

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
CERTAIN UNCOATED PAPER FROM AUSTRALIA,) 701-TA-528-529 AND
BRAZIL, CHINA, INDONESIA, AND PORTUGAL) 731-TA-1264-1268 (FINAL)

REVISED AND CORRECTED

Pages: 1 - 285
Place: Washington, D.C.
Date: Thursday, January 07, 2016



Ace-Federal Reporters, Inc.
Stenotype Reporters
1625 I Street, NW
Suite 790
Washington, D.C. 20006
202-347-3700
Nationwide Coverage
www.acefederal.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
CERTAIN UNCOATED PAPER FROM) 701-TA-528-529 AND
AUSTRALIA, BRAZIL, CHINA,) 731-TA-1264-1268
INDONESIA, AND PORTUGAL) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, January 7, 2016

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Dean A.
Pinkert, Vice Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Vice Chairman Dean A. Pinkert

5 Commissioner Irving A. Williamson

6 Commissioner David S. Johanson

7 Commissioner F. Scott Kieff

8 Commissioner Rhonda K. Schmidtlein

9

10

11 Staff:

12 Bill Bishop, Supervisory Hearings and Information

13 Officer

14 Sharon Bellamy, Program Support Specialist

15 Sonia Parveen, Student Intern

16

17 Nathanael N. Comly, Investigator

18 Vincent Honnold, International Trade Analyst

19 Amelia Preece, Economist

20 Charles Yost, Accountant/Auditor

21 David Goldfine, Attorney/Advisor

22 Douglas Corkran, Supervisory Investigator

23

24

25

1 APPEARANCES:

2 Congressional Appearances:

3 The Honorable Phil Roe, M.D., U.S. Representative, 1st
4 District, Tennessee

5 The Honorable Sean P. Duffy, U.S. Representative, 7th
6 District, Wisconsin

7 The Honorable Reid J. Ribble, U.S. Representative, 8th
8 District, Wisconsin

9 The Honorable Richard M. Nolan, U.S. Representative, 8th
10 District, Minnesota

11 The Honorable Bruce Westerman, U.S. Representative, 4th
12 District, Arkansas

13

14 State Government Appearance:

15 The Honorable Dennis M. Davin, Secretary of Community and
16 Economic Development, Office of the Governor of Pennsylvania

17

18 Opening Remarks:

19 Petitioner (Joseph W. Dorn, Counsel)

20 Respondents (Shara L. Aranoff, Covington & Burling LLP)

21

22

23

24

25

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

3 King & Spalding LLP
4 Washington, DC

5 and

6 Stewart and Stewart
7 Washington, DC

8 on behalf of

9

10 United Steel, Paper and Forestry, Rubber, Manufacturing,
11 Energy, Allied Industrial and Service Workers International
12 Union ("USW")

13 Domtar Corporation

14 Finch Paper LLC

15 P.H. Glatfelter Company

16 Packaging Corporation of America

17 Richard L. Thomas, Senior Vice President of Sales and
18 Marketing, Domtar Corporation

19 Robert Melton, Vice President of Business Papers and
20 Strategic Accounts, Domtar Corporation

21 Jack Bray, Vice President of Manufacturing Operations,
22 Domtar Corporation

23 Katie Zorn, Director of Marketing, Business Papers,
24 Domtar Corporation

25 David McGehee, President, Mac Papers, Inc.

1 APPEARANCES (Continued):

2 Bonnie B. Byers, Senior International Trade Consultant,
3 King & Spalding LLP

4 Dr. Seth T. Kaplan, Senior Economic Advisor, Capital
5 Trade, Inc.

6 Judith Lassa, Consultant, BOISE Paper, a division of
7 Packaging Corporation of America

8 Paul LeBlanc, Vice President, BOISE Paper, a division
9 of Packaging Corporation of America

10 Douglas Franz, Supply Chain Manager -- Production
11 Planning, BOISE Paper, a division of Packaging Corporation
12 of America

13

14 Leeann Foster, Assistant to the International President
15 & Associate General Counsel, USW

16 Joseph W. Dorn, Counsel

17 Stephen A. Jones, Terence P. Stewart, Elizabeth J.
18 Drake - Of Counsel

19

20

21

22

23

24

25

1 APPEARANCES (Continued):

2 In Opposition to the Imposition of Antidumping and

3 Countervailing Duty Orders:

4 Mayer Brown LLP

5 Washington, DC

6 and

7 Covington & Burling LLP

8 Washington, DC

9 on behalf of

10 Asia Symbol (Guangdong) Paper Co., Ltd.

11 GreenPoint Global Trading (Macao Commercial Offshore)

12 Limited

13 APRIL Fine Paper Macao Commercial Offshore Limited ("APRIL")

14 Alex Ismail, Chief Executive Officer, Liberty Paper

15 Roger Webb, International Paper Products LLC

16 Rick E. Moore, Vice President - Fine Paper,

17 International Paper Products LLC

18 Sunil Sud, Head, Pulp & Paper Sales, APRIL

19 Laurie A. Clark, President and CEO Satuit Consulting,

20 Inc.

21

22 Bruce Malashevich, President and Chief Executive Officer,

23 Economic Consulting Services

24 Duane W. Layton, Matthew J. McConkey, Jing Zhang, Shara

25 L. Aranoff and James McCall Smith - Of Counsel

1 APPEARANCES (Continued):

2 Steptoe & Johnson LLP

3 Washington, DC

4 on behalf of

5 Suzano Papel e Celulose S.A. ("Suzano")

6 Tom Tarpey, Manager of Sales, Suzano

7 Susan G. Esserman, Christopher G. Falcone and Nathan W.

8 Cunningham - Of Counsel

9

10 Cassidy Levy Kent (USA) LLP

11 Washington, DC

12 on behalf of

13 Portucel, S.A.

14 Portucel Soporcel, N.A.

15 Mike Dutt, General Manager, Portucel Soporcel, N.A.

16 Jonathan M. Zielinski - Of Counsel

17

18

19

20

21

22

23

24

25

1 APPEARANCES (Continued)

2 Sidley Austin LLP

3 Washington, DC

4 on behalf of

5 Paper Australia Pty. Ltd. d/b/a Australian Paper and Paper

6 Products Marketing Pty. Ltd.

7 Paper Products Marketing (USA), Inc.

8 Jim Peters, President, Paper Products Marketing (USA),

9 Inc.

10 Richard L.A. Weiner, Rajib Pal, and Justin R. Becker -

11 Of Counsel

12

13 Closing/Rebuttal:

14 Petitioner (Elizabeth J. Drake, Stewart and Stewart)

15 Respondents (Duane W. Layton, Mayer Brown LLP)

16

17

18

19

20

21

22

23

24

25

I N D E X

1		
2		Page
3	The Honorable Reid J. Ribble, U.S. Representative,	
4	8th District, Wisconsin	13
5		
6	The Honorable Phil Roe, M.D., U.S. Representative,	
7	1st District, Tennessee	17
8		
9	The Honorable Sean P. Duffy, U.S. Representative,	
10	7th District, Wisconsin	20
11		
12	The Honorable Richard M. Nolan, U.S. Representative,	
13	8th District, Minnesota	25
14		
15	The Honorable Bruce Westerman, U.S. Representative,	
16	4th District, Arkansas	34
17		
18	Opening Remarks:	
19	Petitioner (Joseph W. Dorn, Counsel)	40
20		
21	Respondents (Shara L. Aranoff, Covington & Burling LLP)	
22		45
23	The Honorable Dennis M. Davin, Secretary of Community	
24	and Economic Development, Office of the	
25	Governor of Pennsylvania	49

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page

Richard L. Thomas, Senior Vice President of Sales and
Marketing, Domtar Corporation

55

Leeann Foster, Assistant to the International President &
Associate General Counsel, USW

66

Jack Bray, Vice President of Manufacturing Operations,
Domtar Corporation

70

Robert Melton, Vice President of Business Papers and
Strategic Accounts, Domtar Corporation

73

Paul LeBlanc, Vice President, BOISE Paper, a division of
Packaging Corporation of America

78

David McGehee, President, Mac Papers, Inc.

82

Terence P. Stewart - Of Counsel

85

Bruce Malashevich, President and Chief Executive
Officer, Economic Consulting Services

169

I N D E X

1		
2		Page
3	Laurie A. Clark, President and CEO Satuit	
4	Consulting, Inc.	180
5		
6	Alex Ismail, Chief Executive Officer, Liberty Paper	185
7		
8	Roger Webb, International Paper Products LLC	188
9		
10	Susan G. Esserman - Of Counsel	193
11		
12	Tom Tarpey, Manager of Sales, Suzano	195
13		
14	Mike Dutt, General Manager, Portucel	
15	Soporcel, N.A.	199
16		
17	Closing/Rebuttal:	
18	Petitioner (Joseph W. Dorn, Counsel)	277
19		
20	Petitioner (Elizabeth J. Drake, Stewart and Stewart)	277
21		
22	Respondents (Duane W. Layton, Mayer Brown LLP)	281
23		
24		
25		

1 PROCEEDINGS

2 9:30 a.m

3 MR. BISHOP: Will the room come to order?

4 VICE CHAIRMAN PINKERT: Good morning. On behalf
5 of the United States International Trade Commission, I
6 welcome you to this hearing on Investigation No. 701-528-529
7 and 731-1264-1268 involving certain uncoated paper from
8 Australia, Brazil, China, Indonesia and Portugal. The
9 purpose of the final phase of these investigations is to
10 determine whether an industry in the United States is
11 materially injured or threatened with material injury by
12 reason of imports from Australia, Brazil, China, Indonesia
13 and Portugal that are sold at less than fair value and by
14 reason of imports that are subsidized by the governments of
15 China and Indonesia.

16 Documents concerning this hearing are available
17 at the public distribution table. Please give all prepared
18 testimony to the Secretary. Do not place it on the public
19 distribution table. All witnesses must be sworn in by the
20 secretary before presenting testimony. I understand that
21 parties are aware of time allocations but if you have any
22 questions about time, please ask the secretary. Speakers
23 are reminded not to refer to business proprietary
24 information in their remarks or answers to questions.

25 If you will be submitting documents that contain

1 information you wish classified as business confidential
2 your request should comply with Commission rule 201.6. I
3 would like to request that all witnesses and counsel state
4 your name for the record before delivering testimony and
5 responding to Commissioner questions. This helps the court
6 reporter to know who is speaking at any given point. Mr.
7 Secretary, are there any preliminary matters?

8 MR. BISHOP: No, Mr. Chairman.

9 VICE CHAIRMAN PINKERT: Very well. Will you
10 please announce our first Congressional witness?

11 MR. BISHOP: The Honorable Reid J. Ribble, United
12 States Representative, 8th District, Wisconsin.

13 VICE CHAIRMAN PINKERT: Welcome Representative
14 Ribble.

15 STATEMENT OF THE HONORABLE REID J. RIBBLE

16 REPRESENTATIVE RIBBLE: Good morning. Thank you
17 Vice Chairman Pinkert and members of the Commission for the
18 opportunity to testify before you today in support of the
19 domestic uncoated paper industry and its workers.

20 As you know, I represent Northeast Wisconsin,
21 which is home to a robust forest products industry that
22 employs over fifty-four thousand people. Our paper
23 manufacturers are among the most efficient in the world.
24 Our workforce is well-trained and have a strong work ethic.
25 Moreover, our companies continue to invest in themselves to

1 compete in a changing global economy. But even the most
2 efficient producers cannot prosper when the rules of trade
3 are being broken.

4 As I said when I appeared before you two years
5 ago in another trade case, I'm a deep believer in trade but
6 I believe just as strongly that countries ought to play by
7 the rules that they have agreed to with other nations
8 without force and of their own choosing. When companies
9 dump their products on our market or receive government
10 subsidies as is the case here, they are not playing by the
11 rules that they agreed to.

12 My comments today are in support of a case
13 brought by Domtar Corporation, Finch Paper, Glatfelter
14 Company, the Packaging Corporation of America and the United
15 Steel Workers to obtain relief from rapidly increasing
16 imports of certain uncoated paper products from five
17 nations. As you may know, five paper mills in Wisconsin
18 Manufactured these uncoated paper products including the
19 Neenah Paper Mills in Appleton and Neenah, Wisconsin. Each
20 of these mills has a significant economic impact in their
21 community employing hundreds of workers.

22 I urge the Commission to vote in the affirmative
23 when you make your final determinations next month on
24 whether these companies and their workers have suffered
25 material injury from the dumped exports from Australia,

1 Brazil, China, Indonesia and Portugal and the subsidized
2 exports from China and Indonesia. I believe that government
3 subsidies are an incredibly inefficient and
4 market-distorting and are unfortunately a standard policy in
5 many countries.

6 Moreover, the dumping of products into the United
7 States market below the sale prices in these five countries
8 does further harm to the U.S. uncoated paper sector. I
9 believe that the data from your December prehearing staff
10 report makes the case for an informative decision in the
11 anti-dumping cases on imports from Australia, Brazil, China,
12 Indonesia and Portugal and in the countervailing duty cases
13 on imports from China and Indonesia.

14 On the dumping side, the largest distortions are
15 coming from China. The department of Commerce has already
16 made a preliminary determination of Chinese dumping margins
17 of ninety-seven to one hundred and ninety-three percent.
18 The other preliminary dumping margins are as high as
19 forty-one percent for Australia, thirty-three to forty-two
20 percent for Brazil and up to fifty-two percent for Indonesia
21 and thirty percent for Portugal.

22 Additionally, the subsidy margins of six to one
23 hundred and twenty-six percent for China and a forty-three
24 to one hundred and thirty-one percent for Indonesia cause a
25 double hit on U.S. Producers of certain uncoated paper.

1 Taken together, these numbers demonstrate that imports from
2 these five nations are nowhere close to fair market pricing.
3 Recent data from this Commission indicates a significant
4 surge in imports of certain uncoated paper products from
5 these five nations, a seventy-two percent increase between
6 2012 and 2014. At the same time, overall U.S. demand for
7 the product declined 5.6%.

8 I want to thank the Commission for the chance to
9 highlight the importance of a successful resolution of this
10 case. The uncoated paper industry in my State of Wisconsin
11 and across the country is fortunate to have U.S. Antidumping
12 and Countervailing Duty Laws available to seek relief from
13 egregious foreign trade behavior. I urge you to avail the
14 industry and its workers of that relief with an affirmative
15 final determination based on U.S. Department of Commerce and
16 International Trade Commission data. Thank you for the
17 opportunity to testify this morning

18 VICE CHAIRMAN PINKERT: Thank you, Representative
19 Ribble. Are there any questions for the representative? If
20 not, we will let you go and thank you very much for coming
21 and testifying today.

22 REPRESENTATIVE RIBBLE: Thank you, Mr. Pinkert.
23 MR. BISHOP: Our next Congressional Witness is the Honorable
24 Phil Roe, United States Representative, First District,
25 Tennessee.

1 VICE CHAIRMAN PINKERT: Welcome Representative
2 Roe, you may begin when you are ready.

3 STATEMENT OF THE HONORABLE PHIL ROE

4 DR. ROE: Thank you Chairman Pinkert and members
5 of the International Trade Commission. Good morning and
6 thank you for allowing me to testify here today. My name is
7 Dr. Phil Roe and for the last seven years I've had the
8 distinct honor of representing Tennessee's first
9 Congressional District in the United States House of
10 Representatives. As a representative, one of my highest
11 priorities has been advancing policies that encourage
12 economic growth and job creation in east Tennessee.
13 Downtown Kingsport, Tennessee has hosted a paper mill on the
14 banks of the Holston River since 1916. Today, one hundred
15 years later that paper mill is now owned by Domtar and is an
16 important cog in the economic engine for the Tri Cities.
17 Three hundred thirty-five men and women make some of the
18 finest, uncoated, free sheet paper in this state-of-the-art
19 facility. The mill has some of the newest, most modern
20 equipment of any mill in North America. This includes the
21 only sulfur-free pulping process on the continent making the
22 operation compatible with nearby neighbors, which happens to
23 be my Congressional Office. My office is not two hundred
24 yards from the front door and they are great neighbors.
25 Locals at the mill refer to the sole paper

1 machine in Kingsport as the K1 machine. The machine is
2 capable of producing four hundred and fourteen thousand tons
3 of printing and writing paper every year. Much of the paper
4 produced in Kingsport is transferred a mile or two to a
5 converting facility where large roles of paper are converted
6 to reams of sheeted paper, suitable for printers and
7 photocopiers. I'm extremely proud of the nearly four
8 hundred workers that are located in these two sites in my
9 district.

10 Domtar is one of the ten largest employers in
11 Kingsport and has an annual direct economic impact of more
12 than two hundred million dollars. When applying commonly
13 used economic multipliers, the true impact of this facility
14 becomes extremely significant throughout our region. I'm
15 very concerned, not only for my constituents but more
16 broadly the entire Domestic Industry when foreign producers
17 exploit trade practices to the detriment of U.S. Workers.

18 As I understand it, the case before the ITC
19 covers a critical segment of U.S. paper production that is
20 involving uncoated, free-sheet paper that one would find in
21 photocopiers, direct mail, office printers and more. I'm
22 here today to urge you to make your earlier preliminary
23 injury determinations against paper producers in Australia,
24 Brazil, China, Indonesia, and Portugal final. I strongly
25 support free trade but we must insist on a level playing

1 field that trade must not only be free but fair.

2 Two years ago, I was in China, I was standing in
3 Beijing and thought "here's a country with a 1.4 billion
4 people." This country has slightly over three hundred
5 million people and guess what? We produce more goods and
6 services as they do. We can do that if the trade is fair,
7 but not unfair. It is clear that the value of imports from
8 producers in countries covered by this trade action
9 significantly increased between 2012 and 2014. The
10 preliminary determination imposing countervailing duties
11 against producers in China and Indonesia and antidumping
12 duties against producers in Australia, Brazil, China,
13 Indonesia and Portugal has helped to even out the playing
14 field and allow for free and fair trade to resume. That's
15 why I am such a strong supporter of having the preliminary
16 determinations made permanent. Americans can compete and
17 thrive in the global marketplace where trade is free and
18 fair.

19 Across the United States, tens of thousands of
20 workers in the Domestic Paper Industry have been displaced
21 and there's no question that unfair trading practices have
22 been a major contributor to this displacement. I urge you
23 to look at the facts uncovered in this investigation and
24 ensure workers in Tennessee and elsewhere have the
25 opportunity to compete freely and fairly by issuing your

1 final determination. I find it ironic that forty-three
2 years ago next month, as a young soldier I went to Southeast
3 Asia, spent thirteen months of my life, and during that time
4 post-World War II my father was losing his union job to
5 Mexico because of trade practice. I find that very ironic
6 forty-three years later being here.

7 I want to thank you for addressing this important
8 issue and I look forward to your communications as these
9 proceedings move forward. Thank you.

10 VICE CHAIRMAN PINKERT: Thank you representative
11 Roe. Are there any questions for the Representative? If
12 not, I want to thank you very much for testifying today and
13 we will let you go. Thank you very much.

14 MR. BISHOP: Our next Congressional witness is
15 the Honorable Sean P. Duffy, United States Representative,
16 7th District, Wisconsin.

17 VICE CHAIRMAN PINKERT: Welcome Representative
18 Duffy and you may begin when ready.

19 STATEMENT OF THE HONORABLE SEAN P. DUFFY

20 REPRESENTATIVE DUFFY: I want to thank the panel
21 and good morning Vice Chairman Pinkert and members of the
22 Commission. I appreciate the opportunity to appear before
23 you today on an issue that is critical, not only to my
24 district but to the whole state of Wisconsin as you earlier
25 heard from Congressman Reid Ribble.

1 Papermaking jobs are some of the best
2 manufacturing jobs in the United States. These are jobs
3 with good wages and great benefits. Growing up in
4 Wisconsin, the path from high school to the mill is very
5 well worn. These jobs allow many Wisconsinites to raise a
6 family and to live out the American dream. These men and
7 women who rely on these jobs, what they never counted on was
8 the impact of foreign governments and foreign producers,
9 some half a world away having an impact on their jobs.

10 The expectation was that our government would be
11 there to offer protections from importers that weren't
12 playing fairly by the rules. As you may know, papermaking
13 is a considerable economic force in my home state. In fact,
14 the Badger State ranks number one among all the states in
15 the country in terms of pulp and papermaking capacity. The
16 industry provides an excellent-paying job in predominantly
17 rural areas. In some communities the paper mill is
18 literally the lifeblood that sustains these small towns and
19 communities throughout my District.

20 In my District, the Village of Rothschild is the
21 site of a pulp and paper mill that is owned and operated by
22 Domtar. Papermaking operations began there in 1909 and
23 continue today, with the mill producing one hundred and
24 thirty-eight thousand tons of paper annually. The facility
25 employs four hundred hard-working Wisconsinites and boasted

1 an annual estimated economic impact of almost three hundred
2 million dollars. The downtown mill is the largest private
3 employer in Rothschild and one of the largest employers in
4 Marathon County where Rothschild is located.

5 The primary product that Domtar produces at the
6 Rothschild facility is known as uncoated free sheet. It's
7 an industry term for printed paper, which I am holding here
8 today and I know you all are familiar with, it's an industry
9 term for printed paper that is used every day in our office
10 copiers and printers and commercial printing operations and
11 in direct mail and in other applications. Demand for this
12 type of paper has been declining over the past several
13 years, due mainly to competition from electronic devices.
14 We're all using smart phones today and it reduces the demand
15 for paper.

16 But with the constant evolution of these
17 communication devices, this type of competition is
18 inevitable and the Domestic Paper Industry is taking steps
19 to deal with that new competition. What U.S. Producers like
20 Domtar cannot deal with though is unfair competition in the
21 form of illegal, subsidized and dumping products coming into
22 the U.S. Markets from foreign companies. Decreasing demand
23 makes U.S. companies particularly vulnerable to unfairly
24 traded imports like we've seen in this case.

25 I'm here today to ask that you make final

1 affirmative injury determinations in these investigations.
2 In 2008, my community witnessed firsthand the impact of
3 closure of a Domtar mill in Port Edwards, Wisconsin where
4 five hundred workers were laid off. Every pocket across my
5 state has been impacted. I don't want to see that happen
6 again to other Wisconsin mills and towns because the U.S.
7 Government didn't enforce our trade laws. Just as a side
8 note, we look at the impact that paper mills in Wisconsin
9 have on our community. But it's not the community where
10 that paper mill is located as I think the Commission is well
11 aware, we have a forest products industry that spreads
12 across our whole state where men and women work in the woods
13 harvesting timber and providing product to paper mills. So
14 a paper mill has a direct impact on the community at large
15 where that mill is located. The impact across the state for
16 one hundred miles away impacts small communities where men
17 and women are in the woods providing product to that mill
18 and so the economic impact and the job loss impact is
19 substantial well beyond the closure of a Wisconsin paper
20 mill.

21 The United States and Wisconsin's Paper Industry
22 has suffered financial losses and lost thousands of jobs as
23 a result of persistent patterns of unfair trade across all
24 segments of the Industry. Along with foreign producers that
25 have unrestricted access to the open markets of United

1 States, even while some of these producers defraud our
2 government and cause injury to Domestic Producers by dumping
3 undervalued products can't be allowed to continue. The
4 International Trade Commission and the U.S. Department of
5 Commerce has each conducted a thorough investigation of the
6 facts in this case. Based upon this analysis,
7 Preliminary Injury Determinations were found to have
8 impacted the Petitioners. Accordingly, Countervailing
9 Duties were imposed against producers in China and in
10 Indonesia and Antidumping Duties were imposed against
11 producers in Portugal, Indonesia, Australia, China and
12 Brazil. I understand these duties have helped to keep
13 unfairly subsidized paper from reaching the U.S. shores,
14 thereby serving to level the playing field for Domestic
15 Producers in Wisconsin and throughout the country.

16 The ITC has the ability to make a real difference
17 for the Pulp and Paper Workers in the 7th District of
18 Wisconsin, Wisconsin as a whole and the Country as a whole.
19 There would be no reason to allow unfair trade to take a
20 further toll on this Industry. On behalf of the four
21 hundred workers that rely on the good-paying jobs at the
22 Rothschild paper mill in my District and the hundreds more
23 that provide the product to that mill, I strongly urge you
24 to keep these duties in place. I want to thank you for your
25 time and your careful consideration of this case. Thank

1 you.

2 VICE CHAIRMAN PINKERT: Thank you, Representative
3 Duffy. Are there any questions for the representative? If
4 not we will let you go and we really appreciate you coming
5 in and testifying today.

6 MR. BISHOP: Our next Congressional Witness is
7 the Honorable Richard M. Nolan, United States
8 Representative, 8th District, Minnesota.

9 VICE CHAIRMAN PINKERT: Welcome back,
10 Representative Nolan and you may begin when you're ready.

11 STATEMENT OF THE HONORABLE RICHARD M. NOLAN

12 REPRESENTATIVE NOLAN: Thank you. My name is
13 Richard Nolan, Congressman from the 8th district of
14 Minnesota and as I know some of you know, Mr. Williams in
15 particular, I spent the better part of an adult lifetime in
16 International Trade. Your Commissioner Williams and I used
17 to run into each other at various major trading centers
18 around the world, so I come to you as not only a
19 representative of the people from Minnesota but someone who
20 has some considerable experience in International Trade.

21 In fact, I was the, for a fair amount of time, a
22 chairman of the world's largest private sector trade
23 association's trade policy committee. So from both a
24 private sector policy perspective, from a practical
25 application of buying and selling goods around the world,

1 together with one responsible for the policies at a
2 Congressional level, I want you to know what those
3 experiences are and they've been considerably helpful in
4 understanding the implications of all this.

5 Mr. Chairman, with your permission, I would like
6 to ask that my written statement be included as is and then
7 for the sake of time I will just paraphrase here some of
8 what I think some of the more salient and important points
9 here.

10 VICE CHAIRMAN PINKERT: Certainly.

11 REPRESENTATIVE NOLAN: Thank you, Mr. Chairman.
12 So let me just start by saying I'm here in support of the
13 Steel Workers, Paper Corporation of America, the other paper
14 producers and the companies in U.S. Paper Industry who have
15 brought these important trade cases before the Commission
16 with regard to certain uncoated paper imports from
17 Australia, Brazil, China, Indonesia, Portugal. The illegal
18 dumping that has taken place, putting product in the market
19 at prices far below their own market prices and their own
20 production costs and putting a severe, severe problem on the
21 American Producers.

22 I know you all agree that our American workers
23 and companies can produce as effectively and efficiently as
24 anyone in the world if you're given a level playing field.
25 So I want to go on record of in favor of imposing

1 countervailing duties on the products from these five
2 nations. My District is right in the heart of wood fiber
3 industry in Northern Minnesota and it also includes the
4 Minnesota Iron Range both of which have been decimated by
5 illegal trade dumping as had been determined by preliminary
6 declarations by the Department of Commerce and by this
7 Commission as well.

8 In that regard, I've actually sponsored
9 legislation to impose a five year moratorium on steel
10 imports. The preliminary indications are that tariffs by
11 commerce have been recommended in excess of two hundred
12 percent on imports from China and I certainly urge you at
13 this time to give careful consideration to that as well
14 although I know that's not the subject here at the moment.

15 For all those who are advocates of free trade as
16 we've just witnessed by my colleagues here who testified
17 before me, everyone insists that it has to be fair and
18 that's why these trade agreements have enforcement
19 mechanisms in place but it's no secret to those of us who
20 have been in the business as well as those who've observed
21 it from a Representative's point of view that many of these
22 nations have just a multitude of ways of getting around the
23 enforcement mechanisms. You know, to change the definition
24 or the classification of the product or move it to another
25 country, give it another name and thus you see this

1 continuing flood of dumping in the U.S. Market.

2 So, as you may or may not recall, it was in 2001
3 that President Bush used Section 201 of the Trade Laws to
4 impose some very stiff tariffs and penalties on steel. I
5 believe it was section 19 of the World Trade Agreements that
6 also allow for countries to impose tariffs and duties, not
7 just in the case of illegal dumping but if a determination
8 has been made that what's happening is detrimental to a
9 particular important business or industry for a country.

10 For those who favor free trade or oppose the
11 trade agreements, the one thing we all agree on is whatever
12 it is, it's got to be fair and you have the very tough and
13 difficult job of seeing to it that it is fair and that the
14 terms of the agreement are enforced and rightfully so.
15 Because unless we do that, I mean it's a serious threat to
16 our not only our national economy but to our national
17 security and represents a serious threat to our workers, the
18 companies, the communities that surround them as the other
19 witnesses have just indicated.

20 There are a number of other legislative efforts
21 underway. I have also cosponsored the Trade Enforcement
22 Improvement Act, which was sponsored in the Senate by
23 Senator Franken and Klobuchar and that would strengthen some
24 of the Antidumping and Countervailing Duty laws and also
25 make duty evasion by foreign countries more difficult. So

1 Free Trade does not appear to have worked very well under
2 the current system, I mean some fifty thousand American
3 Manufacturers have gone out of business, millions of people
4 have lost their jobs.

5 Since 2002, my information tells me that more
6 than one hundred and twenty-six mills have closed and
7 approximately two hundred and twenty-three thousand good
8 paying industry jobs have gone away here in this country,
9 including thirty-eight hundred jobs in Minnesota alone,
10 towns like Brainerd and Sartell and Duluth and International
11 Falls and Cloquet where massive layoffs have occurred and/or
12 companies have been shut down.

13 The simple truth is that trade policies that we
14 have, it's just got to do a better job of enforcement. I
15 know the laws in that regard need to be strengthened but I
16 want you to know that I am grateful to this Commission for
17 their hard work and the dedication and the efforts that you
18 have made to make sure that these trade laws are enforced
19 and doing everything you can to put an end to these illegal
20 practices.

21 As you know, the so-called certain uncoated paper
22 products in question today include uncoated paper, copier
23 and printer paper and standard sizes as well as uncoated
24 paper for commercial printing and a wide variety of sizes
25 and I am proud to note that this paper is manufactured by

1 U.S. Steel Workers and the Paper Corporation of America in
2 my District in the Town of International Falls, Minnesota.
3 You may know it as the coldest spot in the Nation, which it
4 almost always is.

5 I recall one of the network newscasters was up
6 there and it was like fifty below zero and they asked them,
7 they said "How do you deal with this terribly cold weather?"
8 He said "well, you know, it's all about layers. You have
9 some underwear and some wool pants and some snow pants and
10 hats and insulated boots and all kinds of shirts and
11 everything". The newscaster says well "I suppose if you get
12 all that on, you're pretty warm?" He says "No, no, you're
13 still colder than hell."

14 (Laughter)

15 REPRESENTATIVE NOLAN: Since that town was
16 incorporated, we've had a paper mill there and the progress
17 of that town and the survival of that town quite frankly has
18 always been dependent upon that paper mill there. That's
19 true as the other witnesses have said of the many towns in
20 America. So it's not just a company, it's not just jobs.
21 It's not our ability to sustain the production of important
22 and valuable products in this country. It's also about the
23 survival of communities for which paper production and
24 forest products industries have been an inextricable part of
25 their lives forever and it's mindful of the fact that we are

1 rich in these natural resources.

2 In the case of the iron range, it's the taconite,
3 it's the ore, it's the steel and in this case here it's the
4 forest products industry. We have vast, wonderful forest;
5 great natural resources and they are badly needed throughout
6 the world and we have to make sure our producers have been
7 given a fair market. Today, the Paper Corporation of
8 American employs five hundred and eighty people. It
9 continues to be the largest employer in the town.

10 In recent years, they've had to shut down two of
11 the four main lines or machines and laid off several hundred
12 workers in the process because of this illegal dumping.
13 There is probably another thousand jobs in the little
14 community of six thousand that are related to the jobs from
15 the mill, so this is a big deal, this is a big deal for us.
16 We've seen this rapid rise in unfairly traded imports and we
17 just simply can't allow the investments that great
18 corporations like the Paper Corporation of America make and
19 the workers who go to work every day to be the victims and
20 to be disrupted by this egregious illegal dumping.

21 As you noted in your own preliminary report, the
22 facts are first of all that the demand for uncoated paper
23 fell by 5.6% in no small measure because of the nonmarket
24 practices of many of these countries around the world, like
25 China which are not drive by the traditional market

1 principles that we live by. You've seen this overproduction
2 and while the demand fell by 5.6%, the imports by these five
3 nations jumped seventy-one percent here in this country.

4 Clearly, this is an unmistakable trend line for
5 this factor and sadly, worst of all, the market share of
6 foreign producers has nearly doubled since 2012 from 9.6 to
7 17.4% and this increase came at the direct dispense of
8 Domestic Producers who lost 7.5 percentage points of the
9 market share over that same period of time. One cannot help
10 but be greatly disturbed, more than twenty-five hundred
11 Americans have lost their jobs in the industry since 2011,
12 four American plants have closed and others have
13 significantly reduced their capacity.

14 Some of the other colleagues spoke to the dumping
15 margins so I won't go into that but let me just say that I'm
16 delighted that a coalition of steel workers and companies
17 like Domtar and Fincher and Glatfelter and the Paper
18 Corporation of America and U.S. Steel workers are coming
19 together and I want to express my appreciation for you, that
20 you have carefully reviewed the evidence and issued a
21 preliminary affirmative decision in March of this year that
22 began to impose duties and appreciate that your colleagues
23 over at Congress have made preliminary determinations of
24 dumping and subsidization with their final determinations
25 due shortly.

1 In my view of the record before the Commission in
2 these final investigations will support an affirmative final
3 decision. Again, let me conclude by saying I appreciate the
4 opportunity to testify and urge all due speed in arriving at
5 a final determination. Thank you again for your work and
6 the opportunity to testify before you here today.

7 VICE CHAIRMAN PINKERT: Thank you, Representative
8 Nolan. Are there any questions for the representative?

9 (No response.)

10 VICE CHAIRMAN PINKERT: I just wanted to get a
11 clarification on International Falls. Is that related to
12 Frostbite Falls in --

13 [LAUGHTER]

14 VICE CHAIRMAN PINKERT: -- in any way?

15 REPRESENTATIVE NOLAN: No, but it's just down the
16 road from Embarrass.

17 [LAUGHTER]

18 VICE CHAIRMAN PINKERT: All right. Well, thank
19 you very much for testifying today. And you may -- you may
20 go at this point.

21 REPRESENTATIVE NOLAN: Thank you very much.

22 MR. BISHOP: Our final Congressionally witness is
23 the Honorable Bruce -- Bruce Westerman, United States
24 Representative, Fourth District, Arkansas.

25 VICE CHAIRMAN PINKERT: Welcome, Representative

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

2 STATEMENT OF THE HONORABLE BRUCE WESTERMAN

3 REPRESENTATIVE WESTERMAN: I'm Bruce Westerman,
4 member of Congress from the Fourth District of Arkansas.

5 Good morning, Chairman Pinkert and members of the
6 International Trade Commission and thank you for this
7 opportunity to appear before the Commission today on a
8 matter that's of great importance to the Fourth
9 Congressional District of Arkansas, as well as the rest of
10 our country.

11 It's a real pleasure for me to be here and to
12 testify on behalf of an issue that I'm passionate about
13 because our forest products industry, our forestry and
14 timber segments are an important part of our economy and
15 they're especially important to my Congressional District,
16 to my state.

17 Since 1968, the city of Ashdown located in Little
18 River County in southwest Arkansas has hosted a pulp and
19 paper mill. The proud tradition of making paper and paper
20 products in Ashdown continues today with Domtar owning and
21 operating an integrated pulp and paper mill. From Ashdown
22 finished paper is sent to customers across the United States
23 with some Ashdown products shipped to international
24 customers.

25 I have visited the Ashdown mill on a number of

1 times and have always been amazed by the size and the scope
2 of the facility. Given my linkage to the forest products as
3 a professional engineer and forester, I perhaps have more of
4 an interest in what goes on at the mill than many others.
5 But I know that many people in Arkansas remember the day
6 when the number 64 paper machine, the Ashdown Express, began
7 operations in the mid-90's. It was said at the time that
8 this new paper machine was among the biggest, fastest, and
9 most efficient and productive machines on the face of the
10 earth.

11 In 2011 Domtar announced the permanent shutdown
12 of a smaller paper machine, Ashdown 61. That was because of
13 declining market conditions and increasing imports of
14 uncoated paper.

15 Such closures are always tough on small
16 communities like Ashdown. These mills are often the life
17 blood of a small town and when we lose good-paying jobs,
18 it's a hardship for the whole community and has far-reaching
19 ripple effects.

20 More recently, forces have combined that have
21 caused Domtar to announce the curtailment of paper making on
22 the number 64 machine. In December of 2014, Domtar
23 announced that the number 64 machine would be permanently
24 converted from manufacturing fluff pulp and material that is
25 used as the absorbent material in baby diapers and adult

1 incontinence products. With the announcement came the news
2 that nearly 100 of my constituents would lose employment at
3 the mill. Domtar pledged to try to absorb many displaced
4 workers as retirements and resignations. But nevertheless,
5 this region will feel the pain from losing 100 of some of
6 the best manufacturing jobs in Arkansas.

7 Machine number 64 was specifically designed to
8 produce uncoated, free-sheet paper. That is its highest and
9 best use. But now that imports have captured such a
10 significant share of the U.S. market for uncoated
11 free-sheet, Domtar decided that it could no longer go on
12 producing paper because it could not find customers or sell
13 profitably.

14 While we are relieved that Domtar found a way to
15 repurpose this machine, it comes at the expense of 100 jobs.
16 Additionally Domtar will have to make significant
17 expenditures to convert the machine to fluff production.
18 And it will receive lower margins that it could have earned
19 making the paper that the machine was designed for.

20 Unfair trading conditions from international
21 competitors have had a profound impact in my district. I
22 credit Domtar for doing what they have done to lessen this
23 impact, but this is little consolation to the sandwich shop
24 owner, or the transmission shop owner who has seen customers
25 disappear.

1 Reduced production is detrimental to Forest Hill
2 because it interrupts management practices. These ripple
3 effects are much further reaching than just those 100 jobs
4 that are impacted at the mill.

5 I'm here today on behalf of the more than 900
6 Ashdown employees to ask that the preliminary determinations
7 of dumping by producers in Australia, Brazil, China,
8 Indonesia, and Portugal and the preliminary imposition of
9 countervailing duties against producers in Indonesia and
10 China be made final.

11 The issue of unfair international trade is not
12 just impacting Domtar and the other petitioners, but indeed
13 has negatively impacted all segments of the industry. As
14 producers in the country cited earlier, dumped their
15 products on our shores, some at subsidized prices, domestic
16 producers have seen their market share erode away.

17 The Fourth Congressional District has lost paper
18 production at several sites over the recent past. Allowing
19 foreign producers to have unrestricted access to the open
20 markets of the United States while some of these producers
21 are knowingly defrauding us by dumping undervalued products
22 is inexcusable.

23 Vice Chairman Pinkert and members of the
24 Commission, this issue is personal to me, not only because
25 it affects constituents in my district, but I spent my

1 engineering and forestry career designing forest products
2 manufacturing facilities. I have a deep understanding of
3 the technologies and processes used not only in the U.S.,
4 but around the world. And I visited a considerable number
5 of foreign facilities as well as hundreds of our domestic
6 facilities.

7 The U.S. is the leader in technology and has
8 invested billions in assets. In some manufacturing
9 processes, the cost of timber can account to up to 60 to 70
10 percent of the total production costs. We have the safest
11 and most environmentally friendly facilities in the world.
12 We manage our timber in a sustainable manner. We have some
13 of the highest trained employees in the world. We are
14 producing productively and efficiently. We are good
15 stewards and we're doing it right.

16 The point I want to make is this, if anyone is
17 stealing U.S. market share in this industry, while shipping
18 their products halfway around the world to reach our
19 markets, then something is not fair and someone is playing
20 by a different set of rules. Whether it's subsidized
21 timber, lax environmental standards, or subpar labor
22 standards, there is an unfair advantage and American workers
23 and businesses pay the price.

