

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
 GRANULAR) 731-TA-385 and 386
 POLYTETRAFLUOROETHYLENE) (Second Review)
 (PTFE) RESIN FROM ITALY)
 AND JAPAN)

Tuesday,
 October 25, 2005

Room No. 101
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable STEPHEN KOPLAN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

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 VICE CHAIRMAN DEANNA TANNER OKUN
 COMMISSIONER JENNIFER A. HILLMAN
 COMMISSIONER CHARLOTTE R. LANE
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In Support of the Continuation of the Antidumping Duty
Orders:

On behalf of E.I. Du pont de Nemours & Company
(DuPont):

JOHN COLVEN, Global Market Segment Manufacturing,
Industrial Specialties, DuPont
RICHARD L. BOYCE, President, Econometrica
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In Opposition to the Continuation of the Antidumping
Duty Orders:

On behalf of Asahi Glass, Ltd. and AGC Chemicals
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P R O C E E D I N G S

(9:30 a.m.)

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3 CHAIRMAN KOPLAN: Good morning. On behalf
4 of the United States International Trade Commission I
5 welcome you to this hearing on Investigation Nos.
6 731-TA-385 and 386 (Review) involving Granular PTFE
7 Resin From Italy and Japan.

8 The purpose of these five-year review
9 investigations is to determine whether revocation of
10 the antidumping duty orders on granular PTFE resin
11 from Italy and Japan would be likely to lead to
12 continuation or recurrence of material injury to an
13 industry in the United States within a reasonably
14 foreseeable time.

15 Notice of investigation for this hearing,
16 list of witnesses and transcript order forms are
17 available at the Secretary's desk. I understand the
18 parties are aware of the time allocations. Any
19 questions regarding the time allocations should be
20 directed to the Secretary.

21 As all written material will be entered in
22 full into the record it need not be read to us at this
23 time. The witnesses are reminded to give any prepared
24 testimony to the Secretary. Do not place testimony
25 directly on the public distribution table. All

1 witnesses must be sworn in by the Secretary before
2 presenting testimony.

3 Finally, if you will be submitting documents
4 that contain information you wish classified as
5 business confidential your requests should comply with
6 Commission Rule 201.6.

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. ABBOTT: No, Mr. Chairman.

10 CHAIRMAN KOPLAN: Very well. Let's proceed
11 with the opening remarks.

12 MS. ABBOTT: Opening remarks in support of
13 continuation of orders will be by Ronald I. Meltzer,
14 Wilmer Cutler Pickering Hale & Dorr.

15 CHAIRMAN KOPLAN: Good morning, Mr. Meltzer.

16 MR. MELTZER: Good morning. My name for the
17 record is Ron Meltzer from Wilmer Hale representing
18 DuPont in support of continuing the orders in this
19 case.

20 We believe that the Commission's decision
21 will effectively revolve around answers to a few basic
22 questions, and we believe that based on the record and
23 based on what you will hear today those answers will
24 fully support DuPont's position that revocation will
25 likely result in material injury to the domestic

1 industry within a reasonably foreseeable time.

2 Let's go through a few of the basic
3 questions that this case revolves around. First, do
4 the Japanese and Italian producers have the
5 wherewithal to shift increased volumes of subject
6 imports to the U.S. if the orders are revoked?

7 The record shows, and you will hear further
8 today, that there is a significant excess capacity in
9 both Japan and Italy, more than enough for the
10 Japanese and Italian producers to shift very large
11 amounts of subject imports to the U.S. if the orders
12 are revoked.

13 In fact, the excess supply is so great that
14 even if a fraction of that surplus volume comes to the
15 U.S. it will significantly displace DuPont's U.S.
16 sales and reduce U.S. producer market shares at a
17 loss.

18 Second, are there sufficient incentives and
19 reasons to make it likely that the Japanese and
20 Italian producers would bring that excess capacity to
21 the U.S. market if the orders are revoked?

22 You will hear today that granular PTFE resin
23 production has high fixed costs and requires all
24 producers to have high operating rates. This
25 imperative underlies the significant excess capacity

1 that exists and that also forces the Japanese and
2 Italian producers to find export markets as outlets
3 for their oversupply.

4 The U.S., as you will hear, is an attractive
5 export market. It's the second largest in the world.
6 It has higher prices than most markets in the world,
7 higher prices than the Asian market where the Japanese
8 producers have been very active in the past as major
9 outlets for their excess supply.

10 The U.S. market also becomes a more likely
11 target because of what's going on in Asia and in
12 particular the significant rise of Chinese production
13 and export capacity which is creating shrinking
14 opportunities for the Japanese and the Italians in
15 that market.

16 The record also shows that the domestic,
17 Japanese and Italian products are highly
18 substitutable, that Japanese and Italian product is
19 already qualified in the U.S., that they have a
20 significant customer base in the U.S. and that it is
21 relatively easy for producers to shift supply from one
22 market to another as they did, as you will hear, in
23 the aftermath of the Daikin explosion in 2004 and that
24 it is also easy for customers to shift from one
25 supplier to another. In effect, all it takes is a

1 better price.

2 Another question is how likely is it that
3 there will be underselling and a further erosion of
4 U.S. pricing? Well, in this review, as in the last
5 review, there is not much in terms of comparative
6 pricing data, and we believe that the Commission
7 should do what it has done in the past, which is look
8 to the original investigation as most probative of
9 that dynamic.

10 The U.S. industry is facing difficult
11 pricing in the U.S., largely as the result of
12 continued dumping by Solvay and the significant impact
13 of Chinese and Russian products sold in the U.S. If
14 the orders are revoked, Japanese and Italian producers
15 will have strong incentives to increase their presence
16 in the U.S. here, and to do so it will mean that they
17 have to sell at low prices.

18 Is the industry vulnerable to material
19 injury if the orders are revoked? As DuPont will
20 further explain today, the industry is having
21 difficult times. They are struggling with the
22 continued dumping by Solvay and the sharp rise in low-
23 priced Chinese and Russian imports. If the orders are
24 revoked, it will basically push DuPont over the edge.
25 They'll have no choice but to reconsider their

1 continuation of the U.S. operations.

2 Now, Asahi has said that there's no real
3 likelihood that revocation is going to result in
4 increased Japanese shipments because they have a U.S.
5 presence here. Well, we ask you to look at how
6 credible this assertion is, given the flexibility that
7 the revocation of the orders will have and given the
8 situation facing the U.S. industry.

9 CHAIRMAN KOPLAN: Excuse me, but your time
10 has expired.

11 MR. MELTZER: Okay. Thank you very much.
12 We'll continue to explore these points in our
13 testimony.

14 CHAIRMAN KOPLAN: I'm sure.

15 MS. ABBOTT: Opening remarks in opposition
16 to continuation of orders will be by Jeffrey S.
17 Neeley, Greenberg Traurig.

18 CHAIRMAN KOPLAN: Good morning, Mr. Neeley.

19 MR. NEELEY: Good morning, Mr. Chairman.
20 For the record I am Jeffrey Neeley from Greenberg
21 Traurig. I'm here today on behalf of Asahi Glass,
22 which is a Japanese producer of granular PTFE resin,
23 and its U.S. subsidiary which is called AGC Chemicals,
24 which is located in New Jersey and Pennsylvania.

25 This is a little bit of an unusual case,

1 While we're here on the opposition side, in fact we're
2 sort of in the middle I guess. Usually I come before
3 you, and everybody on one side says white and the
4 other side says black. That's not quite the case
5 here. We in fact agree with DuPont on many things.
6 We agree with DuPont on the vulnerability of the U.S.
7 industry. We agree with DuPont on the situation with
8 regard to Italy.

9 We do have obviously a disagreement with
10 regard to Japan. This case is 17 years old, so we
11 come before the Commission at a time where we think
12 it's a good time for it to look at what's changed and
13 what hasn't changed in those 17 years.

14 What hasn't changed, and we agree with
15 DuPont on this fully, is the situation with regard to
16 Italy. We believe that if there's a revocation of
17 this order the Italian imports are likely to increase
18 substantially, and at low prices there's no reason to
19 think that they would not. The Italians have every
20 incentive to do that.

21 On the other hand, with regard to Japan we
22 think the situation, if looked at objectively, is
23 quite different. The fact is, and Mr. Brozetti will
24 testify about this and will provide the Commission
25 with other information. We don't believe that there

1 is excess capacity in Japan. We think that what
2 DuPont has explained in its brief with regard to
3 excess capacity is not credible.

4 Secondly, we believe that there are in fact
5 major incentives not to bring low-priced imported
6 granular PTFE resin into the United States from Japan
7 for the simple reason that it's going to be suicidal.
8 The fact is that it would undermine an already
9 vulnerable U.S. industry which is composed largely of
10 Japanese companies, U.S. subsidiaries, and we just
11 don't see any way that that could happen.

12 Finally, you will hear that while, as Mr.
13 Meltzer says, in some markets prices are lower than in
14 the United States, that certainly is not the case in
15 Japan. Japanese prices are in fact generally higher
16 than in the United States. Japanese producers sell
17 most of their production not in "Asia" but rather in
18 the Japanese home market. Japan, as the Commission is
19 well aware, is a high cost and high priced market for
20 virtually every product, and that's the case with
21 granular PTFE resin.

22 I think when you take all of that together
23 we would hope that the Commission would find that it
24 should continue the order with regard to Italy, but
25 revoke it with regard to Japan.

1 Thank you.

2 CHAIRMAN KOPLAN: Thank you.

3 Madam Secretary?

4 MS. ABBOTT: The first panel in support of
5 the continuation of the antidumping duty orders,
6 please come forward.

7 All witnesses have been sworn.

8 (Witnesses sworn.)

9 CHAIRMAN KOPLAN: Thank you, Madam
10 Secretary.

11 You may proceed.

12 MR. COLVEN: Good morning. For the record
13 my name is John Colven with DuPont. I'm the Global
14 Market Segment Manager for our Industrial Specialties
15 business in the fluoropolymer business.

16 The subject material that we're talking
17 about today is PTFE granular resin, a very highly
18 engineered fluoropolymer used in numerous applications
19 across many industries, including automotive and
20 chemical processing.

21 A large part of our overall sales of PTFE
22 granular resin in applications in our Industrial
23 Specialties Segment -- excuse me. A large part of our
24 overall granular resins are sold in the Industrial
25 Specialties Segment, so it's fair to say that the

1 subject we're discussing today is critical to the
2 viability of my market segment. I've been with DuPont
3 for over 25 years and have spent the last 10 years in
4 various fluoropolymer business units.

5 DuPont invented PTFE, and we sell it under
6 our worldwide trade name of Teflon. The process is
7 called suspension polymerization. To make the resin
8 is very capital intensive. It has very high fixed
9 costs to ensure safe operation and so profitability is
10 only achieved through high capacity utilization.

11 The first thing I'd like to do today is talk
12 about the granular industry in the United States,
13 which, as Mr. Meltzer said, is second only to the
14 European market. These are statements that we believe
15 to be true about the market in the U.S.

16 The granular PTFE market is nominally about
17 20 million pounds and again second only to Europe as
18 far as markets and regions for the subject product.
19 It's our belief that there's six million excess pounds
20 of capacity in Italy and nine million pounds of excess
21 capacity in Japan.

22 As the ITC prehearing brief correctly
23 identified, the state of the U.S. industry is dismal.
24 We agree with other producers here today and also
25 other producers that have gone on the record to this

1 fact in other matters.

2 Two of the producers have already gone on
3 the public record recently that their PTFE granular
4 business is losing money, and DuPont is one of those
5 that has gone on the record saying that. This is
6 despite numerous efforts that we all are undertaking
7 to improve our efficiency and productivity in cutting
8 costs, and we still are, as you see in our prehearing
9 questionnaire, losing money in this business.

10 As Mr. Meltzer pointed out, also
11 contributing to the poor financial condition of the
12 domestic industry is the significant rise in imports
13 from China and Russia that have occurred at a rapid
14 rate over recent years.

15 Back in 1987, producers of PTFE granular
16 resin from Italy and Japan were found to have dumped
17 subject products, significantly injuring the domestic
18 industry, and antidumping measures were imposed. The
19 orders have clearly helped the domestic industry
20 remain viable today.

21 As was first clear in the sunset review in
22 1999 and is even more compelling now, revocation of
23 the duties against Italy and Japan would significantly
24 harm what is already a very fragile industry today.
25 The Department of Commerce has already determined this

1 would occur in their June 2005 review of the case.

2 Our belief is that including DuPont, none of
3 the domestic producers are committing any significant
4 R&D or capital resources to grow the PTFE granular
5 business in the U.S. DuPont has gone on record that
6 we would cease operations and/or look elsewhere in the
7 world to manufacture PTFE granular resin if the
8 economics did not improve.

9 Revocation of the order would likely make
10 this a reality and at the same time give the Japanese
11 producers who are also domestic producers ultimate
12 flexibility to rationalize their strategic sourcing of
13 the subject products in the U.S. market at the expense
14 of the domestic industry.

15 History shows that the granular business in
16 the U.S. can shift from supplier to supplier almost
17 instantaneously. A recent case in point is the
18 accident and shutdown of the Daikin Kashima Japan
19 facility that was down for the majority of the year
20 2004.

21 They were unable to fill their overall
22 customer requirements for FEP and the subject PTFE
23 granular, so other suppliers quickly converted this
24 share, especially in the U.S. where we believe Daikin
25 used most of their monomer capability to produce FEP,

1 which is a higher value fluoropolymer co-polymer made
2 from the same monomer as PTFE.

3 Next I would like to talk about the clear
4 incentives for the producers in Italy and Japan to
5 import more PTFE granular resin into the U.S. further
6 damaging the domestic industry.

7 Number one, the sheer size of the market in
8 the U.S., nominally 20 million pounds, is second in
9 the world as far as size.

10 We believe again that the overall capacity
11 utilization in the world is relatively low, and they
12 would obviously prefer to utilize that existing global
13 capacity to produce more granular PTFE resins.

14 We have shown in our questionnaire that the
15 U.S. has higher average market prices than most other
16 regions of the world.

17 Number four, their products are completely
18 fungible with domestic products meeting the common
19 ASTM standards in the industry.

20 The available markets in Asia outside of
21 Japan that were typically export markets for Japanese
22 producers are now being supplied by other producers.
23 The emergence of the Chinese domestic producers in
24 China, our count is over six domestically, and Russian
25 producers who have a presence in Asia have now taken

1 over a large part of that Asia Pacific ex-Japan market
2 making the United States now the most attractive
3 market to export to of their excess capacity.

4 Add to that fact that the Italian producer
5 has demonstrated an almost totally opportunistic view
6 of the U.S. market, first trying to circumvent the
7 duties that were imposed by importing wet, raw polymer
8 into the local market and now even today undersell the
9 U.S. domestic producers even with a 12 percent
10 antidumping duty in place based on the last review by
11 the Commission.

12 The fact that they have not cooperated in
13 any way with the Commission is a further indication of
14 their total disregard for a fair trade in the U.S.
15 market.

16 Another key point specific to Japanese
17 producers, Daikin and Asahi Glass. We agree both have
18 established local manufacturing facilities in the U.S.
19 since the antidumping order was put in place which
20 shows to us that the process is partially working.
21 However, we strongly disagree with the contention that
22 they have no incentive to import PTFE granular resin
23 because it would undermine their domestic sales.

24 A key asset that has not been brought out
25 yet today in making fluoropolymers is the TFE monomer

1 facility. This is a key feedstock for making PTFE and
2 other polymers, and because monomer is a very
3 hazardous substance to transport it's very difficult
4 and rarely done internationally. In essence, what you
5 have in local monomer capability dictates what you
6 have the ability to make in polymer.

7 Both Japanese producers can readily allocate
8 their U.S. monomer capacity away from PTFE granular
9 resin into non-subject PTFE and/or co-polymers of
10 higher value and then begin importing granular needs
11 from excess capacity in Japan immediately.

12 Moreover, Asahi Glass has said in their
13 prehearing brief and repeated again today that there
14 would be no impact from revocation of the order. We
15 know for a fact of a situation involving hundreds of
16 thousands of pounds of subject resin in the U.S. that
17 they control and would prefer to import from Japan,
18 but they cannot do so because of the existence of the
19 order.

20 This business could be imported from the
21 Japan source immediately if the order is revoked, and
22 we believe it is directly related to their request for
23 administrative review from the Commission. We'll be
24 happy to give you confidential details in our
25 posthearing brief.

1 Aside from world class quality and the
2 largest U.S. production facility of the subject resin,
3 DuPont's main value differentiation for PTFE granular
4 resin is the Teflon brand. Without investment in R&D
5 for development of new products -- we've reduced
6 related technical service staffing which was a key
7 value addition for DuPont's offering -- price now
8 becomes the primary decision factor.

9 Even the equity of the Teflon brand has
10 eroded significantly with the current state of the
11 industry, and at best it is a tiebreaker in the
12 business decision today from customers only if we
13 match a competitive price.

14 In summary, the PTFE granular resin market
15 is very fragile at this point in time, and no one is
16 certain whether this product will be manufactured in
17 the U.S. in the future. DuPont invented Teflon, and
18 it's our intention to continue to make it in the
19 United States as long as the market is maintained as a
20 level playing field.

21 Today we do not meet our corporate metrics
22 for reinvestment economics. The case to continue with
23 the antidumping orders against Japan and Italy keeps
24 us from returning to the conditions that existed prior
25 to 1988 and is one effective tool to ensure that the

1 right market balance is maintained.

2 This is especially critical even more so
3 today in the face of the Chinese and Russian imports.
4 In fact, the case is even stronger now than in the
5 first review if you look at the key factors that the
6 Commission considered in continuing the order back in
7 1999.

8 This includes the increased vulnerability of
9 the domestic industry, the higher substitutability of
10 the subject products and the continuing decline in
11 pricing trends and the inability to continue to invest
12 in this business.

13 I thank you on behalf of DuPont for the
14 opportunity to address you today on this very
15 important matter and will be happy to answer any
16 questions that you have.

17 CHAIRMAN KOPLAN: Thank you, Mr. Colven.

18 MR. MELTZER: We have no further testimony
19 and would be glad to answer any questions you have.

20 CHAIRMAN KOPLAN: Thank you for that, Mr.
21 Meltzer.

22 I appreciate your testimony, Mr. Colven.

23 We'll begin the questioning with
24 Commissioner Hillman.

25 COMMISSIONER HILLMAN: Thank you very much,

1 and welcome to the Commission. We thank you for your
2 time and appearance before us this morning.

3 Let me start first with some data questions
4 because obviously we are missing a fair amount of data
5 in terms of questionnaires that have not come in, and
6 I'm just trying to make sure I understand it.

7 First, it is my understanding that DuPont
8 has a joint venture facility in Japan.

9 MR. COLVEN: That's correct. We have a
10 50/50 joint venture with Mitsui Fluorochemicals in
11 Japan.

12 COMMISSIONER HILLMAN: And can you tell me
13 why it is that the Commission did not receive a
14 foreign producer questionnaire response from that
15 facility?

16 MR. COLVEN: As best as I can recall, I
17 think we asked that question since the joint venture
18 is not a U.S. producer.

19 COMMISSIONER HILLMAN: But we would have
20 sent the questionnaire to all foreign producers in a
21 subject country, so since you are a foreign producer
22 in Japan I'm trying to understand why we have not
23 received the questionnaire response.

24 MR. COLVEN: I apologize. I think the
25 guidance we received was that it wasn't required.

1 COMMISSIONER HILLMAN: Mr. Meltzer, maybe
2 you can help us on this.

3 MR. MELTZER: Yes.

4 COMMISSIONER HILLMAN: It is my
5 understanding from staff that again all foreign
6 producers in Japan were sent a foreign producer
7 questionnaire. I'm trying to understand. My
8 understanding is we only received a foreign producer
9 questionnaire from one foreign producer.

10 MR. MELTZER: Excuse me.

11 CHAIRMAN KOPLAN: Could you move your
12 microphone closer to you?

13 MR. MELTZER: We can provide that as a
14 result in our posthearing brief or find out how
15 quickly we can get that to you. I apologize for that.
16 I don't recall our seeing or receiving that.

17 COMMISSIONER HILLMAN: Okay. All right. I
18 mean, obviously if you can work with staff.

19 MR. MELTZER: Sure.

20 COMMISSIONER HILLMAN: Again, it is my
21 understanding that all foreign producers in Japan and
22 Italy were sent a questionnaire.

23 MR. MELTZER: Yes. Yes. Also, I think we
24 need to point out that DuPont doesn't have controlling
25 interest in the joint venture.

1 COMMISSIONER HILLMAN: I understand.

2 MR. MELTZER: Yes.

3 COMMISSIONER HILLMAN: But I would assume
4 that you will do what you can to make sure that we get
5 the questionnaire response.

6 MR. MELTZER: We will do what we can to
7 report that information.

8 COMMISSIONER HILLMAN: Okay. Secondly then
9 just to make sure I understand the data, you've a
10 number of places in your brief and particularly in
11 your Attachment 1 a whole series of data that relate
12 to production capacities and total capacity and total
13 production in a number of markets.

14 What is the source of that data? I'm trying
15 to understand whether there's sort of an independent
16 set of data out there or whether this is entirely
17 internal DuPont data.

18 MR. COLVEN: We have available to us some
19 data that we participate in a subscription service for
20 the European market, Cefic, which is a trade
21 association where we collect some data, SRI
22 International, and then a large majority of the
23 capacity related data is based on our own internal
24 process for collecting competitive intelligence.

25 There is no published capacity data that

1 we're aware of, so we have to do our own process of
2 networking and competitive intelligence.

3 COMMISSIONER HILLMAN: All right. Fair
4 enough. And generally the information that is in that
5 Attachment 1 to your brief is an amalgam of the data
6 that Mr. Colven has just described?

7 MR. COLVEN: That's correct.

8 MR. MELTZER: That's correct.

9 COMMISSIONER HILLMAN: All right. Thank
10 you.

11 If I can then go to the issue of one of the
12 things that's striking in this record is the issue of
13 the decline in prices and unit values over the last
14 couple of years.

15 Help me understand what is going on in the
16 market. We don't see other things that would
17 necessarily be driving those prices down, so from your
18 perspective what's happening that we've seen this
19 price reduction in the U.S. market?

20 MR. COLVEN: I think the best answer to that
21 question is a combination of Chinese and Russian low-
22 priced imports that have come into the market if
23 you're talking about the recent three years.

24 I think if you look at the Department of
25 Commerce import data you'll see a dramatic rise in

1 those imports of PTFE. Now, granted those are not 100
2 percent PTFE granular because the HTS code is a
3 combination. However, our belief is that the majority
4 of that is granular because we're aware of the
5 manufacturing capability of the Russians and Chinese.

6 In addition to those two, if you'll look at
7 the fairly stable amount of imports from Italy during
8 the same period you'll see that there's millions of
9 pounds of PTFE coming from Italy.

10 A large part of that is wet, raw polymer
11 that's further finished in the U.S. and then sold at
12 below market prices in the U.S., so there's continuous
13 pressure from at least those three sources, and I'd
14 say those are the primary drivers for the price
15 decline. It's simply overcapacity in the world.

16 COMMISSIONER HILLMAN: Okay. Now tell me a
17 little bit about the quality of the Chinese and the
18 Russian product. I mean, you mentioned that your
19 products sell under a brand name, Teflon, very well
20 known, presumably very well promoted by DuPont
21 throughout the years.

22 It's my understanding that most of the
23 Japanese producers similarly have a brand name
24 attached to their product that would -- I'm trying to
25 understand -- convey what level of sort of quality or

1 cache in the market? Are the Japanese brands
2 considered equivalent to Teflon?

3 MR. COLVEN: I think based on the amount of
4 investment we made on the consumer side of our Teflon
5 business primarily in the housewares and non-stick
6 coating and electric appliances has a lot to do with
7 the overall brand awareness of Teflon. We have also
8 invested in the industrial side, but not near the same
9 level as on the consumer side.

