UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation Nos.:**
GLASS CONTAINERS FROM CHINA	**) 701-TA-630 AND 731-TA-1462 (PRELIMINARY)**

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UNITED STATES OF AMERICA

BEFORE THE

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IN THE MATTER OF:	) Investigation Nos.:
GLASS CONTAINERS FROM CHINA	) 701-TA-630 AND 731-TA-1462
	) (PRELIMINARY)

Wednesday, October 16, 2019
Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC

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

APPEARANCES:

Staff:

William R. Bishop, Supervisory Hearings and Information Officer

Tyrell T. Burch, Management Analyst

Nannette Christ, Director of Investigations

Elizabeth Haines, Supervisory Investigator

Christopher W. Robinson, Investigator

Gregory LaRocca, International Trade Analyst

Craig Thomsen, Economist

Brian Soiset, Attorney/Advisor

Opening Remarks:
In Support of Imposition (Daniel B. Pickard, Wiley Rein LLP)
In Opposition to Imposition (Jeffrey S. Neeley, Husch Blackwell LLP)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:
Wiley Rein LLP
Washington, DC
on behalf of
American Glass Packaging Coalition
Bertrand Paulet, Chief Executive Officer, Ardagh Glass, Inc.
John T. Shaddox, Chief Commercial Officer, Ardagh Glass, Inc.
Thomas Holz, Chief Financial Officer, Ardagh Glass, Inc.
Joshua R. Markus, General Counsel, Ardagh Glass, Inc.
Amy E. Sherman, International Trade Analyst, WR Trade Analytics Group
Daniel B. Pickard and Derick G. Holt - Of Counsel

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

Husch Blackwell LLP
Washington, DC
on behalf of
TricorBraun

Court Carruthers, President and Chief Executive Officer, TricorBraun
Mark O'Bryan, Chief Operations Officer, TricorBraun
Keith Strope, Executive Chairman, TricorBraun
Kathy Brooks, Vice President - WinePak, TricorBraun
Andrew Bottene, Vice President Sales - WinePak, TricorBraun
Jeffrey S. Neeley and Stephen W. Brophy - Of Counsel

Hogan Lovells US LLP
Washington, DC
on behalf of
Berlin Packaging LLC

Robert Goldberg, Vice President of Strategic Partnerships and General Counsel, Berlin Packaging LLC
Adam Brosch, Senior Director, Global Supply Chain, Berlin Packaging LLC
Jared R. Wessel and Michael G. Jacobson - Of Counsel

Rebuttal/Closing Remarks:
In Support of Imposition (Daniel B. Pickard, Wiley Rein LLP)
In Opposition to Imposition (Jeffrey S. Neeley, Husch Blackwell LLP; and Jared R. Wessel, Hogan Lovells US LLP)

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P R O C E E D I N G S

(9:30 a.m.)

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

MS. CHRIST: Good morning and welcome to the United States International Trade Commission's conference in connection with the Preliminary Phase of Antidumping and Countervailing Duty Investigation Numbers 701-TA-630 and 731-TA-1462 concerning Glass Containers from China.

My name is Nannette Christ. I am the Director of the Office of Investigations, and I will preside at this conference. Among those present from the Commission staff are Christopher Robinson, the Investigator; Brian Soiset, the Attorney Adviser; Craig Thomsen, the Economist; and Greg LaRocca, the Industry Analyst.

I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be addressed with the Secretary.

I would remind speakers not to refer in your remarks to business proprietary information, and to speak directly into the microphone. We also ask that you state your name and affiliation for the record before beginning your presentation or answering questions, for the benefit of the Court Reporter. All witnesses must be sworn in before presenting testimony.

To try and not interrupt your testimony, should you see me point to your name tag, that is a reminder to please say your name for the Court Reporter.

Are there any questions?

(No response.)

MS. CHRIST: Mr. Secretary, are there any preliminary matters?

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

MS. CHRIST: Thank you, Mr. Secretary. Let's begin with opening remarks.

MR. BISHOP: Opening remarks on behalf of those in support of the imposition will be given by Daniel B. Pickard of Wiley Rein.

STATEMENT OF DANIEL B. PICKARD

Mr. Pickard, you have five minutes.

MR. PICKARD: Good morning. For the record, I am Dan Pickard of Wiley Rein here today on behalf of Petitioners. What I would like to do is start with just a quick preview of the testimony that you are going to hear this morning. But first, as usual, I would like to thank the staff for your good work in regard to this investigation. I am very familiar with the tight time constraints in a preliminary phase investigation, and I am appreciative of all of the time that's been spent on this already.

So in a nutshell this is a case about glass containers from China. Our position is that there is one domestic like product that is co-extensive with the scope, because these are products that share the same essential physical characteristics across the spectrum and are ultimately used for the same end use. That is, that they are containers for food and beverage. And, as you will hear later on today, they are used--or they're manufactured with the same common manufacturing processes, in the same plants, with the same employees.

In regard to the major conditions of competition, I would note three:

One, that during the Period of Investigation demand in this market has decreased. So during a period of decreasing demand, we have seen an increase in the absolute volume of subject imports.

I would also note that there have been pockets of increased demand in this marketplace, and that the domestic industry has been injured both by growing imports in a shrinking market, and also their inability to fully participate in the periods of increased demand.

In regard to supply, this is a domestic industry with excess capacity. But that has suffered several capacity--several shutterings of facility, decreasing capacity as a result of subject imports.

And lastly, in regard to conditions of competition, I would point out that this is a highly interchangeable product. We have some samples on the table to my right, which we will be talking about, but in regard to products that are essentially interchangeable price becomes all the more important of a purchasing factor. And as you will hear both in testimony today, and as you have seen in the questionnaire responses, the evidence fully supports that this is a market which demonstrates extreme price sensitivity.

In regard to the three statutory factors in regard to current material injury, as to volume we are going to suggest that as of now the official import statistics appear to be most probative for measuring imports, which demonstrate a significant increase over the three-year period, roughly about 30 percent. That subject imports increased their market share over the Period of Investigation. And into 2019 they still have a significant presence in the market.

In regard to price effects, there are clearly some issues in regard to the pricing product data, which we'll be talking about, and I think which raise some significant questions regarding their validity, but which we're fully confident can be worked out in the final phase investigation.

But nonetheless, the evidence clearly demonstrates price suppression in that COGs' percentage of net sales has increased across the board for the domestic industry.

And then lastly in regard to impact, all the classic indicia of material injury are present here. The domestic industry is showing a decrease in production, decrease in shipments, decrease in gross profits, decrease in operating profits, decrease in net profits. And I would also suggest that this case has an equally compelling record in regard to threat of material injury.

Obviously there's been a low response rate in regard to the Chinese producers, but the evidence of record demonstrates massive excess capacity for the Chinese. And, too, that they also are afforded approximately 30-plus subsidy programs in China, which we will also be discussing.

So that being said, I would respectfully submit that the evidence of record strongly supports a finding of a reasonable indication of current material injury and threat of material injury.

Thank you.

MR. BISHOP: Thank you, Mr. Pickard.

Opening remarks on behalf of those in opposition to imposition will be given by Jeffrey S. Neeley of Husch Blackwell.

Mr. Neeley, you have five minutes.

STATEMENT OF JEFFREY S. NEELEY

MR. NEELEY: Good morning. I am Jeff Neeley from the Law Firm of Husch Blackwell, and I am here on behalf of TricorBraun and have been asked to give these opening remarks for the Respondent's side.

Obviously what you're going to hear from us today is a rather different story than what you just heard from Mr. Pickard.

This is a very odd case. We're not exactly sure why it was brought, but it's almost unique in our experience. This is a case that was brought in the face of the elephant in the room, which is the 25 percent tariffs that have been imposed under Section 301. A strange time to bring a case, perhaps.

This is a case where there are massive imports of nonsubject--from nonsubject countries. This is a case where we think the record, when it finally is put together and you look at all the data, will show a drop in volumes from China, an increase in values from China, and no underselling.

It's interesting that we heard from Mr. Pickard almost an admission of the underselling problems, which we says, well, we'll figure it out later in the final. But, you know, the job of the Commission right now is to figure it out now. And I think that when you put all this together, the argument for a negative is really overwhelming.

We heard from Mr. Pickard also, you know, an alternative explanation of why they're doing, supposedly, so poorly. And that is, there's a decrease in demand. That isn't China. That's some really significant changes in the market.

What we're going to hear from our side today is that companies went to China and in fact have returned to China even after these very large tariffs were put in place for non-price reasons. My client is a substantial purchaser from the domestic industry, but the fact is what you will hear is the domestic industry just can't supply certain products, or doesn't want to supply certain products. That is significant. I know you hear that a lot, but we have very specific instances of that and we'll be submitting that in our postconference brief.

What we see here is that the U.S. industry, the Petitioners, are claiming declines in performance, but they are going to be and are unable to tie those declines to Chinese imports. And there are clear alternative explanations for their problems. Those include a decline in beer bottle consumption and the beer bottle segment of the industry, and whether the Commission treats this all as one industry or not they are definitely separate segments that behave differently. And, clearly, as I alluded to before, nonsubject imports.

It appears to us that this case was simply brought now to take advantage of anti-China sentiment in this city. It has really no substantive merit, and it should be dismissed. This is what the preliminary determination standards are all about. Otherwise, you're going to see a disruption of the market for over a year for no good reason, when what we have before us is an incredibly weak case. And we look forward to both testifying on that this morning, and filing a postconference brief on those issues.

Thank you.

MR. BISHOP: Thank you Mr. Neeley. Would the panel in support of the imposition of the anti-dumping and countervailing duty orders please come forward and be seated? Madam Chairman, this panel has 60 minutes for the direct testimony.

(Pause.)

MS. CHRIST: Welcome to all panel members and thank you. Please begin when ready.

STATEMENT OF BERTRAND PAULET

MR. PAULET: Good morning ladies and gentlemen. Is it better that way? How about this? Perfect. Good morning ladies and gentlemen. My name is

Bertrand Paulet, and I'm the president and CEO for Ardagh Glass in North America. We are one of the largest producers of glass containers in the United States. I have 17 years of experience in the packaging industry, and assumed the CEO position in November in 2017.

On behalf of Ardagh and its employees, I would like to thank the Commission staff for your time and effort on this case. I urge the Commission to find that imports from China have materially injured the domestic glass containers industry, and indeed threaten our industry with further injury.

Ardagh operates 13 glass manufacturing plants throughout the United States, and we produce approximately eight billion containers annually which we sell in a wide spectrum of products, including a wide variety of containers for the food and beverage market. We have the technical capabilities to produce glass containers in all shapes and sizes for the world's largest brands. Specifically, we have over 800 customers ranging from large American brewing companies to distributors, and down to your family-owned produce grower or in the wine yard.

At Ardagh, we strive to cultivate close relationship with our customers, to offer them flexibility, design and technical collaboration, along with assistance in inventory management and forecasting. By offering a choice of 16 colors and a variety of glass container shapes, we have the resources and expertise to create distinctive, innovative glass packaging that creates brand differentiations for our customers.

I am here today to describe how our company, and indeed our industry has been injured by Chinese imports. Specifically over the last three years, there has been a surge in low-priced import glass containers from China. The official import statistics demonstrate that subject imports have increased by nearly 30 percent, from 11,000 growth in 2016 to reach over 14,000 growth by 2018.

This is a massive surge in our industry, and as the Chinese import increased their volume in the U.S. market, they have captured additional market share. This year, while imported volumes have declined somewhat, dumped and subsidized Chinese imports remain a significant source of supply to the U.S. market. However, I would also caution the Commission to be aware of two issues involving around the 2019 import data.

First, I would emphasize that the glass container industry is seasonal, and demand for wine bottles, for examples, flows from the wine harvesting season. Additionally, for food containers for fresh-picked products, also naturally is dependent on the harvesting of these products. So I would suggest that the three year trend is much more informative of Chinese import trends than the examination of first half of 2019 statistics.

I would also point out the effect of the Section 301 tariffs. We believe that the 301 tariffs may have been responsible for some of the declining imports in 2019, but we also believe that this trend is likely to be reversed for two reasons, one of which is the temporary nature of the 301 relief. The second is the fact that even if the 301 tariffs continue for a while, the large importers of Chinese glass containers, such as Berlin and Tricor, have filed numerous exclusion requests from the 301.

These facts, and the massive amount of excess Chinese capacity, indicate that while imports are still significant in 2019, the foreign producers are still capable of sending much more product into the United States in the near future. The increase in Chinese imports has occurred at a time when overall consumption in the U.S. glass container market has declined. In fact, contraction in the U.S. glass container market during the 2016 to 2018 Period of Investigation has been approximately ten percent, making the U.S. industry more vulnerable to the negative effects of dumped and subsidized Chinese imports.

Decreasing demand occurring at a time of increasing supply from Chinese imports have forced domestic producers like Ardagh and others to cut capacity. You will hear more today from my colleague Tom Holz in regards to the financial impact of subject imports and the tough decisions Ardagh has had to make in regards to closing production facilities.

But simply put, anti-dumping and countervailing duty orders on glass containers from China are necessary to prevent further damage to the domestic industry, including the potential closure of other furnaces. Otherwise, subject producers will continue to ship massive quantities of glass containers to the United States, and the domestic industry will continue to lose share in a declining U.S. glass containers market.

When I first accepted my position at Ardagh, I was keenly aware of unfairly traded Chinese imports disrupting the U.S. glass containers market. I knew that with Ardagh's national footprint and production capabilities, if we were competing against the Chinese imports on a level playing field we could win virtually every time. However, this has not been the case. We are increasingly facing intense import competition from dumped and subsidized imports from China. Importers and distributors continue to use unfairly traded Chinese imports to take market share at the direct expense of the domestic industry.

Please make no mistake. The Chinese imports are competing primarily on price in an incredibly price-sensitive market. In the areas where we have seen some end market growth in recent years, for example with regards to the wine industry, Chinese imports have captured a larger share of increased demand.

In other words, in a market that has seen declines, Chinese imports have captured a larger share of a shrinking market. For the nine years where there has been growth, Chinese importer further injured us by preventing U.S. companies from fully benefitting in the areas of growing demand. We have either lost sales or been forced to lower prices to be competitive with lower-priced Chinese imports directly affecting our margins, our sales margin and our profitability.

In my time as CEO of Ardagh, I had to make some very difficult decision because of the surging Chinese imports. Plant closures or permanent furnace shutdowns are practically significant in our industry. As you will hear from my colleague John T. Shaddox, glass manufacturing plants need to be run 24 hours a day, seven days a week to deliver optimal furnace performance. If a glass furnace is idled, with time the furnace becomes damaged and will require a capital investment of several million dollars to repair and restore.

Accordingly, glassmaking furnaces are

typically not taken offline in difficult times and then restarted. Instead, in our industry glass furnace closures are typically permanent, which means the American job losses are also permanent. Due to furnace and plant closures we've had to take over the past two years in Ardagh, we had to lay off approximately 600 American workers across the United States, and it's something I don't want to have to do ever again.

To that effect, we need meaningful relief to stop the flow of unfairly traded Chinese imports, further damaging the U.S. market. If anti-dumping and subsidy orders are not issued, subject imports will likely continue to increase, and cause the domestic industry to lose orders and eventually shut down more capacity, which in turn threatens our business even further.

If Chinese producers continue to have unrestricted access to the U.S. market, Ardagh will not be able to reinvest in our production facility, equipment and employees, as low-priced subject imports will continue to deteriorate market conditions. Even now, our plants are not running at full capacity, which is a basic necessity to maintain profitability in our industry. Anti-dumping and countervailing duty orders are necessary to return fair competition and sustain fair pricing, so that U.S. domestic can earn a reasonable return on its investment and focus on growth and development to better serve our customers.

On behalf of Ardagh and our employees, I urge the Commission to grant trade relief against glass containers from China. Thank you very much.

STATEMENT OF JOHN T. SHADDOX

MR. SHADDOX: Good morning. John T. Shaddox with Ardagh. I'm the chief commercial officer at Ardagh Glass. This marks my 25th year in the glass packaging industry. In 1995, I started my career in the glass, with glass industry with Vitro Packaging. I held many positions in that company, including vice president of Operations and president, and was ultimately responsible for sales of glass containers into the United States.

I worked for Vitro in various positions until Owens Illinois, another U.S. manufacturer of glass containers, purchased Vitro's glass container business in 2015. I worked for Owens Illinois for a year and a half before making my transition to Ardagh in January of 2017. I'd like to thank the Commission staff for taking the time to learn about the glass container industry, and the challenges that we face due to unfairly traded Chinese imports. I urge the Commission to find that imports from China have materially injured the domestic glass container industry, and threatened our industry with further injury.

Glass container production is a complicated and complex operation which requires coordination between different departments to ensure the production of the quality container. Unlike in other industries that the Commission typically examines, the entire production process from start to finish occurs at our manufacturing facility.

There are no purchasers of intermediate inputs. Instead, the primary raw materials inputs that we purchase, which include recycled glass cullet, sand, soda ash, limestone are transformed at our 13 production facilities across the United States into the glass containers that secure your every day food, beverage, beer, wine and spirits.

The primary stages of glass container production are mixing and melting, forming, inspecting and packing and shipping. On the screen, you'll see a pictogram of our production process that we've also included in the written document. It's very difficult to see on this screen, I apologize. It's easier on the page. But again just from a reference standpoint, across the top left hand side would be the mixing and melting portion of the explanation, and then forming obviously as it runs through the cycle. Ultimately along the bottom of the picture you'll show the glass bottles being inspected, packed either into boxes or on a pallet, ultimately stored in the warehouse and shipped out.

You'll get a better appreciation of this once we show a short video explaining the glass manufacturing process. [VIDEO PLAYED.]

MR. SHADDOX: Again, John T. Shaddox with Ardagh. Now that you have a better understanding of how glass containers are produced, I would like to discuss how they're sold in the U.S. market. Generally glass containers are highly interchangeable between source, and it is important to note that our customers are extremely price-sensitive, and they're consistently searching for lower-priced options.

Additionally, glass containers are sold through three primary methods: long term contracts, short term contracts and spot sales. Most glass container products are sold through long term contracts, which are typically three to four years in length. For these contracts, U.S. producers often engage in competitive, closed negotiations to reach a base contract price.

Through these negotiations, we agree on product mix, projected volumes with the customer. Ardagh then produces glass containers according to the customer's projected forecast, and maintains inventory at our warehouses so that we can ship the product on demand to the customer.

MR. SHADDOX: So, I'd emphasize that a contract that incorporates lower prices due to Chinese imports doesn't hurt just on day one that it's signed, but also for a period of years going forward. In other words, a contract signed in 2018 with depressed prices due to import competition will have harmful effects on us for 2019, 2020, and perhaps beyond.

We also sell glass containers pursuant to shorter contract, which are typically one to two years in length. Normally, smaller customers that desire more flexibility or distributors choose to purchase glass containers using short-term contracts.

With respect to negotiations, short-term contracts are negotiated in the same manner as long-term contracts. We also maintain inventory levels for these customers to be able to provide our customers with just-in-time delivery. Consequently, these contracts can lock in low-priced imports just like longer term contracts. However, as a result of Chinese imports, we sometimes lose this business entirely. So, there's both a volume effect in lost sales, but also a price effect for the business that we do choose to keep.

Finally, we make spot sales which are typically purchased by smaller end users and sold from existing inventory. These spot sales can be negotiated with one of our sales representatives or purchased directly from our website. Spot sales are typically sold by the pallet, which for certain molds amounts to a minimum order quantity of around 288 bottles. You may hear from the afternoon panel that Ardagh does not make spot sales or smaller production runs, but this is just not the case.

Chinese imports first entered the U.S. market markedly in the early 2000s. These low-priced, Chinese glass containers were primarily concentrated in the food segment and sold primarily through distributors. Subject producers first targeted standard mold shapes to reach as many U.S. customers as possible, copying the most popular products at the time. I saw an increase in Chinese offers for food containers such as 12- ounce ring next sauce bottles and 16-ounce paragon bottles.

Then Chinese producers started moving up the value chain, targeting the wine and beverage segments. Similar to food containers, Chinese producers began offering standard mold to market their product to the largest amount of U.S. customers. While the quality of Chinese glass containers was initially inferior, Chinese producers immediately invested in their manufacturing process and equipment such that their glass containers had been on par with domestically-produced containers for several years. Consequently, the volume of Chinese imports have only continued to increase, taking sales from our company across the spectrum of products that we make.

I distinctly remember the moment when I realized that Chinese imports would eventually be disruptive to the U.S. market. It was back in 2007 when I was working for Vitro and I lost a major customer account to Chinese imports. One of my major distribution partners informed me that they would start purchasing wine bottles from China. This shift if purchasing pattern reduced the volume for that particular product of demand to the customer -- sorry -- the shift in purchasing pattern produced the volumes for that particular customer by 50 percent. It was at that time that I became painfully aware of the threat Chinese glass containers pose.

During the 2016 to 2018 period, history repeated itself, by this time on a much larger scale. We've literally lost millions of dollars in sales to unfairly traded Chinese imports as customers rapidly switched to low-priced Chinese containers based on price. For customers that we were able to retain, they often used Chinese prices to leverage prices downward during contract negotiations or renegotiations. As a result, we've been unable to pass through sufficient price increases.

The combination of lost volume and price suppression have caused the domestic industry to lose market share, shutdown capacity, and profit to erode. The domestic industry desperately needs trade relief from dumped and subsidized Chinese imports and the 301 tariffs are not sufficient answer. Despite the imposition of the 301 tariffs, Chinese imports continue to wreak havoc on the market today. Customers are still using Chinese imports to leverage pricing downward for new contracts and contract negotiations.

