

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation No.:
POLYETHYLENE TEREPHTHALATE (PET)) 731-TA-1387-1391
RESIN FROM BRAZIL, INDONESIA, KOREA,) (PRELIMINARY)
PAKISTAN, AND TAIWAN)

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UNITED STATES OF AMERICA
BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation No. :
POLYETHYLENE TEREPHTHALATE (PET)) 731-TA-1387-1391
RESIN FROM BRAZIL, INDONESIA,) (PRELIMINARY)
KOREA, PAKISTAN, AND TAIWAN)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, October 17, 2017

The meeting commenced pursuant to notice at 9:30
a.m., before the Investigative Staff of the United States
International Trade Commission, Michael Anderson, Director
of the Office of Investigations, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Staff:

4 William R. Bishop, Supervisory Hearings and Information
5 Officer

6 Tyrell Burch, Legal Documents Assistant

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8 Calvin Chang, Investigator

9 Robert Casanova, Investigator

10 Jennifer Catalano, International Trade Analyst

11 Samantha DeCarlo, International Trade Analyst

12 Joanne Guth, International Economist

13 Heng Loke, Attorney/Advisor

14 Mary Messer, Supervisory Investigator

15 Michael Anderson, Director of the Office of
16 Investigations

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1 APPEARANCES:

2 Embassy Appearance:

3 The Embassy of Indonesia

4 Washington, DC

5 Bhima Dwipayudhanto, Counsellor of Economic Affairs

6

7 Opening Remarks:

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

9 Respondents (Susan G. Esserman, Steptoe & Johnson LLP)

10

11 In Support of the Imposition of Antidumping Duty Orders:

12 Kelley Drye & Warren LLP

13 Washington, DC

14 on behalf of

15 DAK Americas LLC

16 Indorma Ventures USA, Inc.

17 M&G Polymers USA, LLC

18 Nan Ya Plastics Corporation, America

19 Jon McNaull, Vice President, PET Resin, DAK Americas

20 LLC

21 Muthukumar Paramasivam, Senior Vice President and Head

22 of Sales and Marketing, Indorma Ventures USA, Inc.

23 John Freeman, Assistant Director of Sales, Nan Ya

24 Plastics Corporation, America

25 Fred Fournier, Executive Director, Global Marketing and

1 APPEARANCES (Continued):

2 Sales, M&G Ploymers USA, LLC

3 John Cullen, Director, PET Resin Sales, DAK Americas
4 LLC

5 Gina E. Beck, Economic Consultant, Georgetown Economic
6 Services LLC

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

9

10 In Opposition to the Imposition of Antidumping Duty Orders:

11 Steptoe & Johnson

12 Washington, DC

13 on behalf of

14 Graham Packaging Company

15 Steve Ream, Senior Director Global Sourcing - Resins,
16 Graham Packaging Company

17 Susan G. Esserman and Joel D. Kaufman - Of Counsel

18

19 Drinker Biddle & Reath LLP

20 Washington, DC

21 on behalf of

22 Companhia Integrada Textil de Pernambuco ("CITEPE")

23 Doughals J. Heffner and Richard P. Ferrin - Of Counsel

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1 APPEARANCES (Continued):

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3 New York, NY

4 on behalf of

5 Niagara Bottling

6 Ontario, CA

7 Shawn Safieddin, Vice President of Procurement

8 Ankita Pattel, Associate Corporate Counsel

9 Pamela Anderson, Vice President of Legal Affairs

10 John M. Peterson - Of Counsel

11

12 Rebuttal/Closing Remarks:

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

14 Respondents (Joel D. Kaufman, Steptoe & Johnson LLP)

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1 PROCEEDINGS

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

3 MR. ANDERSON: Good morning and welcome to the
4 U.S. International Trade Commission. Our conference here in
5 connection with the preliminary phase anti-dumping duty
6 investigation number 731-TA-1387 through 1391 concerning
7 I'll just say PET resin from Brazil, Indonesia, Korea,
8 Pakistan, and Taiwan.

9 My name is Michael Anderson and I'm the director
10 of the Office of Investigations. I'll be presiding at this
11 conference.

12 Among those present from the Commission staff
13 are from my far right, our supervisor investigator Mary
14 Messer. And we have two investigators on the team, Calvin
15 Chang and Robert Casanova. And then on my left, we have our
16 attorney adviser Mr. Heng Loke and our economist Joanne
17 Guth. And we have two industry analysts: Jennifer Catalano
18 and Samantha DeCarlo.

19 I understand that all parties are aware of the
20 time allocations and I would remind speakers not to refer in
21 your remarks to business proprietary information and to
22 speak directly into the microphone.

23 We also ask that each time you speak into the
24 microphone, that you state your name and your affiliation
25 for the record and at the beginning of your presentation are

1 answering any questions. And this is for the benefit of the
2 court reporter.

3 All witnesses must be sworn in before presenting
4 testimony. And any questions regarding time allocations
5 should be addressed with the Secretary. Are there any
6 questions?

7 Seeing none, Mr. Secretary, will you please
8 announce our embassy witness?

9 MR. BISHOP: Mr. Chairman, before we turn to our
10 embassy witness, I would note that all witnesses for today's
11 hearing have been sworn in. I would also ask your
12 permission to add John M. Peterson of Neville Peterson to
13 page 3 of the witness list, of counsel for Niagara Bottling.

14 MR. ANDERSON: Approved, thank you.

15 MR. BISHOP: Our embassy witness is Bhima
16 Dwipayudhanto, counselor or economic affairs with the
17 Embassy of Indonesia.

18 MR. ANDERSON: Good morning.

19 STATEMENT OF BHIMA DWIPAYUDHANTO

20 MR. DWIPAYUDHANTO: Good morning. My name is
21 Bhima Dwipayudhanto. We're presenting the --

22 MR. BISHOP: Could you point your microphone
23 just a bit closer, please? If you're able?

24 MR. DWIPAYUDHANTO: Hello?

25 MR. BISHOP: That's much better. Thank you.

1 MR. DWIPAYUDHANTO: My name is Bhima
2 Dwipayudhanto. I'm representing Indonesian government. I
3 work for the Indonesian Embassy. Allow me to read our
4 summation as follows. Honorable Director of Investigations
5 and Distinguished members of the United States International
6 Trade Commission, good morning. On behalf of the government
7 of Indonesia, I would like to express our gratitude and
8 appreciation for granting us the opportunity to appear
9 before you in presenting our views as an interested party in
10 this investigation.

11 Before delving into the details, allow me to
12 start with an overview of our bad trade relationship. The
13 trade relations between Indonesia and U.S. has always been a
14 close and warm one. The recent 16th Indonesia U.S. trade
15 and investment framework arrangement has shown us that our
16 nations are willing to bring trade cooperation to become
17 freer and for mutual benefit.

18 Due to the preliminary phase of the anti-dumping
19 investigation on PET resin and considering that Indonesia is
20 listed as one of the PET exporters to the USA, but it is not
21 yet a major exporter, the application of the anti-dumping
22 duties would then bar the flow of cooperation between our
23 two nations in this trade sector.

24 This is why today on behalf of the government of
25 Indonesia, I would like to deliver the government's points

1 of concern for a thorough consideration as follows.

2 First, the scope of the product. In the
3 anti-dumping petition page 9, paragraph 2, it is mentioned
4 that the petitioner does not intend to include PET
5 manufactured solely from recycled materials within scope of
6 petition.

7 One of the known producers and exporters of the
8 subject merchandise from Indonesia listed in Exhibit GEN 4,
9 name PT Harvest Indo International is a producer of PET
10 resin manufactured solely from recycled material.

11 The company has been exporting recycled PET
12 flakes, which has the same HS code with the subject
13 merchandise. In line with the inclusion stated in the
14 petition mentioned earlier, therefore the government of
15 Indonesia respectfully requests the U.S. ITC to exclude PT
16 Harvest Indo International in this investigation.

17 Second, separate calculation for Indonesia in
18 the anti-dumping petition page 1, footnote 1, it is
19 mentioned that Indorama does not join the petition with
20 respect to Indonesia. Thus, the petitioner should provide a
21 separate calculation in injury determination in order to
22 enable the Commission conducting the investigation in a
23 fair, transparent and objective manner.

24 Third, the inability to supply the domestic
25 market and localization. Although the petitioner may wish

1 to claim unfettered from imports, it is important to
2 consider that the domestic industry is unable to meet
3 demand, based on the figures presented in Exhibit GEN 2/S2
4 and Exhibit GEN 9 of the petition, the U.S. domestic
5 industry is only able to supply a maximum of 75.38 percent
6 or only 5.5 billion pounds of the subject goods, whereas
7 market demand has reached 7.3 billion pounds in year 2016.

8 As imports from other countries are
9 insignificant if measures were to be imposed, it would
10 result in significant supply problems for a wide range of
11 downstream industries in the U.S. And even if the domestic
12 industry were to significantly raise prices to allow imports
13 to enter in spite of possible anti-dumping measures in
14 place, this would impose a significant burden on downstream
15 industries, whose ability to compete would be severely
16 impaired.

17 In light of the above, the government of
18 Indonesia believes that in part of the subject merchandise
19 is not competing with the U.S. domestic industry as it
20 supplements the supply gap, which the U.S. domestic industry
21 is unable to cover due to its capacity constraint.

22 As such, the import of the subject merchandise,
23 especially from Indonesia, would not be attributable to any
24 injury claimed by the petitioner.

25 Fourth, the price effect caused by imported

1 subject merchandise. We understand that it's not always
2 possible to obtain price information for certain products.
3 However, in accordance to Article 4 -- 5.3 of the agreement,
4 our government which is to respectively submit that in
5 analyzing whether there is sufficient evidence to justify
6 the initiation of an investigation, the U.S. ITC should have
7 requested the domestic industry to supply domestic prices.

8 From the previous cases we faced, there is a
9 recurring trend in anti-dumping applications to construct
10 normal value without trying to establish whether actual
11 prices exist. In deciding whether there is a sufficient
12 evidence of dumping under Article 5.3, successive WTO panels
13 acknowledge the guidance provided by Article 2 of the
14 agreement, which states that, "A product is to be considered
15 as dumped if the export price is less than the comparable
16 price in the ordinary course of trade for the like product
17 when destined for consumption in the exporting country."

18 In line with the above arguments, we there --
19 request that the ITC -- the U.S. ITC to first examine the
20 accuracy and adequacy of the evidence provided by the
21 petitioner before initiating anti-dumping investigations.
22 Whether the evidence sufficient to justify initiation of the
23 investigation or not, that is in line with Article 5.3 of
24 the agreement.

25 On the other hand, the U.S. ITC should also

1 determine the needs of subject goods on the domestic market.
2 The government of Indonesia avails itself of this
3 opportunity to renew to the U.S. ITC the assurance of its
4 highest consideration. Thank you.

5 MR. ANDERSON: Thank you, counselor. Thank you
6 for your statement.

7 MR. BISHOP: Mr. Chairman, we will now move to
8 opening remarks. Opening remarks on behalf of petitioners
9 will be given by Paul C. Rosenthal of Kelley Drye & Warren.

10 Mr. Rosenthal, you have five minutes.

11 STATEMENT OF PAUL C. ROSENTHAL

12 MR. ROSENTHAL: Good morning, Mr. Anderson and
13 members of the staff. I'm Paul Rosenthal appearing on
14 behalf of the petitioners this morning.

15 Large and increasing volumes of low priced
16 imports of PET resin have undercut U.S. prices, causing the
17 domestic industry to lose sales and reduce prices to
18 maintain volume. As a result of these unfairly traded
19 imports, the domestic PET resin industry has suffered
20 declining profits and is suffering material injury.

21 Stop me if you've heard this before. If you
22 haven't stopped me, it's because you're being very polite.
23 In fact, you have heard this before just about 18 months
24 ago. Then we were talking about imports from Canada, China,
25 India, and Oman. Thanks to the hard work and wisdom of the

1 ITC staff and the Commission itself, anti-dumping and
2 countervailing duty orders were imposed on those imports.

3 Unfortunately, no sooner had the domestic
4 industry begun to enjoy a brief respite from the import
5 onslaught, another wave of PET resin imports have surged
6 into the United States market. So we're back before you
7 this morning to reluctantly but necessarily ask for relief
8 from unfair imports.

9 The good news, I suppose from the Commission's
10 point of view, is that you know this product. While the
11 harmonized tariff numbers have recently changed the product,
12 how it's produced, how it's bought, how it's sold has not
13 changed. Purchasers continue to buy not based on any
14 perceived quality of availability issues, but on price.

15 Indeed, the ease with what purchasers shifted
16 buying from the four countries that were the subject of the
17 previous case to the five countries that are the subject of
18 the current case, underscores the interchangeability of the
19 product and the price based nature of competition.

20 What is remarkable is how rapid and overwhelming
21 this recent surge has been. The imports from Brazil, India,
22 excuse me, Indonesia, Taiwan, Pakistan, and Korea have
23 surged by more than 300 percent over the period of
24 investigation. From late 2015 to the first half of 2017,
25 they have totally displaced the subject imports from the

1 previous case. Not only have the absolute volumes grown
2 tremendously, but so have the subject import market share.

3 Indeed, the subject imports have not only
4 replaced the imports' market share from the previous case,
5 they have taken more market share directly from the domestic
6 industry.

7 I would just want to make an aside. There's no
8 requirement in the law that the domestic industry have to
9 supply all of U.S. demand. If that were the case, there'd
10 never be a successful steel industry case, because the steel
11 industry can't supply all of U.S. demand.

12 So you've -- I heard a little bit from the
13 previous speaker and I'm sure you'll hear from other
14 speakers later that the U.S. industry can't supply all
15 demand. They can't. We can't or at least not now and
16 demand is growing. Yet, the domestic industry is losing
17 market share, which I'll tell you more about.

18 Consumption in the United States is growing.
19 The domestic industry recently won anti-dumping and
20 countervailing duty cases against four countries and those
21 imports declined by nearly 600 million pounds as a result of
22 this case. Yet the domestic industry didn't win those
23 shares back, those tons back. We lost them to the five
24 subject countries in this case.

25 We should have been or the domestic industry

1 should have been gaining sales and increasing profits.

2 Instead, the opposite has occurred.

3 There's only one reason for that and that is the
4 subject imports from the five countries. I'm sure later
5 today, you'll hear respondents' arguments concerning tight
6 supplies in the U.S. market due to M&G's production issues.
7 A couple points are worth noting right now. First, M&G's
8 production issues came after the period for which you are
9 examining data, just last month in fact. More importantly,
10 the imports are a cause of those issues. They have had a
11 direct adverse impact on M&G.

12 As you'll hear from our witnesses this morning,
13 the subject import volumes and prices have had an industry
14 that was already reeling from a first wave of injurious
15 imports. By continuing the injury found by the Commission
16 just 18 months ago, subject imports have made matters worse.
17 Relief from these imports is justified under the law and
18 urgently needed. Thank you.

19 MR. BISHOP: Opening remarks on behalf of
20 respondents will be given by Susan G. Essserman of Steptoe &
21 Johnson.

22 Ms. Esserman, you have five minutes.

23 STATEMENT OF SUSAN G. ESSERMAN

24 MS. ESSERMAN: Good morning, Mr. Anderson and
25 Commission staff. I am Susan Esserman of Steptoe & Johnson.

1 Today, U.S. PET resin customers confront the
2 most acute shortage of domestic PET resin supply in more
3 than two decades. In the face of these extraordinary
4 circumstances in the U.S. PET resin market, it is
5 astonishing that petitioners have filed this petition to
6 limit subject imports.

7 You will hear from PET resin customers that they
8 are being placed on allocation indefinitely. Their
9 purchases are limited to existing products, their volumes
10 are reduced, and deliveries are delayed.

11 And in response to this shortage, U.S. producer
12 prices and import prices are rising. This domestic PET
13 resin shortage has nothing whatever to do with subject
14 imports. Rather, as witnesses today will explain and public
15 sources confirm, the strategic choices of M&G and
16 petitioners have led to the shortage of domestic supply.
17 M&G's billion dollar construction of the world's largest
18 PET resin plant in Corpus Christi, Texas has caused major
19 cash flow problems for the company.

20 The resulting financial problems have
21 contributed to an indefinite delay in completing
22 construction of the plant originally slated to open in early
23 2016.

24 The delays have been aggravated by M&G's
25 disputes with multiple contractors who have refused to

1 continue further work at the site until they are paid. The
2 facility is now mothballed.

3 Further, M&G suffers from not being vertically
4 integrated. It has been unable to finance and source
5 critical raw materials for its PET resin production. M&G is
6 reliant for raw materials on its domestic PET resin
7 competitors, petitioners DAK and Indorama who have refused
8 to supply M&G.

9 As a consequence, M&G issued a warn notice
10 indicating the imminent closure of its West Virginia plant
11 already only operating at 25 percent of capacity, due to its
12 inability to secure raw materials. It is obvious that these
13 dramatic developments are not related to subject imports.

14 It is important that the Commission take into
15 account another fundamental condition of competition. That
16 is that U.S. producers and their affiliates own 100 percent
17 of Mexican capacity. And unlike in the past case,
18 petitioners imported increasing amounts of Mexican PET resin
19 to serve their U.S. customers during the POI. Mexico is by
20 far the largest single source of U.S. imports and all of it
21 is controlled by petitioners.

22 The petitioners' cumulative imports from Mexico
23 from 2014 and 2016 were approximately the same volume as
24 imports from the five subject countries combined.
25 Importantly, as you will hear from witnesses today, when

1 customers seek PET resin from petitioners, the petitioners
2 decide whether to source from their U.S. plant or whether to
3 supply from their Mexican plants.

4 When petitioners have made a decision to import
5 rather than supply from their U.S. production, there is no
6 credibility to their attempt to blame on subject imports any
7 volume related declines such as sales declines or market
8 share or capacity utilization.

9 The anti-dumping law does not and should not be
10 used to protect the foreign-owned petitioners' use of their
11 Mexican affiliates to supply the U.S. market. That would
12 undermine and is not consistent with the major purpose of
13 the U.S. anti-dumping law, which of course, is to safeguard
14 U.S. production and U.S. industries.

15 Given the unusual U.S. petitioner foreign supply
16 arrangements, and the shortage conditions in the U.S. PET
17 resin market, the subject imports cannot possibly be
18 injurious or threatening to the U.S. industry. To the
19 contrary, subject imports can serve as supplemental supply
20 to help to address the widening PET resin supply gap in the
21 U.S. market. Thank you.

22 MR. BISHOP: Would the panel in support of the
23 imposition of the anti-dumping duty orders please come
24 forward and be seated? Mr. Chairman, this panel has 60
25 minutes for their direct presentation.

1 MR. ROSENTHAL: Thank you, Mr. Anderson. Our
2 first witness will be Mr. McNaull.

3 STATEMENT OF JON MCNAULL

4 MR. MCNAULL: Good morning. Are you able to
5 hear me well? Hello? Okay, much better. Good morning, my
6 name is Jon McNaull. I'm the vice president of the PET
7 resin business for DAK Americas. I've been with DAK
8 Americas for almost 27 years. I started in polyester staple
9 fiber business before running -- before moving to the resin
10 business in 2012. My responsibilities have included working
11 as an engineer in the manufacturing operation, as well as
12 working in technical marketing, sales, and supply chain
13 management.

14 My current position, I am responsible for the
15 sale, manufacture, and financial operations of DAK Americas
16 PET resin business.

17 I last testified before the ITC in March of 2016
18 as part of the Commission's final injury investigation of
19 unfairly traded PET resin imports from Canada, China, India,
20 and Oman. I testified then that my company in the domestic
21 PET resin industry as a whole were in tenuous position due
22 to the surge in unfairly low-priced imports of PET resin
23 from those four countries.

24 As I said then, we are continuously faced with
25 low priced offers by subject imports during our customer

1 negotiations. I also testified that we have lost numerous
2 sales as well as revenue as a result of unbelievably low
3 prices offered from each of those countries.

4 Unfortunately, those statements are still true
5 today with only minor modifications necessary. The first
6 modification is that the imports are causing injury to the
7 domestic industry are now from Brazil, Indonesia, Korea,
8 Pakistan, and Taiwan. The second modification is that our
9 situation today is worse than it was when I testified 18
10 months ago. At that time, the conditions in the market had
11 begun to improve as the imports from Canada, China, India,
12 and Oman had started to recede. DAK had won back some sales
13 that we previously lost to those four countries. Prices
14 were improving, too, as the preliminary dumping and
15 countervailing duties had been announced and cash deposits
16 were being collected on the imports from those four
17 countries.

18 Our bottom line was beginning to improve as our
19 profits were starting to increase. While our profits are
20 still extremely low, they were better than before we filed
21 those cases. We at DAK hope that with affirmative
22 determinations from the Commission, our financial position
23 would continue to get better and we would return to a
24 reasonable and sustainable level of profitability.

25 That did not happen. Instead, all of that

1 progress was stopped in its tracks as imports from Brazil,
2 Indonesia, Korea, Pakistan, and Taiwan surged into the U.S.
3 market. In effect, this new surge in imports simply
4 replaced the previous subject imports and continued the
5 injury to the domestic industry.

6 These more recent imports are using exactly the
7 same tactic to gain market share, low price. That of course
8 is no surprise. As the Commission recognized in the earlier
9 case, PET resin products re interchangeable with one
10 another. The only way a company can gain market share is by
11 offering a lower price. The subject imports that surged
12 into this market more recently did so not because they had
13 any special characteristics or were of a better quality than
14 the U.S. product. They simply are offering low and unfair
15 prices.

16 The low import prices from the five subject
17 countries have had the same result as those in the previous
18 case, while sales from our company and constant pressure on
19 our customers to lower our prices to compete with the
20 imports. Not surprisingly, the result has been the same
21 too, inadequate profits.

22 As I said a little earlier, that the surge in
23 imports is worse than the previous one, here's what I mean.
24 This new surge did more than arrest the improvement we were
25 beginning to see from the previous cases. The low-priced

1 imports continued and added to the injury we've been
2 experiencing.

3 Remember, we have had inadequate profits for
4 several years. Every year we don't make a reasonable profit
5 means we cannot invest in our U.S. facilities to take
6 advantage of U.S. demand. In fact, every year of inadequate
7 profits put us closer to the economic graveyard. So now as
8 we appear before you, we're another couple of years into our
9 import-caused injury, which we hope will not be ultimately a
10 death spiral.

11 DAK is extremely to the staff and Commission's
12 work on the previous case and of course the affirmative
13 determinations. We hope the previous case would be enough
14 to eliminate the injury caused by unfair imports. We're
15 back before you quite reluctantly, but we need your help
16 again. I'm certain the evidence you collect will show that
17 this recent surge of unfairly traded subject imports is
18 injuring the domestic industry. We need relief, we deserve
19 it. Thank you.

20 STATEMENT OF MUTHUKUMAR PARAMASIVAM

21 MR. PARAMASIVAM: Good morning Mr. Anderson
22 and members of the staff. My name is Muthukumar
23 Paramasivam, and I am senior vice president and head of
24 Sales and Marketing for Indorma Ventures USA. I've been
25 with Indorma Ventures here in the United States for ten

1 years. Before moving to the United States, I was based at
2 the Indorma Group's corporate headquarters in Thailand, and
3 served in various capacities across a number of different
4 Indorma Group businesses.

5 In my current role at Indorma Ventures, I'm
6 responsible for my company's North American PET operations
7 and sales, including our three PET resin production
8 facilities in the United States. Those facilities are
9 located in Ashboro, North Carolina, Decatur, Alabama and
10 Spartanburg, South Carolina. I appreciate the opportunity
11 to tell you today about the serious challenges facing
12 Indorma Ventures as a result of unfair PET resin import
13 competition.