10 My short answer to your question is I don't
11 think anyone else markets products of subject products
12 under any brand name, although they all have a brand
13 name of some type that they use.

14 COMMISSIONER HILLMAN: Do the Chinese and
15 the Russians have a brand name?

16 MR. COLVEN: I don't know that all of them
17 do, but I wanted to come back to the Chinese and
18 Russians and your question about quality.

19 We have internally determined that they meet
20 ASTM standards, and independently in an action in
21 Europe by the European Commission in an antidumping
22 case for the subject resin against China and Russia
23 the European Commission also made a determination that
24 the quality was equivalent.

25 COMMISSIONER HILLMAN: And typically if an

1 industrial user is switching from using your Teflon
2 product to switching to using either the Russian or
3 the Chinese product, what is the qualification process
4 that they would go through, and how long does it
5 typically take?

6 MR. COLVEN: It can usually take one to
7 three months.

8 Generally they'll mold generally a stock
9 shape from the resin and then machine or cut the parts
10 that they may be particularly making, which could be a
11 gasket, a seal, some other part made from the stock
12 shape, and do basic plastic mechanical performance
13 testing, elongation, critical cracking thickness,
14 tensile strength, typical mechanical properties that
15 are done to plastic materials. That's basically it.

16 COMMISSIONER HILLMAN: And each individual
17 end user would go through this qualification process?

18 MR. COLVEN: In similar levels depending on
19 the end use. There are some end uses -- for example,
20 automotive -- that may require longer lead time
21 because the automotive industry tends to be a little
22 more rigorous, but there are numbers of applications
23 in fact that are even already qualified, so it's not
24 even required to do any testing. It's just a matter
25 of price being the decision factor.

1 COMMISSIONER HILLMAN: Tell me a little bit
2 more about that. It's my understanding that there's a
3 fairly extensive use of long-term contracts in this
4 industry.

5 MR. COLVEN: In our record we indicated --
6 is that public, the percentage?

7 MR. MELTZER: The particular percentage may
8 not be public, but I think there are long-term
9 contracts, but that has sort of a nominal position in
10 the marketplace because I believe most, if not all, of
11 them would have meet or release kinds of provisions
12 which would enable somebody to switch rather easily.

13 MR. COLVEN: Even our long-term contracts
14 generally have that.

15 COMMISSIONER HILLMAN: Okay. And how does
16 it work? Meet or release? Meet what?

17 MR. COLVEN: If they show us --

18 COMMISSIONER HILLMAN: Exactly what do they
19 have to show you?

20 MR. COLVEN: They show us a bona fide offer,
21 a competitive offer, and we have to match it or we
22 relieve them of the contract.

23 COMMISSIONER HILLMAN: Okay. Do you have a
24 sense of over the last couple years as we've seen
25 these price declines in the market how often those

1 clauses have in fact been invoked in your contracts?

2 MR. COLVEN: Almost 100 percent. I can
3 assure you that that happens very routinely.

4 COMMISSIONER HILLMAN: Okay.

5 Notwithstanding these price declines that we've seen
6 in the last couple years, would you still say that
7 U.S. prices are higher than markets other than we
8 heard testimony that Japan still has prices higher
9 than the U.S.?

10 Would you agree with that that Japan is
11 currently the highest priced market followed by the
12 U.S.?

13 MR. COLVEN: I'd say they're close, and
14 depending on which exchange rate your economics are
15 done in -- you know, we do it on the U.S. dollar. The
16 Japanese producers do it on the yen, you know, on the
17 euro exchange rate in Europe.

18 Yes, they're in the top two. There's no
19 question. Western Europe, Japan and the U.S. are
20 going to be the higher priced markets any given year
21 based on exchange rates and your home economics
22 accounting method. Those would be the top three in
23 any given year.

24 COMMISSIONER HILLMAN: The price declines
25 that we've seen in the U.S. market, have they also

1 been seen in Europe and Japan as well?

2 MR. COLVEN: Yes, I'd say so. I don't have
3 the data to support it, but my opinion is that they
4 would have. Sure.

5 MR. MELTZER: Well, we know that there was a
6 case --

7 CHAIRMAN KOPLAN: I think your microphone
8 just went off.

9 MR. MELTZER: I'm sorry.

10 CHAIRMAN KOPLAN: There you go.

11 MR. MELTZER: We know that there was a case
12 that was brought in the EU where pricing was an issue
13 so I believe the difficult pricing trends that we are
14 seeing here were also evident in Europe.

15 COMMISSIONER HILLMAN: I apologize. If the
16 EU action resulted in an actual order being issued, if
17 the details of that could be put on the record for the
18 posthearing that would be helpful. Thank you.

19 MR. COLVEN: They've actually already put
20 provisional measures in place, and there's a vote to
21 put those in for five years that's imminent.

22 COMMISSIONER HILLMAN: All right. If any
23 details of exactly what the EU has done --

24 MR. COLVEN: Sure.

25 COMMISSIONER HILLMAN: -- could be added

1 that would be helpful. Thank you.

2 CHAIRMAN KOPLAN: Thank you, Commissioner.
3 Commissioner Lane?

4 COMMISSIONER LANE: Good morning. I think
5 we welcome back Mr. Colven. Is that correct?

6 MR. COLVEN: Yes, ma'am.

7 COMMISSIONER LANE: Okay. Welcome back. I
8 have a few questions about your operations. Is
9 natural gas a raw material for your product?

10 MR. COLVEN: I don't believe so. I think
11 the primary raw materials are fluorospar, which is a
12 mineral, and chloroform.

13 Natural gas is probably related to other
14 producers in making chloroform, but I don't know that
15 as a direct raw material.

16 COMMISSIONER LANE: My followup question is
17 then has the volatility in the energy market affected
18 your operations?

19 MR. COLVEN: The primary effect of the
20 energy costs have affected transportation.

21 The mineral comes primarily from China, so
22 in the transportation of raw materials it's had an
23 impact, but the impact of energy in our particular
24 facility has not been as significant as other chemical
25 product.

1 There's been an impact because obviously the
2 power consumption is now at a higher price, but I'm
3 not aware of a significant change in our manufacturing
4 cost as a result of that.

5 COMMISSIONER LANE: Okay. Thank you. A
6 followup question from Commissioner Hillman.

7 The prices in Japan are higher than the
8 prices in the U.S. How do the Chinese and the Russian
9 prices for the product compare to the U.S. prices?

10 MR. COLVEN: In the U.S. market?

11 COMMISSIONER LANE: Yes.

12 MR. COLVEN: Their starting prices are
13 generally 20 to 40 percent below what we consider the
14 market price in the U.S. That's overall price.
15 That's a conglomerate price.

16 MR. MELTZER: I think it's fair to say that
17 Chinese and Russian imports have used aggressive
18 pricing to gain sales here and so they have tended to
19 cause erosion among other factors in the U.S. market.

20 MR. COLVEN: If I can add to that, you can
21 see in our testimony the average price in the U.S.
22 being around \$9 a pound, and if you look at the
23 Department of Commerce data the Russian and Chinese
24 imports are coming in nominally at \$3 a pound, so add
25 some distribution and distributor profit, and you can

1 easily see where it's sold at almost half the average
2 U.S. price.

3 COMMISSIONER LANE: In the previous review
4 the Commission found both the filled and unfilled
5 product to be part of a single domestic like product.

6 As you know, this is my first review of this
7 matter, and when looking at domestic like product I'm
8 curious to learn just how much value is added when the
9 subject product goes from an unfilled to a filled
10 product.

11 I would also like to know if you believe
12 that the filled and unfilled products are
13 interchangeable and, if so, to what degree.

14 MR. COLVEN: Basically the reason for
15 filling PTFE is aside from all the very nice benefits
16 that PTFE has like electrical properties, slip/
17 friction resistance, chemical resistance, those are
18 all the good things about PTFE.

19 The one downside is that it's a plastic, and
20 its mechanical properties need to be improved for high
21 mechanical strength applications, so typically you add
22 fiberglass filler or carbon for conductivity or other
23 types of materials to improve the mechanical
24 properties of the PTFE.

25 The second half of your question regarding

1 interchangeability, the base resin in a filled and
2 unfilled compound is basically the same. It's used
3 unfilled for certain applications that don't require
4 the extra mechanical strength properties, and then you
5 add anywhere from five to 25 percent of the filler to
6 give it mechanical properties.

7 The best example I think I can give you is a
8 seal or a gasket that is under a heavy load, a heavy
9 torque or heavy load. Straight or unfilled PTFE would
10 actually creep out of the form or out of the location
11 of the seal, so if you put in fiberglass fibers or
12 other fillers to give it mechanical strength you
13 prevent it from creeping out of its location.

14 That's an example of where the load imparted
15 on the part is important and so the filling process
16 gives it the better mechanical properties.

17 MR. MELTZER: Perhaps I can also add that as
18 the Commission found in the original investigation and
19 in the first sunset review, all of these products,
20 filled and unfilled, share the same sense of physical
21 and performance characteristics, and that's basically
22 derived from the polymerization process.

23 That all takes place way before the end
24 point, which is the filling or unfilling of the
25 product.

1 COMMISSIONER LANE: Okay. Thank you. The
2 staff report seems to show that the financial trends
3 for the domestic granular PTFE resin industry have
4 been declining over the past few years.

5 Does this suggest that the orders are not
6 having their desired effect, and in your opinion how
7 would the removal of the antidumping orders affect the
8 bottom line of the domestic industry?

9 Mr. Meltzer, we'll start with you.

10 MR. MELTZER: Sure. I think things are
11 relative really. I think that what you have to look
12 at is the condition of the industry that improved
13 significantly after the orders were first put in
14 place, and then over time you had continuing dumping
15 by Solvay, and over time the Japanese have found that
16 they could not sell here without continuing to dump so
17 their imports virtually ceased after the order was
18 imposed.

19 In more recent years, you have a situation
20 where Solvay, because of its excess capacity,
21 continues to ship a significant amount of material
22 here and continues to undersell DuPont and the other
23 domestic producers. That has a negative impact on
24 their financial condition.

25 On top of that in the last few years we have

1 this significant buildup of Russian and Chinese
2 presence in the U.S. and the price eroding effect of
3 that presence.

4 If you look at the current situation and the
5 current vulnerability of the U.S. industry and think
6 about what the removal of the orders against Solvay
7 and the Japanese producers would do, you would in
8 effect have a situation where you would open the door
9 to loss of excess capacity coming from Japan.

10 You would open the door to increased
11 flexibility for the Japanese to reorient their
12 sourcing of material in the U.S., and you would have a
13 likely increase of supply coming to the U.S., which
14 would have to contribute to the low pricing trend.
15 You would have more supply coming here exacerbating
16 the current condition.

17 Mr. Colven pointed out to a very specific
18 example, which we can't talk about here, but which we
19 will amplify in our posthearing brief, but I think
20 DuPont has gone on record as saying that it is
21 basically at the edge. If you add more supply, low
22 prices, to the current situation you get pushed over
23 the edge.

24 COMMISSIONER LANE: Mr. Colven, at your
25 Parkersburg facility what percentage of that facility

1 produces or is used to produce the PTFE resin?

2 MR. COLVEN: I don't know the exact
3 percentage. I'm sorry. I assume you're talking about
4 subject PTFE, not --

5 COMMISSIONER LANE: Yes.

6 MR. COLVEN: -- overall.

7 COMMISSIONER LANE: Yes.

8 MR. COLVEN: We have two lines, two
9 dedicated production lines, and I'd have to guess, so
10 I'd rather answer that for you in our post-hearing
11 brief, because I just don't know the exact percentage.

12 COMMISSIONER LANE: Okay. Very close to the
13 edge here of running out of time, but where do you see
14 the demand for your Teflon going in the next -- in the
15 future?

16 MR. COLVEN: For the subject Teflon --

17 COMMISSIONER LANE: Yes.

18 MR. COLVEN: -- or overall?

19 COMMISSIONER LANE: Subject.

20 MR. COLVEN: I think the automotive industry
21 will continue to be a strong base, chemical
22 processing, which requires corrosion-resistant, you
23 know, linings for pipes and valves and fittings.
24 Those two industries are -- at least as long as they
25 stay in the U.S. will be strong industries for

1 granular.

2 But frankly, I don't see any new unique
3 applications that's we're not aware of today for
4 granular, and as I mentioned in my earlier testimony,
5 we're not developing any new products for granular in
6 the U.S. today.

7 COMMISSIONER LANE: Okay. Thank you.

8 MR. MELTZER: May I just make one
9 clarification, please? And that is the Teflon brand
10 applies to a wide range of fluoropolymer products, not
11 just the granular, and so the brand is important. But
12 with respect to the granular product, that's just one
13 piece of the overall fluoropolymer business.

14 CHAIRMAN KOPLAN: Thank you, Commissioner.
15 Commissioner Pearson.

16 COMMISSIONER PEARSON: Thank you, Mr.
17 Chairman. I too would like to welcome this panel,
18 especially you, Mr. Colven, because you've actually
19 made a living in this business and know more about it
20 than most of us in the room.

21 I find it interesting in an investigation
22 like this where we're dealing with a product that most
23 of us know a little something about or at least even I
24 use it when I cook, which I do occasionally. And yet,
25 I have no idea of how it gets from the fluorspar onto

1 the surface of my pan, so this investigation has
2 allowed me to learn a little bit more.

3 Going back to the basic issue that
4 Commissioner Hillman started with, there are data
5 issues here that are confusing to me still, and let me
6 just describe to you the situation as I see it on the
7 record with the data that we have, and I'll describe
8 it in general terms because some of this delves into
9 BPI.

10 U.S. apparent consumption over this period
11 of review has been relatively steady. U.S. production
12 has been relatively steady and generally accounts for
13 something over 90 percent of U.S. consumption.
14 Subject imports appear to have been zero. Non-subject
15 imports have been relatively steady, with a slight
16 bump-up in 2000, but since then they've come down.
17 They've been steady.

18 And so, if these data actually reflect
19 what's going on in the marketplace, it's incongruous
20 to me or at least difficult to understand why we're
21 seeing the price weakness that also is reflected in
22 the record and why we're seeing the financial stress
23 on the domestic industry that's reflected in the
24 record. So I'm looking at these data and I'm having a
25 hard time putting it all together.

1 MR. COLVEN: I believe I heard you say that
2 the subject imports were zero. Did I hear that
3 correctly?

4 COMMISSIONER PEARSON: That's what we have
5 reflected in the record at this time. And we have to
6 look at --

7 MR. COLVEN: What about from Italy and China
8 and Russia?

9 MR. MELTZER: No. Well, what we have on the
10 record is the result of an important missing player,
11 and that is the Italian producer. The Italian
12 producer has shipped a significant volume of subject
13 imports here for many, many years including in the
14 last few years, including currently. In fact, they
15 are continuing to ship so much that they've asked for
16 an administrative review at the Commerce Department
17 regarding their products that they import here.

18 So there is a very -- you are absolutely
19 correct about the holes in the record with respect to
20 the data regarding imports. But you should know as
21 the Commission found in the original investigation and
22 what was reflected in the first review and what is
23 current now is that there is a significant amount of
24 material coming in from Italy that is subject imports.

25 And as to Japan, there is, as you know, not

1 very imports here from Japan, and that is precisely
2 because the order exists. But you have to ask and I'm
3 sure you will about what are the conditions that would
4 make it likely or what are the conditions that would
5 give the Japanese incentives to bring a significant
6 amount of material if the orders are revoked.

7 COMMISSIONER PEARSON: Okay. The -- oh, Mr.
8 Boyce, did you want to add?

9 MR. BOYCE: We assembled on page 29 of our
10 brief what we view as a far more accurate record of
11 the distribution of the domestic sales for commercial
12 shipments than what the staff report with its missing
13 data from key players.

14 COMMISSIONER PEARSON: Okay. Well, let me
15 go back and look at that. And if you have additional
16 thoughts on how to augment the record, that would be
17 useful, because, you know, we're required to decide
18 this case based on what we have on the record, and as
19 it's reflected in the staff report, it remains
20 confusing to me personally.

21 MR. MELTZER: And it is confusing, but I
22 think in light of the refusal by the Italian producer
23 to participate as well as what DuPont believes to be
24 the largest Japanese producer to participate, I think
25 you need to look at other information that can be

1 applied and also apply adverse inferences with respect
2 to the refusal of those participants to provide the
3 data that you've asked.

4 COMMISSIONER PEARSON: Okay. Then further
5 on this point, you've indicated that imports from
6 China and Russia are rising, and yet, of course, we
7 don't pick that up yet in the staff report either. Do
8 you have any way to flesh out, you know, to quantify
9 what's going on with the Chinese and Russian trade?

10 MR. COLVEN: Well, you can look in the
11 Department of Commerce import data for PTFE, and the
12 Russians are on pace to import about 5 million pounds
13 this year and the Chinese about 3 million pounds.

14 COMMISSIONER PEARSON: And is that of all
15 evidence?

16 MR. COLVEN: We believe --

17 COMMISSIONER PEARSON: That would be both
18 subject and non-subject --

19 MR. COLVEN: Right.

20 COMMISSIONER PEARSON: -- product, but that
21 you've indicated you think the large majority of that
22 is subject product.

23 MR. COLVEN: Correct. We have --

24 COMMISSIONER PEARSON: Or product that would
25 be subject. Pardon me for using the terminology

1 poorly.

2 MR. COLVEN: Yes. We have pretty good
3 intelligence of the types of facilities that they've
4 put in place. We visited them as a matter of fact,
5 probably all of them, so we're fairly well aware of
6 the capabilities that they have, particularly around
7 because you need different facilities to make subject
8 material and non-subject PTFE.

9 The non-subject PTFE is fine powder and
10 dispersion and is done in a totally different emulsion
11 process, different reactors, different facilities, so
12 we have very good belief that the majority of the
13 Chinese and Russian material is subject material.

14 COMMISSIONER PEARSON: Okay.

15 MR. COLVEN: Mainly because we also see it
16 in the market, as well could be.

17 COMMISSIONER PEARSON: Once the fixed
18 investment is made in the production, you're either
19 producing the fine powder or you're producing the, you
20 know, granular, depending on what you've built.

21 MR. COLVEN: That's correct. The monomer
22 facility can feed both, but the reactor design for
23 granular is quite different, and that overall reaction
24 polymerization process is quite different from how you
25 make fine powder dispersion.

1 COMMISSIONER PEARSON: Okay. Another data
2 question, this one probably not as hard to deal with.
3 The cost of goods sold for the domestic industry
4 appears to have been really very stable over the
5 period of review, and that's just a little bit of a
6 surprise to me given the fluctuations we've had in
7 energy costs. Is energy cost not a big factor in the
8 production of PTFE?

9 MR. COLVEN: Well, I think as Commissioner
10 Lane delved into that question, the chloroform piece
11 does get impacted by energy and other manufacturing
12 costs, and in fact, recently there have been large
13 increases in the chloroform market, which we don't
14 make, so we've essentially been able to overcome cost
15 increases of raw materials by efficiency, productivity
16 and cost-cutting improvements, reducing R&D, reducing
17 technical service, everything we can do to try to
18 maintain a profitable business.

19 MR. MELTZER: May I add a point there,
20 please? And that is that the cost of goods sold is
21 impacted by capacity utilization.

22 And you will note in 2004 that there was
23 across the board without getting into confidential
24 information an improvement or at least a steadiness in
25 those factors, and that had to do with the fact that

1 there was an explosion in the Daikin facility which
2 led to having to source more and more of the supply
3 for needs in Japan from the less.

4 And so that affected capacity utilization
5 and affected the cost of goods sold and also showed
6 again how easy it is to shift supply from one market
7 to the next when you had such a dramatic impact just
8 in a year. It also raises the problem now that Daikin
9 is back on line what are they going to do now with
10 this excess capacity that they have.

11 COMMISSIONER PEARSON: Just out of
12 curiosity, is fluorspar mined in West Virginia? Is
13 that one of the reasons that the plant is looking
14 there?

15 MR. COLVEN: No. Most of it is from China.
16 There's now some sources being developed in the Middle
17 East, Africa, and Mexico, but the majority of I think
18 everybody that's buying it is -- I guess actually
19 there's some in Europe as well, but the majority is
20 from China.

21 COMMISSIONER PEARSON: Okay. Well, West
22 Virginia is a remarkable state for a number of
23 reasons, not least because it produced Commissioner
24 Lane, but --

25 MR. COLVEN: We actually have a bigger

1 facility that we're a tenant on that's an engineered
2 plastics facility, and I'm not sure of the strategic
3 nature other than being by a river; you generally have
4 a large chemical plant by a river. But I don't --
5 there's no local raw material source that's critical
6 to that site.

7 COMMISSIONER PEARSON: Okay. Well, thank
8 you for that clarification. It relates somewhat to
9 cost of goods sold, and I was just curious.

10 Mr. Chairman, my light's changing.

11 CHAIRMAN KOPLAN: Thank you, Commissioner.
12 Commissioner Aranoff.

13 COMMISSIONER ARANOFF: Thank you. And I
14 want to join my colleagues in thanking the panel, and
15 particularly Mr. Colven and Mr. Boyce for coming to
16 town to help us out this morning.

17 Mr. Colven, you testified that one of the
18 things that your company does is basically
19 intelligence work I think was the term that you used
20 to figure out what the competition is up to. And
21 based on that, I'm hoping that you'll be able to share
22 with us some information about the Japanese producers
23 who have invested in the U.S. market and the nature of
24 their investments here, because our record is a little
25 bit sketchy on that.

1 And I'm interested in a few things. The
2 timing of those investments, I know that AGC's --
3 Asahi's purchase was in '99, in fact, right around the
4 time the Commission made its determination in the
5 first reviews. But for the other producers who have
6 invested here about when it took place, any idea you
7 have of -- I mean, did they acquire existing U.S.
8 facilities? Did anybody put up a new plant in the
9 U.S.? I'm just trying to get a sense of the nature
10 and scope of those investments.

11 MR. COLVEN: Yes. Daikin's facility was a
12 greenfield facility in Alabama, so that definitely
13 occurred after the '88 duty orders were in place. I
14 don't recall the exact year. I think it was mid- to
15 early '90s, so it's about a 10-year-old plant. But
16 I'm sorry I don't know the exact date. But that was
17 definitely greenfield.

18 The Asahi purchase of the former ICI
19 facility in New Jersey as you mentioned was done
20 around late '90s. Those are the only other two
21 producers besides DuPont in the domestic industry.

22 COMMISSIONER ARANOFF: Okay. And the
23 Italian producer also has a facility in the U.S. What
24 can you tell me about that facility?

25 MR. COLVEN: Yes. Basically when the duties

1 were first put in place in the late '80s, they tried
2 to bring in what we typically describe as wet raw
3 polymer. Basically it's PTFE granular made in the
4 reactor and then dumped out of the reactor and then
5 shipped over here.

6 And the primary steps that are done are what
7 we call finishing. You basically cut it to size and
8 dry it, which is, you know, minor finishing operations
9 once the polymer has actually already been made in
10 Italy.

11 And so, once that situation occurred and the
12 Commission found in a case and then an appeal that
13 yes, that was in fact subject material they were
14 trying to circumvent, so they imposed the duties on
15 the wet raw polymer, in the meantime, they set up the
16 finishing operation in Texas to -- and they still
17 today bring in wet raw polymer, hopefully paying the
18 duties and then finishing and then selling granular
19 resin in the U.S. market.

20 So it's, you know, the last two steps of the
21 process, but there's no reactors. I mean, they're not
22 making polymer. They're not manufacturing
23 fluoropolymer. They have no monomer asset. They have
24 polymerization assets. They're just doing finishing
25 in the U.S.

1 COMMISSIONER ARANOFF: Well, let me ask you,
2 because as my colleagues have noted, our data on the
3 Italian industry is obviously sketchy, are there
4 imports -- is it your understanding that they're
5 importing only the amount of product that they can
6 process through their finishing plant in the U.S.? Is
7 that placing a limit on their imports? Or now that
8 they're subject to the order either way, are they also
9 shipping finished product from Italy?