Additionally, Chinese imports continue to remain a significant source of supply in the U.S. market. When the initial 301 tariffs were put in place at the 10 percent level, we learned from market interactions that importers believed that the 301 duties would be temporary and were absorbing the cost of the 301 duties. As a result, the 301 duties had no effect on volume as Chinese producers kept shipping less containers into the United States.

When the 301 duties increased to 25 percent, Chinese offers were still so low that some importers were able to continue importing without passing on the cost increases to their customers. For further importers, the ability to not pass on duties became less sustainable. As a result, we have seen some decrease in the level of Chinese imports in glass containers. Importers, however, are still using low Chinese prices to quote our customers.

While the distributor may have to choose to lower its margins, Chinese offers are still a threat in competitive situations when bidding against distributors that offer a supply of customers with containers from China.

Without adequate trade relief, U.S. producers will continue losing volume to Chinese producers as we have been unable to meet distributive pricing, even with this 25 percent duty in place. And to be clear, the 301 relief can go away just as quickly as it was enacted. Just last week, the President appeared to signal at lease a pause in the trade dispute with China.

As I indicated above, given the prevalence of long-term contracts in the industry, Chinese imports threaten the U.S. industry with additional injury. Currently, we have locked in lower levels of pricing because of unfairly traded Chinese imports which continues the injury throughout the length of the contract. For the contracts that are up for renegotiation, dumped and subsidized Chinese pricing recalibrates market negotiations and establishes base prices at lower levels than they would've otherwise been if unfairly traded imports were not disrupting the market.

We cannot compete against unfairly dumped and subsidized imports. I ask you to fully document this in your staff report so that the Commissioners can make a preliminary finding of injury. Thank you.

STATEMENT OF THOMAS HOLZ

MR. HOLZ: Good morning. My name is Tom Holz, and I'm the Chief Financial Officer for Ardagh Glass. I've been with Ardagh since July 2016 and in my current role since February of 2018. Previously, I worked as the CFO of an aluminum can manufacturer and in total have more than 30 years experience in financial management for the manufacturing industry.

I appear here today because I want you to understand the devastating financial impact the Chinese imports have had on our company and our workers. To begin, I'd like to point you to public statements; specifically, in our most recent Q-2 2019 earnings call Ardagh Chairman and CEO Paul Coulson highlighted the decline in profitability caused by imports, stating "In North America in glass revenue decreased 5 percent to 433 million in the second quarter." He added that, overall, the North American glass market continues to see significant levels of imports.

As CFO of the North American Glass Group, I'm painfully familiar with the effect these Chinese imports have had on Ardagh's costs, prices, investments, over the past three years. As shown in the video we saw earlier, the glass container industry is highly capital intensive. Our glass furnaces run 24 hours a day, seven days a week. Ardagh is an efficient and well-run company and should be running close to full capacity in order to cover high-fixed costs. However, because of the Chinese import surge, we have lost sales and cannot produce at full capacity to provide adequate return on investment.

High-fixed costs erode our efficiency and our margins. This is left us with no choice but to take out capacity. Since 2016, we were forced to close two plants in Milford, Massachusetts and Lincoln, Illinois. We also shutdown one furnace at our Rustin, Louisiana location and one furnace at our Seattle, Washington location, and as reminder, when we are forced to shut down furnaces, we are also forced to impact 50 to 100 of our employees.

The influx of low-priced imports not only affect the cost of manufacturing, but also suppress sell prices. Over the past couple years on probably more than a dozen occasions, I've heard our sales team complain about Chinese glass priced below ours. This causes us to make decision whether we lower price or let business go. Over the past few years, this has resulted in downward pressure on our prices while our costs increased.

Specifically, our costs-to-goods sold as a percentage in net sales has increased over the three-year period. This is direct evidence of price suppression which obviously flows down to our bottom line. Customers expect us to meet prices for Chinese product that have since penetrated the market. To keep existing customers, we have been forced to forego price pass throughs, reduce price and/or let business go. Faced with filling capacity or losing sales, we often choose to take volumes at significant margin decline to maintain production.

Finally, dumped and subsidized imports have significantly affected our growth and development efforts. Lower profits and cash flow limit our ability to reinvest, undermining our long-term competitiveness. Glass production is a capital-intensive business and furnaces need to be rebuilt approximately every 10 years. Over the past few years as Chinese imports penetrated the U.S. market, we've been forced to delay full furnace rebuilds. Instead, we've resulted to expensive, short-term repairs as we continue to assess the market. We simply cannot sustain running efficient furnace operations on a patchwork of short-term fixes.

We are currently feeling the negative effects of dumped and subsidized Chinese imports in decreased capacity, decreased capacity utilization, decreased shipments, suppressed prices, and lower operating net income levels. However, if dumped and subsidized glass containers continue entering the U.S. market, these harmful effects will surely worsen. Our production, sales, profits, and employee numbers will continue to decline.

Additional furnace and plant closures could become a real possibility. And should this occur, it, in turn, makes us even more vulnerable to threat of increased Chinese imports. I urge the Commission to make a preliminary finding of injury so that the domestic glass container industry can obtain the relief it needs to survive. On behalf of Ardagh Glass, thank you for your time this morning, and I'm happy to answer any questions that you may have.

MR. PICKARD: Thanks, Tom. Again, for the record, this is Dan Pickard of Wiley Rein. What I'd like to do is follow up on some of my opening comments and review some of the major legal issues involved in this case. And then that'll conclude our direct presentation.

So as an initial matter, and as on Slide 1, we respectfully submit that there be one domestic like product coextensive with the scope. Based off of comments from opposing counsel this morning, it doesn't sound like anyone's gonna contest that domestic like product definition, but to just briefly review the factors that Commission traditionally looks at, these are all products that share the same common physical characteristics.

They're generally interchangeable and they're used for containing food and beverage. They're sold through similar channels of distribution. They're manufactured in common manufacturing facilities through the same process with the same employees. And there are similar price and pricing practices.

And just to follow up a little bit in regard to the common physical characteristics. And I know this slide is a little on the busy side, but I would suggest, or I would ask that you pay attention to the colors on the right hand of each frame. So what you see here is a 12-ounce bottle, a wine bottle and a food container. And you can see the anatomy, basically, of each of these bottles are essentially the same. You have a finish at the top. You have a neck that goes down, followed by the shoulder, the body and the heel.

And I would also point out that the extent of interchangeability in regard to these products--the domestic and the Chinese product--are highly substitutable. And we have samples to the right on the table to the extent that the Commission would like to take a look at them. From my left to right, obviously you have wine bottles, 12-ounce bottles, and some food containers. One of each is from China, one is from the United States.

And I would suggest that they are--at least to the naked eye--virtually interchangeable. Both Chinese and domestic producers make and sell the same products, which compete head-to-head, selling to the same distributors and end users, based on the same specifications, and again, as you'll hear further, I'm sure, in answers to questions, and you've seen in the questionnaire responses, and as there are also other objective sources of information, these products compete based on price.

In regard to conditions of competition, in regard to U.S. demand, demand is driven by--ultimately for these products--for demand in the food and beverage products. I would again highlight that there is an element of seasonality in regard to this market, largely driven by the harvest, both in regard to wine and fresh-picked foods. And that's gonna be relevant in regard to, I think, the probative value, in regard to looking at the three-year trends, as compared to the interim period. And that overall, we've seen a decrease in demand in this market. And again, it's our position that increased volumes of imports in a shrinking market are even more injurious.

Next slide please. In regard to the key factors of material injury, this chart shows the decrease in the U.S. shipments of glass containers, not only through the three year period, but into the interim period.

The next slide talks about, as a key condition of competition--and as you heard Mr. Shaddox testify to this morning--that long-term contracts are an important condition of competition, that purchasers have significant buying power through multi-year contracts, that the majority of

Ardagh's contracts are up in the next one to two years, and I think it can't be over-emphasized, the importance of the fact that contracts that are entered into with prices that are depressed as a result of competition with Chinese imports, continue to injure the domestic industry throughout the period of that contract, and also, in regard to future renegotiation opportunities.

In regard to U.S. supply, the domestic industry, as I noted in my opening statement, has excess capacity. There are potentially planned upgrade repairs and increased capacities if the market conditions justify it. But that the increased presence of subject imports place those furnace rebuilds potentially in jeopardy.

Subject imports are significant when measured on an absolute basis. And here we see that subject imports using the HTS numbers--which we believe are primarily clean numbers and are an accurate judge, or an accurate measure, of subject imports--increase on an absolute basis by approximately 29.2%. Similarly, subject imports are significant over the interim period, even after 301 relief.

And this chart shows that, even on an absolute basis, even after 301 relief, there is still a significant presence of Chinese imports. And there's every reason to believe that that will continue, especially if the Second 301 goes away or if respondents' request for product exemptions are granted. That will only magnify this issue. And just as importantly on a relative basis, subject imports have gained market share at the expense of the U.S. industry throughout the POI.

In regard to negative price effects, as I indicated, there is some significant validity -- questions regarding the validity of the pricing product data reported by some of the importers. I'll be happy to answer any questions about that in answers to staff questions. Obviously, to the extent that the Commission wants to treat the extent of underselling, or margins, as BPI for purposes of this staff conference, happy to talk about it in our post-conference brief.

I do believe that we'll be able to get to satisfactory pricing product definitions and an explanation for this in any final phase. But I think even the questionnaire responses on their face give reason for -- raise serious questions regarding the validity of the data.

Similarly, the data that we've seen is inconsistent with, obviously, the sworn testimony that you're going to hear from, that you've heard from the petitioners and you'll continue to hear from the petitioners. It's not consistent with what importers have said in their questionnaires. And it's not consistent with what some of the respondents have said outside of these proceedings.

But nonetheless, in regard to negative price effects, we do know that there has been price suppression. And that is, the Commission has traditionally looked at, obviously, as the statute indicates that the Commission is to look at whether there are significant price effects in regard to underselling and/or price suppression or price depression. The Commission has traditionally looked at price suppression in regard to whether COGS increases as a percentage of net sales.

Not only has that occurred over this period of investigation, but it has done so to a significant extent, which is obviously business proprietary information, which we will flesh out further in our post-conference brief.

And this makes sense in regard to some of the admissions in regard to price sensitivity and the need for access of low price Chinese imports that you've seen in the importers' questionnaire, and again, in regard to statements that have been made by the parties outside of these proceedings.

And then, to start to wrap up, and as I indicated in my opening statement, the evidence of material injury is seen in decreased production, decreased capacity utilization, decreased U.S. shipment volumes, decreased U.S. shipments' value, decreases in gross profits, decreases in operating income, and decreases in net income.

I have a feeling we're gonna be talking a little bit about capacity decreases. Just to tee up this issue a little bit in advance, and I have a feeling that we're gonna be talking about this to a considerable extent all day long. Even with all of the plant closures that have taken place over the POI, this industry still has excess capacity.

And I would like to tee up the issue that, to the extent that there are plant closures that took place during the POI, because orders went to China, to then subsequently come in and complain about a lack of capacity, which was caused by Chinese imports to begin with, is dangerously close to blaming a victim.

In regard to threat lastly, we've got declined profitability, we've got loss of market share, which only makes the domestic industry more vulnerable. At noon today, we expect to get the initiation decision from the Department of Commerce, which we expect to have well over thirty subsidy programs initiated, which are only gonna serve as incentives for the massive capacity in China to continue to ship into the United States with or without a 301. And which will continue to harm the U.S. industry and it will, especially in regard to discouraging investments.

Granted, there is limited evidence in regard to the industry in China, which is due in part to the lack of response from the foreign producers, which is not uncommon that we see nowadays in ITC proceedings, where the Chinese companies are fully willing to participate in the Department of Commerce proceedings in order to get lower margins, but place less evidence on the record of the ITC, because of concerns that documenting their capacity and capacity utilization rates are harmful to them. I would request that the Commission not reward this behavior.

I would also note, and to follow up on what Mr. Shaddox testified earlier, the Chinese imports, we are continuing to see, march up the value-added ladder. While they may have come into the industry originally in some of the larger-run food containers, and that there is a full assault going on in regard to wine bottles, that, in the absence of trade relief, Chinese imports will continue to march up the value-added ladder throughout the product spectrum.

So in conclusion, very quickly, in regard to just the statutory factors, we have a large increase in the volume of imports, absolutely and by market share. We have price suppression throughout the marketplace. And we have an industry that's been negatively impacted in regard to production, shipments, profitability, and that the evidence of threat is just as compelling. And with that, that concludes our direct presentation.

MS. CHRIST: Thank you very much. We'll now turn to staff questions and we'll start with Chris Robinson, the investigator.

MR. ROBINSON: Thank you very much for being here. My first question, out of curiosity --

MR. BISHOP: Can you get closer to your mike, Chris, please?

MR. ROBINSON: Why is glass a dominant packaging material for alcoholic beverages and not, say, plastic, as plastic seems to dominate the bottled water market?

MR. SHADDOX: Can you rephrase -- say the question again, I'm sorry?

MR. ROBINSON: Sure. So I'm wondering, like, for beer and other alcoholic beverages, why glass and not a different packaging material like plastic? Seems like plastic dominates in bottled water, for instance.

MR. SHADDOX: Yeah, again, John T. Shaddox with Ardagh. I'll answer that briefly with some information that we have related to surveys that have been done through the Glass Packaging Institute, the customers actually prefer glass for their products, particularly in beer. But I think if you look at a breakdown of beer consumption habits in the U.S., you'd find that cans actually outnumber glass bottles in terms of consumption.

And oftentimes from a plastic standpoint on beer consumption, it's typically in places where glass is not necessarily welcome: sporting events, swimming pools, beaches -- or from a safety concern, they wouldn't want glass to be a part of the mix. So that's, from a beer standpoint, that's what you get.

MR. ROBINSON: Got it.

MR. PAULET: Chris, I would add a few things. First of all, our customer choose glass over plastic because it is a 100% fully recyclable and indefinitely recyclable material, so that's from sustainability standpoint, that's a good point. Then the shelf life of the inner product, be it spirit or be it wine or be it any alcoholic beverage, the shelf life by far by glass is excellent and provides very long shelf-life.

Like, you still drink a Chateau Margaux from France from the 1950s, and it's not in a plastic bottle, it's in a glass bottle, right? And also, you know, the innovation that we provide, the shapes and the colors that we can play with, providing a unique packaging solution to the customers is also very attractive. So shelf-life, protection of the product, customer's customization, and sustainability aspect.

MR. ROBINSON: Thank you. So just thinking about recycling, locally here, recently in Arlington County, the County of Arlington began asking residents to stop placing glass in their recycling bins due to what they said was a significant drop in the market value of glass recyclables, making it no longer economically sustainable for the county to collect them via single-stream recycling. So my question is, like, what might've changed in the glass industry to prompt this?

MR. PAULET: Bertrand Paulet with Ardagh. Nothing's changed with the need for us to increase the amount of raw material that we use in our production process. It's actually better for the earth as a whole, if we can get more recycling material in our process. And it's also more economical for us to use more recycled material because we consume less energy by doing so, versus using virgin sand.

So depending on the community, and you look at across the United States, there are ten or eleven states today that still have the bottle bills, which basically creates an incentive for the consumed to return their bottles. Other states don't.

But we at Ardagh and at the GPI level, which is the Association for Glass Manufacturers in North America, we work with our communities, customers and ourselves to see how we can invest and promote further recycling in the U.S. market.

I give you a simple example. Like, Ardagh operates plants in the U.S. and in Europe. In Europe, the recycling rates for glass are around 70%. In North America, it's around 30%. So there is a lot of room for us to improve and I say, and also collectively, as glass producers in North America, are promoting and looking to increase that rate.

MR. ROBINSON: Thank you.

MR. PICKARD: Mr. Robinson, just to follow up on that. I think there have been news stories also, and I don't know if this directly affects actually the production operations of the domestic industry, but I think Philadelphia also cancelled their glass production process. I think there were a couple other glass recycling programs.

My understanding is that was kind of a function of inefficiencies in regard to how the recycling programs were run, and I think that was part of the issue in regard to Arlington as well. But, again, I don't think that significantly affects their price structure, unless I'm mistaken.

MR. ROBINSON: My next question is what market share do you estimate the domestic industry currently holds?

MR. PAULET: So, again, it would be an estimate, but we have, through the GPI, which is that association of glass manufacturers in the U.S., we have a fairly accurate number of the consolidated amount of glass that is produced by ourselves and our domestic competitors, and we also have through the Department of Commerce, some fairly accurate number about how much glass imports is coming into the U.S. And based on that number--John, correct me if I'm wrong--but I believe glass imports represent about 21% of the total consumption in the U.S. in 2018.

MR. ROBINSON: So 79% for the domestic industry?

MR. PAULET: Yes.

MR. ROBINSON: Can you describe the trends in U.S. consumption for glass containers and what might be driving such trends? For instance, why is demand decreasing? You also mentioned that there were some increasing areas of demand within an overall decrease in demand. Could you speak to those market dynamics?

MR. SHADDOX: John T. Shaddox of Ardagh. Again, it varies, right? There's -- some of it is the desires of the consumer product company and what they choose to do from a marketing perspective and how they wanna go to market for their strategies. Some of it is consumer preferences and demands and shifting patterns. What people are drinking, what people are eating, and those types of products.

From a resurgent standpoint on the beverage side, for example, I think you've obviously noted in Starbucks or other, Dunkin' Donuts, the Frappuccino-type coffee products, the retorted type products that are almost exclusively in glass, an increase in teas and other cold-brew coffee type products that are almost exclusively in glass.

These are examples of swing one direction, and then again, as you already noted, from a beer standpoint, there's a significant shift to the can side of the business. And again, it's not something based on the drive of the U.S. manufacturers or where we're pushing the market to go. It is simply a function of supply and demand and what the consumer preferences are.

MR. PAULET: I will add a few more comments. In aggregate, if you look at the number and the statistics, the volume for the U.S. domestic producer has declined by 10% over the POI, which is what I said in my introductory comments, right? Sectors, you know, they move up, they move down, depending on that, but in aggregate, that's the sort of volume decline that we've seen in our business. At the same time, imports from China have risen by 30% and have really impacted the business that we do in the U.S.

And further, in some areas like John T. mentioned in his opening statement, that the glass -- first, the wine demand right now is vibrant, and again, it has been for a couple of years. And we haven't been able to fully capture the benefit of that in our business because we consistently compete with low-priced Chinese imports.

MS. CHRIST: I would remind you, please state your name before answering questions. Thank you.

MR. ROBINSON: Are there any specific factors that affected your decision to file this petition at this time? And would you like to respond to Mr. Neeley's argument that this is an odd time to file this case in light of recent Section 301 tariffs?

MR. PICKARD: Sure. And maybe I'll follow up a little bit. This is a case, without getting too far into, kind of, specifics of attorney-client communications, but this is a case that has been in the works for a while. And if you see the financial performance of the domestic industry, you could see that there was considerable urgency in regard to getting this case up and running.

And I would categorically refute the idea that this was some kind of cynical filing having to do with political situation. This is about an industry that is making less and less money as Chinese imports were taking market share. And that's why we filed the case.

MR. PAULET: Chris, I would add to echo -- sorry, Bertrand Paulet from Ardagh -- I would add that, to echo what Dan said, that we are in a declining market, whether we like it or not, that's the reality of life right now. And certainly over the POI, you can see that. At the same time, we have seen low-priced imports coming in, and that, I suppose, is even more injurious for us. In a rising market, it'd be different, but in a declining market, it's certainly very, very damaging to our business.

You have access to our financial performance, I believe you have access to co-petitioner financial performance. Also, you can see the injuries certainly in ours, which is the numbers that I know. And again, the fact that we've had to let go 600 individuals, or 600 employees over the past two years, has been very painful for us. I mean, when I started, we employed north of 5,000 people. Right now, we had 4,500. And every people we send home is a life that we affect.

So we believe that this case addresses an issue that we've been fighting with in the U.S. domestic industry and that having duties against the Chinese imports will allow for our business to perform better, preserve employment, invest in the business for the long-term, and make sure that our business thrives over time, as it should be.

MR. ROBINSON: Thank you. Just shifting gears a little bit, is the domestic industry able to produce for, and supply the entire U.S. market for all products under the scope of this investigation?

MR. PICKARD: As far as -- I think the capacity utilization numbers and the total capacity numbers demonstrate that the U.S. industry could replace every container coming in from China essentially.

MR. ROBINSON: What about the range of products?

MR. PAULET: Bertrand Paulet. There is no product that China supplies that we can't supply.

MR. ROBINSON: So are there any characteristics of glass containers produced in China that are unique and could not be produced here in the United States.

MR. SHADDOX: John T. Shaddox with Ardagh. No, there are not.

MR. ROBINSON: Can you respond to the argument that small purchasers cannot source from U.S. producers because the domestic industry only contracts with large purchasers?

MR. PAULET: Bertrand Paulet. We have an offering in order for every single customer you can find out there. We have an offering, obviously, for the big, long runners, such as the, you know, breweries or the like. We have an offer for mid-sized customers, and we have an offer for smaller customers. We have a website called BuyOurBottles.com, where small customers can buy glass by the pallet.

And again, we have also developed recently an offering called Ardagh Direct, which is specifically aimed at addressing the needs of smaller customers in the market. So, I would say, in a nutshell, that, no, there isn't a customer that we can't serve in the United States. But John, please feel free to add to that.

MR. SHADDOX: John T. Shaddox with Ardagh. If you have a PayPal account, I can sell you a pallet right now. So it's as easy as that. But again, it's the entire spectrum, as Bertrand mentioned, from the smallest of customers to the largest, we cover the entire spectrum, across all types of products.

MR. ROBINSON: So --

MR. PICKARD: I'm sorry, just to follow up on that. This is Dan Pickard again. I would highly encourage the Commission to go to Ardagh's web page, BuyOurBottles.com, and you can see the ability to buy small runs or small orders of products across the spectrum, which I think directly refutes this contention by the respondents.

