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Countervailing Duty Orders:

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Countervailing Duty Orders:

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P R O C E E D I N G S

(9:32 a.m.)

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2
3 CHAIRMAN WILLIAMSON: Good morning. On
4 behalf of the U.S. International Trade Commission I
5 welcome you to this hearing on Investigation Nos.
6 701-TA-365-366 and 731-TA-734-735 (Third Review)
7 involving Certain Pasta From Italy and Turkey.

8 The purpose of these five-year review
9 investigations is to determine whether revocation of
10 the countervailing and antidumping duty orders on
11 certain pasta from Italy and Turkey will be likely to
12 lead to continuation or recurrence of material injury
13 within a reasonable foreseeable time.

14 Schedules setting forth the presentation of
15 this hearing, notices of investigation and transcript
16 order forms are available at the public distribution
17 table. All prepared testimony should be given to the
18 Secretary. Please do not place testimony on the
19 public distribution table.

20 All witnesses must be sworn in by the
21 Secretary before presenting testimony. I understand
22 that parties are aware of the time allocations. Any
23 questions regarding the time allocations should be
24 directed to the Secretary.

25 Speakers are reminded not to refer in their

1 remarks or answers to questions to business
2 proprietary information. Please speak clearly into
3 the microphone and state your name for the record for
4 the benefit of the court reporter. If you will be
5 submitting documents that contain information you wish
6 classified as business confidential, your requests
7 should comply with Commission Rule 201.6.

8 Before we begin, Commissioner Johanson has
9 asked me to let you know that while he's unable to
10 attend the hearing today, he will have the full
11 transcript of today's proceedings and access to the
12 record and will be reviewing it carefully. And
13 Commissioner Broadbent will be with us shortly.

14 Okay. Mr. Secretary, are there any
15 preliminary matters?

16 MR. BISHOP: Mr. Chairman, I would note that
17 all witnesses for today's hearing have been sworn.

18 (Witnesses sworn.)

19 MR. BISHOP: There are no other preliminary
20 matters.

21 CHAIRMAN WILLIAMSON: Okay. Let's begin.

22 MR. BISHOP: Opening remarks on behalf of
23 those in support of continuation of the orders will be
24 by Paul C. Rosenthal, Kelley Drye & Warren.

25 CHAIRMAN WILLIAMSON: Welcome, Mr.

1 Rosenthal. You may begin when you're ready.

2 MR. ROSENTHAL: Good morning. Thank you,
3 Mr. Chairman and members of the Commission. I'm Paul
4 Rosenthal of Kelley Drye & Warren representing the
5 domestic pasta industry in this case.

6 The domestic industry will focus its
7 testimony this morning on what has changed and what
8 has not changed, and of course we will focus on where
9 the Commission ought to be focusing, and that is what
10 will happen in the future if the antidumping and
11 countervailing duty orders are revoked.

12 Many of the essential facts that were
13 discussed during the previous review remain the same.

14 One thing that hasn't changed since the last review
15 or since time immemorial is that the recipe for pasta
16 is still semolina and water. I say this seriously to
17 highlight the various claims made by the Respondents
18 that their pasta was so different from U.S. pasta that
19 it did not compete with the U.S. industry.

20 In the original investigation in this
21 product and since, Italian representatives have argued
22 that their product is higher quality than U.S.
23 product. They have claimed variously that because
24 they use different dies, different water or different
25 production techniques that their products didn't

1 compete with the U.S. product. Or, having failed to
2 differentiate on physical characteristics, that their
3 product still tasted better.

4 The Turkish representatives made the
5 opposite claim. Their semolina and water combination
6 was inferior to the U.S. and Italian pasta and so did
7 not compete with the others.

8 As you know, objective taste comparisons,
9 market studies and other evidence submitted to the
10 Commission in the original investigation and
11 subsequently show that the American products compare
12 well with the Italian and Turkish competitors. That
13 is no surprise because the industries in these three
14 countries use equipment from the same manufacturers,
15 source wheat from the same sources and same areas and
16 use the same production techniques.

17 It is true that a few companies spend money
18 on creating brand images trying to develop a mystique,
19 but corporate customers and consumers know that most
20 pasta is pretty much the same. You can put lipstick
21 on a pig and pomodoro on some pasta, but you're still
22 not going to change the underlying product. As a
23 result, almost all pasta is sold based on price. That
24 was true during the original investigation and that
25 fundamental fact has not changed.

1 Respondents point to the changing corporate
2 ownership in the domestic pasta industry and suggest
3 that because some pasta companies are now owned by big
4 corporations that pasta divisions of these larger
5 corporations are invulnerable to injury caused by
6 unfairly traded imports. The argument goes now that
7 ConAgra, Ebro and Glencore are the owners of domestic
8 pasta assets, the U.S. industry has nothing to worry
9 about.

10 What the Respondents forget is that when
11 this case was first brought the Petitioners included
12 Archer Daniels Midland, Borden Foods and the Hershey
13 Company, none of which were exactly mom and pop
14 organizations. These larger corporations sold off
15 their underperforming assets. The testimony you will
16 hear today will confirm that all of the pasta
17 companies bought by larger corporations have the same
18 expectations to provide a return on their assets
19 without being able to rely on their parents' allegedly
20 deep pockets.

21 In this review, the Commission did not
22 receive information on 85 percent of the Italian
23 industry. Importantly, the biggest company in Italy
24 and Turkey -- in the world for that matter -- refuses
25 to provide information crucial to the Commission's

1 decision in this case, yet they are going to be
2 appearing today asking for relief from you. My
3 partner, Ms. Cannon, will discuss this all too
4 familiar but unfortunate posture of the foreign
5 producers asking for relief without complying with
6 their obligations.

7 While we do not have complete information
8 from the foreign producers, the hearing today will
9 probe the key and undisputable facts about the massive
10 and increased levels of capacity in Italy and Turkey,
11 much of it unused, the export orientation of these
12 industries with Italy and Turkey as the top two
13 producers or exporters in the world, the growth of
14 indigenous industries and export markets for Italian
15 and Turkish producers and the enormous size and
16 general attractiveness of the U.S. market for Italian
17 and Turkish producers.

18 Not surprising, these factors have
19 manifested themselves in significant volumes of
20 imports and persistent, significant underselling
21 throughout the period of review along with a rich
22 history of circumvention efforts. All these factors
23 must be considered against a backdrop of volatile raw
24 material costs and prices, stagnant U.S. demand and
25 the primacy of price in purchasing decisions, factors

1 which add to the volatility and vulnerability of the
2 domestic industry.

3 Indeed, to the extent that facts have
4 changed since the last review, they have changed for
5 the worse. While the industry has enjoyed a period of
6 reasonable prosperity and profitability, it's only
7 been able to do so because of the countercyclical
8 nature of the industry and its rationalization of
9 production. It has been suffering declining market
10 share and an even more concentrated customer base,
11 making it more vulnerable than ever to low priced
12 imports.

13 As will be plain from today's hearing, if
14 the antidumping and countervailing duty orders are
15 revoked, these large volumes and low priced imports
16 from Italy and Turkey will cause material injury to
17 the domestic industry. Thank you.

18 CHAIRMAN WILLIAMSON: Thank you.

19 MR. BISHOP: Opening remarks on behalf of
20 those in opposition to continuation of the orders will
21 be by William Silverman, Drinker Biddle & Reath.

22 CHAIRMAN WILLIAMSON: Welcome, Mr.
23 Silverman. You may begin when you're ready.

24 MR. BISHOP: Your mic isn't on.

25 MR. SILVERMAN: Sorry. Thank you. Bill

1 Silverman at Drinker Biddle on behalf of Italian
2 Respondents.

3 You know, listening to the Petitioners
4 summarize their case and looking at their brief, the
5 only thing we can say is there they go again, offering
6 the Commission the same simple, cookie cutter approach
7 in this third review. But the cookie cutter approach
8 that they're suggesting ignores the facts in the staff
9 report and elsewhere in the record, and the cookie
10 cutter approach is analytically wrong.

11 First, we ask the Commission to ignore that
12 cookie cutter approach and instead recognize this
13 domestic industry, not the one that was here 17 years
14 ago. They are new and stronger companies, most
15 notably Barilla, which was the Petitioners' principal
16 worry 17 years ago. As we indicated in our brief,
17 they used lots of harsh words and referred to them
18 numerous times as the devil in the marketplace 17
19 years ago.

20 But in fact Barilla is now a major player in
21 the domestic industry, and all of the things that
22 Petitioners said about Barilla 17 years ago, all those
23 strengths for commercial success in the U.S. market
24 are now on the domestic side. Thus, a major player
25 with a sophisticated national marketing of domestic

1 pasta is front and center.

2 As we said in the prehearing brief, the
3 LeBron James of pasta has switched teams and he's now
4 on the domestic side in the U.S. market. If there's
5 anybody here who doesn't know who LeBron James is, I
6 can go over it later.

7 Second, imports from Italy have remained in
8 the market after the order took effect. Some of the
9 volume is from nonsubject producers and some from
10 subject producers, and this is really where the
11 competition is. Nonsubject imports from Italy compete
12 with subject imports from Italy. This competition has
13 no adverse effects on the Petitioners and will not if
14 the order is terminated.

15 Third, to test the Petitioners' dire
16 predictions of the future, the Commission should
17 evaluate the data on Italian producers who are
18 excluded from the order and Italian producers with
19 zero or near zero margins. In this way the Commission
20 really has a control group to test their hypothesis,
21 the Petitioners' hypothesis.

22 Did these companies use their exclusion from
23 no or low margins to take over the U.S. market? No.
24 Did they take market share from the domestic
25 producers? No. Did they prevent investments? No.

1 Did they cause losses? No. Compare these record data
2 with the Petitioners' knee jerk dire predictions.

3 Fourth, the heart of the Petitioners'
4 causation argument is contradicted by data in the
5 staff report. By that I mean no correlation means no
6 causation. In other words, to test the Petitioners'
7 theory of causation see if there are certain negative
8 or inverse correlations. For example, did changes in
9 the subject import volumes correlate negatively with
10 changes in the domestic industry's market share? No.

11 In fact, despite underselling the domestic industry
12 held a relatively constant market share during the
13 period of review.

14 Did underpricing correlate with profit
15 levels in the domestic industry? No. In fact,
16 despite underselling the domestic industry's operating
17 income rose. Despite underselling, the domestic
18 industry's operating income rose during the period of
19 review from 7.9 percent in 2007 to 14.5 percent in
20 2012. Its subject import volumes correlate with
21 prices in the U.S. market compared to prices in third
22 country markets, another one of their hypotheses. The
23 answer is no.

24 The list would go on and on, and we have
25 more examples of where there is no correlation. And

1 the point is where there is no correlation you do not
2 have causation. No correlation in fact disproves
3 causation regardless of how many times the Petitioners
4 give you their standard surmise that dire consequences
5 are imminent. In short, 17 years of this type of
6 import relief is enough. Basta. Thank you.

7 CHAIRMAN WILLIAMSON: Thank you.

8 MR. BISHOP: Would the panel in support of
9 the continuation of the antidumping and countervailing
10 duty orders please come forward and be seated?

11 (Pause.)

12 CHAIRMAN WILLIAMSON: Okay. Welcome to this
13 panel, and we very much appreciate you all coming
14 today. Mr. Rosenthal, you may begin when you're
15 ready.

16 MR. ROSENTHAL: We have a distinguished
17 panel of industry witnesses, and I'll let them
18 introduce themselves. Our first witness will be Mr.
19 Robert Vermylen.

20 MR. VERMYLEN: My name is Robert Vermylen,
21 and I'm the vice president of A. Zerega's Sons, Inc.
22 Zerega's is a domestic pasta producer. Our company
23 opened the first pasta factory in America on the
24 Brooklyn waterfront in 1848. The company was started
25 by my great-great-grandfather, Antoine Zerega, and has

1 remained a family owned and operated business ever
2 since.

3 Since the 1950s, our families grew Zerega
4 from a small regional pasta maker to a national pasta
5 producer. We built Zerega's based on a reputation for
6 quality, integrity and service. Zerega's has two
7 manufacturing facilities. One is located in Fair
8 Lawn, New Jersey, and the other in Lee's Summit,
9 Missouri. Those facilities operate state-of-the-art
10 pasta processing lines that can produce both high
11 volumes of traditional varieties of pasta like
12 spaghetti, as well as short runs of highly specialized
13 pasta shapes.

14 Zerega's produces over 300 pasta shapes,
15 including more than a dozen variations of elbow
16 macaroni and eight sizes of pasta shells. We also
17 make custom designed pasta to customer specifications.

18 Our pasta is made from 100 percent durum semolina.
19 We manufacture pasta through a continuous extrusion
20 process. We mix flour or semolina and water together
21 into a dough, then knead the dough in an extruder
22 before forcing it through a die to make the pasta
23 shape.

24 We have extrusion dies equipped with both
25 bronze and teflon inserts. Our extrusion dies with

1 bronze inserts impart a rough, artisanal appearance to
2 the pasta while the dies with teflon coated inserts
3 provide a smoother, more translucent appearance. Once
4 the pasta passes through the extrusion die, long pasta
5 products like spaghetti and fettucini are then hung on
6 rods to convey them through a drying process. Short
7 products like elbows and penne travel on conveyor
8 belts through the drying process.

9 Specialty pasta shapes such as bow ties and
10 orecchiette are made by stamping the shapes out of a
11 sheet of dough. Other specialty shapes such as jumbo
12 shells and manicotti are produced on specially made
13 extrusion dies and go through special gentle-handling
14 dryers and packaging lines.

15 As I hope this description has conveyed,
16 Zerega's is well positioned to supply a large variety
17 of pasta products to suit our customers' needs. We
18 sell our pasta through a wide variety of distribution
19 channels. Our primary areas of focus are food service
20 and co-packing retail pasta for many of the nation's
21 leading food marketers.

22 I'm appearing here today to express strong
23 support for keeping the antidumping and countervailing
24 duty orders in place on pasta imports from Italy and
25 Turkey. I can recall the devastating effects that the

1 surge in unfairly priced imports had on my company and
2 our industry before the orders were imposed. That is
3 something we cannot afford to have repeated again.

4 Before the orders were put in place, imports
5 from both Italy and Turkey were sold in the United
6 States at unbelievably low prices. I remember the
7 import offerings of four or even five boxes for a
8 dollar were common. Prices were absurdly low. They
9 were not only well below U.S. producer prices; they
10 were often even below our costs.

11 Once the orders were put in place they
12 worked exactly as they were meant to work. They did
13 not block the imports, but they did stop the
14 aggressive and unfair pricing. As you can see from
15 the import statistics, there's still plenty of imports
16 arriving in the United States, especially from Italy.

17 What is different is that their prices are fair. My
18 company can compete in our home market now with these
19 imports.

20 This restoration of fair pricing practices
21 has been extremely important for Zerega and for our
22 industry. With pasta now fairly traded in the United
23 States, Zerega's has been able to undertake
24 investments to replace outdated production lines to
25 further improve our efficiency.

1 That type of investment would not have been
2 possible if we were competing against the old four for
3 a dollar pricing regime that prevailed before the
4 orders were put in place. The return of fair trade
5 conditions also allowed us to hire additional workers
6 in recent years, providing much needed jobs in our
7 communities.

8 With the orders to be revoked, however, I
9 see the current situation quickly reversing course.
10 There's a lot of excess capacity in both Italy and
11 Turkey. Both of these countries are very export
12 driven as well, and I have no doubt that without the
13 discipline of the order both countries would move
14 product aggressively into the United States by selling
15 at low prices once again.

16 I understand there have been claims by some
17 of the Italian producers that purchasers buy their
18 product for quality reasons and not price. Those
19 claims are misplaced. Zerega's produces a very high
20 quality product that is as good as the imported
21 products. As I mentioned, we produce a wide range of
22 pasta through both bronze and teflon dies and can
23 custom make pasta as well.

24 Our family operated business was built on a
25 reputation for producing a high quality product.

1 We're well positioned to compete with imports on a
2 fair trade basis. If the orders are removed, however,
3 that will no longer be the case. The dumped and
4 subsidized imports will once again undercut our prices
5 as was true before the orders were imposed. Low
6 prices remain the primary means of getting market
7 share in this business. If there are no restraints on
8 imports, I have no doubt they will revert to low
9 pricing practices once again to gain sales.

10 There are now a few high end Italian
11 producers that market their pasta as a premium product
12 and likely would continue to sell their product at
13 reasonable price levels even without the order. Those
14 producers unfortunately account for a very small
15 percentage of U.S. pasta sales. There are far more
16 Italian and Turkish producers selling pasta based on
17 price who will view revocation as an opportunity to
18 price at even lower levels than the orders have
19 permitted to increase their sales.

20 Customers are very price focused in this
21 business and they'll quickly move to buy lower priced
22 imports if those become available. My nightmare is
23 that if you revoke these orders the four for a dollar
24 specials that were damaging our industry before the
25 orders were put in place will once again become more

1 common. Purchasers will move quickly to replace U.S.
2 produced pasta with unfairly priced imports. If that
3 happens, our industry will lose sales. Our financial
4 condition will plummet as we attempt to compete.

5 Leaving the orders in place, on the other
6 hand, will not prevent the imports from selling in the
7 United States. As you see, they've been doing that
8 over the past several years. What the orders will
9 ensure, though, is that their prices remain fair.
10 That is all we ask.

11 I would hate to be the last family member to
12 operate the Zerega's pasta facility that my great-
13 great-grandfather started. On behalf of my company
14 and our industry, I urge you to leave these orders in
15 place. Thank you.

16 MR. ROSENTHAL: Our next witness will be
17 Jack Hasper.

18 MR. HASPER: Good morning. My name is Jack
19 Hasper. I am Vice President of Sales and Marketing
20 for Dakota Growers Pasta Company. I have been with
21 Dakota Growers for the past 15 years and have over 45
22 years of experience in the food business and 28 years
23 in the pasta industry. I have had a variety of sales
24 and marketing positions with food companies like
25 Borden Pasta Group, SuperValu, Pillsbury and General

1 Mills.

2 Dakota Growers is an integrated pasta
3 producer with a state-of-the-art durum milling
4 facility and a pasta manufacturing plant in
5 Carrington, North Dakota. We also produce pasta at
6 our unionized plant in New Hope, Minnesota. Dakota
7 Growers was established in 1993 as a cooperative of
8 over 1,000 durum wheat farmers who wanted to add value
9 to their wheat and get into the pasta manufacturing
10 business.

11 In 2010, Dakota was purchased by Viterra,
12 Inc., a grain producer, and last December Viterra was
13 purchased by Glencore International. Despite these
14 changes in corporate ownership, Dakota operates as a
15 standalone subsidiary. We continue to purchase durum
16 wheat from the U.S. and the Canadian farmers, although
17 Viterra now handles our durum wheat purchases.
18 Viterra sells durum wheat to Dakota and to other
19 companies at the same prices so Dakota Growers enjoys
20 no special benefits as a result of its corporate
21 organization.

22 Certain non-egg, dry pasta sold in packages
23 of five pounds or less account for the vast majority
24 of pasta sold in the open market in the United States.
25 U.S. producers manufacture pasta from durum wheat

1 just like the Italian and Turkish producers do.
2 Dakota Growers manufactures a full variety of over 60
3 pasta shapes and sizes from bronze and teflon dies
4 using the same production processes and same machinery
5 as the Italian and the Turkish pasta producers. There
6 is no difference in quality between these products.

7 I know from my years of experience in the
8 industry that pasta is sold primarily on the basis of
9 price. Dakota Growers opposes the revocation of the
10 antidumping and countervailing duty orders on certain
11 pasta from Italy and Turkey. Demand for pasta is flat
12 at a time when the U.S. industry is subject to
13 increasing volatility and high durum wheat costs.

14 During this review period, durum wheat
15 prices on the Minneapolis Grain Exchange nearly
16 quadrupled from approximately \$6 a bushel in early
17 2007 to a high of over \$22 a bushel in early 2008.
18 Prices fell back down to under \$6 in mid 2010, only to
19 quadruple again a year later. Durum today is now
20 priced around \$10 a bushel.

21 Throughout the review period, durum wheat
22 prices have spiked up and down and remained
23 particularly volatile. This volatility is
24 particularly troublesome because durum wheat now
25 accounts for over 70 percent of the cost of materials

1 for pasta.

2 The volatility is due in part to weather
3 patterns and in part to the farmers' desire to plant
4 other more profitable crops. Corn, used to produce
5 ethanol, is taking over acreage once devoted
6 exclusively to durum wheat. Farmers can earn twice
7 the profit from corn as compared to wheat. Other
8 farmers are migrating to planting hard spring wheat,
9 which can pose less of a business risk to the farmer
10 than durum wheat. Because durum wheat semolina
11 accounts for such a high percentage of the cost of
12 pasta, the fate of pasta producers is intertwined with
13 that of the durum farmers.

14 Pasta producers must be able to quickly and
15 fully recover their increasing durum costs in the
16 price of our pasta. Over the review period, given the
17 discipline of the orders on subject imports pricing,
18 we generally have been able to recover these costs.

19 Removal of the orders, however, would cause
20 a tide of subsidized and dumped imports to flood the
21 U.S. market at prices that do not cover these costs as
22 they did before the orders were imposed. That will
23 prevent us from pricing at levels needed to cover
24 durum wheat costs. I expect that imports would
25 increase, particularly from the numerous Italian and

1 Turkish producers that sold at extremely low prices
2 and that largely exited the U.S. market after the
3 orders were imposed.

4 Nearly 50 percent of Dakota's sales are
5 covered by short- or long-term contracts. While some
6 of these contracts allow us to pass through durum
7 wheat costs, others contain competitive price clauses
8 that basically provide our customers with a price
9 protection while exposing Dakota to volatile price
10 swings in durum wheat.

11 Sales contracts with competitive price
12 clauses require U.S. producers to guarantee their
13 price for the length of the contract, but customers
14 can force producers to meet lower prices or opt out of
15 the contract. These are in effect one-way contracts
16 since they do not even guarantee a minimum volume to
17 the producer.

18 Because there is no futures market for
19 durum, U.S. pasta producers must honor lower priced
20 contracts while raw material costs escalate and must
21 match lower prices offered by imports when durum
22 prices decline or risk having the customer opt out of
23 the contract. At best, a pasta producer can lock in
24 durum wheat cost for three or four months, but even
25 this short time requires paying carrying costs for

1 inventory and a significant risk premium.

2 I understand that foreign producers have
3 claimed that purchasers buy imports for quality
4 reasons. I cannot overemphasize the importance of
5 price in the U.S. pasta market. Pasta is a commodity
6 product, and for the most part consumers cannot tell
7 where the pasta was produced. The quality of domestic
8 and subject pasta is comparable, making price the
9 critical deciding factor in purchasing decisions.

10 Without the offsetting effect of the orders,
11 Italian and Turkish pasta will use lower pricing to
12 increase market share in the retail and food service
13 channels at the expense of domestic producers. Dakota
14 Growers' sales are largely focused in private label
15 products, as opposed to name brands. Because of this
16 focus, we face an even higher risk of price volatility
17 as private label prices are so low we do not have the
18 ability to absorb higher raw material costs.

19 The private label retail customer base has
20 consolidated in recent years with increasing price
21 pressure and the use of reverse bid auctions where
22 price is the dominant factor. The private label
23 market is characterized by even thinner margins than
24 the branded business, magnifying the damage to my
25 company from lower priced imports.

1 Revocation of the orders would cause
2 significant price erosion and lead to a severe
3 reduction in Dakota's revenue, profits and ability to
4 invest in capital improvements. Our production and
5 shipment levels would suffer, which would likely lead
6 to employee layoffs. These orders continue to be
7 vital to Dakota Growers. They provide an important
8 price corrective effect in the stagnant but highly
9 competitive and price sensitive pasta market at a time
10 when durum wheat costs remain highly volatile and
11 unpredictable. Thank you.

12 MR. ROSENTHAL: Our next witness will be
13 Shane Faucett.

14 MR. FAUCETT: Good morning, Mr. Chairman and
15 members of the Commission. My name is Shane Faucett.

16 I serve as the Senior Vice President of Sales and
17 Customer Development for New World Pasta. I've been
18 with New World Pasta for two years and have been in
19 the food and beverage industry for over 25 years.

20 New World Pasta is headquartered in
21 Harrisburg, Pennsylvania, and we have production
22 facilities in Winchester, Virginia, St. Louis,
23 Missouri, and Fresno, California. New World Pasta is
24 a leading branded manufacturer of dry pasta in the
25 United States. Our operations consist of the former

1 pasta brands of Hershey Foods Corporation and most of
2 the pasta brands of Borden Foods, both of which were
3 lead petitioners in the original investigations.

4 In 2006, New World became a wholly owned
5 subsidiary of Spanish food company Ebro Puleva, which
6 is now known as Ebro Foods. Despite this new
7 ownership, New World continues to operate as an
8 independent company. In fact, there have been no
9 material changes to our operations since the
10 acquisition. New World has been and continues to be a
11 producer of only dry pasta.

12 Although pasta is sold under a wide variety
13 of brands, dry pasta is largely interchangeable
14 regardless of its packaging or its producer. As some
15 of your staff witnessed at the tour of our Winchester
16 facility last month, New World produces identical
17 pasta, such as elbow macaroni, on the same equipment
18 and in the same manner that packages and sells that
19 pasta under a wide variety of different names.

20 We sell identical pasta under brand names
21 that include Ronzoni in the eastern seaboard, Prince
22 in the New England area, Creamette in the midwest,
23 Skinner in the Texas market, and here in the Balt-Wash
24 area San Georgio. We also sell the same pasta under
25 private labels. Last year we celebrated the one

1 hundredth anniversary of the Skinner brand, and this
2 year marks the one hundredth anniversary of our Prince
3 and Creamette brands.

4 I'm here today because the continuation of
5 the antidumping and countervailing duty orders on
6 pasta from Italy and Turkey is crucial to the survival
7 of our company, as well as our industry. As you have
8 already heard this morning, the U.S. pasta industry
9 continues to face significant challenges.

10 New World has experienced a reduction in our
11 sales volume in recent years. In order to control our
12 manufacturing cost and right size our capacity, we
13 have been forced to idle some of our production lines,
14 furlough employees and extend the shutdown of our
15 facilities over several periods.

16 Notwithstanding these difficulties, the
17 orders have continued to provide significant benefits
18 to our company. The orders have limited the unfairly
19 priced imports from Italy and Turkey, allowing us to
20 make necessary investments to modernize our
21 operations. For example, in 2010 and 2011, New World
22 replaced some of our older and less efficient
23 equipment with new production lines. We have also
24 invested in maintenance programs for existing
25 equipment and new manufacturing technology to lower

1 production cost.

2 Through investments in research and
3 development, our company was able to bring new product
4 innovations to U.S. consumers such as pasta produced
5 with new flavors, colors, shapes, and other healthy
6 forms of pasta. Unlike the Italian and Turkish
7 industries, we do not receive government subsidies to
8 pay for these investments.

9 Despite these investments and our efforts to
10 remain a highly efficient producer, I am apprehensive
11 about the future of our company if the orders are
12 revoked. Both Italian and Turkish producers have
13 substantial overcapacity to produce pasta. The
14 governments of both Italy and Turkey have been found
15 to significantly subsidize their pasta industries,
16 which has led to excess capacity and will continue to
17 encourage their increased production and exports.

18 Given their size and ease of access to the
19 U.S. market, Italian and Turkish industries are likely
20 to immediately and significantly increase pasta
21 exports to the United States if the orders are
22 removed. Without the relief provided by the orders,
23 the subject producers will once again engage in unfair
24 trading practices and target their excess capacity at
25 the United States. The pricing discipline on the

1 subject imports would evaporate completely, and market
2 prices would once again spiral downward.

3 The unfairly priced pasta from Italy and
4 Turkey would likely reach the United States very
5 rapidly if revocation of the orders occurred. Most of
6 the pasta is sold on spot basis and under short-term
7 contracts so customers can shift suppliers quickly.
8 Price will be the primary means that imports use to
9 increase sales as they did before the orders were put
10 in place.

11 Their production of pasta involves a highly
12 automated and mechanized process with expensive
13 machinery. Because the equipment used to produce
14 pasta is made by only a few manufacturers in the
15 world, our equipment, as well as the production
16 methods, are essentially the same as those used by the
17 Italian and Turkish producers.

18 Given that dry pasta is New World's only
19 product line, we are particularly vulnerable to injury
20 if revocation were to occur. With no ability to
21 produce other products, our manufacturing facilities
22 and the processing equipment will likely experience
23 significant down time, sit idle for long periods of
24 time as our sales are displaced by dumped and
25 subsidized imports.

1 Subject imports are already undercutting our
2 prices to some extent today. Absent the orders, this
3 price undercutting will become even more severe,
4 making it impossible for our products to compete and
5 for us to be profitable. The deterioration in prices
6 that would be caused by revocation of the orders would
7 lead to a reduction in our revenue, our profits, our
8 ability to continue to invest in capital improvements.
9 Our production and shipment levels would also suffer,
10 which would in turn force us to reduce our workforce,
11 idle production lines or possibly even an entire
12 facility.

13 In summary, New World Pasta strongly depends
14 on the orders to compete in the highly competitive and
15 price sensitive U.S. market. The continuation of
16 these orders is critical to the future of our
17 industry, and I urge you to continue them. Thank you.

18 MR. ROSENTHAL: Our next witness will be Mr.
19 Walt George.

20 MR. GEORGE: Good morning. I'm Walt George.
21 I recently retired as the president of the American
22 Italian Pasta Company and now work as a consultant to
23 AIPC after a total of 12 years with the company. This
24 morning I'd like to talk about the U.S. market for dry
25 pasta, including the nature of competition and pricing

1 in the market and the likely effects that the imports
2 from Italy and Turkey if the current orders are
3 removed.

4 AIPC is a large manufacturer of dry pasta
5 with three production locations across the United
6 States. We produce well-known brands such as
7 Mueller's, Anthony's and Golden Grain, as well as
8 numerous private label lines for the retail sector.
9 We are also a major producer of dry pasta sold to the
10 food service sector. In addition, we own an Italian
11 subsidiary that produces dry pasta, Pasta Lensi, so we
12 have direct experience and insight into the pasta
13 industry in Italy, as well.

14 The U.S. market for pasta is extremely
15 competitive, and price plays a major role in
16 purchasing decisions. Pasta is viewed as an economic
17 food staple. It's a product that grocery chains
18 feature as a promotional price item in their
19 advertising almost every week, alternating between
20 brands and private label.

21 While there is still some brand loyalty,
22 most customers are willing to switch to whatever pasta
23 is on sale at the moment. This willingness to buy on
24 price means that foreign producers in this case will
25 have no real problem regaining sales in the U.S.

1 market, even if they don't have a recognized brand, as
2 long as they have a price low enough.

3 Retail shelf space is not allocated based on
4 who has the largest corporate parent, but rather on
5 who works hardest with the retail chain to keep prices
6 low, keep promotions up and maximize volume. Import
7 brands are certainly able to do this. The relative
8 unimportance of brand is indicated by the significant
9 portion of private label sales in the U.S. pasta
10 market, which account for over a third of retail pasta
11 volume.

12 Because private label pasta is intended to
13 be a value alternative to branded pasta, our private
14 label accounts regularly attempt to negotiate down
15 prices when the average price of the branded product
16 is also declining. Even when we have contracts with
17 our customers, they often contain renegotiation
18 clauses.

19 Numerous private label accounts are already
20 entertaining quotes from overseas manufacturers, and
21 some are actually sourcing pasta products from them.
22 So there is nothing in the qualification process or
23 contractual procedures that will preclude increased
24 sales of Italian and Turkish pasta to private labeled
25 accounts if the orders are revoked.

1 We're very concerned that removal of the
2 unfair trade orders will expose our industry to the
3 kind of cutthroat price competition we saw before the
4 orders were put in place. We know that the return of
5 these imports could result in significant downward
6 price pressure because we already see aggressively
7 priced branded pasta from Italy and Turkey in numerous
8 grocery chains. In fact, many of these imported
9 brands of pasta are selling at retail prices that are
10 actually below those of domestic private label pasta.

11 We are also seeing a good amount of price competition
12 from Italian imports at key food service accounts.

13 The only thing that's holding back these
14 importers from becoming more price aggressive is the
15 unfair trade orders. If they are removed, there will
16 be a race to the bottom for U.S. pasta prices that
17 will be led by both the Italian and Turkish imports.
18 Given the volatility of durum wheat prices and
19 challenges we have faced in passing through increased
20 costs, the prospect of expanded competition from
21 overseas producers that ignore their input costs when
22 setting prices is daunting. This is doubly true given
23 the huge excess capacity in the Italian and Turkish
24 industries.

25 I should point out that the subject imports

1 do not fill a niche that is currently unserved by
2 domestic producers. Based on my company's experience
3 with the Lensi brand, the dry pasta produced in the
4 United States is essentially identical to that being
5 produced in Italy. Producers in both countries use
6 exactly the same production equipment as there are
7 only four significant global manufacturers of this
8 equipment.

9 U.S. and Italian producers also use the same
10 ingredients to manufacture pasta. In fact, a growing
11 amount of the durum that is made into pasta in Italy
12 actually originates in North America, the same place
13 we source our durum. The standards for milling durum
14 wheat into semolina are also the same in the United
15 States and Italy. Further, while some Italian
16 producers may assert that their use of bronze dies
17 distinguishes their product, IPCA also uses bronze
18 dies for producing certain forms of pasta in the
19 United States, as well as the more commonly used
20 teflon dies.

21 The U.S. market for dry pasta is the world's
22 largest, but it's also a mature market that has seen
23 limited growth in recent years. While the recession
24 helped to increase sales due to pasta's status as a
25 low cost and healthy food, for the last three years

1 the market has contracted. We expect category demand
2 to be basically stagnant in the years ahead with
3 average annual growth of no more than 1 percent. As
4 Americans continue to eat more of their meals outside
5 the homes and prepare fewer meals themselves, retail
6 pasta sales are expected to be flat at best.

7 In the face of weak U.S. demand for dry
8 pasta, my company has made some major restructuring
9 moves to lower our costs in an effort to maintain
10 profitability. One extreme measure made in 2012 was
11 to consolidate our sales and marketing forces and
12 administrative staff, resulting in a loss of 100 jobs.

13 While this was a painful move, we felt it was
14 necessary given weak growth prospects. Despite these
15 moves, we remain under constant profit pressure today.

16 My company has also made capital
17 improvements to update and upgrade our production
18 equipment and improve our efficiency, but our plants
19 must operate at high levels of capacity utilization to
20 remain efficient, open and profitable. Additional
21 volume losses will likely result in the shutdown of
22 significant operations and further loss of jobs.

23 Given the likely large volumes of pasta that
24 would enter the United States at extremely low prices,
25 we fear that if the unfair trade orders are removed

1 the consequences for AIPC and its employees will be
2 severe. Thank you.

3 MR. ROSENTHAL: Next, Ms. Cannon.

4 MS. CANNON: Good morning. I am Kathleen
5 Cannon of Kelley Drye, and I will address a few legal
6 issues presented in this case.

7 Let me begin with the question of what to do
8 about the refusal of so many of the subject foreign
9 producers to respond to Commission questionnaires. Of
10 the 129 Italian pasta producers receiving
11 questionnaires, 13 responded, and they account for
12 only 15 percent of total Italian production as you see
13 in the first slide. That leaves the vast majority,
14 the 85 percent shown here, of Italian capacity
15 production and exports unreported.

16 This refusal to respond is all the more
17 troubling when you recognize that many of the
18 nonresponding Italian producers have been actively
19 participating in Commerce administrative reviews to
20 try to reduce their margins. So it is not that these
21 companies are unfamiliar with this case or unable to
22 respond. They have simply chosen not to. No doubt
23 they recognize that the information would show the
24 massive unused Italian capacity in need of an outlet
25 market.

1 The Turkish response rate with only eight of
2 47 producers responding is also deficient as it leaves
3 almost half of Turkish production unreported, as you
4 see in the second slide. And like the Italian
5 producers, a number of the Turkish producers are still
6 actively participating in Commerce reviews, but
7 failing to submit data here. Notably Barilla, which
8 is the largest pasta producer in both Turkey and
9 Italy, did not respond to either of the foreign
10 producer questionnaires.

11 You heard Mr. Silverman argue this morning
12 that Barilla has switched teams like LeBron James.
13 It's an amusing analogy, but inaccurate. Unlike
14 LeBron, who left Cleveland, Barilla is still in Italy
15 and in Turkey and is actively producing and exporting
16 pasta and increasing its capacity in both countries.
17 So you have quite a different fact pattern with
18 respect to Barilla and a company still that we remain
19 concerned about.

20 But it is only one of many. Collectively,
21 the Commission's database drawn from foreign producer
22 questionnaires shows just the tip of the iceberg in
23 terms of actual levels of capacity, unused capacity
24 and exports from the subject countries. As you see,
25 unreported, unused capacity by responding producers is

1 significantly less than the actual level of unused
2 capacity in Turkey, and for Italy it is dwarfed by the
3 actual level of unused capacity as you see in Slide 4.

4 For confidentiality reasons, our
5 calculations of total dry capacity in these charts
6 differ slightly from the data set forth in our brief,
7 but the relative sizes and orders of magnitude shown
8 here are roughly the same. Despite the severely
9 underreported data, Respondents rely on the capacity
10 and production data as reported in the questionnaires
11 to argue about how revocation of the orders would not
12 harm the U.S. industry.

13 I know that the Commission has been
14 reluctant to apply adverse inferences in past cases,
15 despite the noncooperation of foreign producers, out
16 of concern for somehow penalizing those foreign
17 producers that do participate. The problem with that
18 approach is that using only the information that
19 cooperating producers submit when it is but a small
20 part of the total penalizes the U.S. industry by
21 understating the likely volumes of imports.

22 If you did that here, you would be looking
23 at just this tiny fraction of the reported Italian
24 capacity and Turkish capacity as compared to the
25 actual capacity you see in the much larger pasta slide

1 shown here. The SAA states that companies should not
2 obtain a more favorable result by failing to cooperate
3 than had they cooperated fully. That is what would
4 happen here if the ITC relied only on the
5 questionnaire data.

6 Fortunately, however, even without resorting
7 to adverse inferences there's independent data
8 available on total production in both Italy and Turkey
9 from the International Pasta Organization, among other
10 sources, and on total exports from GTIS data set forth
11 in your staff report. By using capacity utilization
12 rates of responding companies, total capacity and
13 unused capacity can be derived from the IPO data.

14 These data, as set forth in our brief and
15 summarized in these charts, are the most accurate
16 available information on the actual levels of the
17 Italian and Turkish capacity and production, while the
18 GTIS data provide the most comprehensive export data,
19 and we urge you to rely on them in lieu of the
20 questionnaire response data.

