

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CERTAIN STILBENIC OPTICAL) Investigation No.:
BRIGHTENING AGENTS FROM) 731-TA-1186 and 1187
CHINA AND TAIWAN) (Preliminary)

REVISED AND CORRECTED COPY

Pages: 1 through 155
Place: Washington, D.C.
Date: April 21, 2011

HERITAGE REPORTING CORPORATION

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

On behalf of :

In support of the Imposition of
Antidumping Orders:

KENNETH GOLDBER, PRESIDENT, CHIEF EXECUTIVE
OFFICER, AND CHIEF FINANCIAL OFFICER,
CLARIANT CORPORATION

MATTHEW DETTLAFF, SENIOR PRODUCTS MANAGER,
CLARIANT CORPORATION

LYNN HOLEC, CONSULTANT, LLC

JOHN DICKSON, CONSULTANT

NEIL R. ELLIS, ESQUIRE
RICHARD L.A. WEINER, ESQUIRE
RAJIB PAL, ESQUIRE
JILL CAIAZZO, ESQUIRE
SIDLEY AUSTIN LLP
WASHINGTON, D.C.

In opposition to the Imposition of
Antidumping Orders:

RANDALL B. NELSON, MANAGER, TECHNICAL
SERVICES, TFM NORTH AMERICA, INC.

MARK HUANG, GENERAL MANAGER, TFM NORTH AMERICA,
INC.

PETER J. KOENIG, ESQUIRE
SQUIRE, SANDERS & DEMPSEY (US) LLP
WASHINGTON, D.C.

OTHER PARTIES:

TED KELLY, VICE PRESIDENT, PAPER CHEMICALS,
BASF CORPORATION, CHARLOTTE, NC

STEVEN J. GOLDBERG, VICE PRESIDENT AND
ASSOCIATES, GENERAL COUNSEL, REGULATORY
LAW AND GOVERNMENT AFFAIRS, BASF CORPORATION,
CHARLOTTE, NC

I N D E X

	PAGE
OPENING STATEMENT OF RICHARD L.A. WEINER, ESQUIRE, SIDLEY AUSTIN LLP, WASHINGTON, D.C.	6
OPENING STATEMENT OF PETER J. KOENIG, SQUIRE, SANDERS & DEMPSEY (US) LLP	10
OPENING STATEMENT OF NEIL R. ELLIS, SIDLEY AUSTIN, LLP	11
TESTIMONY OF JOHN DICKSON, CONSULTANT	16
TESTIMONY OF KENNETH GOLDER, PRESIDENT, CHIEF EXECUTIVE OFFICER, AND CHIEF FINANCIAL OFFICER, CLARIANT CORPORATION	22
TESTIMONY OF LYNN HOLEC, CONSULTANT, ITR-LLC	29
TESTIMONY OF MATTHEW DETTLAFF, SENIOR PRODUCTS MANAGER, CLARIANT CORPORATION	35
TESIMONY OF RANDALL B. NELSON, MANAGER, TECHNICAL SERVICES, TFM NORTH AMERICA, INC.	85
TESTIMONY OF MARK HUANG, GENERAL MANAGER, TFM NORTH AMERICA, INC.	107
TESTIMONY OF TED KELLY, VICE PRESIDENT, PAPER CHEMICALS, BASF CORPORATION, CHARLOTTE, NC	136

I N D E X

	PAGE
CLOSING STATEMENT OF NEIL R. ELLIS, SIDLEY AUSTIN LLP, WASHINGTON, D.C.	143
CLOSING STATEMENT OF PETER J. KOENIG, SQUIRE, SANDERS & DEMPSEY (US) LLP, WASHINGTON, D.C.	151

P R O C E E D I N G S

(1:00 p.m.)

MS. DeFILIPPO: Good afternoon. Welcome to the United States International Trade Commission's Conference in connection with the preliminary phase of the Antidumping Duty Investigations, Number 731-TA-1186 and 1187, concerning imports of Certain Stilbenic Optical Brightening Agents from China and Taiwan.

My name is Catherine DeFilippo, and I am the Commission's Director of the Office of Investigations, and I will preside at today's conference.

Among those present from the Commission staff are from my far right, James McClure, the Supervisory Investigator; Cynthia Trainor, the Investigator; our attorney, David Fishberg, will be joining us shortly; Gerald Benedick, the Economist; Aimee Larsen, the Economist; Charles Yost, the Auditor; and Philip Stone, the Industry Analyst.

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

1 Finally, speakers will not be sworn in, but
2 are reminded of the applicability of 18 U.S.C. 1001,
3 with regard to false or misleading statements and to
4 the fact that the record of this proceeding may be
5 subject to court review, if there is an appeal.

6 Are there any questions? Hearing none, we
7 will proceed with the opening statement. Mr. Weiner,
8 are you presenting opening statements?

9 MR. WEINER: Yes, I am.

10 MS. DeFILIPPO: Okay, great. Please proceed.

11 MR. WEINER: Thank you very much and good
12 afternoon. My name is Richard Weiner from Sidley
13 Austin, and I represent Petitioner Clariant
14 Corporation. Clariant accounts for the majority of
15 the domestic industry for certain stilbenic optical
16 brightening agents or CSOBA's, the subject merchandise
17 in this investigation.

18 At the outset I wish to acknowledge that
19 this investigation may seem familiar to certain of
20 you. As noted in Clariant's petitions in 2003, Ciba
21 Specialty Chemicals, now a part of BASF, brought
22 petitions against imports of certain DAS chemistry
23 from China, India and Germany. The 2003 petitions
24 were much broader in scope than the petitions now
25 before the ITC.

1 The 2003 petitions covered both DAS, which
2 is a key input of CSOBA's, and all stilbenic
3 florescent whitening agents used in detergent, textile
4 or paper application. Florescent whitening agent is
5 another term for optical brightening agent.

6 By contrast, the current petitions exclude
7 that and cover only those certain stilbenic florescent
8 whitening agents used in paper applications. Clariant
9 has thus narrowed the Commission's focus to the
10 specific aspect of the domestic industry most
11 seriously injured by the large and growing presence of
12 unfairly traded imports.

13 In addition, the 2003 petitions covered
14 China, India and Germany, whereas the current
15 petitions cover China and Taiwan. While Taiwan was
16 not even a major player in 2003, Taiwanese CSOBA's now
17 endanger the existence of the domestic industry.

18 Imports from Taiwan have doubled in as-
19 recorded terms over the period of investigation. When
20 converted to solution equivalents, cumulated subject
21 imports have increased an astonishing 172 percent over
22 the POI.

23 Other significant changes in the U.S. market
24 have occurred in the past eight years. In 2003 the
25 Commission found the absence of commercial sales of

1 domestically produced DAS and the absence of negative
2 price effects. Today by contrast, domestic producers
3 of CSOBA's sell their product in the United States
4 market in large volumes.

5 Representatives of the domestic industry are
6 at U.S. paper mills virtually every day actively
7 seeking to win new business or maintain current
8 business. However, the efforts of the domestic
9 industry are increasingly thwarted by the presence of
10 unfair subject imports with clear negative effects on
11 U.S. prices.

12 Unlike 2003, there was demonstrable
13 underselling by subject imports. Clariant's petitions
14 include pages of examples in which subject imports
15 undersold domestic merchandise. The domestic
16 producers have dropped their prices to compete but
17 cannot offer the same unreasonably low prices that the
18 Taiwanese and Chinese producers offer.

19 The destructive impact of unfairly traded
20 imports have been profound. The domestic industry's
21 market share has fallen by ten percent over the past
22 three years, while subject imports, market share has
23 risen 15 percent. As a result the domestic industry's
24 capacity utilization has declined dramatically, along
25 with U.S. shipments of domestic merchandise. The

1 domestic industry has been unable to capitalize on the
2 increased demand following the 2009 recession, because
3 of the large and increasing presence of unfairly
4 traded subject imports.

5 The domestic industry has faced reduced
6 profitability and significant operating losses for the
7 past two years, and there is no relief in sight. Key
8 subject foreign producers are expanding capacity or
9 have unused capacity easily directed toward the United
10 States. The continuing threat posed by subject
11 imports is perhaps best demonstrated by the increase
12 in subject imports in the powder state over the past
13 three years.

14 As others will explain, CSOBA's are produced
15 in the liquid state and used in the liquid state, but
16 Taiwanese and Chinese producers are converting their
17 liquid product into powder in order to reduce
18 transportation costs and further target the U.S.
19 market.

20 In sum, over the current period of
21 investigation, the United States has been suffering
22 material injury. This injury has been felt by all
23 members of the industry and the injury is directly
24 caused by unfairly traded imports.

25 You will hear further testimony on these

1 points from Petitioner's panel. Thank you.

2 MS. DeFILIPPO: Thank you very much. We
3 will now have opening remarks for those in opposition
4 to imposition of the antidumping duty orders. Mr.
5 Koenig, are you presenting for us?

6 MR. KOENIG: Yes.

7 MS. DeFILIPPO: Great. Thank you. Welcome
8 and please proceed when you're ready.

9 MR. KOENIG: Okay. I'm Peter Koenig of
10 Squire, Sanders, here on behalf of TFM North American,
11 Inc., which is the importer and also the Taiwan
12 exporter, who represents the dominant Taiwan exports
13 to the U.S. of the subject product, and actually the
14 great bulk of imports subject to this case.

15 We have two basic positions that we will be
16 presenting testimony on today, and they are short,
17 sweet, but decisive in our view. The first is that
18 TFM sells based on quality and technical services, not
19 price, and that's the reason why it accounts for its
20 imports. It's not dumping. It's quality.

21 The second point is the reason for the entry
22 of imports in the U.S. market is there was a severe
23 shortage of product in the United States, and that's
24 how TFM got into the market, and that's pulled into
25 the market to supply what the domestic producers could

1 not supply. Again, not dumping, supplying a need.

2 Thank you.

3 MS. DiFILIPPO: Thank you very much, Mr.

4 Koenig. We will now move to direct testimony from the
5 Petitioners. Mr. Ellis, Mr. Weiner and your group, if
6 you would come on up to the table and please proceed
7 when you're ready.

8 Just a quick little administrative reminder,
9 when you're starting your testimony, if the witnesses
10 could identify themselves and then during the
11 questioning, because there are a number of you, it's
12 helpful for the court reporter if you'd just state
13 your name before you respond. That would be much
14 appreciated. Thank you.

15 MR. ELLIS: Hi, good afternoon. Thank you,
16 Ms. DiFilippo and the members of the staff. Good
17 afternoon. My name is Neil Ellis from Sidley Austin,
18 and I represent the Petitioner, Clariant Corporation,
19 in this investigation.

20 Before our panel turns to the themes that my
21 colleague, Richard, just highlighted, I'd like to
22 discuss a few preliminary matters.

23 Turning first to the issue of the like
24 product analysis, the final and intermediate CSOBA
25 products described in detail in our petition

1 constitute a single like product under the
2 Commission's standard analysis. That single like
3 product is the entire class of compounds known as
4 triazinylaminostilbenes, whether final or
5 intermediate, with the exception of Florescent
6 Brightener Number 71.

7 With respect to the final CSOBA products,
8 they should be considered a single like product
9 because, as we explained in our petition, they have
10 similar physical characteristics and end uses. They
11 are largely interchangeable. They are sold through
12 the same channels of distribution, and they are
13 produced using the same manufacturing facilities,
14 production processes and production employees.

15 The last factor of the Commission's like
16 product analysis, whether the final products are sold
17 within the relatively narrow range of prices, is also
18 satisfied, although we submit this range is
19 continually lowered by the presence of the unfairly
20 traded subject imports in the U.S. market.

21 Thus, there are no clear dividing lines
22 among the final CSOBA products, and the Commission
23 should identify a single like product for purposes of
24 this investigation.

25 Further, the Commission should include

1 intermediate products identified in the petition as
2 part of the single like product. As detailed in the
3 petition, these intermediate products are dedicated to
4 the production of the final CSOBA product. There is
5 no separate market for the intermediates. There are
6 relatively minimal differences in the physical
7 characteristics, functions and costs of the
8 intermediate and final product, and the process of
9 transforming the intermediates into the final product
10 is relatively straightforward.

11 Based on these factors, the intermediate
12 product should be treated as part of the single like
13 product in this investigation.

14 Next I'd like to briefly address the issue
15 of cumulation. The statutory factors for mandatory
16 cumulation are clearly met in this case. The
17 petitions against subject imports from Taiwan and
18 China were filed on the same day. Moreover, the
19 subject imports compete vigorously with domestic
20 merchandise throughout the United States market. U.S.
21 paper makers, which are the predominant users of
22 CSOBA's, freely choose among domestic and subjects
23 versus other supply.

24 Whether shipped in liquid or powder state,
25 and whether introduced in the wet end, size press, or

1 coating, as a general matter subject imports and
2 domestic merchandise all are capable of whitening
3 paper to a similar degree. Thus, the analysis of the
4 degree of fungibility, overlapping geographic markets,
5 common channels of distribution, and simultaneous
6 market presence, all lead to the conclusions that
7 cumulative is mandatory in this investigation.

8 With that, I conclude my discussion of the
9 preliminary matters.

10 I would now like to turn to representatives
11 of domestic industry, as well as some expert
12 consultants, who we have here today. These
13 individuals have a deep knowledge of U.S. market for
14 CSOBA's and they will address specific issues in the
15 industry. They are also available, of course, to
16 answer your questions.

17 To give a brief introduction, first we will
18 hear from John Dickson, to my left, a chemical
19 engineer, with 45 years experience in the chemical
20 industry, who is presently Chief Executive Officer of
21 Nation Ford Chemical Company, and an independent
22 consultant to the CSOBA industry.

23 Nation Ford is not a producer of CSOBA's but
24 it is a producer and supplier of inputs, such as
25 sodium sulfanilate used in the production of CSOBA's.

1 Based on his long experience as a supplier to the
2 industry, John has developed an expertise regarding
3 the CSOBA product itself, and today he will provide an
4 introduction to the product, including its physical
5 characteristics, how it is manufactured, and its
6 principal uses.

7 Next, Ken Golder to my right, the
8 President, CEO and CFO of Clariant Corporation, will
9 address the conditions of competition in the CSOBA
10 industry, including an overview of the market
11 participants, channels of distribution, and the nature
12 of global competition.

13 Third, Lynn Holec at the end, a principal of
14 ITR-LLC, who will present an overview of the injured
15 financial status of the domestic industry, as well as
16 a summary of the astonishing growth in the volume of
17 subject imports during the period of investigation.

18 Finally, Matt Dettlaff, to Ken's right, a
19 senior product manager for Clariant, will address the
20 impact that the increasing volumes of low-priced
21 CSOBA's from China and Taiwan have had on Clariant.
22 He will explain that Chinese and Taiwanese CSOBA's
23 have undersold Clariant's product in head-to-head
24 competition, that he and other Clariant salespeople
25 confront every day. The result of this underselling

1 has been a depressing and suppressing effect on U.S.
2 prices, resulting in material injury to Clariant and
3 the U.S. industry generally.

4 These witnesses are accompanied by
5 additional personnel from Clariant, who are available
6 to answer your questions. They are Alex Baron, Vice
7 President, Regional Head of Papers Speciality
8 Business, and Chris Barnard, Senior Vice President,
9 Regional Secretary and General Counsel, there at the
10 end.

11 With that I would like to turn the floor
12 over to John Dickson to introduce you to the CSOBA
13 product, but I wanted to point out one thing. We do
14 have slides and they're both -- you have hard copies.
15 We've distributed hard copies to counsel for the
16 Respondents, and also if you want to crane your neck,
17 you can turn around and look at them on the screen
18 behind you.

19 Thank you. John.

20 MR. DICKSON: Good afternoon. Thank you.
21 My name is John Dickson. As Neil mentioned, I am here
22 today as consultant to Clariant Corporation. I will
23 present a brief overview of the product at issue, its
24 use, and its production process.

25 This investigation relates to a class of

1 chemical compounds known as triazinylaminostilbenes,
2 which for simplicity I will refer to as TAS. These
3 compounds are generally categorized according to the
4 number of sulfanite groups on the final molecule as
5 shown on the screen.

6 The Di, Tetra and Hexa categories are made
7 by reacting TAS with aniline, sulfanilic acid and
8 aniline disulfonic acid, as shown. The R position
9 shown on this screen may be a variety of different
10 functional groups, but most commonly it is the amino
11 group, such as diethanolamine.

12 While the TAS molecule serves as the central
13 active ingredient in the scope of this investigation,
14 it is a part of a general classification of dyes and
15 optical brighteners based upon what we refer to as the
16 stilbene moiety. These are called stilbenic, either
17 because they are derived from chemicals containing the
18 stilbene moiety, or have the moiety at the center of
19 the molecule. That is the two phenyl rings, sometimes
20 referred to as benzene rings, that are connected by a
21 carbon carbon double bond.

22 The slide also shows diethanolamine
23 disulfonic acid referred to as D-A-S or DAS, which is
24 the most common chemical used to produce the stilbenic
25 OBA's.

1 The CSOBA's covered by this investigation
2 are those that are used principally as optical
3 brighteners for paper, and are sold principally to the
4 U.S. paper mills. This is in effect the entire class
5 of TAS molecules, with the exception of the compound
6 known as Florescent Brightener 71.

7 This product is a TAS or T-A-S compound of
8 the Di category, meaning that the aniline group that
9 is a part of its structure. FB-71 is typically not
10 applied to paper, in part because the morpholino
11 results in a compound with low solubility in water.

12 FB-71 is used in detergents. It is marked
13 as such by producers and perceived as such by
14 consumers. The work horse compound used for
15 brightening paper is known as Florescent Brightener
16 220. This is a TAS compound of the Tetra category
17 that has the R position occupied by the diethanol
18 amino group as shown in the current slide.

19 This chemistry works particular well across
20 a broad range of paper applications and accordingly
21 represents about two-thirds of sales in the U.S.
22 market of paper OBA's.

23 OBA's are generally commodity products
24 because the central TAS compounds are relatively
25 straightforward to produce.

1 Quality differences among comparable
2 products offered by different producers are minimal.
3 For example, the varieties of FB-220 available in the
4 market generally produce comparable brightness,
5 whiteness, results, when applied to paper.
6 Accordingly, these products compete principally on the
7 basis of price.

8 The production process of OBA's involves
9 three sequential chemical reactions where the first
10 two steps may be done in either order, but the last
11 step is always the same. This is shown on the current
12 slide, using FB-220 as an example. The first step can
13 be a reaction of cyanuric chloride with diamino
14 stilbene disulfonic acid to form the TAS structure,
15 followed by the reaction with sulfonic acid and
16 finally with diethanolamine.

17 Alternatively, cyanuric chloride can be
18 reacted with sulfanilic acid first and then followed
19 with DAS to form the TAS structure, and finally with
20 diethanolamine.

21 Upon completion of all three reactions all
22 three chlorine groups of the cyanuric chloride
23 molecule have been coupled with the amino groups
24 present in the DAS sulfanilic acid and DEA. All three
25 reactions go to completion, meaning that all of the

1 reactants, if in the proper molar relationship, are
2 consumed in the reaction.

3 The by-product of these reactions is in all
4 cases hydrochloric acid, which is commonly neutralized
5 with sodium carbonate and/or sodium hydroxide. Sodium
6 chloride in salt solution, after the neutralization,
7 must be removed from the solution, and this is done by
8 ultrafiltration. All of these reactions must be
9 performed in water solution.

10 The final slide again shows the finished FB-
11 220 after completion of the three reactions. From
12 this and the previous slide it is illustrated that one
13 molecule of DAS requires two molecules each of
14 cyanuric acid, sulfanilic acid and DEA. Laws of
15 chemistry require the use of raw materials in these
16 proportions.

17 The last topic I would like to address is
18 the distinction between liquids versus powders. At
19 the end of the production process these products are
20 all in the liquid state, containing various
21 percentages of active ingredients.

22 Typical concentrations sold to the industry
23 may be about 20 percent active ingredients for Di
24 products, 23 percent for Tetra and 16 percent for
25 Hexa. These typical active ingredients have been

1 determined by Clariant chemists in the lab. These
2 products must be in water solution to be used by the
3 paper mills. Because the OBA's may be made in water
4 solution, are made, must be made, after production is
5 complete in the United States, producers are ready to
6 ship their product to the paper mills as liquids.