MR. ROBINSON: So, does your company have the distribution capacity? So just in thinking about, you know, small customers placing small orders. How does the distribution work?

MR. SHADDOX: John T. Shaddox with Ardagh. Depending, obviously, on the manufacturing location, we store our products in our facilities, but we also use outside warehouses that are in close proximity to the customer base, so it's completely dependent on the demand.

If we find it necessary to put an outside warehouse in close proximity to a group of customers, or one customer that we deem appropriate, we'll do that. Otherwise, we can ship from distance or ship close. It doesn't matter.

MR. ROBINSON: Does Ardagh produce glass containers with customer labeling or etching?

MR. SHADDOX: John T. Shaddox with Ardagh again. We do what's called the sculptured embossing. And it's basically, if you, like an example, several of the bottles that are over here on the table, the examples where it appears there's a design blown into the glass itself. That actually comes from the molds when we manufacture it. We call that, again, embossing. We do offer that. We offer a full range of decorating services with outside partners that are in close proximity to our facilities, but we don't have any under-roof. So it's similar exactly to the product offerings from the Chinese competitors, but they come in at significantly lower prices.

MR. ROBINSON: So if a customer desired custom embossing, is there a minimum order?

MR. SHADDOX: John T. Shaddox with Ardagh. There is, and it is, again, dependent on the type of product and the location where we may plan to produce. We have, in our Seattle, Washington facility, for example, we have developed a process called flex-run, so what it allows us to do is, if you want a wine bottle, and you want an embossed wine bottle, we can produce that glass on the same machine with a bottle that is not embossed, and we can hang one or two sections.

If you remember from the video that we watched earlier, the machine may have ten sections of glass that are producing two molds at a time. We can take two of those sections and put on the small-run-embossed version, and on the other eight, we'll run the standard bottle. And so then we can produce a significantly smaller quantity of glass than you would normally run if the entire machine was producing the same shape.

So it does allow us multiple options to offer a variety of large-run or small-run scenarios, as well as we have in our Port Allegany, Pennsylvania facility, about three or four years ago, we developed a small machine, a four-section machine that allows us to not only do sampling or product sizes, but also very, very short runs of specialty products as well. So, again, when I take a look at our portfolio in terms of what we can offer, it's the entire spectrum.

MR. PAULET: Bertrand Paulet here. As John T. says, there's nothing we can't offer, really, in this market, right? But remember, also, those products like you point to, are a very, very small portion of the market.

They don't even make the top of the iceberg particularly.

MR. ROBINSON: Okay, shifting gears again. Mr. Pickard, you recommended that the Commission rely on official import statistics in its staff report. Can you explain your reasoning?

MR. PICKARD: Sure, I think that's primarily driven by the lack of coverage from the importers' questionnaires. Regardless, I think both sources of data shown an increase in subject imports, but because of the low response rate and the low coverage from the importers SKU, I think that Commission traditionally looks at official import statistics in these scenarios.

MR. ROBINSON: Are there any out-of-scope products that you are aware of that might be included in the referenced HTS codes in your scope definition?

MR. PICKARD: My understanding is the vast majority of everything that's included within the HTS numbers are in-scope merchandise.

MR. ROBINSON: Is there any in-scope merchandise that you are aware of that might not be included in the referenced HTS code?

MR. PICKARD: This is Dan Pickard, again, from Wiley Rein. No, there's no products that I'm aware of.

MR. ROBINSON: Are containers of borosilicate glass imported under different HTS codes?

MR. PAULET: Bertrand Paulet from Ardagh. Yes, they are. And the borosilicate glass is just specifically for pharmaceutical applications and they require a much higher temperature of melting for the glass, a very different machine to form the containers, so they are not included in those HTS containers and they are not in the scope. And we don't produce any of that.

MR. ROBINSON: If a food or beverage is imported already within a glass container, how's the container treated for tariff purposes?

MR. PAULET: Sorry, could you repeat that question?

MR. ROBINSON: Sure. If a food or beverage is imported already contained within a glass container, right, so a bottle of wine, how is the bottle treated for tariff purposes?

MR. PICKARD: Right, so a bottle of wine, for example, a full bottle of wine, filled with wine, comes in under the relevant HTS for wine, not for glass bottled.

MR. PAULET: Bertrand Paulet here. The HTS codes that we refer to are only for empty containers being imported to the United States.

MR. ROBINSON: I understand. Do you anticipate any changes in the scope definition?

MR. PICKARD: Dan Pickard, I do not.

MR. ROBINSON: Looking at the import data, the volume of imports from Mexico, including aggregate volume, as well as trend, appear to match quite closely with the volume and trend of imports from China. Can you talk about the role of imports from Mexico? Is there anything the Commission should note about imports from Mexico versus imports from China?

MR. PICKARD: Sure. Maybe three points. First off, in discussions with our clients, they indicated that China was the overwhelming problem for the domestic industry right now. That is why China was prioritized. Point number two is--and we can expand upon this to the extent that it would be helpful--that Mexican prices are generally significantly higher than Chinese prices. Third, I would point out, however, that we're closely monitoring the situation, and should there be evidence in regard to Mexican products coming in that are either subsidized or being sold at dumped prices, we'll take all appropriate action.

MR. ROBINSON: One question on China. What evidence do you have showing excess capacity in China?

MR. PICKARD: So I think if you just look at -- I just wanna be mindful of the APO, obviously. If you look at the massive capacity numbers in regard to domestic consumption, numbers that are publicly available, I think that supports the amount of excess capacity, and especially if you look at it relative to the size of the entire U.S. market, how easy it would be for China to kind of continue to swamp the entire market. But we can break that out maybe a little further in a post-conference brief.

MR. ROBINSON: This will be my last question. Are there any producers which were not included in the Petition--U.S. producers, that is--that we did not mail to, of which we should be aware?

MR. PICKARD: Dan Pickard from Wiley Rein. I believe that that is set for the domestic industry has the vast majority of all U.S. production.

MR. ROBINSON: Thank you for your answers.

Thank you.

MS. CHRIST: Thank you. We will now turn to Brian Soiset, the Attorney Advisor.

MR. SOISET: Good morning. Thank you all for your attendance. We really do appreciate it when people from the industry come in to help us learn about this, especially when it's a new product. So again I thank you all for traveling here and for your time today.

I first want to start out with actually some scope questions. I know there's been some back-and-forth with the Department of Commerce about some questions and clarifications that I think last week you submitted a revised scope with some small changes, and I was just wondering if you could comment if you think that amounts to a substantive change or if the coverage is still similar, and whether you anticipate any future changes in the scope.

MR. PICKARD: So the--and then I'll defer to my colleague, if Derick has anything else to add. I would say the changes to scope were not substantive in any way; that they were relatively minor. For example, I think there was a request as far as clarifying perhaps nominal versus actual, or that there was a diameter did it meet, did it stop at that diameter or was it up to and including that diameter.

I think we provided some additional information of what a "finish" means, but in direct response to your question: No, I don't think they were substantive changes to the scope. I don't believe it significantly affects the coverage, and I don't expect any future changes to the scope.

MR. HOLT: Derick Holt. One of the changes that was--was just to clarify the top finishes for sealed bottles, and that is what it was. We just kind of clarified it.

MR. SOISET: Great. Thank you very much.

So the next question. There's been some references in your testimony to glass containers being sort of a continuum or spectrum of products. I wondered, could you just help me understand what you mean by that? Is this something where you're just looking at the size of the product as it kind of increases? Or are you looking at other characteristics of these products?

I would just like to understand, you know, what kind of differences are there in this universe? And even the video referenced different recipes, I believe, in how some glass containers are made. And just to give some detail about that?

MR. PICKARD: Sure. So this is Dan Pickard. Maybe I'll start, and then I'll kick it over.

So I believe I was the one who used the reference in regard to the broad spectrum of products. And I meant that consistent with how the ITC traditionally looks at physical characteristics and end uses, that while there are variations for a product line the essential qualities or construct of the bottles are essentially the same. And I would point you back to the one understandably busy slide, but which shows the anatomy of a bottle in which you see that throughout, there are differences, but there are no real kind of bright lines. I was almost kind of thinking about it in regard to if you were talking about sneakers, right, that a size 6 sneaker is smaller than a size 10 sneaker, but under the ITC's analysis that's not a bright dividing line, that one would be bigger than another, per se.

And, that they all ultimately go for the same type of end use, in that they're used for food and beverage containers. And maybe one more fine point before I turn it over to the clients, and some of the exact same bottles are used for beverage or food containers.

And there's a chance that there might be some confusion this afternoon if people start to specifically refer to, for example, beer bottles. And I think this is a point worth making. So the samples, the second-to-the-right 12-ounce long-neck bottle, it would be understandable if somebody would look at that and say, well, that's a beer bottle. But that's the same bottle that root beer goes into. That's the same type of bottle that other beverages go into.

But what might not also be fully appreciated, it's also--and certainly John T. can amplify this further, ketchup goes into those bottles, barbecue sauce. So the containers aren't necessarily defined by the substance that goes into them.

With that being said--

MR. PAULET: I would add--thank you, Dan, this is Bert Paulet here. I would say that we basically characterize the containers in two different ways: the wide mouth, which is a jar that you can see there. So it has a wide opening, we call it a wide mouth. And a narrow mouth, which is the one that is essentially a bottle. So the difference between a bottle and a jar is basically the size of the opening, right?

And as Dan says, for us we produce the container that the customer wants. What they put in there is down to their strategy of what they want to do. We just produce a container that is fit for purpose to them, and on the best quality possible, and then the usage that they do is down to them.

I'm sorry, and the other characteristics I guess is, in addition to the narrow mouth or wide mouth, is the size of the container. Is it 12 ounce? Is it a 500 meters? Is it a 316 ounce? So those are the two characteristics.

MR. SHADDOX: John T. Shaddox with Ardagh. Just because I hate to miss an opportunity for education on the industry, you raised the subject of chemistry. And without giving away any proprietary information, yeah, the base composition of all those containers that are sitting there on the table are the same.

But depending on what color glass that you want to achieve, you may add a different mix of certain chemicals. In the case of greens, it could be iron. In the case of blue, it could be chrome. In the case of black glass, you may add copper. So there's chemistry involved.

The base is the same, but depending on what you're trying to achieve.

And I'd also say from the standpoint of trying to categorize them all as one sector, when you think about those samples that are on the left-hand side, the two wine bottles and the two what we deemed to be beer bottles, from a perception standpoint we can produce those same bottles on the same machines. The machines don't know what they're producing. They melt glass. You push the mix. Like you saw in the video, through the process, and you form them, and you make them into whatever you want. So there's flexibility to a certain extent across all of our manufacturing footprints.

MR. SOISET: And so some of you have mentioned that with subject imports they've moved up the value chain, I think you said, from food containers, I believe, up into wine containers. And so why is that considered to be up the value chain? Is it just a difference in size? Or is there anything else about these products?

MR. SHADDOX: John T. Shaddox with Ardagh. Again, I think it goes back to one of the comments I made in my opening remarks. In the initial phases of the boom, what I'll call "the boom" in Chinese imports coming in with just low prices initially but substandard quality at least from the perception that we heard from some of the customers that we talked to, over time has gotten to a point where they're on par, and in some cases quite possibly they out perform from a cosmetic standpoint what some of our bottles may look like.

So the ability to reach every spectrum of the customer base, whether it is--and you want to categorize it as food, beer, wine, spirits, there's always customers within those that are varying degrees of expectations for performance, cosmetic or functional performance. And again, exercising what they have as an unfair advantage on prices, while at the same time raising their quality performance to a level that's acceptable in the U.S. market, has made it considerably worse for us.

MR. SOISET: And I guess what I really wanted to get at, are there any other differences between a glass container for food or a glass container for wine? Is it just a matter of the size of them? Or is there anything else that's different between those products?

You just mentioned that there's sort of different ends of the value chain, so I'm just wondering why--what drive that difference?

MR. SHADDOX: John T. Shaddox with Ardagh. No, there's really no difference. Again, if you're talking about a wine container, you could take a specific shape for a bottle, and you could go to a local store, wine or spirits store, and you could find the same exact bottle for a bottle that sells for $5 and one that sells for $75. The glass itself could be exactly the same. So it really depends on what the consumer product company wants to do with that container, how they market it, how they label it. But essentially they're interchangeable.

MR. SOISET: And next about sizes. I notice that in the scope there's a minimum size as well as a maximum size, and I'm just wondering: Is there any production of containers outside of those? I think it's a minimum of 2 fluid ounces, and a maximum of 4 liters. And so do you have glass containers that are larger or smaller than those?

MR. SHADDOX: John T. Shaddox with Ardagh. We do not, and the U.S. industry does not produce. The only one that I can think of that jumps in my head immediately is a 5-gallon water bottle. You may remember in the old days--you'd have a hard time finding them today. I think our distribution partner, Tricor, still sells some in the United States that are imported from Italy, if I'm not mistaken, but so 5 and 6 gallons, that's very large. But that's not something that the U.S. industry manufactures.

MR. PAULET: Bert Paulet here, Mr. Soiset. If you look at our range, we do anything from a small Tabasco bottle all the way to that very big grouter for beer and the like. So again we cover the vast majority of the spectrum. And there are, to John T.'s point, the big 5, 6-gallon containers that we don't do, but again 99.9 percent of what the market needs we can cover.

MR. SOISET: Thank you, and I think this should be my last question. But out of curiosity, I brought up your websites, "Buy Our Bottles" dot com. Which, you know, it's great. Thank you for pointing us to that. And I see that it has categories for beer and food, but there doesn't seem to be anything for wine. Is that something that you offer through this channel?

MR. SHADDOX: John T. Shaddox with Ardagh. We actually launched a bob-for-wine section about a year-and-a-half ago. It wasn't very successful, and it was a little bit difficult. Some of the reasons why we took it down I would classify as proprietary. We could provide more information, if you want, post-conference. But we did have it for awhile. It just wasn't as successful as what we've seen particularly in beer. The beer site was the original site that was launched before. And again, through the other division that's not a part of the website, the Ardagh Direct Division, that's an actual sales force. It doesn't use that specific website to go after the other customers at the lower end of the spectrum. So we did have it before, just not anymore.

MR. SOISET: And so you do still serve small wine growers through this direct sales force, though?

MR. SHADDOX: Yeah--John T. Shaddox, again--absolutely. Just not through the website.

But those same customers who may deal with our direct sales force can still pay with a credit card. They don't have to have an account set up. They can do cash in advance. They can send us a check. They can pay with a credit card, earn miles, all those things that people like to do.

MR. PAULET: Bertrand Paulet here. We in 2017 when the Bob site was down, we actually hired 10 people specifically to look at the smaller customers in the wine sector. So we have a specific organization dedicated to that.

MR. SOISET: Yes, and anything else you could add in your postconference briefs. It might be proprietary, but just about how you do market and sell to all these segments I think would be very useful to us.

MR. PICKARD: Dan Pickard. Happy to do so.

MS. CHRIST: Thank you. We will now turn to Craig Thomsen, the economist.

MR. THOMSEN: Good morning. Let me thank everyone for coming here and presenting your testimony. I appreciate it. I've already learned a lot both from the video and from your presentations.

I will start out with some easy ones. Let's talk about demand first. And I'm just trying to find out what kind of demand indicators you look at when you're trying to forecast future sales. How does it--does it trend with any type of sales, GDP, you know, beer sales, wine sales, et cetera?

MR. SHADDOX: John T. Shaddox with Ardagh. We actually started experimenting about a year ago with an outside company called Prevedere. It is a forecasting enterprise that actually goes out and tries to link performance within our industry to certain key indicators like convenience store sales, full employment in the retail sector.

We haven't found a lot of correlation, right? So we rely on a mix of what our customers provide us in terms of the long-term forecast, plus our own trend analysis on what we sold. We look at the GPI data from the industry that Bertrand mentioned earlier, of all of our competitors together in the United States. And then we also use Euro Monitor, which is a source for information on projections for glass container product consumption in the United States.

None of these are perfect, but taken altogether we come up with our best estimate of what we feel like are long-term projections.

MR. THOMSEN: Okay, for posthearing could you submit some of those projections of what you have found to be the most important? I'm interested in what you found out with the lack of correlation between any types. I think that would be helpful for our record.

MR. SHADDOX: Yes.

MR. THOMSEN: Thank you. In thinking about demand segmentation, it's kind of the same thing. You know, if you're looking across beer--excuse me for saying "beer,"--given they're called on the BOB website, "beer and food containers," I may talk about beer, et cetera. When speaking of different products that you produce, what do you see the most growth? Where is the largest decrease? Where is--you know, can you give me kind of rankings on what you see as the fastest expanding segments, and the fastest decreasing segments, given your testimony that there are differences between the two?

MR. PAULET: Thank you, Mr. Thomsen. Bertrand Paulet here. As I said, over the last three years of the POI we see a ten percent decline of what we get of the business. There is no real sector that comes out. I mean a year, a year is sometimes worse in a sector, sometimes better in the other. It's difficult for us to really point out to different variations across the spectrum.

So on aggregate, we see a four percent decline, and that's typically, you know, influenced by imports mainly and that's the reason we're here today.

MR. THOMSEN: Well I'm not necessarily looking at your, what's been happening with you. I'm seeing what's been happening with the demand in the market in general. You know, there's been increase in craft breweries, you know. Have you seen increases in sales of craft breweries? It seems like you're very knowledgeable about what the market publications are saying here.

So I'm trying to find out what these market publications are saying. If you want to submit those, that's fine also. But I'm just trying to find out what's happening in the different segments, so that we can get a better view of that, as opposed to just saying that your sales are down ten percent.

MR. PAULET: Okay. Bertrand Paulet here. I'll John T. come with more granularity. But certainly at some point in time, craft brewers was booming. We saw a benefit for that in our business. Right now, John T. mentioned the coffee retail process. So you've got the Starbucks, you have the frappuccino, we benefit from that. On the other hand, you know, craft brewers today suffer from the seltzer that is a new type of drink, right.

So that's what I said. We serve so many

customers in so many applications that it's difficult to give you a definite trend through time, because there isn't such a thing.

MR. THOMSEN: Okay. How about since 2016? We're not talking an extremely long period of time. What's been happening since 2016?

MR. PICKARD: Mr. Thomsen, I think there's some concerns in regard to, from a proprietary perspective, where are potential hot spots for them or areas of growth. But I understand where your question's coming from. I think it might be easiest for us to just give you a more fulsome answer in the post-conference brief.

MR. THOMSEN: That would be fine. That would be fine. Okay similarly Mr. Pickard, you had talked about a value-added ladder up there, and some of the testimony talked about starting low and going out. What is the value-added ladder? What are some of the defining characteristics as you're climbing up the ladder? I think that would be helpful for the Commission to know.

MR. PICKARD: Sure. I could start it off, and then this is again one where we can give a more fulsome answer. So I think there are two kind of components to this. I think there's the traditional scenario that the ITC sees with Chinese imports coming in generally for the lower value-added than moving up.

I think there's also an element of this, maybe I'll turn it over to John T., who's actually got more industry experience, where it's not necessarily synonymous, right, because there are certainly some food containers that could be more expensive than a wine container, or a wine container that could be more expensive than a food container, so it's not easy to segment.

But my understanding is you see the Chinese come in initially, enter in a heavy way in items that are very open to keeping large inventories, so very kind of generic food containers, for example, with the entrants. And then from there, you start to see larger and larger import penetration, and I don't know if you wanted to add anything to that.

MR. THOMSEN: Okay. So you had mentioned that they had been climbing up towards wine as higher on the ladder. Where do beer bottles fit in this ladder? Where do you -- and I think that you said sauce bottles, and maybe those are part of your food containers as well. Mr. Shaddox.

MR. SHADDOX: Yeah, John T. Shaddox of Ardagh. Yeah. Again, based on the HTS classification, there's a bit of a blending, you know, that size container, the one that we talked about, that everybody perceives to be a beer bottle. Again, catsup won't necessarily go in that, but it would go into a similar bottle that falls into the same HTS category because of its size and scope.

So there is some lack of clarity on if it's a certain HTS code that it must be beer or it must be food. We have to make some assumptions ourselves based on what we've seen in the market, and I've lost my train of thought. I apologize. I missed the answer and the question.

(Off mic comment.)

MR. SHADDOX: No. From a complexity to manufacture, I mean there's differences and what we worry about from a manufacturing standpoint, again going back to the finish or the top of the bottle. And again just for education purposes, so you learn something else today before you go home, the reason it's called a finish is because back in the day when they used to blow glass by hand and they would put it into the molds, the finish was the last thing they made on the bottles.

So they called it the finish because they were done. Actually, we now make it at the beginning. It's the first thing we make, but it's still kept the name from the olden days. But again if you think about a finish on that particular bottle that's the 12 ounce bottle that we're calling a beer bottle, it's got a screwcap finish on it, right. So there's elements of that from a quality perspective that we need to pay attention to, because of the way the customer, the consumer product company's going to put on the lid, that it needs to seal properly. It needs to have a good seat. It can't lose any of its integrity, right.

Where that outside dimensions and maybe not are so important on the wine bottle. Where it gets important on the wine bottle is the corkage, right, because the customer's going to put a cork down inside of it. So we need to control the diameter, the dimensions of the inside a little bit more than the outside. The outside's still important because they're going to put a capsule over the top of it and it needs to fit. But it may not be as sensitive as other parts of the container.

But overall, we have finish concerns for every single bottle we make. They just may vary depending on the segment.

MR. THOMSEN: Okay. I guess I'll skip to something then. So given that you had just talked about different producers, different purchasers wanting different types of finishes on the top, are there proprietary molds for specific purchasers that you maintain?

