

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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**In the Matter of:**  
**LOW MELT POLYESTER STAPLE FIBER (“PSF”)**  
**FROM KOREA AND TAIWAN**

) **Investigation Nos.:**  
) **731-TA-1378 AND 1379**  
) **(FINAL)**

**Pages: 1 - 100**  
**Place: Washington, D.C.**  
**Date: Tuesday, June 19, 2018**



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5 LOW MELT POLYESTER ) (FINAL)

6 STAPLE FIBER ("PSF") )

7 FROM KOREA AND TAIWAN )

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11 Tuesday, June 19, 2018

12 Main Hearing Room

13 U.S. International

14 Trade Commission

15 500 E Street, S.W.

16 Washington, D.C.

17 The meeting commenced, pursuant to notice, at

18 9:30 a.m., before the Commissioners of the United States

19 International Trade Commission, the Honorable David S.

20 Johanson, presiding.

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1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 CHAIRMAN DAVID S. JOHANSON (presiding)

4 COMMISSIONER IRVING A. WILLIAMSON

5 COMMISSIONER MEREDITH M. BROADBENT

6 COMMISSIONER RHONDA K. SCHMIDTLEIN

7 COMMISSIONER JASON E. KEARNS

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1 APPEARANCES (Continued):

2 OPENING REMARKS:

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

4 Respondents (Gregory S. Menegaz, deKieffer & Horgan PLLC)

5 In Support of the Imposition of

6 Antidumping Duty Order:

7 Kelley Drye & Warren, LLP

8 Washington, DC

9 On behalf of:

10 Nan Ya Plastics Corporation, America

11 Michael Sparkman, Senior Business Manager, Nan Ya

12 Plastics Corporation, America

13 John Freeman, Assistant Director of Sales, Nan Ya

14 Plastics Corporation, America

15 Gina E. Beck, Economist, Georgetown Economic Services

16 LLC

17 Paul C. Rosenthal )

18 David C. Smith ) -- OF COUNSEL

19 Brooke M. Ringel )

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1 APPEARANCES (Continued):

2 In Opposition to the Imposition of

3 Antidumping Duty Order:

4 deKieffer & Horgan PLLC

5 Washington, DC

6 On behalf of

7 Consolidated Fibers, Inc.

8 Robert P. Kunik, President, Consolidated Fibers, Inc.

9 Sidney J. Stein, III, Vice President, Stein Fibers,

10 Ltd.

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12 Gregory S. Menegaz ) -- OF COUNSEL

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15 REBUTTAL/CLOSING REMARKS:

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

17 Respondents (Gregory S. Menegaz, deKieffer & Horgan PLLC

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9:30 a.m.

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

CHAIRMAN JOHANSON: Good morning and welcome to the United States International Trade Commission. I welcome you to this hearing in the final phase of Investigation Nos. 701-TA-1378 and 1379 involving Low Melt Polyester Fiber from Korea and Taiwan.

The purpose of these investigations is to determine whether an industry in the United States is materially injured or threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of imports of Low-Melt Polyester Staple Fiber from Korea and Taiwan.

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

I understand that parties are aware of the time allocations. Any questions regarding time allocations should be directed to the Secretary. Speakers are reminded not to refer in their remarks or answers to questions to

1 business proprietary information. Please speak clearly into  
2 the microphones and state your name in the record for the  
3 benefit of the court reporter.

4 If you will be submitting documents that contain  
5 information you wish classified as business confidential.  
6 Your request should comply with Commission rule 201.6. Mr.  
7 Secretary, are there any preliminary matters.

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

11 CHAIRMAN JOHANSON: Very well. Let's begin with  
12 opening remarks.

13 MR. BISHOP: Opening remarks on behalf of  
14 Petitioner will be given by Paul C. Rosenthal of Kelley,  
15 Drye and Warren. Mr. Rosenthal, you have 5 minutes.

16 OPENING STATEMENT OF PAUL C. ROSENTHAL

17 MR. ROSENTHAL: Good morning, Chairman Johanson.  
18 It's nice to be able to use that phrase, and members of the  
19 Commission. I'm Paul Rosenthal of Kelley, Drye and Warren  
20 appearing today on behalf of the Petitioner Nan Ya Plastics  
21 Corporation America.

22 Our case addresses injury caused by dumped  
23 imports to yet another part of the U.S. Fiber Industry, this  
24 time the Domestic Producers of Low Melt Polyester Staple  
25 Fiber. Although this is the first trade case targeting



1 Low-Melt Fiber it is not the 1st time the Commission has  
2 examined this Low-Melt product. Back in 1999, the  
3 Domestic Industry producing Coarse Denier Polyester Staple  
4 Fiber brought a case against dumped imports from Korea and  
5 Taiwan. In that case the Commission found that Low Melt  
6 Polyester Fiber was a separate like product and then made a  
7 negative determination as to that product. The record here  
8 shows conditions that are much different now.

9 Once the orders on course denier were imposed  
10 Korean and Taiwanese producers shifted to exporting  
11 increased volumes of Low Melt to the United States. In  
12 2001, the year after the order on course denier was imposed;  
13 imports of Low Melt from Korea and Taiwan totaled about 10  
14 million pounds. By 2014, those imports totaled over 150  
15 million pounds, 15 times the volume in 2001.

16 So even at the beginning of the Period of  
17 Investigation, imports from Korea were significant in  
18 volume. That volume grew even further over the past several  
19 years at the expense of the Domestic Industry. At the time  
20 we filed this case, the Domestic Industry's market share was  
21 at a period low and Subject Import market share was at its  
22 peak.

23 Even as demand was strong and growing the U.S.  
24 Industry suffered declines in production and shipments and  
25 workers lost their jobs. Domestic Producers have plenty of

1 available capacity but were unable to increase sales due to  
2 the dumped imports. Subject Imports captured all of the  
3 U.S. Market growth plus additional sales. The Domestic  
4 Industry suffered declines exactly when it should have been  
5 increasing sales, prices and profitability.

6 As you've seen from the other fiber cases the  
7 unfair imports used price to penetrate the U.S. Market.  
8 Most important, purchasers told you they shifted to buying  
9 significant volumes of lower-priced Low Melt from Korea and  
10 Taiwan because of price. Quarterly pricing comparisons show  
11 underselling of the Subject Imports in most instances.

12 These lower prices enabled the Foreign Producers  
13 to gain sales at the expense of the U.S. Industry causing  
14 U.S. Prices to plummet as the Domestic Industry suffered  
15 depressed prices profits had fallen dramatically. These  
16 abysmal profit levels are inconsistent with a strong U.S.  
17 Market condition and are directly due to low-priced Subject  
18 Imports.

19 Not until this case was filed did the Subject  
20 Imports' volumes decline. In the fourth quarter of 2017  
21 Subject Imports' volumes declined while prices increased.  
22 That allowed U.S. Producers to regain sales and raise  
23 prices. Idle domestic capacity has been put back to use and  
24 new capacity has been added. The work force has grown.

25 The industry has begun to recover financially as

1 well although its financial condition remains precarious.  
2 Respondents apparently recognize this strong causal nexus  
3 between the Subject Import behavior and the U.S. Industry's  
4 condition as it largely failed to participate at the final  
5 stage of this case.

6 The preliminary arguments about niche products  
7 have been proven false. The importers that are showing up  
8 today are only contesting critical circumstances which we  
9 will address later. Importantly, no respondent has  
10 challenged the basic conclusion that this industry is  
11 suffering from material injury due to Subject Imports.

12 The final database corroborates both the adverse  
13 volume and price effects of Subject Imports as you will hear  
14 more from our witnesses about this morning. Thank you.

15 MR. BISHOP: Thank you, Mr. Rosenthal. Opening  
16 remarks on behalf of Respondents will be given by Gregory S.  
17 Menegaz of deKieffer and Horgan. Mr. Menegaz, you have 5  
18 minutes.

19 OPENING STATEMENT OF GREGORY S. MENEGAZ

20 MR. MENEGAZ: Good morning Commission Johanson  
21 and Members of the Commission. My name is Gregory Menegaz  
22 of the Law Firm of deKieffer and Horgan and I'm here to  
23 represent Consolidated Fibers and Consigned Fibers Limited.  
24 As Mr. Rosenthal pointed out we are here to contest any  
25 potential finding of critical circumstances in the case.

1           We did file a prehearing brief contesting the  
2 merits of any affirmative finding and the issue is only  
3 before the Commission because the Commerce Department made  
4 an affirmative finding against Toray and all the other  
5 companies in contrast to Hugus, which is a major export of  
6 the head of the de minimus margin and was not found to have  
7 critical circumstances.

8           So therefore the Commission has to address the  
9 issue. The Commission by longstanding practice should  
10 compare the 6-month comparison periods from January to June  
11 2017 and July to December of 2017. We believe that in  
12 examination of that data that the Commission should conclude  
13 that there has been no massive rapid increase of imports  
14 that would undermine the efficacy of the order.

15           As demonstrated in our prehearing brief and as  
16 you will hear from our two witnesses today who I will  
17 introduce, U.S. Inventories of subject Korean Low Melts,  
18 that would be every Korean exporter other than Huvis have  
19 remained relatively stable over the POI and certainly has  
20 not surged en masse subsequent to the filing of the  
21 Petition.

22           These inventories present no threat to the  
23 efficacy of any antidumping order that may issue. Although  
24 there was a modest increase in post-petition shipments  
25 sufficient to trigger the Commerce Department's test and

1 that's like a 15 percent threshold. The increase is far  
2 below the types of increases that the Commission has found  
3 to warrant affirmative findings in its precedence.

4 Moreover the Commission wisely examines not only  
5 whether there is an increase but what that increase  
6 constitutes in terms of the overall market and consumption  
7 in the period and so we've presented all of this analysis in  
8 our prehearing brief and most of it is confidential so I  
9 have to leave that there.

10 Robert Kunik, President of Consolidated Fibers  
11 will provide his perspective with respect to imports of  
12 subject Korean low melt PSF in the 2nd half of 2017 and  
13 beyond and then Sydney's Chip Stein, Vice President of Stein  
14 Fibers -- he will present his perspective as well. Both  
15 principles testified before the Staff in the Preliminary  
16 Phase that it was necessary to procure many types of this  
17 Polyester Staple Fiber from abroad because they are simply  
18 not offered here.

19 Although the Commission has declined to find that  
20 any of these would be separate like products. Nonetheless  
21 they do not compete with or undermine the efficacy, they  
22 don't compete with the Petitioners' products and therefore  
23 they don't undermine the efficacy of any relief that the  
24 Petitioners seek. So with respect to the remaining  
25 Subject Imports we think that they just don't compose a

1 significant portion of the U.S. Industry's shipments in the  
2 period as the questionnaire responses demonstrate. There is  
3 little head-to-head competition between Subject Korean  
4 exports and the Petitioners' U.S. shipments.

5 In light of the foregoing we are asking the  
6 Commission to make a negative finding with respect to  
7 critical circumstances. We appreciate the Commission's  
8 consideration today. Thank you.

9 MR. BISHOP: Thank you Mr. Menengaz. Would the  
10 Panel in support of the imposition of the antidumping duty  
11 orders please come forward and be seated. Mr. Chairman,  
12 this Panel has 60 minutes for their direct testimony.

13 MR. ROSENTHAL: Good morning, Mr. Chairman.  
14 Again, Paul Rosenthal -- Kelley Drye. I'm going to start  
15 this morning's testimony with the testimony of Michael  
16 Sparkman from Nan Ya Plastics Corporation America.

17 STATEMENT OF MICHAEL SPARKMAN

18 MR. SPARKMAN: Good morning. My name is Michael  
19 Sparkman and I am the Senior Business Manager for Nan Ya  
20 Plastics Corporation of America. I worked for Nan Ya for  
21 over 18 years in production, technical service and sales.  
22 I'm appearing today to describe the Low Melt product and to  
23 discuss injury to Nan Ya due to unfair trade imports.

24 Nan Ya operates a 700-acre manufacturing facility  
25 in Lake City, South Carolina. Low Melt is a synthetic

1 stable fiber. Its principle physical characteristic is a  
2 bicomponent structure in which one component melts at a  
3 lower temperature than the other.

4 Low Melt is produced with an outer core that  
5 melts at a lower temperature than the inner core. When heat  
6 is applied to the Low Melt fibers the outer shell melts and  
7 fuses with various fibers to form a desired shape.  
8 Different end uses require different melt points.

9 The melt point for the outer sheath can vary  
10 approximately from 110 degrees C up to 220 degrees C. The  
11 inner core, in contrast is designed not to melt under normal  
12 processing conditions. The unique physical characteristics  
13 of Low Melt make it suitable for various end uses.

14 I brought along samples of a couple of those end  
15 uses, one being a filtration mask and the other batting.  
16 Our customers use low melt in batting for mattresses and  
17 linings in automotive interiors as well as soundproofing and  
18 insulation among other things. Once converted, Low Melt  
19 products are known for their excellent formability. Low  
20 Melt is perceived by U.S. Producers and customers to be a  
21 discrete product due to the fibers' unique melt properties  
22 making low melt suitable for specific end uses.

23 At Nan Ya we run a continuous high volume  
24 production process to maintain efficiencies. Low melt  
25 production is very expensive. It is disruptive to cease and

1 resume production so maintaining a high level of capacity  
2 utilization is critical. The capital intensive nature of  
3 the Low Melt business also makes it important that the  
4 producers maintain high operating rates to maximize these  
5 efficiencies.

6 The imports have severely affected Nan Ya's  
7 ability to maintain necessary production levels. Due to  
8 unfair imports, we have not been able to run our lines  
9 anywhere near optimal efficiency. The result has been  
10 significant cost increases because of our lost business.

11 Before we filed this case, because we had lost so  
12 much business we were able to operate only about half of our  
13 capacity on our dedicated production line. We experienced a  
14 decline in production and shipments as well as reductions in  
15 our workforce. Our financial situation was also dismal. We  
16 suffered as our slim profits fell to losses and we struggled  
17 to undertake needed capital investments.

18 Nan Ya's financial declines were a direct result  
19 of pricing pressure we faced from unfair imports that forced  
20 us to cut our prices to unsustainable levels. Nan Ya is  
21 only one of two low melt producers in the U.S. and the other  
22 company is much smaller. If Nan Ya had shut down the low  
23 melt business would have essentially been one more U.S.  
24 industry ceding our home market to unfair imports.

