I did want to note we were able to import that product and continue our production. So we had, as Mr. Sparkman said, no supply disruptions to our customers on the staple fiber products.

MR. BREKOVSKY: I can confirm the same thing. We saw no -- we did not miss any sales during the BP outage. And also, during the 29-day DAK outage, we actually were anticipating that we may get some more sales and we had capacity that we could utilize for that, but we didn't see that materialize.

VICE CHAIRMAN JOHANSON: Alright, thank you for your responses. Did you have anything else to add, Mr. Rosenthal?

MR. ROSENTHAL: I know you're well over your allotted time, but there's one other issue and that had to do with the 29-day outage at DAK. And we just want to reiterate the point, which was DAK had plenty of inventory to supply its customers and none of the customers with whom they were doing business was denied their expected sales.

And to the extent that anyone was nervous about that, they had, of course, the other domestic producers to return to and they didn't do that.

VICE CHAIRMAN JOHANSON: Okay, thank you for your responses and my apologies to my colleagues for going so long over.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you. You've largely addressed these questions of charges and whatnot, but given that fifteen of thirty-five responding purchasers indicated that availability of supply from domestic industry has changed, and most said supply was constrained, taken together, doesn't it look as if the industry did experience significant constraints in supply in the U.S. market over the POI?

In other words, you know, usually when you've got all these complaints, there's something, right? I just wondered if y'all want to -- I know you've largely addressed it, but maybe think about it from that perspective. Why are your purchasers saying something different?

MR. ROSENTHAL: I don't think that anyone at this table is denying that when DAKS 29-Day Outage occurred back in 2015 that there was some concern about that, and people were experiencing a tightness in the market. But that, as you heard, that lasted 29 days.

The 29-day period over a course of a 45-month period of investigation is pretty small. And frankly, even assuming that there was a tightness of supply at that time, it does not explain why other domestic producers were not approached when DAKS had that outage. It does not explain why certain purchasers declined to actually live up to their commitments to buy product from Nan Ya, for example, as you heard from Mr. Sparkman's testimony.

So yes, there were tight supplies at that time, and I don't think anybody's denying that. But what we are disputing is that it lasted for any significant period of time, or is the real reason for purchasing subject imports versus buying from the domestic industry.

COMMISSIONER WILLIAMSON: Okay. How important is just-in-time delivery? How important is that for purchasers in this industry? And would that bear on our consideration to your relation to this question?

MR. SPARKMAN: Commissioner Williamson, Michael Sparkman, Nan Ya Plastics. Obviously, the demand for just-in-time has altered over the course, and the fact that they've now become much more reliant on customers that have six to eight weeks lead time to be able to get material into their facilities.

As I testified earlier, if there really was a concern on supply and getting on-time deliveries, then it would behoove our customers to look for domestic supply. Nan Ya Plastics can turn around with products in inventory and deliver within 24 hours, sometimes within 12 hours, depending on the plant site. Products that aren't in inventory can be made within two to three weeks' time period and delivered to those customers.

COMMISSIONER WILLIAMSON: Okay. So you're saying, yes, they talk just-in-time, but don't practice it, or what?

MR. SPARKMAN: Yes, that's what I'm saying, sir.

COMMISSIONER WILLIAMSON: Okay.

MR. ROSENTHAL: And by the way, one thing I wanted to make sure we fully answer your question. So you asked the question about supply shortages or tightness of supplies. There may have been times -- when you heard the example by Mr. Sparkman where a customer went to Nan Ya and said, "I want this product three days from now," and if it wasn't in inventory, which they might've said, "Okay, well, it'll be three weeks for that," as opposed to three days.

And so we're not suggesting that that hasn't happened from time to time either. I just wanna be clear about that. And just to clarify or amplify the testimony of Mr. Ruday earlier, which was in the 29-day outage time period, they supplied all their customers that they had commitments to from their inventory, or they made sure they didn't go wanting. But if somebody came to them in that 29 days and said, "I want this tomorrow," and hadn't already made that order, they would've said, "Well, you're gonna have to wait a few weeks, until we're up and running again."

COMMISSIONER WILLIAMSON: Is there any difference between domestic industry in the -- for the importer product and ability to just stock and have inventory? I guess one could say that, if I'm worried about the domestic industry, I'm gonna stock more of imports. Or somebody's gonna say, "I'm gonna stock more imports so I can meet people's needs."

MR. RUDAY: Mark Ruday, DAK Americas. Can you repeat the question, please?

COMMISSIONER WILLIAMSON: What I was getting at is, if just-in-time is important, then it would seem like, yes, you would go to the domestics before you go to the imports, if you're concerned of shortage of supply, but one also could say, maybe that means that you wanna import more and inventory more imports and are you sure you have the supply? I was just, you know, the alternative theory.

MR. SPARKMAN: Michael Sparkman again. What we've seen in the industry today is -- you are correct. Huge, huge warehouse inventories of imported fiber. In fact, we had appreciated the preliminary decisions and had anticipated that we would see some increase in customers coming to us for supply. And what we've learned in the interim is that there's still three to five months' worth of inventory in warehouses today of imported fiber.

COMMISSIONER WILLIAMSON: Okay. And the importers are bearing the cost of that, I take it?

MR. SPARKMAN: I couldn't speak to that, sir.

COMMISSIONER WILLIAMSON: Okay, thank you. Does anybody else wanna add something? I know I've been going several different directions here at one time.

MR. RUDAY: I think it's important that the premise of your last couple of questions is around the concern over supply, which means you would want two suppliers. That would be the premise of the question.

But in reality, the largest purchaser of fine denier in the U.S. market by far today is sole supplied by DAK Americas, but that only occurred after we had to reduce our price significantly to meet the imports prices that he had purchased previously. So I think the premise of alternate supply, at least for the largest purchaser, was not a factor. It was all about getting the lowest price.

MR. ROSENTHAL: And I'll just add to the testimony earlier. When -- and it may be the same purchaser, I'm not sure if it is -- but there is one purchaser who went offshore allegedly because he wanted dual sourcing, but actually what it did was have a single offshore source, not a dual source in the U.S. and offshore. So we are highly skeptical of the claims concerning dual sourcing.

MS. BECK: Commissioner Williamson, if I could also add. The purchase data for the large purchasers that had the shift, it's very apparent in the actual figures that it was almost a one-for-one shift from the domestic to the subject imports, as opposed to splitting it up between two sources.

COMMISSIONER WILLIAMSON: Okay, thank you. Mr. Sanchez?

MR. SANCHEZ: Alejandro Sanchez, DAK Americas. We've even note for consignment inventory and inventory ports for our customers because we know inventory's so important to them, and even then, with that extra cost, we didn't get the programs back.

COMMISSIONER WILLIAMSON: Okay. Thank you for those answers. This is post-hearing, I think Ruday, I think you talked about the adder, and I don't know how much we have in our -- but I was wondering if you could provide us post-hearing more information about what you might have in the data on how this adder has evolved, give us some examples of what that includes. Because I'm not sure it's really clear. I mean we see the evolution of the raw material prices. Uh, but I don't think we have as much on the adder.

MR. RUDAY: So, yeah, we can easily provide that in the post-hearing briefs. I will say that, of course, each adder may change a little bit based on the customer, where they're located and the product. But we can easily provide an averaging. Part of the adder may be freight logistics, so of course, a customer who's in California's gonna pay a little bit more of an adder than somebody who's in South Carolina. But, yes, we can provide that information.

COMMISSIONER WILLIAMSON: Okay. Because since you say that isn't as adversely in -- the evolution of that price isn't another sign of your injuries, right?

MR. RUDAY: Yeah, that's correct.

COMMISSIONER WILLIAMSON: Thank you. Also, post-hearing, purchasers addressed differences in the financial performance of the different members of the industry and explain that and what does that tell us about --

MR. ROSENTHAL: Yes, we will definitely do that. I would -- you've heard a top-level explanation for that as different companies approach the import competition differently. But we will go into more detail in the post-hearing brief.

COMMISSIONER WILLIAMSON: Okay. Thank you.

Thank you for those answers.

CHAIRMAN SCHMIDTLEIN: Okay. I wanna go back to this question of the re-exports from India. And in Reliance's brief -- I was just looking back at it -- and you know, this is not bracketed, I don't know if you can respond to it at this point.

It says, "Most subject imports from India were actually re-exported, never sold in the U.S. market. The balance of imports consisted almost entirely of black PSF or siliconized fiber, for which U.S. production capacity is insufficient to satisfy market demand." And then above that, it also talks about one of the petitioners exerting control over both volume and price.

And then later in the brief it talks about that there's an agreement. So I guess, is there anything -- can you respond to -- and because of that India should be decumulated and they're not a source of injury because they're such attenuated competition, one of the petitioners is actually controlling the volume of price according to them and therefore, you know, can't be injuring themselves.

MS. CANNON: Yes, Kathy Cannon. The re-export issue is a bit of a red herring here, frankly. Your census data that's in your staff report is just fine for the Commission to rely on because it doesn't have the re-export data in it. The re-export data showed up in some questionnaires.

I would have to address in a post-hearing brief more specifically what was going on with respect to that. But we presented in confidential Chart 25 in my pink handout, a summary of the data. What respondents did that was wrong was they took the census data and then they subtracted the re-exports from that, and then they said, "Ah-hah, you see how small what's left is?"

That's wrong because the -- you have to look at the questionnaire data to see what the volumes were that were reported, and then what the re-exports were and make that adjustment. If you do that, as you see in Chart 25, you're gonna get numbers that are fairly similar to the census data because the census data didn't have those re-exports in them to begin with.

And what we've relied on in our brief is the census data in the Commission's staff report. So that kind of takes that issue off the table. Then you just look at the India data alone and when you look at those data alone, which are the commercial shipments sold in the U.S. market, excluding any of these re-exports, you will find overlap in black fiber. You will also find overlap in other products that are not black fiber.

And again, I'll have to get into specifics in the post-hearing brief. So we've taken the re-exports out.

That's not an issue. We've looked just at the actual U.S. commercial shipments of the Indian product. That's where we're seeing a significant overlap in various types, both for purposes of cumulation and competition, and then I can break that down more specifically in our brief.

CHAIRMAN SCHMIDTLEIN: Okay. And then, in particular, the agreement that is referenced in there, and how --

MS. CANNON: We'll address that.

CHAIRMAN SCHMIDTLEIN: -- what that is, what that's about, and how that impacts, in your view, the Commission's analysis.

MS. CANNON: Yes, we'd prefer to address that post-hearing.

CHAIRMAN SCHMIDTLEIN: Okay. A couple of other pages in Reliance's brief, and they include an exhibit which they reference Exhibit 4, they reference this on Pages 6 to 7 and then again on 14, where they talk about the percentage of subject imports that are concentrated in the specialty products and compares it to the domestic industry shipments of these products.

I don't know whether you can tell me now, or whether you'd like to do it in the post-hearing, but I'm curious of whether or not, first, you agree with their math, in terms of what these percentages are?

MS. CANNON: We probably have to get into more of this post-hearing, but I would say one thing they're doing is adding everything up and assuming that it's all independent. And our understanding is, there's overlap; in fact, just by adding it up, you can tell that they are duplicative in some respects. So you can't simply add it up as you've done in Exhibit 4 and get the percentages that they've gotten.

CHAIRMAN SCHMIDTLEIN: Okay.

MS. CANNON: A, and B, I don't think they've accounted for everything in this table. One thing, as Ms. Beck indicated, is we discovered there's another U.S. producer of the short-cut fiber whose data you don't have.

Once we learned about that and informed your investigator so that they would get a U.S. producer questionnaire so that you would get the information from them also on that product line which is not currently in these data. So once we have that, I think we can address that, both of those points, more specifically.

CHAIRMAN SCHMIDTLEIN: Okay. You can do that post-hearing as well. Okay. I think Commissioner Williamson asked you about the financial performance. I was going to ask you about that as well, is that there seems to be a slight inconsistency in how the companies are performing, and then when you compare that to the increase or decrease of subject imports, that the explanation of what's going on, that would be helpful.

MR. ROSENTHAL: We will do that. I will just say, since some testimony that you heard publicly -- address this partially and that is, I think that you saw some of the companies take a strategy of seating market share initially and not lowering their prices and others who decided that they could not take that approach and decided to drop prices earlier in the period in order to maintain market share.

I think that's the most I can say publicly. But that is my understanding of what accounts for some of those differences. Not all. And I think we'll address them all more fully in the post-hearing.

CHAIRMAN SCHMIDTLEIN: Okay. All right. So shifting gears a little bit, I think we might be able to talk about this question right now. Going back to the attenuated competition argument, if you look at the staff report and the pricing product coverage for U.S. producers, as well as shipments of subject imports and I'm looking at Roman Numeral 5-14, that's where the pricing data begins, you can see that they're -- and that's where the staff report summarizes the percentage coverage, if you look at that here. Yes.

So you can see the percentage for U.S. producers' shipments in 2016, China and then India and then

Korea. And so I guess the question is, given that coverage and the specific coverage is bracketed, does that undermine the notion that there is a reasonable overlap in competition? Especially with regard to Korea.

MS. CANNON: Kathy Cannon. First, I would note that the percentages you're looking at on Roman Numeral 5-14, are only the indirect import sales. This doesn't count the direct imports sales, which is where you have the bulk of the product from two other countries. So that explains and boosts up those percentages quite substantially on those countries.

With respect to Korea, we'll have to probably address that more post-hearing as to what exactly is going on there. I would note that none of the foreign producers in Korea responded. I'm not sure what the complete response rate is, but we probably need to address specifically the Korea shipments more post-hearing.

CHAIRMAN SCHMIDTLEIN: Well, is it because -- I'm looking at the import, the direct data, right? If you turn then to -- and when you look at -- so V-14, and we were talking about India and Korea, and then when you look at the tables for the direct imports, which I believe began on IV-25, right? I'm sorry, V-25 --

MS. CANNON: Right.

CHAIRMAN SCHMIDTLEIN: -- and when you see the

India/Korea quantities in that table and then the next table and then next table --

MS. CANNON: Right. So you have significant coverage of China and Taiwan.

CHAIRMAN SCHMIDTLEIN: Yeah.

MS. CANNON: You have some coverage of India, and then you have a small amount of coverage of Korea. And that's the outlier sort of in the data. And that's why, in terms of what Korea's selling, I'm not sure how much I can get into that specifically in testimony.

