

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
CALCIUM HYPOCHLORITE ) Investigation Nos.:  
FROM CHINA ) 701-TA-510 and 731-TA-1245  
) (Preliminary)

Pages: 1 through 174  
Place: Washington, D.C.  
Date: January 8, 2014

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CALCIUM HYPOCHLORITE ) Investigation Nos.:  
FROM CHINA ) 701-TA-510 and 731-TA-1245  
) (Preliminary)

Wednesday,  
January 8, 2014

Main Hearing Room 101  
U.S. International  
Trade Commission  
500 E Street, S.W.  
Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:32 a.m., at the United States International Trade Commission, CATHERINE DeFILIPPO, Director of Investigations, presiding.

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On behalf of the International Trade Commission:

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APPEARANCES: (Cont'd.)

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

On behalf of Arch Chemicals, Inc.:

RICK WALDEN, Senior Vice President, Arch  
Chemicals, Inc.

BRUCE MALASHEVICH, President, Economic Consulting  
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PEGGY A. CLARKE, Esquire  
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In Opposition to the Imposition of Antidumping and  
Countervailing Duty Orders:

On behalf of F2 Industries, LLC:

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P R O C E E D I N G S

(9:32 a.m.)

MS. DeFILIPPO: Good morning, and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of antidumping and countervailing duty investigation Nos. 701-TA-510 and 731-TA-1245 concerning Calcium Hypochlorite From China.

My name is Catherine DeFilippo. I am the Director of the Office of Investigations, and I will preside at this conference. Among those present from the Commission staff are, from my far right, Elizabeth Haines, the supervisory investigator; Joanna Lo, investigator; to my left, John Henderson, attorney/advisor; James Fetzer, economist; David Boyland, accountant-accountant; and Christopher Robinson, industry analyst.

I understand that parties are aware of the time allocations. Any questions regarding time allocations should be addressed with the Secretary. All witnesses must be sworn in before presenting testimony.

I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones. We also ask that

1 you state your name and affiliation for the record  
2 before beginning your presentation or answering  
3 questions for the benefit of the court reporter.

4 Are there any questions?

5 (No response.)

6 MS. DeFILIPPO: Hearing none, Mr. Secretary,  
7 are there any preliminary matters?

8 MR. BISHOP: No, Madam Chairman.

9 MS. DeFILIPPO: Very well. Let us begin  
10 with opening remarks.

11 MR. BISHOP: Opening remarks on behalf of  
12 Petitioner will be by Peggy A. Clarke, the Law Offices  
13 of Peggy A. Clarke.

14 MS. CLARKE: Good morning. As stated, my  
15 name is Peggy Clarke. I'm with the Law Offices of  
16 Peggy A. Clarke, and I'm here on behalf of the  
17 Petitioner, Arch Chemicals, Inc., a Lonza company, one  
18 of the two manufacturers of calcium hypochlorite in  
19 the United States.

20 This case, as you will see today, is like so  
21 many that you see of Chinese imports coming in quickly  
22 with low-priced, unfairly traded goods and  
23 overwhelming a U.S. industry. In this case there are  
24 several issues that make it particularly pernicious.  
25 First is the seasonal nature of the industry, and the

1 Chinese product has come in at the peak part of that  
2 season, which we will discuss the economic impact of  
3 that in our case, how harmful that is.

4 Secondly, the Chinese imports have targeted  
5 the most price sensitive channel and from there are  
6 now moving into the other channels of distribution.  
7 And finally, what we have seen over the last few years  
8 is China attempting to commoditize the product, which  
9 makes it even more price sensitive, causing further  
10 harm and threatening additional material injury to the  
11 U.S. industry.

12 And with that, I'm concluding my closing  
13 remarks or my opening remarks.

14 MS. DeFILIPPO: Thank you, Ms. Clarke.

15 MR. BISHOP: Opening remarks on behalf of  
16 Respondents will be by Irene H. Chen, the Chen Law  
17 Group.

18 MS. CHEN: Good morning, members of the  
19 Commission staff. My name is Irene Chen, and I'm here  
20 with my colleague, Mark Lehnardt. We're here today on  
21 behalf of F2 Industries, a U.S. importer of calcium  
22 hypochlorite from China, and today we have Mr. William  
23 Ferrell, our industry witness, who is here from F2  
24 Industries. For the record, I will refer to the  
25 product calcium hypochlorite as cal hypo throughout my

1 remarks.

2           On behalf of F2, we're here to present  
3 information as to why there is no injury or threat of  
4 material injury and why the Commission should reach a  
5 negative determination in this case. Petitioners and  
6 the rest of the domestic industry dominate the U.S.  
7 cal hypo market, and they have done so throughout the  
8 period of investigation. As Mr. Ferrell will testify,  
9 the domestic industry controls sales to the largest  
10 and highest margin customer segments of the market,  
11 while Chinese imports have important limitations on  
12 the market segments that they can enter.

13           In particular, the Chinese imports are  
14 limited primarily to low margin sales and smaller  
15 customers whom the domestic industry is not even  
16 interested in selling to. Additional constraints  
17 include the reactive nature of cal hypo and related  
18 shipping issues, which further limits subject import  
19 volume in the U.S. market.

20           Finally, it's important to note that  
21 Petitioners provide routine cash rebates and other  
22 incentives that lower the ultimate price to their  
23 customers, and we would urge the Commission staff to  
24 inquire of the Petitioners about these issues, but we  
25 can also present further details on this during our



1 presentation. Thank you.

2 MS. DeFILIPPO: Thank you, Ms. Chen. We  
3 will now --

4 MR. BISHOP: Would the first panel, those in  
5 support of the imposition of antidumping and  
6 countervailing duty orders, please come forward and be  
7 seated?

8 MS. DeFILIPPO: Good morning. Welcome to  
9 Mr. Malashevich, Mr. Walden and Ms. Clarke. Please  
10 proceed when you're ready.

11 MS. CLARKE: Good morning. Once again, I am  
12 Peggy Clarke with the Law Offices of Peggy A. Clarke,  
13 counsel to Petitioner, Arch Chemicals, Inc., a Lonza  
14 company. Thank you for hearing us today. We want to  
15 discuss the injury and potential injury caused the  
16 calcium hypochlorite or cal hypo industry by unfairly  
17 traded imports of cal hypo from China.

18 You will also hear from Mr. Rich Walden,  
19 Senior Vice President of Arch, who will discuss the  
20 cal hypo market and the impact the imports have had on  
21 his business. And you'll hear from Mr. Bruce  
22 Malashevich of Economic Consulting Services, who will  
23 discuss the economics of the injury suffered and  
24 threatened. We will then be happy to answer questions  
25 either today or in our postconference brief.

1           Before I turn this over to Mr. Walden, I  
2           want to briefly discuss the domestic industry and the  
3           like product to establish the context in which the  
4           case should be viewed. There are two domestic  
5           manufacturers of cal hypo. Arch accounts for the  
6           majority of the product produced in the United States.

7           Axiall Corporation, which until 2013 was part of PPG  
8           Industries, accounts for the remainder of the domestic  
9           production.

10           The manufacture of cal hypo requires  
11           extensive investment to build the plant and to hire  
12           and retain the skilled personnel necessary. These two  
13           companies produce 100 percent of the domestic like  
14           product. Most cal hypo is sold in granular form. A  
15           small portion, less than one-quarter of the product,  
16           is compacted into tablets or briquettes prior to  
17           sales. Again, Arch and Axiall produce the vast  
18           majority of the tablets sold in the United States and  
19           produce all the granular cal hypo made in the U.S.

20           Moreover, the value added by the tableting  
21           operation is minimal. Therefore, Arch does not  
22           consider that those companies that merely tablet  
23           granular cal hypo of whatever origin should be  
24           considered a part of the domestic industry.

25           Nevertheless, we want to emphasize that even

1 if tableters were considered a part of the domestic  
2 industry, Arch would still account for well over 50  
3 percent of the production in the United States, and  
4 the U.S. industry would still be materially injured  
5 and threatened with material injury by reason of  
6 unfairly traded Chinese calcium hypochlorite imported  
7 into this country.

8 The product covered by the scope is calcium  
9 hypochlorite with at least 10 percent available  
10 chlorine by weight in whatever form. This includes  
11 dilute forms of calcium hypochlorite called bleaching  
12 powder and hemi-basic calcium hypochlorite. Despite  
13 the different terms, there's one like product, cal  
14 hypo, and this like product is coterminous with the  
15 scope of the investigation. This can be demonstrated  
16 through a brief discussion of the Commission's like  
17 product factors.

18 At its most basic, cal hypo is formed by the  
19 reaction of chlorine with lime. There are many  
20 different ways of achieving this reaction, but all  
21 manufactures of cal hypo, including bleaching powder  
22 and hemi-basic cal hypo, is formed by this same  
23 chemical reaction. Chlorine and lime is also reactive  
24 with caustic soda, and this is referred to as sodium  
25 processed cal hypo. This produces a cleaner compound

1 with a higher available chlorine level.

2 Both domestic producers use the sodium  
3 process, and most of the imported cal hypo from China  
4 is also made using the sodium process, although there  
5 are numerous Chinese manufacturers who do not use  
6 caustic soda, preferring to limit the reaction to the  
7 chlorine and lime, the calcium process.

8 Both bleaching powder and hemi-basic calcium  
9 hypochlorite are unrefined forms of cal hypo formed by  
10 the reaction of chlorine and hydrated lime or lime  
11 slurry. Thus, all cal hypo is produced in a similar  
12 fashion at similar facilities through this reaction,  
13 and they all contain similar physical properties.

14 In addition to having similar production  
15 facilities, all calcium hypochlorite has the same  
16 basic end uses. Cal hypo is an effective public  
17 health biocide and is used in numerous sanitation  
18 applications. In the United States, the majority of  
19 cal hypo is used in the pool/spa industry to disinfect  
20 the swimming water. It is also used to disinfect  
21 water for drinking purposes by municipal water  
22 facilities and has numerous industrial applications.

23 Because of its disinfectant qualities, cal  
24 hypo, whether produced domestically or imported, must  
25 be registered with the EPA in accordance with FIFRA.

1 This EPA registration, however, is not an onerous  
2 burden, and many foreign producers and manufacturers  
3 have easily obtained the necessary registrations.

4 Both imported and domestically produced cal  
5 hypo use the same channels of distribution. As noted  
6 in the petition, both the domestic producers and the  
7 imported cal hypo is sold to repackers/private label  
8 marketers. These repackers will typically buy bulk  
9 product, then repack it into smaller sized containers  
10 or at least relabel it for retail distribution.  
11 They're basically distributors of cal hypo.

12 These repacker/private label marketers then  
13 compete directly with the domestic manufacturers of  
14 cal hypo, Arch and Axiall Corporation, in the other  
15 distribution channels, and in recent years the  
16 domestic industry has seen the encroachment of  
17 unfairly traded Chinese cal hypo directly into these  
18 other distribution channels as well, as well as their  
19 extensive presence in the repacker/private label  
20 channel.

21 Finally, neither customer perceptions nor  
22 price distinguish domestic cal hypo from imported  
23 product. Cal hypo is a rapidly commoditizing product,  
24 regardless of branding, and therefore the domestic and  
25 imported product compete primarily on the basis of

1 price. Customers do not perceive any significant  
2 physical differences between the imported or the  
3 domestic product. Thus, all cal hypo should be  
4 considered a single like product.

5 And with that, I would like to ask Mr.  
6 Walden to speak to you about Arch's experience. Thank  
7 you for your time, and I'm happy to answer questions.  
8 Go ahead.

9 MR. WALDEN: Good morning, and thank you for  
10 allowing me to address you today. My name is Rick  
11 Walden. I'm a Senior Vice President for Global Water  
12 Treatment for Lonza Corporation.

13 Actually, the history -- my history -- goes  
14 back. I'm a 1975 engineering graduate with a  
15 professional engineering license in several states and  
16 went on to obtain my MBA in the mid '80s and got over  
17 into the business world, having worked in various  
18 businesses throughout my career with Olin, Arch and  
19 now Lonza. Those businesses sell sulfuric acid,  
20 hydrazine hydrate, urethanes, consumer care and now  
21 the global water treatment.

22 Over the years, my history with Olin and  
23 Arch and now Lonza that has purchased Arch Chemicals,  
24 we would go to many different meetings, and people  
25 would say what do you do? And when you start talking

1 in the chemical industry people really kind of glass  
2 over and say well, that's kind of neat, and they move  
3 on.

4 But they never recognized Olin, they never  
5 recognized Arch, and most people don't even recognized  
6 Lonza. But always when I came back to the brands that  
7 people would recognize. Olin, you will remember  
8 Winchester ammunition and rifles. That was an Olin  
9 brand product that we had. And the other brand that  
10 is recognized worldwide is HTH calcium hypochlorite.

11 When I got into the business I kept  
12 wondering what HTH stood for, and it kind of goes back  
13 to the chemist days in the late '50s and early '60s as  
14 we were developing this, and it stands for high test  
15 hypochlorite. So it was an interesting little side  
16 tidbit for me, so I thought you might enjoy that  
17 today.

18 As I mentioned, cal hypo is a major product  
19 for our company. Arch has been a leader in the cal  
20 hypo industry both in the United States and globally  
21 with production in the United States, Brazil and South  
22 Africa. We're very proud of our heritage in  
23 developing this product for the safety and enjoyment  
24 of swimming enthusiasts and for the advancement of  
25 public health worldwide.

1           My objective today is to acquaint you with  
2 the marketplace in which we compete. Being respectful  
3 that this is a public forum, details involving  
4 business confidential information are contained in our  
5 petition, our responses to the Commission's  
6 questionnaires and any forthcoming responses to  
7 questions you may have. But my key points are as  
8 follows:

9           The U.S. demand for cal hypo is seasonal to  
10 an extreme degree. The reason is obvious. More than  
11 90 percent of the demand lies in the maintenance of  
12 swimming pools and spas. Typically in the fourth  
13 calendar quarter of each year we enter into  
14 negotiations for supply agreements and prices for  
15 sales for the following season.

16           Our sales peak is in the first calendar half  
17 of each year. The remainder of the year is very slow.  
18 Demand rapidly declines, and we use that period for  
19 routine maintenance and plant turnarounds. Our  
20 economic expert, Bruce, will expand on this point in  
21 his testimony a little bit later.

22           This extreme seasonality directly affects  
23 our operating economics. Producing cal hypo involves  
24 a very large, continuous process operating our  
25 facility 24 hours a day, seven days a week, in order



1 to run the plant efficiently. This limits our ability  
2 to adjust production levels without reducing  
3 efficiencies to meet changing cost and demand  
4 conditions.

5 Because we reduce production in the second  
6 half of the year as the peak season ends, our per unit  
7 costs increase in that period. The combination of  
8 reduced volume and increased cost, combined with the  
9 down time and the cost of the maintenance, means that  
10 we do not generate significant, if any, positive  
11 income for that period.

12 In order to survive, and I must emphasize  
13 this point, all or nearly all of our cal hypo  
14 operating income must be generated in roughly the  
15 first half of each calendar year. Typically prices  
16 and sales arrangements, some formal and some informal,  
17 between purchasers and suppliers are negotiated in the  
18 fourth calendar quarter of each year. Actual sales  
19 and deliveries occur during the first six months or so  
20 in the following year.

21 The tendency is for prices to be fixed for  
22 the season, but with the actual volumes to be  
23 determined by the purchaser in reaction to market  
24 conditions. Formal meet or release provisions are  
25 unusual because there's really nothing to be released

1 from. However, in practice low price offers from  
2 competing suppliers are used in two ways. First, they  
3 will buy imports and reduce the volume of what they  
4 purchase from us and, two, they will use these offers  
5 to force us to reduce our already agreed upon prices.

6 Our operating economics are also affected by  
7 the value of our brand, HTH. Our domestic  
8 competition, Axiall Corporation, also offers its own  
9 branded products. In past years, the value of Arch  
10 brands contributed quite positively to our annual  
11 operating earnings, although a substantial share of  
12 our sales historically and at present go in in bulk as  
13 unbranded product. These unbranded sales are made to  
14 what we call repackers. The businesses function  
15 basically as distributors, buying our product in bulk  
16 and repackaging it for sales under their own brand for  
17 their customers' private label brands.

18 One other factor are shipping costs for cal  
19 hypo. Cal hypo's status as a hazardous material  
20 greatly reduces the options in finding serviceable and  
21 willing oceangoing vessels. The few offering this  
22 service charge a premium going to limited supply,  
23 limited volume per container, which increases cost,  
24 and associated risk of transporting cal hypo. Cal  
25 hypo, having a relatively low value to weight ratio,

1 means that international freight costs are a  
2 significant share of the total delivered cost.

3 But the Chinese producers have access to  
4 COSCO, the Chinese state-owned shipping line. COSCO  
5 ships Chinese cal hypo, but has refused to ship our  
6 cal hypo. As a result, we incur significantly higher  
7 freight cost than the import data show that the  
8 Chinese exporters incur.

9 What I've just said is why the imports from  
10 China have caused and threaten to cause increasing  
11 harm to the domestic industry producing cal hypo. Not  
12 very many years ago, subject imports from China were  
13 very small. In recent years, owing I believe to the  
14 Chinese Government policy encouraging the increased  
15 production of chlorine in any form, they have surged.

16 Government subsidies identified in the  
17 petition have worked to expand China's chloralkali  
18 production, and in just a few short years the Chinese  
19 share of aggregate U.S. cal hypo consumption rose from  
20 low, single digits to double digits in the period  
21 through June 2013. In 2013 through September, the  
22 volume of subject imports into the United States  
23 exceeded the total annual volume imported in all of  
24 2012 and was nearly double the volume of imported  
25 product in 2010.

1           The Chinese have been very clever in  
2 penetrating the U.S. market in the corridors and  
3 through the channels that do most harm to our  
4 business. Our economic expert will testify more on  
5 this point, but basically the subject imports peak  
6 during the first half of the year and taper off in the  
7 second half of the year. Thus, the Chinese imports  
8 are hitting us when we most need to generate income in  
9 order to sustain our business and maintain our  
10 facilities.

11           The subject imports originally entered the  
12 United States market through the most vulnerable  
13 channel, the repackers. Repackers make their living  
14 through buying low and trying to commoditize the  
15 product. In that channel, cal hypo trades purely as a  
16 commodity product sold only on the basis of price.

17           The repackers buy our unbranded bulk product  
18 and at a minimum repack it into retail packaging.  
19 They might break it into smaller packages. They might  
20 private label the product, and they could blend it  
21 with other ingredients as Arch and Axiall do for some  
22 of their products. That's okay if the imports are  
23 fairly traded, but they are not.

24           In our experience, sales in bulk to  
25 repackers account for a substantial portion of our

1 business. In this channel, we compete head-to-head  
2 with the Chinese. Standing alone, this channel  
3 accounts for a substantial share of our total U.S.  
4 sales of cal hypo.

5 Consequently, in this channel subject  
6 imports directly harm our business from both a volume  
7 and pricing perspective. Throughout the POI, Chinese  
8 pricing into the repacker channel has caused us to  
9 reduce prices and restrain price increases despite our  
10 increased cost of doing business. At the same time,  
11 they otherwise have harmed our business because  
12 repackers and others have been buying the unfairly  
13 traded Chinese product and reselling it at low prices  
14 in direct competition with our branded product sold in  
15 other channels.

16 Adding insult to injury, during 2013 we  
17 observed that subject imports from China have been  
18 offered into our downstream retail channels,  
19 effectively circumventing the repackers and competing  
20 directly with our branded product. Without the  
21 margins on our branded products that we have  
22 historically enjoyed, we would be out of business.

23 In sum, the unfairly priced imports have  
24 surged to commoditize our product, whether unbranded  
25 or branded, and cause price depression. Prices have

1 tumbled, even though our raw material costs continue  
2 to rise. As a result, our profitability has fallen  
3 dramatically despite our efforts to reduce our cost.

4 Let me emphasize that 2013 was a crossroads  
5 for us. This year was the first time that in our  
6 estimation China's share of the total U.S. demand rose  
7 to 10 percent during the peak selling season in the  
8 first calendar half of the year. The harm that caused  
9 our operating profitability is historically  
10 unprecedented and caused us to file this case.

11 There is one other reason that caused us to  
12 file this case. As I mentioned at the beginning of  
13 the testimony, I started out my career in many other  
14 businesses, but one of those businesses was hydrazine  
15 hydrate. Olin had the world's largest hydrazine  
16 hydrate plant. As they say, experience is something  
17 that happens to you that you wished happened to  
18 somebody else. I lived through the hydrazine hydrate  
19 experience.

20 The world's largest plant, which hydrazine  
21 hydrate, as cal hypo, is a caustic chlorine derivative  
22 chloralkali production. During the early '90s, we  
23 started having to compete on price. The pricing  
24 finally commoditized. It went down so low that we  
25 could no longer sustain and we shut down, closed the

1 plant, laid off all the personnel, and now we import  
2 the material and we compete as a distributor and  
3 repacker ourselves. That's what's caused us to file  
4 this petition today.

5 And I thank you, and I'll be happy to answer  
6 any questions you may have. Bruce?

7 MR. MALASHEVICH: Good morning, Madam  
8 Chairman and colleagues. I'm Bruce Malashevich,  
9 President of Economic Consulting Services. My  
10 testimony today offers a summary of the evidence of  
11 material injury and threatened material injury to the  
12 domestic industry owing to the increasing imports of  
13 cal hypo from China.

14 I have participated in many Title VII  
15 investigations by the Commission over what is now a  
16 long career. My kids tell me I began when dinosaurs  
17 were pets. And I want to ask before I begin, do you  
18 have copies of my public exhibits? Okay. Very good.  
19 Thank you. Okay.

20 First, there are conditions of competition  
21 that should be at the forefront of the Commission's  
22 investigation in this case. One, as Mr. Walden  
23 testified, is the extreme seasonality of both U.S.  
24 demand and operating profitability during the course  
25 of the calendar year. The Commission frequently has

1 considered seasonal industries dependent upon the  
2 agricultural sector. However, it's been rare for the  
3 Commission to investigate manufacturing industries  
4 that are similarly seasonal to a high degree.

5 Fortunately, as a point of comparison, the  
6 Commission just recently completed an investigation of  
7 a product called chlor isos, and I think that presents  
8 a very interesting opportunity for gauging the  
9 severity of seasonality because the two products are  
10 very different, but they also serve the swimming pool  
11 market, spas, et cetera, and are known to be seasonal  
12 for reasons that Mr. Walden testified to.

13 So I looked at the public record for chlor  
14 isos and prepared some comparisons of the sort  
15 normally used to study the degree of volatility over  
16 cycles and also over seasons through standard  
17 statistical techniques, although it's a pretty turgid  
18 discussion, I admit. But have a look at Exhibit 1,  
19 please. That exhibit is a chart based on public U.S.  
20 trade data.

21 As you can see from the table at the bottom  
22 of the exhibit, a comparison of high and low import  
23 quarters shows that cal hypo's seasonal peaks have  
24 ranged from two to three times their trough quarters,  
25 while chlor isos' peaks have shown much smaller



1 seasonal variation, ranging between 1.7 and 1.9 times  
2 their trough quarters.

3 Further analysis of the yearly variations  
4 evident in both products is shown in my Exhibit 2.  
5 The lines with markers track the import quantity of  
6 each product monthly for the full years of the POI.  
7 As import volumes of chlor isos are greater in volume  
8 terms than those of cal hypo, the lines have been  
9 indexed for ease of comparison.

