UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**)**	**Investigation Nos.**
POLYETHYLENE TEREPHTHALATE	**)**	**731-TA-1455-1457**
(PET) SHEET FROM KOREA, MEXICO, AND OMAN	**)**	**(PRELIMINARY)**

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	)	731-TA-1455-1457
POLYETHYLENE	)	(Preliminary)
TEREPHTHALATE (PET) SHEET	)	
FROM KOREA, MEXICO, and	)	
OMAN	)	

Tuesday, July 30, 2019
Hearing Room A
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The meeting commenced, pursuant to notice, at 9:30 a.m., before the United States International Trade Commission Investigative Staff. Elizabeth Haines, Supervisory Investigator, presiding.

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Kristina Lara, Investigator

Jennifer Catalano, International Trade Analyst

Amelia Preece, International Economist

Michael Haldenstein, Attorney/ Advisor

William R. Bishop, Supervisory Hearings and Information Officer

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OPENING REMARKS:

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

Respondents (Daniel L.Porter, Curtis, Mallet-Prevost, Colt & Mosle LLP)

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

Kelley Drye & Warren LLP

Washington, DC

On behalf of:

Advanced Extrusion, Inc.

Ex-Tech Plastics, Inc.

Multi-Platics Extrusions, Inc.

John Thibado, President and Chief Executive Officcer, Advanced Extrustion Inc.

Brian Graycyzk, President, Ex-Tech Plastics, Inc.

John Parsio Jr., President, Multi-Plastics Extrusions, Inc.

Douglas DeBode, General Manager, Multi-Plastics Extrusions, Inc.

Gina E. Beck, Ecomonic Consultant, Georgetown Economic Services LLC

Brad Hudgens, Economic Consultant, Georgetown Economic Services LLC

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Kathleen W. Cannon)
Brook M. Ringel)

In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:
Curtis, Mallet-Prevost, Colt & Mosle LLP
Washington, DC
On behalf of:
OCTAL SAOC FSZ and OCTAL Inc.
(collectively "OCTAL")

William J. (Joe) Barenberg, Jr., Chief Operating Officer, OCTAL
Chad Pyland, North America Sales Manager, OCTAL
Daniel L. Porter)
James P. Durling) -- OF COUNSEL
Gina Colarusso)

REBUTTAL/CLOSING REMARKS:
In Support of Imposition (Paul C. Rosenthal, Kelley Drye & Warren LLP)
In Opposition to Imposition (James P. Durling, Curtis, Mallet-Prevost, Colt & Mosle LLP)

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P R O C E E D I N G S

MS. HAINES: Good morning and welcome to the U.S. International Trade Commission's Conference in connection with the preliminary phase of anti-dumping duty investigation numbers 731-TA-1455 to 1457, concerning polyethylene Terephthalate PET sheet from Korea, Mexico and Oman.

My name is Elizabeth Haines. I'm the Supervisory Investigator on these investigations and I will preside at this Conference. Among those present from the Commission Staff are Kristina Lara, the Investigator; Michael Haldenstein, the Attorney; Amelia Preece, the Economist and Jennifer Catalano, the Industry Analyst.

I understand the 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 microphones.

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. Are there any questions? Madame Secretary, are there any preliminary matters?

MS. BELLAMY: Yes, Madame Chairman, with your permission, adding Brad Hudgens of Georgetown Economic Services, LLC to page 1 of the calendar.

MS. HAINES: Sounds good, very well, let us begin with opening remarks.

MS. BELLAMY: Opening remarks on behalf of those in imposition is Paul C. Rosenthal, Kelley Drye & Warren, LLC. Mr. Rosenthal, you have five minutes.

STATEMENT OF PAUL C. ROSENTHAL

MR. ROSENTHAL: Thank you. Good morning Miss Haines and members of the Commission Staff. I'm Paul Rosenthal of Kelley Drye & Warren, appearing on behalf of the domestic industry, Petitioners, the U.S. producers of PET sheet.

This industry is at a crossroads. As you'll hear from the company witnesses today, the domestic industry has been hurt by low-priced imports for many years. While they might have filed the case several years ago, they did not, as they did their best to cut costs and fight imports through lowering their prices even further.

That strategy has simply not worked. So, they're here today because they need import relief, and they need it badly. The subject imports from Oman, Korea and Mexico, have been significant since the beginning of the period of investigation and have an increase from 2016 into '18, and

continuing into interim 2019.

The increase in absolute volumes are mirrored by the growing market share of the subject imports. And the market share taken has come directly from the domestic industry, as non-subject imports are not a significant factor.

Not surprising, the domestic industry's production, shipments and capacity utilization have all declined as a result. The subject imports have been able to achieve their volume gains by the time-honored tradition of low price offers. While the record is still being developed, all of the data available now, including sheet purchaser's admissions, confirm that subject imports undersell the domestic producer's prices.

And underselling is rampant, based both on number of quarters and volumes. The domestic industry witnesses will tell you about the importance of price in this industry. Indeed, one of our witnesses, Mr. Grayczyk, who will be late to this hearing because his plane was cancelled, but whose testimony will be given by Miss Cannon, when he gets here, he'll be able to answer questions and explain how important price is. He used to work as a buyer of PET sheet.

And in that capacity, he evaluated offers from both imports and domestic producers. He will explain

further, that purchasing decisions always came down to price. Things are no different now that he's trying to sell PET sheet. Negotiations always come down to price, and its domestic producer competitors who you'll hear from this morning, will share similar experiences about their negotiations with their customers.

OCTAL, the principal producer and exporter from Oman is likely to reprise an argument that it made in the PET resin case. It was involved in a few years ago in which it claimed that its production process and the resulting product differentiated from the products made by the domestic producers. The Commission rejected that argument before, and it should do so again based on the overwhelming evidence of the perfect substitute ability of the domestic product with that of OCTAL.

You will hear agreement from both domestic and foreign producers that the PED sheet industry is a capital-intensive industry with a need for high capacity utilization. The domestic producers frequently lower their prices, they get the sale in order to maintain volume through put in their factories.

Subject import competition has made that nearly impossible, resulting in very low domestic capacity utilization rates throughout the period. The intense price competition with subject imports has forced domestic

producers to sell at unsustainably low prices to keep volume or lose volume and operational efficiencies, and the result has been inadequate and declining profitability.

By every measure, this industry is under severe financial strain. You don't have to take the Petitioner's word for it, non-petitioning members of the domestic industry have presented information that corroborates the statements in the Petition, and the Petitioner's testimony today.

Respondent's have tried to make a big issue about thermoformers who produce the finish containers that rely on PET sheet at the raw material. To the extent that the thermoformers captively consume PET sheet, the Commission should take its usual approach and focus on the merchant market sales by the thermoformers. The Commission will find that the subject imports have hurt those thermoformers, who also sell PET sheet on the merchant market.

In sum, the domestic company representatives look forward to explaining this morning why the Commission should reach an affirmative determination in this case, thank you.

MS. BELLAMY: Opening remarks and those in opposition is Daniel L. Porter of Curtis, Mallet-Prevost, Colt & Mosle, LLP. Mr. Porter, you have five minutes.

STATEMENT OF DANIEL L. PORTER

MR. PORTER: Good morning. I'm Dan Porter

appearing on behalf of OCTAL. Let's talk about what needs to be done so that we can have the most complete, of entry record, so that the Commission can then analyze in making its record preliminary determination.

Let's begin with like product. I confirmed that OCTAL, which accounts for all of Oman, will not make any type of like product argument during this preliminary phase.

Next, cumulation -- the evidentiary record demonstrates there's a criterion for cumulating, import from Oman, with imports from Korea and Mexico have not been satisfied, and therefore, the Commission should analyze PET sheet imports from Oman by themselves.

For the Commission to cumulate, there needs to be evidence that PET sheet from Oman, both competes with PET sheet from Korea, Mexico, and competes with PET sheet produced in the United States. If either overlap of competition does not exist, the Commission need not cumulate.

In this case, there's virtually no evidence of competition between OCTAL's PET sheet from Oman, and PET sheet sold by Korea and Mexican suppliers. Questionnaire responses from the customers demonstrate this fact. In order to have an overlap of competition, you need to have the same customers buying from competing suppliers, such

fact really does not exist with respect to Oman, Korea and Mexico.

OCTAL sales representatives will confirm that those customers that purchased the overwhelming majority of imports from Oman, do not purchase PET sheet from Korea and Mexico. In addition, OCTAL's participation in the U.S. market is very different from Korea and Mexican suppliers.

OCTAL is the only foreign supplier that also has an affiliated U.S. PET sheet producer and has structured its participation in the market to maximize the benefits of each production location. No other Mexican or Korean supplier has this type of arrangement.

Next, you need to understand the dramatic effect on the U.S. PET sheet market from the devastating cyclone that struck Sultanate, Oman in May 2018. The cyclone, which was named Mekunu, forced the complete shutdown of OCTAL's production for at least six weeks, which caused OCTAL's PET sheet to disappear from the market for about two months in the summer of 2018.

OCTAL's forced majority disappearance caused its large U.S. customers to scramble to find PET sheet to temporarily replace what they had previously contracted to purchase from OCTAL, including purchasing from Petitioners.

OCTAL's resumption of production in order to comply with long-term contracts with large U.S. customers,

cannot be considered a lost sale by Petitioners in 2018.

My next topic is pricing data. In this case it's imperative that the Commission analyze pricing data from imports from Oman with a proper understanding of how OCTAL makes its U.S. sales.

As you will hear later today, OCTAL's top three customers account for an overwhelming majority of OCTAL's total sales, but what is crippled to understand is that for each of these customers, OCTAL sales during 2017, '18 and '19, were made pursuant to long-term contacts that were signed in 2016, and that contained a pricing formula mechanism that required changes to U.S. sale prices based on changes from a published index of PET resin prices.

And so, pursuant to this 2016 contract, if the CAM data published PET resin priced decreased, for example, in November 2018, compared to the previous month, OCTAL's PET sheet selling price would automatically have to decrease.

Of course, what this means if the Commission cannot adopt the inferences that Petitioners will try to demand about the pricing product data. November -- so, for example in November 2018, demonstrated -- they will argue that OCTAL intentionally lowered its prices in an attempt to increase market share.

But this inference is just wrong. For its three

largest customers, which account for the overwhelming majority of OCTAL's PET sheet sales, in fact, OCTAL did not make any intention pricing decision in 2018, rather OCTAL was simply honoring its long-term contractual commitment pursuant to a pricing formula mechanism established in 2016.

And with that, let's start the festivities, thank you.

MS. BELLAMY: Will the petitioners please come forward?

MR. ROSENTHAL: Good morning again. I mentioned in my opening statement that Mr. Grayczyk was going to be late because of a plane problem. Kathy Cannon will deliver his written testimony, and with any luck, if we filibuster long enough, Mr. Grayczyk will be here to answer questions.

STATEMENT OF BRIAN GRAYCZYK

MR. GRAYCZYK: [Read by Kathy Cannon] Good morning. For the record, my name is Kathleen Cannon with Kelley Drye, but this morning, I will be delivering Mr. Grayczyk s testimony.

My name is Brian Grayczyk and I am the President of Ex-Tech Plastics. I ve worked at Ex-Tech since 2015 and I ve been in sales with various plastics materials and products businesses for over twenty years. Ex-Tech produces PET sheet at our 100,000 square foot facility in Richmond, Illinois. We have been in the plastics extrusion business

since 1983 and began producing PET sheet in 2005.

Prior to joining Ex-Tech, I worked for another domestic producer and petitioner in this case, Multi-Plastics Extrusions. I also spent nearly four years on the customer side of the U.S. PET sheet market with a company called CM Packaging, which produced plastic and aluminum packaging products. CM Packaging became part of D&W Fine Pack, a packaging producer where I became the director of planning and forecasting. My role with D&W Fine Pack involved supply chain and PET sheet purchases, including from domestic and import sources.

I ll describe the product at issue in this investigation, PET sheet, and the production process. I will tell you more about my experience as a PET sheet purchaser and now as a PET sheet producer, how my company has been injured by unfairly-traded imports.

PET sheet is a thermoplastic polyester flat-rolled product that is made through an extrusion process and ultimately sold to customers in roll form. The PET sheet manufacturing process begins with PET input, which can be virgin PET resin, referred to APET, or recycled or reground input, referred to as RPET.

Regardless of whether virgin or recycled, PET inputs are comprised of the same basic chemical building blocks, purified terephthalate acid or PTA, and mono

ethylene glycol, or MEG. Virgin and recycled PET inputs may be blended together in any combination before extrusion, or may be layered together after extrusion. Ultimately, the characteristics of, and end uses for, PET sheet produced with virgin or recycled PET inputs, are the same.

PET sheet is produced through an extrusion process where PET sheet inputs are melted and then pushed through a dye at a controlled thickness and flow rate into a flat sheet. One or more extruders can be used to supply different melt streams to the dye. This is called coextrusion. Additives such as color or silicon may also be introduced before extrusion or after extrusion through satellite extruders. The PET sheet is then conveyed onto cooling rollers, inspected, trimmed to width and wound by spindle into a roll.

The equipment used to produce PET sheet is not typically used for other polymers. It is also worth noting that this PET sheet production process is extremely capital-intensive. So maintaining a high level of capacity utilization is critical for producers in our industry. PET sheet is generally produced in nominal thickness of 7 mil, which is 0.007 inches to 45 mil, or .045 inches. That range of thicknesses allows PET sheet to be formed by customers into rigid and permanent shapes. It also differentiates PET sheet from PET film, which is much thinner and remains

flexible and stretchable in its end uses.

PET sheet, whether produced in the United States or in Oman, Mexico or Korea, is typically sold in rolls to downstream end users, primarily thermoformers that use PET sheet to manufacture rigid, as opposed to flexible, food and retail packaging products. Specific examples include carry-out containers, fruit and vegetable trays, clamshell containers and paint tray liners.

PET sheet is a desirable input to produce packaging material because it has exceptional visual properties, provides barriers to gasses and oils and is impact- and tear-resistant, thermally stable and recyclable. These factors and others differentiate PET sheet from other polymers.

PET film is generally sold to different customers that use the thinner PET film in flexible packaging and specialty products such as magnetic and photographic film. There are no differences in the basic physical and technical characteristics and uses between the PET sheet produced in the United States by Ex-Tech and the other domestic producers and that produced in Oman, Korea and Mexico.

I know, because I used to be on the purchasing side when working for a thermoformer. I bought PET sheet from a variety of sources and D&W Fine Pack also extruded its own PET sheet. I can tell you that PET sheet, whether

from a domestic PET sheet producer from an import source, or internally extruded, is the same. When I was making buying decisions, the most important factor for me was price. I had to compete with the other thermoformers to sell PET packaging and those other thermoformers were also buying PET sheet for as low a price as they could. It was a race to the bottom.

Before CM Packaging became part of D&W Fine Pack, we did not have any internal extrusion capacity. At one point, we became big enough that we considered investing in an extrusion line for internal PET sheet production for our own use, but OCTAL s prices were so low that it simply did not make sense to bring that capability inhouse. I am not alone in that experience. My customers now, sitting where I used to sit, continue to tell me that PET sheet is the same, no matter the source, and that they just want it at the lowest price.

Now at Ex-Tech, I am a domestic PET sheet producer, and I fully understand the harm that low-priced, PET sheet imports are causing. PET sheet imports have taken a significant portion of the U.S. market in recent years, as they have consistently undersold us in negotiation after negotiation, or kept our prices down at unsustainably low levels. I can lower my price enough to win a sale over extremely low-priced import competition, but even when I

keep the volume, the unprofitable price just kills us.

To be clear, the pricing pressure from the PET sheet imports has created this situation for us, not any other market condition. Our PET sheet customers have no interest in switching to any other plastic material like polystyrene or polypropylene or PVC. Those plastics have different characteristics and different price points.

I m not forced to keep my price low because of competition with other plastics. I have to keep my price unreasonably low to compete with PET sheet imports. What happened last year with the OCTAL Oman outage is a perfect example. A cyclone knocked OCTAL offline for a part of last year. During that outage, we had numerous customers come back to us for PET sheet. They did not switch to other plastics and they did not shut down, waiting for OCTAL to come back. One large customer that we had not previously sold to at all, came to us during the OCTAL outage for a significant volume of PET sheet. We did what we could to supply that customer as fast as possible with the volume it needed, hoping to build that new relationship.

Unfortunately, our sales to that customer did not last very long. I guess we should not have been surprised when that customer went right back to OCTAL once OCTAL resumed selling into the U.S. market at a price that was far below ours. And I have no doubt that customer returned to

OCTAL due to price and price alone. We shipped a large volume of PET sheet to that customer in a very short period of time, and not once did that customer complain about our quality, our delivery speed or our service. Our PET sheet was directly interchangeable with the PET sheet from Oman that the customer had been using. We did everything we could to give that customer the best service possible when it needed supply. But at the end of the day, OCTAL s price was so much lower than ours, that there was no way we could keep that customer.

Price is paramount in this market and we simply could not match OCTAL s offers. The result has been terrible for our company. Most of our sales are conducted on a transaction-by-transaction basis with very tight margins. That means we are constantly fighting for every additional amount of volume and every extra cent per pound. The lower prices offered by the subject foreign producers have a very damaging effect on our ability to retain business and have caused us financial injury.

We have had to lower prices to avoid losing sales, resulting in lost revenue and lost profits. Despite lowering our prices to compete with these imports, we have also lost sales because we cannot compete with the prices the foreign producers are offering. We ve seen our capacity utilization plummet, which increases our costs as a

capital-intensive manufacturer. The impact on our profitability has been devastating.

We ve also had to reduce our workforce this year. Ex-Tech cannot remain competitive in the PET sheet industry if the PET sheet imports from the subject countries continue to dominate the U.S. market with unfairly low prices. I do not see how we can withstand the rapidly declining production and financial injury we are experiencing as a result of this unfair competition. Relief from the dumped PET sheet imports is needed to keep our doors open. Thank you very much.

STATEMENT OF JOHN PARSIO JR.

MR. PARSIO: Hello, my name -- good morning. My name is John Parsio, Jr. and I'm the President of Multi-Plastics Excursions. I'm a Petitioner in this case.

My family founded Multi-Plastics, Inc. in 1979 and continues to own and operate it. We produce PET sheet at our facility in Hazelton, Pennsylvania. Multi-Plastics produces PET sheet from both virgin and regrind inputs. The vast majority of our customers do not care or specific the inputs that are used. They only care about the end product and most importantly, they care about the price.

Multi-Plastics manufactures PET sheet in a wide array of gauges, colors, as well as specialty properties, including anti-fog and anti-static coatings. The PET sheet

we manufacture is used to produce rigid packaging products, such as food trays in clam shell containers. Companies called thermal formers use PET sheet to manufacture a wide array of downstream products.

Demand for PET sheet, therefore, relates to the demand for rigid food containers and retail packaging. Over the past three years demand for PET sheet has been relatively strong and the U.S. industry is well positioned to supply that demand. In fact, at Multi-Plastics, we have significant capacity that is sitting idle that we would love to put into use to producing PET sheet. Unfortunately, the subject imports have prevented this from happening, leading to both lost sales and lost revenue for my company and/or our industry.

The challenges we face in the PET sheet industry is that price drives sales and imports targeted by this case continually undercut our prices. The PET sheet that my company produces is a high-quality product. We can make standard whites, blacks, custom colors, and add specialty coatings, as I mentioned. That said, the vast majority of demand for PET sheet in the U.S. market is for clear or transparent PET sheet, which we product and that we have ample capacity to produce in greater volumes.

Strong U.S. demand and ample available capacity at Multi-Plastics should've allowed us to increase our sales

and raise our prices. The increased volume of lower-priced imports prevented that from happening. We saw no benefit for the U.S. demand growth and instead watched our profits deteriorate. We could not benefit from the strong demand because imports from Oman, Korea, and Mexico were sold at prices not only well below our prices, but often below our full cost of production.

You may hear OCTAL later that customers buy its products for quality reasons or based on production methods that it uses. While OCTAL likes to market this product as being different or special, it is actually our products are very substitutable with that product. In fact, OCTAL sells its domestically-produced product interchangeably with the product it produces from Oman, as you'll hear later from Mr. Doug DeBode.