7 However, in recent times foreign producers,
8 such as TFM and Hongda, have invested in spray drying
9 equipment that allow them to take the additional step
10 at the end of the production process of drying the
11 liquid into a powder prior to shipping the product
12 overseas. The typical concentration of such powders
13 may be about 95 percent active ingredient, regardless
14 of whether they're the Di, Tetra or Hexa category.

15 Importers of foreign powder then typically
16 reconstitute the powder to liquid by dissolving the
17 powder in water in a process known as letdown. They
18 either do this themselves or by third-party tollers
19 prior to the delivery of the product to the U.S. paper
20 mills.

21 It is also possible for paper mills to let
22 down the powder themselves before use, though to our
23 knowledge this occurs very rarely at the present.

24 The savings incurred from shipping
25 concentrated powders instead of non-concentrated

1 liquids across the ocean outweighs the additional cost
2 incurred from the spray drying and letdown steps, and
3 accordingly foreign producers desiring to target
4 overseas markets readily invest in spray drying
5 equipment.

6 So that's all for me. I'll turn it over to
7 Ken Golder.

8 MR. GOLDER: Thank you, John. Good
9 afternoon. I am Ken Golder, the President, Chief
10 Executive Office and Chief Financial Officer of
11 Clariant Corporation based in Charlotte, North
12 Carolina.

13 I've been Clariant's President and CEO since
14 June 1998 and head Clariant's operations for all of
15 North America.

16 I've worked for Clariant or its predecessor
17 Sandoz Chemicals Corp since 1982.

18 I'd like to start by identifying the key
19 participants in the U.S. CSOBA market. There are
20 three U.S. producers of OBAs: Clariant, with its sole
21 production facility in Martin, South Carolina; BASF
22 Corporation with its sole U.S. production facility in
23 McIntosh, Alabama; and 3V, Inc., with its sole U.S.
24 production facility in Georgetown, South Carolina.

25 U.S. producers compete in the U.S. market

1 principally with imports from Taiwan and China, with
2 imports from other countries being immaterial in
3 quantity.

4 In Taiwan there are a handful of CSOBA
5 producers, of which to our knowledge, teh Fong Min
6 International Group, which I will refer to as TFM, is
7 the principal exporter to the U.S.

8 In China there are 20 or more CSOBA
9 producers, of which to our knowledge, Zhejiang Hongda
10 Chemicals Company, Limited, which I will refer to has
11 Hongda, is the principal exporter to the U.S.

12 The OBAs produced by those companies are
13 imported into the U.S. either through affiliated or
14 unaffiliated distributors or brokers. More
15 specifically, TFM product from Taiwan is imported by
16 TFM's affiliated distributor, TFM North America, and
17 product from China is imported by third party
18 distributors such as Greenville Colorants.

19 There may also be some instances in which
20 U.S. paper mills purchase directly from foreign
21 producers. But those are rare.

22 By contrast to the imports, Clariant and
23 other U.S. producers sell their OBAs to U.S. paper
24 mills directly without the use of distributors or
25 brokers.

1 As mentioned by John Dickson, CSOBAs are
2 used to brighten paper. Accordingly, U.S. paper mills
3 are the consumers of these brighteners with, not
4 surprisingly, the largest paper companies being the
5 largest customers. These OBAs are sold to about 180
6 U.S. paper mills operated by 10 to 20 U.S. paper
7 manufacturers.

8 These OBAs are sold on a delivered basis
9 either in bulk or non-bulk packaging. Bulk shipments
10 may include railcars which have a capacity of about
11 180,000 pounds or tank trucks or road tankers which
12 have a capacity of about 45,000 pounds.

13 Non-bulk packages may include totes, also
14 referred to as intermediate bulk containers, which
15 have a capacity of about 2400 pounds. And finally
16 drums which have a capacity of about 450 pounds.
17 Generally, bulk prices are lower than non-bulk prices.

18 OBAs are virtually always sold as liquids
19 because, as mentioned by John Dickson, they are used
20 by paper mills as liquids. We are aware of just one
21 instance where a U.S. paper manufacturer has purchased
22 powder from Taiwan and has itself let down that powder
23 to solution.

24 As John also mentioned, although CSOBAs are
25 produced as liquids and used by paper mills in that

1 state, they are increasingly shipped from Taiwan and
2 China to the U.S. as powder. That is, liquids that
3 result at the end of the production process are spray
4 dried into powder in those countries specifically for
5 export.

6 We know that large volumes of CSOBAs in
7 powder are being shipped from Taiwan and China to the
8 U.S. and Canada. Once in North America, this powder
9 is typically then let down to solution by the
10 importer, either directly or by a third party, prior
11 to deliver to U.S. mills.

12 By comparison, Clariant and the other U.S.
13 producers do not convert their OBAs to powder,
14 because the additional costs of spray drying and let
15 down exceeds the additional costs of shipping liquid
16 domestically within the U.S.

17 The nature of competition has evolved
18 considerably in recent years. As John has noted,
19 CSOBAs are commodity products that complete -- excuse
20 me, compete principally on price. Our customers, the
21 paper mills, buy these OBAs either on fixed term
22 contracts or through one-time spot purchases. Even in
23 the case of fixed term contracts, however, customers
24 retain the ability to seek lower prices through meet
25 or release provisions in our contracts. These

1 provisions basically say that if the customer receives
2 a better offer during the term of the contract, it can
3 run a trial of the new supplier's product. And if the
4 new supplier is successful, we have the chance to make
5 a better offer.

6 Such provisions make it difficult for us to
7 retain customers when our prices are undersold by
8 imports because we are typically unable to make a
9 better offer against unfair foreign prices. And these
10 provisions make it especially difficult to push
11 through price increases, even in the case of rising
12 raw material costs, as will be discussed further by
13 Lynn and Matt.

14 CSOBA production in Asia has grown rapidly
15 in recent years, resulting in intense price pressure
16 in the U.S. market. The lower CSOBA prices resulting
17 from Asian underselling have already caused Clariant
18 to cut back on capital expenditures and make
19 extraordinary efforts to increase production
20 efficiency.

21 For example, Clariant has undertaken several
22 Lean Sigma continuous improvement projects, increased
23 automation and reduced our product portfolio.
24 Clariant cannot squeeze any more cost savings out of
25 the process. In short, Clariant is up against the

1 wall.

2 Our next step, should we continue to lose
3 sales and revenues to Asian producers, would be to
4 look very hard at the viability of continued OBA
5 production in the United States.

6 The threat from Asian only continues to grow
7 stronger. Taiwanese capacity is large and expanding
8 with TFM now constructing another large new plant to
9 add to its existing 46,000 ton or almost 100 million
10 pounds of capacity per year. Indeed, TFM states
11 publicly on its website that it is -- that its
12 existing capacity "is only to fulfill the need for the
13 market at this point. For future market demand other
14 three production lines are ready to expand at any
15 time".

16 TFM's extensive capacity exists even though
17 there is no meaningful domestic market in Taiwan for
18 these OBAs. TFM's production is aimed in only one
19 direction, toward the U.S. market. And its exports to
20 the United States in solution equivalent terms have
21 about doubled each year from 2008 to 2010, from 13
22 million pounds in 2008 to 25 million pounds in 2009
23 and to 45 million pounds in 2010.

24 In China, CSOBA capacity is very large and
25 far outstrips domestic consumption. Our market place

1 intelligence is that of the 20 or so Chinese CSOBA
2 producers, only one, Hongda, is shipping significant
3 quantities to the U.S. So the prospect of a surge in
4 shipments as other major Chinese producers join
5 Hongda, is very real.

6 In sum, both Taiwan and China have large
7 capacity, yet operate well below their full capacity,
8 and both have invested heavily in spray drying
9 equipment evidencing their intention to target export
10 markets, particularly the U.S. market.

11 This story regarding the nature of global
12 competition in CSOBA market is confirmed by the well
13 regarded industry publication Paperchem Report.

14 Let me read you two excerpts from the last
15 half of 2010 which are displayed for your convenience
16 on the current slide. First, "U.S. customers are
17 aware of the immense price pressure and receive at a
18 least a couple of offers a month from new suppliers.
19 There are still customers that prefer to deal with
20 suppliers that manufacture domestically, although they
21 are aware of the pricing offered by the Chinese
22 competition and inevitably use it as leverage".

23 Second, "Although raw material costs are
24 increasing, purchasers are not concerned about an
25 escalation in OBA pricing because they received an

1 increasing number of approaches from distributors and
2 agents trying to sell them Asian product. In a
3 relatively short time, some paper makers have shifted
4 all of their OBA sourcing to Asia".

5 I'm here today as the CEO of the largest
6 U.S. producer of CSOBAs to reiterate what these
7 articles say. We have suffered material injury and
8 continue to be threatened with material injury by low
9 cost imports from Taiwan and China. Ultimately, U.S.
10 production is not sustainable in the face of this wave
11 of unfairly priced imports from Taiwan and China.

12 I'm happy to answer any questions you may
13 have. Thank you.

14 MR. ELLIS: Thank you, John. We're now
15 going to hear from Lynn Holec.

16 MS. HOLEC: Good afternoon. My name is Lynn
17 Holec and I'm an economist with ITR. I have a
18 master's degree in economics and 35 years experience
19 in international trade policy and litigation. I would
20 like to address two topics, the growth of subject
21 imports, and, second, the injured status of the
22 domestic industry.

23 Subject CSOBA imports have been aggressively
24 marketed in the United States through the 2008/2010
25 period, grabbing market -- gaining market share each

1 year. As shown in the slide, the volume of imports
2 entering under HTS 32042080, as recorded by Census,
3 increased by 71% during the 2008/2010 investigation
4 period. However, the 71% figure considerably
5 understates the effective increase in the volume of
6 subject imports for two reasons.

7 First, subject imports are increasingly
8 entering as powder rather than a solution; and second,
9 much of the OBA imports from China are not reflected
10 in the census data under this HTS item.

11 Let's discuss these points in more detail.
12 As John Dickson described, CSOBAs are in solution
13 state at the end of the production process and they
14 are consumed by the paper mills in solution state.
15 Thus, historically OBAs were transported and sold in
16 the U.S. market as solution. They were imported in
17 this state as well. In solution, OBAs are about 80%
18 water.

19 First the Taiwanese and then the Chinese
20 shifted from exporting OBAs to the United States as
21 solution to shipping them as powder in order to reduce
22 the substantial ocean freight cost incurred in
23 shipping a large amount of water over long distances.

24 However, because the paper mills use the
25 OBAs in solution state, imported powder is typically

1 returned to solution before it is shipped by the
2 imports to the U.S. customers.

3 Census data do not identify the state of the
4 imported OBA. Thus, one kilogram of OBA in solution
5 carries the same weight as one kilogram of powder.
6 However, the kilogram of OBA powder has four to six
7 times the amount of active ingredients and four to six
8 times the impact on the U.S. market as a kilogram in
9 solution. To address this problem, we analyzed the
10 bill of lading data maintained by the U.S. Customs and
11 Border Protection, AMS import database.

12 The descriptions of the product and packing
13 on the bills of lading and the shipping manifest in
14 the database allowed us to distinguish OBA imports of
15 powder from that in solution.

16 As the next slide shows, 22% of the imports
17 of OBAs from Taiwan entered as powder in 2008,
18 compared with 76% in 2009 and 57% in 2010.

19 And we believe that the drop in 2010 was
20 probably due to the fact that the Taiwanese exporter
21 increased its shipment to the United States so rapidly
22 that it exceeded its existing spray drying capacity.
23 Therefore, it was forced to resume exporting large
24 quantities to the United States in solution.

25 Only three percent of the OBA imports from

1 China was in powder in 2008 and 2009. But, that
2 figure jumped to 40% in 2010. Our analysis of a CBP
3 bill of lading data also revealed that much of the
4 imports from China are not recorded in the Census data
5 under the appropriate HTS item, 32042080.

6 As shown in the next slide, we found a much
7 larger volume in the CBP bill of lading data for China
8 than recorded under the Census data.

9 So to obtain a better understanding of the
10 trend in import volume during this 2010 -- 2008/2010
11 POI, we used the CBT data for China rather than the
12 Census data and we converted the volume of powder
13 imports to their solution equivalent.

14 You can see in the next slide the trend in
15 subject imports is even more dramatic than suggested
16 by the raw Census data. When analyzed on a consistent
17 solution equivalent basis, subject imports increased
18 by at least 172% between 2008 and 2010. This slide
19 displays this dramatic increase in imports of subject
20 merchandise.

21 For our analysis of the trends of OBA import
22 volume, we converted the powder imports to solution to
23 obtain a consistent unit, because OBA is typically
24 sold in solution. However, the analysis can also be
25 performed by calculating the volume of active

1 ingredients in both the solution and the powder
2 imports and examining the trend in the import volume
3 of the active ingredients.

4 As shown in the next slide, when imports are
5 examined based on active ingredients, the same
6 dramatic increase in imports is revealed. The key is
7 analyzing the import volume using a consistent basis
8 across years, whether solution equivalent or 100%
9 active ingredients.

10 Thus, for the 71% increase in imports from
11 subject countries as recorded by Census is impressive,
12 it vastly understates the volume of subject imports in
13 the 2008/2010 increase in that volume.

14 Next, I would like to discuss the injured
15 status of the domestic industry and the causal
16 connection with subject imports.

17 Indeed subject imports were insensitive to
18 what was happening in the U.S. market. When the
19 recession hit, the U.S. demand for CSOBAs fell sharply
20 in 2009. Subject imports increased by 53% Then when
21 the U.S. OBA demand began to improve in 2010, subject
22 imports increased again, capturing the great majority
23 of the increase in demand. As a result, U.S.
24 producers benefited only slightly from the 2010
25 improvement in demand.

1 Consequently, the share of domestic CSOBA
2 market taken by the subject imports tripled during the
3 2008/2010 period while U.S. producers market share
4 declined. Domestic capacity utilization was low in
5 2008, fell sharply in 2009 and increased by a meager
6 three percentage points in 2010.

7 As discussed earlier, OBAs are commodity
8 products and subject imports have achieved their
9 increase in the U.S. market share through competing on
10 the basis of price and offering U.S. customers
11 extremely low prices. As a result, there is evidence
12 of a large number of lost sales by the U.S. industry
13 to the low price subject imports. These low prices
14 have led to the effect of depressing and suppressing
15 the prices of U.S. producers in their struggle to
16 remain competitive. This effect is evidence by the
17 general decline in the domestic industry's average
18 prices for CSOBAs in the United States during the
19 period of investigation, which has placed the industry
20 in a cost-price squeeze.

21 The effects of this aggressive pricing and
22 increased volume of subject imports can also be seen
23 in the financial results of the U.S. industry. The
24 industry's production and financial data are
25 confidential, so I will confine my remarks to trends

1 and not discuss numbers.

2 The financial and production data provided
3 in the questionnaire responses show the domestic
4 industry's performance decline substantially during
5 the 2008/2010 period when subject imports were
6 surging. Domestic shipments fell sharply in 2009 and
7 improved only slightly when domestic demand began to
8 recover in 2010.

9 Each of the financial indicators also
10 illustrates the material injury that the domestic
11 industry is experiencing from subject imports.
12 Reduced sales volume, reduced per unit revenue,
13 reduced profitability, and dramatic reductions in
14 employment. The domestic industry's operating income
15 has gone from weak to negative and capital
16 expenditures have been put off or rejected as
17 financially unjustifiable.

18 The domestic industry's inability to justify
19 capital expenditures is foreboding for the future of
20 the domestic CSOBA industry. Thank you.

21 MR. ELLIS: Our next speaker is Matt
22 Dettlaff.

23 MR. DETTLAFF: Good afternoon. My name is
24 Matt Dettlaff and I am a senior product manager at
25 Clariant Corporation.

1 In my current position I am responsible for
2 the sales and marketing efforts of both the Leucophor
3 OBA product line and the Paper Colorants product line
4 for the North American Region.

5 Prior to my current position I held several
6 sales and marketing posts dating back to 1991 when I
7 joined Sandoz Chemicals, the predecessor to Clariant
8 Corporation.

9 Through these positions I have -- I have 20
10 years of experience selling CSOBAs in the U.S. market.
11 Based on my experience, I would like to discuss with
12 you why imports from Taiwan and China are causing
13 material injury to Clariant's CSOBA business in the
14 United States.

15 As Lynn discussed earlier, the data show
16 that subject imports have taken a greater share of the
17 U.S. market during the period of investigation, while
18 depressing U.S. prices at a faster rate than the
19 decline in CSOBA production costs. Her general
20 discussion is confirmed by my experience selling
21 CSOBAs in the U.S. market.

22 Although the details are confidential, you
23 have before you evidence that Clariant has lost
24 numerous sales and millions of dollars in revenue due
25 to underselling by Taiwanese and Chinese producers in

1 the U.S. market, across the entire CSOBA range.

2 As others have discussed, CSOBAs are
3 commodity products and competition is based primarily
4 on price. This is reflected by the fact that in sales
5 effort after sales effort we have been told that we
6 will lose the business if we cannot match
7 exceptionally low prices offered by Taiwanese and
8 Chinese suppliers. We have lost business to Taiwanese
9 and Chinese competition nationwide and we have lost
10 business to no other foreign suppliers.

11 This is evidenced by the following slide.
12 As you can see, Taiwanese and Chinese product compete
13 with us in every paper making region of the country.
14 And we lose sales and revenue to Taiwanese and Chinese
15 product in each of these regions. It is true that the
16 cost of producing CSOBAs have generally fallen during
17 the period of investigation. But this is not
18 surprising because the period of investigation begins
19 in 2008, which was an unusual year for the pricing of
20 inputs that go into the production of CSOBAs.

21 Key input prices, particularly for
22 diaminostilbene, or DAS, which is generally the most
23 expensive input in the production of CSOBAs, spiked
24 significantly in 2008 due to shortages caused by the
25 shutdown of production in China during the Beijing

1 Olympics.

2 Key input prices fell to pre-2008 levels
3 during 2009 and in the first half of 2010.

4 Input prices spiked again in mid 2010,
5 moderated somewhat, and are again rising. These
6 recent trends have been due, in part, to increasing
7 oil prices and agricultural use of inputs that are
8 also used in the production of CSOBAs.

9 Although costs have generally declined
10 during the period of investigation, the prices at
11 which we can sell our CSOBAs have declined even
12 faster, as evidenced by the aggregate data Lynn
13 reviewed earlier. This trend is due solely to
14 underselling by Taiwanese and Chinese suppliers.

15 I can confirm this aggregate story from my
16 experience at Clariant. From my experience, it has
17 now become increasingly difficult to push through
18 price increases even when we see spikes in raw
19 material costs, because Taiwanese and Chinese
20 suppliers are willing to absorb these cost increases
21 and they continue to offer rock bottom prices in the
22 U.S. market.

23 As I just noted, costs, particularly for
24 diaminostilbene, spiked in mid 2010 and are rising
25 again. Clariant's ability to pass these increases in

1 raw material costs on to its customers had
2 deteriorated during the period -- during this period
3 of time.

4 More specifically, Clariant enjoyed some
5 limited success in increasing prices in an attempt to
6 keep pace with the rising raw material costs in mid
7 2010. In some cases, Clariant obtained increases less
8 than the required amounts. And in other cases,
9 Clariant lost the business outright when it -- when it
10 attempted to impose even a modest price increase.

11 This experience is confirmed by an article
12 in Paperchem Report which noted in May 2010 that "at
13 many accounts in North America paper makers appear to
14 be conceding increases, although these are typically
15 below the increase requested".

16 Even the limited success in raising prices
17 to keep pace with spikes in raw material costs in mid
18 2010 was short lived. Clariant is no longer able to
19 pass cost increases on to its customers in recent
20 months. In light of foreign producers' willingness to
21 continue underselling in the U.S. market, despite
22 increases in raw material costs, if Clariant even
23 attempts to raise prices by one penny per pound today,
24 it is threatened with the loss of business to TFM and
25 Hongda.

