

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
ACETONE FROM BELGIUM, KOREA,
SINGAPORE, SOUTH AFRICA, AND SPAIN

) Investigation Nos.:
) 731-TA-1435-1436 AND 1438-1440
) (FINAL)

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Place: Washington, D.C.
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1 THE UNITED STATES INTERNATIONAL TRADE COMMISSION
2 In the Matter of:) Investigation Nos.:
3 ACETONE FROM BELGIUM, KOREA,) 731-TA-1435-1436
4 SINGAPORE, SOUTH AFRICA, AND) and 1438-1440
5 SPAIN) (Final)

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Monday, October 21, 2019

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Main Hearing Room (Room 101)

11

U.S. International

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Trade Commission

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500 E Street, S.W.

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Washington, D.C.

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The meeting commenced, pursuant to notice, at

16

9:31 a.m., before the Investigative Staff of the United

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States International Trade Commission, Chairman David S.

18

Johanson, presiding.

19

APPEARANCES:

20

Commissioners Present:

21

Chairman David S. Johanson (presiding)

22

Commissioner Rhonda K. Schmidtlein

23

Commissioner Jason E. Kearns

24

Commissioner Randolph J. Stayin

25

Commissioner Amy A. Karpel

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1 CONGRESSIONAL APPEARANCE:

2 The Honorable Brian Babin, United States Representative,
3 36th District, Texas

4 OPENING REMARKS:

5 Petitioners (Stephen J. Orava, King & Spalding LLP)

6 Respondents (Mark B. Lehnardt, Baker & Hostetler LLP)

7

8 In Support of the Imposition of Antidumping Duty Orders:

9 King & Spalding LLP

10 Schagrin Associates

11 Washington, DC

12 on behalf of

13 Coalition for Acetone Fair Trade

14 Paul Sanders, Global Business Director, Chemical
15 Intermediates, AdvanSix, Inc.

16 Clay Stephenson, Senior Product Manager,
17 AdvanSix, Inc.

18 Frank Hayes, Chief Financial Officer,
19 ALTIVIA Petrochemicals, LLC

20 Tim Duhe, Commercial Vice President,
21 ALTIVIA Petrochemicals, LLC

22 Nicholas W. Hendon, Deputy General Counsel & Vice
23 President, Epoxy, Olin Corporation

24 Davor Safar, Global Business Director Upstream,
25 Olin Corporation

1 In Support of the Imposition of Antidumping Duty Orders

2 (continued):

3 Andrew Szamosszegi, Principal,

4 Capital Trade, Inc.

5 Charles Anderson, Principal, Capital Trade, Inc.

6

7 Roy Houseman, Legislative Director,

8 United Steelworkers

9 Bonnie B. Byers, Senior International Trade Consultant,

10 King & Spalding LLP

11 Stephen J. Orava, Stephen P. Vaughn, Christopher

12 T. Cloutier - Of Counsel

13

14 In Opposition to the Imposition of Antidumping Duty Orders:

15 Mowry & Grimson, PLLC

16 Washington, DC

17 on behalf of

18 Sasol Chemicals (USA) LLC

19 Sasol Chemicals North America LLC

20 Sasol South Africa Limited

21 (collectively "Sasol")

22 Ajith Harypursat, Manager of Product Stewardship and

23 Technical Services, Sasol South Africa Limited

24 Kristin H. Mowry, Sarah M. Wyss - Of Counsel

25

-- continued --

1 In Opposition to the Imposition of Antidumping Duty Orders

2 (continued):

3 Steptoe & Johnson LLP

4 Washington, DC

5 on behalf of

6 INEOS Europe AG

7 INEOS Americas LLC

8 Michael Foster, Business Manager,

9 INEOS Americas LLC

10 Lynn Calder, Commercial Director,

11 INEOS Phenol

12 Jim Dougan, Vice President,

13 Economic Consulting Services

14 Jerrie Mirga, Vice President,

15 Economic Consulting Services

16 Eric C. Emerson, Luke Tillman - Of Counsel

17

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-- continued --

1 In Opposition to the Imposition of Antidumping Duty Orders

2 (continued):

3

4 Drinker Biddle Reath LLP

5 Washington, DC

6 on behalf of

7 Lucite International, Inc.

8 Christine H. Frederic, Manager, Direct Procurement,

9 Lucite International, Inc.

10 Robert M. Connolly, Director, Procurement Services,

11 Lucite International, Inc.

12 Douglas J. Heffner, Richard P. Ferrin - Of Counsel

13

14 Barnes, Richardson & Colburn LLP

15 Washington, DC

16 on behalf of

17 Mitsui & Co. (U.S.A.), Inc. ("Mitsui")

18 Kathy Rayburn, Mitsui & Co. (U.S.A.), Inc.

19 Akifumi Ogawa, Business Manager, Aromatics & Industrial

20 Chemicals, Petrochemicals Department, Mitsui & Co.

21 (U.S.A.), Inc.

22 Matthew T. McGrath - Of Counsel

23

24

25

-- continued --

1 In Opposition to the Imposition of Antidumping Duty Orders
2 (continued):

3

4 Baker & Hostetler LLP

5 Washington, DC

6 on behalf of

7 The Dow Chemical Company

8 Monument Chemical, LLC

9 The Plaza Group, Inc.

10 CEPSA Quimica S.A.

11 James R. Knaub, Global Business Director,

12 The Dow Chemical Company

13 Jennifer A. Butcher, Senior Strategic Global Purchasing

14 Manager, The Dow Chemical Company

15 Qamar Bhatia, President,

16 Monument Chemical, LLC

17 Sarves Peri, Vice President, Supply Chain,

18 Monument Chemical, LLC

19 Jeff Haug, Director of Purchasing,

20 Monument Chemical, LLC

21 Randy Velarde, President,

22 The Plaza Group Inc.

23 Carlos Diaz Castro, Vice President, Sales & Marketing,

24 Phenol Chain Business Unit, CEPSA QUIMICA S.A.

25 Mark B. Lehnardt, Jake R. Frischknecht - Of Counsel

1 REBUTTAL/CLOSING REMARKS:
2 Petitioners (Stephen P. Vaughn, King & Spalding LLP; and
3 Christopher T. Cloutier, Schagrin Associates)
4 Respondents (Eric C. Emerson, Steptoe & Johnson LLP and
5 Mark B. Lehnardt, Baker & Hostetler LLP)

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1 P R O C E E D I N G S

2 (9:31 a.m.)

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

4 CHAIRMAN JOHANSON: Good morning. On behalf of
5 the U.S. International Trade Commission, I welcome you to
6 this hearing on the Final Phase of Investigation Numbers
7 731-TA-1435 and 1436, and 1438 to 1440, involving Acetone
8 from Belgium, Korea, Singapore, South Africa, and Spain.

9 The purpose of these final investigations is to
10 determine whether an industry in the United States is
11 materially retarded or threatened with material injury, or
12 the establishment of an industry in the United States is
13 materially retarded by reason of imports of acetone from
14 Belgium, Korea, Singapore, South Africa, and Spain.

15 Schedules setting forth the presentation of this
16 hearing, notices of investigation, and transcript order
17 forms are available at the public distribution table. All
18 prepared testimony should be given to the Secretary. Please
19 do not place testimony directly on the public distribution
20 table.

21 All witnesses must be sworn in by the Secretary
22 before presenting testimony. I understand that parties are
23 aware of the time allocations. Any questions regarding the
24 time allocations should be directed to the Secretary.

25 Speakers are reminded not to refer in their

1 remarks or answers to questions to business proprietary
2 information. Please speak clearly into the microphone and
3 state your name for the record for the benefit of the Court
4 Reporter and for those seated in the back of the room.

5 If you will be submitting documents that contain
6 information you wish classified as business confidential,
7 you are requested to comply with Commission Rule 201.6.

8 Mr. Secretary, are there any preliminary matters?

9 MR. BISHOP: Mr. Chairman, with your permission
10 we will add to the witness Nicholas W. Hendon, Deputy
11 General Counsel and Vice President of Epoxy with the Olin
12 Corporation to the petitioner panel.

13 With the exception of Mr. Hendon, I would note
14 that all witnesses for today's hearing have been sworn in.
15 There are no other preliminary matters.

16 CHAIRMAN JOHANSON: Very well. Let us open--
17 begin with opening remarks.

18 MR. BISHOP: Opening remarks on behalf of
19 Petitioners will be given by Stephen J. Orava of King &
20 Spalding. Mr. Orava, you have five minutes.

21 OPENING STATEMENT OF STEPHEN ORAVA

22 MR. ORAVA: Good morning, Mr. Chairman, members
23 of the Commission. My name is Stephen Orava. I will be
24 giving the opening statement for the Petitioners this
25 morning.

1 First I wanted to thank you and your staff for
2 all the time you're spending on this case. I know you have
3 a full docket, but I think this one should be an easy one
4 for you.

5 It really is a textbook example of material
6 injury by reason of subject imports. Every factor that you
7 normally consider supports this conclusion.

8 With respect to cumulation, acetone is a highly
9 fungible product. All subject imports compete in the U.S.
10 market with each other and with domestic production.
11 Without cumulation, it would be impossible to accurately
12 assess the impact of subject imports.

13 Regarding volume, from 2016 to 2018 subject
14 imports grew by almost 142,000 tons. That is an increase of
15 144.8 percent. Subject producers took 8.7 percentage points
16 of market share away from the domestic industry. By the end
17 of 2018, the market was heavily oversupplied. There can be
18 no question that the volume of subject imports was
19 significant.

20 Regarding price effects, the record shows
21 overwhelmingly that subject imports and the domestic like
22 product compete on the basis of price. The majority of
23 responding purchasers stated that they always or usually buy
24 the lowest priced acetone. The public record shows
25 significant underselling by subject imports in the Period of

1 Investigation, and our witnesses will testify that
2 underselling was particularly aggressive during 2018 when
3 the market became oversupplied.

4 These facts compel the conclusion that the price
5 effects of subject imports were significant.

6 Now on impact, the record shows that the domestic
7 industry's operating margin fell from 2017 to 2018, as
8 subject imports poured into the U.S. market.

9 Our witnesses will testify that due to the
10 oversupply caused by the subject imports, they had to accept
11 highly onerous 2019 contracts at prices far worse than
12 recent years.

13 The public staff report confirms this testimony,
14 showing that domestic producers who saw their operating
15 profits rise from 2016 to 2017 suffered a decline in profits
16 for 2018, and losses in the first half of 2019. These
17 losses, which are directly attributable to unfair trade,
18 show that subject imports had a significant adverse impact
19 on the domestic industry.

20 On threat, the losses suffered by U.S. producers
21 have left them extremely vulnerable to material injury going
22 forward.

23 Meanwhile, subject producers exported 1.7 million
24 tons of acetone last year. Even a small percentage of that
25 enormous volume would have a devastating impact when it's

1 dumped here.

2 Given these facts, there can be no question that
3 subject imports threaten further material injury. These
4 points are neither complicated nor difficult to prove. In
5 fact, these conclusions are the only objective
6 interpretation of the record before you. The foreign
7 producers and their allies cannot deny the compelling
8 record evidence in support or relief, and instead they try
9 to distract you by making inconsistent arguments, and by
10 asserting that any injury was caused by the inexperience and
11 poor management of those that will be sitting with me on the
12 Petitioner's table today. You will see for yourselves how
13 far that is from the truth.

14 Respondents assert that subject import rose in
15 late 2017 and early 2018 because of concerns that domestic
16 producer Shell was reducing capacity and that U.S. producers
17 allegedly refused to supply sufficient volumes to customers.

18 They also claim that any oversupply of subject
19 imports was resolved by the end of 2018. These arguments
20 should be rejected outright. Even if we blindly accepted
21 them as true, they cannot justify allowing subject producers
22 a free pass to aggressively dump almost 240,000 tons of
23 acetone into the U.S. market.

24 In this instance, the Respondents' arguments are
25 also simply false. Consider the following evidence:

1 First, despite what happened to Shell, the record
2 shows no significant change in U.S. production in 2018 and
3 certainly no shortage. Moreover, a shortage would logically
4 result in higher margins for acetone, but the domestic
5 industry's margins fell both in 2018 and in 2019.

6 Second, during the first four months of 2019 very
7 high volumes of subject imports continued to flood the U.S.
8 market. Now this was a full year after Shell's capacity
9 reduction, and even longer since Hurricane Harvey in 2017,
10 and that Hurricane didn't even affect ALTIVIA and AdvanSix.

11 This fact proves that subject imports were not
12 arriving to address a shortage. They came here and they
13 stayed here because subject producers were dumping excess
14 production. No significant reduction in unfair trade
15 occurred until three months after we filed this Petition.

16 Third, rather than any reduction of the
17 oversupply situation in late 2018, the sustained influx of
18 high volumes of dumped imports forced U.S. producers into
19 contracts that accelerated their operating losses. These
20 contracts can only be explained by the fact that domestic
21 producers were competing against a continuing oversupply
22 caused by unfair trade.

23 In short, the facts on the record demonstrate
24 that domestic producers have suffered devastating injury,
25 and unfair trade is the only explanation for that injury.

1 This harm will continue unless you grant relief
2 on all subject imports, and we urge you to do so. Thank
3 you.

4 MR. BISHOP: Thank you, Mr. Orava. Opening
5 remarks on behalf of respondents will be given by Mark B.
6 Lehnardt of Baker & Hostetler. Mr. Lehnardt, you have five
7 minutes.

8 OPENING STATEMENT OF MARK B. LEHNARDT

9 MR. LEHNARDT: Good morning. My name is Mark
10 Lehnardt from Baker Hostetler. I'm here on behalf of the
11 parties opposing the imposition of duties. Almost all
12 acetone is produced from cumene. The cumene molecule is
13 split to produce one pound of phenol for every 0.62 pounds
14 of acetone. Production for cumene is tied to phenol demand.
15 That is, when phenol demand increases, more cumene is
16 processed, and when phenol demand slackens, less cumene is
17 processed, so that the amount of phenol produced is not
18 greater than phenol demand. Phenol is produced in larger
19 quantities and is more valuable than acetone.

20 The industry refers to acetone as the byproduct.
21 It may be better described, for purposes of the ITC, as a
22 subordinate coproduct. Phenol demand determines acetone
23 production. The Commission evaluates all relevant economic
24 factors in its injury analysis within the context of the
25 business cycle and conditions of competition that are

1 distinctive to the affective industry. And when there are
2 inquiry complicating facts, the Commission must engage in
3 additional analysis.

4 And the Commission has done just this in other
5 byproduct and subordinated coproduct cases, including wheat
6 gluten, chlorine, anhydrous sodium sulfite, manganese
7 sulfate, perchloroethylene and more recently in a motion
8 steering butadiene rubber. In these cases cited in our
9 brief, the Commission takes a hard look at the conditions of
10 competition.

11 The petitioners failed to include a section on
12 conditions of competition in their prehearing brief. This
13 cannot be an inadvertent omission, and possibly is a
14 concession. Industry experts opposing imposition of duties
15 will describe the conditions of competition. These experts
16 include the largest producers of acetone in the world, five
17 of the largest U.S. purchasers of acetone, including
18 distributors who rely on domestic production must more than
19 on imports to supply their customers.

20 You will hear the following: Phenol demand
21 determines acetone production. Phenol production has been
22 built up in Asia, reducing the export markets for U.S.
23 phenol, causing U.S. phenol producers to rationalize supply.
24 U.S. purchasers are risk-averse, preferring long-term
25 contracts and overwhelmingly prefer domestic production.

1 U.S. producers cannot supply all demand in the U.S. The
2 U.S. is structurally short of acetone. And domestic supply
3 is often disrupted by weather, rationalization of production
4 because of phenol demand and plant maintenance.

5 For purchasers, supply security is paramount.
6 Their only solution is to diversify supply and that includes
7 imports. In August, 2017, Hurricane Harvey severely
8 disrupted supply in the Gulf Coast, and in November, 2017,
9 Shell announced it would be shutting down one of its phenol
10 acetone lines, account for about 10% of acetone capacity
11 because of low phenol demand.

12 Shell customers immediately sought to close the
13 gap for their 2018 needs. Several U.S. purchasers were
14 turned away by petitioners when they sought to contract 2018
15 volume. So their only option at the end of 2017 to secure
16 their 2018 needs, was to turn to imports. In early 2018,
17 imports began to enter the market to make up the expected
18 shortfall from Shell. Then phenol demand unexpectedly
19 increased significantly. Domestic producers increased
20 production to take advantage of fantastic phenol profits,
21 producing more acetone than expected. And Shell,
22 unexpectedly continued production longer than it had
23 announced.

24 Large purchasers had contracted all or as much of
25 their 2018 needs as they could in 2017, and the spot market

1 for acetone turned long. By the end of 2018, phenol demand
2 began to decline and acetone imports were withdrawing from
3 the market. Imports dropped off precipitously in early 2019
4 beginning before the petition was filed.

5 Mr. Dougan from ECS will explain how the data
6 match the conditions of competition and establish that
7 imports are not correlated to price or volume effects and
8 did not cause any adverse impact. Any injury was not by
9 reason of imports. You will also hear about a separate like
10 product in the industry, benzene-free acetone, which is
11 produced via an entirely different production process and is
12 sought by certain customers.

13 One last thought. The petitioners brought with
14 them a representative from United Steel Workers. We
15 encourage you to look at how production workers have been
16 affected in the acetone market in which petitioners claim to
17 be injured. The jobs of cumene process workers at companies
18 cited by USW depend on phenol demand.

19 In contrast, the jobs of USW workers at Dow's
20 facilities, who produce derivatives of acetone, depend on
21 acetone, not on phenol. We do not understand in an
22 investigation about acetone why any organization
23 representing workers would support workers whose jobs depend
24 on phenol rather than workers whose jobs depend on acetone.
25 Thank you.

1 MR. BISHOP: Thank you, Mr. Lehnardt. Would the
2 panel in support of the imposition of the antidumping duty
3 orders please come forward and be seated. Mr. Chairman,
4 this panel has sixty minutes for their direct testimony.

5 CHAIRMAN JOHANSON: You may begin whenever you'd
6 like.

7 STATEMENT OF STEPHEN VAUGHN

8 MR. VAUGHN: Good morning, I am Stephen Vaughn
9 representing the Coalition for Acetone Fair Trade. We will
10 begin our presentation this morning with a brief overview of
11 the critical facts. Here you see the key points in these
12 investigation. In 2018, the U.S. market was oversupplied
13 and subject imports caused that oversupply. The surge of
14 dumped imports forced domestic producers to accept prices
15 that gave them a lower margin on their acetone. By the end
16 of 2018, the market was plainly oversupplied, but subject
17 imports kept pouring into the United States until three
18 months after these petitions were filed.

19 In late '18, domestic producers negotiated
20 contracts for their '19 sales, but because of the
21 oversupply, they had to accept prices that led to operating
22 losses in 2019. These facts show the domestic producers
23 need trade relief to avoid further harm.

24 Now, let's go over the key statutory factors
25 beginning with cumulation. As you see here, and as the

1 Commission found in the preliminary phase of these
2 investigations, the Commission's traditional factors all
3 support cumulation. Acetone is a highly fungible product
4 and subject imports are overwhelmingly interchangeable with
5 the domestic like product. Subject producers were
6 simultaneously present in the U.S. market. They were
7 present in the same geographic market, and they were present
8 in the same channels of distribution. All of the subject
9 producers contributed to the excess supply. All of them
10 engaged in unfair trade and all of them were present in
11 significant volumes until these cases were filed. To
12 properly analyze the record, the Commission must cumulate
13 all subject imports.

14 Let's talk about volume. Here you see the
15 dramatic surge of subject imports over the period of
16 investigation. In only two years, the volume of dumped
17 imports rose by more than 140,000 tons, an increase of
18 almost 145%. This import surge, and not any factor, caused
19 the excess supply that has plagued U.S. producers of
20 acetone. Here, you can see the increase in the market share
21 of subject imports. Those imports took sales directly from
22 the domestic industry.

23 Look at this slide. In two years, subject
24 imports gained 8.7 percentage points of market share, while
25 U.S. producers lost 8.8 percentage points. The Commission

1 should find that all of the increase in subject imports came
2 at the expense of U.S. production.

3 The respondents have argued that they were drawn
4 into the U.S. market by concerns about shortages. But the
5 facts show otherwise. Here, you can see the domestic
6 production was stable from 2016 to 2018. Furthermore,
7 domestic producers had unused capacity that could've been
8 used to serve the U.S. market. As our witnesses will
9 testify, and as your record confirms, there was never a
10 shortage of acetone that justified the surge of dumped
11 imports which we saw during the period of investigation.

12 Here you can see what was actually happening in
13 terms of supply to the U.S. market. From 2016 to 2018, the
14 volume of acetone sold in the U.S. market by domestic
15 producers fell by about 24,000 tons. In other words,
16 basically stayed flat. The volume of nonsubject imports of
17 acetone rose by 2,600 tons, again, very little change. The
18 volume of subject imports rose by almost 142,000 tons.
19 Given these facts, you can be certain that the oversupply
20 that harmed domestic producers was caused by subject
21 imports, not any other factor.

22 Respondents will try to convince you that the
23 surge in unfair trade was justified by Shell's announcement
24 that it was reducing capacity, or by Hurricane Harvey, both
25 of which happened in 2017. But that is not correct. Here

1 you see that in full year 2018, the data that account for
2 Shell's capacity reduction, the domestic industry had almost
3 250,000 tons of unused capacity. To put that figure in
4 perspective, the domestic producers' unused capacity was
5 actually greater than the volume of subject imports in
6 2018.

7 This is all further evidence that respondents'
8 claims of a shortage or even an anticipated shortage in the
9 U.S. market is not supported by the record and should be
10 rejected.

11 By the end of 2018, it was clear to all
12 participants that the U.S. market was oversupplied. In
13 fact, both domestic producers and importers leased
14 additional capacity to store acetone in the U.S. Domestic
15 producers ultimately lost money on the sales in the first
16 half of 2019. Given these facts, no one can credibly argue
17 that the U.S. market needed even more dumped imports at the
18 beginning of 2019. But those imports kept coming.

19 What we've done here is show subject imports in
20 each of the first four months of the year from 2016 to 2019.
21 This allows a comparison that takes out any concerns about
22 seasonality. You can see the huge surge from 2017 to 2018,
23 but what is perhaps even more significant is that in early
24 2019, a full year after Shell reduced its capacity, subject
25 imports were coming into the United States at almost the

1 same levels as 2018.

2 In fact, subject import producers were on page to
3 ship 246,000 tons of acetone to the United States, a figure
4 slightly above 2018 levels. This chart shows why
5 petitioners had to bring these cases. There was no other
6 way to stop unfair trade. The chart also confirms that
7 subject producers were not responding to any shortage. They
8 were dumping excess production.

9 Let's provide a little more detail on this point.
10 Here, you can see the volume of subject imports during each
11 of the first six months of 2019. As you see, we filed these
12 petitions in February. Three months later, basically the
13 time needed for importers to adjust to the filing, the
14 volume of dumped imports finally declined. This chart
15 confirms that these cases are the only reason subject
16 imports left the market. Without trade relief, they will
17 come back and do further harm.

18 Now, let's talk about price effects. The record
19 shows beyond all question that subject imports compete with
20 the domestic like product on price. Subject imports and the
21 domestic like product are interchangeable. Almost every
22 responding purchaser identified price as one of the top
23 three facts they consider in purchasing decision. Most
24 purchasers state that they always or usually buy the acetone
25 offered at the lowest price. Given these facts, U.S.

1 acetone producers have no choice but to compete with
2 subject imports on price.

3 Almost all the underselling data is confidential,
4 which makes it difficult to discuss here. We have addressed
5 that data in our confidential brief. But the staff has made
6 public the overall volume of underselling and overselling in
7 your pricing comparisons. As you can see, it was plainly a
8 significant volume of underselling during the period of
9 investigation.

10 Our witnesses will tell you that throughout the
11 summer of '18, their customers pressed them to lower prices
12 to compete with dumped imports. They will also tell you
13 that in their contract negotiations for 2019, dumped imports
14 forced them to accept prices that have resulted in operating
15 losses for the domestic industry.

16 Now, let's turn to impact. The Commission is
17 supposed to evaluate impact in the context of business cycle
18 and that is particularly important here. The record leaves
19 no doubt that the domestic industry's profitability
20 collapsed toward the end of the period of investigation.
21 But as you see here, demand conditions were generally
22 favorable. Apparent U.S. consumption was up, 8.6% from '16
23 to '18. Most firms reported an increase in demand, both
24 inside and outside the United States during the POI. Under
25 these circumstances, one would've expected the domestic

1 industry's performance to improve. But, of course, it did
2 not.

3 While apparent U.S. consumption rose from 2016 to
4 2018, domestic production and shipments to the U.S. market
5 both fell. These facts cannot be attributed to demand or to
6 nonsubject imports. They can only be explained by the surge
7 of dumped imports that took so much of the market from
8 domestic producers. Conditions grew even worse in the first
9 half of '19.

10 We've already talked about the oversupply in the
11 U.S. market and the difficulty domestic producers had in
12 negotiating their contracts for '19. Here you see some of
13 the results. Major declines in U.S. production, U.S.
14 shipments and both the overall value and average unit value
15 of U.S. sales.

16 Finally, the domestic industry's financial data
17 is confidential and therefore we cannot show it here. We
18 urge you to consider our discussion of that data in our
19 confidential brief. The public staff report does allow us
20 to talk about trends in the data, and those trends are very
21 instructive. As you can see here, the domestic industry's
22 operating profit fell from '17 to '18, despite generally
23 strong demand condition.

24 And then U.S. producers suffered operating losses
25 in the first half of '19, the same time these cases were

1 filed to stop subject imports from doing more damage. The
2 only plausible cause of these losses is the oversupply in
3 the market. And subject imports are the only plausible
4 cause of that oversupply. In short, the record shows that
5 dumped imports flooded the United States market, taking
6 market share and devastating the domestic industry's profit
7 margin. Given these facts, you should find that subject
8 imports caused material injury to the domestic industry.

9 STATEMENT OF PAUL SANDERS

10 MR. SANDERS: Thank you. My name is Paul
11 Sanders, and I'm the Business Director for Chemical
12 Intermediates for AdvanSix. In this position, I'm
13 responsible for all customer facing aspects of our acetone
14 business. AdvanSix was created in October, 2016, when
15 Honeywell spun off its resins and chemicals business, which
16 included the acetone production operations. I've been with
17 AdvanSix since its creation and held the same role at
18 Honeywell for several years starting in 2014.

19 I also held other business leadership roles with
20 Honeywell since 2005. Before that, I held multiple roles at
21 Rhodia and Albright and Wilson. I have twenty-nine years of
22 experience in the chemical industry. I'm here with Clay
23 Stephenson, Senior Product Manager of AdvanSix, who has
24 eighteen years of experience working in the chemical
25 industry, including twelve years of managing the commercial

1 products produced at AdvanSix's Frankford facility.

2 AdvanSix is one of the largest producers of
3 acetone in the United States. The production and sale of
4 acetone is a critical part of our business operations,
5 generating hundreds of millions of dollars per year in
6 revenue. For many years, AdvanSix and our predecessors have
7 produced the highest quality acetone at our plant in
8 Philadelphia, to the benefit of our workers, the community
9 and our shareholders.

10 In the last half of 2018, however, our acetone
11 business began to decline precipitously, as imports from
12 subject countries continued flooding into an oversupplied
13 market. To stop these imports, AdvanSix, along with other
14 members of the domestic industry, filed antidumping
15 petitions in February, 2019. I appreciate the opportunity
16 to be here today. Our trade remedy petitions are critically
17 important to the success of our company, and we welcome the
18 opportunity to provide you with information that will
19 support an affirmative final injury determination.

20 AdvanSix produces acetone at its facility in
21 Frankford, Pennsylvania, in Philadelphia. Our facility has
22 two production lines that coproduce acetone and phenol, as
23 well as alpha-methylstyrene. We have the capacity to
24 produce about 350,000 short tons of acetone per year. In
25 2018, sales of acetone were approximately \$262 million,

1 representing about 17% of AdvanSix's total sales and about
2 50% of our chemical intermediate sales. For our plant to
3 remain viable, we must be able to obtain fair market prices
4 for the acetone we produce.

5 AdvanSix employs about 200 workers at its acetone
6 phenol facility in Frankford and 90 in our headquarters in
7 Parsippany, New Jersey. Our workforce includes about 105
8 members of the United Steel Workers.

9 The acetone we produce is used by our customers
10 to make a variety of products including adhesives, coatings,
11 paint, solvents and herbicides. Acetone also serves as a
12 building block for many plastics and resins that we use in
13 everyday life. Key applications include consumer products,
14 housing and automotive products.

15 For example, acetone is used to produce methyl
16 methacrylate, or MMA, a key building block for acrylic
17 plastics like plexiglass. Acetone is also used to produce
18 bisphenol A, or BPA, the building block for polycarbonates
19 and epoxy resins. AdvanSix makes acetone and coproduct
20 phenol using the cumene peroxidation method.

21 Almost all acetone in the United States and
22 globally is produced using this method. It works like this:
23 cumene, which is formed through the alkylation of benzene
24 and propylene, is placed into an oxidation vessel with
25 diluted soda ash solution. When the cumene makes contact

1 with the air, cumene hydroperoxide is formed. The cumene
2 hydroperoxide is then concentrated and fed into a reactor
3 where sulfuric acid is added.

4 The reaction makes the coproducts acetone and
5 phenol. The coproducts are then separated and purified
6 through distillation. In this process, the propylene
7 component of the cumene input ends up in the acetone, and
8 the benzene component ends up in the phenol. On average,
9 the cumene process produces one unit of acetone for every
10 2.21 units of cumene and 0.61 pounds of acetone are produced
11 for every pound of phenol coproduct produced. These
12 proportions are governed by the laws of chemistry and cannot
13 be changed.

14 Our production of acetone and phenol also results
15 in the production of a small amount of alpha methylstyrene,
16 or AMS. AdvanSix consumes some of the phenol it produces in
17 its downstream caprolactam facility in Hopewell, Virginia,
18 and the rest is sold in the merchant market. All of our
19 acetone and AMS is sold to unrelated purchasers.

20 The production of acetone is highly
21 capital-intensive. The equipment we use is expensive.
22 Building a Greenfield operation similar to AdvanSix would
23 cost in the range of \$500 million today. Moreover, the
24 production equipment requires continuing investment for
25 upkeep and repairs. Most producers undertake an annual or

1 biannual maintenance turnaround to keep their equipment in
2 top working order.

3 Given the need to cover high fixed costs and to
4 operate most efficiently, acetone producers have an economic
5 incentive to run their production lines constantly and at
6 maximum reliable rates. In fact, the equipment itself is
7 designed to run continuously, twenty-four hours per day,
8 seven days per week. We cannot be profitable unless we
9 maintain high capacity utilization rates. If we are forced
10 to run at lower operating rates, our operating efficiency is
11 significantly reduced and our unit costs go up dramatically.

12 Because of the way our equipment works, operating
13 at high levels of capacity utilization also makes our work
14 safer, leads to higher product quality and improves our
15 delivery performance. Simply turning our machinery on and
16 off can trigger technical problems upon restart and force us
17 to incur significant costs.

18 As noted in the staff report, 98% of the acetone
19 sold in the U.S. market is of a single standard grade, also
20 known as technical grade. Domestically-produced acetone and
21 subject imports are also highly substitutable. As stated in
22 your staff report, all responding U.S. producers and most
23 importers and purchasers reported that domestic product and
24 subject imports are used interchangeably.

25 As you would expect with a fungible commodity

1 product, competition in the acetone market is primarily on
2 price. This makes our industry particularly vulnerable to
3 underselling. As demonstrated in the staff report, U.S.
4 producers compete head-to-head with subject imports in all
5 parts of the market. Domestically-produced acetone and
6 subject imports are sold in the same channels of
7 distribution to both end users and to distributors. Both
8 are sold in the same manner on a spot and contract basis.

9 As noted in the staff report, most acetone sales
10 in the U.S. market, both contract and spot, are based on a
11 negotiated discount off the large buyer price. Also
12 sometimes called the large buyer market. First, let me
13 explain how the contract market works. These are not your
14 typical fixed-price, fixed-quantity contracts. Instead,
15 prices are variable based on an index of either market
16 prices or the principle input. Minimum and maximum volumes
17 are specified. Customers can and do typically purchase
18 more than the minimums, up to the maximums. But expect that
19 they will buy the additional product at the contracted
20 price.

21 The large buyer price is the basis for most
22 contract sales. It is established each month as a result of
23 negotiations between three acetone purchasers that make the
24 MMA, Dow, Lucite, and Evonik, and two U.S. acetone
25 producers, INEOS and Shell. In setting the large buyer

1 price, the negotiating parties put significant weight on the
2 price of refinery-grade propylene, or RGP, which is the
3 primary raw material in acetone.

4 But--and this is important--they also adjust the
5 large buyer price upwards or downwards depending on current
6 supply and demand conditions in the acetone market. Once
7 the participants establish the large-buyer price, typically
8 around the 25th of each month, it is published in several
9 industry publications, including IHS and ICIS. Most sales
10 then key off that price.

11 It is really important to understand that the
12 large-buyer price is not the actual price paid by customers.
13 In other words, no one actually pays the large-buyer price.
14 Instead, prices--and especially contract prices--are often
15 set as a discount percentage off the large-buyer price. For
16 contract customers, the discount rate is the key variable in
17 the annual price negotiations. Some of our customers prefer
18 to set the price as an adder to the price of refinery-grade
19 propylene, regardless of how prices are set, however,
20 monthly prices move up and down with the price of
21 refinery-grade propylene and with acetone supply and demand
22 conditions.

23 Contracts of one or two years are typically
24 negotiated with our customers in the last quarter of each
25 year. Once the discount rates off of the large-buyer price

1 is fixed in a contract, it is normally good for the duration
2 of that contract. When we make spot sales, the prices for
3 those sales can be established as a discount off of the
4 large-buyer index. That discount clearly is influenced by
5 current acetone supply and demand conditions.

6 Because of the close correlation between
7 large-buyer price and the price of the raw material input,
8 refinery-grade propylene, prices can move up and down for
9 reasons unrelated to the supply and demand for acetone.
10 Thus, rising prices do not necessarily correlate when
11 improvement in market conditions for domestic producers, as
12 this may only reflect an increase in the refinery-grade
13 propylene prices.

14 Accordingly, the absolute price is not what is
15 critical for our business. Rather, we require sufficient
16 margin over raw material costs in order to sustain our
17 business. An analysis that focuses on absolute pricing will
18 not give you an accurate assessment of market conditions.
19 Instead, the spread between raw material costs and prices is
20 the true reflection of what is going on in the market.

21 With that background in mind, I would now like to
22 provide you with AdvanSix's view of what has occurred in the
23 domestic acetone market over the period of investigation,
24 developments that led AdvanSix to join with other acetone
25 producers in the filing of antidumping petitions.

1 I would also like to correct some of the
2 misleading, and frankly, erroneous statements of the
3 respondents in their attempt to divert blame from subject
4 imports. The acetone business in the United States was
5 fairly healthy in 2016 and for most of 2017. However,
6 imports rose in 2017 and we started to notice their effect
7 in the last quarter of that year. In fact, imports in 2017
8 were up 51% from 2016 levels. In 2018, the import surge
9 accelerated and subject imports increased another 62% over
10 2017 levels.

11 Meanwhile, the U.S. industry was losing market
12 share to subject imports. Subject import market share more
13 than doubled from 7% of domestic consumption in 2016 to
14 15.7% of domestic consumption in 2018. Subject imports
15 continued to flood into the U.S. market in the first four
16 months of 2019. It was only after the domestic industry
17 filed antidumping petitions that subjects began to taper
18 off.

19 As imports surged in 2018, the prices of subject
20 imports dropped below the prevailing market price in the
21 United States and our customers began to put pressure on us
22 to lower prices to match the prices of subject imports. For
23 example, when we negotiated our contracts for 2018 sales at
24 the end of 2017, pressure from subject imports forced us to
25 increase the discount off of the large-buyer price for some

1 of our biggest customers.

2 That was bad enough. But conditions grew worse
3 in 2018. By the late spring of last year, our customers
4 were complaining that their contract prices were higher than
5 the prices prevailing in the spot market. In response to
6 these complaints and notwithstanding the existence of
7 previously negotiated sales contracts, we were forced to
8 lower our pricing, that is, increase applicable discount on
9 the large-buyer price for some major customers. By the
10 second half of 2018, we were also starting to see an
11 increase in subject imports being shipped to the United
12 States on speculation.

13 I heard of instances where traders would purchase
14 shiploads with no specific U.S. customer in mind and,
15 because of excess acetone inventory, would be forced to sell
16 it below their acquisition cost in order to free up storage
17 space for the next boatload. In other words, traders were
18 simply dumping products into the United States. In 2018,
19 another consequence of these practices was that a number of
20 our most important customers began taking only the minimum
21 volumes specified in their contracts with us, choosing
22 instead to make up the shortfall with lower-priced subject
23 imports.

24 We even had some of our customers break their
25 minimum-volume commitments with us and source instead from

1 subject imports. In the second half of 2018, the market was
2 completely over-supplied, yet the import trend continued.
3 We ran out of storage-tank capacity to hold the excess
4 supply that we could not profitably sell. Ultimately, we
5 had to match the prices of imports to try to maintain
6 utilization, even when that price was below our cost to
7 manufacture and even our raw material costs.

8 As a result, our acetone business became
9 unprofitable in the last half of 2018. Refinery-grade
10 propylene prices rose, but we were simply unable to increase
11 our prices to cover costs. This trend continued in 2019
12 with imports from subject countries rising, even two months
13 after we filed the antidumping petition. Our contracts for
14 2019, which were negotiated in an oversupplied market, led
15 to further losses.

16 I want to set the record straight on one of the
17 key arguments made by respondents. Respondents assert that
18 the petitioning companies created a shortfall in the market
19 in 2018 by refusing to enter into contracts with customers
20 at the end of 2017 for the 2018 purchasing year. They claim
21 that we decided to withhold volume from the contract market
22 to chase higher prices in the spot market. They say that we
23 were new, inexperienced producers who made poor management
24 and risky strategic decisions.

25 They're completely wrong. First, as I've

1 previously explained, AdvanSix is a continuation of
2 operations at Honeywell that were in the U.S. market for
3 many years. We're a well-established producer and our
4 people have decades of experience making and selling
5 acetone. Many in AdvanSix management team worked for
6 Honeywell as I did. Still others worked for Sunoco, who
7 owned the facility before Honeywell did. The Frankford's
8 facility has been operating and producing acetone since
9 1955.

10 Second, at no time did AdvanSix withhold product
11 from the contract market to chase higher prices on the spot
12 market. It has long been our practice to secure sales of
13 our production in the contracts. We negotiate in the fourth
14 quarter of each year. 2017 was no different for us than any
15 other year and, in fact, we sold more product through
16 contracts in 2018 than we did in 2017.

17 Finally, I can tell you that we did not refuse to
18 supply our customers in the wake of the announcement by
19 Shell to shut down one of its production lines. Instead, as
20 we were documenting our brief, AdvanSix went above and
21 beyond in its efforts to make up for any shortfall to
22 Shell's customers.

23 AdvanSix is a great company. We have
24 state-of-the-art equipment and a well-trained and dedicated
25 workforce, many of whom are USW members. We strive

1 constantly to be the most competitive player in the market,
2 but we simply cannot get a fair rate of return on this
3 product without your help.

4 All we ask is that you give us the chance to
5 compete in a market that is not distorted by dumped imports.
6 Thank you, and I look forward to your questions.

7 STATEMENT OF TIM DUHE

8 MR. DUHE: Good morning and thank you. My name's
9 Tim Duhe and I'm the Commercial Vice President of ALTIVIA
10 Petrochemicals. I'm joined here today by Frank Hayes, who
11 until this summer was ALTIVIA's Chief Financial Officer and
12 is now an advisor to the President and CEO of ALTIVIA. I
13 joined ALTIVIA in January of 2016. Before that I worked
14 with DuPont and Chemours for thirty-five years, most
15 recently as a sulfur product sales manager. I have
16 thirty-eight years' experience in the chemical industry.

17 At ALTIVIA, my responsibilities include the sales
18 and marketing of acetone, phenol and alpha-methylstyrene,
19 which are all products at ALTIVIA's facility in Haverhill,
20 Ohio. We're on the Ohio River in the southern part of the
21 state, just across from Kentucky. ALTIVIA was founded in
22 1986 and is headquartered in Houston, Texas. We have 150
23 workers at our Haverhill facility. We're also acquiring the
24 acetone derivative business from Dow, located in Institute,
25 West Virginia, adding another 150 employees and dedicated

1 contractors. That acquisition will close on November 1st,
2 and it'll make it even more important to ensure a fair trade
3 in this market.

4 These are stable, well-paying jobs and they're
5 critical to the communities in Southern Ohio and West
6 Virginia that otherwise suffered from economic decline for
7 decades. These days, these parts of Ohio and West Virginia
8 have some of the highest unemployment rates in the nation.
9 The jobs at ALTIVIA are critical, not only to the workers,
10 but to the economic health of the region.

11 ALTIVIA got into the acetone business when it
12 acquired the former Sunoco acetone phenol facility in
13 Haverhill, Ohio. In 2015, our facility, then known as
14 Haverhill Chemical, was owned by the Goradia Capital.
15 Goradia decided to idle the facility and enter into Chapter
16 11 bankruptcy. In my opinion, the production facility and
17 operations were sound, but some mistakes were made.

18 Cash flow problems had caused Haverhill to enter
19 into some contracts that were no longer competitive,
20 resulted in some negative margins. Haverhill was also
21 paying some pretty high rates for certain manufacturing
22 services.

23 We at ALTIVIA thought we could do better. We saw
24 an opportunity and purchased the Haverhill assets out of
25 bankruptcy in November of 2015. There were several factors

1 that made the investment attractive at the time ALTIVIA
2 acquired the facility. First, the business outlook in North
3 America for acetone and phenol were very strong with growing
4 demand in end-use applications. This was the most important
5 factor and we were particularly interested in significant
6 global growth forecast for paints and coatings,
7 polycarbonates including bisphenol A and phenolic resins.

8 Second, the facility is strategically located on
9 the Ohio River, which is in close proximity with the acetone
10 customers and with easy barge, rail and truck access.

11 Third, the facility has an experienced and
12 dedicated workforce with many workers having been at the
13 plant for decades.

14 Fourth, the facility located only fourteen miles
15 from the primary cumene raw material supplier.

16 Fifth, ALTIVIA received a very strong support
17 from acetone customers to restart the facility.

18 Sixth, and finally, Haverhill is unaffected by
19 Gulf Coast hurricanes. This fact means that we can serve as
20 a valuable alternate supplier during periods of
21 weather-related emergencies that occasionally affect other
22 merchant suppliers.

23 After completing the Haverhill acquisition,
24 ALTIVIA invested heavily to restart the facility and provide
25 working capital for operations. During 2016, our first full

1 year in charge, ALTIVIA operated one of the two production
2 lines at Haverhill. We broke even in the first year, which
3 is a great outcome, given the costs that's normally
4 associated with restarting an idled facility, and the
5 challenges of re-entering the market. In fact, we exceeded
6 management's expectations.

7 In 2017, our second year in charge, ALTIVIA
8 restarted the second production line, adding about 110,000
9 short tons of capacity for the domestic supply. This
10 decision to restart the second line was supported by
11 favorable market demand and pricing for acetone. We also
12 believed it was critical to ensure the financial
13 sustainability of this facility. Given the high fixed
14 costs of acetone production, it is vital that the Haverhill
15 facility generate output for both production lines.

16 During 2017, we were optimistic. The morale of
17 our employees and the community was very high. We enjoyed
18 higher shipments and investments including a fleet of 400
19 new railcars. Throughout 2017, ALTIVIA was in a strong
20 competitive position. We had upgraded facilities, a new
21 fleet of safer and more efficient railcars and a customer
22 base willing to support our increased production of both
23 acetone and phenol.

24 At that point, I certainly had no idea that I
25 would come here today and seek trade relief. However, in

1 late 2017 and 2018, imports of acetone into the United
2 States increased significantly at prices well below U.S.
3 market prices and in some cases, below acetone raw material
4 costs. The resulting oversupply caused market prices for
5 acetone in the United States to plummet while inventories
6 grew.

