

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: ) Investigation Nos.:  
1-HYDROXYETHYLIDENE-1, 1-DIPHOSPHONIC ) 701-TA-558 AND  
(HEDP) ACID FROM CHINA ) 731-TA-1316 (PRELIMINARY)

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) (PRELIMINARY)

Main Hearing Room (Room 101)  
U.S. International Trade  
Commission  
500 E Street, SW  
Washington, DC  
Thursday, April 21, 2016

The meeting commenced pursuant to notice at 9:30  
a.m., before the Investigative Staff of the United States  
International Trade Commission, the Michael Anderson,  
Director of Investigations, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Staff:

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11 Edward Petronzio, Investigator

12 Raymond Cantrell, International Trade Analyst

13 Amelia Preece, Economist

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15 John Henderson, Attorney/Advisor

16 Russell Duncan, Statistician

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1 OPENING REMARKS:

2 Petitioner (Jeffrey Levin, Levin Tade Law, P.C.)

3 Respondents (Matthew T. McGrath, Barnes, Richardson &  
4 Colburn, LLP)

5

6 In Support of the Imposition of Antidumping and

7 Countervailing Duty Orders:

8 Levin Trade Law P.C.

9 Bethesda, MD

10 on behalf of

11 Compass Chemical International LLC ("Compass Chemical")

12 Daniel McCaul, Chief Executive Officer, Compass  
13 Chemical

14 Mark Allen, Plant Manager, Compass Chemical

15 Dr. Safi Hawk, Research and Development Manager,  
16 Compass

17 Cara Gorden, Economist, Economic Consulting Services

18 Jeffrey Levin - Of Counsel

19

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

3 Barnes, Richardson & Colburn, LLP  
4 Washington, DC

5 on behalf of

6 Shandong Taihe Water Treatment Co.

7 Cheng Cheng, President, TAICO, Inc.

8 Matthew T. McGrath - Of Counsel

9

10 INTERESTED PARTY IN OPPOSITION:

11 Enviro Tech Chemical Services, Inc.

12 Modesto, CA

13 Brent Bankosky, Business Manager, Enviro Tech Chemical  
14 Services, Inc.

15

16 REBUTTAL/CLOSING REMARKS:

17 Petitioner (Jeffrey Levin, Levin Tade Law, P.C.)

18 Respondents (Matthew T. McGrath, Barnes, Richardson &  
19 Colburn, LLP)

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

(9:32 a.m.)

MR. BISHOP: Would the room please come to order.

MR. ANDERSON: Good morning, and welcome to the U.S. International Trade Commission's conference in connection with the preliminary phase antidumping and countervailing duty investigation numbers 701-TA-558 and 731-TA-1316, concerning 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from China, which we affectionately refer to as HEDP.

My name is Michael Anderson. I am the Director of the Office of Investigations. I will preside at this conference.

Among those present from the Commission staff, starting from my left, are our Supervisor Investigator Betsy Haines, Elizabeth Haines, and our Investigator Edward Petronzio, and to my right is our attorney John Henderson; and our Economist Amelia Preece; and David Boyland, our accountant; and Raymond Cantrell, our Industry Analyst; and finally Russell Duncan, our statistician.

I understand that parties are aware of the time allocations, and I would remind our speakers to not refer to business proprietary information in your testimony or in your remarks, and to speak directly into the microphones. We also ask that when you are speaking, if you will please

1 state your name and your affiliation for the record to help  
2 our Court Reporter.

3 I understand that all witnesses that are present  
4 have been sworn in before their testimony. And if there are  
5 any questions regarding time allocations they should be  
6 addressed with the Secretary.

7 Are there any questions?

8 (No response.)

9 MR. ANDERSON: Mr. Secretary, are there any  
10 preliminary matters?

11 MR. BISHOP: Yes, Mr. Chairman. With your  
12 permission, we will add Kara Groden to the Petitioner panel.  
13 She is an economist with Economic Consulting Services.

14 MR. ANDERSON: Okay. Very well. Thank you, Mr.  
15 Secretary.

16 I also want to note that we are still waiting for  
17 one other party to come, and we will try to accommodate them  
18 depending on what time they arrive.