1 Recent attempts at merely maintaining
2 current prices during contract negotiations, despite
3 the trend of increased costs, has resulted in the
4 actual loss of business and threats of losing even
5 more business in the near future.

6 Additionally, I would like to address the
7 point that factors other than subject imports are not
8 the cause of injury to Clariant. In this regard, I
9 will briefly address three topics. One, subject --
10 non-subject imports; two, the recession; and three,
11 secular trends in the paper industry.

12 First, imports of CSOBAs from countries
13 other than China and Taiwan are not substantial. The
14 only foreign suppliers we hear of in discussions with
15 U.S. customers are those from Taiwan and China.
16 Principally, TMF from Taiwan and Greenville Colorants
17 selling Hongda product from China. Thus, non-subject
18 imports are not causing injury to Clariant.

19 Second Clariant's CSOBA business has not
20 rebounded from the recession as well as it should
21 have. Like many other U.S. industries, ours hit a
22 rough patch in 2009, as the U.S. economy went into
23 recession. However, as the economy has strengthened
24 in 2010 and U.S. demand for CSOBAs has rebounded,
25 importers of product from Taiwan and China and not

1 Clariant have benefitted from this rebound. This is
2 evident from the fact that Clariant's share of the
3 U.S. market has fallen during the period of
4 investigation, while Chinese and Taiwanese imports'
5 share of the U.S. market has dramatically increased.

6 Finally, secular trends in the paper
7 industry do not explain the injury that is being
8 suffered by Clariant. It is true that the demand for
9 certain types of paper, such as news print, has
10 declined recently due to the advent of devices such as
11 e-readers and tablets. However, demand in the United
12 States for other types of printing and writing paper,
13 such as office and magazine paper used for printing,
14 remains robust.

15 Further, there has been a trend towards
16 brighter paper that requires the use of additional
17 amounts of CSOBAs. Accordingly, the CSOBA demand
18 remains strong and has in fact rebounded to almost
19 pre-recession levels.

20 Again, however, importers of Chinese and
21 Taiwanese product, rather than Clariant, have
22 benefitted from that rebound. Thank you.

23 MR. ELLIS: Madame Chairwoman, that
24 concludes our presentation and we're prepared to take
25 your questions. Thank you.

1 MS. DeFILIPPO: Thank you very much, Mr.
2 Ellis, and thank you very much for the industry
3 witnesses who came today to present testimony. And I
4 thank you in advance for answering our questions.
5 It's always very helpful to have people that
6 understand the industry telling us how to understand
7 the industry.

8 So with that, we will start our staff
9 questions and I will first turn to Ms. Trainor.

10 MS. TRAINOR: I have no questions at this
11 time.

12 MS. DeFILIPPO: Okay, then I'm going to move
13 to our economist Mr. Benedick.

14 MR. BENEDICK: I have several questions.
15 First of all, based on your testimony, Mr. Dettlaff,
16 you had indicated that -- just let me check my notes
17 here. That CSOBA inputs are used in other types of
18 production. Does CSOBA account for a large share of
19 those inputs? In other words, are you a pricetaker
20 for the inputs or do you affect the price of those
21 inputs because you are a large user of them?

22 (No response.)

23 MR. BENEDICK: If you don't know right off
24 --

25 MR. DETTLAFF: At this time I'm not really

1 sure of the other applications for the precursors of
2 the inputs going into CSOBA --

3 MR. BENEDICK: Okay.

4 MR. DETTLAFF: I just know that they do have
5 an overall effect on the raw materials that we do
6 source to make the CSOBAs.

7 MR. BENEDICK: Maybe I misunderstood you. I
8 thought you had indicated some of those inputs were
9 used in other productions and I wanted to know what
10 the impact was of CSOBA demand for those inputs on the
11 price of them. Obviously if they account for a large
12 share of those inputs, then they would have an impact
13 on the price. Otherwise they'd be a price taker.

14 MR. DETTLAFF: The other inputs I was
15 referring to do not directly go into CSOBAs. They are
16 parts of the precursors of the inputs in the CSOBA.

17 MR. BENEDICK: Okay. You mention somewhat
18 dependent on oil prices, the cost of these inputs?

19 MR. DETTLAFF: I would rely more on the
20 chemistry, but the basic benzene ring comes from oil
21 production.

22 MR. BENEDICK: Okay.

23 MR. ELLIS: Excuse me, if I may also --

24 MR. BENEDICK: Sure.

25 MR. ELLIS: The first part of that, the

1 precursors to DAS I gather, the products that are also
2 used in the agricultural commodities was the point
3 that Mr. Dettlaff was mentioning. And so the
4 precursors to DAS are also used -- because you also
5 use another product, there can be supply and demand
6 issues back two steps from the actual production of
7 OBAs.

8 MR. BENEDICK: Okay.

9 MR. DETTLAFF: Now I think we can document a
10 little bit of that further in writing.

11 MR. BENEDICK: Oh, yes. If you could do
12 that. And I'm looking for an overall assessment as to
13 what impact you would have on input prices as a result
14 of demand -- your demand for input as opposed to other
15 industries' demand for those inputs or precursors.

16 Okay, I'm going to direct these questions to
17 Mr. Golder and Mr. Dettlaff, but if anybody else on
18 the panel would like to comment, please feel free to
19 do so.

20 Would you please describe consolidation in
21 the U.S. paper industry done in the POI and how this
22 has affected competition among U.S. suppliers of
23 CSOBAs during this period. And in turn how that's
24 affected pricing or quantity of CSOBAs in the U.S.
25 during this period.

1 MR. DETTLAFF: In general during the period
2 of investigation the consolidation of actual paper
3 manufacturers has slowed. There has not been as much
4 consolidation as there were actually the five years
5 previous to that. So in general I would say that
6 there was not an overbearing amount of consolidation
7 on the customer's side of CSOBA.

8 MR. BENEDICK: What I'm getting at is what
9 happened during the POI and what effect that had on
10 pricing, quantity and on competition.

11 MR. DETTLAFF: During the period of
12 investigation there was not an overbearing effect by
13 consolidation of bigger paper companies.

14 MR. BENEDICK: Did it have any impact on
15 competition among suppliers? Did it have any impact
16 on price or quantity of CSOBAs demanded?

17 And again, if you want to think about it and
18 respond later, that's fine, too.

19 MR. DETTLAFF: I would say that we'd need to
20 investigate that in a little bit more detail, but my
21 general impression now is that did not have an
22 overbearing effect --

23 MR. BENEDICK: It had an effect though?

24 MR. DETTLAFF: It had a minimal effect on
25 the pricing pressures on CSOBAs.

1 MR. BENEDICK: All right. Please describe
2 any changes in U.S. imports of finished paper products
3 during the POI and how any such changes affected U.S.
4 demand for CSOBAs, including the price or quantity in
5 CSOBAs during the POI.

6 MR. DETTLAFF: In general I don't know the
7 specifics in terms of the imports of physical paper
8 products into the U.S. So I'd have to investigate a
9 little bit more by more reliable sources than me --

10 MR. BENEDICK: Okay.

11 MR. DETTLAFF: -- in terms of the actual,
12 physical imports of paper. But the impact that it has
13 had on the U.S. market is somewhat generated by the
14 difference in the color characteristics of imports
15 than the domestic paper producers. I don't want to go
16 into too many details, but the -- especially the
17 European market relies on whiteness measurement and
18 tends to use a lot higher levels of optical brightener
19 in their sheet.

20 MR. BENEDICK: And do they export that --
21 I'm looking just at imports to the U.S.

22 MR. DETTLAFF: Imported paper, just from
23 knowledge of talking with our customers and the effect
24 on their business, they've changed some of their grade
25 lines to increase the whiteness/brightness of their

1 paper. And that was somewhat of the information that
2 I had in my testimony, that the whiteness and
3 brightness levels continued to edge up. And that's
4 somewhat related to the impact of imported paper
5 products.

6 MR. BENEDICK: Have those imports increased
7 over the POI?

8 MR. DETTLAFF: That's not within my realm of
9 expertise.

10 MS. HOLEC: We can -- we'll answer more
11 specifically. We did look at this some and the
12 imports, at least the coded sheet paper have dropped
13 somewhat during the period. But we can answer with
14 detailed numbers.

15 MR. BENEDICK: Okay, that would be helpful,
16 thank you.

17 Would you please discuss any shortages in
18 the U.S. market of U.S. produced CSOBAs or those
19 imported from China or Taiwan during mid year 2008.
20 Were import prices, including prices of gas were very
21 high, and did any shortages of the U.S. produced
22 CSOBAs during this period prompt paper companies to
23 shift at least partially their sourcing of CSOBAs from
24 suppliers in Asia?

25 And I don't mean to pick on you, Mr.

1 Dettlaff. If Mr. Golder wants to jump in, please feel
2 free.

3 MR. DETTLAFF: Yeah, everybody picks on me,
4 so don't worry about that.

5 MR. BENEDICK: They pick on me, too.

6 MR. DETTLAFF: In general I'd have to
7 investigate a little bit more in detail about the
8 incidents and events around mid 2008. But the one
9 statement I can make is that Clariant did not short
10 any of its domestic customers of CSOBAs during that
11 time period.

12 MR. BENEDICK: Do you know if the other two
13 U.S. producers had short supply as a result of that
14 increase in price of the imports?

15 MR. DETTLAFF: I personally don't know what
16 their supply situation was.

17 MR. BENEDICK: Okay.

18 MR. ELLIS: If I could just add a point. It
19 was mentioned earlier, which is that capacity
20 utilization was very low, even in 2008. So the notion
21 of shortages, I'd be a little skeptical about to be
22 honest.

23 MR. BENEDICK: Well, even though the
24 capacity -- there might have been excess capacity, if
25 they couldn't get the price to cover their costs they

1 might not be able to supply the product. They don't
2 want to run a loss.

3 MR. DETTLAFF: The input costs, mainly raw
4 material during the mid 2008 period, was a dramatic
5 effect. I think we can document the cost of basically
6 diaminostilbene, disulfonic acid, as a major increase
7 during the 2008 period. And I kind of referenced that
8 during my testimony.

9 MR. BENEDICK: Right.

10 MR. DETTLAFF: Whether or not customers, end
11 customers, were willing or able to cover that
12 additional cost may have had them look at alternate --
13 alternate options.

14 MR. BENEDICK: Do you know if it caused a
15 shortage of supply of product from Taiwan or China
16 during that period, since we obviously use the same
17 input?

18 MS. HOLEC: Just one comment on the supply
19 situation. I mean even without the pressure from
20 inputs, the CSOBA is not a particularly significant
21 cost into paper manufacturing. So I think it
22 shouldn't have been a problem to pass on the increased
23 cost to the domestic producers if they didn't have
24 pressure from imports that were less required to pass
25 on the cost.

1 MR. BENEDICK: Right, but I understand they
2 do need that as an input and given the high prices, it
3 basically reflected a shortage of the product. So if
4 you couldn't get the product then you can't produce
5 the CSOBA and then the paper company couldn't produce
6 the paper. So it's more than just a price -- price
7 reflects a shortage and that's what I was trying to
8 get at.

9 MS. HOLEC: So your question is whether we
10 couldn't get the DAS in order to produce the --

11 MR. BENEDICK: Right.

12 MR. GOLDER: Maybe if I could comment just a
13 moment. During the summer of 2008 there was some --
14 or during the time of the Olympics there was some
15 concern about a supply of DAS and what that -- that
16 created some noise and some disruption to the
17 industry. But in fact, we had ample supplies of the
18 raw material during that time period in spite of the
19 concern that our sourcing people demonstrated and in
20 spite of some of the messages we were getting back
21 from Asia. So if your concern is specifically what
22 was happening around that time period --

23 MR. BENEDICK: Yes.

24 MR. GOLDER: -- there clearly was a lot of
25 noise. But in fact that noise was more disruptive to

1 the price of the inputs than it was the supply of the
2 inputs.

3 MR. BENEDICK: Okay.

4 MR. DICKSON: And there was also a lot of
5 noise in China. Because the DAS supply really, with
6 the exception of BASF which makes DAS in the United
7 States and therefore was not directly affected by that
8 and should have benefitted from it because they were a
9 DAS producer and not dependent upon DAS from Asia.
10 But obviously the Asian producers of OBAs are
11 dependent upon DAS from China and there was great
12 concern, I know, noise in that area as well, which
13 means that ultimately the answer, if there were an OBA
14 shortage, would not be to buy from China. There
15 wouldn't be an answer because there would be a
16 worldwide shortage in DAS that would have caused the
17 fundamental problem for the OBA.

18 Now this is one of the things that I
19 investigated very carefully at the beginning because I
20 was very concerned whether or not during this period
21 there was really any situation that existed that the
22 domestic suppliers could not supply, based upon the
23 DAS that they had, that they made, whether any orders
24 had been turned down, when they ever went on order
25 control, which is what normally big companies do when

1 there's a problem like that. None of that happened.
2 But there was a lot of noise.

3 MR. BENEDICK: Okay. Well, did that noise
4 affect imports of CSOBAs from Taiwan or China during
5 that period, since they were dependent on the Chinese
6 for the DAS?

7 MR. DICKSON: I believe the basic trend that
8 we saw in imports, the increased imports, especially
9 from Taiwan, consisted of the normal levels that they
10 had been importing and there was not a dip or a
11 significant increase.

12 MR. BENEDICK: Okay.

13 MR. DICKSON: But just as an aside on this,
14 there was concern in the industry. Major companies
15 like International Paper I know were highly concerned,
16 they were worried because of what was happening in
17 Beijing. They were shopping around, there was some
18 material imported from India for example, that I know
19 was directly related to the situation in China. Like
20 -- well, one month, in the month of October of 2008
21 material came in and then it stopped because they
22 realized there really wasn't a problem.

23 MR. BENEDICK: Okay, thank you for that
24 explanation. Mr. Dettlaff, I'll go back to you. You
25 had alluded to certain types of paper where CSOBAs are

1 an input. Do some types of paper use the CSOBAs more
2 intensely than other types? If so, can you give some
3 examples?

4 MR. DETTLAFF: Yes. The answer to your
5 question is yes. There -- the utilization of CSOBAs
6 in different grades of paper, different types of
7 paper, does vary. Even within certain types of paper,
8 copy paper, there was different levels of whiteness
9 and brightness that are marketed on the open market.
10 And to achieve that differential in the whiteness and
11 brightness, they use different levels of optical
12 brightener.

13 MR. BENEDICK: Okay. Then that leads to my
14 next question. Then during the POI has there been any
15 shift toward paper types that either do not use CSOBAs
16 or use a minimal amount at the expense of those who
17 use CSOBAs or would use it more intensively?

18 MR. DETTLAFF: During the period of
19 investigation I have not seen any leanings towards
20 reducing the overall amount of CSOBAs.

21 MR. BENEDICK: Okay. Are CSOBAs used, to
22 the extent it's used, in both coated and uncoated
23 paper for their various uses? And has there been a
24 shift in the demand for coated versus uncoated paper
25 during the POI?

1 MR. DETTLAFF: I would say relatively --
2 within each of those paper segments, the use of CSOBAs
3 has increased. I would say that it increased more
4 dramatically in the uncoated side of the business.

5 MR. BENEDICK: Okay, I'm going to show my
6 ignorance now. Could you tell me the differences
7 between uncoated and coated paper and what their
8 principal uses are?

9 MR. DETTLAFF: Certainly, it would be my
10 pleasure. Typically the differential between coated
11 and uncoated, uncoated paper is typically sent through
12 a starch bath to pick up starch on the surface in
13 order to give it some sizing to withstand the printing
14 process and to keep the ink up on the top.

15 In an actual coated application, there is
16 applied almost -- if you think of latex paint that you
17 put on the wall, a much more substantial layer put on
18 the surface of the paper substrate that lends itself
19 to producing more glossy paper. So most of the
20 uncoated paper in the U.S. goes into copy paper is a
21 typical application, or that type of application.
22 Whereas, most coated paper goes into the higher value
23 magazine type of applications where you want a glossy
24 picture. You can achieve that surface with a coating
25 much easier than you can with an uncoated piece of

1 paper.

2 MR. BENEDICK: Okay. Well, you had
3 indicated in your testimony that with the advent of
4 the e-books, like Kindle I guess or Barnes & Noble,
5 that newspaper print, demand for CSOBAs was going
6 down, but for magazines it was going up. Yet, if you
7 have an e-book you can also get magazines. And so why
8 hasn't that affected magazines or -- do you have any
9 idea why it hasn't affected magazines as much as it
10 has news print?

11 MR. DETTLAFF: I have a personal input on
12 that. Magazines are a much higher graphical quality
13 that people just cannot achieve with the e-book or --
14 there's just much more value in the magazine type
15 paper.

16 MR. BENEDICK: Okay.

17 MR. DETTLAFF: Whereas, news print is --
18 it's more about the news than it is the graphics.

19 MR. BENEDICK: Right. Thank you for that
20 explanation. Again I'm going to show my ignorance.
21 Is there a greater degree of whiteness in paper that
22 translates to more or less use of CSOBAs. I mean the
23 whiter the paper, do you use more CSOBAs or less?

24 MR. DETTLAFF: For the most part there is a
25 direct correlation between the whiteness level of a

1 piece of paper and the amount of CSOBAs --

2 MR. BENEDICK: One to one? So the higher
3 the whiteness the higher the CSOBAs?

4 MR. DETTLAFF: For the most part, yes.

5 MR. BENEDICK: Okay. Finally, could you
6 describe of the paper grade developments in the U.S.
7 market during the POI and how any such developments
8 effected demand for CSOBAs?

9 MR. DETTLAFF: There's one example of a
10 grade development over the period of investigation
11 that has had a dramatic influence on CSOBA
12 utilization. And that would be Colorlok, a fairly
13 widely advertised printing format and formulation in
14 paper that has had a dramatic effect in terms of
15 CSOBA.

16 MR. BENEDICK: Has that increased the demand
17 for CSOBAs?

18 MR. DETTLAFF: Due to the application of the
19 Colorlok technology under the surface of the paper it
20 has developed a larger demand for CSOBAs.

21 MR. BENEDICK: Is that used principally in
22 the higher end magazines or is it used in paper,
23 newspaper print?

24 MR. DETTLAFF: It's actually used more in
25 the uncoated side of the paper due to some print

1 quality applications of the colorlok technology.

2 MR. BENEDICK: So would that be copy paper
3 then?

4 MR. DETTLAFF: A lot of it is copy paper.

5 MR. BENEDICK: Okay.

6 MR. DETTLAFF: Now if you wanted more
7 information on the colorlok technology, Hewlett-
8 Packard is the holder of that technology.

9 MR. BENEDICK: Oh, okay.

10 MR. DETTLAFF: So they would have a wide
11 array of information on Colorlok and the tendencies
12 thereof.

13 MR. BENEDICK: I can Google that and look at
14 it. Those all the questions I have, thank you very
15 much.

16 MS. DEFILIPPO: Thank you very much, Mr.
17 Benedick. Ms. Larsen, do you have any questions for
18 the panel?

19 MS. LARSEN: I do. Amy Larsen from the
20 office of Economics.

21 I just have a couple of questions. My first
22 one is, how do you compare the quality and
23 particularly the purity of CSOBAs produced
24 domestically with U.S. import? Speaking of the same
25 kind of product, are purity levels different from

1 domestically from imported? And to go on to that
2 production process, do the raw materials affect the
3 purity of CSOBAs?

4 MR. DICKSON: Yes, I think I can address
5 that. As I pointed out in my earlier testimony, the
6 quality of the OBA is entirely dependent upon very
7 straightforward chemistry and very straightforward
8 chemical compounds, and I identified three compounds
9 that make up 99 percent of the OBAs that are used in
10 paper. If you get the reaction, lower quantity is
11 correct, if you get the temperature correct, the
12 solution etcetera and you run through these reactions,
13 these are classic types of reactions that are formed
14 in the organic chemistry laboratory, universities,
15 even advanced high school chemistry classes.