21 Another important legal issue in this case
22 is cumulation. The Commission has cumulated subject
23 imports in all of its prior proceedings and should do
24 so here as well. The Turkish producers, however,
25 continue to challenge every statutory cumulation

1 factor. The Italian producers, apparently recognizing
2 the strong record support for the statutory factors,
3 do not bother to argue that those factors are not met,
4 but argue instead that the ITC should not exercise its
5 discretion to cumulate.

6 There can be no serious contention that
7 revocation of the orders as to Italy or Turkey would
8 lead to no discernable adverse impact on the industry.

9 These massive export-oriented industries are poised
10 to decimate the domestic industry merely by shipping
11 their idle capacity here. In fact, each of these
12 industries is so sizeable that even without cumulation
13 each country's exports alone would injure the U.S.
14 industry.

15 There's also a reasonable overlap in
16 competition between the imports and the U.S. product.

17 Despite Italian producer claims that they sell a
18 higher quality product, purchasers disagree, as you
19 see in the next slide. The majority of purchasers
20 report that imports from Italy and the United States
21 are comparable in almost all respects, including their
22 quality and product ranges.

23 Only limited feedback was provided on the
24 comparability of the Turkish product, but most
25 responding parties stated that both the Italian and

1 Turkish products are always or frequently
2 interchangeable with the U.S. product. Pasta is a
3 fungible product, as the ITC has consistently found.
4 Subject pasta from each country is sold in the same
5 geographic markets, share common channels of
6 distribution and have been present in the U.S. market
7 in virtually every month of the review period.

8 Respondents next try to identify competitive
9 conditions that allegedly differentiate the imports.
10 The Italian producers claim that they focus sales on
11 their home market, while they say that Turkey exports
12 most of its product. The Turkish producers, on the
13 other hand, argue that their home market is strong and
14 they will sell more pasta there. In fact, Italy and
15 Turkey are the top two exporters of pasta in the
16 world. Both countries have increased their exports
17 significantly, as Mr. Rosenthal will discuss, and
18 further export growth is projected.

19 Respondents also try to differentiate the
20 countries based on import volumes during the review
21 period. Imports from both countries, however, show
22 similar declining trends in imports since the orders
23 were imposed. That the volume of imports from Turkey
24 is not higher is merely a reflection of the sizeable
25 dumping and subsidy margins that continue to apply to

1 Turkish producers. If those are removed, Turkish
2 producers, like the Italian producers, will surge back
3 into this market.

4 In discussing discretionary cumulation
5 factors, Respondents would have you ignore altogether
6 the key issue here, which is how the imports are
7 likely to behave absent the orders. As Mr. Rosenthal
8 will discuss, both countries have huge capacity, as
9 well as sizeable unused capacity, both have increased
10 their capacity, both are export oriented, both
11 continue to undercut U.S. prices significantly even
12 with the orders in place, and both are desperately in
13 need of new outlets for their production. These
14 common competitive conditions will lead to increased
15 volumes of low-priced imports from both countries
16 warranting a cumulative analysis here.

17 Finally, I want to address a couple of
18 incorrect arguments by the Italian producers. First,
19 they state that the antidumping orders have been
20 revoked as to some large Italian producers and
21 characterize these producers as excluded. You heard
22 Mr. Silverman say that again this morning. They then
23 say that nonsubject imports from these excluded
24 producers are replacing subject imports.

25 But as the record shows, all of the

1 producers excluded from the Italian antidumping duty
2 order are subject to the Italian countervailing duty
3 order. There is no producer in either Italy or Turkey
4 that is excluded in this case from both orders, so all
5 of these are subject imports with the exception of the
6 products outside the scope of the order. We urge the
7 staff to ensure that subject and nonsubject imports
8 have been properly reported, given this erroneous
9 argument.

10 Second, the Italian producers state that the
11 current antidumping and countervailing duty rates are
12 low, that imports from Italy are declining despite
13 these low rates and that these volume levels would
14 continue if the orders were revoked. As the
15 Commission recognized in the Circular Welded Pipe
16 case, the very existence of an order, even with a low
17 or zero margin, can inhibit import volumes.

18 Further, the combined Italian margins that
19 Commerce has projected absent the orders are not only
20 higher than current margins; they are higher than the
21 margins that Commerce found in the original
22 investigation due to increased government subsidies.
23 Absent any restraint, the Italian producers would
24 revert to unfair trade behavior to increase exports
25 and undercut U.S. prices to an even greater degree

1 than they do today.

2 It is this future likely behavior, and not
3 the import behavior under the discipline of the
4 orders, on which the Commission must focus in
5 undertaking its counterfactual analysis here. Thank
6 you.

7 MR. ROSENTHAL: I'd like to take a few
8 minutes this morning to summarize some key points and
9 highlight the important data that address the issues
10 the Commission must decide.

11 As Ms. Cannon just explained, all of the
12 reasons that supported cumulation in the original
13 investigation and earlier review apply to this review.

14 Because the notion of premium products by Italian
15 producers has been highlighted in previous
16 proceedings, I would like to put that argument in
17 context.

18 The Italian producers, as you've heard,
19 claim that they only compete at the high end of the
20 market, selling a so-called premium product made by
21 bronze dies or by selling specialty products. You
22 heard testimony from domestic producer witnesses just
23 a few minutes ago that confirms that U.S. producers
24 manufacture pasta using bronze dies as well, so the
25 use of bronze dies does not differentiate Italian from

1 U.S. pasta. We estimate in any event that any such
2 premium product comprises only 1 or 2 percent of U.S.
3 consumption.

4 Respondents also refer to numerous specialty
5 or niche products that they sell, including flavored
6 pasta, gluten-free pasta and organic pasta. Domestic
7 producers make all of these products, and I'd like you
8 to take a look at this slide right here. This slide
9 shows you that despite all of the talk of specialty
10 products, those sales account for only a tiny percent
11 of U.S. consumption.

12 I have in front of me a carefully counted
13 and specially picked out plate of a hundred pieces of
14 rotini representing the U.S. market. When Respondents
15 talk about the so-called specialty pasta, please
16 remember what a small part of the market is being
17 discussed. I'm going to take one or two pieces here.

18 This is all that is being described when they're
19 talking about the specialty market, these tiny one or
20 two percentage points.

21 So the vast majority of the market to which
22 both Italy and Turkey sell pasta consists of commodity
23 type pasta -- spaghetti, fettucini, elbow macaroni,
24 lasagna noodles and the like. These products are
25 interchangeable regardless of source and are sold on

1 the basis of price. As reflected in the questionnaire
2 responses and you see in Slide 9, purchasers
3 overwhelmingly identified price as very important to
4 their purchasing decisions.

5 You heard from Mr. Vermylen earlier that the
6 antidumping and countervailing duty orders on pasta
7 from Italy and Turkey have worked reasonably well.
8 While there has been some circumvention of the orders
9 and some attempts at circumvention that have been
10 stopped by proper enforcement at the Commerce
11 Department, these orders have brought stability to the
12 domestic marketplace. That stability is much needed
13 as key trade variables of the domestic industry have
14 all declined since the time of the original
15 investigation.

16 We've got the next slide here. These are
17 some of the key variables, and if you look at apparent
18 domestic consumption, industry market share, capacity,
19 production, shipments, production and related workers
20 and hours worked, the trend from 1995 at the time of
21 the original investigation to 2012 has all been in the
22 wrong direction for the purposes of the domestic
23 industry.

24 One of the measures of the effectiveness of
25 the orders is the ability of the domestic industry to

1 manage the volatile raw material costs that have been
2 discussed. Without the orders in place, the U.S.
3 pasta industry could not have survived the spikes in
4 raw material costs that have continued for several
5 years. In fact, looking forward it's anticipated that
6 the cost of durum wheat will continue to increase as
7 more land is devoted to planting corn for ethanol,
8 displacing plantings of durum wheat.

9 Just yesterday we learned of a recent USDA
10 report that plantings of durum wheat are down by a
11 whopping 27.6 percent in 2013 compared to the previous
12 year. That does not portend well for the pasta
13 industry's raw material costs. That brings us to
14 another fundamental point. Just because the
15 antidumping and countervailing duty orders have worked
16 well does not mean that the domestic industry is not
17 vulnerable to unfairly traded imports.

18 As noted, the domestic industry's volumes
19 have declined, and its market share in 2012 is at its
20 least lowest level over the entire proceeding. And
21 you heard from the industry witnesses the outlook is
22 for flat demand at best. Revocation of the orders
23 will expose the industry not just to cost pressures on
24 durum wheat, but also to severe revenue pressures as
25 well.

1 Indeed, the record shows that pervasive
2 underselling by imported product from Italy and Turkey
3 has already occurred. Now, Respondents claim that
4 because the domestic industry is profitable despite
5 this underselling reflected in this chart there will
6 not be injury despite low prices. We recognize that
7 this underselling is taking place even while the
8 unfair trade orders are in place. At present, the
9 foreign producers though have to be careful with their
10 pricing. Without the restraint of the orders, the
11 underselling is likely to get much worse.

12 And one of the things that Mr. Silverman
13 appears not to want to talk about is that the mere
14 existence of the orders does provide some inhibitions
15 on purchasers from buying imported products because
16 they are afraid to be hit with retroactive antidumping
17 duties that they had not anticipated.

18 So the orders do have a great deal of
19 disciplining effect, and it prevents importers and
20 customers from taking risk of buying dumped and
21 subsidized product. If the orders were revoked, these
22 customers would be able to buy these products at low
23 prices risk-free. That is a major difference in the
24 pre and postorder period and one of the reasons why
25 the industry is so concerned.

1 Let us review some additional data to
2 understand why underselling by even larger volumes of
3 imports will result if the orders are revoked.
4 Looking just at Italian producers that responded to
5 the questionnaires, dry pasta production appears to be
6 roughly 1.15 billion pounds, but as noted earlier
7 complete data for the Italian industry shows much
8 larger production at about 6.6 billion pounds last
9 year.

10 For Turkey, the responding producers
11 manufactured almost 1.1 billion pounds of dry pasta,
12 while the total industry production was nearly
13 1.7 billion pounds. Using the independent data
14 showing industry-wide figures on actual dry pasta
15 production instead of the limited questionnaire data,
16 together the Italian and Turkish production of dry
17 pasta topped 8.2 billion pounds.

18 Ms. Cannon just emphasized that the record
19 before you is incomplete. Still, even with a
20 relatively small percentage of Italian and Turkish
21 pasta producers submitting information and submitting
22 only such information that would appear most favorable
23 to those industries, total production and total
24 capacity to produce dry pasta have increased
25 substantially over the period of review as you see in

1 these slides.

2 When you look at the capacity to produce dry
3 pasta of the total Italian and Turkish industries, not
4 just on the self-serving Respondents, you see that the
5 total is more than 10.2 billion pounds. That means
6 for a total unused capacity to produce dry pasta the
7 amount is about 2 billion pounds. That is enough
8 capacity to replace every box of U.S. pasta on the
9 retail shelves in this country and have plenty left
10 over. These are massive amounts and significant
11 capacity increases just in this period of review.

12 But the Respondents of course say that the
13 domestic industry has nothing to worry about because
14 the Italian and Turkish domestic and third country
15 export markets are allegedly so large. In fact, the
16 Italian and Turkish producers are the number one and
17 number two exporters of pasta in the world. The
18 European market is saturated, however, and unable to
19 absorb the excess Italian capacity. And very
20 importantly, export markets that used to be growing
21 for the Italian and Turkish exporters are not likely
22 to continue to provide outlets in the future.

23 As you see from this slide here, local cost
24 of production is coming onstream in many of those
25 third country markets, including Egypt, Guatemala,

1 Ghana, Russia, Peru, Oman and Tunisia. So with a
2 stagnant home market and shrinking third country
3 export market options, where do you think the Turkish
4 and Italian exports will go if the antidumping and
5 countervailing duty orders are revoked? The answer of
6 course is to the largest and most open market
7 available, the United States.

8 I refer you to this next slide. While the
9 Respondents suggest that the Italian market is the
10 largest in the world, they base that argument on per
11 capita consumption. Admittedly, Italian consumers do
12 eat more pasta per person, and I admire them for that,
13 but with a smaller population the overall Italian
14 market is much smaller than the U.S. market, which
15 makes the U.S. very attractive indeed. The same is
16 true for Turkey.

17 In addition, the U.S. market has higher
18 prices for pasta than most of the potential markets
19 for pasta in the world. If you compare average unit
20 values of Italian and Turkish exports to the United
21 States with those in their other major export markets,
22 the U.S. market prices are higher than virtually all
23 of them for Italy and higher than most for Turkey, as
24 you see from this slide. Exhibits 9 and 22 of our
25 prehearing brief provide more details on the higher

1 U.S. prices.

2 Here's an important point to focus on now.
3 Because the Italian and Turkish industries have so
4 much excess capacity, it would be easy for the
5 Respondent countries to swamp the U.S. market without
6 diverting a pound of product from Europe or other
7 markets. This chart -- next chart -- which focuses
8 just on the small sample of responding producers shows
9 that in 1995 those producers' unused capacity compared
10 to U.S. apparent domestic consumption was 12.2
11 percent. By 2012, however, that number has jumped to
12 18 percent.

13 But even more ominous, and unfortunately
14 more accurate because it covers the entire Italian and
15 Turkish industries, is this next chart. As shown, the
16 Italian and Turkish industries have enough unused
17 capacity to capture 63 percent of the U.S. market
18 without diverting one pound of sales from any other
19 market.

20 Now I hope, I don't think anyone expects the
21 foreign producers to devote every pound of excess
22 capacity to the large and relatively lucrative U.S.
23 market, but they certainly can ship a large volume of
24 low priced imports and have the need to do that given
25 their huge amounts of excess capacity. You don't need

1 to have an incentive of higher prices to divert from
2 other markets. They have plenty of incentive to do
3 that to make use of their idle capacity regardless of
4 relative prices.

5 Undoubtedly, huge volumes of sales would
6 have a devastating impact on the domestic industry,
7 and if there are any doubts about whether large
8 volumes of these exports are likely consider a few
9 additional facts. The next slide shows that Turkey
10 has rapidly increased its exports over the review
11 period from 326 million pounds in 2007 to 962 million
12 pounds in 2012. That's a tripling of its exports just
13 in this period of review, and it has said publicly in
14 newspapers that it wants to get even larger.

15 While it's currently the number two exporter
16 in the world, it has reportedly said, and I refer to
17 these quotes from the paper, it has eyes on Italy's
18 seat at the top and longs for Italy's top pasta
19 exporter seat. As we saw from this previous chart,
20 these are not idle not threats, but idle hopes. We've
21 shown that they've been able to triple their exports
22 just in this five-year period. They can certainly go
23 after and approach in their ability to rapidly
24 increase exports and target it to this large U.S.
25 market.

1 Italy meanwhile continues to increase its
2 exports over the review period despite its already
3 massive level of exports and target the U.S. market in
4 particular. Italy and Turkey are both huge net
5 exporters of pasta, importing very little from other
6 countries, while bombarding the rest of the world with
7 their exports. Together these two countries will
8 decimate the U.S. industry if permitted to sell once
9 again without restraint into the U.S. market. Thank
10 you.

11 That concludes our direct testimony this
12 morning. I would like to introduce several additional
13 members of our panel who are happy to answer your
14 questions. Mr. Scott Mekus, Vice President of
15 Finance, AIPC. I'll let them raise their hands so I
16 don't turn around.

17 Mr. Brian Fox, Vice President of Category
18 Management for AIPC; Mr. Greg Richardson, Senior Vice
19 President and Chief Financial Officer of New World
20 Pasta; Mr. Neil Petrucelli, Senior Director of Sales,
21 Eastern U.S., of New World Pasta; Mr. Jeff Bryant, the
22 Senior Director of Customer Marketing, New World
23 Pasta; Mr. Michael Kerwin and Ms. Gina Beck of
24 Georgetown Economic Services; and my colleagues, Mr.
25 David Smith and Ms. Grace Kim of Kelley Drye & Warren.

1 Thank you.

2 CHAIRMAN WILLIAMSON: Thank you. I want to
3 thank all of the witnesses today for taking time from
4 their businesses to come today to present their
5 testimony. It's very important to us.

6 We'll begin our questioning this morning
7 with Commissioner Aranoff.

8 COMMISSIONER ARANOFF: Thank you, Mr.
9 Chairman. I want to join the Chairman in welcoming
10 all of you here this morning. We really appreciate
11 you being here. I want to start with a general
12 question that did come up in some of the direct
13 testimony about the effect of being owned by a large
14 multinational company and in particular how that might
15 affect vulnerability.

16 The Respondents point to these recent
17 acquisitions of some of the larger domestic producers
18 by multinational food companies, and they argue that
19 that reduces the industry's vulnerability in
20 particular with respect to product costs by which I
21 assume they mean principally in terms of the
22 acquisition of wheat or the ability at least to manage
23 price volatility or access to supply, and they also I
24 think refer to access to capital.

25 So I wanted to ask the producers here who

1 are part of these large multinationals to respond on
2 those two particular points and also any other factors
3 that they think might be relevant.

4 MR. GEORGE: This is Walt George with AIPC,
5 recently purchased by ConAgra. Specifically to both
6 questions, being owned by a multinational will have no
7 direct bearing on our ability to purchase durum wheat.

8 Durum wheat is a very unique class of wheat that's
9 only used to produce pasta and pasta type products, so
10 it's a direct purchase by the AIPC Division. We're
11 subject to the same fluctuations of the market. It's
12 not a hedgeable commodity so it can't be blended in
13 with a greater volume of wheat, so there's no material
14 positive impact being owned by a larger company in
15 that regard.

16 In the broader context of access to capital
17 and those questions, AIPC, as do my colleagues,
18 operates as an independent arm of these businesses.
19 We have the same return on asset/same return on
20 investment expectations to our parent company and
21 shareholders as we did when we were standalone
22 companies, and they would expect of us to generate the
23 same return on capital, if not a greater return, given
24 that there is a higher competition for capital in a
25 larger company than there is in an independent

1 company.

2 You know, those expectations will be met or
3 we know that when dissatisfied underperforming assets
4 are liquidated, so we feel perhaps there's a greater
5 burden on us now than there was before.

6 COMMISSIONER ARANOFF: Before I hear from
7 the next producer, let me just follow up on that with
8 one question. With regard to the access to capital, I
9 understand that you've got to demonstrate a likely
10 return on investment in order to get capital to make
11 an investment.

12 Does it make a difference having access to
13 internal capital from a large company as opposed to
14 having to go out to a bank or an outside lender? Is
15 that a benefit that you get from being part of the
16 larger organization?

17 MR. GEORGE: I don't think that it's
18 particularly more advantageous because the parent
19 company has an expected return on capital because in
20 many cases they have a leveraged balance sheet as
21 well.

22 COMMISSIONER ARANOFF: Okay. Please go
23 ahead, whoever was going to speak next.

24 MR. RICHARDSON: Greg Richardson with New
25 World Pasta. I think it's important to note that we

1 were previously owned by a multinational, Hershey
2 Foods, as a division of that company, so nothing has
3 really changed for our company from that perspective.

4 We do operate in a very independent way from
5 our parent. They provide advice. They provide
6 guidance. As far as capital goes, we are responsible
7 for generating our own funds to support our capital
8 needs and our investment and our operations, our
9 maintenance, et cetera, so we do operate very
10 independently from that standpoint as well.

11 MR. HASPER: This is Jack Hasper with Dakota
12 Growers. In our particular case I think we found it's
13 been more difficult to get capital to do some of the
14 improvements we've wanted with the larger company. I
15 think as Walt George mentioned, they have other
16 options and they have other uses for that capital.

17 I think it was actually when we were a co-op
18 we actually were able to borrow money from the local
19 co-op bank at better rates than what our larger
20 corporation expects as a return on investment for the
21 utilization of that capital, so I've found it to be
22 more of a negative than a positive.

23 MR. FAUCETT: Shane Faucett with New World
24 Pasta. If I could add to what Walt said initially was
25 we are a standalone, independent division. We have

1 our own financial plan that we have to present and
2 live up to, and our employees are incentivized on the
3 performance of that piece of the business.

4 Additionally, it's important to note that
5 regardless of ownership it doesn't change the
6 macroeconomics of the category in which we compete.
7 It is a flat category. Consumption has not increased.

8 What we have worked to do and what we have been
9 focused on doing is improving our cost structure.

10 So we are able to share costs like IT across
11 a broader corporation or human resources functions
12 like that, but those are items that are well below the
13 cost line or very small on the cost line to provide
14 some degree of synergies to help us become more
15 profitable or more efficient. But overall I don't
16 think any company has significantly increased their
17 top line, and the category is definitely flat.

18 COMMISSIONER ARANOFF: Okay. I appreciate
19 all those answers. Let me turn to another question,
20 and I think this is initially directed at Ms. Cannon,
21 but anyone else can jump in.

22 How should the Commission interpret the fact
23 that Barilla, which is one of the largest domestic
24 producers now, is appearing here today in opposition
25 to continuation of the orders? I know you haven't

1 taken the position that they should be excluded under
2 the related parties provision.

3 MS. CANNON: I think it's very significant
4 that they have chosen to oppose, as opposed to
5 participate on our side of the room. The Commission
6 has seen in other cases affiliated U.S. producers that
7 have sat in this group and supported continuation of
8 the orders despite foreign affiliates because they
9 said it's immaterial to us whether the orders are
10 continued. We're not planning to bring anything in.

11 It's fine to leave it in place because we
12 are concerned as a U.S. producer invested in this
13 market with all of the other productive operations and
14 the other imports that are going to be coming in from
15 other producers in those countries to hurt our U.S.
16 facility.

17 If Barilla was truly of that state of mind
18 they should be sitting with us, so the very fact
19 they're not suggests to us that their interests are
20 not completely focused on protecting their U.S.
21 operations from what are anticipated to be large
22 volumes of dumped and subsidized imports from other
23 countries even if they were saying they weren't
24 planning to bring any in themselves, and I think
25 that's a very significant factor.

1 MR. ROSENTHAL: Just to add to or comment,
2 first of all I'm pretty sure it would be regarded as
3 unusual if LeBron James were testifying for the
4 Cleveland Cavaliers in any proceeding.

5 Here what you don't have is information
6 truly about Barilla's intentions. You can go back to
7 cases from 30 years ago where the Commission did make
8 adverse inferences about the failure or unwillingness
9 of witnesses who appeared before you to provide
10 information about their ability and intentions, and
11 we'll provide you for citations for that in our brief,
12 but this is a particularly egregious instance where if
13 you want to oppose that's fine, but to be a domestic
14 producer coming in on the other side and not being
15 forthcoming I think is something you need to send a
16 message about.

17 COMMISSIONER ARANOFF: Okay. Let me try and
18 get one more question in before my time is up. The
19 staff report reflects and the testimony this morning
20 reflects that many, if not all, of the producers
21 present today and some others have been investing
22 recently in their domestic capacity. People have
23 referred to it as updating outdated lines. People
24 have referred to improvements in efficiency. There's
25 obviously been an effect on overall capacity.

1 Why are so many members of the domestic
2 industry investing in their capacity as sometimes
3 expanding their capacity if the industry as a whole
4 has as much unused capacity as you contend?

5 MR. GEORGE: This is Walt George again. I
6 can speak for our company. Our capital investments
7 have not been to add capacity, but rather to replace
8 worn and outdated equipment.

9 The pasta manufacturing technology has
10 advanced over the years, and in that time the same
11 assets that we're replacing with today's technology
12 afford us the opportunity to produce more product on
13 the same asset. So it's not new in the sense that
14 we're adding new lines and brick and mortar, but it's
15 merely replacing it with better equipment.

16 MR. FAUCETT: I completely agree with
17 everything that Walt has said. The underlying
18 business case to invest in equipment and to continue
19 to upgrade your operations is that we're all banking
20 on a long-term business proposition.

21 We've adjusted our business to the volume
22 that we're living with, and we're making long-term
23 bets that five years from now, ten years from now,
24 we'll still have viable businesses and that's why
25 we're able to make those investments.

1 MR. VERMYLEN: This is Rob Vermylen with A.
2 Zerega's Sons. I just want to add to that with an
3 example of our firm. Right now we're replacing a
4 30-year-old pasta line at our factory in New Jersey,
5 and in the exact same footprint of that line the new
6 line with modern technology can produce about 50
7 percent more production.

8 So when you're looking to invest in new
9 equipment you're first looking to replace older
10 equipment because it has a certain life cycle, but
11 when you make that decision to invest the advantages
12 of increasing your production per square foot of
13 factory space are very strong.

14 So that's why many of us would make that
15 decision, not necessarily because the market is
16 requiring it or the opportunities are there. It just
17 doesn't make sense not to increase your capacity for a
18 marginally smaller investment.

19 COMMISSIONER ARANOFF: Okay. I appreciate
20 all those answers. Thank you, Mr. Chairman.

21 CHAIRMAN WILLIAMSON: Thank you.
22 Commissioner Pinkert?

23 COMMISSIONER PINKERT: Thank you, Mr.
24 Chairman, and I join my colleagues in thanking all of
25 you for being here today and helping us to understand

1 these issues.

2 I want to begin with a question that was
3 suggested to me by some of the testimony concerning
4 the effect on pricing of the imposition of the orders,
5 and I'm wondering. Is this panel suggesting that
6 Italian and Turkish pricing went up after the orders
7 went into effect?

8 MR. VERMYLEN: This is Rob Vermylen with A.
9 Zerega's Sons. I can't speak to specific numbers
10 certainly, but I can just refer to my earlier
11 testimony where I clearly recall prior to the orders
12 being imposed pasta in our market, the biggest pasta
13 market in the United States, New York, routinely
14 seeing pasta sold at four or five packages for a
15 dollar.

16 After the orders were imposed you very
17 quickly over the course of a year or two started to
18 see those type of promotions being reduced. We went
19 down from five, from four for a dollar, to three for a
20 dollar, to two for a dollar, where today it's more
21 like 80 cents a package or just a package for a
22 dollar. So I can't give you specific numbers, but
23 anecdotally I can assure you it's been extremely
24 clear.

25 MR. FAUCETT: This is Shane Faucett with New

1 World. It's also worth noting, and I am inferring
2 that part of the question has to do with the economics
3 of the marketplace, but if I take the question one
4 step further down the stream is what's the impact on
5 the U.S. consumer?

6 And we have to note that the plate of pasta
7 that Paul has here, for example, is still -- the
8 average serving for a plate of pasta for the U.S.
9 consumer is still 20 cents per serving. Pasta still
10 remains probably the most economical meal that's
11 available in the U.S. marketplace.

12 And so there is no inherent value to
13 consumers with the price points of 40, 50 cents or 25
14 cents that my colleagues or my competitors are
15 referring to. It still remains at the prices today a
16 very economical meal for the U.S. consumer, so there's
17 no value other than undercutting the U.S.
18 manufacturers with very low prices.

19 COMMISSIONER PINKERT: Thank you.

20 MR. HASPER: This is Jack Hasper with Dakota
21 Growers. We're not really privy to the actual price
22 offered by the Italians or Turkish to various of our
23 retail customers, but I will say that since the order
24 has been in place the incident of having my retail
25 customer call me up and say Jack, your private label

1 price is not competitive with what I can buy these
2 containers directly from Italy or Turkey, that
3 incident level has gone down so I have less of that
4 type of competitive pressure today.

5 COMMISSIONER PINKERT: Thank you. Perhaps
6 for the posthearing you could take a look at the
7 numbers and try to give me some indication of whether
8 prices on average for the Turkish and Italian
9 producers operating in the U.S. market went up
10 postrevocation. I mean postorder.

11 MR. ROSENTHAL: We'll certainly do that.

12 COMMISSIONER PINKERT: Thank you.

13 MR. ROSENTHAL: Commissioner Pinkert, I just
14 want to add one thing on that. One of the things that
15 is important is there have been slightly different
16 reactions to the order by the Italian producers and
17 the Turkish producers. The Turkish producers reduced
18 their volumes quite a bit because they had higher
19 margins and those that were able to sell sold at lower
20 prices, but there was a lot less of that.

21 And so I think we need to be careful about
22 how we analyze some of that aggregate data because
23 there was a smaller sample, if you will, but we'll
24 certainly respond as you requested.

25 COMMISSIONER PINKERT: Understood. Thank

1 you.

2 MS. CANNON: Commissioner Pinkert, could I
3 add one thing too? If you just look at the prices on
4 a straight basis then prices are going to go up
5 because wheat costs go up, and obviously wheat cost is
6 a huge part of the price. So you do have to factor
7 that in a little bit and consider that relative to how
8 the prices are going to be.

9 And you also have to recognize that some of
10 the Italian producers that have remained in the market
11 despite the presence of the orders have been the ones
12 that we had testimony about that could sell this
13 premium product at a decent price and are not the ones
14 that are going to come flooding back in here at the
15 very low prices that we saw preorder. So those are
16 two other variables that may not be a straight just
17 looking at the numbers.

18 COMMISSIONER PINKERT: Thank you. Now, Mr.
19 Rosenthal, I know that this calls for some speculation
20 on your part in regard to Barilla, and you've already
21 testified a little bit about what you think is going
22 on there. Is there any indication that Barilla in the
23 event of revocation might take its talents back across
24 the Atlantic?

25 MR. ROSENTHAL: I have not seen anything

1 that they would abandon their U.S. facilities, but we
2 have seen from public statements and their own reports
3 are that, number one, they are under severe price
4 pressure in their biggest market, which is Italy.

5 In fact, when they had higher raw material
6 costs in Italy they decided not to raise their prices
7 there and therefore lower their profitability because
8 they were afraid they couldn't increase their prices
9 to the consumers. The result was lower profitability.

10 And one of the reasons why they didn't want to lose
11 volume is because they have so much excess capacity
12 there.

13 So do I think they're going to pull up
14 production from Ames, Iowa, or New York and go back?
15 No. What I do think will happen is that they will
16 make use of that unprofitable, unused excess capacity
17 and direct at least a portion of that to the U.S.
18 market. That is our concern.

19 MS. BECK: Commissioner Pinkert, if I could
20 also add? Some information is confidential about
21 Barilla and certain plans which we think would be the
22 exact opposite; that they do not have any anticipation
23 of exiting the U.S. market.

24 COMMISSIONER PINKERT: Thank you. Now, I
25 noted in the testimony that you talked about the

1 continuing coverage of the countervailing duty order
2 even for those companies that have gotten revocation
3 from the antidumping order, but is the Italian
4 antidumping order less effective today because of the
5 company specific antidumping revocations?

6 MR. ROSENTHAL: First of all, there haven't
7 been that many, number one. Number two, as I
8 mentioned earlier, the mere existence of the order
9 even at low levels does provide a fairly good
10 restraint because the companies and the importers
11 recognize that they're subjected to this
12 administrative review process that could increase
13 their margins retroactively, and I really believe that
14 people understand the risks that they take if they
15 start to buy lower priced product from a company
16 that's still subject to order.

17 So there are a few that are out from under.

18 Some of them like DeCecco got out, and they're at the
19 higher end of the tier. They're less likely to be a
20 threat and so the small handful of companies that are
21 out don't really represent what the real concern is
22 all about.

23 Mr. Silverman's argument that you can use
24 the few companies that are out from the dumping order
25 all together as a model makes no sense whatsoever

1 because there are a wide number, a vast number of
2 companies that are still subject to order who have low
3 margins who unrestrained would behave very, very
4 differently.

5 The mere handful that he's talking about are
6 not a good sample to go by, and again you have to look
7 at what happens when there is no restraint, when
8 there's no further risk of incurring liability.

9 MS. CANNON: I also think, Commissioner
10 Pinkert, you have to look at the combined rates. As
11 you know, you have the adjusted rates, and for some of
12 these companies, whether they've gotten out from the
13 dumping order or not, if they're subject to a
14 significant rate, and their projected rates are
15 certainly very significant, that's going to provide a
16 restraint.

17 It currently does, and the projected rates
18 as to what the Government of Italy is currently doing
19 are even higher, as I mentioned.

20 COMMISSIONER PINKERT: Thank you. I think I
21 can fit in one more question this round, and I'd like
22 to ask the business folks on the panel what influence
23 does the payment of slotting fees play in retailers'
24 decisions about allocating shelf space to this
25 product?

1 MR. FAUCETT: I'm not sure it does. There's
2 two things that we'd have to look. First and
3 foremost, if a retailer is looking at vetting new
4 items, retailers in the U.S. marketplace are presented
5 with more new items across all the categories in
6 stores than they have shelf space for in those
7 categories, so the purpose of slotting by U.S.
8 retailers is a means to basically vet new items.

9 Secondarily, right now, U.S. retailers are,
10 especially in the grocery channel of trade, in a
11 situation where there's an overcapacity of U.S. retail
12 grocery stores and U.S. retail grocers are fighting
13 fiercely for every shopping trip.

14 Their primary means that they're fighting
15 for that shopping trip is the front page advertisement
16 that you would get, and pasta is an item that is
17 promoted like 44 weeks out of the year by any given
18 retailer.

19 So if somebody comes in and offers a price
20 point that's going to allow a U.S. retailer to have a
21 very unique price position to their competitors,
22 they'll bring in that volume and slotting won't be the
23 question, it will be how long they can run supply at
24 that price point.

25 MR. GEORGE: This is Walt George. I would

1 also add that private label, which makes up more than
2 a third of the market, doesn't require any slotting
3 today. So if the OIA was revoked, they would be free
4 access to the shelf.

5 MR. FOX: And this is Brian Fox and I would
6 just say that slotting is highly variable, as Mr.
7 Faucett just said, that depending on the product or
8 depending on how the product can be perceived or
9 promoted can preclude slotting in cases.

10 COMMISSIONER PINKERT: Thank you.

11 Thank you, Mr. Chairman.

12 CHAIRMAN WILLIAMSON: Thank you.

13 Commissioner Broadbent?

14 COMMISSIONER BROADBENT: Thank you, Mr.
15 Chairman.

16 Want to welcome the witnesses here today.
17 It's great to have you. Mr. Rosenthal, we appreciate
18 your support of this industry. I think you're one of
19 the folks in town that are sort of Mr. Pasta to me in
20 my past life. I know to look for you to guidance on a
21 lot of these things which have developed over the
22 years.

23 I think I'm thinking back to the, we voted
24 on a citrus case yesterday and there was a citrus
25 pasta agreement back in the '80s, if I remember, that

1 was sort of --

2 MR. ROSENTHAL: Your memory is very good.

3 COMMISSIONER BROADBENT: So a precursor of
4 some of the stuff that's going on.

5 You know, I think this is a great industry
6 in the sense that, you know, anybody that's tried to
7 feed football teams, or kids, or any big groups of
8 people always, you know, when you say four boxes for
9 \$1, it kind of makes my blood run a little bit as I
10 want to lunge for it, so I think we have to think
11 carefully about the pricing and what we're doing here.

12 We don't want unfair pricing, but we don't want to be
13 intervening in the market too much.

14 Mr. Faucett, I think I'll start with you.
15 You mentioned that New World sells under a variety of
16 brands depending on region. Why is that? Why don't
17 you have one national brand?

18 MR. FAUCETT: That's a great question, and
19 you have to look at the make up of the company.
20 Basically, New World Pasta is an amalgamation of
21 acquisitions --

22 COMMISSIONER BROADBENT: Right.

23 MR. FAUCETT: -- from acquiring the pasta
24 business that Hershey Foods spun off when Hershey
25 decided it just wanted to be in the chocolate

1 business, from acquiring part of the brands from
2 Borden, and so as you look at the history of pasta in
3 the United States, it started as regional brands.

4 Prince is basically started in Boston and
5 it's a New England Brand. San Giorgio here in your
6 stores in Boston is a regional brand. The majority of
7 brands in the United States were family businesses
8 that started in geographies and the brands didn't
9 necessarily translate beyond those geographies, and so
10 New World Pasta has been basically buying up these
11 brands around the country and trying to bring synergy
12 to put a company together.

13 Would it be easier for us to have a national
14 brand? In certain regards, yes. But as I also
15 testified, three of our brands have, or this year are
16 celebrating their 100th anniversary. There's a
17 heritage. The Skinner brand is Texas. Consumers grew
18 up with that brand. I grew up in Indiana and
19 Creamette in the green box is what I was used to. So
20 there's a heritage in those geographies.

21 COMMISSIONER BROADBENT: To me, it does, you
22 know, imply the importance of brand for consumers. I
23 mean people are distinguishing, and your organization
24 is a testament to that.

25 MR. FAUCETT: Yeah. And believe me, we wish

1 that brand would play a much larger role in that
2 purchase decision. But at the same point, if you have
3 -- as we mentioned earlier, the average retailer is
4 promoting this category 44 weeks out of the year, so
5 just about every week a brand, whether it be private
6 label, one of our brands, or Barilla's brand, is on
7 promotion.

8 If you look at the weekly swings by
9 individual retail customers, if you're on promotion,
10 you're selling a lot of product. When you're off
11 promotion, you're not selling very much product. So
12 while we're proud of our brands, our brands would not
13 survive on the essence or the heritage of the brand.
14 It basically lives through our ability to invest in
15 those brands, to promote them at price points that
16 make them competitive with their competitive side.

17 MR. GEORGE: This is Walt George. If I
18 could just add one thing.

19 COMMISSIONER BROADBENT: Sure.

20 MR. GEORGE: Consumer research that we've
21 conducted tells us a couple of things. That brand
22 loyalty is less than 30 percent, that it is truly a
23 price point decision, and that the average consumer
24 will make their purchase decision in about four
25 seconds at the shelf.

1 COMMISSIONER BROADBENT: Anybody else?

2 MR. HASPER: This is Jack Hasper at Dakota
3 Growers. To that point, you asked why you want to
4 have one brand across the country. I was with
5 Creamette at the time when they tried to advance that
6 cause. That's where slotting comes into effect. If
7 he were, my associate here, were to take Creamette off
8 the shelf and replace it with San Giorgio, he'd have
9 to pay the slotting fee. That is agreeance fee to put
10 that particular product on that shelf.

11 The other point is even though the local
12 brands or regional brands are in that particular
13 market and do well with their consumers, they do well
14 because, to Shane's point, they do well because
15 they're on promotion. They aren't sold typically at a
16 premium to the other product on the shelf. The brands
17 that shelf every day in that store, every week in that
18 store, rotate depending upon which brand is on deal at
19 that point in time.

20 The consumers will switch. If private label
21 is on a sale, they'll buy private label. The next day
22 they'll buy Creamette or San Giorgio. The next day
23 they might buy whoever else is on sale. It's a very
24 price-sensitive promoted category.