7 We suffered an imbalance between supply and
8 demand, as well as a significant price erosion. These
9 conditions were further aggravated when customers broke
10 contractual supply agreements with us. Rather than fulfill
11 their contracts, they wanted to take advantage of the very
12 low spot prices resulting from the unfair trade, and in the
13 case of distributors, because they were unable to compete
14 with the lower-priced imports.

15 At ALTIVIA, we did everything we could to
16 mitigate the harm caused by unfair trade. For example, we
17 incurred heavy costs to rent additional tank storage
18 capacity for the acetone we could not sell because of
19 subject imports. We also had to lease an additional ten to
20 twelve fleeted barges to store the acetone that we were
21 unable to sell, adding additional high daily demurrage
22 costs. But even with extraordinary measures, this was not
23 enough.

24 Dumped imports kept pouring into the U.S. and
25 last year, the market for acetone fell below our raw

1 material costs. These facts forced us to reduce output at
2 our plants, thereby increasing our per-unit costs each for
3 acetone and phenol. Again, let me emphasize that there's
4 nothing we could've done to avoid the problems. Unfairly
5 traded imports destroyed our plans and turned our profits
6 into losses.

7 Now we face a major crisis. If we cannot sell
8 acetone at a profit, we'll have to soon shut down one of our
9 production lines. If depressed pricing continues for too
10 much longer, we may have to shutter the whole facility. As
11 you heard from Mr. Sanders, fixed costs give acetone
12 producers an incentive to run their production facilities as
13 close to capacity as possible. We can reduce our operating
14 rates somewhat, but there is a rate below we cannot go
15 without triggering a shutdown, or facing shutdown on one or
16 both of the lines.

17 The adverse financial impact facing the domestic
18 industry could in fact result in plant closures and the
19 reduction of U.S. capacity. Once acetone production
20 facilities are shuttered, the cost of restarting them is
21 often prohibitive. The cost of building a new acetone
22 phenol facility comparable to the ALTIVIA Haverhill facility
23 would require four to five years and cost over \$500 million.

24 I'd like to give you some additional background
25 on the channels of distribution in the industry. Domestic

1 producers sell to both end users and to distributors, as do
2 U.S. imports of subject imports. Subject imports are also
3 entered into the United States by brokers and traders.
4 Distributors include national, as well as regional
5 distributors.

6 Imports enter the U.S. market through some
7 affiliated U.S. subsidiaries of the subject producers and
8 also through trading companies. Most of these importers
9 have had their only storage tanks and distribution networks
10 and have recently added additional storage capacity in order
11 to push more acetone into the U.S. market.

12 As Mr. Sanders noted, when acetone and phenol are
13 made from cumene, the propylene in the cumene ends up in the
14 acetone, and the benzene in the cumene ends up in the
15 phenol. So that's why the large-buyer price is established
16 as a function of the cost of refinery-grade propylene, plus
17 a markup also known as the spread.

18 As subject imports surged into the U.S. market
19 and in the latter part of 2017, the large-buyer markup over
20 refinery-grade propylene became severely compressed by late
21 2018. Many contracts involving both domestic and imported
22 acetone are set with reference to the large-buyer price. As
23 you have already heard, the large-buyer price is not the
24 actual price that the large buyers pay, but rather it is a
25 starting point of price negotiations.

1 The long-term contracts will typically be
2 established at the large-buyer published index price minus a
3 discount. This discount is established through contract
4 negotiations with our customers. So for shipments in any
5 given month, the price will be the large-buyer published
6 index price minus the agreed-upon discount. It'll also
7 reflect the significant distortions resulting from the
8 dumped imports.

9 Moreover, given the large-buyer price moves
10 monthly with the price of refinery-grade propylene, what
11 matters most is the margin we're able to obtain over the
12 cost over refinery-grade propylene. During contract
13 renegotiations of 2018 and 2019 purchasers, we were forced
14 to increase the discount off of the large-buyer price index.
15 Our customers pointed to the availability of the low-priced
16 imports and gave us a terrible choice. "Increase the
17 discounts or lose the business."

18 We cannot avoid these problems by selling into
19 the spot market. Spot market prices were also at heavy
20 discounts relative to large-buyer over the course of 2018
21 and 2019. Contract prices can also be established in
22 another manner. Based on the costs of refinery-grade
23 propylene, plus an adder.

24 Again, over the course of 2018 and 2019, we have
25 seen the adder over the refiner-grade propylene shrink due

1 to the low-priced imports. In fact, there are many recent
2 instances in which import prices were below the
3 refinery-grade propylene price. And no adders were even
4 achievable.

5 I wanna set the record straight on a couple of
6 the arguments made by the respondents. First, while the
7 respondents have finally conceded that acetone is coproduct
8 with phenol, and I'll assert that phenol is the dominant
9 coproduct and acetone is the subordinate coproduct. They
10 assert that production decisions are driven solely by phenol
11 demand and that undersupplied acetone market will not prompt
12 more acetone production. I can tell you categorically that
13 that's not true.

14 And the way we look at it at ALTIVIA, our
15 production decisions are driven by supply and demand
16 conditions for both acetone and phenol. The U.S. market is
17 somewhat unique in that supply and demand of acetone and
18 phenol is pretty much in balance. Thus, we look to sell
19 both products at a profit.

20 In fact, as noted earlier, ALTIVIA made the
21 decision to curtail production in 2018 and 2019 because of
22 the oversupply of acetone in the market and because we ran
23 out of storage space. In that instance, acetone conditions
24 drove the production decisions of the facility. To be
25 economically viable over the long-term, ALTIVIA, like any

1 other producer of the coproducts acetone and phenol, must be
2 profitable on both phenol and acetone. Relying on phenol to
3 carry an unprofitable acetone business is simply not
4 sustainable.

5 Moreover, through the acetone production process
6 may produce more phenol than acetone, that doesn't
7 automatically make phenol more valuable. In fact, in the
8 early part of the period of investigations, ALTIVIA was
9 ramping up its second production at Haverhill, acetone was
10 the more profitable part of the business.

11 Second, I wanna address respondents' assertions
12 that there was a shortage in the U.S. market in 2018,
13 prompted by the announcement by Shell in 2017 that it would
14 shut down one of its lines in Texas in mid-January of 2018.
15 The market was not short of acetone at the time that this
16 announcement was made in November, nor was it short when the
17 facility was actually shut down in February of 2018. The
18 market was already awash in subject imports at the end of
19 2017 and early 2018, even before the shutdown took place.

20 These shipments must've been arranged far in
21 advance of the shutdown announcement. Thus, additional
22 imports were not needed and dumped imports were certainly
23 not needed. But they entered the market anyway.

24 Respondents also failed to mention that ALTIVIA
25 was increasing its acetone capacity in 2017 as we were

1 ramping up production on the second acetone phenol line.
2 This added 120,000 short tons of capacity to the U.S.
3 market. Shell's overall reduction and closure of the one of
4 the production lines is said to be in the 130- to the
5 140,000 ton range. Thus, ALTIVIA made up for most or all of
6 Shell's capacity reduction. As these facts show nothing
7 that happened in the U.S. market justified an increase in
8 dumped imports of nearly 100,000 tons from 2017 to 2018.

9 ALTIVIA's a great company and we've invested a
10 lot of time and money in making the Haverhill facility as
11 competitive as any other acetone producer in the world.
12 We're very proud of our people and the hard work that
13 they've given us. We believe that on a level playing field,
14 ALTIVIA can thrive for many years to come.

15 It's heart-breaking to think that the lives of
16 our workers and their families could be ruined by unfair
17 trade. We must have prices that are fair and free of
18 dumping to survive. We cannot achieve this by ourselves,
19 therefore, we need you to make an affirmative injury
20 determination. Thank you, and be happy to take any
21 questions.

22 STATEMENT OF DAVOR SAFAR

23 MR. SAFAR: Thank you. My name is Davor Safar
24 and I am the Global Business Director for Epoxy Upstream for
25 Olin Corporation. In this position, I'm responsible for all

1 its allele, -- phenol acetone and Bisphenol A global
2 performance. I have been in my current position for two
3 years. Before that I worked for Olin as a Product Director
4 based in Zurich, Switzerland and before that, I worked for
5 more than 10 years for the Dow Chemical Company. I have more
6 than 15 years of experience in the chemical industry. Thank
7 you for permitting me to testify here today.

8 Acetone is an important part of Olin's
9 business and we are extremely concerned about the impact
10 that dumped imports has had on our acetone business. Olin
11 produces acetone and phenol at our facility in Oyster Creek,
12 Texas. Our facility is located next to our manufacturing
13 site in Freeport, Texas. We have over a thousand employees
14 supporting our acetone and other chemical manufacturing
15 facilities in Freeport area.

16 Olin entered acetone business in October 2015
17 when we acquired Dow's epoxy resins business which included
18 the acetone phenol facility in Oyster Creek. Many of the
19 people in charge of the operations and sales worked for Dow
20 before the sale of acetone business to Olin and, therefore,
21 has extensive experience in this industry.

22 We really started to see deterioration in the
23 acetone market in the last quarter of 2017. In late August,
24 Hurricane Harvey struck the Gulf Coast and in November 2017,
25 Shell issued a notice that it would idle one of its two

1 acetone phenol production lines at its Deer Park, Texas
2 facility in early 2018. Following this notice, and in a
3 speculative effort by the new and pre-existing acetone
4 traders to exploit this U.S. market developments, import
5 volumes increased into the U.S. market from all of the
6 subject countries. The purported supply shortage that led to
7 this highly speculative behavior, however, never
8 materialized. Although Shell idled its production facility
9 at the end of February 2018, the operational issues caused
10 by Harvey were short-lived and have had resolved well before
11 the end of the 2017 as the producers quickly returned to the
12 production.

13 Despite the rapid adjustment of the domestic
14 production, including the new capacity coming online from
15 Altivia, imports continued to flood the market selling at
16 very low prices. Subject imports in the first quarter of the
17 2018 were 77,000 tons, almost as much as the total in all of
18 2016. This import surge started the downward spiral in the
19 acetone market for the remainder of 2018 and 2019. Subject
20 supplier continued to push the volume into the U.S. for 2018
21 and arrange for long-term leases of new and larger storage
22 tanks capable of taking imports from ocean-going vessels. As
23 a result, the U.S. market became over-saturated which
24 compressed our margins.

25 In January 2018, despite sufficiently

1 available U.S. capacity, the United States went from being
2 net exporter to net importer of acetone. In addition, during
3 2018, spot market prices which, historically, have been
4 higher than the large buyer prices fell below that price.
5 Contract customers buying at a discount to the large buyer
6 price began to complain about having to pay higher price
7 than a smaller truck and rail customers.

8 Respondents argue that it was an expected
9 shortage in the market after Hurricane Harvey and the Shell
10 announcement that gave rise to the need for imports. I was
11 there, and I can assure you that there was no shortage. In
12 fact, the market was already in over-supply at the end of
13 2017, which resulted in Olin having to offer bigger
14 discounts of the large buyer price in order to place our
15 volume with the existing customers for 2018 purchases.
16 Moreover, even if one were to accept response [0:05:00.5] of
17 a perceived shortage by the second quarter of 2018, it
18 should have been evident to everyone in the acetone business
19 that the market is severely over-supplied. And yet, imports
20 just continued to flood into this market for the remainder
21 of the year and well into 2019.

22 Olin competes head to head with all subject
23 imports. There is not a single customer where we do not
24 encounter import competition. Olin's acetone business has
25 been adversely affected by unfairly traded imports. Olin

1 decided to take a month-long turnaround in March 2019 and,
2 despite that reduction in our supply, and the idling of the
3 Shell production line, prices continued to fall. We found
4 ourselves unable to compete at all in the spot market, where
5 the prices were very low due to imports. We lost
6 contractual volume and some contract customers opted to just
7 begin purchasing in the over-supplied spot market. Other
8 customers would only commit to a certain volume, and also
9 required us to agree that we would increase the discount to
10 the large buyer price mid-contract if the spot market prices
11 fell.

12 I think it's highly ironic that the
13 respondents accuse petitioners of creating a glut of acetone
14 in the U.S. market because, according to them, we were
15 chasing phenol profits. We did not do that, but the subject
16 producers did. By way of background, the U.S. market, for
17 both acetone and phenol, have historically been pretty
18 balanced between domestic production and domestic
19 consumption with some level of export and import sales. This
20 is the not the case for most of the subject producers,
21 however. They produce phenol for domestic and export markets
22 but do not have sufficient domestic demand for their
23 acetone. These facts explain why they are so dependent on
24 the export and why we are at a high risk without trade
25 relief. To deal with the terrible market conditions caused

1 by unfair trade, Olin is operating at sub-optimal
2 utilization rates. This hurts our profitability on acetone
3 because of the high fixed cost associated with acetone
4 production. We would like to run our facilities at a higher
5 utilization rate to avoid significant impact on our bottom
6 line.

7 I would like to sum up the forms of injury
8 that domestic industry has suffered as a result of dumped
9 imports from subject countries. First, we had to lower the
10 prices by offering steeper discounts to the larger buyer
11 price. Second, the large buyer price itself was affected as
12 a margin between the price of the refinery grade propylene
13 and the large buyer price narrowed. Third, customers only
14 purchased the minimum levels specified in their contracts.
15 Fourth, some customers opted to simply break the contracts
16 and buy on the spot market. Fifth, Altivia and AdvanSix had
17 to lease additional storage capacity for the acetone that
18 they could not sell profitably, as you have heard. Sixth, as
19 the storage capacity reached its limits producers had no
20 choice but to sell below their cost of good sold. Seventh,
21 subject imports destroyed the spot market as well as the
22 contract market.

23 At Olin, we are very concerned about what will
24 happen if the duties are not imposed to offset the high
25 levels of dumping that the patent of comments [0:09:16.3]

1 for imports of acetone. Producers in the subject countries
2 have a lot of excess capacity. They are also highly export
3 oriented and many have strong focus on the U.S. market. In
4 2018, subject producers pushed 1.7 million tons of acetone
5 into export market, almost 240,000 tons of which were
6 exported to the United States. The United States was
7 decimated in 2018 when around 15% of their exports came
8 here. If the government fails to impose anti-dumping duties,
9 the subject producers will view this as a green light to
10 dump with impunity into the U.S. market. Even a small
11 diversion of subject exports to the U.S. market will have
12 even more dire consequence on the U.S. producers.

13 Let me be clear: Olin is very concerned about
14 the future of its acetone business. The rapid penetration of
15 the U.S. market by subject imports with prices often well
16 below cost have already hurt our business and threatens to
17 cause even more harm in the future if the dumping goes
18 unchecked.

19 I thank you for your attention and look
20 forward to your questions.

21 STATEMENT OF ROY HOUSEMAN

22 MR. HOUSEMAN: Good morning. My name is Roy
23 Houseman. I am the Legislative Director for the United
24 Steel, Paper, Forestry, Rubber, Manufacturing, Energy Allied
25 Industrial and Service Workers International Union, better

1 known as the USW. The USW is the single largest industrial
2 union in the United States, and we are the dominant union
3 representing 30,000 workers in the chemical industry,
4 including traditional chemical plants, petrochemical units,
5 and chemical end-product manufacturing. The USW represents
6 workers employed in the production of acetone at AdvanSix
7 Frankfurt, Pennsylvania facility and at Shell Chemical's
8 Deer Park, Texas facility. In total we represent roughly 300
9 workers in the facilities producing acetone in the United
10 States.

11 As you know, the USW has a long history of
12 defending the interests of our members against the damage
13 done from unfair trade. We strongly support the petitions
14 filed by AdvanSix, Altivia, and Olin. What is clear to me,
15 from the staff report, is that this is an industry that has
16 suffered from material industry as a result of the imports
17 from the subject countries. Although Altivia is not a union
18 shop, the company saved hundreds of jobs in a rural part of
19 Ohio when they purchased the Haverhill facility out of
20 bankruptcy in 2015. This is one of the most economically
21 depressed parts of the United States and these jobs are an
22 important driver of the economy of the region. The county
23 poverty rate where the facility resides is 21.4% compared to
24 the national average of 12.3%. We have over a hundred
25 members who work at AdvanSix facility in Philadelphia.

1 As you have heard from the AdvanSix witness,
2 Mr. Sanders, their business is under siege from subject
3 imports. They have lost market share and, unfortunately,
4 have had to compete in a market where the prices have gone
5 below raw material costs. At the USW we know this is an
6 unsustainable situation.

7 In the chemical industry, which is highly
8 capital-intensive, machinery must be run at high rates of
9 capacity utilization in order to cover fix costs, to
10 generate critical returns to support maintenance and
11 investment and to optimize workplace safety. If companies
12 cannot even cover their variable costs, even production
13 lines are shut down and workers are laid off. We have
14 already had one acetone line cease production at the Shell
15 facility in Deer Park in 2018. The facility is one of the
16 largest taxpayers in Deer Park, Texas, and the chemical
17 plant represents close to 16 million in property taxes
18 alone.

19 Chemical workers in the domestic acetone
20 industry have advanced experience and are highly skilled.
21 These jobs provide a good living wage and benefits. They
22 play a critical role in their local economies and workers in
23 those jobs have a great opportunity to build a better life
24 for themselves and their families. As already demonstrated,
25 dumped imports of acetone from the subject countries are a

1 direct threat for these crucial jobs. On behalf of the USW
2 and all its workers I urge you to reach an affirmative
3 final determination in its investigation.

4 STATEMENT OF BONNIE BYERS

5 MS. BYERS: Good morning, Bonnie Byers on
6 behalf of petitioners. As you've heard from our witnesses
7 here this morning, the domestic industry producing acetone
8 is clearly suffering present injury. In addition, a review
9 of the threat factor shows that domestic producers will
10 suffer additional material injury in the absence of relief.

11 Producers in subject countries have
12 significant levels of excess capacity beyond that which is
13 needed for their domestic markets. During the POI, as noted
14 in the staff report, capacity production, capacity
15 utilization in subject countries all increased. The record
16 also shows that acetone producers have a strong incentive to
17 operate at very high capacity utilization rates. And that's
18 exactly what they did before, and what they will do unless
19 the Commission grants relief.

20 The record also shows that subject producers
21 are highly export oriented and already has significant
22 presence in the U.S. market. Furthermore, as China increases
23 its own production of acetone, subject producers will likely
24 lose sales in that market, making them much more desperate
25 to ship to the United States.

1 In Belgium, INEOS is the world's largest
2 producer and has two production lines with capacity of
3 465,000 tons. They are not operating at full capacity and
4 can increase exports to the United States. In Korea, there
5 are two acetone producers with a combined capacity of
6 880,000 tons. They are very highly export oriented and
7 public data shows that they exported about 48% of their
8 production in 2018. Nearly 30% of those exports, over
9 100,000 tons, actually came to the United States. Korea's
10 largest export market has been China but, as I mentioned
11 earlier, China is increasing its own production of acetone
12 and that means more dumping from Korea into the U.S. market.

13 Similarly, in Singapore, Mitsui Chemicals has
14 173,000 tons of capacity. A conservative estimate, based on
15 public data, indicates that Singapore exports about 84% of
16 its production and from 2016 to 2018 Singapore increased its
17 exports to the United States by 320%.

18 Sasol has 190 tons of capacity and they export
19 about half of the acetone they produce. In 2018, 35% of
20 Sasol's total exports came to the U.S. market. It's a
21 similar story with Spain, based on confidential information.

22 Considered as a whole, imports are increasing
23 rapidly with devastating impact. Between 2016 and 2018,
24 imports increased by more than 144%. Moreover, the rate of
25 that increase actually increased -- accelerated between 2017

1 and 2018. Subject imports more than doubled their market
2 share between 2016 and 2018.

3 As our testimony has shown, subject imports
4 have already resulted in significant price depression and
5 suppression. Inventories of subject imports threaten further
6 injury in the United States. Importers of acetone from
7 subject countries increased their lease storage tank
8 capacity for acetone by over 50% between 2016 and 2018.
9 Because these tanks are tied up for at least two years, they
10 are very expensive to lease and require substantial
11 investment to prepare them to store acetone. The importers
12 now hold a high fixed cost asset in the United States that
13 it can only recover by a steady stream of ingoing and
14 outgoing acetone shipments.

15 Subject producers also face barriers in third
16 country markets as indicated in the staff report. I just
17 would like to make one final comment which is that the
18 domestic industry, as you've heard this morning, is already
19 very vulnerable to further injury from subject imports.

20 Thanks very much.

21 CHAIRMAN JOHANSON: Thank you all for appearing
22 here today. We will now begin Commissioner questions with
23 Commissioner Kearns.

24 COMMISSIONER KEARNS: Thank you all for being
25 here today. Your testimony has already been very helpful.

1 I wanted to start with something I heard about the large
2 buyer price and annual contracts.

3 Mr. Sanders, I believe you stated that contracts
4 establish a discount from the large-buyer price. And if I
5 recall correctly from the staff report, the large-buyer
6 price is published monthly. Is that correct?

7 MR. SANDERS: Yes, that's right. So--I'm sorry.
8 Paul Sanders, AdvanSix. How it works is that every months
9 three MMA producers, Evonik, Dow, and Lucite negotiate the
10 large-buyer pricing along with two U.S. producers, INEOS and
11 Shell. And the negotiation depends upon the raw material
12 input, which is refinery grade propylene, which is a
13 published marker, and then on top of that they take into
14 account supply demand impacts in the U.S.

15 And so that marker is basically negotiated, and
16 roughly on the 25th of every month it's published in a
17 number of publications and freely available for everyone to
18 see.

19 COMMISSIONER KEARNS: Okay, and so then--and you
20 explained that in your annual contracts of course you
21 negotiate a discount from the large-buyer price. So my
22 question is: Does that mean that in an annual contract that
23 the price for the acetone will change per month based on the
24 newly published large-buyer price?

25 MR. SANDERS: Yes. Absolutely. What will happen

1 is that every month the refining grade propylene price will
2 move up and down, and that really does occur every single
3 month. And so in effect what happens is you'll see a flow
4 up and down, depending on the raw material costs and the
5 trade flow and supply demand on the acetone. And then for a
6 contract, we would have large-buyer price with a discount.
7 And the discount is what is negotiated on an annual basis.
8 And the discount is what has increased over the last two
9 years due to the influx of the dumped material.

10 COMMISSIONER KEARNS: Okay. And can the other
11 producers say whether that's true of their annual contracts,
12 s well?

13 MR. DUHE: Tim Duhe with ALTIVIA. That is
14 correct. That's the basis of the annual contracts. And,
15 again, the influx of the imports have really driven the
16 discounts even deeper.

17 COMMISSIONER KEARNS: Okay.

18 MR. SAFAR: Olin Safar. I mean this is also
19 correct. I mean--and over time, we needed to increase the
20 discounts versus the large-buyer mix as well.

21 COMMISSIONER KEARNS: Okay. Okay, so the
22 discounts over the past few years, you're saying, have
23 increased from the large-buyer price?

24 MR. SANDERS: Paul Sanders, AdvanSix. Yes, and
25 what's very much occurred is through the last part of 2017,

1 but certainly through 2018, a lot of our customers started
2 to see and get very transparent data around the dumped
3 material being imported from the five subject countries.

4 So what happens is the pricing for those products
5 is relatively transparent. It's a very fungible product,
6 acetone, so it all goes into mix tanks. So then what
7 happened is essentially in 2018 a number of our customers
8 came back to us, even though within contracting period, and
9 said, okay, we have a significant issue here. We're seeing
10 a lot of low priced material being imported from the five
11 subject countries. And what occurred then is there were
12 requests for deeper discounts, even within the contracting
13 period.

14 Some of our customers actually restricted the
15 amount of volume that were being priced to us, and brought
16 the volumes down to minimum rather than a medium level. And
17 then on top of that, it's almost like a viscous cycle,
18 because what really then occurs is the low-priced material
19 starts to be very clearly understood in the market. So
20 deeper and deeper discounts are being requested by key
21 customers.

22 And it got to the point during 2018, and
23 certainly in 2019 whereby another market, the distribution
24 market, got significantly impacted in that traders were
25 bringing in material from the five subject countries. They

1 were storing it in lease terminals, lease tanks, and were
2 essentially flipping the material. Because they weren't
3 always sold volumes.

4 So a case in point would be typically an importer
5 would bring in 3-, 4-, 5,000 tons, short tons. Maybe
6 they've got a purchase for 2,000 tons. And what could
7 happen is the remaining 3,000 tons is available for
8 speculation.

9 And the problem then is the trader generally has
10 another ship on the way. So there's a ticking timebomb
11 almost for the trader to move the material. And so what we
12 were seeing during 2018 and into 2019, and happening today,
13 is that material was still being flipped into the
14 distribution market.

15 So some of our contract customer came to us and
16 said, hey, the truck volume, 45,000 pounds, is the same
17 price as a 2.8--1.4 KT volume in barge. And so it's almost
18 like a viscous circle that suddenly the whole industry is
19 seeing these lower, very transparent fungible pricing.

20 COMMISSIONER KEARNS: Right. And just to make
21 sure I understand the dynamic here. I mean if you have
22 increasing, well, imports, essentially, coming in month
23 after month, I guess there's really two impacts that I'm
24 hearing.

25 I mean, one is on an annual basis the discounts

1 will grow. But then I guess also on a monthly basis, you're
2 doing this by the large-buyer price, so that's probably also
3 going to be deteriorating over time if there's a glut in the
4 market. Is that right?

5 MR. SANDERS: Yeah. It's two-fold. Certainly
6 the influx of low-priced imports being dumped into the U.S.
7 significantly increased the discounts on an annual basis.
8 So whenever you're going into that negotiation, the customer
9 is well aware of very low pricing coming in at or below
10 cost. Then they're going to show that price and very much a
11 driver, a deeper discount because of that. So that's number
12 one. So almost every year you're locking in a much lower
13 margin, and that's happened in 2018 and certainly into 2019
14 here, as you've seen from the staff report, a loss-making
15 industry.

16 The contract market is a very important piece of
17 the market. I mean I can't say exactly how much of a
18 percentage, but it's well in excess of 50 percent, and
19 certainly we'll provide information postconference around
20 the amount that's driven through the large-buyer
21 contracting.

22 But certainly the spot market, and the
23 distribution market is a more--is not always driven from the
24 large-buyer price. So clearly we're seeing much lower
25 margins and significant impact on our operating profits due

1 to the distribution market, and the spot market as well.

2 COMMISSIONER KEARNS: Okay, but now in 2019, I
3 know you all have said that because of the glut in 2018 that
4 that forced you all to negotiate contracts that have steeper
5 discounts in 2019, and that's why your profits are low in
6 2019. But I guess on the other component of this, the
7 large-buyer price, are you all starting to see that that's
8 bringing up prices under your annual contracts in 2019.

9 MR. SANDERS: Yes, so in terms of the large-buyer
10 price, you have to look at the large-buyer margin over the
11 cost of the raw material. The large-buyer price really is
12 going up and down along with the refining grade propylene
13 and some supply demand.

14 What you saw in 2019 is that large-buyer margin
15 spread was really at around about the 15 level at one point,
16 15 cents a pound, and this is published data, and it's kind
17 of dropped down, and now it's roughly around about 10 cents
18 a pound number. But really the most critical thing here is
19 no one buys the price, the large-buyer price.

20 COMMISSIONER KEARNS: Right, right.

21 MR. SANDERS: So really what everyone talks about
22 is large-buyer discount. So whatever that margin is, a
23 deeper discount is really going to seriously impact our
24 profits and our ability to maintain fixed cost absorption by
25 running our plants in a strong manner.

1 COMMISSIONER KEARNS: Mr. Duhe?

2 MR. DUHE: Tim Duhe with ALTIVIA. I just want to
3 add a couple of comments for ALTIVIA, as well. We had
4 customers who broke contracts. And in addition to what Mr.
5 Sanders was saying, it does absolutely have an impact on
6 where you can go with product.

7 If the imports are coming in and being dumped,
8 then we lose opportunity to actually move product. In our
9 testimony we talked about adding storage, fleeting barges.
10 So it has a volume impact as well as a price impact.

11 COMMISSIONER KEARNS: Okay, thank you. And then
12 a related question. Respondents argue that there has
13 historically been an inverse relationship between the RGP
14 prices and the acetone margin, or spread, that is
15 independent of imports. How do you all respond to that?

16 MR. DUHE: Tim Duhe with ALTIVIA. The imports
17 and the dumping absolutely have an impact on the
18 relationship of pricing as you set the spread. There is a
19 supply and a demand consideration that goes into that
20 negotiation.

21 But if you think of pricing and you think about
22 that spread, or you think about our build-up from an RGP
23 perspective, and some conversion costs, and you hope to get
24 a little bit of margin for return on investment, there is no
25 margin at this point with the prices that are being dumped

1 into the U.S. Okay? There is no opportunity to recover
2 converging costs. In fact, imports have come in below RGP.

3 COMMISSIONER KEARNS: So you don't deny, do you,
4 that there is historically an inverse relationship between
5 the two? Your point is just that right now what we're
6 seeing is that you actually have RGP prices that are higher
7 than the acetone prices?

8 MR. DUHE: No. Right now, RGP prices have kind
9 of normalized. We're seeing imports coming at below raw
10 material costs. If the RGP, as we talked about, it's the
11 RGP that goes into the acetone, those import prices have
12 come in below our raw material costs.

13 COMMISSIONER KEARNS: Okay. So what I'm hearing
14 is historically it may be true that there is some inverse
15 relationship? In other words, when RGP prices spike, that
16 doesn't necessarily mean an automatic, immediate increase in
17 acetone prices. However, more recently what we're seeing
18 with imports, I think you're saying, is that the gap has
19 narrowed. And in fact, your costs are exceeding the price
20 of acetone?

21 MR. SANDERS Paul Sanders, AdvanSix. So you may
22 see a spike in maybe a one-month period on RGP, or refining
23 grade propylene, but within that month, and certainly within
24 the next month, there's a correction in that large-buyer
25 marker.

1 So it really is a marker. So if refining grade
2 propylene went up two pennies in a month, then that
3 large-buyer market takes into account that movement over the
4 last 45 days in the RGP with its acetone price. So within
5 the month it gets corrected.

6 COMMISSIONER KEARNS: Okay, thank you. My time
7 is up. I'll continue later.

8 CHAIRMAN JOHANSON: Commissioner Stayin?

9 COMMISSIONER STAYIN: Thank you. The staff
10 report says that 14 of 33 purchasers reported that a
11 supplier was unable or unwilling to supply acetone since
12 January 1, 2016. Explanations were supply issue related to
13 Hurricane Harvey, product issues, supplier quality issues,
14 Force Mazur issues, and inability to supply. And some
15 indicated that supply was held--that volumes were held back,
16 unwilling to contract the production, and others the lack of
17 availability due to industry consolidation, production
18 issues, and Force Mazur opened a space for imports to come
19 into the market to respond to those problems with supply.

20 MR. SANDERS: Paul Sanders, AdvanSix.

21 COMMISSIONER STAYIN: Go ahead.

22 MR. SANDERS: So there's a lot of questions
23 within that question. From my point of view, and from
24 AdvanSix's point of view, if you look at the total
25 production of acetone by the U.S. domestic producers, it is

1 pretty much flat over '16, '17, '18. So there has been no
2 restriction.

3 The imported product has been dumped into the
4 market and forced the industry into an oversupply situation.
5 As you go through '16, '17, and '18, depending on the
6 different markets, so all the acetone arriving into the U.S.
7 is fungible. All the acetone arriving into the U.S. from
8 the subject importers can go into a large buyer, an MMA
9 producer, a large buyer like a derivative producer, or it
10 can land into the distribution market, truck and rail. It's
11 completely fungible.

12 So as AdvanSix, for many, many years, for
13 decades, we've built, for example, a distribution network of
14 very clear national and regional distributors that we work
15 with day in and day out. And so, yes, from time to time we
16 will refuse to supply a specific distribution point because
17 it could be a completely erroneous business decision,
18 because it would be customer--it would be distributor who's
19 competing with ourselves.

20 So obviously I don't have all the information
21 about who was refused, et cetera. So that is one point, in
22 that we will almost always drive our business through
23 long-term strategic customer relationships.

24 In terms of, for AdvanSix, we will provide some
25 information posthearing, but I can assure you that our sales

1 were not--were very compatible over those periods. And in
2 fact in 2018 we actually sold more material through
3 contracts, large-buyer contracts, than in 2017.

4 COMMISSIONER STAYIN: Yes?

5 MR. VAUGHN: Commissioner Stayin, Stephen Vaughn.
6 I just want to insert just a little bit to understand our
7 theory of the case.

8 In light of these instances I think that they're
9 talking about, you're talking about very short-term events
10 that may have happened back in 2016 or even in 2017. Our
11 point would be that those things cannot possibly explain why
12 you had a huge surge of imports in 2018, and why that surge
13 continued into 2019 long after there was a, you know, an
14 oversupply in the market. So I just wanted to clarify that
15 point.

16 MR. DUHE: Tim Duhe with ALTIVIA. I'd like to
17 add a couple of comments to that, if you don't mind.

18 COMMISSIONER STAYIN: Yes.

19 MR. DUHE: So in 2017 we were actually ramping up
20 another production facility. So we were actually adding
21 acetone to the market. And there was a big overlap between
22 the time we were adding, and Shell's still in place. So
23 there was plenty of supply of acetone during that period of
24 the Petition.

25 COMMISSIONER STAYIN: Yes. Ms. Byers, you

1 commented upon the importance of capacity utilization and
2 the fact that what this machinery, these kinds of machinery,
3 you had to really--to do it economically, you had to have
4 them running full-time. Would you like to comment further
5 on that?

6 MS. BYERS: Yeah, sure. You know, these are
7 massive pieces of equipment. Some of the staff were at
8 AdvanSix's facility last Friday, so they've seen this. It
9 is very capital intensive. Not only that, but this kind of
10 equipment can't just be turned on and off. There are
11 significant costs associated with restarting a shut down
12 facility. But beyond that, there are a lot of safety issues
13 related to turning things on and off.

14 So you don't want to be doing that. The
15 equipment itself is designed to be run 24/7, essentially.

16 COMMISSIONER STAYIN: Thank you. Mr. Duhe, did
17 you want to comment on that?

18 MR. SANDERS: Paul Sanders, I would also add--
19 Paul Sanders, AdvanSix. I would also add that this is the
20 same true for every global producer of acetone and phenyl.
21 Everyone wants to run their plants as hard as they can to
22 absorb the huge fixed costs.

23 COMMISSIONER STAYIN: Sir, would you like to
24 comment?

25 MR. DUHE: Tim Duhe with ALTIVIA. Just adding

1 to that, that these facilities, you know, you can run them
2 very hard. There is a rate that you can cut them back to,
3 but there is a point where it requires you to shut it down.
4 So this idea of starting them up and shutting them down is
5 not safe, not healthy for the equipment, but even with the
6 additional dumping it does require us to back down the rates
7 as low as we can go.

8 COMMISSIONER STAYIN: The bottom line is, you are
9 motivated to keep them going--

10 MR. DUHE: Absolutely.

11 COMMISSIONER STAYIN: --at full capacity. And
12 does that put you in a position where you would be more
13 competitive in the market to make sure that you have?

14 MR. DUHE: It would, if it would not be at a
15 loss.

16 COMMISSIONER STAYIN: At a loss? Okay. There
17 is this allegation that acetone is a subordinated coproduct
18 to the production of phenyl. I'd like you to comment on
19 this, because bottom line, the way it's been stated, is that
20 phenyl is the product that is more valuable, and that is the
21 driver of production. And that the availability of acetone
22 depends on whether phenyl is going up, down, whether the
23 demand is lower or higher. And this is important, I think,
24 to the overall investigation to get this cleared up.

25 Yes, sir?

1 MR. HAYES: Yes, I'm Frank Hayes from ALTIVIA.
2 I'm the former CFO. We all make these products from Cumene,
3 and there are no fixed relationship for where we found the
4 phenyl .61 pounds of acetone is produced, and that's based
5 upon the molecular weights of the product.

6 So they are manufactured together in a single
7 process in significant quantities. We have to take into
8 consideration the profitability of each product over its
9 cost of raw materials. That's how we generate the profits
10 to cover the high fixed cost.

11 So as we do our business planning at ALTIVIA, we
12 do that taking both products into consideration.

13 Also, I'd like to reiterate the point that was
14 made earlier, that in 2017 there was a period where acetone
15 was providing greater profitability per unit of Cumene than
16 phenyl. So categorically it is not run just for phenyl.

17 MR. VAUGHN: Commissioner Stayin, this is Stephen
18 Vaughn. I would just like to comment on some of the cases
19 that they mentioned earlier, because they mentioned them in
20 their brief, and I just want to talk about them here.

21 Basically they--I'm going to talk about three
22 cases that they referenced in their brief--chlorine from
23 Canada, manganese sulfate from China, and anhydrous sodium
24 sulfate from Canada. Those are the ones that they give a
25 lot of attention to. And they sort of tried to use these to

1 sort of claim that in this type of an industry you should
2 really only look at what's happening with the phenyl and not
3 what's happening to the acetone. And that's not what those
4 cases show at all.

5 In chlorine from Canada, the people actually
6 argued that when you have a situation like this, the
7 Respondents argued you should look at both the products
8 together, and the Commission said, no, we're not going to do
9 that. You can separate the two products, and we're going to
10 treat them separately, which is exactly what you're doing
11 here.

12 In that case, the Commission found that as a
13 matter of fact the oversupply of the chlorine was being
14 caused by domestic production not by the imports.

15 Here, as you've heard from the testimony, our
16 production of acetone was stable and did not contribute to
17 the oversupply. So that case just doesn't apply at all.

18 Manganese sulfate from China, in that case you
19 had one producer who made manganese sulfate as a coproduct,
20 and the Commission said, well, that's something we have to
21 take into account when we look at the performance of that
22 one supplier. Again, here you have strong testimony that
23 these Petitioners value both the phenyl and the acetone.

24 And then finally, anhydrous sodium sulfate from
25 Canada, again in that case, you were looking at coproducts,

1 that's true. But in that case the Commission found as a
2 matter of fact that subject imports were losing market share
3 and that the domestic producers were leading prices
4 downward.

5 Here, the record is very different. Subject
6 imports were gaining market share and they were the ones who
7 were leading prices downward.

8 So when they talk to you about these cases, they
9 do not apply. And they certainly do not justify
10 disregarding what's happened to the acetone industry.

11 COMMISSIONER STAYIN: Thank you very much.

12 I think my time is up. I'll pass it on.

13 CHAIRMAN JOHANSON: Commissioner Karpel?

14 COMMISSIONER KARPEL: Hi. Thank you. I want to
15 pick up a bit on the line of questioning Commissioner Kearns
16 was pursuing on price, and how prices are set in the market.

17 As I understand it, for these contracts, these
18 contract prices are set by the large-buyer price, which is a
19 makeup of the refining grade propylene, plus a markup. And
20 as I understand, this markup is determined by supply and
21 demand. Can you talk a little bit about how you get to that
22 markup amount, how supply and demand affects that, and what
23 other factors might be going into establishing that markup?

24 MR. STEPHENSON: Clay Stephenson with AdvanSix.

25 That large-buyer price is settled by the three MMA

1 producers, Lucite, Evonik, and Dow, as well as two acetone
2 producers, Shell and INEOS. So I can't comment exactly how
3 that mechanism works, since we're not involved, but if you
4 look at it over time and you look at the data, you can see
5 that that spread changes based on the supply/demand balance.

6 MR. SANDERS: Paul Sanders, AdvanSix. And then
7 every month it goes up and down, obviously, with the costs
8 of the raw material. It's a very clear delta. If the
9 refinery grade propylene goes up a penny, then you'll see
10 the large-buyer go up to a similar volume depending on the
11 stoeconomic rate.

12 MR. VAUGHN: And--Stephen Vaughn--you wanted to
13 hear more about like how the discount gets negotiated off of
14 the large-buyer price? Is that correct?

15 COMMISSIONER KARPEL: I do, but that wasn't my
16 question initially. I guess I'm trying to understand. You
17 focused on this discount price being impacted by subject
18 imports being in the market, but I guess I'm trying to get
19 my head around whether the large-buyer price is also
20 affected by that. Because to the extent that supply and
21 demand is determining the markup over the RGP price, which
22 gets you to the large-buyer price, it seems that your
23 arguments would apply to both. But correct me if I'm wrong.

24 MR. DUHE: Tim Duhe with ALTIVIA. What we were
25 saying is that over time as the imports came in and we had

1 an oversupply situation, you saw the spread, which is the
2 amount between the refinery grade propylene and the
3 large-buyer compress. So it actually went down because of
4 the oversupply. That's the impact of the imports.

5 MR. SANDERS: Paul Sanders, AdvanSix. One other
6 point. So the absolute margin that we make is a number of
7 different factors. Obviously the large buyer marker
8 settlement is one factor.

9 However, the deeper discounts that have been
10 driven specifically by the actions of the five subject
11 importers with the dumped material, particularly through
12 larger volume in later 2017 and significant volumes in 2018,
13 and continued through January to April 2019, those deeper
14 discounts really impact our overall margin. And those
15 numbers you will see directly flow through to the profit and
16 loss statements that obviously are not publicly available
17 but that will be disclosed postconference.

18 MR. ORAVA: Steve Orava. Just to clarify and
19 make sure we've answered your question, I think the answer
20 to your question is, yes. There's a lot of impacts of these
21 subject imports, and these subject imports have an impact on
22 the large-buyer price. They have an impact on the spread.
23 They have an impact on the discount, as well as many other
24 impacts that we've talked about in the testimony.

25 MR. HAYES: Frank Hayes with ALTIVIA. Our costs

1 in Cumene are based on RGP in part. So our costs are based
2 on RGP. The large-buyer price spread over RGP went down.
3 That was the first injury. Our costs did not go down.

4 Then secondly, we had to give higher discounts
5 off of that large-buyer price in order to get the business.
6 So it's a two-fold reduction in our profit potential without
7 a reduction in our cost to manufacture.

8 COMMISSIONER KARPEL: Thank you. And then going
9 to the discount price, can you--I'm sorry, I've forgotten
10 which of you all mentioned this point, but you said there's
11 a high degree of transparency about those discounts in the
12 market.

13 Can you talk about how those discounts are
14 communicated among--I mean through the market?

15 MR. SANDERS: Paul Sanders for AdvanSix. There's
16 not high transparency of discounts in the market. The
17 transparency more is around the pricing of the imported
18 material, the spot-pricing of the landed material from the
19 subject importers. But the transparency of the discount off
20 the large-buyer marker is largely a very confidential piece
21 of information between seller and purchaser.

22 MR. SZAMOSSZEGI: Andrew Szamosszei from Capital
23 Trade. The other things that are transparent are the
24 publication of the large-buyer price, and also the
25 small-buyer price. So those are widely known in the

1 industry.

2 But the actual discounts to those are in the
3 contracts when the producers contract something and come up
4 with a particular discount with a particular buyer and
5 that's confidential.

6 MR. VAUGHN: Stephen Vaughn. I think what we
7 were trying to get across in the testimony was that when
8 those imports come into the market, their price is very well
9 known. And then these customers who have these contracts
10 where some of the terms may be confidential, but they know
11 what their price is from their producers and they know what
12 the price is from the importers, and then that opens the
13 door for them to call back to their producers and say, hey
14 come on, you've got to do something for me because I can go
15 out into the market and get this stuff much cheaper from the
16 imports than I can get it from you.

17 And I think that was sort of the transparency
18 effect that we were talking about.

19 COMMISSIONER KARPEL: So maybe I need to
20 understand a bit better. I heard you talk about how the
21 domestic industry sets out its annual contracts. Are
22 imported products set out on annual contracts under sort of
23 the same sort of similar terms, or using the large-buyer
24 price? Or is it set somehow differently?

25 MR. SANDERS: Paul Sanders. We understand the

1 import price--I'll try to answer it, forgive me--we
2 understand what the import prices are generally from the
3 traders. And what's been happening is, because there's been
4 such a huge oversupply of acetone in the U.S. market in 2018
5 and 2019, a lot of those ships have been arriving and have
6 not been sold under contract.