10 MR. COLVEN: Our belief is they do both.
11 They may not make all the -- they may not finish all
12 the products in their portfolio at the Texas facility.
13 We think they bring in finished products of subject
14 nature and they also have in their export data imports
15 of non-subject PTFE.

16 MR. MELTZER: Perhaps I can add one point,
17 and that is that I don't think the finishing plant in
18 Orange, Texas has a significant limit as to what it
19 can do which would retard the flow of imports coming
20 in from Italy. It is a simple finishing plant that
21 operates by basically drying out material and chopping
22 it up. So whatever the capacity of that finishing
23 plant is pretty flexible and is not going to mean that
24 they can't bring in more material because it's harder
25 to finish. It's a simple process.

1 COMMISSIONER ARANOFF: Right.

2 MR. BOYCE: It is clear from the public
3 record in the Department of Commerce and
4 administrative reviews that they bring in both that
5 raw polymer and finished product.

6 COMMISSIONER ARANOFF: Okay. Thank you.

7 MR. MELTZER: And there's actually a third
8 source, which is compounders in Italy bring in filled
9 the PTFE resin that they buy from Solvay. So beyond
10 just Solvay itself, there are other Italian players
11 who bring in the subject merchandise.

12 COMMISSIONER ARANOFF: Okay. One of the
13 things that I've been curious about is, I mean, I
14 understand why it might have been cheaper to bring the
15 wet raw product into the U.S. when it wasn't subject
16 to the order, but given that now the finished product
17 and the wet raw product are on an even playing field
18 in that regard, which is cheaper to transport? Are
19 there handling differences? Are there cost
20 differences?

21 MR. MELTZER: I think it is slightly heavier
22 to bring in the wet raw polymer because there is some
23 moisture in the product that doesn't exist in the
24 finished product, but John can correct me if I'm
25 wrong. There's probably not a significant difference

1 in transportation costs because there's not that much
2 moisture left in -- you know, there's not that much
3 moisture that has to be dried out.

4 MR. BOYCE: I think the difference coming
5 from you can bring the wet raw polymer in the bulk and
6 then dry it and finish it, whereas if you're bringing
7 in finished product, it has to be in finished product
8 packaging.

9 MR. COLVEN: Yes, I would agree. And I
10 think once the facility was set up post the order
11 including wet raw polymer that the cost difference was
12 neutral, so they continue to operate it.

13 COMMISSIONER ARANOFF: Okay. Thank you.
14 That's helpful. Just a couple of questions of
15 conditions of competition. One thing I was curious
16 about, I looked at our record in this investigation
17 and compared it to some of the data from the original
18 investigation, and one of the things that becomes
19 obvious is that there's been a substantial increase in
20 the domestic industry productivity in the last 17 to
21 20 years. What can you tell me about what accounts
22 for that?

23 MR. COLVEN: Well, productivity is generally
24 related to your fixed costs and your production, that
25 ratio, and frankly, we have done some what we call

1 ream out, which are facilities improvements to try to
2 get more capacity out of the existing equipment.

3 But frankly, as I testified earlier, a lot
4 of our improvements were just basically reduction of
5 personnel in operations, certainly in R&D, and also in
6 technical service that we have provided historically
7 at the customers' locations to help them use our
8 materials, and that's always been historically one our
9 key value contributions to the industry.

10 But frankly, personnel cuts, we've shifted
11 some permanent employees to contract employees, so I
12 would say to you today that the majority is based on
13 people fixed cost reduction versus real productivity
14 changes in the facilities, although there has been
15 some -- strides have been made in that area.

16 COMMISSIONER ARANOFF: Well, I appreciate
17 that answer, and I won't belabor the point, but I will
18 ask you, in your brief after the hearing, if you would
19 take a look at page I-5 of the staff report, and you
20 compare the numbers from the mid-eighties to now, the
21 productivity increases are really quite large in those
22 data, and anything that you can add on helping to
23 explain them would be very helpful.

24 I'll ask you a more, sort of general
25 question, and that is this: We've heard a lot in this

1 investigation about how there is excess capacity
2 almost everywhere in the world, and yet you've also
3 testified, and the Commission has found in the past,
4 that this is an industry that can really only afford
5 to operate at very high levels of capacity
6 utilization. If there is this chronic overcapacity
7 and this imperative to operate at high levels of
8 capacity utilization, why haven't we seen more global
9 consolidation in this industry?

10 MR. COLVEN: That's a good question, but I
11 think you really have to look at the broader
12 fluoropolymer manufacturing industry. As I touched on
13 in my testimony, one of the key assets in the
14 intensive part of making fluoropolymers is your
15 monomer facility, and even if you only consume monomer
16 for subject polymerization to cover your costs, it
17 still helps your incremental cost of monomer to feed
18 your other higher-value, PTFE, nonsubject and
19 copolymer businesses. So you really have to look at
20 capacity utilization of your reactors as well as your
21 capacity utilization of your monomer facility because
22 it feeds all of your different product lines. So even
23 a loss situation in granular, as we have today, is
24 still helping the monomer fixed costs that feed are
25 other copolymers and PTFE. So we still manage overall

1 profitability of all of our fluoropolymers but not
2 granular.

3 MS. ARANOFF: Thank you very much, Mr.
4 Colven. That's a very helpful answer, and my time is
5 up.

6 CHAIRMAN KOPLAN: Thank you, Commissioner.

7 Mr. Colven, at page 10 of AGC's prehearing
8 brief, when arguing against cumulation, they claim
9 that, and I quote, "in the case of AGC and, we
10 believe, for other Japanese producers, the rational
11 commercial approach is not to bring in fungible
12 commodity products but, rather, to limit Japanese
13 imports to specialty products which are not readily
14 produced in the United States or by the Italian
15 producer."

16 On that same page, the claim is that "while
17 the domestic industry sells nationwide, the AGC sales
18 have been, and in the foreseeable future will be,
19 limited to a few customers requiring specialized
20 products that are not readily available from AGCCA's
21 production. We will be the same situation applies to
22 the other Japanese producers."

23 Could you respond to those allegations by
24 the AGCCA, and what specialty products, if any, fall
25 into the category they are describing in their brief?

1 MR. COLVEN: I think the way I can answer
2 your question is we have given the Commission, in our
3 questionnaire response, examples of competitive
4 situations where DuPont faces head-to-head competition
5 with Asahi at specific customers, and many of those
6 are in the Gulf Coast that are supported in the
7 chemical processing industry, fairly standard
8 products, not specialty products. They make them
9 here. They call sell them here. They do import some,
10 but the majority of the situations that we face them
11 head to head are with U.S.-made material.

12 CHAIRMAN KOPLAN: So you cannot identify any
13 specialty products that --

14 MR. COLVEN: I'm not aware of any.

15 CHAIRMAN KOPLAN: Okay.

16 MR. COLVEN: They may have a modified
17 granular that would be subject that's a specialty
18 product that we also participate in, but I don't think
19 any of our documentation of competitive situations
20 involved our modified granulars.

21 CHAIRMAN KOPLAN: Thank you for that.

22 Mr. Boyce, if I could come to you, I want to
23 follow up on Commissioner Hillman's discussion with
24 you about Attachment 1, and also Commissioner Aranoff
25 talked about the overcapacity issue.

1 This is a fairly lead-in to a question I'm
2 going to ask you. On page 5 of your brief, you argue
3 that, and I quote, "there is significant overcapacity
4 of granular PTFE resin production globally and,
5 notably, in Japan and Italy."

6 You then provide a bracketed estimate of
7 global capacity, and you drop to footnote 12, and you
8 cite to DuPont's market analysis at Attachment 1,
9 which you characterize in that footnote as follows:
10 "This market analysis provides estimates for
11 production capacity of major producing countries,
12 including European countries, Japan, the United
13 States, China, Russia, and India, and estimates for
14 demand in major consuming countries, including
15 European countries, Japan, the United States, China,
16 Russia, APEJC countries --" and by the way, what is,
17 that, "AP --"?

18 MR. BOYCE: "Asia Pacific except Japan and
19 China."

20 CHAIRMAN KOPLAN: Okay. Thank you. I
21 couldn't figure that out.

22 MR. COLVEN: The "C" includes "except
23 China." Everybody but Japan and China is JC.

24 CHAIRMAN KOPLAN: Thank you. Let me finish
25 that quote. "-- and South American countries." You

1 go on and say, "These estimates are based on DuPont's
2 own expert analysis of the granular PTFE resin market,
3 as well as CEFIC data."

4 First, I've reviewed Attachment 1, which is
5 fully bracketed, and I don't understand how it
6 validates your argument on that page.

7 Second, I don't know what you mean by
8 "overcapacity." Are you arguing that Japan and Italy
9 are producing more than they can sell and that they
10 have inordinately high inventories? I need your
11 underlying documentation accompanied by the data upon
12 which Attachment 1 is based.

13 Now, I heard you say this morning in the
14 direct testimony that there are no published capacity
15 data that you all are aware of. By the way, when you
16 do provide me the basis for the table for that
17 attachment, would you please factor into your response
18 the relevant information contained in Tables 4-4 and
19 4-5 of our confidential staff report? Those two
20 tables contain bracketed data on filled and unfilled
21 granular PTFE resin submitted by Asahi Glass, AGC's
22 parent company. Can I count on you to submit this
23 information with your post-hearing submission?

24 MR. BOYCE: We will do the best we can. I
25 don't want you to have excessively high

1 expectations --

2 CHAIRMAN KOPLAN: I don't.

3 MR. BOYCE: -- about the amount of
4 documentation available for capacities for particular
5 producers in particular countries.

6 CHAIRMAN KOPLAN: Well, when you refer to
7 DuPont's own expert analysis, is there documentation
8 on that, or are those just oral conversations?

9 MR. COLVEN: We have documentation, but the
10 source of our information is our process of
11 competitive intelligence in the field, monitoring
12 announcements made by competition, and just gathering
13 competitive intelligence. So we have historical
14 manuals, year by year, dating back probably 20 years,
15 of each annual review of that competitive
16 intelligence.

17 CHAIRMAN KOPLAN: Okay. Coming back to the
18 question of overcapacity, when you say that, are you
19 arguing that the two subject countries are producing
20 more than they can sell and that they have
21 inordinately high inventories?

22 MR. BOYCE: No.

23 CHAIRMAN KOPLAN: You're not.

24 MR. BOYCE: What we are saying is that, for
25 example, Solexis sells, public record, Department of

1 Commerce most recently completed administrative
2 review, about 2.7 million pounds in the home market.
3 Their capacity estimate is about 8.8 million pounds.

4 CHAIRMAN KOPLAN: I don't want you to get
5 into anything that might be BPI here. This is public.

6 MR. BOYCE: This is public.

7 CHAIRMAN KOPLAN: Okay.

8 MR. BOYCE: The difference between their
9 share of the Italian market and their capacity in
10 Italy is what we are portraying as the excess capacity
11 of Solvay Solexis in Italy.

12 CHAIRMAN KOPLAN: You mean what's available
13 to export.

14 MR. BOYCE: Yes.

15 MR. MELTZER: Yes. If you're talking about
16 meeting local demand versus exporting the output
17 beyond local demand.

18 CHAIRMAN KOPLAN: Anything above and beyond
19 the home market.

20 MR. MELTZER: Correct.

21 CHAIRMAN KOPLAN: Okay. Thank you.

22 Mr. Colven, if I can come back to you again,
23 on page 26 of your prehearing brief, you claim that,
24 and I quote, "DuPont already experiences aggressive
25 pricing from Solvay Solexis, Asahi, and Daikin, even

1 with the orders in place," and you talked about that
2 this morning. You then give what you term "some
3 specific examples" of the underselling that you claim
4 occurred in 2005. The examples are bracketed.

5 Are you referring to competition that you
6 are experiencing from Italy's and Japan's U.S.
7 operations, or are you referring to subject imports
8 from Italy and Japan? I know that when Mr. Galpin
9 testified before USTR at the GSP hearing on March 24,
10 2005, he stated on page 82 of the transcript that, and
11 I quote, "Daikin America does not import PTFE from our
12 parent company in Japan or in China."

13 You mentioned that your examples were taken
14 from DuPont's internal records of competitive pricing.
15 For the post-hearing, would you please provide the
16 documentation from your internal records for these
17 allegations and make that a comprehensive filing that
18 covers the current period under review rather than,
19 and I'm quoting, "just some examples"?

20 MR. COLVEN: I think we retain those for
21 four years, so I can go back four years and give you
22 every CPA, which is the document that we document any
23 competitive price situation of the subject product, so
24 we can go back four years.

25 CHAIRMAN KOPLAN: I would really appreciate

1 that.

2 Now, let me just come back to that other
3 question I had in here, and that is, when you're
4 referring to competition that you're experiencing from
5 Italy and Japan, are you talking about their U.S.
6 operations, or are you talking about the subject
7 imports?

8 MR. MELTZER: I think, with respect to
9 Italy, the Italian product, is imported product. It
10 is either imported finished product, or it is imported
11 85 percent product where the last 15 percent --

12 CHAIRMAN KOPLAN: You're certain that's what
13 the reference is to with respect to Italy.

14 MR. MELTZER: They have no plant here.

15 CHAIRMAN KOPLAN: Okay.

16 MR. COLVEN: When we document the
17 competitive situation, we generally do not include the
18 source location of the competitor. In other words, we
19 don't always know if the competitive situation is from
20 imported material or domestically made. But in the
21 case of Italy, since they don't produce anything here,
22 everything had to eventually come from their reactor
23 in Italy. We're competing with their U.S. marketing
24 organization.

25 CHAIRMAN KOPLAN: Okay. I appreciate that.

1 For the post-hearing, though, will you submit as much
2 of that documentation as you have? I need you to say
3 it for the record.

4 MR. COLVEN: Yes, we will.

5 MR. MELTZER: Yes, we will.

6 CHAIRMAN KOPLAN: Okay. Thank you. With
7 that, my time has expired, and I'll turn to Vice
8 Chairman Okun. Thank you very much.

9 VICE CHAIRMAN OKUN: Thank you, Mr.
10 Chairman, and let me join my colleagues in welcoming
11 you here today. I appreciate your testimony and your
12 willingness to answer our questions.

13 Two follow-ups on the chairman's question,
14 which is, when you talked earlier about the meet-or-
15 release clauses, and you, Mr. Colven, indicated that,
16 in most cases, you are meeting them, I wanted to make
17 sure I understood that. In most cases, you are
18 meeting a competitive bid as opposed to not meeting it
19 and releasing a contract.

20 MR. COLVEN: That's correct. I mentioned
21 that it happens fairly routinely in a down trend in
22 the market, and we need to utilize our capacity, so we
23 have met in those situations.

24 VICE CHAIRMAN OKUN: Okay. So in responding
25 post-hearing to the chairman's question, you will be

1 including in that, or I would like you to include in
2 that, when you have had a competitive bid from a
3 subject, which I think you're describing now is the
4 Italian product, where you've met their price, a bona
5 fide offer from a subject product.

6 MR. COLVEN: What I would be able to supply
7 you is a copy of the contract that shows the
8 nomenclature around the meet-or-release and then maybe
9 a CPA documenting a lower price for that same
10 customer. That would be the documentation we would
11 have.

12 VICE CHAIRMAN OKUN: When it says the lower
13 price, it wouldn't necessarily refer to whether it was
14 Italian, Russian, Chinese, or it would?

15 MR. COLVEN: No, it would.

16 VICE CHAIRMAN OKUN: It would. Okay.

17 MR. COLVEN: The competitor is documented in
18 our CPA. We have the product type, the price,
19 competitive offer, who the competitive offer came
20 from, and was it written, verbal, et cetera? That's
21 all in our CPAs.

22 VICE CHAIRMAN OKUN: Okay. Great. Well,
23 I'll appreciate seeing that post-hearing. And then
24 just so I can also be clear on that, I understand from
25 the record, and I don't think there is any

1 disagreement with Asahi here today that there are
2 Italian subject imports that our record right now
3 doesn't reflect, but we will find a way to figure out
4 the best way to put that on the record.

5 But when we're talking about Japanese
6 offerors, and your reference, again, that the chairman
7 was asking you about, do you disagree that there are
8 Japanese subject imports coming in that you're
9 competing with that the record doesn't reflect?

10 MR. COLVEN: No. We don't think that the
11 competition from Japan today is from subject imports
12 because, as we testified, they have established U.S.
13 facilities when the orders were place, and they
14 basically stopped importing from Japan when the orders
15 were put in place, so the system worked.

16 What we testified is that the incentives to
17 reinstitute importing from Japan are definitely there
18 if the orders would be revoked, and I listed several
19 key incentives, one which we will follow up directly
20 on in the post-hearing brief that's very compelling.

21 VICE CHAIRMAN OKUN: I know you've
22 referenced that a couple of times. Is that something
23 that came to your attention after the prehearing
24 briefs were filed, or was there a reason it wasn't
25 included in the prehearing brief?

1 MR. COLVEN: It's historical, and it's
2 sensitive, and that's why we would prefer to not
3 discuss it in the open forum.

4 VICE CHAIRMAN OKUN: Okay. But it could
5 have been included confidentially in the prehearing
6 but was not.

7 MR. COLVEN: Correct. I guess it's my fault
8 for not advising our staff to include that.

9 VICE CHAIRMAN OKUN: Okay. Well, I'll look
10 forward to looking at that as well.

11 In this -- Mr. Meltzer, I think I'll put it
12 to you -- in terms of analysis, one of the things you
13 have referenced with regard to the Japanese product,
14 and we've noted it accurately, which is once the
15 orders were put in place, what you saw was the
16 Japanese establish facilities here. In response to
17 Commissioner Aranoff, Mr. Coven, you had noted, as I
18 thought was the case, with Daikin, it was a greenfield
19 facility.

20 I think it is somewhat unusual, while we
21 often see subject imports cease when an order is put
22 in place, we don't always see that subject country
23 come in and establish greenfield facilities and
24 production facilities in the United States. One way
25 to look at that is to say that demonstrates that they

1 are going to supply their U.S. customers through a
2 U.S. production facility.

3 So I'm trying to evaluate their incentive to
4 come to the United States if the order is lifted vis-
5 a-vis the Italian incentive, which seems to me
6 different. In other words, it seems to me the
7 Italians have acted differently post-order than the
8 Japanese producers have, and I would like you to give
9 me your analysis of that.

10 MR. MELTZER: What you have to look at is
11 what they invested in here. The core of what they put
12 in place here is monomer, a monomer production
13 facility. From that basic core, you can produce a
14 range of products, including the granular product.
15 And so with the flexibility that they would have to
16 reorient the way in which they serve their granular
17 customers in the U.S., they can use that monomer core
18 to go into higher-value products, to go into
19 copolymers, and they can use their excess capacity in
20 Japan to bring imports here.

21 And so one of the things that they did is
22 they came to the United States, and they established a
23 big facility here. They had to do so because of the
24 order. They have been supplying granular from here,
25 but they have also been supplying other products from

1 here.

2 VICE CHAIRMAN OKUN: Okay. In your view,
3 though, do they have different incentives than the
4 Italians at this point or the same incentives? If I'm
5 looking at the competitive conditions in the U.S.
6 market and the competitive conditions for the Japanese
7 producers in Japan and Italy, do you think they have
8 the same incentives to come into the U.S. if the order
9 is lifted?

10 MR. MELTZER: Basically, I think the basic
11 incentive is to look at the U.S. as an important
12 outlet for their excess supply. They might even have
13 more incentive because the alternative export markets
14 that they are facing, particularly in Asia, are
15 becoming more problematic because of the rise in
16 Chinese production. This, I think, impacts the
17 Japanese more than it does the Italians.

18 So they have, in a way, more incentive to
19 bring their product here, as well as much more
20 flexibility because if they have a facility here,
21 which they do, that doesn't mean that they wouldn't
22 bring a significant amount of granular here because it
23 actually might help them rationalize their operations,
24 deal with the losses that they are facing in their
25 granular business here by reorienting the supply of

1 their customers here and using their monomer
2 facilities here for higher-value products.

3 VICE CHAIRMAN OKUN: One of the things that
4 I find interesting in this case, and, of course, I
5 wasn't here for the first review, and it was an
6 expedited review, so we didn't have as much
7 information, and DuPont, obviously, a global player
8 with operations in other countries. So maybe, Mr.
9 Colven, you could help me just better understand the
10 global nature of this market in describing DuPont's
11 other facilities and how DuPont views the markets. In
12 other words, you have a joint venture in Japan.
13 That's on the record. I thought I saw reference to
14 another facility. Anyway, I would like to hear about
15 that and also whether those facilities are used to
16 serve primarily the home market in which you are
17 producing there or whether they are used as export
18 platforms to other countries.

19 MR. COLVEN: We're on the record having
20 facilities in West Virginia; in Dordrecht, the
21 Netherlands; and then the joint venture in Japan. We
22 have also announced a fine power and dispersion
23 nonsubject facility in China.

24 Primarily, the regional facilities support
25 the local markets. One exception to that case is PFA,

1 which is a copolymer traditionally used in semicon.,
2 high-purity-fluid applications. We do not make that
3 in Europe or APEJ, so any of the customer needs in
4 those regions, we would supply primarily out of our
5 West Virginia facility. But by and large, the
6 majority of the other products typically supply the
7 local markets.

8 VICE CHAIRMAN OKUN: Okay. Then perhaps
9 this is best on post-hearing, and I think some of it
10 was part of the chairman's question, which is, you
11 have talked about Japanese excess facility, and we've
12 noted that we don't yet have the joint venture number,
13 although you have some figures in your market
14 analysis. We have Asahi's questionnaire, and we are
15 missing Daikin's, but with regard to Asahi, as I
16 understand it, you dispute their figure of their
17 reported capacity, and I wondered if there is anything
18 else you have, whether that will be in the information
19 you're going to supply that's the basis for the
20 Attachment 1, that will tell us how you come up with
21 different numbers than what has been reported by
22 Asahi.

23 MR. MELTZER: Mr. Colven has not seen the
24 reported, obviously, reported data from Asahi. We
25 raised the point, which we hope you will question

1 Asahi on, as to how it derived its capacity figures.
2 But you are correct that the data that DuPont has from
3 its own intelligence and its watchful eye as to what's
4 going on around the world is at odds with what was
5 reported and also, importantly, includes data
6 regarding Daikin's facility, which we don't have here,
7 which significantly impacts the amount of capacity
8 that exists in Japan.

9 VICE CHAIRMAN OKUN: My light has come on.
10 Thank you for those answers.

11 CHAIRMAN KOPLAN: Thank you.

12 Commissioner Hillman?

13 COMMISSIONER HILLMAN: Thank you.

14 I guess, if I could follow up a little bit
15 on some of these data questions because, obviously,
16 that is one of the struggles that we're going to have,
17 and as was very clear in the exchanges, we don't have
18 good import data because we traditionally would
19 prefer, in a product like this where the HTS category
20 is not a clean one, meaning it does not cover just the
21 subject product, to rely on questionnaire data,
22 whether that be foreign producer data or importer
23 data, but we would prefer to rely on questionnaire
24 data. I think it's pretty clear, we may not get it in
25 this case, so the question then comes, what next?

1 So I would like to help you help us
2 understand. If we, then, have to look to HTS data,
3 whether you can tell us from your perspective what
4 portion of the imports that would be shown under the
5 HTS category came from Italy and then from each of the
6 Japanese producers, because we do have import data
7 showing relatively significant, on an HTS basis,
8 significant volumes from Japan, and, again, if you
9 have it from the nonsubjects, what portion would be
10 granular, subject product versus what would be
11 nonsubject?

12 Mr. Colven, you seem to be indicating from
13 your testimony that you have a pretty good sense that,
14 again, if you've got a granular facility, you've got a
15 granular facility. If you're making nonsubject
16 product, it's on a different type of facility. I
17 would presume you could put that together in a way
18 that could help us understand from your perspective
19 what portion of the product that would be coming in
20 from Italy would be subject product versus non and
21 then ditto for each of the three Japanese producers.

