

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
MELAMINE FROM CHINA AND) 701-TA-526-527 AND
TRINIDAD AND TOBAGO) 731-TA-1262-1263 (FINAL)

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INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
MELAMINE FROM CHINA AND) 701-TA-526-527 AND
TRINIDAD AND TOBAGO) 731-TA-1262-1263 (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, November 3, 2015

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Meredith M.
Broadbent, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Meredith M. Broadbent (presiding)

5 Vice Chairman Dean A. Pinkert

6 Commissioner Irving A. Williamson

7 Commissioner David S. Johanson

8 Commissioner F. Scott Kieff

9

10

11

12 Staff:

13 Bill Bishop, Supervisory Hearings and Information

14 Officer

15 Sharon Bellamy, Program Support Specialist

16 Sonia Parveen, Student Intern

17

18 Cynthia Trainor, Investigator

19 Philip Stone, International Trade Analyst

20 Lauren Gamache, Economist

21 Justin Jee, Accountant/Auditor

22 Jane Dempsey, Attorney/Advisor

23 James McClure, Supervisory Investigator

24

25

1 APPEARANCES:

2 OPENING REMARKS:

3 Petitioner (Stephen J. Orava, King & Spalding LLP)

4 Respondents (Eric C. Emerson, Steptoe & Johnson LLP)

5

6 In Support of the Imposition of Antidumping and

7 Countervailing Duty Orders:

8 King & Spalding LLP, Washington, DC on behalf of:

9 Cornerstone Chemical Company

10 Gregory Zoglio, Chief Executive Officer, Cornerstone

11 Chemical Company

12 Paul Mikesell, Chief Operating Office, Cornerstone

13 Chemical Company

14 Michael Driscoll, Global Business Manager of Melamine,

15 Cornerstone Chemical Company

16 Eifion Jones, Chief Financial Officer, Cornerstone

17 Chemical Company

18

19 Brent Petit, USW Staff Representative

20 Joseph W. Dorn, Stephen J. Orava and Clinton R. Long -

21 Of Counsel

22

23

24

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1 In Opposition to the Imposition of Antidumping and
2 Countervailing Duty Orders:

3

4 Steptoe & Johnson LLP, Washington, DC on behalf of:

5 Methanol Holdings (Trinidad) Limited

6 Southern Chemical Corporation

7 (collectively "MHTL")

8 Adrian Spencer, Vice President of Sales, Southern
9 Chemical Corporation

10 Vishard Chandool, Manager Business Development,

11 Methanol Holdings (Trinidad) Limited

12 Michel Ross, Vice President, Manufacturing, Suddekor

13 LLC

14 Scott Hansen, Operations Director, INEOS Melamines LLC

15 Daniel Klett, Principal, Capital Trade, Inc.

16 Eric C. Emerson and Nathan W. Cunningham - Of Counsel

17

18 Rebuttal/Closing Remarks:

19 Petitioner (Joseph W. Dorn, King & Spalding LLP)

20 Respondents (Eric C. Emerson, Steptoe & Johnson LLP)

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1 P R O C E E D I N G S

2 9:30 a.m

3 CHAIRMAN BROADBENT: Good morning. On behalf of
4 the U.S. International Trade Commission I welcome you to
5 this hearing on investigation No. 701-527 and 731-1262 to
6 1263 involving melamine from China and Trinidad and Tobago.
7 The purpose of the final phase of these investigations is to
8 determine whether an industry in the United States is
9 materially injured or threatened with material injury by
10 reason of less than fair value and subsidized imports from
11 China and Trinidad and Tobago of melamine. Documents
12 concerning this hearing are available at the public
13 distribution table.

14 Please give all prepared testimony to the
15 secretary. Do not place it on the public distribution
16 table. All witnesses must be sworn in by the secretary
17 before presenting testimony. I understand that the parties
18 are aware of their time allocations but if you have any
19 questions about time, please ask the secretary. Speakers
20 are reminded not to refer to business proprietary
21 information in their remarks or in answers to questions. If
22 you will be submitting documents that contain information
23 you wish to classify as business confidential, your request
24 should comply with Commission Rule 201.6.

25 I would like to request that all witnesses and

1 counsel state your name for the record before delivering
2 testimony and responding to Commission questions. This
3 helps the court reporter to know who is speaking at any
4 given point. Finally, I will pass along that Commissioner
5 Schmidtlein had a family health issue and won't be with us
6 today but she will participate by reading the transcript and
7 I'm sure she will have follow up questions in writing. Mr.
8 Secretary, are there any preliminary matters?

9 SECRETARY BISHOP: No, Madam Chairman.

10 CHAIRMAN BROADBENT: Very well. Let us now
11 proceed with opening remarks.

12 SECRETARY BISHOP: Opening remarks on behalf of
13 Petitioner will be given by Stephen J. Orava, King and
14 Spalding.

15 OPENING REMARKS BY STEPHEN J. ORAVA

16 MR. ORAVA: Good morning. I hope it's okay to
17 wish you a happy birthday. I understand from hearing staff,
18 Madam Chairman.

19 (Aside from the audience)

20 MR. ORAVA: Thank you. Good morning. This case
21 is about unfairly traded imports of melamine from China and
22 Trinidad and Tobago. In its final determination, the
23 Department of Commerce found dumping margins of three
24 hundred and sixty-three percent for china and a hundred and
25 seventy three percent for Trinidad. Commerce found subsidy

1 rates of a hundred and fifty-four percent for China and 6.8
2 percent for Trinidad, including subsidies on natural gas,
3 MHTL's single most significant input.

4 These dumped and subsidized imports aggressively
5 undersold the domestic like product, drove down market
6 prices and took sales and market share from the U.S.
7 Industry. Until these investigations were initiated and
8 preliminary duties were imposed to offset the egregious
9 margins of dumping and subsidies.

10 Cornerstone Chemical Company is the only remaining U.S.
11 Producer of the domestic like product. It produces melamine
12 at its facility in Waggaman, Louisiana.

13 Based on the confidential data supplied and its
14 questionnaire response, there's no question that
15 Cornerstone's melamine operations were materially injured
16 during the entire period of investigation. That is clear,
17 for example, from its weak financial condition.
18 Cornerstone's condition only started to improve after these
19 investigations were initiated and preliminary duties were
20 imposed. Because there is a reasonable overlap of
21 competition among the subject imports from both countries
22 and the domestic-like product, the Commission must consider
23 the cumulative impact of Subject Imports in assessing
24 material injury by reason of Subject Imports from China.

25 Under U.S. Law, the Commission must make its

1 determination regarding imports from Trinidad without
2 cumulating imports from China because Trinidad is a
3 beneficiary country under the Caribbean Basin Economic
4 Recovery Act. Applying the statutory factors, it is clear
5 that Subject Imports had more than an incidental, tangential
6 or trivial impact on Cornerstone. First, the volume of
7 Subject Imports is significant. The increase in the volume
8 of imports is significant. Trinidad was the leading foreign
9 supplier of melamine in the U.S. Market during the POI. The
10 volume of imports from Trinidad exceeded the volume from
11 China by sixty percent over the POI. During 2012 to 2014,
12 imports from Trinidad represented thirty-eight percent of
13 imports from all countries and were one hundred and five
14 percent higher than during 2009 to 2011.

15 During 2012 to 2014, cumulated imports from the
16 Subject Countries represented sixty-three percent of U.S.
17 Imports for melamine from all countries. Cumulative imports
18 increased twenty-six percent from 2012 to 2014 and increased
19 relative to U.S. consumption and production. Imports from
20 Trinidad and cumulated imports would have increased to much
21 higher levels if Cornerstone had not dropped its prices to
22 avoid the loss of even more market share if Cornerstone had
23 not filed these petitions.

24 Second, the Subject Imports adversely affected
25 the Domestic Industry's prices. Melamine is a commodity

1 product that is produced to standard industry specifications
2 and is highly interchangeable regardless of course. Thus,
3 price is the primary factor in purchasing decisions. Our
4 witnesses will explain that Cornerstone lost substantial
5 sales to lower priced Subject Imports and had to lower its
6 prices to avoid losing even more sales.

7 The Subject Imports also prevented Cornerstone
8 from fully realizing price increases needed to cover
9 increasing cost of production. The end result is that
10 Cornerstone capacity utilization was too low. Its fixed
11 costs were spread over too few pounds and prices were too
12 low to sustain its melamine operations. The record also
13 demonstrates that Subject Imports undersold Cornerstone by
14 substantial margins and that the underselling resulted in
15 significant lost sales, lost revenues and cost-price
16 squeeze.

17 The Subject Imports grabbed market share for the
18 sole reason that they were the cheapest available in the
19 market. Third, the Subject Imports had an adverse impact on
20 the Domestic Industry. The record demonstrated that
21 Cornerstone suffered declines in U.S. shipments, market
22 share, prices, production and capacity utilization by reason
23 of Subject Imports. In particular, the adverse volume of
24 price affects delivered a devastating blow to Cornerstone's
25 financial results for melamine.

1 Because Subject Imports are clearly causing
2 material injury to the Domestic Industry, the Commission
3 need not address threat of injury. The threat of additional
4 injury however is real and eminent as will be explained in
5 more detail during the course of this hearing.

6 In conclusion, Cornerstone requests that the
7 Commission reach affirmative final determinations, that the
8 Domestic Industry is materially injured by reason of dumped
9 and subsidized imports from Trinidad alone and by reason of
10 cumulated imports from China and Trinidad. We thank the
11 Commission for your work on these investigations and look
12 forward to a productive discussion today, thank you.

13 SECRETARY BISHOP: Opening remarks on behalf of
14 Respondents will be given by Eric C. Emerson, Steptoe and
15 Johnson.

16 OPENING REMARKS OF ERIC C. EMERSON

17 MR. EMERSON: Good morning, Madam Chairman,
18 Members of the Commission and Commission Staff. My name is
19 Eric Emerson. I'm with Steptoe and Johnson here and I
20 represent Methanol Holdings Trinidad Limited, MHTL and
21 Southern Chemical Corporation; the Respondents in this
22 investigation. At the outset, we would like to thank the
23 Commission and the Staff for the time and attention that
24 they have paid to the case, which is a matter of great
25 importance to our clients and I am under oath so I can say

1 my son's birthday is today as well so happy birthday as
2 well. It's a red letter day. Later this afternoon we will
3 be explaining why imports of melamine from Trinidad did not
4 cause material injury to the Domestic Industry and why these
5 imports do not pose a threat of material injury either.
6 These reasons are explained in detail in our prehearing
7 brief and we will discuss the most significant of these
8 reasons in our testimony this afternoon.

9 But I wanted to use my opening statement to
10 highlight some issues the Petitioner may be addressing in
11 its testimony and to give you some information that may help
12 you put these arguments in perspective. First, when
13 measured over the period of investigation established by the
14 Commission for this case, import volumes from Trinidad
15 declined substantially regardless of how they are measured.

16 Cornerstone may tell you that the volume of
17 imports from Trinidad increased but that is true only if
18 trends are measured from a baseline that starts prior to the
19 POI and our import volumes will continue to be low as a
20 result of the natural gas curtailment issues affecting MHTL,
21 which would will hear testimony about today.

22 Second, in our testimony this afternoon, you will
23 hear discussion of price trends during 2013 and 2014.
24 Specifically, what caused prices to fall from late 2013 to
25 late 2014? Now I hate to spoil the surprise but I have to

1 tell you now that the cause was not Subject Imports from
2 Trinidad. Rather, it was the alleviation of a perceived
3 tightness in supply in 2013 by increased imports from
4 nonsubject sources, in particular China, in 2014.

5 The Petitioner will likely tell you that the
6 price declines in late 2013 through 2014 were caused by
7 aggressive under pricing by SCC but that is inconsistent
8 with the fact that Trinidad's import volume consistently
9 declined and with the fact that lower priced nonsubject
10 Imports rose. This argument is also inconsistent with the
11 confidential pricing record.

12 A key part of Cornerstone's argument in this case
13 is that it was forced to drop its prices to meet Trinidadian
14 competition in order to prop up its sales volumes and
15 maximize its production. I believe Mr. Orava just said the
16 same. But this argument is not supported by the pricing
17 record, particularly when the Commission compares price
18 trends for products where Cornerstone faced import
19 competition with those where it did not.

20 Furthermore, Cornerstone's argument simply makes
21 no commercial sense. Why would SCC drop prices to gain
22 market share when it was facing difficulties obtaining
23 enough melamine from Trinidad to satisfy its existing
24 demand? The answer, of course, is that it wouldn't and that
25 other factors, namely nonsubject Import competition led

1 prices downward during that period.

2 Now, regarding the condition of the Domestic
3 Industry, as the Commission listens to Cornerstone's
4 testimony regarding its financial condition, please be aware
5 that your staff has been working to get clarification on a
6 few very important elements of Cornerstone's production cost
7 that have a significant impact on its financial performance.
8 While Cornerstone has provided some data, its responses to
9 date have raised more questions than they have answered. In
10 our brief at page 77, we summarized the information that's
11 needed from Cornerstone to answer these concerns and perhaps
12 they'll be willing to share some information during their
13 testimony today on these points.

14 Finally, we urge the Commission to listen
15 carefully to Cornerstone's testimony for any explanation of
16 the critical role of nonsubject melamine imports in the U.S.
17 Market during the POI. The Federal Circuit's concern about
18 not attributing injury from nonsubject Imports to Subject
19 Imports is particularly crucial in this case since as the
20 Commission is aware, no other imports can be cumulated with
21 imports from Trinidad for purposes of determining injury
22 under the CBRA Exception.

23 We did a word search of the Petitioner's
24 prehearing brief and the words "Germany, Netherlands,
25 German, Dutch, nonsubject, non-attribution, Gerald Metals,

1 Bratsk and Mittal Steel are not found anywhere in their
2 brief relative to this critical issue. To the extent the
3 Petitioner does try to address this issue this morning, it
4 will be interesting to hear how they can on the one hand
5 specifically identify Trinidad as a cause of injury to
6 Cornerstone and on the other argue that the overlap in
7 competition between the Chinese and Trinidad Imports is too
8 great that they should be cumulated for purposes of the
9 Chinese investigation.

10 Thank you very much and we look forward to our
11 hearing today.

12 SECRETARY BISHOP: Would the Panel in support of
13 the imposition antidumping and countervailing duty orders
14 please come forward and be seated? Madam Chairman, all
15 witnesses on this panel have been sworn in.

16 CHAIRMAN BROADBENT: Thank you, Mr. Secretary.
17 You may begin when you're ready.

18 STATEMENT OF JOSEPH W. DORN

19 MR. DORN: Good morning, Joe Dorn for
20 Cornerstone. This case is unlike most because imports from
21 China cannot be cumulated with imports from Trinidad in your
22 determination on Trinidad. On the other hand, imports from
23 Trinidad must be cumulated with imports from China in your
24 determination on China. Accordingly, in our pre-hearing
25 brief, we reviewed the evidence on cumulated imports with

1 respect to our Petition against China and we reviewed the
2 evidence on imports from just Trinidad with respect to the
3 petition against Trinidad.

4 By doing so, we made sure that we were not
5 attributing to Trinidad any injury that was caused by China.
6 No doubt should exist that the Domestic Industry is
7 materially injured by cumulated imports. The grounds for
8 cumulation are clear and undisputed. Not a single Chinese
9 producer responded to your questionnaire and no party has
10 appeared in opposition to our Petition against China. In
11 their pre-hearing brief, the Trinidad response repeatedly
12 pointed to China as the cause of any injury that the
13 Domestic Industry has suffered.

14 The Domestic Industry is also materially injured
15 by reason of imports from Trinidad alone. In fact, the
16 volume of imports from Trinidad was sixty percent greater
17 than the volume of imports from China during the period of
18 the final phase investigation or POI. In the average rate
19 of value or AUV of imports from Trinidad, were generally
20 lower than the AUV of imports from China during the POI.
21 Add those imports from Trinidad to the imports from China
22 and this is a very simple, straightforward case against
23 China.

24 I hope you have my hearing slides in front of
25 you. As shown on slide 1, the increase in the volume of

1 cumulated imports was significant during the POI and is
2 shown in your prehearing report at tables 4-6 and 4-7, the
3 volume of cumulated imports was significant in relation to
4 U.S. consumption and U.S. production during each portion of
5 the POI.

6 As shown in Exhibit 4 to our pre-hearing brief,
7 there was significant underselling by cumulated imports I
8 would point out as we explained in Exhibit 1 to our brief,
9 the Final Staff Report should summarize the underselling by
10 cumulated imports and the staff report should also indicate
11 the margins of underselling on a weighted average basis, not
12 a simple average basis in order to be much more meaningful.

13
14 As summarized in Exhibit 5 to our brief,
15 Cornerstone has lost substantial sales and revenues to
16 cumulated imports, starting in 2011 as noted in your
17 preliminary determination. Cornerstone also provided
18 evidence of more lost sales and revenues in its final phase
19 questionnaire response. The lost volume and lost revenues
20 had a very substantial impact on Cornerstone's bottom line
21 as made clear in the prehearing report. There is no
22 question that the Domestic Industry was injured during each
23 portion of the POI, starting in 2012, the base year.

24 Given the obvious strength of our case against
25 China, based on cumulated imports and given the lack of any

1 opposition today from China, we will focus most of our
2 presentation on imports from Trinidad. After hearing from
3 our Industry Witnesses, I will return at the end to
4 summarize our material injury case against Trinidad and
5 Steve Orava will summarize our threat case against Trinidad.
6 Our first witness is Greg Zoglio.

7 STATEMENT OF GREGORY ZOGLIO

8 MR. ZOGLIO: Thank you, Joe. Good morning. My
9 name is Greg Zolio. I am CEO of Cornerstone Chemical
10 Company. I have been in this current position since 2011.
11 Prior to that, I was vice President of our predecessor
12 company where since the beginning of 2008 I was responsible
13 for sales, marketing, and operations of our building block
14 chemicals division which included among other business
15 groups, our melamine business. I began my career in the
16 chemical industry in 1992 and have been involved in several
17 different industry segments at manufacturing facilities
18 located in Idaho, Texas and Louisiana.

19 This case is of critical importance to our
20 company and to the preservation of our melamine operations.
21 In 2010 we were utilizing nearly all of our melamine
22 capacity, U.S. Market prices were reasonable and the company
23 was profitable. That all changed in 2011 when imports from
24 Trinidad severely undercut U.S. Market prices in order to
25 grab a large share of the U.S. Market. During the period of

1 your investigations, imports from Trinidad and Tobago
2 undersold our melamine by significant margins to capture a
3 large share of the U.S. Market.

4 Cornerstone has had to lower its prices sharply
5 to avoid further loss of market share and in order to have
6 enough volume to keep our plant running on a 24-hour, 7-day
7 schedule which it is designed to do and it is imperative to
8 do in order to maintain the economics to justify continued
9 operation. We have lost tens of millions of dollars of
10 sales and revenue to the unfairly priced imports. These
11 significant volume and price affects have had a devastating
12 impact on our bottom line since Trinidad overwhelmed the
13 U.S. Market in 2011.

14 As you will see from our confidential data, our
15 financial results have been very poor since 2011. Given our
16 weak financial condition, we were unable to justify any
17 further investment in the melamine business during the
18 period of your investigations. We have had to shelf growth
19 plans despite the improving economic picture for the
20 downstream industries that we serve. Our team will
21 highlight these aspects in our case in more detail today.

22 I would just like to provide some additional
23 background about our company and explain the importance of
24 our melamine operations to Cornerstone, our employees and
25 the community in which we operate. Cornerstone Chemical

1 Company is the sole manufacturer of melamine in North
2 America. We are also leading U.S. Manufacture of
3 acrylonitrile and a top supplier of sulfuric acid in the
4 Gulf of Mexico Region.

5 Located on an 820 acre site just outside New
6 Orleans, Cornerstone safely operates a World Class, Highly
7 synergistic manufacturing facility adjacent to the
8 Mississippi River. Known for its high quality products,
9 Cornerstone is recognized worldwide for its reliability as a
10 critical global supplier of intermediate chemicals. Our
11 facility was constructed by our predecessor company American
12 Cyanimid and has been in operation since 1952. Today, we
13 operate three major manufacturing units and provide
14 infrastructure support for three other major chemical
15 producers that share our site and share synergies with the
16 Cornerstone manufacturing units.

17 Cornerstone's melamine facility supplies
18 primarily the U.S. and European resin producers. These
19 resins are used in the production of paints and coatings for
20 the automotive and coil coating industries and in the
21 production of decorative paper for cabinetry, countertop and
22 flooring production. Melamine is also used directly by low
23 and high pressure laminate producers in the countertop and
24 flooring markets where melamine imparts resin, imparts
25 hardness to the clearcoat surface preparations providing a

1 lower cost alternative to carpet, hardwood and stone
2 solutions to the ultimate consumer.

3 Finally, melamine resins are used in new
4 residential and commercial construction as it is added to
5 phenolic and urea formaldehyde resins where it acts as a
6 scavenger to reduce formaldehyde conditions in wood resin
7 applications such as oriented strandboard, medium density
8 fiberboard and hardwood plywood. As I mentioned,
9 Cornerstone has a long history.

10 Our initial plant operations were established to
11 manufacture products pioneered in support of the war effort
12 in the 1940's. The initial plant structure was designed to
13 upgrade and commercialize natural gas discoveries in the
14 South Louisiana marshes. The facility was operated by
15 American Cyanamid until 1993 when it spun off as part of a
16 new company, Cytech Industries. The facility was most
17 recently sold in 2011 to a private company and has operated
18 independently since that time and Cornerstone Chemical
19 Company.

20 As set out in our mission statement, we consider
21 ourselves experts at converting energy into industrial
22 chemicals on a large scale and our vision is to do this
23 safely and efficiently to minimize our environmental
24 footprint. We pride ourselves on being a key part of our
25 employees' lives and a valuable member of our community. We

1 strive to treat these critical stakeholders with the utmost
2 trust and respect both generating economic value in return
3 for the individual investment and community support.

4 We recognize it is our customers who enable our
5 existence and we relentlessly pursue innovation to exceed
6 their expectations in terms of quality, service, support and
7 delivery. This is nurtured by a culture that fosters
8 commitment to excellence and taps the unwavering passion of
9 our employees. The Cornerstone plant has an enormous impact
10 on the local community and local economy. We currently
11 employ over four hundred and fifty direct employees. In
12 addition, approximately one hundred and fifty regular
13 contract employees support these operations.

14 The Louisiana Department of Economic Development
15 estimates that our onsite head count supports over three
16 thousand additional indirect jobs offsite. In conclusion,
17 while Cornerstone welcomes fair competition, we cannot
18 compete with imports that are subsidized by foreign
19 governments and dumped by foreign producers. Before the
20 flood of dumped and subsidized imports, our melamine plant
21 successfully competed in the global market place. We can do
22 so again if duties are imposed to offset the subsidies and
23 dumping to restore a level playing field to the U.S. Market.

24

25 On behalf of our management team, our employees

1 and the local community, we respectfully request that the
2 Commission make affirmative determinations with respect to
3 both Trinidad and China. Thank you.

4 STATEMENT OF PAUL MIKESELL

5 MR. MIKESELL: Good Morning. My name is Paul
6 Mikesell. I am Chief Operating Officer of Cornerstone
7 Chemical Company. I have worked for Cornerstone and its
8 predecessor companies for twenty-eight years. I have over
9 twenty-five years of experience in business development and
10 manufacturing operations. At Cornerstone I have overall
11 responsibility for manufacturing, turnarounds, new business
12 development and technical support.

13 At its basic level, melamine is produced by first
14 reacting ammonia and carbon dioxide under heat and extreme
15 pressure to produce urea and water solution. This urea is
16 then concentrated and heated via molten salt solution
17 circulation to produce melamine. Our melamine plant is
18 shown on hearing slide two. The plant was designed, built
19 and licensed specifically for the production of melamine.
20 It cannot be modified to manufacture any other products.

21 At our Fortier Manufacturing Complex, we have
22 developed less than twenty-five percent of the property
23 owned by Cornerstone. Further, the underlying
24 infrastructure primarily the steam system and associated
25 utilities operate below its capacity as a result of

1 efficiency improvements we have made over the years to
2 reduce energy consumption across the site.

3 As a result, in addition to having more than
4 ample space to expand, we also have the necessary
5 infrastructure to enable cost-effective, brown field
6 expansion for the production of melamine. The Fortier
7 Manufacturing Complex is shown on here in slide three. As
8 we operated the plant at near full capacity in 2010 we
9 engaged Stamicarbon and Casale, two chemical engineering
10 design firms, to develop expansion proposals for the
11 melamine plant.

12 With their help, we identified a bottleneck in
13 the quench system of the plant where the melamine and the
14 reactor affluent is separated from the other off gases prior
15 to purification. By addressing this bottleneck, we can make
16 a substantial addition to existing capacity. We had to
17 place these expansion plans on hold in 2012 however when
18 imports of melamine from Trinidad jumped to thirty-eight
19 million pounds and were undercutting our prices by large
20 margins.

21 The harm we suffered from Trinidad made any
22 reinvestment to expand capacity financially unattractive.
23 Our melamine facility was designed to produce melamine
24 twenty-four hours per day, seven days per week and to
25 produce most efficiently in a continuous operation and at

1 full capacity. Violating either of these tenets results in
2 suboptimal performance. Although we continue to operate the
3 plant on a continuous basis, unfairly traded imports forced
4 us to scale back our production rates starting in 2011.
5 This negatively impacted our output and capacity
6 utilization.

7 Because melamine production is highly capital
8 intensive any reduction of production below full capacity
9 utilization has a direct and significant effect on our per
10 unit fixed cost and profitability. In fact, melamine
11 production has a much higher fixed cost structure relative
12 to raw materials and energy than other commodity chemical
13 products, less any declines in capacity utilization resulted
14 in even more significant impact on our cost structure as
15 compared to such other chemicals.

16 Our capacity utilization was negatively impacted
17 by a large increase in Subject Imports. We operated near
18 full capacity in 2010 when imports from Trinidad were 9.1
19 million pounds but our capacity utilization fell sharply in
20 2011 when imports from Trinidad increased to 35.2 million
21 pounds. With the continuing influx of Subject Imports
22 during the POI, Cornerstone lost further sales to dumped and
23 subsidized melamine and had to reduce its production rates
24 to avoid excess inventories.

25 As a result, our capacity utilization remained

1 very low during the POI reaching a low point during
2 January/September 2014. It only started to improve when
3 Trinidad and China began to withdraw from the U.S. Market
4 due to these investigations. Bottom line, we need more
5 output to optimize the intended operation of our plant to
6 achieve a reasonable profit. From 2011 to 2014 we should
7 have been increasing production, expanding capacity as the
8 economy rebounded from the Great Recession and home
9 construction and auto sales were increasing.

10 Instead, we had to reduce output as we lost sales
11 to dumped and subsidized imports. We suffered injury during
12 all of 2011 to 2014 from the volume of the imports alone
13 without even considering the adverse price effects. The
14 melamine industry in Trinidad is relatively new. Methanol
15 Holdings Trinidad Limited or MHTL was formed in 1999 and is
16 one of the largest methanol producers in the world.

17 In the late 2000's, MHTL invested three hundred
18 and fifty million dollars on the construction of two
19 melamine plants in Trinidad which were commissioned in 2010.
20 Each plant has an annual capacity of thirty thousand metric
21 tons for a total annual capacity of 132.3 million pounds per
22 year.

23 These two plants are part of the broader AUM
24 complex which also includes the urea plant and a urea
25 ammonium nitrate, UAN plant. The AUM complex supplies the

1 ammonia via pipeline from MHTL's ammonia plant or from other
2 sources.

3 The complex is integrated with the melamine plant
4 taking urea and ammonia from sister plants, returning the
5 ammonia to the urea plant and taking utilities from the
6 common utilities plant shared across the complex.

7 MHTL's substantial capital investment requires it
8 to operate these plants at near full capacity to earn a
9 sufficient return on its investment given the absence of a
10 local melamine market MHTL must export all of its
11 production. MHTL has the closest four melamine plant to the
12 U.S. market.

13 While Cornerstone has no reason to complain about
14 MHTL's establishment, it is only the second melamine plant
15 in the western hemisphere. We are very troubled by the
16 level at which MHTL is dumping melamine into the U.S.
17 market. We also object to the unfair support that MHTL has
18 received from the Trinidad government in the form of
19 subsidies for natural gas which MHTL has stated is the
20 single most important input in MHTL's production process.

21 The government has also provided subsidies in the
22 form of company-specific legislation to exempt MHTL from
23 corporate tax and other obligations.

24 Respondent's argue in their prehearing brief that
25 MHTL was forced to reduce production capacity and suspend

1 operations at one of its melamine plants in November 2014 as
2 a direct consequence of the natural gas curtailment
3 situation in Trinidad.

4 According to MHTL's brief, the plant will not
5 resume production until at least 2017 resulting in a 50
6 percent contraction in capacity for reasons entirely
7 unrelated to this pending investigation.

8 Contrary to MHTL's allegation, its recent
9 declines in production and exports to the United States
10 cannot be attributed to natural gas curtailments. Rather
11 MHTL is simply reacting to the filing of the petition and
12 the imposition of preliminary duties in these
13 investigations. First natural gas curtailments were
14 continuing and periodic since MHTL started production and
15 began aggressively exporting to the U.S. market from 2010
16 onward.

17 According to the Trinidad Ministry of Energy's
18 consolidated monthly bulletins from 2010 to 2012 Trinidad's
19 average daily natural gas production did fall by 4.8
20 percent. But this actually corresponded to MHTL's
21 significantly increasing production as evidenced by its
22 exports to the United States increasing by over 300 percent.

23 Second, MHTL stated in Exhibit 1 of it's
24 prehearing brief that none of the downstream plants at the
25 AUM complex can operate if the ammonia plant is out of

1 service unless ammonia and carbon dioxide are imported from
2 a separate company. According to the Trinidad Central Bank,
3 MHTL's ammonia plant experienced maintenance disruptions in
4 2014 and two additional ammonia plants in Trinidad were shut
5 down for maintenance and turnaround in the fourth quarter of
6 2014. MHTL responded by shifting its available ammonia and
7 urea to substantially increase its production of UAN at the
8 expense of melamine.

9 MHTL made the shift to higher production export
10 of UAN presumably because UAN had even better returns than
11 melamine due to the pendency of these investigations.

12 Notably, MHTL experienced similar
13 production-related problems in the fourth quarter of 2013
14 but responded strongly in early 2014 to restore its
15 significant import volumes for the first three quarters of
16 2014 as shown in hearing slide four.

17 MHTL would have reacted similarly in early 2015
18 but could not do so due to the filing of these
19 investigations and imposition of preliminary duties.

20 Third, MHTL sharply dropped its exports in the
21 second quarter of 2015, the quarter in which the CBD cash
22 deposits were imposed. MHTL has not exported a pound of
23 melamine to the United States since April 2015. In short,
24 it's very clear that MHTL's decision not to restart its
25 second melamine plant in 2015 is due to the cost prohibitive

1 of antidumping and countervailing duties, not the
2 ever-present and periodic natural gas curtailments in
3 Trinidad.

4 Thank you.

5 STATEMENT OF MICHAEL DRISCOLL

6 MR. DRISCOLL: Good morning. My name is Mike
7 Driscoll. I am Global Business Manager of Melamine at
8 Cornerstone Chemical Company.

9 I have worked with Cornerstone for six years and
10 I have over 20 years of experience in chemical sales and
11 marketing. At Cornerstone I have overall responsibility for
12 the global sales and marketing of melamine.

13 I will begin my testimony by discussing some of
14 the conditions of competition that make the U.S. melamine
15 industry highly susceptible to injury from unfairly traded
16 imports.

17 First, melamine is a commodity product that is
18 highly interchangeable from all sources. All melamine sold
19 in the United States regardless of source is produced to
20 meet common industry specifications and has the same
21 physical characteristics. Thus, imports from Trinidad and
22 China can be easily substituted for Cornerstone's melamine.

23

24 As respondents admit in their prehearing brief,
25 MHTL's melamine is, quote, "on par with that produced by

1 Cornerstone." Respondents further state that, quote,
2 "MHTL's melamine is as good as any on the market."

3 This high degree of interchangeability is best
4 demonstrated by the ease and rapidity of Trinidad's
5 penetration of the U.S. market soon after MHTL commenced
6 production in 2010.

7 U.S. imports from Trinidad increased from zero
8 pounds in 2009 to over 35 million pounds in 2011. The first
9 full year MHTL was in operation. Likewise, as a result of
10 these investigations and the preliminary duties, Cornerstone
11 is rapidly replacing MHTL's melamine at major accounts and
12 recovering sales volume we had lost to Trinidad.

13 Second, price is the key purchasing factor.
14 Quality of course is important, but Trinidad and China have
15 demonstrated to U.S. customers that they are comparable to
16 Cornerstone in those respects. While reliability and
17 customer service are also important, Mr. Spencer testified
18 at the staff conference that Southern Chemical set up its
19 business to address those issues by supplying U.S. customers
20 from its four warehouses throughout the United States.

21 Third, Cornerstone and subject imports compete to
22 supply a small number of customers in the U.S. market.
23 Cornerstone and subject foreign producers compete for sales
24 to relatively few customers who negotiate simultaneously
25 with multiple suppliers. In particular, as the only two

1 producers of melamine in the western hemisphere Cornerstone
2 and MHTL are in direct competition for virtually all
3 significant U.S. purchasers of melamine. These customers
4 have often asked Cornerstone to match the low prices of
5 imports from Trinidad. Had we not done so, we would have
6 lost even more sales and market share to Trinidad.

7 Fourth, Cornerstone is the upper price leader in
8 the U.S. market. In fact, we're the only supplier in the
9 U.S. market that publicly announces price increases.

10 As explained in our questionnaire response and
11 prehearing brief, our attempts to raise prices to a
12 profitable level were frustrated by lower prices being
13 offered by Trinidad and China until they were forced to
14 withdraw from the market by these investigations.

15 Fifth, demand is highly priced and elastic.
16 Demand for melamine is primarily derived from demand for
17 products used in housing and automobiles. There are no
18 direct substitutes for melamine in the production of these
19 products. Because melamine represents a very small portion
20 of the cost of a new house or car, the lower prices of
21 subject imports do not increase demand for melamine.
22 Instead subject imports take sales from Cornerstone and
23 force Cornerstone to significantly reduce prices.

24 Paul Mikesell has described MHTL's melamine
25 operations in Trinidad. I would now like to describe

1 Southern Chemical's operations in the United States and how
2 its aggressive campaign to enter the U.S. market to fill as
3 much of MHTL's new capacity as possible caused prices to
4 fall in the U.S. market.

5 As shown in hearing slide five and as described
6 on its website, Southern Chemical has established an
7 extensive logistics warehousing network to transport
8 melamine from MHTL's production facilities in Trinidad to
9 four strategically placed warehouses in the United States.
10 Those warehouses are located in Charleston, Houston, Newark,
11 and Portland. No other foreign supplier has established
12 such an extensive U.S. distribution network. In fact, MHTL
13 is the only foreign supplier to have a sales representative
14 who is resident in the United States.

15 MR. DORN: Excuse me. Joe Dorn. Just to
16 interrupt for a second. I just want to make clear, this
17 slide comes from their website. This is not something we
18 created. This comes right from their website.