25 MR. BRYANT: This is Jeff Bryant from New

1 World Pasta. Let me add one thing relative to the
2 national brand position that Barilla has. They
3 established that brand through pricing originally.
4 When they came into the country they offered a 99 cent
5 line pricing strategy that was different than the
6 domestic producers offered at the time.

7 In those days we had brands that were tiered
8 pricing where spaghetti was a lower price than
9 mostaccioli. Barilla came and offered a price that
10 was low on all of those items and that enabled them to
11 get the foothold and establish their distribution.
12 Even so, they had to relaunch several times in some
13 parts of the country, but that national brand was
14 still founded on low pricing.

15 COMMISSIONER BROADBENT: Okay.

16 MR. FOX: One last comment on that.

17 COMMISSIONER BROADBENT: Sure.

18 MR. FOX: Fortunately, we have access to a
19 lot of pretty sophisticated information that allows us
20 to do a lot of sophisticated elasticity analysis. One
21 of the things that we look at even though the category
22 itself is basically stagnant, it's zero elastic in
23 terms of growth of the category for price, what we do
24 see is a significant amount of elasticity based on
25 products that are on promotion.

1 So for us, understanding how to use our
2 products to compete against subsidized Italian imports
3 would be very, very key, and would be impactful and
4 hurtful to our business if we had to match those in
5 every case.

6 COMMISSIONER BROADBENT: Mr. Fox, just for
7 the record, you're with the?

8 MR. FOX: American Italian Pasta Company.

9 COMMISSIONER BROADBENT: Got it. Okay.
10 Great.

11 MR. HASPER: This is Jack Hasper. One more
12 additional last comment. The Barilla product, though,
13 when it is on, promoted, they're still promoting it 10
14 for \$1. That's the ads they have. At 10 for \$1
15 pricing, a buck, that's below the every day price of
16 the private label retail product on that shelf.

17 COMMISSIONER BROADBENT: Okay.

18 MR. GEORGE: It's 10 for 10. Not 10 for \$1.

19 COMMISSIONER BROADBENT: We get a lot of
20 hyperbole here, but that, I might leave now to go get
21 some.

22 MR. ROSENTHAL: Yes. I was going to say
23 you're going to start a stampede.

24 MR. FAUCETT: Across the United States the
25 typical promotion price is \$1 a pound and that's what

1 you'll typically see in a grocer's promotional arena.

2 To Jack's point, Barilla promotes at the same level
3 that we promote.

4 So there's really two levers that we have in
5 our business, as we've all talked about. We've had to
6 focus extensively hard on improving our operations and
7 finding every penny of efficiency we could, and then
8 when we're outside of this room we just beat each
9 other up left and right trying to get this ad versus
10 that ad and this retailer versus that retailer.

11 COMMISSIONER BROADBENT: Okay. Let's see.
12 I know, Ms. Cannon, you were pretty negative on the
13 Italian producers who weren't responding. If we got a
14 full response rate from the Italian producers -- I
15 mean it seems to me that there may be just a lot of
16 very small firms out there that aren't exporting and
17 are just selling locally, small bakers and so forth,
18 and we're counting sort of 4,000 pasta producers in
19 Italy and it makes me think that there's not a lot of
20 huge production there that would come to this country.

21 MS. CANNON: Well, that was my original
22 thought, too, because that's often the case is you
23 have a lot of little companies, and maybe some of the
24 4,000 are in that camp. Your staff sent
25 questionnaires to 129, though.

1 The important thing, Commissioner Broadbent,
2 is that of those companies that they sent
3 questionnaires to, a lot of these are major producers.

4 Barilla, for example, huge producer that didn't
5 respond.

6 Beyond that, you've got a number of
7 producers in Italy that have been actively
8 participating in Commerce reviews. These are
9 significant exporters that are present in this market
10 that are over at Commerce right now and aren't
11 participating, even by responding to your
12 questionnaire.

13 I think that's quite a different fact
14 pattern than just having some small companies that
15 might not have the sophistication or ability to
16 respond. They clearly have counsel, they have, they
17 know about these laws, but they're choosing not to
18 show up.

19 When you see the delta that we were showing
20 in some of the slides, that's what raises real
21 concerns is they're trying to get you to focus on we
22 only have this amount of unused capacity when their
23 unused capacity, as Mr. Rosenthal said, collectively
24 with Turkey, would be 63 percent of our market. So
25 you really do need, I think, to take that into account

1 just in fairness and recognition of the size of the
2 industry.

3 COMMISSIONER BROADBENT: The Commission
4 looks at a lot of industries and the effect of the
5 downturn in the European economy at this point. Given
6 that this is a low cost food, do you think demand may
7 go up as Europe continues to struggle with its
8 economy?

9 MR. GEORGE: Well, I can use the United
10 States as an example. We are a counter cyclical
11 industry. I think it would stand to reason that you
12 would expect to see the same phenomena in Europe as
13 well.

14 We have a small Italian subsidiary in Italy
15 as well and we're seeing a lot of demand for our
16 products currently, and particularly in Italy. It is
17 a staple of the daily meal, not the weekly meal. So,
18 yes, I think you could extrapolate that the same
19 phenomena would occur.

20 MR. FAUCETT: It's also worth noting that
21 the data points that we've provided are, one, the U.S.
22 marketplace is the largest market and has the highest
23 price points, so if you're going to have a long-term
24 business, the U.S. marketplace is highly attractive.

25 We also have shown that the open capacity by

1 these industries in Italy and Turkey is two billion
2 pounds. The U.S. marketplace is only 1.5 billion
3 pounds in total. So even if they achieved some
4 domestic increase in consumption, they're still not
5 going to put a dent in the open capacity that they
6 have.

7 It's still financially advantageous for them
8 to try and penetrate the U.S. marketplace. To
9 penetrate the U.S. marketplace, it would have to be
10 done on price point in what is clearly a flat
11 category. So it's a zero sum game for us.

12 COMMISSIONER BROADBENT: Thank you.

13 CHAIRMAN WILLIAMSON: Thank you.

14 First question is what percent, does anyone
15 have a rough idea of the percentage of the durum wheat
16 used in pasta production in Turkey and Italy comes
17 from the U.S.? Any rough ideas? I'm saying North
18 America.

19 MR. GEORGE: I think we could probably get
20 some information and put it in the post brief but we
21 would have to have some time to gather that. I think
22 there's some public data for that.

23 CHAIRMAN WILLIAMSON: I was just wondering
24 roughly. The reason why I'm asking is because I'm
25 curious, what role does transportation shipping cost

1 play in this?

2 I think that Chart XXIV, or page 25, you
3 talked, you had these costs of, or the price in a
4 number of markets for the Italian pasta, and I know
5 there's an awful lot of stuff in Africa, and I know
6 what it costs to ship things there and, given the low
7 volumes and just the transshipping cost and
8 inefficiency of ports. It sort of raised the question
9 to me about, you know, what role does transportation
10 cost play in terms of the Italians and the Turks
11 coming to the U.S. market?

12 MR. GEORGE: This is Walt George. Our
13 experience is that the transportation becomes variable
14 in the cost equation, so the market price for durum
15 stays relatively stable worldwide.

16 CHAIRMAN WILLIAMSON: Okay. So you're
17 saying shipping of durum to Italy or Turkey is not a
18 big factor in terms of the cost?

19 MR. GEORGE: No. As I say, it's variable.
20 Up until the demise of the Canadian Wheat Board last
21 year, the Canadian Wheat Board would oftentimes sell
22 product on a delivered basis, and then they would work
23 the transportation costs into the cost, keeping durum
24 at a relatively stable global price.

25 CHAIRMAN WILLIAMSON: Okay. Now, what about

1 the pasta coming to the U.S. and the cost of that?

2 MR. FAUCETT: If I may expand upon that
3 before we shift to the U.S.

4 CHAIRMAN WILLIAMSON: Sure. Okay.

5 MR. FAUCETT: It's also worth noting, sir,
6 that if you have open capacity, and in the running of
7 pasta lines from, we're all using the same equipment,
8 it is, the most efficient way to do that is to run
9 those 24/7. So if Italian and Turkish import
10 companies have open capacity, if they incur any
11 additional cost, whether it be transportation or
12 other, that can easily be made up by improving their
13 overall fixed cost basis by running more volume.

14 This is a scale business and so if they can
15 run more volume, that will reduce their overall cost
16 and efficiencies and I would assume more than make up
17 for any transportation costs.

18 MR. GEORGE: This is Walt George. I can
19 address your question. As AIPC and our pasta lending
20 subsidiary, we're an importer into the U.S. Our
21 transportation costs are a significant part of our
22 import cost, which we find sometimes befuddling when
23 we see imported pricing from competitors in Italy and
24 what they sell for, knowing what we land here for.

25 CHAIRMAN WILLIAMSON: Wait. Okay. Did I

1 hear one of you saying it's not significant and
2 another saying it's significant or did I just mishear?

3 MR. ROSENTHAL: Well, I want to make it
4 clear because I think I heard two questions, too --

5 CHAIRMAN WILLIAMSON: Yes. that's fair.

6 MR. ROSENTHAL: -- and one having to do with
7 transportation costs for wheat, and the other on
8 transportation costs for the finished product. I was
9 hearing that the transportation costs for the finished
10 product are significant, but that if you want to use
11 or use your production lines, you'll absorb those
12 costs because it's still more profitable to ship that
13 way. That's for the finished product.

14 For the wheat, I heard that the
15 transportation costs are variable. Obviously, we do
16 ship, the U.S. ships wheat all around the world.
17 We'll get you that number about what percentage of
18 North American durum goes to Europe. My recollection
19 from a few years ago was it was as much as a third,
20 but I don't want to tell you that's a fact for today
21 because we'd want to get you more recent data.

22 MR. FOX: Yes. This is Brian. I want to
23 add to that and maybe put some clarity on it. I think
24 what Mr. Faucett was trying to say is when you look at
25 the cost of product, so you have a fixed cost made

1 over a fixed number of pounds that you're going to
2 produce. So what is the next, what is the marginal
3 cost of the next pound to produce after your fixed
4 costs are covered? That's where I believe Mr. Faucett
5 was trying to say that the next, the marginal cost of
6 the next pound is a lot less and can potentially be
7 something that would offset freight.

8 Freight, in itself, is expensive, but
9 looking at that marginal cost of not making that next
10 pound or making that next pound can make a big
11 difference in the overall cost structure of selling
12 product.

13 CHAIRMAN WILLIAMSON: Okay. Good. The
14 reason why I'm asking all these questions is I'm
15 trying to figure out on what basis are the Italians --
16 if the orders were revoked, on what basis would they
17 be coming into the U.S. market given, you know, these
18 cost issues, and also given what we've talked about in
19 terms of shelf space, slotting fees. You know, you
20 just don't come into the U.S. market. You've got to
21 have certain infrastructure.

22 So I wonder if you all could address that in
23 telling us why, if you lift the orders, you would be
24 worried about all these various Italian firms rushing
25 back in here.

1 MR. GEORGE: This is Walt George. This
2 really addresses Ms. Broadbent's earlier question as
3 well. There's a lot of small suppliers in Italy. You
4 don't need to be big to import into the U.S., you just
5 need a distributor. There are many, many distributors
6 in the United States that distribute Italian-produced
7 products and they have the infrastructure set up
8 already in the United States. It's just a question of
9 having the capability of shipping containers. So,
10 really, the only barrier to a supplier is if they
11 don't have a distributor, they need to get a
12 distributor.

13 CHAIRMAN WILLIAMSON: Okay. Are they like
14 -- I'm sorry. Go ahead.

15 MR. FOX: This is Brian Fox. I'm just going
16 to add to what Walt said. One of the things that
17 makes entry into the U.S. market much easier than it
18 was even just five years ago is the significant
19 consolidation of retail operators that we've seen in
20 this market.

21 So as a importer, you can get to 50 percent
22 of the ACV, which is kind of the term for all
23 commodity volume which represents the all dollars
24 sold, you can get the 50 percent of the ACV of the
25 market share with only five customers.

1 So if you had to look at that five years ago
2 or even 10 years ago, it would be a more significant
3 challenge for somebody to come in then than it would
4 even be now. So it's fairly simple to get somebody on
5 the ground to make sales calls and have the price
6 product at the right place to five places than it
7 would be going to 15 or 20 places.

8 Frankly, as Walt said, the container and
9 logistics of that, retailers are sophisticated enough
10 to take those containers direct from ports or, in some
11 cases, even pick those or arrange transportation
12 direct from Italy, if they'd so choose to.

13 CHAIRMAN WILLIAMSON: Now, would those
14 primarily be private label brands or would the
15 importer be trying to get his name recognized? I
16 imagine it varies, but it's just --

17 MR. HASPER: This is Jack Hasper with Dakota
18 Growers. I think it's both. I mean we have incidents
19 where they will come in and not necessarily want to
20 build their brand, but sell their brand at a promoted
21 price. The retailers love that because they can buy
22 10 or 20 containers at a hot price. And again, pasta
23 is a destination category. It's to get people into
24 your store.

25 It's like selling turkeys at a loss during

1 Thanksgiving. Why would you do that? Everybody wants
2 it. But that's what they do in the retail business.
3 They add the pasta at hot, hot sales to get people in
4 their store, then they try to make money on everything
5 else. So they can come in with 10 or 20 containers of
6 an Italian brand and sell it at price and it will sell
7 well because today's consumer is very non-brand loyal,
8 but more price sensitive, if you will.

9 CHAIRMAN WILLIAMSON: So are you saying
10 those are like a brand they might not have heard of
11 before or --

12 MR. HASPER: It could be a brand never heard
13 of before. There's -- what's the one up in New York?
14 Butricchini or whatever.

15 CHAIRMAN WILLIAMSON: I'll shop at Fairway
16 just so you can tell me about this. I'm going to see
17 the shelf in Fairway in New York.

18 MR. HASPER: Now, the other thing is, on
19 private label, that they are in private label. We
20 have had instances where they've come into the market,
21 and they are packing private label now for some of our
22 retail customers. Some of my retail customers.
23 Obviously, that's at a good price. I've lost some
24 considerable business to Italians on a retail private
25 label business.

1 To Brian's point today, you can see I've
2 been around a long time with my gray hair, but I used
3 to call on Food 4 Less, and Ralph's, and Fred Meyer,
4 and Sabinison's, and King Super, and City Market, and
5 Smay's, and Fry's, and you name it, and now that's all
6 Kroger. It's all one guy at Kroger.

7 They can go to one guy at Kroger and say,
8 hey, we'd like to bid on your business. They're doing
9 that. Kroger does reverse auctions now, as they
10 always did before. They're coming to us and saying
11 we're going to have our total private label business
12 up for bid, and by the way, Mr. Supplier, Mr. Italian,
13 or Mr. Turkish, it's all one label, you don't have to
14 worry about it, it's easy. So it's one label, come on
15 in and give me your best price for all this business.
16 That's going to happen. It's happening now.

17 You, the consumer, or me, the consumer, when
18 I go to a store, and you go to Giant right here --
19 which is owned by Safeway -- and you buy that Safeway
20 label, you don't know who packs that product inside
21 that product, inside that box. Safeway does. They
22 made a decision to buy from a supplier based on price.

23 Who's got a good price? You've got a minimum
24 quality, but all we're saying, all quality is pretty
25 much the same. So it does open that door. It's a

1 very, very competitive market out there.

2 CHAIRMAN WILLIAMSON: Okay. Thank you.

3 MR. ROSENTHAL: Commissioner, I know your
4 time is up but I just wanted to summarize.

5 CHAIRMAN WILLIAMSON: Good. That's what I
6 was going to ask for.

7 MR. ROSENTHAL: How do you bring your
8 product in? How do you gain market share when you
9 have a commodity product and a flat market? There's
10 only one way. Price.

11 CHAIRMAN WILLIAMSON: Okay. Thank you.
12 Anything posthearing you can do to sort of -- I've
13 been jumping all over the place, but you see where I'm
14 going -- to sort of make this concrete and
15 rationalized and maybe any numbers in order to support
16 it posthearing would be helpful. I just wanted to
17 figure out this dynamic and that's been very helpful.

18 So, Commissioner Pearson?

19 COMMISSIONER PEARSON: Thank you, Mr.
20 Chairman.

21 I also would offer my welcome to all of you.

22 It's good to see some faces that I think I recognize
23 from five years ago. I appreciate your willingness to
24 come to Washington in July to enjoy our humidity. I
25 almost wonder if we shouldn't have held this hearing

1 in Minot in the heart of the durum triangle, which
2 probably is a bit cooler, maybe a bit drier than
3 Washington is today. I didn't check the weather, so I
4 don't know.

5 Following up on the Chairman's question
6 about durum, is the United States currently a net
7 importer of durum or is it a net exporter?

8 MR. GEORGE: This is Walt George. We're
9 still a net exporter. Exports over the last three or
10 four years, though, have declined. I think the
11 forecast that's coming out today on the USDA will
12 predict that exports will be flat to last year, but
13 there is still some amount that is being exported.

14 COMMISSIONER PEARSON: Okay. I'm interested
15 in the demise of the Canadian Wheat Board's monopoly.
16 How is that changing the durum market in North
17 America? Is it just plain easier to get Canadian
18 durum into the United States or is it harder?

19 MR. GEORGE: Our experience is it's, there's
20 been no material change. Where -- the strong
21 elevators in Canada have stepped in and replaced the
22 Canadian Wheat Board, so now you deal with the
23 elevator. But it's the same fundamental negotiating
24 process.

25 COMMISSIONER PEARSON: Okay. You can get it

1 if you need it badly enough.

2 MR. HASPER: Mr. Commissioner, this is Jack
3 Hasper again.

4 COMMISSIONER PEARSON: Yes.

5 MR. HASPER: Yes, there was some talk and --
6 you asked the question five years ago about the
7 ability to start a futures market, and there was some
8 talk of that again, and again it failed totally. They
9 had the party and nobody came to the party. So there
10 is no futures market.

11 The other thing is that the Canadian market
12 is open and, but however, their pricing today is
13 higher than the pricing in the U.S. As you know, the
14 Canadian market grows about 200 to 220 million bushels
15 of durum wheat and we use about 80 million bushels a
16 year here, in the United States, for the domestic
17 pasta association. Not all of that we grow here.

18 We typically grow 80 million bushels a year,
19 but all that is not usable for pasta. Some of that is
20 milling quality, some of that is sold for feed. So
21 we're always bringing some durum wheat in, typically
22 from North America into the United States, for the
23 pasta group here. But if that helps.

24 COMMISSIONER PEARSON: Okay. It was
25 indicated that durum acreage in the United States is

1 down significantly this year, which I assume is
2 related partly to wet weather in North Dakota.

3 MR. HASPER: That is correct. The
4 projections are 61 million bushels this year for
5 harvest versus about 81 last year. Eighty-one million
6 bushels.

7 COMMISSIONER PEARSON: Okay. So the United
8 States may become a net importer of durum in the
9 coming marketing year then.

10 MR. HASPER: Possibly.

11 COMMISSIONER PEARSON: Okay. Well, that's
12 speculative, but I'm just trying to understand the
13 broad ebbs and flows in this marketplace.

14 MR. GEORGE: I think that question will
15 ultimately be answered at harvest and what the quality
16 is.

17 COMMISSIONER PEARSON: All right. Were the
18 lack of plantings in the United States influenced to
19 some degree by the crop insurance program, the
20 prevented planting provision? Did that discourage
21 some acres from going in?

22 MR. HASPER: My understanding -- this is
23 Jack again -- is no. I think the primary reason for
24 the lack of plantings was the wet weather, and the
25 delay, and the need for them to have their 120 days to

1 have a good crop, and the concern about not getting
2 that crop up before the frost.

3 COMMISSIONER PEARSON: Were they able to
4 shift some of those acres to other crops or is it just
5 fallowed this year?

6 MR. HASPER: They were trying to shift it
7 beans and other products, yes. We made a comment
8 earlier about corn. You've seen on the slides, the
9 interesting thing about corn -- as you know, that
10 durum wheat is not genetically modified; in fact, all
11 wheat in the United States is not genetically
12 modified, but corn is. It used to be it took this
13 long to grow corn. Now it grows this long.

14 So we can now grow corn in areas of North
15 Dakota that we, normally you could never grow before.

16 They were designated normally wheat or spring wheat
17 areas because you couldn't grow corn. Now they can
18 grow corn.

19 We're also losing in acreage to sunflower
20 seeds, and to soybeans, and to others. One of the
21 comments I heard recently from the University of North
22 Dakota was that the most optimum place for the Chinese
23 to buy soybeans from a cost standpoint, including
24 freight, and production costs, and everything else,
25 was right there in Fargo.

1 COMMISSIONER PEARSON: Yes. I understand.
2 The rail facilities to get to the West Coast elevator
3 facilities all make it simple to get product to Asia.

4 Allow me to shift gears. I have to direct
5 this to those of you who have access to the
6 confidential record. I'm interested in some things
7 that I see in Table III-8 on page 3-17. In
8 particular, in the lower half of that table we see
9 information on the average unit values achieved by
10 various domestic firms in the domestic market.

11 You emphasized heavily the importance of
12 price in selling this product. So what I'm seeing, if
13 I look, just look at the year 2012, I'm seeing more
14 variation in average unit values across companies than
15 I would expect to see for something that's basically a
16 commodity product and for which price is very
17 important. Can anyone help me understand this better?

18 Mr. Kerwin? Ms. Beck?

19 MR. KERWIN: I don't actually have those
20 data in front of me and I'll be careful about getting
21 into anything proprietary, but one significant factor
22 is that different producers may be producing more
23 specifically for retail, others may be doing a heavy
24 volume of private label which could sell at a
25 different level from a company that was really focused

1 on branded product, and there are also producers that
2 produce significant volumes for the food service
3 industry and for industrial inputs.

4 Those industrial inputs would be sold in
5 bulk, large volumes, and would be a whole different
6 pricing dynamic than product that's being put into a
7 one pound box and sold at a retail level with all the
8 concerns that we've heard this morning about how that
9 marketing takes place.

10 So without getting into the specifics of
11 individual companies, which we'd be happy to do in the
12 posthearing brief, you definitely do have some
13 significant variation in the focus in terms of the
14 industrial, food service, and retail sectors that are
15 served.

16 COMMISSIONER PEARSON: But off the top of
17 your head, you're seeing it more as a sector of the
18 marketplace that's served rather than as a product mix
19 issue.

20 MR. KERWIN: That would be primarily my
21 assumption. Yes.

22 COMMISSIONER PEARSON: Okay.

23 MS. BECK: Commissioner Pearson, we'll
24 certainly provide this posthearing, but there is an
25 explanation behind particularly the trends that you're

1 seeing for certain companies as to why that would be,
2 and we'll provide that in posthearing.

3 COMMISSIONER PEARSON: Okay. Thank you.

4 For the court reporter, that was Ms. Beck.

5 MR. VERMYLEN: Commissioner, this is Rob
6 Vermylen from Zerega Pasta. Back to your original
7 question on those big range of unit values. For
8 example, my company, which I described earlier as a
9 specialty pasta producer, we make, a significant
10 amount of our business is co-packing specialty shapes
11 for our competitors in this room. The shapes that we
12 manufacture are produced at sometimes one-third the
13 production rate that our competitors are producing
14 spaghetti or elbow macaroni and have significant labor
15 involved in the packaging. So when I'm selling them a
16 pound of pasta, it's at a much higher cost per pound
17 than a typical pound of spaghetti or penne pasta.

18 COMMISSIONER PEARSON: Okay. Might some of
19 the variation in average unit values be explained by
20 brand differentiation?

21 MR. FAUCETT: I can address that. That's
22 one of the questions that we analyze on a quarterly
23 basis trying to understand the value of the brands.
24 Every time we do this we come to the same conclusion.
25 It's really not the strength of the brand. It has to

1 do purely, in our case as a primarily retail-focused
2 manufacturer, it's the amount of promotions that we do
3 in the marketplace.

4 So, for example, if we were able to get more
5 promotional activity or able to get more shelf space
6 at Giant Foods here, in Baltimore, Washington, then
7 that's going to have, that's going to drive our
8 average price down, but if we're able to make that up
9 by getting some new items sold in to say a customer on
10 the West Coast and we can sell those products more off
11 the shelf, then that will bring it up.

12 So it's a constant mix between not only
13 products, but it's a mix in the retail customers that
14 we're serving across the U.S.

15 MR. GEORGE: This is Walt George. I might
16 also add that I support the thesis that it's probably
17 portfolio mixed more than anything, but also in 2012
18 there was some volatility in the durum markets, and
19 the durum contributes between 50 and 70 percent of the
20 cost of our product depending on its price. And
21 depending on timing of when we take our contracts and
22 throughout the year, you can volatility in unit cost.

23 It doesn't take much of a swing in durum pricing to
24 change unit value.

25 COMMISSIONER PEARSON: Right. No, I can see

1 how variable durum pricing could affect the unit
2 costs, but I was focusing most specifically on the
3 value of sales and whether you could pass along that
4 higher cost to these nasty retailers that you've been
5 talking about. That's what's not clear to me.

6 MR. GEORGE: Yeah. No, that's exactly it,
7 and because of the consolidation in the retail
8 industry that was discussed earlier, there is an
9 enhanced pressure to control their suppliers' price
10 points.

11 COMMISSIONER PEARSON: Okay. Well, for Ms.
12 Beck and Kerwin, what I'd really like to understand on
13 this issue for purposes of the posthearing is whether
14 the domestic industry really kind of knows what each
15 other is doing and what the pricing is. I mean, we
16 have seen cases where not so much in reviews but in
17 original cases where the case comes before us and we
18 have the domestic industry saying those imports are
19 beating us and we're losing market share, and then we
20 look at the confidential data and we see a substantial
21 portion of that market loss that they thought was
22 going to imports was actually going to one or more of
23 their domestic competitors, and so I don't have a
24 sense here whether -- I don't have a sense of whether
25 some of the price variability we're seeing in unit

1 values is just due to lack of full understanding of
2 what other domestic players are able to do in the
3 marketplace, what their cost structure is, what their
4 philosophy of production and marketing is. And so to
5 the extent you can help me understand more about that,
6 I would appreciate it.

7 And, Mr. Chairman, apologies for going way
8 over.

9 CHAIRMAN WILLIAMSON: Commissioner Aranoff.

10 COMMISSIONER ARANOFF: Thank you, Mr.
11 Chairman.

12 There was some discussion earlier about
13 slotting fees, and I find myself more confused than I
14 was coming in, so I have a couple of questions about
15 those. The first is, are slotting fees only charged
16 by traditional grocery stores, or would other types of
17 retailers like warehouse clubs or dollar stores or
18 drugstores or other retailers also use slotting fees?

19 MR. GEORGE: This is Walt George. I'll
20 answer that. It depends on who they are. Largely
21 traditional grocery is known to require slotting.
22 There are mass merchants that do not require slotting.
23 Value stores typically will look for the lowest price
24 and they will not require slotting. So each has their
25 own policy, but I think you can generally say that

1 traditional retail is still where slotting is
2 pervasive.

3 COMMISSIONER ARANOFF: Okay. Now --

4 Mr. HASPER: If I can make a comment? Jack
5 here. Let me add to that, though, when you go to a
6 mass merchant and he does not require slotting, he
7 typically knows that slotting exists and he will ask
8 for a better price every day to compensate for that.

9 COMMISSIONER ARANOFF: Okay.

10 MR. KERWIN: Commissioner Aranoff, if I
11 could add one point. One of the things that came out
12 in our discussions yesterday and I think this is
13 probably obvious to anybody above 20 years old or so
14 is how important those types of stores that you
15 mentioned, the club stores, the mass merchandisers,
16 the dollar stores, that whole element of the retail
17 industry has grown really dramatically since the time
18 of the original investigation, and that part of retail
19 now accounts for a very significant element of pasta
20 that's being sold, and it is a much more price-
21 competitive environment than ever.

22 And that's why it has been mentioned this
23 morning that many of the traditional grocery stores,
24 grocery chains, are really struggling, because they're
25 facing that kind of price competition from the mass

1 merchandisers, the club stores, the dollar stores, et
2 cetera, making price even more important in the pasta
3 market than it was at the time of the original
4 investigation.

5 COMMISSIONER ARANOFF: Yes, yes. All I know
6 is that the price of pasta started going up a lot
7 right about the time that I got teenagers who eat a
8 lot of pasta, so my costs of keeping pasta in the
9 house have gone up significantly.

10 Now back to slotting fees, because we've
11 talked about who charges them. As a manufacturer,
12 when you pay a slotting fee, could you tell me what
13 exactly are you buying for want of a better term by
14 paying that slotting fee and how long does the benefit
15 last? Are you buying a spot on the shelf for a
16 particular SKU? Are you buying access to the store
17 for your entire brand offering? What are you buying?

18 MR. HASPER: This is Jack. You're basically
19 buying a spot on that store's shelf, and if you have
20 10 items, you buy 10 spots. If you have 20, you buy
21 20 spots. The retailers in the United States, I'm
22 talking the traditional retailers, have a set fee, and
23 their slotting fee, ShopRite's can be different than
24 Safeway's can be different than somebody else, but
25 they basically are selling their real estate. So, if

1 you want to put in 10 items or 20 items, you're going
2 to pay per SKU X amount for that SKU to be put on that
3 store shelf. Typically they'll give you a year, you
4 know, no guarantee. Sometimes they'll give you
5 longer, but sometimes they'll revoke that too.

6 COMMISSIONER ARANOFF: Right.

7 MR. HASPER: But it is a green fee to get on
8 the shelf for a brand. Now to get in the private
9 label business, you don't pay that because you're
10 packing their brand and they want everyday low price.

11 And the earlier conversation, as we shift to the
12 Walmarts and the dollar stores and some of the others
13 out there that are limited assortments, the Aldi's,
14 the Save-A-Lots if you will, they typically are
15 everyday low price and they factor that all into their
16 everyday low price that they want from you, the
17 supplier.

18 MR. FAUCETT: Shane Faucett. If I could
19 continue with that. The other part of your question
20 was the duration of the arrangement with slotting
21 fees. There is no contract, but the sort of industry
22 nod would be that that gives you nine months to a year
23 to prove if that new item is viable, and retailers,
24 some retailers are moving to twice a year, but the
25 majority of retailers every year assess every item in

1 their category to see what the bottom performers are
2 that should come out and what the strong performers
3 are that they maybe should expand.

4 I assume the focus on slotting is under the
5 premise of is slotting a barrier to entry to the U.S.,
6 and I would position that it is not because slotting,
7 as was stated earlier, is heavily negotiable. It's
8 negotiable for the entire scheme of things that you're
9 doing with a particular retailer, and if you have a
10 product and you wanted to come in and give a
11 particular retailer such a cost favorability in the
12 marketplace that would allow them to really stand
13 apart from their competitors in the retail world, I
14 don't know of a retailer that would waive off slotting
15 fees to achieve that.

16 COMMISSIONER ARANOFF: Okay. Now, when I go
17 into a grocery store and I go into the pasta aisle,
18 what I see are basically four large types of pasta
19 represented. I mean, I'll see a private label for the
20 store. I'll see maybe two domestic branded products,
21 and then I might see an Italian branded product. In
22 my store, there's a lot of De Cecco on the shelf,
23 which I think is made in Italy. And then maybe I'll
24 see some other, bits and pieces of other products kind of
25 around the periphery. Is that typical? Is there a

1 limit to the number of different brands that stores
2 are willing to shelve or the consumers look at before
3 they just get too confused?

4 MR. FAUCETT: Shane Faucett again. There's
5 two parts to that question. One is from the
6 retailer's lens and then the last part that you
7 mentioned is from the consumer's lens, and I'll focus
8 on the retailer perspective first.

9 Retailers obviously sell a lot or a large
10 number of categories in their store, and retailers are
11 constantly struggling with what is the right amount of
12 space for Category A versus Category B versus Category
13 C, and it's something they try to do as infrequently
14 as possible. When they open a new store, they'll try
15 to do it once maybe every four or five years because
16 moving categories around or taking space from one
17 category to another is an incredibly difficult thing
18 to do because they have to basically reset the entire
19 aisle or the entire store.

20 So, if say 15 feet or 12 feet is allocated
21 to the pasta section in your store, it's going to --
22 it will be highly unlikely that you'll see that go
23 from 12 feet to 16 feet because new products have
24 entered the marketplace. The 12 feet will remain, and
25 if new products come, then the retailer decides okay,

1 if I'm going to add two new items, then two items are
2 coming out because I still have 12 feet, and that's
3 the general process across every U.S. retailer.

4 MR. FOX: And let me add something to that
5 as well. This is Brian Fox again, sorry. So I would
6 say in addition to that there are other variables that
7 go into it. So depending on what a manufacturer may
8 be bringing to the store, particularly in our
9 category, a very high percentage of sales volume is
10 concentrated in a very small number of SKUs.

11 So, if you have a spaghetti, a thin
12 spaghetti, an elbow, a penne rigate, and one or two
13 other shapes, you can capture somewhere in the area of
14 60 or 65 percent of the volume of the pasta category
15 in just those few shapes. Well, those few shapes if
16 you take a look at that within a retailer's set, long
17 goods typically take up 11 inches of shelf, so in less
18 than three linear feet of shelf you can get that
19 product in there.

20 And so when Shane was mentioning 12 feet as
21 a section, that also varies widely by the part of the
22 country. If you go to a ShopRite in New York, the
23 pasta set is going to be 40 to 60 feet long. In other
24 parts of the country, it may only be 12 to 16 feet
25 long. So is that really a barrier? No, it's not

1 really a barrier because you can get new items in a
2 fairly small footprint of linear foot in a store.

3 COMMISSIONER ARANOFF: Well, let me just,
4 because I just have a little bit of time left, turn
5 from that and say wow, we focused a lot on the retail
6 chain where there's room for multiple brands or
7 multiple suppliers to compete. If we're talking about
8 other channels of distribution, distributors into food
9 service or institutional and those sort of things, are
10 those kind of purchasers, a distributor in food
11 service for example, how many different brands as
12 opposed to different shapes of pasta are they going to
13 be interested in carrying?

14 MR. VERMYLEN: This is Rob Vermylen. We
15 sell a lot into the food service market, particularly
16 into the New York area where there are a lot imports,
17 and a typical food service distributor would carry
18 three lines of pasta. They would certainly carry
19 their own private label, many of which we produce.
20 They would carry an Italian import because there are
21 certain white tablecloth restaurants that the chef
22 would insist on Italian only for his own reasons. And
23 then they would carry perhaps a lower priced import
24 from South America or from Mexico to be competing in
25 what they'll call the bid market, selling into

1 schools, prisons, hospitals, institutions like that.

2 COMMISSIONER ARANOFF: Okay. Thank you very
3 much for those answers.

4 MR. FOX: Can I add one comment to that? So
5 I would say -- this is Brian Fox again. I would say
6 from a food service perspective, depending on the part
7 of the country, that can be highly variable, so we
8 have food service customers in south Florida that will
9 take any inexpensive import into their distribution
10 chain no questions asked. So some of those chains,
11 some of those distributors in Florida and also in New
12 York may carry 15 or 20 different brands in there
13 depending on the low price that they can get from
14 somebody that's willing to import it into the U.S.
15 It's highly, highly variable.

16 COMMISSIONER ARANOFF: Okay. Thank you, Mr.
17 Chairman.

18 CHAIRMAN WILLIAMSON: Thank you.
19 Commissioner Pinker.

20 COMMISSIONER PINKERT: Thank you, Mr.
21 Chairman.

22 Now just restricting ourselves to Turkish
23 versus Italian pasta, is there a customer perception
24 out there that the Turkish pasta is generally of lower
25 quality? And let me add I understand that you've

1 testified about the objective qualities of the
2 product, but I'm asking here about the customer
3 perception.

4 MR. FAUCETT: Shane Faucett. I would say I
5 don't know, and that's under the premise that I've
6 never heard that. I've never experienced that. So a
7 lot of customers, especially on the consumer side, a
8 lot of consumers don't really know where the product
9 comes from. They're buying a box of pasta and again,
10 the majority have bought it because of the price
11 point. Also the U.S. consumer has a plate of pasta
12 and is almost always putting something on top of it.
13 So I'm not aware of a perception that exists, and in
14 this category, as we've talked ad nauseam, if there
15 were a perception that exists, a very low price point
16 can erode that perception very quickly.

17 COMMISSIONER PINKERT: Anybody else on the
18 panel looked at this issue?

19 MR. ROSENTHAL: I've not looked at this one
20 specifically, but there has been discussion in
21 previous reviews and in conversations with our clients
22 talking about perceptions and brand loyalties but how
23 consumers will change their decisionmaking rather
24 rapidly. If they go in looking for pasta, they will
25 go in looking for pasta. They don't necessarily look

1 at the country of origin, and if the price is right,
2 they will buy it. And there are many examples of
3 customers. I mean, people may think that because it
4 has an Italian name it comes from Italy, but they buy
5 it anyway because they don't look at the country of
6 origin. But American Beauty, there are lots of
7 American names that sell up against other products,
8 and again it is I want pasta and once I'm in the store
9 I'm indifferent to country of origin.

10 I don't know how many people actually read
11 the label. They just buy it because it's got the
12 lowest price. And more and more of that is happening.

13 The exception is the Italian chef in New York City
14 who wants to specify an Italian product. The vast
15 majority, and you saw the chart at the very beginning,
16 the vast majority of product is being sold as a
17 commodity on price with a lack of reference to country
18 of origin.

19 MR. GEORGE: This is Walt George. I would
20 add to that we've addressed it from the consumer
21 perception point of view. In 12 years of detailing
22 with retail buyers and food service buyers, I can't
23 recall ever having a buyer say to me I'll buy
24 anybody's pasta but Turkish pasta. So I've never
25 heard it differentiated from Italian pasta or

1 American-produced pasta in terms of their decision
2 process.

3 MR. FOX: And this is Brian. Let me add a
4 couple things to that. So while we haven't done
5 consumer research specifically against Turkish pasta,
6 what we do know is that people will buy a product if
7 the price is right and if they buy that product and
8 they have a satisfactory experience with it, then that
9 product will become a part of a consideration set of
10 products. And so a consideration set of products
11 could expand across numerous brands. It's only when
12 they buy products and are dissatisfied with them that
13 they particularly knock them out of that consideration
14 set. I'm not going to buy that again.

15 MR. VERMYLEN: This is Robert Vermylen. I'd
16 just like to add that in the New York market I'm aware
17 of a brand over many years, has an Italian name, the
18 product has been produced in Italy, it's been produced
19 in Turkey, it's been produced in Mexico, and the only
20 way you can tell is with a very tiny Made In statement
21 on the back of the package. The front of the package
22 as far as the consumer is concerned has always been
23 the same product.