24 Where there is smoke, I encourage you to please
25 go find the fire.

1 The ITC has the ability to make a real difference
2 for pulp and paper workers in the Fourth Congressional
3 District of Arkansas. Please keep the antidumping and
4 countervailing duties in place. Our domestic paper industry
5 needs the International Trade Commission to do the right
6 thing by ensuring that producers from around the globe abide
7 by the same rules as producers here in the homeland.

8 Thank you for this opportunity to testify and I
9 will be happy to answer any questions.

10 VICE CHAIRMAN PINKERT: Thank you, Representative
11 Westerman.

12 Are there any questions for the representative?

13 (No response.)

14 VICE CHAIRMAN PINKERT: If not, we'll let you go
15 and thank you very much for testifying today.

16 REPRESENTATIVE WESTERMAN: Thank you.

17 MR. BISHOP: Mr. Chairman, that concludes our
18 congressional witnesses for the day.

19 Secretary Davin of the Office of the Governor of
20 Pennsylvania will arrive later this morning.

21 VICE CHAIRMAN PINKERT: Thank you, Mr. Secretary.

22 Before we begin with opening remarks, it's come
23 to my attention, Mr. Dorn, that this is likely to be the
24 last of your many appearances before the Commission which
25 stretch back over the last several decades. I'm told all

1 the way back to 1976. You've come before us in cases
2 involving at least 20 countries and representing many
3 clients and industries from wooden bedroom furniture to gray
4 Portland cement, plastic bags, steel, paper, sinks,
5 raspberries, magnesium, and cookware, and I'm sure others as
6 well.

7 I know well from both sides of this dais, your
8 dedication to craft, the high quality of your preparation
9 and advocacy, and the courtesy you extend as a matter of
10 course to all of your colleagues, whether they're on your
11 side, on the other side, or even on the investigating side.

12 I'm sure I speak for my colleagues in thanking
13 you for the gentlemanly way that you have conducted yourself
14 before this Commission. I wish you a long and happy
15 retirement. May the college sports gods look kindly upon
16 the UNC Tar Heels and may you enjoy many fruitful hours of
17 fandom, fly fishing, and family fun.

18 (Applause.)

19 VICE CHAIRMAN PINKERT: Mr. Secretary, let us now
20 proceed with opening remarks.

21 MR. BISHOP: Opening remarks on behalf of
22 Petitioners will be given by Joseph W. Dorn, Counsel for
23 Petitioners.

24 OPENING REMARKS OF JOSEPH W. DORN

25 MR. DORN: I just want to thank Vice Chairman

1 Pinkert for those very kind remarks. It's been a highlight
2 of my career to appear before this Commission. I've always
3 appreciated the courtesy of the Commissioners. It's one of
4 my favorite fora to have ever practiced in and I really
5 appreciate your courtesy and paying attention to me and not
6 being too hard on me all these years. Thank you very much.

7 May I begin?

8 VICE CHAIRMAN PINKERT: Proceed.

9 MR. DORN: Good morning. Joe Dorn for
10 Petitioners. This case is about rapidly increasing imports
11 of certain uncoated paper from Australia, Brazil, China,
12 Indonesia and Portugal. Imports from all five countries are
13 dumped and imports from China and Indonesia are also
14 subsidized.

15 Three key conditions of competition make this
16 industry especially susceptible to injury from unfairly
17 priced imports. First, certain uncoated paper is a
18 price-sensitive commodity like product. Twenty-pound,
19 letter-size copy paper captures a very large share of the
20 competing sales at issue. That paper is perfectly
21 interchangeable regardless of source. As a result
22 purchasing decisions are largely based on price.

23 Contrary to the claims of Brazil and Portugal,
24 paper from all subject countries is fungible and competes
25 head to head in all channels of distribution.

1 Second, this industry is highly capital
2 intensive. A new pulp and paper mill would cost over a
3 billion dollars. Paper machines operate 24/7 in order to
4 minimize per-unit fixed costs. Thus, U.S. producers have a
5 strong economic incentive to meet lower import prices to
6 avoid lost sales and underutilized capacity.

7 Third, the industry is suffering from a long-term
8 secular decline in demand. U.S. consumption declined by 5.6
9 percent from 2012 to 2014, and by 1.5 percent from interim
10 '14 to interim '15.

11 Applying the statutory factors in the context of
12 these conditions of competition, the domestic industry is
13 materially injured by reason of subject imports.

14 First, the volume of imports and the increase in
15 the volume of imports are significant. During 2014 imports
16 from the subject countries equaled 83 percent of imports
17 from all countries and 17 percent of U.S. consumption. They
18 increased by over 70 percent from 2012 to 2014 and increased
19 their share of U.S. consumption from 9.6 percent in 2012 to
20 17.4 percent in 2014. Subject imports would have continued
21 to increase in interim 2015 had U.S. producers not reduced
22 prices to avoid further lost sales and had preliminary
23 duties not been imposed.

24 Second, subject imports had very negative price
25 effects. They undersold the domestic-like product in 62

1 percent of the quarterly pricing comparisons. The
2 purchasers confirmed that subject imports were lower priced.
3 Not a single purchaser indicated that imports from either
4 Brazil or Portugal were priced higher than the domestic-like
5 product.

6 Purchasers also indicated that U.S. producers
7 reduced their prices to meet the lower import prices.
8 Subject imports both depressed and suppressed U.S. prices.
9 U.S. producers' prices declined from the first quarter of
10 2012 to the third quarter of 2015. In addition, the
11 industry's ratio of COGS to sales revenue increased from
12 2012 to 2014 and again from interim '14 to interim '15.

13 With increasing costs and reduced supply from the
14 closure of International Paper's mill at Courtland, Alabama,
15 U.S. producers attempted to raise prices in 2014 to recover
16 from recent price depression. Subject imports, however, did
17 not match the price increases. Instead, they used their
18 lower prices to grab an additional 5.6 percentage points of
19 market share from 2013 to 2014.

20 Contrary to Respondents, subject imports did not
21 increase in 2014 due to insufficient U.S. papermaking
22 capacity. It's important to understand that the industry's
23 paper machine capacity is flexible and far exceeds its
24 sheeting capacity. It can be used to make sheeter rollers
25 for certain uncoated paper or web rollers for various other

1 paper products. Thus, the industry's capacity limitation is
2 its sheeting equipment, not its paper machines. The
3 industry had ample sheeting capacity and papermaking
4 capacity to supply the market in 2014.

5 Third, subject imports had a severe adverse
6 impact on the domestic industry's operations and financial
7 results. From 2012 to 2014, the domestic industry lost 7.5
8 percentage points of market share and suffered substantial
9 declines in production and capacity utilization. The
10 industry's operating income plunged by 39 percent from 2012
11 to 2014. Forced to lower prices in 2015 to stem the loss in
12 market share, the industry's operating income fell an
13 additional 20 percent from interim '14 to interim '15.

14 The rapid increase in lower-priced imports also
15 accelerated the industry's disinvestment in U.S. production
16 assets and separation of U.S. workers. The value of total
17 assets fell by 10 percent and employment of production
18 workers fell by 18 percent. In absolute numbers, by 1,259
19 workers from 2012 to 2014.

20 Because this industry is already injured, there
21 is no need for the Commission to assess threat. With the
22 rapid increase in imports, the significant underselling, the
23 excess capacity in the subject countries, and the government
24 subsidies from China and Indonesia -- all in the context of
25 declining U.S. consumption -- make clear that future injury

1 is imminent.

2 In conclusion, the Commission should reach
3 affirmative determinations in each of these investigations.
4 We thank the staff for putting together the prehearing
5 report. We look forward to our dialogue this morning.

6 Thank you very much.

7 VICE CHAIRMAN PINKERT: Thank you.

8 MR. BISHOP: Opening remarks on behalf of
9 Respondents will be given by Shara L. Aranoff, Covington and
10 Burling.

11 VICE CHAIRMAN PINKERT: Welcome back to the
12 Commission, Ms. Aranoff. You may begin when you're ready.

13 OPENING REMARKS OF SHARA L. ARANOFF

14 MS. ARANOFF: Thank you, Mr. Chairman. And happy
15 New Year to you Mr. Chairman, Commissioners and staff. I'm
16 Shara Aranoff from Covington and Burling, counsel to APRIL
17 and I'm speaking right now on behalf of all of the
18 Respondents.

19 As you've heard and read in the prehearing
20 briefs, the domestic industry has shuttered a significant
21 amount of uncoated paper capacity during the POI. What
22 Petitioners have glossed over is that domestic producers
23 have been periodically closing and converting millions of
24 tons of papermaking capacity since at least 2007, years
25 before subject imports played any meaningful role in the

1 U.S. market.

2 Why is domestic capacity declining? Because U.S.
3 demand for uncoated paper is in secular, long-term decline.

4 Now, we know that ITC Commissioners still like
5 their paper briefs. But no one disputes that people are
6 using less and less paper as they turn to digital media to
7 store and distribute information.

8 U.S. demand for uncoated paper has been declining
9 by 3 percent a year on average for the last 15 years. To
10 address this reality, domestic producers have adopted a well
11 thought out strategy of reducing uncoated paper capacity and
12 repurposing their valuable pulp resource for products for
13 which they see long-term growth potential like fluff pulp.

14 Petitioners claim that subject imports have
15 exacerbated the effects of declining demand on the domestic
16 industry. But that's simply not what the record shows. The
17 capacity of an individual papermaking machine is quite large
18 and it can't be shut down in stages. So each time the
19 domestic industry closes down a machine, or converts it to
20 another use, domestic capacity declines in a big chunk.
21 Case in point is the period from late 2013 through early
22 2014 when the domestic industry removed over a million tons
23 of capacity, most significantly International Paper's
24 Courtland mill closure in 2014 and that reduced domestic
25 capacity by a whopping 10 percent in a matter of months.

1 The result is predictable periodic shortages in the market
2 thanks to the mismatch between slowly declining demand and
3 sudden large drops in supply. Closures are announced well
4 in advance and they leave purchasers scrambling for supply.

5 After ten years of periodic closures, purchasers
6 know that they just can't count on the domestic industry to
7 guarantee them the supply they need when they need it. So
8 real shortages in the short-term and the well-founded
9 perception that future shortages are likely pulls imports
10 into the market.

11 Subject suppliers are simply responding to the
12 shortage, that's why between 2013 and 2014 when the domestic
13 industry eliminated over a million tons in capacity, and
14 subject imports reached their highest level, domestic
15 shipments of subject imports increased by only 226,000 tons.

16 If you look at documents developed by the
17 domestic producers in the ordinary course of business
18 throughout the POI and in fact for years before that, and
19 we're talking about SEC filings, investor calls, press
20 releases, they're all in attachments to our prehearing
21 brief, they all tell the same story, that the domestic
22 producers are slowly and deliberately removing capacity from
23 this declining market and they're putting it to use where
24 demand is growing. It's only after they filed this case
25 that they've tried to disown all those statements and tie

1 declining production and capacity to subject imports.

2 So what should the Commission do to choose
3 between the domestic industry's two stories? Well, what the
4 Commission always does, which is look at the data in the
5 record. And here is what the data show.

6 An industry that is suffering no adverse price
7 effects attributable to subject imports, an industry
8 operating at very high capacity utilization, an industry
9 reporting profits that are extremely robust by any
10 reasonable measure. So, yes, production, capacity, and
11 employment, they're all down. But these are not signs of
12 material injury by reason of subject imports. The record
13 makes absolutely clear that the domestic industry's plan to
14 reinvent itself is actually working splendidly. Nor is the
15 domestic industry threatened with material injury by reason
16 of subject imports because subject producers lack the
17 capacity and incentive to significantly increase exports to
18 the U.S.

19 Uncoated paper demand is growing in Asia, Latin
20 America, and other emerging markets that are the focus of
21 Respondents' business strategies. While periodic supply
22 shortages created by the domestic industry's business
23 strategy have pulled some imports into the U.S. market, it
24 would make no economic sense for Respondents to make the
25 enormous investments required for new papermaking capacity

1 if their goal were to push significant additional volume
2 into the U.S. market.

3 And remember that letter and legal-size paper are
4 unique to the U.S. To the extent that subject producers
5 have any available papermaking capacity, it's costly to
6 convert sheeting equipment from international sizes like A4
7 to letter and legal and there's no business case to make
8 that investment when the U.S. market is declining.

9 Respondents look forward to elaborating later
10 this afternoon on why the Commission should reach negative
11 determinations in these investigations.

12 Thank you.

13 VICE CHAIRMAN PINKERT: Thank you.

14 MR. BISHOP: Mr. Chairman our State Government
15 appearance has arrived. I would like to announce the
16 Honorable Dennis M. Davin, Secretary of Community and
17 Economic Development, the Office of the Governor of
18 Pennsylvania.

19 VICE CHAIRMAN PINKERT: Welcome, Secretary Davin.
20 You may begin when you are ready.

21 STATEMENT OF THE HONORABLE DENNIS M. DAVIN

22 MR. DAVIN: Good morning. Thank you. Thank you,
23 Chairman Pinkert, and members of the International Trade
24 Commission.

25 My name is Dennis Davin and I serve as the

1 Secretary of Community and Economic Development for the
2 Commonwealth of Pennsylvania. I am pleased to be able to
3 appear before you on behalf of Governor Tom Wolf today in
4 support of an important certain uncoated paper trade
5 enforcement case brought by the United Steelworkers, Domtar
6 Corporation, Finch Paper, Glatfelter Company, and the
7 Packaging Corporation of America.

8 The data which you and the Department of Commerce
9 collected in 2015 showed that this coalition of workers and
10 companies deserves relief from the dumped and subsidized
11 exports from Australia, Brazil, China, Indonesia, and
12 Portugal.

13 When you gather in February for your final
14 determination, I urge a vote in the affirmative on the
15 question of whether these companies and workers have
16 suffered material injury from the increasing exports from
17 five nations.

18 Governor Tom Wolf supports free and fair trade
19 for this important segment of the Pennsylvania forest
20 products industry. The forest products industry in
21 Pennsylvania overall employs 80,000 people, including 10
22 percent of our manufacturing workforce. Over 3,000
23 businesses across the state in every country generate \$5.5
24 billion in revenue, according to the Pennsylvania Forest
25 Products Association.

1 Clearly this is an important industry to our
2 state, and unfair trade in any sector, like certain uncoated
3 paper, is problematic and must be corrected.

4 In addition, the United Steelworkers are
5 headquartered in Pittsburgh, Pennsylvania, and the Governor
6 appreciates their trade enforcement leadership in key
7 manufacturing industries like steel, paper, and tires.
8 Their tireless efforts to level the playing field and
9 enforce the basic rules of international trade through
10 antidumping and countervailing duty trade cases has helped
11 save thousands of jobs in Pennsylvania.

12 And the USW represents hundreds of certain
13 uncoated paper workers at the Glatfelter plant in Spring
14 Grove in York County, Pennsylvania. The Glatfelter plant's
15 central role in the economy of Spring Grove is typical of
16 the role that paper plants play in small towns across
17 America.

18 Spring Grove has about 2,000 people and has
19 depended on this plant for its livelihood since its 1853
20 founding. Glatfelter has owned the plant since 1865, making
21 a long-term commitment to a community that is seldom seen
22 today.

23 The Spring Grove Borough Website notes that since
24 1865 the growth of the Borough has reflected the growth of
25 the Glatfelter Paper Mill. Spring Grove today is a

1 one-industry town where the Mill dominates the Borough's
2 economy, economic and community life.

3 Clearly, unfair foreign trade that could
4 undermine the economic health of this plant should be
5 addressed both for the 900 workers at the plant, and the
6 employees at the shops, restaurants, schools, and across the
7 community in York County whose jobs depend on the plant.

8 As you know, the certain uncoated paper segment
9 critical to the future of Spring Grove includes printed
10 paper and uncoated copier paper in standard sizes as well as
11 uncoated paper for commercial use in many sizes.

12 Luckily, the analysis from your prehearing staff
13 report issued in December, combined with earlier Commerce
14 Department data makes a compelling case for relief from
15 dumped certain uncoated paper product from Australia,
16 Brazil, China, Indonesia, and Portugal. And the data
17 uncovered pertaining to the countervailing duty cases on
18 imports from China and Indonesia is also very strong.

19 Dumping of product in our country at below sales
20 prices in these five nations and their overall production
21 costs undermines our certain uncoated paper companies and
22 workers.

23 Many governments provide massive market
24 distorting subsidies to key sectors, and it seems that China
25 and Indonesia are doing just that. The detailed preliminary

1 dumping margins determined by Commerce were significant in
2 all these cases. All were problematic to the U.S. producer,
3 starting with 41 percent for Australia, 33 to 42 percent for
4 Brazil, 0 to 52 percent for Indonesia, and 30 percent for
5 Portugal. And the dumping margins for China were enormous
6 at 97 to 193 percent.

7 The countervailing duty margins for China and
8 Indonesia showed significant government subsidies, large
9 enough to do real harm. These numbers from these two
10 nations created a double whammy for the U.S. industry at 6
11 to 126 percent for China, and 43 to 133 percent for
12 Indonesia.

13 Erosion of U.S. company market share is the
14 predictable result of these egregious[sic] foreign dumping
15 and subsidies in the certain uncoated paper sector.
16 Unfortunately, foreign producers almost doubled their market
17 share from 9.6 to 17.4 percent between 2012 and 2014.

18 In fact, certain uncoated paper imports from
19 these five nations skyrocketed 72 percent between 2012 and
20 2014. And, as foreigners increased U.S. market share,
21 overall U.S. demand for uncoated paper actually fell 5.6
22 percent between 2012 and 2014.

23 Unfair foreign trade practices should not be
24 allowed to exacerbate a general trend toward lower demand
25 for paper in the Internet era. Overall, U.S. shipments,

1 production, market share, and employment in this vital
2 sector have all declined between 2012 and 2014.

3 Since 2011, four American certain uncoated paper
4 mills have shuttered, and capacity has been reduced to five
5 other plants. During that time, more than 2,500 jobs have
6 been lost to plants in devastated smaller communities across
7 the country.

8 We have to address the trade woes that foreign
9 producers of certain uncoated paper have created before
10 other communities like Spring Grove, PA, are further
11 adversely impacted.

12 As you know, companies and workers together
13 responded to the growing crisis in the certain uncoated
14 paper sector with the January 21st, 2015, filing of trade
15 cases against the imports from five nations in question at
16 the ITC and the Department of Commerce to restore balance.

17 Governor Wolf is proud to support their efforts
18 today. Again, on his behalf I have tried to demonstrate the
19 merits of their case and urge this Commission to rule in
20 favor of relief in a position of duties in February.

21 Thank you.

22 VICE CHAIRMAN PINKERT: Thank you, Secretary
23 Davin. Are there any questions for the Secretary?

24 (No response.)

25 VICE CHAIRMAN PINKERT: If not, we will let you go

1 and we really appreciate your testifying today.

2 MR. DAVIN: Thank you, very much.

3 MR. BISHOP: Would the panel in support of The
4 Imposition of Antidumping and Countervailing Duty Orders
5 please come forward and be seated.

6 Mr. Chairman, all witnesses on this panel have
7 been sworn in.

8 VICE CHAIRMAN PINKERT: Thank you.

9 (Pause.)

10 I want to welcome this panel to the ITC. You may
11 begin when you're ready.

12 STATEMENT OF RICHARD L. THOMAS

13 MR. THOMAS: Good morning. My name is Dick
14 Thomas. Since 2007 I have worked at Domtar as Senior Vice
15 President of Sales and Marketing. I am responsible for pulp
16 and paper sales and the marketing of all pulp and paper
17 grades produced at our mills.

18 Domtar is the largest producer of uncoated
19 freesheet paper in North America. We produce that product
20 in both sheet and roll form. Our eight U.S. paper mills
21 produce sheeter rolls which we then convert into certain
22 uncoated paper on our sheeting and packaging lines which are
23 located at two of our mills and at an offsite plant.

24 Our paper mills also produce uncoated freesheet
25 paper for sale in rolls to commercial printers. Consistent

1 with the Commission's practice, I will refer to these rolls
2 as web rolls, because all of our paper making capacity can
3 be used to make sheeter rolls. Our capacity for making
4 certain uncoated paper is our sheeting capacity, not our
5 paper-making capacity.

6 Well over half of Domtar's revenues are derived
7 from sales of uncoated freesheet paper. Historically, this
8 business has been a solid EBITDA margin business. During
9 the Period of Investigation, however, dumped and subsidized
10 imports caused severe damage to the certain uncoated paper
11 portion of Domtar's U.S. operations on uncoated freesheet
12 paper.

13 U.S. demand for writing and printing papers has
14 been declining over at least the last decade as electronic
15 media have become more pervasive. But the rate of decline
16 for certain uncoated paper has been less than that for
17 uncoated web rolls. Thus, Domtar has sought to allocate as
18 much of its capacity as possible to certain uncoated paper
19 where there's been less decline in demand.

20 The increase in Subject Imports, however, has
21 prevented us from doing that. In response to the decline in
22 demand, Domtar and other U.S. producers have been reducing
23 papermaking capacity over the last decade to balance supply
24 with demand, as is clear from published reports.

25 The increase in Subject Imports, however, has

1 forced the industry to significantly accelerate its
2 disinvestment in papermaking and sheeting assets. The many
3 closures of paper mills and machines during the POI are well
4 documented in the record.

5 Although Domtar had closed a paper machine in
6 2011, we nonetheless had to take substantial market down
7 time during the Period of Investigation due to increasing
8 imports.

9 In addition, due to the impact of Subject Imports
10 we were forced to make a significant capital investment to
11 give our Marlboro Paper Machine the capacity to produce less
12 profitable lightweight base stock for thermal paper, in
13 addition to the 20-pound sheeter rolls the machine was
14 designed to make. The machine is still used in part for
15 sheeter rolls, but we cannot keep it fully utilized making
16 only sheeter rolls.

17 Respondents have taken great liberties in
18 pointing to statements and earnings calls made by Domtar's
19 CEO, John Williams. None of these statements, however,
20 specifically pertain to Domtar's U.S. operations for
21 uncoated paper--for certain uncoated paper.

22 Moreover, Respondents have failed to note that
23 various statements made by Mr. Williams regarding the
24 adverse effect of imports. For example, in the fourth
25 quarter of 2014 earnings call, Mr. Williams stated: There's

1 no doubt--and I'm quoting, stated, "There's no doubt that
2 certain market conditions have been challenged by the
3 increase in imports, and we had to make some price
4 adjustments in certain channels during the quarter."

5 Post-hearing we will point out additional
6 statements that Respondents have failed to disclose. The
7 fact is that as early as 2010 Domtar identified intense
8 competition with imports as the number one risk factor for
9 our certain uncoated paper business. Domtar continued to
10 identify imports as the most important risk factor during
11 2012 through 2015.

12 Respondents also totally mischaracterized the
13 cause and impact of International Paper's September 2013
14 announcement that it would close its paper mill in
15 Courtland, Alabama. What is most striking about this
16 particular closure is that IP's mill in Courtland housed one
17 of the newest, largest, and most competitive uncoated
18 freesheet paper machines in the United States.

19 The combination of sharply increasing imports on
20 top of a small but steady decline in demand apparently led
21 IP to conclude that it must close that mill to align its
22 supply with demand for its products.

23 Thus, as the Department of Labor concluded,
24 increasing imports materially contributed to the decision to
25 close the Courtland Mill. That is also the conclusion of

1 RISI as shown on slide one.

2 With an improving economy, increasing raw
3 material costs, and the September 2013 Courtland
4 announcement, Domtar issued price increases in October of
5 2013, and in February of 2014. We were able to increase
6 prices modestly in the first half of 2014. It soon became
7 clear, however, that Subject Imports were not following the
8 price increase, and as a result were rapidly increasing
9 their sales at the expense of Domtar.

10 The imports undercut our prices, took significant
11 sales volume and market share, and stymied the anticipated
12 price recovery. Subject Imports increase over 41 percent
13 from 2013 to 2014, and gained over 5 percentage points of
14 market share in just one year.

15 Domtar was forced to retreat from most of its
16 price increases in the second half of 2014. We could not
17 afford to continue losing sales volume because we must have
18 high operating rates to cover our enormous fixed costs.

19 As a result of the sharp increase in lower-priced
20 imports, U.S. prices for cut-size paper fell to levels
21 prevailing before the Courtland closure was announced.

22 Domtar had ample excess capacity for producing
23 uncoated--certain uncoated paper in 2014. We had unused
24 converting capacity at that time of nearly 500,000 tons. We
25 also had ample paper machine capacity that was either

1 unutilized or was being used to produce far less profitable
2 web rolls that could have been diverted to produce sheeter
3 rolls.

4 Domtar expected to increase our sales volume as
5 well as our prices in the wake of reduced supply following
6 Courtland's shutdown. Thus, as we began 2014 Domtar had no
7 reason to anticipate they would have any need to shut down
8 any capacity in the reasonably foreseeable future.

9 Domtar, however, received virtually no benefit
10 from the Courtland closure because low-priced Subject
11 Imports continued to surge. Rather than increasing sales
12 volume in the wake of Courtland's closure, Domtar actually
13 lost sales volume in 2014. By attempting to increase
14 prices, Domtar lost substantial market share to lower-priced
15 Subject Imports.

16 In addition, we had to roll back our announced
17 price increases in the second half of 2014. The price
18 increases we realized in the first half of 2014 did not come
19 close to 2011 prices, but we could not risk any further loss
20 of market share.

21 Our loss of volume to Subject Imports and our
22 need to roll back price increases due to Subject Imports
23 resulted in our 2014 decision to announce--

24 UNIDENTIFIED SPEAKER: "December" 2014.

25 MR. THOMAS: Sorry, December 2014, to announce the

1 cessation of production of uncoated freesheet paper on Paper
2 Machine A-64, and to shut down two converting lines at
3 Ashdown.

4 If Domtar had not lost volume to increasing
5 imports and had achieved sustainable price increases in the
6 wake of Courtland's closure, we would have had no need to
7 shut down production on Paper Machine 64, or the two
8 converting lines in 2016.

9 Having lost substantial market share to Subject
10 Imports in 2014, Domtar had no choice but to lower prices in
11 2015 to prevent further lost sales. By lowering prices, we
12 were able to regain some lost volume during Interim 2015,
13 which we desperately needed to keep our paper machines
14 running.

15 On the other hand, by meeting the import prices
16 we suffered lower prices and lower profits. Having decided
17 to reduce paper machine and converting capacity at Ashdown
18 as of 2016, we considered strategies to mitigate the adverse
19 impact on the company.

20 We determined to repurpose Ashdown Paper Machine
21 64 to make fluff pulp so that we preserve some earnings,
22 albeit sharply reduced, from this significant asset. We
23 took a large write-down on property, plant, and equipment,
24 and we had other significant closure costs.

25 We also had to make a significant investment to

1 convert the paper machine to make fluff pulp, a product that
2 is less profitable than a fully utilized machine making
3 certain uncoated paper.

4 Thus, as a result of Subject Imports, we incurred
5 significant capital outlays to achieve lower returns. This
6 is a good example of what I said at the staff conference.
7 Whenever you repurpose a paper machine to make some other
8 product, you generally spend a lot of money to earn a lower
9 return. And that's the best-case scenario resulting from
10 the illegal trade we have experienced.

11 Even worse are closed facilities and more lost
12 jobs.

13 Thank you.

14 STATEMENT OF JUDITH LASSA

15 MS. LASSA: Good morning. My name is Judy Lassa.
16 I am a consultant for Boise Paper, a division of Packaging
17 Corporation of America. I served as Senior Vice President
18 of Boise after its acquisition by PCA in the fall of 2013
19 through my retirement in October of 2015. I was Boise's
20 Chief Operating Officer at the time of its acquisition by
21 PCA in 2013. I have worked in the paper business for more
22 than 30 years.

23 Boise manufactures certain uncoated paper on four
24 paper machines in the United States. Two are at our mill in
25 International Falls, Minnesota, and two at the mill in

1 Jackson, Alabama. Both facilities are integrated mills from
2 pulp production through paper making and sheeting.

3 Dumped and subsidized imports have directly
4 harmed our paper business. In the fall of 2013, we had to
5 permanently shut two of our paper machines at International
6 Falls. Those machines produced certain uncoated paper as
7 well as other uncoated paper.

8 The closure reduced our paper production capacity
9 by 115,000 tons and forced us to eliminate 265 jobs. While
10 Boise employed more than 1,400 production workers in our
11 certain uncoated paper business in 2012, today it has less
12 than 900. Unfortunately, it was simply no longer economical
13 to keep these machines running in current market conditions.

14 The constant pressure on prices from rising
15 imports was part of the reason we had to shut those machines
16 in 2013. Contrary to what Respondents have claimed, these
17 closures were not part of a strategy to repurpose our assets
18 to shift to higher margin products.

19 The two machines that we shut at International
20 Falls were not shifted to production of any products at all.
21 These machines were simply shut down, representing a loss of
22 assets and investment for Boise, for its workers, and for
23 the community of International Falls.

24 Our facilities that make certain uncoated paper
25 also make uncoated web rolls, which is a different product.

1 Web rolls are sold to be printed and converted in roll form
2 before their final use, unlike certain uncoated paper which
3 is sold in sheets and printed or used in sheet form.

4 In general, as long as the sheeting capacity is
5 available it is much preferable to produce certain uncoated
6 paper, rather than web rolls, on a given machine that can
7 produce both. Web rolls are much less efficient to
8 manufacture because they are produced in smaller runs and
9 require more frequent changeovers.

10 Certain uncoated paper, by contrast, can
11 typically be produced in much longer, more efficient runs
12 because it is produced in larger volumes to more uniform
13 specifications. There are also constraints in terms of the
14 numbers of winders available to handle web rolls, which are
15 much narrower than wide sheeter rolls used to produce
16 certain uncoated paper. A mill can produce more certain
17 uncoated paper than web rolls with the same winder capacity.

18 Finally, certain uncoated paper undergoes the
19 added step of sheeting which adds value to the product. In
20 short, with our existing paper making capacity certain
21 uncoated paper is a much more profitable product to make an
22 web rolls. The only constraint we face in producing higher
23 volumes of certain uncoated paper is our sheeting capacity
24 and demand in the market that isn't captured due to unfairly
25 traded imports.

1 Our facilities that produce certain uncoated
2 paper are highly capital intensive and require significant
3 investment to maintain. The pricing pressure imports have
4 caused has prevented us from making important capital
5 investments.

6 In 2013, as we were coming to grips with the need
7 to close two of our machines at International Falls, we
8 proposed an upgrade to other equipment that is dedicated to
9 the production of certain uncoated paper. Unfair imports
10 had taken 2 percentage points of market share from domestic
11 producers from 2012 to 2013. This was on the heels of
12 market share gains already made by imports from 2011 to
13 2012. And it was accompanied by domestic prices being
14 severely depressed by these imports.

15 The prehearing report shows that prices for the
16 high-volume pricing product one in the Commissioners'
17 Questionnaires fell by \$54 per ton from the first quarter of
18 2012 to the last quarter of 2013. These facts made it
19 impossible to justify the additional investment at
20 International Falls.

21 Since PCA's acquisition of Boise in late 2013,
22 any capital investments in the certain uncoated paper
23 business have been focused on efficiency and reducing costs,
24 not on upgrading production capabilities or increasing
25 capacity.

1 The prehearing report shows that the domestic
2 industry overall saw its unit costs of goods sold increase
3 over the period even as prices declined in response to
4 rising volumes of low-priced imports.

5 If orders are not imposed on these imports, the
6 cost price squeeze will only worsen and more jobs will be
7 lost. Paper mills must operate at high levels of capacity
8 utilization because of the capital intensity and resulting
9 high fixed costs.

10 The willingness of Subject Foreign Producers to
11 flood our market flow from capacity additions abroad such as
12 in Portugal, China, and Indonesia, and weakening internal
13 demand in other countries such as Australia and Brazil.

14 It is American plants that have paid the price of
15 plant and machine closures due to increasing dumped and
16 subsidized imports. These closures have had devastating
17 consequences for the workers, their families, and the
18 communities that depend on these facilities.

19 Thank you.

20 STATEMENT OF LEEANN FOSTER

21 MS. FOSTER: Good morning. My name is Leeann
22 Foster and I am an Assistant to the International President
23 and Associate General Counsel at the United Steelworkers.

24 One of my responsibilities is to oversee
25 collective bargaining for USW members in the paper industry.

1 The USW is the largest industrial union in North America
2 with more than 850,000 members. The paper industry is our
3 largest sector.

4 The paper industry has always been part of my
5 life. My father worked at our local box plant in Cedar
6 Rapids, Iowa, for 45 years; and I worked at the plant to put
7 myself through school.

8 I have seen first-hand how generations of
9 families depend on the U.S. paper industry. The industry's
10 good wages and benefits have built and sustained communities
11 across the country for decades.

12 The USW represents workers at seven of the nine
13 domestic producers identified by the Commission staff. The
14 flood of unfairly traded imports since 2012 has taken an
15 enormous toll on our domestic industry and its workers.

16 In all, seven uncoated mills have been closed or
17 have shut down machines since 2012, directly destroying
18 thousands of jobs. For each of these jobs lost, six other
19 jobs are lost as well because of the powerful impact of the
20 industry in the economy in local rural communities.

21 Our Union had members at six of these seven
22 mills. While overall demand for uncoated paper has been
23 declining over the long term, it is the rapid rush of
24 imports into the market and their aggressive price
25 undercutting that has pushed our industry over the brink.

1 In 2012, Mohawk Paper shuttered its mill in
2 Hamilton, Ohio. Wausau Paper closed its mill in Brokaw,
3 Wisconsin. Boise shut a paper machine in St. Helens,
4 Oregon, that had previously produced uncoated paper.
5 Hundreds of jobs lost.

6 Then came 2013. Imports jumped by a massive
7 144,000 short tons in 2013, an increase of more than 27
8 percent from the previous year. Rampant underselling
9 continued to drive down prices. In February, Harbor Paper,
10 the largest employer in tony Hoquiam, Washington, closed the
11 mill that was the center of economic life, impacting 175
12 workers.

13 In September, Boise was forced to shut down two
14 paper machines at its International Falls, Minnesota, mill,
15 eliminating 265 jobs. The mill is the lifeblood of the town
16 of less than 6,500 people.

17 In November 2013, International Paper started to
18 close down its largest uncoated mill in Courtland, Alabama.
19 More than 1,100 jobs were lost. As with most U.S. paper
20 mills, the mill had been the largest employer in the county.
21 The same month, Georgia Pacific closed an uncoated paper
22 machine at its Crossett, Arkansas, facility, cutting more
23 than 20 jobs.

24 Despite the massive reductions in capacity that
25 imports had already caused, at the end of 2014 Domtar

1 announced that another machine at its Ashdown, Arkansas,
2 mill would cease producing uncoated paper in 2016--125 more
3 jobs lost.

4 These machines and mills have been forced to
5 close because of the surge in unfairly traded imports. Most
6 of these mills apply for and receive trade adjustment
7 assistance, TAA. As you know, to qualify it is not enough
8 for jobs to be lost while imports increase. The Department
9 must also find that increased imports contributed
10 importantly to the job loss.

11 Thus, a simple correlation between imports and
12 job loss does not suffice for certification. In fact, the
13 Department has denied petitions where imports have
14 increased. The Department also conducts its own research of
15 the domestic industry import trends and other market
16 factors.

17 The TAA Certification of Courtland is a case in
18 point. The Certification cites information and the
19 company's response. Its survey of IP customers and its own
20 market research is all confirming that imports contributed
21 significantly, or importantly to the closure.

22 The uncoated paper industry and its workers have
23 suffered from unfairly traded imports for too long. We urge
24 the Commission to give U.S. paper workers the lifeline they
25 so desperately need by making an affirmative determination.

1 Thank you.

2 STATEMENT OF JACK BRAY

3 MR. BRAY: Good morning. My name is Jack Bray.

4 I am the Vice President of Manufacturing Operations for
5 Domtar Corporation. I supervise 11 Domtar production
6 facilities that are part of our pulp and paper division. I
7 have worked for Domtar and its predecessor company for 16
8 years. I have over 35 years of experience in the pulp and
9 paper industry and have held a variety of manufacturing
10 positions for four different paper companies.

11 The production of certain uncoated paper is
12 highly capital intensive. A greenfield pulp and paper
13 facility such as Domtar's Kingsport mill, shown on Slide 2,
14 would cost approximately 1.2 billion today. As shown on
15 Slide 3, paper machines are massive, football-field sized
16 pieces of equipment that run continuously day and night.

17 The run rates of the machines cannot be reduced
18 significantly or the paper will not form correctly.
19 Moreover, the number of shifts cannot be reduced in response
20 to poor market conditions, because the machines cannot be
21 turned on and off without incurring significant cost and
22 risking damage to the equipment.

23 As a result, maintaining high-capacity
24 utilization rates and maximizing the efficiency of the paper
25 machines are critical to our bottom line. At the end of the

1 paper machine, the paper is collected on spools in large
2 reels which can reach weights exceeding 30 tons. The reels
3 are then cut into narrower rolls of paper that are either in
4 widths and diameters required for our sheeting operations,
5 or are shipped as web rolls directly to customers.

6 The sheeter rolls are processed on sheeter and
7 packaging line in separate facilities that are located
8 either at the paper mill or offsite. Sheeter lines, like
9 those shown on Slides 4 and 5, can simultaneously split up
10 to six rolls at a time to the desired width, typically 8
11 inches, and length.

12 The sheeter lines cut the sheets to length and
13 package the sheets in 500 sheet ream quantities, place the
14 packed reams in cartons and stack the cartons on pallets
15 ready for shipment.

16 Domtar's U.S. paper mills are designed to
17 produce certain uncoated paper. We maximize efficiency by
18 producing high-volume runs of sheeter rolls to make copy
19 paper. The long run times of sheeter rolls reduce downtime
20 on our paper machines. Shorter runs to produce lower
21 volumes of alternative paper products reduce operating
22 efficiency and increase costs.

23 A lack of orders forced us to take temporary
24 paper machine downtime and resulted in significant added
25 cost. When lost sales volume is consistent and significant,

1 we are forced to take extended downtime on our paper
2 machines and either reduce the run time of our sheeters or
3 close them temporarily. If the lost time persists, we must
4 make permanent capacity reductions by closing down paper
5 machines and sheeters.

6 During the period of investigation, the increase
7 in subject imports in the context of declining U.S. demand,
8 forced Domtar to make less efficient and less profitable use
9 of its paper-making assets. We increased production of less
10 profitable products such as web rolls, because we could not
11 fully utilize our paper-making capacity for sheeter rolls.

12 In addition, we utilized a program for exports
13 that led to spot sales where domestic demand was lost due to
14 imports. Finally, we took unscheduled market-related
15 downtime across the system when there was a lack of orders.
16 From 2013 to 2014, as subject imports increased over 40%,
17 the market related downtime of Domtar's paper machines
18 increased three-fold, from 40 thousand tons to 123 thousand
19 tons.

20 We also had to reduce the run rates in all of
21 our sheeting operations in response to increasing subject
22 imports. The capacity utilization of our sheeters fell
23 sharply from 2012 to 2014, to levels that are not
24 sustainable. For example, at our Ashdown facility, we
25 were forced to reduce sheeting operations in 2013 from a

1 five-day schedule to a three and a half-day schedule.

2 Even after shutting down two of our five
3 sheeters at Ashdown in 2014, we were forced to return to a
4 three and a half-day schedule by September, 2014. Not one
5 of the remaining 12 sheeters in the Domtar system ran a full
6 capacity in 2014.

7 Respondents argue that the domestic industry
8 paper-making machines operated at maximum practical capacity
9 throughout the POI, making the industry incapable of
10 producing more certain uncoated paper.

11 That is not true for Domtar, and based on the
12 prehearing report, it is not true for the industry as a
13 whole. As shown in the prehearing report, the domestic
14 industry had 672 thousand tons of excess paper-making
15 capacity in 2014.

16 In addition, paper-making capacity can be
17 redirected from the production of web rolls and other paper
18 products towards the production of certain uncoated paper.
19 According to the prehearing report, the industry produced
20 3.6 million tons of out of scope products in 2014, virtually
21 all of which could have been used to make sheeted rolls.
22 Thus, the domestic industry had significant amounts of
23 available capacity. Thank you.

