

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
POLYETHYLENE RETAIL CARRIER) Investigation Nos.:
BAGS FROM INDONESIA, TAIWAN,) 701-TA-462 and
AND VIETNAM) 731-TA-1156-1158
) (Preliminary)

REVISED AND CORRECTED COPY

Pages: 1 through 200
Place: Washington, D.C.
Date: April 21, 2009

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888
contracts@hrccourtreporters.com

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
 POLYETHYLENE RETAIL CARRIER) 701-TA-462 and
 BAGS FROM INDONESIA, TAIWAN,) 731-TA-1156-1158
 AND VIETNAM) (Preliminary)

Tuesday,
 April 21, 2009

Courtroom A
 U.S. International
 Trade Commission
 500 E Street, S.W.
 Washington, D.C.

The conference commenced, pursuant to notice, at 9:40 a.m., at the United States International Trade Commission, JOHN ASCIENZO, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:Staff:

JOHN ASCIENZO, DIRECTOR OF INVESTIGATIONS
 GEORGE DEYMAN, SUPERVISORY INVESTIGATOR
 JOSHUA KAPLAN, INVESTIGATOR
 KARL VON SCHRILTZ, ATTORNEY/ADVISOR
 CRAIG THOMSEN, ECONOMIST
 CHARLES YOST, AUDITOR
 RAYMOND CANTRELL, INDUSTRY ANALYST

APPEARANCES: (cont'd.)

In Support of the Imposition of Antidumping and
Countervailing Duties:

On behalf of Hiley Poly Co., LLC; and Superbag
Corporation:

ISAAC BAZBAZ, Director, Superbag Corporation
MARK DANIELS, Vice President of Marketing &
Environmental Affairs, Hilex Poly Co., LLC
ANTHONY RIZZO, Vice President - Sales, Hilex Poly
Co., Command Packaging

JOSEPH W. DORN, Esquire
STEPHEN J. NARKIN, Esquire
King & Spalding LLP
Washington, D.C.

In Opposition to the Imposition of Antidumping and
Countervailing Duties:

On behalf of Ampac Packaging Vietnam Ltd; Ampac
Plastics LLC; The Cannon Group, Inc.; Chung Va
(Vietnam) Plastic Packaging Co., Ltd.; Elkay Plastics
Co., Inc.; Glopack, Inc.; Glopack Packaging PT;
Industrias Chung Va (Holdings) Limitada; MHI Inc.;
Packaging Concepts International; PT Super Exim Sari;
and PT Super Makmur:

FAYE LIN, Marketing Executive, Super Exim Sari
STEVEN GITLIN, Sales Manager, Glopack, Inc.

LIZBETH R. LEVINSON, Esquire
WILLIAM E. PERRY, Esquire
RONALD M. WISLA, Esquire
Garvey Schubert Barer
Washington, D.C.

Rebuttal/Closing Remarks:

Petitioners

JOSEPH W. DORN, King & Spalding LLP

Respondents

LIZBETH R. LEVINSON, Garvey Schubert Barer

Heritage Reporting Corporation
(202) 628-4888

I N D E X

	PAGE
OPENING STATEMENT OF JOSEPH W. DORN, KING & SPALDING LLP	13
STATEMENT OF ISAAC BAZBAZ, DIRECTOR, SUPERBAG CORPORATION	15
STATEMENT OF MARK DANIELS, VICE PRESIDENT OF MARKETING & ENVIRONMENTAL AFFAIRS, HILEX POLY CO., LLC	24
STATEMENT OF ANTHONY RIZZO, VICE PRESIDENT - SALES, HILEX POLY CO., LLC	30
STATEMENT OF ALBERT HALIMI, CHIEF OPERATING OFFICER, COMMAND PACKAGING	37
OPENING STATEMENT OF WILLIAM E. PERRY, ESQUIRE, GARVEY SCHUBERT BARER	112
STATEMENT OF STEVEN GITLIN, SALES MANAGER, GLOPACK, INC.	115
STATEMENT OF FAYE LIN, MARKETING EXECUTIVE, SUPER EXIM SARI	124
REBUTTAL/CLOSING REMARKS OF JOSEPH W. DORN, ESQUIRE, KING & SPALDING LLP	188

P R O C E E D I N G S

(9:40 a.m.)

1
2
3 MR. ASCIENZO: Good morning and welcome to
4 the United States International Trade Commission's
5 conference in connection with the preliminary phase of
6 countervailing duty investigation No. 701-TA-462 and
7 antidumping duty investigation Nos. 731-TA-1156, 1157,
8 and 1158 concerning imports of polyethylene retail
9 carrier bags from Indonesia, Taiwan and Vietnam.

10 My name is John Ascienzo and I am the
11 Commission's Acting Director of Investigations and I
12 will preside at this conference.

13 Among those present from the Commission
14 staff from my far right are: George Deyman, the
15 supervisory investigator; Josh Kaplan, the
16 investigator; Craig Thomsen, the economist; Ray
17 Cantrell, the industry analyst; Chip Yost, the
18 auditor; and Carl Von Schrittz, the attorney advisor.

19 I understand that the parties are aware of
20 the time allocations. I would remind speakers not to
21 refer in your remarks to business proprietary
22 information and to speak directly into the
23 microphones. I also ask that you state your name and
24 affiliation for the record before beginning your
25 presentation.

1 Are there any questions?

2 Before we start, once again I apologize for
3 the lighting.

4 If there are no further questions I welcome
5 Mr. Dorn. Please proceed with your opening statement.

6 MR. DORN: Good morning.

7 In 2004 this Commission made a unanimous
8 affirmative determination that the domestic industry
9 producing polyethylene retail carrier bags, which I'll
10 refer to as PRCBs, was materially injured by reason of
11 dumped imports from China, Malaysia and Thailand. The
12 Commission found that the subject imports which
13 increased by about nine billion bags from 2001 to
14 2003, depressed and suppressed the prices of the
15 domestic like product and had a significant adverse
16 impact on the domestic PRCB industry. As a result,
17 the Commerce Department imposed antidumping orders
18 against imports from all three countries.

19 The domestic industry received substantial
20 benefits from the antidumping orders but the U.S.
21 importers' appetite for unfairly priced imports did
22 not recede. They began to shift sourcing from the
23 three countries subject to duties to countries with
24 the lowest available prices, that is Indonesia,
25 Taiwan, and Vietnam. Producers in China also began to

1 move production equipment to Vietnam where they could
2 obtain substantial subsidies from the socialist
3 government.

4 As shown in our petition, imports are being
5 dumped from all three countries and imports from
6 Vietnam are being subsidized. The Commission should
7 cumulate the imports from the three countries in
8 considering their impact on the domestic industry.

9 The conditions of competition distinctive to
10 this industry have not changed since 2004. The
11 products are the same and they continue to be sold on
12 the basis of price. Domestic producers are motivated
13 to meet the import prices, to maintain sales, to keep
14 their factories running 24x7.

15 Applying the statutory factors it is very
16 clear that the domestic industry is materially injured
17 by reason of unfairly traded imports.

18 First, the volume of imports is significant
19 and the increase in the volume of imports is
20 significant. In 2008 subject imports were equal to 40
21 percent of imports from all countries and well over 15
22 percent of U.S. consumption. From 2006 to 2008
23 subject imports jumped 114 percent measured by the
24 number of bags and doubled their share of the U.S.
25 market. They increased by about nine billion bags,

1 the same increase that the Commission found injurious
2 to the domestic industry in its 2004 determination.

3 Second, as you will hear from our witnesses,
4 the subject imports have undersold comparable domestic
5 products by wide margins. The lower priced imports
6 have forced domestic producers to reduce prices and to
7 refrain from price increases to cover their increasing
8 cost of production, including that of polyethylene
9 resin, a primary cost driver for the industry.

10 The price undercutting has resulted in
11 substantial lost sales and lost revenues as detailed
12 in the petition. Moreover, economic logic tells us
13 that even without any price underselling such a large
14 increase in supplies from the subject countries has
15 necessarily had an adverse impact on U.S. prices.
16 Take away those imports and U.S. market prices would
17 be significantly higher.

18 Third, the increasing volume of lower priced
19 imports has had a large negative impact on the
20 domestic industry's operations and financial
21 condition. The aggregate data from U.S. producers'
22 questionnaires will depict an industry that lost
23 substantial sales, capacity, production and employment
24 from 2006 to 2008. The data will also show that the
25 industry's financial condition deteriorated as a

1 result of declining sales and a cost-price squeeze.

2 From 2006 to 2008 the industry suffered
3 declining gross profits, operating income, net income,
4 and cash flow. Capital investment came to a
5 standstill.

6 The facts in this case are so strong and
7 obvious that everyone has been expecting it. In
8 October of last year Ken Pierce, a Washington trade
9 lawyer, told the Vietnam plastic association that a
10 case was about to be filed. As reported in the Thanh
11 Nien Daily newspaper on October 23, 2008, Mr. Pierce
12 said that, "Exporters from Vietnam have offered the
13 lowest prices for their products." We certainly agree
14 with Mr. Pierce's assessment.

15 Given the other side's witnesses who will
16 appear later today, I suspect that you will hear the
17 argument that the continuum of PRCBs from T-shirt
18 style bags up to so-called high end shopping bags
19 should be divided somewhere along the line into two
20 like products. This issue was hotly debated in 2004
21 and nothing significant has changed since then. The
22 scope of this case is exactly the same as the scope
23 the Commission considered in 2004 when it unanimously
24 rejected Respondents' arguments to define two like
25 products. The Commission should reject those same

1 arguments if they are made again in these
2 investigations.

3 To conclude, the Commission should determine
4 that there is a reasonable indication of material
5 injury by reason of unfairly traded imports from each
6 of the subject countries.

7 Thank you very much.

8 MR. ASCIENZO: Thank you, Mr. Dorn.

9 MS. LEVINSON: Good morning members of the
10 Commission staff. Thank you for the opportunity to be
11 here. I'm Lizbeth Levinson with Garvey, Schubert
12 Barer. We represent the coalition of polyethylene
13 retail carrier bag producers from Vietnam and
14 Indonesia and importers from these countries as well.

15 The Commission should issue a negative
16 preliminary determination and terminate the
17 investigations as the administrative record fails to
18 establish that there's a reasonable indication of
19 material injury or threat of material injury by reason
20 of imports from Indonesia or Vietnam.

21 This is the second time that Hilex and
22 Superbag have appeared before the Commission
23 complaining about material injury from imports of
24 PRCBs. Back in 2003 these same Petitioners claimed
25 the imports from China, Malaysia and Thailand were

1 injuring them and that such injury could only be
2 offset by the imposition of antidumping duties.

3 Respondents knew better, explaining at that
4 time to the Commission that antidumping duties from
5 imports in those countries would only benefit other
6 low cost producers in third countries, not U.S.
7 producers. Plainly, this is exactly what has happened
8 as the Petitioners have come back for the second
9 bailout.

10 Now that imports from China, Malaysia and
11 Thailand are fairly traded, Petitioners continue to
12 cry injury, this time blaming three other countries.
13 At what point will the Commission realize that it's
14 not imports that are the cause of injury? The problem
15 is that Petitioners are making a low value, low margin
16 commodity product with high fixed costs, a combination
17 that is not conducive to profitability in this
18 economic downturn.

19 One can reasonably surmise that even if the
20 antidumping duties are imposed on imports from
21 Indonesia, Taiwan and Vietnam, these same Petitioners
22 will be back for more in another five years, claiming
23 that they're suffering injury from PRCBs produced in
24 three more countries.

25 A further problem is that the Petitioners

1 are asking for relief for products that are far beyond
2 the ones they produce. The Petitioners, who only
3 produce commodity T-shirt bags, seek to impose a
4 single like product that includes customized high end
5 merchandise bags. Although this argument was accepted
6 in the earlier PRCB case, the Commission must revisit
7 this issue in light of recent legislation by state and
8 local governments emphasizing the distinction between
9 the T-shirt bags on one hand and higher end shopping
10 bags on the other.

11 Since 2007 some municipalities such as San
12 Francisco have banned entirely the use of T-shirt
13 bags. Other states and local governments such as New
14 York, California and New York City have enacted laws
15 requiring the recycling of T-shirt bags in an effort
16 to promote greener environmental practices.
17 Significantly, all these statutes distinguish between
18 T-shirt bags that are subject to these laws and high
19 end merchandise bags that are not. Specifically the
20 coverage of these laws are limited to disposable
21 plastic bags with a gauge of less than 2.25
22 millimeters. All the high end bags which are made by
23 our clients are reusable and have gauges in excess of
24 2.25 millimeters and thus are specifically excluded
25 from these laws.

1 Plainly, these government bodies have
2 determined that there is a clear dividing line that
3 this Commission too should now recognize. A review of
4 the six statutory criteria also supports a finding of
5 two like products as our witnesses will explain during
6 their presentations. T-shirt bags and high end
7 shopping bags constitute two like products under a
8 fair reading of the statute. So when Mr. Dorn comes
9 before you and tells you nothing has changed since
10 2004, we ask that you take a look at these statutes.
11 There has been a significant change since 2004.

12 Should there be any indication of material
13 injury the Commission should find that such injury is
14 attributable to other factors. These other factors
15 include the economic recession which has significantly
16 dampened retail sales, and the emergency and the
17 increased usage of alternative materials and reusable
18 bags for the promotion of a greener environment.

19 One of our witnesses has traveled from
20 Indonesia to explain to the Commission staff why
21 imports from that country are not causing a reasonable
22 indication of injury or threat of injury. As she will
23 testify in considering the issue of threat, the
24 Commission should refrain from cumulating imports from
25 Indonesia with imports from Vietnam and Taiwan.

1 Thank you very much.

2 MR. ASCIENZO: Thank you very much.

3 Mr. Dorn?

4 MR. DORN: Thank you, sir. Joe Dorn for
5 King & Spalding.

6 I'd just like to make a couple of comments
7 about like product. We made this case easy for the
8 Commission because we used exactly the same scope that
9 was used back in the 2003 petition. Mr. Gitlin who
10 will be testifying later this afternoon, or this
11 morning, testified twice before the Commission, at the
12 staff conference in 2003 and at the final hearing in
13 2004. He laid out all his arguments for like product
14 and he was joined by many other witnesses, many more
15 witnesses than are appearing today to make those
16 arguments.

17 The Commission applied the like product
18 factors and agreed with us that there is a continuum
19 and we don't know where you draw the line along that
20 continuum. In fact there was a lot of confusion from
21 the other side in the earlier case because they
22 couldn't reach a consensus on where to draw the line.
23 Mr. Gitlin might have a suggestion today, but somebody
24 else on the other side might have another suggestion.
25 We don't think anything has changed.

1 Ms. Levinson mentions the statutes. Well,
2 the period of investigation covers 2006 to 2008.
3 There has been one ban of the use of PRCBs and that
4 was in San Francisco. That's it. Everything else
5 she's talking about is prospective and has not
6 happened yet.

7 If she's suggesting that there's a dividing
8 line in 2.25 mils, the fact is that U.S. producers
9 make those products. I think she was suggesting that
10 the U.S. industry makes products below 2.25 and the
11 imports are over 2.25, but that's not true.

12 While this case was filed by Hilex and
13 Superbag which focus on T-shirt bags, they filed the
14 case on behalf of the domestic industry producing
15 PRCBs. We'll have a witness in just a few minutes
16 from Command Packaging who produces T-shirt bags but
17 also goes all the way up the continuum producing
18 higher end bags.

19 You will also note that yesterday letters of
20 support for the petition were filed by Genpak which
21 testified back in 2004 and talked about its so-called
22 high end bags and how they competed directly with all
23 the imports at issue. A letter of support from
24 Rollplast, which again does not produce T-shirt bags
25 but produces the higher end bags.

1 So the idea that they're producing this
2 product and the U.S. industry is producing that
3 product is not correct. They are products along the
4 continuum. They are made in the United States and
5 they're made in each of the three countries subject to
6 the investigation and they match up at all points
7 along that continuum. And there's nowhere to break
8 that continuum as the Commission determined
9 unanimously back in 2004.

10 I think with that short introduction I'll
11 turn it over to our first witness, Isaac Bazbaz.

12 MR. BAZBAZ: Good morning.

13 My name is Isaac Bazbaz. I am and have been
14 a director of Superbag since its establishment in
15 1988. Superbag is a family owned private company with
16 headquarters in Houston, Texas. We are one of the
17 largest U.S. producers of T-shirt style polyethylene
18 retail carrier bags.

19 We operate a single plant that is totally
20 dedicated to the production of PRCBs. We have about
21 250 employees.

22 Our bags are generally sold to grocery
23 stores and retail outlets. As you know, these bags
24 are given away for free.

25 The process for making PRCBs is generally

1 the same everywhere in the world. It is a four step
2 process. First polyethylene resins and color
3 concentrates are blended and injected into an extruder
4 and the mixture is extruded into the film. Second,
5 the film is wound into rolls and fit into a printer
6 where a customer's design is printed on the film.
7 Third, the film is converted into bags by cutting the
8 film into the desired shape and size and heat sealing
9 the top and bottom. Finally, the finished bags are
10 inspected, packaged and placed for inventory.

11 Manufacturers of PRCBs in Vietnam, Indonesia
12 and Taiwan use the same raw materials and follow
13 generally the same production processes and use
14 similar production machinery as producers in the
15 United States. Imported bags from these countries and
16 PRCBs made in the United States are perfect
17 substitutes. In fact in most cases the imported and
18 domestic products are identical. Many retailers buy
19 the T-shirt bags from American producers like Superbag
20 and Hilex and also buy PRCBs from Vietnam, Taiwan or
21 Indonesia and they use the domestic and imported
22 products interchangeably.

23 Here are samples of typical T-shirt bags.
24 The first is a product that we make for WalMart and
25 the second is an imported product sold by Spectrum to

1 WalMart. The imported bag is not marked with the
2 country of origin, but Spectrum's logo appears on the
3 bag. We understand that Spectrum imports bags from
4 the subject countries.

5 In fact there is a carton we obtained that
6 shows WalMart buys bags made in Indonesia.

7 I testified before the Commission five years
8 ago in the cases that were brought against PRCBs from
9 China, Thailand and Malaysia. At that time the U.S.
10 industry was in a steep downturn due to imports from
11 these countries, even though demand was very strong.
12 The successful outcome of these cases resulted in a
13 major improvement in our business. We can see clearly
14 if you compare our questionnaire data from that
15 investigation to our questionnaire data for the first
16 part of the period covered by this investigation our
17 sales volume improved, our pricing improved, and our
18 profitability increased.

19 In light of the significant changes for the
20 better, we invested in new equipment which enabled us
21 to increase our production efficiency and our
22 capacity. But we are now once again facing a major
23 problem with unfair trade. From 2006 to 2008 dumped
24 and subsidized imports from Indonesia, Taiwan and
25 Vietnam more than doubled in the number of bags. In

1 2006 these three countries accounted for 40 percent of
2 imports from all countries. In 2008 they accounted
3 for 60 percent the imports from all countries.

4 Using unfairly low prices, imports from
5 these three countries more than doubled their share in
6 U.S. markets from 2006 to 2008.

7 These imported bags are not better than
8 ours. They do not have any feature that our bags
9 lack. They have been able to take such a large share
10 of the market for a single reason: they are very
11 aggressively priced.

12 As a result, we have been deprived of some
13 of the benefits we previously enjoyed as a result of
14 the orders against China, Thailand and Malaysia. In
15 fact, in certain respects, we are in worse shape now
16 than before the previous cases were filed. This is
17 not due to factors other than the imports from the
18 countries under investigation. Demand over the past
19 three years has continued to be stable or grown
20 slightly.

21 I suspect that you might have questions
22 about effects on demand and environmental concerns as
23 reflected in things like the use of reusable bags.
24 I'd be happy to answer any such questions, but I want
25 to say up front that any such effects have been

1 negligible. We believe that less than one percent of
2 the consumers that buy bags, that buy goods from our
3 customers bring back their reusable bags to the
4 stores.

5 So demand is not the problem. Instead, our
6 problems are directly attributable to the surge in
7 imports. These imports are being offered at very low
8 prices. To compete with these imports we were forced
9 to lower our prices significantly and this happened at
10 a time when the cost of our major input polyethylene
11 resin was high and rising.

12 Even so, we have suffered many lost sales
13 and this has been very damaging. For example, we lost
14 significant business at one of our largest customers
15 last year. Details are in the response in the
16 questionnaire. This resulted in a significant
17 reduction of our production which forced us to lay off
18 more than 60 employees. This is a reduction in
19 employment of more than 20 percent.

20 These lost sales have also hurt us in other
21 ways. Our equipment is designed to run continuously,
22 and as I indicated before, we have recently increased
23 our capacity because we thought that unfair trade in
24 the market had been eliminated. We would be operating
25 all of this capacity continuously right now were it

1 not for the imports at issue in this case. As I said
2 before, demand is still strong. Instead we have
3 significant excess capacity. This caused serious
4 negative consequences for many reasons.

5 First, because our equipment is designed to
6 operate continuously, we are forced to try to compete
7 with the low price of imports to maintain some
8 developed business. You found in the prior
9 investigation that imports from China, Taiwan, and
10 Malaysia were highly substitutable for the domestic
11 product. The facts are no different in this
12 investigation. There are no significant physical
13 order differences between the T-shirt bags that we
14 and other domestic producers make, and the T-shirt
15 bags are being imported from Indonesia, Taiwan and
16 Vietnam. This is why these products are commonly
17 purchased by major retailers through internet bids
18 including reverse auctions. You wouldn't see this
19 happen if the retailer viewed the product as anything
20 other than a commodity.

21 The fact that this is a commodity is also
22 reflected in that some domestic producers are using
23 blended sales programs. That is a domestic producer
24 will commit to sell a customer its higher priced
25 domestic bags and lower priced imported bags at a

1 single average price. This approach works only
2 because the customer sees the imported and domestic
3 products as identical.

4 Hence, the only way that we can try to
5 compete with the imports from Indonesia, Taiwan and
6 Vietnam is on the basis of price. In some instances
7 we have had no choice but to meet the low import
8 prices head on. We have some customers that we simply
9 cannot afford to lose. Our operations require a
10 baseload of volume to have any chance of operating
11 successfully. this baseload consists in large part of
12 sales to major retailers. Imports from Indonesia,
13 Taiwan and Vietnam are aggressively seeking to take
14 over that business by offering very low prices.

15 The price of our primary raw material,
16 polyethylene resin, rose significantly during the
17 period of investigation. Ordinarily this would not by
18 itself present a real problem. With many customers we
19 have agreements to tie the price of the cost to resin
20 as measured by a publicly available index. With other
21 customers we have an informal understanding that our
22 price will be adjusted to reflect changes in the price
23 of resin.

24 With the surge in subject imports these
25 mechanisms largely broke down and our margin between

1 the selling price and cost of resin declined. In
2 other cases we're not able to compete successfully
3 with the subject imports on the basis of price. In
4 many cases the import prices that are offered to our
5 customers is so low that we would lose money on the
6 sales if we were to match those import prices. This
7 is especially frustrating because we have very modern
8 facilities and an efficiently trained workforce that
9 is dedicated to the production of T-shirt sized retail
10 carrier bags. In many instances we are just not able
11 to match the import prices. Thus we have lost
12 significant volume to those imports.

13 With this lost production volume the
14 efficiency of our operation has been significantly
15 impaired. It is expensive to stop and resume
16 operations. We cannot simply switch an extruder on
17 and off. For that reason we normally only shut down
18 on Christmas Day and New Year's Day. Our plant
19 otherwise runs continuously.

20 Last year as a result of the sales we lost
21 to the imports we were forced to shut down our entire
22 plant for an additional four days, and also had to
23 shut down a substantial portion of our plant for 36
24 days. This drove up our unit cost.

25 Finally, under these circumstances we cannot

1 even consider significant investments that would
2 increase our capacity or otherwise improve our
3 operations. With a strong market and modern, highly
4 automated facility, and adequate floor space to grow,
5 we would be expanding our capacity. Instead, we are
6 just trying to survive.

7 Our questionnaire response shows you what
8 has happened to our profitability. If imports
9 continue at current levels, our viability will be in
10 question. Moreover, it is a given that imports will
11 continue to rise from current levels. Increasing
12 imports from 2006 to 2008 from subject countries was
13 dramatic. Their unfairly low prices will enable them
14 to continue to grab market share in the United States
15 and force more U.S. plants to close. We understand
16 that a number of plants in Vietnam are fairly new and
17 have excess capacity. Moreover, with the support of
18 the Vietnamese government they can easily add new
19 capacity as needed to increase their exports.

20 Our future depends on the imposition of
21 duties against imports from Indonesia, Taiwan and
22 Vietnam. If fair trading is restored I am confident
23 that we will be able to compete and maintain and
24 hopefully increase our 250 jobs.

25 Thank you for the opportunity to appear

Heritage Reporting Corporation
(202) 628-4888

1 before you today.

2 MR. DANIELS: Hello. I'm Mark Daniels. I'm
3 the Vice President of Marketing and Environmental
4 Affairs for Hilex Poly Company. In that capacity I
5 have executive level sales responsibilities for all of
6 Hilex's products including PRCBs. I have a degree in
7 business administration from Villanova University.

8 Hilex is an industry leading manufacturer of
9 plastic bags and film products. We're based in
10 Hartsville, South Carolina. We have eight
11 manufacturing facilities throughout the United States
12 which are strategically located. Additionally we have
13 a packaging films plant and the first plant in the
14 United States devoted to recycling used plastic bags
15 and wraps. Hilex is the largest producer of PRCBs in
16 the United States and we believe we are the world's
17 largest manufacturer of PRCBs.

18 Like Superbag, our PRC business is focused
19 on T-shirt bags. Hilex's PRCB business has grown
20 substantially in recent years through acquisitions.
21 In late 2003 Hilex entered into the plastic bag and
22 film business with the purchase of the High Density
23 Film Products Division of Sunoco Company. In the fall
24 of 2005 Hilex purchased Vanguard Plastics which was
25 one of the country's largest makers of PRCBs.

1 I joined Hilex from Vanguard where I served
2 as Director of Marketing and General Manager of our
3 Packaging Films Division.