If OCTAL's products were truly a higher quality, it would not need to undercut our prices at all, let alone so significantly. Customers are not buying the imports from Oman, Korea, or Mexico due to a better quality or to get a certain type that Multi-Plastics or other domestic producers can't supply. They are buying the imports because of their low, dumped prices. We face a no-win situation each day of losing sales to low-priced imports or cutting our prices to compete, thereby, eliminating profits. As you can see from the trade data, we cannot afford to continue to do this.

Production of PET sheet is a very capital-intensive situation. We need to keep our lines running and our production workers employed. Although our business has slowed, if we layoff our highly-skilled workers, it would be difficult to replace them if the business ever came back. So, our utilization rate is much lower than we would like it to be. We are trying to remain operational in hopes that we can address these import problems, retain our workforce, and increase our sales.

The subject imports have already captured a huge part of our market. Imports from Oman alone are massive; yet, they continue to increase. Imports from Korea and Mexico have also grown significantly in volume over the past three years. We have lost sales to imports from each of the subject countries due to their low prices.

It is difficult to call the United States our market when we have lost so much business to these dumped imports; yet, it is our home market. And if it weren't for unfair pricing practices of these imports, we would be able to compete. The status quo is simply not sustainable, which is why we filed this trade case. We cannot continue to cut our prices to compete with these imports. Our financial condition has become dire. We should not have to lose money to be able to keep our customer base; yet, we find ourselves having to sell below our costs in the current

market due to unfair competition.

As you've heard, we've obtained a temporary reprieve from this situation, a short period of the last year as a result of the cyclone that it Oman. When that cyclone hit, OCTAL was shut down for a while. OCTAL's ability to export PET was further affected by damage to the ports and the roads that Oman uses to transfer their PET sheet. As a result, we experienced a big surge of U.S. customers that had been buying from OCTAL, wanting to buy sheet from Multi-Plastics in mid-2018 for approximately three months.

Our volume of sales increased as the imports' volumes dropped. Also, the prices of PET sheet were also improved. Once OCTAL resumed operations, however, customers canceled orders they had placed with us to get the lower prices offered by these imports. The customers switched back and forth -- the customers switching back and forth shows interchangeability of our product, regardless of the source, and the price-driven nature of the PET sales itself.

While no cyclone affected Multi-Plastics production in Korea or Mexico, we suffered similar pricing problems in competing with these imports from those countries. Our PET sheet is interchangeable with the PET sheet products from Korea and Mexico; yet, imports from these countries also undercut our prices, causes us to lose

sales, or to cut prices to compete.

Even a small difference in price, just one penny per pound, will cause a customer to shift to these imports. It is the collective injured caused by imports from all three of these countries that drove us to file this trade action. Relief is badly needed to remedy the situation. We cannot continue to operate at low levels of capacity utilization we have been experiencing. We cannot continue to lose sales and market share to subject imports. And most importantly, we cannot continue to watch our financial condition erode due to competition from dumped imports.

If this dumping behavior is not checked, there will be closures of U.S. factories, job layoffs, and further financial loss in this industry. We urge you to not let that happen. Thank you.

STATEMENT OF JOHN THIBADO

MR. THIBADO: Good morning. My name is John Tibado. I am founder, president, and CEO of Advanced Extrusion located in Rogers, Minnesota. I've been in my current position for 19 years. Prior to my founding of Advanced Extrusion, I worked for a large PET packaging company, a thermal former in a couple of different management capacities. This company was a pioneer in the use of PET sheet for consumer packaging back in 1989. In all, I've been in the PET packaging business for 30 years.

I'm here appearing here today because my company and the domestic PET sheet industry, as a whole, is in a tenuous position due to unfair, low-priced imports of PET sheet from Korea, Mexico, and Oman. We are continuously faced with competition from low-priced offers by subject imports during our customer negotiations. We have lost and continue to lose numerous sales and revenue as a result of unbelievably low prices offered by each of the subject countries.

Since 2016 and continuing today, imports from these three countries have entered the United States and have taken sales from Advanced Extrusions and other U.S. producers. By selling at dumped prices, the imports have undercut us, causing us to lower our prices to unprofitable levels. We've provided numerous examples of lost sales for the Commission's record involving imports from each subject countries.

The imports' low-priced quotes have a very real impact on our business and result in a declining sales volume over the past three years. Customers are no longer ordering from us because they are buying the same PET sheet from Oman, Mexico, and Korea at lower prices. Let me be clear, price is the driving force in purchasing decisions when comparing our product to subject imports. We're not losing business to Oman, Korea, and Mexico for reason of

quality or the inability to supply sheet to our U.S. customers. On the contrary, we have available capacity and would like to sell more product than we did. Unfair import competition has kept us fighting to keep PET sheet pounds at our plants.

One side note on the nature of imports from Oman, Korea, and Mexico, the Commission should take note that imports of import PET sheet are not only imported through distributors, but are also being imported directly by our customers. Customers do this to reduce their costs because they're so price sensitive, which is how unfairly-traded imports have penetrated this market in the first place. I know of multiple customers that are importing PET sheet directly from the subject countries and the Commission should analyze these direct imports as well.

In negotiation with many of our largest customers, we have lost entire orders or seen our volumes drastically reduced. Even though we have agreed to lower our price often significantly to meet the import price, we have not been able to price low enough. Worse yet, we are experiencing the severe pricing pressure at a time when our cost of manufacturing PET sheet are increasing.

When I met with customers, they make it clear that we must be competitive with the low import prices to keep their business. Our customers present details of

competitive offers they've received from imports, so we know where we have to be to price to win the sale. Customers have told us directly that if we don't adjust our price to bet the import price we will lose the business.

Although we can adjust to many factors, we cannot remain in business when we are forced to compete with customers or companies that price below our costs and are willing to undercut our prices however low we reduce them. We have watched our financial position eroded and our market share drop as unfair imports penetrate this market.

A decade ago in anticipation of rising U.S. demand we have researched opening facilities on East and West Coast. Unfortunately, as imports increased over the last several years, we've had to abandon those plans. The capital intensive nature of the PET sheet industry makes it important that producers maintain high operating margins to maximize efficiencies. If we cannot run our lines at optimal efficiency levels, sufficient costs are incurred and production curtailments or even shutdowns are our only alternative.

The increased volumes of subject imports, leading to reduced production and shipment of U.S. products, have not only cost us market share, but has also affected our production efficiency. If the current market does not change, our business will continue to decline and we'll have

to reduce our workforce. In fact, we are in jeopardy of going out of business altogether as we cannot continue to compete with Oman, Mexico, and Korea's pricing. We simply cannot survive as a company or as an industry when we must suffer continuous financial erosion and see market share to unfairly traded imports. Thank you for your attention.

STATEMENT OF DOUGLAS DEBODE

MR. DEBODE: Good morning, my name is Doug Debode, I'm the General Manager of Multi-Plastics Extrusions. Today I'd like to provide some background on OCTAL's early strategies to the United States. Given my personal experience working for OCTAL in their Dallas office.

I've worked for OCTAL from 2006 to 2008 or excuse me '09, as a Customer Operation's Manager, based in the United States in the Dallas office. In that role I was primarily responsible for setting up the logistics and the customer service operations for OCTAL.

OCTAL entered the U.S. PET market -- sheet market, excuse me, with a very specific strategy in mind. OCTAL's plan was to sell PET sheet to thermoformers at low prices, such low prices that it would no longer be worthwhile for the thermoformers to put in their own extrusion.

You heard Mr. Grayczyk, or Kathy actually,

explain that this was his experience as a buyer when he was at C.M. Packaging also. We've heard that throughout the industry. OCTAL's low pricing led many thermoformers to reach the same conclusion.

While I worked with OCTAL prior to the opening of the domestic PET sheet facility in Ohio, we had extensive discussions about what the operation would look like, and where would we locate it. The original plan was that OCTAL's Cincinnati, Ohio facility was only supposed to collect scrap that was created by the customers in the process of thermoforming, then they were going to use it to make products that would not compete with their PET sheet from Oman.

That scrap, which is regularly used to produce PET sheet is also called regrind. OCTAL soon discovered, however, that it would not take -- could not take control of the regrind and where it went. In fact, many other domestic PET sheet producers, including our company, were regularly buying the regrind for exactly the same reason purchasers were buying PET sheet from Oman -- low price.

OCTAL changed direction and purchased extrusion equipment and began producing PET sheet in its Oman-owned Ohio facility, driving reason behind why OCTAL did this was to keep its own PET regrind out of the market.

This closed loop arrangement continues today.

OCTAL sells imports of PET sheet from Oman to U.S. thermoformer customers. Those customers send their regrinds back to OCTAL's Ohio facility, often based on a prior agreement or commitment not to sell the OCTAL regrind to any other PET sheet producer.

Then OCTAL's Ohio facility uses that regrind to produce PET sheet for those same and other customers. This arrangement also makes clear that OCTAL's imported sheet -- PET sheet from Oman, is interchangeable with PET sheet produced from virgin or recycled PET here in the United States.

OCTAL's U.S. production facility makes PET sheet primarily from OCTAL's recycled PET material. But that PET gets sold to the same U.S. customers and the same end users, and it gets thermoformed under the same thermoforming equipment.

I expect OCTAL today to talk about their claims about the DPET sheet and how wonderful it is and everything else that they make from their melt in Oman. DPET is truly just a marketing name, as APET and its APET that multi-plastics and numerous other domestic producers can also make with virgin product sources.

No U.S. customer -- none, specifically requires OCTAL's DPET product to work on their equipment, or to make a downstream product. Customers purchase PET sheet on the

basis of price, whether it's virgin PET sheet from Oman, or domestic producers, or recycled PET sheet from Oman or domestic producers.

The fact that OCTAL's Ohio facility sells recycled PET sheet to the same customers that buy its imported PET sheet is proof of that. Just last night I received a note from my Sales Director. He was at a customers' visit. The customer said that if we could meet OCTAL's price, we would get the sale. We can't, we didn't. Thank you.

STATEMENT OF BROOKE RINGEL

MS. RINGEL: Good morning, I am Brooke Ringel and I will address some key legal issues in this investigation. First, the domestic-like product in the domestic industry. The scope of the case is PET sheet, which is a flat-rolled polyethylene terephthalate material that is produced through an extrusion process and in a specific range of thicknesses.

The Commission's domestic-like product definition should merit the scope. I won't belabor this point, given Mr. Porter's statement this morning, but I will highlight how the six factors of the ITC's like product test are satisfied.

As Mr. Grayczyk testified, PET sheet has specific physical characteristics and applications that differentiate

it from other products. All PET sheet is produced from the same polymer input, PET, which is compromised of PTA and MEG. All PET sheet falls within a range of thicknesses, 7 mill to 45 mill, and its physical characteristics make it suitable for downstream heat-based molding, known as thermoforming, into rigid and permanent shapes.

Those end uses include food packaging such as clam shell and carryout containers, and other retail packaging. All PET sheet is subject to the same manufacturing process, which you heard described by Mr. Grayczyk.

All PET sheet is produced on the same equipment, by the same employees, and that equipment is generally not used to produce other products. All PET sheet is interchangeable in its use for manufacturing rigid food and retain packaging.

All PET sheet is sold within a range -- within a similar range of prices which also distinguishes it from other plastics products. Accordingly, PET sheet constitutes a single domestic-like product and based on that product definition, the domestic industry consists of all U.S. producers of PET sheet.

In this investigation, circumstances warrant the exclusion of one U.S. producer, OCTAL Extrusion Corporation, which I will refer to as OCTAL Ohio for ease of reference,

from the domestic industry as a related party. OCTAL Ohio should be excluded as a related party given its affiliation with subject foreign producer and importer, OCTAL, and the fact that OCTAL Ohio benefits from and has a strong interest in, OCTAL's dumped sales of PET sheet from Oman.

You heard some of this from Mr. DeBode just now, and we will discuss this further in our post-conference brief. The Commission should evaluate whether there's a reasonable indication of material injury to the domestic industry, excluding OCTAL Ohio.

The record contains some information on downstream thermoformers, which are PET sheet purchasers, that also have in some instances, internal PET extrusion capacity. The thermoformers -- these thermoformers, are not PET sheet producers.

Thermoformers use PET as an input in the production of PET packaging, which is a different like product and does not compete in the U.S. PET sheet market. We do not believe that the intermediate processing of PET through extrusion, before thermoforming, should be considered PET sheet production.

To the extent, however, that the Commission were to consider thermoformers with internal PET sheet extrusion capacity, to be PET sheet producers, the Commission should disregard this captively consumed production and focus only

on the merchant sales consistent with the statute.

First, PET sheet that is produced internally by thermoformers for use in the downstream -- in production of downstream PET packaging, does not enter the merchant PET sheet market.

Second, PET sheet as an intermediate product, is the predominant material in the production of thermoformed PET packaging, thus the Commission's focus would be on the merchant market for PET sheet in analyzing material injury, consistent with the statute.

Turning to cumulation -- the Commission should cumulate imports from Korea, Mexico and Oman, in analyzing material injury if the statutory criteria for cumulation are met. The anti-dumping duty petitions against all three countries were simultaneously filed on July 9th.

Further, there is a reasonable overlap of competition between subject imports from each country, and the U.S. product based on the four factors the Commission examines. That overlap of competition needs only to be reasonable, not perfect.

PET sheet is a fungible product, regardless of source and whether produced from recycled or virgin inputs, or a blend of the two. PET sheet is produced to common industry specifications and utilized in the same range of applications.

Domestic PET sheet and PET sheet from each subject country are sold through the same channels of distribution, primarily to end users, and PET sheet from the United States, and each of the subject countries compete in the same geographic regions and are also simultaneously present in the United States during the period of investigation. Cumulation is therefore required.

Finally, a brief word about direct imports which you heard Mr. Thibado discuss as well. Petitioners requested that direct import data be collected because many U.S. purchasers in the PET sheet industry purchase PET sheet directly from foreign producers, eliminating the selling agent importer.

The Commission has not collected direct import data as part of the database in the preliminary investigation. Ignoring this type of competition when the domestic producers have identified it as an existing significant condition of competition in the U.S. market, yields a preliminary database that does not fully reflect the unfair competition by foreign producers that sell dumped subject merchandise directly to U.S. purchasers. That concludes my statement, thank you.

MR. ROSENTHAL: Paul Rosenthal again. If I could take a few minutes this morning to summarize some of the key data that is on the record thus far. Because the data

collection efforts are far from complete and much of the information so far is proprietary, I'll be very careful in my public descriptions. I know the staff this morning will be following along with the APO version of the PowerPoint slides.

So let's turn first to the --

[background talking]

No, there is not one. There's only one or two pages that are public. If you turn to the first slide, labeled Slide 2, it summarizes the share of imports accounted for by Oman, Korea and Mexico. There is no doubt that these imports exceed the negligibility threshold.

Slide 3 shows that import volumes are large and significant and have increased over the period of investigation. As you can see, these data were derived from the official import statistics and adjusted as we did in the petition, as well as using importer questionnaire responses, Ms. Beck will explain further, probably in post-conference brief, if you want that, since it does involve some proprietary data.

Similarly, Slide 4 relies on the same combination of public and proprietary data, but you can see from that slide that subject imports surged between the first quarters of 2018 and 2019.

As Ms. Ringel explained, the Commission should

focus on the merchant market when analyzing injury caused by imports. And as you see in Slide 5, subject imports started the period of investigation with an enormous and certainly statutorily significant market share and then increased it over the period of investigation.

Slide 6 shows that by the end of last year, subject imports' market share dwarfed that of the domestic industry. And that ominous trend continued into 2019, and continues.

Turning to Slide 7, while the database for purchasers is incomplete, the overwhelming majority of purchasers who have responded to the Commission, state that they bought PET sheet from lower-priced subject import sources instead of domestic producers.

Slide 8 summarizes the underselling data and shows that the subject imports undersold the domestic industry and a large majority of quarterly comparisons and even larger majority based on a volume comparison.

Turning to Slide 9, and not surprising, given the underselling and the purchasers' admitted shift to lower-priced imports, the subject imports took market share at the direct expense of U.S. producers.

Turning next to Slides 10 and 11, those indicate that the U.S. production and shipments fell from 2016 to 2018, even as the domestic producers did their best to offer

low prices to maintain sales, as you've heard from the industry witnesses just a few minutes ago.

Slide 12 shows the corresponding slide in capacity utilization from 2016 to 2018.

Focusing next on the Slides 13 through 15, those three slides show the declining trends in production and shipments and capacity utilization and that continued through the first quarter of 2019.

It should be no surprise that, as a result of low import prices, the underselling, the lost market share, the declines in production, shipments and capacity utilization and the industries' financial performance has been abysmal over the period of investigation.

If you take a look at these data, you will see that the period started with unsustainable and injurious profitability and has only gotten worse.

Turning next to Slide 16, that's--let me make sure I'm getting this right here--you can see that, if you're looking at operating margins, as opposed to absolute dollars, the period again started at an abysmal level, an unsustainable profit level, and got even worse.

Slide 17 compares unit costs of goods sold with unit net sales, and you can that the problem is that the U.S. industry cannot sell in competition with imports at prices high enough to cover their costs of good sold.

That's the driver of the low profits.

It's worth spending a couple of minutes of Slides 18 and 19. These are quotes from producers of PET sheet, but not petitioners in this case. And the quotes are interesting because they unequivocally explain why sales prices that I just talked about are, in fact, so low in the U.S. market. And that reason is subject imports. Take a moment to read these two pages of quotes. They are pretty powerful, especially when considering that these companies had no involvement in the filing of this petition. You asked them the question, we didn't coach them. They said, "This is what's going on."

Let me turn to a few slides that deal directly with the issue of causation and we'll start with Slide 20 here, which shows that nonsubject imports really are not a factor in the U.S. market.

In fact, as shown in Slide 21, the market share of nonsubject imports was stable at a very low level over the POI. Virtually all of the market share gained by subject imports came at the expense of the domestic industry.

Slide 22 shows a very direct relationship between the subject imports' market share gains and the declines in the domestic industries' profitability. As imports' market share went up, the industries' profitability went down.

I wanted to spend a minute or two on the next couple of slides. They correspond with some of the commentary by Mr. Porter in his opening statement, has to do with the cyclone in Oman. It's not unusual for respondents in trade cases to cite hurricanes in the South United States or freezing conditions in the mid-West to explain import trends. Now, what's unusual in this case is that we're hearing about force majeure, or acts of God, in a foreign country to explain import trends.

And frankly, I think what happened with the cyclone is incredibly instructive. As you heard by Mr. Porter, OCTAL shut its facility, they claimed, for six weeks. We also know that the cyclone closed the Port of Salalah for several months and that ultimately OCTAL was not able to ship to the U.S. and its previous customers for several months. Based on industry sources, that's at least three months.

U.S. purchasers who were buying from OCTAL, quickly turned to the domestic industry to replace the OCTAL imports. And the domestic industry responded. The full year 2018 data, in fact, masks the struggle the industry experienced most of the year because of the brief surge in sales by the domestic industry that were used by purchasers to make up for the shortfall in the shipments from Oman. For not for this few months' increase, the 2018 trade and

financial data would've been even worse than they are.

But I don't tell you that to argue about the 2018 data. They are bleak as can be. I don't need to make them worse. But there are some lessons to be learned by this experience, and I ask you to turn to Slide 24.

It's important for you to understand the lessons of the OCTAL shortage. If issues any guide, counsel and what this is for OCTAL will testify about the allegedly new and different technology used by that company and suggests that the product produced as a result of production process is better in some fashion than that produced by the domestic industry.

And, again, if history is any guide, the respondents will go further and suggest it's the high quality, not the price, that drives purchasing decisions, so that OCTAL really isn't competing with the domestic industry. The Commission rejected similar claims in a PET resin case and should reject them here.

Indeed, in this PET sheet case, you have purchasers readily substituting PET sheet produced by several U.S. producers for imports from Oman. It demonstrates that these products are perfect substitutes, as the purchasers switch back and forth between Oman and U.S. products.