10 The first data points of both marked lines  
11 are set equal to 100, and all subsequent data points  
12 are plotted in relation to that base. This allows  
13 relative changes in quantity to be reflected on the  
14 same scale. The two linear trend lines near the  
15 center were calculated from these index quantities and  
16 approximate the general import volume flattening or  
17 evening out for seasonal variation using the ordinary  
18 least squares method.

19 Finally, the boxed percentages indicate the  
20 percentage difference between each product's seasonal  
21 highs and low relative to the appropriate trend line.

22 This demonstrates the extent to which seasonal cycles  
23 differ from the baseline trend in import volumes.

24 As you can see, despite slight differences  
25 in timing for peak import season, cal hypo's

1 seasonality is much more pronounced than that of chlor  
2 isos with highs up to 113 percent above trend and lows  
3 reaching 64 percent below trend, while chlor isos'  
4 seasonal trends range from only 54 percent above trend  
5 to 58 percent below trend. Indeed, the seasonality of  
6 the cal hypo market is extreme, even relative to an  
7 industry serving similar applications and, in terms of  
8 timing, similar seasonal variations.

9 Another condition of competition is the  
10 presence of both unbranded and branded U.S. produced  
11 like product. Historically, as Mr. Walden pointed  
12 out, the branded domestic product was a mainstay of  
13 the domestic industry's profitability and growth, but  
14 the entry and expansion of subject imports have  
15 largely destroyed whatever value there might have been  
16 in the brand and eroded the previously healthy margins  
17 enjoyed from sales of the branded material. This is  
18 now a marketplace that, as Mr. Walden testified, is  
19 rapidly commoditizing to the detriment of the domestic  
20 industry's overall condition.

21 Finally, this is a case in which the  
22 Commission should give great attention to the role of  
23 subsidies in assessing the adverse effects of subject  
24 imports on the domestic industry. That's not to say  
25 the Commission doesn't normally consider subsidies in

1 a case, but the nature of the subsidies in this case,  
2 in my experience, is unique, particularly with respect  
3 to international freight costs that Mr. Walden  
4 discussed.

5 It is particularly injurious by its nature,  
6 and it is so because the international freight charges  
7 are provided through a Chinese SOE, state-owned  
8 enterprise, and that SOE makes its services for this  
9 product available only to selected Chinese producers,  
10 including those that are Respondents in this case. So  
11 in this case, the Chinese subsidies ocean freight  
12 constitute a targeted export subsidy that is  
13 particularly harmful to the domestic industry because  
14 of the low ratio of value to weight of this product.

15 I'll now just briefly address the adverse  
16 effects of the subject imports on the domestic  
17 industry's volume, selling prices and overall  
18 condition, although my remarks are much limited by the  
19 prevalence of BPI data in this case.

20 As you know, in recent years the  
21 Commission's decisions have often relied at least in  
22 part on evidence supporting some degree of so-called  
23 correlation between the behavior of subject imports  
24 and adverse changes in the domestic industry's health.

25 In this case, there is ample evidence which serves to

1 amplify the direct volume effects of subject imports  
2 on this industry and manifest such correlation.

3 Exhibit 3 was reproduced directly from the  
4 petition's Injury Exhibit 1 and helps to show why this  
5 is the case. It shows how in each year of the POI the  
6 volume of subject imports progressively increased, but  
7 with the peak volumes consistently coinciding  
8 precisely with the seasonal peak in U.S. demand each  
9 year. Under normal circumstances, as Mr. Walden  
10 testified, it's that period where the domestic  
11 industry must, according to its operating economics,  
12 earn all or nearly all of its annual operating income.

13 It's a form of hitting below the belt, if you will.

14 The petition's confidential Injury Exhibit 3  
15 calculates the relentless growth in subject import  
16 market share over the POI. The trend is sharply  
17 upward. But the exhibit does not show how the volume  
18 of subject imports concentrated as it has been in the  
19 so-called repacker channel has come to occupy a much  
20 more substantial share of total shipments into this  
21 most price sensitive subset of the overall U.S.  
22 market.

23 Simply put, certainly you have to look at  
24 the impressive growth in the imports in relation to  
25 overall consumption, but you really have to consider

1       how much greater that share is in the most price  
2       sensitive channel, sales to repackers, which comprise  
3       a substantial share of the domestic industry's total  
4       sales volume. The multi-year surge of subject imports  
5       from China has been fueled by low import prices. The  
6       data are confidential, but I expect that the  
7       questionnaire record will support that notion.

8               A side point, but an important one, is if  
9       you look at my Exhibit 4 the purpose of that exhibit  
10      is to show that nonsubject imports are not a factor in  
11      this case for reasons as to price or, in the case of  
12      India, quality that is not yet fully accepted in the  
13      market.

14             In sum, subject imports are a nonissue in  
15      this case. In assessing the subject imports' volume  
16      and price effects on the domestic industry's overall  
17      condition, it's incumbent to consider the industry's  
18      operating economics. Mr. Walden touched on this in  
19      some detail, but specifically cal hypo manufacturing  
20      efficiency is highly dependent on the constant  
21      operation of production lines 24/7.

22             Not surprisingly, Petitioner has  
23      increasingly been forced during the POI into the  
24      competitive choice between responding to low import  
25      prices to maintain volume or reducing output. The

1 choice is complicated in this case by the industry's  
2 seasonal nature, as I discussed earlier. It must  
3 endure down time for maintenance and lower production  
4 volume in the calendar's second half in order to  
5 remain viable year round.

6 I would like to conclude the injury  
7 discussion with a brief discussion of the evidence of  
8 threat of material injury in this case. Substantial  
9 BPI evidence has been included in the petition to this  
10 effect, but basically the combination of reduced  
11 profitability and market share losses has left the  
12 domestic industry very vulnerable.

13 Increasing vulnerability can be seen in the  
14 startling deterioration in industry profitability  
15 during the first part of 2013 during what should have  
16 been the peak part of the calendar year. The sheer  
17 rate of growth of subject imports is by itself a  
18 powerful testament to this threat. The corresponding  
19 increase in China's market share highlights its  
20 ability to engage in a low-priced, high-volume assault  
21 on the U.S. market.

22 The threat of additional rapid import growth  
23 in market share is likewise supported by reason of  
24 existing unused capacity in China and imminent  
25 substantial increases in production capacity in the

1 exporting countries. I direct your attention to the  
2 text of the petition, Volume I at pages 27 to 28, and  
3 the petition's confidential Injury Exhibit No. 5 for  
4 details.

5 Yet another key factor in assessing threat  
6 concerns whether imports of the subject merchandise  
7 are entering at prices that are likely to have a  
8 significant depressing or suppressing effect on  
9 domestic prices and are likely to increase demand for  
10 further imports. As I just discussed, imports from  
11 China have had both price suppressing and price  
12 depressing effects on the domestic prices for cal  
13 hypo, and I suspect the questionnaire record will  
14 support that notion.

15 In assessing threat of material injury, the  
16 Commission also considers the actual and potential  
17 negative effects on the existing development and  
18 production efforts of the domestic industry. In this  
19 case, the unfair imports threaten the viability of  
20 Petitioner's substantial recent investment to improve  
21 productivity. The details, and there's some  
22 discussion of it in Arch's U.S. producer's  
23 questionnaire. I would direct your attention to that  
24 discussion.

25 In assessing threat of material injury, the

1 Commission considers -- excuse me. The statute also  
2 calls for consideration of any other demonstrable  
3 adverse trends that indicate probability that there  
4 will be material injury by reason of imports or sale  
5 for importation of the subject merchandise.

6 In this case, the U.S. industry is  
7 particularly vulnerable to the imports because of  
8 extreme demand seasonality and because the domestic  
9 like product is increasingly a commodity type product  
10 sold to a common industry standard on the basis of  
11 price. It is extremely price sensitive, and the  
12 production economics of the domestic industry make it  
13 particularly sensitive to lower import prices.

14 Subsidies and various benefit programs  
15 offered by the Government of China have encouraged the  
16 creation and expansion of cal hypo production  
17 capacity. These countervailable subsidies create a  
18 significant likelihood that low-priced, subsidized  
19 imports from China will continue their rapid  
20 penetration into the U.S. market.

21 In addition, export subsidies specifically  
22 encourage Chinese producers of cal hypo to export more  
23 products abroad. Thank you very much.

24 MS. CLARKE: I believe we are completed with  
25 our remarks and are happy to answer questions.



1 MS. DeFILIPPO: Thank you, Ms. Clarke, and  
2 thank you to all the panel and in particular Mr.  
3 Walden for being here today. It's always very helpful  
4 to have the industry representatives here to help us  
5 understand the product and answer the questions that I  
6 believe will come, so I will start first with Ms. Lo.

7 MS. LO: Hi. Joanna Lo. Thank you all for  
8 coming again. First, I just wanted to ask the  
9 question about interchangeability between isos and cal  
10 hypo. They're both used in pool sanitation. Can you  
11 expand a little bit more on that?

12 MS. CLARKE: Rick, can you answer that, how  
13 much they are interchangeable?

14 MR. WALDEN: They are completely separate  
15 chemistries. Those chemistries are incompatible, so  
16 while you can have a trichlor or chlor iso pool and  
17 you can have a cal hypo pool and while they can be  
18 used in the same pool, but if you put them in close  
19 proximity to each other they will burn at a very rapid  
20 rate. So they're incompatible in the chemistries when  
21 you put them side-by-side.

22 So the complete chemistries, while they're  
23 good alternate substitutes to sanitized water, they're  
24 not compatible. So you couldn't take a feeder system  
25 and put trichlor in it and then come back and put cal

1 hypo. If you did, the feeder wouldn't be there in  
2 about 30 seconds.

3 MS. LO: That's helpful. But is that  
4 something that a pool -- say if you owned a commercial  
5 pool, an industrial pool or a residential one, that  
6 you can make that decision every year? Say this year  
7 I decide I want a cal hypo pool.

8 MR. WALDEN: Yes.

9 MS. LO: Next year I want an isos pool. Can  
10 you do that?

11 MR. WALDEN: You can certainly do that.

12 MS. LO: Thank you. Also I had another  
13 question on production. So are there any advantages  
14 to using caustic soda or like the Chinese do as Penny  
15 had mentioned? Can you tell me the difference in  
16 terms of cost advantages or time for producing using  
17 caustic soda or --

18 MR. WALDEN: We all use caustic soda in the  
19 manufacturing of it. You have a sodium process and a  
20 calcium process. The sodium process produces a much  
21 better grade cal hypo product than the calcium process  
22 does. So it has to do with quality. We all use  
23 essentially the same process.

24 MS. CLARKE: Just to clarify on that,  
25 particularly when they're talking about better grade

1 they're talking about the available chlorine.

2 MR. WALDEN: The available chlorine and the  
3 contaminants, if you will, within the product. It  
4 doesn't have as much residue left over, if you will.

5 MS. LO: Are customers willing to pay more  
6 for that?

7 MR. WALDEN: Yes.

8 MS. LO: So they are? So that does help you  
9 compete against the Chinese product?

10 MR. WALDEN: The Chinese product uses the  
11 same process we use.

12 MS. LO: Sorry. Maybe I was a little  
13 confused on Peggy's --

14 MR. WALDEN: Yes. The Chinese process and  
15 our process, our technology patents have all ran out  
16 and they are copied and basically it's the same  
17 processes. You can use a sodium process or calcium  
18 process to produce calcium hypochlorite.

19 MS. CLARKE: But as I indicated, most of  
20 what comes in from China is sodium processed cal hypo,  
21 but they also produce calcium processed cal hypo.

22 MS. LO: And there's really virtually no  
23 difference except in terms of customer --

24 MR. WALDEN: Right. The average pool user  
25 is not going to know one from the other.

1 MS. LO: Thank you. In terms of  
2 seasonality, I know holding inventory of this product  
3 is somewhat I don't know if the word is dangerous  
4 or --

5 MR. WALDEN: Onerous would be a good word.

6 MS. LO: Onerous. But do you find that  
7 distributors are finding that?

8 MR. MALASHEVICH: This is Bruce Malashevich  
9 for the court reporter. We didn't have the data to  
10 examine the behavior of inventory at that level of  
11 trade. I relied on the trade statistics because  
12 they're public and I could analyze them on both a  
13 monthly and a quarterly basis.

14 And it happens that in both cal hypo and in  
15 the earlier Chlor Isos case, I noticed throughout the  
16 public report in chlor isos like and cal hypo  
17 nonsubject imports were insignificant, so that's why  
18 we relied on China for cal hypo and China plus Japan  
19 for chlor isos, given the circumstances of that case.

20 In both cases, nonsubject imports were insignificant  
21 so we focused on public data for the subject imports.

22 MR. WALDEN: Cal hypo is a Class III  
23 oxidizer. It has to be stored in a very specific  
24 warehousing with full sprinkler systems. It's not  
25 your every day warehouse that you walk into. Legally

1 it's supposed to be stored that way.

2 MS. LO: Thanks. That's helpful. So  
3 basically it seems like from the data as well, the  
4 public data, it doesn't seem like the Chinese product  
5 is being stored in the latter half of the year and  
6 sold, correct?

7 MR. WALDEN: Not to my knowledge, no.

8 MS. LO: Okay. Thank you. That's helpful.  
9 That's all I have so far. Thank you.

10 MS. DeFILIPPO: Thank you, Ms. Lo. We'll  
11 now turn to Mr. Henderson for questions of this panel.

12 MR. HENDERSON: Thank you, and I'd also like  
13 to welcome particularly our witnesses who had to  
14 travel in this kind of weather to this hearing, to  
15 this conference.

16 MR. WALDEN: It is cold.

17 FEMALE VOICE: Better than yesterday.

18 MR. HENDERSON: Yes. The first question I  
19 was a little confused in that in the petition in  
20 several places it refers to cal hypo flatly as a  
21 commodity product in the like product discussion and  
22 now in the opening statement and in the witness  
23 testimony we're hearing that the subject imports are  
24 commoditizing it or it's perhaps not a commodity  
25 product, but it's becoming one, and so I would like

1 some clarification as to what the facts are in the  
2 market, as well as what the Petitioner's position is  
3 on this issue. Thanks.

4 MS. CLARKE: Yes. Let me answer that  
5 initially and then we can turn it over. It is a  
6 commodity in that physically there's no physical  
7 difference between the product.

8 There has traditionally been some branding  
9 to it, but the brands are being devalued, and the  
10 largest competition is in the unbranded straight  
11 commodity. Mr. Walden can certainly tell you what's  
12 happened to the brands in this industry.

13 MR. WALDEN: In my experience and what I'm  
14 seeing here is you commoditize the product and then  
15 you go after the brand.

16 HTH, as I mentioned, is the world's most  
17 recognized brand of swimming pool sanitizer in the  
18 world. In certain parts of the world, South Africa in  
19 particular, it's actually used as a loss leader to  
20 pull people into stores, much like Coca Cola, and  
21 you're very familiar with that. So it's very  
22 recognized. It's always stood for the quality, the  
23 service that comes behind it. If you have a problem  
24 you can call here. You can call there.

25 If you go on-line today and you Google HTH,

1 the first 200 products that will come up will be out  
2 of China. They're trying to call cal hypo as HTH. So  
3 commoditize the product, commoditize the brand. And  
4 while we are vigorously attacking those trade  
5 infringes on the name and everything, what we see on  
6 the internet is they'll call it HTH, but when the  
7 packaging comes in it obviously will not have it, and  
8 if it does we'll take care of that issue on a separate  
9 matter.

10 So HTH has always stood for that service,  
11 the brand, the extra little things that go along with  
12 it, and that's what's being commoditized now as they  
13 go downstream in the retail channel. But the product  
14 itself, except for a few of the additives that we do  
15 to our product -- the good, better, best programs and  
16 everything we have -- it's essentially the same  
17 product.

18 Especially in the repacker industry that  
19 basically sell to we refer to them as the small  
20 entrepreneur that cranks up his pickup truck and he  
21 goes by the distributor, he buys cal hypo and he  
22 maintains your pool at a very low level.

23 MR. MALASHEVICH: The only thing I could add  
24 is from another product that the Commission is  
25 familiar with from earlier cases. For more than 10

1 years I was a trade consultant to Outboard Marine  
2 Corporation, which owned the Johnson and Evinrude  
3 outboard motor brands.

4 And essentially the same thing happened to  
5 them because in many parts of the world, just like we  
6 often say, and I hope I'm not getting in any trouble,  
7 let's go xerox something, you know. And in many parts  
8 of the world an outboard motor and Johnson, if you  
9 happen to be in the South Pacific and speaking French,  
10 were used interchangeably to describe the same thing.

11 So that's exactly what's going on here. Everyone is  
12 xeroxing cal hypo.

13 MR. HENDERSON: Thank you. And I don't want  
14 to duplicate what Ms. Lo has already asked, but we  
15 discussed the differences between the sodium and the  
16 calcium process.

17 Now, what is the stable bleaching powder?  
18 Is that something that are part of the subject  
19 imports, and does the domestic industry produce the  
20 stable bleaching powder?

21 MS. CLARKE: Rick, can you explain what  
22 stable bleaching powder is? Unless you'd rather I  
23 did.

24 MR. WALDEN: I'll try. There's two terms in  
25 there, and we'll just go ahead and throw them both on



1 the table. The semi hemi whatever it is.

2           Essentially cal hypo starts off as a wet  
3 product, okay, and then the more chlorine you add to  
4 it kind of differentiates what it is. We produce --  
5 Arch actually has the highest chlorine content process  
6 available for calcium hypochlorite. It's a separate  
7 process, and no one has been able to duplicate that  
8 yet. And it's in the 75 percent type range of  
9 chlorine availability.

10           Bleaching powder is in the range normally of  
11 about 35 percent. It comes in. It's not totally  
12 dried. It's not sized accordingly, and it's used  
13 wherever you need a low cost opportunity. It comes  
14 off the front end of the plant. The whatever --

15           MS. CLARKE: Hemi-basic.

16           MR. WALDEN: Yes. Hemi-basic is basically  
17 the wet cake that you produce in the manufacturing.  
18 So it's where you take the cutoff at the plant. The  
19 front end of the plant you get the low grade, low  
20 chlorine content. Then you get the wet cake that can  
21 be shipped and used in various processes.

22           A lot of industrial applications can use it,  
23 but you can't use it in your swimming pool because it  
24 has all the other carbonates and everything you don't  
25 want plating out in your pool equipment and everything

1 else. So it's all cal hypo. It has more to do with  
2 the chlorine content and then the dried packaging end  
3 state of the product itself.

4 MS. CLARKE: And what you also find is for  
5 bleaching powder in particular, because it is a lower  
6 available chlorine content, it is easier to ship and  
7 so you will frequently find high chlorine available  
8 cal hypo labeled as bleaching powder to avoid the  
9 shipping problems. And if you look at the  
10 confidential Injury Exhibit 5, the terms are  
11 frequently used interchangeably.

12 MR. WALDEN: Thanks, Peggy, for reminding me  
13 of that. Cal hypo is a Class III hazardous material  
14 after 60 percent available chlorine. Bleaching powder  
15 and everything else is below.

16 So it has been our experience and we have  
17 seen where the not above board people will ship you  
18 68 percent cal hypo, but they'll call it bleaching  
19 powder so they can get it on the different ocean lines  
20 when they can't get their preferred carrier to carry  
21 it. We have actually seen that.

22 MR. HENDERSON: Thank you. Just to  
23 clarify, my understanding is that of the subject  
24 imports coming in from China some would have been  
25 manufactured through the sodium process, some through

1 the calcium process. Some would be this legitimately  
2 stable bleaching powder, not just mislabeled, and some  
3 might be this hemi-basic whatever it is.

4 But in terms of what is produced  
5 domestically is that all sodium process or is there  
6 anything else that's produced domestically by the two  
7 domestic producers you mentioned?

8 MS. CLARKE: The two producers produce  
9 sodium process here in the U.S.

10 MR. HENDERSON: And are there -- I'm sorry.  
11 Go ahead.

12 MS. CLARKE: To follow up, they basically  
13 produce the high available chlorine and sell the high  
14 available chlorine sodium process cal hypo. They do  
15 not typically sell wet cake or bleaching powder. They  
16 finish the processing.

17 MR. HENDERSON: And what sort of variations  
18 are there among what's produced domestically by the  
19 two firms in the sodium process, in the way it's  
20 produced, or are there differences or is it --

21 MS. CLARKE: I suspect we would need to  
22 answer most of that in a confidential response, so if  
23 we could follow up with that in the postconference  
24 brief I think that would be best.

25 MR. WALDEN: And I really have not been

1 through the competitor's plant so I really can't  
2 answer a whole lot about what they do or do not.

3 MR. HENDERSON: And you talked about or I  
4 think you said that the cal hypo is sold in powder,  
5 tablet or crystalline form. Now, do the domestic  
6 producers produce cal hypo in all three of those  
7 forms?

8 MS. CLARKE: Yes, they do. Crystalline is  
9 the granular and that is where most of the product is  
10 sold, but they do produce both powder and tableted or  
11 compacted form.

12 MR. WALDEN: You produce the crystalline  
13 form and then you can form it into a tablet. It's the  
14 form of delivery, whether you want granular or you  
15 want a tablet. Most of the tablet goes into the  
16 industrial or the commercial area through specialized  
17 feeding systems.

18 MR. HENDERSON: Thank you. Now, in the  
19 petition it's discussed the various possible  
20 substitutes, and we've already mentioned chlor iso,  
21 which I couldn't even pronounce that much before this  
22 morning, and there are a number of other products  
23 mentioned -- sodium hypochlorite, lithium  
24 hypochlorite, et cetera.

25 We don't know yet what arguments, if any,

1 the Respondents may be making with respect to like  
2 product, and perhaps this is something that can be  
3 elaborated in the postconference brief, but there's  
4 some sort of summary statements in the petition about  
5 there are different production processes, clear  
6 dividing lines, the input is different.

7 And I guess I'd like to know a little bit  
8 more or have a little bit more on the record certainly  
9 about what these dividing lines are and what the  
10 differences are if this is an issue with respect to  
11 domestic like product.

12 MS. CLARKE: We can certainly expand on that  
13 in our postconference brief. I will note all these  
14 also came up in the Chlor Isos case, and there did not  
15 seem to be a concern about them from the public  
16 record. But we are happy to expand upon what we said.

17 Do you want some now?

18 MR. HENDERSON: Well, yes.

19 MS. CLARKE: Okay. Well, sodium  
20 hypochlorite is bleach. It's Clorox.

21 MR. WALDEN: Clorox is the xerox.

22 MS. CLARKE: Yes.

23 MR. WALDEN: I will try to explain it, and I  
24 would welcome anybody else's thoughts on this. But  
25 essentially bleach, sodium hypochlorite, in chlor isos

1 and cal hypo and any of these other products is a way  
2 to deliver chlorine to kill the bacteria and algae and  
3 all the bad things that you do not want in your water.

4 Each one has a different process. Sodium  
5 hypochlorite starts off with liquid chlorine and they  
6 react it with water and it basically comes in at about  
7 15 percent available chlorine content. The issues  
8 that you have with bleach is you're shipping a lot of  
9 water. It doesn't hang around very long. It's only  
10 15 percent available, so you've got to add a lot of  
11 bottles and everything to it, and as it degrades it  
12 produces perchlorates, and you really don't want  
13 perchlorates hanging around and everything else. So  
14 it has some very bad -- what I consider not desirable  
15 -- side products. So that's the bleach, if you will,  
16 the sodium hypochlorite.