25 Instead, we took action by bringing this case to



1 try to save our industry. So far, this case has had a  
2 positive effect on our operation and work force. We filed  
3 this case in June of last year and by the 4th quarter the  
4 dumping imports were declining in volume and increasing  
5 their prices. As Mr. Freeman will discuss, increased import  
6 prices after this case was filed allowed us to increase our  
7 prices and regain sales.

8 When we filed this case, Nan Ya's capacity had  
9 been heavily underutilized. In fact, I testified in the  
10 Preliminary Conference that we could double our capacity  
11 with existing equipment if prices were not so bad. I am  
12 happy to be report that in June of this year Nan Ya did just  
13 that. We converted an existing production line to produce  
14 low melt, doubling our effective capacity.

15 We are now running two production lines at higher  
16 utilization rates than the one line we were trying to run  
17 before this case was filed. The only thing that changed was  
18 the unfair imports backed off in terms of their surging  
19 volumes and low prices. As a result we are getting  
20 customers back.

21 For example, shortly after we filed the Petition,  
22 Fibertex a large former customer that had been purchasing  
23 import low melt switched back to buying from Nan Ya.  
24 Another former customer, Carpenter had left Nan Ya to  
25 purchase the imports, also returned to buying from us once

1 the imports were not selling at dumped prices.

2 Nan Ya has also obtained new customers as a  
3 result of this case. Eagle Nonwovens is a customer that  
4 have been buying only the lowest price low melt on the  
5 market which meant dumped imports. Eagle never would have  
6 purchased low melt from Nan Ya before yet shortly after the  
7 Petition was filed, Eagle began purchasing from my company.

8 When I asked them why the Company was now  
9 sourcing from Nan Ya, Eagle said that the import pricing had  
10 gone up and imports were no longer economical. The only  
11 reason these customer are returning to us now is the trade  
12 case. Importer concerns about preliminary dumping duties  
13 caused lower import volumes and higher import prices.

14 Not only were we able to ramp up production but  
15 Nan Ya also recently held a job fair and hired more workers.  
16 Not all those workers will be for our Low Melt operations we  
17 are adding Low Melt workers. These workers would not have  
18 been hired but for this case and the preliminary affirmative  
19 determinations made by the Commission and the Commerce  
20 Department.

21 Our prospects are much brighter now but only  
22 because there are duties in place. Without affirmative  
23 final decisions the dumped imports will quickly resume  
24 selling at much lower prices. This will allow them to  
25 regain sales at our expense and force our prices and profits

1 back down.

2 On behalf of my company and our workers I urge  
3 you to issue an affirmative final decision so that the  
4 recovery that we have begun to experience will continue.  
5 Thank you.

6 STATEMENT OF JOHN FREEMAN

7 MR. FREEMAN: Good morning. My name is John  
8 Freeman and I am Assistant Director of Sales for Nan Ya  
9 Plastics Corporation. I have worked for Nan Ya for over 18  
10 years and have spent almost 10 years in Low Melt Fiber  
11 sales.

12 This morning my comments will focus on the U.S.  
13 market conditions we have faced in recent years and the  
14 competition for sales for subject imports. One important  
15 condition of competition is demand for our product. Demand  
16 for Low Melt is driven by its end-use markets, of which  
17 there are quite a few, as Mr. Sparkman testified--everything  
18 from batting in mattresses and quilts, to antibacterial  
19 wipes, to insulation for automobiles.

20 Over the past few years, U.S. demand for low melt  
21 has been very strong and increasing. This increase was  
22 largely driven by the growth in the automotive sector,  
23 although demand in that sector has been leveling out. That  
24 strong demand should have allowed Nan Ya to thrive, to  
25 increase sales, and sell at decent prices.

1           Instead, the opposite happened. Even with strong  
2 and increasing demand from 2014 to 2016, Nan Ya's production  
3 and shipments declined. We idled capacity as we lost market  
4 share to subject imports. The subject imports not only  
5 captured all of the demand growth, they took some of our  
6 existing sales, too.

7           The demand was there, but customers turned to  
8 lower priced subject imports. 2017 demand was about the  
9 same as 2016, but we regained sales. What changed in 2017  
10 was not demand but imports reacting to the case filing.

11           We had the ability to supply the market. Nan Ya  
12 has plenty of idle capacity, but we couldn't increase sales  
13 until the trade case effects were felt.

14           A second important condition of competition is  
15 the high degree of interchangeability of all Low Melt,  
16 regardless of its source, causing this market to be very  
17 price-sensitive. The foreign producers make the same Low  
18 Melt product as Nan Ya. It is chemically identical and can  
19 be used in the same applications as Nan Ya's product and  
20 competes directly against our product for sales.

21           Despite our ability to manufacture high-quality  
22 Low Melt, we have lost significant sales and market share to  
23 dumped imports from Korea and Taiwan for one reason: Price.

24           When I meet with customers, they tell me that Nan  
25 Ya must be competitive with the low import prices to keep

1 their business. Our customers are sophisticated. The U.S.  
2 Low Melt is relatively small for the close-knit group of  
3 players. They describe the competitive offers they have  
4 received, so we know the prices we have to compete with to  
5 gain--to get business.

6 Our customers make clear that if we do not adjust  
7 our pricing downward to meet or beat the import price, we  
8 will lose sales. Price is by far the number one factor in  
9 our customer's purchasing decisions. We do not lose  
10 business for reasons of quality, delivery, service, or due  
11 to lack of supply. We want to sell even more Low Melt, but  
12 have faced low-price import competition throughout the  
13 Period of Investigation.

14 Those low import prices enabled subject imports  
15 to flood the U.S. market over the past several years. We  
16 constantly faced lower priced import offers during our  
17 customer negotiations. We have lost numerous sales and  
18 substantial revenue as a result of the unbelievably low  
19 prices offered by both Korea and Taiwan.

20 These imports undercut our prices, causing us to  
21 reduce our prices to unprofitable levels. Nan Ya is in a  
22 tenuous position as a result of the surge in unfairly traded  
23 imports of Low Melt from Korea and Taiwan. We have provided  
24 numerous examples of lost sales and lost revenue for the  
25 Commission's record.

1           I never thought that Nan Ya would face Low Melt  
2 import prices that are as rock-bottom as those we have seen  
3 in the past couple of years. Although we can adjust in many  
4 market conditions, we cannot remain in business when we are  
5 forced to compete with companies that price below our costs  
6 and that are willing to undercut our prices, however much we  
7 reduce them.

8           At the preliminary stage of this case, the only  
9 reason Respondents gave for why dumped imports were  
10 increasing was to supply black and crystalline types of Low  
11 Melt fiber. As I testified then, those types of Low Melt  
12 comprise a very small part of the overall U.S. market and  
13 cannot possibly explain the import surge.

14           The under-selling by subject countries has been  
15 extreme and has cost Nan Ya valuable sales. For example, in  
16 2014 we were selling four truckloads of Low Melt per week to  
17 a particular customer with multiple locations throughout the  
18 United States. That dropped to one truckload per week on  
19 average in 2015, a reduced volume due to the low prices  
20 offered by subject imports.

21           By 2016, we reduced our prices to below our  
22 variable costs to try to regain volume. Even at that  
23 unprofitable price, we were only able to keep sales to this  
24 customer at half of what they were in 2014.

25           By the second quarter of 2017, the competing

1 subject import prices were so low that we couldn't afford to  
2 drop our prices any lower. So our sales fell to zero  
3 truckloads for this customer.

4 As Mr. Sparkman testified, it was not until after  
5 this trade case was filed that we started to see customers  
6 return to buying from Nan Ya, as subject import volumes fell  
7 and their prices increased. I should add, however, that  
8 while we have seen improvement in Low Melt pricing levels,  
9 our financial condition is still depressed.

10 Relief in the form of antidumping duties in this  
11 case is badly needed to allow us to continue to recover in  
12 terms of both price and profits.

13 Finally, I would like to comment on the Low Melt  
14 industries in Korea and Taiwan. We understand that Low Melt  
15 producers in Korea and Taiwan have been investing  
16 significantly to expand their existing capacity and are very  
17 export-oriented. Our industry is bearing the brunt of this  
18 situation.

19 Given that subject producers have huge capacity  
20 that need to export, we face ongoing and substantial  
21 business losses without relief from the unfair imports.  
22 Korean and Taiwanese import volumes will continue to grow,  
23 and the prices of those imports will continue to drop to  
24 even lower levels unless we obtain trade relief.

25 The preliminary determination has helped our

1 company, but we need an affirmative final decision to  
2 continue to recover. We cannot survive as a company when we  
3 suffer continuous financial erosion and have to reduce our  
4 U.S. shipments even when demand is growing, all due to the  
5 behavior of the unfair imports.

6 But as you see, when fair trade conditions are  
7 restored Nan Ya can compete with the imports and regain  
8 sales and market share. We just need you to give us the  
9 opportunity to do that. Thank you.

10 MR. ROSENTHAL: Brooke Ringel from Kelley Drye  
11 and I will conclude this testimony on behalf of the  
12 Petitioner this morning. She will summarize some of the key  
13 legal points, and I will highlight some of the facts of  
14 record that support an affirmative determination. We will  
15 be working from this PowerPoint, so I assume you all got  
16 this pink confidential version to walk through. Opposing  
17 counsel has it, as well, under protective order. So,  
18 Brooke?

19 MS. RINGEL: Good morning, Commissioner Johanson  
20 and Commissioners. Beginning on slide 2, the Commission  
21 should find a single domestic like-product, as it did in the  
22 preliminary phase of the investigation, coextensive with the  
23 scope of the case.

24 Respondents have not argued for a different  
25 domestic like-product, and it is easy to see why. The



1 Commission already found that Low Melt is a distinct  
2 like-product when it first analyzed Low Melt back in the  
3 2000 Coarse Denier Fiber case.

4 The record, viewed through the Commission's  
5 six-factor test, supports the same outcome now, as detailed  
6 in our prehearing brief.

7 Based on defining of the like-product as all Low  
8 Melt, the domestic industry consists of two Low Melt  
9 producers: Nan Ya Plastics, and Fiber Innovation  
10 Technology. There are no related-party issues in this case  
11 that warrant any producers' exclusion from the domestic  
12 industry.

13 Turning to slide 3, imports from neither Korea  
14 nor Taiwan are negligible. Low Melt from subject sources in  
15 Korea and Taiwan each exceeded 3 percent of total Low Melt  
16 imports between June 2016 and May 2017.

17 Turning to slide 4, the Commission should  
18 cumulate subject imports from Korea and Taiwan. Respondents  
19 have not argued against cumulation, and the evidence shows  
20 that the statutory criteria for cumulation have been met.  
21 Domestic, Korean, and Taiwanese Low Melt are sold through  
22 the same channels of distribution, in the same geographic  
23 region, and were simultaneously present in the U.S. market  
24 throughout the Period of Investigation.

25 Paul?

1                   MR. ROSENTHAL: Thanks. As I mentioned in the  
2 opening statement that Low Melt fibers were excluded in the  
3 2000 Orders on Coarse and Denier products from Korea and  
4 Taiwan. While Low Melt was a very small part of the  
5 domestic industry then and imports, and the market overall,  
6 this next slide, which is slide 5, shows the growth of  
7 subject imports after they were excluded from that earlier  
8 case.

9                   Next slide, 6, shows how imports surged  
10 immediately before this case was filed, jumping  
11 significantly from 2014 to 2016.

12                   In slide 7, if you look just at the Period of  
13 Investigation from 2015 to 2017, you can see the continuing  
14 rise in subject imports. As the industry witnesses have  
15 discussed already this morning, and Ms. Ringel will expand  
16 upon later, 2017 was actually on pace to set a new record  
17 high in subject-imports. But the filing of this case caused  
18 the subject-import volumes to decline in the fourth quarter  
19 of that year.

20                   The next slide, 8, confirms that the rising  
21 subject-import volumes also meant that those imports were  
22 increasing their market share as well.

23                   Slide 9 shows that the subject-imports' market  
24 share peaked before declining as a result of this case.

25                   Now at the staff conference, the Respondents

1 spent much of their time arguing that nonprice factors, in  
2 particular the alleged inability of the domestic industry to  
3 produce and supply certain niche products, black and dyed as  
4 well as crystalline Low Melt, was the reason why subject  
5 imports surged.

6 Plaintiffs explained that the domestic producers  
7 could make this product if the price were right and the  
8 market produced product was relatively small.

9 Slide 10 shows that the subject imports of the  
10 so-called niche products accounted for a tiny percentage of  
11 total subject imports. Even if nonsubject imports were  
12 included, the imports of non-niche products account for the  
13 overwhelming majority of the import increase.

14 The next slide shows the small share of the U.S.  
15 market that was accounted for by subject imports of niche  
16 Low Melt products. Again, even if nonsubject imports are  
17 included in this analysis, the total market for the niche  
18 products is very small.

19 Slide 12. I'm sure you recognize this picture,  
20 and I'm just as sure you have no earthly reason why it is in  
21 this deck, aside from my having plenty of time this morning.  
22 To refresh your recollection, the last two lines of the  
23 original 1933 movie, "King Kong," after the airplanes have  
24 shot Kong and the poor gorilla is lying in the street  
25 looking like this, the police lieutenant comes up to the

1 main character named Karl Denham and says, "Well, Denham,  
2 the airplanes got 'em." And Denham replies, "Oh, no, it  
3 wasn't airplanes, it was beauty killed the beast."

4 That line was uttered 12 years after the  
5 Antidumping Act of 1921 was enacted, but it was an early  
6 lesson in causation. Well, it was not the airplane, or  
7 beauty, or in this case niche products that injured the  
8 domestic industry, it was the low prices offered by the  
9 imports.

10 The next slide provides confirmation that it was  
11 price that drove and drives pricing decisions in this  
12 industry. The vast majority of responding purchasers say  
13 that they sought out the lowest priced product.

14 Slide 14 provides numerous statements from  
15 purchasers affirming that price drove decisions to shift  
16 from domestic suppliers to subject imports. All this of  
17 course is in your staff report, but it's worth glancing at  
18 these quotes to make sure you understand it's not the  
19 domestic industry saying this, this is purchasers telling  
20 you price is paramount, price is what drove their purchasing  
21 decisions.

22 If you turn next to slide 15, it gives you the  
23 underselling information and it shows you the large numbers  
24 of quarters in which the imports undersold domestic industry  
25 as well as the percentage of underselling based on volume.

1           Slide 16 is a summary, and it shows you that many  
2 purchasers admitted purchasing subject imports instead of  
3 domestic products primarily due to price. And the volume of  
4 these purchases was quite substantial.