24 COMMISSIONER PINKERT: Thank you. Now, Ms.
25 Cannon, did you want to add something?

1 MS. CANNON: Yes. I was just going to add,
2 you know, this is an argument that we've been hearing,
3 as you know, for many years, and back at the time of
4 the original investigation I think we were able to
5 show that not only were there not quality differences
6 but that regardless of any perceived cache or
7 difference and the Turkish product not having this
8 cache, the Turkish product was certainly surging into
9 this market and it was being bought by consumers.

10 So it didn't prevent Turkey from coming in
11 back then, and over the years that have passed, if you
12 look at what's happened in Turkey, there have been a
13 lot of new companies that have come on line, modern
14 facilities, all very state of the art, so if anything,
15 today there would be even less of any concerns or
16 perceptions about the Turkish production and quality
17 being of a lower calibre than any of the others I
18 believe.

19 COMMISSIONER PINKERT: Thank you. Now I
20 believe that there was testimony on this panel earlier
21 about how the Turkish pasta could easily move into the
22 private label category, but what would it take for the
23 Turkish pasta to gain brand recognition in the U.S.
24 market?

25 MR. FAUCETT: Shane Faucett. In its

1 simplest form, I would say one feature ad in one
2 grocer, and in that marketplace you're going to have
3 brand recognition. Now is it sustainable brand
4 recognition until your next feature ad? That would be
5 the debatable element.

6 But as we talked throughout the morning, if
7 you can find the right price point, you're going to
8 find retailers that will put you in front of
9 consumers, and at those price points consumers will
10 buy the product and you're in the pantry. I think Mr.
11 Fox did an excellent job of explaining that that then
12 puts you in the consideration set. So consumers have
13 then tried that product. They then recognize that box
14 or that name, and when it's on sale again two weeks
15 from now or a month from now, will they stock up
16 again? Chances are likely.

17 But again, it's going to be the price set or
18 maybe the consumer goes to whatever is on feature ad
19 the next time that they're in the store. But will
20 they be able to move volume? Yes. Have we seen any
21 efforts to do true brand building like real
22 advertising? No. It's been price-oriented, and
23 that's where we go back to the basic fundamentals of
24 the category. It is a flat category and has been a
25 flat category from the Nielsen data that we're looking

1 at back through the last 10 to 13 years, and if that
2 being the case, then any volume that comes in at very
3 cheap price points is going to be volume directly
4 taking away from players within the marketplace today.

5 MR. ROSENTHAL: Commissioner Pinkert, I know
6 you know this, but given my penchant for stating the
7 obvious, I wanted to say that obviously up until now
8 the Turkish product has been restrained with very high
9 dumping margins, and so it's been to the extent that
10 they want to build brand recognition, it's been more
11 difficult with the restraint.

12 Our concern once again is unrestrained what
13 will they do. I think they will start with what Mr.
14 Faucett describes as a series of promotional efforts,
15 and retailers will buy their product on promotion and
16 they'll come back and buy it again and buy it again
17 based on price because they want to be able to put in
18 their ads for the 44 weeks of the year a low priced
19 product and get people in the store. You do that
20 enough, you'll build your brand and get it within the
21 consideration set that Mr. Fox described.

22 MR. BRYANT: Jeff Bryant from New World.
23 There's a number of retailers that are significant
24 enough and powerful enough that if a brand establishes
25 distribution within that retailer, that retailer will

1 provide the credibility to the consumers, so a brand
2 can be established fairly simply if one of those
3 retailers endorses it and low pricing will motivate
4 that retailer to do so, particularly in the value
5 channels, the dollar channels, the drug channels, the
6 mass merchants. You know, these are very powerful
7 retailers with a lot of store and can put a lot of
8 images in front of a lot of consumers' faces to
9 quickly establish a brand image.

10 MR. KERWIN: Commissioner Pinkert, if I
11 might add one more point. Many of the current Turkish
12 producers did not even exist at the time of the
13 original investigation, and from what we've seen, the
14 largest producer of pasta now in Turkey is Barilla,
15 and there's no reason to believe that Barilla could
16 not source product from Turkey and ship that to the
17 United States and sell it as Barilla product. So I
18 think the whole dynamic of the Turkish industry has
19 changed significantly since the time of the original
20 investigation.

21 COMMISSIONER PINKERT: Thank you. I have
22 one other question for this round, and it's primarily
23 for the posthearing, so I'll ask it. Could you please
24 respond to the question on page 4 of the Turkish
25 producers' brief? The quote is "If price is the key

1 factor in the pasta industry, how does the domestic
2 industry reconcile the experience of Barilla?"

3 MR. ROSENTHAL: We'll certainly answer it in
4 the posthearing brief, but you heard a little bit of
5 the answer already, which is Barilla proves that
6 point. You heard the testimony earlier, is that the
7 way they got into national distribution is by offering
8 lower prices. And when they had failed startups in
9 certain regions of the country, they were able to
10 restart by offering line pricing. So we'll answer
11 more fully in our posthearing brief, but I didn't want
12 to pass up this opportunity.

13 COMMISSIONER PINKERT: Thank you. Thank
14 you, Mr. Chairman.

15 CHAIRMAN WILLIAMSON: Thank you.
16 Commissioner Broadbent?

17 COMMISSIONER BROADBENT: Thank you. Mr.
18 Rosenthal, could you talk a little bit about what kind
19 of subsidies your industry is facing coming from
20 Europe and the competition coming from Europe?

21 MR. ROSENTHAL: What kind of subsidies?

22 COMMISSIONER BROADBENT: Subsidies, yeah.

23 MR. ROSENTHAL: There have been a variety of
24 different subsidies that the Commerce Department has
25 found over time, and it will take a little while to

1 find it in the appendix, but they vary. Some of them
2 are regional subsidies where regions have basically
3 said we're going to essentially give you 40-50
4 percent of the cost of construction of your pasta
5 facility in order to generate employment in our
6 region.

7 So it has been as fundamental as money to
8 build a plant. There have been other subsidies for
9 export. There have been traditional -- and the one
10 that you refer back to, back in the eighties, where we
11 began with our GATT panel decision involving the
12 export restitution payments to compensate for durum
13 wheat costs and the over-compensation for that.

14 So they're getting their raw material costs
15 that have been subsidized over time. There have been
16 preferential financing. There are various schemes
17 that -- I don't mean that in a pejorative way, but
18 programs that have been designed to increase
19 employment and encourage and subsidize those sorts of
20 programs.

21 So there have been domestic subsidies and
22 what I regard to be export promotion type subsidies,
23 and it has varied over time, but they've never gone
24 away entirely. And the staff report lays out the
25 Commerce Department's findings, and they're

1 significant.

2 COMMISSIONER BROADBENT: Okay. Thank you.
3 And then in terms of -- are they generally increasing
4 or decreasing at this point?

5 MR. ROSENTHAL: Well, it's varied over time.
6 The most important thing that I think is interesting
7 is that the Commerce Department projection of what the
8 subsidies will be in the event of revocation are
9 particularly significant. If you can give me one
10 minute, I will -- or my colleagues will --

11 COMMISSIONER BROADBENT: Or you can do it on
12 the record.

13 MR. ROSENTHAL: Yes.

14 COMMISSIONER BROADBENT: I know that's not
15 really our focus here.

16 MR. ROSENTHAL: Right.

17 COMMISSIONER BROADBENT: I'm just really
18 interested.

19 MR. ROSENTHAL: But one would think that
20 over time, in order to avoid these duties, that the
21 subsidies would be reduced, but they haven't been.
22 And in some instances, new programs have come into
23 play. Some programs have gone away, and then new ones
24 have come in. Or there has been new funding for some
25 of them.

1 So I can't tell you it has been a steady
2 state. There have been up and down. But they persist
3 and they're significant.

4 MS. CANNON: Commissioner Broadbent, I just
5 wanted to add, on page I-22 of your staff report they
6 set forth the figures showing these increases that I
7 referenced earlier in my testimony as to projected
8 subsidy margins that would recur if the order was
9 taken away. And it is interesting that these are
10 higher because in most cases, when a company is hit
11 with a duty margin, they tend to start eliminating the
12 subsidies and the programs.

13 And that has not happened here, but I also
14 wanted to mention, and we may have to supplement this
15 in our brief as well, but while we were discussing
16 some of the concerns at our prep session yesterday, a
17 number of the industry members were aware of specific
18 additional subsidies that are still going on in Italy
19 that are helping to enhance individual producers. And
20 we will try to provide those details in our
21 posthearing brief as well.

22 COMMISSIONER BROADBENT: Are you following
23 -- is the association following the potential USEU
24 free trade agreement negotiations, and are there
25 issues that you want to make sure that are raised in

1 those negotiations?

2 MR. ROSENTHAL: We're not here on behalf of
3 the National Pasta Association, but I'm sure they're
4 aware of it, and we'll be back or they will be back
5 with respect to recommendations on this. Obviously,
6 when we first started and I first got involved in this
7 case -- I don't want to say when, but it has been over
8 30 years, and at the time I got involved the idea was
9 if the European common agricultural policy could be
10 restrained and have fewer subsidies at the pasta
11 industry, life would be better.

12 Well, that hasn't worked particularly well.
13 I think the cap was about \$3 billion at the time, and
14 it has grown and multiplied. So the first thing I
15 think for most U.S. food and agricultural industries
16 would be to restrain the agricultural subsidies in
17 Europe.

18 I'm not going to be around for another 30
19 years to wait for that to happen, but that will be a
20 nice objective.

21 COMMISSIONER BROADBENT: Looking at page 13,
22 I think, on your handout, it actually made me --
23 sorry, slide eight. And you're talking there about a
24 decline in subject imports as a result -- I guess I'm
25 trying to figure out, is this a result of more foreign

1 firms becoming nonsubject firms, or is this kind of
2 the same group of firms that's exporting, but their
3 exports are declining?

4 MR. ROSENTHAL: We believe that it's the
5 same group. There are virtually no nonsubject firms,
6 as Ms. Cannon pointed out earlier. They're all
7 subject to either the countervailing duty or the
8 antidumping order. And so despite what the arguments
9 were from Respondents, there is really nothing in the
10 nonsubject producer's category for dry pasta.

11 There is no question that the orders had a
12 limiting effect on the volume of imports, and not
13 surprising, a more dramatic impact on Turkish imports
14 because the dumping margins found initially were
15 higher.

16 MS. CANNON: Let me just add that the
17 decline you're saying in slide 13 in the U.S.
18 industry's market share is also a reflection of the
19 increase in imports from other countries. Mexico, for
20 example --

21 COMMISSIONER BROADBENT: Right. There is a
22 lot of --

23 MS. CANNON: -- has become a significant
24 presence, China, and some others. And so the domestic
25 industry is currently experiencing competition from

1 low-priced imports from other sources as well, which
2 is increasing their vulnerability right now because
3 there are more players in the market in addition to
4 Italy and Turkey as the market share erosion you see
5 in this chart demonstrates.

6 COMMISSIONER BROADBENT: Okay. Mr.
7 Vermylen, you mentioned that you used bronze dyes.
8 Can you talk a little bit more about you use them and
9 what is the demand for pasta made out of bronze dyes?

10 MR. VERMYLEN: We primarily use bronze dyes
11 because they are -- you're able to form difficult-to-
12 make pasta shapes more effectively using them. So,
13 for example, a pasta shape that has a lot of ruffles
14 on the side of it, the bronze, the metal holds the
15 shape as the dough extrudes through it at a very high
16 degree of pressure.

17 Consumers or customers frequently prefer a
18 Teflon dye because the Teflon dye gives a bright,
19 translucent appearance to the pasta, and it looks very
20 nice in a retail package. An unsophisticated consumer
21 would see a package of penne made with a Teflon dye
22 and see it as being a much brighter, fresher product
23 than that produced with a bronze dye.

24 The bronze has sort of a dry, whitish
25 appearance that to the, you know, unsophisticated

1 buyer would think it's old and dry.

2 So going back, it's primarily the
3 functionality of the pasta making, where we can make a
4 better shape using the bronze dye. Many people talk
5 about the fact that bronze dye pasta, the sauce holds
6 better to it. I think you have to -- you really have
7 to have a fine eye to notice that difference.

8 COMMISSIONER BROADBENT: How much of your
9 demand is for pasta from bronze dyes?

10 MR. VERMYLEN: I would just roughly guess 10
11 percent.

12 COMMISSIONER BROADBENT: Okay. And what is
13 the greatest thing you ever made out of a -- the most
14 interesting piece of pasta you ever created for your
15 specialty orders?

16 MR. VERMYLEN: I think the most interesting
17 one with the bronze dye, which we started about 30
18 years ago, and to make today is a shape that we call
19 radiatori, which looks sort of like an old-fashioned
20 radiator, but with the ruffles down about three sides
21 of it.

22 COMMISSIONER BROADBENT: Oh, I thought those
23 were trains. That's interesting. Okay. I used to
24 tell my kids they were trains.

25 Okay. Let's see. Can you -- I guess I'd

1 like to get a few comments on sort of the health of
2 this industry. You know, we've had some underselling,
3 but your industry has really remained profitable, in
4 double digits. And that would sort of undercut the
5 argument of vulnerability, I think. Could you all
6 comment?

7 MR. GEORGE: This is Walt George. I'd be
8 happy to comment on that. I think that if you look at
9 this point in time, we have just come out of
10 recession. And as I said earlier, we're a counter-
11 cyclical industry. So during that period of time, we
12 had some good years.

13 I think that the state of the industry is
14 one that's in balance. And when I talk about balance,
15 I think about capacity utilization, our costs make-up,
16 and our profitability. And when those find an
17 equilibrium or they find that balance, it's good
18 business, and the industry is doing well. And that's
19 the period that I think we have been in.

20 The concern that we have and our
21 vulnerability concern is that while we're in balance,
22 the Italians and the Turks are not in balance. So the
23 easiest way for them to get in balance will be to
24 revoke the order and then knock us out of balance.
25 And that's why we're so vulnerable because if they

1 knock us out of balance, the profitability is going to
2 come out of the U.S. industry. And as we try to
3 regain balance, we'll be forced to take draconian
4 steps, shut down plants, adjust our cost profile, to
5 try to maintain that sense of balance and that
6 wholeness that the industry has been able to
7 appreciate over the last ten years.

8 Now, what leads me to believe that that
9 vulnerability is there? Just look at the
10 profitability numbers before the order. For the three
11 years prior to the order, the industry was, daresay,
12 break even.

13 MR. FAUCETT: Shane Faucett. If I could
14 expand upon Walt's comments, which I think very well
15 sum up the situation. We've learned to live with the
16 demand of the U.S. marketplace. Consumption or demand
17 is flat, and we've worked hard, and I'm sure that our
18 competitors here in the room have also worked hard.
19 We've worked very hard to right-size our operations to
20 find every penny of efficiencies.

21 We haven't grown top line sales. We've
22 improved our cost structure, and that's allowed us to
23 again live within the demand of the U.S. marketplace
24 today.

25 If the imbalance occurs that Mr. George is

1 referring to, for a short period of time we would be
2 able to continue to make adjustments and find some
3 synergies. But there would be -- the volume loss
4 would erode the scale and erode the efficiencies. And
5 if you go back to the equipment scenario again, this
6 is a volume business. This is a scale business. And
7 as soon as those efficiencies are eroded, it goes back
8 to the exact situation he described of preorder.

9 MR. GEORGE: So if I may, let me harken back
10 to something that Mr. Rosenthal shared earlier in his
11 remarks. The foundation of this balance is the U.S.
12 retail business. The available capacity in Italy and
13 Turkey alone could displace the entire U.S. retail
14 business for a year, and they would still have
15 capacity left over.

16 MR. ROSENTHAL: Commissioner Broadbent, I
17 just want to add one thing, and it's very important
18 when you consider the economies of production. Unlike
19 I think you may see in steel or some other industries,
20 if you ratchet down your capacity utilization
21 percentage quantity, you might be able to slow down
22 your production a little bit.

23 This industry has to operate at high levels
24 of capacity utilization. If volume declines a couple
25 percentage points, they can't deal with that sort of

1 situation. They'll take lines out of production, or
2 they will furlough workers. And the production will
3 go out in lumps and chunks. And that means employees
4 will be laid off in lumps and chunks. It's not going
5 to be a gradual process.

6 So I don't worry honestly about a gradual
7 decline in the industry. I've heard this described by
8 others, so I'm worrying on their behalf. More of a
9 cliff-type of scenario where you're doing okay for a
10 while, but once the penetration takes place and a big
11 customer decides to go with the Turkish or Italian
12 imports or both, then you drop off the cliff. And
13 that is the scenario.

14 You're right. Right now, they're doing
15 reasonably well, although Mr. Faucett has been in
16 other places in the food business that have said it's
17 not so great compared to other food businesses. But
18 still, it is the dropping off the cliff scenario or
19 the closing of significant productive facilities
20 that's the concern.

21 And one last point. One of the ways that
22 the industry has been able to maintain profitability
23 on occasion is by shutting down unproductive
24 capabilities or by furloughing workers from time to
25 time. That may maintain profitability, but I would

1 argue that does demonstrate vulnerability or even
2 injury because those workers who are being laid off,
3 they're not benefitting by that profitability.
4 They're being hurt. And I would argue that you can't
5 just focus on profitability when you're looking at
6 injury because you can be very profitable up until the
7 day you shut your doors, and you're going to be
8 injured because your workers are being laid off.

9 MS. BECK: And, Commissioner Broadbent, if I
10 can just refer you back to the original investigation.

11 The industry showed a very significant swing in
12 profitability just from one year to another, in fact
13 even down to a loss. And over the last couple of
14 years, the industry has even shown a decline, and that
15 could drop down to levels close to what they were in
16 the original investigation, just within a period of a
17 year or two --

18 COMMISSIONER BROADBENT: Okay.

19 MS. BECK: -- if imports were to return.

20 COMMISSIONER BROADBENT: Great. Thank you.

21 I appreciate the panel's input here today. We look
22 forward to working with you on this case.

23 CHAIRMAN WILLIAMSON: Thank you. One thing
24 we haven't talked about today so far is the question
25 of demand. And I know you talk about things being

1 flat. But I was just wondering. What has been the
2 impact of, say, you know, health concerns? I assume
3 people are -- consumption of whole wheat brand pastas
4 has increased. I don't know how significant that is.
5 And do the imports, do they produce whole wheat? And
6 sort of how have you survived the low-carb diet phase
7 and things like that?

8 So could someone address some of the demand
9 factors we should be looking at going forward?

10 MR. GEORGE: This is Walt. Let me address
11 the low-carb diet. The industry, it took us about six
12 to seven years to recover from the trough of the low-
13 carb diet. And the industry volume has reached back
14 to a pre-2003 level, and has stayed there.

15 To your first question, whole-wheat pasta is
16 better-for-you-pasta, as we call it. It will make up
17 about 15 percent of the category. It grew quite
18 rapidly 2009-2010, but it has leveled off now as well.

19 CHAIRMAN WILLIAMSON: What about the
20 imports? Have they shifted the same way, or what is
21 their potential to do so?

22 MR. GEORGE: There is imported better-for-
23 you products available in the United States. Our
24 subsidiary in Italy, that's our focus, and we sell
25 better-for-you products in Italy and Europe and other

1 parts of the world.

2 CHAIRMAN WILLIAMSON: Okay. Anyone else?

3 MR. FOX: And let me ask -- add to that.

4 Sorry. This is Brian Fox again. Let me add to that.

5 While we've seen healthy products grow in share, and
6 healthy products now make up about 12 percent of the
7 total pasta category, it's still a relatively small
8 portion of the pasta category.

9 But the growth in healthy products basically
10 only offset the decline in standard products. So that
11 basically kept the industry at a flat period at flat
12 growth over time, really just kind of a switching of
13 the consumer into the healthier product.

14 CHAIRMAN WILLIAMSON: Okay. So the parent
15 switched; the kids didn't change at all.

16 MR. FOX: Well, we like to -- you know, the
17 industry is working hard to try to create healthier
18 products that the whole family will eat. But, yes,
19 that is one of the challenges.

20 CHAIRMAN WILLIAMSON: Parents haven't.
21 Okay. Thank you. What about the role of nonsubjects,
22 non-Italian, non-Turkish, nonsubjects? I mean, I
23 guess there has been some increase in the Mexican
24 sales in this market. How do we explain that? Is
25 that U.S. companies that are producing down there? Is

1 that Mexican firms that are --

2 MR. FOX: Yeah. This is Brian again. I'll
3 answer that. There is a couple of companies that are
4 Mexican-based companies that are doing the majority of
5 the Mexican products that are sold into the U.S. The
6 Hispanic consumer buys a particular set of products.
7 There generally are what we call -- from our
8 perspective, we call them soup cuts or really tiny
9 shapes, whether they're orzos or melon seeds or gears
10 or stars or alphabets, small things, in a smaller size
11 package that are priced very inexpensively, as much as
12 25 to 30 cents a pound less than American products.

13 So it is injurious to our business. But it
14 is a very specific marketplace. Primarily the largest
15 brand that imports into the U.S. is La Moderna, which
16 has a subsidiary in Houston that is the importer for
17 them.

18 CHAIRMAN WILLIAMSON: So is that primarily a
19 Southwest --

20 MR. FOX: It is.

21 CHAIRMAN WILLIAMSON: Or are you going to
22 see it up in New York and --

23 MR. FOX: It is. You would think that, but
24 it does have 40 percent ACV. So it covers about 40
25 percent of all dollar volume sold in the U.S., is

1 where that product is available. So despite what you
2 might think it being just a Southwest brand, it
3 basically is sold in most markets.

4 CHAIRMAN WILLIAMSON: Okay. Yes?

5 MR. GEORGE: This is Walt.

6 CHAIRMAN WILLIAMSON: Mr. George, I'm sorry.

7 MR. GEORGE: I might add that La Moderna has
8 just recently built a new manufacturing factory in
9 Mexicali with a durum mill to increase their potential
10 access into the United States.

11 CHAIRMAN WILLIAMSON: So you might --
12 looking forward, you might see an increase. Given the
13 population shift, you may see increased demand in that
14 sector?

15 MR. GEORGE: Yeah. You'd certainly assume
16 that that's why they're there.

17 CHAIRMAN WILLIAMSON: Okay. Thank you. Ms.
18 Beck?

19 MS. BECK: Yes. If I could just add, I
20 think another point about the nonsubjects from Mexico,
21 if you look at the data, you'll see the increase, a
22 significant increase, of the imports, but also at low
23 prices. So I think it shows that price continues to
24 be an important factor in the market. So in order for
25 the Italian and the Turkish imports to increase their

1 penetration in the market in the event of revocation,
2 they're also going to do so at low prices.

3 CHAIRMAN WILLIAMSON: Okay. Thank you. A
4 couple of other questions. The financial crisis in
5 Europe, sometimes we see in the past that people --
6 countries can't afford to subsidize like they used to.
7 Any sign that that's going to happen with pasta in
8 Italy in the foreseeable future?

9 MR. ROSENTHAL: No. I think you can
10 anticipate, as the Commerce Department finding in this
11 case does, continued subsidization, certainly of
12 pasta. But I -- while there have been government
13 cutbacks of various forms, I don't think you're going
14 to see a significant cutbacks to effect the subsidies
15 to this particular industry, at least not in the
16 reasonable foreseeable future.

17 MR. KERWIN: Commissioner?

18 CHAIRMAN WILLIAMSON: Sure, Mr. Kerwin.

19 MR. KERWIN: If I could follow up. I think
20 that one of the attractions of this particular product
21 as a product to be subsidized is that it's a two-fer.
22 It benefits both your farmers, your growers of durum,
23 and it also is an industrial product as well. It
24 provides employment. And I think you see that both in
25 Turkey and Italy, that there is a significant element

1 of support of the farmer as well as the industrial
2 product.

3 So I think it's unlikely to go away because
4 it's a very attractive means of keeping up on
5 employment in those economies.

6 MR. ROSENTHAL: There was an earlier
7 question, I think by Commissioner Broadbent, about the
8 domestic economy and the counter-cyclical nature of
9 it, and won't demand grow there. And I think Mr.
10 George indicated that there will be some growth, but
11 it's not going to take care of the excess capacity.

12 If you actually look at the press statements
13 in our brief and available publicly, the Turkish and
14 Italian industries don't see them growing their way
15 out of their problem by selling in their domestic
16 markets. They see their export markets as the
17 opportunity to deal with their excess capacity.

18 CHAIRMAN WILLIAMSON: Okay. Thank you. In
19 talking about -- Mr. George had talked about this
20 counter-cyclical -- shall we say the balance between
21 the counter-cyclical nature of the industry, but I
22 assume you want to grow in good times, too. Are there
23 things that -- new innovations or things like that
24 that one could anticipate that would sort of encourage
25 the most -- the demand to grow when people can afford

1 something other than cheapest pasta forms?

2 MR. GEORGE: We're still looking for that.

3 MR. FAUCETT: And we're open to ideas, to be
4 quite honest. This really kind of states the case of
5 where we are today as we sit here. 2013, we're seeing
6 a challenging year. We know we're going to have
7 rising raw material costs. We have not been able to
8 find that innovation that moves a needle for the
9 industry, that will spur category growth.

10 So new entry into this market, there is only
11 one answer, and that is it's going to take it out of
12 the category from the existing producers. So we'll
13 have that coming in and one side, and we know that
14 we're going to have raw material pressure on the other
15 side. And we took some pretty draconian moves in
16 2012, and would hope that we can avoid that in 2013.

17 But to say that we're not concerned would be
18 -- would not be -- would be disingenuous. We're very
19 concerned about the industry right now.

20 CHAIRMAN WILLIAMSON: Thank you for those
21 answers. I have no further questions. Commissioner
22 Pearson?

23 COMMISSIONER PEARSON: Thank you, Mr.
24 Chairman. Returning to confidential table 3-8, this
25 time on page 3-19, the bottom half of that page is

1 devoted to a discussion of operating income by firm.
2 And I note that in this table, we see relatively few
3 instances of any firm not being profitable in any year
4 of the period of review.

5 And I'm wondering what factors, given that
6 -- I think you've said this is a low-margin industry.

7 How has everybody stayed on the right side of that
8 margin? I mean, is there something structural about
9 this industry that makes it easier than some others we
10 deal with for all firms to do relatively well most of
11 the time? And this might be --

12 MR. ROSENTHAL: I will start off, and I'll
13 let the other industry -- the other members of the
14 panel speak. But as was stated by Mr. Vermylen
15 earlier, and I reiterated, the actual effect of the
16 orders has been very, very positive. The existence of
17 the orders has allowed this industry to actually raise
18 prices when their raw material prices went up. That
19 has been a dramatic help for this industry.

20 Absent those orders, they wouldn't have been
21 able to do that, and these numbers that you see on
22 probability wouldn't be there. That's exactly what
23 was happening preorder, when there wasn't those
24 restraints and there was some raw material volatility.
25 And you'll notice too -- and I think this is already

1 in the record, but it may not be. Maybe we'll submit
2 it afterwards. But that hasn't always been the
3 approach by the foreign producers.

4 In some instances very recently, I think
5 Barilla announced for its home market it wasn't going
6 to raise its prices to cover its raw material costs.
7 Well, fortunately, the companies here have been able
8 to do that, and it's largely because of the order or
9 orders.

10 MR. GEORGE: I would also add to that, that
11 during this period of time -- this is a capital-
12 intensive industry. And during this period of time,
13 we've been able to prosper enough, generate adequate
14 cash flow to invest back into our businesses. And
15 we've done that, I think, smartly, as an industry.
16 We're applying the most sophisticated technology
17 available to us today, which has allowed us to reduce
18 our costs in spite of not being able to raise our top
19 lines.

20 COMMISSIONER PEARSON: Okay. So perhaps
21 from Mr. Kerwin and Ms. Beck, do any factors other
22 than the order help us to -- help to explain this
23 relative happy situation for the industry over the
24 period of review?

25 MR. KERWIN: I think, you know, you see

1 quite often in a number of industries where you have
2 volatility to input prices, where a major input
3 changes dramatically over a period, that there can be
4 negative aspects of that, but there can also be
5 positive aspects, that in other words, if you happen
6 to be holding enough inventory of an input product or
7 have paid for it at the previous price, a more
8 historical price, and the price of the product is
9 going up in the marketplace, you can benefit from
10 that. We've seen that in other cases with other
11 products.

12 COMMISSIONER PEARSON: Right. It's kind of
13 the flip side of that, knowing that in this period of
14 review there have been increases in the prices of
15 major input, and no way to hedge that, and yet still
16 most firms that -- most years through the period of
17 review have been profitable.

18 You know, it looks like kind of the Midas
19 touch here. Things have gone better than I would have
20 expected given the inherent volatility in the durum
21 wheat market.

22 MR. GEORGE: This is Walt George. I would
23 add that during this period of time, we've been
24 fortunate. We've been able to raise our prices. And
25 we have raised our prices along with the rising wheat

1 prices. And that I think is partially because of the
2 order being in place, and we knew that we were
3 protected on the floor. And the industry has been
4 able to respond to the raw material pricing.

5 COMMISSIONER PEARSON: Okay. Well, perhaps
6 for posthearing, could you let me know if any of the
7 sales of pasta companies from one firm to another
8 during the period of review, whether any of those were
9 related to financial stress on the part of the
10 producer, or was it always a matter of one firm
11 reaching out and buying a profitable business from
12 another firm?

13 If you know now, feel free to say, but there
14 could be confidential information there. But I'd just
15 be curious to know because it's so common for us to
16 see a situation where one or more firms have been
17 losing money, and they get bought out by somebody else
18 and, you know, debt is written off, et cetera. And if
19 that has happened here, it's not obvious to me. So
20 that's why I was just curious. Mr. Faucett?

21 MR. FAUCETT: Thank you, sir. I can't touch
22 on the second part of your question, but the initial
23 question is -- as we've stated throughout the morning,
24 we have to keep in mind that the firms here,
25 especially the firm that I represent, we haven't grown

1 our top line business. The improvements in
2 profitability have been on the bottom line. And that
3 has been through investments in equipment, improving
4 efficiencies, squeezing every penny out of our
5 operations that we could.

6 So as I stated earlier, we have learned to
7 live within the demand of the U.S. marketplace. And,
8 yes, we're not going to apologize for the hard work
9 that went into that. We're proud of it. But the
10 improvements haven't been top line driven, haven't
11 been growth driven. They've been efficiency driven.

12 COMMISSIONER PEARSON: Yeah. And actually,
13 I should have complimented the industry for managing a
14 business in a volatile climate and obviously doing it
15 what seems to me to be quite well. So good work.

16 MR. ROSENTHAL: Well, again, I don't want to
17 get too happy here. One of the ways that -- and the
18 staff heard this again. There were layoffs, there
19 were furloughs at New World Pasta because the lines
20 didn't have enough volume, enough throughput.

21 Now, that was one way that New World managed
22 to keep its costs down and keep its profits up.
23 That's not a cause for rejoicing as far as I'm
24 concerned because those employees were out of work and
25 lost income. So we need to think about how those

1 profits are being maintained before we get too happy
2 here.

3 COMMISSIONER PEARSON: Okay.

4 MR. FAUCETT: And that was over the last
5 five years. It's obviously not the next five years.
6 And the next five years are very concerning,
7 especially if the revocation -- the orders are
8 revoked. It's still a flat demand market, and that
9 volume will be one-for-one in exchange.

10 COMMISSIONER PEARSON: Okay. Well, for
11 purposes of the posthearing, if you could help me
12 understand better these issues. That would be
13 appreciated.

14 MR. RICHARDSON: Commissioner Pearson, just
15 one more point concerning the acquisition of other
16 companies or other assets. We did during the last --
17 since the last review purchase the assets of another
18 pasta company, but it had nothing to do with financial
19 stress. It was a very profitable business that we
20 purchased. We purchased it for the distribution of
21 those products and for the profitability that it
22 brought to our company.

23 COMMISSIONER PEARSON: Okay. Thank you.
24 Okay, shifting gears. When this order went into
25 effect, the Italian currency was still the lira. And

1 since then it has shifted to the euro, which despite
2 some ups and downs the last two-three years is
3 generally speaking thought to be a stronger currency
4 than the lira.

5 How does that affect our analysis in this
6 review? I mean, you know, the Italians previously,
7 under the lira they could always depreciate it and get
8 at least a temporary exchange rate advantage vis-à-vis
9 the dollar. They can't do that now. Is it harder for
10 Italians to sell profitably at a low price in the
11 United States, given that they're dealing with the
12 euro?

13 MR. KERWIN: Well, as an initial
14 observation, I would say that clearly the Italians
15 have not had any problems exporting their product
16 throughout the world, and I don't really believe that
17 the comparison of the U.S. dollar to the euro would
18 really have any differing impact than any other
19 currency in the world. They certainly have proven
20 themselves as completely capable of exporting their
21 product to various export markets. So I don't
22 anticipate that being an issue, especially to the
23 United States.

24 COMMISSIONER PEARSON: Any firms that have
25 imported from Italy, have you had to wrestle with

1 currency issues to be able to, you know, make the
2 economics work?

3 MR. GEORGE: This is Walt George. Our
4 transaction with pasta industry is company-to-company.
5 It's internal. But we do business in euros. So we
6 take the currency issues on our side, but certainly
7 there are concerns, but they're hedgeable. And most
8 companies that are trading around the world will have
9 the expertise within the organization to conduct their
10 currency hedging.

11 COMMISSIONER PEARSON: Okay. Thank you. My
12 final question -- and I think this can be handled
13 mostly in posthearing. The Turks have suggested that
14 we look to Canada as an example for how the U.S.
15 market might evolve if the order was to be revoked.
16 And I'm wondering, could you explain to me whether
17 that's a good comparison. I mean, culturally similar
18 populations -- and no offense to the Canadians for
19 suggesting that they might be somewhat like those of
20 us in the States. But, you know, they have durum
21 production. They have pasta production. Okay. Why
22 should we think that if we open the border in the
23 United States like the Canadians have that the pasta
24 industry in this country wouldn't just continue to
25 roll along happily enough?

1 MR. ROSENTHAL: This is a much bigger and
2 much more attractive market, and --

3 COMMISSIONER PEARSON: Canadians aren't
4 good-looking? No, sorry.

5 (Laughter.)

6 MR. ROSENTHAL: I'm not touching that one.
7 A much bigger, a much more attractive market. And
8 you've seen from the Turkish statements and you've
9 seen by their export growth, they want to grow, and
10 this is where they want to be. No offense to the
11 Canadian markets. It may be one-tenth the size of
12 ours. That's now where, if I were an exporter, I'd
13 put my money.

14 I mean, it's not a bad place to be. But the
15 U.S. market gets you a lot more return for your
16 exporting efforts.

17 COMMISSIONER PEARSON: Okay. Well, if you
18 could fill this out a bit in posthearing. Mr. Fox,
19 you have a comment?

20 MR. FOX: Yeah. Just back to the previous
21 question, one of the things that came to mind as you
22 were talking about currency and exporting and the
23 impact of our products competing, you know, we go to a
24 number of food shows each and every year where we get
25 the chance to interact with companies that are

1 interested in exporting products from the U.S. because
2 they feel strongly about made in the U.S. being a
3 quality thing, a quality statement to have on products
4 as they try to export into those countries.

5 But frankly, we aren't able to compete with
6 the Turks and Italians as we try to export that. And
7 frankly, we've almost given up in terms of trying to
8 do that because in each and every time, the Italian or
9 Turkish product is much, much, much less expensive
10 than what we can try to export to in those same
11 markets.

12 So somehow they've clearly figured out how
13 to handle the currency issues in that across the world
14 and have become much more competitive, as we can see
15 from what they do on their export statistics.

16 COMMISSIONER PEARSON: Okay. Well, I'm over
17 my time by some -- by further than I would like. And
18 so if for the posthearing you could flesh out the
19 Canadian question a little bit. Perhaps some of your
20 firms have operations there, have dealt with customers
21 there, or know -- you know more about it than I do.
22 So help me understand either why or why not we should
23 consider the situation in Canada as a reasonable guide
24 for what might happen if we revoke the order in the
25 United States.

1 And with that, I have no further questions.

2 I thank you all for your help here this morning.

3 CHAIRMAN WILLIAMSON: Okay. Thank you.

4 Commissioner Aranoff?

5 COMMISSIONER ARANOFF: Thank you, Mr.

6 Chairman. First one quick confidential data question
7 for the posthearing. On page 24 of their prehearing
8 brief, the Turkish Respondents make an argument about
9 the reported capacity of one particular domestic
10 producer, and I'd like to ask you to respond to that
11 in your posthearing brief.

12 My second question has been touched on, but
13 it goes back to this idea of lack of correlation that
14 Respondents raised in their opening earlier today.
15 They point out that subject imports have undersold the
16 domestic product in many comparisons through this
17 particular period of review, but have not gained
18 market share, and the domestic industry's financial
19 condition has improved.

20 They argue that this undermines the domestic
21 producers' contention that this is a price-sensitive
22 market, and that it does not support a causal link
23 between subject imports and negative effects on the
24 domestic industry. Is there a response that you'd
25 like to give to that now, or would you like to address

1 it in the posthearing?

2 MR. ROSENTHAL: We'll give a partial
3 response now and then address in the posthearing. I
4 think the -- as I mentioned before, that despite the
5 underselling, the antidumping and countervailing duty
6 orders still act as a restraint. It still creates
7 pause in the minds of importers, whether they want to
8 import large volumes and take risk of paying
9 additional duties.

10 So they may want to import a little bit, put
11 it on promotion for a time. But they may not want to
12 be doing this for a long time because they could be
13 hit by substantial duties.

14 So there is a -- no question, the only way
15 you can get in here at all is by selling at a lower
16 price. But whether customers want to commit to larger
17 volumes, given the liability they may face has been
18 the main reason why we've been able to survive the
19 relatively low volumes at these low prices.

20 MR. FAUCETT: Shane Faucett again. To use
21 different language, it has basically been sort of
22 sneak in, sneak out. I mean, it has been very
23 specific arrangements or very specific quantities that
24 have popped up that we've seen in those circumstances.
25 But if the orders are revoked, then it's an open

1 invitation to flood the market. So that's the two
2 scenarios that we've been dealing with.

3 MR. ROSENTHAL: By the way, we'll respond
4 more fully, but one of the things that Mr. Faucett and
5 others have described to us in the past has been a
6 particular foreign producer will come in to a
7 particular region or market, go on promotion, and be
8 there for six, eight weeks, and get out. And then the
9 retailer there will bring in another one.

10 But it's not like they're being exposed to
11 liability for the same ones for a long period of time.

12 It's the hit-and-run approach. So, yes, they're
13 here. But fortunately it's -- they're drive-by
14 shootings. They're not coming in with tanks yet.