4 One of the things that made Vanguard
5 attractive to Hilex was the performance of Vanguard's
6 PRC business had improved substantially as a result of
7 the antidumping orders against imported PRCBs from
8 China, Malaysia, and Thailand that were put in place
9 in mid 2004. Since that acquisition, however, we have
10 seen the benefits of those order dissipate because
11 imports have surged from Indonesia, Taiwan and
12 Vietnam.

13 From 2006 to 2008 dumped imports from
14 Vietnam, Indonesia and Taiwan and subsidized imports
15 from Vietnam jumped by 114 percent in units. Their
16 surge is explained by one and only one reason. They
17 are much lower priced than comparable domestic
18 products.

19 Based on our estimates of U.S. consumption
20 these unfairly traded imports at least doubled their
21 share in the U.S. marketplace in just three years, and
22 there's more where that came from.

23 We understand that plants are being built
24 and expanded in these countries and that U.S.
25 importers have shifted sourcing to these countries to

1 avoid the duties imposed against China, Malaysia and
2 Thailand.

3 Although this import surge has severely
4 harmed our business operations in numerous ways,
5 perhaps the clearest manifestation of the harm that we
6 have suffered is the fact that we've been forced to
7 close three of our production facilities since 2007.

8 In February of 2007 we closed our Rancho
9 Cucamonga, California plant. In January of 2008 we
10 closed our Victoria, Texas plant. And in October of
11 2008 we closed our Mount Olive, North Carolina plant.
12 Each of these plants was dedicated to the production
13 of PRCBs as defined in these investigations.

14 As detailed in the confidential version of
15 the petition on pages 17 and 18, each of these plants
16 had large bag-making capacity and employed a
17 significant number of employees. These plants were
18 important employers and contributors to the tax base
19 in their small communities. They are now gone. All
20 the workers lost their jobs. But even this large
21 reduction in capacity has not enabled us to align our
22 capacity with demand. Our reduction in capacity has
23 been matched by an equivalent drop in our sales and
24 production. This has left us with as much excess
25 capacity as we had before closing the three plants.

1 This is a major problem because our facilities, like
2 those of Superbag, are designed to operate
3 continuously.

4 As Commission staff can appreciate from the
5 tour of our Richmond, Virginia plant, the film
6 extrusion process cannot be economically shut down at
7 night and restarted in the morning. The plant is
8 designed to operate 24x7. The equipment cannot be
9 switched on and off without sacrificing a significant
10 amount of raw materials.

11 For this reason we ordinarily only close for
12 four or five days surrounding Christmas. Our plants
13 are designed to run 360 days a year. But we have been
14 forced to shut down operations on many occasions other
15 than normal holiday shutdowns. In 2008, for instance,
16 we were forced to cut production by 25 percent across
17 our plants for a two month period in an effort to
18 rectify the supply/demand imbalance caused by the
19 dramatic increase in imports from Vietnam, Indonesia
20 and Taiwan. This has made our operations run less
21 efficiently and has driven up our unit costs.

22 During the last three years we came under
23 increasing pressure to match extremely low import
24 prices so that we could retain business and operate
25 more efficiently. Our only way to compete with these

1 imports is price because purchasing decisions are
2 overwhelmingly driven by price. But when we reduce
3 our prices to retain business we suffered lower
4 margins.

5 When we lose a customer to unfairly priced
6 imports the foreign producer becomes the incumbent
7 supplier. It's hard to get that business back without
8 undercutting the incumbent's price. Some customers
9 are simply too important to lose because their volume
10 and strategic value is critical to our operations.

11 Please keep in mind that the unfairly priced
12 imports have prevented us from modifying our prices to
13 keep pace with escalating operating costs. The surge
14 in imports from Indonesia, Taiwan and Vietnam
15 subjected us to severe cost/price squeeze. Thus
16 meeting the low import price was not and is not a
17 strategy that we can employ very often, so in many
18 cases we decided that we could not do that. You can
19 see the consequences of our inability to match the
20 import prices in our questionnaire responses.

21 Our production fell sharply and our
22 shipments fell sharply. Our profitability
23 deteriorated significantly. The only reason for this
24 is we lost sales to imports from the countries under
25 the investigation. It isn't because demand was weak.

1 Demand during the period covered by your investigation
2 was stable. We have documented these lost sales in
3 the confidential version of the petition. We lost
4 many sales, and when you add them up these sales
5 losses are very large in dollar terms as well as
6 negatively impacting employment.

7 Finally, let me talk about what the future
8 will look like if we do not receive relief from unfair
9 trade as a result of these cases.

10 Our questionnaire response shows you what
11 our financial performance has been. If that situation
12 continues it will be inevitable that we'll be forced
13 to consider closing additional facilities which would
14 cause even more harm to our workforce and the
15 communities where we live.

16 We value these employees and the communities
17 where we have invested and truly believe we can
18 compete in a fair marketplace.

19 In conclusion, just as the industry needed
20 your help in 2004, we need it again today. Hilex has
21 world class manufacturing facilities. We have a
22 highly skilled and loyal workforce. We should have
23 bene profitable during 2006 to 2008 and been able to
24 at least maintain existing capacity. We cannot,
25 however, compete with unfairly low prices of dumped

1 and subsidized imports that take away our sales and
2 production and force us to lower prices on remaining
3 sales.

4 Please restore fair competition to the U.S.
5 marketplace.

6 Thank you for the opportunity to explain
7 Hilex's perspective on these important issues.

8 MR. RIZZO: Good morning, my name is Anthony
9 Rizzo. I'm the Vice President for Sales for Hilex
10 Poly. Including my tenure with Hilex Poly I have 13
11 combined years of experience with plastic film and
12 flexible packaging. I'm responsible for developing
13 Hilex's marketing program, supervising the analyses of
14 our market and supervising our sales force. I'm often
15 directly involved in sales negotiations with some of
16 our major customers.

17 In the PRCB market price is overwhelmingly
18 the most important factor in purchasing decisions.
19 That is true of many products made from plastics and
20 it is especially the case with this product because
21 the retailer does not charge its customers for it.

22 Retailers see the product as providing
23 little or no value added. This makes them very
24 sensitive to the cost of the product. Because the
25 product is given away, they prefer that the cost of

1 the product be as close to zero as possible.

2 In addition, the domestic product and
3 imports from Indonesia, Taiwan and Vietnam are sold
4 through the same channels of distribution. In fact our
5 product sits side by side with subject imports in the
6 same distribution warehouses across the country.

7 This is true even for the products that we
8 sell to large retailers. When we make such sales we
9 negotiate the price with the retailer, but more often
10 than not we actually ship the product to a
11 distributor. There are several very large
12 distributors that ship a bundle of products to the
13 retailer that include PRCBs and other front end items
14 like register tape.

15 A high percentage of imported PRCBs are sold
16 in exactly the same way. That is even when the sale
17 is to the end user, the product is sent to a
18 distributor where it is warehoused and then packaged
19 in a bundle with other products for shipment to the
20 retailer. Thus price is viewed as critical.

21 Let me talk a little bit about the prices of
22 the imports from the countries under investigation.

23 The prices that Hilex and other U.S.
24 producers charge are grounded in reality. They move
25 up and down with the changes in the price of

1 polyethylene resin. But we've observed the prices of
2 imports from the countries under investigation at
3 times bear minimal or no relationship to changes in
4 raw material pricing.

5 The initial import price is set at a level
6 so low that it is almost guaranteed to win the
7 business. If the importer later senses that they may
8 be leaving money on the table by setting prices so
9 low, they may raise them somewhat. But the minute
10 that it meets customer resistance to higher prices, it
11 immediately drops them to a level that will get them
12 the business.

13 This irrational pricing has hurt us time and
14 time again. In some cases it became clear to us that
15 the low import prices were about to cause us to lose
16 the business of customers that we regarded as
17 strategic. So in those instances we were compelled
18 to dramatically lower our prices as a defensive
19 measure. In other cases we decided we could simply
20 not afford to match the import price so we lost that
21 business. Hilex has provided the Commission with a
22 description of many such cases. These lost sales are
23 set forth in the confidential version of our petition.

24 You will note that we have reported in many
25 cases that we are not certain of the source of the

1 imports and indicated they could have come from any of
2 the subject countries. There are a couple of reasons
3 for this.

4 First, the country of origin of the imported
5 bags is typically not marked on the bags themselves.
6 When the prior case was before the Commission I
7 understand that it was common for the country of
8 origin to be identified on the imported bags. When
9 antidumping duties were imposed on imports from China,
10 Malaysia and Thailand the country of origin markings
11 on the bag became far less common. Instead the
12 country of origin is now typically set forth somewhere
13 on the carton in which the bags are sold.

14 We generally do not have access to these
15 cases, but occasionally we obtain one. The one I have
16 for you here was obtained on the West Coast. It
17 contains bags made from North Gate.

18 If you turn the box upside down and you
19 strain your eyes you will see in small type on the
20 bottom of the box stating "Made in Indonesia." This
21 example shows you why it's become more difficult to
22 identify the country of origin of imported bags that
23 we have either lost sales to or had to lower our price
24 against.

25 These bags were made by Super Exim Sari and

1 sold to North Gate through Master Packaging.

2 The second reason we have had some
3 difficulty in reporting the specific country to which
4 we lost a sale is because in many instances we have
5 lost a sale to an importer called Spectrum. Spectrum
6 supplies bags from each of the subject countries. We
7 compete head to head with Spectrum for all of our
8 larger accounts.

9 Spectrum used to import largely from
10 countries included in the prior case. We understand
11 that it is shifting a large share of its sourcing to
12 Indonesia, Taiwan and Vietnam in order to avoid
13 antidumping duties on those other countries.

14 Spectrum is clearly a price leader in the
15 U.S. market. We've lost many sales to Spectrum. We
16 have also had to lower our prices many times to
17 compete with Spectrum.

18 We trust that you will obtain their data
19 from your investigation.

20 The following examples demonstrate typical
21 competitive situations we face on a frequent basis.
22 In early 2008 we were notified by Payless that we lost
23 our share of their business. Feedback from our
24 customer suggested that our prices were uncompetitive.
25 Payless was regarded as a strategic account and we

1 made aggressive efforts to reduce pricing and maintain
2 share.

3 After lowering our price dramatically, the
4 buyer indicated that we were still not competitive and
5 they made the decision to walk from the business.

6 In another case we were told by Kohl's that
7 while we were viewed as a strong supplier both in
8 quality and service, they could not ignore the savings
9 being offered by competitors. We later learned that
10 they were referencing imports from Spectrum. The
11 customer contended that along with lower product
12 pricing the competitors were offering financial
13 incentives in the form of prebates in addition to
14 fixed pricing.

15 Again, given the strategic importance of
16 this account we considered all options. However, upon
17 a comprehensive --

18 MR. DORN: Slow down a little bit.

19 MR. RIZZO: Sure.

20 MR. DANIELS: The first set of samples was
21 to who?

22 MR. DORN: Payless.

23 MR. DANIELS: And the second? From Kohl's?

24 MALE VOICE: The second one there I believe
25 is from Fairway Products, which is similar product

1 from Hilex and Spectrum. I think all of these are
2 Hilex and Spectrum accounts.

3 MR. RIZZO: All four examples are Hilex and
4 Spectrum.

5 MR. DORN: Okay, are we caught up with the
6 samples now? Okay.

7 MR. RIZZO: We later learned that they were
8 referencing imports from Spectrum. The customer
9 contended that along with the lower product pricing
10 the competitors were offering financial incentives,
11 rebates, in addition to fixed pricing.

12 Again, given the strategic importance of
13 this account we considered all options. However, upon
14 a comprehensive financial discussion we determined
15 that meeting a competitive offer would be impractical.
16 We then lost 25 percent of our volume as a result of
17 that decision.

18 In both of these examples it's important to
19 note that you can see that these bags are larger,
20 heavier and thicker than grocery bags. The pricing
21 pressure we face is not limited to the lowest end of
22 the continuum.

23 Thank you for giving me the opportunity to
24 speak on behalf of Hilex, and I'd be happy to answer
25 any questions that you have.

1 MR. HALIMI: Good morning. My name is
2 Albert Halimi, Chief Operating Officer of Command
3 Packaging which is based in Vernon, California. I
4 have a bachelor's degree and a master's degree in
5 engineering.

6 Command began operations in 1989 as a
7 manufacturer of plastic bags made from high density
8 polyethylene film. Approximately 95 percent of the
9 products that we make are PRCBs. Like Superbag and
10 Hilex, we make T-shirt bags but we also make other
11 types of PRCBs. Our T-shirt bags are generally
12 thicker and more expensive.

13 We also are a major producer of higher end
14 PRCBs. These include wave bags, patch handle bags and
15 soft loop bags. Here's a sample of one of our wave
16 bags that we used to sell to a restaurant chain.

17 We have lost this business to Spectrum which
18 we believe is supplying the customer with imports from
19 one or more of the countries involved in this case.

20 Here's a sample of the imported wave bag.
21 As you can see, it is identical to our wave bag.

22 In our questionnaire we have also identified
23 other instances where we've lost sales to these
24 imports which we cannot discuss publicly.

25 I know that Mr. Gitlin who I understand will

1 testify this afternoon claimed in the prior
2 investigation that so-called high end bags are not
3 made in the United States, but that is not correct.
4 We make them as you can see from these samples.

5 All of those samples in front of you now
6 have been made at our plant in Vernon, California.

7 We also compete against other U.S. producers
8 of these products including Roplast, Genpak, Ampac,
9 and Paksher. Here are some product samples from U.S.
10 producer Genpak to show you that they also make these
11 types of bags in the United States. They're all
12 labeled "Made in America".

13 Let me give you an example of one of these
14 high end bags, a soft loop bag. As you can see, like
15 a T-shirt bag it has a handle attached and it is heat
16 sealed on the sides. These bags compete directly with
17 bags imported from countries on the investigation that
18 have cardboard inserts at the bottom.

19 Here's a sample of an imported bag with a
20 cardboard insert. Here is our soft loop bag. The
21 customer substituted our bag for the imported bag.
22 This clearly shows that the two bags compete head to
23 head.

24 We make all these products in the same
25 facility. There is a significant overlap in the

1 equipment that we use to make all of our PRCBs. We
2 make all of our products with the same extrusion and
3 printing equipment. The employees who operate the bag
4 converting machines are trained to make all kinds of
5 bags.

6 In the prior investigation the Commission
7 found that the PRCBs are a continuum product ranging
8 from T-shirt bags to high end bags. Nothing has
9 changed since the last time that should lead you to a
10 different conclusion now. These products are still a
11 continuum. In fact Command makes products that span
12 the entire continuum. We consider all these bags to
13 constitute a distinct product category. We do not
14 subdivide them into segments. In fact I would not
15 know where to draw the line to make such distinction.

16 I would now like to discuss the adverse
17 affect that imports from Indonesia, Taiwan and Vietnam
18 have had on our business.

19 After antidumping orders were entered
20 against imports from China, Malaysia and Thailand we
21 saw a significant stabilization of the market.
22 Imports from the countries receded and we were finally
23 able to increase our prices to cover increasing
24 production costs. If you compare our financial
25 performance before these orders went into effect to

1 our financial statements in 2006 and 2007 you will see
2 a significant difference.

3 In 2007 and 2008 however, imports from
4 Indonesia, Taiwan and Vietnam rose substantially and
5 deprived us of many of the benefits from the original
6 order.

7 After the orders were entered we also saw
8 imports from Indonesia become a problem.

9 The data in our questionnaire responses show
10 the harm that these increased imports have caused.
11 Our prices have eroded and in 2008 our profitability
12 declined significantly. In many cases we have lost
13 sales to imports priced lower than our cost of
14 production. In addition, we have been forced to
15 cancel or postpone certain plant investments. Until
16 recently, our growth pattern trended upward and we
17 plan for that to continue. Now our growth has
18 flattened out.

19 After we received relief from unfair trade
20 as a result of our earlier case, the market improved
21 substantially as imports receded from the market and
22 as demand continued to be strong. Consequently we
23 were sufficiently confident to expand our capacity.
24 But last year while we expanded our capacity, once
25 again our production actually fell.

1 Investing in new capacity in this kind of
2 environment simply makes no sense. We have seen what
3 the market is like for Command Packaging when unfair
4 trade is pervasive, and we have seen what it is like
5 when it is not. They are two different worlds.

6 On behalf of Command Packaging I ask the
7 Commission to once again restore fair trade to the
8 market.

9 Thank you.

10 MR. DORN: Can I ask how much time we have
11 remaining?

12 MR. DEYMAN: You used 40 minutes, so you
13 have 20 minutes remaining.

14 MR. NARKIN: My name is Steve Narkin and I'm
15 with King & Spalding.

16 I'd like to summarize the evidence relating
17 to three issues -- cumulation, present material
18 injury, and threat of injury.

19 First with respect to cumulation. An
20 analysis of the four factors that the Commission
21 traditionally considers shows that cumulation of
22 subject imports is plainly called for in this case.
23 The domestic imported products are fungible. In the
24 prior PRCB investigation the Commission found that the
25 subject imports from each country were highly

1 substitutable for the domestic like product and for
2 each other, and that's just as true in this case.

3 As you have heard various witnesses testify
4 today, these products are sold on the basis of price
5 and they are otherwise indistinguishable from one
6 another or from the domestic product in ny meaningful
7 way. They are the same types of products serving the
8 same markets as the imports at issue in the prior
9 investigation.

10 This should not be surprising because they
11 have been brought into this market as substitutes for
12 those imports which have been subject to antidumping
13 duties since August 2004.

14 There is also no question that imports from
15 each of the subject countries have been simultaneously
16 present in the market. In the prior investigation the
17 Commission reached that conclusion because imports
18 from each subject country were sold in the United
19 States in each year of the period of investigation,
20 and that is also true here.

21 These imports are also sold in the same
22 geographic markets as each other, and as the domestic
23 like product.

24 All of the domestic producers, importers and
25 distributors of PRCBs sell these products nationwide.

1 In the prior investigation the Commission
2 found that the subject imports were sold nationwide
3 because a significant percentage of the imports were
4 shipped a considerable distance from their ports of
5 entry or storage facilities. The responses to the
6 importers' questionnaires in this case we believe will
7 show much the same thing.

8 Finally, as in the prior investigation there
9 is considerable overlap in the channels of
10 distribution. In that case the Commission found that
11 the percentages of domestic producer shipments that
12 went to retailers and distributors were somewhat
13 different from the comparable percentages for the
14 subject imports. The Commission cumulated the subject
15 imports notwithstanding this difference.

16 But there is another factor for the
17 Commission to consider in this case. As you heard Mr.
18 Rizzo testify, a substantial percentage of sales to
19 retailers actually goes through a group of
20 distributors that bundle PRCBs with other items for
21 shipment to the retailer. So to the extent that the
22 questionnaire responses may appear to show any
23 differences between domestic and imported product with
24 regard to channels of distribution, in this industry
25 these differences are not meaningful.

1 On the question of present material injury,
2 our case is very straightforward. The volume of
3 subject imports and the increase in those imports
4 clearly are both significant.

5 Last year the subject imports equaled 40
6 percent of imports from all countries, well in excess
7 of 15 percent of apparent domestic consumption, and a
8 significantly higher percentage of domestic
9 production. Moreover, from 2006 to 2008 subject
10 imports increased by 114 percent in terms of number of
11 bags. Their share of the U.S. market more than
12 doubled from about 7 percent in 2006 to well over 15
13 percent in 2008.

14 This increase in the subject import market
15 share came at the direct expense of the domestic
16 industry. The domestic industry had regained market
17 share previously lost imports from China, Malaysia and
18 Thailand, but the imports at issue here have taken
19 almost all of that market share back.

20 In 2003, the last year of the period of
21 investigation in the prior case, the subject import
22 market share was 18.3 percent measured by the number
23 of bags; here it's well over 15 percent.

24 The subject imports are also having major
25 adverse affects on prices of the domestic like

1 product. As you have heard from our industry
2 witnesses, price is the critical factor in purchasing
3 decisions. That's what the Commission found in the
4 prior case and there is nothing different about the
5 imports in this case. The common use of reverse
6 internet auctions and sealed bids by major retailers
7 is but one indication that PRCBs are seen as a
8 commodity product. And the prices of the subject
9 imports are unquestionably lower than prices of the
10 domestic product.

11 The average unit value of the subject
12 imports is lower than the average unit value of
13 domestic producers' commercial shipments.

14 Petitioners have documented instances where
15 the subject imports undersold the domestic product by
16 significant margins in sales to major retailers.

17 Lam Viet Min, General Director of Vietnam
18 producer 99 Plastic Packaging, recently said that
19 because imports have been going very slowly,
20 enterprises have had to lower their export prices in
21 order to get orders and retain workers. And we have a
22 copy of that article here that we can give you.

23 You also have heard industry witnesses
24 testify that they were forced to lower their prices to
25 levels competitive with the subject imports in order

1 to get or retain business they needed to have the
2 volume to keep their plants running. Because their
3 plants are designed to run continuously, sharply
4 dialing back production is not an option. For that
5 matter, losing major customers is in general not an
6 option because once such a customer is lost there is a
7 good chance that the customer will be lost forever.
8 So in many instances domestic producers were forced to
9 meet very low import prices and they were forced to do
10 this when their production costs were actually rising.

11 Finally, if the data on prices of the four
12 products that you are using for purposes of price
13 comparisons are accurately reported, we are confident
14 that they will show very significant underselling.
15 This underselling caused the domestic industry to lose
16 numerous sales, and these lost sales when added
17 together amount to a large number in dollar terms.

18 The various indicators that the Commission
19 looks at in evaluating the impact of the subject
20 imports on the domestic industry also provide
21 compelling evidence that these imports are causing
22 major harm to the industry. The industry's shipments
23 and production have declined and this has left the
24 industry with significant excess capacity. That is
25 the case even though important facilities have been

1 forced to close. The industry's shipments have
2 tracked the downward trend in production. There has
3 been a significant reduction in the industry's
4 workforce.

5 Finally, the industry's financial condition
6 has changed notably for the worse. We believe that
7 the aggregate data from the U.S. producer
8 questionnaires will show that from 2006 to 2008 the
9 industry suffered large declines in gross profit,
10 operating income and cash flow.

11 One other point. The subject imports have
12 caused the industry to contract at a time when
13 domestic producers should have been expanding their
14 capacity in the wake of the successful petitions
15 against imports from China, Malaysia and Thailand.
16 With the surge in subject imports, significant
17 investments to expand and modernize capacity are now
18 basically out of the question. Indeed four major
19 plants have recently been closed -- three by Hilex and
20 a fourth by EuroPackaging in Salem, New Hampshire.

21 If the industry does not receive relief from
22 unfair trade this will be the harbinger of even worse
23 things to come.

24 Finally, on the issue of threat of material
25 injury, we would observe that because the present

1 material injury case is so strong, we do not
2 anticipate that the Commission will reach the issue of
3 threat. If it does, however, the evidence supporting
4 a finding of threat under the statutory factors that
5 the Commission must consider is also compelling.

6 First, imports are rapidly increasing. From
7 2006 to 2008 subject imports measured in number of
8 bags increased by 114 percent and their share of the
9 U.S. market more than doubled. They are also being
10 sold at prices that make further increases in imports
11 likely. Indeed, the only reason that they rose so
12 dramatically in the first place is because they were
13 lower priced. This trend of rising imports brought in
14 by lower prices will not change in the absence of
15 antidumping and countervailing duty orders.

16 Second, foreign producers in Vietnam are
17 being heavily subsidized by their government. In
18 industrial planning documents including what's called
19 the Master Plan for the Plastic Industry Development
20 in 2010, the government of Vietnam designates
21 producers of plastic products as eligible for numerous
22 government subsidies including preferential loans from
23 banks owned and controlled by the government.
24 Government owned and controlled banks also make
25 discounted loans available to exporters. The

1 government also provides numerous tax breaks to
2 exporters.

3 Many producers of PRCBs in Vietnam appear to
4 be pure export platforms and thus benefit from income
5 tax reductions and exemptions, import tariff
6 exemptions and VAT exemptions.

7 Third, we believe that the questionnaire
8 data will show that the foreign producers have
9 substantial excess capacity and that their capacity is
10 growing. We will comment on this in our post-
11 conference brief.

12 But publicly available information shows
13 that the subject countries have considerable capacity
14 and new plants are springing up like mushrooms,
15 especially in Vietnam. For example, on its web site
16 Vietnamese producer Phat JSC claims capacity of 400
17 metric tons per month for plastic bags, including T-
18 shirt and die cut handle bags.

19 Also in Vietnam, Fotai Vietnam Enterprise
20 Corporation states on its web site that it supplied at
21 least 2000 metric tons a month of HDPE and LDPE bags.
22 Xiamen Ming-Pak claims that it shipped over 350 metric
23 tons per month.

24 In Indonesia, PT Super Exim Sari reports on
25 its web site PRCB capacity of 1,500 tons per month,

1 and further reports that 60 percent of production is
2 serving export markets including the United States.

3 Subject production capacity has also
4 expanded significantly in recent years. Kong Wei
5 Polybag Printing set up PRC production in Vietnam in
6 2007, advertising 500 metric tons of capacity per
7 month. PolyTower Ventures Perhad, announced the
8 startup of Kinsplastics, Vietnam as recently as June
9 27, 2008 with the stated goal of supplanting Malaysian
10 PRCBs which are under order.

11 Other facilities have been expanded
12 significantly and there is clear evidence that
13 additional expansions are on the way.

14 Most of the foreign producers also depend
15 significantly on exports to the United States. In
16 other words, the threat that these countries pose to
17 the domestic industry is big and it is getting bigger.

18 Finally, this industry is highly vulnerable
19 to future industry. Its poor performance in the
20 period of investigation shows this very clearly.

21 That concludes our presentation.

22 MR. DORN: Let me just make one other point
23 about Ms. Levinson's opening statement. She seemed to
24 suggest that Petitioners should lose this case because
25 the prior case did not eliminate unfair competition

1 from all countries. The prior case was only filed
2 against three countries. I don't think we could have
3 even met the negligibility test to add a fourth or
4 fifth country.

5 So, if she were right, if we lose because we
6 come back a second time, then my good friend Roger
7 Schagrin and my good friend Bob Lighthizer have a
8 business model that wouldn't have worked. As you
9 know, Mr. Schagrin has filed a number of successive
10 cases against other suppliers of pipe to the United
11 States. Mr. Lighthizer has filed a number of
12 successive cases against additional suppliers of flat-
13 rolled products to the United States.