14 The large and growing volumes of PET resin
15 imports from the subject countries have inundated the U.S.
16 PET resin market over the last several years, and the
17 situation is only getting worse in 2017. Indorma Ventures
18 is a sophisticated company that sells PET resin globally. I
19 personally have experience selling Indorma's products around
20 the world.

21 My company is not unfamiliar with or afraid of
22 import competition. But the incredibly low-priced offers
23 from subject imports that we've been facing in customer
24 negotiations are simply unfair and have hit us hard. The
25 domestic industry representatives here today all confirm

1 that PET resin is a very price-sensitive product.

2 We can also tell you that the quality and
3 characteristics of the imported PET resin are compatible to
4 those of our PET resin, making U.S. produced and imported
5 PET resin highly substitutable. As a result, price is
6 paramount in our customers' purchasing decisions. Customers
7 use the low prices offered by the imports as leverage in our
8 sales negotiations.

9 Our options in response are limited. We can
10 lower our price to meet the import price in order to keep
11 the sale, but that means we lose much of our profit margin.
12 Or we can refuse to lower our price and lose the sale
13 entirely. Both choices are bad. The lost revenue from
14 declining prices and the lost sales that Indorma Ventures
15 has experienced have made it nearly impossible to run our
16 business and feel optimistic about the future.

17 Indorma Ventures is not losing business to
18 subject countries for reasons of quality or inability to
19 supply our product. On the contrary, we had and continue to
20 have available capacity to increase our sales of PET resin
21 in the U.S. market. We have strong customer relationships
22 and our PET resin products and service are excellent.

23 Moreover, demand in the U.S. market for PET
24 resin has been very good for the past several years. There
25 is every indication that we should have been able to

1 increase sales. Instead, we were prevented from taking
2 advantage of the demand growth in U.S. market due to the
3 surging volume and unfairly low-priced offers by the subject
4 countries.

5 We cannot remain in business when forced to
6 compete with companies that price below our cost and are
7 willing to undercut our prices however low we go. The loss
8 in volume to dumped imports, we have experienced declines in
9 production capacity utilization in 2017 and our bottom line
10 has been affected as well. We are seeing profits erode due
11 to competition from the low-priced subject imports that
12 continue to saturate the U.S. market and undersell us at
13 every turn.

14 Without relief against unfair imports from the
15 subject countries, the foreign producers with their huge
16 capacity, Indorma Ventures and the other U.S. producers face
17 substantial business losses. If the Commission does not
18 impose duties, we cannot remain competitive in the PET resin
19 market. Thank you for your attention.

20 STATEMENT OF JOHN FREEMAN

21 MR. FREEMAN: Good morning. My name is John
22 Freeman and I'm the assistant director of Sales for Nan Ya
23 Plastics Corporation of America. Nan Ya is one of the four
24 U.S. producers of PET resin and one of the petitioners in
25 this case. I have worked at Nan Ya for over 18 years and in

1 PET sales for nearly 12 years.

2 Nan Ya began manufacturing PET resin in Lake
3 City, South Carolina in 1995. The Lake City plant covers
4 700 acres of Orange County, South Carolina. As you may
5 recall, I testified in the last PET resin investigation in
6 detail on the product and production process. I believe the
7 Commission now has a good understanding of our product based
8 on that recent investigation.

9 So today I will provide just a brief summary
10 of the product and its production process, but I'll be happy
11 to answer any questions you have. I'll describe how Nan Ya
12 has been injured by unfairly priced imports from Brazil,
13 Indonesia, Korea, Pakistan and Taiwan. PET resin is a form
14 of saturated polyester that creates a general purpose
15 plastic. The PET resin that is the focus of this case an
16 intrinsic viscosity or IV of 0.70 or more, but not more
17 than 0.88 deciliters per gram.

18 IV is a measure of the PET resin's molecular
19 weight, and reflects the material's melting point,
20 crystallinity and tensile strength. IV is critical in
21 establishing the right grade of PET resin for a particular
22 application. PET resin is sold in the form of chips or
23 pellets. I have some samples so you can see what they look
24 like.

25 The chips can be spherical or cylindrical in

1 shape, whitish in color and quite small. As a thermoplastic
2 material, PET resin is used for the production of bottles,
3 containers and other packaging virtually any shape for a
4 wide range of consumer and industrial products. The PET
5 resin we produce is transformed by converters and brand
6 owners that have their own conversion and bottling
7 operations such as soda and water companies.

8 The main usage for package-grade PET resin
9 include beverage bottles for carbonated soft drinks, water,
10 ready to drink tea, juice and cold and hot fill applications
11 and containers. I have samples of these end uses here as
12 well. PET resin is also used in packaging for household
13 chemical, personal care, automotive, pharmaceutical and
14 other consumer products, as well as for industrial strapping
15 and in carpet fibers.

16 PET resin is made from two principle raw
17 materials, purified triflic acid or PTA and monoethylene
18 glycol or MEG. These inputs feed into two key production
19 steps. The first step is melt phase, polycondensation and
20 pre-polymerization. The second step is solid state
21 polymerization.

22 PET resin producers must run a large-scale
23 continuous polymerization process to optimize efficiencies.
24 It is very expensive and disruptive to interrupt production
25 of PET resin. So maintaining a high level of capacity

1 utilization is critical for producers in our industry.
2 Given further, the nature of the oil and natural gas-based
3 feedstock we're dealing with, our plants must have fairly
4 sophisticated chemical processing equipment and technology.
5 Thus, PET resin production is also highly
6 capital-intensive.

7 Unfortunately, our ability to maintain optimal
8 levels of capacity utilization or to earn reasonable returns
9 has been impeded by the subject imports. First, we were hit
10 with the unfairly priced imports from Canada, China, India
11 and Oman. Now we are facing imports from the five countries
12 that surged into the markets to replace imports from the
13 four countries from the prior case. It is very difficult
14 for our industry to face these continued waves of unfairly
15 priced products.

16 As you know from the last case, PET resin is a
17 highly price-sensitive business. Margins are tight and our
18 contracts generally last for a year, so a lost sale has
19 serious repercussions. Producers in Brazil, Indonesia,
20 Korea, Pakistan and Taiwan manufacture the same PET resin as
21 the U.S. industry.

22 Imports from these subject producers are
23 interchangeable, the products manufactured by Nan Ya and
24 other U.S. producers, and can be used in all of the end use
25 applications that I've already discussed. These producers

1 sell their products through the same channels of
2 distribution and for the same end uses and also sell
3 directly to purchasers.

4 The lower prices offered by the foreign
5 producers have a very damaging effect on our ability to
6 retain business and have caused us financial injury. We've
7 had to lower prices to avoid losing sales, resulting in lost
8 revenues and lost profits. Despite lowering our prices to
9 compete with these imports, we have also lost sales because
10 we can't compete with the prices the foreign producers are
11 offering.

12 Nan Ya cannot remain competitive in the PET
13 resin industry if the unfair imports from Brazil, Indonesia,
14 Korea, Pakistan and Taiwan continue to cascade into this
15 market at unfairly low prices, causing serious injury to Nan
16 Ya's business and to the entire domestic PET resin industry.
17 Relief from these new sources of unfairly traded imports is
18 needed. Thank you very much.

19 STATEMENT OF FRED FOURNIER

20 MR. FOURNIER: Good morning Mr. Anderson and
21 members of the Commission. I am Fred Fournier and I am the
22 executive director and global marketing --

23 MR. BISHOP: We need you to start over for the
24 court reporter, please.

25 MR. FOURNIER: All right, start over? All

1 right. Well, good morning Mr. Anderson and members of the
2 Commission. I am Fred Fournier and I am the executive
3 director and global marketing and sales director of M&G
4 Chemicals. I have held these titles respectively for five
5 years and 17 years, and have been with M&G for 17 years.
6 Prior to that, I was with Shell Chemical Company.

7 Although this is my first time testifying in
8 an anti-dumping case, I am sure you are familiar with my
9 company, as it was a participant in the previous PET resin
10 cases that concluded last year. When my former colleague,
11 Mark Adlam, testified before the Commission, M&G was feeling
12 very optimistic. While we had been hurt by unfairly traded
13 imports from Canada, China, India and Oman, the preliminary
14 determinations in those cases had provided some positive
15 results for us.

16 We had begun to win back orders that we had
17 lost to those subject imports, and our prices were
18 improving. M&G felt that the final anti-dumping and
19 countervailing duty orders would restore pricing sanity to
20 the market, and allow M&G to return to reasonable profits.
21 As you have already heard, the surge in dumped imports from
22 Brazil, Indonesia, Korea, Pakistan and Taiwan dashed those
23 hopes.

24 When Mr. Adlam testified last year, he
25 explained that M&G produces PET resin at our facility

1 located in Apple Grove, West Virginia, where we have two
2 production lines. He also testified that those lines
3 produce the full range of PET resin grade suitable for a
4 wide array of end use applications, including soda and water
5 bottles and other containers.

6 Unfortunately, last week M&G was forced to
7 idle production at the Apple Grove facility or at least
8 state that it was imminent. The immediate reason for this
9 idling is M&G's inability to pay our raw material suppliers.
10 We owe these suppliers quite a bit of money, and we have
11 been behind in our payments. So they stopped shipping raw
12 materials to us, except on a cash on delivery basis.

13 Our raw material suppliers in Mexico also
14 stopped supplying our PET resin facility in Mexico, so we
15 had to temporarily idle that plant, which also supplies the
16 PET market in the United States. What role have imports
17 played in all of this? Well, 18 months ago Mr. Adlam
18 testified "Despite substantial investments in our
19 facilities, we simply cannot compete with the irrationally
20 low prices of the subject imports. The sales M&G has
21 managed to retain have been the result of us reducing our
22 prices by more than our raw material cost decreases.

23 "To compete with the subject imports, this had
24 to be done. This has caused a cost-price squeeze and a
25 dismal financial performance of my company." Unfortunately,

1 instead of getting some price relief as a result of the
2 affirmative determination by the Commission in that case,
3 the cost-price squeeze continued. The low, irrational
4 prices of the companies in the earlier case have been
5 replaced by low and irrational prices of the exporters from
6 Brazil, Indonesia, Korea, Pakistan and Taiwan.

7 As you have heard, the market share of subject
8 imports in the previous case has all been supplanted by the
9 subject imports in this case, and all of that market share
10 gain is due to low prices. The result is obvious. The
11 recovery we needed did not materialize. Instead of getting
12 more revenue to pay our suppliers, our financial
13 hemorrhaging has continued.

14 Recently, we had no choice but to notify our
15 employees under the Warren Act that the Apple Grove plant
16 may be permanently closed. I want to report on another
17 development. When Mr. Adlam testified last year, he
18 discussed the major investment M&G was constructing in
19 Corpus Christi, Texas. The plant is vertically integrated
20 with both PTA and PET lines.

21 This is a new state of the art facility which
22 will increase our efficiency and allow us to supply the
23 growth in the PET resin market from the United States,
24 rather than supplementing our supply by importing from
25 Mexico as we do today. Unfortunately, we have experienced

1 delays in completing the new facility. We now are about
2 four months from finally completing that plant, but we have
3 had to cease work until we can get additional funding.

4 So far, we have invested over \$1 billion in
5 the plant, and expect to invest another multiple hundreds of
6 millions before we are done. If we are able to get funding,
7 we can do this. We will be able to start shipping PET from
8 Corpus Christi within the fourth quarter of 2018.

9 As efficient as the new plant will be,
10 however, we cannot expect to earn sufficient cash flow to
11 justify that investment if the subject imports are allowed
12 to continue and allowed to continue unfairly priced. That
13 is why I am here today, to urge you at the Commission to
14 continue what it started in the previous case, which is to
15 help restore fair pricing to the marketplace. Without
16 import relief, it will be hard to see how we can pay our raw
17 material suppliers, let alone a sufficient profit in our
18 investment in the Corpus Christi facility.

19 M&G urges the Commission to make an
20 affirmative determination in this case. Thank you.

21 STATEMENT OF JOHN CULLEN

22 MR. CULLEN: Good morning. My name is John
23 Cullen, and I'm the director of PET Resin Sales and
24 Marketing at DAK Americas. I have served in my current
25 position for five years, and have been with DAK Americas for

1 17 years. I testified before the Commission in the previous
2 trade cases on some of the competitive conditions that we
3 face in the domestic PET resin market.

4 Those competitive factors largely remain true
5 today, and provide an important backdrop to assess the
6 injury caused by imports. A major competitive factor is the
7 high degree of substitutability of PET resin, regardless of
8 source and the resulting price-based nature of sales. PET
9 resin produced in the United States is interchangeable with
10 PET resin produced in each of the five subject countries.

11 Given this ready substitutability, price
12 becomes the key factor affecting sales of PET resin in the
13 United States. Sources that offer PET resin at even
14 slightly lower prices than DAK's prices obtain sales at our
15 expense, or cause us to cut price to keep sales, leading to
16 reduced profitability. It is this high degree of
17 fungibility and price sensitivity that has allowed unfairly
18 priced imports from the various target countries to rapidly
19 penetrate our market.

20 The price-based nature of competition also
21 explains how imports from Brazil, Indonesia, Korea, Pakistan
22 and Taiwan were able to do so quickly replace the declining
23 import volumes from Canada, China, India and Oman when we
24 won the earlier trade cases. After we filed the earlier
25 cases in 2015 and Commerce imposed preliminary duties, we

1 saw a decline in the imports from those four countries.

2 Quickly on the heels of that decline, however,
3 imports from the five countries targeted in this case
4 surged, as Mr. McNaul described. The reason the subject
5 imports were able to penetrate the U.S. market so quickly is
6 through the use of the same low pricing strategies that the
7 countries targeted by the earlier case used. While DAK
8 Americas can compete against any source in the world based
9 on our quality, service and delivery, we cannot compete with
10 the low prices the subject imports offer.

11 A second important condition of competition we
12 face is the capital intensive nature of production and the
13 need to maintain high operating rates. Operating PET resin
14 facilities at maximum capacity levels allows a producer to
15 spread cost over larger production runs and to improve its
16 efficiency. This fact of life in the PET resin industry not
17 only presents problems for us when we are unable to maintain
18 high operating rates, but provides incentives for foreign
19 producers to utilize their capacity as much as possible.

20 As you can see from the data, the subject
21 producers have done exactly that, leading to increased
22 exports of PET resin to the U.S. market at our expense. A
23 third condition of competition we are increasingly facing is
24 the shift of purchasers, particularly large purchasers
25 towards directly importing PET resin rather than sourcing

1 the product through a middle man importer.

2 The reason direct importations have become
3 more common is an economic one. Purchasers gain a cost
4 advantage by importing directly. They avoid an importers
5 mark-up and get lower prices through direct imports, as they
6 told you in the last PET resin trade case. Unfortunately
7 for DAK and other U.S. producers, that means that we are
8 competing against the extremely low price offers by the
9 foreign producers themselves to U.S. purchasers.

10 It is difficult enough for us to compete
11 against the prices offered by importers. It's almost
12 impossible for us to compete against the absurdly low prices
13 offered by the foreign producers who are dumping at
14 significant levels.

15 MR. CULLEN: In analyzing the competition we face
16 from subject imports, it's critical that the Commission
17 consider the direct import sales channel through which
18 substantial volumes of imports are sold.

19 A fourth competitive condition relates to our
20 contracts and the manner in which we account for raw
21 material cost fluctuations. As you heard Mr. Freeman
22 describe, PTA and MEG are the major raw material inputs to
23 the production of PET resin. Our contracts take into
24 account fluctuations in these raw material costs with
25 adjustments on a monthly basis. Therefore, changes in the

1 PTA and MEG costs won't in themselves present problems.
2 What we cannot control, however, are the low price offers by
3 imports that lead to reductions in our PET resin prices.

4 Even where contracts exist, customers have come
5 back to us during the life of the contract to seek price
6 reductions when imports offer lower prices. The mechanisms
7 to address raw material fluctuations do not insulate us from
8 this competitive import price.

9 Finally, let me mention supply and demand.
10 Demand for PET resin is driven by demand for its end-use
11 products, which include plastic bottles, clam shells, and
12 strapping. Demand for PET resin over the past several years
13 has been strong and growing.

14 Demand is not causing the declines our industry
15 is suffering, nor is a lack of U.S. supply. The domestic
16 industry has increased its capacity to meet the growing
17 needs of the market. Unfortunately, despite winning the
18 earlier trade cases, we continue to have unused capacity.

19 The increasing subject imports are depriving us
20 of the benefit of the increased demand for PET resin in our
21 own home market.

22 Thank you. That concludes my statement.

23 STATEMENT OF KATHLEEN W. CANNON

24 MS. CANNON: Good morning, Mr. Anderson and
25 members of the Commission staff. I am Kathleen Cannon and I

1 will conclude our presentation by summarizing the main
2 arguments on behalf of the Petitioners in this case, and my
3 comments will be documented by the PowerPoint public and
4 confidential handouts that we have provided to you.

5 First, the domestic like-product. The
6 like-product should be defined to mirror the scope of this
7 investigation and to consist of certain PET resin. Defining
8 the like-product as equivalent to the scope of the case is
9 consistent with the definition of the like-product that the
10 Commission reached just last year in a case involving PET
11 resin.

12 The product defined by the scope of that case is
13 the same as the product defined by the scope of this case
14 and should lead to the same like-product definition. There
15 have been no changes in the product characteristics or in
16 its sales or marketing since the prior case to warrant a
17 different conclusion here.

18 Based on this like-product definition, the
19 domestic industry consists of all U.S. producers of PET
20 resin. As you see on slide 3, those companies are DAK
21 Americas, Indorama Ventures USA, M&G Polymers USA, and Nan
22 Ya Plastics Corporation America, all of whom are represented
23 here today.

24 No company should be excluded from the domestic
25 industry as a related party based on affiliations or

1 importations as the primary interest of each of these four
2 petitioning companies is in U.S. production.

3 The statutory negligibility threshold is met for
4 each subject country on an individual basis. As shown in
5 chart 4, imports from Brazil, Indonesia, Korea, Pakistan,
6 and Taiwan each surpass the 3 percent threshold on an
7 individual country basis over the most recent 12 months.
8 The data on chart 4 reflect official import statistics.

9 As indicated in our Petition, and as shown in
10 chart 5, before 2017 a single HTS subheading number
11 3907.60.00.30 was coextensive with our scope definition.
12 Effective January 1, 2017, there was a revision to the
13 Harmonized Tariff Schedules that created two new
14 subheadings. These changes were apparently made at the
15 request of the European Union to the World Customs
16 Organization, and unfortunately we had no input into that
17 process.

18 Products within both of the new subheadings are
19 included in the scope of this case. Those subheadings that
20 were created are broader than the case scope, however, so
21 they also include some nonsubject product.

22 As a result, the official import statistics for
23 most of the Period of Investigation 2014 through 2016
24 encompassed precisely the product targeted by this Trade
25 action. Import statistics for interim 2017 include some

1 additional out-of-scope product, although Petitioners
2 believe that the bulk of the product reported under these
3 two subheadings is the subject product.

4 While data from importer questionnaires could
5 provide an alternative import database for 2017, based on
6 the data submitted to date we do not believe the
7 questionnaires provide a sufficiently comprehensive database
8 with which to assess 2017 import volumes, either for
9 purposes of determining negligibility or market shares.

10 Accordingly, at this preliminary stage of the
11 case we urge the Commission to rely on the official import
12 statistics for all periods as the best indicators of the
13 volume levels and trends of the subject imports.

14 Let me turn now to cumulation. The Commission
15 should cumulate imports from all five subject countries as
16 the statutory criteria are met. Petitions against all of
17 the countries were simultaneously filed, and there is a
18 reasonable overlap in competition between subject imports
19 from each country and the U.S. like product.

20 PET resin is produced to standard industry
21 specifications and viscosity levels regardless of its source
22 country. Products from all subject import sources and the
23 U.S. industry are sold through the same channel of
24 distribution, which is primarily to end users.

25 These products overlap geographically in sales

1 throughout the United States, and imports from each source
2 country and from the domestic industry have been
3 simultaneously present in the U.S. market throughout the
4 Period of Investigation.

5 Thus, cumulation of imports from all five
6 countries is required here. Data that we presented in the
7 Petition and that the Commission has received in its
8 questionnaire responses show that each of the statutory
9 injury factors on volume, price, and impact is met in this
10 case.

11 As you see in chart 7, the volume of imports from
12 the subject countries is substantial on an absolute basis.
13 Subject imports totaled roughly 600 million pounds,
14 accounting for 40 percent of total imports in 2016. By the
15 first half of 2017, subject imports exceeded 550 million
16 pounds, roughly half of all imports.

17 The subject imports were also increasing
18 significantly in volume over the Period of Investigation.
19 From a level of less than 150 million pounds in 2014,
20 subject imports jumped by over 400 million pounds to reach
21 600 million pounds by 2016, an increase of over 300 percent.

22 On an annualized basis, subject imports in 2017 are on pace
23 to exceed 1 billion pounds by the end of this year.

24 We have relied primarily on official import
25 statistics in this presentation, both because they are

1 public and because as I mentioned the Commission's
2 questionnaire database is limited to those who responded and
3 not as comprehensive as the official statistics. But even
4 using the Commission database, as you see in confidential
5 chart 9 which is in your pink handout, there are similar and
6 increasing subject import volumes over the Period of
7 Investigation.

8 As shown in chart 10, the surge in imports from
9 the five countries targeted by this Trade action reflects an
10 opportunistic grab at U.S. market share through use of
11 unfair trade practices. In response to the Trade action we
12 filed in March 2015, imports from Canada, China, India, and
13 Oman declined significantly beginning in 2015 and even more
14 considerably by 2016.

15 Subject imports from Brazil, Indonesia, Korea,
16 Pakistan, and Taiwan quickly jumped in to replace those
17 volumes, depriving the U.S. industry of the full benefits of
18 the prior Orders.

19 In 2017, subject imports are on pace to
20 significantly surpass the peak annual import volume attained
21 by imports from the four countries targeted by the prior
22 Trade action.

23 As a share of the U.S. market, subject imports
24 are also sizeable and increasing. As you see in
25 confidential chart 11 in your pink handouts, over the past

1 three years and continuing into first half 2017, subject
2 imports have substantially increased their share of the U.S.
3 market.

4 Based on these data on both an absolute and
5 relative basis, there can be no question that the volume of
6 subject imports is large and increasing. This remarkably
7 rapid market share penetration has been achieved through the
8 same means used by the country subject to the prior Trade
9 action: Price.

10 Chart 12 summarizes the Commission's findings in
11 the prior Trade case based on purchaser responses you
12 received in that case. As you see, they all reported that
13 PET resin is a highly interchangeable product, regardless of
14 source; that price is very important to their buying
15 decisions; and that they tend to buy the lowest priced
16 product.

17 All of those factors remain through today, as you
18 heard our industry witnesses testify, and as your
19 questionnaire responses in this case confirm. Over the
20 period of investigation, imports from the subject countries
21 have been aggressive at undercutting U.S. prices leading to
22 lost sales and depressed U.S. prices.

23 Data the Commission has gathered on quarterly
24 price comparisons is still being analyzed, and there are
25 some confidential pricing issues we will need to address in

1 our brief. So it is difficult to discuss these data
2 publicly. But I can make a few observations which are
3 summarized in chart 13.

4 First, quarterly price comparisons show
5 under-selling by imports in a significant number of
6 instances, and often at substantial margins of
7 under-selling.

8 Second, in your lost sales and lost revenue
9 surveys of purchasers, of the 10 purchasers who reported
10 buying subject imports 7 stated that the subject imports
11 were priced lower than the U.S. product. So most purchasers
12 are confirming under-selling by imports.

13 And third, as you heard Mr. Cullen testify, one
14 condition of competition that is relevant to this industry
15 is the increasing direct imports from foreign producers.
16 Your record data show under-selling by imports, direct
17 imports, in every instance of the direct import pricing data
18 submitted.