17 The chlor isos is a cyanuric acid generated  
18 material, as you probably well remember that.  
19 Cyanuric acid has a tendency, after you build it up  
20 over time, and you will build it up over time, to  
21 cause chlorine lock. And if you have a crypto event  
22 then that chlorine lock will not allow the chlorine to  
23 kill the bacteria coming off of the cryptosporidium,  
24 so you have an issue with the chlor isos from that.

25 Cal hypo is not a cyanuric acid byproduct,

1 so you don't really build up any harmfuls. Cal hypo  
2 is also the only U.S. EPA approved product as a backup  
3 sanitizer for chlorine for your drinking water  
4 systems. So you can use direct chlorine. You can't  
5 use bleach. Or you can use bleach, but the  
6 perchlorates are becoming very much an issue. And  
7 trichlor is not permitted because it produces cyanuric  
8 acid that you don't want in your drinking water.

9 Cal hypo is approved because it doesn't have  
10 any of those side products that come into play. Does  
11 that help a little bit? Okay.

12 MR. HENDERSON: And you talked about the cal  
13 hypo being manufactured in powder or sold in powder,  
14 tablet or crystalline form. I take it in whatever  
15 form are these manufactured in common manufacturing  
16 facilities with production employees?

17 MS. CLARKE: Yes. Basically what you're  
18 producing is the crystalline form. Obviously some of  
19 the smaller particles of that would be powder, but  
20 once you produce crystalline you tablet it, and the  
21 vast bulk of the tableting done here in the U.S. is  
22 done by the two producers of the granular --

23 MR. HENDERSON: Right.

24 MS. CLARKE: -- because otherwise you have  
25 to buy the granular and tablet it. You compress it.

1 So, yes. They're produced in the same facility.

2 MR. HENDERSON: And they proceed through the  
3 same channels of distribution, or are there  
4 differences?

5 MS. CLARKE: They're the same.

6 MR. WALDEN: All the same channels.

7 MS. CLARKE: I don't know how to elaborate  
8 on that. They're the same channels. They go to the  
9 same customers.

10 MR. HENDERSON: And the customer and  
11 producer perceptions?

12 MS. CLARKE: As Rick indicated, the tablets  
13 are more often used for industrial, municipal uses.  
14 Once you select one you're going to prefer a tablet or  
15 granular because of the dispensing system.

16 You know, there's specific dispensers for a  
17 tablet. There's specific dispensers for granular. It  
18 may just be a scoop frankly, but -- so, yes. Once  
19 you've made that choice you've made it, but either can  
20 be used.

21 MR. WALDEN: The trichlor, the  
22 chlorisones, it is a very slow dissolving chlorine  
23 release. So you can put it in the feeders and the  
24 tablets make for a very good delivery system.

25 Cal hypo is a very fast release of chlorine.



1       If you put it into a tablet and you put it into your  
2 feeder system it's going to mush up on you very  
3 quickly. Basically it's a mess that people don't like  
4 to use, so the vast majority of the cal hypo is used  
5 as a shock.

6               So you can put the trichlor into your feeder  
7 system and you can shock with the cal hypo. They have  
8 combating pH requirements and everything else, so they  
9 can work in harmony in a pool as long as you keep them  
10 in separate dispensing systems.

11               So cal hypo will create a mess. If you have  
12 a trichlor feeder and you put cal hypo in that feeder,  
13 hopefully you've got it decontaminated quite well.  
14 But if you put it in there, your cal hypo is going to  
15 mush up on you in some type of tablet form, and  
16 normally the consumers don't like that.

17               MR. HENDERSON: Thank you. That's very  
18 helpful. With respect to the tableted product, and we  
19 know in the petition there's a statement about what  
20 percentage of cal hypo products sold in the United  
21 States is produced by the two companies. I want to  
22 get some more information on that.

23               I think the statement in the petition  
24 relates to the tableted cal hypo product sold in the  
25 United States. I would also be interested in the

1 percentage of that produced in the United States.

2 MS. CLARKE: Of? Okay.

3 MALE VOICE: Go ahead.

4 MS. CLARKE: Again, that is going to be  
5 confidential information so I cannot --

6 MALE VOICE: It's in the petition.

7 MS. CLARKE: Yes. We gave you what we had.  
8 We're happy to expand and provide support for our  
9 numbers, but the vast -- again, in terms of the cal  
10 hypo produced in the United States, less than a  
11 quarter of that is tableted. In terms of cal hypo  
12 sold in the United States, less than a quarter of that  
13 is tableted. It's very similar.

14 And in terms of produced by, it's mostly  
15 produced by the two producers of granular. In terms  
16 of sold by, it is mostly sold by the two producers of  
17 granular. I'm not sure what information in addition  
18 you would like.

19 MR. HENDERSON: And again realizing that  
20 some of these questions may have to be addressed in  
21 the postconference brief.

22 MS. CLARKE: Right.

23 MR. HENDERSON: First, apart from the Arch  
24 and Axiall, roughly how many other companies are there  
25 in the United States that tablet cal hypo?

1 MS. CLARKE: I actually did ask this. Our  
2 understanding is there's two other companies that  
3 might, and at least one of them may be doing toll  
4 processing for these companies.

5 MR. HENDERSON: And the toll processing is a  
6 relationship with one or both of the --

7 MS. CLARKE: Right.

8 MR. HENDERSON: -- domestic producers?

9 MS. CLARKE: Whereby they take the company's  
10 granular product under contract, compress it. It  
11 remains product of the granular manufacturer, and just  
12 the servicing, the compacting --

13 MR. HENDERSON: Right.

14 MS. CLARKE: -- is being done by the other  
15 producer.

16 MR. HENDERSON: Thank you. And do these  
17 tableters also blend the product with other chemicals?

18 MS. CLARKE: They can. Our understanding is  
19 outside of Arch and Axiall they actually don't at this  
20 point in time. We're not familiar with other blended  
21 product on the market. Is that correct, Rich?

22 MR. WALDEN: To the best of my knowledge,  
23 although I'm sure there's an exception to the rule out  
24 there. But it's rare.

25 MR. HENDERSON: And I know there is in the

1 petition a bracketed statement about the estimate of  
2 what the value added is from the tableting, and  
3 without obviously revealing any confidential  
4 information certainly at this conference I'd  
5 definitely like to know.

6 I mean, I don't see a citation for this  
7 statistic, so would like to have some more information  
8 about that statistic, how it's derived, what source we  
9 can rely on, the Commission can rely on for that  
10 information.

11 MS. CLARKE: Yes. And we will provide the  
12 confidential detail in the postconference brief if  
13 you'd like, but it's basically derived from Arch's own  
14 experience and its own cost of production for tablet  
15 versus granular. That's basically what it is.

16 MR. HENDERSON: Okay. Thank you. And as  
17 you know, the Commission has a number of factors it  
18 has to look into, and I'm sure you've read the  
19 Chlorinated Iso opinion carefully.

20 And again not knowing exactly what arguments  
21 the Respondents might make, if any, with respect to  
22 this issue I would ask you to address those factors, I  
23 mean, in a level of detail, depending on how relevant  
24 it appears, but so that the Commission can have the  
25 information it needs to address these factors.

1 MS. CLARKE: Yes. Absolutely.

2 MR. HENDERSON: Thank you. I guess this has  
3 already been addressed by Mr. Malashevich, but I just  
4 wanted to double check in terms of a statement in the  
5 petition with respect to nonsubject imports.

6 The petition states that nonsubject imports  
7 are commercially insignificant except for imports from  
8 India, which are becoming more significant and are  
9 being closely watched. And my understanding from the  
10 earlier testimony is that nonsubject imports are not  
11 really a factor. I just wanted to get some  
12 clarification on this.

13 As you know, the Commission has to look into  
14 possible other sources of injury, and we just wanted  
15 to see whether there's any issue with respect to  
16 nonsubject imports from India or elsewhere as a  
17 possible other source of injury. Thank you.

18 MS. CLARKE: Yes.

19 MR. HENDERSON: Go ahead.

20 MS. CLARKE: India, as you can see, is the  
21 only thing resembling. It's still very small. The  
22 quality is low, and the prices are higher, frankly,  
23 than we're facing from China, so at the moment they do  
24 not see it as causing them injury. They are keeping  
25 an eye on it. Obviously if it grows they will, but

1 they don't necessarily think that it will.

2 MR. HENDERSON: Thank you.

3 MR. MALASHEVICH: Excuse me. Just to add  
4 one point, as I mentioned earlier in my testimony, and  
5 Mr. Walden could add if he would like, but also in the  
6 case of India the quality is not there to become more  
7 significant than they are, which is quite small. At  
8 the moment it's a very limiting factor in expanding  
9 sales here, but that can change. We don't see it yet.

10 MR. WALDEN: I think my personal opinion,  
11 which I know is always dangerous to give personal  
12 opinions. My personal opinion is that the quality is  
13 improving.

14 It will soon be there, but they do not have  
15 the shipping lines that others have and enjoy, so they  
16 have the same level playing field that we have when it  
17 comes to international shipping.

18 MS. CLARKE: And then just to answer on  
19 other countries, Mr. Walden can go into more detail,  
20 but basically the other manufacturers of this are in  
21 Brazil and South Africa, and they are Arch.

22 MR. HENDERSON: Thank you. One of the  
23 things, and my colleagues may be asking about this as  
24 well, and I certainly don't mean to preclude their  
25 more intelligent questions on this, but there was a

1 reference in the Respondents' counsel's opening  
2 statement with respect to there may be certain  
3 customers or low margin sales that the domestic  
4 industry is not interested in selling to.

5 Again, I may be mischaracterizing what was  
6 said this morning, but in any event my question and  
7 whatever you heard or thought you heard Respondents'  
8 counsel saying, I'd be interested in your reaction to  
9 this assertion.

10 MS. CLARKE: Rick, if you can answer whether  
11 there's any customer you are uninterested in?

12 MR. WALDEN: Probably the word I really want  
13 to use I probably shouldn't, but no. We have sold to  
14 everyone available out there and will sell to anybody  
15 out there.

16 We sell to the repackers. We sell to  
17 distributors. We haven't really met a customer that  
18 -- you know, as long as the channels and brands are in  
19 the avenue that do not harm us then we have no issues  
20 with it.

21 MR. HENDERSON: Thank you. One last  
22 question and something I did not notice in the  
23 petition, but I wanted to call to your attention, and  
24 again not to quibble with the petition, but the  
25 question of whether there have been prior trade remedy

1 proceedings with respect to calcium hypochlorite.

2 I found myself when you Google it, to use a  
3 company name, that in fact there was an antidumping  
4 order on Calcium Hypochlorite from Japan in 1985, a  
5 U.S. order that was revoked the first five-year review  
6 effective I think January 1, 2000, although don't take  
7 my word for it, for want of domestic industry response  
8 to the first five-year review notice.

9 In any event, I would obviously want to  
10 alert both sides to this and invite them to review the  
11 Commission's opinion and the other information in the  
12 Commission's public report from that 1985 proceeding,  
13 realizing it was 30 years ago or almost 30 years ago,  
14 but if there's anything relevant or -- the answer may  
15 be no, but anything that either side would want to  
16 direct the Commission's attention to I'll give you  
17 information that I have.

18 MS. CLARKE: I would appreciate that because  
19 when I Googled it I did not find that.

20 MR. HENDERSON: Calcium Hypochlorite From  
21 Japan, 731-TA-189. That's 731-TA-819. U.S. ITC  
22 Publication 1672. 1672. That's April 1985.

23 MS. CLARKE: Okay.

24 MR. HENDERSON: And so again, I would invite  
25 both sides to review that Commission report and let us



1 know if you think there's anything relevant that the  
2 Commission should be looking at from that earlier  
3 opinion. Thank you. That's all I have for now.

4 MS. DeFILIPPO: Thank you, Mr. Henderson.  
5 I'm not sure if our EDIS search goes back that far, so  
6 if you're having difficulty finding it I think we  
7 probably have --

8 MR. HENDERSON: Yes.

9 MS. DeFILIPPO: -- in the library a copy, so  
10 email me and I can get it to whoever is interested in  
11 having a copy.

12 MR. HENDERSON: I can attest that the  
13 Commission public report is a Google book. Google  
14 would invite you to purchase it.

15 MS. DeFILIPPO: I can give it to you for  
16 free.

17 MR. HENDERSON: Yes.

18 MS. DeFILIPPO: Although I might have to  
19 check the price and see. Thank you, Mr. Henderson.  
20 We will now turn to Mr. Fetzer for questions.

21 MR. FETZER: Thank you. And I would like to  
22 thank the witnesses for coming today, and I'd also  
23 like to thank the Petitioners for all the information  
24 in the petition. I found it really helpful. I'm  
25 going to follow up on a few of those points.

1                   First of all I wanted to follow up on Mr.  
2                   Henderson's question about branding and commodity  
3                   product. And, Mr. Walden, your response was basically  
4                   there's no physical difference but that there are some  
5                   differences in additives, quality and service. If you  
6                   could elaborate on that, particularly the importance  
7                   of those, just to get a sense?

8                   I also struggled with the commodity versus  
9                   importance of branding. So particularly with the  
10                  additives, how important are they? If you could just  
11                  comment on that?

12                 MS. CLARKE: What percentage of your market  
13                 is additives?

14                 MR. WALDEN: Well, I don't really want to go  
15                 into a lot of the confidential things of what we do  
16                 and what we blend with and what kind of marketing  
17                 claims may or may not be out there.

18                 But keep in mind that we sell to the pool  
19                 dealers and we sell on a good, better and best  
20                 strategy, and each one of those have different  
21                 available chlorine contents. They have different  
22                 additives we put in there to give mineral brilliance  
23                 to the water and different things. So you can have a  
24                 good, better, best product in your store, and  
25                 basically it's a price differentiated product that we

1 go with there.

2 When you go into the repackers and  
3 everything essentially they are selling to the people  
4 that maintain their pools and everything, and they're  
5 not really interested in those. You can buy those  
6 with other X, Y and Z products.

7 So when you really look at delivering  
8 chlorine as a sanitizer to your pool the product  
9 itself is cal hypo, is cal hypo, is cal hypo. It all  
10 depends on whether it's 45 percent, 58 percent,  
11 65 percent, 68 percent or the super product, which is  
12 75 percent. So it has to do more with available  
13 chlorine content than anything else.

14 MR. FETZER: So the additives are changing  
15 the chlorine content to --

16 MR. WALDEN: Well, the chlorine content  
17 changes itself, but we also have some additives. We  
18 add algicides to some of our products so there's some  
19 blending and everything that we can do to give you  
20 more efficacy out of the product that you buy with our  
21 brand.

22 MR. FETZER: So efficacy in terms of?

23 MS. CLARKE: Just I think to answer briefly,  
24 some of the additives will add slightly additional  
25 other functions to the pool such as if you had a

1 flocculent it would help clarify the water more. It  
2 clumps things for filtering better. If you add an  
3 algicide it will further enhance the bio side  
4 sanitization level of the chlorine. It enhances the  
5 use of the chlorine.

6 But while this is there, you will still find  
7 pressure because these are small, incremental  
8 improvements in the use. You will find that the  
9 unbranded or the more commodity straight cal hypo will  
10 continue to put price pressure on these products as  
11 well.

12 MR. WALDEN: So we have capabilities of  
13 blending other product with it to help maintain that,  
14 but when you walk into a store and you're looking for  
15 a shock product for your pool, more than likely the  
16 pool owner or the shop owner is going to direct you to  
17 a calcium hypochlorite shock and it's going to be  
18 varying strengths of chlorine -- 45, 68, 75. Good,  
19 better, best.

20 MR. FETZER: Does the filtering system  
21 matter, I mean, in terms of do you have to worry about  
22 things getting clogged up or something? No?

23 MR. WALDEN: Not really, unless you're using  
24 that bleaching powder or some very low grade that has  
25 a lot of carbonates in there.

1 MR. FETZER: Okay.

2 MR. WALDEN: Actually, cal hypo is a very  
3 quick dissolving with low residue remaining, and the  
4 chlor isos are very slow dissolving with little to no  
5 residue remaining.

6 MR. FETZER: Okay. Thanks. I appreciate  
7 that. In terms of the service, what kind of service  
8 differences would you provide? What type of service  
9 in general would someone have with cal hypo? I assume  
10 it's some type of wholesale service, right? Could you  
11 elaborate, whatever it is?

12 And if any of this is confidential you can  
13 respond in your brief too. I'm not trying to push you  
14 to --

15 MR. WALDEN: No. When you go it's very  
16 simple. We operate 24 hours a day, seven days a week,  
17 a call hotline for your pool. If you have an issue  
18 with your pool, you'll call us up and we'll help you  
19 get your pool back in order, okay?

20 If you have any concerns with anything that  
21 goes on, whether it's our product or somebody else's,  
22 then you call in this hotline, somebody will greet  
23 you, they'll ask you what your problem is, and they'll  
24 walk you through the steps to get your pool back in  
25 order and everything else. So that's one of the big

1 services we supply. Health and safety concerns, if  
2 there's any out there.

3 We go into the pool stores and we will train  
4 the pool people how to properly maintain the pools,  
5 how to properly -- we actually certify the technicians  
6 in the pool dealer chain on how to properly analyze  
7 your water. We supply the system that analyzes your  
8 water that comes in to the pool shop owner. Also we  
9 do that for the retail channels.

10 Ace Hardware. You can go into Ace Hardware  
11 and take your sample of water and they'll do an  
12 analysis for you, and we sell and service that machine  
13 that analyzes that water that gives you feedback.  
14 This is the balance of your water, the pH, alkalinity,  
15 chlorine content, free, locked up, cyanuric acid. We  
16 go through the whole gambit. There's about 12  
17 different analyses that you can do. So we service and  
18 maintain the system that allows those owner/operators  
19 to do it.

20 Those are a lot of the services that we  
21 supply to the people out in the retail market actually  
22 selling. We really don't sell to the public in any  
23 particular form. We sell to somebody else that sells  
24 to the public.

25 MR. FETZER: Okay. That's helpful. The

1 hotline. What kind of things come on the hotline? If  
2 there's like an algae problem or something? I mean,  
3 I'm just trying to get a sense of the type of things  
4 that might come up. I guess I'm not familiar with --

5 MR. WALDEN: Go Google on YouTube. There's  
6 some interesting things that happen, and there's some  
7 rather comical people that have actually videoed. We  
8 have a product that's called Green To Blue. Many  
9 times you'll get algae, and if you really want a kick  
10 out of one of the YouTube videos Goggle that one.

11 The guy calls up the hotline. We tell him  
12 what to go and do, and he has a pool that's literally  
13 green and using our product -- it's algae. And using  
14 our product and the system to go through he turns it  
15 to blue within a matter of about 36 hours and  
16 everything. So we'll walk you through those issues.

17 If you've ever been a pool owner -- how many  
18 people in this room have actually owned and operated a  
19 pool?

20 MS. DeFILIPPO: That is a problem with this  
21 area. That is a problem with this area. Yards are  
22 small. People belong to pool clubs.

23 MR. WALDEN: It's a nice service to have.  
24 My first pool, and I didn't run the business at that  
25 time, was the most frustrating experience I think I

1 ever had. I said what is alkalinity? And they're  
2 combating. You've got to get them in the proper  
3 order, the proper sequences, and if you don't you  
4 won't go into your green pool.

5 MR. FETZER: Thanks. That's very helpful.  
6 You did mention quality too, and I was wondering. Did  
7 that just refer to the additives, or were there other  
8 quality differences with the HTH or other branded  
9 product?

10 MR. WALDEN: Over the years, as other  
11 producers around the world were learning how to  
12 produce their product there was a lot of contaminants,  
13 if you will, in the product, carbonates. They really  
14 didn't react it right.

15 You start off with a chlorine content in  
16 your cal hypo of 70 percent say, and by the time it  
17 got to the store it would be like 40 percent. And I  
18 think if you read in the petition the analysis of this  
19 is really not simple to do, so the common pool store,  
20 the owner or anybody else, they're not really going to  
21 know that.

22 So we were able to replicate that and just  
23 show you're paying for this much chlorine content when  
24 in reality you're getting this. And at the end of the  
25 day -- at the end of the day -- it's the amount of



1 chlorine you put in your pool to keep a residual of  
2 one to four parts per million that does the work to  
3 keep the bacteria out.

4 You can have a very clear looking pool and  
5 be very contaminated. So clear water doesn't  
6 necessarily mean clean water, okay?

7 MR. FETZER: Okay. Yes. That's helpful.  
8 If I owned a pool I'd probably want to have those.

9 MS. DeFILIPPO: You'd be on the hotline.

10 MR. FETZER: Yes. I'd be on the hotline.  
11 I'd want to know what to do to get that clear water  
12 thinking.

13 MR. WALDEN: We operate a staff of about 50  
14 people during the peak pool season --

15 MR. FETZER: Wow.

16 MR. WALDEN: -- to answer all the calls that  
17 come in. We answer over 5,000 calls a month.

18 MR. FETZER: Wow. Well, thanks. That was  
19 very helpful in terms of the branding.

20 MR. WALDEN: Okay.

21 MR. FETZER: I think I understand it better.

22 In the petition and also you talked about today that  
23 the contract obligations are the price is set,  
24 although I guess it can be renegotiated, but the  
25 purchase volumes aren't.

1           I was just wondering where that's coming  
2 from. Is that like just because demand is so  
3 unpredictable? You know, is there some historical  
4 reason for that?

5           MS. CLARKE: Do you have an answer?

6           MR. WALDEN: You never know what the season  
7 is going to get into. Like this past year was a very  
8 rainy, wet season. The entire market was down so the  
9 volumes were down, but that affects all people.

10           What normally happens when you have those  
11 deteriorating market conditions of people not using  
12 the product because it's too cold to get in the pool  
13 is that what happens is the producers will start  
14 competing very dearly on price just to move their  
15 production that they've already made and try to get it  
16 out there. But we all compete with the same market  
17 conditions, the economic conditions, whatever out  
18 there.

19           MR. FETZER: Okay. That's helpful. Could  
20 you comment about how demand has changed since I guess  
21 2010 is our period of investigation here and also how  
22 it's changed in other ways for us to take a look at it  
23 in terms of are there public price series or demand?

24           You know, sometimes we look at GDP. Some  
25 people say GDP drives their industry. Or other

1 indicators out there? Maybe it has something to do  
2 with the pool industry, which there might not be a lot  
3 of public information on. Mr. Malashevich?

4 MS. CLARKE: Bruce, can you?

5 MR. BISHOP: I'm not aware of any. That's  
6 not to say it might not be out there, but as we  
7 normally do we do an internet search and look for  
8 possible data sources. And conceivably there's some  
9 private market grouping study out there, but I'm not  
10 aware of one apart from the document that was appended  
11 to the petition concerning the Chinese industry  
12 producing cal hypo.

13 I don't know. Rick? The demand numbers,  
14 best as we could estimate them with the information we  
15 had, are in our apparent consumption table in the  
16 petition. I'm not aware of any better source than  
17 that other than what might be calculable from the  
18 questionnaire record in this case.

19 MR. FETZER: Mr. Walden, are there things  
20 that you look at when you're gauging demand in terms  
21 of -- or is it just unpredictable?