MR. SHADDOX: John T. Shaddox with Ardagh. Yes. That would be across the entire spectrum. It depends on what the customer chooses and the ability of the Chinese to produce the same bottles exists that we do. They just do it at a lower price.

MR. THOMSEN: Okay. So who owns the proprietary molds for those shapes?

MR. SHADDOX: Again, John T. Shaddox, Ardagh. In most cases, we write up a letter of intent so that the mold is maintained at our facility, but with the -- for the exclusive use of the customer. So they will pay for the exclusive use and the exclusive manufacturing of that specific shape. But we physically maintain it and depreciate the asset on our books.

MR. THOMSEN: Okay. So were you the ones that developed it, or was it the purchaser that had developed these molds?

MR. SHADDOX: John T. Shaddox with Ardagh. Again in most cases, in terms of developing from a building standpoint, they're built through outside partners. We don't manufacture any of the mold equipment ourselves. It's manufactured through our supplier base, and depending on the scenario, sometimes for example a customer may bring a design that they've already had a design group work up and they've presented to us and they say can you make this? Can you put a butterfly blown into the shoulder of this bottle?

We say absolutely. We can do what you need, right? Or they may come with just an idea and our in-house designers will work up options for them to think about and look at, and they oh, I love that one. I want you to do that one. So there's a variety of ways that the opportunities get presented to us, but yeah, that's how we do it.

MR. THOMSEN: How large is that proprietary bottle shape business for Ardagh? Is that proprietary?

MR. PAULET: Well, we can provide it in the -- we don't know the figure by heart, but we can provide that later. We have it somewhere.

MR. THOMSEN: I'm just looking for a general amount, but as opposed to specifics. But what I'm trying to figure out is how difficult would it be for someone from China to produce that bottle? Would it be an IPR issue for that? Do these purchasers have any kind of patent protection on these shapes? You know, I hear about Coca-Cola. Coca-Cola has a very patented design for their bottle, which I know they maintain as their own shape and no one else can have it.

You know, is that something that can come in and try and see how large that is? Coca-Cola is not a small company.

MR. PAULET: Mr. Thomsen, Bertrand Paulet. Ultimately, the design of the bottle belongs to the customer, right? That's their brand, that's their image, and that's the decision of the customer to bring that design to the packaging supplier they're choosing. So I suppose that answers your question.

MR. THOMSEN: Sure, that does, because then they can bring it wherever they want. That's what I had wondered. Okay, great. Thank you. And do different plants specialize in different molded products? Like are there molds that are, you know, you had talked about one bottles in Seattle before. Are there specific plants that are specialized in certain types of container molds?

MR. SHADDOX: Yeah, John T. Shaddox with Ardagh. I'd say yes, but they have flexibility to do others. It's just a function of their geography, where they are, and the customer base or the market. That may be in closest proximity to them.

MR. THOMSEN: Sure.

MR. SHADDOX: But again, you know, most of our west coast facilities are wine producing facilities, because that's the wine market for the United States. But other locations that produce wine in the same plant also produce beer, also produce food products. It's just dependent on the demand.

MR. PAULET: Bertrand Paulet. Mr. Thomsen, I'll add to that that you mentioned our Seattle facility, and it's not appropriate information that we can share. From Seattle, we do wine bottles obviously for the Pacific

Northwest market. But we also do juice bottles. We have done beer bottles in the past. So the asset that we have is not as flexible as one could like, but it is possible to switch from one type of container to another with not that much difficulty.

MR. THOMSEN: Okay. Could you describe a little bit of the difficulties, what would cause that not to be flexible? From what I had heard from your testimony before, it's you just put in a new mold and you're done. Is it that the molds are kept in certain places? Is it that there needs to be retooling and it's not just as easy as throw the two halves of the mold on and go?

MR. PAULET: Bertrand Paulet. The two things is the color that you want because, you know, once your furnace produces a certain color, you can change it but it's a process that takes some time, right and it's cost. So you try to minimize that. And also the availability of the mold as you say. We can ship mold across the country, there's no issue. So it becomes a mold change, a mold change process.

You've seen it on the picture. It's a process that takes between one to three hours depending on the complexity, and it can take -- I don't know what technical level we want to get to, but you heard about a machine that produces three bottles at a time or two bottles at a time or one bottle at a time.

If we have to change that process, moving to three bottles to two bottles, it takes a little bit longer. But again it's something that we do on a daily basis across our 13 plants.

MR. THOMSEN: Okay, okay, thank you. Just touching on cullet real quick, cullet is your number one raw material? Is that what I -- based on what they were saying, it's 10 to 60 percent is cullet, maybe even up to 90 percent?

MR. PAULET: Mr. Thomsen, Bertrand Paulet. No, cullet in our -- 40 percent or around is the average of cullet usage for, into the mix. So you would -- the rest of the 60 percent is limestone, sand and soda ash.

MR. THOMSEN: Okay. Thinking of those raw materials, how have the different raw materials behaved in price since 2016? We had heard from Mr. Robinson earlier, and it's been my experience also that the reason why recycling plants, or at least the waste management plant around my house as well has said that the prices are really low for recycled.

So we can't, we don't have any curbside recycling for that, which saddens me and it may sadden you as well. But is that what you're seeing, that the prices of recycled glass have gone down in the last few years?

MR. PAULET: No, actually -- Bertrand Paulet.

The price of recycled glass has been increasing broadly with inflation around the POI.

MR. THOMSEN: Okay. Does it matter what color, because color was a big thing for other reason. Mr. Shaddox, I see you shaking your head. Okay, go ahead.

MR. SHADDOX: Yeah, John T. Shaddox of Ardagh. The color of the cullet is extremely important, right? So if we're -- and particularly to your point when you talk about single stream, where we're getting mixed glass together. That triglass or mixed glass for us can only be used then in furnaces where we're running brown or green glass. We can't use it when we're running flint or the clear glass.

For flint, we need flint cullet, right? So it's extremely important for us as an industry that we continue to get a vibrant recycling programs across the state, and we fight those on a daily basis through, as we mentioned, the Glass Packaging Institute, which is our trade association. We're also a member of the Glass Recycling Coalition, which is actually a group that is --

We joined forces with our consumer product companies to examine these things that are going on across the United States. Whether it is at a national level, a state level or even down to a municipality, where we may go in and testify in front of a local community as to why they should maintain glass as part of their recycling program.

MR. PAULET: Mr. Thomsen I believe -- this is Bertrand Paulet -- but I believe your question was more on the economics of the colors, right?

MR. THOMSEN: Both. I'm interested in both.

MR. PAULET: Okay. So the answer to that is no. The inflation that we've seen across brown, green or frame cullet is broadly the same. The absolute price though is different, depending in the location where they source from.

MR. THOMSEN: Okay, and so can you tell me a little bit more about how prices vary for color based on location, and what might be driving that?

MR. PAULET: That would be proprietary information.

MR. THOMSEN: Okay, that's fine. Would you be able to submit that for the post-conference? A broader review is fine. It doesn't have to be extremely specific.

MR. PICKARD: Happy to do so.

MR. THOMSEN: Okay. Thank you, Mr. Pickard. And I guess thinking about the soda ash, limestone, sand, also in your post-conference brief can you provide some data sets that you look at, either industry publications? Is there an industry publication for cullet prices?

MR. PAULET: Bertrand Paulet here. There

isn't an industry publication for cullet prices. There are though public marketing indices for the price of sand and the price of soda.

MR. THOMSEN: Okay. Then could you submit in your post-conference brief, the proprietary ones? I think we should be able to track down the public ones, okay. Well if not, we will ask you for those. One other aspect, a little bit different in terms of then prices, the video that you had shown had referenced a coating that you put on the glass. Can you tell me a little bit about that coating, what it's for and how it affects the glass?

MR. SHADDOX: John T. Shaddox, with Ardgagh. There's actually two coatings that's put on and it's also referenced on the pictogram as well. So, one is what we call the hot end coating. It goes on just before the leire or the big oven that they talked about on the video. It's a 10-based coating. It's really kind of a base coat that's put on so that when we do the cold-end coating after it comes out of the oven that that cold-end coating will actually adhere to the bottle, so the two, in tandem, work together.

The real intention of that cold-end coating is for lubricity and performance of the bottle throughout the filling process. So, as it continues out of the lier through our inspection machines to a palletize or into boxes, the bottles are constantly making contact on the line, right? They're rubbing up against each other and you need that lubricity to avoid issues with bruising, right, that may cause the bottles to break. And then once we deliver it to the customer that same coating is still intact, still on the bottle, and helps the bottle perform on the customer's filling line to the same extent. Other than that, there's really no use for the coating.

MR. THOMSEN: Does it make it like too slippery for ink application or for -- have you ever had any problems with customers having difficulty adhering labels because it was too lubricated.

MR. SHADDOX: That can happen, depending on whoever is producing it. There are usually two different types of cold-end coating and you need to know. This is why you need to talk to customers in advance on what type of labels they're going to use because that can have an effect on the adherence of the label, depending on your type of cold-end coating. And obviously, it's a manufacturing environment. You're trying to control the spray. And you know you could have a stopped up head. You could have a problem with the consistency of application. Certainly, that's something as a normal manufacturer you're going to work through the struggles from day-to-day. So, I can't tell you that it's never happened. That a customer hasn't complained, but if you have the right information up front about the type of product the customer is using, the type of label they're using, and you apply the coating correctly you won't have any issues with labeling.

MR. THOMSEN: So, what would you do to try and I guess satisfy a purchaser that is having trouble with slippage or -- you said they have different types of labels. You know if they're having a problem with one type of label is there -- do you reformulate this coating or just say I'm sorry. We can't do anything.

MR. SHADDOX: I'd never say that because I always try and help, right, but it would really depend. There are so many possible scenarios there. We have what we call tech service engineers that respond. Any time one of our customers calls in and complains that they had an issue of any kind with the performance of the container, whether it's because of what you just referenced, labeling, or to the performance of the bottle itself, we go on site and we investigate what happened. We collect samples and we try and determine what is the root cause of the problem and what is the corrective action that we need to put in place.

So, it could be that we recommend to them you've got the wrong label or you have the wrong glue, right, or we had an application issue and then we'll work together to come up with a solution that will solve the problem.

MR. THOMSEN: Okay. Have you ever lost a customer due to this or lost sales due to this?

MR. SHADDOX: I can't think of any specific case where I've lost a customer because of label application, but I mean I'm certain that there's been scenarios where maybe the resolution to the issue wasn't to the customer's liking that we could've lost business. Yes.

MR. THOMSEN: Okay.

MR. SHADDOX: I mean it's important that you meet the expectations of the customer around performance.

MR. THOMSEN: Absolutely.

MR. SHADDOX: Always.

MR. PAULET: I don't know where this source of question comes from, but I can tell you that here within the glass business with Ardagh North America, I've heard about a lot of quality issues. None of them have been about labels.

MR. THOMSEN: Okay, I'm just thinking quality, in general.

MR. PAULET: To give you some perspective, right?

MR. THOMSEN: It's kind of as a lead into my next series of questions, as we're going, which is really about availability, inherent lead times. You know there are other things, other than price, that are important in this, as in any industry that are important. And so, availability and lead times are, I'm sure, very important.

You'd talked about just-in-time delivery. I can't remember which witness had talked about just-in-time, but Mr. Shaddox, okay. This may be PI, but proportion of customers require just-in-time delivery? Are these the large customers, are they small customers -- I assume they're the large customers.

MR. SHADDOX: A vast majority of our customers require just-in-time delivery. Again, even if a customer may be bringing in product to a warehouse in advance of filling, they, like everybody else, are running an operation that requires specific you know you need to be on this dock door at this time to unload it because I've got my forklift driver doing three other things during the day, so there's expectations. Even if it's not coming in to be filled, there's still expectations for just-in-time deliveries based on requirements.

MR. THOMSEN: Okay, okay. So, are these just-in-time delivery requirements included in contracts?

MR. SHADDOX: In some of our contracts they'll be guidelines given to the amount of lead time we need to have a truck deliver to a customer's location. Oftentimes, it's contingent on the distance between our facility where we keep the glass and where the customer's filling is so we can have time to hire an outside -- a carrier to come in, pick it up, and deliver it without any problems. It's dependent on the location.

MR. PAULET: We hold between 60 to 90 percent of inventory and sometimes more for our customers, right? And the minimum time that apply to book a truck -- or the extended time we apply to book a truck is typically 48 hours, but we can do that faster if the customer require it for the day after or within two hours or what not. So, it's back to my point in the original, to be flexible to try to service your market as best as we can. That's what we try to do every day, but, in general, it's two days is what the customer -- or the time we book the truck for to get it to the customer.

MR. THOMSEN: Okay, that's what purchasers are -- what's requiring is around two days to get it or do they require more or less or is that just the time that you have to get the truck.

MR. SHADDOX: The physical time that it takes for us to get an order for a delivery that may be required on some day in the future and for us to actually hire that trucker to come in and pick it up. And then, depending on how far it ships after that --

MR. THOMSEN: Okay, the additional --

MR. SHADDOX: Right.

MR. THOMSEN: In addition to the 48 hours, okay.

So, it sounds like the just-in-time is pretty important. Do glass containers ever compete on availability and lead time? In your contract negotiations have you ever heard someone say like, listen, we need to have this in four days after that we need an order?

MR. SHADDOX: Yeah, it is an important component. Maybe not as important as price in most cases, but it's an important component.

MR. THOMSEN: Okay. And have you -- since 2016 have you had any changes in availability or lead times? Have you noticed any increases in lead times or an inability to meet any purchasers?

MR. SHADDOX: Again, if we think back to 2016 and some of the facilities, whether they be entire plant operations and/or furnaces that have been shuttered, that may have had an effect as we tried to redistribute some of the product that was run there to the other facilities. But I'd say, in general, no, there hasn't been any significant change.

MR. THOMSEN: That's where I was kind of going with this question, so you anticipated it. Good job.

MR. PAULET: Mr. Thomsen, as I said in my introductory comments why we shut down five furnaces or that 15 percent of our capacity over the last two years that's significant for restructuring for a business like ours. So, did we struggle somewhat during those times, yes, and I'm sure you going to be able to hear or find some examples where we maybe weren't as reactive as we should. But this restructuring is now completed and I haven't heard of any issues for us supplying in the recent past. And certainly, if, again, you look back if we hadn't been injured and if we hadn't lost all this demand we would still have the capacity in place. If we didn't have to have to do that whole reshuffle, we probably wouldn't have dropped the ball as many times as we have over the past few months.

MR. THOMSEN: Okay, thank you.

One more question on contracts, when are they negotiated? Is there a certain time of year that is contract season?

MR. SHADDOX: No. It is dependent on when the contract expires, right? And then in advance of that how quickly do you or the customer want to get together. Some customers will start as much as a year in advance if there's concerns about potential transition. Some people will wait till two months before the current one expires to start talking about the new one. It's dependent on the relationship.

MR. THOMSEN: Okay, okay, that's helpful. I think I only have two more avenues that I want to pursue. One is with respect to pricing. You had noted, Mr. Pickard, that you believe that pricing data are inconsistent, I believe was the word that you used. I know that the Commission had used the pricing product definitions that you had suggested in their -- what's up with this? What are the reasons for the inconsistencies? Where did it go wrong?

MR. PICKARD: So, I've got some sort of initial things we could say in a public hearing and then we'll obviously flush this out more in the post-conference brief. So, I think from a starting point what we see is pricing data that is inconsistent with kind of all of the anecdotal and narrative data that we're hearing, not just from domestic industry, but we're also seeing in the importers' questionnaires, so that raises the initial question.

We know that there are certain problems in the questionnaires in the data that was reported, as I'm sure you're aware, and without getting too far into the specifics, there are importers that acknowledge that they reported pricing data inconsistent with the ITC's instructions as far as how data is supposed to be reported, so that's clearly an issue. And as I'm sure you've noted, there is some data that is clearly aberrational in regard to the extent of pricing which obviously raises questions in regard to the validity of that.

I'm also happy to talk about the extent of the quantitative measures in regard to the extent of underselling, overselling, and margin. But the Commission traditionally treats that as protected by the APL, but we could talk about it here, if you want. I think there's two points. One is, yes, there was certainly the pricing products that we suggested, but the data doesn't conform with what the major industry participants are telling you is happening. And we know by certain admissions by some of the individuals who were reporting the data that their data is problematic.

Regardless of that, I still think this is an issue that we might have to refine or drill down on the pricing product definitions for any final phase. But in regard to kind of the fundamental question that obviously comes up in the pricing section for the staff report, you still see the price suppression going on. The underselling data is so aberrational and so extreme in parts I think that gives questions -- raises questions in regard to its validity, which I can expand on more going into the specific numbers. But regardless, you see during this POI, not surprising, right, as in a decreasing market with an interchangeable product, as supply of Chinese imports go up there's negative effects on prices and specifically what you see is the price suppression as most kind of obviously manifested is COGS as a percentage of net sales increasing.

MR. THOMSEN: Okay.

Of course, we will be looking more specific on a case-by-case basis for that. And if the pricing data were rather broad, you know I don't want us to go to a place where you're arguing, well, they were -- we gave you products that were too broad, so just disregard the data, so we have to go to a final in order to do it -- you know I want to be able to use this data for here rather than just wholesale say, oh well, we gave you bad pricing data. Looks like we have to go to a final, which is kind of inconsistent with Commission practice.

MR. PICKARD: Clearly. And nobody's suggesting that, but it certainly has happened in the past, right, where you certainly see a volume effect. You've got anecdotal evidence in regard to underselling. You've got more kind of narrative and other sources of underselling and still, especially, with kind of a new industry and a new product, cases where the pricing products have to be refined in a final. We're not saying that's the basis for going forward to a final phase investigation, although I think that was kind of implied this morning.

All we're saying is there's a dataset that clearly has some problems in it. And there are reasons that we can point to where clearly some of those problems are coming to -- coming from, but if you look at the whole evidence of record, which obviously is what the Commission needs to do, you still clearly get to the absolute volume increase, the market share increase. You have some lost sales information. You have additional information in regard price sensitivity and you have additional information in regard to price suppression.

MR. THOMSEN: Okay, one other point on pricing for the industry witnesses, when you are selling the glass containers, not necessarily on the containers themselves, but in your literature, do you market them as being made in the U.S.A.?

MR. SHADDOX: Yes, we do. In our recent brochures and some of our online catalogs, we have a made in the U.S.A. tagline.

MR. THOMSEN: Okay. And how important is that to purchasers?

MR. SHADDOX: We believe it's very important. I mean, again, it depends, but we've gotten good reception in terms of how we market across the U.S. and the different customer base. I can't quantify that. It's like quantifying whether an ad is working or not. It's a little difficult, but it has gotten good reception.

MR. PAULET: I just want to stress that while important where the product is manufactured the first point of reason for the -- the focal focus of the customer is the price aspect, right? Like he's going to look -- and I don't blame them. I mean if you're driving a business you want to maximum your profit. That's what management is about. And if a customer chooses a low price -- the lowest price for his product that's only fair. The problem is, again, that China is subsidizing those products and they're coming in much cheaper than what we can produce here in the U.S.

MR. SHADDOX: We have had examples where, as great as that message was, we still lost the business because they were able to get cheaper pricing from China.

MR. THOMSEN: Okay, okay. Thank you for those answers.

The last question or series of questions has to do with mergers and acquisitions. I know that Ardagh has been active in the last five, ten years with mergers and acquisitions. I believe I've read a little bit about Verallia, Saint-Gobain, Anchor. I've seen that there has been some issues possibly with anti-competitive behavior in terms of becoming too large for it. So, I'm just trying to find out -- I'm interested in kind of the landscape of the glass container industry. How it's changed in the last several years and how regulatory concerns may have impacted that.

MR. THOMSEN: Whether it's only prior to the POI here, whether things are still outgoing--

MR. PAULET: it is prior to the POI year--

Bertrand Paulet here--it occurred in 2014, right? So Ardagh was the owner of the Anchor assets.

MR. THOMSEN: When did it buy Anchor?

MR. PAULET: 2012.

MR. THOMSEN: So it was a very recent purchase, okay.

MR. PAULET: And then Verallia, which was privately owned, came to the market via USA, and Ardagh looked at buying this, but it wasn't allowed to combine the two systems. So essentially we bought the assets of Verallia and disposed of the assets of Anchor. In the main, that's the way, right, with one plant or the other might go left or might go right, but that's the outcome. So the market structure, as such, hasn't really changed over the past--with the exception of the growth of imports.

MR. THOMSEN: So the number of the U.S. producers didn't change there, it was just the composition of who owned which portion?

MR. PAULET: Yes.

MR. THOMSEN: And was Ardagh able to increase its market presence by purchasing Verallia? I'm still trying to understand their name.

MR. PAULET: From Ardagh going to Verallia?

MR. THOMSEN: Yeah.

MR. PAULET: Yes, Verallia system was bigger than the Anchor system.

MR. THOMSEN: Okay.

MR. PAULET: But remember, we bought Verallia. We sold Anchor, right?

MR. THOMSEN: Right.

MR. PAULET: So--

MR. THOMSEN: So how much bigger did Ardagh get in that series of transactions?

MR. PAULET: I don't think this is public information.

MR. THOMSEN: I was just going to say that may be edging on BPI, so that's fine.

And when that occurred, were there differences in terms of the production that you focused on in there? Were the assets more attuned to producing wine bottles or sauce bottles? Or were there differences that you have gone--has that continued to this day?

MR. PAULET: No material differences.

MR. THOMSEN: Okay. Okay, I think I've run out of questions, so I'm going to turn it over to my next colleague. Thank you very much for all your answers.

MS. CHRIST: Thank you. We will now turn to Greg LaRocca, the industry analyst.

MR. LaROCCA: Good morning, everyone. Thank you for attending. I just have one quick question. Are there any production testing or environmental standards that glass containers are made to meet?