19 Excuse me.

20 MR. DRISCOLL: Unlike any foreign supplier MHTL's
21 business model is predicated on its ability to penetrate the
22 U.S. market. Because there is no market for melamine in
23 Trinidad, MHTL allocates 50 percent of its production to its
24 affiliate, Southern Chemical, for sales in North America.
25 Thus, when MHTL commenced production in 2011, it knew that

1 it needed to export over 60 million pounds of melamine per
2 year to the United States to fully utilize its production
3 capacity.

4 Imports from Trinidad began entering the U.S.
5 market in June of 2010, one month after MHTL commenced
6 operations at its first melamine plant. Southern Chemical's
7 rapid penetration of the U.S. market with imports from
8 Trinidad had a severe negative impact at Cornerstone sales,
9 sales volume, production, prices, and profits.

10 By 2011 Cornerstone was facing significant
11 pressure from low-priced imports from Trinidad. One of our
12 key customers, customer A, identified at paragraph three, of
13 the affidavit provided at Exhibit 22 of our prehearing
14 brief, started receiving offers for low-priced melamine from
15 Trinidad in 2011.

16 Customer A wanted to divert 50 percent of its
17 volume from Cornerstone to imports from Trinidad. By
18 lowering our price, however, we were able to sustain our
19 volume at this customer for a short period. A few quarters
20 later the prices of imports from Trinidad were too low for
21 customer A to ignore. It then switched 100 percent of its
22 supply to Trinidad when we declined to meet such low prices.
23 As explained in contemporaneous e-mail correspondence
24 attached as Exhibit 21 of our prehearing brief, in the first
25 quarter of 2012, we learned that we had lost 100 percent of

1 customer A's business for all of 2012 due to Southern
2 Chemical's lower prices.

3 We were offered an opportunity to regain some of
4 the business from customer A that we had lost in 2012 if we
5 could be competitive with Southern Chemical's prices for
6 2013. But when we tried to win back some of this business
7 by lowering our prices customer A told us that our prices
8 were still too high.

9 Thus, we lost this key customer due to unfairly
10 priced imports from Trinidad. We lost most of that volume
11 in 2011. We lost the remainder in 2012, but the fact is, we
12 lost that customer to Trinidad. We lost that sales volume
13 during most of 2012, and all of 2013, and 2014. We only
14 resumed sales to that customer in 2015 after these
15 investigations were initiated.

16 Likewise, we lost another significant customer,
17 customer B identified at paragraph five of my affidavit
18 which started switching purchases to Trinidad in 2011. We
19 lost sales volume for most of 2012 and all of 2013 and 2014.
20 Again, we only resumed sales to customer B in 2015 after
21 these investigations were initiated. The rapid penetration
22 of imports from Trinidad caused U.S. market prices to
23 plummet.

24 In the first quarter of 2011, the AUV of imports
25 from Trinidad was 73 cents per pound, much lower than the

1 AUV of imports from China which was 82 cents per pound. The
2 AUV of imports from Trinidad declined to 65 cents per pound
3 in the fourth quarter of 2011 as the AUV of imports from
4 China declined to 74 cents per pound.

5 In short, imports from Trinidad undersold our
6 prices and China's prices by large margins to grab a
7 significant share of the U.S. market. As is explained in
8 contemporaneous e-mails from one of our customers, which are
9 attached to our brief as Exhibit 19, in 2011 Southern
10 Chemical was grossly undercutting the prevailing U.S. market
11 prices. The e-mails indicate that Southern Chemical's price
12 was lower than our price and lower than melamine from China
13 and Europe.

14 I know that 2011 is not part of your POI in this
15 final phase, but it is part of the record of this
16 investigation. The Commission should recognize that prices
17 were depressed at the start of 2012 as a result of
18 Trinidad's rapid penetration of the U.S. market.
19 Cornerstone never recovered from the low price supply shock
20 in the U.S. market until these investigations were
21 initiated.

22 From 2011 to 2012, the AUV of imports from
23 Trinidad continued to fall. In 2012, the AUV of imports
24 from Trinidad was only 61 cents which was 18 cents per pound
25 lower than that for imports from China. This disparity

1 answers the question you asked in your preliminary
2 determination as to why imports from China declined in 2012.
3 The fact is that Trinidad used extremely low prices to grab
4 sales from both Cornerstone and China. In response
5 Cornerstone had to lower its prices to avoid further loss of
6 market share.

7 Respondents falsely claim in their prehearing
8 brief that a significant percentage of Cornerstone's
9 shipments are immune from competition with Trinidad.
10 Specifically they argue that Cornerstone sales by railcar
11 are immune from competition with imports from Trinidad
12 because Southern Chemical does not ship by rail. That is
13 entirely wrong.

14 To begin with, since 2011, there have only been
15 three U.S. customers that have received melamine by rail.
16 As I will explain in a confidential affidavit to be supplied
17 with our post-hearing brief, one of those three customers
18 switched to supersacks to take advantage of the lower prices
19 from Trinidad. It no longer receives melamine by rail. The
20 other two customers will purchase melamine in either bulk or
21 in bags.

22 Moreover, as I also will explain in an affidavit,
23 none of our sales in bulk are insulated from the adverse
24 price effects of imports from Trinidad. In addition, any
25 supplier of melamine can supply its customers by rail in

1 supersacks or in small bags. There is no reason Southern
2 Chemical cannot do so, especially since it admits that its
3 product is now on par with that of Cornerstone.

4 The only reason Southern Chemical would not ship
5 by rail is that there are only three U.S. customers that
6 have received by rail and two of them were willing to accept
7 Southern Chemical shipments in sacks. The fact is that a
8 very large share of U.S. melamine consumption is supplied in
9 Supersacks.

10 I would further note that Southern Chemical's
11 sales of melamine in Supersacks directly impact the prices
12 of Cornerstone sales of melamine sold in bulk and in smaller
13 bags. To begin with, suppliers of melamine including
14 Cornerstone, do not differentiate prices by mode of delivery
15 and packaging. Thus, market prices for melamine sold in
16 bulk track the prices of melamine sold in Supersacks. If
17 they did not, you would see even more switching between bulk
18 and sack sales like two customers have done.

19 As you know, we have submitted a large number of
20 allegations of instances where we lost sales and lost
21 revenues through imports from Trinidad and China. In some
22 instances we were able to provide very specific information
23 that the sales and revenues were lost just to Trinidad. In
24 most instances, however, we believe that we lost sales
25 volume to both Trinidad and China.

1 Subject imports also suppressed our prices. As
2 you can see from our questionnaire response, our prices were
3 not adequate in relation to our cost of goods sold during
4 the entire POI.

5 Although we attempted to raise our prices to
6 improve our deteriorating financial condition potentially in
7 the face of rising input costs in 2014, we were unsuccessful
8 in achieving these announced increases. In fact, in three
9 of the four quarters of 2014, we were forced to reduce
10 prices despite rising costs.

11 Given the lower-priced subject imports, our price
12 increase announcements were not successful. Prices actually
13 declined after our September 2013 price increase
14 announcement because of the low competing prices of subject
15 imports. We also announced a price increase in September of
16 2014 due to escalating ammonia costs, but were forced to
17 reduce the price increase because our customers had
18 lower-priced offers from subject imports. We still lost
19 significant sales volume.

20 As explained in my affidavit, which is Exhibit 22
21 to our prehearing brief, Cornerstone's sales volume and
22 prices have both significantly improved since your
23 preliminary affirmative determination and the imposition of
24 preliminary duties. In particular, we have regained
25 substantial sales volume that we lost to Trinidad and we

1 regained that volume at higher prices than we had offered
2 when we lost those sales.

3 The benefits of the duties have not been negated
4 by imports from other countries. A German producer and a
5 Dutch producer have long-time -- have been long-time
6 suppliers to the U.S. market, but they are much more focused
7 on Europe, a market that consumes four to five times as much
8 melamine as the United States. Unlike the duty-free imports
9 from Trinidad, imports from Europe are subject to a tariff
10 of 3.5 percent. And unlike MHTL, neither of the European
11 producers built a plant predicated on taking a large share
12 of the U.S. market and neither receive subsidized natural
13 gas from their government.

14 Thank you very much.

15 STATEMENT OF EIFION JONES

16 MR. JONES: Good morning. My name is Eifion
17 Jones. I am Chief Financial Officer of Cornerstone Chemical
18 Company. I have worked for Cornerstone for over four years.
19 I have 24 years of experience in the fibrous and chemical
20 industries. At Cornerstone I have overall responsibility
21 for all financial reporting of the business and cost
22 management strategies. And I serve as the primary interface
23 with banking institutions.

24 Following very tough recessionary years in 2008
25 and 2009, Cornerstone recovered in 2010, was able to return

1 the melamine plant to near full capacity. Moreover, we
2 achieved a reasonable price that allowed us to own a profit
3 in 2010.

4 This improving trend continued into the first
5 quarter of 2011. By mid-2011, however, imports from
6 Trinidad started to flood the market and sharply reduced
7 prices. In response, Cornerstone was forced to dramatically
8 reduce our prices to avoid the loss of additional market
9 share and to keep our plant running on a continuous basis.

10 Our efforts were not successful. Not only did
11 our prices decline from the beginning of 2011 our U.S.
12 shipments declined substantially from 2010 to 2011 as well.
13 This decline in performance occurred in the context of an
14 improving U.S. economy, particularly in the residential and
15 automotive sectors that drive demand for melamine.

16 Based on public data, we believe that U.S.
17 consumption of melamine grew from 2010 to 2011. But rather
18 an increase in production, we were increasing our
19 inventories.

20 In 2012 our U.S. sales price continued to decline
21 from the already injured price of the second half of 2011
22 and our U.S. shipments continued to decrease. In response,
23 we had to further reduce production to conserve cash and
24 avoid excessive inventories. The decline in production
25 adversely affected our capacity utilization and in turn our

1 per-unit fixed costs.

2 Melamine production is capital intensive. The
3 cost of a new plant exceed \$300 million in order to be safe,
4 reliable, and conformed to the environmental standards of
5 the EPA and other regulatory requirements.

6 Fixed costs are high relative to variable costs,
7 because among other things we have a large depreciation
8 charge and our direct labor costs are fixed. Unlike a batch
9 manufacturing operation which can reduce the number of days
10 and shift work our continuously operating melamine plant
11 requires a fixed number of employees to run the facility
12 safely. For these reasons our declining production over
13 2011 and 2012 quickly drove up our per-unit fixed costs and
14 profits fell dramatically. This dropping output and
15 financial results in 2012 forced us to cancel our planned
16 plant expansion, to suspend further capital expenditures to
17 grow our business, and to revert to a short-term maintenance
18 and repair strategy rather than replacing aged assets.

19 This was a tremendously frustrating decision.
20 Cornerstone had weathered the recession and U.S. demand for
21 melamine was increasing in tandem with improving residential
22 construction and auto sales.

23 Moreover, environmental regulation calling for
24 greater use of melamine in residents to reduce the
25 formaldehyde content and emissions was also spurring demand.

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Following our plant expansion in 2009, Cornerstone's U.S. sales of melamine should have been improving in step with the recovering U.S. economy. By the end of 2012, our production, our U.S. prices, and our profits have all fallen sharply. The lost sales adversely impacted our plant's efficiency. Our equipment is designed to run continuously. The financial paradox of a chemical plant like ours is that a reduction in capacity utilization will lead to increased absolute costs because of the monitoring and the mechanical issues that arise from running the plant at oscillating or reduced rates.

It is expensive and stressful to turn the plant's operating rate up and down to balance production to sales. Adjusting the operating rate of our melamine plant led excessive mechanical wear and increased wastage of raw materials.

Given our rapidly declining financial performance we made an attempt to raise prices in 2013. Although we were able to achieve a temporary price increase, we lost sales volume and market share in most of our customer accounts as Southern Chemical continued to blanket our customers with lower price offers and importers of Chinese melamine did the same.

Our U.S. sales volume fell from 2012 to 2013 and

1 our financial results continued to suffer. In the first
2 three quarters of 2014, unfairly prices imports from
3 Trinidad and China were being sold in the U.S. at prices
4 that were well below our full cost of goods sold.

5 Cornerstone was forced to reduce prices in a last
6 attempt effort to keep the plant running on a continuous
7 basis and to make at least some contribution to fixed
8 overhead and avoid destabiling [sic] our whole site.

9 Despite our price reductions we continued to lose
10 sales volume. Our U.S. shipments for the first nine months
11 of 2014, were down significantly from the comparable period
12 in 2013. Pricing in the third quarter of 2014 was down
13 sharply from the same quarter in 2013.

14 It is critically important for the Commission to
15 understand that the instances of lost revenue presented in
16 the petition do not represent the full lost revenue impact
17 at Cornerstone. The prices we quoted to our customers
18 during the final phase POI after the subject imports from
19 Trinidad drove down market prices in 2011 had already been
20 discounted as a first step to compete with these imports.

21 For example, the initial price quotes we made
22 during July through September of 2014 reflected the
23 cumulative price depression that we have suffered since
24 2011.

25 Thus, the difference between our initial price

1 quote and the lower price at which we made the sale in 2014
2 reflects only a small sliver of the revenue we lost on that
3 sale compared to mid-2011 prices, the lost revenue was far
4 greater.

5 We trust that the Commission will keep that in
6 mind as it reviews the magnitude of the lost revenues we
7 reported in the petition and in our response to the final
8 phase questionnaire.

9 To summarize, from the beginning of 2011 until
10 the petitions were filed, Cornerstone suffered substantial
11 declines in U.S. shipments, production, capacity
12 utilization, U.S. prices and profitability. We could no
13 longer justify any capital expenditures beyond the minimum
14 required to keep our plant running.

15 Cornerstone is a lean organization. We operate a
16 continuous improvement program to lower our cost of goods
17 sold while ensuring the quality of our product and the
18 reliability of supply as well as the safety of our
19 operations.

20 Capital expenditures have been limited to
21 short-term maintenance and repair. Our only choice if the
22 tide of unfairly priced imports from Trinidad and China is
23 not stopped, is to close the melamine unit. We have no
24 other opportunity to reduce costs given our already lean
25 position. We are now out of financial options.

1 Since the initiation of the investigations and
2 the imposition of preliminary duties Cornerstone's financial
3 performance has begun to improve. As you can see from our
4 questionnaire response in the first half of 2015, we were
5 able to substantially increase our U.S. commercial
6 shipments, production, and capacity utilization. Our prices
7 also substantially recovered from their low point in the
8 third quarter of 2014.

9 These improvements continued into the third
10 quarter of 2015. There is no question that Cornerstone can
11 return to the healthy financial condition we were in before
12 Trinidad rapidly penetrated the U.S. market in 2011, but
13 only if the Commission reaches an affirmative determination
14 and the duties remain in place both against Trinidad and
15 China.

16 Cornerstone requests the Commission to level the
17 playing field to provide Cornerstone and our 455 workers a
18 chance to compete in a U.S. market that is no longer
19 distorted by dumping and foreign government subsidies.

20 Thank you.

21 STATEMENT OF BRENT PETIT

22 MR. PETIT: Good morning. My name is Brent
23 Petit. I am the International Staff Representative for the
24 United Steel Workers Local 13447. USW is the largest
25 industrial union in North America with approximately 650,000

1 active members.

2 My primary responsibilities are to negotiate and
3 oversee labor contracts and represent employees in the
4 grievance and arbitration process. I oversee 21 different
5 labor contracts, one of which is Cornerstone. And I am
6 responsible for approximately 3,400 employees in south
7 Louisiana.

8 I have worked in various roads with Cornerstone
9 Chemical Company and its predecessors for over 33 years. I
10 began working at Cornerstone's facility in 1979, when it was
11 then owned by American Cyanamid Company. I continued
12 working at the facility as the Cytec Industries was spun off
13 from the American Cyanamid Company in 1993.

14 Around the time the Cytec Industries became
15 Cornerstone in 2011, I left my position at Cornerstone to
16 assume a fulltime role with the U.S. government. While
17 working at Cornerstone facility, I was the president of
18 P.A.C.E. Local 447, which covered approximately a dozen
19 businesses. I also served as chair of the Cytec group.

20 During my 35 plus years in the chemical
21 industry, I have seen a number of tremendous changes. The
22 chemical industry is very competitive and the business
23 climate is constantly changing. This has forced the
24 workforce to evolve along with technology and market forces.

25 We have faced and overcome many challenges over

1 the years. Today we are facing a challenge created by an
2 unlevel playing field. The lone domestic manufacturer of
3 melamine is injured and threatened by unfair trade
4 practices.

5 Our facility in Louisiana is a shining example
6 of advance manufacturing where melamine is produced in a
7 flexible, self-directed and high-performance workplace that
8 focuses on lean manufacturing. We have taken a number of
9 measures to respond to changes in the industry and to
10 improve productivity at our facility.

11 Specifically we have improved our maintenance
12 and operations training programs to expand skills and reduce
13 overall training costs. We set baselines and targets for
14 maintenance skillsets and invite vendors to come to our
15 facility to work with our hourly trainers to provide the
16 most current training available.

17 Our hiring standards are more stringent than
18 ever. We have upgraded our distributed control systems,
19 operations personnel work with maintenance personnel to make
20 adjustments to continuously improve productivity. Our
21 workers are skilled problem-solvers, have extensive
22 decision-making responsibilities and have expanded duties of
23 the safety and the operations of the facility.

24 Many of these improvements were made to reduce
25 costs in response to low price imports from Trinidad and

1 China. Despite our efficient operations, however, these
2 unfairly priced imports use low prices to take substantial
3 sales and market share from Cornerstone.

4 Although we always look for opportunities to
5 make adjustments and become more efficient, our operations
6 are not sustainable if these imports continue to enter at
7 such low prices. Cornerstone is the largest manufacturing
8 facility in Jefferson Parish. And its economic impact
9 reaches far beyond the parish borders.

10 Cornerstone's employees and contract workers are
11 drawn from the immediate area, as well as a large region
12 around the plant. Cornerstone currently has approximately
13 130 employees for its melamine manufacturing operations with
14 over 350 representative employees, over 500 total employees
15 at the site plus many temporary contractors.

16 Thus, Cornerstone makes significant
17 contributions to the economy of the immediate Gulf Coast
18 region. Without relief, we are certain to suffer more sales
19 loss and lost revenue to subject imports. Melamine
20 producers in Trinidad and China are largely export oriented.

21 They also have enormous excess capacity. Solely
22 with excess capacity these producers can flood the U.S.
23 market many times over with low-price melamine. These dump
24 and subsidize imports pose a significant threat to the
25 preservation of the highly skilled and well-paid U.S.

1 manufacturing jobs that support the sole U.S. melamine
2 producer.

3 On behalf of the USW members and their families,
4 we depend on Cornerstone for their livelihood. I ask the
5 Commission to reach an affirmative determination of these
6 investigations. Thank you.

7 STATEMENT OF JOSEPH W. DORN

8 MR. DORN: Joe Dorn for Cornerstone. I'll now
9 briefly summarize our material injury case against Trinidad
10 and respond to a couple of respondents' arguments made in
11 their pre-hearing brief.

12 To begin with, we did not agree with
13 respondents' legal position if the Commission must conduct a
14 replacement benefit test with respect to nonsubject imports.
15 Response would even have you apply that rigid test to dump
16 and subsidized imports from China. They based their
17 argument on the Gerald Metals, Bratsk, and Mittal decisions.

18 They do not even acknowledge the recent federal
19 circuit decision in Swiff-Train that explains what remains
20 from those cases. Swiff-Train confirms that the Commission
21 is not required to follow a single methodology for
22 determining whether domestic industry is materially injured
23 by reason of subject imports. Rather the Commission has the
24 discretion to choose an appropriate methodology for
25 analyzing causation.

1 Swift-Train also confirms the Commission need
2 not isolate the injury caused by other factors from the
3 injury caused by unfair imports, which need not be the sole
4 or principle cause of injury. Moreover, Congress could not
5 have intended for the Commission to reach negative
6 determinations in a case against Trinidad on the ground that
7 unfairly traded imports from China with dumping margins of
8 363% and subsidy rates of 148% to 151% would have
9 hypothetically replaced imports from Trinidad during the
10 period of investigation.

11 The question here is not whether imports from
12 China or any other country had a greater adverse impact than
13 imports from Trinidad. Or whether imports from China or any
14 other country would have replaced imports from Trinidad with
15 no benefit to the domestic industry.

16 As articulated by the Commission and confirmed
17 by the Federal Circuit in Swift-Train, the causation
18 requirements is met as long as the effects of the dumped
19 imports are not merely incidental tangential or trivial.
20 That reflects the statutory definition of material injury as
21 a "harm which is not inconsequential, immaterial or
22 unimportant."

23 That is the statutory test. That test is
24 currently met in this case. Imports from Trinidad alone
25 have adverse volume and price effects during each full

1 calendar year of the POI, including in 2014. Based on the
2 statutory factors for assessing material injury by reason of
3 subject imports from Trinidad alone, the by reason of
4 causation standard is clearly met.

5 To begin with, the volume of imports from
6 Trinidad and the increase in volume is significant. As
7 shown on Slide 6, imports skyrocketed from 0 in 2009 to
8 almost 38 million pounds in 2012. Imports remained at very
9 high levels in 2013 and 2014. This is not unlike other
10 cases like in non-oriented electrical steel where sure,
11 imports from the subject country did not increase during the
12 POI, but they were at significant levels during the POI, and
13 the Commission found the volume of imports was significant
14 and a basis for reaching an affirmative determination.

15 Same case here with respect to Trinidad. But to
16 put those imports from Trinidad in context, take a look at
17 Slide 7. Imports from China, the blue bar, were greater
18 than the imports from Trinidad in the three years preceding
19 the POI. But that relationship was reversed during the POI.
20 Imports from Trinidad were far greater than imports from
21 China during 2012 to 2014 and also were far greater over the
22 POI, I believe by about 60%.

23 During the first three quarters of 2014, the
24 period of Cornerstone's weakest performance as was testified
25 to by our witnesses, imports from Trinidad were 5 million

1 pounds higher than imports from China. Trinidad had reduced
2 imports in the fourth quarter of 2013 where it had
3 production problems in Trinidad, but it came storming back
4 in in the first three quarters of 2014. And that's when the
5 greatest period of damage was to Cornerstone. That's
6 directly attributable to Trinidad. We're not attributing
7 any harm from China to imports from Trinidad.

8 Second, as you have heard from our witnesses,
9 imports from Trinidad alone had a very negative impact on
10 Cornerstone's prices as shown on Slide 8, the AUV of imports
11 from Trinidad was lower than the AUV of imports from China
12 during 2011 and most of the POI, and of course I'm limited
13 here to the public record, so I'm using the import AUVs from
14 the official import statistics.

15 The AUV of imports from China was lower than the
16 AUV of imports from Trinidad in 2014. We acknowledge that.
17 But the imports from Trinidad still had very adverse price
18 effects, especially with a customers' choosing between
19 Cornerstone and Trinidad. In fact, the quarterly AUV import
20 data show that after Trinidad lost substantial sales volume
21 in the fourth quarter of 2013 due to a production issue,
22 they aggressively lowered its prices by 12 cents per pound
23 to regain volume in the first three quarters of 2014.

24 That's one reason Cornerstone lost substantial
25 sales and revenues specific to Trinidad in 2014. In

1 assessing respondents' argument that China, not Trinidad,
2 caused prices to fall during the POI, please compare the
3 quantity of imports from each country. Please compare the
4 instances of underselling by Trinidad and China. Compare
5 the pounds of underselling by Trinidad and China. And
6 compare the weighted average underselling margins of
7 Trinidad and China.

8 In doing so, you should focus on the data for
9 2012 to 2014 before the pendency effect kicked in. We don't
10 think that the 2015 data are telling, given the withdrawal
11 from the market by both Trinidad and China due to the
12 pendency of the case and the high duties.

13 Third, there is ample record evidence that
14 imports from Trinidad alone had a severe impact over the
15 domestic industry. In addition to the testimony you've
16 heard this morning, please consider the following evidence
17 set for in exhibits to our pre-hearing brief, that is
18 specific to Trinidad. Exhibit 14 of our brief summarizes
19 the evidence of underselling. The instances of underselling
20 and the pounds of underselling are specific to Trinidad.

21 The weighted average underselling margin is
22 specific to Trinidad. There is nothing trivial or
23 inconsequential about that underselling. Exhibit 8 to our
24 brief shows the customer overlap between Cornerstone and
25 Southern Chemical.

1 Exhibit 14 summarized the evidence of lost sales
2 and lost revenues to Trinidad. We'll be able to provide
3 more details in our post-hearing brief. In fact, the
4 contemporaneous business documents included in Exhibit 12 to
5 respondents' prehearing brief, corroborates substantial lost
6 sales and lost revenues attributable to Trinidad in 2014.

7 That reflects the fact that imports from
8 Trinidad were 5 million pounds greater than imports from
9 China during the first three quarters of 2014. Exhibits 19
10 and 21 to our brief contain contemporaneous business records
11 evidencing the harm caused by imports from Trinidad.

12 Exhibit 22 details how the filing of the
13 petition and the imposition of preliminary duties helped
14 Cornerstone regain business with two customers referred to
15 by Mr. Driscoll as Customer A and Customer B, that
16 Cornerstone had lost to imports from Trinidad.

17 Finally, as explained in our prehearing brief,
18 there's an unusually strong pendency effect in this case, as
19 shown on Slide 9, imports from Trinidad dropped
20 precipitously when the duties were imposed. In fact, there
21 have been no imports from Trinidad since the countervailing
22 duty cash deposits were imposed in April.

23 As Mr. Mikesell explained, the imposition of
24 preliminary duties is the only plausible reason that MHTL
25 withdrew for the U.S. market. A major market, it built its

1 plant to serve. As explained in our brief, these
2 investigations changed MHTL's operation and its exports to
3 the United States for 2015. That is made clear by comparing
4 exhibit 2 to our brief. That's a document that MHTL
5 prepared prior to your preliminary determination with its
6 actual operations and exports in 2015. Compare that
7 document with what you hear from MHTL today.

8 As also indicated in our brief, the Commission
9 should give no weight to undated excerpts from any MHTL
10 business plan. If MHTL cites to a business plan, you should
11 require the entire plan to be placed on the record, and more
12 importantly, you should request MHTL to supply its latest
13 business plan prepared prior to the filing of the petition,
14 not after it knew that it hadn't had to come up with a new
15 strategy in reaction to the petition.

16 Finally, as explained to Mr. Driscoll's
17 confidential affidavit as summarized in his testimony, the
18 withdrawal of imports from Trinidad, the only foreign
19 supplier located in the Western hemisphere, the only foreign
20 supplier with an extensive distribution network of the
21 United States, the only foreign supplier with duty free
22 access to the U.S. market and the only foreign supplier with
23 subsidized natural gas, has resulted in significant benefit
24 to Cornerstone.

25 That benefit has not been denied by imports from

1 China, Germany, the Netherlands or any other country, thus
2 the causal link in this case is very clear. The domestic
3 industry suffers with Trinidad in the market, and improves
4 with Trinidad out of the market. In conclusion, we have no
5 desire or need to attribute any harm caused by imports from
6 China to imports from Trinidad. This industry has clearly
7 been injured by imports from Trinidad alone. Thank you.

8 STATEMENT OF STEPHEN J. ORAVA

9 MR. ORAVA: Steve Orava from Cornerstone.

10 Because imports of melamine from Trinidad have caused
11 material injury, the Commission need not examine threat of
12 material injury. The record will show, however, that
13 Cornerstone is facing a real clearly foreseen and imminent
14 threat of additional material injury by reason of subject
15 imports from Trinidad.

16 The volume of imports from Trinidad is likely to
17 increase. First, the government of Trinidad provides
18 countervailable subsidies that have encouraged the
19 establishment and growth of MHTL's melamine production and
20 exports. These subsidies include discounts on natural gas,
21 which MHTL has highlighted throughout these proceedings as
22 the most significant input into MHTL's production processes.

23 The Department of Commerce also found that MHTL
24 was dumping at a margin of 174%, a margin based on actual
25 data, not on adverse facts available. These countervailable

1 subsidies and MHTL's aggressive dumping practices create a
2 significant likelihood that low-priced, dumped and
3 subsidized imports from Trinidad will rapidly penetrate the
4 U.S. market without the discipline of anti-dumping and
5 countervailing duties.

6 Second, MHTL is highly export-oriented. MHTL
7 has agreements to export 50% of its production to North
8 America and 50% to Europe. This means that MHTL must find
9 export markets for virtually all of its melamine production
10 and has specifically targeted the U.S. market for a
11 substantial portion of its exports.

12 Third, MHTL has substantial excess capacity.
13 Its two melamine production plants have a combined annual
14 capacity of 132.3 million pounds per year. As already
15 noted, half of this production is committed to Southern
16 Chemical for sales in North America.

17 Southern Chemical has an extensive distribution
18 warehousing network throughout the United States dedicated
19 to the sales and distribution of MHTL's exports and has
20 existing relationships with key customers across the U.S.
21 market. Thus MHTL can readily penetrate the U.S. markets
22 with its exports in melamine.

23 Fourth, imports from Trinidad are entering the
24 U.S. market at prices that are likely to increase demand for
25 further imports. Because imports from Trinidad and the

1 domestic like products are interchangeable and are sold
2 primarily based on price, imports from Trinidad gained sales
3 and market share by entering the U.S. market at low prices.
4 As the record shows, MHTL first entered the U.S. market and
5 has defended its market share aggressively through low
6 prices. MHTL will return to this strategy if preliminary
7 duties are removed and final duties are not imposed.

8 Finally, imports from Trinidad increased until
9 the filing of the petitions. Upon starting up production at
10 its two plants in 2010, MHTL aggressively entered the market
11 with imports from Trinidad, increasing by 286% from 2010 to
12 2011 to 35.2 million pounds, and by an additional 7.3% from
13 2011 to 2012 to 37.8 million pounds. Although imports
14 declined from 2012 to 2013, they increased again from 2013
15 to 2014. After the filing of the petitions and imposition
16 of preliminary duties, imports from Trinidad significantly
17 declined, falling to zero in May 2015.

18 Accordingly, if duties do not continue, MHTL
19 will aggressively re-enter the U.S. market using the same
20 strategy that it adopted in 2010 and 2011. When MHTL took
21 significant market share from Cornerstone and from higher
22 priced imports from China by flooding the market with low
23 price dumped and subsidized imports. If final duties are
24 imposed on imports from China, MHTL will be able to take
25 further advantage of its excess capacity to capture an even

1 more significant share of the U.S. market to the detriment
2 of Cornerstone.

3 Subject imports are also likely to depress or
4 suppress U.S. prices of melamine in the future. Trinidad's
5 allocation of half of its production to North America -- I
6 see my time is up. Thank you very much.

7 CHAIRMAN BROADBENT: I want to thank all the
8 witnesses for coming. We will begin our question today with
9 Vice-Chairman Pinkert.

10 VICE CHAIRMAN PINKERT: Thank you, Madame
11 Chairman, and I thank all of you for being here today to
12 help us understand these issues. I understand that during
13 your testimony you talked about Trinidad and Tobago imports
14 replacing China imports right at the beginning of the period
15 of investigation. But did China imports prices drive
16 Trinidad and Tobago imports out of the U.S. market during
17 the period of investigation?

18 MR. ZOGLIO: Greg Zoglio. Vice-Chairman
19 Pinkert, the answer to your question on whether or not
20 Trinidad imports were driven out of the market by Chinese
21 pricing is clearly no. The way we view, from our
22 perspective in the U.S., the operations of the AUM plant and
23 Mr. Mikesell defined throughout his testimony is, they're
24 effectively running that asset to a maximum available
25 utilization. As they run that asset, they have choices of

1 the end products that they produce. That plant is an
2 ammonia, UAN and melamine producers. So you allocate the
3 ammonia production downstream based upon your most
4 profitable product, and so what we saw were a couple of
5 things happening over the course of the POI.

6 There was limited ammonia capacity. Of course,
7 they could purchase ammonia on the marketplace to make more,
8 if they could sell that melamine at a price that justified
9 the economic consumption of that ammonia, but also the UAN
10 marketplace was very strong and it'll stay strong UAN
11 utilization figures throughout the period on that particular
12 facility.

13 So the short answer is, yes, they had a
14 turnaround in 2013, they had a turnaround, yes, in 2014,
15 both impacting production, limiting the amount of product
16 available. They have a 50-50 agreement to split the product
17 that is produced to go to Europe and to come to the U.S.
18 Helm marketing that European material. In the U.S.,
19 Southern marketing the material that they had in that
20 particular region, and in the very beginning of the period
21 2012, they had a stronger production year for melamine, but
22 again, as indicated in our discussion, there's really a
23 choice on how you allocate your ammonia production, your
24 natural gas input, had the melamine market prices been a
25 little bit stronger, we would expect that they push more

1 towards that melamine production side and push more melamine
2 into the domestic marketplace.

3 MR. DORN: Mr. Vice-Chairman, it's difficult to
4 deal with this question because you need to refer to the
5 confidential record.

6 VICE CHAIRMAN PINKERT: You can respond in
7 post-hearing as well if you would like.

8 MR. DORN: We certainly will respond in
9 post-hearing, but I'd like to go back to what I said in my
10 testimony and you can refer to the public data if you'd
11 like, to Exhibit 12, to our prehearing brief, which shows
12 the quarterly data on imports from Trinidad and China.

13 And what it shows there is that, in the fourth
14 quarter of 2013, Trinidad basically fell out of the market
15 in the fourth quarter of 2013, and that's because of the
16 outage they had in their production facility in Trinidad, or
17 MHTL's facility. So what happened in response to that
18 situation, well, look at what happened, they went from eight
19 hundred and -- less than a million pounds in fourth quarter
20 of '13 to 8.7 million pounds in the first quarter of '14 to
21 10.9 million pounds in the second quarter of '14. During
22 those quarters China was at 4.6 in the first and 8.1 in the
23 second.

24 So, Trinidad came charging back down. Also, in
25 terms of pricing, Trinidad at the fourth quarter of 2013,

1 had been at 73 cents a pound as its AUV for imports. It
2 reduced that to 70 cents in the first quarter of 2014, then
3 to 68 cents, then to 61 cents. So it used aggressive
4 pricing to come back in the market big time, after coming
5 out in the fourth quarter of '13. So it certainly not being
6 pushed out by China. It did have, we understand, some
7 production issues in the fourth quarter of '14 just like it
8 did in '13.

9 But rather than coming storming back, you know,
10 in the first half of 2015 like it did the first half of
11 2014, it had a problem. It had this case, in which we were
12 alleging very, very high dumping margins. We were alleging
13 subsidies. The commerce department imposed, you know,
14 cost-prohibitive cash deposits in April and they're gone
15 since. They haven't sold a pound of melamine. That's what
16 caused their imports to decline. It's not -- they weren't
17 chased out of the market by China.

18 VICE CHAIRMAN PINKERT: Thank you. Now I'm
19 gonna ask a hypothetical question and I understand from your
20 testimony already that you would consider this question not
21 to be relevant to the determination that we have to make.
22 But nevertheless, I want to ask you if, if the Chinese
23 imports had exited the U.S. market in, let's say, early
24 2013, would that have had impact on the Trinidad and Tobago
25 imports in the U.S. market?

1 MR. DORN: I'm not sure I understand the
2 question, frankly. You mean if they had some issue that
3 prevented them from exporting to the United States in 2000 -
4 -

5 VICE CHAIRMAN PINKERT: Let's just say that the
6 Chinese had made a decision in early 2013 to exit the U.S.
7 market. Would that have had an impact on imports of product
8 from Trinidad and Tobago?