CHAIRMAN SCHMIDTLEIN: Okay. You're looking at table --

MS. CANNON: So I was looking both at V-14, as well as V-23, and looking at all of that collectively, which shows pretty good coverage for China and Taiwan, as well as some coverage for India.

CHAIRMAN SCHMIDTLEIN: Okay. But then the actual quantities that were reported being brought in, is what I was looking at on those tables. And does that -- I guess, so the question for post-hearing -- does that undermine the -- It's so hard to talk about this when everything is bracketed.

MS. CANNON: Exactly.

CHAIRMAN SCHMIDTLEIN: But does that -- I feel like were talking in code -- does that undermine the argument that there is a reasonable overlap in competition?

MS. CANNON: And I would say no, because even the products, I mean these are four products you've selected, obviously, in every case you're not going to get everything out of four products. In these four products, my point is, there is substantial coverage for a lot of the subject imports, the bulk of the subject imports. And with respect to those countries that you're not getting a lot in, there is overlap in other products that simply weren't identified in these pricing products.

CHAIRMAN SCHMIDTLEIN: Okay. Okay. So you can elaborate on that in the post-hearing. Okay. All right. Thank you very much. Vice-Chairman Johanson?

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein. I concluded my questions during the last round, speaking on issues of supply in the U.S. market. And I now have a similar question, but not totally the same. Respondents point out that multiple domestic companies have advised the Commission that domestic plants were unable or unwilling for reasons other than price, to meet all of their sourcing needs during the period of investigation, thereby requiring that they import fine denier PSF from one or more the countries subject to this investigation.

And the respondents write at some length on this at Pages 23 to 26 of the Chinese brief. Can you all please respond to at least some of these allegations and if you can't do totally so here in this hearing, if you could do so in your post-hearing brief?

MS. CANNON: A lot of this is very customer-specific and I think, Commissioner Johanson, we will be able to give you in declarations without sharing this with our clients, specifics on their interactions with customers and the reasons that some of those sales were lost. I think a lot of this is all talking about supply. And you've heard the testimony already as to why it wasn't supply, but we can we can flesh out a little further what was driving that specifically with more details in some of our declarations from the companies.

VICE CHAIRMAN JOHANSON: Thank you, Ms. Cannon. I understand a lot of that is bracketed as well. Mr. Rosenthal?

MR. ROSENTHAL: I was just going to say, as we acknowledge, there was a very, very brief period of tightness around the time of the 29-day DAK outage at a point when there was some perceived demand opportunities, but the bottom line -- and we will respond to each of these, but the bottom line is that there were very few instances that we're familiar with where there is a decision not to supply or inability to supply.

There were times when, as I said earlier, some folks were told we can supply later than you want, not immediately in this time period; but we're talking about a month, two months, at most, three months in a period of a 45-month period of investigation. So there might be some examples, but they're very rare.

VICE CHAIRMAN JOHANSON: Okay, thank you Mr. Rosenthal. And also, Mr. Rosenthal, you stated during my last round of questions that you thought that lost sales volume was understated perhaps. Can you please respond to the Chinese Respondents' arguments found at pages 43 to 44 of their pre-hearing brief that lost sales volumes may be overstated and not driven by price?

MR. ROSENTHAL: Yes, we disagree, obviously. We are basing our analysis of the lost sales on the chart that had been up there before and the purchasers' responses acknowledging that they switched from domestic supply to subject imports and I don't think that the claims made in Respondents' brief undercut those claims.

They're making a subjective judgment that that amount of lost sales and tonnage isn't significant. They're claiming that it's a small percentage of all the sales that were brought in and therefore not that big a deal from their point of view, but as the Commission knows getting confirmation of lost sales at all in these investigations is not easy and getting admissions by Respondents that, as I said, that they switched because of lower price is not easy. So you know I'm looking at this as this is a lot for a case where sophisticated importers, sophisticated customers or purchasers know that if they admit that they purchased because of low price and not something else then they could be subject to high duties.

I regard the numbers in this case as very, very significant and very, very telling and so we have a disagreement about what's material and what's significant with Respondent counsel.

VICE CHAIRMAN JOHANSON: Thank you, Mr. Rosenthal. And what is your response to Reliance's claims concerning how Indian imports are controlled and this is referred to in pages 8 to 10 of their brief.

MR. ROSENTHAL: I'm sorry; we're going to have to do a response to that one in the post-hearing brief.

VICE CHAIRMAN JOHANSON: I figured that would be the case. I look forward to seeing that. And I have one final question or I guess it's more of a request, and this is to Mr. Sparkman and Mr. Freeman. Petitioner Nan Ya's parent company has not filed a foreign producer questionnaire and we invite Nan Ya to -- we invite you all to try to persuade them to do so.

MR. FREEMAN: We are aware of that. We do not have total control over that, but we will do our best.

VICE CHAIRMAN JOHANSON: You probably know their phone number, right?

MR. FREEMAN: Yes.

VICE CHAIRMAN JOHANSON: Okay, I'd appreciate that. Alright, that concludes my question. I appreciate you all being here today.

CHAIRMAN SCHMIDTLEIN: Alright, that concludes the Commissioner's questions. Do staff have any questions for this panel?

MR. HARRIMAN: Staff has no questions.

CHAIRMAN SCHMIDTLEIN: Thank you. Do Respondents have any questions for this panel?

MR. NOLAN: No questions.

CHAIRMAN SCHMIDTLEIN: Okay, thank you very much. Alright, thank you all very much. I'd like to thank you for being here again and I will dismiss you at this time. And since it is 10 to 12:00, I think we will go ahead and break for lunch and so why don't we return at 1:00 o'clock. It's one of the benefits of having only three Commissioners is things go a little faster.

Let me remind you that the hearing room is not secure, so please take your papers and confidential information with you and we will stand in recess until 1:00 o'clock.

(Whereupon, at 11:50 a.m., the meeting adjourned to reconvene at 1:00 p.m.)

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: Good afternoon. Madam Secretary, are there any preliminary matters?

MS. BELLAMY: No, Madam Chairman.

CHAIRMAN SCHMIDTLEIN: All right. We will now move to the presentation of the respondents' direct case. Mr. Nolan, you may begin when you're ready.

MR. NOLAN: Thank you, Commissioner, very much. It's a pleasure to be in front of you yet again. I think I've spent more time in front of the Commission in the last year that I have in the last five. I'm not sure that if that's a good or a bad thing, but I'm glad to see that you are here. We've got quality up there on the Commission staff and well, the others, hopefully they'll come in at some point.

So I'm here today representing the Indian respondents. I'm gonna just open up for about two seconds, then turn it over to our witness, Anil Rajvanshi from Reliance, International. Just a quick comment before Anil starts just to sort of set the tone. I've been through a lot of investigations before the Commission, and I've never seen facts quite like this one in terms of the degree of domestic involvement in the activities of what goes on, on the international scale.

And I think it would behoove the Commission to look very, very carefully about the degree to which control over this market is being exerted, particularly with respect to Indian imports. And with that, I'm going to turn it over to Anil to give his statement.

STATEMENT OF ANIL RAJVANSHI

MR. RAJVANSHI: Thank you. Good afternoon, Madam Chairman, and the members of this Commission. My name is Anil Rajvanshi. I'm Senior Executive Vice President of Reliance Industries, Limited. I have been working in the polyester staple fiber industry for last fourteen years, and I'm the head of Regulatory Industrial Affairs and I have a fair knowledge and know about the U.S. markets.

I have appeared before this Commission in 2015 in a case of PET filed by the same petitioners. I appreciate the opportunity to provide you with our views regarding the PSF industry and our participation in the U.S. market. I'd like to begin by assuring you that the Indian PSF industry played by the rules. The fact, with respect to Reliance, which accounts for significant imports into the U.S. of PSF from India do not support the finding of injury or threat of injury to the U.S. industry.

What is true for Reliance is true for PSF from India as a whole. One of the most important factors the

Commission should consider in assessing the impact on the U.S. market industrial imports of PSF from India, is that a portion of PSF from India never enters the stream of U.S. commerce. We know that at least some part is sent to third-country markets by the petitioner DAK America.

Nearly all the PSF from India that remains in the U.S. for distribution and sale consists of specialty or niche product, such as black fiber or relatively small submarkets, markets for which the U.S. industry lacks the capacity to produce and to satisfy demand or in which it simply chooses not to participate. In the case of Reliance virtually all PSF that is actually distributed solely to the U.S. consists of relatively low volume specialty products, primarily dope dyed black PSF.

We are aware of only very limited U.S. production of black PSF and U.S. production can meet only a fraction of U.S. demand for this product. Imports of black PSF from India and elsewhere are not cutting into the U.S. industry's market share. They are filling the large gap between the U.S. production and demand.

Imports into the U.S. of Reliance PSF that are actually sold here do not compete with either U.S. production or other subject imports across whole range of PSF products covered by these investigations. They are concentrated in market segments for specialty products for which there is relatively limited demand. These are markets where U.S. production capacity insufficient to meet demand, or where U.S. producers have chosen not to compete.

To put India's presence in the U.S. market in proper perspective, total imports into the U.S. of PSF from India must be adjusted to the fact that a significant quantity was not sold in the U.S. or has remained in the U.S. If properly adjusted, the already small share of all U.S. market volumes held by imports from India, become substantially smaller.

Further, India is very small share of overall market is concentrated in submarkets, for non-mainstream relatively low demand products. The manufacturer to consider for assessing the impacts of import from India is that, except for a very small amount of shipments of one specialty product, all of Reliance export to U.S. of all of the PSF products are subject to an exclusive contract with DAK America, the petitioner.

This contract effectively gives control of the volume of the vast majority of U.S. imports of PSF from India to the petitioner. That U.S. producer determines which and how much of PSF is sold in the U.S. In addition, the terms of agreement are intended to set price for the PSF from Reliance based on cost and independently of U.S. market prices. But the U.S. producer and petitioner has consistently sought to leverage its control over volumes to exalt lower prices than those set by the terms of the agreement.

The agreement puts a U.S. producer in a position to exercise its control over the vast majority of imports of PSF from India in a manner that creates some of the conditions cited as the basis for the claim those imports are causing or threatening to cause injury to a U.S. industry. We do not believe the U.S. industry should be rewarded for its manipulative and indeed, combative conduct with an affirmative finding of injury.

After more than decade of doing business with us, under an almost exclusive agreement, DAK, one of the petitioners, have suddenly decided to accuse us of dumping. This is important, Your Lordships. Given that DAK has exploited this agreement to force down prices, they have only themselves to blame for any dumping.

I would like very briefly to address the issue of cumulation and threat of injury. As discussed, most import from India that are actually distributed or sold in the U.S. are specialty products, serving distinct relatively low volume of submarkets where there's a very little or no competition with U.S. production. And a very limited overlap and competition with other subject imports.

We believe these facts fully justify

decumulation of imports from India for purpose of the determination by the Commission of very little material injury or threat of injury. The facts also do not support a finding of threat of injury. Even before being adjusted so only U.S. shipments are counted, the volume of imports from India is not at levels that threatens injury. The mix of products from India actually sold in the U.S. either does not compete or competes minimally with U.S. production.

The U.S. industry controls most of the PSF import from India. Indian PSF production is at or near full capacity with no significant expansions planned. The Indian domestic market and other regions' markets outside the U.S., in south Asia and elsewhere, to reach India, also exports a growing at faster rate than the U.S. market. These are current conditions not foreseeable trends justify a finding of threat of injury by imports from India.

In sum, the facts do not support the petitioners' claim that they are being injured or threatened with injury by import from India.

I have one other issue I would like to mention to the Commission. Two years ago, in the same room, I was before the Commission on the PET resin case. In that case, we argued that DAK was about to purchase the Canadian respondent and therefore, that the Canadians did not participate because of the pending acquisition. In fact, DAK did purchase Celanese, the Canadian company resulting in greater industry concentration in North America.

Now we learn that's DAK's partner in the major new 2 billion pound Corpus Christi planned. M&G is in the financial difficulty. And that DAK has refused to supply PTA feedstock to M&G. Further, the Corpus Christi plant is now delayed. There is a distinct possibility that will result in DAK controlling an even greater share of U.S. market for polyester products as a result.

And with the Corpus Christi plan delay, there will be shortages of PTA. Given the number of production issues in this industry over the past few years, it seems unwise to allow one company to dominate the market. This is why downstream purchasers of PSF have been diversifying their supply chains. The U.S. industry complaints should not be used as an anti-competitive lever to consolidate the power of one or two U.S. producers while creating a risk of supply deceptions. Thank you for the opportunity to appear before you, to express my views. I will be happy to answer any questions that you may have. Thank you.

STATEMENT OF MATTHEW M. NOLAN

MR. NOLAN: All right, thank you, Anil. I am going to address, just for a couple of minutes, the separate like product arguments and then turn it over to my colleagues for the Chinese respondents and the economists.

Again, this is Matt Nolan. We acknowledge that in the preliminary determination, the Commission found a singular like product in this case. And I am under no illusions that we are probably gonna stay that way, but I'm still gonna talk about this a little bit in front of you to give you some context.

Because I do believe there are some clear dividing lines. And even if you don't treat them as a separate like product, at the very least, you have to consider the attenuation of competition that is attendant to what is going on with these difficult types of products in the marketplace. So let's start with black PSF, since that seems to be a very popular topic.

Physical characteristics and uses. It is a black pigment that is introduced into the polymer to make a specialty yarn. However, there's more than one weight to make black PSF. Palmetto testified this morning that they use flakes, they buy material. They extrude it and add black to it when they do that.

That is not the way Reliance makes black PSF. That process of making PSF is a downstream color additive. When these guys make black PSF, they make it in the polymerization chamber, so that the product when it comes out of the chamber, is a solid black color. That is a superior form of black PSF.

It is what textile producers yearn for when you're making black t-shirts or other DAK black textile products. Because it's color-fast. It's a better, much higher-quality production facility. Plus it's a lower cost production facility. Because you have a dedicated line, that all it does is make black polymerized black-dyed dope PSF.

Using that process is much less expensive than buying flakes or buying intermediate material, remelting it, adding the black and then extruding it. There's a significant difference in the physical characteristics and the production process involved between those two products.

Now, that may not be enough to get us over the hump on separate like product, but it sure certainly suggests that there's a significant difference in the type and quality of the product we're talking about here. You cannot extrude regular white PSF, turn it to black using our process, and then turn it back again. Because it won't come out white. To clean the machinery is extraordinarily high-cost. And so people that make black tend to make black PSF.