15 I know Mr. Silverman will appreciate the
16 martial terminology, and we'll hear more about that in
17 the afternoon.

18 COMMISSIONER ARANOFF: Okay. Well, so then
19 let me turn from that question to another correlation
20 question, and this is basically based on the price and
21 correlation analysis that's at page 27 and following
22 of the Italian Respondent's prehearing brief.

23 They claim -- they're looking at pricing
24 differences between the larger domestic producers.
25 And they claim that during the period that we're

1 looking at in this review the domestic producers with
2 the highest prices did not lose market share to the
3 domestic producers with significantly lower prices,
4 and that that provides evidence not influenced by
5 people who are restrained by an order that sales of
6 pasta are not based entirely on price in the U.S.
7 market.

8 MR. FAUCETT: I'd like to know who was high-
9 priced and didn't lose market share because I know we
10 did. Now, in our own mix, as Mr. Richardson
11 referenced, we did have an acquisition of two small
12 brands. So that's additive to our market share when
13 you're looking at it on a year-to-year basis. So
14 there are mitigating factors to a company's market
15 share, like an acquisition and so forth.

16 But market share for us in a pricing
17 environment has been very volatile.

18 COMMISSIONER ARANOFF: Could it be product
19 mix? I mean, among the larger domestic producers, are
20 there some that -- everybody makes more or less the
21 same shapes and sizes, right?

22 MR. GEORGE: Well, this is Walt George.
23 There is a certain degree of tradeoff that goes on in
24 the market because we fundamentally make the same
25 products. It's really who can get control of the

1 promotional calendar that was discussed earlier.

2 I -- my experience is that market share is
3 quite volatile, and it will go through cycles,
4 depending on trade spending, time of year, promotional
5 spending by different individuals. We have a small
6 branded business, so we're largely in the private
7 label business competing against pretty heavy
8 promotional calendars that the brands have. And I
9 would support that there is a price point where you
10 lose share. There is no question about it.

11 COMMISSIONER ARANOFF: Okay. Well, Mr.
12 Rosenthal, if you could take a look at that
13 posthearing. I know you're going to have some trouble
14 showing some of it to your clients because a lot of it
15 is confidential, but anything you can add to help us
16 make sense of that.

17 MR. ROSENTHAL: We'll do our best.

18 COMMISSIONER ARANOFF: All right. Well,
19 with that, I don't have any further questions. But I
20 do want to thank everyone on this panel for all your
21 answers.

22 CHAIRMAN WILLIAMSON: Commissioner Pinkert?

23 COMMISSIONER PINKERT: I have no further
24 questions, but I do want to thank the panel.

25 CHAIRMAN WILLIAMSON: I just have one last

1 question I forgot to ask earlier. Given that Barilla
2 is such a significant player in I guess all three of
3 these markets, U.S., Italian, and Turkish, what if
4 they were asked, and they were to say, well, you know,
5 if the order is revoked, we wouldn't do anything to
6 hurt our investment in the U.S.? What would be your
7 response to that? We've heard people make that
8 argument before?

9 MR. ROSENTHAL: We have. But they usually
10 are more forthcoming with their information about
11 their foreign facilities. And so -- and they usually
12 are the ones who are on the domestic industry side of
13 the case, not on the side of the case asking for
14 revocation of the orders. And so I would suggest that
15 without any disrespect to the witness or the company,
16 I don't think that you can accept that assertion.

17 I think that the -- if they truly were
18 mainly concerned about their domestic production,
19 they'd be sitting here at this table this morning,
20 number one; and number two, they would have been more
21 cooperative with the Commission when it comes to the
22 information they supplied.

23 CHAIRMAN WILLIAMSON: Okay. Thank you.

24 MR. KERWIN: Chairman Williamson?

25 CHAIRMAN WILLIAMSON: Sure.

1 MR. KERWIN: If I could add a point.

2 CHAIRMAN WILLIAMSON: Yes. Who is that?

3 MR. KERWIN: This is Mike Kerwin, Georgetown
4 Economic Services. In truth, they can import from
5 either Turkey or Italy without harming their domestic
6 manufacturing operations at all. This is a company
7 that had a single production facility some years back
8 and added a second facility in New York state during
9 the period of review.

10 It did so because it needed more capacity.
11 Well, it may get to the point where it needs to make
12 that -- you know, produce or buy or import decision
13 again. And if it does reach that point where it's
14 considering, well, should we build another facility in
15 the United States, or should we use up our excess
16 capacity in Turkey or in Italy, that's a fairly simple
17 calculus to make if there is no -- if there are no
18 orders in place.

19 There is not a whole lot of incentive to
20 build a new facility when you can directly source
21 those products from your excess capacity overseas.

22 CHAIRMAN WILLIAMSON: Okay. Thank you. I
23 was just -- unless someone else wants to add
24 something.

25 MR. FAUCETT: Mr. Chairman, Shane Faucett.

1 CHAIRMAN WILLIAMSON: Yes.

2 MR. FAUCETT: To pile onto that comment with
3 publicly stated -- or with public statements, Barilla
4 has made statements that by the year 2020, they want
5 to have a significant increase in their North American
6 volume. And there is only one way to do that. You
7 have to take from existing demand, and that leads
8 directly into the calculation that is being inferred.

9 CHAIRMAN WILLIAMSON: Okay, okay. Thank you
10 for those answers. Commissioner Pearson? Okay. So
11 the commissioners have no further questions. Does
12 staff have any questions for this panel?

13 MS. HAINES: Elizabeth Haines. Staff has no
14 questions.

15 CHAIRMAN WILLIAMSON: Okay. Do Respondents
16 have any questions for this panel?

17 MR. SILVERMAN: No.

18 CHAIRMAN WILLIAMSON: I'm sorry. Excuse me.
19 Do Respondents have any questions for this panel?

20 MR. SILVERMAN: No.

21 CHAIRMAN WILLIAMSON: No. Okay, thank you.
22 Well, I think it's time to take a lunch break. So
23 let's go until 1:55. And please remember that this
24 room is not secure, so don't leave any business
25 confidential or proprietary information with you. And

1 we'll see you all at 1:55. Thank you.

2 (Whereupon, at 12:51 p.m., the hearing in
3 the above-entitled matter was recessed, to reconvene
4 at 1:55 p.m. this same day, Thursday, July 11, 2013.)

5

1 Barilla. But now Barilla is part of the U.S.
2 industry, competing vigorously in the U.S. market, but
3 with pasta that it makes here in the United States.
4 Its U.S. pasta plants serve the American market, and
5 it has no reason to jeopardize that by flooding the
6 market with more pasta from its Italian plants if the
7 orders are revoked.

8 It is important to understand that the vast
9 majority of Italian *pastificios* are small and serve
10 mainly markets within a few region in Italy. They are
11 all private companies. None are publicly traded.

12 The other side say that we will flood the
13 market if the orders are revoked. This is not true.
14 In the last 20 years, Italian *pastificios* needed to
15 increase their production capacity in order to meet
16 demand for authentic Italian pasta from all around the
17 world. Unfortunately, it takes years to increase the
18 production capacity of an Italian *pastificio*,
19 especially for the 90 percent of the Italian pasta
20 companies that are small or of minimum size and are
21 family-owned, without access to capital from selling
22 shares in the stock market.

23 For this reason, these companies might have
24 extra capacities for a few years after making an
25 investment, but they will not build new capacity

1 unless they see new and growing markets to serve. The
2 markets where the Italian producers forecast important
3 growth are eastern European countries and in the Far
4 East, mainly China and India. In those countries,
5 Italian pasta consumption is still very small, but we
6 forecast an important growth in the next ten years.

7 I understand the U.S. producer argue that
8 the U.S. market is attractive because the prices are
9 higher here. But you have to understand that it's not
10 easy to sell in the U.S. market. The U.S. market is
11 not growing much. Growing sales requires you to build
12 a brand and displace competitors. It takes many years
13 to establish a brand and establish long-term
14 relationships with customers in the U.S. Only a few
15 Italian producers have built a famous brand in the
16 United States: Barilla, De Cecco, Delverde, and
17 Garofalo, for example.

18 Barilla, of course, is now a U.S. producer
19 itself. De Cecco and Delverde have been revoked from
20 the antidumping duty order. Dr. Enrica Massarelli
21 will tell you more about Garofalo experience, so I
22 will not speak for Garofalo.

23 But it is so much easier for an Italian
24 *pastificio* to sell in other export markets, where
25 interest in the Mediterranean cuisine is growing,

1 rather than sell in a saturated market like the U.S.,
2 where people already know about pasta, and we have to
3 fight for shelf space.

4 Felicetti, my company, is not a famous brand
5 in the United States, so it's very hard to us to fight
6 to grow in the United States. If we do grow, it is
7 through our high-end pasta displacing other high-end
8 Italian pastas. In contrast, in China, for example,
9 there are huge opportunities to establish a new
10 market, and not try to displace somebody else.

11 Of course, Italian pasta will continue to be
12 requested in the United States, but not through its
13 price. The consumers for authentic Italian pasta are
14 food-educated consumers, and they would not switch
15 between Italian products and U.S. pasta, Mexican
16 pasta, or pasta from other countries.

17 The point is that Italian *pastificio* mainly
18 compete against other Italian *pastificio* in the U.S.
19 market. Because of the structure of the U.S. market
20 now, that would be true even if the orders were
21 revoked.

22 MS. MASSARELLI: Good afternoon. I am
23 Enrica Massarelli, administrative officer of
24 Pastificio Garofalo. Garofalo sells mainly its own
25 Garofalo brand, which is a top quality, high protein,

1 high-priced pasta in Italy and around the world; also
2 through subsidiaries in many export markets, like
3 Portugal, Spain, Sweden, Lebanon, and the U.S.

4 In 2002, Garofalo decided to introduce a
5 premium quality pasta and to differentiate its new
6 brand in Italy and in all other markets. It invested
7 heavily to find the best wheat, which comes from
8 Arizona. This semolina has a high-gluten content, and
9 the high quality of the gluten itself helps makes
10 Garofalo pasta very high quality.

11 Almost 50 percent of Garofalo sales are made
12 in Italy and are related to high quality, high-protein
13 pasta that Italian customers appreciate as one of the
14 best pastas sold in Italy. Overall, Garofalo sells
15 well over 50 percent of its dry pasta to export
16 markets. And of this, the U.S. represents only
17 slightly 10 percent of export sales.

18 In some cases the quality of pasta is
19 tailored to suit particular markets, like in Africa,
20 where sell a lower-quality pasta under a different
21 brand. All of these European, African, and other
22 third country export markets are based on a long-term
23 relationship with our customers, and are very
24 profitable to Garofalo, and therefore we will not
25 abandon them to shift focus to the U.S. market if the

1 orders are revoked.

2 For example, with respect to the premium
3 Garofalo brand, the average selling price in Italy is
4 similar to the one to the U.S. But both are much
5 lower than the average selling price in Europe and
6 some other export markets like Japan.

7 Garofalo has increased its sales to the U.S.
8 market despite the existence of the orders. What is
9 more, in 2006, Garofalo grew a lot in the U.S. without
10 dedicating enough attention to price, and therefore
11 the Department of Commerce found that Garofalo dumped,
12 and we were given a 15.87 percent dumping rate.

13 In order to decrease this dumping rate,
14 Garofalo did not reduce the Italian prices, but on the
15 contrary increased the U.S. prices heavily. And we
16 were afraid that this would decrease the total volume
17 of sales to the U.S., but this did not happen. On the
18 contrary, Garofalo sales steadily increased during the
19 past five years, despite the existence of the orders,
20 at the point that our productive capacity was full and
21 we were forced to buy new production lines that came
22 into effect in 2012.

23 And the reason for this is that the U.S.
24 customers have learned to buy a good quality pasta,
25 even if it's not the cheapest on the market, but

1 because it's tasty, it's healthy, and it's Italian.
2 This is the big difference on the U.S. market since
3 the investigation. Now people are able to distinguish
4 among pasta qualities and can tell that they are not
5 all the same.

6 The Italian pasta and the known Italian
7 pasta, the U.S. or Mexican or whatever, are not
8 interchangeable, according to us. For this reason,
9 Garofalo believes that competes against other quality
10 authentic Italian pasta, not against the U.S.
11 producers.

12 Although the U.S. producers, except for
13 Barilla, are claiming that U.S. and Italian pasta are
14 perfectly interchangeable and that everything is about
15 price, like we hear this morning, you need only to
16 look at the story of American-Italian Pasta Company to
17 understand that it's not true.

18 If all the customer, the U.S. customer,
19 thought that a U.S. and Italian pasta are
20 interchangeable, then which is the reason why
21 American-Italian Pasta Company should import pasta
22 from Italy, from Pasta Lensi.

23 The point is that the U.S. customer want
24 pasta made in Italy, not just a product similar to the
25 one that we produce in Italy, but it's produced in the

1 U.S. So Garofalo is authentic and Pasta Lensi is
2 authentic. But they could not simply fulfill the need
3 of the U.S. with the U.S. production because the
4 consumer would not be happy enough.

5 So if the orders are revoked, and if we do
6 battle in the U.S. market, we believe that it would
7 not be at the expense of the U.S. producer, but at the
8 expense of other Italian producer of the same
9 products.

10 For this reason, we believe that revoking
11 the orders would not injure the U.S. producer. It
12 would simply allow all the Italian producers to
13 compete evenly without the administrative economic
14 burden of filling questionnaires, antidumping
15 questionnaires, every year. Thank you.

16 MR. SCOCCA: Hi. Good afternoon. My name
17 is Antonio Scocca, and I'm the international sales
18 manager for Pasta Rummo. First of all, I would like
19 to thank you because it's an honor for me to stand in
20 front of you.

21 Our company was established in 1846, so it's
22 a long time that we produce pasta. And today the
23 company is still run from the same family, which is
24 today at the sixth generation. And I can tell you
25 that through all these generation, the company has

1 always been focused to select the best raw material,
2 to research and develop the best and most innovative
3 system of production, to find the best dye to enhance
4 the extrusion of our pasta.

5 A few years ago, we have introduced and
6 patented a system of production that is called Lenta
7 Lavorazione. Literally, Lenta Lavorazione means a
8 slow kneading process, a process that slowing let's
9 say the production lines is able to enhance the
10 peculiarity of the wheat, the gluten and the proteins.

11 So what I can say to you is that we really
12 are focused on the performance of the product that we
13 produce. This morning I've heard that the pasta is
14 just semolina and water. I absolutely not agree with
15 that. I drive a Opal, which is a car with four
16 wheels. I don't think that it's the same of a
17 Ferrari.

18 For these reason, I can tell you that
19 obviously the main market for our product has been the
20 Italian one. In the last years, we have increased our
21 presence, producing the 65 percent of all the private
22 label pasta sold in our area, not only -- I believe
23 that also there are some other markets very close to
24 the Italian one, like the Germany, the Switzerland,
25 the Sweden.

1 We are talking about countries that are in
2 the ten -- in the first ten in the rank of the highest
3 consumer of pasta, meant as consumption per person.
4 And for this reason, our company from a strategic
5 point of view acquired in 2010 a production site based
6 in northern Italy, because obviously it was going to
7 help us to overcome the difficulties and the
8 complexities of the logistics connected to the fact
9 that we were based in southern Italy.

10 I can tell you that we proudly serve the
11 United States of America. We are absolutely happy to
12 be aware about the fact that there is a portion of the
13 United States market that recognize the quality and
14 the performance of our product.

15 From this point of view, I want to share
16 with you an experience, a personal experience. It's
17 now a long time that we supply a company based here in
18 the United States that is called Buca di Beppo. I
19 believe that probably some of you is familiar with
20 that. There are a few restaurants also here in
21 Washington.

22 When we almost started to deliver pasta to
23 Buca di Beppo, we displaced an Italian producer. We
24 didn't displace any U.S. producer, main thing. The
25 second thing is that in order to start to work with

1 the company, with multi units like Buca di Beppo, it's
2 not just something that start from the evening in the
3 morning. There is a process of evaluation of the
4 product, at least six months. So it's not something
5 that -- they do not change so quickly from a producer
6 to another. And there is a reason, because obviously
7 they reach in our product the performance.

8 I'm not talking about quality. I'm talking
9 about the performance that they are respecting, and
10 that they want to share with their final consumer.

11 Consider that our product is delivered to
12 Buca di Beppo through the biggest player in food
13 service business, which is Sysco. And I heard there
14 was this morning the chairman of American-Italian
15 Pasta Company. America-Italian pasta company, I know
16 that they make a great job in Sysco. They have huge
17 and high-quality sales people involved in the
18 business. And I believe that probably they are every
19 day in Orlando in front of the Planet Hollywood
20 company, which is the owner of Buca di Beppo, ringing
21 the bell in order to taste the product.

22 I don't want to say that our pasta is just
23 the best. I'm just telling that there are customer
24 that are looking for a particular performance, and
25 this performance can be offered from our pasta.

1 The last thing that I want to share with you
2 is also another personal experience. When I
3 approached the -- and obviously this is my job. Every
4 day I approach your distributors, and I do that in the
5 United States. The first thing that I ask to my
6 potential customer, it's not if they buy just pasta,
7 but if they buy Italian pasta.

8 If they buy Italian pasta, I will go forward
9 with them. If they tell me that they don't buy
10 Italian pasta, I'm not going to go forward with them
11 for one reason, because I know that their customer
12 will not appreciate the performance of our product.

13 That's why our company believes that if the
14 order will be revoked, no United States companies will
15 be affected or will be altered by that. Thank you
16 very much.

17 MR. DiPIETRO: Good afternoon. My name is
18 Anthony DiPietro. I'm the vice president of the
19 George DeLallo Company, and my company is an importer
20 and distributor of high-quality imported Italian
21 products, to include pasta, with a focus on the retail
22 channels of the marketplace such as supermarkets and
23 specialty stores.

24 I can tell you that if the countervailing or
25 antidumping duty orders were either to remain intact

1 or are revoked, there will not be a significant
2 difference on how my company looks at its market plan
3 going forward.

4 To explain this, my company is involved in
5 the distribution of high-quality Italian pasta. This
6 high-quality Italian pasta is sold on the merits of
7 both the ingredients being durum wheat semolina, which
8 is selected for the qualities and the attributes that
9 it has, as well as the craftsmanship that goes into
10 producing this as pasta.

11 This is much different than the commodity
12 pasta that is domestically produced that is sold in
13 the marketplace. What I'm explaining is there are two
14 separate consumers and two separate marketplace within
15 my retail channels.

16 Furthermore, how these retail channels are
17 serviced is entirely different. In explaining this, I
18 can tell you that commodity domestic pasta is directly
19 sold to the supermarket chains and put in their
20 warehouses, whereas imported Italian pasta like my own
21 is subject to be sold through a sub-distributor known
22 as a specialty distributor that serves the store on a
23 less frequent basis because there is less volume.

24 This adds cost. The explanation of this is
25 the added cost further separates the two in their

1 marketplace.

2 What I can tell you also is the positioning
3 on the supermarket shelves in their specialty stores
4 are different, whereas domestic commodity pasta is not
5 very much present in specialty stores because there is
6 a need in the consumer for something different.

7 Also, in supermarket shelves such as one if
8 you go to today, you'll see that the majority of the
9 space is reserved for commodity domestic pasta, up to
10 32 feet linear. The reason for this is because they
11 have the majority of the market, whereas imported
12 Italian pasta is reserved for space somewhere between
13 four and eight feet. What I'm explaining is the two
14 separate entities compete amongst themselves.

15 Finally, I can tell you in regards to the
16 marketplace that there is a great push within the
17 retail section for private label. Within this private
18 label, supermarket chains are differentiating between
19 their standard store brand as a commodity, as well as
20 their super premium.

21 Their super premium is in all intents and
22 purposes supplied by high-quality Italian companies.
23 I do not know of any domestic chain -- excuse me,
24 domestic producers that supply the super premium line.
25 Why? Because there is a difference in pasta.

1 Finally, regarding my company, I can tell
2 you that I cannot replace the partnership that I have
3 with the *pastificio* or pasta company that I've been
4 dealing with for the past 30 years. Besides not
5 having a company that can produce to the quality that
6 I ask for for my consumers every day, there is
7 inherent knowledge and partnership to know the
8 consistency and quality of my products.

9 Therefore, I can tell you the success of my
10 brand will come at the expense of other Italian
11 producers, not from the domestic producers, thereby
12 creating two marketplaces. Thank you.

13 MR. AGLIETTI: My name is Dustin Aglietti.
14 I'm a national account manager for Rema Foods, which
15 is a distributor of a wide range of packaged, canned,
16 and frozen foods, as well as specialty foods, edible
17 nuts, and dried fruits. Rema Foods is mainly focused
18 on food service to distribution centers around the
19 country.

20 For dry pasta, we are a purchaser, but not
21 the importer of record. Our customers, primarily
22 restaurants, are concerned first and foremost about
23 the quality of the pasta. When I talk about quality,
24 I mean the checking, foaming, and cook time to reach
25 an al dente consistency.

1 Quality also means the ability of the pasta
2 to be double-cooked and the ability of the pasta to
3 hold up through cooking and also hold the sauce. By
4 double cooking, I mean that in the restaurant chefs
5 have to prepare large amounts of pasta the night
6 before, cook it once, portion it, and then refrigerate
7 it. The next day, just before serving, the pasta is
8 then boiled for about another minute and then is ready
9 to be plated.

10 The problem is that the second time you cook
11 the pasta, if you don't have a high enough gluten
12 content in that pasta, the pasta therefore breaks down
13 and loses its consistency and form.

14 One of the problems with the domestic pasta
15 is that the gluten content is too low. So during the
16 second cooking, the pasta breaks down. The gluten
17 content is dependent on the source of the durum wheat
18 itself. In addition to the gluten content, the
19 protein content is important in the overall quality
20 because it is the protein, along with the gluten, that
21 holds in the flavor, nutrients, and texture of the
22 pasta, which also means better taste.

23 The foaming refers to the amount of foam
24 that develops during the cooking process. The more
25 foam you see in the pot, the more the pasta is

1 breaking down, and therefore is losing its taste,
2 nutrients, and overall quality. The difference
3 between cooking a pot of domestic spaghetti and
4 authentic Italian spaghetti is obvious just by looking
5 at the amount of foaming in the pot.

6 The chef knows this, and so the chefs of the
7 finer restaurants simply will not consider anything
8 other than authentic Italian pasta. Educated
9 consumers can taste the difference as well. They know
10 that it is the pasta itself, not the sauce or other
11 ingredients, that's the key to the best pasta dishes
12 and the overall best product.

13 Our restaurant customers and end users
14 demand an authentic Italian pasta. Our customers
15 believe, as do I, that the quality of the Italian
16 pasta is second to none. Italian pasta simply holds
17 up better when cooking and holds the sauce better than
18 the domestic pasta does.

19 In addition, the brand is very important to
20 us and to our customers. Rema Foods and its customers
21 appreciate the Rummo brand for its consistency, in
22 addition to its overall quality. We will not consider
23 domestic pasta when making our purchasing decisions.

24 Some of our customer may not know in-depth
25 all the details about making a high-quality pasta.

1 But they do know that 100 percent of the time they
2 want 100 percent Italian pasta for them and their
3 customers.

4 The domestic pasta producers have been
5 successful in selling to the market segment that does
6 not necessarily care about authenticity or having that
7 top quality pasta. In the restaurant business, the
8 domestic producers do well in selling to places like
9 pizza houses and budget chains like Sbarro and Olive
10 Garden.

11 The customers in these establishments are
12 not going there for an authentic Italian pasta
13 experience. They think of pasta dishes as being all
14 about the sauce rather than the taste and the mouth
15 feel of the pasta itself.

16 U.S. pasta makers may try to alter their
17 product with the goal of improving their quality. But
18 in my judgment, the U.S. producers will never match
19 authentic Italian pasta suppliers due to the wheat
20 quality, protein level, and raw materials.

21 However, for the main part of the U.S.
22 market, direct supermarket sales and distribution to
23 customers other than the finer restaurants, the
24 domestic pasta producers will continue to excel. In
25 the restaurant industry, those restaurants that care

1 about the sauce -- that care more about the sauce than
2 the pasta itself, may well just choose the cheapest
3 brand, which in my experience is the domestic
4 producers.

5 But the point is that the business for
6 distribution to high-quality restaurants, the domestic
7 pasta producers simply do not compete with any
8 authentic Italian producers. As a result, we do not
9 believe that much will change if the antidumping and
10 countervailing duty orders are revoked. For the main
11 part of the market, where quality is not as important,
12 the giant domestic producers will continue to dominate
13 even without protection from import duties.

14 However, for fine restaurants, Italian pasta
15 will continue to compete principally against other
16 Italian pasta. The duties may drive up the price and
17 therefore affect which Italian producer wins in the
18 restaurant segment of the market. But the successful
19 Italian producers will only displace other Italian
20 producers. Thank you.

21 MS. TENDICK: Good afternoon. Thank you for
22 letting me speak today. I'm Melissa Tendick. I'm the
23 marketing associate director for Barilla America.
24 I've been with Barilla America for about ten years.
25 As of today, I also answer by the name LeBron James,

1 apparently.

2 Barilla is committed to the U.S. market.
3 We've worked very hard to grow our market share here
4 in the U.S., and this growth is based on the
5 recognition that Barilla means quality pasta, which is
6 produced within the Italian tradition.

7 Barilla is now the number one selling brand
8 of pasta in the United States, and Barilla America is
9 one of the largest U.S. producers. As such, Barilla
10 would do nothing to harm the U.S. industry or disrupt
11 the market success that we've had thus far.

12 Let me begin by giving you an understanding
13 of Barilla's basic structure. Our global operations
14 are managed by Italy -- in Italy. However,
15 organizationally Barilla is broken into separate
16 clusters, much similar to what we've heard today.

17 Each of our clusters has its own independent
18 president or general manager. And the three clusters
19 are defined as the Americas, Europe, and Asia-Oceania.

20 Each cluster operates completely independently, and
21 the president of each is responsible for the success
22 of his or her own cluster. In fact, his or her
23 compensation is dependent on how this cluster does.

24 In other words, the president of Barilla
25 America and her compensation is based on how well

1 Barilla America does.

2 So it does not help our company or our
3 president's if Barilla sells pasta from Italy into the
4 United States. I mention this to explain one of the
5 reasons why Barilla America cares about Barilla
6 America does and would not support an action that it
7 thought could harm Barilla America. After reviewing
8 the situation, we do not believe that the revocation
9 of the antidumping and countervailing duty orders on
10 pasta from Italy or Turkey would lead to the injury to
11 the U.S. industry, which is an industry obviously
12 which we are a significant part of.

13 Barilla America has invested in two large
14 production facilities in the United States because we
15 believe strongly that we should be producing in the
16 market in which we are playing. One is in Ames, Iowa,
17 and the second is on Avon, New York. In addition, we
18 work with copackers who produce for us here in the
19 United States and also in Canada. And the two plants
20 have been a significant capital investment for us, and
21 Barilla has no reason to want to diminish the returns
22 from that investment.

23 There are two main reasons why the Barilla
24 group located production in the United States when it
25 decided to enter this market. First is the proximity

1 to our main raw material, durum wheat. This is the
2 basis for the selection of our plant in Ames, Iowa, in
3 the Midwest. We source our wheat from the United
4 States and from Canada, and in fact Barilla has its
5 own patented strain of wheat grown for us here in the
6 United States.

7 The other reason is our corporate
8 philosophy. Barilla believes in producing in its
9 largest markets. This was the basis for choosing Avon
10 as the second location for our plant. The
11 northeastern region of the country is the largest
12 market for us within the U.S.

13 As I stated, Barilla operates these two
14 large state-of-the-art production facilities within
15 the U.S. and uses copackers to help supply the demand
16 for our products. Our capacity is in our proprietary
17 questionnaire responses, and I won't discuss the
18 details in this public forum. However, I do want to
19 explain that capacity can be measured in several
20 different ways.

21 There is the rate of capacity of the
22 production lines. This assumes that a line would run
23 24/7 with no down time whatsoever. But that capacity
24 measure is simply unrealistic. Practical capacity is
25 quite different. Even if we operate three shifts a

1 day, seven days a week, there are many times when the
2 production equipment has to be offline. The
3 production lines need to be shut down for routine
4 maintenance and cleaning. Hygiene obviously is an
5 essential part of the food industry. Also, if we
6 change the recipe that we've run on a particular line,
7 the line then needs to be completely and thoroughly
8 cleaned before a new recipe can be run. And by
9 recipe, I mean the fact that we produce several
10 different types of pasta, several different recipes.

11 For example, our traditional blue box, which
12 is semolina, our whole wheat, our Barilla plus, each
13 requires that the equipment be thoroughly cleaned
14 before and after that recipe is run.

15 However, even if we only run one recipe on a
16 line, there is still additional down time. Each time
17 we produce a different cut on the line, the line needs
18 to be stopped to allow the dyes to be changed in or
19 out or the cut to be reprogrammed. This down time
20 needs to be factored in to determine the practical
21 capacity of any company's equipment. Therefore, we do
22 not think in terms of rated capacity of the machine,
23 other than when we're actually purchasing the
24 equipment in the first place. Once purchased, it's
25 the practical capacity that really matters.

1 As noted, Barilla America also works with
2 copackers in the United States because we do need the
3 additional capacity here in the United States where we
4 sell. Even if the orders were to be terminated today,
5 Barilla America expects that it would continue to work
6 with its copackers, as we have long-term agreements
7 with them.

8 First, we spent considerable time and
9 resources qualifying our copackers and working with
10 them to ensure that they meet our high quality
11 standards that we demand on our products. And for
12 that reason, when we have excess demand, we turn to
13 our copackers.

14 But beyond that, there are additional
15 reasons why we choose to source within the Americas.
16 At the moment, the exchange rates do not make Italy an
17 economic option. Even though the exchange rate could
18 change to become more favorable, that volatility is
19 not something that Barilla prefers to address. We're
20 not in the finance business. We do not have a large
21 staff of financial representatives to hedge against
22 these variances of exchange rates. Barilla is in the
23 business of making pasta.

24 Additionally, as noted, our raw material
25 comes from the U.S. and Canada. It does not make

1 sense for us to ship to Italy to produce the pasta and
2 then to ship it back here to the U.S. Thus the
3 uncertainty of the exchange rates, the freight costs,
4 and time required involved simply do not make it
5 effective for us to consider Italy as a significant
6 source of product for us, regardless of the status of
7 the duties involved.

8 We do not anticipate that the economics of
9 our sourcing decisions will change significantly if
10 the orders were to be revoked. Barilla is proud of
11 its brand. We've talked a lot about brand today.
12 We've worked hard to establish our reputation in this
13 country. Barilla stands for a quality product that is
14 produced in the Italian way. The Italianicity of the
15 product is aspirational, and the perception is that it
16 is a quality product coming from the Italian experts.
17 We believe that perception is correct.

18 As a group, Barilla spends significant
19 resources on research, developing new products and
20 perfecting and exacting our standards that sustain our
21 reputation. When Barilla first came into this market,
22 it spent a considerable time and effort to educate the
23 potential customers on what this brand means.

24 Barilla still communicates its quality.
25 Barilla brand pasta cooks perfectly every time, always

1 al dente. For pasta, quality means a consistent
2 product that will hold up even under less than ideal
3 cooking conditions. In the retail market, it's
4 important that Barilla products will not be ruined if
5 it accidentally cooked for a minute or two longer than
6 intended. Barilla product retains its shape, its
7 texture, and its taste regardless of this.

8 Quality is also extremely important in the
9 food service industry, as we've discussed, where pasta
10 is usually par-cooked or double cooked. The food
11 service industry requires a higher quality product
12 than necessary for most retail industry because the
13 restaurant will precook the pasta and then put it back
14 into the boiling water for a minute or so before
15 serving to the patrons.

16 Quality means its ability to stand up to
17 this treatment as well. When Barilla first came to
18 America, we spent a lot of time with the food service
19 industry, educating them. In general, the food
20 service industry had preferred pasta from Italy. And
21 we demonstrated that our product does hold up to the
22 rigors of their industry. We had side-by-side
23 tastings to prove that our American-made product was
24 as good as our Italian-made product, and even superior
25 sometimes to the Italian standard.

1 It's that reputation for quality that has
2 enabled Barilla to become the number one selling brand
3 of pasta within the United States. Customers know
4 what they can expect when they buy a box of Barilla
5 pasta, and consumers who care about this pick up the
6 brand for that reason.

7 On this point, I do want to emphasize that
8 not all pasta is the same. Pasta can be produced on
9 the same equipment, by the same equipment
10 manufacturers, but each company has its own blend of
11 durum and durum wheat that it uses within its recipe,
12 including different gluten-to-protein ratios and
13 different ash content of the semolina.

14 Moreover, the conditions surrounding the
15 making of the recipe will vary by producer. These
16 varied results ensure that the end product differs for
17 each of the different manufacturers. And this is a
18 critical point when we qualify our copackers. Not all
19 companies can produce to our requirements, and we have
20 switched copackers in the past when we found necessary
21 for these reasons.

22 Our copackers must be able to produce to our
23 requirements and to protect the intellectual property
24 that goes along with that production. Barilla is
25 committed to growing the U.S. market for pasta

1 overall. As one of the industry leaders, we view it
2 as our responsibility and a good business to grow the
3 market.

4 Currently, Americans eat about 12 pounds of
5 pasta a year, compared to over 40 pounds of pasta a
6 year for Italians. So that provides us a significant
7 opportunity for us here in the United States to
8 increase the annual consumption. Obviously, Barilla
9 is not doing this for altruistic reasons. We do hope
10 that by working to increase consumption, our share of
11 that growing market will also increase.

12 But even if our market share remains the
13 same, Barilla will do better having the same share of
14 a growing market than having a larger share of a
15 decreasing market.

16 While Barilla focuses on its brand for
17 marketing, we also offer a variety of cuts and
18 recipes, which is important. This does not mean that
19 price is not important, because of course it is. But
20 it's hardly the only consideration or within the range
21 the primary consideration.

22 The retail market has different segments.
23 At its low end is the private label product, and
24 Barilla does not participate in this segment, so I
25 will not address that. But Barilla does participate

1 in the branded segment of the market. And we know
2 here that variety helps, and variety helps sells.

3 Market research indicates that consumers who
4 buy more than four different pasta cuts are likely to
5 purchase twice as much pasta annually as the average
6 consumer who purchases less than four cuts. When
7 Barilla first came into this market, we were one of
8 the first companies to offer line pricing. Line
9 pricing helped to convince consumers to try different
10 cuts, different shapes of pasta. If farfalle, for
11 example, costs the same as elbow macaroni, consumers
12 are more likely to try it, thus expanding their pasta
13 repertoire and increasing potential usage occasions.

14 The image of Italy also helps us to market
15 the product. People perceive that Italian pasta is
16 superior. After all, pasta did originate in Italy.
17 Barilla succeeds because we were created by the
18 Italians, and Barilla is still a family-owned company
19 today. And we've demonstrated that our quality meets
20 or exceeds the Italian standard.

21 Our domestic competitors are well aware of
22 this perception, and this is why you have such brands
23 as San Giorgio or Ronzoni. They're trying to
24 capitalize on the perceived superiority of the Italian
25 product.

1 At the very high end of the retail market,
2 the specialty stores and such, the retailers and their
3 customers frequently demand that their pasta be
4 imported from Italy. As I've indicated, Barilla
5 America is dedicated to the U.S. market and to our
6 production here. We do not anticipate that revoking
7 the orders will change that, but it will help us to
8 better coordinate with our Italian counterparts,
9 particularly in innovating new products that will help
10 us to continue to grow the U.S. market for pasta in
11 general. And as the category leader, we don't just
12 accept that the category is flat. We want to see that
13 expansion.

14 Finally, we do not see that the orders
15 currently provide much protection for the U.S.
16 industry. Many Italian suppliers are not subject to
17 the antidumping duty orders now. Despite this and
18 despite the other products that are substitutes for
19 the subject dry pasta, the U.S. industry is doing
20 quite well.

21 Companies have invested in new capacity, and
22 the buyout of many of our competitors indicates that
23 their purchasers see significant value from their
24 entry into this market through their purchase of
25 domestic pasta producers.

1 As we do not think the lifting of these
2 orders will harm the domestic industry, as a
3 significant member of that domestic industry, we would
4 not be urging the lifting of these orders if we
5 thought it would harm us.

6 Thank you for letting me speak today.

7 MR. NOLAN: Good afternoon, Mr. Chairman and
8 members of the Commission. My name is Matt Nolan with
9 Arent Fox. We are pleased to appear today on behalf
10 of the Turkish pasta industry. To my right is my
11 partner and colleague, Diana Dimitriue-Quaia. Behind
12 me is our economic consultant, Bulent Hacıoglu from
13 Trade Resources. And we have with us today three
14 managers from the Turkish pasta industry, in fact the
15 three largest producers of Turkish pasta.

16 And I will turn it over to the first
17 individual, Kadir Külahçioğlu in a second. Bear with
18 us a little bit. English is distinctly not their
19 first language, and so Bulent may be helping with
20 translations from time to time as we proceed. Thank
21 you. Kadir?

22 MR. KÜLAHÇIOĞLU: Mr. Chairman, members of
23 the Commission, good afternoon. Thank you for giving
24 me this opportunity to present our views in the sunset
25 review. My name is Kadir Külahçioğlu, general manager

1 of Durum Company, and manager and manufacturer and
2 exporter of dry pasta in Turkey. I am also one of the
3 board members of Turkish Pasta Producers Association.

4 I have served as general manager of Durum
5 Company since 2002, and I am very familiar with my
6 company's operations and strategy and the general
7 outlook for the Turkish pasta industry, which is very
8 good, even though we have no presence in the U.S.
9 market.

10 I am joined today by two of my fellow board
11 members of Turkish Pasta Producers Association, Mr.
12 Mehmet Karakus, general manger of Selva Company; and
13 Mr. Nihat Uysalli, general coordinator of Nuh'un
14 Ankara Company.

15 I am quite surprised by the way the Turkish
16 pasta industry is portrayed by the Petitioners. I am
17 informed by our counsel that the Petitioners talk a
18 great deal about the alleged underutilization in the
19 previous sunset review. As the Petitioners pointed
20 out, the capacity in Turkey has doubled during the
21 period of review.

22 I want to ask a question. Why would an
23 industry double its capacity if it had
24 underutilization problems? Our production is high,
25 and will remain that way because we have developed

1 multiple markets. Our inventories are record lows due
2 to demand levels. In fact, because of strong demand
3 for Turkish pasta, we are having difficulties meeting
4 contractual delivery schedules, including as recent as
5 last month where we had to delay delivery on a large
6 contract with a customer from Libya.