22 MR. WALDEN: Any market is really  
23 unpredictable from time to time, but we do try to do a  
24 historical prediction. We do try to predict what the  
25 economic growth is going. There are services out

1 there trying to get their arms around the number, the  
2 exact number of pools. Not every state requires you  
3 to get a permit where you put a pool in.

4 There are competing technologies out there,  
5 salt chlorinated generators, another method to deliver  
6 chlorine, UV treatments. You know, it's very hard to  
7 get your arms around the number of gallons of  
8 treatable water that's out there. And keep in mind,  
9 it's not only swimming pools and spas. It's also the  
10 industrial consumption too.

11 And many parts of the United States today  
12 are converting away due to the concern with using  
13 liquid chlorine and the concerns that I mentioned with  
14 sodium hypochlorite away from the bleach and going to  
15 backup systems for safety aspects. It's a very  
16 fragmented market, but essentially it's the  
17 sanitization/disinfection market for water treatment.

18 MR. FETZER: Okay. Thank you. Raw material  
19 prices. Can you characterize trends in those? And  
20 again, is there any public information out there that  
21 we could be looking at in terms of how those prices  
22 have changed during our period of investigation? If  
23 it is confidential, then you can respond  
24 confidentially too.

25 MR. MALASHEVICH: I think the best way to

1 deal with our question, if I may, is let's go back.  
2 I'll go back and look at petition -- I don't have that  
3 with me now -- and the questionnaire response.

4 Of course there's the profit and loss  
5 statement from the producers' questionnaire that would  
6 allow you to look at average unit raw material prices,  
7 but we'll see if we can get a time series for the  
8 individual components of raw materials. Let us  
9 consult internally on that and provide what we can  
10 posthearing.

11 MR. FETZER: Yes. No, I guess my question  
12 was more -- I mean I know you have, in the  
13 questionnaire we asked about raw material trends and  
14 all and we asked for data, but if there was just  
15 general data out there that we, you know, oftentimes  
16 we like to look at that, too. Just, that's more the  
17 question.

18 I mean I don't mean for you to repeat what  
19 you did in your questionnaire response but is there  
20 more general stuff that sometimes we can talk about  
21 publicly in the report? If there's, you know, if  
22 there are known raw materials that have public price  
23 series that, you know, we can -- that's more the line  
24 of my question.

25 Or if there's a way to say -- sometimes

1 there's a clear trend, this raw material's really  
2 going up, and it's something very striking or --  
3 that's the --

4 MR. MALASHEVICH: I know. You're looking  
5 for a third-party time series that's specific to the  
6 raw materials and consumed in this industry. I  
7 understand what you're looking for. We'll do our best  
8 to identify some sources.

9 MR. FETZER: Okay. I'd appreciate that.  
10 Thanks. This morning, just to pull up on one of the  
11 points Ms. Chen brought up, in addition to the low  
12 margin sales point that Mr. Anderson asked about there  
13 was also, she made a comment about cash rebates and I  
14 wondered if you had any comments on that.

15 Again, if it's confidential you can respond  
16 confidentially. If there's cash rebates, or if they  
17 happen, if it's a big deal in your sale.

18 MR. MALASHEVICH: I can answer that, I  
19 think. The questionnaire, as is typically the case  
20 for producers and importers, has very specific  
21 instructions in a footnote. Make sure you eliminate  
22 discounts, rebates. There's a list of half a dozen  
23 price-related measures.

24 Not only did I discuss with the relevant  
25 Arch personnel, call their attention specifically to

1 each of those items and stressing how important it  
2 was, but we have a certified public accountant, a cost  
3 certified accountant actually do a mock audit of the  
4 producer questionnaire response before it was  
5 submitted to the Commission. He found everything was  
6 consistent with the Commission's instructions.

7 MR. FETZER: Okay. I appreciate that. But  
8 if you could, and even if it's posthearing, comment on  
9 -- and I haven't, I don't know from your questionnaire  
10 response if you have. You know, you've made comments  
11 about cash rebates.

12 I mean I understand you're saying they're  
13 netted out of the price data but if they, still, if  
14 they are in play, it would be good to know. It's  
15 probably in your questionnaire response, and I haven't  
16 seen that, but if there's anything you'd like to add  
17 in response to or point or, I invite you to respond to  
18 it in postconference.

19 MS. CLARKE: Once we hear the full comment,  
20 we will certainly respond in our postconference brief,  
21 but your questionnaire does ask about rebates, and we  
22 did answer.

23 MR. FETZER: Okay. I apologize because I  
24 don't have the response in the top of my head.

25 MS. CLARKE: But I believe there's a

1 question in there asking are there rebates.

2 MR. FETZER: You brought up the issue of the  
3 COSCO shipping. Mr. Walden, you made the point that  
4 they wouldn't, I guess it's they wouldn't allow you to  
5 ship. I just wanted to understand. Was that Cal  
6 hypo, and was it exports? Because I don't think you'd  
7 be needing their shipping for shipping into the U.S.  
8 So that comparison in terms of the availability for  
9 that --

10 MS. CLARKE: I can answer that. If you go  
11 to Volume 3 of the petition to the specific subsidy  
12 allegation you will see that there are confidential  
13 exhibits there that give the exact details on what  
14 COSCO has and has not shipped, both refusal to ship  
15 Arch material and is Cal hypo, and how much they ship  
16 for, you know, in a shipment, et cetera, for the  
17 Chinese producers.

18 MR. FETZER: I guess my follow-up question  
19 on that, I understand the relevance in terms of Mr.  
20 Malashevich's argument that it's a subsidy and, you  
21 know, the Commission needs to look at the subsidies,  
22 but I don't know that I understand the relevance in  
23 terms of being denied the ability to use that. Or  
24 even if you had been able to use it, then does that  
25 really affect what's going on in the U.S. market? It



1 may affect export shipments.

2 That's what I was getting at. What are we  
3 talking about, you know, in terms -- I mean it doesn't  
4 sound fair, I mean, you know, but in terms of we're  
5 looking at the impact in the U.S. market, I understand  
6 the subsidy part of the argument but I don't know the  
7 refusal for them to ship.

8 It sounds like it's affecting your  
9 operations in other, other aspects of your operations,  
10 I guess. That's kind of what my, what I'm getting at.

11 MR. MALASHEVICH: I'll take a shot at that  
12 and then invite my colleagues to add to it. It goes  
13 back to my point that this is a product that -- it's a  
14 bit of a stretch, but it's like cement that's been  
15 studied by the Commission, I don't know, a dozen times  
16 perhaps in the last few decades.

17 Freight is a much more significant share of  
18 total cost in moving the product to the purchaser,  
19 wherever that might be. That is particularly true  
20 internationally as well.

21 It's not just a matter of the price per kilo  
22 in a 2,000 pound container, it has to do with the fact  
23 that there are, special handling procedures and  
24 equipment are required from the point of the freight  
25 ship owner in order for it to be lawfully moved across

1 the water.

2           Among the various freight carriers in the  
3 world there is a small subset who have the capability  
4 physically to do that. The subset is made smaller by  
5 the fact that some of those carriers, as capable as  
6 they may be, simply don't want to handle the risk of a  
7 problem happening that would cause tremendous  
8 liability to them.

9           So you're in a world that under the best of  
10 circumstances you're -- I'm making these numbers up.  
11 If it's 20 cents per kilo to ship across the Atlantic,  
12 or the Pacific, or wherever, in the normal case  
13 there's a substantial premium above that for shipping  
14 Class 3 material. That gets, goes directly into the  
15 price of the product to the purchaser.

16           So yes, while the, we're not talking about  
17 any market other than the U.S. market for purposes of  
18 this investigation, the documents we provided are a  
19 very good measure of the degree to which this  
20 particular subsidy reduces the Chinese price to the  
21 United States simply because of that particular  
22 subsidy to a component of the total delivered cost  
23 that is very significant percentage-wise.

24           So if you reduce that percentage, you reduce  
25 the price of the product owing directly to the subsidy

1 involved. I'm not aware of the Commission, or  
2 Department of Commerce for that matter, investigating  
3 this particular subsidy because the relevant documents  
4 are so difficult to obtain.

5 So we're dealing with a player that is  
6 selling in the U.S. market at a very low price and  
7 undercutting the domestic material due in significant  
8 part to this particular savings in freight costs that  
9 are granted only to specific Cal hypo Chinese  
10 producers, and explicitly, we are denied access to it  
11 in shipping our product from wherever, South Africa,  
12 Brazil, the United States, other markets.

13 So it's a structural damage to the pricing  
14 mechanism owing directly to this subsidy, in addition  
15 to the dumping, in addition to other subsidies that  
16 might be found and counteravailable. I hope that  
17 answers your question.

18 We use the documents in the petition to  
19 measure the degree of the subsidy, using international  
20 freight rates to wherever as the norm against which we  
21 compare the Chinese special freight charge.

22 MS. CLARKE: And if I could elaborate a  
23 little bit. While most shipping in the U.S. obviously  
24 is by truck -- that's true within the continental  
25 United States -- they do ship in the U.S. Now, they

1 wouldn't necessarily ship on COSCO anyway probably to  
2 Puerto Rico, Hawaii, but they do have to incur  
3 shipping costs there.

4 They have to maintain high logistic expenses  
5 to manage the shipping when they don't have access  
6 because obviously the shipping management is done for  
7 all their markets.

8 Out of the same operation in the U.S. they  
9 have to maintain massive administrative support on the  
10 logistics side because of their limited shipping  
11 abilities that the Chinese don't have which also  
12 prevents them from, as they get displaced in the U.S.  
13 market they can't -- remember, they have to maintain  
14 their plant operating 24/7.

15 They have to find someplace for that product  
16 to go. They can't necessarily just expand it into  
17 export markets when they don't have the same access to  
18 the shipping that their Chinese competitors have, and  
19 then the Chinese competitors are coming in and taking  
20 their market in the U.S. as well.

21 MR. FETZER: Okay. Thanks. Think that's  
22 helpful. I just wasn't sure what -- I mean I  
23 understood the, like the subsidy angle, but the other  
24 side, I wasn't quite sure what, would your, you know,  
25 beyond that. If there were other aspects to it. So

1 that was helpful.

2 Going back to the branded versus unbranded, the  
3 one question I forgot to ask, could you estimate what  
4 the premium for branded is in maybe both like sort of  
5 the historical, if you will, before it was being  
6 commoditized and maybe at the present in terms of what  
7 degree.

8 And these could be rough numbers, they don't  
9 have to be exact, but just to give us a sense of what  
10 the magnitude of that is. If it's something -- I  
11 don't know if you have to do it confidentially.  
12 That's fine.

13 MR. MALASHEVICH: Just in our brief  
14 discussion on this point, we'd like to answer that in  
15 posthearing on a confidential basis.

16 MR. FETZER: Okay.

17 MS. CLARKE: It would require us to examine  
18 the pricing.

19 MR. FETZER: Okay. Thanks. I appreciate  
20 that. Let's see. I think that's it. All I can think  
21 of for now. So thank you for your responses. I  
22 really appreciate them. They've been very helpful.

23 ALL: Thank you.

24 MS. DEFILIPPO: Thank you, Mr. Fetzer.

25 Mr. Boyland, questions for this panel?

1           MR. BOYLAND: Yes. Thank you for your  
2 testimony. A number of my questions are BPI, they're  
3 company-specific to the financials so that I can't ask  
4 them here, so I'll submit those separately and  
5 hopefully you can respond in your postconference  
6 brief.

7           I did have a few general questions which I  
8 don't think are BPI, so I guess the first one would be  
9 with respect to the two U.S. producers, do they serve  
10 separate markets geographically or in terms of  
11 channel?

12           MR. WALDEN: No. Same market, same  
13 channels.

14           MR. BOYLAND: No significant difference --

15           MR. WALDEN: No significant differences.  
16 True competition.

17           MR. BOYLAND: Okay. I sort of skipping  
18 around here but I wanted to sort of tie in to Jim's  
19 question about the hotline. I guess as I interpreted  
20 it, this would be sort of a separate profit center.  
21 It's not specific to what we're looking at.

22           MR. WALDEN: I wish it was a profit center.  
23 People don't pay when they call in to get advice.

24           MR. BOYLAND: Okay. So when you service,  
25 it's sort of, I mean I'm interpreting that to be --

1           MR. WALDEN: We try to protect the health of  
2 the individuals and the enjoyment of swimming  
3 enthusiasts no matter what they've used in their  
4 product. Now don't get me wrong. When they call in  
5 we'll try to steer them to properly, use good quality  
6 products and everything but, and we'll get a lot of  
7 intelligence, but we will not -- if someone calls up  
8 and they say that they're using X, Y and Z product, we  
9 will not refuse to answer the questions.

10           MR. BOYLAND: Okay. I guess I was sort of  
11 looking at it broadly in terms of the things that you  
12 described, the machinery for testing that Ace Hardware  
13 had. Sort of broadly, in terms of the financial  
14 results that are being reported, am I correct to  
15 interpret that none of that activity is being  
16 reflected?

17           MR. WALDEN: No.

18           MR. BOYLAND: I guess just as a general  
19 matter, and again sticking with SG&A, and I'll try to  
20 keep this as sort of a general question, but the  
21 Commission does look at different industries and the  
22 SG&A ratio of solar panels versus pipe is not going to  
23 be the same. They're different industries.

24           I guess so the first question would be could  
25 you give me a little bit more of a background in terms

1 of what the selling structure is like within the  
2 organization such that we're yielding these as  
3 reported SG&A ratios? And that's kind of a general  
4 question.

5 If you could answer it here or -- I guess  
6 the point would be we're seeing a trend. We're seeing  
7 ratios that are specific to, again, one company at  
8 this point. I'd like to have a little more context in  
9 terms of why those ratios are at the level that they  
10 are. That may be better for postconference.

11 Again, it's sort of looking at it to say,  
12 okay, in the industries that we look at, typically  
13 we'd see this ratio, in this industry we see this  
14 ratio. I guess I'm trying to get a sense of what's  
15 behind that number in terms of the marketing  
16 structure.

17 It could relate to these cash rebates, it  
18 could be a number of different things, but we're  
19 seeing a specific pattern and I'd like to know I guess  
20 from your perspective is the selling very intensive in  
21 this industry? Is it something that you have a large  
22 outside sales force?

23 MR. MALASHEVICH: I think the best response,  
24 Mr. Boyland, and I understand what you're getting at,  
25 but the person who is in the front line of preparing



1 that information in the finance department is not here  
2 today, so I'm just going to have to circle back and  
3 push in on that.

4 MR. BOYLAND: That's fair. I realize that  
5 was probably what --

6 MR. WALDEN: I'm not sure where you're  
7 coming from but there are over 10,000 pool dealers in  
8 the United States.

9 MR. BOYLAND: Yes, I think that's part of  
10 the response. I mean, again, it's we're dealing with  
11 a different industry and it's sort of, I think,  
12 helpful for the Commission to understand why this  
13 ratio is what it is, so I think that would be sort of  
14 a question. I'll put it into maybe more specific  
15 terms. So a postconference response would be helpful  
16 and appreciated.

17 MR. WALDEN: Kind of ties back as we try to  
18 sell to anybody and everybody, and just pool dealers  
19 alone, there's over 10,000 in the United States, okay?

20 MR. BOYLAND: Okay. Well, sort of along  
21 those lines, during the period did product mix change  
22 at all significantly in terms of the share of granular  
23 versus tablet versus powder? Did it stay about the  
24 same? Or was it -- did it change?

25 MR. WALDEN: I don't think that we've had

1 any change throughout the period.

2 MR. BOYLAND: I guess I'm kind of thinking  
3 more of a significant change. I mean, I realize  
4 there's going to be a difference from period to  
5 period, but I guess something that would be large  
6 enough to impact the average value that we'd  
7 calculate.

8 MS. CLARKE: We can look at the breakdown in  
9 our postconference brief. We'd have to look at it. I  
10 don't believe there was a particular shift in product  
11 mix, but we can double check that.

12 MR. WALDEN: Yes. Nothing comes to my mind.

13 MR. MALASHEVICH: This is Bruce Malashevich.  
14 I can't speak to any changes between tablet and  
15 granular, et cetera, but I did review data on the  
16 distribution of U.S. shipments by channel and I didn't  
17 see any significant change relatively. You know,  
18 percentage going into this channel or that. That's  
19 tracked in the normal course of business by Arch  
20 personnel.

21 MR. BOYLAND: Okay. Thank you. I guess  
22 sort of related to that would be customer mix. You  
23 referred to this, you know, the retail channel, the  
24 channel that you're getting the premium on the product  
25 versus the repackers and distributors. Within that,

1 and I realize we may sort of have asked it, but from  
2 your standpoint, was there a shift, a notable shift,  
3 during the period?

4 MR. WALDEN: No.

5 MR. BOYLAND: Was about the same.

6 MR. WALDEN: About the same.

7 MR. BOYLAND: Okay. This is sort of getting  
8 to a question that Jim had. Raw materials. Is it  
9 correct to assume that chlorine is the primary raw  
10 material?

11 MR. WALDEN: Yes. Chlorine and energy.

12 MR. BOYLAND: Okay. Energy, being  
13 electricity or --

14 MR. WALDEN: Electricity.

15 MR. BOYLAND: Okay. That was my next  
16 question.

17 MR. WALDEN: Simply, chlorine is a way to  
18 deliver energy to kill bacteria versus electricity.

19 MR. BOYLAND: In terms of chlorine itself,  
20 are you purchasing it specifically as a gas, or a  
21 liquid, or both?

22 MR. WALDEN: We purchase it as a gas. We  
23 sit on the, we sit adjacent to a chlorine caustic soda  
24 producer, Olin, so we're adjacent to it.

25 MR. BOYLAND: So you're on site and they

1 deliver the gas and you produce the product.

2 MR. WALDEN: Yes. I believe its to be gas.

3 At one time it was liquid. I don't know that we go  
4 through the liquification phase anymore or not. They  
5 just built a new plant and I'm not as familiar as I  
6 was 10 years ago.

7 MR. BOYLAND: Okay. Thank you. I guess as  
8 again another question that Jim kind of raised, in  
9 terms of raw material, given that chlorine is the main  
10 raw material, were there any significant changes  
11 during the period in terms of the raw material price  
12 that you were paying enough to impact the cost of  
13 goods sold significantly?

14 MR. MALASHEVICH: I didn't specifically look  
15 at chlorine alone as opposed to the cost of goods sold  
16 as a basket, if you will, but that could easily be  
17 done.

18 MR. BOYLAND: Yes. I guess where I would  
19 draw your attention to, the pattern on an average unit  
20 basis, and again assuming that average raw material  
21 cost is mainly chlorine, we do see a certain trend  
22 that would suggest that there may have been some  
23 changes that were significant.

24 So I guess I would ask that you, if there's  
25 a specific reason, that would be appreciated to

1 understand. Yes. Okay. That covered that. Sort of  
2 just as a general matter, sales values and raw  
3 material cost, do you have a specific pass-through  
4 mechanism in terms of there is a change in raw  
5 material.

6 MS. CLARKE: I think we'll have to double  
7 check that, but I don't believe that they increase  
8 customer prices to reflect a sudden increase in raw  
9 materials.

10 MR. WALDEN: No. I wish we could afford  
11 that, but no.

12 MR. BOYLAND: So historically that's not  
13 been the case either?

14 MR. WALDEN: In this -- I'm sorry. I didn't  
15 understand the original question. I was searching  
16 there. We haven't indexed anything into natural gas,  
17 electricity costs, or anything else. This industry  
18 has been isolated from that and it hasn't occurred as  
19 it has in other industries.

20 MR. BOYLAND: Okay. Fair enough.

21 MS. CLARKE: I understand that if you were  
22 to examine their contracts with their customers,  
23 there's no such provision for that.

24 MR. BOYLAND: Thank you. I know I'm  
25 skipping around here but the 24/7 operation of the

1 plant, after the first half does the plant shut down  
2 in its entirety or is there like one line left? How  
3 does that work?

4 MR. WALDEN: Both ways. There's actually  
5 two lines. We can cut back one line. It basically --  
6 depending upon, you know, how long we need for  
7 maintenance turnaround, we'll run it up until that  
8 time.

9 We'll slow it down as much as we can but  
10 this is a very large facility, 300 person-type plant,  
11 and when you start turning it back the efficiencies  
12 and everything go downhill very quickly.

13 So we try to pick those sweet points, if you  
14 will, to run the plant and everything but we have to  
15 shut it down in the fall of the year, and depending on  
16 how the season and everything is going, you know, it  
17 could be down for a couple of months.

18 MR. BOYLAND: The entire plant.

19 MR. WALDEN: Uh-huh.

20 MR. BOYLAND: Okay.

21 MR. WALDEN: We maintain our employees  
22 because we need that expertise to safely run the  
23 plant.

24 MR. BOYLAND: I guess you've kind of already  
25 answered this question but it's just for the record,

1 the whole issue of covering costs fixed costs and how  
2 capital-intensive the industry is. Is it fair to say  
3 this is a capital-intensive industry?

4 MR. WALDEN: That's the reason there's only  
5 two domestic producers with an actual Cal hypo plant  
6 in the United States. It's very capital-intensive.  
7 Chlorine has a tendency to corrode and your plants  
8 have to be continuously rebuilt. You're not going to  
9 go in in a cost-effective manner and build a Cal hypo  
10 plant. It's very expensive to go build a plant.

11 MR. BOYLAND: Thank you. Again, I'm  
12 searching for questions that really aren't BPI --

13 MR. WALDEN: Understand.

14 MR. BOYLAND: -- because I realize some of  
15 these I just, I can't ask. I apologize for 10 or 15  
16 follow-up questions and I appreciate your time  
17 responding to those. I have no further questions.

18 MS. DEFILIPPO: Thank you, Mr. Boyland.

19 Mr. Robinson?

20 MR. ROBINSON: Thank you. Well, thanks.  
21 You guys have given a lot of information already so I  
22 don't have too many questions left. I apologize. The  
23 questions I do have are more sort of detailing a few  
24 things you already said, so I apologize if I get a bit  
25 redundant here, but I'll try and make it quick.

1           One is just going back to this comparable  
2 products discussion, there's just one area I don't  
3 quite understand. What's the consumer decision to  
4 choose between Cal hypo and dichlor for shock  
5 treatment in a swimming pool? Does that make sense?  
6 Seems to me they're very similar.

7           MR. WALDEN: It goes back to that service  
8 thing. It comes back to your point of sale. The  
9 consumer, quite honestly, doesn't understand the  
10 difference between trichlor, dichlor, or Cal hypo, so  
11 the consumer, shock is shock.

12           They don't operate the same, they're not the  
13 same chlorine content, and they're not nearly as  
14 effective and so most of the time the pool owner, much  
15 like my sister, is going to drop off their water  
16 sample and come back that afternoon and say what do I  
17 need?

18           They don't want to be bothered with a lot of  
19 the details so they really aren't going -- most, 99  
20 percent of the consumers that go into a store, they're  
21 going to go in there and they're going to buy it on  
22 something else other dichlor or Cal hypo.

23           MS. CLARKE: But this company's consumers  
24 are the retailers and they do distinguish.

25           MR. WALDEN: Yes.



1           MR. ROBINSON: Good. Thank you. Going back  
2 to, we had some discussion about, in processing both  
3 impurities that are not removed from the process and  
4 additives that are intentionally blended in  
5 afterwards. I just want to make sure I understand  
6 that properly.