19 Confidential chart 14 further demonstrates that
20 the subject import prices are lower than, and have been
21 depressing, U.S. producer prices over the 2014 to 2016
22 period. These data are average-unit-values and we believe
23 in this particular case there is not that big of a product
24 mix difference to warrant ignoring these data. We think
25 these data are a reasonable indication of price, unlike some

1 cases.

2 And as you see in this chart, subject import AUVs
3 are consistently and significantly below U.S. AUVs in each
4 year. The confidential version of the chart has the U.S.
5 AUVs--the public version has just the import AUVs from the
6 official statistics.

7 Subject import average unit values have shown a
8 substantial reduction. The AUVs of subject imports fell
9 from 64 cents per pound in 2014 to 43 cents per pound in
10 2016, a 33 percent decline. These lower subject import
11 prices have pulled down and severely depressed U.S. prices,
12 as shown by the substantial reduction in the U.S. average
13 unit values over the period as well.

14 As you will also see in confidential chart 15,
15 U.S. producer prices for each of the price descriptor
16 categories declined over the period as they were pulled down
17 by the lower-priced imports. The adverse impact of these
18 surging volumes of low-priced imports on the domestic
19 industry has been severe.

20 As I mentioned earlier, the surging volumes of
21 subject imports rapidly replace the unfairly traded imports
22 from the four countries the Commission found just last year
23 had caused injury to the U.S. industry.

24 Confidential chart 16 shows that despite the
25 steep decline in import volumes and market shares from

1 China, Canada, Oman and India from 2014 to 2016, the
2 domestic industry did not regain market share over that
3 period because of the surge in volumes in market shares by
4 these five countries. In fact, as you see, the U.S.
5 industry's market share in 2016 was even somewhat below what
6 it had been in 2014.

7 Worse, as you see in chart 17, by the first half
8 of 2017 subject import market share skyrocketed to such an
9 extent that the U.S. industry lost significant market share,
10 ending at a level well below the market share that it held
11 in 2014. And the vast majority of that market share was
12 lost to subject imports. They gained the share we lost, a
13 powerful indication of the causal nexus between subject
14 imports and the U.S. industry's injury.

15 What makes this decline even more noteworthy is
16 that the U.S. PET resin market was healthy and growing over
17 the Period of Investigation. As you see in confidential
18 chart 18, demand for PET resin increased from 2014 to 2016
19 and grew even further in the first half of 2017.

20 This strong demand for PET resin should have led
21 to increases in sales and improved profits for the U.S.
22 producers. Instead, as you see in confidential chart 19,
23 the domestic industry's profitability has been anemic
24 throughout this period of strong demand. By 2017, despite
25 growing demand and reduced costs, industry's operating

1 profits fell to a loss as subject imports attained their
2 peak market share of the period.

3 An examination of the key domestic industry trade
4 and financial variables by the first half of 2017, as shown
5 in confidential chart 20, depicts an industry experiencing
6 declines across the board, despite the increasing demand for
7 this product.

8 Production is down. Shipments are down.
9 Capacity utilization has fallen. And every financial
10 variable has plummeted. And I would highlight in particular
11 the capacity utilization rate of the industry that you see
12 in chart 20 when you hear about the supply shortages here.
13 There's a lot of idle capacity in the first half of this
14 year.

15 You heard the industry witnesses describe some of
16 the negative effects their companies have suffered due to
17 subject imports. Production curtailments, reduced
18 investments, idled operations. These company specifics
19 reinforce the data showing an injury in dire need of relief.

20 As bad as things are now for the domestic PET
21 resin industry, its condition will deteriorate even further
22 absent relief. You have received questionnaires from a
23 number of foreign producers in this case that demonstrate an
24 imminent and severe threat of additional injury from the
25 subject countries, as summarized in chart 21. As the triple

1 digit percent increase in import volumes show, subject
2 imports are able to rapidly penetrate this market. The U.S.
3 industry is in a highly vulnerable condition, as shown by
4 the anemic profit levels and recent financial losses and
5 closures.

6 The record data on the next three threat factors:
7 Growing capacity and idle capacity; export orientation
8 toward the United States; and barriers to entry in other
9 markets is compelling.

10 As shown in confidential chart 22, subject
11 producers have expanded capacity to produce PET resin over
12 the past three years, with further expansions planned.
13 Chart 23 shows that much of that capacity sits idle,
14 providing a looming threat of additional volumes available
15 for export.

16 As you heard our witnesses testify, PET resin
17 producers have incentive to operate a mill at high capacity
18 to attain efficiencies and spread their costs. So the
19 foreign producers will try to ramp up use of this capacity
20 if they can find an available market. Publicly available
21 data in chart 24 show that the United States is one of the
22 top export markets for every one of the subject countries,
23 and is the number one target market for both Brazil and
24 Pakistan.

25 Further, as shown in chart 25, numerous third

1 countries have imposed barriers to entries against PET resin
2 exports by the subject countries. These barriers provide
3 further incentive for the subject producers to divert their
4 exports to the United States, if no restraints are imposed
5 on these imports.

6 Antidumping Duty Orders to offset these unfair
7 and injurious trading practices are badly needed. Thank
8 you. That concludes our testimony and we would be happy to
9 answer your questions.

10 MR. ANDERSON: Thank you, Ms. Cannon, and Mr.
11 Rosenthal, and our witnesses for being here today. It's
12 been very helpful and we appreciate your testimony.

13 We would now like to turn the time over to our
14 team here to ask some questions, and we'll start with our
15 investigator, Mr. Chang.

16 MR. CHANG: Good morning. First I would like to
17 thank everyone for taking the time to make their statements,
18 and to field the various questions that we'll have in this
19 session.

20 So I guess first off I'd just wanted to ask very
21 quickly about the scope. And more specifically, the
22 language the scope includes, "blended virgin PET resin," or
23 recycled PET resin containing 50 percent or more virgin PET
24 resin content by weight." More or less, you know, anything
25 that's 100 percent recycled by weight is not included in the

1 scope.

2 I know the Petition kind of briefly kind of
3 covers the differences between blended versus 100 percent
4 recycled, but I was wondering if, since I have you guys in
5 front of me, more specifically what some of the differences
6 are in end use, and production, and things of that nature.

7 MR. ROSENTHAL: Do you want to hear from the
8 industry witnesses about the differences with respect to
9 production? Or did you want to just get a refinement on
10 what's covered or not in the scope?

11 MR. CHANG: I was--yeah, more specifically the
12 differences with recycled, 100 percent recycled versus the
13 blended, in terms or production, in terms of end use. It's
14 not really a clarification of the scope, but just more the
15 differences between the two.

16 MR. PARAMASIVAM: I am Muthukumar Paramasivam, a
17 hundred percent Indorma Ventures. The recycled resin
18 basically what you call it as post-consumer, comes from
19 collection of bottles that have already been used. And then
20 it can then be converted back to PET pellets through
21 different processes.

22 There are several technologies available to
23 convert it to the recycled resin. And how it is blended,
24 the virgin resin, also that is. So there are two methods.
25 One is the mechanical blending, which means there is a

1 recycled resin, which is 100 percent recycled resin, 100
2 percent virgin resin. So you take both pellets, and then
3 you blend them mechanically, which is also called "salt and
4 pepper mix."

5 Now of course you can blend it at any percentage.
6 You can have anywhere from 100 percent virgin, 10 percent
7 PCR, 20 percent like this, and then you can also use 100
8 percent PCR.

9 There is also a way to do this through a chemical
10 process, meaning that each pellet will have both the virgin
11 and the PCR content, as against the salt-and-pepper mix.

12 So this 50 percent content, now that can come,
13 like I said, either through the mechanical process or the
14 chemical process. So customers generally, they use a
15 percentage of PCR, along with virgin, but there are certain
16 brands who produce using 100 percent PCR as well. So you
17 have 100 percent virgin, 100 percent PCR, and in between any
18 mix depending on the customer and the brand.

19 So I hope that answers your question, Calvin.
20 Otherwise you can--

21 MR. CHANG: So let's say if the resin has let's
22 say 70 percent PCR and 30 percent virgin, can that also be
23 used for some of the end applications that were discussed
24 earlier in the statements, like for packaging, or bottle
25 grade? Or does it have to have a certain amount of virgin

1 content in order to have those end uses?

2 MR. CULLEN: John Cullen, DAK Americas. The
3 recycled, or blended material can be used for some of the
4 same applications as the virgin is used. Again, as Muthu
5 mentioned, it's usually very specifically applied for
6 applications where the brand company wants to have a
7 sustainable type of product packaging for their material.

8 But it can be used interchangeably for most of
9 the applications that we're talking about here today.

10 MR. CHANG: Okay, so just to make sure I
11 understand, so if, let's say if a bottle--so can a bottle
12 that is made from majority-PCR, can that be used to store
13 water, or soda, or things of that nature?

14 MR. PARAMASIVAM: Yes, as long at the polymer
15 that is used goes through specified processes and approved
16 for this application as it is possible. So that's why you
17 will see some brands which are using even zero virgin
18 content, so 100 percent PCR there are brands on the shelf
19 today. So there is no specific one depends on the brand
20 owner. They decide you know if they want to have a brand
21 using 100 percent PCR, a total virgin content or they want
22 to use a blend or they want to have 100 percent virgin based
23 on the quality requirements and access to the polymer,
24 everything.

25 MR. CHANG: Okay, so if that, indeed, is the

1 case, I guess then I do have a clarifying question in regard
2 to the scope. So then I guess I'm wondering why is
3 qualified, the 50 percent, in the scope if -- and maybe I'm
4 understanding this incorrectly, though, it seems to me that
5 there's a fair amount of interchangeability between higher
6 content PCR PET resin and lower content PCR PET resin, so I
7 just want to get a sense of why that specific threshold is
8 in the scope.

9 MR. SMITH: As you might imagine, there's a
10 price premium that comes with the extra handling and
11 cleaning and sorting of the recycled materials, so I would
12 suggest that a 10 percent recycled bottle is somewhat more
13 expensive than virgin raw material made PET resin so that we
14 drew a line where we could define the scope in a way so that
15 we capture the products, the majority of products that were
16 injuring the domestic industry and didn't capture products
17 that we didn't think were going to be unfairly priced.

18 MR. CHANG: Okay, so alright, that provides a
19 little bit of content. Thank you.

20 So sort of related to what I was just asking, I
21 think there were a few references to grades of PET resin and
22 I know in the petition there is bottle grade and packaging
23 grade. Are there any other sort of standards or types of
24 PET resin besides those two? And I'm assuming this was
25 discussed earlier, so I apologize if I missed this, but I'm

1 assuming that you all produce the various grades and the
2 standards are more or less uniform regardless of whether
3 it's U.S. producing it or somewhere outside the United
4 States.

5 MR. CULLEN: So all PET producers produce a
6 range of products that are tailored for specific
7 applications that our customers help us define, but we all
8 produce those products. All of the subject countries'
9 producers produce those products and so there isn't anything
10 that they do that we don't or we do that they don't, but
11 there are products that are used specifically for bottle
12 water, carbonated soft drinks, hot-filled like your sports
13 drinks, so there are some grades, but we all produce them.
14 Everybody produces them.

15 MR. SMITH: Before the most recent tariff change
16 -- I just want to point out a clarification on packaging
17 grade and bottle grade. The product back in 2004 was
18 generally referred to as -- or the tariff class was
19 generally referred to as bottle grade and we didn't think
20 that was descriptive enough, so I think around 2011 it was
21 changed to cover packaging grade. So while there are
22 specific grades for certain types of packages and certain
23 bottle applications, the industry, at large, used the term
24 "bottle grade" originally and now "packaging grade" to cover
25 all the end uses that you see there.

1 MR. ROSENTHAL: Going back to your earlier
2 question about the recycle and the 50 percent threshold, I
3 think it's fair to say that when the previous petition was
4 filed I think the industry understood there to be very, very
5 little product coming in or being produced domestically that
6 had more than 50 percent recycle content and that seemed to
7 be the right line to draw.

8 While it is true -- and it is true that it is
9 possible to make bottles with 100 percent recycle content,
10 for the reasons stated by Mr. Smith, that is rarely, if
11 ever, done because of the expense. That all said, we will
12 take under advisement the question whether that 50 percent
13 threshold or line is as bright as it used to be and we'll
14 comment further in our post-conference brief.

15 MR. SMITH: Yeah, if you could do that that
16 would be really helpful. Thank you.

17 MR. CHANG: So just to make sure I understand
18 the whole packaging, so the bottle grade changed to the
19 packaging grade in 2011 and so I guess one additional thing
20 I wanted to get a sense of is there any adjustments that
21 need to be made in terms of production, in terms of
22 distribution depending on the grade or is it relatively easy
23 to produce and distribute the various grades? In other
24 words, is there more challenges to, let's say, produce one
25 type versus another or as long as the customer specifies

1 whatever they need you call can easily provide that product?

2 MR. MCNAULL: I mean we could adapt the
3 manufacturing facilities to the specification needed. And
4 you asked a second question around distribution. I mean the
5 distribution is really not dependent at all on the grade or
6 the end use application. The distribution system can be
7 used to do either.

8 MR. CHANG: Okay, thank you.

9 So the next few questions, I think, are going to
10 be a little bit more company specific, so I think the first
11 question I have is for DAK Americas. So correct me if I
12 have the wrong year, but I think it was 2016 you all had
13 acquired Selenis Canada, the PET producer in Canada and I
14 just wanted to get a sense of what the motivation and sort
15 of the medium to long-term goal of that acquisition is.

16 I don't want to put words in anyone's mouth, but
17 doesn't that kind of give a sense that DAK is in somewhat
18 decent you know financial position if they're able to make
19 such an acquisition or is that something that's completely
20 off base?

21 MR. MCNAULL: We acquired that company primarily
22 for two reasons. One is to supply the subject products into
23 the Canadian market to use the facility target on the
24 domestic market there and the second thing we'll do with the
25 facility is we'll make non-subject materials. As we evolve

1 our product line and find new opportunities in the
2 marketplace, we'll make PET products in that facility that
3 are not subject to the anti-dumping duties that were put in
4 place between the United States and Canada.

5 To your question of our willingness to invest, I
6 would say that that particular facility was in the context
7 of the kind of investments that we make in polyester was a
8 pretty minor investment. We could share -- I don't know,
9 Paul, if we would share more details in post-hearing brief
10 or not. If that's required, we certainly could, but I would
11 say in the context of the investments we make in the
12 polyester value chain it was a very, very small investment.

13 MR. CHANG: Okay, thank you.

14 So in some initial researching and reading some
15 articles online, there were a couple that mentioned
16 incidences in DAK's Calhoun plant and in a plant in
17 Lexington County, South Carolina I think during the period
18 of investigation. I think there were either some accidents
19 or various incidences, so this probably is more appropriate
20 in a post-hearing, but if you could discuss those incidences
21 in a little bit more detail and whether they had some impact
22 on whether it's an extended shutdown or things of that
23 nature that would be most helpful.

24 MR. MCNAULL: There was an industrial accident
25 at the site. I would rather give you the details of that

1 post-hearing brief for a lot of reasons, respect for people,
2 as well as other considerations. I would say from our
3 perspective, though, we can honestly say that there was no
4 impact to our production of PET nor distribution and
5 servicing PET to customers. It was unrelated to that
6 portion of the facility and we can cover more details in the
7 post-hearing brief.

8 MR. CHANG: Okay, thank you.

9 So next series of questions I have are for M&G
10 and more specifically, on the project in Corpus Christi,
11 Texas. So as you mentioned, there's been some difficulties
12 with the project. Initially, you had hoped that it would be
13 open and operating in 2016. Obviously, that hasn't been the
14 case. So some articles and news outlets have reported that
15 a couple of contracting companies have filed liens on your
16 business, claiming that they haven't received any money.
17 And it appears to me that there've been several other
18 lawsuits that are floating around.

19 This may be more appropriate for post-conference
20 brief or if you can, to the best of your ability here, could
21 you comment and give me a sense of how long these lawsuits
22 -- how long it's going to take for these issues to be
23 resolved.

24 MR. FOURNIER: Mr. Chang, the Corpus Christi
25 site --

1 MR. BISHOP: They want you to move closer to
2 your microphone, please.

3 MR. FOURNIER: Okay, Mr. Chang, correct, I guess
4 most of this would have to go and come into the post-hearing
5 --

6 MR. BISHOP: Sir, we need you to speak directly
7 into your mike. We can't hear you.

8 MR. FOURNIER: Mr. Chang, yes, most of it would
9 be in the post-hearing brief, but yes, the site is
10 mothballed at present. There are a number of liens that
11 have been filed against us. I'm not sure about the
12 lawsuits, but definitely liens have been filed against us.
13 And more about the question was how long would it take to
14 get out of those that I don't know at this present time, but
15 I think we could address some of that in the brief.

16 MR. ROSENTHAL: Referring back to Mr. Fournier's
17 testimony, he did say that the plant had been mothballed for
18 now and it would take about four months, I believe, to get
19 it started again once the financing was there, so I just
20 wanted to give you the timeline. Once financing is
21 available, it'll take four months to complete the project
22 and then it will take about I would say -- he didn't testify
23 to this, but about six months to be able to supply the
24 market.

25 MR. CHANG: So can you comment on whether there

1 will be any difficulties in getting the financing,
2 especially, considering some of the issues that have
3 happened in the past with payments to contractors because I
4 read a report that if you all don't get financing within the
5 next couple of months then the project, more or less, would
6 be shut down. Is there any sort of truth to that claim; if
7 so, I guess maybe you can comment now or can comment in any
8 post-conference brief.

9 MR. ROSENTHAL: I'd rather do it in the
10 post-conference brief.

11 MR. CHANG: Okay, thank you.

12 And one last thing, so I think you had mentioned
13 a closure in the Madison County plant facility and I was
14 wondering was that -- like what were some of the factors
15 that went into that closure? Were they associated with
16 maybe some of the structural issues that I have been
17 mentioned, I think, in the Respondents' opening statements
18 or are they due to other factors -- imports or financing
19 issues?

20 MR. FOURNIER: They were due to several factors.
21 Imports is one of them. As it was stated in the opening,
22 some had to do with inability to buy raw materials and pay
23 for them. But of course, the reason you can't pay for them
24 is because you don't have the money and part of why you
25 don't have the money is you're not making enough profit.

1 MR. CHANG: Was this particular facility
2 vertically integrated?

3 MR. FOURNIER: It was not.

4 MR. CHANG: Okay, so those are all the questions
5 I have for now. Thank you very much.

6 MR. ANDERSON: Thank you, Mr. Chang. Before I
7 turn it over to Mr. Casanova, could I just follow up on that
8 line of questioning?

9 Mr. Fournier, could you tell us what the
10 long-term plans were for the Corpus Christi plant and how it
11 relates to the plant in West Virginia? Was the plan to
12 operate both plants or was one to replace the other on the
13 long-term strategy. And then the second part of that is, if
14 the Commission were not to provide an affirmative decision
15 here -- provide relief, what would be your strategy for the
16 Corpus Christi plant?

17 MR. FOURNIER: The Corpus Christi plant, if you
18 could go to the first part of the question again, please?

19 MR. ANDERSON: What was the long-term strategy
20 for the Corpus Christi plant in relation to the plant in
21 West Virginia -- Apple Grove, West Virginia?

22 MR. FOURNIER: The long-term plan for that plant
23 was that it would come up vertically integrated, be able to
24 compete within the industry. The Apple Grove facility was
25 definitely under scrutiny as far as whether it would survive

1 or not based upon the market conditions, not so much on
2 Corpus Christi, but the market in itself could it survive
3 within the U.S. PET market.

4 MR. ANDERSON: Okay. And either now or
5 post-conference if you could comment on what your strategy
6 would be for the Corpus Christi plant, depending on the
7 outcome of this investigation; particularly, it were not in
8 the affirmative.

9 MR. FOURNIER: The strategy would be to have it
10 up as soon as possible and running and running at full rates
11 and participating in the market with 1.1 million tons of PET
12 long-term.

13 MR. ANDERSON: Okay, thank you very much for
14 indulging that line of questioning a little further. Thank
15 you. Now I'll turn the microphone over to Mr. Casanova.

16 MR. CASANOVA: Thank you everyone for being
17 here. My first question has to do with the differences
18 between PET G resin and PET resin. Could anyone explain the
19 differences to me; specifically, is there a difference
20 between the manufacturing processes of these two?

21 MR. CULLEN: So very different manufacturing
22 process, different end uses, I don't believe anybody here
23 makes PET G, so perhaps we could provide that information in
24 a brief, but there's certainly different markets, different
25 production methods; but maybe we provide that in detail

1 offline.

2 MR. CASANOVA: Okay, so there's no
3 substitutability there? You can't use PET G resin for the
4 same applications for PET resin?

5 MR. CULLEN: Generally speaking, I don't believe
6 PET G and PET packaging or bottle grade is interchangeable.

7 MR. CASANOVA: As far as the blended PET resin,
8 do your customers have a preference for blended PET resin or
9 blended PET resin?

10 MR. CULLEN: Each customer is different, so I
11 would say the predominate method is for the customers to
12 blend their own. They buy 100 percent recycled PCR and they
13 will use that. Application-specific the customer will
14 require 10 percent, 20 percent, 50 percent. Our customers
15 are in the best position to do that at the point of use of
16 the pellets.

17 MR. CASANOVA: So if they required more than 50
18 percent recycled, then you wouldn't be able to provide that?

19 MR. CULLEN: So again, as Muthu explained
20 earlier, there are ways for us to provide our customers with
21 blended material or with what we call single pellets where
22 each pellet has some recycled content in it, but again, it
23 gets back to -- and the customers, some of whom are here,
24 can tell you how they operate. But each application that
25 requires PCR is very different from another one, so for us

1 to say make 50 percent and sell it to them, then they only
2 need -- you know for a particular bottle they only need 10
3 percent, then they would have to blend it anyway. So for
4 us, we can do the PCR either blended or in a single pellet,
5 but again, for practical purposes, the customers in the
6 industry seems to prefer to buy the PCR separately from the
7 virgin and the customer themselves blend it themselves to
8 their customized needs.

9 MR. CASANOVA: So my next question, you guys
10 mentioned hot-filled PET resin and cold-filled PET resin.
11 Could you explain the difference in the manufacturing
12 process for the two?

13 MR. PARAMASIVAM: The manufacturing process
14 itself is not different. What varies is some of the
15 additives used in one grade versus the other. What then
16 differentiates them is the application where the hot-filled
17 resin is used for one application -- generally, for sports
18 drinks where the content is filled at very high temperature
19 as against the cold-fill application. So it is more based
20 on the application -- end application. The manufacturing
21 process itself is not very different, expect for some
22 additives.

23 MR. CASANOVA: So then, do you have greater
24 demand for hot-filled PET resin or for cold-filled PET
25 resin?

1 MR. PARAMASIVAM: Generally, for the U.S. market
2 currently, the demand for cold-filled is higher than
3 hot-filled, as a percentage, if you see? So you have four,
4 let's us say -- I mean if you're taking into account the
5 beverage market, cold-filled demand is higher than the
6 hot-filled demand.

7 MR. CASANOVA: That concludes all my questions.
8 Thank you.

9 MR. ANDERSON: Okay, thank you, Mr. Casanova.
10 Now our attorney, Mr. Loke.

11 MR. LOKE: First of all, thank you for coming in
12 today. My first question is about the HTS number, as I
13 understand, expands the product coverage, so how much does
14 that really inflate the import data for 2017?

15 MS. CANNON: We're not sure exactly. We can
16 tell by looking at it that it's broader. We are trying to
17 compare that with some of the data that you've received in
18 your questionnaires and we'll have to address the specifics
19 of that in our brief because it's confidential, but we've
20 seen some variations with some being higher and some being
21 lower. So I think it might vary some by country, but
22 overall, as I said in my statement, our impression is that
23 the new categories together are primarily composed of this
24 subject product. It's just going to have some variance
25 between the countries.