16 It is the chemical that we identify, for
17 example, FB220, which is based upon the tetra which
18 has the broadest range, this is a chemical and it is a
19 pure chemical, and it is that chemical and that
20 chemical only that is ultimately performing the
21 brightening operation. There can be additives that
22 make the chemical apply better to the paper and
23 therefore improve its effectiveness, but there's
24 nothing around the active ingredient or the quality of
25 the active ingredient other than it being the pure

1 material itself as the chemistry almost insures that's
2 going to make a difference.

3 You could take a look at one aspect that I
4 touched on in what I was describing, and this is what
5 the impurities might be, and because the reactions
6 themselves go to complete the formulation of the 220
7 optical brightener is almost complete, but it does
8 produce salt, sodium chloride in the neutralization
9 reaction. Now the salt could be present there and in
10 itself would not harm the OBAs activity but what salt
11 will do and has traditionally been used in chemistry
12 is to reduce the solubility of a particular product.
13 As a matter of fact in organic chemistry etcetera, one
14 of the ways that you will purify or knock a material
15 out or crystallize it is add salt solution reducing
16 its solubility and therefore causing the organic
17 chemical to crystallize.

18 So, in the case of OBAs, where the
19 solubility of the OBA in water is an important factor,
20 you definitely want to take the salt out. So there
21 are fairly advanced techniques for doing this. One of
22 them is called reverse osmosis. The other is called
23 ultrafiltration. This is all a matter of chemical
24 engineering, if you will, of selecting the right type
25 of equipment in order to remove almost all the salt

1 that is generated. This is virtually the last step in
2 the production of the optical brighteners. It's well
3 known technology as well. We have no reason to
4 believe it's substantially better or different in
5 India, China, the United States, etcetera, but that's
6 part of the production of the OBA process in their
7 production of those salts.

8 So this is the only impurity I know of that
9 can have an effect and it has an effect in terms of
10 solubility, not in terms of the basic chemical. It is
11 only the basic chemical that is produced that causes
12 the optical brightening effect.

13 MR. ELLIS: And there will be a quiz after
14 this.

15 MS. LARSEN: I guess I should have paid more
16 attention to my high school chemistry, I'm wishing for
17 that now. Thank you. My second question is there
18 seems to be varying perspectives of the importance of
19 technical support offered to purchasers. Can you
20 comment on that. What kind of technical support maybe
21 you guys offer to your customers; do you find that a
22 large part of your marketing.

23 MR. DETTLAFF: I think, yeah, in general it
24 is part of our marketing effort in the domestic
25 market. To what degree we put emphasis on our

1 technical service and application expertise varies
2 between the domestic suppliers but I think, yes, to
3 answer your question, yes, technical service and
4 support at the local paper manufacturing locations is
5 key to our effort, yes.

6 MS. LARSEN: Thank you, I have no further
7 questions.

8 MS.DEFILIPPO: Thank you, Ms. Larsen. Mr.
9 Yost? Questions for this panel?

10 MR. YOST: Yes, I do. Charles Yost, office
11 of Investigations. I won't show my ignorance. Before
12 starting work on this investigation I'm not sure I
13 could have spelled chemistry and I'm not sure that I'm
14 ready to take Mr. Dickson's quiz, but we'll do the
15 best that we can.

16 I have just a couple of questions for the
17 panel. The first one is by-products. Mr. Dickson
18 just mentioned that for example sodium chloride is
19 recovered. Are there other by-products -- what
20 happens to the by-products as a result of the reaction
21 during the production of OBAs.

22 MR. DICKSON: As I mentioned in my testimony
23 there are actually very few by-products in the
24 production because the chemical reactions go to
25 completion. If you had an equilibrium type reaction

1 in which A and B go to C, but then getting over to C,
2 C starts going back to A and B, then it reaches a
3 chemical equilibrium, but it's very fortunate in the
4 production of the OBAs that the raw materials and the
5 intermediates that are made in the raw materials have
6 a high difference in free energy or a high difference
7 in polarization, therefore, the reactions are
8 absolutely complete. Therefore you have very little
9 of any by-products being formed.

10 So the nature of the production of the
11 optical brighteners produces very small quantities of
12 -- I think in any chemical reaction, if you measure it
13 by the type of analytical capability that's available
14 in the United States, you can find trace quantities of
15 small by-products that -- trace quantities that don't
16 have any significance in terms of the performance of
17 the brightener itself. Ultimately the brightener in
18 solution its effectiveness is always determined by its
19 effectiveness at the mill. There are huge investments
20 in these machines, one of the things that I thought
21 about doing was bringing a photograph of one of these
22 paper machines and you would see from that it's a huge
23 investment. Which means that if you are running that
24 machine and you're going to be using an optical
25 brightener there are many other things that can affect

1 the quality, changes etcetera other than the optical
2 brightener itself.

3 So if a paper producer is considering a
4 change of an optical brightener because he sees it's a
5 lot lower price, I can save all this money over this
6 period of time and all the chemistry tells me this
7 stuff from Taiwan is the same, he would run an
8 extended test on the material to make sure it worked.
9 But the only way he would ever approve it would be
10 through a long test in which tons of paper were made
11 and showed that other things being equal that it
12 worked.

13 That's the ultimate quality test and
14 determination in whether or not a brightener gets
15 approved or not. That's the final application.

16 I thought I had covered this before but
17 perhaps not and I may have misunderstood your
18 question. There is obviously the by-product, ultimate
19 by-product of sodium chloride which is salt. That
20 salt solution is in the water and that has to be
21 removed from the brightener by the process we normally
22 call ultrafiltration.

23 MR. YOST: And what happens to that, is
24 there a cost recovery effort?

25 MR. DICKSON: I have never actually run a

1 salt filtration but what you will end up with is a
2 concentrated salt solution, sodium chloride in water
3 which will also have some trace organic materials
4 present in it and it's usually treated by bacterial
5 treatment, the same type of treatment that a
6 wastewater plant would take. The salt itself,
7 fortunately it's sodium chloride, so we know this does
8 not hurt humans, doesn't really hurt anything. Salt
9 is a major part of human and organic life. But it
10 would have to be treated. And it would usually go to
11 a wastewater facility for treatment.

12 MR. YOST: Then is it disposed of or can you
13 recover the salt and sell the salt, or --

14 MR. DICKSON: I've never operated one of
15 these machines but salt is so cheap that it's very
16 very unlikely that you would recover salt from
17 wastewater. The salt water -- after being completely
18 cleaned of any organic material or anything else is
19 released back into the atmosphere, to the river or
20 wherever the freshwater stream that the treatment
21 facility is releasing to -- salt goes back to the
22 water, to the ultimate water stream.

23 MR. YOST: Okay. Thank you very much. Mr.
24 Golder?

25 MR. GOLDER: Just a note. He just described

1 exactly what happens. We have an onsite wastewater
2 treatment facility at our Martin site. The water is
3 treated there and is released as clean water to the
4 river.

5 MR. YOST: Okay, all right. Thank you very
6 much. No further questions.

7 MS. DEFILIPPO: Thank you, Mr. Yost. Mr.
8 Stone, do you have any questions for this panel?

9 MR. STONE: Hello, Philip Stone, office of
10 Industries. One question for Mr. Dickson: to your
11 knowledge are all the domestic producers using exactly
12 the same process and do the producers then in Taiwan
13 and China use the same process as is used by domestic
14 producers?

15 MR. DICKSON: The same process in terms of
16 the same chemicals that come together in the same
17 ratios have to be the same. The rules of chemistry,
18 the laws of chemistry require that. However, there
19 can be the difference between what we call a batch
20 process and a continuous process and in my knowledge
21 the two producers in the United States -- this is just
22 from general knowledge -- selling sulfanilic acid to
23 these people, etcetera -- are using the batch process.
24 The Chinese, the Taiwanese are using the batch
25 process, I'm relatively certain.

1 It would surprise me greatly if any of the
2 Chinese producers were using anything other than a
3 batch process. There is one exception to that and
4 that is BASF. Long ago, they developed a very
5 efficient continuous process and that continuous
6 process starts with the production of DAS itself and
7 brings itself all the way forward to the production of
8 the ultimate optical brightener.

9 MR. STONE: For removing the salt from the
10 final solution is BASF process similar to the other
11 processes to purify the final CSOBAs?

12 MR. DICKSON: I do not have that specific
13 information, but that's about the only way that it's
14 done in the industry and they have to remove the salt
15 from the solution so I'm sure that's part of, the
16 ending part of their continuous process. What comes
17 out of the ultrafiltration is a clean material which
18 at the most would be adjusted somewhat for the active
19 ingredients; like if 30 percent material came out, it
20 would be -- to 23 percent which is typically the
21 active ingredients that are used by the paper mills.

22 MR. STONE: And you mentioned earlier what
23 percent of active ingredients were for the di, tetra
24 and the hexa -- are those set by how well they work in
25 paper machines or is it set by solubility limits or

1 what sets those percentage of active ingredient?

2 MR. DICKSON: Well, that's an interesting
3 question and it shows in my case where a little bit of
4 knowledge is dangerous, and I have a little bit of
5 knowledge in that area, but having consulted with
6 people that know a lot more than me, I can say with
7 some confidence it is a matter of solubility
8 limitations with the di and the tetra that are in the
9 neighborhood of 20 to 23 percent, which are the
10 typical ranges in which the optical brightener is
11 safely soluble in the water, considering that the
12 optical brightener may not be immediately used. In
13 other words, it's not necessarily just made and
14 shipped to the customer and used the next day; it may
15 be made, shipped to the customer, it may take a few
16 days to get to the customer, it may be very cold in
17 Montana or some real cold place that's -- so it has to
18 be a safe range. Of course, solubility is a function
19 of temperature. So the 20 and 23 percent that we use
20 are pretty good numbers but these numbers will vary
21 dependent upon the producer of the material as to what
22 they actually are.

23 But the use of the sulfonate group, the more
24 sulfonated something is, the more water soluble it is.
25 Therefore the hexa sulfinated material does have

1 greater water solubility, and it is my understanding
2 that you could use a quantity greater than 16 percent.
3 So the question is why 16 percent the chosen number?
4 And as best we can tell, I've asked that question of a
5 very knowledgeable person from Clariant, he says that
6 it goes back to market considerations or he thinks it
7 does, in which the hexa material was a more expensive
8 material to begin with because of its chemistry and
9 the hexa material being more chemistry, etcetera, so
10 it was offered at a 16 percent in order to bring down
11 the price of the solution and make the solution more
12 comparable to the price of the other products.

13 And therefore the industry standard fell in
14 on the 16 percent although probably 25 or 30 percent
15 could be used in the hexa case. Long answer for a
16 short question.

17 MR. STONE: Thank you, that's all the
18 questions I have.

19 MS. DEFILIPPO: Thank you, Mr. Stone. Mr.
20 Fishberg, questions?

21 MR. FISHBERG: David Fishberg, for the
22 office of the General Counsel. I appreciate your
23 testimony this afternoon and I just have a few
24 questions that I'll open up to the entire panel, and
25 feel free if you don't want to discuss it now, feel

1 free to put it in your post-conference brief. And
2 also I appreciate the next panel coming up, feel free
3 to respond to questions that we ask that panel in your
4 post-conference brief and vice-versa.

5 First question I have deals with fluorescent
6 brightener 71, and I heard the testimony this
7 afternoon that it's typically not used in paper
8 applications. I was just wondering if it's ever used
9 in paper applications, and I guess conversely, the
10 CSOBAs within the scope ever used in detergent
11 applications. So I guess is there any overlap between
12 the end uses between the fluorescent brightener 71 and
13 the CSOBAs that are within the scope of investigation.

14 MR. DETTLAFF: I guess I'll take that one.
15 Clariant does not market fluorescent brightener 71.
16 We are solely concentrated on the paper market in
17 terms of the CSOBAs. There may be other domestic
18 manufacturers of OBA that produce 71 that could
19 probably, possibly address that question better. In
20 terms of CSOBAs in other applications such as
21 detergents, I have not heard of CSOBAs going into the
22 detergent applications but there are smaller, much
23 smaller applications in say, textiles, very similar
24 because you're brightening cellulosic materials such
25 as cotton and that's what CSOBAs do, brighten those

1 cellululosic fibers.

2 MR. FISHBERG: Okay. So theoretically while
3 there might be some overlap if there is any overlap
4 that percentage would be quite small. Am I
5 understanding correct?

6 MR. DETTLAFF: Relative to the CSOBA demand
7 for paper applications, it is very small.

8 MR. FISHBERG: Okay, thank you. Another
9 question about I guess a letdown process. Are there I
10 guess companies that engage solely in that process,
11 stand alone companies that just do that for the
12 imports? Are you aware of that? That just convert
13 the powdered form back into a liquid form or do the
14 endusers do that themselves?

15 MR. DICKSON: Around the country, as a part
16 of commercial operations that exist, there are usually
17 warehouse operations that sometimes do a limited
18 amount of just, in addition to warehousing, will do
19 very simple operations like bringing a chemical in and
20 putting it into solution. So what would happen is if
21 you were making the dry powder and you were wanting to
22 sell the solution in the United States you would go to
23 existing commercial operations, these types of
24 warehouse operations that are more than just bringing
25 material in and shipping it out. And essentially what

1 you set up is a very simple stainless steel stirred
2 tank with a stirrer in it and you put a certain amount
3 of water in it, and then the OBA would come in in what
4 we call bulk bags, which would be typically 500
5 kilograms.

6 You put a certain amount of water in, being
7 stirred, forklift operator comes up, opens up the
8 bottom of the bulk bag, the material drops down into
9 the water about 15 or 20 degrees centigrade, which is
10 around room temperature, it's stirred for a period of
11 time, tested for completion of solubility. They know
12 what the required ratio is -- it is given to them,
13 essentially the product is ready. Could be that a
14 biocide is added at that point, because a biocide is
15 usually used in the formulations because anytime you
16 have an organic chemical in a water solution you have
17 the potential of the bacteria starting eating the
18 organic chemical so the biocide would protect against
19 that and therefore stabilize the water solution.

20 But from that point it's ready to ship to
21 the customer either in a tankwagon which would be very
22 common, or in these IBCs, the intermediate bulk
23 containers -- about 500 gallons or something of that
24 quantity. But that's the basic operation that's done.

25 Does that answer the question?

1 MR. FISHBERG: It does. I anticipate I know
2 what the answer will be, but Mr. Ellis, if you could
3 put in your post-conference brief whether these
4 converters are engaged in sufficient production
5 related activity to be considered to be part of the
6 domestic industry. If you could just address that
7 issue for these converters, that would be helpful.

8 MR. ELLIS: Great. You know our answer to
9 that question. But also to answer the second half of
10 your first question, my understanding from my clients
11 are that the endusers typically do not do this. If
12 fact, we only know of one, I think, one instance or
13 one customer who has engaged in that. So it's third
14 party tollers or subcontractors who are engaged in
15 that activity.

16 MR. FISHBERG: Okay.

17 MR. DICKSON: But I would like to add that
18 this is the absolute opposite of rocket science, so
19 what you will find in the United States is there's a
20 certain resistance on the part of large companies to
21 engage in activities that have very little value
22 added. They want the others to do those types of jobs
23 so there will be a natural resistance on the part of a
24 paper producer to taking something in that's different
25 than what he's done before. So the natural

1 inclination is I've been using solution from the
2 beginning, I want to use solution, I don't want to
3 bother with a mundane activity of putting it into
4 solution before I use it, as another activity.

5 MR. FISHBERG: Okay. Thank you. I also
6 take it that since a significant percentage of this
7 imported product is shipped in powdered form and none
8 of the domestic product is shipped in powdered form, I
9 assume that it's your position that that has no impact
10 on overlap of competition

11 between the subject imports and the domestic
12 production because I think -- from a point today
13 essentially shipping in the powdered form is a cost
14 savings device and has no impact on the end use of the
15 product.

16 MR. ELLIS: That's right. And also my
17 understanding again is that the competition is
18 delivered liquid solution equivalent to whatever -- so
19 everybody has to quote prices as a liquid and it's
20 consumed as a liquid by the endusers. So there's no
21 difference, there's no competitive impact that some of
22 the time it's shipped over the ocean in powdered form.

23 MR. FISHBERG: Okay, thank you. This
24 question you'll probably address in your post-
25 conference brief. Could you please address any

1 related, if there are any, any related party issues in
2 this case. I don't know if there are any, but if
3 there are, feel free to address them in your post-
4 conference brief.

5 One thing I notice in terms of the data in
6 the slides about the import volume and this might
7 become a nullity depending on what we do with
8 cumulation, but it does appear, according to the
9 Census data that Taiwanese imports increased in every
10 year of the period, but the Chinese product, whether
11 you use the Census data or the CBP data, actually
12 declined from the beginning of the period slightly and
13 also appears to -- may have followed demand more
14 closely.

15 Would any of you like to comment on what
16 appears to be somewhat differing trends between the
17 Taiwanese import volume and the Chinese import volume
18 and if there is a reason for that.

19 MS. HOLEC: I don't know if we know the
20 reason for that nor are we -- from the CBP data we're
21 confident that the volume we've found exists, we're
22 not confident that we've captured all of the volume
23 from China because you don't have it conveniently
24 categorized like for Census in an HTS category.
25 You've got to search for the name of the product,

1 etcetera.

2 That being said, I don't know that we know
3 the specific explanation for the drop in 2009 slightly
4 from China, but obviously it's robustly here in 2010
5 and then they're now also shipping it in powdered form
6 which suggests that they have a continuing interest
7 targeting exports in the U.S. market.

8 So, if that addresses it.

9 MR. ELLIS: Yes, we'll address it more. The
10 legal issue's more in the post-hearing brief but we
11 think that despite the somewhat difference in trends
12 -- first of all, the difference in trends we think are
13 somewhat smoothed out when you look at the clearer
14 data to the extent we can get our heads around it.
15 But second, it's sufficient to meet the criteria for
16 cumulation in this case, but we'll talk about that
17 more in the brief.

18 MR. FISHBERG: Okay, thank you, I appreciate
19 that. And finally, just touching on the subject of
20 nonsubject imports, I understand from the testimony
21 this afternoon that basically nonsubject imports are
22 immaterial. Does that reflect a lack of production in
23 other countries or just a lack of imports from other
24 countries? Are there production facilities in
25 nonsubject countries that just, for whatever reason,

1 and maybe you could explain if you know, why they're
2 not being imported into the United States or are there
3 just not production facilities in these other
4 countries.

5 MS. HOLEC: One, there's not that much
6 production. The production facilities you have
7 abroad, clearly BASF and Clariant have production
8 facilities abroad, but there's no reason to ship it to
9 the U.S. when they have production facilities in the
10 United States.

11 So, one, limited production facilities.
12 John mentioned there's some production in India. We
13 don't see that coming in here much. Most of what you
14 see in the HTS categories it also includes detergent
15 imports so the import volume you see from other
16 countries is detergent, also you can see higher AUVs
17 there.

18 MR. FISHBERG: Okay. That's all the
19 questions I have. I appreciate your testimony and
20 your responses this afternoon. Thank you.

21 MS. DEFILIPPO: Thank you, Mr. Fishberg. I
22 will turn to Mr. McClure for any questions for this
23 panel.

24 MR. MCCLURE: Most of what I know about
25 chemistry I've probably learned from John Dickson. Of

1 course, he was starting with an empty vessel, but I
2 have no questions. I appreciate you coming up here
3 and I admire your expertise. In all my years at the
4 Commission I've learned in all investigations chemical
5 to defer to the expertise -- chemical because it's
6 diagrams like these that made me a liberal arts major.

7 Thank you.

8 MS. DEFILIPPO: I second those sentiments.
9 It's been a long time since I've taken any chemistry
10 class. As usual my staff has done a wonderful job in
11 getting me to cross off most of the questions that I
12 made along the way, but I think I have a couple quick
13 things to finish up on.

14 One, in the chart here, where it shows
15 allocation of lost sales, lost revenues by domestic
16 industry and you can see sort of a concentration over
17 here and over here -- I haven't studied the industry
18 so I don't know where the paper industry is -- but are
19 there any paper producers in here, is this big lack of
20 white showing that you didn't lose any sales there, or
21 that there weren't any customers to which you could
22 have lost sales.