7 So let's assume 50 percent is under contract, of
8 which frankly I would not be fully aware of the details
9 because that would be a confidential transaction between the
10 purchaser and the importer, however if 50 percent of that
11 material is available in that tank for resale, and for
12 whatever reason there is no other large buyer available to
13 take up that material for that week, that month, then
14 what's been happening is that material has been offered to
15 the distribution market into a rail car out of a Houston
16 terminal into a truck out of a Houston terminal.

17 And then it's very easy, and very transparent in
18 that market to understand what the pricing is, because it's
19 simply an adder to the freight element. And what's been
20 happening is that the 50 percent that's not being sold by
21 the speculative trader has been moving into that
22 distribution market at a huge discount to the market price.

23 And then the large buyer then is calling us
24 saying, well, hang on a minute. I've heard that truck is
25 available at an even lower price than I'm buying my bulk at.

1 And the reason why that price is being discounted by the
2 trader is they have another ship on the way and they need to
3 move that product out of that tank because the demurrage
4 charges are significant if the ship arrives and there's no
5 place to go.

6 But in terms of the contracting of imported
7 material to the large-buyer customer base, that's a
8 confidential piece of information. But certainly doesn't
9 account for anywhere near the volume that's been arriving.

10 MR. DUHE: Tim Duhe with ALTIVIA. What I can
11 tell you is that we compete against that price, right? And
12 it's a freely negotiated price sometimes between the
13 importer and whoever they can get to buy it.

14 That price comes back to us as a competitive
15 alternative. So it's at a price not necessarily discount.
16 We measure it, though, versus our contracts, when we see the
17 discount that was negotiated go further down because of that
18 price.

19 COMMISSIONER KARPEL: Is the spot market price at
20 all tied to the large-buyer price, or RGP price? Or is it
21 just sort of transaction-by-transaction?

22 MR. SANDERS: Paul Sanders, AdvanSix. The spot
23 price, or prices that are offered in truck and rail into the
24 small consumers, by default is a spot price. It can be
25 negotiated on that day.

1 It does obviously--there is a reference, and the
2 reference is what is the large-buyer pricing? What are the
3 published markers in that week? But what we've seen in the
4 huge influx of imported dumped product has really crashed
5 that market. And so that the absolute pricing, or the
6 margin over the contained propylene has really gone down to
7 an unsustainable level in that market as well as the
8 contracted market. And you'll see that in the
9 post-submission in terms of the profitability of the
10 industry.

11 CHAIRMAN JOHANSON: Thanks again to all of you
12 for appearing here today.

13 Joint Respondents argue that the 2019 data
14 demonstrate the lack of a linkage between subject imports
15 and the performance of the domestic producers because, while
16 subject imports declined, U.S. producers' production,
17 shipments, and sales also declined in comparing the interim
18 periods. And this is shown at page 50 of the Joint
19 Respondents brief.

20 Why does the domestic industry's performance
21 decline when subject imports' volume was declining? Mr.
22 Vaughn?

23 MR. VAUGHN: Yes, thank you, Chairman. So I
24 think what they've done here is that they're not really
25 taking into account sort of what was happening in terms of

1 timing, as you sort of went through the market.

2 So in the first place, you have a big surge of
3 imports that comes in in 2017-2018. That surge continues
4 well into 2018.

5 Now when they say, well, we were down from the
6 first half of 2018 to the first half of 2019, the only
7 reason they were down from first half of 2018 to first half
8 of 2019 was because we brought these cases. Because if you
9 look at the first four months, they were basically running
10 at the same level.

11 So for much of 2019, you had this very high
12 volume that continued to come in.

13 The second thing of it is, there's a bit of a--
14 you know, there's an effect, the imports have a double
15 effect which I think you've heard from the testimony.

16 First, in 2018 there's an immediate effect on
17 things like spot prices and other things like that. And
18 that shows up in the data. Because you see the domestic
19 industry's performance declined from '17 to '18, but then
20 there's this longer term effect. Because then the imports
21 affect the contract pricing for 2019, plus you have an
22 oversupply that's hanging in the market. And I think the
23 witnesses will tell you that they're still battling the
24 effects of that overhang.

25 So the story is, the import surge, the imports

1 did some harm in 2018. The imports continued to do harm in
2 2018 and continued to come in. We eventually brought a
3 case. That did cause their volume to go down, but the
4 ongoing harm of that volume continues, and to some extent
5 continues to this day.

6 CHAIRMAN JOHANSON: Thanks, Mr. Vaughn.

7 MR. SZAMOSSZEGI: Andrew Szamosszegi. Just
8 quickly, the other thing the Respondent try to do is they
9 try to show month-to-month, or quarter-to-quarter relatively
10 small variations. And what that methodology ignores is the
11 very, very large inventory overhang that's going into 2019.

12 And so whatever else happens in 2019, we do know
13 that imports continue and inventories were large going into
14 2019. And that has to have an effect on the price that the
15 domestic producers receive, both on contract going into
16 2019, and in spot during 2019.

17 CHAIRMAN JOHANSON: Thank you, Mr. Szamosszegi.

18 Mr. Vaughn, to follow up on your comments, Joint
19 Respondents argue that subject imports began declining even
20 earlier than 2019, pointing out that second-quarter 2018
21 subject import volume was lower than the first half of 2018-
22 -I'm sorry, that's second half of 2018 subject imports was
23 lower than the first half of 2018.

24 And this is seen at page 50 of the Joint
25 Respondents brief. They also argue that imports for the

1 first four months of 2019 were lower than those in the
2 corresponding period in 2018, also at page 50.

3 Do these data undermine any argument that the
4 post-petition effects explain subject imports declining
5 volume trend?

6 MR. VAUGHN: No. If we could go back to the
7 slide--so let's go back to the slide before this one. So as
8 you can kind of see, right, in the first place let's talk
9 about what happened in the second half of the year.
10 Everything is declining to some extent in the second half of
11 the year because the market is getting over-crowded.

12 But imports, for example, in the second half of
13 the year were still very high. For example, there were
14 33,000 tons that came in in October of 2018. If you look at
15 the page 4-14 of the staff report. So you had 19,000 tons
16 in July, 18,000 tons in August, 7,000 tons in September,
17 33,000 tons in October, 19,000 tons in November, 19,000 tons
18 in December. These are still very, very high volumes
19 compared to their historic amounts.

20 Then, as you see here, when you compare the first
21 four months of January of '18 to the first four months of
22 '19, I mean if you want to call that a "decline," but look
23 at how it compares to the first four months of '17, or the
24 first four months of '16.

25 And what's amazing about it is, not that it's

1 down a little bit, but that it is still so high given that
2 there's supposed to be a--you know, that there's this big
3 oversupply in the market.

4 Remember, their theory of the case is the only
5 reason we came in at all is because people got worried about
6 what was happening with Shell. Well Shell, they made their
7 announcement in late 2017. And that was done by February of
8 2018. Why are these imports still coming in a year later?

9 So I mean the fact--this completely refutes their
10 whole theory of the case. So I think for them to try to
11 rely on, you know, well, we went from 89,000 tons to 82,000
12 tons. Well, really? Because before you started surging,
13 you were around 30,000 tons.

14 CHAIRMAN JOHANSON: Thanks, Mr. Vaughn.

15 How do the pricing data on this record support
16 the argument of significant underselling or significant
17 price effects? According to the staff report, the data show
18 more overselling than underselling by quarterly instances
19 and volume during each calendar year 2016 through 2018, and
20 interim 2019. This is at page 5-25 of the staff report, and
21 table 5-8 of the staff report.

22 MR. VAUGHN: Commissioner, yeah--this is Stephen
23 Vaughn--we have addressed that. Our answer to that is
24 confidential. We will provide that in the posthearing.

25 CHAIRMAN JOHANSON: Okay, thanks, Mr. Vaughn.

1 Okay, now I'm going to move on to the whole
2 Hurricane Harvey situation. Having a friend whose house got
3 flooded during Hurricane Harvey, with pictures of him in a
4 raft in his front yard, I kind of have thought a bit about
5 that one.

6 Joint Respondents have argued that the 68.5
7 percent increase in subject import volume in August and
8 September 2017 was in direct response to the effects of
9 Hurricane Harvey on domestic supply. And this was argued at
10 page 37 of the Joint Respondents' brief.

11 Did the hurricane cause any of the increase in
12 imports that we observed?

13 MR. SANDERS: Paul Sanders from AdvanSix. At
14 least for AdvanSix we were not impacted by the hurricane at
15 all. In fact, we enabled additional volume to be made
16 available to the industry at that time to assist. And one
17 has to also remember that there's a certain number of
18 consuming plants, or acetone consumers that had reduced
19 volumes, as well, at that time because of the hurricane.

20 As far as we felt, there was really--it was all
21 over and completed, and the business was kind of back to
22 normal within a month or so.

23 CHAIRMAN JOHANSON: Yes, Mr. Duhe?

24 MR. DUHE: Tim Duhe with ALTIVIA. ALTIVIA was
25 not impacted by the hurricane, as well, and has testified

1 earlier that we were ramping up--

2 CHAIRMAN JOHANSON: Because you all are located
3 in Ohio?

4 MR. DUHE: We're in Ohio. But we were actually
5 ramping up our second line. And so that actually just had
6 us ramp it up quicker.

7 CHAIRMAN JOHANSON: Okay.

8 MR. DUHE: And most of the issues, we understand,
9 were transportation-related issues, not that there wasn't
10 acetone available. But the railroads were shut down, and
11 some of the other transportations during the hurricane. It
12 usually takes awhile for those things to recover. I'm not
13 aware of any empty tanks.

14 CHAIRMAN JOHANSON: Mr. Safar?

15 MR. SAFAR: Davor Safar from Olin. I mean we
16 were impacted by the Hurricane Harvey, and we did declare
17 the Force Mazur. I mean, however, first of all we lifted
18 the Force Mazur six weeks later, and it was not a complete
19 stop of the supply. We just allocated part of the volume.

20 CHAIRMAN JOHANSON: Thanks. Mr. Sanders?

21 MR. SANDERS: Yes. Paul Sanders, AdvanSix. So
22 the way the industry is situation, ourselves in
23 Philadelphia, ALTIVIA in Ohio, and a number of the others in
24 the Gulf area, it was almost like a natural hedge for
25 hurricanes and such issues.

1 CHAIRMAN JOHANSON: Okay. Mr. Anderson?

2 MR. ANDERSON: I was just going to also reiterate
3 about the natural hedge. I mean one of the arguments that
4 the Respondents were making is that U.S. users require
5 diversity of supply because of things like natural events
6 like Hurricane Harvey. But the fact is that the U.S.
7 production is actually fairly geographically spread to
8 mitigate that.

9 The second thing is, if in fact there was a
10 shortage because of Hurricane Harvey, you would expect to
11 see an increase in the spread between the large-buyer price
12 and the RPG price. That is, you would expect to see prices,
13 or margins increase. And that just really didn't happen,
14 because there wasn't a shortage of acetone in the market.

15 As mentioned, there was a sufficient amount of
16 inventory and product available from producers who were not
17 affected by Hurricane Harvey.

18 In addition, a number of the users of acetone
19 were affected. So the demand actually declined temporarily
20 as well.

21 So on balance, there was no huge, gaping need for
22 the enormous volume of imports, most of which came in well
23 after the Hurricane Harvey event had come and gone.

24 CHAIRMAN JOHANSON: Thanks for all your
25 responses. My time has expired.

1 Commissioner Schmidtlein?

2 COMMISSIONER SCHMIDTLEIN: Alright, thank you
3 very much. I would like to thank you all for being here.

4 So I want to ask a few questions that really go
5 to this argument about lack of correlation. And I guess, so
6 I want to come at it from a few different ways, but let's
7 start with the loss of market share. And the focus, it
8 seems from both sides in this case, has been on 2018 into
9 2019.

10 But when I look at the loss of market share--and
11 this is not confidential--you see that producers lost almost
12 the exact same amount of share from 2016 to 2017 as they did
13 from 2017 to 2018. So in both times, around 4.4, 4.5
14 percent, which is public information.

15 And so when I try to correlate that with what's
16 going on with regard to the underselling--so you've talked
17 about that this is a fungible commodity, price-sensitive
18 product, and that the underselling on an overall basis was
19 mixed, if you will. In fact, there was more overselling
20 than underselling on a total basis.

21 And I believe it's your Exhibit 6 where you break
22 down the underselling by quarter, right? And this is all
23 bracketed. But you show that there's a significantly more
24 underselling in the second and third quarter of 2018 than in
25 other quarters, right? And specifically going back when

1 you're looking at 2017, and even 2016.

2 So my question is: Why did the domestic industry
3 lose the same amount of market share from 2016 to 2017, if
4 this is a price sensitive, fungible commodity product but we
5 don't see predominant underselling in that period?

6 MR. VAUGHN: So I think you--I think that's--so
7 here's the way I would sort of ask it. The way we would
8 understand the data. So what happens in, and I think the
9 witnesses have all testified to this, you definitely see an
10 increase in imports from 2016 to 2017. It goes up about 51
11 percent. Our production stays generally flat.

12 As you know, there's a couple of things happening
13 in our market in terms of, you know, ALTIVIA is ramping up,
14 other people are cutting back. There are other events that
15 are happening in the market. So there's a number of things
16 happening in the 2017 space.

17 And also it appears that 2017 was a generally
18 favorable year for demand. Because you had a real increase
19 in demand, and you don't seem to have seen the kind of build
20 up in storage and things of that nature that you're going to
21 see in 2018.

22 COMMISSIONER SCHMIDTLEIN: Well 2016 to 2017 only
23 saw a two-and-a-half percent increase in consumption,
24 whereas a big increase in consumption came from '17 to '18.

25 MR. VAUGHN: And a lot of that--and a lot of that

1 obviously in 2018 is people building inventories. But I
2 guess what I would say is this: What's happening in 2017
3 is, yes, you are seeing imports starting to come into the
4 market. And I think these guys have all testified that by
5 the end of 2017 they were starting to feel pressure from
6 imports, and they were starting to get concerned about what
7 was happening with market conditions.

8 But if that had just been the end of it, I don't
9 think that we would necessarily be here today. What's
10 really concerning, and the reason we are here today, is
11 because what happened was that those imports just kept
12 pouring in and pouring in and pouring in.

13 Now part of that shows up as lost market share.
14 That's one of the factors that you're supposed to look at,
15 which is volume. But then the next thing that happens is,
16 that you start seeing our guys having to compete more and
17 more and more on the basis of price.

18 So that situation gets worse as 2018 goes on.
19 Now they're in a choice. They can either come down and
20 compete on the basis of price, or they can give up even more
21 volume.

22 They, having already given up 8 percent of the
23 market, they come in and start to compete more aggressively
24 on the basis of price.

25 That then has an effect on their margins, and

1 that leads to all the problems that we see down the road.

2 COMMISSIONER SCHMIDTLEIN: Okay. Well I guess
3 I'm not quite understanding why. What is the theory about
4 why they lost market share from 2016 to 2017? Was it
5 subject imports?

6 MR. VAUGHN: They certainly lost subject--they
7 certainly lost market share--

8 COMMISSIONER SCHMIDTLEIN: I mean, was it price?

9 MR. VAUGHN: They certainly lost market share to
10 subject imports. And, yes, I believe some of that
11 competition was on the basis of price.

12 I mean let's look at what's happening with your
13 underselling and your overselling data, anyway. If they
14 come down and they match these data, then it's not going to
15 show up in your data as overselling, right--I mean as
16 underselling. If they come down and compete on the same
17 price, then the underselling goes away and you don't have
18 that overselling.

19 COMMISSIONER SCHMIDTLEIN: But it was roughly the
20 same amount.

21 MR. VAUGHN: Correct. But I would say that what
22 was going on was that some of it was competition on the
23 basis of price. Some of it may have been just--I think
24 there's some testimony from the other side that certain
25 people just wanted to have other supply options. There are

1 a number of things that could have been happening in 2017.

2 COMMISSIONER SCHMIDTLEIN: That weren't happening
3 in 2018, too?

4 MR. VAUGHN: Yeah, because in 2018 things got
5 much--the behavior of everybody is much different. In 2017,
6 nobody's talking about how you have an overcrowded market,
7 and you have huge amounts of oversupply. That's not what
8 the testimony or the record shows.

9 The weird and strange behavior is actually in
10 2018 where you clearly have a market that's oversupplied,
11 and yet they keep attacking, and attacking, and attacking
12 the market and that's what leads to all these terrible
13 losses.

14 COMMISSIONER SCHMIDTLEIN: Okay. Alright, okay,
15 let's look at it from a slightly different way, then.

16 When I look at the pricing products--because
17 you're talking about how the supply is affecting the price
18 of all of this--and so obviously we've divided the pricing
19 products into spot, short-term versus annual long-term
20 contracts. Most of the U.S. shipments are in product four,
21 right? I think it's published in the staff report, the
22 extraordinary coverage in the pricing products of all of the
23 products, and 68 percent of that is in product four.

24 So when you look at what happens to the price of
25 product four, again in 2018, which is when, according to

1 your-all's exhibit as you broke it out very nicely for us
2 about what's going on with the underselling and overselling,
3 that's when the majority of underselling is going on.

4 But we see in the pricing products--and this is
5 not confidential--that in 2018 U.S. were 68 percent of their
6 shipments is able to increase their prices in the second
7 quarter--from the first quarter to the second quarter, from
8 the second quarter to the third quarter of 2018.

9 How were they able to do that, within the
10 underselling and the volume, as you've described it, surge?

11 MR. VAUGHN Exactly. So here's what happened.
12 In 2017, they come out of 2017 and they have these contracts
13 locked in for 2018, right? And that's the pricing that
14 you're seeing in product four, is that contract pricing for
15 2018.

16 Now as you has said in Q-2 and Q-3, you start
17 seeing lots and lots of underselling compared to those
18 prices that you're seeing there, right? In other words--now
19 remember that you're looking at the absolute pricing. The
20 absolute pricing is being driven by things like RGP and
21 things of that nature.

22 So that's another part of what's going on here.
23 It would be--I think if you looked at the data for how the
24 industry actually did in 2018, I think you're going to see
25 that when you start thinking about the actual margins, those

1 margins are being affected, right?

2 So to some extent, even in 2018 we think that
3 you're seeing the margins. In other words, if you look at
4 how your staff report--and this is public--the staff report
5 says that the industry made less--made lower margins in 2018
6 than they made in 2017. So even though the prices are
7 higher on an absolute basis, the margins are lower.

8 So now in Q-2 - Q-3, you're starting to see this
9 underselling. And it's starting to affect their margins,
10 right? And so then have to go back, and they respond. And
11 then you start to see--you may not necessarily see as much
12 underselling once they responded, but that's not because
13 they're no longer facing price effects. That's because
14 they've given in to the price effects. And now they're
15 having to give back price that they don't want to give.

16 Then of course you're going to see that big drop
17 off in the contract price that comes in in 2019. And again,
18 part of that is the change in what's going on with raw
19 material costs.

20 COMMISSIONER SCHMIDTLEIN: Right. There's a huge
21 drop in RPG--

22 MR. VAUGHN: Right. And a lot of that is the
23 absolute change. But again, look at the operating margin and
24 look at what's happening.

25 So I would argue that throughout that period, I

1 mean the only possible explanation as to why they made less
2 money in 2018 than they made in 2017 is because that margin
3 is shrinking. And that margin is shrinking because of the
4 oversupply and because of the increased competition of
5 subject imports.

6 COMMISSIONER SCHMIDTLEIN: Okay. So, let me go
7 back for a second, because we've talked about this annual
8 contract price. Maybe one of the witnesses wants to address
9 this. But, specifically, more: how does the spot market
10 price impact the annual contract price negotiations?

11 MR. SANDERS: Paul Sanders, AdvanSix. So I
12 confirm Steven's view that, looking at the price is not
13 really the driver here. It's that margin over the raw
14 material which drives our margin and that's what you'd seen
15 a significant reduction through the 2018 and 2019 period.

16 In terms of how low-price dumped imports
17 impacts the market price, if you like, I'll try to explain
18 in that an importer will bring in material at a price and
19 the driver for those imports are not necessarily anything
20 linked to the U.S. industry. So that price can come in and
21 we've seen significant underselling June 2018 and 2019 and
22 we've had to match some of those prices for spot deals.
23 We've had to match some of those prices in the distribution.

24 COMMISSIONER SCHMIDTLEIN: Right. So it
25 directly affects the spot market price. But my question is,

1 and I guess in more directly, are customers quoting the spot
2 market price to you --

3 MR. SANDERS: Yes

4 COMMISSIONER SCHMIDTLEIN: -- when you're
5 negotiating your annual contracts.

6 MR. SANDERS: So, absolutely. So, generally --

7 COMMISSIONER SCHMIDTLEIN: Can you put that on
8 the record? Can you put any contemporaneous documentation of
9 customers quoting you spot market prices and how they've
10 dropped in the context of negotiating your annual contracts?

11 MR. SANDERS: I'm sure we can.

12 COMMISSIONER SCHMIDTLEIN: Or long-term
13 contracts.

14 MR. SANDERS: Yes, yes.

15 COMMISSIONER SCHMIDTLEIN: Okay

16 MR. SANDERS: Yes, absolutely. And, so the
17 issue is obviously -- it's roughly in Q4, sometimes a little
18 bit earlier, Q3 to Q4, time framing renegotiated and, at
19 least, AdvanSix our annual contracts and, clearly, at that
20 time of the year the feedback is very clear: huh, all this
21 material coming in, being offered. I've got five traders
22 offering me "x" amount of volume next year and at a large
23 buyer minus big discount or an RGP plus a very small margin
24 and we have to respond to that. Our plants have run on a
25 very high fixed cost, so we have to make sure that we run

1 and maximize our operating rates. So we've had to absolutely
2 reset and increase discounts to large buyer which, over a
3 period of a year, will obviously reduce our margins.

4 And then the other part is: customers also
5 have, generally, been buying at or below minimum contract
6 levels and that's enabled purchasers to go and buy more of
7 the spot material. So, we've had to them chase the volume
8 into the -- into other markets, which becomes a spot market.
9 And that is very transactional, very transparent. And,
10 again, that's been impacting the overall profitability of
11 the whole U.S. acetone industry. And that's seen and
12 demonstrated in the report.

13 COMMISSIONER SCHMIDTLEIN: Okay.

14 MR. ANDERSON: Commissioner Schmidtlein, I just
15 want to elaborate on that last argument because it's an
16 important nexus that you don't normally see in cases
17 involving contract versus spot which is, the annual
18 contracts in this industry or the two-year contracts
19 typically have maximums and minimums. And the, sort of, the
20 convention in the industry is to purchase somewhere between
21 the maximum and the minimum but if you go above the
22 minimums, you pay the contracted price. If the spot market,
23 basically, becomes uh, price becomes so low, then the
24 contracted customers will essentially take only the minimums
25 and, in some cases, refuse to even take the minimums to

1 chase the price downward. That's the vicious circle, I
2 think, that Mr. Sanders talked about earlier which is, then,
3 when you come towards the end of the year -- the calendar
4 year -- when you're doing contracts, you've lost volume. The
5 only way to get that volume back is to increase the discount
6 on the contract price. So, there is a volume nexus as well
7 as a just straight price nexus between the spot and the
8 contract market.

9 COMMISSIONER SCHMIDTLEIN: Okay, alright, thank
10 you.

11 CHAIRMAN JOHANSON: Commissioner Kearns.

12 COMMISSIONER KEARNS: Mr. Anderson, just
13 continuing on that. I think if you can, post hearing,
14 provide as much documentation for that as possible. So, for
15 example, showing us how, maybe later in the POI, purchasers
16 were buying only the minimum, whereas earlier in the POI you
17 might see them buying, you know, more than just the minimum.
18 And also, you and others have referred a few times, at
19 least, to one contract that was broken, I think, annual
20 contract that was broken because spot prices were so low. So
21 anything that you can put on the record to substantiate
22 that, I think, would be helpful.

23 I also want to turn back to something else
24 that Commissioner Schmidtlein was asking about: 2016 versus
25 2017. Um, and I can't remember who, but someone mentioned in

1 the opening that the industry's income declined in 2018 as
2 subject imports grew. But, as the respondents point out, the
3 industry's income grew from 2016 to 2017 even though subject
4 imports grew during that same period by, roughly, the same
5 amount as they grew from 2017 to 2018. So how would you
6 respond to that argument?

7 MR. VAUGHN: So, this is Stephen Vaughn. I
8 would say that it's a pattern that the Commission has seen
9 in a number of other cases and I don't think that it's that
10 unusual. In other words, I think the record shows that
11 demand, over the period from 2016 to 2018 is generally quite
12 favorable. And I think the testimony of the witnesses here
13 today has been that, in 2017 for example, Altivia was
14 feeling generally hopeful and things were generally getting
15 better. And so, you have a situation where the market is
16 generally rising and generally improving. Now, in that type
17 of a market, you can have a situation where, for a while,
18 imports can come into the market and can even take some
19 market share and, while you're losing, you may lose some
20 volume, it doesn't really start to affect your price and you
21 don't necessarily see it turn up in your bottom line in
22 terms of your operating margin.

23 What happened here, and what's happened in
24 other ABCDE cases in the past is, is that the imports just
25 kept coming and coming and coming and coming until the

1 market was eventually completely over-supplied. So that,
2 basically, the various parts of the statute that you guys
3 were supposed to look at, basically happened in the same
4 order that they're listed in the statute. First, there's a
5 loss of volume. Second, there's a price effect, and third,
6 there's an impact that results from both the price effect
7 and the volume effect. And that's, pretty much, the order
8 that you would expect it to happen in and that's the order
9 in which they happened here.

10 COMMISSIONER KEARNS: Okay, thank you. But,
11 again, and going to what Commissioner Schmidlein was asking
12 you about. I mean, how is it that when, early in the POI it
13 seems like there was more overselling than underselling? How
14 were they gaining market share? And you mentioned, you know,
15 they were trying to diversify their supplier base -- the
16 purchasers were. Although I'm not sure if that's -- I don't
17 know why they would have been doing that from 2016 to 2017.
18 I think the respondents have argued they've been doing that
19 from 2017 to 2018 after Shell and the hurricanes and
20 everything else that they're like, you know what, we need to
21 have a different strategy here. But, you know, if the answer
22 is really just that suppliers were trying to become -- to
23 have more diverse. I'm sorry, purchasers were having more
24 diverse suppliers in 2016 to 2017. Why is it, during that
25 period versus 2015-2014?

1 MR. VAUGHN: I think that's a fair question.
2 What I'd like to do, Commissioner, obviously this is
3 something that you're -- that the Commission is very
4 interested in -- I'd like to address that in more detail in
5 the post-hearing and drill down more into that.

6 I mean, as I said, our theory has been that,
7 basically, you know, there was a rise in imports. Those
8 imports did take market share. That continued to the point
9 where our people had no choice but to compete on the basis
10 of price. As they competed on the basis of price, that had
11 really harmful effects on their bottom line and, eventually,
12 that got us into the situation where we are now. To me, the
13 most striking thing about the case is, is that, you have
14 everybody's testimony is that demand conditions are
15 relatively favorable from 2016 to 2018 and yet, somehow, the
16 domestic industry is doing much worse in 2018 than it was
17 doing in 2016. So I think that can only be explained by the
18 subject imports. That's the only thing that really changes
19 over the course of the period of investigation. But, in
20 terms of that entire causal link going all the way back to
21 2016 and including a lot of what happens in 2017, we'd like
22 to provide more information on that in the post-hearing.

23 COMMISSIONER KEARNS: Okay, that's fine. Thank
24 you. Turning back to phenol and acetone and the connection
25 there. Um, I'll try not to overlap with too much that we've

1 already heard here, um. I guess one place to start is, I
2 heard from Mr. Hayes, I think, that in 2017 there was a
3 period in which the profits on acetone exceeded the profits
4 on phenol. Did I hear that correctly? Yeah.

5 MR. HAYES: Yes, that's correct.

6 COMMISSIONER KEARNS: Okay. Anything you can
7 tell us more post-hearing about the profits that you saw
8 over the POI on phenol versus acetone, I think, would be
9 helpful. I mean, because I agree with what I've heard you
10 all say which is, you can't really just say that, well, you
11 know, cumene ends up in more production of phenol than it
12 does in acetone. That means acetone is a subordinate
13 product. That doesn't make a lot of sense to me. I don't
14 know what the value is of the phenol versus the acetone but,
15 I need some measure of the relative importance of the two
16 products and I would think that looking at profit margins
17 over a period of time on the two would give me some sense of
18 what drives the market. So, if you-all could provide us with
19 some information like that, that'd be helpful.

20 MR. HAYES: Yes.

21 COMMISSIONER KEARNS: Thank you. Um, and then
22 Mr. Safar? You had suggested that foreign producers have no
23 significant home market for their acetone so that they
24 produce phenol and over-produce acetone. Right?

25 MR. SAFAR: Mr. Safar from Olin. Correct.

1 COMMISSIONER KEARNS: Okay. Can you-all tell us
2 more about that? Do we know, for example, what their exports
3 of phenol look like? And I believe respondents have stated
4 in their briefs that the U.S. is losing sales in Asia
5 because China and others are producing more phenol. So any
6 thoughts on that would be helpful as well and, by the way,
7 and I think, Ms. Byers, you also mentioned China. I mean, to
8 what extent is this a China issue versus an issue of the
9 subject countries? What is going on, not just -- we've heard
10 a lot about what's going on in the U.S. market on phenol.
11 What's going on globally in particular in the subject import
12 countries and in Asia? Anything you can tell us about that
13 would be helpful.

14 MS. BYERS: We'd be happy to do that. You're
15 talking about post-hearing? Go ahead.

16 COMMISSIONER KEARNS: Well, yeah. Preferably
17 now --

18 MS. BYERS: Oh, okay.

19 COMMISSIONER KEARNS: -- and post-hearing.

20 MR. SANDERS: So. Paul Sanders, AdvanSix. So,
21 um, if I can just start with the U.S. market and that will
22 help explain what the differences are with the five subject
23 exporters. The U.S. market is an unusual market. It's very
24 well balanced for both phenol and acetone. So, if you look
25 at the capacities of phenol, they're a little bit higher

1 than the demand of phenol in the U.S. And if you look at the
2 capacity of the U.S. for acetone, for production, it's
3 pretty much aligned with demand. So, the U.S. can
4 essentially meet all its needs with U.S. production. In
5 fact, chemical data talk around the current operating rates
6 around 80%, plus or minus, we can get you the latest
7 numbers. Um, but if you operate at the rates -- at normal
8 operating rates in the high 80s, then there's enough
9 capacity in the U.S. to meet all of acetone's demand.

10 The five subject countries are very different.
11 They're not structured with a balanced market. So, for us as
12 AdvanSix, we have to make sure our customers on acetone are
13 treated fairly and our customers on phenol are treated
14 fairly and we have to make profits on both lines.

15 The subject countries have different issues.
16 They all are heavily export-dependent. Some more so on
17 acetone, some more so on phenol. But largely you'll see that
18 acetone is an area that they need to move those pounds and
19 tons, if you like. And, as you saw in the earlier
20 presentation, there are 1.7 million tons of acetone to be
21 exported from their current operations. And the way the
22 cumene process works, is heavily fixed-cost-dependent. So,
23 every producer in the world will try to run their plants as
24 hard as they can. It's a commodity product. No different for
25 us than anyone else in the rest of the world. So that means,

1 unless there's a clear affirmative action in this case, we
2 will continue to see dumped imports of acetone coming into
3 the U.S. which will have severe impact on the U.S.
4 production. Overall.

5 COMMISSIONER KEARNS: Okay. Thank you. Anything
6 you can do more posthearing to help us understand this would
7 be appreciated.

8 I guess one question I have is, based on what
9 I've heard I guess I would expect to see that phenyl prices
10 in the U.S. versus phenyl prices--phenyl prices in the U.S.
11 I would expect to see would be relatively low compared to
12 world phenyl prices, and the opposite with respect to
13 acetone, right? It sounds like there is just a glut.
14 There's no real demand for acetone in the rest of the
15 world--not "no real demand," but, you know, there's an
16 imbalance there.

17 So is that what we would see? Do we see lower
18 acetone prices outside of the United States, but higher
19 phenyl prices outside of the United States?

20 MR. SANDERS: It gets very complicated globally
21 and on the timing, but we can certainly present you with
22 some data posthearing about the different levels.

23 All I would say--sorry, Paul Sanders, AdvanSix
24 again--that, you know, the U.S. production has still been
25 relatively stable throughout all this period. So we have

1 been acting very responsibly as a U.S. domestic producer.

2 COMMISSIONER KEARNS: Okay, thank you very much.

3 CHAIRMAN JOHANSON: Commissioner Stayin?

4 COMMISSIONER STAYIN: Thank you.

5 I wanted to go back to the chart, the table 2-9.
6 It's page 2-27 of the staff report. In terms of the
7 importance of the factors taken into account in purchasing
8 by purchasers, the two highest were availability first, and
9 then reliability of supply, and then of course price was
10 there but it was lower than both of those two concerns.

11 Can you help us understand what that issue might
12 have been? Why was the availability and reliability of
13 supply the two most important factors taken into account by
14 purchasers?

15 MR. SANDERS: Paul Sanders, AdvanSix. As we
16 described in the initial information, acetone is a highly
17 fungible product. So once it's in the tank and it's been
18 co-mixed with everyone else's export material by a trader,
19 an offer of acetone from a terminal in Houston can be very
20 adaptable, can be sold into any of the end uses, can be sold
21 into any of the end--whether it's a large buyer, or a truck,
22 or rail.

23 So at the end of the day, the availability is
24 very similar. However, I would argue that price is an
25 absolute must. Without a good price, you are not going to

1 sell any acetone whatsoever. And over the period of
2 certainly 2018 and 2019, the huge influx of imported dumped
3 material made us very unprofitable and we had to match and
4 even try to establish sales in terms that's really impacted
5 our results.

6 COMMISSIONER STAYIN: So basically you don't
7 think reliability of supply and availability were serious
8 factors?

9 MR. DUHE: Tim Duhe with ALTIVIA. They are
10 serious factors. Our customers are making products based on
11 acetone. They are selling to their customers. So there is
12 a reliability factor.

13 In fact, historically there was less dependency
14 on imports before the dumping occurred because of the long
15 transit time, the long lead times. Once you have big tanks
16 and they're full of acetone, you can take a little bit more
17 exposure on transit time.

18 But reliability is what manufacturers are
19 positioned to do.

20 COMMISSIONER STAYIN: Okay. I also want to talk
21 about some of the difficulties you've had in terms of the
22 production. Cost of goods sold became a significant factor
23 that you've had to deal with. If you look at the raw
24 material cost component, it changed from--the amount was --
25 short tons, -- per short ton in '16, -- per short ton in

1 '18. So tell me how this might have affected, and what
2 impact it was having on your profitability and your ability
3 to compete?

4 MR. SANDERS: Paul Sanders, AdvanSix. As we'd
5 explained earlier, the large-buyer market goes up and down
6 with refinery grade propylene. So the reality is, the raw
7 material is big component of the large-buyer margin.

8 So what that means is there is an absolute
9 spread, which is locked in for a year. It's X amount.
10 However, what we've seen is the import of the influx of
11 dumped material has driven much deeper discounts off that
12 large-buyer marker.

13 So what that means in real terms is that the
14 absolute margin over that propylene has been reducing.
15 However, as I said earlier, the large-buyer marker does take
16 into account the movements on propylene. So the absolute
17 movement on propylene is not necessarily such a key factor;
18 it's the margin over the raw material, and that's driven by
19 spot pricing which has been obviously driven down due to the
20 influx of dumped material.

21 COMMISSIONER STAYIN: Are these raw material
22 costs, are these allocable specifically to acetone? Or is
23 it a cost that included the production of phenyl?

24 MR. SANDERS: Paul Sanders, AdvanSix. The
25 propylene clearly comes out through the acetone molecule,

1 and the propylene is the major--is one-third of Cumene. The
2 other two-thirds of cumene is benzine, and that comes out in
3 the phenyl pricing.

4 So when we sell phenyl, you sell off the benzene
5 marker. When you sell acetone, you sell off the propylene
6 marker. So they're very distinct and not related.

7 COMMISSIONER STAYIN: Alright, thank you.

8 MR. HAYES: Frank Hayes with ALTIVIA. Our cumene
9 price changes very month based upon the price of benzene and
10 RGP. The price at which we sell acetone and phenyl also
11 changes each month based upon the raw material costs and the
12 negotiated adder, or discount in the case of large-buyer
13 price.

14 So it's generally very well matched that our cost
15 of manufacture of the materials floats each month with
16 changes in the RGP pricing. So it has not been an issue.

17 Where it became an issue in 2018 is we had to
18 build inventories over time. And so we saw a larger
19 disconnect between the price at which we were selling and
20 the price of the raw materials when they were manufactured
21 because of the delay in inventories.

22 COMMISSIONER STAYIN: And the impact, obviously--
23 yes, go ahead.

24 MR. SANDERS: Paul Sanders, AdvanSix. One
25 further point on cost of goods sold is, because of the

1 continuing influx of imports in a significantly oversupplied
2 market, we actually got to the point, as AdvanSix was having
3 to secure additional storage just to be able to keep the
4 plant running at normal rates, because we had nowhere to go.
5 We had no sale opportunities. That happened in 2018, and
6 has continued into 2019.

7 And so you will see within our submission,
8 confidentially, that that also is a significant impact on
9 the profit and loss statements over the year. And it is
10 worth considering, also that traders also, if they have
11 brought on a terminal in Houston, in New York, in Savannah,
12 in Norfolk, in Philadelphia, wherever, they will also have
13 to utilize large volumes through that tank. So without a
14 positive affirmative action, then the importers will
15 continue to pound as much product as possible into the U.S.
16 to be able to make up for the cost of managing that
17 terminal. It's a very significant impact.

18 COMMISSIONER STAYIN: Okay. Mr. Duhe, with
19 respect to your plants on the Ohio River, have you ever had
20 any problems with flooding in terms of it affecting your
21 ability to produce?

22 MR. DUHE: Tim Duhe with Haverdill--I'm sorry,
23 with ALTIVIA. I think in February 2019 we actually had high
24 waters on the Ohio River. You probably heard of this polar
25 vortex coming down. We did declare a Force Majeure. Force

1 Majeure was actually on phenyl because we were concerned
2 about being able to get cumene in.

3 But our tanks were so full of acetone, it didn't
4 impact acetone.

5 COMMISSIONER STAYIN: Okay, thank you very much.
6 That's all that I have.

7 CHAIRMAN JOHANSON: Commissioner Karpel?

8 COMMISSIONER KARPEL: I want to pick up on the
9 questions Commissioner Stayin was raising on raw material
10 costs. So as I sort of see it, your pricing on your annual
11 contracts is set up to pass on increases in raw material
12 costs to your purchasers. But what I'm hearing is that at
13 some point in the Period of Investigation, that broke down.

14 Can you talk about when that happened, and--I
15 know your answer about why, but just walk me through sort of
16 that breakdown in what happened there.

17 MR. DUHE: Tim Duhe with ALTIVIA. The breakdown
18 started in 2017. And I think, you know, there's a lot of
19 data that shows when the dumping began and when it took off.
20 Really, that third quarter preemptive imports associated
21 with the potential shutdown is when it really started to
22 break down, in my opinion.

23 We were actually ramping up production at the
24 time where Shell was still operating, right? They didn't go
25 down until 2018. So we were ramping up, providing

1 additional acetone to the market, but in that second half of
2 2018 you saw the influx of imports coming in.

3 That's when we started going into the fourth
4 quarter of 2017 where the low pricing as a result of the
5 dumping started impacting contract negotiations for 2018.
6 So it was really during that time period for us is where we
7 felt the breakdown and the disconnect because of the dumping
8 coming in at the very low prices, and the disconnect to what
9 our cost basis is.

10 COMMISSIONER KARPEL: So to follow that up, on
11 these annual contracts were purchasers asking you to give
12 discounts that were basically greater than what the raw
13 material costs were?

14 MR. DUHE: Correct. So imports are coming in
15 below propylene. I talked earlier about, you know, what it
16 takes to turn propylene into acetone, and maybe a little bit
17 of margin to recover your investment.

18 Imports were coming in below the propylene costs.
19 The producers are strapped with the propylene cost.

20 COMMISSIONER KARPEL: Another point you've made
21 this morning, now turning into afternoon, is that you are
22 arguing that subject imports dropped below what you referred
23 to as the prevailing market price.

24 Can you talk about what you mean by "prevailing
25 market price" in that context?

1 MR. SANDERS: Paul Sanders, AdvanSix. So during
2 2018, clearly there was a large increase of these imports.
3 And at the time, I would suggest that the market pricing for
4 these imports started to become more and more readily
5 available to see. You could actually see report listed in a
6 number of the industry--consultation into the industry
7 magazines saying, hey, it's coming in at X price.

8 So what that means is that the contracted
9 customers that you alluded to in your previous question that
10 may have been on a large-buyer minus X percent, started to
11 say, well, hang on minute. My large-buyer minus X percent
12 is over and above this latest spot deal that is being
13 published in one of the publications--IHS, ICIS, Candida.

14 So clearly that drives a conversation between the
15 purchaser and the seller, or from AdvanSix, as to what are
16 you going to do about it? And some customers were very
17 pragmatic and waited until the end of the contract period,
18 and renegotiated then. But at that point, you're well aware
19 that what's coming, and you know that you have to react to
20 the imported low-level pricing.

21 Some other customers said: If you want to
22 continue selling to me for the next year, I need a break
23 this year, in the middle of my existing contract.

24 And we're happy to share those instances with you
25 post-hearing. So it was absolutely the whole industry, the

1 whole industry did not jump and say you have to crash the
2 price tomorrow. However, it was a mixture of larger, deeper
3 discounts during the next contract period, or larger, deeper
4 discounts even between some contracts that were existing.
5 And we had another contract that was just completely ripped
6 up by the purchaser.

7 The other point is, the industry is not 100%
8 driven by the large-buyer market. There's a very important
9 distribution industry, kind of roughly--we can give you some
10 better numbers--but my guess, the industry reports would
11 suggest is 20% to 30% of the market. And that is a very
12 much spot-driven market. It's, you know, negotiating trucks
13 on a daily basis.

14 And when it becomes very visible that a
15 significantly undervalued shipment has arrived, it's way
16 below the market price that's published in these reports,
17 then clearly the truck customers, the truck purchasers, the
18 railcar purchasers are gonna reference that price as, "Hey,
19 I'm paying X, I can see X minus 30% out there. I want some
20 help." So that's what we saw.

21 So it's multiple impacts. It's contracts being
22 deeper discounts, contracts being limited volumes, more
23 spot, and it's a significant impact into the small-medium
24 distribution, which really crashed during the latter part of
25 2018, to the point that you could buy a truck for the same

1 price that you could buy in bulk, that shipment.

2 MR. VAUGHN: Commissioner Karpel, Stephen Vaughn.
3 I just wanted to provide a little more support in terms of
4 what Mr. Duh said, because he talked a lot about what was
5 happening towards the end of 2017, and I know this is
6 something that Commissioners have been interested in as
7 well.

8 And it's important, and the data absolutely
9 support what Mr. Duhe was talking about, if you look at the
10 import data that you have, there was around 24,000 tons of
11 imports in Q1 of 2017, but by Q4 of 2017, it was almost
12 50,000 tons. It was around 49,536 tons. So the imports are
13 really shooting up toward the end of that year.

14 And that's very consistent with the testimony
15 that you're hearing here. And that's why some of that harm
16 that comes in from those 2017 imports is actually felt more
17 in 2018, because December was actually the biggest month of
18 the year for 2017 imports.

19 COMMISSIONER KARPEL: I guess I'm -- thank you
20 for your answers -- I'm still sort of puzzling in my head
21 what is the prevailing market price. I take it as some
22 general expectation of, if you're talking about contract
23 price, it would be the large-buyer price, which is the raw
24 materials plus some markup. I guess there's some
25 expectation of what the general range of that markup is and

1 what you expect in the large-buyer price to be, and
2 therefore the price you would contract at.

3 I'm also looking at the evidence on underselling
4 in the record and trying to puzzle whether that's really
5 representative of the price effects that the domestic
6 industry is feeling in this market. And I think I'm hearing
7 from some of what you're saying that that's not entirely
8 representative because there's this notion that imports are
9 coming in and blow this prevailing market price that you
10 were then trying to meet, or meeting, to retain market
11 share.