24 STATEMENT OF ROBERT MELTON

25 MR. MELTON: Good morning. My name is Rob

1 Melton. I have been with Domtar for 21 years and I'm
2 currently the Vice President of Business Papers, a position
3 I have held since 2012. I'm responsible for sales and
4 marketing of the company's business paper products.

5 Certain uncoated paper is primarily sold as
6 office paper that comes in standard sizes, weights and
7 brightness levels. Although I wish it were otherwise, sales
8 of this product are based primarily on price, because office
9 paper is essentially a commodity product.

10 Paper from any of the subject countries is
11 interchangeable with each other, and with that from Domtar
12 or other U.S. producers. This fungibility is driven by the
13 fact that the product characteristics are highly
14 standardized and brands of copy paper are largely the same.
15 Any minor physical differences between the domestic like
16 product and subject imports are irrelevant to the
17 substantial majority of purchasers.

18 Accordingly, sales at all levels of trade are
19 extremely price-sensitive. Domestic producers compete
20 head-to-head against subject imports from every country in
21 all geographic markets, channels of distribution and at all
22 grades and price points. Lead time considerations are not
23 an important factor, given that domestic producers and
24 importers of subject merchandise have warehouses in all
25 regions of the country.

1 Moreover, end users do not distinguish between
2 paper produced by one producer and another. As a result,
3 price is the primary consideration in purchasing decisions.

4 I want to address Portucel's claims that they
5 produce a special high-quality paper used in high-end
6 applications which they sell through different channels of
7 distribution. This is simply not true.

8 We compete with Portucel and every supply chain
9 across all product offerings. For example, as shown on
10 Slide 6, a U.S. wholesaler recently issued a promotional
11 flyer advertising Portucel's 8 x 11, 20#, 96 bright copy
12 paper. This is the same promotional flyer that this company
13 regularly publishes to advertise papers made in the U.S.A.,
14 Brazil and Portugal.

15 The product being advertised is not Portucel's
16 branded Navigator product, but rather a white box version
17 called Soporcel office paper. This brand and another white
18 box brand called Copy Paper are Portucel's vehicle for
19 moving higher volumes of copy paper into the U.S. market.

20 Most disturbing for us is that this is a 96
21 bright paper, which is selling well below the prevailing
22 price point for 92 bright paper. Portucel sells copy paper
23 to a paper merchant or wholesaler, who in turn sells to
24 office supply retailers, both big and small. In fact, you
25 will find Portucel paper offered for sale in all the major

1 retailer sites.

2 Portucel competes with domestic manufacturers
3 head-to-head every day across a wide variety of channels to
4 market, as shown in Slide 7. And this is a flyer that was
5 produced by a paper merchant listing a whole assortment of
6 brands and products from all over the world, in which they
7 were soliciting business from their customers, in this
8 case, office supply dealers.

9 The next two slides, 8 and 9, show flyers
10 offering U.S. product and paper imported from Brazil. As
11 you can see, these products from the U.S., Portugal and
12 Brazil are competing head-to-head in the same channel of
13 distribution.

14 We also see a high level of competition from
15 subject imports in our sales to big box stores. In front of
16 you are three reams of 20#, 92 bright copy paper, all with
17 identical packaging, one is identified as Made in the
18 U.S.A., one in China and one in Indonesia. Also in front of
19 you on the table, are two packages of 20#, 96 bright paper,
20 again, identically packaged, but one is from the U.S., and
21 the other from Brazil.

22 While folio paper is a smaller portion of the
23 overall market for certain uncoated paper, it is an
24 extremely important part of our business. Folio paper is a
25 branded business for us. And we have three grades: husky,

1 lynx and cougar, which are sold to merchants and commercial
2 printers.

3 We have historically earned a solid return on
4 these products, but that return deteriorated significantly
5 during the Period of Investigation. Portucel and Suzano, in
6 particular, targeted this market segment and became
7 extremely aggressive with their pricing. As discussed in
8 Exhibit 8 to our prehearing brief, we have lost significant
9 business to these imports from Portugal and Brazil, with
10 large and small merchants in the northeast U.S.

11 Respondents are claiming that there were
12 widespread shortages caused by IP's closure of the Courtland
13 mill and that subject imports were pulled into the market in
14 2014 to supply customers that could not get paper.

15 Those claims are not true. While some paper
16 brokers and distributors who represent foreign manufacturers
17 speculated that shortages might occur, they did not and
18 would not. In fact, Domtar alone had sufficient
19 paper-making and sheeting capacity to fill any gap left as a
20 result of the Courtland closure. Thus, there was no need
21 for additional imports.

22 The imports, however, continued to increase and
23 took market share with low pricing. There were no non price
24 reasons why imports gained market share during the Period of
25 Investigation. It was all about price.

1 Domtar lost so much business to subject imports
2 that we were forced to lower our prices significantly in
3 late 2014 and 2015 to regain this market share. As a
4 result, and as shown in Exhibit 16 of our prehearing brief,
5 Domtar considered different pricing scenarios for 2015. We
6 could either try to maintain pricing and forego significant
7 volume and thus, market share. Or drop our prices to regain
8 volume and market share. We chose the latter course as a
9 last resort, and our profitability took a significant hit.

10 Finally, but for the flood of subject imports,
11 Domtar would have made more profitable sales in the U.S.
12 market, as opposed to less profitable sales in export
13 markets. As noted in your prehearing report, the domestic
14 industry shifted more production towards exports over the
15 Period of Investigation, from 6.2% of production in 2012 to
16 8.3% of production in 2014.

17 In the wake of the Courtland closure and what
18 should have been a vastly improved supply/demand balance,
19 the export volume should have been sold in the higher priced
20 U.S. market. Increasing subject imports prevented us from
21 making this shift. Thank you.

22 STATEMENT OF PAUL LEBLANC

23 MR. LEBLANC: Good morning. My name is Paul
24 LeBlanc. I am the Vice President of Boise Paper, a division
25 of Packaging Corporation of America. I oversee PCA sales of

1 certain uncoated paper, as well as all other uncoated
2 products throughout the U.S. market. I have been with PCA
3 and Boise before that for over 10 years.

4 PCA produces and sells a wide range of certain
5 uncoated paper, including 8 x 11-inch white copy paper and
6 colored papers. We sell to paper merchants, wholesalers and
7 well-known retailers of office paper. The market for
8 certain uncoated paper is extremely competitive, and while
9 we work hard to provide differentiated value to our
10 customers, competition is largely based on price.

11 Certain uncoated paper is treated mostly like a
12 commodity product. The basic specifications in terms of
13 size, weight, brightness and smoothness are nearly the same
14 for the vast majority of products in the market.

15 We face price competition from imports, whether
16 directly or indirectly, every day and in nearly every one of
17 our customers. All of our customer source from more than
18 one supplier and they can and do switch suppliers.

19 Since certain uncoated paper from different
20 producers is very similar and interchangeable, it is fairly
21 easy for purchasers to switch suppliers with fairly short
22 lead time and no supply disruption. Large customers will
23 often have different suppliers producing the exact same
24 private label with no perceptible differences to the
25 consumer.

1 The margins by which imports undersell our
2 product are significant. For example, as detailed in my
3 declaration in our prehearing brief, PCA has encountered
4 persistent underselling of our high-bright products by
5 Portucel since 2012. In fact, one of our major customers is
6 offering a Portucel product that has essentially identical
7 features and benefits to one of our own at prices that are
8 19% to 41% below the prices at which they offer our product.

9 The rising volume of low-priced imports
10 accelerated in 2014. The timing of the surge was
11 particularly harmful to the domestic industry. For Boise
12 paper, for example, having shut down two machines in 2013
13 and having suffered significant price erosion since 2012, we
14 worked to reduce the price depression we had experienced
15 through announced price increases in 2014.

16 When International Paper decided to close its
17 mill in Courtland, Alabama in September of 2013, we were
18 hopeful that the supply/demand balance would improve and
19 prices would recover. However, the additional 230 thousand
20 tons of aggressively priced imports that flooded the market
21 in 2014 prevented the company from achieving the rebound in
22 prices we had sought.

23 Respondents claim that they have gained market
24 share at our expense, not because of widespread price
25 undercutting, but because of other competitive advantages

1 they enjoy. They claim they can satisfy demand for
2 high-bright paper, but Boise and other domestic producers
3 also offer high-bright paper. The only problem is that we
4 cannot achieve reasonable pricing on these products due to
5 aggressive import competition.

6 Respondents claim they can serve customers on
7 the West Coast with shorter lead times than domestic mills.
8 But we also have a substantial portion of our sales devoted
9 to customers in the west coast, and we have warehouses there
10 to serve these customers. The vast majority of our sales
11 are from inventory and the average lead time for our sales
12 is just a few days.

13 Conversely, respondents claim we are shielded
14 from import competition due to certain competitive
15 advantages we enjoy. We do everything we can to explain the
16 value of our product to our customers, our Best in Class
17 service, our full line of products, our direct marketing to
18 end-users. But these benefits, as important as they are,
19 cannot immunize us from import competition.

20 A number of foreign producers have also
21 developed their own brands and ranges of products. While we
22 offer environmental certified paper to customers that demand
23 it, paper with the same environmental certifications is also
24 available from many of the subject foreign producers.

25 And while certain uncoated paper is available in

1 a range of brightness levels with different opacities,
2 shades and other characteristics, this does not
3 differentiate domestic product from subject imports.

4 Most importantly, when they price their products
5 as aggressively as they have, over the period of this
6 investigation, it creates pricing pressure throughout the
7 market for all types of customers, all types of products,
8 and from unbranded products to private-label and branded
9 products.

10 Finally, respondents have claimed that the
11 domestic industry has been unable to supply its customers
12 and that these shortages drew in needed import volumes.
13 Nothing could be further from the truth. We did not
14 voluntarily close our machines at International Falls in
15 2013 in order to deprive our customers of paper. Subject
16 imports increased by a 144 thousand short tons from 2012 to
17 2013, despite a decline in demand of nearly 100 thousand
18 short tons.

19 And these imports were priced so low they drove
20 down the prices we were able to charge. It was these
21 unfairly traded imports that drove industry capacity
22 closures, not the other way around. Thank you.

23 STATEMENT OF DAVID MCGEHEE

24 MR. MCGEHEE: Good morning. My name is David
25 McGehee. I am the President of Mac Papers. Our company's

1 headquarters are located in Jacksonville, Florida, and we
2 are the largest merchant distributor of fine papers,
3 envelopes and graphic supplies in nine southeastern states.

4 I have worked in the paper business for over 40
5 years. We currently employ 975 fulltime employees, our
6 sales total about \$590 million a year and we ship more than
7 275 thousand tons of paper annually. Our company has 22
8 branch office warehouse locations, as well as 19 mini Macs,
9 which are paper stores for walk-in customers.

10 Uncoated paper is an essential part of our
11 business, accounting for approximately 30% of our annual
12 fine paper shipments by volume. We sell both cut-size copy
13 paper and folio sheets. Most of the uncoated sheet that we
14 sell is shipped direct from our warehouses to our customers,
15 who consist primarily of commercial and noncommercial
16 printers, educational institutions, government entities and
17 other businesses.

18 Imports from subject countries are
19 interchangeable with what we buy from domestic producers.
20 And our customers are mostly indifferent about whether they
21 buy imported or domestic product. In my experience, all
22 domestic and imported paper meets the industry's quality
23 requirements. Thus, for a merchant company like ours, the
24 most important consideration is the price.

25 I have never heard from any customer asking for

1 product made from Eucalyptus pulp, nor do they demand paper
2 with more of a blue-white shade, high brightness paper for
3 standard office or home applications or paper with an
4 environmental certification.

5 I understand the Portucel and Suzano claim to
6 produce paper that is brighter, smoother, stiffer and with
7 greater opacity than domestically produced paper. That is
8 not correct. At Mac Papers, we buy certain uncoated paper
9 from a variety of U.S. suppliers that have exactly the same
10 brightness levels and other characteristics as copy and
11 folio paper from Portugal and Brazil.

12 Imports from Brazil and Portugal are sold at
13 much lower prices than domestically produced product. For
14 example, the Soporcel opaque produced by Portucel is priced
15 in the mid to low \$50 a hundred weight, while the comparable
16 Lynx product from Domtar's priced in the mid \$60 a hundred
17 weight.

18 Our customers are mostly indifferent about
19 having access to matching cover stock when buying folio
20 offset paper. First, many jobs don't require cover stock.
21 Second, this only applies to opaque paper and not regular
22 offset paper. Third, if a cover stock is needed, it can be
23 purchased from another supplier.

24 Moreover, Portucel offers a wide array of cover
25 stock to match its Soporcel folio offerings. Imports have

1 disrupted the market for certain uncoated paper and have
2 caused uncertainty and volatility in our business. Our
3 preference is to buy from U.S. paper producers when we can,
4 but imports from subject countries are routinely priced
5 below the prices charged by U.S. producers.

6 In a market where price is paramount, the
7 margins of underselling by subject imports have been too
8 significant to ignore. As a result, Mac Papers has required
9 our U.S. suppliers to reduce their prices for both cut-size
10 and folio paper to keep us competitive with other merchants
11 supplying subject imports. Thank you.

12 STATEMENT OF TERENCE P. STEWART

13 MR. STEWART: Good morning. Terry Stewart,
14 Stewart and Stewart. I want to talk about conditions of
15 competition as reviewed in our prehearing brief. Certain
16 uncoated paper is a commodity like product that competes on
17 the basis of price, as you've heard this morning.

18 Not surprisingly then, as reviewed on Slide 10,
19 certain uncoated paper is highly interchangeable, regardless
20 of source as confirmed by the prehearing report. Each of us
21 at the hearing probably uses this product on a nearly daily
22 basis in our office or at home.

23 8" x 11 inch, 20# multi-purpose copy paper, the
24 single largest part of the U.S. market, whether from
25 domestic producers or from any of the subject countries is

1 perfectly interchangeable for use on office copiers and
2 printers for most purposes. Thus, not only U.S. producers,
3 but the large majority of importers and purchasers agree
4 that subject imports and the domestic like product are
5 always or frequently interchangeable.

6 Slide 11 reviews the importance of price and
7 purchasing decision. Price is the most often cited top
8 three purchasing factor by purchasers. While quality and
9 availability are also in the top three purchasing factors,
10 all of the major suppliers that issue in these
11 investigations offer a quality product that is readily
12 available in the U.S. market with 73% of domestic product
13 and roughly two-thirds of subject imports sold from
14 inventory.

15 Indeed, U.S. and subject imports were comparable
16 in the vast majority of the 30 purchase factors with the
17 exception of price, where imports were noted to be lower
18 priced. The use of eucalyptus pulp by subject imports is
19 not viewed as important to the vast majority of purchasers.

20 A second condition of competition is the capital
21 intensity of the industry as reviewed in Slide 12. There is
22 no dispute that new pulp and paper mills are extremely
23 expensive, running more than a billion dollars. There is
24 also agreement amongst the parties that such equipment must
25 run continuously.

1 When more capacity is added abroad than there is
2 demand for, there is a powerful incentive to ramp up exports
3 to keep the facilities running at or near capacity. That is
4 exactly what has happened during the POI with the resulting
5 surging imports of the U.S. market.

6 But U.S. producers also must produce at or near
7 capacity, leading producers to either match prices on the
8 downside to maintain volume, shift volume to less desirable
9 products, take very expensive downtime or face closing
10 machines or mills. The record shows U.S. producers have
11 done all of these things during the POI.

12 Respondents arguments to the contrary are
13 without merit. As our witnesses have testified today and as
14 reviewed in our prehearing brief and in Slide 13, domestic
15 paper machine capacity for certain uncoated paper is
16 flexible, and companies have the ability and the economic
17 incentive to make as much sheeter rolls as they can use to
18 produce certain uncoated paper.

19 This is a critical fact essentially ignored by
20 those in opposition. Indeed, the industry's paper-making
21 capacity have facilities making sheeter rolls for certain
22 uncoated paper, far exceeds the industry's sheeting
23 capacity. This confirms that sheeting equipment, not
24 paper-making equipment, is the limitation on the domestic
25 industry's capacity to produce certain uncoated paper.

1 A third condition of competition reviewed in
2 Slide 14 is the long-term decline in demand over the last
3 ten to fifteen years. But the rate of decline in demand for
4 certain uncoated paper is slower than for other paper
5 products such as web rolls, that can be made in the same
6 paper-making equipment. This means that there should be
7 more capacity available for certain uncoated paper.

8 The U.S. is not alone in facing long-term
9 declines in demand. The same phenomena is occurring in
10 other developed countries. While demand has been growing in
11 developing countries, the rate of growth has slowed
12 significantly in recent years leading to the substantial
13 excess capacity abroad, which has forced those countries to
14 look for export homes.

15 Despite the claims of our opponents, the fact
16 the U.S. mills have closed or repurposed many machines and
17 mills during the POI are all signs of serious injury to the
18 domestic industry. As reviewed on Slide 15, even where a
19 machine or mill is repurposed and most machines and mills
20 covered during this POI have simply closed, this is still a
21 sign of injury to the domestic certain uncoated industry.

22 Repurposing entails substantial capital
23 investments to achieve a lower return than was available
24 from the assets' original design. The surge in unfairly
25 traded imports creates the need to close or repurpose

1 facilities, classic signs of material injury, a topic Joe
2 Dorn will now address.

3 STATEMENT OF JOSEPH DORN

4 MR. DORN: In assessing material injury, the
5 Commission must cumulate imports from all subject countries
6 (Slide 16). Only a reasonable overlap in competition is
7 required, and that overlap is abundantly clear on this
8 record. In fact, only Portugal has contested cumulation for
9 material injury. But Portugal also sells 20 pound
10 letter-size copy paper in direct competition with all other
11 suppliers.

12 Applying the statutory criteria, the domestic
13 industry was materially injured by reason of subject imports
14 during the POI. First, the volume of subject imports and
15 the increase in the volume of subject imports were
16 significant, especially in the context of declining U.S.
17 consumption.

18 Looking at Slide 17, you'll see that during
19 2014, imports from the subject countries equaled 83 percent
20 of imports from all countries and over 17 percent of U.S.
21 consumption, clearly significant. Subject imports increased
22 by over 70 percent from 2012 to 2014. The imports increased
23 their share of U.S. consumption from 9.6 percent in 2012 to
24 17.4 percent in 2014, again very significant increase.

25 As subject imports gained 7.8 percentage points

1 of market share from 2012 to 2014, the domestic industry
2 lost 7.5 percentage points of market share. Subject imports
3 would have continued to increase in interim 2015 had U.S.
4 producers not reduced prices to avoid further lost sales and
5 had preliminary duties not been imposed.

6 Respondents argue that subject imports were
7 pulled in the U.S. market in 2014 by the inability of the
8 domestic industry to meet demand after IP closed the
9 Courtland mill. The prehearing report discusses supply
10 constraints, but none were reported by U.S. producers for
11 2014.

12 In addition, the data you have do not come
13 anywhere close to supporting Respondents' arguments. If you
14 look at the slide there, the bar on the left, that shows the
15 increase in subject imports from 2013 to 2014, about 226,000
16 tons. In 2014, however, the domestic industry had over 1.4
17 million tons of excess sheeting capacity, and it had a
18 boatload of paper making capacity to support that sheeting
19 capacity.

20 As you'll see there on the slide, the industry
21 had over 672,000 tons of excess paper making capacity, and
22 an additional 3.6 million tons of switchable paper making
23 capacity. It's very important to understand that point,
24 because it totally undercuts the other side's argument that
25 imports were required to supply demand in 2014. Not true.

1 In fact, all the increase in subject imports from 2013 to
2 2014 could have been supplied by Domtar alone.

3 Second, the subject imports had very negative
4 price effects. To begin with, subject imports undersold the
5 domestic like product in 62.5 percent of quarterly pricing
6 comparisons. At the very least, the mixed pattern of
7 underselling and overselling demonstrates a highly
8 competitive market. As explained in our brief, the
9 Commission should complete the gap in the record caused by
10 Respondents' requested change to the definition of pricing
11 Product 3, the only folio product you surveyed. In the
12 preliminary phase, the record showed extensive underselling
13 for the two folio pricing products.

14 In any event, not a single purchaser indicated
15 that imports from either Brazil or Portugal were priced
16 higher than the domestic like product. Three of eleven
17 purchasers said that imports from Portugal were priced lower
18 than the domestic like product, and the other eight said
19 they were comparably priced.

20 All nine U.S. producers certified in the
21 responses to the questionnaire that they reduced prices to
22 avoid losing sales to subject imports. Eight of the nine
23 reported they rolled back announced price increases to avoid
24 losing sales. The U.S. producers' statements are
25 corroborated by the responses to the purchasers'

1 questionnaire.

2 In fact, I do not remember another case where
3 the major purchasers so clearly confirmed that subject
4 imports caused market prices to fall. The purchasers
5 identified U.S. producers as the upward price leaders, and
6 they identified subject importers as the downward price
7 leaders.

8 They indicated that imports from all subject
9 sources were lower priced than the domestic like product.
10 Purchasers also confirmed that U.S. producers reduced their
11 prices to meet the lower import prices. As noted in the
12 prehearing report, purchasers indicated that when U.S. mills
13 had tried to increase prices, they instead had to reduce
14 prices below their original level.

15 Purchasers further indicated that U.S. producers
16 had to reduce their prices to get large orders. In fact, 17
17 of 25 purchasers said that competition from subject imports
18 substantially or moderately lowered the prices that they
19 paid. Thus, the subject imports both depressed and
20 suppressed U.S. prices.

21 From the beginning to the last quarter of the
22 POI, U.S. producers' prices declined by 8.4 percent for
23 Pricing Product 1 and by 9.5 percent for Pricing Product 2.
24 In addition, the industry's ratio of COGS to sales revenue
25 increased from 2012 to 2014, as detailed on the slide, and

1 from interim '14 to interim '15. This is a classic sign of
2 a cost price squeeze.

3 Moreover, as you've heard from our witnesses,
4 the 41 percent increase in subject imports from 2013 to 2014
5 suppressed prices far below where they should have been in
6 the wake of reduced supply following the closure of the
7 Courtland mill. Some purchasers admitted in their responses
8 that when the U.S. producers announced price increases in
9 2014, they turned to subject imports to get better prices.

10 Third, the subject imports had a severe adverse
11 impact on the domestic industry's operations and financial
12 results. From 2012 to 2014, the industry lost 7.5
13 percentage points of market share. As shown on Slide 23,
14 the magnitude of the industry's loss of market share in 2013
15 and again in 2014 correlates almost precisely with the
16 subject imports' gains in market share in those years.

17 As shown on Slide 24, subject imports adversely
18 impacted the industry's operations. Paper making capacity,
19 sheeting capacity and production all declined. Capacity
20 utilization also declined, notwithstanding the Courtland
21 closure. The large increase in subject imports in the
22 context of declining demand caused the domestic industry to
23 take significant market-related down time and to produce
24 less profitable web rolls at the expense of more profitable
25 sheeter rolls.

1 The increase also materially contributed to the
2 adverse market conditions that caused U.S. producers to
3 shutter capacity and separate workers during the POI.
4 Subject imports had an adverse impact on U.S. workers.
5 1,259 jobs were lost from 2012 to 2014 based on your record.
6 Employment fell 18 percent. Workers separated at seven
7 establishments during the POI were certified for TAA
8 benefits.

9 Finally, subject imports had a severe adverse
10 impact on the industry's financial results. From 2012 to
11 2014, net sales dropped by \$586 million. Cash flow went
12 down by \$325 million. The industry's operating income fell
13 by over a quarter of a billion dollars, or 39 percent, from
14 2012 to 2014. Forced to lower prices in 2015 to stem the
15 loss in market share, the industry's operating income fell
16 an additional 20 percent from interim '14 to interim '14
17 (sic).

18 For these reasons, the Commission should find
19 material injury by reason of imports. Thank you.

20 STATEMENT OF STEPHEN A. JONES

21 MR. JONES: Steve Jones for Petitioners. Mr.
22 Secretary, could I have a time check please?

23 MR. BISHOP: You have six minutes remaining.

24 MR. JONES: Thank you very much. Portucel and
25 Suzano seek decumulation if the Commission makes its

1 determination based on threat. Neither Respondent, however,
2 has a valid decumulation argument. The record that has been
3 compiled in this final phase overwhelmingly contradicts
4 their positions.

5 First, as shown in Slide 27, the statutory
6 criteria for cumulation are satisfied in these
7 investigations. In addition, all subject imports compete
8 under the same conditions of competition and are likely to
9 do so in the imminent future. As shown in Slide 28, imports
10 from all subject countries exhibited the same trends in
11 volume market share and averaging at value from 2012 to
12 2014. There are no outliers.

13 Typically, where the Commission decumulates in a
14 threat case, there is clear evidence of attenuated
15 competition between imports from the subject countries. For
16 example, there may be significant differences in the volume
17 or price trends, product mix or export orientation between
18 one or more subject countries and the others.

19 Usually, multiple attenuating factors need to be
20 present before the Commission will decumulate. In this
21 case, there are no indicia of attenuated competition between
22 the subject imports.

23 Portucel relies heavily on purported difference
24 in pricing. As shown in the prehearing report at Table
25 2-11, however, a minority of purchasers reported that other

1 subject imports were "superior" to imports from Portugal
2 with respect to price. That is, most purchasers do not view
3 imports from Portugal as having higher prices than other
4 subject imports.

5 The pricing trends for imports from Portugal are
6 comparable to all other subject imports. Again, Portugal is
7 not an outlier in this regard or in any regard. The volume
8 trends for Portugal are comparable to all other subject
9 imports as well.

10 Imports from Portugal increased and gained
11 market share during the POI just like all other subject
12 imports. As Mr. Stewart testified, as shown on page II-34
13 of the prehearing report, a substantial majority of
14 importers and purchasers reported that Portucel's paper is
15 always or frequently interchangeable with both the domestic
16 like product and other subject imports.

17 As Mr. McGehee testified, eucalyptus pulp is not
18 important to purchasers, and that's also reflected in the
19 purchaser questionnaires and the public prehearing report.
20 There is extensive overlap with respect to customers and
21 channels of distribution.

22 As the Commission correctly noted in the
23 preliminary determination at 14, "The record does not
24 corroborate the arguments that subject imports from Portucel
25 are characterized by distinct channels of distribution."

1 That preliminary determination was correct and has been
2 corroborated by the record in the final investigation.

3 As shown on Slide 30, Suzano's case for
4 decumulation also fails. As shown in the prehearing report
5 in Table II-11, purchasers reported that imports from Brazil
6 are comparable to all other subject imports with respect to
7 price. The volume and pricing trends for imports from
8 Brazil are comparable to the trends of all other subject
9 imports.

10 There are no differences that are meaningful to
11 purchasers with respect to type of pulp or environmental
12 certification. In the preliminary determination at 13, the
13 Commission addressed this issue and correctly found that any
14 differences in environmental certification are insufficient
15 to distinguish Brazil from other subject imports.

16 Like Portugal, a substantial majority of
17 importers and purchasers reported that imports from Brazil
18 are always or frequently interchangeable with other subject
19 imports, and that imports from Brazil are not
20 distinguishable from other subject imports with respect to
21 channels of distribution.

22 Because the industry has already experienced
23 material injury caused by subject imports, there should be
24 no need for the Commission to assess threat of injury. If
25 it does, however, as shown in Slide 31, application of the

1 statutory factors to the record demonstrates that the
2 industry is also threatened with material injury.

3 I'll make just a few quick points about the
4 record on threat. First, as shown in Slide 32, the foreign
5 producer response rate in these investigations is very poor
6 with respect to China and Indonesia. Several major
7 producers and exporters of the subject merchandise did not
8 respond to the Commission's questionnaire.

9 Thus, the capacity and unused capacity data are
10 understated, and the Commission will be forced to rely on
11 the facts otherwise available. As shown in Slide 33,
12 however, even the incomplete record shows a significant
13 amount of available capacity to increase exports to the
14 United States.

15 As shown on Slide 34, there have been
16 significant capacity expansions in China and Indonesia
17 during the POI. As shown in Slide 35, increased exports
18 from China and Indonesia will force subject producers to
19 increase exports to the United States due to increased
20 competition with China and other markets.

21 Finally, our last slide shows the established
22 distribution networks operated by the subject producers and
23 their affiliates in the United States that will facilitate
24 increased exports to the United States in the future without
25 relief. The rapid increase in imports, persistent

1 underselling, excess capacity in the subject countries and
2 government subsidies in China and Indonesia all in the
3 context of declining consumption make clear that future
4 injury is also imminent if duties are not imposed to offset
5 the unfair pricing and illegal subsidies. That concludes
6 our presentation. Thank you.

7 VICE CHAIRMAN PINKERT: Thank you, and I want
8 to thank all of the witnesses for coming today and taking
9 time away from their work and their businesses to help us to
10 understand these issues. This morning, I will begin the
11 questioning. I assure you that's a purely random
12 assignment.

13 But this panel has testified in let's just say a
14 few different ways that you had additional capacity in 2014
15 and that there was no need for a surge of imports into the
16 U.S. market. But was there a perception in the marketplace
17 on the part of purchasers that they needed to turn to
18 imports because they were not going to be able to get what
19 they needed from the domestic industry?

20 I say that because the mere fact that there was
21 that capacity doesn't show that purchasers understood that
22 there was that capacity in the U.S. market.

23 MR. DORN: Well, if I could just start on that,
24 if there was, you know, if they really thought that, they
25 would have been willing to pay a price premium, right, to

1 bring in imports. But that's not what happened. They
2 turned to the imports because they were cheaper. The U.S.
3 producers unilaterally of course, independently, several of
4 them announced price increases, and that's when the brokers,
5 the importers, you know, turned to the imports, because they
6 were cheaper.

7 In fact, some of the purchasers said that, you
8 know. They talked about yeah, when capacity closed at
9 Courtland, U.S. producers raised their prices. So therefore
10 we turned to the imports in order to avoid the price
11 increases. So it's a price phenomenon, not a shortage
12 phenomenon.

13 MR. THOMAS: If I may, this is Dick Thomas and
14 as the largest producer, we did a fair amount of analysis on
15 just what that closure meant in terms of tons, speaking of
16 Courtland as well as the other couple that happened around
17 the same time, and we armed our people with a document to
18 basically explain to customers why they shouldn't expect a
19 shortage.

20 So we knew that that number would sound like a
21 big number, and we were pretty confident that some of the
22 brokers who were bringing in imported paper would kind of
23 use that as a selling point. But we went to our customers
24 across the board and explained to them that we had lots of
25 other products that were discretionary in our system. We

1 had lots of sheeting capacity and that we could take care of
2 -- fill the void if you will.

3 VICE CHAIRMAN PINKERT: Anybody else on the
4 panel want to comment on that issue?

5 MR. McGEHEE: If I could, David McGehee. We are
6 a merchant. We purchase a lot of uncut and free sheet and
7 we purchase product from International Paper. Available
8 capacity has not been an issue. When IP announced the
9 closure of Courtland, I mean they assured us there would be
10 no disruption of product available, and we know within the
11 industry there's plenty of capacity.

12 VICE CHAIRMAN PINKERT: Thank you. Now in
13 regard to the arguments about price suppression, if you
14 focus on that period from 2013 to 2014, the COGS to sales
15 ratio actually declined during a period when there was a
16 surge in subject import market share. I know it's a
17 technical question, you may want to answer it in the
18 post-hearing, but does that undercut the arguments about
19 price suppression?

20 MR. DORN: I guess you're using the decimal
21 places, Mr. Vice Chairman, because if you round up, there
22 was no change from '13 to '14. Eighty-four percent and
23 eighty-four percent. So you're talking about a tiny change.
24 What's important, we think, is to look at the change from
25 2012 to 2013, when the imports increased. The COGS to sales

1 ratio went from 79.6 percent to 84.3 percent.

2 And as you've heard, with the Courtland closure,
3 what the U.S. producers were trying to do is to regain some
4 of that lost margin, so to speak, try to restore some of the
5 pricing before the price depression. So yes, they did
6 increase prices particularly in the first half of 2014, and
7 they had to come back down in the latter half.

8 But all that did is keep the same 84 percent
9 ratio, and then in 2014, even though they got a little
10 increase in prices, they lost a lot of market share in 2014.
11 So as you've heard from the witnesses and some of the
12 confidential information that Domtar supplied, in the fourth
13 quarter of 2014 they had to reduce prices to stem the loss
14 in market share, and you'll see that the COGS to sales ratio
15 went up again in interim '15.

16 So their argument's based on a decimal point
17 from '13 to '14. I think if you look at it in the context
18 of what's going on over the entire POI, it really doesn't
19 make any sense.

20 VICE CHAIRMAN PINKERT: Please.

21 MR. STEWART: Terry Stewart. Let me just add to
22 Joe's comments. Between 2013 and 2014, you had a huge
23 contraction in capacity reduction and production, loss of
24 jobs, and the industry was trying to do that in an effort.
25 Individual companies were trying to do that in an effort to

1 restore a semblance of balance between supply and demand,
2 because in these large fixed cost operations, you have to
3 run and as company witnesses can testify, they picked up
4 products that were extraordinarily unprofitable for them to
5 handle, to try to keep the capacity going as opposed to
6 taking down time.

7 One would have expected with a much smaller
8 footprint that you would have a much better COGS than you
9 achieved. So the -- from the other side, when you're
10 grasping for straws, you look for whatever sounds like it
11 might fit your scenario. This is a small decline in the
12 COGS, but it's a huge increase in COGS from 2012 or from
13 2011, when the cases -- the period that was originally
14 looked at.

15 The industry had been fighting serious price
16 erosion that had occurred because of the large increase in
17 imports before 2014 and that got exacerbated in 2014 when
18 what would normally have happened with the rebalancing of
19 supply and demand, a correction in the pricing levels was
20 basically thwarted, and then you see that it extends into
21 2015.

22 VICE CHAIRMAN PINKERT: So let's stay with the
23 price suppression issue for a moment, and let's look at it
24 over the course of the POI, rather than just that period
25 from 2013 to 2014. One of the issues that we have to

1 grapple with when there's an argument about price
2 suppression is whether the prices could have gone up to meet
3 the increased costs during a period of declining demand.

4 So even if you -- if you acknowledge that the
5 COGS to sales ratio is going up, and even if you acknowledge
6 that the unit costs are going up, could the industry in a
7 period of declining demand have increased prices to cover
8 its costs?

9 MR. DORN: Well I think -- Joe Dorn for
10 Petitioners. I think you don't just look at demand when
11 you're thinking about the market prices. You also look at
12 the supply side. I think what the witnesses have tried to
13 emphasize is there was a change, a very significant change
14 on the supply side with the Courtland closure.

15 The drop in demand was far, far less than the
16 drop in -- than supply. So the supply balance shifted in
17 favor of the domestic industry in terms of the ability to
18 raise prices. As the witnesses have testified, you know,
19 they put out announcements. They got some small but not
20 sufficient realization of those price increases in the first
21 part of the year, and then they had to roll back the price
22 announcements towards the latter part of the year, when they
23 saw the magnitude of the imports coming in and taking market
24 share.

25 VICE CHAIRMAN PINKERT: Mr. Stewart.

1 MR. STEWART: Yes, thank you Mr. Chairman. It's
2 also the case that economic literature identifies gradual
3 reduction in capacity in situations of secular decline as a
4 typical strategy that companies and industries pursue,
5 exactly to avoid devastating declines in operating margins.

6 So the industry had been, you know, you look at
7 a particular window of time in a case. The opposition has
8 attempted for selective purposes to go way back in time, to
9 look at longer time periods. What you would find in this
10 industry over a longer time period is that there were
11 efforts to keep things in sync. When you do that, you may
12 get price declines for a period that recover over time and
13 you have that kind of a seesaw type of an operation.

14 It was every expectation with all of the
15 closures that had occurred that you would have had a
16 restoration of a better balance and hence the ability to get
17 better prices in the marketplace. That obviously was
18 thwarted by the increased imports.

19 VICE CHAIRMAN PINKERT: Dr. Kaplan, briefly.

20 DR. KAPLAN: I think one of the questions you
21 could ask yourself is but for a nearly ten percent increase
22 in market share, could have the domestic industry raised
23 prices? So you have to look at the price suppression
24 effects that you're talking about in the context of a very
25 large increase in market share, which decreased demand for

1 the domestic product much more than any secular decline did.

2 So that's where the price suppression comes, and
3 it's fully on the increase in market share from imports.
4 That demand would have gone to the domestic industry,
5 because the capacity was available to supply it, as
6 testified by the witnesses.

7 VICE CHAIRMAN PINKERT: Thank you very much.
8 I'm going to turn the questioning over to Commissioner
9 Williamson.

10 COMMISSIONER WILLIAMSON: Thank you, and I want
11 to express my appreciation to all the panelists for coming
12 today and offering their testimony. I'm going to -- my
13 first question is going to be for Mr. McGehee and Mac Paper,
14 because you're the one purchaser on this panel.

15 The Respondents are saying, and the way I sort
16 of read their testimony, the industry didn't -- couldn't
17 manage its supply to its customers well enough so that when
18 it cut back on production, there would be enough for all of
19 its customers. That's kind of -- that's what they seem to
20 be saying and therefore the imports came in.

21 The domestic industry is saying we knew the
22 cutbacks were coming, cutbacks in production or domestic
23 supply, and therefore we thought there was an opportunity to
24 raise prices, which said maybe they didn't understand the
25 market well enough to know how fast the imports would come

1 in to undercut that.

2 Since you're a purchaser, what's your view of
3 this? In other words, kind of describe what happened.
4 Maybe just point to how long it takes, the ordering time,
5 how long do people order, how long does it take to supply,
6 you know, say for imports to come in and get the customers,
7 and see if your knowledge of all of that can help answer
8 this question.

9 MR. MCGEHEE: I'll do my best. For some time,
10 availability of product has not been issue. Long backlogs
11 have not been an issue. We knew capacity plant closures
12 were coming. I mean we sat around and talked who's next.
13 Is it going to be in the Southeast, Midwest, whatever? But
14 as far as supplying paper for us, there's been zero
15 disruption as far as availability of product domestically.

16 COMMISSIONER WILLIAMSON: Excuse me. Did you
17 anticipate that the domestic producers were going to try to
18 increase price in light of this?

19 MR. MCGEHEE: The price increases in late
20 '13-early '14, in my opinion, were based on trying to get
21 recovery of pricing, not elevate it to new highs. Not even
22 close. The market had already softened, I mean had
23 declined, and we were going out telling our customers we've
24 got increases and this is just trying to recover what we've
25 lost over the last couple of years.

1 COMMISSIONER WILLIAMSON: But being a very
2 astute observer of the market, did you anticipate that that
3 strategy was going to work for the producers, given the
4 imports that are floating around?

5 MR. McGEHEE: We've never seen imports on
6 uncoated paper come in at these type discounted prices.
7 We've experienced it with coated for sure, but not uncoated,
8 I mean to this disruptive type level.

9 COMMISSIONER WILLIAMSON: And in order for that
10 to happen, there has to be a certain amount of supply, you
11 know, inventory of imported product in the market. Given
12 the ordering time and lead times and all that, is that true,
13 or can you just -- can they just flood real fast? I'm just
14 trying to understand the dynamics.

15 MR. McGEHEE: Well for us, I mean being in
16 ports, we don't know what the offshore manufacturers' excess
17 inventory may be. We don't know what their sales
18 representative/brokers may be charged with so many
19 additional tons coming in to the United States.

20 We don't know that, but it has come to our
21 attention where representatives from offshore manufacturers
22 would come in and say we've got an abundance of tons. We
23 can make you a deal, and a lot of that's spot buys. And
24 again, the pricing is very disruptive.

25 COMMISSIONER WILLIAMSON: By spot buys, how much

1 time are we talking about? Is it going to be I'll give it
2 to you tomorrow, I'll give it to you in a week?

3 MR. McGEHEE: Yes sir, yes sir. They've got it
4 on the water, they've got it on the port and they, to my
5 knowledge, have built up more inventories domestically.
6 Availability has not been a problem, if that answers your
7 question.