14 The first case was successful here. It
15 eliminated unfair competition with respect to the
16 three countries identified in that case: China,
17 Malaysia and Thailand. Unfortunately, as I stated in
18 my opening statement, the U.S. importers' appetite for
19 unfairly traded imports did not recede. So they
20 looked to other sources of supply, and those sources
21 of supply are Indonesia, Taiwan and Vietnam. Those
22 products, we believe, Commerce will find are unfairly
23 traded and we will have succeeded in eliminating that
24 unfair competition.

25 Who else could we have filed against this

Heritage Reporting Corporation
(202) 628-4888

1 time? Well, the next largest supplier to the United
2 States is Canada which didn't even supply a billion
3 bags in 2008. It was 773 million bags. After that
4 was Korea at 259 million bags. After that, Japan, 245
5 million bags. After that, Turkey, 233 million bags.
6 None of those would come close to meeting the
7 negligibility test.

8 So all we can do is to identify the
9 countries that are causing unfair trade in the United
10 States at the time. We can't do anything beyond that
11 in U.S. law, and there's nothing in the statute or any
12 precedent that would suggest we can't come back a
13 second time if there are new countries that are
14 engaging in unfair trade practices and that's what
15 we're doing.

16 Thank you.

17 MR. ASCIENZO: Thank you very much,
18 gentlemen, for your informative presentation.

19 I'm going to start the questioning with Mr.
20 Kaplan.

21 MR. KAPLAN: Good morning, my name is Joshua
22 Kaplan. I'm an investigator responsible for this
23 case. I'd like to welcome the panel. Thank you for
24 your very informative statements. I have just a few
25 questions.

1 My first question is actually for counsel,
2 Mr. Dorn. Something that I notice in comparing the
3 2004 case and this case, the companies that are
4 involved, the domestic producers. It seems as though
5 in the 2004 case certain U.S. producers were actually
6 in support of those duties but are now either not in
7 support or perhaps in opposition here.

8 Do you know based upon your discussions with
9 the industry why that may be the case?

10 MR. DORN: I'm not aware of anything on the
11 public record regarding any one opposing the petition,
12 and I don't feel like I can speak to that.

13 But to the extent there was opposition in
14 the confidential record from anyone, I would look to
15 see whether that company that opposes is an importer
16 from one of the three subject countries. I think that
17 might be helpful to understand that.

18 Also please keep in mind that we did have
19 support letters filed, I think it was yesterday, which
20 you should have received from Unistar, the two Sigma
21 subsidiaries, Omega Extruding and Omega Plastics, I
22 think their names are, and from Command, Unistar,
23 Roplast.

24 Of course in the prior case Vanguard was a
25 supporter of the petition and it's now been absorbed

1 by Hilex so those two companies are one and the same.

2 I suppose this is not on the public record,
3 but if you look at our amended support allegations for
4 the Commerce Department, its industry support
5 assessment, you'll see that the petition is supported
6 by a very very large percentage of U.S. production of
7 this product.

8 MR. KAPLAN: Thank you.

9 A question for the gentleman from Hilex.
10 Would you mind perhaps elaborating a little bit on the
11 Hilex acquisition of Vanguard? It seems as though
12 that was a pretty significant event in the industry.
13 And what have been some of the results and effects
14 more generally on what is now I guess Hilex, that
15 combined entity in terms of the business practices and
16 the increased efficiencies seen. If you would perhaps
17 indulge me a little bit, what was the result of that
18 acquisition?

19 MR. DANIELS: Certainly the result of the
20 acquisition was basically making Sunoco and Hilex,
21 Hilex buying Sunoco and Vanguard made it the largest
22 bag manufacturer in the world.

23 There were certainly some synergies involved
24 with plant locations and the ability to get closer to
25 your end users as far as shipping was concerned. Best

1 manufacturing practices were shared amongst the plant
2 engineers, the plant managers, with each of the
3 organizations so that the company could become
4 stronger as a producer of retail carryout bags. There
5 were some very positive things that have happened with
6 regards to the merger, if you will, of those two
7 companies.

8 Is that sufficient?

9 MR. KAPLAN: That's fine.

10 I guess also for the other representatives
11 of the U.S. industry, Superbag and Command. You all
12 in your opening statements provided a lot of
13 information about the situation now, but to the extent
14 that your companies, Superbag and Command, have made
15 an effort to increase efficiencies or to improve their
16 business practices in light of the increased
17 competition or perceived dumping, would you mind
18 perhaps providing a few examples or elaborating on
19 what has been done in the past couple of years to
20 improve your efficiency and business practices?

21 MR. BAZBAZ: In the case of Superbag we have
22 changed our manufacturing equipment to a more
23 efficient operation. So the equipment allowed us to
24 be more efficient. We also made some investments in
25 reducing our cost of blending the raw materials and

1 recycling. Since we were having possibilities of
2 growth after the imposition of duties to China,
3 Thailand and Malaysia, we made commitments to buy more
4 equipment and expand our capacity. But you typically
5 make those commitments one year or 18 months before
6 you get delivery of the equipment. So by the time we
7 got the equipment the import growth was quite dramatic
8 from these countries that we are trying to investigate
9 or are investigating, that they didn't allow us to
10 enjoy any of that.

11 MR. KAPLAN: Thank you.

12 Mr. Halimi, did you have anything for
13 Command?

14 MR. HALIMI: I can only speak in general
15 terms. Investing in innovative equipment, CapEx,
16 training, investing in our employees in higher level
17 of training for our employees, and also recycling,
18 opening a recycling facility within our company have
19 all been ways of making Command more efficient and
20 more competitive worldwide.

21 MR. KAPLAN: Thank you.

22 Mr. Bazbaz, can you touch on the question of
23 the effect, if any, of the risk of reusable bags or
24 high end bags that perhaps may have had an affect or a
25 small affect on the demand for PRCBs. But also

1 perhaps the other gentlemen here representing the U.S.
2 industry, could you discuss, and this may be
3 anecdotal, I'm not sure, but the extent to which
4 you're aware of your customers or the final end users
5 expressing some sort of preference for essentially
6 grocery customers using reusable bags. Is that at all
7 an issue here? Or is it still very much a small, very
8 small component of the bags, reusable bags? If you
9 all could provide some information on that, if you
10 wouldn't mind.

11 MR. DANIELS: I'd be happy to. We also sell
12 reusable bags, although not to any great extent.

13 What we're finding from both analysis of
14 companies where we are sole sourcing plastic bags as
15 well as polling out into the marketplace to try and
16 find out what impacts this has, we've found that it's
17 really very little impact. There may be tens of
18 millions of reusable bags sold, but the bottom line is
19 most people that buy the reusable bags are using them
20 for something other than bringing them back to the
21 grocery store to bring their groceries home in.

22 I would say with the exception of certain
23 companies like Whole Foods, they're generally not
24 being reused for grocery bags. We're finding less
25 than one percent reduction in our usage.

1 The economy is interesting on this. Where
2 we are in today's economy. We see it as the pie is
3 fairly fixed but the grid within that pie is shifting.
4 More people might not be shopping at the grocery
5 stores. Where I live in Texas there's a Tom Thumb.
6 Maybe they're not shopping there and they're going
7 over to WalMart. You see WalMart's growth in publicly
8 traded areas. That growth is coming at the expense of
9 someone else, but the bags are still being used as far
10 as polyethylene retail carry out bags.

11 So to answer your question, Mr. Kaplan,
12 we've not seen any negative effects of the reusable
13 bag market on our market space.

14 MR. BAZBAZ: We also have seen some other
15 things. Some people that have brought back the
16 reusable bags are being given some plastic bags to put
17 the groceries inside the reusable bags, so they can
18 avoid contamination say from chicken breasts that
19 might be bleeding through the bag. They are using all
20 the plastic bags for that effect. So that kind of
21 compensates that issue.

22 MR. HALIMI: When you talk reusable,
23 reusable bag is only for the grocery market. In our
24 segment of the market where we sell zero products into
25 grocery, none of our products going to grocery because

1 of the high end PRCBs, that is not an issue at all.
2 It has zero effect on our industry, on our company
3 whatsoever.

4 MR. KAPLAN: Thank you very much.

5 The only other question that I have, and you
6 all have, some of you have touched upon this, but at
7 the risk of being repetitive, I would like to hear
8 just a little bit more because I feel like it is
9 relevant here, is the extent to which you all can
10 comment on how relative, and specifically I suppose
11 plastic film, or resin, how the fluctuations in the
12 prices of the sourcing, petroleum and natural gas, how
13 they have affected your bottom line or your prices.
14 To the extent on which you can comment on that or
15 elaborate on what you've already said, I would
16 appreciate that.

17 MR. BAZBAZ: In our case, and I think this
18 is the practice of the industry, the prices are pegged
19 to an index that is used for major retailers on just
20 about any customer. So the price of the bags are set
21 to an index that as it grows or comes up or goes down
22 the prices of the bags are adjusted by the weight of
23 the bags multiplied by the change of that index.

24 So what we're trying to keep constant is the
25 margin above the resin all the time. What has

1 happened is that during these times, even though we
2 have had those indexes in place and those pegs in
3 place, the competition has forced us to reduce that
4 margin of the resin substantially. So that is the
5 biggest impact here.

6 MR. DANIELS: I agree with what Mr. Bazbaz
7 said there. The only other thing I would add is that
8 with these imports and the price pressure that is on,
9 even though we might be under an agreement, whether
10 it's a handshake agreement or a contractual agreement,
11 the buyers will come back to us and say you raise your
12 price because you've got an increase in raw materials,
13 we're going to take your business and we're going to
14 go elsewhere with it. We have lot business under
15 contract because of resin pressures.

16 MR. DORN: Which reminds me of one thing.
17 While the questionnaires talks about like one year
18 contracts and so forth, short term and long term
19 contracts, I learned yesterday that it's very common
20 for these so-called contracts to have a 30 day release
21 provision. So in effect they're binding the buyer and
22 the seller for 30 days, sometimes 60, sometimes 90,
23 but they're not really one year contracts.

24 MR. HALIMI: We're dealing with the same
25 issues as what was said.

1 MR. KAPLAN: Are any of you aware in the
2 industry, and I'll ask Respondents, is there a common
3 source from which this resin is purchased, both by
4 U.S. producers and foreign producers? Is there any
5 reason to think that a foreign producer might have
6 some sort of advantageous position in terms of being
7 able to acquire the resin at a more favorable rate?
8 You may not be aware of this, but is there any
9 knowledge of that here?

10 MR. DANIELS: I would say it's more of a
11 world market right now. And supply/demand economics
12 are going to rule in this commodity market of
13 polyethylene resin. There's five manufacturers in the
14 United States and there are manufacturers in Canada,
15 in Saudi Arabia, in Asia, where the import/export
16 flows just like a lot of other commodities. So the
17 price advantage should never be more than about what
18 the freight costs are going to be. And not sustained,
19 that's for sure.

20 MR. KAPLAN: Thank you. I have no further
21 questions.

22 MR. ASCIENZO: Mr. Thomsen?

23 MR. THOMSEN: Good morning to the members of
24 the panel.

25 I'd like to follow up on one of the

1 questions that Mr. Kaplan had asked regarding the
2 reusable bags and their effect on the market.

3 I believe Mr. Bazbaz said it was less than
4 one percent, and Mr. Daniels said there were very
5 little effect on his, I believe he also said less than
6 one percent of an effect. Do you have any studies
7 that support that that you could submit to the
8 Commission for us to back up these assertions?

9 MR. DANIELS: I'd have to think about that,
10 Mr. Thomsen. We certainly can provide evidence of
11 where our sales tracking went over the three years by
12 companies that we are the sole source to. A lot of
13 the things that we talked about were ancillary
14 information. We talk to Albertson's LLC out of
15 Florida and they're saying they've maxed out on their
16 sale of these things and they're not seeing anything
17 come back. But we can provide some information. Let
18 me get back to you on that.

19 MR. THOMSEN: Thank you.

20 MR. BAZBAZ: We were told about one percent
21 from our customers. This is our understanding. So
22 I'm not sure they will allow us to have their studies.
23 But I will request that.

24 MR. THOMSEN: Thank you.

25 If I can switch to the quarterly pricing

1 data. We had asked for it on a per thousand bag
2 basis, yet the products themselves, they had ranges of
3 sizes, ranges of gauges, and therefore it would lead
4 to a different amount of pounds per bag, as it were.

5 How would our data be changed if we had
6 changed to a per pound basis? And if I can just guide
7 you where I would see this, if there have been any
8 shifts in the marketplace to maybe thicker or thinner
9 gauges, to larger or smaller bags that might be in
10 that range, or to deeper or shallower bags, or any of
11 those sorts of changes.

12 MR. DORN: I'm going to note, as I'm sure
13 you remember, Mr. Thomsen, in the final investigation
14 in the prior case the Commission did collect data in
15 both pounds and in units. I think the Commissioners
16 decided to use the units data.

17 MR. THOMSEN: Yes, they did.

18 MR. DORN: We certainly saw no reason to
19 urge the Commission to seek anything different in this
20 preliminary investigation. We'd certainly like to
21 study all the pricing data that came in. We hope it
22 matches up find. But we'll certainly comment on that
23 if we see any problems in using unit data this time as
24 opposed to last time, but I think the record will show
25 there have been really, in response to questionnaires,

1 there have really been no changes in terms of the
2 types of bags being sold and so forth. And to the
3 extent that bags became slightly thinner or slightly
4 thicker because of some customers' requests, that's
5 going to apply to the imported bags as well as the
6 domestic bags because they've got to meet the same
7 specifications.

8 We don't see any apples and oranges problem
9 or any change from the mix of bags this time around
10 from last time around in comparing the import prices
11 with the domestic prices.

12 MR. THOMSEN: Would the industry witnesses
13 also agree with that assessment, there really haven't
14 been any changes to speak of in terms of the trend?

15 MR. DANIELS: Yes.

16 MR. THOMSEN: Thank you, Mr. Daniels.

17 We heard earlier, you said San Francisco was
18 the only city that has banned plastic bags. But there
19 are others that are considering action. I know
20 actions such as taxing or putting fees on or other
21 actions.

22 What cities, states, areas these governments
23 are considering changing the way that the bag market
24 works as it were that you know of?

25 MR. DANIELS: If I can say a couple of

1 things.

2 Number one, I think I speak for Superbag as
3 well, we consider our bags highly reusable. The ones
4 that we produce. There are estimates that well over
5 60 percent of them are reused for a lot of different
6 reasons. Laundry bags, I've got two dogs, there's
7 lots of reasons that they're reused.

8 With regards to legislation, for this
9 particular discussion we have a timeframe of 2006 to
10 2008. San Francisco really didn't ban plastic bags,
11 they are allowing compostable bags which are plastic
12 bags. They also allow any plastic bags that are over
13 2.25 mil. That was, believe it or not, out of a study
14 that came out of Africa that somehow San Francisco
15 ended up putting it on their books that said that 2.25
16 mil is fine for a reusable bag.

17 Also you have to recognize that it's only
18 supermarkets and pharmacies in San Francisco that
19 can't use the polyethylene bag. You can go down in
20 Chinatown in San Francisco and the mom and pop stores
21 can use plastic bags all day long. The Progressive
22 Bag Affiliates have done some studies and have seen no
23 significant decline in plastic bags in the city of San
24 Francisco. That's one of the things with regards to
25 San Francisco.

1 With regards to other legislation, yes,
2 there's a lot of different legislation out there. New
3 York City wants to put a tax on bags. Philadelphia
4 wants to put a tax on bags. The District of Columbia
5 has got a nickel tax proposal through the City Council
6 here. There's consideration for a tax out in Seattle.
7 But the point is, a lot of these people put these
8 taxes out there, but not one tax has been approved
9 throughout the United States. In bad economic times
10 it's considered a regressive grocery tax, for
11 instance, and it doesn't particularly sit very well
12 with the taxpayers.

13 From the legislative side they're saying
14 well, this particular product that we see maybe in
15 trees or something like that is something we can tax.
16 We can help our budget. So that's why we see a lot of
17 elevation in legislation. We all believe that it's
18 based a lot on myths about plastic bags. One being
19 that it's a derivative of oil, where the United States
20 is derivative of natural gas. There are a lot of
21 studies out there that they're pulling information
22 that are incorrect.

23 It's been a battle, but one that we're
24 finding some success.

25 MR. HALIMI: One of the things I would like

1 to encourage the panel to do, I'm from California,
2 that happens to be the birthplace of a lot of these
3 bans. I'm also a member of a coalition called
4 SaveThePlasticBag.com. I encourage the panel to go on
5 that web site. That is a web site that we support,
6 the PRC industries in California. For example it
7 talks about the city of Manhattan Beach, actually the
8 city council passed a ban, but we challenged them in
9 court and we won that court case against Manhattan
10 Beach and we blocked their ban.

11 So there are a lot of issues, as Mark said,
12 there are a lot of myths that gets cleared up on this
13 web site and issues that may help you in your decision
14 as well. SaveThePlasticBag.com.

15 MR. THOMSEN: Thank you.

16 Let me ask a general question. Do you
17 import plastic bags in addition to producing them?
18 And if so, is are you importing exactly the same type
19 of plastic bags that you could? Are there production
20 efficiencies, are they different sizes or gauges? I'm
21 trying to get to the economic basis for importing
22 something that maybe you can produce.

23 Mr. Bazbaz?

24 MR. BAZBAZ: In our case we import some bags
25 from Mexico. It's a very small amount of bags. We do

1 that because of the small runs and narrow widths that
2 would be very inefficient to manufacture in our
3 facilities and basically we do that as a service to
4 our customers to have a complete line of bags. That's
5 pretty much the extent of what we're doing.

6 MR. THOMSEN: Mr. Daniels?

7 MR. DANIELS: We imported some in 2007, the
8 reason being after we had shut down the Victoria
9 facility, we were under a business plan that said we
10 would have been short of capacity to some degree. As
11 such, we did put on order a number of bags into the
12 United States.

13 Unfortunately, shortly after we placed those
14 orders, the sales, we had some downward pressure on
15 price and lost some significant sales. So we stayed
16 with the commitment to purchase because we had our
17 orders out there, but we got upside down. It was just
18 an unfortunate decision.

19 To another point, we did import some thank
20 you bags that were smaller than we were capable of
21 manufacturing, and they were also internally wrapped
22 with polyethylene which is not something that we can
23 do very effectively within our plant, so we ordered
24 just a few containers from Vietnam that went into the
25 Northwest part of the U.S.

1 MR. THOMSEN: Mr. Halimi?

2 MR. HALIMI: We do import about ten percent
3 of our sales and the reason we do, it's a product that
4 we don't have the right equipment to make or a
5 customer requires that, and we will source it from an
6 imported country. Or it is a pricing issue where the
7 price is so low that we're forced to import them, that
8 we choose not to make them in our plant in California.

9 MR. THOMSEN: I guess along the same lines,
10 one of the bags that we had submitted did have a
11 Command Packaging tag on there, yet it was labeled as
12 being an import bag. I didn't know if that was being
13 mislabeled or whether you had facilities in another
14 country. Would you like to see the bag? Shall I show
15 it to you?

16 MR. HALIMI: I apologize. Yes, please.

17 MR. THOMSEN: That's okay.

18 (Pause).

19 MR. HALIMI: I'm quite familiar with that.
20 We used to import that particular bag. We did not
21 make that bag. That was an imported bag. We were the
22 actual importer of that product. We showed that, we
23 substituted for that to the customer our bag. So that
24 was to illustrate that our customers are willing to
25 accept a bag that does not have a cardboard bottom, to

1 show the comparability of the two products.

2 MR. THOMSEN: Though it does have your name
3 on it. Did you order it with your name and logo on
4 that from overseas?

5 MR. HALIMI: That was private labeled for us
6 from Asia. Yes. We imported that with our name on
7 it. Yes.

8 MR. THOMSEN: Thank you for that
9 clarification.

10 Again, staying with the importing from
11 producers, how should the Commission deal with the
12 pricing data for the imported products from the
13 domestic producers? It's a question for counsel more
14 than the industry. Should it stay in just as an
15 unaffiliated importer would do that, or should they be
16 separated out?

17 MR. DORN: I think I better answer that on
18 the confidential record after reviewing the data. I
19 think that the people at this table, it's
20 insignificant in terms of volume in relation to their
21 domestic sales. I don't think it makes any
22 difference.

23 But it may not be the case for others, but
24 I'd like to review that data and respond post
25 conference if that's acceptable.

1 MR. THOMSEN: That would be just fine.

2 Thank you.

3 With regard to imports from Indonesia,
4 Taiwan and Vietnam and their rise of 114 percent, I
5 noticed that Mr. Narkin had said it had come at the
6 direct expense of domestic producers. Have there been
7 other countries that had been, you had seen a decrease
8 in imports from during that time?

9 MR. NARKIN: What I meant by that is, first
10 of all, Mr. Dorn has the data on the other countries
11 in front of him, but what you do see from 2006 to 2008
12 in the wake of the earlier orders, is a significant
13 reduction in imports from those countries. That is
14 business that would have come back to the U.S.
15 industry were it not for the fact that imports from
16 these other three countries took that business away
17 from them.

18 MR. DORN: And Mr. Thomsen, I think in our
19 petition we have a table that shows the cumulated
20 imports from the three subject countries and we also
21 show the data for the countries subject to orders.
22 There's been a substantial decrease from the countries
23 subject to orders. The domestic industry should have
24 benefitted from that, from the restoration of fair
25 pricing from those three countries. That should have

1 gone back to the benefit of the U.S. producers to
2 regain that market share they'd lost previously.

3 But instead you had unfair competition from
4 Vietnam, Taiwan and Indonesia filling in that volume
5 of bags and that's what's causing injury.

6 MR. THOMSEN: So would the orders originally
7 in place in 2004, the POI starts in 2006. I don't
8 know if you looked at the numbers prior to 2006 or
9 not. Were the numbers even higher than that in the
10 2006? Were these jut residual numbers that were
11 coming in from these three countries that were subject
12 to the orders from before?

13 MR. DORN: I don't have that data in front
14 of me and I'd prefer to answer that later.

15 I will say that we've got a problem because
16 we didn't have this HTS statistical classification for
17 the prior period. I believe it began in July 1, 2005
18 or something like that. So you don't have a trend
19 data that allows you to answer your question
20 precisely, unfortunately. But I'll look at what data
21 we have and if I can add anything in our petition
22 we'll certainly do so.

23 MR. THOMSEN: Thank you very much.

24 I heard talk this morning about a prebate.
25 Could you explain a little bit more about what a

1 prebate is? I can assume that it's a rebate that comes
2 before you buy, but as I'm not familiar with the term,
3 I would like to know a little bit more about it.

4 MR. RIZZO: Effectively it's just a cash
5 incentive to enter into a supply agreement. A supply
6 agreement to supply X amount for a certain period of
7 time, and you pay some cash up front.

8 MR. THOMSEN: I also heard talk of reverse
9 auctions and internet sales this morning from Mr.
10 Bazbaz. Do we have on the record or could you submit
11 for the record if you have it any of a listing of
12 these reverse auctions or if there is some sort of
13 record of them that you have, that you participated
14 in?

15 MR. BAZBAZ: In our case we have submitted
16 in our questionnaire some responses to not just
17 reverse auctions, but also internet events that will
18 gather all the information of all the participants and
19 then just one deadline to submit the final price.
20 That will become like an instantaneous bid for a
21 number of suppliers.

22 Most of our customers are either in reverse
23 auction through the internet or an event that everyone
24 will submit information through a company that will
25 gather the information and run the event for the

1 buyer.

2 MR. DORN: It's my understanding, Mr.
3 Thomsen, that substantially all of the large retailers
4 are going to solicit pricing either through reverse
5 auctions or some type of sealed bid mechanism
6 including use of internet bids. So I think asking for
7 that information, I don't think it's going to tell you
8 that much because I think it's fairly common in the
9 industry.

10 MR. THOMSEN: That's helpful.

11 With respect to the increase in recycling
12 that we've seen, just a general trend, how has the
13 increase in recycling plastic bags in particular
14 affected either the demand for your products or your
15 recycled inputs? Is there a market for recycled bags?
16 Are the recycled bags used in a different way? Do
17 they go into different products so they're taken out
18 of the mix? Do you recycle them yourselves?

19 MR. DANIELS: There are many ways to market
20 with the return, recycled plants.

21 Films are difficult to recycle in municipal
22 facilities. So industry has taken it upon themselves
23 to do kind of a reverse distribution. So you go to a
24 retailer and you can put a recycling bin at the front
25 of the store for a consumer to bring bags back, along

1 with lots of other film -- bottle overwrap, towel and
2 tissue overwrap. So those polyethylene films can
3 come from the home to the front end of a grocery
4 store. That gets accumulated with the back end film
5 such as stretch film, wraps or bottle overwraps that
6 the store would use.

7 The grocery chain would the reverse their
8 distribution, bring it back to their distribution
9 center, bale it, and then sell it to the open market.
10 They can sell it to Hilex Poly, we have a recycling
11 facility that we built in North Vernon, Indiana. They
12 can sell it to Trex lumber that uses polyethylene in
13 lumber manufacturing. Or AERT. Or they can be sold
14 to, lots of different companies are extruding
15 polyethylene, recycled polyethylene films. Pipe
16 products for sewers. There are 850 million pounds
17 that were recycled in 2007. That's a growing
18 marketplace.

19 It is a separate market. It's a marketplace
20 that has its own negotiations and things like that.

21 Speaking for Hilex, it can improve our mix
22 of costs or it can work in reverse. When resin was
23 very high in July and August of 2008, recycled resin
24 gave us a cost advantage because we could input a
25 certain amount of polyethylene resin back in. When

1 resin becomes at a low, in a trough, the cost of
2 processing recycled resin is punitive. But we have
3 made that step to have the environmental front, so
4 that's something that we have to continue to work
5 with.

6 MR. BAZBAZ: We're trying to push recycling
7 as a way of reducing the cost of manufacturing and
8 also reducing the use of fossil materials into our
9 bags. We believe that we can use recycled products,
10 post consumer recycled products, for the same purpose
11 and the same use without any changes. So it would be
12 just as a reduction of raw materials used.