5           Slide 17 shows how the growth in subject imports'  
6 market share displaced the U.S. producers' share on an  
7 almost one-for-one basis.

8           And 18 gives you a summary of all the trade  
9 indicators and shows that as a result of the low-priced  
10 subject imports, all those factors declined from 2014 to  
11 2016. Production decreased, domestic shipment volume,  
12 shipping value, shipping AUV, capacity utilization,  
13 production-related workers, and hours worked and wages paid  
14 to production-related workers all declined during this  
15 period.

16           And by the way, if all those happening was that  
17 the subject imports were gaining market share based on niche  
18 product, none of this would have happened.

19           So in the next slide, it tells you about the  
20 financial impact of these subject imports. And it tells you  
21 on slide 19 that virtually every major financial indicator  
22 has dropped, indicating the financial injury to the domestic  
23 industry. Net sales, gross profits, operating income, net  
24 income, and the ratios all dropped significantly from 2014  
25 to 2016.

1           Turning to slide 20, it shows how operating  
2 profits dipped significantly over the Period of  
3 Investigation.

4           Next, as you heard, after filing the Petition the  
5 industry began to improve. But even the improvement, which  
6 mostly occurred in the fourth quarter of 2017, was not  
7 enough to make the industry profitable last year.

8           Brooke?

9           MS. RINGEL: Turning to slide 22, I would like to  
10 briefly discuss an issue familiar to the Commission:  
11 Petition Effects.

12           The statute permits the Commission to give less  
13 weight to post-petition data, which the Commission has done  
14 in prior cases, because the filing of a petition may have  
15 the effect of both increasing prices in the U.S. market, and  
16 slowing subject imports, resulting in the domestic  
17 industry's temporary financial improvement.

18           This is precisely the pattern of behavior you  
19 heard Mr. Sparkman and Mr. Freeman described as experiencing  
20 in late 2017. While these trends are finally moving in the  
21 right direction for the domestic industry, U.S. producer  
22 should not be punished for the recovery resulting from  
23 filing this case by a negative material injury  
24 determination.

25           The post-petition effects show that price was the

1 reason sales were lost in the first place; that sales came  
2 back to the domestic industry after the case was filed  
3 confirms the causal nexus between the domestic industry's  
4 condition and the devastating effects of the subject  
5 imports.

6 Slide 23 shows the effect of the case filing on  
7 the volume of subject imports. While some of the subject  
8 imports surged after the case filing, giving rise to the  
9 Commerce Department's affirmative Critical Circumstances  
10 finding, by the fourth quarter of 2017 subject imports had  
11 dropped off significantly.

12 The next confidential slide shows how both the  
13 subject import prices and the domestic industry prices  
14 increased after the case was filed.

15 Slide 25 simply illustrates graphically the  
16 post-petition improvement in subject import prices. As  
17 mentioned previously, by the last quarter of 2017 the lower  
18 import volumes and higher prices resulted in some  
19 improvement in the domestic industry's performance as shown  
20 in slide 26.

21 U.S. production and shipments rose in 2017 due to  
22 decline in import volume. U.S. sales value increased as a  
23 result of improved pricing. Subject import prices allowed  
24 U.S. producer prices to increase in the fourth quarter of  
25 that year. Even though profitability is still inadequate,

1 that has also improved.

2 Now turning to slide 27, I would like to address  
3 Respondents' arguments on Critical Circumstances.  
4 Respondents have focused entirely on Critical Circumstances,  
5 as Mr. Menegaz mentioned in his opening statement.

6 The reason for that is obvious. The Respondents  
7 here today are importers who face duties on their entries of  
8 subject Low Melt going back a full 90 days before Commerce's  
9 preliminary determination.

10 There is no doubt that surging volumes of  
11 unfairly traded imports from Korea were brought in after the  
12 Petition was filed in a race to beat the duties. The data  
13 show you this, whether you look at a six-month pre- and  
14 post-Petition comparison period, or a four-month comparison  
15 period as we urge the Commission to do.

16 Respondents' arguments in their brief about  
17 nonsubject imports and pre-Petition import behavior also  
18 miss the point that unfairly traded imports flooded the  
19 market after the Petition was filed.

20 Given these facts, the critical question for the  
21 Commission about Critical Circumstances is not the period  
22 used, but whether the rapid surge seriously undermined the  
23 remedial effects of the Order. Here we admit that this is a  
24 close question. On one hand, we have explained how there  
25 have been several positive things that have happened in the



1 industry as a result of the Petition.

2 Prices are up. Subject import volumes are down.  
3 Domestic producers are getting more sales. That is all  
4 good. But what would have happened had the post-Petition  
5 import surge not occurred?

6 All of these factors certainly would have  
7 improved, and industry profitability, which is still  
8 inadequate, would have improved as well. The entire purpose  
9 of the Critical Circumstances provision of the statute is to  
10 address precisely this situation.

11 The Commission should therefore conclude that the  
12 remedial effect of the Orders has been seriously undermined.

13 That concludes the domestic industry's  
14 presentation, and we're ready to answer your questions.  
15 Thank you.

16 MR. ROSENTHAL: Before we do that, I want to  
17 introduce our colleague David Smith of Kelley Drye & Warren  
18 and Gina Beck of Georgetown Economics, who will also be  
19 available to answer questions. Thank you.

20 CHAIRMAN JOHANSON: Thank you for your testimony,  
21 and we will now begin Commissioners questions, and that will  
22 start with me.

23 You have noted in your brief, and also in slide  
24 5, that total exports of Low Melt PSF from Korea and Taiwan  
25 to the United States grew from 10 million pounds in 2001 to

1 150 million pounds by 2014. This can be seen also at your  
2 brief at page one.

3 In the context of a Period of Investigation that  
4 covers the three-year period of 2015, 2016, and 2017, how  
5 are we supposed to consider volume data for a period  
6 stretching back in time anywhere from 4 to 17 years?

7 MR. ROSENTHAL: We are not suggesting that you  
8 analyze this case based on that earlier period. We wanted  
9 to give you some historical context of what happened after  
10 Low Melt was excluded in that earlier Coarse Denier case.  
11 But we agree, your focus--I agree with your assumption in  
12 your question, I should say, that the focus should be the  
13 Period of Investigation 2015 to 2017-plus. But all this is  
14 context.

15 So for example we pointed out, as well, that  
16 imports in 2014, which preceded the year period to the  
17 Period of Investigation, is important to note because by  
18 that time imports were already at a significant level. And  
19 oftentimes parties before the proceeding--before the  
20 Commission, assume that Petitioners or the Commission have  
21 to find an increase in imports in order to make an  
22 affirmative determination. The statute doesn't require an  
23 increase. It only requires that the imports be significant  
24 in terms of volume.

25 In this case, we entered the Period of

1 Investigation with that earlier surge, with import levels  
2 reaching the significant stage. And that is the most  
3 important take away from that background information.

4 Imports were already significant at the beginning  
5 of the Period of Investigation, and just increased from  
6 there.

7 CHAIRMAN JOHANSON: Thank you, Mr. Rosenthal.  
8 And to follow up on that, I'm curious, if imports of low  
9 melt PFS from Korean and Taiwan jumped from 2001 to 2002 and  
10 by 2014 had increased 15 times in volume in 2001, which is  
11 indicated at page 18 of your brief, why did the industry  
12 wait until June 2017 to file a case on low melt PFS from  
13 Korea and Taiwan?

14 MR. ROSENTHAL: In the 2001 period, recognize  
15 that the main focus of the producers at that time was on the  
16 coarse dernier product and they won an affirmative  
17 determination there. Low melt was a relatively small  
18 product, and while important, was enough to justify bringing  
19 a case. And over the ensuing years, companies got of the  
20 business because of the increased imports, so the original  
21 Petitioner in the coarse dernier case actually left the low  
22 melt business and others came in at a later point because  
23 there really was no domestic production for a while. And it  
24 was only after a while that the domestic industry, in the  
25 form of Nan Ya, felt that it (A) had the money to pursue

1 another case and (B) the financial -- well, I'd say backing  
2 of everybody to bring a case economically justified.

3 As you may recall, Nan Ya is also a producer of  
4 other fiber products, including pet resin and the coarse and  
5 fine dernier and it only has a limited amount of resources  
6 to devote to trade defense, if you will, and so it's taken a  
7 while for them to be able to say we can afford to do this  
8 case, but it's important to them.

9 CHAIRMAN JOHANSON: Thank you, Mr. Rosenthal.

10 Petitioner notes in your brief that there was an  
11 overall improvement in the industry's performance in 2017 as  
12 compared to prior years, as well as in comparison with the  
13 first quarter of 2017, and this can be seen at page 37 of  
14 brief.

15 Yet, the industry's financial data, for which  
16 the actual numbers are proprietary, show the profitability  
17 declined, and this can be seen at the staff report, Table  
18 C-1, and the actual numbers are proprietary also.

19 How do you tie this decline to subject imports  
20 when other in dicta, including market share and production  
21 improved? Also, why didn't profits improve along with other  
22 performance trends? And please feel free to address this as  
23 well in the post-hearing brief.

24 MR. ROSENTHAL: We'll mostly address it in the  
25 post-hearing, but I think this is an important point to make

1 publicly as I can. The domestic producers when they won  
2 back some of those sales were not operating in a vacuum.  
3 The customer said, yes, we don't want to buy the imports  
4 because they are higher priced than we're used to paying for  
5 them, but it doesn't mean that we're going to pay you, Nan  
6 Ya, whatever you want and you're going to have to come in  
7 with a very, very competitive price.

8           So even as it was gaining back sales, it was  
9 still having to deal with very, very low priced -- prices  
10 that were prevailing in the marketplace. It wasn't as if  
11 the imports totally left and that the domestic purchasers  
12 were saying charge us what you want, so prices were still  
13 depressed in the fourth quarter and still remain somewhat  
14 lower than ideal at this time. So it's not like you can  
15 assume that the volume effect is automatically going to  
16 translate into profits. You have to look at the pricing  
17 part of it too. And as I said, we'll elaborate more in our  
18 post-hearing brief. We'll give you some examples of that.

19           CHAIRMAN JOHANSON: Alright, Mr. Rosenthal, I'll  
20 look forward to reading that.

21           The prehearing staff report notes at page 311  
22 that during the period of investigation the domestic  
23 industry's production and related workers increased, total  
24 hours worked increased, total wages paid increased,  
25 productivity increased, and labor costs remained constant.

1 How do these performance in dicta indicate injury?

2 MR. ROSENTHAL: Again, we'll elaborate, but the  
3 most important thing to take away from this is that the  
4 volume and the need -- and as Mr. Sparkman mentioned, the  
5 need to have sufficient volume to operate the plants  
6 efficiently is a key driver in the behavior of this industry  
7 and many others that are trying to -- that have high fixed  
8 costs and need a lot of throughput in order to operate  
9 efficiently.

10 So what you see is the domestic producer here  
11 trying to keep their shipments up, their volumes up, not  
12 layoff workers, in fact, keep as much production going as  
13 possible, but the price of that is having to offer low  
14 prices. And so this is, again, looking at the price impact  
15 here of, yes, they managed to maintain volume, but only by  
16 lowering prices to get their sales. So all those trade  
17 indicators you talked about are consistent with them  
18 maintaining their volumes, but they had to drop prices or  
19 lower prices to unprofitable levels in order to get those.

20 CHAIRMAN JOHANSON: Thank you, Mr. Rosenthal.

21 I'm now going to critical circumstances.  
22 Petitioners argued for a four-month comparison period for  
23 considering critical circumstances at page 51 of your brief;  
24 yet, this is a dumping case in which Commerce's preliminary  
25 determinations were not made for about six months after the

1 Petitioners filing. Why shouldn't we supply the standard  
2 six-month period of comparison in these circumstances?

3 MS. RINGEL: Chairman Johanson, I would note  
4 that whichever comparison period the Commission applies,  
5 whether it's a six-month period or a four-month period, as  
6 we urge, the data show that there was an increase -- a  
7 substantial increase in the volume of subject imports from  
8 Korea after the petition was filed.

9 Mr. Menegaz recognized this. He noted in his  
10 opening statement that it was at least 15 percent, which the  
11 Commerce Department has also recognized. And indeed, in  
12 Respondents' prehearing brief there is a general agreement  
13 that there was this increase. The data show that. No one  
14 disagrees on that point.

15 Regarding the four-month period, the Commission  
16 has discretion to apply a shorter time period as a  
17 comparison period. It did so in synthetic indigo from  
18 China, which was a case in 2000 in which the Commission  
19 reached an affirmative critical circumstances determination.

20 In that case, the Commission found that there  
21 were certain timing aspects which the Commission typically  
22 considers that demonstrated the importance of using a  
23 shorter time period. Specifically, the imports in that case  
24 showed that they backed off as the time for that 90-day  
25 critical circumstances period approached. We have the same

1 pattern of behavior here. So in approximately November 2017  
2 between Petitioners' critical circumstances allegation at  
3 Commerce and another petition -- excuse me -- preliminary  
4 postponement notice that Commerce had filed there was notice  
5 to responding parties at that point in time that if  
6 Commerce were to reach affirmative critical circumstances  
7 finding at the time of its preliminary determination at  
8 approximately the end of January 2018 that the 90-day period  
9 would go back to approximately early November and that  
10 entries after that point in time would be subject to  
11 estimated cash deposits.

12 That is why, with that timing in mind, the data,  
13 which is confidential, showed that subject imports responded  
14 to that and did back off after that four-month period,  
15 otherwise, the end of October of 2017 and that there is a  
16 demonstrated drop off between October 2017 and November  
17 2017. So again, the Commission's typical critical  
18 circumstances analysis does take into account these timing  
19 aspects of the subject import behavior and in this case we  
20 see the same pattern of behavior that the Commission also  
21 recognized in synthetic indigo from China and for that  
22 reason also urge the Commission to also consider a shorter  
23 comparison period.

24 CHAIRMAN JOHANSON: Thank you, Ms. Ringel, for  
25 your response. We will now turn to Commissioner Williamson.



1                   COMMISSIONER WILLIAMSON: Thank you. And I also  
2 want to thank the panel for coming today. Just continuing  
3 on critical circumstances, you'd mentioned an earlier case.  
4 Post-hearing could you take a look at some of those -- I  
5 guess you would say relatively few times that the Commission  
6 has gone on critical circumstances. And I'm thinking  
7 particularly about the volume of increase here that was in  
8 the staff report, the relative size of the imports that  
9 you're talking about that increased compared to the overall  
10 size of the market, and how does that warrant the finding  
11 that these increased imports undermine the effect of the  
12 Order. It's probably better doing it in post-hearing.