23 MR. DETTLAFF: The shaded area on the map
24 does typically represent where the concentration of
25 paper mills are. Very few trees in the Plains states,

1 so --

2 MS. DEFILIPPO: I figured, but I thought it
3 was worth asking to clarify. Some of your discussion
4 I think mentioned the nature of contracts and that you
5 had meet or release clauses with those contracts. Do
6 the paper producers tend to dual source in that
7 they're often having supply agreements with more than
8 one producer -- and you may not know -- but to the
9 best of your knowledge do you know?

10 MR. DETTLAFF: Typically, from my knowledge
11 of the paper industry in the U.S., a great majority
12 are single sourced contracts for CSOBA. Very rarely,
13 they'll have dual supply, for a myriad of reasons.
14 Both from logistics reasons as well as actual control
15 of enforcing the contract.

16 MS. DEFILIPPO: So if you were not to be
17 supplying a certain paper for a producer and they were
18 buying from me, are there opportunities to try to gain
19 their business or once they sort of lock in for a
20 contract you're not really going to have an
21 opportunity until they perhaps -- I don't know how
22 long the terms of the contracts are, whether they're
23 one year, two year, less than a year.

24 MR. DETTLAFF: Contracts vary by situation
25 and by companies that engage in those contracts with

1 various clauses and lengths of contracts, but I think
2 it's fair to say that once a contract is finalized,
3 it's honored from both sides and that efforts to break
4 contracts by outside suppliers typically involve price
5 leveraging. That's typically when defending a
6 contract what we faced, somebody comes in with a lower
7 price to try and pique the interest of the contracted
8 customer.

9 Did I address that issue?

10 MS. DEFILIPPO: Yes, you did. And this may
11 be something that would be more appropriate to respond
12 to in a post-conference submission, but to the extent
13 that you have any information on how frequently over
14 the POI you've had to actually change prices in
15 response to or invoking a meter release clause. That
16 would be useful to see. I'm pretty sure you probably
17 want to deal with that in a confidential manner.

18 Mr. Ellis, just to make sure that I'm
19 understanding this, you were talking about this I
20 think to Mr. Fishberg, about the third parties that
21 are doing the letdown of the product and you answered
22 part of my question. When a paper company is buying
23 the imported product, I think you stated, which
24 answered my question, they're actually being quoted
25 and paying the price for the final liquid product that

1 they're going to use. So in the negotiation and sale
2 process is that third party that's doing the letdown
3 just out of the process so that the customer is
4 dealing direct with either the importer here that's
5 representing the foreign producer or the foreign
6 producer -- the company just doing letdown, are they
7 not involved in the sales negotiations of this?

8 MR. ELLIS: I'm going to do something really
9 dangerous and try to answer that question and then the
10 guys here can tell me why I'm right or wrong. My
11 understanding is that the letdown facility is not
12 involved in the negotiation. It's a negotiation
13 between for example TFM North America and the
14 customer, and TFM North America imports the product
15 and deals with the letdown as a subcontract. The
16 product may be shipped from the letdown facility
17 directly to the customer but it's still all negotiated
18 by TFM itself.

19 MS. DEFILIPPO: Okay. That's what I
20 thought, but just wanted to clarify.

21 MS. HOLEC: And just to clarify about the
22 letdown, the letdown's a very minor process, it's
23 really the warehouse that's doing it, it's not much
24 more than warehousing and stirring it up into water.

25 MR. ELLIS: Which gets to Mr. Fishberg's

1 other question about whether they're doing enough in
2 North America to be considered part of the U.S.
3 industry.

4 MS. DEFILIPPO: So I guess along that line
5 tying back to a question that Ms. Larsen had earlier
6 about quality, which Mr. Dickson answered, going from
7 liquid to blow drying to powder back to liquid, that
8 has no effect ultimately on the quality. Is liquid A
9 number one and the final liquid the same, assuming
10 they do the processing right.

11 MR. DICKSON: Yes, it would be the same.
12 This is a very thermally stable material so that when
13 it does go through spray drying it comes out about 95
14 percent, the rest would still be in water, but it's in
15 a powder form and a little bit of water doesn't make
16 it anything other than nice free flowing powder. So
17 if it sustains that operation and it's kept clean as
18 it would be and it's a clean bulk bag as it's shipped
19 to the United States, big fabric bags, and it's
20 dropped into clean water and then possibly filtered
21 after the letdown just to make double sure that some
22 dust or something didn't get in.

23 The reconstituted product would be virtually
24 identical to the product that actually was in liquid
25 solution before it was shipped from Taiwan. I do want

1 to mention, however, in the case of TFM and the
2 letdown facilities. We have one situation in which
3 the ultimate product is offered as we understand by
4 TFM North America, which is a wholly owned subsidiary
5 of TFM, so this chain to the paper mill by TFM is
6 complete. But in the case of the Chinese material,
7 the Honga material, which is mostly what has been
8 coming in, we understand that Greenville Colorants is
9 also a big warehouse but also a big marketer of colors
10 and other chemicals to the color industry or to the
11 color users, etcetera, is actually the purchaser, the
12 importer of the material from Honga, brings it into
13 his warehouse and converts it into water solution and
14 ships it to the middles.

15 So the Chinese situation is different than
16 what the TFM situation is.

17 MS. DEFILIPPO: And you probably have said
18 this -- the U.S. product is all shipped in liquid, is
19 that correct, there's no shipping of powder to a
20 warehouse that's closer to the customer and letdown.
21 Everything that the domestic industry is sending out
22 is all in liquid.

23 MR. ELLIS: That's correct. They don't
24 spray dry it and then let it down. It's all --

25 MS. DEFILIPPO: I didn't think so but it

1 sounded like transportation of the liquid was
2 expensive, so I didn't know if there was any thought
3 given to that. But it looks like they're
4 geographically close enough to their customers. It
5 wouldn't make sense.

6 Finally, Mr. Ellis, any other AD/CVD orders
7 or ongoing cases on this product in any other
8 countries for China and Taiwan that you know about?

9 MR. ELLIS: No.

10 MS. DEFILIPPO: Okay. With that I am done -
11 - oops, I see Mr. Yost. Would you like to ask another
12 question?

13 MR. YOST: If I may.

14 MS. DEFILIPPO: You may.

15 MR. YOST: When you say thermally stable it
16 raised a question in my mind. Is there seasonality to
17 shipments? For example you're shipping to the
18 northern states, Minnesota, Michigan which of course
19 have freezing temperatures over the wintertime. Do
20 you have to ship in heated rail cars or heated
21 containers of some sort. I'm sorry, I didn't want to
22 pick on Mr. Dettlaff.

23 MR. DETTLAFF: I enjoy abuse so bring it on.
24 Not to get into too much confidential information of
25 how we align our supply chain to our key customers but

1 I think it's fairly safe to say that there's not
2 really seasonality involved in the consumption of
3 CSOBAs. So that it is 365 days a year type of concern
4 to get product from production to the end customer
5 application.

6 Does that meet your --

7 MR. YOST: Thank you very much.

8 MS. DEFILIPPO: Any other staff questions.
9 Seeing none, thank you very much for coming today and
10 both providing testimony and answering all of our
11 questions. It has been very helpful.

12 We'll do a quick five minute break just to
13 allow people to switch positions and stretch their
14 legs, so in five minutes we will return to the table.

15 Thank you.

16 (Brief recess.)

17 MS. DeFILIPPO: I apologize, I did not look
18 behind me to see if my trusty Court Reporter is behind
19 me. I guess that's my fourth conference in 30 hours,
20 it's starting to get to me.

21 We are now going to move to direct testimony
22 of those in opposition and, Mr. Koenig, welcome, and
23 if you could please just repeat your introductory
24 remarks, we will reset the clock so that you have all
25 your time. But thank you.

1 MR. KOENIG: Okay. Peter Koenig, Squire,
2 Sanders, counsel to TFM North America. With me here
3 are Mark Huang, General Manager, TFM North America, to
4 my far right; and right next to me is Randy Nelson,
5 the Manager, Technical Services TFM North America.

6 And we'll start with Randy.

7 MR. NELSON: Yes, good afternoon. Thank
8 you, my name is Randy Nelson. I'm with the Technical
9 Service Group, TFM North America, based in Vancouver,
10 Washington.

11 So you know a little bit about me, I
12 unfortunately am the chemist here. And some of us
13 here in this room have listened to me talk about what
14 we call chicken wire. I go into this.

15 I'm a Ph.D organic chemist. I received my
16 doctorate at Dartmouth College. I did an NIH post-
17 doctoral fellow at Columbia University. I also went
18 from there to Sintex Pharmaceutical where I was a
19 process chemist charged with designing, figuring out
20 how to make molecules and then making them and then
21 transferring that to production and scale up.

22 After that I joined ITT Rainier in the paper
23 business and I was a research chemist there. My
24 specialty was high-vacuum distillation of solids. We
25 operated a valin plant which is what makes vanilla

1 flavoring and chocolate. And I ended up getting
2 pulled into the paper business strongly and I became
3 the group leader in pulping and bleaching where I
4 operate a group -- I ran a group with about 12
5 chemists and five technicians.

6 After that I left Rainier, went into
7 marketing for a while with them. But then was called
8 by Ciba Geigy and I joined Ciba Geigy, which is now
9 part of BASF, which is why you saw me saying hi to
10 Ted. And I spent 17, almost 18 years with Seba and I
11 left the company in 2009 and consulted for a period of
12 time before joining TFM in their business.

13 So in summary, I've been involved with the
14 paper business specifically as it applies to optical
15 brighteners for some 20 years. And in the pulp and
16 paper side of business and all the peripherals I've
17 been around for 40 years. My degree, I graduated
18 college in 1970, so you can do the math. I'm not
19 quite late placed but I'm getting close.

20 But I am here to testify about the OBA
21 business but before I get into some of my prepared
22 remarks, I really feel compelled to address a few
23 questions and comments that I think I should clarify.
24 I agree that paper makers freely choose what they
25 purchase. And I believe that they choose quality.

1 The optical brighteners that we have
2 discussed and we saw structures, whitener 220 and 71
3 and all the others, they are not interchangeable.
4 Absolutely they are not interchangeable. If you know
5 the structural differences and the chemical properties
6 that they exhibit, you can get different effects. And
7 getting those effects is what is absolutely critical
8 and key to being successful.

9 There are not minimal differences in
10 quality. In fact, the differences in quality are
11 substantial, major and they have enormous impact on
12 the success of how you use those properties -- those
13 products in making paper. It's absolutely critical if
14 you're a manufacturer to run the chemistry correctly
15 with the proper stoichiometry, meaning how the
16 equivalent products are balanced in making the
17 material. You do not get 100% completion, you always
18 get a fair amount of bi-products and it is absolutely
19 critical to remove those bi-products and the salt to
20 get the effects that you want.

21 This business is driven off of effects. And
22 those effects can be maximized or minimized by what
23 you do in manufacturing and by what you do in applying
24 them at the paper mill.

25 I also want to comment that TFM has been

1 running spray driers since 1998. It's not something
2 new. We're not something new.

3 With respect to the question about salts,
4 salt basically is a non-sequitur. It is -- it needs
5 to be removed up to a certain point but it is not
6 active. In fact most -- in paper mills add sodium
7 chloride at the size press in order to control static.
8 So that -- it does not really matter. What really
9 does matter is the type, the chemical structure and
10 the absolute level of the contaminant or impurity
11 products.

12 So, I'd now like to go on talking about more
13 of my prepared remarks and I will come back to visit
14 each of these comments in turn. But I felt like I
15 really needed to clarify that before I started.

16 First of all, I'd like to explain briefly,
17 again apologies to some of those who know a lot about
18 this, the reason why OBA purity matters so much to the
19 paper maker. The presence of the impurities that come
20 from the reactions, incomplete reaction, side
21 reaction, condensation reactions, if you do not remove
22 them, they can lower the brightness of the paper that
23 you're making in the paper mill by as much as 5 to 12
24 points of brightness, depending on the exact
25 structure.

1 I can talk to you about some of the
2 structures. I've had the opportunity to actually
3 determine those structures with one of my customers.
4 We were very fortunate that way.

5 A less pure OBA can also cause the paper to
6 fade and yellow more quickly than the more pure
7 optical brightener will. For example, if you're
8 adding ten pounds per ton, which is a very typical
9 application rate, of an only 90% pure optical
10 brightener, and I mean by purity there irrespective of
11 the salt, I'm talking about organic impurities, side
12 reaction impurities. If you're adding ten pounds per
13 ton of an only 90% pure optical brightener, that's
14 effectively the same as adding one pound per ton of a
15 quenching or darkening agent. And since the overall
16 goal is to make higher, brighter paper, you're
17 basically shooting yourself in the foot. So that's
18 one reason why it is absolutely critical to have a
19 pure and high -- a highly purified optical brightener.

20 It follows that by using a pure optical
21 brightener, you can avoid causing those effects. You
22 take out the darkening agents, the paper is going to
23 be brighter.

24 This is especially important as we start
25 moving in the market place from say the 92 brightness

1 paper to higher, like 95, 96, 98, because we start
2 chasing the European standards. That is going to be a
3 more and more important factor.

4 Poor optical brightener purity becomes a
5 definite negative on the size press. And I need to
6 back up and explain what a size press is. Paper
7 machine makes a web of paper and it goes through
8 driers and all kinds of different things and then it
9 gets to what looks like a pair of two rolls, I wish I
10 would have brought a picture of it. It's a -- it
11 looks like the old washing machine rollers where you
12 would dry out things.

13 Okay, that usually is inverted so that the
14 rollers are on the side and there's a pond of liquid
15 sitting on top. And a sheet of paper goes through
16 that pond and it allows you to at the very last stages
17 apply some optical brightener on the top of the sheet.
18 And you use the size press for efficiency and for the
19 highest brightness. Because you're just adding it
20 right at the surface. Because that sheet is wet and
21 when it dries that optical brightener migrates to the
22 surface, it's right there, it's shining in your face.

23 So any optical brightener that has
24 impurities and is of lower quality is going to be
25 extremely detrimental to using -- being used in a size

1 press. And you're going to lose some of the
2 brightening effect. Especially when you consider that
3 some of the impurities in this material, in the
4 optical brightener mixture, costs you brightness.
5 They don't add, they subtract. And so -- and to
6 complicate that situation further is, when you're
7 using a size press it's usually when you're trying to
8 make the highest brightness.

9 And so any time that you use an optical
10 brightener with the less -- less than absolute best
11 purity, you're hurting yourself. You're not getting
12 the efficiency you want.

13 Now, I said that all optical brighteners
14 were not equivalent and that's especially the case at
15 the size press. Because that's where you use the
16 hexasulfinated optical brightener. Very highly
17 soluble. You basically paint it on the surface.

18 If you are to use that optical brightener at
19 the wet end with huge volumes of water, it would just
20 redissolve. So you're forcing it on the surface and
21 you use the -- you use that molecular property that
22 the compound has of being soluble so that you can get
23 concentrates in the size press and you want it to
24 migrate and dry right to the surface to maximize the
25 effect on the surface. So you know

1 -- by knowing how these molecules operate differently,
2 you take advantage of them commercially. And that's
3 what we do at TFM. We sell our market expertise in
4 having high purity. We know how to do this.

5 Just as a side note, people may wonder why -
6 - why the difference between size press and the wet
7 end. Paper machine is a big operation that uses huge
8 volumes of water. So if you have a relatively impure
9 optical brightener, you've got a large volume of water
10 for that to get deluded and to go away and hide and
11 stay in the water system. A size press is a small
12 operation. So if you have a concentration of
13 impurities that are going to darken it, it's going to
14 be much worse and cause you more problems at the size
15 press.

16 That directly relates to our purities which
17 we have in our Table 1. I don't know if that's been
18 distributed -- it has? Okay.

19 We typically can run -- well, I have one
20 here. Look at the chart there, Table 1, the hexas.
21 Our competitors products, we've listed several, the
22 Clariant material, a Blancophor material and a 3V
23 material. The 3V and the Clariant materials would be
24 the ones of concern, versus a TFM. TFM product has
25 2.5% impurity levels, versus everybody else's ranging

1 15 to 20% impurities.

2 I'm going to get -- I'm going to do an end
3 run and say these are our analyses, but these analyses
4 are done using high pressure liquid chromatograph,
5 which just about anyone who's technically competent in
6 a laboratory can run and they could generate these
7 same results.

8 I've seen these results from other companies
9 over years and they're entirely consistent with what
10 TFM generated here.

11 But particularly in the size press, I wanted
12 to point that out because that's where -- that's an
13 incredibly big difference, and that's where we are
14 working to capitalize on our market advantage. We
15 have better quality.

16 The same -- but the same thing goes for our
17 tetra products and our disulfinated product. Our
18 disulfinated product is about 4% impurity level and
19 compared to my former employer, they were about 8 or
20 9. The tetra material is closer. We are again at two
21 and a half but the Ciba/BASF material was actually
22 pretty close. Where the Clariant material again very,
23 very far away from us in terms of purity.

24 And this relates exactly to how you make the
25 molecule and how you control the process and the

1 stoichiometry. TFM controls their process very
2 rigorously and uses very highly purified raw materials
3 going in. And the bi-products that we do make, we
4 take out. We don't do just ultra-filtration. We go
5 through nano-filtration which takes out a good
6 majority of the materials that can be taken out. Then
7 we spray dry the product.

8 In contrast, if you look at some of the
9 patents from our competitors' materials, when I looked
10 at them the stoichiometry was all over the map. In
11 fact, a couple of the examples, the yields that were
12 expected were only 85% to 88% in the first step.
13 That's not going to completion. And because you don't
14 go to completion, you have side reactions that occur.
15 Those side reactions are what give you the products
16 that give you the darkening.

17 This purity condition with Clariant and 3V
18 has existed for quite some time. It's so well known
19 that when I was with Ciba several years ago, I used
20 that as a selling argument against Clariant. I said
21 their products were less pure than ours. By buying
22 Ciba's material you could do better. That was a very
23 standard tactic that I used in selling.

24 Prior to the time that TFM entered the
25 market here, I, and many people within Ciba and Bayer,

1 I knew people in Bayer, we thought that Ciba had the
2 absolute best purity and the best process for making
3 OBAs. That was -- that was my understanding. Because
4 the Ciba material only had 6% impurities. That's very
5 good. Even back then, compared to the Clariant
6 material, that was a significant advantage and I was
7 very successful selling against them.

8 When TFM showed up in the market and I had a
9 chance to see some assays and some of the results, I
10 was actually stunned by the performance difference.
11 Stunned in the right word. I did not expect to see
12 that level of response. It took me a couple different
13 trials to see those results come at me to start
14 gaining an understanding of what could be possibly
15 going on. And I became convinced that purity was a
16 factor. And this was before I even joined TFM.

17 So I want to digress just for a minute here.
18 As I said, I spent several years as a process chemist
19 designing processes, maintaining processes. Having
20 some interesting times with processes. So I
21 understand exactly what the difference is that you can
22 do by making this molecule different ways. You will
23 get different impurities, you absolutely will. It's
24 almost like adding -- if I had filled this -- this was
25 coffee. If I filled this cup half with coffee, then

1 added water to that, as I add water that coffee is
2 going to taste differently and it's going to do
3 different things with caffeine. I'm going to get less
4 jazzed. If I take water, fill the cup half full and
5 add just incremental amounts of coffee, it's entirely
6 different.

7 What we're talking about is the difference
8 between the kinetic effect and the thermodynamic
9 effect. In the limit, both of them are the same,
10 equally diluted. But how you get there and how things
11 happen because of the things coming together is
12 different. That's a real key fundamental
13 understanding for chemists. And you use it to your
14 advantage.

15 You use it in the paper mill to your
16 advantage because by understanding the differences
17 between kinetic versus thermodynamic effects you can
18 make things happen on a paper machine that you would
19 not expect to be able to happen.

20 For example, I have personally made paper
21 bright by using the detergent brighteners. It's quite
22 possible to do that. We presently aren't doing that,
23 but there's no reason why we couldn't. If you
24 understand and have the knowledge, you have power in
25 this industry. And that, again, is what TFM sells on.

1 We sell on our capabilities to help the customer and
2 have a very high purity product that allows us to do
3 these things.