Yet, I don't know if there is an act of God

involved here, but there is a moment of clarity that you should have, and when you listen to the producers on the other side say their product is somehow better, somehow more unique, somehow special, you have to look at what happened last year in 2018 and say, "If that's the case, why was the domestic industry product so sought after, so quickly used by producers?" So I want you to keep that in mind as you listen to the testimony by OCTAL and its witnesses.

If you turn to Slides 25 and 26, those deal with the issue of threat. They discuss the expanding capacity to produce PET sheet and ability to increase exports to the United States by a particular producer. Slide 26 outlines the very, very specific plans to increase shipments to the U.S. by this U.S. producer.

And Slides 27, 28 detail the large amounts of capacity and export-orientation of the other respondent companies. And finally, Slide 29 shows that the U.S. is an important export market for all of the subject countries and the most important market for Oman and Mexico.

While all the data you have seen shows an overwhelming case for a present material injury determination, this information also shows the threat of further material injury is real and imminent. That concludes our direct testimony this morning. We'd be pleased to answer questions and I'm glad that we timed this

perfectly for Mr. Grayczyk to join us to help answer those questions. I'll introduce Mr. Grayczyk, who I believe has been sworn in?

MR. GRAYCZYK: Yes, I have.

MR. ROSENTHAL: Okay, very good. Thank you.

Before Mr. Grayczyk's testimony, don't challenge him on it. I'm just kidding.

MS. HAINES: Welcome, Mr. Grayczyk. We'll start -- so, that concludes your testimony. Correct?

MR. ROSENTHAL: We're done with our direct.

MS. HAINES: So, we'll start staff questions with Ms. Lara.

MS. LARA: So, I think it would be a little bit helpful to be a little more detail in what distinguishes PET sheet from other PET products; particularly, film. When reading the scope it seems like the only thing that I can identify is the thickness that you specified. But then, in other parts of the petition it talks about how there are different production processes and I think it gives an example of PET film is produced by actually orienting extruded PET and then re-crystallized it after drying. So, I was just kind of wondering if you can identify any other characteristics that would distinguish film from sheet.

MR. PARSIO: Thickness is very important in the process to get -- to make film you must go through a

secondary process, the texturing process, or stretching it even further. In the production of PET sheet that's not done and therefore that's a major difference.

MS. LARA: So, if we were to come across something that did have that secondary processing, but did fall within that thickness range that would not be considered sheet?

MR. PARSIO: Correct.

MS. LARA: Okay.

MS. RINGELL: Ms. Lara, Burke Ringell from Kelly Drye. One of the -- I guess the easiest ways to differentiate or to think about PET sheet and PET film as different products is PET film because of the thinness and because of the different production process is used in completely different end uses. So, while PET film -- PET film is primarily used for specialty applications, photograph film, magnetic film, flexible installation in space suits and it's also used for packaging, but that's very flexible packaging.

So, if you think about the lid that peels off of a -- you know like a kid's fruit cup or boiling pouch type product that's different than rigid packaging that you would see like a clam shell container. So, the PET film simply cannot be thermal formed to the rigid and permanent shapes that is specific to PET sheet.

MS. LARA: Okay.

MR. PARSIO: As well as the price point of film is substantially different, higher than PET sheet because of the secondary processes we're talking about.

MS. BECK: And Ms. Lara, we also have some samples that we can bring up. And Mr. Grayczyk, as you're looking at it, has some comments too.

MR. GRAYCZYK: Sorry I'm a little late. I had a lot of fun at O'Hara yesterday and this morning. But anyways, what I'd like to say with the rigid sheet and the PET that we're talking about here in this petition and flexible PET film is an example. So, if you think of like an individually wrapped like cookie or cupcake with a flexible film that you know shrinks around the cookie or cupcake that's flexible, that's film.

The samples that I gave you that's rigid. And again, think of like a container for like a cake or strawberries or like a whole box of cookies or something like that that's clear that's rigid that's what we're -- that's what PET sheet is.

MS. LARA: And then on the other end, if something was even thicker than what was specified, would that typically be something that wouldn't be thermal formed. It would just kind of be the shape that it is 'cause it's so thick.

MR. ROSENTHAL: I'm not sure I understand the question. Are you saying it is the thicker product beyond the sheet product or is something else again?

MS. LARA: Yeah, would it still be considered PET sheet or --

MR. ROSENTHAL: There's an upper range that's typically considered the end of the PET sheet product, which we specify in the petition.

MS. LARA: Okay. In the petition, there's a lot of mention of different additives and coatings that can be added to the PET sheet. Can we get a little bit more detail on how that might affect the price or there's certain additives or coatings that are particularly expensive that would make the price fluctuate?

MR. PARSIO: Certain applications like an anti-static coating or a color or some other things like that would change the price, but not -- change the price, generally. But the overwhelming majority of volume is the use for optically clear, see-through type of packaging. So, like I stated earlier in my statement.

MS. LARA: Okay. And are there any -- has anybody noticed any differences between the types of additives or coatings that you would typically see from domestic PET sheet versus the subject imports?

MR. PARSIO: No. As far as imports, the

overwhelming majority of those are, again, for the general use of clear packaging as we stated earlier.

MS. LARA: Okay. So, I think it was Brooke that you mentioned that if it's a thermal former that has like an intermediate process of being able to extrude the PET product that we shouldn't consider them U.S. producers. Is it that that wouldn't be PET sheet at that stage of the production process when they're doing that intermediate extrusion process?

MS. RINGELL: Our position is that that intermediate process is just that, it's an intermediate process and that PET flat rolled material that is produced as part of that process is not intended for merchant market sales. It goes immediately into that producer's real duty or real job or real business, which is downstream packaging, the PET packaging. I think the database reflects that there are thermal formers with extrusion capacity that do sell some PET sheet on the merchant market, but that, I think, is the exception rather than the rule. And even among all thermal formers, not all of them have internal extrusion capacity.

I mean really the thermal formers are the domestic and import product -- PET sheet products customers. And so, you know their decision to invest in an in-house extrusion line is made on that individual company's -- you

know based on that individual company's decision; what makes sense for them, not necessarily a matter of rule. And we heard that -- from Mr. DeBode that OCTAL was very aware of that dynamic in the market and has essentially priced to keep thermal formers from installing in-house extrusion lines and to continue buying PET sheet from OCTAL, given its extremely low pricing.

MR. ROSENTHAL: Ms. Lara, just to amplify what Ms. Ringell said, we're not contesting that anybody who produces PET sheet and sells it in the merchant market is not a -- we're not suggesting they're not a producer of PET sheet for purposes of analyzing injury. And what Ms. Ringell said earlier was you should focus on merchant market sales. But in fact, the thermal formers are the PET sheet industry's customers. They are not the competitors and it not the same industry.

MS. LARA: So, we heard a lot of comments about how OCTAL is -- OCTAL's product is interchangeable with the U.S. domestic industry product and there's some antidotes that were given. Could anybody share anything about Korea and Mexico imports and how the degree of interchangeability between those imports and the domestic product?

MR. THIBADO: Really there is no difference as far as interchangeability of our material or their material.

MR. ROSENTHAL: We will amplify that some more

on the record, but you heard Mr. Thibado say that he submitted lost sales information with respect to each of the subject countries. That means Mexico and Korea and Oman. And there're others who have done the same. We were just talking to another non-petitioning PET sheet producer yesterday who was telling us about a customer who, contrary to the suggestion by Mr. Porter, was buying and entertaining sales from Mexico and Korea and Oman. And this domestic producer was competing against all three countries for sales to this particular company and we'll get you a declaration to that effect in our post-conference brief.

MS. LARA: Okay. And then, also, when you mentioned the cyclone that occurred in Oman, did anybody notice that there was a surge in imports from Korea and Mexico at that time to kind of fill that gap?

MR. DEBODE: I know that we had a surge. I am not sure about that. I can't have a comment on that.

MS. LARA: Okay.

MR. ROSENTHAL: I think you'll see over the period of investigation imports from those three -- all three countries increased with a bump with respect to Oman. But the imports from Mexico and Korea began to increase well before that three-month period we're talking about and continued beyond that. So, I wouldn't attribute their ongoing presence in the U.S. market to the three-month

period when OCTAL had its problem. If that were the case, we wouldn't be concerned about them.

MS. LARA: Those are all the questions I have for now.

MS. HAINES: Mr. Haldenstein.

MR. HALDENSTEIN: Thank you. Good morning. I'm Michael Haldenstein from the Office of the General Counsel.

Following up on what Ms. Lara asked about the distinctions between PET film and PET sheet, looking at your submission of July 17, it appears that what you're saying is we haven't really investigated this product before, even though you know we had an investigation that was called PET film and PET sheet; is that correct?

MS. RINGELL: That's correct.

MR. HALDENSTEIN: When I looked at that earlier investigation, I noticed that some of the thicknesses for PET film overlapped with the thicknesses that are in the scope of the investigation here. So, I guess that means -- I mean there are other distinctions between the products and that's the biaxial oriented; is that correct?

MS. RINGELL: That's correct. There are other distinctions in the product in terms of the production process, the physical characteristics, the end uses. And while there may be some very rare instances of overlap in terms of the higher end of what can be considered PET film

and the lower end of what would be considered PET sheet, the other factors really are -- present a clear dividing line between the products. And the vast majority of PET film is of a much thinner gauge and the vast majority of PET sheet is of a thicker gauge than what would potentially overlapping at that higher low end.

MR. HALDENSTEIN: Are any of the domestic producers producing both products?

MR. PARSIO: Not that I know of.

MR. DEBODE: Correct. We are basically rigid or thicker gauge.

MR. GRAYCZYK: No, we only produce rigid.

MS. CANNON: I was just going to point out also to reinforce Brooke's comments that if you look at the list of producers in that old PET film case you don't see an overlap with the producers here, which further indicates that even though there were some references to sheet that really that case was a film-based case with an industry that was quite different than the industry and the product at issue here.

MR. ROSENTHAL: And Mr. Haldenstein, I will say that -- this is antidotal. When we talked to the members of this PET sheet industry about the PET film case, they said what case. They obviously didn't see their products being implicated or discussed in those actually earlier

cases. They didn't understand any overlap in the two products or in the coverage of those cases.

MR. HALDENSTEIN: Thank you. In your post-conference brief, can you go through those six factors with respect to the two different products, PET sheet and PET film?

MS. RINGELL: Yes, we will.

MR. HALDENSTEIN: Let me ask also about the statement that maybe some of the thermoformers are not doing enough to be domestic producers. Is that a correct understanding? Can you explain that a little more, with some more specifics? Maybe not identify the producer, but explaining it.

MS. RINGEL: Brooke Ringel, Kelley Drye. I think the purpose of our comment and what you'll see in our post-conference brief is that what we're asking Commission to do is focus on the merchant market in terms of analyzing material injury. So to the extent there is a thermoformer that is producing PET sheet and selling that PET sheet in the merchant market, then that would be considered in the analysis. And to the extent there is internal extrusion capacity, but none of that is being sold in the merchant market and 100% of it is being internally consumed, then we do not believe that the Commission should focus on that as part of its material injury analysis.

MR. HALDENSTEIN: But you're not saying that they're not domestic producers and that they don't satisfy our production -- it's not domestic production and they're not -- we should not exclude them from our dataset completely because they're part of the industry; is that correct?

MS. RINGEL: I think, based on discussions with our clients and our understanding of the industry, the domestic PET sheet producers that are sitting here, do not see their customers as their PET sheet competitors. They see them as their customers. They're not selling the same product, they're not competing in the same market. That said, the Commission may view things differently, and to that extent, the captive consumption provision of the statute would come into play.

MR. HALDENSTEIN: So, essentially you're saying that they're captively consuming their production and we should apply the captive production provision --

MS. RINGEL: Yes.

MR. HALDENSTEIN: -- and focus on the merchant market.

MS. RINGEL: Yes.

MR. HALDENSTEIN: Okay, thank you. How should the Commission weigh the lack of industry support or opposition to the petition?

MS. RINGEL: Brooke Ringel, Kelley Drye. Our position as, in terms of industry support, as developed and stated in the petition and in a supplemental response to the Commerce Department, clearly in our view, demonstrates that there is industry support for the petition, well in satisfaction of the statutory requirements.

That said, yesterday, the Commerce Department made an announcement that they were gonna poll industry support, and at this point, we need to see what those responses look like. But we are confident that there will be industry support and that there is currently industry support for the petition and that, in fact, we've already satisfied that standard.

MR. HALDENSTEIN: Okay, thank you. I also had a question about negligibility because the numbers that I've seen, at least for Mexico, the imports would be negligible. Can you address that, at least in your post-conference brief? Or if you can here?

MS. BECK: The questionnaire data -- Gina Beck of Georgetown Economic Services -- the questionnaire data received to date, however, is incomplete, particularly for Mexico, but in Korea as well. If you look at the data that we presented in the petition at Exhibit General 2, you will see the methodology that we used, and the very different levels that are believed to be PET sheet from both Mexico,

as well as from Korea.

So we do not recommend that the questionnaires are relied on, given their incomplete nature. But instead the U.S. Department of Commerce official import statistics instead. Although the import statistics include both PET sheet and film, we have presented a methodology that is representative of what only PET sheet imports are.

MR. HALDENSTEIN: How are we supposed to gauge how much of the imports in the basket category are PET sheet?

MS. BECK: At General Exhibit 2 of the petition, we have put together a very specific methodology, based on the industries' best knowledge of what they've seen in the market as imports from both Mexico and Korea.

MR. ROSENTHAL: And it's an imperfect record and world, if you don't get questionnaire responses from the foreign producers, it's hard to rely on those, too. And we believe what you've gotten thus far from Mexico and Korea are incomplete, so we've done our best to provide you data from the official import statistics in using the best knowledge of the industry about what percentage of the imports are sheet versus film.

But at this preliminary stage, I don't think you can assume, other than Oman and OCTAL, which we agree with Mr. Porter is representative of the imports from Oman, I

don't think you can assume that what you've gotten from the other respondent countries accounts for all of their imports.

MR. HALDENSTEIN: In your post-conference brief, can you address that further? And I guess, identify the importers that we're missing --

MR. ROSENTHAL: We'll do our best.

MR. HALDENSTEIN: -- questionnaire from?

MR. ROSENTHAL: We've identified the foreign producers and the importers and we know who supplied a questionnaire response, so we will do our best to kind of focus that and specify who we think are the big ones that are missing as far as we can divine.

MR. HALDENSTEIN: Thank you. I think you heard Mr. Porter's comments on cumulation. He says that Oman's exports aren't competing with other imports from the other subject countries. Can you address that?

MR. ROSENTHAL: Ms. Ringel addressed it in her testimony, we'll let her amplify, but we also have information that we've submitted on lost sales, and as I mentioned, they'll be submitting some more information about customers who buy from all, versus that we've identified domestic, as well as Mexico, Korea and Oman. So we know there are customers who buy from all sources and I'll let Ms. Ringel expand on or repeat some of what she'd said

earlier about the other criteria for cumulation.

MS. CANNON: This is Kathy Cannon. I just wanted to address one point that Mr. Porter made, which was that he--as I understood him--he was saying there shouldn't be cumulation because he wasn't aware of a specific customer overlap.

That's not a requirement in a cumulation provision, and in fact, it's often common that you see people competing and one particular source, foreign source or domestic source, supplies a particular customer. It doesn't mean there's not a reasonable overlap of competition, and in fact, in the Commission's legal analysis, that isn't one of their criteria. You look at fungibility, interchangeability, geographic sales, because you recognize that people are often competing for the same account and ones that get that account and the other ones do not.

The fact that they are not supplying the same account in and of itself, is not any indication that there shouldn't be cumulation. And there are factors, as Ms. Ringel discussed, and we can brief further, that are met in this case, so I just wanted to point out that specific issue he raised.

MR. HALDENSTEIN: Thank you. With respect to the captive production provision, can you go through the

requirements and the fact that PET sheet needs to be the predominant material input for the downstream product? At least address in your post-conference brief if you could.

MS. RINGEL: Brooke Ringel, Kelly Drye. We will address it in our post-conference brief. I will say at the outset though, we have full confidence that the statutory factors will be easily met and warrant the application of the provision.

MR. HALDENSTEIN: When I looked at -- I think it was in the petition -- there was a big difference in the AUVs entering from different subject countries. Is that a reflection of PET film coming in, in those basket categories from certain countries or -- can you address that?

MR. ROSENTHAL: That's our best guess, too. It's very hard to know the exact product mix there. We did our best to isolate what would be sheet versus film, but in terms of AUVs, that's a little tougher to divine. But we'll do our best in the post-conference brief to address that further.

MR. HALDENSTEIN: Thank you. I had a question about the direct imports. Do you have any estimate of how much of the imports are directly imported by end users, the thermoformers or other end users?

MR. THIBADO: John Thibado, Advanced Extrusion. Virtually all of my customers who purchase from the subject

countries, they purchase directly. They do not go through any distributor. And I do not know of one of my customers who go through distributorship for foreign material.

MR. HALDENSTEIN: Anyone else?

MR. GRAYCZYK: Bran Grayczyk, Ex-Tech. I second that. My customers who import material from the subject countries all do it directly, not through distributorships.

MR. HALDENSTEIN: Thank you. I also had a question for Mr. DeBode. He was referencing the regrinding or the other processing. Can you explain exactly what that is? I didn't completely follow what you were saying there.

MR. DEBODE: I'm sorry -- yes, this is Doug DeBode. The regrind, if you think of, I guess, I'll use an analogy real quick. The regrind is, if you make cookies and you stamp out cookies out of cookie dough, rolled cookie dough, you have all that edge stuff around there, you mix that back up and you make it into more cookies, right?

You rewind it and do it -- that's what we do with plastic also, to recycle the biggest content of it that we can. That webscrap matrix--some people call it--is ground up either by a thermoformer or an extruder, and they're reused back in the process. So it has value to an extruder for use in that extrusion process.

MR. HALDENSTEIN: Thank you. That's all the questions I have for now.

MS. PREECE: Okay, thank you. Thank you very much for being here. It's been very helpful. I have a few questions and let's start off with the most basic one. This product is mainly used by thermoformers, is that the correct word?

MR. PARSIO: John Parsio, Jr., oh, go ahead.

MR. THIBADO: Just a battle of the Johns. It's used by thermoformers.

MS. PREECE: I'm sorry, thermoformers, okay, great. Thermoformers. Is there any other use that you know of?

MR. THIBADO: John Thibado, Advanced Extrusion, this material is also used in signage. There's also fabrication made from PET sheet for Febreeze fragrance. It's -- other uses other than PET.

MS. PREECE: Okay, so there are other uses.

MR. THIBADO: Yeah.

MS. PREECE: What share would you say is thermoformed and what share would be used in other applications?

MR. THIBADA: Say about 98% is in thermoforming.

MS. PREECE: Everybody agrees with that 98%?

MR. PARSIO: Generally speaking, John Parsio, Jr. from Multi-Plastics Extrusions.

MS. PREECE: Okay, that's good, you know, they

say generally and then I think what's the rest, so that's very helpful. Okay. So, we've got a whole bunch of U.S. producers here and so I want to ask them why do you not use the same equipment for other polymers? This is something that people said they don't do, so the question is why don't you do it?

MR. PARSIO: John Parsio, Jr. from Multi-Plastics Extrusions, the equipment and the flow rates that plastic move through those pieces of equipment, those equipment are actually designed for the actual flow rates of the PET resin itself, and if you use other resins, they have different viscosities, therefore the design of the equipment itself has to be modified to be able to use those and those modifications can be expensive.

MS. PREECE: Okay, so generally I would expect that firms who do this can't really easily shift it to another product.

MR. PARSIO: As referenced, John Parsio, Jr. from Multi-Plastics Extrusions. I have many other pieces of equipment that do other process other types of polymers and one major one being polystyrene and certainly on those machines I cannot produce the PET product.

MS. PREECE: Okay, thank you, that's very helpful. This product is sold in a roll form. Are there any variations in the core of these rolls? Do they come

with a core? Do the cores differ? What's the --

MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics. Yeah, generally I would say most is on a 6 inch core, but 3 inch core is the other one that we normally do, so either 3 or 6 inch, but 6 inch is majority, probably, at least for us, probably about 70% of what we do is 6 inch core.