1 MR. LOKE: Okay, thank you.

2 My second question goes specific to Mr.
3 Fournier. I understand that you didn't participate in the
4 previous 2016 investigation, but there was a statement
5 during that determination that the Corpus Christi plant was
6 intended to supplant Mexican and non-subject imports.

7 Now with the delay of this facility does that
8 remain true that this facility is intended to replace some
9 of these Mexican imports?

10 MR. FOURNIER: Yes, that remains the case.

11 MR. LOKE: Okay, so how does your company decide
12 when to import from Mexico or sell from your own U.S.
13 facilities?

14 MR. FOURNIER: It was basically decided on
15 capacity availability. I mean, basically, the plant up in
16 West Virginia, which is our only U.S. plant, is a small
17 plant by today's standards. It's a little over 300,000 tons
18 a year, so that, basically, to participate as major supplier
19 in the U.S. we had to bring up from Mexico PET. The plan
20 all along was that this would be temporary. It's been
21 temporary for a number of years, unfortunately.

22 The Corpus Christi project was to address that
23 and it was to eliminate the imports from Mexico and we would
24 have a bigger footprint in the United States as a U.S.
25 producer.

1 MR. LOKE: Thank you. So is the facility in
2 Mexico vertically integrated as well or --

3 MR. FOURNIER: Is it what? Sorry.

4 MR. LOKE: Is it vertically integrated?

5 MR. FOURNIER: No, sir, it's not. It is,
6 however, built right next door to a PTA plant, so in a way,
7 there's a little verticalness to it in the fact that there's
8 no real freight involved in the PTA coming across the fence
9 into our plant.

10 MR. LOKE: All right, thank you. So, I want to
11 move on to price arguments. I want to ask, are you making a
12 price suppression argument here at all? Or no?

13 MR. FOURNIER: Say it again.

14 MR. LOKE: This is directed to your attorneys, I
15 apologize.

16 MS. CANNON: We're not making a price
17 suppression argument. We're making a price depression
18 argument. Our understanding from looking at the data is
19 that the costs have gone down, prices have gone down by
20 more. You see our financial picture.

21 MR. LOKE: Thank you. So, in the previous
22 determination, the Commission found that there was no price
23 depression, in part because prices were indexed to raw
24 materials. So, what has changed in the conditions of
25 competition where the Commission would find depression this

1 time?

2 MS. CANNON: To some extent, we disagree with
3 that finding, and I believe some of the Commissioners have
4 recognized in the past, depression under the facts that
5 we're presenting here. We can provide more specifics here,
6 but you see costs going down, but you also see the anemic
7 financial picture of the industry. And this is an industry
8 that has not been able to make profits the entire time, and
9 as time has gone on, we've fallen actually into a loss
10 position now.

11 So, we are not being able to benefit from a
12 market where demand is improving, where our costs are going
13 down and our profits look like they do. That is
14 quintessential price depression that's leading to those
15 financial results in our view. And we can explain that
16 further in the brief with specifics.

17 MR. LOKE: Thank you.

18 MR. ROSENTHAL: Mr. Loke, this is Paul
19 Rosenthal.

20 MR. LOKE: Yes.

21 MR. ROSENTHAL: I want to supplement that. I
22 really urge the Commission to revisit this price decision in
23 this case and several other cases we've been involved with
24 on price depression. Especially when costs are declining at
25 a less-rapid rate than prices, the Commission ought to be

1 looking more closely at what's causing prices to decline
2 faster.

3 And the previous case in PET resin and in some
4 others, there's no other conclusion that I think it could or
5 should reach that is price suppression caused by import
6 competition. What you've heard today in this particular
7 case is that there's a growing market, as Ms. Cannon just
8 reported. The U.S. producers should be making much more
9 money in a growing market with declining costs.

10 And why is that not happening? It's because of
11 the prices by the subject imports that are forcing the
12 domestic producer prices down. That's the only way you can
13 look at this. We can go through this in more detail later,
14 but I urge the Commission to take another look at how it's
15 looking at price competition, price suppression and
16 depression, especially when you have declining costs as
17 you've seen in a lot of industries, not just this one.

18 MR. LOKE: Yes, we would appreciate that. Then
19 how about the impact of nonsubject imports, especially those
20 from Mexico on the domestic industry?

21 MS. CANNON: Kathy Cannon. The Commission
22 actually looked at the Mexican imports in the last case, and
23 what it found was that the prices of the Mexican imports
24 were not at the low prices that we were seeing from the
25 subject imports in that case, and that would be similarly

1 true here. We are not seeing from Mexico the aggressive low
2 prices, and that's why Mexico has not been targeted by this
3 action and it's not the cause of the problem we've
4 identified today.

5 MR. LOKE: Thank you.

6 MR. FREEMAN: John Freeman, Nan Ya Plastics. I
7 would like to supplement that. We do not have manufacturing
8 assets in Mexico, but we compete against the imports from
9 the subject countries and Mexico, and we do not see the same
10 low pricing with the imports from Mexico that we see in the
11 subject countries today.

12 MR. ROSENTHAL: Mr. Loke, Paul Rosenthal again.
13 If you look at this case and the previous case, what's
14 changed? Mexican imports have basically been around the
15 same and around the same prices and what's caused the prices
16 to decline in this most recent period being investigated
17 here, is the surge of low-price imports from the subject
18 countries.

19 Now I appreciate that customers don't want to
20 pay higher prices than they have to. And frankly, the
21 domestic industry doesn't want to file cases against
22 countries where there's no unfair trade or they can't find
23 any price undercutting or a problem. If we were to bring to
24 the Commission dumping or countervailing duty cases against
25 countries that were not unfairly pricing or not injuring the

1 domestic industry, you'd say, "What are you doing with these
2 cases?"

3 So this industry has been very judicious in
4 choosing its targets. They've only focused on those
5 countries that have caused price suppression and lost sales
6 and lost revenues, and not gone after the countries that
7 haven't caused those problems.

8 And by the way, this industry -- if there's any
9 suggestion that we're not pursuing cases against countries
10 such as Mexico because there are companies that have
11 relationships there, this case and even cases involving
12 Canada, indicates that this industry will go file cases
13 against other producers in other countries, even though
14 there is a relationship there, if those imports are having
15 adverse effect on the domestic market. But we're not going
16 to file cases against companies or countries that don't.

17 MR. LOKE: Thank you. So just in the interest of
18 time, I invite you to address in your post-conference any
19 related party issues and the statutory factors for
20 accumulation and threat. So that concludes my questions.
21 Thank you.

22 MR. ANDERSON: Thank you, Mr. Loke. And now,
23 Ms. Guth.

24 MS. GUTH: Good morning. Thanks for coming.
25 One question. I plan to use the previous 2016 investigation

1 on PET resin for background information on the conditions of
2 competition in the U.S. market and on the pricing data. And
3 I was just wondering if there was anything else that you
4 would like to mention that you haven't already, that has
5 changed since then, that I should know about?

6 MS. CANNON: Kathy Cannon. I think that relying
7 on those conditions of competition is a very good start.
8 That was our testimony as you heard Mr. Cullen discuss. The
9 basic conditions of competition that the Commission
10 recognized there, I think you are seeing here, too. The
11 demand increase is even stronger. You're seeing growth in
12 demand. You're seeing domestic industry with some idle
13 capacity. You're seeing the same sort of factors from the
14 nonsubject imports we mentioned.

15 You see, most importantly, that this is a highly
16 substitutable product that is very price-sensitive and that
17 is what's driving purchasing decisions in the market. So
18 overall, I think you are seeing exactly what you were seeing
19 earlier. You just have a new set of players engaged in the
20 same behaviors we saw before.

21 MS. GUTH: Anyone else?

22 MR. MCNAULL: Jon McNaull, DAK Americas. I
23 would say, you know, kind of the same effect with a
24 different set of names attached to the scenario.

25 MS. GUTH: Thank you. In terms of demand, so

1 overall demand for PET resin has been increasing, but have
2 there been in fluctuations in the demand for any of the
3 end-use products? For water bottles versus soda bottles
4 versus carpeting or even the warm- versus cold-filled
5 bottled? In the last case you indicated that warm-filled--I
6 think it was the hot-filled--was on an increase in terms of
7 end-use. Have there been any changes in the last few
8 years?

9 MR. CULLEN: John Cullen, DAK Americas. All of
10 the major market segments that we supply have continued to
11 grow, possibly with the exception of the cold-filled
12 carbonated soft drink which is a trend that is driven by the
13 consumer behavior to consume less calories in their daily
14 liquid intake, but the hot-filled market is growing very
15 nicely.

16 The bottled water market is growing very nicely.
17 The market for sheet, these trays, the market for polyester
18 carpeting is growing very nicely, so overall we're seeing
19 good growth across almost all the segments except for the
20 carbonated soft drink.

21 MS. GUTH: Thank you. And one last question.
22 On raw material prices, they were on a steep trajectory down
23 the last time. What is your perception of what they've been
24 doing until the present for PTA?

25 MR. MCNAULL: Jon McNaull, DAK Americas. I

1 would say in general, kind of current market conditions with
2 crude futures in the low 50s and fairly stable, those raw
3 material prices -- and we can give all the data in a
4 post-hearing brief -- but those raw material prices have
5 come down and have been, you know, the volatility in those
6 prices has been fairly low for the recent past.

7 If you say, for example, year to date 2017, we
8 can give the data in the post-hearing brief to try to put
9 for the whole period or whatever period you're interested
10 in, but in general, we've had a period of stability here
11 because the global energy markets are fairly stable.

12 MS. GUTH: Thank you. And last, how do the U.S.
13 PTA prices compare with global PTA prices? Has the
14 relationship changed at all since the last case?

15 MR. MCNAULL: Jon McNaull with DAK Americas. I
16 would say the, you know, the trends, the correlations,
17 things you observed last time, would be very similar for
18 this period investigation as well. I don't think there's
19 anything that's dramatically different or notable about this
20 period versus the previous one that the Commission
21 investigated.

22 MS. GUTH: That's all I have.

23 MR. ANDERSON: Thank you, Ms. Guth. And now,
24 Ms. Catalano.

25 MS. CATALANO: Good morning. I was the chemist

1 on the last case and I wrote the manufacturing section and
2 I'm wondering if there's anything that has changed since the
3 last report that I should know about?

4 MR. ROSENTHAL: I was gonna joke and say, I
5 think there's a typo, but no, seriously, I don't think
6 there's any change in the industry since the last report.
7 It's been pretty recent. No break-throughs.

8 MS. CATALANO: All right. No break-throughs?
9 Okay. So my questions are going to be centered around
10 trying to understand the change in the 2017 HTS numbers, as
11 well as the scope. And I've been thinking a lot about it.

12 And so Kathy, I know that you presented data
13 that looked pretty good in agreement with official
14 Department of Commerce statistics and the imports changing.
15 So I know that you wanna address this maybe post-hearing
16 brief, but what I'm thinking about is -- you mentioned that
17 the categories for the HTS are broader than what we have for
18 what's in scope here.

19 And what I'm wondering is, we had a 2016 HTS
20 number and a 2017 HTS number, so once you look at the data
21 and think about it, do you think it's the same amount of
22 broadness for 2016 versus 2017? Or will there be this blip
23 in the data that we sort of need to understand? So I'll let
24 you address that later, but of course, it's an important
25 question in thinking about whether we're overestimating

1 greatly in 2017 and overestimating only a little bit in 2016
2 and previous years.

3 MS. CANNON: Right. Understood. And I think
4 that was one of the reasons where we gave you the pink sheet
5 and we showed you from your questionnaire responses what the
6 actual data were for the subject products, so I think,
7 especially for 2017, you can look at that, too, and that
8 also shows the big increase, because we asked the same
9 question, "Oh, is it just accounted for by a change?" and
10 that reinforced what we were seeing in the official
11 statistics.

12 So we're struggling a bit because you have an
13 incomplete importer database to use as the sole basis for
14 your volumes. Conversely, you do have that change, but I
15 think when you look at your questionnaire responses, that
16 reinforces what we saw in the official statistics, and I
17 think corroborates that growth.

18 MS. CATALANO: Okay. So, being the chemist that
19 I am, I went to the Handbook of Thermoplastic Polyesters to
20 try to understand in terms like viscosity, and what would be
21 in scope versus what would be out of scope. And, of course,
22 I was thinking about the old HTS number versus the new HTS
23 number and what we have here.

24 So when I went to my handbook, it said that a
25 bottle-grade water bottle might have an intrinsic viscosity

1 of 0.70 to 0.78, whereas a carbonated soft drink-grade might
2 be 0.78 to 0.85. And so I have begun to think about what's
3 in scope and what's out of scope.

4 So maybe, could you comment -- and this is for
5 anybody that wants to answer -- on things that will be in
6 and out of scope, could you give me some product examples?
7 And you know, some of the things that I've found in research
8 were the carpets and fibers and tire cords and microwave
9 trays and I'm wondering about cold-filled versus hot-fill,
10 and this recycling, and how recycling can change the
11 intrinsic viscosity.

12 So my question is, could you give me some
13 examples of what is within and what is out of scope, so I
14 can get a good handle?

15 MR. MCNAULL: So, Jon McNaull with DAK Americas.
16 An example of an item that might be out of scope, and these
17 are generalities, right? So specific customer applications,
18 you might ask our customers who'll testify next, they could
19 be more accurate, but in general, for example, strapping.
20 Strapping requires a very linear tensile strength.

21 Therefore, the higher the IV, often the stronger
22 the strapping. And depending on the type of strapping a
23 customer's trying to manufacture, they might very well
24 prefer an IV that's above, say, the upper limit of the, what
25 used to be the subject--well, I guess it's still the

1 subject, we just have confusion with the HTS codes now, but
2 they might be out of the subject IV range, for example.

3 Another is an extrusion blow mold, a very large
4 container with a handle, clear handle. You might see orange
5 juice, for example, in the grocery store. Because of the
6 mechanical requirements of that container, it, too, can have
7 a higher IV than you might have in typical packaging resin.
8 I would say the vast majority of standard packaging, things
9 like this, are going to fall within the range, the subject
10 range that we're discussing here.

11 So for example, carbonated soft drink bottles,
12 water bottles, hot-fill bottles, cold-fill bottles, to those
13 questions, the vast majority of that consumption PET would
14 fall in that range. And that would be what customers would
15 desire or require from an engineering perspective to make
16 the package.

17 You asked one other question, and that is, to
18 what extent does recycle content impact the viscosity. The
19 customers' requirements for viscosity are really more around
20 the engineering requirements and/or processing requirements
21 to make a container a particular way.

22 Whether a polymer's recycled or not doesn't
23 change those requirements. So if it has recycle content or
24 it doesn't, or some combination of the two, there's still
25 going to be a particular intrinsic viscosity they're going

1 to want from manufacturing, or making the engineering
2 quality of their containers. And so that's really
3 independent. Just because it's post-consumer recycle
4 doesn't change requirements around intrinsic viscosity for
5 the industry.

6 MS. CATALANO: So with the new HTS number that
7 came out in 2017, the 3907.61.0000 says that it has an
8 intrinsic viscosity number of 78 milliliters per gram or
9 higher. So would some of the water bottles that you
10 mentioned fall below that and not be categorized within that
11 HTS number?

12 MR. MCNAULL: We have a steam large bottle
13 manufacturing customer here that will testify in a few
14 minutes. But I think the majority of what they use would be
15 below 0.78 IV, but you could certainly, probably be best to
16 pose the question directly, maybe during their testimony.

17 MS. CATALANO: Okay. I'm trying to get a handle
18 on what might be missing from that HTS number that would be
19 within scope of this investigation.

20 MS. RINGEL: Ms. Catalano? Brooke Ringel,
21 Kelley Drye. I would also point out, as was included in Ms.
22 Cannon's presentation and is also included as a reference
23 point in our scope, is HTS number 3907.69.0000, which is the
24 other category, and we have identified that as capturing the
25 subject PET resin that falls within the scope of the case,

1 that is below that 0.78 IV.

2 MS. CATALANO: Yes, thank you. Okay, so this
3 morning, we had testimony from the gentleman from Indonesia
4 saying that PT Harvestindo International should not be
5 included within the scope because of its recycle content.
6 Do you agree with that?

7 MR. ROSENTHAL: We'll comment on that in our
8 post-conference brief, if you don't mind.

9 MS. CATALANO: Okay. That's it.

10 MR. ANDERSON: Ms. DeCarlo.

11 MS. DECARLO: Good morning. Thank you for your
12 time. I just have a couple of, hopefully, quick questions.
13 So in the manufacturing process for the PET resin, additives
14 and catalysts are adding to the monomer. Can you please
15 clarify what type of catalyst you use and perhaps the costs
16 of these catalysts? I know they can get quite expensive.

17 MR. MCNAULL: Jon McNaull, DAK Americas. We'd
18 prefer to do post-hearing brief on that type of information
19 because, as competitors, that's one of the proprietary
20 areas, both in the chemistry technologies we use, as well as
21 the costs there. And so we would like to respond in that
22 way.

23 MS. DECARLO: Okay. All right. And then a
24 question about the recycling. It was stated that the cost
25 of recycling is very expensive and everything like that. Is

1 that separate from the -- so if I had a manufacturing
2 machine for the PET resin, is that a separate place within
3 the same plant that this is done? Or is there transport
4 from one site to another to get the recycled materials to
5 make the salt and pepper mixture or -- if someone could just
6 clarify.

7 MR. MCNAULL: So we run a recycling facility in
8 North Carolina in the United States of America. And we run
9 another recycling facility in Argentina, in Buenos Aires.
10 And we have experience in a lot of different post-industrial
11 PET areas of the world. I would say it's very difficult to
12 generalize.

13 I don't agree that all our PET is more
14 expensive. It's a function of the local collection costs,
15 right? Which is a function of the labor costs in that
16 region. It's a function of the cleanliness of the material
17 that you can collect. It's a function of the manufacturing
18 process you use to clean it and make it acceptable for some
19 of these end-use applications. And it's a function of the
20 kind of quality you try to achieve therein.

21 So I think there's a disparate and very broad
22 range of our PET raw material costs that could be used to
23 make subject PET and so I don't believe at all or support
24 the notion that it's only a high-cost raw material. In
25 fact, I've seen areas in the world where it can be a very

1 low-cost raw material as well. It's just dependent on that
2 manufacturer's ability to source the material and what the
3 circumstances are.

4 MS. DECARLO: And then one follow-up about the
5 recycled materials. During the process, do you have to deal
6 with impurities? And how does that affect the IV, the
7 intrinsic viscosity?

8 MR. MCNAULL: Oh yeah, a lot of impurities.
9 Basically, if you look at your single recycling collection
10 can that you put on the municipal curbside, whatever human
11 being can put in there will wind up -- literally, whatever a
12 human being can think to put in there, and the human beings
13 have an incredible imagination in this regard -- wind up at
14 our facility, that have to be sorted, removed, cleaned and
15 dealt with from a processing standpoint. It's a very
16 difficult operation as a result.

17 MS. DECARLO: That's all my questions for right
18 now. Thank you.

19 MR. ANDERSON: Thank you, Ms. DeCarlo. I've
20 often wondered what you do with some of the things that end
21 up in that recycle bin. Unintentionally, by the way.

22 We'd like to now round out staff's questions and
23 we'll turn it over to our Supervisory Investigator, Ms.
24 Messer.

25 MS. MESSER: Thank you. I hate to beat a dead

1 horse here, but can we go back to the HTS numbers? What HTS
2 number, both prior to 2017 and 2017 forward, would recycled
3 PET product come in? Under --

4 MR. MCNAULL: Jon McNaull. I mean, I -- it's
5 defined by the intrinsic viscosity, if I understand
6 correctly. So, again, as I said in previous testimony, the
7 viscosity's not determined by whether it's made from a
8 virgin input or a recycled input. So you wouldn't be able
9 to discern one from another.

10 MS. MESSER: Okay, so from the petition, I read
11 that prior to 2017, the number was all of the in scope
12 product. Is that then not the case? I mean, is -- would --
13 depending on the intrinsic viscosity, would some then
14 product that's not in scope fall under the site GS number,
15 the 390761?

16 MS. CANNON: We -- Ms. Messer, let's look at
17 this a little further. I think our impression had been that
18 for the most part, the product coming in was not
19 exclusively, you know, made from these recycled inputs. And
20 so, we were looking at it as largely synonymous with the
21 scope as we've defined it. If there's more of this coming
22 in now, than I guess we need to look to make sure that we
23 are not picking up something inadvertently or excluding
24 something inadvertently, so.

25 MS. MESSER: Okay, thank you. I appreciate

1 that. And then going on further to the change in the HTS
2 code in 2017, you indicated that the EU requested the
3 change. Do you know the reasoning behind that request?

4 MS. CANNON: Kathy Cannon. We do not. We,
5 unfortunately, wish we had had more input into the process,
6 particularly as there are already existing orders on PET
7 resin and now it makes it a little more challenging for
8 Customs to enforce the orders when you've expanded it to new
9 product lines, but I don't know what the genesis of that
10 request was.

11 MS. MESSER: Are you aware of any anti-dumping
12 or countervailing duty orders or investigations in other
13 third country markets?

14 MS. CANNON: Yes, and we have our chart showing
15 that there have been orders imposed in other markets. The
16 EU wasn't one of them --

17 MS. MESSER: Okay.

18 MS. CANNON: -- so I don't know whether anything
19 was behind that. There was a case involving in PET resin.
20 They looked at it, but that drove their request at all, but
21 I'm not sure exactly what was precipitating that.

22 MS. MESSER: Okay. Thank you. Okay, moving on,
23 that dead horse has been beaten enough. I've been hearing
24 conflicting statements today it seems about the capacity of
25 the U.S. industry, their ability to supply the product and

1 from the opening statement indicating that there is a
2 shortage of PET resin that there was not that supply out
3 there. Can you comment on that, on the opening statements
4 that were made and whether or not you've declined to supply
5 maybe your product or whether you've had any limited
6 deliveries of the product?

7 MR. ROSENTHAL: Ms. Messer, this is Paul
8 Rosenthal. Let me just start with this answer. The -- I
9 think what some of the respondents are referring to is this
10 recent announcement by M&G about their inability to supply
11 from their Apple Grove, West Virginia plant and that's
12 caused some consternation by customers. That announcement
13 took place late September. And that was a discussion that's
14 been going on in the last couple of weeks. And it's a very
15 temporary phenomenon.

16 I want you to, and I'm read glad to ask this
17 question, because there's a lot of confusion about that.
18 That is last -- few weeks' phenomenon. Look at the record
19 in this case. The data you've collected through the first
20 half of '17 does not reflect an inability to supply the
21 market. It shows a lot of excess capacity in the United
22 States. It shows the domestic producers losing sales and
23 market share in a growing market.

24 What should be happening is more sales, more
25 production. Instead, you're seeing less production, lower

1 capacity utilization. So up until the last few weeks, there
2 have been plenty of excess capacity to supply customers in
3 the U.S. market.

4 Now you're going to hear, you know, for the rest
5 of the afternoon probably about M&G's difficulties at the
6 Apple Grove facility, which has caused a temporary supply
7 disruption. It is temporary. It will be solved either by
8 more U.S. production coming on-stream or being available.
9 It'll be supply -- it'll be solved in the short term by
10 probably some more non-subject imports as well. And in the
11 longer term, we hope it'll be solved by more U.S.
12 production and more -- and the Corpus Christi plant coming
13 on-stream.

14 But don't get misled about this short term issue
15 that has just arisen and have you ignore everything that's
16 happened in the last three and a half years with respect to
17 the five subject countries coming as the market and having
18 U.S. capacity utilization decline. That's -- so I want to
19 make that clear.