9 MR. ZOGLIO: Yeah, since it's a hypo -- Greg
10 Zoglio again -- since it's a hypothetical answer, I think I
11 would like to go back before the POI and consider what
12 actually happened when Trinidad first entered the market,
13 because I think it would parallel what we would, in fact,
14 see, so China makes the decision, or takes the decision,
15 melamine sales in the U.S. are not something that we have
16 any desire or wish to do, but for whatever reason we take it
17 all out. And what we would expect to see as Cornerstone
18 Chemical Company is exactly what we saw when Trinidad first
19 entered the market in that 2010-2011 timeframe and ramped up
20 the available production.

21 They would come into the marketplace and would
22 effectively look at that market price offered by the
23 domestic producer, Cornerstone, and offer pricing to the
24 customers at any level below the domestic producer to grab
25 market share. And so, if China moves out of the

1 marketplace, Trinidad would continue to move into the
2 marketplace. They would continue to price their product at
3 a -- I'll use the word -- a predatory level to try to gain
4 that maximum market share in the marketplace, and again, if
5 you consider the amount of capacity that they had to sell,
6 and the business plan that was public under which they had
7 to sell at 50% capacity of the plant, 30,000 metric tons, 66
8 million pounds, had to find its way into that North American
9 marketplace, which is a substantial total share of the U.S.
10 market. And so from Trinidad's perspective, they would move
11 into the market, they'd price at levels below Cornerstone,
12 driving the overall market price down as we seek to defend
13 and keep our capacity utilization at higher levels.

14 MR. DORN: If I could add just one thing. Keep
15 in mind, let's just say we have a situation where there are
16 three suppliers competing to serve a particular customer.
17 And let's say that Cornerstone's price offers at a 100, and
18 Trinidad's price offer is at 95, and China's price offer is
19 90. Hypothetically, let's say we have that situation.

20 And Cornerstone loses sales volume, both to
21 China and to Trinidad. Is that injury to Cornerstone by
22 reason of subject imports from Trinidad? Of course it is.
23 And there may be some situations like that, where China came
24 in at even a lower price than Trinidad. That's not the case
25 if you look at the entire record. It's really the other way

1 around.

2 But there may be individual instances like that.
3 But that's still a lost revenue or a lost sale to
4 Cornerstone. Even if the Chinese supplier was offering a
5 lower price than Trinidad.

6 VICE CHAIRMAN PINKERT: Thank you.

7 Now in comparing the Chinese prices and the
8 Trinidad and Tobago prices, you've relied at least in this
9 public hearing on Average Unit Values. Is there any reason
10 to distrust the use of Average Unit Values in this
11 particular investigation?

12 MR. DORN: The only--it depends on which Average
13 Unit Values you're talking about. I mean for--I guess
14 they're not exactly sure how Southern Chemical values the
15 customs value, to the extent there's an affiliation between
16 HMTL and Southern Chemical. So I'm not certain about that.

17 I don't think there's a lot of product mix
18 issues.

19 MR. ZOGLIO: No, the data that we do have is data
20 that we received from our customer base. And the data we
21 receive from our customer base when out negotiating prices
22 would suggest that the AUV numbers are consistent, and they
23 aren't materially different. Again, there's a difference
24 between the landed price and the ultimate customer offer
25 price, but we don't find there's a significant material

1 difference, again based on the data that we have in the
2 marketplace.

3 Do you agree, Mike?

4 MR. DRISCOLL: I agree--Mike Driscoll.

5 VICE CHAIRMAN PINKERT: Thank you.

6 CHAIRMAN BROADBENT: Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Thank you. I want to
8 express my appreciation to all the witnesses for their
9 testimony. I only want to express appreciation for having
10 the prepared text in front of us. I know it takes time to
11 do all that, but it does help us follow your testimony and
12 it's very helpful. So I appreciate that every one of the
13 witnesses have text. Thank you.

14 As the measure of Subject Imports, should the
15 Commission rely on U.S. imports as set out in Tables C-1 and
16 C-2, or U.S. shipments of the imports as set out in Tables
17 C-3 and C-4?

18 MR. DORN: We'd like to address that in our
19 post-hearing brief because of the confidential nature of
20 some of that data, but we think the Commission ought to look
21 at both sets of data.

22 The data based on commercial shipments of
23 importers is kind of a little bit of apples and oranges
24 because I think it is U.S. commercial shipments, I believe,
25 only for Trinidad, and then using Official Import Data for

1 the other countries.

2 What the witnesses have said to me is that what
3 they see is the publically reported Official Import Data.
4 That's all they have access to. And so when they see
5 imports coming in in large volumes like they did in the
6 first half of 2014 from Trinidad, that's a market signal.
7 That's what's on the public record.

8 So the Commission should certainly pay attention
9 to the published import statistics that are available to the
10 market participants.

11 MR. ZOGLIO: And I think I follow Mr. Dorn's
12 comments with the--certainly our customers see that public
13 information, as well, and they make their own assessments
14 when they are faced with offers from any of the suppliers.
15 They can see, you know, is the trend in fact there that
16 there's been imports from these particular customers. And
17 they're happy to show us that data as well to say, see, your
18 competitors have product available. They're offering at a
19 lower price. And so they rely, too, on that data in their
20 price negotiations with Cornerstone.

21 COMMISSIONER WILLIAMSON: Thank you for that
22 answer, and I will be interested in seeing what you have
23 post-hearing impart any differences.

24 Please describe the activities of Cornerstone's
25 subsidiary in the United Kingdom? Among other things, how

1 does Cornerstone determine the quantity of melamine to ship
2 to the subsidiary?

3 MR. JONES: Yes, thank you. Eifion Jones. We
4 have a subsidiary in the United Kingdom which acts as a
5 distribution company for melamine into the European Union,
6 primarily. That subsidiary has been in place for several
7 years since the end of 2012. Prior to that, Cornerstone
8 distributed Melamine through the then-former parent Sydak
9 Industries under a transitional service agreement in the
10 first two years of being divested as a private entity.

11 We transfer product into the United Kingdom at an
12 established transfer price based upon third-part evaluation
13 of the necessary transfer price to conform to the relevant
14 import criteria.

15 The product is distributed from a warehouse in
16 the United Kingdom in the northeast of the United Kingdom
17 primarily to customers within the United Kingdom. But again
18 we do service customers on the Continent from that
19 warehouse.

20 COMMISSIONER WILLIAMSON: Okay. Anything you want
21 to say now or post-hearing about how you determine how much
22 to allocate to that

23 MR. ZOGLIO: I would suggest that we would like to
24 save that for post-hearing.

25 COMMISSIONER WILLIAMSON: That's fine. Thank you.

1 Mr. Petit, can you describe the status of current
2 labor contracts between the USW and Cornerstone?

3 MR. PETIT: Yes, sir. We negotiated an extension
4 of the labor contract through 2017. That was done--it was
5 an extension. I think it was in, I want to say '14. We
6 just did a three-year extension on it, I believe. That was
7 right prior to me taking responsibility. I moved my
8 assignment, but it is in place until 2017.

9 COMMISSIONER WILLIAMSON: Okay. Thank you.

10 I appreciate what you had to say about how the
11 workers have tried to stay competitive, and I wanted to know
12 if you wanted to add anything to that. Do you know anything
13 about your competitors in plants in Trinidad or in China?

14 MR. PETIT: Brent Petit. Yes. As, prior to
15 coming on staff I was employed there for a number of years.
16 And as an employee, I was a trainer at the facility and we
17 did--we tried our level best to keep our levels of expertise
18 at the highest productivity we could.

19 We brought in additional training. We brought in
20 different systems to try to stay current. And I think the
21 employees do a great job of trying to keep their
22 productivity levels as high as possible.

23 We just are not able to compete if the playing
24 field is not level.

25 COMMISSIONER WILLIAMSON: Okay. Thank you.

1 Respondents' brief on pages 48 to 57 provide a
2 quarter-by-quarter analysis of prices during 2013-2014.
3 This analysis purports to show that prices were driven by
4 factors other than negative price competition from imports
5 from Trinidad.

6 These other factors include perceptions of
7 tightness in the market supply, and the effects of imports
8 from China and nonsubject countries. In a post-hearing
9 submission, could you respond to this analysis?

10 I mean if you have something now, that's fine,
11 but post-hearing would be fine.

12 MR. DORN: We will certainly respond to it in our
13 post-conference submission--or post-hearing submission, but,
14 Mr. Zoglio, do you want to say anything about the--you know,
15 what happened in terms of the events in 2013 when you were
16 able to raise your prices and then what happened when
17 Trinidad came back in the market in the first quarter of
18 2014?

19 MR. ZOGLIO: I will give some general comments,
20 and certainly we can provide some more detail in the
21 post-hearing brief. Greg Zoglio.

22 The events--in early 2013, Cornerstone did have a
23 schedule turnaround. Our plant does go through planned
24 turnarounds approximately every 18 months. And so there was
25 indeed perceived tightness in the marketplace in 2013, and

1 we were a part of that perceived tightness as we had a
2 planned turnaround at that particular period of time.
3 That's what we term a "mini turnaround."

4 The market conditions were generally tighter than
5 they had been in other periods, and Trinidad themselves, as
6 they state, and certainly through the end of--as we got
7 through the end of 2013, had their own degree of tightness.
8 Throughout that, again, melamine pricing is negotiated on a
9 quarterly basis. It is something that again you look at the
10 general market conditions to try to drive, and that
11 includes, and can include, input costs and general supply
12 and demand conditions, and of course competitive pressures
13 and competitive bids.

14 And so in that particular period of time, you had
15 several factors at play. One of those included, again, our
16 turnaround. One included some tightness of supply coming
17 from China, so similar to the hypothetical question largely
18 related to their own natural gas curtailments in that part
19 of the world. And part of it related then later in the year
20 to Southern's own production difficulties.

21 And so as you take those events together, we were
22 able to announce and drive a price increase through the
23 market throughout 2013. Of course as soon as Trinidad got
24 their act together and China got their production act
25 together, both countries again had ample product. And in

1 early 2014, as you can see by the data, Trinidad had a
2 significant quantity of material available for sale.

3 And again, following a trend that we have seen
4 several times over the course of the last now half-decade
5 that they've been in the marketplace, the way they've
6 recaptured share in the U.S. is you price it in. And so you
7 win back share via price, and that's in fact what we saw in
8 the first quarter of 2014.

9 And again I'll point out, when we look at those
10 2013 price events, the price levels on a relative basis were
11 still very low, if you go back to a period that of course
12 predates the POI. And so that price recovery was only a
13 limited price recovery, and certainly not enough even
14 internally to start to look at the justification of
15 additional investments within our plant.

16 And again one note that I didn't come through
17 within my presentation is we are investing again in our
18 plant and will go through actually a major investment next
19 year predicated upon the findings thus far this year and the
20 recovery in the marketplace.

21 Thank you.

22 COMMISSIONER WILLIAMSON: Thank you. You
23 mentioned something about Southern problem or issue in 2013.
24 Could you clarify that?

25 MR. ZOGLIO: Sorry? Production difficulties?

1 COMMISSIONER WILLIAMSON: No, I think you said at
2 Southern Chemical there was--

3 MR. ZOGLIO; Sorry. MHTL production difficulties
4 limiting the amount of available product--

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. ZOGLIO: I apologize. I tend to use the terms
7 interchangeably because that's obviously the face in the
8 marketplace for us in the U.S. is Southern. The production
9 is obviously MHTL.

10 COMMISSIONER WILLIAMSON: Was Southern a
11 relatively new creation in 2011 or 2010?

12 MR. ZOGLIO: I think that's a question that, from
13 a melamine perspective yes, but previously in the Methanol
14 marketplace, and so certainly they can give a little bit
15 more background on their company history.

16 COMMISSIONER WILLIAMSON: Okay. Thank you.

17 MR. DORN: Joe Dorn. If I could just follow up
18 one thing in terms of the pricing in 2013, it's really
19 important to emphasize what Mr. Zoglio said about even at
20 the height in 2013, the prices were depressed. You've got
21 to remember that they're coming off a severe price
22 depression in the latter part of 2011 and all of 2012 by
23 Trinidad coming in the market. So all they're trying to do
24 in 2013 is take advantage of a couple of events in the
25 market to try to restore some of that lost pricing that they

1 had already suffered.

2 COMMISSIONER WILLIAMSON: Okay. Thank you for
3 those answers.

4 CHAIRMAN BROADBENT: Commissioner Johanson.

5 COMMISSIONER JOHANSON: Thank you, Chairman
6 Broadbent. And I would like to begin by thanking all of the
7 witnesses and their counsel for appearing here today.

8 When reading the staff report I was struck by the
9 number of lost-sale allegations that were agreed to by
10 purchasers, but certain lost sales and revenue allegations
11 that were agreed to by purchasers failed to differentiate
12 between China and Trinidad and Tobago as the supplying
13 countries at issue.

14 What are we to make of this data in terms of the
15 price cases against Trinidad, Tobago if the allegations
16 cannot be parsed between the two Subject Country suppliers
17 when the Caribbean Basin Economic Recovery Act requires us
18 to consider the determination as to Trinidad and Tobago as a
19 non--on a noncumulated basis?

20 Would it be speculative to attribute agreed-to
21 lost sales or revenue allegations to subject imports from
22 Trinidad and Tobago?

23 And I realize, Mr. Driscoll, you addressed this a
24 few moments ago. Could you maybe expand upon what you said
25 earlier? I think this is an important issue.

1 Mr. Driscoll: Certainly, Commissioner Johanson.
2 And just to clarify, this is in terms of how we determine
3 and differentiate price offers to our customers between
4 China and Trinidad. And, yes, there are several instances
5 where we've remarked in those allegations that there were
6 offers between China and Trinidad of various customers is
7 very hard in terms of discussing with customers because
8 sometimes they're not going to reveal precisely who was the
9 one that offered X price.

10 And I think, back to what Mr. Dorn was saying, I
11 think 2014 is a perfect example of this. At the time when
12 Trinidad came back into the market after having had their
13 production problems in 2013, you can clearly see the prices
14 took a nosedive. They went down very rapidly. Slightly,
15 China is below Trinidad in the prices that we see in the
16 Indexes here for 2014.

17 However, again when you're discussing with a
18 customer and they're putting price pressure down in the
19 negotiation, and the two bad actors in that are China and
20 Trinidad, it's very hard to discern which one is which.

21 But after the fact when you look at the import
22 data and you can see what the numbers are, you know, you're
23 pretty much looking at numbers that are extremely bad to
24 very bad. So it's very hard to discern which one was which
25 in terms of the conversation, but after the fact you can get

1 a look at the numbers and you can see who did what.

2 MR. DORN: Commissioner, we realize this is an
3 important issue. You flagged it in the Preliminary
4 Determination. We are going to spend more time on that in
5 our post-hearing brief.

6 As I mentioned earlier, we were fortunate because
7 the other side provided a lot of good information in e-mail
8 correspondence with their customers for 2014, which is going
9 to allow us to corroborate that lost sales and lost revenues
10 were specific to Trinidad. So we look forward to putting
11 together a comprehensive set of evidence which we think will
12 make you feel very comfortable that these lost sales and
13 lost revenue allegations pinpoint harm caused by Trinidad as
14 opposed to harm caused by China.

15 COMMISSIONER JOHANSON: Thank you, Mr. Dorn. And
16 also thank you, Mr. Driscoll, for your responses.

17 Yes, this is a confusing investigation in several
18 ways for all of us. The whole issue of non-cumulation is
19 something that I've never really had to dwell on before. I
20 think we've had cases involving Trinidad and Tobago before,
21 but it was not that. I do not recall that being something I
22 had to really struggle with.

23 And once again this whole issue of trying to
24 divide in the lost-sales allegations is difficult. So
25 anything else you all can provide would be appreciated.

1 Thank you.

2 MR. DORN: And of course the customer A and
3 customer B, that's 100 percent clear.

4 COMMISSIONER JOHANSON: Okay. Thank you. I look
5 forward to seeing that further. But I do have to say, when
6 you're reading staff reports often with a lost-sale
7 allegation, you kind of glance over them because you know
8 what the answers are going to be. In this case, it was more
9 difficult.

10 MR. DORN: I would also point out that, you know,
11 while you have a number situation where there was not an
12 agree stated by the purchaser, when you look at the
13 response, I mean they're saying, you know, it wasn't 62
14 cents a pound it was something else. I mean, they're
15 implicitly admitting the allegation. They're just saying
16 that they don't--it doesn't match up exactly to the penny to
17 the allegation.

18 So, you know, as we describe in our brief, and
19 we'll do that more in our post-hearing brief, there are many
20 more implied confirmations than, you know, stated agree
21 confirmations in the purchasers questionnaire responses.

22 COMMISSIONER JOHANSON: Thanks. On page 57 of its
23 brief, Methanol Holdings contends that tightness in supply
24 in the U.S. market in early 2013 increased prices of
25 melamine and that price declines in the U.S. market in late

1 2013 and throughout all of 2014 were due to the influx of
2 nonsubject imports and low-priced Chinese product, not
3 melamine from Trinidad and Tobago.

4 Was there a tightness in supply in the market in
5 2013? And did downward pressure on prices later in 2013 and
6 2014 come from other melamine imports and not from those
7 produced in Trinidad and Tobago?

8 MR. ZOGLIO: Greg Zoglio. Again, Commissioner
9 Johanson, when we look at the data--and again it's quarterly
10 data so it's tough to parse exactly what happened at a given
11 point in time, particularly when you have events such as
12 plant outages, inventories in country, available product to
13 bring across, but when you look at the data on a macro
14 level--and that's the way I prefer to look at the data
15 because it's really hard to discern on a monthly or even a
16 quarterly basis--yes, in 2013 product tightened. And again
17 as I shared with Commissioner Williamson earlier, some of
18 that was related to our own planned production outages.
19 Some of that was related to a reasonable demand in that
20 particular period of time. Some of that was related to
21 nonsubject imports, or Chinese imports slowing down. And
22 some of that then was related later in the year to the
23 Trinidadian--to their own production operation difficulties.
24 And certainly we were able to, as a domestic
25 producer, take advantage of that and drive price increases,

1 announce price increases and drive price increases through
2 the market over the course of 2013.

3 As it became clear that product was available
4 from other sources, including Trinidad, that price started
5 to nose back down again. And what you can look at from a
6 data perspective is the import data by month coming from
7 Trinidad in early 2014 in substantial quantities that
8 coincides with a significant decline in the selling price
9 over that first quarter into the second quarter of 2014.

10 And so the answer is: Tightness does lead to
11 price increasing. And excess supply certainly leads to
12 price decreasing. And certainly in the first quarter you
13 can correlate the available Trinidadian product to that
14 significant price decline.

15 MR. DORN: And--Joe Dorn--if I could just add to
16 that again, it's important to emphasize that that increase
17 in 2013 was off a very, very low price in 2012 due to the
18 price depression already caused by the surge in imports and
19 underselling by Trinidad.

20 So they're trying to restore price, to get prices
21 back up. You know, you didn't succeed in getting up the
22 cost of goods sold, but you did bring it up some.

23 MR. ZOGLIO: And again, just from a data
24 perspective, when I look at the machine that was built in
25 Trinidad, it was built for a purpose. It was built to take

1 natural gas from the region and upgrade it into marketable
2 product, melamine being one of those products, and exporting
3 it.

4 With no home demand, no home market demand, and a
5 50/50 split by contract between home, Europe, and Latin
6 America and southern U.S., once that production is on again
7 it's coming and it's got to find a home. And there's only
8 one way Trinidadian product finds a home in the U.S., and
9 that's by a drop in the price.

10 And so certainly when there was a slowdown in
11 availability, price can go up. But as soon as that
12 availability picks back up again, in it comes. And that's
13 in fact the trend that we've seen through time repeatedly in
14 the data. Thank you.

15 COMMISSIONER JOHANSON: Thank you, Mr. Zoglio.

16 On page 59 of its brief, Methanol Holdings argues
17 that rather than track ammonia prices, melamine prices are
18 determined by supply-side constraints and the strength of
19 demand for end products.

20 What is your position on the driver or drivers of
21 melamine prices in the U.S. market? And in particular with
22 regard to the price of ammonia?

23 MR. JONES: In the short term it tends not to be a
24 relationship--sorry, Eifion Jones--there tends not to be a
25 relationship with ammonia in the short term, unless there's

1 an acute period of inflation for ammonia. Then obviously we
2 seek a price increase.

3 In the longer term, obviously there has to be a
4 relationship between ammonia and pricing. It's a basic
5 tenet of any organization that it has to make a variable
6 contribution over its primary raw material, which in this
7 case is essentially ammonia through to urea into melamine.

8 COMMISSIONER JOHANSON: Mr. Jones, you spoke of
9 long-term versus short-term. What is the dividing line
10 there?

11 MR. JONES: I think in terms of--

12 COMMISSIONER JOHANSON: As far as time goes.

13 MR. JONES: In terms of time, maybe Greg can
14 answer that with more experience.

15 MR. ZOGLIO: Yeah, again just to be clear--Greg
16 Zoglio--just to make sure there's clarity amongst the group,
17 ammonia does trade in the U.S. on an Index Basis. Tampa is
18 an Index. And that's settled on a monthly basis. So from
19 an ammonia-price perspective, we have monthly settlements.

20 And this is a public, I'll call it generally
21 industry available information. Everyone's purchase price
22 is slightly different, but certainly you have a reference
23 point that one can use as a guide.

24 And ammonia pricing does tend to trend through
25 time based upon input costs. Natural gas is the only input

1 to ammonia production. And on the global supply and demand
2 balance. And then there's seasonality associated with
3 ultimately global fertilizer demand that can drive that
4 price up or down.

5 And so over the course of a period of time--and
6 let's use the fourth quarter of 2014 as an example--there
7 was a substantial increase in the overall ammonia cost in
8 that particular period. And again, although price moves
9 monthly, the trends--it cycles. So as you see ammonia price
10 moving up, it's not one of those that spikes up in a given
11 month and spikes down the next month.

12 You'll tend to move through these trends through
13 time. And again, being that it's tied to fertilizer
14 application or fertilizer demand internationally, and
15 onstream time of the global suite of plants availability, we
16 can see that before it happens. And in the case of the
17 fourth quarter, third-quarter price--sorry, the September
18 price was elevated versus August, it was clear that October
19 and November were going to be elevated versus September.

20 And as part of that price increase announcement
21 in the fourth quarter of that period, we put through we were
22 trying to drive price. Why? We have an input cost
23 disadvantage now coming through as ammonia and trying to
24 drive that through the system. Again, not always
25 successful, but ultimately I'd say it's a cyclical nature of

1 the ammonia price in industry, not on a month-to-month
2 basis.

3 COMMISSIONER JOHANSON: And I assume that in the
4 world of ammonia, the impact on sales of melamine is
5 relatively small? Is fertilizer, does that drive the price?

6 MR. ZOGLIO: Melamine does not drive the price of
7 ammonia--

8 COMMISSIONER JOHANSON: It's very small, I assume.

9 MR. ZOGLIO: If you take, for example, the AUM
10 plant that MHTL actually operates, it's a 720,000 metric ton
11 ammonia facility on the front end of the melamine unit. The
12 melamine unit is a 60,000 ton melamine unit, and the usage
13 of ammonia in melamine production is about a point 8 or a
14 point 9 points per pound. And so you would use roughly at
15 full capacity about 15--well, let's see, 50,000 of that
16 720,000 tons, or roughly 8 percent of the overall ammonia
17 plant, their ammonia plant would go into melamine
18 production. Taken on a global scale, melamine is a much
19 smaller percentage of the total ammonia requirements. Urea,
20 UAN, and ultimately nitrogenous fertilizer application is
21 where ammonia goes globally.

22 COMMISSIONER JOHANSON: All right. Thank you for
23 your responses. I've gone over my time.

24 CHAIRMAN BROADBENT: Commissioner Kieff?

25 COMMISSIONER KIEFF: I join my colleagues in

1 thanking you all for coming and arguing and providing
2 testimony, and great appreciate each of the lines of
3 questions that my colleagues have pursued with you. And so
4 let me, if I could, recognizing the very helpful exchanges
5 you've already had, let me ask just a few somewhat
6 tangential questions.

7 So first, to follow up on a question Commissioner
8 Williamson, or a remark Commissioner Williamson made, can
9 you help me understand as witnesses and counsel the process
10 by which your prepared testimony was arranged for today?

11 It clearly reflects an immense amount of effort.
12 The effort is helpful. But I want to try to understand
13 timing and practical constraints on you.

14 So, for example, were the written statements that
15 you essentially read to us finished on the eve of today's
16 hearing? And so--there's a nod. And without trying to
17 invade your prerogative to do that, I want to try to be
18 sympathetic to your constraints for doing that. Can you
19 help me better understand why that is? Was it a need to
20 wait to see what Commerce did? Was it a need to wait to see
21 what your opponents did? Was it sacrifice for the shortness
22 of lives and you all were busy?

23 Help me better understand why it's important to
24 prepare that written information up to the even of the
25 hearing.

1 MR. DORN: Commissioner, could I start with
2 that, because I've seen this in many, many cases, of course,
3 and you know, you've got business people who have got day
4 jobs. It's hard to get them all together, and so normally I
5 think you'll hear that from Mr. Emerson with respect to this
6 panel too. You get together the day before.

7 Obviously, you've been talking about the case.
8 You've been working on themes in the case. You've been
9 gathering facts and so forth. But yesterday was the first
10 day we had a chance to get together and just to compare
11 notes, to make sure everything that we're saying was
12 accurate. Everybody vetted each other's testimony to make
13 sure it's accurate, and we also were able to go through the
14 other side's brief in detail and say, you know, here's what
15 they say here, here's what we say.

16 COMMISSIONER KIEFF: Gotcha. So it's the
17 inherent logistics in preparing coherent, coordinated
18 information?

19 MR. DORN: Correct.

20 COMMISSIONER KIEFF: Okay. That makes perfect
21 sense. Is the Commerce Department's actual behavior in a
22 new way part of that, a small part of that, a big part of
23 that?

24

25 MR. DORN: Well for certain in this case, and

1 Steve might want to address that, because we got a change in
2 the Commerce Department determination yesterday. We respect
3 the subsidies and one we think that strengthens our case
4 with respect to Trinidad, because the Commerce Department in
5 its final determination, unlike its preliminary
6 determination, found that they received subsidized natural
7 gas, which is their key feedstock for their melanin
8 production, which we think is entirely or very, very
9 significant and gives them a tremendous advantage. It's
10 unfair in the U.S. market.

11 We did not have that. It was not in our
12 testimony, but it was the testimony at the end of the day.

13 COMMISSIONER KIEFF: And that makes perfect
14 sense. But presumably, you had the benefit of the thoughts
15 you were trying to convince them to agree with before you
16 convinced them to agree with you, and would have presented
17 some version of that to us unaided by their conclusion
18 anyway, right?

19 MR. DORN: Well, it's been my experience that
20 the Commission is not that excited about theories that the
21 Petitioners present to Commerce that the Commerce Department
22 doesn't adopt. In my experience, you're relying on Commerce
23 to provide you the determination on dumping and subsidies,
24 and you're not looking to Petitioners' counsel to give you
25 their version of the record at Commerce.

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COMMISSIONER KIEFF: Okay, fair enough. Let me, if I could then, shift gears. Again, very, very helpful just to understand the real world pressures on the witnesses and on the counsel when presenting the case. If in the post-hearing, either side wants to provide more information on that, by all means do. I just don't mean -- I'm also mindful of your valuable time here today, and recognize that those are questions that are not specific to this case.

They're helpful to all of our cases, so on this case, can I drill down on some questions you've already explored with Vice Chairman Pinkert and Commissioner Johanson. Is your disagreement with your colleagues about Trinidad largely one of fact or one of law? How much of the Bratsk, Gerald, Mittal, Swiff-Train line of cases, how much of that matters to this case?

MR. DORN: Probably very little Commissioner, because I think in this case, I don't think that there's a good Bratsk replacement benefit argument that can be presented by the other side. I mean the fact is that MHTL is unique in terms of its approach to the U.S. market. It's the only foreign supplier of melamine in the western hemisphere. Its logistics are a lot easier to serve the U.S. market than China, Germany or Netherlands.

1 It has a commitment to sell half of its
2 production to the United States. It's established four
3 warehouses across the United States. It's got debagging
4 operations in those warehouses. It's set, ready, to go, has
5 long term relationships. You look at Germany and
6 Netherlands, they're producers in both those countries, but
7 as you've heard from our witnesses, the market in Europe is
8 four to five times larger than that of the United States.

9 They do -- they have been long-time suppliers to
10 the U.S. market in small quantities. They've never come in
11 and provided us a price shock like Trinidad. So they're a
12 different kettle of fish from Trinidad. So, you know, if
13 you want to apply a Bratsk replacement benefit test, be my
14 guest.

15 But I'm hopeful that even Vice Chairman Pinkert
16 will determine that given the Swiff-Train decision, which
17 approved footnote 142 in your remand decision in
18 multi-layered flooring, but failed to mention Mr. Pinkert's
19 footnote 143, maybe Mr. Pinkert would join his colleagues in
20 not applying the Bratsk test going forward.

21 COMMISSIONER KIEFF: Well let me, if I could, as
22 long as we're engaging in footnote analysis and I'm always
23 nervous of extensive navel gazing and if a footnote analysis
24 doesn't count as navel gazing, I don't know what does. But
25 in the Ferral Silicon case that we decided last year,

1 there's a juxtaposition of two footnotes, one that seems to
2 emphasize a factual analysis, footnote 121, and one right
3 next to it, footnote 122, that engages in a legal analysis
4 that is akin to the -- and legal analysis you were alluding
5 to or explicitly referencing.

6
7 Footnote 122 happens to be authored by my
8 colleague, but I happen to think it's really pretty
9 interesting, and in the interest of full disclosure about
10 footnote movement and Commissioner interest, I felt what he
11 wrote was interesting to me. So I'll tell you what -- that
12 I'm struck by it. Can you help us -- can you help me at
13 least better understand what is the difference that you
14 think Swiff-Train makes to the Bratsk Mittal line of cases?

15 MR. DORN: Well this case, as I understand it,
16 the Respondents are arguing that you're basically required
17 to apply a replacement benefit test, and Swiff-Train makes
18 it very clear that no, that's not the case. The
19 Commissioners have the discretion to determine the
20 methodology, to determine causation based on the statutory
21 standard, which is by reason of subject imports.

22 The statute has no reference to anything about
23 replacement and benefit, and the other thing is that I would
24 mention that's important here is they're trying to suggest
25 that you should apply that with respect to China, and asking

1 whether well, if Trinidad had been out of the market, would
2 China have swooped in, and therefore there would have been
3 no benefit to the U.S. industry.

4 That makes no sense. Why would you, you know,
5 treat them as if they're fairly-traded. In this case, the
6 imports from China are highly subsidized, highly dumped.
7 Congress could not meant that you get a negative on Trinidad
8 --

9
10 COMMISSIONER KIEFF: So let me just -- I'm just
11 sensitive to the time, if I just very briefly could ask a
12 quick follow-up, because I think I'm understanding what
13 you're saying. But I think in effect you're saying Swiff-
14 Train rejects a particularized legal framework, but it
15 doesn't seem to reverse Bratsk.

16 In other words, the admonition of Bratsk seems
17 to be that we should be attentive to some -- we should be
18 explicit in our opinion in reporting what we understand the
19 logic to be of movements in the market, and the subsequent
20 line of cases gives us flexibility to embrace different
21 logical frameworks.

22 But we still have to, as I understand it,
23 explain our logic. And so the second note you were making,
24 which I'll then -- I'll stop and I'll invite us to rejoin in
25 an hour or 50 minutes when we're talking again, sacrifice to

1 this process, but let me just ask that we revisit.

2 Can you explain more about your second point
3 when we next talk? Can you explain more about why the logic
4 is so compelling. I take the other side's position not to
5 be as you just stated it. I don't think they're telling us
6 that we should assume China was fairly trading.

7

8 I think they're merely asking us to notice that
9 China is trading, and to recognize that the imports from
10 Trinidad might be replaced by imports from someone, sorry by
11 sales from someone other than your own domestic client, and
12 that I think is all they're trying to point out. But I'll
13 invite you and your counterparts to explore that further
14 with me later. I'm cognizant of the fact that the time is
15 already gone.

16 CHAIRMAN BROADBENT: With no objection, if you
17 want to continue, it might be useful.

18 COMMISSIONER KIEFF: If you want to tag that,
19 that would be great. So I think that's where the rubber
20 hits the road on this argument.

21 MR. DORN: With respect to this particular issue
22 about whether China is a candidate for this replacement
23 test, to the extent any Commissioner chooses to go that
24 route, I will concede that there is case law against me on
25 that, and the Caribbean Ispat case suggests that it would be

1 appropriate in this situation to consider China just like
2 Germany or the Netherlands.

3 But there was no statutory analysis in that
4 case. You see references in Mittal and in Swiff-Train to
5 the -- using the replacement benefit test with respect to
6 less than fair value imports. The Federal Circuit doesn't
7 suggest in those cases that you should be applying that test
8 when the other countries' exports are being dumped and
9 subsidized, and I can't imagine Congress would have intended
10 for this Commission to do that.

11

12 But I don't have a case. It hasn't been
13 presented. That particular issue hasn't been resolved as
14 far as I can tell.

15 COMMISSIONER KIEFF: This is extremely helpful,
16 and to the extent anyone later wants to follow up in
17 whatever format is convenient for the person who wants to
18 follow up, we look forward to that. I'm very guilty of --

19 CHAIRMAN BROADBENT: Yeah, thank you
20 Commissioner Kieff. No, that's fine. Good. It's helpful.
21 Okay. Can you help us, and I'm not sure the best person to
22 do this, is the demand trend over the Period of
23 Investigation. I'm trying to get a handle on that. I think
24 a plurality of firms noted that demand increased but
25 apparent U.S. consumption using questionnaire data for

1 Trinidad shows a decline.

2 I think this is in Table C-3 of the staff
3 report. Can someone comment on that?

4 MR. ZOGLIO: Greg Zoglio. Chairman Broadbent,
5 our view as Cornerstone is that we -- the demand for
6 melamine is tied primarily to two macro factors within the
7 U.S. The first is really housing and remodel. So as I
8 shared in my testimony, oriented stramboard, fiberboard and
9 hardwood plywood are a big end market for melamine-based
10 glues or resins.

11

12 The laminate flooring marketplace is another big
13 end market as well for high pressure laminates, and then
14 there would be any type of cabinetry or decorative laminates
15 as well which would be low pressure. So as the housing
16 market goes, so goes melamine demand. We have seen of
17 course in the U.S. a growth in the housing market, albeit
18 not as significant any of us would hope at this point, that
19 certainly lower interest rates are spurring growth in
20 housing demand. Growth in housing demand is spurring growth
21 in melamine demand within our marketplace.

22 We certainly see a general trend upward over the
23 course of the last several years over the POI with respect
24 to melamine demand in that area. The other large area for
25 us would be into automotive. So automotive paint solutions

1 are another big end marketplace for melamine, and we of
2 course in the U.S. have seen a significant increase in the
3 overall automobile build rate since the recessionary period
4 in the 2006 to 2008 period of time.

5 Unlike the more stable U-shaped recovery within
6 housing, it's more of a V-shaped recovery within automotive.
7 So again, those two macro trends are something we would
8 point to to say there in fact is your demand centers. There
9 in fact is your growth in that particular area.

10 CHAIRMAN BROADBENT: Okay, but just our
11 questionnaire data was showing a decline in consumption.
12 But you think that's kind of erroneous?