MR. PAULET: Bertrand Paulet. There are many environmental constraints that are being applied to our facilities we operate under, and my general counsel will know a lot about this. So if I'm getting out of line, you stop me. But in essence every plant has a permit issued by each of--by the state which regulates the amount of CO2, NOX emissions, water emissions, all this kind of stuff. So it is a very regulated industry.

We are--the glass manufacturing process is a heavy consumer of energy, so naturally authorities put some limits to what we can do. And certainly if you look at the history of our business, we've invested a very significant amount.

We entered into an agreement with the EPA to put basically best-in-class technology like 10 years ago, and we invested a significant amount of money to be able to comply with that agreement. And it is something that, again I know for a fact that most of our domestic competitors haven't gone to the same extent through its investment, and certainly the foreign, or Chinese producers, based on what I've seen from those industry, don't have the same constraints from the environmental perspective under which we operate here.

MR. LaROCCA: And this is a--

MR. MARKUS: And I would just follow--Joshua Markus for Ardagh. As Mr. Paulet said, there are numerous permits and regulations that we have to operate under, both operating permits as well as Mr. Paulet referred to a global consent decree that Verallia actually entered into with the EPA and local agencies in 2010 or thereabouts, which is all public record.

MR. LaROCCA: I have one more follow-up question which is regarding the "generally regarded as safe" status produced by the U.S. FDA. Can you guys please document that in your posthearing brief?

MR. PAULET: Are you thinking about the GRS, the Generally Recognized as Safe?

MR. LaROCCA: Yes.

MR. PAULET: Sure. And that goes back to the question from Mr. Robinson in the first place, right? Like glass is the only packaging material in the U.S. that has this GRS status by the EPA. So that's another thing that our customers look at when they choose glass over another packaging material.

MR. LaROCCA: And I just have one more question regarding the raw material composition. Is it different between U.S. producers and Chinese producers, just in terms of maybe a greater supply of color that's available in the

United States?

MR. PAULET: Mr. LaRocca, Bertrand Paulet here. I don't know. There is no--if my colleagues have more information than I do personally, I don't know what's the recycling rate in China so I couldn't tell. I could tell about Europe, but I don't know about China at all.

MR. LaROCCA: Okay, and that's it for my questions.

MS. CHRIST: Thank you. I will just do a quick scan to see if there are any follow-up questions?

(No response.)

MS. CHRIST: Alright, I guess not. So everybody got their questions out through the first round. I want to echo the thanks of my colleagues, and I particularly want to thank Mr. Shaddox for taking the opportunity to come and teach me. Because I am an avid learner. I love learning. I'm a life-long learner, so I appreciate that opportunity you've taken both with the pictures and the video. And with the video, it was almost as if, you know, it was behind like a Space Shuttle operation. So I appreciate seeing the complexity behind some of the things that are simple. And I can assure you that moving forward I will appreciate the bottle as much as the contents.

Most of my colleagues have asked the follow-up questions that I noted as I was listening. And this is more of a clarification a little bit than a question. It seemed a couple of times we tried to touch on this concept of the value adder, and moving up the value chain. And from the information that I heard, it sounded like the initial ability, or the initial entrance of Chinese product in the market was in part driven by an ability to sustain some inventory, or of the product based potentially on large-volume demands of that type, and/or simplicity of the characteristics. So I'm piecing together bits of the conversation to see if I've got this correct. It seems to me that potentially the idea of moving up the ladder, and the value ladder proposition, might be associated with the level of customization and the number of specific customizations with respect to a particular bottle, and therefore the ability to potentially hold that in inventory and/or do turn-around delivery.

Do I have kind of the bits and pieces of the responses in the correct story picture there?

MR. SHADDOX: John T. Shaddox with Ardagh, yeah, you're in the ballpark, right? So again, thinking from the perspective of a catalogue of products, if you were to enter any market and you had a catalogue, you would want to start first with the easiest and highest volume items. And then as you got established and proved yourself, you would expand to cover the entire portfolio. And so that was the essence of what we were trying to describe.

MS. CHRIST: Thank you. I just wanted to make sure I picked up the pieces. Nice ballpark analogy. This is the day to be mentioning that analogy here in this area.

Alright, I don't have any other questions. I want to thank you again. Before moving on to the next panel, I do want to take a small break for us to go and maybe stretch our legs, get something to drink, and hopefully a little bit of lunch. How about if we meet back here at 12:20 on the dot? I think that should be enough. Thank you, very much.

(Whereupon, at 11:46 a.m., the meeting was recessed, to reconvene at 12:20 p.m., this same day.)

AFTERNOON SESSION

(12:20 p.m.)

MS. CHRIST: Welcome back. I thank everybody for promptly returning.

Mr. Secretary, are there any preliminary matters?

MR. BURCH: Madam Secretary, the panel in opposition to the imposition of antidumping and countervailing duty orders have been sworn in and are seated, and they have 60 minutes for their direct testimony.

MS. CHRIST: Thank you.

Welcome to all the panel members, and thank you. Please begin when ready.

MR. NEELEY: Okay, once again I'm Jeff Neeley from Husch Blackwell. I just want to do a couple of introductory remarks on behalf of our client, TricorBraun, and then I will turn it over to them, and then we will hear from Berlin Packaging as well.

First, from our point of view on like product our view is that, at least for the purposes of the preliminary, we're not going to contest the like product that they've suggested. That's not to say that we accept it, by any means, because there are definitely distinctions within that broader group of products. However, we're going to basically give them their best case. And if that's what they think their best case is, we'll analyze it in that manner.

We will revisit that if this does go to a final, of course, because we think there are some issues there.

One thing that Mr. Pickard said a couple of times this morning was that the CBP data are the data that the Commission should rely on; that they're clean, I think was his word, et cetera. We decidedly disagree with that.

There are, we believe, nonsubject imports in those data. In fact, without getting into confidential data that I can't talk about in public, we got the data from the Commerce Department to comment on for the purpose of the CVD case. And I will say that there are numerous companies in those data that are supposedly products that are within the scope that are under these HTS items that clearly, clearly are not producers of glass containers within the scope of this case.

So I would say, "clean"? I would say just the opposite. I've rarely seen data that are such a mess in terms of this. I don't know why, but, you know, you have obviously the ability to go to that without my violating any EPO at Commerce and look at it yourself. But I think you will come to the same conclusion.

We think that for the purpose of the preliminary that your only choice is going to be to rely on the questionnaire data that's come in. It is, in our view, the cleanest data, the only data that is of any reliability. And so we suggest you take a look at that.

We also--we think that data itself may not be completely perfect, and we'll talk about that more in our brief, but it is by far the best data that you're going to have available to you for this preliminary. And you can't just punt everything down the road and deal with it in the final. I mean, there is a purpose for the preliminary decision.

So with that in mind, I'm going to turn it over. We're going to have two witnesses today. We have a number of people here who can talk about anything that you really want to talk about in this industry, but we're going to only have two witnesses from TricorBraun: Court Carruthers, who is the president and CEO; and then Mark O'Bryan who is the COO.

So, Court, why don't you get started.

STATEMENT OF COURT CARRUTHERS

MR. CARRUTHERS: Great. Thanks, Jeff.

Good afternoon. My name is Court Carruthers. I am the President and CEO of TricorBraun. Our company was founded in 1902 and is headquartered in St. Louis, Missouri.

We employ 850 people at 35 locations in the United States, and have 1,000 team members around the world.

We are North America's largest distributor of primary packaging, including glass, plastic, and metal bottles, containers, caps, and dispensers, as well as flexible packaging.

Our customers are the small and medium companies that form the backbone of the American economy. These are entrepreneurial, often family-owned businesses that lack the scale to work successfully with the large packaging producers directly. We help them compete by providing unique designs, small order sizes, high product quality, and consistent delivery to distinguish their products in a crowded marketplace.

In fulfilling this mission, we purchase more than $1 billion of packaging annually. Approximately 80 percent of our purchases across all product categories come from U.S. producers.

However, the glass market is quite different. Since 2005, there have been 11 major plant closures across the U.S. glass industry. In our view, these closures are not related to Chinese imports, but rather to industry dynamics, particularly the shift of beer bottles and food packaging to other substrates such as aluminum cans and PET bottles. The outcome, however, has been highly constrained domestic capacity, reduced quality, and lower flexibility across all glass packaging categories.

Although we remain a significant customer of the domestic glass producers and value our relationships with them, these supply constraints have forced us, and other distributors, to also buy glass products from many different sources, including Mexico, Europe, Saudi Arabia, and China.

We do not source glass packaging from these countries primarily because of price, but rather because of the limitations of the U.S. industry.

It is also critical to note that our biggest source of glass is not the United States or China, but rather other third countries. We believe the Commission should consider the effect of imports from countries other than China on the domestic industry.

Although we source glass packaging of all shapes, sizes, and types, for purposes of this case a primary and unique concern is wine bottles. We are the largest distributor of wine bottles in North America and we source equally from both domestic and import producers.

As is the case across our entire business, our main customers for wine bottles are generally smaller independent producers. We assist these wineries by creating unique designs and supplying in smaller quantities so they can grow their businesses and compete with larger producers.

The U.S. glass industry, by contrast, does not adequately and consistently serve these customers because it is set up to serve the large wineries that require large production runs of single-bottle designs.

Moreover, U.S. glass producers have experienced ongoing quality and capacity issues which further limit the volumes that we can purchase from them. We have encountered repeated quality problems with bottles produced by the U.S. industry, and they have told us they do not have sufficient capacity to serve our customers in a timely fashion.

We can provide, and e will provide more information on these issues in our postconference brief.

For all of these reasons, we do not believe that Chinese imports have been the cause of any injury suffered by the U.S. industry, and we respectfully request the Commission reach a negative preliminary determination in this case.

I will be happy to answer any of your questions. My colleague Mark O'Bryan will now provide more information on the market for wine bottles in the United States.

Mark?

STATEMENT OF MARK O'BRYAN

MR. O'BRYAN: Okay, thanks, Court.

Good afternoon. My name is Mark O'Bryan and I'm the Chief Operations Officer at TricorBraun. As you have already heard, TricorBraun is one of the major importers of the products being investigated. I've been with TricorBraun and in the glass industry for seven years, and I'm here today to add more clarity to the wine bottle business and to our experience with China and U.S. manufacturers.

It is important for the Commission to understand why TricorBraun originally purchased wine bottles from China and why it continues to do so despite the very high Section 301 tariffs that are now in place. Both the original purchases and the current purchases are not related to low prices.

The market segment that we target is mainly the 6,000 small to medium West Coast wineries. The largest wineries buy primarily large runs from U.S. glass producers who are set up to run standard bottles at large volumes with minimal changeovers. These bottles are packaged in bulk, given the automatic filling lines of these customers.

The minimum production runs in China are far lower than they are with U.S. manufacturers. Over 60 percent of the bottles we purchase in China are packed in printed cartons specific to each customer. Because our customers are smaller, they rent mobile filling mobile filling lines to fill their products. These rentals are short-term and scheduled many months in advance. Being late with an order is not an option.

Initially, TricorBraun went to China to procure wine bottles in 2007 in order to solve a problem we were having obtaining supply from U.S. manufacturers. Specifically, the U.S. producers were not willing to make the short production runs of specialized bottles that our customers desired.

Once we were established with our Chinese manufacturer, shifting certain bottles to alternative producers became difficult because the molds that are used for the non-standard products would have to be remade for a new manufacturer's production process at a very high cost. Thus, absent a major event, we would not be likely to shift suppliers for these bottles.

When the Section 301 tariffs were applied to wine bottles, our customers were very concerned about the reliability of sourcing in China. Specifically, they did not know whether the 25 percent would soon become 50 percent or 100 percent, or the bottle supply would be cut off altogether. The huge uncertainty led the customers buying more standardized molds to ask us to try to obtain other sources.

Obtaining these other sources for wine bottles was not easy. We looked at Europe and Mexico, but the capacity was not sufficient, so we turned to our existing U.S. producers, and particularly to Ardagh with whom we have enjoyed a very long-term relationship.

Ardagh accepted our orders for a substantial amount of wine bottlers they said they could produce. But in fact they failed to deliver many of those promised supplies. We cancelled approximately 20 percent of the orders that we made--that we had given to Ardagh in 2019 because of their inability to supply in a timely manner.

They are aware of these failures. In some of these cases, we were able to re-source this glass at higher costs from other manufacturers, and in other cases we simply lost the business.

As a result of Ardagh's inability to supply the products, we lost the accounts of two major customers in May and June of this year. Our customers now realize that the higher risk often is not sourcing from China but relying on a U.S. producer that is unable to deliver.

Listening to the U.S. industry today, I have heard complaints about financial and other problems. Those problems are not on the wine bottle side of the market; they are on the beer bottle side.

Beer is suffering from other issues, and those issues include a shift from glass to cans or other materials, the overall declining demand for beer bottles in the U.S., and the rising imports from places such as Mexico. If the U.S. industry is showing financial declines, I believe this is the reason and has nothing to do with the wine part of the business.

Thank you for your attention today, and I look forward to answering any questions you may have. I will turn it over.

STATEMENT OF JARED R. WESSEL

MR. WESSEL: Hey, good morning. My name is Jared Wessel, appearing on behalf of Berlin Packaging from Hogan Lovells. Before I turn it over to my client, I would just like to make two points regarding some of the testimony we heard earlier today.

The first is about the role of non-subject imports. As I understand it, Mr. Robinson asked I think an important question about why is this case at China not China and Mexico? As I understand Mr. Pickard's response, it was essentially that the pricing from Mexican products is not something that's troubling the U.S. industry.

Respectfully to Mr. Pickard, I don't think that data, that argument is supported in the data currently before the Commission. I also think a more persuasive reason as to why Mexico is not in this case is because the U.S. industry is importing from Mexico. So let me read from the financial statements of Owens.

"Total glass container shipments in tons were down approximately two percent in 2018 compared to the prior year, and were driven by the transfer of production to the company's joint venture in Mexico, the ongoing trends in

U.S. beer shipments, and then a number of other factors such as Brazilian transportation strikes and capacity constraints in both America and Europe."

So I think that's, I think that's a lot more persuasive reason as to why Mexico is not here today. I also think it kind of fits in with what Mr. Shaddox testified before. He mentioned about loss of sales when he was working for Vitro back at Owens Illinois. Vitro is that Mexican facility that we've talking about, just talked about that was eventually bought by Owens. So he basically confirmed that there was competition between the Mexican and the Chinese.

I think second, the other important for the Commission is the role of non-subject imports and about how that's been portrayed to the Section 301 committee. If you look at the testimony by the U.S. industry to the Section 301 committee, it was essentially that if the Chinese are pushed out, you would see markets would only buy Mexico, Canada and other sources.

So this is testimony from the Glass Packaging Institute, the same attorneys who are being represented by -- who are representing Owens. There is plenty of capacity that is actually supplying the U.S. market from other countries, Mexico, Canada and other sources. So I do think to echo what Tricor said I think is very important to take into account, the role of non-subject imports. I'm sorry, not subject imports.

And then just one other point before I turn it over to my client. New entrants into the market. You know, the essential theme that you're going to hear today is that these companies have gone to China in search of entities that will service them for these lower volume production runs. That narrative is not just a narrative that you're hearing by Tricor and by Berlin today. It's a narrative that has actually new entrants into the U.S. market.

So let me read from Arglass' statement, and Arglass is a new U.S. producer that essentially is getting into the market and made these decisions well ahead of the petition. I'm quoting from Arglass' website: "Incumbents have filled their plants with products that allow for long run productions, i.e. beer. Focusing on utilization above all else, leaving customer needs such as emergency batches, shorter runs and customized products unattended.

"As a result, customers with diverse product portfolios, along with the specialty and small volume beverage and food producers, have to rely on imports." So you're not just going to hear this kind of theme today. It's such a dominant theme that it's actually caused new entrants into the domestic market. With that, I'll turn it over to my client, Adam Broach, Berlin Packaging.

STATEMENT OF ADAM BROSCH

MR. BROSCH: Thank you to the committee. Good afternoon. My name is Adam Broach. I'm the senior director of Global Supply Chain at Berlin Packaging. I've been with Berlin and in my position going on seven years. I'm sorry, I'm not close enough. Thank you for the opportunity to appear before you today, to talk about my company and our more than 1,100 employees worldwide, including approximately 800 full time employees here in the United States.

I'll be speaking about the negative impact that tariffs on glass containers would have on Berlin Packaging, our customers and our employees. Let me first tell you about Berlin Packaging. We're America's largest hybrid packaging supplier for primary packaging, including bottles, jars, caps and closures, in just about every size, shape and color you can imagine.

We specialize in meeting the packaging needs of small and medium-sized businesses and brand owners. Our packaging solutions often include the use of glass bottles and jars. Our packaging is not just about storing the product though. We pride ourselves on our innovative and unique packaging, that distinguish great American brands from their competitors, both in the domestic and the export market.

We are an American innovation and design success story. From humble beginnings over 100 years ago, our company has expanded to 21 branches in the United States. During that time, we have always prided ourselves on the importance of our people and our corporate culture, finding ways to service the needs of our customers while improving the lives of our employees and giving back to our communities.

Working hand in hand with many U.S. industries including food and spirits, our employees create unique, eye-catching bottle and jar designs that help American company products stand out on the supermarkets shelves and in other retail outlets. We then develop the molds that are used by the glass product manufacturers, including the companies that have brought this petition today, to bring those unique bottles and jar designs to life.

I'm proud to say that we buy American as much as possible. Far more of our glass spend is directed towards U.S. companies than Chinese. The sole company you heard from earlier this morning is our supplier, and we value our business with this American manufacturer. In fact, I can think of a number of examples where we shifted from Chinese suppliers to U.S. suppliers once our customer grew to meet the large-scale requirements of the U.S. industry.

While we would love to buy American for all of our sourcing needs, we're forced to buy Chinese because of a disconnect between our focus on small and medium-sized businesses, and the business model of the U.S. glass industry, which is focused on scale and consolidation. Let me explain further. As I mentioned before, our typical customer is a small to medium size business that is trying to differentiate itself in a crowded retail setting.

These companies want custom bottle designs with relatively low volume production runs. In addition, they often want case packs, something I'll explain in a bit. First off, custom designs. While a large beer company may order hundreds of millions of beer bottles at scale in a common shape, our smaller customers, think bourbon distillers or organic food makers or a local honey maker, they all want custom shapes and sizes along with unique branding and marketing to help their product pop on the shelves.

Second, lower volume production runs. Chinese glass producers are structured to support production runs at much lower quantities than the U.S. industry. In other words, the U.S. industry is designed to serve the multinational beer companies, the major wine makers with large uniform runs, while the Chinese industry is geared towards service of the small and medium-sized businesses that form the heart of our customer base.

Specifically, minimum production runs can be five times less in China than those demanded by the U.S.-based manufacturers. In our post-conference submission, we will provide a number of examples of U.S. glass producers, including the Petitioners, refusing to service many of our low volume customized runs.

The view of the market is not just the opinion of Berlin Packaging. Others share that view. As noted by Jared before from Arglass, a future U.S. producer, "Customers with diverse product portfolios along with the specialty and small volume beverage and food producers have to rely on imports." The difference between the customer bases goes beyond just the size and the length of the production runs.

Small and medium-sized businesses need to receive the product in what's called case packs, because their bottling machines cannot handle bulk pallets of product. These case packs are corrugated outer boxes with 6, 12, 24 or more bottles separated by dividers. Many glass manufacturers around the world, including U.S. producers, will generally not support such case packing for small minimum production runs.

Chinese glass manufacturers, on the other hand, are willing and able to produce case packs, again because they're focused on servicing an unmet need in the

U.S. market. Of note, Berlin Packaging has invested in a number of locations in the United States to repackage from bulk oriented to case packs, but these are large capital investments and our current capacity is very limited.

As we increase our capacity, our ability to buy American will also grow. We can serve as a bridge between the bigger U.S. factories and our small-scale customers. We have experienced a number of additional problems with the U.S. glass producers. We often require special colors that the U.S. industry doesn't manufacture, or they only produce one a year due to limited overall demand. This again forces us to seek Chinese suppliers.

We have also suffered from long lead times, inconsistent service from these U.S. producers as noted by Tricor as well, that is just not acceptable to our corporate culture. One of our founders' principles is to make life easier for our customers. Berlin Packaging prides itself on the fact that we're the only company in the industry to be ISO-9001 certified, and to achieve 99 percent on time delivery of our shipments every month for more than 15 years.

I would also like to talk briefly about consolidation in the glass container industry. Mergers have been steadily reducing the number of U.S. competitors since the 1980's, and beginning in the mid-2000's, the three major

U.S. producers at the time, including one of our petitioners, began actively pursuing a consolidation strategy of closing down plants and idling furnaces for their own higher margins.

Today, there are still just three producers that control more than 90 percent of the U.S. production, and two of them are the companies that brought this petition. Together, these three own 35 of the 41 glass container manufacturing plants in the United States. Requesting the imposition of tariffs serves as just another way to maximize their growing control over the market.

Lastly, I want to note to the staff that imposing tariffs could severely backfire on the entire industry, Petitioners included. Increased packaging costs may lead to consumers transferring the filling operations from America to overseas. If this occurs, Chinese packaging can be used and would then be exempt from the tariff because the finished product arriving in the U.S. would be taxed at the applicable duty rate for the finished good.

In fact, we're already seeing this phenomenon because of the Section 301 tariffs, which recently increased to 25 percent. This corresponds to a phenomenon noted in the financials of Ardagh, whereby U.S. consumers are turning to imported beer over domestically produced mass beer, resulting in reduced demand for glass packaging. Thank you for your time, and I'm happy to answer any questions you may have.

MR. WESSEL: And I think with that, that's the end of our affirmative presentation. Thank you.