12 So, I guess, I'm not sure what my question is
13 here, but I guess, how do you comment on that? What do we
14 make of the underselling data in this investigation and its
15 representativeness or not? The pricing pressures that the
16 domestic industry is feeling?

17 MR. VAUGHN: I'll just make one comment because
18 -- this is Stephen Vaughn again -- because obviously it's
19 confidential. I haven't been able to see a lot of the
20 underselling data, so let me -- I think, part of what you
21 gotta look at is this. The testimony here is pretty
22 uniform, that they are not in a position to allow for a lot
23 of underselling in the market to take place for very long.

24 They are under a lot of pressure to run at high
25 levels of capacity utilization and they have a certain

1 amount of acetone that they need to move out of the market
2 on a regular basis. And so, therefore, it's not a market
3 where they can afford to just sort of sit there and concede
4 sale after sale after sale like you might see in some other
5 markets.

6 So you might see other industries where people
7 can sit back for a long time and allow underselling and
8 maybe concede volume on the basis of that underselling.
9 Here, I think what you're hearing is, is that very, very
10 quickly whenever low-priced imports come into the market,
11 those prices flow through the market very quickly.

12 As soon as there's a truck or a barge or
13 something that comes in, where that is below their contract
14 price, these guys are hearing from their customers saying,
15 "Hey, you gotta match this or I'm gonna do something else."
16 So I think that is something that's important. And I think
17 some of the witnesses can contribute to that as well.

18 MR. DUH : Tim Duh with ALTIVIA. To echo that a
19 little bit is, you know, when those prices do come in, we've
20 got to keep acetone moving to keep our plants moving.
21 Number one, number two, we run out of storage capacity as a
22 result of the dumping. There's just not enough storage to
23 be able to pile it up and wait for a better day.

24 In terms of the pricing impact on fourth quarter
25 contracting, it's kind of the worse time for imports to come

1 in and crash the market through dumped pricing. In fact,
2 some of the take-it-or-leave-it kinda negotiations that went
3 on, if I'd have taken some of those, you'd probably be
4 talking to a different ALTIVIA Commercial leader. They were
5 that bad. And we just couldn't afford to take some of those
6 at a loss.

7 MR. ANDERSON: I think it's important to realize
8 that, just assume for a moment that there is overselling.
9 You can still have very significant price effects in this
10 market because of at least two reasons. One, as we've
11 testified, there's a move from the higher-price contract to
12 the spot market. Because customers are telling us that
13 they're only buying the minimum, so they're essentially
14 forcing us into a lower-value market.

15 The second, and very important one is, even if
16 you're starting out at an overselling situation, given the
17 way these annual contracts work, which are basically
18 large-buyer minus discount, as the spread between the
19 large-buyer price and the raw material costs declines
20 because of the oversupply situation, everybody's price will
21 go down. Everybody in the contract markets' price will go
22 down.

23 So you might still be overselling, or it looks
24 like you're overselling, but you've had a price effect.
25 Because of the overall compression of prices by virtue of

1 the fact of the additional supply. It's very important to
2 keep in mind that the large-buyer price, it's not simply a
3 function of the RPG price, but it's also a function of
4 supply and demand. And indeed, the respondents themselves
5 in the joint brief, concede that on Page 71 of their brief.
6 So you can still have price effects, even in situations
7 where there's overselling.

8 COMMISSIONER KARPEL: In that regard, is there
9 evidence you can point me to in the record that you can
10 provide that shows this shrinking margin? Or this markup?
11 I'm looking -- one of the things I'm looking at is the COGS
12 to net sales ratio. Is that one of the indicators? Are
13 there other indicators or evidence on the record that I
14 should be looking at to see that?

15 MR. VAUGHN: Yes, we'll follow up and we'll give
16 you more information on that. Obviously, we think that one
17 thing to look at is the industry's operating margin and how
18 the industry was doing over the period of investigation.

19 And to us, the fact that really jumps out at is
20 why does the industry's performance decline over the second
21 part of the POI, given that demand conditions were generally
22 favorable.

23 And we think the only way you can sort of explain
24 that is, they're not able to get the type of margins that
25 they were getting earlier in the POI. But we'll follow up

1 on that and we'll try to give you more on that in the
2 post-hearing as well.

3 MR. SZAMOSSZEGI: There's also some detailed
4 monthly pricing data on the record that we can point that to
5 you, that's already on the record and it shows the margin
6 compressing relative to the -- it shows the RPG price, and
7 if you compare that to the AUVs, which are also on the
8 record, you can see price compression. But we'll provide
9 that and all the calculations and graphs post-hearing.
10 Thanks.

11 CHAIRMAN JOHANSON: I'm gonna get back to
12 Hurricane Harvey just for a minute or so. Do you all
13 dispute that Hurricane Harvey increased costs for the
14 domestic industry?

15 MR. SAFAR: No, I don't think it had an impact on
16 the cost -- Davor Safar from Olin -- I mean it had the
17 impact on our supply capability short-term, and as I said,
18 the Hurricane Harvey, we did not completely stop the supply,
19 but we had the issues getting the raw material in and
20 getting the final products out. But this was short-lived.
21 This was six weeks force majeure. I mean the only impact
22 that we had is, I mean at a certain point in time, we were
23 not able to run, we needed to run at the lower utilization
24 due to the issues.

25 CHAIRMAN JOHANSON: Mr. Sanders?

1 MR. SANDERS: Yeah, Paul Sanders AdvanSix had no
2 impact on AdvanSix.

3 MR. DUH : Tim Duh with ALTIVIA. No impact on
4 ALTIVIA's cost.

5 CHAIRMAN JOHANSON: Okay. But sticking with
6 Hurricane Harvey just for a minute, that was of course
7 connected to what happened with Shell, correct? And did the
8 timing in 2017 of Shell's announcement to shut down one of
9 its plants affect the market? And did it affect annual
10 contract negotiations for supplies in 2018?

11 MR. SANDERS: Just to qualify, I don't believe
12 Hurricane Harvey was necessarily linked to Shell's decision,
13 but obviously we're gonna have to follow up with Shell
14 directly on that.

15 CHAIRMAN JOHANSON: Okay. I will do that. How
16 do you respond to respondents' claim that not only did
17 Shell's announcement that it would idle a plant impact
18 Shell's supply in the market for 2018? But also that other
19 U.S. producers declined to commit to 2018 volume, giving
20 acetone purchasers no choice but to obtain supply from
21 subject imports. And this is argued at Pages 22 to 26 of
22 the joint respondent brief. Mr. Duh ?

23 MR. DUH : This is a little bit of the story we
24 were telling just then around price depression as a result
25 of the dumped material that was being imported. Some of the

1 take-it-leave-it decisions or offers were just not healthy.
2 They were unprofitable, and so we declined to accept some of
3 those unprofitable negotiations.

4 MR. SANDERS: Paul Sanders, AdvanSix.

5 CHAIRMAN JOHANSON: Yes, Mr. Sanders?

6 MR. SANDERS: Yeah, for AdvanSix, as I mentioned
7 earlier, 2018 contracting was actually at a higher level
8 than the 2017 contracting. So we actually, certainly did
9 not reduce our contracting position as we went from '17 to
10 '18. And as I described earlier, there are very, you know,
11 very substantive business reasons why one may not decide to
12 go with a customer versus another.

13 One can be price and margin, which clearly is a
14 big issue. The other one may be, it just doesn't fit in
15 with our strategic priorities in terms of our distribution
16 routes to the market. So it's not fair and it's not real to
17 say that the industry declined to offer -- I mean it's just
18 normal business reasons and, as you'll see, the industry
19 kept producing very similar amounts of volume of acetone
20 over the period of investigation.

21 CHAIRMAN JOHANSON: Mr. Duhe.

22 MR. DUHE: Tim Duhe with Altivia. I just want
23 to make one point of clarification. We had the pounds. We
24 were at -- we're ramping up going into the contract season.
25 So it wasn't an issue of supply, it was an issue of price.

1 CHAIRMAN JOHANSON: thanks for your responses.
2 Joint respondents claim that some U.S. purchasers were
3 compelled to turn temporarily to subject imports for supply
4 as domestic producers refused to supply customers 2018
5 requirements as you-all had discussed. Respondents argued
6 this at page 4 of their joint brief. If that is the case, or
7 if that were the case, how would such subject imports be
8 injurious if they were pulled into the market for supply
9 reasons?

10 MR. VAUGHN: Stephen Vaughn, Commissioner
11 Johanson. Just to address counter their theory here within
12 the statute: I suppose if you had a set of facts where there
13 was a temporary shortage in the market and imports came into
14 the market, filled the temporary shortage and then the
15 shortage was fulfilled and then the imports went away, then
16 that would be a very different case and very different
17 record and we can have that argument. That's not this case,
18 and that's not this record.

19 What they have here is they've done several
20 things. First of all, they've looked at every possible
21 difficulty in supply that they could find even for periods
22 going all the way back to 2016 that's really irrelevant to a
23 lot of what's going on here in the case. Then, they say,
24 well, we had to deal with a shortage that was taking place
25 in 2017-2018. Actually, we can show that, by the end of

1 2017, imports were already ramping up and they continued to
2 stay at very, very high levels for, you know, another five
3 quarters into 2019 -- long past the point where there was
4 any shortage or anybody thought there was gonna be a
5 shortage, over a year after Hurricane Harvey. Over a year
6 after Shell's made its adjustment, at a time when Altivia is
7 trying to ramp up production. You know, the imports just
8 keep pouring in and pouring in and pouring in. so I think,
9 you know, it's not that they couldn't have a theory in
10 theory. But in the actual facts of the record of this case,
11 that it just doesn't work.

12 CHAIRMAN JOHANSON: Okay, I'll leave it at that
13 then. Thanks. Mr. Vaughn. If the market was indeed
14 over-supplied with acetone, as I believe at least one of the
15 witnesses has said today, why were prices increasing over
16 much of the period of investigation?

17 MR. SANDERS: Paul Sanders, AdvanSix. Again,
18 the reason you will see our price increase is symptomatic of
19 the fact that acetone is priced off of the raw material.
20 And, if you look, there's a very clear trend of raw material
21 price increasing from 2016 through most of 2018. So, the
22 important point to note, and certainly Commissioner Karpel's
23 already asked for the information is to show that the
24 margins have been reducing over the 2018 to 2019 period and,
25 I think, that will be very clear and very obvious to see

1 that the margins have, in fact, reduced. So the price is not
2 necessarily a good driver for understanding margin and
3 profitability.

4 MR. SZAMOSSZEGI: Chairman Johanson, Andrew
5 Szamosszegi from Capital Trade. If you look at Figure 5-1 in
6 the staff report, you'll see what Mr. Sanders is referring
7 to, and that, given what we know about the formula.

8 CHAIRMAN JOHANSON: Okay. Thanks, Mr.
9 Szamosszegi, I will indeed look at that. And this is more of
10 a question, I assume for the attorneys here today: at pages
11 26-27 of the brief, joint respondents analogize this case to
12 emulsion styrene butadiene rubber from Brazil, Mexico,
13 Korea, and Poland, a 2017 final investigation in which I
14 reached a negative determination. Could you-all today, or in
15 the post-hearing brief, dig into this a little bit? How is
16 the record here different in terms of any domestic supply
17 issue or imports being pulled into the market?

18 MR. VAUGHN: Yes, we will certainly look into
19 that and we'll discuss that more in the post-hearing case. I
20 think that, you know, in the first place, I would point out
21 that, in that case, obviously the Commission had a tied
22 vote, which is an affirmative vote. But, obviously, we want
23 to address the specific concerns that you had in that case
24 and we will do so.

25 CHAIRMAN JOHANSON: Okay, thanks Mr. Vaughn.

1 Okay, I have a question, I believe it's for Ms. Byers. Ms.
2 Byers you spoke on the whole issue of threat. I'm just going
3 to ask one threat question: how does the evidence of more
4 over-selling than under-selling during the period of
5 investigation presented in the staff report support a
6 finding of likely significant under-selling by subject
7 imports or likely adverse price effects in the imminent
8 future?

9 MS. BYERS: Again, I think the important thing
10 to look at here is the profitability of the industry. It
11 shows how their margins were squeezed. So, they were
12 profitable in '16, profitable in '17, profitable in the
13 first part of '18, not so profitable in the last half of
14 '18, and then unprofitable in '19. That's what we're facing
15 now. Without relief, I think we're gonna see these imports
16 flood right back into the market. They've already got the
17 tanks leased to bring that stuff in here and so I think what
18 you're likely to see is just a repeat of what we've seen in
19 the first half of 2019.

20 You know, absolute prices are not gonna tell
21 you the whole story. You really have to look at the
22 under-selling on the basis of the margins that they achieve.

23 CHAIRMAN JOHANSON: Thanks Ms. Byers. Mr.
24 Orava?

25 MR. ORAVA: Steve Orava, just maybe one other

1 point on that is that: how that price impacts are being
2 translated is particularly pronounced in 2019 because of the
3 contract negotiations that were required at the end of 2018
4 and so, that helps to show how that price effects being
5 translated and how that can have a continuing threat going
6 forward.

7 CHAIRMAN JOHANSON: Thanks to all of you.
8 Commissioner Schmidtlein?

9 COMMISSIONER SCHMIDTLEIN: Okay. Thank you.
10 Just to follow up a little bit on that: so, I was looking at
11 Figure 5-3 V-3, which is confidential but the lawyers and
12 the economists could look at it. Is that what you were
13 referring to? I was a little bit confused in talking about -
14 - I mean, Figure 5-1 is the Index for Prices for RGP and
15 cumene, but 5-3 has this margin of the large buyer price
16 minus RGP. Is that the margin we're talking about?

17 MR. SZAMOSSZEGI: Actually, no. Because that
18 margin doesn't take into account the discounting that takes
19 place. That just shows the difference between propylene and
20 large buyer price. But when you're in a situation of
21 increased discounting on annual projects and also a shift to
22 the spot market because -- which is also lower priced, then
23 you get lower more sales taking place at more compressed
24 prices. But that's not shown in this figure.

25 COMMISSIONER SCHMIDTLEIN: And so, how is it

1 shown in 5-1?

2 MR. SZAMOSSZEGI: 5-1 doesn't show the margin.
3 It just shows the increasing price of RPG -- the input. In
4 order to compare that with the price you would have to get
5 like an AUV in the record. That's the only way we're gonna
6 find a trend. And, if you do that, if you compare the
7 combined product AUVs with the RPG price on a quarterly
8 basis, you do see a significant compression. But we'll
9 provide more information post-hearing.

10 MR. VAUGHN: Commissioner Schmidlein, Stephen
11 Vaughn. Let me just -- I just wanna sort of summarize a few
12 things because there -- we've actually claimed a number of
13 different ways that we can be -- that we were hurt in 2017
14 and 2018 and I want to make sure that we're clear on all of
15 those.

16 The testimony is that they were hurt because
17 they were having to give back discounts, right? So, the --
18 normally, they have a contract price and they have prices
19 set up for discount from the large buyer price. Those
20 discounts got bigger. That was one way they got hurt.

21 Another way they got hurt was is that,
22 obviously, they had to sign new contracts. And when those
23 new contracts got confirmed there was a bigger discount than
24 there had been before. So that was another way that they got
25 hurt.

1 Another thing that there's been testimony is
2 that they were hurt because the spread between the large
3 buyer price and the RGP, that was affected, and that was
4 another way that they were affected.

5 And there's some testimony that the large
6 buyer price itself could be affected by imports. And then
7 there's testimony that the spot price was affected by
8 imports. So, when you have this big over-supply in the
9 market, it affects prices in all of those different ways.
10 Now I think the testimony has been that the most dramatic
11 and the one that has the biggest impact immediately on the
12 bottom line is the effect on the discount price, you know,
13 and, to some extent, the effect on the spot price. Those are
14 probably the ones where you actually see the most harm in
15 terms of the margin.

16 But these other things -- these other factors
17 are out there as well. So, I understand that you're trying
18 to work through all this and sort of understand all these
19 different mechanisms. And our point is: that this enormous
20 over-supply, which really begins in late 2017 and carried
21 over through 2018, it has a negative impact across the
22 board. But probably the biggest, and cleanest way, to see it
23 is by looking at the actual operating margins because that's
24 where -- that's, literally, the bottom line, right? So that
25 absolute pricing might hold up for a long time especially

1 because the relationship between absolute pricing and the
2 RGP. But,

3 COMMISSIONER SCHMIDTLEIN: There's my question,
4 right. So, I understand the point about, we really need to
5 look at the margin and see the correlation between that and
6 their profitability or lack of profitability. That that's
7 why there doesn't seem to be a lack -- but my other question
8 is, in terms of looking where the impact is on prices,
9 right? So, the pricing products, you know, we have the
10 prices that are actually -- were actually sold at. So, I
11 assume you all agree that price is also driven by the price
12 of RGP.

13 MR. VAUGHN: Yes.

14 COMMISSIONER SCHMIDTLEIN: Or RGP. Is it RGP?
15 So, we don't disagree on that. And so, when you look at the
16 trend of what that raw material is, it's not surprising that
17 it follows a trend for the actual prices. And your argument
18 is: well, those prices are also being impacted -- the
19 ultimate price -- by these subject import prices, right? Not
20 just their profitability, which is squeezing their margin, I
21 understand that argument. But wouldn't that show up in the
22 actual price? Why wouldn't the subject import prices -- the
23 spot price -- for instance, let's just limit it to the
24 products that are spot market products? Wouldn't that show
25 up in those ultimate prices?

1 MR. DUHE: Tim Duhe with ALTIVIA. It does show
2 up, but it shows up in the margin compression. So the
3 margin compression can be exceeded by an increase in RGP.
4 So you may not see it. What you've really got to look at is
5 the margin compression, and that's what we're going to
6 supply in the posthearing.

7 COMMISSIONER SCHMIDTLEIN: So when RGP is going
8 up, prices would do up. But you're arguing the margin will
9 be compressed by the subject imports.

10 MR. DUHE: That's right. You get a little bit of
11 an offset there. The bigger issue for a
12 manufacturer/producer is when that import price comes in
13 below RGP. That's when the injury is the biggest.

14 COMMISSIONER SCHMIDTLEIN: So when prices go down
15 like they do in '19, and RGP goes down in '19, right, how do
16 we untangle what the impact of the subject import prices is
17 at that point?

18 MR. VAUGHN: I think that's a very good question.
19 And I think if you notice, for example, you know, we would
20 agree that some of what was happening from '18 to '19 is
21 reflected in the RGP.

22 You know, for us one of the cleanest and easiest
23 ways to do it is to just simply look at what happens to the
24 industry's profitability. In other words, they can be
25 profitable in a period of low prices, or they can be

1 unprofitable in a period of relatively high prices.

2 And so we would really urge you to keep your
3 focus on the actual profitability, because that's really
4 where it kind of all, you know, comes into play.

5 COMMISSIONER SCHMIDTLEIN: Okay.

6 MR. SZAMOSSZEGI: Commissioner Schmidtlein,
7 Andrew Szamosszegi. Just turning back to your figure 5-3,
8 which kind of does show the large-buyer price minus the RGP,
9 it does--and I didn't notice this before because my eyesight
10 is terrible--

11 COMMISSIONER SCHMIDTLEIN: Well I don't want to
12 argue--

13 MR. SZAMOSSZEGI: --and it kills me every time.
14 But the reality is that that line, you see a pronounced
15 downtrend even in that line during the period when the
16 subject imports and inventories are very, very high.

17 And I know Respondents want you to focus on
18 various month-to-month, or quarter-to-quarter changes, but
19 the bottom line is that we have the data on what imports
20 were in earlier periods. We have the data what imports were
21 in later periods, particularly during late 2017 and late
22 2019. And those were very high, and the inventories--the
23 imports were high, and the inventories were high, and that
24 just depressed the whole market.

25 So that's our--

1 COMMISSIONER SCHMIDTLEIN: In 2018?

2 MR. SZAMOSSZEGI: Yes.

3 COMMISSIONER SCHMIDTLEIN: Okay, well I guess in
4 the post-hearing, then, you could address it. Because when
5 you look at the ending inventory quantities, it was actually
6 lower in 2018 than 2017 for the U.S.

7 MR. SZAMOSSZEGI: But that's--you know, it's
8 really importer inventories that really spiked and were at
9 very high levels, even compared to imports earlier during
10 the POI.

11 COMMISSIONER SCHMIDTLEIN: Mr. Sanders?

12 MR. SANDERS: Paul Sanders, AdvanSix. Just on
13 year-end inventory, what you do see year after year is
14 reduction, particularly given that a lot of acetone is
15 stored in the Texas area, and there's a Texas sales tax. So
16 it does actually mean that anyone, whether you're an
17 importer or a producer in that region, you are always driven
18 to try to keep that down as low as possible.

19 And so what you'll see over the Period of
20 Investigation perhaps is those inventory levels will start
21 to go up again, January, February, March--obviously I'm not
22 privy to that information--but you often see that, because
23 the taxes are basically applied to what you've got on the
24 end of December every year.

25 So if you're a trader and you've got a ship on

1 the water, you don't want that ship to arrive on December
2 the 20th. You'll wait a week and let it come in on January
3 the 3rd. It saves you a lot of money.

4 COMMISSIONER SCHMIDTLEIN: Um-hmm. Okay, so the
5 last question I had I guess along the lines of this, you
6 know, what should we be looking at the price for the margin,
7 is--and you can address this in post-hearing as well--is
8 when you look at the pricing products, right? And again,
9 just to make it simple, just look at the spot market
10 products which were one and three, in 2018--and I assume
11 your answer is going to be well this is because of the price
12 of RGP--but you see the spot prices go up from the second
13 quarter to the third quarter for U.S., and for product three
14 it's fairly substantial.

15 So again my question is, like if you're being
16 flooded with imports at a low price on the spot market, why
17 are spot market prices for U.S. product actually going up?

18 MR. VAUGHN: Again, I think when the witnesses
19 used the term "low-priced" they mean low-priced relative to
20 the margin. Right? In other words, that's what they're
21 talking about. It's not like, you know, it's not
22 necessarily an absolute low price. It's a low price
23 relative to the margin that's available that they need in
24 order to cover their costs. So that's what they're talking
25 about.

1 So you could have a situation where the price
2 could go from, let's say I was making a 10 percent margin at
3 500, and then the RGP price goes way up and I'm able to
4 raise my price to 800, but now I'm only making 2 percent.
5 Well to me my prices have gone down. That's just the way
6 I'm going to talk about it.

7 Now when you look at the absolute numbers, you're
8 going to say, wait a minute, he went from 500 to 800. But
9 the way I'm thinking about it, I had a price that was 10
10 percent above, and now it's only 2 percent above.

11 And I think that goes back to the way these guys
12 are used to talking about it, which is we're going to
13 negotiate. You and I are going to have negotiation. The
14 negotiation is going to be how much of a discount do you get
15 relative to this price month to month, right?

16 So they are always thinking about it in terms of
17 margins. So a high price may be actually at a lower
18 absolute price. Whereas, a lower price may be--do you see
19 my point?

20 COMMISSIONER SCHMIDTLEIN: Yes.

21 MR. VAUGHN: So that's what I think you're seeing
22 there. I mean--and I'll let Mr. Sanders comment--but as I
23 understand it, the RGP was moving up.

24 MR. SANDERS: Yeah, I mean over the Period of
25 Investigation in 2018, from memory, I think

1 November-December it was--maybe November was a peak, and
2 then it started to drop again. So you'll see that gradual
3 increase. So that's why you'll see some pricing moving up.

4 And, you know, as a responsible producer of these
5 chemicals and acetone for many, many years, we have to be
6 very conversant of what our raw material cost base is on a
7 monthly basis. We can't afford to see below cost.

8 COMMISSIONER SCHMIDTLEIN: Okay.

9 MR. ANDERSON: And just to add, Commissioner
10 Schmidtlein--Chuck Anderson--it's also important to keep in
11 mind that something like 97 or 98 percent of the world's
12 acetone is produced using the same method with the same raw
13 materials.

14 So the inputs aren't entirely independent of the
15 raw material price, either. As their raw material prices go
16 up, their prices will increase. But they can still
17 basically try to increase volume by lowering the markup from
18 their raw material price.

19 So you need--yes, and they can also just
20 basically increase their dumping by lowering the price in
21 the United States vis-a-vis the price in the domestic
22 market.

23 So an increase in the price during the period of
24 import increases isn't necessarily a sign that there's no
25 basically price-related injury from imports.

1 COMMISSIONER SCHMIDTLEIN: Okay, Alright, thank
2 you.

3 CHAIRMAN JOHANSON: Commissioner Kearns?

4 COMMISSIONER KEARNS: Thank you. So going back
5 to this issue of the discount rates, and I've heard you,
6 that you all think that looking at AUVs is one way to kind
7 of get a handle on this. But could we ask you to provide us
8 with the discount rates on your annual contracts over the
9 POI? Maybe if each of you could do that for maybe your five
10 largest customers, or some way we can systematically see
11 that, you know, for Customer X the discount rate was off of
12 the large-buyer price was 10 percent in 2016, and it was 15
13 percent in 2019. That would really be helpful if you could
14 do that.

15 MR. SANDERS: Paul Sanders, we can do that.

16 COMMISSIONER KEARNS: Okay, great. Thank you.
17 I've got a few other things for post-hearing here.

18 Oh, just to clean up here a little bit on the
19 phenyl versus acetone. To the extent you can, please
20 provide internal company documents that illustrate your
21 decision process on how much you're going to produce of the
22 two products.

23 Oh, and also, Mr. Vaughn, I'm guessing you were
24 going to do this anyway, but you gave a pretty good quick
25 summary of how you would respond to the various cases that

1 Respondents referred to in connection with coproducts, and
2 if you could all just do that in post-hearing.

3 MR. VAUGHN: We will do that.

4 COMMISSIONER KEARNS: Thank you. And also we
5 talked earlier about Respondents' argument that there is a
6 historical inverse relationship between RGP prices and
7 acetone spread. I don't want to spend any more time on that
8 now, but--and I know that it's business proprietary, but
9 there's a chart on page 77 of the Respondents brief, and I'm
10 hoping you all can respond to that posthearing.

11 MR. VAUGHN: We will do that, as well.

12 COMMISSIONER KEARNS: Thank you. Now going back
13 a bit to the issue of spot versus annual contracts, we saw
14 an increase--the prehearing report makes this clear--we saw
15 an increase in spot sales versus contract sales over the
16 POI. And if I understand them correctly, Respondents argued
17 that at the end of 2017 U.S. producers expected to see a
18 tighter acetone market, or shorter I guess is the word you
19 guys use, acetone market in 2018. So you were
20 opportunistically looking for higher spot prices in 2018,
21 and so were turning down contracts.

22 And I think they would also say prices in 2017
23 enabled you to be profitable.

24 Now, Mr. Duhe, I think you stated that to the
25 extent you declined annual contracts it's because the prices

1 purchasers offered were too low. Is that correct?

2 MR. DUHE: Tim Duhe with ALTIVIA. That's
3 correct. We had product.

4 COMMISSIONER KEARNS: Okay. And that's not so
5 much because your customers were saying hey let's just
6 continue the same discounts and so forth from 2017, but they
7 were saying we want a cut at lower?

8 MR. DUHE: And we'll provide that information in
9 post-hearing.

10 COMMISSIONER KEARNS: Okay, yeah, that'd be
11 great. Thank you.

12 And then I'm also hearing you say, in addition to
13 that--not you, necessarily, but I think a number of other
14 panelists--that the purchasers became more interested in
15 spot purchases by buying minimum quantities under the
16 contract, right? So I guess that would also account for why
17 we seem to be seeing more sales, more volume being covered
18 by a spot contract--or by spot sales, it's because it could
19 have been that in the past maybe they were maxing out under
20 the contract, whereas in 2018 maybe they were going a
21 minimum amount and buying more on the market?

22 MR. DUHE: That's correct. When the market gets
23 long and the prices go below costs as a result of dumping,
24 then buyers will go to the minimum contract commitments to
25 try to take advantage of the market conditions.

1 COMMISSIONER KEARNS: Okay.

2 MR. DUHE: The second part of that, though, is
3 that buyers will change their strategy on how much they're
4 going to put under contract themselves versus playing the
5 spot market. And we see that ratio change over time as
6 well. It depends on market conditions.

7 The last two years, because we were inundated by
8 dumping, there's more spot activity out there.

9 COMMISSIONER KEARNS: Okay. Thank you. And can
10 you all provide contemporaneous business records that show
11 these interactions between suppliers and purchasers in the
12 2018 contracts?

13 Thank you. I see some nodding out there. Also I
14 think this is post-hearing, we see that some U.S. producers
15 reported increased spot sales in 2018 and 2019 while others
16 did not. So if you all can explain to us why--and I'm
17 assuming this is business proprietary--so if you can explain
18 to us post-hearing why it varies among U.S. producers, that
19 would be helpful.

20 MR. VAUGHN: We will do that.

21 COMMISSIONER KEARNS: Thank you.

22 Can you tell us what explains the trends in
23 apparent U.S. consumption of acetone from 2016 to mid-2019?
24 We've seen small increases in 2017, a larger one in 2018,
25 and then a decline between the interim periods. Why the

1 apparent consumption change like that? Do you all have any
2 insights into that?

3 MR. SANDERS: Paul Sanders, AdvanSix. It's
4 pretty well documented. I think you've seen through '16,
5 '17, and '18 a relatively reasonable growth rate, a few
6 percentage points. You know, acetone is used in a lot of
7 very generic end uses--solvents, coatings, adhesives, very
8 much GDP kind of business. Very much commodity like. 2019
9 there has been some issues within the industry, in the
10 downstream industry, with some end users having some
11 production issues. And that's obviously impacting the total
12 sales in H-1 2019 that you may have seen.

13 COMMISSIONER KEARNS: Okay, thank you.

14 MR. SANDERS: That does mean, though, that
15 obviously with the somewhat lower H-1 demand, the need for
16 additional oversupply from the five subject countries is
17 really not required whatsoever in an oversupplied market.
18 It just exacerbates the issue.

19 COMMISSIONER KEARNS: Okay, thank you.

20 And I want to talk about inventories for a
21 minute. You've indicated that inventories grew during 2018
22 creating problems in the industry. But the staff report--
23 and I'm looking at table 3-7--shows that inventories at the
24 end of 2018 were lower than at the end of 2017.

25 Can you all comment on that? Mr. Duhe?

1 CHAIRMAN JOHANSON: Mr. Duhe?

2 MR. DUHE: Yeah, Tim Duhe with Altivia. Because of
3 the dumping and our inability to actually sell acetone, we
4 reduced our rates. And in the reduction in rates, reduced
5 inventories by year-end as well.

6 MR. SANDERS: I'm Paul Sanders, AdvanSix. As I
7 mentioned earlier, end of year there is often a desire for
8 anyone with a large acetone inventory in Texas to reduce due
9 to a sales tax, so that's why you'll see often a reduction
10 at year-end. I think the more compelling number is the one
11 at the end of full period of interest, June 2019, where I
12 think you'll see another uptick and the highest point ever.

13 For AdvanSix we can supply some information
14 post-hearing that will explain and show that the inventory
15 levels are at the highest they have been over the period of
16 interest in 2019 and we've actually had to go out and lease
17 additional storage tanks to deal with that.

18 COMMISSIONER KEARNS: Okay, and I'm hearing you
19 also say that, in 2018, before the very end of 2018, you
20 would have seen higher inventories but, because of tax
21 consequences, you lowered your inventories at the end.

22 MR. SANDERS: I'm not privy to the information
23 but, my guess is by near end of December there'll be some
24 action around not having stock at the end of the year.

25 COMMISSIONER KEARNS: Okay. Yes, Mr. Hayes?

1 MR. HAYES: Frank Hayes for Altivia. Just to
2 further comments Mr. Duh made: for Altivia, you'll see an
3 increase in our acetone inventory from December '17 to
4 December '18. In the fourth quarter of 2018, we did reduce
5 rates to help mitigate those inventory levels.

6 COMMISSIONER KEARNS: Okay, thank you. Mr.
7 Vaughn?

8 MR. VAUGHN: Yeah, I just want to point out
9 that on 4-5 of the staff report, and this is all public, it
10 says that the importers -- the capacity of their leased
11 storage went up 15 % between 2017 and 2018 and their
12 inventories went up by 309% from '16 to '18 and I think
13 that's -- some of the inventories, obviously, are going to
14 be helped by these traders, who are basically going out and
15 buying these things on speculation then they end up having
16 to put more of it in inventory. So it's not only on the
17 domestic side, it's also on the other side.

18 COMMISSIONER KEARNS: Okay, thank you. I think
19 my last question: respondents argue that the trends in the
20 industry's production, shipments, and market share are the
21 result of Shell's closure in early 2018. They claim that, if
22 Shell's data are excluded, industry trends turn positive
23 from 2016 to 2018. Can you respond to that argument?

24 MR. VAUGHN: I think we'd rather respond to
25 that in the post-hearing because it gets into the

1 performance of individual companies.

2 COMMISSIONER KEARNS: Okay, great. That'd be
3 fine, thank you. I have no further questions right now.
4 Thank you.

5 CHAIRMAN JOHANSON: Commissioner Stayin.

6 COMMISSIONER STAYIN: Just one question going
7 to the issue of inventory and storage and continuing to
8 operate the plant: what are the considerations? And mention
9 that storing of phenol and acetone would be a very important
10 and difficult thing to do. So, it's gonna cost and could you
11 give some idea of how that impacts your business?

12 MR. HAYES: Frank Hayes for Altivia. So, the
13 plant has a certain storage capacity, tanks on site that we
14 store our inventory in as it is finished production and
15 being moved out to customers either by barge, by railcar, or
16 tanker. So, there's a fixed amount of storage that is sized
17 with the amount of inventory we generally keep. We generally
18 keep a very small number of days' supply of inventory
19 because of that phenomenon of trying to match our selling
20 price to our cost of manufacture.

21 As 2018 unfolded, and the market prices fell,
22 we chose to hold inventory rather than to sell at severely
23 impacted prices. We quickly ran out of on-site storage
24 capacity and had to make arrangements for temporary storage
25 of the acetone, which we did through fleeting barges on the

1 Ohio River where we would bring in an empty barge and store
2 acetone. That's how we responded to the lower pricing: by
3 increasing our inventory and incurring significant cost on a
4 demurrage basis for these barges to do so.

5 COMMISSIONER STAYIN: So, you have an
6 additional cost that you don't normally have in ordinary
7 operation of your business.

8 MR. HAYES: Exactly.

9 COMMISSIONER STAYIN: Mr. Duhe.

10 MR. DUHE: Just to add a couple more comments
11 to Mr. Hayes' comments. Tim Duhe, Altivia. You know, the
12 price of storage went up as the importers grabbed the
13 storage that was available for acetone. This is
14 sophisticated storage tanks. Availability is at a premium
15 right now.

16 COMMISSIONER STAYIN: Yes.

17 MR. STEPHENSON: Clay Stephenson with AdvanSix.
18 So, we look at, you know, the options: do you go get
19 additional storage and pay that cost, or do you sell at a
20 loss to compete with the imports. So, we're looking at that
21 kind of trade-off all the time when we're looking at getting
22 additional storage.

23 The other point is: if you look at phenol
24 storage and acetone, they're not compatible to go back and
25 forth. So, if you have a phenol tank, it can only be used

1 for phenol and it's different construction than an acetone
2 tank.

3 COMMISSIONER STAYIN: Okay. Thank you very
4 much. That's all I have.

5 CHAIRMAN JOHANSON: Commissioner Karpel?

6 COMMISSIONER KARPEL: Thanks. I wanted to ask a
7 few questions in connection with Sasol's argument that there
8 should be a different like-product for benzene-free acetone.
9 Could you talk about what differences there are between, if
10 any, between pharmaceutical grade acetone that contains
11 small amounts of benzene and benzene-free acetone that's for
12 pharmaceutical grade?

13 MR. SANDERS: Paul Sanders, AdvanSix. So,
14 firstly, all the subject importers that dump material
15 including Sasol bring in all the material into the same
16 tanks, so Sasol have a tank and they don't have a specific
17 tank or a specialty grade. It's very fungible. So the
18 product is available for sale into every type of end-use.

19 There are three producers for special grades,
20 as far as I'm aware, in the U.S. today. AdvanSix makes a
21 low-water low-benzene low-impurity level. And then similar,
22 I believe, Dow do and I believe INEOS do. So the market is a
23 de minimis market. It's less than 2% of the total imports.
24 It's very specialty driven at a pharmaceutical grade and we
25 manufacture routinely a low-benzene product that is

1 perfectly used and is consumed in that 1-2% of our total
2 operations in the U.S. operations market. So, there is
3 really no real special zero-benzene. Customers do not need
4 zero-benzene, they're looking for low-benzene and high
5 impurity.

6 MR. ANDERSON: Commissioner Karpel, Chuck
7 Anderson. It's always important to keep in mind that these
8 substitutability is asymmetric, that is, whereas the very
9 small demand for benzene-free is a limited market that
10 cannot accept technical grade acetone, the reverse is not
11 true that you can use benzene-free -- you can use Sasol
12 acetone in just general applications. And, in that regard, I
13 would just urge you to take a look at their customer list
14 and you can then decide -- you can find out for yourself
15 where most of their acetone is going.

16 MS. BYERS: Could I just one thing to that too?
17 We looked at their website, Sasol's website, where they
18 market their materials. There was nothing on their website
19 that even talks about having benzene-free products. So,
20 clearly, they're not marketing it as such.

21 Also, there was some testimony given at the
22 staff conference by Mr. Thorlow, where he basically
23 confirmed that they're competing head to head with everybody
24 that are producers that sell too.

25 The other thing is that, I think it's

1 important that Sasol didn't even comment on this for
2 purposes of the draft petition. If they were going to be
3 raising a like product argument, you think they would have
4 teed that up, and they didn't do that. I mean the
5 questionnaire, the other questionnaire.

6 COMMISSIONER KARPEL: One follow-up: so, is
7 AdvanSix's low-benzene product competing with Dow's
8 benzene-free product in the U.S. market? Are they?

9 MR. SANDERS: As I said, it's an extremely
10 small market and, obviously, we compete every day with other
11 producers with similar like products and there are similar
12 products out there with low-benzene low-water, whatever you
13 want to call it, into that pharmaceutical space.

14 COMMISSIONER KARPEL: To your knowledge, there
15 aren't purchasers in the U.S. who need to have benzene-free
16 acetone and cannot substitute low-benzene acetone for that?

17 MR. SANDERS: I'm not aware personally of a
18 customer who's insisted on a zero-benzene product. There is
19 definitely a very tiny market for low-benzene, and that's
20 largely pharmaceutical which we sell to ordinarily every day
21 of the week.

22 MS. BYERS: I would also just -- Bonnie Byers --
23 -- would also just urge you to look at the questionnaire
24 responses of the purchasers regarding this issue. I think
25 that'll be quite telling as well.

1 COMMISSIONER KARPEL: The next question
2 concerns exports by the domestic industry. I notice those
3 declined. Is that -- can you talk about that at all? Any
4 impact on that on the financials of the domestic industry?

5 MR. DUH : Tim Duh with Altivia. For us,
6 exports mean Mexico and Canada. Most of that's real. There's
7 not a lot, from an Altivia perspective, anything going out
8 in cargos or vessels.

9 MR. SANDERS: Paul Sanders, AdvanSix. The
10 export market for us is largely Mexico, Canada. Obviously,
11 as I described early the market in the U.S. is pretty well
12 balanced with capacity for the U.S. producers, relatively
13 close to the demand. So it makes a lot of sense for us to
14 service our home market reliably and on time. So we,
15 obviously, prefer to keep all our U.S. product for the
16 U.S., where we can make a profit.

17 COMMISSIONER KARPEL: So, just to follow up, so
18 you don't see any, you don't attribute any of the financial
19 situation of the domestic industry to what's going on with
20 your export shipments?

21 MR. SANDERS: I guess we'll have to follow up,
22 that was for AdvanSix, not for us.

23 MR. VAUGHN: Commissioner, I would just make one
24 point which is that, obviously, you know the U.S. shipments
25 for the domestic industry were 1.27 million tons in 2018,

1 and it was 70,000 tons of exports. So it is a relatively
2 small portion of what they do.

3 COMMISSIONER KARPEL: Just a few clean-up
4 questions. If you could, in your post-hearing brief,
5 respond to Table 2-11 of the staff report, indicating that
6 price is generally considered comparable between U.S.
7 production and subject imports, as well as information on
8 Page 5-12 of the staff report that talks about U.S.
9 producers, including AdvanSix, being the price leader in the
10 market.

11 MR. VAUGHN: We will do that.

12 COMMISSIONER KARPEL: And just returning to the
13 cost of storage for acetone, if you could, just be sure to
14 address this in your post-hearing brief, I'm trying to get a
15 sense -- these are costs that importers and distributors
16 would face, too, and trying to get a little insight into how
17 you balanced? So at a cheap price, or do I buy additional
18 storage capacity? And how easy is it get additional storage
19 capacity. Maybe there's a upper limit of what's available
20 for leasing in the United States and so forth.

21 MR. VAUGHN: We will do that.

22 COMMISSIONER KARPEL: And we've talked about
23 underselling a bit and you've indicated wanting to respond
24 to those questions in the post-hearing brief. But in doing
25 so, could you also elaborate a bit on what you mean by key

1 periods of underselling and why those are such important
2 instances?

3 MR. VAUGHN: Yes, we will do that as well.

4 COMMISSIONER KARPEL: That's it. Thanks.

5 CHAIRMAN JOHANSON: Do any other -- oh, yes,
6 Commissioner Schmidtlein.

7 COMMISSIONER SCHMIDTLEIN: In the post-hearing,
8 can you respond to the respondents' argument that we should
9 take into account the expanded scope and analyzing
10 negligibility?

11 MR. VAUGHN: Yes, we will do that as well.

12 COMMISSIONER SCHMIDTLEIN: All right. Thank you.

13 CHAIRMAN JOHANSON: Yes, Commissioner Kearns?

14 COMMISSIONER KEARNS: A couple also for
15 post-hearing. Can you respond to joint respondents'
16 argument at Pages 56 to 58 of their brief that certain U.S.
17 producers overstated their production capacity?

18 MR. VAUGHN: Yes.

19 COMMISSIONER KEARNS: And on capital investments,
20 also that those are under-reported. That's their brief at
21 Pages 104 through 106?

22 MR. VAUGHN: Yes, we will respond on that.

23 COMMISSIONER KEARNS: Okay. And then, the last
24 question I have is with INEOS, INEOS Europe and INEOS
25 America argue that they are in a unique position in the

1 acetone industry. They point out that their Belgium product
2 is always comingled and sold together with their domestic
3 acetone. They claim that this means that the imported
4 product does not compete with domestic producers or with the
5 subject imports and should not be cumulated.

6 What's your response to this argument? Not just
7 with respect to cumulation, but otherwise, are there things
8 that we're going to need to do to think differently about
9 INEOS in this case? And are you aware of any prior
10 investigations that presented this factual scenario?

11 MR. ORAVA: I think this is a particularly
12 dangerous interpretation. I mean their concept is that you
13 can take dumped imports, launder them through their domestic
14 production and then put them out to their U.S. customers,
15 not tell them, and if they don't tell them they're imports
16 and instead continue to let them believe it's U.S.
17 production--some customers may even want U.S. production
18 rather than imports--and somehow they can escape the
19 aspects of the consequences of their unfair trade actions.

20 Maybe just a few points on the law. You know,
21 the law on cumulation is pretty clear. The standard is, if
22 such imports compete with each other in the domestic like
23 products in the United States market. So that's what the
24 statute requires, that's all the statute requires. And if
25 dumped imports from Belgium compete with other imports and

1 with the domestic like product, then you're required to
2 cumulate.

3 And so what the respondents have done is come up
4 with a couple of cases that say, "Well, here's how you
5 market that product," and that marketing somehow dictates
6 whether you compete or not. And I think what's dangerous
7 there is that they basically say that, in order for these
8 cases -- well, these are cases are relevant because you have
9 to show that you're marketing these products as subject
10 imports in order to compete with the domestic like product,
11 and that's not accurate. Obviously, imports do not have to
12 be marketed as imports.