13 MR. ZOGLIO: Again, without having access to all
14 of the confidential data, it's hard for us at this point as
15 Cornerstone to refute that information.

16
17 MR. DORN: And Madam Chair, we'll try to address
18 that in our post-hearing brief. But as I mentioned before,
19 it's my understanding, and maybe I'm incorrect, but I think
20 that there is a mixed data set in the table you're referring
21 to, and it's using import statistics for some countries and
22 then U.S. commercial shipments. So it's not a perfect
23 database.

24 CHAIRMAN BROADBENT: Got it. Okay, well we'll
25 look at that, anything that can shed light on that. Mr.

1 Zoglio, to what extent do you view greater regulation of
2 formaldehyde emissions from wood products as a potential
3 driver of growth in the U.S. market for melamine? What
4 trends have you seen there?

5 MR. ZOGLIO: Sure. As we go back through time,
6 of course, California was the leader on what are called the
7 carb standards. Carb II is the standard that's in place
8 presently. Of course, it's gotten quite a bit of press over
9 the course of the last few months, with the events
10 associated with Lumber Liquidators and the import of Chinese
11 board feet that did not meet the regulation or at least
12 deceived the regulation.

13

14 So we've seen a good growth in demand. Could it
15 be more significant? Yes. But then again, this year, 2015,
16 is a year where we've started to see a bit more shift back
17 towards construction of U.S. board foot in the U.S., in
18 favor of the U.S. versus China, again part of it due to a
19 now public perception of where your laminates are produced.

20 So a laminate consumption of melamine is
21 growing, again to meet these carb standards, and again we
22 see that also in wood resins. When we speak to our various
23 customers, some of the largest of those customers are in the
24 resin production business, and all of them have a very
25 positive view on growth rates with respect to melamine

1 consumed specifically for the purpose of creating resin or
2 overlays to help meet the carb standards.

3 Do we have specific data in terms of percentage
4 growth rate? No. Again, it's one of those general macro
5 trends that we tend to track in the space of viewing
6 melamine on a go-forward basis.

7 It's not lost on us that we have the opportunity
8 and Mr. Mikesell mentioned it, to de-bottleneck or expand
9 our melamine facility, and ultimately we took a look at that
10 as we entered into the 2012 time frame, choosing to defer
11 that investment to a later date, again due to the fact that
12 the economic reality of melamine pricing in the U.S. didn't
13 support reinvestment at that time.

14
15 We will take another look at that as we enter
16 next year, and again taking into account the various macro
17 trends that we see with respect to housing, automotive and
18 carb emission regulation, and this year for 2016, we'll take
19 the first step towards that de-bottleneck and that's a large
20 scale capital project on the order of seven to eight million
21 dollars we'll make in the facility, based on an improving
22 marketplace.

23 Again, that is in support of reliability and
24 operational efficiency, and then the next step would be a
25 de-bottlenecking type project as we enter a little bit later

1 in the 2017-2018 time frame.

2 CHAIRMAN BROADBENT: Okay, good. Can you
3 explain how melamine made from the high pressure process
4 used in Trinidad and Tobago and in China results in greater
5 difficulty of transportation of merchandise?

6 MR. MIKESELL: I think if you see in -- Paul
7 Mikesell. If you look in Respondent's brief, they now claim
8 that their melamine is on a par with ours, which we would
9 expect. The primary differences in the two processes is in
10 the capital investment for either of one, as well as there
11 is some difference in minor raw material or minor impurity
12 levels, neither of which though impact your ability to ship
13 melamine in a bulk container.

14 CHAIRMAN BROADBENT: Okay. Mr. Dorn, you're
15 asserting that the increase in the volume of subject imports
16 from Trinidad and Tobago is significant, but by any measure
17 the imports from this source declined. You base your
18 assertion that the increase was significant in the period of
19 time that it outside the current Period of Investigation.

20
21 Why should the Commission focus on an increase
22 in imports that occurred five years, when assessing present
23 material injury?

24 MR. DORN: Well to begin with, the statute
25 doesn't require you to find an increase in imports. You

1 need to determine whether the volume of imports is
2 significant or the increase is significant. Clearly, the
3 volume is significant. Our point is that we're not asking
4 you to expand the POI beyond 2012. What we're asking you to
5 do is look at the imports during the POI in context.

6 You can't -- you cannot understand how
7 significant they were during the POI without knowing what
8 they were just prior to the POI, especially when you ask the
9 question in your preliminary determination about what
10 happened in 2012? Why did imports from China go down in
11 2012? Well, you cannot answer that question without looking
12 at the imports in 2011.

13 So China fell out relative to Trinidad in 2012,
14 because Trinidad came in with much lower prices. But our
15 main point, Commissioner, is that you should look at the
16 significance of the imports during the POI in relation to
17 the period just before the POI. That gives you a better
18 insight into the impact of those imports on the U.S.
19 industry.

20 CHAIRMAN BROADBENT: Okay. Should we look at
21 how the industry was performing in the period before the
22 POI?

23

24 MR. DORN: I think to put context in terms of
25 how they performed during the POI, certainly. Neither the

1 statute, regulations or case law says that you should put on
2 blinders and not look at anything before the POI.
3 Obviously, you're going to give the most of your attention
4 to the POI. We don't disagree with that. We're not
5 challenging the selection of 2012 the base year.

6 But on the other hand, you have record evidence
7 from your preliminary determination showing substantial
8 loss, sales and lost revenues going back to 2011. You've
9 got the elements of under-selling and the under-selling POCs
10 didn't change at all from the prelim to the final. So you
11 have good evidence of under-selling in 2011, from exactly
12 the same, you know. One U.S. producer and one U.S. importer
13 from Trinidad. So that's all good data.

14 So we're saying you shouldn't ignore that. It
15 puts what happened in 2012 in context. For example,
16 particularly in terms of the price depression that had
17 already taken place in 2012. So you're starting the POI in
18 this situation January 1, 2012, with prices already
19 depressed. So it's not fair to say well, you know, prices
20 didn't go down by 30 percent from 2012 to 2014, because that
21 -- you're ignoring the fact of what happened during 2011,
22 when Trinidad first jumped into the market.

23 So we're saying that it's very important for you
24 to look at the entire record. We're not asking you to
25 change the POI.

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CHAIRMAN BROADBENT: Okay. Mr. Driscoll, let's see. Can you explain either here or in your post-hearing brief, the nature of your commercial exports. Are these through long term customer relationships? Or were they in the nature of more one-off sales?

MR. DRISCOLL: I think that's something that would be better off done in our post-conference brief.

CHAIRMAN BROADBENT: Sure, understood. Okay. That uses my time for this round. Vice Chairman Pinkert.

VICE CHAIRMAN PINKERT: Thank you, Madam Chairman. Mr. Zoglio I asked you in the previous round what would have happened to Trinidad and Tobago imports in the United States if China had pulled out of this market in early 2013? What I want to ask you now is a slight variation on that. What would have happened with Chinese imports in the United States market or in the U.S. market if Trinidad and Tobago imports had pulled out in early 2013?

MR. ZOGLIO: You know, when looking at the Chinese market, so we'll move off of Trinidad for a minute and look at China on a macro basis, and as we've stated, of course, China's a part of this petition from our perspective as well, the Chinese have done an amazing job rapidly building out melamine capacity in-country.

1 Of course, they've built to a level, as they
2 have with many other industries, where they have significant
3 over-capacity. It's clear again, and we've provided a
4 significant amount of data, that shows just how significant
5 that over-capacity is.

6 So when we look at the U.S. market, we're a
7 relatively small market as compared to the larger markets of
8 Europe, where there's five times as much melamine is
9 consumed as is in the U.S. and China, which is now the
10 largest consuming market for melamine in the world.

11 So the Chinese capacity's come on. It's come on
12 strong. It's come on in anticipation of ten percent growth
13 in GDP or more, as they had certainly seen in the 2005 to
14 2009 time frame. Things have slowed down. There's
15 significant over-capacity in China. So had Trinidad
16 actually pulled out of the market, we would have seen a
17 couple of different things that would have occurred within
18 the market dynamics.

19 One, if we just look at it -- and I apologize
20 that I talk in tons, so we see a 15,000 ton, 12 to 15
21 thousand ton reduction in overall supply capacity in the
22 U.S. market, one of several things would have happened.
23 One, Cornerstone has not operated over the POI at full
24 operational ratio, right, full operation rate.

25

1 Our plant has greater capacity up until the end
2 of 2014 that we were running. We did start running full
3 rates January 1st, 2015, and we've been running our plant at
4 full rates throughout the year this year, again with the
5 elimination of the import products both from China and
6 Trinidad, starting in that April-May time frame.

7 We built inventory a bit early in the year.
8 We've been able to sell down that inventory over the course
9 of the remainder of this year, as we've taken a greater
10 share of the domestic marketplace. So the first question
11 one would ask hypothetically is if Trinidad goes away, do
12 you ramp your plant up and push product in the market, or B,
13 does the Chinese producer say oh, I've got an opportunity to
14 take my tonnage, ship it across the Pacific Ocean and try to
15 distribute it into the U.S. marketplace?

16 I say that's a more difficult outcome for the
17 Chinese, to recognize the opportunity and execute against
18 that opportunity. The Chinese product in the U.S. is
19 typically managed through brokers and traders. It's
20 typically going for I'll call it the lower value end markets
21 with respect to their customer base that they pay attention
22 to.

23 The Trinidadian product, again as we shared
24 earlier, warehousing throughout the U.S., product
25 in-country, customer service capability so the customer can

1 rapidly call off orders. A truck shows up two days from the
2 warehouse to the consumer location, the quality is on par
3 with Cornerstone.

4
5 So I would suggest that I'm not going to say
6 that some of that Trinidadian volume couldn't have been
7 replaced with Chinese product, or couldn't have been
8 replaced with European product had it gone away, but
9 certainly 100 percent of that volume couldn't have or
10 wouldn't have been replaced by Chinese product, because the
11 Chinese simply don't have the capability, the quality or the
12 customer service organization to support their operations as
13 the Trinidadian organization or Southern in the U.S.

14 They did focus on the customer. They took care
15 of getting product to that customer, and as we show Customer
16 A and Customer B, choose 100 percent of their demand to put
17 on upon Southern as a supplier, and I think you would find
18 in asking either Customer A or Customer B would you be 100
19 percent confident with 100 percent Chinese supply, the
20 answer would be overwhelmingly no, right.

21 So it's a very different business model that the
22 two countries have undertaken. China, it's purely a
23 subsidized and dumping case. In the case of Trinidad, it's
24 a full service utilization of my subsidies, and then I'm
25 going to push product into the marketplace, 50 percent of

1 which -- of my production has to go into one marketplace,
2 and that's the North American market.

3 So a bit of a long-winded answer for you, but
4 again, since it's hypothetical, I tried to do our best to
5 understand the way that things would play out.

6 VICE CHAIRMAN PINKERT: Thank you. Other
7 comments on that question on the panel? If not, I wanted to
8 ask Mr. Dorn a legal question, and that concerns how we are
9 to treat the Chinese imports for purposes of the Trinidad
10 and Tobago decision. Now I don't think you said that we
11 should not treat them as non-subject imports, but I might
12 have inferred from your comments that you have a concern
13 about that.

14 So I want to give you an opportunity to make it
15 clear. You know that the Respondents have said in their
16 brief that we have to treat the Chinese imports as
17 non-subject for purposes of the Trinidad and Tobago decision
18 that we have to make, and I don't know whether you dispute
19 that or not.

20 MR. DORN: No, I don't dispute that at all.
21 We've done our best in our prehearing brief and today to
22 point out that we've suffered injury from imports from
23 Trinidad alone. We're not trying to attribute any injury
24 from imports from China to Trinidad. That's the
25 non-attribution doctrine, which we are adhering to in our

1 presentation.

2 My only point, and it goes back to the question
3 of the replacement benefit test, if you're applying -- in
4 our view, if one were to go down the road of applying the
5 replacement benefit test, you would look at whether Germany
6 and Netherlands would replace imports from Trinidad, if
7 Trinidad were knocked out of the market. You
8 would not look at imports from China, because China has been
9 found by the Department of Commerce to have engaged in
10 egregious dumping and received egregious subsidies, and I
11 cannot believe that Congress would have intended for you to
12 reach a negative determination with respect to Trinidad on
13 the grounds that there's a much worse actor out there in
14 China.

15 It just doesn't make any sense to me, and there
16 is, as I acknowledged in my colloquy with Commissioner
17 Kieff, there is some language, loose language I would say,
18 in the Caribbean Isbit case, which I think is wrong. It
19 didn't involve any statutory interpretation. It predates
20 statements in Mittal, in Swiff-Train, which when talking
21 about but for causation or talking about less, you know,
22 that imports are not less than fair value imports, and here
23 you have less than fair value imports. So I just think it's
24 a different set of issues when you're looking at replacement
25 benefit.

1 But in terms of non-attribution, I totally
2 agree. We have to pin the blame on Trinidad in our case
3 against Trinidad.

4 VICE CHAIRMAN PINKERT: Thank you. Now since
5 you've mentioned Swiff-Train a few times, I want to ask you
6 whether in your view that case dealt with the role of
7 non-subject imports in analyzing causation of material
8 injury with respect to the anti-dumping or countervailing
9 duty law?

10 MR. DORN: Explicitly, no. But it's looking at
11 -- it's basically what does the by reason of causation
12 standard mean. I think what it's made several points. One,
13 that the imports at issue don't have to be the primary cause
14 of injury. There can be other causes that are greater.

15 The imports at issue have to result in a harm
16 which is not inconsequential or immaterial, I can't remember
17 exactly the phrase, not trivial, and that also that the
18 Commission is not bound to follow any particular
19 methodology, certainly not bound to follow a Bratsk
20 replacement test.

21 VICE CHAIRMAN PINKERT: Thank you. Now Methanol
22 Holdings argues that some of the alleged lost sales or lost
23 revenue cannot be attributed to Trinidad and Tobago, because
24 its importer, Southern Chemical, does not sell to the listed
25 purchasers. Is that something you can address in the

1 post-hearing?

2 MR. DORN: Love to. For example, they make the
3 point that, you know, they say there's no competition
4 between Southern Chemical and Cornerstone with respect to
5 Customer A and Customer B, because Customer A and Customer B
6 don't show up on our list of top ten customers in 2013 and
7 2014.

8 Yeah. They don't show up on our list of
9 customers because we lost 100 percent of that business to
10 Southern Chemical back 2011 and 2012, and continued to lose
11 that business in 2013 and 2014. But we look forward to
12 getting you the -- in the weeds and the confidential record
13 in answering that question in our post-hearing brief.

14 VICE CHAIRMAN PINKERT: Thank you very much. My
15 last question, which is probably a post-hearing question as
16 well, is concerned with per unit factory overhead costs,
17 which increased from 2012 to 2014. If you can explain that
18 in the post-hearing, I would greatly appreciate that.

19 MR. DORN: Be glad to, and I'd like to just
20 respond to an argument of the other side that we have not
21 been forthcoming with staff in terms of responding to
22 questions, or regarding our data. I think Mr. Jones can
23 verify that we spent many hours on that at Cornerstone, and
24 we have had numerous email exchanges and provided tons of
25 data and backup materials to your auditor, and fully

1 explained or answered all the questions regarding other
2 factory costs.

3 We will also show how that increase in other
4 factory costs per unit is directly related to the imports at
5 issue in this case.

6 VICE CHAIRMAN PINKERT: Thank you very much. I
7 always note the great work that our staff does and the
8 cooperation that they receive in these investigations is
9 greatly appreciated. Thank you very much.

10 CHAIRMAN BROADBENT: Commissioner Williamson.

11

12 COMMISSIONER WILLIAMSON: Thank you. Please
13 describe how the trend in the volume and prices of subject
14 imports from Trinidad over the Period of Investigation
15 support a claim of present injury. In other words, just
16 taking a look at those trends, how do you -- what's the
17 basis for a claim of present injury?

18 MR. DORN: Commissioner Williamson, this is not
19 a case where in the base year, we're saying the domestic
20 industry is healthy, and then the last year of the POI the
21 industry is all of a sudden unhealthy. We're not trying to
22 correlate, you know, that your imports are low in Year 1,
23 industry is healthy and then Year 3, imports are way up and
24 industry is unhealthy. That's not a case with respect to
25 Trinidad.

1 What we try to make very clear is that this
2 industry was injured by imports from Trinidad in the base
3 year 2012. Imports from Trinidad remained at a very high
4 level in 2013 and 2014. You have evidence of underselling,
5 2012, 2013 and '14. You have evidence of lost revenues and
6 lost sales in 2012, 2013 and '14.

7 You have evidence that in the first three
8 quarters of 2014, imports from Trinidad rushed in and were
9 five million pounds greater than imports from China during
10 those first three quarters of 2014. You heard from our
11 witnesses that January-September 2014 was the worst period
12 of performance during the POI for the domestic industry.

13

14 That coincides with a period where imports from
15 Trinidad were clearly a bigger problem than imports from
16 China. We'd love to expand on that in our post-hearing
17 brief.

18 COMMISSIONER WILLIAMSON: Okay, good.
19 Particularly could you address the question of the trends
20 part, taking a statement that you made --

21 MR. DORN: But you know as I said earlier, we're
22 not -- obviously we're not saying with respect to Trinidad
23 that imports increased from 2012 to 2014. They did not.
24 What our point is that imports were significant. The volume
25 of imports from Trinidad were significant and injurious in

1 2012, '13 and '14.

2 And then the other thing is to look at what
3 happens when the -- when the cases are initiated. You've
4 got the prospect of high duties going into place in April.
5 The high duties go in place in April, and Trinidad withdraws
6 from the market and what happens?

7 Customer A and Customer B, who have been denied
8 to Cornerstone in 2012, '13 and '14 are all of the sudden
9 customers of Cornerstone again in 2015, and that to us show
10 a very direct causal link between the subject imports from
11 Trinidad and the health of the domestic industry.

12
13 COMMISSIONER WILLIAMSON: Okay, thank you. In
14 the preliminary determination, the Commission observed that
15 prices of non-subject imports, and I don't mean China, were
16 generally higher than prices of imports from Trinidad and
17 Tobago. Appendix D of the staff report indicates that this
18 may not be the case in the current POI. Please address the
19 pricing of non-subject product.

20 MR. DORN: We'll be happy to do that and look at
21 the confidential data in our post-hearing brief. I think
22 it's important again to recognize that Cornerstone's
23 achieved higher prices and higher volume with the departure
24 of Trinidad from the market. Yes, Germany is still there,
25 The Netherlands is still there as a competitor.

1 But they haven't taken away the benefit of these
2 duties to date, and we see no reason they would do so going
3 forward, because of their much different approach to the
4 U.S. market than Trinidad's approach to the U.S. market, as
5 you've heard from our witnesses.

6 COMMISSIONER WILLIAMSON: Okay. You're going to
7 elaborate on that difference?

8 MR. DORN: Well, we can elaborate on it right
9 now in terms of the difference in approach. I mean, you
10 know, Germany and The Netherlands face a 3.5 percent tariff
11 in the United States. Trinidad comes in duty free.
12 Southern Chemical has established four warehouses
13 geographically situated across the United States. They have
14 customer service, they have a sales force.

15 Germany and Netherlands don't even have a
16 salesman in the United States, resident in the United
17 States. They don't have these extensive distribution
18 networks. They don't have a commitment to sell any portion
19 of their capacity to the United States. They have a market
20 in Europe that's four to five times bigger than the market
21 in the United States.

22 They are a different kettle of fish than
23 Trinidad, which built its plant premised on taking a very
24 large share of the U.S. market. So we don't see any reason
25 that imports from Germany or Netherlands would take away the

1 benefit of duties against Trinidad.

2 MR. DRISCOLL: And further, just one more
3 comment on that --

4 COMMISSIONER WILLIAMSON: Could you identify
5 yourself?

6 MR. DRISCOLL: I'm sorry, it's Michael Driscoll.
7 One more comment on that is also our competitors in Europe,
8 they're not subsidized by the foreign governments, unlike
9 Trinidad.

10 MR. ZOGLIO: Greg Zoglio, and to kind of build
11 on it a little bit too, the way the European -- the large
12 European producers, and they're both large, right? The
13 Borealis is a large producer with operations both
14 in Piesteritz, Germany and that's of course what we see on
15 the import stats, and in Linz, Austria, and OCI is a large
16 producer in the Netherlands.

17 Each of them view the U.S. market as a small
18 percentage of their total sales, and don't view it as their
19 primary market. The European market, again four to five
20 times the size of the U.S. The customers that are in the
21 European market of each of these major producers are very
22 large customers and they themselves have an expectation of
23 what their suppliers will do, in terms of being a good
24 supplier.

25 What that does is limit the available product

1 that the European producers have to export from Europe and
2 bring to the U.S. Despite the fact that Europe has been in
3 a recessionary period as well, these producers within the
4 European marketplace run their plants at high rates, and of
5 course they don't have a tremendous overhang of product,
6 other than what they've already stationed in the U.S. over
7 the course of the last few years.

8 So we view the European suppliers or competitors
9 very differently, again for all of the reasons that Joe
10 mentioned. In terms of the way that their business model is
11 structured, it's very different than the Trinidadian
12 business model.

13 MR. DORN: One more is Europe is also, as I
14 understand it, a net importer of melamine.

15 COMMISSIONER WILLIAMSON: And talking about
16 Europe, and since for Trinidad and Tobago that is a large
17 market for them, any comments on the way they compete in
18 that market? I guess there's been an order on China, I
19 think, since 2011, so I assume that isn't a factor. But any
20 comments on how Trinidad and Tobago competes in the European
21 market and with those European firms? That might be helpful
22 to us here.

23 MR. ZOGLIO: I would say from a -- this is Greg
24 Zoglio. From a Cornerstone perspective, we do not compete
25 in the same portions of the European market that the

1 Trinidadian producers compete. Helm is the marketer of
2 their material. Helm is a German-based entity, and we
3 suspect that a lot of the material that comes out of the
4 Trinidadian facility is managed closely by Helm of their set
5 of customers in that part of the continent.

6 We primarily, and as obviously indicated in the
7 briefs, we primarily do our bit of business a little bit
8 further away from that particular region. So we don't see
9 well the way that they manage their business, but we assume
10 it's very similar. Again, Helm has warehouses, Helm has
11 customer service, and so we assume that the business model
12 is very similar to that which we see in the U.S. through
13 Southern.

14 But again, in the absence of direct competition
15 in Europe, because it's such a large market and because
16 we're such a small piece of it, we don't have a very good
17 window into exactly how they compete.

18 COMMISSIONER WILLIAMSON: Okay. So it's not a
19 matter of them competing with a different product or to a
20 different, shall we say, market segment? It's almost like
21 regional.

22 MR. ZOGLIO: In essence, it ends up that way,
23 right. The UK market is not one where we see them in any
24 significant way, and again Helm, the big German distributor,
25 if you will, is running the show for the distribution in

1 that particular region.

2 Again, when you look at the quantity of material
3 coming into a much larger marketplace, what impact does that
4 smaller quantity of Trinidadian product have in Europe?

5 Well, certainly a much smaller impact than we certainly see
6 in the U.S., as they become a large percentage of the total
7 U.S. demand for melamine. Whereas in Europe, they're a much
8 smaller percentage of what is a market that's five times the
9 size of our own.

10 COMMISSIONER WILLIAMSON: Good, thank you. Just
11 one last question. After the Caribbean Basin Initiative,
12 which was back in '83 and other times that I've looked at
13 it, people have often talked about transportation costs in
14 the Caribbean, within the Caribbean. It's often been very
15 high, and I'll ask the afternoon panel about this.

16 But any comments on that in terms of their
17 ability to compete in the U.S. market?

18 MR. ZOGLIO: Only in general terms, and again,
19 the movement of melamine is relatively inexpensive as
20 chemicals go, right? Melamine is a non-hazardous material.
21 It's shipped primarily in super-sacks. Certainly
22 internationally it's shipped in 20-foot sea containers,
23 roughly 20 metric tons per se container, and we use our own
24 business model and as we talked about, our distributions
25 ourselves through and into the United Kingdom.

1 We have a warehouse in Middlesborough UK that
2 we're able to bring our melamine from the U.S. to the UK at
3 a relatively low cost to serve. The same is true on a
4 general level from Trinidad up to the U.S. Yes, the
5 Caribbean freight costs are probably expensive relative to
6 other freight lanes.

7 But at the end of the day, when you look at the
8 freight cost as a percentage of the total selling price of
9 melamine, it's going to be -- the freight shield is not
10 substantial, as we certainly see with the larger, more
11 hazardous chemicals within the industry.

12 COMMISSIONER WILLIAMSON: In other words, you
13 can just pack it into a container and move it like any other
14 container?

15 MR. ZOGLIO: Yes. Its pack it up and off it
16 goes, and it's a relatively standard and it's a relatively
17 easy way to ship.

18 COMMISSIONER WILLIAMSON: Good, okay. Thank you
19 for those answers.

20 CHAIRMAN BROADBENT: Commissioner Johanson.

21
22 COMMISSIONER JOHANSON: Thank you, Chairman
23 Broadbent, and just out of curiosity, why is the European
24 market so much larger than that in the United States?

25 MR. ZOGLIO: Yeah. On a macro basis, so now

1 you're getting into consumer tastes to a large degree, and
2 when we think of the largest end use for melamine is
3 laminate flooring. In the U.S., and here we sit on our nice
4 carpet here in the chambers, and in the European marketplace
5 you see a lot more significant use of laminate flooring.

6 Hardwood flooring isn't available, or if it's
7 available it's expensive. In the U.S., we have a lot of
8 availability of hardwood. So consumer taste, product cost
9 and availability are kind of the two largest stark
10 differences between the two markets and -- because when you
11 look at Europe and the U.S. in terms of size of the customer
12 base, they're roughly equivalent in terms of the
13 populations.

14 So it largely boils down to consumer taste.
15 There's a regulatory impact as well. Our Carb II initiative
16 that's underway has been underway in Europe for quite a
17 number of years. It's called the E-Zero Initiative. So low
18 formaldehyde emissions were in place in Europe long before
19 they were present in the U.S. as a part of the regulatory
20 structure. So it's a little bit of a mix of consumer
21 tastes and regulatory.

22 COMMISSIONER JOHANSON: So carpets are less
23 common in Europe?

24 MR. ZOGLIO: Yes, they're less common.

25 COMMISSIONER JOHANSON: Oh okay, huh. I know a

1 lot of hotel rooms here are now going to hardwood floors or
2 wooden floors, which I like.

3 MR. ZOGLIO: Again, this supports my demand
4 argument for --

5 COMMISSIONER JOHANSON: It's a cleanliness
6 thing. Okay. Anyway, Respondents have argued that real or
7 perceived concerns about the availability of melamine during
8 the Period of Investigation drove price trends in the United
9 States. To what extent have supply issues during the Period
10 of Investigation impacted U.S. prices in your view, and
11 specifically going back to the whole issue about the concern
12 about the availability of the product.

13 MR. DRISCOLL: Michael Driscoll. Thank you very
14 much, Commissioner Johanson. There was really only the one
15 period in time, which was 2013, where you saw prices go up
16 during the POI. During that time period, and we discussed
17 this during the first phase of this investigation, whereas
18 we did have a plant issue as well that restricted our
19 production. At the same time, MHTL also, as you can see
20 very clearly on their import stats, they had production
21 issues as well.

22 Then I believe also at the same time during 2013
23 there was some outages, planned and unplanned in Europe as
24 well. So that, coupled with where we were demand-wise in
25 terms of the housing market and auto sector pushed prices up

1 for a short period of time, until we reached 2014 and MHTL's
2 plant came back up, and we immediately saw prices decline.

3 MR. ZOGLIO: And again -- Greg Zoglio -- during
4 that period, although we were able to drive price up
5 somewhat, and again it was Cornerstone that drove the
6 pricing up through our price announcements within the U.S.
7 and a tightening marketplace enabled us to get those price
8 increases, we didn't get anywhere near what we'll call it
9 reinvestment level that we need to see, to continue to drive
10 our capital programs forward.

11 So it was a nice gesture. Again quarterly
12 pricing. So you have these opportunities, these windows to
13 set price increases and once you set that increase, it's in
14 place for typically a three month period of time, with your
15 next window three months down the road. So when you look at
16 these general trends through time, it's what -- what are the
17 events that lead to that, at that particular negotiation
18 point, that could drive your price increase to stick?

19 In this particular case, if you're a consumer and
20 you're concerned about supply, you'll agree to a price
21 increase. But I will say throughout the period we were able
22 to get price increases, as soon as that supply showed back
23 up again in that first quarter of 2014 coming out of
24 Trinidad, the prices went screaming back down the hill, as
25 is evident in the data that we presented.

1 MR. DORN: And Commissioner Johanson, what you
2 will not see in the other side's brief is any defense to our
3 evidence that they forced prices down sharply in 2012. You
4 know, they're only looking at that one period of time, where
5 they come up with this tightness in supply. But they ignore
6 what preceded that. They don't have any rebuttal to the
7 fact that they caused prices to decline sharply in 2012.

8 So as our witnesses have said, we're starting to
9 look at the prices increasing in 2013. It's relative to a
10 base price that is already substantially depressed by the
11 imports from Trinidad. So this wasn't like we're all of the
12 sudden making sales at profitable prices. All they were
13 doing was using some events in the marketplace to gain back
14 some of the lost pricing that they had suffered due to the
15 impact of imports from Trinidad.

16 MR. JONES: Just to finish off that line of
17 argument, 2013, which we're discussing here as the highest
18 price period in the POI, in that year we still were at a
19 negative gross profit level. Just reinforce the point, and
20 that was grossly under-selling pricing on behalf of
21 Trinidad. Of those price points that were achieved, even
22 though they were incrementally higher in the prior year, it
23 still led Cornerstone to declare a negative gross profit in
24 that time period.

25 COMMISSIONER JOHANSON: Thanks for your

1 responses, and going even prior to 2012, in its brief at
2 page 61, Cornerstone refers to the financial collapse of
3 MHTL and its parent Colonial Life Insurance Company at the
4 start of 2009. How is this relevant to our injury or threat
5 determination in these investigations?

6 As we all recall, there was a lot going on in
7 the financial markets throughout the world during this
8 period, including here in the United States and this of
9 course is pre-POI. I'm curious about that.

10 MR. ORAVA: Steve Orava. I think the relevance
11 is is that as a result of that collapse, the government of
12 Trinidad had to bail out CLICO as the holding company for
13 MHTL with \$4 billion. We made extensive arguments to the
14 Department of Commerce on the nature of these subsidies, and
15 the fact that without those subsidies, MHTL would certainly
16 not be around in the same state that it is today.

17 Unfortunately, the Department disagreed with us,
18 so there was, as referenced earlier, they conceded that
19 there had been substantial subsidies that have been granted
20 in the context of natural gas supply.

21 But I think that the important aspect of it is
22 that, you know, the Trinidad government has its fingers on a
23 lot of different interests in Trinidad, and the fact that
24 CLICO became such a major problem and the government had to
25 institute such a major bailout, directly impacted MHTL and

1 the fact that MHTL was able to continue in its current
2 state, you know, is relevant to the extent that it has been
3 able to aggressively enter the U.S. market.

4 COMMISSIONER JOHANSON: Thanks for that
5 information. Melamine is a commodity product. I haven't
6 dwelt a whole lot on the whole issue of quality differences
7 between product produced in Trinidad and Tobago and the
8 United States. But is there a perception of a difference in
9 quality or the ability to supply between domestically
10 produced melamine and the melamine from Trinidad and Tobago,
11 that would impact the purchasing decisions of companies here
12 in the United States?

13 MR. DRISCOLL: Michael Driscoll. No, there is
14 not. That's something that I hit in my testimony earlier.
15 They've been qualified across the board in the U.S. for some
16 time.

17 MR. DORN: And as Mr. Driscoll pointed out, I
18 mean one good indicator of how highly interchangeable and
19 substitutable the Trinidad product is with the U.S. product
20 is how quickly Trinidad was able to come into the United
21 States and take sales, you know, from zero pounds in 2009 to
22 35 million pounds in 2011, and that's when they claim that
23 they were having growing pains and the product wasn't as
24 good.

25 Now they state the product is, you know, on par

1 and admit that it's totally interchangeable.

2 MR. MIKESELL: Paul Mikesell. Just to further
3 build on that, the product itself is chemically identical,
4 if you will, between the high pressure, the low pressure
5 Cornerstone and Trinidad material. The same technology that
6 the Trinidadian producer uses is also used in Europe, where
7 the two melamines are used interchangeably by the customers
8 as well.

9 COMMISSIONER JOHANSON: But there was at least
10 at one point in a perceived difference in quality? Maybe
11 not. That is what is alleged, but you didn't see that among
12 your purchasers?

13 MR. MIKESELL: We didn't see it among our
14 purchasers.

15 COMMISSIONER JOHANSON: Okay. Thanks for your
16 responses, and my time's about to expire. But I have just a
17 real short question. I don't know if you all know the
18 answers or not, but I don't think I've asked any questions
19 on China yet. I was just wondering, do you all know why
20 there's so much excess capacity in China? I mean there's a
21 lot.

22 MR. ZOGLIO: I guess two things will drive that.
23 One is in chemicals in general, there's a lot of capacity in
24 China, and it really centers around the willingness of the
25 Chinese government to support their local industries, and

1 provide very low cost loans in high percentages for the
2 development and the employment of Chinese people.

3
4 So it's been over the course of the last ten
5 years within the chemical industry very common to see
6 significant investment in the region, if the technology is
7 available. The technology that's utilized is high pressure
8 technology, irrotechnica technology, which is the same
9 technology employed by the Trinidadian plant or MHTL. It is
10 available generally on the marketplace.

11 So if you're in the fertilizer business and
12 you're looking for another business to get into to employ
13 more people, you go invest in a melamine plant, and for \$300
14 million you can have your very own 50 to 60 thousand ton
15 plant and sell into what's a growing market.

16 Really, the way the Chinese view the world is a
17 bit differently than the way we view the world. If we go to
18 our board of directors to seek funds, we have to demonstrate
19 that the market's in fact there and that we're going to be
20 able to sell our product at an appropriate rate of return or
21 a return on capital, to get that capital granted to us in
22 the first place.

23 In China, it's a little bit the other way
24 around. It's build it and they will come with respect to
25 the markets. So what we've seen in the course of the last

1 ten years within China is this rapid build out of chemical
2 capacity, with the expectations of becoming (a)
3 self-sufficient, and we've seen that throughout the chemical
4 industries within China, and then (b) to become
5 export-oriented, again with a goal of employing more
6 Chinese.

7 The idea is the faster that you employ your
8 population base, the faster that your country can grow, from
9 being what ultimately was a Third World country to being a
10 First World country, and they've been largely successful in
11 that venture. However, with the rapid build out of
12 facilities with no real control with respect to capital
13 markets, we've now seen a bit of an overcapacity built out,
14 and it's going to take some years for this to unwind within
15 China.

16 This isn't just melamine. You'll see this
17 throughout the chemical pyramid, that there's been
18 significant over-investment throughout.

19 MR. ORAVA: Just one addition to that, Steve
20 Orava. If you look at the Department of Commerce's
21 determination as well, you'll see a road map on the scope,
22 nature and scale of the subsidies that the Chinese
23 government's provided. You know, they've calculated a
24 subsidy rate of over 150 percent. So it's extensive support
25 to do exactly what Mr. Zoglio said, is support the

1 development of capacity in China.