8 COMMISSIONER WILLIAMSON: That's getting there.
9 Maybe some of the others can add in here.

10 MR. THOMAS: Mr. Williamson, Dick Thomas.

11 COMMISSIONER WILLIAMSON: Sure, go ahead.

12 MR. THOMAS: Just one comment to maybe help you
13 draw the picture you're trying to draw and I think I
14 understand it. There was lots of notice on this large
15 closure at Courtland. It was announced middle of September.
16 The last two machines didn't close until early February. So
17 the lead time really wasn't an issue, and I think what David
18 was trying to say is typically an importer will find ways to
19 warehouse paper in key cities, key markets and so forth.

20 It's really getting that first order delivered,
21 right, where you've got to fill that pipeline. In this case
22 on that Courtland closure, there was plenty of time to do
23 that. So I hope that helps.

24 COMMISSIONER WILLIAMSON: Okay, and I guess
25 post-hearing, if there's any documentation to go along with

1 that in terms of what people knew about the inventories
2 about -- warehouses of the suppliers.

3 Sure. We'll be happy to provide you whatever we
4 can.

5 COMMISSIONER WILLIAMSON: Okay. I think Miss --
6 I have my chart here. The person next to Mr. McGehee,
7 sorry.

8 MS. BYERS: Byers.

9 COMMISSIONER WILLIAMSON: Ms. Byers, yes.
10 Sorry.

11 MS. BYERS: That's play. Bonnie Byers for
12 Petitioners. I just want to -- you can also refer to the
13 slide that's up on the screen right now. There are
14 established importers for every single one of the major
15 exporters, and many of them have warehousing in the United
16 States.

17 So the whole notion of how quickly could you get
18 product that's from the subject countries is, you know, it's
19 very easy to do that because they've got facilities here.

20 COMMISSIONER WILLIAMSON: Okay. Does anyone --
21 Stewart.

22 MR. STEWART: Thank you, Commissioner. I'm just
23 going to point that in the prehearing staff report, they do
24 review percentage of merchandise moved by subject importers
25 as well as the domestic industry from inventories here in

1 the U.S. You'll see that the number for subject imports is
2 around 63, 64 percent. Domestic, as I stated in my
3 testimony, was a little over 73.

4 So the vast majority of product is here in
5 inventory, available within several days, is what the staff
6 report, based on the questionnaires from the importers and
7 domestic producers documented.

8 COMMISSIONER WILLIAMSON: Thank you. Yes, Mr.
9 Melton.

10 MR. MELTON: Yeah, Rob Melton. I'd like to make
11 the point in September of 2013, when IP announced the
12 closure of the mill, we had a number of internal discussions
13 about the timing of a price increase and whether it was
14 appropriate or not. As Mr. Stewart pointed out, there's a
15 bit of a cycle in a declining market, really the only time
16 you get pricing power is when supply comes out.

17 So we were looking to recover pricing that we
18 had lost over the past year or two. At the same time to
19 your point, imports had already started to flow in, and in
20 fact in September of 2014 my notes show that they were up
21 about 25 percent, either kind of year over year.

22 Our discussion internally was we were confused
23 by that, based on the competitive knowledge we had of their
24 cost structures and kind of what their netbacks would be.
25 We felt like maybe they had capped out, because it wasn't

1 making economic sense to us. At the time, of course, we
2 didn't understand the subsidies and the dumping that was
3 occurring, that really led to the flood of imports.

4 Further, as Dick Thomas pointed out, we were
5 very active with our customer base, reassuring them that
6 there was enough domestic supply of certain uncoated paper
7 to meet their needs. So it was not an uncommon thing in our
8 industry to have capacity shut, to have, you know, customers
9 ask is there going to be enough paper and for the past, you
10 know, decade there has been. So this case was no different.

11 COMMISSIONER WILLIAMSON: Okay. Was there any
12 difference in the category of sort of end user or purchaser
13 that contributed to this? Like do the big box stores, is
14 that where most of the volume went or was there some other
15 category? I have no evidence of either way, but I'm just
16 throwing that out, as I'm trying to sort of understand this
17 better.

18 MR. MELTON: Rob Melton. It's really across all
19 channels and how it ends up in those channels is a big
20 difference. Some of the channels, big box, will buy direct.
21 Other manufacturers will sell through a broker or a paper
22 merchant into the big box channel. But really imports are
23 across all channels in the market.

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. LEBLANC: Paul LeBlanc with PCA. We see,

1 you know, similar activity with the imports. So we would
2 validate what Rob from Domtar was saying. It is across all
3 customers and all channels that we sell to as well.

4 COMMISSIONER WILLIAMSON: Okay, good. Okay,
5 well my time is about to expire. Thank you for all those
6 answers. If there's anything you can think of post-hearing
7 in terms of documentation that supports, I guess, you can
8 say one theory or other. So I'm just trying to -- sort of
9 understanding the mechanics of what, how this all happens is
10 useful. So thank you.

11 VICE CHAIRMAN PINKERT: Let's turn the
12 questioning to Commissioner Johanson.

13 COMMISSIONER JOHANSON: Thank you, Vice Chairman
14 Pinkert, and Mr. Dorn I did not realize until today that
15 this is apparently the last time for you to appear before
16 the Commission. I'd like to state that I've always enjoyed
17 my interactions with you. Looking back, I once attended an
18 event for trade lawyers, for young trade lawyers and one of
19 the speakers there mentioned that one of the best parts of
20 practicing international trade law is that the trade bar is
21 on the whole composed of very pleasant lawyers, and you've
22 always been one of those.

23 You'll be missed around here at the bar. You've
24 been at the Commission. You've been a dean in the trade bar
25 for some time now, and I'll miss interacting with you. That

1 being said, I wish you the best in the next stages of your
2 life.

3 MR. DORN: Thank you very much. I appreciate
4 those kind words.

5 COMMISSIONER JOHANSON: Certainly. Moving on,
6 one of the first questions that came to my mind in this
7 investigation was that the whole issue of different sizes
8 for paper use here in the United States and abroad, I think
9 as some of you all know, when you travel abroad, at least
10 for me as soon as I go let's say to Europe, I always think
11 the paper is way too thin, and I get back here and the paper
12 looks really fat.

13 So I know there's differences between the United
14 States and most other countries of the world. How costly is
15 it to convert from one size of paper to the other on
16 sheeting machines and have you all done this before at your
17 facilities?

18 MR. BRAY: Yeah. This is Jack Bray with Domtar.
19 If you already have the equipment on hand, which does happen
20 at some sheeters, it's not very costly at all. It's really
21 just the down time and the labor to do it, and it's about a
22 12 hour event.

23 If you do have to go out and buy the equipment
24 to change over to different sizes, it's usually about a six
25 month lead time, roughly 500 to 600 hundred thousand

1 dollars, and the down time again is pretty minimal to get
2 there.

3 COMMISSIONER JOHANSON: All right. Thanks for
4 that response, for answering that basic question. Yes, Mr.
5 Stewart.

6 MR. DORN: Can I just add -- could I add one
7 thing on that?

8 COMMISSIONER JOHANSON: Yes.

9 MR. DORN: I think that 500 to 600 hundred
10 thousand sounds like a fairly sizeable number in the
11 abstract. But you have to keep in mind that we're talking
12 about a billion dollars in assets, you know, for a pulp and
13 paper mill. So the incremental cost, you know, of being
14 able to expand your bandwidth to increase capacity for a
15 different product, in the context of that base asset, it's
16 not very large. It's minor in relation to the total assets.

17 MR. STEWART: Terry Stewart. I was simply going
18 to add that in the questionnaire responses, you have
19 information from all of the foreign producers who responded
20 as to the capacity, current capacity that they have to make
21 letter size versus the international standard.

22 So there is data that's in -- that's available
23 in the record that would show you how much capacity there is
24 for those companies who did fill out questionnaire responses
25 in the file.

1 COMMISSIONER JOHANSON: All right. Thank you
2 for your responses. When I was looking at Table 3-1 of the
3 staff report, I was struck that for a product that you all
4 argue is a commodity-like product, there are a large number
5 of domestic producers. Granted, there are a number of
6 different sizes of these companies in terms of their shares
7 of the overall market.

8 But I was wondering why are there so many
9 producers in so many different locations in the United
10 States for this product?

11 MR. BRAY: Jack Bray with Domtar. So if I
12 understand your question, it stood out to you that there are
13 a lot of different producers in a lot of different locations
14 and why is that the case?

15 COMMISSIONER JOHANSON: Yes, yes.

16 MR. BRAY: Well, I guess the pulp and paper
17 industry has a very long history, okay. First of all, it's
18 been around for quite some time and we have -- obviously the
19 industry has flowed to where the natural resources are. It
20 is a natural resources-intensive industry and originally
21 these mills started as smaller operations back historical it
22 was smaller-scale equipment.

23 Then this equipment has grown as a result of GDP
24 growth and so forth. So it's really just been kind of
25 organic. It's a very mature industry, very organic and it's

1 just grown over time and flowed to where the resources are.
2 As of the last couple of decades, that's been in the
3 Southeast primarily.

4 COMMISSIONER JOHANSON: Yes Mr. Stewart.

5 MR. STEWART: I think it's also the case that in
6 the staff report, there is reference to a RISI summarization
7 that says the top four companies account for 97 percent of
8 capacity. So I don't know that that would suggest that
9 there are so many producers. Other companies may be more in
10 certain niches. But four companies for 97 percent is a
11 pretty concentrated industry.

12 COMMISSIONER JOHANSON: Right. That actually
13 sounds about normal for many industries, but thank you for
14 your responses. Respondents contend that the age of the
15 domestic industry's equipment has limited the industry's
16 practical capacity. What is your response to this argument,
17 and this is found at page 36 and 238 of their brief.

18 MS. LASSA: Judy Lassa for PCA. In our
19 experience, we have a couple of machines that are, you know,
20 older and in fact one of our machines at International Falls
21 is 100 years old.

22 COMMISSIONER JOHANSON: I'm sorry, how old?

23 MS. LASSA: 100. But you have a basic steel
24 frame there and there are many different things you can do
25 to reconfigure those paper machines. So if you want to add

1 more capacity, there are different things that you can do.
2 So the age of it does not, you know, does not stop you from
3 adding capacity or becoming more efficient.

4 COMMISSIONER JOHANSON: Yes Mr. Stewart.

5 MR. STEWART: I think it's also the case that
6 certainly in PCA's situation and Boise's situation in
7 answering the questionnaire, the questionnaire has you
8 identify your practical capacity as you run your equipment.
9 So regardless of the age, new, mid-age, older age, whatever
10 upgrades, etcetera, what is your practical capacity as your
11 equipment exists.

12 So speculation by others as to whether or not a
13 company's equipment can operate at some theoretical number
14 isn't what the questionnaires ask for and isn't what was
15 supplied in the questionnaire responses.

16 So the data I believe that the Commission has
17 before it represents, at least in PCA's case, what their
18 actual practical capacity is, and to the extent that that is
19 higher than what their production is, that means that
20 there's additional capacity in addition to the shifting that
21 was talked about during the testimony.

22 MR. BRAY: This is Jack Bray with Domtar. Even
23 though there are some older machines in the system, the
24 technical age of the Domtar system is reasonably young given
25 industry standards. But I think the key here is that even

1 older, more mature equipment can run at very high rates,
2 particularly if they're making uncoated free sheet copy
3 paper.

4 When they're forced to make other products,
5 there are sometimes inefficiencies. But if you make what
6 they were designed for to begin with, certain uncoated
7 paper, the efficiencies go way up, and that's built into the
8 capabilities that you see in the prehearing report.

9 COMMISSIONER JOHANSON: Yes Ms. Byers.

10 MS. BYERS: Hi, Bonnie Byers. I just would
11 point out too that one of the machines that was closed at
12 the Courtland facility was widely recognized to be one of
13 the largest, newest and most efficient uncoated paper making
14 machines in the United States at the time that it closed.

15 COMMISSIONER JOHANSON: All right. Thanks for
16 your responses. Respondents have argued that the market for
17 uncoated paper is growing almost everywhere in the world
18 except for the United States. Petitioners contend, on the
19 other hand, that there's contraction in global demand. Who
20 is right and what are your predictions going forward? Ms.
21 Byers.

22 MS. BYERS: Global growth has been reported by
23 RISI to be stagnating. For example, there's been global
24 growth over the past couple of years that has ranged, you
25 know, in the four or five percent globally. In 2016, they

1 predict that the growth rate in the world generally is going
2 to be 0.8 percent.

3 That only equates to about 200,000 metric tons.
4 If you compare that, for example, to just the capacity
5 that's coming on line in China and Indonesia in 2015 and
6 2016, which is 1.3 million tons, you can see that the new
7 capacity is going to swamp any kind of increase in global
8 demand.

9 If you look at it region by region, the growth
10 in Asia is decelerating very rapidly. They had a growth
11 rate of about 6.1 percent during the period 2000 to 2012
12 according to RISI. This has fallen to about two percent in
13 2013 and 2014, and is only going to be 1.4 percent per year
14 going forward.

15 So they way overestimated the amount of demand
16 that was going to be in Asia. Similar trends in Latin
17 America. Demand there has been stagnant, will grow probably
18 about one percent in 2016, and demand in Europe has been
19 falling at about a rate of 1.5 percent since 2007 and will
20 continue to decrease over the next ten years.

21 COMMISSIONER JOHANSON: All right, thank you Ms.
22 Byers. My time has about expired. I appreciate your
23 responses.

24 VICE CHAIRMAN PINKERT: Commissioner Kieff.

25 COMMISSIONER KIEFF: Thank you very much Mr.

1 Vice Chairman, and I join my colleagues in welcoming back
2 such a gracious and deep expert advocate to our practice in
3 this -- in the Respondents' counsel, and in welcoming back
4 and bidding only best wishes to Petitioners' counsel. We
5 are so enhanced in our community generally and in the work
6 of the Commission when we have such great counsel on both
7 sides. That is a treat.

8 Let me, if I could, ask -- start with just some,
9 maybe a minor question. But I want to try to see if it can
10 help us find a difference, get some traction,
11 decision-making traction. This is a selfish question. So
12 both Mr. Dorn and Mr. Stewart have pointed out a difference
13 in the decline in demand for paper and a decline in demand
14 for web. Am I right in noticing that you've both pointed
15 that out?

16 If that's right, could somebody just expand a
17 little bit more on how you think that difference should
18 drive our thinking in the case?

19 COMMISSIONER KIEFF: I recognize that's largely a
20 legal question and I do greatly appreciate the factual
21 witnesses coming but I hope it's to ask this somewhat legal
22 question.

23 MR. DORN: I think in terms of how it affects how
24 you look at the case?

25 COMMISSIONER KIEFF: Yes.

1 MR. DORN: I think it would be useful to have the
2 witnesses talk about the factual predicate as well but I'll
3 begin. I think that our main point was the other side is
4 saying that we're trying to get away from producing certain
5 uncoated paper that the U.S. Industry doesn't want to
6 produce. There are lots of other more valuable things to
7 produce. It's all over their brief, right. It's not true.

8 The equipment's sweet spot is making sheeter
9 rolls for certain uncoated paper and the fact is, as the
10 witnesses can explain, demand for the use of web rolls is
11 falling faster than demand for sheeter rolls. We all came
12 with paper today. We did not just come with our I-Phones.
13 So as the economy has been recovering and more office
14 workers are doing what we do, that's blunted the demand
15 decline for certain uncoated paper. But it hasn't for books
16 which are made from web rolls or for envelopes which are
17 made from web rolls, and for other applications.

18 Our point is that if it weren't for imports of
19 the uncoated paper, you would see a shift toward more
20 production of sheeter rolls, more production of certain
21 uncoated paper and less production of web rolls. There are
22 virtually no imports of the web rolls, but there are imports
23 of certain uncoated paper. But as witnesses have said, to
24 keep their paper machines going they have had to produce
25 more web rolls than they should be producing to make what

1 kind of products, Dick?

2 MR. THOMAS: Dick Thomas here. As an example, as
3 far afield, if you will, as making bag stock for like a
4 Wendy's hamburger bag, well these machines I guarantee you,
5 none of them were designed to do that so it's a lightweight
6 packaging product but the machine can make it. It makes it
7 at a tremendous loss in profit compared to its baseline and
8 its potential if it's making certain uncoated.

9 Again, the machine runs better. You've got more
10 staying power in the certain uncoated because the growth
11 rate is slower and you've got the ability to run longer runs
12 as Jack said in his testimony so everything about that
13 machine, and sweet spot is a good term to use. That's what
14 they were designed and set up to run.

15 COMMISSIONER KIEFF: Alright, I've noticed that
16 Dr. Kaplan is anxious. Sorry, I didn't mean to cut you off
17 but just very briefly Dr. Kaplan...

18 DR. KAPLAN: I know this issue will arise again so
19 take the next question.

20 COMMISSIONER KIEFF: So, please Ms. Lassa.

21 MS. LASSA: So for PCH, similar to what... this
22 is Judy Lassa with PC. Similar to what Dick just talked
23 about, we had had to run more web rolls on our equipment as
24 well. Again, it's declining faster. It's less efficient to
25 run, it's higher cost and certainly we would like to be

1 running the certain uncoated product not only for the fact
2 that it's more profitable but also that it is declining
3 less.

4 COMMISSIONER KIEFF: Okay, that's all very
5 helpful. Let me ask a very one hundred thousand foot
6 question, and again maybe more legal, but what if it turns
7 out the opening statement of your opposing counsel is one
8 hundred percent factually correct in the sense that there is
9 a narrative to it about what she thinks is happening. She
10 thinks in effect folks are buying from importers, motivated
11 largely by desire to smooth out supply and avoid price
12 shocks. What if that's all true? Am I correct in
13 understanding that even if that were all true, you could
14 still win your case?

15 MR. DORN: No question about it, because it's
16 resulting in lost market share and price depression. We
17 don't accept the factual predicate for it.

18 COMMISSIONER KIEFF: I get that. I get that.

19 MR. DORN: But we do understand what you're
20 saying and agree with that.

21 COMMISSIONER KIEFF: Just one of the things I'll,
22 and obviously we, although our custom here is to discuss
23 with one side first and then the other side obviously we
24 hope everybody benefits by having both sides present during
25 each side's discussion and so for me one of the things I

1 often wrestle with is trying to suss out in my mind whether
2 the decision I have to make turns on my understanding of an
3 argument or my understanding of facts and it sounds to me
4 like although there is obviously factual disagreement, even
5 if the facts were as narrated by your opponent, you're
6 saying that that shouldn't drive a decision in favor of your
7 opponent?

8 MR. DORN: I think Terry and I agree on that.

9 COMMISSIONER KIEFF: So then, and obviously we
10 look forward to your opponent explaining why either there is
11 more significance to that than we are all getting at the
12 moment. What then, back to the factual disagreements, are
13 you, do you see as the factual disagreements that are most
14 outcome determinative to our thinking? Dr. Kaplan.

15 DR. KAPLAN: As an economic matter I think there
16 are two and I think the first one is whether there exists
17 capacity to supply the market.

18 COMMISSIONER KIEFF: And your colleagues, the
19 factual witnesses today have elaborated this morning, have
20 elaborated about the presence of that capacity.

21 DR. KAPLAN: And I think the Staff Report speaks
22 to it itself, the actual capacity table in the Staff Report
23 that's public shows an extraordinary amount of divertible
24 capacity. The other side has said "We cannot produce and
25 that's why imports are needed" on pages 4,6,7,8, 12, 13, 14,

1 15, pages 24 to 38, page 52, page 53, pages 55 and 56, page
2 57 and page 59. It is fundamental. It is a bedrock of
3 their argument that we can't produce more and that's
4 factually incorrect.

5 The second bedrock of their argument if there is
6 switching is that we are producing a lower-profit item and
7 would prefer to go to a higher profit item. That has been
8 demonstrably shown to be incorrect by every industry witness
9 before you and we'll supply information later. Those two
10 factual things there and those both being wrong, their case
11 does not...

12 COMMISSIONER KIEFF: Succeed in your view? So I,
13 just recognizing the limits of time I just want to wrap up
14 my time by inviting for the afternoon discussion your
15 counterparts to highlight either why they're right on those
16 facts or while this is an unfortunate detour and there are
17 other more salient facts that they see as outcome
18 determinative or why we're missing the legal significance,
19 but that's my effort to join the issues. I pass the baton.
20 Thank you very much.

21 VICE CHAIRMAN PINKERT: Commissioner Schmidtlein?

22 COMMISSIONER SCHMIDTLEIN: Thank you. First, I'd
23 like to thank all the witnesses for being here today and
24 also echo my colleague's comments in thanking Mr. Dorn for
25 your service here at the Commission and to the Trade Bar in

1 general and you will be missed around here. I wish you
2 well. So I would like to pick up with this chart that Dr.
3 Kaplan referred to, Table 35 in the Staff Report which is
4 about this question of capacity and capacity utilization and
5 make sure that I understand this. I guess it's reflected
6 also on slide 20 if you want to put that up from the
7 Petitioner's slides.

8 So this amount of switchable capacity at 3.6
9 million short tons, I'd like to understand and it's broken
10 down in the Staff Report between different products, web
11 roll is a big product. There is another category called
12 "other products". I would like to understand what that
13 includes and then I'd like to understand how easy is it to
14 switch from these products to making sheeter rolls, uncoated
15 for sheeter rolls? Do the same people operate the machines
16 when you do that? Is it expensive? How much time does it
17 take, those types of things so I'm not sure who to start
18 with. Ms. Lassa would you like to start?

19 MS. LASSA: Yes. So as far as switchability, we
20 do have the flexibility to run the web rolls for sheeter
21 rolls and most of our, all of ours have been uncoated rolls
22 and not other products and maybe Domtar will talk about
23 that. But as far as you know, how much time it would take
24 to be able to do that, we are doing that now. We currently
25 run both sheeter rolls and web rolls on all of our machines

1 currently so there is no switchover. There is nothing we
2 have to do. We are running both products on all of our
3 machines currently.

4 COMMISSIONER SCHMIDTLEIN: I see, okay. Anybody
5 else like to contribute? Mr. Thomas?

6 MR. THOMAS: Dick Thomas. Yes, thank you. Just
7 one point here and again, I know I'm repeating myself, but
8 these machines were designed to make certain uncoated paper
9 so if there's cost or some optimization involved it's with
10 making the other products. For them to go back is really
11 nothing. It's what they were designed to do. Then,
12 certainly the same operators would operate the paper machine
13 but then the rest of the process of course is off site and
14 those sheeters are there and they can either be run or not
15 run and so it's a simple matter of making bigger rolls, take
16 them over there and sheet them.

17 It doesn't affect the paper machine really at all
18 other than frankly make it run a bit better to make certain
19 uncoated. I hope that helps.

20 COMMISSIONER SCHMIDTLEIN: Yes.

21 MR. THOMAS: I definitely want to describe the
22 process.

23 MR. BRAY: This is Jack Bray with Domtar and yes
24 I agree with everything that's been said. It's actually a
25 very easy process to switch back to certain uncoated free

1 sheet. It is the same crews. I mean, how you staff, how
2 you manage your operating systems. Everything essentially
3 stays the same. Obviously there are quality parameters and
4 everything but the crews are working with it, you adjust.
5 It's a very easy switch. Obviously, as the record shows,
6 the sheeting capacity is there and I just want to echo what
7 Dick says.

8 We have a lot of experience with going back and
9 forth and in fact we have repurposed one of our machines to
10 make lightweight thermal paper products that can still make
11 copy paper. So we have a machine where we regularly switch
12 back and forth and we can see the impacts. The impact can
13 be up to 200 tons per day increase in throughput by going
14 back to copy paper on the machine and at a minimum a 1-2%
15 increase in efficiency.

16 COMMISSIONER SCHMIDTLEIN: And when you say it's
17 easier, are we talking about literally during the same day?
18 Does it take...

19 MR. BRAY: Yes. If we get the production
20 planning notice to go, we can make that changeover within an
21 hour on the machine and have it to the sheeters and that can
22 all be done same day, actually same shift.

23 MS. LASSA: Judith Lassa, PC. I totally agree
24 with what Jack just said. Again, we are running both of
25 those products interchangeably now on the same machine so it

1 is, you know, it's nothing to make the change and it happens
2 on a daily basis.

3 COMMISSIONER SCHMIDTLEIN: Okay. Mr. Dorn.

4 MR. DORN: The other side says we'd rather be
5 making more valuable products rather than certain uncoated
6 paper. Looking at the public version, so I don't get in
7 trouble here, but the coated paper, arguably you can call
8 that a higher value product. You have the confidential
9 version in front of you.

10 COMMISSIONER SCHMIDTLEIN: I have the
11 confidential version.

12 MR. DORN: You can see the tonnage there.

13 COMMISSIONER SCHMIDTLEIN: Yes.

14 MR. DORN: Then thermal paper, I think it's only
15 Domtar that would be making the thermal paper, right? You
16 know that product. You've heard testimony, that's not a
17 more valuable product, right? That's a less valuable
18 product, so that the Marlboro Mill, which Mr. Thomas
19 testified about, is better utilized making more profitable
20 product called sheeter rolls for certain uncoated paper
21 rather than thermal paper. Then you have web rolls and
22 those web rolls are used to make a number of products.

23 In terms of why you have this line item for other
24 products, these will be products that were made from web
25 rolls which assume that some folks might make forms and

1 things like that from the web rolls. You do that, right?
2 That would go in the other products category rather than in
3 the web rolls category. Web rolls I guess you would report
4 just as shipping rolls that you would send directly out to
5 another customer.

6 COMMISSIONER SCHMIDTLEIN: Okay. Thank you. In
7 terms of the argument about the practical full-capacity,
8 maybe this has been covered already but do you want to
9 respond to that, this question about, well if you're running
10 at ninety-four or ninety-three or ninety-one that you're at
11 virtual full, you are at practical...

12 MR. DORN: We can get into that in terms of the
13 confidential data respect to Domtar's experience. The
14 questionnaire requires that you report your practical
15 capacity, not your theoretical capacity. So, to be
16 consistent with the questionnaire, that's the way Domtar
17 reported the data. So, Domtar can produce at one hundred
18 percent because it's practical capacity, it's not some
19 theoretical capacity. That's my understanding for PCA as
20 well, correct?

21 COMMISSIONER SCHMIDTLEIN: Okay, let me turn to a
22 question about the pricing products and the Respondents make
23 an argument in their brief that around page 25, where they
24 advocate that the Commission should use quarterly AUV data
25 to analyze whether or not there has been underselling

1 because of the amounts of subject imports in any one country
2 in these products are so much smaller than the U.S. Product
3 that they couldn't influence and so we shouldn't look at the
4 pricing product data that's been reported. At least this is
5 my understanding of the argument and if I've misstated it
6 I'd be happy to be corrected by the next panel but that we
7 should look at quarterly AUV data in determining whether or
8 not there is significant underselling. Can you respond to
9 that?

10 MR. DORN: I think that they don't like the
11 results so they want to have you do a different methodology
12 on it. It's very hard for us to respond to that in the
13 public forum here.

14 COMMISSIONER SCHMIDTLEIN: Okay.

15 MR. DORN: Terry, you might have something you
16 want to say about this.

17 COMMISSIONER SCHMIDTLEIN: So I guess it really
18 goes to the question of how do you respond to the argument
19 that the disparity and amount between the U.S. Product,
20 especially let's look at product one, where really the
21 action is, and the amounts in any individual country is so
22 big that that product coming in from any individual country
23 couldn't influence the price of U.S. Product?

24 MR. DORN: Well I think from a legal matter, you
25 should be cumulating the impact. I mean, I think that's

1 what Congress meant for you to do. You don't consider the
2 impact of imports from any one country in isolation and on a
3 cumulated basis there is clearly a significant price impact.
4 The volume is very significant, 17.4% of the market in 2014,
5 7.5 percentage points of market share shift from 2012 to
6 2014, so, once you cumulate imports I think you've got to
7 consider the imports from all sources. Is that responsive
8 to your question?

9 COMMISSIONER SCHMIDTLEIN: Yes, I think so. If
10 you'd like to go further into it, I would invite you to do
11 that in the post-hearing.

12 MR. DORN: They have some different wrinkles.
13 Sometimes they combine one and two and sometimes they use
14 one, you know, whatever data point works. They do as good
15 lawyers do, but I think we will be better off responding to
16 some of that in the post-hearing where we can refer you to
17 the precise data points.

18 COMMISSIONER SCHMIDTLEIN: To the confidential
19 information, okay.

20 MR. DORN: I will say that on the price
21 underselling, our clients do not believe that there is any
22 overselling from any of the countries, so we have concerns
23 about the data and we also have gone to great length to
24 explain what's in the purchasers questionnaire as you have a
25 rich record here. We've gone, starting with the largest

1 purchaser down to the next dozen or so, and talked about
2 what each purchaser says about competition in the
3 marketplace, and it's a rich body of evidence. We hope
4 you'll pay close attention to that.

5 COMMISSIONER SCHMIDTLEIN: Thank you. My time is
6 up.

7 VICE CHAIRMAN PINKERT: I just have a few follow
8 up questions. You testified earlier that the operations of
9 the Domestic Industry are capital intensive. But I don't
10 know if you focus specifically on the sheet operations so I
11 want to get your answer to that question which of course is
12 raised in the Respondent Brief.

13 MR. DORN: I'm glad you asked that question.
14 Let's think about steel. Do you think corrosion resistant
15 steel is capital intensive? I mean based upon their
16 argument, you say "no it's not" because you ignore the fact
17 that you have equipment to make the cold-rolled steel, you
18 have equipment to make the hot-rolled steel, you have
19 equipment to make the slabs, you have equipment to make the
20 raw steel. Similarly they're suggesting that you ignore the
21 equipment required to make the pulp, to make the paper, to
22 make the sheeted product.

23 So I don't think as a legal matter it makes any
24 sense. In this industry I think every player is vertically
25 integrated from pulp to sheeting equipment. There's nobody

1 out there just, I mean there are a couple of people doing
2 tolling but all your data is based upon integrated
3 producers.

4 VICE CHAIRMAN PINKERT: I get that you consider
5 the question to be misplaced, but is there an answer to that
6 specific issue that's raised. In other words, the capital
7 intensity of the sheet side.

8 MR. STEWART: This is Terry Stewart. Let me just
9 put things in perspective. Earlier, you heard from the
10 witnesses as to what the cost would be to permit sheeting of
11 different sizes to go to the U.S. Size if you were set up to
12 go international or to go international if you were set up
13 for U.S. and that number was half million - six hundred
14 thousand dollars. My understanding of the cost of a
15 sheeting line is that it's around fifteen twenty million
16 dollars, something in that neighborhood and we heard that
17 the cost of the entire mill is 1.2 billion dollars.

18 Those are the factual numbers that are out there
19 and as I read the Respondents submission, the six hundred
20 thousand to be able to make more letter size paper was an
21 outrageous expense that they would never go to but the
22 sheeting expense, which was, as I understand it, twenty
23 times as great, is an insignificant cost and shouldn't be
24 included with the cost of the mill in considering what the
25 overall cost of sheeted paper is.

1 VICE CHAIRMAN PINKERT: Dr. Kaplan, and then we
2 will come back to you Mr. Dorn.

3 DR. KAPLAN: In reading the predicate for the
4 argument on capital intensity, it's based on the notion that
5 no more sheet or rolls can be made. That sheet or rolls are
6 operating at one hundred percent and that's why they think
7 the capital intensity of the sheeters matter. You've just
8 heard evidence that there's and you see it on the slide,
9 that there's massive divertible capacity and significant
10 excess capacity. So the predicate of their argument about
11 why they even think it's important is undercut by the facts
12 and I'd be happy to discuss the relative capital intensities
13 and the meaning of it in the post-hearing but I think it's
14 kind of...

15 VICE CHAIRMAN PINKERT: Please do. But you think
16 it's what?

17 DR. KAPLAN: Kind of a moot point based on their
18 predicate about why you should focus on the capital
19 intensity of the sheeters in the first place.

20 VICE CHAIRMAN PINKERT: Thank you. Mr. Dorn?

21 MR. DORN: I have nothing further. Thank you.

22 VICE CHAIRMAN PINKERT: How significant is
23 branding in this industry? I understand that you are
24 arguing that price is what really determines who gets the
25 sale but is the customer typically aware of the branding?

1 MS. ZORN: Katie Zorn. Brand relevance and
2 recognition is relatively low in the office papers market.
3 There are brands available that come from both Domestic
4 Producers and importers and the acceptance of brands is
5 fairly broad in general. Those products that you see in
6 front of you from Staples when consumers are asked are
7 considered acceptable brands along with national brands or
8 other brands that may just appear more reputable like some
9 of the ones that we have seen on the slides.

10 So switching occurs often between brands and so
11 even for those who do as part of their general purchasing
12 behaviors prefer brands they may often switch or interchange
13 between retail perceived brands or other well-known brands.

14 VICE CHAIRMAN PINKERT: Anybody else wish to
15 comment on branding?

16 MR. LEBLANC: Paul LeBlanc, PCA. Our research
17 and how we work with our customers is consistent with what
18 we just heard from Katie. The way we go to market is in
19 support of our customers so customers typically have a
20 strategy of using multiple products to help them deliver on
21 their goals around margin and sales and a breadth of
22 portfolio, if you will. You heard from Mr. McGehee the
23 breadth of products that they are selling that fits within
24 the certain uncoated market and brands are part of that.

25 But, again, as Katie pointed out there is

1 tremendous interchangeability between whether they're buying
2 a Staples brand or what we would consider a mill brand or
3 we've even mentioned what was called white box earlier in
4 some of the testimony. Again, all those brands have low
5 awareness in general and high interchangeability.

6 MR. MCGEHEE: David McGehee. I would offer, we
7 wish brands had more value but more and more it's price.
8 It's price-related.

9 VICE CHAIRMAN PINKERT: Just to follow up on that
10 point for a second, when you say more and more can you focus
11 your attention on the period that we're looking at here, say
12 2013, 2014, 2015. How important is branding during that
13 period?

14 MR. MCGEHEE: For Subject Products, very little
15 if any.

16 MR. MELTON: I would like to point out, just
17 relatively speaking, brands are not a key purchase driver.
18 In fact, Domtar produces and owns the exclusive rights to
19 make the Xerox-branded paper, which is probably one of the
20 more recognizable names. We spend very, very little amount
21 to market and promote that brand. In fact, if you look at
22 our overall advertizing and marketing spend, we spend two
23 and a half times more on promoting paper-based
24 communications and really kind of the advocacy of paper
25 consumption than we do on our brand marketing in total for

1 certain uncoated products.

2 So, very small and it really is a small portion
3 of our overall advertising spend total.

4 VICE CHAIRMAN PINKERT: Thank you. My last
5 question touches on the Mittal case, but I don't want to get
6 into what the best interpretation of that case is. I'd
7 rather you tell me whether for purposes of that case we
8 should consider these products to be -- or this product that
9 I see in front of me to be a commodity product.

10 MR. STEWART: I think the -- I think the answer
11 to that, Mr. Chairman, is that we have said that it's
12 largely a commodity-like product. And so to try to avoid
13 being in the same camp as our distinguished opponents, we'll
14 try not to flip flop depending on the part of the issue
15 we're talking about. And I think that even if you took the
16 view that Bratsk Mittal required an examination of
17 non-subject imports, non-subject imports here are very
18 small. They're much more -- they're much higher priced so
19 that the concerns that the Commission and the courts have
20 had in terms of non-subject imports, whatever that might be,
21 and however you choose to construe those cases, isn't
22 applicable here even if you assume that this is a commodity
23 product.

24 MR. DORN: One other factual point is that, the
25 major non-subject supplier was Canada during the POI and

1 that's mainly a product coming in from Domtar. Domtar
2 would have no reason to bring in imports at injurious prices
3 and hurt its U.S. assets.

4 VICE CHAIRMAN PINKERT: Thank you. That's
5 helpful.

6 And with that I want to turn to Commissioner
7 Williamson.

8 COMMISSIONER WILLIAMSON: Thank you. Before I
9 start I want to join my colleagues and Mr. Dorn and commend
10 you for a very successful career. And Commissioner Pinkert
11 talked -- or Vice Chairman Pinkert talked about your
12 friendly atmosphere, your personality, and warm personality,
13 and I just want to give a personal mention or testimony to
14 that. Some time in the early '30s when -- early '80s when I
15 was at USTR, some 30 years ago --

16 [LAUGHTER]

17 COMMISSIONER WILLIAMSON: -- you came in and
18 talked about Mexican cement. I don't remember the details
19 really, but that was the first time I met you and I must
20 admit, I had a very -- I've always had a very pleasant
21 memory of that meeting. And so, the fact that some 30 years
22 later I still remember the first time I met you and how
23 effective you were and what a pleasant experience that was,
24 I think it's just a testimony to what others have said.

25 So I commend you and all the best in retirement.

1 MR. DORN: Well, thank you very much, really
2 appreciate it.

3 COMMISSIONER WILLIAMSON: Ms. Foster, I was just
4 wondering, do you have any specific information on how TA
5 may have assisted workers in making transitions to other
6 employment?

7 MS. FOSTER: I don't have any specific and
8 certainly we could follow up. But in general it's very
9 difficult for our members to achieve the kind of wages and
10 benefits that they earn in a paper mill with a high school
11 education on average after the loss of their jobs, after one
12 of these shutdowns or closures.

13 COMMISSIONER WILLIAMSON: Okay. Thank you. I
14 was just wondering because it's one of those times when that
15 TA experience has been prominently mentioned.

16 I was just wondering, we've already talked a
17 little bit about pricing information. And I was just
18 wondering, some countries -- Brazil and Portugal show the
19 opposite mostly overselling compared to where the other
20 suppliers have been, you know, underselling. And I was
21 wondering what explains the differences and how should the
22 Commission take these differences into account in this
23 analysis, if we should do so at all?

24 And if you want to do it post-hearing, you can.

25 MR. STEWART: Before we turn to the witnesses, I

1 think that Mr. Dorn had gone through that. There is a great
2 deal of information in the record that contradicts that
3 which you have in the pricing information on product -- on
4 product one and two in particular. And there are concerns
5 about product three in terms of the failure of -- there will
6 be information on the record based upon things that happened
7 in terms of the design of the question. So I believe that
8 the Petitioners' view is that it is not the case that there
9 was overselling by Portugal or Brazil in the market. That
10 is confirmed by the questionnaire responses of the
11 purchasers and it is confirmed by both the testimony of our
12 -- of the purchasing witness here from Mac and also from the
13 statements in the -- sworn statements in the prehearing
14 brief of the Petitioners that review the competition that
15 had been faced by Domtar and by PCA in the market against
16 Portugal in particular.

17 COMMISSIONER WILLIAMSON: Okay. Thank you. Is
18 there anything else on that, or --

19 MR. MELTON: I'm not sure I have a lot to add
20 from a legal standpoint. I'm confused by that as well.
21 The data seems inconsistent with my and Domtar's experience
22 in the marketplace. As it relates to Portucel and Suzano
23 really with all customers that we sell to, we're often told
24 that our price is too high and we need to reduce to match
25 them.

1 Mr. LEBLANC: Paul LeBlanc with PCA. We had
2 similar experiences. We, you know, are competing against
3 them every day and again our experiences are that our prices
4 tend to be too high when compared to them.

5 COMMISSIONER WILLIAMSON: Okay. Thank you.

6 MR. DORN: If I may, just one other point.
7 Putting aside underselling and overselling, this is
8 confidential so I cannot mention the numbers. But if you
9 look at Table V-8 at V-19, you have the trends in prices
10 from the beginning to the end of the POI. And product one,
11 of course, is the largest volume and I think it's telling to
12 look at the price trends for the United States, Brazil, and
13 Portugal on that table. I think that's telling.

14 And just to add a point to what Terry said about
15 product three. We thought it was important to have a
16 pricing product that covered Folio. I mean, Folio is, you
17 know, not the major, it's a smaller portion of the market,
18 but especially with respect to Brazil and Portugal, imports
19 of folio have been very damaging. So we certainly wanted to
20 have a folio product.