22 MR. COLVEN: Okay. First of all, the
23 imports of any type of PTFE from the Japanese
24 producers, I think, is de minimis at this point in
25 time compared to other importers.

1 COMMISSIONER HILLMAN: I think I have in
2 front of me -- I'm not 100-percent sure of what I'm
3 looking at, but I think I have in front of me, you
4 know, up here this HTS number run that would have
5 shown me -- again, I'm not going to say they are huge,
6 but not insignificant numbers from Japan, which,
7 again, I'm presuming a fair amount of that is
8 nonsubject, not granular product. But again, when you
9 say "a fair amount," I want to know what percentage
10 you think we should apply and why.

11 Why should I think that the numbers that I'm
12 seeing from Japan are largely nonsubject product when
13 I'm looking at the same HTS data from Italy, and
14 you're telling me I should assume the majority of it
15 is, in fact, subject product? I'm hearing you say the
16 majority from Russia and China are subject product.

17 I just want to make sure I have as much as I
18 can get my hands on as to why you think that's right,
19 and whatever we can document or put on the record as
20 to if we have to look at HTS data, how do we then do
21 any attempt at -- I don't want to say correcting it,
22 but trying to figure out --

23 MR. COLVEN: Understanding.

24 COMMISSIONER HILLMAN: -- what portion of
25 it, on an objective, fair basis that everybody can

1 understand, what portion of it is subject product
2 versus nonsubject product.

3 MR. COLVEN: One method that can be used
4 that I don't know the accuracy, but I noticed that
5 Asahi Glass made an attempt, was to look at the amount
6 of duty deposits that were made subject to the order,
7 and you can see that the duty deposits from Japan were
8 extremely low would indicate that most of their
9 imports were nonsubject. However, on the other side,
10 there are significant duty deposits from Italy, so if
11 we assume that everybody is playing fair and declaring
12 the products correctly, the amount of duty deposited
13 would be a reasonable indicator of what percentage of
14 the material is actually subject material.

15 COMMISSIONER HILLMAN: Okay. I've,
16 obviously, heard that from the Respondents. I'm now
17 hearing you say that you agree with that analysis as
18 the appropriate way to look at it, in other words,
19 take the amount of, if you will, Byrd Amendment, how
20 much was collected under the antidumping order
21 specific to this product and use that as a percentage
22 proxy.

23 MR. MELTZER: That is one of the ways that
24 you can analyze it. I think what we will do is
25 provide additional information in the post-hearing

1 that will try to fine tune that more. One of the
2 problems with the Byrd distributions, particularly
3 with Italy, is that we believe that there is a lot of
4 unreported subject merchandise that would not be
5 captured in the Byrd distributions, but I know that is
6 one way to look at it.

7 Another way is to look at what we have as
8 the only public record information, which is a 2000-
9 2001 administrative review where Solvay provided, in
10 its Section A, a ranged amount of the volume of
11 shipments to the United States.

12 COMMISSIONER HILLMAN: Okay. I, obviously,
13 heard what I guess I thought was a third way of
14 thinking about it, at least, which is this issue of
15 Mr. Colven describing which companies and/or countries
16 or facilities, if you will, are capable of producing
17 granular as opposed to which ones are doing nonsubject
18 fluoropolymers.

19 MR. COLVEN: Unfortunately, due to the
20 evolution of the facilities, it's the Chinese and the
21 Russians that are predominantly subject material. The
22 Italians and Japanese have capability to make all of
23 the PTFE products, and so if I wasn't clear, I think
24 what I was trying to say is we can safely say that the
25 majority of the exports coming in from Russia and

1 China are subject, just based on what they have the
2 ability to make.

3 COMMISSIONER HILLMAN: One other data-
4 related question. On, I believe it's page 29 of your
5 brief, you provide this -- again, I'm not going to go
6 into the numbers, but you provide this five-year
7 average of what you think, in essence, commercial
8 shipments and market shares are, divided by the
9 various players. I'm wondering if you could, please,
10 in your post-hearing, provide the actual annual data
11 as opposed to the five-year average.

12 MR. BOYCE: We would be happy to.

13 COMMISSIONER HILLMAN: Okay. Then, next,
14 with respect Italy, as I read your argument on Italy,
15 among other things, it's arguing that Italian
16 production is, again, a confidential number but X
17 amount and that whole market consumption is much less
18 than that, in other words, that the Italian producers
19 are only supplying a limited amount of the total
20 Italian demand, that, in fact, all of the rest of the
21 Italian demand is being met by other European
22 producers, and you're using that to argue that,
23 therefore, this Italian production is, in essence,
24 excess and could come here.

25 I have to say, in reading it, it strikes me

1 that what it really is telling me is that the European
2 market operates like the European market that we all
3 know and have heard about, which means that yet Europe
4 operates as one big market and that, in fact, the
5 Italian demand is met by a lot of different European
6 producers, including the Italians, and that presumably
7 the Italians are supplying other places in Europe as
8 well.

9 So why should I assume that the Italian
10 product will come here as opposed to Europe? I found
11 this analysis with respect to Italy a little odd in
12 the sense that it didn't make any sense to me that you
13 would assume that it wouldn't operate as a part of the
14 larger European Union.

15 MR. MELTZER: Well, one of the things that's
16 going on in Europe is that there is a significant
17 penetration by Russian and Chinese product, and so
18 that has created a problem for the European producers.
19 Also, another thing that's going on is that the
20 Italians have a long-established presence here, a
21 customer base here, a finishing plant here, and a
22 history of bringing a significant amount of product
23 here, and also the pricing levels here vis-a-vis other
24 alternative markets are strong. All of these factors
25 put together would indicate that if the order is

1 revoked, it would enable the Italians to bring even
2 more product here.

3 COMMISSIONER HILLMAN: Okay. Your answer is
4 reminding me to just also ask you, in giving us the
5 details of what we understand or what we can know
6 about what the European Union has done vis-a-vis it's
7 both China and Russia that were subject to an
8 antidumping case of some kind, if you could add in
9 there anything that you can say about the implications
10 of it. In other words, if there are provisional
11 levels announced, whether you think they are high
12 enough such that Russia and China will no longer be
13 supplying the European market. How much does that
14 mean is now available within Europe to be supplied by
15 the Italians or others within Europe? So anything you
16 can tell us about the implications of any potential
17 order from the European Union would be helpful as
18 well.

19 I see that that yellow light is on, so I
20 will not start another line of questioning. Thank
21 you.

22 CHAIRMAN KOPLAN: Thank you, Commissioner.
23 Commissioner Lane?

24 COMMISSIONER LANE: In looking at the staff
25 report, and, of course, it's all confidential

1 information, but the capital expenditures are down for
2 your industry, R&D expenses are down, and industry
3 operating income and return on investment are down.
4 What is your business plan or strategy to turn this
5 situation around?

6 MR. COLVEN: That's a tough question. I
7 think I would come back to the comments around monomer
8 utilization because it's important for us to
9 efficiently allocate the monomer capability that we
10 have here in the U.S., and it is important to convert
11 to polymers of the highest value possible.

12 As I indicated in my testimony, we don't see
13 a long-term future making PTFE granular in the United
14 States if the economics stay as they are today. So
15 it's very difficult to answer your question other than
16 we'll make granular as long as we have monomer
17 capability. If other opportunities exist for the
18 monomer, we would allocate it to those opportunities
19 away from granular PTFE resin because obviously each
20 pound of monomer is precious and needs to be sold in
21 the highest-value market that it can be.

22 So I would say the outlook, without going
23 into any confidential areas of our strategy, would be
24 not expanding whatsoever globally, certainly not
25 expanding any granular capacity in the U.S., and

1 potentially even rationalizing global assets related
2 to granular, including the U.S., which is our largest
3 facility, if necessary.

4 MR. MELTZER: A corollary to your question
5 is, what kind of a business plan could there be that
6 would be viable at all if the orders are lifted where
7 Japanese and Italian supply that is now restrained by
8 the orders would now be free to enter the United
9 States? What kind of a business plan could survive
10 that impact?

11 COMMISSIONER LANE: Okay. What is the
12 answer to that?

13 MR. COLVEN: The end would be quicker, is
14 all I can say. The end of our production of granular
15 in the U.S. would be accelerated, in our view, if the
16 order is lifted.

17 COMMISSIONER LANE: Okay. Thank you.

18 On page 2 of your brief, you state that the
19 granular, PTFE-resin industry remains capital
20 intensive. Profitability requires maintaining high
21 capacity utilization rates, given the substantial
22 fixed costs associated with operating an maintaining
23 granular PTFE resin plants. Inasmuch as you argue
24 that high capacity utilization rates are needed to
25 keep domestic, granular, PTFE-resin plants profitable

1 and open, what capacity levels are needed?

2 MR. COLVEN: Eighty to 85 percent.

3 COMMISSIONER LANE: Okay. Thank you.

4 Respondent contends, in its prehearing brief
5 on page 9, that one reason why the Commission should
6 not cumulate subject imports is that Japanese
7 producers, unlike Italian producers, have made
8 substantial investments in U.S. production and would
9 have no interest in undercutting their own investments
10 here. Do you agree or disagree?

11 MR. COLVEN: Strongly disagree. They have
12 the same drive, economic drive, to utilize their
13 limited monomer capability to make the highest-value
14 fluoropolymers that they can make, and if that causes
15 them to direct the local monomer away from granular,
16 they would certainly like to import granular to fill
17 their needs in this market if the order was not in
18 place.

19 COMMISSIONER LANE: To your knowledge, are
20 there any plans to expand granular, PTFE-resin
21 capacity in the United States or elsewhere?

22 MR. COLVEN: I can only speak for DuPont and
23 speculate about the industry. With the situation
24 today, I would be extremely surprised if there was
25 additional capacity in the U.S. In fact, I would be

1 shocked. I no DuPont has no plans. I know Daikin has
2 gone on record that they have no plans. Maybe Asahi
3 can answer that question later today. But with the
4 overall global overcapacity for granular PTFE and the
5 speed at which the similar applications that are in
6 use in mature regions as those grow in the emerging
7 regions, there is no need foreseen in the foreseeable
8 future for any capacity expansion.

9 COMMISSIONER LANE: Tell me about your
10 facility at Parkersburg. How modern is that?

11 MR. COLVEN: From a quality standpoint, we
12 feel we are a world-class supplier. We think we have
13 the largest, single-floor, polymer-manufacturing unit
14 in the world. That includes subject and nonsubject
15 capability. I honestly don't know the exact age of
16 the plant, but I would say it's over 30 years, and we
17 have invested in all of our facilities at the plant.

18 You see in our record what has been done in
19 investment in the subject materials, and you see the
20 declining trend, and I can clearly state that the bulk
21 majority of capital that's put in for granular is to
22 continue with our right to operate. In other words,
23 it's a very hazardous compound to make, a very
24 dangerous compound to make, and so we need to put in
25 and update the safety controls and safety facilities,

1 and that's where the majority of any capital that's
2 spent on granular is spent, just to keep our right to
3 operate.

4 COMMISSIONER LANE: Okay. Thank you. I
5 don't have any other questions.

6 CHAIRMAN KOPLAN: Thank you, Commissioner.
7 Commissioner Pearson?

8 COMMISSIONER PEARSON: Mr. Colven, you've
9 indicated here more than once that you have a concern
10 that if the order with respect to the Japanese
11 producers was lifted that they might, indeed, decide
12 to import granular product from Japan and manufacture
13 other polymers at their U.S. facilities. Do you know,
14 do they currently have the capability to produce other
15 polymers in the United States?

16 MR. COLVEN: Yes. It is our belief that
17 Asahi's New Jersey facility can make fine-powder
18 dispersion. We're fairly certain of that. We know
19 that Daikin can make fine-powder dispersion, PFA, FEP,
20 a small amount of ETFE, but they also just recently
21 announced an expansion of their ETFE capacity in
22 Decatur, Alabama, with no additional monomer capacity
23 announced, which is further indication that they are
24 looking at higher-value polymers for their limited
25 monomer capability and would have more and more

1 incentive to bring in granular resin from Japan.

2 COMMISSIONER PEARSON: Okay. I don't know
3 how good your business intelligence is. It may be
4 pretty darned good, but what I'm trying to get a
5 feeling for is the extent to which the monomer
6 capacity existing in the United States on the part of
7 the Japanese-owned companies, to what extent that
8 monomer capacity exceeds their ability to produce
9 polymers other than PTFE. I think you understand what
10 I'm getting at.

11 MR. COLVEN: I don't have data here today to
12 support what our exact feeling is. That may be
13 something we can respond to in a post-hearing brief,
14 but I think the incentive for any producer of
15 fluoropolymer is to use what monomer capacity they
16 have in the highest-value polymer applications. And
17 so the first one that you would control or allocate
18 away from if you were in a situation where you were
19 trying to grow additional higher-value fluoropolymers
20 like ETFE or fine powder or whatever they might be,
21 you would cut your allocation to granular. That would
22 be the first one you would cut.

23 COMMISSIONER PEARSON: I'm trying to
24 understand this situation in the context of some of my
25 previous experience where I worked for a firm that ran

1 and large and sophisticated manufacturing plants.
2 When you start thinking about changing what's coming
3 out the back end of the plant, you have questions on
4 permitting, and how long is it going to take to get
5 that done? You have a question of how many, usually
6 millions or tens of millions it's going to take to
7 retrofit or put in an alternate line so that you take
8 what's up front and use it for a different purpose.

9 So it's easy for me to envision a period of,
10 you know, four or five years between now making a
11 decision to put out alternate end products and
12 actually being able to do it, getting it certified by
13 customers, et cetera, et cetera.

14 What I'm trying to understand is how
15 immediate is this threat that the foreign-owned
16 companies in the United States could make that switch
17 and actually have product in the marketplace?

18 MR. COLVEN: Contrary to your assumption,
19 except for the announced new ETFE capacity that Daikin
20 made, the two companies are making all of those
21 products today, and so they could allocate immediately
22 to decide to make more fine powder, more dispersion,
23 more FEP, whatever the case may be, because there's
24 opportunities in those higher-value, end-use markets
25 and supplement their granular market with imports. So

1 it's immediate. The permits are in place. They are
2 making those products today. Again, except for the
3 recent expansion announcement about ETFE, all of the
4 other products, they are making today.

5 COMMISSIONER PEARSON: Okay. And they
6 probably aren't maxed out in terms of their production
7 lines for those higher-value products.

8 MR. COLVEN: I don't know, but those markets
9 are growing more so than the typical applications that
10 granular is used for, so they are more attractive to
11 any of us in the industry.

12 COMMISSIONER PEARSON: Okay. One could
13 infer from other things you've said that those firms
14 have the technical capability to go ahead and do these
15 things. They are quite sophisticated competitors of
16 DuPont's.

17 MR. COLVEN: I would agree with that. They
18 are already in the market with those products.

19 COMMISSIONER PEARSON: Now, I think also
20 implicit -- well, let me ask the question and find
21 out. Let me not assume anything.

22 Regarding the flexibility to produce these
23 higher-value products that the foreign-owned plants
24 have, are those higher-value products subject to the
25 same pricing pressures as PTFE? Is there something

1 different in the market dynamics for the higher-value
2 products than for PTFE?

3 MR. COLVEN: Yes, there is. I think I
4 alluded to the fact that the current capability of the
5 Russians and Chinese is primarily granular. They are
6 starting to make some fine powders. We're seeing
7 those in the market. Very limited amounts of
8 copolymer capability at all from the Russians and
9 Chinese. So it's almost a pyramid of capability when
10 you talk about the higher-value polymers.

11 Traditionally, the multinationals we're
12 speaking of today -- Daikin, DuPont, Solvay, Asahi
13 Glass -- can make most of the higher-value polymers.
14 They don't make them all. Some of us make most and
15 maybe not quite all of them, but some of the emerging
16 region producers can only make the lower end of the
17 pyramid, starting with granular, starting to get into
18 fine powder and dispersion, but very limited, again,
19 on the higher-value copolymers.

20 COMMISSIONER PEARSON: Okay. So if one
21 looks forward a reasonably foreseeable time or
22 whatever the standard is that we're supposed to apply
23 here, -- you can remind me, Mr. Meltzer, -- you would
24 envision a global marketplace in which there is a
25 great abundance of competition for the more basic

1 types of granular PTFE that are subject to this
2 investigation, and there is what, less-intense
3 competition and perhaps some opportunity for overall
4 demand growth for some of the higher-value products?

5 MR. COLVEN: That's correct. I would say,
6 the first part of your point, we're there today, a
7 global, competitive marketplace for granular, and the
8 largest destination markets, like the U.S., we
9 believe, is second, arguably in the top three -- I
10 don't think anybody will argue that -- are going to be
11 the first places those capacities want to go. And,
12 again, by adding to producers that were already found
13 to have behaved inappropriately around their supply of
14 the material in this market and found to be dumping,
15 adding two more of those back into the fray is only
16 going to exacerbate and accelerate the demise of the
17 domestic industry.

18 COMMISSIONER PEARSON: Okay. Well, I
19 appreciate those answers very much.

20 Mr. Chairman, at this point, I have no
21 further questions.

22 CHAIRMAN KOPLAN: Thank you, Commissioner
23 Pearson.

24 Commissioner Aranoff?

25 COMMISSIONER ARANOFF: Thank you, Mr.

1 Chairman.

2 I want to sort of continue on the theme that
3 Commissioner Pearson was just starting. You've told
4 us today that one of the reasons that the domestic
5 industry is in a somewhat difficult situation right
6 now is because of the presence of Chinese and Russian
7 product in the market, which is driving prices down.
8 And you've also told us that we're likely to see an
9 increase in imports from Italy and Japan if these
10 orders are lifted, and I'm probing the consistency of
11 those two thoughts.

12 You've got these producers in Russia and
13 China who are, from what you tell us, underpricing the
14 sort of established global players in the market,
15 presumably because they have a cost structure that
16 allows them to do that. Do the Italian and Japanese
17 producers have a cost structure that makes it any more
18 likely that they, like you, are going to chase these
19 prices down, send more to this market if they have any
20 other choice?

21 MR. COLVEN: I think what we're contending
22 is their limits of choices available to them are
23 rapidly drying up, to where the U.S. becomes the most
24 attractive place to sell their excess capacity. With
25 the onset of six-plus producers in China, and you have

1 two producers in Russia that participate considerably
2 in the Asia-Pacific region, there is no other market
3 that is as attractive as the U.S., so, yes, we think
4 they would. As long as their capacity utilization is
5 below a certain level where they need to be, they are
6 going to certainly look at the U.S. market as an
7 opportunity to sell that capacity.

8 COMMISSIONER ARANOFF: Well, let me just ask
9 a related question, which is basically we see an
10 industry where the strategy of most of the players is
11 use as much of your capacity as you can, and whatever
12 you can't sell in however you define your home market,
13 try to export it. That seems to be the strategy of
14 everyone except DuPont because you don't seem to have
15 that much export. Why are you different?

16 MR. COLVEN: Actually, if you look at our
17 record, we actually do export a considerable amount of
18 subject product. We don't have facilities in South
19 America, we don't have facilities in southeast Asia,
20 and so we export to our sales force in those countries
21 to service customers in those areas.

22 COMMISSIONER ARANOFF: So you would say that
23 basically you're operating under basically the same
24 business model as your major competitors, which is you
25 sell what you can at home and export to keep your

1 capacity utilization up.

2 MR. COLVEN: I would say we try to be
3 responsible about that and do that within the laws
4 that are available to us. We export. If we're not
5 able to sell here, we've exported, and we do today.

6 MR. MELTZER: When you have such a high,
7 fixed-cost business like this, you have to operate at
8 the highest possible rates, even if it means having to
9 sell at not a good price.

10 COMMISSIONER ARANOFF: I appreciate that.

11 I don't know to what extent you have the
12 answers to this, but some questions about DuPont's
13 joint venture facility in Japan, what you can tell us.
14 What are the products that are produced there, the
15 extent to which they are the same products you produce
16 here in the U.S. or different, and are there imports
17 into the U.S. from that facility that either you're
18 bringing in or somebody else is bringing in?

19 MR. COLVEN: First of all, it's a 50/50
20 joint venture with Mitsui Fluorochemicals. They
21 produce, I think, every major polymer group that we
22 can produce here, so the subject material -- fine-
23 powder dispersion, FEP, PFA, -- they do not produce
24 ETFE -- so the majority of the products, or at least
25 the base polymers, are similar to the ones we can

1 produce here.

2 I'm sure we have on record what are imports
3 because I think, from time to time, we may have
4 imported small amounts from MDF, which is the name of
5 our facility there, but I don't think it's very
6 significant whatsoever, and generally the agreement we
7 have with the partner is they deal with primarily the
8 Japan market and surrounding Asia countries with that
9 facility and with their products, and we supply our
10 home market and nonmanufacturing-location markets that
11 I mentioned before. Does that answer your question?

12 COMMISSIONER ARANOFF: That is helpful, and
13 I guess I would say to you, I don't want to get into
14 anything confidential, but if there is anything you
15 can tell us about the nature of any agreement between
16 DuPont and that facility there about what their market
17 should be --

18 MR. COLVEN: Well, we have the ability to
19 buy and resell products from them, and they do us.
20 That's part of our agreement. That's not necessarily
21 confidential because if you look globally, DuPont
22 subsidiaries have resold MDF products, not necessarily
23 subject products but other fluoropolymers, and they
24 have sold fluoropolymers made by a DuPont facility in
25 Japan in their market, so that commerce goes back and

1 forth.

2 COMMISSIONER ARANOFF: Is the product from
3 that Japanese plant sold under the Teflon name?

4 MR. COLVEN: Yes, it is. They have a
5 license from E.I. DuPont to use the Teflon name.

6 COMMISSIONER ARANOFF: Exclusively. Mitsui
7 doesn't have its own name that it's using on some of
8 the product.

9 MR. COLVEN: No. They have a license from
10 us to use Teflon.

11 COMMISSIONER ARANOFF: Okay. Thanks.

12 I have one more data question that I just
13 want to run past you, which is, if you look at the
14 tables in the staff report on apparent consumption,
15 they tend to show, in the most recent period, apparent
16 consumption having gone down, and I guess my question
17 to you is, do you think that that's because of import
18 data that we are missing or domestic data that we are
19 missing, or is there anything that leads you to
20 believe that, in fact, consumption of the granular
21 product is going down?

22 MR. COLVEN: The consumption data that we
23 have, as Mr. Boyce mentioned, is derived from the
24 CEFIC organization in Europe, which is a trade
25 association. I believe my esteemed colleagues from

1 Asahi Glass, Daikin, Dyneon, Solvay, all of the
2 multinational producers, submit their information
3 confidentially about all of our fluoropolymer
4 products, and then we each get back the total market
5 situation in those countries. So, again, assuming
6 everybody is fair and honest about what they report,
7 we have very good information about what the
8 multinational total market situation is by country.

9 Now, with the onset of the Chinese and
10 Russian producers, we get into an estimating game
11 because they are not part of CEFIC, so they do not
12 submit any information to CEFIC, so we all have to
13 estimate what the nonmultinational piece is. So the
14 data become a little cloudier as the sales of the
15 Russians and Chinese increase, but we feel pretty good
16 about the data as compiled by the multinational
17 producers.

18 COMMISSIONER ARANOFF: Okay. I appreciate
19 that.

20 One more data question, and this one has to
21 do with inventories. Our data in the staff report
22 show, at least for the nonsubject imports, that there
23 has been an increase in inventories as a percentage of
24 shipments of the product to the U.S., a pretty big
25 increase since they are coming off of a fairly

1 smaller, absolute base.

2 Are inventories of imported product, either
3 subject or nonsubject, playing any role in the market?
4 Do they affect what's going on with pricing, or is it
5 just not a factor that anyone has really noticed?

6 MR. COLVEN: I'm not privy to the total
7 inventory information that you speak about, but I can
8 speak on our inventories. I know of no unusual
9 situation. Generally, the things that we plan
10 inventory for are around what we call a turnaround or
11 a shutdown for maintenance, and so depending on the
12 time of year that that maintenance is scheduled for,
13 we might be down for 30 days, and so we might have
14 built inventory to satisfy our customers during that
15 shutdown, but I know of no market situation of why
16 inventories would be higher or lower than normal.