13 MR. THOMSEN: Thank you.

14 I have no further questions. I'll turn it
15 back to Mr. Ascienzo.

16 MR. ASCIENZO: Thank you. I turn to Mr.
17 Cantrell.

18 MR. CANTRELL: Good morning. Ray Cantrell.
19 I'm the industry analyst. I'm more of the nuts and
20 bolts person on the staff looking at production
21 processes, uses of the product, like product issues,
22 that sort of thing. My colleagues have addressed some
23 of the items, but if you can bear with me to go
24 through my checklist here on production descriptions
25 and so forth.

1 First I'd like to start off with the resin
2 types. I know in polyethylene you have high density,
3 low linear, and perhaps low density. Can you just
4 kind of give me an idea of what the ratios of use of
5 high density versus linear, low density in bags?

6 MR. DANIELS: Mr. Cantrell, I'd say the
7 majority of the products that Hilex manufactures is
8 high molecular weight, high density resins. We do put
9 in linear low density for processability and it does
10 add some integrity to the film as far as puncture
11 resistance. Certain customers want higher levels of
12 recycled content in their bags, so it really is
13 dependent on what the customer is requesting. But by
14 far the vast majority is high molecular weight, high
15 density resin.

16 MR. CANTRELL: Are some of the bags, do they
17 consist of blends of say high density and linear low?
18 Or normally are they either pure high molecular
19 weight?

20 MR. DANIELS: They're blends, but the
21 majority of that blend would be high density.

22 MR. CANTRELL: So that's done in the
23 production process somehow.

24 Regarding the production process, probably
25 in post conference if you can give me a little bit

1 more detail about coextrusion, what that process
2 consists of and what it does and so forth.

3 I was wondering on the resin, are there FDA
4 regulations on the polyethylene resins for say grocery
5 bags or food bags or whatever?

6 MR. DANIELS: The resin manufacturers are
7 providing FDA approved resin and letters of non-
8 rejection for casual food contact. So yes, we are
9 regulated.

10 MR. CANTRELL: So the grocery bags would
11 apply to the FDA regulations.

12 MR. DANIELS: Yes.

13 MR. CANTRELL: I noticed on Superbag's web
14 site, it says you're using ultra high molecular weight
15 polyethylene in their process.

16 MR. BAZBAZ: I think it says high molecular
17 weight.

18 MR. CANTRELL: Just high molecular weight?

19 MR. BAZBAZ: Yeah. And this material was
20 new like ten years ago, but not any more. Maybe we
21 should change that. So yes, it's the standard high
22 density polyethylene that is commonly used about
23 everywhere in the world.

24 MR. CANTRELL: Okay.

25 MR. BAZBAZ: We also have capacities for

1 extrusion, but that typically does not give us any
2 advantage because we use the same blend in all the
3 layers of the extrusion. So for instance if we have
4 nine percent high density and ten percent linear low,
5 we use that in every, in all the layers.

6 We have coextrusion mostly because of the
7 pumping capacity rather than just utilizing different
8 ways of separating the outside layer from the inside
9 layers.

10 MR. CANTRELL: So one extruder would not be
11 say using linear low and the other one high density?

12 MR. BAZBAZ: No, sir. Both extruders will
13 use the same exact blend.

14 MR. CANTRELL: In the production process, of
15 course you have, I believe a blown film extrusion is
16 the technical term for the film formation. I assume,
17 from what I understand, this is fairly generic across
18 the board, across domestic and respondent countries.
19 I'm also getting the sense that certain products at
20 say one facility may concentrate on a certain product
21 like a T-shirt bag, whereas others like perhaps
22 Superbag might comment on this because you showed us
23 both high end and T-shirt bags. Do you do those in
24 the same factory?

25 MR. BAZBAZ: I believe that the manufacturer

1 that does both is Command. But we only manufacture T-
2 shirt bags.

3 MR. CANTRELL: Oh, I'm sorry. I thought I
4 saw some bags --

5 MR. DORN: Those are bags that Mr. Halimi
6 represented with Command. And Command, as he said in
7 his testimony, does a full range of products in one
8 facility.

9 MR. HALIMI: We actually make ten different
10 types of bags all in one facility in Vernon,
11 California.

12 MR. CANTRELL: But on separate lines, I
13 would take it?

14 MR. HALIMI: Extrusion and printing is all
15 the same across. So the film that is being made, the
16 blown film, can go into any one of our products, so it
17 is continuing across the product line within our plant
18 for extrusion and printing.

19 What is called the conversion line, which
20 I'm sure you saw in your plant visit which is the
21 final production line, those are specific to the
22 product line. The extrusion and printing is the same
23 for all product lines. Same process. Same equipment.

24 MR. CANTRELL: On the printing, is it all
25 water based in the U.S.?

1 MR. HALIMI: We use 100 percent water base.

2 Yes.

3 MR. CANTRELL: Any solvent based inks in the
4 U.S.?

5 MR. DANIELS: We're all water based inks.

6 MR. BAZBAZ: We are too, also. Water base.

7 MR. CANTRELL: On the bags, the cut handles,
8 bottom -- I'm guessing that's your bag. That type of
9 thing. Flat bottoms. The bags with the attached
10 handles. Some molded on it looks like, some added on
11 or bracketed on and so forth.

12 MR. HALIMI: Yes, what is the question, sir?

13 MR. CANTRELL: I was just talking about the
14 high end bags that have the attached handles or molded
15 handles.

16 MR. HALIMI: Yes.

17 MR. CANTRELL: Speaking also of the wave, in
18 the flat bottom bags. This would be particular to
19 area I would take it?

20 MR. HALIMI: That is our product line, yes.

21 MR. CANTRELL: On Hilex, I understand this
22 is all T-shirt bags. But I believe it was said,
23 excuse me?

24 MR. DANIELS: We do manufacture what we call
25 -- handle bags, open mouth, handle bags as well. We

1 do manufacture square bags as well.

2 MR. CANTRELL: You mean with no gussets on
3 the side? No side gussets?

4 MR. DANIELS: They still have side gussets,
5 but they don't have the T-shirt handle cutout.
6 They're flat across with a circular die cut.

7 MR. CANTRELL: I saw a bag in a grocery
8 store, I guess it's a rather small bag, it was a Hilex
9 bag. It had a die cut square top, and a little cut
10 out like you were talking about. I assume that must
11 have been like for frozen foods, perishables, that
12 type of thing that they put in at the checkout
13 counter?

14 MR. DANIELS: Yes, we also manufacture like
15 produce bags. It's just a very minor part of our
16 business but we do have that capability.

17 MR. CANTRELL: You can produce a continuum
18 of T-shirt bags on up to shopping bags, right? Size.
19 Like something done in Penneys, for example. They sell
20 a lot of T-shirt bags and shopping bags. Perhaps
21 thicker --

22 MR. DANIELS: Uh huh.

23 MR. CANTRELL: Okay.

24 This was brought up, something I had on my
25 list here, the bag standards and patents. I notice

1 that a bag may or may not contain say country of
2 origin or say domestic producer, for that matter, that
3 wouldn't be readily understood by the consumer anyway.
4 There are some symbols and so forth. I assume there
5 aren't any international standards or domestic
6 standards for markings on bags, producer markings?

7 MR. DANIELS: In any of our patents that we
8 may have, we put our patent numbers in the gussets or
9 on the face of our bags.

10 MR. CANTRELL: On the thickness of bags,
11 I've heard microns, mils, I believe even millimeters,
12 someone mentioned. Is there a standard of measurement
13 in the industry?

14 MR. DANIELS: It's actually both mils or
15 microns.

16 MR. CANTRELL: And that would be
17 internationally also?

18 MR. DANIELS: Internationally I would think
19 probably more microns than mils.

20 MR. CANTRELL: In U.S. production, would you
21 venture a guess at the ratio of say T-shirt bags to
22 the other types of bags that are produced?

23 MR. DORN: I think the Commission spoke to
24 that in the prior determination. I don't remember
25 whether it's on the public record or not. It's a very

1 small percentage of the total. Our T-shirt bags are a
2 very very large percentage of the total.

3 MR. CANTRELL: Okay. That's good.

4 I understand all of the bags are trucked, I
5 believe palleted and trucked?

6 MR. DANIELS: Yes, that's the way our
7 company transports product. Palletized and trucked.

8 MR. CANTRELL: What would be the capacity of
9 a pallet and the capacity for a truck, an 18 wheeler?

10 MR. DANIELS: That depends on the weight of
11 the bag, but normally you can get 60 cases on a pallet
12 of one thousand per case, and forty four pallets on a
13 truck. We can maximize freight with plastic bags.
14 you can get a full whatever the law allows, 44,000,
15 48,000 pounds, in that vicinity. It's easily
16 attainable.

17 MR. CANTRELL: And the bags that come in
18 from off-shore, say that you may order from time to
19 time, I would assume those come in in containers in
20 some form? How are they packaged in the container?

21 MR. DANIELS: You can do it either floor
22 loaded individually, stacked boxes of bags, or you can
23 order them palletized. It's really up to the buyer.

24 MR. CANTRELL: Okay. Anything that I've
25 gone over here that you'd like to comment on in the

1 post-conference, I would appreciate it.

2 Thank you. Those are all my questions.

3 MR. ASCIENZO: Thank you very much, Mr.
4 Cantrell.

5 We turn now to Mr. Yost, the auditor.

6 MR. YOST: Good morning, and thank you for
7 coming.

8 Just a couple of questions. I'm intrigued
9 by the issue of patents. I saw on one of the bags
10 that passed me that patents are listed. What do the
11 patents cover?

12 MR. BAZBAZ: In our case we have a patent
13 that covers that the bag should not leave any residue
14 on the rack once it's pulled out from the rack at the
15 end. The customers are the ones who pretty much
16 dictate what type of design the bag should have. They
17 are interchangeable. So you might have our design and
18 next to the other cashier they might have a different
19 design, and both bags will have the same use. The
20 difference between one die cut and another one might
21 be \$20 or \$30. The lay of the machine. So it's not
22 an important cost, to make one type or the other.

23 Is that answering your question?

24 MR. YOST: Yes it does, thank you.

25 There was some discussion earlier regarding

1 indexing of prices to the buyer against the PE resin.
2 Is that a common practice in the industry? Has that
3 changed over time? For example, where you may have
4 had an explicit price reference, 1-point whatever it
5 was times the PE resin, was your price to the
6 customer. That may have either slipped or has now
7 gone by the wayside.

8 MR. BAZBAZ: In our case we've been able to
9 successfully pass on all the price increases according
10 to the index, but as well all the price decreases
11 according to the index, and the customer has been able
12 to realize long term they have had the most benefit
13 going this way because they are not committed to a
14 fixed price.

15 What we try to do is to keep the same
16 margins. Recently we have not been able to do that
17 because of price pressures. So our margin above the
18 resin has been diminished. But it continues to vary
19 up and down according to the index.

20 MR. YOST: Is there a name for the price
21 index that you use?

22 MR. BAZBAZ: In the United States it's the
23 Chemical Data Index. It's called ChemData.

24 MR. YOST: It provides a price reference for
25 polyethylene resin?

1 MR. BAZBAZ: Yes. It does provide for
2 almost all plastics that I'm aware of. So it's
3 polyethylene and you've got a different price for low
4 density and so on. So you try -- Primarily high
5 density in our case because it's the majority of the
6 material we use.

7 MR. YOST: What sort of lag might we see in
8 the pricing data?

9 MR. BAZBAZ: Is your question how fast it
10 goes up or down?

11 MR. YOST: Yes.

12 MR. BAZBAZ: Is this something we need to
13 maybe --

14 MR. YOST: If it's confidential business
15 information then I would ask that you put it in the
16 post-conference brief.

17 MR. BAZBAZ: I will.

18 MR. DANIELS: We'd be happy to share that
19 post-conference.

20 MR. YOST: Thank you very much.

21 Last, I have a data question, and before you
22 groan, it's a fairly easy one. If each of the
23 companies would estimate the proportion of the cost of
24 goods sold and their SG&A costs that are variable and
25 that are fixed. Just a ratio of those two categories

1 of cost.

2 MR. DORN: We'll be glad to do that.

3 MR. YOST: Thank you very much.

4 That concludes my questions, Mr. Ascienzo.

5 MR. ASCIENZO: Thank you, Mr. Yost.

6 We turn to Mr. von Schrilztz.

7 MR. von SCHRILTZ: Good morning, everyone
8 Karl von Schrilztz. I'm the attorney on the
9 investigation. Most of my questions have already been
10 covered by my colleagues but I still have a few.

11 One issue that has yet to come up is the
12 issue of paper bags. I don't know if that's going to
13 be an issue in this investigation. Apparently it was
14 in the 2004 investigation. I'm thinking specifically
15 about grocery stores where you go and the cashier asks
16 you whether you want paper or plastic. To what extent
17 do you compete with paper bags? And have paper bags
18 cut into your market share given environmental
19 concerns and I guess the perception that paper bags
20 are more recyclable than plastic bags?

21 MR. BAZBAZ: Actually the paper bags are
22 more damaging to the environment. And we are really
23 not competing with paper bags. It's just a different
24 product.

25 MR. DORN: For example, I think the

1 witnesses will confirm that if WalMart puts out a
2 reverse internet auction or asks for sealed bids
3 they're not going to ask for bids from producers of
4 paper or plastic. They've made the decision as to
5 whether they want a plastic bag or they want a paper
6 bag for that application. So it's my understanding
7 from the folks at this table, they don't have a
8 customer where the customer is seeking price quotes
9 for plastic or paper. It's either one or the other.
10 So they don't have any direct head to head competition
11 with paper bags.

12 MR. DANIELS: I would concur with both what
13 Mr. Bazbaz and Mr. Dorn said. We don't feel that we
14 compete against paper bags. We haven't seen any
15 market share declines because of if that's a carry out
16 product in the supermarket area.

17 MR. DORN: And nothing has changed since
18 this issue was considered in the 2004 determination in
19 terms of all the differences and physical
20 characteristics. I can't remember the numbers, but I
21 think paper bags are generally seven times thicker and
22 they take up more warehouse space and they're a lot
23 more expensive, they're not moisture resistant.
24 Steven might remember some of the other distinctions.

25 MR. NARKIN: Yes, also they're not made on

1 the same production lines. There may be one or two
2 companies that make both paper and plastic, but they
3 don't use the same lines in order to do it.

4 MR. HALIMI: And for the record, Mr. Bazbaz
5 said also, paper is not more recyclable than plastic.
6 Plastic is more recyclable and I encourage you again
7 to visit that web site for more specific information
8 on that.

9 MR. von SCHRILTZ: Thank you for those
10 responses.

11 I'm wondering with respect to cumulation. I
12 know Mr. Dorn, I think you said you're fairly
13 confident that this is a material injury case and not
14 a threat case, but in case the Commission has to
15 consider a threat, are there any conditions of
16 competition the Commission should consider when
17 determining whether to exercise its discretion to
18 cumulate for threat?

19 MR. DORN: Yes. I think you should consider
20 the fact that these are commodity type products coming
21 from all three countries. They're competing side to
22 side and they're sitting in the same distribution
23 warehouses as was testified to this morning. You've
24 got products from Vietnam in Taiwan and U.S. products
25 sitting in the same distribution warehouses. The same

1 channels of distribution. So we're not aware of any
2 conditions of competition that would suggest that
3 cumulation would not be appropriate.

4 MR. von SCHRILTZ: Thank you for that.

5 I'm wondering how has the recession affected
6 PRCB demand? Also your raw material costs. You
7 testified earlier that your raw material costs went up
8 in 2008. I think they were especially high in two
9 months, July and August I think of 2008. What's
10 happened to raw material costs since then?

11 MR. DORN: You mean through the end of the
12 period of investigation?

13 MR. von SCHRILTZ: That's correct.

14 MR. DORN: Which puts you at December of
15 2008.

16 MR. von SCHRILTZ: That's right.

17 MR. BAZBAZ: The index, we buy on our
18 materials not exactly at the index price but at a
19 price that will vary according to the index up or
20 down. The index showed that it peaked sometime in
21 September and then it started to go down in October,
22 November, December of 2008. So we were buying at
23 lower prices in that period of time.

24 Is that the question?

25 MR. von SCHRILTZ: Yes.

1 Anyone else?

2 MR. RIZZO: In terms of the economic impact
3 on demand, there may have been shifts in where people
4 are shopping, but the overall consumption has remained
5 the same.

6 MR. von SCHRILTZ: I'm also wondering, has
7 it affected the sorts of bags that retailers were to
8 purchase? You hear a lot about retailers suffering
9 massive losses. I'm wondering, are they substituting
10 thinner bags or cheaper bats for the bags that they
11 used to purchase? Are they more price sensitive, in
12 other words?

13 MR. HALIMI: We think they have, yes. First
14 of all, there is no data available that we've been
15 able to get, but when a retailer has suffered sales in
16 gross dollars, it's important to look at the number of
17 visits of customers to their stores. They may be
18 selling lower volume of sales but they may be handing
19 out the same number of bags.

20 The issue that I want to bring up is the
21 sale of a retailer like Macy's or JC Penneys may not
22 translate specifically to the number of bags that they
23 use. They may have lower sales because their
24 customers are buying a \$20 sweater instead of an \$80
25 sweater, but it's still given out in one bag. The

1 customer is still walking out with a bag. So this is
2 a point that I encourage the panel to consider as
3 well.

4 MR. BAZBAZ: We do know that the sales for
5 the same stores at WalMart have been going up, have
6 been increasing, so you may not go to Macy's to buy
7 something, will go to WalMart to buy the same thing.

8 I would also argue that people would go more
9 to the grocery stores more often, to eat in house. So
10 the demand for groceries shouldn't be lower.

11 MR. DANIELS: I would just add that the
12 specifications of the bag have not changed
13 dramatically, at least in the T-shirt market space
14 with regard to supermarkets. As Isaac said, ten years
15 ago there was high molecular weight, high density.
16 Everybody's kind of taken advantage of down-gauging
17 and downsizing a bag over the course of time, over the
18 last ten years, to where now we're actually
19 contemplating seeing some reverses of that, that maybe
20 they're taking too much out of the bag. So I would
21 say you haven't seen too much of a downsizing, down
22 gauging of the bag products.

23 MR. DORN: Could I add one thing about
24 consumption? That is you'll see references in our
25 petition to subject import share of U.S. consumption

1 going from 7 percent in 2006 to 15 percent in 2008. I
2 want to emphasize, those are very very conservative
3 estimates of market share. We think that your record,
4 which will determine what the actual consumption was
5 during those years, will lead to a significantly
6 higher import penetration ratio. We were required to
7 show industry support to the Commerce Department, to
8 use objective data in coming up with an estimate of
9 the size of the market in 2008 in order to show that
10 we had sufficient industry support, and Mr. Bazbaz
11 took your consumption number from 2003 from the prior
12 case and used the best objective data available which
13 was growth in non-durable goods, to extrapolate that
14 forward to come up with a consumption number for 2008.

15 But we would suspect that you didn't have
16 growth at that magnitude certainly from 2006 to 2008,
17 it was probably less than that. And so we would
18 expect that the import penetration ratio that you come
19 up with for 2008 is well above 15 percent based on
20 your records. I don't want you to think we're
21 proposing that you accept that figure because I think
22 you'll have much better data than we have in terms of
23 assessing the import penetration ratio.

24 MR. von SCHRILTZ: Thank you for your
25 answers to my question.

1 To follow up on a question that's already
2 been asked by several of my colleagues, I think, I'm
3 wondering when Hilex purchased Sunoco and then
4 Vanguard, I'm wondering ordinarily when a company
5 acquires another company there can be a consolidation
6 of production facilities, to try to close down the
7 least productive facilities and increase the capacity
8 utilization at the most productive facilities. Did
9 any of that go on at Hilex after it acquired Sunoco
10 and Vanguard?

11 MR. DANIELS: To some degree, yes. And we
12 can provide more detail post conference with what kind
13 of equipment we moved around. But we did have
14 significant capacity cuts intentionally to try to get
15 supply/demand in balance with the dramatic increase in
16 imports.

17 MR. von SCHRILTZ: Yes, I'd appreciate more
18 detail post conference. Thank you.

19 There was some discussion about how
20 producers in countries subject to the orders that were
21 imposed after the 2004 investigations had started to
22 shift production to the countries subject to this
23 current investigation. I'm wondering, how difficult
24 and expensive is it for a producer to shift production
25 from one country or another? Is it just a matter of

1 renting a huge warehouse and moving the equipment? Or
2 is it more complicated than that? If you know.

3 MR. HALIMI: That's really one of the more
4 expensive parts is the infrastructure, the electrical
5 outlets and basically, yes, unhooking it from one
6 facility, moving it and plugging it in and supplying
7 electric power. Supplying electric power.

8 MR. BAZBAZ: I believe it's a very simple
9 operation. You just pick up the equipment. The
10 equipment is modular so you have different extrusion
11 lines and different bag machines and just put it onto
12 a truck and get it elsewhere.

13 Of course you have to do the electric
14 installation and so on and so forth and you have to
15 rent a warehouse, but the barriers to move are very
16 minimal.

17 MR. von SCHRILTZ: Thank you for that
18 answer.

19 I'm wondering if you can talk about what
20 accounted for the increase in raw material costs
21 during the period of investigation. I understand that
22 resins you use are derived from natural gas and not
23 oil. So what accounted for the increased cost?

24 MR. BAZBAZ: I have the explanation that
25 they told us, so bear with me, okay? Because I asked

1 the same question. Why if the gas has not gone up in
2 price that much why are you selling the raw materials
3 at the same price as in Asia? If they increase in
4 Asia or in overseas, they use as a basis NAFTA or the
5 oil to manufacture.

6 The answer was very simple. He says you
7 don't buy it at the lowest alternative price or the
8 beset price that I can sell it for, I'm not going to
9 sell it to you. I'll sell it to Asia.

10 So to try to mirror the market. And that's
11 also the point that it's a commodity, the highest
12 bidder gets it.

13 MR. von SCHRILTZ: Thank you for that.

14 How price competitive are bags imported from
15 non-subject countries other than those that are
16 currently subject to the antidumping orders? For
17 instance, imports from Canada and Mexico, I think I
18 heard, Korea. How price competitive are imports from
19 those countries?

20 MR. RIZZO: Effectively they're not on our
21 radar screen. We compete competitively with them. I
22 think occasionally you have prices more driven by
23 currency exchange than by competitive price.

24 MR. BAZBAZ: In our case we export bags to
25 Mexico.

1 MR. DORN: As I was mentioning earlier, in
2 2008 imports from Vietnam were 7.2 billion bags;
3 imports from Taiwan, 4.6 billion bags; imports from
4 Indonesia were 2.8 billion bags. The next largest
5 supplier in 2008 was Canada, at 773 million bags. The
6 CIF value, unit value of imports from Canada was
7 \$33.38 versus Indonesia which is \$14.51.

8 And then the drop-off from Canada to Korea
9 is like 259 million. So I think what Mr. Rizzo was
10 saying, that they're not really on the radar screen,
11 is these other countries just have not been, certainly
12 hasn't had any downward pressure on prices in the
13 United States because their volumes have been low and
14 Canada in particular, the value is much much higher.

15 MR. von SCHRILTZ: Thanks for answering my
16 question.

17 I understand that some inventories of PRCBs
18 are maintained for purposes of just in time delivery
19 requirements. How widespread are just in time
20 delivery requirements? And are subject imports at a
21 disadvantage in terms of competing for such business?

22 MR. BAZBAZ: I don't think that they are
23 disadvantaged because they are all coming to a
24 distribution center, and from there they can do the
25 just in time delivery. So I don't see that as a

1 disadvantage at all.

2 MR. RIZZO: I'd agree with that. The
3 product is not changing so frequently that they can't
4 put material on the floor and also have it at the
5 warehouse, at the distribution level.

6 MR. HALIMI: I agree with that as well.

7 MR. von SCHRILTZ: I have no further
8 questions at this time.

9 MR. ASCIENZO: Thank you, Mr. von Schrilzt.
10 Mr. Deyman?

11 MR. DEYMAN: I'm George Deyman, Office of
12 Investigations.

13 To what extent if any are the producers of
14 the PRCBs in Indonesia, Taiwan or Vietnam related to
15 the producers of the products in China, Malaysia or
16 Thailand? Are most of the producers in the three
17 subject countries related to producers in the
18 countries which have orders on them?

19 MR. DORN: I don't think that would be the
20 case. We don't have any evidence that would suggest
21 that most are related.

22 MR. DEYMAN: To your knowledge some of them
23 are related? You mentioned movement from say China to
24 some of these other countries.

25 MR. NARKIN: As I said in my statement there

1 are a couple of instances that we're aware of where a
2 Malaysian producer established a plant in Vietnam and
3 I believe that's also true of one Indonesian producer.
4 Those are the only two particular situations I'm aware
5 of.

6 MR. DANIELS: I agree with Mr. Narkin. Just
7 a handful.

8 MR. DEYMAN: Are you aware of any
9 circumvention or evasion of the current antidumping
10 duty orders by transshipments to any countries, or
11 especially the three current subject countries?

12 MR. DORN: Yes, we are. We have brought
13 that to the attention of the U.S. Customs Service and
14 we think Customs is pursuing some of those situations.
15 It's nothing we can talk about on the record here.

16 MR. DEYMAN: It would be helpful if you
17 could mention something about that in the post
18 conference brief.

19 MR. DORN: We'd be happy to do that.

20 MR. DEYMAN: Are you aware exhibit 11-12 of
21 the petition presents a certification regarding the
22 eligibility of Hilex Poly Company to apply for worker
23 adjustment assistance and alternative trade adjustment
24 assistance. Is that eligibility based on a finding
25 concerning imports from Indonesia, Taiwan or Vietnam?

1 Or is the finding based on imports in general?

2 MR. DORN: I believe the specific finding
3 was that imports contributed importantly to the
4 separation of those workers. I do not think that the
5 standard conclusion is country specific. I'll be glad
6 to check the application filed and see if there's any
7 reference in particular to the subject countries.

8 On the other hand I would note that if you
9 look at the import data and you're looking at imports
10 that would have contributed importantly to the
11 separation of workers, it's obvious because imports
12 from the three subject countries increased 114
13 percent, and imports from other countries were going
14 down. So if there's no specific mention of those
15 three countries, it doesn't change the fact that
16 that's what the cause of the problem was.

17 MR. DEYMAN: Are you aware of any other
18 domestic producers that have been found eligible for
19 adjustment assistance?