MS. CHRIST: Thank you. We will now turn to staff questions and start with Chris Robinson, the Investigator.

MR. ROBINSON: Thank you all for being here today. Being that there are two parties, some of my questions can be answered by anyone. If I intend to direct it to a particular party, I'll do so. The first question is for TricorBraun. Does TricorBraun only deal in wine bottles?

MR. CARRUTHERS: Court Carruthers for Tricor, no. We also do a fair amount of food glass as well, and a small amount of beer bottles, but it would be very much a third element of this case for us. Yes, from China it's almost exclusively wine bottles.

MR. ROBINSON: You mentioned that a large part of your customer base are wineries and small wineries on the west coast. What are those customers looking for? I think you were talking about like customization. So is there a reason they require customized bottles? Can you speak to your customers' preferences?

MR. CARRUTHERS: I think it's more for many small companies. So a winery would be one example, but Adam talked about others that would be smaller on the food side, which is they're looking for a way to stand out. So it might be a niche type of product, an organic type of product, I mean verging on home made. These are small family type enterprises, and so often they will use packaging in the fulsome sense of packaging. The bottle, the cap, the label, the box to really find a way to stand out on the shelf versus the folks that might have more significant shelf space.

So you know, one of our main elements of our go-to-market strategy is helping them with that full package, that full suite of design and customization services.

MR. ROBINSON: I see. So you're suggesting that the style or shape of the bottle is meant to be like unique to the customers' branding effort or standing out on the shelf?

MR. CARRUTHERS: The bottle, the label, the cap that goes with it, the entire package itself, of which the glass container is a portion of that.

MR. ROBINSON: So in wine bottles, wine bottles that you import, they're already imported like with the label for your customer?

MR. CARRUTHERS: So Mark actually spoke to that. Do you want to talk a little bit more about the fact that, how we do that in China?

MR. O'BRYAN: Sure. Mark O'Bryan with TricorBraun. I would add two other variables, color of the bottle, the glass itself and the weight, because there's lightweight bottles, there's heavyweight bottles. All of that, that look and feel is all very important to the customers when they make these, when they make decisions as to what they want. And so ask your question again, I'm sorry? Is --

MR. ROBINSON: It's coming labeled and boxed.

MR. O'BRYAN: Oh I'm sorry, yes.

MR. ROBINSON: You mentioned that in your testimony. A substantial part of the bottles we bring in are in case packs. So they are already cartoned into a box, and the majority of those are printed in one color, two color, three color, four color print of the customer-specific logo, message, whatever they want to do. And so yes, they're packed over in China. They come in containers. We bring them into our warehouse. We have them ready when the mobile filling line is ready, and we ship them there that day.

MR. CARRUTHERS: And Court Carruthers for Tricor. I would also add to that the Petitioners this morning discussed the fact that they offer similar services.

But as we note in our testimony and Berlin did as well, the run size requirements for those in China versus the U.S. are significantly different. So that's not the type of thing that we can get done easily from the domestic side for a small customer.

MR. ROBINSON: Would you be able to speak a little bit more specifically about those run size requirements?

MR. CARRUTHERS: So I think -- do you want to go?

MR. O'BRYAN: No, go ahead.

MR. CARRUTHERS: Okay. I think we can provide very detailed examples and data in the brief that we're going to submit, and I mean we'll be able to provide all of that backup, all of that backup.

MR. NEELEY: Yeah, Jeff Neeley. I would say there is a lot of documentation on this and we'll submit some of that to you.

MR. WESSEL: Jared Wessel from Berlin Packaging. We will provide in our post-conference submission very detailed emails from the Petitioners and others in the U.S. industry, refusing to serve Berlin Packaging because of one, the size of the requested run and two, because of not having the right color or right size.

MR. NEELEY: And I just -- we are, that's exactly what I'm referring to. Time after time after time, particularly Ardagh, saying they can't deliver.

MR. CARRUTHERS: And I would just -- it's Court Carruthers for Tricor -- back to the testimony this morning, there was a new program that Ardagh mentioned, their Flectron program that they launched they talked about out of the Seattle facility. So we tried to put a customer through there, and we'll provide documentation on this. We've been waiting for eight months for that project to come back for that customer. So that's just not something that a small business can sustain as they're running their company.

MR. ROBINSON: Before I forget Mr. Neeley, would you be able to provide me in your follow-up brief with contact information for that new glass manufacturer that was mentioned in the --

MR. NEELEY: Yeah. It was mentioned by Berlin, but we'll also get you that information absolutely. We also have that information, thank you.

MR. ROBINSON: So just continuing on about the wine industry a little bit. I'm trying to get a sense of like whether each winery or wine producer is using like a different bottle, or are they mostly using like the same bottle?

MR. O'BRYAN: I mean we -- this is Mark O'Bryan from Tricor -- I mean we do over 200 different bottle designs. So the answer is they want different bottle designs, and then those get multiplied by the color, if they want dead leaf green, antique green, flint, which are the various colors that they have, and then actually the weight of the bottle itself. So there's many, many variables that they like to choose from. A cork finish, a screw on finish, various types of differences.

MR. ROBINSON: Would Berlin Packaging like to speak to that question as well?

MR. BROSCH: Yeah, absolutely. I would echo -- this is Adam Brosch from Berlin Packaging. I would echo what Court Carruthers and Mark O'Bryan have said. I personally probably started working with, in the wine industry about three years ago, and I was astonished by the complexity of color, weight, shape and then finish size.

So I think that it's a very nuanced industry, and then it's an agriculturally driven industry. So when a small business has crushed their grapes and it's in their tank, they have to fill right then. They don't really have a choice. It could spoil if it's not stored properly. So a lot of small and mid-sized wineries rely on the services provided by a Tricor or a Berlin Packaging, who's also a major importer for the wine bottles particularly, to service the Napa Valley region.

MR. ROBINSON: Other than size of the

production run, are there any other characteristics of glass containers produced in China that are unique and could not or would not be produced here in the United States?

MR. CARRUTHERS: I think as you've heard from both of us, the quality and lead time and consistency issues have been. Even the Petitioners themselves today mentioned twice now on par, and Mr. Shaddox mentioned in his testimony in some cases better than the domestic producers. That is our customers' view and that's our view as well.

So that the quality and the consistency of the delivery are very high out of China, particularly on the wine bottle side.

MR. WESSEL: This is Jared Wessel from Hogan. Just to jump in and again, I mean you see this in some of the financial reports that are out there. So and we'll provide this in our post-conference submissions. But from the financials of one of the companies that owns 25 percent of Anchor, which unfortunately decided not to appear today, they talk about some of the problems in the organization, and the need to change the management team, and to reinvest to increase their competitiveness.

So again, I mean I think the other narrative that you see emerge is, you know, just the difficulty of dealing with the U.S. industry and you know meeting the on time delivery and, you know, being a good business partner.

MR. ROBINSON: It sounds like both of your companies have import operations from not just China but other countries as well. Have 301 tariffs on glass containers caused you to shift any of your sourcing?

MR. CARRUTHERS: I think there's always movement, so we're always changing sources of supply. I think from our perspective, you know, if you look at this glass container segment, the highest area we buy from is neither the U.S. nor China. Some of that was 301, but a lot of those are very long-standing relationships that we've had with plants in Mexico, in Saudi Arabia, throughout Europe. Some of those are multi-decade relationships that far pre-exist the 301 situation.

MR. ROBINSON: And I forget if this was included in your testimony, but from different countries, are you sourcing different types of glass containers?

MR. O'BRYAN: Mark O'Bryan with Tricor. Yes, we food glass, beverage, flint beverage glass, amber, packers for the nutraceutical markets. Yes, all types of glass.

MR. CARRUTHERS: Court Carruthers from Tricor, and I think the point is that different factories have different areas of specialization. So that may correspond to a certain geographic area or a certain country. It's generally based on the capabilities of those specific producing plants, the equipment they have, the personnel that they have, etcetera.

MR. ROBINSON: I asked this question of the Petitioners as well. The volume of imports from Mexico as well as the trend, increase of volume, increase from Mexico matches quite closely with the trend of imports from China. Is there anything the Commission should note about imports from Mexico versus imports from China, or any other comment you'd like to make on that trend that we've noticed in the data?

MR. CARRUTHERS: Yeah. I mean I think it's our view, and actually even the Petitioners' data today when you were discussing market share suggested they had a 79 percent domestic share. Of the 21 that was non-U.S., only seven percent of that was China.

And so, you know, as we said in our testimony, we believe that a lot of these impacts are coming from third countries outside of China and the U.S., and Mexico would be one of the largest of those, and we expect that's a market that's going to continue to grow production, a supply chain that's going to continue to grow into the U.S., and is notably absent today for reasons we're not sure of.

MR. BROSCH: This is Adam Brosch from Berlin Packaging. I mean I would say that the trend that we've seen with Vitro Packaging and the acquisition of Vitro

Packaging by Owens Illinois was showing that there was a void in the market that Mexico was filling, and Owens Illinois obviously saw an opportunity to fill that void very quickly, but through an acquisition.

And so the growth of product out of Mexico is seen in that acquisition, but also there's other glass plants that service very niche markets like high end spirits bottles, which I don't believe is something that Ardagh plays a very high, a large role in.

But there is a lot of import from Mexico and China and other countries, to fill the growth trend we've seen in microdistillery movement, and the need for high end, very specific shapes which requires very specific furnace, a very specific injection equipment. The leader has to be certain lengths. The cold end inspection equipment has to be very unique as well.

So there are certain plants that focus one specific segment like wine, like spirits, like nutraceuticals as well, and this is not just a paint brush sort of thing we can do. When we say "glass containers," there's a lot of nuance in this industry from a manufacturer's perspective and from a customer-based perspective.

MR. CARRUTHERS: Court Carruthers from Tricor. I would build on Berlin's earlier testimony in terms of what's happened in the beer market, where you've got the growth of the Mexican beer brands and a lot of that filling now being done in Mexico with Mexican packaging. So that wouldn't show up as an import of glass containers into the U.S. But that product is ending up on U.S. shelves with Mexican packaging.

MR. JACOBOSN: Mike Jacobson from Hogan Lovells. Just to follow up on that, I know Petitioners -- well, the one Petitioner that's here today, Ardagh, mentioned this early this morning, that Mexico wasn't really an issue. They pointed to statements that they made on investor calls pointing to China as an issue.

Now we'll put on the record on Monday in our post-conference submission a number of other statements in investor calls and in their financial statements, pointing directly to Mexico and in particular to Corona as a major issue and competitor of theirs, and that the bottles that are made in Mexico are causing an impact on their business.

MR. ROBINSON: What are nutraceuticals?

MR. BROSCH: So these are the vitamins and minerals that are put in, a lot of times into a glass, a squat glass jar and there's a full range of them. So there's a lot of large -- a lot of large companies that are filling like Vitamin C pills or Vitamin D or all those things you see. They're either in glass packers or maybe in a polyethylene container instead of the plastic containers.

MR. CARRUTHERS: Court Carruthers from Tricor. It's everything in a GNC or the vitamin section of your local drug store.

MR. ROBINSON: Got it, yeah. I think that's all the questions I have for now. Many of the questions I had previously drawn up you addressed quite adequately in your presentation.

MR. CARRUTHERS: Thank you.

MS. CHRIST: Thank you. We will now turn to Brian Soiset, the Attorney Advisor.

MR. SOISET: Thank you. Thank you all for attending. As I told the earlier panel, we really appreciate when industry experts come in and help us to learn about your industry, and you provided a lot of insight. So my first question, something in follow-up to Mr. Neeley, but I think you stated for purposes of the preliminary determination you're sort of not contesting the definition of domestic like product.

I just wanted to -- is that the same for Berlin Packaging. Do you have any position on the definition of like product?

WW Yeah. We'll similar. We'll reserve the right to comment on the definition of domestic like product, the definition of the domestic industry, but right now we're not contesting it.

MR. SOISET: Well and for some of the industry witnesses, so domestic like product is just when -- we're trying to define, you know, what is the category of products we're looking at manufactured in the U.S.? And so we try to see if there are distinct categories within this. So I'm just wondering.

I've heard testimony about different sizes, the opening, the weights of the glass, the color. Are there any other distinctions that we should keep in mind when we are looking at glass containers, and where there might be dividing lines between different products?

MR. CARRUTHERS: Court Carruthers for Tricor. The one thing that struck me in this morning's testimony was the idea that these are all just the same thing because food and beverage goes into them. The Petitioner certainly doesn't sell them or go to market in that way. I think as you noted this morning, when we go on the one website the wine bottles aren't even on that website. They have their own dedicated sales channel.

The idea that you would fill wine in a beer bottle or a catsup bottle is not a natural idea, and the idea that you can run, change machines over to run different products on those machines, run wine bottles in a plant that runs beer might be a philosophical concept. It's not one we've seen, and when we've had massive supply issues it's not one that's been executed to fill those gaps.

So there were some things in there that, you know, for us we really do think about food glass, beer, wine and spirits as separate categories. They go to market as different, the competition set is different, the needs of the customer are very different. The engineering and technical capabilities of the bottles may be the same, but that might be the only thing that is the same across those three categories.

MR. O'BRYAN: Yeah. Just to add on that, I mean you know, the comment was made or they showed in their video, again this is Mark O'Bryan, the video, the different types of glass-forming processes. There's blow and blow, which is very much what wine bottles are done to, and then there was narrow neck press and blow, which they showed, and that's really high speed beer bottles.

So when you think of Anheuser Busch, etcetera, think of narrow neck press and blow, plants that are very configured to run those very, very, very efficiently. To be able to convert them to running a wine bottle, it can be done as Court says, but it is not an easy thing to do.

I think they would even suggest that as they tried to take the Sepulpa mill that they have in Oklahoma and turn it into a wine bottle flint facility, it's taken them a very, very long time to get that up and running, to making quality product for the industry.

MR. SOISET: All right, that's very helpful. Did you mention a specific plant there, that the domestics have actually switched one product to another? Did I understand that correctly?

MR. O'BRYAN: No Ardagh, yes. They began running flint wine bottles in Sepulpa, Oklahoma. It used to be more of a flint glass for food glass and beverage glass.

MR. SOISET: Interesting, thank you.

MR. O'BRYAN: Took I mean for us to get quality product almost a year.

MR. SOISET: So you were purchasing from there at the time. That's why you're familiar with it?

MR. O'BRYAN: They brought -- we were buying flint production from another facility, and we began to buy it from the Sepulpa mill.

MR. SOISET: All right, thank you.

MR. BROSCH: I think the distinction really is that, you know, these furnaces as you saw in the video are very, very large basically brick ovens, and say they're two or three hundred metric tons of molten glass inside there, and that amount of glass needs to be pulled out of that furnace every day, in order for them to have an efficient production run.

So if you make a decision to stop running amber beer bottles and start running flint food glass, you have to then convert that entire furnace, all the contents inside that furnace to a flint material of quality, and then all your production needs to be in that -- in the food and beverage vein, right.

So you can't run beer bottles on one line and then run wine bottles on another because (a), they're two different colors and (b), there are two different machine sets that are required to pull those out efficiently and to be able to run quality products. So that's what Mr. Carruthers and Mark O'Bryan from Tricor were referring to, that once you've made that decision, it's a lot of time and effort and investment in order to convert a furnace and equipment to the right platform to run a different product.

MR. CARRUTHERS: I'm sorry. Court Carruthers from Tricor. So this morning it was made to sound like that was an eight to ten hour job. I mean that's a year-long job in our experience, and I think we're fairly uniquely situated here in that we are a very large customer of Ardagh, maybe one of their biggest in the U.S., and we are a large importer. I mean we use both equally, and they both have their place.

So we're, it's not that we're a proponent of one versus the other. We use them in the appropriate circumstance to help serve medium and small customers. But are very familiar with the service level, the strengths and weaknesses of both sets of the supply chain.

MR. SOISET: All right thank you. That's very helpful. A lot of you have given testimony about wine, and the fact that you're sourcing wine bottles from China because of the perception that U.S. producers can't always meet these orders. Are there other products you're also sourcing from China in addition to wine bottles? I mean food or other beverages, anything like that?

MR. BROSCH: In particular, the spirits market is one that Chinese still, even after Section 301, really has the capabilities, the right supplier that can provide quality that will meet U.S. expectations and there really is not a large amount of capacity or producers available in the United States today. This is something that our glass is targeting out of Georgia.

It's interesting to note that two plants that Ardagh mentioned of the glass plates that have been shut down as of recently are in Georgia. So, now that we have a new entrant and they picked Georgia to produce out of is kind of interesting to note. But even Our Glass and new investors have seen that unmet need and it's either coming from Mexico, China, or Europe to help with these spirit bottles capabilities because that is a very unique manufacturing process and equipment.

And the color is what's referred to as super flint because it uses a very, very low amount of colorant in it. It has to have a very clear aspect to it; especially, if you're putting high-end bourbon or vodka or something like it in it if you can see any differences in that glass color it won't meet industry standards. So, the mix is very unique. The equipment is very unique. And there's just not a lot of capacity or capabilities in the United States that can meet that need. So, China's also a large exporter of spirits bottles as well.

MR. O'BRYAN: And for us, outside of spirits as well, the other one is these smaller, glass amber packers that go in this neurosocial market or you know small vials for essential oils, things like that.

MR. SOISET: And this would also be subject to this investigation as well? They're in this range?

MR. O'BRYAN: Yes, they are.

MR. SOISET: So, it's interesting my working on this case. I just finished the investigation on beer kegs and now instead of getting another delivery vehicle, I guess, for beer. You know hearing from domestics this morning I think they acknowledged the fact that there's a shift going on in the beer segment of the market. That increasingly aluminum cans are a method that is just getting delivered and I think they portrayed those that, well, in other segments there's an increase and so really it's a bit of a wash at the end of the day. And I just wondered what your perspective is on that. Do you think that decline in the beer segment is being made up for increases in other markets or what is your perspective?

MR. BROSCH: I think the general landscape in the United States has shifted more towards small, local producers and the flavor has really been what we saw with micro breweries that happened over the last 15 years where maybe we've hit that saturation point on micro breweries. We're seeing that in distilling of different alcoholic beverages as well as craft soda, as well as small producers for food and high-end food and beverage.

So, what we're talking about like if you look at Kombucha or you go to that Kombucha section a lot of those people started off fermenting in five-gallon pails, and we service those customers. And when they grow to a point -- as a matter of fact, I can think of one Kombucha producer in Colorado. We've just shifted to U.S. production because we got to a run length that made sense for a U.S. producer. Berlin Packaging and Tricor are the vehicles to take those small businesses and grow them into these massive customers then that a U.S. producer can take advantage of really. So, I think you've seen it across all industries now; especially, food, beverage, and spirits, this shift towards the local -- everyone wanting local produced product.

MR. WESSEL: If I could just kind of tie this altogether. I think what you heard from the Petitioners earlier was you have particular segments of the market that are growing, but overall decrease in demand. I think what you're hearing from us and what you hear from their financials, if you look at it, is a decrease in bottled beer, which they were primarily designed to serve, but an overall increase in demand for glass as the advantages of plastic, et cetera.

So, essentially, they bet on large production of beer bottles. And you know as the beer market has changed, I think that's the explanation, I think, for some of the issues that they've talked about today.

MR. JACOBSON: One additional point, this morning you heard Petitioners point to subject imports as the reason for closure of facilities, but that's not what they're telling you in their financial statements, their public statements, and their statements to their employees when they close facilities. These closures are really due to a decline in mass beer bottle production and a corporate shift away from that. For example, regarding the Milford, Massachusetts closure, this is from their SAC public statements in 2017.

They talk about that the company intends to pursue growth opportunities in stronger performing end markets, such as food, wine, and spirits, and they point to the mass beer sector as the reason -- as the problem here. So, the sub-segments, the market that's important to discern them and to look at the pricing products, Pricing Product II, is effectively a 12-ounce beer bottle, so take a look at the data there. I think it will be telling.

MR. CARRUTHERS: From a market assessment standpoint, would echo what was said by Berlin. The one thing this morning I did want to call out that was interesting in terms of the inability the wine market is definitely growing. That was noted this morning by the Petitioners. Their explanation is that they were not able to fully participate in that because of low-cost imports. But I know from our perspective they couldn't fill 20 percent of the orders we gave them, so they would've participated much more fully if they would've filled the orders that we ended up -- they ended up not being able to fill. So, those things were different from a market perspective and I think the piece about China -- you know there was a lot of discussion about moving up and down the value chain. I mean China is the quality provider in this case, so they are the -- you know you even heard from the

Petitioners this morning as good or better quality provider coming out of China and so this is really a quality and a consistency and a reliability of delivery situation.

It's not that there's some price element that caused them to not be able to participate in what is one of the high-growth segments, the other one being small customers in food, glass, and spirits and other things where customization at low MOQ, low order size is really what you need to be able to play in that space and those are the growth areas of the market.

MR. SOISET: Alright, thank you very much, and no further questions from me.

MS. CHRIST: Thank you. We will now turn to Craig Thomsen, the economist.

MR. THOMSEN: Good morning. Thank you again for your testimony. And the first thing I want to do is actually follow up on the statement you just said. I'm trying to get a little bit of quantification. You know what is a high-growth market? Everyone has said there is high growth in wine. There is low growth -- beer bottles are going down. What kind of percentage changes are we seeing over the period here?

MR. CARRUTHERS: We would have to submit proper, formal data in it because I'm going to go from top of mine. I mean packaging is not a high-growth segment period, so if we had perhaps mid, single digit growth in something like wine packaging I think we'd consider that a solid growth market. Maybe it's a little higher in some of the niche food and beverage, the spirits category, some of the niche food manufacturing categories.

A lot of that tends to be customer specific and these are the small customers that are growing. So, oftentimes, it's a startup customer that you start with at zero and then you grow them -- as Berlin said, you grow them to the point where they either get acquired by a multi-national, which is a very common story or they get big enough where we can run them domestically because they're now at the minimum order quantities that will work in a domestic environment.