13                   MS. RINGEL: Yes, we will provide that analysis  
14 in our post-hearing brief.

15                   COMMISSIONER WILLIAMSON: Okay, thank you. And  
16 particularly in the cases of where we've gone affirmative.  
17 Thank you.

18                   On Table 4-5, which talks about -- it  
19 substantiates your contention that the other forms of these  
20 imports, other than the neither dyed nor crystalline or is  
21 the white dernier that's where the demand is so I agree with  
22 the relative significance of the other. But I do have a few  
23 questions about the black dernier because Respondents made a  
24 lot of it. And I was wondering on the dernier should the  
25 domestic industry continue to gain market share do you have

1 plans to begin producing black low melt?

2 MR. SPARKMAN: We would like to start producing  
3 black low melt. Right now the market conditions still do  
4 not exist for us to be able to do so profitably, but it is a  
5 relatively simple procedure to make it. It is more  
6 expensive to make black than the white and we do have to do  
7 some segregation. We don't want to contaminate white with  
8 black or black with white, so we do have to do some  
9 segregation on that.

10 COMMISSIONER WILLIAMSON: And that's why I was  
11 wondering because you mentioned opening up new lines and I  
12 know that the big issue is changing from one to the other  
13 and the cost of doing that.

14 MR. SPARKMAN: What we did, Commissioner, is we  
15 converted a second line to be able to run the low melt  
16 fiber. Currently, we are only running the white on both of  
17 those lines. Again, what we need in order to be able to  
18 make the black is, quite frankly, the price has to be  
19 higher. We don't want to lose more money by making an  
20 additional product that has less profitability than the  
21 products that we're currently making.

22 COMMISSIONER WILLIAMSON: And would you probably  
23 have to open a new line to do this or else convert one to  
24 the other permanently?

25 MR. SPARKMAN: To make the black, no, we should

1 be able to make that with the existing lines that we have.

2 COMMISSIONER WILLIAMSON: Okay. By the way, is  
3 the demand for the black growing relative to the white? Is  
4 there any demand trends here that are worth noting?

5 MR. SPARKMAN: Currently, the demand for black  
6 remains relatively low in comparison to the white. Part of  
7 that is because, quite frankly, black is more expensive.  
8 And this is one of our concerns in this is that if black  
9 were to be excluded black would become less expensive --  
10 could possibly become less expensive than white and demand  
11 for black would increase. You know the samples that I  
12 showed you today there was the filter mask. Now that's not  
13 going to be replaced by white because, quite frankly, who  
14 wants a filter that's black. You know you want something  
15 that looks clean. You want to be able to see the dust and  
16 particles that get on it.

17 COMMISSIONER WILLIAMSON: I used those, so I  
18 know what you mean.

19 MR. SPARKMAN: Exactly. So as they turn brown  
20 or gray, you'd realize, hey, this thing is no longer clean.  
21 I need a new one, right? But a lot of these products are  
22 going into mattress ticket. They're going into the  
23 interiors of automobiles, under the chassis of the  
24 automobile and the inside the actual frame to dampen the  
25 sound of the automobile.

1                   These are all great things. These great  
2 products they lessen the weight of the automobile and  
3 improve the miles per gallon of the automobile and no one  
4 can see them and they use white today, why, because white's  
5 less expensive. It continues to come down to the same thing  
6 that we've been talking about the entire time -- price. The  
7 lowest price wins and therefore if black was excluded from  
8 this black may become the lowest price and supplant quite a  
9 bit of the white that we're doing, which would under the  
10 determination.

11                   COMMISSIONER WILLIAMSON: So there's no change  
12 in the demand for the product that would naturally lead  
13 people, if the price wasn't a consideration, to use black  
14 rather than white or use more black?

15                   MR. SPARKMAN: Black is currently used today in  
16 certain aspects of the automobile where it is visible.

17                   COMMISSIONER WILLIAMSON: Like under the hood  
18 when you lift your hood and you see that.

19                   MR. SPARKMAN: Under the hood is black, in the  
20 truck is black. Another usage today that you may not  
21 recognize is actually the wheel well. You know the wheel  
22 well used to be PVC and they lightened that up by using a  
23 combination of black low melt and other fibers to form that  
24 wheel well, but still the majority of low melt that is used  
25 today -- the vast majority of low melt that is used today

1 continues to be unseen, so they can used the lowest cost,  
2 which today is currently white.

3 COMMISSIONER WILLIAMSON: Okay. Yes, thank you  
4 for those answers. It was just unusual for us to see such a  
5 pattern of imports versus domestic production. Thank you.

6 MR. SPARKMAN: Commissioner Williamson, if I  
7 could add just one more point. There is black production  
8 here in the U.S., just not by Nan Ya. The second producer  
9 that we discussed today, FIT, produces black as well as the  
10 crystalline low melt.

11 COMMISSIONER WILLIAMSON: Okay. And has Nan Ya  
12 ever manufactured the black?

13 MR. SPARKMAN: We have not.

14 COMMISSIONER WILLIAMSON: Okay, thank you. What  
15 about the crystalline? Is there any difference in the  
16 demand there and the significance of that probably?

17 MR. SPARKMAN: Could you repeat that?

18 COMMISSIONER WILLIAMSON: I was wondering the  
19 demand for the crystalline is that changing or is there any  
20 trends there that are worth noting here?

21 MR. SPARKMAN: The crystalline remains a very  
22 low demand volume on that. The crystalline has, as you can  
23 see from our reports, is much higher priced, again, than  
24 either the black or the white low melt fibers. There are  
25 some specialty processes where some customers believe that

1       it may give them some advantage. The crystalline is able to  
2       maintain its shape a little bit better under high heat  
3       conditions where we may see some slight deformation of the  
4       product in standard fibers. However, again, the cost of  
5       that material is very prohibitive to the industry and the  
6       industry is very price sensitive. They want to buy the  
7       lowest priced material.

8                   COMMISSIONER WILLIAMSON: Okay, thank you.

9                   MR. FREEMAN: Yes, as Mr. Sparkman said, the  
10       crystalline is a very small niche market is the way we  
11       perceive it today and we really don't believe we're  
12       competing with the crystalline fibers, that they're actually  
13       replacing other plastics for most of their new applications.

14                   COMMISSIONER WILLIAMSON: Okay, thank you.

15                   MR. ROSENTHAL: But there is the same producer  
16       mentioned, FIT, is making the crystalline as well. Because  
17       it is a small niche market you don't need the larger  
18       production runs, if you will. It's more of a batch process  
19       that they're running there and really the only difference,  
20       going back to the black product you were talking about  
21       earlier, the reason why you could run it on the same lines  
22       is that the problem is not the running of the lines. It's  
23       at the melting stage and the mixing of the color stage and  
24       you need to have a different front end, if you will, where  
25       the mixing is taking place. So if you're not running the

1 black product one day and the white product the next day, it  
2 just takes time to clean it and make sure you've got a  
3 totally pristine vessel in which its being mixed. So the  
4 investment is at, I guess, the melting stage or the hot end  
5 stage where the color is being made.

6 COMMISSIONER WILLIAMSON: Okay, thank you for  
7 those answers.

8 CHAIRMAN JOHANSON: Commissioner Broadbent.

9 COMMISSIONER BROADBENT: Okay, I want to thank  
10 the witnesses for coming today. It's helpful to have you  
11 here.

12 Mr. Sparkman, on page 28 of your brief, you  
13 state that the declines in all key trade variables during  
14 the POI prevented your firm from making needed investments.  
15 What type of investments do you need to make and why?

16 MR. SPARKMAN: Can we answer that in  
17 post-hearing?

18 COMMISSIONER BROADBENT: Well, just generally,  
19 I mean, from your business manager experience.

20 MR. SPARKMAN: Well, just to give you some  
21 general ideas, this is machinery. These are moving parts.  
22 They wear down. We have to replace parts from time to time  
23 on that. We had also talked about a desire to increase our  
24 capability of running, and that required modifications to a  
25 second line in order to produce this fiber.

1           MR. FREEMAN: We did make an investment after  
2 the POI where we've increased our production of Low Melt  
3 fiber as we testified previously, we had a capacity of 120  
4 million pounds a year. And now we've added the ability to  
5 run the Low Melt fiber on a second production line.  
6 Actually, our production rate right now going forward is  
7 around 180 million pounds.

8           COMMISSIONER BROADBENT: Okay.

9           MR. ROSENTHAL: Just to be clear, that was an  
10 investment they were able to make after the preliminary  
11 determination as sales were coming back and they were  
12 getting more revenue.

13           COMMISSIONER BROADBENT: Okay. Why did demand  
14 somewhat decline from 2016 to 2017 as indicated in our  
15 apparent consumption data?

16           MR. SPARKMAN: Commissioner, that was just due  
17 to market conditions, especially in the automotive industry  
18 where we started to see that demand mature and flatten out  
19 during that period.

20           COMMISSIONER BROADBENT: So it's leveling off?  
21 Are you seeing demand for Low Melt PSF grow in other sectors  
22 in the near future? Are there any growth areas for you?

23           MR. SPARKMAN: Right now, we see the market  
24 again overall as relatively mature. We hope and anticipate  
25 that the market will find new products and new applications



1 that can be used for Low Melt. For example, in the auto  
2 industry, they continue to look at new parts that can be  
3 light-weighted and used and we hope in the future that that  
4 will increase the demand for that. But currently we see  
5 that as a relatively flat market today.

6 COMMISSIONER BROADBENT: How do you go about  
7 finding new uses for the product? I mean, how do you  
8 encourage your purchasers to investigate new applications?

9 MR. SPARKMAN: Quite frankly, due to the fact  
10 that we're not making money on this, we don't have a lot of  
11 resources available to do that kind of research. We really  
12 do depend on our downstream customers to find new  
13 applications for that. And obviously, they've done that in  
14 the past, and we hope that they will continue to do so in  
15 the future.

16 COMMISSIONER BROADBENT: So what sector is the  
17 most innovative in finding new applications?

18 MR. SPARKMAN: Well, obviously it's the  
19 automotive. The automotive sector, you know, the batting  
20 today is, well, as our lawyers like to say, the batting's  
21 flat. We've seen a little bit of technology growth in that.  
22 Unfortunately, a lot of the technology growth in the batting  
23 is kind of moving away from the batting. Well, it's moved  
24 away and then it's kind of moved back, to be quite frank.

25 Now, you've gone from a traditional bed, then

1       you've got these memory foam beds like the Casper bed that's  
2       available. And now today, we're moving back. In fact, my  
3       wife and I just bought what's referred to as a hybrid bed,  
4       so it's got that memory foam in it, but it's also got the  
5       batting and the springs in there as well, which is a very  
6       comfortable bed if I could say so. But it's good to see  
7       that, even though it was trending away, we're coming back.  
8       We're coming back and still needing to use the Low Melt  
9       fiber.

10                   COMMISSIONER BROADBENT: Okay. Mr. Sparkman,  
11       given your assertion that the domestic industry has  
12       significant excess capacity, can you explain the  
13       justification for doubling your capacity? Did you have to  
14       reallocate equipment from other purposes? And why did you  
15       double your capacity?

16                   MR. SPARKMAN: Can you -- I don't think I quite  
17       understood.

18                   COMMISSIONER BROADBENT: Understood, yeah.  
19       Given your assertion that the domestic industry has  
20       significant excess capacity, can you explain the  
21       justification for doubling your capacity?

22                   MR. SPARKMAN: I would say, Commissioner, that  
23       we don't have excess capacity compared to the demand in the  
24       U.S. Due to the increased amount of imports coming in, that  
25       took away a lot of our opportunity to sell into the market.

1 In fact, in the original hearing, the opposing side was  
2 concerned that we didn't have enough capacity in the market.

3 But these plants have always been in place to be  
4 able to increase its capacity on a line that was  
5 underutilized and we wanted to be able to grow this market.  
6 But I would not classify, even today, as a U.S. capacity  
7 exceeding the demand in the United States.

8 COMMISSIONER BROADBENT: Okay. Yeah, I'm just  
9 looking at Page 14. "Domestic industry has significant idle  
10 capacity to supply the market."

11 MR. FREEMAN: Just to concur with Mr. Sparkman,  
12 the reason we had excess capacity was the low pricing of the  
13 subject imports and there's continued growth in our markets,  
14 so after we filed the case, then we have been able to  
15 recapture market share and justify adding the second  
16 production line.

17 MR. ROSENTHAL: Just to provide the timeline.  
18 So when we filed the case, we had one line and excess  
19 capacity on that because there had been lost sales. It  
20 wasn't just that we couldn't capture the growth in demand,  
21 there's actually been a decline in sales.

22 And when the arguments were raised at the  
23 prelim, as Mr. Sparkman mentioned, that the domestic  
24 industry allegedly didn't have the ability to supply the  
25 entire market. The response at that time was, "We actually

1 do, Nan Ya has the capacity, we have plans to open up  
2 another line if the demand is there." Well, after the  
3 prelim, demand rebounded for them. They began to regain the  
4 sales that you heard them testify about. And they said,  
5 "Well, we now have enough justification to open up this  
6 other line," which they've done.

7 And to the extent there -- our arguments, and  
8 you won't hear them today because respondents are limited to  
9 their arguments to the critical circumstances. But to  
10 accept your argument that the domestic industry can meet the  
11 demand in the market, our answer is, that's not true. We  
12 have the capacity to do that as long as the price is right.

13 COMMISSIONER BROADBENT: Okay. This would be  
14 for Ms. Beck or Ms. Ringel. Can you discuss why you rely on  
15 AUV data in this case for establishing pricing trends--I was  
16 looking at Page 26--when you have pricing data available?

17 MS. BECK: Commissioner Broadbent, we are  
18 relying on both the quarterly pricing data, as well as the  
19 AUVs. The quarterly pricing data, in particular, show the  
20 positive effects of the case and the pricing improvement  
21 from Third Quarter to Fourth Quarter, both for the subject  
22 imports and the U.S. imports. So I think in this case it's  
23 indicative that we can use both.

24 COMMISSIONER BROADBENT: Okay. According to  
25 Page V-5 of the prehearing report, U.S. producers and

1 importers reported selling a very large share of their Low  
2 Melt PSF in the spot market, or under short-term contracts.  
3 I was surprised to see that given that this is a key input  
4 into a lot of capital-intensive operations. Mr. Freeman,  
5 can you kind of discuss the spot market for this product?