7 On the other hand, I want to mention that
8 there is no excess capacity in Turkey, as portrayed by
9 the Petitioners. Currently, most of our plants are
10 running at near full capacity. The utilization level
11 in the Turkish industry is close to 90 percent
12 overall. In the long-cut lines, such as spaghetti,
13 which construes most of Turkey's exports, the
14 utilization levels are approaching 100 percent.

15 Indeed, we had to increase capacity over the
16 last few years to keep up with growing demand for our
17 products all over the world. We have not increased
18 capacity hoping for more demand. We are simply
19 reacting to demand growth in Turkish pasta, which has
20 been excellent.

21 Turkey's success in developing export
22 markets such as Africa and Asia, coupled with the
23 increasing demand in our domestic market, has fueled
24 our industry's growth. In fact, except for one year,
25 Turkey has never filled its annual quota for shipments

1 to EU, where millions of ethnic Turks live, and who re
2 familiar with our brands.

3 We have learned to diversify our export
4 markets, a process that has taken years of investment
5 to develop. And we will not leave these markets
6 regardless of what happens in the U.S. Our investor's
7 growth is completely unrelated to the antidumping
8 order in the United States.

9 While developing our export markets, Turkish
10 exporters remain especially mindful of fair trade
11 principles. In 2012, Turkey has exported pasta to 146
12 countries, and I am proud to say that no antidumping
13 safeguard or countervailing measures enforced against
14 Turkish pasta anywhere in the world, except for the
15 United States.

16 It's a matter of prestige for us. More than
17 anything, having been labeled as a dumping country, it
18 is one of the primary reasons why our industry is
19 represented here today, because the order is outdated.

20 It does not reflect the current reality of Turkish
21 industry. We also wish to have the freedom to
22 participate modestly in the U.S., modestly in U.S.
23 market, as does Mexico, Canada, Thailand, and many
24 other countries.

25 We do want to be present in the U.S. market

1 and have a responsible share, as we have done in other
2 markets. The U.S. is a prestigious and demanding
3 market, which we think will help our industry be
4 better at what we do and how we serve our customers.

5 It is neither our intention nor is it
6 possible for the Turkish industry to capture the U.S.
7 market, as Petitioners would like you to believe.
8 There are simply too many barriers. We will have to
9 qualify to import, develop a logistic network in the
10 U.S. to satisfy our customers, which is not easy, and
11 develop some kind of market presence which is totally
12 lacking today, in America that has no familiarity with
13 Turkish pasta.

14 For the foreseeable future, our principal
15 market in the U.S. will remain the ethnic markets and
16 the catering market sector, where most of our limited
17 nonsubject imports such as bag pasta go already.
18 Please note that bag pasta from Turkey is not subject
19 to the orders, yet our imports have remained low
20 because it faces the same barriers limiting our access
21 to the U.S. market.

22 Me and my colleagues would be very happy to
23 answer any questions you have. Thank you. Matt?

24 MR. NOLAN: Thank you, Kadir. You'll have
25 to bear with me, Mr. Chairman and members of the

1 Commission, because I'm sitting in the back and I hate
2 sitting in the back. I'm going to come up and talk a
3 little bit on my feet for you.

4 We have a presentation that I'm going to
5 make very quickly, and we have one other prop that
6 we've been handing out, which are some boxes of pasta.

7 I went to the store on Saturday, in fact three or
8 four stores on Saturday, and bought lots of boxes of
9 pasta, just to see what the prices are like. And so
10 we will talk about that shortly.

11 But to start, the U.S. Petitioners have
12 quoted lots of facts, and I don't think I have the
13 same staff report that they have because the facts
14 that I see in the staff report bear very little
15 resemblance to what they say is in the staff report.

16 The Petitioners started their presentation
17 with the statement, the facts remain the same. Well,
18 let's just examine whether the facts remain the same.

19 Today the pasta industry in the United States has
20 changed dramatically. It is now dominated by large,
21 multinational players with deep pockets and deep
22 marketing budgets.

23 ConAgra, a large Nebraska multinational,
24 acquired American-Italian Pasta. Barilla is, well,
25 Barilla. We all know them. Glencore Xstrata, a

1 British and Swiss group, which owns Viterra, bought
2 Dakota Growers Group. Ebro in Spain acquired New
3 World Pasta. It sounds like the United Nations here
4 right now in terms of pasta production.

5 So the question is why are such
6 multinationals interested in U.S. pasta companies?
7 Could it be that they may be fairly healthy as a U.S.
8 industry, which makes them an attractive target for
9 these large companies to buy. Large multinationals do
10 not buy companies that lose money as a general
11 proposition. They try to buy money-making companies.

12 So what has happened in the last five years?
13 Average net sales value for the U.S. industry
14 increased 58 percent over the five-year POR. Capacity
15 utilization is extremely high, especially when you
16 count it correctly. Gross profit margins ranged from
17 26 to 35 percent during the POR.

18 There is a lot of U.S. businesses who would
19 like to have profit margins in that range. Operating
20 income, suitably healthy. The one point I would also
21 like to make is we'd urge the Commission to look at
22 the individual companies' specific statistics, which
23 are in confidential carefully. There is a wide
24 dispersion and variation in those statistics, and that
25 tells you a lot about how the industry is very

1 different in the way companies are doing. Some are
2 doing fabulously well.

3 So let's take a look at what has happened
4 since 1994 and 2012 in the market. As you can see, in
5 1994, U.S. producers had 84 percent of the market,
6 Italian imports 9.4 percent, Turkey 2.1, and other
7 imports 4.4. Spin forward to 2012. The U.S.
8 producers have indeed reduced their market share to 79
9 percent.

10 Italy is down to 9 percent. That includes
11 subject and nonsubject imports, I might add. That
12 means they've declined. Turkey is virtually absent
13 from the market. Mexico has picked up from zero to 3
14 percent of the market, and other importers have picked
15 up 9. So in other words, imports are up to 12 percent
16 and have increased their share quite significantly
17 during the period, particularly the POR.

18 What have we seen during that same period of
19 time? The U.S. industry has done quite well. Imports
20 have increased. They have reduced market share, and
21 yet they're doing really well. There is a disconnect
22 here. How can you be doing extremely well financially
23 and say that everything is based on price, and you're
24 losing market. Something is not working right here.

25 Some interesting points. Italian imports

1 are down again. Mexico has grown. The U.S. share is
2 down, but their value and profits are up.

3 Here is another chart to take a look at. If
4 we were in the medical industry, if you look at the
5 Turkish numbers, we would be calling this a flat line.

6 Turkey's market share in the U.S. is virtually zero.

7 Imports from Turkey are so small they are hardly
8 noticeable on the chart.

9 Mexican imports on the other hand took up a
10 stable share starting before the POR and have averaged
11 in the 50,000-metric ton range. Italy dipped and then
12 gradually came back, which I think is mostly
13 nonsubject, but we don't get into the specifics there.

14 And, of course, total imports increased during the
15 period. Again during the exact same period that the
16 U.S. industry was doing well, imports, nonsubject
17 imports, were coming in, in increasing amounts. No
18 price effect at all as a result of increasing imports.

19 Now, there is a lot being made about Turkish
20 capacity and their ability to shift and turn capacity
21 into the United States. We don't deny the fact that
22 Turkey has substantially increased its capacity to
23 produce. Why? As Kadir stated before, you don't
24 increase capacity if you're underutilized. In fact,
25 quite the opposite is happening in Turkey right now.

1 If you look at the production line for
2 Turkey, it is rising at equal to or faster than the
3 capacity increase rate going on in Turkey right now.
4 They are now approaching 90 percent capacity
5 utilization, and it's increasing every year.

6 Right now, if you were to take a slide and
7 go from here to here to look at the difference between
8 capacity growth or production growth and capacity,
9 they've got about a nine-month window before they run
10 out if they don't continue to increase. That is a
11 very hot market for the Turks. Why is it going so
12 well?

13 Capacity utilization, obviously another
14 indicator, is up to close to 90 percent. Here is the
15 reason why. Turkey has invested a great deal of time
16 and energy over a long 10-15 year period to diversify
17 its world markets. It has looked for, sought out, and
18 determined appropriate markets where the conditions of
19 competition and the level of demand and the emerging
20 income levels are conducive to growing the pasta
21 market.

22 Where is this going on? If you look at
23 Africa, that has done phenomenally well for them.
24 They have done quite well in Africa. If you look at
25 Asia, similarly an emerging economy is growing, has

1 resulted in a vast increase in imports, which didn't
2 start right away. There was an investment time that
3 took before it started to take off. Many years of
4 investment before that happened. And, of course, we
5 have Europe on the bottom, which is subject to a
6 20,000 ton per year quota, but they only hit that
7 quota once, once, in history.

8 Again, we also have Turkish domestic pasta
9 consumption increasing. It's a wonderful thing.
10 They're growing quite smartly in the domestic market
11 for pasta. And that projected demand is going to
12 continue, based on forecasts. It will go up by over
13 another 100,000 metric tons in the next four years.
14 So all indicators are that Turkish production and
15 capacity increases will be more than absorbed during
16 the foreseeable future.

17 Number of countries Turkey exports pasta to:
18 during the original investigation in 1995, or during
19 the investigation period as of 1994, they exported to
20 a total of 10 countries. As of this past year, they
21 exported to 146 countries. This is a conscience
22 effort on their part to diversify markets to where
23 they think they can be competitive.

24 So what are the impediments and
25 possibilities for the U.S. market? Well, clearly the

1 ethnic market is available to them. And in fact, if
2 you look at the data on the record, the confidential
3 data, you'll see that that's where most of it is
4 going. Food service or at least a subsection of the
5 food service market is the other place where the
6 Turkish competition or product might be able to find
7 its way. But it's a very limited segment of the
8 market. They cannot participate in the retail market,
9 and we'll tell you why in a moment.

10 What are the barriers to their growth in the
11 market? There is absolutely zero market recognition
12 for Turkish product right now. Has anybody seen
13 Turkish product on any grocery store shelf anywhere?
14 The answer is, no, unless you go into an ethnic
15 market.

16 They have no customers, no presence, and in
17 fact they have extremely limited knowledge of the U.S.
18 market. They found out yesterday when I showed them
19 those boxes of pasta that you actually box pasta in
20 this country, you don't sell it in cellophane
21 wrappers. They have a lot of knowledge to gain before
22 they become competitive in this market. They have to
23 deal with packaging and certification requirements.
24 They don't package it in boxes where they ship it.
25 They have zero supply chain built up. They have no

1 logistics network built up. And the availability of
2 the product, as we showed earlier, is going to be very
3 limited because they have demanded a number of other
4 markets, which they are not going to give up to come
5 here.

6 They spent a lot of time and energy
7 developing those markets. They want to keep them.
8 And, of course, finally, there is no vitamin
9 enrichment in the product.

10 So another comment that we'd like to make is
11 the Petitioners like to say everything is about price.

12 Okay. Let's talk about price for a minute. Here are
13 the average unit values for Turkish product going into
14 various countries, and we superimpose that against
15 that the average unit values coming from Mexico into
16 the U.S. market.

17 They are very close together. We don't deny
18 the fact that Turkish pasta is less expensive than
19 U.S. pasta. That's a fact. But it is competitive
20 with Mexican pasta, and the prices that the Turks
21 charge are consistent with prices that they charge in
22 all other developed markets that they participate in.

23 So it's not like they're singling out this market for
24 special treatment.

25 Here is an example that we talked about this

1 morning about, yet this morning on Canada. We were
2 trying to think about where they don't do so well.
3 Turkey does not ship to Brazil, does not ship to
4 Italy, does not ship much to Canada. Why? Those
5 countries have highly developed indigenous pasta
6 industries. They grow wheat. And so the conditions
7 of competition make it unfavorable for them to
8 participate in a significant way in those markets,
9 Canada being the case in point.

10 They went into Canada in the mid 2000s as a
11 plan to try to develop that market. They even had the
12 prime minister appear with them -- it's hard to see
13 it, but he's in that picture -- to promote their
14 products. The result of all of this promotion for
15 years and years of effort was very little result. And
16 that is the state of affairs today in Canada. And by
17 the way, the U.S. ships \$78 million worth of product
18 to Canada a year, which makes Canada the number one
19 export destination for the U.S. product, and Canada
20 ships \$48 million of pasta made in Canada to the U.S.
21 a year, which makes us their number two market, or the
22 vice versa.

23 So the U.S. and Canada markets are very
24 familiar with each other, and they're very similar.
25 I'm projecting for you that this experience will be

1 similar to what happens if Turkey tries to enter the
2 U.S. market, because the geography and the conditions
3 of competition are very analogous.

4 Finally, we have some photos. Petitioners
5 like to tell you that pasta is basically all the same,
6 and that brand doesn't really matter. This is right
7 off the shelf in Giant in Silver Spring, by the way.
8 Look at the way Barilla has got shelf space. And that
9 consumers don't look at brand, they only look at
10 price.

11 If you look at the boxes of pasta that we've
12 had handed out to you, you will see that there are
13 differences in price. Why are there so many brands if
14 it's only price? There are at least a dozen brands I
15 counted up on the shelf in Silver Spring. Why is
16 there so much variation in price and so much attention
17 to branding then? Look at the price differentials:
18 De Cecco, 2.29 a pound at the top end. The private
19 label down at the bottom end, a dollar a pound.

20 If price was the determinant, why aren't we
21 all buying it for a dollar a pound? And the answer is
22 brand does matter. People do distinguish between
23 types of pasta, and they don't make their decisions on
24 the basis purely of price. They look at what they
25 like to buy, and they buy lots of different types.

1 Thank you very much, and I'll turn it back
2 over to Italy now. Oh, there is one more slide. I'm
3 sorry. Before we go, sorry guys.

4 We would like to request that you consider
5 not cumulating imports from Turkey with Italy, for the
6 very few reasons: one, imports from Turkey and Italy
7 do not -- compete under dramatically different
8 conditions of competition. We compete in different
9 market segments. Turkey is not in the retail sector
10 at all. And in fact, it's hardly in any segment
11 anywhere right now.

12 Turkish pasta is not known in the U.S.,
13 whereas buyers seek out Italian brands, which is a
14 very different condition. There is no fungibility or
15 very limited fungibility. Turkish pasta is not
16 vitamin-enriched. It is limited to long products.
17 And Italian pasta is imported under a variety of
18 different shapes and sizes, and is vitamin-enriched.

19 Finally, nonsubject imports from Mexico are
20 the only real competition for subject Turkish imports
21 and would be the most likely place where Turkish
22 imports would compete with Mexican product for ethnic
23 markets.

24 We would prefer or request respectfully that
25 the Commission consider exercising your discretion not

1 to cumulate imports from Turkey. Thank you.

2 MR. HEFFNER: Doug Heffner, Drinker Biddle,
3 for the Italian Respondents. If price is so important
4 and underselling is so injurious, how do you explain
5 the following: domestic producers' AUVs increased
6 over the POR from 53 cents to 75 cents in 2012,
7 despite what Petitioners characterized as widespread
8 underselling.

9 Domestic producers operating income as a
10 percentage of sales increased dramatically over the
11 POR, from 7.9 percent to 14.5 percent in 2012, despite
12 underselling. Domestic producers' market share was
13 stable, starting at 79 percent, ending at about 78.6
14 in 2012, despite underselling.

15 Subject Italian market share declined over
16 the POR, despite underselling. It just doesn't make
17 sense what Petitioners are saying. And as you saw on
18 pages 27 through 33 of our brief, if you look at the
19 individual pricing products, you will see that there
20 is no correlation between price and quantity. You
21 will see in many of the slides of the graphs that we
22 have that the highest price product had the most
23 volume.

24 If Petitioners are correct, then that
25 wouldn't occur. That's in almost every one of the

1 tables that we have, from 27 to 33 of our confidential
2 brief. And I urge you to look at that.

3 Now, Petitioners talked about falling off
4 the cliff. Well, we have a control group here.
5 Barilla, who Mr. Silverman categorized as LeBron
6 James, I think the Petitioners look at him more as the
7 Darth Vader of pasta. And what did they do? They
8 came into the U.S. market. They came into the U.S.
9 market. What happened to the Petitioner? What
10 happened to the domestic industry?

11 They thrived. They increased their
12 profitability. They increased their selling prices.
13 You have a control group here. There is no falling
14 off the cliff that's going to occur. If the U.S.
15 market is so much attractive than the Italian market,
16 or the EU market, how do you explain the following:
17 according to the staff report, in the EU for two
18 years, the prices were higher than the U.S.? One,
19 they were the same. In three they were lower. And
20 most currently, they're higher.

21 Petitioners are feeding you a line here.
22 The European market is very attractive to these
23 producers, and that's where they concentrate most of
24 their sales. And even though the Italian market is
25 supposedly -- their AUVs are lower in the Italian

1 market -- why did sales grow so dramatically during
2 the POR, from 51 percent to 62 percent? That's a
3 dramatic increase.

4 Finally, if the domestic industry is
5 suffering from low capacity utilization, how do you
6 explain the following: the significant increase in
7 investments through the POR and the large increase in
8 profits?

9 And finally, as Ms. Massarelli said, if all
10 pasta is fungible, why did AIPC import from Pasta
11 Lensi? Thank you.

12 CHAIRMAN WILLIAMSON: Okay. I want to thank
13 the panel for their presentation. We appreciate very
14 much your coming, many of you coming from such a long
15 distance for this hearing. We appreciate that very
16 much because your testimony is very helpful to us.

17 This afternoon we will begin our questioning
18 with Commissioner Pinkert.

19 COMMISSIONER PINKERT: Thank you, Mr.
20 Chairman and I thank all of you for being here today
21 to help us to understand these issues. My first
22 question is going to be for Ms. Tendick, but I'd like
23 to have page 20 of the Turkish producers' presentation
24 up on the screen for purposes of this question. Thank
25 you.

1 Now what I'm wondering, Ms. Tendick, is
2 whether the customer of your U.S. product is aware of
3 country of origin. In other words, are they aware
4 that it's domestically-produced pasta?

5 MS. TENDICK: I'll speak to the consumer,
6 meaning the end user, not the customer, meaning the
7 retailer just to clarify.

8 COMMISSIONER PINKERT: That's what I meant,
9 thank you.

10 MS. TENDICK: Okay, good. The consumer may
11 be aware in certain segments. And the way I kind of
12 broke out the segmentation of the marketplace is that
13 there is a niche high-end consumer, who may be seeking
14 that import, but it's a very, very small percentage of
15 the marketplace. The vast majority where these brands
16 are planed, the consumer does not know. So as we've
17 talked to consumers specifically about Barilla, they
18 don't care if it's made in Italy. They don't care
19 that it's made in the U.S. They just care that it's
20 Barilla.

21 COMMISSIONER PINKERT: Thank you. And does
22 the company price differently depending on whether
23 it's Barilla U.S., Barilla Italy, or Barilla Turkey in
24 the U.S. market?

25 MS. TENDICK: We only have Barilla U.S.

1 products in the U.S. market, so, no. it's all related
2 to the U.S.-produced product and there's one price for
3 that.

4 COMMISSIONER PINKERT: Okay. And what about
5 any international comparisons, do you price based on
6 what the market will bear in each country or how does
7 that work?

8 MS. TENDICK: It is independently decided.
9 So as I've defined those three clusters, Barilla
10 Americas would define the pricing structure with
11 Barilla Americas, and even broken down within
12 countries, for example, within Barilla Americas. So
13 the pricing tiering or structure for our products in
14 Canada may be different than our tiering or our
15 structure for our products within the U.S., for
16 example.

17 COMMISSIONER PINKERT: Thank you. Now
18 turning to the effect of the antidumping order on
19 pasta from Italy, does the establishment of the U.S.
20 affiliate of Barilla show that the antidumping order
21 has some teeth?

22 MS. TENDICK: We decided to come to the U.S.
23 prior to the order, if that answers the question.

24 COMMISSIONER PINKERT: It may answer the
25 question, I'm not sure. But I'm just wondering

1 whether the existence of the antidumping order or the
2 antidumping relief had any impact on the decision-
3 making with regard to either the establishment or the
4 continuation of the U.S. production.

5 MS. TENDICK: I see. No, it did not. I
6 mean our decision was made to come to the U.S., to
7 embrace the U.S. as an opportunity market prior and we
8 developed our plants as such. We increased our
9 capacity and built our second plant because of the
10 success that Barilla has seen within the U.S. So the
11 decision was made to embrace the U.S. market as an
12 opportunity market for Barilla.

13 COMMISSIONER PINKERT: Thank you. Now
14 turning to Turkey, and I know I'm asking questions
15 about motivation and folks can always question
16 motivation, but I'm wondering if the Turkish producers
17 can give us some idea of why Turkey did pull back in
18 the U.S. market following the antidumping order.

19 MALE SPEAKER: Bear with us, we're getting
20 some translations done.

21 (Pause.)

22 MR. HACIOGLU: (Interpreter for Mr. Uysalli)
23 We didn't really exit the U.S. market. We had a small
24 share to begin with, even in the imports, and we
25 decided to diversify our export markets and seek for

1 new markets.

2 COMMISSIONER PINKERT: So is it your
3 testimony that the antidumping had no impact on that
4 decision?

5 MR. HACIOGLU: (Interpreter for Mr. Uysalli)
6 To some extent, of course, it had an impact on our
7 sales decreasing to the U.S. But it was some time
8 that Turkey had made a strategic decision to diversify
9 and go into other markets, so we were less aggressive
10 in pursuing the U.S. for that reason.

11 COMMISSIONER PINKERT: Thank you. Now as a
12 practical matter, is the expansion of Turkish exports
13 to the European Union likely or unlikely in the
14 reasonably foreseeable future?

15 MR. HACIOGLU: (Interpreter for Mr. Uysalli)
16 It has a stable trend our exports to the European
17 Union. It has been going like that for some time.
18 And it's not one of our major markets. The Turkish
19 exports right now are predominantly going to the
20 ethnic Turkish community in Europe and that has a
21 limited potential.

22 COMMISSIONER PINKERT: Thank you. And this
23 is a question for both the Italian producers and the
24 Turkish producers, in what parts of the market do
25 imports from Turkey compete with domestic product and

1 imports from Italy?

2 MR. SCOCCA: Obviously it depends a little
3 bit from the experience of the different companies. I
4 can tell you that as far as our business is concerned,
5 it's more on food service side of the business, while
6 I know that there are other countries that are more
7 focused on the retail. So it's something that depends
8 a little bit from the experience of the different
9 companies.

10 MR. NOLAN: From the Turkish perspective,
11 I'm going to help them out a little bit here because
12 we've been talking about this and trying to get the
13 translations ahead of time, so at least we could not
14 spend too much time on translating.

15 The first comment is obviously Turkey is
16 virtually absent from the U.S. market, has been absent
17 for the better part of 10 years. It's trace amounts
18 coming into the U.S. As a result of that, there's no
19 presence, there's no visibility, there's no
20 recognition of the product. If you look at the
21 purchaser questionnaire responses, the individual
22 ones, what you'll find by in large is a zero product
23 recognition and because of that a great wariness about
24 buying Turkish product, because nobody knows what it
25 is.

1 Having said that, if you were to rest on
2 where it might compete, ethnic markets would clearly
3 be one segment that it would be competitive, because
4 they have been maintaining a market share there, and
5 some limited parts of the food service industry. They
6 would not be in, for example, the restaurant industry
7 because the standards and requirements would probably
8 be too exacting for them. Some of the more generic
9 food industry areas they might have some opportunities
10 in, but it would be limited.

11 There is an ingrain bias particularly now
12 because the conditions of competition are such that
13 there's a lot of product out there. There's a lot of
14 different people competing for that product. And to
15 be heard above the din, especially when you're a brand
16 new entrant from outside, is difficult.

17 MR. HEFFNER: May I? Doug Heffner for
18 Italian Respondents. I think also what we were
19 testifying to before is the fact that Italians mostly
20 compete against Italians. That's where we see the
21 real competition here.

22 We don't compete in the market segment that
23 is more of the commodity market segment. We compete
24 typically in the higher-end product area, as in the
25 white linen table cloth restaurants, as you heard

1 today from I think it was one of the representatives
2 from Zerega. And we also compete at the very high end
3 of the retail sector. And I think, Anthony, you can
4 talk about that.

5 COMMISSIONER PINKERT: I think I'm past the
6 end of my round and we can come back to that, but I
7 just want to throw a question out that the Turkish
8 industry can respond to in the post-hearing if you
9 want to. But you talked about the Turkish community
10 in the European Union consuming the Turkish product
11 and I don't know how they can do that if they didn't
12 have an awareness of country of origin.

13 MR. NOLAN: They do have an awareness in
14 Europe of the country or origin. An immigrant Turkish
15 individual that lives now in Germany is going to
16 remember that his mother made Arbella pasta for him
17 when he was young. So that exists. It's the U.S.
18 market where there's unknown -- there's no recognition
19 unless you happen to be an immigrant Turkish person
20 who came over from Ankara or Istanbul and remember
21 that you ate that pasta. There's no U.S. recognition
22 in 99 percent of the market right now for it.

23 The one condition that I'd also make sure
24 you're aware of is there is a tariff weight quota in
25 the European Union of 20,000 metric tons a year. So

1 when they hit the 20,000 metric tons, a tariff hits.
2 You can still import, but a tariff will hit at that
3 point. So there is not a ceiling, but there is a
4 barrier or break that occurs at a 20,000 metric ton
5 level.

6 COMMISSIONER PINKERT: Thank you. Thank
7 you, Mr. Chairman. I know I'm past the time for my
8 round.

9 CHAIRMAN WILLIAMSON: No problem.
10 Commissioner Broadbent?

11 COMMISSIONER BROADBENT: Thank you. I
12 appreciate all the good presentations here this
13 morning or this afternoon. These are questions for
14 Turkish Respondents at this point. Tell me a little
15 bit about demand for pasta in Africa and Asia, how
16 it's growing. I noticed in your pre-hearing brief you
17 talked about a conscience government effort to promote
18 the relationship between Turkey and Africa. What are
19 some of the trends you're seeing and expecting?

20 MR. KULAHCIOGLU: Actually as a country, we
21 have good relations with African countries. This is
22 one of the reasons that we grow the business in
23 Africa, in the region. And also we spend a lot of
24 time and energy to set up this relation, personal
25 relations with buyers in coming years, so this happens

1 to double up the business in Africa and also Asia.

2 COMMISSIONER BROADBENT: How do the
3 demographics affect demand? Where are these markets
4 and what were they eating before they started eating
5 pasta?

6 MR. KULAHCIOGLU: Actually pasta maybe is
7 not a food for them because they're eating pasta just
8 to digest. I mean, it's nutrition, yeah, to get
9 nutrition.

10 COMMISSIONER BROADBENT: I didn't quite
11 catch that.

12 MR. HACIOGLU: No. I think what he was
13 trying to say is the pasta is becoming more popular in
14 Africa as a cheap and affordable and nutritious
15 solution and that's why you see an increase in demand
16 in Africa, all over Africa, because it's really a good
17 and affordable solution for them.

18 COMMISSIONER BROADBENT: Are they using in
19 malnutrition efforts? I mean is it that type of a
20 food or is more of a middle class food?

21 MR. HACIOGLU: (Interpreter for Mr. Uysalli)
22 Pasta is consumed in all income levels, all age
23 groups, and all different demographic groups, so it's
24 really hard to classify pasta belonging to a
25 particular segment of the African people there, the

1 community there.

2 COMMISSIONER BROADBENT: Great, I appreciate
3 that. Thank you. The domestic producers note in
4 their pre-hearing brief that some of Turkey's export
5 markets in Africa are becoming self-sufficient in
6 producing pasta and are even becoming pasta exporters.

7 Can you comment in how these developments may or may
8 not affect Turkey's efforts to export to some African
9 countries?

10 MR. HACIOGLU: This is Bulent Hacıoglu with
11 Trade Resources and I can answer to that question. We
12 looked at the Petitioner's brief and actually none of
13 the countries they identified are major markets for
14 Turkey. So if you add up all of those countries, it's
15 less than three percent of total Turkey's exports.

16 And in terms of whether they pose a threat
17 to Turkey's threats -- Turkey's export markets in
18 Africa, in Brazil, the pasta is made not from durum
19 wheat. That's why now there's a taste developed in
20 Africa for pasta made from the durum wheat. And the
21 same situation happened in other markets. UAE, for
22 example, tried to export pasta to Turkey's export
23 destination, made from what is called the safflower
24 and the consumers rejected it. And some of the
25 countries, Iran and UAE, have the same kind of

1 capacity, exporting capabilities for 10 years, and we
2 never saw them as a threat to the Turkish export
3 markets.

4 MR. NOLAN: I might add that these countries
5 include Guatemala, Ghana, Peru, Cote d'Ivoire, Costa
6 Rica, Ecuador. These are not major producers of
7 pasta. They don't have the land mass or the ability
8 to produce the wheat for that. So I don't view most
9 of these countries as serious contenders. If you want
10 a serious contender, U.S., Canada, Brazil, those are
11 places that you would want to talk about, but not
12 these countries.

13 COMMISSIONER BROADBENT: Okay, thank you.
14 This is for Italian representatives. Does pasta lend
15 itself to sort of a local supply strategy? I know
16 durum wheat is a global commodity and clearly at least
17 the Turks are global exporters. But I understood that
18 Mr. Scocca testified that his firm based himself in
19 northern Italy, so that it could serve the European
20 markets rather than in southern Italy.

21 Are there logistical difficulties that
22 encourage local sales? If there's any data relevant
23 to kind of supporting a local supply strategy, that
24 would be helpful to us.

25 MR. SCOCCA: Well, for sure they're

1 significantly increasing in the consumption of pasta
2 in the central and northern European areas. So if you
3 take also the last reports, there is one from the
4 International Pasta Association that obviously reports
5 that between Germany's wheat, Switzerland's wheat, you
6 have -- so you have Germany's wheat, Switzerland's
7 wheat and in the first six or seven companies -- six
8 or seven countries in terms of consumption of pasta
9 per person.

10 As far as our activities, I didn't get if
11 you're looking for let's say economics data that
12 justify this kind of approach of our company to these
13 markets or if it's something that let's say belongs
14 more to our strategy, because if it's something that
15 is connected to the situation of the market, I can
16 tell you that obviously in the last year there was
17 obviously an increase in consumption of pasta. It was
18 also partially connected to the economic turmoil that
19 obviously drove the consumption of -- drove obviously
20 the diets to a higher consumption of pasta. So this
21 is a point.

22 From our point of view, we also focus our
23 attention because obviously their market where there
24 is obviously -- they are very, very high and big
25 community of Italians. Of Italians, sorry. So for

1 this reason, we know that markets like Switzerland,
2 like Germany can be markets where obviously marketing
3 efforts can repay let's say in the time.

4 COMMISSIONER BROADBENT: Right. I
5 appreciate that. I was more focused on how hard is it
6 and how likely are companies to export far distances
7 or try to serve a local market, if it's easier to
8 serve the local market for any number of reasons.

9 MR. SCOCCA: Yeah. No, no, that's for sure
10 that it's easier. I mean, you can consider that if
11 you load one truck of pasta on Monday, it can be
12 delivered in Wednesday morning in Orland. Obviously
13 48 hours, you can deliver a product, a truck of pasta
14 let's say in central northern European markets. If
15 you consider the United States, between the planning,
16 the vessel loading activities, it takes at least to be
17 in New York, you need probably between three and four
18 weeks.

19 So what I've told about the logistics
20 complexity was the fact that obviously as far as the
21 European market is concerned, let's say the logistics
22 costs on the road are obviously higher than other kind
23 of solution. And for this reason, all the companies
24 that regionally that are based in northern Italy had
25 let's say obviously was easier for them to approach

1 this kind of market.

2 Since Rummo was based only in southern
3 Italy, obviously we had let's say less advantage than
4 these companies to reach this kind of market. For
5 this reason, the company decided to buy, which is
6 going to save almost one-third of the logistics costs
7 from southern Italy to northern Italy to try to
8 approach these kind of markets.

9 COMMISSIONER BROADBENT: Thank you. I
10 appreciate that.

11 MS. MASSARELLI: May I add something?

12 COMMISSIONER BROADBENT: Sure.

13 MS. MASSARELLI: It's Enrica Massarelli from
14 Garofalo. Obviously I totally agree with my colleague
15 and we do say that serving the long distance markets
16 is more difficult. But to the extent that Garofalo
17 has always been export oriented, this is why I was
18 saying in my presentation that we are based on long-
19 term relationship with our customers. And to do so,
20 you need to plan your productions where the three,
21 four months in advance -- I mean, you need to be
22 prepared. And there's no need that you can change
23 dramatically from one day to another your plans and
24 your strategy. So we think it's an asset. I mean we
25 can count on our customers and they can count on us.

1 COMMISSIONER BROADBENT: Thank you. I think
2 my time has expired.

3 CHAIRMAN WILLIAMSON: Okay, thank you. I'm
4 going to start to focus on -- I think all of the
5 Italian producers who are here, they say that they're
6 speciality companies. They're the high end of the
7 market. And what I was trying to figure out is what
8 is the demand in the U.S. for high-end products?

9 The Petitioners this morning had chart nine,
10 they had this chart where they talked about gluten-
11 free, specialty, novelty. They took those out and
12 98.11 percent of I guess demand was other types or the
13 ordinary. So can you all define this high end?
14 Because I looked at those boxes, I can't tell by
15 looking at the carbohydrate percentage, anything like
16 that, you can't tell how much gluten is in any of
17 those.

18 MR. SCOCCA: But you --

19 MR. FELICETTI: Riccardo Felicetti,
20 Pastificio Felicetti. The request of high-end
21 products here in the United States is growing
22 dramatically. And it's not only a question of durum
23 wheat, of protein contains of gluten, of gluten index,
24 of dye, bronze die, tefillin die. It's not only a
25 question of shapes.

1 I mean we are not just simple translator of
2 durum wheat semolina into food. We are something
3 different. We are something particular. We cannot
4 just categorize a group of companies in Italy with 500
5 year traditions into just simply translators or
6 transformers. We are not.

7 High end means capability, means know-how,
8 means experience, means tradition, means emotion that
9 you give ahead to your consumers. That means
10 something that it's perceptible only if you see a
11 package and you say, wow. And this is confirmed when
12 you eat that product. This is what American
13 consumers, educated American consumers always more are
14 looking for. And we are here to serve them and
15 proudly serve their requirements.

16 CHAIRMAN WILLIAMSON: But here's the
17 question, you're basically saying give rid of the
18 orders because we're serving a specialty market. And
19 I'm trying to figure out how large is that market and
20 maybe how fast is it growing.

21 MR. FELICETTI: This market, it's not small
22 if you compare it in total. But you know that the
23 rate of an Italian -- the percentage of the Italian
24 producer in the U.S. is just nine percent. So within
25 this nine percent, the rate of the high-end pasta or

1 the specialty food pasta, the organic pasta is growing
2 dramatically. And we of course are looking forward to
3 be able to serve continually this kind of customers
4 looking for this kind of products.

5 CHAIRMAN WILLIAMSON: You said nine percent
6 is what?

7 MR. FELICETTI: Of the total market -- the
8 total market, the U.S. market for pasta.

9 CHAIRMAN WILLIAMSON: Is the Italian?

10 MR. FELICETTI: Yeah.

11 CHAIRMAN WILLIAMSON: Is every Italian
12 producer who produces in Italy making that same high-
13 quality pasta?

14 MR. FELICETTI: No, no. There are just --
15 you know, the pasta industry in Italy is like German
16 car industry. We cover on the highest level different
17 segments of production, different segments of requests
18 for customers with different prices and different
19 quality levels of course. But one of the growing
20 segments is the high-end segment.

21 CHAIRMAN WILLIAMSON: And that's all you
22 want to sell is in that high-end segment in the U.S.
23 is the argument I think you're making.

24 MR. FELICETTI: In fact the most important
25 brands and products here in the United States are

1 high-end products, like De Cecco for example, like
2 Garofalo for example, like De Verdi for example, like
3 other producers for example. They are based on the
4 high-end segment.

5 CHAIRMAN WILLIAMSON: Okay.

6 MR. SCOCCA: Antonio Scocca, Pasta Rummo.
7 It's also important to say that while as far as the
8 retail market is concerned, there are obviously the
9 SCAN data that obviously can help you to identify the
10 market.

11 There is also another let's say other market
12 which is represented by the high quality restaurants.

13 Obviously, I can tell you that today in this
14 business, the decision -- and this is why I didn't
15 agree also this morning when someone said that
16 everything is connected to the price -- the decision
17 is in the kitchen, comes from the chef. So the owner
18 of the restaurant or the person that is in charge of
19 the buying department doesn't make any decision about
20 the pasta.

21 That's why I've told you before that the
22 process of evaluation of a product takes time because
23 for some of the chef executives, the executive chef
24 has to test the pasta and to stress the pasta, which
25 is let's say the ideal situation for the Italian pasta

1 that performs better when you stress it. That's why
2 I'm telling you that there is first the decision on
3 the quality and then there is the tough part of the
4 business negotiation, because obviously there is also
5 this part. But if you don't succeed in the test of
6 the product, they will never talk to you about
7 pricing.

8 CHAIRMAN WILLIAMSON: Okay. You've got me
9 hooked. I want to try this stuff. Where do I go --
10 do I only go to a specialty store because that's the
11 only place I know I'm going to get it? Or can I go
12 into the store, look at a box, and say, hey, I know
13 this is going to be better testing, other than the
14 fact that it may be three times the prices or
15 something like that?

16 MR. SCOCCA: Yeah, I believe that's -- yeah,
17 that's one of the way, to go to a store, but I would
18 say that there are also Italian producers. Obviously
19 our company do not make this kind of business, but
20 there are Italian producers, like De Cecco, that sells
21 in all the main supermarkets in the United States.

22 I would suggest to you also to go to an
23 Italian restaurant, to an authentic Italian
24 restaurant. And it reminds also something else that I
25 heard this morning, when after your question in which

1 you asked if the people perceived a difference between
2 American and Italian and pasta from Turkey, they said
3 we don't know. Well, I would say that if you go into
4 an Italian authentic restaurant, you expect them to
5 have Italian pasta. Then obviously you can ask. And
6 if it's let's say a Zagat surveyed restaurant, which
7 is obviously surveyed as a good restaurant, you could
8 also ask if the product that you're are eating is
9 coming from Italy.

10 MR. SILVERMAN: Mr. Chairman, this is Bill
11 Silverman.

12 CHAIRMAN WILLIAMSON: Yeah.

13 MR. SILVERMAN: In answer to your question,
14 this came up -- a similar question came up when we had
15 the original investigation.