21 The problem we face is that there are lots of
22 different dimensions of folio. So to cover folio broadly,
23 you'd have to have a lot of different pricing products, but
24 we came up with what we thought was the best representative
25 pricing product, 23 by 35, 96 bright. And so that would be

1 sort of, you know, a proxy for what's going on, on the folio
2 side. But after the fact, after we had proposed the
3 definition, apparently respondents suggested adding "sold
4 with matching cover." I can't go into the specifics, which
5 are confidential, but that had an adverse impact in terms of
6 the coverage for your pricing data with respect to product
7 three, which is the only folio product. So we have a gap in
8 the record there, and as we explained in our brief, we're
9 hoping you would consider trying to fill that gap before you
10 vote.

11 Thank you.

12 COMMISSIONER WILLIAMSON: Okay. Just briefly,
13 could someone explain -- I never fully understood, what's
14 the folio product used for? Why is it -- I mean, I know
15 it's a very small share of the market, but I -- I just never
16 really understood the significance of it.

17 MR. McGEHEE: Folio -- when you look at a
18 commercial printer, eight and a half, eleven, you get eight
19 out of a 23, 35-size sheet. So that can run at multiple ups
20 with one pass through the press.

21 COMMISSIONER WILLIAMSON: Okay.

22 MR. McGEHEE: So folio and it's evolving with
23 this digital age we're in, but folio to me is everything
24 over 17 by 22.

25 COMMISSIONER WILLIAMSON: Okay. Thank you.

1 MR. McGEHEE: And printers use it for multiple
2 images on one pass with the press.

3 COMMISSIONER WILLIAMSON: Okay. I understand
4 now. Thank you.

5 Petitioners assert that the investigation
6 suppressed cumulative subject import volume in the third
7 quarter of 2015. And how -- this is at pages 28 and 29 of
8 your brief, and I was wondering, how does this fact affect
9 the Commission's analysis?

10 MR. DORN: Well, in terms of what happened in
11 terms of interim 15, our main point is that the reason that
12 we started to regain some market share in 2015 was because
13 we lowered prices. And you've had testimony from the
14 witnesses about doing that because it couldn't suffer
15 further loss in market share. We have some confidential
16 contemporaneous business records from Domtar which
17 substantiates the decision they made and the analysis of
18 what would happen in different scenarios depending on how
19 they priced their product going into 2015. As Mr. Thomas
20 testified, they decided to lower prices, but as a result
21 they took a big hit on profitability. But they did stem
22 the loss of market share.

23 So that explains, you know, some of the decline
24 in -- or the fact that imports didn't continue to increase
25 in 2015. But then if you look in one of your appendices,

1 you have the monthly import tables and you'll see a sharp
2 drop in volume of cumulated imports in the third quarter of
3 2015. So if you're looking on an interim '14, interim '15
4 comparison, that third quarter of 2015 after the duties were
5 imposed skews the comparison, so that's the point we're
6 trying to make there.

7 COMMISSIONER WILLIAMSON: Okay. Good. Thank you
8 for that explanation.

9 Mr. Thomas, just wondering, do you still intend
10 to convert your Ashdown facility's production of fluff paper
11 if the Commission reaches an affirmative determination? In
12 other words, would an affirmative determination change your
13 plans there?

14 MR. THOMAS: No. At this point, no. We do plan
15 to go ahead with that, but certainly we've planned and
16 really since even before the preliminary duties came out, we
17 planned for a scenario where the duties made it difficult
18 for the targeted countries to ship in here and do we have
19 the capacity to cover that, and we do, even without this
20 machine having gone out of the system. So that's been our
21 commitment from the get-go.

22 COMMISSIONER WILLIAMSON: Okay. Thank you. And
23 just my last question. Assuming Commerce reaches an
24 affirmative final determination of critical circumstances
25 for Portugal, what is your argument that these imports

1 warrant an affirmative determination from the Commission?

2 MR. STEWART: I think because of some of the
3 issues that are going on at Commerce, we would like to
4 handle that in the post -- in the post-hearing brief.

5 COMMISSIONER WILLIAMSON: That's fine. Good.

6 Okay. I want to thank the panel for their
7 answers.

8 VICE CHAIRMAN PINKERT: Commissioner Johanson.

9 COMMISSIONER JOHANSON: Thank you, Vice Chairman
10 Pinkert.

11 Mr. Thomas, I would like to follow up on the
12 question of Commissioner Williamson on the plant in Ashtown,
13 Arkansas. And I think this question is different than what
14 he asked. Given the opportunity to increase shipments of
15 uncoated paper in the wake of the capacity reductions by
16 International Paper and BOISE, why did Domtar decided to
17 convert a large, uncoated paper machine in its Ashtown plant
18 into a fluff pulp line?

19 MR. THOMAS: So this decision would have probably
20 been made ultimately anyway, but much further down the road
21 but for the continued increase in imports. So we had
22 identified that as a machine that ultimately in a slowly
23 declining demand world we would have targeted at some point
24 in the future. So I would rather not here in public talk
25 about when that was in our strategic plan as a potential.

1 But it was much further out, if you will.

2 And of the difficult choices of lots of good
3 papermaking equipment because, you know, we've in some cases
4 shut down that which, you know, wasn't competitive globally,
5 and that question came up earlier. So forgive me that
6 tangent. But in a stable of very good papermaking
7 equipment, that's the one that could be converted because it
8 had the right fiber behind it which is softwood, and it had
9 the right size to compete in the fluff market as a dryer.
10 So, again, I hope I'm addressing the crux of your question.

11 COMMISSIONER JOHANSON: Yes.

12 MR. DORN: If I could just add to that? As
13 Mr. Thomas testified in his direct, at the start of 2014,
14 there was no plan to close that paper machine. Because at
15 the beginning of the 2014, they were expecting to benefit
16 from the reduced capacity from Courtland. They were going
17 to increase the sales volume and going to increase their
18 prices and there was no plan to close a paper machine at
19 Ashdown. But given the continuing increase in imports in
20 2014, by December of that year Domtar made three decisions
21 that were key. One is to join the Petitioners in filing
22 this case. Second, they would have to repurpose that paper
23 machine in 2016. And third, it was going to have to reduce
24 prices substantially in 2015 in order to stem the loss in
25 market share.

1 COMMISSIONER JOHANSON: Thanks for your
2 responses.

3 I'd now like to turn to TAA which is something
4 I've read about throughout my career, but I don't really
5 have much background in it. How do you respond to
6 Respondents' argument that the Commission should give little
7 weight to the TAA filings that you present as evidence of
8 impact of subject imports given the TEA laws, different
9 standards on the impact of -- on causation?

10 MR. STEWART: This is Terry Stewart. Obviously
11 the Commission has its own statutory standard to apply. But
12 the argument that's made by the Respondents is that there's
13 a conspiracy between producers and laid off workers to get
14 them the few bones that TAA provides and that it basically
15 is not fact based or is not based on a statutory standard.

16 The testimony that Leeann Foster went through
17 goes through exactly what is required and what it is that
18 Labor goes through. Labor does its own survey. If workers
19 come in request TAA, they will send a questionnaire to the
20 company to find out what the facts are there. They will get
21 from the company who their customers are, and they will
22 survey the customers to find out if the customers have
23 shifted the imports in the relevant time period to make a
24 determination, and then they do other surveys in terms of
25 what the import statistics and other things look like.

1 So we found the comment in Respondents' brief to
2 be offensive in the sense that it maligns another government
3 agency's program which has a statutory basis and which has a
4 factual record upon which determinations are based and so I
5 don't normally -- I don't normally say bad things about my
6 opponents, but I thought that that was a particularly weak
7 argument to make. That somehow the fact that another
8 government agency finds imports to be an important cause of
9 separations is not something that is worth taking into
10 account.

11 MR. DORN: Could I just add one point? I think
12 the TAA application for the Courtland closure is
13 particularly significant given the arguments the other side
14 have said, you know, this didn't have anything to do with
15 imports. That application includes information from the
16 company, not just from the workers, supporting the fact that
17 the imports contributed to the decision to close that mill.

18 COMMISSIONER JOHANSON: And out of curiosity, the
19 foreign -- I assume foreign producers don't have any input
20 into this process? I simply don't know.

21 MR. STEWART: My understanding of this as a
22 general matter they don't. But you should understand that
23 that's also true for the workers, the workers file an
24 application, but they do not receive access to the
25 information that is collected by the Department of Labor

1 unless there's a negative determination and they go to
2 court. So it's not -- it is a process that is generated by
3 Labor on its own based upon an application.

4 MS. DRAKE: This is Elizabeth Drake. I'll just
5 add, maybe we can put in the forms -- the survey forms that
6 Labor uses post hearing and you'll see that they include a
7 required signature under oath and under penalty of law very
8 similar to what the Commission has on its own
9 questionnaires both from the company, the employer itself,
10 and from its largest customers.

11 COMMISSIONER JOHANSON: All right. Thanks, Ms.
12 Drake and other witnesses.

13 And Mr. Stewart, I had just a follow up issue for
14 you. You mentioned during your presentation that the demand
15 for uncoated paper is declining, but the demand for other
16 products, similar products such as books and envelopes, is
17 declining at a faster rate. Could you maybe submit
18 something in the post-hearing record to that effect?

19 MR. STEWART: There's information put out by the
20 industry, publications that go through what the declines
21 have been. I'd be happy to find that and put it in.

22 COMMISSIONER JOHANSON: Great. I don't recall
23 that in the submitted materials, previously submitted.
24 Thank you.

25 MR. DORN: And, Commissioner, the reason for that

1 is very logical and perhaps it would be helpful to hear from
2 one of the witnesses explaining.

3 MR. THOMAS: Dick Thomas. Mr. Dorn touched on
4 this earlier, actually. And the range of applications that
5 you see other than -- you know, the other products, other
6 than non-coated and coated go to -- they're just not in as
7 much demand as, you know, copy paper and folio where it's a
8 more stable business in large part because of white collar
9 employment. So it seems like the more information we store,
10 it doesn't necessarily mean that we stopped using that type
11 of paper. So whereas lots of other applications -- there's
12 lots of other ways to kind of promote yourself, right, if
13 you're a company. You've got many more media choices today.
14 So I would just say that it's cut more deeply and more
15 quickly into those products, the alternatives because it
16 wouldn't really affect this product.

17 COMMISSIONER JOHANSON: Right. Mr. Melton, did
18 you want to add anything?

19 MR. MELTON: I was just going to give you two
20 examples that are real life. Books would be an example, so
21 e-books, and the growth of e-books as well as billing
22 statements. So, you know, you are constantly getting pushed
23 to switch to electronic statements versus mailed statements
24 and those are two --

25 COMMISSIONER JOHANSON: Right.

1 MR. MELTON: -- end-use examples.

2 COMMISSIONER JOHANSON: Okay. Yeah, we're all
3 familiar with that. Although we still use a lot of paper
4 here, I do know that.

5 MR. MELTON: Thank you.

6 COMMISSIONER JOHANSON: You're welcome.

7 I shouldn't say that, but we still use a lot of
8 paper here.

9 [LAUGHTER]

10 COMMISSIONER JOHANSON: So anyway.

11 I was wondering, what role do non-subject imports
12 play in the U.S. market? And how should we look at these in
13 our analysis? And one reason I'm asking this is because I
14 know Canada is a major producer of all sorts of forest
15 products. We all know that very well here at the
16 Commission. There have been a lot of cases involving
17 Canadian forest products before. What's going on in Canada
18 that it's not a bigger -- that -- that they're not being
19 mentioned today?

20 MR. THOMAS: Dick Thomas here. We're the largest
21 producer of these products in Canada by a wide margin. So
22 we've got a very large facility that makes -- that has two
23 state-of-the-art paper machines and makes almost exclusively
24 this sort of product. So what you see coming in here is
25 overwhelmingly a product that we're shipping in to our U.S.

1 customers just basically because the geography works, or the
2 lead time works, or the order sequencing. So it's really
3 part of network.

4 So as we look at taking the orders that we get
5 and schedule them, it's kind of part of the same set of
6 facilities to ship to them.

7 COMMISSIONER JOHANSON: But still, I'm kind of
8 wondering what's going on with Canadian pricing? I don't
9 know if we can get into that. But why would the product --
10 my understanding is the products in Canada are more
11 expensive than perhaps the products sold in the United
12 States.

13 MR. THOMAS: Your question is not about the trade
14 flows.

15 COMMISSIONER JOHANSON: Right.

16 MR. THOMAS: About the relative pricing?

17 COMMISSIONER JOHANSON: Yeah. And I don't know
18 if we can get into that or not. That might be more of a
19 Commerce --

20 MR. THOMAS: I think we could follow up with some
21 detail.

22 [SIMULTANEOUS CONVERSATION]

23 MR. THOMAS: -- if you don't mind.

24 COMMISSIONER JOHANSON: All right. Thank you.
25 My time is about to expire. Thank you.

1 VICE CHAIRMAN PINKERT: Commissioner Kieff?

2 COMMISSIONER KIEFF: Thanks. I think I just have

3 -- I believe it's on.

4 Hello.

5 Is it on now?

6 Now, okay. It was powered on, but not screwed
7 on. If I could just briefly follow up on Commissioner
8 Johanson's colloquy with Mr. Stewart about TAA. Am I right
9 in understanding you basically say that although you
10 understand the distinction your opponent is making about
11 different legal standards, you're point is that that's a
12 distinction without a difference in the way we should think
13 about this because you have provided more than adequate
14 evidence in the record for the factors analyzed under TAA to
15 be nonetheless perfectly relevant under our statutory injury
16 factors; is that a fair statement?

17 MR. STEWART: Well, I think the TAA submissions
18 were originally made back in the post-conference brief by
19 Petitioners because they showed statements oftentimes by
20 company officials that imports were an important factor in
21 this location in closing of facilities or laying off of
22 workers. That was the original purpose for which the TAA
23 documentation was put forward. We have never put it forward
24 as a substitute for the Commission to make its injury
25 determination.

1 COMMISSIONER KIEFF: I see.

2 MR. STEWART: And --

3 COMMISSIONER KIEFF: So then just briefly
4 following up on the how we think about our statutory injury
5 factors as we sit here awash in this pool of collegial
6 praise for grace and clarity and argument, I just want to
7 ask gently, if I may, are you suggesting in your comment
8 about offense that your opponent is not -- her conduct is in
9 some way inappropriate in her style of argument?

10 MR. STEWART: Well, I wouldn't attribute it to
11 any one particular person on the --

12 COMMISSIONER KIEFF: Well, sorry. Are you
13 suggesting that anyone on your opponent's side has engaged
14 in misconduct in presenting an argument?

15 MR. STEWART: No. That was a --

16 COMMISSIONER KIEFF: And is your feeling,
17 authentic as it may be, a statutory injury factor?

18 MR. STEWART: No, it's not.

19 COMMISSIONER KIEFF: Okay. So I'm just trying to
20 figure out what to do with the offense remark.

21 MR. DORN: Could I just add something in terms of
22 your precise questions. I think what I would say is the TAA
23 certifications are probative evidence.

24 COMMISSIONER KIEFF: Yes.

25 MR. DORN: Of the adverse impact of the imports

1 on the domestic industry and its workers in particular.
2 We're not saying that's a proxy for your determination.
3 You've got to decide whether there's enough probative
4 evidence for us to get over the finish line. But it is
5 probative evidence and it's probative evidence that you have
6 cited in other decisions.

7 COMMISSIONER KIEFF: Got you. Look, thank you
8 all very much and especially to the witnesses who have
9 provided great, helpful answers, as I'm sure the afternoon
10 witnesses will as well. Thank you all very much.

11 No further questions.

12 VICE CHAIRMAN PINKERT: Commissioner Schmidtlein.

13 COMMISSIONER SCHMIDTLEIN: Thank you. I just had
14 a few follow-up questions, a little bit of odds and ends.

15 In your brief, you talk about the survivor bias.
16 And in the Respondents' brief they reply that it's really
17 just a very small percentage of total production that was
18 actually closed and so the data wasn't included. How do you
19 respond to that?

20 In other words, I think the argument is, there's
21 really not much of a bias. How do you respond to that? Is
22 there a way for us to quantify it? How should we consider
23 that?

24 MR. DORN: Well, I think there is some survivor
25 bias. It's just a matter of the magnitude of it. They say

1 the magnitude is not that great in this particular case.
2 And I think we'd have to take a look at that. But there's
3 another way of saying there's survivor bias in terms of, you
4 know, companies are still here that closed paper machines.
5 Courtland is not here, but they closed a mill. The other
6 side, you know, talks about how profitable the industry has
7 remained. We think, in terms of the trends, the loss in
8 profits is tremendous.

9 But, you know, what would the profits be if the
10 industry hadn't laid off 1,259 workers? What would the
11 profits be if we hadn't disinvested by over \$400 million in
12 assets and had that continuing depreciation? So the point I
13 would make is that there's sort of a survivor bias. It
14 shows that there's interconnectivity of all the factors and
15 that you have to consider them all together. You can't just
16 look at operating income margin in isolation. There are a
17 lot of things that were injuring the industry.

18 In fact, the over \$400 million in lost sales
19 revenue. The 10 percent decline in assets. There's a big
20 drop in return on assets, from 2012 to 2014 even though the
21 denominator, the assets has gone down by 10 percent. So I
22 think you've got to look at the impact of the closures and
23 the paper machine shutdowns in talking about the overall
24 impact of the imports on this industry.

25 COMMISSIONER SCHMIDTLEIN: Along that line, I

1 would invite you all to respond to that argument in the
2 brief, or to answer the question how do you respond to the
3 argument about the other cases and the level of
4 profitability and, you know, where the Commission has come
5 out, and I guess what the EBITDA -- you know, the earnings
6 before interest tax and depreciation, like what the normal
7 or usual -- they make an argument about that as well. So
8 I'd be curious to see how you respond to that and you can do
9 that in the post-hearing brief.

10 MR. DORN: Yes, we might say something about it
11 in rebuttal today too.

12 COMMISSIONER SCHMIDTLEIN: Okay. All right.

13 Another question is, you've made the point a
14 couple times here about the effort to increase prices in
15 2014, but then had to roll them -- in 2014 -- yeah, and then
16 had to roll them back and so is there an inconsistency there
17 with the fact that on the AUV data -- AUV's went up from 13
18 to 14 for the U.S. industry. So does that suggest that you
19 were able to increase prices from '13 to '14, not as much as
20 you perhaps wanted to?

21 MR. DORN: Yes, I think that was the testimony.

22 COMMISSIONER SCHMIDTLEIN: Okay.

23 MR. DORN: That they put out price increase
24 announcements. The U.S. producers unilaterally, of course,
25 raised prices and what happened was that the imports did not

1 and that's what caused the big shift in market share.

2 COMMISSIONER SCHMIDTLEIN: Yeah.

3 MS. DRAKE: Commissioner Schmidtlein, I think if
4 you looked at the quarterly pricing data for product one,
5 that also tells the story that there were some increases in
6 the domestic prices starting at the end of 2013, but those
7 peaked in the second quarter of 2014, started to go down and
8 never made it back to the level seen in 2012, which was the
9 level of recovery that the industry was seeking. So while
10 there was somewhat of an increase over 2013, it didn't last
11 through the year and it never got back to 2012.

12 COMMISSIONER SCHMIDTLEIN: And along that line,
13 and you can do this in the post-hearing if you would like,
14 can you respond to the argument about the fact that the
15 Commission often does look for a correlation between price
16 movements and the volume of subject imports and what's
17 happening with market share shifts, and here, you know, when
18 you look at this it looks like -- or the Respondents make
19 the argument in 2013 is the only year in which you see any
20 kind of correlation. And then they go on to try to, you
21 know, dismiss that or discount that because of underselling,
22 or the lack thereof in their view. But can you respond to
23 that argument in terms of do we see a correlation here? You
24 know, how should we look at these numbers in light of what's
25 going on with the volume and the market share shifts?

1 MR. DORN: And you've got to look at both the
2 pricing and the volume. They look at price when it suits
3 their purpose and ignore the volume, or they look at volume
4 and ignore the price. And you've got to look at both of
5 them together. And so the industry lost a lot of market
6 share in 2014, right, when the imports came up, when they
7 increased so much. And then as you've heard from all the
8 witnesses, the industry couldn't take any more loss of
9 market share, so then they reduced prices in the latter part
10 of '14 and going into '15 and then you saw more of a price
11 effect.

12 COMMISSIONER SCHMIDTLEIN: Uh-huh.

13 MR. DORN: We've got documentation from Domtar,
14 a contemporaneous business record, where they're looking at
15 the different scenarios going into 2015, if we keep prices
16 at this level, what's going to happen to our volume?
17 There's clear evidence in the record showing the correlation
18 between price and volume and how it affects market share.

19 COMMISSIONER SCHMIDTLEIN: Uh-huh.

20 MR. DORN: And we'll be happy to explore that
21 more in our post-hearing submission.

22 COMMISSIONER SCHMIDTLEIN: Okay. Then the last
23 question I had was for Mr. McGehee from Mac. In your
24 testimony you mentioned that your preference is to buy from
25 U.S. paper producers where you can. So I wasn't clear, are

1 you buying subject imports, or have you over the last three
2 years, the period of investigation?

3 MR. McGEHEE: We've bought very, very few tons of
4 subject imports --

5 COMMISSIONER SCHMIDTLEIN: Okay.

6 MR. McGEHEE: -- over the last several years.

7 COMMISSIONER SCHMIDTLEIN: And so how do you know
8 what the price is? You quote, you know, I think in here
9 what the price of subject imports is. Can you tell me a
10 little bit about the transparency of the prices in this
11 market? I know there are some trade publications. I don't
12 know what --

13 MR. McGEHEE: There's trade --

14 [SIMULTANEOUS CONVERSATION]

15 MR. McGEHEE: -- we have -- we have relationships
16 with some of the subject importers. There's a number of
17 brokers. And just based on what the brokers know about
18 competitive pricing information, that's shared with us.

19 COMMISSIONER SCHMIDTLEIN: Okay. And they're
20 buying from subject imports, that's how they know, or is
21 this --

22 MR. McGEHEE: They're competing with -- some of
23 them are representing subject imports.

24 COMMISSIONER SCHMIDTLEIN: Okay.

25 And in the course of your sales, did you have

1 customers come to you with, you know, the option to buy
2 cheaper subject imports which you then had to meet?

3 MR. McGEHEE: It --

4 COMMISSIONER SCHMIDTLEIN: Was that presented to
5 you? Have you had that experience?

6 MR. McGEHEE: I'm thinking of different segments.
7 There's tax supported, there's commercial printing. I can't
8 recall a specific instance where -- there's always
9 characteristics of product on bids to meet minimum certain
10 requirements. But specific brands, when you go offshore, I
11 never can recall of anything being specifically required,
12 requested, but they say they will allow substitution for the
13 better price if the quality of the product is acceptable.

14 COMMISSIONER SCHMIDTLEIN: And are you talking
15 about in the contract that you have with them?

16 MR. McGEHEE: In contract and large -- large
17 users.

18 COMMISSIONER SCHMIDTLEIN: Okay. I see. Okay.
19 Okay.

20 Okay. If no one else has anything to add to any
21 of that I will yield my time. It's almost up anyway. Thank
22 you all very much.

23 VICE CHAIRMAN PINKERT: Commission Johanson?

24 COMMISSIONER JOHANSON: Thank you, Vice Chairman
25 Pinkert.

1 I had just one more question. The Respondents
2 wrote quite a bit about the use of eucalyptus in some of the
3 products produced in the subject countries. So I think it
4 maybe warrants a bit more discussion with this panel. Mr.
5 Kaplan mentioned the number of times that capacity was
6 mentioned in the Respondents' brief. So I think that
7 eucalyptus was maybe mentioned as much as capacity. So I
8 wanted to bring it up again.

9 Is the use of eucalyptus fibers important in the
10 U.S. market? And are they ever used in the U.S. production?
11 I know that there is eucalyptus grown in California.

12 MS. ZORN: As you saw in the report, the
13 purchasers did not place high importance on eucalyptus. And
14 as Mr. McGehee mentioned it's not, you know, requested by
15 customers specifically. In general folks are as consumers
16 and users of paper are not generally aware of the wood
17 species contained in the packages. I would have to turn to
18 somebody else around the use of eucalyptus in U.S.
19 papermaking.

20 MR. DORN: Commissioner Johanson, do you think
21 the paper in front of you has eucalyptus in it?

22 COMMISSIONER JOHANSON: Actually, it does not.

23 [LAUGHTER]

24 COMMISSIONER JOHANSON: Yeah, I looked -- well, I
25 looked at the country of origin of what we use here and it's

1 -- at least in my office it's USA and I don't do the
2 purchasing, it just appears.

3 Okay.

4 MR. JONES: Commissioner Johanson, Steve Jones
5 for Petitioners. Just to put a finer point on Ms. Zorn's
6 comment. On Table II-8 of the prehearing report which lists
7 the importance of certain purchase factors, made from
8 eucalyptus pulp zero purchasers reported that was very
9 important. Four purchasers reported somewhat important and
10 22 purchasers reported not important. So I think that's
11 consistent with the industry's view of the importance of
12 that factor in the market.

13 MS. DRAKE: I don't know if any of the industry
14 witnesses could talk about the physical characteristics that
15 are imparted by eucalyptus pulp and how those same
16 characteristics can be achieved through different production
17 processes here in the United States, even if you're not
18 using the eucalyptus pulp.

19 MS. ZORN: Katie Zorn. The properties that have
20 been cited are brightness, blue/white shade, opacity and
21 stiffness. There are a variety of those -- there are
22 various papermaking techniques at our mills that can be used
23 to impart similar properties whether it be bleaching, dyes,
24 filler content, or various other techniques.

25 COMMISSIONER JOHANSON: All right. Yes. Thanks

1 for your responses. Did anyone else want to add to that?

2 (No response.)

3 COMMISSIONER JOHANSON: Okay.

4 MS. LASSA: Judy Lassa, I would just say we
5 agree. And like I said, we can do the same thing at PCA.
6 You know, we have the equipment to be able to make those
7 specs and then to Katie's comments on additional bleaching
8 and dyes and fillers.

9 COMMISSIONER JOHANSON: Okay. Thanks, Ms. Lassa.

10 Yeah, I just wanted to bring this up. I had seen
11 the numbers in the staff report, but I thought there might
12 be more that you all would want to address on the eucalyptus
13 issue as once again that's raised frequently by the
14 Respondents. Thank you all for your statements this
15 morning.

16 VICE CHAIRMAN PINKERT: Are there any other
17 Commissioners questions?

18 (No response.)

19 VICE CHAIRMAN PINKERT: All right. If
20 Commissioners have no further questions, does staff have any
21 questions for this panel?

22 MR. CORKRAN: Douglas Corkran, Office of
23 Investigations. Thank you, Vice Chairman Pinkert, staff has
24 no additional questions.

25 VICE CHAIRMAN PINKERT: Thank you.

1 Do Respondents have any questions for this panel?

2 (No response.)

3 VICE CHAIRMAN PINKERT: I'm going to indicate for
4 the record that I'm seeing heads shaking in the negative.

5 Okay. Thank you then. In that case I think it's
6 time for our lunch break. We will resume at 2:15. I want
7 to remind you that the hearing room is not secure. So
8 please do not leave confidential business information out.
9 And I want to thank all of the witnesses on this panel for
10 coming out today.

11 (Whereupon, at the hearing was recessed to be
12 reconvened this same day at 2:15 p.m.)

13

14

15

16

17

18

19

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

5 MR. BISHOP: Mr. Chairman, the panel In Opposition
6 To The Imposition of The Antidumping and Countervailing Duty
7 Orders have been seated. All witnesses have been sworn.

8 VICE CHAIRMAN PINKERT: Thank you, Mr. Secretary.

9 I want to welcome the afternoon panel to the ITC.
10 I would like to again remind all witnesses to speak clearly
11 into the microphones, and state your name for the record for
12 the benefit of the Court Reporter. You may begin when
13 you're ready.

14 MS. ARANOFF: Good afternoon, Mr. Chairman. Shara
15 Aranoff on behalf of all of the Respondents. We would like
16 to say that we appreciate the opportunity to appear before
17 you this afternoon.

18 Respondents' presentation will consist of seven
19 witnesses, and we have several additional witnesses present
20 who will be available to answer your questions.

21 In the interests of time, each witness will
22 introduce him or herself. And to begin the presentation,
23 the first speaker will be Bruce Malashevich from Economic
24 Consulting Services.

25 So, Bruce, please begin.

1 STATEMENT OF BRUCE MALASHEVICH

2 MR. MALASHEVICH: Thank you, Ms. Aranoff. And it
3 might be afternoon in Washington, but it is good morning in
4 this hearing room. There's a lot of interesting things to
5 say.

6 I am Bruce Malashevich, President of Economic
7 Consulting Services, testifying at the invitation of
8 co-counsel to certain of the Respondents.

9 I would like to begin extemporaneously by noting
10 your questions, Chairman Pinkert, of Petitioners earlier
11 which were extraordinarily insightful on the issue of what
12 is the industry we are concerned about here?

13 My understanding from all of the reports, the
14 prehearing report, the relevant industry is those folks
15 producing cut, uncoated sheets. In their brief, Petitioners
16 explicitly state they are not making an integrated industry
17 argument in the sense of the term as used at the Commission.

18 So the upstream assets are irrelevant as apart
19 from the availability of the rolls for cutting of the
20 sheets, and in terms of the costs of the inputs at which
21 they are transferred for cutting into the like product.

22 At the same time, throughout the testimony
23 Petitioners are pretending to argue that the industry is
24 integrated, without having made the case; without having had
25 the Commission survey all the data they normally would in an

1 integrated industry inquiry.

2 So all that argument basically is moot in the
3 context of this case. And the expanded record otherwise in
4 this final phase changes the case around in a number of
5 ways.

6 The first concerns the domestic industry's
7 limitation on captive paper making operations. Recall that
8 the capacity there was not surveyed in the preliminary
9 phase. The staff report at Table III-5 and numerous
10 purchasers questionnaires show that reported U.S. paper
11 making was operating at full practical capacity utilization
12 throughout the POI.

13 Nearly every U.S. producer reported paper making
14 operations, and this must be considered and that the
15 structure of the industry producing the like product--that
16 is, cut sheets--is almost entirely dependent upon the
17 availability of these captive resources input paper rolls
18 that are not part of the like product.

19 Without the paper rolls, there can be no expanded
20 production of the uncoated sheets. Statistics for cut
21 sheets showing unused capacity and a decline in utilization
22 are therefore meaningless. They are a number. Simple
23 arithmetic that have no basis in what's actually happening
24 in the marketplace.

25 It is this limitation, however, on the

1 availability of rolls which required imports, including
2 subject imports, to increase in volume to meet U.S. demand.
3 Many purchasers agree, and their comments are reflected in
4 the prehearing briefs of Suzano and Joint Respondents.

5 Second, adding to this very tight domestic
6 supply--and that is the word used by the CEO of Domtar
7 during an earnings' interview in the third quarter of 2014,
8 precisely when Subject Imports were peaking.

9 You can't get more contemporaneous than that.
10 The fact is that the tight supply of paper rolls reflects
11 the steady decline of domestic paper making over the past 15
12 years, according to a recent 10K by International Paper.

13 This decline was illustrated most recently by
14 International Paper's decision to shut down its operations
15 in Courtland between 2013 and '14, literally in the middle
16 of the POI.

17 Notwithstanding the testimony of Petitioners'
18 witnesses today, I think more independent authorities now
19 part of the record show that this had nothing to do with
20 Subject Imports. However, it did amount to a \$500 million
21 charge against earnings at IP Consolidated during the period
22 2013 and into 2014 not attributable to subject, or any other
23 imports, according to the contemporaneous official
24 documentation issued by IP.

25 This most recent in a series of closures was due

1 instead to the steady secular decline since 1999, as I
2 indicated. And as I noted previously, and noted in
3 Respondents' Joint Prehearing Brief at pages 13 through 15,
4 there was no capacity to produce the rolls necessary for
5 higher sheet production.

6 This gap in supply was therefore necessarily
7 filled by imported paper. These circumstances entirely
8 explain the growth of Subject Imports and their expansion of
9 a share of apparent consumption during the POI.

10 They also illustrate why that expansion produced
11 no measurable volume effects on the domestic industry. Now
12 think of what Mr. Dorn testified earlier this morning--and I
13 respect him a great deal and wish him a very pleasant
14 future. He said, well, all this capacity is out there,
15 switching capacity, taking away from other customers, or
16 there's flexibility in capacity, but they couldn't sell in
17 it because they couldn't sell any more cut sheet.

18 Well look at the prehearing brief of staff during
19 the interim period. If that was the case, you would expect
20 them to leap into the market as Subject Imports declined
21 quite substantially in 2015.

22 Look at page--I have only the confidential
23 version, but the relevant numbers are on III-7. You will
24 see practically no action in increased production of
25 sheeting.

1 Then have a look at page--well, it's the page
2 charting apparent consumption by volume over the POI.
3 Subject imports declined quite substantially. Domestic
4 shipments, practically zip. I submit the reality is that
5 they couldn't produce any more during this period, despite
6 the surrender of Subject Imports in the interim period.
7 Think about that.

8 Next, Petitioners, as I mentioned, assert that
9 domestic industry--which they define to be uncoated paper--
10 is capital intensive. That is simply not true and reflects
11 their rather lame attempt to fold in the assets of paper
12 making as if it was part of the uncoated sheet making
13 operation, therefore very substantially inflating the value
14 of reported assets and reflecting operations of an industry
15 that is not making the right like product in this case and
16 therefore is irrelevant.

17 The U.S. producers sheet making operations, which
18 constitute the like product, are not particularly capital
19 intensive. This is demonstrated in part in Exhibit 2-C to
20 Respondents' Joint Brief, which compares the rates of total
21 reported asserts to total net sales as reported to the
22 Commission in U.S. Producers Questionnaire responses for
23 this case and previous paper cases which have come before
24 the Commission.

25 The ratio of assets to net sales is the standard

1 measure of capital intensity. I would consider a ratio
2 greater than one to be capital intensive, and less than one
3 not so. It is a measure the Commission has used in many
4 past cases.

5 The ratios reported in this case are well below
6 one. Further confidential discussion is available at page
7 16 to Respondents' Joint Brief, but the ratios for the like
8 product are almost certainly overstated to include paper
9 making operations, therefore inflating the value of assets
10 in relation to sales.

11 On pages 19 through 20 of Petitioners' brief, for
12 the first time they identify one particular producer that
13 they describe as simply a converter. I was not aware of
14 this until reading Petitioners' brief. But this is an
15 excellent representation of operations dedicated simply to
16 buying in the paper, and then conversion into like product.

17 We did the arithmetic, which is confidential and
18 will be in post-hearing brief, but I can tell you when you
19 adjust the correct value for the assets you get a figure
20 well into the double digits as a return on assets. That is
21 the relevant rate of return in this case, not paper making.

22 The asset to sales ratio of that particular
23 producer from page 19 through 20 of Petitioners' brief is
24 much more indicative of the industry's true very low level
25 of capital intensity in the production process, and we will

1 fill in the details post-hearing.

2 The capital intense portion of these companies is
3 not their production of cut sheet, but is rather the
4 upstream paper making operations which have operated, as I
5 said, essentially at full capacity utilization throughout
6 and continue to do so. Domestic paper making operations
7 have not suffered any lost volume or reduction in capacity
8 utilization due to Subject Imports. Basically it has been
9 flat, at a very high level.

10 Petitioners are attempting to leverage the
11 capital intensity of the captive paper making operations to
12 enhance their industry argument, while excluding such
13 operations from the definitions of the like product and the
14 relevant domestic industry producing only the uncoated
15 sheets.

16 This distortion is evident when comparing the
17 utilization levels of Petitioners paper making and sheet
18 operations. That is Table III-5 and III-6 of the prehearing
19 staff report.

20 The sheet operations purport to show excess
21 capacity and somewhat declining utilization. However, this
22 is misleading for the two reasons I already have discussed.

23 First, the sheet operations are not the capital
24 intensive part of the business. Paper making is.

25 And second, the decline in utilization of the

1 sheet operations is caused by the inadequate supply of
2 rolls, not by a loss of volume.

3 I explored through the questionnaire records
4 whether there is substantial inter-company trade, or among
5 the paper operations of the domestic paper industry. I also
6 explored if there were significant commercial sales to third
7 parties, independent converters, and there were almost none.
8 So that is not an outlet. That is not product that could be
9 somehow switched back to the home base for translation into
10 cut sheets. The option is not available.

11 Finally, the expanded record shows that U.S.
12 producers have not experienced any material harm to their
13 financial condition due to subject imports. The relevant
14 financial ratios are confidential but can be found at Table
15 C-1 of the prehearing report.

16 They show a mixed trend during the annual periods
17 during which Subject Imports increased their accumulated
18 volume and market share. But any correlation is disproved
19 by the results in Interim 2015 when the volume and market
20 share of Subject Imports declined dramatically.

21 Reported operating income as a percentage of
22 sales fell to its lowest level of any year of the POI. No
23 correlation.

24 The absolute level of the domestic industry's
25 reported profitability throughout the POI must also be put

1 into perspective. It is unquestionably robust in absolute
2 terms in relation to comparable data the Commission
3 typically sees in these investigations concerning
4 manufactured goods generally. In recent years, public SEC
5 filings by the major U.S. paper producers, attached as
6 Exhibit 33 to Joint Respondents Brief, show that operations
7 on uncoated paper as reported to the Commission, reported to
8 the Commission in the questionnaires, substantially
9 outperformed results reported to the SEC on paper
10 operations, including but not limited to the like product.

11 The fact that this industry is performing at a
12 very healthy level within its sector and within some of the
13 same companies also reporting to the SEC is a standard of
14 measurement of what constitutes robust health.

15 Another standard applies. The same result occurs
16 when comparing the profitability reported of this
17 investigation to the records of all recent ITC original
18 investigations involving other types of paper products.

19 I must say, this is the most interesting part of
20 the research I did. The results are summarized in
21 Attachment 2-B to Respondents' Joint Brief. Background data
22 is provided at Exhibit 2-A where the outcome of each case is
23 also noted and discussed in detail in Suzano and Joint Brief
24 of Respondents.

25 It is obvious that the profitability reported in

1 this case is substantially higher than those in any of the
2 previous cases on other paper products considered by the
3 Commission--particularly printing and writing papers, and
4 most notably for the very recent decision on supercalendered
5 paper, for which demand was also in secular decline. The
6 POIs of both cases are almost perfectly overlapping in time,
7 subject to the same trends.

8 But look at the different results in
9 profitability in this industry versus what was reported in
10 supercal. And the underlying data are redacted, but for
11 purposes of this conclusion I relied on the SEC statement by
12 one of the two companies that provides a necessary level of
13 detail to make my point.

14 Also in the coated free sheet paper case, the
15 Commission reached a negative determination, despite
16 operating income rates dramatically below those reported in
17 this case.

18 All this supports the argument that the uncoated
19 paper sheet industry in this case is not injured at all.
20 And I would urge the Commission to move into a mode of a
21 threat determination part of the process and no longer
22 finding a reasonable indication of current injury to the
23 industry in this case.

24 My next remarks address what appear to be the
25 main affirmative arguments in Petitioners' brief repeated in

1 Mr. Dorn's summary this morning and, frankly on the record,
2 I find none of them to be persuasive.

3 Finally, on the subject of underselling, the
4 Commission should also look beyond averages. The fact is
5 that a certain amount of statistical noise is typically
6 present when the pricing data are collected.

7 In this case, for example, producers and
8 importers sell in a variety of ways, such as spot,
9 short-term, and long-term contracts. The Commission does a
10 great job. It's just not feasible for it to survey all
11 possible combinations and permutations of the many product
12 offerings in this case, and so averages are used.

13 But when these averages show relatively small
14 margins of underselling, as are present in this case, there
15 is a need to drill down to determine whether the margins are
16 in fact significant. I did a little exercise.

17 I think on their face the weighted average
18 margin, which we calculated and it's confidential in
19 Respondents brief, the weighted average margin of all
20 countries, all products, is tiny. I would argue,
21 statistically insignificant.