2 COMMISSIONER JOHANSON: I did see the long list
3 of subsidies in the staff report, so I understand. But
4 thank you for your responses. I appreciate them.

5 CHAIRMAN BROADBENT: Commissioner Kieff.
6

7 COMMISSIONER KIEFF: Thank you very much
8 everybody for the back and forth. Let me if I could just
9 quickly follow up, to make sure I'm following the train of
10 discussion that I was exploring with Mr. Dorn earlier. Is
11 it your position that the Respondents' replacement benefit
12 argument, in effect, should lose if the replacing imports,
13 those replacing Trinidadian imports, are imports from China
14 that are less than fair value imports? Is that what you're
15 basically saying?

16 MR. DORN: They lose either way, but we don't
17 think the replacement benefit test that Congress would have
18 intended to have that apply in a situation where the
19 replacing imports are themselves dumped and subsidized.
20 It's illogical to me, and I can't imagine that Congress
21 would have wanted to do that. There's no statutory support
22 for it. There's no legislative history support for it, and
23 so I think it's wrong.

24 COMMISSIONER KIEFF: So --

25 MR. DORN: But, you know, if you include China

1 in that analysis, for all the reasons we've said, we don't
2 think that they would have replaced imports from Trinidad.

3 COMMISSIONER KIEFF: Okay, and then to follow up
4 on that, I think their position in opening, in referencing
5 their word search of your brief, was that -- I don't mean to
6 limit their position. Their position included some argument
7 about Netherlands and Germany.

8 So if I could just ask your witnesses to tell me
9 a little bit about what you as witnesses think would happen,
10 with respect to imports from Europe replacing imports from
11 Trinidad. Do you think European imports would replace, and
12 do you think if they would replace, they would do so at fair
13 values or less than fair values?

14 MR. DRISCOLL: Mr. Kieff, thank you very much
15 for the question. Michael Driscoll. I think -- could we
16 just go back in time for a moment and think about this?
17 Prior to the start-up of the Trinidadian plant, the U.S.
18 market was serviced obviously by Cornerstone Chemical, then
19 Cytec, and then we also had competition from Europe, fair
20 competition from Europe, considering the same points that
21 Mr. Dorn mentioned before.

22 You know, they actually have to pay a duty to
23 get in here. They are not subsidized. They have a home
24 market that is extremely large compared to the U.S. market
25 that they're focused on and have large contracts there. So

1 now to answer your question, because back then, if you look
2 at our prices there and our volumes in the domestic market,
3 we were fine. We were doing okay as a company, okay.

4

5 As soon as we had Trinidad enter the marketplace
6 in 2010-2011 and then enter the Period of Investigation, you
7 quickly saw our volumes go down and prices go down. Now
8 that being said, as we have now entered a period where we do
9 have duties in place and Trinidad has not delivered any
10 material into this region since April, we have recovered
11 several customers. We have increased our prices, and I have
12 not lost anything to any European materials on that end, and
13 I would expect that to continue. So I hope that answers
14 your question.

15 COMMISSIONER KIEFF: Absolutely. Any other
16 input?

17 MR. JONES: Yeah. Just to reinforce some of the
18 commentary, since the imposition of preliminary duties,
19 we've seen volume increase. We've seen prices increase. We
20 have seen some European imports coming into the country.
21 You have to understand at this point the Euro is providing a
22 significant arbitrage window for European exports right now.

23 There's been a devaluation in the Euro against
24 the U.S. dollar over the last 19 to 20 months of nearly 22
25 percent. That's provided a short-term window of opportunity

1 for a great deal of European exporters to take advantage of
2 that temporary shift in the relationship with the U.S.
3 dollar to the Euro.

4 The effective net back pricing in Euros for
5 those European importers has commensurately increased nearly
6 20 percent. So we do see some movement of European material
7 coming into the U.S., again for the reasons both of my
8 colleagues like Driscoll and Greg Zoglio have mentioned.
9 This is not a focused market for the European group. They
10 have a presence here.

11 But their primary focus is the European market,
12 and that's where they have long-term contractual
13 relationships. That's where they lead into longer term
14 demand profile for that product's production capacity.

15 But right now, this significant devaluation in
16 the Euro has allowed a temporary arbitrage opportunity for
17 European material to come into the U.S., but still providing
18 those European exporters with an effective 20 percent
19 increase in price.

20 MR. ZOGLIO: And I'll follow up a big more.
21 Greg Zoglio. Again, when we think about the European
22 competition, think about who they are, one's Borealis and
23 the other's OCI. Those are the only two European producers
24 that do participate in the U.S. market. There's others.
25 There's a big Polish producer who doesn't send anything

1 across. There's a Russian producer who over the course of
2 the POI if he's sent 20 tons over, that's all. It's very
3 small quantities.

4 So the big, the two big European producers,
5 Borealis and OCI, do continue to run their melamine plants
6 at high rates. They run them at high rates for the same
7 reason we run ours at high rates. It is economically
8 attractive to run your melamine plant at full rates, due to
9 the high fixed cost that one must bear in operating one of
10 these significant and costly facilities.

11 So we know they've been running their units at full rates,
12 and they have not targeted the U.S. in any great way since
13 the April institution of the CVD, and followed by the June
14 anti-dumping. Yes, the volumes increased, but it's not a
15 significant increase. Again, both China and Trinidad had
16 both left the market to our benefit, Cornerstone's benefit
17 primarily.

18 When you look at our operation and I shared it
19 with all of you earlier, we've moved at the tail end of last
20 year from an operational rate that was less than full rate
21 to an operational rate this year that is completely at full
22 rate. So we're seeing an economic benefit certainly on the
23 absorption of our costs, and again some of that will come
24 through in our post-hearing brief as well.

25 But the European producer hasn't shown the

1 propensity to take a large position in the U.S. in 2015 as a
2 result of the departure of the Trinidadian nor Chinese
3 material, primarily because they don't have the capacity to
4 do so, and secondarily because they have a large domestic
5 customer base that they need to serve.

6 To finish off the Ivians sort of view on Europe,
7 we have had an advantage, they've had an advantage,
8 certainly on a U.S. dollar basis. But they've also had an
9 economy that hasn't fully recovered.

10 So we fully expect over the course, as we now
11 project forward, we fully expect the demand for melamine
12 within Europe, from European producers, to grow at a rapid
13 pace over the coming five years, and those European
14 producers are not going to focus on growing their position
15 in the U.S. They're going to focus on growing their
16 position within their home markets, which is their primary,
17 if you will, reason for existence.

18 COMMISSIONER KIEFF: This is very helpful.
19 Unless you want to add something, I'm happy to surrender the
20 rest of my time, and thank the panel very much. Mr. Dorn, I
21 don't mean to cut you off. You're welcome to go on.

22 MR. DORN: Well, I just want -- thank you very
23 much. I just wanted to mention that the other side, in
24 their Exhibit 18 to their prehearing brief, you know, they
25 try to make an argument that prices, using official

1 statistics, that prices, that Germany and Netherlands and
2 China are receiving in some non-U.S. markets are lower than
3 they get in the United States, so therefore they have an
4 incentive to come here.

5 But we have problems with the mixed data sets
6 that are being used here. I don't know how exchange rates
7 affects those data. They're expressing everything in U.S.
8 dollars. There is nothing in terms of what is more
9 profitable, because there are different costs in serving
10 different markets.

11 So there's no evidence here that they have an
12 economic motivation to shift from existing markets to the
13 United States.

14 COMMISSIONER KIEFF: Thank you very much.

15

16 CHAIRMAN BROADBENT: Do Commissioners have any
17 other questions? Okay. If not, do staff have any questions
18 for the panel?

19 MR. McCLURE: Jim McClure, Office of
20 Investigations. Madam Chairman, the staff has no other
21 questions. But if I might, on a point of personal privilege
22 and since this is the last time I will have to poke fun at
23 Mr. Dorn, I'm going to congratulate him on the fact that his
24 beloved Carolina Blue Tar Heels are number one in the
25 preseason rankings.

1 But I would remind him that the shade of blue
2 that's won championships this year is royal blue, be it in
3 Kansas City, Missouri or Durham, North Carolina. Thank you.

4 MR. DORN: Could I just have a moment, Madam
5 Chairman?

6 CHAIRMAN BROADBENT: Yes.

7 (Laughter.)

8 MR. DORN: The number one preseason ranking of
9 course is a kiss of death, and I'm not happy about it, and
10 I'm sure you're smiling about it as well. But I would like
11 to take this opportunity on behalf of all counsel in the
12 room and everybody who's worked in this Commission over the
13 years to thank Jim McClure. He's done a great job. He's
14 been a great person to work with. We're going to miss him.

15 CHAIRMAN BROADBENT: Yeah. Can we do a hand for
16 Mr. McClure?

17 MR. McCLURE: Thank you.

18 (Applause.)

19 CHAIRMAN BROADBENT: Yes, Mr. Johanson.

20 COMMISSIONER JOHANSON: I'd like to ask one more
21 question. After all of that, I apologize. But I was just
22 wondering, you all had described that by mid-2011, imports
23 from Trinidad started to flood the market at sharply reduced
24 prices, cutting, with price declines in 2011 and you had
25 shipment declines in 2011.

1 Did you all consider bringing this case earlier
2 by chance? Well, we keep going back to this issue.

3 MR. ZOGLIO: This is Greg Zoglio. I'm happy to
4 answer that question. If you go back in time, in my
5 original testimony I did share the changes in our company
6 that occurred over the course of the last 50 years, starting
7 out as American Cyanamid, a large U.S. public company from
8 1950 to 1993. In 1993, American Cyanamid spun our business
9 off to create a chemical company, Cytec Industries. In 2010
10 and into 2011, Cytec Industries sold our business and we
11 became a private company known of course as Cornerstone
12 Chemical Company.

13 One thing that's true about my team, and I've
14 been part of the last two entities, as have been several of
15 my team members, is we are a very lean operating
16 organization. I think Brent alluded that to Mr. Petit in
17 his presentation earlier. We're a very lean management
18 team, and one thing I can tell you is when you go from being
19 a division within a large public company and at the time
20 Cytec was a multi-billion dollar large public company and
21 you become a stand-alone private company, there's a lot of
22 things that go on in a hurry.

23 Me and my team had to learn things we didn't
24 know before and we had to do it very quickly. So I have to
25 admit that our focus at that time in 2011 was really upon

1 Cornerstone Chemical Company, and I can share too and we,
2 Mr. Kieff earlier had the discussion on the amount of work
3 that goes into this.

4 There's a lot of work that goes into this
5 particular process. We did discuss it in 2011. We
6 discussed it with our new owners in 2011. Of course, a new
7 owner coming into a business that they understand or maybe
8 don't understand certainly has a lot of questions, and I
9 have to say that we decided to table the opportunity at that
10 particular point in time, to see how the market developed
11 over that period of time.

12 We waited until we couldn't wait any longer, and
13 Mr. Jones in his testimony shared the financial tribulations
14 we've gone through over the course of the last several
15 years. But really the focus on becoming Cornerstone
16 Chemical Company was our 2011 focus, and the recognition of
17 the amount of work that would be required to get to the
18 point we're at today was something that we didn't feel we
19 could do until we had the appropriate resources to devote to
20 this process, to ensure that it got done properly.

21 That's another key point, is that you certainly
22 -- if you don't feel like you have a case, I wouldn't
23 recommend anyone try to engage in a process such as this,
24 because it is a challenging amount of work that has to be
25 done to get to the point we're at today. Thank you.

1 COMMISSIONER KIEFF: Well thanks for your
2 response, and my apologies for interjecting, but that kind
3 of popped into my head, that question did. Thank you.

4 CHAIRMAN BROADBENT: Okay. It is now time for
5 our lunch break. We're going to resume at 1:45, in an hour
6 and 15 minute. Please, the hearing room is not secure.
7 Please don't leave confidential business information out,
8 and I want to thank again all the witnesses for coming today
9 and sharing your testimony.

10 (Whereupon, a luncheon recess was taken.)

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1 A F T E R N O O N S E S S I O N

2 MR. BISHOP: Will the room please come to order?

3 CHAIRMAN BROADBENT: Mr. Secretary, are there any
4 preliminary matters for the afternoon session?

5 MR. BISHOP: Madam Chairman, the panel in
6 opposition to the imposition of antidumping and
7 countervailing duty orders have been seated. All witnesses
8 have been sworn.

9 CHAIRMAN BROADBENT: Thank you, Mr. Secretary. I
10 want to welcome the panel to the ITC. I would like to again
11 remind all witnesses to speak clearly into the microphone
12 and state your name for the record for the benefit of the
13 court reporter.

14 You may begin when you're ready.

15 MR. EMERSON: Thank you, Madam Chairman. Again,
16 for the record, this is Eric Emerson from Steptoe and
17 Johnson representing Methanol Holdings Trinidad Limited,
18 MHTL, and Southern Chemical Corporation, SCC or Southern
19 Chemical. We appreciate the opportunity to come speak to
20 you today.

21 I will introduce the witnesses in order, but in
22 addition to the witnesses at the table, I also wanted to
23 introduce my colleague, Nate Cunningham, who is sitting
24 behind me. Before anyone -- I wanted to make sure it was
25 clear that Nate is not related to Dick Cunningham. So in

1 case anyone was going to hold that against him, I would ask
2 you to perhaps give him the benefit of the doubt, at least
3 for these first hearings. So thank you for that.

4 I'd like to start with -- on my far left -- with
5 Mr. Vishard Chandool from Methanol Holdings Trinidad
6 Limited.

7 STATEMENT OF VISHARD CHANDOOL

8 MR. CHANDOOL: Good afternoon, Commissioners. As
9 Eric said, my name is Vishard Chandool. I am the manager of
10 technical and corporate services at Methanol Holdings
11 Trinidad Limited, or MHTL.

12 I would like to address three issues with you
13 today.

14 Firstly, I would like to give you an overview of
15 how we make melamine at our facility.

16 Secondly, I would like to discuss the
17 curtailments that have affected natural gas supply in
18 Trinidad over the period of interest or POI, and the reasons
19 for a decision to close our second melamine plant.

20 Finally, I would like to discuss briefly some of
21 the quality issues that have affected our product since we
22 started production in 2010. As was mentioned before, MHTL
23 maintains one ammonia, urea ammonium nitrate melamine
24 complex in Trinidad. This contains two separate melamine
25 plants.

1 At our facility natural gas is a critical and
2 necessary component of melamine production. Natural gas is
3 first used to create ammonia which is then used as an input
4 for urea. Both ammonia and urea are direct inputs for
5 melamine. Natural gas is also used to provide heating of
6 the melamine plants and to create steam which is used to
7 power our critical equipment.

8 MHTL has no ability to store natural gas and only
9 a very limited ability to store ammonia and urea. Therefore,
10 we are completely dependent on a consistent daily supply of
11 natural gas, ammonia and urea in order to run the melamine
12 plant.

13 Second, I would like to explain the natural gas
14 supply institution in Trinidad. Trinidadian natural gas
15 supply is controlled by a government agency called the
16 Natural Gas Company of Trinidad and Tobago or the NGC. MHTL
17 has contracted with NGC for its gas supply, but we are
18 completely at the mercy of the NGC if it does not have
19 enough gas to supply our contractual entitlement.

20 Currently Trinidadian industrial consumer of
21 natural gas experience curtailments that are often in the
22 range of 15 percent reduction in contracted supply and
23 occasionally as high as 20 to 30 percent. MHTL was informed
24 of these curtailments through force majeure letters issued
25 by NGC and they are often provided with little or no

1 effective notice.

2 It is common to be informed of a curtailment in
3 excess of 15 percent only two or three days prior to its
4 effect and these notifications have frequently been provided
5 with less than 24 hours notice.

6 MHTL has received hundreds of force majeure
7 letters throughout the POI. The natural gas supply shortage
8 in Trinidad is chronic and structural and is the result of
9 several factors. The first factor is the reduction in
10 natural gas output, due to increased meters and safety
11 measures on board the offshore drilling rigs. Both of these
12 types of measures were implemented by the gas producers
13 after the BP/Horizon oil spill which caused oil and
14 extraction companies in the area to reassess their
15 operations.

16 The second factor is the chronic lack of
17 investment in gas exploration and extraction. In 2009 the
18 Trinidadian government proposed to increase the access to
19 natural gas extracting companies. The taxes never
20 ultimately imposed but it had a significant chilling effect
21 on investment. The effects of a chronic lack of investment
22 in Trinidadian natural gas exploration and extraction were
23 manifest during the POI which further reduced natural gas
24 supply as platforms went offline and existing sources of
25 natural gas were depleted.

1 In terms of new production, the Starfish Field
2 has recently commenced production, but is itself inadequate
3 to entirely address the natural gas supply shortfalls. The
4 Juniper Field which is not scheduled to begin production
5 until 2017, is equally not expected to fully relieve the
6 natural gas supply shortage. This is not just my opinion,
7 this view is also shared by Trinidad's ministry of energy.

8 Lastly, I will tell you about the impact that the
9 severe reduction in MHTL's natural gas supply have had on
10 its operations. Throughout most of the POI, MHTL operated
11 its two melamine plants at reduced capacity due to natural
12 gas curtailments. In August 2014, in response to a
13 particularly deep curtailment, MHTL shut down both of its
14 melamine plants. Thereafter we only run a single plant at a
15 time at lower rates. Due to the increasing volatility of
16 the natural gas supply, we decided to only operate a single
17 melamine plant from December 2014.

18 This decision was not easy. But the natural gas
19 supply shortage made this a necessity. We made this
20 decision primarily because it is more cost effective to run
21 one plant at a high utilization rates than to run two plants
22 at reduced rates.

23 Running at a high capacity utilization also helps
24 MHTL produce better quality melamine. The decision to shut
25 down one melamine plant and thereby reduce MHTL's melamine

1 production capacity by 50 percent was based on three
2 factors. First, MHTL has assumed that based on a 15 percent
3 natural gas curtailment moving forward. At that rate it is
4 not economical to run both melamine plants. In fact, it is
5 barely economical to run one plant at that rate.

6 Second, the natural gas supply situation can be
7 quite volatile. The NGC tries to provide projections for
8 known disruptions, but these are not always accurate and in
9 any event additional curtailments frequently occur. Because
10 of the frequent fluctuations in supply and the fact that our
11 plant takes two days to restart or shut down, MHTL cannot
12 take advantage of short periods of time where new
13 curtailment or curtailment of less than 15 percent takes
14 place by rapidly restarting a second plant. By operating
15 only one plant, we can better manage this volatility.

16 Third, frequently shutting down and restarting a
17 second plant would be harmful to the equipment, the
18 environment and our product quality. Each shutdown and
19 restart of a plant reduces the useful life of the equipment.
20 Frequent shutdowns also increase the likelihood of ammonia
21 emissions which are a severe environmental hazard.

22 Product quality also suffers during periods when
23 the plant is brought back on line. For all of these reasons
24 it made more sense for us to shut down a plant until the
25 natural gas supply situation stabilizes which will not occur

1 until 2017 or later.

2 For all of these reasons MHTL made the decision
3 to shut down one of it's two melamine plants. MHTL's
4 current production -- sorry. MHTL's current plan is to keep
5 this second melamine plant closed at least through 2016.

6 Finally, I would like to address some of the
7 product quality issues that have affected our melamine
8 during the POI. When we began melamine production in 2010,
9 we found that our melamine suffered from certain chemical
10 impurities. Specifically oxyaminotriazines or OATs and also
11 had unacceptable levels of turbidity. This affected our
12 melamine resin customers most who required a melamine
13 crystal with a higher degree of purity. These issues were
14 largely solved in 2013.

15 We also found that our product clumped after
16 production during storage and during transport to the United
17 States. We believe that we have largely, though not
18 completely, managed this issue through changes in packaging
19 and tighter production controls.

20 Thank you for your time and the opportunity to
21 speak today.

22 MR. EMERSON: Mr. Chandool, thank you. Before we
23 go to Mr. Spencer who is here on my left, I wanted to just
24 highlight one thing. Part of the reason that the -- that
25 MHTL decided to shut its second melamine plant was not just

1 the overall reduction in gas supply. It was the volatility
2 in that gas supply and the uncertainty of when these
3 curtailments would occur, again, with sometimes with a very,
4 very short notice. And so in order to be able to smooth out
5 that production at its plant it decided -- at it's overall
6 plant, it decided to shut down one of its two melamine
7 plants.

8 In his testimony this morning Mr. Jones basically
9 said the same thing. He was talking about the -- about the
10 volatility and the production. He said, and I have my notes
11 here, this may not be exactly right, that having the
12 machines go off and on, having his plant go off and on is
13 expensive and stressful to the equipment. And I think that
14 was essentially the same reason or part of the same reason
15 that MHTL decided to close one of its plants.

16 With that, I would like to turn now to Mr.
17 Spencer from Southern Chemical.

18 STATEMENT OF ADRIAN SPENCER

19 MR. SPENCER: Good afternoon. Is this working?

20 Good afternoon, Madam Chairman, members of the
21 Commission and Commission staff. I'm Adrian Spencer, the
22 Vice President of Sales for Southern Chemical Corporation or
23 SCC. SCC's principal role is to serve the U.S. and Canadian
24 marketing arm of Methanol Holdings Trinidad Limited or MHTL
25 which produces melamine and other petrochemical products in

1 Trinidad and Tobago.

2 SCC has been selling chemicals in the U.S. market
3 since 1998 and is affiliated through common ownership with
4 MHTL. I have been with SCC since 2010 and have been
5 involved in the melamine market since 2011.

6 I also provided testimony to the Commission staff
7 during the preliminary phase of the investigation.

8 I am quite familiar with the producers and
9 purchasers of melamine. It is with this perspective of this
10 experience that I would like to discuss a number of issues
11 relevant to the Commission's consideration of Cornerstone's
12 allegations that imports from Trinidad caused it material
13 injury.

14 First, the overall structure of the U.S. melamine
15 market and some of the ways in which the market is
16 segmented.

17 Second, the reasons for our declining sales
18 volumes in the U.S. market during your period of
19 investigation which I understand starts in 2012.

20 Third, some of the developments that drove the
21 price trends in the U.S. market during the latter part of
22 the Commission's POI.

23 And finally, the future of SCC's participation in
24 the U.S. market.

25 Firstly, the U.S. market for melamine consists of

1 about a dozen major purchases and perhaps a dozen more minor
2 purchasers and a handful of suppliers and producers.

3 Moreover, with certain exceptions that I will
4 discuss in a moment, melamine is a relatively fungible
5 product and purchasers generally obtain supply from a number
6 of different sources. This might give the impression that
7 every supplier can compete for every sale from every
8 customer but the reality is somewhat more complicated. And
9 the number of segments of the market SCC does not and cannot
10 compete with Cornerstone.

11 For example, Alnex has informed us that it is
12 largely if not exclusively supplied by Cornerstone. Alnex
13 and Cornerstone were both spinoffs from Cytec Industries.
14 Because of this common corporate lineage, we believe that
15 Alnex buys melamine exclusively from its corporate cousin
16 and does so under a long-term contract.

17 SCC has never sold any melamine to Alnex, nor
18 have we ever quoted them a price. Another such customer is
19 Wilson Art. We sold Wilson Art some melamine shortly after
20 MHTL began melamine production, but before the start of the
21 Commission's period of investigation. However, we
22 experienced fairly serious quality problems with our
23 deliveries and as a result we have not sold them any
24 melamine during the Commission's POI. Early in this period
25 we sent them a comprehensive proposal which was rejected

1 without explanation.

2 At the same time we understand that certain
3 customers do not want to purchase from Cornerstone for
4 reasons unrelated to price.

5 In a few minutes you will hear from Scott Hanson
6 from INEOS Melamines who will explain the reasons that his
7 company was generally reluctant to buy from Cornerstone. So
8 while it is true as a general statement that all melamine
9 can compete head to head in the market, the reality is that
10 the U.S. market has pockets where individual suppliers
11 cannot compete for business.

12 There is also some segmentation on the basis of
13 style or packaging that we use to deliver melamine. As Mr.
14 Chandool explained, MHTL's melamine crystal has a tendency
15 to clump making the product challenging to handle when
16 shipped to customers in bulk railcar. For these reasons
17 MHTL and SCC market this product in bags of 1,000 to 3,000
18 pounds which we call supersacks. Cornerstone's melamine
19 crystal on the other hand does not suffer from the same
20 clumping problem and as a result Cornerstone has the option
21 to ship in railcars as well as supersacks. As a result we
22 cannot compete with Cornerstone when it comes to deliveries
23 by railcar.

24 But, of course there are customers to which SCC
25 and Cornerstone both makes sales, or at least attempt to do

1 so. But in every one of those cases I believe that other
2 suppliers were also selling or trying to sell melamine.
3 China had a growing presence in the U.S. market during the
4 POI and the producers in Germany and the Netherlands, two
5 countries that Cornerstone did not include in its petition,
6 were also very active in the market.

7 I am confident that if we had not been in the
8 market imports from these other countries would have
9 competed for our share and would have taken most, if not all
10 of what we sold.

11 The second point I would like to cover regards
12 our import trends. As petitioner has pointed out, SCC began
13 selling MHTL's mechanism in the U.S. market around five
14 years ago. We hit our peak import volume in 2012 and since
15 that point imports from Trinidad have steadily declined.
16 Our shipments to U.S. customers have declined at an even
17 steeper rate. Our customer-specific shipments also declined
18 and the confidential details are contained in our prehearing
19 brief and in our questionnaire response.

20 They show that from 2012 to today not only has
21 our customer base shrunk in virtually every instance, the
22 volume of deliveries to each customer also declined.

23 We have added only a small number of customers
24 since 2012. And the total quantity sold to those customers
25 as a percentage of our overall shipments during this period

1 was trivial.

2 In other words, our U.S. footprint is steadily
3 shrinking.

4 There are two principle reasons for SCC's
5 declining shipment volume and reduced customer base. The
6 first was just explained to you by Mr. Chandool, namely the
7 natural gas shortage that is plaguing MHTL. As a result of
8 this chronic shortage, we have been unable to get sufficient
9 supplies of melamine from Trinidad and indeed at one point
10 we were even obligated to buy melamine from other suppliers
11 so that we could honor our delivery commitments.

12 The second reason that our volume declined
13 relates to the downward price pressure exerted in the
14 marketplace especially by Chinese imports. During the POI
15 and in particular from mid-2013 through 2014, we were being
16 severe underpriced in the marketplace. In several instances
17 SCC was asked by our customers to meet aggressive low bids
18 they were receiving from other suppliers. It was my belief
19 at the time that this low price competition was coming from
20 China and the public import statistics back up what I was
21 experiencing in the market.

22 I'll share with you a specific example. One of
23 our very good customers of more than two years came to me in
24 late 2013 after a business trip that he had taken to China.
25 He had been made an offer for melamine supply for his full

1 volume for substantially less than my quote at that time and
2 told me that he was going to take a break from buying from
3 SCC as he could source from the Chinese source for nine
4 cents a pound cheaper. I was told that to share this
5 business I must meet that price. SCC chose not to match
6 that price and as a result has had very little business with
7 with this customer since. I understand that Chinese prices
8 to this customer have dropped even further.

9 Cornerstone has accused us of not just
10 contributing to, but actually causing this downward price
11 trend. This argument is not correct. We certainly would
12 knock the downward price leaders and frankly it would not
13 have made any sense for us to take that role.

14 In 2012 MHTL's melamine suffered from a number of
15 quality problems including the presence of impurities and
16 the clumping of material. In the earliest part of the POI
17 our prices reflected these quality problems. By the time
18 this petition was filed in November 2014, I believe that we
19 had largely solved these problems such that with rare
20 exception our material was viewed as being of equal quality
21 with other melamine in the market.

22 Having made the effort to improve our product
23 quality and given the natural gas that relates to supply
24 constraints we were facing, it really would have made no
25 sense for us not to obtain the highest price possible for

1 our product.

2 I would now like to talk about a particular key
3 time during the Commission's POI, namely the period starting
4 in the first quarter of 2013 to the fourth quarter of 2014.
5 It was during this period that Cornerstone has complained of
6 the greatest injury, in particular the decline in prices
7 from the third quarter 2013 to the third quarter 2014.
8 Since our prehearing brief goes into great detail regarding
9 this period and since much of this discussion is
10 confidential, I will only provide you with a brief summary.

11 In the first three quarters of 2013 purchasers
12 received a tightness in the U.S. market for melamine. This
13 perception was fueled by MHTL's continuing production
14 difficulties which led to a sharp reduction in our
15 deliveries on a quarter-to-quarter basis as well as
16 Cornerstone's announcement force majeure in April 2013.

17 As a consequence buyers scrambled to cover their
18 needs and prices increased from quarter to quarter of the
19 first nine months of the year.

20 By the time the prices were being negotiated for
21 the fourth quarter of 2013 Cornerstone had entered it's
22 force majeure announcement and more importantly substantial
23 quantities of non-subject merchandise began to enter the
24 market. Cornerstone attempted to push through a price
25 increase in this quarter, but the increasing presence of

1 non-subject imports prevented them from achieving their
2 goal.

3 It's also important for the Commission to note
4 that our shipment volume in this key quarter was our lowest
5 quarterly shipment volume of the entire POI.

6 Thereafter, from the fourth quarter of 2013 to
7 the third quarter of 2014 prices dropped steadily. We
8 returned to the market though at far lower volumes than in
9 2012 and 2013, but non-subject imports particularly imports
10 from China started to increase their presence substantially.
11 Thus, as we were reducing our volumes in the U.S. market,
12 U.S. prices continued to fall.

13 As I mentioned earlier, we weren't leading those
14 prices downwards. And in fact it would have been
15 nonsensical for us to do since we didn't have sufficient
16 volume to sell anyway. Instead, based on our discussions
17 with customers, it was non-subject imports and imports from
18 China in particular that were the downward price leaders
19 during this period.

20 I'd like to close my testimony with a brief
21 discussion of what has happened in the market since this
22 case was filed. As a result of this petition and the
23 preliminary duties that have been placed on melamine from
24 Trinidad we have definitely been forced to reduce our import
25 volumes. But, if there had been no petition our full year

1 2015 volumes still would have been at or below our 2014
2 volumes.

3 As Mr. Chandool explained, MHTL continues to
4 suffer from chronic gas curtailments and they are not going
5 away until 2017 at the earliest.

6 These gas curtailments coupled with the
7 requirement that MHTL provide half of its limited production
8 for distribution in markets other than the United States and
9 Canada dramatically limits the quality of melamine available
10 to sell even under the best of circumstances. Thus, because
11 of these factors, our import volumes to the U.S. will remain
12 low for at least the next two years. And because our volume
13 will be low, we will have no incentive to decrease our
14 prices either to increase volume or to match unreasonably
15 low prices from other import sources.

16 In other words, imports from Trinidad pose no
17 threat of injury to Cornerstone.

18 Thank you.

19 MR. EMERSON: Thank you, Adrian. I would like to
20 make just a couple of points before I turn it over to Scott
21 Hanson from INEOS. One thing that's important to note from
22 Mr. Spencer's testimony is that he notes that most suppliers
23 will buy from -- most purchasers, rather, will buy from a
24 number of different suppliers. And I'm sure that that's a
25 common refrain that the Commission has heard from many

1 different kinds of products.

2 On page 14 of the petitioners' prehearing brief,
3 they talk a little bit about overlapping competition and
4 they identify customers that both Cornerstone and SCC sell
5 to, and there's a list of customers there on 14.

6 But what they don't tell you is that there are a
7 number of non-subject suppliers that supply to exactly those
8 customers too. Or at least the vast majority of them. And
9 in our brief we provide a chart that lists Cornerstone's top
10 customers and how many other suppliers -- SCC plus how many
11 other suppliers also supply to them as well. So it's
12 important to note, and I think this should come out from Mr.
13 Spencer's testimony that there is relatively -- and also
14 with the market segmentation issues that he spoke of, that
15 there is relatively little pure head-to-head competition
16 between Cornerstone and SCC in the marketplace. And I'm
17 going to come back to this later, as you could imagine, when
18 I talk about the non-attribution issues. But that's very
19 important to understand is that there's very little --
20 there's a very little part of the market here, very little,
21 where those are the only two customers -- only two suppliers
22 at play.

23 I'd also like to bring out one -- highlight one
24 point from Mr. Spencer's testimony as well, and that really
25 has to go to the quality issue. Mr. Chandool -- both Mr.

1 Chandool and Mr. Spencer talked about the quality problems
2 that MHTL had in the early part of the POI. And this was
3 all over the confidential record and this is all over our
4 brief as well. Early in the POI MHTL was having some fairly
5 significant problems with its production, or at least was
6 perceived to. Over the course of the POI, MHTL working with
7 its own production teams, SCC working with its material
8 handling practices and also with its customers was able to
9 bring its product quality up so that it is now mostly at
10 par with the quality and interchangeability, if you will,
11 with the domestic product. Now, we have not said, and I do
12 not believe we said that our product is perfectly
13 interchangeable with the domestic industries. It really
14 can't be. Because at least in part, as Mr. Spencer just
15 testified, SCC does not and cannot deliver this material by
16 railcar because of the clumping issue. That is they had an
17 experience early in 2012, we can hear a bit about that,
18 after that point that is a segment of the market the SCC
19 simply does not service, doesn't quote, doesn't sell.

20 So it is not exactly right to say that SCC, the
21 MHTL's material is now perfectly interchangeable and
22 perfectly fungible with the Cornerstone-produced material in
23 the United States. They're still -- there are still aspects
24 of it that are not and we believe that there is a perception
25 in the marketplace that the products are not yet fully

1 interchangeably.

2 With that I would like to turn it over to Mr.
3 Scott Hansen from INEOS Melamines.

4 STATEMENT OF SCOTT HANSEN

5 MR. HANSEN: Good afternoon. Good afternoon,
6 Commissioners. I appreciate the opportunity to be here
7 today. My name is Scott Hansen. I am the operations
8 manager for INEOS Melamines LLC, located in Springfield,
9 Massachusetts. I've been with INEOS since 2005 and in my
10 current capacity I'm responsible for all of INEOS' U.S.
11 purchases of melamine.

12 INEOS is primarily a producer of melamine resins.
13 We buy melamine crystal, the product subject to this
14 investigation, and through the addition of other chemicals
15 we produce a wide range of melamine resins that are used in
16 the automotive paper and tire industries.

17 INEOS is a major U.S. consumer of melamine. And
18 for that reason we buy melamine from a wide range of
19 sources. We have a strategic partnership with OCINV, the
20 Dutch producer of melamine. Through a global contract OCI
21 supplies INEOS' group facilities in the United States and
22 Europe with melamine and INEOS Melamines LLC obtains 60 to
23 70 percent of its annual U.S. melamine requirements from
24 OCI. We purchase the remaining amount of our requirements
25 from the open market.

1 After OCI our most important for the U.S. market
2 is China. We source from a number of Chinese suppliers and
3 overall find their quality to be acceptable for our
4 production process. We rely heavily on Chinese supply
5 because they are able to sell a quality product at a price
6 that is consistently lower than the other suppliers in the
7 market.

8 I began purchasing Trinidadian melamine from SCC
9 in 2011 shortly after it began selling Trinidadian material
10 into the U.S. market. INEOS' production facility in
11 Springfield is set up so that we can accept delivery of
12 melamine either by railcar, we own eight of our own
13 railcars, or by supersack. So for reasons of operational
14 efficiency, we prefer to take delivery by railcar.