20 I also want to add, if I may, take this
21 opportunity to respond more fully to Mr. Anderson's question
22 to Mr. Fournier. When asked what will M&G do if the
23 Commission issues a negative determination in this case, Mr.
24 Fournier was -- didn't fully answer that last part of the
25 question. And he's understandably hesitant to do so.

1 M&G like -- would want to get this financing to
2 complete this plant. It's a billion dollars they've already
3 spent on that and a couple hundred million dollars in
4 additional -- an investment that needs to get done. They
5 want to get this done and they want to be able to supply the
6 market by the end of next year.

7 I can't imagine him saying, well, we don't know
8 what the Commission's going to do a year from now in the
9 final investigation, but I can't imagine him or anybody else
10 saying it will be a good thing to have a negative
11 determination after you've spent a \$1.2 billion in trying to
12 get your investment back, when you have imports flooding the
13 market and at very, very low prices. They need to have, in
14 order to justify and get any return in this investment to be
15 able to compete in the industry, prices that will be high
16 enough to get a return on investment and keep people
17 employed there.

18 So I emphasize this because we were talking
19 about now. And you'll hear about, endlessly I'm sure, time
20 limits notwithstanding, what's happened with M&G and the
21 tightness of supplies and how the customers are scrambling
22 to get product in the last couple of weeks. But that is
23 this amount of time in this broad period we're talking
24 about. And it is not the longer term as this Commission has
25 to look at for purposes of this case.

1 MS. MESSER: Thank you. So then what I will not
2 be hearing then from them is the argument that there's been
3 limited delivery or availability of the product prior to the
4 M&G issue? What about the other producers?

5 MR. ROSENTHAL: I'm not sure what you'll be
6 hearing from them. I will -- I think that the truth is that
7 there has been plenty of available capacity in the U.S.
8 industry. And to the extent there's unwillingness to
9 supply, it has to do with price and timing, not capability.
10 I'll let the industry testify on that, but if you're talking
11 about a time period before September, that's my
12 understanding.

13 MR. MCNAULL: Yeah, this Jon McNaull, DAK
14 Americas. Yeah, I would say, I mean, prior to this issue
15 and event with M&G, yeah, we had PET for sale. We were
16 willing to sell it, eager to sell it, if the conditions are
17 reasonable. This particular situation is a short term
18 anomaly. I have no idea how it's -- what the final outcome
19 is going to be. It has made things tighter in the short
20 term, because it was an unexpected, you know, portion of
21 the U.S. capacity going offline without planning, without
22 order, without any way to deal with it.

23 I would say our intention of our company is to
24 continue to invest. I mean, one of the reasons we're here
25 today is to get your support to address this issue, so the

1 quality of our market is such that we continue very large
2 and very meaningful investments in polyester industry to
3 meet customers' demand.

4 And given an affirmative outcome here, and given
5 a clear understanding of what requirements are for the
6 domestic industry, we'll -- we're willing to make the
7 investments to provide the supply that's need for the
8 industry here in the U.S.

9 MS. MESSER: Thank you.

10 MR. FREEMAN: John Freeman, Nan Ya Plastics.
11 Yeah, prior to this issue, we had available capacity and we
12 were, you know, working with our customers, taking orders,
13 shipping material.

14 Since the U.S. market has got tighter, we've
15 continued to work with our customer base and work on
16 opportunities to provide material to them.

17 MS. MESSER: Thank you. I appreciate that. And
18 I have just one more question concerning, Ms. Cannon, you
19 mentioned in your statement that no domestic company should
20 be excluded based on foreign affiliation. I wondered if you
21 could explain that? I know Mr. Loke had asked for
22 additional information in your post-hearing statement or
23 post-conference statement and that would be fine. If you
24 would like to include that as well. And in that, if you
25 would cover any type of decision making where that lies,

1 whether or not -- how autonomous the U.S. companies are when
2 it comes to those foreign affiliations?

3 MS. CANNON: We'll be happy to do that. A lot
4 of that is confidential, so we'll be happy to do it in our
5 brief.

6 MS. MESSER: Thank you. That's all I have.

7 MR. ANDERSON: Thank you, Ms. Messer. And also
8 you have -- the staff has follow up questions. Mr. Chang?

9 MR. CHANG: I just -- yeah, I just had one quick
10 follow up question. So Mr. Anderson had briefly asked
11 about, you know, what you would with the Corpus Christi
12 plant, for example, if the Commission were to come to a
13 negative determination. So I'm going to ask the flip side
14 of that. So what would you all -- like so you briefly
15 mentioned making investments and things of that nature, but
16 what would you do -- what would you be able to do should the
17 Commission come to an affirmative determination, because as
18 we've all discussed, as we're all aware, 18 months ago, they
19 had a similar case with different subject countries.
20 Affirmative determination was made, but then, you know,
21 based on the data and some of the presentations, you're all
22 stating that essentially these subject countries have not
23 essentially replaced the previous subject countries.
24 So if you could either comment now or in a
25 post-conference, you know, what sort of changes or

1 structural changes or any other actions that could be taken
2 should relief be provided in the form of duties?

3 MR. FOURNIER: Fred Fournier with M&G. The
4 biggest thing is a favorable reaction to that would be that
5 it would allow Corpus Christi to make a good profit. It
6 would enable 1.1 million tons of domestic production to
7 start and to run and to run sustainably for many years in
8 the future.

9 MR. ROSENTHAL: Mr. Chang, this is Paul
10 Rosenthal. I'm just say this in general. This industry has
11 been trying to modernize, trying to be as efficient as
12 possible and that was witnessed -- or the Corpus Christi
13 investment is a witness to that or a testament to that.

14 This is not, however, an escape clause case.
15 And I don't feel like we have to have an adjustment plan.
16 I'm not suggesting you were saying that either.

17 What has to happen is imports be fairly traded.
18 This industry can make money, and be profitable, and invest
19 and re-invest if prices are fair here.

20 You began, if you look at the data and the
21 charts, you began to see an improvement in profitability
22 industry after the previous case. And with sustained
23 relief, you'll be able to see increased profitability and
24 the investment that is necessary to stay modern.

25 That's what is urgently needed to be able to do

1 that is simply an affirmative determination that requires
2 imports to be fairly traded. And, again, I want to restate
3 this industry's not against imports. All these companies
4 are international. They import. They export. What they
5 need is some price stability in order to make and plan for
6 continued efficiency and to supply their customers, which is
7 really what their aim is.

8 MR. CHANG: Thank you, that's all I had.
9 Thanks.

10 MR. ANDERSON: Okay, thank you, Mr. Chang. I
11 just had a couple brief follow up questions real quickly.
12 In the opening statement by respondents, we heard that there
13 were price increases, so I'd just like to -- we'll probably
14 hear about more of that later, but could this panel address
15 whether there have been any price increases during the
16 period of investigation and if there were, when were they
17 and what was the impact? Did they stick in the market?
18 What was the response in the market place?

19 MR. ROSENTHAL: Mr. Anderson, if you don't mind,
20 we'll give you a full answer to that in the post-hearing
21 brief. I think you need to separate the period up through
22 September of 2017, before and after, because I think the M&G
23 announcement about inability to supply the customers did
24 cause a price spike and price increases. And I want to talk
25 about what happened before that and what happened after

1 that. And I think to be comprehensive, we're probably
2 better off doing that in the post-conference brief.

3 MR. ANDERSON: Yes, we would appreciate that.
4 Thank you very much.

5 MS. BECK: Mr. Anderson, if I could just add one
6 point --

7 MR. ANDERSON: Yeah.

8 MS. BECK: Just based on the U.S. producers'
9 data reported in the questionnaires just through the 2017
10 period under the period of investigation --

11 MR. ANDERSON: Gina Beck, correct?

12 MS. BECK: Oh, excuse me. Gina Beck from GES.
13 Between first quarter 2017 and second quarter 2017, there
14 was a decline in U.S. prices.

15 MR. ANDERSON: Okay, thank you for that
16 explanation. And then on the slide, very helpful slides
17 here, and I didn't want to get into BPI here, but Ms.
18 Cannon, you pointed out several factors in support of an
19 affirmative, particularly on prices and volume, looking at
20 2014 to 2016 full year. But then your emphasis on the
21 results on one of the confidential slides here on page 20,
22 you point to several indicators and that analysis is limited
23 to interim 2017.

24 So I'm just wondering if either in the
25 post-conference, you can tie those periods together between

1 the two data sets, or if there's something particular that
2 you wanted just to be aware of that occurred in the interim
3 period as to why the focus on interim 27 for these
4 particular indicators and not the rest of the POI?

5 MS. CANNON: Kathy Cannon. We'll be happy to
6 explain that more in the brief, because we can get into the
7 data, but the basic explanation is early 2014 to 2016
8 period, you had two things going on. One was the
9 elimination of the four countries that were subject to the
10 other case. And as we testified, that did allow us to
11 benefit a bit over that exact period, 2015 into 2016.

12 And then these imports surged in 2016 and
13 particularly more so in 2017. So in 2017 is really where
14 you get the strongest evidence of the effects these imports
15 when the other ones had really declined and gone away.

16 But I'm also not ignoring the 2014 to 2016
17 period. You have a chart that I gave you showing the
18 financial picture of the industry. You have a chart showing
19 the market share of the industry.

20 Now what you will see are some upturns in
21 production and shipments over the 2014 to 2016 period on a
22 volume basis. Those are not tracking demand. So even
23 though we were up some, we weren't up as much as demand and
24 our market share actually declined from 2014 to 2016.

25 So even in a period where we were trying to get

1 some benefits and seeing a little bit of relief from the
2 other imports, we were hit so quickly with these imports,
3 that over that three year period, too, you're seeing a
4 sustained injury, I would call it, continued inability to
5 increase market share, inability to increase production and
6 volumes to match imports, financial performance that's still
7 terrible. And then by 2014 is where it really falls off the
8 cliff. So you see injury in both and we can get into more
9 specifics on each of those variables in our brief.

10 MS. BECK: Gina Beck from GES just clarify in
11 2017, it went off the cliff.

12 MR. ANDERSON: Okay, thank you for that
13 elaboration. It's very helpful. And my last question is
14 more of a -- just a quick question on you mentioned all the
15 conditions of competition. And we have the question from
16 Ms. Guth about that. And I'm just wondering, giving a
17 glance at the location of your production facilities South
18 Carolina, North Carolina, West Virginia, is there any
19 possibility that geographic or distance is a condition of
20 competition here, especially if there are purchasers on the
21 West Coast or west of the Rockies and you're competing with
22 these particular subject countries and international
23 shipping rates and timing of shipping and so forth to the
24 West Coast?

25 MR. FOURNIER: Fred Fournier from M&G. And that

1 was one of the deciding factors in going into Texas was that
2 it -- it was closer to the western coast. The further you
3 move the stuff by land, the more it costs. But we still
4 have seen the ability to supply in the West Coast in the
5 past from our West Virginia site. But definitely, Corpus
6 Christi, we did see that as a good opportunity for going
7 into the West Coast.

8 MR. CULLEN: John Cullen, DAK Americas. DAK
9 Americas does supply significant amount of PET to the
10 western part of the U.S., including California, Washington
11 state. It's part of our offering to some of our major
12 customers, who use the same products for the same
13 applications in other parts of the United States, and
14 therefore, want to use those products in their manufacturing
15 locations in the West.

16 And we are impacted, obviously, by the very low
17 prices that the imported resin comes in. It makes it very
18 difficult to make money doing that, but we do it because
19 it's part of what we do for our large customers. And if we
20 got relief from this case, I think, the profitability of
21 that particular geographic region would make it a lot more
22 attractive.

23 MR. ROSENTHAL: Mr. Anderson, Paul Rosenthal.
24 This is really a very similar issue that was raised in the
25 previous case about the industry's ability to supply the

1 West Coast. And then and now, we still can do it, have done
2 it, compete there regularly, and will compete there even
3 better if there were fair pricing.

4 MR. MCNAULL: Jon McNaull, DAK Americas. I
5 don't want to forget our colleagues in Mississippi. We have
6 a large facility in Pearl River, Mississippi, which also
7 geographically is closer -- more closely located to the West
8 Coast.

9 MR. ANDERSON: Okay, thank you. Thank you all
10 for that explanation. That's very helpful. With that, on
11 behalf of staff, I want to thank this panel very much for
12 taking time from your businesses to be here today and for
13 your testimony. It's been very helpful.

14 We would like to take a 30 minute recess and
15 reconvene at 20 after the hour, 12:20. With that, thank you
16 very much.

17 (Recess.)

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

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

4 MR. ANDERSON: Good afternoon, welcome to our
5 second panel and thank you for being here today, and we look
6 forward to hearing your testimony. Ms. Esserman, please
7 proceed when your panel's ready.

8 MS. ESSERMAN: Thank you, Mr. Anderson. I'm
9 going to turn to my colleague, Joel Kaufman.

10 MR. KAUFMAN: Good afternoon, Mr. Anderson and
11 staff. We really do appreciate the opportunity to be here
12 today. This is going to be a panel that primarily consists
13 of witnesses that are customers, major U.S. customers of
14 U.S.-supplied PET resin. We're going to start this panel
15 with Mr. Ream from Graham Packaging, and when he's finished
16 we'll move around the table and let other witnesses speak.

17 STATEMENT OF STEVE REAM

18 MR. REAM: Good afternoon. Good afternoon.
19 I'm Steve Ream and I'm with Graham Packaging. I've been in
20 the industry for over 20 years. I've actually been with
21 Graham Packaging over 20 years and I've been in the industry
22 for over 30 years. During that time, I've handled PET resin
23 sourcing operations for 25 years.

24 I've seen PET resin's entry into the market for
25 carbonated soft drinks into a resin that can make suitable

1 packages for multiple market segments, from shelf-stable
2 food to health care products. As a supervisor and a
3 production manager, at the time I witnessed the first
4 production of a one piece carbonated soft drink bottle and
5 hot fill containers for the first time, both of which
6 happened over 20 years ago.

7 Graham Packaging uses PET resin in its
8 production of bottles for a number of industries. We are a
9 U.S. producer. We use PET resin in 21 plants in the United
10 States. We employ nearly 2,000 people, including 1,764
11 manufacturing jobs. Between Graham and our sister company
12 Pactiv, we easily employ more U.S. workers than the
13 Petitioners combined.

14 We are one of the largest consumers of PET
15 resin in the United States. We source 95 percent of our PET
16 resin demand from U.S. PET resin petitioners and producers.
17 Our sister company Pactiv is also a major consumer of PET
18 resin, and its U.S. production of containers for the food
19 industry. Our consumption of PET resin is approximately 650
20 million pounds annually.

21 We buy domestically, we produce domestically.
22 Graham Packaging is part of Reynolds Group, a Petitioner in
23 the aluminum foil from China investigation. So we
24 understand what it means to be faced with unfair import
25 competition to the point that it materially injures the

1 domestic industry. What we don't understand is why we're
2 here today. In the face of product shortages, extremely
3 tight demand, customers being placed on allocation,
4 increasing prices and transformative change and a
5 composition of the industry, and a U.S. industry that
6 collectively in our estimation is one of the largest
7 importers of PET resin, if not the largest, we simply don't
8 understand why this petition was filed or what it's designed
9 to accomplish.

10 It's surprising I'm here today because
11 generally I purchase the vast majority of my product from
12 the domestic industry. The fact that you do not see foreign
13 producers in front of you today and instead you only see
14 U.S. purchasers is a function not of strategy but of the
15 fact that you are very -- that we are very concerned about
16 the impact of this case on our own U.S. production.

17 We have significant concerns that this case
18 will negatively impact our ability to sort both domestic and
19 imported product, and to continue production and grow our
20 markets here in the U.S. We have those concerns because
21 currently we find ourselves in the midst in an unprecedented
22 shortage of PET resin products in the U.S. market. You
23 know, we've heard different statements here and, you know,
24 as we look at the market, the market is fundamentally short
25 in the U.S.

1 The U.S. producers have two billion pounds
2 less capacity. If they were running everything that they
3 can run today, they have two billion pounds less capacity
4 than what we've grown our markets to today. We have -- and
5 those markets include bottles and strapping and carpet and
6 all the other things you heard. But our markets are
7 continuing to grow at GDP rates. So not only are we short
8 today two billion pounds, that's going to be compounded as
9 we go through these annual growth cycles.

10 So if you look at the standard growth of GDP rates
11 or maybe a little higher, three to four percent, in three
12 years we're going to need another billion pounds of resin to
13 supply the U.S. market. That's some of the exciting things
14 and the exciting growth we have going on in the USA. It's
15 very hard for me to fathom how the industry could think it's
16 a good idea to further restrict supply, when they're not
17 even able to meet current orders.

18 In a few minutes I'll talk about Graham
19 Packaging and other U.S. producers that have been placed on
20 allocation or have experiences shortages in 2017. The
21 shortages exist not because of pressure from imports, but
22 because of strategic decisions made by domestic producers,
23 which in retrospect have been severely damaging to the U.S.
24 industry.

25 Historically, we count on the U.S. industry to

1 supply most of our needs. When we use import product, we do
2 so in small amounts relative to our total PET resin
3 purchases. We import for a number of reasons. For example,
4 where we can only attain a product from a single domestic
5 supply source, we have to qualify a source of supply. We
6 can't afford to have interruptions in our PET supply,
7 particularly for products where we cannot easily switch to
8 an alternative supplier.

9 We have seen interruptions in the past by
10 hurricanes, fires and other acts of God that takes out major
11 capacity in industry. As you can imagine, those plants
12 affected by the similar acts of God do not immediately
13 return to production. If we have to obtain product from
14 another producer, particularly one that has not been
15 previously certified, we're actually out of business. We
16 can't supply those bottles to the customer because they
17 require certification of the product before we put it in an
18 end use.

19 Our customers, they just can't wait that long,
20 so neither can we. Certification rise is another reason to
21 import. There are some instances where we have been unable
22 to certify more than one domestic product to meet
23 customer-stringent certification procedures. In those
24 instances, we have no option but to purchase imported
25 materials for our second source of supply.

1 Again, given the small share of our supply
2 where we seek imported product, it is obvious that imports
3 are the exception for us, not the rule. I'm here today to
4 provide the Commission with the benefits of over 30 years'
5 experience in this industry. I've read the petition and
6 have painted a very simplistic picture of the industry and
7 what I'm sure the Commission has heard before. You heard it
8 this morning. Imports are up. They've taken market share,
9 and on the basis of low prices.

10 However, it fails to tell the real story of
11 the dynamics of this market, and as you'll see, it's not
12 subject imports. I want to review the structure of the
13 industry in order to aid the Commission's analysis. First
14 the industry is essentially divided into two regions, the
15 east and midwest being one region, the west and the
16 southwest being the other.

17 The east and midwest are serviced by the four
18 petitioners through the U.S. production. As the Commission
19 recognizes in its prior investigations of PET resin,
20 customers in this region prefer and depend on rail service
21 for delivery of PET resin supply. Lack of dependable,
22 timely rail service to the west coast and the cost of moving
23 product by rail means that it's more difficult to service in
24 the western region from those same U.S. production
25 facilities.

1 Instead, the U.S. producers have extensive
2 plants in Mexico, and they use those plants to service those
3 regions of the U.S. In fact, all the major Mexican PET resin plants
4 are owned by U.S. producers. That means over 2.8 billion
5 pounds of PET resin capacity that is aimed at the U.S.
6 market. This is not just speculation on our part. M&G has
7 been a major supplier for Graham Packaging.

8 When we purchased certain grades of PET resin,
9 they unilaterally determined which of their production
10 facilities to use to source the supply, West Virginia,
11 Mexico, Brazil. And in fact, we've given them a purchase
12 order placed with M&G here in the U.S., and we don't know
13 which facility they're going to ship it from or where
14 they're going to supply. They have used all three sources.

15 It's important for the Commission to
16 understand that a fundamental strategy of the U.S. producer
17 is to use Mexican production, which they own and control 100
18 percent. They do this to supply the U.S. market. They do
19 this at the expense of U.S. production, and not because we
20 are requesting that supply. They choose which capacity
21 they're going to load and they choose which capacity they're
22 not going to load.

23 Producers in Mexico again are owned by 100
24 percent U.S. petitioners and Mexican imports are
25 substantially larger in volume than any of the countries

1 subject to this investigation, and virtually equal and
2 subject imports from all of the subject countries. If
3 subject imports are competing with U.S. producers on the
4 west coast and in the southwest, it appears that the
5 competition is primarily with their Mexican production, not
6 U.S. production. That can't be a reason for imposing this
7 order.

8 Competition between the U.S. producers is very
9 complicated in its own right. M&G is the only domestic
10 producer that doesn't have its own source of raw materials.
11 Each of the other U.S. producers obtains raw materials from
12 affiliated companies. This not only makes for a more
13 secured source of raw materials, but considering the
14 profitability of their affiliated companies, it appears to
15 enable them to determine how best to maximize their profits
16 and where to show the profits.

17 For example, by increasing raw material prices
18 to the U.S. producers of PET resin, profitability shifts
19 over to the raw material suppliers abroad, reducing the
20 apparent profitability of domestic producers. These are
21 integrated producers whose interest extends throughout the
22 supply chain, both here and abroad. They're not solely
23 concentrated on maximizing profits in their U.S. PET resin
24 production companies.

25 In M&G's case, without its own source of raw

1 materials, it's dependent on Indorama and DAK for -- its
2 dependent on Indorama for its U.S. plant and DAK for its
3 Mexican plant for those raw materials. In an attempt to
4 overcome this issue and increase its production capacity,
5 they began construction of the new integrated plant in
6 Corpus Christi, Texas.

7 Not only would M&G be producing its own raw
8 materials, but the PET resin capacity of the new plant was
9 reported to be over 2.2 billion pounds of PET resin a year,
10 or almost three times its current capacity in West Virginia.
11 This plant, which would be capable of producing about 20
12 percent of the total U.S. demand, would have a profound
13 effect on the industry. DAK, for example, was restructuring
14 its footprint. It contracted for capacity in the new M&G
15 plant, while closing one of its less efficient plants in
16 Cape Fear.

17 The reoccurring concern regarding the opening
18 of the Corpus Christi plant has sparked an intense rush to
19 secure market share on the part of other domestic producers,
20 who lower prices to secure their existing or expanding
21 customer base. The impending start-up of this large, fully
22 integrated facility kept generating reoccurring concern
23 among U.S. producers and sparked an intense rush to protect
24 their sales.

25 This has affected contract negotiations every

1 year since 2015, and every year M&G said it's going to be
2 the next six months that they start the plant, or it's going
3 to be the next year before they start the plant. So it's
4 impacted every year since 2015 contract negotiations.

5 Production of the Corpus Christi plant faces
6 continued delays. Contrary to this morning's testimony,
7 these delays and resulting problems having nothing to do
8 with subject imports. Construction began in 2014. It was
9 originally scheduled to open early 2016, January 2016.
10 Construction is stopped and based on recent press releases,
11 you know, we have to question whether it will ever be opened
12 by M&G.

13 Even Petitioner and partner with M&G DAK has
14 questioned M&G's capabilities to complete this project. The
15 creditors are still demanding payment and construction crews
16 in Texas have plenty of other business where payment is
17 secure because of Hurricane Harvey cleanup. In the
18 meantime, the cost of construction delays have caused
19 significant cash flows to M&G, resulting in an even greater
20 amount of additional problems.

21 Production was halted by its contractors in
22 December '16, claiming \$50 million in unpaid receivables.
23 Press releases indicate that there are least 100 million in
24 unpaid receivables surrounding the Corpus Christi
25 construction. Since then, M&G hired a new contractor and

1 terminated this contractor recently due to lack of funds.
2 The construction is now stopped.

3 In addition to causing even greater delays by
4 bringing the Corpus Christi plant online, the cash flow
5 issues have had an adverse impact on M&G's existing
6 production facilities servicing the U.S. market.
7 Petitioners DAK and Indorma stopped providing raw materials
8 to M&G's Mexico and West Virginia plants for lack of
9 payment.