MS. PREECE: And are there any other kind of core specifications that are out there some loopy person has?

MR. DEBODE: There might be, yeah. I've heard of 10, we don't do that, but generally speaking, I would say, gosh, 90% of my volume is of a 6-inch core as well.

MR. THIBADO: John Thibado, Advanced Extrusion. I agree. The majority of it is 6-inch paper core.

MS. PREECE: Most is a 6-inch but there's also a 3-inch?

MR. THIBADO: 3-inch, correct.

MR. PARSIO: And John Parsio, Jr. from Multi-Plastics Extrusions. I would suggest that it's mostly dictated by the thermoforming machine itself and their "general standardization" into a 6-inch core across multiple manufacturers of thermoforming equipment.

MS. PREECE: Okay, okay, well that makes sense. Okay, okay I'd like to mention Slide 14. It seems like there's a contradiction in it. The heading says, "quarter 2018 and quarter 2019" and the line below them is '16 and

'18, so I'd like to have that corrected to be clear. Thank you, that's obviously just the kind of error that I make so, I'm not.

MR. ROSENTHAL: Well, we won't blame you for this one.

MS. PREECE: No, no, you don't have to do that. Okay, let's see now. So, we're talking -- we've already focused down to say mostly PET sheet is used by thermoformers to make plastic containers, is that correct?

MS. RINGEL: That is correct.

MS. PREECE: Okay, good. Now, within that plastic container stretch area, what are the most common kinds of containers that are made? Do you have an idea of that?

MR. DEBODE: One very, very common container would be a strawberry basket with the holes in it for strawberries. Another would be a takeout food container for your salad or your sandwich.

MS. PREECE: Can you kind of give me an idea of what -- if I were saying okay, 5% of all the plastic goes into strawberry containers, or is it 2% or -- can I get any idea of those kinds of things?

MR. DEBODE: We're going to have to -- I think Brian might have a little bit more. Yeah, as a percentage of like --

MS. PREECE: Well, you know, I'm an economist. I need to try to figure out these things.

MR. DEBODE: Gosh.

MS. PREECE: That's alright, you don't have to. If you don't know it, just it's --

MR. DEBODE: I don't know it.

MS. PREECE: Ignorance is fine.

MR. DEBODE: Okay.

MS. PREECE: I'm happy to, but I just -- you know, it would be interesting to me. Okay, so let's start off with a strawberry container. If I were packing strawberries, how much would I pay for that strawberry container per container, probably? Does anybody have any guesstimate of that?

MR. THIBADO: It all depends on -- John Thibado, from Advanced Extrusion. Back in my forming days, the cost would be relative to the size of the tooling, the number of cavities that were being formed. So, you know, cost probably nowadays it would be anywhere from like 3 and to 6 or 7 cents per tray.

MS. PREECE: Okay, so let's go with that. That's great. That's very helpful. So, if I'm talking about filling strawberries -- the container is say 7 cents of the $2.00 that I spend on the strawberries, so, I'm just trying to think about cost share, and obviously PET sheet is a high

part of the cost of the container, but then when we're selling it to the ultimate consumer it's 7 cents out of the $2.00, so it's not a large share.

That's why I'm trying to -- is that, would you say that's correct?

MS. RINGEL: Miss Preece, Brooke Ringel, Kelley Drye. I'm not the industry expert, so I can't speak to the particular cost share, but I think an important thing to keep in mind that we were actually talking about yesterday, that I think -- it seems like a simple concept. But you can get lost in some of these discussions, that you know, anyone who's bought strawberries, we recycle, or we throw that container away.

So, the ultimate PET packaging at the end of the day is intended to be thrown away. It's intended to be a disposable product and so you wouldn't expect a significant investment or cost in that.

MS. PREECE: Well, I hope they're recycling it, but. It's very unlikely.

MS. RINGLE: That is one of the wonderful characteristics of PET.

MS. PREECE: Yeah, I know, PET can be recycled, but there's so much out there, it's so scary. Okay. So, would that be representative -- I mean we're talking about a salad bowl with a lid, that would maybe be more expensive

than the strawberry container but not that much more, maybe the 7 cents is the?

MR. THIBADO: Yeah, I would believe it would be maybe on the higher end of the cost. Again, John Thibado, Advanced Extrusion, because there's more mass to a salad tray or a clam shell versus a strawberry clam sheet. It would cost more.

MS. PREECE: Okay, okay. Anybody else want to pull into that? Okay, I'm happy with that, that's good, that's good. It's solved my major problem on that container. So, what are the other kind of containers that are out there that people are going to be selling strawberries in?

Is there any other container out there that people are selling strawberries that are competitive with PET?

MR. PARSIO: At this point, I don't know of any in the strawberry area, but I would suggest due to the fact that many of the producers of drinks, I'll name a few -- Coke, Pepsi Cola, have developed a recycling stream for PET in the bottles themselves.

Therefore, there is a market for recycled PET and therefore there's a stream to recycle PET and it's about the infrastructure and the stream, and therefore the move to PET demand in the United States, has been drawn to PET for that

reason in my opinion.

MS. PREECE: Okay.

MR. PARSIO: Which might help your conscious a little bit.

MS. PREECE: Yeah, it's hard to help my conscious when I know that a billion pounds a year are being used by one consumer of this product. But, anyway?

MS. RINGEL: Miss Preece, Brook Ringel. I would just recall a point in Mr. Grayczyk's testimony which Miss Cannon read that the -- that his experience has not been that he negotiates with a customer and the pricing pressure is coming from alternative materials. The pricing pressure is coming from PET imports.

MS. PREECE: Okay, that's fine, I just want to make as clear as possible. I'm not, you know, they're not -- you're not competing with those paper cardboard kind of containers that strawberries do come in sometimes if you get them at the farmer's market or something like that. Okay, is demand for the PET sheet seasonal? Have you?

MR. DEBODE: I'm sorry, I can't work the button here.

MS. PREECE: It's on, it's on, I can hear you.

MR. DEBODE: Doug Debode from Multi-Plastics. There is some seasonality to the market with the fall and the spring being heavier demand times, building up for the

Christmas season, and the holiday season at the end of the year and then the summer.

MS. PREECE: Okay, so, so, it's the strawberry people in the spring and then the packaging people in the fall, is that sort of the build-ups? So, the spring they're building up for producing these containers for fruit, and then in the fall it's for packaging for -- is that what we do?

MR. DEBODE: Yeah, each market has its different period and for example, the strawberry market in Florida, is very active early in February and into March when California comes online with their overwhelming production, they actually bury the strawberries in Florida and they start producing them in California, so the market shifts there from one market to another market -- or one region to another region, sorry, to satisfy that need.

When that's done there are other products, raspberries or blueberries or whatever, so.

MS. PREECE: Yeah, yeah, I'm fond of blueberries, so. Okay.

MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics. So, I mean that's just strawberries, so there's a lot of different markets that PET sheet is used for, right? It goes for -- we see a pick-up in the fall or even in the late summer for the holidays.

So, you have Thanksgiving and Christmas coming up, so all the cakes and cookies and cupcakes and candy and all the snacks and stuff for all those holidays, packaging is being built in late summer.

And then it kind of slows down a little bit in the winter time, but then people are doing their packaging for Super Bowl. Super Bowl is a big plastic packaging, you see the cheese and cracker trays, and the meat trays and all that. Super Bowl's a big thing that people buy a lot of food for.

And then all the holidays -- Valentine's Day -- the candy for Valentine's Day and Easter. So, there's a lot of seasonality but it's different seasons, you know, all the different holidays, you have the patriotic season -- Memorial Day, Fourth of July, Mother's Day, Father's Day, again there's a lot of cookies, cakes, cupcakes, all those kind of stuff that people build for early in the year.

MS. PREECE: Okay, okay that's good, that's good, thank you, that's really helpful. You got me further along in that question. Does demand depend upon the health of the overall economy? Is, I mean it seems like this is something that's -- everybody needs it so, but on the other hand, if the economy is doing less well, people are buying fewer Super Bowl cakes or whatever.

MR. PARSIO: Our demand as far as -- John Parsio,

Jr. from Multi-Plastics. Our demand, people have to eat. And people -- I'll be overwhelmingly general, people are inherently lazy, and they like to take it home, so these containers allow them to do that.

MS. PREECE: Okay, okay, so there might be some economy, but it's not much. That was what I expected, but you know, you never know. Okay. So, what causes the price of sheet to vary per pound? Is it more expensive to extrude a thinner sheet for you all because you have to use the machine more for a pound, or can you just sort of zip it through faster when it's thinner, or something?

MR. PARSIO: It would be more expensive to extrude extreme thinner, but unfortunately the market price for thinner in the ranges that we spoke of for thinner versus pretty much in the range the price doesn't change very much pertaining to those gauges.

MS. PREECE: Okay, so the thinness is not a very important factor in price. Is the kind of coating or anything like that important in price?

MR. THIBADO: John Thibado from Advanced Extrusion, the coatings are not so much an influence on price. However, the thicker gauge material, because we sell time -- machine time, it -- that will consume more machine time, so those product --

MS. PREECE: Thicker gauge will?

MR. THIBADO: It will from like 50 mil on up.

MS. PREECE: Okay.

MR. THIBADO: It requires more cooling, the machine time to cure.

MR. PARSIO: John Parsio, Jr. from Multi-Plastics Extrusions. Both ends of the spectrum create more cost.

MS. PREECE: Okay, okay, that's good. That's good, so we can't just run out and use AUVs? That good, okay, that's clear. Why is this product produced to order? Why don't you have -- just sell it out of inventories?

MR. PARISO: John Parsio, Jr. from Multi-Plastics Extrusions. Through the inherent price sensitivity of the product itself, molds would be made much like Mr. Thibado said before, and those -- depending on the mold you have for the part you have, how many up, multiple up of that part you have, determines the width of the sheet used, therefore if you've tooled for four up and that gives you a sheet size of "X", the customers are generally not willing to pay the differential in the scrap waste that it would take to use one size for multiple.

MS. PREECE: Okay, great, great, that's very helpful. Okay, just a request -- that is, if you can provide the PET index, if you use a PET index in any of your pricing, can you provide that in your briefs, that would be helpful, thank you, that's all for now.

MS. HAINES: Okay, Miss Catalano?

MS. CATALANO: Good morning. I'm Jennifer Catalano, I'm the Chemist on the case. And I'd like to thank the Petitioners for bringing samples because it helps everyone visualize what it is.

So, as a chemist sometimes I go and read surprisingly, the handbook of thermoplastic polyesters and I was reading this the other day by Gupta and Bash here, and it says in this handbook that there are different grades of PETS and that one of the important factors is the intrinsic viscosity of the material.

And it goes on to say that there are different grades -- fiber grade, film grade, bottle grade, and there are these different PET resins that have different intrinsic viscosities. And, it goes on to say that if you have a range of about .60 to .70 deciliters per gram for intrinsic viscosity, that's probably your bi-axle oriented PET film, and at .70 to around or 70 to about 100 milliliters per gram is sheet grade.

And so, here we have this concept of intrinsic viscosity and we have the thickness in mil's and this handbook divides film and sheet by intrinsic viscosity, almost as a clear dividing line. And I'm hoping to get your thoughts on what you think about intrinsic viscosity as a defining factor for film and sheet.

And even in the HTS, we have plate, strip, and other things that are here. So, I'm interested in your thoughts.

MR. DEBODE: This is Doug Debode again from Multi-Plastics. I also buy resin for our company as well as General Manager, so that's one reason I would like to answer that. Viscosity range that you talked about, we don't produce film, so I can't talk to that specifically actually oriented, but that would make sense.

For the sheet market and thermoformers, the viscosity relates to not only what John Parsio was talking about, about how it goes through the dyes and extruder and things like that. But if the viscosity gets too low for a thermoformer, it can actually be very brittle, and not functional for them.

If the viscosity is too high, viscosity sort of relates to toughness also, and so if you had a 1.0 hundred viscosity, the thermoformer wouldn't be able to cut that with their machine. They have knives that cut the shapes out. We could probably extrude it. We never have extruded anything that high. We've never extruded anything over about 90 before.

Normal for an extruder because of what a thermoformer needs is probably in the 76 to 85 area, something like that -- a bottle market that you didn't talk

about, is about 80 to 82, very, very tight range because the viscosity controls how fast they can blow it into a mold, and that process happens so quickly, they have to have a very defined viscosity range to be able to do that, so.

MS. CATALANO: Anyone else want to comment?

MR. PARSIO: So, the viscosity, John Pariso, Jr. from Multi-Plastics, the viscosity not only affects the thermoforming process, but most of the time you're talking about the viscosity at a melt point when you're extruding it. Yes, that affects thermoforming or blowing bottles from pre-forms later down the line, but generally, the people that are extruding are more worried about the viscosity and what it will do for the end user.

MS. CATALANO: And what is your usual range of viscosity -- intrinsic viscosity that you will use, or sorry. So, when I go to chemistry conferences, we define ourselves as organic chemists or physical chemists, or maybe even an inorganic chemist.

So, in the plastics world, when you go to conferences and you define yourself as a thermoformer, who are the other people? What do you call those?

MR. PARSIO: This is John Parsio, Jr. from Multi-Plastics Extrusions. I'm an extruder. I am not a thermoformer.

MS. CATALANO: You're an extruder. Okay.

MR. PARSIO: A thermoformer is my customer.
MS. CATALANO: Okay.
MR. THIBADO: John Thibado, Advanced Extrusion, I'm an extruder.
MS. CATALANO: Okay, thank you.
MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics, we're also an extruder.
MS. CATALANO: Okay, so you've defined yourself as well, okay. Alright, my next question has to do with recycling. So, this product here, this APET product that's labeled APET.017, I assume this has no recycle or 0% recycle product, and do you ever put recycle product in here? So, could it be like a 1 to 10%, or is it always virgin APET stuff for the clear packaging.
MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics. So, we make both, so the one that you're holding in your hand that says APET, that's just virgin resin. You might have one that says RPET in another folder there, and that would have recycled content in it.
MS. CATALANO: No, I don't -- would it be clear? Would it be clear-looking?
MR. GRAYCZYK: It would be clear, yeah.
MS. CATALANO: Like this?
MR. GRAYCZYK: Yeah, it would be clear like that.
MS. CATALANO: And how much of the recycled

material can you put in here? And I figure maybe it would start looking -- it might start looking a little different if you had 100% recycle?

MR. GRAYCZYK: Oh, for sure, yes. It will look a little different and it varies, so it varies depending on the quality of the recycled material that you have. If you have a good stream of high-quality recycled material, you could probably get close to 100%.

If it's dirty and whatever, you could bleed it in at a lower percentage with your virgin.

MS. CATALANO: Is that because it will look cloudy or a different color? What is it that's different?

MR. GRAYCZYK: John?

MR. PARSIO: Yellow index.

MS. CATALANO: Yellow.

MR. PARSIO: Yellowing or graying and then maybe imperfections that you might see in the optical clarity of the sheet.

MS. CATALANO: And what makes recycle material not so good? What's in there in terms of contaminants or what is it that makes it look -- or what?

MR. PARSIO: Carbon.

MS. CATALANO: Carbon.

MR. PARSIO: The un-melted polyester, it could be dirt.

MS. CATALANO: Dirt, okay. And when I look at this, this is --

MR. PARSIO: The specifications for our customers demand a certain level of all that, so and we can easily provide that with both recycling and recycled content and/or virgin content or mixes of both.

MS. CATALANO: Okay, and when I look at the black material, so this is labeled .0225 black, is there anything -- can you get more recycled stuff in here because it's black and nobody will notice that yellow index?

MR. PARSIO: John Parsio, Jr. from Multi-Plastics Extrusions, yes.

MS. CATALANO: Okay, so I mean, do you think that this would -- might be more expansive than this because you could put more in your recycled content into the black sheet?

MR. PARSIO: You're going to have the same answer.

MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics, yes, the clear would be more expensive than the black.

MS. CATALANO: And do you see a different demand usually for the clear versus the black?

MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics, yes, absolutely clear is the majority of what we sell versus the black. Black is a small, much smaller amount.

MS. CATALANO: 90/10.

MR. GRAYCZYK: Yeah, I'm guessing here. Black versus --

MS. CATALANO: What percentage of the --

MR. GRAYCZYK: Yeah, 90 to 95% clear.

MS. CATALANO: Okay, and then this is only 5% okay, that's what I was just trying to get an idea of. So, most people want this clear packaging, probably because they can see their strawberries if they're rotting or not, right? Okay.

MR. GRAYCZYK: Brian Grayczyk, Ex-Tech Plastics, yeah, the black is generally used for like bases, like with a clear lid and a black base, like if you have say like a salad, it will make the salad stand out more because of the black base.

MR. THIBADO: John Thibado, from Advanced Extrusion, I do like that we're talking about recycled, but we do have to keep in mind that until they use 100% virgin, so I want to make sure you understand that.

MS. CATALANO: Okay.

MR. THIBADO: We have that capability -- their product is 100% virgin.

MS. CATALANO: Okay.

MR. PARSIO: Four out of, from our understanding, John Parsio, Jr. from Multi-Plastics, out of their Ohio

facility which uses a substantial amount of recycled product.

MS. CATALANO: Okay.

MS. CANNON: This is Kathy Cannon. I just wanted to clarify one thing because I think you were left with the impression that if was the virgin material it was going to cost more and be at a higher price. And the bottom line is that OCTAL is selling virgin, but they're selling it at a lower price than what these gentlemen sell the recycled product at.

So, these products are comparable, they're going into the same uses, regardless of what the input materials are. They're talking about the costs, and what it's costing them to do it, but the end is what they're seeing in the market is very, very different and that's what the problem is here.

MS. CATALANO: Okay, so I've heard the terms this morning of -- or did you have another comment? Okay, alright.

MR. GRAYCZYK: I just wanted to amplify that all these companies make virgin or PET sheet from virgin materials too. You end up in the same place whether one or the other or with blends, and basically what they're doing is meeting the customer's specifications.

MS. CATALANO: Okay, and I just wanted to clarify

because I've heard the term today recycled material and then regrind. Are these two terms different or are they exactly the same?

MR. PARSIO: John Parsio, Jr. from Multi-Plastics. It's important to understand that the terms you used are synonymous. But understanding that the term recycled could also mean a post-consumer product which is way different than what we were talking about today.

When we talk about recycled or regrind, we're talking about a post-industrial product, much like the analogy of the cookie cutter.

MS. CATALANO: Okay, thank you. So, I also heard it said today that there could be co-extrusion products and I'm interested to know what is co-extruded together usually?

MR. THIBADO: John Thibado, Advanced Extrusion. We have quite a bit of co-ex capability. Sometimes our customers require that we extrude a sheet where it's color on one side, clear on the other for like the salad bowl, with the clam shell. It gives the product a real good pop.

Sometimes there are additives that are only needed on the outer skin of the material, so we'll put a thin layering on both top and bottom of a core substrate, that's co-extrusion.

MS. CATALANO: Okay, but you're not referring to any other chemical polymers?

MR. THIBADO: No.1

MS. CATALANO: Okay, just checking, just to be clear. And I also heard Mr. DeBode, you said that DPET is APET, and I think I heard D as in dog if I was correct, because sometimes the sound comes, but is DPET something that is a brand of APET? Is it OCTAL's own branding?

MR. DEBODE: Doug Debode, yes, it is. DPET just has to direct PET, that's the only difference, chemically and everything else is the exact same.

MS. CATALANO: Okay. And when we talk about virgin PET, are there any chemical impurities that can be in there that might change the quality?

MR. ROSENTHAL: Can you repeat the question, please?

MS. CATALANO: Sure. When we talk about the virgin PET or a PET, are there any chemical impurities that can be in the virgin PET? No? Okay.

MR. DEBODE: I'll answer for everybody. No.

MS. CATALANO: Okay, 'cause there the quality argument, so I'm wondering maybe quality has to do with some kind of chemical impurity, but it sounds pretty pure. Okay.

MR. GRAYCZYK: So, again, sorry I was here to read my testimony, but in my testimony I know it was pointed out that when I purchase materials for D&W Fine Pack and CM Packaging, whether it was D-PET, A-PET, R-PET, they could

all be used for the same applications.