6 MR. FREEMAN: We sell the product both directly  
7 to customers and also to distributors. And the pricing can  
8 have several different mechanisms, but one definitely is  
9 spot pricing. And also short-term, monthly pricing. And  
10 there also can be some formula pricing. But in this market,  
11 as you allude to, the spot prices is a major way of quoting.

12 MR. SPARKMAN: Just to add to that, our pricing  
13 is -- we price based on what our customers ask us to price.  
14 Our customers don't feel comfortable with long-term pricing.  
15 And a form that we're comfortable with as well, which would  
16 be a formula-based price, in other words, if raw materials  
17 go up, our price goes up. As raw materials go down, our  
18 prices go down.

19 They feel that they can get a better price going  
20 on a monthly basis or a quarterly basis, where we are having  
21 to quote a spot price at that time. And so we're basically  
22 pricing per the dictates of our customers. How they want us  
23 to price the material.

24 COMMISSIONER BROADBENT: Okay. So the formula  
25 is based on raw material prices generally?

1                   MR. SPARKMAN: When we do pricing in formula --  
2                   and I don't want you to believe that we do that very often,  
3                   that is a very rare case in the Low Melt. Just because our  
4                   customers just don't want that kind of a pricing mechanism  
5                   in there. They would rather see us compete on a monthly  
6                   basis because they believe that that will drive the price  
7                   down. And again, low price wins the day.

8                   COMMISSIONER BROADBENT: Okay, thank you very  
9                   much.

10                  CHAIRMAN JOHANSON: Commissioner Schmidtlein.

11                  CHAIRMAN SCHMIDTLEIN: Okay. Thank you. I'd  
12                  like to thank the witnesses for being here today as well. I  
13                  wanna start with channels of distribution. In the staff  
14                  report, it shows that subject imports of Korean product go  
15                  almost entirely to end users, while the U.S. product goes  
16                  both to end users and distributors.

17                  The first question might be best for Mr.  
18                  Rosenthal. Does this say anything about the degree of  
19                  competition between subject product and the U.S. product?

20                  MR. ROSENTHAL: Not really. They're both  
21                  ultimately competing for the same customer. It does suggest  
22                  that you need to obviously take into account the direct  
23                  sales, as well as the sales to distributors, which you have  
24                  done, you collected all that information, and we've analyzed  
25                  it and reacted to it. But ultimately, they're all going to

1 the same customer.

2 In some instances -- it's interesting, I was  
3 asking the industry witnesses about distribution and why  
4 they use distribution in some instances. And one of the  
5 reasons is because some of the direct customers are less  
6 credit-worthy, and they don't wanna take the risk. They'd  
7 rather have the distributors worry about the risk  
8 associated with certain customers. So there are these  
9 interesting things going on.

10 But by and large, everyone is competing for the  
11 same customers. It's only a question of whether you are --  
12 you got to meet that price, whether you're going to the  
13 distributor to meet the price or the end user to meet the  
14 price. You've got to get that ultimate customer to buy that  
15 product.

16 CHAIRMAN SCHMIDTLEIN: So, maybe one of the fact  
17 witnesses can speak to this, just historically, was there  
18 some reason that it evolved that U.S. producers were selling  
19 to distributors or the distributors are selling to certain  
20 specialized end users, and that's how it evolved? I mean is  
21 there a historical reason for the channels of distribution  
22 here?

23 MR. SPARKMAN: As our attorney indicated, there  
24 are multiple reasons why we would go in either direction.  
25 Obviously, as we entered into this business, the

1 distributors have better contacts and were able to get us  
2 into this market a little bit easier. We also have  
3 relationships with the distributors. The distributors are  
4 important to us because we have products -- for example,  
5 when we have to move between products in a continuous  
6 process, so we're continuing to produce even though we're  
7 moving between products, and this would be referred to as a  
8 wide spectrum off -- we depend on them to help us move those  
9 products for us.

10                   So there is some interdependency between the  
11 producer and the distributor. That being said, we continue  
12 to move more and more towards, and I know the guys behind us  
13 don't wanna hear this, but we move more and more towards  
14 direct sales. And we want to do direct sales whenever  
15 possible. We recognize that direct sales are crucial.  
16 However, we've not been able to do a lot of direct sales  
17 because of the low cost of the importers. And we've just  
18 not been able to compete with them, and so we've not been  
19 able to do a lot of direct sales with these customers that  
20 are buying directly.

21                   CHAIRMAN SCHMIDTLEIN: Do you all find that end  
22 users -- that there are some end users that just buy from  
23 distributors? Or do you find end users are buying both from  
24 distributors and direct from the producer?

25                   MR. SPARKMAN: A little bit of all of the above,



1 if I could say so. There are end users that buy only  
2 direct. There are end users that like to play the market  
3 and see, maybe the distributor has some old inventory, or  
4 maybe the distributor worked a great deal and has a better  
5 price out there than they can get direct. And some of them  
6 are, especially the smaller customers that maybe don't have  
7 the volumes sufficient to go direct, would only go through a  
8 distributor.

9 CHAIRMAN SCHMIDTLEIN: Okay.

10 MR. ROSENTHAL: Commissioner Schmidtlein, a  
11 couple of points. Number one, one of the companies that's  
12 now nonsubject because it was, Huvis, which is found to be  
13 de minimis at the Commerce Department, which we hope will be  
14 subject again when the Commerce Department makes it --

15 CHAIRMAN SCHMIDTLEIN: You don't know yet?

16 MR. ROSENTHAL: Hope springs, along with the  
17 mattress springs. A Rosenthal joke, Commissioner Broadbent.  
18 The fact of the matter is, that the Huvis and many, if not  
19 most, of the imports from Korea go through distributors.  
20 And as Mr. Sparkman was pointing out, it's not a matter of  
21 these being very --

22 CHAIRMAN SCHMIDTLEIN: So Huvis is how you say  
23 it?

24 MR. ROSENTHAL: Huvis.

25 CHAIRMAN SCHMIDTLEIN: Huvis does sell to

1 distributors? So if they become subject, this data's gonna  
2 change on channels of distribution quite a bit.

3 MR. FREEMAN: We do see Korean fiber come  
4 through distributors. And then goes to the customers. As  
5 Mr. Sparkman was describing, sometimes the distributors are  
6 already servicing that customer with Korean fiber, and then  
7 they'll want to buy some domestic fiber for that customer.

8 Sometimes they'll supply both domestic and  
9 import. Sometimes they'll choose one or the other. So  
10 that's why some of our products are going through  
11 distributors because a lot of networks were already  
12 established before we started our production in 2008.

13 CHAIRMAN SCHMIDTLEIN: I see.

14 MR. ROSENTHAL: And I would argue, and this goes  
15 back to some of the other cases we've had before the  
16 Commission, where big box retailers have gotten into much  
17 more direct distribution and some big end users in other  
18 cases -- but my point of view, the idea that there are  
19 direct sales and sales to distributors, doesn't suggest a  
20 lack of competition.

21 It just says to you that the competition's  
22 getting more intense because a direct sale essentially  
23 bypassed the distributors, are able to offer lower prices  
24 because the distributors aren't in that chain. It  
25 intensifies the competition. It doesn't make it less

1 direct.

2 CHAIRMAN SCHMIDTLEIN: Okay.

3 MS. BECK: And Commissioner Schmidtlein, if I  
4 could just add. On the pricing side where you do see the  
5 pricing data broken out by distributor end users where the  
6 data are reported for end users, there is data for U.S.,  
7 Korean and Taiwan and substantial volumes for multiple  
8 product, just to show the competition on that level. And  
9 also that's where the underselling data's also drawn from.

10 CHAIRMAN SCHMIDTLEIN: So you don't think the  
11 price levels between distributors and end users are  
12 comparable? The end user prices are always gonna be lower?  
13 Prices sold to end users?

14 MR. ROSENTHAL: In theory, that is true. I  
15 wouldn't say -- I always worry about the use of the word  
16 "always" --

17 CHAIRMAN SCHMIDTLEIN: Right.

18 MR. ROSENTHAL: -- but I think in general that  
19 would be true because there are fewer costs associated with  
20 that normally.

21 CHAIRMAN SCHMIDTLEIN: Okay. Let me ask you a  
22 couple of questions about the pricing data. I have a couple  
23 minutes left here. In the pricing products, you see that,  
24 in Pricing Product 4, the volume trend for the U.S. is very  
25 different, let's say, because it's all confidential, than

1 the other three pricing products.

2 But yet the trend for the subject import prices  
3 seems to follow the other three products. So is that, you  
4 know, is that something that we would have expected, given  
5 the difference in volume for U.S. product that you still  
6 see? So does that suggest that something else is going on  
7 there?

8 MS. BECK: Gina Beck, GES. Price continues to  
9 be the driving factor, whether it's from the purchasers'  
10 questionnaires, all of the comments suggest that price is  
11 the primary purchasing decision and that the purchasers have  
12 actually shifted to purchasing import from U.S. due to the  
13 lower prices.

14 CHAIRMAN SCHMIDTLEIN: Okay. The other question  
15 I had about the pricing product data, it might be best to  
16 answer it in the post-hearing, which was, you see a lot of  
17 underselling in one particular product. So in the  
18 post-hearing, could you address why that is? Like, why is  
19 the underselling concentrated in that one particular product  
20 and we don't see it in the other products where all three  
21 sources are present?

22 MR. ROSENTHAL: We'll certainly do that,  
23 Commissioner Schmidtlein. I just wanna add one other point,  
24 which may not be obvious, but when you're just looking at  
25 this from afar, but one of the things that you've heard from

1 the producers is that they dropped their prices to keep  
2 their volumes going because of the capital-intensive nature  
3 of the production process.

4 And what I've seen in this case and in some  
5 other cases is that you may not see as much underselling  
6 when this is going on, because in order to get these sales,  
7 the domestic industry, and in this case, Nan Ya, has dropped  
8 their prices to rock bottom, selling at below variable  
9 costs, as you heard, in order to get sales. So they may not  
10 be being undersold on a bunch of these sales because they  
11 wanted the volume.

12 So that's why, you know, when people come and  
13 say, "There's a mixed pattern of underselling," and my  
14 answer is that's what you'd expect when people are dropping  
15 their prices to maintain their volumes. You heard the  
16 testimony of Mr. Freeman earlier, about this one particular  
17 customer, they're selling four truckloads a month, then it  
18 was one, and then they dropped their prices to below  
19 variable cost to get back to two, and then they ended up at  
20 zero, even though they dropped their prices to unprofitable  
21 levels.

22 So when I look at the underselling data, I'd  
23 say, yeah, that's interesting, and sometimes there's a lot  
24 of underselling, sometimes there's less. But the question  
25 really is, is it because the domestic industry dropped its

1 prices to maintain sales or that the imports are selling at  
2 a higher price than you'd expect? So that's how I look at  
3 the underselling data in any one of these cases, and  
4 certainly in this case, we've got evidence of domestic  
5 producers dropping their prices.

6 CHAIRMAN SCHMIDTLEIN: Okay. All right. Thank  
7 you.

8 CHAIRMAN JOHANSON: Commissioner Kearns.

9 COMMISSIONER KEARNS: Thank you to all the  
10 witnesses for being here today. I guess I wanted to start  
11 on just getting a better understanding of the product. Can  
12 you explain the advantages of Low Melt PSF versus other  
13 forms of PSF, describe particular uses for which Low Melt is  
14 preferred over other forms, for example?

15 MR. SPARKMAN: Commissioner Kearns. The Low  
16 Melt fiber is a unique item in that a traditional PSF is a  
17 mono component product. It has just one component that has  
18 a standard melt temperature of about 250 degrees Celsius.  
19 The Low Melt fiber has a sheath that surrounds the core.  
20 Now, the core is basically a traditional fiber in there.  
21 The sheath that surrounds it has a melt temperature that  
22 could be as low as 110C up to 220C.

23 And so what that allows to happen is, as you mix  
24 that in with other fibers, you can then take that into an  
25 oven and the outside of the fiber will actually melt. And

1 as it comes back out of the oven, it will solidify as the  
2 temperatures drop. Room temperature's 20 degrees Celsius.  
3 So 110 to 20, as that temperature drops back to room  
4 temperature, that outer part of the fiber that's melted and  
5 started to flow outwards, solidifies again and it basically  
6 acts as a glue that bonds all these fibers.

7           You saw that that batting -- well, if we didn't  
8 have anything to hold that batting together, all that fiber  
9 would just fall apart, it wouldn't maintain its form. At  
10 higher concentrations that you saw in the mask, we can  
11 actually mold that fiber into a particular shape, and it'll  
12 hold that shape, so that mask has that round shape that goes  
13 around your face and allows you to breathe comfortably in  
14 there. Standard fibers don't have that ability to do that.

15           For example, standard fiber might be spun into  
16 -- by itself or with cotton into a yarn and made into a  
17 shirt. Well, your shirt doesn't have any kind of a form  
18 that it maintains in there. A nonwoven use of a standard  
19 fiber might be a wipe that you would use to clean the  
20 countertop, or in my case with my two-year-old, to clean his  
21 bum, you know?

22           And so, again, you've got a little bit of  
23 cohesion in there done through a mechanical versus a glue  
24 where we're kind of intertwining the fibers together, but  
25 again, there's no form, there's no shape to that, except for

1 just a square that's gonna take whatever shape you lay it  
2 on.

3 So the Low Melt has some very interesting  
4 applications to it. And as we discussed with Commissioner  
5 Broadbent, especially in the automotive industry, where you  
6 can mold and form that to fit into specific shapes that you  
7 want. I hope that kind of answered your question.

8 COMMISSIONER KEARNS: It does. Yes, thank you  
9 very much. Actually, on that, you just mentioned autos, we  
10 know that black is often used in autos, but can you tell me,  
11 you also mentioned white is as well, can you tell me roughly  
12 what the break-out would be, would you guess?

13 MR. SPARKMAN: I'll be honest, Commissioner, I  
14 don't know that number off the top of my head, but we could  
15 definitely look into that for you and report back to you in  
16 the post hearing brief.

17 COMMISSIONER KEARNS: Okay, that'd be helpful.  
18 But also, I mean, just generally, they're both -- I mean, we  
19 shouldn't get the impression that when demand is rising, and  
20 demand is rising in the auto sector, that that's  
21 predominantly going to the purchase of black --

22 MR. SPARKMAN: Yeah.

23 COMMISSIONER KEARNS: -- Low Melt, okay, okay,  
24 thank you. And one last question on the products. Can you  
25 say more about crystalline, what that is used for?