20 MR. DORN: I believe that EuroPackaging
21 which closed a plant last year in New Hampshire,
22 Salem, New Hampshire, they also have applied for trade
23 adjustment assistance and been certified as eligible.
24 But we will check on that and to the extent we can
25 supplement the record we'll do so.

1 MR. DEYMAN: Thank you.

2 Are there any quality or product mix
3 differences among the PRCBs from Indonesia, Taiwan and
4 Vietnam?

5 MR. DANIELS: I would say no, Mr. Deyman.

6 MR. HALIMI: I agree with that. We don't
7 see any difference in quality between U.S. production
8 and Indonesia nor Vietnamese production

9 MR. BAZBAZ: We haven't seen any differences
10 between the quality in those three countries either.

11 MR. DEYMAN: Thank you.

12 Would you say that any injury suffered by
13 the domestic industry from subject imports has been
14 more volume related or price related or both?

15 MR. BAZBAZ: It has been both. In our case.

16 MR. DANIELS: The price will buy the volume,
17 so it's been both.

18 MR. HALIMI: I agree.

19 MR. DEYMAN: I have a question for Mr.
20 Halimi of Command Packaging.

21 You mentioned that you produce both T-shirt
22 bags and also higher end PRCBs. Are they produced on
23 the same equipment and with the same employees?

24 MR. HALIMI: Yes, to the employees. The
25 answer to the equipment, there are three processes as

1 Mr. Bazbaz mentioned, extrusion, printing and
2 conversion. Extrusion and printing, they're
3 identical. The same equipment makes film and prints
4 for all types of products within our facility. The
5 final process which is conversion, it is product
6 specific. However the employees that work in our
7 factory are trained to work on all types of equipment
8 within our factory.

9 MR. DEYMAN: Mr. Daniels, you produce some
10 higher end bags, I believe. Are they produced on the
11 same equipment?

12 MR. DANIELS: Yes, they are.

13 MR. DEYMAN: What effect if any has the
14 Section 337 exclusion order had on imports and on the
15 domestic market and the domestic industry?

16 MR. BAZBAZ: It has helped us in the period
17 of time that it was issued. And right now I don't
18 think that has any bearing at this time because we
19 have plenty of customers that switch between one
20 design of the bags to another. I don't think that has
21 a lot of advantages at this time.

22 MR. DEYMAN: What was the issue at the time?
23 I'm just curious, Mr. Bazbaz. Was it a patent
24 violation or what?

25 MR. BAZBAZ: Yes, we have a patent design

1 that will allow you to not leave any residue on the
2 racks after the bags are used, and the top will go
3 with a bag. At that period of time it was very
4 difficult to figure out who the manufacturers of these
5 bags were and who were infringing, so we asked for a
6 general exclusion order. Since it was very easy to
7 change from one design to the next one, with just a
8 small change, we were granted that protection.

9 MR. DEYMAN: My last question is, apparently
10 there is a dispute at the WTO between Thailand and the
11 United States over the PRCB antidumping calculation
12 methodology used by the United States. Would you care
13 to comment, Mr. Dorn, on that dispute? Do you expect
14 a ruling fairly soon?

15 MR. DORN: I would expect a ruling in about
16 six months, something like that. It's just one
17 dumping calculation methodology issue. Any way it
18 goes, we're still comfortable that the order's going
19 to remain in effect against imports from Thailand.

20 MR. DEYMAN: Thank you very much for all
21 your answers. I appreciate it.

22 MR. ASCIENZO: Thank you very much.

23 I have a few odds and ends questions and
24 then if anyone else has any more questions they can
25 ask them.

1 Are plain, unmarked bags in scope or out of
2 scope?

3 MR. DORN: They would be in scope. With or
4 without printing.

5 MR. ASCIENZO: What percentage of the market
6 are they? Small, I'm guessing, but --

7 MR. HALIMI: We produce certain amount of
8 bags that are plain that we sell through a
9 distribution channel. I can supply the information
10 post conference on the volume within Command Packaging
11 of what percent is plain bags if you would like.

12 MR. DANIELS: I don't believe we sell any
13 plain, unprinted bags. We will sell a generic thank
14 you bag. But even that percentage overall is pretty
15 small.

16 MR. ASCIENZO: Thank you.

17 Are these bags used at all in fast food?
18 McDonalds, Burger King, things like that?

19 MR. HALIMI: We are a primary supplier to
20 McDonalds, yes. They are used within the fast food
21 industry.

22 MR. RIZZO: We supply a number of quick
23 serve restaurants as well. Taco Bell, Yum, Kentucky
24 Fried Chicken.

25 MR. ASCIENZO: Thank you.

1 At least one of the high end bags, I forgot
2 which one it was, essentially said this bag will start
3 to decompose within a certain amount of time. I take
4 it that's a very small percentage of the overall bags?
5 Can anyone comment on that?

6 MR. DANIELS: Yes, the degradable products
7 are a very small percentage of sales with our
8 organization.

9 MR. ASCIENZO: In your post-conference brief
10 or now could you give me an estimate like five
11 percent, one percent, whatever the number is?

12 MR. DANIELS: Less than one percent.

13 MR. ASCIENZO: Thank you.

14 I have a question on capacity. I understand
15 the process of the extrusion, printing and then the
16 final step. When it comes to extrusion, is it all or
17 nothing? Meaning that if you're producing a certain
18 type of bag is a production rate so many feet per
19 second? Can you extrude more? Can you push more
20 through to make it faster? Or it just a set rate per
21 bag?

22 MR. BAZBAZ: In our case we try to run the
23 extrusion lines as fast as we can, but in the last few
24 months and last years we've had to slow down the
25 extrusion and you can actually slow down all the

1 machines. So it's not all or nothing. You can slow
2 down.

3 MR. HALIMI: One of the expenses associated
4 with extrusion, you brought up extrusion, is
5 electricity and the employee base or the operator base
6 that runs that equipment. Whether you run it at 70
7 percent capacity or 100 percent of capacity you end up
8 using the same amount of electricity and 99 out of 100
9 the same employee base that operates the machine. So
10 economically for all of us in the industry, it is best
11 to run the equipment as most efficient as we can for
12 economic reasons.

13 MR. ASCIENZO: Thank you both.

14 I have another question about production.
15 Is it a one step process that the film is made and
16 then it immediately goes towards printing, is printed
17 on the same line? Can you make the film and put a
18 roll in a warehouse and then take the roll down and
19 print it?

20 MR. BAZBAZ: You can have a printer attached
21 to an extruder. Or you can have the printer separate,
22 as a roll to roll printer. Or you will have a printer
23 attached to bag making machines.

24 In our case we have most of the printers
25 attached to bag making machines. But you can

1 certainly attach them to an extrusion line.

2 MR. ASCIENZO: Thank you.

3 MR. DANIELS: To your point, you can extrude
4 film, put it into massive rolls and inventory it for
5 later processes. As Mr. Bazbaz says, you can print it
6 on an off-line press. You can go through a printing
7 press right before a converting piece of equipment.
8 So there are a lot of options available.

9 MR. ASCIENZO: Thank you.

10 MR. HALIMI: In addition to that there are
11 several smaller companies in the United States that
12 are called "converters" where they don't even extrude
13 the film. They're businesses in the United States
14 that buy the roll film from other, from extrusion
15 companies, that bring the roll in that will print it
16 and convert it. Or there are some that are only
17 converters. That will buy, place orders for printed
18 roles of film, bring it into their company, and they
19 only do the last process of converting it.

20 So it's a pretty wide range in the industry
21 in how different companies manufacture the bag.

22 MR. ASCIENZO: Thank you very much.

23 That's it for my questions. Does anyone
24 have any follow-on questions?

25 MR. von SCHRILTZ: I have one, thank you.

1 Mr. Halimi, I'm wondering how many domestic
2 competitors do you have for your higher end bags?

3 MR. HALIMI: I have named a few of the
4 companies in my statement. There's a company Paksher,
5 Genpak, there's Roplast in Northern California. It
6 all really depends on the product line. There's a
7 company locally in California called Leadway. They're
8 a competitor. It depends on which type of bag that we
9 make that we find competition within different
10 companies.

11 For example, the company Paksher, we compete
12 only on one or two of our product lines with them.

13 MR. von SCHRILTZ: Another question for
14 everyone, I'm wondering, these reverse auctions and
15 the internet auctions that you described, are they a
16 recent phenomenon or have they been around since the
17 2004 investigations?

18 MR. DANIELS: They've been around since the
19 2004 investigations. I think they're more pervasive
20 now.

21 MR. DORN: If I could add to that, there's a
22 lot of testimony about our reverse internet auction in
23 2001 that Target did which was very significant. So
24 the internet auction, there's a lot of evidence about
25 that in the 2003, 2004 investigation. They were very

1 prevalent at that time.

2 But there was also testimony that the use of
3 sealed bids and direct price competition by means
4 other than the internet was a longstanding feature of
5 the industry.

6 In effect what the reverse internet auctions
7 did was it gave the importers quick access. They
8 didn't have to go face to face and meet a customer.
9 They could just sit at their computer in Malaysia or
10 China or Thailand or the import facility in New Jersey
11 and get access to the very largest retailers in the
12 United States. That was a factor during the entire
13 period of investigation in the earlier case from 2001
14 to 2003. And it's my understanding that practice
15 continues today.

16 MR. von SCHRILTZ: Just to follow up on that
17 question. I'm wondering, and I've heard a lot, not
18 jut here but elsewhere, that purchasers use reverse
19 auctions to enforce their prices, and I know from
20 other investigations certain producers refuse to even
21 participate in reverse auctions because there's a
22 perception that they were somehow unfair to producers.

23 How do purchasers use reverse auctions or
24 maybe internet auctions to force down prices?

25 MR. RIZZO: The reverse auction, it's a

1 great description of the way the product is perceived
2 in the industry. It's completely and utterly
3 commoditized, to coin a phrase, but it's used to
4 leverage volume. It's used to drive pricing down,
5 because when you're in a reverse auction format you
6 can see generally the lowest bid. Generally you don't
7 even know your ranking.

8 It goes one of two ways. Either you see
9 your bid compared to the lowest bid or you see your
10 ranking compared to your competitors. Sometimes you
11 can have between four and ten competitors in the
12 auction. Generally you're not invited to the table to
13 discuss the next level unless you're number one. If
14 you're the incumbent and you find yourself in the
15 number two position, generally you're not invited back
16 either.

17 MR. BAZBAZ: I would argue that the auction
18 of course brings down the prices, but the prices are
19 driven by all the participants, not by the fact of the
20 auction. It's just giving access to all the
21 participants. It's just a platform or a forum to
22 submit your prices.

23 MR. von SCHRILTZ: Thank you for those
24 answers.

25 I have no further questions.

1 MR. ASCIENZO: Thank you very much for that
2 wonderful presentation and your answers.

3 Except for the full box, are these samples
4 we may keep as exhibits?

5 MR. DORN: Yes.

6 MR. ASCIENZO: Thank you very much.

7 With that, let's take a break until 20 after
8 by this clock, so about say seven minutes. Is that
9 enough time to allow the other panel to come up?

10 Thank you very much.

11 (Whereupon, a brief recess was taken.)

12 MR. PERRY: My name is William Perry from
13 Garvey Schubert & Barer. And we're here representing
14 a number of foreign exporters and U.S. importers in
15 the case. We are here to talk about the 1 percent,
16 the 1 percent of reusable bags. These are the high-
17 end shopping bags. They are bags that, frankly, can't
18 be produced in the United States because they require
19 substantial amounts of hand labor.

20 We're here to also mention that they are
21 separate like products, two distinct like products
22 based on commercial reality. We believe that in the
23 first place the International Trade Commission denies
24 that commercial reality.

25 The price is different. We talk about a T-

1 shirt bag, the disposal bag; we're talking about
2 something worth two cents apiece. The high-end
3 shopping bag sells for 25, 35, 45 cents and even
4 higher apiece. A very different product here.

5 More importantly, the point made by my
6 partner, Ms. Levinson, about the statutes is extremely
7 important. Because although the International Trade
8 Commission -- and this really doesn't have to do with
9 the environmental issue, this has to do with the
10 definition of like product.

11 The Petitioners are saying, and the
12 Commission agrees, hey, we've got a continuum here.
13 No bright dividing line. But the city of New York and
14 the state of California have found a bright dividing
15 line. And what is interesting is it's the same exact
16 dividing line that you see on this.

17 I mean, I'm reading now from, this is a 2008
18 statute from the city of New York regarding recycling.
19 And it says to maximize the movement of plastic
20 carryout bags and film plastic from the waste stream
21 in order to recycle them. And then in definitions,
22 the city of New York states the following: "A plastic
23 carryout bag means the plastic bag provided by a store
24 to a consumer at the point of sale that is not a
25 reusable bag." Not a reusable bag.

1 Then the city of New York goes on to state,
2 "Reusable bag means, too, a durable plastic bag with
3 handles that is at least 2.52 mils thick, and
4 specifically designed and manufactured for multiple
5 use." In other words, the city of New York finds a
6 bright dividing line here in this continuum.

7 But what's interesting, what's very
8 interesting, is that the state of California has the
9 same dividing line based on commercial reality. So
10 they say, and state in the statute, which is Statute
11 42250, Definitions, this was enacted in 2006, and it
12 goes to the issue of recycling.

13 But it says, "A plastic carryout bag means a
14 plastic carryout bag provided by a store to a customer
15 at the point of sale. A reusable bag means either of
16 the following." And no. 2, the first one is a bag
17 made of floss. The no. 2 is a durable plastic bag
18 with handles that is at least 2.25 mils thick, and is
19 specifically designed and manufactured for multiple
20 use. The same exact definition.

21 We believe -- we just found this in one hour
22 yesterday, after talking to Steve, Steve will get into
23 this in more detail. But we believe that these
24 statutes are all over the United States, in various
25 cities and states. And they recognize a bright

1 dividing line.

2 A bright dividing line based on commercial
3 reality, based on characters that's in use.

4 Now we've heard from the Petitioners, there
5 is no bright dividing line here. It's all a
6 continuum, all a rainbow. Well, if that's true, then
7 I guess laminated woven sacks should be in this case.
8 And yet we have a separate case on laminated woven
9 sacks. I used to say that a drop (phonetic) of water
10 can be bought on all four-wheel vehicles, covered
11 wagons, and automobiles. How do you define it?

12 But what's going on here is that the city of
13 New York and the state of California have found a
14 bright dividing line based on characteristics and
15 uses, based on commercial reality. And we believe
16 that the Commission should take this into account.
17 This is a significant development from the last
18 investigation. And now I'd like to ask Steve Gitlin
19 of Glopack to go into this in more detail.

20 (Electronic interference.)

21 MR. GITLIN: Good afternoon. My name is
22 Steve Gitlin. I'm a sales representative from
23 Glopack, Inc. I've been in the packaging business
24 since 1977. This is my third visit to the Commission.

25 Sorry. The mic wasn't working, sorry.

1 I testified before the Commission in Series
2 BOCB Investigation, 2003 and 2004.

3 As a packaging professional and specialist
4 in bags for over 30 years, I was, quite frankly,
5 disappointed by the Commission's finding that its 2004
6 final injury determination to lump high-end handmade
7 polyethylene shopping bags into the same like product
8 as a T-shirt bag, which of course that being what
9 Petitioners produce.

10 The Commission's 2004 decision failed to
11 recognize the clear dividing line that existed between
12 different plastic bag products. I hope the Commission
13 will not repeat this error in these proceedings.

14 If the Commission is to make a reasonable
15 decision, they must understand the difference between
16 types of bags that are presented in the market.

17 Mr. Dorn, I suppose, would have you believe
18 that this bag and this bag are the same. And I can
19 tell you from over 30 years of experience, that's just
20 not true.

21 T-shirt bags, we'll take that to start. I
22 think it's important to redefine the kinds of bags
23 we're talking about, as opposed to saying "bags."
24 It's a very unfair statement, once again, like saying
25 covered wagons and Mercedes Benz are in the same

1 vehicle category. It just doesn't work.

2 A T-shirt bag, and the reason it's called a
3 T-shirt bag is because it looked like the old-
4 fashioned T-shirts. A lot of people think it's
5 because T-shirts go into it, and that's not the
6 reason.

7 A T-shirt bag is a totally machine-made bag.
8 It's a commodity item; we agree with the Petitioners.
9 And it's made basically for a one-way trip home. It's
10 meant to take the product from the supermarket, load
11 it up, get it into the car or walk it home, and then
12 dispose of. It's a very poor advertising vehicle, and
13 it's generally printed very plainly, simply, one or
14 two colors. When it has an advertising logo, it's
15 very difficult to read. From that point of view, the
16 reusability is very, very limited.

17 It's printed in the form that they use in
18 the United States called flexographic printing.
19 Flexographic printing is printing with rubber polymer
20 plates mounted on a roller, and squeezed through to
21 the plastic. It's important to note, because bags
22 overseas and high-end bags can be printed for -- but
23 those are printed in a different type of way which
24 we'll get into.

25 Normally these T-shirt bags are sold to

1 supermarkets, grocery stores, drugstores, craft
2 merchandisers. And again, it's a very simple, cheap
3 way to package goods out the door. And they work.
4 They work very well.

5 Secondly, I'd like you to be able to
6 distinguish this, which I don't think should be hard,
7 to a high-end shopping bag. Now, it's clear, I think
8 it's clear to everybody sitting at the panel, there's
9 a difference. There's a difference in printing,
10 there's a difference in use, and there's a different
11 expectation of the product. And that expectation, in
12 my mind, makes it a clear difference, as well.

13 As Mr. Rizzo and Mr. Daniels mentioned, by
14 their numbers, this is a 1-percent product in the
15 market. Very small. Not small to us, but it's small
16 to them.

17 These bags are reusable. They're made,
18 their expectation is to be reusable. We call it
19 bagvertising, meaning these bags become a walking
20 billboard out on the street. They're made generally
21 of very hefty plastic, 2.25 mil, which the statute
22 talked about. But in general, they're made of a very
23 much heavier plastic. I'll pass them around so you
24 can touch and feel and see the differences.

25 They have applied handles. Now, I believe

1 it was Mr. Rizzo that mentioned none of the bags that
2 they produce have value-added features. Well,
3 everything on this bag is value-added. The handles
4 are applied to be value-added. The cardboard that's
5 placed on the bottom has value added. The cardboard
6 that's placed on top has valued added. The bag's size
7 of print is value added. So everything about the bag
8 is different, and its expectation out on the street is
9 totally different than what this would be for.

10 These bags are printed -- and we can pass
11 this around. Maybe they'd like to see the difference.
12 These bags are made from some of its parts. Some of
13 the bags have rope handles. Some of the bags have
14 grommets. Once again, it allows the individual
15 retailer to express their, their way of having their
16 image out on the street, so they get very fancy with
17 that. You can pass that around, as well.

18 These bags mostly are printed in a method
19 called rotogravure printing. Rotogravure printing
20 differs from flexographic printing. It's a much
21 higher quality print. It's able to hold four-color
22 process, it's able to hold registration extremely,
23 extremely well. You can get print jobs much better
24 than flexographic printing that they do domestically.
25 Excuse me.

1 This allows once again the advertiser of the
2 bag to be their walking billboard. And the
3 reusability of the bag to be ecologically friendly, as
4 opposed to the T-shirt bag, which is meant as a one-
5 way trip.

6 The price difference is enormous. Mr. Perry
7 mentioned a T-shirt bag generally to a grocery store,
8 maybe a two, two-and-a-half-cent bag. The bag that
9 goes to a retailer, such as a high-end shopping bag,
10 may be 25, 35, 65 cents and better. So from a
11 percentage, it's a huge, huge, huge difference.

12 One of the other differences is the
13 quantities in which these bags are bought. These
14 high-end bags overseas are made to help support the
15 retailers. We aren't very interested in the same
16 product, every product related to grocery stores and
17 high-end stores. We support the local retailers, the
18 mom-and-pops, the small stores. That's the majority
19 of our business.

20 And we make bags in quantities of 2,500
21 pieces. Now, these small retailers depend on us for
22 that. For them to ask, or for some of the other
23 manufacturers, for them to ask the retailer to
24 purchase bags in the quantities that they manufacture
25 them would be like your oil suppliers coming to you

1 and asking you to buy a year's worth of home heating
2 fuel in advance, store it where you have no space, and
3 pay for it up front. It puts extreme pressure on the
4 retailer, and it would hurt business in general by
5 taking that away from them.

6 Now, some of the criteria of the vast work
7 were mentioned, but to go through it again, the
8 physical characteristics, there is an extremely big
9 difference between the T-shirt bag -- I'll pass this
10 one around -- and then there's the gauge. More than
11 likely, these T-shirt bags are one mil and under. We
12 call them antigravity bags because they're so thin
13 that if you ever let them go, they never touch the
14 ground.

15 Our bags are much, much heavier, durable,
16 reusable. There is a clear difference. New York
17 City, San Francisco has set forth the same, the same
18 criteria of the durability and reusability of the
19 bags, and places it in a totally different category
20 than T-shirt bags.

21 Additionally, we have the flexibility of
22 adding handles. Rope handles -- I'd like to pass that
23 around. T-shirt bags are dye-cut out of the body of
24 the bags. There really isn't any options. It's a
25 very good bag. It's great for putting bologna in, but

1 it's not a great bag for a retailer to send out on the
2 street as a status symbol of its product.

3 I'm sure everybody here knows someone who
4 saves shopping bags, puts them in their drawer. And
5 then maybe the person later would go out to work, put
6 her high heels in the bag, and go on the
7 transportation to work, and that bag becomes a status
8 symbol. That in itself is a great big difference.
9 Interchangeability.

10 I'll always say what I feel and what I think
11 my customers think. And I don't believe the same
12 person who would buy those bags would be interested in
13 buying this bag. I don't believe at any of the
14 internet auctions they say let's talk about a high-end
15 shopping bag, and let's talk about a T-shirt bag.
16 They've decided, the same way they've decided with
17 paper, that they're going to go with the T-shirt bag,
18 because there is a clear difference between the two.
19 And that decision was made before the process takes
20 place.

21 So it's not interchangeable. T-shirt bags
22 are a commodity. High-end bags are a piece of artwork
23 that express the image and the wishes of the retailer
24 out on the street.

25 Channels of distribution used to be

1 completely different. And now, because of the
2 economy, they're starting to overlap. So you have
3 some food service distributors and retail packaging
4 distributors going after the same type of business
5 because they need to increase their own sales.

6 But there are food service distributors that
7 will deliver these T-shirt bags, warehouse and deliver
8 them, on a weekly and daily basis to a grocery store
9 high-end chain. Those high-end shopping bags are sold
10 by retail packaging distributors, and that's what
11 they're called. And there are, there's an
12 organization called RPA, Retail Packaging Association.
13 And once again we get together and tell lies to each
14 other. In fact, they tell only about retail
15 packaging.

16 I say it overlaps a little bit since the
17 economy has failed, but they must sell their customer,
18 along with shopping bags, tissue paper, ribbon and
19 bows, giftwrap, all the things that you might
20 recognize when you go into a store.

21 Whereas the food service distributor sells
22 register tape, wax paper, aluminum foil, and T-shirt
23 bags. So from that point of view, even distribution
24 realizes there's a difference with those bags.

25 T-shirt bags, as the petition has mentioned,

1 are run on machines that are as big as this room.
2 They're very inflexible. Generally, as they said,
3 they're made to run 360 days a year. For them to shut
4 it down for an hour or a day will ruin production,
5 will ruin productivity.

6 The bag, the machine that these bags are
7 made on are much, much more flexible. They're
8 smaller. We can do print changes, color changes with
9 very little trouble. So the machinery done is
10 completely different. And the price, hundreds of
11 times or potentially hundreds of times difference.

12 In review, T-shirt bags and high-end bags
13 constitute separate-like products. I think it's
14 obvious in working with the product and seeing what
15 each product is capable of doing and how it's used out
16 on the street supports that fact.

17 If you have any questions, I'd be delighted
18 to answer them for you. Thank you.

19 MR. PERRY: Now I'd like to ask Faye Lin,
20 the Marketing Executive of Super Exim Sari, to speak.

21 MS. LIN: Good afternoon. Thank you very
22 much for me this opportunity to share our comments as
23 foreign exporter. My name is Faye Lin. I am the
24 Marketing Executive from Super Exim Sari. We are one
25 of the major exporters of the PRCB bags in Indonesia

1 and then also at the same time our company's
2 affiliate PT Supermart.

3 Our company has been in this business for 18
4 years. I myself have been in this position for three
5 years. I am not a native English speaker, so I will
6 try my best. I just want to add to what Steven just
7 mentioned. I think I want to explain about the
8 difference between a T-shirt bag and a high-end bag.
9 They are quite different from a production point of
10 view.

11 Our company produces many different kinds of
12 bag. We produce T-shirt bag, and we also produce the
13 so-called high-end shopping bag. And other than that,
14 we also produce a bag for industrial packaging, like
15 baby diapers, lady napkin, and tissues, et cetera.

16 So for T-shirt bag, actually this is a very,
17 very simple product. As Steve mentioned, this is just
18 for one-time use purpose, for the customer to bring
19 their goods from the store to their home. So
20 basically, it is very thin. Normally the material is
21 high-density polyethylene, and the print is very, very
22 simple. So to produce the T-shirt bag is because this
23 is the profit of this product is clearly there is
24 more. And the market for this one, this product is
25 very, very competitive. So we will try to cut down,

1 cut the process, and also cut the production costs as
2 much as possible, so we make a very smooth and simple
3 process.

4 For example, we will use the film, and then
5 we will use in-line printing facilities, which means
6 after we exchange the film, then the film will be
7 printed immediately. Then we will convert this
8 printed film into T-shirt bag. All of this can be
9 done automatically with very, very high speed, and
10 with very, very minimum human supervision.

11 As to the high-end T-shirt bag, I think I
12 see that most of the customers would require a good-
13 quality printing. So in our factory, most of the time
14 we do not use in-line printing for those high-end
15 shopping bags, because the registration will not be
16 very good.

17 So what we do is we will extrude the film,
18 then we will roll up the film. Then we start the
19 film, and we print it later. So when we extrude the
20 film and it's quite different, because in order to
21 have a very good-quality printing, you need to have a
22 very good-quality film. So this means you need to
23 have a very good extruder to control thickness of the
24 film, the surface, you need to have very flat surface,
25 and then you can print nicely later.