That is what Reliance does. They make a specialty high-grade, high-quality black PSF and it's limited to a very few ultimate customers. You didn't have an appearance from Gildan here today, but Gildan is a big customer of theirs, indirectly through where the product is being imported to DAK Americas, who then turns around and sells it to Gildan.

Gildan buys that product because they can get it at the quality level they want and at the volumes that they want or need. Gildan is not a small company. They have 3,000 employees in the United States, 48,000 employees worldwide.

When they make an order, the order's going to be big enough that they're gonna need to have quite a large quantity. That would suggest here that whoever is making black PSF needs to have the capacity to satisfy larger orders. And I commend you to look at the current capacity conditions in the industry of the United States with respect to black PSF in your deliberations.

Synchronized solids, siliconized fiberfill PSF. Siliconized fiberfill. This is not a textile-use product. This is a product that is used to make material for the inside of pillows, stuffing for pillows, stuffing for duvets, stuffings for comforters. It's the stuff when you buy those fancy high-end pillows and they tell you that they shape perfectly around your head and they don't bunch up and the material always stays even, that's what you're getting with those pillows.

It's a very specific non-textile-oriented product that is used in industries for those purposes not for textile applications. In fact, it cannot be used in the textile application. And as the petitioners noted this morning, the issues they're having on demand drop is in the textile sector. This is not the textile sector we're talking about.

This is their nonwoven or the other sectors which are not suffering from the same declines in demand. And the industry demand and producer perceptions in customers, you're not talking about textile companies buying this product. You're talking about people that make pillows, bedding, those types of things, that buy this product and use it. It's not traditional textile users.

Last item, shortcut PSF. Physical characteristics and uses. It, again, is a nontextile-grade product used in nonwoven applications like paper products, filters, wallpapers, those sorts of things. The petitioners again this morning accepted or agreed that shortcut PSF is subject to different demand conditions than the overall textile market.

Again, we're talking about a submarket that is not in the textile area for which demand is different parameters and for which the demand characteristics or ultimate users are different. Different channels of distribution, different customers, different customer and producers' perceptions, and different demand drivers.

There are significant differences in these products. And again, I will close by saying I understand the difficulty we're in on separate like product, but you cannot ignore these distinctions at some point in your analysis. IT is material. Thank you.

STATEMENT OF CARA GRODEN

MS. GRODEN: Good afternoon, Madam Chairman and members of the Commission. My name is Cara Groden and I'm with Economic Consulting Services. My testimony today will address why subject imports of fine denier PSF have not had adverse volume or price effects, nor adversely impacted the condition of the domestic industry.

Obviously I'm limited by the APO as to what I can discuss this afternoon, but even generally, there's not sufficient evidence to support an affirmative determination in this case. I do, however, have a set of confidential exhibits which you should have with you already.

There's no denying that subject import volume increased over the POI. But the questionnaire record is clear. That this increase was a direct response to repeated supply disruptions in the U.S., which drove purchasers to seek secondary sources of supply.

Petitioners disagreed with this assertion during their panel this morning, but the chorus of petitioner responses summarized at Pages 14 to 23 of Chinese respondents pre-hearing brief, shows clearly that supply concerns were a primary reason for many purchasers' decisions to source from subject countries, in addition to sourcing from U.S. producers.

Even though petitioners assert that they would have been able to serve customers who relied instead on subject imports, even during periods where U.S. supply was disrupted, the questionnaire data tell a different story.

Whether considering U.S. producers' PSF capacity, or capacity for all production on the same machinery, U.S. capacity was insufficient to serve U.S. demand, sometimes falling very far short. The relevant figures are presented at Page 34 to Chinese respondents' pre-hearing brief.

As respondents from India have noted, the scope of this investigation encompasses certain niche products which U.S. producers have not supplied to the U.S. market in any significant quantity during the POI. This includes blue or other colored PSF, shortcut, siliconized and PCR, or post-consumer recycled. Thus, customers who need these products must rely on subject imports to meet their sourcing needs.

In their pre-hearing briefs, respondents from India and China both developed estimates of the share of subject imports falling into these categories. This calculation is nuance because there can be overlap between some of the categories.

So Chinese respondents estimate at that point was very conservative. Because it excluded certain categories to avoid double-counting at all, knowingly leaving out some portion of subject import volume. That led to a lower estimated share of imports. Between briefing and this hearing, we conferred with respondents from India and refined our initial calculation using information from purchaser questionnaires.

You can see the results of that analysis on the first page of my confidential exhibits, and if the Commission would like, I'm happy to provide the full analysis post-hearing. We found that, no matter how you slice it, more than half of 2016 subject import volumes fell into at least one of the niche categories.

That's hardly insignificant. You can see from the chart how U.S. producers' 2016 shipments in those same niche categories compare both to U.S. producers total U.S. shipments and to subject import quantities. For simplicity, we've summed U.S. producers' nice product shipments all together, regardless of overlap and even so there is a clear disparity. Petitioners asserted at page 41 to their prehearing brief that "The domestic industry can produce every type of fine denier identified by Respondents." But the data show that even if they can, they haven't. This is despite demonstrable and steady customer demand for these products.

It's no surprise then, between supply concerns and attenuated competition in the niche product categories, that purchasers would need to rely on subject imports during the POI for reasons unrelated to price. Purchasers' responses make this fact very clear. In addition to the extensive narrative cited in Chinese respondents' prehearing brief, 28 of 35 purchasers responded that price is not the primary factor in their purchasing decisions, and 17 of those purchasers reported that it was the third factor.

Twenty of 31 purchasers cited quality as their most important purchasing factor. Eleven of 16 cited availability as a first or second most important factor. A large majority of purchasers reported that product consistency, availability, reliability of supply and quality were as important purchasing factors as price considerations.

Accordingly, the record shows little evidence of adverse price effects by reason of subject imports. The prehearing report at 5-3 to 5-6 lists a number of responses from importers, purchasers and U.S. producers outlining the very close relationship between PSF pricing and the cost of its key material inputs, specifically PTA and MEG. According to those responses, raw material costs often factor into contractual negotiations or even act as an index in determining PSF pricing.

Record data confirm a very close correlation between raw material costs and PSF prices, which you can see on the second page of my confidential exhibits. Mr. Ruday this morning referred to it as in lock step. As noted at page 5-2 to the prehearing report, costs for PTA and MEG decreased between 2014 and 2016, which led to a decline in PSF pricing. PTA and MEG prices then increased between the part years, which led to an increase in PSF pricing, as you can see clearly in the chart.

The specific per unit calculations are laid out page 40 to Chinese respondents' prehearing brief. Given the declines in raw material costs, there is no basis to attribute any decline in price to subject imports, or to conclude that subject imports depressed prices. There's also no evidence that subject imports suppressed prices. Not only was the industry's COGs and net sales ratio steady over the POI, but with pricing contracts stipulating a relationship between price and cost for key inputs, there is no basis to conclude that U.S. PSF prices should have been higher, or for that matter, should have increased at all between 2014 and 2016.

Petitioners noted in their prehearing brief that the pricing products at the preliminary phase incorrectly in their view included some of the niche products I've already discussed, which may be higher priced than other PSF. The definition of the pricing products was accordingly changed int his final phase. But as in the prelim, the Commission's traditional underselling data still show overselling in a majority of instances, 49 of 77.

Similarly, the quantity of subject imports involved in those instances of overselling exceeds the quantity involved in instances of underselling, as shown as page 533 to the prehearing report. Lost sales and lost revenue are also not significant. As noted at page 43 to Chinese respondents' prehearing brief, the quantity of PSF reported by purchasers as lost sales is not significant relative to apparently consumption over the full POI, which is the appropriate comparison.

Furthermore, as shown at Table 5-14 to the prehearing report, several of the purchasers involved in these sales provided contradictory non-price related reasons for shifting their purchases to subject imports, suggesting that these volumes may even be overstated. Similarly, lost revenue data should be considered insignificant.

I would urge the Commission to consider both the share of purchases accounted for by those purchasers reporting price reductions by U.S. producers, as well as the specific contractual circumstances surrounding those price reductions. The relevant information is in the prehearing report at Table 5-16 and at pages 44 to 45 to Chinese respondents' prehearing brief.

Thus, the record data regarding lost revenues are, we submit, neither significant nor indicative of adverse price effects. In response to Petitioners' assertion this morning that purchaser questionnaire response are in some way falsified or unreliable, I would like to remind the Commission that each questionnaire response is certified as true by the company, and accordingly considered as submitted by the Commission and staff.

It would not be appropriate to dismiss a purchaser's reported experience simply because they are a purchaser, or because they source from subject imports or because Petitioners find these responses inconvenient. Increases in the volume of direct imports of PSF are likewise not driven by price. These volumes were imported directly by a subset of purchasers who were very clear in their narrative responses that the need to import was a direct result of their difficulties obtaining adequate U.S. supply.

Whether these customers experienced a disruption in supply from U.S. producers or whether U.S.

producers were unable to meet that customer's product specifications when subject imports could, these direct import volumes were not competing with U.S. product on the basis of price. Those purchases were made based on more vital characteristics such as availability and quality.

Furthermore, lost sales volumes reported by purchasers who imported directly from subject sources are small as a share of subject imports and minute as a share of apparent consumption. Those calculations are presented at page 47 to Chinese respondents' prehearing brief.

Although direct imports were the main source of increase in subject import volumes, the questionnaire record is unambiguous. Purchasers' choice to import directly was not based on price. These import volumes did not therefore gain share on the basis of price, or contribute in any way to the decline in U.S. pricing.

Rather, these imports act as proof that customers' faith in U.S. supply was shaken so thoroughly that they had no choice but to seek alternative sources of supply. Finally, to the extent that the U.S. industry's condition declined in aggregate over the POI, it should not be attributed to subject imports, which did not meaningfully impact U.S. prices or gain market share on that basis.

Rather, any decrease in U.S. producers' profitability or shipments was driven by other factors.

Although I can't touch on APO information today, we would urge the Commission to consider these sometimes distinct differences within the U.S. industry's experience over the POI, which we present at pages 48 through 53 to Chinese respondents' prehearing brief. Certain key indicia that the Commission routinely considers show no evidence of injury at all.

In sum, the record is clear. Increases in subject imports, particularly in direct imports from subject sources, were not driven by price. There is a clear consensus in purchaser questionnaire responses that given their struggles relying only on U.S. production, a secondary, reliable and high quality source of supply was needed. This choice to seek out alternative supply was not made lightly or on the basis of price.

Furthermore, not only would the U.S. industry's capacity be unable to adequately supply the entire U.S. market, but a significant share of subject imports are in types of PSF barely served by the U.S. industry at all. It clearly follows that lost sales and lost revenue allegations are insignificant compared to apparent consumption, because price was not the driving factor behind the increase in subject imports.

Thus, any injury to the domestic industry during this POI should not be attributed to subject imports.

Thank you.

STATEMENT OF JORDAN C. KAHN

MR. KAHN: Good afternoon Madam Chairman and members of the Commission. I'm Jordan Kahn with Grunfeld Desiderio representing Chinese respondents. I'd just like to make a few legal points to support Ms. Groden's economic analyses.

She testified about niche PSF products having to be imported because domestic mills were unable or unwilling to produce them in the United States. To be clear, while we are not seeking to divide the domestic like product, the attenuated competition reflected on this record is a critical condition of competition that the Commission frequently considers.

We submit that the increased quantities of such niche PSF products cannot constitute material injury to the domestic industry by reason of subject imports. That statutory standard requires a showing of a causal connection between injury and subject imports. Showing a mere temporal connection is not sufficient to establish material injury. Significant volume and market share during the POI are not by themselves enough for the Commission to vote in the affirmative.

Petitioners belabor the volume of subject imports, but it is axiomatic that no single factor is dispositive. All economic factors that bear on the state of the industry are to be considered. In the words of the statute, within the context of the business cycle and conditions of competition that are distinctive to the affected industry. The volume of subject imports is therefore only the start of the analysis. In fact, the Commission and reviewing courts have repeatedly found that mere significant volume does not constitute injury.

As the Federal Circuit explained decades ago, where semiconductor imports nearly tripled over the POI, the volume of subject imports and increase in volume are not sufficient to demonstrate that the subject imports themselves made a material contribution to any injury experienced by the domestic industry.

The Commission's volume analysis also examines capacity and capacity utilization. We've demonstrated through record data aggregated on page 34 of our prehearing brief that these considerations preclude finding injury, given the discrepancy between available domestic capacity and market demands.

Turning to price effects, the Commission regularly finds no injury where reduced pricing correlates with raw material costs, as Ms. Groden testified is evident on the record of this investigation. In fact, just last year when the Commission found no injury caused by truck and bus tires from China, it found no price -- no adverse price effects because prices were driven down by raw material costs, not subject imports.

And that is the case with PSF and its key inputs, MEG and PTA, as the Commission heard testimony this morning. Ms. Groden further testified that the record is devoid of significant lost sales or lost revenue. Again, the Commission frequently declines to find adverse price effects in the absence of these confirmed losses, and it should follow suit in this investigation.

A final point on price is that the underselling data on this record support finding no adverse effects through the Commission's traditional underselling analysis. The fact that some underselling occurred in the minority of instances is not an adequate basis to find injury, as the Commission recognizes in case after case.

Turning to impact, as Ms. Groden testified, the domestic performance indicators over the POI are not at all negative when properly evaluated. The Commission should not limit its evaluation to the aggregated domestic industry data. While the Commission does consider the domestic industry as a whole, that analysis necessarily involves reviewing individual company data, particularly in cases like this where there are only a handful of domestic producers.

We urge the Commission to look beyond the aggregated domestic data, because doing so reveals that a significant portion of the industry has not experienced any decline. The Commission regularly finds no injury on records like this one that show an inverse correlation between increased imports and industry performance. These data constitute substantial evidence that the requisite causal link required for an affirmative material injury determination does not exist.

Nor do subject imports threaten the domestic industry with material injury. Foreign manufacturers have no need to increase their shipments to the United States, given that the U.S. market is not their primary focus. They sell the vast majority of PSF in home markets and third country export markets, both of which are projected to grow in the imminent future.