13 And in this particular instance, if you look at
14 the facts of this particular case, INEOS is bringing in
15 dumped imports from Belgium, they're selling those dumped
16 imports to U.S. customers. The dumped imports are sold in
17 the same parts of the country and the same channels of
18 distribution and same timeframe as other subject imports and
19 the domestic like product. And so sales of the dumped
20 Belgium imports took sales away from businesses and workers
21 here in the United States.

22 Under these circumstances, it would be fairly
23 ludicrous to say try to pretend that Belgium imports were
24 not competing in the U.S. market. Just one more point, I
25 think their interpretation would just create this enormous

1 loophole where you'd run into a situation, where if that
2 interpretation was adopted, a U.S. producer who is also an
3 importer, could bring massive volumes of dumped imports into
4 the U.S. market without any fear of cumulation, and frankly,
5 without any fear of damage.

6 There's a quote in their brief that basically
7 says that, unless you tell a customer that it's an import,
8 then it actually doesn't constitute a sale, and obviously
9 that can't be the case. So this aspect of INEOS saying that
10 they're somehow shielded from all the consequences of their
11 dumped imports simply because they're disguising or hiding
12 the fact that these are imports rather than domestic
13 production is frankly absurd.

14 COMMISSIONER KEARNS: Okay.

15 MR. ORAVA: And maybe just one more point on
16 that. They make the argument that there was no lost sales
17 or lost revenue reported for Belgium, but that's obviously
18 the case, because it's a function of this scheme that
19 they've got in place that they say matters, which is, "We're
20 not gonna tell the domestic customers where this product
21 comes from," so they may believe that it's U.S. product, but
22 in fact, it's dumped imports, and they're able to leverage
23 these dumped imports into capturing more and more market
24 share with higher and higher imports from Belgium.

25 COMMISSIONER KEARNS: Okay, thank you. And that

1 last point gets me to my follow-on question, which is,
2 outside of the cumulation context, what other sorts of
3 things should we keep in mind? And you can answer this
4 post-hearing, if you like. What are the things we need to
5 keep in mind, given this strange issue. I mean you just
6 pointed out lost sales, lost revenues, that it would seem
7 that those are being masked basically. Anything else you
8 can tell us about the way to think about, you know, industry
9 performance, anything else, would be helpful, and again,
10 post-hearing's fine if you like.

11 MR. ORAVA: We'll do that.

12 MR. ANDERSON: Commissioner Kearns, one thing,
13 because it's in our prehearing brief, is that we think that
14 the INEOS pricing data should be adjusted to reflect the
15 fact that, as they claim, that they sell exactly the same
16 price. And the data should be adjusted to reflect that,
17 because apparent overselling and underselling from the INEOS
18 data is simply a function of inventory timing. By their own
19 definition, they cannot sell at a different price, so the
20 data should reflect that. That does change the volume of
21 underselling. And so that is one other implication.

22 COMMISSIONER KEARNS: Okay, thank you very much.

23 CHAIRMAN JOHANSON: Do any other Commissioners
24 have questions? None do. Do staff have any questions for
25 this panel?

1 MR. COMLY: Nate Comly, Office of Investigations.
2 Staff has no questions.

3 CHAIRMAN JOHANSON: Do respondents have any
4 questions for this panel?

5 MR. EMERSON: This is Eric Emerson. On behalf of
6 INEOS, we have no questions.

7 CHAIRMAN JOHANSON: All right, thank you. Then,
8 let's now take a lunch break. Let's come back at 2:00. I'd
9 like to remind the parties that the room is not secure, so
10 please be sure to take any confidential business information
11 with you. We'll see you back here at 2:00.

12 (Whereupon a lunch recess was taken, to reconvene
13 this same day at 2:00 p.m.)

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

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

3 Mr. Chairman, our Congressional appearance has arrived. The
4 Honorable Brian Babin, United States Representative from the
5 36th District of Texas.

6 CONGRESSMAN BABIN: Am I ready, Mr. Chairman?

7 CHAIRMAN JOHANSON: Okay, yes, you may proceed
8 whenever you would like, Congressman.

9 STATEMENT OF THE HONORABLE BRIAN BABIN

10 CONGRESSMAN BABIN: Thank you very much, Mr.
11 Chairman and members of the ITC. We really appreciate the
12 opportunity to come over here and speak on this very
13 important subject. As a Congressman who represents over 150
14 chemical plants and petrol chemical or refining facilities,
15 it could be nothing more important.

16 Well, thank you Mr. Chairman and members of the
17 Commission. I very much appreciate the opportunity to
18 testify before you today. I am Brian Babin, Representative
19 from the 36th District of the great State of Texas, and the
20 issue that brings me here is the possible imposition of
21 anti-dumping duties on imports of acetone.

22 I support strong trade remedy laws that protect
23 American jobs and industries from unfair trade practices.
24 However, in this particular case, the tariffs are harming
25 the very American industry that they are supposed to be

1 protecting. The tariffs will hurt the U.S. acetone
2 derivatives producers because they will cause permanent harm
3 to the domestic derivatives industry, shrinking the U.S.
4 acetone industry's customer base, and harming domestic
5 producer's long-term viability.

6 And this has absolutely already started
7 happening. Acetone is produced in the U.S. from Cumene,
8 which produces phenol and acetone in a ration of one phenol
9 to .61 acetone. Acetone workers produce both phenol and
10 acetone, and the production is inseparable.

11 Phenol is the more valuable product. Acetone is
12 produced in the United States only because phenol is
13 produced in the United States. Because phenol is the
14 driver, however, there are times when more or less acetone
15 is produced based upon demand for phenol and disconnected
16 from demand for acetone.

17 Recently, phenol has been hugely successful,
18 while acetone has experienced a long market. Acetone
19 workers have jobs, however, because they are also phenol
20 workers. In my District, we have several important
21 producers of acetone derivatives, including the Dow Chemical
22 Company's Rohm and Haas Plant in Deer Park, which I
23 represent, and Monument Chemicals facility in Houston.

24 They are large, sophisticated facilities that
25 employ many skilled workers. The operators are United Steel

1 workers. The key difference between on the one hand,
2 acetone workers who are producing phenol and acetone, and on
3 the other hand, acetone derivatives workers, is that the
4 price of acetone in the United States only affects the
5 derivatives workers. The jobs of phenol acetone workers are
6 not threatened by the long acetone market.

7 And therefore, they do not need protection from
8 imports. However, duties on acetone threaten the global
9 competitiveness of acetone derivative products, and
10 therefore threaten the jobs of hundreds of workers.

11 When the price of acetone is high in the United
12 States relative to the global quantity price, acetone
13 derivatives like isopropyl acetone, better known as IPA,
14 methyl methacrylate, or MMA, and others are not competitive
15 in the U.S. or in the rest of the world.

16 There have already been spikes and imports of
17 acetone derivative products like IPA. Increases in imports
18 of other acetone-based derivatives are certain to follow.
19 And I understand that production of acetone derivatives in
20 the United States is already slowing down -- not because of
21 a slowdown in demand for derivatives, but because of
22 artificially high acetone prices that make U.S. companies
23 simply uncompetitive.

24 This trend threatens to run U.S. acetone
25 derivative producers out of business and decimate the U.S.

1 market for acetone. Anti-dumping duties on acetone pose an
2 existential threat to acetone derivative producers and to
3 their workers, and ultimately to acetone producers.

4 Any injury to domestic acetone producers is
5 because of the dynamics of phenol combined with a
6 misunderstanding of the inseparable acetone phenol dynamic.
7 The threat to acetone derivative producers deserves the full
8 consideration of the Commission. And as you examine whether
9 a domestic industry is materially injured or threatened with
10 material injury by reason of imports, or simply by reason of
11 fluctuating phenol demand.

12 And in closing, I would urge the Commission to
13 recognize the unusual nature of the facts in this case.
14 During its deliberations on the extent of injury, I want to
15 thank you very, very much for the opportunity to come
16 testify today Mr. Chairman, and members of the Commission,
17 and I would close with that. Thank you very much.

18 CHAIRMAN JOHANSON: Thank you Congressman Babin
19 for appearing here today. We appreciate it. Do any
20 Commissioners have questions of the Congressman? No
21 Commissioners do, but we appreciate you being here.

22 CONGRESSMAN BABIN: Okay, alright thank you,
23 thank you so much.

24 CHAIRMAN JOHANSON: Thanks again, sure.

25 CONGRESSMAN BABIN: I'm excused I assume, thank

1 you.

2 CHAIRMAN JOHANSON: Yes, you are.

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

7 CHAIRMAN JOHANSON: You may proceed whenever
8 you'd like.

9 STATEMENT OF JAMES R. KNAUB

10 MR. KNAUB: Good day. My name is Jim Knaub. I
11 am the Global Business Director for Dow's Performance
12 Monomers business. Dow is the largest purchaser of acetone
13 in the United States. Our Deer Park, Texas plant located
14 outside of Houston is the largest acetone consuming
15 methacrylate's plant in the world.

16 Until 2015, we produced phenol and acetone from
17 Cumene at our nearby facility in Oyster Creek. We sold that
18 business to Olin about four years ago. We also produced a
19 small amount of acetone along with several acetone
20 derivatives at a facility in Institute, West Virginia, which
21 we are selling to Altivia.

22 We understand both sides of the issues presented
23 today. At Dow, we strongly support free and fair trade,
24 especially in support of growing U.S. manufacturing, job
25 creation and exports. In the last five years alone, we have

1 invested more than 8 billion dollars to expand our capacity
2 and grow new high-skilled, high-valued jobs in the U.S. Gulf
3 Coast.

4 We believe it would be a mistake to impose
5 anti-dumping duties on acetone. We purchased several
6 hundred thousand tons of acetone every year for Deer Park
7 facility and for further processing in a site in Louisville,
8 Kentucky, supporting close to 800 jobs.

9 Hundreds of these hard-working employees are
10 members of United Steelworkers. We are proud that products
11 from these two American facilities are used in American
12 homes and are exported around the world. The largest
13 product we produce of acetone by volume is methyl
14 methacrylate or MMA.

15 Our MMA becomes the paint on the wall and the
16 white and yellow lines on the roads, clear screens for TV's
17 and cellphones, skylights, Corian countertops, and many more
18 products all made at plants across the United States.

19 MMA and related products can be made from
20 acetone, ethylene or butadiene. Currently, all of our MMA's
21 made from acetone, but making MMA from ethylene is more
22 cost-effective. Acetone-based MMA production has become --
23 has begun a secular decline.

24 Anti-dumping duties would hasten that decline.
25 We compete against foreign MMA producers in markets around

1 the world, so an artificially high acetone price in the
2 United States makes us less competitive. Put simply,
3 anti-dumping duties on acetone threaten our MMA production,
4 and our United Steelworkers jobs.

5 Phenol demand drives acetone production. Phenol
6 market dynamics, not imports, creates short and long acetone
7 market cycles. Injury analysis must take this into account,
8 the condition of competition which establishes that any
9 decline of financial performance by Petitioners was by
10 reason of phenol demand dynamics.

11 A finding otherwise would severely disadvantage
12 U.S. acetone derivative manufacturers, potentially causing
13 loss of jobs and loss of domestic market for the
14 Petitioners.

15 Acetone pricing in the United States is guided by
16 the monthly large buyer price benchmark. Dow, Lucite and
17 Evonik, now Rohm, are the large buyers who individually
18 negotiate with INEOS and Shell. Acetone availability
19 depends on demand for phenol.

20 U.S. acetone manufacturers produce phenol to meet
21 phenol demand and so, whatever acetone is made that they do
22 not consume internally. Dow purchases much of its acetone
23 from domestic sources by design. The logistics are easier
24 and more reliable. But Dow must ensure reliable supply of
25 acetone.

1 To adequately address supply risk, Dow must have
2 both domestic and import sources. It would be irresponsible
3 not to. As we saw in 2016 and 2017, domestic supply
4 tightened because of weakened phenol demand and weather
5 destructions.

6 For example, Hurricane Harvey caused force
7 majeure declarations preventing acetone deliveries and Shell
8 shut down a phenol acetone line, reducing its ability to
9 supply the market. These events threaten the continuity of
10 Dow's production, and we turn in part to imports to ensure
11 supply reliability.

12 In early 2018, global demand for phenol soared,
13 primarily due to increased phenol demand in Asia. The
14 relatively new management of Altviva and new spinoffs of
15 AdvanSix and Olin, overproduced phenol to take advantage of
16 this market demand which created more acetone. Because of a
17 surplus of acetone, spot prices were lower than Dow's
18 contracted price. This is backwards, reflecting a
19 fundamental misunderstanding of output strategy, or how to
20 manage the acetone market while making production decisions
21 based upon phenol demand.

22 In our view, Petitioners are requesting a bail
23 out. That would be a mistake. General manufacturing is
24 facing challenges in the U.S. Durable goods demand will
25 drop, reducing phenol demand. As this happens, history

1 shows that acetone will become short around the world.
2 Sustaining our American manufacturing requires certain new
3 supply, and that means access to global supplies.

4 We urge you to consider the impact to American
5 manufacturing who needs security or competitive supply to
6 ensure the ability of American companies to compete in the
7 U.S. and in export markets around the world. I'll be happy
8 to answer any questions you may have.

9 STATEMENT OF ROBERT CONNOLLY

10 MR. CONNOLLY: Good afternoon Commissioners and
11 staff. My name is Robert Connolly, and I'm the Director of
12 Procurement for Lucite International. Lucite is a
13 subsidiary of Mitsubishi Chemicals. Mitsubishi Chemicals is
14 the largest global producer of MMA and Lucite is the second
15 largest MMA producer in the United States as well as the
16 second largest acetone purchaser in the United States.

17 Lucite directly imported only a small amount of
18 acetone during the period of investigation and the vast
19 majority of the acetone they purchased is U.S. produced.
20 So, why is Lucite here at this hearing?

21 Lucite is here because it depends on a stable and
22 balanced U.S. market supply of acetone in order to produce
23 MMA. It is difficult to maintain a balanced U.S. market for
24 acetone because the supply of acetone is not driven by
25 demand of acetone, but instead is driven by supply and

1 demand of phenol.

2 Introducing anti-dumping duties in order to
3 artificially increase the price of acetone and decrease U.S.
4 acetone imports will make that path harder. Instead of
5 helping U.S. acetone producers, anti-dumping duties will
6 significantly impair the U.S. acetone market and encourage
7 Lucite to simply cut back U.S. acetone-based MMA production
8 and instead import MMA directly into the United States.

9 Currently there is a depressed demand worldwide
10 for both phenol and acetone, but we believe that the current
11 global economic environment will rebound, resulting in
12 stronger demand for both phenol and acetone. However, if
13 at this point Lucite has shifted from producing MMA from
14 acetone in the United States, to instead importing MMA
15 directly from lower cost global assets, the U.S. acetone
16 market will not rebound. It will have been permanently
17 handicapped.

18 Lucite would much rather keep jobs in the United
19 States to manufacture MMA. To do this, we need market
20 forces to restore the supply/demand balance in the U.S.
21 market without introducing further market distortions from
22 anti-dumping duties on acetone.

23 To understand the difficulty of maintaining a
24 balance in the U.S. acetone market, we have to remember that
25 U.S. producers are in the business of producing phenol, not

1 acetone. Acetone is a subordinate co-product. Phenol
2 demand determines the operating rates of these plants.

3 If phenol demand increases faster than acetone
4 demand, acetone inventories increase. The inverse is also
5 true. Over and above the normal price movement of acetone
6 in relation to refinery grade propylene, there have been
7 numerous occasions in the past five years when phenol demand
8 was sluggish, resulting in less acetone product being
9 produced, and resulting in acetone prices increasing due to
10 constrained and limited supply, regardless of the costs of
11 refinery grade propylene.

12 Over the past 10 to 15 years, U.S. producers have
13 over built capacity in the United States to manufacture
14 phenol, which led to oversupply and very poor profitability
15 for phenol. Eventually, Shell closed one of its units due
16 to the unprofitable nature of its phenol business. That had
17 the beneficial effect of returning U.S. phenol market supply
18 to a balanced state and presenting the opportunity to bring
19 all U.S. phenol producers back to profitability.

20 However, Shell's closure also resulted in a drop
21 in U.S. acetone production, leaving U.S. acetone supply
22 short in the long-term of approximately 150,000 short tons,
23 resulting in the absolute need for imports in the mid to
24 long-term. Thank you for your time.

25 STATEMENT OF CHRISTINE H. FREDERIC

1 MS. FREDERIC: Good afternoon Commissioners and
2 staff. My name is Chris Frederic. I am Manager of Direct
3 Procurement, including raw materials at Lucite
4 International. The single most important factor to consider
5 in the U.S. market is this -- that supply and demand for
6 acetone in the United States, and the question of whether
7 acetone is imported or exported, depends on the need for
8 U.S. production of phenol.

9 As a result, traditionally, U.S. production of
10 acetone is capped by the amount of phenol produced to
11 satisfy U.S. phenol demands, plus phenol exports.
12 Accordingly, acetone imports are required to bridge the gap
13 between overall U.S. acetone production and demand for
14 acetone, as U.S. production availability is premised on
15 acetone being a subordinate coproduct of phenol production.

16 Another important factor is that the elasticity
17 of demand for phenol tends to be much higher than the
18 elasticity of demand for acetone. When the phenol market
19 demand and profitability go down, producers tend to decrease
20 phenol production in order to rebalance the phenol market.

21 But when producers do that, the result is that
22 acetone production necessarily decreases as well, which
23 pushes acetone prices upward. In the summer of 2017, global
24 phenol capacity additions in Asia and the Middle East,
25 reduced the demand for U.S. phenol exports.

1 As a result, demand for U.S. phenol, including
2 exports dropped. This decrease in production had the effect
3 of increasing U.S. acetone prices. In the fall of 2017, two
4 events occurred that increased acetone imports into the
5 United States. First, in September 2017, Hurricane Harvey
6 flooded Houston, temporarily shutting down production of
7 Shell and others.

8 Several producers, including Shell, declared a
9 force majeure as a result of Hurricane Harvey. Second, in
10 October 2017, Shell announced it would mothball the smaller
11 of its two phenol acetone production units in Deer Park,
12 Texas, with the intent of balancing the phenol market.

13 Shell's original plan was for the shutdown to be
14 completed in early January of 2018. With the closure of
15 Shell's phenol's unit, obviously Shell's acetone production
16 would be shut down as well -- since again, acetone is the
17 subordinate coproduct of phenol production. Because of
18 these events, suppliers and traders began shipping acetone
19 imports into the U.S. Gulf Coast, anticipating a shortage of
20 acetone supply.

21 However, Shell delayed the mothballing of its
22 Deer Park unit until the end of February 2018 and continued
23 to run their phenol acetone units at high operating rates.
24 The Commission heard this morning from the Altivia
25 representative that Altivia had plenty of capacity to supply

1 the shortfall of acetone due to its second unit coming
2 online.

3 If that was the case, why did Altivia refuse to
4 supply the acetone volumes that Lucite requested in 2018?
5 Instead, Altivia chose not to participate in a Lucite RFQ
6 process in 2018, claiming that it did not have enough
7 acetone to support the MMA market.

8 In 2018, global demand for phenol began to
9 increase, just as the U.S. phenol market had been balanced
10 from the Shell shutdown in February. U.S. phenol producers,
11 seeing an increase in export possibilities, raised their
12 operating rates, which resulted in more acetone produced
13 than was expected.

14 In 2019, phenol demand in the U.S. and across the
15 globe has dropped significantly. At an industry conference
16 in early October, the message from phenol producers was that
17 phenol operating rate had dropped to the 65 to 75% range.
18 This means that less acetone is being produced, meaning that
19 global acetone prices are increasing.

20 Moreover, U.S. RGP prices are expected to be
21 stable to slightly up next year. In fact, three U.S.
22 producers have told us recently that acetone prices will be
23 increasing. They also said they will be capping the amount
24 of acetone that they can supply to Lucite for 2020.

25 In short, the dynamics of the U.S. acetone market

1 are different from the incomplete picture presented by the
2 Petitioners. I thank the Commissioners and staff for giving
3 me an opportunity to discuss these features of the U.S.
4 market and I would be glad to answer any questions.

5 MR. EMERSON: Good afternoon. I'm Eric Emerson
6 with Steptoe and Johnson, representing INEOS. And before
7 you hear from Mr. Foster, I'd like to spend two minutes
8 addressing cumulation and issues related to INEOS's
9 reporting of its data.

10 As explained in our pre-hearing brief, INEOS
11 believes that the Commission must consider Belgian imports
12 separately on a non-cumulated basis. The statute requires
13 that for the Commission to cumulate, subject imports must
14 compete both with the domestic-like product, and with other
15 imports subject to investigation.

16 In reviewing the issue of cumulation, the CIT has
17 held that competition means "rivalry in the marketplace."
18 As Mr. Foster will testify, Belgian imports do not
19 themselves compete in the U.S. market -- all Belgian imports
20 are purchased by INEOS America, and are fully comingled,
21 from both the physical and commercial perspective with
22 INEOS's own U.S. production.

23 As a result, these Belgian imports never compete
24 on a head-to-head basis with any other imports in the
25 marketplace, and thus cannot be cumulated. Petitioners

1 argue that INEOS's reported financial performance and
2 pricing data are erroneous, unreliable and distorted, but
3 nothing could be further from the truth.

4 Because these arguments rely heavily on INEOS's
5 confidential data, we can't address them here, but we will
6 do so in our post-hearing submission. Suffice it to say
7 that INEOS strongly disagrees with the wholly unfounded
8 characterization of its reported data.

9 STATEMENT OF MICHAEL FOSTER

10 MR. FOSTER: Good afternoon and thank you for the
11 opportunity to testify today. My name is Michael Foster and
12 I'm the Business Manager for INEOS Americas LLC, America's
13 largest phenol/acetone producer.

14 I've been with INEOS since 2015 and I have been
15 responsible for the phenol/acetone sales, supply chain, and
16 overall business performance at INEOS Americas since 2017.
17 Prior to joining INEOS, I was at Shell Chemicals for 22
18 years in various commercial and operational roles, including
19 phenol/acetone.

20 I am joined today by my colleague, Lynn Calder,
21 Commercial Director of INEOS Phenol. INEOS Americas is but
22 one company within the INEOS Group. Our affiliate, INEOS
23 Europe AG, is the only producer/exporter of acetone from
24 Belgium, which it does through a tolling arrangement with
25 INEOS Phenol Belgium NV.

1 In total, the INEOS Group employs around 22,000
2 people across 183 facilities located in twenty-six countries
3 producing a wide range of chemicals.

4 The INEOS Americas phenol/acetone business
5 comprises our phenol/acetone facility in Mobile, Alabama,
6 our storage facility in Deer Park, Texas and as part of our
7 growth strategy in the United States, a recently acquired
8 cumene facility located in Pasadena Texas, which is the
9 largest in the world.

10 Since opening our phenol/acetone facility in
11 April 2000, INEOS Americas has become the largest acetone
12 producer in the United States and will continue to invest
13 and grow the business. We believe that INEOS Americas has
14 enjoyed this success by managing its acetone --
15 phenol/acetone business in a responsible manner.

16 We are dedicated to running an efficient and
17 reliable business and believe those fundamentals, among
18 others, have made us an industry leader.

19 INEOS Americas is one of the only two producers
20 who engage in monthly negotiations with the three largest
21 acetone purchasers in the United States to establish the
22 large buyer acetone price. We are an important supplier to
23 several of the companies you see here today. In my opinion,
24 INEOS Americas has to be considered part of the domestic
25 acetone industry.

1 Like almost all of the producers you will hear
2 from today, INEOS Americas utilizes the cumene process to
3 convert benzene and propylene into phenol/acetone at the
4 same chemical ratios you have heard by other witnesses
5 today.

6 Although phenol/acetone are produced
7 simultaneously through the cumene process, acetone is
8 generally viewed as being subordinate to phenol as the
9 process produces more phenol than acetone, and because
10 phenol is a more valuable product than acetone on a per
11 pound basis.

12 In closing I'd like to -- I'm sorry. Because
13 phenol is the more valuable product, phenol/acetone
14 producers like INEOS Americas always set their production
15 levels to accommodate projected phenol demand. While
16 acetone revenue is of course important to INEOS Americas, we
17 would not operate our facility to meet produced acetone
18 demand since we could end up with phenol that we couldn't
19 sell and couldn't easily store.

20 What this means is that from time to time, there
21 can be an imbalance between acetone supply and demand, and
22 this is what we saw in the United States market over the
23 period of investigation the Commission is examining.

24 Even though we have been operating our Mobile
25 facility at almost full capacity, we have had to supplement

1 our acetone production with imports from our affiliate in
2 Belgium, particularly in 2018, in order to meet demand in
3 the United States for acetone contracts with long-term
4 customers.

5 Recently, acetone supply and demand is in more
6 better balance. Our 2019 imports have declined and are
7 projected to remain far lower since that Belgian quantity
8 isn't necessary to satisfy demand in the United States.

9 In closing, I'd like to emphasize the key point
10 we raised in our pre-hearing brief, which is that Belgian
11 acetone does not compete against U.S. produced acetone, or
12 against acetone produced in the other countries subject to
13 your investigation.

14 INEOS Americas is the exclusive reseller of
15 acetone produced in Belgium. No other company markets or
16 sells Belgian-produced acetone in the United States. But
17 INEOS Americas does not market Belgian-origin acetone
18 separately from U.S. origin acetone, we just market, sell
19 and deliver acetone under long-term contracts that never
20 specify country of origin.

21 At the time of sale, and at the time of delivery,
22 our customers are unaware and frankly unconcerned, about the
23 country of origin of acetone they are buying. In this
24 respect, Petitioner's counsel's suggestion that we are
25 fraudulently delivering Belgian origin acetone as U.S.

1 origin acetone is totally false.

2 Moreover, at the time of sale there is never a
3 price difference between acetone we produce in Mobile, and
4 the Belgium acetone we resell. Our long-standing business
5 model simply does not support a conclusion that Belgium
6 acetone competes with any other acetone in the market.

7 Thank you for your time and for allowing me to
8 testify today. I'm happy to answer any question you may
9 have.

10 STATEMENT OF QAMAR BHATIA

11 MR. BHATIA: Good afternoon. My name is Qamar
12 Bhatia, and I'm the President of Monument Chemical. Before
13 joining Monument in 2017, I worked for Honeywell Corporation
14 from 2002 to 2016. Honeywell spun off resins and chemicals
15 in 2016 and is now known as Advansix.

16 At Honeywell I was the General Manager of resin
17 and chemical division, which included the phenol acetone
18 business from 2006 to 2014. I hired many of the current
19 Advansix executive team while I was managing that business
20 and I consider them friends and colleagues.

21 But as I will explain, I believe the decision to
22 seek anti-dumping duties is their attempt to mitigate
23 strategic decisions that are made during a normal
24 transitional phase in the market. Monument Chemical is an
25 American specialty chemical manufacturer and exporter in

1 Indianapolis, Indiana.

2 Our Houston plant manufacturers and sells a line
3 of chemicals made from roughly 180 million pounds per year
4 of purchased acetone that I used as solvents and coatings
5 and for cleaning.

6 I believe the petition gives an incomplete story
7 of the profit level and profit drivers for the petitioning
8 response, as well as the reasons behind short-term prices
9 and import volumes. When I managed what is now Advansix, I
10 never made a production decision based on acetone.

11 I always made my decision based on caprolactam, a
12 phenol derivative and contracted phenol volume. Accounting
13 methodologies related to product and subordinate product
14 means that phenol acetone produces into a profit or loss
15 depending upon how they allocate costs.

16 You can't assess a producer's true performance by
17 acetone alone. No producer will produce acetone at full
18 capacity if there is no home for phenol. Moreover, in my
19 experience, older U.S. phenol acetone plants like Advansix
20 cannot generally run it more than about 95% of nameplate
21 capacity on an annual basis.

22 You do planned and unplanned turnarounds, forced
23 majeure events and other problems associated with the age of
24 the plant. When I left Honeywell, I moved to a company that
25 consumes acetone to make derivatives. Now, I also fully

1 understand the purchaser side of consideration and I want to
2 share one -- how Monument manages our acetone supply needs;

3 Two -- our experiences in the last three years
4 that drove us to increase purchases of import materials; and
5 three -- why the industry needs free flow of acetone imports
6 and exports for its long-term health.

7 U.S. phenol producers use to have a large market
8 in Asia, but phenol plants have been built in Asia causing
9 export markets for phenol to strain. As a result, U.S.
10 phenol production started to rationalize in the last several
11 years, including the shutdown of three U.S. plants from 2013
12 to 18.

13 The Blue Island plant shutdown in 2013, the
14 Axiall/Ineos plant in 2016, and the Shell Houston plant in
15 early 2018 -- these three total about 15% of the total U.S.
16 capacity. This has left U.S. structurally short of acetone
17 and requires imports to be balanced. The current situation
18 is actually a period of rebalancing and of finding a new
19 norm for import volumes needed.

20 The adjustment to U.S. phenol production had a
21 more profound effect on Monument. Most of the U.S. acetone
22 market for large buyers and sellers is based on annual or
23 multi-year supply commitments that are typically negotiated
24 in the fourth quarter to cover the following year after
25 producers know how much phenol they will be producing and

1 selling in the following year.

2 In 2017, we were told by several of our usual
3 U.S. suppliers, including all three Petitioners, that they
4 would be restricting the volume of acetone they could supply
5 us for the following year. At the end of November 2017, we
6 were about 50 million pounds short of supply needs for
7 contractual commitments for 2018.

8 One Petitioner told us that that the volume he
9 had already contracted for, is best we can do with Monument
10 and the contract could have some spot availability, "but
11 depends on how phenol side evolves."

12 This email is a concession that acetone
13 availability is entirely dependent on phenol production.
14 Our acetone short forced us to increase the volume of supply
15 from imports to keep our business running. Disruption like
16 the four to six week shutdown after Hurricane Harvey and the
17 Shell plant closure, led to Monument losing committed
18 acetone volume during the critical contracting time of the
19 year, and was the catalyst to our policy of diversifying our
20 supply chain.

21 Monument's purchasing strategies focused on
22 having a very reliable supply that meets the quality
23 requirements and within world market pricing parameters,
24 including shipping costs. We compete in global markets. If
25 we do not have global priced imports, we cannot compete.

1 Reasonable prices for acetone can differ based on
2 temporary differences, local value of propylene, which is
3 one of the raw materials for making acetone. However, the
4 industry data shows that differences are temporary and the
5 price balances in the long-term.

6 For these reasons, Monument's long-term business
7 success is dependent upon us having a diverse set of
8 U.S.-based and international supply sources. With the
9 preliminary duties in effect, we are already seeing the
10 demand in the United States.

11 IPA is a derivative of acetone that we produce
12 and now being imported in more than 10 times its prior
13 normal volume. There are also technical advances that have
14 been made in recent years that will allow MMA producers to
15 make acetone-free MMA.

16 Duties would have a long-lasting negative impact
17 on derivative producers such as Monument Chemical and will
18 ultimately destroy acetone demand in the U.S. and jobs
19 related to derivative production. Thank you and I am
20 willing to answer any questions you may have.

21 STATEMENT OF CARLOS DIAZ CASTRO

22 MR. DIAZ CASTRO: Good afternoon, my name is
23 Carlos Diaz. I've been working for September 23 years, and
24 I have spent 18 of those years with the phenol and acetone
25 business. I am the Vice President of Sales and Marketing

1 for the Phenol Chain Business Unit or CEP SA QU MICA.

2 My position has a lot of responsibilities. CEP SA
3 is a 90 year old multi-national energy company based in
4 Spain with operations in oil and gas refining, electricity
5 and of course, petrol chemicals. The petrol chemical
6 business is known as CEP SA QU MICA.

7 CEP SA QU MICA has four different businesses, and
8 production plants in Spain, Germany, Brazil, China,
9 Indonesia and Canada. The phenol acetone business unit has
10 manufacturing facilities in China since 2015 and in Spain
11 since 1994. We are the largest cumene producer in the
12 world, and the second largest producer of phenol acetone in
13 the world.

14 CEP SA plans its production. It uses the cumene
15 process to produce phenol and acetone. Cumene itself uses
16 phenol acetone for each bound of the primary product, phenol
17 .62 pounds of acetone is produced as a super designated
18 coproduct.

19 To economically operate a phenol unit, the total
20 cost of converting cumene into phenol and acetone must be
21 covered by the commercialization at our partner participant
22 into the developing of products for both, phenol and
23 acetone. Phenol producers do not plan or analyze their
24 acetone production efficiently or financial results,
25 separate from phenol, but as a combined margin.

1 When we plan phenol and acetone production from
2 cumene, phenol demand drives our production decisions. The
3 phenol spot market is insignificant for CEPESA. We contract
4 long-term with our phenol customers. While phenol
5 contracting gives you a clear vision of the future returns,
6 acetone contracts are usually exposed to market prices,
7 which depend on supply and demand balances.

8 Acetone is a commodity that is traded freely
9 between different geographical areas as a pure commodity,
10 acetone global prices are mainly driven by supply and demand
11 in the market, with a consideration that acetone production
12 is determined by phenol demand.

13 Some of the customers have lower positions by
14 being present in Europe, Asia and the U.S. The main markets
15 for CEPESA QU MICA are Europe and China. CEPESA's position in
16 the U.S. for decades, CEPESA has had a small, stable position
17 in the U.S. market representing approximately 5% of our
18 global acetone sales.

19 Our position in the U.S. markets has historically
20 been supplied from two sources -- a certain percentage from
21 Spain, and a certain percentage from a swap contract we had
22 with a producer in the United States. For 2018, our U.S.
23 partner was unwilling to continue our sub-contract
24 relationship, so we decided to service the U.S. customer
25 with exports from Spain.

1 While our exports to the U.S. from Spain
2 increased in 2018, the total volume we sold in the U.S.
3 market remained very much the same.

4 Starting in May this year at CEPESA, we completed
5 stopped exporting our acetone to the United States. Acetone
6 situation -- the year 2017 seemed like the best year in
7 history when we look at the combined margin of phenol and
8 acetone. We had relatively low phenol demand, high demand
9 for acetone -- neither we, nor any other phenol acetone in
10 the world was producing that capacity.

11 As an accessory consequence, we were producing
12 less acetone. The acetone market was really short -- that
13 is, demand was higher than supply. A short market means
14 profitable prices. These conditions led phenol and acetone
15 producers to accept more exposure to the spot market for
16 2018, with hope of higher returns.

17 But market conditions flipped in 2018. Global
18 demand began stronger while demand for acetone slowed down.
19 This caused acetone supply to increase which demand was
20 decreasing, so acetone went long and became more available
21 on global basis until today.

22 The U.S. is the net importer of acetone,
23 particularly after the announcement of the shutdown of one
24 of the U.S. phenol acetone lines in 2017 by one of the
25 largest producers in the country, Shell. Thank you for your

1 time. I will be happy to answer any questions you may have.

2 STATEMENT OF RANDY VELARDE

3 MR. VELARDE: Good afternoon Commissioners. I am
4 Randy Velarde, Founder and President of The Plaza Group. I
5 have been involved in acetone for over 38 years.

6 Previously, I worked for Shell and Texaco Chemical. Acetone
7 is a by-product of making phenol but has been a core product
8 of our company since our start in 1994.

9 The Plaza Group is a chemicals marketing company.
10 We market by-products largely from chemical plants and
11 refineries. The producers of these facilities prefer to
12 focus their organization on their core products and
13 businesses. We perform this function for companies such as
14 CEPESA, Dow, Total, Shell, Sabic, Vallerio, and many others.

15 We perform these functions for a fee -- a
16 percentage of the price of what we sell the product. And
17 for our major acetone agreements, this is exactly what we've
18 done for our 25 years in business.

19 Over the last five years, a number of phenol
20 plants in our country have shut down. The U.S. is now
21 structurally short of acetone by approximately 150,000 short
22 tons. I would like to make two main points -- first, the
23 shutdown of Shell in late 2017.

24 Second -- about claims by the coalition that they
25 will be willing to supply us. In late 2017, Shell announced

1 that it was shutting down one of its two phenol production
2 units in the Houston area, which meant the loss of about
3 100,000 metric tons of acetone from what was then a fairly
4 balanced market in the U.S.

5 The announcement was made during the contracting
6 season when acetone buyers sought the contract for their
7 2018 needs. Buyers had to find their volume somewhere, and
8 in the fact of unavailability from U.S. suppliers, looked to
9 imports to fill out their 2018 needs.

10 Then, to everyone's surprise, phenol demand began
11 to increase, and Shell's actual shutdown was delayed by
12 nearly two months. This meant that there was much more
13 acetone in the market than anyone anticipated.

14 Commissioners, I've been involved in this product
15 for over 38 years. I've seen a few cycles where acetone is
16 down and recovers. This too, I believe would pass, and in
17 fact it did. Imports returned to traditional levels if
18 normalized for the product required after Shell's shutdown.

19 The second point is that Petitioners refused to
20 supply The Plaza Group under the same terms that had been in
21 place for many years before. At the end of 2017, we
22 approached Olin to secure volume to satisfy contracts, to
23 supply our customers with acetone over the coming year.

24 Olin, and its predecessor Dow, had previously
25 supplied us with acetone, but Olin refused to do so. Olin

1 told me that they would not sell acetone to The Plaza Group
2 unless the Plaza Group abandoned its fee-based model and
3 purchased it for resale.

4 Offers from Advansix were made on the same basis,
5 presumed they could not accept the much higher risk of
6 buying and reselling large volumes of acetone, rather than
7 marketing and selling acetone for a fee. Advansix also
8 attempted to cut-off our supply of domestic supply. Since
9 2014, we had been sourcing a large volume of our acetone
10 from Sabic's plant.

11 In 2018, Advansix, be it an abnormally high-price
12 for this acetone. We believe that they did this to deprive
13 us of this supply. Why, if Advansix claims they had had an
14 oversupply of acetone in 2018, as a result of imports, would
15 they purchase acetone from Sabic, especially at such an
16 abnormally high price.

17 As a result, we turned to our long-time partner
18 CEPESA, for a larger amount of product. That amount that we
19 could not source domestically. CEPESA understood and
20 accepted our business model.

21 Finally, acetone production of course is based on
22 demand for the primary product phenol. Duties on imports of
23 acetone would not lead to anymore production in the United
24 States. Instead, all it would do is force the many
25 industries that rely on acetone as a raw material, to either

1 shutdown their production, or move production to other parts
2 of the world, decreasing U.S. demand for acetone. Thank you
3 for your time and attention.

4 STATEMENT OF KATHY RAYBURN

5 MS. RAYBURN: Good afternoon. My name is Kathy
6 Rayburn, I am the Marketing Manager of Industrial Chemicals
7 for Mitsui & Company U.S.A. based in Houston, Texas. I've
8 been with Mitsui U.S.A. since 1991 and have been responsible
9 for importing acetone for the past 6 years.

10 Mitsui U.S.A. is a purchaser of acetone from
11 domestic and foreign producers for resale to the Americas.
12 Of the subject imports, we most import from Korea and
13 Singapore. We want to ensure that the Commission is
14 provided with a true picture of industry conditions during
15 the period of investigation.

16 At present, Petitioners failed to present a
17 complete and accurate story for reasons of an increase in
18 the number of subject imports. Purchasers were forced to
19 seek supply from subject imports because first, the demand
20 for phenol drives the production of acetone; and second,
21 during 2017 and 2018, U.S. producers were faced with a
22 number of operational issues.

23 In 2017, Hurricane Harvey hit the Gulf region,
24 halting phenol production lines and naturally resulting in
25 acetone shortages in the domestic market. Further, it is

1 common industry knowledge that some producers declared force
2 majeure for phenol and acetone in 2017 and 2018.

3 Both the hurricane and the force majeure
4 declarations meant that U.S. producers were not able to meet
5 supply demands for acetone. Ultimately, the domestic
6 industry could not meet industry demands and Mitsui U.S.A.
7 had no choice but to obtain acetone from subject import
8 countries.

9 Another factor to consider from 2017 is Shell's
10 announcement that it would shut down one of its lines of
11 phenol production. The announcement came in October 2017,
12 with a predicted closure date at the start of January 2018.
13 At this time, Mitsui had to find other sources of acetone to
14 fulfill existing contracts and to plan for future contracts
15 with the least amount of disruptions.

16 Shell did not shut down its line until the end of
17 February 2018, two months later than planned, increasing
18 production of phenol and its subordinate co-product,
19 acetone. Mitsui U.S.A. had already negotiated contracts to
20 ensure supply and demand was met by imports.

21 Petitioners have also failed to acknowledge the
22 pricing structure in the U.S. domestic market, which differs
23 from other regions. It is generally industry practice that
24 the pricing of acetone derives from the cost of their
25 feedstock of refinery grade propylene.

1 The U.S. domestic market uses large buyer prices
2 in the negotiation of contracts for future supply and uses
3 the price of refinery grade propylene as its basis. During
4 the period of investigation, feedstock costs of refinery
5 grade propylene were high in the U.S., resulting in a large
6 price gap.

7 The price gap was not due to an influx of dumped
8 acetone by subject countries, but instead but instead
9 because of price differences between the U.S. and subject
10 countries. We have had a longstanding arrangement or
11 agreement with a supplier in Korea and recognizes several
12 years ago that there was a domestic undersupply of acetone.

13 Following the announcement of Shell's plant shut
14 down, Mitsui U.S.A. had to ensure a stable supply of acetone
15 was established to compensate for the lack of U.S.
16 production and to avoid any expected supply shortages.
17 Therefore, we had no choice but to look to imports, all of
18 which were sourced from Korea and Singapore.

19 There was a demand for imports because of the
20 lack of availability in the domestic market, not because of
21 lower prices. Thank you.

22 STATEMENT OF AJITH HARYPURSAT

23 MR. HARYPURSAT: Good afternoon. My name is
24 Ajith Harypursat, and I am the Manager of Products and
25 Technical Services for the base chemical's unit at Sasol,

1 South African Limited. I'm a chemist, and I have --

2 MR. BURCH: Will you please pull your microphone
3 up?

4 MR. HARYPURSAT: I'm a chemist and I have been in
5 the field for over 30 years. I'm here today to discuss the
6 technical and chemical properties that makes Sasol's acetone
7 different from most acetone produced here in the United
8 States.

9 You're asking that the Commission consider
10 benzene free acetone as a separate like product and find
11 that it does not injure the U.S. industry. Sasol is an
12 international integrated chemical and energy company that
13 employs over 30,000 people in 32 countries and has been
14 selling chemicals to the United States for the past 20
15 years.

16 Sasol's unique production process involves the
17 complex state of chemical reactions that is not performed
18 anywhere else in the world and results in unique chemical
19 products such as benzene free acetone.

20 There is a clear dividing line between Sasol's
21 benzene free acetone and cumene based acetone. These two
22 products share no common manufacturing facilities,
23 production processes or production employees.

24 The cumene based process in the Fischer-Tropsch
25 process, involve two entirely different sets of chemical

1 reactions which require different technology and machinery.
2 They use different raw material inputs. Cumene, which is
3 made from propylene and benzene for the cumene process and
4 mainly coal for Sasol's process.

5 We have differently trained employees. They work
6 from the cumene production plants, could not work in Sasol's
7 plants and likewise our Sasol employees are not qualified to
8 work in a cumene-based operation.

9 In Sasol's Fischer-Tropsch process, coal
10 feedstock is used for all gas production, which is then
11 subjected to a stringent purification protocol to remove
12 impurities. This gas is introduced into several reactors
13 utilizing proprietary reactive design and high-efficiency
14 catalysts to produce a series of hydrocarbon products and
15 byproducts, which are recovered downstream by a variety of
16 preparation techniques.

17 The Fischer-Tropsch method is essentially a
18 distillation of acetone from chemicals, comes from another
19 production stream and does not involve the introduction of
20 other chemicals. We do not produce acetone we extract it in
21 exact quantities that already exist in the water coming out
22 of the Fischer-Tropsch central reactor.

23 On the other hand, the cumene oxidation process
24 involves the introduction of chemicals, including oxygen and
25 sulfuric acid, amongst others, to general phenol and

1 acetone. The cumene is oxidizes in the air to produce
2 cumene hydroperoxide, which is then with the sulfuric acid
3 to form phenol and acetone.