16 CHAIRMAN WILLIAMSON: Okay.

17 MR. SILVERMAN: And a distributor from
18 RyKoff Sexton is the name of the company, he made a
19 very interesting point that's germane to your
20 question. He sold both American pasta and the Italian
21 pasta and here's what he said on page 168. He said
22 basically if you're selling to schools, hospitals, and
23 prisons, it's a low-price leader. That's where price
24 makes a difference. If you're selling to white table
25 cloth restaurants, forget about it. He couldn't sell

1 American pasta to the restaurants that these Italian
2 manufacturers here have talked to you about.

3 And the proof is in the market and the
4 prices are higher. De Cecco was an Italian company.
5 If everything was what they said, a mush of water and
6 wheat, De Cecco is \$2.29. This one over here is a
7 dollar. People spend more and chefs won't touch it.
8 That was his testimony, page 168.

9 I don't think things have changed. I tried
10 to get him to come here today, I couldn't find him.
11 But he gave that testimony very clear. And in fact,
12 we had a blindfold taste test 15 years ago in
13 Galileo's with the staff, they're not here, a
14 different Commission staff, they tasted it and they
15 found a difference.

16 CHAIRMAN WILLIAMSON: But anyway, if you go
17 to consumers and they might look at a product and
18 they'll have their test tasters and all that, and
19 sometimes it's not the most expensive product that
20 they say tastes the best. And so that's why I was
21 trying to get some -- I'm just trying to figure out
22 how large is this market to evaluate whether or not if
23 we do away with the order, it's going to cause a
24 problem for the domestic industry. And yet I can't
25 get any idea of how unique, how do people identify

1 this market to know that it's not going to be a
2 problem.

3 MR. SILVERMAN: We'll endeavor to give you
4 some empirical basis for that --

5 CHAIRMAN WILLIAMSON: Okay, good.

6 MR. SILVERMAN: -- in our post-hearing,
7 because I don't think we have an answer right off the
8 top, unless you have something, Doug, that's --

9 MR. HEFFNER: No.

10 MR. SILVERMAN: We'll try to give you some
11 empirical information on that.

12 CHAIRMAN WILLIAMSON: Okay, thank you,
13 because otherwise I just don't know what to make of
14 it.

15 MR. SILVERMAN: Okay.

16 CHAIRMAN WILLIAMSON: Good. And since I'm
17 about to run out of time, I guess I'll just go -- who
18 is next? Commissioner Pearson?

19 COMMISSIONER PEARSON: Thank you, Mr.
20 Chairman. I would like to welcome all of you,
21 especially those who have flown long distances to be
22 here. You know, I had mentioned earlier, maybe we
23 should have held this hearing in Minot in the heart of
24 the Durham triangle. And then I'm thinking, well,
25 there might be some coastal Italian locations that

1 would be nice, too. But we'll never do it under the
2 current budget circumstances, but it's something to
3 think about.

4 Ms. Tendick, allow me to begin with you.
5 This morning, concerns were raised by the domestic
6 industry regarding a lack of response on the part of
7 Barilla in Turkey and Italy and they are encouraging
8 us to take adverse inferences because of that lack of
9 participation. How do you respond to that?

10 MS. TENDICK: My response to the
11 Petitioner's argument this morning is the fact that I
12 can't speak per se for Barilla Italy, but I can
13 mention again the fact that our three clusters within
14 the Barilla organization are organized independently.

15 So very similar to how the Petitioners or many of the
16 Petitioners explain that their organizations are
17 structured under a parent company and they work
18 completely independently of that parent company,
19 Barilla America is the same way.

20 So for us here, we feel the importance of
21 the hearing here today and so we have decided to
22 participate. However, Barilla Italy I know has been
23 contacted and I know that from my understanding, they
24 spoke with the senior executive in Parma and his
25 response was very similar, that Barilla America

1 operates independently from their operations there in
2 Barilla Europe and he couldn't justify allocating the
3 resources to this topic because it's the subject that
4 is really not pertaining to them at this point in
5 time.

6 COMMISSIONER PEARSON: Okay. But I spent a
7 number of years working for a major multinational
8 company and the company had diverse interest in
9 diverse geographies. It happened often enough that I
10 had to send an email asking politely, could you help
11 me with this, it would be good for the company
12 overall.

13 Although I don't want to create extra work
14 for the professional staff prior to the closing of the
15 record, it seems to me that the record wouldn't be
16 hurt and maybe strengthened by receiving submissions
17 from Barilla in Italy and Turkey, even at this late
18 date. So I would encourage you to think about that
19 because right now the domestic industry does have the
20 ability to say, look, they must be hiding something.
21 There must be something they don't want us to know.
22 We have other Turkish and Italian companies
23 represented here, right in front of us. What's going
24 on with Barilla? So I share that with you and do with
25 it as you wish.

1 MS. TENDICK: Thank you.

2 COMMISSIONER PEARSON: Now you had indicated
3 earlier that Barilla in Italy is not currently sending
4 product to the United States. Is Barilla in the
5 Americas in a position effectively to block any
6 imports of Barilla product from other origins? Or the
7 way things work, would there just never even be
8 consideration to shipping it to the Americas?

9 MS. TENDICK: Yeah. At this point in time,
10 we're self-sufficient here in the United States with
11 the majority of our cuts. There are a few, you know,
12 items that we may import. But at this point in time,
13 we are sufficient with our production facilities here
14 in the U.S., as well as with our co-packers that we
15 rely on here within the U.S. and Canada.

16 COMMISSIONER PEARSON: Okay. So no
17 expectation that in the reasonably foreseeable future,
18 in the next couple of years that something would
19 change with Barilla in Turkey or in Italy, such that
20 the company would decide to expand its presence in the
21 United States?

22 MS. TENDICK: If we were to expand our
23 presence within the United States, we would rely on
24 our internal production, as well as our co-packers for
25 several different reasons. We've spent the time, the

1 energy, the money, the effort to qualify our co-
2 packers. We know that the partnership we have with
3 them is going to continue on an longer-term basis and
4 we're not going to walk away from that now. We
5 haven't up until this point.

6 The volatility of the exchange rate is
7 another reason why we are not interested in getting
8 into the import/export business. The logistics cost
9 associated with importing the product just doesn't
10 make it a viable option for us, as well as the amount
11 of time it takes to bring the product over to us in
12 the United States.

13 And just to mention, we do have production
14 capabilities within Mexico today and we've chosen not
15 to import from Mexico. So if we were in the arena of
16 wanting to bring product in from other areas, other
17 Barilla facilities, we would have the option to do
18 that from Mexico. However, we've chosen not to.
19 We've chosen instead to rely on our internal
20 production, as well as our co-packers in the U.S. and
21 Canada.

22 COMMISSIONER PEARSON: Okay. You've
23 mentioned several times the co-packers. Could you
24 explain in more depth the relationship there? Are
25 these firms that are producing product in your package

1 with your name on it?

2 MS. TENDICK: Yes. They are companies that
3 we rely on to either extend our capacity when demand
4 is too high or to make for us some more specialty cuts
5 that our internal production in the U.S. may not be
6 able to produce.

7 COMMISSIONER PEARSON: And do those firms
8 use semolina that is milled by or approved by Barilla?

9 MS. TENDICK: Of course. They go through a
10 quite rigorous approval process and quality process to
11 ensure that they meet the standards of Barilla. So
12 it's made practically identically to how we would make
13 it within our own facilities in the U.S., which is why
14 it is such a critical and very sensitive and important
15 relationship for us.

16 COMMISSIONER PEARSON: And could you clarify
17 -- this may already be on the record, but I'm losing
18 track -- is Barilla itself a miller of semolina in the
19 United States?

20 MS. TENDICK: It is. Our Ames, Iowa
21 facility has its own independent mill, so we mill the
22 semolina then that our co-packers would use.

23 COMMISSIONER PEARSON: Okay. So you're
24 self-sufficient in the United States in terms of
25 semolina production?

1 MS. TENDICK: Yes.

2 COMMISSIONER PEARSON: Okay, thank you. You
3 mentioned in your statement the difference between --
4 I forget the terminology that was used -- the rated
5 capacity of the industry in the United States compared
6 to the practical capacity. How would you contrast
7 those two? Obviously the rated capacity is higher
8 than what you would say the practical capacity is.
9 But I don't think I heard you quantify in some way
10 what you think the practical capacity might be or what
11 percentage reduction from the rated capacity we should
12 assume is the practical capacity?

13 MS. TENDICK: Yeah. I believe it's been
14 submitted, but our exact -- our practical capacity is
15 confidential. But of course, we can supply that if --

16 COMMISSIONER PEARSON: Right. But we're
17 thinking for the industry --

18 MS. TENDICK: But in general --

19 COMMISSIONER PEARSON: -- in general, right.

20 MS. TENDICK: In general, I won't even speak
21 to numbers, more just what goes into I guess
22 decreasing your capacity as things like the downtime
23 for cleaning, the changing of the dies, the changing
24 of -- or cleaning the lines that the -- changing of
25 the packaging equipment toward the end of the line,

1 all of these things require the line to be shut down
2 in between runs. So that's what then brings it down
3 to the practical capacity. Turn 24/7 is impossible on
4 365 days a year.

5 COMMISSIONER PEARSON: Would anyone else
6 care to comment on that? I'm just trying to get some
7 idea of -- I understand the rated capacity of a
8 machine, if it's going to be able to run full time.
9 But as a practical matter in the real world, do you
10 have to assume that it can only run at 95 percent of
11 that rate? Or 90 percent? Or 80?

12 MR. NOLAN: This is Matt Nolan on behalf of
13 the Turkish industry. I'll let my colleagues weigh in
14 because we've had some discussions about this topic.
15 The Turkish Pasta Industry Association, as a general
16 proposition, views approximately 45 weeks a year as a
17 working number for capacity.

18 You know, theoretical capacity is seven days
19 a week, 24 hours a day, 52 weeks a year. That doesn't
20 take into account holidays, downtime for maintenance,
21 downtime for fumigation and cleaning, downtime for
22 line changes, on any number of things. So the
23 practical capacity for a mill is somewhat dependent on
24 how old it is and how efficient is, so the variation
25 will be somewhere between 42 and 46 weeks as a general

1 proposition. But 45 is kind of the average number
2 that we as an industry would work off of.

3 MR. FELICETTI: Riccardo FELICETTI,
4 Pastificio Felicetti. In addition, I would not
5 necessarily call this 20 percent, what today was
6 mentioned, excess capacity. It's rather more similar
7 to our reserve to buffer in capacity. We all have
8 capacity that we reserve for large seasonal orders
9 from customer coming out of the blue and we need to
10 fill quickly. If not, we will lose the customer.

11 I can only tell you an example which
12 happened to me three years ago when a U.K. new
13 customer simply forecasted one month of our production
14 delivered within three weeks. And we were not able,
15 we would not be able to fulfill this order if we were
16 not using this error bag, in terms of time, in terms
17 of capacity.

18 So adding all the information from Barilla,
19 from our Turkish colleague, I would point out that we
20 need this extra capacity, not in order to fill up U.S.
21 market with new products, but to continue to serve our
22 current customers in the perfect modern way.

23 COMMISSIONER PEARSON: Mr. Heffner?

24 MR. HEFFNER: Just one thing. This morning
25 you heard from Zerega saying that they slowed their

1 line down by a third to make specialty cuts. Well,
2 that also goes into the capacity number here because
3 what you're talking about, if you slow your line down,
4 you're going to produce less pasta. But you're still
5 producing specialty cuts or -- and if you have, I
6 think you said you have 16 different recipes?

7 MR. FELICETTI: We, as Felicetti, our unit
8 use over 20 different wheat kinds. And every time we
9 change our recipe, we have to clean up the plant. We
10 have to stop the machinery. We lose time. This time
11 is calculated in terms of theoretical output time.
12 But in fact what we do have in terms of real output,
13 it's less than 20 percent. It's about 30 percent.
14 But it's our strategy to slow down the production in
15 order to achieve a better quality or to use other
16 semolinas or other flours, like sprout for example or
17 organic wheat or other products.

18 COMMISSIONER PEARSON: Okay. I'm losing
19 time. Actually I'm using too much of it. A specific
20 question either you can address in the post-hearing
21 perhaps, do these facilities need to be closed down
22 completely once or more times per year for fumigation?

23 Is that --

24 MR. FELICETTI: Of course, of course it is.

25 COMMISSIONER PEARSON: Help us to understand

1 that, how much downtime there is.

2 MR. FELICETTI: Well, it depends. It might
3 be --

4 MR. HEFFNER: I think he wants it in the
5 post-hearing.

6 COMMISSIONER PEARSON: Post hearing or we
7 can come back to it. But allow me to invite the
8 domestic industry to answer those questions also in
9 terms of the downtime in the U.S. industry that's
10 required, how we should understand the relationship
11 between theoretical capacity and practical capacity,
12 if that's the right terminology. Mr. Chairman,
13 apologies for the extended --

14 CHAIRMAN WILLIAMSON: No problem.

15 COMMISSIONER PEARSON: -- overage.

16 CHAIRMAN WILLIAMSON: Commissioner Aranoff?

17 COMMISSIONER ARANOFF: Thank you, Mr.
18 Chairman. I want to join all my colleagues in
19 thanking the afternoon panel for being here and for
20 your patience as the afternoon wears on and we're
21 still asking you questions.

22 We know that the Italian pasta industry
23 involves quite a large number of producers, many of
24 them small, but some of them larger. About how many
25 subject Italian producers are there that manufacture

1 on the scale that would be needed to serve the mass
2 market, as opposed to the specialty market, in either
3 the U.S. or elsewhere?

4 MR. FELICETTI: Well, it's -- Riccardo
5 Felicetti. It's difficult to mention a name or a
6 number. There are almost one-man companies in
7 Gragnano, the house of pasta in Italy, which delivers
8 pasta into the United States, into specialty food
9 stores, and they have the skill to do that. So there
10 are big food industries in Italy, which are able to
11 deliver pasta into the United States, of course on
12 different price levels, on different -- for different
13 customers within the same market. So it's difficult
14 to say. We can approach 100 companies in Italy.

15 COMMISSIONER ARANOFF: Right. But we know
16 for example that Barilla Italy is a very large company
17 that can serve commodity pasta markets. Are there
18 others?

19 MR. FELICETTI: As far as I understood
20 today, they don't intend to do that.

21 COMMISSIONER ARANOFF: Well, they do it in
22 Europe.

23 MR. FELICETTI: They do it, yeah.

24 COMMISSIONER ARANOFF: Yeah, but that's
25 really the question.

1 MR. FELICETTI: But, excuse me, I would --
2 really as person of Italian pasta company, I would
3 really avoid to use the word "commodity" for pasta.
4 We are today --

5 COMMISSIONER ARANOFF: Large volume. I
6 don't want to insult your quality.

7 MR. FELICETTI: Thank you very much.
8 Because, you know, there is no commodity for a product
9 -- there is no commodity. I wouldn't call commodity a
10 product which can be both for one dollar or for seven
11 dollar in near or close shelves in the same store.
12 That's not a commodity.

13 MS. MASSARELLI: May I add something?
14 Enrica Massarelli from Garofalo. Maybe -- and we are
15 one of the companies that serve the mass market in the
16 U.S., because we serve Costco. So, I mean, it's a
17 quite big quantity that we export to the U.S. I don't
18 think that in Italy there are a huge number of
19 producers. I mean if I remember correctly, I read
20 something in the brief that was 4,460 producers in
21 2010. President Felicetti, well, I agree, I don't
22 think that this is accurate because there are a number
23 of producers, but there are maybe 100 something, but
24 not thousands.

25 So you may want to see if it's accurate,

1 because first of all, a small number among this 120
2 are big and there are more consistent number of small
3 producers. You may have heard and maybe you can also
4 refer to our website for history of past. Gragnano is
5 a small place close to Naples, in which every --
6 there's a street in which every single shop has -- was
7 a pasta producer. It's a tradition. It's a family
8 tradition. Of course it's no longer like that, but
9 pasta is rarely made of big producer like we have
10 Barilla here.

11 COMMISSIONER ARANOFF: Okay.

12 MS. MASSARELLI: So it's very difficult to
13 have big ones.

14 COMMISSIONER ARANOFF: Okay. Well, let me
15 try to get at the answer that I'm looking for in
16 another direction, okay. In the data that we've had
17 submitted to us from Italian producers who responded
18 to our questionnaire and in the portion of the Italian
19 industry that's represented here today, the portion of
20 production is small based on everything that we know,
21 so suppose that I were to accept everything that
22 you've told me this afternoon as absolutely true, that
23 the producers that you represent are producing a very
24 high-end specialty product in relatively small
25 quantities that are serving growing high-priced, but

1 it's never going to be the majority of the U.S.
2 market. Suppose I accept all of that as absolutely
3 true. What am I going to do with the other 80
4 something percent of Italian production if I don't
5 know whether those are big producers or tiny little
6 one-man shops?

7 Because we have to draw a conclusion about
8 what those producers are likely to do if the order is
9 revoked. And if those producers or some of them are
10 large enough to turn out large quantities and serve
11 large retail markets, they may be aiming at something
12 completely different in the U.S. market. And while
13 the Italian product that's coming in now can succeed
14 because it's a high-priced specialty product and it's
15 not affected too much by the order that is in effect,
16 very different set of facts if there are lower-priced,
17 higher-volume products.

18 MR. HEFFNER: If I may, Doug Heffner,
19 Drinker Biddle. I would like to just say, you have a
20 control group. You have companies that are out of the
21 antidumping duty order and that have very low
22 countervailing duty margins and some of those are big
23 companies, De Cecco, for example, okay. And I think
24 you can look at that as a control group to say what is
25 going to happen. Have the proportion of imports

1 changed dramatically? The answer has been no. I
2 think despite the fact that there are a lot of
3 companies that have gotten out of the antidumping duty
4 order or even have low dumping margins, it hasn't
5 changed. Would you like to add --

6 COMMISSIONER ARANOFF: Just to clarify, the
7 domestic industry says there's no one who is not
8 covered by either the antidumping or the
9 countervailing duty order, that's correct; right?

10 MR. HEFFNER: That is correct. However,
11 many of them have very low countervailing duty margins
12 and countervailing duty margins don't change.

13 MR. FERRIN: If I might add, this is Richard
14 Ferrin, De Cecco, as you'll notice in the pre-hearing
15 staff report, the last two times that De Cecco went
16 through a countervailing duty administrative review,
17 they got a de minimis margin. So they may not be
18 revoked from the order, but they still have
19 effectively zero percent rate. And I suspect that if
20 the domestic industry was really concerned that they
21 were being heavily subsidized, they would have forced
22 them to go through another administrative review.

23 COMMISSIONER ARANOFF: Okay, all right.

24 MR. FERRIN: Also Delberti has been revoked
25 from the antidumping duty order. That's another

1 company that's a big one.

2 COMMISSIONER ARANOFF: All right. Ms.
3 Tendick, let me just clarify with you if I could one
4 or two things that you said in your testimony. One of
5 my colleagues was asking you about whether or not
6 Barilla U.S. serves the U.S. market entirely from
7 North American production and you said, yes, but then
8 you said that we may import a few items. If that's
9 not confidential and you'd like to explain it further,
10 please do. And if not, perhaps you can do it for
11 post-hearing.

12 MS. TENDICK: Okay. Yes, we'll submit that
13 for post-hearing. Our semolina pasta is produced
14 within the U.S., but we can provide all of those
15 details within post-hearing.

16 COMMISSIONER ARANOFF: Okay, thank you. And
17 let me ask you further, this morning I had a fairly
18 extended conversation with some of the other domestic
19 producers about slotting fees and what they are, what
20 they're for. Was there anything they said that you
21 would disagree with or want to comment on further?

22 MS. TENDICK: I guess my take on slotting
23 fees for Barilla is that it has been a significant
24 investment for us over the years. We've invested in
25 many areas, but slotting has always been a large

1 portion of our budget. We have to account for those
2 fees.

3 I do believe it was also stated this morning
4 by yourself, Mr. Chairman, that you don't just come
5 into the U.S. market. And I agree with that
6 wholeheartedly. And one of the reasons for that is
7 these slotting expectations that retailers have on
8 brands. We pay for the real estate. We pay for the
9 shelf space. And as you can see, that grows over
10 time, but there's only so much shelf space to be had.

11 And to go along with that, then you have to keep up a
12 certain velocity, a certain turn rate of the items on
13 shelf. So although you pay this investment once, if
14 you make certain changes to your pack, if you make
15 certain changes to your product, you may be required
16 to again re-slot and pay this investment a subsequent
17 time.

18 MR. DIPIETRO: I can speak on this as well.

19 My name is Anthony DiPietro. To explain slotting,
20 there were comments made about slotting in the morning
21 session. What I can explain to you is although
22 slotting is negotiable, what's going to happen --

23 CHAIRMAN WILLIAMSON: Excuse me, Mr.
24 DiPietro, I'm sorry to interrupt for just a quick
25 second. Mr. Felicetti has to leave right now and I

1 want to see if any Commissioners had any questions for
2 him before he left, just to get that in. If not,
3 we'll continue and I want to thank you for coming.
4 But I just want to make sure there was no one who had
5 a question before you left.

6 MR. FELICETTI: Thank you very much.

7 CHAIRMAN WILLIAMSON: Okay, well, thank you
8 very much for coming then. Thank you. Okay, we'll go
9 ahead and add time on.

10 MR. DIPIETRO: As I was saying, although
11 slotting is negotiable, it still remains that the
12 money has to come from somewhere. The category
13 managers within the retail supermarket chains are
14 responsible for budgets. Within these budgets, they
15 have to assume that they're going to meet them. So
16 what's going to happen is, is if you're not giving
17 slotting dollars, you're going to give promotional
18 dollars or you're going to exhibit to them how you're
19 going to perform in the store with some type of
20 monetary allocation. So although you can negotiate
21 that, it still has to be negotiated within them making
22 money for their company in some form. So within
23 slotting, what happens is, is that it's an expensive
24 proposition that you have to pay or you have to pay in
25 some other manner.

1 COMMISSIONER ARANOFF: Okay, all right.
2 Thank you very much for those answers. Thank you, Mr.
3 Chairman.

4 CHAIRMAN WILLIAMSON: Thank you.
5 Commissioner Pinkert?

6 COMMISSIONER PINKERT: Thank you, Mr.
7 Chairman. Mr. Heffner, in the earlier round of
8 questioning, you had an answer that you wanted to
9 provide about competitive conditions. I think you
10 were going to have one of your witnesses testify on
11 that. So I'd like to give you that opportunity.

12 MR. HEFFNER: Thank you, but I think he just
13 answered the question to tell you the truth about
14 slotting fees. Or was it something else? I'm trying
15 to think of what --

16 COMMISSIONER PINKERT: No, I asked the
17 question about where the Turkish and the Italian
18 product had the head-to-head competition in the U.S.
19 market. I think you were wanting to elaborate on
20 that.

21 MR. HEFFNER: Oh, yes. Well, I was going to
22 say basically that what Rummo had testified to, Mr.
23 Scocca, he said that with Buca di Beppo, the
24 restaurant chain that they sell to, is through Costco,
25 okay -- Cisco, sorry, Cisco, and Cisco, the way the

1 testimony was is that Cisco purchases a lot of
2 different products. They purchase products from AIPC.
3 That's their big supplier. They also purchase from a
4 lot of other companies. But the fact is in this
5 market here, where the competition is, it was Italian
6 against Italian. It was not -- they did not chose
7 AIPC. It was Italian against Italian and they got it
8 because of the product, how the product worked in the
9 restaurant. So that's actually what I was going to
10 say. Thank you.

11 COMMISSIONER PINKERT: That's helpful. Now
12 I know that we can't get into the details about
13 underselling here today, but there was some testimony,
14 I think it was Mr. Aglietti who said that he's not
15 aware of underselling, on the contrary overselling by
16 the Italian product. So I'm just wondering if you can
17 help me to understand why there might be underselling
18 by the Italian product in the U.S. market.

19 MR. HEFFNER: We're not sure that there is
20 and we're kind of perplexed by it ourselves to tell
21 you the truth. The only thing that we can think of is
22 that when a company like Rummo sells to a distributor,
23 who then sells to the supermarket, we're not at the
24 same level of trade and that could be one of the
25 reasons why this is occurring. So Rummo is an

1 importer. So they reported their sales to the
2 distributor, who in turn reports -- who then would
3 sell to the supermarket, okay, where the domestics
4 are, for the most part, direct to the supermarket
5 chain. So I think there may be a little bit of
6 differentiation there as far as level of trade. And
7 that's what could be going on there.

8 MS. MASSARELLI: I would add, if I can,
9 Enrica --

10 COMMISSIONER PINKERT: Please identify.

11 MS. MASSARELLI: Yeah, Enrica Massarelli
12 from Garofalo. I would add also that -- I would tell
13 you that first, I agree with Doug Heffner, because the
14 level of trade is one issue, at least for us in
15 Garofalo. But also as we were listening to this
16 morning, there is the fact of selling in Euro and at
17 the beginning of this investigation in Lira and then
18 the U.S. We converted all the prices that we reported
19 in our response. And I think that a portion of this -
20 - I mean there is a distortion in converting in the
21 U.S. what we've been billing in the Euro during the
22 last five years.

23 MR. FERRIN: This is Richard Ferrin. If I
24 may add one thing, is that while it is true that there
25 is something that seems very odd in terms of the

1 pricing, it's not just the matter of the Italian
2 pricing, comparing the average Italian pricing to the
3 average U.S. pricing, but looking within the U.S.
4 pricing itself doesn't make any sense either. You see
5 some U.S. producers dramatically underpricing other
6 U.S. producers for product that they tell you is all
7 fungible. So, you know, whether it's this, whether
8 it's because there's some people that are not
9 reporting the discounts, some are, whether it's
10 slotting fees that are being taken into account or not
11 being taken into account, we're not sure. But the
12 bottom line is, is if you trust -- if you believe the
13 pricing series, the only conclusion you can come away
14 with is that price does not matter because the
15 correlations aren't there.

16 COMMISSIONER PINKERT: Perhaps I can get you
17 to comment on a related issue in terms of pricing.
18 We've seen some suggestions that if you go all the way
19 over to the consumer end of the market, and you
20 examine the prices, that the Italian product is higher
21 priced to the ultimate consumer. Is that just
22 anecdotal, or do you have some documentary evidence
23 that that's the case?

24 MR. AGLIETTI: I'm sorry this is obvious,
25 but I want to clarify something. In different

1 circumstances based on the end user, there's more than
2 one stop. For example, we import from Rummo. We'll
3 sell to a distribution center, and they sell to an end
4 user. Like Mr. Heffner stated before, sometimes it
5 will come from the importer, from Rummo, to us, to the
6 direct supermarket, so there's sometimes more stops
7 along the way so that each stop can therefore affect
8 the price. Do you want to repeat the question in
9 terms --

10 COMMISSIONER PINKERT: I'm just looking at
11 it from the point of view of the ultimate consumer.

12 MR. AGLIETTI: Consumer, right.

13 COMMISSIONER PINKERT: When they go into the
14 market, and I'm just talking about Italian- versus
15 U.S.-produced pasta right now.

16 MR. AGLIETTI: Right.

17 COMMISSIONER PINKERT: We can get to the
18 question about Turkish pasta, but just looking at
19 Italian versus U.S., would they see that generally
20 speaking the Italian prices are higher than the U.S.
21 produced prices, and if so, can you explain that?

22 MR. AGLIETTI: Yes, they would. They would
23 usually see that. What we're selling to is an end
24 user that's white tablecloth, usually knows the pasta
25 they're looking for like we discussed earlier, and

1 they're not so much looking for the price. Comparably
2 so, yes, the Italian is going to be higher, but I
3 don't really know if there's a way to explain why the
4 end user would see that. Yes, they would be able to
5 cut the product and assume maybe yes, that it is more
6 expensive based off the quality, but I don't think
7 there's a way to necessarily pinpoint why the end user
8 would think that way. It's kind of an unclear
9 scenario. I don't know if you can back off of that.

10 MR. HEFFNER: I think what you were saying
11 though is there's some objective evidence here. Is
12 that what you were saying?

13 COMMISSIONER PINKERT: Asking the question.
14 Obviously, you could just have anecdotal evidence
15 that somebody walked into the marketplace and grabbed
16 some boxes of pasta and saw that the prices were
17 higher for some than others, but do we have something
18 a little bit more scientific if you will?

19 MS. TENDICK: Yes. This is Melissa Tendick.
20 We have --

21 COMMISSIONER PINKERT: Hold on one second.

22 MS. TENDICK: I'm sorry.

23 COMMISSIONER PINKERT: We'll have Mr.
24 Heffner answer that question.

25 MR. HEFFNER: I was going to say what we can

1 do is try to -- in post conference try to get you any
2 information that we can on that.

3 COMMISSIONER PINKERT: Thank you. Ms.
4 Tendick?

5 MS. TENDICK: Yes, we do have Nielsen
6 scantrack data, which measures every single scan at
7 major retailers throughout the U.S. We do have data,
8 as stated, that shows that De Cecco, for example, is
9 the highest price. The data that I have in front of
10 me only has -- the only Italian brand represented is
11 De Cecco, but it does show that the average price for
12 De Cecco is significantly higher than the others. For
13 example, in the latest five weeks, \$2.41 compared to a
14 box of Barilla semolina which is at a \$1.30, private
15 label which is at \$1.07, so the trend is in line with
16 what you see here in terms of the disparity between
17 prices, but we can provide this data to you as well.

18 COMMISSIONER PINKERT: That would be
19 helpful, and I would ask that the Petitioners comment
20 on this issue as well because if you just pick one
21 brand, say De Cecco, for example, you might get a
22 different result than if you looked at a broad range
23 of manufacturer's products.

24 MS. TENDICK: Yes, and I believe we can pull
25 more manufacturers than just De Cecco from the

1 database, so we'll get you an array of Italian brands
2 as an example.

3 COMMISSIONER PINKERT: Thank you. I want to
4 give the Turkish an industry an opportunity to comment
5 on this issue as well.

6 MR. NOLAN: Well, obviously a couple of
7 things to bear in mind, and first of all, I would very
8 much encourage the Commission to take a hard look at
9 the purchaser questionnaire responses, particularly
10 the larger purchasers that submitted responses because
11 they had some detailed information on how they view
12 purchasing decision, pricing versus other factors and
13 how they viewed the different types of pasta that
14 we're talking about, and there's some clarity in there
15 about how they evaluate the product for various
16 purposes.

17 In terms of competition with the Italians,
18 Turkey obviously has such a limited presence it's
19 almost nonexistent, so it's hard to say that they
20 compete with them in any sense. To the extent there
21 is any competition, it is extremely limited. They
22 don't service the retail market. That's the
23 predominant market for the pasta that comes from
24 Italy.

25 MS. TENDICK: And if I might add? When

1 looking at the pricing overall, it's important just to
2 point out that there are differences in how pricing
3 also is measured, so there's the non-promoted price,
4 which is measured as kind of just that every day, the
5 highest price you might see on shelf, for example.
6 There's the promoted price, which is when the product
7 is on sale or on deal, what it's promoted down to.

8 Then, there's the average, which kind of
9 takes accum-weighted average of the two, and then it's
10 also important to take a look at the amount of product
11 or the percent of volume that is sold on deal to show
12 really as an indication how much each of the retailers
13 is promoting down to that lower price.

14 MR. DIPIETRO: And if I may? My name's
15 Anthony DiPietro. I can tell you that my company
16 subscribes and analyzes to the Nielsen data that the
17 representative from Barilla is speaking about, and
18 then I can tell you in most all cases, you will see
19 that the Italian pasta is a higher price. If you
20 would look at it, and you'd look at it on a national
21 basis, you'd see the companies that do participate
22 nationally as far as imported Italian brands will be
23 higher priced.

24 There could be instances where it does not
25 occur. I would say that's the exception, not the

1 rule, and it's in a case of a small amount of
2 distribution and a supply chain that's not typically
3 followed within the supermarket channels. Thank you.

4 COMMISSIONER PINKERT: Thank you very much.
5 Thank you, Mr. Chairman. I went over my second time
6 in a row.

7 CHAIRMAN WILLIAMSON: No problem.
8 Commissioner Broadbent?

9 COMMISSIONER BROADBENT: Yes. I don't think
10 I have any questions at this time. Thanks.

11 CHAIRMAN WILLIAMSON: Okay. For the Turkish
12 producers, I guess the point is being made that you're
13 competing on different bases of competition, and he
14 talked about the fact that I guess there's no vitamin
15 enrichment, the paper packaging, and the question I
16 have is how difficult is it to enrich the product?
17 How difficult is it to do the box packaging if you
18 want to get it in a certain market, and is that just
19 sort of a --

20 MR. NOLAN: Yes. As they are trying to
21 gather their thoughts into an English format for
22 you --

23 CHAIRMAN WILLIAMSON: Yes.

24 MR. NOLAN: Let me just start us off for a
25 second. Obviously, individually, if you're going to

1 start boxing it, you've got to have a box plant.
2 You've got to set up boxing facilities for it. You
3 also have that boxing facility has to be converted to
4 English. It can't be done in Turkish or another
5 language. It has to be in English and fit U.S.
6 labeling requirements to come into the market.

7 Vitamin enrichment means you're changing the
8 process and changing the line from what it has been
9 producing to something else that it isn't used to
10 producing, so obviously it can be done, but it takes
11 time to do that, and you're going to have to set aside
12 production for a separate run to satisfy that market,
13 which is an expensive proposition to go into unless
14 you think there's a reason to go that way at any
15 significant level.

16 There are other issues that they have.
17 There's no logistical network for the Turks in this
18 country right now. It's interesting to note that the
19 Petitioners said in their presentation that price, you
20 know, was the most important factor, but actually the
21 number one factor is availability of supply. If
22 Turkey's nonexistent in the market right now trying to
23 build up the credibility of availability, it's a
24 pretty big mountain for them to climb, and it's not
25 something that's going to happen quickly or easily for

1 them. I think I'll defer. Do you all want to say
2 something?

3 CHAIRMAN WILLIAMSON: Well, and he also
4 asked the question. You have 176 countries around the
5 world. I mean, you do have some capacity to get in
6 different markets.

7 MR. NOLAN: Yes, and in fact, Turkey
8 services 146 of those countries.

9 CHAIRMAN WILLIAMSON: I'm sorry. 146.

10 MR. NOLAN: And that's a conscience decision
11 on the part of Turkey to try to diversify its
12 marketing in as many places that seems amenable to the
13 concept of demand for pasta as they can develop
14 reasonably. Completely absent from that equation
15 throughout the entire development period has been the
16 United States. The simple point is they've had a
17 great deal of success operating everywhere else but
18 here. Why would they stop that formula, right?

19 Why would they suddenly say well, we don't
20 want to ship to all these other countries that we've
21 had such great success in, we've had such a good
22 growth curve on? It makes absolutely no sense for
23 them to take that approach.

24 MR. HACIOGLU: (Interpreter for Mr. Uysalli)
25 I represent the biggest pasta producer in Turkey. As

1 far as the packaging, our carton packaging that is
2 required in the U.S., it's less than one percent of
3 our current capacity in which we can box it. And
4 also, according to Turkish regulations, both the
5 labeling requirements and nutritious requirements are
6 currently not compatible with the U.S.

7 MR. KÜLAHÇIOĞLU: Okay. When we think about
8 the ingredients, there are some certain regulations in
9 Turkey which is not the same as nutrition values in
10 U.S., and we should make some investment for this
11 ingredient purpose, and we should import this
12 ingredients from somewhere else in the world, and we
13 don't know this. We should work on it.

14 CHAIRMAN WILLIAMSON: Okay. Thank you. I
15 thank you for those answers.

16 Mr. Nolan, I think earlier you mentioned
17 that Turkey, if they were to be in the U.S. market, it
18 would be basically competing with the Mexican
19 production, and earlier it was said I think that in
20 terms of Mexico serving the ethnic market in the U.S.,
21 it's smaller-sized pastas, and they sort of said there
22 are some unique things about it. Is that what you're
23 talking about with respect to Turkey, or was it
24 more --

25 MR. NOLAN: Well, I'll defer a little bit.

1 I don't think the Mexicans are simply putting stars
2 into the U.S. market. That seems a little bit, you
3 know, unique.

4 CHAIRMAN WILLIAMSON: Yes.

5 MR. NOLAN: I mean, there's three percent
6 that's coming in from Mexico. I think it's a bit more
7 than stars that go into chicken and stars soup.

8 CHAIRMAN WILLIAMSON: Okay.

9 MR. NOLAN: Having said that, from a price
10 point perspective and from a perceived quality
11 perspective, we are probably most closely aligned to
12 Mexico, although the Mexicans have a distinct
13 advantage on Turkey because they're in the market, and
14 somebody knows them already here, so to the extent
15 that we're going to be competing, we're going to be
16 competing with the only closest player that exists to
17 us in terms of sort of price competition and being a
18 foreign supplier that is a relatively new entry.

19 I might add that the Petitioners have said
20 with great relish that their Turkish product is so low
21 that if you take the order off, then it's going to
22 come flooding into the U.S. Well, the order is on,
23 and there's nonsubject imports that are coming in from
24 Turkey at relatively low prices, and in the stuff that
25 is subject to the order that is coming in is coming in

1 at relatively low prices and given the fact that okay,
2 maybe there is somewhat of a deterrent effect of the
3 order, the fact is there's no Turkish product coming
4 in, right?

5 So I don't really under the logic of their
6 argument at that point because the Turkish product, if
7 it is so low priced, there should be some of it coming
8 into this market if the price was the key, and there
9 just isn't.

10 CHAIRMAN WILLIAMSON: Okay. Thank you.

11 Yes, go ahead.

12 MR. HACIOGLU: Actually, just one point that
13 we would like to add. There was recently a Turkish
14 company who obtained de minimis rights in both the AD
15 antidumping and countervailing duty review, and we
16 were on the phone with them, and in six months, they
17 were only able to ship two containers, which is
18 roughly 40 tons, so that's another indication of what
19 Turkey could do if the order is revoked, and that
20 shipment went into also the ethnic market where
21 Turkish consumers live.

22 CHAIRMAN WILLIAMSON: Okay. I've been dying
23 to ask where is that market? I know some of it has to
24 be in Queens, New York, but I was wondering if there
25 was other concentration?

1 MR. NOLAN: Chicago and New York.

2 CHAIRMAN WILLIAMSON: Okay.

3 MR. NOLAN: Chicago and New York.

4 CHAIRMAN WILLIAMSON: Okay. Thanks. That
5 satisfied. Okay. I'm sorry. Dr. Massarelli, you had
6 mentioned, I think, sales to Costco, and I don't know
7 whether you want to say something about that now or
8 want to do it post hearing, but I would just be
9 curious if I understood you correctly. Was it Sysco?
10 I'm sorry.