17 COMMISSIONER ARANOFF: Can you think of a
18 reason why importers would be increasing the amount of
19 product that they hold in inventory in the U.S.?

20 MR. COLVEN: Based on what looks like is
21 happening in Europe with the provisional measures in
22 Europe from Russia and China, there could very well be
23 people trying to beat the clock on potential action,
24 similar action, in the U.S., but that's the only thing
25 I could speculate.

1 COMMISSIONER ARANOFF: Okay. Thank you very
2 much.

3 CHAIRMAN KOPLAN: Thank you, Commissioner.
4 Again, thank you to your answers to our
5 questions thus far.

6 Mr. Meltzer, at pages 22 and 23 of your
7 brief, -- I'm coming back to my question that the vice
8 chairman asked on the last round, and I want to follow
9 up -- at pages 22 and 23 of your brief, you argue that
10 "given its losses on granular PTFE resin production,
11 Daikin might well increase production of FEP in the
12 United States and source product for its granular
13 PTFE-resin customers from Japan. Revoking the order
14 would give Daikin the flexibility to rationalize its
15 production and mix sourcing in this manner."

16 You also state, on page 23, and I'm quoting
17 again, "Daikin has acknowledged that it is not going
18 to invest in the United States anymore and that it may
19 even be forced to curtail its granular, PTFE-resin
20 operations in the United States."

21 You cite public hearing testimony of Mr.
22 Larry Galpin of Daikin America before the USTR
23 regarding GSP on March 24, 2005. I've read his
24 testimony. The context centered on opposition to GSP
25 treatment for Russia, and on that basis, he complains

1 that because of pricing today, they are not going to
2 invest in the U.S. anymore, and they might even cut
3 back some more.

4 I note, however, that they are already
5 heavily invested in the U.S. Moreover, he makes no
6 mention of any intent to source imports of PTFE from
7 Japan to satisfy the needs of existing customers for
8 PTFE. To the contrary, on page 98 of the transcript,
9 he states that, and I quote, "last year, our plant
10 started up, started to make some quantities, and I
11 mentioned that our plant in Japan was down, and so we
12 had to do some triangulation, supply some products
13 from the U.S. plant to Japan."

14 He then goes on to say, "When the plant in
15 Japan is up and running again, which is now, that
16 triangulation is stopped."

17 Is there anything else you wish to add with
18 respect to his testimony on this point?

19 MR. MELTZER: Well, I wouldn't expect Mr.
20 Galpin to talk about their plans to export from Japan
21 to the United States in the context of a GSP hearing
22 against Russia.

23 What we are saying is that if you look at
24 the array of incentives for rationalizing their
25 operations here, -- you heard Mr. Colven talk about

1 the use of monomer -- they have a significant monomer
2 capacity here -- and the way in which they would
3 better use that. We believe the record shows that
4 with the excess capacity that exists in Japan and, in
5 particular, with respect to Daikin, that it would make
6 sense, particularly given the attractiveness of this
7 market, the pricing that goes on in this market, and
8 the imperatives that they face as a high-fixed-cost
9 producer, that they would have, without the orders,
10 the flexibility to do what we think is likely to
11 occur, which is bring more product here from Japan.

12 CHAIRMAN KOPLAN: I only went to his
13 testimony because you referred to it.

14 MR. MELTZER: Okay.

15 CHAIRMAN KOPLAN: Okay? So that's why --
16 and you referred to it in the context that I quoted.
17 That's why I went through it, but I appreciate your
18 response to this question.

19 Let me stay with you, if I can. On page 10
20 of your prehearing brief, you claim that, and I quote,
21 "U.S. production capacity is more or less in balance
22 with U.S. demand now and for the foreseeable future
23 with the domestic capacity and inventories." You go
24 on to state that "revoking the orders against Italy
25 and Japan will only exacerbate the problems of an

1 already vulnerable domestic industry."

2 How do you reconcile that claimed balance of
3 production capacity with the upward trend in the
4 percentage of U.S. export shipments that I observed
5 during the period 1999 to 2004? I'm referring to the
6 bracketed table, C-3, at page C-5 of the confidential
7 staff report covering granular PTFE.

8 I'm only asking the question because I don't
9 see that same balance that you're referring to when I
10 look at the trend in exports, and I heard Mr. Colven
11 say earlier that you do export a considerable amount
12 of subject product.

13 MR. MELTZER: I think the balance that we
14 are talking about derives from Attachment 1. Where
15 you look at the amount of production here and the
16 demand here, you see relative balance.

17 CHAIRMAN KOPLAN: Okay. You know I was
18 struggling with Attachment 1, and I'm looking for
19 forward to anything I can get on that post-hearing.
20 So if that's where it's coming from, I doubly look
21 forward to what I'm going to get post-hearing on that.

22 MR. MELTZER: Very good.

23 CHAIRMAN KOPLAN: Thank you. You're doing
24 so well, let me stay with you.

25 MR. MELTZER: Very good. I'm going to keep

1 the light on.

2 CHAIRMAN KOPLAN: Keep the light on. Don't
3 touch the microphone.

4 MR. MELTZER: Keep me away from buttons.

5 CHAIRMAN KOPLAN: Right, right.

6 On page 22 of your prehearing brief, you
7 state, and again I'm quoting: "Asahi Glass already
8 sells granular PTFE resin to its U.S. affiliate and
9 recently requested an administrative review for the
10 current period of the Department of Commerce. This
11 action further indicates Asahi Glass's continued
12 interest in increasing its U.S. imports of granular
13 PTFE resin."

14 However, the confidential staff report
15 indicates, at I-11, that on August 1, 2005, Commerce
16 rescinded an administrative review previously
17 initiated on September 22, 2004, at the request of
18 Asahi Glass, because it didn't have entries during the
19 period of review upon which to assess antidumping
20 duties. The review you cite, as appearing at 70 Fed.
21 Register 56631, was initiated on September 28th of
22 this year and covers the period August 4, 2004, to
23 July 31, 2005, as does a similar request for review by
24 Solvay Solexis, SPA, initiated by Commerce on
25 September 28th as well. I note that an earlier

1 request by Solvay was rescinded by Commerce, at the
2 request of Solvay, on November 1, 2001.

3 This is a long way of saying that I fail to
4 see these various requests by Italy and Japan as
5 evidencing an attempt to resume dumping if the orders
6 are revoked. What else can you tell me with regard to
7 the alleged relevance of these administrative reviews?

8 MR. MELTZER: Well, I believe that if you
9 are not planning to bring a significant amount of
10 product here, you would wonder about why a company
11 would want to go through the time and expense of an
12 administrative review if they were only bringing a
13 handful of products here for niche applications.

14 As to what happened in the prior review, we
15 can let Asahi explain why it tried to go forward with
16 that review, but the Commerce Department did not allow
17 that review to go forward because of --

18 CHAIRMAN KOPLAN: -- there weren't imports.

19 MR. MELTZER: Right, entries.

20 CHAIRMAN KOPLAN: Entries.

21 MR. MELTZER: Entries. There were imports;
22 there weren't entries.

23 And with respect to this review, we can only
24 believe that Asahi is going to do what it asked for,
25 and you can ask Asahi about whether it does intend to

1 continue with that administrative review.

2 In a way, this is a very good proceeding, in
3 that we have, in terms of the lineup of subject
4 producers, a situation where the largest Japanese
5 producer has refused to appear, the only Italian
6 producer has refused to appear, and the only other
7 subject producer that is appearing, we commend for
8 their support of revoking the order against Italy but
9 somehow says the order against Japan is not going to
10 matter because there would be no discernable effect.
11 We wonder why they would go to the expense of
12 objecting to the continuation of the orders, as well
13 as seeking an administrative review, if there would be
14 no discernable impact.

15 CHAIRMAN KOPLAN: I thank you for your
16 answer to that question. I appreciate it. I have
17 nothing further, and I'll turn to Vice Chairman Okun.

18 VICE CHAIRMAN OKUN: Thank you, and, again,
19 thank you for all of your answers this morning.

20 In response to Commissioner Aranoff's
21 question about apparent consumption and what data you
22 would look at, you had cited again the trade
23 association data -- I think it's CEFIC's, if I heard
24 correctly -- I saw it in there. Do they also include
25 projections in that data for demand?

1 MR. COLVEN: I don't believe so. There is a
2 lot of, obviously, historical data, but it's current
3 quarter. We all submit data on a quarterly basis, and
4 they just publish the current quarter with the history
5 attached, so there's no future projections.

6 VICE CHAIRMAN OKUN: In terms of the other
7 information that your company would look at in looking
8 at demand, both in the U.S. market and in other
9 markets where you would be producing, including your
10 joint ventures that you've mentioned in Japan and the
11 Netherlands, are there any other data that would be
12 available to us to look at demand projections? I'm
13 particularly interested in Japan and in the EU.

14 MR. COLVEN: We have a corporate economist
15 that provides all of the businesses, not just the
16 fluoroproducts business, with country-specific
17 projections of economic indicators, and there's
18 manufacturing indicators, indexes, and several others
19 that I can't recall today that they provide us. We
20 can certainly give you that, but it's overall economic
21 indicators in the U.S. and other countries that
22 businesses use.

23 VICE CHAIRMAN OKUN: Well, perhaps in post-
24 hearing, Mr. Boyce would have a view of that data as
25 well, and obviously you can tell us whatever you think

1 about it in terms of how we should look at it in
2 looking to what future demand might be in both the
3 U.S. and also in Japan and the EU. I think that would
4 be particularly helpful. And I don't know, based on
5 how you described the relationship with the joint
6 venture in Japan, whether you would be able to get any
7 information from them specifically on their forecast
8 for home market since there is a considerable Japanese
9 home market, based on our data, what their projection
10 is for the home market demand in Japan. I think that
11 would be particularly helpful as well.

12 MR. COLVEN: We're going to try to get MDF
13 to fill out the whole questionnaire, if we can. That
14 would be our goal, I think, from Ms. Hillman's
15 question.

16 VICE CHAIRMAN OKUN: Right. I heard that
17 part. I guess I was also particularly interested in -
18 -

19 MR. COLVEN: -- projections?

20 VICE CHAIRMAN OKUN: -- projections on what
21 excess capacity would be, also what that would be
22 based on, looking forward. That would be very
23 helpful.

24 And then a couple of things for post-
25 hearing. Mr. Meltzer, I have not made a decision, but

1 I would appreciate it if you would brief a decumulated
2 case, if I were to exercise my discretion not to
3 cumulate, how you would argue that for both Japan and
4 Italy.

5 And then also for post-hearing because I
6 recognize this is all confidential, but I'm trying to
7 better understand DuPont's strategy for the imports of
8 subject product from nonsubject countries, so covered
9 product coming from other countries, to make sense of
10 that in terms of the corporate strategy of what type
11 of product is being brought in from which countries
12 and why, and there is information in the producer
13 questionnaire, but I think it would be helpful if you
14 could elaborate on that for purposes of the post-
15 hearing.

16 MR. COLVEN: Just so I can understand,
17 subject material coming from anywhere outside the U.S.

18 VICE CHAIRMAN OKUN: Right, right, not
19 subject for these purposes but covered material, in-
20 scope material coming from nonsubject countries, I
21 guess, would be the proper way to say it.

22 MR. BOYCE: What do you want to know about
23 that?

24 MR. MELTZER: What based strategy is?

25 VICE CHAIRMAN OKUN: Right. I can look at

1 the producer questionnaire and see that you're
2 importing from different countries, and I hear what
3 you're saying about what you think the strategy might
4 be for the Japanese going forward and whether it's low
5 quality or higher value, lower value, and I'm just
6 trying to understand your company's strategy as I
7 evaluate what I believe the other companies'
8 strategies might be as well.

9 MR. MELTZER: Well, one aspect of that
10 strategy will be to pay very close attention to the
11 need to seek import relief against the Russian and
12 Chinese material, as have the European producers.

13 VICE CHAIRMAN OKUN: Right, and I heard
14 that. The response reminded me of why I wanted to
15 just understand a little better about what imports are
16 coming in and from where and how that might differ.
17 And with that, I don't think I have any other
18 questions, but I do appreciate all of the answers
19 you've given thus far.

20 CHAIRMAN KOPLAN: Thank you, Commissioner.
21 Let me see if there is a third round.

22 COMMISSIONER HILLMAN: I think I just have
23 one quick question.

24 CHAIRMAN KOPLAN: Commissioner Hillman?

25 COMMISSIONER HILLMAN: Just to make sure I

1 understand it, one of the arguments that Asahi is
2 making is that, to the extent that there are imports
3 that they are bringing in or are connected with them,
4 they are of specialized products that are not readily
5 available from their U.S. production. I just want to
6 make sure I understand, for this product and staying
7 within the granular product, not outside of that, how
8 specialized are the products. In other words, I'm
9 trying to understand is everything made to order for a
10 particular end use, and what makes it special? Is it
11 the filling part of it, again, the composition of the
12 filled product, or how would you describe this notion
13 of a specialized product?

14 MR. COLVEN: I would not think they are
15 bringing in filled products, since they have a
16 facility here in Pennsylvania. What I would define as
17 "specialized," and I would hope that you would ask
18 them the question because we can only go from our own
19 intelligence, there are some granular PTFE products
20 that actually have a comonomer, small amounts, so we
21 call them "modified granulars." I don't know that
22 there might not be some products of that nature that
23 are specialized. They have a niche application, a
24 unique property in the use of the product, so they may
25 make those in Japan and not make those in the U.S.,

1 and so that would qualify, in my terms, as a
2 specialized or a niche type of product.

3 If you look at the import data, which we can
4 only see in summary, of all of the Japan subject
5 imports, and you look at the import prices, they are
6 significantly higher than the market price, so I would
7 have to believe that it's some kind of very
8 specialized subject product.

9 COMMISSIONER HILLMAN: If we use your
10 definition of a "specialized product," total demand or
11 consumption in the U.S. would be --

12 MR. COLVEN: -- one percent or less of --

13 COMMISSIONER HILLMAN: -- of total
14 consumption of the granular product.

15 MR. COLVEN: -- of the majority of the
16 product.

17 COMMISSIONER HILLMAN: Okay, okay. Last
18 question: I just want to make sure I get from you
19 anything that you can tell us about what you think
20 resulted from this explosion at the Daikin facility in
21 Japan in terms of both what happened in the market
22 when that happened and what implications are there on
23 a going-forward basis.

24 MR. COLVEN: Well, as I mentioned earlier,
25 the hazardous nature of making PTFE or fluoropolymers

1 in general is considerable, and, unfortunately, it's
2 not an annual event, but it's a matter of time in a
3 lot of cases that an accident occurs because TFE
4 monomer production is a very hazardous process, and
5 what actually occurred was in their TFE monomer column
6 they had an explosion.

7 Our estimates had certain percentages of
8 their global capability of FEP and granular, which
9 were the two primary products, in our understanding,
10 that they made there, so they had significant
11 difficulty in fulfilling their customer needs for
12 those two products. Because they make FEP in the U.S.
13 market, we think they transitioned some of that
14 monomer, or redirected some of that monomer, to make
15 more FEP to take care of their needs in Japan, or at
16 least from the facility that Japan was supplying.
17 They basically walked away or redirected away from the
18 granular business.

19 One of the questions that was asked Mr.
20 Galpin in the GSP hearing was about the significant
21 growth of some companies in 2004 with subject material
22 and not Daikin, and he basically stated in his
23 testimony that, obviously, we didn't enjoy any of that
24 growth because we had a plant that was shut down and
25 decided that granular was not the one we were going to

1 make during that shutdown.

2 So it had an acute impact on the industry,
3 but as we testified, the availability or the rapid
4 nature in which another supplier can pick up the
5 granular share was demonstrated essentially in reverse
6 as we supplied and Asahi, I'm sure, supplied some of
7 those unmet granular needs both here and elsewhere.

8 COMMISSIONER HILLMAN: That's very helpful.
9 If there is any sense of numbers that could be
10 attached to this impact, I think it would be helpful
11 for us to get your sense of, from a quantitative
12 standpoint, how it affected it. I'm still struggling
13 with -- it's a little odd to me that this shift
14 happens, and yet prices in the U.S. market still go
15 down. That's what struck me as odd.

16 What you've just described, I would have
17 assumed from reading it, that that would have been the
18 result, but then why it did not allow price increases
19 as opposed to this continuing falling of prices in
20 2004 struck me as just a little bit unexplained. Do
21 you have a sense on that? Why, if Daikin is no longer
22 in this granular market, were you not able to get
23 price increases at that time?

24 MR. COLVEN: I think the other dynamic is
25 that there was plenty of capacity from Russia and

1 China also to fill that, so that kept the prices at
2 bay. But if you happen to look at the FEP prices,
3 you'll see that those did, in fact, go up because
4 that, again, was significantly short.

5 COMMISSIONER HILLMAN: Okay. I appreciate
6 those answers. Thank you very much.

7 CHAIRMAN KOPLAN: Thank you, Commissioner.

8 Let me see if there are any other questions
9 from the dais. Seeing that there are none, Mr.
10 Deyman, does staff have questions of this panel?

11 MR. DEYMAN: George Deyman, Office of
12 Investigations. The staff has no questions, but I do
13 want to clarify the import data that appeared in the
14 prehearing report.

15 We do acknowledge in the prehearing report
16 that our import data are low because our coverage from
17 importers was incomplete. Now, in the final staff
18 report, it is likely that we will substitute for the
19 importer data official statistics. Again, we want you
20 and the responding party to comment on the
21 applicability and how good the official statistics are
22 for Italy, for Japan, and for the nonsubject
23 countries. It's possible that for Japan we may keep
24 the import data that we have from the importers'
25 questionnaires, but you can comment on that in your

1 briefs.

2 Staff has no further questions.

3 CHAIRMAN KOPLAN: Can you just acknowledge?

4 MR. MELTZER: Yes, Mr. Deyman. We will
5 comment on that in our post-hearing brief. Thank you.

6 MR. NEELEY: And Asahi will as well.

7 CHAIRMAN KOPLAN: Thank you, both.

8 Thank you for the clarification, Mr. Deyman,
9 and for that request.

10 Mr. Neeley, do you have any questions of
11 this panel before they are released?

12 MR. NEELEY: We have no questions.

13 CHAIRMAN KOPLAN: Well, with that, I want to
14 thank you very much for your testimony and your
15 answers to our questions, and we all look forward to
16 your post-hearing submissions. Thank you very much.

17 Madam Secretary, it's my understanding from
18 your office that Mr. Neeley has estimated that his
19 direct presentation will take approximately 20
20 minutes. Is that correct, Mr. Neeley?

21 MR. NEELEY: That is correct, Mr. Chairman.

22 CHAIRMAN KOPLAN: I won't hold you to that
23 tightly, but --

24 MR. NEELEY: Maybe we'll be shorter.

25 (Laughter.)

1 CHAIRMAN KOPLAN: I'll accept that. With
2 that, I am inclined to go forward and hear you now,
3 unless there is some objection from the dais. Seeing
4 that there is none, Madam Secretary, could you call
5 the next panel?

6 MS. ABBOTT: The second panel in opposition
7 to the continuation of antidumping duty orders, please
8 come forward. The witnesses have been sworn.

9 (Pause.)

10 MR. NEELEY: Again, I'm Jeffrey Neeley from
11 the law firm of Greenberg Traurig. I'm just going to
12 turn over the floor to Adam Brozetti from AGC
13 Chemicals, who will give the presentation.

14 CHAIRMAN KOPLAN: Thank you. You may
15 proceed, Mr. Brozetti.

16 MR. BROZETTI: Thank you and good morning.
17 My name is Adam Brozetti, and I am vice president for
18 sales and marketing for AGC Chemicals America, also
19 known as "AGCCA." The assets of the company now known
20 as AGCCA were purchased by Asahi Glass from the
21 British company, ICI, in 1999. Thus, AGCCA is the
22 successor company to one of the original petitioners
23 in the Italian case, ICI.

24 AGCCA is a U.S. producer of granular PTFE
25 resin, with plants in New Jersey and Pennsylvania.

1 AGCCA also imports a very small amount of granular
2 PTFE resin from its parent company in Japan, Asahi
3 Glass.

4 As the Commission knows, granular PTFE resin
5 is a product that is in a mature market. There have
6 been no significant new applications in recent years,
7 and the growth trends for the product tend to follow
8 the overall GNP growth.

9 I'm here today for two main reasons. The
10 first reason is to support the continuation of the
11 dumping order on Italy. As I will discuss in a few
12 minutes, AGCCA believes that the U.S. industry is very
13 vulnerable to increased importation of low-priced,
14 granular, PTFE-resin imports from Italy, and that the
15 revocation of the dumping order on Italy now would
16 seriously undermine the health of the U.S. industry.

17 The second reason that I am here is to ask
18 that the Commission find that there would be no likely
19 recurrence of injury to the U.S. industry if the
20 Japanese order is revoked.

21 Let me talk about the Italian situation
22 first. While the Italian producer is not here today,
23 we have some recent experience that indicates that the
24 revocation of the Italian order would be devastating
25 to the U.S. industry. Even with the dumping order in

1 place on Italy, we see the Italian producer, Solvay,
2 selling granular PTFE resin at low prices to some
3 accounts. We are certain that in the absence of a
4 dumping order, the situation would become more
5 widespread.

6 The situation with the Italian producer is
7 of particular concern to us because of Solvay's recent
8 actions with regard to its prices for aqueous
9 dispersions. These products are not subject to this
10 order, and the Solvay actions indicate what will
11 happen in the absence of the discipline of the dumping
12 order.

13 Specifically, we see that the aqueous
14 dispersion are being sold to the U.S. market at
15 extremely low prices that make it impossible for any
16 U.S. producer to compete. Solvay's strategy seems to
17 be to use the U.S. as a dumping ground to pump out
18 production for products which have high fixed costs.
19 If the order is lifted for granular PTFE resin, we
20 think we will see the same pattern for these products.

21 The Italian producer, Solvay, has no reason
22 not to sell its excess capacity in the U.S. at low
23 prices. It has no U.S. production to undermine, and
24 selling at low prices in the U.S. is a way of
25 spreading its fixed costs in Italy across a wider

1 base. Even if it sells at no net profit in the U.S.,
2 as long as it covers its variable costs, Solvay will
3 come out ahead, and it has shown its willingness to
4 take this approach.

5 The situation with Japan is quite different.
6 All of the Japanese producers of granular PTFE resin
7 now have substantial U.S. production of their product
8 so their calculation regarding selling at low price in
9 the U.S. market is very different. For the Japanese
10 producers, selling at low prices in the U.S. market
11 simply would undercut their large U.S. investments and
12 not be rational.

13 Why, then, does Asahi Glass wish to have the
14 Japanese order lifted now? The answer, first, is that
15 we have the opportunity of a five-year sunset review
16 to ask this Commission to review the situation now, so
17 Asahi Glass is taking advantage of this opportunity.

18 Second, AGCCA would like to bring in small
19 amounts of high-quality, specialized products that it
20 cannot produce in the U.S. to round out its product
21 line. To produce these products in the U.S. would
22 require capital investments by AGCCA that are not
23 justified by the small market size for their products.
24 There is no reason for AGCCA to bring in products from
25 Japan at low prices when it can produce those products

1 in the U.S. Japan is a relatively high-cost producer
2 of granular PTFE resin, and bringing in such products
3 at low prices simply would undercut the profitability
4 of Asahi Glass's operations at AGCCA.

5 The capacity of Asahi Glass in Japan has
6 been steady for a number of years, and the Asahi Glass
7 capacity for subject merchandise is not easily
8 changed. Most of the Asahi Glass production in Japan
9 is consumed in Japan and is not exported to places
10 such as China. If AGCCA is able to import granular
11 PTFE without a dumping order being in place, it would
12 be senseless for it to sell these products at low
13 prices since the price levels for one type of granular
14 PTFE quickly are known and translate into pricing
15 effects for other granular products.