Subject countries' exports to the United States in 2016 constituted only a minute amount of their total shipments. The Commission routinely declines to find threat where home and third country markets are robust and growing, as is clearly evidenced on this record.

The last point I'd like to make involves the supposed vulnerability of the domestic industry. This important factors cuts against threat and indeed against injury, because the domestic industry forced purchasers to switch to foreign sources of PSF. While the public record reveals extensive domestic supply constraints throughout the POI, we are of course constrained in what we can talk about today in this open hearing.

We submit that this case will rise or fall depending on the responses to the purchasers' questionnaires, and we urge the Commission to evaluate those proprietary statements that are quoted at length on pages 17 to 32 of our prehearing brief. These responses from companies who actually purchase PSF and who don't have any axe to grind constitute compelling evidence that the domestic industry has not been materially injured by reason of subject imports.

With this statutory standard unsatisfied, the Commission should vote negative. That concludes our testimony this afternoon, and we are of course happy to answer any questions that you may have.

MR. NOLAN: All right. So this is Mr. Nolan again. You're going to get one more dose of me before you go to Q and A. I'll hopefully keep it mercifully short. I just want to sort of tie us back to what the testimony that just came up a few minutes ago and kind of reinforce some of that, and you know, what strikes me is I actually went back and, since we were at the prelim, went back and took a look at the post-conference briefs, and I took a look at Gildan's brief.

I just want to read you a couple of pieces from that, because they're not here today, which is unfortunate. Again, Gildan Active Wear maintains 48,000 employees worldwide, 3,000 employees in the United States. They are a big user of product of fine denier polyester staple fiber. They state, for example, "Gildan believes the increased imports of subject merchandise resulted from the domestic industry's inability to supply U.S. yarn producers, including Gildan. The alleged injury to the domestic industry was not caused by imports, but by the domestic industry's own failure to adequately serve the U.S. market."

Now mind you Gildan probably, I don't know for sure, but probably buys a lot of material from a lot of producers. So to go out on a limb and say something like that about the U.S. industry is pretty strong for a company like that. They also say that in the end of 2015, DAK America, who's a petitioner and the largest U.S. PSF producer, experienced a sustained shutdown of production and quality issues subsequent to that shutdown.

The shutdown and quality issues significantly disrupted the PSF supply in downstream yarn producers' operations. They testified this morning how important it is for them to run continuously. That also applies with equal force to yarn spinners to textile producers. You cannot have the machinery go idle. You cannot not have just-in-time inventory deliveries.

You cannot have a producer saying well, we can't produce it for you this week but maybe we'll get it for you three weeks from now, right, because then they go down. They stop producing fabrics. They stop producing what they have to produce, and that is an unacceptable result for the downstream industry. Therefore, when faced with multiple potential supply disruptions or the potential thereof, and with risk increasing in their minds, what is the natural proclivity, what's the natural decision-making process in that event, to diversify your supply sources?

Where do you go? To places that aren't going to be disrupted by upstream PTA supply disruptions, fires or to places that aren't subject to the degree of uncertainty that seems to be boiling and roiling in this market for the past three years. That is a big consideration.

I also note that they talk about the black PSF specifically here, that Gildan purchased -- let me get it up here -- Gildan purchases a black PSF from one petitioner, DAK America, which imported the black PSF. Following the staff conference, they learned that Palmetto Synthetics is the only U.S. producer of black. They didn't even know Palmetto existed before the staff conference, okay.

That tells you that it's not a major producer, and a company like Gildan is not going to be buying small lots of product. They need to have a producer or producers that can meet their quality and quantity demands. Clearly, they weren't aware of this alternative. According to Petitioners, Palmetto's testimony at the staff conference, Palmetto is a "small producer of black PSF that serves the needs of small customers. Gildan is making a point here to us. Small customers, small batches, multiple products, but small." That doesn't serve the U.S. textile industry or other industries given the demand that exists in those industries.

Now let's go back to a second about the statements this morning about coulda, shoulda, woulda. We could make shortcut, we could make black. We just need to make minor tweaks to the equipment because it can all be made on the same lines, and minor investments is all we need to produce it. Okay, good. Why aren't they making this stuff?

They sat up here and said we don't make black. We don't make black. We don't make shortcut. We don't make siliconized. Why do they not make these things? Well because imports are coming in. They weren't coming in injurious levels three years ago or ten years ago. So all of a sudden they can't even start to produce this stuff or never, never started to produce it.

That is a flawed analysis on their part. You cannot come in front of this Commission and say we're being injured because we never made a product. In this instance, they're manufacturing an injury case on a business decision to not supply small niche submarkets. They have made a decision from a business standpoint.

I don't fault that decision. That's their cost. They went with large volumes, mainline products, but don't blame imports for that because they didn't cause that. That was not their business decision. They're just coming in to fill a void that exists in this market. With that, we'll reserve the balance of our time.

CHAIRMAN SCHMIDTLEIN: Okay. Thank you very much. Again I'd like to thank all the witnesses on this panel for being here today. We appreciate your time and the effort to be here.

We will start with Commissioner Williamson this afternoon for the Commissioners' questions.

COMMISSIONER WILLIAMSON: Thank you, Madam Chairman. I too want to thank all the witnesses for their testimony today.

Mr. Kahn, I would like to start with you since you've made this point. The domestic energy financial performance varied across firms. So even if the Commission were to focus on the better performing firms, how do you explain the interim 2017 data? I assume you're going to have to do this posthearing, given that all of this is confidential, but I have already asked the Petitioners to explain differences in the firms, but I would like you to address that particular--

MR. KAHN: Absolutely, Commissioner Williamson, we will do so.

COMMISSIONER WILLIAMSON: Okay. Thank you.

For Reliance, you discuss your shortcut fine denier PSF product. Are the points you raise made on--the points you raised about how you produce the product, are they true for the domestic-produced shortcut product? You say the domestic product is produced differently than--

MR. NOLAN: No, the black PSF--

COMMISSIONER WILLIAMSON: The black--

MR. NOLAN: I don't think there's a difference in the shortcut production. I mean we've given you the specifics on how Reliance does it. I don't think it's materially different. It's a different production process in each type from our standpoint, because if you look at the specifics of how each product is produced there are sort of unique elements to the production process. Some provide more processing. Some require less processing.

The big difference in the black is the way it is made. Dedicated machinery. A dedicated polymerization unit where the black pigment is introduced during the production stage of the product. PTA, MEG, black goes in. Mix it up. It comes out black.

Taking PET flakes or other material that's pre-made and then remelting it and introducing it afterwards comes up with a different consistency product, fundamentally.

COMMISSIONER WILLIAMSON: Okay. I understand. That was going to be my next question. Let's finish the one on the shortcut. You say that is not different? I mean the process is the same? Basically the same?

MR. NOLAN: The same process I'll answer for.

COMMISSIONER WILLIAMSON: Okay. But for Reliance it's done on separate lines?

MR. RAJVANSHI: Yes, it is done on a separate line in the sense that the--after the spinning is done, when it goes for cutting, you need to have a very small cut. And it's a tangler cut. Because it's not for the textile application. In the textile application, normally as a fiber, whether polyester stable fiber, or a viscol stable fiber, it get mixed and then a yarn is spun out of it.

It can be blended, but shortcut cannot be blended with any other fiber, unlike PSF which can be blended with cotton, which can be blended with viscol, which can be blended with nylon. A shortcut fiber cannot be blended. That is not for textile application. It goes on for non-textile application.

COMMISSIONER WILLIAMSON: Good. Okay, thank you for that.

Now turning to the black or color PSF, are you arguing that your product is a separate like product? And if it is, what is the domestic product most like?

MR. NOLAN: Yes, so I think I'm making kind of a dual argument, recognizing the hill we're climbing on, separate like-product with you all based on history. I know a little bit about how difficult that's going to be.

So I'm looking at it from both the standpoint of separate like-product, but also attenuated competition. The only product that I believe is made in the United States that we--well, I can't say that, either. Okay, fine.

Let's just say there's very limited production in the United States. And according to Gildan's testimony, they're aware now that Palmetto makes it. However, having said that, the product that Palmetto makes is not the same quality or production process that Reliance makes, or other polymerization style black PSF.

I think that limits it significantly. There's both a cost factor that's built into that, and a price factor. The price factor for the product they make is higher. Unfortunately you didn't collect price information on black.

On the cost side, the cost is actually lower, because when you're doing a polymerization process it's a continuous production process. You're not introducing this in plakes. You've got to put more flakes in. You've got to re-melt it. You've got--it's just a simple reaction.

COMMISSIONER WILLIAMSON: Is it--the domestic industry talked this morning that some of the producers would make it chemically, if they made the black product.

MR. NOLAN: That's the way Reliance makes it, chemically. And I'd come back to the question I keep asking every time I heard them speak up about this. If they could make it, given the numbers we look at in the confidential data, why aren't they making it? It can't be because of imports. They never made it.

COMMISSIONER WILLIAMSON: Okay. Thank you. If they have anything more to say on that, they can say it posthearing. Thank you.

By the way, and you make the black product on a separate production line, too, I assume. Thank you.

Okay, also for Reliance, is there a domestic production of siliconized fiber fill? And is that also made on separate lines using separate processes?

MR. RAJVANSHI: So clearly what happens, there are two processes of making the polyester fill fiber. One is a continuous polymerization where you add MEG and PTE, which consists of about 80 to 85 percent of the cost.

You add that, make a melt, and when the dope is ready it passes through the screening, the fine aspirated that it goes for having further process, and then before it is packed and dispatched.

The other thing is, you don't buy PTA, you don't buy MEG, you don't make a dope. You buy the flakes from outside, and then you melt them. And through the extrusion process you create PSF. And in that process, what happens, there are not always the consistent quality. Because what happens, it depends on the kind of flakes that you are buying.

If the flakes you are buying doesn't have a proper composition of PTE and MEG, like 84 percent is the volume of PTE and 35 percent is the volume of MEG. But in order to save cost, if somebody has compromised on one of the ingredients, then the flakes' quality will not be good. And you can't get a consistent grade and a consistent color. Because color you are adding the black color at the extrusion stage, not in the melted cell so that it is consistently coming with the same good color that you want.

MR. NOLAN: I think they're asking about siliconized fiber. I'll interject here because I think I know what you're asking.

MR. RAJVANSHI: You see, what happens, your excellencies, when the melt is pink, before the screening process, we add the siliconized oil in that. When we add the siliconized oil in that, the whole process become different.

Then after the mixing of the siliconized oil, then it goes for screening, and then for the final brock. Now that is because of the presence of that silicon oil. It cannot be used for textiles. It is to be used for paper, wallpaper, some secondary reinforcement like now people are starting mixing it with the concrete to give it strength on the pavement. So it has a different application, not the textile application.

MR. NOLAN: And what about fiber fill? Does anybody else make fiber fill?

MR. RAJVANSHI: Fiber fill? I don't think in U.S. there is many producers, or there may be only one producer is doing it. But I have my own doubts. And that gives-- it's a lax fiber. That gives a good feel, a soft feel, because by adding that silicon oil it makes the end product softer. And when it is softer, generally it is not taken for screening. It is used as a fiber fill for pillows, comforters, and all that, because it remains even. If you hold a pillow and it has a gentle fiber, polyester stable fiber, the fiber will come on one side. That's a tendency. But if it's siliconized fiber, it will remain even, even if you hold on one side.

COMMISSIONER WILLIAMSON: Interesting. Thank you.

Is demand for these, what I call, quote/unquote, "more specialized fibers," is that growing relative to the--

MR. RAJVANSHI: The cost gets added because of the addition of silicon oil into the normal process. So it costs a bit higher.

COMMISSIONER WILLIAMSON: But is demand growing for it relatively faster than demand for other--

MR. RAJVANSHI: Yes. The answer is yes.

COMMISSIONER WILLIAMSON: Okay. Okay, thank you. This is for the Chinese Respondents.

You know, with this purchaser reporting difficulty in obtaining domestic supply with POI, but generally what we have, the purchasers don't generally indicate why they weren't able to source elsewhere in the U.S. Does the record really suggest that the industry as a whole was unable to produce more during the POI?

MS. GRODEN: This is Cara Groden. I think that's really two separate questions.

I think the record does suggest that the industry was not able, even with their idle capacity, to serve the

U.S. market adequately. And certainly not to serve the portions served currently by subject imports.

Secondly, I think there is--and obviously we'll have to refer to this posthearing--but there is narrative within the purchaser questionnaires saying why, where they ordinarily would have sourced from one U.S. producer, why supplying from other U.S. producers was not actually a possibility for them. So we'll refer to that posthearing.

COMMISSIONER WILLIAMSON: Okay, good. Thank you. Thank you for those responses.

CHAIRMAN SCHMIDTLEIN: Okay, thank you.

I guess following up on that question, how do you account for the growing inventories, the end-of-period inventories? Why couldn't they have sold out of those to serve the U.S. market?

MS. GRODEN: Are you referring to U.S. producer inventories? Or--

CHAIRMAN SCHMIDTLEIN: Yes, the U.S. producer inventories. So if the argument is there were supply constraints, imports were pulled in, domestic industry couldn't supply, how do you reconcile that with the growing inventories where presumably they could have just sold out of inventory?

MS. GRODEN; Presumably. I don't know the individual makeup of their inventories, whether product mix was an issue particularly with regard to some of these niche products. But the fact remains that these purchasers were not able to source what they needed to.

It might have simply been an issue of compounding supply disruptions and sort of shattering that foundation of trust with your customers to a certain extent. That's certainly the feel we got from some of the purchaser questionnaires.

MR. NOLAN: Commissioner, if I could just interject for a second? So those inventory numbers, you have to look at little bit about what the composition of that inventory is. We don't really have that.

But the composition of the inventory is very important. It reminded me of the report that just came out--and I probably should have put it in the brief, but I just didn't think of it--this is a report on the current status of the U.S. staple fiber industry. And it says here:

One example is that new buying patterns will change the demand for staple fibers and how they are handled in the apparel industry. Retail garment sales in a number of key consuming countries, including the United States, are under pressure. And one reason is that Millenials, Generation Ys born between 1980 and 2000, are more interested in spending on technology and experiences such as holidays and eating out than on clothes.

This is a fundamental shift in consumer buying behavior and is slowing growth as retailers try to defend their market place.

I happen to be the father of three Millenials. I suspect you all probably have a few of them as well, and I can attest to the fact that they are more into going out than they are buying clothes. "The devil Wears Prada" is dead these days. That's an unfortunate truth.