19 And also, in advance I wanted to mention that I  
20 have to step out for other Commission business around ten  
21 o'clock, but I do want to assure you that I will be looking  
22 at the transcript for any of that period that I am not here.  
23 And Ms. Haines will be presiding during my absence, but I  
24 hope it is only for a little while.

25 So with that, any other matters, Mr. Secretary?

1 MR. BISHOP: We are ready for opening remarks.

2 MR. ANDERSON: Okay, let's proceed.

3 MR. BISHOP: Opening remarks on behalf of  
4 Petitioner will be given by Jeffrey Levin, Levin Trade Law.

5 OPENING REMARKS OF JEFFREY LEVIN

6 MR. LEVIN: Good morning. My name is Jeff Levin  
7 and I am with Levin Trade Law. I have the privilege of  
8 representing the Petitioner in these investigations, Compass  
9 Chemical International, the sole U.S. manufacturer of  
10 1-Hydroxyethylidene-1 1-Diphosphonic Acid, which thankfully  
11 is referred to by the industry and in the market by the  
12 acronym HEDP.

13 I am honored to be joined today by Compass  
14 Chemical's CEO, Danny McCaul; its plant manager, Mark Allen;  
15 and the company's research and development manager Dr. Safi  
16 Hawk. These gentlemen know, as well as perhaps anyone in  
17 the country, the product, the manufacturing process, and the  
18 market. And they know all too well what is happening to  
19 this industry, their company, at the hands of cheaply priced  
20 directly competitive imports from China.

21 During the Period of Investigation, U.S. imports  
22 of HEDP from China have substantially increased in volume  
23 and have captured a significant percentage of U.S. market  
24 share at the direct expense of the U.S. industry.

25 Since HEDP is fully interchangeable with

1 domestically manufactured HEDP, with competition among the  
2 several sources predominantly rooted in price, there is  
3 every reason to believe that cheaply and unfairly traded  
4 subject imports will continue to increase at a rapid pace in  
5 the absence of pricing discipline.

6           Indeed, because of significant underselling by  
7 unfairly traded imports from China, Compass Chemical  
8 confronts inexorable downward pricing pressures, and has  
9 lost a substantial volume of sales resulting in significant  
10 declines in the industry's trade and financial indicia.

11           Moreover, and perhaps more ominously, spurred by  
12 the enormous and expanding production capacity of the  
13 Chinese HEDP industry, these unfair trade practices present  
14 a fundamental, if not insurmountable, obstacle to the  
15 domestic industry's ability to recover its competitive  
16 footing.

17           We believe that the evidence of record will  
18 illustrate that the volume of subject imports is  
19 significant; that subject imports have had and continue to  
20 have a pronounced adverse impact on U.S. prices of the  
21 product; and that the trade and financial posture of this  
22 industry is being and will be severely undermined by the  
23 rising tide of cheaply priced, directly competitive,  
24 completely interchangeable, and we submit unfairly traded  
25 subject imports.

1                   This Petition has been brought in good faith not  
2                   to embargo Chinese imports or to impeded companies that  
3                   purchase and use this product, but with the hope that parity  
4                   and the rule of law will dictate the future of this  
5                   manufacturing sector.

6                   On behalf of Compass Chemical, we respectfully  
7                   submit that the evidence of record will demonstrate that the  
8                   domestic industry is suffering material injury by reason of  
9                   unfairly traded imports from China, and is threatened with  
10                  further and continuing material injury by reason of these  
11                  imports.

12                  Thank you.

13                  MR. ANDERSON: Thank you, Mr. Levin.

14                  MR. BISHOP: Mr. Chairman, as you noted, counsel  
15                  for Respondents has not arrived as of yet. So I would  
16                  invite the panel in support to the imposition of antidumping  
17                  and countervailing duty orders to please come forward and be  
18                  seated.

19                  (Pause.)

20                  MR. ANDERSON: Welcome, Mr. Levin, and to the  
21                  panelists. Thank you for being here today and being in  
22                  Washington with us. Please proceed.

23                  MR. LEVIN: Thank you, Mr. Chairman. We are going  
24                  to start this morning witness panel with Mark Allen. Mark  
25                  is the Plant Manager of Compass Chemical. Mark?