4 I did mention -- yeah, I want to talk about
5 the liquid versus solid comment here. We do sell most
6 of our products as a solid because we can spray dry
7 them. When you have a highly purified product it's
8 quite easy to spray dry this material, it's very
9 efficient. If you have a less pure product, it's more
10 difficult because the impurities will give you
11 problems.

12 So optical brightener usage is actually
13 quite a critical factor in paper mills. For example,
14 it's often times much less expensive for a mill to
15 basically dye the paper white than it is to bleach the
16 paper white. Bleaching can involve chlorine and
17 there's always been concerns about dioxins and bi-
18 products from bleaching. So the mills are very happy
19 to dye it white if they can. But there's only a
20 certain amount of whitening that you can get.

21 In the real world, I go into a paper mill
22 and I'll have the -- the mill manager says, geez, I
23 need to get 12 points of brightness. And I'm likely
24 to say, you know, I'd like to help you but every day,
25 day in and day out, you've got enough process

1 variability that for me to promise you more than 10
2 points, I would be lying. And in order to get that 10
3 points all the time, everything has to sing. I mean
4 the stars have to be in alignment.

5 If I need to make that 10 points and maybe
6 push a little and I have a less pure brightener, I'm
7 not going to get it. And that customer is not going
8 to be happy because he needs that. The cost
9 differential is substantial.

10 I mean I ran a trial here not very long ago
11 where the paper mill -- the paper mill got additional
12 brightness by using the optical brightener. And they
13 bought brightener because it was cheaper than
14 bleaching. The paper mill didn't get to take the
15 savings, the pulp mill did. They used less
16 chlorinedioxide and so they came at it from the other
17 direction. So it was a big savings to the mill.

18 I had not even thought of that. I was
19 assuming the paper mill would take those advantages
20 and put it in the bank.

21 Anyway, over time, as I said, it was a point
22 of pride at Ciba that we had the best brightener. And
23 Ciba does still make a very good product. I observed
24 that there was a rather large margin, and like I said,
25 I began to attribute that to the purity advantage. So

1 a paper maker who wants to make the absolute highest
2 brightness and is challenged -- I mean if you ever go
3 to a paper mill, those guys are really clever. I mean
4 to take what they do and make bright paper, they are
5 really clever artisans.

6 So to give them a tool to make their product
7 better and have it perform in the market place the way
8 they would like is just a huge benefit for them.
9 Absolutely a huge benefit.

10 So -- and understanding that there's --
11 there is a limit as to how much optical brightener you
12 can have, I said high -- the high level is about 10
13 points of theoretical brightness, there is a sweet
14 spot, you know. It doesn't -- it doesn't keep getting
15 brighter and brighter. I mean I had one paper mill
16 manager who complained to me, he says I'm adding
17 almost 40 pounds per ton of your material and I'm not
18 getting any brighter. And then I said, John, in order
19 for you to get that kind of brightness with what
20 you're using, we'd have to move the plan up to
21 Beetlejuice because there's no more UV.

22 The way optical brighteners work is it's
23 sunscreen for paper. It absorbs UV and it spits out
24 blue light. If there's no more UV you're not going to
25 get that performance advantage. Now if you're taking

1 a 90 percent pure optical brightener and that 10
2 percent is sitting there absorbing UV because it's
3 only a certain amount and only 90 percent of it's
4 working for you you're going to be at a disadvantage.
5 Take 98 percent of that optical brightener now working
6 for you, that's a plus. All of it is working for you.
7 And that's where TFM sells. We've done very well with
8 that.

9 Since there are fewer impurities in our optical
10 brightener, our optical brighteners, we expect, to
11 respond better, and more effectively at lower doses,
12 and what it does is it gives the mill more latitude to
13 accommodate the other process variables that they
14 encounter, or in the case of color loss, which is a
15 very challenging grade for most people, and as I think
16 the Clariant folks mentioned.

17 Clariant is a big development. It is
18 difficult because the way that you make according to
19 the Hercules patent, the way that you make color loss
20 is you add calcium chloride, and calcium chloride is
21 dull.

22 So to get the performance of color lock, you
23 are adding a dulling agent. That is one of the places
24 that we have done very well, because our product is
25 better. It responds better. I want to talk a little

1 bit about marketing, and I will sneak back to the lock
2 here in a bit.

3 Paper mills have really diversified their
4 optical brightener sourcing as a response to several
5 factors, and those factors are independent of the
6 accused imports, particularly TFM. The paper mills
7 have been responding to changes in the marketplace
8 before TFM entered the market, particularly in 2005,
9 International Paper decided I think that is a good
10 marketing idea.

11 We are going to try and chase a lot of these
12 guys out of the business that can't make this higher
13 brightness of paper as we can, and we want to
14 consolidate our position. So they raised the
15 brightness suddenly.

16 I mean, they announced that we are going up
17 from 88 to 92. That is going to be the new standard.
18 It was really interesting to be in the business at
19 that time to watch the mad scramble for everybody else
20 to try to obtain supplies.

21 And the reason that I mention that is
22 because International Paper at that time had
23 principally contracted with Clariant for their optical
24 brightener business. Clariant did very well during
25 this time.

1 I had people calling me. I mean, it was a
2 sales guy's dream. People were coming out of the
3 woodwork looking for -- I mean, people who would not
4 have talked to you six months earlier, hello, hello.
5 I mean, they were very interested, any way, any how,
6 any shape, any form. People would try just about
7 anything.

8 They had to be there. International Paper
9 moves and shakes the market. So in 2005, we got this
10 big change. So, suddenly everybody is selling a lot
11 more optical brightener, and things are just trying to
12 quiet down, and get stable, and supplies are in a
13 pretty good shape.

14 And in 2008 Olympics hits, and that is when
15 the Chinese decided that we can't have people making
16 as much DAS, because we have got to take care of the
17 air quality in Beijing, and that really threw a rock
18 in the pond.

19 I thought that it threw a
20 rock in the pond. My customers thought that it threw
21 a rock in the pond. So that DAS shortage -- and DAS
22 is dinostillbene, that is really the core raw material
23 produced in China, and in India to some extent, and
24 most all optical brightener manufacturers, including
25 Clariant and 3V, rely on for their supply.

1 As I said, Ceba still makes their own DAS,
2 and MacIntosh. I don't know if that has changed, but
3 anyway, that was a really significant disruption, and
4 then it caused an immediate disruption of DAS, and
5 most suppliers could not provide enough material.

6 And some of those people to our knowledge
7 were Clariant and 3V. TFM did come into the business
8 actively at that time. We were drawn in. There was a
9 market need. So the people that we supplied when
10 others couldn't find themselves using a product which
11 is quite superior to what they have been using
12 previously.

13 The normal response of that customer is
14 going to want to stay with that better material. I
15 mean, if you are going to have a choice of driving
16 around in a Yugo versus a Lexus, you are going to take
17 the Lexus. So that is kind of normal.

18 And there is some degree of loyalty. If you
19 help somebody, they typically remember that. The
20 paper industry is a pretty closed market in that way
21 because everybody knows everybody and favors are
22 remembered.

23 Anyway, this event really drew the paper
24 companies into looking more and more globally for
25 supplying the domestic business. Most all of the

1 suppliers, most of the big companies, like Boise,
2 Georgia Specific, IP, already had had an international
3 sourcing effort going on. This redoubled their
4 efforts.

5 So in summary the 2005 and 2008 events
6 really as I described were really market driven
7 events. It forced paper companies to go to Asia for
8 their OBA sourcing. It was a cautious and responsive
9 decision of the mills, and as a cause, and not as a
10 result, of more imports being brought into the U.S.
11 market.

12 Prior to these events of 2005 and 1008, I
13 never really saw imports. Pricing wise, TFM's prices
14 really never undercut the domestic prices of Clariant
15 and 3V. I want to contrast that. In my 20 years if
16 being in this business, 3V and Clariant have always
17 been the market disrupters.

18 I mean, I was always responding to a
19 competitive threat from Clariant when I was handling
20 the business on the West Coast. I in fact developed
21 new markets for optical brighteners, and new
22 applications just to keep my business away from them,
23 because they would always show up within 6 months, 9
24 months, and say I will offer you material for a few
25 pennies a pound less.

1 I mean, that was to me was the market
2 strategy that was being driven, and because they were
3 importing the low price DAS from China before anyone
4 else -- and I was with Ciba at the time -- they had a
5 better position. I had to sell under quality. I sold
6 under quality of the Ciba material.

7 So I also remind people that in response to
8 the Clariant and 3V pricing that Ciba actually as we
9 know now is part of BSF, filed a petition to seek
10 relief against dumped imports of DAS. So it is kind
11 of an interesting change in the past few years.

12 And I would also like to note that
13 discussing pricing with some of the paper mills, I
14 have had several customers very recently inform me
15 that our prices are actually quite a bit higher than
16 Clariant's and TFM's. I mean, of Clariant's and 3V's.
17 The TFM prices are actually higher.

18 And as an example, I mean, right now there
19 is a couple of customers that we know of that it is 10
20 percent less. I am not going to disclose who. In
21 fact, in the fourth quarter of 2010, we were told that
22 it was between 5 and 10 percent lower than our price.

23 Anyway, optical brightener demand is
24 continuing to grow. I mean, since IP started this in
25 2005, the brightness levels are continuing to rise,

1 and while they rise, there is an increasing focus on
2 more recycled content, which is inefficient with
3 optical brightener.

4 So more optical brightener is used as a
5 function of more recycled content, and as I said, the
6 high bright color lock technology is now having, I
7 think, a very positive impact on the OBA growth
8 domestically.

9 So the non-traditional markets are also
10 growing. I mean, as I mentioned, the hundred percent
11 recycled fiber, I just spent some time with a mill
12 trying to develop a 96 bright, hundred percent
13 recycled grade, and they marketed it as ecologically
14 friendly, and we did it. We did it. We did it in
15 spades. We did it like 97.

16 So that is a market driver. There is a
17 demand for that type of paper; high bright, color
18 lock, and recycled. Technically, we can do that. We
19 have the purities that allow us to do that. So for
20 such challenging grades of paper, the optical
21 brightener price is going to be less important than
22 the purity, because the purity is what allows the
23 manufacturer to make the grade and be in the market
24 that they want.

25 In conclusion, given the conditions that

1 exist now, and actually during the recent past five
2 years, success will favor the optical brightener
3 supplier who supplies a higher purity brightener that
4 is needed in the changing market place today. I thank
5 you for your attention, and I welcome your questions.

6 MR. HUANG: I just would like to make some
7 more points, and TFM's gross relies on customer's
8 trust, and eventually they feel comfortable with the
9 quality, the constant quality, and especially during
10 2008, we were able to help customers with the
11 difficulty that they might have.

12 They had problems getting enough material
13 delivered to their paper machines to make the grade,
14 and during that time, we secured our supply to our
15 customers under contract, and we also opened up to
16 some customers who might order one truck, or two
17 trucks, and we shipped that.

18 We don't care who they contract with because
19 they are not only our customer, and if they have a
20 problem there, we just do our best to helping out,
21 because paper machines cannot run without this
22 chemical, and then they will lose big money, and then
23 they get into a problem.

24 And like Dr. Nelson said, that after they
25 use our product, they understand about what we have

1 and talking about the quality, and they actually see
2 the difference before using our product and after.

3 So I would think that we are not coming here
4 to cut our price, and ship product to a customer. We
5 provide a good quality product, and we want to save
6 our customers overall costs. Like Dr. Nelson said, it
7 can be from the usage of the stillbenic and the same
8 grade.

9 And many of our customers have successfully
10 seen the improvement by that, and even so they keep
11 telling us someone lower the price by so much, but we
12 always talk to them about the savings that they have
13 seen, and they normally just stop talking about it and
14 keep using our product, because it is quality
15 consistent, and also we provide the service that our
16 customers need.

17 We help the customer to optimize their
18 usage. We are not only a company that tries to sell
19 as much as we can for these customers, but actually we
20 help many of our customers to use less. So I think
21 that this is really the point of why we can go in the
22 market, and even many of our own customers refer us to
23 other customers, and not that we contact them by
24 ourselves.

25 And it is because of our reputation and that

1 we want to establish in the market, and we also
2 understand that there is a challenge in making
3 difficult grades, and fortunately with our product,
4 most of our customers can achieve their target, and
5 they feel satisfied with the performance. So I think
6 that quality and service are our main focus, and not
7 the pricing. Thank you so much.

8 MR. KOENIG: That completes our
9 presentation.

10 MS. DEFILIPPO: Thank you very much, Mr.
11 Koenig, and thank you Dr. Nelson and Mr. Huang for
12 coming today to testify. As I think the panel
13 demonstrated, some of us are not the most well versed
14 in the chemical industry, and it has been very helpful
15 having people here explain it to us. So with that, I
16 will turn to one who does know chemicals, and that is
17 Ms. Trainor. Any questions for this panel?

18 MS. TRAINOR: Yes, I do have questions for
19 this panel. I am Cynthia Trainor, of the Office of
20 Investigations. This question is for Dr. Nelson.
21 Forgive me, but I am coming off of a very bad cold.
22 You said that in about 2005, if I wrote this
23 correctly, paper mills diversified their sources
24 independent of imports. Is that a correct statement?

25 And for what reasons would they have

1 diversified their sources since we heard testimony
2 from the Petitioners that companies tended to stay
3 with a sole source of supply?

4 DR. NELSON: Actually, in 2005, when IP
5 raised the brightness standard --

6 MS. TRAINOR: That was going to be my
7 followup question to that.

8 MR. NELSON: That's what it was. I mean, to
9 go from 88 to 92 brightness requires a lot of optical
10 brightener, particularly if you are not brightener,
11 particularly if you are not bleaching all that much.

12 Optical brightener has a dose response. I
13 mean, it is easy to make 92 brightness if you pulp
14 mill is bleaching to 90. You are cruising, but if you
15 are making 85, which is where a lot of the technology
16 exists for the pulp mills, it takes seven points of
17 lift to get to 92, versus two points of lift from 90.

18 Most of the American mills are designed to
19 run -- pulp mills are designed to run the 85
20 brightness standard. A lot the big ones in the
21 northwest are hard pressed to make 85 on a regular
22 basis.

23 And to make it a higher brightness requires
24 a lot of chlorine dioxide, but that was the seminal
25 event in 2005 that caused that change. People were

1 trying to get brightener wherever they could.

2 MS. TRAINOR: Okay. I was trying to make
3 that correlation and you made it for me. Am I right
4 to assume then that TFM, either here or -- well, not
5 here, but in Taiwan, do you make your own TAS, or what
6 is your source of TAS, and if you can't answer that
7 publicly, would you please put it in your post-
8 conference brief.

9 DR. NELSON: Yes, we will do that.

10 MS. TRAINOR: Thank you. I was so focused
11 on the diversification and the sources. You talked
12 about the side press process for applying optical
13 brighteners to papers, specifically at the hexa level.
14 Is it also used for the guy and tetra levels?

15 DR. NELSON: A good question. The hexa is
16 the preferred product for making the highest
17 brightness grade. You can use tetra, and there is a
18 company that has been very successful at using
19 combinations of dye and tetra to make high
20 brightnesses, but I think that was in response to them
21 not having as good a hexa available.

22 So to make the highest grade of white paper,
23 the hexa is going to be the product of choice. You
24 may use it in combination with tetra to the sized
25 press, but generally you can't use the disulfonate at

1 the sized press because if you use starch, you start
2 getting interactions, and the viscosity goes infinite.

3 If you use a non-starch base carrier at the
4 size press, you can in fact disulfonate at the sized
5 press, but not very many people would think to try
6 that. And there are disadvantages to doing that
7 anyway, because the disulfonated material doesn't have
8 the light fastness that the tetra does.

9 So if you want a stable high brightness, you
10 want to maximize the use of the tetra and hex size
11 press, and not the disulfonate.

12 MS. TRAINOR: I believe that you just
13 mentioned a company, and I am not asking you to
14 identify that here, uses the tetra and hexa in
15 combination.

16 DR. NELSON: Most people do that.

17 MS. TRAINOR: Okay.

18 DR. NELSON: That is pretty common, because
19 traditionally the hexa had a lower purity aspect to it
20 than the tetra for most suppliers, and so you would
21 try to use -- get as much of your lift as you could
22 with the best product, and that was typically the
23 tetra until TFM showed up with our hexa being about 97
24 plus percent.

25 There were also some cost constraints

1 because there is a cost escalator. Actually, it looks
2 like an inverted parabolic curve. Disulfonate is more
3 expensive than the tetra, and the hexa is more
4 expensive than the tetra. So the curve looks like
5 that.

6 And that relates pretty much
7 to the difficulty of manufacturing and putting in
8 solution. The disulfonated material is very difficult
9 to make as a stable liquid solution, and so leadthon
10 is a biological term, and makedon is what I prefer to
11 express when you take the power material and you make
12 it into a liquid.

13 The disulfonated material is harder. I
14 don't care whose it is. That is the nature of the
15 molecule. It is insoluble, and you use that
16 insolubility in some cases to your advantage, but when
17 you are trying to make a liquid solution it is frankly
18 a pain.

19 Tetra is a piece of cake.
20 The hexa is so soluble that in fact it causes people
21 problems. For example, if you are making a lot of
22 very high bright white paper, and you are using a lot
23 of hexa, and paper machines always recycle a certain
24 amount of their paper because it is called trim.

25 So if you are using a lot of
hexanesulfonate, and it is going back to the wet end,

1 that hexanesulfonate starts impacting the retention
2 program. So you kind of wind down because you need to
3 retain ashe at the same time that you are getting the
4 brightness.

5 So there is strong chemical reasons why you
6 would want to minimize the amount of hexa to only what
7 you really need at the sized press. I'm sorry for
8 getting carried away there.

9 MS. TRAINOR: And I don't know if it is Mr.
10 Huang or Mr. Nelson, whoever is more appropriate to
11 answer this, but Mr. Nelson stated it that the optical
12 brightener demand continues to grow with the high
13 bright color block, and recycle technology having a
14 huge impact on the market.

15 Is there any particular segments though
16 showing a greater growth than others? I hate to keep
17 going back to coated paper, but coated paper versus
18 non-coated paper, or is this something that you can
19 discuss publicly, or if not --

20 DR. NELSON: I think so. I will try it. I
21 can talk about this a little bit or he chime in. The
22 color lock is typically a printing and writing type
23 thing. It is used for -- well, what it does is that
24 it allows ink jet printing to work very well.

25 All it does is that you have calcium in the

1 sheet, and it basically pigments the dyes and the ink
2 jet printing very quickly and very sharply. So that
3 makes for a sharper printing image. And that is how
4 that technology works.

5 So if you wanted a very bright color lock,
6 you have got to remember that you are adding a dulling
7 agent to the paper, and so the way to make color lock
8 is to use hexasulfonate. We have the best purity
9 there.

10 So we are enjoying some good business there
11 with hexasulfonate and color lock rate. We can do it
12 also in some of the lower grades with the tetra
13 because tetra is so pure. Purity really starts
14 making an impact as you start making more challenging
15 grades of paper.

16 If you are just making bread and butter 90,
17 92 brightness paper, it is pretty simple to use
18 anybody's stuff, but when you start making the higher
19 demanding grades, that is where purity really starts
20 to make a difference, and that is where we are.

21 MS. TRAINOR: Okay. I think that is all the
22 questions that I have for now.

23 MS. DEFILIPPO: Thank you, Ms. Trainor. Mr.
24 Benedick, do you have any questions for the panel?

25 MR. BENEDICK: Yes, these can be addressed

1 to either Mr. Huang or Mr. Nelson.

2 Dr. Nelson and Mr. Huang, I wonder if you
3 could comment here or in your post-conference brief on
4 three inconsistencies between the Petitioner's
5 testimony and yours. One is the price difference
6 between the domestic and the imported product from
7 Taiwan.

8 The domestic claim that your prices are
9 lower, and you assert their prices are lower than
10 yours. So if you could at least comment on that in
11 the post-conference brief. Another inconsistency was
12 with respect to shortage. They said that there was no
13 shortage of CSOBA, and yet you assert there was, and
14 that is what brought Taiwan into the market in 2008.