15 In 2012 SCC delivered approximately 1.5 million
16 pounds of melamine to us by railcar. I understand that SCC
17 did so by emptying supersacks of melamine into our railcars
18 at one of their warehouse facilities. However, during
19 transit SCC's material clumped so badly that it did not
20 freely flow from the railcar. For some of the cars we had
21 to break up the clumped material so that it would flow
22 freely, but others had to be -- had clumped more severely,
23 had to be returned to SCC. After that experience SCC only
24 offered to sell us melamine in supersacks, though we do
25 continue to take some deliveries from OCI by railcar.

1 Finally, during the period being examined by the
2 Commission, we also made a purchase from Cornerstone. As
3 the Commission is aware, Cornerstone was previously part of
4 Cytech Industries and was spun off as a separate company in
5 2011. Cytech was a competitor to INEOS in that we both
6 produced melamine resin products. For that reason we as a
7 company were uncomfortable with purchasing melamine from a
8 company that is, in essence, a cousin to one of our direct
9 competitors.

10 To do so would raise a possibility that our
11 competitor might learn of the cost of one of our key inputs.

12

13 In 2013, after Cytech had divested its melamine
14 resin business to Alnex, we made one purchase of Cornerstone
15 material from a third party for the first quarter of 2013.
16 And one purchase from Cornerstone directly in second quarter
17 2013.

18 But from quarter three 2013 to quarter four 2014
19 Cornerstone made limited efforts to sell us melamine. The
20 only formal price quotation I recall receiving from
21 Cornerstone was in the third quarter of 2013 when they
22 offered us a price that was higher than the price we were
23 receiving from all of our suppliers at that time including
24 Dutch material.

25 Since declining that offer, I do not recall

1 receiving any formal price quotations from them until the
2 end of 2014 after the filing of the petition for Q1 2015
3 sales which is what I informed your staff.

4 While we continue to have discussions with
5 Cornerstone about supply, I can tell you that the prices
6 they are quoting continue to be higher than the prices we
7 received from our Dutch supplier. In 2015 I also received
8 overtures for supply from a German supplier as well as from
9 a Japanese supplier who offered to be price competitive with
10 our Dutch supplier.

11 Finally, I would also like to speak about some of
12 the factors that drive prices in the U.S. melamine market.
13 Like most melamine purchasers we negotiate prices on a
14 quarterly basis and prices generally do not follow seasonal
15 or cyclical patterns. Rather, when negotiating these
16 quarterly prices, we take into account a wide range of
17 factors such as our anticipated requirements and perhaps
18 most importantly, our perception of the adequacy of supply
19 in the marketplace for that coming quarter.

20 From the beginning of 2013 through the end of the
21 third quarter, INEOS believed that the supply of melamine in
22 the market was contracting. Cornerstone's force majeure
23 announcement contributed to that impression as did supply
24 problems from Trinidad. As a result the price for many of
25 our suppliers increased from the first quarter through the

1 third quarter of 2013.

2 In the latter part of 2013 through 2014,
3 additional supply entered the market particularly from China
4 and as a result the market prices declined. During both the
5 run up in prices in 2013 and the decline in prices in late
6 2013 and 2014 our experience was that the Chinese melamine
7 was consistently the lowest priced melamine in the market.

8 Thank you.

9 MR. EMERSON: Thank you, Scott. Just a couple of
10 points before I turn over to Michel Ross from Suddekor. On
11 the railcar shipment question, there was some discussion
12 this morning, I think, about essentially the purchasers'
13 ability to switch between railcar deliveries and supersack
14 deliveries and there was also just a little bit of
15 confusion. We want to be clear. When we talk about railcar
16 deliveries, we're talking about railcar deliveries in bulk
17 where the melamine is loose in the railcar. We're not
18 talking about railcars full of supersacks. You know, that's
19 not what we're talking about. So when we speak of railcar
20 deliveries, we do mean railcar deliveries in bulk.

21 The Commission, I think, at our request added
22 some questions in the questionnaire about purchasers'
23 ability to switch between railcar deliveries and supersack
24 deliveries. And there was, I think, also a question about
25 whether purchasers would switch between those two for

1 reasons of price. The tally of those questionnaire
2 responses is not included in the staff's public -- I think
3 it's not included in the staff report at all, but certainly
4 not included in the public version of it. So I don't want
5 to speak about it here.

6 We included some discussion of that in our
7 prehearing brief and I think it's important for the
8 Commission to look closely at that to understand that this
9 market is really quite segmented in that respect.

10 I'd also like to speak just quickly about the
11 lost sales and lost revenue issue. Dan Klett will speak
12 about that in one minute. But I think when we look at some
13 of the lost sales allegations and lost revenue allegations
14 put in by the petitioner, and I think Mr. INEOS -- Mr.
15 Hansen's testimony goes to this a little bit, that some of
16 the allegations that have been made simply don't square with
17 the other facts of the record. And we have been able, I
18 think, in some -- with some detail to go through those lost
19 sale and lost revenue allegations on a customer-specific
20 basis, tying back the allegations to other facts in the
21 record, and I believe that our conclusions are that there
22 are virtually none. And maybe I can't say "none", but
23 virtually no confirmed lost sale, lost revenue allegations
24 specifically that can be specifically attributed to
25 Trinidad. And that's all contained in our prehearing brief.

1 MR. EMERSON: Now I'd like to turn to Michael Ross
2 from Suddekor.

3 STATEMENT OF MICHEL ROSS

4 MR. ROSS: Good afternoon. My name is Michel Ross
5 and I'm the Vice President of Manufacturing at Suddekor LLC.

6 Suddekor operates a printing plant facility in
7 Agawam, Massachusetts, and a treating plant in East
8 Longmeadow, Massachusetts. Suddekor is part of Surteco SE,
9 a German company and operates a total of three plants in the
10 United States.

11 Suddekor's main business is to produce decorative
12 paper material. These treated paper are then sold to
13 producer who fuse them onto particle board or MDF and then
14 the resulting panels are used in laminate flooring, office
15 furniture, kitchen cabinets, building products, and retail
16 store fixtures.

17 For production at our East Longmeadow plant, we
18 purchase melamine resin from a number of different sources.
19 In the past, we directly purchased melamine crystal and
20 contract with a third party to blend it into melamine resin
21 to meet our needs.

22 As of January 2015, we no longer purchase
23 melamine crystal directly from melamine producer. Instead,
24 we now purchase melamine resin from a third party and use
25 this resin when impregnating our paper.

1 During the period when we were purchasing
2 melamine crystal from 2012 to 2014, we generally purchased
3 melamine crystal from two Chinese importers. The Chinese
4 quality was acceptable and their price were typically below
5 other supplier in the market.

6 We were aware that MHTL was producing melamine
7 crystal in Trinidad, and in 2014 we made some purchases from
8 them in order to diversify our sources of supply.

9 We also produced melamine resin made out of
10 Cornerstone melamine crystal, but did experience some
11 quality issue with that product. Even though we are not
12 currently purchasing melamine crystal, we nevertheless
13 continue to take a keen interest in the melamine crystal
14 market in the United States, since melamine resin
15 constitutes a large percentage of the costs of the finished
16 product we product and melamine crystal represents a large
17 percentage of that resin.

18 I would like the Commission to take away two key
19 points of my testimony today.

20 First, our product are used in large part for the
21 decorative appeal. We have to use input of high quality.
22 At the same time, we are also under intensive competitive
23 pressure, including from imports of melamine imprinted paper
24 and laminates from producer in China and Europe with whom we
25 compete for sales here.

1 Our consumers also place similar pricing pressure
2 from import of finished panel from other sources. For that
3 reason, when we buy our inputs, whether those are melamine
4 resin or crystal, we must be extremely cost sensitive.

5 I understand that Cornerstone has pointed to its
6 inability to pass along its rising costs of ammonia as
7 evidence of adverse price effect imposed by import from
8 Trinidad. However, given the price pressure I face with my
9 customer, I am unable to pass the prior cost increase onto
10 my customer.

11 When negotiating prices, I principally take into
12 account supply and developing trends, but my supplier input
13 costs, like ammonia, are not a relevant factor in my
14 purchase decision. We try to treat our supplier fairly.
15 But with our sales of melamine-impregnated paper being under
16 pressure from import competition, and with our customer
17 facing similar pressure from their own competitor overseas,
18 I am not in a position to increase my purchase price simply
19 because of my supplier's costs have increased.

20 The second point that I would like to take into
21 consideration is the consistent price difference between the
22 U.S. and the European market for melamine crystal. As I
23 mentioned earlier, Suddekor is part of a global group and as
24 such as follow the price of melamine crystal in many
25 markets, including Europe.

1 In my experience, European prices for melamine
2 crystal are routinely lower than U.S. prices, often by
3 substantial amount. The reason for this price difference
4 are not clear to us, but it has been our consistent
5 experience. We are well aware of this price difference
6 because melamine-imprinted paper is coming in from Europe
7 impregnated with European melamine resin and produced at
8 significantly lower prices.

9 If import from Trinidad had not been present in
10 the U.S. market over the past few years, I see no reason why
11 European producer could not have taken part of their share.
12 Similarly, given my experience with supplier from China, I
13 believe that the Chinese supplier could have taken much, if
14 not all, of Trinidad's share over the past several years.

15 Thank you.

16 MR. EMERSON: Thank you, Michael. Again, just a
17 couple of points to take away from Mr. Ross's testimony.

18 I think it is really important for the Commission
19 to understand that sales of melamine are not made in a
20 vacuum. What I mean by that is that Cornerstone has spoken
21 a lot today about price trends from melamine in the market.
22 But as they have agreed, and I think the Commission has
23 found, and we would certainly agree, too, the demand for
24 melamine is a derived demand.

25 Melamine is used in a wide variety of downstream

1 products. And certainly in the United States first it's
2 used in melamine resin. That's a big use of melamine, not
3 the only one, to be sure. And then that melamine resin is
4 used in things like decorative panels like flooring.

5 Both melamine resin and those decorative panels,
6 along with the melamine-impregnated paper that's produced by
7 INEOS, by Mr. Hansen sitting behind me, all those goods are
8 also imported into the United States.

9 There's imports of melamine resin. There's
10 imports of panels. There's imports of impregnated paper.
11 So when a purchaser like INEOS, when a purchaser like
12 Suddekor, like any of the purchasers that you've gotten
13 questionnaire responses from, when they are looking at the
14 prices that they can pay for melamine, one of their key
15 considerations is their own downstream sales prices. And
16 this is particularly the case in some of these products
17 where melamine constitutes a very high percentage of their
18 finished-good costs.

19 So it's--and that's one of the reasons, and the
20 testimony came out today from Mr. Ross, and it's also in our
21 brief--for example, pushing through the cost increases of
22 ammonia, and for Cornerstone to tell us, look, our costs
23 have increased but we haven't been able to pass those cost
24 increases along to our customers, well there might not be a
25 right to do that--not because of unfair imports from

1 Trinidad, but simply because their purchasers aren't in a
2 position competitively to push those costs on to their own
3 customers downstream.

4 So it's not enough I think for the Commission to
5 look at the issue of price increases solely from the
6 perspective of Cornerstone.

7 The Commission also needs to look--and has in
8 other cases--also needs to look at, you know, what's the
9 ability of purchasers to pay more for inputs?

10 And again I think that Mr. Hansen and Mr. Ross
11 can talk to their competitive pressures. Certainly we can
12 talk about this in a post-conference brief in more detail,
13 but I do think it is very important for the Commission to
14 understand again that these sales are not made in a vacuum.

15 It's not just whatever price Cornerstone feels is
16 appropriate to get in the marketplace as the price they
17 should be able to get. Their customers also need to factor
18 that cost into their own competitive pressures.

19 The second point I would like you to take away
20 from Mr. Ross's testimony is this price difference. We
21 talked about this in our brief. The price difference between
22 the prevailing prices in Europe for melamine and in the
23 United States for melamine.

24 We have an exhibit that I think Mr. Klett will
25 refer to that will show that import prices for melamine in

1 the United States are some of the highest prices in the
2 world. And, that suppliers in China, and in Europe, the two
3 main suppliers in Europe, are selling a very high percentage
4 of their export sales into markets that are priced lower
5 than in the United States.

6 And we also know that again the European market
7 is also lower priced than the U.S. market is.

8 Given the opportunity, at least some of those
9 sales going to lower priced third-country markets could have
10 come to the United States in the absence of Trinidadian
11 competition here. If the Trinidadians weren't here, those
12 sales could--those volumes could have come to the United
13 States.

14 It is also critical to know, and we have this in
15 our brief, a table that compares Trinidad prices with prices
16 from Germany, from the Netherlands, and from China.
17 Basically Table D-3 from your staff report, except adding in
18 China which it should come as no surprise we believe is a
19 country that the Commission must consider in a replacement
20 benefit test. And it's really critical for the Commission
21 to look closely at what those prices have been like and the
22 price comparisons between China, Germany, Netherlands, and
23 Trinidad during the POI.

24 And that goes very much to our replacement
25 benefit argument that I'll talk about a little bit later.

1 And with that, I'd like to turn the floor over to
2 Dan Klett from Capital Trade.

3 STATEMENT OF DANIEL KLETT

4 MR. KLETT: Good afternoon. My name is Daniel
5 Klett. I am an economist with Capital Trade testifying on
6 behalf of MHTL and SCC.

7 You should have a set of BPI and public slides to
8 which I will be referring. I will address one important
9 condition of competition, volume effects, price effects,
10 lost sale and lost revenue allegations, and certain issues
11 relating to the Commissioners--Cornerstone's report of the
12 financials.

13 BPI slide one illustrates the percentage of
14 Cornerstone's total sales from its U.S. production that did
15 not compete with Subject Imports. This includes its export
16 shipments, railcar shipments, and certain customer
17 shipments.

18 Material injury must be to the industry as a
19 whole, and the fact that some of Cornerstone's shipments
20 don't compete with imports from Trinidad is an important
21 condition of competition.

22 Cornerstone contends it was forced into lower
23 priced export markets by Subject Imports as a sign of
24 material injury. However, public slide one from Census data
25 shows that Cornerstone had exported its melamine long before

1 SCC's entry into the U.S. market, and did not increase its
2 exports during the POI and maintained its export volume in
3 the first eight months of 2015 at high levels even as
4 Subject Imports fell.

5 The export market has been and continues to be
6 important for Cornerstone as a strategic part of its
7 business plan, not a reaction to Subject Import competition.

8 There have been no adverse volume effects. As
9 shown in BPI slide 2, Trinidad's share of the U.S. market
10 declined significantly over the POI. Any adverse volume
11 effects experienced by the U.S. industry cannot be
12 attributed to imports from Trinidad, and can only be
13 attributed to nonsubject imports whose volume and market
14 shares rose over the POI.

15 These declines from Trinidad resulted in large
16 part from natural gas related supply constraints, a
17 condition that is expected to continue into the imminent
18 future as discussed by Mr. Chandool. Neither is it a
19 credible argument that imports from Trinidad can be
20 considered to be substantial based on absolute volumes,
21 irrespective of trends.

22 Public slide 2 shows that the volume of imports
23 from Trinidad was lower than for the three major non-import
24 sources, including China, the Netherlands, and Germany.
25 Indeed, this slide overstates the relative importance of

1 Trinidad as a portion of these imports are re-exported to
2 Canada and do not compete in the U.S. market.

3 BPI slide 3 shows the same relationships using
4 U.S. shipments of Trinidadian imports as reported by SCC.
5 There is no material adverse price effects that can be
6 attributed to import competition from Trinidad.

7 Mr. Spencer discussed factors affecting SCC's
8 pricing in the U.S. market over the POI and U.S. price
9 trends generally. He also testified that because of its
10 susceptibility to clumping, SCC no longer ships melamine by
11 railcar.

12 Almost all purchasers reported in questionnaires
13 that they do not switch between railcar and super sack forms
14 of melamine on the basis of price.

15 BPI slide 4 shows the relationship between
16 Cornerstone's product one railcar and product two super sack
17 prices. Without getting into the confidential detail, this
18 relationship is relevant for your causation analysis on
19 pricing as discussed in our brief.

20 As discussed by Mr. Spencer, imports from
21 Trinidad had significant quality problems early in the POI,
22 and had to discount its product to customers to account for
23 the lower quality.

24 This is confirmed by our purchaser questionnaires
25 and your staff specifically stated that imports from

1 Trinidad would be at the lower end of the estimated
2 elasticity of substitution range for this reason.

3 However, MHTL quality improved over the POI with
4 a similar positive effect on price, and Trinidad was
5 generally undersold by China since about mid-2013.

6 Mr. Spencer discussed quarterly price trends
7 during 2013 to 2014 and the factors affecting these trends.
8 Also relevant for price effects are the volumes associated
9 with these prices.

10 Public slide 3 shows quarterly census data for
11 melamine imports from China. As you can see, as import
12 volumes from China increased, import AUVs from China
13 plummeted. This is consistent with the confidential pricing
14 data for China.

15 This pattern changed only in the second quarter
16 of this year in response to this investigation. Your staff
17 report reflects the purchasers' identified Cornerstone and
18 Chinese suppliers as price leaders, but never named SCC as a
19 price leader.

20 There were a limited number of customers named in
21 the lost sale and lost revenue allegations, but most of
22 these allegations involved both Trinidad and China.
23 Fortunately, information available from SCC on its
24 negotiations with some of these customers and purchaser
25 questionnaires provides additional information relevant to

1 this attribution issue.

2 Based on this, as well as customers denying many
3 of the allegations, the lost sale and lost revenue
4 allegations do not support a finding of adverse volume or
5 price effects specific to Trinidad.

6 The last point I want to address is Cornerstone's
7 financial condition. Changes in Cornerstone's financial
8 condition are largely cost not price driven. Cornerstone
9 says that its melamine production is characterized as high
10 fixed cost, with volume reductions having an adverse effect
11 on profit margins because of higher unit fixed costs.

12 As shown in BPI slide 2 that I referred to
13 earlier, any production in shipment declines experienced by
14 Cornerstone during the POI can't be attributed to declining
15 imports from Trinidad. Therefore, any adverse profit
16 effects through higher unit fixed costs cannot be attributed
17 to imports from Trinidad.

18 Your staff report states that the increase in
19 Cornerstone's costs were mainly in per-unit factory overhead
20 where the costs category that were depreciation and other
21 fixed costs would reside.

22 Your staff has posed certain questions to
23 Cornerstone relating to its reported financials, and we
24 understand that Cornerstone's data will also be subject to
25 verification. As of the time of our brief filings, certain

1 questions remained and resolution of these issues is
2 important so as to now incorrectly attribute trends in
3 Cornerstone's financials to competition from Trinidad.

4 To help resolve the financial issues, we urge the
5 Commission to require Cornerstone to submit its internal
6 financials as kept in the regular course of business.

7 Public slide 4 is an excerpt from Cornerstone's
8 website. Although it is a privately held company,
9 Cornerstone makes its financial information available to
10 qualified, registered entities such as note holders,
11 prospective investors, and security analysts.

12 We also request that the verification report be
13 made available prior to the post-hearing brief due date to
14 allow for an adequate review and comment.

15 There are certain factual errors in Cornerstone's
16 prehearing brief. For example, Cornerstone contends that
17 China was pushed out of the U.S. market in 2012 due to lower
18 prices and increased volumes of imports from Trinidad.

19 This is not the case. As shown in public slide
20 5, China's exports to all markets declined significantly in
21 2012. So clearly there was a supply issue in China
22 affecting its exports.

23 We know there was an explosion at a major
24 producer exporter November 11, and there may have been other
25 industry-wide factors contributing to its worldwide decrease

1 in its exports.

2 And I might add, if China had been pushed out of
3 the U.S. market by Trinidad, I would have expected to have
4 seen China's exports to all of their markets increase, not
5 decrease. So clearly there was something affecting China's
6 exports to the U.S. market, and all markets, causing its
7 decline in exports to the U.S.

8 Thank you.

9 MR. EMERSON: Thank you, Dan.

10 I would like to just close our direct testimony
11 here with a little review of some of the legal standards
12 that are applicable here. We talked about them a bit this
13 morning with the morning panel, but I also wanted to chime
14 in here too to give our thoughts and views and certainly
15 welcome questions on this later on.

16 The first is on the issue of non-cumulation. I
17 think everyone is in agreement as to what the CBRA, the CBRA
18 exception requires, at least I thought we were all in
19 agreement as to what that requires.

20 Certainly at a minimum it requires that imports
21 from China not be cumulated with imports from Trinidad for
22 purposes of determining material injury, or threat of
23 material injury, from Trinidad.

24 The Federal Circuit in the First Caribbean ISPAT
25 Limited case said that, quote, "The CBRA exception requires

1 a separate and independent analysis of imports from CBRA
2 countries to determine whether those imports are causing
3 material injuries, separate and independent. And so that
4 when we use the term "nonsubject imports" in our brief and
5 in our presentation today, we certainly include China as a
6 nonsubject country as well.

7 And I'll talk a little bit about that in the
8 context of the non-attribution issue just in a moment, and
9 the replacement benefit.

10 As to the issue of the Period of Investigation,
11 back in June the Commission released draft questionnaires
12 for comment to the parties. Cornerstone proposed extending
13 the POI back to 2001.

14 We explained that standard POI was an appropriate
15 POI for the case. When the Commission issued its
16 questionnaires, it relied on its standard Period of
17 Investigation, three years plus the interim period. So
18 starting in 2012.

19 Notwithstanding the fact that the Commission has
20 established the standard POI starting in 2012, it was
21 surprising to me how much of the testimony this morning, and
22 how much of Cornerstone's brief relies on evidence and
23 trends that begin before the POI.

24 A lot of the baselines that they establish for
25 price trends start in 2011, 2010 even, and I believe even

1 2009 in terms of some of the import volumes, if I remember
2 their slide correctly, start back in 2009.

3 Nucor--the Federal Circuit in Nucor said the
4 Commission needs to look at present injury. And that means
5 what's happening to the industry right now.

6 To help the Commission understand what's
7 happening to the industry right now, the Commission
8 establishes a Period of Investigation. That allows you to
9 see trends over time. Because if you simply looked at
10 what's happening today with an industry, you would have no
11 perspective on how the industry got to its current
12 condition.

13 That is why the Commission establishes a Period
14 of Investigation, to look at those trends. Essentially I
15 think Mr. Dorn agreed that there's not really a direct
16 correlation between the volume trends and the pricing trends
17 of Trinidadian imports and the condition of the domestic
18 industry.

19 Instead, what it sounds like Cornerstone would
20 like the commission to do is determine whether there was
21 injury during the POI by looking at a period prior to the
22 POI, essentially looking at essentially sort of a five-year
23 long, or perhaps longer period.

24 Now Cornerstone has said, and admitted this
25 morning, they're not seeking an extension of the POI. They

1 didn't argue that in their brief, and that is not a legal
2 issue before you. But I submit that if the Commission is
3 looking at trends that are that far in the past, it makes it
4 harder not easier for the Commission to determine whether
5 there is in fact material injury today, as you're required
6 to under the Nucor standard, to determine whether it is
7 present material injury. So that is a legal matter.

8 As a practical matter, the Commission does not
9 have a full factual record going back that far. The
10 Commission's factual record for this final determination
11 begins in 2012. To be sure, there is some evidence on the
12 record from the preliminary phase of this investigation that
13 goes back to 2011, but it is not a complete record.

14 It is not complete as to the purchasers, what
15 they bought and from whom they bought. It is not complete
16 as to Cornerstone's financial situation. Some of the
17 questions in particular that the staff have been asking of
18 Cornerstone wouldn't capture prior periods.

19 And so for that reason it seems unfair as well
20 for Cornerstone essentially to cherry-pick data from 2011 to
21 support its argument when there is not a full factual record
22 back that far.

23 Finally, I would like to talk for a minute about
24 the issue, the legal issue that took a lot of time this
25 morning, the issue of non-attribution and the replacement

1 benefit test.

2 It's pretty clear from our brief that we disagree
3 with a majority of the Commission as to the interpretation
4 of Mittal Steel, and we agree with one Commissioner
5 regarding the replacement benefit test that the Commission
6 should apply.

7 But I would like to step back for just a minute.
8 And I would like to step back to a point where I think we
9 all agree. And that is, that injury to the U.S. industry
10 cannot--that the Commission first must demonstrate that
11 injury was by reason of Subject Imports. And, two, that the
12 Commission cannot attribute injury from nonsubject Imports
13 to Subject Imports.

14 Now some of the commentary that Mr. Dorn gave you
15 this morning really goes to the issue of the magnitude of
16 the injury. Some of it was, you know--I think I have it
17 tabbed here--the magnitude of the injury, more than
18 immaterial, that injury needed to be more than immaterial.
19 Again I may be misquoting a little bit.

20 That goes to the magnitude of the injury. That
21 doesn't go to the causal link between Subject Imports on the
22 one hand--which means Trinidad here--and the harm caused to
23 the domestic industry. That linkage--and this is clear from
24 the Federal Circuit's decision--the burden for demonstrating
25 that falls on the Commission.

1 We, as respondents, are not required to
2 demonstrate that nonsubject Imports did not injure--pardon
3 me--the burden is not on us to demonstrate that nonsubject
4 Imports injured the domestic industry. Rather, the burden
5 is on the Commission to demonstrate, or to determine that--
6 to demonstrate that nonsubject Imports did not cause injury
7 to the domestic industry. I think I got that straight.

8 But of course in making that determination, the
9 Commission has every right to rely on the argumentation
10 presented by petitioners. And in that respect, the
11 petitioners really haven't given the Commission all that
12 much to rely on.

13 Again in my opening statement this morning,
14 there's very little discussion in the Cornerstone's brief
15 about the role of nonsubject Imports in the marketplace to
16 demonstrate that they did not cause injury.

17 It seems as if their argument is that if
18 Trinidadian imports were in the market, and if there was
19 injury to the domestic industry, that there must somehow be
20 a link between those two. But some of the questions that
21 came up this morning, particularly in the lost sales and
22 lost revenue context, demonstrate it is very hard to draw a
23 direct line between that injury and imports from Trinidad.
24 Yet that is exactly what the Commission must do.

25 So with that, I will end our direct testimony and

1 we look forward to questions from the Commission.

2 CHAIRMAN BROADBENT: Okay, thank you. And I
3 want to thank all the witnesses for coming, taking time out
4 of your work schedules to be with us today. We will begin
5 our questioning with Commissioner Williamson, please.

6 COMMISSIONER WILLIAMSON: Thank you. And I want
7 to express my appreciation to all the witnesses for coming
8 today, and just like I did to this morning's panel, I also
9 want to thank you for giving us the written statements. It
10 makes it a lot easier to follow your testimony, so I
11 appreciate that. And I know it takes time to do those
12 things.

13 Let's start talking about natural gas production
14 in Trinidad. You observed on Page 12 of your brief that
15 natural gas production in Trinidad began to fall starting in
16 2012. Are there data available on natural gas production in
17 Trinidad year by year? Do you have any of that?

18 MR. CHANDOOL: Yes, there is data from the
19 Minister of Energy does compare data on natural gas
20 production. We could provide details of that in the post
21 hearing brief with regard to that.

22 COMMISSIONER WILLIAMSON: That would be
23 appreciated. Now, let me understand -- Now, Trinidad has
24 always had its petroleum reserves and refineries.

25 MR. CHANDOOL: Yes, we start off as an oil

1 producing country and gradually transitioned to gas.

2 COMMISSIONER WILLIAMSON: And the gas is coming
3 from those same fields?

4 MR. CHANDOOL: Yes, very often they look for oil
5 and they find gas. That's how it's been.

6 COMMISSIONER WILLIAMSON: Okay. Now does
7 Trinidad import any natural gas?

8 MR. CHANDOOL: No, we do not import natural gas.

9 COMMISSIONER WILLIAMSON: Okay. Is it you're
10 not set up for it or -- because I'm wondering why that
11 wasn't a solution to the shortfalls?

12 MR. CHANDOOL: Well, because the shortfalls have
13 been, in the grand scheme of things, fairly recent and
14 fairly severe. It's not been looked up on as a solution, a
15 solution that's more been directed towards more exploration
16 to try to find more gas rather than try to begin importing
17 gas.

18 COMMISSIONER WILLIAMSON: Okay. When did the
19 shortfalls of natural gas begin to affect your operations?

20 MR. CHANDOOL: We began to see great effects in
21 2012, and steadily thereafter.

22 COMMISSIONER WILLIAMSON: And what's going to
23 happen in 2017? That's going to enable you to stabilize?

24 MR. CHANDOOL: One of the main gas producers,
25 that is BPTT, which used to be British Petroleum and they

1 have a field that they are going to develop called the
2 Juniper Field, and that is expected to provide a fair amount
3 of gas on their system. But it would not take us back to
4 where we were two or three years ago. Because we've had
5 substantial depletion of the existing supply since then, but
6 it will improve the situation.

7 COMMISSIONER WILLIAMSON: I was going to ask --
8 how much is it going to improve it? Any idea?

9 MR. CHANDOOL: Not sure. But we don't think
10 it's going to take us back to 100% supply.

11 COMMISSIONER WILLIAMSON: And how do the natural
12 gas prices in Trinidad compare to world market prices?

13 MR. CHANDOOL: Well, we tend to trend towards
14 the States, so I mean with natural gas becoming popular in
15 States, we are much higher than the U.S. prices currently.
16 I can't give you the exact numbers, we can again provide
17 details --

18 COMMISSIONER WILLIAMSON: I just wanted to get
19 an idea. Good. Thank you. I'm sorry, going back to 2017,
20 I was going to ask, I guess like any major project like
21 this, this is the anticipated day and there can be delays
22 and things like that and I'm thinking about the new
23 production coming out in 2017.

24 MR. CHANDOOL: I wasn't sure what the question
25 was, sorry.

1 COMMISSIONER WILLIAMSON: Is highly, highly
2 certain --

3 MR. CHANDOOL: The likelihood of the timing.
4 Well, it would vary. I mean it's an offshore development
5 and that always has some risks associated with it. So we
6 would say, you know, it's anticipated towards the middle of
7 2017, anywhere from there to the end of 2017, we expect
8 something to happen.

9 MR. EMERSON: Commissioner Williamson, if I
10 could just have one comment, two comments rather. The first
11 is that, as we explained in our brief, part of the --
12 contributed to part of the problem in Trinidad is an
13 imbalance to supply and demand. And so, looking at supply
14 alone will only tell you half of the story, at least with
15 respect to that problem. That's one.

16 Point two, it's not simply the overall
17 production of gas that's the issue, it's the volatility of
18 supply and the inability to predict when these force majeure
19 events are going to occur that's been negatively affecting
20 MHTL's production. So, again, even if you were to take a
21 look at production countrywide, production trends over a
22 certain period of time, that may not tell the full story as
23 to what the day-to-day impacts are in MHTL's production
24 activities.

25 COMMISSIONER WILLIAMSON: Is the infrastructure

1 adequate to provide the gas? Or is it just comes out of the
2 ground irregularly?

3 MR. CHANDOOL: What has happened is that the
4 supply/demand balance has shifted, so that at 100% capacity
5 of the users, we barely have enough gas to cover it, so if
6 you put on top of that, disruptions in supply, which will
7 happen from time to time by the producers, the system can't
8 handle that.

9 So what happens is you get a large variation in
10 the supply from day to day. And that is primarily where we
11 have the issues with the melamine plants because we really
12 don't know, even if we have a good supply today, whether
13 that continues tomorrow, or for how long it would continue,
14 and the converse is true.

15 If we have curtailments today, we not quite sure
16 if that is going to improve, you know, tomorrow or the other
17 day or whenever, so it gives us a problem in terms of
18 planning our production and trying to get an efficient and
19 reliable plant operation.

20 COMMISSIONER WILLIAMSON: Are there other major
21 industry users who are also depending on this gas?

22 MR. CHANDOOL: Yes, Trinidad has a very large
23 methanol and ammonia industry, and we all have similar
24 issues. In fact, for multiple plants/companies, very often
25 you have to actually turn one plant off completely to ride

1 out one of the curtailments.

2 MR. EMERSON: I believe -- Commissioner
3 Williamson, sorry -- if I could interject. We submitted an
4 article, I believe with our questionnaire response and I'd
5 have to find it -- there was a public statement by the
6 Canadian methanol producer, Methanex, that basically said
7 that it was having production difficulties as well,
8 precisely because of these gas curtailment issues in the
9 same period of time.

10 COMMISSIONER WILLIAMSON: OK, they just put out
11 a report on that.

12 MR. EMERSON: Yeah.

13 COMMISSIONER WILLIAMSON: On CBRA analysis, I
14 don't remember us discussing that very much. Thank you. In
15 terms of a different question. Exhibit 12 of Petitioners'
16 brief contains import volume on a quarterly basis. It shows
17 the quantities of imports from Trinidad to be well above the
18 quantity of imports from China in the first and second
19 quarters of 2014. Can you describe what was happening
20 during this period?

21 MR. KLETT: Commissioner Williamson, this is Dan
22 Klett. First of all, I think there's a data issue, one
23 should be relying on shipments by FCC into the U.S. market
24 just because what happens is imports are coming into the
25 United States' warehouse by FCC and then sold into the U.S.

1 market or we export to the United States. So imports into
2 the U.S. really don't tell you where competition with U.S.
3 industry occurs.

4 So when you're looking at quarter to quarter,
5 you know, you can actually get that from the quarterly
6 pricing data from FCC's importer questionnaire since it's
7 full coverage. But I think that another factor going on,
8 and I think Mr. Spencer maybe addressed this, is that FCC
9 was offline in 2013, so some of the increase in the imports
10 in 2014 was basically -- in order to serve the U.S. market
11 it has warehouses it needs a certain baseline level of
12 inventory to serve the market.

13 And so what you saw in 2014 was, in a sense,
14 re-establishing that baseline inventory and that was product
15 that wasn't correctly competing with the U.S. market.

16 COMMISSIONER WILLIAMSON: You mean because it
17 was going elsewhere or just wasn't --

18 MR. KLETT: Well, there were two things -- it
19 was re-establishing inventory and also being re-exported,
20 but maybe Mr. Spencer can talk to that as well, since he was
21 directly involved.

22 MR. SPENCER: Put very simply, in the lead up
23 to -- at the tail-end of 2013, we had major gasket
24 settlement issues and problems with the plant, so in the
25 final quarter of 2013 and indeed, the end of Q3 2013,

1 production was limited, the plant was down, it was offline.

2 At the first three quarters of 2014, that was a
3 period during which both of the melamine plants in Trinidad
4 were producing, albeit erratically, but they were producing.
5 So that was a period of time when we were able to receive
6 some volumes of melamine.

7 As Mr. Klett points out, most of that melamine
8 was not immediately sold into the marketplace, but replaced
9 inventory that had been depleted during the tail-end of
10 2013.

11 COMMISSIONER WILLIAMSON: Thank you for that
12 answer. Okay, my time is about to expire, so thank you.

13 CHAIRMAN BROADBENT: Mr. Johansen.

14 COMMISSIONER JOHANSEN: Thank you, Chairman
15 Broadbent. I would like to thank the witnesses and their
16 counsel for being here today. The discussion in
17 respondents' prehearing brief of a need for a formal Bratsk
18 analysis on this record fails to discuss the most recent
19 federal circuit case on causation under the statute and that
20 is Swiff-Train versus United States.

21 You've heard argument from petitioners' counsel
22 this morning that that case undermines your position.
23 Please explain here and, if necessary, elaborate post
24 hearing, the applicability of Swiff-Train. Also, please
25 include in your legal discussion, in the post hearing brief,

1 a discussion of the most CIT decision on causation as well.
2 And that is Trina Solar Energy versus USITC, which also
3 addresses the issue of causation.