## 1 STATEMENT OF MARK ALLEN

2 MR. ALLEN: Thank you, Jeff. And good morning,  
3 Investigations staff. My name is Mark Allen, and I am the  
4 Plant Manager for Compass Chemical. I have Bachelor of  
5 Science Degrees in Chemistry and Chemical Engineering from  
6 Clemson University, and I have been with Compass Chemical  
7 since 2009.

8 Prior to my employment with Compass, I was  
9 employed by the Dow Chemical Company from 1988 to 2005, and  
10 then Velsicol Chemical from 2005 to 2009. Altogether I've  
11 been in the chemical industry for 28 years.

12 As the Plant Manager of Compass Chemical I am  
13 responsible for the daily operations of the HEDP production  
14 plant, including the methods of production, sourcing of raw  
15 materials, and as a part of my responsibilities I track and  
16 record those inputs, production cycle times, energy  
17 requirements, and the like.

18 I am very familiar with the production of  
19 1-Hydroxyethylidene-1,1-Diphosphonic Acid, or HEDP, as  
20 defined in our Petition, as well as the production of other  
21 phosphonate products, including those that we produce in  
22 Compass.

23 I would like to begin this morning by describing  
24 what HEDP is and how it is produced and how it is used.  
25 HEDP belongs to a class of chemicals known as phosphonates,

1       which are added to water to increase the solubility of  
2       certain ions to inhibit the precipitation of certain mineral  
3       compounds.

4               It is the only phosphonate that combines three  
5       critical functional properties. First, it can sequester  
6       heavy metal ions that color water supplies, or heavy metals  
7       that interfere with the cleaning function of laundry soaps  
8       or bio soaps.

9               Second, it can act as a scale-inhibiting agent to  
10      prevent scale formation in commercial heating and cooling  
11      systems such as steam boilers, air conditioning units, and  
12      cooling towers.

13              And third, it can prevent the breakdown of  
14      oxidizing agents such as peroxide bleach. It is a  
15      well-defined chemical product and is assigned the CAS, or  
16      Chemical Abstract Service, number 2809-21-4.

17              HEDP is an odorless liquid and is colorless, or  
18      pale yellow in appearance. It is generally produced and  
19      sold as a 60 percent nominal aqueous solution, meaning the  
20      HEDP content is about 60 percent by weight, with the balance  
21      being water.

22              Based on my knowledge of the production processes  
23      for HEDP, and information from the market, it is my  
24      understanding that 60 percent nominal aqueous solution HEDP  
25      also accounts for the vast majority of imports of HEDP from

1 China.

2           The applications for HEDP include industrial  
3 water treatment, specifically to treat cooling tower water  
4 which is by far the biggest end use of the product. HEDP is  
5 used as an anti-scalant in reverse osmosis desalination  
6 processes, which are and have been a growing end-use  
7 application particularly as raw water quality deteriorates  
8 and demand for clean drinking water increases in the U.S.  
9 and around the globe.

10           It is used for municipal water treatment to  
11 control red water, which indicates the presence of iron, or  
12 black water which indicates the presence of manganese. And  
13 it has a limited but important role in the alkaline peroxide  
14 bleaching of textiles, which was a much larger end use here  
15 in the United States before much of the textile  
16 manufacturing industry moved abroad.

17           There are two commercial methods for producing  
18 HEDP. One method involves reacting phosphorus trichloride  
19 or PCL-3, with acidic acid, which produces hydrochloric acid  
20 as a byproduct.

21           The second method involves reacting phosphorus  
22 acid with acidic anhydride, which produces acidic acid as a  
23 byproduct. The balanced chemical equations for both of  
24 these methods of manufacture were detailed in Volume One of  
25 our Petition.

1           We believe that most, if not all of Chinese  
2 producers of HEDP employ the first production method--that  
3 is, production that begins with phosphorus trichloride.  
4 Compass Chemical uses a second production method described  
5 above--that is, production that begins with phosphorus acid  
6 and which results in acidic acid as a byproduct.