15 And the third one was purity. You testified
16 that everyone uses the same process. They take out
17 the sodium chloride, and everyone is comparable. You
18 have raised some issues on purity other than sodium
19 chloride. Again, if you could address the difference
20 between them and you that would be helpful.

21 Now, let me ask you. How do you all react
22 to a lower price quote? You had just indicated
23 towards the end of 2010 that you were told that
24 Clariant's prices were six percent lower than yours.
25 Do you try to meet that price?

1 MR. HUANG: No, because we sell by quality,
2 and we try to convince the customer with our product
3 that you are saying this more from the price
4 difference that you perhaps are seeing now. So like
5 one example, a customer saves 20 percent of usage. If
6 you consider the 20 percent usage saving into the
7 pricing, I don't think anybody can beat it.

8 But we are more focused on the overall cost
9 that the customer would have, and not only the usage
10 of the product itself, but other chemicals. So
11 normally we do whatever we can, but we really do not
12 push very hard in order to earn a single business,
13 because we try to let customers understand that it is
14 not only the product, it is also what we can support.

15 MR. BENEDICK: So you are selling service
16 product purity as well?

17 MR. HUANG: Yes.

18 MR. BENEDICK: And you feel like you get a
19 payback and your prices cover that, and is that why
20 you feel like your prices are higher than Clariant or
21 maybe 3D?

22 MR. HUANG: For most of the situations, we
23 were informed by the customer that there is a lower
24 price than yours, and if the customer -- there is two
25 types of customers. The first type is the purchasing

1 people look at the price difference and decide which
2 one to do.

3 The second one is that they take your
4 advice, and they try it, and in the end, they compare
5 it, the trial and the price. And for some situations,
6 if the purchasing people pretty much look at the
7 pricing, then we still convince them to understand the
8 product difference.

9 But we don't want to do something to miss
10 out on the market, because it a non-gain situation.
11 You lost your margin, and they lost your margin and
12 who wins? What we try to do is we convince customers
13 from the purity and our service.

14 There is a reason why we grow after 2008,
15 after the shortage, when more and more customers use
16 our product, and understand the difference between our
17 product and other's products. Then they can make a
18 very fair comparison, and not only based on the price.

19 MR. BENEDICK: So is there an advantage to
20 your customers using your product versus Clariant's,
21 and that to achieve a certain level of brightness
22 using your product, they can use less CSOBA than they
23 can for, let's say, Clariant?

24 MR. HUANG: Yes.

25 MR. BENEDICK: Okay.

1 DR. NELSON: There is a pretty substantial
2 difference actually. If you look just at the purity
3 differences, often time the differences are 15 to 20
4 percent in terms of the usage, and it relates directly
5 to the purity. I don't know if I would put an R-
6 squared on it of one, but it is very strongly
7 dependent on the purity.

8 MR. BENEDICK: Thank you for that. This is
9 again a little bit of my ignorance on the chemistry
10 here, and so I will ask Dr. Nelson. Are CSOBAs used
11 in pulp mills as well as the paper mills?

12 DR. NELSON: In some places they are.

13 MR. BENEDICK: To bring up the whiteness of
14 the pulp?

15 DR. NELSON: Absolutely.

16 MR. BENEDICK: Okay. Now I have a few
17 questions that I asked the Petitioners earlier, and I
18 would like to go over it with you all. Would you
19 describe consolidation in the U.S. paper industry
20 during the POI, and how has this affected competition
21 amongst suppliers of the U.S. market, and how it has
22 affected prices and quantities in the U.S. market?

23 DR. NELSON: There has been a fair bit of --
24 are you talking about consolidation of the suppliers,
25 or of the --

1 MR. BENEDICK: No, of the paper, within the
2 paper producers.

3 DR. NELSON: Paper producers? Well, the
4 reason that I asked that is because there has been a
5 consolidation in both over the past several years.

6 MR. BENEDICK: You mean pulp mills as well
7 as paper producing mills?

8 DR. NELSON: Absolutely. I know actually
9 suppliers of CSOBA. I mean, the BASF mill owns what
10 was Ciba before.

11 MR. BENEDICK: Well, I am here just focused
12 on the paper producers.

13 DR. NELSON: So, paper producers? Yes.
14 There has been a lot of consolidation, and a lot of it
15 has been driven by the changes in newsprint, for
16 example. Everyone knows the -- well, if you look at
17 the USA Today now versus seven years ago, it is hardly
18 a shell of itself.

19 There is more things on-line, and so
20 newsprint has suffered quite a bit. Printing and
21 writing I think has pretty much held its own after
22 some bumps. Coated paper has gone down, too, but it
23 has kind of leveled off. Magazines are still popular.

24 MR. BENEDICK: Okay. So would that affect
25 the trend line of demand growth? Would growth be --

1 and this would be demand for CSOBAs. Would the growth
2 for CSOBAs be muted be cause of that, or were there
3 other developments like color lock, increasing the
4 brightness of the paper over time?

5 DR. NELSON: I think the curve -- if I were
6 to graph it, I would say the curve is at the very
7 worst flat or slightly above because of the brightness
8 increases.

9 MR. BENEDICK: Thank you. Okay. How did
10 the U.S. recession affect demand for CSOBAs in the
11 U.S. market?

12 DR. NELSON: I would have to speak more from
13 a regional aspect there than a national aspect, and I
14 am speaking originally about the northwest. Actually,
15 a couple of the companies that I know well did better
16 in the recession than they are doing right now.

17 MR. BENEDICK: Why are they countercyclical?

18 DR. NELSON: I think they were selling more
19 paper overseas.

20 MR. BENEDICK: Oh, export?

21 DR. NELSON: Yes. And so that's why I think
22 the northwest is probably not -- and I will defer to
23 someone else on that, but I was strongly involved
24 there, and the northwest was ideally set up to export
25 to Asia and Australia. So they did very well during

1 the recession.

2 MR. BENEDICK: Well, looking at Commerce's
3 data on shipments for the paper industry, it did go
4 down for a period in 2008, and it has pretty much
5 recovered by now. So how did the recession affect
6 paper, the demand for paper?

7 DR. NELSON: I still think that newsprint
8 and advertising would have been lower and would have
9 borne the greater brunt of that.

10 MR. BENEDICK: All right.

11 DR. NELSON: So advertising. There was also
12 during that period of time a decrease or an increase
13 in the interest in -- for example, a lot of the coated
14 paper is annual reports and things of that nature.

15 So there was a lot of stuff like that that
16 went on-line, and so I think those -- I would probably
17 say those are independent of the recession though.
18 That is probably a market trend versus actually a
19 cause and effect of the recession.

20 MR. BENEDICK: Okay. And I think that you
21 discussed with this color lock, that that would be the
22 new paper grade development that is occurring in the
23 market?

24 DR. NELSON: Right.

25 MR. BENEDICK: And that has promoted more

1 sales on CSOBAs?

2 DR. NELSON: Yes. It has to, because in
3 order to get the same brightness, you are adding a
4 dulling agent.

5 MR. BENEDICK: Calcium, yes.

6 DR. NELSON: Yes, calcium, which has an
7 infinity for fiber, and it dulls, and then you
8 basically have to get it back, and then try to go
9 above that if you want the higher brightness. So it
10 has been substantial.

11 MR. BENEDICK: But the calcium will help the
12 ink jet printers?

13 DR. NELSON: Yes, absolutely. There is
14 several divalent where that won't work, in calcium,
15 and magnesium, and all these different -- and
16 citrates, and carbonate. Well, not carbonate, but
17 chlorides, and bromides. I mean, they have patented a
18 whole range, but in the real world the ones that work
19 right now are the chlorides, and people are using that
20 because it is very inexpensive.

21 MR. BENEDICK: Right. Well, thank you very
22 much. That is all the questions that I have.

23 MS. DEFILIPPO: Thank you, Mr. Benedick.
24 Ms. Larsen, do you have any questions for this panel?

25 MS. LARSEN: Good afternoon. Amy Larsen

1 from the Office of Economics. I just have one real
2 quick question, and kind of a followup from what you
3 already mentioned with the technical support, and the
4 question was already asked to the Petitioners.

5 What kind of technical support are you guys
6 actually offering to the paper mills? Are you guys
7 going in there and being in consultation about how
8 your product can improve their process or what?

9 DR. NELSON: Yes. Actually, I can give you
10 an example. Over a week ago, I was spending extensive
11 time in a mill helping them develop a new grade
12 completely from ground zero. New business for them,
13 and they got an inquiry. How do we do this. So I
14 spent a lot of time working with them on actually how
15 to make the grade, and then making it happen.

16 That is one extreme. The other will be that
17 I will show up at a mill and work with either the
18 technical or the mill manager as to how to improve the
19 use of his optical brightener. We still optimize
20 material, our process, even though they have been
21 using it for a while.

22 If we go in and we see opportunities to
23 improve that is part of our charge, is to tell them
24 how to do that. I will be working with another mill
25 who came to me with a problem in reversion.

1 Reversion is when the sheet goes yellow,
2 like when you used to sit the newspaper outside, and
3 it would go yellow. That is reversion. They want to
4 stop that because they want to be selling their paper
5 for advertising, and they want it to last a little bit
6 longer than say the two or three days. So they want
7 help there.

8 And you can do that using an optical
9 brightener, because there is two mechanisms that cause
10 that reversion. One is thermal, and one is
11 ultraviolet. Well, optimal brighteners is about the
12 cheapest ultraviolet absorber and sun screen that is
13 going to help you.

14 So a little bit of optical brightener goes a
15 long way to that. So it is a very wide ranging charge
16 that I have, and that's why I said yes, and it
17 depends.

18 MS. LARSEN: Are these kind of home visits
19 common, or is your firm one of only a few around that
20 do these kind of technical support questions?

21 DR. NELSON: Now it is unusual because over
22 the years other manufacturers have really pulled in
23 their technical support levels, and TFM has actually
24 gone against the grain if you will by actually
25 focusing on offering technical support and help like

1 that.

2 Whereas, most of the other manufacturers have really
3 diminished that.

4 MS. LARSEN: Thank you very much. I have no
5 further questions.

6 MS. DEFILIPPO: Thank you, Ms. Larsen. Mr.
7 Yost, questions for this panel?

8 MR. YOST: I am still learning about
9 chemistry. Thank you. I would like to join my co-
10 workers and colleagues in welcoming you to this panel.
11 I do have a question. You were just discussing with
12 Ms. Larsen the technical service.

13 Are the charges or the costs of technical
14 service built into the price of the product, or are
15 these charged separately, or is this just the cost of
16 doing business? And if this is confidential, you can
17 please answer in your post-conference.

18 MR. HUANG: Yes, we would prefer to brief it
19 in the post-conference information. Thank you.

20 MR. YOST: Thank you very much, and I have
21 no further questions.

22 MS. DEFILIPPO: Thank you, Mr. Yost. Mr.
23 Stone, questions for this panel?

24 MR. STONE: Philip Stone, Office of
25 Industries. Dr. Nelson, if possible, can you explain

1 how TFM -- how they achieve a higher purity than the
2 domestic manufacturers?

3 DR. NELSON: I would actually love to,
4 except that is probably something that I shouldn't,
5 and that would be something that we would talk about
6 in the confidential record. Most of the people who
7 know me, know that I would love to talk about that.

8 MR. STONE: Thank you. I have no further
9 questions.

10 MS. DEFILIPPO: Thank you, Mr. Stone. Mr.
11 Fishberg.

12 MR. FISHBERG: David Fishberg from the
13 Office of the General Counsel. I would like to thank
14 this panel for their testimony. Most of my questions
15 are sort of legal in nature, and so I will run through
16 them because I know that everyone is enjoying this
17 discussion on chemistry more than the legal side of
18 things.

19 So, Mr. Koenig, you can feel free to respond
20 to these in your post-conference brief, unless you
21 really feel the need to comment on them now. I will
22 be happy to hear your answer.

23 DR. NELSON: Mr. Fishberg, I need to tell
24 you that sometimes I have a saying that I only solve
25 additions of two plus, or addition problems, which is

1 a very arcane subject.

2 MR. FISHBERG: All right. Well, Mr. Koenig,
3 this is going to domestic like product, and I was just
4 wondering again, and you can put all this stuff in
5 your post-conference brief, but how would you define a
6 domestic like product for purposes of this preliminary
7 investigation.

8 And if you disagree with the position that
9 the Petitioners have taken, please discuss that in
10 your post-conference brief.

11 MR. KOENIG: We will mainly discuss it in
12 our post-conference brief. We think that the
13 Petitioners have too narrowly defined the domestic
14 like product, including from the past Commission
15 precedent, and it should be broader.

16 But we think that there are other reasons
17 why this case should terminate now based on the fact
18 that quality is the reason that TFM is getting the
19 sales, and the fact that producers want more supply
20 sources for reliability. So we will address like
21 product in our post-conference, unless someone wants
22 to say something about that now.

23 MR. FISHBERG: Okay. That would be great.
24 On the issue of accumulation, if you are going to I
25 guess challenge accumulation in this case, please

1 describe why you think that subject imports should not
2 be accumulated for purposes of this preliminary
3 investigation.

4 MR. KOENIG: Right. We don't believe that
5 Taiwan and China should be accumulated, and we can
6 deal with that in the post-conference brief. I think
7 that you have probably already heard some reasons why
8 Taiwan is unique as far as the quality of product it
9 provides. And I don't think that they even compete
10 with China in the market is my understanding.

11 MR. HUANG: It is based on the data that you
12 have, and we have very few chances to have head-to-head
13 competition with them, and normally our customers,
14 they won't tell who is the competition, and we only
15 understand those domestic users and the competition,
16 and then we really have no idea. We just do what we
17 can do, because based on the data, you can tell that
18 it is very few imported products from China during
19 this period of time.

20 And even with this activity, we cannot find
21 it now because we are isolated in Taiwan. We have no
22 connection with those producers in China, and we don't
23 know what is their activity.

24 MR. FISHBERG: And I guess a followup
25 question to that is, Dr. Nelson, when you are talking

1 about the higher quality, you are talking about TFM's
2 specifically? Do you have any information on the
3 quality or quality for Chinese product at all?

4 DR. NELSON: I have seen some things, but
5 nothing that I would really hang my hat on. If you
6 have a source, I would like to take a look at it.

7 MR. FISHBERG: Okay. So you haven't heard
8 that the Chinese product, in terms of a range of
9 quality, you don't know whether the Chinese product is
10 -- what their purity levels might be?

11 MR. HUANG: Yes, because there are so many
12 Chinese producers in China, we don't know what the
13 average quality is that the producer makes in China.
14 It is very hard, and it is also batch by batch. They
15 can make a good batch this time, and they can make a
16 poor batch the next time.

17 So unfortunately we don't have any data
18 which we can provide to you from our end, because it
19 is not easy to have accurate data to present to you
20 for a reference. So we have to apologize here.

21 MR. FISHBERG: But when you are talking to
22 your customers the main feedback that you receive from
23 a customer is that you are competing with U.S.
24 product, and the Chinese product is rarely mentioned
25 in this equation. Is that what you hear?

1 MR. HUANG: This is what we heard. That is
2 what we heard, yes.

3 MR. FISHBERG: Okay. Thank you. I think,
4 Dr. Nelson, I think you mentioned that the shipping
5 the powder product is not a new phenomena, and it has
6 been going on since 1998. In the slides that the
7 Petitioners presented, they showed I think that since
8 2008 the percentage of Taiwanese product that was
9 being shipped, there was a much higher percentage of
10 the powdered product.

11 I guess it went from 22 percent up to 76
12 percent, down to 57 percent in 2010. I guess, first,
13 would you dispute that, and secondly, if not, is there
14 a reason why more and more is being shipped in
15 powdered form?

16 DR. NELSON: I don't have a good answer. I
17 would defer that to Mark.

18 MR. FISHBERG: Well, I know that you have
19 just seen it for the first time today, and so if you
20 do have an argument about that, I would appreciate
21 seeing it in your post-conference brief if you do take
22 issue with the alleged increase in the percentage of
23 shipments in powdered form.

24 MR. HUANG: Sir, actually, I was not
25 involved in the question of data, and so I don't have

1 the number in my mind about what percentage of the
2 powder and liquid, but of course we will work together
3 and review everything, and have all the information in
4 a summary in the post-conference.

5 MR. FISHBERG: Yes, that would be helpful.

6 MR. HUANG: Yes.

7 MR. FISHBERG: And in terms of a past
8 assumption, I think everyone here has seen that there
9 was a drop in 2009. Is it your argument that while
10 there may have been a drop industry-wide, there wasn't
11 a drop for your specific product because it went into
12 sort of a higher -- there was an increase in higher
13 grade paper demand, and therefore the demand for pure
14 product remains strong, whereas for the entire
15 industry, it may have declined, and there is almost
16 like there is sort of a segmentation there? Am I
17 understanding that?

18 DR. NELSON: That's exactly my contention,
19 is that we have a segment in the market, and we are
20 working towards a stronger effect, and so we are
21 looking and that is where we do well. I mean, if we
22 were to go into a -- if we were trying to make 88 or
23 89 brightness, the advantage of our product is going
24 to be lost. You can do that with just about anything.
25 But where we do well is in the more challenging

1 applications.

2 MR. FISHBERG: Okay. Mr. Koenig, if you
3 could just address -- and again here or in your post-
4 conference brief -- conditions of competition that you
5 think are relevant in this market, that would again be
6 helpful.

7 MR. KOENIG: Sure.

8 MR. FISHBERG: And if you would also address
9 the threat of material injury in your post-conference
10 brief that would also be helpful.

11 MR. KOENIG: Okay.

12 MR. FISHBERG: And that is all the questions
13 that I have. I appreciate your testimony and
14 responses today. Thank you.

15 MS. DEFILIPPO: Thank you, Mr. Fishberg. I
16 will now turn to Mr. McClure. Do you have any
17 questions for this panel?

18 MR. MCCLURE: Jim McClure, Office of
19 Investigations. First, thanks for the testimony. I
20 always try to start each day with I am going to learn
21 something new, and all of these enthusiastic chemists,
22 and boy, that is a term for me, have beaten something
23 in to my head.

24 Anyway, you did mention the regional aspect,
25 and I don't know if that was in your sales in the

1 northwest paper mills, and the question would be do
2 you market nationally, and if you want to put that in
3 the post-conference submission, or just that you are
4 in Vancouver, Washington, obviously you are sitting
5 there close to the mills in the northwest.

6 But if you could just provide that
7 information, I would appreciate that. That is really
8 all that I have. All of this discussion though about
9 the paper industry, I, just with other colleagues in
10 the Office of Investigations, we conducted three paper
11 investigations over the last three years.

12 So I really realize the interconnectedness
13 of the various products that we do investigate. It is
14 sort of fascinating. Anyway, thank you for your
15 expertise and all the help that you give us for
16 putting our report together.

17 MS. DEFILIPPO: Thank you, Mr. McClure, and
18 just one quick followup to what Mr. McClure was just
19 asking in terms of the geographical location. I think
20 I heard earlier today from the Petitioners, in either
21 their testimony or in a response, that the product
22 tends to be sold on a delivered basis.

23 So when you are providing some information
24 on sort of the geographical sales market, whether or
25 not you feel that you have any advantage, because you

1 are located there, and it looks like the U.S.
2 producers that are on the East Coast, whether that is
3 also something that is advantageous to you at the end
4 of the day with a delivered price, and are you more
5 competitive because of your location.

6 I don't have any further questions. I
7 believe that Mr. Benedick had one request that he
8 would like to get in.

9 MR. BENEDICK: I would like the Petitioners
10 to, if they could, also comment in their post-
11 conference brief on the three issues that you seem to
12 differ quite a bit with TFM. That would be the
13 pricing and the price differences between the two
14 companies, the shortage issue, and the purity issue.
15 Thank you.

16 MS. DEFILIPPO: Any other questions from the
17 Staff before I thank this panel? Thank you very much,
18 gentlemen. I very much appreciate your time, and all
19 your responses, and all the information that you
20 provided us with. It was very informative and
21 helpful, and with that, I will dismiss you.