MR. THOMSEN: Okay. That actually is one of the questions that I had. What is a typical minimum order quantity for a domestic producer? If this is BPI, you can submit it then.

MR. CARRUTHERS: We're going to submit that. We'll submit documentation.

MR. THOMSEN: Okay. I'm thinking about also demand. I'd asked this of the previous panel. What are some demand indicators that you look at? Do you agree with Petitioners' assessment that there's all sorts of ups and downs in all the different markets and there's really no way to quantify or look at any specific type of indicator, like GDP or they said Euro Monitor they may have looked at. Is there anything that you are looking at in terms of when you're either forecasting growth or something that correlates with the growth in the glass packaging market?

MR. CARRUTHERS: I think in glass packaging, in particular, there's really three core segments that you could, I think, look at underlying data, and we've talked about what those are, being food, beer, wine, and spirits. There's lots of data around how production is growing or not growing with those categories. It's also true -- I think it was said this morning that there are definite shifts between substrates. And so you could have a company growing, but they're moving back and forth between metal and glass, glass and plastic, depending on what the different category is.

For our business, we do tend to look at it by category. And, keep in mind, glass containers for us are about a quarter of what we do. I mean it's a part of what we do, but we play in many, many spaces that are outside of the glass container end of things. But I think you would be able to understand, to some extent, and market demand in those three categories.

MR. THOMSEN: Okay. I'd say before post-hearing, if you had anything you want to submit on there, again, I invite you to do so.

I'd also asked about Made in the U.S.A. and whether that is important to your customers as well. I could start with Tricor or whoever wants --

MR. WESSEL: I'll start and flip it over. So, yes, we definitely have customers where that's a key part of their value proposition where they want to buy American. There are environment benefits to that, lower transportation costs. You're not having the ocean freight. It might tie into their brand positioning in the marketplace as a local supplier. There are certain glass manufacturers that have that as -- have always had that as part of their value proposition. Ardagh talked a little bit about it today. There are other folks in the market that it's been a consistent element of whether they're U.S. owned and only have U.S. production.

And so, yeah, there are definitely customers where that's a critical element. However, for those customers, I think -- and we've seen this over the course of 2019 -- if that mobile filling station is there that day and they don't have a bottle to put it in that is catastrophic to their business. I mean these are small businesses. You book that mobile filling station eight, nine, ten, twelve months in advance. Oftentimes, you're booking the year ahead from the day you're filling right now. And if they don't have the bottles there to fill -- put the juice in that's catastrophic for their business. And so, in that environment delivery, quality, consistency is going to trump any of those things. If those things are good, there are definitely customers where Buy America means a lot, but having the bottle there, strong delivery, high quality is the most important thing.

MR. THOMSEN: Okay. For Berlin?

MR. CARRUTHERS: Yeah, given that it involves our relationship with customers, I'd prefer to answer that one under the APL.

MR. THOMSEN: Alright. Opposition made a statement earlier this morning that demand for glass packaging is inelastic; would you agree with that assertion?

MR. CARRUTHERS: I think that price is always a component. In our experience, as I just said, the elements ahead it's probably the fourth or fifth component in the list for customers, so I'm not sure how I would measure, economically, the amount of elasticity in it. Price is always a factor, but it's not the major factor for these customers.

MR. THOMSEN: Okay.

MR. BROSCH: I would say that there's a preference towards glass in a lot of the industries that we've mentioned today -- the high-end, premium look, the feel of -- a lot of the larger brands on the retail shelf, like a Craft Heinz or you think about that, a lot of them have converted from glass to plastic over a period of time. And a lot of people want to differentiate themselves by still putting it in glass because it does give it that higher end premium look. So, I would say can people shift? Yes. And in some instances; especially, in the beer market, filling cans is a lot cheaper than filling bottles. The equipment around putting that beer inside a bottle is very expensive and theirs mobile canning companies that drive around to micro breweries and they'll can their latest batch.

And that flexibility in their product process is the main driving factor, I believe, that is pushing the aluminum can market, which has grown exponentially in the last three or four years. Not just in beer, but in other sparkling beverages and I think that, in general, has been a big hit to the standard beer bottle shape where maybe five, six, seven years ago you had micro breweries just buying the same bottle that an Anheuser Busch or a Bud Lite would put their beer in to, but now they like the look of aluminum cans and their flexibility in manufacturing and then they can just label it with whatever that new batch is called.

MR. THOMSEN: Okay, thank you for that.

Okay, another thing that was brought up this morning was the pricing product definitions. In there, Mr.

Neeley and Mr. Wessel, I wanted to give you the opportunity to respond to that or give your thoughts and opinions.

MR. NEELEY: I guess our main point, as was remarked this morning, these were products that were chosen by the domestic industry. I'm not exactly sure what Mr. Pickard was referring to in terms of problems with the data. I hope that he's not referring to problems with his own data or the domestic industry because there are trends that can be observed with regard to those prices as well, which are not necessarily helpful to them, I think. And I don't know what problems he's talking about.

I mean, at the moment, clearly if there are mistakes they ought to be corrected. But, in general, I think that you've got quite a bit of data and you can probably rely on it.

MR. THOMSEN: Mr. Wessel?

MR. WESSEL: Yeah, no, I largely echo my colleague. I think, as Mr. Pickard hinted, they've been thinking about this case for a long time. This wasn't something that was brought on a whim. They've had plenty of time to get their pricing products correct. You know, they obviously are gonna pick the pricing products that are most favorable to them. We all know that's what they do. And it appears that we kinda took their best shot and they weren't able to show underselling.

You know, I wanna be very careful here, but as I reviewed the questionnaire, I think I only recalled one instance where somebody decided, hey, I had some trouble kind of reporting this. These rampid data falls that Mr. Pickard referenced, again, I just don't see that supported in the record. You know, they pick these products and I'm really sorry that it doesn't show the results they want, but I kind of feel they're stuck with them.

And that argument that, "Hey, you just gotta pump this to the final." Respectfully, that's completely against the statutes and it's unfair, you know, to make somebody go through a final when the data clearly shows a complete lack of underselling.

MR. THOMSEN: Thank you very much. Mr. Carruthers, you had noted in your testimony that you are "always changing sourcing." And I'm just trying to follow up on that. Is that based on who your purchasers are at that moment and the different specializations of the different plants? You had mentioned that also, but I didn't know if you wanted to link the two together or whether there was something else that was going on.

MR. CARRUTHERS: Yeah, thank you. Court Carruthers with Tricor. So I think, in certain categories, food glass would be one. We're always looking at different sources. Some of that could be capability, based on a customer-specific project.

So we're not someone who just brings in containers of a product, puts them in a warehouse and sells them. Like, our stuff is done for a customer. And so, based on customer demand, we may have to go source out new production capabilities, new plants, new substrates, new ways of producing something. Because we're often designing, as we said, for small companies, new products and they want an edge in terms of their go-to-market strategy.

I think the one specific area--and Mr. O'Bryan spoke to this in his testimony--is wine bottles, is a very, very difficult one, because it is incredibly specialized. And that's why we've talked so much about wine bottles, because we have moved things like food glass, which is more of a commodity to different plants in different countries and can be moved.

In the case of -- and we do very little, almost none of it, in China -- in the case of wine bottles, it is very specialized, both in terms of the equipment and the expertise. There are a very small number of producers around the world. Capacity is incredibly constrained. And so that's one that, quite frankly, hasn't moved very much, and is incredibly challenging to move.

And one of the things I heard this morning about the molds, we were talking about sort of, you know, could the customer just kind of take their mold and move it somewhere else. It's almost laughable to think that a customer could do that with a mold. It's running on different equipment.

We also own many, many hundreds and hundreds of molds with customers. Usually there's joint IP development, there's joint ownership, there's capital investment that's made in those molds, based on a certain amount of product being purchased from you. It generally will only run on one type of equipment. It won't run in another plant. All of these things from our expertise.

And what was also interesting is the petitioner, you know, doesn't make all of those molds in the U.S. Many of their molds are also made in China, which I thought was interesting, given the topic under discussion. And so the idea, especially on the wine side, that you can just sort of plop a tool or a mold into all these different plants like a Lego piece, and produce wine bottles is laughable in practice.

MR. THOMSEN: Okay, thank you for that. That's a perspective I wasn't expecting. Well, honestly, I hadn't thought of the, you know, I guess you're talking Lego pieces that the piece on the bottom is different than the piece on the top, and they have to work together. That makes sense.

I touched this morning on availability, and they had said that the vast majority of their sales are for just-in-time delivery. You had noted in yours that they have to be there at a certain time. Is it a just-in-time delivery for you as well? Or is it a just a specific date, so you have so much lead time that you can go out, search for your producers, get it here, overseas and then be able to have it in plenty of time for their production?

MR. CARRUTHERS: Court Carruthers again. I thought what was interesting in that discussion this morning is the question you asked about lead time was answered with delivery time, so that it was, you know, forty-eight hours to get a truck and then depending how far the customer was away from the plant -- the problem is you have to produce the product, which is all of the lead time, which could be anywhere from 90 to 120 to 150 days before that two-day window gets there.

And in the case of one of the projects I mentioned, we have something that's been sitting eight months waiting for a customer to get manufactured. So the issue isn't so much the truck delivery piece. It's the manufacturing process through the factory.

Berlin spoke earlier about the situation you could have where they only run one color campaign once a year, and so if you miss that two-week window, you're another year until you get it. So that just-in-time delivery might be two days, but you waited a year to get the product manufactured. And so that's the issue with the customer and so, yes, we do have a large warehouse in wine country, as does Berlin, so that we have that product. And it's ready to go. It's got the customer's label. It's in the customer's box. It's ready to go. It's custom for them.

We hold it, so when that mobile filling station's there, they're ready to go and they don't miss that. And we may hold that two months in advance just in case there are any production issues. But our struggle this year has been the domestic producers' inability to meet their committed lead times to us, which has cost us a significant amount of business, and it's also created hardship in the small wineries in Napa Valley.

MR. THOMSEN: Okay. Mr. Brosch?

MR. BROSCH: This is Adam Brosch from Berlin Packaging. So I would echo a lot of what Court just mentioned from Tricor. What I would say is specifically to these agricultural-based industries like wine or food, you know, there's a certain season for this. And whereas an Ardagh does, and they said this morning in their testimony, that they do service some of the largest, you know, producers in the world.

Well, if the yield is good for large producers, it's probably good for the small- and mid-sized customer as well. But where are those bottles gonna go? They're gonna go to their long-term contract for their biggest users within their system, and they're gonna route that extra capacity to those folks.

Which really leaves the small- and mid-sized companies, you know, with all this fresh produce or wine, if it's a good wine season. And they can't just let it sit around. They need that product right then and there. So that's another factor of this. They always need to be producing some type of a bottle.

And then these agricultural businesses don't know exactly, they can't forecast their exact need every year. They need a high customer-service-providing company to really be able to help them forecast and get the product that they need, when they come to you and say, "Hey, I need an extra four truckloads of wine bottles, because I had a really good harvest this year."

MR. THOMSEN: Okay. You bring up some interesting points. It sounded like you're saying, and correct me if I'm wrong, that if there is a good harvest year, that the large wine producers would have contracted with the domestics and they would've then also taken sales away from the small and medium producers. But I thought that the small and medium producers weren't able to hit those production levels necessary for U.S. producers to supply them?

MR. BROSCH: This is Adam Brosch from Berlin. Some of it's chicken or the egg. Yeah, there are producers that won't hit the minimum that's needed, but as Ardagh mentioned earlier, they have their direct sales team. They have their stock portfolio of stock shapes. And there are producers that obviously buy from Ardagh for wine bottles. But what we're saying is, when a harvest is big, the biggest wineries are gonna get the bottles they need, and the small producers are gonna be left with no choice.

And really, that's where we come in. We're servicing a need in the market. Whereas, we know they don't have enough capacity, and that could be as a function of time, right, as you think you have three, four months to stage for wine harvest season, and if that three or four months is going to a Jackson Family Wine or a very large wine producer, then the small- and mid-sized guys might not find out until a week or two before they need those bottles, that, "Hey, you're not gonna get any bottles this year." So then they have to go find a source.

And that consistency, that consistent message over a period of time is what has really developed this import of Chinese wine bottles. As Tricor mentioned, 2007 was the first time they started importing. You see that shift as the number of wineries grow and the capacity is not growing in the United States, there's an unmet need.

MR. THOMSEN: And so does Berlin and Tricor, do you both keep enough inventory in that area in order to meet those needs of the highest peak yield seasons, in order to take care of the small and medium producers in this? Or is it something where you have to -- you know, it seems like your lead times are very large from what you were saying before, and it seems like you might have a difficult time trying to fulfill that need as well.

MR. CARRUTHERS: So Court Carruthers for Tricor. I mean that depends on -- we then depend on the domestic -- again, we're equally split, domestic, import, right? So then we depend on the domestic producers to meet the committed, agreed time, delivery time, if they don't meet that, then that puts a lot of pressure on us, and that would be a case where then we have to increase the amount of import inventory that we carry to meet that demand.

So, yes, the general idea is that we have sufficient inventory to meet that demand. But we're still reliant on the domestic producers and the import producers to still make the product and hit their lead times to whatever forecast we have for that growing season.

MR. THOMSEN: Okay. So you are basically trying to carry enough inventory to hit the highest predicted amount of --

MR. CARRUTHERS: I would say to get --

MR. THOMSEN: -- for the year?

MR. CARRUTHERS: -- the forecasted amount with some buffer. So I mean if you had the twenty-year high, that we carried that, the once-in-twenty-year event, do we carry that inventory all the time? No. Because you couldn't economically do that. But would we hit nineteen years out of twenty? Yeah. Provided that the underlying manufacturers deliver. And this was a year where the domestic producers couldn't deliver 20% of what they committed, and so we had to go resource it.

MR. THOMSEN: And was this a twenty-year high year or not?

MR. CARRUTHERS: I don't think it's a twenty-year high in the market, in the wine production market, but I think that the domestic producers had a really hard time keeping up with the supply commitments that they made. I don't think that. I know that, and we'll factually demonstrate that in our submission.

MR. THOMSEN: Okay. Yeah, and I guess that's a segue into one of the things that I was gonna leave till the end, but I can ask it now. Is just, you know, you had noted that you were gonna be submitting different things, you know, primary sources such as e-mails and other internal documents are a great resource for helping us pull the record, so please do so for what you have said so far. I may have a couple of other requests for post-conference brief as well.

If I can bring it back to delivery and lead time, I asked about contracts and availability and dates. Is there competition in terms of lead time? Is there competition in terms of availability, as well as in price?

MR. CARRUTHERS: Those are the main, I mean, as I said before, if you don't have a bottle, and the filling station's there, the price is completely irrelevant. You blew your year, your season, for a small business. So the availability commitment is a standard element of all of our contracts.

MR. THOMSEN: Okay.

MR. CARRUTHERS: The quality element is a standard piece of all of our contracts. Those are the main things that customers wanna talk about is, quality, consistent delivery, and how can you help me with differentiation around the bottle, the packaging, the labeling that's gonna help me stand out and win in a crowded marketplace. I mean, that's the -- and yes, is price an element of that? It is, but it's probably four or five on the list.

MR. THOMSEN: And are there differences between the seasonal demand elements for contracts than there are for something that's more consistent, manufacturing 365 days a year, type, contract?

MR. CARRUTHERS: So, as Adam talked about earlier, it's Court Carruthers for Tricor, you know, in the fresh pack and in the wine segment, I mean those are agricultural industries, there's definite seasonality in those elements of this space. There's lots of other pieces of glass packaging that have no seasonality whatsoever.

MR. THOMSEN: Okay. So the contracts will be different --

MR. CARRUTHERS: We get held to a meeting demand in the peak season, because they couldn't care less about how you do in the off-season.

MR. THOMSEN: Of course.

MR. CARRUTHERS: It doesn't matter.

MR. THOMSEN: Okay. Just wanted to see if there was anything else that I have that are direct before I get onto post-conference brief requests. Guess the last thing I might say is just to have you provide a little more clarity in terms of this value-ladder idea. You had said something earlier--I think it was Mr. Brosch that said that the food container doesn't have a whole lotta--no, it was Mr. Carruthers, the food container, there aren't a whole lot of specifications in there.

And this is getting to Ms. Christ's question beforehand that, it seems like the value-added may have to do with specialty reasons and specialty wine bottles, stuff like that. What do you see as a value ladder in terms of the glass container market?

MR. CARRUTHER: Yeah, thank you. Court Carruthers. I'll maybe take that into two or three different pieces and if I don't hit it, just hit me, hit me again with the question. So I think the way that it was positioned this morning was that the Chinese manufacturers started with the easiest stuff and maybe the quality wasn't as good, and was acknowledged, I think, by the petitioners this morning, you know, two or three folks said it was at least as good, and in one of the pieces of testimony, in some cases, better than the U.S. product.

It is certainly our experience and our customers' experience that it is as good to better, particularly in the wine segment, which is probably the hardest thing to make. And so, you know, that's one where this is the highest quality product you can find. In this case, it's coming from China. And some of that is, a newer industry. They've also had very strict EPA regulations, which is something that came up this morning, very, very strict.

And so there's been massive capital investment in those plants. Because they had to meet the wine bottle producers that are still in business, because many went out of business, had to meet very stringent environmental controls from the Chinese government, and so they've made investments and it is a very high quality product.

That is not necessarily always the case, and I think the domestic producers do a great job on the more standard, longer run, which is why we're very a large customer with the domestic producers. But the Chinese quality is very, very high on probably the most challenging product that there is to make, and that's why it's really hard to move those things, regardless of what the price is.

And I think Adam had shared that in spirits, there's kind of the similar end there. On something like food glass, it's not that quality isn't important, because if you have breakage, if you have safety issues, if you can't fill it, I mean those things are all really important to a business. It's just not as complicated to make and there are more people that make it.

So I would just say it's more of a commodity type of product. You still need to have good quality, but it's made in more plants around the world. It's not as specialized, and therefore, there's more countries that make that, and it's easier to find supply. Mark, what would you add? Would you add anything to that?

MR. O'BRYAN: No, I think --

That's how we source it.

MR. THOMSEN: So you kind of see food containers, at the bottom beer bottles?

MR. CARRUTHERS: Beer bottles is not a big part of the business for us. The majority of our beer bottles are sources domestically.

MR. THOMSEN: Okay. And are they difficult to make? Are they as difficult to make as wine bottles?

MR. O'BRYAN; Well, I would say to make them very efficient, they've invested a lot of capital. I mean, you can go--I've been in one of the OI plants, and it's awesome just how efficient they can make lots and lots of wine bottles. And so--I'm sorry, beer bottles. It's not an easy thing.

So to invest all that and do it as efficiently as they do it--and I'm assuming Ardagh has the same capabilities within their beer bottle plants.

MR. CARRUTHERS: But again, single item, high run for a large customer. That's not our business. We don't play in that. That's just not our--that's not our game. That's not our space. I mean, our business is small, medium customers, help them grow bigger. And so, you know, large-run beer production is a long way from anything that we would be involved in.

MR. THOMSEN: Okay.

MR. WESSEL: Jared Wessel. You know, I think that's really it. I mean, you know, we've talked about quality, and I think we can expand on that in the APO submission, but again the U.S. industry is really designed for these high-volume runs in the beer industry.

And I think where the Chinese have come in and filled a niche, and where our glass has identified a niche, is more in these low volume specialty runs with case packing. That's--you know, again, just to be up front, that's the core of our argument; that there is this part of the market that the Chinese are uniquely positioned to fill, and it has been filled because the U.S. industry was not designed to fill it. They're fine, you know, making these beer bottles, but again that was not the focus there.

And, you know, again, to the extent that they're alleging that there's softness in their financials, et cetera, it's--you know, if mirrors the fall in the mass beer domestic market that we're seeing. And again, I mean I hate to keep bringing it up, but that's what they say in their financials.

I mean, when your financials say, and you say what's wrong? They say it's mass beer. They don't say it's China. They say it's mass beer. And again, I don't think they can run from that now. I don't think they can run for their financials. And I don't think they can run from the underselling data.

MR. JACOBSEN: Mike Jacobsen. Just to add to that, the domestics are dominating the industry. As you heard, at least in their words this morning, 79 percent of the industry is domestic. If you add "captured or affiliated" producers around the world, it's probably coming closer to 90 percent.

So you're the opposite of what you will often see in these cases here. You don't have producers running to China. Instead, you have producers who can't get in with the U.S. producers who dominate the industry, going to China or third countries to be able to do their small production runs, and if they grow and they succeed, they go to the U.S. producer. Frankly, the Chinese producers--the story that we're hearing is that they're not hurting the U.S. producers. They're being hurt by other things like the beer bottle demand going down, which is a broader market force that has nothing to do with China.

MR. THOMSEN: Alright, thank you, Mr. Jacobsen. The last thing that I would request for postconference brief, number one, you had touched earlier, Mr. Neeley, about your explanation that the Customs data is not reliable. I just want to make sure that you give very specific reasons for why you believe so. I know that's bridging on BPI and you can't do it here, so I--

MR. NEELEY: Well, yeah--Jeff Neeley. The problem is, I probably can't even do it in a BPI brief because what I was referring to was released to us under an APO at Commerce. I mean, we'll address it for sure, but what I'm suggesting is that you pull that data yourself. I think that is the best I can probably do. But I'll explain it more. I can't give you any specific names without getting myself in trouble with Commerce.

MR. THOMSEN: That's alright. I don't want to get you in trouble.

(Laughter.)

MR. NEELEY: And I wouldn't want to do that. I'm in enough trouble with Commerce every day.

(Laughter.)