7           Prior to the Compass ownership of the Smyrna  
8 Plant, the company began production of HEDP in the 1980s  
9 using PCL-3 to make phosphorus acid, and then reacting the  
10 phosphorus acid with anhydric anhydride. Towards the end of  
11 2006, the company reevaluated whether or not it should use  
12 PCL-3 rather than phosphorus acid and concluded that it  
13 would be advantageous from a cost production view to switch  
14 its production methodology away from the PCL-3 route since  
15 that material was more expensive and also more difficult to  
16 handle.

17           Since then, the company has manufactured HEDP  
18 starting with the imported phosphorus acid crystal.  
19 Although Compass manufactures a range of phosphates, our  
20 HEDP production process is the only one that yields this  
21 acidic acid byproduct. If we did not manufacture HEDP, we  
22 would not produce acidic acid. That of course is not the  
23 point of our being in the business of HEDP production, but  
24 considering the fact that it is only through the sale of  
25 acidic acid that we are able to see any profit from our HEDP

1 manufacturing under current market conditions, it is as of  
2 now a rather critical element to our overall company's  
3 operations.

4 As Danny will mention in his testimony, it is  
5 truly ominous from a business perspective that not only is  
6 there a notable decline in what we can charge for our HEDP  
7 due to unfair competition from China, but market conditions  
8 are also resulting in declining prices for sales of the  
9 byproduct.

10 Both production methods, whether beginning with  
11 phosphorus acid or with PCL-3, result in identical products  
12 with the same chemical formulation and end uses. In fact,  
13 at the point of first sale the HEDP which we produce and  
14 imported HEDP are chemically identical. And assuming the  
15 products have the same level of purity--that is, 60 percent  
16 aqueous solution--they can be co-mingled and sold as the  
17 same product.

18 HEDP is packaged in a variety of ways. It can be  
19 sold in bulk tank trucks, or in the case of imported HEDP,  
20 International Standards Organization, or ISO containers,  
21 which are essentially bulk import containers. They can be  
22 sold in 55-gallon drums, or what we refer to as "totes."  
23 These are typically 275-gallons, which is roughly the  
24 equivalent of about 5 drums.

25 These are often referred to as tote bins, or

1 sometimes intermediate bulk containers, or IBCs. Both  
2 Compass Chemical and U.S. importers of HEDP sell to  
3 distributors or compounders, and is also sold to formulators  
4 and large end users such as utility companies or large water  
5 treatment companies.

6           There are two important points I want to make.  
7 First, as I said earlier, so long as a product is at the  
8 same level of purity, for example, as a 60 percent aqueous  
9 solution, and meets certain baseline standards uniformly  
10 recognized throughout the industry, HEDP from different  
11 sources is completely interchangeable whether it's HEDP  
12 manufactured by Compass, by a Chinese producer, or in India,  
13 or the UK.

14           Customers will often commingle domestic and  
15 imported HEDP in their bulk tanks. They assign the same raw  
16 material codes typically to both imported and domestic HEDP,  
17 and importers and customers can and often do switch  
18 suppliers of HEDP depending on price and availability.

19           Second, HEDP is unique among the family of  
20 phosphates such as ATMP, or the family of polyphosphates  
21 such as SHMP or sodium hexametaphosphate. Each of those  
22 chemicals have certain deficiencies that severely limit  
23 possible substitution. For example, phosphates tend to  
24 break down in the presence of chlorine, where as HEDP has a  
25 very high degree of chlorine stability.

1           HEDP is generally colorless, as opposed to the  
2           amber or brown appearance of other phosphates or  
3           polyphosphates. The three most telling and important  
4           qualities of HEDP that separate the product from other  
5           chemicals within the phosphates or polyphosphates families  
6           are the colorless appearance of HEDP, its iron and calcium  
7           sequestration properties, and its chlorine stability.

8           While we make a range of phosphates at the  
9           Smyrna facility, HEDP is by far our largest volume  
10          production. And its production requires specially designed  
11          reactors as well as related production equipment not used  
12          for production of other chemicals.

13          So if we discontinue production of HEDP, a  
14          distinct possibility under prevailing market prices and  
15          market conditions in the absence of relief from impact of  
16          dumped and subsidized Chinese imports, several dominoes will  
17          fall.