22 We do have a third panel that I would like
23 to call up before we get to closing statements, and
24 that will be individuals from the BASF. As a short of
25 housekeeping matter, while we are switching people, I

1 am going to ask the Petitioners.

2 I was going to include this in the
3 transcript as Exhibit 1, unless I hear otherwise. Then
4 I will also put the Respondent's
5 -- TFM's -- chart in as Exhibit 2.

6 Mr. Goldberg, thank you for being patient.
7 We're ready for your presentation.

8 MR. GOLDBERG: Thank you. I'm Steven
9 Goldberg, Vice President of BASF. Mr. Kelly will make
10 his presentation.

11 MR. KELLY: Thank you. Good afternoon. My
12 name is Ted Kelly, and I am the Vice President for
13 Wood and Paper Chemicals for the BASF Corporation, and
14 I have over 20 years of experience in the paper
15 chemical business.

16 In my present role, I am responsible for
17 BASF's entire wet end and paper chemical business in
18 North America, which includes the paper whitener
19 business of the CSOBAs. As you know, BASF neither
20 supports nor opposes the petition at issue.

21 We are present at today's hearing as a
22 member of the domestic industry in order to cooperate
23 with the investigation, and to present our view of
24 important facts that the Commission should determine
25 in determining whether the domestic industry is

1 injured by imports from Taiwan and China.

2 After Clariant, BASF is the second largest
3 producer of OBAs in the U.S. We produce only dye and
4 tetra products in the U.S. We agree that tetra
5 fluorescent brightener 220 is the workhorse compound
6 in the industry. BASF's version of fluorescent
7 brightener 220, tinopal ABP A liquid, comprises about
8 75 percent of our sales in the U.S. market of our
9 whitener sales.

10 BASF's CSOBA business has deteriorated
11 sharply in the U.S. during the period of the
12 investigation. In short, BASF has lost significant
13 sales volume and market share since 2008. Further,
14 during this time period, BASF's unit prices have
15 fallen even though the unit costs have increased.

16 As others have mentioned, OBAs are commodity
17 products. Competition is based primarily on price.
18 Like Clariant, BASF has suffered losses in its dye and
19 tetra OBA sales in the U.S. as a direct result of
20 underselling by foreign manufacturers, principally
21 from Taiwan, but also some from China.

22 The bulk of BASF's lost sales have involved
23 the losses of Tinopal ABP A liquid sales to TFM's
24 fluorescent brightener 220 product, Taflunol UMS.
25 BASF has also lost some sales of its dye product,

1 tinopal HW high concens liquid, to TFM.

2 Our customers tell us repeatedly that
3 Taiwanese and Chinese producers offer comparable
4 products at lower prices, resulting in their awarding
5 contracts to those foreign producers instead of BASF.

6 We have never been told by a customer that
7 our products did not perform. That's important. I
8 cannot go into confidential details in this public
9 hearing, but you will see in the data that we have
10 submitted that BASF has in numerous instances lost
11 sales, including sales with long established
12 customers, based on very low price competing offers by
13 Taiwanese and Chinese producers.

14 Further, like Clariant, BASF has lost the
15 ability to pass price increases for raw material costs
16 on to its customers, on to our customers, as a result
17 of underselling by Taiwanese and Chinese producers.

18 Our customers have plainly told us that they
19 will go to these foreign producers if BASF attempts to
20 raise prices, despite recent increases in raw material
21 costs. BASF also does not believe that other factors,
22 such as non-subject imports, the recession, and
23 secular trends in the paper industry, can explain that
24 injury BASF has suffered in recent years.

25 Non-subject imports are very small, and our

1 customers have not threatened to leave BASF because of
2 competing bids from vendors of non-subject imports.
3 As to the recession, although it was severe, it was
4 also temporary.

5 The paper industry has rebounded over the
6 past year or so, and this has had a favorable effect
7 on the demand for paper chemicals, but BASF has not
8 reaped the benefit of the increased demand in
9 whiteners because the low price subject imports have
10 made it impossible for BASF to win sales or to
11 increase prices as needed to cover its costs, and to
12 recover from the recession.

13 In recent years BASF has also conducted
14 extensive studies of Asian OBA production. These
15 studies have shown three things. First, there is a
16 high and growing production capacity in Taiwan.
17 Second, there are a large number of producers with
18 high production capacity and low capacity utilization
19 in China.

20 And, third, Taiwanese and Chinese producers
21 are making ongoing investments in spray drying
22 capability and efforts to further target overseas
23 markets, such as the U.S. Thus, the threat from
24 Taiwanese and Chinese producers in the U.S. market
25 will only get worse.

1 In light of these trends, BASF continues to
2 closely examine the future of its U.S. OBA business.
3 Like Clariant, BASF has done everything that it can to
4 optimize its production process, including reducing
5 its workforce to the bare minimum necessary to
6 maintain existing production levels.

7 Should BASF continue to lose sales in the
8 U.S. market to low priced imports from Taiwan and
9 China, we may need to consider the extreme step of
10 shutting our production in the U.S. Thank you for the
11 time and I would be happy to answer questions.

12 MS. DEFILIPPO: Thank you, Mr. Kelly. I
13 will look to see if the Staff has questions. Ms.
14 Trainor.

15 MS. TRAINOR: I have no questions for this
16 panel. Thank you for your testimony.

17 MS. DEFILIPPO: Mr. Benedick.

18 MR. BENEDICK: Just one.

19 MS. DEFILIPPO: Sure.

20 MR. BENEDICK: Jerry Benedict, Office of
21 Economics. If you can comment here or in your post-
22 conference brief regarding TFM's discussion on purity
23 and how that relates to the purity of the product that
24 you sell, and whether there are any advantages in
25 terms of the purity, and in terms of competition in

1 the U.S. market.

2 MR. KELLY: Yes, I would first say that I am
3 not a Ph.D. chemist. But I have applied whiteners on
4 a lot of paper machines, and what we have talked about
5 in the industry, and what we have applied in the
6 industry, and the results that we have seen on the
7 paper machines, is all about the percent actives, the
8 strength of the solution.

9 There is a 23 percent active, and 28
10 percent. You know, what is the strength of your
11 product, and those are the results that we have seen
12 bear out on paper machines.

13 MR. BENEDICK: Have your customers ever
14 remarked about the purity of the product?

15 MR. KELLY: No, we have not see that
16 negative effect.

17 MR. BENEDICK: Thank you for your response.
18 No further questions.

19 MS. DEFILIPPO: Thank you, Mr. Benedick.
20 Ms. Larsen.

21 MS. LARSEN: I have no questions.

22 MS. DEFILIPPO: Thank you. Mr. Yost.

23 MR. YOST: I have no questions, but welcome.
24 Thank you.

25 MS. DEFILIPPO: Mr. Stone.

1 MR. STONE: I have no questions.

2 MS. DEFILIPPO: Mr. Fishberg.

3 MR. FISHBERG: Just one quick question.

4 Again, I am Dave Fishberg, Office of the General
5 Counsel. Has BASF seen deterioration in both the
6 volume and the price side of your business, and have
7 you been forced to reduced prices in order to meet a
8 Taiwanese or a Chinese price in order to retain the
9 business? You can either comment now, or --

10 MR. KELLY: Well, yes, yes, yes. The
11 details are in what has been submitted; the pricing,
12 the volume, and by customer detail.

13 MR. FISHBERG: I have no further questions,
14 and again, I appreciate your testimony. Thank you.

15 MS. DEFILIPPO: Mr. McClure.

16 MR. MCCLURE: James McClure, Office of
17 Investigations. Thanks for coming, and it is so
18 useful to have this testimony. I have no questions,
19 but I would like to take note as we draw to a close
20 today that this completes two days, with five separate
21 conferences, and Ms. DeFilippo has chaired four of
22 those, and so I would give her a round of applause for
23 surviving four conferences. Thank you.

24 MS. DEFILIPPO: Thank you, and as I said, at
25 least everything was public so that I didn't have to

1 stress out about messing up in getting confidential
2 information from one mixed up with another.

3 I have no questions at this time. I thank
4 you for coming, and making a statement, and for
5 whatever information you will provide on this, and
6 also thank you for providing information in response
7 to my questionnaire.

8 I know that particularly in a prelim that it
9 is a very short turnaround, and we thank you for
10 providing that. With that, I guess I will ask the
11 parties. The next step is closing statements. Do you
12 all need a few minutes to formulate your thoughts? I
13 will give you four minutes, as it is 4:36. So we will
14 take a four minute break, and we will come back at
15 4:40 for closing statements. Thank you.

16 (Recess.)

17 MS. DEFILIPPO: All right. Welcome back,
18 Mr. Ellis. Seems like it was ages ago that you were
19 here. It has been a long day. But please proceed
20 with your closing statement when you are ready to go.

21 MR. ELLIS: Good afternoon. Thank you for
22 your patience, and for listening to us at the end of
23 an apparently long series of preliminary conferences.
24 I appreciate that. I would like to address a few
25 important points in the closing.

1 First, as you heard from our panel this
2 afternoon, the U.S. industry that produces CSOBAs is
3 certainly suffering material injury, and in fact, it
4 is in a dire financial situation. Prices have
5 declined and income has deteriorated from weak to
6 deeply negative.

7 But even as the U.S. producers have
8 continued to lower their prices, they have lost a
9 significant market share over a very short period of
10 time. Capacity utilization has been disastrous over
11 the period of investigation, and investment plans have
12 been shelved, and employment has been slashed.

13 Second, there is an important condition of
14 competition here, namely despite the extensive
15 discussion of quality that you just heard this
16 afternoon, competition is heavily driven by one
17 factor, and that is price.

18 I would note by the way that as to the
19 quality issue, the test results in that page that you
20 received as Exhibit 2, are -- different test results
21 may be obtained from different samples and different
22 testing, and we have obviously over the years have
23 done
24 -- Clariant has done exhaustive testing, and we will
25 submit on that point as well.

1 But the fact that competition, and that is
2 from the perspective of, and in particular, the
3 customers is driven by price, this fact has
4 exacerbated the injury that the U.S. industry is
5 suffering, and it has strengthened the causal
6 connection between that injury and subject imports.

7 Repeatedly the U.S. industry personnel are
8 confronting competition and losing sales because of
9 the low prices of competing bids from subject
10 merchandise. Another critical condition of
11 competition is the increase in production and
12 exportation of brighteners from Taiwan and China in
13 powder state, which we have heard about extensively
14 today.

15 CSOBAs are produced as a liquid and they are
16 used as a liquid. Nevertheless, the producers are
17 converting their CSOBAs into power for export. They
18 do so for only one reason; to target overseas markets,
19 such as the United States, by reducing their
20 transportation costs.

21 The shift to powder will ensure their access
22 to the U.S. market in ever increasing quantities. As
23 a result, although CSOBA in powder was virtually
24 unheard of just a few years ago, it now represents
25 between 40 and 50 percent of all U.S. imports from

1 China and Taiwan.

2 Third, there is no question but that subject
3 imports are a major cause of injury being suffered by
4 the domestic industry. Certainly they are a cause of
5 material injury, or to use the statutory language, the
6 material injuries suffered by the domestic industry
7 has been "by reason of" the subject imports.

8 This causal connection is evidenced by
9 several factors, the first of which is the massive
10 increase in volume of the subject imports. The
11 increase is not only a share of U.S. domestic
12 consumption and production, but also on an absolute
13 basis over the POI.

14 This in and of itself is quite remarkable,
15 in that these imports increased absolutely even during
16 the severe economic downturn through which the U.S.
17 economy suffered in 2008 and 2009.

18 Then as demand for brighteners began to improve in
19 2010, subject imports continued increasing, capturing
20 the great majority of the increase in demand.

21 As a result the U.S. producers benefitted
22 only slightly from the market improvement in 2010.
23 Further, as shown in the slides earlier this
24 afternoon, which we presented, we have reviewed the
25 import volume statistics very carefully, from which it

1 is clear that import volumes are not accurately
2 reported in the Census HTS database on which the
3 Commission often relies.

4 We provided you with different measures of
5 import volumes based on line item by line item review
6 of the database maintained by CBP, and converted that
7 data to account for importation of CSOBAs in both
8 powder and liquid state.

9 But the key point is this. However
10 measured, the subject imports have been significantly
11 increasing, even if you rely on the unrevised Census
12 data. Nor can it be plausibly argued that such a
13 massive presence of subject imports is required
14 because of insufficient production capacity, or
15 production itself, in the United States.

16 Capacity in the U.S. has been sufficient to
17 meet the domestic demand, and in fact a large portion
18 of U.S. capacity now sits idle, precisely because of
19 the unfair competition from subject imports.

20 The causal connection between the subject
21 imports and the injury is also apparent from the
22 prices at which optical brighteners are being sold in
23 the United States. And unit prices have declined
24 since 2008, and there is a very clear connection
25 between the price decline in the U.S. market and

1 unfair price competition from the subject imports.

2 Although the details are confidential, we
3 ask that you carefully review the quarterly pricing
4 data in the questionnaire responses, which of course
5 you do. In addition, we have submitted evidence of a
6 very large number of instances of lost sales and lost
7 revenues due to import competition.

8 Instances in which the customers have
9 repeatedly emphasized the comparability of the foreign
10 product with the U.S. product, and the importance of
11 price as a factor on which they make their sourcing
12 decisions. Price.

13 Customers have informed U.S. producers that
14 they will lose their business if they cannot reduce
15 their prices to compete with those being offered by
16 the Taiwanese or Chinese imports. And this evidence
17 is supported by general trends in the market, and
18 supported by the industry newsletter, "Paperchem
19 Report", from which some quotes were read earlier by
20 Mr. Golder, and also quoted in our petition. To
21 repeat just one of those quotes, customers "are aware
22 of the pricing offered by Chinese competition, and
23 inevitably use it as leverage."

24 Further, the impact of the increasing volume
25 of imports and price deterioration in the U.S.

1 industry is clear. As I mentioned, capacity
2 utilization has been poor. Prices have declined,
3 despite the strengthening of demand in 2010, as the
4 U.S. paper industry has begun recovering from the
5 recession.

6 Workers have been laid off, and investments
7 postponed or canceled. The bottom line is this.
8 Income levels have been unacceptable throughout the
9 entire POI. The industry simply cannot continue in
10 its current financial condition, and the companies now
11 face very basic decisions regarding the continuing
12 viability of producing CSOBAs in the United States.

13 Fourth, and finally, the subject imports
14 pose a significant threat of material injury in the
15 imminent future. The Taiwanese producer, TFM, is
16 building a new production facility in Taiwan, which is
17 projected to become operational soon, and will
18 obviously increase its capacity.

19 The Taiwanese domestic market for optical
20 brighteners is insignificant, and so the bulk of TFM
21 sales have been directed to the United States. There
22 is no reason to expect that with the expansion of its
23 production capacity this trend will abruptly change in
24 any meaningful way.

25 Moreover, in China, there is significant

1 production capacity that is as yet largely unaccounted
2 for in this investigation. But despite this large
3 capacity, so far the U.S. producers have come across
4 only one Chinese company, Hongda, that has exported
5 meaningful quantities to the U.S.

6 The U.S. industry is justly concerned that
7 they will be swamped with low priced imports when
8 other Chinese producers with known capacities larger
9 than Hongda's, join Hongda in exporting to the U.S.

10 This large capacity is an important factor
11 for the Commission to consider in its threat analysis.
12 At a minimum, it requires further exploration by the
13 Commission in the final phase of this investigation,
14 given the limited data that has been obtained to date
15 from the Chinese industry.

16 Current market conditions reinforce the
17 threat analysis. In late 2010 and early 2011, as we
18 heard, input costs have begun to rise again, and the
19 unfair competition by subject imports is disabling the
20 U.S. industry from increasing prices sufficiently to
21 cover those increasing costs.

22 In addition, as already noted, the Taiwanese
23 and Chinese producers have significantly increased
24 their spray drying capability, another important trend
25 for threat analysis. Their investment in expanding

1 the capability to convert solution to powder signals
2 that they have targeted the overseas markets, and
3 particularly again the United States.

4 In sum, this case presents all the factors
5 for an affirmative determination. It certainly
6 satisfies the statutory threshold for a preliminary
7 phase investigation. Namely, there is a "reasonable
8 indication" that an industry in the U.S. is materially
9 injured, or threatened with material injury, by reason
10 of the subject imports.

11 We therefore request that the Commission
12 issue an affirmative determination and permit this
13 investigation to go forward. Thank you.

14 MS. DEFILIPPO: Thank you very much, Mr.
15 Ellis. Welcome back, Mr. Koenig. Please proceed when
16 you are ready.

17 MR. KOENIG: I am Peter Koenig again for the
18 Taiwan Respondent. Just listening to the testimony
19 today, and just to make sense of it and what it means,
20 several things struck me just based on the testimony
21 by the U.S. producers.

22 One was the number of times that Clariant,
23 all they said was price, price, price. That is all
24 that we compete on. And that is what they do. There
25 was no real mention that they compete on quality.

1 That is revealing to their marketing
2 strategy. Price. Price is everything, and quality is
3 nothing. In BASF's testimony, the other producer, I
4 guess one has to reconcile a position with a
5 statement. BASF's position is that they are neither
6 for nor against this petition, and then one listens to
7 their testimony, and I think that the way that you
8 reconcile those two is the statutory standard for
9 injury.

10 You have to show injury, and you have to
11 show injury to an industry. Now, BASF discussed its
12 situation, but it never discussed whether an industry
13 is injured, and I think the reason why it gets back to
14 Clariant, is that Clariant prices, they sell based on
15 price.

16 What Clariant is doing, it's doing to BASF,
17 too, and that's why in my experience I would guess
18 since BASF's position is that they neither support nor
19 oppose the petition, the reason is because of
20 Clariant.

21 Clariant is the price driver in the market,
22 and therefore, there is not injury to an industry. On
23 the discussion of purity being important to sales, you
24 heard from TFM, the significant importance of purity
25 in detail why it is critical to the paper industry,

1 and what it achieves for the paper industry.

2 I did not hear anything in detail from the
3 other side other than conclusionary and very short
4 remarks. I think that is highly revealing when you
5 get to the level of detail that you heard from our
6 side, and you really hear nothing, except, no, it's
7 not true.

8 And this is the testimony that they are
9 offering today to support their petition. I would
10 have expected a lot more from a Petitioner and its
11 burden to go forward with an investigation on that
12 critical issue, rather than just kind of sluff it off.

13 Finally, I was struck by a quote that Mr.
14 Ellis read in his concluding remarks. He said that
15 even the trade press supports this. But the quote
16 that he read said only China. It did not mention
17 Taiwan.

18 Now, that itself I think, as far as having
19 an impact on the U.S. market, I think that itself is
20 revealing why both China and Taiwan are not competing
21 against each other, and why Taiwan in particular, with
22 its high quality, is just not a factor.

23 The quote he read deliberately excluded
24 Taiwan, and I think that is quite revealing. That is
25 their position. Thank you.

1 MS. DEFILIPPO: Thank you, Mr. Koenig. On
2 behalf of the Commission and the Staff, I would like
3 to thank the witnesses who came here today, as well as
4 counsel, for helping us gain a better understanding of
5 the product, and the conditions of competition in the
6 CSOBA industry.

7 Before concluding, please let me mention a
8 few dates to keep in mind. The deadline of
9 submissions of corrections to the transcript, and for
10 submission of post-conference briefs, is Tuesday,
11 April 26th.

12 If briefs contain business proprietary
13 information, a public version is due on April 27th.
14 The Commission has tentatively scheduled its vote on
15 these investigations for May 16th, and it will report
16 its determinations to the Secretary of the Department
17 of Commerce on May 16th.

18 Commissioners opinions will be transmitted
19 to the Department of Commerce on May 23rd. Again,
20 thank you all for coming, and with that, this
21 conference is adjourned.

22 (Whereupon, at 4:55 p.m., the conference in
23 the above-entitled matter was concluded.)

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Stilbenic Optical
Brightening Agents from China

INVESTIGATION NO.: 731-TA-1186 and 1187

HEARING DATE: April 21, 2011

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

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 21, 2010

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: Tammy Brodsky
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: David Jones
Signature of Court Reporter