But if your concentration is in the textile sector and not in the specialty or nonwoven sector, you are going to have an increase in inventory.

CHAIRMAN SCHMIDTLEIN: So the argument is that demand was going down in the textile sector, and that's why the inventories were--

MR. NOLAN: I think that's part of it. I can't tell you if that's the whole answer, but I think that's a big piece of it.

CHAIRMAN SCHMIDTLEIN: Okay. So how should we figure out what the whole answer is?

MR. NOLAN: We'll try to address it in the posthearing brief, but the problem is the data that you need for that isn't with us.

CHAIRMAN SCHMIDTLEIN: Do you think it's in the staff report, though?

MR. NOLAN: I don't think the staff broke it down to that level. I'd have to look.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, there is a--this might be along the same line of questions here--in Reliance's brief on page 15, going from page 14 to 15--and this is talking about volume; this is the volume argument--and you all make the argument that the domestic industry focused on mainstream PSF products and so forth.

And then over on page 15, you say the U.S. industry is not losing market share in its primary markets. And this is after you say, once speciality product imports are removed, U.S. producer share did X. U.S. industry is not losing market share in its primary markets.

And so when I read that, I guess I was a little bit confused because they obviously lost market share when you look at the C Table.

So my question is, what market are they losing market share in? Because you're arguing that they don't compete in the specialty markets, but if they're not losing it in the primary markets then where are they losing it?

MR. NOLAN: Yeah, I mean I may have overstated that a bit, and I'll admit that, and you can jump on me later for that one. I think that I was trying--we were trying to make the point that their market share is much higher once you take out the specialty products and those things out of the equation. And whether I calculated it incorrectly because I didn't have the benefit of a professional economist working with me that night that I was trying to deal with it, I take the fault on that one.

But the point is still the same: that their market share was much higher once you take the specialty products out, given the level of concentration of imports in those subsectors. And that therefore their market share is deceptively changing in the calculus that you're looking at.

Whether it went down slightly or not, I can't actually tell you because we don't have the data for anything but 2016 for the submarkets, the specialty, the black, the shortcuts and everything else.

The only data that was collected was for one year. But if that is correct, the way I interpret it, it would suggest that their market share for the mainline production is much higher than otherwise would be the case.

CHAIRMAN SCHMIDTLEIN: So who did--so when I look at this, U.S. producers lost share. It's bracketed. Let's just look at the four years. And subject sources gained, gained more than U.S. lost, right, actually, in those four years.

Who did subject gain that from?

MR. NOLAN: I'll have to look at it and get you--I can't look at the APO data with the witness in front of me, so I'm a little bit hamstrung with that.

CHAIRMAN SCHMIDTLEIN: Ms. Groden?

MS. GRODEN: Just quickly, Cara Groden. I think part of the point that Mr. Nolan is trying to get at is that if there is a significant share of subject imports in these niche markets that's not served by U.S. producers, and then that's being lumped into this market of apparent consumption, then the overall market is creating this illusion of lost share when it's really just going into products not served by the U.S. industry.

So that's a potential interpretation of that share that's not--it's not taking anything from U.S. producers. It's just simply filling a niche that U.S. producers are not in.

MR. NOLAN: Thank you, Cara.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, alright, sort of along the same lines I guess, when I look at the confidential chart that you all provided, right? So one question I have in general in talking about these niche markets, and you've put it out there on a graph very nicely in terms of what proportion of subject imports are in the specialty markets, specialty segments, and how that compares to their overall. And then the same with the U.S.

I guess my question is: Even if we put aside the U.S. production and how big that is in those markets, for an attenuated competition argument, right, which is really a causation argument, isn't that enough? Right? Isn't this--and I hate to say it--but, you know, isn't the difference between your green bar and your blue bar where that's the portion that would just be competing in the quote/unquote "primary market," right? Isn't that enough?

That seems like a fair amount to me to establish causation. I mean, I know we've been really focused on these percentages, but when you--even if you accept all that arguendo, isn't that enough of the subject imports competing in the primary market?

MS. GRODEN: I mean as far as causation, I don't want to--I'm not a lawyer, so I'm not going to address the legal aspect of that, but I think the presence of subject imports in the market is not sufficient to establish causation. The fact that two sources of supply are in a market does not mean that one source of supply had any substantial impact on another.

What we see in terms of a break of a causal nexus is the fact that, regardless of the increase in volumes, whether that was in niche products or if that was in the other category, or the normal category, whatever you'd like to call it, we have substantial evidence on the record from purchasers stating that was not due to price and did not--and therefore they didn't gain share on the basis of price. And so therefore they would not have been adversely impacting U.S. producers in their entry into the market or in their presence in the market. I think just saying, well, they had a substantial share, a substantial volume of subject imports in the market is not enough to establish a causal nexus.

MR. NOLAN: I would -- I'd reiterate what Karen just said. And what's the reason that the imports were coming, all right? We've heard the petitioner say it's all about price, but the record doesn't say that. In fact, it says pretty much the opposite. I saw the volume chart that they put up, it said, wow, you know, price was a consideration. Well, if I come to you, and I have two identical products and one product is better quality than the other and it costs the same, price is a consideration, but you didn't buy it like an inferior quality product, you bought the better one, because that's what drove your decision process. You look at the purchaser questionnaire responses, they're not dwelling on price. They're dwelling on other factors. And just to put one plug in for the Indians, we only brought in specialty products.

CHAIRMAN SCHMIDTLEIN: Okay. Before I turn it over Vice Chairman Johanson, this is sort of along the same lines. In the pricing products that we have, would those capture some of these specialized products, the definition, those definitions?

MS. GRODEN: They would not, no. Petitioners in their pre-hearing brief noted or provided correspondence that they had with staff to limit the pricing products to include only longer than shortcut, not siliconized, not other colored, not anything, to limit it specifically to -- I don't know what the specific definitions are off the top of my head --

CHAIRMAN SCHMIDTLEIN: Yeah.

MS. GRODEN: -- but I do know that they limited it to exclude all of the niche products.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, thank you.

Vice Chairman Johanson?

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein and thanks to all of you for appearing here today. Earlier today, I asked the petitioners about the apparent disagreement between petitioners and respondents regarding the market with regard to demand. And I'm curious why does your view on demand differ from that of the petitioners, whether demand has increased or decreased?

MR. NOLAN: I think demand, it depends on which market you're talking about here. I mean, the part of the components of the separate like product argument that I was making earlier was that there are fundamental differences in these markets, woven versus non-woven, textile versus non-textile applications. It's my sense that where you're seeing the decline is in the textile sector, which is the main line PSF production area, not in the non-wovens, not in the places where it's not a textile application, because the demand drivers for the stuffed pillows and the filters and the paper products and the white products is fundamentally a different dynamic.

And so, you've got to look at what's driving those markets. And there's -- there are fundamental differences between them. I think the demand has declined some in the main textile sector for the reasons I just quoted in this article.

VICE CHAIRMAN JOHANSON: Okay, thank you.

Mr. Marshak?

MR. MARSHAK: Yeah, I think if you look at page 28 of our brief, Table 10, subject imports and its products, you're going to see increased shipments of these niche products, which means there's an increased demand for the niche products, which are being imported. And that is, you know, one reason why there's an increased market share, but these products seem to be doing very, very well.

So, again, different markets, different demands in each market, between woven to non-wovens. And unfortunately, for the domestics, I guess a market where maybe at least one of the domestics really specializes in, there may be decreased demand in that market, which is the reason for a potential belief that there's injury for that particular -- those particular producer or producer in that particular market, rather than subject imports as being the reason.

VICE CHAIRMAN JOHANSON: One of the sub-specialties is black, correct? Isn't that primarily used in textiles?

MR. NOLAN: The black is used in textiles, but in a, I guess I would say, high end, wouldn't you say, high end textiles, which I think is sort of a separate kind of niche issue. I mean, you're talking about material that's used for higher priced garments, higher priced -- higher quality items. And perhaps that's a much smaller -- it is a much smaller market relative to the main, you know, going to Walmart and being T-shirts of whatever. But it's probably a more robust and weather or recession resistant market, I guess I would say, demand dropped resistant market from that standpoint.

But it is a much smaller market, too, relative to other PSF productions, based on what you can see just in the staff report.

VICE CHAIRMAN JOHANSON: Okay, thanks, Mr. Nolan.

Mr. Marshak, were you going to say something?

MR. MARSHAK: Not on that.

VICE CHAIRMAN JOHANSON: Okay. Okay, actually, Mr. Marshak, I do have a question for you. This is just kind of a side question, but according to the staff report, production capacity in China for fine denier PSF has decreased over the period of investigation?

MR. MARSHAK: And that would be consistent from what we've heard from our clients. We're going to put on more information in post-hearing with really a break -- where the report as to what's going on in the Chinese market. I believe there's some environmental concerns in China and reasons why they've taken offline certain capacity. And if you can look at the data from China, you're going to see really operating it very close to capacity with increased shipments in the whole market and third countries. And the U.S. just really isn't that important for the Chinese.

Is it one of the biggest export markets? Yes. But when you look at all the other export markets for China, and you look at the whole market for China, the U.S. is a drop in the bucket for China.

Again, you know, we care about the United States, but we care a lot more about what's going on in China and what's going on around the world.

VICE CHAIRMAN JOHANSON: Okay, thanks, Mr. Marshak. I'm just not used to seeing Chinese production capacity decrease. That's nothing something, you know, you usually you hear the opposite in many of these investigations. So that struck me.

You all had mentioned that production constraints in the United States market such as the closure of the Cape Fear facility and the shutdown of the British Petroleum facility and the electrical outlet -- outage which occurred in 2015, I believe that was with the DAK plant.

You have stated that those have led to increased subject imports. But why would such production restraints not be accompanied by higher prices in the U.S. market? After all, as you all note in one of your briefs, I believe the Chinese brief, U.S. producers are the largest suppliers in the domestic market. If they're sending less product to the U.S. market, would we not expect prices to rise?

MS. GRODEN: Well, if -- this is Cara Groden. I've -- around here costs are falling, you wouldn't expect prices to rise. We've already established it's a very close relationship between raw materials and prices in the U.S. And so there'd be no expectation that those prices would go up even in a shortage, I think, because of the contractual and in some certain cases, indexed relationship between the two.

MR. NOLAN: Now you could actually see evidence of that in our pre-hearing brief. In one of the exhibits, we actually provide a formula that shows how it's priced.

VICE CHAIRMAN JOHANSON: Okay. That being aid, I mean, and wouldn't you expect that if there is a supply constraint, why would that impact prices?

MR. MARSHAK: I mean, I'm going to -- I mean, the obvious answer is your supply constraint, you can't make the merchandise in the United States. You can't get it from a U.S. supplier, because of a supply constraint. So what do you do? You know, you have customers to serve in the United States. You buy it offshore, but you're not buying it offshore, because of the low prices offshore. You're buying it offshore because you just can't get it in the United States, because you've been burned once and you're worried about being burned in the future. And you have to satisfy your customers who make yarn in the United States, who make baby wipes in the United States. So this is a critically important product to keep production in the United States of the downstream products growing -- going. So you know, you have to get the merchandise, get it at the same price. There's no reason why the prices should go up. The merchandise is coming in from offshore and the reason you don't get it from the United States is because you can't. It's just not there.

VICE CHAIRMAN JOHANSON: Okay. And Mr. Nolan, you referred to the price formula?

MR. NOLAN: Yes.

VICE CHAIRMAN JOHANSON: Where is that found again in your brief?

MR. NOLAN: If you look in the parts where we discuss the agreement --

VICE CHAIRMAN JOHANSON: Okay.

MR. NOLAN: -- between denier --

VICE CHAIRMAN JOHANSON: Yeah, yeah.

MR. NOLAN: -- there is a formula that is supposed to be followed by the parties.

VICE CHAIRMAN JOHANSON: Uh-huh. Okay, I'll look -- I'll take a look at that again.

MR. NOLAN: But that's a cost plus formula purely.

VICE CHAIRMAN JOHANSON: Okay.

MR. NOLAN: So you look at MEG prices. You look at PTA prices. You add a factor in. Boom, that's your price.

VICE CHAIRMAN JOHANSON: All right.

MR. NOLAN: That's pretty much what the industry does.

VICE CHAIRMAN JOHANSON: Uh-huh. Also Mr. Nolan, while you are sitting up there, in your brief, you allege that subject imports from India are not sold in the United States, but are -- that they are re-exported to third countries, at least a large portion of them?

MR. NOLAN: Yes.

VICE CHAIRMAN JOHANSON: And this is in page -- several places in your brief, page 221 and 22. Could you elaborate on this particular issue?

MR. NOLAN: Yes. It came upon me as I was reviewing the importer questionnaire responses and subsequent communications between the Commission staff and certain parties. And it became quite apparent to me based on that. And I could put the full range of communications in one spot in a post-hearing for you, so you can see how I got there.

VICE CHAIRMAN JOHANSON: That'd be useful, yes.

MR. NOLAN: It -- what it shows, and I'm not looking at census there. I'm not mixing apples and oranges here. I'm looking purely at importer questionnaire responses from the parties in this room. And based on that information, a large, if not significantly large quantity of the material that was coming into the United States went back out again.

And in fact, in parts of this, there are comments about what stayed, and what left, and why. And I -- with all due respect to the petitioners, counsel, I disagree with their characterization of that chart being inaccurate. I'll give you the source material right out of the importer questionnaire response to show how we got it. Seems pretty obvious to me what's going on. A substantial amount of product that gets reported on the importer questionnaire responses is not entering U.S. commerce.

VICE CHAIRMAN JOHANSON: And I assume, I don't know if this is proprietary or not, and it might not be your proprietary material, I just don't know, but do you know if that is due to free trade zones or duty draw -- is there duty for drawback being collected? Do you have any idea?

MR. NOLAN: I -- the reasons for that, I can't elaborate on because at that date, it was not in the questionnaire responses.

VICE CHAIRMAN JOHANSON: Okay.

MR. NOLAN: So I don't know. I just know that what's on the charts, what the facts are telling us.

VICE CHAIRMAN JOHANSON: Because I would expect that if you're re-exporting.

MR. NOLAN: Correct, but if you're importing -- if you're reporting import numbers at one level and then it's leaving again --

VICE CHAIRMAN JOHANSON: Right.