18          The HEDP reactors and related production  
19          equipment will sit idle. They can't used for production of  
20          other products without retrofitting investments. Any  
21          revenue that is derived from the sale of acidic acid also  
22          disappears.

23          As I mentioned, HEDP is the only product which we  
24          manufacture which yields this byproduct. And perhaps most  
25          importantly, our relationships with customers will suffer

1 since we would no longer be in a position to provide the  
2 critical phosphenate within our aggregate of U.S.  
3 manufactured product offerings in the phosphenate market.

4 Compass Chemical, as the only full-range  
5 phosphenate producer in the United States, is well  
6 positioned to compete with other manufacturers in China and  
7 around the world if we are able to do so on a fair and level  
8 basis.

9 But in the absence of relief from dumped and  
10 subsidized Chinese imports, continued production of HEDP  
11 becomes economically tenuous. Compass was once an importer  
12 of HEDP. We no longer are and have not been for a number of  
13 years.

14 It is our intention to keep it that way, but only  
15 if our return on investment is reflected in fair market  
16 pricing.

17 Thank you very much for the opportunity to  
18 present this testimony, and I look forward to answering any  
19 questions you may have.

20 MR. LEVIN: Thank you very much, Mark. Our next  
21 witness will be Mr. Daniel McCaul. Mr. McCaul is the Chief  
22 Executive Officer of Compass Chemical. Danny?

23 STATEMENT OF DANIEL McCAUL

24 MR. McCAUL: Good morning, everybody, and thank  
25 you for your time and attention. I am Danny McCaul. I am

1 the CEO of Compass Chemical.

2 First of all, a quick word about my background.  
3 I am originally from Ireland, but It was recruited to Vulcan  
4 Materials Company in the United States from Jamaica where I  
5 was working in 1975. I became a U.S. Citizen in 1981. I  
6 have a Mechanical Engineering Degree from Portsmouth  
7 University in England.

8 I have since 1996 been involved with the  
9 manufacturing facility in Smyrna where Compass produces  
10 HEDP. I was a minority partner in the business when it was  
11 sold to One Rock Capital Partners last year.

12 Compass Chemical was formed in 1999 and acquire  
13 the phosphenate manufacturing facility in Smyrna, Georgia,  
14 from Links Chemical Group in 2006.

15 The Smyrna Manufacturing Plant began making  
16 phosphenates in the 1980s and has had different ownership at  
17 different times. One Rock Capital Partners, a private  
18 equity group based in New York City, acquired Compass in  
19 March of 2015.

20 In addition to the plant in Smyrna, Compass owns  
21 and operates a plant in Huntsville, Texas. The Texas plant  
22 is a blending facility and has a large warehouse, and we  
23 ship manufactured products from our Georgia plant to Texas  
24 for distribution.

25 Compass manufactures a range of specialty

1 chemicals and some products which are probably more  
2 correctly defined as "commodity chemicals." The markets we  
3 serve are primarily industrial water treatment, oil and gas  
4 production, industrial and institutional compounding that is  
5 for cleaners and sanitizers, et cetera; recreational water  
6 treatments; and of course chemical distribution.

7 Compass has a total of about 200 customers in  
8 North America of various sizes. Some customers are  
9 multinational water treatment service companies, and some  
10 are pretty small formulators or compounders.

11 Mark Allen has explained a little bit about HEDP,  
12 and I would like to explain why it is important, why it is  
13 an important product to Compass Chemical.

14 HEDP is the largest volume product that we  
15 manufacture. It is the most widely used phosphonate  
16 throughout the world, and it is a very important part of our  
17 product offering.

18 Because we make HEDP, we are often provided the  
19 opportunity to supply other products to our customers. We  
20 are the only full-line phosphonate manufacturer remaining in  
21 the United States. And in fact we are the only remaining  
22 producer of HEDP in this country.

23 We hope to remain a U.S. producer of HEDP, but  
24 that is becoming more and more difficult as we continue to  
25 battle unfairly traded imports from China.