10 We and others have been trying to help M&G and
11 provide cash through early payments, and hopefully to get
12 the plant back online. This has enabled M&G to produce PET
13 resin at about a 25 percent capacity in West Virginia, but
14 is not a permanent fix. The Mexico plant closed this year.
15 The West Virginia workers have been given warn notices
16 alerting employees of potential eminent closure of the
17 plant. In total, about 1.8 billion pounds of PET resin
18 capacity has been affected.

19 The Mexico closure has impacted the west and
20 southwest. The West Virginia closure, if it happens, will
21 only worsen the impact being felt by M&G's cash flow issues
22 and resulting production curtailment in the east and
23 midwest. We don't expect any further PET resin shipments
24 from M&G unless or until its Mexico plant is really back
25 online, and M&G's response to the current crisis therefore

1 will be satisfy demand in the U.S. through Mexico, not West
2 Virginia, if it can reopen the Mexico plant.

3 As expected, the industry has reacted. DAK
4 and Indorama let it be known that they are running tight on
5 supply, and have put customers on allocation. We currently
6 are on indefinite allocation from multiple domestic
7 producers, and will be limited to products we currently
8 purchase. Thus, there will be no opportunity to pick up
9 additional supply from one producer to make up for the loss
10 from another on a wide scale basis.

11 It's a big deal for us, because we cannot come
12 close to covering our current needs. This places our
13 business and our customers at risk. Prices are increasing
14 on the spot market, and even in some instances despite a
15 cost plus contract, producers are demanding increases. For
16 example, DAK began increasing prices as soon as M&G's
17 situation became obvious. Again, I have not seen a market
18 this tight in over 20 years. There's just not enough
19 domestic supply to meet demand.

20 This has been the case for a while, but that
21 situation has only gotten worse in the last several months.
22 The reason we are so concerned is the domestic shortage will
23 continue indefinitely. It's obvious the U.S. producers
24 cannot satisfy all the U.S. demand with U.S. produced
25 product. Imports were and are necessary to fill the supply

1 gap for Graham Packaging and other consumers of PET resin.

2 This is not a new phenomena in the U.S. PET
3 resin market. Even without M&G's capacity issue, the U.S.
4 industry still did not have enough capacity to supply the
5 entire market. The data contained in the industry
6 publications confirms this. There's further support for the
7 U.S. market's dependency on imports. I indicated earlier in
8 my testimony that some U.S. producers routinely fill orders
9 with resin produced abroad by an affiliate, and then import
10 resin into the United States to fulfill my orders.

11 To take Graham's purchasing intent as an
12 example, during the POI the amount of imported PET resin we
13 planned and contracted to purchase as a percentage of our
14 total buy and our total spend is in the low single digits.
15 However, nearly a quarter of our total purchases during the
16 POI wound up being filled with foreign produced PET resin
17 from Mexico and Brazil.

18 The difference between those two figures is
19 solely attributable to the unilateral decision by U.S.
20 producers to import PET resin produced abroad by their own
21 affiliates to fill those orders, versus fill them and
22 produce them in the United States. This wasn't our choice.
23 The Petitioners made the decision to fill the orders with
24 imported product, because they had no capacity to fill these
25 orders using U.S. production.

1 The only other explanation is they opted
2 against U.S. production in order to support their operations
3 abroad. The first opinion further demonstrates why this
4 case should not go forward. The latter opinion is simply
5 unacceptable, and should not be rewarded by the Commission,
6 as the Commission recognized in the prior investigation, the
7 largest single factor influence in the market price for PT
8 resin and raw material prices.

9 These days, most PET resin purchases secure
10 long term contracts with a price index to PTA and MEG, the
11 two main inputs of PET resin. The price of these raw
12 materials in turn are closely linked to crude oil prices,
13 which is a significant input for both these chemicals. If
14 you compare the prices for these raw materials and market
15 price for PET resin, they follow each other.

16 Although some factors remain the same, this is
17 not the same industry and the same conditions faced by the
18 Commission in the last review. M&G's new plant is not open,
19 and there are serious questions if it will ever open. This
20 has cascading effects on our ability to affect our product
21 and fill our customers' needs.

22 MR. REAM: M&G's situation has drastically altered
23 the supply landscape with customers scrambling to procure
24 supply in a shortage situation. U.S. production is tapped
25 out. The only available recourse for U.S. producers is to

1 protect Mexico as a source of supply. That seems to be what
2 this case is all about, since it surely isn't about subject
3 imports.

4 In conclusion, imports are a necessary source of
5 supplemental supply for the U.S. PET resin market. If the
6 U.S. industry cannot meet current demand, their only way to
7 manage current supply if subject imports were driven from
8 the market, would be to import more from their plants in
9 Mexico.

10 I just don't believe that the U.S. antidumping
11 laws are intended to be used for protection of the Mexican
12 PET industry.

13 Thank you very much for your time, and I would be
14 happy to answer any questions that you might have.

15 MR. PETERSON: Good afternoon, Mr. Chair. John
16 Peterson, Neville Peterson LLP, representing Niagara
17 Bottling. Our testimony will be given by Shawn Safieddin,
18 the Vice President of Procurement.

19 STATEMENT OF SHAWN SAFIEDDIN

20 MR. SAFIEDDIN: Mr. Chairman and members of the
21 Commission staff, my name is Shawn Safieddin and I'm the
22 Vice President of Procurement for Niagara Bottling LLC.
23 Family owned and operated since 1963 and headquartered in
24 Ontario, California, Niagara Bottling is the largest
25 manufacturer of bottled water in the U.S., with 3,500

1 employees and 26 bottling plants around the Nation, and
2 three more scheduled to open in the near future.

3 Responsible for a significant proportion of all
4 water bottles sold in the U.S., Niagara Bottling is one of
5 America's largest industrial consumers of polyethylene
6 terephthalate resin, or PET as it is commonly known.

7 I am joined in my statement today by other major
8 industrial consumers of PET, including Premium Waters, and
9 C.G. Roxanne, producer of Crystal Geysers.

10 I appreciate the opportunity to address this
11 staff conference in the antidumping investigation of PET
12 resin from Brazil, Indonesia, Pakistan, South Korea, and
13 Taiwan.

14 Whether PET resin has been sold in the U.S. from
15 the subject countries at less than fair value requires an
16 objective assessment of the pertinent data by the Commerce
17 Department. However, whether the U.S. PET industry is
18 materially injured or is threatened with material injury by
19 reason of imports from the subject countries, warrants a
20 more indepth analysis of the PET industry.

21 Not everything that counts can be counted, and
22 not everything that can be counted counts. For the reasons
23 I will discuss, I respectfully submit that there is no
24 reasonable indication at this time that the domestic
25 industry is being harmed by the imports which are the

1 subject of this case.

2 At the outset, I would like to note that at the
3 present the domestic PET industry is in a structural crisis
4 of its own making. The industry has shuttered about 20
5 percent of its North American capacity and cannot satisfy
6 domestic demand for PET. The domestic producers have put
7 through substantial price increases for purchasers. This
8 crisis is the result of domestic cost overruns and the
9 inability of one producer, M&G, to complete a major PET
10 plant at Corpus Christi, Texas, that was originally planned
11 to come online in early 2016 and is now not scheduled for
12 completion until late 2018, if at all.

13 The issues are not caused by imports, just as
14 imposing antidumping duties on four countries last year did
15 not--did nothing to solve the domestic industry's structural
16 problems which were looming even then. Imposing such duties
17 on the PET from the five countries in the current
18 investigation will do nothing to solve those issues, but
19 will only inflict extended economic harm on industrial users
20 of PET and on the United States consumers.

21 Reason number one: Vertical integration
22 increases. Until mid-2015, DAK Americas was the only
23 domestic PET producer with PTA or purified terephthalate
24 acid integration. With ultra producers rapid vertical
25 integration into the PET feedstocks such as PTA, PX, and

1 MEG, it became evident that vertical integration was
2 essential for competing globally.

3 Accordingly, M&G invested heavily in its PTA
4 integrated and PX Co-sited Corpus Christi, Texas, plant.
5 Indorma acquired CITPE's 600,000 metric ton PTA assets in
6 Canada on June 2015, and British Petroleum's 1 million
7 metric ton Paris Island and PTA assets in Decatur, Alabama,
8 in January 2016.

9 Now with three out of the four domestic PET
10 producers already or soon to be PET integrated, one simply
11 cannot assess the profitability or the financial performance
12 of the domestic PET industry without evaluating their
13 profitability on PTA operations.

14 PTA profit margins in the United States are
15 significantly higher than that elsewhere in the industrial
16 world. I would like to repeat myself. PTA profit margins
17 in the United States are significantly higher than that
18 elsewhere in the industrial world. Two of the three PTA
19 producers in North America also produce PET, albeit under
20 different legal names, and are highly influential in the
21 settlement of PTA prices.

22 As a result, an alleged decline in the domestic
23 PET industry's profitability is not necessarily indicative
24 of a decline in the profitability of the industry's
25 participants overall and their affiliates and parent

1 companies.

2 Reason number two: IPA price increases. Major
3 customers generally price their product on a major raws-plus
4 basis, indexing the price to the cost of the raw materials--
5 namely, PTA and MEG. ITA, another relatively minor raw
6 material, has traditionally tracked the price of PTA.

7 Recently, however, prices have diverged, with IPA
8 prices climbing higher. According to IHS Markets report
9 dated June 30th, 2017, quote, "The significant IPA price
10 increases were prompted by globally short supplies of IPA,
11 those being created in turn by low availability of
12 metazylene," precursor, "attributed to a number of
13 unplanned production outages. The fairly historical IPA to
14 PTA price relationship of 1.4 to 1.5X has escalated to a
15 recent multiplier approximately equal to 2-1/2X.

16 Recent U.S. prices were reported to exceed a
17 dollar per pound, or \$2,200 per ton, and spot international
18 prices have been reported as high as \$3,000 per metric ton.
19 The tight supply and high price conditions will probably
20 persist until metazylene units are either restarted in Japan
21 and/or new capacity comes onstream, both expected to occur
22 in late 2017 to early 2018." End quote.

23 Indorma's acquisition of CITPE's IPA assets in
24 Spain in November 2015 is indicative of domestic producers'
25 acknowledgment of the structural gaps in this area.

1 Nonetheless, domestic PET producers have been proposing new
2 pricing formulas which address IPA. So this issue is
3 self-correcting.

4 In the 2005 antidumping investigations of PET
5 from several countries, the Commission recognized that
6 effects of contract structure were not attributable to
7 imports.

8 Reason number three: Schedule and budget
9 overruns. According to a presentation made by Marco
10 Gozoffi, M&G Chemical's Chairman and CEO, on February 2nd,
11 2015, at the Packaging Conference, M&G's Corpus Christi
12 project was scheduled to commence operations by early 2016.
13 The Corpus Christi plant would have been the largest
14 vertically integrated single PET line in the world, and the
15 largest PTA plant in the Americas, intended--intended to
16 repatriate over 400,000 metric tons of PET per year to the
17 domestic industry.

18 However, the project has since experienced
19 excessive schedule and budget overruns, forcing M&G to give
20 up additional supply rights to DAK Americas and take out
21 additional loans. The facility is now mothballed, and if it
22 starts up at all it will not be until late 2018 or early
23 2019, according to industry experts.

24 M&G's financial distress has had further
25 repercussions. On September 12th of this year, ALPEC, the

1 parent company of DAK Americas, another domestic PET
2 producer announced that several subsidiaries of M&G had
3 defaulted on payments owed to ALPEC for deliveries of
4 purified terephthalate acid, PTA, feedstock to PET.

5 As of that date, M&G's debt to ALPEC was some \$49
6 million. ALPEC halted its PTA supplies to M&G plants
7 located in Brazil and Mexico. On September 21st, M&G also
8 ceased production at its plant in Apple Grove, West Virginia
9 due to lack of funding. It has been an excessive draw on
10 M&G's short-term liquidity and long-term solvency, resulting
11 from the schedule and budget overruns that has led to M&G's
12 financial woes. Not imports.

13 Reason number four: Geographical footprint
14 limitations. Niagara Bottling has numerous bottling plants
15 on the West Coast. The closest domestic source of supply is
16 1,400 to 2,500 miles from these plants, with an average
17 length of haul of 2,000 miles.

18 The domestic PET industry is neither logistically
19 well positioned nor has ever serviced these plants in the
20 recent history. Therefore, the claim that imports have been
21 causing material injury to the domestic industry is not
22 justified in this case.

23 Niagara and other consumers require access to PET
24 supplies shipped by ocean to West Coast ports. An
25 affirmative determination of dumping will not expand the

1 domestic industry footprint but will jeopardize our business
2 continuity and place thousands of jobs at risk.

3 An affirmative determination of dumping--I
4 apologize. The domestic industry does not even have the
5 capacity, let alone the logistical footprint, to support
6 these plants.

7 Reason number five: Domestic capacity
8 constraints. According to a presentation titled "2015, A
9 Time For Change," made by PCI at the NAPA Conference, the
10 U.S. PET industry was then well balanced in aggregate,
11 however, with months of deficit during the peak season, thus
12 requiring to import for the following years. With the
13 shutdown of M&G's Altimira, Mexico, and Apple Grove, West
14 Virginia, plants, representing approximately 20 percent of
15 the U.S. and Mexico PET capacity, and the year-over-year
16 growth of about 2 percent, or 100,000 metric tons in demand,
17 North America will for the foreseeable future be at a gross
18 PET deficit without the imports.

19 In the unlikely event the M&G sites resume
20 operation, they still would not provide a reliable source of
21 supply, given M&G's irrefutable short-term liquidity and
22 long-term solvency risks. Accordingly, Niagara has been put
23 on allocation in the recent weeks by other domestic
24 producers.

25 Furthermore, Niagara has had to resort to

1 recycled PET, RPET, as a substitute to virgin PET, VPET,
2 and to double our RPET content not by choice but rather out
3 of necessity.

4 Recycled PET is not a complete substitute for
5 virgin PET. Moreover, Niagara has been forced to scramble
6 for alternate sources of supply for a few of our bottling
7 plants, and the opening of our three new plants which would
8 employ directly or indirectly hundreds of workers in
9 Jupiter, Florida, Oklahoma City, Oklahoma, and Mesa,
10 Arizona, is in peril. This is not just my personal view of
11 the market.

12 The authoritative industry newsletter, Global PET
13 Stream, in its September 29, 2017, issue noted that, quote,
14 "From a production and supply chain perspective, September
15 may be the most tumultuous month on record," and described
16 the same events I have just recited.

17 Supply agreements in the PET industry are
18 typically negotiated in the fourth quarter of each year,
19 which we have just entered. And amid all this tumult in an
20 effort to place more pressure on domestic consumers as we
21 enter the quarter, the domestic industry opportunistically
22 filed the antidumping petition which brings us to the
23 Commission's hearing room today.

24 It is often said that in an antidumping
25 investigation you take the domestic industry as you find it.

1 It is also true, however, that the purpose of an antidumping
2 investigation is to provide relief to a domestic industry
3 whose woes are caused by imports, in the hope that it will
4 allow the industry to recover. This is not going to happen
5 here.

6 The domestic industry's problems are structural,
7 and these are not normal times. The question of M&G's
8 struggle, which was not import related, must be addressed.
9 Until that time, and thanks to the opportunistic timing of
10 this petition, domestic producers will command premium
11 prices for the PET they're able to deliver, and will still
12 be unable to satisfy United States demand.

13 Just 18 months ago when the Commission considered
14 the previous antidumping petition filed by the domestic PET
15 industry, importers and users of PET warned the Commission
16 that as a result of these various considerations the
17 imposition of an antidumping order was not likely to provide
18 any relief for the domestic industry's own self-inflicted
19 wounds. Rather, consumers would continue to purchase PET
20 from the domestic industry while also looking into
21 nonsubject sources of supply.

22 The import statistics in the intervening period
23 demonstrates that this is exactly what occurred. Imports
24 continued at roughly the same levels as before. The
25 situation today is no different. Imposing antidumping

1 duties on other sources of PET will not help the domestic
2 PET industry, which will continue to grapple with its own
3 structural issues.;

4 The domestic industry will not benefit, but
5 industrial users of PET will suffer plant shutdowns,
6 employee layoffs, decreased profitability, and American
7 consumers will pay higher prices for bottled beverages,
8 packaged goods, and other packaged goods.

9 In an effort to avoid delivering these economic
10 shocks to consumers, the industrial users of PET will look
11 to other stable sources of supply and will look to
12 substitute other materials such as recycled PET. Indeed,
13 the question is not whether the domestic industry is injured
14 by the imports in the instant investigation. The better
15 question is whether the current inability of the domestic
16 industry to supply America's needs for PET constitutes a
17 changed circumstance which should prompt the Commission to
18 reconsider the existing antidumping order.

19 In closing, everyone in the room knows what the
20 PET industry's underlying story is. The industry's present
21 situation is not caused by imports but its own structural
22 gaps. M&G's investment in a 1.1 million metric ton PET
23 plant is domestic industry's acknowledgment of the U.S.
24 supply deficit. M&G's choice to locate the facility in
25 Corpus Christi is domestic industry's acknowledgment of the

1 supply gap in the Southwest and the West Coast of the U.S.

2 M&G's PTA integration and co-location at Corpus
3 Christi, DAK Americas off-take agreement with M&G out of
4 Corpus Christi, and Indorma's acquisition of CITPE's and
5 BP's PTA and/or IPA assets are all the domestic industry's
6 acknowledgment of the need for vertical integration to
7 compete globally.

8 The aforementioned actions are the domestic
9 industry's recent attempts to remediate the underlying
10 structural issues found in the U.S. market. Niagara has
11 historically relied on imports only because of these
12 deficiencies. Niagara does not seek--I repeat, Niagara does
13 not seek to import for the sake of importing. As these
14 structural issues are resolved, it is our hope that we will
15 no longer need to rely on imports.

16 I thank you for your attention. I stand ready to
17 answer any questions the staff may have.

18 MR. HEFFNER: Hi. I'm Doug Heffner from Drinker
19 Biddle & Reath. I'm here representing Companhia Integrada
20 Textil de Pernambuco, or CITPE. We do not have a witness
21 today. They were not able to attend, but I've been advised
22 by the company that they will answer any questions that you
23 have in the postconference brief, and we stand ready to do
24 that. Thank you.

25 MR. KAUFMAN: Mr. Anderson, that concludes our

1 presentation.

2 MR. ANDERSON: Thank you, Mr. Kaufman, and thank
3 you to our witnesses for your testimony. It's been very
4 helpful.

5 We would now like to turn the time over to our
6 investigator Mr. Casanova to start the round of questions.
7 Thank you.

8 MR. CASANOVA: Thank you everyone for being here
9 this afternoon.

10 The first question I have, I guess I'm going to
11 beat the dead horse again, could you please comment on the
12 recycled content and the HTS number used in the scope of the
13 investigation? Do you agree with using both HTS numbers?
14 Or one HTS number over the other?

15 MR. KAUFMAN: Mr. Casanova, I'm not going to give
16 you much help on this and much guidance today. We'll look
17 at it for the postconference briefs, but as customers it
18 wasn't an issue that we were really focused in on for
19 purposes of this conference today.

20 MR. CASANOVA: So you mentioned that you were
21 forced to use more recycled PET rather than virgin PET. As
22 customers, do you have a preference of virgin PET, over
23 recycled PET?

24 MR. SAFIEDDIN: We do not.

25 MR. CASANOVA: So then the other question I have,

1 are there differences between foreign-produced PET resin and
2 domestic produced PET resin?

3 MR. REAM: Each of the producers has its own--
4 sorry, Steve Ream, Graham Packaging. Each of the producers
5 has its own set of additives that they put in the resin to
6 give it certain characteristics. So we're a little unique.
7 We make--the primary bottles we make are hot-fill containers
8 and specialty containers, and barrier containers. So we
9 make a lot of specialty products that require certain
10 additives and certain components in the resin to make them
11 work and function.

12 So, yeah, every supplier has a little different
13 additive package and reacts differently with our barrier
14 technology, or reacts differently with our process. We make
15 the hot-fill and heat-set container. So some of their
16 resins work. Some of them don't. And in those cases, we
17 have like one case where we only have one supplier of a
18 current resin that will work in a package, but we can find
19 an import source to also back up that source of supply. And
20 that particular product takes 18 months of sensory testing
21 before we can actually put it on the shelf for the customer.

22 So, yeah, they are--all have a little different
23 unique differences to their resin base and their resin
24 grades. They aren't exactly equal.

25 MR. CASANOVA: Mr. Ream, you mentioned that

1 there were problems of domestic supply shortage and I don't
2 know if you mentioned what those problems were or how did
3 that occur, but if you could just elaborate on why you feel
4 there's a domestic product shortage?

5 MR. REAM: Yeah, it was great. You know if you
6 look back over the course of time, we saw that we were going
7 to need increased capacity in this marketplace. We saw that
8 the U.S. needed capacity to enter the market. There were
9 old assets that weren't going to compete globally and we
10 were growing at paces that we need capacity, so it was great
11 for M&G to announce a fully integrated plant and a
12 world-class plant going to supply 2.2 or 2.3 billion pounds
13 of resin to the market.

14 So as we went through that course of time and we
15 needed that production, the market continued to grow and we
16 outstripped the demand that the U.S. -- and the capacity
17 that the U.S. producers could supply through this time
18 period. And you can see in some of the data we'll put
19 forward, where the market is fundamentally short, starting
20 in 2015, significantly in '16, and especially in '17 where
21 we're significantly short for all the products we use PET
22 in.

23 And I don't know how they're going to frame this
24 or what they're going to do. If they're going to say PET is
25 only used for this much stuff, but if you look at the full

1 record on everything that uses PET to make its end products
2 today, we're fundamentally short two billion pounds today
3 and that's just going to get worse. And it would be great
4 if M&G's plant could get up, but we don't see a clear line
5 of sight for that happening for multiple years.

6 You know 2019 would be a stretch. They've
7 stopped work and they've kicked out the current company
8 that's engineering and contracting to build it. They have
9 to go hire another company. They have to come in and
10 reassess where the project was. Once they reassess that and
11 start up, they have to hire 800, 900 workers to come back to
12 the site and mobilize that many people in a market that's
13 already tight because of the things that happened in the
14 hurricane.

15 And all those fixes and all those refineries and
16 all the other chemical infrastructure in that region of the
17 world is putting significant pressure and delays on when
18 people can get resources and hire employees to come in and
19 do these things. It's going to be a long time before they
20 can mobilize and even start. And then from there, quite
21 honestly -- and we want it to come up, but quite honestly,
22 we've heard, oh, four months it'll be up. In six more
23 months, it's going to be up; in nine months we're going to
24 start it. So yes, it's going to take a long time.

25 I mean if they got it together today the

1 earliest I'd see it would come up was in 2019 and that would
2 be a push. That would be a rush.

3 MR. CASANOVA: So there seems to be a sort of
4 regionality issue as well. Would you say this is also a
5 factor in whether you decide to source domestically or
6 import?

7 MR. SAFIEDDIN: Sorry, could you repeat the
8 latter half of the question?

9 MR. CASANOVA: So there seems to be a
10 regionality issue here. Does that affect your decision as
11 well, besides the domestic product shortage in whether you
12 source your product domestically or import it?

13 MR. SAFIEDDIN: Sure. So if I may address the
14 shortage, this is not an opinion of mine. This is a fact.
15 And I challenge any independent, third party consultant to
16 argue that supply in the U.S. exceeds its demand. It's been
17 reiterated over and over in any publication, in any
18 presentation that demand in the U.S. exceeds supply.