7           The impact of impurities we were discussing  
8 in the context of product from India, in particular.  
9 You mentioned how the available chlorine would  
10 decrease during shipment. I'm just trying to see if  
11 there are other things to look out for. Maybe residue  
12 more likely if it --

13          MR. WALDEN: Carbonates or residues, the  
14 stuff that plugs up your equipment and leaves the  
15 little white specks all over the bottom of the pool,  
16 and stuff that's really undesirable. Inerts, if you  
17 will.

18          MR. ROBINSON: And in looking at the  
19 additives that are blended in we had the example of  
20 algicides and the flocculents to decreased humidity.  
21 Is it fair to say that these are, the additives,  
22 they're not going to affect the, they're going to  
23 supplement the action of the chlorine or perhaps  
24 affect how it's delivered, but they're not going to  
25 interact with the active ingredient chlorine itself.

1           MR. WALDEN: No. As Peggy said, they're for  
2 different functions. Issues that you may or may not  
3 have in your pool. Also, a lot of them are blended in  
4 there to lower the chlorine content, so you can have a  
5 Class 1 oxidizer versus a Class 3 oxidizer.

6           MR. ROBINSON: Sure. Sure. For handling  
7 and safety.

8           MR. WALDEN: Yes.

9           MR. ROBINSON: Now I'm going to ask you some  
10 questions about the -- and this is more for sort of  
11 background in context, trying to understand sort of  
12 the global picture. If you don't know yet, that's  
13 fine, or, and estimates would be fine as well. So do  
14 I have it correct the U.S. is the largest market for  
15 Cal hypo?

16          MR. WALDEN: By far, yes.

17          MR. ROBINSON: Yes. So more than 50 percent  
18 of the global, you think, or did you have a number?  
19 If you don't have a number, that's perfectly fine.  
20 I'm just trying to understand.

21          MR. WALDEN: Since I'm under oath I hate to  
22 go off the cuff.

23          MR. ROBINSON: Absolutely. No, no.  
24 Understood. Understood. Understood.

25          MR. WALDEN: We have some numbers that we

1 could supply if --

2 MS. CLARKE: We can look.

3 MR. WALDEN: Yes.

4 MR. ROBINSON: Thank you. Thank you. The  
5 same line of questioning. Just what are some other  
6 big markets? I assume western European countries.  
7 South Africa, you mentioned.

8 MR. WALDEN: Well basically when you look at  
9 the -- and the big piece of the market, and I keep  
10 going back, and it's not the only piece, but a big  
11 piece is the pool and spa market. To have a pool or  
12 spa you need a reasonable middle-class economy, you  
13 need property rights. So any countries that have  
14 those are going to be targeted.

15 Another big area of market size would be  
16 Brazil. The European market is quite nice, especially  
17 Spain and France, and surprisingly the U.K. So there  
18 -- and a growing Russian market, and the Middle East  
19 is becoming interesting as well.

20 So as long as you have a good middle-class  
21 economy and you have property rights then chances are  
22 you can have a -- and property is available to be  
23 owned. You're not going to build a pool and not own  
24 your property.

25 MR. ROBINSON: Very good. Thank you. Then

1 also just trying to understand who the producers are.

2 From the import data we have China, India, Japan as  
3 well I guess --

4 MR. WALDEN: Yes.

5 MR. ROBINSON: -- looking at Lonza's own  
6 facilities in Brazil, South Africa. Are there other  
7 folks that are putting it into the global market? Not  
8 necessarily the United States. Is there Canadian  
9 production as a specific example in a question?

10 MR. WALDEN: No Canadian production to my  
11 knowledge.

12 MS. CLARKE: What they have encountered  
13 around the world is basically China, Japan, and  
14 themselves.

15 MR. WALDEN: And India now --

16 MS. CLARKE: And India.

17 MR. ROBINSON: Good. My last question is I  
18 guess getting into the weeds a little bit but I just  
19 want to understand this. I guess all my questions  
20 were in the weeds. The Cal hypo production facility,  
21 it's going to be physically separated from, typically,  
22 I should say typically physically separated from the  
23 chloralkali production facility, or are they often  
24 jointly located?

25 MR. WALDEN: Most every time they're going

1 to be on the tail end of chloralkali because --

2 MS. CLARKE: And some of the producers are  
3 integrated chloralkali producers, some are not. I  
4 believe Axiall is.

5 MR. WALDEN: Axiall is.

6 MS. CLARKE: Axiall is, but Arch is not an  
7 integrated producer.

8 MR. WALDEN: You hit on a very good point.  
9 Is the chloralkali industry really going downstream.  
10 Chloralkali, many times you'll hear them talk about  
11 ECUs, and Mother Nature says that when you take salt  
12 out of the ground and you take electricity through  
13 electrolysis, however you do it, you will get 1.1 ton  
14 of caustic and one ton of chlorine.

15 The chloralkali producers most of the time,  
16 the biggest, highest percentage of the time they have  
17 the outlet for the caustic soda to manufacture their  
18 paper, and bleaching, and everything else that they do  
19 with the caustic soda. Their issue is that they need  
20 a chlorine sink, okay? They have to have the chlorine  
21 sink.

22 Therein lies the reason that a lot of people  
23 will be saying we've got to move the chlorine, because  
24 you cannot produce another ton of caustic soda until  
25 you make chlorine go away, okay?

1           So that kind of gives you a little insight  
2           at why the chloralkali industry is very keen on making  
3           these products go downstream into the chlorine, heavy  
4           chlorine consumption products. They cannot get the  
5           caustic that they need until the chlorine goes away.

6           MR. ROBINSON: Good. Thank you. That's all  
7           I have. Thank you very much.

8           MS. DEFILIPPO: Thank you, Mr. Robinson.

9           Ms. Haines, do you have any questions for  
10          this panel?

11          MS. HAINES: No. Thank you very much for  
12          the helpful testimony.

13          MR. WALDEN: Thank you.

14          MS. HAINES: Thank you.

15          MS. DEFILIPPO: I know. Surprisingly, I've  
16          actually crossed out almost I think all of my  
17          questions, so staff has covered all the areas I had  
18          questions.

19          I guess I do have one final question for Mr.  
20          Malashevich on your graph, one of your graphs, in  
21          Exhibit 1 where it shows the import trends for Cal  
22          hypo from China with the different colors representing  
23          different years, and what jumped out at me was April  
24          2010.

25          That's sort of in that peak period usually

1 and it's going down when all the other years were  
2 going up. I just didn't know if there was anything in  
3 particular that went on that year that would explain  
4 that decline while all other years that was sort of  
5 the biggest jump.

6 MR. MALASHEVICH: Short answer is I don't  
7 know. The objective was to compare as much as the  
8 seasonal patterns. I quite frankly didn't look behind  
9 them.

10 MS. DEFILIPPO: Yes. No, that's fine. I  
11 just didn't know if there was something where there  
12 was problems with production or any kind of issue in  
13 China that was big enough that we would know about.

14 There was one other comment I think that you  
15 made when you were talking about your graphs, and it  
16 was, it might have been Graph No. 2, the seasonality  
17 of both Chlor Isos and Cal hypo, and I think you had  
18 said that the seasonality of Cal hypo was less, more,  
19 than Isos.

20 MR. MALASHEVICH: Substantially more.

21 MS. DEFILIPPO: Why? Is there an  
22 explanation for -- I mean if they're both sort of  
23 working towards the same end use and would probably  
24 have similar demand factors is there a reason why the  
25 seasonality of one is significantly different than the

1 other?

2 MR. MALASHEVICH: Well I was not involved in  
3 the Chlor Isos case, although my I read the public  
4 opinion and staff report, so I don't know. But the  
5 purpose of the study was to say, okay, apart from  
6 fertilizer and cattle, Commission doesn't see the  
7 highly seasonal manufactured products, and  
8 particularly in the chemical industry.

9 So I said well how best to illustrate the  
10 drama of seasonality in Cal hypo? Peggy pointed out  
11 the Chlor Isos case and, you know, the similarities in  
12 terms of the applications served, and I said well  
13 let's take a look.

14 If there's a base case where, that the  
15 industry was considered seasonal, and I gather it was  
16 based upon the report I saw, well, if that was already  
17 considered seasonal, what better way to show exactly  
18 how much more seasonal Cal hypo is, which is a very  
19 important condition of competition that we discussed.

20 But I asked for explaining things, how they  
21 differ in terms of the import statistics. I don't  
22 have an answer.

23 MS. DEFILIPPO: Fair enough. I'm going to  
24 look, and actually I'm looking to my right and Ms. Lo  
25 I think has another question.



1 MS. LO: Sorry. I needed to clarify my  
2 questions based on some of the responses. One, it's  
3 kind of a overall understanding of Cal hypo versus  
4 Isos versus saline and UV. You mentioned UV. That's  
5 a new concept for me.

6 So first of all, can a consumer or a pool --  
7 a swimmer, they go into a pool. They cannot tell if  
8 the pool is being treated by Cal hypo, or Isos, or  
9 saline. Or I guess saline there's difference, from  
10 what I understand, but I also understand that saline  
11 also includes some chlorination in the pool and UV.  
12 Can you tell me, from a swimmer's perspective, if  
13 there's any difference in any of these pool  
14 treatments.

15 MR. WALDEN: When you mentioned saline, once  
16 again, the sanitization process is delivering chlorine  
17 to kill the bacteria. Even the saline generates  
18 chlorine. You basically have a miniature ECU plant,  
19 chloralkali plant, in your backyard. You're burning  
20 electricity to generate chlorine to kill it.

21 So in the pool it's the chlorine that kills  
22 the bacteria, okay? So there's really no difference  
23 between saline, anything else. It's all the, you  
24 know, just different ways you get there to deliver the  
25 energy to get the chlorine into the pool to kill the

1 bacteria.

2           There will be many people that say salt  
3 this, salt that, but it's basically hype more than it  
4 is anything else. A properly maintained pool, I dare  
5 say that if I had three or four of the pools out there  
6 and I put a professional swimmer in each and every one  
7 of them, they'd have a hard time telling which one is  
8 which.

9           MS. LO: And UV, does it use also use  
10 some --

11           MR. WALDEN: UV is not a chlorine delivery.  
12       Basically ultraviolet rays will kill the bacteria,  
13 but you still have to maintain a chlorine residual  
14 because it's an instantaneous kill and it will come  
15 right back in a few seconds. So it's a novelty, it's  
16 the new technology, but at the end of the day you're  
17 still going to need the chlorine around to maintain  
18 your sanitization. Just a fact.

19           MS. LO: So all pools have chlorine of --

20           MR. WALDEN: If you have a bacteria-free  
21 pool it will have chlorine in it.

22           MS. LO: Following that, there was some  
23 discussion about Isos causing a chlorine lock which  
24 then you cannot deliver -- is that, am I accurate in  
25 understanding that? Then you can't delivery the

1 necessary chlorine to clean the pool. Is that  
2 accurate?

3 MR. WALDEN: That's a technical discussion  
4 that I'd be more than happy to bring in both sides,  
5 but make it a long story short, the Chlor Isos, one of  
6 the raw materials that's used in that that's not used  
7 in Cal hypo is cyanuric acid.

8 Cyanuric acid will build up in your pool.  
9 The CDC is doing quite a few studies right now that  
10 says the higher the cyanuric acid builds up, the less  
11 effective your chlorine becomes in killing certain  
12 types of bacteria or molds and everything else.

13 So that's what I talk about chlorine lock.  
14 Essentially you're putting chlorine in there but  
15 because the cyanuric acid, it ties up with the  
16 cyanuric acid and is not available to kill the  
17 bacteria.

18 MS. LO: So mid-season say a pool owner  
19 tests their water at Ace Hardware and they're using  
20 Isos and then they say there's not enough agents to  
21 whatever, the chlorine lock occurs and they can't  
22 clean their pool. Can they switch to Cal hypo mid-  
23 season?

24 MR. WALDEN: The only way that you can  
25 eliminate cyanuric acid build up -- and there's a big

1 debate on what parts per million it is. We will tell  
2 you that anything over 100 parts per million will give  
3 you issues with that. Our competitor on the other  
4 side that services the Chlor Isos will tell you it's  
5 up to 500 parts per million.

6 There's a lot of -- but the only way to  
7 eliminate cyanuric acid from the pool is to drain the  
8 pool of the water. That's the only -- there's no  
9 other. We're working with some ways to try to do  
10 that, but right now the only effective way is to drain  
11 the pool.

12 MS. LO: I'm just trying to understand  
13 whether this Cal hypo is the preferred product over  
14 Isos because of certain limitations.

15 MR. WALDEN: You know, most of the consumers  
16 really don't understand the Chlor Isos versus the Cal  
17 hypo so when you walk in to your dealer you're  
18 dependent upon that dealer and their knowledge; and  
19 hence forth SG&A, the reason we train the dealers, and  
20 these are the technical reasons and here's everything  
21 else. So there's a lot of marketing in sales that  
22 goes in there, you know?

23 If you're a pool cleaner that's just  
24 cleaning somebody's pool and everything, basically  
25 what you want to do for that homeowner is to give them

1 a clean looking pool at the lowest cost you can,  
2 right, so they're going to be using, a lot of pool  
3 cleaners will use liquid bleach.

4 The homeowner, as long as the water looks  
5 clean, you know, they're okay, but I'll be more than  
6 happy to show you what happens, you know, with clean-  
7 looking water versus disinfected water. They'll look  
8 the same but they won't be the same.

9 MS. CLARKE: If I can just clarify one  
10 thing, which is, I think this is part of what you're  
11 asking, Ms. Lo -- this is Peggy Clarke -- if you're  
12 using Chlor Isos, the trichlor, normally in your pool  
13 and you're not in a chlor lock situation but you need  
14 to shock treat your pool you could use Cal hypo in it  
15 as long as your dispenser of your Cal hypo does not  
16 come in contact with your dispenser of your Chlor  
17 Isos.

18 Once they're in the water, they're separated  
19 enough, you're okay.

20 MR. WALDEN: They're diluted enough.

21 MS. CLARKE: Diluted. Yes.

22 MR. WALDEN: It would be interesting to show  
23 you the films of what happens when you take a tablet  
24 of Chlor Isos and a granular pile of Cal hypo and then  
25 you put them together. You have a very rapid fire.

1           You can take trichlor or the Chlor Isos and  
2           have it in your filter and let the water be  
3           circulating over it -- remember, it's a very slow  
4           dissolving material -- then you can take a bag of Cal  
5           hypo shock or a spoon of Cal hypo and you can throw it  
6           in the pool, and so they're diluted by the water to  
7           where they're nonreactive when they come in contact.

8           But at full produced product base, you put  
9           them together and there's an explosion, a rapid fire  
10          and a large explosion, and people have been hurt by  
11          it.

12          MS. LO: Peggy got to my exact understanding  
13          whether both chemicals can be in the pool. Thanks.  
14          Thank you very much.

15          MS. DEFILIPPO: Mr. Henderson, you had an  
16          additional question.

17          MR. HENDERSON Yes. Thank you. I had a  
18          question about something in the petition. It was  
19          right after the discussion of the nonsubject imports  
20          that we addressed previously. There's a statement in  
21          the petition this case is about China versus the  
22          United States, leaving aside the melodrama of that,  
23          but then it says as well as China's impact on  
24          Petitioner's other facilities in Brazil and South  
25          Africa.

1           So first, I wasn't quite sure what the  
2           relevance of China or of the Petitioner's facilities  
3           in Brazil and South Africa was, and I'd be happy to  
4           hear an explanation, but second of all, just a general  
5           question.

6           We've had some discussion of other markets  
7           in those facilities and I assume that the facilities  
8           in Brazil and South Africa are generally serving local  
9           regional markets. Are they shipping product to the  
10          United States? Anyway, some clarification about the  
11          relevance and better understanding of what those  
12          facilities' role is.

13          MS. CLARKE: Yes. The statement was more  
14          intended to point out that they are facing this fight  
15          globally. What they face in the U.S. is what they  
16          face in Brazil and what they face in China, with  
17          Chinese product coming in and pushing them the same as  
18          it is happening here. It's the same producers  
19          worldwide and produce, and effecting the same company.

20          MR. MALASHEVICH: I would only add to that,  
21          going back to the subsidy issue, at each of the three  
22          locations the freight subsidy that's been the subject  
23          of considerable discussion this morning affects all of  
24          them.

25          MR. WALDEN: I'm not going to say we've

1 never shipped any product from South Africa to the  
2 U.S. or Brazil to U.S., but it's a rare occasion when  
3 we do and it's because we have had issues and can't  
4 get it any other way. It's just not a cost-effective  
5 way for us to ship from those parts.

6 While we do ship from the United States and  
7 export to Europe and everywhere else, it's basically,  
8 it's a locally-produced product to avoid the shipping  
9 hazards and costs associated with it.

10 MR. HENDERSON Thank you. And just as a  
11 follow-up, I didn't see anything in the petition about  
12 this but in terms of the threat analysis are  
13 Petitioners aware of any outstanding trade remedy  
14 orders or proceedings against imports of Cal hypo from  
15 China in any market in the world? Let me know.

16 MS. CLARKE: At the moment my understanding  
17 is there are none at this point in time.

18 MR. HENDERSON Thank you.

19 MS. DEFILIPPO: Any other questions from  
20 anyone up and down the table?

21 (No response.)

22 MS. DEFILIPPO: With that, I again thank you  
23 very much for being patient with all of our questions  
24 and providing a lot of very useful information. I  
25 definitely learned a lot about pools and chlorine. As



1 a former swimmer, I appreciated that. So thank you  
2 again, Mr. Walden, for taking the time to be here to  
3 talk with us, and Ms. Clarke and Mr. Malashevich.

4 We will take just a short break to stretch  
5 our legs and come back in about 10 minutes to start  
6 with the Respondents. Thank you.

7 ALL: Thank you.

8 (Whereupon, a short recess was taken.)

9 MS. DEFILIPPO: If I could have everyone  
10 take a seat where we'll get started with, well I guess  
11 the bell just tolled so this afternoon's activities.  
12 Welcome to the panel, and please begin when you're  
13 ready.

14 MS. CHEN: Thank you. This is Irene Chen,  
15 back here with the Chen Law Group. We're here with  
16 our industry witness William Ferrell, my colleague  
17 Mark Lehnardt, and our economist, Eric Warga. In  
18 addition to my remarks, we'll be hearing from Mr.  
19 Ferrell, and Mr. Lehnardt and Mr. Warga are here to  
20 answer any questions the panel may have.

21 I'd first like to begin with a discussion a  
22 number of key conditions of competition in this  
23 industry. I wanted to point out, you know, with all  
24 due respect to Petitioner, this case is not about Arch  
25 only.

1           There's another significant, at least one  
2 other and maybe more, significant domestic producers  
3 in this segment and that's Axiall, who's notably  
4 absent today. So while Arch's experience is relevant,  
5 it's far from complete.

6           I wanted to start with the applications that  
7 Cal hypo has. You know, pool applications are one of  
8 them but Cal hypo is also used in wastewater  
9 treatment, potable water treatment, agricultural  
10 water, and other sanitation applications. These other  
11 applications, which have higher margins, are dominated  
12 by the domestic industry.

13           Cal hypo is also produced at many different  
14 levels of available chlorine. Because Cal hypo is a  
15 combustible and reactive material, these products must  
16 be registered with the Environmental Protection  
17 Agency, the EPA, before being sold into the U.S.  
18 market.

19           Domestic producers already have registered  
20 their Cal hypo products with the EPA and they can  
21 produce and sell Cal hypo with different levels of  
22 available chlorine. In contrast, Chinese-produced Cal  
23 hypo's imported almost exclusively at the 65 and 70,  
24 67 percent -- excuse me -- levels of available  
25 chlorine.

1           For the pool application segment overall,  
2           the lowest level of available chlorine is 47 percent  
3           and levels of available chlorine increase to 78  
4           percent, so domestic producers can sell their products  
5           at more levels of available chlorine than U.S.  
6           importers.

7           Although Chinese imports of Cal hypo are  
8           almost exclusively at the 65 and 67 percent levels of  
9           available chlorine, domestic producers such as Arch  
10          and PPG have almost zero competition at 70 percent and  
11          zero Chinese competition at 73 and 78 percent  
12          available chlorine levels, all three of which are  
13          higher margin products.

14          On the lower end of the chlorine spectrum,  
15          domestic producers Arch and PPG dominate residential  
16          consumer products because of their relationships with  
17          retailers and the strength of their brand names.

18          Applicable fire regulations and storage  
19          requirements cause stores, like Walmart, not to carry  
20          high chlorine available Cal hypo. Instead, they carry  
21          47 percent and 56 percent Cal hypo. As a result,  
22          Walmart and other big box stores, like Leslie's Pool  
23          Supplies, source exclusively from domestic producers.

24          Importers of Chinese product are not in these market  
25          segments.

1           Importers are able to sell to the smaller  
2 customers that domestic producers don't give much  
3 attention to, if any, such as the small pool stores,  
4 the mom and pops, and some pool maintenance companies,  
5 like, you know, the pool guy that comes out to service  
6 a residential homeowner's pool. While Arch and PPG do  
7 not sell to these small businesses, some repackers do.

8           The domestic industry also enjoys other  
9 advantages over import sources. They have branded  
10 products that are preferred and they have domestic  
11 only specifications of their products that are  
12 required by certain U.S. customers.

13           Finally, because of its dominant market  
14 position, the domestic industry has the ability to  
15 offer generous rebates and incentives to their  
16 customers in the way of cash rebates, advertising  
17 dollars, and even reward leisure trips.

18           As you will hear from our industry witness  
19 today, the purchase volume of individual U.S.  
20 importers is not large enough to call the attention of  
21 domestic producers. The domestic industry is not  
22 interested in selling wholesale Cal hypo product to  
23 smaller customers.

24           Small volume buyers, like F2 Industries,  
25 have been quoted retail or even higher prices by

1 domestic producers. Because domestic producers refuse  
2 to sell them Cal hypo at the same wholesale prices as  
3 the larger customers, F2 Industries is forced to turn  
4 to Chinese sources.

5 Now, before I turn the mic over to our  
6 industry witness I wanted to address some of the legal  
7 issues in this case. With regard to defining members  
8 of the domestic industry, just a note that the  
9 Commission generally analyzes the overall nature of a  
10 firm's production-related activities in the United  
11 States.

12 As Petitioner noted in its petition, a  
13 substantial share of total U.S. and imported shipments  
14 is sold to so-called repackers, or private label  
15 marketers, that buy the product in bulk, repackage it  
16 and possibly reformulate it, and resell it into other  
17 market channels.

18 Petitioners also mention in the petition  
19 that some of the repackers may engage in tolling  
20 contracts with domestic producers. The Commission's  
21 practice generally is to include tollers in domestic  
22 industry, as well as repackers or reformulators, if  
23 those tollers engage in the same processing activities  
24 in which say non-toll producers engage. Excuse me.

25 The Commission's practice generally is to

1 include tollers in the domestic industry because  
2 tollers engage in the same processing activities in  
3 which non-toll producers engage: Actual production of  
4 the domestic like product. The Commission's practice  
5 is also to include repackers and reformulators if they  
6 add a certain percentage of value to the product.

7 We urge the Commission to look more closely  
8 at this issue. Specifically, whether repackers and  
9 tollers should be included in the domestic industry  
10 due to their production activities. We can elaborate  
11 further on this issue in our postconference brief.