1                   MR. SPARKMAN: So the crystalline has the  
2 ability or at least a perceived ability, and I say perceived  
3 because I think some markets will argue that there is a  
4 value to it. Others will argue that there really isn't a  
5 value to it, but the crystalline is made in such a way that  
6 it's even more resistant to heat.

7                   COMMISSIONER KEARNS: Okay.

8                   MR. SPARKMAN: Obviously, we want to heat that  
9 part up and we want to form it and then we want to cool it  
10 back down, but as that product sees extreme heat say in the  
11 engine compartment, it is possible that the product may  
12 start to soften up a little bit. And the crystalline is  
13 designed to not soften as much as the standard fiber does.

14                  COMMISSIONER KEARNS: Okay, thank you. Let's  
15 see, oh, one question just about the slides that you all  
16 presented this morning, not about the King Kong slide,  
17 although I do have some questions about that one as well,  
18 but I'm looking at slide 5. And I'm wondering is it  
19 possible that this includes nonsubject Korean imports to  
20 this?

21                  MR. RYE: So did you say slide 5?

22                  COMMISSIONER KEARNS: Yes.

23                  MS. RINGEL: Brooke Ringel, Kelley Drye.  
24 Because this slide is based on the official import  
25 statistics that does not break out particular -- exports by

1 particular company, it would include nonsubject imports.

2 COMMISSIONER KEARNS: Okay.

3 MS. BECK: Commissioner Kearn, Gina Beck for  
4 GES. We only were able to break out nonsubject starting in  
5 2014 based on what data were available in the record.

6 COMMISSIONER KEARNS: Oh, okay, sure. Okay,  
7 thank you.

8 I guess I will turn to a question about pricing  
9 trends. Our pricing data show that for the products with  
10 the highest domestic quantities, prices reached a low point  
11 in fourth quarter 2016 and then rose starting first quarter  
12 of 2017. Is this Nan Ya's perception and what caused prices  
13 to begin to rise at the start of 2017?

14 MR. FREEMAN: When we look at raw materials,  
15 we're looking at two primary inputs, PTA, purified  
16 terephthalic acid, and also MEG, ethylene glycol. And just  
17 -- I don't have all the data in front of me, so we can  
18 address some of that question in post hearing briefing, but  
19 for example in December 2016, our raw materials were like  
20 around 51.75 cents per pound of our selling price. And then  
21 in -- that was in December 2016. And then in January 2017,  
22 they actually had a increase up to around 55.5 cents. So  
23 basically going -- I believe in going to Q1 2017, we saw  
24 increase in our raw material prices, which are oil based  
25 nature.

1           However, I mean, one important point that we've  
2 -- there's always volatility in our pricing. When you look  
3 at the raw materials, look at that input, it can go up or  
4 down, based on a monthly basis within a year.

5           The key point for us is when raw materials drop,  
6 our issue is in the -- during the period of investigation,  
7 we've had to drop our pricing faster to meet the import  
8 competition and thus, we lose profitability, we lose margin.

9           So the raw materials are important input for us,  
10 but as we talked about doing monthly and quarterly pricing,  
11 some -- what's happened is our pricing, if raw materials  
12 have dropped, we've had to reduce our price more. They've  
13 increased, then we've haven't always captured that increase  
14 and that's been one of our issues with the pricing  
15 competition from the subject imports.

16           MR. ROSENTHAL: Commissioner Kearns, one last  
17 point, as a result of the import competition, it hasn't  
18 mattered whether raw material prices or costs were going up  
19 or down. They managed to do poorly from a profitability  
20 perspective, no matter which direction prices or costs were  
21 going.

22           MS. BECK: And Commissioner Kearns, if I could  
23 just add, Gina Beck, GES, particularly over the POI from  
24 2015 to 2017 when you did see unit raw material cost and  
25 total unit cost increase, unit net sales are actually going

1 down. So the domestic industry was clearly being suppressed  
2 by the U.S. or by the subject imports.

3 COMMISSIONER KEARNS: Okay, thank you all. No  
4 further questions for now.

5 CHAIRMAN JOHANSON: In support of its requests  
6 for a critical circumstances determination, petitioners  
7 argued that the domestic industry is in a highly vulnerable  
8 condition. This is argued at page 53 of your brief.

9 How was the industry in a highly vulnerable  
10 condition when the petitioner itself has noted that there  
11 was an overall improvement in the industry's performance in  
12 2017 as compared to prior years, as well as in comparison  
13 with the first quarter of 2017 as seen at page 37 of your  
14 brief?

15 MR. ROSENTHAL: This is why we say this is a  
16 close question. It's rare to see in my view such  
17 improvement in the short period of time post-petition. And  
18 that's a very positive story, very happy one to report.

19 And at the same time, if you look at the  
20 profitability numbers, you can see that despite all of the  
21 improvements, the profitability hasn't improved as much as  
22 the industry would like and would be beneficial to ensure the  
23 long-term future of the industry and in particular of non  
24 U.S. production of Low Melt.

25 So, yes, things have gotten better. They're no

1 longer drowning in 12 feet of water. They're only drowning  
2 in two feet off water, so that's -- you know, that's  
3 positive and trending in the right direction, but it's still  
4 very precarious. Unless this trend continues and for  
5 example, the need for a final affirmative determination  
6 here, things go back the other way and that would be -- that  
7 suggests vulnerability.

8 I mean, this industry's enjoyed several months  
9 now of positive trends as we've been happy to talk about,  
10 but it doesn't mean these trends will continue and it  
11 doesn't mean the industry is out of the woods. We still  
12 regard it as being in a vulnerable condition.

13 CHAIRMAN JOHANSON: Thank you, Mr. Rosenthal.

14 And continuing on that vein of thought, would it  
15 be inconsistent on this record to claim that the domestic  
16 industry is in a highly vulnerable condition at the end of  
17 the period of investigation and arguing that we should be  
18 discounting certain 2017 data due to post petition  
19 performance improvements?

20 MS. RINGEL: Brooke Ringel, Kelley Drye. As we  
21 stated in our presentation, this is something -- giving less  
22 weight to post-petition data is not only something that the  
23 statute allows, but something that the Commission has done  
24 before and considered before. And I refer the Commission to  
25 its determination in 2007 -- affirmative determination in

1 2007 in activated carbon.

2 In that case, the record in that case showed the  
3 same pattern of post-petition behavior. And I refer you,  
4 Chairman Johanson, to pages 37 to 38 of our pre-hearing  
5 brief, where we talk about -- where we quote the  
6 Commission's views in that case, where after the preliminary  
7 affirmative determination was made by Commerce, the quantity  
8 of subject imports declined and the combination of these two  
9 events brought about significant improvements for the  
10 domestic industries. That's the same pattern of behaviors  
11 we're seeing here.

12 And again, as Mr. Rosenthal just stated, the  
13 domestic industry's profitability as -- is such that while  
14 that improvement is good, the domestic industry's  
15 profitability is indicative of the fact that it is temporary  
16 and that the domestic industry is still vulnerable and will  
17 continue to suffer material injury if an affirmative  
18 determination's not reached here.

19 CHAIRMAN JOHANSON: Thanks. Ms. Ringel.

20 Are you aware of any prior instances in which  
21 the Commission has relied on the vulnerability or lack of  
22 vulnerability of the domestic industry in considering  
23 whether the remedial effect of the anti-dumping duty order  
24 is likely to be seriously undermined due to an import surge  
25 prior to the suspension of liquidation?

1 MS. RINGEL: Brooke Ringel, Kelley Drye. In  
2 response to your question, Chairman Johanson and in response  
3 to Commissioner Williamson's question, we'll present some  
4 research in our post-hearing brief regarding previous  
5 affirmative determinations, but again, I would refer the  
6 Commission to synthetic indigo from China in 2000.

7 CHAIRMAN JOHANSON: All right, thank you, Ms.  
8 Ringel.

9 MR. ROSENTHAL: That was a wonderful case I  
10 might add. I definitely want you to review it closely.

11 CHAIRMAN JOHANSON: I will do that. It's a  
12 fascinating product. Now I'm going to move off of critical  
13 circumstances. To the extent that the prices of Low Melt  
14 PSF fell over the period of 2015 to 2016, how much do those  
15 decreases reflect raw material price trends? See, for  
16 example, page 52 of the pre-hearing staff report.

17 MR. ROSENTHAL: We will -- if you don't mind,  
18 Chairman Johanson, we'll answer that very precisely in our  
19 post-hearing brief. I will say that as Mr. Freeman noted  
20 earlier, that raw materials and price trends do track one  
21 another. A problem has been that the profitability does not  
22 track well. And so, raw material prices across may increase  
23 and prices by the domestic industry may increase as well,  
24 but it has never been enough to cover the increased raw  
25 material costs. Hence, the poor profitability.

1                   So we'll get you the analysis there, but from  
2                   our point of view, it is the gap between the increased  
3                   prices and the ability to actually get them to the  
4                   profitable level that's been the problem.

5                   CHAIRMAN JOHANSON: Thank you, Mr. Rosenthal.

6                   MS. BECK: Chairman Johanson, also on page 28 of  
7                   our brief, we present the data between 2015 and '16, the  
8                   period that you're referring to where the unit raw material  
9                   costs and the unit total cost declined. However, the unit  
10                  net sales declined by even more.

11                  CHAIRMAN JOHANSON: Okay, thank you. I will  
12                  revisit that, Ms. Beck.

13                  The prehearing staff report notes at page 218  
14                  that purchasers who reported decreases in buying U.S. Low  
15                  Melt PSF during the POI attributed such decreases to lower  
16                  quality of U.S. product, difficulty of dealing with the U.S.  
17                  supplier, the lack of a sales contract from U.S. producers  
18                  and price.

19                  Once again, this is -- at page 218 of the  
20                  pre-hearing staff report. Are there quality differences  
21                  between U.S. produced products compared to subject or  
22                  nonsubject imports? And have there been domestic supplier  
23                  issues during the period of investigation?

24                  MR. SPARKMAN: Michael Sparkman, Nan Ya  
25                  Plastics. Chairman, they're -- the quality of the products



1 that are imported and the quality of the products that we  
2 produce are very similar. We have main customers who tell  
3 us that our products are better than imports. Some feel  
4 that the imports are a little bit better than ours, but  
5 overall, our products are very competitive in regards to  
6 quality with the imports. There's not -- they are not  
7 significantly better than us. And in fairness, we're not  
8 significantly better than them.

9 With regards to our ability to produce, at no  
10 time during this period were we unable to produce fiber to  
11 meet our customers' orders. In fact, just the opposite. We  
12 had the ability to produce much more than our customers were  
13 willing to buy from us, because the price of the imports was  
14 much lower than what we could compete with.

15 MR. ROSENTHAL: Chairman Johanson, one thing to  
16 add on that, I know we focused on the post-petition  
17 performance as something to take into account when you're  
18 looking at assessing the overall industry injury and the  
19 whole point was there was -- in the statutory and Commission  
20 analysis that passes, well, we're not going to suggest that  
21 the industry's not being injured anymore and make a negative  
22 determination just because the industry improved after the  
23 petition was filed. Everyone understands that.

24 But one of the things that we also think you  
25 should be looking at post-petition is how all these sales

1 were regained. All these customers were saying we won't buy  
2 from the domestic industry, because they don't produce niche  
3 products. That was one excuse. They don't produce quality  
4 products, all this stuff.

5 That turns out not to be true. It turns out  
6 that all those folks are saying we won't buy or we can't  
7 buy, because of the reasons. They started buying and what  
8 was the difference. All of a sudden, the industry was able  
9 to supply products or supply better products or supply niche  
10 products. No, no, no, this is all what we're saying. It's  
11 all about price. They came back because prices change and  
12 the domestic quality and availability was perfectly fine.

13 MS. RINGEL: Brooke Ringel, Kelley Drye.  
14 Chairman Johanson, I would also refer you to page 220 of the  
15 pre-hearing staff report, Table 29, where purchasers  
16 reported comparisons of the U.S. produced and subject  
17 imports. And the overwhelming majority of purchasers  
18 reported comparability or U.S. superiority in terms of  
19 quality, availability, and delivery time.

20 MR. ROSENTHAL: One last point, if I might, if  
21 you go to slide 16, I know there are no big furry animals on  
22 this one, but I think it's worth looking at even more  
23 closely. It shows you the volume of the subject imports  
24 that were purchased in 2017 alone that the purchaser said  
25 were purchased because of the lower priced imports. That's

1 a very high volume and it puts the lie to the claims that  
2 there were reasons, other than price, that purchasers  
3 turned to imports.

4 CHAIRMAN JOHANSON: Thank you all for your  
5 responses. My time has expired.

6 Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Thank you. How should  
8 the Commission think about Korean nonsubject imports in this  
9 case? In particular, if Commerce finds a non de minimus  
10 margin for Huvis in its final determination, how should the  
11 inclusion of who this is imports as subject imports affect  
12 the Commission's analysis of the volume and market share of  
13 subject imports? And then if they continue to be not de  
14 minimus, what should we make of it?

15 MR. ROSENTHAL: So the record you got in front  
16 of you now we think clearly demonstrates injury based on the  
17 subject imports that are subject as of this moment. You  
18 have overwhelming volume shifts, as I just pointed out. You  
19 have majority of underselling. You have significant and  
20 increasing volume. You've got all the financial and trade  
21 indicators declining, all as the result of the current  
22 subject imports.

23 Adding Huvis as a subject producer only  
24 heightens that injury and makes it even more clear the  
25 causation. Volumes will increase by the subject imports.

1 Market share will increase by the subject imports. I won't  
2 -- the amount of underselling will increase. Although the  
3 percentage of underselling will change, there won't be less  
4 underselling by the subject imports. There will be a change  
5 in the ratios, but it will not mean that there's less injury  
6 as a result of the underselling.

7 So the volumes effect and the pricing effect  
8 will still be there and undiminished. In fact, the volume  
9 will clearly be more pronounced. So either way, whether  
10 Huvis is subject or nonsubject should not change the  
11 conclusion. You should still make an affirmative  
12 determination.

13 COMMISSIONER WILLIAMSON: Okay, thank you.

14 The question of whether or not the price  
15 increases were due to the increased raw material cost are  
16 the investigation -- it's already been addressed. So I  
17 won't ask that, but I was just curious whether or not, are  
18 you seeing any shall we say negative effects of the  
19 increased prices?