4 MR. EMERSON: Commissioner Johansen. Just
5 briefly on Swiff-Train, we certainly reviewed that case
6 prior to filing our case brief. But I think that, as was
7 discussed early this morning, the issue in Swiff-Train
8 really had to do more with the impact of the housing decline
9 and the collapse in that market on the imports of the
10 subject merchandise, and it was the 'but for' analysis of,
11 you know, 'but for' that what would the domestic industry
12 have looked like.

13 It was not an analysis of nonsubject imports.
14 And really, where we were looking at, and I think this is
15 the point of our discussion about Bratsk and about Mittal
16 Steel really goes to the issue of nonsubject imports. First
17 of all, Swiff-Train does not overrule any of those prior
18 cases, Bratsk, Gerald Metals or Mittal Steel, and really is
19 kind of a separate tangent from those three cases, because
20 it doesn't deal with the nonsubject import issue.

21 And so I don't think it does any violence, the
22 arguments that we've put forward. It's looking at another
23 aspect of the Commission's causation analysis, but I don't
24 think it undermines anything that we said in our brief at
25 all. But I'll be happy to follow up on both Swiff-Train and

1 Trina in the post conference brief.

2 COMMISSIONER JOHANSEN: Thank you. I look
3 forward to reading it. I came to the Commission not too
4 long after Bratsk, and I haven't had a whole lot of chance
5 to really look into it closely, so I look forward to reading
6 your materials.

7 Along the same line of thought, could you please
8 respond to petitioners' separate legal point about causation
9 this morning, that imports from China, because they are
10 dumped and subsidized should be treated differently than
11 nonsubject imports from the Netherlands and Germany or other
12 third countries?

13 MR. EMERSON: Commissioner Johansen, I believe
14 that the Federal Circuit in Caribbean Ispat Limited and then
15 this is the quote that I provided a little bit earlier,
16 clearly said the CBRA exception requires a separate and
17 independent analysis of imports from CBRA countries. I
18 believe that that means for all purposes.

19 And that also means that in the NA replacement
20 benefit test, if the Commissioner were to apply one, as we
21 think it should. That if the Commission were to apply one,
22 then China would have to be considered a source of
23 nonsubject imports regardless of what the Department of
24 Commerce has found.

25 I believe that's what happened in the wire rod

1 decisions as well. I'd have to go back and double-check.
2 But I do believe that's exactly what happened in the prior
3 wire rod decisions as well.

4 COMMISSIONER JOHANSEN: All right, thank you.
5 And once again, I look forward to reading that as well. I
6 haven't really worked on Bratsk before, and the CB, the CBRA
7 provision is also something I'm not even rusty with. But
8 maybe I will be after the coming weeks, so I look forward to
9 seeing that.

10 Petitioner argued this morning that, unlike any
11 other foreign supplier to the U.S. market, MHTL's business
12 model is predicated on its ability to penetrate the U.S.
13 market. And that because there's no market for melamine in
14 Trinidad and Tobago, MHTL allocates 50% of its production to
15 its affiliate, Southern Chemical, for sales in the U.S.
16 market.

17 Slide 5 of Petitioners' prehearing exhibit also
18 talks about Southern Chemical's establishment of an
19 extensive logistics and warehousing network to transport
20 melamine from MHTL's production facilities in Trinidad and
21 Tobago to four strategically placed warehouses in the United
22 States. How do you respond to this point raised by the
23 petitioners?

24 MR. EMERSON: Commissioner Johansen, let me take
25 a stab at least part of this. I think that, first, if I

1 could start really with the last point about looking at the
2 distribution warehouses. Trinidad, MHTL, FCC are not alone
3 in having inventory at least as far as I've been told, and
4 we'll certainly confirm this with a post hearing brief, are
5 not alone in having inventories and material, melamine here
6 in the United States.

7 There are companies, some of the nonsubject
8 companies, I believe OCI was told just at the break, has
9 customer service representatives --

10 COMMISSIONER JOHANSEN: OCI is --

11 MR. EMERSON: The Dutch producer has customer
12 service representatives here in the United States. What's
13 important I think to understand is that all of these
14 producers, OCI, the Dutch producer, Borealis, the German
15 producer, and then the various Chinese producers, already
16 sell to U.S. purchasers.

17 They're established in the marketplace by
18 whatever business means, whether it's inventories in the
19 United States, sales people in the United States, working
20 through agents in the United States, just in time delivery
21 from foreign sources, it doesn't really matter.

22 What matters is that they are already -- they
23 already have commercial relationships with purchasers in the
24 United States. This is not a situation where we are
25 positing some producer in Kazakhstan who might have come

1 into the United States during the period of investigation to
2 replace imports from Trinidad.

3 Oh, you know, there's a plant in Kazakhstan, it
4 could have started shipping. No. We are talking about
5 suppliers that have existing commercial relationships, so
6 whether Trinidad does it through these warehouses, whether
7 that's their ability to sell in the United States, whether
8 other companies do it different ways, all of these companies
9 have been successful in selling to purchasers in the United
10 States, and if Trinidad weren't here, then OCI, Borealis,
11 the Chinese producers would have simply relied on their
12 existing commercial relationships to increase sales volumes.

13 But let me go back just a little bit to ask Mr.
14 Spencer if you wanted to add anything about the presence of
15 others.

16 MR. SPENCER: Yeah, if I could just -- two
17 things: one refers to your question. There was a
18 commitment to export 50% of our production out of MHTL. You
19 said the U.S., but we use the U.S. warehousing to service
20 the Canadian market as well, so some of that material is not
21 a commitment for 50% of production to go to the U.S., it
22 comes in through the U.S. and then some of it's exported to
23 customers in Canada.

24 And I think the other thing I would say about
25 the warehousing, these are third party warehouses, so

1 there's only a commitment on the basis that we pay almost
2 like a through-put charge on every metric ton of melamine
3 that goes through these warehouses. There are no long-term
4 commitments with the warehouses. We pay a charge for the
5 benefit of being able to store material in that warehouse
6 and deliver to the customers just in time. So this is a
7 customer service and tactic and helps us to serve our
8 customers at the time they require their melamine.

9 COMMISSIONER JOHANSEN: That being said and in
10 response to your responses, the U.S. market, compared to,
11 for Trinidad compared to other suppliers is much more
12 important. It is true we have the Dutch and we have the
13 German producers sending to the U.S. market, but the
14 European market is very large. It's much larger than the
15 United States, whereas in the case of Trinidad and Tobago,
16 the U.S. is receiving about half of its production.

17 MR. KLETT: Commissioner Johansen, this is Dan
18 Klett. That may be true, but I think the more relevant
19 point is how much comes into the U.S. from the Dutch and the
20 Germans versus Trinidad? I mean if you combine imports from
21 Germany and the Netherlands during the POI, I think the
22 volume and the aggregate for those two countries was
23 actually larger than what came in from Trinidad.

24 So I think that's the relevant relationship, not
25 so much that, you know, Europe is a bigger market for

1 Borealis and OCI than is the U.S. It's really how much does
2 OCI and Borealis ship here relative to Trinidad, and on that
3 basis, they're somewhat even larger.

4 COMMISSIONER JOHANSON: But I think that the
5 respondents would reply, or I think they already addressed
6 this issue by saying they differ from the Trinidad and
7 Tobago producer because exports from Trinidad and Tobago are
8 subsidized and they're being sent here at dumped prices.

9 MR. KLETT: Well, I think that's one of the
10 things they would say, but I think also you need, for
11 purposes -- what you also need to do is look at what is the
12 pricing of the Dutch and the Germans and Trinidad in the
13 U.S. market, and I think Mr. Jones this morning said that
14 one of the reasons that the Europeans have been more
15 competitive in the U.S. since about 2013 or 2014 is the
16 steep depreciation of the Euro relative to the U.S. dollar,
17 so when you look at your data, you actually see Germany
18 underselling Trinidad based on the AUVs and you also see,
19 you know, the Dutch material becoming much closer to the
20 Trinidad pricing as well, in part due to their ability to
21 sell at the lower U.S. dollar price and get, you know, the
22 same return on a Euro basis because of this steep
23 depreciation of the Euro.

24 COMMISSIONER JOHANSEN: All right, well thank
25 you for your responses. I appreciate it. My time has

1 expired.

2 COMMISSIONER KIEFF: I join my colleagues in
3 thanking everybody and I'll follow up with my colleagues'
4 lines of questions I hope directly. So maybe I'm having
5 nightmares of my days in a law school classroom and maybe
6 I'm confused as to whether those are as a student or as a
7 professor and the debates about the law school hypothetical,
8 the man pushing the other man off the side of the building,
9 falls to his death, of course it's not the fall that kills
10 him, it's the sudden stop, and yet, nonetheless, arguments
11 over that don't get the perk off at trial. Are you
12 disagreeing with your colleagues? Over how to discuss this?
13 Over the legal standard? Or over the underlying facts? So
14 I'm lost.

15 MR. EMERSON: I think there is at least, if I'm
16 hearing Mr. Dorn correctly from his testimony this morning,
17 I believe that we have one sharp legal difference, and that
18 is that in conducting -- assuming that a replacement benefit
19 test is required to be conducted is conducted, that in that
20 test, should imports from China be considered nonsubject
21 imports replacing, you know, whose replacement of Trinidad
22 imports, how would that have affected the domestic industry?

23 COMMISSIONER KIEFF: So, to make sure I'm
24 following you, your hanging at least some part of your hat
25 on imports from China replacing imports from Trinidad?

1 MR. EMERSON: Imports from China along with
2 imports from western Europe and other countries.

3 COMMISSIONER KIEFF: Let's get to the Europe and
4 other stuff later. Let's start with China. The imports
5 that you envision in this part of your analysis, are they
6 imports that would be coming in at less than fair value? Or
7 at fair value?

8 MR. EMERSON: I don't know that that matters for
9 the Commission's analysis.

10 COMMISSIONER KIEFF: So you disagree then, I
11 take it, to put a fine point on it, with your opposing
12 counsel's view of the spirit of the body of law in this
13 area. You think that because it is nonsubject, we should
14 consider it, whether it's less than fair value or not, and
15 his argument that we should only consider it to the extent
16 it would be at fair value, but then he thinks, as a factual
17 matter, it never would be. You disagree with him on that,
18 if you will, policy or legislative intent point?

19 MR. EMERSON: Where I disagree with Mr. Dorn is
20 -- one of the places I disagree with Mr. Dorn is his
21 statement that Congress could not have intended the
22 Commission to treat in this context Chinese imports for
23 purposes of the replacement benefit test.

24 As I read, either from the Federal Circuit's
25 decision in Caribbean Ispat Limited, one, the first

1 decision, the CBRA exception which is 100% clear, requires
2 the Commission to conduct a separate and independent test as
3 to Trinidad. And therefore, everything else is nonsubject.
4 It is nonsubject merchandise.

5 And again, I do believe and I stand corrected if
6 I'm wrong, but I do believe that in the prior wire rod
7 decisions, which were not cases only against Trinidad, there
8 were half a dozen countries involved in those cases, those
9 other imports were also treated as potential replacements
10 for the Trinidadian imports, but again I stand corrected if
11 I have that in my memory wrong.

12 COMMISSIONER KIEFF: If I were to go with you
13 towards a flexible view of the CBRA requirements, in other
14 words, that I'm open to considering Chinese imports as, for
15 example, another economic factor. So I consider it in some
16 way, couldn't your opponent still win? In other words,
17 couldn't I consider it and consider it the way he's
18 suggesting? In other words, consider it and see that
19 actually, customers in the U.S. would not be buying from
20 China unless they were coming in at a very low rate, a less
21 than fair rate and that's why the injury's coming from
22 Trinidad.

23 MR. EMERSON: The purpose as I understand it, of
24 the replacement benefit test, was to determine in the past,
25 not in the future, but in the past, if Trinidadian imports

1 had not been in the market, what would have happened?

2 Chinese imports, whether they were fairly, at
3 U.S. prices, at the price at which they were being sold,
4 whether they were fairly priced or whether they were
5 unfairly priced, would have taken the Trinidadian share.
6 That's our argument and we believe it's supported by fact
7 because we believe that the imports from China were among
8 the lowest priced imports in the market during that time.

9 It doesn't ma -- the injury -- the impact, if
10 you will, on Cornerstone would have been the same had they
11 been dumped or had they been non-dumped, their prices are
12 exactly -- you know, 50 cents a pound.

13 COMMISSIONER KIEFF: So I think I'm hearing you
14 but then in my initial law school illusion was the wrong
15 one. It should have been an allusion to Murder on the
16 Orient Express, and you know, the victim is stabbed and
17 poisoned and shot and so therefore, no one's really guilty
18 because, you know, actually he died of a heart attack.
19 Right?

20 I mean, I don't get the sense that where -- that
21 we have that much flexibility in our statutes. I mean I
22 think we're supposed to treat the shooter badly and the
23 stabber badly and the poisoner badly and by that, I don't
24 mean punitively, I just mean we're supposed to treat those
25 as injurious, even though the body was already on its way to

1 death, having suffered a heart attack.

2 MR. EMERSON: But I think what the Commission's
3 response -- of course, if you were to identify a shooter in
4 your example, you should punish the shooter, but what the
5 Commission needs to do is to identify -- is to make a link
6 between the subject imports, here meaning Trinidad only and
7 the condition of the domestic industry.

8 It is not sufficient to say 'imports from
9 Trinidad, they were in the same railroad car with imports
10 from China and imports from etcetera, a dead body resulted,
11 therefore they must have been responsible.' That's not the
12 point. To Commissioner Johansen's point about the lost
13 sales and lost revenue analysis, he made the good point that
14 said, 'You know, why would these allegations talk about
15 China and Trinidad,' and I think that Cornerstone was really
16 quite candid in its response, and said, 'You know, it's
17 really pretty hard to figure out who was causing injury in
18 those particular instances, to whom did we lose those
19 sales?'

20 COMMISSIONER KIEFF: So what would be an
21 adequate amount of causation? What would the evidence look
22 like?

23 MR. EMERSON: Perhaps two aspects to that, and I
24 think that Mr. Dorn talked about part of it today, which was
25 how much. The how much question. That's not, I think, the

1 point, at least, that we're trying to make. It's not the
2 how much injury, it's the linkage question.

3 And for that, I hate to say this, but I would
4 have to defer to Petitioners' counsel to be able to push
5 forward their arguments about how to link Trinidadian
6 imports to the material injury to the domestic industry.

7 I believe that we have done a good job of
8 demonstrating two things. First, that imports from Trinidad
9 did not injure the domestic industry for a number of
10 different reasons. Steadily declining volume, steadily
11 increasing prices, lack of correlation between import
12 volumes and pricing trends in the Commission investigation -
13 -

14 COMMISSIONER KIEFF: So decoupling inferences of
15 causation. And then the other was --

16 MR. EMERSON: And then on the other hand, I
17 think we've done a good job of tying nonsubject to the
18 condition of the domestic industry. Although I would say
19 that's not our obligation under the case law, but we've done
20 it anyway.

21 COMMISSIONER KIEFF: So then just very briefly
22 your role in your view. We've focused so far on our
23 discussion on China. Is Europe a big part of the analysis
24 or not?

25 MR. EMERSON: Absolutely. Absolutely. And I

1 would encourage the Commission to take a look at Exhibit 20
2 of our brief, which compares Trinidadian and nonsubject
3 melamine prices using the pricing data collected by the
4 Commission. Take a look at the underselling analysis there,
5 and also take a look at Exhibit 18 which I referred to, but
6 I didn't give you a number, looking at exports from Germany
7 and the Netherlands to the United States versus non-U.S.
8 markets to determine differences in price levels there and
9 what they would likely would have done --

10 COMMISSIONER KIEFF: In other words, in a
11 nutshell they would have come here.

12 MR. EMERSON: Absolutely.

13 CHAIRMAN BROADBENT: I was talking about the
14 supply issues faced by Trinidad. I know you've mentioned
15 some of that. Can you describe what new natural gas fields
16 are in Trinidad that are being developed, and what supply
17 difficulties the Starfish field in particular has faced?

18 MR. CHANDOOL: Okay. This is Vishard Chandool.
19 The Starfish field is under-producing from what the
20 expectation was. So it has not provided the relief that we
21 thought we would get. I don't have the numbers offhand.
22 That could be provided later on if you need them. So that
23 the next new production that is being looked at would be the
24 Juniper field, which is the one that's started for 2017.

25 Beyond those, there is nothing else in terms of

1 what the major producers have on the books, that is
2 immediately on the horizon. So those two would have been
3 really where we would get extra gas from. So there is an
4 issue, in that we just don't have the production keeping
5 track with the current demand, and that is the problem that
6 we have at present.

7 CHAIRMAN BROADBENT: Great. Thanks for going
8 over that again. Can you further elaborate on what caused
9 other production disruptions at the MHTL plant, other than
10 the supply of natural gas during the POI? I think I'm
11 looking at page 16 and 17 in the prehearing brief.

12 MR. CHANDOOL: Yes, I guess we did earlier,
13 because it gets a bit complicated. As we mentioned, before
14 the melamine plant is part of the -- complex. So it's
15 really at the tail end of the complex. In other words, it
16 depends on inputs from the upstream plants.

17 So in other words, if you have a disruption on
18 the ammonia plant or the urea plant, it automatically
19 results in loss of production on the melamine plants. So
20 there were many instances where we would have had
21 disruptions on the upstream plants, and that did cause
22 production outages.

23 The melamine plants themselves have been prone
24 to several different types of issues. It is the first time
25 that we've tried melamine production. We were a methanol

1 producer before. It's a new product to us. It's a solid
2 product which has its own challenges, so that for most of
3 the early production history of the plants, we were plagued
4 by many different plant issues.

5 In 2013, we did have a turnaround that was
6 planned. A turnaround is really an extended maintenance
7 outage on the ammonia plant, and because of a lot of
8 unforeseen issues on that, that became a very, very low
9 outage, which resulted in a massive reduction in melamine in
10 that period.

11 In 2014, as was said in previous discussions, we
12 did have a bit of a resurgence of the melamine production in
13 the early part of 2014. But towards the end of 2014, we
14 were plagued with a combination of very deep and frequent
15 gas containments, and that is really where, you know, it
16 really began to severely jeopardize melamine production in
17 terms of gas. Does that answer your question?

18 CHAIRMAN BROADBENT: Uh-huh, that's helpful.
19 Mr. Emerson, can you go over what accounts for the
20 substantial increase in non-subject imports in interim 2015?

21 MR. EMERSON: Can I pass that to Mr. Klett?
22 Thank you.

23 CHAIRMAN BROADBENT: Sure, yep.

24 MR. KLETT: Madam Chairman, the increase in 2015
25 and the interim period, and I think even I've looked at data

1 all the way through August, since we have census data on
2 that basis, and I think what you see is what is essentially
3 non-subject imports starting to replace the decline in
4 imports from China and Trinidad.

5 You see an increase in imports from Germany, the
6 Netherlands. You also see some although small volumes,
7 larger than they had been, imports from Japan and some other
8 sources that hadn't been in the market in a while. I think
9 part of that is due to the volume reductions from China and
10 Trinidad, but also there's a financial, you know, incentive
11 to export to the U.S. given the high prices.

12 I know Mr. Dorn criticized Exhibit 18, where we
13 looked at export AUVs to the U.S. versus other markets, in
14 terms of there being a financial incentive to export here
15 because of the higher U.S. prices. But those really are
16 apples to apples, in the sense you're looking at export AUVs
17 at the same level of trade for an HS item that is melamine.
18 So I don't think we have any product mix issues.

19 So and I also think what's been happening,
20 especially with regard to exports from Europe, is the
21 exchange rate issue has made the U.S. more attractive to the
22 European suppliers over the last year or two, you know,
23 irrespective of what's going on in this case. So I think
24 those are some of the factors that may explain the increase
25 in non-subject imports.

1 CHAIRMAN BROADBENT: Okay. Can you talk about
2 volume a bit, of imports from Trinidad and Tobago? Are they
3 significant on an absolute basis relative to consumption or
4 domestic production? If not, why not?

5 MR. EMERSON: I'll also turn this over to Mr.
6 Klett, but I do believe that we have tallied imports over
7 the POI, that demonstrate that non-subject imports are --
8 non-subjects are in total higher, larger in volume than
9 imports from Trinidad.

10 I think we've also seen trends in imports from
11 Trinidad, both on an import basis, which as we've explained
12 is really not the best measure because of SEC's subsequent
13 exportation of some volume to Canada.

14 But we really would encourage the Commission to
15 look at our market share and essentially the volume on the
16 basis of U.S. shipments, which is contained in Table C-3.
17 All of those showed downward trends throughout the entire
18 POI.

19 CHAIRMAN BROADBENT: But the absolute volume is
20 fairly significant.

21 MR. EMERSON: I think the absolute volume needs
22 to be looked at today. What is present injury to the
23 domestic industry? What the absolute volume was at some
24 historical period, unless it really is not relevant for the
25 Commission's determination today. Unless a petitioner was

1 able, for example, to tie some type of impact of that volume
2 back in five years ago, three years ago to the condition of
3 the domestic industry today.

4 If they can't do that, then today, and leaving
5 aside pendency effect issue just for the minute, but what is
6 the current condition of the domestic industry? Are imports
7 currently significant as an absolute matter?

8 CHAIRMAN BROADBENT: During the Period of
9 Investigation?

10 MR. EMERSON: Correct, but the Commission's
11 determination of injury needs to be made based on present
12 injury to the domestic industry.

13 MR. KLETT: Madam Chairman, this is Dan Klett.
14 I mean you're correct in looking at whether imports are
15 significant. You look both at import volume trends and
16 market share trends. But you can also look just at the
17 absolute volume. But I think for purposes of causation
18 analysis, the trend analysis tells you a lot more about
19 what's going on, in terms of attributing adverse effects to
20 subject imports.

21 So when you look at my BPI Slide 3, which is
22 based on Trinidad shipments into the U.S. market and other
23 shipments into the U.S. market, as well as BPI Slide 2,
24 which has the market share trends, I think that tells you a
25 lot. Also in terms of just the absolute volumes. I believe

1 my calculations are correct, and I can go back and
2 double-check.

3 But I think over the POI, the import volumes
4 from Trinidad were actually smaller than Germany and the
5 Netherlands combined, which are countries against which
6 Petitioner did not file.

7 CHAIRMAN BROADBENT: Okay. Does the proportion
8 of total industry shipments that are exports have
9 implications for how the Commission analyzes the industry's
10 financial data?

11 MR. KLETT: Madam Chairman, this is Dan Klett.
12 I don't think it really makes that much difference in terms
13 of the financials. I mean what you can do is you can -- on
14 the revenue side, you can split up the revenue side between
15 exports and domestic shipments.

16 On the cost side, you can't necessarily do that.
17 I mean you can make an assumption that every pound sold on
18 the export market and the U.S. market was -- had the same
19 per unit cost. So you can do that analysis. But that may
20 introduce some distortions into the analysis, because the
21 per unit cost may not be the same between an export to one
22 market versus the other.

23 What I think is more relevant on the export side
24 is just the -- as you can see from my Slide 1, just the
25 volume of U.S. production that is exported, that just can't

1 have been affected by imports, just because they're not sold
2 in the U.S. market.

3 CHAIRMAN BROADBENT: Right, understood. Okay.
4 Vice Chairman Pinkert.

5 VICE CHAIRMAN PINKERT: Thank you, Madam
6 Chairman, and I thank all of you for being here today, to
7 help us understand these issues. I want to begin with just
8 my way of referring to the Mittal case and its predecessors,
9 and see if you disagree with what I'm about to say.

10 But ever since Mittal, I have refrained from
11 using the word "test" in connection with this replacement
12 benefit issue, because it was my understanding that the
13 Federal Circuit Mittal was uncomfortable with the kind of
14 automaticity with which the Commission was interpreting
15 Bratsk.

16 So you keep referring to it as a test, but as I
17 understand it under Mittal, we're supposed to perform this
18 analysis under certain circumstances, and explain how the
19 analysis feeds into our conclusions on causation, without a
20 kind of automatic result based on whatever the outcome of
21 the replacement analysis is.

22 Is that your understanding of Mittal, or did I
23 get it wrong?

24 MR. EMERSON: Vice Chairman Pinkert, if I have
25 used an incorrect word to describe this analysis, then I

1 will retract that word and correct the transcript
2 afterwards.

3 But I would want to -- but I guess what we
4 should do then is to look carefully at the exact language of
5 Mittal Steel, in which the court said the Commission would
6 not fulfill its obligation to consider an important aspect
7 of the problem, if it failed to consider whether non-subject
8 or non-LTFV imports would have replaced LTFV subject imports
9 during the Period of Investigation, without a continuing
10 benefit to the domestic industry, words I'm sure you know
11 well.

12 So whether that is a test or whether that is an
13 aspect of the analysis, you know, I would defer to better
14 legal minds than mine, as to how that should be described.
15 But I think the content of it is exactly the same.

16 VICE CHAIRMAN PINKERT: Mr. Klett in the back
17 smiling. Did you want add something to that?

18 MR. KLETT: No, I do not.

19 (Laughter.)

20 MR. KLETT: Thanks buddy.

21 VICE CHAIRMAN PINKERT: Okay.

22 MR. DORN: Mr. Vice Chairman, I was smiling too.

23 VICE CHAIRMAN PINKERT: You'll have a chance to
24 ask questions later. But in any event, I think that we've
25 covered a lot of the issues surrounding Bratsk and Mittal,

1 and I don't want to belabor it, except to say that there was
2 some discussion about whether this analysis is rooted in the
3 explicit language of the statute, and it's my understanding
4 that the Federal Circuit has sort of interpolated this kind
5 of analysis into the statute.

6 Whether it has an explicit basis or not, I don't
7 know. But perhaps you can what the explicit statutory basis
8 for the test is.

9 MR. EMERSON: To do a careful statutory analysis
10 I think probably would require the post-conference brief, to
11 really sort of get into the text of the statute. But I do
12 believe that the language of what the Federal Circuit has --
13 the gloss, if you will, the common law that has been applied
14 to the statute, is fairly clear about what the Commission's
15 obligations are.

16 But I'm happy to tie that back more closely to
17 the statute in a post-conference brief if that's helpful.

18 VICE CHAIRMAN PINKERT: I think that would be
19 helpful, because there is some recent language from the
20 Federal Circuit that we're going to have to weigh against
21 what was said in Bratsk and Mittal and the predecessor case,
22 Jerold Metals. So to the extent that you could tie that
23 together with your analysis of Swiff-Train, I think that
24 would be useful as well.

25 MR. EMERSON: My pleasure to do so.

1 VICE CHAIRMAN PINKERT: Thank you. Now turning
2 to the under-selling issue, do you have Slide 8 in the
3 Petitioner's public presentation in front of you?

4 MR. EMERSON: Yes, I do.

5 VICE CHAIRMAN PINKERT: The heading on Slide 8
6 is "AUV of Imports From Trinidad and China, 2010-2014," and
7 do you have it?

8 MR. EMERSON: Yes. I do, I'm sorry.

9 VICE CHAIRMAN PINKERT: And as I look at it, it
10 occurs to me that perhaps what this is intended to show is
11 that if you do a direct comparison of Chinese prices and
12 Trinidad prices, that for the majority of the period, it was
13 actually the Trinidad prices that were under the China
14 prices, that were lower than the China prices. Is that how
15 you read Slide 8, and if not, why not?

16 MR. EMERSON: I think that we've got a couple of
17 different folks who'd like to -- who are going to respond to
18 this, but I'll start off if I could. This chart really is
19 wrong in one major respect. First of all, these two sets of
20 bars on the left-hand side are long before the POI. This is
21 really not a relevant -- these two years, the comparisons
22 here really are not so relevant for the Commission's
23 analysis.

24 What is relevant to the Commission's analysis
25 are the sets, the three sets of bars on the right-hand side,

1 which show declining prices from China, AUVs from China, and
2 increasing AUVs from Trinidad and Tobago, going from an
3 underselling position on an AUV basis in 2012, again largely
4 because of the quality issues we talked about before, to an
5 overselling position now in 2014.

6 Again, this is -- I'm surprised that the
7 Petitioners in fact have relied so heavily on this slide.
8 You'll recall from their testimony this morning that
9 Cornerstone placed most of the blame for price declines in
10 2014 on under -- on lower priced Trinidadian imports. That
11 was their key point.

12 And yet right here in 2014, on an AUV basis,
13 you'll see that Chinese imports are priced substantially
14 less than imports from Trinidad. But I'd also like to talk
15 about, have Mr. Klett now talk about a little bit the
16 difference between the AUV prices and also the pricing data
17 that the Commission has please.

18 VICE CHAIRMAN PINKERT: I think that would be
19 helpful. I just want to preface your answer there by saying
20 that as I look at Slide 8, one of the reasons I'm looking at
21 it is to try to understand the subject versus non-subject
22 pricing issues. So go ahead.

23 MR. KLETT: Commissioner Pinkert, this is Dan
24 Klett. To follow up on Eric's point, I mean -- and there
25 were some questions this morning about AUV data in general.

1 But in this case, you have good coverage in your
2 questionnaires on pricing data from Cornerstone, pricing
3 data from Trinidad, pricing data from the Germans and the
4 Dutch, almost complete coverage in the questionnaire data
5 and the pricing data.

6 For China, you don't have complete questionnaire
7 coverage as compared to the census data. But you still have
8 relatively good data with regard to quarterly pricing in the
9 U.S. market from the importer questionnaires.

10 So when you're conducting your analysis on
11 non-subject import pricing relative to Trinidad or relative
12 to Cornerstone, I think the table -- the quarterly pricing
13 tables in your staff report for Products 1, 2 and 3,
14 including the non-subject imports in Appendix D, are the
15 best -- is the best information to use, rather than any AUV
16 analysis, because AUVs, I think as even Petitioners
17 indicated this morning, you know, aren't necessarily at the
18 same competitive level of trade.

19 VICE CHAIRMAN PINKERT: I'm sorry, go ahead.

20 MR. HANSEN: Commissioner, this is Scott Hansen.
21 I can attest to the -- or I can respond to the pricing
22 relative to the Trinidadian material and the Chinese
23 material, because I was purchasing from both sources. What
24 I see in 2013 and in 2014 is the prices that I paid were
25 relatively equal, as the graph shows here and in 2014, I

1 again, relative to each other, the Chinese material was in
2 fact the lower-priced material in 2014.

3 I honestly wish I was getting the prices shown
4 on this graph, because I wasn't getting these prices.
5 Relative to each other, they appear to be accurate, but they
6 don't appear to reflect what I as a consumer paid for a
7 product during those years.

8 MR. EMERSON: And I think we also have -- I
9 think we also have some question here, and I'd like to have
10 Mr. Spencer speak to it, particularly about the AUVs for
11 China in 2012.

12 MR. SPENCER: Yeah. I was responsible for
13 selling product through SCC, American sales product in 2012,
14 '13 and '14, and when I look at the AUV value, it bears no
15 resemblance to the prices that I -- the competitor bids that
16 I was hearing in the marketplace for Chinese product.

17 So I mean the only perspective I have on pricing
18 is when I discuss where the market is with the customer and
19 the negotiation process each quarter, and you know, an
20 average unit value of 80 cents per pound. To me, it was way
21 above what I was hearing the actual sales price from my
22 customer base.

23 VICE CHAIRMAN PINKERT: So just to summarize
24 what I've heard in the answers to questions from other
25 Commissioners, as well as the answer to my question, are you

1 saying that the China import prices drove substantial
2 amounts of Trinidad and Tobago imports out of the U.S.
3 market during the period?

4 MR. EMERSON: I think that the -- that there
5 were -- that there, particularly in 2014, what you saw was
6 Trinidad losing volume to underpriced Chinese melamine in
7 the market, particularly in 2014.

8 MR. HANSEN: And I can -- this is Scott Hansen.
9 I can attest to the fact that I purchased more from China in
10 2013 and 2014 at the expense of the Trinidadian material.

11 VICE CHAIRMAN PINKERT: Perhaps this is better
12 for the post-hearing, but what I'm trying to get at is
13 whether you're saying that what drove the market share
14 shifts between China and Trinidad and Tobago or vice-versa
15 was the China pricing relative to the Trinidad and Tobago
16 pricing.

17 MR. EMERSON: Probably better for the
18 post-hearing. I'd be happy to address it there.

19 VICE CHAIRMAN PINKERT: Thank you.

20 CHAIRMAN BROADBENT: Commissioner Williamson.

21 COMMISSIONER WILLIAMSON: Okay, thank you.
22 Either now or in a post-hearing brief, could you address any
23 prior Commission cases in which subject import volume and
24 market share was arguably significantly or was arguably
25 significant at the start of the POI, but trended downward

1 during the POI?

2 MR. EMERSON: We'll certainly attempt to do
3 that, absolutely.

4 COMMISSIONER WILLIAMSON: And I also invite the
5 Petitioners to do the same thing. I just want a
6 clarification. This morning, the Petitioners made the point
7 to argue that the Germans and the Dutch and Europeans
8 competed in the U.S. market, in a way differently than the
9 Trinidad and Tobagans.

10 Basically, they were saying that they were not
11 -- even whatever the prices are, they weren't as concerned
12 about those imports causing injury. I was wondering if you
13 want to respond to that or just your view of that
14 comparison.

15 MR. KLETT: Commissioner Williamson, this is Dan
16 Klett. I mean first as a general matter, the proposition
17 that somehow Trinidad and the Dutch and the Germans have
18 different commercial motivations for exporting to the U.S.,
19 just I don't see how they can say that.

20 COMMISSIONER WILLIAMSON: I don't know was it
21 the motivations or was it the impact.

22 MR. KLETT: Well, yeah. I think they were
23 saying both, but in terms of motivations, I don't think
24 there's any basis for that, if that is what they said. But
25 you're right. In terms of impact, which is really the more

1 relevant question, I think when you look at the pricing into
2 the U.S. market during the POI, you do see -- you do see
3 pricing relative to Trinidad that is competitive.

4 I don't want to get into the confidential
5 detail, and I think Mr. Hansen maybe has some observations
6 on that as well.

7 MR. HANSEN: Observations on the?

8 MR. KLETT: On the relative pricing of the
9 Trinidad versus Dutch, Dutch or German material.

10 MR. HANSEN: Yeah. The Trinidadian material
11 relative to the material that I purchased from the Dutch,
12 the Trinidadian material was either at parity or slightly
13 less in most quarters during the POI.

14 COMMISSIONER WILLIAMSON: In terms of price?

15 MR. HANSEN: In terms of pricing, and one would
16 ask then why didn't you buy all of your material from the
17 lowest cost producer, and there's a lot of other things to
18 be considered when purchasing any raw material.

19 But melamine is our key raw material, and I've
20 got a number of suppliers that I utilize. If I simply went
21 to the low cost producer or the low cost supplier, I
22 wouldn't be here talking to you today, because I would not
23 have been purchasing from SCC during most of this period.

24 I buy the bulk of my material from one of my
25 higher cost suppliers, because it is a global supply

1 arrangement, and we do buy a great deal of material in
2 Europe, and we also buy a great deal of material -- as a
3 matter of fact, as I stated earlier, 60 to 70 percent of our
4 volume here in America from that supplier.

5 They're competitive and sometimes they are lower
6 than the competition, sometimes they're higher than the
7 competition. But I have to take into consideration things
8 such as my confidence in them as a supplier to be able to
9 deliver, as well as the relationship that I have amassed
10 over the years with them as a supplier, as well as quality,
11 historical quality issues in addition to the cost.