22 I also looked at all the price comparisons
23 possible and considered anything overselling to be
24 overselling, and any underselling under 5 percent to be
25 insignificant owing to statistical noise.

1 You sum those two together. Seventy percent of
2 the price comparisons, all countries, all products,
3 including particular product one, were not instances of
4 underselling in the true sense.

5 My time is up. Thank you very much.

6 STATEMENT OF LAURIE A. CLARK

7 MS. CLARK: Good afternoon. My name is Laurie
8 Clark and I'm President of Satuit Consulting. During my
9 32-year career, I have held executive-level positions in
10 marketing, merchandising, supply chain, and strategy.

11 From 2002 to present I have been the principal at
12 Satuit Consulting specializing in providing advice on
13 strategic business development, supply chain management, and
14 merchandising to retailers, wholesalers, and manufacturers.

15 As a part of my portfolio, I work both with
16 domestic and offshore paper mills in the areas of business
17 development, marketing, and sales planning. From 1994 to
18 2000 I was employed by Staples, the largest purchaser of
19 uncoated paper in the world. In my tenure I held various
20 positions including Senior Vice President, General
21 Merchandise Manager, Merchandising, for the retail and
22 contract and commercial sectors of the paper and office
23 supplies business. Also as a retail and manufacturing
24 expert I have been deposed by the FTC in regards to pricing
25 and profitability.

1 Over the past 21 years working in the paper
2 industry, I have acted as a purchaser, a sales manager, and
3 a consultant. I have visited both domestic and foreign
4 paper mills and have a deep understanding of sales,
5 marketing and sourcing of uncoated paper.

6 I appear today to provide my insights on the U.S.
7 uncoated paper market and the dynamics being played out
8 amongst its various participants.

9 Everyone in the uncoated paper industry knows
10 that demand in the United States has been in the decline for
11 well over a decade. People rely more on electronic devices
12 to communicate and store information, and are becoming
13 increasingly concerned about environmental protection. The
14 downward trend in paper usage has several important
15 ramifications for the operation of domestic mills and, as a
16 result, the presence of importers in the market.

17 First, the MAEQT requirement implemented by the
18 EPA puts domestic mills on a timeline to come into
19 compliance with equipment upgrade. Domestic mills have both
20 old and inefficient machines that have frequent downtime.

21 A domestic mill has to make a decision to spend a
22 large amount of capital to upgrade their boilers or shut the
23 mill down and invest capital in other mills that already
24 comply. This selective upgrade strategy is particularly
25 wise in a declining market.

1 Second, it is important to note that much of the
2 capacity that has been taken out of the domestic mill is
3 repurposed to produce more profitable products. There are
4 sound rationales behind the repurposing and conversion.

5 First, some domestic mills' machinery and
6 equipment are very old. Even without the environmental
7 compliance costs, these aged assets are highly inefficient
8 in production, difficult and costly to maintain and repair,
9 and require frequent downtime.

10 So mills have to make a decision about what is
11 the most efficient use of their old assets. The market is
12 telling them in a digital age that demand for uncoated paper
13 is not coming back. By contrast, products like fluff pulp
14 have shown growing demand and are very profitable.

15 For example, fluff pulp is used in diapers,
16 feminine hygiene products, and adult incontinence products.
17 The United States is an aging society, so fluff pulp will
18 have a continued growth trend due to market demand increases
19 which are currently occurring today.

20 Second, the cost of raw materials also favors
21 converting to the production of fluff pulp. Fluff pulp is a
22 type of pulp made from long fiber produced from soft woods.
23 The United States has a unique advantage in soft woods which
24 grow in temperate zones, giving it better water absorbency
25 properties. I believe it makes complete sense for domestic

1 mills to discontinue making uncoated freesheet pulp and
2 instead use the soft wood to produce fluff pulp.

3 Regarding sales of uncoated paper in the United
4 States, there are a variety of factors that you need to
5 consider in making purchasing decisions, including
6 environmental certifications, the ability to deliver to many
7 national locations, and holding inventory for the quick
8 turnover required by certain customers.

9 There are also different types of purchasers in
10 the market, including office super stores and big box
11 retailers, paper merchants, and wholesalers. Large
12 purchasers usually sell their private label brand as well as
13 a variety of domestic, good, better, best options in
14 domestic mill brands of which some have significant brand
15 awareness.

16 By contrast, most foreign manufacturers have
17 little brand recognition. Large purchasers determine what
18 products the foreign mills are invited to bid on, and the
19 majority of the time foreign mills are limited to
20 entry-level items.

21 These market factors determine who has the
22 pricing power in the U.S. One key fact to keep in mind for
23 this question is that the domestic mills still control the
24 vast majority of the market in imports and are mostly
25 followers due to their small presence.

1 There have been some suggestions that imported
2 products are generally priced lower than domestic products.
3 However, in order to conduct an apples-to-apples comparison,
4 one must also take into account a variety of indirect
5 allowances such as dot.com placements, catalogue funding,
6 selling spiffs, et cetera, et cetera, which are often
7 supplied by domestic mills to purchasers.

8 Import mills typically sell at one price, rather
9 than building complicated programs like the domestic mills
10 do. These indirect allowances can easily cause a false
11 appearance of importers low-balling domestic mills on price.

12 Another important factor is that the domestic
13 mills are aggressively competing with each other. They
14 compete for market share and the result is an erosion in
15 pricing. Continued consolidation in the U.S. market from a
16 purchaser standpoint has led domestic mills to focus their
17 selling strategy on the purchasers they believe to have the
18 most significant market position as a result of the
19 consolidation.

20 Domestic mills usually have a spectrum of
21 good-better-best products from various categories that they
22 can sell through the mega accounts. So offering very
23 competitive prices on entry-level product may help improve
24 their overall position with these mega accounts for the long
25 term.

1 This positioning by domestic mills against the
2 U.S. competitors provides an explanation for why domestic
3 mills greatly lowered their prices in 2015.

4 In short, there is little more that--there's a
5 lot more than meets the eye. The claim that imported paper
6 is somewhat economically injuring U.S. paper producers
7 simply doesn't make sense to me.

8 Thank you.

9 STATEMENT OF ALEX ISMAIL

10 MR. ISMAIL: My name is Alex Ismail and I'm the
11 CEO of Liberty Paper. We are one of the largest copy paper
12 distributor in the West Coast. I have been involved in the
13 copy paper business for over 15 years, and I currently
14 import and distribute copy paper from several countries.

15 Let me explain why my company started importing
16 copy paper instead of buying it from the U.S. mills. The
17 reason is that U.S. mills won't sell to me. Indeed, when I
18 have approached U.S. producers like Domtar and Boise, they
19 have refused to sell to me.

20 Being turned down by these U.S. producers has
21 forced me to import paper. In short, I'm shut out from the
22 direct access to U.S. mills. Before I started importing
23 copy paper from foreign sources, I had been purchasing Xerox
24 branded paper directly from the Xerox Corporation.

25 I had built a decent amount of business for the

1 Xerox branded paper. That Xerox branded paper was produced
2 by several domestic mills; however, a couple of years ago,
3 Xerox Corporation sold its copy paper division to Domtar.

4 Within twelve months of Domtar acquiring copy
5 paper division from Xerox, they cut us off without notice.
6 Domtar said they will not sell me Xerox branded paper, which
7 by the way, I was selling for ten years. And there was
8 nothing I could do about it.

9 It is this kind of treatment by domestic mills
10 that has forced me and others like us getting even more
11 involved with the business of importing copy paper from
12 foreign sources. So in my opinion, imports were pulled
13 rather than pushed into the U.S. market, primarily due to
14 unfair distribution practices by domestic mills.

15 After being shut out by the domestic producers,
16 I was still able to build a viable business model which was
17 based on the quality of import paper, prompt delivery and
18 offering a good customer experience. And I'd like to expand
19 on a couple of those points.

20 The majority of my customers are academic
21 institutions and occasionally they require a 96 brightness
22 copy paper. The majority of the copy paper produced by
23 domestic mills is 92 brightness. Trust me, there is a
24 difference.

25 Imported copy paper is considerably brighter and

1 better than its U.S. counterpart. And hence, it is a
2 preferred alternative by these customers. Secondly,
3 domestic mills can take up to 14 to 21 days for delivery,
4 whereas importers like us invest in warehousing and stocking
5 inventory locally, hence we can deliver within one to two
6 days after receipt on an order. This helps the customer
7 with inventory turns and managing the cost inventory
8 effectively.

9 And for the record, importers and distributors
10 like us employ thousands of employees around the country.
11 My story here sheds light on the significant changes in the
12 U.S. copy paper market since I entered the industry in 2001.
13 As you already heard today, U.S. demand has been in circular
14 decline since 1999, and to cope with this long-term market
15 trend, domestic producers making uncoated paper have been
16 through significant downsizing, mill closures, as well as
17 consolidations.

18 These changes in operations are strategic moves
19 by domestic producers and as a result, U.S. producers of
20 copy paper have been operating at a practically full
21 capacity. Also, with each of the U.S. mill closures, some
22 customers have become increasingly concerned about having
23 access to paper. My business may have grown a bit as a
24 result. However, the paper I am bringing in is simply
25 filling a fraction of a big hole in the U.S. demand left

1 open by the actions of the U.S. mills.

2 To summarize my testimony today, we import
3 because we have no access to U.S. produced copy paper. So
4 we need alternate source for high bright quality paper to
5 support our customer demand and continue to operate our
6 business. Thank you for your time.

7 STATEMENT OF ROGER WEBB

8 MR. WEBB: Good afternoon, my name is Roger Webb.
9 I am with International Forest Products. During the period
10 of the investigation, which I understand to be 2012 to
11 September of 2015, I was the president of business products
12 with Shinsei Pulp & Paper USA. I've been involved in the
13 paper importing business since 1995 working for several
14 paper merchants, distributors and a foreign paper
15 manufacturer.

16 Overall, I've been dealing directly with
17 manufacturers and customers of copy paper for over twenty
18 years. SPP USA, the company I worked for during the Period
19 of Investigation, is a distributor of copy paper in the
20 United States and sells bulk quantities downstream to
21 various types of customers. It imports copy paper mostly
22 from April, Indonesia, and a small amount from April's mill
23 in China.

24 As a long-term participant in the copy paper
25 market, I wish to make a few observations about the U.S.

1 market as context for my testimony today.

2 First, and as previously mentioned, U.S. demand
3 has been steadily declining since 1999 due to the rise in
4 the use of electronic devices and the increasing reliance on
5 electronic documents and marketing materials. This trend
6 greatly reduces the need to use copy paper for printing and
7 is irreversible as it reflects a dominant and growing
8 consumer preference.

9 As a result, U.S. producers have been
10 periodically shutting down large and coated paper capacities
11 or converting them for the production of other products with
12 a better growth prospect. Years before subject imports
13 became a substantial presence in the U.S. market. Most
14 significantly, International Paper announced the closure of
15 its large paper-making facility at Courtland, Alabama,
16 taking out 10% of the U.S. uncoated capacity at one time.

17 It is this free plan -- that often drastically
18 implemented exit strategy by U.S. producers that frequently
19 leaves a void in U.S. supply and allows subject imports to
20 maintain some presence in the U.S. market. To date, U.S.
21 producers still supply the vast majority of the demand for
22 copy paper in the United States.

23 Second, even though copy paper is usually sold
24 in standard sizes, there are many non-price related factors
25 affecting our customers' purchasing decision. For example,

1 customers consider a variety of physical characteristics
2 such as brightness, whiteness, shade and opacity to
3 determine the quality of the copy paper.

4 In addition, large purchasers like office
5 superstores base their purchasing decisions on business
6 factors such as environmental certification, direct access
7 to the producer, reliability and long-term relationships.

8 For example, Staples and Office Depot, the
9 largest accounts in the market, purchase either exclusively
10 or predominantly from U.S. producers and they do so for
11 sensible reasons. U.S. producers' products are sold with
12 environmental certification, most acceptable in the U.S.
13 This feature greatly reduces the office superstore's risk of
14 running afoul of significant customers' environmentally
15 friendly purchasing policies.

16 By contrast, even though some imports also have
17 certain types of environmental certifications, office
18 superstores have traditionally shied away from purchasing
19 from foreign produced products due to past issues and
20 heightened scrutiny by environmental groups.

21 For the security of their supply chain, they may
22 purchase a small amount from selective import sources when
23 the domestic supply is tight, but U.S. producers will remain
24 their dominant suppliers as a low-risk source.

25 Office superstores also have a preference for

1 purchasing directly from producers so it provides additional
2 reason that these purchasers do not want to alienate their
3 regular domestic suppliers by purchasing significant volumes
4 from foreign products.

5 Now I'll turn to explaining why some U.S.
6 customers do purchase Indonesian and Chinese imports rather
7 than domestically produced products. First, some customers
8 value the physical attributes brought about by using high
9 quality acacia fiber that is not available in the United
10 States and hence are preferred for subject imports.

11 Some of the subject imports are also sold to
12 certain big box stores; however, import sales volumes are
13 very small relative to the quantities typically sold by U.S.
14 producers and some of the largest accounts from time to time
15 don't even buy any imported products. In fact, one of the
16 largest state bids, the State of Illinois, specifically
17 precludes imported paper.

18 In essence, subject imports are a high quality,
19 yet a minor alternative source for some large U.S.
20 purchasers to diversify supplier base and ensure supply
21 chain security. Therefore, there may be some overlap of
22 customers between U.S. producers and subject importers, but
23 imports are generally only a supplement to domestically
24 produced copy paper.

25 In addition, prior to and during the POI, many

1 customers had become seriously concerned about the long-term
2 phasing out by domestic manufacturers, including Domtar,
3 International Paper, Boise Paper, Georgia-Pacific, Wausau
4 and Grays Harbor.

5 My customers feel that imports provide a good
6 alternative to an uncertain future of copy paper
7 manufactured in the United States. Such customer concerns
8 about supply shortage and the U.S. producers' long-term
9 commitment to the uncoated paper market explain why some
10 purchasers started to buy from import sources or increase
11 the subject imports purchase volume during the POI.

12 Lastly, I wish to explain to the Commissioners
13 that importing and distributing copy paper is a highly
14 capital intensive operation. For example, in order to sell
15 five million dollars worth of copy paper per month, you
16 could need as much as \$20 million in capital to run that
17 operation.

18 Due to the large amount of capital required and
19 the risk associated with financing an import operation, it
20 is highly unlikely that any new importers would suddenly
21 become part of any threat to U.S. producers. The barriers
22 posed by capital requirements to market entrants and
23 expanding operations are very high.

24 Therefore, any importing increase is bound to be
25 limited and temporary. And the current market conditions do

1 not warrant any consideration of significant expansion by
2 the U.S. Thank you.

3 STATEMENT OF SUSAN ESSERMAN

4 MS. ESSERMAN: Mr. Chairman, members of the
5 Commission, I am Susan Esserman from Steptoe & Johnson,
6 appearing on behalf of the Brazilian producer, Suzano Papel.
7 I am joined by Tom Tarpey, Manager of Sales of Suzano Pulp &
8 Paper America.

9 Brazil is positioned differently in the U.S.
10 market than other uncoated producers in key respects. These
11 include important differences in volume and patterns of
12 trade, pricing, channels of distribution, branding and
13 geographic orientation. All of these factors support
14 decumulation for threat purposes and demonstrate that Brazil
15 could not possibly injure or threaten the U.S. industry.

16 I would like to highlight just a few of these
17 important differences. First, I want to focus your
18 attention on Brazil's unusual volume patterns, specifically
19 that a large proportion of Brazilian uncoated paper exports
20 to the U.S. during the POI were re-exported to Latin
21 America. These Brazilian volumes transshipped through Miami
22 for export to Latin America did not compete at all in the
23 U.S. market.

24 The Miami based importer Perez Trading, long
25 responsible for this re-exportation, in August of 2015,

1 established an FTZ to insure that its future supply of
2 Brazilian uncoated paper will no longer even enter U.S.
3 customs territory. Thus, it is clear both that this
4 re-exportation of Brazilian product to Latin America, will
5 continue and that U.S. imports of Brazilian uncoated paper
6 will decline.

7 Second, Brazilian pricing is distinctive in that
8 the record shows Brazilian overselling in the overwhelming
9 majority of price comparisons and negligible margins for the
10 few instances of underselling. These favorable pricing
11 comparisons actually understate the overselling and
12 overstate the underselling because, among other things, the
13 comparisons are skewed by the greater presence of the U.S.
14 manufactured branded product which is sold at a premium.

15 Third, Brazilian producers sell exclusively to
16 distributors. Unlike U.S. producers and certain subject
17 producers, Brazilian producers do not participate in the
18 large share of the U.S. uncoated paper market involving
19 direct sales to end-users or retailers, including big box
20 retailers.

21 Finally, going back to my initial point.
22 Brazilian producers are heavily focused on its large home
23 market and on its regional growing Latin American market.
24 And you'll hear more about that from Mr. Tarpey.

25 While the staff report does show increasing

1 Brazilian exports to Latin America during the POI, it
2 understates the importance of Latin America and inflates the
3 importance of the U.S. to Brazilian uncoated sheet
4 producers. The reason is that the report -- the figures in
5 the report on U.S. imports from Brazil are inflated by
6 including the Brazilian product transshipped to Latin
7 America, and likewise, Brazil's Latin American export
8 numbers do not even include the Brazilian uncoated product
9 re-exported to Latin America via Miami.

10 Once the Brazilian sales to Latin America that
11 are transshipped through Miami are accounted for, the
12 Brazilian producers focus on Latin America and the relative
13 unimportance of the U.S. market for Brazilian producers
14 becomes even more clear.

15 STATEMENT OF TOM TARPEY

16 MR. TARPEY: Good afternoon, I am Tom Tarpey,
17 Manager of Sales of Suzano Pulp and Paper America. I would
18 like to begin by providing the commercial context for why
19 you are seeing such an unusual pattern of re-export of
20 Brazilian uncoated paper to Latin America.

21 It is far more cost effective and provides a
22 high level of service to small customers in northern Latin
23 America and the Caribbean by shipping through Miami than by
24 shipping directly from Brazil. These customers generally
25 order smaller amounts of product, making it uneconomical to

1 ship to them directly from Brazil, due to the high freight
2 costs.

3 For these reasons, such re-exportation of
4 Brazilian product to Latin American and Caribbean markets
5 has been going on for many years. Now that re-exportation
6 will take place through an FTZ, there is no question this
7 arrangement will continue.

8 Because most of IP's uncoated paper is
9 re-exported to Latin America, Suzano accounts for almost all
10 of Brazilian product actually sold in the U.S. market. This
11 pattern of re-exporting to Latin America reflects the focus
12 on Latin America by Suzano and International Paper, the only
13 two Brazilian exporters of uncoated paper to the United
14 States.

15 We enjoy the benefits of a vast home market and
16 growing regional markets in Latin America. Unlike the U.S.
17 market, the Brazilian market and Latin American markets, as
18 a whole, have been growth markets for the past decade. And
19 this growth trend is expected to continue to 2016 and
20 beyond. Suzano began implementing a strategy in 2014 to
21 increase our Brazilian market share by adding distribution
22 centers across Brazil to enhance service.

23 Latin America is a natural market for us. It is
24 a deficit market because consumption exceeds production and
25 uncoated paper capacity in Latin America, outside of Brazil,

1 is extremely limited. Thus, Brazilian producers are in a
2 prime position to serve the increasing demand in their own
3 Latin American region.

4 As would be expected, given the primacy of the
5 Latin American markets, since we entered the U.S. markets in
6 1985, Suzano has been a small and nondisruptive supplier to
7 the U.S. uncoated paper market. Unlike other producers, the
8 overwhelming majority of our sales are to three customers,
9 with whom we've had a relationship since at least 2006.

10 Even with the supply gap created by the U.S.
11 reduction of capacity in 2013 and 2014, our market share has
12 remained small and stable. With our small position and
13 limited customer base, we have not participated in one of
14 the biggest changes in the U.S. uncoated paper market in the
15 last few years.

16 That is a huge move towards selling directly to
17 retailers and bypassing distributors. As RISI states and my
18 own experience confirms, well over half of U.S. uncoated
19 paper is sold through this channel of distribution. Suzano
20 continues to sell exclusively through distributors because
21 direct sales require a greater commitment than Suzano has
22 been willing to make to the U.S. market.

23 Another significant practice of U.S. producers
24 that Brazil has moved away from is manufacturer branded
25 product, or as we call it in the industry, mill branded

1 product sales. Brand recognition is a significant factor
2 affecting customers' purchasing decisions as demonstrated by
3 the fact that U.S. producers have invested millions in
4 establishing and maintaining their mill brands.

5 U.S. producers are willing to make these
6 investments because their mill branded products sell for a
7 premium compared to the retail brand of products primarily
8 sold by Suzano. While mill branded product continues to
9 represent a large portion of U.S. producers' sales, these
10 products represent a small and shrinking portion of Suzano's
11 sales. Due to this disparity in product branding, prices of
12 U.S. products are not directly comparable to Suzano's prices
13 in the aggregate.

14 A final differentiating factor I want to
15 highlight today is the unique recognition Suzano receives
16 worldwide for its sustainable forestry management practices.
17 Suzano is unique among producers in that 100% of its paper
18 is certified by the Forest Stewardship Council, known as
19 FSC. Therefore, virtually all the Brazilian paper sold in
20 the U.S. market is FSC certified. FSC certification is
21 widely recognized as the most rigorous, credible forest
22 certification system and even Domtar calls it the Gold
23 Standard of Forestry Management.

24 As Domtar CEO himself has noted, FSC
25 certification is an important product differentiator in the

1 U.S. market. Many customers, including governments and
2 large corporations, have procurement policies requiring the
3 purchase of FSC certified paper.

4 The majority of our customers and end-users of
5 our paper prefer or require FSC certified paper. The
6 domestic industry and other subject producers produce a
7 relatively small percentage of FSC certified paper. In my
8 experience, the FSC certification, along with the high
9 brightness of Suzano's product, are major reasons why
10 customers choose our product.

11 Thank you for this opportunity to review
12 Brazil's and Suzano's limited role in the U.S. market and
13 the factors that differentiate Brazil from other domestic
14 and foreign suppliers of uncoated paper. Thank you.

15 STATEMENT OF MIKE DUTT

16 MR. DUTT: Good afternoon. My name is Mike Dutt,
17 and I am the General Manager of Portucel Soporcel North
18 America, located in Norwalk, Connecticut. I've worked for
19 PSNA for 14 years and I've worked in the U.S. paper industry
20 for 34 years. I would like to speak to you briefly about
21 the products we sell, how we operate, and how we are
22 different.

23 PSNA has been in the business for 14 years and
24 sells all of the subject paper exported to the United States
25 from Portugal. During that time our business has been

1 fairly stable. That is, we have not grown significantly in
2 the United States within the past five years.

3 There are two main reasons for this. First, we
4 serve a specific segment of the U.S. market. Our subject
5 paper is primarily sold under a high quality mill brand,
6 with some of our sales of unbranded product. We do not sell
7 retailer branded or private branded paper.

8 All of our paper is made from eucalyptus fiber
9 which imparts certain characteristics onto our paper. The
10 result is that our product is of a high quality. It is
11 brighter, more opaque and stiffer than paper with similar
12 specifications made from other types of wood.

13 Based on my experience, paper quality matters.
14 Otherwise, there would be no reason to market different
15 brands of paper at different price points. The majority of
16 our sales are of a premium brand of this already high
17 quality paper. These brands are sold to high quality
18 segment of the paper market, specifically they are sold
19 through distributors to users that demand a high quality
20 paper.

21 Cut-size products in the U.S. are mostly letter
22 sized. Purchasers of high quality branded cut-size paper
23 would include, for example, banks and other businesses that
24 may use that paper to provide official communications.
25 Because of their higher price, these branded products would

1 not typically be used for jobs that do not demand high
2 quality paper, such as printing e-mails, internal office
3 memos or printing carry-out menus.

4 There is not as much demand fluctuation or
5 competition in our segment of the market. The high quality
6 paper segment represents only about 13% of the copy paper
7 market. In that segment there are almost no other mill
8 branded imports that compete with our high quality products
9 and I believe that no import brand commands a premium price
10 like ours.

11 As a result, our business has again remained
12 steady for the past five years. Instead, most of the
13 opportunity to gain market share and most of the competition
14 is within the retail brand at our private branded segment.
15 This is a segment of the market that includes sales of paper
16 that is labeled with the retailers or distributors branding.

17 This segment is often subject to heavy
18 competition for high volume sales to big box stores. We do
19 not participate in this segment and so, are not subject to
20 this type of competition from other imports.

21 The second reason for our fairly stable business
22 pattern over the past five years in the United States is
23 that the United States is not the primary export market for
24 Portugal. The vast majority of Portugal's exports are to
25 markets outside the United States, which use different size

1 paper than the United States. Our ability to make large
2 amounts of additional U.S. cut-size paper is limited, so
3 even if the demand of our particular segment in the U.S.
4 market increased, our ability to increase our supply is
5 somewhat constrained.

6 Because we've been in the United States market
7 for so long, supplying primarily high quality products to a
8 certain segment of that market, we were surprised to have
9 been part of this case. Nevertheless, we are here and I
10 look forward to the opportunity to answer any questions you
11 might have. Thank you very much for your time today.

12 MS. ARANOFF: Okay, Mr. Chairman, thank you.
13 That concludes Respondent's direct presentation. We'll save
14 our few remaining minutes for rebuttal.

15 VICE CHAIRMAN PINKERT: Thank you, and I want to
16 again thank all the witnesses for coming today. This
17 afternoon we're going to begin our questioning with
18 Commissioner Williamson.

19 COMMISSIONER WILLIAMSON: Thank you. I want to
20 express my appreciation to all the witnesses for coming
21 today and for presenting their testimony. Let me begin with
22 Mr. Malashevich. What was funny, are you arguing that paper
23 making operations are not included in the domestic industry?
24 And if so, is this a new argument into your brief?

25 MR. MALASHEVICH: I don't know if it's a new

1 argument. I was not active in the preliminary phase, but it
2 was obvious to me -- I've been involved in a lot of cases
3 where integrated industry was argued, both agricultural and
4 manufacturing, but using an extreme example, let's take the
5 old wine case, which involved whether the growers of grapes
6 were part of an integrated industry making wine, which is
7 what was being imported.

8 It's a stretch to use involving an agricultural
9 product, but I've used paper-making in this case as the
10 equivalent of grape growers. They make a product necessary
11 for producing the like product, but they are not part of the
12 industry, producing a like product. They are producing an
13 input to the like product. Someone mentioned earlier -- the
14 corrosion-resistant steel case -- it's the same as that.

15 Cold-rolled can be made by a commercial
16 integrated -- as that general term's used -- hot end. But
17 the hot end is not part of the industry. It enters into the
18 calculation of the financial health of corrosion-resistant
19 steel by virtue of the price they pay, either transfer price
20 or a market price for the transferred cold-rolled into
21 corrosion-resistant operation.

22 COMMISSIONER WILLIAMSON: But in this case, have
23 we -- how does this -- we aren't gonna affect the financial
24 data that we collected? Have we collected it on that basis?

25 MR. MALASHEVICH: If they filed the

1 questionnaires as indicated, they would've reported the
2 input price of the paper, either at a reasonable transfer
3 price or at the cost of production of the paper, that's the
4 way they should have reported it. And I have no reason to
5 believe they didn't.

6 But that is a different issue. That's a pricing
7 of the input. That is not the same as including
8 paper-making as an integrated industry. I believe it's in
9 their prehearing brief. It might've been some of the other
10 papers they looked at. They exclusively say, they are not
11 making an integrated industry argument. Okay.

12 So there is no argument for being an integrated
13 industry, and Commission's far too late, I assume in the
14 process, of sending out supplemental questionnaires, getting
15 all the information necessary to survey the condition of the
16 paper-making side of a hypothetically integrated operation,
17 so we're stuck with what we have.

18 COMMISSIONER WILLIAMSON: So what are you
19 suggesting that we do?

20 MR. MALASHEVICH: Well, I think the whole
21 business of capital intensity of the industry making it
22 vulnerable to incremental losses of output needs to be
23 disregarded entirely and given no weight because it's
24 discussion that pertains to a different industry, not the
25 one under investigation.

1 MR. MALASHEVICH: As you well know, and I think
2 everybody in the room knows, I'm not a lawyer, I'm not
3 pretending to be. I'm just going on the basis of my
4 experience and my reading. But I invite my legal colleagues
5 to offer more skilled insight than I am capable of doing.

6 COMMISSIONER WILLIAMSON: Does anyone else want
7 to comment on this question?

8 MS. ESSERMAN: Commissioner Williamson, I would
9 just add that just to follow up on what Bruce is saying, is
10 that if they want to argue -- the capital intensity argument
11 has no place in a case in which they sought to exclude the
12 paper making aspect of the case when they define the like
13 product, and have asked that it be exclusively the sheet
14 industry.

15 So that that -- what Mr. Malashevich is saying
16 is that is not relevant, that capital intensity to this
17 case. If they wanted to make it relevant, they should have
18 brought it as an integrated industry case, which they said
19 in their brief on page 13 that there was no reason to do
20 that, and that they were not bringing it that way.

21 COMMISSIONER WILLIAMSON: So how does that
22 change their argument regarding whether or not the domestic
23 -- you know, their argument that they're injured by the
24 imports?

25 MR. MALASHEVICH: I think it fundamentally

1 subverts the entire argument. They place a lot of weight on
2 the so-called capital intensity making them vulnerable,
3 making them having all these requirements to operate at the
4 maximum level of capacity. It subverts the whole business
5 of the closing of the Courtland plant. That's another
6 industry. The Courtland plant closing is very relevant,
7 because it's very relevant from the supply that it took out
8 of the marketplace, right in the middle of the POI.

9 It doesn't matter why it went out. That's a
10 subject for discussion of a different industry, the paper
11 making industry. When we're looking at the industry the
12 Commission already has defined in this case to be
13 coterminous with the scope, it's just the processing element
14 of cutting the sheets.

15 So why the Courtland plant closed is irrelevant
16 to that fact. The fact they closed is relevant, because it
17 limited the supply of the essential input into the relevant
18 domestic industry.

19 COMMISSIONER WILLIAMSON: Okay. I'm going to
20 leave to -- invite the Petitioners to respond, offer a
21 response to this argument.

22 MR. MALASHEVICH: I'm sure they'll do so without
23 invitation.

24 COMMISSIONER WILLIAMSON: I'm not going to
25 continue at this point. Mr. Dutt, what do you mean by

1 unbranded product, and how does it compete in the U.S.
2 market?

3 MR. DUTT: Mike Dutt, Portucel Soporcel North
4 America. Unbranded is something that's not a mill brand in
5 our opinion and it's not a retailer brand and it's not a
6 distributor brand. It is in some cases white boxes. You've
7 heard today that it is something that we call again
8 something that's not a registered brand.

9 COMMISSIONER WILLIAMSON: Now this morning, the
10 Petitioners I think did show samples of their product, at
11 least flashed on the screen.

12 MR. DUTT: We saw some. I mentioned that in my
13 notes. It is not our primary focus. It's not our primary
14 product. It's not our primary segment, but we certainly
15 sell some and I would argue most if not all in this room do,
16 on both sides of the aisle, excuse me.

17 COMMISSIONER WILLIAMSON: And by you -- you sell
18 some, what do you mean by some?

19 MR. DUTT: It's in our -- I'm not going to
20 comment about volume. I think it's confidential
21 information.

22 COMMISSIONER WILLIAMSON: I expect to hear that.
23 I invite you to submit that post-hearing.

24 MR. DUTT: I think it's in our responses
25 already, but we can answer that again.

1 COMMISSIONER WILLIAMSON: Okay, good. But still
2 the some, you mean some is unbranded? Is that what you're
3 talking about?

4 MR. DUTT: Yes, uh-huh.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. MALASHEVICH: Excuse me Commissioner.

7 COMMISSIONER WILLIAMSON: Yes.

8 MR. MALASHEVICH: Bruce Malashevich again. This
9 is part of what I did not have time to say, but the
10 prehearing staff report, the numbers are confidential. But
11 they have a segregation annually for each country, mill
12 branded and other products. It's only by volume.

13 It's in the aggregate in other words, and for
14 all countries, the share that is mill branded; I'm not
15 talking about something sent out with the Rite Aid brand
16 added to it by the purchaser; this is the manufacturer of
17 the paper, its own brand is quite significant or it varies
18 from country to country.

19 It is quite significant and what I was going to
20 say is that I became aware of the branded versus unbranded
21 distinction in the final phase of this case, and I was able
22 to look at data provided by one of my clients. Not all the
23 people at the table are my clients, segregating the same
24 pricing data as reported to the Commission, making the
25 distinction between branded versus unbranded, Product 1 for

1 example.

2 I calculated the averaging value, and the
3 difference is unquestionably significant. So that's one
4 issue with the pricing data, that its' nobody's fault. It's
5 just something that came -- one of the many things that
6 became known in the final phase of this investigation that
7 was not known as the prelim.

8 Branding exists, or else a substantial share of
9 shipments by importers and domestic producers. They
10 wouldn't bother to break out. Why break it out if it's not
11 significant, and you even heard some testimony from the
12 domestic industry on this subject.

13 They didn't say the value was zero. They said
14 the value has been declining in recent years. Now that
15 implies to me there's a significant distinction, with the
16 branded product being higher -- mill branded product being
17 higher than other sales. But in the pricing data, it's all
18 mooshed together. That was my entire point. So it detracts
19 from the meaning of the price comparison.

20 COMMISSIONER WILLIAMSON: Okay, thank you.
21 Petitioners' brief contains an analysis of each of the
22 largest uncoated paper purchasers, purporting to show
23 substantial lost sales and revenue from subject import
24 competition. This is at their brief at page 43 to 57. In
25 your post-hearing brief, please respond to this analysis.

1 Feel free to offer any general comments at this
2 -- and you can offer any comments now if you want, or else
3 just do it all in the post-hearing.

4 I hear no one and my time is running out, so I
5 assume you'll do it post-hearing. Okay, thank you.

6 VICE CHAIRMAN PINKERT: Commissioner Johanson.

7 COMMISSIONER JOHANSON: Thank you Commissioner
8 Pinkert, and I'd like to thank all of you for appearing here
9 today. The prehearing staff report states that there is a
10 high degree of substitutability between U.S. produced
11 uncoated paper and subject's uncoated paper. Do you all
12 agree with this characterization of the record, which seems
13 fairly grounded in the various data collected?

14 If you don't agree with the conclusion in the
15 staff report, what support do you have for finding something
16 other than a high degree of substitutability between
17 domestic uncoated paper and subject imports?

18 MS. ESSERMAN: Commissioner Johanson, it's Susan
19 Esserman. I think the record is replete with evidence that
20 shows that there is not complete substitutability. You can
21 look across a wide array of factors, in particular in Table
22 II-8 of the staff report that talks about the importance of
23 brightness and brand and environmental certification, in
24 which quite a large percentage of purchasers find these
25 non-price factors to be important.

1 I'm just listing a few of them. You've heard
2 them in the testimony and a number of these -- quite a
3 number of the purchasers identified these non-price factors
4 as being important.

5 MR. MALASHEVICH: Commissioner, it's Bruce
6 Malashevich. I'd like to add two other points. First of
7 all, certainly you heard testimony from the industry
8 witnesses today that certain U.S. producers place
9 restrictions on distributors with which they do business,
10 exclusivity being one.

11 So if you're a distributor and want access to
12 X's brand paper, you have to sign on 100 percent with them
13 or you don't get the paper. So I would say substitutability
14 in those instances would be zero. But there's another way
15 of looking at your question, which is quite a profound one
16 actually.

17 This case is very unusual in several respects
18 because in recent years and the other day I had a discussion
19 with Ms. Aranoff and Ms. Esserman. Among the three of us we
20 cover quite a bit of history and turf in terms of the cases
21 we've seen.

22 In multi-country cases, there's always a 600
23 pound gorilla in the room, maybe a 600 pound and 400 pound
24 gorilla. In recent years it's been China. If you look at
25 many of the cases involving China and other companies, China

1 has the largest or second largest share of total subject
2 imports under investigation, and these other countries with
3 smaller shares are sort of thrown into the net.

4 But the case basically is against the 600 pound.
5 Maybe it's India. It's been other single countries in
6 different cases. This case is not like that. The three of
7 us sitting around the other day could not think of a case
8 where every single subject country had an insignificant
9 market share on its own.

10 I'd wager that a case brought against any single
11 of the five countries here would never pass a preliminary
12 determination. Their share is too small. So how is this
13 relevant to substitutability? They've been here a long
14 time.

15 The Petitioners are saying they're lower priced.
16 It's a price sensitive product. They had an exhibit there
17 showing that each player had U.S. distribution established,
18 they had inventory, and the best they could do is a tiny
19 percent over a period of years?

20 That suggests to me that either the case doesn't
21 follow the theory, or they're just not a serious player in
22 the market and therefore not substitutable in purchasers'
23 eyes in many applications.

24 COMMISSIONER JOHANSON: Thank you Mr.
25 Malashevich and Ms. Esserman. A question I've been trying

1 to get my arms around is this. If imports are of higher
2 quality, which Respondents contend, why do they cost less?

3 Yes, I'm sorry. You are Mr. Moore?

4 MR. ZIELINSKI: Mr. Zielinski from Portucel.

5 COMMISSIONER JOHANSON: I'm sorry.

6 MR. ZIELINSKI: No, that's okay.

7 COMMISSIONER JOHANSON: Okay, yeah. You're way
8 back there. I'm sorry, Mr. Zielinski.

9 MR. ZIELINSKI: Yeah. Well from Portucel's
10 point of view, I think the answer is that in our segment of
11 the market they don't.

12 MS. ARANOFF: I think this is the point that Mr.
13 Malashevich was making in his presentation earlier, that --
14 and we also make this argument in our brief, but a lot of
15 the information is confidential, that we actually don't view
16 the underselling data that the Commission collected as
17 showing that imports are consistently priced lower.

18 I don't know if anyone else wants to follow up
19 on that. We can certainly do it in the brief with the
20 confidential information.

21 COMMISSIONER JOHANSON: Okay yeah. I look
22 forward to seeing that in a post-hearing brief. Anybody
23 else? Would anyone else like to comment on that?

24 MR. ISMAIL: I'd just like to add a couple of
25 things. I'd like to add a couple of things. First of all,

1 I don't believe the imports do cost less, but there are some
2 domestic brands that have marketing money behind them like
3 Hammermill and Xerox, which cost a lot more.

4 That is the difference there. There are some
5 brands by domestic mills, GP Spectrum, Hammermill, that cost
6 a lot more than the average copy paper price in the U.S.

7 MS. CLARK: I've been asked to -- sorry. Okay.
8 I've been asked to just explain a little bit more how the
9 stratification happens. So one way of looking at the
10 stratification is just as Alex said, which is the fact that
11 you've got some mill brands that have significant
12 recognition and they do resonate, and those would be brands
13 like Copy Plus by Hammermill; they would be Xerox; they
14 would be HP; they would be Epson, and those are brands that
15 resonate and can be sold anywhere to any customer.

16 So that would be a good, better, best
17 stratification because a white box being a good and then a
18 common brand, be it Office Depot brand or anything else
19 being a better, and then the best being the high level
20 brands. There's also different features on paper, features
21 like a little bit heavier weight or a little bit heavier
22 brightness.

23 So that then becomes your best, better and best
24 qualifier. So if you're looking at a level playing field
25 and you take into consideration the simplistic entry level

1 copy paper, you will not find that the domestics are higher
2 priced at all.

3 Where they might show a higher price than the
4 importers is when you look at the stratification of the
5 brands that are nationally recognizable for a higher
6 brightness or a higher weight paper that also goes through
7 your copy machine and printer.

8 Okay. One more thing I've been asked to
9 explain. In terms of looking at pricing and modeling it,
10 the questionnaire asked for net pricing for the selling
11 price to customers for copy paper. There are different
12 things that go into truly evaluating what the net price to
13 any given customer is.