MR. NOLAN: -- never entered U.S. commerce, so why are we counting those numbers?

VICE CHAIRMAN JOHANSON: Okay. Well, thank you. And I hope -- I wouldn't mind hearing more from the petitioners on this. I think this came up this morning as well.

My time is going to -- is ending right now, so I'll -- I look forward to coming back and speaking in the second round of questions.

COMMISSIONER WILLIAMSON: Thank you. Good. Since you can address it here, I was wondering can you say something about the demand for shortcut in the U.S. and how it's evolved over the period? And is that all being used in the non-woven or is it also being used in textile? Like I said, to the extent it's not proprietary, address it here.

MR. NOLAN: First, I'll start from the last and go forward. Just consulting and I'll have Anil talk about this since you probably want to hear from him, not me so much.

COMMISSIONER WILLIAMSON: Uh-huh.

MR. NOLAN: Shortcut is not used in textile applications. It's used in non-woven applications, I believe, exclusively. Is that correct?

MR. RAJVANSHI: Yeah, that's correct.

MR. NOLAN: As far as the evolution of the market, I'm not a veteran in this industry by any stretch of the imagination, so it's going to be really hard for me to give you an honest, informed answer about this. So that's perhaps something that we would want to try to address in the post-hearing brief.

COMMISSIONER WILLIAMSON: Okay.

MR. NOLAN: But I think that the demand for that sector is growing quite -- is growing, is improving because of what it's used for, wipes, filters. You know, the demand patterns again are different in that industry sector.

And I think that has been a growing sector, which sort of begs the question, why isn't it more of it being made here? I can't really answer that question, because it would seem to me logically, you should be making it here. And it can't be because imports were predeceased, was just squeezing them out. I mean, start making it, because it doesn't cost much more to make it apparently.

COMMISSIONER WILLIAMSON: Okay. Good, thank you.

MR. MARSHAK: Just --

COMMISSIONER WILLIAMSON: Sure.

MR. MARSHAK: -- we show the data on shortcut on page 27 and 28 of our brief. I mean, you look at the confidential data, it's -- I don't think I'm saying anything that's confidential. It's really not made in significant quantities in the United States and imports have been increasing. You know, absolutely, there have been an increase of imports in shortcut. And you don't have domestic production of shortcut. And these are the just the facts.

Why? We'd have to ask purchasers. The domestics may know. And we'll try to find out for the post-hearing.

COMMISSIONER WILLIAMSON: Okay. Thank you. Has -- some questions about direct importing. Has this become a more common trend in recent years and when did the trend start? And are some sectors use -- are users more likely to import directly and why?   And I'm thinking about in this particular industry.

MS. GRODEN: This is Cara Groden. I think most of this we'll have to address post-hearing just because the confidential nature of the record, but I think there is -- and you can see it in the tables. We've inserted into the -- that it's supply discussion in Chinese respondent's pre-hearing brief, which I think is -- begins on page 17, but don't quote me on that.

But there is a certain correlation with -- between the direct import volumes and the timeline of supply disruptions in the States. But beyond that, I think we'll have to talk about it post-hearing.

And I don't think that we have any really information about whether it was going into certain end uses or certain products because of -- we can make assumptions based off of the purchasers who are reporting direct imports, but we're not going to have as much information on that as they would be able to provide themselves.

COMMISSIONER WILLIAMSON: Okay. And how much do we use the direct importing pricing data? And do we have a sufficient additional -- and have we gathered sufficient additional data to make the direct import pricing data comparable to our domestic producer and importer pricing data?

MS. GRODEN: I think the purchaser questionnaire record is clear that they weren't basing those price -- those purchases off of price. So regardless of what the -- that price comparison would show, the volumes weren't coming in on price. And I understand that you need to look at it as part of your consideration of the record, but I think equally important is the fact that there's a wide consensus in the purchasers bringing in those imports that price wasn't the reason they were doing it.

COMMISSIONER WILLIAMSON: Now this morning, petitioners argued that, you know, it might not be the primary. I mean, it's not -- the test is not whether it's the primary, but it's -- was it a factor? I mean, if you get a bene, because you can also get it because it's more what you want, but it's also cheaper?

MR. MARSHAK: I think petitioners are confusing or conflating that, you know, imports or dumped imports don't have to be the primary cause of material injury for an affirmative determination. You know, we all agree now there has to be a contributing cause, but that doesn't mean that when you're talking about pricing as to why a particular company buys a particular product, that price can't be a factor in the purchasing decision.

If the primary factor in the purchasing decision when you make a purchase is not based on price, if it's based on quality or availability, and if price happens to figure in there as a factor, as it always will, it's -- you know, price always matters at the end of the day one way or another. If something gets too high priced, you know, you're just not going to buy it no matter what.

So when you're looking at contributing factors in price, yes, for material injury if price is a contributing factor, you could have material -- dumped imports as a contributing factor, you could have material injury. But when you're looking at a purchase decision, the fact that price is a factor does not make that the purchase decision injurious. It's not the real reason why the merchandise was purchased. It was purchased because of availability, because of reliability for other reasons.

COMMISSIONER WILLIAMSON: But often, we have cases where people talk about it's a premium product. And yet, it's priced lower. And their question is why is it priced lower if it's a premium product?

MR. MARSHAK: Every case is fact specific case.

COMMISSIONER WILLIAMSON: Yeah, yeah.

MR. MARSHAK: I mean, you know, we go from case to case. And you know, we know that you're not going to rely on a decision in another case.

But what we try to do here in our brief is we've put in -- we purposely put in the direct imports from the major -- from all these purchasers to show that the real increase in imports was because of these direct imports. And then what we did in our brief right underneath that chart, we put in the reasons from the mouths of the purchaser.

And we were something that -- that petitioner said this morning really, you know, just got me thinking. They were saying that when you're talking about what the purchasers were saying, they were equating the purchasers with respondents.

Counsel was talking about, well, the respondent said in their questionnaire responses. You know, wait a second. The purchasers are not respondents. These are our customers the same way that they are the domestic producers' customers. They don't have this ax to grind. They have to keep buying from the domestic industry.

You know, they have honest responses. And this is what we said. And that's why we relied on this information in our brief.

MR. NOLAN: And if pricing was always the driver, the underselling analysis would be a lot clearer, wouldn't it in front of you? I mean, the underselling -- overselling analysis is not suggesting that, you know, pricing are submarining all the time.

If I came back to my statement before, if you find yourself in a shortage of supply situation and you need to find alternative sources, and you go out and say I'm paying $1 for this from this guy and this guy, but I'm really not sure they're going to be able to supply. Can you supply it for me for a $1? And they say yes. Is price a consideration? Yes. Is that the driver? No.

I submit to you that is what the U.S. purchasers have been doing. They're diversifying their supply source. There is not evidence of underselling on the level necessary to say that imports are constantly going in under. And so alternative explanations have to be ones to explore. And the only one out there is what the purchasers are saying. We're concerned about availability in the market, supply disruptions in the market, domination in the market by a few producers. And if somebody goes down, we're not making material. So we want to diversify out to other sources. It's not illogical. And it's certainly not price driven.

COMMISSIONER WILLIAMSON: Okay. So my question is what do we make of the pricing data as regards to the direct imports? What --

MR. MARSHAK: The pricing data and direct imports is what it is, but the reasons why the purchasers bought direct imports and primarily from China is not because of price. It was not price driven purchasing decisions. And you can see that, confirm that, by looking at the purchaser questionnaires.

MR. NOLAN: And the Indians have a grave concern about it. If any of that data is being used based on the agreements that we have had in place, the price setting that's been going on.

If you tell us we have to accept a price, and if we don't accept the price, then we're done, even though that price may not meet the parameters of an agreement, what are they supposed to do? And then that affects direct imports. And you look -- it looks like, well, now it's coming in under. Well, who's manufacturing that price at this point? The party to the agreement that's buying it and importing the merchandise. And they're only selling to a very few people in these -- in this country.

COMMISSIONER WILLIAMSON: Okay, well, thank you. I see my time has expired.

MS. GRODEN: If I can jump in just quickly --

COMMISSIONER WILLIAMSON: Sure.

MS. GRODEN: -- since I didn't have that side for you earlier, the relevant discussion with the purchaser narratives and their respective direct imports begins at page 14 to Chinese -- respondent's pre-hearing brief.

COMMISSIONER WILLIAMSON: Okay, thank you. Okay, thank you.

CHAIRMAN SCHMIDTLEIN: Okay. Mr. Nolan, just following up on the conversation we were having during the last round, in the staff report, we do have tables which break out the U.S. producers' shipments of these various specialized products over the full POI and also breaks out the U.S. importers' shipments from the various subject countries over the full POI.

So it, you know, I've been looking at it here. It looks like we, you know, we could piece together in terms of this question are U.S. shipments and market share declining because the market's disappearing or is there something else going on, right, if I understood the last, between you and Ms. Groden, the last explanation for where that lost market share is going.

MS. GRODEN: This is Cara Groden. I know you directed this at Mr. Nolan, but --

CHAIRMAN SCHMIDTLEIN: Yeah.

MS. GRODEN: -- the reason that he said earlier that we only have the information for 2016 is because I did that adjustment surrounding the -- using the purchaser questionnaires to back out any potential overlap in importer quantities, based off of 2016 data because they only collected the relevant breakout for purchasers in 2016, so it wouldn't be possible for us to do the same sort of analysis for prior years of the POI.

So any sort of market share analysis that we would do for the earlier years of the POI would be fundamentally a little bit fuzzy, because we wouldn't know -- we don't have any information really about changes in product mix and purchases over the course of the POI either. So it would be difficult to do an analogous analysis for prior years.

CHAIRMAN SCHMIDTLEIN: But put it like this, but for your all's purposes, because you're arguing that specialty products are what dominate the subject imports, right?

MS. GRODEN: Uh-huh.

CHAIRMAN SCHMIDTLEIN: And so if there's overlap between these categories here, meaning there's actually fewer product coming in in the specialized category writ large --

MS. GRODEN: Somewhat, yes.

CHAIRMAN SCHMIDTLEIN: -- right? So in other words, then they're only -- it's only going to go down. So for your purposes, this would be the best case scenario, right? Like what's reflected in these tables for the Respondents this would be the best case scenario and if we were able to eliminate the redundancy or the overlap between a black fiber that's also a shortcut that's what you're saying, right, something that qualifies as two?

MS. GRODEN: Sort of. If you're looking at -- it depends on how you're characterizing a market in this instance, if you're looking at specifically the market for each of those products separately or if you're trying to back those products out of your overall apparent consumption. And while it would, overall, yield a lower market share for subject imports without knowing how product mix might have overlapped in those prior years it wouldn't necessarily give you a good idea of how market share has changed. Does that make sense?

CHAIRMAN SCHMIDTLEIN: I guess my point was does that matter if what we're really talking about is primary versus specialized and that --

MS. GRODEN: It does matter because you wouldn't be able to accurately break it out is the short answer, but anything that we would provide on that basis would be mathematically a little bit flawed.

CHAIRMAN SCHMIDTLEIN: Right. Well, okay, so again -- alright, I'm not going to belabor the point. When I'm looking at this, right -- so for instance, if we're talking about an attenuated competition argument, you've got China who is the biggest player here, right? When I look at the imports from China there is an awful lot that I would call non-specialized, non-niche, right? So if you're looking at and you're adding up the total U.S. importer shipments from China of these various categories that are in D-3 to D-35, these various charts, right, if there's overlap in that the specialized part is only going to go down. The number is going to go down and the primary part is going to go up. So that's why I'm saying for you all purposes this is the best case scenario.

MR. MARSHAK: We agree. Look, you're absolutely correct. Yes, so our argument, basically, is two parts. One, you look at the attenuated competition with your specialized products and then you look at what's left. And when you look at what's left -- then let's say Chinese because we represent the Chinese. Chinese market shares stay the same. Chinese market share show up, if Chinese market share stayed the same that's great for us. If Chinese market share really did go up that's not the end of your inquiry. What are the reasons why the Chinese market share went up? And that's the reason that in our pre-hearing brief we went into excruciating detail, customer-by-customer.

First, we put the chart of direct imports because that's the increase in imports and then we put right under that for the major purchasers and for a major, major part of the purchasing from China why. So we have did it go up, is it indirect imports, and then the question is why? So we believe for there to be an affirmative determination you have to get -- if you don't get to the why, we win before the why; but if you get to the why, then the question is, is it because the purchasers believe they had no choice? Is that a reasonable position by these purchasers that they were basically scared to keep buying from these domestic producers because they were burned once? They looked around. They looked at what their customers were saying. They looked at what their shareholders were saying and they basically said we just can't rely on these people in the United States any more.

And if that's case, we believe it has to be a negative -- we believe it should be a negative determination.

CHAIRMAN SCHMIDTLEIN: Right, okay. And then the attenuated competition argument is also relevant for the cumulation argument.

MR. MARSHAK: We're not arguing cumulation.

CHAIRMAN SCHMIDTLEIN: You're not arguing cumulation, but India is.

MR. MARSHAK: Attenuated competition is also for causation because --

CHAIRMAN SCHMIDTLEIN: Right. That's what I've been focused on.

MR. MARSHAK: Let's see where there's really attenuated competition. We'll look at that.

CHAIRMAN SCHMIDTLEIN: But you're looking at it on a cumulated basis when you're talking about that.

MS. MARSHAK: Yes.

CHAIRMAN SCHMIDTLEIN: Yes.

MS. MARSHAK: We're not going to argue that.

CHAIRMAN SCHMIDTLEIN: Right.

MR. MARSHAK: You know we're kind of looking at everything. You know is there attenuated competition, so you know you're first inquiring and then you look at that separately and then let's see what's left over. There is not attenuating competition with everything. We know that. And then what happens with the leftover. Is there increased market share? Okay, if there is increased market share, then what is the reason?

CHAIRMAN SCHMIDTLEIN: Okay.

MR. MARSHAK: There are many steps.

CHAIRMAN SCHMIDTLEIN: And so for India, you are arguing that India should be de-cumulated?

MR. JAXA-DEBICKI: Yes.

CHAIRMAN SCHMIDTLEIN: Based on lack of competition?