20 I sort of raise this just because the 232's out  
21 there and the stories we're seeing in the press now about,  
22 you know, the impact, of the duties on -- in the domestic  
23 market. So I was just kind of curious whether or not your  
24 increase prices are having an impact? Are there any  
25 downsides to that?

1                   MR. SPARKMAN: Michael Sparkman, Nan Ya  
2                   Plastics. We've not seen -- we've obviously seen an  
3                   increase in demand for our product. The increased prices  
4                   don't -- haven't led to a reduction in our customer's demand  
5                   for our product. And quite fairly, in the past, the prices  
6                   for these materials were higher than where they are today.

7                   So you know, with inflation that you would think  
8                   that wouldn't be the case, that you know, traditionally, you  
9                   know, each year, things cost a little bit more.

10                  But today, we're the lower price than where we  
11                  were when we started in 2008 on that. So I don't see a real  
12                  negative effect on our downstream customers to this.  
13                  Obviously, they don't want to pay more for the product. And  
14                  if they could find a way to do it, which they had in the  
15                  past through these low cost imports, they would, but it  
16                  hasn't affected the overall demand that they're bringing to  
17                  us.

18                  COMMISSIONER WILLIAMSON: Okay, thank you.

19                  MR. SPARKMAN: In a negative fashion.

20                  COMMISSIONER WILLIAMSON: Just you mentioned  
21                  just now and earlier you mentioned the fact of we're now  
22                  getting started in 2008. Did you take over another U.S.  
23                  company that was producing this product or --

24                  MR. FREEMAN: John Freeman, Nan Ya Plastics.

25                  COMMISSIONER WILLIAMSON: Yeah.

1           MR. FREEMAN: We were actually importing product  
2           from our Taiwan production on Low Melt and then we started  
3           our production in the U.S. and we for the most part took --  
4           we well -- we took over the placement that our Taiwan Low  
5           Melt had with our U.S. production, which really is another  
6           example of no difference between the import products in the  
7           domestic or how low the, you know, the actual difference is.  
8           So we assumed what we had been exporting from Taiwan to the  
9           U.S. with our production here in Lake City.

10           COMMISSIONER WILLIAMSON: Okay.

11           MR. SPARKMAN: Michael Sparkman, Nan Ya  
12           Plastics. I want to further iterate that by doing so, we  
13           were able to bring jobs to the U.S. We were able to start  
14           up a line that had been idled for some time and put people  
15           back to work, getting them to work and producing a product  
16           here in the United States to sell to the U.S. market, which  
17           I think is very important.

18           COMMISSIONER WILLIAMSON: Okay.

19           MR. ROSENTHAL: Between the 2001 period, which  
20           we talked about earlier and the 2008, the previous producer  
21           had gotten out of the business because of the increased  
22           imports.

23           COMMISSIONER WILLIAMSON: Okay, thank you for  
24           those answers.

25           CHAIRMAN JOHANSON: Commissioner Broadbent?

1                   COMMISSIONER BROADBENT: Okay, Mr. Rosenthal, on  
2 page 40 of your pre-hearing brief, you argue that the  
3 Commission should apply adverse inferences in assessing  
4 threat due to the failure of multiple foreign producers to  
5 respond to questionnaires.

6                   Has Nan Ya Plastics Corporation, the Taiwanese  
7 parent, or affiliate responded to the foreign producer's  
8 questionnaire?

9                   MR. ROSENTHAL: I think that's -- well, the  
10 answer is no and the further answer is that is not for lack  
11 of trying, because we've made numerous or I should say these  
12 gentlemen made numerous requests and were told we don't have  
13 any interest in the U.S. market. You guys are producing  
14 there and therefore we don't have anything to add.

15                   COMMISSIONER BROADBENT: Okay. But you're sort  
16 of arguing that the Taiwanese industry is export oriented,  
17 right?

18                   MR. ROSENTHAL: In general, that's true.

19                   COMMISSIONER BROADBENT: Yeah.

20                   MS. RINGEL: Brooke Ringel, Kelley Drye.  
21 Commissioner Broadbent, there -- the Commission does have  
22 some data for 2015 and 2016 from a Taiwanese foreign  
23 producer from the preliminary determination. And as we  
24 stated in our pre-hearing brief, that can serve as a  
25 reasonable basis in addition to the public information that

1 we have provided to supplement that.

2 Where we do have concerns with that preliminary  
3 questionnaire response is with respect to the 2017 and 2018  
4 projected data, because we do not believe that that  
5 accurately reflects that particular producer's actual  
6 experience based on some, as I mentioned, public information  
7 that we have also provided.

8 So we do believe that there is a data source for  
9 at least two-thirds of the period of investigation that the  
10 Commission can rely on in some ways as a proxy for the rest  
11 of the Taiwanese industry, in addition to the supplemental  
12 public information that we've provided.

13 COMMISSIONER BROADBENT: Okay.

14 MS. BECK: And Commissioner Broadbent, just to  
15 add that data does show export orientation.

16 COMMISSIONER BROADBENT: Okay. Mr. Sparkman,  
17 Nan Ya's America website, it says that it was founded in  
18 1989 under the parent company's vision for global expansion  
19 to meet the ever increasing demand for synthetic fiber  
20 chemical and plastics. Given that the American subsidiary  
21 is filing a case against its parent company's country, what  
22 is the strategy now?

23 MR. SPARKMAN: Michael Sparkman, Nan Ya  
24 Plastics. Commissioner Broadbent, our strategy here in the  
25 U.S. has always been to supply the U.S. and to some extent



1 North America with product. Our strategy is less of an  
2 export strategy and more of a producing material in the  
3 region, where it would be consumed.

4 COMMISSIONER BROADBENT: Okay, so we're kind of  
5 segmenting the markets and just focusing on this market?

6 MR. SPARKMAN: As a parent company, we still  
7 want to have a global presence, but the difference between  
8 our company and say the countries that -- the companies that  
9 we're looking at is that they want to produce their fiber  
10 there and export it to the world, where we've looked at this  
11 and I'll reference the automotive industry as well. You  
12 know, they've benefited greatly by coming here to the United  
13 States, providing jobs for Americans, and producing their  
14 cars here in the United States. And we're doing the same  
15 thing with our fibers. We're bringing production here to  
16 the United States. We're using American workers to produce  
17 those fibers for companies here in the United States.

18 COMMISSIONER BROADBENT: Okay. Mr. Rosenthal,  
19 is the Korean nonsubject producer Huvis a significant  
20 alternative cause of injury in this case?

21 MR. ROSENTHAL: I would not call them a  
22 significant alternative cause. I would say they're a cause,  
23 along with the subject imports. And with any luck, you  
24 know, tomorrow, they'll be subject imports if the Commerce  
25 Department reaches an affirmative determination, but there's

1 no question in our view, we feel Huvis has been dumping and  
2 is a cause of or part of the cause of the injury.

3 But the current subject imports without Huvis  
4 are more than enough cause to support an affirmative  
5 determination. So it's not one or the other. They all  
6 contribute.

7 COMMISSIONER BROADBENT: Okay, Mr. Sparkman, the  
8 industry's output indicators like production capacity  
9 utilization, U.S. shipments, and market share all improved  
10 in 2017 substantially. Could you give us some more granular  
11 information to show that the industry's improvement in  
12 output was linked to the filing of the petition?  
13 Specifically, I'm looking for information showing that the  
14 industry's shipments in the second half of 2017 were  
15 considerably higher than in the first half of 2017? If you  
16 have that data available, it would be helpful.

17 MR. SPARKMAN: Michael Sparkman, Nan Ya Plastics.  
18 Commissioner Broadbent, we would be happy to submit that in  
19 the posthearing brief.

20 MS. BECK: Commissioner Broadbent, there is the  
21 one example that Mr. Freeman referenced where one customer  
22 had gone to zero tons of purchasing, and in fourth quarter  
23 returned to purchasing from Nan Ya because of the case  
24 effect.

25 COMMISSIONER BROADBENT: Okay. I think that

1 concludes my questions for the moment.

2 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

3 COMMISSIONER SCHMIDTLEIN: Okay. Following on  
4 this line of questions about who is this, and I'm not sure  
5 if this has already been asked so I apologize if it has,  
6 exactly, but can someone talk about what explains the  
7 decrease in their volume and market share between '16 and  
8 '17? And, vis-a-vis the increase in the U.S. producer  
9 market share?

10 MR. ROSENTHAL: I think we probably better take a  
11 stab at this in the posthearing brief, if you don't mind,  
12 Commissioner.

13 COMMISSIONER SCHMIDTLEIN: Okay. And along those  
14 lines, did the U.S. producers take market share from Korean  
15 nonsubjects during this time period?

16 MR. ROSENTHAL: And you're focusing on '16 to  
17 '17?

18 COMMISSIONER SCHMIDTLEIN: Um-hmm.

19 MR. ROSENTHAL: I think there were--I would say  
20 market share, but I do know there was a time, and this is  
21 why I want to be very precise in the posthearing brief, but  
22 you heard the testimony of Mr. Freeman who had been referred  
23 to the customer for whom they were shipping four truckloads,  
24 and then it was down to one truckload per month, and they  
25 decided that we can't afford to lose this and we want to get

1 more back, so Nan Ya dropped their price to below variable  
2 costs to get back two truckloads.

3 So there have been times--and this is why I  
4 explained the underselling data--there are times when in  
5 order to maintain their volumes the domestic producer, in  
6 this case the major one, Nan Ya, dropped its price to get  
7 sales.

8 So did that translate into a reduced market share  
9 by the Koreans? Maybe for that particular sale.

10 COMMISSIONER SCHMIDTLEIN: For the nonsubject  
11 sale?

12 MR. ROSENTHAL: Yes. But overall, you'll see  
13 that, despite the effort to get those volumes and drop the  
14 price in order to do that, overall market share increased--  
15 and I would say inexorably, over the entire period  
16 concerning all producers except going into 2017 after the  
17 case.

18 COMMISSIONER SCHMIDTLEIN: Okay. Again, I don't  
19 think this has been asked specifically, but what is your  
20 response to the argument that subject imports were not a  
21 significant cause because their gains came at the expense of  
22 the nonsubject?

23 MR. ROSENTHAL: I don't think the record bears  
24 that out. You can see that not only did the subject imports  
25 gain market share at the expense of nonsubject, they've

1       gained it at the expense of the domestic industry as well.

2               COMMISSIONER SCHMIDTLEIN:   Okay.  Alright, I  
3       don't think I have any other questions--one other question I  
4       had.  If the Orders go in place, do you all expect to see  
5       any other U.S. producers enter this market?

6               MR. FREEMAN:   John Freeman, Nan Ya Plastics.  
7       There has been a public announcement of a potential joint  
8       venture between a company called Endorama and Heuvis to  
9       produce low-melt fiber.

10              We have not had--in the U.S.

11              COMMISSIONER SCHMIDTLEIN:   In the U.S.?

12              MR. FREEMAN:   In the U.S.  Yes, in the U.S.

13              COMMISSIONER SCHMIDTLEIN:   And where would that  
14       take place?  Do you know?

15              MR. FREEMAN:   Our expectation would be probably  
16       in the State of South Carolina, maybe in Spartanburg, around  
17       where Endorama already has some assets.  But we have not  
18       seen a formal announcement, or much update since they had  
19       the initial kind of press release that they were planning a  
20       joint venture to put in a production line to produce  
21       low-melt.

22              COMMISSIONER SCHMIDTLEIN:   And when was that  
23       press release?

24              MR. ROSENTHAL:   It was sometime after the case  
25       was filed.  I want to say it was last fall, but don't hold

1 me to that. But it was sometime around then, maybe even  
2 earlier this year. We'll get you that release. But it's  
3 been relatively--but before the preliminary determination by  
4 the Commerce Department in which Heuvis got a de minimis  
5 margin. So there hasn't been much--we haven't seen anything  
6 in the press since then. We don't know whether they're  
7 still going forward with the plans. It may be that they are  
8 waiting for the final margin, but what Mr. Freeman has told  
9 you basically is all we know at this point.

10 COMMISSIONER SCHMIDTLEIN: Um-hmm. Okay.

11 Alright, thank you. I have no further questions.

12 CHAIRMAN JOHANSON: Commissioner Kearns?

13 COMMISSIONER KEARNS: Thank you.

14 First I just would like to reiterate, or would  
15 like to double up on Commissioner Broadbent's request for  
16 sort of more granularity on the effect of the Petition,  
17 anything you can do to kind of put that all in one place.  
18 In particular, you know, the timing of when we see different  
19 trends in shipments and so forth. That would be very  
20 helpful.

21 On Critical Circumstances, you argue that imports  
22 were--that importers were on notice that imports in late  
23 2017 could be subject to retroactive duties based on your  
24 request to Commerce for an expedited Critical Circumstances  
25 determination to be issued with its preliminary

1 determination.

2 When was this request for an expedited Critical  
3 Circumstances determination filed?

4 MS. RINGEL: Brooke Ringel, Kelley Drye. I  
5 apologize for not having the exact date, but I believe it  
6 was mid-November. So I want to say between November 15th or  
7 19th. We'll clarify that. But it was mid-November.

8 And shortly thereafter, Commerce issued its  
9 preliminary--or it noticed that it would be postponing its  
10 preliminary determination to the end of January.

11 COMMISSIONER KEARNS: Okay, thank you. And  
12 following up on that, can you--normally we have a six-month  
13 period. Is what you're describing here in terms of the  
14 notice, or in terms of the filing that you made different  
15 from most cases? I mean, can you explain to us why the  
16 situation is different from what we would normally see?

17 MS. RINGEL: Brooke Ringel, Kelley Drye. I  
18 think, given the timing of both Petitioner's request and  
19 Commerce's notice of the postponement of the preliminary  
20 determination and how that corresponds specifically to the  
21 data of the Korean subject imports coming in on a monthly  
22 basis after the Petition was filed, demonstrates a  
23 correlation.

24 So I think in that case there's a basis for the  
25 Commission to consider a shorter period. It is not unusual

1 for parties in these cases where Critical Circumstances is  
2 an issue for the Commission to consider to argue for various  
3 time periods.

4 So in my experience and Mr. Rosenthal has a bit  
5 more than me, it's not unusual for either side to argue for  
6 something other than the typical six-month comparison  
7 period.

8 So--and it's certainly, most importantly, within  
9 the Commission's discretion to consider something other than  
10 the six-month comparison period if the data warrants it.  
11 And we believe in this case it does.