4 Further, cumene-based acetone is not
5 interchangeable with Sasol's acetone for our customers that
6 are particularly concerned about acetone's impact on human
7 health. Simply put, Sasol's acetone is chemically different
8 because it does not contain benzene, a known carcinogen.

9 This factor is important to certain customers
10 because of its -- of the harmful health effects of exposure
11 to benzene, a chemical which is both irritating to the skin
12 and is a known carcinogen. For example, one of the
13 important end users of acetone is as an industrial cleaning
14 agent where acetone is used as an industrial cleaner in the
15 production of things like food products, makeup, and
16 pharmaceuticals, it's important that it does not contain
17 irritants or carcinogens.

18 Sasol's acetone does not. Benzene free acetone
19 is not a high purity acetone or a specialty grade acetone as
20 the Petitioners have suggested. Purity is unrelated to the
21 benzene content as every producer in this room is aware.

22 Probably the first of the acetone content
23 compared to the presence of other materials, normally water.
24 Specialty grade is a different designation. You can refer
25 to no alcohol or no benzene product that is marketed for

1 certain end uses, but specialty grade is not benzene free.

2 Importantly, benzene free acetone is not simply
3 higher purity than U.S. acetone with respect to benzene, or
4 a low benzene specialty grade, but it's completely free of
5 benzene. Because of these physical differences, Sasol
6 employs its own dedicated sales team who are educated as to
7 the unique properties of this product. We do not sell
8 through third party representatives.

9 Our sales team is able to educate our customers
10 about the unique benefits of Sasol's product. In addition,
11 Sasol's benzene free acetone commands a higher price in the
12 market than standard acetone containing benzene.

13 It is my understanding that there is some benzene
14 free acetone production in the U.S. at the Dow facility in
15 West Virginia, which produces benzene free acetone. I know
16 that this facility uses the isopropyl dehydrogenation
17 production process. From a purely chemical perspective, I
18 can tell you that the IPA produces results in benzene free
19 acetone. This is because it does not use cumene as a raw
20 material which does contain benzene.

21 I hope the Commission now has a better
22 understanding of Sasol's unique Fischer-Tropsch process,
23 which results in a benzene free acetone that is a distinct
24 product from the majority of what is being used here in the
25 United States. Thank you.

1 STATEMENT OF JIM DOUGAN

2 MR. DOUGAN: Good afternoon, I'm Jim Dougan from
3 ECS on behalf of the joint defense. I'll begin by reviewing
4 a few key conditions of competition. Acetone, as you've
5 heard, is a subordinate coproduct with phenol, that results
6 from a chemical process yielding roughly one-third acetone
7 and two-thirds phenol, when produced from cumene.

8 Phenol is the larger and higher priced market,
9 and therefore the higher value market of the two. An
10 industry source cited in the pre-hearing report states that
11 "Phenol demand, rather than acetone demand, usually
12 determines capacity utilization."

13 Indeed, no U.S. producers reported that their
14 acetone production decisions were driven solely or primarily
15 by acetone. This means that when there's a shocked acetone
16 supply, other producers cannot necessarily, increase acetone
17 production to replace that supply.

18 It also means that acetone production won't
19 necessarily increase in response to an increase in acetone
20 demand. But when phenol demand increases, so does the
21 supply of acetone, regardless of the demand for acetone.
22 Acetone pricing is established based on established
23 reference points -- published reference points.

24 Most market participants reference the large bar
25 price or LBP as a starting point in their negotiations, and

1 the LBP is in turn based on the price of the primary raw
2 material input for finery grade propylene. When the acetone
3 market is in balance, acetone prices move in step with RGP
4 prices, with a fairly steady spread between the two.

5 When the acetone market is short, the spread
6 increases, and when the acetone market is long, the spread
7 shrinks. This industry is cyclical, and spreads grow and
8 shrink over the cycle independent of import volumes.

9 As RGP demand is driven primarily by the
10 polypropylene market and not by demand from the acetone
11 market, phenol acetone producers are price takers with
12 respect to RGP. So, for a subordinate coproduct whose
13 production output is driven by another product, and for
14 who's key raw material feedstock producers are price takers,
15 the returns on that product are going to be volatile,
16 entirely because of exogenous conditions.

17 This is why it is illogical to track the returns
18 on acetone in isolation, rather, the logical way is to
19 assess the returns of phenol and acetone combined. And
20 indeed, this is what the large global producers represented
21 on this panel do in the normal course of business.

22 With respect to the volume indicator, the U.S.
23 producers dominate the market with a share that average
24 nearly 90% over the POI. U.S. producer's position in the
25 market was affected by multiple factors that constrained

1 their supply of acetone but none of which was related to
2 subject imports.

3 U.S. producers and suppliers to acetone producers
4 issued force majeure declarations during the POI. Hurricane
5 Harvey caused a major disruption in acetone supply in 2017.
6 And shortly after Hurricane Harvey, domestic supply
7 constraints were exacerbated by the idling of part of
8 Shell's phenol plant in Texas.

9 Shell's decision was based on the phenol market,
10 not acetone, and wasn't related to subject imports. Shell's
11 announcement occurred towards the end of 2017 during the
12 contracting season for 2018. Shell initially announced that
13 the line will be closed in January 2018, but growing demand
14 for phenol caused Shell to keep it operating longer and it
15 continued to supply acetone from inventory until at least
16 May of 2018.

17 During the 2017 contracting season, certain U.S.
18 producers declined to accept new customers, refused to
19 supply other existing customers, wouldn't commit to the
20 volume it needed by some customers and restricted other
21 customer's volume. You've heard that from the witnesses on
22 this panel, and I emphasize that these are customers --
23 these customers who were turned away were large and
24 important purchasers who needed reliable supply and they
25 were forced to turn to imports.

1 Contrary to Petitioner's claims, purchasers did
2 not turn away U.S. producers and nor would they have any
3 incentive to do so, to what was expected to be a tight
4 market in 2018. More on that in a moment.

5 The pre-hearing report has page after page of
6 examples of supply constraints, including producer's own
7 self-inflicted constraints. Remarkably, Petitioners have
8 minimized their impacts, asserting that these factors were
9 "very minor." But when they say that, they have a footnote
10 that cites to eight pages of the pre-hearing report.

11 These supply constraints were anything but minor.
12 First, the sheer number of examples described on those pages
13 demonstrates that the supply constraints were significant.
14 And this morning Petitioner's claimed that domestic
15 production was fairly steady from 2016 to 2018, so there
16 cannot have been a shortage. But they didn't talk about
17 demand and demand increased from 2016 to 2018.

18 So, that meant when domestic production was
19 relatively constant, it actually went down a little, that
20 demand would have to be served by subject imports. Second,
21 I'd like the Commission to keep this slide in mind -- 5
22 year, which doesn't look so great on the screen, when
23 weighing Petitioner's claims of a flood or surge in imports
24 over the POI.

25 The increase in subject import volume between

1 2016 and 2018 is roughly proportional to the gap caused by
2 the idling of Shell's capacity -- not exactly one for one,
3 but the similarity and magnitude is pretty striking.

4 Third, just a handful of purchasers who reported
5 in their questionnaires that domestic producers refused to
6 supply them adequately or at all, accounted for nearly half
7 of the increase in subject imports between 2017 and 2018.
8 If domestic producers were turning away these big customers,
9 it's likely that they were also turning away smaller, less
10 powerful customers as well.

11 And while data to estimate the impact of
12 Hurricane Harvey and other weather-related events are
13 readily available, it's unquestionable that these
14 restrictions constrained acetone supply and influenced
15 purchaser's perceptions of the reliability of domestic
16 supply.

17 I want to take a minute to talk about the
18 transition in 2017 to 2018. Without the decline in the
19 domestic industry performance in 2018, it's likely that none
20 of us would be here today. But it's important that the
21 Commission not apply perfect hindsight to the data from
22 2018.

23 To understand what happened, you must put
24 yourselves in the mind of market participants in late 2017.
25 In the fourth quarter of 2017, when customers were

1 contracting for 2018, acetone supply was already reported as
2 "snug" and was expected to tighten still further.

3 Because phenol markets were expected to be in
4 balance, increase in the U.S. production was not expected.
5 We've provided industry reports to that effect, and you've
6 heard that corroborated from the industry witnesses on the
7 panel.

8 So, let's think about incentives. If you're a
9 large purchaser, like the ones on this panel, and others who
10 reported refusals from domestic producers in late 2017,
11 security of supply is key. You're not going to risk that by
12 having to potentially go to the spot market in 2018 to get
13 your requirements, especially again, when expectations are
14 for a tight market and high priced.

15 You're going to want to secure that supply as
16 soon as possible with a contract. And if that means turning
17 to imports to a greater degree than you did before, then
18 that's what you have to do.

19 Now think about domestic producers. You're
20 expecting tight supply and high prices. Your incentive
21 might be the opposite of the purchasers. You might
22 reasonable expect high spot prices in 2018, and remember the
23 spreads in margins had been growing throughout 2016 and
24 2017, even as subject import volume and market share grew as
25 well.

1 Maybe you don't contract all of your volume and
2 hope to earn higher margins in the spot market, but even if
3 that's not the case, remember that you cannot make a
4 decision to increase acetone production without considering
5 that you'll produce roughly twice as much phenol, which
6 means that you won't increase acetone production in response
7 to these acetone market conditions unless it's warranted by
8 phenol market conditions.

9 So, let's walk through exactly what happened in
10 2018. First, the large purchasers who had been refused by
11 domestic producers increased their supply from import
12 sources. Second, phenol demand and prices were unexpectedly
13 high, leading U.S. producers to increase their phenol
14 production.

15 As a result, acetone producer's capacity
16 utilization increased in 2018, particularly in the first
17 half when it reached its highest level of the entire POI.
18 Third, because it wanted to keep its phenol line running,
19 Shell didn't shut down its line in January, but kept
20 producing until the end of February, and was selling from
21 inventory until at least May of 2018.

22 This was a temporary phenomenon and the
23 oversupply was resolving by the end of 2018 as import
24 volumes fell by more than consumption in the second half of
25 the year. This morning you heard about import volumes

1 coming in with no set customer and "being available for
2 speculation," but the data show otherwise.

3 If you convert the percentages in the pre-hearing
4 report Table V-II, Roman V-II, to quantity and ton, the
5 increase in domestic industry shipments to the spot market
6 from 2017 to 2018, was more than double the increased in
7 subject import shipments to the spot market.

8 Thus, to the degree that the spot market was
9 long, it was long with domestic acetone, not imports. The
10 vast majority of the increase in subject imports from 2017
11 to 2018, was for contract shipments, which is consistent
12 from what you've heard from this panel. Purchasers were
13 looking to secure a supply when refused by domestic
14 producers and they did so under contract with imports.

15 Now, Petitioners have also, at least in their
16 briefs, spent a lot of time talking about how their
17 inventories grew, and how this is indicative of injury. But
18 as the Commissioners pointed out this morning, Table Roman
19 III-VII of pre-hearing report shown on Slide 9, shows that
20 this isn't true either.

21 The ratio of U.S. producers' inventories to
22 production and shipments was relatively stable during the
23 POI, fluctuating within a narrow band. And despite
24 Petitioner's claims in 2018, U.S. producer's inventories
25 fell. In absolute terms, and on the share of shipments.

1 What's more, the increase in U.S. producers' inventories at
2 the end of part year 2019, was less than 2,000 short tons,
3 and that constitutes only 0.3% of U.S. consumption quantity
4 in part year '19.

5 So, again, keep this table in mind when weighing
6 Petitioner's discussion of their inventories and the
7 additional storage they had to get to hold them. As a
8 concluding point with respect to volume, U.S. producers
9 can't credibly argue that they could have increased
10 production volumes or held a higher market share than they
11 actually achieved.

12 First, the industry's capacity utilization was
13 high, exceeding 80% throughout the POI, and it increased
14 between 2017 and 2018. And this was likely understated
15 because several producers overstated their capacity. They
16 reported nameplate capacity without accounting for regular
17 down time and maintenance, which is what the instructions in
18 the questionnaire require.

19 But in any event, acetone production can't simply
20 be increased in isolation. Phenol production is what drives
21 operating rates. So, moving onto the price indicators.
22 There's no evidence of significant underselling by subject
23 imports, or that increases in subject imports were driven by
24 underselling. Rather, there was a predominance of
25 overselling during the POI.

1 In 67% of instances, and 54% of the volume. With
2 regard to price depression -- all parties recognize overall
3 price levels and trends are driven by larger buyer price
4 which is set by reference to RGP prices. As you can see on
5 this slide, these prices move in lock step.

6 So, the Commission's traditional price trends
7 analysis isn't applicable here. In this market, imports
8 can't cause price depression, and this is supported by the
9 fact that only a tiny minority of purchasers reported that
10 domestic producers lowered prices to compete with subject
11 imports. Subject imports, likewise, did not suppress
12 prices. Fluctuation in the industry cause to net sales
13 ratio are explained by fluctuations in the spread between
14 the LPB and RGP prices. Wow, that really doesn't come out,
15 does it?

16 Sorry about that. It looks better on the printed
17 version, so please refer to that, thanks. Let's see, the
18 reduction in the U.S. producer's margins in 2018 was the
19 result of the contraction in the spread brought about by a
20 sharp increase in the RGP price in the second and third
21 quarters of 2018 -- at least you can see that.

22 And this coincided in a period for which the
23 market was temporarily long. The sharp increase in RGP
24 prices was completely unanticipated as it wasn't driven by
25 supply and demand factors, but rather a simple artifact of

1 how RGP prices were calculated.

2 One large RGP purchaser decided to shift its
3 purchases from spot to contract, thereby removing its
4 low-priced transactions from the calculations of the
5 benchmarks and causing the published RGP price to spike
6 temporarily. As you can see on the slide, the RGP price is
7 corrected by the end of 2018, and the spread began to grow
8 again, but none of this had anything to do with imports.

9 Historical context reinforces this conclusion.
10 And wow, I really have to apologize. This does not come out
11 well on the screen. Slide 14 shows spreads looking back to
12 2009, and you can see situations where the spreads change
13 much more dramatically than between 2017 and 2018. There
14 have even been times when the spread was negative, meaning
15 that RGP prices were above acetone prices.

16 These smaller negative spreads occurred when
17 import volumes and market shares were much lower than they
18 have been during the POI. From 2013 to 2017, spreads were
19 on an increasing trend and from 2016 to 2017, the spread and
20 industry's profit margins increased, along with subject
21 import volume and market share.

22 But this chart makes it clear that those spreads
23 and likely, U.S. producer's profits were the highest in a
24 decade. Considering the cyclicity of the spreads, the
25 modest decline in 2018 was a temporary phenomenon. By the

1 end of 2018, the spread had corrected and returned to the
2 same level as in early 2016.

3 Turning to impacts -- there was no observable
4 causal link between subject imports and the industry's
5 financial condition. As shown on Slide 15, the domestic
6 industry's profitability improved significantly in 2017
7 despite an increase in subject import volume and market
8 share. Profitability declined in 2018 when the volume and
9 market share of subject imports increased by a similar
10 magnitude.

11 But this isn't the only example of a lack of
12 correlation between subject imports and the domestic
13 industry's indicia. By late 2018, the market was correcting
14 itself and the spread began to increase, and as the spread
15 began to increase or stabilize in the first half of 2019,
16 U.S. producer's profits declined further, but that can't be
17 attributed to subject imports, whose volume and market share
18 both declined and which oversold domestic producers in a
19 majority of instances and quality in 2019.

20 Earlier I discussed the circumstances facing
21 market participants at the end of 2017, and how that
22 influenced their decisions regarding 2018. In closing I'd
23 like to return to that. So, Petitioners unwillingness or
24 inability to supply large important customers seems puzzling
25 in light of their claims of available acetone capacity.

1 However, it makes sense when you realize that A
2 -- they had an expectation of tight supply, high prices and
3 large spreads in 2018, and B -- these producers couldn't
4 have increased production of acetone without also increasing
5 phenol production.

6 It took the increase of phenol demand and pricing
7 for these companies to increase their acetone production.
8 But at this point, their opportunity to contract for this
9 volume had already passed and they were left to sell it on
10 the spot market.

11 This also goes for any volume that they might
12 have planned to produce but refused to contract at the end
13 of 2017, in hopes of selling into the spot market at higher
14 prices. The pre-hearing report confirms the domestic
15 industry's increased participation in the spot market. And
16 as I said earlier, the increase in domestic industry
17 shipments in the spot market from 2017 to 2018, was more
18 than double the increase in subject import shipments to the
19 spot market.

20 If the spot market was long, it was long with
21 domestic acetone, not with subject imports. And not all
22 domestic producers increased their spot sales, and the data
23 show that the producers that increased their reliance on
24 spot sales, performed more poorly, compared to those
25 producers that did not.

1 Petitioner's worsening financial performance
2 after 2017 was thus to a certain degree, at least
3 self-inflicted by refusing to contract for 2018, Petitioners
4 left those volumes to be sold in the spot market, just as
5 supply lengthened due to the factors I've described, and
6 RGP's prices spiked due to those anomalous factors.

7 I refer you to the quote from the pre-hearing
8 report on this slide, "In the second quarter of 2018, U.S.
9 producers spot and contract prices diverged with spot
10 short-term contract prices continuing to decline and annual
11 long-term contract prices increasing."

12 In sum, the record does not support a finding
13 that domestic industry is materially injured by reason of
14 subject imports and for the reasons discussed in our
15 pre-hearing brief, the industry also is not threatened by
16 subject imports. Thank you.

17 MR. EMERSON: This is Eric Emerson. That
18 concludes our direct presentation. We look forward to the
19 Commission's questions.

20 CHAIRMAN JOHANSON: Thanks to you all for
21 appearing here today. We will begin Commissioner questions
22 with Commissioner Stayin.

23 COMMISSIONER STAYIN: Thank you. Very
24 interesting the contrast between what we're hearing now and
25 what we heard this morning. I'm really interested in the

1 response that some of you received when you sought to renew
2 the contract and you were basically rejected.

3 Earlier this morning one of the responses was
4 that the offer that you were offering to do, put into the
5 contract, was too low and it was below their cost of
6 production. To those of you who were in that situation,
7 might you please respond to that, Lucite?

8 MS. FREDERIC: Good afternoon, I'm Chris Frederic
9 with Lucite International. In 2018, in the first three
10 months, Lucite was contracting volume for the last nine
11 months of 2018 and anything into 2019 where it was
12 appropriate.

13 During that time, we were told that very
14 specifically I mentioned Altivia, was not capable to
15 providing the volumes required for the MMA market. There
16 was no discussion about price whatsoever. Now, in 2020 as
17 we are currently negotiated for 2020 as I mentioned, three
18 U.S. producers have limited the amount of acetone that
19 Lucite can source from them for 2020.

20 COMMISSIONER STAYIN: So, basically you were
21 looking at a difficulty in getting the supply that you
22 required, and you could rely upon?

23 MS. FREDERIC: Correct, we were looking to source
24 the security of supply is what we were looking for, to make
25 sure that we had enough acetone contracted to cover what our

1 expected demand would be.

2 COMMISSIONER STAYIN: Interestingly, in the
3 questionnaire that the Commission sent out, a reliability of
4 supply and availability of supply were likely as high or
5 higher than price. Would you agree with that conclusion?

6 MS. FREDERIC: Absolutely, yes, I'm sorry, Chris
7 Frederic. The last thing I want to do is be the person
8 responsible for shutting our plant down, because we do have
9 customers, we need to provide material to.

10 COMMISSIONER STAYIN: The other person who was
11 talking about this?

12 MR. HAUG: Jeff Haug, with Monument Chemical.
13 Yes, I did want to just also follow-up to Chris's first
14 answer that we were in a very similar situation. And as we
15 talked with other you know, folks in the industry, we get a
16 very consistent message, and I want to stress it's very
17 critical on the timing.

18 You know, again this is in the third and fourth
19 quarters of 2017 as we were going in to 2018. Our
20 businesses require for supply security that we have a high
21 percentage of our raw material demands contracted. Okay, so
22 that goes along with part two of the question that we don't
23 have the luxury or the risk to say we're just going to play
24 in the spot market.

25 We have to have committed contracted supply, you

1 know, for our top raw materials, and so that's why I think
2 personally, we ranked those so highly. You know, I have to
3 have one and two. I have to have availability and I have to
4 have reliability, otherwise the price is you know, it has to
5 be third. You know, it has to be -- and I will be honest
6 and say there's a strong, strong part of our
7 decision-making, but when asked to rank them, I think most
8 producers would rank them in that order.

9 COMMISSIONER STAYIN: What did you ultimately do?
10 Did you sign a contract with one of the importers?

11 MR. HAUG: Monument Chemical used a very -- I'm
12 sorry, Jeff Haug with Monument Chemical. We used a very
13 diverse approach, so we also did have contractual supply
14 from a majority of the domestic producers, but we took a
15 strong look at our potential short fall and we made a
16 decision based on that short fall, you know, what we needed
17 to do.

18 And part of that did involve potential contract
19 volumes from outside the U.S. We can answer that in more
20 detail at the post-conference briefing.

21 COMMISSIONER STAYIN: Please do. The concept
22 that acetone is a subordinated coproduct of the production
23 of phenol, its an interesting thing where you have phenol
24 goes to one market and acetones going to another one, and
25 the one that acetone goes to, has to wait and see how phenol

1 goes before they know what kind of price they're going to
2 pay.

3 That kind of complicates it. It would seem that
4 you have two different products going at two different
5 markets and the volume available of acetone depends upon the
6 volume of phenol that is agreed to and is produced, and that
7 is interesting. Do you have a -- do you have acetone that
8 is being stored in tanks and refineries, or does everything
9 have to come out right then in that, right away, marked and
10 signed off on, or is it just something where you just have
11 to go and look to find phenol acetone wherever you can,
12 wherever you can, maybe imports?

13 MS. BUTCHER: Jennifer Butcher, Dow Chemical.
14 I'd first like to introduce myself. I've been with Dow
15 close to 30 years. I've been in a number of commercial
16 roles. The last 9 years I'm the Global Purchasing Manager
17 for about a billion dollars of product, one of which is that
18 of acetone global.

19 I'd like to first go back to the question and
20 support some of the data that was just stated. As you saw
21 in my survey, the reliability and the security of supply is
22 paramount. My fiduciary responsibility to make sure the
23 largest producer in North America of methyl methacrylates is
24 Dow, a/k/a Rohm and Haas, and so my number one priority is
25 security of supply.

1 And in order to do that, I do need global reach.
2 Through the 9 years I've been buying, there's been an
3 incredible amount of industry consolidation. There's been
4 an incredible amount of change, management, bankruptcy, et
5 cetera. So, with that, I just wanted to echo that yes, I
6 need competitive pricing, but it is not my number one
7 position.

8 However, we need after security and supply, it is
9 key that we have competitive product as well because our
10 costs of running our success is paramount on our costs,
11 because we're supporting our large assets as well.

12 COMMISSIONER STAYIN: When you talk about the
13 reorganization or the adjustment of the U.S. acetone market,
14 how do you -- what do you rely upon, and how do you see that
15 happen?

16 MS. BUTCHER: Could you repeat the question, I'm
17 not sure I understand.

18 COMMISSIONER STAYIN: You're talking about the
19 acetone market being revised because of shutdowns and
20 difference suppliers not being available and others are or
21 not. How has it changed over the last few years that
22 requires you to have that security concern?

23 MS. BUTCHER: Sure, again, Jenn Butcher, Dow.
24 It's changed, I can speak actually from our carve out in
25 2015 when we sold our assets to now, what's called Olin.

1 And that's changed, because we were no longer being able to
2 tap on my phenol production door and say how much acetone
3 can I count on for that Rohm and Haas business, in order to
4 go supply the rest of my acetone?

5 So, that particular example highlights a carve
6 out of a business where Dow determined to go more asset
7 light and reduce our footprint and our feedstock. Coupled
8 with changes in companies, bankruptcies, different
9 strategies for some of those companies, and again we've
10 cited through the POI the Shell announcement was a huge
11 factor of a phenol producer that exited, which affects us as
12 well.

13 And with again, they being --, and INEOS, the two
14 largest phenol acetone producers that put a dent in the
15 market. So, it really bluntly put, outside of other
16 materials, this particular raw material it's always one
17 incident away from an issue, from a catastrophe -- whether
18 its weather related, economic, market, unfortunately
19 production issues. It is just a very volatile and dynamic
20 market.

21 COMMISSIONER STAYIN: So, you need to have that
22 reliability to supply in terms of being able to get imports
23 as well as U.S. production?

24 MS. BUTCHER: Jenn Butcher, absolutely.

25 MR. HAUG: Jeff Haug with Monument Chemical.

1 I'll just --

2 COMMISSIONER STAYIN: Go ahead.

3 MR. HAUG: Just to add briefly, something that
4 we've also been -- we've heard about the increase in tank
5 storage for acetone, so outside leased tanks increasing for
6 acetone. And part of that is also due to security of
7 supply. So, if you have limited storage on site at your
8 production facilities, another option for security of
9 supply is to increase your safety stuff.

10 So, we do see some of those reports saying
11 there's more acetone being stored, but part of that was
12 based on the decision to increase safety stock to guard
13 against some of these issues that are out of, not only our
14 control, but sometimes the producer's control.

15 COMMISSIONER STAYIN: There was a statement from
16 some of you that if this anti-dumping duty were put in place
17 that you would have to go elsewhere and actually move
18 production offshore. Did Lucite say that?

19 MR. CONNOLLY: This is Robert Connolly of Lucite.
20 Correct, Commissioner. We will have the -- we have 12
21 global assets around the world producing MMA from various
22 production technologies, and at the end of the day we can
23 import MMA at a lower cost than we can produce it here in
24 the advent of constrained acetone supply.

25 COMMISSIONER STAYIN: And the other in that same

1 situation? I think somebody?

2 MR. KNAUB: Jim Knaub for Dow. Yeah, I think
3 for us we would have to look at alternative options. So,
4 for us we have one global asset that supports our business
5 globally. If we were not able to source and supply that
6 product from that asset, we won't be able to compete in
7 those foreign markets.

8 So, we'll have to source in those local markets
9 which ultimately puts at risk our facility here, so reducing
10 production, which is not really a viable option since it's
11 such a large asset, our fixed costs would fly through the
12 roof and then we're competing with alternate technologies
13 now, like Lucite highlighted, where this is not a
14 competitive technology, so any further kind of increase in
15 raw material sourcing puts us at a disadvantage and puts
16 that asset at risk.

17 COMMISSIONER STAYIN: Alright thank you, that's
18 my time is up.

19 CHAIRMAN JOHANSON: Commissioner Karpel?

20 COMMISSIONER KARPEL: I'm hoping to get a better
21 understanding of the timeline in terms of the demand trends
22 for phenol as well as for acetone. Can you sort of walk me
23 through what happened with demand for phenol from the 2016
24 to 2018 time period?

25 MR. FOSTER: Mike Foster, INEOS. I'll tackle the

1 phenol side of the equation and let some of the others talk
2 about acetone demand. In terms of phenol demand in 2016 we
3 started to see a decline in phenol demand that led to a
4 decrease in phenol production, but also a decrease in
5 acetone production.

6 So, in 2017, phenol production was down in the
7 U.S. market and also, we started to see deterioration of
8 exports outside of the U.S. where a lot of U.S. producers
9 were sending product outside of the U.S. into Asia market.

10 As that occurred, the acetone market started to
11 tighten up because of less supply and so, acetone became a
12 very valuable product and the price for phenol started to
13 deteriorate. Going into 2018, things started to change
14 somewhat for the domestic phenol market in the U.S.

15 Phenol demand picked up a little bit, there were
16 opportunities to sell at time into the export market, thus
17 production picked up in the U.S. and more acetone became
18 available. So, overall, I think what we're seeing is that
19 there's a lot of interaction with supply demand based on
20 what's happening globally, so that's really what I think one
21 of the fundamental changes in the U.S. phenol market is,
22 that there's less opportunities to export phenol
23 internationally, which is causing the U.S. to be constrained
24 on acetone, which probably kind of dictates need to bring in
25 imports from other parts of the world because of less phenol

1 demand.

2 MR. DOUGAN: Commissioner Karpel, Jim Dougan,
3 real quick. I want the industry folks to speak to this more
4 broadly, but there's some data at page 32 and Exhibit 12 of
5 our pre-hearing brief that shows trends in phenol and
6 acetone demand over the past oh, seven years or so. And
7 while the data are subscription-based, and I can't get into
8 them specifically, what you do see, in terms of trends, is a
9 decline as Mr. Foster was saying, a decline in phenol
10 demand from '15 to '16, and '16 to '17, despite an increase
11 in -- so you have a decline in phenol demand '16 to '17.

12 Acetone demand goes up a little bit. That means
13 your acetone market is going to be tight. Then in '18, you
14 see a sharper increase in phenol demand and a more modest
15 increase in acetone demand. Well, that means you're going
16 to be a little bit long because the phenol production
17 increased by more than the acetone demand would require, so.

18 MS. FREDERIC: Chris Frederic with Lucite. And I
19 think to further what Jim said, in 2019, this year we've
20 seen probably a bigger drop in demand in acetone in the
21 United States, especially in the first half of 2019,
22 primarily driven by the fact that both Lucite and Dow, the
23 two largest purchasers of acetone and the two largest MMA
24 producers in the U.S. -- both of those companies were
25 running at reduced rates, significantly reduced rates due to

1 an unplanned outage and a supply constraint.

2 And that both of those lasted through at least
3 the end of July and for Lucite into September.

4 MS. BUTCHER: Jen Butcher, Dow. I concur, as
5 well as one of those incidents we're still waiting for this
6 particular producer that's also a produce that goes I not
7 our MMA to lift their force majeure. It's been, again as I
8 stated earlier, a difficult time as we've had two huge
9 operational issues this year that has lessened our demand.
10 Forced for us not to get the production rates and the
11 supply to our customers in 2019.

12 MR. VELARDE: Commissioner, Randy Velarde from
13 The Plaza Group. You've heard from two of the large buyers
14 for acetone. Our company sells to many of what I'll call
15 the smaller buyers in the market. The market they represent
16 largely truck and rail customers, they take truck and rail
17 quantities.

18 Those customers represent a broad spectrum of our
19 economy, and as Jim, just to provide some color to the
20 numbers that Jim referred to, those customers are largely
21 GDP related. So, you're going to see acetone largely
22 speaking, respond to the economy.

23 And to that end, this year we're beginning to see
24 from about mid-year on, a slight decline in acetone demand.
25 We think, largely again, related to the overall economy.

1 MR. FOSTER: Mike Foster, INEOS. One other
2 comment I'd like to make about operational issues. In 2019,
3 there was an incident at a Houston terminal that they had a
4 fire that impacted the whole ship channel and the building
5 for product to move in and out of the terminal, and also to
6 move across the ship channel, that didn't have an impact on
7 the overall phenol and acetone industry, but a lot of the
8 major suppliers and major buyers that shut down the ability
9 to buy and sell and transact, and to bring in any imports
10 for a significant period of time until that terminal and the
11 Houston ship channel was back open.

12 So, a lot of operational issues, I just wanted to
13 make sure that one didn't get left out. Thank you.

14 MS. FREDERIC: Chris Frederic with Lucite. I
15 would like to remind you that at any industry conference
16 just a couple of weeks ago, the message we heard
17 consistently from phenol producers was that -- and this is
18 phenol producers from the United States and from outside the
19 United States as well, is that operating rates are now
20 running in the 65% to 75% range, and actually most of them
21 said it was below 70%.

22 But there was one or two that were above that, so
23 I've used that broader range.

24 COMMISSIONER KARPEL: So, is that reflective of a
25 decline in phenol demand for the 2019 period?

1 MS. FREDERIC: I'm sorry, can you repeat the
2 question? I didn't hear it.

3 COMMISSIONER KARPEL: Right, so we're seeing a
4 decline in demand in phenol for the 2019 period?

5 MS. FREDERIC: Correct, there's a decline in
6 demand for phenol for 2019, which means that production for
7 acetone will drop as well.

8 COMMISSIONER KARPEL: And, so as you reviewed, it
9 looks like we have a bit of a tight market for acetone in
10 2016-2017, an increase in supply in 2018 and this is solely
11 based on the demand trends -- production trends for phenol,
12 according to what I heard from you all.

13 But then you've also identified additional
14 factors in terms of the shutdown, or the announced shutdown
15 of the Shell facility as well as the hurricane in end of
16 2017. How much are we -- should we be attributing to those
17 two events, versus this up and down of phenol demand in
18 terms of supply of acetone?

19 MR. DOUGAN: Jim Dougan, from ECS. I'll respond
20 first and we'll see what the other folks can chime in as
21 well. I think a lot of this has to do again with the timing
22 of these events and the expectations and how say demand for
23 phenol was revealed, because again, looking at that chart,
24 it looks like oh yeah, well phenol demand went up in 2018,
25 so everyone knew there was going to be more supply and there

1 was going to be more acetone supply so that was fine.

2 But that was not expected at the end of 2017.

3 That was not expected during the contracting season. We put
4 an industry report in that said almost exactly that -- that
5 acetone is going to be tight and they're not going to
6 increase production, because phenol demand doesn't look
7 great.

8 And I think if the other folks would think that's
9 consistent with their experience, they could chime in,
10 that's my understanding from our conversation yesterday.
11 You've got that in place, and then you've got in part that's
12 due to the Shell situation.

13 So, then the purchasers need the supply, they try
14 to get it. You've heard two or three of the big ones here
15 say no, can't have it. Well they have to go get the
16 imports. Well, Shell keeps producing longer than expected.
17 There's more in the market and the overall phenol
18 production, and therefore acetone production, goes up a
19 little bit.

20 So, now all of a sudden, the contract that these
21 folks couldn't get from the domestics, they've filled with
22 imports and domestic production is going up at the same time
23 and that's where you sort of end up with that temporarily
24 like long market.

25 So, I think the sequence of events is important,

1 not just the sort of you know, combining everything into one
2 idea or applying hindsight to the situation. So, I think if
3 you guys want to chime in, I think the sequence really
4 matters here.

5 MR. HAUG: No, Jeff Haug with Monument Chemical.
6 And I agree, Jim stated that very well that the timeline is
7 critical and as you pointed out. But you also asked
8 directly about the Hurricane Harvey and the Shell shutdown.

9 I think what's critical is that the industry,
10 excuse me -- the industry, for Hurricane Harvey that was an
11 unprecedented event and we heard earlier in different
12 testimony, that not only was acetone phenol production
13 affected, but acetone phenol consumption was also affected.

14 So, it was a very dramatic event that affected
15 almost everybody here in this room, either from a supply
16 customer or partner relationship, but that was also a --
17 what I would consider it was longer for some folks, but it
18 was a short-term issue.

19 A lot of folks were back up and running as fast
20 as they physically -- and I say back up and running, back up
21 and producing, as fast as physically possible, including
22 Monument Chemical.

23 Now, when we look at the Shell -- so, that's one
24 issue. And we also heard Mr. Foster talk about the ITC
25 fire, which some of you may have saw on the news, that was a

1 very dramatic bulk storage tanks, eight of which caught fire
2 in the Houston area, and shut that down. So, we will see
3 events like this continue and these are unpredicted,
4 unplanned, unforeseeable force majeure issues.

5 Shell's issue is very different. Shell had
6 realized that the phenol market was significantly long for
7 several years and there was a very astute gentleman that was
8 part of that business that we all respected, a gentleman
9 named Russ Herman that was very integral with Shell's
10 acetone phenol business.

11 And I only bring up his name because he had the
12 challenge of telling a lot of customers that he was no
13 longer able to supply phenol and acetone. And I think why
14 that's relevant again, that was a decision based on years of
15 looking at the phenol industry. Not necessarily, acetone
16 industry, but that -- and again, I am speaking slightly out
17 of turn on Shell's behalf, but that decision was a longer
18 term, you know, longer impact versus a Hurricane Harvey, you
19 know.

20 They still need to invest significant capital if
21 they're going to turn that phenol acetone unit back to
22 production. And to date, I haven't heard that's in any
23 plans in the near future. So, again my point there is
24 distinguishing the two events. We kind of put them in the
25 same bucket because of the timeline, but they are very,

1 very different.

2 CHAIRMAN JOHANSON: Thank you all, again for
3 appearing here today. Mr. Haug, I'm going to continue, so
4 you're discussing Shell on its decision to curtail
5 operations, correct?

6 MR. HAUG: Jeff Haug, Monument Chemical, correct.

7 CHAIRMAN JOHANSON: Yes, could you -- it's too
8 bad Shell's not here, I understand why they're not here, but
9 could you perhaps provide any information to the record
10 explaining what happened with Shell?

11 MR. HAUG: Jeff Haug, Monument Chemical. Yes, to
12 the best of my ability. I think, you know, I can relay some
13 of those details. As it was relayed to us, so Shell had,
14 you know, two different phenol acetone lines, so two
15 different -- what would be considered even though they were
16 on the same site two different production units.

17 For years, you know, the Shell management
18 recognized that the phenol market was oversupplied. And it
19 was told directly in some cases to me, that somebody "would
20 have to shut down," you know, there's just too much phenol.

21 What was related to me again also from Shell, was
22 that a significant capital expenditure was needed at the
23 site, okay, that could no longer be postponed. Okay, so
24 this was related to -- we heard this earlier in the
25 conference, safety -- this was related to consistency of

1 operations. This was related to you know, health
2 standards, that they could no longer postpone.

3 And it was in the tens of millions of dollars.
4 So, again critical of the timeline, this happened at the
5 time when we're saying look, phenol's going to be bad.
6 Okay, phenol's going to be bad in 2018 and as again, was
7 related to me, Shell made the tough decision to -- we say
8 mothball in the industry, but you know, they shuttered that
9 asset, okay.

10 They basically shut it down, and as we heard
11 earlier from the Petitioners, these units are very, very
12 difficult to start up again. So, we had a two-fold effect.
13 Shell was looking at a long-term impact on the phenol
14 market. They also were faced with a significant capital
15 expenditure that was not justified at the time.

16 And that's about the best. Now, just to quickly
17 follow-up all of this, they still have significant phenol
18 acetone production, but Shell was faced with the tough,
19 tough decision, you know, and we heard from Randy Velarde
20 earlier about some of the second tier users and buyers of
21 acetone.

22 And Shell had to make the tough decision on that
23 tier two as I call it, who they would continue as a contract
24 customer. And Monument Chemical was one that was on tier
25 two that since day one of Monument Chemical's inception,

1 Shell was part of our contract supply and we were fired as a
2 customer -- as a contract customer.

3 MR. DOUGAN: Chairman Johanson, sorry if I could
4 -- Jim Dougan from ECS, if I can just add. The Exhibit 13
5 to our pre-hearing brief, there's an industry report. It's
6 subscription-based, so I'm not going to quote from it, but
7 right on page 1, under the market summary, there's a
8 discussion of what this industry analyst's report believed
9 to be the factors behind the Shell closing of that line and
10 it corroborates what you hear from the witnesses.

11 CHAIRMAN JOHANSON: Okay, thanks Mr. Dougan,
12 thanks, Mr. Haug, for how this led to you of course,
13 importing product, increasing imports of product.

14 MR. HAUG: Jeff Haug, with Monument Chemical.
15 Yes, it was one of the factors. Again, we lost a long-time
16 partner, you know, in the acetone supply, and it came again,
17 we talk a lot about timing and the timing is a very critical
18 item here as we all sit around and look at this factual
19 timeline.

20 And I had to go to our President, who's sitting
21 right in front of me and say, oh, by the way, tomorrow we
22 just got fired as a customer, so, yes.

23 MR. BHATIA: Let me add to that and we provided
24 some of the emails we got from --

25 MR. BURCH: Will you please identify yourself?

1 MR. BHATIA: Qamar Bhatia, Monument Chemical. We
2 provided emails where we had been categorically denied
3 volume, you know, because we were fired from Shell. Jeff
4 went and you know, I said hey, you need to get some acetone.

5 He said I can't get it from the domestic guys,
6 they're not willing to give it. So, we had to go and get
7 imports. I also want to make another correction, please.
8 In my testimony, I misspoke about the maximum practical
9 capacity.

10 I think I said 95, while the exact number should
11 be 85. I just want to make that correction, thank you.

12 CHAIRMAN JOHANSON: Okay, thanks Mr. Bhatia.
13 And, do all Respondents take the position that beyond any
14 supply problems it created, Hurricane Harvey also increased
15 costs for the domestic industry. Can you point to in the
16 record, in addition to the single questionnaire you cite at
17 page 37 of your brief to quantify the impact of the
18 hurricane on domestic industry costs?

19 MR. DOUGAN: This is Jim Dougan from ECS. We
20 will try to do that for post-hearing. I don't know that we
21 can do it sitting here beyond what we've already pointed to,
22 but we'll do our best for that for post-hearing.

23 CHAIRMAN JOHANSON: Okay, thanks. That would be
24 helpful.

25 MR. DOUGAN: Sorry, but if I can just add to

1 that, I think quantifying a cost is there's certainly an
2 aspect to that and whether we can do that or not, I don't
3 know, we'll see what the record supports, but I think when
4 we're talking about an industry where, you know,
5 availability and reliability of supply are the two most --
6 the factors ranked as very important by the most
7 purchasers, as Commissioner Stayin pointed out, it certainly
8 had an impact on perceptions of the reliability of domestic
9 supply.

10 And to have the Shell closure of one of its lines
11 follow so closely on the heel of that, I think certainly did
12 start some flashing yellow, if not red, lights for some of
13 these purchasers.

14 CHAIRMAN JOHANSON: Thanks Mr. Dougan, yeah,
15 that's exactly on point. I'm curious as to what happened
16 with supply.

17 MR. BHATIA: Because of this situation, we got a
18 tank on which we spent 1.2 million dollars a year to store
19 acetone. Because of this unreliability or lack of domestic
20 supply, we engaged where we spend 1.2 million dollars a year
21 renting that tank just to get security of supply and so that
22 we can have some, you know, safety stock.

23 CHAIRMAN JOHANSON: Once again, you saw the
24 supplies being insecure.

25 MR. BHATIA: Exactly.

1 CHAIRMAN JOHANSON: Okay, thanks, Mr. Bhatia.
2 And I apologize if this has been answered before, but it's
3 already been kind of a long day, but what role do subject
4 imports play in acetone prices in the spot market?

5 MR. DOUGAN: Chairman Johanson, I'll let the
6 industry witnesses join in here, but you know, there was a
7 lot of references this morning to you know, speculative
8 supply, and there was one barge that was in and they were
9 waiting for another ship to come in, so they just had to get
10 rid of it and someone heard about how cheap they were
11 selling it and so everyone now, all the large purchasers,
12 want to get that same price for this one guy who's got a
13 barge and is trying to liquidate it.

14 But, you know, to the degree that -- and the data
15 actually show, and we'll put this in post-hearing. We did
16 the calculation. There's a table at the pre-hearing report
17 Roman V-II, which says the percent of sales of each type
18 from domestic and subject imports to you know, long-term
19 contract, annual contract, short-term contract and spot.

20 And so, you can actually derive volumes from
21 domestic and subject sources that go along with that. You
22 just multiply it by shipments, right? You don't have to be
23 an economist to do that.

24 So, you multiple those numbers and you can see
25 how much volume is going in each of those channels. And,

1 you know, again, the domestics dominate this market.
2 They're most of the market. They're most of the spot market
3 too. And they're most of the increase in the shipments to
4 the spot market from '17 to '18.

5 So, I mean, I don't think anybody is claiming
6 that there's zero -- that there's zero consideration of
7 subject imports as part of a spot market, but when the
8 overwhelming majority of the volume there, and the
9 overwhelming majority of the increase in volume to the spot
10 market is domestic, it's kinds of hard for me to accept
11 that the subject imports are the one driving the price
12 there.

13 MS. FREDERIC: This is Chris Frederic with
14 Lucite. Lucite primarily participates in the contract
15 market. Our spot volumes are miniscule, so we don't
16 consider ourselves spot buyers.

17 MR. HAUG: Jeff Haug, Monument Chemical. To
18 concur with Jim, you know, the spot market is the spot
19 market. And it's -- we've heard a lot about the spot market
20 price being driven down. There are times, even within the
21 period of investigation, where the spot market is much
22 higher than the contract and even at times, it has been
23 higher than the large buyer settlement flat.