MR. JAXA-DEBICKI: Our argument is very simple. It's there's so much coming in from India and you subtract what's going back out what's left is in what we're calling specialty product areas and it's attenuated competition right there because it's our product that is actually being sold and distributed here is being sold in these specialized product areas in which the U.S. industry either does not make the product or does not significantly compete. And you can even take it a step further. I think there's evidence on the record to support the second component, which is even within the specialized product area, the ones that India is concentrated in are not the same as the ones that most other imports in those categories are. So in that sense, we should be taken out.

MR. NOLAN: I'd also comment that special circumstances with which these imports are coming in from India pursuant to a 15-year, long-term agreement with a party sitting in this room, who has set the price and decides what the volumes are of those specialty products coming in to a significant extent. It's hard to see how that doesn't separate India out from the pack. Would they be in this market at the level they are had it not been for that agreement? It's a really good question.

CHAIRMAN SCHMIDTLEIN: Okay. Okay, thank you very much. Vice-Chairman Johanson.

VICE CHAIRMAN JOHANSON: Thank you, Chairman Schmidtlein. This question for Reliance dealing with a specialty product, is the specialty shortcut PSF described in your briefs also called Recron R3 different from the shortcut PSF that the Commission previously considered in the preliminary phase?

MR. NOLAN: I'm not sure Anil's going to know because we weren't involved in the prelim, but why don't you just tell them about the Recron 3, what that is.

MR. RAJVANSHI: Recron is a brand name of Reliance. And of course, it doesn't classify the work, specialty or non-specialty. It's just a brand name, Recron.

VICE CHAIRMAN JOHANSON: Okay, so I assume it would compete with the domestic product.

MR. RAJVANSHI: But as we explained earlier, our main export is our specialty product, not the general product.

CHAIRMAN SCHMIDTLEIN: Okay.

MR. RAJVANSHI: -- which includes blacks, siliconized, uses fiber fill, all in those things because we didn't have much of a liberty to export the volumes at the price that we feel like. As Matt explained, we are bound by the agreement, so they give the orders of the quantity that should come to America. They mention the price. Many times you know we have placed on the card that we were not allowed to even take the price as mentioned in the agreement because the party do the agreement insisted, no, not at this price. You sell at this price and then document for the card for that, so we didn't have much liberty. Thank you.

VICE CHAIRMAN JOHANSON: Okay, thank you. Also, for Reliance, on page 20 of your brief, you state that PTA and MEG prices increased rapidly in interim 2017, but that price hikes did not keep pace. In your view, why wouldn't price increases keep pace with increasing raw material costs?

MR. NOLAN: I'll have to look; which page is it on?

VICE CHAIRMAN JOHANSON: Page 20 of your brief.

MR. NOLAN: You'd think I'd know what's in my brief. So I think that goes to -- to me, I think it goes with the lag, a bit of a lag. I mean when you have rapid changes -- we've seen this behavior before in other industries. You all have seen it many times where you know when there are rapid changes in materials sometimes prices are -- you get lucky and they go down, but you can maintain price a little bit with an overhang.

On the other hand, if prices go up on the raw materials really fast and even if you have the ability to change your contracts on a monthly basis there's a month where you're paying perhaps more raw material costs than your price can change, so that can be impacting.

So any time there's a rapid increase or decrease, it does create this dovetail, either beneficial or prejudicial affect on pricing. And we've seen it in other industries where when raw material prices dropped rapidly you got a little bit of a cliff and maybe you make taste prices for some period of time before the market forces you down. The other side of that coin is when raw material prices go up really fast and prices can't keep up with it until the next cycle of price change in the contracts allow you to get there.

VICE CHAIRMAN JOHANSON: Okay, thanks, Mr. Nolan. And I have a question for the Chinese Respondents and it's probably best for Mr. Kahn. You brought up this case earlier. In your brief and also today in the hearing you cited a case from the Federal Circuit and that case is Taiwan Semiconductor Industries Association v. ITC. And you cited this in support of the proposition that it is possible to find an absence of material injury even when the volume of subject imports is significant in absolute terms and even when there has been a threefold increase during the period of investigation. And you write all of this in pages 36 and

37 of your brief.

But can you tell what was the outlook in U.S. market for semiconductors during that time in 1994 to 1997? I assume the market was expanding rapidly for semiconductors, unlike in the present situation where it appears demand was either up a bit or down a bit, but not increasing rapidly.

MR. KAHN: Commissioner Johanson, I don't have that case with me right now. I can certainly address this in post-conference, but it's -- I mean it's axiomatic that each case is sui generous. And in fact, that's why you know, typically, we don't load up these briefs with a lot of cases because, quite frankly, it never works. You know we never see in the Commission report saying, well -- you know trying to distinguish or really even address precedent, so you know we just wanted to make the point that this Commission and reviewing courts have accepted the fact that just significant import volume and just significant market share is not itself enough. But in terms of what's going in PSF demand and this record. vis- -vis, what we can tell from the public decisions of the Commission and the court that's something that I can address, but really the takeaway is just the fact that we don't think this is controversial that the mere fact of significant volumes is the end of the analysis. We think it's just the beginning. Thanks.

VICE CHAIRMAN JOHANSON: Okay, thanks, Mr. Kahn. And that concludes my questions. I appreciate you all appearing here today.

CHAIRMAN SCHMIDTLEIN: Commissioner Williamson.

COMMISSIONER WILLIAMSON: Couple of questions for Reliance. You argue that a specific contract controls most of imports into the U.S. from India. Have you ever been prevented from selling to other customers?

MR. RAJVANSKI: No it's not that. Basically for the purpose of black fiber we didn't sell to other customers here. We sold the siliconized to the --

COMMISSIONER WILLIAMSON: You sold the what?

MR. RAJVANSKI: We sold the siloconized fiber to Invista. Invista is basically a company that has invented the finest of fiber machinery and the technology. They're one of the greatest technology suppliers as far as the polyester fiber industry is concerned. They buy the siliconized fiber from us, but not black we have not sold to other customers because we are bound by that agreement.

COMMISSIONER WILLIAMSON: Okay, so it's just the black product that you can't sell. Okay. And you argue for purposes of -- you argue against cumulation of subject imports from India for purposes of our present material injury determination. What percentage of the total imports from India are standard fine denier PSF? I mean, in other words, not color to black, silicon, shortcut, et cetera, and you may have to do this post-hearing.

MR. NOLAN: Yes, we'll have to do it post-hearing, only because we can't speak for the entire industry. I mean I can say that Reliance is a big chunk of the exports coming from India. And once you factor out the re-export equation, you're left with basically specialty products, that's it. But I'll have to go back and look and see what other imports coming in what those classifications would be. I'm going to bet it's very small.

COMMISSIONER WILLIAMSON: Okay, so everything that sort of competes with the domestic industry you're saying is --

MR. NOLAN: I mean based on the questionnaire responses that have come in and a very simple calculation of what's going on when you take out material that never entered U.S. Commerce what you're left with inevitably are specialty products.

COMMISSIONER WILLIAMSON: Okay, thank you. I look forward to seeing that post-hearing, and that's all the questions I have. Thank you.

MR. JAXA-DEBICKI: I may add that's certainly true for Reliance, which represents almost all or a great majority, shall we say, of the exports. But it's also true, to some extent, as far as we know, for the other exporter from India to the U.S. They don't have a special agreement, but there is also re-exporting going on with them and so, again, affecting the whole cumulation argument.

MR. NOLAN: We'll get in to detail at the post-hearing.

COMMISSIONER WILLIAMSON: Yes. You also might explain why this re-exporting. What was the commercial reason behind all that?

MR. NOLAN: I wish I could tell you why. All I can tell you is it's been going on and it's apparent and you would have to ask the importers involved why they're doing it.

COMMISSIONER WILLIAMSON: Okay, thank you. Thank you and I thank the panel for their answers.

CHAIRMAN SCHMIDTLEIN: Okay, just one follow-up on that. I know you're going to address this in the post-hearing. I was just looking to see. There were three producers from India that submitted questionnaire responses, so I guess what I'd like you to address is part of your argument is based on the fact that there is an agreement in place between one of the three, right, and they're bringing in a certain percentage of product of the total from India. How does it impact your argument with regard to that as a basis for de-cumulation, the fact that there are other producers of India sending product to the United States?

MR. NOLAN: Understood. We'll address it.

CHAIRMAN SCHMIDTLEIN: Okay, great. Alright, so I think that concludes the Commissioners' questions. Do staff have any questions for this panel?

MR. HARRIMAN: Staff has no questions.

CHAIRMAN SCHMIDTLEIN: Thank you. Do Petitioners have any questions for this panel? Okay, thank you.

Alright, again, I'd like to thank the witnesses for their testimony today and I will dismiss you at this time, and we will move to closing statements.

MR. MARSHAK: Could I just ask one question on the timing of closing statements?

CHAIRMAN SCHMIDTLEIN: Of course. I was going to get to that when you sit down.

So the Petitioners have 15 minutes from direct, plus 5 for closing, for a total of 20 minutes. And Respondents have 19 minutes from direct plus 5 for closing for a total of 24 minutes. And we will begin with the Petitioners when they are ready.

MS. BELLAMY: Closing remarks on behalf of Petitioners, Paul C. Rosenthal and Kathleen W. Cannon, Kelley Drye & Warren LLP.

CLOSING REMARKS BY KATHLEEN W. CANNON

MS. CANNON: Good afternoon. Thank you very much for your attention today. Let me just address quickly a few of these issues and then we will address them further on posthearing.

On the like-product issue, in response to questions you asked, Reliance again emphasized its product, and its production process, which is not the test for defining the domestic like-product and is legally irrelevant.

Mr. Nolan also tried to emphasize that the siliconized fiber they were using was for nonwoven applications like pillows, as distinct from textile applications. But these nonwoven applications like pillows is exactly what the Nan Ya siliconized product that Mr. Sparkman described is used for. So it is directly competitive.

There was a claim by India with respect to do cumulation that you have to focus on this black fiber. While there are other fibers as well, I would encourage you to look at Appendix D-19 to D-23 of your staff report very carefully. It breaks down sales of black fiber by U.S. producers, by each of the subject countries, and you will see a significant overlap there too.

They also claim that when there are all these sales of specialty products it has nothing to do with price. But you heard Mr. Casstevens testify that Palmetto is suffering intense price undercutting in the black fiber area, in the shortcut area, in the post-consumer fiber area. So these specialty types of fiber are not immune to the price competition that we experienced more broadly.

Also there was a discussion a lot about the chart where they aggregate all of these types together, even though I understood Respondents to concede that there can be overlap, and indeed there is. There can be black shortcut fiber, or siliconized black shortcut fibers. So adding them up as they have significantly overstates those products. And, you know, as I think you recognized, even if you take them fully there's still a significant amount of other product that is not on their chart.

But I would also encourage you to look back at Chart 26 of our PowerPoint presentation where we've aggregated simply the four pricing products, and you get quite a lot of overlap just in those product types.

On the volume point, Respondents contended that significant volume and market share alone isn't sufficient to prove causal nexus. I agree. But the problem is that you don't have a case here where a significant market share is taking--by imports, is taking nonsubject imports. They're taking it directly from the U.S. industry, and they're taking a substantial share from the U.S. industry.

Look at Chart X of our PowerPoint presentation.

This re-export issue, I just want to talk a second about because I know this has caused a lot of confusion here. We will explain this is more specifics in our brief, but they claim that they are not mixing Census data with the re-export data, but that's exactly what they do.

Look at page 25 of the Reliance brief. They give you a chart. It starts with one column showing Census data, and then from that they subtract the re-exports from the questionnaires and they come up with a new volume and a new market share that's much lower.

But the re-exports are not in the Census data. So really they've overblown this point. Your Census data are perfectly fine for India to rely on as is, and there's no reason to look any further at re-export issues. If you want to look at the questionnaire data, then you can do what we've done in Chart 25 and re-dose them from the questionnaire response data. Either way you end up about in the same place.

On price, Mr. Kahn cited to several cases for the proposition that even if there's significant volume increases there may not be injury where there's no significant underselling or adverse price effects.

Well we have that here. You can't say that there's no significant underselling. There's predominant underselling. Look at Chart 11 that we handed out to you.

It's on both direct and indirect sales. They pretty much ignored all of the direct import sales when they did their pricing analysis, but when they talked about volumes they focused extensively on these direct imports and said they were a big part of the increase. Exactly. They were a big part of the increase precisely because you have that predominant underselling. That is why they were able to surge into the market as they have done.

And them urging you to look at what the purchasers said is an entirely different point than saying don't look at quarterly price comparisons. They haven't contested our points about the levels of trade being comparable that I heard today at least. We demonstrated why they're the same. And there absolutely should be comparisons of those direct import prices to assess quarterly underselling.

Respondents also referred a bit to "lockstep pricing" on raw material costs, quoting us and saying, aha, we've admitted that that's what drives prices. We acknowledge that raw material costs affect our prices. It's 70 percent of our costs. But we also said there's the adder. And that's where the price competition occurs.

So, sure, our costs are going to track costs when they're that big an element of it, but the adder is where the competition occurs and where the depression has happened that has spilled over into the profits.

When you have a pass-through of costs, that's not affecting our financial data. What's affecting our financial data is the pressure we're getting on that adder to push it down.

They also claim that there's no evidence of injury at all by certain producers. And we'll have to do that more in our posthearing brief because we have to split that out, but you will see lost sales, market share effects, and financial downturn, and especially if you look into 2017 across the board.

And last, on the capacity point, which you've heard a lot about today, first I would say that there's no requirement the industry supply the entire market, as you know, but here the industry was operating with significant idle capacity throughout the period.

You heard a lot of testimony of plans to expand capacity that they had to cancel because they just couldn't earn sufficient returns to be able to undertake those investments. And those weren't pie-in-the-sky investments. Those were very detailed plans that had to be scrapped.

And finally, nobody answered the question that you asked again, which is: If there are all these supply constraints, why are they not charging a premium for the product? Why is there predominant underselling?

And the answer comes back: That's how they are gaining market share. And that is what has driven down our sales and our profits over the period.

Thank you.

CLOSING REMARKS BY PAUL C. ROSENTHAL

MR. ROSENTHAL: I would just like to start off my portion by admitting, candidly, that I am not a staple genius. I do know this about this industry, however. When you have a significant amount of volume to begin with, and it increases, and you have purchasers telling you that the reason they bought imports was because of lower price, you have what I would consider causation.

The Respondents would on the one hand say yes we acknowledge that the volumes are increasing. Yes, we acknowledge the market share is increasing. But it's for other reasons. It's either because of the so-called subject--I'm sorry, the specialty imports, or because they were afraid to buy from you because of this Cape Fear issue, or this temporary problem that took place in 2015.