1           Acidic acid is an unavoidable byproduct of our  
2 HEDP production, and the quantity produced is roughly the  
3 same as the HEDP volume. If we are forced to shut down HEDP  
4 production, we lose not only that portion of our overall  
5 business attributable to HEDP, but we lose the portion of  
6 our overall business attributable to acidic acid as well.

7           Compass competes with imported HEDP from China,  
8 from Europe, and from India. The HEDP produced by Compass  
9 is completely interchangeable with Chinese HEDP, and with  
10 imports from other foreign sources.

11           While domestic manufacturing provides some  
12 benefits in local service and responsiveness, these benefits  
13 are insufficient to overcome significantly lower prices from  
14 Chinese imports.

15           MR. McCAUL: Pricing from Chinese imports is by  
16 far the most aggressive and in recent months has become more  
17 difficult with which to compete.

18           There are many Chinese producers, and among them  
19 are Shandong Taihe Water Treatment Company Limited, Shandong  
20 Xintai Water Treatment Technology, Uniphos Chemical, Henan  
21 Qingshuiyuan Technology Company or QSY as we call them, and  
22 Hebei Longke Water Treatment Company Limited. Those are  
23 just some of the Chinese producers.

24           A significant amount of capacity for phosphonate  
25 production in general and for HEDP in particular has been

1 added in China over the past few years. The current stated  
2 capacity of the Chinese companies known to Compass is in  
3 excess of 250 million pounds a years, while the worldwide  
4 market for HEDP is perhaps 150 million pounds a year.

5           Apart from China, there are also significant  
6 producers in Europe and India. In our petition and based on  
7 available data, we estimate the market in the United States  
8 at roughly 26 million pounds a year. Our belief is that  
9 China has significantly over-built production capacity in  
10 recent years, and now many companies are lowering prices  
11 below normal value in order to keep their production units  
12 operating.

13           One example, perhaps the most ominous, a single  
14 producer in China, Shandong Taihe Water Treatment  
15 Technologies announced in July 2014 that it had installed  
16 new production capacity solely for HEDP with a projected  
17 output of 60,000 metric tons. That's over 130 million  
18 pounds, more than five times the estimated size of the U.S.  
19 market by this one producer alone.

20           To the best of our knowledge, that company was  
21 not a producer during the period examined in the prior  
22 investigation of HEDP from China. To put this in a slightly  
23 different perspective, during the prior investigation, the  
24 ITC calculated combined HEDP production capacity in China  
25 and India as 67.5 million pounds.

1                   So the new production capacity represented by  
2                   Shandong Taihe is twice the combined capacities of the  
3                   Chinese and Indian HEDP industries from a few years back.  
4                   As we review in our petition, Shandong Taihe, though a  
5                   particularly startling example, is not alone. Other Chinese  
6                   HEDP producers such as Changzhou Kewei Fine Chemicals and  
7                   Wujin Fine Chemical factory discuss new investments in  
8                   manufacturing equipment and R&D on their websites, and it's  
9                   likely that other HEDP producers have made similar  
10                  investments.

11                  Simply stated, the Chinese HEDP industry built  
12                  far more production capacity than needed, and now has to do  
13                  something with it in order to validate investments, maintain  
14                  employment, lower per unit production costs. Unfortunately  
15                  that something means turning the U.S. market into the  
16                  dumping ground for HEDP production. As a result, imports of  
17                  HEDP from China have jumped by our calculation from 6.7  
18                  million pounds to 9.6 million pounds between 2013 and 2015,  
19                  an increase of 42 percent.

20                  At the same time, our shipments have decreased.  
21                  Compass has submitted several examples of lost sales and  
22                  lost revenues. We're now under constant pressure to reduce  
23                  our prices in order to have the opportunity to compete  
24                  against cheaply-priced dumped imports from China. In fact,  
25                  with respect to one major customer, we've determined that

1 participation in that company's bid process could no longer  
2 be justified, as we stood no chance of getting the business  
3 in face of Chinese prices.

4 As another customer stated to us, and I quote,  
5 "a previous supplier of ours has rejoined the competition  
6 for this product, and is currently beating everyone by 20  
7 cents a pound. I don't know if they made a math mistake in  
8 calculating profit or their supplier is that cheap, but I am  
9 rolling with it."