MR. THOMSEN: Okay, and we already touched on the emails regarding the lack of capacity and product cancellations for 2019, and the data regarding demand for different segments of the industry. And I see I missed one question. I'm sorry.

I just wanted to touch on the mergers and acquisitions question, which was the last one. Have you seen any mergers and acquisitions by Ardagh with respect to Anchor, with respect to, I want to say, not Vidalia, but--

MR. NEELEY: You said it this morning perfectly.

MR. THOMSEN: That's because I was reading it off of my screen right here. Did that change the landscape at all?

MR. NEELEY: I think, Adam, you spoke to this in your testimony. Do you want to-just the market concentration?

MR. BROSCH: No, I mean it absolutely has had an impact, especially if you look at it over a very long period of time. Through the number of, you know, competitors and different platforms and different options in a market, it definitely gives you more flexibility if one in particular manufacturer is struggling to hit certain capacities, or lead times, or that sort of thing and you have other players in the market that may be better able to service that.

So I think the consolidation and the shift in the market that we've talked about, maybe away from mass beer or into these smaller producers, you know, sourced local kind of feel. I think the combination of those two things has really exposed this unmet need that we've been talking about that's being filled with imports from China, as well as imports from many other countries.

MR. CARRUTHERS: The only other thing I would add, you know there was a--originally OI was not one of the participants to this hearing. I believe they're now more involved and they also, you know, at the same time announced they're selling their Asian assets. So that's an interesting element of M&A and divestiture coming together with this case.

I do think it's--I've been involved with this in other industries. I mean, I do think it's odd that you've got 90 percent control by 4 parties, and 7 percent share that's coming from a country, and that's creating all of the issues in the market. That would be a pretty unique set of circumstances for this situation to hold, which is why it's our belief that it doesn't.

MR. THOMSEN: Okay. I've grilled you all long enough. I'm going to pass it off to my colleague.

MS. CHRIST: Thank you. We will now turn to Greg LaRocca, the Industry Analyst.

MR. LaROCCA: Hi, everyone. Thank you guys for staying this afternoon.

Jeremy, you kind of hit on this earlier. I just want to make sure I have a good understanding. So this morning we heard from domestic producers regarding retooling time. The Chinese producers have the same amount of retooling time? Or is it shorter because they have smaller operations?

MR. BROSCH: It's okay. Adam Brosch from Berlin Packaging. I'll answer the question. It's interesting because usually retooling is a product of the customer and the manufacturer. It's kind of a joint effort between the two. The lead time associated with actually building the capital equipment needed to run a specific shape is fairly standard amongst the industry and amongst all the countries that we currently do business in.

But I would say the customer qualification portion of it can make that somewhere between 6 and 12 months, depending on how stringent that customer is to ensure that that product will run at the fill speeds that it needs, and it is of a quality that they require.

MR. O'BRYAN: Yeah, I mean you usually go through a process of you build a unit cavity to make sure the design works for the customer, and then build out further molds to do it then efficiently to their needs. So that's why it takes the time.

MR. CARRUTHERS: Court Carruthers from Tricor. The one element this morning that was related to this was the idea of sort of all of these are just food and beverage containers, there's really no difference between them, and you could just kind of in a couple hours flip a wine bottle tool onto a beer bottle piece of equipment and you'd be up and running.

I mean, that's just not the case. I mean, that was a theoretical element that I think surprised all of us because we haven't seen that occur.

I think in the Chinese set, really, I mean the suppliers we use for wine bottles, you know, they have dedicated equipment and furnaces for wine bottles. They're not trying to switch them back and forth to other stuff, and wouldn't claim that they would. If they did, it would be over a long period of time.

MR. LaROCCA: Okay. And in your postconference brief could you please attach information on standards that you guys have when importing the bottles and other food containers, as well?

MR. CARRUTHERS: Quality standards?

MR. LaROCCA: Yes, quality standards like ASTM, that kind of stuff.

And that's it for my questions.

MS. CHRIST: Thank you. I will do a quick scan to see if there are any follow up questions. I guess we were very succinct and comprehensive this time, as well.

I want to echo, as well, the thanks from everybody. I am always appreciative of people who will come down and, again, educate me and also our team and provide additional perspective and insight that we definitely need to do our job. I will reiterate that. It is definitely perspective that we need to do our job correctly. So thank you very much for helping us in that vein.

Most of the questions got asked that I had. One question I wanted to follow up on was the role, as has been mentioned tangentially, about these mobile filling stations. Is that sort of a way that one describes a small and medium size enterprise? And what size part of the market? Are they mostly obviously just the drinks and beverages? I just wanted to get a little bit more about this. And are they the ones that get large enough to be moved to a U.S. producer? And when they do that, is that because they have their own filling stations? I'm trying to get like how does one grow? And what is the ownership, the filling capacity ownership as part of this evolution?

MR. O'BRYAN: Mark O'Bryan from Tricor. Let's say you're going to fill about 10,000 cases of wine bottles. You won't invest in the capital equipment to have an automatic filling line. What you'll do is you will source with these service providers in California, Portland, et cetera, to bring in a filling line. It's a mobile line. It's on a truck. And we bring our bottles. They bring the juice. You have the filling line, and you fill the bottles. And then the mobile line goes off to the next customer.

That is the most cost effective way for them to fill their bottles. And I would say, you know, you're in that smaller range, you know, 5,000, 10,000, 50,000 case type wineries.

And then as you get bigger, they may move up and invest in their own filling equipment. You know, it's just what makes sense for them.

MR. CARRUTHERS: And I think, to be clear, we don't play in that space. And that's just a service provider to the winery, but it's critical to the winery that the bottles and the filling station are all there at the same time. That's just the point about delivery. But we're not involved in the filling of anything at all. And the fillers are not decision makers, generally speaking, on who the bottle supplier is.

MS. CHRIST: Is this a fairly large part of the market? Is it a large part of the market? Has that changed over time, this group that requires mobile filling stations?

MR. CARRUTHERS: I'm going ask Andrew Bottene, who is our Chief Commercial Officer for the wine business to answer that.

MR. BOTTENE: Andrew Bottene. Thank you. To answer your question, the filling--there are multiple fillers throughout the Western U.S. for wineries. As Court and Mark mentioned earlier, these are predominantly for smaller wineries who do not have filling lines themselves, or do not contract their filling outside of their own facilities.

There is a very small handful of these guys.

There aren't that many. And it's very expensive and labor intensive and capital intensive to get into to create one of these trucks, 23 footer, filling lines, mobile lines. So they are far and few. And if you miss a date, it's not just potentially losing your wine, it's financially you are charged a fee, a substantial fee, to get back on their schedule, if they can get back on the schedule.

So for these small mom and pop's agricultural farmers that are producing a lot of wines that we all drink, it is very touch-and-go if they miss something. It could ruin their entire season.

MR. CARRUTHERS: And how big--how many wineries use--what percentage of--

MR. BOTTENE: California has 4,500 wineries. I would say just a rough number, my goodness, over 50. That's probably high. Twenty percent, 30, it's all the small wineries, predominantly the wineries in the U.S. market are small.

MS. CHRIST: Thank you. I didn't mean to put you on the spot indirectly that way, but thank you.

MR. BOTTENE: I don't want to give you rough answers. I can get that data and get back to you guys.

MS. CHRIST: I appreciate it.

MR. NEELEY: Yes, we'll do that. Jeff Neeley, thanks.

MR. BROSCH: This is Adam Brosch from Berlin Packaging. Just to add to this, this is another reason why case packs are such in high demand. Wineries, food, beverage, even if they have their own filling equipment, which is very expensive for them to invest into, in order for them to take bulk-oriented packaging they need to have a depalletizer equipment that's specific to how that pallet is oriented.

Case packing really is so that they can have manual labor taking those cases and flipping the bottles down onto a machine that feeds into that fill line.

So all these requirements are based on the producer's size and their ability to invest in their own operations where that makes the most sense for them to do. So our flexibility in providing packaging at the right time and the right packaging orientation is really critical and key to their ability to service their own end consumers.

MS. CHRIST: Thank you. And my last question was more of a curiosity, if you could walk me through what happens. You mentioned if there's a particularly good season and everybody has a lot of volume, but you stated that U.S. producers would be orienting that volume primarily to their larger, long-term customers, whereas the smaller ones would not.

Given the time that it takes to develop the mold and the customization of the bottle, and the IP around that, what happens--I'm just curious--what happens in that situation as a purchaser when you've come to this position? Are you then allowed to take your mold someplace else? But it sounds like you can't do that easily. Can you just walk me through the dynamics of all of a sudden you don't have your bottle and your purchaser?

MR. CARRUTHERS: Court Carruthers. A mass scramble for a stock bottle to put your product in. And, I mean we end up, all of the distributors would end up being on the receiving end of those calls. And sometimes amongst each other, to help support a customer that gets into that type of situation.

And so you may not be in your custom bottle in that. You would be in a stock bottle. And we've had that happen to customers this year when the domestic producers failed to meet their requirements on about 20 percent of our orders.

MS. CHRIST: Thank you, very much.

MR. BROSCH: Adam Brosch from Berlin. I would agree with that. Mainly driven in the agricultural industry, obviously, but that's also why Berlin Packaging, and I believe Tricor as well, we've invested in repallitization equipment as well. So we sometimes keep stock and are bulk oriented, and we can convert it into the customer's specifically printed cases so they can still receive the bottles in a fairly similar packaging orientation, even if it's not their custom shape. Most of the bottles are 750 milliliters for wine, and so they can fill their bottles in so they don't spoil and then waste a lot of their own cost of goods and operating efficiencies.

MR. CARRUTHERS: Both of us have significant repacking operations in the wine producing area for that reason.

MS. CHRIST: Thank you. Thank you, very much.

I again want to thank all the witnesses for today's testimony.

Mr. Secretary, can we please proceed to rebuttal and closing remarks.

MR. BURCH: Closing and rebuttal remarks on behalf of those in support of imposition will be given by Daniel B. Pickard of Wiley Rein. Mr. Pickard, you have 10 minutes. You may start when ready.

CLOSING REMARKS BY DANIEL B. PICKARD

MR. PICKARD: Thank you. Good morning -- good afternoon. Again, for the record, I'm Dan Pickard of Wiley Rein. We're closing relatively early for a staff conference, but these always seem like longer days, so I'm going to attempt not to use all 10 minutes.

First off, just as a housekeeping order just to confirm, we did receive notification that the Department of Commerce has initiated the anti-dumping and countervailing duty cases today and the highest rate that has been initiated is 255 percent, so I just put that out for the Commission's attention.

I asked my clients to fill out an index card every time that they heard something that was factually inaccurate or potentially misleading during the Respondents' panel. I'm not going to go through them all. Some of them are more detailed. What I think I'd like to do is just stick to the more Big Picture issue, although we will be following up on some of these in our post-conference brief.

And what I'd like to do, I think, is talk about where there are areas of disagreement and then maybe finish up somewhat surprisingly with the areas where there are agreement, and I'm just going to tick through a couple of these.

So, there is clearly a disagreement in regard to the importance of large orders. And to the extent that this could've potentially been true prior to the period of investigation, there is objective evidence that that's just not the case now. And I think Buy Our Bottles.com is a great example of that, of the willingness to sell in very small orders. Ardagh Direct is great evidence of that. I think really you've heard an old story trotted out that's just not factually correct and we'll document that more in our post-conference brief.

We heard about Mexico and there's some general disagreement about that. We're speaking on behalf of the domestic industry, obviously not against the idea of competition. This is a case about unfair competition. I would point out that -- and we supplement -- that there is significant evidence that the Chinese prices are considerably lower than Mexican prices. I take Mr. Wessel's point in regard to the average unit value from the official import statistics. Doesn't do a great job of teeing that out -- teasing that out, but I would suggest that is more a function of product mix and that is the problem. As the Commission has recognized when you have basket categories of HTS that AUV data is not particularly probative.

That being said, we've never indicated that, one, Mexican imports might not be injurious, just that the Chinese are a higher priority right now and we are most definitely keeping our options open should there be evidence that either the Chinese -- excuse me -- the Mexican imports are receiving subsidizes or being dumped in the United States.

I think there's some tension and disagreement in regard to factors that have to do with inventories. If I understood the Respondents' witnesses correctly, to the extent that they are keeping inventories maybe not for the 20-year phenomenon, but for 19 out of the 20 phenomenon that would seem to be strongly supportive of the idea that these are fungible products and diminishes any idea of the importance of the immediate or shorter lead times.

I'd also point out -- and we'll document this more in our post conference brief -- that Ardagh also maintains significant inventories and there are at least 60 to 90 days of inventory sitting on the floor at Ardagh even as we speak.

In regard to the closure of facilities, there is one potentially misleading -- avenue of misleading statements that you heard this afternoon and just definitely want to clarify. The story I believe they were telling this afternoon was this is a beer story and the closure of facilities really were a function of changes in demand for beer. The majority of facilities that Ardagh closed over the period of investigation did not make beer bottles. I think that's important to note.

I think there's also been very selective quotes from SEC filings and we very much intend on following up with that, but again, to the extent that large orders were taken to China which then lead to closures of capacity for the domestic industry and then to turn around and complain about immediate available capacity is most definitely close to blaming the victim.

Maybe one last thing where we disagree, and just -- that just is incredible. There was a thrust of comments in regard to the specialty nature of a lot of the Chinese product that were coming in. There was roughly 400 million dollars worth of imports in 2018 from China. I don't believe anybody is seriously going to contend that these were some type of specialty or niche products. And to the extent that -- and as I'm sure that members of the General Counsel's Office is well aware -- the legal opinion that's most on point in regard to causation is the Federal Circuit decision in Diamond Salt Lakes. And even if there is minor attenuation at one end of a spectrum -- at another end of the spectrum, to the extent that there is competition in the heart of the market the IT -- or the Federal Circuit has said that is sufficient for purposes of causation.

So, that being said, I'd like to talk about some of the things that we agree with the Respondents' panel, some of which might be a little surprising. For example, we appear to actually agree in regard to price sensitive. You might have taken that away from the afternoon panel. You certainly heard this morning the domestic industry talking about the importance of price and the extreme price sensitivity.

I would point you to -- and we'll put this on the record too -- the hearing transcript for the 301 proceeding from August 20, 2018, page 381, where the witness from Tricor states "The effected product sold by Tricor Braun are extremely price sensitive." So, I would just like the record reflect that we all seem to agree on that point.

We also seem to agree in regard to domestic-like product, at least for purposes of this preliminary determination. Nobody disputes that the official imports statistics show a significant increase of approximately 30 percent over the POI. Mr. Neeley and I obviously disagree in regard to what has greater probative value. I would say that coverage or the lack of coverage by the importers' questionnaire, and consistent the Commission's practice, suggests that the official import statistics are most relevant.

Nor does there seem to be any disagreement that imports grabbed -- Chinese imports took market share away from the domestic industry. Nobody appears to dispute the fact that there has been price suppression in the marketplace nor does there appear to be any argument that the domestic industry hasn't suffered injury during the POI.

So, this get me to really kind of two last major points which -- maybe three last major points which I find to be particularly interesting. We seem to agree that people are going to continue to import regardless of the Section 301. As a matter of fact, the witness from Tricor in his written statement indicated that Tricor imports from China and why it continues to do so to this day despite the Section 301 tariffs, which really goes to concepts of threat and here's where I think some of the things are most interesting.

We had from a Marco point talked about imports coming in really in food containers moving up to wine bottles and continuing to move on and up throughout the entire product range. And I believe the Tricor witness when he was talking about why they're always changing where they're sourcing said that they've moved food glass food containers, which is a commodity and then later on he referenced it being a commodity again and a commodity obviously a product that sells primarily on the basis of price.

But then, Mr. Brosch continued kind of down this line where he was talking about the fact that there was admission that obviously there's competition in wine, but that China has increased its exports of spirit bottles. And I believe the transcript will show he even described China as a large exporter of these products and which lead also into a discussion as far as moving into the small bottles. And then there was a discussion specifically using terminology such as "high-end products."

So, at no point are we blaming the distributors for making rational choices to try and buy the lowest priced products out there. They're trying to make a profit just like everybody else, but even by their own admissions and unrefuted, that there are significant volumes of imports that have come in, they intent to continue to buy imports, even under the 301, and the type of products that they're buying is continuing throughout the product range.

Last, but not least, I think it should be noticed that there were no witnesses here today from any Chinese company. There were no -- neither was there a Chinese industry witness nor counsel to a Chinese company. And while the Commission has been somewhat reluctant to apply adverse facts available in cases -- well, general reluctant to apply adverse facts available. Again, the idea that there's been a complete lack of participation from the Chinese foreign producers in the staff conference today I would suggest, while not necessary for an affirmative determination, certainly warrants application of AFA and affirmative determination.

That being said, I thank you again for your attention and believe that the record here today, not only supports a finding of current material injury, it certainly supports a reasonable indication of material injury and threat thereof. Thank you very much.

MR. BURCH: Thank you, Mr. Pickard. Rebuttal and closing remarks on behalf of those in opposition to imposition will be given by Jeffrey S. Neeley of Husch Blackwell, and Jared R. Wessel of Hogan Lovells. Oh. Mr. Neeley and Mr. Wessel, you have ten minutes.

CLOSING REMARKS BY JEFFREY S. NEELEY

MR. NEELEY: Thank you very much, and again I appreciate the hard work of the staff in putting together the factual record that we have before us, a factual record that I would just note it appears that the Petitioners, the lone Petitioner who decided to grace us with their presence today has basically done everything they can to run away from.

It's clear. I think you have kind of two competing narratives vis-a-vis causation, and that's what I'm going to focus my comments on. The Petitioners would argue that to the extent there's any harm to their record, to their financials, it's caused by Chinese imports. I think what the evidence shows and what we presented to you today is a fall in the demand for domestic beer, what's commonly called mega beer.

I think what the Petitioners again would have you do is simply pump that to a final, you know. They would throw up their hands and say well, you know, we don't have underselling data they don't like. The Customs data is hard, so let's just -- let's just push that to a final. I think the thing that makes this case different than a lot of others is simply the fact that I'm asking you to listen to what the Petitioners and the rest of the U.S. industry have said when they are not before the International Trade Commission.

I've just, you know, I've kind of picked out some greatest hits here, and I think if you look at what they've said publicly, what they've said in their financials, it gets this mega beer trend. It does not talk about the impact of Chinese imports. From OI, the closure of one of their plants is expected to occur on or before July 18th, and the company said the continued decline of the U.S. beer market was the reason for the closure.

Ardagh's SEC 2017 report. "In the United States, for example, the growth and consumption of importer beer has seen reduced demand for domestically produced mass beer brands, resulting in reduced demand for glass packaging for this end use category. In response, the company has undertaken a review of its Glass North American Division. The Milford, Massachusetts plant closure announced in January 2018 is one of the actions arising from this review."

A letter from Bob Burt, the Lincoln plant manager: "Against the backdrop of lower demand and strong inflationary pressures in 2018, Ardagh must maximize the capacity utilization of Glass North America, while focusing on aggressively reducing costs and optimizing the effectiveness of our capital investments." From Ardagh's financial records, sorry from their 10K: "In the United States, for example, the growth and consumption of imported beer has seen reduced demand for domestically produced mass beer brands, resulting in a reduced demand for glass packaging for this end use category."

From an investor presentation: "Headwinds have emerged. Organic volumes impacted by mega beer trends." My friends from Owens: "Driven by the transfer of production to the company's joint venture in Mexico and the ongoing trends in U.S. beer shipments." Anchor. This is a statement from the company that bought 25 percent of Anchor:

"In Anchor Glass, the performance was also poor, due to declining demand with seven percent fewer shipments in the home market, and a fire in their Henrietta plant that meant a very significant disruption in production during the year. Turnaround of the two under-performing plants, Henrietta and Lawrenceberg, has started with profound changes in the organization, now with a complete management team and an investment program that will increase the competitiveness.

We are confident that 2019 will show a considerable improvement in the operational performance."

You have Arglass coming into the U.S. market, specifically saying publicly that they are coming in this market in Georgia because they are filling a niche in the market that is not being met by the U.S. producers. I don't need you to weigh the evidence and to kick this into a final, and the reason I don't is because I need you to believe what these people are saying when they are not at the International Trade Commission.

Believe what they say in their financials, believe what they say when they are not before you, and I think if you do that and I think if you look at the data that they're attempting to run away from, I think the only logical outcome is a negative determination. Thank you for your time.

CLOSING REMARKS BY JARED R. WESSEL

MR. WESSEL: I just have one very brief comment, because I just can't resist, and that is the last, one of the last comments by Mr. Pickard about the Chinese not flying here to participate in this proceeding. How many U.S. producers came today? How many did you hear from? There's only three, it's not very far for them to come. Why weren't they here? Thank you.

(Pause.)

MS. CHRIST: On behalf of the Commission and the staff, I would like to thank the witnesses who came here today, as well as counsel for helping us to get a better understanding of the product and the conditions of competition in the glass containers industry. Before concluding, please let me mention a few dates to keep in mind.

The submission for submission of corrections to the transcript and for submission of post-conference briefs is Monday, October the 21st. If briefs contain business proprietary information, a public version is due Tuesday, October 22nd. The Commission has tentatively scheduled its vote on these investigations for Friday, November 8th, and it will report its determinations to the Secretary of Commerce of the Department of Commerce on Tuesday, November 12th.

Commissioners' opinions will be issued on Tuesday, November 19th. Thank you all for coming. This conference is adjourned.

(Whereupon, at 2:12 p.m., the conference was concluded.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Glass Containers from China

INVESTIGATION NOS.: 701-TA-630 and 731-TA-1462

HEARING DATE: 10-16-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary

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

DATE: 10-16-19

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

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

SIGNED: Duane Rice
Proofreader

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Larry Flowers
Court Reporter