19 As for the issue of regionality, it goes without
20 saying when the closest domestic source of supply is, on
21 average, 2,000 miles away from our point of consumption we
22 would have a hard time sourcing competitive source of
23 supply; furthermore, it would not be a reliable source of
24 supply, given the rail industry or network in the U.S.

25 In many cases, these guys will have only one

1 rail provider to get to the West Coast, for example. And
2 under those circumstances, neither guys are well positioned
3 nor are we well positioned to source supply domestically.

4 MR. CASANOVA: So if I understand correctly, the
5 fact that the rail system is limited is also a factor in
6 whether you source by freight or you source by rail?

7 MR. SAFIEDDIN: For the West Coast, the mode of
8 transportation would be what we call intermodal, so it's
9 primary shipped via rail. As it gets closer to the point of
10 consumption, they transload it from rail into a bulk truck
11 and ultimately, our plant receives product via bulk truck.

12 MR. CASANOVA: And how do your transportation
13 costs affect how you decide who to purchase from?

14 MR. SAFIEDDIN: The ultimate determining factor
15 for us is DDP price; that is price at the point of
16 consumption.

17 MR. CASANOVA: This is just a general question.
18 Would everyone agree with the scope in the petition?

19 MS. ESSERMAN: For purposes of the preliminary,
20 we agree with the scope of the petition; but should there be
21 a final investigation we'll want to look at that issue more
22 carefully.

23 As Mr. Kaufman said, we're representing
24 consumers here and don't even have access to APO
25 information. So those were not the principal focuses of our

1 clients here today, but rather providing key information to
2 the Commission about the true dynamics driving the market.

3 MR. CASANOVA: Alright, well, thank you very
4 much. That concludes my questions.

5 MR. ANDERSON: Thank you, Mr. Casanova. Now,
6 Mr. Chang.

7 MR. CHANG: I would like to echo my colleagues
8 sentiments and thank everyone for taking the time to speak
9 to here and to answer our questions.

10 My first question is more of a housekeeping
11 issue. It's the same question I asked the Petitioners. You
12 know what's your recommendation on using official import
13 statistics versus questionnaire data for our analysis?

14 MR. PETERSON: I think with regard to the
15 questionnaire data, obviously, you know the Commission staff
16 makes its own judgments for how complete that is.

17 One issue I think that has to be looked at,
18 though, is the discussion of the two tariff numbers. I
19 believe Ms. Cannon earlier today suggested that in 2017,
20 when we went to the two different tariff numbers, those
21 tariff numbers do report more than what is the scope of the
22 investigation. That has to be looked at and if possible,
23 quantified; especially, in light of the fact that I think
24 the testimony was also that they felt the injurious
25 affects, which are mostly in this case market share case,

1 increased or peaked in the first half of 2017. So there's
2 potential over reporting issues I think the Commission will
3 have to look at.

4 MS. ESSERMAN: We would concur with that. But
5 just to reiterate, we don't have access to the questionnaire
6 responses, so we're not in a position to provide you an
7 educated opinion on that.

8 MR. CHANG: Okay, well, thank you for providing
9 the opinion that you were able to provide.

10 So my next question kind of focuses on the
11 imports. And so obviously, in the earlier testimony, you
12 were noting that the demand is exceeding the supply by -- I
13 think the number was two billion pounds and so because of
14 that the imports need to fill in the gap that's created by
15 the limited U.S. supply.

16 So I mean correct me if I'm wrong, logically,
17 that would result in the value of the imports increasing
18 over the period; yet, if you look at the official import
19 statistics, the value of the imports for all the subject
20 countries has declined. So if you could comment on that
21 trend, that would be great.

22 MR. REAM: So yes, you know the function of our
23 industry, whether it be import or domestic, you know those
24 contracts are usually based on raw material, plus formulas,
25 as spoken to before. And if you look back at the start of

1 2014, at the beginning of this period, you know those raw
2 materials were 70 cents and in 2017 those raw material costs
3 have come clear down to 45 cents. They're at the low point
4 for the year and now we're on the trajectory to go back up,
5 so they've followed that same curve, whether it's import or
6 it's domestic product. The real absolute price of the
7 transaction has followed that raw material curve.

8 MS. ESSERMAN: Remember that PET prices for a
9 majority of the purchases are indexed to raw material prices
10 and that's why you're seeing that trend. That was actually
11 something that the Commission noted in its prior
12 investigation.

13 MR. SAFIEDDIN: If I may supplement that, so in
14 relation to pricing, one dynamic that is rarely discussed is
15 the role of domestic competition. The anticipation of M&G's
16 Corpus Christi's plant did and has intensified competition
17 among domestic PET producers in the recent years. As a
18 result, we've experienced lower pricing; even at the most
19 inland locations where imports are even a viable option,
20 given the cost prohibitive inland logistics costs. So the
21 declining pricing faced by the domestic industry is an issue
22 of the domestic industry's own making, not imports.

23 MR. CHANG: Okay, just to following up -- and I
24 may have missed it, so I apologize, but in this raw material
25 index is it publicly available? What's the name of this

1 index? It may be in the statement, but I'm sorry if I
2 missed it.

3 MR. SAFIEDDIN: I can speak to that. So the
4 most two common pricing structures are as follows, for
5 domestic supply it is U.S. Major Raws as published by IHS,
6 plus an adder. U.S. Major Raws is defined as .855 PTA, plus
7 .355 MEG. One could argue that that bases is no longer
8 valid, given the increased vertical integration. In other
9 words, if three of the four or two of the three PTA
10 producers also produce PET, they will essentially be the
11 ones establishing the PTA pricing.

12 So on a go-forward basis, most likely, the
13 industry will move from a PTA-based to a PX-based pricing.
14 PX is the feedstock to PTA. Anyway, so that's one pricing
15 structure. For imports, it's not Raws based, but rather
16 market based and the most commonly used index for that is
17 published by ICIS, I-C-I-S, and there are different ICIS
18 indices for different regions. You have ICIS China, ICIS
19 Taiwan, ICIS South Korea, and so on and so forth.

20 MR. REAM: To add to that, for Graham Packaging
21 and PAcTiV, we tie everything to U.S. Raws no matter
22 where it comes from in any part of the world. So ours are
23 indexed to U.S. Raws prices and the two primary publications
24 out there -- then there's two consulting firms that the
25 industry widely uses to publish what they consider the

1 established price for that, one is IHS that he mentioned and
2 the other would be Chem Data. So both of those consulting
3 group report the price of PTA and the price of MEG to put in
4 the formula and they relatively lock step in the same
5 numbers.

6 MR. CHANG: I guess if you were to go into more
7 detail in explanation in any post-conference brief that
8 would be really helpful.

9 MS. ESSERMAN: We'd be happy to do that.

10 MR. CHANG: So another thing I was curious about
11 was in the statement here, so Niagara Bottling has numerous
12 bottling plants on the West Coast. The closest domestic
13 source of supply is 1400 to 2500 miles from these plants,
14 the average of 2,000 miles. So in other words, you're sort
15 of laying out the argument that the U.S. industry is not in
16 the best position to adequately supply you with the
17 merchandise that you need. I mean I'm not geography major,
18 but you know Korea, Indonesia, Pakistan, and Taiwan are
19 quite far away from the West Coast, so I just want to get a
20 sense from you that even though these countries are quite
21 far from the West Coast what makes it easier for you to
22 source merchandise from them versus the U.S. industry?

23 MR. SAFIEDDIN: In short, it is the efficiency
24 and cost competitiveness of ocean freight as compared to
25 inland logistics.

1 MR. CHANG: But how would that work for a
2 country like Pakistan, though, because it's sort of in the
3 middle -- like it's between Asia and Europe. It's not
4 really near any major ocean, so exactly how would that work?

5 MR. SAFIEDDIN: It costs a lot less to import
6 from Pakistan than to ship via rail within the U.S. Ocean
7 freight is far more efficient and cost competitive as
8 compared to inland logistics.

9 MR. KAUFMAN: Mr. Chang, if I can point out,
10 Mexico is a lot closer than Pakistan, Taiwan, and any of the
11 other countries you mentioned and that's how the U.S.
12 suppliers are meeting that demand on the West Coast and in
13 the Southwest. They're bringing it in from Mexico as the
14 primary source of that product. Mr. Ream testified before
15 that he's purchased from U.S. producers only to have the
16 product that he purchased shipped from Brazil, Mexico -- I
17 mean that's an issue the Commission really does need to
18 consider. And I know they've looked at Mexico imports in
19 the past, but you have evidence here that purchases on U.S.
20 producers were being supplied through Mexico and Brazil and
21 I think that's a different factor than anything you've
22 looked at before and I think that changes the conditions of
23 competition here or at least changes the way the Commission
24 should be looking at the conditions of competition in this
25 case. That is a change from the last case and it's a change

1 even from the 2005 case, so we encourage you to look at that
2 issue because that is close. The rail is available.
3 They're using it and they're using it to supply U.S. demand.

4 MR. CHANG: Alright, thank you. One more thing
5 I want to ask about was in the morning session the
6 Petitioners talked a lot about price, price, price. There's
7 a lot of substitutability between the U.S.-produced product
8 and the product produced in the subject countries and making
9 the argument that price the most important factor in terms
10 of purchasing decisions.

11 I know you guys have outlined some of the supply
12 issues, but are there any other factors -- is there quality
13 considerations that you look at when you're deciding exactly
14 who to source from. And I guess, generally speaking, if you
15 can comment on some of the arguments that were made in the
16 morning session in regards to this issue.

17 MR. REAM: Sure, yes, quality and content is a
18 big part of the decision. So you know we make a lot of
19 hot-filled packages and some of those hot-filled packages we
20 make and some of the growth in the market is going to put
21 product up to 250 degrees in a PET container, so for that we
22 need a certain additive package and a sort of differentiated
23 PET resin. And a lot of our hot-filled packages and a lot
24 of our specialty containers for things like liquor and
25 orange juice and some of the barrier products they all

1 require some kind of different product, so we have to work
2 with all the resins companies and work with their
3 development groups in developing resins to meet all those
4 needs.

5 And most of the new products coming on and most
6 of the new products that are going to be exciting in this
7 market are going to require development and collaboration
8 from the companies. It's just not going to be a resin we
9 can pick off the shelf, so I would say a big part of our
10 demand is unique.

11 MR. SAFIEDDIN: So we look at supply change
12 robustness perhaps more than anything and that has to do a
13 lot with vertical integration or lack thereof. This year
14 those who had IPA integration were better positioned to
15 supply Niagara than those who did not. If there's a
16 disruption in the PTA, MEG, or polyethylene markets, those
17 who have those vertical integrations would be better
18 positioned than those without. That's one issue that we
19 look at.

20 Two has to do with a given producer's financial
21 stability or lack thereof. Those who suffer short-term
22 liquidity or long-term solvency risks are not viewed in the
23 same light as those without.

24 MR. HEFFNER: I would also just like to
25 reiterate our client told us that one of the biggest pricing

1 issues in the market right now is the fact that M&G was
2 coming online or contemplating coming online, trying to come
3 online and they were trying to fill the plant with long-term
4 supply agreements. And with those long-term supply
5 agreements, they were lowering prices significantly and
6 because of that other domestic manufacturers reacted to
7 that, wanting to keep their market share. So to us, that
8 was a big factor in why prices are going down, not imports.

9 MR. CHANG: Okay, thank you. That's all the
10 questions I have.

11 MR. ANDERSON: Thank you, Mr. Chang. And now
12 Mr. Loke.

13 MR. LOKE: Good afternoon. First, I have a few
14 questions for the attorneys. Do you intend to make any
15 related party arguments to exclude any of the domestic
16 producers?

17 MS. ESSERMAN: We'll be responding to that in
18 our post-hearing briefs.

19 MR. LOKE: Okay, thank you.

20 MS. ESSERMAN: Thank you.

21 MR. LOKE: Same thing for cumulation. Do you
22 intend to make a cumulation -- an argument against
23 cumulation of all of the subject imports?

24 MS. ESSERMAN: For the purposes of the
25 preliminary determination, we are not going to be contesting

1 cumulation.

2 MR. LOKE: Okay, thank you. So this question
3 is for Mr. Ream. During your testimony, you mentioned about
4 your company tries to refrain from alternating sources
5 because of the certification process. I was wondering how
6 that certification process goes.

7 MR. REAM: So for each customer, it's a little
8 different. But in general, the first thing we do is we make
9 a container and develop a container in a shape for a
10 customer, and that can take two to three months. Once we
11 have a suitable container, then we have to put it under
12 what's called shelf life testing, and most of our customers
13 want a minimum of six months and some of our customers
14 require up to 18 months' shelf life.

15 So after we have a suitable container, we make
16 product. We have the customer fill it offline and we put it
17 under shelf testing. We can be up to a year and a half
18 later before we have an approval from that customer, we can
19 prove to the customer that it maintains the product efficacy
20 during that time period. The other thing that happens is
21 they do sensory testing with the FDA, and that sensory
22 testing that they do sometimes can take up to a year.

23 MR. LOKE: Thank you. So do you currently
24 import any of these certified imports from Mexico?

25 MR. REAM: Yes. Go ahead. Yeah, we do

1 through Mexico, but all those imports from Mexico I placed
2 with the U.S. manufacturer, with the intent they would be
3 servicing those needs from their West Virginia plant.

4 MR. KAUFMAN: And Mr. Loke, if I could just
5 clarify something. Graham Packaging doesn't import any
6 products. They purchase domestically. The imported product
7 that they are intending to use in their production, the five
8 percent that Mr. Ream was talking about, are purchased
9 domestically. The remainder is purchased from the U.S.
10 producers. How they supply that production is their choice,
11 not his.

12 So if they have a product that has been
13 certified in the U.S. and in Mexico and in Brazil, they can
14 supply it from any of those three sources, and that's what
15 he's talking about here.

16 MR. LOKE: Thank you. So how do you figure
17 out where the product's coming? How do you figure out if
18 it's from Mexico or Brazil or in the U.S.?

19 MR. REAM: Yeah, I don't know. It's
20 registered as the same product when it comes into this
21 country and is delivered to my plant.

22 MR. LOKE: Okay, thank you, thank you. My
23 next question is for Mr. Safieddin. In your testimony, you
24 said that Niagara had to resort to recycled PET resin and
25 that they're not substitutable with virgin PET resin, or not

1 -- to be exact, not a complete substitute for virgin PET
2 resin. Could you elaborate more on that, how it's not a
3 complete substitute?

4 MR. SAFIEDDIN: As it was alluded to earlier
5 in the session, particularly for our aggressive application,
6 achieving 100 percent PCR content is operationally
7 challenging. So achieving any more than 50 percent PCR
8 essentially jeopardizes our operational efficiency. So
9 while PCR or carpet can be used as a substitute to VIPA,
10 there are limitations.

11 MR. LOKE: Okay, thank you. So are there any
12 domestic producers of these 100 percent recycled PET resin?

13 MR. SAFIEDDIN: Yes.

14 MR. LOKE: Do the Petitioners produced any of
15 these 100 percent recycled?

16 MR. SAFIEDDIN: To the best of my knowledge,
17 DAK Americas is involved in a recycling operations that is
18 captive to a carpet, correct me if I'm wrong John, as for
19 the remaining producers, they provide virgin material with
20 some PCR content embedded in it.

21 MR. LOKE: Okay, and do you also import any of
22 these 100 percent?

23 MR. SAFIEDDIN: Yes.

24 MR. LOKE: Thank you.

25 MR. SAFIEDDIN: Okay.

1 MR. LOKE: You also mentioned that the demand
2 has been, you know, rising rapidly. Could you break it down
3 for me which specific sector has been going up or has it
4 been going up across the board? For example, like hot
5 filled or cold filled, which sector specifically has been
6 going up?

7 MR. SAFIEDDIN: So the answer would vary by
8 customer. In relation to Niagara, we are then fortunate to
9 have benefitted from tremendous growth. I believe our --
10 10, 10, okay. We've bene fortunate with a lot of growth. I
11 would say that our growth in the bottled water grade resin
12 has been far more than that in any other grades, namely
13 hot-filled, CSD.

14 MR. LOKE: Thank you.

15 MR. REAM: Steve Ream, Graham Packaging.
16 Weigh in a little on growth. Yeah, water has grown faster
17 than any other segment through this time period, and then
18 behind that you'd have food packaging and then hot-filled
19 packages, the three areas that are growing with CSD
20 declining.

21 MR. LOKE: Thank you, okay. So my last
22 question is about the prices of imports from Mexico.
23 Petitioners, they state that the prices in Mexico were
24 higher than -- generally higher than the subject imports in
25 the previous determination. Is this true in this case,

1 where Mexican imports are higher than the imports from
2 subject countries in this investigation do you know?

3 MR. KAUFMAN: Mr. Loke, we've compared the
4 average unit values of the imports, and we don't see any
5 substantial difference between Mexico and the subject
6 merchandise. They're virtually the same.

7 MR. LOKE: Okay, thank you.

8 MR. SAFIEDDIN: Sorry too. Niagara currently
9 does not import from Mexico and as such cannot comment on
10 the price competitiveness of Mexican imports.

11 MR. LOKE: Okay, thank you. That concludes my
12 questions.

13 MR. ANDERSON: Thank you, Mr. Loke, and now
14 Ms. Guth.

15 MS. GUTH: Good afternoon. I plan to use the
16 previous 2016 investigation of PET resin for background
17 information on the conditions of competition in the U.S.
18 market and on the pricing data, and to the extent you
19 haven't mentioned anything yet, in terms of differences from
20 the last report is there anything else you want to add to
21 demand and supply conditions or pricing background?

22 MS. ESSERMAN: Yes. Susan Esserman. First, I
23 want to go back to the point that I raised this morning in
24 the opening, which is a fundamental condition of competition
25 is Mexico, but it's as Mr. Kaufman has said, it's manifested

1 itself differently than in the past case. Unlike the past
2 case, Mexican imports have risen substantially in this
3 investigation as U.S. petitioners have increasingly used
4 them to supply their U.S. needs.

5 That was not the case in the earlier
6 investigation, and here you have on the record a very
7 interesting central fact which Mr. Ream discussed, which is
8 that he approaches M&G. His U.S. customer does not ask for
9 Mexican imports, and they make a decision about whether to
10 source from their Mexican plant or some other affiliate
11 plant like Brazil, rather than serve their own domestic
12 production.

13 This has -- this is a very, very fundamentally
14 different fact here, because it has implications for all of
15 the Petitioners' volume claims. It's hard for them to be
16 claiming volume-related injury from subject imports, that
17 meaning sales, capacity utilization and the like, when they
18 have made the choice to serve their customers from Mexico.

19 So that's a fundamental condition of
20 competition in which the facts on record are very, very
21 different and really drives the market here. So we think
22 that's very, very important. As in the past case and the
23 past two cases, the Commission's talked about the role of
24 raw materials in driving prices. Again as we discussed, the
25 fact that indexing, the producers sell based on indexed

1 publicly raw materials. And as Mr. Ream says, he does as
2 well. So that has implications for the tracking of prices
3 between PET resin prices and raw material prices.

4 The other major change and a condition of
5 competition is the fact that now, as discussed earlier, three
6 of the four producers are integrated. They have raw
7 material integration, and that is very, very important. In
8 the 2004 case, no one had supply. Everybody bought it from BP.
9 Now three of the four have integration of raw materials, and
10 that is something that's important for any number of
11 reasons.

12 First, is it really does affect the
13 competition among the Petitioners. The second is, as also
14 discussed, it's something the Commission needs to look at
15 when they look at profitability and how profitability is
16 reported, because when you've got those kind of
17 affiliations, the affiliates can make certain decisions
18 about at what level they report their raw material prices.

19 So that is very, very important, and the third
20 is this fundamental structural problem here, that growing
21 demand is massively outstripping domestic supply.

22 MR. SAFIEDDIN: To supplement that, the IPA
23 price increases are exclusive to this period and were not
24 applicable to the prior period. The other point I would
25 like to make would be the intensification of domestic

1 competition. As we repeatedly closer to Corpus Christi
2 startup, only to realize that it will be a few more months
3 before the plant is expected to run.

4 MS. GUTH: Thank you. That's all the
5 questions I have.

6 MR. ANDERSON: Okay. Ms. Catalano.

7 MS. CATALANO: So my question is for Mr. Ream,
8 and you said that approximately 95 percent of your source is
9 domestic, and I'm wondering why you made that decision and
10 why you never decided that you wanted to source from Korea
11 or Pakistan or any other places like that? Did it have
12 anything to do with product quality?

13 MR. REAM: Steve Ream, Graham Packaging.
14 Yeah, it all -- I mean we look at the quality and the
15 capability of the resins, and you know, we work with these
16 resin suppliers for 30 years. I've worked with them for 25
17 to develop these markets in the U.S., and we only would go
18 offshore to secure what we needed, because we started seeing
19 the industry is having fundamental supply issues.

20 So we had to work with those import companies
21 to start developing those resins and those backup situations
22 for supply, and you know, a lot of it started back when
23 there were many acts of God, when there were other
24 hurricanes, tornados and fires within the industry, and the
25 industry was fundamentally short. So yeah, we worked with

1 these guys and worked with their development partners to bring
2 resins and end products to the U.S. market.

3 MS. CATALANO: Thank you. So the scope of the
4 investigation is intrinsic viscosity range of .70 to .88
5 deciliters per gram, and I'm wondering does your company
6 produce anything outside that range?

7 MR. REAM: We do. We have a number of
8 products outside that range and we'll be able to -- be glad
9 to submit those in a brief.

10 MS. CATALANO: Would you say it's a small
11 percentage or a very large percentage, five percent versus
12 99 percent?

13 MR. REAM: Oh yeah, it's a small percentage.

14 MS. CATALANO: It's a small percentage?

15 MR. REAM: Yes.

16 MS. CATALANO: Okay. So I heard a lot today
17 about how M&G isn't doing that well, and they're not able to
18 supply the demand. What about the other three companies,
19 petitioning companies. Could they get together and supply
20 the market, or would you say no?

21 MR. SAFIEDDIN: Could you clarify what you
22 mean by "get together"?

23 MS. CATALANO: Okay. If you added each of
24 their capacities with those three, including M&G, would the
25 other three be able -- if you added all their capacities,

1 how far are they in your opinion from meeting the demand?

2 Is it a long way, a short way?

3 MR. SAFIEDDIN: Once again, even with M&G we
4 would be at a deficit. Without M&G, we would be hurting
5 like you can't imagine. There will be plant shutdowns,
6 employee layoffs, massive price increases at the retail and
7 so on and so forth, yes.

8 MS. CATALANO: So I guess I'm asking for
9 magnitude. How do you get at the magnitude?

10 MR. REAM: So Steve Ream, Graham Packaging.
11 So the magnitude. There's an industry analyst we would rely
12 on to put out what the total consumption of PET is in the
13 industry every year, and using his end data, you know, of
14 around 9.2 billion pounds of end uses in USA today for PET.
15 If you look at their rated capacity including the M&G site
16 in West Virginia, it's 7.4 billion pounds.

17 So 9.2, 7.4. Take out -- that's their -- you
18 know, 7.4 is their rated capacity. If they have to shut
19 down for maintenance, they do other things, they can't run
20 at those rates. So yeah, we're two billion pounds short in
21 the U.S. from U.S. manufacturers.

22 MR. KAUFMAN: Ms. Catalano, if I can just --
23 this is Joel Kaufman. If I can just refer you back to Mr.
24 Ream's testimony, and also to Mr. Safieddin's testimony.
25 They've been put on allocations. They've been told that

1 they're not getting increases in quantity. They've been
2 told that they're not getting a different product assortment
3 than what they've historically had.

4 So clearly, there's no capacity there. I mean
5 even if they got together, however you want to calculate the
6 numbers, you're still short and you've still got a situation
7 where there's just no excess capacity, no matter what we
8 heard this morning from these U.S. producers. If that
9 weren't the case, why would they be putting customer on allocations?
10 Why would they be telling them that their quantities are not
11 increasing, their product assortments are not changing?