1 Then after we produce the film, we will roll
2 those films into our printers. Most of the time those
3 printers can build a process printing, and monitor the
4 registration very, very strictly, very precisely.
5 Okay. And then we will convert the film to the bag.

6 So some of the high-end bags can be done by
7 machine, but most of them as you can see, the samples
8 will show you require a lot of labor minimum efforts.
9 Example, the cardboard. There's no machine in the
10 world can help me in inserting the cardboard into the
11 bag. So you have to open the bag one by one, and
12 insert the cardboard bottom one by one.

13 And also for the handle, either an inserted
14 handle, a plastic handle or a rope handle, we also
15 have to apply them manually. So take the rope handle
16 as an example. You have to put a cardboard on the top
17 manually, and you have to punch the hole in the
18 cardboard so that there's a hole to let the rope get
19 through. And you have to make a knot with precision
20 devices to keep the rope from getting out. Okay. So
21 all of those need to get done manually.

22 Then after you fill the square bottom in,
23 you also have to fold the bag one by one. Unlike T-
24 shirt bag, it can be lowered as a block for
25 coordination by machines.

1 So as you can see from my description, some
2 of the high-end bags require lot of supervision from
3 beginning to end. Now, this is a complete printing
4 process, and assembly of the materials -- and
5 cardboard and also the final touches. So to us this
6 is a completely different product, we do not think we
7 can view them as a like product. Okay.

8 Our company does produce T-shirt bags, and
9 also produces the high-end shopping bag. But actually
10 our focus is the high-end shopping bag. So they are
11 quite different on competition, and also on the price.
12 Now to mention the price can be a hundred times
13 different. And the quality of T-shirt bag to a high-
14 end shopping bag is also very, very different.

15 The other thing is it's not, because you
16 have to do the high-end shopping bag one by one,
17 because it's also not very possible that one single
18 factory can produce millions of bags overnight. So
19 this will take time and if a customer wants to buy
20 that many bags, and we hope they do, but depends on
21 the sales in their store. And comparatively, like at
22 a grocery store, maybe one person carries three or
23 four bags back home.

24 In the fashion, for example, like you're
25 going to a Nautica shop, maybe you buy a new sweater

1 and they just give you one bag. So the usage and the
2 quantity the customer needs is very different.

3 So because we actually focus on the high-end
4 shopping bag, we actually do not think of petitioner
5 in this area, because most of the bag are intensive
6 labor, and considering the labor costs in the U.S., I
7 think it is reasonable for us to provide a cheaper
8 bag, for the high-end shopping bag.

9 And we also do nothing to injure the U.S.
10 industry. Because actually we do have a very mixed
11 market. We not only sell to U.S., we also sell to
12 other places, as well as Indonesian market.

13 Actually the economy last year and recently
14 has dropped down significantly, so what we do is try
15 not to focus on the U.S. market, because the market
16 here is not like the market in years past . So what
17 we do as we have in the past, is try to keep our focus
18 in other countries and try to get more opportunities
19 that way. Especially in this situation, I don't think
20 it is very wise to invest in increased capacity at
21 this moment. And besides that, actually we do have a
22 lot of small PRCB manufacturers in Indonesia, and most
23 of them do not have the ability to export. They just
24 do not produce the quality that can meet export
25 standards. I think this is all for me, so far. Thank

1 you very much.

2 MR. PERRY: We are ready for any questions.
3 Thank you very much.

4 MR. ASCIENZO: Thank you very much for that
5 presentation. That was very informative. We will
6 start the afternoon questioning with Josh Kaplan, the
7 Investigator.

8 MR. KAPLAN: Hello. Good afternoon. Thank
9 you for coming here today. And to Ms. Lin I
10 appreciate your long voyage here. Just a few
11 questions, if you wouldn't mind.

12 I have a question, this is for both of our
13 guests here. Sales to, to assume that sales have been
14 shifting in recent years, I suppose we're talking
15 about here in 2006 to 2008, but also dating back to
16 the time when, 2004, when again, the case that we have
17 been referencing throughout, the first PRCB case, when
18 that was taking place.

19 To what extent have you seen any sales to
20 customers that would be served by those suppliers in
21 China, Malaysia, and Thailand, to what extent have you
22 seen sales to them shift to something from your
23 importer?

24 MR. PERRY: Bill Perry, Garvey Schubert.
25 I'd like to respond to that because I represent many

1 of the Chinese companies. And while I think -- the
2 mic isn't working? Okay, now it's better.

3 But the point I'm making is that because of
4 the significant percentage of hand labor in high-end
5 shopping bags, of course they moved. They can't move
6 to the United States because it's simply too
7 expensive. The manual labor, it prohibits it from
8 being made in the U.S.

9 So it's going to, and that's what many of my
10 importers did because they had to, move to other
11 countries, where they've got labor costs that are
12 lower than the United States. It's that simple.

13 Steve, go ahead.

14 MR. GITLIN: As far as sales are concerned,
15 I'm not sure I understand your question. How sales
16 have turned from China to the United States to other
17 countries. As Bill said, I agree; a lot of the
18 manufacturers had to move to countries outside of the
19 petition to be competitive and continue to make bags
20 that are completely handmade, as opposed to machine-
21 made.

22 MS. LIN: I think it's very natural for the
23 employer to find other sources when they have to pay
24 more for the importer from China. So I think what we
25 do is seek more inquiry absent the order of

1 antidumping for China, Thailand and Malaysia.

2 So, but we do not have a lot of orders
3 increase. This is the order increase onto the high-
4 end area and petition about it, because we have a
5 fixed capacity in the store so after, I will say after
6 the antidumping was brought up in Malaysia we
7 actually, we did increase our sales to the U.S. -- for
8 high-end shopping bag, not T-shirt bag.

9 And actually, our company had shipped to the
10 U.S. for ten years, more than ten years, so we
11 actually exported with this market for quite a long
12 time, and for anything that sells mostly for high-end
13 shopping bag. But for T-shirt bag it's just like a
14 price study because of the economic situation. This
15 is why I said in the past we tried to shift our focus
16 to try to get more opportunity in other countries.

17 MR. PERRY: I should just, I would like to
18 mention one other thing, is that looking at preparing
19 the testimony, we went through Steve's testimony from
20 the initial investigation in China. And it was
21 interesting, because he predicted exactly what would
22 happen.

23 He said if you put an order on China,
24 importers are just going to move to Indonesia and
25 Vietnam. And of course they have, because it's manual

1 labor. And these bags are not coming here, they'll
2 never come here. Now the importers are already moving
3 to a series of countries. They've got to, because the
4 product can't be made here.

5 MR. KAPLAN: Thank you. My next question is
6 for Mr. Gitlin. I'm sorry, am I pronouncing it right?

7 MR. PERRY: Yes.

8 MR. KAPLAN: Okay. If you could just give
9 me a ballpark number here, approximately what
10 percentage of the bags imported by your company are
11 high-end versus low-end or T-shirt? Are there any
12 low-end or T-shirt?

13 MR. GITLIN: There are. Most of the time
14 it's been a price issue for us. We sell T-shirt bags
15 that are printed in a more high-quality way than they
16 do domestically.

17 So when someone comes to us for T-shirt
18 bags, it's not for the commodity-type T-shirt bag,
19 it's for a higher quality or a better print job, but
20 it's a small percentage of our dollars. It may be a
21 high, you know, the number of bags may be high, but
22 dollarwise it's very small.

23 MR. KAPLAN: Thank you. Have you seen any
24 evidence of a customer who was in the past buying
25 let's say a Westminster (phonetic) bag, a high-end

1 bag; now, in these current economic times, buying,
2 looking for a less-expensive alternative, a different,
3 low-end bag. Kind of switching from one to the other?
4 Have you seen any evidence of that?

5 (Away from the microphone.)

6 MR. GITLIN: To answer that question, the
7 worst part about high-end shopping bags is that they
8 are a sum of its parts. So if you wanted to change
9 the price and reduce it, I could take a rope handle
10 and put in a less expensive type of handle, and still
11 keep the bag and its structure and the advertising
12 capabilities of it.

13 So generally people who are looking to save
14 money for the high-end, stay with the hand, and just
15 change the components, change the value-added
16 components to pay less money.

17 MR. KAPLAN: There's never a point where
18 some retailers who have been using very elaborate
19 bags, like well, I really want to cut my costs,
20 especially with the T-shirt bags.

21 MR. GITLIN: I don't think that they would
22 ever start using T-shirt bags.

23 MR. KAPLAN: Okay. My next question is for
24 Ms. Lin. Can you tell me what it is about your
25 company, how much have you changed in recent years?

1 You mentioned some near capacity. But has that
2 capacity been increasing in years? Or have you had
3 about the same as in former years? I'd just like a
4 little more information about how your company works,
5 and kind of a recent history would be helpful.

6 MS. LIN: Okay. My company had started the
7 business in 1991. So basically, what we're trying to
8 do is we try to do a shift from low-end product to
9 high-end product.

10 So basically, we do increase the capacity in
11 the past two or three years, but mainly for not only
12 for the high-end product, but also for the industrial
13 packaging. Because we do have a very, very good
14 printer, which can do other designs and registration.

15 And as you know for the industrial
16 packaging, we do require very good quality printing
17 like for the diaper. These are not labeled to accept
18 off registration.

19 So basically we are more a diversified
20 company, so we try to do a lot of different things,
21 you know, so we do our own ironing (phonetic) to
22 produce a better product that we can use inside the
23 diaper where we need packaging.

24 So basically, we just keep the capacity for
25 the T-shirt bag, and we want to increase the capacity

1 for other high-end shopping bag or other clothes bags,
2 so that we can be really diversified, and so that we
3 can, just can easily go through economy prices.

4 MR. KAPLAN: Yes, thank you. Just a follow-
5 up question to that. You mentioned -- use for
6 commercial packaging. To what extent, if any, would
7 you be able to use that equipment to make the bags
8 we're talking about here, t-shirt bags or high-end
9 bags even to be able some way to shift that where
10 you'll currently be used to make commercial packaging
11 to a carrier bag.

12 MS. LIN: Basically, I would say the t-shirt
13 bag it is not possible. You can not use a t-shirt bag
14 machine to produce any other kinds of different bag.
15 With t-shirt bag machine, the conditioned machine can
16 only produce the t-shirt bag. So for others, for
17 example, like we also produce a bag for bread, which
18 it's called naked bag. So, there's a hole up there
19 and it can - the factory, the bread factory would use
20 the bag to pack their bread inside and seal it in
21 their factory. So, the machine and the other thing is
22 different. So we use different machines.

23 MR. KAPLAN: Is that also the same with
24 respect to the workers, who are employed in the
25 production line, do any of them work on both t-shirt

1 bags and high-end bags commercial packaging or are
2 they completely separate?

3 MS. LIN: I would say they can do for both
4 machine. But, actually, they're going to spend
5 totally different for t-shirt bag. They don't just
6 collect the bag and put that into the carton and seal
7 the carton. But for others, for the high-end shopping
8 bag, as I mentioned, we would have a team to
9 concentrate on the manual job, so that there would be
10 efficiency, because there would be just a team would
11 constantly open the bag and put the cargo and then the
12 other team to insert a cover on the top, and the other
13 team to put the rope onto the bag, and then the other
14 team to fold everything, to make a square bottom and
15 for everything together. So, basically, they do
16 different work.

17 MR. PERRY: Could I add to that, just
18 because I've done so many of these cases and have been
19 through so many of these factories? And what happened
20 in the Chinese, which was interesting at the Commerce
21 Department, was most of the large exporters
22 disappeared and the companies that were mandatory were
23 shopping-bag producers. And the production process is
24 very different, because they have very small machines.
25 And so where you would see a machine for t-shirt bags,

1 it could be the size of this room, which would be what
2 the Petitioners are doing, we're seeing a machine
3 producing it that may go from that column down to
4 there, very small, very removable, very flexible, able
5 to move, but able to move, but able to produce. One
6 of my companies that got a very good result was
7 producing very high bags for Disney and it was full
8 color pictures, both sides. They can't do that. They
9 can't do the full color pictures both sides and it was
10 because their printing, the Chinese printing was so
11 much better. It was much, much more detailed and
12 could produce much higher bags than what could be
13 produced by the domestics. Wholly different audience;
14 different production, different audience.

15 MR. KAPLAN: Thank you. A few more
16 questions. This is for counsel. You're appearing on
17 behalf of the large group of interested parties and
18 foreign producers or even a U.S. producer. To the
19 extent for the foreign producers, are those companies
20 all also only producing or mostly producing volume
21 bags or some of them mostly t-shirt bags?

22 MR. PERRY: Almost all of these guys are
23 high-end bags. And, in fact, the companies we're
24 representing right now, I don't know any of them that
25 are primarily a t-shirt bag company. All of them are

1 very, very high-end shopping bags.

2 MR. GITLIN: The company I represent
3 specializes in short runs, 2,500, 5,000 cases to the
4 small retailers.

5 MR. KAPLAN: Thank you. One other question.
6 I'm looking at this list and I briefed the witnesses
7 with the prior panel, perhaps you could just confirm
8 something for me. Ampac Plastics, this is the same
9 company that was in support of the 2004 case and the
10 reason why they're on the opposing side here is
11 because they import from South Vietnam; is that
12 correct? Ampac, it's right here, on behalf of -

13 MS. LEVINSON: I didn't see Ampac.

14 MR. KAPLAN: Yes.

15 MS. LEVINSON: I'm sorry. I'm having a
16 little trouble hearing, because I have a terrible head
17 cold. Would you mind repeating your question?

18 MR. KAPLAN: Sure. I was asking if you
19 could just confirm for me the status of the Ampac,
20 seeing as how they were in support of the 2004 duties
21 for the importers on a different set of countries.
22 Here, they're a Respondent or rather they're an
23 interested party in the opposition of the addition of
24 duties. Is that because they have a facility in
25 Vietnam? Is that correct?

1 MS. LEVINSON: An affiliated facility in
2 Vietnam. They also are a U.S. producer. And I think
3 if you look at their U.S. producer's questionnaire
4 response, you will see their position on the petition,
5 which is not something that I can disclose publicly.

6 MR. GITLIN: As stated by the Petitioners,
7 some of them or all of them also buy overseas at some
8 of the same factories that are producing bags in
9 subject countries.

10 MR. KAPLAN: Thank you. I appreciate it.
11 One other question I have is with regard to the
12 exhibits. Just looking at them, they seem to have all
13 been made in China. Do you have any examples of
14 exhibits that were made in one of the three subject
15 countries? Maybe, they're all the same.

16 MR. GITLIN: It's identical. This is made -
17 this one is made in Indonesia. I can pass that
18 around. All the components are identical. The
19 machines are identical. I couldn't tell the
20 difference if a facility has the experience.

21 MS. LEVINSON: Mr. Kaplan, I may have
22 mentioned that Ampac produces bags in Vietnam and in
23 the United States. They sell them interchangeably.
24 In other words, their customers don't know what the
25 source of the bag is.

1 MR. KAPLAN: So, that would be a low-end or
2 a high-end bag? I'm sorry.

3 MS. LEVINSON: An immediate high-end

4 MR. KAPLAN: Would you elaborate on that?
5 I'm not really sure that I understand what that is.

6 MR. WILSA: Ampac makes the die cut bags and
7 sometimes - do we have anything - well, it's the
8 rectangular bag and the handles cut out, you know, a
9 round handle and sometimes it has reenforcement. And
10 I think it's called like a merchandise bag. It's like
11 Target might have - yeah, it has attached to reenforce
12 the handles. It's like this kind of bag. So, it's -
13 and it's thicker and sturdier than a t-shirt bag, but
14 it doesn't have side gussets. So, it's like the in
15 between bag.

16 MR. KAPLAN: Thank you.

17 MS. LIN: It doesn't have a side gusset, but
18 it does have a bottom gusset.

19 MR. GITLIN: One of the things is that some
20 of the bags that they make are owned by Southern Lake.
21 With bags that are made domestically with side
22 gussets, bottom gussets the ability to change handles,
23 the ability to put cardboard in, the ability to change
24 the bag and the flexibility of the sides.
25 Domestically we are very stuck with the way machines

1 were made. Because they were made by hand you can
2 change the sides to whatever you like, which would
3 work better for small retailers.

4 MR. KAPLAN: I just have one other question.
5 This is kind of dating back to a couple of questions
6 ago with regard to you mentioned that - it seemed t me
7 that you were stipulating that a bag produced in China
8 is the same as a bag produced in Indonesia and
9 Malaysia. Are there other countries that are not one
10 of these now six that are involved in the interim that
11 have substantial markets? And we've discussed some of
12 the import numbers with the prior panel, but is there
13 anything else that you would want -

14 MR. GITLIN: There are countries all over
15 the world, Israel, Turkey, India, who are making
16 similar type bags now, factories that they are setting
17 up, they have a small percentage of sales in the
18 United States, and all over the world. But, these
19 factories, they're making exactly the same bags and
20 the same techniques are made in China and Malaysia and
21 the subject countries.

22 MR. Perry: Again, you've got to go back to the
23 reality. This is my problem, they're now a commercial
24 reality. The commercial reality is that the high-end
25 shopping bag has to be made overseas because of manual

1 labor. So, the importer is obviously going to move.
2 He's going to move from China to Indonesia. You have
3 my order in Indonesia. You go to India. You go to
4 Turkey. You go to Israel. You go to wherever we can
5 find cheaper manual labor, because manual labor is too
6 high priced in the U.S., period.

7 MR. GITLIN: Please understand that
8 countries need their own domestic use. So, the same
9 way we need manufacturers and we need bags in our
10 country, Turkey needs bags. We have manufacturers
11 that need bags themselves and all these other
12 countries do the same. So, there are techniques used
13 overseas in China, because their labor rates are cheap
14 and they prefer to use their own bags that way.

15 MR. KAPLAN: Thank you. I have no further
16 questions.

17 MR. ASCIENZO: Thank you, Mr. Kaplan. Mr.
18 Thomsen, any questions?

19 MR. THOMSEN: Thank you, Mr. Ascienzo. My
20 first question is for Ms. Lin. You noted that you
21 have other export markets and you also sell into your
22 home market, Indonesia, and you had noted that you do
23 not see the United States as a very attractive market
24 right now because of the economic commissions. How do
25 you see the other export markets? Are they also not

1 attractive, but just not as unattractive as the United
2 States is right now or are they increasing in those
3 areas? Where do you see global demand?

4 MS. LIN: I think - well, actually, some of
5 the countries actually are being impacted by the
6 economy and some are not, not very serious. So, some
7 of the - most countries, we do have a stable economy.
8 So, what we see from the stats from those area is
9 remain stable.

10 The other thing is actually, we can do a lot
11 of different bags. So, if we can just find anyone of
12 the countries then we can increase our sales. So,
13 this is our strategy. We are trying to create more
14 opportunity out there not only in the U.S. So, even
15 the economy in New Zealand is really bad. And so,
16 some months, they didn't buy any bags. So, it
17 insulates you from somewhere else where we can make
18 money.

19 MR. THOMSEN: And what types of bags are
20 being demanded in Eastern Europe and the other section
21 of the world that you are going into?

22 MS. LIN: I won't say most, because we do
23 produce t-shirt bag, as well as a high-end shopping
24 bag. And we do supply those bags to many different
25 countries. But, mainly, we try to focus on the high-

1 end bag, because those are much, much more profitable.

2 MR. THOMSEN: Okay. An if you could for the
3 post-hearing, if you could give me quotes, in terms of
4 quantity and value, your sales of your low-end or
5 high-end or the t-shirt style bags, dye-cut bags,
6 strapped bags, a way of sort of ranking them, in terms
7 of sales values. I'm sure there is some way that you
8 can divide them, given that you're saying that there
9 is a sharp dividing line. I would be happy to see
10 that and I would like to know -- for those.

11 MS. LIN: Okay. I -

12 MR. THOMSEN: Same with Mr. Gitlin, if you
13 could also.

14 MS. LIN: Okay. I will come back to the
15 company to see, to collect that information. So, you
16 need that information to - for our explanation to the
17 U.S., right?

18 MR. THOMSEN: Yes, from the U.S. And if you
19 could do the rest of the world, also, just split it
20 that way, that would be -

21 MS. LIN: Okay. I will go back and see what
22 I can do.

23 MR. THOMSEN: Great. Thank you, very much.

24 MS. LIN: Thank you.

25 MR. THOMSEN: You do sell sharp handle and

1 dye cut and other types of bags, a whole range
2 basically?

3 MR. GITLIN: Yes. GloPak supplies different
4 types of bags. Two of the same types of customs,
5 calling something a bag is not necessarily what we're
6 after. We're after distinguishing between types of
7 bags. Dye-cut handles and T-shirt handle bags on one
8 side, and the high-end shopping bags on the other.
9 Clearly, as you see in the samples, I think it
10 demonstrates that although we make these kinds of bags
11 there's a complete difference in customer perception
12 and customer use.

13 MR. THOMSEN: Okay. I've heard a range of
14 prices being given, about two cents for a t-shirt bag
15 and 35, 45 cents, maybe even more, for the high-end
16 bag. Where would a bag such as this dye-cut bag fall
17 in there?

18 MR. GITLIN: Probably eight cents; it would
19 be an eight-cent bag.

20 MR. THOMSEN: Okay.

21 MR. GITLIN: Everything changes in quantity,
22 I don't know the numbers that's just a ballpark
23 number, but you know as a reference point, just to
24 explain the difference between a t-shirt bag and a
25 high-end shopping bag.

1 MR. THOMSEN: Sure. And what would be the
2 most expensive type bag that you would sell, one with
3 the highest quality printing, or rope handle or
4 reenforced handles? Can you describe it for me?

5 MR. GITLIN: Sure. As I said a bag is a sum
6 of its parts, so we all start off with the same type
7 of plastic. We would seal it and print it, and now we
8 start adding value and its components. But, the t-
9 shirt bag doesn't have we have. So, we add cardboard,
10 maybe we add side gussetts, maybe we add rope handles.
11 The thickness of the bag is probably the single most
12 important factor when it comes to the price of the
13 bag. It increases the price or decreases the price
14 the most, because you can add rope handles and things
15 like that to all types of high-end bags. And sliders
16 makes a great difference. T-shirt bags are limited to
17 machine sizes. As you can see, George is holding a
18 very small bag. There is also an extremely large bag
19 on the table with a huge bottom that you just can't do
20 domestically. So, that would add to the price.

21 MR. THOMSEN: Okay.

22 MS. LIN: Can we add something?

23 MR. THOMSEN: Absolutely.

24 MS. LIN: Okay. I think there's actually
25 very, very different variation. For example, the

1 cardboard some customers require cardboard, heavy
2 weight. Even some have been required printed
3 cardboard, because cardboard color they like it. So,
4 they don't like white color either. They want to get
5 it to be printed. And, also, in terms of the labor,
6 some customers also require minimum on the flat
7 bottom, so that there will not be additional half
8 centimeter of the film causing it to stick out in the
9 middle of the bag. So, we manually weld that extra
10 film so that the bottom can be completely flat. So,
11 that would require additional devices so that would be
12 done totally manually.

13 MR. THOMSEN: Okay. Thank you. And MR.
14 GITLIN, I just wanted to make sure that the question I
15 asked in term of the quantities and values for the
16 different types, you want to answer that question also
17 in a post-hearing, if you could?

18 MR. GITLIN: Can you repeat the question?

19 MR. THOMSEN: Sure. I just wanted to know
20 what percentage of your sales are of the t-shirt
21 sacks, versus the dye cut, versus -

22 MR. GITLIN: I can have those numbers for
23 you and have that sent to Mr. Perry. We will take
24 care of that, sure.

25 MR. THOMSEN: Thank you. In terms of

1 disrtibutors, there was testimony earlier regarding
2 who you are selling to and the channels of
3 distribution. Do you sell only to the distributors or
4 do you also sell directly to mass market retailers,
5 such as Wal-Mart or Target or anyone else, in grocery
6 stores or does it matter for the type of bag that you
7 sell?

8 MR. GITLIN: Well, GloPak particularly, I
9 can only speak for GloPak, I would say 90 - well over
10 90 percent of our business is doing retail packaging
11 distributors. Now, those are the people who go into
12 the mom-and-pop stores, retailers like the individual
13 boutiques or even a Macy-type bag. There are other
14 distributors that, as I said, have started to overlap
15 because the economy is looking for new business.
16 Distributors are starting to overlap into their type
17 of business. You're going to find the retail
18 packaging people are now selling service type of bags
19 and vice versa, the food service distributors may be
20 going into a retailer and saying, okay, they can sell
21 your types of bags. So, things have sort of mixed up
22 a bit than they were before. But, more than not,
23 we're selling to - because we have a much, much, much
24 higher price than the t-shirt bag, here is room for a
25 distributor, who will stock the bag, deliver it to the

1 store, would sell it directly to the store. So,
2 mostly through distributors.

3 MR. THOMSEN: Ms. Lin?

4 MS. LIN: Actually, we only sell to U.S.
5 importers, because the sales here, we believe that
6 there's a lot of distribution service required and a
7 lot of post-sell service, that we are not familiar.
8 And since we do not have any sales representative
9 here, so we just sell to the importers. We do not
10 deal with the users directly.

11 MR. THOMSEN: Okay. Thank you. And Ms.
12 Lin, can I ask you, what equipment is shared in the
13 production of the higher end bags and the dye-cut bags
14 and the t-shirt bags and the strapped handle bags? Do
15 they all use the same extruders?

16 MS. LIN: In our factory, we don't use the
17 same extruder, because actually for t-shirt bags, it's
18 very thin and the printing is very easy. So, most of
19 the time we use a small extruder with in-line printing
20 facilities. So, it will - just to cut down the
21 production cost. So for high-end shopping bag, we use
22 very good quality extruder. It can extrude very, very
23 wide film. For us to - the high-end shopping bag or
24 the industrial packaging, like a diaper. And then for
25 the printers, it's also different. As I mentioned,

1 the t-shirt bag, we only use in-line printing. With a
2 high-end shopping bag, because of the complex printing
3 requirement, so we use very good printer which can
4 enable the good registration. So, they're different.
5 With a high-end, it's quite complicated, because it
6 can be side sell or bottom sell. So, these are
7 totally different machines.