16 Importing any low-priced granular products,
17 even for high-quality, specialized products, is likely
18 to have an effect on the products being produced by
19 AGCCA in New Jersey and Pennsylvania. In other words,
20 Asahi Glass would be undercutting its own profit
21 levels on its U.S. production by selling any granular
22 product at low prices.

23 I would like to address a couple of points
24 raised by DuPont in its brief. For the first point, I
25 refer to page 19 of its prehearing brief where DuPont

1 claims that, in 2004, Japanese production capacity
2 outstripped domestic demand.

3 On page 20 of that brief, it also says, as
4 is widely known, that Daikin's operations in Japan
5 went off line in 2004 due to an explosion at its
6 plant. What really happened is that the explosion had
7 a huge impact on the availability of supply in Japan
8 and that Japanese companies were scrambling to find
9 granular PTFE and other products anywhere that they
10 could, including from the United States. There was no
11 overcapacity in Japan in 2004, and everyone in the
12 industry knows that. In fact, there was a huge
13 shortage. It is surprising to me that DuPont would
14 make such a statement regarding the capacity-
15 utilization situation in Japan in 2004.

16 Second, on page 25, DuPont alleges that it
17 has lost substantial sales to Asahi Glass. If, by
18 this, it means the Japanese company, Asahi Glass, it
19 is flatly untrue since, as the Commission knows, Asahi
20 Glass exported almost nothing to the U.S. If, on the
21 other hand, DuPont means AGCCA, then it is complaining
22 about lost sales to another U.S. producer, and I,
23 frankly, do not understand why this is relevant to the
24 question of exports from Japan.

25 The DuPont statements about capacity in 2004

1 and about lost sales to Asahi Glass are troubling
2 because they seem to be very reckless attempts to find
3 any excuse to continue the case against Japan. I
4 think that the statements reflect badly on the
5 credibility of DuPont on this issue.

6 The Commission may know that Asahi Glass has
7 also asked the Commerce Department to review the level
8 of the dumping margins that it currently has since
9 those margins have not been reviewed for many years.
10 Asahi Glass has asked for that review in the event
11 that the Commission disagrees with our conclusion that
12 the Japanese order should be revoked. But we believe
13 that there is no reason that Asahi Glass or AGCCA
14 should have to go through the continued expense of
15 annual reviews at the Commerce Department when the
16 facts show that the order on Japan should be revoked
17 because there would be no recurrence of material
18 injury.

19 Finally, we think that all of the Japanese
20 producers are in the same basic position as is Asahi
21 Glass and AGCCA. While DuPont's affiliate has not
22 responded to the Commission's questionnaire, and
23 Daikin has not appeared or responded, there is no
24 reason to believe that either company is going to
25 undermine its U.S. operations by selling at unfairly

1 low prices in the absence of a dumping order.

2 As Jeff Neeley stated in our opening
3 remarks, we agree with DuPont on most things,
4 including the vulnerability of the U.S. industry to
5 low-priced imports. We certainly agree with DuPont
6 regarding the likelihood of injury from Italy if the
7 Italian order is revoked. Where we disagree is the
8 situation of Japanese imports in light of huge
9 Japanese investments in the United States. It would
10 be irrational for Japanese producers to undermine
11 their U.S. operations.

12 As a result, we hope that the Commission
13 will conclude that the facts justify the continuation
14 of the dumping order on Italy and removal of the
15 dumping order on Japan. I would like to thank you for
16 your time, and I'll be glad to answer any questions
17 you may have.

18 CHAIRMAN KOPLAN: Thank you. Does that
19 conclude your direct presentation, Mr. Neeley?

20 MR. NEELEY: Yes, it does, Mr. Chairman.

21 CHAIRMAN KOPLAN: Thank you very much.
22 Thank you for your testimony. and we'll begin the
23 questioning with Commissioner Lane.

24 COMMISSIONER LANE: Good afternoon.

25 MR. NEELEY: Good afternoon.

1 COMMISSIONER LANE: Welcome to the
2 Commission.

3 On page 6 of DuPont's prehearing brief,
4 DuPont contends that the emergence of China and Russia
5 as significant players in the global, granular, PTFE-
6 resin industry has diminished the export opportunities
7 in Asia for Italian and Japanese producers of the
8 subject product and that this shift in the world
9 market will result in Italian and Japanese producers
10 looking to the United States as a preferred outlet for
11 their excess capacity.

12 In your view, how has the emergence of
13 Russia and China as significant players in the global,
14 granular, PTFE-resin industry affected Italian and
15 Japanese operations, and will this result in a
16 significant increase in shipments of subject imports
17 to the United States?

18 MR. BROZETTI: What we've seen in the
19 marketplace is, and I think it was alluded to before,
20 that even with the Italian order in place, prices in
21 the U.S. market have remained depressed because of the
22 influx of Chinese and Russian materials, and I believe
23 that that will continue and be even increased if the
24 Italian order is lifted because then we will have a
25 third country bringing in their low-priced materials

1 competing for market share in the U.S.

2 MR. NEELEY: I would also add to that that
3 in terms of some of the allegations, we certainly
4 agree with DuPont in that regard of the threat from
5 the Russians and the Chinese and their effect on the
6 U.S. market, as Mr. Brozetti says.

7 In terms of the possible that the Chinese
8 threat, the Chinese competition, is going to cause the
9 Japanese producers to suddenly shift to the U.S., we
10 don't see it. First of all, the fact is that most of
11 the Japanese production goes into the home market in
12 Japan; it is not exported to China. It doesn't make a
13 whole lot of sense, if you think about it, to take a
14 very high-cost producer like Japan and try to sell
15 into a very low-cost place like China. So that's not
16 really happening very much, so there is not really a
17 possibility of product shifting around. Most of the
18 Japanese production has traditionally been consumed in
19 Japan, and we think that will continue.

20 COMMISSIONER LANE: Okay. In your direct
21 testimony, you stated that there was no overcapacity
22 in Japan but a shortage. What happened when you had
23 that shortage? What did you do?

24 MR. BROZETTI: In 2004, there was no
25 overcapacity because of the Daikin explosion. As

1 DuPont also stated, at that time, Daikin was looking
2 to other producers to help support them and supply
3 material to their customers. So many of the producers
4 were able to supply some materials to Daikin to help
5 get them through that difficult time.

6 COMMISSIONER LANE: Okay. Thank you.

7 On page 10 of DuPont's prehearing brief,
8 DuPont contends that the United States' production
9 capacity is more or less in balance with U.S. demand,
10 and U.S. producers are able to meet U.S. demand now
11 and for the foreseeable future with their domestic
12 capacity and inventories. Do you agree with this
13 assertion?

14 MR. BROZETTI: Yes, we agree with that.

15 COMMISSIONER LANE: On the previous review,
16 the Commission found both the filled and unfilled
17 product to be part of a single domestic like product.
18 As you know, this is my first review of this matter,
19 and when looking at domestic like product, I am
20 curious to learn just how much value is added when the
21 subject product goes from an unfilled to a filled
22 product. I would also like to know if you believe
23 that the filled and unfilled products are
24 interchangeable, and, if so, to what degree.

25 MR. BROZETTI: I think the difference in

1 value between the two products, we believe, is
2 confidential, and we could certainly supply that
3 information in the post-hearing brief.

4 The second part of the question as to the
5 interchangeability of the materials, I think my
6 esteemed colleague, Mr. Colven, did a fine job of
7 trying to explain that. There are some applications
8 where the PTFE needs to be reinforced to maintain its
9 shape or its performance in an application, and in
10 many of those applications a filled PTFE is the
11 desired product.

12 COMMISSIONER LANE: On page 19 of DuPont's
13 prehearing brief, DuPont states: "DuPont believes
14 that Asahi Glass has significant unused production
15 capacity despite its reported data to the Commission."
16 The brief goes on to argue that the Commission should,
17 as provided by statute, generally make adverse
18 inferences about Japanese capacity.

19 Can the Commission rely on Japanese capacity
20 data submitted by Asahi Glass? If so, why is DuPont's
21 analysis incorrect, and if not, what data should we
22 use for Japanese production capacity when making our
23 determinations?

24 MR. NEELEY: Well, in our view, of course,
25 we think our capacity data are correct. I would

1 suggest probably the best way for the Commission to
2 sort this out is to task us what our assumptions are
3 with regard to the data and ask DuPont the same thing,
4 and I guess you can decide for yourself which is
5 correct or if neither are correct. But we think our
6 data are correct.

7 COMMISSIONER LANE: Okay. Do you agree that
8 the level of fungibility between the domestic like
9 product and the subject imports is greater today than
10 at the time of the original investigation and first
11 review?

12 MR. BROZETTI: I would think it's probably
13 the same.

14 COMMISSIONER LANE: Have there been any
15 recent or planned capacity expansions from the subject
16 product in Japan?

17 MR. BROZETTI: No.

18 COMMISSIONER LANE: Three U.S. producers
19 have related Japanese producers. Has this changed the
20 U.S. market, and how?

21 MR. BROZETTI: In AGCCA's case, we purchased
22 an existing producer. Asahi Glass purchased an
23 existing producer. The Daikin facility was a
24 greenfield facility, so that was additional capacity
25 that came into the market.

1 I've been in the industry for five years, so
2 the plant was well up and running by the time I joined
3 the industry. I can only assume that when the plant
4 was first built, there was some excess capacity in the
5 marketplace, but now, 10 or 15 years later, as has
6 been previously reported, the capacity is in balance
7 in the U.S. market with the three domestic producers.

8 COMMISSIONER LANE: Other than exports from
9 China and Russia, have there been any significant
10 changes in the U.S. and world market for granular PTFE
11 resin?

12 MR. BROZETTI: In the world market?

13 COMMISSIONER LANE: Yes.

14 MR. BROZETTI: I think, again, referring to
15 the CEFIC data, for the five CEFIC producers, there
16 certainly has been an increase in the granular market
17 over the last few years, and it tends to grow with
18 GNP.

19 As far as the non-CEFIC producers, we do see
20 significant increases in capacity, both in China and
21 Russia as they have improved their operations, and
22 imports to the U.S. are growing, both from China and
23 from Russia, significantly in the last three to four
24 years.

25 COMMISSIONER LANE: Does the argument in

1 your prehearing brief, page 4, that DuPont Mitsui
2 would not likely sell any substantial quantities of
3 subject merchandise to the United States since it also
4 is produced by DuPont in the United States also imply
5 that Daikin and Asahi would likely exercise the same
6 strategy?

7 MR. BROZETTI: Again, I think our strategy
8 remains in rationalizing our product. We would like
9 to bring in some higher-quality, higher-value
10 materials that are only produced in Japan. I cannot
11 speak for DuPont, but I would think they would have a
12 similar strategy. I don't think it would be prudent
13 for either of us to bring in low-priced materials and
14 undercut prices in the market.

15 Prices are at historically low levels, and
16 to bring product in and undercut those prices just
17 wouldn't make any sense, as our businesses, in order
18 to survive, there's two things that have to happen.
19 We talked about capacity utilization as very
20 important. We have to sell a lot of product out of
21 these high, fixed-cost plants, and also we have to get
22 prices up, and prices have plummeted in the last five
23 years, and it's imperative that we reverse that trend.

24 COMMISSIONER LANE: Okay. Thank you.

25 That's all the questions I have, Mr.

1 Chairman.

2 CHAIRMAN KOPLAN: Thank you, Commissioner.

3 Commissioner Pearson?

4 COMMISSIONER PEARSON: I'd like to extend my
5 welcome to the afternoon panel. Mr. Brozetti, glad to
6 have you in town, sir.

7 MR. BROZETTI: Thank you, sir.

8 COMMISSIONER PEARSON: Sorry that we
9 couldn't had a sunny day for you. We play the hand
10 we're dealt.

11 A little while ago, I had the opportunity to
12 discuss with Mr. Colven this question of the extent to
13 which the foreign-owned firms with operations in the
14 United States might be able to shift to a different
15 mix of products, away from the granular PTFE. To the
16 best of your knowledge of your company and the other
17 plants, to what extent do those plants now have the
18 capability to produce something other than PTFE, other
19 than the granular subject PTFE?

20 MR. BROZETTI: Our plant is, as Mr. Colven
21 stated -- I mean, he was accurate. I mean, we can
22 product granular materials and we, also, produce
23 dispersions. However, our equipment is dedicated to
24 those products, so our capacity doesn't really change.
25 If we were to produce less granular, we could not

1 produce more dispersion without significant capital
2 investment.

3 COMMISSIONER PEARSON: Okay. So as the
4 plant is now configured, you have a given amount of
5 monomer capacity towards the front end of the facility
6 and then as you go downstream, you have enough
7 manufacturing capability to use all of that monomer in
8 the creation of polymers?

9 MR. BROZETTI: Correct.

10 COMMISSIONER PEARSON: But, are you saying,
11 then, that you have quite limited ability to shift
12 back and forth between the various polymers and still
13 utilize all of the monomer you have up front?

14 MR. BROZETTI: That's correct. That's our
15 current configuration. For us to produce a higher
16 value material, like a PFA or an ETFE, then we would
17 have to put in significant capital for new equipment
18 in the plant.

19 COMMISSIONER PEARSON: Okay. And I really
20 don't know much about this chemical manufacturing
21 process that you're involved in. What are we talking
22 about in terms of both the time that it might take to
23 add that capacity or modify the existing lines,
24 whichever, and perhaps you can give us some idea of
25 the cost?

1 MR. BROZETTI: I think the information on
2 the cost, maybe we can submit to you on a post-hearing
3 brief.

4 COMMISSIONER PEARSON: That will be fine.

5 MR. BROZETTI: But from a timing standpoint,
6 with permitting -- I mean, my guess best would be
7 probably 18 months.

8 COMMISSIONER PEARSON: Okay. And the
9 permitting, is it primarily environmental permitting
10 or is health or safety related permitting?

11 MR. BROZETTI: All of the above pp

12 COMMISSIONER PEARSON: Of them all.

13 MR. BROZETTI: -- emissions permitting. I
14 mean, every time you add to a facility, you go to
15 through local permitting regulations.

16 COMMISSIONER PEARSON: Okay. But, given
17 where these facilities would be sited and the fact
18 that they'd already have existing permits and some
19 relationship with the permitting authorities, that
20 issue, in itself, isn't one that one would see as
21 terribly onerous or insurmountable?

22 MR. BROZETTI: It depends. Our plant is
23 located in Bayonne, New Jersey and we're very close to
24 New York City. It's not very easy to permit and
25 expand facilities in that area. So, I wouldn't want

1 to speculate, but I wouldn't want to say it's a slam
2 dunk either.

3 COMMISSIONER PEARSON: Okay.

4 MR. NEELEY: If I could add something on
5 sort of the theory of the case that we're hearing from
6 DuPont. I think it's important to think about what
7 they're saying, which is -- and they've basically
8 said, you know, granular is sort of the low end of
9 what comes out of the monomer and that we would be
10 shifting to that low end out of Japan. What their
11 essentially telling you is that we would take the
12 highest cost place in the world, Japan, and buy the
13 lowest end of the product line out of Japan. I just
14 suggest to you that doesn't make any sense. If you're
15 going to buy anything from Japan, it's certainly not
16 going to be the low end and it just doesn't make -- I
17 mean, if we were talking -- if we were here today on a
18 Chinese review or some other country's review, you
19 know, maybe that theory of the case would be sensible
20 and workable. We don't think it's workable when
21 you're talking about Japan with its high cost
22 structure.

23 COMMISSIONER PEARSON: Okay. Well, I'll
24 look forward to seeing in the post-hearing, getting
25 some idea of what it would cost to do this.

1 MR. NEELEY: Okay.

2 COMMISSIONER PEARSON: Some plant
3 modifications are quite practical and you just go
4 ahead and you do them out of working capital, if you
5 will, and there are other modifications that require
6 really extensive time-consuming processes, and I don't
7 have a real clear sense yet as to where the types of
8 modifications we're discussing here, where they fall
9 in that spectrum.

10 MR. BROZETTI: I can say that they are of
11 the extensive time-consuming types of expansions for
12 our facility.

13 COMMISSIONER PEARSON: Okay. Mr. Neeley, on
14 page eight and nine of your pre-hearing brief, you
15 touched on the four factors that the Commission
16 considers in deciding whether to cumulate. Could you
17 comment either now or in the post-hearing on the
18 degree to which those factors existed during the
19 original investigations and why the Commission now
20 should conclude that if enter of revocation those
21 factors would not exist in the foreseeable future?

22 MR. NEELEY: Yes, we'll be glad to do that.
23 I think the basic change from the time of the original
24 investigation to now is obviously the investment of
25 the Japanese producers in the United States. But,

1 we'll elaborate on that a bit more in the post-hearing
2 brief. Thank you.

3 COMMISSIONER PEARSON: Okay. Because,
4 obviously, we have the discussion to decumulate if the
5 circumstances justify it.

6 We discussed this morning some global
7 supply-demand issues and there seems to be general
8 agreement that global production capacity for granular
9 PTFE exceeds what the market can absorb right now and
10 that's why we've seen some weakness in prices for the
11 basic granular product. Do you know of any permanent
12 plant closures that have taken place anywhere in the
13 world because of this current oversupply situation?

14 MR. BROZETTI: No, there hasn't been any
15 permanent plant closures.

16 COMMISSIONER PEARSON: Okay. As you project
17 forward for the reasonably foreseeable period, do you
18 see something giving somewhere in the world? I mean,
19 is someone going to cry uncle and shut down a line?

20 MR. BROZETTI: It would be pure speculation,
21 but it's very difficult to continue to operate
22 facilities that don't generate the required levels of
23 return that shareholders expect.

24 COMMISSIONER PEARSON: Mr. Neeley, what
25 implications does this supply-demand imbalance have

1 for this review investigation? How are we to factor
2 it into our thinking on that case overall?

3 MR. NEELEY: I think that the -- you know,
4 as we've discussed, I think that the basic approach
5 that we have taken is that you have several things
6 going on in the marketplace. You've got, as DuPont
7 has articulated, I think, very well, you have the
8 supply-demand imbalance because of the Russian and
9 Chinese products, which have weakened and made the
10 U.S. industry very vulnerable. And we fully agree
11 with DuPont about the vulnerability issue. So, that
12 has implications for this case, because we think there
13 is also over capacity in Italy and there's no
14 incentive on the part of the Italians to not bring in
15 low-priced imports if the order is revoked in Italy.
16 So, that's one implication.

17 The other implication of the imbalance,
18 though, is if you look at the situation in Japan, we
19 think it's a bit different there. First of all, we
20 think that certainly in 2004, they were virtually at
21 full capacity. Japan is sort of the special market
22 where people are -- producers in Japan are basically
23 selling to the market in Japan. It's sort of insular
24 in a way. And we have specialized things going on
25 here in the U.S., because the U.S. production

1 facilities are the Japanese producers.

2 It's a tough thing overall, I mean, there's
3 no doubt about. Nobody wants to shut down plants.
4 Everybody wants to keep their plants running. What
5 the Japanese have done effectively is to keep Japan
6 for Japan and try to keep the United States market
7 supplied from the U.S. with a bit of small amount of
8 specialized products hopefully come in from Japan, if
9 the Commission agrees that the order here should be
10 revoked. That's sort of the implications we see out
11 of it.

12 COMMISSIONER PEARSON: If I understood the
13 testimony this morning correctly, it was alleged that
14 the excess production capacity is equal to some nine
15 million pounds of product. Are you able to comment on
16 that figure, either to give us a better number?

17 MR. NEELEY: We'll try to get you a better
18 number overall on the Japanese side, I guess, in the
19 post-hearing brief. That would be the best way to do
20 it, and what our assumptions are about capacity. As
21 the Commission and the Commission staff knows,
22 capacity is a notoriously slippery number. I mean, we
23 all have to admit that. But, I think what we need to
24 do is give you what our assumptions are and how we
25 come up with the calculation. We'll try to do that.

1 COMMISSIONER PEARSON: Okay, thank you.

2 CHAIRMAN KOPLAN: Thank you, Commissioner.
3 Commissioner Aranoff?

4 COMMISSIONER ARANOFF: Thank you, very much,
5 and thank you, Mr. Brozetti for being with us this
6 afternoon.

7 MR. BROZETTI: Your welcome.

8 COMMISSIONER ARANOFF: You've indicated that
9 to the extent you currently import product from your
10 parent in Japan, it's a very specialized product and
11 that your attention if the order were revoked would
12 also be to import specialized high-end products. What
13 can you tell us about what those products are
14 specifically? And I'm assuming they're all within the
15 scope.

16 MR. BROZETTI: Yes. They're within the
17 scope and I'd rather give you that information in the
18 post-hearing brief.

19 COMMISSIONER ARANOFF: Okay, thank you. I
20 appreciate that. And I guess I would also be
21 interested in your comment, aside from your own
22 company and your own parent in Japan, with respect to
23 Japanese imports generally, do you think that your
24 strategy of filling in just certain high-end products
25 that you don't make here is also the case -- would

1 also characterize the other Japanese imports that are
2 coming into the market?

3 MR. BROZETTI: For the subject materials,
4 what we've seen in the marketplace is the other
5 Japanese producer, who is bringing material in to the
6 U.S. is bringing the subject materials in from China,
7 not from Japan. There may be some higher value
8 materials, not subject materials, coming into the U.S.
9 from Japan, but certainly not the subject materials,
10 the lower value materials.

11 COMMISSIONER ARANOFF: Okay. I appreciate
12 that answer. And I guess I'm just trying to sort of
13 round out to the best I can our understanding of the
14 composition of the current imports from Japan. And I
15 don't whether they're all coming in directly from
16 Japanese producers or being imported by their U.S.
17 affiliates or there are other players in the market
18 and what they might be bringing in, because they may
19 have sort of different business imperatives guiding
20 them than the balancing of the U.S. and Japanese
21 supplies that a producer that's located in both
22 countries might have. Do you have any comments on
23 that?

24 MR. NEELEY: Yeah, I mean the best -- it's
25 difficult for us to comment, because we think that the

1 Japanese imports have been really tiny. I mean,
2 looking at the Bird amendment money, which is the best
3 that we can do to try to kind of figure out what's
4 coming in, it appears to be very, very small. You
5 know, we have this very small amount that we're having
6 reviewed by the Commerce Department now. It's
7 possible Dikon had a very, very small amount or
8 somebody else did. But, there's just not very much
9 coming in.

10 COMMISSIONER ARANOFF: Okay. Well, then,
11 let me go back, I know you're going to tell me
12 confidentially what speciality products it is that you
13 import and whether there might be more or different
14 amounts or products that you might want to import to
15 the U.S. if this order were revoked, and when you do
16 that, if you could also tell me whose currently
17 serving whatever U.S. demand there is for these
18 products, if it's you or if it's DuPont or if it's
19 somebody else.

20 MR. NEELEY: Sure.

21 COMMISSIONER ARANOFF: And assuming that you
22 -- this is a business that you might be growing -- I
23 know you said it's a very small product, it's not a
24 huge volume of product -- but to the extent that you
25 anticipate that this is a growing area for you, what

1 your strategy would be, in terms of attaining the
2 market share that you're interested in, in the U.S.
3 market. And I say this, as you can probably guess,
4 because, normally, we hear the argument made to us
5 that the only way that a foreign producer that's not
6 currently in the market can come in is by undercutting
7 prices to get market share away from whoever is
8 meeting that demand now. And so, I'm asking you to
9 prospectively respond --

10 MR. NEELEY: Sure.

11 COMMISSIONER ARANOFF: -- to that argument.
12 Thank you. I, also, wanted to just follow-up a little
13 bit on asking you about Asahi's investment in the U.S.
14 We know that Asahi bought an existing U.S. facility,
15 whereas Dikon, if that's how you pronounce it --

16 MR. NEELEY: Yes.

17 COMMISSIONER ARANOFF: -- had a Greenfield
18 plant that they built here. In sort of terms of
19 orders of magnitude, is there a big difference in the
20 amount of investment that was involved?