12 With regard to price effects, price effects  
13 for the entire scope of products are minimal because  
14 of the U.S. industry's total or near complete monopoly  
15 in available chlorine levels other than 65 and 67  
16 percent, as well as the U.S. industry's domination in  
17 65 and 67 percent chlorine products. This may explain  
18 why Petitioner has requested pricing data at 65 to 68  
19 percent chlorine content.

20 Petitioner has asked that the pricing data  
21 be collected in two distinct groups, one for repackers  
22 and one for independent pool suppliers, but this  
23 request ignores other higher margin applications.

24 We also wanted to note that it is the  
25 Commission's longstanding practice to gather pricing

1 data at the level of the first arm's-length  
2 transaction occurring in the United States.

3 This approach is calculated to derive  
4 information relevant to the purchasing decisions of  
5 the purchasers in the U.S. market unaffected by  
6 corporate relationships or other extraneous factors  
7 that could affect price.

8 In light of this, the Commission should  
9 reject Petitioner's request to collect pricing data  
10 from two channels of distribution: The repacker,  
11 private label market, and sales to dealers that serve  
12 the private residential or commercial swimming pool  
13 channels.

14 The Commission instead should collect  
15 pricing data at the first arm's-length price in the  
16 United States, regardless of to whom that sale is  
17 made. As Petitioners acknowledge, Cal hypo is a  
18 classic commodity that is sold on the basis of price.

19 We also urge the Commission to take into  
20 account the price rebates and other cash incentives  
21 offered by domestic producers. These other incentives  
22 reduce the ultimate sale price to the customers and  
23 should be considered in any underselling and pricing  
24 analysis.

25 We also wanted to note one issue for threat.

1       As we discussed previously, the domestic industry  
2 dominates the U.S. market and there is no substantial  
3 volume of subject imports during the POI.

4               Further, looking into the imminent future,  
5 there are significant constraints on Chinese exports,  
6 including shipping costs that essentially reduce  
7 Chinese exports to a single producer, as well as the  
8 dearth of EPA-registered products by Chinese  
9 producers. These severely limit future volume.

10               With regard to the shipping costs, Sinopec  
11 subsidiary -- Sinopec, being the Chinese producer --  
12 is essentially, according to our information, the sole  
13 Chinese producer that's able to ship Cal hypo to the  
14 United States due to, because of these high shipping  
15 costs and refrigeration requirements.

16               Essentially, our understanding is Sinopec  
17 has an agreement with COSCO essentially getting a full  
18 indemnification of any damages that may occur from  
19 shipping in a manner other than refrigeration. This  
20 essentially limits exports to Sinopec's subsidiary.  
21 That arrangement.

22               Also, export products are limited. There's  
23 no subject merchandise at the 78 percent, 73 percent,  
24 56 percent, 40 percent levels of available chlorine,  
25 and almost no subject merchandise at the 70 percent



1 level of available chlorine. This greatly reduces  
2 capacity, capacity utilization, and likely volume  
3 increases to the United States. Because of these  
4 limitations, future likely adverse volume effects are  
5 minimal.

6 We urge the Commission to take these issues  
7 into consideration in this preliminary phase. Thank  
8 you. That's all I have in my remarks right now. Be  
9 happy to turn it over to Mr. Ferrell.

10 MR. FERRELL: Good afternoon, members of the  
11 Commission staff. I'm going to make a statement, but  
12 before I begin, I have got some back issues. So if I  
13 stand up for a moment, forgive me. I'm getting ready  
14 to have some surgery here in a couple of weeks, and it  
15 gets kind of tight sometimes when I sit for a period  
16 of time. But forgive me for that.

17 But be that as it may, my name is William  
18 Ferrell. Most people call me Reb. And I am one of  
19 the owners of F2 Industries located outside of  
20 Nashville in Smyrna, Tennessee. We are in the  
21 business of supplying chemicals to the potable water  
22 treatment industry. Most of what we supply are  
23 permanganate chemistry, sodium and potassium,  
24 phosphate chemistries for corrosion control and  
25 sequestering, powder-activated carbon, and cal hypo

1 products to the municipalities and to some of the  
2 small pool service companies. We also sell some of  
3 our chemistries into soil remediation industry,  
4 environmental remediation.

5 Cal hypo is a product that is used in some  
6 of the municipalities as a roadway to -- smaller  
7 municipalities that is a roadway to get disinfection,  
8 i.e., chlorine into the system, requiring to have to  
9 leave the plants at minimum of two parts per million  
10 of chlorine.

11 We bring in only about a million pounds a  
12 year of cal hypo. All of our product does come from  
13 China, and we represent just a very small corner,  
14 small niche, in the domestic cal hypo market.

15 I wanted to address for a moment the  
16 differences between the granular from my point of view  
17 and the tableted product. The two biggest -- and this  
18 is differences between really more about the domestic  
19 manufacturing and the offshore imported product from  
20 China. The two biggest differences with regards to  
21 the product are the color and solubility of the  
22 product, or the rate at which it dissolves in the  
23 water.

24 The color of the Chinese product is  
25 generally not as bright as the domestic product, and

1 it is a slower-dissolving product. And this is not  
2 important to everybody, but it is important to a lot  
3 of people who have grown accustomed to a particular  
4 dissolving rate, if you will. And if they go into a  
5 pool store, and they buy a Chinese product, and they  
6 put in their pool, and it's not dissolving quite as  
7 fast as the domestic product, you know, it creates a  
8 concern, even though it may be, or it is, just as  
9 viable. It just takes a little longer to get into  
10 solution.

11 As I said, these are different -- little  
12 nuances that are different between the two products.  
13 Tablets, my understanding that the erosion rate  
14 differences between the two products -- and the  
15 erosion is just what it is. When you're using a  
16 tableted product, you are basically pushing water  
17 through a trough, holding tablets and dissolving those  
18 tablets. And those tablets are eroding, if you will,  
19 to get the chlorine residual into the water at  
20 different rates. And those rates are dependent upon  
21 the water temperature as well as the surface hardness  
22 of the tablet itself, the rate at which it was made in  
23 the first place, the compaction. And the tablets are  
24 fed into feeders that control the amount of chlorine  
25 added to the water.

1           I think that I've already explained those  
2 two things. Municipalities generally use tablets for  
3 potable water, smaller municipalities. Domestic  
4 producers have developed their own proprietary feed  
5 equipment for the tablets for potable water. These  
6 feeders allow for a continuous level of chlorine to be  
7 added to the water.

8           If off-spec tablets -- and by off-spec,  
9 we're defining that as a tablet that may not be  
10 approved by the equipment manufacturer, which is in  
11 most cases going to be the domestic producer of cal  
12 hypo. When you are -- I'm going to go off a little  
13 bit on a tangent. When you are feeding a chemical  
14 into a product, or into water that is being processed  
15 and treated for drinking water, you have certain  
16 certifications that you have to -- that your chemicals  
17 have to meet.

18           The two agencies are NSF and UL,  
19 Underwriters Labs. And that's for the chemical,  
20 standard 60, and then you have a standard 61  
21 certification, which is for the equipment that comes  
22 in contact with the water.

23           So the domestic producers who are in the  
24 equipment business as well have got their  
25 certifications for their equipment defined as -- well,

1 let's back up. Any competitive product to their own  
2 product basically cannot be used in that feed  
3 equipment because the certification agency says any  
4 tablet that's used in this equipment must be approved  
5 by the domestic producer, basically, okay?

6 So, I mean, that portion of the market,  
7 which is a part of the market, is really shut out from  
8 offshore suppliers or Chinese -- suppliers of Chinese  
9 cal hypo. As far as municipalities are concerned --  
10 and I'm speaking more to municipalities because that's  
11 a large part of what we do, okay? We are in the cal  
12 hypo business, and being in the cal hypo business, you  
13 can't help but be in the pool industry to some degree  
14 because that is the larger part of the consumption of  
15 the product.

16 But, you know, municipalities designate who  
17 they're going to buy from by submitting bids to the  
18 various chemical suppliers. When those bids are  
19 submitted, they have -- each product that they want to  
20 get a bid on has got a product specification. Most of  
21 the product specifications on the potable water side  
22 have as part of their specification that it must be  
23 domestically produced or it must be this product.

24 In Axiall's place, it must be Accu-Tab,  
25 their product name. Arch -- I can't recall what

1 Arch's product is called, but these are specifically  
2 specked in the product specification. And when that  
3 happens, that is shutting everybody else out, okay?

4 So, you know, we can go through the process  
5 if someone is willing to talk to us to get our product  
6 approved and so forth. We are a small company. We  
7 don't have the time, and I honestly don't have the  
8 inclination to do all of those things. We have a very  
9 set marketplace that we participate in, and our  
10 business, yes, it's growing, but it's not growing in  
11 the cal hypo area. It's growing in other arenas that  
12 we're involved in, where we do spend more time.

13 So that kind of -- the point is that you  
14 have -- you don't have opportunities in all the places  
15 that the domestic producers have the opportunities  
16 because they have been here for a long time. People  
17 are accustomed to their product. The HTH brand is a  
18 brand. I mean, HTH, the brand name, is kind of like  
19 Kleenex is to tissue. It's kind of like Fed Ex is to  
20 overnight. I'm going to Fed Ex something.

21 And so when someone talks about HT, I'm  
22 putting HTH in my pool, they're not necessarily  
23 talking about they're putting the Arch brand product  
24 in their pool. They're putting calcium hypochlorite  
25 in their pool, but they refer to it as HTH because

1 that's the brand identification, which I would love to  
2 have a product that I have that ID on.

3 Our market and customers are completely  
4 different from the domestic -- not -- I shouldn't say  
5 completely, but they are different. I mean, we are a  
6 small corner of the market, and as I said, we are  
7 never, ever going to compete with the larger chunk  
8 customers, box stores, as Ms. Chen referred to,  
9 because of the demands that are placed there.

10 The domestic manufacturers are set up to do  
11 those things. That's what they do. We're in the  
12 business of buying something for this number and  
13 selling it for this number, and that's it. And we  
14 don't have -- you know, the Chinese import sources are  
15 not going to be reaching to that market, which is a  
16 large block of the market because of the requirements  
17 that are placed on the company that they do business  
18 with, with large inventory requirements, take-backs at  
19 the end of the season. If they haven't sold all the  
20 product, a lot of them will require you to take the  
21 inventory back.

22 That's just not who we are and what we do,  
23 and we don't get involved in advertising coop dollars  
24 and rebate dollars and all that sort of thing. So  
25 there is a limited market to what the importers of

1 Chinese product are going to be involved with. So,  
2 you know, the domestic producers also have -- they're  
3 selling to all the large commodity chemical  
4 distributors such as Univar, Brenntag, Harcros, and  
5 even the smaller regional distributors like Industrial  
6 Chemical in Birmingham, or Coyne Chemical in  
7 Pennsylvania.

8           And that's not to say that these  
9 distributors don't buy some offshore product. But the  
10 distributors by far and large are being supplied by  
11 the domestic producers. And that is -- that gets back  
12 to the idea that, you know, a lot of the domestic  
13 product in most cases are specked in to certain places  
14 where these commodity distributors participate in the  
15 marketplace.

16           So the domestic producers are really  
17 involved, all the way from point A from point D as far  
18 as the levels of selling. They're involved in host --  
19 they probably aren't involved too much in the retail  
20 end, which nobody is, except for the wholesalers, the  
21 chemical distributors, the wholesalers, the dealers.

22           So some of this is probably kind of a  
23 repeat, but in my words, I would love to be able to do  
24 business with a domestic producer. I can't because I  
25 can't be competitive in what I do because they will



1 tell me that I need to go talk to Univar or I need to  
2 go talk to Brenntag, where they're going to have an  
3 upcharge on the product, and I'll have to pay that,  
4 and then I will not be able to be competitive with my  
5 customer base because they're competing against me  
6 already.

7           The people I would be buying from will be  
8 competing against me, and in some cases the producer  
9 will be competing against me as well. So I have to  
10 get as close -- I have to get as close to the  
11 production cost as I can. And when you have one or  
12 two or three people in between the plant and the  
13 consumer, the wholesaler, it makes it impossible. And  
14 Cal hypo is an important part of our business. It's  
15 not the largest part, but it's an important part. It  
16 augments our product line to be able to supply  
17 additional products to the same industry.

18           So the Chinese product is never going to  
19 participate in these big box stores. They just are  
20 not -- they just want because of the demands, as I  
21 said. They are involved in a segment of the domestic  
22 market, 65 to 68, 67-68 percent. And, you know, as  
23 already been stated, there is chlorine content all  
24 over the place that we are not participating in.

25           You know, the point of this petition is

1 injury, from what I understand. I mean, I just found  
2 out about this thing the 18th of December, right  
3 before the holidays, and short response time. Let's  
4 put it that way. And I just feel like based upon the  
5 numbers that I know, the numbers that I've seen, which  
6 are their numbers, that the amount of chlorine that is  
7 coming into this country from China currently, and I  
8 guess in the future as well, is minuscule. And I do  
9 not in my own mind -- and I am -- listen, I am a  
10 capitalist from the very get-go, and I do not see how  
11 in my own mind there can be injury when the domestic  
12 producers dominate this market.

13 We are a small corner of this market. We  
14 are a small, family-owned business, and this is what  
15 we're trying to -- we're just trying to cover our  
16 little corner of the market. We're not out to become  
17 Lonza. It goes without saying.

18 I'll be happy to answer your questions.  
19 Thank you.

20 MS. CHEN: Yes. We're available for  
21 questions now. Thank you.

22 MS. DeFILIPPO: Great. Thank you very much,  
23 and thank you, Mr. Ferrell, for being here today.  
24 It's always nice to have both sides represented and  
25 have information as much as we can at this phase. As

1 you know, prelims are very quick, and so we appreciate  
2 you taking the time from your business to be here with  
3 us today.

4 Ms. Lo, questions?

5 MS. LO: Yes. I wanted to thank you again  
6 for the quick turnaround in the questionnaires. We  
7 understand the schedule was very brutal on everyone.  
8 At least everyone was equally brutalized.

9 I had a couple of questions. The first one  
10 maybe Ms. Chen can respond to about the domestic  
11 industry. You mentioned repackers and tollers. So  
12 the tollers for the Commission, their shipments are  
13 accounted for by their tolee, the Arch and the  
14 Axiall. For repackers and also tableters, are you  
15 counting -- using the terminology repackers to include  
16 tableters as well?

17 MS. CHEN: Yes. Any firm that actually  
18 repackages or reformulates or tablets the product.  
19 Fortunately, yeah, we just came into the case, and so  
20 we're also learning a little bit about the industry as  
21 well. But at this preliminary stage, we'd ask the  
22 Commission to take a look and see what their  
23 production activities are, and if they're sufficient  
24 under the Commission standard, to consider including  
25 them in the industry.

1 MS. LO: So you probably -- does F2 make  
2 tablets or repackages?

3 MR. FERRELL: No.

4 MS. LO: Thank you. So we're not too sure  
5 what the value added would be for these folks.

6 MS. CHEN: No. And we just received the APO  
7 release, so we're looking through those as well. But  
8 our understanding is that there were not  
9 questionnaires sent to repackers. So -- but we would  
10 urge the Commission to try to get that information.  
11 Unfortunately, we don't have that information.

12 MS. LO: Thank you. It's somewhat difficult  
13 for us to get the information as well. So anything  
14 you know about repackers or tableters from your  
15 business dealings, that would be helpful if you could  
16 include that.

17 MR. FERRELL: As I understand it, the  
18 repackers are not part of this process. Is that true  
19 or not?

20 MS. LO: Not -- the repackers in the prelim  
21 phase -- we have tableters. Well, in the related  
22 case, chlorinated isos, there was some history to the  
23 case. There is a cal hypo case from the 1980s, but  
24 back then the data collected was very -- it's a little  
25 bit different than we do it now.

1           So if tableters or repackers were to be  
2 included as part of the domestic industry, we would  
3 look at that in the final investigation. Particularly  
4 because you have attorneys that are helping you with  
5 the legal aspects of what the Commission examines,  
6 then we can't -- but at this point we have not  
7 collected data on tableting. That is something that  
8 we can look at later with -- maybe you can brief about  
9 it.

10           MS. CHEN: We'll try our best to, yeah, get  
11 any helpful information or relevant information in the  
12 post-conference brief, if we can.

13           MS. LO: Thanks. And, yeah, part of -- so,  
14 Mr. Ferrell, I wanted to see if you could answer this.  
15 And I understand the Chinese companies are not  
16 represented here. But can you respond to some of the  
17 allegations about shipping fraud, such as mislabeling  
18 of class three material, and also about the  
19 arrangements, the SOE Costco may have with Chinese  
20 exporters?

21           I understand Ms. Chen mentioned that only  
22 one company has an insurance arrangement with Costco,  
23 but that doesn't mean other companies don't have  
24 discounts or subsidies provided by the larger shipper  
25 out of China. So first of all, the fraud allegations,

1 and any kind of shipping subsidies you may be aware of  
2 that your suppliers in China may be giving to you  
3 indirectly, anything you have on that.

4 MR. FERRELL: Well, I'm going to let Mark  
5 handle the part of the question regarding Costco and  
6 the subsidies there in the freight arena. But as far  
7 as those fraudulent claims, you know, it exists. It  
8 does exist. But it doesn't -- I mean, it exists, and  
9 this is just stories that I know. I have never been  
10 involved personally with anything like that. I have  
11 been offered an opportunity for someone to tell me,  
12 especially on the isos chlors, yeah, where the duty  
13 did go up, and I said, you know -- but, you know, F2  
14 Industries does not play that way, okay?

15 But it does exist because if a duty is too  
16 high, and these are guys are anxious, I mean, it  
17 happens. It just happens. But it's minimal. I think  
18 it's certainly mostly the exception and certainly not  
19 close to the rule. And the people that I know and the  
20 people that I have dealt with over the years are  
21 people that just don't do that.

22 The people that are represented here today  
23 do not do those types of things. It's the smaller  
24 guys that don't have any market share, basically, that  
25 are rummaging around and really don't understand what

1 they're doing either, which is no excuse, but it is  
2 very much minimal.

3 MR. LEHNARDT: Mark Lehnardt for F2  
4 Industries. In the short time that we've had to  
5 prepare, I've done a lot of talking with importers in  
6 the industry. And we've been working on collecting  
7 some affidavits from people who couldn't come here  
8 today. And so what I'm going to share about shipping  
9 is what I understand from conversations I've had based  
10 on the personal experience of importers, or of some  
11 importers.

12 And Mr. Ferrell referred to the Costco  
13 shipping arrangement as a subsidy. I just want to say  
14 he didn't use it in the technical term that we use it.

15 What I understand is that Sinopec, which is a very  
16 large company, has a unique arrangement with Costco  
17 shipping for two reasons. First is the sort of market  
18 solution to lowering shipping costs, which is  
19 providing a full indemnification for any injury or  
20 loss that occurs in shipping.

21 The other -- and I don't understand the  
22 technical aspects of the second part, but the way that  
23 their cal hypo is produced is less reactive, and so  
24 there is a decreased risk. And so it's different from  
25 other cal hypo when it comes to shipping. And because

1 of those two things, they are able to decrease the  
2 shipping costs of their own products.

3 In terms of other companies and other  
4 producers in China, they just don't have the same  
5 financial strength as Sinopec to obtain that same  
6 arrangement.

7 Now, there is one side effect to this  
8 formulation that they have, and that is that from what  
9 I understand, the cal hypo dissolves slower. So while  
10 it may be an aid for shipping costs, it may be a  
11 negative in terms of the marketing.

12 MS. LO: Okay. We'll find out as much as we  
13 can. Anything you can give us will be really helpful.  
14 Like you, this is a prelim, so we're trying to get a  
15 quick snapshot of what is going on, and Mr. Ferrell's  
16 participation is greatly appreciated.

17 MR. FERRELL: And I will say that even  
18 though Costco will take the product in a conventional  
19 container, not a refrigerated container, like anybody  
20 who ships calcium hypochlorite generally are going to  
21 put it in a refrigerated container to control the  
22 temperature because it is such a highly reactive,  
23 combustible product.

24 But there are very strict limitations on the  
25 amount of product that you can put inside the



1 container the ship because of that nature of the  
2 product. So in that arena, the cost, because you're  
3 not able to fill a container up to its maximum  
4 capability, your freight cost actually is higher than  
5 what may have been represented.

6 MS. LO: Thank you. Is F2 Industries  
7 bringing in tablets of cal hypo from China?

8 MR. FERRELL: A little, not very much, to  
9 the tune of I think in the past -- in 2012, I think we  
10 brought in maybe 20- or 30,000 pounds.

11 MS. LO: So percentage of your imports, very  
12 small?

13 MR. FERRELL: Oh, tiny. Tiny, tiny.

14 MS. LO: Okay. And do you know if other  
15 importers, your competitors, are bringing in --

16 MR. FERRELL: I'm not familiar with anybody  
17 else that actually is bringing in tablets.

18 MS. LO: So as far as you know, you're the  
19 only guy.

20 MR. FERRELL: From China.

21 MS. LO: Right, from China.

22 MR. FERRELL: Right. I'm not familiar with  
23 them.

24 MS. LO: Thank you. That's helpful. I'm  
25 trying to get to understand more of what is going on

1 with the repackers and tablets and imported product  
2 versus domestic product. So anything you have on that  
3 would be helpful in a post-conference brief, from the  
4 other imports you've spoken to as well.

5 MR. LEHNARDT: Let me add something really  
6 quickly, and that is while I've spoken to I'd say more  
7 than -- or importers of more than half of the volume  
8 from China, some are willing to put their thoughts  
9 into an affidavit, and others are not. And so, you  
10 know, we have at least two or three that we're working  
11 on, and I hope that we can get all of them in.

12 MS. LO: Another question I have is just  
13 about the overall market. There are a lot of  
14 discussions about domestic-only or Buy America  
15 provisions in municipal acquisitions of cal hypo, I  
16 guess, for drinking water or for other municipal-  
17 related uses of cal hypo.

18 But in terms of the market that's I guess  
19 the competitive aspect for the Chinese product in the  
20 pool sanitation business, what -- so out of 1,000  
21 pounds of cal hypo, how much of that is going into the  
22 competitive aspect, the ones that -- the pool product,  
23 I guess the pool sanitation business versus the  
24 drinking water or other uses?

25 MR. FERRELL: Well, I mean, the pool

1 industry is the largest consumer of the chemical in  
2 the country. So by definition, most of what we do is  
3 going into the pool industry. We are in the municipal  
4 drinking water business, and that's how we originally  
5 got into the product, just as another product line to  
6 offer our marketplace. But the fact that it's sitting  
7 in the warehouse and we're supplying it, I mean, you  
8 just -- the tendency is to seek market opportunity,  
9 and that market opportunity is mostly in the pool  
10 arena with the smaller wholesalers that in a lot of  
11 cases do not want to do business with the domestic  
12 producers, just because of experiences they may have  
13 had. And I'm not here to browbeat anything or anybody  
14 because that's not how I work, but, you know, you  
15 can't be all things to all people, and that goes for  
16 F2 Industries. That goes for Arch. That goes for  
17 everybody.

18 So there is segment of the market that you  
19 can do business with. As a small business, you're  
20 going to be a lot more tentative and take care of your  
21 people, and they know that. And I've developed a  
22 couple of relationships that way, and that's where we  
23 are.

24 MS. LO: Thank you. So that's helpful.  
25 Although again, I just want to make sure I understand

1 that the non-pool applications for cal hypo, it's  
2 fairly small.