MR. PARSIO: Understanding that, generally speaking, the cost of re-grind would be a bit cheaper than a virgin A-PET pellet. So, in a plight to try to get to a lower cost, you might put more re-grind in. But ultimately speaking, quality-wise, we are all very capable of making A-PET product. It just happens to be more expensive and the constraints of subject imports have not allowed us to be able to do that.

MS. CATALANO: Thank you.

So, today I've also heard terms --

MR. DEBODE: I'm sorry. Can I make one other comment on that and I think it's appropriate is that the PET -- or the co-x material you were talking about think of a sandwich where the bread on the outside is the thin skin layer that John was talking about. We make that also. When the OCTAL incident happened last summer, one of the things we did for one of their -- I believe their biggest, I'm not sure, customer to satisfy their demand during that time, because price is the issue, was we would take that material and put an A-PET or a virgin outside of it and inside of it we put a re-grind content to bring the cost down for them a little bit. We were hoping that would lead to some business after the fact trying to do that instead of take advantage of the situation and unfortunately it didn't.

MS. CATALANO: Thank you.

So, some other terms that I'd like to clarify that I've read about in the petition and heard here today are the terms "rigid, semi-rigid, flexible." So, from a scientific or chemical perspective, I'm thinking about what these terms would mean in terms of any kind of physical properties. And I'm wondering if you have any comments on how one would fit into either of these categories and where we would draw the line.

So, we talked about intrinsic viscosity as being possibly a dividing line between sheet and film. And I'm thinking, well, what about this term. Is it a thickness? Is it -- you know.

MR. Parsio: I think there's a direct correlation between thickness and rigidity.

MS. CATALANO: Okay, so you're making that --

MR. PARSIO: Yes.

MS. RINGELL: To clarify, we use the terms "semi-rigid and rigid" in the petition, not to differentiate necessarily different type of PET sheet, but to explain it in some ways in different stages. So, you'll have the material in front of you there. And as we've described, it's sold in rolls. So, clearly, it's not like a pen, right? I mean clearly it's not so inflexible that it can't be rolled. But once it's thermal formed into a clam shell

container, I mean it's not moving. You're not able to bend the corners up and down of a rigid packaging material.

So, just as a point of clarification, we didn't intend you know semi-rigid versus rigid to talk about different types of PET sheet, but really to talk about it at the different stages, one in roll form and then one when it's ultimately created as rigid, permanent shaped PET packaging by the downstream customers.

I would also note, as we've discussed with others today, flexible and flexibility is really characteristic of PET film. And PET film maintains that characteristic throughout its processing, including in downstream end uses.

MS. CATALANO: Okay, thank you.

I have a last question about -- I've done other cases where there were polyethylene carrier bags -- the retail bags and in the news they talk a lot about banning the plastic bags or charging the customer money when they buy them. And have you heard any issues about this product, PET sheet, being banned anywhere, which might change the demand?

MR. PARSIO: It's obviously a fear with the amount of misinformation or information about plastics. I think it comes down, ultimately, to an alternative at a price. And until there's a viable alternative at a price or

the consumer market is willing to pay more for a not-so-viability product at a higher price, then maybe. But at this point, demand seems to still be robust.

MR. THIBADO: One of the main reasons why at least food packagers like PET is one of its physical properties is it's resistant to letting oxygen permeate the tray, so it extends shelf life for food product. So, I go grocery stores and you see a lot of PET and it's really for that reason. And not only that, it's highly recyclable.

MR. ROSENTHAL: I was going to make that last point. That's the saving grace. I reading an article in the paper two days ago about the efforts in the Ivory Coast to use and collect plastic bags, make them into plastic bricks and they're beginning to develop an infrastructure there to do that, which is great. We don't have, interestingly enough, that infrastructure in the U.S.

One of the other industry witnesses talked about how the bottle consumers, the Coca Colas and Pepsis of the country have developed a recycling stream for that and these products that we're talking about today the thermal formed plastic plates and clam shells are able to make use of that stream and so they're differentiated in that way from -- and more recyclable than the plastic bags, at least, in the U.S. And I think that's -- so far, that's why policymakers have looked at that issue as well.

MS. CATALANO: Thank you.

And my last question has to do with the harmonized tariff schedule. And in chapter 39 the 10-digit comes out of a larger category, which is plates, sheets, film, foil, and strip. And I'm wondering in the industry are these terms something that you hear and what'd you think of as a plate versus a sheet or a strip? Is this something that is common or is this a harmonized tariff schedule classification?

MR. PARSIO: I've never heard the term "strip." I would be assuming a plate is something you would eat from and a sheet could be referred to as a physical piece of one of the rolls we talk about or the PET sheet that we're speaking of right now.

MS. CATALANO: Okay. Same for you?

MR. THIBADO: I agree with Mr. Parsio that until we came together to talk about the petition I've never heard the term "strip" before, so it's outside of our vocabulary in our world.

MS. CATALANO: Thank you. That's helpful.

MR. DEBODE: If I may, those are more, I think, regional terms. As we said, "strips" is not a common term in the United States. "Coils" is a common term for a roll over in Europe. So, because the harmonized code affects so many different countries different countries definitions

are, I assuming, captured in that. But I know "coil" specifically because we have customers in Europe for other products that refer to can I get a coil, two coils, five coils, whatever, material.

MR. ROSENTHAL: As you know, it's not unusual for steel and aluminum and others in those forms to be plates, strips, coils, et cetera. I think somebody's word processor just stuck when they got to this ATS number.

MR. GRAYCZYK: So, again, going back to my days at D&W and CM Packaging, we also did aluminum, besides plastics. And aluminum rolls were normally referred to as coils, and also as Doug mentioned also in Europe.

MS. CATALANO: Thank you. Those are all of my questions.

MS. HAINES: Do you have follow-up questions?

MS. LARA: Yeah, just some quick follow-up questions.

So, I think I heard earlier an argument being made that these thermal formers often won't have this internal capability of producing sheet because they can buy it so cheaply from OCTAL. So, I can't remember off the top of my head how many were seen with this internal capability, but in post-conference briefs if you can address that. If you do see the presence of this, why they still seem to be producing some internal versus buying some outside, if

that's something you can look into.

MR. ROSENTHAL: We'll certainly do that. I think it's fair to say in every industry who has these kind of processes every company makes a make/buy decision and they've got to decide whether they want to make the investment in the equipment to be totally integrated or they want to purchase their intermediate or raw materials. And so, as I said, some of those folks have been on the other side in the thermal forming business and they've made different decisions in those capacities. We will give you the information we've got on who is totally integrated, who sells to the merchant market, and which thermal formers have no capability for making this intermediate product and buy exclusively on the outside.

I can tell you there's a very, very big thermal former that we've talked to who is very supportive of this case because -- and it's not because they're in business. They're in the thermal forming business, but they prefer to buy domestic material, PET sheet material, and they are unhappy that their competitors are getting access to dumped, lower-priced PET sheet which puts them at competitive disadvantage and that's where a lot of this competition is taking place.

MS. LARA: Okay, thank you. That's all.

MS. HAINES: Any other remaining questions?

MR. HALDENSTEIN: Are any of the domestic producers producing the PET resin as well?

MR. THIBADO: No. It's a very, very capital-intensive process.

MR. ROSENTHAL: I think the answer is no for everyone.

MR. HALDENSTEIN: Thank you. That's all for me.

MS. HAINES: I guess that concludes this part of the conference. Thank you very much for coming all this way to give us your testimony. It's extremely helpful.

I think we're going to take a 30-minute break to 12:15 for the Respondent's side. Okay, thank you again.

(Whereupon, at 11:43 a.m., a break was taken.)

AFTERNOON SESSION

MS. BELLAMY: Well the room please come to order.

MS. HAINES: Okay, welcome. Respondents, you can start your testimony.

MR. PORTER: Thank you, for the record, Dan Porter, appearing on behalf of OCTAL. This morning Petitioner's counsel made several statements that are legally and factually wrong, but one stands out and therefore requires a more immediate reply.

Miss Ringel stated that thermoformers who have their own dedicated chief production are not PET sheet producers under the anti-dumping law. Indeed, Miss Ringel made this same claim in writing to the Commerce Department, however this claim is 100% wrong. Thermoformers who undertake their own PET sheet production have virtually identical PET sheet production equipment and undertake virtually identical production processes as employed by the Petitioners.

There's no question that thermoformers who undertake their own PET sheet production are bona fide PET sheet producers under the U.S. anti-dumping law. Indeed, this conclusion is so obvious that even the Commerce Department agreed, which is precisely why the Commerce Department has postponed initiation in order to determine

whether the petition has required industry support.

Another quick comment -- there are no so-called direct imports from Oman. In a trade case, direct imports are when the actual U.S. customer is the official importer of record for the subject merchandise. There are no such direct imports from Oman.

OCTAL, Inc., that's OCTAL's U.S. operation, is the official importer of record for 100% of imports from Oman. And therefore, contrary to Petitioner's suggestion, there is no missing information concerning imports from Oman. You have questionnaire responses accounting for 100% of production exports from Oman, and you have questionnaire responses accounting for 100% of imports from Oman.

Now, we're about to begin and just to let you know, to help you follow along, you should have in front of you a copy of each of our OCTAL industry statements with their handouts, and with that I'm going to ask Joe Barenberg to begin. Thank you.

STATEMENT OF WILLIAM JOE BARENBERG JR.

MR. BARENBERG: Good afternoon. I'm not sure how this works. My name is Joe Barenberg, and I'm currently employed as the Chief Operating Officer of OCTAL, Inc., which is OCTAL Oman's U.S. marketing organization.

OCTAL Oman is the only producer of PET sheet in Oman. I'm also the President of OCTAL Extrusion

Corporation, which is a producer of PET sheet located in Cincinnati, Ohio. OCTAL Extrusion produces PET sheet from recycled pet waste obtained from unaffiliated PET sheet manufacturing thermoformers in the United States.

And OCTAL Oman supplies the U.S. market with a technologically advanced PET sheet produced in Oman. I have more than 15 years of experience in PET sheet and packaging across the United States.

Let me begin my testimony with a brief introduction to OCTAL. OCTAL was established to meet the growing demand for PET sheet and PET resin. OCTAL's factory in Oman was first built in 2006, with production capacity expanded in 2009 and again in 2012.

OCTAL manufacturers and sells only two products: PET resin and PET sheet. PET sheet being the merchandise under consideration in this investigation. PET resin, excuse me, is a separate product that is not within the scope of this investigation, but rather is subject to yet another U.S. trade case.

For some PET sheet suppliers, but not OCTAL Oman, Pet resin is used as an input for making PET sheet. These two products -- PET sheet and PET resin, are manufactured in a single facility located in Salalah, a town in the southern part of the Sultanate of Oman near the border with Yemen.

All the production of merchandise under

consideration takes place at this one facility. OCTAL Oman itself does not produce any other products. In particular, OCTAL does not produce any PET film, which is a much thinner product than sheet, as we've discussed.

Excuse me. You heard earlier this morning Petitioners and their counsel repeatedly emphasizing the fact that U.S. imports from Oman have increased over the past three years, suggesting that there is something inherently damaging about this increase when, in fact, there is nothing damaging at all. Today I am going to explain the reasons behind the increase in PET sheet imports produced by us in Oman.

Very simply, OCTAL was able to increase its sales to the U.S. market because we were able to offer a next generation PET sheet manufactured, based on a new production process technology that no other PET sheet supplier has.

OCTAL's PET sheet from Oman made with this special process has been trademarked DPET. The D stands for "direct" and signifies that OCTAL produces PET sheet using very different and indeed unique production processes.

OCTAL's the only PET sheet producer in the world to employ a production process that goes directly from the reactor where the chemicals to produce the PET resin are combined all the way to the equipment that makes the PET sheet (we call this "direct-to-sheet" technology).

Or stated differently, unlike every other PET sheet producer in the world, OCTAL's PET sheet production process does not start with PET resin pellets. Rather, OCTAL produces sheet directly from liquid resin before it is made into a pellet. This key fact distinguishes OCTAL's PET sheet from all other PET sheet produced around the world.

More importantly, this key fact gives OCTAL's PEST sheet physical performance attributes that no other PET sheet producer can match. And I'll explain further. But we do have a couple of slides here, this is in your packet, it's about the direct to sheet process that you can look at and how it removes steps in the process and then this will also be going through the benefits of the direct to sheet process.

So, as can be seen on the slide, OCTAL's new patented production process eliminates five energy intensive manufacturing steps from the traditional PET sheet production process. The eliminated production steps include: Pelletizing; solid state poly condensation; compacting; drying and extruding.

So, in fact DPET is not actually an extruded product. The illumination of these energy intensive production steps provides several critical benefits to our PET sheet customers, primarily thermoforming packing companies.

First, it provides superior optical properties as gloss, clarity, color and haze are significantly superior due to the gentler nature of the manufacturing process. This is important for the merchandising appeal of the final package on the store shelf.

Second, the direct-to-sheet process, in eliminating the processing steps mentioned above, vastly reduces the punishment of the wear and tear on the molecules, resulting in less degradation than is found in PET sheet produced by the traditional method.

This benefit delivers a PET sheet that forms superbly, enabling thermoforming converters to innovate their packages with higher precision features and advanced performance.

Third, the very nature of the direct-to-sheet process allows for ultra-high precision control of the thickness of the sheet. This is a driving factor in providing an unparalleled level of product uniformity that allows our thermoforming partners to save money in two ways: first, they can finely tune their converting process for speed as they do not have to readjust the machines after every roll.

And two -- they can use thinner sheet for the same applications, which provides both cost savings and source reduction, by using less plastic overall.

Fourth, the processing steps eliminated in the direct-to-sheet technology are the most energy intensive of the entire manufacturing process. This results in reducing electrical energy usage by a whopping 65%.

This, coupled with the fact that the site uses natural gas and the down-gauging discussed above, delivers a carbon footprint that cannot be matched by other PET sheets. And we also have a slide, you can look at that discusses some of the particulars about the sustainability profile of DPET PET sheet.

So, a 2012 study by Intertek demonstrated that OCTAL's PET sheet has a 20% lower carbon footprint than virgin material, and the same carbon footprint as PET sheet with 50% post-consumer content.

Fifth, because the resin from which OCTAL's PET is made comes directly from the reactor. The intrinsic viscosity of the sheet produced is highly consistent. This is valued by all thermoformers as it aids in forming quality, crack resistance and adds value to the thermoforming cutout waste, as it is highly sought after for reprocessing.

Sixth, all of these benefits are driven by the unique direct-to-sheet technology, which has the predictable and highly consequential effect of providing a step change reduction in manufacturing cost. This fact answers a key

critical question that I know the Commission always asks -- if your product is so much better than other PET sheet, why don't you charge higher prices?

And the answer is that we do, relative to our costs. Very simply, because of our special patented production process, it eliminates several energy-intensive steps, OCTAL can produce PET sheet at a much lower cost than traditional PET.

And so, by charging PET prices similar to those of other PET sheet producers, OCTAL is receiving a return for its innovation. Or stated differently, because of innovation and new production technology, OCTAL is able to offer a PET sheet that is both higher quality and cost competitive.

The entire supply chain of thermoformed packaging is b uilt on an established price range for the finished packaging. The key metric is total delivered value. OCTAL allows everyone in the supply chain -- the thermoformer making the package, the company whose product is being packaged in it, and then the recycler of that package to extract significant benefits from OCTAL's PET sheet. Pricing competitive to the market encourages broad adoption of a superior product.

Adopting -- excuse me, to give you an idea of the power of this transformative technology, over 50 years ago,

someone had the bold idea to do something similar with polyester fibers. The fiber making was directly connected to the resin reactor, and soon thereafter global polyester content in fabrics shut up from 5 to 7% of total fabric content, to over 75% today.

This direct technology delivered a step change in quality at a much lower cost. High performance athletic wear of today was made possible by adopting direct manufacturing technology. OCTAL has adopted this same technology to transform thermoformed packaging just as the fibers industry transformed fabrics.

OCTAL's direct-to-sheet technology lends itself to scale, hence OCTAL has a larger scale than any of its U.S. domestic competitors. We recognize our scale is unique and is a key part of our strategy to help global brands with wholesale conversion shifting sourcing from less sustainable materials to PET.

Our scale allows us to supply larger volume customers that value a single and consistent source of supply. OCTAL's capacity, including both Oman and Cincinnati, is about 600 million pounds per year. To put this scale into context, OCTAL's main factory in Oman has more than two times the capacity of the largest U.S. domestic producer, and more than 6 to 7 times the average capacity of the range of domestic producers.

Moreover, OCTAL is uniquely can both supply PET sheet as the raw material to make the package and then purchase the resulting skeletal waste from manufacturing the package.

Thermoformers generate large volumes of what the industry calls again "skeletal waste" (also known as post industrial waste), what is left after a sheet -- after one cuts out the molded container. This waste has economic value and must be reprocessed back into sheet to recover it.

OCTAL has invested in a reprocessing extrusion plant in Cincinnati to take back skeletal waste for just this purpose. But what is even more transformation is OCTAL's unique position of owning both the resin reactor and the sheet lines. OCTAL is now chemically recycling skeletal waste and recycled bottles in its reactor, unzipping the molecules and repolymerizing them into a first world, chemically recycled direct-to-sheet PET sheet.

It upcycles the waste into virgin quality, delivering all the benefits of OCTAL's DPET, while highly efficiently reusing all sorts of PET waste. OCTAL's perfecting this new to world technology in preparation for establishing a large scale direct-to-sheet complex in the U.S. in the coming years.

Given its unique product and unique scale, OCTAL approaches the market quite differently than its

competitors. Rather than make spot sales based on price, OCTAL seeks to partner with strategic customers that require very large volumes of PET sheet, and who have shown innovation leadership.

This different approach can be seen in several ways. First, OCTAL has a highly concentrated customer base. Over the 2016 to 2019 period, our shipments to our top three customers accounted for 80% of our total volume shipped. Shipments to these three customers also explain all of our growth over this period. Our remaining shipments to smaller customers have fallen.

These customers buy such large quantities for a couple of reasons. It goes without saying that it makes no sense for a large thermoformer to single source from a domestic producer making traditional sheet. If traditional sheet is all they will receive, they are better off making their own sheet to avoid freight and maintain control over the supply.

There are no product performance or economic benefits. Moreover, there is not a single domestic producer that can supply a significant fraction of their needs. It is critical for a large-scale growth business to be supported by a supplier with enough resources and scale to support their strategic growth initiatives.

Based on our information, we estimate that the

Petitioners in this case each produce between 25 and 40 million pounds per year, averaging about 30 million pounds per year. Our two largest customers each purchase from OCTAL several times more than any of these producers could individually supply. The scale of these domestic producers is just too small, and they lack the resources to effectively partner with such larger volume customers.

Second, these strategic customers enter into long term contracts with OCTAL based on formula pricing. Indeed, the contracts with all three of these customers date back to 2016, with either multi-year terms or automatic renewal provisions that have been rolled over from year to year.

The contracts set prices based on public indices, which once set largely take price discussions out of the picture. This means that we are not discussing price with our customers on a weekly, quarterly, or even yearly basis. We are not chasing volume with price cuts.

Rather, we partner with customers to help them grow their businesses, which then allows us our PET sheet sales to grow. Indeed, that is why our volume to key customers has grown, and our volume to smaller customers has fallen over time.

Third, these customers highlight the key physical distinctions in those products made from OCTAL DPET. Competing with distinct product and distinct environmental

profile, customers build unique marketing campaigns around the product.

For example, our largest customer, Inline Plastics, has built a marketing campaign around sustainability, and specifically emphasizing its use of OCTAL DPET. Other customers also stress sustainability in their marketing efforts. This shift in consumer demand and OCTAL's emerging chemical recycling program, has given OCTAL a definite advantage in the market.

Thus, although OCTAL certainly has to offer a price that allows our customers to compete with packaging solutions made from other substrates, our business is not price driven at all. Our scale allows us to produce with very low costs, and our scale allows us to partner with very large volume customers.

We have a physically unique product that differentiates DPET in the market and has allowed us to succeed and grow our business.