24 So, we heard earlier from the Petitioners that
25 the contract price is the large buyer minus the discount.

1 The spot market can swing, and it can swing where it's large
2 buyer plus a premium. Now, it's happened in the period of
3 investigation when acetone is short.

4 You're paying a premium, excuse me, a premium
5 over the large buyer settlement.

6 But again we are--we are not, you know, heavily
7 in the spot market, as I mentioned earlier, but we would
8 concur that obviously a combination of both import
9 availability and domestic availability will drive that spot
10 price. And sometimes it's lower than contract, and other
11 times it's been higher.

12 CHAIRMAN JOHANSON: Thanks, Mr. Haug and others.
13 My time has expired.

14 Commissioner Schmidtlein?

15 COMMISSIONER SCHMIDTLEIN: Okay, thank you.

16 Let me just follow up, because I had a question
17 about the spot sales versus the annual long-term contract
18 sales, Mr. Dougan. And I've been looking through the staff
19 report to see if we had that graph in there, that chart
20 compiling the actual shipment information. I guess we
21 don't. But you did it on your own?

22 MR. DOUGAN: That's correct. I just multiplied
23 it by the C Table.

24 COMMISSIONER SCHMIDTLEIN: Yes, we will do that
25 after this. One question I have, though, is--and I guess in

1 looking at those absolute numbers you say that there's a
2 larger increase in shipments going into spot sales for
3 domestic purchases than imports?

4 MR. DOUGAN: That's correct.

5 COMMISSIONER SCHMIDTLEIN: Okay. So when I look
6 on a percentage basis, of course, all of the--for long-term
7 contracts, annual contracts, short-term contracts, on a
8 percentage basis those all decrease over the three years for
9 imports in terms of the percentage of total shipments that
10 are going into each of those types of sales. And spot sales
11 increase. In other words, spot sales take from each of
12 those other types of transactions to increase.

13 And given that the overall volume of subject
14 imports went up obviously over the POI--that's not in
15 dispute--then the shipments--again, I'm not looking at those
16 numbers, you have them, but the volume of shipments going
17 into spot sales for imports must have increased while the
18 other three types of transactions decreased, right?

19 MR. DOUGAN: The--that's actually not true, but I
20 will--

21 COMMISSIONER SCHMIDTLEIN: It's not? Okay.

22 MR. DOUGAN: But I can--I don't have the numbers
23 in front of me, but the most of the increase was in for the
24 other--because I guess the way that it works out with the
25 percentages is that, you know, the increase in--the shift in

1 share from spot wasn't enough to overwhelm the increase that
2 was applied to all the other categories.

3 COMMISSIONER SCHMIDTLEIN: Right.

4 MR. DOUGAN: So the majority of the increase was
5 still attributable to contract sales for subject imports.

6 COMMISSIONER SCHMIDTLEIN: Right. But on a
7 percentage basis, the spots increased.

8 MR. DOUGAN: On a percentage basis, that's what
9 the chart shows. Yes, correct.

10 COMMISSIONER SCHMIDTLEIN: Okay. And so is that
11 what you would expect to see, I guess, given that when I
12 listened to your testimony in the presentation talking about
13 how the fact that U.S. producers were refusing to supply,
14 there was also a supply disruption because of Hurricane
15 Harvey, and that drove purchasers to look for contracts from
16 imports because they wanted to lock in those prices.

17 So is this consistent? Even though, because of
18 the basis from which we're going, right, the absolute
19 numbers--I understand what you're saying--are larger, but on
20 a percentage you're seeing a shift in the spot sales. Is
21 that consistent with that?

22 MR. DOUGAN: On a percentage basis, the shift
23 isn't consistent. It's not what you would expect. But in
24 the absolute numbers, it is supporting what we're saying.

25 So, I mean that's all I can say--

1 COMMISSIONER SCHMIDTLEIN: Because wouldn't you
2 expect to see spot sales stay at least even? Right? Like
3 if everybody's rushing to get their contracts locked in,
4 there's more volume coming in, wouldn't you expect spot
5 sales to stay at least even, not to increase?

6 MR. DOUGAN: I mean you might, but this is, you
7 know--this is what the data have told me. So--

8 COMMISSIONER SCHMIDTLEIN: Okay. Okay--

9 MR. DOUGAN: We can discuss it at more length
10 with the confidential data. I agree with what you're
11 saying, and it does seem on its face inconsistent, but the
12 result is kind of otherwise. And sort of consistent with
13 what we've been hearing from the folks here on this panel.

14 COMMISSIONER SCHMIDTLEIN: Okay. So I'm sure you
15 had to anticipate this question. Given that we've heard
16 arguments that the increased volume was as a result of the
17 supply disruptions and purchasers looking for security of
18 supply--in other words, the imports are being pulled into
19 the market, right? And in fact U.S. producers are refusing
20 to supply, and in some cases can't because they're lacking
21 in raw material and so forth. Why do we see underselling
22 increase the way we do in 2018, given the alleged supply
23 constraints? Because if you're being pulled into the market
24 and you're needed, you wouldn't expect to see that product
25 underselling the U.S. product, right?

1 MR. DOUGAN: So I think part of the answer to
2 that is the underselling that you are seeing, or a portion
3 of the underselling that you're seeing--and again I can
4 parse this with the proprietary data--does have to do with
5 spot. And for the spot products, particularly. And if the
6 spot market is long overall, you're likely to see more price
7 competition occurring there.

8 Our argument is that it was long by virtue of
9 mostly domestic volume, but, you know, are the prices going
10 down? Are the prices more competitive in a spot market?

11 COMMISSIONER SCHMIDTLEIN: Okay, but I thought
12 you said that domestic volume decreased; that the idling of
13 the Shell capacity was roughly equal to the increase in
14 subject imports?

15 MR. DOUGAN: From '16 to '18, that is correct.
16 Yes. Yes. And the decrease in Shell's capacity from '17--
17 which would effectively be '17 to '18 because they were
18 running in '16 and '17--was greater than the increase in
19 subject imports from '17 to '18.

20 COMMISSIONER SCHMIDTLEIN: Right. So subject
21 imports increased roughly 100,000 from '17 to '18, 50 from
22 '16 to '17, and--

23 MR. DOUGAN: Correct.

24 COMMISSIONER SCHMIDTLEIN: Right. So you still
25 attribute the--even though there was an increase of, what

1 was it, 60 percent or something, by subject imports you
2 still attribute any longness of the market to U.S.
3 producers?

4 MR. DOUGAN: Well, if the--yes, and because most
5 of the--if the volume--this is where the timing becomes
6 important, right? Because if the volume that was arranged
7 for from subject imports was contracted at the end of 2017
8 by purchasers who couldn't get supply from domestic
9 producers, and then Shell keeps running longer than
10 anticipated, and then U.S. producers also increase phenyl
11 output and acetone production, yes, there's going to be long
12 length, not longness, in the market. Because the imports,
13 in a sense, are already there. And, yes, there was a small
14 increase in--or a small portion of the increase in subject
15 import volume was attributable to the spot market, sure.
16 Okay? That's undeniable. The numbers show that. But most
17 of the increase in imports was contract.

18 So in essence those were kind of already there
19 and provided for.

20 COMMISSIONER SCHMIDTLEIN: Okay. U.S. production
21 went down in '18. I'm trying to see in the record, like
22 where do we see that, aside from the Shell idling being
23 delayed, right--

24 MR. DOUGAN: Well, the--sorry, go ahead and
25 finish.

1 COMMISSIONER SCHMIDTLEIN: --so we see that.

2 MR. DOUGAN: Well the decrease in U.S. production
3 from '17 to '18 is inclusive of Shell, right?

4 COMMISSIONER SCHMIDTLEIN: Right.

5 MR. DOUGAN: So if you take Shell out of that,
6 U.S. production from '17 to '18 actually increased. From
7 the producers other than Shell, collectively. And that's in
8 our prehearing brief.

9 COMMISSIONER SCHMIDTLEIN: I see. Okay.
10 Alright, well, I'll look at that more closely.

11 I had sort of a factual question, and I'm not
12 sure if--well, it's mentioned in the Joint Respondents
13 brief, but for the representative from the Plaza Group, I
14 wonder. There's a reference in the Joint Respondents brief
15 about the marketing for fee business model--I'm sorry, let
16 me see, where are you? Okay, and I just wonder--and maybe
17 you don't want to talk about it too much here, but I
18 wondered if you could expand on that a little bit, and what
19 the marketing for fee business model is.

20 MR. VELARDE: Sure. Randy Velarde of Plaza
21 Group. And if I may just add some to support Jim's input
22 there, it's difficult to look at your question over an
23 18-month period of time. It really deserves a response from
24 the end of 2017 when major events took place, which as you
25 properly described drew in imports. But then the events of

1 late 2017 and into early 2018, those imports became
2 unnecessary because of the fact the U.S. producers had
3 ramped up their production. There was some demand decline
4 that took place during that time with some of the major
5 users. So it really deserves to be looked at in a smaller
6 amount of time, if I may just add to that.

7 Now to--

8 COMMISSIONER SCHMIDTLEIN: Well, and I would
9 invite you to--and I think Mr. Dougan--

10 MR. DOUGAN: In posthearing--

11 COMMISSIONER SCHMIDTLEIN: Yeah, in posthearing
12 you can address that, along with why do we see the
13 underselling? And then how does that comport with the price
14 trends we see, which was sort of an obvious add-on,
15 follow-on question.

16 MR. DOUGAN: Will do.

17 COMMISSIONER SCHMIDTLEIN: If the market is long,
18 then wouldn't we see prices going down during that period?

19 MR. DOUGAN: Well, you mean--sorry, wouldn't you
20 see prices going down in the period to markets long, like
21 second and third quarter 2018?

22 COMMISSIONER SCHMIDTLEIN: Right.

23 MR. DOUGAN: Well the overall price levels would
24 be determined by the RGP. And so--

25 COMMISSIONER SCHMIDTLEIN: So you would look at

1 the margin?

2 MR. DOUGAN: Right, which we don't really have on
3 a quarter-to-quarter basis.

4 COMMISSIONER SCHMIDTLEIN: Right, okay, so you
5 don't disagree with the Petitioners that that's more
6 relevant than looking at where the impact might be?

7 MR. DOUGAN: Right. Right. Because we don't
8 disagree, because the overall movements of prices going up
9 and down, and saying that prices were lower here than there,
10 I mean it's a function of RGP. So it's really about the
11 realized margin and why those might have changed.

12 COMMISSIONER SCHMIDTLEIN: Okay. Okay, and I'm
13 sorry, I'm out of time. If you want to answer now, we can
14 do it in the second round.

15 MR. VELARDE: Your call.

16 COMMISSIONER SCHMIDTLEIN: Okay, why don't we do
17 it in the second round. Thank you.

18 CHAIRMAN JOHANSON: Commissioner Kearns?

19 COMMISSIONER KEARNS: Alright, thank you all
20 again. This morning Petitioners pointed to a graph on page
21 11 of their slides showing that January through April 2019
22 imports were still much higher than the same period in 2016
23 or 2017. They argued that your argument is largely that
24 imports went up in 2018 because of the Shell shutdown, but
25 this chart totally refutes that, as they put it. Would you

1 like to respond to that?

2 MR. DOUGAN: Sure, Commissioner. Jim Dougan. I
3 was a little bit perplexed by that argument because if the
4 idea that imports were coming in in response to a structural
5 decline in domestic supply availability, and that is the
6 Shell shutdown more or less, I don't see why there would be--
7 --Shell didn't start producing again. So I don't see why
8 they believe that that structural deficit would have been
9 remedied.

10 I know that they've argued that, well, yes, some
11 other folks had brought capacity online, but I mean based on
12 the information in the staff report, that capacity was
13 already online at the end of 2017.

14 So, you know, the idea that imports came in to,
15 in part at least, or mostly to replace that structural
16 deficit, that's not a condition of competition that changed
17 from 2018 to 2019.

18 COMMISSIONER KEARNS: Okay, thank you.

19 Also for you, Mr. Dougan, you made a point in
20 your opening that you also made on page 72 of your brief,
21 which I guess I would call sort of the inflated RGP
22 benchmark issue, or this one large supplier--supplier, yes--

23

24 MR. DOUGAN: Purchaser, propylene purchaser.

25 COMMISSIONER KEARNS: --or purchaser, yeah. So

1 assuming that that's right, where does it lead us? Because
2 I mean it seems to me that what it suggests is that this RGP
3 benchmark is sort of inflated. But that would mean that
4 actual costs of the U.S. producers aren't as great as the
5 RGP benchmark would suggest. But what we're seeing in the
6 data, of course, is their costs, their COGs, their raw
7 material costs, did increase over this period of time.

8 So what am I supposed to take from the fact that
9 the RGP benchmark may have been inflated in 2018? Does that
10 question make sense?

11 MR. DOUGAN: Sure. I understand your question,
12 and I will try to come up with a thoughtful response now,
13 and perhaps a more thoughtful response for posthearing.

14 But I think where it leads us is, you know, again
15 it gets to this idea--well, first of all, sort of a broad,
16 more broad conceptual point that, as I mentioned earlier,
17 sort of at the very beginning about conditions of
18 competition, here you have a product whose output and supply
19 is basically determined by the supply of another product.
20 And you are a price taker with respect to your raw material.
21 You have no ability to influence it. RGP prices are not
22 affected by acetone demand.

23 So you're kind of at the mercy of these different
24 things. And so this is precisely--that kind of--so you are
25 subject to volatility from totally exogenous factors. This

1 is an example of an exogenous factor that doesn't have
2 anything to do with imports.

3 And so this is why it doesn't make sense, and
4 none of these large producers here on this panel anyway look
5 at the profitability for acetone in isolation. Right?
6 They look at it for basically their cumene output because
7 they want to see how phenyl is doing at the same time.

8 So that's the sort of conceptual point, right?
9 Like here's a perfect example of something just coming in
10 completely exogenous that affects RGP prices and affects
11 their margins.

12 On the other hand, you have a thing where it
13 spiked sharply and then decreased sharply. That affected
14 prices. That affected very rapid price swings. And, you
15 know, it may have affected the mismatch of not just their
16 pricing but what raw materials they had in inventory and how
17 those COGs were reflected in their cost of goods sold, and
18 their end price to the customer. I mean, you had--it's a
19 very volatile period where, you know, you were exposed to
20 just simply this, even regardless of what's happening with
21 subject imports.

22 That's going to affect your profitability in a
23 very substantial way. Because it was so, what's the word
24 I'm looking for, so dramatic of an increase, and so dramatic
25 of a decrease because, again, you know now--maybe you paid a

1 high price for your RGP one month and it collapses the next
2 month, and the price that you can sell at is determined
3 based on that RGP benchmark and you're maybe stuck with it
4 temporarily one month higher RGP cost, and now, again,
5 nothing to do with imports, but from month to month your
6 large-buyer price, or even if your discount is a contract
7 one and it's flat at whatever, 10 percent, 15 percent off of
8 LBP, that dramatic swing up and down is going to affect sort
9 of a mismatch between your sales revenue and your cost of
10 goods sold.

11 So, yeah, you might get caught upside down on
12 that and have a negative impact on your profitability. None
13 of that has anything to do with subject imports. So that's
14 part of the reason that--and it wasn't anticipated. It
15 wasn't people looking forward, projecting RGP and saying,
16 hey, we expected to do this. We see demand in propylene is
17 this. So this means the price for RGP is going to look like
18 this. No, it was really this sort of bizarre discontinuous
19 thing that happened for two quarters.

20 It also happened to be at the same time that the
21 market was temporarily long for the same reasons that we
22 talked about. You know, Shell continuing to produce, and
23 the phenyl production going up. And, yes, the imports
24 having been brought in to satisfy the contract demand that
25 the domestic producers wouldn't supply.

1 So you have all--it's sort of like this weird
2 perfect storm that definitely broke badly for them in the
3 second and third quarters of 2018. But I would argue that
4 it's not caused by subject imports in any meaningful sense.
5 And that would be the takeaway that I would have from that.

6 I can get into it more with a precise analysis
7 for posthearing, if you'd like.

8 COMMISSIONER KEARNS: Yes, that would be helpful.
9 Because I'm hearing you sort of basically say it's just more
10 noise in this already noisy market, so I understand that to
11 some extent, but it seems to me that if the RGP benchmark is
12 inflated, that that would be, I mean to some extent it's
13 good news for U.S. producers because my acetone price is
14 based indirectly on the RGP price. And so if people think
15 the RGP price is higher than it actually is, then I'm going
16 to have higher acetone prices.

17 On the flip side, what we actually see in the
18 data is regardless of what the RGP benchmark says, what we
19 know is we had a cost/price squeeze I think during this
20 period, and we had the costs, the raw material costs were
21 going up.

22 So that seems to suggest that, I don't know,
23 maybe the benchmark wasn't so inflated, that actually in
24 fact the raw material costs were increasing.

25 So I mean you can do better posthearing, I would

1 guess, but I'm just not sure how this kind of fits in with
2 the rest of the case.

3 MR. DOUGAN: Sure. I'll speak to it more, right
4 to it more for posthearing. But one thing that I think is
5 important in terms of--so, you know, it may be a good thing
6 because prices go up, because RGP goes up, the LBP--that's
7 true. But the amount of the LBP spread over RGP, as we've
8 heard from the other witnesses, that does vary from month to
9 month. Right? And one thing that we do know, for having
10 spoken to these industry folks, is that the tolerance among
11 the large buyers for larger spreads gets less when the price
12 goes up and gets more when the price goes down.

13 So they are willing to let the producers have a
14 higher spread and make greater margins in fact when the RGP
15 prices go down than when they go up.

16 I think also when they are negotiating--and I
17 can't speak to this from personal experience, maybe some of
18 the folks on the panel can, but if you've got an RGP spike
19 that's attributable to known actual supply and demand
20 factors in the marketplace, it was anticipated, they may be
21 more willing to say, you know what, alright, pass that on to
22 us, we get it.

23 If this weird artifact of oh, we all know that
24 so-and-so's not buying spot anymore, they're buying
25 contract, or the other way around, sorry, you're just going

1 to have to eat that this month. You know, that might have
2 been what happened, I don't know.

3 COMMISSIONER KEARNS: Yeah--

4 MR. DOUGAN: But again, none of that, in our
5 view, has anything to do with subject imports.

6 COMMISSIONER KEARNS: Okay, thank you.

7 I wanted to talk to Lucite a bit. If I heard you
8 correctly, ALTIVIA refused to bid on a contract with you?
9 And a I understand it, that was a bid, I'm thinking at the
10 end of 2017, for 2018? Is that right?

11 MS. FREDERIC: It was in early 2018, yes.

12 COMMISSIONER KEARNS: The bidding was?

13 MS. FREDERIC: And it was an RFQ that we sent out
14 to the industry, to all the U.S. producers and suppliers.

15 COMMISSIONER KEARNS: Okay. So even though we've
16 been hearing about how most contracts can be negotiated at
17 the end of 2017 for 2018, this was actually a negotiation at
18 the beginning of 2018 for the remainder?

19 MS. FREDERIC: That flowed from the end of 2017
20 into early 2018, correct.

21 COMMISSIONER KEARNS: Okay. And at first I
22 didn't think that this mattered that much because I figured
23 what we would hear from ALTIVIA would just be, you know,
24 look, we didn't agree on price so we weren't interested.
25 But you're saying specifically that price was never even

1 discussed?

2 MS. FREDERIC: Chris Frederic with Lucite. That
3 is absolutely correct. Price was never part of the
4 conversation. The conversation centered around how ALTIVIA
5 was choosing not to respond to the RFQ because they didn't
6 have volume to support the MMA industry.

7 COMMISSIONER KEARNS: Okay. If you could give us
8 any documentation of that that you have that establishes
9 that price wasn't part of the reason, that would be helpful.

10 MS. FREDERIC: Yes.

11 COMMISSIONER KEARNS: Okay, thank you. And you
12 were focused on ALTIVIA. What about the other U.S.
13 producers? I mean, why are we only talking about ALTIVIA?

14 MS. FREDERIC: Now I'm going to go back in
15 memory. Most of the other producers participated in the
16 RFQ. What we'd have to look at was what sort of volumes
17 that were presented as part of their responses.

18 COMMISSIONER KEARNS: Okay, if you could provide
19 that documentation for us, as well, posthearing, that would
20 be appreciated.

21 MS. FREDERIC: Thank you.

22 COMMISSIONER KEARNS: Okay, thank you.

23 CHAIRMAN JOHANSON: Commissioner Stayin?

24 COMMISSIONER STAYIN: Yes. This morning we heard
25 discussion about the purchasers doing minimum contracts with

1 leaving openings for them to buy on a spot market. And this
2 way they were able to have contract, but also to be able to
3 go into the spot market. And it was kind of a confusing
4 thing which some of the producers didn't want to go into.
5 Do you have any idea about that?

6 MR. HAUG: Jeff Haug, Monument Chemical. What I
7 can speak to is that in a majority, if not all of our
8 contracts, we base those on a range, a volume range with a
9 min and a max, to protect both the buyer and seller, you
10 know, so that -- and especially for Monument Chemical, we
11 are a campaign manufacturer. We are not a continuous
12 process. So there are times when our demand can be two-fold
13 what it is in the prior month.

14 So a lot of the contracts are built where there's
15 a min and max per the month. So to protect, again, both the
16 sellers and buyers, you know, that's good for both parties.
17 You know, you have a min and you have your maximum. Now, I
18 can speak openly and say that there were times when we
19 didn't need that maximum volume, whether it be demand or
20 campaign schedule. But these are business flexibilities
21 that any good purchaser, you know, or director of
22 procurement, or Vice President of Procurement, is gonna put
23 in place.

24 So we were a little shocked to hear that.
25 Because that's, you know, you're still within your

1 contractual obligation. You're just on the lower side for
2 different business reasons. And I can say openly that's
3 exactly what Monument did for different business reasons,
4 there were times when we bought the minimum. There were
5 also times when we requested the maximum. It's just our
6 business model.

7 COMMISSIONER STAYIN: So it's more of having a
8 minimum contract and then going out and negotiating
9 purchases from imports? As opposed to having a contract
10 that gave you that option. You had a contract commitment
11 and then you went and bought imports for the balance of your
12 need?

13 MR. HAUG: Not necessarily. I can speak openly,
14 because again, this was public. We actually had a force
15 majeure event that was unrelated to acetone during this same
16 time period. We heard from Jenn Butcher earlier. Another
17 coproduct, sometimes, you know, we had an issue, acetic acid
18 was a very difficult product to get in 2018 also.

19 And that caused Monument Chemical to declare a
20 force majeure. And with that, we were at our minimum
21 contractual commitments for acetone. So I can honestly say
22 that, no, we were not out, you know, supplying additional
23 volume from imports. Again, I go back to what I said
24 earlier. That was a business strategy and a business reason
25 that we were at our minimum contract obligation.

1 COMMISSIONER STAYIN: Okay.

2 MR. VELARDE: Commissioner, Randy Velarde with
3 the Plaza Group.

4 COMMISSIONER STAYIN: Yes.

5 MR. VELARDE: If only to support what Jeff is
6 saying, it's a very common practice in our industry where
7 these contracts have a minimum and a maximum. As Jeff
8 described in his particular case, it had to do with the way
9 their business operates. It's more of a campaign kind of
10 business. But surely, the minimums and the maximum speak to
11 both buyer and the seller. If the buyer is in fact
12 believing that there'll be some availability of product in
13 the market place, they may, in fact, exercise their minimum
14 on that contract.

15 Same goes to the supplier. If they see that
16 there's an opportunity to sell into this spot market at a
17 higher number, they may only supply the minimum. So the
18 minimums and the maximums apply to both the buyer and the
19 seller.

20 COMMISSIONER STAYIN: In your brief, there was a
21 suggestion that the domestic suppliers were looking to get
22 into the spot market themselves and were, instead of -- I'm
23 sorry, not the suppliers, the purchasers -- they were buying
24 in the spot market, they were going in the spot market in
25 order to try to take advantage of pricing, because they saw

1 the market going up.

2 And then the -- I guess I'm confused on this. It
3 was the contract partners who were refusing contracts
4 because they wanted to get into the spot market, is that --
5 is a suggestion that's in your brief?

6 MR. DOUGAN: Commissioner Stayin, the inference
7 was drawn from a combination of two facts on the record.
8 One, you had the domestic producers refusing to supply
9 either the requirements that the purchasers wanted under
10 contract or otherwise, or reducing the quantities that they
11 would make available, on the one hand.

12 And on the other hand, an increase of domestic
13 shipments into the spot market, both absolutely, and as a
14 percentage of their overall sales. So there may have been
15 other reasons for that. It may have been attributable to
16 the unexpected increase in phenol production that left them
17 with acetone that they hadn't contracted for. They kinda
18 had to put it in the spot market. That might've been part
19 of it, too.

20 But the inference of, we don't have acetone for
21 you for 2018, telling the contract customers that at the end
22 of 2017, and then increasing their spot shipments in 2018
23 eventually, that is one inference that could be drawn from
24 those two facts on the record.

25 COMMISSIONER STAYIN: Okay.

1 MR. LEHNARDT: I'd also like to point out that
2 the petitioners, when they talked about declining to supply
3 based on low prices or low offers, they didn't say that was
4 the only reason. They said that was one of the reasons.
5 The other was competitive reasons. They wouldn't sell to a
6 competitor. They didn't explain, you know, what the
7 percentage was between the two, but low prices wasn't the
8 only thing that they mentioned.

9 COMMISSIONER STAYIN: Okay.

10 MR. DOUGAN: Commissioner, if I could just add
11 one thing. You know, this, obviously contracting season
12 2017 is a big part of our presentation. It's a big part of
13 what they had to say. The market expectation was that
14 prices were gonna be good in 2018, right? I mean this was
15 the industry. I mean most of the other folks probably
16 believed that that was the case. What you heard from the
17 petitioners this morning was, well, there's already so much
18 import supply in the market and it was already pricing
19 pressure and that's why we refused, because we were getting,
20 you know, basically, negotiated down on prices for 2018.

21 I'd like the Commission to look at the
22 underselling data from the second half of 2017. I don't
23 know where they're seeing that pricing pressure coming from.
24 Those numbers are confidential, but it doesn't suggest that
25 imports were doing anything to put downward pressure on

1 prices, I'll just say that.

2 COMMISSIONER STAYIN: Okay.

3 MS. FREDERIC: Chris Frederic with Lucite
4 International. Lucite is one of the largest acetone
5 purchasers in the United States. We do not tear up
6 contracts as was said about purchasers this morning. And
7 also, Lucite is a contract buyer. We don't participate in
8 the spot market, and we've been buying on the contract
9 market for the past several years.

10 COMMISSIONER STAYIN: So do you contract both
11 with the importers, as well as domestic suppliers? Maybe
12 you want to put that in the confidential submission?

13 MS. FREDERIC: Yes, we're willing to answer that
14 in post-hearing brief.

15 COMMISSIONER STAYIN: Okay. Thank you very much.
16 That's all that I had. Thank you.

17 CHAIRMAN JOHANSON: Commissioner Karpel?

18 COMMISSIONER KARPEL: Can you explain to me,
19 you've mentioned the unexpected increase in phenol demand in
20 2018. Why was it so unexpected? What market signals, did
21 everyone misread and not predict this? What was going on
22 with that?

23 MR. FOSTER: Mike Foster, INEOS Phenol. Couple
24 of things--if I can recall correctly--happened in 2018.
25 There was some additional volume exported into Asia.

1 Typically what we see is for product to leave the U.S. that
2 has to be kind of a arbitrage opened between U.S., Gulf
3 Coast phenol and prices in Asia. That tended to open up a
4 little bit as some producers in Asia, if I recall correctly,
5 may have had a slowdown in their phenol production, but the
6 downstream derivative still needed phenol, so that opened up
7 some opportunities for exports.

8 Beyond that, I think the different sectors in the
9 U.S. market pretty much perform as expected. So I will have
10 to attribute the biggest gain to opportunities to export, as
11 well as the Shell issue. Their plant was going down, and
12 that created some opportunities for others who, in terms of
13 their portfolio, may have created some additional volumes
14 for the market. But the biggest I think is exports. And we
15 can give you some more data in post-hearing brief.

16 MR. DIAZ-CASTRO: Carlos Diaz, CEPESA. From our
17 point of view, we saw exactly the same effect as Mr. Foster
18 was describing. In Europe, the main drivers for phenol
19 demand comes from automotive sector, construction sector,
20 textile. We saw an unexpected demand in 2018, as well as in
21 Asia, so bigger production in cars that we were not
22 expecting, more construction everywhere. So that was the
23 main sectors where the demand was coming from, was not
24 forecasted.

25 MS. CALDER: Lynn Calder, INEOS Phenol. I would

1 just add to kind of one more point. I think it was
2 mentioned earlier that acetone is very much a GDP-related
3 product. If the economy is doing well, people spend money
4 on stuff. Phenol can be said the same. Just to echo all
5 the points that Carl has made.

6 COMMISSIONER KARPEL: But I guess, were those
7 unexpected? So I guess the decrease in phenol production in
8 Asia was what the unexpected market factor was?

9 MS. CALDER: I think one of the key structural
10 changes that we have touched upon a couple of times today,
11 but maybe haven't underlined as much, because part of it
12 really proceeds, although continues into the POI, is the
13 capacity build of phenol and acetone producers in Asia. So
14 whereas historically, the U.S. has been a big supplier of
15 phenol into Asia because they were not self-sufficient in
16 the past few years, they have become more self-sufficient.
17 They've built a lot of their own capacity.

18 So how that related to acetone is that there
19 used to be a lot of domestic U.S. phenol that was produced
20 and sent to Asia, which allowed the acetone to remain in the
21 country and be used by U.S. consumers. When the pipeline,
22 if you like, of phenol from U.S. to Asia dried out because
23 Asia became much more self-sufficient, the acetone became --
24 it was no longer produced in the U.S. So it's a phenomenon
25 that kind of almost predates the POI, but certainly, you

1 know, to a certain extent, continues through the POI,
2 because not all the capacity came online at the same time.

3 COMMISSIONER KARPEL: I'm still not sure I fully
4 have an answer to my question, or maybe we can move onto
5 something else now. But if you think of other ways to
6 elucidate this in your post-hearing submission, I would
7 welcome that.

8 I also wanna turn to some arguments that we heard
9 from petitioners this morning. One would be along the
10 lines, if acetone production increased in 2018, why is it
11 that the level of subject imports in 2019 is similar to the
12 level we saw in 2018?

13 MR. DOUGAN: If I can add to that. So the
14 overall U.S. production of acetone declined from '17 to '18,
15 and that's largely attributable to Shell coming offline.
16 The increase was for the sort of remaining producers. But
17 the sort of structural deficit left behind by Shell's
18 ability to supply the market, remains. They talked about it
19 as if, "Oh, well, it was a temporary thing."

20 Harvey was a temporary thing. Shell coming
21 offline was not a temporary thing. That capacity's gone.
22 They're not restarting that. So from that point of view, it
23 isn't really surprising that the level of imports is still
24 high, or was still high relative to 2016 and 2017. It's
25 down from 2018 a little bit, but their comparison was,

1 "Well, why is it so big relative to '16 and '17?" It's 'cuz
2 Shell's not making that anymore.

3 COMMISSIONER KARPEL: But I also heard you say
4 that phenol production increased in 2018. So that would
5 also increase production of acetone. So is that not
6 factored in?

7 MR. DOUGAN: The production did increase, but the
8 capacity is still -- there's still capacity short. The
9 domestic market is still -- basically there's a deficit
10 between demand and the ability to supply the market. So
11 production went up for the remaining U.S. producers, but the
12 overall industry's ability to supply the market as a whole
13 is less now in 2019 than it was in 2016 and 2017.

14 MR. CONNOLLY: If I might add to that. Robert
15 Connolly, Lucite International. The increase in domestic
16 phenol production generating coproduct acetone was not
17 sufficient to bridge the deficit in the shutdown of Shell's
18 acetone production.

19 MR. DOUGAN: Which is why you see overall
20 production declines from '17 to '18.

21 MR. FOSTER: The other thing I would add is, as
22 the incremental phenol production happened, there was
23 potentially no plan for the additional acetone that came
24 along with that phenol, because the contracting season was
25 gone. The only alternative was to move it into the stock

1 market.

2 So if all of a sudden, I plan my phenol
3 production and now I get more phenol, and I haven't
4 contracted the acetone, I got two choices: I don't take the
5 phenol sales and cut my plant back, or I take the phenol
6 sales and I push acetone in the spot market, that could
7 create some issues. And I think we saw a lot of people
8 just pushing their incremental phenol production acetone
9 into the spot market from a domestic perspective. Because
10 it was unexpected.

11 MR. DOUGAN: Commission Karpel, one thing to add
12 to that. The petitioners presentation of the data and the
13 subject imports volumes is kind of a misreading of it, but
14 their characterization -- you know if you were to believe
15 them, basically all of the subject import volume is
16 opportunistic.

17 All of it is coming here with no planned
18 customers, just waiting on a barge to be sold. That's not
19 true. Okay? The vast majority of it is still sold to
20 contract. And most of the increase was to contract. So
21 it's not really surprising that when you have domestic
22 capacity and production coming offline and you have an
23 increase in subject imports--most of which is under
24 contract--to make up for that, there wouldn't an expectation
25 that necessarily in the next year it would fall off, all the

1 way back down to the two prior years. Because it's brought
2 in under contract to satisfy that supply.

3 I mean if their story were true, yeah, it's
4 speculators. But it's not mostly speculator, it's mostly
5 contract stuff. And so you wouldn't expect huge volatility
6 in the level of subject import volume. The reason that you
7 see the large increase in subject import volume is the
8 deficit created by Shell coming offline and the need to
9 bring in contract volumes of subject imports to replace it.

10 MR. DIAZ-CASTRO: I just wanted to add, 100% of
11 the types of volume coming to the U.S. is under contract.

12 COMMISSIONER KARPEL: Can you, and I think you'll
13 have to do this in the post-hearing, because it's
14 confidential, but can you break-out and do the math for me
15 here? I'm looking at the production by producer in Table
16 3-4, and it shows the production for Shell in 2018. What I
17 understand is Shell only produced for two months of 2018.

18 So some of this number we see here is gonna be
19 two months of that facility operating, and the rest is going
20 to be, it's other facilities operating. So I'm trying to
21 figure out, what is really this volume that's the shortfall
22 left by the closing of the Shell facility? And does that
23 really match up with the volume of imports we're seeing
24 coming in for 2018 or for 2019?

25 MR. DOUGAN: Sure, we can do that calculation and

1 parse it a little bit more closely to you. And again, the
2 gap is also relative to demand, right, and the ability to
3 supply. And the other part of this is, you know, the
4 responsiveness of domestic acetone supply is not driven by
5 acetone demand. It's driven by phenol demand.

6 And so the idea that there's available capacity
7 or that they can just ramp it up, or that there's something
8 that could be, that the other ones could just step in and
9 fill necessarily, is not necessarily true. If you have --
10 you know, your utilization rate to some degree, you're
11 "available capacity" is somewhat irrelevant if there isn't
12 an increase for phenol.

13 Because if you produce to meet acetone demand,
14 you're gonna be left with phenol that you--twice as much
15 phenol--that you can't place and is too dangerous to store.
16 So it doesn't work that way. The tail doesn't wag the dog.
17 We'll parse it out more for post-hearing with the
18 confidential data for sure.

19 CHAIRMAN JOHANSON: All right. How do you
20 respond to petitioners' argument that was obvious by the end
21 of 2018 that the U.S. market was oversupplied with acetone,
22 yet dumped imports continued to pour into the market from
23 all five subject countries. And they discuss this at Pages
24 3 to 4 of their brief. Do the data for January to April,
25 2019, demonstrate--as petitioners argue--that subject

1 imports were not responding to market forces, but were
2 rather exacerbating the oversupply problem?

3 MR. DOUGAN: Obviously we disagree with that
4 characterization. This is a little bit what I just
5 discussed in response to Commissioner Karpel about the
6 majority of this being contracted volume. You wouldn't
7 expect there to be necessarily -- if that's what the
8 customers are demanding and were contracted for, then you'd
9 expect the import suppliers to be continuing to provide
10 that.

11 Continuing to pour in, you know, I think they
12 mentioned in particular, you know, a large spike in October
13 as evidence of this, there's a big peak, but there's a large
14 valley in September. We understand that to be a timing
15 difference of a ship arriving, you know, early in October as
16 opposed to late in September, something along those lines.

17 If you smooth it out, the import volumes were
18 sort of more steady over the second half of the year, but
19 did decline. So the imports in second half of '18 were
20 lower than the first half of '18. And the first four months
21 of '19 were somewhat lower than the first four months of '18
22 as well. So we can get into this more.

23 The other question that sort of we have is, the
24 U.S. producers have characterized the market as being
25 oversupplied and there's too many subject imports. And so,

1 because the market isn't in balance, and because it's
2 oversupplied, then, that's what's killing prices, that's
3 what's killing our margins. That's all that's up.

4 Well, then, if that's true, why didn't they
5 reduce their production to help rationalize the supply? If,
6 by cutting back, they would rationalize production a little
7 bit, bring things into balance, increase prices, but they
8 can't. Their production of acetone is driven by phenol
9 demand. So there's all of those factors that kind of play
10 into it and, anyway, we have obviously a very different take
11 on the data than petitioners, and we can talk about it more
12 for post-hearing.

13 MR. HAUG: Just one quick follow-up note. We
14 talk a lot about the contracting season and the agreements
15 that users, consumers and resellers put in place. What we
16 didn't mention is a lot of these are multi-year deals.
17 These are not necessarily just a one-year deal. These are
18 sometimes one to two, upwards of three, and in a lot of
19 cases, you have an evergreen factor, where these agreements
20 will renew automatically, you know -- for, again, if both
21 parties agree to continue that.

22 So I think, again, to the direct question about
23 why we still saw those imports coming was, again, we were,
24 as Jim mentioned, a lot of this was contracted volume coming
25 to the United States. And in most cases, in some cases I

1 should state, that could be a multi-year deal or an
2 evergreen clause, you know, continuing that contract into
3 2019.

4 MR. DOUGAN: Chairman Johanson, if I can also
5 just add to this a little bit. I think there's further
6 evidence that supports that that continued presence of
7 imports in the market was due to the contracts. Not just
8 that I mentioned, but that Mr. Haug just mentioned. And if
9 you look at this Table V-II that's in the staff report.

10 The percent of subject imports that were sold to
11 the spot market in the first half of 2019 was down from
12 2018. So, we'll provide the underlying numbers that we
13 calculate from that. We spoke to Commissioner Schmidlein
14 about it before, but again that's sort of evidence that you
15 know, most of what you're getting here in that continued
16 volume between the first half of '18 and the first half of
17 '19 is because it was contracted for.

18 CHAIRMAN JOHANSON: Thanks Mr. Dougan. And
19 following up on that period of time, what is your position
20 on post-petition effects? Petitioners contend that subject
21 imports finally declined in May 2019, three months after the
22 petitions were filed, and that this shows that the petitions
23 are the only factor capable of slowing subject import
24 volumes.

25 They discuss this at page 18 of their brief.

1 Could you all respond?

2 MR. DOUGAN: Chairman Johanson, I know I heard
3 from someone else today that -- and they can perhaps respond
4 to it in post-hearing, but my understanding is because there
5 were production difficulties, there was force majeure at the
6 consuming facilities, that their ability to consume, their
7 ability to demand and need for imports also declined in the
8 latter half of the first half. But I'll let other folks
9 talk to that as well.

10 MS. BUTCHER: Jenn Butcher, Dow. I will state
11 that 2019 has been more operationally challenging, so we
12 have had to curtail somewhat of our diverse strategy global.
13 And again, that just prefaces the dynamics and the
14 volatility of this industry where your -- there's just, it's
15 complex with regard to how the operation is run, who your
16 suppliers are, some of your co-producer partners.

17 And then that effect it can have on your demand
18 that you plan.

19 CHAIRMAN JOHANSON: So, it's largely due to
20 demand?

21 MS. BUTCHER: The root cause of our less demand
22 this year were due to operational issues for 2019, so we had
23 two major events as I stated earlier. We had restrictions
24 with the ITC fire in March. And we also -- until recently
25 had a product from a producer that we need, that we can't

1 make enough of, that could not supply us due to their force
2 majeure.

3 So, I think again the net is you have all these
4 different factors that can come in that can, whether it's a
5 domestic producer of phenol acetone, or a global importers
6 of phenol acetone on how it can adjust your demand, your
7 max, your expectations of what your year may look like, that
8 makes sense.

9 MR. CONNOLLY: Robert Connolly, Lucite
10 International. One of our two assets, our Texas asset, was
11 in an unplanned outage for six months, and just came back
12 recently in September. As a result, we had to import from
13 our global asset base, MMA, to subsidize the loss of
14 production here in the United States.

15 And as a result, that has put us in a difficult
16 position as far as our minimums, with certain suppliers and
17 we're trying to do all we can to rectify that, but unplanned
18 outages are unplanned outages.

19 CHAIRMAN JOHANSON: And, is that reflected in the
20 staff report which shows -- I assume that this is what
21 you're getting at in the staff report. It shows apparent
22 consumption decline in the first half of 2019 compared to
23 the same period in 2018. This is at Table C-1?

24 MR. DOUGAN: Chairman Johanson, I don't know that
25 the industry folks have looked at the file before.

1 CHAIRMAN JOHANSON: Okay, I understand. I
2 apologize.

3 MR. DOUGAN: I think that would be, in part, our
4 characterization of it, yes. I mean there may be a decline
5 in demand just from end users, or there may be just decline
6 in demand because of a consumer's ability to actually use
7 the acetone, but there is, you know, there is a decline in
8 demand as observed in the data bank.

9 CHAIRMAN JOHANSON: Okay, thanks and sorry for
10 alluding to that when not everybody has the material. This
11 is a very basic question, but I don't know if it's been
12 answered yet. Petitioners contend that beginning in the
13 middle of 2018, raw material costs rose, but domestic
14 producers were unable to pass those costs along to
15 purchasers due to an oversupply of dumped imports in the
16 market. This is argued at page 4 to 5 of the Petitioner's
17 brief.

18 How do you respond to Petitioner's argument for
19 finding price suppression?

20 MR. DOUGAN: Chairman Johanson, Jim Dougan again.
21 I got into this a little bit with Commissioner Kearns before
22 he asked about the spike in our GP prices, and we had
23 discussed about how it was this sort of anomalous increase
24 that wasn't driven necessarily by supply and demand in --
25 for RGP, or appropriately because of one large purchaser's

1 purchasing practices.

2 They shifted from contract or spot or the other
3 way around, I can't remember. But they were a low price
4 purchaser. Their transactions came out, the index went up
5 and then so, RGP spiked and then it went way back down.
6 That certainly would have an impact on domestic producer's
7 costs, and when it comes to their ability to pass that
8 through, you know, we mentioned before that the LBP spread
9 over RGP is negotiated monthly.

10 It is dependent on a number of factors and there
11 is a sort of less appetite for a larger spread when the RGP
12 is higher than when it's lower. You know, when it's lower,
13 they say kind of take your margin, that's fine, we'll take a
14 higher spread. When it's up, there tends to be lower
15 margins, lower spreads I should say.

16 And particularly in this case, where it seems to
17 be not even the supply and demand driven spike, but just a
18 kind of calculation anomaly. There would presumably be less
19 appetite among the large buyers to allow that to be passed
20 through as your reference point.

21 So, that's one aspect of it, why the spreads
22 would have certainly shrank in the second and third quarters
23 of 2018, independent of whatever was negotiated. Then, I
24 think there's an agreement among basically everyone, that
25 the market was comparatively long for acetone in the second

1 and third quarters of 2018.

2 We disagree about the why and who was responsible
3 for it, but what that means is -- and if the LBP in the
4 spreads or the discounts that folks have to get on their
5 prices, are based in reference in some way to current supply
6 and demand conditions, or imbalances in the market, you
7 know, that's going to effect a squeeze as well.

8 But again, my calculations show that to the
9 degree that the spot market was oversupplied in 2018, it was
10 oversupplied with domestic acetone, not with subject
11 imports. And so, to the degree that spot prices had an
12 influence on the spread or on domestic producer's inability
13 to pass through the spike in RGP, it wasn't attributable to
14 subject imports.