3 MR. FERRELL: Yeah. F2 Industries, the  
4 municipal business we have is probably, I don't know,  
5 15 percent, 15 to 20 percent maybe.

6 MS. LO: Okay. That's helpful. That's what  
7 I was trying to get.

8 MR. FERRELL: I mean, I have no secrets  
9 here, okay?

10 MS. LO: No, no. It doesn't have to be --  
11 anything you know about your competitors or general  
12 aspects of the market is super helpful at this phase  
13 of the investigation.

14 In terms of the EPA registration that was  
15 discussed earlier, do you know if the Chinese products  
16 coming in have those registration --

17 MR. FERRELL: In that chlorine content  
18 designation that we talked about, the 65-67 percent,  
19 you know, I've been told that they have a 70 percent  
20 registration. I'm not familiar with it. We bring in  
21 65 percent. That's what we do. That's it.

22 MS. LO: So there is no EPA requirements for  
23 under 70, right?

24 MR. FERRELL: Oh, yeah, yeah, yeah. There  
25 is EPA -- you have to be EPA-registered because of the

1 nature of the chemical, you know, class three across  
2 the board, a FIFRA requirement, yes. But, see, the  
3 Chinese do not participate in that market with the  
4 lower chlorine content. They are not registered in  
5 that, the 47, 45, whatever it is. They're not  
6 registered for that content. They're registered at 65  
7 percent. The manufacturer is registered at 65  
8 percent. That's all I know.

9 I know that there is somebody else that has  
10 a registration for 67 percent, but I don't know who it  
11 is.

12 MR. LEHNARDT: And one -- or a couple of  
13 facts about the EPA registration. It's my  
14 understanding, and we'll submit some documentation  
15 from the EPA web site -- a couple of things. One is  
16 that for registering cal hypo at the different degrees  
17 of available chlorine, the EPA has said that it has  
18 done enough research at certain bands of available  
19 chlorine. So the registration process is easier. And  
20 one of those bands is this 65 to 67. It's a little  
21 bit more than that.

22 But if you get outside of that, then  
23 registration is a more lengthy process. And the  
24 Chinese product, there is only to my knowledge one  
25 company that has registered, as Mr. Ferrell mentioned,

1 and that was initially back in 2002-2003. And so  
2 companies that are either exporting that product or  
3 importing that product can do a sub-registration under  
4 that initial registration. And so you'll see, for  
5 example, F2 has a registration, but it's a sub-  
6 registration under the initial registration back in  
7 2002-2003.

8 MS. LO: And, thank you. That's really  
9 helpful for us. And on an unrelated note,  
10 historically outside of the POI, which is any time  
11 prior to 2010. You don't have to answer if it's BPI,  
12 or you can answer in a post-conference brief.

13 Can you let us understand when the Chinese  
14 entered the cal hypo market for F2 or for just in  
15 general the industry?

16 MR. FERRELL: F2 got into the business in  
17 2009, and we were not importing the product ourselves  
18 at that time. We were buying from another Chinese  
19 importer who no longer imports, but, you know, I don't  
20 know the answer to the question when the Chinese  
21 entered the U.S. market.

22 MR. LEHNARDT: I think part of the answer,  
23 though, is that it must have been after the initial  
24 registration in 2002-2003, although there may have  
25 been a prior registration that was deactivated that I

1 haven't seen.

2 MS. LO: And to your understanding, do  
3 distributors buy from -- or do you buy from domestics  
4 as well as imported products, if you need to meet your  
5 customer demands?

6 MR. FERRELL: I try to minimize that, but it  
7 has come to pass where I've had to do that. But when  
8 I do that, I have to buy actually from a customer of  
9 mine who buys product, you know, Chinese product from  
10 us, who is connected into the domestic industry as  
11 well. And I pay an arm and a leg, and I lose money  
12 every time I do that. But I take care of a customer.

13 MS. LO: Thank you. That's helpful. So in  
14 the end, the end users, the consumers of this product,  
15 may be getting a cal hypo product that's part  
16 domestic, part imported product, kind of a -- or is  
17 it --

18 MR. FERRELL: Well, there is part of the  
19 market that will use both, either one.

20 MS. LO: Mixed in the same container?

21 MR. FERRELL: Oh, no, no.

22 MS. LO: Okay.

23 MR. FERRELL: I'm not aware of that. I'm  
24 not aware of that.

25 MS. LO: And you guys mentioned that the

1 Chinese products looks visibly different than the  
2 domestic product?

3 MR. FERRELL: Well, the Chinese product is a  
4 little grayer than the domestically manufactured. The  
5 domestic product has got a -- it's a brighter, more  
6 white color, which, you know, some people care about,  
7 some people don't. But the tint of the product is a  
8 little grayer.

9 MS. LO: Okay, thanks. That's helpful. So  
10 you can't really mix them, basically.

11 MR. FERRELL: Well, I've just not ever heard  
12 of anybody mixing different productions of cal hypo,  
13 two different producers. I mean, I've heard of that  
14 in other products, but I've never heard of cal hypo  
15 being mixed. I mean, repackers could do it, I guess,  
16 but I'm not familiar with that.

17 MS. LO: Yeah. That's what I was trying to  
18 understand, if you knew anything about repackers,  
19 whether they can --

20 MR. FERRELL: I don't know that they mix  
21 offshore in domestic product or not. I've never heard  
22 of such a thing, but that's not to say it couldn't  
23 happen, I guess.

24 MS. LO: Thanks. Yeah, we're all trying to  
25 understand what all is happening.



1           MR. FERRELL: I mean, as long as they keep  
2           it 49 percent, they can still claim it as domestic  
3           product.

4           MS. LO: Okay. Thank you. Unfortunately,  
5           we don't have any repackers here.

6           MS. CHEN: Irene Chen here. I just also  
7           wanted to mention some customers apparently care about  
8           the solubility rate of the product, which, you know,  
9           apparently may drive them to prefer, you know, maybe  
10          domestic over imported product.

11          MS. LO: Thank you. That's helpful. So  
12          that's all I have for now. Thank you very much.

13          MS. DeFILIPPO: Thank you, Ms. Lo.

14          Mr. Henderson, questions for this panel?

15          MR. HENDERSON: Hello. And I would like to  
16          thank our panel for coming here on this --  
17          particularly those traveling under these conditions.

18          First of all, on the domestic like-product  
19          issue, I wanted to find out whether Respondent agrees  
20          or disagrees with the Petitioner's proposed domestic  
21          like-product definition.

22          MS. CHEN: We'd like to reserve that  
23          argument for the post-conference. We were just  
24          brought into the case. We haven't had a chance to  
25          review everything in the APO release in detail. So at

1 this point, we're not going to take a position. But  
2 we'll certainly elaborate on it in our post-  
3 conference. Thank you.

4 MR. HENDERSON: Thank you. And the  
5 testimony of Mr. Ferrell about the differences between  
6 the Chinese product in terms of the tint and perhaps  
7 in terms of the solubility rate, do -- again, this may  
8 be something you'll be addressing in the post-  
9 conference brief, but is there any argument that that  
10 has anything to do with the domestic like-product  
11 issue?

12 MS. CHEN: Well, again I think our issue is  
13 we're trying to understand what is covered by the  
14 scope. Obviously, there are some products with  
15 certain chlorine content. If it's certain percentage  
16 differences, you know, maybe those are products that  
17 may not be more than one like product. But at this  
18 point we don't have a clear understanding of all of  
19 the chemicals -- all of the products that are covered.

20 So I think that's where we're looking for  
21 purposes of our -- you know, figuring out what our  
22 position is on that.

23 MR. HENDERSON: Thank you. And I take it  
24 from your opening statement, Ms. Chen, that Respondent  
25 agrees that calcium hypochlorite is a commodity

1 product and not just something that subject imports  
2 are commoditizing it. Or do you have any position on  
3 that?

4 MS. CHEN: Well, we would disagree that  
5 subject imports are coming in and commoditizing.  
6 While it is a commodity product in that it is what it  
7 is, we think that the domestic industry has carved out  
8 large sections of the market as far as their branding,  
9 their customer base, including to big box stores like  
10 Walmart and Leslie's Pools, which apparently is over  
11 800 -- has over 800 retail outlets.

12 So from that point of view, we'd say that,  
13 you know, the domestic industry has the lion's share's  
14 of the market.

15 MR. HENDERSON: Thank you. And I don't want  
16 to preclude what my more-informed colleagues will be  
17 asking about these issues, but whenever -- you know,  
18 one side talks about -- let's say the domestic  
19 industry has cornered a particular share of the  
20 market. You know, we want to know, I mean, not just  
21 what the overall market share is, but are there market  
22 segments in which, you know, the subject imports are  
23 unable to compete and, I mean, apart from explaining  
24 the reasons why, et cetera, but also getting  
25 information about the size of those segments and, you

1 know, much more information than just an assertion  
2 that, you know, they can't compete in certain  
3 segments.

4 MR. LEHNARDT: You know, one thing -- this  
5 is Mark Lehnardt. One thing to add is that, you know,  
6 in terms of the inability to compete on various  
7 segments on chlorine available, you know, that's tied  
8 directly to the EPA registration, the ability to bring  
9 things into the market.

10 And in terms of the size of the market in  
11 those other areas, we don't know that. That's  
12 something that the domestic industry is I think best  
13 equipped to answer.

14 MR. FERRELL: I want to say one thing, that  
15 the cal hypo market -- and I by no means am an expert  
16 in calcium hypochlorite, okay? But from what I see  
17 and what I determine from what I see, the cal hypo  
18 market, it's a big-volume business. It is a big-chunk  
19 business, where you have segments of the business that  
20 are large volumes that we've spoken to with regards  
21 to, you know, the larger retailers and that sort of  
22 thing.

23 And these are segments of the business that  
24 the Chinese imports will never, ever participate in  
25 because of the reasons that I stated earlier with

1 regards to, you know, price demands, terms, inventory  
2 requirements, take-back requirements. They just  
3 won't. They will never participate in that because  
4 that's not how they're geared. That's now how they  
5 think.

6 They have a sales price. You buy the  
7 product, you bring it in, and then you sell the  
8 product. That's it. Anything you do after you bring  
9 it in, if you want to get involved in that, that's  
10 fine. But they're not going to give you any support  
11 in order to go after that market. It's just not going  
12 to happen.

13 MR. LEHNARDT: And, you know, one thought to  
14 add is -- I believe Ms. Chen mentioned this -- is that  
15 because of the storage requirements for the hazardous,  
16 you know, levels of 65 and 67, which is what the  
17 Chinese bring in, big box retailers just don't -- they  
18 don't store it, or at least most of them won't. So  
19 they have the lower calcium available products, and  
20 that's -- so the Chinese, besides not being their  
21 business model, they just -- they can't bring that  
22 product into the U.S. right now.

23 MR. FERRELL: And the lower chlorine content  
24 is a way for them to get around the new fire code  
25 rules that have come into play with regards to the 65

1 and above percent cal hypo. I mean, they're much more  
2 stringent as far as inventory amounts and the  
3 condition of the storage facility and that sort of  
4 thing.

5 MR. HENDERSON: Thank you. And again,  
6 trying to understand the size of whatever market  
7 segments in which the Chinese subject imports are  
8 unable to compete, apart from whether it's big box or  
9 whomever -- I mean, but obviously since it's been  
10 discussed in terms of the chlorine content, whether  
11 it's the, you know, much lower than 65 or 68 or  
12 whether it's the, you know, higher, in the 70s, I  
13 mean, we'd obviously be interested in whatever  
14 information there might be in terms of shares of the  
15 domestic market for these, you know, particular  
16 different degrees of chlorine content. Thank you.

17 And with respect to the domestic industry  
18 definition issue, which we've already discussed, and I  
19 don't want to duplicate what Ms. Lo was addressing,  
20 but as you heard from this morning, we have requested  
21 the Petitioners to address this, and we're certainly  
22 hoping for a very robust response on all of those  
23 factors that the Commission looks at.

24 Now, as Ms. Lo asked, we would like whatever  
25 factual information and legal argument that Respondent

1 can provide. But, I mean, we've already got, even  
2 though much of this is BPI bracketed, but we've got  
3 the information in the petition and in I think a  
4 couple of affidavits that were submitted with the  
5 petition, so I would encourage Respondent to review  
6 what is already there in writing carefully. And you  
7 can react to that as well as provide whatever, you  
8 know, factual information that would be helpful to the  
9 Commission in addressing this question.

10 MS. CHEN: Yes. We'll certainly do that for  
11 our post-conference.

12 MR. HENDERSON: Good. Thank you. And I've  
13 sort of already did this as part of the morning  
14 session. I would encourage Respondent also to look at  
15 that 1985 Commission opinion and report on calcium  
16 hypochlorite from Japan. I think it's like a five-  
17 page Commission opinion.

18 FEMALE VOICE: Back in the day.

19 MR. HENDERSON: Yeah. But -- yeah. So,  
20 anyway, but that's something that you can address in  
21 the post-conference brief.

22 MS. CHEN: Certainly.

23 MR. HENDERSON: And are Respondents aware of  
24 any foreign trade remedy orders or proceedings  
25 involving calcium hypochlorite from China?

1 MS. CHEN: No, we are not.

2 MR. HENDERSON: I guess that's all I have  
3 for now. Thank you.

4 MS. DeFILIPPO: Thank you, Mr. Henderson.  
5 I'll now turn to Mr. Fetzer for questions.

6 MR. FETZER: Thank you. And I appreciate  
7 you traveling here today, on this very cold day, and  
8 answering our questions. And I guess there is a lot  
9 of talk in the testimony -- from your testimony about  
10 where the Chinese product isn't or can't compete with  
11 the U.S. product. And I'd like to flip that around  
12 and ask, are there Chinese products that the U.S.  
13 product can't compete with, or they don't produce in  
14 the U.S. market? Is there anything that you -- go  
15 ahead, Mr. Ferrell.

16 MR. FERRELL: Not that I'm aware of. I  
17 mean, the domestic producers control 90 to 95 percent  
18 of the marketplace, so we're just, you know -- as an  
19 importer, we're just creating a little niche in the  
20 marketplace for ourselves. It's not -- we are not  
21 trying to reinvent the wheel. We're just trying to  
22 give the market an opportunity to have another wheel  
23 to look at.

24 MR. FETZER: Okay.

25 MR. FERRELL: On a very limited basis.



1           MR. FETZER: Are there any market segments  
2 that you serve that the domestic industry doesn't  
3 serve, or you feel they don't serve? Because you were  
4 talking about niche market segments.

5           MR. FERRELL: When I use the term niche, I'm  
6 talking about a segment of the market that doesn't  
7 want to do business with them because of prior  
8 experiences they may have had. They want to do  
9 business with F2 Industries, with Reb Ferrell. It's  
10 not a question of whether the domestic people can  
11 supply them or not, because they very well could. But  
12 they choose not to want to do business with them, and,  
13 you know, for whatever the reason is.

14           MR. FETZER: And you don't -- I mean, to the  
15 extent you can elaborate, even in post-conference, on  
16 any -- I mean, are they -- I mean, they must have  
17 personal reasons, but are they business reasons or are  
18 they --

19           MR. FERRELL: Yeah.

20           MR. FETZER: -- services that you provide  
21 that they won't, or that's --

22           MR. FERRELL: No. It's more about  
23 experiences they've had with the domestic producers  
24 that were negative experiences in their eyes and, you  
25 know, they have a bad taste in their mouth, if you

1 will. And like I said, I'm not here to try to  
2 browbeat anybody. I just -- you asked the question,  
3 and that's kind of the answer, or the answer.

4 MR. FETZER: Okay. You've heard in the  
5 first panel the description about the services, like  
6 the hotline and all, for that product. In your sales,  
7 do you provide similar types of services, or is it a  
8 different -- you know, it's different --

9 MR. FERRELL: You know, as I said, we're a  
10 small business. We don't have a hotline. People have  
11 my cell phone number. The people that the -- you  
12 know, the pool, the small pool wholesalers, the two  
13 that we do business with, they have their own. So  
14 they are taking care of that need in the marketplace  
15 themselves as opposed to F2 Industries doing it.

16 Now, I have on occasion have consumers give  
17 me a ring because my phone number is on the label.  
18 So, you know, I do get those calls, and I either try  
19 to take care of it myself or I refer them to where  
20 they bought the product.

21 MR. FETZER: Okay. I appreciate that.  
22 Thanks.

23 There was talk about take-backs. Could you  
24 go into more -- I think, Mr. Ferrell, you talked about  
25 the take-backs. Go into more detail. Any importances

1 or difference -- I'm trying to remember, was it that  
2 take-backs were something the domestic industry does  
3 and you don't, or --

4 MR. FERRELL: Well, take-backs are -- and  
5 it's not across the board. But most of the big box  
6 stores, the Lowes, the Walmarts, and those types, part  
7 of the agreement that they have with not just chemical  
8 suppliers, but any suppliers, is if they have access  
9 inventory that's left over at the end of a season,  
10 most of them will require their supplier to take back  
11 that inventory off of their hands so they don't have  
12 to carry it. That's what that is.

13 We don't do that. That's one of the reasons  
14 that the Chinese product will never be in any of those  
15 places, because they don't do that.

16 MR. FETZER: So you, basically when you  
17 sell, you just -- they take it, and --

18 MR. FERRELL: They -- well, I mean, of  
19 course we stand behind our product. So if there is a  
20 quality issue, of course, we're going to see -- dig in  
21 and see what is going on. And, you know, if the  
22 product doesn't meet the specification that it was  
23 intended to meet, yes, we'll replace it.

24 MR. FETZER: But you're not taking back just  
25 unused inventory like that, right.

1 MR. FERRELL: No, no, no, no.

2 MR. FETZER: That's what I meant.

3 MR. FERRELL: NO, sir. I wouldn't be in  
4 business if I did that.

5 MR. LEHNARDT: One note I think about stores  
6 like Walmart is Walmart doesn't really buy much from  
7 anybody. They gave retailers -- or they give  
8 producers a place to sell their goods, and then 90  
9 days after it's sold, Walmart will forward the money  
10 to the supplier. So the take-back is, you know,  
11 you've got some product on our shelves, and nobody is  
12 buying it, so you can come and take it back.

13 MR. FETZER: Okay, thanks. You were talking  
14 about your experience about whether you could -- the  
15 way I remember it -- and, please, if I  
16 mischaracterized it, I'm sorry, please correct me.  
17 But you said when you contacted for the possibilities  
18 of purchasing from domestic suppliers that they sent  
19 you I guess to a different distributor or something.  
20 So my sense was that it wasn't that they denied you,  
21 but that they made you go to a distributor that would  
22 push into a situation that you didn't want. Could  
23 you just describe that? Was that a matter of price,  
24 or was it a matter of procedures, that it was a  
25 situation that you didn't want to do?

1           MR. FERRELL: The domestic producers do not  
2 want to deal directly with F2 Industries because --  
3 and it may be because of agreements they have in place  
4 with the large national commodity distributors, you  
5 know, for whatever reason, okay? So we will get  
6 kicked to the distributor, and will pay a premium to  
7 purchase the product from the distributor, and by  
8 doing so it doesn't allow us to be competitive to the  
9 marketplace that we participate in. It's simple  
10 economics.

11           MR. FETZER: Okay. But they would -- they  
12 didn't -- they refused to deal directly with you, and  
13 they directed you towards --

14           MR. FERRELL: Right, yeah.

15           MR. FETZER: -- towards these distributors.

16           MR. FERRELL: And that's -- yeah, yes.

17           MR. FETZER: Okay. Do you have a sense of  
18 how demand in the market has been for the last couple  
19 of years since 2010? Has it increased, decreased,  
20 fluctuated? Anything we could look at that would be  
21 an indicator of that? I mean, I asked this morning --

22           MR. FERRELL: No. I mean, the demand for  
23 calcium hypochlorite in the marketplace is really  
24 dictated by two things, in my opinion. And I don't do  
25 -- I don't keep up with growth in the market and all

1 that sort of thing because we're not in that. That's  
2 not what we do.

3 But as I see -- and in talking with people  
4 and so forth, the growth -- or the demand in the  
5 market is going to be dictated by construction, more  
6 pools, and also there is a segment of the market  
7 creating a little bit of a growth area, I believe,  
8 whereby the ISOS, which are very popular still, but  
9 were more popular at one point -- people are  
10 discontinuing the use, or some people, the use of that  
11 chemistry and moving back to cal hypo because, I mean,  
12 cal hypo at one time was the chemical. And the  
13 stabilized chlorine came in, the ISOS came in, and  
14 became dominant in that market.

15 But because of the reasons that have been  
16 explained earlier with regards to the chlorine and how  
17 it behaves and so forth, there are a lot of people  
18 that are moving back away from that and going to --  
19 not necessarily to cal hypo, but to another treatment,  
20 as in salt or UV, but also calcium hypochlorite.

21 MR. FETZER: Okay.

22 MR. LEHNARDT: There is another aspect of  
23 the market that Mr. Walden referred to earlier, and  
24 that is weather. If it's a colder year, then there is  
25 less of a market. There is less demand. If it's hot

1 and sunny, the heat makes algae grown, and sun feeds  
2 algae, and sun also breaks down the chemical in the  
3 water, so there is more.

4 So in recent years, from what I understand,  
5 and we're doing some research in that, there have been  
6 cooler -- there has been a cooler year recently, so  
7 demand was lower that year.

8 You know, one other thing with temperature,  
9 is once -- from what I understand, once a temperature  
10 is below 65, besides not being very appealing, you  
11 know, to take a swim in the pool, you no longer need  
12 the same amount of cal hypo, if any.

13 MR. FERRELL: To reiterate, the sun and the  
14 heat definitely will deteriorate chlorine quicker than  
15 anything, and that's what caused, I think, the iso  
16 chemistry to become popular when it did because the  
17 chlorine residual has more staying power in the water  
18 than just straight cal hypo. But the you reach a  
19 point of diminishing return where it becomes a  
20 negative, as Rich had spoke about.

21 MR. FETZER: And, Ms. Chen, you made some  
22 comments on the price data. I'd like to talk about --  
23 I think you said it should be rejected. So maybe we  
24 can go through that. I think your first -- one  
25 objection was that the price data needs to be the

1 first arm's length sale. And I believe my  
2 understanding is that what we asked for.

3 So do you -- I mean, are you basing that on  
4 looking at questionnaire responses or we asked the  
5 question? Do you feel we didn't get a first arm's  
6 length transaction?

7 MS. CHEN: Well, yes. And I apologize. We  
8 just got the APO release last night. I didn't have a  
9 chance to go through everything. But I was basing  
10 that on Petitioner's request that the data be  
11 collected in that manner. So if the Commission has  
12 done where it's the first arm's length transaction, we  
13 feel that is more accurate than collecting pricing  
14 data, you know, in different segments.

15 MR. FETZER: Well, I think the way they  
16 requested it was for -- I mean, it was from two  
17 different segments, but it was, you know, from  
18 domestic producers' shipments or from imports  
19 directly. I mean, we weren't asking for distributor  
20 sales to, you know, pool dealers or something like  
21 that. It was direct sales. I mean, I believe that's  
22 what we asked for. We'll check and make sure we got  
23 that. That's another question.

24 But my understanding is the way it was  
25 worded, it was requested in the petition, which was



1 similar to what we asked in the questionnaire, that's  
2 what we asked for now. Again, we have to make sure we  
3 received the right answers.