OCTAL is also unique in that we are both an Omani producer and a U.S. producer. Our facility in Oman focuses on larger scale, larger volume customers. Cincinnati processes PET waste and competes more directly for smaller volume customers in the U.S.

We started in Cincinnati in 2014. We were ramping up during the 2014-2016 period. In 2017, we have

been operating pretty much at capacity. We started with two extrusion lines, added a third in 2019 and we have plans for a fourth line.

MR. BARENBERG: We designed our Cincinnati facility to be able to operate either using post-industrial PET flakes, or PET resin as the input material. The original concept at Cincinnati was to provide a facility to buy scrap from our customers and reprocess that scrap back into PET sheet.

But we also wanted the flexibility to use alternative materials, raw materials, including post-consumer waste. OCTAL's Cincinnati facility focuses on the different parts of the U.S. market. Let me highlight a few key differences between our Oman facility and our Cincinnati facility.

First, the Cincinnati facility can meet shorter lead times. A purchase from Oman takes 5 to 6 weeks to be delivered. Cincinnati can supply a customer in 1 to 3 weeks. The longer lead times are not an issue for large volume customers that know they will be buying many containers each month, every month. Smaller volume customers must plan their production differently.

Second, Cincinnati can supply smaller quantities per SKU. Other than occasional sample sales or trial lots, we sell only full truck loads -- basically 40,000-pound

shipments, but are willing to sell multiple SKUs per truck, reducing inventory at these smaller operators who may not have the working capital facilities or forward forecasting visibility to place larger orders.

Oman, in contrast, seeks to produce larger quantities shipped as a continuous flow of containers year-round. Third, Cincinnati can supply specialty items like colored or laminated sheet. Oman runs large quantities of clear PET sheet, and generally does not produce small batch or specialized items.

Fourth, Cincinnati is entirely a spot business. Unlike Oman, which is predominantly longer term contracts, Cincinnati operates on a spot basis. We may have contracts that set the price, but these contracts do not require Cincinnati to supply any quantities. The volumes supplied from Cincinnati are always based on the customer order at the time.

So, to sum up, OCTAL competes with the Petitioners, but does so with its U.S. manufacturing facility in Cincinnati. Our Oman facility does not compete with the Petitioners and supplies a different segment of the market.

Thank you, and I look forward to discussing these issues further.

STATEMENT OF CHAD PYLAND

MR. PYLAND: Good afternoon. I'm Chad Pyland and I'm the National Sales Manager at OCTAL, Inc., based in Plano, Texas. I have been with OCTAL for a couple years and in the PET packaging industry for nearly 20 years. I would like to build on Joe's remarks to make additional comments on the competitive dynamics of the U.S. PET sheet market and OCTAL's role.

I want to start by addressing how the overall trend for more sustainable packaging has affected demand for PET sheet and demand for the special type of PEST sheet produced by OCTAL Oman.

In the early 2000's, municipalities across the country began to question the usage of polystyrene as a packaging substrate. Polystyrene is the material associated with Styrofoam. By the mid 2000's, many coastal communities in California began implementing polystyrene bans, both foamed and oriented polystyrene.

This led to a large-scale movement to ban styrene across the country and it was most apparent in college towns, in cities with the more progressive environmental view. The Styrofoam fans were targeted at cups and hinged lid containers used in take-out applications.

In response, many packaging manufacturers utilized more aluminum products and paper substrates as alternatives to styrene in the short term. However, these

products did not serve the bakery, produce, or merchandisable take-out business well, since consumers wanted to see the food that was in the container.

For bakery and produce, which includes fresh fruit and vegetables, consumers really want to see what they're purchasing. As a result, by the late 2000's a significant number of thermoformers had begun a mass migration into PET and away from oriented polystyrene as the most viable option for display packaging.

PEST was a clear answer to the packaging industry because it is the most recycled plastic available, has outstanding clarity, plus it has thermoforming characteristics that allow for an efficient manufacturing process. In addition, consumers were very accepting of PET because of the ease of recycling and its ability to protect and transport food.

Styrene has very little curbside recycling and is not well supported by the waste industry. They do not want to separate and sort styrene waste because virtually every water and soft drink bottle sold in the United States is made from PET, the waste management industry has a well-established process in place to capture commercial or curbside PET products.

Once the initial transformation from styrene to PET was underway, further pressure was placed on the

industry to achieve more environmentally friendly packaging solutions. This comes in many different forms -- plant based materials like PLA, a return to paper fiber packaging, and an increased recycled content in each container.

OCTAL saw a different path forward -- reduce the amount of processes needed to create PET sheet and in turn take energy out of the finished material. This process, known as Direct Melt to Sheet or "direct-to-sheet," is a patented technology that has already been discussed.

Companies that were trying to find solutions to move from styrene into PET came to OCTAL looking for high quality material that had a carbon footprint that was not available in the marketplace.

So, why is all of this important for your understand of OCTAL's PET sheet from Oman? The answer is simple, the overarching trend that's I have discussed has created a demand for OCTAL's PET sheet that has nothing to do with selling price.

I ask you to refer to the first hand-out which is from the United Nations, this one. Governments and consumers are pushing manufacturers to be more accountable for the packaging they create. It must be recyclable and show continual improvement on carbon footprint.

The United Nations has developed 17 global sustainable development goals that are used by some of the

largest retailers in the U.S. For instance, the retailer, Target, uses the icons from the UN goals on their website to track progress. All of the large U.S. retailers have made bold statements regarding their footprint.

Wal-Mart will reduce emissions by 18% by 2025. Target will be 25% below their 2015 level by 2025. In 2006, Safeway made a commitment to be at a 25% reduction by 2020. These statistics are important to the companies because they publish targets and publish their progress towards achieving these reductions.

As suppliers to these companies, our customers need materials that can demonstrate a sustainability message that is second to none. This is most evident with one of OCTAL's largest customers, Inline Plastics, and I would refer you to this screen shot of the Inline website.

As you can see from the screen of their website, sustainability is highlighted prominent as one of Inline Plastics' major selling points. When you click on the sustainability icon, you'll see that our sheet and the characteristics of it are feature prominently allowing them to offer a packaging and I quote, "using the lowest carbon footprint plastic". Or, stated differently, one of the largest purchasers of PET sheet in the United States has made the ability to offer a lower carbon footprint a central tenet of their entire marketing approach.

And with respect to a lower carbon footprint, OCTAL's DPET sheet is unlike any other material on the market. Third party research labs have documented this fact through life cycle analysis studies. OCTAL's DPET simply outperforms any other PET sheet available in the global marketplace. Our customers know and understand this, which is why they partnered with us for so long.

One final, but important point about competition with other substrates. While we believe that PET's ability to provide better see-through material and have a lower carbon footprint makes it preferable to other plastic substrates, the preference is not absolute.

The other substrates continue to exist and fight vigorously for the retailer's attention. And let me give you a real- world example. Several years ago, Starbucks decided to offer a larger range of cold drinks.

Originally, the Starbucks cups went with a PET cup because it was better for the consumers to see the drink inside of it. But when PET pricing started to increase, Starbucks decided that PET became uneconomical and they made a switch to a polypropylene cup. The real-world example points out that there is a very tangible effect that other substrates will have on PET pricing.

The next topic I want to address is an important dynamic of how OCTAL sells the overwhelming majority of its

PET sheet produced in Oman, namely, the fact that most of our U.S. selling prices are tied to a formula pricing mechanism based on changes in the published index of PET resin prices.

As we've discussed, virtually all PET resin sheet producers, other than OCTAL's production in Oman, which is a direct melt process, PET resin is the primary material input for making PET sheet, and therefore, our largest customers have demanded that our monthly price change according to changes published in an index for PET resin.

It is my view that this fact is rather critical to your understanding of the pricing dynamics of the PET sheet market.

Contrary to the Petitioner's claim, OCTAL is not deciding to change its U.S. shipment prices on a shipment-by shipment basis. Please look at our answer to question III-30 of OCTAL's U.S. importer questionnaire response that provides our largest customers for 2018 for PET imported from Oman.

As you can see, the top three customers account for an overwhelming majority of our total sales, but what is critical to understand is during 2017 and 2018, our sales to each of these customers is pursuant to a long-term contract in which the price formula mechanism was established in 2016.

The contract provides for selling prices that change on a monthly basis pursuant to an established pricing formula that is based on published index.

The most widely used price index for PET resin in published by Chemical Data Incorporated, which is known as the CDI index. Every month CDI publishes the market price for PET resin. And pursuant to the pricing formula mechanisms established in our long-term contracts, our selling prices will change based solely on changes in the published CDI price for PET resin.

And so, if the published price for PET resin in March 2018 increased compared with the previous month, our selling prices to our contract customers would have to increase by the amount dictated by the pricing formula. Likewise, if the published CDI price in November 2018 demonstrates a decrease from the previous month's prices, our selling price to our contract customers would decrease compared to the previous months.

And in the hand-outs, there is a graphical representation of PET resin pricing as tracked by Chem Data. And as you can see in the early part of 2018, published PET resin prices were increasing and therefore OCTAL's PEST sheet sales prices to its contract customers likewise increased. And then, in the second half of 2018, published PEST resin prices decreased by a fair amount, which meant

that OCTAL had no choice but to decrease its PET sheet selling prices.

We ask that the Commission take this fact into account in your examination of price trends of OCTAL's selling prices for Oman PET sheet. Very simply, Petitioners claim that OCTAL was intentionally lowering its prices in the second half of 2018 which is absolutely not true.

For its three largest customers, which account for an overwhelming share of OCTAL's PET sheet sales, in fact, OCTAL did not make any pricing decisions in 2018.

Next, I want to discuss the real-world effects of the devastating cyclone that hit Salalah, Oman in May of 2018. Just before midnight, on May 25, 2018, a Category 3 cyclone slammed the coast of Oman, just southwest of the city of Salalah, where OCTAL has its PEST sheet production factory.

The cyclone was named Mekunu, and it was devastating. There were sustained winds of more than 115 miles an hour and Salalah received a whopping 24 inches of rain in just four days.

The cyclone completely shut down our Oman factory, and it was literally under water. We had no choice but to stop all production and shipments for six weeks, from the end of May through mid-July. Given the 40 days of typical transit, this meant that OCTAL was not able

to supply PET sheet to our U.S. customers from July through September.

Given our large size in the market, the cyclone caused a massive scramble amongst our customers desperate to obtain PET sheet supply. Our Cincinnati factory was able to provide some additional supply to some of our key customers, but virtually all of our customers had to find other PET sheet suppliers for a two-month period. Once our factory was back up and running, we resumed our normal business.

Given that you are examining the competitive dynamics in 2018, I believe it is critical that you understand what happened in the U.S. PET sheet market. Very bluntly, many U.S. producers, including the Petitioners, were able to make additional PET sheet sales that they never should have had because OCTAL had already previously contracted to provide the quantity.

Moreover, the extra Petitioner sales were made at much higher than normal prices. It is a fact all other suppliers took advantage of the misfortune of OCTAL's customers and raised prices way beyond historic market prices.

What this means is that you need to discount Petitioner's claims of losing sales at the end of 2018 when OCTAL resumed its contractual shipments. This cannot possibly be considered a lost sale, as the quantity was

never the Petitioner's to begin with. That completes my statement, thank you.

MR. PORTER: Thank you, I'm just checking with my colleague, anything else to add? That concludes our affirmative statements, thank you.

MS. HAINES: Okay, thank you very much for the helpful testimony. We'll start questions with Miss Lara.

MS. LARA: My first question is -- so, all the PET sheet that gets produced in Oman, this DPET, is that like a special product that's offered?

MR. BARENBERG: DPET comprises the vast majority of what we produce in Oman. We do, because the way you make PET sheet, you have to trim off the edges. And that edge trim is flaked up and then sent to be processed in an extruder that can, but it's a small percentage of the total.

MS. LARA: Okay.

MR. BARENBERG: I would say 90%.

MS. LARA: In terms of the production that's done domestically here in the U.S., when you get the PET, the recycled PET from thermoformers, are you only taking it if it was originally from OCTAL that they got it from, or are you kind of mixing it all?

MR. BARENBERG: Well, we take back as much as we need to, to extract the economic value for that thermoformer. Most of it is DPET, it's people we know, but

we have purchased flake elsewhere as well.

MS. LARA: Okay.

MR. PORTER: Sorry, this is Dan Porter, I just want to add. If you talk to customers, and we very much urge you to talk to OCTAL's principal customers, they will tell you they're very unabashed at saying that the so-called scrap, waste, whatever you want to call it, that from DPET, commands a much higher value in the market because it produces -- when it's redone in a new PET sheet, produces a higher quality PET sheet, because starting from better material, and they're very unabashed about telling OCTAL that.

MS. LARA: Okay. So, like, but if you do get some of the recycled inputs, it's not DPET, are you -- the end product, does it still have the same attributes?

MR. BARENBERG: We blend the inputs. It's so vastly heavy-weighted on DPET flake, but we blend the inputs. Our continued investment in Cincinnati, we have the full intent of adding more capacity that will allow us to extract other flake from the market, that is actually post-consumer.

What we do now is called a post-industry -- a sheet has you heard before. We are also intending to add post-consumer to that. Keep in mind also, that you know, the future plan, you know, Cincinnati has traditional

extruders, you know, we're basically a direct-to-sheet company.

You know, our long-term plan is, you would ask why Cincinnati? Cincinnati will eventually be folded into a larger scale chemical recycling facility, so at the end of the day this is going to be bridge strategy for OCTAL.

MS. LARA: And this might be something that you'd want to address post-conference, but if some of the thermoformers that you're selling to, also have that capability and are producing sheet internally, can you just kind of explain in what instances they're buying from you guys versus deciding to purchase.

MR. BARENBERG: We only have one customer of any size who doesn't have extrusions. The rest of our large customers have huge amounts of extrusion, so they buy our sheet because they need it for certain product lines, it's performance is superior, and when you consider that they have to take all their skill to waste and reprocess it back into their extruders, DPET flake actually enhances the input value of that -- input quality of that waste stream.

So, there are many reasons that an integrated -- some of our fastest growth is with integrated thermoformers.

MS. LARA: I think those are all the questions I have for now.

MS. HAINES: Mr. Haldenstein?

MR. HALDENSTEIN: Thank you, Michael Haldenstein, Office of the General Counsel. I heard Petitioners ask that the Commission exclude OCTAL as related party, do you have a position on that?

MR. PORTER: Dan Porter, counsel for OCTAL. A couple thoughts on that. We'll address in post-hearing, sort of the issue of whether OCTAL should be so-called excluded from the domestic industry. I note that the Commission rarely does that, especially when you have an entity like OCTAL Cincinnati that does not import itself, but essentially is 100% a U.S. producer.

But, as importantly, we don't believe that even if the sort of criteria for so-called exclusion might apply, that you can ignore the condition of competition that exists with respect to OCTAL Cincinnati. I don't think that is allowed for you to do.

Even if you're allowed to exclude them from the calculation of the industry P&L, does not mean you can ignore the economic consequences of OCTAL Cincinnati competing with Petitioners and other U.S. producers, thank you.

MR. HALDENSTEIN: Let me ask if you can elaborate on your suggestion earlier that Petitioners are asking the Commission to exclude other thermoformers from the industry. I'm not -- I heard them originally suggest that maybe they

weren't producing, but then they sort of backed off that and said well, we should consider the merchant market primarily.

MR. PORTER: So, we're happy to. You are correct, they stated here orally, and they put it in writing the claim -- the legal claim that thermoformers who produce PET sheet and then happen to consume it, which by the way calls into question a lot of industries that come before the Commission, they're not considered to be U.S. producer in the law -- that's just flat wrong.

I think, you know, you guys have done steel for a long time. My memory is about 75-80% of hot-rolled production is consumed to make cold-rolled, yet you dutifully count each and every steel producers as a steel producer, so there's absolutely no legal basis to say that someone who chooses to consume their production rather than sell their production, is not a producer. That's just flat wrong under the anti-dumping law.

With respect to excluding completely unaffiliated thermoformers who happen to produce and then maybe buy a little bit of imports on the merchant market, I don't -- they didn't cite any case. I don't even see any legal theory to do that. So, you know, all I can say is we don't believe that this is a correct assertion of the way the law is done, Jim?

MR. DURLING: I would just add that that's

grounded in the statute because the statute carefully distinguishes when it's talking about production activity versus other activity and the definition of a domestic producer is someone who produces the product.

The statute doesn't define domestic producer based on what is produced and how they happen to sell it. There are other provisions that separately treat captive production from merchant market, but the fact that the statute addresses competitive dynamics, captive versus merchant market, just confirms the core reading of the statute that production means production.

If you're producing the product, you're a domestic producer.

MR. HALDENSTEIN: With reference to the captive production provision, what's your position on whether it applies?

MR. PORTER: We'll look at that more closely, quite honestly. The last, I guess, couple of weeks we've actually been battling about this idea whether a thermoformer who produces, should be considered a U.S. producer.

And again, quite honestly, that position has now -- the Commerce Department, battling more with the Commerce Department vis- -vis industry support. Now the Commerce Department has agreed to pull, but so we haven't really

focused as much as whether the criteria for implementing the captive production provision applies.

We'll look at that, of course we'll comment on that, but quite honestly, we don't believe it should -- it will affect the analysis whether you apply the captive provision or don't apply the captive provision, the lack of sort of, competition from OCTAL Oman is still there.

MR. DURLING: Jim Durling, I just want to echo the point. Traditionally, when the Commission has applied the captive production position, it has most significantly affected the question about the financial performance of the industry. It's basically how much of the PNL gets rolled up into how you assess the industry performance.

At the end of the day, the analysis of competitive dynamics, by definition, is focusing on the merchant market, so your traditional approach to analyzing competitive dynamics, works pretty much the same way, whether it's captive or not. Because t he only thing actually being sold in the market is what's in fact in the merchant market.

MR. HALENDSTEIN: Thank you, do you have a view of how the import total should be calculated? Petitioner's are arguing we should rely on official statistics.

MS. COLARUSSO: Hi, I'm Gina Colarusso with Curtis, Mallet-Prevost. First, I just want to reiterate

what Dan said this morning which is our opinion imports from Oman shouldn't be cumulated with those from Korean and Mexico.

But, and as the record as it stands currently, doesn't support cumulation. But to directly address your question about import statistics, we have a couple points on that issue. First, you heard Petitioners earlier this morning say that they provided in their petition on Exhibit Gen-2 a methodology for calculating what's coming in, you know, the subject imports that are coming in and under the 10-digit HTS code.

We would encourage you to look at Gen-2, Exhibit Gen-2, and consider what that methodology is. I think methodology is a loose term in this context and we would question the credibility of the source on that issue.

And furthermore, the foreign producer questionnaires that you've received so far, indicates that there is a non-trivial quantity of non-subject imports coming in under the 10-digit HTS Code. So, you know, to the extent that there is -- it seems, the record indicates that there's a lot of non-subject imports coming in under the HTS Code, so we would encourage you to look closer at the questionnaire responses rather than the HTS.

MR. PORTER: Dan Porter, just to be very clear, you face this issue all the time and when you, you rely on

questionnaire data for import volume analysis, and that's what we suggest that you do here as well.

MR. DURLING: And Jim Durling, one final comment. It may be true that at this stage you haven't received importer questionnaire responses from some participants, we take that. You may get some later, we don't know how complete the record will be by the time you're actually done compiling it, especially given that there'll be kind of more time, because Commerce has extended the process somewhat.

So, there's a little more flexibility. But the other source of information you have is you sent questionnaires to most of the major purchasers, and you asked them where are you buying stuff from? And we can do a more precise tabulation post-hearing where we can get into the confidential information but circling back to Gina's point.

What the purchasers have told you about where they're sourcing their PET sheet, seriously calls into question the assumption in Gen-2. It's very, very hard to reconcile the assumption in Gen-2. With all due respect, the "methodology" of Gen-2 seems designed precisely to somehow get beyond the serious negligibility problem for one or more of the other target countries in this case.

Even if just getting beyond it for purposes of the prelim, but we submit that the record before the

Commission now allows you to take a traditional approach and make a decision about negligibility that would exclude at least one of the foreign target countries at issue.