8 MR. THOMSEN: So for a bag like this -

9 MS. LIN: No. In the in-line printing, we
10 use that with a separate extruder. And as you can
11 see, that is with bottom gusset. So, it is side
12 filled, side weld. So, you can not use a t-shirt bag
13 machine to convert it into bag. You have to use a
14 side fill machine. T-shirt bag is bargain sold,
15 bargain sold.

16 MR. THOMSEN: And that's to convert it. But
17 what about to extrude it? Is it -

18 MS. LIN: Extruded? It is - you can use the
19 same extruder to do that bag with just another factor.
20 As I said, we have very limited capacity for the t-
21 shirt bag. So, those are in-line printing machines.
22 So, we do not use a t-shirt bag extruder to extrude
23 high quality printer like that. And you can see for
24 those kind of bags, some times the customer will
25 require different material. As you see, this is soft.

1 So, this is low density. So, we took the t-shirt bag,
2 a high density. So, the extruder is different.

3 MR. THOMSEN: Okay, thank you. For Mr.
4 Gitlin, you noted that your - these high-end bags are
5 mean to be reused; correct?

6 MR. GITLIN: Yes.

7 MR. THOMSEN: What are these other uses that
8 -- size, the advertising as you are carrying it
9 through the mall. What else are they used for? You
10 had said that the use of a t-shirt sack is to just or
11 whatever you buy and bring home. I usually use a
12 high-end bag when I am home, also. I'm not just
13 carrying it around the mall. After I get it home,
14 what do I use that for?

15 MR. GITLIN: Well, let me put - and I'll
16 just use a name, for argument sake. Let's just say
17 that someone goes into Gucci, and buys something and
18 he takes a shopping bag. And we go home with a
19 shopping bag the way that we go home with a t-shirt
20 bag, but you know it was a much, much nicer bag. So,
21 we get home and we take the goods out of the bag. And
22 then we go home and fold the bag up nicely and put it
23 in a drawer. And then we carry our lunch to work in
24 it, because in these bags are pieces of art, they have
25 beautiful printing on them, it becomes a status symbol

1 on the street. And we call it an advertising piece,
2 is because it lives on after the initial reuse, mostly
3 because you walk around with it the same way. You
4 would'nt miind taking t-shirt bag home and then put it
5 in the garbage can as a garbage bag or use it in that
6 reagrd and then throw it away. It's not something you
7 would be proud to walk around with.

8 MR. THOMSEN: How about something like the
9 dye cut bag here, that is you know, the low density,
10 softer bag?

11 MR. GITLIN: It's possible, most likely.

12 MR. THOMSEN: Okay.

13 MR. GITLIN: More likely than a t-shirt bag,
14 most likely in the high-end.

15 MR. THOMSEN: Okay, thank you.

16 MR. PERRY: Could I add one thing quick?

17 MR. THOMSEN: Sure.

18 MR. PERRY: I think the interesting thing,
19 that's why I want to point you back to the statutes,
20 because the State of California defined that and it's
21 2.25 millions and it's defined the same way in the
22 City of New York, as the difference between disposal
23 and reusable bag. And the states obviously are doing
24 this on the basis of substantial research. It doesn't
25 go into state law just on a whim. And so that's the

1 interesting thing. We have bright dividing lines in
2 the State of California and the City of New York. We
3 feel after we do more research, we're going to find
4 this same bright dividing line in many states and
5 cities across the United States.

6 MS. LEVINSON: Mr. Thomsen, this is Ms.
7 LEVINSON. I want to be very clear, because what we -
8 our argument is that the high-end shopping bags are a
9 separate like product. We're not seeking a different
10 like product for dye cut and we're not seeking a
11 different like product for bags that are in the
12 middle. But, just if I could take off for a minute my
13 attorney hat and put on my woman hat, I can confirm
14 what Mr. Gitlin said, because I can tell you, if I had
15 a Gucci bag and I was bringing someone a gift or
16 bringing someone some cookies, I would carry it over
17 in the Gucci bag. Would I carry it over in the
18 Safeway t-shirt bag? I don't think so.

19 MR. THOMSEN: Okay, thank you. During your
20 research, Mr. Perry or Ms. LEVINSON, if you define the
21 research that went into finding the statutes. I would
22 be interested in finding that, too, okay?

23 MR. PERRY: Were right in front of them.

24 MR. THOMSEN: And not just the statute,
25 itself, itself, the research that went - whatever it

1 went into it.

2 MR. PERRY: We'll provide that.

3 MR. THOMSEN: Great, thank you. I had a
4 couple of questions that I did ask the Petitioners in
5 this case that I did want to ask, give you a chance to
6 respond to, also. One with respect to reusable
7 shopping bags, we have heard that there are tens of
8 millions that have been bought, but are not really
9 being used. Do you have any research or any evidence
10 that's showing that they are being used or they are
11 cutting into possibly your sales with the high-end
12 bags, because I can see them really being alarmed,
13 like that type of bag?

14 MR. GITLIN: That's a totally different
15 product. The reason San Francisco, CA and New York are
16 adapting -- and seeing how t-shirt bags, pretty much,
17 and it's because of that one way trip home, the
18 usability and durability of the bag does not need to
19 be there. It's a very inexpensive commodity and the
20 Petitioners keep using that same word, commodity
21 priced item. I just wanted - just one trip to take
22 home. And from a green a point of view, that's a
23 problem in the States. Meanwhile, they want to have
24 to some value added appearance of the bag, so that if
25 your'e going to use a plastic bag. Use it ten times;

1 Use it once; don't use it once. Use it ten times.
2 And that's the high-end bags capabilities. And its
3 expectation is different. I know one of the criteria,
4 expectation and it's interchangeability. Those things
5 are expected of a high-end and they're not expected of
6 a t-shirt bag.

7 MR. THOMSEN: Okay. If you have anything to
8 add or any studies you can find that show demand for
9 these reusable bags, that might be - rather than a t-
10 shirt sack, use it in a way - that t-shirt sack is
11 used multiple times, I would be happy to entertain
12 those. Mr. Wisla?

13 MR. WILSA: I just want to add one thing. I
14 think the morning presentation people are saying that
15 t-shirt sacks are reusable or recyclable, but that's
16 also disposing. And picking up your dog crap, you're
17 going to throw it out after you pick up the dog crap.
18 That's not really a reuse of the bag. It's still
19 being thrown out. So, maybe I'm not as fancy as other
20 people, but I bring my lunch in a Safeway bag
21 sometimes. I guess I should shop at better places.
22 Thank you.

23 MR. THOMSEN: In terms of the per pound per
24 bag, the differences that I was listening to, how do
25 you sell those? Do you sell them on a per bag basis

1 or do you sell them on a - or per case, as the case
2 may be, or do you sell them on a per pound basis for
3 your t-shirt sacks? I would assume, and correct me if
4 I'm wrong, that you sell - you don't approve per
5 spaces for the high-end bags. But for the t-shirt
6 sacks, how do you sell those?

7 MS. LIN: We sell them in a case. So, yeah,
8 I mean, naturally, it will be the weight.

9 MR. THOMSEN: So, you sell by weight?

10 MS. LIN: Yes, by weight. For example, like
11 maybe 20 kilo - the price is for weight.

12 MR. THOMSEN: Okay.

13 MR. GITLIN: One of the reasons these bags
14 came to be high-end shopping bags is because their
15 manufacturers that didn't want to sell wasn't at a
16 commodity price. So, they devised a way to come up
17 with a very heavy bag and put a price on it per pound,
18 as opposed to a t-shirt bag. If you said you were
19 selling it at eighty-five cents more than a t-shirt
20 bag you might get two or three dollars a pound selling
21 it like every shopping bag.

22 MR. THOMSEN: Okay. When you sell them
23 here, do you sell them in --

24 MR. GITLIN: By the thousand, the price is
25 generally a thousand bags and then it's broken down

1 into a unit price.

2 MR. THOMSEN: And you import them from
3 overseas? Are you importing them and reselling them?

4 MR. GITLIN: Both.

5 MR. THOMSEN: Okay. For the ones you
6 import, are you importing on a per pound basis and
7 then reselling them on a per thousand bag basis?

8 MR. GITLIN: We buy the bags overseas and
9 bring them into the United States or buy them a per
10 thousand basis.

11 MR. PERRY: I just wanted to add, I see a
12 difference in there. I saw this at the Commerce
13 Department, when we were doing our investigation. If
14 it's the high-end shopping bags, you are selling at a
15 per piece basis. But, on the t-shirt bags, especially
16 when they're being sold in rolls, they're not being
17 sold on pieces. They're often being sold on the
18 weight basis. So, different ways of looking at it,
19 because different types of bags. They're even sold in
20 a different way.

21 MR. GITLIN: T-shirt bags would be better
22 suited as garbage-base than shopping bags. They would
23 be better contained to un, as a way of manufacturing
24 and the way of selling those per pound as a garbage
25 bag, than it would be as a high-end shopping bag.

1 MS. LIN: Can I add something? Actually,
2 for a t-shirt bag, when we do the price to our
3 customer, I'm talking the price per thousand, because
4 there's no accessories on the bag. So, it is very
5 easily to change the price per thousand to weight.
6 So, when a customer wants to know if we are cheating
7 on the thickness or anything, they simply just weigh
8 the bags. So, it's two answers to the same thing.

9 MR. GITLIN: It's a weight per thousand.

10 MR. PERRY: Right, okay. And have there
11 been any shifts in the marketplace to a thicker or
12 thinner, smaller, wider, deeper in the last few years
13 or is it pretty much maintained?

14 MR. GITLIN: It's pretty much maintained.
15 However, recently, I've seen some components change to
16 make it be more expensive. But, like I said, it's
17 very easily done in a high-end shopping bag, because
18 you can change the components rather than changing the
19 bag. In t-shirt bags, you have to change it back for
20 it to go down in size. You can take out some of the
21 value added components and change the price.

22 MR. THOMSEN: Okay. One last question to
23 Mr. Wisla and Ms. LEVINSON, if you know. In terms of
24 the production process, are you familiar with it?

25 MS. LEVINSON: I'm sorry, I'm not, but I am

1 happy to get any information you think about.

2 MR. THOMSEN: I'm trying to find out more.
3 Since you say they're doing these dye-cut bags, I'm
4 trying to find out whether they did the in-line
5 printing right there, like Ms. Lin was describing for
6 the t-shirt side or whether doing a type of process
7 and whether it's water based or solid based.

8 MS. LEVINSON: We could certainly include
9 that information in our post-conference brief.

10 MR. THOMSEN: I would be very interested in
11 finding out a little bit more. And those are all the
12 questions that I have. Thank you, very much, to the
13 panel for showing up today.

14 MS. LEVINSON: And just to clarify, are you
15 referring to U.S. production? Vietnamese production?
16 Or both?

17 MR. THOMSEN: U.S. production would be what
18 I am mostly interested in; yes, thank you.

19 MR. ASCIENZO: Thank you, Mr. Thomsen. Mr.
20 Cantrell, do you have any questions?

21 MR. CANTRELL: Yes. Ray Cantrell, industry
22 analyst. I believe, Ms. Levinson or Mr. Perry, one,
23 in the introductory remarks mentioned something about
24 the three subject countries, Respondent countries,
25 excuse me, having newer, more modern efficient

1 facilities. Am I incorrect that I heard that?

2 MR. PERRY: Not so much newer; but from what
3 I gather, in leasing the facilities that I saw in
4 China, it's not that they're newer, but they're
5 different. And at least from talking to my clients,
6 they were saying that your U.S. facilities are much
7 larger. In fact, there - and they said this morning,
8 everything - they're meant to run these machines
9 twenty-four, seven. The whole issue is very little
10 downtime and the whole issue is throughput, how much
11 do you get out. And for those companies, the key cost
12 material -- for instance, the cost of the resin, cost
13 of the resin has a direct impact on the impact of
14 these t-shirt bags and these machines are supposed to
15 be going automatic, completely. Chinese factories are
16 very different and those factories are now in
17 Indonesia, Vietnam, and elsewhere. The extruders are
18 relatively small, very flexible, able to move very
19 quickly, and there is downtime, because they will be
20 changing from bag to bag. But, that's why the
21 Chinese, the Indonesians, the Vietnamese can provide
22 much smaller lot bags. So, they can sell you 3,000
23 bags. But, we had a woman here in Plastique at the
24 initial investigation of China and Harriet was
25 testifying, look, all my customers are mom and pop

1 stores. They can't take 25,000 bags. So, we're
2 selling at a much smaller quantity; also, because it's
3 the shopping bag, the higher end shopping bag. So,
4 very, very different production process and much more
5 efficient, much more ability - efficient and much more
6 flexible. Maybe not efficient so much, it's flexible
7 and able to change printing jobs, have much higher-end
8 printing, but able to move very quickly.

9 MR. CANTRELL: Regarding the printing on
10 Rota Gravier, it's my understanding that it's a
11 solvent base application print.

12 MR. GITLIN: You can use different inks on
13 Rota Gravier printing. It is, for the most part,
14 solvent based inks, although they are starting getting
15 request for soy-based inks and using those, as well.

16 MR. CANTRELL: The bags that we've seen over
17 two mils in thickness, I believe it was quoted over
18 two mils in thickness -

19 MR. GITLIN: Two-and-a-quarter, yes.

20 MR. CANTRELL: I mean, I've seen - I was
21 just wondering if you may also - these are very nice
22 bags, you know, exceptionally nice. And, of course,
23 the retail bags are outside the scope of the
24 investigation. So, my question is -

25 MR. PERRY: No, no, no, that's -

1 MR. CANTRELL: - you also sell into the
2 retail.

3 MR. PERRY: Sir, that's wrong. That's the
4 problem. If you go into look at what the Commerce
5 Department and the Customs have interpreted the order
6 to be, any bag with a handle coming into the United
7 States is covered product. I mean, there have been
8 some attempts to pull out stuff like newspaper bags,
9 where they were hanged on a handle. But, any bag with
10 a handle is covered and that's key. That's a very
11 important point. As long as it's got a handle, it's
12 covered.

13 MR. CANTRELL: I will reread up on the
14 scope.

15 MS. LEVINSON: I might add that part of that
16 is the scope, of course, but part of it is the
17 Commission's determination that there was only one
18 like product.

19 MR. CANTRELL: So, they could be any bags,
20 as you understand, could be sold at the retail and not
21 just handed out free of charge?

22 MR. PERRY: One of the other points to be
23 made here, because I've had discussions with Commerce
24 Department and Customers officials on this point,
25 there was an attempt by some of the importers to get

1 Commerce to reclassify, using the word "retail." Hey,
2 this is a bag handed out as - and it's not sold and,
3 therefore, it's not retail. It's out of the scope.
4 And the Commerce Department has taken the position,
5 hey, we have to have physical criteria for those bags
6 coming into the U.S., so that the Customs inspector
7 can identify them at the border. Any bag with a
8 handle is covered, period.

9 MR. CANTRELL: But, I mean, like a Gucci bag
10 would be given to the customer free of charge, right?

11 MR. PERRY: Even then it would be covered,
12 yes, as long as it has a handle.

13 MR. CANTRELL: The countries that you are
14 discussing, are they all Vietnam and Indonesia and
15 excluding Taiwan or are you including Taiwan in this
16 prescription, also?

17 THE WITNESS: I'm not sold on the Taiwan
18 production. And that was I still haven't figure out.
19 Do you know anything about the Taiwan producers?

20 MS. LEVINSON: We don't represent any
21 clients from Taiwan.

22 MR. CANTRELL: I know Akin Gump was
23 representing Taiwan, I thought, for the most part
24 anyway.

25 MR. CANTRELL: And I believe it was stated

1 that these bags are less - are one percent or less of
2 the market.

3 MR. GITLIN: By the Petitioners. They
4 stated that, yes.

5 MR. CANTRELL: I know we have looked at the
6 Commerce data and just looking at - all we can see - I
7 know, myself, I've looked for higher-end bags, but I
8 can't find them in the data, I don't think. I mean,
9 for example, Vietnam, land and duty price per thousand
10 bags is \$12.26 in 2008. That would be a bag of about
11 1.2 cents per bag.

12 MR. PERRY: I think that what we're talking
13 about here is part of the problem when you look at
14 this Custom's data and especially the IM146 data,
15 whatever you are looking at, is these are broad
16 categories. And they can be a lot of bags in those
17 tariff categories. And it's not just the bag, the
18 PRBC per say with the handle. And so, there could be
19 other bags in there and that's where the problem is.

20 MR. CANTRELL: And you know, I've noticed, I
21 mean, the prices are about the same for Taiwan,
22 \$12.41, for duty paid per thousand. So, again, that
23 equates to about 1.2 cents per bag. And they are a
24 little higher in Thailand, I notice, \$14.52.

25 MR. PERRY: I think, also, again, these

1 high-end shopping bags, for instance, are a relatively
2 small percentage. So, they get washed into the more
3 larger quality of t-shirt bags and other bags that are
4 in that basket category and that's why it's really
5 hard.

6 MR. CANTRELL: Something, this may be out of
7 what you're speaking of, that I was curious about,
8 because we have to look at the entire gamut of
9 problems -- you have problems and products. But, as
10 far as high use, the bags, the breakdown of your trade
11 reps, I notice several names on the West Coast, some
12 of the East Coast, some over the Gulf Coast. So, I
13 was just wondering, What's the difference in the trade
14 reps? Say, if you go the west coast, are you just
15 going - is it a straight route? And if you go to the
16 east coast, you have to go through the Panama Canal.
17 Do you have to go through the C&O canal or how do you
18 get there?

19 MR. PERRY: I don't know. I think that most
20 it would be through the Panama Canal, I would think.
21 But, the difference is it's a very big difference in
22 time. And I notice this generally on freights in a
23 lot of cases that we're involved in. The difference
24 can almost be two, three, four weeks, between the west
25 coast and the east coast. And then the problem, of

1 course, is if you land on the west coast and try to
2 bring it to the east coast, you've got to either use
3 train probably to bring it across and then it becomes
4 a lot more expensive. So, it all depends on - it's
5 usually coming over the Pacific. I don't see it going
6 the other way.

7 MR. CANTRELL: Okay. One last request,
8 could you kindly provide us with samples of these
9 high-end bags from the individual countries? It would
10 be helpful to examine those?

11 MR. GITLIN: Yes. We have some there. We
12 can supply you with more. Oh, you wanted the -

13 MR. CANTRELL: Yes.

14 MR. GITLIN: You may not be able to tell the
15 difference; but, yes, I will. I will label them for
16 you.

17 MS. LIN: We can also certainly provide
18 samples.

19 MR. CANTRELL: So, as far as the other bags,
20 you know, t-shirt bags, jacket bags, so forth, I mean,
21 you're only interested in discussing these high-end
22 bags.

23 MR. GITLIN: Really, what our purpose today
24 is, and I think we've done that, is to allow you to
25 understand that there's a clear dividing line between

1 what the Petitioners are doing and making and what
2 we're bringing in as high-end bags and that the high-
3 end bags should be outside of the petition. It's a
4 completely different bag by all of your standards, by
5 all of our standards, by the perception of the
6 industry, two completely different products meant to
7 do different things by our perception and the end-
8 user's perception. That's really our purpose.

9 MR. CANTRELL: Okay. That's all I have.
10 Thanks kindly for your appearance here and for all of
11 your assistance.

12 MS. LIN: Can I also add something?

13 MR. CANTRELL: Yes, ma'am.

14 MS. LIN: I think to us, a t-shirt bag and
15 some others really have a very clear defined line even
16 if you say dye-cut bag. So there's certainly a kind
17 of dye-cut bag very similar to a t-shirt bag. They
18 are very thin and the bottom is sealed. The most
19 important thing is the bottom is sealed. So, if you
20 see those patch handle bag, they are side sealed.
21 They are totally different from t-shirt bag and other
22 bottom sealed dye-cut bag. You cannot use the t-shirt
23 bag machine to do this kind of patch handle.

24 So the purpose of the patch handle bag is
25 they can use this very old material, but there's a

1 patch attached to the handle as a reenforcement so
2 that we can use less material, but at the same time,
3 we have a very strong handle. And those are used in
4 totally different machines.

5 MR. CANTRELL: Thank you very much for that
6 information.

7 MR. ASCIENZO: Thank you, Mr. Cantrell.

8 Mr. Yost, do you have any questions?

9 MR. YOST: Thank you, no. But I would like
10 to thank you all for your appearance this afternoon,
11 and again, thank you. No questions.

12 MR. ASCIENZO: Mr. Von Schultz, do you have
13 any questions?

14 MR. VON SCHULTZ: Yes, thank you. Karl Von
15 Schultz. I'm the attorney in this investigation,
16 these investigations. I was looking at the bags that
17 you brought in. They're manufactured in China. You
18 say they're the same as the bags manufactured in the
19 subject countries, and I look forward to receiving
20 samples.

21 And I'm looking at some of the bags that
22 were brought by the Petitioners today and I see that
23 some of them share many of the same characteristics
24 like this one, made in America there, and it's got the
25 handles. Clearly it's reusable. It's got a

1 photograph of a nice little street scene in Europe I
2 guess, Treasure Island, America's Most European
3 Supermarket. So I'm wondering, can you comment on the
4 similarities and differences as printed here in the
5 gusset?

6 MR. GITLIN: I'd love to. The company that
7 made that bag, they're formally known as Continental
8 Extrusion. They make the bags the same way a paper
9 shopping bag would be made. It's not tubular. It's
10 sheet-fed. If you take notice, the seal, there is a
11 seal on the side. On one of the sides, you'll see a
12 seal. It's called a longitudinal seal. Our bags have
13 a bottom seal. These bags that you have now are made
14 by a machine and they have restrictions on size and
15 how they can do it. They can't fold the top. They
16 can't put cardboard in. They only can put in one type
17 of handle and they have very high minimums because of
18 the machine run. They also print flexigraphically and
19 they can't do full color presses very well.

20 So, from looking at it and not knowing our
21 business, you might say it's very similar to ours.
22 But from our point of view, it's a very different bag.
23 The restrictions, because it's machine-made, it's a
24 totally machine-made bag, it's very limited in what
25 they can do in extremely high quantities. And again,

1 the cardboard issue they cannot do. That's the only
2 handle they can put on. So either you like what you
3 get or you can't buy from them.

4 MR. VON SCHULTZ: Thanks for your answer.
5 I'm wondering, I think some of my colleagues have
6 asked you, Mr. Gitlin, the approximate size of the
7 U.S. market comprised of the high-end bags and you
8 quoted the Petitioners as saying it's about one
9 percent. Do you agree with that?

10 MR. GITLIN: Yes, I'd say it's very small.

11 MR. VON SCHULTZ: About one percent?

12 MR. GITLIN: I'd say it's an extremely small
13 percentage of usage compared to t-shirt bags.

14 MR. VON SCHULTZ: Okay. Thanks for that.
15 And no further questions at this time. Thank you.

16 MR. GITLIN: Thank you.

17 MR. ASCIENZO: Thank you, Mr. Von Schultz.
18 Mr. Deyman, do you have any questions?

19 MR. DEYMAN: Yes. I'm George Deyman, Office
20 of Investigations. It sounds to me like you're making
21 two separate arguments here. You're making one
22 argument that there should be a different, a separate
23 domestic like product for the high-end bags. But also
24 you're making a conditions of competition argument,
25 saying that the imported bags are different from the

1 ones that are produced in the United States. Can you
2 elaborate on that a little bit?

3 MR. PERRY: Yes and no. I mean, we're
4 admitting, I mean, the t-shirt bags that are coming in
5 from Indonesia or Vietnam, I mean, they are a
6 commodity product. You interchange the t-shirt bags,
7 that's it. And that is in the high-end shopping bag
8 area, there's a substantial difference in conditions
9 of competition between what is produced there and what
10 is brought into the United States. I'm telling you
11 Gucci is not going to go with the domestic bag. They
12 won't.

13 And so the other thing to understand here is
14 that we're also saying that because there is such a
15 bright dividing line, a bright dividing line, it's now
16 even been recognized by states and cities around the
17 country that, yes, the Commission has to look at two
18 separate like products, two separate industries. And
19 that's what you're looking at, a very, very different
20 situation.

21 MR. GITLIN: I think also our main focus
22 here is being able to separate the bags into different
23 products. We can't lump t-shirt bags with high-end
24 shopping bags. The State of New York and the State of
25 California and the City of San Francisco have

1 recognized this and come up with a clear dividing
2 line. The verbiage is exactly the same. In showing
3 you the samples, I think, you know, it brings forth
4 the difference in quality and appearance and
5 expectations of the product are totally different.
6 That is what we really want to do today.

7 Our defense of t-shirt bags overseas is
8 another issue, much more difficult for us to explain
9 to you, so that you can make that decision. But this
10 we feel is a very clear and easy decision, both being
11 made by examining the bags themselves and taking into
12 consideration the local municipal governments have
13 already made that decision and given a definition to
14 the differences.

15 MS. LEVINSON: Mr. Deyman, do you mind if I
16 just ask Mr. Gitlin a quick follow-up? You know, it
17 occurred to me we have a number of bags here. As an
18 expert, would it be easy for you to determine which
19 come within the statute and which ones are outside of
20 the statute?

21 MR. GITLIN: Yes.

22 MS. LEVINSON: You would be able to identify
23 that by sight?

24 MR. GITLIN: Yes.

25 MR. PERRY: Important here I think that what

1 is different from the last case and because trying to
2 break the Commission on a continuum theory. The
3 Petitioners walk in and argue it's a continuum and,
4 boy, is it really hard to convince the Commission to
5 look at separate like products. I think that's why we
6 have so few people here. They've given up. But the
7 truth is the big difference here is that now the
8 states and the cities are recognizing this bright
9 dividing line, which you have not accepted in the
10 past.

11 MR. GITLIN: Mr. Dorn would have you believe
12 that these two bags are equivalent and are
13 interchangeable, this bag and this bag. I say not.

14 MR. DEYMAN: Just for the record, could you
15 say what is written on each of those bags and sort of
16 describe them?

17 MR. GITLIN: This one I cannot. But this
18 says "Giant". This one says "Sand Jam Surf Shop".
19 But I would think that even if you weren't in our
20 business, there would be a clear difference between
21 the expectations of this bag and the expectations of
22 this bag without having knowing anything about bags.
23 Certainly this is meant for advertising. This is
24 meant for usability. This, on the other hand, is a
25 one-way trip home.

1 Now, aside from not knowing anything about
2 the business, you have lived in this United States for
3 many years and use bags everyday. So I think without
4 even knowing our business, you can see and recognize a
5 difference from your own daily use.