14 Those include some abstract allowances that
15 truly do drive profitability and drive the cost down of the
16 product to the company that's purchasing them, but they
17 aren't necessarily the types of rebates like volume rebate,
18 incentive rebate, you know, direct advertising number that
19 are captured off of an invoice when you say give me your
20 net-net price.

21 In some cases there are instances where there
22 will be a net, and the -- we put out a particular customer,
23 a large customer. If you offer only my brand or if you
24 offer -- if I can have your commodity business and also sell
25 some of my brands and we hit X amount of money, which is

1 ambiguous until the very last day of that customer's fiscal
2 year, then I will pay you \$10 million in a check.

3 That amount of lump money that's considered an
4 annualized volume rebate attained by certain criteria being
5 met can't really be quantified until the end of the year.
6 But that money is there.

7 So my point is there's a lot of -- it's too much
8 to get into right now. Certainly, I can do anything you'd
9 like in post, but there are a lot of different buckets and
10 they're called different things and used for different
11 reasons. But it's all money that's coming based on, you
12 know, based on wanting to do more business and rolling into
13 the profitability overall of that customer's portfolio of
14 that particular mill brand or mill offering.

15 COMMISSIONER JOHANSON: All right. Thank you
16 yes, and feel free to include any new information in the
17 post-hearing brief. Ms. Esserman, did you want to say
18 something?

19 MS. ESSERMAN: Yes. I just wanted to add to the
20 comments made earlier. I don't think we're saying that our
21 products are better quality. I think what we're saying, or
22 at least I'll speak for Brazil, what we're saying is that
23 there are particular characteristics that are imparted into
24 the product through actual -- and also through the forest
25 management process that make -- that give it special

1 qualities that are attractive to our customers.

2 I'll echo what Ms. Aranoff said and what Mr.
3 Zielinski said, and I would just urge you. Not only we're
4 not saying that our products are higher quality; we say we
5 have different characteristics. But we don't think the
6 record shows underselling. I urge you to look at the Brazil
7 data.

8 COMMISSIONER JOHANSON: All right, thank you. I
9 will do that. One more issue. My time's expired, but Mr.
10 Ismail, you had mentioned that Domtar had turned down sales
11 to you before.

12 MR. ISMAIL: Yes.

13 COMMISSIONER JOHANSON: Could you -- could you
14 give in the post-hearing, if you have any information which
15 would demonstrate that, perhaps submit that?

16 MR. ISMAIL: Yes, I do. I have some emails.
17 I'll put it in the --

18 COMMISSIONER JOHANSON: Okay. That would be
19 useful. Thank you. I appreciate it, and once again my time
20 is expired.

21 VICE CHAIRMAN PINKERT: Commissioner Kieff.

22 COMMISSIONER KIEFF: Thank you very much. I
23 join my colleagues in thanking the panel for coming and
24 preparing and presenting. I'm trying to figure out, as a
25 decision-maker, where the rubber hits the road, where the

1 traction is, where I have to focus, and I'm --

2 To help me do that, I want to start very big
3 picture and ask you to help me see -- perhaps the lawyers
4 could take the lead on this one, and tell me what you see as
5 part of the case that you think you absolutely have to win
6 in order to get the outcome your way. Because I think what
7 the morning panel seemed to basically say is although they
8 do disagree with you on the facts, they could embrace your
9 view of the facts and still win.

10 MS. ARANOFF: Hard to boil down a very long
11 brief --

12 COMMISSIONER KIEFF: I get that.

13 MS. ARANOFF: --into a few sentences. But at
14 least one core argument of our case is not just that many of
15 the declines in domestic performance that you see in terms
16 of production, capacity, employment are the result of demand
17 effects and not of something that imports have done, but
18 further, of course, that subject imports haven't exacerbated
19 those trends to the level that would meet the causation
20 standard of being, you know, material injury by reason of
21 subject imports.

22 COMMISSIONER KIEFF: Okay, and so in a -- in
23 effect then, a lot of the thinking boils down to questions
24 of degree at each step of the sentence you gave. In other
25 words, if there's a negative impact on the domestic

1 industry, is it so largely caused by let's call it demand
2 effects that any marginal contribution from imports is not
3 high enough to rise to the level of material injury caused
4 by the imports?

5 MS. ARANOFF: I wouldn't necessarily stop you
6 from looking at it that way. I mean nobody bifurcates
7 anymore, but I think one of our arguments would be that the
8 domestic industry's not materially injured at all, due to
9 how well they're performing, you know, in the areas that are
10 not obviously depressed by declining demand, and
11 particularly that would be profitability.

12 COMMISSIONER KIEFF: So then. Okay. So then --

13 MS. ARANOFF: And then you would go to the
14 second step, which is well if you don't agree with that and
15 you think maybe they are experiencing some injury, is it by
16 reason of the subject imports?

17 COMMISSIONER KIEFF: All right, and so maybe
18 then we're morphing already in our dialogue into facts. In
19 other words, the way they are viewing their costs you think
20 are too great. The way they're viewing their own ability to
21 recoup prices is too stingy to themselves that they're
22 getting fair prices for the stuff they're selling and you're
23 getting fair prices for the stuff you're selling.

24 It just turns out there's variation among the
25 stuff that's getting sold. There's variation among cost

1 structures. There's variation in -- enough variation in the
2 product that how they count volume and how you count volume
3 are different. So this really does -- this case then really
4 will turn on what we treat as the things to count and how we
5 count them, and this really is a fact intensive case.

6 MS. ARANOFF: Like every case.

7 COMMISSIONER KIEFF: I'm sorry. Look, we always
8 -- obviously we think we always, we hope we always build a
9 deep, rich factual record and only base our decision on it.
10 But I'm trying to find --

11 MS. ARANOFF: We're not basing our argument
12 based on a particular argument about what the material
13 injury standard is supposed to mean. We think it means what
14 the Commission has always said that it means in every
15 opinion.

16 COMMISSIONER KIEFF: So then it sounds like
17 you're ^^^^ you think the decision we make turns on how we
18 do our counting, and that you think we should do the
19 counting the way you're suggesting, not the way they're
20 suggesting and so forth?

21 MS. ARANOFF: If you will, sure.

22 COMMISSIONER KIEFF: All right. So then what
23 I'm trying to wrestle with is how much work is being done by
24 some of the debates that my colleagues have already had, or
25 some of the questions -- debates is too strong of a term --

1 some of the questions my colleagues have already probed by
2 asking, for example, does it matter whether we treat this as
3 a commodity product or not?

4 Does uttering that, is that a big enough buzz
5 word that that changes materially how we do our thinking
6 about the facts. Similarly, on the integrated versus
7 non-integrated or product input question, does it matter
8 whether we treat the capital cost of the pulping and webbing
9 as part of the way one thinks about making paper sheets?

10 Once we make that cognitive leap, we then go on
11 -- we go towards one side of today's argument or towards the
12 others. How much of the work is being done by these
13 constructs of how to see the case?

14 MS. ARANOFF: That's a complicated question, and
15 I think the answer is they're all pieces of the puzzle and
16 there are multiple paths I think that we've proposed to you,
17 to get to the result that we propose, and we can spell that
18 out again in our post-hearing.

19 COMMISSIONER KIEFF: I see. I think -- I mean I
20 don't know that I've followed all of them already and
21 obviously I think we would all benefit if you do. But I
22 take your point today to basically be whether we go with
23 Construct A or Construct B, you think there's a path for
24 your side to win?

25 MS. ARANOFF: Yes.

1 COMMISSIONER KIEFF: Okay. On questions like
2 how we treat the costs of the webbing and whether we treat
3 this as a true commodity or not a true commodity and other
4 well-known concepts that we often discuss in these cases.

5 MS. ARANOFF: Yes, and there's a few, and I've
6 heard two of them from you that you'd like us to tell you
7 how it works. Either way, you know, we'd be happy to do
8 that.

9 COMMISSIONER KIEFF: Yeah. I mean I think -- I
10 think those are two big ones for me, because I think they --
11 at least for me, they impact meaningfully how I think about
12 the ordinary plain vanilla so-called three factors, volume,
13 price and impact. I take it -- I mean I've heard from both
14 sides perfectly cogent arguments that get me to radically
15 different outcomes on those three factors.

16 So in the face of perfectly cogent arguments,
17 you know, I'm then left struggling okay, now how -- there
18 must be a basic logic framework that I need to choose
19 between in order to -- in order to go one way or the other.
20 Obviously, if it turns out that's the case, I would love
21 that too. That would help the thinking.

22 MR. LAYTON: Commissioner Kieff, if I may.

23 COMMISSIONER KIEFF: Please.

24 MR. LAYTON: Duane Layton. There's a certain
25 beautiful simplicity to Petitioners' arguments, and Mr.

1 Dorn's a mater of telling the story and I heard them when I
2 worked with Joe 10-15 years ago, tell largely the same story
3 about cement. Capital intensive commodity, price sensitive,
4 got to run full out, and what we're asking you to do is get
5 your knife out and scrape away at it.

6 Take the commodity, it's a commodity. That
7 tends to imply if you embrace that that well, there's
8 product coming in from overseas and it's bouncing into every
9 other so-called commodity that's produced in the U.S.
10 market. In fact, what I hope is coming through in the
11 testimony --

12 COMMISSIONER KIEFF: It's definitely coming
13 through.

14 MR. LAYTON: Well from Ms. Clark and others,
15 that there's actually these big consumers that as I
16 understand it, they won't buy the imported product largely
17 and put it on their shelves and try to get premium prices
18 for it. They say go away. We're going to buy the Xerox
19 brand. We're going to buy, you know, the Hammermill
20 product. That's the product we're going to put out front
21 and command premium prices for it.

22 You imports, and even if you accept the notion
23 it is a commodity, which we don't think it really is in the
24 simplest form. But even if you would accept that notion,
25 the only way in which the imports are competing with the

1 domestic product is down there at some people call it the
2 "entry level," some people call it the "good level,"
3 whatever term you want to use.

4 So that's why when you look at this averaging
5 pricing data and you say ah, underselling, well that's
6 really not an accurate conclusion, given how this market is
7 really working, as the participants in the market can better
8 explain that I can.

9 COMMISSIONER KIEFF: This is all very helpful,
10 and although these questions have focused largely on
11 conceptual issues, I really do also benefit greatly by
12 hearing the factual witnesses discuss with my colleagues and
13 look forward to more of that. But my time is up. Thank you
14 very much.

15 VICE CHAIRMAN PINKERT: Commissioner
16 Schmidtlein.

17 COMMISSIONER SCHMIDTLEIN: Thank you. I'd like
18 to also thank the witnesses for being here today, especially
19 those who have traveled a long way, which I think there's a
20 few. So I would like to start with a question about
21 capacity, and Mr. Malashevich, you began by talking about
22 this, but this also could be answered by one of the lawyers,
23 because what I really want to understand is what is the
24 position of the Respondents?

25 If you look at Table 3-5, right, which shows the

1 capacity for the U.S. producers, and you see in each of
2 those years the overall paper making capacity and this is
3 public, which goes 9.1, 9.1, 8.2 and then it's broken down
4 between subject and then out of scope production and the out
5 of scope includes the web rolls and the other products that
6 were discussed this morning.

7 So what I want to understand is is it you all's
8 position that the U.S. producers could not use that other
9 part of that capacity, the 3.6 in 2014, the four million
10 short tons, the 4.1, that they could not use it? I mean
11 that's what I want to start with, and then break it down
12 from there.

13 MR. MALASHEVICH: Bruce Malashevich. I'll start
14 out first. I'm not a lawyer; I'm a numbers guy. But you're
15 asking the numbers.

16 COMMISSIONER SCHMIDTLEIN: It's really a factual
17 question. It's a factual and I want to understand the
18 argument and I want to understand then what the facts are to
19 back it up on your side, so --

20 MR. MALASHEVICH: Okay. Well first of all, I've
21 been involved in a lot of paper cases, including the recent
22 Supercal paper case. It is typically the case, both in
23 testimony at the hearing and if you want it there's a
24 section of the transcript on Supercal that's very relevant
25 I'm about to say.

1 The Commission's questionnaires do an excellent
2 job of eliciting the basic facts necessary for any
3 investigation. But there's a point at which you just have
4 to look out the window, as one Commissioner serving 20 plus
5 years ago used to say. Okay, the numbers say a certain
6 thing, but what's actually happening in the marketplace? We
7 have 100, we have 92. Okay. So the difference is eight.

8 COMMISSIONER SCHMIDTLEIN: Well this is what I'm
9 getting at. So I take from what you say that you don't
10 dispute. They could use that capacity. But what you're
11 saying is they didn't in the interim period and that calls
12 it into question. Am I right? I mean that's how I'm
13 interpreting it, so if I'm not right --

14 MR. MALASHEVICH: Not quite. I would say here
15 are the things. First of all, we have the CEO of Domtar in
16 an earnings call. It's in the brief, the joint brief and/or
17 Suzano's brief. The third quarter of 2014, the peak period
18 of subject imports' presence in the U.S. market, saying the
19 market's tight, the market's tight and the -- everybody
20 should scramble and try to get the paper they need.

21 Now that suggests to me that first of all I
22 doubt he was looking at the ITC questionnaire at that time.
23 But it says to me that in reality, the combination of these
24 machines naturally working at flat out in order to meet
25 their maximum efficiencies, I buy that. I think that's true

1 of paper making side.

2 At any particular time, they're always going to
3 be working flat out. So whatever it is, that whatever the
4 arithmetic shows, the reality is 100 percent effective
5 capacity and --

6 COMMISSIONER SCHMIDTLEIN: So I mean do you
7 dispute the -- you heard the testimony this morning about
8 that it's very easy to switch from web rolls and sheeter,
9 that they could do it in a day or an hour. Do you dispute
10 that?

11 MR. MALASHEVICH: I have no basis to dispute it
12 or not, but I can tell you that what they're talking about
13 is from a technical point of view of the production end.

14 COMMISSIONER SCHMIDTLEIN: Well that's what I'm
15 trying to get at right now.

16 MR. MALASHEVICH: If you talk to a sales guy
17 who's selling the webs or other non-subject merchandise from
18 the same pulp, same pool of pulp let's say, he says am I
19 going to tell a customer who's been a loyal customer for ten
20 years and X million dollars a year oops, we're going to
21 switch. We're going to switch and produce more uncoated
22 sheets because we're getting a little bit higher margin
23 there? He'll never hear from that customer again.

24 It's not -- once you go into the technical side,
25 I don't have the expertise to dispute testimony or not. But

1 I have a lot of experience with companies in a similar boat,
2 making a common input that has to be shared in different
3 business units, different products, and no one's going to
4 say we're just going to screw these customers and reduce
5 them by 20 percent, and we're going to take that 20 percent
6 and sell it as uncoated sheet.

7 I just can't imagine that happening in a real
8 commercial environment. So it's a really a combination of
9 those considerations, plus the fact that -- forgive me, but
10 I just want to remind you I testified earlier, the
11 prehearing brief. We have kind of a test tube case. The
12 argument was that well, they would have produced more but
13 they didn't -- uncoated sheet. They didn't because imports
14 rose.

15 Well, they fell quite dramatically in '15. Look
16 at the numbers yourself. Domestic shipments barely changed.
17 So where was all this excess supply just yearning to breathe
18 free in the uncoated sheet segment? It just -- it's just
19 not correct.

20 COMMISSIONER SCHMIDTLEIN: Would you all like to
21 add anything to that, because we keep hearing this term
22 they're operating at full capacity with regard to sheeter
23 rolls. Well I mean they're really not, right? I mean
24 unless you're disputing, they really can't convert these
25 other products into producing sheeter rolls and that they

1 can't --

2 But then it raises the question of well, why
3 didn't they in the interim? I don't know the answer to that
4 question. I would invite the Petitioners to answer that
5 question in the post-hearing as well when you see a big drop
6 in the subject imports and you still don't see a big switch,
7 if it can happen so quickly. But those are sort of two
8 different points.

9 MS. ARANOFF: So let me just take what Mr.
10 Malashevich said and kind of wrap it up a little bit into
11 kind of a simple point, which is this is, I think, a pretty
12 rare case for the domestic industry to come in front of the
13 Commission and effectively concede that they have no idle
14 capacity. Normally, a domestic industry comes in and they
15 say subject imports are killing us and we can't -- or we
16 have capacity and we're not operating; it's idle and as soon
17 as you take care of those subject imports, make them raise
18 their prices, we're going to be able to make more.

19 This domestic industry, they didn't say that.
20 In fact, not only didn't they say it today, you've got the
21 public statement on the record that Mr. Malashevich was
22 referring to from Domtar, saying that, you know, something
23 around 92 percent capacity utilization; it's a very tight
24 market.

25 What instead the domestic industry came in and

1 said this morning is that they have divertable capacity, and
2 that's what you're raising.

3 COMMISSIONER SCHMIDTLEIN: Right.

4 MS. ARANOFF: That they make more than one
5 product on these machines and that they could, if they
6 chose, divert that product. As Mr. Malashevich said, it's
7 not a question of disputing that they make more than one
8 product on that. They do; they make the web rolls on there.

9 But in order for them to go over and decide
10 they're going to turn that into sheeter rolls instead and
11 use it for sheet, they'd be turning their backs on their web
12 roll customers. So you know in the end, the Commission has
13 to ask itself how realistic is that in, you know, any market
14 where there aren't that many customers and people depend on
15 the long term goodwill of their customers, that they would
16 just say you know what, never mind. We've been selling you
17 web roll, but now we see a chance, you know, at least in the
18 short run to do better by switching over.

19 We don't think that's how business is conducted
20 in paper or really any other market. But perhaps the
21 domestic industry feels differently.

22 COMMISSIONER SCHMIDTLEIN: Okay. Anyone else?
23 No, okay. So I'm running out of time here, but I wanted to
24 ask also about the question about the underselling, and when
25 I look at the joint Respondents' brief, and I'm looking at

1 pages -- it really started on page 24, right, where you say
2 to the Commission, you know you shouldn't look at the
3 product, pricing products.

4 What you should really do is look at the
5 quarterly average unit values, and this is because we're
6 going to cumulate for a present material injury
7 determination. So you ought to look at it in the same way.
8 I guess my question for the lawyers is has the Commission
9 ever done that before?

10 Have we ever simply because we're cumulating in
11 a present material injury analysis decided we're not going
12 to look at the pricing product data to determine what, you
13 know, instances of underselling or to gauge whether there's
14 underselling and instead we've looked at quarterly AUVs?

15 Because if we have, it seems like why wouldn't
16 we be doing that in all cases, because there are a lot of
17 cases where we have multiple countries. We cumulate for
18 present. Why wouldn't we be using quarterly AUVs in those
19 cases?

20 MR. McCONKEY: Matthew McConkey from Mayer
21 Brown. I cannot point to a case where you've done that, but
22 there's nothing to prevent you from doing that.

23 We feel like we did point out in our brief, and
24 you're showing some interest in it. So I think you may hear
25 a little bit more in our prehearing brief about this as

1 well, about the specifics in this case, where there's a
2 logic to doing that with the specifics of this market.

3 COMMISSIONER SCHMIDTLEIN: Okay, and then later
4 in the brief, we do look at the country-specific pricing
5 data, and this is on page 26 at the bottom. You say let's
6 look at Products 1 and 2. Okay, you know, we didn't really
7 look at Product 3 in the prelim or Product 2 for that
8 matter.

9 But you shouldn't look at 2014 in determining
10 whether there's been underselling, because U.S. prices
11 increased, indicating there was an absence of any price
12 depression. So I'm confused by that, because just because
13 the price of the U.S. product went up in '14, why would we
14 not look at the comparison there to determine whether or not
15 it was still being undersold?

16 MS. ZHANG: Jing Zhang with Mayer Brown. Our
17 point in the brief is that in 2014, U.S. prices actually
18 increased, despite the increase in subject import volume and
19 market share. That kind of supports the testimony by Mrs.
20 Clark today, that U.S. pricing is very like -- it's subject
21 to a very like complicated and delicate pricing mechanism.
22 There's like a lot of things playing into it.

23 I think like the point there is like -- right.
24 So like there's still got to be some causation between
25 underselling analysis and price decline experienced by U.S.

1 industry. You've heard from Mrs. Clark that imports have
2 very small presence in the U.S. market, and they have less
3 complicated pricing mechanism than the domestics.

4 I think like this whole, all these factors come
5 to like a single conclusion, that there's very like
6 attenuated relationship between U.S. prices and the volume
7 and market share of subject imports.

8 COMMISSIONER SCHMIDTLEIN: Okay. I appreciate
9 that. I'll come back to this. My time is up. Thank you.

10 VICE CHAIRMAN PINKERT: Does anybody on the
11 panel have the Petitioners' hearing slides available to
12 them? Okay. If you look at page 20, I want to talk about
13 this excess capacity issue in a little more detail. I
14 appreciated the answers to the questions that Commissioner
15 Schmidtlein asked, but I thought that part of the answer to
16 her questions about capacity was that the Petitioners are
17 relying on their switchable capacity or whatever you want to
18 call it, that they can switch out from other products.

19 As I look at page 20 of their slides, it seems
20 to me that they're relying both on the switchable and the
21 excess sheeting capacity and the excess paper making
22 capacity. So I'm not certain what to do. I know what your
23 answer is about the switchable, but I'm not certain what to
24 do with the other capacity points that are raised by
25 Petitioner.

1 MR. MALASHEVICH: Vice Chairman Pinkert, Bruce
2 Malashevich. While my colleagues are studying it, I don't
3 have it in front of me. But I think I understand your
4 question. As the brief and testimony said, we think the
5 capacity figure for the cut sheets is just irrelevant,
6 because it's a much higher level than what is capable of
7 being fed from the captive productions of the paper.

8 So I think that particular capacity number is
9 without meaning. What matters is how much paper can be
10 churned out and the decisions made commercially to spread
11 the paper capacity around to uncoated versus others. I
12 think I addressed earlier the effective capacity is not
13 necessarily being a function of the simple arithmetic of
14 what's reported to the Commission.

15 It's also looking in the context of what's
16 happening the marketplace, as those numbers are on an annual
17 basis. They're subject to a margin of error just like
18 anything, and I'm not saying they didn't do anything wrong.
19 I'm just saying it's normally a squishy number, and that's
20 why you look to other metrics to find out what effective
21 capacity really is.

22 Fortunately, the record has those other mechanisms --

23 (Off the record.)

24 MR. MALASHEVICH: Fortunately you have those
25 other measures of constraint. You have the views, public

1 views of the CEO on the largest producers if not the largest
2 producer in the United States, and you have anecdotal
3 reports --

4 (Off the record.)

5 MR. BISHOP: We can go back on the record, thank
6 you.

7 MR. MALASHEVICH: I think I was saying that
8 there was the number of purchasers questionnaires, all of
9 which are cited in the briefs, commenting how they couldn't
10 get supply at a particular point in time, coincident with
11 the big IP plant closure and the increase in imports.

12 The big number here -- I now have page 20 in
13 front of me -- the big number here of so-called switchable
14 capacity I think should be -- I'm sure the numbers were
15 faithfully calculated from a technical standpoint. I have
16 no reason to quarrel except from a practical standpoint.

17 I think it is an entirely hypothetical view that
18 is completely implausible in the real commercial world. I
19 think the question of plausibility from a practical
20 standpoint, not a theoretical standpoint, is what the
21 prudent decision-maker, as you certainly are, would look to
22 in valuing these numbers.

23 So really in terms of their value, I'd say the sky blue 1.4
24 million is completely, effectively zero.

25 I think the other blue number, 3.6 is entirely

1 theoretical and not commercially plausible, and I think the
2 672 is a numeric calculation based on an annual number and
3 the overwhelming other information that's in the record
4 points to whatever they were producing in this year, actual
5 producing not reported capacity was effectively the maximum
6 they could produce in that year.

7 VICE CHAIRMAN PINKERT: Thank you for that
8 answer. Ms. Esserman.

9 MS. ESSERMAN: Yes. Mr. Malashevich has shown
10 why the sheeting capacity is not relevant when there are no
11 rolls to provide. We've already talked about switchability
12 and you are looking at the theoretical paper making
13 capacity. I do think it's just worth reading what John
14 Williams said. He's the CEO of Domtar. He said this in
15 2014, I believe, when the Courtland plant was closing.

16 I'm just going to read the quote, because I
17 think it tells you how he thinks of practical capacity. He
18 said "I do think that post Courtland, when you think that
19 Courtland was running at full tilt, before it shut there was
20 a lot of tonnage to disappear, and there was a view, I
21 think, that domestic producers just did not have that
22 capacity.

23 "If you do the math, domestic producers running
24 at 92 percent, 93 percent, you take away nearly ten percent
25 of the market and the customer has to find the volume from

1 somewhere." This is a pretty authoritative source about
2 what constitutes available capacity.

3 MR. MALASHEVICH: Bruce Malashevich. That's
4 exactly the principal quotation I was referring to and I
5 looked very closely. Maybe I missed something, but I didn't
6 see Mr. Williams on the witness list for today's testimony.
7 So we'll have to go by our quotations of what he publicly
8 said.

9 VICE CHAIRMAN PINKERT: Thank you. Now a
10 follow-up question on capacity. Is there a survivor's bias
11 here? In other words, if you go back, you have capacity
12 that was shuttered during the period. Should we be counting
13 that as capacity that would be available in the marketplace
14 but for the impact of the subject imports?

15 MR. MALASHEVICH: No, on two counts sir. First
16 of all, I'm very familiar with survivor bias and I don't
17 deny it exists in individual cases. I don't think it
18 applies here, because most of the capacity shutdown predates
19 the POI. The capacity that was shut down during the POI is
20 addressed in the relevant producers' questionnaire received
21 by the Commission.

22 And so there's nothing out there the
23 Commission's missing for purposes of this investigation. I
24 would only add that from a professional point of view, I
25 think survivor bias is -- should be given much less weight.

1

2

In this case, I don't think it exists at all.

3

But let's assume it did. It should be given much less

4

weight when you have a secular decline of demand of this

5

magnitude and duration, rather than the cyclical change or a

6

seasonal change or regulatory change or whatever.

7

Remember that according to the IP public

8

document, International Paper public document, they have a

9

line graph starting from 1999 and ending in 2014 or 2015.

10

It's difficult to imagine exactly how extreme this is when

11

you look at from the peak in '99 to the present. This POI

12

is dealing with incremental declines in demand that appear

13

to be relatively small.

14

But because it's secular, the actual demand from

15

peak to the current trough is more than 30 percent. That's

16

a big number for any industry to swallow, and there are

17

going to be a lot of non-survivors that have nothing to do

18

with subject imports during the POI.

19

Furthermore, remember what's being imported is

20

not what these plants -- what the plant closures have been

21

producing. They were not producing the like product. They

22

were producing paper rolls. So by definition, imports

23

couldn't have caused the problem. That's one reason why

24

your question early this morning just hit the mark so

25

perfectly.

1 VICE CHAIRMAN PINKERT: Well, flattery will get
2 you nowhere in this town. Ms. Aranoff, do you wish to
3 follow up on that?

4 MS. ARANOFF: These are all -- this and your
5 last question too, they sort of illustrate a point that Mr.
6 Malashevich raised in his original testimony, which is the
7 domestic industry's attempt to sort of argue the case by
8 having their cake and eating it too.

9 For some purposes, they want you to look only at
10 sheeting capacity and ignore the fact, for example, that
11 paper making is a constraint on availability, you know, on
12 the ability to use sheeting capacity, and at other times,
13 for example, when they want you to think that their industry
14 is very capital intensive, they want you to look at paper
15 making capacity.

16 So as you assess each of these issues, you know,
17 you need to ask yourself in each case well, is the answer
18 the same if I'm looking at paper making or sheeting, and
19 which one am I supposed to be looking at, you know, when I
20 answer this question. VICE CHAIRMAN PINKERT: Thank
21 you. Now we turn to Commissioner Williamson.

22 COMMISSIONER WILLIAMSON: Thank you. Earlier, I
23 had made reference to Petitioner's brief at 43-47 where they
24 refer to -- purport to show substantial lost sales and
25 revenue from subject imports competition. On a different

1 section on page 31 to 36 of their brief, they provide
2 analysis specifically with respect to imports from Portugal.

3 So in a post-hearing brief, I would ask that you
4 please respond to this analysis. This is the analysis at
5 page 31 to 36 in the Petitioners' brief.

6 MR. ZIELINSKI: We'll do so.

7 COMMISSIONER WILLIAMSON: Okay, thank you. I
8 was wondering, does Portucel argue that the Commission
9 should not cumulate the imports from Portugal for both
10 present injury and threat, and if so with respect to present
11 injury, how do you overcome the response of purchasers in
12 Table 2-11 indicating that imports from Portugal always or
13 are frequently interchangeable with paper from domestic
14 producers and all other subject sources?

15 MR. ZIELINSKI: So this is Jonathan Zielinski
16 again for Portucel. Yes, we are arguing that Portugal
17 should be decumulated, both for present injury and for
18 threat. For threat, you've got our arguments in the brief.
19 They talk about volume and price and everything.

20 To be clear, for present injury, we are only
21 talking about the fungibility aspect of the Commission's
22 typical factors, and I think that's what your question is
23 getting at. We have our -- we'll talk about it more in our
24 post conference brief, the specific instances within the
25 purchaser responses and why they might appear inconsistent

1 but in a lot of ways aren't.

2 But overall, I think the question has to do with
3 interchangeability and substitutability, and perhaps whether
4 this product is a commodity product. Sure, these things are
5 interchangeable and substitutable because they can all go
6 into a printer, and you can use them any way you want. But
7 our argument is that there is segmentation in this market,
8 and there's branding in this market and that matters.

9 You talked earlier about unbranded product. Our
10 focus and our primary function is to sell in the high
11 quality segment of the market, and we also sell some product
12 in the unbranded segment of the market.

13 We can never perceive that a customer who is
14 shopping in the high quality segment of the market for our
15 high quality product would find that our unbranded product
16 is substitutable for that. It just simply doesn't happen.

17 Yeah, we sell 20 pound copy paper, but our
18 product would not be substitutable for unbranded product.
19 That's just how it is.

20 COMMISSIONER WILLIAMSON: But you are selling
21 some of that, shall we say the commodity product that's the
22 entry level product to somebody else?

23 MR. ZIELINSKI: Correct, yes. There is some of
24 that.

25 COMMISSIONER WILLIAMSON: Okay, and that's --

1 okay. And you are a significant -- I don't know how large a
2 share of that you have are above your sales, but I can look
3 at --

4 MR. ZIELINSKI: We'll do -- it's proprietary.
5 We'll talk about that in our post conference, the share of
6 it. But for these purposes, you can say that it's
7 different. That's another clarification also when we're
8 talking about decumulation. Our argument isn't that
9 we -- that our product is of such a high quality that it
10 doesn't compete with domestic product. It's that it doesn't
11 compete in our particular segment of the market with other
12 imported products.

13 COMMISSIONER WILLIAMSON: Okay, thank you. I'll
14 look forward to hearing more post-hearing. Petitioners
15 assert that the investigation suppressed cumulated subject
16 imports in the third quarter of 2015. This is at page 28
17 and 29 of their brief. Do you agree with this and if so,
18 how does this affect the Commission's analysis? If you want
19 to take it post-hearing, you can of course.

20 MS. ARANOFF: I think we need you to repeat the
21 question please. We didn't hear it.

22 COMMISSIONER WILLIAMSON: I'm sorry.
23 Petitioners assert that the investigation suppressed
24 cumulative subject import volume in the third quarter of
25 2015, and this is at pages 28 to 29 of their brief. I want

1 to know if you agree and if so, how does it affect the
2 Commission's analysis? If you want to do it post-hearing,
3 that's fine. You can take a look at what they say and
4 address it then.

5 MS. ARANOFF: Okay. As I understand it, you're
6 asking us whether it was an effect of the investigation,
7 that subject import volume declined in the third quarter of
8 2015?

9 COMMISSIONER WILLIAMSON: Yes, yes.

10 MS. ARANOFF: Okay. We'll answer that in our
11 post-hearing brief unless -- is there anyone who wants to
12 talk about that right now?

13 COMMISSIONER WILLIAMSON: Okay, fine. That's
14 fine. Mr. Peters, do you have any -- you've been quiet back
15 there. So I was wondering, do you have any comments in
16 regard to Australia's role in this investigation?

17 MR. PETERS: Jim Peters, PPM Australian Paper.
18 Thank you for having us today. Yes, I've been very quiet
19 because I'm very angry. I'm very angry with the entire
20 process that we're going through here. It was made mention
21 of the 600 pound gorilla in the room, and the 600 pound
22 gorilla in the room is not here. The 600 pound gorilla is
23 China, and China has been a big issue for everyone in the
24 paper industry across all grades for many, many years.

25 Australia in this case is really the koala bear.

1 We are the smallest of the five in terms of volume. We are
2 -- we've been in the market for 12 years. We built a
3 beautiful customer case. Customers do like our paper.
4 Eucalyptus is universally accepted as the best fiber for
5 making copy paper in terms of runnability, brightness,
6 stiffness, opacity, etcetera. That's without question.

7 It doesn't make it any different in terms of,
8 you know, the fungibility here. These products are
9 interchangeable for the most part. But I think what's being
10 missed here in all of these discussions, as you get into the
11 technical details of this or that is the American consumer
12 who is buying this product day-in and day-out and the
13 distribution system, the distribution system that has been
14 in existence in this country for over 100 years, and a
15 distribution system which the American paper mills have been
16 trying to dismantle as much as they possibly can over the
17 last 30 years.

18 If you look back 25 years ago, there were 50
19 paper companies in this country. Pulp and Paper Week used
20 to publish their annual top 50. Now there's about ten, and
21 now only four of them are making certain uncoated paper. As
22 Mr. Ismail said, if you're not a distributor of Domtar, IP,
23 GP or Boise, you don't have access to paper.

24 So with all these imports gone, the American
25 public is going to have fewer and fewer choices.

1 Universities, county municipalities, everyone who has to
2 deal with a budget and needs paper for their operations day
3 to day are going to see their prices go up as the market now
4 is controlled by these four companies.

5 Now we've done business with these companies for
6 many, many years. We've exported hundreds of thousands of
7 tons of paper. Domtar, I've known Dick Thomas for probably
8 25 or 30 years. We've worked with every single one of those
9 mills.

10 Domtar is a Canadian company. Why are they
11 bringing paper in from Canada if they have excess capacity
12 in the U.S.? None of this adds up, and that's very
13 frustrating for us. Australia and the United States have a
14 great relationship. We have built a very nice program here.
15 We're 1.2 percent of the market. We're eight percent of all
16 imports.

17 If you look at this 9 to 17 percent growth in
18 imports over the last two years, Australia paper has
19 accounted for six-tenths of one percent of that growth. But
20 yet we're being cumulated along with everybody else.

21 So yes, I've been very quiet. I won't be in the
22 post-hearing brief. But I do think that the Commission
23 really needs to look at what's happening here. This is not
24 Supercal. This is Coded. These are not companies that are
25 literally going out of business.

1 These companies make great decisions. They've
2 shut down capacity. They've rationalized the industry, and
3 I think they're doing very, very well and they're right on
4 course to continue to do well.

5 Lastly, we were assessed a 40 percent duty,
6 40.65 percent duty. It's because we have one product in
7 Australia. It's called Reflex. This product is 8-1/2 by --

8 COMMISSIONER WILLIAMSON: I actually have some
9 other questions I want to ask others, but particularly when
10 you get into the Commerce process.

11 MR. PETERS: Yes. Okay, okay.

12 COMMISSIONER WILLIAMSON: But thank you. We
13 look forward to hearing from you in the post-hearing brief,
14 and we'll note that China is part of the joint Respondents.

15 COMMISSIONER WILLIAMSON: I don't have much time,
16 but this morning I asked the Petitioners to do the--to give
17 me the dynamics of this issue of did the Petitioners
18 basically not have enough supply and that's why the imports
19 came in? Or was it the imports came in and undermined their
20 ability to meet it?

21 So I was wondering if anyone here wants to talk
22 now and give more details on the dynamics of you're saying
23 the imports, basically the imports came in because there
24 wasn't enough supply. What's the documentation for that?
25 What's the dynamics? What's the timing? But I think my time

1 has expired, so I'll come back to that question. But you
2 can think about it.

3 VICE CHAIRMAN PINKERT: Commissioner Johanson.

4 COMMISSIONER JOHANSON: Thank you, Vice Chairman
5 Pinkert.

6 Could you all please explain further your
7 argument that domestic marketing and advertising budgets
8 undermine the contention that the domestically produced and
9 imported paper compete on the basis of price?

10 And one reason I wanted to ask that is that a
11 very large segment of the paper sold in the United States,
12 uncoated paper sold in the United States, is sold through
13 retail, just basic stores. And for the individual
14 consumers, where are the advertisements? Or is it directed
15 elsewhere?

16 MS. CLARK: It's a pretty complicated matrix, and
17 it applies to distributors, wholesalers, retailers,
18 resellers of many different types. And what advertising,
19 number one, to answer that question, is advertising can be
20 done online.

21 So there's always online offerings for everyone
22 now. Advertising can be a bullet burst that's got a reduced
23 price for special-of-the-week, or something to that effect.
24 Or it can be points that are accumulated by the particular
25 retailer or so that can be used for purchases in the store,

1 or for discounts.

2 So there are also ads in newspapers. So there
3 are various types of ads. Then there are things called
4 "spiffs," and spiffs are "I want my salesperson to be paid
5 extra to sell a particular product and go out and drive it."
6 So that's a spiff.

7 Then there are things, other intangibles like I'm
8 going to have a vendor show. Many of the distributors and
9 wholesalers have large vendor shows. And to be actually
10 present and have a table at a vendor show, you might be
11 charged \$20,000 for two days.

12 Now we all know it doesn't cost \$20,000. It
13 probably cost \$1,000, and the rest is dropped profit line.
14 So there are a lot of intangibles that have different names--
15 --and I could go down my arm with them--that really make an
16 apples-to-apples comparison impossible.

17 There are certain things that occur in terms of
18 if you carry more than one product. So you carry your
19 entry-level that I'm going to bid on and get that business,
20 but you need to carry this, this, and this, and this, and
21 this in order to get this chunk of category money at the end
22 of the year for performing.

23 So that would not likely be captured in what you
24 see. So what you see is probably the invoice cost, probably
25 less the terms payment which would be like net one percent

1 discount, possibly less a defective allowance of maybe one
2 percent or so, possibly less an advertising number because
3 everybody gets an advertising number and that's pretty--
4 that's visible; and possibly less another or two types of
5 discounts.

6 But then there's a whole bunch of discounts that
7 go to other buckets. And all of that money is earned
8 because of doing the business with a particular mill, and
9 drops to the customer's bottom line.

10 The other thing that's ambiguous is that
11 customers, large customers or medium customers, no one wants
12 their price out there. So if a company has a large sales
13 force, especially in the contract commercial type of
14 business, you don't want your actual price that you pay to a
15 mill to be in the hands of all of those sales people who can
16 then broadcast it to God knows who, or to customers.

17 So top line prices that get paid to mills are
18 almost always substantially higher than what the net price
19 will be from a domestic. The majority of importers price at
20 one price lower. They'll come in, because they're not
21 afforded the ability to sell the range of product or the
22 higher--you know, the better/best product--they don't have a
23 broad mix. So they're often playing as a one-horse pony,
24 which is one item.

25 So they will go in as a one-item with an invoice

1 price with potentially a discount for payment terms of one
2 percent, industry standard, and that will be about it. So
3 all of those other allowances aren't on that side of the
4 table.

5 So I hope that answers your question. It makes
6 the apples-to-apples pretty much impossible.

7 MR. McCONKEY: If I may, Matt McConkey, just to
8 jump in real quick, this all came out when we--we brought
9 Laurie in to D.C. and she, you know, an expert in this
10 industry, and we show her the questionnaire responses.
11 Because we started to say, you know underselling,
12 overselling, and these are issues in this case.

13 And so she said, well let me see the
14 questionnaires that were responded to. And we showed her.
15 And immediately her response is, there's no way that the
16 prices that were obtained from the domestics, she said,
17 would be in an apples-to-apples basis that you would have
18 got from the importers because of these things.