They don't--and they say you have to look at what the purchasers said. Then when you look at what the purchasers said, yes, there's a lot of, oh, we were afraid to buy because of this outage here, or we were once told that it will take us a few weeks to get you this product. And all those statements took place years ago.

What they don't tell you to look at is when the purchasers say: Oh, yes, we bought because the imports were lower priced. And, oh, yes, we pressed the domestic industry to lower their price in order to get sales.

They don't have you acknowledge that part of the record where the purchasers are admitting that they bought lower priced imports because of price. It wasn't some--price is one of the factors. You asked specifically because price is a primary factor.

I argued earlier today that that understates the amount of lost sales. But even that amount that you have in the record is significant, and I would argue enough to find causation.

I acknowledge Mr. Nolan's admission that he perhaps overstated his point about market share, but to get back to Chairman Schmidtlein's question: Where did the market share come from?

That entire growth wasn't just in these so-called specialty products. It came from the basic commodity product, if you will. And in fact, one of the interesting things that you heard about here was that demand was down for the textile product, if you will, as opposed to the nonwovens, and yet when the big purchasers in this case, one that's being cited constantly by the Respondents here, is a big textile buyer who went offshore and made it very clear that he or it went offshore for purposes of price.

The same buyer, by the way, is applying for a foreign trade zone in order to reduce its prices or its costs. Now I don't have any quarrel with that. Everybody has a business model and no one is going to pay more for a product than they have to. So if they want to try to lower their costs and their prices, we understand.

But don't argue that price was not a principle driver in the purchasing behavior. And by the way, this very same purchaser rejected the prices for black fiber offered by Palmetto in the past. And let's talk about Palmetto and black fiber for a little bit.

First of all, we are told that Palmetto can actually make enough black fiber for the whole market. They are now limited on their production.

And second, that the price of the Reliance black fiber that's coming into the market is half the price of the Palmetto product. You can understand why they're not able to expand at that level.

One last point on a related topic. And that is, there's another producer who hasn't entered an appearance or submitted a questionnaire response yet--Ms. Cannon referred top that producer earlier--that's called Barnett. And we are informed about Barnett, who is the big producer of shortcut fibers, that they have ample capacity to supply more of the shortcut market. They're here in the United States. And secondly, that they have actually imported shortcut fibers not because they can't produce it, but because some of their customers have said we're not going to buy your product at a higher price. We need to get a lower priced product. And if you want to supply us and have good customer relations, you've got to import.

I would submit to you that that is not only the case with respect to this other company, Barnett, but it is also the case with respect to some of the producers before you today who have been told by their customers: We're not going to purchase your domestically made product because it's too high-priced. If you want to make us happy as a customer, you need to buy some imports and supply us those imports.

It's a common problem you see in a lot of industries where they have to in effect supply certain customers to fight fire with fire, but that's what's gone on for several of these customers in this industry.

So one or two last points on this. It's interesting, the argument that the Respondents are making. They are at one point essentially telling you you should ignore direct imports. And I totally--I mean, if you do that, you have effectively ignored the vast majority of the subject imports in your database. I wouldn't call it slight-of-hand, but just say they conveniently wanted to focus you simply on the indirect imports, which are a small minority of the total imports, and focus you on the mixed patterns of underselling and overselling there.

But if you looked at the chart that we had earlier, the confidential chart, you will see the vast amount of tonnage, if you will, when you combine the direct and indirect show an overwhelming amount of instances of lost sales--excuse me, of underselling and of the tonnage.

So you cannot ignore the direct imports. That's essentially what's driving the imports in this business. And it is demonstrating the lower prices and the injury to the domestic industry through the underselling.

So the two points that they make, which are focused only on the specialty products which still account for a relatively small amount of the market, and a portion of the growth.

We counter by saying, (a) we produce a lot of that, or can produce a lot of that; and (b) would produce more but for the unfairly traded imports.

And the second part, which is--and where a lot of the market share is going--this bulk of the market, we are indeed losing market share. You have customers or purchasers saying we've bought imports because of lower prices. But they want you to ignore that altogether and suggest that none of that tonnage matters. That 36 million pounds you saw up on that chart, ignore that.

And I'm very glad, Commissioner Schmidtlein, Chairman Schmidtlein pointed out the chart used by Respondents which shows a fairly large chunk of imports that have come into the U.S. that are not part of attenuated competition claims at all, but are by themselves enough to satisfy the causation standard.

So we think the record is overwhelming that the imports have been low priced and drove down the profitability of this industry, and has hurt virtually every factor that the Commission looks at on the trade and financial portions of the record.

This injury is now. But if you look at the threat issues, you can see that the foreign producers are aiming their exports to the United States with their number one destination for all of them. And if there is no import relief, the injury is only going to get worse.

Thank you, very much.

CHAIRMAN SCHMIDTLEIN: Thank you very much.

MS. BELLAMY: Closing remarks on behalf of Respondents, Ned H. Marshak, Grunfeld, Desiderio, Lebowitz Silverman and Klestadt LLP and Matthew M. Nolan, Arent, Fox LLP. You have 24 minutes.

CLOSING REMARKS BY MATTHEW NOLAN

MR. NOLAN: All right. We'll try to keep it less than 24 minutes. I'm going to run out of things to talk about. When I start repeating myself six times, it's time to say good-night. That's what my kids tell me.

All right. So this is Matt Nolan again. So let's start with Mr. Rosenthal's opening statement and his closing. Purchasers buy due to lower price. Where in the record do purchasers say that their predominant reason for buying was price? The record is littered with statements that say that is not the driver, that in fact there was uncertainty in supply, that in fact there were supply disruptions and it wasn't just one.

There was a pattern of disruption starting shortly before the POI, running through the POI with different forms of disruptions, but mind you disruptions nevertheless, and continuing uncertainty with the M&G and the Corpus Christi plant problems, partially due to the hurricane damage that was done but partially due to the dispute between DAK and M&G over what's going to happen with that plant, and M&G's financial difficulties.

There is uncertainty in this market, and to the extent that U.S. producers are buying these materials to make it, you're making your buyers know this. What do they do? They look for alternative sources of supply. China is around, India is around, other producers are around. It's not a price driver. It's a diversification and supply risk mitigation factor.

We stated -- the Petitioners stated that like product arguments that Reliance makes are legally irrelevant because we're talking about Reliance products. Well, I can't talk about all products, but it is not legally irrelevant that we are making distinctions in like product, and I'm using Reliance as the example for it. You all get to decide whether you find that to be cogent or not.

I also again acknowledge the fact that the like product argument is likely not to get traction with you all, but it certainly does bode for the question of attenuated competition, particularly, particularly with respect to India, because so much of the imports that are coming from India are keyed to subspecialty factors.

It is a little galling to me and frankly a source of great anger to my client that they got into this market in the first place over ten years ago because the Petitioners sitting on the other side of the table, and are now being called to task for supplying that self-same petitioner with the black PSF material that they don't want to buy from Palmetto. Think about that. Well, Palmetto could supply the whole market. I dispute that as an initial matter. I don't think they could supply the whole market based on the numbers that I have seen, but you guys can take a look at that and we'll address that in the post-hearing.

But even if they could, why is DAK not buying from them? Could it be that the quality's not right, or are they going for the lowest price instead? I doubt it's the price, but again we don't have specific pricing information. By the way, as Gildan commented and as Reliance fully agrees, the price for black PSF is generally 30 percent higher than other products.

So if it doesn't cost much more to make it, why are they not making more of it? The answer is they have chosen not to. That is a specialty product where the volumes aren't significant enough for them to support their manufacturing operations the way they want to run them. That's a good business decision. If the market's good for the places you do concentrate on but it's not an import problem, and certainly not something for which you should be blaming Indian imports.

We talked about the re-exports and the Census data. I go back to the exhibit. I think I can understand where they're saying. Ms. Cannon is saying in the brief section, because I had to find something to get at a sense in the change in the percentages. But just go back to Exhibit 5. Just look at that exhibit in our -- you'll see how much imports of subject merchandise from India go down once the re-exports are taken into account, and it is a significant number, not something that you can overlook or toss aside as an irrelevancy or something that is not significant in your deliberations.

They talk about Palmetto could supply the whole market. Again, I have great difficulty with that statement. I don't think it's true. I don't think the record would support that under any scenario, and you can look at it. By the way, that's not the only product that they make. So if you're making six products, are you saying that if we throw all the other products out the window and make one product, maybe we could get closer? I don't know, but even then I don't think it works.

They keep focusing on we could make things, we could make things. If we wanted to, we could. But they just don't. They could make more siliconized fiber. They could make more shortcut fiber. They could make more black fiber. Look at the market share numbers for the overall industry and look at their market share numbers for these specialty products.

Something doesn't compute here. You would expect at least a more significant percentage of their product into those other markets, and if there was an injury issue wouldn't you see them declining? But if they're not there in the first place, did they make a business decision to just not go into it? I don't buy the idea that we did a study ten years ago and that's the reason why we decided to not make it ever. It certainly does not have to do with subject imports, because subject import weren't a factor back then.

We talked a little bit about the non-wovens, demand improving for the non-wovens. I do think that that's a significant factor here in the demand patterns. I take Commissioner Schmidtlein's comments to heart. I'll try to address some of your concerns in our post-hearing brief, because I understand where you're coming from. It's been a while to catch up with you, but I'm getting there on the market share issues.

But I still think the degree of concentration in the subspecialty markets for imports is a significant driving factors, especially with Indian imports. I mean I'm not going to get you here. I'm here to represent India, and we want decumulation. We think that the products that the Indians are bringing in are under special circumstances. They're not fungible with the other products. They're specialty products, and they're in large part under the control of a petitioner in this investigation.

That separates us out from the pack for decumulation purposes. They should not be penalized for following the terms of an agreement that a U.S. industry set, period. As far as the other factors, I will let Mr. Marshak talk about the general injury.

CLOSING REMARKS BY NED H. MARSHAK

MR. MARSHAK: I'm also going to keep it down below the 24 minutes, even though as a lawyer I like to talk. As in my opening comments, there's not much I can say because of confidentiality restraints. I'd just like to briefly list several key areas of inquiry which we are asking the Commission and staff to review in examining the confidential record.

We're realists. We have not argued for a separate like product. We have not argued for decumulation. We acknowledge there's been an increase in market share. We acknowledge there's been declining shipments. We acknowledge there's been declining prices. But we know that that's just the beginning of the inquiry, and you the Commission has to answer why.

So let's look at some of the questions. DAK closed a major domestic production facility at the end of

2013. If you were a purchaser, how would you have reacted? Was it reasonable for DAK's customers to look offshore to ensure continuity of supply? We believe that's a very important question.

Next, did price decline track declines in raw material costs? I think we have a consensus on that. Yes. If so, how could the Commission conclude that subject imports adversely affected domestic prices.

Next, what was the reason for lost sales, and I'm going to quote -- I'm going to hope to get it right what Petitioners' counsel said this morning, and counsel said "getting confirmation of lost sales is not easy. Getting admissions of lost sales by respondents is not easy." Well that's not true.

First, our customers are not respondents. These are our customers and they're DAK's customers and they're domestic industry customers. They're not respondents. They are independent third parties. They don't have an axe to grind. They're dependent on domestic companies for supply. They have certified to the accuracy of their submissions.

It may not be easy, but once these purchasers decided to respond to your questionnaires and they didn't respond by just checking a box; they responded in incredible detail with a lot of backup documentation. We believe they are very reasonable and very believable.

Next, we talk about price being a factor in the purchase decision. Is the fact that price is maybe a factor in the purchase decision, is that injurious? We don't believe so. We believe that the real issue is price the primary reason for the purchase decision. Price is always going to be a factor. But if you have to go offshore because of availability, because of reliability, and then you say yeah, I looked at price too, we do not believe that's injurious.

Next, the question arose if there are supply constraints, why were importers, why were exporters not charging a premium for the product? The reason is simple. There continues to be supply from the United States. We're not saying there was no supply of the majority of products from the United States, and there are also imports coming into the market.

So the market -- supply didn't shrink so there's nothing left; but the purchasers had to look offshore. The key is that the purchasers no longer trusted the domestic producers to meet their needs. They had no choice. Is a price a factor? Yes. Is it the primary factor? No.

Next the question arose how should the

Commission deal with the increase in direct imports? Counsel argued that we tried to ignore direct imports. Well, if they read our brief as I hope they did, and if you read our brief, so your staff reads our briefs as we know that you will before this case is finished, we spent an excruciating number of pages on our brief, from pages 13 to 23 directly addressing the question of direct imports.

We put a chart showing this increase in direct imports and then we put the reason for the increase. We believe the increase in shipments during the POI rests on shipments of the niche products and shipments of direct imports, and direct imports came into the market by the very major purchasers for reasons other than price and the purchasers are going to tell you that.

Repetitive, repetitive. What's the real reasons for declining shipments and loss of market share? Many reasons discussed today. One reason that we didn't get to, a lot of it's confidential, but just hypothetically is injury import related. When shipments decline because a customer exits the market for reasons completely unrelated to import competition.

So I've exited the market from a major purchaser, which has a major impact on my shipments, that cannot be import-related. In short, we know we've been here before. We know the Commission and the staff are going to look at the record very, very carefully. You're not going to just look at gross data.

You're going to look at the backup, you're going to look at the reasons why. You're going to look at the purchaser questionnaires. You're going to look at the fact that the purchasers did not just check off boxes but they answered in detail, and we hope and we trust that based on the record in the final investigation, which is a lot more robust than the record in the preliminary investigation with a different standard, you'll reach a negative determination. Thank you.

CHAIRMAN SCHMIDTLEIN: Thank you very much. Okay. This brings us to the close of the hearing. Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the transcript must be filed by January 23rd, 2018. Closing of the record and final release of data to parties will be February 9th, 2018, and final comments are due February 13th, 2018.

Thank you again to everyone who participated in today's hearing, and with that we are adjourned.

(Whereupon, at 3:19 p.m., the hearing was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Fine Denier Polyester Staple Fiber from China, India, Korea, and Taiwan

INVESTIGATION NOS.: 701-TA-579-580 and 731-TA-1369-1372

HEARING DATE: 1-17-18

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: 1-17-18

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Duane Rice

Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Larry Flowers

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