MR. HALDENSTEIN: Can you be sure to address negligibility in your post-conference brief, okay, thank you, that's all the questions I have.

MS. HAINES: Miss Preece?

MS. PREECE: Thank you very much. It's always helpful to have a good panel for the Respondents and this is certainly a useful thing for us to understand this. So, let's see now, do you sell as much to thermoformers as the U.S. producers reported they sell to thermoformers, or is there a different structure to who you sell to compared to the U.S. industry?

MR. PORTER: I'll answer from a data standpoint and then they can answer industry. Now, of course to be clear, they haven't seen any U.S. producer responses.

MS. PREECE: Well, so what they said.

MR. PORTER: What they said, okay, right.

MS. PREECE: That's all, that's all I have.

MR. PORTER: And I think that your typical questions they ask kind of do you sell to distributors, do you sell so forth, and I think those answers are straight forward, but I guess if Joe or Chad, you want to comment on that?

MR. BARENBERG: Joe Barenberg, OCTAL. No, we -- OCTAL Oman sells directly to -- although OCTAL Inc. is the importer of record, it facilitates from a marketing standpoint the sale. OCTAL Oman sells directly to thermoformers, not through distribution.

MS. PREECE: That part I got. It's just like they said that they sell like 95% to thermoformers and about 5% to everybody else.

MR. BARENBERG: Oh, I see, okay, in that case I would say that everything we bring into U.S. goes to a thermoformer for all practical purposes.

MR. PYLAND: That's correct.

MS. PREECE: Okay. Okay, so that's good, that makes things easy. And basically, the only firms that import from Oman is you.

MR. BARENBERG: Yes.

MS. PREECE: Okay.

MR. BARENBERG: We're the only.

MS. PREECE: So, there's no -- no firm that's importing for their own use that's --

MR. BARENBERG: Correct.

MS. PREECE: Okay, so we should have 100% of Oman's sales, great. Can you give me an idea of what are the most common end uses for this product, you know, strawberry containers?

MR. BARENBERG: Absolutely, yeah, I would say if you broke up the market, and I'll let Chad also expound on this, but you now, some of the biggest end use segments would be bakery and deli. Like you go and you get cookies, you get cakes, you get cake domes, you have hoagies, and then you have what they would call the agricultural segment.

MS. PREECE: Right.

MR. BARENBERG: And that's just the berries, leafy greens, those types of things, and between the two of those, that's the majority of the market. And then you have another segment called food service. And food service is what hospitals use or schools or anybody else to have a takeaway or one-time use packaging. I'd have Chad out in the field to build on that.

MR. PYLAND: No, I would just tell you that the -- that each of our customers have a market that they focus on and that in general they tend not to overlap too much because everybody has something that they started with 30 years ago, they got into this business because they serviced the agricultural markets really well.

They serviced the bakery segment really well, and they maintain their product lines focused in those categories, and we'll have some ancillary things that they do on the side, but for the most part, if you do a lot of bakery cake, pie packaging, you're going to be very focused

on that and you'll do some food service on the side.

If you're in the agricultural business, you're going to focus on berry packaging, cut fruits, salads, things like that, perimeter of the store type items, and you may do something else on the side.

But if you're doing -- if you're in the agricultural segment, you're not going to be in the food service segment to any degree and the same thing if your primary focus is in the bakery market, you're not going to be in the agricultural market or you won't be in the food service market.

MS. PREECE: So can you sort of guess--and the word is guess--how much of your OCTAL's product goes to agricultural, bakery and food service? Percents?

MR. BARENBERG: It would be a very loose number at this point. And we can probably get you some pretty accurate numbers.

MS. PREECE: Loosey-goosey is fine.

MR. BARENBERG: Okay. I would say two-thirds to 70% non-agricultural, and the rest agricultural.

MS. PREECE: Okay.

MR. BARENBERG: Maybe a little bit more than that.

MS. PREECE: Okay. That's a good start. And if you can give -- try to break that down a little bit more.

And the petitioners said the cost of a container made from PET would be something like 2 to 7 cents per container; is that --

MR. PORTER: Can I -- just because the colloquy with the petitioners, I'm not sure everyone's on the same page, or maybe it was just me. But I wanna be sort of very clear that you were talking about kind of as a percent of, literally, what you or I would buy a container of strawberries? I mean very clear that the PET sheet is going to thermoformers.

If the thermoformer's doing packaging, selling to the retailer, so I want to know what point in time you would like the cost of the PET sheet. Because, obviously, the thermoformer makes a profit selling to the retailer, and the retailer makes a profit selling the strawberries to you and me. So obviously there are different price points and these guys can give an answer, but I wanna make sure we're all --

MS. PREECE: Okay. Yeah, I understand that. The problem is that, for me, I've got a low number of responses to the question in the questionnaire. And basically they say, "Well, PET sheet is a large part of the cost of a berry container, or a --

Yeah, well, yeah, that makes sense. And that's, you know, I understand that. But then, I'm thinking, the person who ultimately -- the ultimate consumer, it's not a

large share of that. And that's where, I mean --

MR. PORTER: They can give a best guess at whatever points -- so now if you wanna talk about, okay, the price of straw -- I apologize, I don't know my -- well, the price of a pint of strawberries costs $3.00, right? Of that $3.00, do you have a best guess of, what is the PET sheet cost of that? And it's, I don't know, something cents, right?

[background talking] Single digits.

MR. PORTER: Single digit cents. Then, but that $3.00 is, of course, that includes the retailer sort of mark-up. I think I believe a little bit more interesting is the thermoformer who sells the strawberry container to the retailer, that may be a different percent.

MS. PREECE: Well, yeah, but the question is, I mean this is a question for elasticity of demand. And so I'm thinking about how much the cost of PET sheet is going to affect demand for PET sheet.

MR. PORTER: But if I may, I apologize to you for interrupting, but if we're talking about elasticity of demand for PET sheet, you really need to focus on the retailer, because Chad's example of Starbucks is a really good example.

MS. PREECE: Right.

MR. PORTER: You shouldn't focus on the consumer

because the consumer's gonna buy the cup regardless. The question is, the elasticity of demand for the retailer, choosing to buy packaging with PET or packaging with polypropylene, that's the Starbucks example. And the idea here, which I was trying to say is, you know, yeah, the PET is superior and for getting that for recycling.

But at some point, the retailer's gonna say, "I have my own pass-through cost issues and so I'm not gonna do the superior product." So that's where I think, I believe that's where the elasticity of demand for the Commission's analysis goes into play. But I'll ask Jim to respond at all?

MR. DURLING: I think it would be helpful to have the industry guys, they have a sense of, when they're selling the PET sheet to someone who's going to turn it into a package, how important that PET sheet is to the person turning it into the package, which that has to be sold to the retailer. So I would just turn it back to the industry guys to give us some -- again, rough estimate is fine, but qualitatively, I assume, for the person making the package, the PET sheet is more than a couple of percent or a couple of cents of the total cost.

MR. BARENBERG: If you say -- this is Joe Barenberg with OCTAL -- if you say you're a thermoformer and you're taking rolls in and then you're making a package and

you're selling boxes of packages, then -- and I don't know precisely because we don't get into that data with our thermoforming customers, but it is substantially north of 50%. It's a vast majority of their cost.

MS. PREECE: Yeah, I got that. Now, so what you're implying by this Starbucks example is that polypropylene is a substitute for PET in the form of cups. Is a cup, a PET cup, made from PET sheet?

MR. BARENBERG: Yes. It's interesting, because cups are absolutely made from PET sheet. And if you look at the subject material, it goes up to 47 mil. Cups can be made with 47 mil up to a certain size. But it's a very deep thing and it has to be thick. But it's generally thick sheet that is made into 16-, 20- and 24-ounce cups. But a lot of that thick sheet, that is, had gone to polypropylene. So there still is a lot of it out there, but it's been transitioning over to polypropylene in the last ten years.

MS. PREECE: And how -- what's the price difference between PET and polypropylene?

MR. BARENBERG: We'd have to consult --

MS. PREECE: That'd be great. I would love to hear form you, I'm sure you'll have plenty of time to figure it out before the -- great, thanks.

Are there any other parts of the market where you

see the polypropylene as competitive as being substituted against PET?

MR. BARENBERG: Joe Barenberg, with OCTAL. The one area that just snaps to my mind, I would say that there's a plethora, but there are areas -- one is if you go get the precooked chickens, you know, that have the black bottom and the dome on top, you can get them both with polyester domes, and it'll say, if you read it, and you probably won't, because you can barely see it, but if you read it, it'll say, 'Do not microwave', 'Do not put in the oven', because it's not heat-resistant.

Polypropylene has a much higher temperature resistance. And then you will also get them where they, it's a little cloudy, you've noticed, that is probably polypropylene. And then you can throw the whole thing in the oven and heat it up for dinner. So that's one area, kind of that pre-baked, hot applications where polypropylene, that tends to be where it marches the strongest. But there's still a lot of bulk polymers in that area.

MS. PREECE: Okay. Okay, great. Great, thank you so much. That's very helpful. Seasonality. Do you see seasonality in demand? What are the seasons of demand? What are the characteristics of those seasons, if you could --

MR. BARENBERG: Well, I would say -- Joe Barenberg for OCTAL -- yes, indeed, there are seasonality of many segments and they could've overlap each other, but maybe, Chad, if you wanna highlight just a couple of the keys ones, that would, I think, more tell-tale.

MR. PYLAND: Yeah, Chad Pyland with OCTAL. I think the petitioners were reasonably accurate with their demand of seasonality. The produce industry tends to start in January/February for the Southeast, that would be, you know, Florida. It might, begins to ramp up pretty significantly in April for the West Coast and then, you know, the California strawberry season starts in full force, probably May/June, hits the summer peak, July/August. So you'll see a demand there.

You'll see significant demand for food service take-out starting in late March to April, depending upon the weather. We kinda use Mother's Day as the breaking point. If the weather's good at Mother's Day and graduations are right around the corner, people are out and about, going out to eat, doing things like that, and you see the volume pick up. If we have a year like we've had this past year where it's cold, rainy, things like that, it takes well, almost into Father's Day before you start seeing volumes pick up, because people aren't out and about.

And so that's when you see a lot of the take-out

packaging begin to move. Because once the weather, once the springtime weather breaks and becomes more summer, volume picks up. You'll see the same seasonality on the bakery side. The further you go into the year, pies, cakes, things like that, the pie season is noticeable, that's when you'll see an increase in your black sheet. The black sheet goes up significantly in the fall because people are using black bases for pies. So it's due to weather and it's due to eating habits.

MS. PREECE: And is there sort of a Christmas season or package season?

MR. PYLAND: The Christmas season gets tied into pies. And so it's that Thanksgiving, Christmas, buying pies, pecan pies, pumpkin pies, things like that. The apple pies are probably a little bit stronger more in December. But it's the same -- you see the same effect. By late August, early September, volume picks up for people to make containers so that they can get them packaged and to the retailer by early October.

MS. PREECE: Okay. And you said the DPET you produce, some of it's black, but most of it's the clear stuff?

MR. BARENBERG: Joe Barenberg with OCTAL. For DPET made in the direct sheet, technology, it has been and still is 100% clear.

MS. PREECE: Okay. And so the Cincinnati, you would produce --

MR. BARENBERG: Does have the capability of making colors. We don't make a lot, but it does have the capability of making colors.

MS. PREECE: And that would be for like the pies and stuff?

MR. BARENBERG: Be a pie base or cheese.

MS. PREECE: Why would you want a non-clear base for your pie?

MR. BARENBERG: Well, it's interesting. I'm not an expert, but it's the visual nature of what happens at the bottom of a package. It gets, maybe some stuff leaks out. Yogurt makes are notorious for having opaque cups, because you know, yogurt separates and doesn't look so good on the shelf.

MS. PREECE: Okay.

MR. BARENBERG: That's one reason. But that's the one that the --

MS. PREECE: Okay, yeah.

MR. PYLAND: Chad Pyland. The other reason is that there's, in those pies, there's an aluminum pan underneath it, so they're hiding the aluminum pan by using black.

MS. PREECE: Okay, okay.

MR. PORTER: Can I make one clarification?

MS. PREECE: Sure, do.

MR. PORTER: Because I know you. You're gonna go back and you're gonna look at the questionnaire response and then you're gonna think about what was said here, you're gonna say, "Hold on."

MS. PREECE: I love to do those things.

MR. PORTER: If you look at the importer questionnaire response, you will see, from OCTAL, you'll see a very small quantity of the black, because this is one of your pricing products.

MS. PREECE: Right.

MR. PORTER: Okay. Doesn't mean Joe's statement was wrong. It just means that he said earlier, 90-something percent is DPET, but they actually produce a little bit of other PET sheet, that's where that comes from, okay?

MS. PREECE: Okay. That's great. Thank you for clarifying that.

MR. PORTER: It's one of those -- having looked at the data, wanna make sure when you see --

MS. PREECE: Yeah.

MR. PORTER: -- Pricing Product 4, it's a really small quantity, but it exists. And --

MS. PREECE: Okay. And that's so it's a different production facility, basically? Not facility, but

a different line.

MR. PORTER: It's pretty small, but it's not, it's not part of that same line. It's a -- yeah.

MS. PREECE: Okay.

MR. DURLING: Sorry -- Jim Durling -- the other thing to keep in mind is that OCTAL in the U.S. is focusing on sheet, but as I understand, the crystal PET produces skeletal waste as well, right? Crystal PET?

MR. BARENBERG: Joe Barenberg, OCTAL. Overseas, we do thermoform. So we know quite a bit about the thermoforming process and what qualities enhance the process. But we do create skeletal waste over there with thermoforming in Oman and in Saudi Arabia.

MS. PREECE: Okay, so what do they package in Oman?

MR. BARENBERG: In Oman, a lot of it's clamshells. They have skilled -- their society has skipped straight to convenience living, and so a lot of buy-takeout cookies, hoagies, that type of thing, premade food, basically.

MS. PREECE: Okay. Not a lot of berries?

MR. BARENBERG: Yes, absolutely, dates. If you like dates --

MS. PREECE: Dates. Okay, dates.

MR. BARENBERG: -- you'll be in the right place.

MS. PREECE: That makes sense, yes-yes. Actually, I do eat dates. So you were out of the market for about three months, would you say?

MR. BARENBERG: Production, about six and a half, seven weeks.

MS. PREECE: Yeah, but, but in the U.S. selling, selling in the U.S. --

MR. BARENBERG: Absolutely, our customers had to replace for, yes, approximately three months.

MS. PREECE: About three months. Okay. And can you describe how you would see the effect of that on the market?

MR. BARENBERG: Well, the quantities that we made were pretty much one-day cutoff. So our production stopped, Day 1. Now, we had about thirty days of product on the ocean, making its way over. And so during that time, we informed our customers that, "You're gonna have to make plans to source alternate sources," and so most of our customers were sourcing from five, six, seven, in one case, eight different people.

And the effect on them is that they were basically performing a staff function they had never performed before, because it was a 100% sources supplied by contract, nobody paid attention to purchasing of sheet. So that was a very difficult thing for them.

The other thing was that they had massive variation in the different sources of supply. So their productivity inhouse--and they were very vocal about this--decreased substantially during this time. The efficiencies of their machines, defect rates, etcetera, and so, you know, that was very difficult for them. And then the price they paid, they didn't feel good about what they were having to pay.

And so our impetus was to get back on board. We spent copious amounts of money just saving one or two weeks of downtime, just to get things back and moving. So, you know, and then about three months later, shipments began arriving and things were back to normal on reception, but there was a lot of slack in the industry in terms of extra orders, because they didn't know how long we would be down. So it was very traumatic for them, actually.

MR. PORTER: I just want to highlight a very important point that you heard about the testimony. And that is all of these quantities that had to be sort of bought from somewhere else were contractual to OCTAL, okay. This is not OCTAL sort of coming back. This is OCTAL simply resuming their obligations under a long-term contract. So, you know this idea that Petitioners were just shocked that the customers would go back to OCTAL. Well, they were required by the contract to go back to OCTAL because they

had signed a contract to buy either all of their needs or some of their needs from OCTAL.

So, this is not like you know, oh, they were shocked to have been displaced by OCTAL when OCTAL came back in the market after the cyclone. No, these customers were contractually obligated to go back to OCTAL, so I just want to make that point.

MS. PREECE: Oh, yes, you use a price index for products, so I'd like for you to provide that data. If you use multiple price index for any contracts, if you can provide each of those, provide the underlying data, if you can.

MR. PORTER: Sure. I mean, again, we'll have Chad or Joe, but they have several customers that use it. I think most use Kim Data. That's why we gave it to you here. There's something, I believe, called IHS or something. There's another index, but we'll give all the index that are referenced in the contracts.

MS. PREECE: Okay, that are used in contracts, great, great. That's very helpful.

Difference in core setups, I mean is that something that you do? Do you sell all one core or do you sell multiple cores?

MR. PYLAND: We only run 6-inch cores.

MS. PREECE: Okay.

MR. PYLAND: We don't run threes and we don't run nines. We only run six.

MR. BARENBERG: Not that we can't and that's also true in Cincinnati as well. It's possible, but America is standardized on six.

MS. PREECE: Okay, okay, okay, that makes sense.

And would you basically agree with the producers in why this product is produced to order? It's differences in the rolls and the differences in the --

MR. BARENBERG: Yes, each tray -- every thermal former wants to differentiate its product and they go to great lengths to make their product better than the next guy. And so, they all end up goofy sizes, maybe by only this much; but every roll is made for that particular tray.

MS. PREECE: okay.

MR. BARENBERG: Yes.

MS. PREECE: Okay.

MR. PORTER: Just so I want to highlight and for your purposes, okay. Petitioners tried to convey that a thermal former could pick and choose you know sort of willy-nilly and substitute. That's actually not true, okay. You have a thermal former that might say, okay, for this application I really want to use the D-PET, but then is perfectly happy to use another PET sheet for a different application, same thermal former, okay.

So, it really -- you need to understand the application. And the thermal formers have said, okay, we D-PET particularly for these applications where they want to highlight sustainability or we need the extra performance ump that you get through the flow. So, again, it's not that -- everything is not substitutable for every application is my point.

MS. PREECE: Okay, okay. Okay, that's very interesting, very helpful. Okay, I'm going to be done for now. Thank you so much.

MS. HAINES: Ms. Catalano.

MS. CATALANO: Good afternoon. I'd like to ask first about the same question that I asked of the Petitioners about intrinsic viscosity. And one of the defining characteristics of PET to know which kind you have is the intrinsic viscosity number. And I'm wondering how you would distinguish a product called film from a product called sheet.

MR. BARENBERG: So, starting with intrinsic viscosity, yes, very important. The absolute number is important, but not as important as the ability to have a consistent number, so roll to roll to roll the consistency of the IV is very important to maximizing the through put of a thermal forming machine and also, to repeat the performance of intricate features of thermal form packages.

So, if people are doing very fancy things with their packages, that sheet needs to be the same very single time -- tears strips, buttons, all sorts of other features. So, with our IV I would say it's very important, but our IV because our reactor is running at a steady state is highly, highly consistent -- highly consistent in our rolls.

MS. CATALANO: So, what is your usual intrinsic viscosity range?

MR. BARENBERG: Well, typically, the reactor that we use to make D-PET is typically running 80 IV resin and the sheet will have an IV of 76.

MS. CATALANO: Thank you.

I'm going to ask also the same question I asked the Petitioners, which is we have this term in the HTS of plates, sheets, film, foil, strip, and how -- if you've heard of these in your circles and how you distinguish those terms?

MR. BARENBERG: Well, in our world about the only thing we really work with are rolls. And we hear of other things like strip. A lot of people use stripping -- like narrow strips for like high-intensity packaging, strapping, or plate. Some people use the term "plate" to make like a very thick sheet that does not necessarily bend, use it for Coke machines and things like that as opposed to plate -- you know thermal formed plate would just be made

out of sheet, so plate PET.

Our world it would really be sheet -- thermal formable sheet. So, I don't remember all the other terms you mentioned, but we don't play in most of those, but in an ancillary way we hear about them.