15 CHAIRMAN JOHANSON: Thanks Mr. Dougan. My time
16 has expired. Commissioner Schmidtlein?

17 COMMISSIONER SCHMDITLEIN: Thank you. Just
18 following up on that, so I think if I understood you, you
19 said when there is a higher RGP, people are less willing to
20 take the large spread. But when RGP is down, then they'll
21 let you take that margin. The margin could be greater.

22 MR. DOUGAN: That's my understanding from the
23 industry sources, and I think the time -- unfortunately, the
24 data don't project very well, but the sort of long time
25 series over the past 10 years would tend to support that.

1 COMMISSIONER SCHMIDTLEIN: Okay. But so, my
2 question is -- and when you're looking at figure Roman
3 V-III, it shows this at least as you know, this is somewhat
4 one proxy I guess, right, for the spread -- the difference
5 between the large buyer price and the RGP and the spread
6 there starts to go down.

7 It starts to shrink towards the end of 2018 and
8 then into 2019. But RGP goes down as you mentioned, it
9 spikes and then it drops way down. And then RGP continues
10 to go down in 2019, but their spread continues, the margin
11 continues to shrink. So, what is causing that margin to
12 continue to shrink?

13 MR. DOUGAN: I will have to take a look -- Jim
14 Dougan from ECS. I'll have to take a look at that because
15 our calculations of the spread which we have in one of the
16 slides, I don't know how well it's going to project
17 unfortunately.

18 COMMISSIONER SCHMIDTLEIN: Not very well.

19 MR. DOUGAN: Not well at all. I'm sorry, I'm
20 going to have to calibrate my slide colors to the projector
21 from now on, I'm so sorry. But if you okay -- slide 13.

22 COMMISSIONER SCHMIDTLEIN: What slide is that 13?

23 MR. DOUGAN: Slide 13. We see, I mean the axis
24 are different, the time series is maybe different. But we
25 see a greater recovery in the spread after, say October of

1 2018. So, maybe we'll go back and compare our numbers to
2 what we understand to underlie Figure V-III.

3 COMMISSIONER SCHMIDTLEIN: Okay.

4 MR. DOUGAN: Because it shows a more moderate
5 spread in Figure V-III and ours is more volatility.

6 COMMISSIONER SCHMIDTLEIN: What's the source of
7 your spread there?

8 MR. DOUGAN: We think it's the data that were
9 released by the Commission, so I think we're relying on the
10 same data. So --

11 COMMISSIONER SCHMIDTLEIN: Because I think we're
12 using proprietary data, it's not party data, but it's -- you
13 know, the source is in the staff report, you can see the two
14 indices.

15 MR. DOUGAN: Yes, in our source here is the ITC
16 document under which those data were released, so.

17 COMMISSIONER SCHMIDLEIN: I see, okay.

18 MR. DOUGAN: So, I don't know, ours look more
19 volatile. You're looks smoother. I'm not -- I'm actually
20 not entirely sure. So, we can go back and look at that for
21 --

22 COMMISSIONER SCHMIDTLEIN: But the gray area on
23 your slide --

24 MR. DOUGAN: Yes.

25 COMMISSIONER SCHMIDTLEIN: That represents the

1 spread?

2 MR. DOUGAN: Correct.

3 COMMISSIONER SCHMIDTLEIN: Right, that's the
4 spread.

5 MR. DOUGAN: Correct.

6 COMMISSIONER SCHMIDTLEIN: Yeah, okay.

7 MR. DOUGAN: Yeah, so ours if yours is more
8 volatile, yours is smoother, I don't know. We think we're
9 relying on the same data, but I don't know, we'll go back to
10 the woodshed on that one.

11 COMMISSIONER SCHMIDTLEIN: Okay, and then for The
12 Plaza Group, my question was during the last round is
13 whether you could talk a little bit about the marketing for
14 a fee business model?

15 MR. VELARDE: Sure, Randy Velarde with The Plaza
16 Group and thank you for that question. For our 25 years in
17 business, we're celebrating our Silver Anniversary this
18 year, and my 38 years in the business, 13 more than that, we
19 have found many domestic producers that simply I guess, the
20 best way to say it has not found the acetone molecule to be
21 strategic enough to concentrate their resources on that
22 product.

23 So, they outsource that product to our company.
24 We manage what we call the soup to nuts of that business, we
25 take the product from the plant gate, we put it in rail cars

1 or trucks. We do the commercialization. We do all the
2 supply chain and resell it to those truck and rail customers
3 across the U.S. And we do that for a fee, so.

4 COMMISSIONER SCHMIDTLEIN: So, just so I'm clear.
5 So, that means you don't actually buy the product from them.

6 MR. VELARDE: We actually buy the product.

7 COMMISSIONER SCHMIDTLEIN: Oh, you do?

8 MR. VELARDE: Yes, ma'am. Those customers are
9 actually our customers. That receivable is our receivable.
10 We have to collect on that receivable, repay our supplier on
11 the negotiated terms of that agreement. And those are
12 usually multiple year agreements.

13 As I said, they choose to outsource the
14 commercialization of that product, and I think that's really
15 central to our theme today, and that is as we have done
16 business with one of the Petitioners, and not the gentlemen
17 that's in the room here, but his predecessor. It was kind
18 of a long running joke between us because he said, "Randy, I
19 want to spend one hour of one month on this -- on acetone,
20 that's it. If I ask you to spend anymore time than that,
21 then you're probably going to get fired."

22 So, it does really speak to, in that case, to the
23 non-strategic nature of that product to that producer.

24 COMMISSIONER SCHMIDTLEIN: So, I'm just a little
25 bit confused then, why do you call it fee for marketing?

1 Why isn't that -- why aren't you just a purchaser who's
2 buying it and then reselling, because you're reselling it to
3 whoever is buying at the end of that railcar, right?

4 MR. VELARDE: Yeah, Randy Velarde, The Plaza
5 Group.

6 COMMISSIONER SCHMIDTLEIN: Right.

7 MR. VELARDE: Good question. What we do, and we
8 can go into this in more detail at post-hearing, is that we
9 sell it to the market at the prevailing market price. And
10 it's a term of art in our business, it's called the
11 prevailing market price. And so, we sell it to that client.

12 We deduct the freight, we deduct all the direct
13 costs associated with that sale and then we take a fee and
14 then we return the remainder back to the supplier.

15 COMMISSIONER SCHMIDTLEIN: I see, even though you
16 take legal title, excuse me, legal title to the product?

17 MR. VELARDE: Absolutely. No, we take -- we
18 effectively purchase the product under that kind of a fee
19 based arrangement. FOB that plant gate. That product
20 becomes our property until we then transfer that product to
21 the client.

22 COMMISSIONER SCHMDITLEIN: Okay, thank you very
23 much. I don't have any further questions, I guess,
24 Commissioner Kearns?

25 COMMISSIONER KEARNS: I want to turn back to

1 something that you all discussed a bit with Commissioner
2 Karpel, and that has to do with sort of the reasons why
3 phenol and acetone demand may change and kind of how
4 imbalances can happen between the two, I guess.

5 You know, I don't feel like we've heard a whole
6 lot about why that happened, or why that can happen. I
7 think the one thing we have heard from you all, and from
8 Petitioners, is it has a lot to do with the demand for U.S.
9 exports of phenol to the rest of the world, in particular,
10 Asia, that there may be less demand for U.S. exports of
11 phenol today than there was maybe 10 years ago because
12 there is more production of phenol in Asia, is that right?
13 Mr. Foster, maybe you can speak to that.

14 MR. FOSTER: Yes, Mike Foster, INEOS Phenol. The
15 market in Asia definitely has changed with the additional of
16 phenol facilities there. You know, to answer your question
17 in terms of how the two markets can kind of diverge, if you
18 will, we're actually starting to see that today. To a more
19 extent, the subsequent gentlemen mentioned the auto sector.
20 We're also seeing a bigger decline because of -- I want to
21 get into this in Washington because of some tariff issues.

22 We have started to see some -- certain markets be
23 impacted by that tariff more than others. And one of those
24 markets is associated with the automotive industry. Our
25 product, especially phenol, when you go into polycarbonate

1 BPA and PPO are supplied into the auto sector.

2 So, demand for those products went down
3 significantly over the last six months while the demand for
4 MMA in solvents products, actually they have somewhat
5 declined, but not at the same ratio that we've seen in the
6 auto sector.

7 So, we are seeing the need to reduce production,
8 I think someone mentioned numbers I think it was the lady
9 from Lucite, numbers in 65 to 75% range. I'll stick with
10 her numbers for now. And that's all driven by phenol
11 demand, because mainly the automotive sector has started to
12 deteriorate.

13 The other phenol sectors are down, but not to the
14 same extent as automotive. And MMA will use the acetone,
15 their sectors are maybe slightly down, but more down because
16 of production issues that you've heard about and not because
17 of demand.

18 So, you know, at times there's always a
19 difference between those two markets. They don't grow and
20 shrink together, and that's kind of part of the challenge,
21 phenol producers have, in trying to balance those two.

22 COMMISSIONER KEARNS: Okay, thank you, that's
23 helpful. Putting aside the more recent auto issue you just
24 described, and I think what we've heard from Petitioners,
25 and I'd like to hear from you all on this, is my sense of it

1 is kind of big picture change on phenol versus acetone is
2 that there's now more production of phenol and so I guess
3 necessarily, acetone in Asia than there once was.

4 And there's more -- and so, the phenol that's
5 produced there is serving the Asian market there, phenol,
6 but there's no market for -- there's not as much market for
7 acetone in Asia, and so those -- that product has come into
8 the United States. So, basically the upside is, what I'm
9 hearing, at least from Petitioners, is U.S. phenol exports
10 are down and U.S. -- and maybe Asian acetone exports are up
11 to the U.S.

12 And that that's sort of how the balance is
13 working. Do you all have any thoughts on that?

14 MS. CALDER: Lynn Calder, INEOS Phenol. I think
15 one key point here is that when the phenol, and pardon me if
16 I'm repeating myself, when the phenol from the U.S. stopped
17 going to the U.S., that created --

18 COMMISSIONER KEARNS: Stopped going to Asia, you
19 mean?

20 MS. CALDER: Stopped going to Asia, that created
21 an incremental reduction in acetone that would have
22 otherwise remained here.

23 COMMISSIONER KEARNS: Yes.

24 MS. CALDER: So, you know, yes, we have seen some
25 subject imports coming in, but you know, we've talked a lot

1 about the reasons for that. One of the reasons is certainly
2 to date, the permanent closure of Shell, for several years.

3 The other permanent effect was that the reduction
4 in acetone that used to remain in the home market, that
5 could no longer be produced because there isn't a home
6 phenol.

7 COMMISSIONER KEARNS: So, right, I think what I
8 heard you say this could add one more step to what I had
9 said. So, step one is fewer exports from the U.S. of phenol
10 to Asia. Step two is therefore cutting production in the
11 U.S. of phenol and acetone -- that's what you're adding.

12 And then step three is therefore more exports
13 from the rest of the world to the U.S. of acetone, is that
14 right?

15 MS. CALDER: Yes, sorry Lynn Calder, Phenol, as a
16 result of need in the U.S., we've talked about that. I
17 think it's probably also important to say that the Asian
18 region is net importer of acetone. They're not long on
19 acetone, so it's not acetone that's looking for a home.

20 MR. DIAZ CASTRO: Carlos Diaz, CEPESA. I just
21 wanted to point out China is the market bigger than the U.S.
22 or Europe altogether, importer of phenol and acetone. In
23 China you see more than half a million tons of phenol every
24 year, coming from different countries. Acetone probably, I
25 don't know, I don't remember, hundreds of thousands I

1 suppose. And it's not exporting acetone, I'm talking about
2 only China, not exporting acetone or phenol.

3 COMMISSIONER KEARNS: Alright, okay, and just to
4 kind of clean up what I had said before, so, when we say
5 Asia, to what extent are we talking about China here as
6 opposed to, for example, some of the subject countries here?

7 MR. DIAZ CASTRO: Carlos Diaz, CEPSA. I guess we
8 were talking about China because it's the largest market in
9 the world. It's the largest demand.

10 COMMISSIONER KEARNS: And that's the biggest
11 change over the past few years?

12 MR. DIAZ CASTRO: Most capacity, the new capacity
13 has come into China, yes.

14 COMMISSIONER KEARNS: Okay, okay thank you. And
15 then staying on the subject of phenol and acetone, I guess
16 this is mainly for INEOS, maybe also for CEPSA and Mitsui.
17 Can you please describe how your firm makes these decisions
18 on phenol and acetone? And to the extent you can, please
19 provide internal company documents to illustrate your
20 decision process post-hearing.

21 As you may have heard me say this morning, I mean
22 it seems to me that what we would want to know is you know,
23 profit levels for phenol, profit levels for acetone, to get
24 some sense of how you would make this decision.

25 You know, I don't think it's you know, as I said

1 this morning, it's not driven by the fact that well, every
2 time you take cumene you end up with more phenol than you
3 end up with acetone and so therefore, you're more concerned
4 with phenol. I think it's more complicated than that.

5 It has to do more with the prices, and I think I
6 heard from Mr. Dougan that the price of phenol is higher as
7 well. But I would think that if you can tell us more about
8 how you make that decision, and I would think it has to do
9 with relative profitability of the two products and so
10 forth. And to the extent you can do that based on, you
11 know, internal documents, I think that would be helpful.

12 MS. CALDER: Commissioner Kearns, thank you for
13 the question. We'll be very happy to answer it, sorry Lynn
14 Calder, INEOS Phenol. And I'd probably just like to take
15 the opportunity to put something on the record.

16 I mean Phenol hasn't been as high as I would have
17 liked on the agenda today, because we're understandably here
18 to talk about acetone, so we appreciate the opportunity to
19 talk about phenol profit margins as well.

20 Producers look at the overall margins for phenol
21 and acetone as one unit. We don't, you know, ever look at
22 them separately, and I think that that was actually agreed
23 to by the Petitioners earlier today, even though they said
24 that the costs were easily allocable, I would disagree
25 fundamentally with that.

1 And but what this means is that when the market
2 for one of the products is challenged, the market for the
3 other can potentially take some of the pain, on that said
4 with the car business. We don't look at ourselves as a
5 phenol and an acetone producer in separate molecules where
6 we have the whole unit.

7 But what happens if you cannot find relief on
8 either product, i.e., if you have both products performing
9 poorly, then you understandably have margins that become
10 challenged. So, one thing I wanted to put on the record
11 today is that we are certainly we are in a market situation
12 of the other side of the equation -- the phenol equation
13 where Petitioners have during the POI, entered into
14 long-term fixed priced, low fixed priced contracts for
15 phenol, not acetone.

16 So, we talked a lot today about you know, how the
17 market transpired between 2017 and '18. Everyone thought
18 the phenol demand was going to remain low, acetone demand
19 was going to be high. And had that remained the case then
20 you know, a strategy of low phenol long-term fixed prices,
21 and spot market acetone might have worked well.

22 But what we saw was the opposite. We talked
23 about that a lot today. Phenol demand spiked up and kicked
24 off leading to lengths in acetone driving high prices in a
25 phenol challenged acetone market.

1 Make no mistake, this is a very typical swing in
2 our markets. We see this all the time, and we have to be
3 fairly agile under rebuff to it. So, the Petitioners by, I
4 think, their own admission that the preliminary hearing had
5 a large proportion of uncontracted acetone volume, and hence
6 they were exposed disproportionately to the plummeting spot
7 market.

8 But most importantly, and what we haven't
9 discussed today but I wanted to put on the record was that
10 we were unable to take advantage of higher phenol prices as
11 a result of their phenol contracting strategy. We did take
12 advantage of higher phenol demand by increasing production,
13 but of course that added to the acetone problem, and as my
14 colleague Michael Foster mentioned earlier, got a situation
15 then where they've got higher phenol being produced for
16 their customers but nowhere necessarily, to put the
17 acetone.

18 Which mean that you know, except for in this room
19 here today, there wasn't really anywhere else to look for,
20 so that's I guess a large part of my frustration as the
21 largest producer of phenol and acetone globally. And I
22 should have introduced myself, I'm the Commercial Director
23 for INEOS Phenol with global responsibility for sales,
24 marketing business performance. And I think it's been you
25 know, difficult for us to conduct an acetone only

1 investigation when the products are so inextricably linked
2 and acetone, as I think we have all agreed as a party in
3 this room, is a subordinated co-product. Thank you for your
4 time.

5 COMMISSIONER KEARNS: Okay, thank you. And
6 again, just post-hearing if you can just sort of document
7 that with contemporaneous documents about what the thinking
8 was at that time, that'd be helpful as well, thank you.

9 MS. CALDER: Will do, thank you.

10 CHAIRMAN JOHANSON: Commissioner Stayin?
11 Commissioner Karpel?

12 COMMISSIONER KARPEL: Let me go back to the
13 supply issue. So, I think what I hear you saying is that
14 there is an oversupply. We've experienced an oversupply in
15 2018 of acetone, but the debate is why do we have that. And
16 I guess I want to go back to you on that. You say if
17 there's an oversupply it was domestic production, not
18 imports that caused that.

19 And can you break that down for me because I'm
20 looking at the data, and we have domestic producers closed a
21 facility -- the Shell facility. Capacity utilization is
22 about steady and production is down a bit, so what do I look
23 at to see who is responsible for this oversupply in the
24 market?

25 MR. DOUGAN: Jim Dougan of ECS. I can -- I'll be

1 happy to break that down with confidential data in
2 post-hearing. But when I talked about the responsibility
3 for the oversupply, it goes to the decline in domestic
4 production you say it's from '17 to '18, actually wasn't as
5 much of a decline as was expected, because Shell, you know,
6 kept producing.

7 There was the other producer's collectively, like
8 X-Shell, did increase production from '17 to '18. And all
9 of that was unexpected and disproportionately went into the
10 spot market. So, the subject import volumes sort of were
11 what they were, there was unambiguously an increase from '17
12 to '18.

13 Our position is that was pulled in, it was
14 contracted for and a relatively small portion of that went
15 into the spot market. So, if you know, again in the
16 sequence of events, rather than applying a backwards lens to
17 what the actual volumes were, looking sort of the time as it
18 occurred, it seemed when the volumes entered the market, and
19 if the length in the market was in the spot market, and the
20 domestics had a greater contribution to the spot market, the
21 increase in their shipments was greater than the subject
22 import increase to the spot market, and that's the length
23 that impacted prices, that may have impacted the LBP spread
24 over RGP, whatever you have, the discounts off of LBP.

25 Whatever it was that it effected, to the degree

1 that there was price transmission effects from the spot
2 market to other parts of the market. And the majority of
3 that supply, and the majority of that increase in supply was
4 from domestics, then that's the reason we are saying that
5 the length in the market was caused by domestic producers,
6 because that sort of came later.

7 COMMISSIONER KARPEL: So, your argument is
8 domestic producers should have reduced production even more,
9 because the long-term contracts for 2018 had been locked up
10 in the end of 2017 and given that they were left to sell in
11 the spot market, where many purchasers had already made
12 their purchasing plans for that year, they should have
13 decreased production.

14 MR. DOUGAN: Well the point was that they
15 couldn't because their production of acetone was not driven
16 by their acetone demand. Their production of acetone was
17 whatever they ended up with after they made their phenol,
18 and so that's why they didn't increase.

19 That's why there was, you know, because the
20 thinking is if the market's not in balance, but you make it
21 -- putting it into balance would rectify the price
22 situation, why didn't you do that? Well, the reason that --
23 in part that it's out of balance is because you didn't slow
24 your production, and the reason you didn't slow your
25 production was because of your phenol demand.

1 COMMISSIONER KARPEL: I want to turn to a
2 different type of question. I wanted to go back to the
3 argument that Sasol has made and maybe Mr. -- am I
4 pronouncing it right here, Harypursat, is that?

5 MR. HARYPURSAT: That was correct.

6 COMMISSIONER KARPEL: Maybe you can speak to
7 this. But there's been an argument that benzene free
8 acetone should be a separate like product. And there was
9 some discussion this morning about that, including argument
10 that Sasol doesn't market its product as benzene free, that
11 it sells to the same customers for the same end uses as
12 other acetone, can you respond to that?

13 MR. HARYPURSAT: Ajith Harypursat, Sasol, thanks
14 for the question. So, in the Fischer-Tropsch process, we
15 produce a treasure chest of different chemicals which are
16 unique, right? And acetone is one of them. There are other
17 examples and we are actually in the process of just
18 commencing exports to the U.S. for a very specific product
19 that could -- that can be used in the production of drugs,
20 human hormones, right.

21 So, these can be used for that sort of purpose
22 because of the fact that they don't contain any toxins. So,
23 in the case of acetone, we are continuously challenged by
24 our CEO's and the different layers of management to try to
25 extract maximum value from these molecules because of the

1 unique characteristics.

2 Well if the Petitioner had a closer look at all
3 the specification sheets that are available on the website,
4 then it would be pretty apparent that we list the benzene
5 spec of 0.8 parts per million. Nobody else in the world has
6 such a specification limit for acetone, right.

7 I also want to mention that in the United States,
8 aside from the State of California, which has very stringent
9 regulations, including for benzene, general limits on toxins
10 likely those that are listed in Europe.

11 In Europe, the pharmacopeia limits are two parts
12 per million for benzene and we are cognizant of this and we
13 do sell a special grade of acetone in Europe, taking
14 advantage of that fact. But the level of benzene in our
15 products, orders of magnitude below that limit. And it just
16 means that you know, as a signatory to the global -- to the
17 United Nations responsible global charter, we can produce
18 products and put them in applications, you know, where
19 there's substantially reduced risk of any harm to human
20 health and to the environment.

21 So, we do market these products as special
22 products, not specialty grade, but different from what you
23 would expect to see from other industrial suppliers. The
24 demand is lower than for industrial products, and yes,
25 there's a fungibility but it's unidirectional, not

1 bidirectional. So, in our case, our product is of the
2 quality that could be used either in industrial
3 applications, or in the sensitive applications requiring
4 much lower levels of toxins, carcinogens, and things that
5 could be of -- could have consequences for human health.

6 MS. MOWRY: Commissioner Karpel, Kristin Mowry,
7 Counsel for Sasol. Thanks for that question and just to
8 follow-up. I was struck, going to your initial question
9 about the website, I was struck how different today's
10 hearing was from last week's hearing on mattresses, when we
11 spent so much time talking about internet base advertising
12 and all of the metrics that go along with that.

13 This is not -- clearly not, a web-based ecommerce
14 industry. So, as Mr. Harypursat said, although it's not a
15 flashy marketing element of the website, the dedicated
16 customers of Sasol know that they have a benzene free
17 product and of course, the spec sheet for their acetone does
18 specify the benzene free level.

19 So, we'll provide that in the post-hearing.
20 There's a couple of other things that were mentioned this
21 morning that I'd just like to address since I have to seize
22 my opportunity to tackle this issue. You know, you heard
23 about fungibility and how everything is the same and there's
24 so many differences about the Sasol product that I want to
25 highlight.

1 First, you heard about mixed containers. That is
2 not true for Sasol. We have dedicated benzene free
3 containers that are dedicated for the benzene free product
4 tanks, for the benzene free product. Everything is produced
5 to order. We don't use traders -- everything is marketed
6 through the Sasol North America Chemical team.

7 And one thing that's super important, if you look
8 at the C Table, the increase in volume of imports from South
9 Africa of this product was 4%, that's a public number. So,
10 all the hyperbole you heard all morning about the vast
11 increases in subject imports, look at all of the C Tables
12 where you see the volume of some South African, which is all
13 benzene free, increased by 4%, single digits.

14 Another thing that you heard this morning was
15 that Sasol did not provide comment to the staff on the draft
16 questionnaires, and for that we have to thank the dedicated
17 staff, because Sasol, of course, did raise the domestic like
18 product issue in the preliminary conference, and staff
19 incorporated those comments into -- incorporated that
20 argument into the draft questionnaires themselves.

21 So, when the draft questionnaires were issued to
22 parties in July, the questions that we would have suggested
23 on benzene free product, were already included in all of
24 those draft questionnaires. So, there was no need for us to
25 comment further. The staff had already done the legwork and

1 solicited that benzene free data.

2 Finally, I'd just like to say it's not frequent
3 that the Commission makes a separate domestic like product
4 decision, but the factors here are indisputable. All six of
5 the factors, there's measurable, clear, concise, neutral and
6 objective criteria, and we meet all of them.

7 And you know, respectfully, there was some
8 discussion this morning about maybe this is a de minimis
9 market. One of the six factors -- none of those six factors
10 requires you to look at the relative size of the markets, so
11 it may be small, but it's important to Sasol, and I think
12 the record is clear that we meet all of the six factors and
13 that there's no injury to the domestic product, thank you.

14 COMMISSIONER KARPEL: I'm sorry if I missed it,
15 but do you have customers that you sell your benzene free
16 product to that you know necessarily need benzene free
17 acetone versus low benzene acetone, which some of the other
18 producers make?

19 MS. MOWRY: Sure, Kristin Mowry, we will provide
20 the -- we'll point you to that record evidence in our
21 post-hearing brief, but yes, there are customers that we
22 have that require the benzene free product.

23 CHAIRMAN JOHANSON: Do any of the other
24 Commissioners have questions? Commissioner Kearns?

25 COMMISSIONER KEARNS: I'd like to keep it real

1 brief, but I do have two questions for post-hearing and then
2 one for a quick discussion here. Starting with the latter,
3 Petitioners argued that a surge in imports in 2018 caused
4 U.S. producers to enter into low priced contracts in 2019
5 and the pricing data in the staff report show that U.S.
6 producers contract prices declined in the first half of
7 2019.

8 Were increased import volumes in 2018 in a higher
9 volume of underselling than overselling in 2018 a factor in
10 the lower contract prices in 2019? And more generally, does
11 the preponderance of underselling by volume in 2018 indicate
12 that underselling was significant?

13 MR. DOUGAN: Commissioner Kearns, if I can add to
14 that. So, there's a lot of questions in there. One is
15 about did 2018 cause what happened in 2019? So, prices were
16 indisputably lower in 2019 than in at least parts of 2018.

17 Overall, price levels again though, being
18 determined by RGT prices. So, the reason that generally you
19 first have 2019 prices that were lower than 2018, first
20 half, second half, was driven by the decline in RGP prices.

21 Whether underselling in 2018 led to lower
22 contract pricing, you know, also it's majority overselling
23 in 2019. So, subject imports mostly oversold in 2019, both
24 in terms of instances and in terms of volume. So, you know,
25 I don't -- sitting here, have the ability to know which

1 contracts were negotiated and with whom, perhaps we can talk
2 to some of the customers and some of the suppliers here who
3 are more aware of that.

4 But you know, again you end up in a situation
5 with you have sort of a temporary period of where there was
6 some underselling, but again you go back to a pattern of
7 majority overselling in 2019.

8 COMMISSIONER KEARNS: Okay, thank you. And then
9 just two quick questions for post-hearing, both for INEOS,
10 one on pricing data. In post-hearing, can you respond to
11 Petitioner's argument in Exhibit 2, that the Commission
12 should adjust any price data to align prices for domestic
13 and imported acetone?

14 MR. DOUGAN: Yes.

15 COMMISSIONER KEARNS: Thank you, and then on
16 financial data, either now or in a post-hearing -- really
17 post-hearing submission, I think is probably all we need
18 now, please respond to Petitioner's criticisms in Exhibit 5
19 of INEOS's reported financial data.

20 MR. EMERSON: This is Eric Emerson from Steptoe.
21 We'd be pleased to respond to both of those points. We
22 believe that the Petitioner's allegations of inaccuracy and
23 distortion in the data that was reported by INEOS are
24 completely baseless. I think the data that were reported
25 are sound and data on which the Commission should rely and

1 we will also take the opportunity to build out on the
2 cumulation argument as well, which the Commissioner Kearns,
3 I believe you asked about this morning, where we believe
4 that the Petitioners have really fundamentally
5 mischaracterized what INEOS is doing in the marketplace has
6 been never an effort to pass off Belgian acetone as U.S.
7 acetone as Mr. Foster testified.

8 The company simply sells acetone period, without
9 regard to country of origin. And the notion, and the idea,
10 the suggestion that the company is passing off imported as
11 U.S. is completely false and completely unsupported by this
12 record, but back to your two questions, yes, I'll be happy
13 to.

14 COMMISSIONER KEARNS: Okay, thank you very much.

15 CHAIRMAN JOHANSON: Do any of the other
16 Commissioners have questions? Commissioner Karpel?

17 COMMISSIONER KARPEL: I guess I -- I'm not sure I
18 want to save all of that argument for the post-hearing. I'm
19 sorry to keep us late in the day, but I guess I was struck
20 by the Petitioner's response this morning to your argument
21 suggesting that we shouldn't be looking at competition
22 between Belgian imports and domestic products, or between
23 other subject imports merely because INEOS has a practice of
24 bringing in its imports, comingling with its domestic
25 production, and then putting it out on the market.

1 I mean at some point, if these are dumped imports
2 and are underselling, or at least in some instances,
3 domestic product, is it fair to not look at that, given that
4 those two factors are having a downward pressure,
5 potentially on price?

6 MR. EMERSON: This is Eric Emerson from Steptoe.
7 To go back to the -- first of all to go back to the cases
8 that we cited in our brief, which the Petitioners really
9 didn't address at all. The court has said that to interpret
10 compete in this context means rivalry in the marketplace.

11 It suggests that there needs to be an independent
12 marketing effort -- coincident marketing effort, of the
13 Belgian product in the U.S. market, as a separate and
14 identifiable product. That's what compete means under the
15 statute. And if there is no such competition between
16 Belgian imports on the one hand and the domestic like
17 product or subject imports on the other, then that
18 requirement under the statute simply isn't met.

19 Now, appreciate that Belgian imports are in the
20 marketplace. They are here in the United States, of course,
21 but the court has also said that theoretical competition --
22 where imports are theoretically competing against other
23 imports, is not sufficient to satisfy the cumulation
24 requirement.

25 So, we would say that if those imports are not

1 being sold as a separate and identifiable product in the
2 marketplace, then the competition requirement under the
3 statute cannot be met. One of the other things that the
4 Petitioner's counsel suggested this morning, and I think it
5 falls really into the realm of scare tactics, is that
6 somehow agreeing with INEOS in this case, would open up some
7 major loophole that would allow further imports in to
8 undermine the effectiveness of such an order.

9 And I think that that is, again I think that's
10 scare tactics. I think that the circumstances of this
11 particular case, and INEOS's sales are really quite unusual.
12 You have a U.S. producer, who is the sole importer of the
13 particular subject merchandise, of a fungible product, that
14 fully comingles that product into its own production, and
15 you're looking at an obviously, at a multi-country case
16 where cumulation is in fact a legal issue that needs to be
17 addressed.

18 I would suggest -- I'm not going to say that
19 there are no such cases that have ever occurred or will in
20 the future, but I am saying that the number of cases that
21 would satisfy all of those requirements, is vanishingly
22 small.

23 COMMISSIONER KARPEL: Are you saying that in
24 those instances, and I guess those facts don't seem too
25 rare, given a number of cases. But if there is a domestic

1 producer who also imports, how does that not have a sort of
2 spill over effect to other cases where you have that same
3 fact pattern? We often have commodity products, is it the
4 mere fact that that sale isn't marketed as an import enough
5 to argue that there isn't head to head competition and kick
6 then out of the cumulated imports?

7 MR. EMERSON: Either the language -- this is Eric
8 Emerson again. The language that is relied on by the courts
9 or used by the courts is coincident marketing. The term
10 marketing is used by the Court of International Trade to
11 interpret this particular term in the statute, compete.

12 So, yes, we would argue that if there is a -- if
13 there are cases where a domestic producer is simply
14 marketing a fully fungible product where there is no
15 competition between the imported product and either other
16 domestic products or other subject imports, and that
17 competition requirement isn't satisfied under the statute.

18 I don't think that you will probably find that
19 many cases where the country of origin is utterly immaterial
20 to the purchasers at issue. I think that that's going to be
21 rarer than you think.

22 COMMISSIONER KARPEL: That's quite a -- I mean
23 there's quite a number of cases where you look at the
24 purchasing factors in section 2 and, it's often to see that
25 the country of origin doesn't really impact purchasing

1 decisions. It's you know, price, and availability and
2 supply and all that. So, again, I'm going back to the idea
3 that just because the purchaser doesn't know that the
4 product they are considering buying is imported, means it's
5 not competing with this product over here which they're also
6 considering buying, depending on how the contract terms and
7 pricing all work out.

8 MR. EMERSON: Eric Emerson again. I think,
9 Commissioner Karpel, the difference is does country of
10 origin matter in the purchasing decision, or does the
11 purchaser even know what the country of origin is of the
12 product that they're purchasing?

13 I might agree that there are many cases in which
14 the country of origin doesn't particularly matter to the
15 purchaser. You know, where they are indifferent to the
16 country of origin of the product that they're buying, but
17 they may, nevertheless, know what that product -- what the
18 country of origin of that product is at the time that it's
19 being purchased, here they don't.

20 Here it can be -- here the product that's being
21 delivered by INEOS could be Belgian, it could be U.S. and
22 it's likely a mixture of the both -- of the two, rather, at
23 the time of delivery.

24 MS. CALDER: Lynn Calder, INEOS Phenol, if I
25 could just add one more point which is not going to address

1 the legal point at all but just to say more widely that
2 there's no scheme. There's no attempt to find loopholes
3 here. I think we've heard some testimony from the acetone
4 consuming market today that said that they have spoken to
5 the Petitioners during the POI, and they have either been
6 unwilling or unable to provide product.

7 We were asked to provide product, that's what we
8 do. We supply -- it was as simple as that.

9 COMMISSIONER KARPEL: And then there's two
10 questions, you can address them in post-hearing given the
11 hour. But there is in joint Respondent's pre-hearing brief,
12 there's an assertion on pages 70 to 72 that there was no
13 price suppression due to subject imports because contracts
14 prevented U.S. producers from passing through rising costs.

15 But later on pages 81 to 84, you assert that U.S.
16 producers who sold on the spot market faced more a cost
17 price squeeze. How do you reconcile these claims?

18 MR. EMERSON: This is Eric Emerson. Can we
19 address that in a post-conference submission, thank you.

20 COMMISSIONER KARPEL: Sure, and then the last one
21 is how do you account for the data in Tables 2-8 and 2-9 of
22 the staff report, about the importance of price given your
23 arguments about price not being an important purchasing
24 factor?

25 MR. DOUGAN: We'll address that too, and I don't

1 think we said price wasn't an important purchasing factor,
2 and I think there were several purchasers here who said it
3 definitely factors into their purchasing decisions. But
4 reliability of supply and availability are more important to
5 them, and so, you know, certainly price would be subordinate
6 to those two.

7 And what you did -- and you know, there's always
8 these arguments and often you see the same fact pattern in
9 the purchaser responses, right? They'll say, well, price is
10 like third or fourth, and availability and reliability come
11 before.

12 And when there aren't availability issues, when
13 there aren't reliability of supply issues, it's probably
14 fair to say that all else being equal, maybe it does come
15 down to price. Here you have lots of evidence of
16 availability issues.

17 You have lots of evidence of
18 reliability of supply issues, and so all other things aren't
19 equal, and so it doesn't get to price if you can't get it
20 from the domestic producers.

21 CHAIRMAN JOHANSON: Do any of the other
22 Commissioners have questions? Okay, no Commissioners do.
23 Do staff have any questions for this panel?

24 MS. CHRIST: Chairman, staff has no questions.

25 CHAIRMAN JOHANSON: Do Petitioners have any

1 questions for this panel?

2 MR. ORAVA: No.

3 CHAIRMAN JOHANSON: Alright, the Petitioners have
4 no questions. Then let's prepare for closing statements.
5 This panel is dismissed, we appreciate you being here today.
6 Let me just read out the following -- Petitioners have zero
7 minutes of direct, zero minutes of closing for a total of 5
8 minutes. Respondents have the same, Respondents have a
9 total of 5 minutes for closing.

10 MR. BURCH: Closing and rebuttal remarks on
11 behalf of Petitioners will be given by Stephen D. Vaughn of
12 King & Spalding. Mr. Vaughn, you have five minutes.

13 CLOSING STATEMENT OF STEPHEN D. VAUGHN

14 MR. VAUGHN: Thank you, Members of the
15 Commission, thanks to staff for all the good work that
16 everybody has done on this case. I know it has been a long
17 day, and I will try to be efficient in my use of time.

18 The key issue on the question--the key issue
19 before the Commission today is whether the dumped imports
20 from the subject countries caused material injury to the
21 domestic industry.

22 But almost all of the testimony you heard this
23 afternoon is actually about the question of why they want to
24 buy dumped imports. And basically I think under
25 Commissioner Kearns' questioning, we've seen that they are

1 making what seems to be a fairly straightforward argument.
2 Their view is that phenyl producers in other countries are
3 hurting U.S. market sales of phenyl. Therefore, as we lose
4 phenyl sales, we can't make as much acetone and therefore
5 they are entitled to attack this market in terms of by
6 shipping dumped acetone. Presumably the next thing we will
7 hear is that, since we can't make as much acetone, then we
8 aren't making as much phenyl, and then that will give them
9 more room to make even more phenyl overseas.

10 As acetone production falls, the producers can
11 then ship dumped acetone to the U.S. market. Unfortunately
12 for them, this is not how U.S. law works.

13 What actually happened in the market is obvious.
14 They have made too much acetone. They do not have enough
15 customers to buy their acetone, and they are trying to take
16 market share with dumped imports. And they intend to keep
17 coming into this market even though it is obvious that the
18 market is over-supplied.

19 In response to the question from Commissioner
20 Karpel, they made it very clear. All the stuff about it was
21 unexpected, or it was temporary, no, no, no. Once Shell is
22 gone, we get that market share forever. We're never
23 leaving. These are long-term contracts, and we're just
24 going to keep that market share as long as we want.

25 Now that's not how the law works. You can ship

1 imports into the United States, and customers can buy
2 imports. But those imports must be fairly traded, or they
3 must not cause material injury to the domestic industry.

4 So, for example, INEOS says they needed imports
5 to supply customers, but they didn't need dumped imports.
6 They could have brought in fairly traded imports. Or they
7 could have bought domestic. We had people who would have
8 been happy to sell to their customers.

9 You cannot use unfair trading practices to grow
10 your business.

11 As for the cumulation argument for INEOS, we will
12 address that in our post-hearing brief, but I think they
13 have proven our point that it would open up a very large
14 loophole. The facts are these. Subject imports actually
15 started to increase in the third quarter of 2017, and they
16 remained at a very high level until these cases were filed.
17 And apparently they were going to remain at high levels
18 forever.

19 They were not responding to any shortage in the
20 market. For all the talk about--you have testimony from
21 ALTIVIA about how they were ramping up. They intended to
22 take some of the share left behind by Shell. But these guys
23 say, no, we get that market with our dumped imports.

24 They claimed that we won't supply the
25 marketplace, but then they also claim that we created an

1 oversupply. Well of course neither of these claims is
2 correct.

3 Our testimony has shown that domestic producers
4 are willing to supply this market. But they cannot supply
5 it at prices that are so low that they can't afford to match
6 it. It would be absurd to argue that relief should be
7 denied on the grounds that we refuse to make deals that
8 would be bad for our business over the long run.

9 They have said multiple times that the oversupply
10 was unexpected. It was not unexpected. If you look at
11 their brief, the public version of their brief, Exhibit 8,
12 they have an article from November of 2017. In the article
13 it said the problem with acetone imports is that they can
14 make the market go from tight to long really quick.

15 That is in their brief. That as a U.S. trader
16 saying this in November of 2017. They knew that this could
17 happen. Everybody understands that if you bring in too much
18 dumped imports it's going to have a big--it's going to
19 create big problems in the markets for domestic producers.

20 Now a couple of things, finally, on what happened
21 with their charts. They have conceded on page one of their
22 charts that a long acetone market causes the spread between
23 large-buyer prices and RGP to decrease, and that's very
24 useful. That was one of the points we were trying to make
25 this afternoon.

1 They have also given you a chart that purports to
2 compare the LBT/RGP spread with, you know, with what's going
3 on with the prices. But that is of course not the only
4 thing that--the only way in which we were hurt.

5 We were not only hurt in that way. We were also
6 hurt during the discounts. We were also hurt by not getting
7 as much volume as we wanted. We were also hurt because we
8 had to negotiate new and lower contracts. We were also hurt
9 by lower spot price sales.

10 So this chart does not account for any of those
11 harms, and therefore it does not account for the full harm
12 that we have suffered.

13 We urge you to grant relief to the domestic
14 industry.

15 MR. BURCH: Thank you, Mr. Vaughn. Rebuttal and
16 closing remarks on behalf of respondents will be given by
17 Mark Lehnardt of Baker & Hostetler and Eric C. Emerson of
18 Steptoe & Johnson. Mr. Lehnardt and Mr. Emerson, you have
19 five minutes.

20 CLOSING STATEMENT OF ERIC EMERSON

21 MR. EMERSON: Chairman Johanson, Commissioners,
22 thank you very much for your time and I will keep it brief.
23 I will start by talking just a little bit about the nature
24 of this case and the truly unusual nature of this case as a
25 subordinate coproduct. Phenol has gotten discussion today.

1 It probably should've gotten even more.

2 Because the fact that acetone is the subordinate
3 coproduct to phenol really needs to color almost every
4 aspect of the Commission's analysis, including, for example,
5 issues like capacity utilization. Because, as we have said
6 over and over, producers make their decisions on the basis
7 of phenol production and phenol demand and not acetone
8 demand.

9 So as the Commission considers the data in this
10 case and the arguments, you have to consider it within the
11 context of phenol and the demands of the phenol side of the
12 house. We have also tried to tie the supply-demand balance
13 of acetone in the U.S. market to the broader supply-demand
14 balance of phenol, because again, that is the more dominant
15 product.

16 One of the things we have tried to explain today,
17 and I think it was largely hidden in what the petitioners
18 have talked about, is that the structural decline in phenol
19 production in the United States, driven largely by Asia's
20 pivot towards self-sufficiency and lack of a need for U.S.
21 phenol, that has driven down phenol production.

22 That means that the United States is structurally
23 in a deficit situation with respect to acetone. One of the
24 statements that was made earlier today, the U.S. acetone
25 market is largely in balance. We fundamentally disagree

1 with that. This market is in a deficit situation, which is
2 what has drawn these imports into the United States market.

3 CLOSING STATEMENT OF MARK B. LEHNARDT

4 MR. LEHNARDT: Just a couple of points I'd like
5 to raise. This morning there were a lot of questions about
6 overselling and price suppression. And the characterization
7 of the pricing record between the petitioners and those
8 opposed to the imposition of duties, seems like we were
9 looking at two different records. The main point of this is
10 that there was still majority overselling in the POI. And
11 the petitioners did not have a good answer for that.

12 The second is, Commissioner Stayin asked if force
13 majeure and Shell opened a window for imports. And this
14 afternoon, you heard overwhelmingly yes from all the members
15 of the panel and that there were refusals by the domestic
16 industry to provide, or to supply purchasers and that the
17 reasons for the refusals were not related to price.

18 The petitioners did not have an answer why
19 subject market increased in 2016 to 2017, despite majority
20 overselling. And in the gain of market share in 2016 with
21 price increased, contrasting what happened in 2016 to 2017
22 with what happens between 2017 and 2018. The market share
23 in relation to price didn't have a correlation or a
24 causation.

25 So we urge the panel to find that any injury in

1 this case was not by reason of subject imports. Thank you.

2 CHAIRMAN JOHANSON: All right. Thanks again to
3 all who appeared here today. I will now make the closing
4 statement. Post-hearing briefs, statements responsive to
5 questions and requests of the Commission, and corrections to
6 the transcript must be filed by October 28th. Closing of
7 the record and final release of data to parties occurs on
8 November 6th, and final comments are due on November 8th.
9 With that, this hearing is adjourned.

10 (Whereupon the hearing was adjourned at 5:33 p.m.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Acetone from Belgium, Korea, Singapore, South Africa, and Spain

INVESTIGATION NOS.: 731-TA-1435-1436 and 1438-1440

HEARING DATE: 10-21-19

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.

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