12 Why would they be delaying deliveries by
13 weeks, a week or two at a time, which is then compounded by
14 the fact that the rail system has gotten to be somewhat
15 unreliable for these purchasers? So what I would say to you
16 is this situation, they're far from being able to supply the
17 demand for this product. It's not a close call here.

18 MR. SAFIEDDIN: Shawn Safieddin, Niagara
19 Bottling. I would like to supplement by asking the
20 question, if there was no structural deficit in the
21 marketplace, why would M&G in 2014 choose to add a 1.1
22 million metric ton plant to the U.S. market? That in and of
23 itself is the domestic industry's acknowledgment of the
24 deficit in the marketplace. Thank you.

25 MR. KAUFMAN: Again, this is Joel Kaufman.

1 The other question is why would they be importing? I mean
2 in 2016, just from Mexico you were talking almost 700
3 million tons. This is not an insignificant number. I mean
4 that's more by a long shot than any imports coming in from
5 any of these five countries. Why would they be doing that
6 if they had the production here? Why would they choose to
7 shift that production to Mexico, instead of using it here?

8 They're complaining about excess capacity.
9 They're complaining about the fact that they're unable to
10 fill that capacity. Why would you ship that volume of
11 product to Mexico? I mean that's the question. If the
12 capacity was here, you would either be using it here or
13 you've got other reasons why you're choosing non-domestic
14 sources to supply domestic demand.

15 MR. SAFIEDDIN: If I may add one last thing?
16 I think the vast majority of the imports from Indonesia were
17 attributable to Niagara from Indorama (sic). If Indorama
18 was positioned to supply west coast plants, why on earth
19 would Indorama for Niagara's use from Indonesia?

20 MS. CATALANO: Thank you. I have no further
21 questions.

22 MR. ANDERSON: Okay, thank you. Ms. DeCarlo.

23 MS. DeCARLO: Good afternoon. I just had a
24 couple of question about the IPA price increases. First,
25 can you define what IPA is?

1 MR. SAFIEDDIN: It's purified iphathalic acid.

2 MS. DeCARLO: Okay, and you say that's a minor
3 raw material. How minor is that in the process of making
4 the --

5 MR. SAFIEDDIN: I'm not a subject matter
6 expert or a chemist. However, I can say that it was minor
7 enough that domestic industry used PTA as a proxy for IPA.
8 But as the prices of the two feedstocks diverged, they found
9 themselves in a tough spot. But that's an easy fix. You
10 just revise or amend the pricing structure to account for
11 changes in IPA prices.

12 MR. REAM: So Steve Ream, Graham Packaging.
13 Yeah. They used this at around 1 to 1.9 percent in the
14 products, depending on what co-monomer level they want to
15 make their particular resin, or the resin grade they're
16 making. You know, this is a great point for the industry.
17 I mean the producers and the petitioners came to the
18 industry and said we're facing this monumental price
19 increase, and we have contracts with you.

20 The industry went out of our way and we agreed
21 out of contract, and above contract, to supplement them that
22 extra cost in the raw materials this year, in the middle of
23 the year through the end of the year, to help them through
24 that tight spot, understanding the situation they were in.
25 But it's, you know, between 1 and 1.9 percent of their

1 product, to answer your question.

2 MS. DeCARLO: Okay. Now I also have a
3 question about the certification that you were speaking of,
4 Mr. Ream. So does that fall more heavily on the consumer or
5 the petitioners' side, in terms of you were talking about
6 shelving the product and everything like that. Obviously
7 that would obviously be on your side, but I'm not sure.

8 MR. REAM: Yeah. Half of it falls on us as
9 the producer and half on our end customer.

10 MS. DeCARLO: Okay, and going back to the
11 metazylene shortage and everything, have you heard anything
12 about basically the production outages going back to normal
13 in the near future, or is this a long-term problem?

14 MR. SAFIEDDIN: So according to IHS, the
15 situation was expected to subside by late 2017-early 2018.

16 MS. DeCARLO: Okay. That's all my questions.
17 Thank you.

18 MR. ANDERSON: Thank you, Ms. DeCarlo. And
19 now Ms. Messer.

20 MS. MESSER: Mary Messer, Office of
21 Investigations. I just have a few follow-up items. You had
22 mentioned in your testimony that -- or I guess answers to
23 questions that both your companies have been put on
24 allocations. I would be interested in finding the specifics
25 of those allocations. So if you could submit in any kind of

1 -- the timing, the amounts with the companies that you've
2 been dealing with. That would be very helpful in any kind
3 of post-conference brief.

4 MS. MESSER: Also the petitioners indicated in
5 their testimony that the average unit value of the import
6 statistics was a good indication of price. I'm interested
7 in hearing your opinion on that?

8 MR. REAM: Yeah, so Steve Ream, Graham
9 Packaging. You know, to look at this fairly in the U.S., we
10 all get a delivered cost basis to our plant. So we aren't
11 the importer of record on the stuff we bring in, but a lot
12 of companies are the importer of record. So the cost basis
13 that they're using is what is landed at the port. Then they
14 have to pay port charges. They have to pay handling charges
15 to get it out of those sacks and put it in trucks to deliver
16 to the plants. The transportation costs and a few other
17 incidentals in there.

18 So there are a lot of handling, storage, and
19 transportation costs not accounted for in that number that's
20 being presented and weighed against versus what the U.S.
21 delivered cost is or are.

22 MR. SAFIEDDIN: Sorry, do you mind repeating the
23 question? I want to make sure I have a clear understanding
24 of the question?

25 MS. MESSER: Sure. The petitioners indicated

1 that the average unit value of the import statistics that
2 are published by Commerce are a good indication of price?

3 MR. SAFIEDDIN: Well, I'm not sure exactly what
4 has been published.

5 MS. MESSER: Okay.

6 MR. KAUFMAN: Ms. Messer, can I just point out
7 also that in our case from Graham Packaging, we are not the
8 importer of record. So if you're looking at those prices,
9 in addition to the costs that Mr. Ream pointed out, there's
10 going to be a profit factor that's built into the price he's
11 paying for these.

12 MS. MESSER: I understand. I understand that
13 Mr. Ream is the purchaser, but your company, I assume is a
14 direct import. So if you would like to take a look at those
15 public import statistics and provide us your opinion in your
16 post-conference brief, that would be helpful.

17 MR. SAFIEDDIN: Absolutely.

18 MS. MESSER: Thank you. And just one final
19 item. You've indicated in your testimony that the current
20 condition of the domestic industry is really based on their
21 own structural issues that they're undergoing right now. I
22 understand that, but I would be interested in hearing your
23 response to their argument that imports from these subject
24 countries are coming in at lower prices, are taking a larger
25 share of the market at the expense of the U.S. industry?

1 MR. PETERSON: We'll address that in
2 post-hearing, of course.

3 MR. ANDERSON: Okay, thank you, Ms. Messer.

4 Mr. Chang, did you have a follow up question?

5 MR. CHANG: Yeah, just one more housekeeping
6 item. Mr. Ream, if I'm mistaken, we haven't received a lost
7 revenue, lost sales survey from you guys. So if you could
8 provide that to us as soon as possible, that'd be great.

9 MR. KAUFMAN: Graham Packaging is a customer.

10 MR. CHANG: Right, so -- well, so customers we
11 have -- we issue that survey to customers to fill out.

12 MR. KAUFMAN: Okay.

13 MS. ESSERMAN: We'll be back to you on that.
14 We'll be responsive.

15 MR. CHANG: All right, thank you.

16 MS. ESSERMAN: Sure.

17 MR. ANDERSON: Okay, any other questions from
18 the team? Okay, just a -- one last follow up close out
19 question. Ms. Messer and a couple of the team asked some
20 questions about the average unit values. And I understand
21 that not all of you have access to the questionnaire data
22 around the APO list, but if you have access to the official,
23 I believe Mr. Heffner does, but if you could care to comment
24 on the pricing data from the questionnaires, especially in
25 relation to the testimony we heard this morning regarding

1 the impact of prices. And then for those that don't, again,
2 I'd invite you in a post-conference brief to look at the
3 average unit values. And particularly in the light of your
4 testimony this afternoon about the tumult in the market, the
5 tight supply, the crisis of supply. You made some very
6 strong statements.

7 And given that the previous record and the
8 information here that we had before indicates the prices is
9 a very prominent indicator of purchaser's decision making,
10 I'm -- it will be helpful for us to have more information on
11 the record to try to square this extreme supply shortage
12 that you're arguing with the trends in the AUVs and in the
13 case of the pricing data for the confidential data, that
14 would be very helpful. If you could elaborate further on
15 supporting those trends and that information?

16 MS. ESSERMAN: Thank you, we will.

17 MR. ANDERSON: Okay, great. With that, we
18 really appreciate your testimony. It's been very helpful to
19 have you here today. And I thank you for responding to
20 staff's questions. We'll take just a couple of minutes to
21 transition into closing arguments. So thank you very much.

22 MS. ESSERMAN: Thank you very much. Thank you.

23 MR. ANDERSON: Okay, thank you.

24 (Pause)

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

1 Closing remarks on behalf of petitioners will be given by
2 Paul C. Rosenthal of Kelley Drye & Warren.

3 Mr. Rosenthal, you have 10 minutes.

4 CLOSING REMARKS OF PAUL C. ROSENTHAL

5 MR. ROSENTHAL: Thank you. The last couple of
6 -- yes, sir, Mr. Bishop. The last couple of exchanges
7 between staff and the respondents' witnesses were very
8 telling. When asked a simple question can you comment on
9 the petitioner's arguments concerning increased volumes of
10 imports, low prices, and declining profitability, they said,
11 "We'll have to talk about that in our post-hearing brief."

12 That's the central element of this case. The
13 statutory factors: volume, price, impacts were almost
14 totally ignored in their presentation. Instead, they talked
15 about things that, frankly, were interesting, but not
16 particularly revealing.

17 My good friend Ms. Esserman talked about imports
18 from Mexico as being a different condition of competition
19 because she claimed they weren't increasing in the previous
20 investigation. They were. And they're increasing now.

21 But if you actually look at what is really
22 increasing, it's the subject imports from those five
23 countries. Look at the chart that Ms. Cannon supplied you,
24 both the public and the confidential charts. We're talking
25 about import increases over 300 percent in the first -- in

1 the 2014 through 2016 period. And an even higher percentage
2 in the first six months of 2017. Not one word, not one word
3 was said about the surge in imports from these five
4 countries in the first half of this year. Was that just
5 supplying the demand that had existed in this entire period?

6 Some of the testimony by the respondent
7 witnesses is we've had a structural capacity deficit for
8 years. All of a sudden, there's a need for hundreds of
9 millions of pounds of imports in the first six months of
10 this year because of the longstanding structural deficit? I
11 suggest to you that defies credulity.

12 Take a look at what happened with respect to
13 profitability. I think Mr. Safieddin testified that the
14 domestic industry did not benefit from the last round of
15 cases, so the Commission should assume that we won't benefit
16 from this round of cases.

17 What he ignores, of course, is that the surge in
18 the unfair imports targeted by this case replace the other
19 surge of imports from the other case, which explains why we
20 didn't get as much benefit or the domestic industry didn't
21 get as much benefit as had been hoped for.

22 But if you actually go and look at the chart --
23 confidential chart number 19 for Ms. Cannon's testimony,
24 you'll see that there was a little bump up in profitability
25 still at anemic levels as a result of this past case. But

1 take again -- take a look at what happened in the first half
2 of 2017. Look at where profitability is for that. So I
3 urge you, look at those charts.

4 And by the way, all of the discussion by the
5 respondents this morning and afternoon told you nothing
6 about why things went in the toilet in the first half of
7 2017. Their entire discussion about M&G and their problems
8 with Corpus Christi and Apple Grove and suppliers shutting
9 off raw materials had been just after these data were
10 collected. It has nothing to do with profitability in the
11 first half of 2017.

12 So stick to the facts of -- that the statute
13 requires you to look at, not the post-talk rationalizations
14 by the respondents here.

15 There's a lot of discussion about the domestic
16 industry's inability to supply all of demand. I said it
17 earlier today. The statute doesn't require that. You have
18 a number of cases over the years from all terrain vehicles
19 in the '80s. I could give you 20 sites for this. The
20 domestic industry doesn't have to supply all of demand.

21 The Commission is used to seeing lots of
22 industries that cannot supply all the U.S. market demand.
23 And we're not suggesting we can. All I'm suggesting is we
24 don't have to. And we're not suggesting that we're against
25 imports, as I said before. We're suggesting that if imports

1 come in and supply the market, then have them priced fairly.

2 And by the way, we can supply the West Coast
3 market. It's all a matter of price. I was very glad Mr.
4 Chang pointed out that he's not a geography major. Neither
5 am I. We're talking about 6,000, 8,000 miles to ship this
6 product. Yes, ocean freight is cheaper, but the product
7 doesn't get to the ocean automatically. It has to travel
8 inland and some of -- for some of these Asian ports, Asian
9 sites the port. Then it has to travel inland again, even
10 along the West Coast.

11 I -- we'll give you some information in the
12 post-hearing brief, but I'll suggest to you that the overall
13 transportation costs are closer between the U.S. industry
14 and the respondents than the respondents have suggested
15 today.

16 The issue here is price. You'll have in your
17 record lower price is the reason that these companies have
18 been buying these products. And by the way, there's nothing
19 special about them. You heard, you know, that you switched
20 from four subject countries to these other five subject
21 countries. What was so magical about that? They were --
22 apparently, they're able to meet any certification
23 requirements. It wasn't that hard. The price is the
24 factory.

25 You look at what has submitted thus far. I

1 think you'll see a lot of underselling by the subject
2 imports. You'll see that the purchasers admitted to buying
3 lower priced imports in the majority of the instances
4 compared. And you'll understand the reason for the
5 increased volumes. You'll understand the reason for the
6 declining prices.

7 Here's something that I have to have you think
8 about a little bit longer. And maybe you'll think about it
9 when the respondents are presenting their rebuttal. If
10 there's a shortage in the marketplace, if the domestic
11 industry can't supply all of demand, and as I think Mr.
12 Anderson noted in his last question, if the market is
13 increasing, why aren't prices going up? What -- why aren't
14 prices going up? It can't be explained by Mexico. Is that
15 your answer? Mexico?

16 Prices should have been going up in the first
17 half of 2017 when demand was increasing. You're going to
18 say prices are going up now in September because M&G's
19 outed, but as I mentioned earlier, that's all they're going
20 to talk about. What about the first half of this year?
21 What about the last half of 2016 and the previous time
22 period?

23 Prices should be going up. Profitability should
24 be going up. Production and capacity utilization should be
25 going up. They're not. It has nothing to do with M&G. It

1 has nothing to do with these other creations. It has to do
2 with the increased volumes of low priced imports. That is
3 our case and we deserve relief in this instance. And we
4 urge the Commission to grant an affirmative determination in
5 this matter. Thank you.

6 MR. BISHOP: Closing remarks on behalf of
7 respondents will be given by Joel D. Kaufman of Steptoe &
8 Johnson.

9 Mr. Kaufman, you have 10 minutes.

10 CLOSING REMARKS OF JOEL D. KAUFMAN

11 MR. KAUFMAN: Thank you. This is an unusual
12 case at least for me. In 35 years, I've never been in a
13 case where only customers are coming in at the -- at the ITC
14 staff conference.

15 I've never been in the situation where the major
16 importers are sitting on that side of the room where the
17 petitioners are located. This is an interesting case and I
18 think it presents interesting issues for the ITC.

19 But I can't think of a better case than this one
20 to have independent testimony of domestic produce --
21 domestic consumers who are major purchasers of U.S. product.
22 And I can't think of case where it was more necessary.

23 The picture that was painted by the petitioners
24 this morning sounds like any other case the ITC has ever
25 heard. Imports up, prices down. And that's the answer.

1 And it just simply isn't in this case. And we
2 encourage the ITC to really look at these issues carefully.
3 We've presented some considerations this morning from
4 industry experts. These are consumers of U.S. product.
5 They're U.S. producers.

6 And there are serious issues that have been
7 raised that are different from the case that was here a year
8 and a half ago. Mexico, you know, that's an interesting
9 issue. I mean, we hear Mr. Rosenthal and the petitioners
10 talking about how we have tremendous supply here. We can fill
11 any order. We can do anything we want.

12 And yet, we have testimony that says we're
13 placing orders domestically and we're getting filled from
14 abroad. We're getting filled from Mexico. We're getting
15 filled from Brazil.

16 Mexico, huge, huge supplier into this industry.
17 It can't be ignored. If we had the production here today,
18 why would they be bringing it in from Mexico? Why would the
19 testimony this morning be that in the face of this supply
20 shortage, we're not going to be producing it here. We're
21 not going to be supplying from U.S. production. We're going
22 to build factories. We're going to build plants to do it.
23 Well, that's not tomorrow.

24 We're going to temporarily import from Mexico
25 and other sources. If you had the production here, if you

1 had the capacity here, there's no reason why you would be
2 bringing more product in from Mexico, a country that is
3 already the single largest importer or exporter to the
4 United States of PET resin.

5 The supply issues that they're facing are acute.
6 You've heard it here. We're talking about jobs. We're
7 talking about production of downstream products here. These
8 are American jobs. This is American production. And we're
9 talking about employment that far exceeds the employment of
10 the petitioners in this case.

11 These imports were not a cause of material
12 injury to these producers. You've heard it. These weren't
13 just, oh, they're talking about this or talking about that.
14 We're talking from the experience of two major U.S.
15 consumers of this product. They're telling you about what
16 they're seeing in the marketplace today.

17 We're not coming in here with a litany of just,
18 oh, no, everything's fine, whatever. They're telling you
19 what their experience. They're experiencing delays.
20 They're experiencing allocations.

21 You need to listen to that information because I
22 know it's contrary to what the petitioners have told you,
23 but these are people who are buying PET resin. These are
24 consumers who are trying to buy domestic PET resin and
25 they're being denied that opportunity. And if anybody

1 thinks that's going to turn around tomorrow, it's just not
2 going to happen.

3 Petitioners talk about volume. I mean,
4 really what they're talking about here is you've got this
5 huge volume of imports coming in.

6 Let me remind you that despite all of these
7 graphs that you saw this morning and these reportedly large
8 increases, we're still talking of volume that was actually
9 almost virtually identical to the volume that came in from
10 Mexico over the 2014, 2016 period.

11 We're talking about a country by country volume
12 that is less at its highest, less than two-thirds that of
13 Mexico. And for the most part, we're talking maybe a third
14 or a quarter of what Mexico is bringing in.

15 You have to look at these volumes. Whether we
16 cumulate or not, you need to look at these volumes in the
17 context of what the domestics are bringing in. And that's
18 just Mexico. They're bringing in from other countries.

19 You heard testimony this morning, it's coming in
20 from Indonesia. It's coming in from elsewhere. Brazil. I
21 mean, there's a lot of production here.

22 So regardless of what the ITC does about the
23 related party tests, and we can discuss that in our briefs,
24 you still have to consider what the impact has been of
25 these. We're not talking injury. We're just talking

1 impact.

2 We're talking choices that were made to shift
3 production abroad rather than producing them here. So when
4 you look at this utilization data, when you look at this
5 production data, when you look at the employment data, all
6 of this data, take that into consideration, because that was
7 their choice, not ours.

8 Our client didn't go and say we want you to
9 source this for Mexico or we want you to source it from
10 Brazil. They went to a U.S. supplier. They asked for U.S.
11 supply. And what they got was Mexican and Brazilian in
12 large part. Not exclusively. Not the majority, but
13 certainly enough that it drove their overall numbers into
14 very high -- into much higher percentages of imported
15 product.

16 As you heard this morning, we wanted 5 percent.
17 We got a lot more than that. That wasn't a price based
18 purchase. So we really encourage the ITC to take that into
19 consideration.

20 One final point. This case doesn't need to go
21 to final. You've gotten questionnaires. You've got import
22 data. You've heard testimony from customers. Nothing in
23 what you heard this morning from the domestics is compelling
24 enough to cause this case to go to final.

25 We've got situations where there's no available

1 supply. And that's not just from September. Contrary to
2 what Mr. Rosenthal says, we've been having this -- we've
3 been having issues for much longer than that. And you heard
4 that testimony this morning.

5 We've been having substitution on supply for
6 well over a year and a half. This isn't new. We go in to
7 buy U.S. production. We're offered production from offshore
8 that we refuse, but it's there. The situation didn't just
9 start in September.

10 And even if you look at the September in terms
11 of what's going forward, there is no supply. This isn't a
12 threat case. And you can't cite to your own inventory or
13 your own capacity availability in other countries, your own
14 capacity as evidence of a threat. That's ridiculous.

15 I mean, there's got to be more discipline on the
16 part of the domestic producers. And I -- contrary to Mr.
17 Rosenthal's statement about we don't have to show 100
18 percent supply, no one's asking that you do that. But what
19 we are saying is before you come to the Commission and ask
20 for relief, don't send your U.S. production overseas. Don't
21 send your jobs overseas. You produce it here. And if you
22 produce it here, and you still have utilization issues, then
23 you come talk to the Commission.

24 This isn't the case for that. Ms. Cannon talked
25 about oh, we want to maximize production, so that we can

1 spread our costs across all of our production. Okay, fine.
2 Then why did you send 700,000 -- 700 million pounds of
3 production to Mexico? And God knows whatever you sent to
4 Indonesia and Brazil and everywhere else.

5 I understand that you don't have to have 100
6 percent. You know, that's not a standard here. But don't
7 come in here and ask for relief when what you're doing is
8 deciding that your North America production is more
9 important than your U.S. production. That's just not right
10 and that's not what this dumping law is designed to protect
11 against.

12 We're not here to protect Mexican interests or
13 Brazilian interests or Indonesian interests or any place
14 else. You want to come in here to the Commission and ask
15 for relief? Fine. You're entitled to do that. That's why
16 the laws are there, but don't come in here and ask for
17 relief so that you can import more from Mexico. That's just
18 not why we're supposed to be here today.

19 So that's kind of where we are. We think the
20 information is there. Regardless of what you think about
21 the import data, we think that it can be used for the
22 purposes of the preliminary. And you can render a decision
23 now. You don't have to wait to a final to get to that
24 decision.

25 And quite frankly, if you do wait to a final,

1 these guys are going to have a lot of trouble getting their
2 production in line, getting their supplies in place. West
3 Virginia is not going to change. If it does, it's for the
4 worse. Texas, Corpus Christi, that's not going to be a
5 factor. You heard that this morning.

6 So we beg the Commission and we ask the
7 Commission please, issue a negative determination in this
8 preliminary phase of the proceeding. Thank you.

9 MR. ANDERSON: Thank you to the parties for
10 those closing statements. On behalf of the Commission and
11 the staff, I would like to thank our witnesses who came here
12 today and our counsel for helping us gain a better
13 understanding of the PET resin industry and your product.

14 Before we conclude, I just want to mention a
15 couple key dates in the preliminary phase investigation.
16 The deadline for submission of corrections to the transcript
17 and for submission of post-conference briefs is Friday,
18 October 20th. If briefs contain business proprietary
19 information, a public version is due on Monday, October
20 23rd. And the Commission is tentatively scheduled its votes
21 on these investigations for Wednesday, November 8th.

22 And we'll report our determination to the
23 Secretary of the Department of Commerce on Monday, November
24 13th. Commissioners' opinions will be issued on Monday,
25 November 20th. And with that, again, I thank everybody for

1 being here today and this conference is adjourned.

2 (Whereupon at 2:18 p.m., the hearing was

3 adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Polyethylene Terephthalate (PET) Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan

INVESTIGATION NO.: 731-TA-1387-1391

HEARING DATE: 10-17-17

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

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: 10-17-17

SIGNED: Mark 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
Signature of Court Reporter

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