12 COMMISSIONER KEARNS: Okay. So one thing you're  
13 pointing out is that it is unusual for the Department of  
14 Commerce to postpone? Would you say that's one reason?

15 MS. RINGEL: Brooke Ringel, Kelley Drye. It is  
16 not unusual for Commerce to postpone. What is critical here  
17 is the fact that the public announcement was made, the  
18 notice in the Federal Register, that indicated when  
19 Commerce's determination would be coming out, which would be  
20 the end of January, at which point, knowing that Petitioners  
21 have requested, or made a Critical Circumstances allegation,  
22 importers could simply subtract 90 days and see that if  
23 Commerce reached an affirmative Critical Circumstances  
24 determination those provisional duties would go into effect  
25 for entries beginning approximately early November.



1           COMMISSIONER KEARNS: Okay, but I'm still trying  
2 to understand. It seems to me that that's--that this is  
3 sort of the normal course of events. That's not unusual for  
4 the Department of Commerce to postpone, and that it's not  
5 unusual to request Critical Circumstances around the time  
6 that you requested it. Is that fair?

7           MS. RINGEL: That is fair. Brooke Ringel, Kelley  
8 Drye. I think that's a fair point. Again, here the way we  
9 read the data, the data demonstrates an import response to  
10 that timing even if it is not unusual that would warrant an  
11 affirmative Critical Circumstances determination.

12           COMMISSIONER KEARNS: Okay. Thank you.

13           And then also on Critical Circumstances, the  
14 Respondents spend a bit of time talking about looking at  
15 subject imports as a percentage of total imports, or as a  
16 percentage of the U.S. market, and arguing that the Critical  
17 Circumstances don't exist here on that basis.

18           Is that a relevant consideration? In other  
19 words, if there is a large increase in subject imports, but  
20 subject imports let's say are a small percentage of overall  
21 market share, is that something we should be considering in  
22 a Critical Circumstances case? And if so, why? And how  
23 should we evaluate that vis-a-vis just the simple overall  
24 increase in the subject imports compared to where their  
25 base was?

1 MS. RINGEL: Brooke Ringel, Kelley Drye. We will  
2 be happy to address that analysis fully and to address  
3 Respondents' arguments in our posthearing brief.

4 But briefly, I will say that the arguments put  
5 forward by the Respondents, including with respect to  
6 nonsubject imports, and with respect to the market overall,  
7 are not directly relevant to the Commission's consideration  
8 because the Critical Circumstances determination would apply  
9 only to those subject imports from Korea for which the  
10 Commission reached an affirmative preliminary  
11 determination, Critical Circumstances determination, and  
12 perhaps an affirmative final Critical Circumstances  
13 determination which we're still awaiting.

14 So every foreign producer operates differently,  
15 has different strategies, has undertaken different export  
16 strategy post-petition, so really what's critical here is to  
17 look at, as the Commission's test lays out, the increase in  
18 those imports subject to the Critical Circumstances analysis  
19 and what impact those had on the presence of those imports,  
20 and including the presence of the increased inventories  
21 which we have in this case, have on the effect of the  
22 Orders. And whether the effect of the Orders is  
23 undermined.

24 COMMISSIONER KEARNS: Okay, thank you. I have no  
25 further questions.

1                   CHAIRMAN JOHANSON: I think I have two more  
2 questions.

3                   Petitioner noted in its prehearing brief that  
4 Korean Producer Torrey added a new low-melt PSF production  
5 line in September 2016, and that Torrey claims its capacity  
6 expansion makes it the third-largest low-melt PSF producer  
7 in the world. And this is in your brief at page 44.

8                   Please explain the effect that this had on Korean  
9 imports during the Period of Investigation, and will have in  
10 the imminent future?

11                  MS. RINGEL: Brooke Ringel, Kelley Drye. I think  
12 the data--that information which is publicly available,  
13 speaks for itself. I think there is sufficient evidence on  
14 the record to demonstrate--and again without getting into  
15 confidential information--but there's sufficient evidence on  
16 the record to demonstrate that the Korean subject industry  
17 has significant excess capacity and is highly export  
18 oriented.

19                  The addition of the line, and the addition of the  
20 capacity during the Period of Investigation by Torrey  
21 further supports that. And all of that goes to the threat  
22 that the Korean subject industry poses to the domestic  
23 industry with further material injury.

24                  CHAIRMAN JOHANSON: Ms. Beck?

25                  MS. BECK: Yes, Chairman. Also to add, the data

1 that was received by the Commission from Torrey in the  
2 preliminary, that's actually based on questionnaire  
3 information, also supports that. I would just direct you--  
4 it's also addressed on page 44 of our brief, but it also  
5 supports the expansion.

6 CHAIRMAN JOHANSON: Alright, thank you, Ms. Beck.  
7 I will look at that and thank you also, Ms. Ringel.

8 At page 17 of your brief, Petitioner notes that  
9 low-melt PSF is produced to industry specifications. What  
10 are those specifications? Are they customer specific, or  
11 tied to particular industry standards?

12 MR. SPARKMAN: Michael Sparkman, Nan Ya Plastics.  
13 Those are tied to industry standards. Those standards were  
14 set long before Nan Ya started producing these fibers in  
15 there. The determinations of those are, again, due to their  
16 end uses.

17 The most common is the 110 low-melt, where the  
18 outer sheath starts to melt at approximately 110 degrees  
19 Celsius. And that's due to trying to get their own  
20 temperatures in their ovens to correspond with the melt  
21 temperature of our product.

22 CHAIRMAN JOHANSON: Are the standards the same  
23 for the Korean producers?

24 MR. SPARKMAN: Yes.

25 CHAIRMAN JOHANSON: Okay, well thank you for your

1 responses. That concludes my questions.

2 Do any other Commissioners have questions?

3 (No response.)

4 CHAIRMAN JOHANSON: Do staff have questions?

5 MS. HAINES: No questions for staff.

6 CHAIRMAN JOHANSON: Do Respondents have any  
7 questions?

8 MR. MENEGAZ: No questions at this time.

9 CHAIRMAN JOHANSON: Okay. In that case, it's a  
10 quarter till. Why don't se break for lunch and come back at  
11 12:45. And I remind staff and parties not to leave  
12 confidential business information in the room, as the  
13 hearing room is not secure.

14 Thank you. We will now recess for lunch.

15 (Whereupon, the hearing was recessed to lunch, to  
16 reconvene at 12:45 p.m., this same day.)

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1   AFTERNOON SESSION

2                   CHAIRMAN JOHANSON: Mr. Secretary, are there any  
3 preliminary matters?

4                   MR. BISHOP: Mr. Chairman, I would note that the  
5 panel in opposition to the imposition of the anti-dumping  
6 duty orders have been seated. This panel has 60 minutes for  
7 their direct testimony.

8                   MR. MENEGAZ: Your Honor, I'd like to cede some  
9 time to Mr. Rosenthal who has something to say to the  
10 Commission.

11                   MR. ROSENTHAL: Chairman Johanson, over the  
12 lunch break, the Department of Commerce released its final  
13 results in the -- in this bigger investigation. Among the  
14 results were a zero margin for Huvis. So that's relevant to  
15 your consideration, but also, as part of that, the  
16 Department basically made a negative determination on  
17 critical circumstances for every party, other than Torrey,  
18 which is the one remaining producer and petitioners are  
19 prepared to and will withdraw our critical circumstance  
20 allegation before the Commission for Torey, the one  
21 remaining producer at issue. So that should simplify the  
22 rest of the proceedings this afternoon, I hope.

23                   MR. MENEGAZ: Yes, Mr. Chairman, we would also  
24 be prepared to rest our case because that was really the  
25 main reason we filed our brief. And so if the petitioners

1 are going to withdraw the critical circumstances allegation,  
2 that resolves the matter, then we would be happy to rest as  
3 well.

4 CHAIRMAN JOHANSON: So do any of the parties  
5 have anything else they would like to address at today's  
6 hearing? This is your opportunity, of course.

7 MR. MENEGAZ: I've consulted with my clients and  
8 they feel satisfied with that outcome and would have nothing  
9 else to add in the circumstances.

10 CHAIRMAN JOHANSON: All right. I might add this  
11 is my first hearing as Chairman. And this is a -- probably  
12 one of the more unique circumstances we've encountered here  
13 at the Commission. So I guess it's just my luck, beginner's  
14 luck here.

15 With -- let me ask staff real quickly, do you  
16 have any comments staff or any questions?

17 MS. HAINES: Elizabeth Haines, staff has no  
18 questions? Anybody, no?

19 CHAIRMAN JOHANSON: Okay, let me do that. Okay,  
20 let me check. I have no further comments then.

21 Commissioner Kearns, do you have any comments?  
22 Okay. Let me check with my other colleagues as well to give  
23 them an opportunity to respond.

24 MR. ROSENTHAL: Commissioner Johanson, I do want  
25 to say a few words in closing when it's my turn, but I

1 thought it'd be really kind of cool if we got done with the  
2 respondents right now before the rest of your colleagues  
3 came and surprised them.

4 CHAIRMAN JOHANSON: Well, they're going to be  
5 surprised any way, I assume. Are you aware of --  
6 Commissioner Williamson, do you have any comments or any  
7 concerns?

8 COMMISSIONER WILLIAMSON: No.

9 CHAIRMAN JOHANSON: Okay, so there are none from  
10 Commissioner Williamson. There are no -- none from  
11 Commissioner Broadbent, I've been told. So let's -- we'll  
12 wait for Commissioner -- until we hear from Commissioner  
13 Schmidtlein.

14 All right, I think what we will do, if  
15 Commissioner Schmidtlein has any more concerns, we will  
16 allow her to provide a written question to the parties. All  
17 right. Okay.

18 Well, we will wait for Commissioner Schmidtlein.

19 (Pause)

20 CHAIRMAN JOHANSON: All right, I have been  
21 informed by Commissioner Schmidtlein that she also has no  
22 additional comments. So with that, I'm going to ask the  
23 petitioners to make their closing statement, please, if you  
24 have one to make.

25 CLOSING STATEMENT OF PAUL C. ROSENTHAL



1                   MR. ROSENTHAL: So I have, what, 28 minutes?  
2 Thank you. I just have a few things to say and contrary to  
3 what I said to Mr. Bishop, I'm not planning to rebut my  
4 previous testimony.

5                   This is an important case for this particular  
6 industry and it's one of these fiber cases that is a series  
7 of ones that you've seen. I know there have been so many  
8 cases that you've seen in the metals industries over the  
9 years on some of these other products, but the fibers  
10 industry has in particular been adversely affected by  
11 imports --

12                  MR. BISHOP: Paul, can you get closer to your  
13 mike, please?

14                  MR. ROSENTHAL: Certainly. The fiber industry  
15 has been particularly adversely affected by a variety of  
16 imports over the years. You've seen the course denier case  
17 we talked about and then there's a fine denier case that's  
18 pending. There's a related case on pet resin and this one  
19 on low melt.

20                  One of the things that struck me in the  
21 conversation earlier this morning was a question about the  
22 Nan Ya production facility in the U.S. and the relationship  
23 to the parent company. And just as an aside, since I have a  
24 couple minutes, I will say that a number of the foreign  
25 companies who have established facilities in the U.S. are

1       fiercely dedicated to the success of those facilities and  
2       Nan Ya is among those companies.

3                 I'd like to use the line, there's no greater  
4       zealot than a convert. And in my experience, there's no  
5       greater believers in the U.S. fair trade laws than foreign  
6       producers who have invested in facilities in the U.S. to  
7       make the product here and employ Americans here and continue  
8       to be productive and create jobs in the United States.

9                 And Nan Ya's one of those companies who has done  
10       that. They participated in these other companies and their  
11       700 acre plant in Lake City, South Carolina is a testament  
12       to their dedication to U.S. production.

13                So when I answered Commissioner Broadbent's  
14       question about why the parent company didn't fill out the  
15       questionnaire, quite honest, they have no interest in  
16       exporting to the U.S. They are interested in making sure  
17       that their domestic U.S. company succeeds and they're  
18       willing to face competition in the U.S. from other fairly  
19       traded imports.

20                So that brings me to this case. And it's a true  
21       example of how the trade laws can work. You've seen the  
22       depths to which Nan Ya's production, its figures on the  
23       trade factors and the financial factors have fallen and  
24       you've seen what a dramatic improvement in many of the --  
25       those factors has taken place as a result of the affirmative

1 determination in this case.

2 It's -- it is dramatic, although it hasn't  
3 necessarily been reflected yet in the one most important  
4 factor and that's profitability.

5 Our hope here is that there will be an  
6 affirmative determination so that the progress that's been  
7 since the preliminary determination will be able to continue  
8 past that point and the industry will be not only supplying  
9 more of the domestic market, but supplying it at higher  
10 prices and at greater profitability. So it will be able to  
11 continue in this business for a long time to come.

12 So with that, I know we have a lot of things to  
13 follow up on for our post-hearing brief, but I do urge you  
14 based on the record you got before you that you have a  
15 substantial basis -- an overwhelming record to support an  
16 affirmative determination in these cases. Thank you.

17 MR. BISHOP: Mr. Menegaz, did you wish to give a  
18 brief closing?

19 CLOSING STATEMENT OF GREGORY S. MENEGAZ

20 MR. MENEGAZ: Good afternoon. In light of the  
21 developments, I just wanted to come up and take the  
22 opportunity to thank the Commission for their insightful  
23 questioning and their willingness to entertain our position  
24 in this case and in light of the circumstances, we have  
25 nothing to add on the merits for the case. And we -- again,

1 we appreciate your time. Thank you.

2 CHAIRMAN JOHANSON: Thank you. Mr. Kunik and  
3 Mr. Rosenthal, I will now make the standard closing  
4 statement. Post-hearing briefs, statements, responses to  
5 questions and requests of the Commission and corrections to  
6 the transcript must be filed by June 26, 2018. Closing of  
7 the record and final release of data to parties occurs on  
8 July 13th, 2018 and final comments are due on July 17th,  
9 2018.

10 With that, this hearing is adjourned.

11 (Whereupon the meeting was adjourned at 1:01  
12 pm.)

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## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Low Melt Polyester Staple Fiber (PSF) from Korea and Taiwan

INVESTIGATION NOS.: 731-TA-1378 and 1379

HEARING DATE: 6-19-18

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 6-19-18

SIGNED: Mark A. Jagan  
Signature of the Contractor or the  
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

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