6 MR. DEYMAN: And where are those two bags
7 produced?

8 MR. GITLIN: I believe this is China as
9 well. I can't see. Yes, this is China. But once
10 again, it's identical and I'll provide you with
11 samples to show you that it's identical.

12 MR. DEYMAN: All right. Let's talk about
13 the domestic like product, not what's made in China or
14 in Vietnam but the domestic production of these bags.
15 You want the Commission to make a finding that high-
16 end bags are different from all the other bags
17 included in the scope, is that right?

18 MR. GITLIN: Yes.

19 MR. DEYMAN: Now could you define a high-end
20 bag?

21 MR. GITLIN: Yes, as the same way that the
22 states have defined it in their legislation. Bill?

23 MR. PERRY: Yes. I think that when you go
24 back to the states and the way it's been defined by
25 the State of California and the State of New York,

1 basically they're saying a durable plastic bag with
2 handles that is at least 2.25 mils thick and is
3 specifically designed and manufactured for multiple
4 reuse. The plastic carryout bag means a plastic bag
5 and this is provided by a store to a consumer at the
6 point of sale but is not a reusable bag. That's the
7 distinction they're making. The 2.25 mils thick is
8 one of the key issues.

9 MR. DEYMAN: So I'm holding up a bag that
10 says "Houston Chronicle". It's white, has a star on
11 it. Is this high-end or not high-end?

12 MR. GITLIN: In my estimation, that bag
13 could go under low-end.

14 MR. DEYMAN: Is this 2.25 mils, less than
15 that?

16 MR. GITLIN: Yes.

17 MS. LEVINSON: That's precisely the reason I
18 asked him whether he could identify from sight. I
19 think the point is that the statutes are consistent
20 with the like-product argument that we're making.

21 MR. DEYMAN: All right. So, for the record
22 in your postconference brief, if you could clearly
23 define what you pretty much just read from the statute
24 there --

25 MR. PERRY: We will.

1 MR. DEYMAN: -- as your definition of a
2 high-end like product. And do you think if the
3 Commission bought off on that argument and found two
4 domestic like products and went affirmative ultimately
5 on both let's say, do you think the Customs Service
6 could make a distinction?

7 MR. PERRY: Definitely. Easily. Yes. I
8 mean, when you've got the thickness of the bag, yes,
9 that's a physical characteristic.

10 MR. GITLIN: And it's all on invoice.

11 MS. LEVINSON: And not to repeat to what I
12 said, but that was precisely the reason of my question
13 can you tell, and you can tell. You know, Customs is
14 faced with issues everyday where they have to make
15 decisions on tariff classification based on
16 examination of the product, and some are easier than
17 others. This one happens to be particularly easy.

18 MR. PERRY: This has got a physical
19 characteristic to it.

20 MR. GITLIN: Well, there's more than one
21 physical characteristic. The handle itself, the gauge
22 itself, you know, those are characteristics that set
23 things apart from t-shirt bags. T-shirt bags are
24 really all to themselves. If you wanted to compare it
25 to anything, and I've been in the business for over 30

1 years, you may as well as compare it to a garbage bag.
2 It's made and sold as a commodity. We're talking
3 about price per pound. That's what that is. It's
4 run, run, run, run, run. Printing is no issue.

5 MS. LEVINSON: Could you turn on your
6 microphone, please?

7 MR. GITLIN: I can't say that again. Would
8 you like me to repeat myself?

9 MS. LEVINSON: If you could, that would be
10 great.

11 MR. GITLIN: What I was bringing out is that
12 if you were to compare anything to a t-shirt bag, it
13 should be a garbage bag. It's a commodity-oriented
14 bag that's made to run 24 hours, seven days a week,
15 and the printing is less important than a high-end
16 shopping bag. Its idea is to get material into a
17 shape and form of a bag and send it out the door.
18 Unfortunately that's what that is and it can't be
19 compared to a high-end shopping bag.

20 MR. DEYMAN: So should a t-shirt bag be a
21 separate like product too?

22 MR. PERRY: No, because then we've got the
23 situation where if you break everything out -- that's
24 the whole problem with the continuum theory. You
25 know, George knows that I was originally here at the

1 Commission in the '80s, '80 to '85. I was here when
2 continuum was set up and it was basically set up to
3 cover a steel case where you had multiple different
4 changes of steel products. Prior to that, in the
5 early 1980s, the Commission was breaking out like
6 products all the time. As a result of the continuum
7 theory, it's almost become universally applied across
8 the board. So, as long as the petitioner comes in and
9 argues continuum, bang, the Commission looks at one
10 like product, that's it, end of the story.

11 The interesting thing here, beside the fact
12 that you've got PRCBs, you've got laminated woven
13 sacks. So how far do we extend this continuum?
14 Again, the key, do you have a bright line dividing
15 point? You do, and this one is going to be harder to
16 deny than the last case because now it's in statute.
17 It's in law. And that's kind of making it a little
18 bit more difficult to deny the, oh, it's not here at
19 all. They're saying that based on distinct
20 differences in physical characteristics and uses we
21 have two different products here. And it's in New
22 York and it's in California. It's amazing, same
23 standard.

24 MR. DEYMAN: It's my understanding that the
25 Commission also asks for interchangeability as being

1 one of the criteria.

2 MR. GITLIN: It's not interchangeable. It's
3 a completely different product. It's meant for
4 different uses. It's perceived by the producer of the
5 product to be a commodity. Our bag is not perceived
6 to be a commodity. The t-shirt bag is perceived as a
7 commodity by the end user. A high-end shopping bag is
8 not perceived as a commodity by the high-end user. So
9 interchangeability, which is one of your criteria, is
10 completely clear on those points.

11 MR. DEYMAN: Suppose that the Commission
12 found two separate domestic like products in this
13 preliminary phase investigation. One problem we have
14 is we have no data on the high-end bags produced in
15 the United States or imported for that matter. So how
16 do you propose that that be handled?

17 MR. PERRY: Well, you know, we were kind of
18 surprised when I looked at the questionnaire and it
19 was all t-shirt questions when in fact that was the
20 issue in the last case. It was there, sitting there
21 all the time. And we were coming in, you knew it was
22 coming down the pike. But, yes, I mean, that's the
23 problem. You don't have the data, so that probably
24 means you're going to go to a final. But at least
25 this is the issue that's been laid out and it's pretty

1 darn clear now.

2 MS. LEVINSON: Just to confirm what Bill
3 said. The importer's questionnaire asked about four
4 products, as you always do. Every single one of them
5 is a t-shirt bag. I've got to think that that's
6 because that's what the Petitioners are interested in.
7 That's what this case is about. And what I would
8 recommend is that should this go to a final
9 determination that you obviously craft your
10 questionnaires, and we'd be very pleased to assist you
11 with that process, to get the data you need to make a
12 final determination.

13 MR. GITLIN: I would wonder why you would go
14 to a final determination after seeing this product.

15 MR. DEYMAN: Not my decision. So could you
16 estimate then what share of the imports from Vietnam,
17 Taiwan and Indonesia consists of high-end versus low-
18 end quantity and value? You can do it in the
19 postconference brief if you want.

20 MR. GITLIN: Well, I can't answer that
21 question. I wouldn't venture a guess. As the
22 petition has stated, that one percent of their market,
23 so it's a very low percentage compared to the rest of
24 everything else that they're doing. In our business,
25 it would be a very high percentage of our business. I

1 can't give you a number. We'll have to look into it.

2 MS. LEVINSON: The problem of course is that
3 the tariff classifications are not broken out that
4 way.

5 MR. GITLIN: Well, we could tell you what we
6 bring in as a percentage versus low-end bags. I can
7 do that. I mean, you can do that. As an industry,
8 that's another issue.

9 MR. DEYMAN: Just a couple of other
10 questions. Are there any quantity or product mix
11 differences among the PRCBs from Indonesia, Taiwan and
12 Vietnam?

13 MR. GITLIN: I'm not sure I understand your
14 question.

15 MR. DEYMAN: Break them out separately.

16 MR. PERRY: Let me address that problem.
17 You know, the only thing I don't know about but I
18 would take a look at closely is Taiwan, because Taiwan
19 has higher labor rates than Indonesia and Vietnam.
20 But again, that's off the top of my head. I don't
21 believe there's really any difference between
22 Indonesia, Vietnam and even China for that matter. I
23 mean, many of the companies we represent were
24 companies that went in China, went to Vietnam or
25 Indonesia, so same kind of mix.

1 MS. LEVINSON: Are you familiar with your
2 bags versus bags from Vietnam? Are they the same or
3 different?

4 MS. LIN: In terms of quality, I'm not quite
5 sure, but we do constantly receive the comments from
6 our customers saying that our prices are way too high
7 compared with Vietnam and other countries.

8 MALE VOICE: That could be true, yes.

9 MR. DEYMAN: To what extent, if any, are
10 producers of PRCBs in Indonesia, Taiwan and Vietnam
11 related to producers in China, Malaysia or Thailand?
12 Do you have any idea? For example, your company, Ms.
13 Lin, you said you've been producing since 1991, so you
14 are clearly not an example of a company moving from
15 China to Indonesia. You're indigenous. Is that
16 correct?

17 MS. LIN: Yes, that's correct. So we are
18 not related to any other factories in China, Vietnam
19 or Thailand, Malaysia. We solely start this business
20 18 years ago.

21 MR. PERRY: But as you know, Glopack is a
22 good example. Glopack used to have a production
23 operation in Shanghai. They moved to Indonesia.
24 Several companies we're representing here were
25 companies that were originally in China, then moved

1 over the border to Vietnam. And again, to some
2 degree, this is somewhat easier because, as I said
3 before, these aren't huge production operations. The
4 extruders are much smaller. It's much easier to put
5 them on a truck and just take them across the border.

6 MR. DEYMAN: Mr. Gitlin, from what countries
7 do you import?

8 MR. GITLIN: Right now we have facilities in
9 Indonesia. We do some bags in India, but we don't own
10 the factory.

11 MR. DEYMAN: And do you see any differences
12 between the products produced in China and Indonesia
13 and India or not?

14 MR. GITLIN: I see less of a quality in some
15 of the countries, less quality, less control.

16 MR. DEYMAN: All right. I have two
17 questions actually for the domestic producers that you
18 can answer in the postconference brief, not right now.
19 Someone on the Respondent's panel mentioned a bag for
20 Disney that had two-sided printing that can't be
21 produced in the United States. I'd like you to
22 address that in the postconference.

23 MR. GITLIN: I think Bill mentioned that. I
24 think what we're talking about is this kind of bag.
25 This kind of bag is not produced in the United States.

1 MR. DEYMAN: For the record, can you say
2 what that is?

3 MR. GITLIN: That's Sand Jam Surf Shop. If
4 Disney wanted a bag like this, they couldn't get it
5 anyplace else. They couldn't get the cardboard top
6 and the reinforced handle. They couldn't get the
7 four-color process printed or a cardboard bottom.
8 It's not made in the United States. They may make
9 something else, but they don't make this bag. And if
10 they wanted this bag, it would have to be done
11 overseas. I think that's what Bill was alluding to.

12 Also, as I said, the printing capabilities
13 overseas, because of rotogravure printing, is much
14 higher quality of print than domestic manufacturers
15 use, flexographic printing.

16 MR. PERRY: I've see what the domestics will
17 say. They'll come back and say we can do the same.
18 But walk into the Disney store down in Pentagon Mall
19 and ask them to look at one of their bags.

20 MR. GITLIN: I believe Target was at the
21 first meeting. Target stores were sitting at our
22 table the first meeting showing the quality of the bag
23 that they bought overseas versus the quality that was
24 produced domestically, living up to Target's
25 expectations from a domestic standpoint. Also he

1 stated that there was an inflexibility in the domestic
2 manufacturers wanting to supply them the way Target
3 wanted to be supplied and shipped.

4 MR. PERRY: I mean, the Disney store was the
5 one that hit me because one of my clients was
6 producing that bag. It was literally a full color
7 picture just like a photograph you would see in a
8 magazine or something. There's one like with the
9 chips or whatever, the chocolate chip cookie one over
10 there.

11 MR. GITLIN: No, no, no, there's another
12 one, but yes. But there's two sides to that bag.

13 MR. DEYMAN: Right. This is a bag that says
14 Goode's, Armadillo Palace.

15 MR. GITLIN: And on the other side, there's
16 a photographic reproduction of a truck. So, I mean,
17 that's quite impressive printing on a plastic bag.

18 MR. DEYMAN: I have one other question for
19 the domestic producers that you can answer in your
20 postconference brief. Ms. Lin said that the equipment
21 used to produce T-shirt bags can only be used to
22 produce T-shirt bags. And so that may be true in
23 Indonesia, but is that true for the domestic producers
24 too?

25 MS. LIN: Can I explain that? So, as I

1 said, actually the T-shirt bag machine can also
2 produce bottom-sealed dye-cut bag but not for side-
3 sealed bag. And also for other nonsealed bag with the
4 square bottom, that need an actual manual effort to
5 put accessory onto the bag.

6 MR. DEYMAN: I have no further questions,
7 but I'd like to thank you, Ms. Lin, for coming all the
8 way from Indonesia. I hear that's a 24-hour flight.
9 Is that true?

10 MS. LIN: Yes, it took me 27 hours from my
11 house to get to the hotel. I almost died.

12 (Laughter).

13 MR. DEYMAN: Well, thank you very much.
14 Thank the whole panel.

15 MS. LIN: Thank you. Thank you for giving
16 me this opportunity. I am very happy that I'm here.

17 MR. ASCIENZO: Thank you very much for all
18 those answers. My questions have been answered.

19 Do any of the panel have any more questions?
20 Any follow-up questions?

21 Mr. Thompson? That's a no, sorry.

22 And with that, I thank you once again very,
23 very much for all of those answers. A lot of very
24 good answers from not a very big panel. Thank you
25 very much.

1 And with that, let's take a seven-minute
2 break until 25 after. Is that enough time to do
3 closing remarks, sir?

4 MR. DORN: That's fine, thank you.

5 MR. ASCIENZO: All right. Thank you very
6 much.

7 MS. LEVINSON: Mr. Ascienzo, could I just
8 address a procedural matter that perhaps you want to
9 think about during the break?

10 MR. ASCIENZO: Sure.

11 MS. LEVINSON: Is there any potential for
12 giving us until Monday? Currently posthearing briefs
13 are due on Friday. We're trying to get data from
14 overseas, and having the weekend would assist us
15 greatly. And obviously I can put that in writing as a
16 formal request, but I thought I would at least plant
17 the seed.

18 MR. ASCIENZO: I'm going to defer to my
19 supervisory investigator, George Deyman, on this one.
20 Thank you.

21 (Whereupon, a short recess was taken)

22 MR. ASCIENZO: Okay. Mr. Dorn, when you're
23 ready sir. Thank you.

24 MR. DORN: Joe Dorn for Petitioners. I'll
25 focus on like product because that's about 99 percent

1 of what we heard from the other side.

2 Mr. Gitlin comes here today and says he's
3 disappointed with the 2004 determination. Of course
4 that determination was not appealed to the U.S. Court
5 of International Trade.

6 Mr. Gitlin testified twice before the
7 Commission, making essentially the same arguments,
8 showing the same samples. In fact he didn't even
9 change the samples, he just brought the old ones that
10 he used from China. He didn't even bring the samples
11 from the new countries that are subject to the
12 investigation.

13 And before he was joined by a lot of others.
14 He had a chorus sitting with him who sang the same
15 song. But this time he comes alone because, as Mr.
16 Perry said, the others have given up, as I would
17 suggest is an appropriate decision on this particular
18 issue.

19 Mr. Gitlin focuses again, as he did back in
20 2003 and 2004, comparing the T-shirt bag versus the
21 very highest end product in his view, a bag with
22 cardboard inserts. What about all the bags in
23 between?

24 As the Commission said in its determination
25 in 2004, most Respondent's arguments are directed at a

1 comparison of high-end PRCBs with low-end PRCBs, that
2 is, T-shirt sacks. However, their arguments do not
3 account for the vast array of PRCBs that fall in the
4 middle of the continuum such as merchandise bags, and
5 they go on to describe all the various bags that
6 you've seen here today.

7 Command makes a T-shirt bag that's thicker
8 and more expensive than those made by Hilex and
9 Superbag. You saw some of those higher-end T-shirt
10 bags that Hilex makes. They're, like the Kohl's bag,
11 very high quality, very good print quality bag. These
12 T-shirt bags are used for advertising. That's why
13 retailers like Kohl's and JC Penney and Sears and Bed
14 Bath & Beyond and Payless and Footlocker and Toys 'R
15 Us and many others put their logos on the T-shirt
16 bags.

17 And process printing is done in the United
18 States using flexographic printing, very high print
19 quality in the U.S. We went through all these issues
20 in 2003 and 2004. Nothing's changed.

21 Mr. Gitlin says that soft loops can't be
22 applied automatically. Not true. He says we can't
23 change the size and inks quickly. That's not true.
24 it's done all the time. Command also has can have
25 short product runs. It sells products to small

1 retailers and competes head to head with Glopac and
2 all the types of bags he was displaying today.

3 Command makes T-shirt and other bags using
4 the very same extrusion and printing equipment and its
5 employees make all types of bags on the converting
6 lines.

7 The discussion about what happens in
8 Indonesia I would respectfully suggest is totally
9 irrelevant to that Commission's analysis of like
10 product. It looks at experience of domestic
11 producers, not to the foreign producers.

12 We heard reference to Ampac. Let's hear
13 what Ampac had to say about this issue back in the
14 preliminary conference. Mr. Dill testified on behalf
15 of Ampac. We specialize in polyethylene drawstring,
16 oval die cut, and patch handle bags. Although Ampac
17 represents the upper end of the spectrum of PRCBs,
18 these different styles of polyethylene bags are all
19 part of the same class of products. There is no way
20 to separate the different types and styles of bags in
21 this industry.

22 "The domestic industry" producers are as
23 capable of producing any type and style of
24 polyethylene bag imported from China, Malaysia and
25 Thailand." And you've heard today the bags of these

1 other countries are no different.

2 Mr. Bauman, the President of Ampac, came
3 here in the final determination and testified that "we
4 don't agree with the whole notion of high end PRCBs as
5 a potentially distinct product category. Certainly
6 that concept has no meaning to Ampac. It likewise has
7 very little if any meaning among PRC purchasers.

8 What one consumer sees as high end another
9 consumer may see as commodity and vice versa."

10 Then in response to Mr. Gitlin's testimony
11 back in 2004, Mr. Everett of Genpak came in and
12 testified about his heat sealed square bottom bags
13 made in his plant in Cedar Grove, New Jersey, and
14 pointed out that they were interchangeable,
15 substitutable, and produced in the United States. So
16 he rebutted Mr. Gitlin's testimony along the lines
17 that Mr. Gitlin gave today.

18 Interestingly, one of the problems that the
19 other side has had from the 2003 preliminary, the 2004
20 final, and this investigation is where do you draw the
21 line? And we don't see it.

22 As I understand it we had four suggestions
23 today. Mr. Perry has been consistent. He says you
24 draw it at a thickness of 2.25 mils which we think
25 would be entirely arbitrary. Something that's known

1 that way, a totally different set of issues, has no
2 bearing on the six like product factor tests that the
3 US International Trade Commission has. Command makes
4 bags that are under 2.25 mils and over 2.25 mils, so
5 it's just entirely arbitrary to draw a line at that
6 point.

7 Ms. Lin seems to be suggesting that you
8 carve out T-shirt and die cut bags, as I understood
9 her.

10 Mr. Gitlin went back and forth, but at one
11 point seemed to be saying let's carve out the T-shirt
12 bags.

13 Ms Levinson, as I heard her testify, said
14 No, we need to carve out the very very high end bags.

15 In the preliminary phase in 2003 they were
16 saying carve out the bags with cardboard inserts. In
17 the final they said no, we didn't mean that. We mean
18 carve out the square bottom bags with drawstrings and
19 attached handles.

20 So this just demonstrates the difficulty of
21 breaking up the continuum. The Commission's decision
22 on this was very clear in 2004, considering all six
23 like product factors. The Commission basically said
24 that it's a standard practice when you're talking
25 about a continuum to define the domestic like product

1 in relation to the scope of the products under
2 investigation. And the scope includes all these
3 products we've been talking about from T-shirt to the
4 very highest end bag. And there's a matching
5 continuum of products made in the United States.

6 We're not saying that a T-shirt bag is
7 identical to a bag with cardboard inserts. Of course
8 we're not saying that. But that's not how the
9 Commission looks at it. The Commission looks at
10 whether there's a continuum of bags in the scope that
11 matches up with the continuum of bags in the like
12 product definition. In this case they clearly do.

13 As the Commission concluded in 2004 on this
14 same product, in cases where domestically manufactured
15 merchandise is comprised of a continuum of similar
16 products and the Commission is unable to find clear
17 dividing lines, the Commission does not consider each
18 item of merchandise to be a separate like product that
19 is only like its identical counterpart in the scope.
20 But instead, it considers the continuum itself to
21 constitute the domestic like product.

22 The Commission also said that PRCBs vary in
23 size, shape, printing, but they all share certain
24 qualities. They're all made from polyethylene resin.
25 They all have handles. They're all provided by

1 retailers to customers free of charge to transport
2 merchandise out of a store.

3 Moreover the basic process in the production
4 of PRCBs involves the same four steps -- extrusion,
5 printing and bag conversion.

6 There's no question that in the US
7 production facilities like those of Command, that the
8 same extrusion equipment and the same printing
9 equipment is used to make the whole array of bags.

10 Hilex in its converting runs not only makes
11 T-shirt bags but it can also make die cut handled
12 bags, and it can make bags of different styles and
13 shapes. So there's a lot of variation there.

14 So I'm surprised that the other side has
15 rested their whole case on this like product issue,
16 but it does make my job easy because there's been no
17 disagreement with our allegations about the fact that
18 the volume of imports is significant, that the subject
19 imports have had an adverse impact on pricing. And
20 that the subject imports have had an adverse impact on
21 the domestic industry.

22 I don't hear any arguments that the imports
23 from the three subject countries should not be
24 cumulated at least with respect to material injury.

25 With respect to threat, which we do not

1 think the Commission needs to get to in this
2 investigation, there have been no indications of what
3 conditions of competition would separate any of the
4 three countries from each other.

5 We appreciate your time. We look forward to
6 responding to your questions and submitting additional
7 points of view in our post conference brief. Thank
8 you very much.

9 MR. ASCIENZO: Thank you very much.

10 Mr. Perry, whenever you're ready.

11 MR. PERRY: I'm ready.

12 I think Joe Dorn said it perfectly. He said
13 we defined the product, you agree. That's the
14 problem. That's why all the other importers didn't
15 show up, people. They are perceiving this as a rubber
16 stamp of the Petitioners, of the domestic industry.
17 Petitioner, thank you, rubber stamp.

18 The question of who makes the decision on
19 like product, is it the Petitioner or you? I suggest
20 that the Commission makes the decision on like product
21 and that the Commission can disagree with the
22 Petitioner, although frankly in most every case I can
23 think of in the last few years the Commission has
24 agreed with the Petitioner, so Joe Dorn is absolutely
25 right.

1 That's the real issue.

2 But the one thing he doesn't want to
3 address, I mean he comes in, obviously, he does
4 exactly what any good Petitioner's lawyer would do
5 which is to come in and obscure. fuzz it up a lot
6 because you've got a continuum. The whole idea of a
7 rainbow of colors. There's no specific dividing line
8 or anything else.

9 He mentions the 2.25 and says we suggested
10 that was just that. We suggested 2.25 because of
11 something he didn't mention. The statutes. The law.
12 Do you think that the city of New York or the state of
13 California picked out 2.25 milliliters out of thin
14 air? They came up because they saw a specific
15 dividing line based on characteristics and uses. And
16 like product is defined based on characteristics and
17 uses. Now there are other criteria there, but they go
18 to the characteristics and uses of the product.
19 That's why the state and the legislature defined it
20 that way. So that's why we were talking about 2.25.

21 The expectations are obviously different,
22 everything that Steve was referring to. I have to
23 thank Steve because he had the strength to come here
24 and testify. Almost everybody else simply gave up
25 because they thought they'd already lost the case when

1 it was filed.

2 But anyway, one of the points again said for
3 this is the one thing that is changed in the Chinese
4 case to the present case is the statutes in both
5 California and New York. We'll give you more
6 information about that. I don't think there's any
7 chance in God's green hell that Gucci is going to go
8 from a very high end shopping bag to a T-shirt bag.
9 It ain't going to happen. He probably wouldn't even
10 take a die cut bag.

11 Anyway, regarding other issues, we haven't
12 had time to look at the confidential information of
13 Petitioners in their questionnaire responses, but
14 obviously we'll address the issues of material injury
15 and the other factors. We'll put it in our post
16 conference brief. Thank you very much.

17 MR. ASCIENZO: Thank you all very much.

18 On behalf of the Commission and the staff I
19 want to thank the witnesses who came here today, as
20 well as counsel, for helping us gain a better
21 understanding of this product and the conditions of
22 competition in this industry.

23 Before concluding, let me mention a few
24 dates to keep in mind.

25 The deadlines for submission of corrections

1 to the transcript and for briefs in the investigations
2 is Friday, April 24th. If briefs contain business
3 proprietary information, a public version is due April
4 27th.

5 The Commission has tentatively scheduled its
6 vote on the investigations for May 14th at 11:00 a.m.
7 It will report its determinations to the Secretary of
8 Commerce on May 15th. Commissioners' opinions will be
9 transmitted to Commerce on May 22nd.

10 Thank you very much for coming.

11 Once again, before we adjourn, we'll get
12 back to the parties on the scheduling of the briefs
13 later on this afternoon.

14 Thank you very much and this conference is
15 adjourned.

16 (Whereupon, at 2:45 p.m., the hearing in the
17 above-entitled matter was adjourned.)

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Polyethylene Retail Carrier Bags from
Indonesia, Taiwan, and Vietnam

INVESTIGATION NO.: 701-TA-462 and 731-TA-1156-1158

HEARING DATE: April 21, 2009

LOCATION: Washington, DC

NATURE OF HEARING: Investigation

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: April 22, 2008

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: Rebecca McCrary
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: Edwin Wesley
Signature of Court Reporter