MS. CATALANO: The next thing I'd like to talk about is the concept of quality. So, how would you define a high-quality PET sheet or maybe some of your customers? How would they define a high-quality PET sheet versus a low-quality PET sheet?

MR. BARENBERG: Okay, great. You know there are many aspects to quality, so I could go on for hours here, so I won't do that to you. But one of the most critical things that -- you know I think indirectly what you're asking is why is the D-PET process so interesting you know. And one of the great things about this process is that you are controlling a liquid all the way to the dye. It never sees the atmosphere. It chemically reacts, turns into a molten liquid of very precise technical specifications that do not vary very much at all that is transported all the way to the dye. And what's critical in extrusion; especially, in obtaining tight gauge control is the back pressure to the dye being very constant. Our back pressure we use proprietary technology to control this back pressure. It's less than a tenth of a percent variation.

And our other extruder -- we do have some traditional extruders. I mean you can get surging based on the density of the pellets and this kind of thing and it makes a big difference. So, what you can do is you can tune your dye in such a way that you can model the fluid flow with extreme accuracy. So, all of our dyes are custom built to have same pressure as the edge as they see in the middle.

That may not make sense to a lot of you, but when you do that you get the exact same fluid flow and sheering coming out of dye and from there you can control the caliber. Our typical gauge is like 1 percent, a spec is 3, but our typical variation is 1 percent and on heavy gauges it's less than that and that gives you that uniformity to allow you to process one roll, then the next with not having to touch your machine and that's a big deal to people.

The other thing when you can control your gauge if your typical spec is plus or minus 5 percent if you're designing a package you have to design it for that low point. You have to know that you're going exceed plus or minus 5. With ours if you're plus or minus 1, you can target 4 percent down, so you just removed 3 to 8 percent of your plastic right there of source reduction, sustainability goals and against consistency.

Another thing is that there's nothing --

everything we took out of the process -- the extruders are gone, dryers are gone. Those are the source of 80 plus percent of all defects in the sheets. We don't have black specs. You don't have all these crazy things going on, so it's a very pure, traceable for food safety product in that sense. But in many things, like you see that document, but it's very powerful for these guys.

MS. CATALANO: So, I'm hearing wonderful things for the factory. Do you think when on the consumer end when the consumer looks at something do you think that they see a difference in quality?

MR. BARENBERG: Can they see a difference? Yes. I mean the optical, the clarity, the haze, the LAB. I mean when we talk about the color of the sheet, the shelf appeal, the gloss levels, these things are things that important people care about in the key segments we serve. And so, you know people do rely on these features for merchandise ability, shelf appeal, et cetera. And I know our customers put their marketing program together with these features in mind.

MR. PORTER: If I may, I think there is both the sort of what I call the clarity and features that the consumer sees, but I think the thermal former also, with respect to the processing, can you explain how D-PET assist their processing.

MR. BARENBERG: Well, I'll just give you a quick couple stories of two of our three largest customers we started doing business with in 2009, 2009. Six to nine months after we started with them they came to us and proposed a sole-sourcing contract. They said I want to buy everything that I use from you -- that I can use that you make. And the reason was because their through put and their yield, input versus good trays out was significantly greater than it was getting product willy-nilly from the marketplace as they could.

The consistency of the product means so much economically all the way through the value chain, all the way through the value chain and then it drives sustainability goals in a very powerful way. And we're very excited because they're very tuned in also to our initiative to do chemical recycling, to start putting things back in the reactor because it really allows us to recycle huge amounts of waste and bring it back to virgin quality, not degraded, degraded, degraded. So, these are things that are customers care about deeply.

MS. CATALANO: So, when you use the term "degraded, degraded, degraded," what is it that changes that makes it degraded?

MR. BARENBERG: Well, if you take the virgin resin and you put it through an extruder, as you go through

an extruder -- I don't know how many people know what an extruder is, but an extruder has -- you know up to a 400 horsepower motor. It's a very high sheer, high heat process. It tends to break a lot of carbon -- polymer chains and so what you get out has a different polymer chain distribution than what you put in. And then you go, you use it, you throw it away. You blend it in with a little good stuff and you try to reuse it. But guess what, you're taking those even shorter chains and you're making them even shorter. And so, the cycle's through and it just gets worse and worse.

MS. CATALANO: So, it changes the rigidity, I would imagine.

MR. PORTER: One thing I think is important to understand, the ability of the D-PET to have fewer of what's called heat history, if you can kind of describe why that's important.

MR. BARENBERG: Well, that's in contrast to what's going on with the traditional recycling. The D-PET process allows -- we have technology that produces the resin with less heat -- up and down heating and cooling cycles. And then it goes directly to the sheet line and so we don't actually melt cool pellets and melt them. That's another punishing heat cycle. So, when you recycle in the reactor what you're doing is you're using it as raw material and you

take broken things and you build them into full virgin-like molecules. So, you're up-cycling. It allows more of a perpetual use and a higher rate of recycling. So, that's where, strategically, we're going with this thing.

MR. PORTER: Even apart from the recycling, just the difference between the direct sheet because it does not require reheating the pellets, that itself gives enhanced performance to D-PET compared to traditional. Forget about any recycling. Is that true, Joe.

MR. BARENBERG: That's true. D-PET is not an extruded product. There's no extruder in the D-PET process. It's a calendar product and/or cast. So, all of the high heat, high sheer activities or processes are removed. It goes liquid out of the reactor straight to a pump onto the chill rolls. That's it.

MS. CATALANO: So, I'm seeing in the figure here that 65 percent less energy is used and I'm guessing that's in part because the extruder is not there that's taking up all the energy costs?

MR. BARENBERG: That's right. When you have to dry -- polyester, when you make it on a traditional process, you have to dry it for four to six hours at elevated temperatures to get all the water out. If the water is not out, it doesn't make good sheet. So, that's gone. The other one is the extrusion screw. That's 400 horsepower

right there gone. Between those two things and the ancillary equipment that support them, you save two-thirds of all the electrical power you would have to use.

MS. CATALANO: Okay. So, if I want to think about the cost of producing a sheet -- I mean when I think about PET resin I'm thinking about terephthalate acid and monoethylene glycol. And thinking that -- I'm thinking those are the majority of the costs of making the resin. And when you think about sheet, how much of the percentage of the pie of making it would you say is energy? How much?

MR. PORTER: Excuse me. I think, Joe, if you could answer that question first the traditional way, equating the PET resin pellets, then making sheet, and then contrast that with the direct.

MR. BARENBERG: Yes, so if you're buying -- if you're making sheet traditionally, you're going to buy resin from some guy who sells resin. He's going to ship it to you on a truck. It could be 20 miles. It could be 500 miles. Don't know. And then you're going to have to store it. You're going to have handle it and then you're going to have to dry it and then you're going to have to extrude it. Okay. Every step costs money. Every step takes assets and also degrades the polymer.

So, in D-PET, we get large volumes via C of PET and MEG. We go through the reaction process and the costs

or the energy needed to make D-PET is must marginally above the energy needed to make resin pellets. So, almost all the energy downstream from that the only thing you're really doing is chilling the chill rolls. Everything else comes free for the ride from the latent heat of the liquid. So, it almost maintains itself all the way and all you're doing is chilling the chill rolls. And so, it's marginally more than palletizing resin.

MS. CATALANO: Okay, this energy costs a lot more in Oman.

MR. BARENBERG: This market, I'll tell you what, you can buy it cheaper in upstate New York.

MS. CATALANO: Thank you. So, I'm seeing here that you have a patented DPET technology. Is this patent still on patent? Is there a patent number? I'd be very interested to read.

MR. BARENBERG: Yes, it is, we have I think about four or five more years.

MS. CATALANO: You have four or five more years, okay.

MR. BARENBERG: We're close to having it extended as well.

MS. CATALANO: Okay.

MR. BARENBERG: Adding new features.

MS. CATALANO: If you have that patent number,

I'd love to get it and just read up on it. My fun reading of the day. Okay. Those are all my questions, thank you.

MS. HAINES: Well I guess that's it. Thank you very much for the very helpful testimony, traveling all this way. I greatly appreciate it. So, I guess we can move to closing statements.

MS. BELLAMY: Closing statements on behalf of Petitioner is Paul C. Rosenthal of Kelley Drye & Warren, LLP. Mr. Rosenthal, you have 10 minutes.

CLOSING REMARKS BY PAUL C. ROSENTHAL

MR. ROSENTHAL: Thank you. For the first minute or two I'd like to try to eliminate some of the inclusions in the record as they might say for those of you interested in the visual arts. On the question of thermoformers, I want to be very clear. That's a slightly different argument with respect to thermoformers and the standing issue at Commerce.

Our view is if you're not competing against the imports, your captive consumption really shouldn't matter. But when it comes to the ITC, I want to be very clear, for the trade data as you heard from Miss Ringel, we want you to focus on the merchant market.

For the financial data -- because you cannot segregate the financial data from the merchant market from the captively consumed production, you are at a disadvantage

and you can't really use that data at this point, so we are suggesting to you that you don't use that and you have to wait until the final stage to break all that out.

In our view, it would be incorrect to rely on the financial data for the captive production in your analysis of injury.

Also, to just clarify. Mr. Porter's claim concerning your reliance on importer questionnaires in cases like this when you got the basket HCS category -- it's not true that the Commission relies on questionnaire responses in all those instances, you actually have to have questionnaire responses. You have to have a compete questionnaire response in order to be able to disregard the other data on the record. You don't have that here.

That's why we've come up with a methodology, and maybe Mr. Porter might have a different one, but we're trying to do the best we can when you've got a database that's not complete. Also, I think this is a statement by Mr. Porter that the non -- or maybe somebody else on the Respondent's side, that the non-subject imports contained in the questionnaire responses were large -- that's not our opinion of that.

I think the non-subject imports in the questionnaires are small and rather insignificant. Turning to, I think, some of the more important points. In the 2016

fed resin case, OCTAL asserted that its PET resin lacks fungibility with PET resin from other sources due to OCTAL's melt to resin manufacturing process.

That sounds somewhat familiar, they made the same basic arguments today. ITC correctly rejected that claim and found fungibility. Virtually all responding U.S. producers, importers, purchasers reported that PET resin from all sources always are frequently interchangeable.

That's exactly the same situation here with respect to the PET sheet. It's not different because of a different production method or a different -- anything different. PET sheet is interchangeable regardless of source.

And indeed, Mr. Barenberg suggested that imports from Oman competed in a different segment of the U.S. market. I think you've defined that segment as large purchasers. I've never heard of a segment defined that way in an ITC proceeding. Our -- everybody tries to sell to large purchasers. We do as well, our domestic industry does and to suggest that a market segment be defined by the size of the customer just has no basis in ITC precedent, nor should it.

I also heard an admission by the OCTAL witnesses that imports from Oman include other PET sheet besides DPET, although I think you acknowledged only small volumes, but

they do exist.

Now, among the interesting arguments we heard was that because OCTAL locks itself into long-term contracts, index to raw material costs somehow, it's not responsible for the underselling that results. We never claimed that OCTAL was intentionally underselling U.S. producers, especially because there's no intent requirement in the statute -- if they're underselling, they're underselling.

Whether or not they've locked themselves into a contract or not. I mean there are certain elements of their claim that sounds like the devil made me do it. We signed this contract, and we're locked into it and now we're forced to undersell. Well, that's not a question of intent, it's a question of effect, and what effect does that underselling have?

Very interestingly, we've talked a lot about the cyclone as we should, because it is so instructive. That Petitioners could raise prices once OCTAL was out of the market in mid-2018 shows the effect of OCTAL's underselling and suppressing of U.S. prices when they were in the market.

And then the ability of the U.S. producers to raise prices and increase their profits once OCTAL was out, is quite instructive. And by the way, despite what the OCTAL witnesses claim, it wasn't price gouging going on, it's something called fair pricing.

And if you take a look at the financial performance of the domestic producers in 2018, you will see that they were not exactly making tremendous financial gains, even when OCTAL was out of the market, what they're able to do is get a fairer price when OCTAL was out.

But, when OCTAL returned to the U.S. market, the sales that have been obtained by the domestic industry, according to Mr. Porter, shouldn't be considered a lost sale, even though the Respondents acknowledge that OCTAL came into the market with lower prices.

And again, they tried to excuse that with the claim. Well we had to, the contract made us do it. It reminds me of Senator S.I. Hightower, the Senator from California, back in the '70's during the Panama Canal debates. His statement was, "It's ours, we should keep it, we stole it fair and square." Well that's exactly the approach by OCTAL in this case.

Mr. Porter reiterates the customers were obligated to go back to OCTAL. No one obligated OCTAL to sell their prices -- their product at low prices that would hurt the domestic industry.

I'll conclude on the issue of threat. Mr. Barenberg's statement says that OCTAL's main factory in Oman has more than two times the capacity of the largest U.S. domestic producer and more than 6 to 7 times the average

capacity of the range of domestic producers.

I don't know if you can imagine anymore threatening a statement than that. I mean, if I had a microphone to drop right now, I would do that and say on threat alone, the domestic industry should have an affirmative determination in this case.

But in fact, we're well beyond threat. If you look at the financials, you look at all the data in the record, there's clear present material injury and we urge the Commission to make an affirmative determination, thank you.

MS. BELLAMY: Closing remarks on behalf of Respondent will be by James P. Durling of Curtis, Mallet-Prevost, Colt & Mosle, LLP. Mr. Durling, you have 10 minutes.

CLOSING REMARKS BY JAMES. P. DURLING

MR. DURLING: Thank you. This is a preliminary and so one of the big issues will be how good is the record and does the Commission have enough of a factual basis to make a decision now?

And we think the record is complete enough for Oman. You have OCTAL here, you have information on 100% of the imports from Oman into the market. You have customer questionnaire responses from the major customers that account for the overwhelming majority of imports from Oman,

and so vis- -vis Oman, you have a complete record.

And as we'll go through on our post-hearing brief, we think that legally the correct approach is to focus on Oman for purposes of this determination. You'll get to a focus on Oman through some combination of one or more of the other countries may drop out because of negligibility.

And we don't think it is reasonable to take a basket category, make a wild assumption designed to capture a large portion of the basket category, and use that to get around the negligibility requirement of the statute when the information on the record other than the import stat's, is strongly indicative that the assumption being made about the share of the basket category that's actually subject merchandise.

When those two things can't be reconciled, you have to do something else. And the point is if you make any adjustments at all to their assumption about what portion of the basket category in fact is subject merchandise, their argument against negligibility begins to collapse.

Even if you find the other two countries not to be negligible, we think the record sufficiently supports the finding of no cumulation. Yes, the overlap of competition needs only to be reasonable, but reasonable means reasonable. It's not some de minimis level of competition

and we think, and we'll document in our post-hearing brief that in fact there is not a reasonable overlap of competition and you can't create a reasonable overlap of competition because of a cyclone that for a few months left the market scrambling, where everyone had to buy whatever they could find from wherever they could find it.

I think if you look at the record, if you look at the questionnaire responses for time periods other than the cyclone period, and then you think about the cyclone period differently, what you'll see is that there is in fact not a reasonable overlap of competition. That you don't have a reasonable overlap between customers that are buying from Oman, and customers that are also buying from Korea and/or Mexico.

So, we're back to Oman, and Oman, is there some you know, reasonable indication that Oman is causing injury? And we submit the record already shows that that is not the case. Don't have time to cover the entire argument but let me just leave you with a few key thoughts to keep in mind.

First, when you're considering the record, it is absolutely critical that you carefully distinguish when are you looking at OCTAL Oman, and when are you looking at OCTAL Cincinnati? Yes. OCTAL Cincinnati competes. Yes, you may find references in documents coming from the other side, references to OCTAL, but is it clear that they're talking

about OCTAL Oman and not OCTAL Cincinnati?

Because if OCTAL Cincinnati is taking a sale from a domestic producer, that cannot be attributed to OCTAL Oman. The statute does not permit that.

Second, DPET is a different and unique product. It is not, as you heard from one of the witnesses this morning, it is not just some marketing plot. It is a physically different product that has very discernable, measurable characteristics. And, it's not for us to decide whether those characteristics are important or not, the customers get to decide what's important.

If it's important to the customers, it's an important physical difference in the product, and it can be taken into account -- should be taken into account by the Commission when deciding whether there's competition or how attenuated the competition might be.

Third point -- your pricing analysis is more than just lighting up kind of quarterly AUV's and comparing them with snapshots in time or at least I certainly hope it's more than that. When a pricing decision is made, at the beginning of the period, when a pricing decision is made in 2016, at the very beginning of the period long before the petition was even thought of.

So, years ago, a pricing decision is made, and then you're just following the logical implications of a

formula over time. I submit that that 2016 pricing decision has very little to do with the competitive dynamics in 2018 or 2019, and your task is to decide whether this industry is currently being injured or threatened with injury.

It's not to go back as historians and figure out what was happening a long time ago. Yes, you look at three years, but that's to give you context for understanding the more current period of time.

And finally, the cyclone. You heard this morning that oh, well during the cyclone they could use our product, so clearly the products are substitutable. I don't think that's a fair description of the market dynamics.

When your key input is not available from any other source, you do whatever you can to find some barely acceptable substitute. Again, even at this preliminary stage, read the commentary by the customers. There's really interesting commentary in the customer questionnaire responses about how they feel about the quality of the domestic producers versus OCTAL.

And read that. And then you can evaluate whether the fact that those customers had no choice but to use that volume during the period of the cyclone, whether that actually demonstrates true substitutability.

And don't give any credence to the comment to Mr. Rosenthal's closing about oh, well it was only just about

getting to fair pricing. I'm sorry, the Commission doesn't decide what's fair and unfair pricing, we'll have that fight in the Commerce Department.

And, just so that you know, OCTAL understands and OCTAL just completed a PET resin administrative review where the Commerce Department found a zero percent dumping margin, and we'll see what Commerce does with the dumping margins for PET sheet. But we don't think the prices are unfair.

We think what's happening is for all the reasons you've heard OCTAL produces a product that is much higher in quality and they can do it at a much lower cost. That's why formula pricing makes so much sense for a company like OCTAL, because they can look at an industry benchmark price for PET resin and say fine. We're happy to price off of a benchmark so that you know that you're competitive with all your competitors in the market because we have a better process.

We can produce profitably, working against a market benchmark because we have lower costs. And at the end of the day, if OCTAL has lower costs, if those lower costs are reflected in competitive prices in the U.S. market and comparable prices in other comparison markets, there's nothing unfair about that.

There's nothing unfair about OCTAL having a better way of producing PET sheet at a lower cost. And the

fact that the domestic industry, all technology, they haven't invested -- if they have incredibly high costs -- if those incredibly high costs force them to spike market prices during the cyclone period, which did nothing but leave a bitter taste in the mouth of the customers that had to endure those higher prices, that is not unfairness, or at least that's not unfairness that's actionable with the anti-dumping law. Thank you.

MS. HAINES: Okay, thank you. On behalf of the Commission and the Staff, I'd like to thank the witnesses who came here today as well as counsel for helping us gain a better understanding of the product and the conditions of competition in the PET sheet industry.

Before concluding, please let mention a few dates to keep in mind. The deadline for submission of corrections to the transcript and for submission of the post-conference briefs, is Friday, August 2nd.

We are aware a request has been made to grant an extension of the briefs. A decision has not been made on that yet. Hopefully, we can let you know either tonight or first thing tomorrow morning.

If briefs contain -- yeah?

MR. ROSENTHAL: I'm not aware of being served by opposing counsel about that request. We haven't had a chance to comment on that, have we? Okay, well I'm telling

you at this point we object.

MS. HAINES: Okay. If briefs contain business proprietary information, a public version is due on Monday, August 5th. The Commission will report its determinations to the Secretary of the Department of Commerce on Friday, September 13th, and the Commissioners opinions will be issued on Friday, September 20th. That's incorporating revisions due to the polling, so thank you all for coming and the conference is adjourned.

(Whereupon the conference adjourned at 1:58 p.m.)

CERTIFICATION OF REPORTER

TITLE: In The Matter Of: Polyethylene Terephthalate (PET) Sheet from Korea, Mexico, and Oman

INVESTIGATION NOS.: 731-TA-1455-1457

HEARING DATE: 7-30-19

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NATURE OF HEARING: Preliminary

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