12 Those are all things that I take into
13 consideration when determining who I'm going to purchase
14 from.

15 COMMISSIONER WILLIAMSON: Okay, but you
16 obviously look -- you have a global relationship there?

17 MR. HANSEN: Uh-huh.

18 COMMISSIONER WILLIAMSON: What about somebody
19 who doesn't have that?

20 MR. HANSEN: I can't speak to them.

21 COMMISSIONER WILLIAMSON: Yeah.

22 MR. HANSEN: I can only speak to how I do it and
23 why I make the decisions that I make.

24 COMMISSIONER WILLIAMSON: Thank you.

25 MR. EMERSON: Commissioner Williamson, looking

1 at the pricing data, and this is obviously confidential, but
2 it's really unclear to me why the German and Dutch producers
3 got a pass. Exhibit 20 of our prehearing brief compares
4 pricing from all three non-subject countries, China, Germany
5 and The Netherlands to our prices.

6 Reviewing that data, based on your pricing data,
7 not AUVs, it's a little unclear to me why Cornerstone could
8 come forward and say well they're clearly not a source of
9 injury to us. I would also ask you in particular to take a
10 look at the interim period, which is I think not a bad
11 indicator of what might have happened if Trinidadian imports
12 had not been in the market. I can't really say much more
13 than that in a public setting.

14 COMMISSIONER WILLIAMSON: Okay, that's fine.
15 Maybe post-hearing you could take -- listen to what they
16 said this morning and think, comment on that. I mean they
17 talked about exchange rates and I think some other things.
18 And so --

19 MR. EMERSON: We certainly will.

20 COMMISSIONER WILLIAMSON: Any explanation would
21 be helpful.

22 Your view of what's happening there. At the
23 slide, you talked about the difference in AUVs, and I think
24 there's also been some other suggestion about quality issues
25 affecting price of the Trinidad material in the early part

1 of the POI, and I was just wondering whether or not--I know
2 this has been talked about, the clumping, but is there any
3 documentation to sort of say is that why they discounted the
4 price or something?

5 MR. SPENCER: Yeah. I think, I do believe we
6 submitted several pieces of documentation, e-mails from
7 customers outlining issues with materials. And if you need
8 more of that documentation, I'm sure we can provide it in
9 the post-hearing brief.

10 But over the period of the plant coming up in
11 2010, I would say all the way through the Period of
12 Investigation, albeit at a decreasing level as we worked
13 very hard in Trinidad to improve our product, we just had
14 manifest problems, particularly in 2010-2011, that affected
15 customers' ability to get the material out of the super
16 sacks. With some customers there were chemical issues with
17 the higher acidic impurities. And I think there's a
18 lingering perception all the way through the Period of
19 Investigation that made life fairly tough for SCC, albeit we
20 worked so hard to eliminate those issues, to the point now
21 where I think most customers would admit that our material
22 is fairly interchangeable with material from anywhere else
23 in the world.

24 COMMISSIONER WILLIAMSON: What would be useful
25 post-hearing is sort of, either documentation or something

1 that says that this is why, this explains why the price
2 difference. This explains the difference in the price, is
3 what I'm really getting at here.

4 MR. EMERSON: Okay.

5 COMMISSIONER WILLIAMSON. Thank you.

6 On that question of super sacks and railcars, now
7 when we talk about railcars are we talking about the kind of
8 railcars you see in coal tenders and stuff like that, and
9 you dump it down as opposed to a boxcar? Mr. Hansen?

10 MR. HANSEN: It's a cross in between. A boxcar,
11 there's no outlets on the bottom; whereas, a coal car
12 generally has an outlet across the entire length. The
13 melamine cars have four separate compartments. Each one
14 contains roughly 86--21- to 22 tons of melamine. And each
15 one is unloaded separately.

16 And what we experienced in 2012 is, because of
17 particle size differences--it's been referred to here as
18 "clumping"--but because of particle size differences in the
19 material, it's more like flour as opposed to sand, to make
20 an analogy, where sand flows easier and flour, if it
21 compacts, it can actually bridge. So the material can come
22 out of the bottom of the car where it's unloaded, and it
23 bridges over.

24 COMMISSIONER WILLIAMSON: In other words, it's the
25 car designed suitably for carrying material like melamine?

1 MR. HANSEN: It is designed specifically for
2 carrying powders.

3 COMMISSIONER WILLIAMSON: Are there many customers
4 who could go either way? They could use the sacks, or they
5 could use the boxcars? I'm trying to see the relationship
6 between these differences in the--

7 MR. SPENCER: --in our experience, I mean we
8 don't sell railcars. So we're not in that market, so I
9 don't speak to many customers who require railcar
10 deliveries.

11 In our experience there is one customer who can
12 receive railcars or super sacks. But outside of that, we're
13 not even in that marketplace. So I don't discuss the
14 possibility of interchanging railcars for super sacks with
15 any of my customers.

16 COMMISSIONER WILLIAMSON: You don't discuss
17 whether or not the price would be different if they have a
18 railcar?

19 MR. SPENCER: Well the thing is, the petitioner
20 has the ability to fill super sacks, as I believe, as I
21 understand from a hopper. We don't have that possibility
22 because we bring all of our material in from Trinidad in
23 super sacks, and then it's stored in a warehouse.

24 So for us personally it would be fairly expensive
25 to then have to pay man hours in labor to take those metric

1 ton super sacks and offload them into a railcar, which is
2 another reason for us not really wanting to be in that
3 business.

4 COMMISSIONER WILLIAMSON: Just put the super sack
5 in the container.

6 (Laughter.)

7 COMMISSIONER WILLIAMSON: Okay. Thank you.

8 Let's see. You include with your questionnaire,
9 MHTL's questionnaire response, excerpts of a business plan
10 showing the projected operations for 2016. And did MHTL
11 have plans with comparable projections for prior years? And
12 if so, could you supply these to the Commission throughout
13 the context with them?

14 MR. EMERSON: We will certainly look back at the
15 business plans and submit the relevant portions, yes.

16 COMMISSIONER WILLIAMSON: Okay. Fine. Thank you.
17 I guess my time has expired. Thank you for those answers.

18 CHAIRMAN BROADBENT: Commissioner Johanson.

19 COMMISSIONER JOHANSON: Thank you, Chairman
20 Broadbent.

21 I would like to discuss yet a bit more about the
22 railcar issue which Commissioner Williamson was just
23 discussing.

24 Mr. Driscoll testified this morning that
25 Respondents' argument that the Cornerstone sales by railcar

1 are immune from competition with imports from Trinidad is
2 entirely wrong. That is what he stated.

3 He said that one customer that received melamine
4 by rail already switched to super sacks to take advantage of
5 low-priced imports from Trinidad; that the other customers
6 will purchase in other bulk or in bags.

7 He also suggested that package sales prices may
8 impact bulk sales prices.

9 Is he correct on this?

10 MR. KLETT: Commissioner Johanson, this is Dan
11 Klett. I think I'll start with your last point about super
12 sack prices affecting bulk pricing.

13 I mean for products to be substitutable and
14 therefore for one price to affect another, there has to be
15 interchangeability on the basis of price. And in the
16 purchaser questionnaire there were some questions about the
17 interchangeability of railcar, or bulk rail car versus super
18 sacks. And two things I think came out.

19 Number one, most purchasers reported that they
20 could not because of operational, or how their plants were
21 set up, substitute a railcar for bulk. And also, just in
22 terms of interchangeability between melamine and different
23 packaging forms, most said there was no interchangeability.

24 On the question of whether there was
25 interchangeability on the basis of price, I think it's

1 probably confidential in terms of the number, but all or
2 almost all purchasers said there was no interchangeability
3 between bulk and super sacks on the basis of price.

4 So the underlying mechanism by which one bulk, or
5 super sack pricing could affect bulk pricing I think is
6 missing based on what the customers said in their
7 questionnaires.

8 COMMISSIONER JOHANSON: All right. Did anyone
9 else want to add to that?

10 MR. SPENCER: The thing is, we don't participate
11 in that market, so I can't attest to whether or not
12 customers would push for a better, or be willing to pay
13 premium on a railcar delivery. I have absolutely no concept
14 of whether or not it's more expensive to them at their own
15 end to unload that railcar and to receive that material, or
16 in the other direction. So I have no perspective on it.

17 COMMISSIONER JOHANSON: Okay. Thanks for your
18 responses.

19 All right. When I was reading your brief, I was
20 struck by the whole issue of natural gas in Trinidad and
21 Tobago. You all write of the extremely unpredictable
22 natural gas curtailments in Trinidad and Tobago.

23 Why is this the case? I mean the country is
24 sitting on top of a gas field. They're surrounded by gas
25 fields. What is going on? And is the government of

1 Trinidad and Tobago involved in this somehow? That seems to
2 be something that you all raised.

3 MR. CHANDOOL: Yes. In my testimony I did allude
4 to the fact that there was a proposed tax that sort of
5 discouraged some investment. That never came through, but I
6 think that there were in the last five years a number of
7 initiatives and fiscal incentives and tax issues that were
8 sorted out which would encourage investment. But in tandem
9 with that we also had the global drop in oil prices, which
10 has sort of slowed down investment and exploration
11 worldwide.

12 And the sheer fact is that, while there is still
13 gas in the ground, it does take time for the exploration and
14 the investment to kick in. And we have had sort of a break
15 in those investments over the last seven to ten years or so--
16 -it seems more like seven years--and that has really put us
17 at a bit of a disadvantage in terms of keeping up with the
18 demand.

19 The other issue is that, you know, whatever we
20 have, as you use the gas you deplete the reserves. And that
21 has not--you know, so we are always on a declining balance
22 in a way. And that has served to make the problem worse on
23 a year-by-year basis.

24 One of the other things that, you know,
25 exacerbates the problem is that we have four LNG trains in

1 Trinidad. And those are very high volume gas users. So
2 they use, you know, multiples of what our plants would use.
3 So when you have that kind of demand coupled with our
4 demand, and you have an imbalance in terms of the
5 exploration and development, you do end up in a bit of a
6 dislocation, as we are now.

7 The government's role in that really would be to
8 really set the policies into the taxation and incentives.
9 And there has been work on that. We also have work going on
10 in terms of we do have some cross-border fields to develop.
11 There has been some negotiations on that.

12 And a number of other initiatives, which I don't
13 necessarily have all the details on right now. So work has
14 been going on. But the fact is it would take some time to
15 resolve itself, and it certainly is not going to happen any
16 time before 2017.

17 COMMISSIONER JOHANSON: But how did this happen?
18 I mean I think if I were the government of Trinidad and
19 Tobago I would make sure the gas supplies kept running to
20 everyone there because your economy is based on the oil and
21 gas sector, your manufacturing is.

22 MR. CHANDOOL: Well, it is, and I may be sort of
23 slightly into territories that I don't know all the facts
24 on, but I think it is really a delicate balance because the
25 government itself does not explore oil. What the government

1 has to do is create a facilitating environment for major
2 producers to do so. And I think for quite a while a lot of
3 what we've had, you know, it was the expectation that it
4 would have yielded a lot more than it did. So I think that
5 was somehow contributing to, you know, part of this
6 dislocation, as I like to call it.

7 But I think, again before I go too far down where
8 I don't have expertise, we will try to address some of this
9 in the post-hearing brief.

10 COMMISSIONER JOHANSON: Alright. I look forward
11 to reading that, Mr. Chandool.

12 How do you all respond to Petitioners' argument
13 that imports from Trinidad and Tobago would have been
14 greater had Cornerstone not substantially reduced its price?

15 MR. EMERSON: I think that that was addressed
16 largely in our brief, particularly in the quarter-by-quarter
17 analysis that we talked about from 2013 to 2014, and that's
18 in our prehearing brief.

19 And there we really tried to demonstrate that if
20 there was a downward price trend it was not led by Trinidad
21 during that period of time. I think we were able to
22 demonstrate that by communication with our customers, by
23 contemporaneous industry reports, by the pricing data that
24 the Commission had collected.

25 So I think what we saw during that entire period

1 of time is really China leading prices down, again from the
2 pricing data and also from contemporaneous industry reports
3 talking about the pressure that China was really putting on
4 the marketplace.

5 If Trinidad had--pardon me. If Cornerstone's
6 prices had--if Cornerstone's prices went down during that
7 period, as they said they have, in order to be able to
8 maintain the volume that it had, it was not the fault of
9 Trinidad.

10 MR. KLETT: Commissioner Johanson, this is Dan
11 Klett. I agree with everything that Eric said on the price
12 relationships, but I think also we had the natural gas
13 supply constraint during the same period that also would
14 have put a constraint on, you know, Trinidad being able to
15 increase its supply to the U.S. market.

16 COMMISSIONER JOHANSON: All right. Thanks. I
17 guess that ties back into my earlier question.

18 And, Mr. Emerson, I believe you stated this
19 afternoon very early on that there's very little
20 head-to-head competition between melamine produced in the
21 United States and that from Trinidad and Tobago. Could you
22 expand on that a little bit?

23 MR. EMERSON: Sure. In the Petitioners' brief
24 there was a citation to overlap of competition. I think it
25 was--I had it tabbed here; I'll find the page for you--there

1 was a citation to overlap of competition. And in that
2 sentence, the Petitioners said: Cornerstone and SCC sold to
3 the following common--customers in common, basically, and
4 listed a certain number of those customers.

5 True as far as it goes. But what Petitioner
6 didn't tell you is that a number of other nonsubject
7 suppliers were also selling to most all of those customers
8 as well. So it was not a case where you only had
9 competition solely between Cornerstone and SCC, you know,
10 just fighting for a particular customer's volume. You had
11 the influence of other customers, as well.

12 And we have an exhibit here, if you just bear
13 with me for one second, top 10, Exhibit 14 in our prehearing
14 brief, that lists Cornerstone's main customers, and the
15 suppliers to those customers. And you'll find that there's
16 a very--only a very few of those customers actually have
17 only Cornerstone and SCC as suppliers.

18 So that's the point I was trying to make, is,
19 yes, there is competition in the marketplace, but there's
20 competition not just between, not just bilaterally but among
21 a number of different suppliers. And so it's not enough to
22 say, well, we both sold to these customers. There needs to
23 be more of a tie. And again it goes back to this issue of
24 teasing out the causal link between imports from Trinidad
25 and the injury allegedly experienced by the domestic

1 industry.

2 COMMISSIONER JOHANSON: Okay, so there's not that
3 much head-to-head competition simply because there's other
4 competition?

5 MR. EMERSON: There's very little pure
6 head-to-head competition where you have a customer, customer
7 X, who buys only from Cornerstone and SCC.

8 COMMISSIONER JOHANSON: Is that just due to the
9 number of players in the market? Or quality, do you know?
10 Or prices?

11 MR. SPENCER: No, it's down to the players in the
12 marketplace. I mean, when I phone a customer to talk about
13 the forthcoming quarter, invariably they've been contacted
14 by producers from Europe and from China, and possibly from
15 other sources as well.

16 MR. EMERSON: I know your time is short, but to
17 harken back to Mr. Hansen's testimony, he spoke about the
18 need to maintain a diversity of supply. And so he purchases
19 from a number of different suppliers at various price
20 points, and that's another reason, too, is that purchasers
21 want to make sure that if there's an outage, if Cornerstone
22 declares force majeure again, if there's a problem in
23 Trinidad with gas curtailment, there's an explosion in
24 China, et cetera, that they have a number of different
25 suppliers that they can choose from.

1 COMMISSIONER JOHANSON: All right. I appreciate
2 your answers. My time has excluded--has concluded.

3 CHAIRMAN BROADBENT: Okay. At the risk of beating
4 Bratsk once again, I have a question, Mr. Emerson, for you.

5 Even when the Commission applied the Bratsk
6 benefit replacement analysis, it did so when there were two
7 triggering factors that were satisfied. One of these was
8 that this was a commodity product at issue.

9 And I am having trouble seeing how you can
10 simultaneously contend that the Commission should conduct an
11 analysis limited to commodity products, and then spend
12 several pages, I think around 26 to 32, arguing that the
13 domestic like-products and Subject Imports from Trinidad and
14 Tobago are not good substitutes.

15 MR. EMERSON: I think that the--what we've seen
16 over the POI is--are instances where the quality, the
17 product quality from Trinidad was not as good, or it was not
18 perceived to be as good as the quality say produced by the
19 domestic industry. Whether it was or wasn't, there
20 certainly was a perception in the marketplace that it
21 wasn't.

22 What that means is, while Trinidadian melamine
23 could not be substituted for, call it, Dutch melamine,
24 because of those quality issues, there would have been no
25 problem in substituting Dutch melamine for the Trinidadian

1 melamine because the Dutch melamine did not have those same
2 quality problems.

3 So I think when we're looking at the issue of
4 substitutability between the products, it is important to
5 understand that there is substitution that could go one way.
6 This is not a situation where we are arguing that these are
7 two very different kind of products. We make Grade A, and
8 the Dutch make Grade B, and Grade A and Grade B cannot be
9 used interchangeably in the same type of formulation, or the
10 same use. We're not arguing that.

11 We are simply arguing that, particularly in the
12 early part of the POI, the quality from--perceived--the
13 quality from Trinidad was not as good. Anyone who was
14 buying that, in theory could have purchased a higher quality
15 grade that didn't have the same clumping issues and so
16 forth, from another supplier, China for example.

17 So I think that it's not exactly correct to say
18 that we're arguing the products are not pure substitutes for
19 each other. There certainly was at least one-way
20 substitution from nonsubject to subject.

21 CHAIRMAN BROADBENT: Okay. Let's see. I think
22 that concludes my questions. Vice Chairman Pinkert?

23 VICE CHAIRMAN PINKERT: Thank you. I just have a
24 couple of follow up questions.

25 First of all, as you know in the answers this

1 morning from the Petitioner panel we heard a lot about the
2 impact of preliminary duties on the behavior of Trinidad and
3 Tobago imports in the U.S. market.

4 How do we distinguish between the impact of
5 preliminary duties and the impact of natural gas shortages
6 with respect to the Trinidad and Tobago imports into the
7 United States?

8 MR. KLETT: Commissioner Pinkert, this is Dan
9 Klett. I mean I think one important data point, or data
10 points is just to look at what happened with imports from
11 Trinidad shipments into the U.S. market over the POI. I
12 mean they were declining fairly significantly from 2012
13 onward.

14 So that to the extent you see declines in 2015 as
15 well, I think that's in part a continuation of that trend.
16 And I think Mr. Spencer testified this morning, given the
17 natural gas supply constraints, that in 2015 no total
18 exports to the U.S. would have been lower than 2014.

19 Now in terms of how much of the absolute decline
20 you see in interim 2015 that was attributable to that versus
21 attributable to the duties, of course having this case have
22 some effect on import volumes, I don't think we're denying
23 that that was the case. But I think also it's pretty clear
24 from the long-term trends that imports from Trinidad were
25 going down even before that time.

1 MR. EMERSON: I'd also like to chime in, if I
2 could. You'll note that we really didn't make very much of
3 the interim period in our prehearing brief. Certainly we
4 understand the statutory provision that allows the
5 Commission to give less weight to developments after the
6 filing of a petition. We understand that.

7 There are a few items in the interim period that
8 I think are worthy of note. I mentioned on pricing issue
9 earlier with respect to nonsubject imports that I think is
10 actually quite relevant for the Commission to take a look
11 at.

12 Our arguments really were based on a lack of
13 causation of material injury during the, if you will, during
14 the period before the petition was filed, full-year 2012 to
15 2014.

16 Interim 2015 is really icing on the cake for us,
17 right, because that's all the trends during interim '15 are
18 absolutely all in our favor in terms of volume, in terms of
19 pricing, in terms of condition of the domestic industry, and
20 so forth. Again, icing on the cake.

21 But really our focus was on the period 2012 to
22 2014. Specifically as to the issue of import volumes,
23 though, Vice Chairman, if you would take a look later at
24 pages 105 to 108 of our prehearing brief, in there--and
25 that's in our Threat section--we go through in some very

1 specific detail how we came up with our projected shipment
2 volumes to the United States based on the shutdown of the
3 second melamine plant, based on our contractual obligation--
4 MHTL's contractual obligations to split its production, and
5 based on a number of different factors.

6 So when we look at the projected import volumes
7 in '15 and '16, and we also do a projected market share
8 analysis in '15 and '16 for purposes of threat, those aren't
9 numbers plucked out of thin air. Those are numbers that
10 really tie back to other data in the record.

11 So that when you look at those data, which again
12 continue to show low declining volumes, again those are not
13 just back-of-the-envelope estimates that we've made, but are
14 really I would say thoughtful numbers on the record.

15 VICE CHAIRMAN PINKERT: Thank you. Your question--
16 --or your answer is a nice segue into my last question, which
17 does have to do with threat.

18 In particular, let's say that we conclude per
19 your argument that during the period of investigation had
20 the Trinidad and Tobago imports left the U.S. market, they
21 would have been replaced without benefit to the domestic
22 industry.

23 Does it work both ways? In other words, if we
24 put an Order on China and we don't put an Order on Trinidad
25 and Tobago, looking forward will the Trinidad and Tobago

1 imports rush in to replace the role that the Chinese imports
2 were playing in the U.S. market?

3 MR. EMERSON: Can't. Cannot happen. And part of
4 it, I'll turn again back to the testimony from Mr. Vishard
5 this morning, about the shutdown of the company's second
6 melamine plant, and relying heavily on the testimony about
7 gas curtailments in Trinidad. Again, not just complete
8 volume, but the fluctuations. Same concerns Cornerstone
9 raised about its plant.

10 Right now, MHTL is only operating, and is
11 projected to only operate, one melamine plant for at least
12 through 2016. And that again is based upon the gas
13 curtailment situation that the government itself has said
14 will persist at least through 2017.

15 The raw material is simply not available for
16 Trinidad to rush into the marketplace. And so there is no
17 concern in a threat context that if on December 3rd, 4th, on
18 the day of the vote that the next day that they'll turn the
19 key on the second plant and start ramping up production
20 again. They simply do not have the raw material to make
21 that happen.

22 VICE CHAIRMAN PINKERT: Thank you. I have no
23 further questions at this time. I look forward to the
24 post-hearing submissions.

25 CHAIRMAN BROADBENT: Commissioner Williamson?

1 COMMISSIONER WILLIAMSON: Thank you.

2 Just a few questions. Petitioners highlight the
3 difference between MHTL's questionnaire and questionnaires
4 in the preliminary phase and final phase with respect to
5 2015 capacity in exports. It's on page 22 to 23 of their
6 brief.

7 Please provide a response to these arguments.
8 And of course you can do it post-hearing, if you want. In
9 fact, it may be better.

10 MR. EMERSON: Yeah. The bottom of page 22 and 23?

11 COMMISSIONER WILLIAMSON: Yes. If you want to do
12 it post-hearing, that's fine.

13 MR. EMERSON: Yeah, I'll need to. Yes, I will,
14 absolutely.

15 COMMISSIONER WILLIAMSON: Okay. At page 16 of
16 your brief you refer to MHTL's production targets. If you
17 haven't done so already, could you supply these targets to
18 the Commission and sort of give the context for them? I
19 think this would be a post-hearing, too.

20 MR. EMERSON: Certainly will.

21 COMMISSIONER WILLIAMSON: Okay. And you've
22 already addressed the question of post-petition effects.

23 Mr. Spencer, I was just wondering if you could
24 describe SCC a bit. I mean, were they sort of marketing a
25 variety of chemicals? Was it primarily always Trinidad and

1 Tobago? Or were there other suppliers and you moved into
2 the melamine section?

3 MR. SPENCER: First and foremost we're tied to
4 MHTL by commonality. So we're a sister organization. We
5 were set up specifically to be the marketing arm of MHTL in
6 the Americas.

7 So for methanol back in 1998 when the business
8 began, we were the marketing arm for the sales of methanol.
9 And we built our business ostensibly around the methanol
10 business and the methanol production in Trinidad. And as
11 the methanol production in Trinidad increased, we had a
12 bigger off take of that.

13 Like I say, we had the Americas as a territory.
14 When the melamine plant came up, our business partners
15 across the ocean in Europe, home, have strong relationships
16 with businesses in Central and South America. So we were
17 assigned the rights to sell melamine in the U.S. and Canada.
18 So that's how our business grew up.

19 We were a one-product company for several years.
20 And in 2010 we went from being a ship of liquid, methanol,
21 to being a ship of a solid product, melamine. So that was
22 our first foray into selling solid product.

23 VICE CHAIRMAN PINKERT: Thank you. I was just
24 wondering about the history. And with that, I have no
25 further questions. Thank you.

1 CHAIRMAN BROADBENT: Okay. Thank you. Let's see.
2 If the Commissioner have no more questions, does the staff
3 have any questions for this panel? Oh, you do? Excuse me.
4 I apologize.

5 COMMISSIONER JOHANSON: No problem at all. I have
6 just one quick questions.

7 Mr. Klett, you explained earlier that exchange
8 rate issues have made a difference in the U.S. market by
9 making it more attractive for U.S. suppliers. Are there any
10 exchange rate issues with respect to Trinidad and Tobago
11 that would make U.S. market more attractive to producers--to
12 the producer in that country?

13 MR. KLETT: I'll have to look at the Trinidadian
14 U.S. exchange rate.

15 COMMISSIONER JOHANSON: Is the market price in
16 dollars?

17 MR. KLETT: The market is priced in dollars, yes.
18 I mean, so basically, you know, whether you're a European
19 producer or a Trinidadian producer, you know, you're getting
20 your price in dollars, U.S. dollars, and then convert that
21 back to your home currency for purposes of your home market
22 currency profitability.

23 But I think the point I was making with Europe
24 was in looking at European prices relative to the market,
25 the Euro/dollar exchange rate definitely was a factor. But

1 I can address that in the post-hearing brief, or maybe one
2 of the other individuals here.

3 COMMISSIONER JOHANSON: Mr. Spencer?

4 MR. SPENCER: Commissioner Johanson, all I wanted
5 to say was that we sell in U.S. dollars. And as I
6 understand it, the reconciliation back in Trinidad happens
7 in U.S. dollars.

8 COMMISSIONER JOHANSON: I would think so. The
9 economy there is so dependent on oil and gas, which is of
10 course priced in U.S. dollars, I believe around the world.

11 Okay, if you could address that, I would
12 appreciate it since it did come up earlier vis-a-vis Europe.
13 Thank you. And thank you all again for today appearing
14 here.

15 MR. SPENCER: Thank you.

16 CHAIRMAN BROADBENT: Okay. Does staff have any
17 questions for the panel?

18 MR. McCLURE: Thank you, Madam Chairman. Jim
19 McClure, Office of Investigations, for the last time, staff
20 has no questions.

21 (Laughter.)

22 CHAIRMAN BROADBENT: Okay. And do Petitioners
23 have any questions for this panel?

24 MR. DORN: I'm time starved. Can't do it. Thank
25 you.

1 CHAIRMAN BROADBENT: Okay. Good. All right.
2 Thank you. In that case, I want to thank again the panel
3 for coming today and I will dismiss you now.

4 With that, we will come to closing statements.
5 Those in support of the Petition have zero minutes from
6 direct, and five from closing--for closing, for a total of
7 five minutes.

8 Those in opposition have zero minutes from
9 direct, and five for closing, for a total of five minutes as
10 well.

11 As is our custom, we will combine those. If you
12 don't take all the time--you do not need to take all the
13 time.

14 CHAIRMAN BROADBENT: We will start with those in
15 support of the petition.

16 CLOSING REMARKS OF JOSEPH W. DORN

17 MR. DORN: Thank you, Madam Chairman. I think
18 there's no dispute from Trinidad that imports from Trinidad
19 had very adverse effects on volume and price in 2012.
20 They're focusing in a latter period of the investigation. I
21 don't think they have any basis to say that they didn't have
22 any adverse impact and didn't cause injury at the very
23 beginning of the investigation in 2012 when imports of
24 Trinidad were about 30 million pounds and imports from China
25 were 5.7 million pounds. They suggested that their exports

1 from China to the world were down in 2012, but I'll remind
2 you that the antidumping duties in Europe went into effect
3 in the latter part of 2011 and that's a market that's four
4 to five times the size of the United States and that
5 explains why -- why China's world exports went down.

6 So the industry was clearly injured by Trinidad
7 at the beginning. And this is not a case like Nucor where
8 after the antidumping petition was filed on cold-rolled
9 steel the president imposed safeguard duties and that broke
10 the causal link between the dumped imports and injury by the
11 time you made your final determination in the antidumping
12 case.

13 Now, this is a case where there is no break in
14 the causal link and the injury that started at the beginning
15 of the POI and continued throughout the end of the POI. If
16 you could take a look at the confidential Exhibit 1, it
17 shows the volume of U.S. imports of melamine from Trinidad.
18 It's all public data until you get to the last column. And
19 the last column is what Commissioner Williamson was
20 referring to from the document that predates your
21 preliminary affirmative determination. That's what they
22 were expected to do before these -- the effects of the
23 duties. So you need to keep that in place. Even with one
24 plant keep in mind they can produce 65 million pounds with
25 one plant, half of that is 33 million pounds. So they had

1 plenty of capacity even with one plant.

2 But take a look at what they said about their
3 expected operations before the duties went into effect and
4 compare that with what they're saying now in trying to
5 defend their case before the Commission.

6 Here the volume effects remain big throughout the
7 POI. If you look at the market share data at table 4-6 of
8 your report, you'll see the market share from Trinidad
9 Tobago was particularly high in the first half of 2014.
10 It's an increase going up to the first half of 2014. You
11 don't have it for the first three quarters, but recall the
12 testimony from the witnesses, that was when Cornerstone was
13 hurt the most, in the first three quarters of 2014. And
14 that corresponds with a very high, significant share of the
15 market held by Trinidad.

16 In terms of pricing, if you look at our Exhibit
17 12 to our petition which shows the quarterly quantity and
18 AUVs of imports, it's very interesting to look at what
19 happened in 2013 when the quarterly imports from Trinidad
20 decreased from 7.9 million pounds in the first quarter to
21 less than a million pounds in the fourth quarter. As the
22 volume from Trinidad went down, prices went up
23 substantially, both for the imports and for Cornerstone, a
24 direct causal link between the performance of the domestic
25 industry and Trinidad's participation in the market.

1 The opposite happens in 2014. Coming back from a
2 very low quarter in the fourth quarter of 2013, look what's
3 happened to the beginning of '14. Trinidad comes in the
4 market with 8.7 million pounds in the first quarter of 2014,
5 in comparison to 4.6 million for China. The second quarter
6 10.9 million pounds from Trinidad, 8 million pounds from
7 China and look at the AUV's, they're going down for China,
8 sure, but they're going down for Trinidad as Trinidad's
9 increase in market share there in the first three quarters
10 of 2014. And that correlates with very low capacity
11 utilization by Cornerstone, very low prices and very poor
12 financial results.

13 Now, if you will turn to Exhibit B that I just
14 handed out, there's been a lot of talk about non-subject
15 imports. But, you know, we don't have to show that imports
16 from Trinidad were the sole cause of injury to the domestic
17 industry. And I would ask you to look at the data on this
18 table comparing the quantity of imports and the degree of
19 underselling for Trinidad and these other countries.

20 Thank you very much. I appreciate your time and
21 attention.

22 CHAIRMAN BROADBENT: Thank you, Mr. Dorn.

23 [PAUSE]

24 CLOSING REMARKS OF ERIC C. EMERSON

25 MR. EMERSON: Thank you, Madam Chairman. Let me

1 try to do this very quickly here. We've spoken about a
2 number of different issues today, but there are a lot of
3 issues we really didn't cover. It's a big case for such a
4 relatively small product.

5 Some of the things we didn't really talk about
6 very much, condition of -- financial consideration of the
7 industry. I mentioned that this morning and some of the
8 data gaps, if you will, that are evident in the record. I
9 know that counsel for the petitioners said that Cornerstone
10 had submitted tons of information on its financial
11 condition. We have not gotten that information yet.
12 Perhaps it's yet to be released. The information we've
13 gotten so far we actually attached as an exhibit to our
14 brief so you could see what at least we have received so far
15 in terms of its explanation about its cost of production.
16 And there are some serious questions that remain about how
17 -- about what those costs include.

18 We didn't really talk very much today about the
19 relationship of price increases from melamine with price
20 increases for the downstream products from melamine. I
21 mentioned that earlier. This was an issue that both Mr.
22 Hansen and Mr. Ross spoke about, the limitations on their
23 ability to pass along, if you will, the increased cost of
24 melamine to their customers. Because they themselves are
25 under price pressure from imports of melamine resin into the

1 United States. We talk about that in our brief. Imports of
2 impregnated paper, imports of panels into the United States
3 from a variety of different sources. It's not -- again, as
4 I said earlier, price -- these sales of melamine are not
5 made in a vacuum. They are made in a competitive
6 environment. We didn't really talk about that. But I would
7 like the Commission to take that into account too.

8 In the preliminary phase of this case petitioner
9 said it, it's in the staff conference that it was forced to
10 export, "forced" was its word, as a result of increased
11 imports into the United States. I didn't hear that today in
12 their testimony and certainly the chart that Mr. Klett
13 submitted earlier that demonstrated a fairly consistent
14 export pattern of melamine from the United States suggests
15 that there was really no increase in exports as a result of
16 increased imports of melamine from Trinidad into the United
17 States.

18 Finally, there was relatively little discussion
19 and I don't think -- this may be the first case I've ever
20 been involved with, with Mr. Dorn where I've gone through a
21 whole hearing that he's not used the phrase, "cost price
22 squeeze". And I think that was raised at the preliminary
23 phase. I don't recall that term being used here at the
24 final, and it really shouldn't be because I think we
25 demonstrated fairly strongly in our prehearing brief that

1 the price of ammonia is really not a determinant of the
2 price of melamine. And so that is really not a -- that
3 doesn't demonstrate price suppression by reason of unfair
4 imports.

5 One of Mr. Dorn's points here in his closing in
6 particular, but also earlier, was a suggestion that Trinidad
7 has either changed its reporting to the Commission or even
8 more so changed its business practices in Trinidad as a
9 result of this petition. And in particular the suggestion
10 that Trinidad -- that MHTL, rather, has closed its plant as
11 a result of this petition. That's simply not the case.

12 Mr. Chandool gave, I think, copious testimony
13 this morning and part of this afternoon and we have it in
14 our brief as well that it's the gas curtailments in Trinidad
15 that will last through 2017, past the period of time the
16 Commission traditionally considers to be imminent for
17 purposes of its threat determination, that is what caused
18 the company to close its plant, not anything having to do
19 with this particular case.

20 I think with that I will rest on our brief. I
21 will donate -- I will give my remaining minute to the
22 Chairman as a birthday present.

23 (Laughter.)

24 CHAIRMAN BROADBENT: Thank you. And I want to
25 express the Commission's appreciation to everyone who

1 participated in today's hearing. Your closing statement,
2 post-hearing briefs, statements responsive to question, and
3 requests of the Commission, and corrections to the
4 transcript must be filed by November 9th, 2015. Closing of
5 the record and final release of data to the parties will be
6 on November 24th, 2015. Final comments are due on November
7 30th, 2015.

8 With that, this hearing is adjourned.

9 (Whereupon, at 4:27 p.m., the meeting was
10 adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Melamine from China and Trinidad and Tobago

INVESTIGATION NOS.: 701-TA-526-527 and 731-TA-1262-1263

HEARING DATE: 11-3-2015

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 11-3-2015

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

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Signature of Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

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Signature of Court Reporter