21 MR. BROZETTI: I really couldn't comment on
22 that. I don't know what Dikon's costs were.

23 CHAIRMAN KOPLAN: Could you move your
24 microphone a bit closer to you?

25 MR. BROZETTI: Sorry?

1 CHAIRMAN KOPLAN: Could you move your
2 microphone closer?

3 MR. BROZETTI: Oh, I'm sorry. I would only
4 be speculating. I don't know what Dikon's costs was
5 for that Greenfield plant. I certainly -- and we will
6 provide information on our investment or AGC's
7 investment on the ICI purchase to you.

8 COMMISSIONER ARANOFF: Okay, thank you.
9 That would be helpful.

10 I want to go to a question about how these
11 purchases relate to the issue of cumulation, which my
12 colleagues raised. The main argument that you raise
13 in favor of the Commission not cumulating Japan and
14 Italy, in this case, is the fact that there have been
15 these Japanese investments in the United States. My
16 understanding is that those investments all took place
17 before the Commission reached its determination in the
18 first five-year review back in 1999, although the
19 Asahi one was kind of close. It happened right toward
20 the end of 1999. But, if you read the Commission's
21 opinion from the first reviews, it's clear that they
22 knew about it and, in theory, were taking it into
23 consideration. Some of them mentioned it specifically
24 in their opinions and some don't. And I guess my
25 question to you is if the Commission considered those

1 facts and it's still cumulated in the first reviews,
2 how much weight should we give that now? How should
3 we consider that now?

4 MR. NEELEY: I think there's a couple of
5 things that are different from that time. First of
6 all, the Japanese producers didn't come before you in
7 the first review, as I recall. There was no
8 testimony. There was nobody like Mr. Brozetti here to
9 explain things and the implications to you. So, I
10 think you had a very different record before you.

11 Secondly, we now have five years of
12 experience, at least for the Asahi Glass situation and
13 probably a little bit more for Dikon. So, you can see
14 the implication of what's happening in the U.S.
15 market.

16 So, I guess I would just say that while the
17 Commission reached the best decision that it could in
18 the last review with very limited information and no
19 participation at all by the Japanese, now you've got a
20 different record and a different situation.

21 COMMISSIONER ARANOFF: Okay, thank you. I
22 appreciate that answer. Let me ask you a question
23 that I asked DuPont earlier today and just see if you
24 have a take on it, since you're, in a sense, a newer
25 player in the U.S. market. Looking back at our data

1 from the original investigation, there's been really a
2 shockingly large increase in productivity of the
3 domestic industry, if you compare the mid-1980s to
4 now. DuPont's answer was sort of we've kind of cut
5 out all the fat and just done the best we can. And I
6 guess I wanted to ask you, as a newer player in the
7 market, can you account for it? I mean, was ICI
8 running the plant badly and you are doing better? You
9 just don't often see increase in productivity like
10 that, that don't have some sort of stunning
11 technological explanation.

12 MR. BROZETTI: We have a very close
13 relationship with many automotive accounts and one of
14 the things the automotive industry has embarked on in
15 the last 10 years is lean manufacturing techniques.
16 And our sales, and I'm sure many of our competitors,
17 have utilized many of these techniques to improve the
18 operations. And that significant increases in
19 productivity of what you're seeing are real and we've
20 spent a lot of money to improve the operations. We
21 certainly have reduced our labor force, automated as
22 much as possible. So, it is a surprising increase,
23 but it's real.

24 COMMISSIONER ARANOFF: Okay. And you think
25 it's pretty much topped out now?

1 MR. BROZETTI: Yes, probably for the last
2 couple of years. You can't get anymore blood from
3 that stone, as they say, right?

4 COMMISSIONER ARANOFF: Thank you for that
5 answer. I just want to go back and follow up on some
6 questions that Commissioner Pearson was asking
7 concerning the global supply and demand situation. Is
8 this one of these industries where you sort of add
9 capacity in large chunks and then you have to wait for
10 demand to catch up? And does that explain some of
11 what we're seeing with the additions of capacity in
12 China, in particular, and I guess also Russia? Do you
13 think this is a situation where the new plants coming
14 on line are going to slow down and eventually -- you
15 know, you've told us demand is tied to economic
16 growth. If economic growth continues in China and in
17 other regions, that demand is going to catch up with
18 supply and any oversupply is going to go away; and if
19 so, how far out is that?

20 MR. BROZETTI: Yes. I would think what
21 we're seeing, particularly in China, is for years, as
22 Mr. Colven had stated, that China is -- there's a lot
23 of the fluorospar mined in China and they were selling
24 fluorospar, which is very low-priced commodity, and
25 they've decided why sell fluorospar when we can

1 convert it to PTFE and sell PTFE. And I think that's
2 why we've seen such a rapid growth in the capacity in
3 China. It's a huge number. I don't have an exact
4 figure, but it's probably over 20,000 metric tons of
5 PTFE that is now produced in China, could be more.
6 And we can supply those numbers to you. And it's
7 probably far out -- exceeds the current consumption in
8 China.

9 COMMISSIONER ARANOFF: Okay. My time is up,
10 so I'll have to come back to this, if one of my
11 colleagues doesn't pick up on it. Thanks.

12 CHAIRMAN KOPLAN: Thank you, Commissioner.
13 I had five questions down to one, at this point. Mr.
14 Brozetti, let me ask you this. I participated in our
15 first review of these investigations, which was
16 expedited because of a lack of participation by the
17 Respondents. I went back and went over, looked at our
18 views at that time. And there's a particular
19 footnote, it appears on page 13 of the confidential
20 version, I don't know if it's the same in the public
21 version, but it's footnote 99, and I want to read this
22 into the record. And it states as follows: "It can
23 be argued that producers of the subject merchandise,
24 such as Montoflose, Dikon, and Asahi, would not have
25 an incentive to export large volumes of low-priced

1 imports to the United States, because it could harm
2 their U.S. affiliates, Osomon, Dikon Industries, and
3 ICI, respectively. However, since granular PTFE resin
4 is produced in several grades and is often formulated
5 to customer specifications, Japanese and Italian
6 producers could readily ship grades of subject
7 merchandise that supplement, rather than compete with,
8 granular PTFE resin produced by their U.S. affiliates.
9 Indeed, these U.S. affiliates have established sales
10 channels and relationships that would be exploited in
11 the sale of LTFV imports."

12 Now, you argued at pages two and three of
13 your brief and in your direct testimony today, that,
14 and according to the brief, "by far, the most
15 important condition of competition here has been the
16 move of the Japanese industry to the United States
17 with substantial investments that have provided the
18 Japanese parent companies with an incentive to make
19 its U.S. operations as profitable as possible and not
20 to undercut its own operations in the United States by
21 bringing in substantial volumes of subject merchandise
22 and selling that merchandise at low prices."

23 I'm not trying to be flip, but it seems to
24 me that the Commission refuted that argument five
25 years ago in the footnote that I just read. The only

1 thing that I see changed now is basically the names of
2 the affiliates that we were looking at then and who
3 those affiliates are now. And I'd like you to respond
4 to that, because, to me, this question is rather
5 significant.

6 MR. BROZETTI: I think one of the big
7 changes since that footnote was first taken is the
8 amount of material that is available, excess material
9 that is available now from China. Again, it is our
10 strategy that we see no value in bringing low-priced
11 granular materials to this market to reduce the price
12 of the granular materials that we're already selling
13 at unfavorable prices.

14 CHAIRMAN KOPLAN: Okay. Mr. Neeley, do you
15 want to comment?

16 MR. NEELEY: Yes. I think the one thing
17 that you didn't have during the last review that you
18 have now is the testimony of people like Mr. Brozetti,
19 as I said. And I think --

20 CHAIRMAN KOPLAN: Well, I acknowledge that.

21 MR. NEELEY: Right, I know you do.

22 CHAIRMAN KOPLAN: Yes.

23 MR. NEELEY: And I'm just -- but, I think
24 the important part of his testimony perhaps, as it
25 goes to that footnote, is the linkage among the

1 different types of granular. You know, when the
2 Commission was talking about the different -- the
3 ability to switch to different products, specialized
4 products, which -- and I think your footnote is right
5 on point, you know, the Commission looked at that and
6 thought about it, but didn't have the benefit, at that
7 time, of testimony about how these things are linked.
8 And the testimony that you just heard from Mr.
9 Brozetti, which was, even if you bring in some
10 specialized things that are not being produced in the
11 United States, you wouldn't want to do that at a low
12 price, because it would have an implication across the
13 board on things including what you're producing in the
14 United States. So, I don't think the Commission had
15 the benefit of that the last time.

16 CHAIRMAN KOPLAN: I appreciate if for the
17 post-hearing, you could go back to that footnote that
18 I quoted and expand on what you've said to me this
19 afternoon, because, as I say, I'm looking at that and
20 it seems to me, frankly, that although we didn't have
21 anyone in on the respondent's side, that we
22 anticipated this argument that I quoted from your
23 current brief and responded to it, at that time, by
24 anticipating. So, I would look forward in getting
25 some additional response from you post-hearing. And

1 with that, I have no further questions and I will turn
2 to Vice Chairman Okun.

3 VICE CHAIRMAN OKUN: Thank you, Mr.
4 Chairman, and let me join my colleagues in welcoming
5 you here this afternoon.

6 MR. BROZETTI: Thank you.

7 VICE CHAIRMAN OKUN: And, particularly, you,
8 Mr. Brozetti, for your willingness to appear here
9 today and answer questions, very much appreciate it.

10 This morning, we talked a little bit with
11 DuPont about what their joint venture in Japan and,
12 obviously, you, Asahi Glass and AGCC have a different
13 corporate relationship than at DuPont joint venture.
14 But, they had described that joint venture in terms of
15 it being primarily focused on the Japanese home market
16 and DuPont producing for this market, but that there
17 was a arrangement to share licensing and to purchase
18 products. And I wanted to know, and I assume that the
19 actual documents, if there were any, would be for
20 post-hearing, but can you describe your relationship
21 with your parent, in terms of if there are anything
22 limiting what can or will be sold in the United States
23 or anything that would describe what you've talked
24 about in terms of speciality products, et cetera?

25 MR. BROZETTI: Yes. AGCCA is a wholly-owned

1 subsidiary of AGC, Asahi Glass Corporation. And we,
2 also, has -- or AGCC has another wholly-owned
3 subsidiary in the U.K. We, as DuPont, we sell
4 primarily our products in our own region. We are free
5 to make our own decision on product mix and pricing in
6 a region. Certainly, there is global customers that
7 sort of tie us together, so we try to approach our
8 global customers from a single strategy. But, there
9 are really no limitations on products that can be sold
10 in a market. If one of -- for example, if one of our
11 Japanese company's customers wants to fill PTFE
12 material that we produce here, then we certainly would
13 sample them and try to make that sale through our
14 parent company.

15 VICE CHAIRMAN OKUN: Okay. When you
16 referenced global customers, I was curious whether
17 when we talk about qualifications in this market, and
18 you referenced the auto companies as important
19 customers, would an Asahi-qualified product, whether
20 it's produced in -- by the parent company in Japan or
21 the U.S. or the U.K., would they all be qualified with
22 the same customer, or would they have to go through
23 any additional testing or qualification, or could you
24 provide them anywhere?

25 MR. BROZETTI: It would depend on the

1 customer. But, in most cases, each region's product
2 would have to be individually qualified.

3 VICE CHAIRMAN OKUN: Okay.

4 MR. BROZETTI: And in the case of the
5 automotive company, that could be quite extensive.

6 VICE CHAIRMAN OKUN: Okay. If there's any
7 information that you haven't submitted with regard to
8 that, that you could put on the record, I would
9 appreciate seeing that, as well.

10 MR. BROZETTI: Okay.

11 VICE CHAIRMAN OKUN: In terms of the --
12 again, trying to better understand the products that
13 you produce at your facility -- that are produced in
14 the U.S. facilities, vis-a-vis your competitor DuPont
15 and then with regard to the Japanese parent company,
16 do you produce -- I think you sort of responded to
17 that, but I just wasn't sure I heard it -- do you
18 produce the same range of products here as are
19 produced at the Japanese parent plants, same products
20 or any different ones?

21 MR. BROZETTI: No. In our U.S. plant, we're
22 producing PTFE, the three forms, granular, and the
23 aqueous dispersions and coagulated dispersions. We,
24 also, produce a fluorosolvent in that plant. But, in
25 Japan, we produce a much broader range. We produce

1 all the PTFE grades, fluorosolvents, and ETFE, PFA,
2 and some floral elastomers, so a much broader range of
3 products produced in Japan.

4 VICE CHAIRMAN OKUN: Okay. I appreciate
5 that. In terms of -- we talked a little bit this
6 morning about the apparent consumption data and the
7 fact that it's not -- that the staff report doesn't
8 reflect the Italian imports and, therefore, the
9 apparent consumption data is not complete. And you
10 had referenced, I think, the same data, the trade
11 association data set, that's the data in terms of what
12 you're looking at. But, in terms of the question
13 about demand going forward, both in the U.S. market
14 and in Japan, to the extent that information is
15 available, is there any information that you could
16 provide post-hearing that would help us better
17 understand future demand? And to the extent you
18 having anything on EU, given that there's a facility
19 in the U.K., it would be appreciated as well. If
20 there's anything you can comment on here and then --

21 MR. BROZETTI: We can provide some data. We
22 do -- every year, we do a fairly extensive market
23 survey with our customers in the regions and from that
24 information, we gauge their optimism about -- or
25 pessimism about the future and we make some estimates

1 on market growth by application or end use. So, we
2 can supply that information.

3 VICE CHAIRMAN OKUN: Okay. That would be
4 very helpful. Is there anything you could
5 characterize in the public hearing or is that treated
6 as confidential information?

7 MR. BROZETTI: I would say it's, right now,
8 confidential.

9 VICE CHAIRMAN OKUN: That's fine. I'd
10 appreciate seeing that post-hearing. And then, I just
11 wanted to go back to both your testimony on some of
12 the responses with regard to the 2004 and the explosion
13 at the Dikon facility and what that meant. I
14 understood your testimony or your response and, I
15 think, you were trying to capture that you felt that
16 what it showed was that there was not lots of
17 overcapacity in Japan, because when the facility went
18 on line, you not only had Japanese -- other Japanese
19 producers supplying it, but there had to be exports
20 into the market. But what I wasn't as clear about in
21 looking at your brief is what does that mean now that
22 Dikon, as I understand it, is back producing? I'm
23 just trying to understand, again, both the situation
24 in Japan with regard to capacity numbers and whether
25 now that they're back up and running, there's an

1 additional product out there that needs a home.

2 MR. BROZETTI: What we're seeing in the
3 marketplace is -- I mean, certainly, some of the
4 pressure has been relieved once they came back on
5 stream. But, we're not sure, and I believe in Dikon's
6 operation, they have much more flexibility in moving
7 between their various grades of PTFE or
8 fluoropolymers. For example, they can switch more
9 readily from producing a granular grade to an FEP or a
10 NTFE. And I think as DuPont had commented, Dikon has
11 made an announcement of increasing their ETFE capacity
12 with no increase in their monomer capacity. So, I
13 mean, there is an implication there that they could be
14 abandoning some of the lower-priced polymers like
15 granular subject materials and converting that TFE to
16 ETFE or FEP. And what we're seeing in the U.S. market
17 is more material coming in from Dikon's Chinese plant,
18 as opposed to any material coming in from their
19 Japanese facilities.

20 VICE CHAIRMAN OKUN: Okay. And when you say
21 that Dikon had more flexibility, is that related --
22 more flexibility that I take it than Sahi?

23 MR. BROZETTI: Yes.

24 VICE CHAIRMAN OKUN: Is that just related to
25 a larger capacity overall? Or, I mean, why do they

1 have more flexibility? They just are already making
2 all these different --

3 MR. BROZETTI: Certainly, our technical
4 people could provide more detail in the post-hearing
5 brief. But, it is my understand that their reactors
6 are more flexible, that they can produce more than one
7 grade or one type of polymer in a reactor.

8 VICE CHAIRMAN OKUN: Okay. Any information
9 you could provide on that to help us better understand
10 that, that would be appreciated for post-hearing, as
11 well.

12 This morning, Mr. Colven had talked about
13 the contracts and the meet or release clauses and
14 their experience with having bump offers that they had
15 to meet the price on for the contract. Can you
16 discuss AGC's experience with that and especially in
17 particular with respect to the Italian product?

18 MR. BROZETTI: I think in listening to Mr.
19 Colven this morning, our system -- our internal
20 systems are very similar. I mean, we have CPRs,
21 competitive price requests, that we track and
22 maintain. And that information -- I mean, in there,
23 we would show the competitor, produce they're
24 offering, the price they're offering. So, we have
25 that data probably back three, four years.

1 VICE CHAIRMAN OKUN: Okay. I'd make the
2 same request we made of them this morning --

3 MR. BROZETTI: Okay. And we, also, in all
4 of our contracts, I'd say 95 percent of them, there's
5 a meet or release clause that frequently, in the last
6 four years, has been exercised.

7 VICE CHAIRMAN OKUN: Okay. I appreciate
8 those comments. I see my yellow light is on. Two
9 things for post-hearing, although I may have another
10 round of questions, but with regard to cumulation,
11 you've had questions from my colleagues -- a couple of
12 my colleagues about that. Mr. Neeley, for my
13 purposes, if you would -- I know you briefed it
14 looking at the four traditional factors and I guess I
15 would ask you to go back and brief decumulating Japan
16 -- the argument for decumulating Japan and Italy,
17 looking at the discretionary factors that the
18 Commission has looked at in other Sunset reviews.
19 There's, I think, a long history of that now. How you
20 would describe this case with regard to some of the
21 other cases where we had exercise or discretion not to
22 cumulate, and that would be helpful. Thank you, Mr.
23 Chairman.

24 CHAIRMAN KOPLAN: Thank you. Commissioner
25 Hillman?

1 COMMISSIONER HILLMAN: Thank you. I, too,
2 would join my colleagues in thanking you for being
3 here. We very much appreciate it. I do think that is
4 one of the distinguishing factors between our prior
5 review, which I was here for, which, as been noted,
6 was on an expedited basis. So, we had no testimony or
7 data from either the Japanese or the Italians at that
8 time.

9 But, I guess I would like to take you back a
10 little bit on a couple of the questions that Vice
11 Chairman Okun asked, because I, too, am going to now
12 face a slightly different record and a different set
13 of decisions with respect to this issue of cumulation
14 of the Japanese product and the Italian product. And,
15 Mr. Neeley, I appreciate the comments in your brief on
16 the no discernible adverse impact. But, I would share
17 the Vice Chairman's question, which is, I think the
18 more common way -- I don't want know that I've
19 actually done the math. Certainly, I think, speaking
20 for myself, the more common way, in which I have not
21 cumulated in Sunsets, when the case came to us on a
22 cumulated basis, was on the basis of these other
23 factors. So, if there's anything that you can help me
24 with, again, not so much on the legal analysis, but
25 just understanding -- I clearly hear you on this issue

1 of the Japanese compete differently in this market,
2 because of the presence of the U.S. production
3 facilities. But, I'm trying to make sure I understand
4 as much as you can say about any of the other factors.

5 So, maybe, I can start just with the issue
6 of the product, itself, in terms of whether there are
7 any differences between the product produced in Italy
8 versus the likely imports from Japan. Mr. Brozetti,
9 you commented that, yes, your strategy is to only
10 bring in imports of granular product that are largely
11 not made in the U.S. and that the --

12 MR. NEELEY: Correct.

13 COMMISSIONER HILLMAN: -- capacity of your
14 facility in Japan is for a broader, deeper range of
15 product than would be the case here in the U.S. Help
16 me first try to put some sense of it. How big is the
17 part of the market, the demand in the U.S. for this
18 specialty product that you produce in Japan, but that
19 you do not make in the U.S.? I'm trying to
20 understand, in the scheme of this product, is there a
21 lot of specialty product out there or is it a small
22 portion of the total?

23 MR. BROZETTI: It's a small portion of the
24 total.

25 COMMISSIONER HILLMAN: Small; how small?

1 MR. BROZETTI: Two-hundred tons.

2 COMMISSIONER HILLMAN: Okay. And would you
3 -- have you, have you ever imported product from Japan
4 that you could have made in the U.S.

5 MR. BROZETTI: Maybe small quantities for an
6 evaluation or a qualification, but nothing on an
7 ongoing basis.

8 COMMISSIONER HILLMAN: Okay. And how would
9 you -- do you have any sense of that same issue for
10 Dikon, whether, again, the -- I'm trying to figure out
11 the level of overlap between what they're capable of
12 producing in the U.S., are producing in the U.S.,
13 versus what they produce in Japan. And, again, to the
14 extent that there was a broader range of production in
15 Japan, how much broader and how much bigger would
16 Dikon -- how much more market share would Dikon be
17 able to ship here that's not a product they could make
18 here?

19 MR. BROZETTI: It is -- our intelligence
20 suggests that there's not a very big difference in the
21 breadth of products produced by Dikon in the U.S. or
22 Japan. I think the facilities can produce about the
23 same range of products.

24 COMMISSIONER HILLMAN: Okay. Now, would the
25 specialty products that you're importing, would those

1 compete with domestically-produced DuPont or other
2 products here or Dikon or other U.S. produced product?

3 MR. BROZETTI: They would compete with
4 domestic products.

5 COMMISSIONER HILLMAN: Okay. Then how about
6 the Italians? Are the Italians also in this specialty
7 product or are they largely in -- I don't want to call
8 it commodity -- but the more commonly produced grades
9 of granular that are made here?

10 MR. BROZETTI: Well, we see the Italians in
11 the more commonly produced, lower value grades, the
12 fine cut granulars, the lower-priced agglomerated
13 granulars, the subject materials.

14 COMMISSIONER HILLMAN: Okay. So would the
15 Italian -- what you're saying is the Italian imports
16 would not necessarily overlap with at least your type
17 of import from Japan? That's what I'm trying to
18 understand --

19 MR. BROZETTI: That's correct.

20 COMMISSIONER HILLMAN: -- are the products
21 coming in or likely to come in -- obviously, this is a
22 looking forward analysis -- if we were to revoke this
23 order and we were to get imports from Japan, your
24 testimony is that the imports in Japan are likely to
25 be more heavily of this specialty-type product?

1 MR. BROZETTI: That's correct.

2 COMMISSIONER HILLMAN: And, again, I'm
3 trying to understand whether and to what degree
4 there's an overlap with the Italian imports.

5 MR. BROZETTI: They would be -- our current
6 strategy is to not overlap with the Italian materials
7 that would come in to the U.S.

8 COMMISSIONER HILLMAN: Okay. Now, there's
9 no question that all of this could be made in Japan;
10 it's just that your testimony is that the incentive is
11 not there, because --

12 MR. BROZETTI: That is correct.

13 COMMISSIONER HILLMAN: -- you could also
14 produce it here.

15 MR. BROZETTI: That's correct.

16 COMMISSIONER HILLMAN: Okay. Now, your
17 testimony was also very much geared to the issue of
18 price, there would be no incentive to bring it in at a
19 low price. I can certainly understand that. I mean,
20 presumably, you have no interest in driving down
21 prices in the U.S. market. I'm just trying to
22 understand, if you took out the price factor, on a
23 just pure volume quantity notion, is there a reason
24 why you would ship into the U.S. market out of Japan
25 for pure quantity reasons? I understand the argument

1 about you don't want to drive the price down. But, if
2 you could supply more of the U.S. market share with
3 product, both from the U.S. and from Japan, why not?

4 MR. BROZETTI: Well, our customer base is
5 becoming more sophisticated and they are expanding to
6 be competitive in products that they make. And to do
7 that, they need a broader range of materials from
8 their suppliers. So, we have some gaps in the range
9 of products that we can supply to long-standing
10 customers. And just to be a full service supplier to
11 is the reason why I would want to bring in some of
12 these higher quality materials from Japan to fill some
13 of the gaps we have with our current customer base.