19 And it's not that anybody did anything nefarious,
20 it's just that there's all these other buckets of money out
21 there that just probably when somebody who was completing
22 that questionnaire wouldn't have been captured.

23 COMMISSIONER JOHANSON: Yes, Mr. Tarpey?

24 MR. TARPEY: Thank you. Tom Tarpey from Suzano
25 America. And I think you also asked about advertising.

1 COMMISSIONER JOHANSON: Yes.

2 MR. TARPEY; Domestic mills will also advertise
3 their brands in catalogues for the office supply industry,
4 which is paid for, full page, back cover, front cover. And
5 also industry trade magazines for the printing industry
6 you'll see large advertising spans going in that area.
7 Thank you.

8 COMMISSIONER JOHANSON: Alright, thanks. And I
9 don't know if these are included in the exhibits, because
10 the number of exhibits was very large, and they might
11 already be there, but could ya'll include an example or two
12 of the advertisements in the post-hearing, if they are not
13 already in the exhibits? If they are, if you could just
14 direct us to them. Thanks, I appreciate that.

15 Respondents have argued that the market for
16 uncoated paper is growing almost everywhere in the world
17 except for the United States, and this is written at page 67
18 of the Joint Respondents Prehearing Brief.

19 Could you all provide background substantiating
20 that in the post-hearing, a citation perhaps? That would be
21 useful. And this is something I brought up this morning, as
22 well, the whole issue of the United States growing--or, I'm
23 sorry, the United States' demand declining while it is
24 apparently growing in other parts of the world. I raised
25 that with Petitioners this morning.

1 And one reason I'm bringing that up is just
2 because, as I look around the world it seems like the United
3 States is the one economy which is growing in general in
4 comparison say to Europe and in relation to other countries.

5 And also, Mr. Tarpey, you might want to discuss
6 this. Is the Brazilian market, which Suzano says is focused
7 on currently--isn't it currently facing very difficult
8 economic situations? And if you all are focusing on that
9 market, given though the problems there, why not focus more
10 on the U.S. market?

11 MR. TARPEY: There is a recent downturn in Brazil,
12 but we expect the demand to--the demand has decreased from
13 the peak of 2014, but we expect it to continue to grow in
14 2016.

15 COMMISSIONER JOHANSON: Okay, yes, and Mr. Sud
16 I'll get to you in a second as well, but I was just
17 wondering on Brazil, I mean what is causing demand there to
18 grow? Or what would cause demand there to grow, given the
19 contraction in the economy, which I think is fairly
20 significant.

21 MR. TARPEY: Yeah, the per capita use of paper is
22 much lower than the U.S. right now. And as the, I'd say the
23 middle class grows, they increase the amount of paper they
24 use.

25 COMMISSIONER JOHANSON: Mr. Sud, you wanted to add

1 to that?

2 MR. SUD: Sunil Sud. I think I would like to
3 clarify that demand for cut sizes is largely declining in
4 the entire developed world. It's not only the U.S. It's
5 Europe. It's Japan. And a few other markets where the
6 maturity levels of demand have reached a level where you
7 can't consume more.

8 It's like talking to you. I mean in the U.S. you
9 have reached a stage where even if I want to sell you more
10 paper and give you some free paper, you're not going to take
11 it. Or you can eat only so much rice and you can't do
12 anything more. But in the developing world where more and
13 more people are coming into the middle class, as more and
14 more people are getting into the service sector, as more
15 people, students are going into schools, the demand for cut
16 sizes is still growing.

17 So once you take off these developed economies,
18 the negatives, then in the developing world you'll still
19 probably see a number of two and a half to three thousands--
20 2.5 to 3 percent per annum growth happening, except the
21 Chinas and the Indias of the world, and the Asian countries,
22 Africa, Middle East, there's still growth.

23 COMMISSIONER JOHANSON: Alright. Thank you.

24 Yes, Mr. Tarpey? You wanted to add more?

25 MR. TARPEY: Thank you. If I could just add one

1 more thing. In 2014 Suzano implemented a strategy to place
2 distribution centers throughout the country in Brazil,
3 throughout the country in Brazil, to enhance our service
4 platform there and gain market share. So that's also been a
5 tremendous investment; hired over 100 people, and basically
6 just to increase service and take market share in the
7 domestic Brazilian market. Thank you.

8 COMMISSIONER JOHANSON: Alright, thank you.

9 My time is about to expire, but could I ask
10 Portucel to just briefly talk about what's going on in
11 Europe? Because I know the European economy is pretty
12 sickly right now, but you all state that the demand for
13 paper there is declining at a slower rate than the United
14 States. Could you expand on that perhaps?

15 MR. DUTT: Mike Dutt, Portucel Soporcel, North
16 America. I think I can be general on this comment and try
17 to provide some information that is all public record.

18 Europe has been slow for years. It is actually
19 on a slight increase. In the paper business specifically,
20 there's a couple of price increases that are part of the
21 public record in the year of 2015.

22 I believe--I'm not certain, but I think there's
23 other happenings or announced for 2016. So again I don't
24 think I'm giving any information that's--other than that the
25 business is improving, okay? So I mean by that the

1 uncoated, uncoated business is improving. That's about all
2 I can say.

3 COMMISSIONER JOHANSON: What would you attribute
4 that to?

5 MR. DUTT: You know, I think, um, part of this is,
6 as we all know Europe has been in a difficult spot for
7 years, okay, so they're coming off what I would call the
8 bottom, okay, or maybe came off the bottom a year ago or
9 two. So I think some of this is just the normal cycle.

10 So I don't know that--I think that the growth
11 projected in the uncoated freesheet market in Europe this
12 coming year is actually there is some growth again. So it
13 has been a slight decline in the last couple of years, but I
14 think that has turned around and there is some projected
15 growth.

16 COMMISSIONER JOHANSON: Oh--

17 MR. DUTT: Excuse me?

18 COMMISSIONER JOHANSON: Yes, I'm sorry, anything
19 else?

20 MR. DUTT: I mean, it's small. One percent.
21 One-and-a-half. I think it's not tremendous, but there is a
22 return to some growth.

23 COMMISSIONER JOHANSON: Alright, thank you for
24 your responses. My time has long expired.

25 VICE CHAIRMAN PINKERT: Commissioner Kieff.

1 COMMISSIONER KIEFF; Thank you very much.

2 When you were discussing the 600 pound gorilla
3 that's not in the room I was afraid you were going to say
4 Dunder Mifflin in "The Office."

5 (Laughter.)

6 COMMISSIONER KIEFF: But in all seriousness, I'm
7 curious if part of what you're saying--and I want to ask
8 this to everybody, of course including the other panel to
9 address it post-hearing--but do any of you want to take a
10 moment to make an affirmative, straight-forward argument for
11 decumulating some or all of the countries from each other?

12 Is this in effect a decumulation argument?

13 (Pause.)

14 I recognize that that's hard with a group that
15 has come as a group. I don't mean to break you apart. But
16 I also recognize that you each have a right to ask that
17 question, or make that case, and I want to make sure I
18 haven't overlooked that if that's trying to be made.

19 MR. LAYTON: Yeah, Duane Layton. We do not
20 believe there's a basis or fact for doing that. But as you
21 say, others may have different views. So that's our
22 response.

23 COMMISSIONER KIEFF: Yes?

24 MS. ESSERMAN: Susan Esserman, representing
25 Suzano. We are making a decumulation argument for purpose

1 of threat. But it is based on something much broader. As I
2 indicated earlier, it's based on very unusual volume
3 patterns which diverge from everyone else, given the
4 re-export situation, pricing, the lack of selling in a very
5 large channel of distribution and geographic orientation
6 among others.

7 So these are all factors that the Commission has
8 based a decision not to cumulate on in the context of
9 threat. Ours is focused on the threat context.

10 COMMISSIONER KIEFF: Okay. Thank you. Anyone
11 else? Yes?

12 MR. ZIELINSKI: Jonathan Zielinski for Portucel.
13 We are also arguing that we should be decumulated both in
14 threat and in present injury, as I talked about a little bit
15 earlier. For the threat, we've got it out there about our
16 volume differences and pricing differences and other
17 differences. For present injury, again we are focused
18 solely on the fungibility issue, and that has to do with us
19 participating primarily in one particular segment of the
20 market, and that is the high-quality, high-price segment.

21 COMMISSIONER KIEFF: Yes, please.

22 MR. PAL: Raj Pal, Sidley Austin, Australian
23 Paper. We have not taken a position on the cumulation issue
24 in the final phase, but we will rethink that in the
25 post-hearing.

1 COMMISSIONER KIEFF: Okay. That concludes my
2 questions, unless there was someone else who wanted--

3 (No response.)

4 COMMISSIONER KIEFF: Great. Thank you very much.
5 I surrender the rest of my time. Thank you all, very much
6 for coming and presenting.

7 VICE CHAIRMAN PINKERT: Commissioner Schmidtlein.

8 COMMISSIONER SCHMIDTLEIN: I just had a few. One
9 question is: What is the Respondents' position with regard
10 to volume? Do you disagree with the Petitioners that volume
11 is significant both in the absolute and with respect to
12 consumption, relative to consumption?

13 MS. ARANOFF: What we said in our brief is that,
14 you know, the volume and the increase in volume are
15 significantly viewed in absolute terms. We're not disputing
16 that. What we are arguing is that neither the volume nor
17 the increase in the volume are significant in light of our
18 argument that there are no adverse price effects, and that
19 there is no adverse impact on the domestic industry.

20 COMMISSIONER SCHMIDTLEIN: I'm sorry I missed that
21 in your brief.

22 All right, the next question is: On page 57 of
23 your brief you talk about the Bratsk analysis. How--you
24 know, you say here that both of these criteria are met, one
25 of which is this is a commodity product.

1 MS. ARANOFF: This is a contingent argument for
2 Commissioner Pinkert's benefit.

3 (Laughter.)

4 MS. ARANOFF: As the panel made clear, we don't
5 concede that this is a commodity product. But if one were
6 to find that it were a commodity product--

7 COMMISSIONER SCHMIDTLEIN: Okay, so you don't
8 think it is a commodity product?

9 MS. ARANOFF: Yeah, I mean I think the panel has
10 answered that.

11 COMMISSIONER SCHMIDTLEIN: I thought so, so I was
12 a bit surprised to see that blunt statement that the
13 conditions had been met.

14 Okay, and then the last question has to do with
15 the argument about injury. And putting aside causation, how
16 should we consider the fact that income--you know, operating
17 and net income--declined almost 40 percent over the POI?

18 I mean, you all have focused on the ratios.
19 You've looked at other cases. How should we consider the
20 fact that they've lost 40 percent of their net income?
21 Again, putting aside causation, whether or not it's been
22 caused by the imports, I mean isn't that--in other words,
23 and if we say, well, so what, they've gone down 40 percent.
24 They're still making, you know, 10, 8 percent. Do we draw a
25 line and say that's enough for this industry?

1 MS. ARANOFF: I would have to say that in the
2 short version that that kind of is our argument; that what's
3 more important in this case is that you have--you know, you
4 have an industry where demand is in structural decline;
5 where there's closing capacity. And so you're seeing
6 declines in all of these other measures that the Commission
7 looks at--production, shipments, employment, all those
8 things which we think we've established really have
9 absolutely nothing to do with Subject Imports--so what are
10 you left to look at if you want to figure out, well, you
11 know, is there material injury here?

12 Mostly, mostly the financials. And our argument
13 would be that, yeah, you should be looking more at the
14 absolute level that the trend is kind of the distraction.
15 I'm sure that lots of industries and their stockholders
16 would love it if they made exactly the same profit every
17 year. You know, but most business climates don't work that
18 way, and we would argue that the domestic industry's level
19 of profitability in this case was consistently excellent
20 compared to whatever benchmark you want to compare it to.

21 COMMISSIONER SCHMIDTLEIN: So if they had started
22 at a lower base, it would be a different case for you all if
23 say they'd lost 40 percent but they'd started at a 10
24 percent margin? Or, in other words, say they'd started so
25 close that that dropped them down close to zero? So the

1 amount of the decline doesn't matter as long as they're at a
2 certain level?

3 MS. ARANOFF: I don't think there's a magic number
4 where someone is injured or not injured, if that's the
5 question that you're asking. I think we're looking at this
6 and saying the Commission has seen quite a few cases
7 involving the paper industry, in some of which it made
8 negative determinations, and none of those cases involved,
9 you know, levels of profitability that are at the level that
10 we're seeing in this case. We're saying that the domestic
11 industry has taken a difficult, admittedly difficult
12 situation and given the demand situation in this market that
13 they've been facing since 1999, and they've figured out a
14 way to thrive in it. And they've been doing the same thing
15 years and years before the Subject Imports came into the
16 market. And, you know, they continue to be doing
17 exceedingly well, and to report that back, you know, to
18 their shareholders, and to tell them that to the extent that
19 they are closing capacity it's because of demand.

20 They're making better use of their, you know,
21 scarce pulp resources by using it for other things that are
22 also making them money. It's a story that long predates the
23 Period of Investigation and long predates any presence of
24 Subject Imports into the market.

25 COMMISSIONER SCHMIDTLEIN: Okay. I don't have any

1 other further questions. So thank you all very much.

2 VICE CHAIRMAN PINKERT: I just have a couple of
3 follow-up questions. Please regard this next question as a
4 hypothetical.

5 So you may disagree about the underselling
6 assumption here, but in any event if I conclude that there's
7 predominant underselling in this case, and unit costs are
8 going up, and the cogs to sales ratio is going up over the
9 course of the period, should I conclude that there has been
10 a significant price effect and that price effect is price
11 suppression?

12 MR. MALASHEVICH: Bruce Malashevich, I'll take
13 that on and I'll take it as a hypothetical. I think the
14 best way of answering that is under the hypothetical, as you
15 described it, certainly it would be symptomatic of price
16 suppression, but in most cases there are always other
17 factors going on to form the context.

18 I don't think those three variables taken in
19 isolation, accepting the truth of the hypothetical go far
20 enough to reaching that conclusion of adverse effects owing
21 to the subject imports.

22 I would only say again as to one detail of the
23 hypothetical. It's been my observation that it is rare that
24 the Commission rejects outright the underselling analysis
25 prepared by staff. But it is not at all unusual for the

1 weight given to that analysis, to be reduced, increased, you
2 know whatever the circumstances. I would respectfully
3 suggest this is a case where the underselling data, as they
4 are, I'm not arguing with mechanical preparation of the
5 data, are tainted not with any mal-intent but the new
6 information that's arisen in the final phase, particularly
7 on the importance of branding, just escaped, you know, the
8 data net.

9 And I think, as I testified, a very significant
10 issue. So I think enough has been entered into the record
11 to cause very little weight to be given to the underselling
12 in your three-prong hypothetical. Maybe the Commission will
13 see it in its wherewithal to re-survey the parties breaking
14 out branded -- mill branded is the correct term of art.
15 Cause branded could include private label and this business.
16 Mill branded versus others as I did with certain of my
17 clients. I don't know, quite frankly, what the facts will
18 show. But it's feasible.

19 VICE CHAIRMAN PINKERT: Any other comments on
20 this from the panel on that question? Ok, well you may wish
21 to take a look at that for purposes of the post-hearing to
22 see if there is anything you wish to add on that issue.

23 Now turning to the third quarter of 2015. I know
24 that's pretty recent. But was there a pendency effect on
25 subject import volume at that point in time as argued by

1 Petitioners?

2 MR. MALASHEVICH: Bruce Malashevich. I don't
3 have the information to answer that question.

4 VICE CHAIRMAN PINKERT: But you can look at it
5 and answer that in the post-hearing or no?

6 MR. MALASHEVICH: In principal, yes, but I think
7 the information to respond to it resides with the various
8 co-counsel and their clients around the table. I did not
9 study that issue at all.

10 VICE CHAIRMAN PINKERT: You'll take a look at
11 that for the post-hearing.

12 MR. MALASHEVICH: Yes, we will. We told
13 Commissioner Williamson that we were going to look at that
14 for the post-hearing and we will.

15 VICE CHAIRMAN PINKERT: Okay, thank you. That's
16 all I have. Do any other commissioners have questions?
17 Commissioner Williamson?

18 COMMISSIONER WILLIAMSON: The question I raised
19 earlier, that I gave the Petitioners the opportunity to
20 address this afternoon, if you have anything on that in
21 terms of the dynamics of how the imports increased because
22 you argue that the Domestic didn't have enough supply
23 because when certain mills closed, I think someone talked
24 about it during big blocks of space and so I just wanted, if
25 you had any insights on that regarding factors of timing and

1 actual dynamics of how that occurred, how far in advance do
2 people order, the Petitioners pointed out this morning that
3 everybody had inventory in the United States and most of the
4 product was sold without an inventory so that it could be a
5 fairly rapid, changes in the market could be rapidly
6 addressed and if you want to just do that post-hearing
7 that's fine.

8 MR. ISMAIL: I'd like to add, it was more about
9 perception in the market. When domestic mills where
10 gradually closing in 2007 and if you would see that every
11 time a closing would happen and there would be a follow up
12 within months or right before with a price increase. That
13 is with domestic mills, beginning with Domtar would start
14 one time and International Paper, GP would follow up and
15 then it became a trend over the seven or eight years that
16 after a closing, increase letters would go out and the
17 buyers in the market, purchasers I mean, were kind of scared
18 that every time this closing happens, these guys ask for
19 more money or come out with the increase letters.

20 Now would the price hold up or don't hold up it's
21 a whole different story but they do ask for increase and
22 that created some fear in the market and that's why in my
23 testimony I mentioned that customers like alternate sources
24 just to make sure they were hedging their bets so you can
25 look at it in that perspective that the perception in the

1 market and imports were there to take care of that.

2 COMMISSIONER WILLIAMSON: The consumption of
3 imports grew much faster than the Domestic Product?

4 MR. ISMAIL: Yes.

5 COMMISSIONER WILLIAMSON: Why was that then?

6 MR. ISMAIL: Because buyers try to hedge their
7 options to make sure that they don't get into a position
8 with the Domestics where they are forced into paying a
9 higher price because they are turning down the capacity. So
10 having alternate options, Domestics will now have to play
11 fair game and not just come out with price increases just
12 because they are shortening down supply for whatever the
13 reason was, they were shutting the mills down for.

14 COMMISSIONER WILLIAMSON: Okay, and you would
15 argue that to a shift in market share between the Domestics
16 and the Imports?

17 MR. ISMAIL: If it was, it was basically caused
18 by Domestics actions of shutting down the mills and the
19 capacity.

20 COMMISSIONER WILLIAMSON: Okay, does anyone else
21 have any comments on this?

22 MS. ARANOFF: I just want to reiterate something
23 that we put in our prehearing brief and it's in the record
24 and this was the quote from Domtar's CEO in the 2nd quarter
25 of 2014 when he talked about this phenomenon in an earnings

1 call with investors. Talking about the Courtland closure
2 and he said "when the closure of that amount of capacity is
3 seen, customers are looking to see "well, am I actually
4 going to get what I need".

5 He went on to say "I think the real catalyst for
6 this has been that the amount of capacity coming out at one
7 time was seen by a lot of people as potentially they were
8 going to have trouble getting the paper that they actually
9 needed." Then he said "I do think that post-Courtland, when
10 you think that Courtland was running at full tilt before it
11 shut, that was a lot of tonnage to disappear and there was a
12 view that Domestic Producers just did not have that capacity
13 and if you do the math, Domestic Producers are running at
14 92%, 93%. If you take away nearly ten percent of the market
15 and the customer has to find that volume from somewhere."

16 That was Domtar's view of the market. That's
17 what they told their investors.

18 COMMISSIONER WILLIAMSON: There's the view and
19 then there's reality and I guess they were saying this
20 morning that there was always plenty of capacity. They had
21 plenty of capacity to meet demand so how do we distinguish
22 that? I mean all of the Imports came in because there was a
23 view that there would be a shortage? Is there anything to
24 document that or support that other than that quote?
25 Because I am sure the Petitioners are going to have a

1 different interpretation of that quote.

2 MS. ARANOFF: I mean, I think what the panel
3 witnesses have told you today is that there are a
4 combination of things going on in the market. You had one
5 witness who told you that the Domestic Industry has some
6 particular distribution arrangements that prevent some
7 people from getting supplies so that may account for some
8 portion of the imports you have. These large capacity
9 closures which clearly account for a lot of what's going on
10 in the market. I understand that your question goes to
11 timing. I think that that's going to be a difficult thing
12 to line up ton for ton for anyone to do.

13 COMMISSIONER WILLIAMSON: I'm just thinking about
14 ways to concertize the mechanics by which this happened and
15 anything you can do post-hearing.

16 MS. ARANOFF: We will do our best to pull that
17 together. MR. SUD: Sunil Sud here. This
18 whole question about trying to arrive at what could be the
19 hypothetical or realistic capacity of either paper machine,
20 which is easier to do or a cut-size sheet which is far more
21 difficult.

22 COMMISSIONER WILLIAMSON: I don't think I'm, it's
23 not that question about how much, what the customers, can
24 they get the product that they want.

25 MR. SUD: So there is a third party document

1 noticed recently that keeps coming out and every time
2 something important happens in the industry, they write on
3 it or comment on it and they have data bases to show
4 capacities and blah, blah, blah which is open to the public
5 if you subscribe to it. John Main who runs the cut-size of
6 the un-quartered free sheet has in fact gone on record to
7 say that with the closures that have happened if the Subject
8 Country Imports were taken out. The correct number we let
9 you know is something like the Industry was short of
10 something like seven hundred and ninety-seven thousand tons
11 to fill up.

12 So here is the database, the third party database
13 that was done by American company that has commented to say
14 that physically the local Industry could not meet the
15 demand. We can append it later in the post-hearing brief.
16 It comes from a very exhaustive database.

17 COMMISSIONER WILLIAMSON: Okay, thank you. We
18 look forward to seeing them. Ms. Esserman?

19 MS. ESSERMAN: Commissioner Williamson, I just
20 wanted to follow up on Ms. Aranoff's comment. She was
21 reading a quote from CEO John Williams, CEO of Domtar. This
22 quote did not just express a perception in the market. He,
23 as the CEO of Domtar is saying after the closure of
24 Courtland "and if you do the math, Domestic Producers
25 running at 92% and 93% and you take away nearly 10% and the

1 customer has to find the volume from somewhere."

2 So I would suggest that this comment might
3 suggest to purchasers that it's more than just a perception
4 when the CEO of such a large domestic company is saying
5 that. We'll be happy to of course provide a much more full
6 response in our post-hearing submissions to your question.

7 COMMISSIONER WILLIAMSON: Okay, that would be
8 appreciated.

9 MS. ARANOFF: It's not just a perception, it's a
10 reality. That's our argument and we're going to do our best
11 to add additional support for that but even if it were a
12 perception on the part of purchasers, that would still tell
13 you that it's not Subject Producers pushing product into the
14 U.S. Market because they want to be here no matter what at
15 any price, any volume they can get. It's purchasers, who
16 whether they're right or wrong or looking at what's going on
17 in the market and saying "I feel insecure. I'm not sure I
18 can supply my customers. I need to maybe have another
19 source just to secure my supply chain". I would suggest
20 that that is, it's a pull, not a push and that's the
21 difference.

22 COMMISSIONER WILLIAMSON: Okay, thanks and
23 anything you can get to supplement that it's pull and not
24 push I would appreciate but I thank everyone for those
25 answers. I have no further questions.

1 VICE CHAIRMAN PINKERT: Commissioner Johanson?

2 COMMISSIONER JOHANSON: Thank you Commissioner
3 Pinkert. I have two more questions. I want to get back to
4 the whole issue of eucalyptus, which I raised this morning,
5 because some of the Respondents have spoken quite
6 extensively or at least written quite extensively on
7 eucalyptus. How important is it to U.S. Purchasers that the
8 Subject Paper be made with eucalyptus fibers? Table 2A to
9 the Staff Report does not indicate that purchasers see this
10 necessarily as significant. Do you all hear preferences
11 from your purchasers regarding the use of the eucalyptus?
12 Yes, Mr. Tarpey?

13 MR. TARPEY: Tom Tarpey from Suzano America.
14 Suzano is one of the largest producers of eucalyptus pulp in
15 the world, so that's something we promote. One hundred
16 percent of the fiber in our paper is eucalyptus fiber. So
17 there are certain properties of our paper that some of our
18 customers and we promote or we talk about as attributable to
19 our eucalyptus fiber which is grown on plantations. It's a
20 sustainable source of fiber and that's viewed as a positive
21 and that is the foundation of our forestry stewardship
22 council certification because it's a very renewable resource
23 so that's a positive of it and then it also imparts a
24 brightness, a stiffness, a great formation to the paper
25 because it's all grown on plantations so every tree is

1 virtually the same so you have a very consistent source of
2 raw material.

3 So we communicate that it's eucalyptus so there's
4 a connection that the positive characteristics of our paper
5 are related to that. Now, we have a very small market share
6 here so the fact that I think it was fifteen percent of the
7 purchasers responded that it is somewhat important is
8 reflective on our market position here. Thank you.

9 MS. ESSERMAN: And if I might just add, the
10 qualities that eucalyptus fiber imparts, like the brightness
11 and giving it, making it eligible for the environmental
12 certification, all of those are rated quite highly by
13 purchasers so it may well be that the purchasers are not
14 focusing on the eucalyptus but they're focusing on the
15 formation, on the properties that it imbues and those are
16 definitely in the Staff Report indicated as quite valued by
17 purchasers.

18 MR. ZIELINSKI: Jonathon Zielinski for Portucel.
19 Just to piggyback off of what Ms. Esserman just said, I
20 think that's the easy answer is that when you ask a
21 question, do you think eucalyptus is important? Customers
22 don't care because they don't really know where it comes
23 from.

24 COMMISSIONER JOHANSON: They don't even know that
25 it's in there?

1 MR. ZIELINSKI: Depends on if Mike is selling it
2 to them because he tells them. But the point is the
3 characteristics that are imparted by the eucalyptus plant is
4 what's important and in the questionnaire responses quality
5 was the most important or second most important in most of
6 these responses and those characteristics brightness,
7 opacity, things like that are what matters. You heard this
8 morning that some Domestic Producers have created mechanical
9 ways to reach that type of characteristic and I think that
10 shows something. That also, in terms of Portugal, that's
11 why we only participate in the high-quality segment of the
12 market because all of our paper is made from eucalyptus.

13 COMMISSIONER JOHANSON: Alright, thank you. Yes?
14

15 MR. PETERS: Just very quickly. Of course
16 eucalyptus originated in Australia and I agree. When they
17 check the box quality when walking about Brazil, Portugal,
18 or Australia they don't know it's eucalyptus that is
19 creating that quality. But in the twelve years that we've
20 been selling our Product from Australia here in the U.S.
21 Market we have had less than one truckload collectively
22 rejected for jamming or problems with the paper. It just
23 runs extremely well. It's very reliable, people trust it
24 and that's why they asked for it and that's why our business
25 grew. It grew by word of mouth, not by cutting prices.

1 Our gross from '13 to '14 to '15 was based on our
2 customers placing more orders, not us shipping more paper
3 here. We've responded to the market. Thank you.

4 COMMISSIONER JOHANSON: Alright. Thanks for your
5 responses. I have just one more question. I know it's
6 getting late in the day but this is something which caught
7 my attention when I was reading the briefs. Exactly what
8 role does the age of a producer's equipment play in the
9 industry's ability to supply a market. It's been pointed
10 out that much of the machinery or equipment used by the U.S.
11 Industry is old. Do you all know how this equipment
12 compares to that being used in some of the Subject Market
13 Industries? Yes, Mr. Sud?

14 MR. SUD: While we could give a more
15 comprehensive reply in the post-hearing brief, what I would
16 like to tell you is that the industry out here especially to
17 make unquartered free sheet would be having machines easily
18 between ten, fifteen, twenty years old and cut-size sheet is
19 up to even twenty-five years old. In our part of the world,
20 our oldest machine is about eight, nine years old.

21 COMMISSIONER JOHANSON: I'm sorry, you're in what
22 part of the world again.

23 MR. SUD: I am from APRIL in Indonesia.

24 COMMISSIONER JOHANSON: Okay, right.

25 MR. SUD: We have been investing, it's all modern

1 technology. It's the best head boxes, there are faster,
2 they are wider machines. They therefore make good paper and
3 just like in the case of eucalyptus, we use acacia so it's a
4 species that grows there so we are able to control the fiber
5 environment much more better just like they are able to
6 control and make a consistently good product.

7 The tolerances and the variances in quality are
8 much, much lower. We don't have to use soft wood for
9 example. Here, the North American hardwoods are mixed
10 hardwoods and they probably have to use a lot of soft wood
11 to bring those strength properties into the paper. So we
12 could actually build this up, I will show you in the
13 post-hearing brief, the age of the machine matters because
14 it does not have the controls even if you rebuild the
15 machine, it will never come up to the levels of the total
16 modern machine today and on the cut size, on the finishing
17 side, you have real problems because there is no way you can
18 increase capacities. Those machines are either narrow or
19 built on old technology.

20 You have to get rid of them and buy new fit-size
21 sheeter for example. So you are more stuck up on the
22 finishing side. On the paper machine, you can still do
23 things.

24 COMMISSIONER JOHANSON: Alright, thank you Mr.
25 Sud. Would anyone else like to comment on that? That is

1 the last of my questions. Thank you all for appearing here
2 today.

3 VICE CHAIRMAN PINKERT: Any other Commissioner
4 questions? Alright well if the Commission have no further
5 questions, does staff have any further questions for this
6 panel?

7 MR. CORKRAN: Douglas Corkran, Office of
8 Investigations. Thank you, Vice Chairman Pinkert. Staff
9 has no additional questions.

10 VICE CHAIRMAN PINKERT: Thank you. I want to
11 thank this panel for their testimony and I'll dismiss you
12 now. Clarification from the Secretary. The Petitioners
13 don't have time for questions of this panel, is that
14 correct?

15 MS. BELLAMY: That's correct.

16 VICE CHAIRMAN PINKERT: Thank you. With that
17 this panel is dismissed and will come to closing statements.
18 Those in support of the Petition have zero minutes from
19 direct and five minutes for closing for a total of five
20 minutes. Those in opposition have eight minutes from direct
21 and five for closing for a total of thirteen minutes. As is
22 our custom, we will combine the time for direct and closing
23 as well as rebuttal so you do not have to take all the time.
24 Please do not feel any obligation to do that. If you wish
25 we can take five minutes so that you can get organized for

1 the closing.

2 MS. BELLAMY: Will the room please come to order?

3 MR. BISHOP: Would everyone please find a seat as
4 quickly as possible?

5 VICE CHAIRMAN PINKERT: Thank you, Mr. Secretary.
6 we will start with those in support of the Petition. You
7 may begin when ready.

8 CLOSING REMARKS OF JOSEPH DORN

9 MR. DORN: In quoting from Domtar's third quarter
10 2014 earnings call, Respondents fail to note that Mr.
11 Williams said that "Imports, particularly cut-size, continue
12 to grow, reaching record levels in July and resulting in
13 market downtime within Domtar's system. Domtar publicly
14 reported that it took fifty thousand tons of market downtime
15 in May, June 2014. That followed the Courtland closure in
16 February 2014. During the same call, Mr. Williams said that
17 Domtar had to close two conversion line assets in order to
18 increase utilization rates at other Domtar locations.

19 As testified by Mr. Thomas, Domtar had ample
20 capacity to supply the market in 2014 and told its
21 purchasers that. Also during that call, Mr. Williams
22 indicated that they were assessing a dumping case. Thank
23 you.

24 CLOSING REMARKS OF ELIZABETH DRAKE

25 MS. DRAKE: Thank you, Mr. Dorn. Elizabeth Drake

1 for Petitioners. First, I want to thank the Commissioners
2 for their attention today and to thank the commission staff
3 for all their hard work throughout these investigations.
4 The record in this case strongly supports an affirmative
5 material injury determination. No one disputes on either
6 side that the volume of Subject Imports is significant.
7 They surged by seventy-two percent into a declining market,
8 seizing nearly eight percentage points of market share,
9 almost entirely from Domestic Producers.

10 The claim that these imports were pulled into the
11 market by self-inflicted domestic capacity reductions is
12 plainly contradicted by the record. Imports increased in
13 2013 by 21% in a declining market. As our slide 20 shows,
14 which is becoming my favorite slide, the Domestic Industry
15 had more than enough capacity to meet demand in 2014 even
16 after the Courtland closure. More than enough capacity to
17 meet the demand that was instead met by Subject Imports,
18 whether measured by sheeter capacity, paper machine capacity
19 or the large amounts of capacity that were able to be
20 switched from other products, which our witnesses this
21 morning testified was technically feasible and is done every
22 single day.

23 The only reason that Subject Imports seized this
24 market share in 2014 was because of their aggressive
25 pricing. Mr. Ismail from Liberty explained that very

1 clearly this afternoon that the reason that the purchasers
2 began to rely more on imports is because they did not like
3 the prices that Domestic Producers were trying to recover
4 after the closure of capacity and they wanted to
5 lower-priced imports. That is a classic case of material
6 injury. The Commission's record shows that Subject
7 Imports undersold Domestic Product in the majority of
8 comparisons. We believe that the underselling is actually
9 understated given the experience of our clients and given
10 the purchaser responses that you have. The idea that we
11 heard this afternoon that in fact the underselling is
12 overstated because of certain rebates that are given by
13 Domestic Producers is completely without merit.

14 All of those rebates were taken into account and
15 all of the pricing data reported by Domestic Producers and
16 that was verified by Commission Staff so that argument is
17 simply without merit. Imports not only undersold Domestic
18 Producers but they also significantly depressed and
19 suppressed domestic prices over the period. The prices fell
20 overall, even with domestic closures and the attempts at
21 price recovery and in 2014 it was the flood of imports that
22 prevented that price recovery. Of course, we saw the
23 growing cost/price squeeze, which led to the injurious
24 impact on the Domestic Industry.

25 This industry has suffered steep declines in

1 every single indicator the Commission considers. Capacity
2 production, capacity utilization, shipments, employment,
3 hours, wages, profits, capital expenditures and assets. The
4 decline of profits is significant at thirty-nine percent
5 from twelve to fourteen and declined further in 2015. Four
6 plants closed entirely, four more closed machines and we
7 heard about the impact that has on workers and the
8 communities in which those plants are located.

9 Faced with a strong record of injury, respondents seek to
10 divert the Commission with a series of arguments that do not
11 have support in the record. They claim their product is
12 brighter and higher quality, yet we make the same bright
13 product. We put in front of you two 96 bright reams in the
14 same wrapper, one from Brazil from Suzano and another from a
15 domestic supplier. These compete head-to-head in the
16 market. They claim that we have unmanageable lead times.
17 Our witnesses testify they have warehouses on the West Coast
18 with inventory ready to be shipped in a few days.

19 They claim that especially with respect to Brazil
20 and Portugal that they are not a big-box retailer. It is
21 not in the big-box segment of the market, but if you look at
22 the big-box retailers websites, Amazon offers Report a
23 Brazilian Product. Wal-Mart offers Report, a Suzano
24 product, a Suzano brand on it and Sears offers Suzano
25 product and a Portucel product, both branded product. Sam's

1 club offers Portucel product. Let me go faster. Office
2 Depot, CVS and Staples. You can see it ranges from branded
3 to nearly unbranded product.

4 There's head-to-head competition across the
5 market. That's what's caused material injury to Domestic
6 Industry in a market that's based largely on price and
7 that's why we strictly ask for an affirmative determination.
8 Thank you.

9 VICE CHAIRMAN PINKERT: Thank you. You may begin
10 when ready.

11 CLOSING REMARKS OF DUANE W. LAYTON

12 MR. LAYTON: Thank you Vice Chairman Pinkert and
13 Commissioners and Staff. I offer this closing statement on
14 behalf of the Respondents in this proceeding. You heard Mr.
15 Malashevich testify that the U.S. Producers of a like
16 product are not experiencing material injury within the
17 meaning of the statute. Indeed, this is an industry that is
18 remarkably healthy in numerous respects including capacity
19 utilization with respect to papermaking operations,
20 production and profitability. I believe Mr. Malashevich
21 used the term robust to describe the overall health of the
22 industry.

23 Not only is the Domestic Industry healthy in
24 absolute terms, it is also healthy in relation to all
25 previous paper cases that the ITC has decided over the last

1 decade. In fact, Mr. Malashevich testified that in his
2 opinion, U.S. Industry that produces the Subject Product is
3 even healthier than the U.S. Industry at issue in the
4 recently decided Supercal case. I know it's been a long day
5 and I know that I likely am the only standing between many
6 of us and our family and friends so I won't say anything
7 more about the dearth of evidence supporting the Petitioners
8 allegation of present material injury.

9 Instead, I would like to very briefly offer a few
10 comments regarding their allegation that imports threaten
11 material injury. First, there is abundant evidence on the
12 record of this proceeding that respondents are not going to
13 expand their capacity or repurpose their existing productive
14 assets in order to significantly increase their sales to the
15 United States of uncoated paper. Why?

16 Well, to begin with the market for uncoated paper
17 in the United States is declining. We all know that.
18 Second, the U.S. Market is unique. You heard that we are
19 one of the few markets to consume letter and legal size.
20 The rest of the world uses A4 and other sizes. Third, these
21 other markets, you heard Mr. Sunil testify that in mainly
22 the developing world in many cases consumption of these
23 products is growing.

24 Fourth, you heard Mr. Webb describe the
25 reluctance of Staples, Office Depot and other large

1 customers in this country to source from overseas. The last
2 thing they want is to have Greenpeace or other environmental
3 groups breathing down their necks because they are buying
4 paper from suppliers that may not adhere to the highest
5 environmental standards. I believe Mr. Webb described
6 Domestic Producers as the "low-risk source" for these
7 purchasers. Finally, importing subject
8 merchandise is not something that can be undertaken lightly.
9 You heard Mr. Webb describe how capital intensive it is and
10 the barriers to market entry. So what does all this mean?
11 It means the U.S. Industry can pursue its longstanding
12 strategy of reducing capacity, reducing production,
13 repurposing productive assets to more profitable lines of
14 business free from the threat that might otherwise be posed
15 by imports.

16 I might add that this strategy seems to be
17 working perfectly and is rather brilliant. Again, demand
18 for uncoated paper is declining. Whereas demand for fluff
19 pulp used to produce diapers, feminine hygiene products and
20 adult incontinence products is increasing. We're an aging
21 population as it was noted and I can personally testify to.
22 But the market for fluff pulp is effectively insulated from
23 import competition. I'm not sure you heard that today and
24 it can come out in a post-hearing submission if deemed
25 necessary.

1 Indonesia, China and other countries simply do
2 not grow the kinds of soft wood needed to produce fluff
3 pulp. Softwood such as pine is grown mainly in North
4 America. The Domestic Producers therefore have a virtual
5 lock on this market. Fluff pulp, used in these personal
6 hygiene products and others. So again, the overall strategy
7 is in a word, brilliant. It's working perfectly. Imports
8 are not affecting it.

9 So with that, I will conclude that the record
10 before you is, I submit, rather clear. The industry is not
11 suffering present material injury and is not threatened with
12 material injury. Thank you.

13 VICE CHAIRMAN PINKERT: Thank you. Again, I
14 express the Commission's appreciation to everyone who's
15 participated in today's hearing. Your closing statement,
16 post-hearing briefs, statements responsive to the questions
17 and requests of the Commission and corrections to the
18 transcript must be filed by January 14, 2016. Closing of
19 the record and final release of data of the parties will be
20 on February 2, 2016. Final comments are due on February 4,
21 2016 and with that this hearing is adjourned. Thank you.

22 (Whereupon the conference was adjourned at
23 5:16 p.m.)

24
25

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal

INVESTIGATION NOS.: 701-TA-528-529 and 731-TA-1264-1268

HEARING DATE: 1-7-16

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: 1-7-16

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.

SIGNED: Gregory Johnson
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.

SIGNED: Gaynell Catherine
Signature of Court Reporter

Ace-Federal Reporters, Inc.
202-347-3700