11 MS. MASSARELLI: No. Garofalo sales to
12 Costco and Rummo sells to Sysco.

13 CHAIRMAN WILLIAMSON: Okay. Good. Costco
14 seems to deal in large volumes.

15 MS. MASSARELLI: Yes.

16 CHAIRMAN WILLIAMSON: I was just curious if
17 you could tell us more about that either now or post
18 hearing?

19 MS. MASSARELLI: Okay. Well, maybe some
20 details we will be given in the post hearing.

21 CHAIRMAN WILLIAMSON: That will be fine.

22 MS. MASSARELLI: But we do say it's a lot
23 of, I mean, a big quantity to Costco, and this last in
24 terms of I think the beginning of the order, I mean,
25 Costco is one of our traditional customer to the U.S.,

1 so we are very proud they chose a high-quality
2 product, Italian product, and they are mention on our
3 website. I mean, there's a clear evidence that they
4 are purchasing products from and, I mean, we are very
5 proud of that.

6 CHAIRMAN WILLIAMSON: I know because they
7 have a reputation for choosing good products.

8 MS. MASSARELLI: Exactly.

9 CHAIRMAN WILLIAMSON: Okay. Thank you.

10 MS. MASSARELLI: You're welcome.

11 CHAIRMAN WILLIAMSON: That was helpful.
12 This morning I had asked the domestic producers about
13 demand in the U.S. market. The trend on whole wheat
14 pastas, which I guess peaked several years ago and
15 whether or not there are any other developments that
16 maybe lent to increase or decrease in demand in the
17 U.S. in the future. I was wondering if any of the
18 people on this panel have any thoughts or comments on
19 that. Anything we should take into account in
20 considering demand in the U.S. going forward?

21 MR. DIPIETRO: Anthony DiPietro. I can
22 speak about whole wheat pasta. My company specializes
23 in the distribution of Italian whole wheat pasta in
24 the marketplace. Going by Nielsen data approximately
25 because I don't have it in front of us, it is a flat

1 demand for it currently, and the domestic producers
2 are correct about this in regards to their part of the
3 segment of the business.

4 My company, and a few other companies that
5 are within the same are of me where we're doing
6 especially whole wheat is rapidly growing, and what's
7 happening is the consumers that are looking for whole
8 wheat that are staying with that trend are wanting
9 something of higher quality, and they recognize that,
10 and they're just past the idea of the better for you.

11 They want something that also tastes good as well, no
12 offense to anybody, but I think that's the difference.

13 CHAIRMAN WILLIAMSON: Okay. And do you
14 particularly look to sell those in like more specialty
15 stores, or is that on the regular grocery store, too?

16 MR. DIPIETRO: No. I mean, if we turn a
17 slide, we can see it in Giant Foods.

18 CHAIRMAN WILLIAMSON: Okay.

19 MR. DIPIETRO: One more. There you go.

20 CHAIRMAN WILLIAMSON: Which one?

21 MR. DIPIETRO: Do you see right in the
22 middle?

23 CHAIRMAN WILLIAMSON: Thank you. Good. I
24 know what to look for. Okay. My time is expired.
25 Commissioner Pearson?

1 COMMISSIONER PEARSON: Thank you, Mr.
2 Chairman. This morning I asked the domestic industry
3 whether it was reasonable to compare the marketplace
4 in the United States with that in Canada. What are
5 your thoughts on that? Are the markets similar?
6 Should we think that what we see in Canada might be
7 similar to what we would see in the United States if
8 we revoke the order?

9 MS. TENDICK: I can speak to that. This is
10 Melissa Tendick. We sell both within Canada and
11 within the U.S., and what we can say is that the
12 markets behave very similarly. I'm sorry. Were you
13 speaking specifically to Turkey? Okay.

14 CHAIRMAN WILLIAMSON: No, but both subject
15 countries to the extent that you have that
16 information. Right.

17 MS. TENDICK: Yes, and in general, the
18 consumer is very similar. They have very similar
19 motivations, very similar needs within the pasta
20 segment, and so we treat the two markets very
21 similarly from our side. The products that we sell
22 within the Canadian market are practically identical
23 to the products that we sell here in the U.S., so it
24 shows that the two are very much in line.

25 CHAIRMAN WILLIAMSON: And just to clarify,

1 does Barilla produce some pasta in Canada, or is it
2 all produced in the U.S.?

3 MS. TENDICK: One of the copackers that we
4 work with is a Canadian copacker. However, the
5 product that they sell is produced within Ames and
6 Avon, within our facilities in the U.S.

7 COMMISSIONER PEARSON: Okay. Other thoughts
8 on Canada?

9 MR. KÜLAHÇIOĞLU: Yes. This is Kadir from
10 Durham Company, Turkey. Actually, my company's a
11 Canadian company. I'm 100 owned by a Canadian
12 company, AGT. Toronto stock is operated in Toronto
13 Stock exchange, and we have been trying to penetrate
14 in Canadian market, but you see the figures that we
15 cannot manage. Even Prime Minister has visited our
16 facilities in Canadian, Mr. Stephen Harper. Even with
17 this promotion, I can't say we could penetrate in the
18 market. It's really difficult for us.

19 COMMISSIONER PEARSON: Okay.

20 MR. NOLAN: And I would add that I think the
21 markets behave quite similarly. They're quite
22 analogous to each other. I can't think of a better
23 surrogate comparison than Canada to the United States
24 both in demand characteristics and the production
25 characteristics. They grow wheat in Canada. They

1 have huge wheat production there as you well know from
2 your past days at Cargill, I'm sure, so both the
3 production side and the consumption side is quite
4 analogous to the U.S. market, and so the behavior of
5 one market would be an indicator of what happens in
6 another market if there was free trade.

7 COMMISSIONER PEARSON: Dr. Massarelli?

8 MS. MASSARELLI: Garofalo sells pasta to
9 Canada, but in a much smaller quantity with respect to
10 the U.S. Therefore, we don't have any company
11 established there. We sell these quantities since
12 long time ago, but through an agent. I mean, Garofalo
13 sells throughout the world because whenever there's a
14 local Italians or Italian pasta is appreciated, we
15 sell, but Canada is similar, but it's not worth doing
16 anything more than selling through an agent, which is
17 worthwhile.

18 COMMISSIONER PEARSON: Okay. We have on
19 this record data relating to sales by Turkish firms to
20 Canada. Do we have data relating to sales by Italian
21 companies to Canada?

22 MS. MASSARELLI: I don't think so. I don't
23 think so. You need? We can add some more information
24 detailed in Canada.

25 COMMISSIONER PEARSON: That might be helpful

1 because if you're making the argument that the
2 Canadian market is quite similar to the United States
3 and that the U.S. market might respond the same, it
4 could be helpful to know what share of the market in
5 Canada is currently served by imports from Italy.

6 MR. HEFFNER: We'll endeavor to get that for
7 post conference.

8 COMMISSIONER PEARSON: Okay. Post hearing
9 actually.

10 MR. HEFFNER: Post hearing. Sorry.

11 COMMISSIONER PEARSON: Not a problem.
12 Speaking specifically to the pricing in Canada, it's
13 quite similar too in the United States?

14 MS. TENDICK: From Barilla's standpoint,
15 yes.

16 COMMISSIONER PEARSON: Okay.

17 MS. TENDICK: Very similar even in terms of
18 the changes within the range. It's almost identical
19 to the U.S. They set an independent pricing structure
20 for their market, but it very mirrors what happens in
21 the U.S.

22 COMMISSIONER PEARSON: Okay. Thank you.

23 MR. HACIOGLU: For the Turkish exporters,
24 yes, it's also more or less in the same price range,
25 the exports to Canada.

1 COMMISSIONER PEARSON: Okay.

2 MR. HACIOGLU: This is Bulent Hacıoglu,
3 Trade Resources.

4 COMMISSIONER PEARSON: Yes. Thank you. For
5 counsel, I'm not sure whether on the record we have
6 full arguments on cumulation, decumulation. I
7 understood the argument by Turkish producers that we
8 should decumulate, and obviously find in the negative
9 from that rationale. What about for the Italian side,
10 and this might be something you want to address in
11 post hearing, but would be nice to have in the record
12 would be if we decumulate, what should we do? If we
13 cumulate, what should we do?

14 MR. FERRIN: This is Richard Ferrin for
15 Drinker Biddle. We'll elaborate on this in the post
16 hearing, but there are several points here. Probably
17 the most obvious point to be made about cumulation is
18 look at what's happened during the 17 years that the
19 dumping order has been in effect. What the Italian
20 producers have done versus what the Turkish producers
21 have done is very, very different, and that should be
22 an indicator that there's a difference in the way they
23 compete in the U.S. market.

24 The way they compete in the U.S. market is
25 obviously completely different right now, and I think

1 that would suggest to some extent that they're going
2 to compete differently in the U.S. market, the two
3 countries, in the future. I would note that Italy is
4 a major consumer of pasta, but Turkey is not just
5 because of the huge per-person consumption of pasta
6 within Italy. That's a factor, as a result, the
7 Italians are always going to be more focused on a
8 whole on their home market as opposed to export
9 markets.

10 Yes, Italians export. They export a lot,
11 but as far as a percentage of the total Italian
12 production, the big majority of it is for the Italian
13 market, 61.2 percent of total production for Italy
14 versus Turkish shipments were only 36.9 percent of
15 Turkish production. Mr. Nolan told you about how
16 diversified the Turkey export market is. It's all
17 over the world. It's quite well distributed.

18 There's the bulk of Turkish pasta
19 production, as you can see from the Turkish producers'
20 briefs, and from this prehearing staff report, went to
21 small African markets, which is an entirely different
22 type of market than what the Italian producers are
23 trying to aim for. The Italian producers in contrast
24 are competing in the high end of the market both in
25 Italy and the U.S. whereas the Turkish producers,

1 where they're competing, is competing more in shall we
2 say the budget end of the market.

3 You have evidence on the record talking
4 about limited interchangeability between U.S. and
5 Turkish pasta. It's because of the Italian production
6 techniques and raw materials. Purchasers also noted
7 concerns about the quality of the Turkish product but
8 not the Italian product. Finally, the distribution
9 channels, the Turkish producers are selling only
10 through distributors whereas Italian producers sell
11 through both distributors and to some extent to retail
12 grocery stores, so those are all factors that will be
13 different between the two.

14 Now, as far as what will be the analysis for
15 your injury analysis if you do cumulate versus you
16 don't cumulate, I think that's a little bit bigger
17 subject to tackle, which we'll tackle in the post
18 hearing.

19 COMMISSIONER PEARSON: Okay. Thank you.
20 Counsel is well aware that when we write the opinion
21 in this investigation we'll be having to address the
22 likely volume price and impact effects if the order is
23 revoked, so how do you respond to the domestic
24 industry's view that the increase in volume of imports
25 post revocation would likely be significant, and

1 that's based largely on their estimate of unused
2 capacity in the subject countries, okay? So if you're
3 going to write it the other way, what's on this record
4 that gives us a different conclusion, Mr. Heffner?

5 MR. HEFFNER: The evidence that's on the
6 record right now is if you look at a control group of
7 companies that have been revoked from the order that
8 have low countervailing duty margins or zero
9 countervailing duty margins, what have they done?
10 Have the dire consequences come true? No, they have
11 not. They have not taken over the market. They have
12 not run them out of business. They have not done
13 anything like that, so I think you have a control
14 group.

15 Two, the domestics talked about falling off
16 the cliff earlier today. I mentioned that a little
17 earlier, and I think you have another control group
18 there. You have Barilla. Barilla was a Darth Vader
19 of pasta to them, but they came over to the U.S. side.
20 What happened during the period of review? Operating
21 profits are up. AUVs are up. There's all sorts of
22 good things in the pasta industry that has happened in
23 the U.S. industry, so I think you have a control group
24 there.

25 COMMISSIONER PEARSON: Yes. Those things

1 happened while the order was in place, so the question
2 is will they continue when the order is revoked, but
3 my time is expired, but I would welcome any further
4 elaboration on those issues in the post-hearing brief.

5 Mr. Nolan, can you wait? You have just a quick
6 comment now?

7 MR. NOLAN: Just a couple of very quick
8 comments. One, the average unit values in the United
9 States market for the U.S. producers went up 58
10 percent during the POR, and that would expect, and the
11 relative underselling that is being bandied about has
12 not changed during that period, which means the
13 foreign production has also gone up 58 percent as a
14 theoretical matter, so prices have gone up for
15 everybody here, and the price effect of that price
16 going up has been no increase in imports from Turkey.

17 So if prices went up 50 percent for the
18 Turks, theoretically why didn't they increase the
19 imports when they had the chance? The answer is they
20 have not, which is an odd question. Turkey has lots
21 of other markets. It has a wonderful curve for
22 capacity and demand and production increases which
23 suggests very little room in their closet to have a
24 bogey man come out and come join the U.S. It's just
25 not much there to be had, and there is no indication

1 on the record of anything but continued growth in
2 those markets for the Turkish industry.

3 COMMISSIONER PEARSON: Okay. Thank you very
4 much. Mr. Chairman, my time is expired.

5 CHAIRMAN WILLIAMSON: Okay. Thank you.
6 Commissioner Aranoff.

7 COMMISSIONER ARANOFF: Thank you, Mr.
8 Chairman. First, a few followup questions for
9 answering post hearing. Italian Respondents submitted
10 some market analysis regarding U.S. demand with your
11 prehearing brief in Exhibit 1. If there's a narrative
12 that accompanies the graph that you submitted that
13 explains it, if you could please provide that with
14 your post-hearing brief, that would be helpful.

15 MR. HEFFNER: Very good. We will.

16 COMMISSIONER ARANOFF: Thank you. For
17 Barilla, to the extent that you can provide us post
18 hearing with a little bit more detail about the
19 Mexican production capabilities that you mentioned,
20 capacity, what products, what markets that capacity's
21 serving, the extent to which is might or might not be
22 available to serve the U.S. market, that would be
23 helpful.

24 MS. TENDICK: Will do. Great.

25 COMMISSIONER ARANOFF: Thank you.

1 MR. FERRIN: Commissioner Aranoff, regarding
2 the U.S. demand, are you talking about the exhibit
3 that we passed out, the hearing exhibit?

4 COMMISSIONER ARANOFF: No, no. Exhibit 1 to
5 your brief.

6 MR. FERRIN: The graphs. Okay. Thank you.

7 COMMISSIONER ARANOFF: Yes, there was a long
8 table of contents and then like a one-page graph, so
9 any explanatory material that goes with that one-page
10 graph. Thanks. Okay. Just to round out followup on
11 some conversations that, I think, Commissioner Pinkert
12 was having with you, Ms. Tendick, a lot of the Italian
13 producers have talked about this high-end, white table
14 cloth specialty store type market in the U.S. that
15 they're pursuing. Does Barilla U.S. sell into that
16 market at all, or are you focused on other portions of
17 the market?

18 MS. TENDICK: Our food service division does
19 sell across all areas of the food service channel.
20 With regards to the retail shelf, we play within the
21 mainstream segment, so the mainstream is the biggest
22 area of opportunity for us, and that's where we
23 participate today.

24 COMMISSIONER ARANOFF: But if you are
25 selling into the food service segment, you're selling

1 the same product that you make for retail?

2 MS. TENDICK: Correct. We're selling the
3 blue box product, yes.

4 COMMISSIONER ARANOFF: Okay. Okay. Thank
5 you. Question for the Italian producers. On page 18
6 of your prehearing brief, you refer to the idea that
7 large Italian producers have long-term contracts with
8 Italian and European customers. That's something that
9 the Commission will frequently look at in a sunset
10 review like this.

11 So I wanted to ask you what documentary
12 evidence is on the record or could be put on the
13 record that would demonstrate the extent to which
14 Italian producers sell under long-term contracts or in
15 relatively consistent volumes to long-term customers.
16 That's the kind of thing that we look at when we're
17 trying to establish whether volume could be redirected
18 or couldn't be redirected to the U.S. market in the
19 event of revocation.

20 MR. HEFFNER: Very good. We'll get that for
21 you, and we'll try to do a survey and get that for
22 you.

23 COMMISSIONER ARANOFF: Okay. Thank you. I
24 think I have just two more questions, and these are
25 for the Turkish producers. First of all, I understand

1 based on your brief that Turkish producers don't face
2 import competition for sales of pasta in the home
3 market or not much import competition. Can you
4 briefly explain why that's the case?

5 MR. KARAKUS: Mehmet Karakus, Selva Pasta.

6 MR. HACIOGLU: (Interpreter for Mr. Karakus)
7 There is no ban or barrier on imports. Turkey
8 imports noodles and also specialty shapes and some
9 specialty type products from Italy. And there is no
10 customs import duty on pasta, especially of course not
11 from E.U.

12 COMMISSIONER ARANOFF: Okay. One final
13 question, and you may want to respond to this post
14 hearing. Certainly, you have that option. We talked
15 about different segments of the market, and you talked
16 about how Turkish product might not be competitive in
17 a number of the segments of the U.S. market, but one
18 segment that you didn't talk about and that we've
19 heard about today is this institutional segment, the
20 hospitals, the schools, the prisons that we've been
21 told is a bid market that's very price sensitive.

22 I don't know, and I certainly put it to all
23 the parties if you do know to put it on the record
24 whether those markets have any specifications
25 regarding, for example, whether the product has to be

1 vitamin fortified, but I'm curious about the extent to
2 which Turkish product could be competitive in that
3 market. I know we had testimony from one witness, I
4 think it was this morning, that distributors will
5 carry a value brand, a value type of pasta for bidding
6 for those kind of accounts, and it could come from
7 anywhere in the world.

8 It didn't sound like they were that
9 particular. Is that a segment in which Turkish
10 product could compete?

11 MR. HACIOGLU: This is Bulent Hacıoglu,
12 Commissioner Aranoff. We will also address this in
13 post hearing part of it, but I think the institutional
14 market you're referring to you can also ship in bulk
15 pasta, which is not under order, and Turkey hasn't
16 done that, just a fact to be --

17 MR. NOLAN: I might add that there are some
18 inconsistencies in that question. The idea that
19 somebody could walk in off the street to the U.S.
20 school system, state school systems, and say here's
21 pasta that you don't know the origins of, the
22 nutritional content of, doesn't necessarily meet U.S.
23 nutritional requirements for feeding hungry children
24 at lunchtime and say go buy this pasta and use it, I
25 don't think that flies under federal regulations right

1 now let alone under the school lunch programs and
2 other federal programs that exist.

3 I have to imagine that there are some
4 rigorous standards put in place by the U.S. government
5 to make sure that we have wholesome, nutritious
6 lunches and that things get screened before they're
7 allowed into the classroom or into institutional
8 settings, I don't believe it's quite as simple as the
9 Petitioners seem to portray.

10 COMMISSIONER ARANOFF: You do make a point,
11 and I think it would be helpful to have a little more
12 information on the record about that segment, and I
13 imagine that they specify some things, and on the
14 other hand, they don't care if the pasta is mushy, so
15 there may be some standards, and there may be other
16 areas where there's an absence of standards. With
17 that, I don't think I have any further questions, but
18 I do want to thank all of this afternoon's witnesses
19 for being here with us today. Thank you, Mr.
20 Chairman.

21 CHAIRMAN WILLIAMSON: Thank you.
22 Commissioner Pinkert?

23 COMMISSIONER PINKERT: I have no further
24 questions, but I do thank all of you, and I look
25 forward to the additional submission.

1 CHAIRMAN WILLIAMSON: Thank you.
2 Commissioner Broadbent, any further questions?

3 COMMISSIONER BROADBENT: I just had one.
4 Can you all explain? There seems to be low
5 inventories on both sides, is that correct, and what's
6 the dynamics of the production process that encourages
7 this?

8 MR. NOLAN: I'll have our Turkish friends
9 talk while the others are kibitzing, but, I mean, from
10 my perspective my understanding is that Turkish
11 inventories are very low for the simple reason that
12 they are shipping as fast as they could make it right
13 now. In fact, there are instances that we could
14 probably document in the post-hearing brief of them
15 either putting customers on allocation or having to
16 delay shipments to them because they can't make it
17 fast enough, so the inventory levels are very low for
18 a simple reason. It's leaving the warehouse that
19 quickly.

20 MR. SCOCCA: Actually, as far as I believe
21 the Italian market is also due to the fact that the
22 biggest part of the production is for the Italian
23 market, so it means that probably you don't store too
24 much product so you don't have inventory because you
25 ship right away as soon as you have the production, so

1 this is probably --

2 COMMISSIONER BROADBENT: How long can you
3 store it?

4 MR. SCOCCA: Well, actually, we can store
5 four weeks of product. This is what we can -- four
6 weeks of our demand.

7 COMMISSIONER BROADBENT: Okay. And then I
8 had another final question. What are the demand
9 trends that you see for pasta in the rest of the world
10 outside the United States? Where do you see the most
11 growth in the reasonably foreseeable future?

12 MR. SCOCCA: For sure Central and Eastern
13 European is going to be the market that is going to
14 increase I would say sooner than others. Let's say
15 that in Europe, we are assisting to a process of
16 awareness about the quality of pasta. Let's say that
17 also there was a strong increase from tourism from
18 Eastern Europe to Italy, which obviously helped the
19 people to be more educated about our products, and on
20 another end, obviously talking probably more from our
21 company perspective, obviously the Far East markets
22 are the ones that in the near future will be more
23 aware about the quality of the product.

24 Let's say that in the short term, short and
25 medium term, for sure Central, Easter and Northern

1 European market are the ones where we're expecting
2 there is going to be a higher increase as far as the
3 standards. Let's say high standard and high-quality
4 product.

5 COMMISSIONER BROADBENT: Okay. And not much
6 in Asia just because of tastes?

7 MR. SCOCCA: Yes, I think so.

8 COMMISSIONER BROADBENT: Yes? Okay. All
9 right. Well, thank you, Mr. Chairman. I regret that
10 the days are over that we could go to Galileo for
11 dinner and have a good pasta-tasting session, but
12 thank you very much. We appreciate it.

13 CHAIRMAN WILLIAMSON: Okay. Thank you.
14 Does any other commissioner have any questions? Does
15 staff have any questions for this panel?

16 MS. HAINES: Elizabeth Haines. Staff has no
17 question.

18 CHAIRMAN WILLIAMSON: Okay. Do Petitioners
19 have any questions for this panel?

20 MS. CANNON: Yes, Chairman Williamson, we do
21 have one question. There was an Exhibit 7 to the
22 Turkish prehearing brief where they referred to a
23 Turkish industry report that was cited, and we were
24 wondering if that information has been placed on the
25 record or if it could be because we did not have

1 access to that information?

2 CHAIRMAN WILLIAMSON: Okay. Mr. Nolan?

3 MR. NOLAN: I believe we provided a link,
4 but we can provide that again and a copy of the
5 relevant report if that's important, but there was a
6 link established that you could go into and find the
7 information.

8 CHAIRMAN WILLIAMSON: Okay. Well, you'll
9 work it out with staff?

10 MR. NOLAN: We'll figure it out. We'll put
11 it in post conference.

12 MS. CANNON: Thank you very much.

13 CHAIRMAN WILLIAMSON: Okay. Good. Well, it
14 looks like it's time for closing statements. Those in
15 support of continuation of the order have seven
16 minutes from direct, five minutes for closing for a
17 total of 12 minutes. Those in opposition to
18 continuation have only five minutes for closing, a
19 total of five minutes, and we usually try to combine
20 time where there is, so if no one has an objection,
21 we'll do that.

22 I want to thank this panel very much for
23 their testimony. We very much appreciate you coming
24 from so far to testify today, and with that, you may
25 take your seats, and then we'll have closing

1 statements. Mr. Rosenthal, you can begin when you're
2 ready.

3 MR. ROSENTHAL: It's like drinking from a
4 fire hose. Let me just start by saying that I
5 appreciate the candor of the Respondents witnesses.
6 Unfortunately, the candor has resulted in more
7 questions than answers. I'll begin with the Turkish
8 testimony if I can summarize it. It is we have not
9 capacity. We have no ability to penetrate the U.S.
10 market because we can't figure out the boxes and the
11 other impediments to sales, but we're here because we
12 want revocation of the order.

13 I'm not sure that I understand the logic of
14 that argument, but all I can say is the Turks did a
15 great job of coming into the market before this order
16 was imposed or the orders were imposed. One of the
17 reasons why you see so little imports from Turkey at
18 this point is because they got 60-percent
19 countervailing duty margins. They have high dumping
20 margins. No wonder they're not a big presence.

21 It's not like they can't get into this
22 market, and I don't think they don't know, and it's
23 not like they didn't do it before. They're in 146
24 countries around the world. You've already heard them
25 say that. Do you think they couldn't figure out how

1 to get back into the U.S. market after they were here
2 before, and I suggest to you the only way they're
3 going to do that is based on price. You heard them
4 say we don't have brand recognition yet. We're going
5 to get in based on price.

6 You don't need brand recognition, by the
7 way, in food service and in private label, and that's
8 where the Turks originally made their entries into the
9 U.S. market in private label. No one needed to know
10 where the product came from, and I appreciate the
11 comments by the witness from Barilla today. She made
12 it very clear that consumers don't generally know
13 where the product comes from. They don't know if it
14 comes from Italy, Turkey or wherever, confirming our
15 views.

16 We spent a lot of time this morning and this
17 afternoon talking about so-called premium products,
18 and we heard a little bit about the Ferraris of the
19 pasta world. Again, Commissioner Williamson tries
20 mightily to nail down the Respondents on what
21 percentage of the market that represents, and you
22 never got an answer to that. As we told you earlier,
23 it is a tiny fraction of the market, one or two
24 percent, at most, and Mr. Heffner keeps saying well,
25 you have a control here and you can figure out what

1 will happen if there's revocation.

2 They point to De Cecco, the highest-priced
3 product without the dumping orders. Well, that's
4 what's going to happen. We know that De Cecco is at
5 the high end of the scale. They don't represent the
6 rest of the industry, and that price is very, very
7 important for the vast majority of the products being
8 sold. I wanted this slide to be shown, the
9 Respondent's slide.

10 Notice all those tags on there? What are
11 they advertising? Price. What you heard from the
12 Petitioners' witnesses this morning was that yes,
13 people look at brands first, and they have their
14 initial brand loyalty, but once they try another
15 product based on price, they will then consider that,
16 and if it's acceptable, they can go back and buy it
17 again.

18 By the way, you notice those plastic bags
19 full of pasta? Didn't you just hear the Turks say
20 that they can't ship plastic bags filled with pasta?
21 That's what they were doing before, and a fairly high
22 percentage of the U.S. market is not boxed pasta.
23 It's in plastic bags. That's no impediment to the
24 Turks, but you notice that a lot of these prices and
25 the price differential, and, Jean, can you go to the

1 next slide, please? Keep going to this one right
2 here. Sorry.

3 These are the prices on the shelves.
4 Seventy percent of products are sold on promotion, not
5 at these prices. Only 30 percent are sold on these
6 so-called retail prices. Most of the volume that you
7 see in these stores are drive by discounts from the
8 prices you see here, so price is vitally important.
9 That's what the purchasers' questionnaires say.
10 That's what everyone in the marketplace says.

11 Again, I want to go back to what I regard as
12 the contradictions in this case in the Italian
13 producers' testimony. You had a lot of discussion
14 about the history, the aura of the Italian product,
15 and they wanted this carving out of this premium
16 product, which again is a very small part of the
17 market, and then you heard the witnesses, the other
18 witnesses, talk about how sales are being made by
19 Garofalo and Rummo to Costco and Sysco.

20 With all respect, those are not the white
21 table cloth restaurants that these Ferrari versions of
22 pasta are being sold to. These are wonderful
23 customers, but they are buying the standard products
24 from both U.S. and Italian producers, and there is
25 direct competition amongst them. I'll give you an

1 example, and we'll put this in our post-hearing brief.

2 Garofalo retail prices for spaghetti in Los Angeles
3 for this week are \$1.02, and in Kansas City, 96 cents;
4 and in San Diego, 91 cents, well below the private
5 label pasta box you saw up there before, so if they're
6 claiming that they are selling this high-quality
7 product at a premium, that is not correct.

8 Indeed, you heard them say earlier that they
9 had a dumping duty. They raised their prices and paid
10 that duty, and so if you actually back out what
11 they're selling this product for, it's a very low
12 price, certainly not a premium price. We'll give you
13 plenty more examples in the post-hearing brief. One
14 of the things that you heard a lot about is how
15 discerning consumers really can tell the difference
16 between the products.

17 We put on the record in the original
18 investigation and subsequently how objective taste
19 tests show most consumers find either the Italian
20 product not to be better, or the U.S. product to be
21 affirmatively better. We have it on the record in
22 this case. All that discussion you heard this
23 afternoon about the superiority of Italian products
24 and the inferiority of the Turkish products really is
25 not supported by the record, and that's the most mild

1 thing I can say about it.

2 There's a lot of record evidence in this
3 review and in other reviews that totally throws out
4 the window the arguments that are made, and this goes
5 back 17 years. For some reason, Mr. Silverman read
6 part of the transcript from the original proceeding.
7 He forgot to read you the findings of this Commission
8 where the arguments made by the Respondents were
9 totally rejected on this ground. You rejected them
10 then for good reason. You should do it again today.

11 I want you to again focus on what purchasers
12 say about the comparability of these products. The
13 quality exceeds the industry standard or meets
14 industry standard. For both the U.S. and Italy,
15 they're about the same, so I appreciate the marketing
16 skills exercised earlier today by the Respondents, but
17 there's no basis in the record for the claims they're
18 making.

19 One of the arguments that has been submitted
20 by Respondents here is well gee, the industry's doing
21 so well. They're very profitable, and yet you still
22 have these lower-priced imports in the market from
23 Italy and Turkey. Note however the chart that was put
24 up by Mr. Heffner has declining imports from Turkey,
25 declining imports from Italy, and that is a result of

1 the orders. You want to see a causal connection?
2 Lower volumes of dumped and subsidized imports from
3 the subject countries and the U.S. Industry prospers.
4 That is the case we're trying to make, and we really
5 appreciate their slide demonstrating that.

6 Indeed, the one thing that is very, very
7 clear, particularly in this last period of review, is
8 that the U.S. industry would not have been able to
9 survive the volatility with the raw materials had it
10 not been for the existence of these antidumping
11 countervailing duty orders. That has been what has
12 saved this industry in my personal view from the
13 lower-priced import competition who has been somewhat
14 indifferent in times gone by to the volatile raw
15 material costs.

16 Yes, the industry has done a great job of
17 lowering its cost and scaling back, and as for this
18 notion that gee, the industry was afraid of Barilla
19 originally and it's now adjusted, Mr. Heffner forgets
20 all of the bankruptcies and the companies that have
21 gone out of business and have no longer got any
22 productive capability in the U.S. during this time
23 period. The industry has managed to adjust to the
24 presence of the domestic competition by Barilla, but
25 there are a lot of deceased companies here who could

1 tell you that they were not helped as a domestic
2 producer by Barilla's entrance into this market.

3 As far as Turkish versus Mexican competition
4 goes, yes, Mexico has been able to come into the
5 market with lower prices, and that's a great concern,
6 and as a condition of competition, that makes this
7 industry vulnerable, and there is competition. I
8 agree with Mr. Nolan that Turkish and Mexican
9 competition also competes with the U.S. in these
10 products, and it is more than just stars.

11 I think there was a little of overemphasis
12 on that, but how they get at this market? It's based
13 on price, and why are Mexican imports in this market
14 and not the Turkish imports is because the Turkish
15 imports are restrained by the order whereas the
16 Mexican imports are not. One more example of the
17 effectiveness of the order, and if you reverse this,
18 and you take off the order with respect to Turkey, the
19 imports from Turkey are going to look exactly like the
20 imports from Mexico, which will come out of the market
21 share of the U.S. industry.

22 A couple of minor points to some extent,
23 maybe not minor to everybody, but there are a number
24 of misstatements made that I want to correct. Pasta
25 Lindsey had very specialized capability. They have a

1 small number of imports into the U.S. of specialized
2 product that don't make sense to be produced by AIPC
3 in the U.S. They're not being imported because of
4 some special niche quality associated with them. It's
5 just that the investment in the dyes in the U.S. is
6 not worth it. It's cheaper to import than to set up
7 production for small quantities here.

8 By the way, I'm so glad Mr. Pearson asked of
9 the Barilla witness about supplying this data for the
10 record. One of the things they really didn't answer,
11 at least not adequately, was why are you here if you
12 are a domestic producer? What's your interest in
13 having revocation if you're a domestic producer? The
14 only thing I think I heard was because revocation of
15 the order is going to help us with innovation.

16 If I heard that correctly, and if I'm wrong,
17 please tell me, but I don't understand how revocation
18 of the dumping order and the countervailing duty order
19 with respect to Barilla, which has a fairly high
20 dumping margin helps with innovation. Why can't they
21 innovate with the orders in place? If there's some
22 other explanation, I'd love to hear it. I see my time
23 is up. I appreciate the Commission's indulgence, and
24 I look forward to supplying more information in
25 response this hearing in the post-hearing brief.

1 Thank you very much.

2 CHAIRMAN WILLIAMSON: Thank you.

3 MR. SILVERMAN: This is Bill Silverman. The
4 Commission has a tough job whenever it does these
5 sunset reviews because you have to make predictions
6 about what's going to happen in the future, and you
7 have to avoid speculation and particularly the
8 mountain of speculation that we've heard today. I
9 think it may set a record. I started to make a list
10 of the speculation.

11 They're going to fall off a cliff. There's
12 going to be drive-by shootings. They're worried about
13 the trade diversion if the people in Ghana stop
14 importing from some place and start making their own.

15 I call that the Ghana effect. You can put that on
16 the title of the case that the domestic industry is
17 worried about the Ghana effect. They're worried about
18 ethanol prices, corn prices, soybean and even
19 sunflower seeds. They're worried about that. They're
20 worried about low prices from Mexico, and of course
21 they're worried about the return of four for a dollar.

22 Speculation is interesting, but you've got
23 to have evidence on the record, not mere speculation,
24 and they're worried about the capacity. How much more
25 data do you need about the capacity utilization in

1 some of these other countries and what their long-term
2 purchasers are? That's not evidence in the record.
3 It's interesting speculation, but that's not what this
4 proceeding is all about, but what is on the record?
5 What is on the record?

6 They keep insisting that there's
7 underpricing. The staff report talks about under
8 pricing, but if you take that as fact, then how do you
9 explain the fact that all the indices that the
10 Commission uses for causation are missing? The
11 correlations are not there. If there is so much
12 underpricing, and if price is the only variable, why
13 don't you see the correlations that you normally do?
14 They don't have a good answer to that.

15 It's because there is no causation. Other
16 things are going, and I think the Commission should
17 rely on what's on the record to see there's an absence
18 of the causal link even if there is underpricing. As
19 far as Barilla is concerned, when Barilla opened an
20 operation, now two operations in the United States,
21 they increased the supply curve. They employed more
22 people.

23 Maybe some people went out of business.
24 That's the nature of capitalism, but the fact of the
25 matter is they are producing, and their production

1 data, their employment data, et cetera is all part of
2 the domestic industry. They increased the supply
3 curve, and what happened? Unit values are up.
4 Profits are up. I've been to a lot of cases where we
5 didn't have that argument of people sitting on this
6 side of the table. The domestic prices are up, and
7 investment is up in the United States, and profits are
8 up.

9 Fifteen seconds. I'll close by saying yes,
10 there was a taste test at Galileo's, and the staff,
11 they're not here now, did distinguish between the two
12 of them, but the heart of their argument is a complete
13 and total insult to consumers. They serve slop, and
14 they say nobody can tell the difference. The
15 Italians, it's part of their culture and part of their
16 engineering and food chemistry, and people recognize
17 that. If they want to take the position the consumers
18 are so dumb it's all slop in prices, the only thing
19 that matters, let them put it on their marketing
20 materials.

21 We have marketing materials which say very
22 different things, and the market reflects it because
23 they get higher prices in most cases. Thanks.

24 MR. NOLAN: All right. Thank you, Mr.
25 Chairman and members of the Commission. Thank you

1 again on behalf of the Turkish industry. I'd like to
2 start by just directly answering the question that Mr.
3 Rosenthal raised, why are we here? This is really
4 simple. No company or no country wants to have the
5 stigma attached with having a dumping and
6 countervailing duty order outstanding against it when
7 it trades in 146 countries and only one country has
8 restraints on them.

9 Turkey views itself as a free traders. It
10 wants to be traded as a free trader. It seeks that
11 status, and in fact, the government of Turkey strongly
12 encouraged this group to appear today and participate
13 in this hearing process to make sure Turkey's views
14 are know. Plus, this group does want the opportunity
15 to come into the U.S. market. The opportunity does
16 not automatically translate into an avalanche of
17 product.

18 There are significant barriers to coming
19 into this market. It is not so simple as flipping on
20 a switch and 100,000 tons comes into this market. You
21 have to develop the logistical network. You have to
22 develop some form of branding or at least recognition.

23 There are certification requirements. If you look at
24 the purchaser questionnaires, everybody has
25 qualification requirements, certification

1 requirements, multiple requirements before you get
2 approved to go into Costco. It's not that simple, so
3 it's not as easy as the Petitioners would have us
4 suggest.

5 The U.S. industry is quite healthy. It is
6 done strongly, extremely well during the period of
7 review. Imagine dealing with falling raw material
8 prices, and maintaining your prices at a trajectory
9 that's going up as a direction. How do you explain
10 that? Finally, I'd just like to say that these
11 companies benefit from multinational vertical
12 integration. This is a different industry. They
13 don't need help. Thank you.

14 CHAIRMAN WILLIAMSON: Thank you. I thank
15 everyone for participating in today's hearing. Time
16 for closing statement. Post-hearing briefs,
17 statements responsive to questions and requests of the
18 Commission and corrections to the transcript must be
19 filed by July 22, 2013. Closing of the record and
20 final release of data to parties is August 8, 2013.
21 Final comments are due by August 12, 2013, and with
22 that, this hearing is adjourned.

23 (Whereupon, at 5:06 p.m., the hearing in the
24 above-entitled matter was concluded.)

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Pasta from Italy and Turkey
INVESTIGATION NOS.: 701-TA-365-366 and 731-TA-734-735
HEARING DATE: July 11, 2013
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

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

DATE: July 11, 2013

SIGNED: LaShonne Robinson
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Washington, D.C. 20005

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

SIGNED: Rebecca McCrary
Signature of Proofreader

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

SIGNED: Gabriel Gheorghiu
Signature of Court Reporter