14 COMMISSIONER HILLMAN: Okay, all right.
15 Then, just to understand, you were discussing, I
16 believe, with Commissioner Pearson, this issue of the
17 plants and the various products. I'm just trying to
18 get a sense of in this world of these fluoropolymers,
19 I had heard you basically saying that you're going to
20 put your monomer into other things other than
21 granular, which suggests to me that in the big scheme
22 of value added or profitability, that granular is at
23 the lower end of the range; is that correct?

24 MR. BROZETTI: Yes, that is correct.

25 COMMISSIONER HILLMAN: Okay. What is the

1 range or, if you will, the pecking order? If you
2 could be in any part of this business, what's the most
3 profitable, most value-added side of it?

4 MR. BROZETTI: Well, at the bottom would be
5 granular; and then you have your aqueous dispersions
6 and coagulated dispersions; I guess ETFE, FEP, PFA,
7 and just up the value chain.

8 COMMISSIONER HILLMAN: Okay. I just wanted
9 to make sure that I was picking up that your --

10 MR. BROZETTI: Right.

11 COMMISSIONER HILLMAN: -- your sense is that
12 the granular is at the bottom of the --

13 MR. BROZETTI: It's at the bottom, yes.

14 COMMISSIONER HILLMAN: Is at the bottom,
15 okay. Then in terms of the quality issues of -- let's
16 just start with the Italian product, again, as I
17 understand it, you sell under a brand name?

18 MR. BROZETTI: Yes.

19 COMMISSIONER HILLMAN: Help me understand
20 from your perspective how important brands are and
21 what, if anything, do they suggest to customers in
22 this product, which is, again, to me, not really a
23 consumer product --

24 MR. BROZETTI: Right.

25 COMMISSIONER HILLMAN: -- this is an

1 industrial product. I don't know how important brands
2 are to those types of users. I understand that
3 they're reasonably important to you average consumer,
4 who might actually buy a whatever, Teflon pan,
5 because, oh, they've heard that brand name. That's
6 not, as I understand it, who is purchasing these
7 products. These are going into automotive, industrial
8 --

9 MR. BROZETTI: Sure.

10 COMMISSIONER HILLMAN: -- chemical, other
11 uses. Help me understand the issue of brand and how
12 important it is and how it relates to quality.

13 MR. BROZETTI: I would agree with DuPont's
14 comments that I guess Teflon is the tiebreaker.
15 Certainly, customers are really not buying on brand
16 name and not willing to pay premiums for brand name.
17 If a product comes in and it has the same performance
18 and meets the specifications of the end users, they
19 certainly will purchase that product.

20 COMMISSIONER HILLMAN: And none of your
21 customers -- I'm sorry, none of their customers are
22 necessarily looking for them to use a brand name
23 product? That's what I'm trying to understand, is do
24 the product guys care whether in the end of the day
25 they're getting a part that was made with a brand

1 name?

2 MR. BROZETTI: Very few applications, maybe
3 a Teflon or our trade name is Fluon, maybe a product
4 was spec'd in many years ago and they want to continue
5 to purchase that, but very small percentage of the
6 total.

7 COMMISSIONER HILLMAN: Okay. In terms of
8 the Italians, would they have that same notion of
9 brand and some customers tied into their brand?

10 MR. BROZETTI: Not to my knowledge. I don't
11 think they've had that broad a presence to have their
12 product spec'd in. They could have some, but to my
13 knowledge, they don't.

14 COMMISSIONER HILLMAN: Okay. And then on
15 the sort of quality end range, are the Chinese and the
16 Russians also moving into these specialty and moving
17 up this chain, or are they more concentrated in this
18 bottom of the barrel granular product?

19 MR. BROZETTI: Right now, more concentrated
20 at the bottom.

21 COMMISSIONER HILLMAN: Okay. And you're not
22 seeing them in the specialty versions of the granular
23 product?

24 MR. BROZETTI: Not in the higher quality
25 products.

1 COMMISSIONER HILLMAN: I appreciate those
2 answers. Thank you.

3 CHAIRMAN KOPLAN: Thank you, Commissioner.
4 Commissioner Pearson?

5 (No further questions to the panel.)

6 CHAIRMAN KOPLAN: Commissioner Aranoff?

7 (No further questions to the panel.)

8 CHAIRMAN KOPLAN: Commissioner Koplán has no
9 questions. I don't see the Vice Chairman. Do you
10 have anything left?

11 COMMISSIONER HILLMAN: I do have a couple of
12 other questions.

13 CHAIRMAN KOPLAN: Back to you.

14 COMMISSIONER HILLMAN: Okay. I apologize.
15 Again, I'm still trying to understand this issues of
16 the competition. Again, I'm still struggling with
17 this cumulation issue. So, let me, also, go to the
18 issue of whether -- we've talked a little bit about
19 the product distinctions. I'm now trying to
20 understand whether there are distinctions in pricing
21 that I should be looking at. And, again, here, my
22 problem is that our record has almost nothing,
23 because, again, one of the many other reasons why in
24 the past the Commission has thought about not
25 cumulating is if the imports had behaved differently

1 in the market when there are any. So, if you can help
2 me understand, to the extent that we see some Japanese
3 imports and a fair amount of Italian imports, give me
4 your sense of how they're competing in the market, in
5 terms of price. We've talked some about what is the
6 Italian product and what is the Japanese product.
7 Price-wise, how do they compare, how has that changed
8 over this period of review?

9 MR. BROZETTI: What we see in the
10 marketplace is the Italian product is always priced
11 much lower than where our pricing and our U.S.
12 competitor's prices are at accounts. So, when we're
13 responding to a media release and it's of Italian
14 origin, it's usually significant.

15 COMMISSIONER HILLMAN: Okay. And you're
16 saying, you are, in fact, meeting; you're not
17 releasing on most of those contracts?

18 MR. BROZETTI: We meet, yes.

19 COMMISSIONER HILLMAN: Okay. Would you say
20 that the Italians have throughout this entire period
21 been lower priced than the Japanese imports?

22 MR. BROZETTI: Yes.

23 COMMISSIONER HILLMAN: Okay. And these
24 media releases would require you to also meet a
25 Russian or a Chinese price?

1 MR. BROZETTI: If it's the same quality,
2 they would demonstrate the quality being the same and
3 that's becoming more and more the reality.

4 COMMISSIONER HILLMAN: And how would you
5 describe the Italian prices in relationship to the
6 Chinese or the Russian prices?

7 MR. BROZETTI: Probably the same, about the
8 same level.

9 COMMISSIONER HILLMAN: Same price levels?

10 MR. BROZETTI: Yes.

11 COMMISSIONER HILLMAN: Okay; all right. And
12 where would you describe U.S. prices vis-a-vis prices
13 in other markets. I mean, how does U.S. prices
14 compare with the Japanese, with European, or other
15 Asian prices?

16 MR. BROZETTI: Right now, we're seeing U.S.
17 prices -- and, again, we would agree with DuPont,
18 depending on exchange rates in between Japan, U.S.,
19 and Europe, they are the top three prices in the
20 world, and I think right now, we're looking at Japan
21 probably priced the highest; then Europe, because of
22 exchange rate; followed by the U.S. I call it above-
23 world pricing levels.

24 COMMISSIONER HILLMAN: Okay. And then help
25 me understand why I would assume, particularly if the

1 European Union puts an antidumping order on imports
2 from China and Russia going into the European Union,
3 why would the Italians do anything other than stay
4 home? And for me, home, I think I can fairly describe
5 as more Europe. Obviously, I hear the argument about
6 whether they're supplying literally the Italian
7 market. But if we look more broadly at the European
8 market, why don't the Italians just stay within
9 Europe?

10 MR. BROZETTI: I don't know if that's a
11 strategy they had or an inability to penetrate other
12 accounts in Europe. But, I mean, they have the excess
13 capacity. They're not really trying to dump that
14 capacity in Europe now. They keep sending

15 MR. NEELEY: I mean, I guess our --

16 MR. BROZETTI: I can answer that question --

17 MR. NEELEY: We had talked about this a
18 little bit before. I mean, we think that a couple of
19 things will happen because of the European case. One
20 is that increasingly, you'll see more Russian and
21 Chinese material come to the U.S., which will make the
22 U.S. companies more vulnerable. At the same time,
23 there's probably some effect, beneficial effect for
24 the Italians, in the sense that they can now have a
25 little bit -- or a little room in the European market.

1 But, we have to remember that the European order will
2 be spread out all over Europe and not just over Italy,
3 so other European producers are going to pick up part
4 of that slack. So, we think there will still be
5 plenty of excess capacity on the Italian side that
6 could cause a real problem for the U.S.

7 COMMISSIONER HILLMAN: Okay. If in the
8 post-hearing there is anything that you can help --
9 that you want to add --

10 MR. NEELEY: Sure.

11 COMMISSIONER HILLMAN: -- to help us
12 understand the implications of this, because,
13 obviously, sitting here today, I don't have a sense of
14 how large the volume of Chinese and Russian product
15 going into Europe had been before this order, whether
16 the margins in this order are such that they would, in
17 fact, preclude future imports or just mean a bump up
18 in prices. I'm trying to -- so, anything you could
19 help to give some numbers to how important this EU
20 order is and how much extra demand there may be within
21 Europe for this product, as a result of either keeping
22 the Russians and the Chinese out or at least pricing
23 them higher, that you can add for the post hearing. I
24 think I would like your perspective on the
25 implications on that order, as well.

1 MR. NEELEY: Okay.

2 COMMISSIONER HILLMAN: With that, I have no
3 further questions at this time, Mr. Chairman. Thank
4 you.

5 CHAIRMAN KOPLAN: Thank you. Are there any
6 other questions from the dais.

7 (No further questions from the dais.)

8 CHAIRMAN KOPLAN: Seeing that there are
9 none, Mr. Deyman?

10 MR. DEYMAN: George Deyman, Office of
11 Investigations. The staff has no questions.

12 CHAIRMAN KOPLAN: Thank you. With that, I
13 guess I'll ask Mr. Meltzer, do you have any questions
14 of this panel before I release them?

15 MR. MELTZER: We do not.

16 CHAIRMAN KOPLAN: You need a microphone back
17 there.

18 MR. MELTZER: I'm sorry. I'm having
19 problems with these buttons. No, we do not.

20 CHAIRMAN KOPLAN: Okay, thank you.

21 MR. MELTZER: Thank you.

22 CHAIRMAN KOPLAN: Then, I'll release the
23 panel and we'll go to rebuttal and closing. For me,
24 this is a first, since I've been here. Those in
25 support have a total of 48 minutes remaining for

1 rebuttal and those in opposition have a total of 49
2 minutes. So, that will go down as a record, I
3 believe. Plus, you both have five minutes for
4 closing. How do you wish to use your respective
5 rebuttals?

6 MR. MELTZER: It probably will take me 47
7 minutes to use the buttons. So, we'll forego that.
8 But, I promise you, we'll be nowhere near those
9 amounts and we will include in the rebuttal -- we will
10 include the closing remarks in our rebuttal comments.
11 So, we'll do it in one fell swoop, which I promise you
12 will be nowhere near 48 minutes.

13 CHAIRMAN KOPLAN: Well, your closing is
14 limited to five.

15 MR. MELTZER: Right. What I'm saying, we'll
16 come up there once.

17 CHAIRMAN KOPLAN: Okay.

18 MR. NEELEY: Yes, we'll do the same thing,
19 five minutes. If we can take a five-minute break
20 before we do that, that would be good.

21 CHAIRMAN KOPLAN: That's reasonable.

22 MR. NEELEY: Okay, thanks.

23 (Whereupon, a brief recess was taken.)

24 CHAIRMAN KOPLAN: You may proceed.

25 MR. COLVEN: Thank you. First of all, I did

1 want to come back to a question that was asked that we
2 did not have prepared comments for and that was
3 regarding DuPont's import of material from Japan. We
4 have reconfirmed, it actually is in our questionnaire,
5 that we made no imports from Japan from MDF. This is
6 absent of their questionnaire data. We made no
7 imports from Japan in the entire investigation period.
8 So, that's reflected in our questionnaire. So, I
9 think Commissioner Hillman was asking that line of
10 questioning.

11 The main thing I want to come back to in the
12 closing argument is really around the question that
13 we've asked ourselves why would the Japanese producers
14 -- and this is the crux of their defense -- why would
15 they want to begin importing subject material into the
16 U.S. market and displace their existing domestic
17 production. And I want to go back to the line of
18 questioning that Mr. Pearson was having with Asahi and
19 make sure that it's clear about the flexibility to
20 convert to other products.

21 As Mr. Brozetti testified, Asahi Glass makes
22 granular, aqueous dispersion, and what he calls
23 coagulated dispersion, which is another name for fine
24 powder. They make all three of those products in
25 their New Jersey facility. If they have monomer

1 capacity, they can make dispersion and fine powder
2 from that monomer capacity essentially immediately.
3 There's no permitting. There's no additional
4 facilities. It's just making more from the same
5 asset. What I think was confusing is when he was
6 discussing making new products, like copolymers, PFA,
7 FEP, yes, certainly, that would require permits, that
8 would require capital investment, and so forth.

9 Our contention is not just that flexibility
10 with Asahi Glass. In fact, the flexibility with Dikon
11 is even more significant of a threat. They make the
12 three PTFE products that we mentioned, two of which
13 are higher value, non-subject products. They, also,
14 make FEP, PFA, ETFE in their U.S. facility. So, they
15 would have, in fact, a strong incentive to supplement
16 with imports and use their local monomer capacity to
17 make those higher-value products.

18 Asahi Glass testified that they are
19 subsidiary in the U.S., so they're essentially
20 financially part of the parent corporation, as far as
21 profitability is concern, and I would refute Mr.
22 Neeley's statement that why would they sell granular
23 products from Japan in the U.S. market. Well, here's
24 a perfectly good example of why they would do that.
25 And Commissioner Hillman asked this question and I

1 don't think she got a sufficient response. If they
2 sell at a comparable market price, which is clearly
3 much higher than the variable cost of the product in
4 Japan, they will contribute positive earnings to the
5 corporation. So, if you look in the data, you'll see
6 that the variable cost in Japan is significantly below
7 the market price in the U.S. and if there's excess
8 capacity in Japan by bother Dikon and Asahi, which we
9 contend there is, anything above variable cost will
10 result in profit for the corporation. So, they would
11 have strong incentive to utilize that capacity in the
12 U.S. market to supplement their existing business.

13 MR. MELTZER: I would like to continue along
14 that line, because what this really goes to is the
15 theory about the case, which we're not just talking
16 about now the existing situation, but we're talking
17 about likelihood in the foreseeable future. We've
18 talked about the incentives. Mr. Colven has talked
19 about the ease with which you can product shift. I
20 think it is important to keep in mind another aspect
21 of what Mr. Brozetti said, which is that on the one
22 hand, he said that why would the Japanese ever want to
23 bring product here to undercut their own domestic
24 sales. He said that in one breadth. But in another
25 breadth, he said with respect to Dikon, that they're

1 willing to do so from China. They're bringing product
2 in here from China and they're doing exactly what he
3 said that the Japanese would not do, which is bring
4 imported product here, which undercuts their U.S.
5 sales.

6 The reason that they are not doing it from
7 Japan is obvious. If you look at the most applicable
8 dumping margins against Dikon and Asahi, it exceeds
9 more than a 50 percent dumping margin. So, what we
10 have to do is look at what would happen if that 50
11 percent dumping market goes away. What would that do
12 the freedom and flexibility that they would have to
13 do, which Asahi is saying that Dikon is already doing
14 from Japan -- excuse me, from China? So, it expands
15 what they could already do and, again, we're talking
16 about not just the small amount of products coming in
17 now with the 50 percent plus dumping margins in place,
18 but what would happen in the foreseeable future, what
19 kind of flexibility where now they have to rationalize
20 their operations, and also what are the incentives for
21 doing so?

22 There's another fact that Mr. Brozetti
23 pointed out, which is somewhat goes to the same point
24 and also is somewhat alarming, which he said that --
25 he was asked what are you importing now from Japan and

1 beyond the specialty products that he talked about, he
2 said, we're also bringing in a certain amount for
3 qualification. What does that mean? It means that
4 they're bringing product here to qualify for their
5 U.S. customers. And if the order goes away, how easy
6 then would it be to bring in more product from Japan?
7 I think Commissioner Hillman had it right when she was
8 talking about what is the quantity effect of bringing
9 more products in. What is the quantity effect, not
10 just the price effect. And those comments go to that
11 point.

12 What I'd like to do is close with another
13 point that Chairman Koplan brought up, which I think
14 he was perfectly on point, where he said, haven't we
15 seen this all before and haven't we already commented
16 on this and resolved these questions in the prior
17 review. What we will do in the post-hearing and what
18 I'd like to do in very short form today is compare the
19 critical variables that were examined in the first
20 sunset review and look at them now and ask you whether
21 or not we have a more compelling case now. If you
22 look at the key factors that apply, one is production
23 economics, it was the same in the first review, as it
24 is now: high-fixed costs and need to operate at high
25 rates.

1 What about excess capacity? In the first
2 review, the Commission found that there were seven
3 million pounds from Italy of excess capacity, eight
4 million pounds from Japan of excess capacity. Here,
5 we have six million from Italy, nine million from
6 Japan, the same amount of extensive excess capacity
7 from the subject producers.

8 What about cumulation? Well, we have an
9 even stronger case now, because the record shows in
10 the staff report that the products are even more
11 substitutable now than before, where before during the
12 first review, we talked about are -- there was a
13 conclusion that they were substitutable with a
14 reasonable overlap. We now have a finding that there
15 is more substitutability.

16 On underselling, during the first review,
17 what the Commission did is say, well, we have to look
18 back to the first investigation for the most probative
19 evidence along those lines and you will have to do
20 that again here, because there is really very little
21 comparative pricing data.

22 With respect to the condition of the U.S.
23 industry, the finding was the last time that the U.S.
24 industry was "not weakened." That is more than light
25 years away from what the situation is now, where we

1 have a very vulnerable -- everybody admits Asahi and
2 we admit and are faced with the same compelling
3 situation of significant loss is a much more
4 vulnerable situation.

5 What are the price trends? There was no
6 data in the first review, but if you compare, and as
7 we will compare the price data in the declines that
8 occurred during the investigation vis-a-vis the
9 declines that are occurring now, you will see greater
10 price declines now than in the past; again, another
11 attribute of a more compelling case.

12 What about R&D? During the first review,
13 the Commission found that R&D had recovered by the
14 U.S. industry. Here, the record shows R&D and
15 investment is declining; so, again, another case of a
16 more problematic situation faced by the U.S. industry,
17 a strong case for continuing the orders now.

18 And here's a point that also applied both in
19 the original investigation, the first review, and now,
20 the existence of U.S. affiliates of foreign subject
21 producers. It applied in the first case, as the
22 Chairman pointed out, it applied during the first
23 review, and it applies now. It was not a bar then; it
24 should not be a bar now.

25 So, overall, what we are finding is that if

1 you compare the facts in the first review to the facts
2 now, you find a more compelling case, at least as
3 strong a case now, if not more compelling than in the
4 past. And with that, I'll conclude. Thank you.

5 CHAIRMAN KOPLAN: Thank you. Mr. Neeley?

6 MR. NEELEY: Thank you, Mr. Chairman. I'll
7 be very brief. We need to make sure in discussing
8 this case that we don't get into a trap, which
9 sometimes is suggested by Petitioners, that if we
10 don't show up at these hearings, then we lose,
11 because, well, we defaulted, and if we do show up,
12 then we must have something nefarious on our minds,
13 because we showed up, otherwise, we wouldn't be here
14 to tell our story. I think our story is fairly
15 straightforward. Mr. Brozetti has told the story. It
16 has to do with our once chance in five years to be
17 here and to present our situation and ask the
18 Commission to do what we think is reasonable, so that
19 we can bring in a small amount of material to round
20 out our line.

21 I have a couple of comments on what was said
22 a few minutes ago. First of all, I need to clarify, I
23 think, something about what Mr. Brozetti said. He was
24 talking about the monopolymer -- the monomer and
25 bringing it in and the additional investment that

1 would have to be done, in order to expand the facility
2 or fix the facility in New Jersey or in Pennsylvania.
3 And as DuPont, I think, correctly pointed out, that's
4 not true for every one of the product that's he's
5 talking about. We agree with that. What DuPont
6 doesn't tell you though and which they probably don't
7 know is that we're already at capacity for those other
8 products. So, the fact is that in some sense, it's
9 the same situation. We would have to have additional
10 investment, if we want to do all this product shifting
11 that is being talked about here. It's not a matter of
12 just flipping the switch, because we've got a lot of
13 excess production out here. I'm informed by Mr.
14 Brozetti that that is not the case and we can provide
15 you with further information on that. So, the product
16 shifting around is really not a realistic possibility
17 in our case.

18 Going back to another comment that we have
19 heard from DuPont about granular and my comment about
20 why would you bring in a product from a high-class
21 producer from Japan, that makes really no sense when
22 it's the low end of the product spectrum. The
23 response from DuPont is about variable cost pricing.
24 In a vacuum, that sounds like a pretty good answer.
25 But the reality is, you have to think about it a

1 little bit more. Why do you go to a place like Japan,
2 which has, still has higher variable costs than the
3 variable costs in the U.S.? I mean, why would do
4 that? I suppose if you had a huge amount of excess
5 capacity in Japan, then maybe there's some logic to
6 that. But the reality is, and we'll discuss that
7 further in our brief, there's not huge excess capacity
8 in Japan. So, really, the variable cost pricing
9 argument doesn't really make any sense, because,
10 relatively speaking, the costs in the U.S. are still
11 much lower. So, it makes much more sense to do it
12 here.

13 Dikon is in a somewhat different position
14 than AGC is, as we've discussed. They do have, as Mr.
15 Brozetti testified, no flexibility in their production
16 process. And what would happen, though, you know --
17 by itself, that might be some source of concern to the
18 Commission -- but what we think would happen, and it's
19 fairly clearly already has happened, is that in
20 absence of an order, because Dikon has a major
21 facility in China, they would turn to China, as they
22 have now. It makes much more sense to bring the low-
23 end material, the granular material in from China
24 rather than from Japan. So, we think in the case of
25 Dikon, the reasons are somewhat different than for

1 AGC, as to why it wouldn't pose a threat. But, still,
2 they're there and the reason is simply because they
3 have this Chinese facility, which makes much more
4 sense for them to purchase from.

5 I guess in conclusion, that's pretty much
6 what I have to say on Japan. I think it's also
7 important just to wrap up that we shouldn't lose track
8 of the Italian case. I mean, we are here also to ask
9 the Commission to continue the order with regard to
10 Italy. We are a U.S. producer, fundamentally, we're a
11 U.S. producer and that's why we're here. And we would
12 like to just conclude our thoughts by saying that we,
13 also, think very strong that it's important that
14 because the industry is vulnerable, which we agree
15 whole heartedly with DuPont on, that the Commission
16 should continue the order with regard to Italy. Thank
17 you.

18 CHAIRMAN KOPLAN: Thank you, Mr. Neeley. I
19 want to thank all those, who participated in this
20 investigation. I think that both your direct
21 presentation and the questions that came from the dais
22 and staff have been extensive and very much appreciate
23 it. Also, I want to thank the staff for their
24 assistance in this investigation.

25 Post-hearing briefs, statements responsive

1 to questions, and requests of the Commission and
2 corrections to the transcript must be filed by
3 November 3, 2005; closing of the record and final
4 release of data to parties November 18, 2005; final
5 comments by November 22, 2005. With that, this
6 hearing is concluded.

7 (Whereupon, at 1:36 p.m., the hearing in the
8 above entitled-matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Granular Polytetrafluoroethylene
INVESTIGATION NO.: 731-TA-385 and 386
HEARING DATE: October 25, 2005
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

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

DATE: October 25, 2005

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

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

SIGNED: Carlos Gamez
Signature of Proofreader

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

SIGNED: Christina Chesley
Signature of Court Reporter