4 But, I mean, I don't know of another way  
5 they would report it unless they were double counting  
6 sales somehow.

7 MS. CHEN: Well, I think our main issue is  
8 that the pricing data not be broken out among  
9 segments, that it be presented as, you know, the  
10 pricing products, that it be a pure comparison between  
11 domestic and import prices, and not broken out by  
12 segments.

13 MR. FETZER: SO you want to combine the  
14 segments.

15 MS. CHEN: Yes.

16 MR. FETZER: Okay. All right. I see what  
17 you're saying.

18 MS. CHEN: And I apologize for the  
19 misunderstanding.

20 MR. FETZER: I mean, typically the reason  
21 we'd ask for the different segments is because we  
22 would think in different channels the prices would be  
23 different and not comparable. But you're saying you  
24 feel in those two segments the prices would be  
25 comparable?

1 MS. CHEN: Well, even given what Petitioners  
2 characterize the product to be, it's a commodity  
3 product. It's something that can be really sold  
4 interchangeably between segments, according to the  
5 petition. So we feel that it's -- the comparison  
6 should really be just based on price and not broken  
7 out by segment because we think that might --  
8 especially because subject imports are not sold into  
9 all of these different segments. You know, you  
10 probably just want -- if you want to just do a pure  
11 price comparison, it makes more sense just to have it,  
12 you know, presented as domestic price versus subject  
13 import price, and not in this segment and this  
14 segment, because you're not -- maybe not likely to get  
15 all of the coverage that you need to get any proper  
16 comparison in the different segments. And I hope I'm  
17 making sense with that.

18 MR. FETZER: So you're afraid the coverage  
19 is going to be too small or -- I mean, typically what  
20 we try to do is find good comparisons, even if the  
21 coverage suffers because we want it apples to apples  
22 rather than apples to oranges. And so the problem is  
23 if the prices in the channels are different, then  
24 that's a problem.

25 Now, we can always combine the data, too, if

1 it's appropriate. But -- and you can do that in your  
2 brief, too, if you want to. You can present the data  
3 that way. You know, that's your option. But -- and  
4 we'll take a look at it and see what we have. But the  
5 idea is that at least we had a -- this way it can be  
6 broken out, because sometimes there are -- you know,  
7 there could be different prices selling to different  
8 channels of distribution.

9 MS. CHEN: Well, I think because -- again,  
10 because the subject imports are sold in limited  
11 channels in the United States, that, you know, say if  
12 you were not to get a full complement of data for one  
13 segment, it may distort some of the comparisons. And  
14 because again this is a commodity product, it makes  
15 the most sense in our view to just do the total  
16 comparison between subject imports and domestic.

17 Of course, you know, we can elaborate  
18 further in the post-conference as we get more reviews,  
19 as we review the APO release a bit more. But this was  
20 our initial reaction, yes.

21 MR. FETZER: Okay. And you also I think  
22 questioned the price data definition, I think the 65  
23 to 67 percent. And do you feel -- I mean, are there  
24 other areas where we get more comparisons between  
25 Chinese imports and domestic production, or could you

1 elaborate on your objection?

2 MS. CHEN: Well, I think it's -- because  
3 subject imports are just sold in the 65 to 67 percent,  
4 if the domestic product is being sold at other  
5 percentages, we think that it should be reflected in  
6 the pricing analysis overall. We think that the data  
7 should be collected on those other percentages. And  
8 if subject imports are not being sold in those  
9 channels, that's -- or sold at those percentages, that  
10 the domestic prices should still be presented in the  
11 staff report for the Commission, essentially to show  
12 that really there isn't competition from Chinese  
13 sources at those other percentages, and therefore no  
14 underselling, no adverse price effects.

15 MR. LEHNARDT: And there is also -- this is  
16 Mark Lehnardt. There is one other aspect, and that is  
17 there is some substitutability between different  
18 chlorine available levels. And so bringing in more  
19 pricing from additional levels can be helpful as well.  
20 And we'll elaborate that further in our post-  
21 conference.

22 MR. FETZER: Okay. I'd appreciate that.  
23 Rebates. So you heard the response -- I mean the  
24 response in the first panel that they, you know,  
25 followed our instructions and took out the rebates.

1 And I don't know. I mean, you just got the APO  
2 release. I don't know if you've looked at the data.  
3 But do you still have concerns that they haven't  
4 reflected everything? And you made mention of  
5 something like leisure trips or, you know -- do you  
6 think there are other rebates that we don't ask them  
7 to take out or that they may not have taken out that  
8 would be there? And to the extent you have  
9 information on those, could you give us some examples  
10 or give us more information on them?

11 MR. LEHNARDT: This is Mark Lehnardt. We're  
12 working with someone on an affidavit about that. And  
13 I want to emphasize, however, that when Mr.  
14 Malashevich and Ms. Clarke said they provided answers  
15 consistent with the instructions, we do not question  
16 their credibility at all.

17 We don't know whether the instructions were  
18 as comprehensive as they could have been, and so there  
19 may have been some things that were left out because  
20 they were not covered by the instructions. And we'll  
21 submit more if we can get this affidavit in our post-  
22 conference brief.

23 MR. FETZER: Do you have any examples,  
24 though, that -- like I think you made mention of a  
25 leisure trip of something?

1           MR. LEHNARDT: Some leisure trips, some  
2 incentives with other products or other, you know,  
3 free products, some advertising dollars, and other  
4 types of things where it's not a price rebate, but  
5 there are incentives that -- where, you know, in the  
6 words of someone that I spoke with, you know, when he  
7 speaks with the domestic industry, he says, I don't  
8 want rebates, I don't want trips, I don't want  
9 anything else. I just want a price when you strip all  
10 of that away.

11           MR. FETZER: Okay. Well, if you can give us  
12 that information, as you can get, we'd appreciate it.

13           MS. CHEN: Irene Chen here. I think also  
14 what might make sense is as a condition of competition  
15 as well, that not just the pricing data reflecting,  
16 you know, those -- or netting out those rebates, that  
17 it's something that can maybe be elaborated as a  
18 narrative in the staff report to explain that this is  
19 part of how the domestic producers do business, is  
20 that they routinely offer these rebates and other  
21 incentives to their customers.

22           MR. FETZER: Okay. Thank you. That's very  
23 helpful.

24           Mr. Ferrell, you said something about having  
25 different customers. I think we already covered that,

1 actually, not totally -- but they're -- okay. I guess  
2 just to follow up on that, the different customers.  
3 Is there some overlap in the customers you have with  
4 the domestic industry, or do you basically just serve  
5 folks -- customers who don't purchase from the  
6 domestic industry at all? And if you want to answer  
7 confidentially, you can do that. Or you can give more  
8 general. You don't have to give me examples,  
9 certainly.

10 MR. FERRELL: Any customer that F2  
11 Industries sells to could be a customer of the  
12 domestics, okay? As I said earlier, these are people  
13 who have chosen -- they probably could do business  
14 with the domestics, I'm certain. But these are people  
15 who have chosen or decided they didn't want to because  
16 of prior experience. I mean, it's pretty -- I mean,  
17 that's a simple answer, but it's a factual answer. I  
18 mean, there are companies in this economy of ours that  
19 choose to do business with certain other companies,  
20 and are happy with the sourcing and so forth, and  
21 that's what they do.

22 MR. LEHNARDT: And Mr. Ferrell may be able  
23 to add a little bit more on this next topic, and that  
24 is that if a customer is buying some Chinese cal hypo  
25 from Mr. Ferrell, from F2 Industries, if they are also

1 servicing segments of the market that require, you  
2 know, the spec U.S.-produced cal hypo, then they can't  
3 get that from F2 Industries. They need to get it from  
4 somebody else.

5 MR. FETZER: And this spec, you talked about  
6 the domestic industry -- the specifications that the  
7 domestic industry only can provide, is that in  
8 reference, I think, to the example of the -- there is  
9 a machine that the requirement is that it has to be  
10 domestically produced? Does it say that, or does it  
11 just give requirements that the Chinese can't meet, I  
12 guess?

13 MR. FERRELL: Well, the Chinese can't meet  
14 it because part of the certification for that  
15 equipment to be used in potable water treatment is  
16 that the manufacturer of the feeder has to approve the  
17 chemical product that's used in the feeder. By  
18 definition, the feeder is coming from the manufacturer  
19 of the chemical. They're not going to approve F2  
20 Industries' tablet to go into their own feeder when  
21 they sell the tablet themselves as well.

22 MR. FETZER: Okay. Solubility rates. So  
23 that was mentioned as a possible difference. Do you  
24 have any sense of how crucial that would be in terms  
25 of -- would that just -- would that be something that



1       could be -- is that a production specification where  
2       you give the solubility rate, and it would affect the  
3       price, or is it basically if it doesn't have a -- meet  
4       a certain threshold, maybe a purchaser wouldn't buy a  
5       particular solubility rate, or would purchase another  
6       -- how important is that?

7               MR. FERRELL: Yeah. There is a portion of  
8       the market to where people are accustomed to a -- and  
9       this goes more to the consumer than it does anything  
10      else. The people get accustomed to a particular  
11      solubility rate when they go into their ABC pool store  
12      and buy their chemical, and they go home and they dump  
13      it in the pool, and they see it dissipate and go into  
14      solution, and everything is good.

15             If they buy another brand, and it doesn't  
16      dissolve as quickly, it's not that it is an issue. It  
17      could be an issue because they're so used -- they  
18      think something is wrong with the chemical if it's not  
19      doing the same thing. So in that regard, yeah, it can  
20      affect, it can affect. But --

21             MR. FETZER: So it's a question of speed.  
22      It just dissolves faster?

23             MR. FERRELL: Yeah.

24             MR. FETZER: Is that basically --

25             MR. FERRELL: Right. I mean, you're still

1 getting the same amount of chlorine content in the  
2 water eventually.

3 MR. FETZER: Yeah.

4 MR. FERRELL: But it just doesn't happen as  
5 quickly with one product over another.

6 MR. FETZER: And does the Chinese product  
7 have a solubility rate or a lower one, or does it vary  
8 between different -- or you just saying it varies  
9 between different sources, or is there -- we  
10 characterize it one way or the other. It tends to be  
11 higher or lower.

12 MR. FERRELL: In general, domestic product  
13 is going to have a faster solubility rate than the  
14 Chinese product.

15 MR. FETZER: Okay.

16 MR. FERRELL: But there are other -- I mean,  
17 water conditions dictate solubility rate as well,  
18 okay? So, I mean, if you put them both -- if you put  
19 both product into the same water --

20 MR. FETZER: Right.

21 MR. FERRELL: -- at the same time, most of  
22 the time the domestic product will dissolve quicker  
23 than the Chinese product.

24 MR. FETZER: Okay. That's helpful. Thanks.

25 MR. FERRELL: Yeah.

1                   MR. FETZER: And in terms of the tint, the  
2 grey/white tint, does that matter much? I mean, is  
3 that just more of a cosmetic thing that consumers  
4 might --

5                   MR. FERRELL: It is cosmetic, but in the  
6 chemical industry, it's amazed by presentation and  
7 cosmetics, even though chemically there is no  
8 differential. But in the chemical industry, cosmetics  
9 is a big deal sometimes.

10                  MR. FETZER: Do you have a sense on either  
11 the tint or the solubility that there be a price  
12 premium, and that people would pay for, you know,  
13 having something that dissolves faster or is lighter?  
14 I guess might be better than gray. I don't know,  
15 depending on if you're Darth Vader, or the good side  
16 of the force, bad side, whatever.

17                  But is there any sense there is a price  
18 premium there, or is it maybe just -- is it more of a  
19 decision that's made further upstream in terms of,  
20 gee, we're just going to go with this white product,  
21 pay a little bit more, and so it will seem like a --  
22 you know?

23                  MR. FERRELL: You know, that's going to be a  
24 company decision, who is buying the domestic stuff  
25 that may have a quicker solubility rate and be a

1 little bit whiter as opposed to the imported product.

2 You know, there is going to be a premium that they do  
3 pay for that. So they just have to decide what they  
4 want to do, and they have to decide what their  
5 marketplace will accept.

6 MR. FETZER: Okay. I have no more questions  
7 at this time. Thanks. I really appreciate it. I  
8 don't know anything about this. I never had a  
9 swimming pool, so this has been an education for me.

10 MR. FERRELL: I have a swimming pool, and  
11 have been around pools all my life, and I still have a  
12 difficult time with this.

13 MR. FETZER: Thanks.

14 MS. DeFILIPPO: Thank you, Mr. Fetzer.

15 Mr. Boyland?

16 MR. BOYLAND: Good afternoon. Thank you for  
17 your testimony. I have just one general question,  
18 kind of switching gears back to the tableting and  
19 repacking issue. I guess one question would be does  
20 F2 repack? I mean, would you consider yourself a  
21 repacker?

22 MR. FERRELL: No. We bring -- everything we  
23 bring in is packaged and sold as it is.

24 MR. BOYLAND: As is.

25 MR. FERRELL: Right

1 MR. BOYLAND: Okay. All right. Thank you.

2 I have no further questions.

3 MS. DeFILIPPO: Thank you, Mr. Boyland.

4 Mr. Robinson?

5 MR. ROBINSON: Thank you very much. It's  
6 been a very informative session. I just want to drill  
7 down on a couple of points that we've already  
8 discussed before. One is this discussion about  
9 domestic producers of cal hypo making the feeder  
10 equipment for drinking water. What I'm not clear on  
11 is let's say company A has made the feeder and they're  
12 going to say you need to use company A's product for  
13 this to work properly or you need to U.S. quality  
14 product. I guess that's the differentiation.

15 MR. FERRELL: Well, company A makes a  
16 feeder, and company A makes the chemical, and company  
17 A will not let, based upon the certification of the  
18 feeder to be used in drinking water -- company A gets  
19 to approve whatever chemical is used in that feeder.  
20 And if they're in the chemical business, the whole  
21 point of that statement being in there so they control  
22 what goes into their feeder, because they want their  
23 product to go into that feeder, even though the  
24 competitive product, be it Chinese product, be it  
25 company B's product, that is, a domestic product, is

1 certified for potable water application. So it's just  
2 another way to control their flow of product to the  
3 market.

4 MR. LEHNARDT: And there is, you know,  
5 another aspect. Because the producer is making the  
6 equipment and they're formulating it for their own  
7 tablets, they have to approve of what is being used to  
8 dissolve at a certain rate and deliver a certain  
9 amount of chlorine. And, you know, even though other  
10 manufacturers may claim to have the same dissolving  
11 rate in chlorine, the producer of the equipment won't  
12 -- you know, they're unwilling to test it to ensure  
13 that it's the same, or they just don't want to have a  
14 competing product with that equipment.

15 MR. FERRELL: Yeah. The certification of  
16 the feed equipment is done by the agency, and it's  
17 done -- the whole point is it's done based on erosion  
18 rates of the tablet. And in Arch cases, they make a  
19 little pillow. It's not a round tablet, it's a  
20 pillow, briquette, if you will, and these tests are  
21 done, you know, at a certain water temperature, and  
22 that water temperature can be -- it can be whatever  
23 you decide it's going to be.

24 So, you know, the higher the temperature,  
25 the better the erosion rate is going to be, just as a

1 matter of fact. So -- but, you know, it's still --  
2 the bottom line is it's still a way for the equipment  
3 manufacturer, i.e, the chemical manufacturer, to  
4 control the flow of their chemical into that segment,  
5 into that feeder.

6 MR. ROBINSON: Sure.

7 MR. FERRELL: And no competition in there.

8 MR. ROBINSON: Okay. Thank you. And just  
9 back to one point, Mr. Lehnardt. I realize that you  
10 were passing along information that you had heard.  
11 You mentioned some discussion about the Chinese  
12 product being different in terms of the conditions  
13 when it's shipping. I know you have a lot to do for  
14 this case. But if you find anything more on that that  
15 might point to some other differentiation between  
16 Chinese and U.S. product, that would be helpful if  
17 anything else comes up.

18 MR. LEHNARDT: Sure. And believe me, we are  
19 working very hard on finding those.

20 MR. ROBINSON: I believe you, yeah. Thank  
21 you very much. That's all I have, and thank you for  
22 coming today.

23 MS. DeFILIPPO: Thank you, Mr. Robinson.

24 Ms. Haines, questions for this panel?

25 MS. HAINES: Elizabeth Haines. Thank you

1 for the testimony, but I have no questions.

2 MS. DeFILIPPO: I had one question that had  
3 a couple of parts that actually Mr. Fetzner kind of got  
4 into with Ms. Chen on the rebates and those kinds of  
5 things. And I think as we ended that, you are going  
6 to try and put in information on examples. I extend  
7 that to the Petitioners. To the extent that you want  
8 to can provide any information on cash and/or in-kind  
9 or coop advertising or any kind of other rebates that  
10 might be used by your firm, that would be helpful.

11 Yes, Mr. Lehnardt?

12 MR. LEHNARDT: Yeah, thank you. Just one  
13 note, and that is that, you know, the affidavit that  
14 we're trying to get is -- or that we're working on is  
15 going to be the experience of this individual --

16 MS. DeFILIPPO: Sure

17 MR. LEHNARDT: -- of course the domestic  
18 industry, and that is the extent of all of their  
19 programs.

20 MS. DeFILIPPO: Correct, absolutely. Thank  
21 you for that clarification.

22 Mr. Ferrell?

23 MR. FERRELL: Yeah. The -- and this is just  
24 in conversations that I have with people. In the  
25 industry, there are small retail operations, pool



1 stores, if you will, family-owned pool stores, that  
2 come together and create a consortium of such to give  
3 themselves more buying power, okay? And this buying  
4 group has normally got a manager that these pool  
5 stores or these companies collectively pay, and he is  
6 in charge of negotiating the deal for that buying  
7 group on everything from equipment to chemicals to  
8 anything that has to do with a swimming pool, okay?

9 And, you know, part of that negotiation is  
10 these rebates and these advertising dollars, coop  
11 advertising because, you know, retail operations have  
12 an advertising budget, and so they want help from  
13 their suppliers. And, you know, part of that is the  
14 free trips based upon what you buy and all that sort  
15 of rewards, so to speak.

16 And, you know, my point is that's not  
17 something that we get into. And I say we. I'm  
18 talking about -- and I speak for the industry that are  
19 importing product. Otherwise it would be -- they  
20 would be much more involved than they are now. But  
21 it's just never going to get to that.

22 MS. DeFILIPPO: Thank you. I appreciate  
23 that. I'm going to take one last peek along the  
24 table. With that, I will say thank you again. We  
25 very much appreciate you coming here today and giving

1 us some very valuable information.

2 We'll take a short break so that people can  
3 sort of gather their thoughts for final closing  
4 remarks. Five minutes, 10 minutes, what would you  
5 guys find -- five minutes? Okay. We'll break and  
6 then come back in five minutes for closing remarks.  
7 Thank you.

8 (Whereupon, a short recess was taken.)

9 MS. DeFILIPPO: I'm going to look around and  
10 get a head shake if people are ready to move into the  
11 final phase of our conference today. We will turn to  
12 closing remarks.

13 Ms. Clarke, I invite you to the table, and  
14 please begin when you are ready.

15 MS. CLARKE: Thank you. This is Peggy  
16 Clarke again, for the Petitioner, Arch Chemicals, Inc.

17 It has been a long day, and we won't keep  
18 you for very long. We believe the case as it is  
19 presented has not -- will continue to demonstrate the  
20 injury and the threat of material injury. We want to  
21 just make a couple of comments here. We appreciate  
22 the testimony you heard today. We do note that F2  
23 Industries is small share of the import market. It is  
24 not a large percentage of the imports, and nor did you  
25 hear from any Chinese producers today.

1 I would also like to, as I forgot to do  
2 before, move that the public exhibit we gave you be  
3 placed in the record.

4 And finally, the point we want -- we want to  
5 note that Respondent's testimony spent a lot of time  
6 talking about the big box store habits. They're  
7 wrong, and we will elaborate on that in our post-  
8 conference brief.

9 And with that, we would like to thank you  
10 for taking the time to listen to us.

11 MS. DeFILIPPO: Thank you, Ms. Clarke. And  
12 for the record, I will include Mr. Malashevich in the  
13 transcript and part of the record.

14 MS. CLARKE: Thank you.

15 MS. DeFILIPPO: Thank you.

16 For Respondents, Ms. Chen. Welcome back.  
17 And please proceed when you're ready.

18 MS. CHEN: Yes. Irene Chen on behalf of F2  
19 Industries. We also didn't want to take up too much  
20 of your time. It has been a long day for everybody.  
21 But I want to make a few points again.

22 With regard to the pricing data, as we had  
23 discussed with Mr. Fetzer, we believe that the pricing  
24 data on all sales should be collected and presented in  
25 the staff report, which would include sales up and

1 down the chlorine spectrum because we feel that that  
2 would -- is representative of what is going on in the  
3 market, and the competition so to speak between and  
4 among imports and domestic product.

5 Also, there was some discussion of some  
6 interchangeability, some overlap in some of those  
7 chlorine categories. I also want to note, you know F2  
8 is small. They're an example of the typical or some  
9 of the U.S. importers' experience here. The Chinese  
10 imports relative to domestic production and sales is  
11 very small. And so even though Petitioner mentioned  
12 that F2 is small, that should not discount F2's  
13 experience as a purchaser of subject imports. And  
14 we'd also like to note we are working actively on  
15 getting other U.S. importers' input, including putting  
16 those -- that input in the affidavits, which if we do  
17 receive them, we will certainly attach them to our  
18 post-conference brief.

19 And we also urge the Commission to look more  
20 closely at the cash rebate issue. I feel this is very  
21 important to get a clear picture of the pricing and  
22 the sales transactions in and among U.S. customers.  
23 This also might affect some of the financials,  
24 including SGNA, if some of those costs are being  
25 hidden there. And also we wanted to note again, you

1 know, there is only one Chinese producer that has EPA  
2 registration, and they have a range for a shipping  
3 solution with Costco. But that's available to anybody  
4 with sufficient financial wherewithal.

5 So again, we urge the Commission to look at  
6 these conditions of competition. We feel that they  
7 really do shape the market or portray a picture that's  
8 very different from what Petitioners have presented.  
9 Thank you.

10 MS. DeFILIPPO: Thank you, Ms. Chen.

11 On behalf of the Commission and the staff, I  
12 would like to thank the witnesses who came here today,  
13 as well as counsel, for helping us gain a better  
14 understanding of the product and the conditions of  
15 competition in the calcium hypochlorite industry.

16 Before concluding, please let me note key  
17 dates for these investigations. The deadline for  
18 submission of corrections to the transcript and for  
19 submission of post-conference briefs is Monday,  
20 January 13. If briefs contain business proprietary  
21 information, a public version is due on Tuesday,  
22 January 14.

23 The Commission has tentatively scheduled its  
24 vote on these investigations for Friday, January 31,  
25 and it will report its determinations to the Secretary

1 of the Department of Commerce on Monday, February 3.  
2 Commissioners' opinions will be issued on Monday,  
3 February 10.

4 Thank you for coming. This conference is  
5 adjourned.

6 (Whereupon, at 1:45 p.m., the preliminary  
7 conference in the above-entitled matter was  
8 concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Calcium Hypochlorite from China  
**INVESTIGATION NO.:** 701-TA-510 and 731-TA-1245  
**HEARING DATE:** January 8, 2014  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: January 8, 2014

SIGNED: LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Rebecca McCrary  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: LaShonne Robinson  
Signature of Court Reporter