10 We know and have identified in the petition that  
11 the supplier which this person mentions is a U.S. importer  
12 sourcing product from China. The situation is rapidly  
13 deteriorating. We're now seeing a Chinese price at or about  
14 40 cents a pound. That's not a guesstimate; we've received  
15 numerous offers to buy from Chinese producers at or around  
16 that price.

17 Even a brief review of prices listed on the  
18 website Alibaba.com shows many price offerings for HEDP from  
19 China in that ballpark. You can see from our response to  
20 the Commission's questionnaire how the Chinese price  
21 compares with what we are able to offer. The price which we  
22 are able to get for domestically produced HEDP has declined  
23 over the Period of Investigation.

24 As has been stated previously, without revenue  
25 from the byproduct acetic acid, Compass' HEDP business would

1 be operating at a significant loss and could not be  
2 sustained. Unfortunately, as well as lower HEDP prices in  
3 the marketplace, acetic acid price is also deteriorating,  
4 after having remained stable for a number of years.

5 Acetic acid is the byproduct, not the object of  
6 our HEDP production. It's been a bit of a lifeline for us,  
7 but one that cannot be sustained. As the Chinese price for  
8 HEDP drops and the price which we are able to obtain for the  
9 byproduct drops, our competitive position on HEDP is in  
10 jeopardy.

11 We cannot continue to produce what is our  
12 largest phosphonate product by volume by relying on a  
13 revenue stream from its byproduct. That would be a poor  
14 business model and one that we did not intend when we  
15 decided to cease imports from China and wholly invest in  
16 U.S. manufacturing, and one that we cannot rely upon or  
17 sustain over the short, medium or the long term.

18 HEDP is an important, really a critical product  
19 for us. We understand the need to be competitive. But we  
20 need to be on the breakeven or positive side with the  
21 product. The overall phosphonate business is important to  
22 Compass, and it has been estimated that HEDP represents  
23 about 30 to 40 percent of all phosphonate consumption in  
24 North America.

25 Now we could stop making HEDP and just make the

1 other phosphonates. But without HEDP volume the absorb some  
2 of the plant fixed costs, it would force the other  
3 phosphonates to carry more costs and make them less  
4 competitive. We also believe that if we don't offer HEDP as  
5 part of our portfolio, if we don't have that product along  
6 with the others, then it would be difficult for us to be a  
7 major player and to grow our business.

8           If you're a customer and we came to you and said  
9 we're not going to supply HEDP anymore but we will supply  
10 you the other phosphonates, then you would need to source  
11 your HEDP from an importer. It's just a short step for you  
12 to decide that since you're getting your HEDP from a Chinese  
13 importer, you might as well get your other phosphonates from  
14 the same importer.

15           Compass is perfectly willing to compete on a  
16 level playing field, but if the current trend continues, we  
17 will not be able to continue production of HEDP in the  
18 United States. In 2008, Compass filed an anti-dumping  
19 petition against HEDP from China and India. When the order  
20 was implemented, Compass saw some short-term relief.

21           Unfortunately, one of the major Chinese  
22 producers, Wujin Water Quality Stabilizer factory, was  
23 assessed a zero dumping margin and we believe that HEDP  
24 continued to be exported to the USA through that company.  
25 Recently, Woo-Jin Water combined forces with two other

1 Chinese manufacturers to form an even larger company,  
2 Nantong Uniphos.

3 In time, the anti-dumping duty became  
4 ineffective in the face of this explosion. We believe that  
5 the zero assessment was made as a result of an inaccurate  
6 surrogate cost for a key raw material, and we believe that  
7 the data today are more readily available and more accurate.

8 Therefore, we believe that filing a new petition  
9 will bring about a justified and sustainable result. On  
10 behalf of Compass Chemical, I want to express my  
11 appreciation to the Commission and the investigation staff,  
12 and urge an affirmative finding in this preliminary  
13 investigation. I look forward to answering your questions  
14 and providing additional information in our brief. Thank  
15 you.

16 MR. LEVIN: Thank you Danny. Good morning.  
17 Again for the record my name is Jeff Levin. I'm with Levin  
18 Trade Law and I am counsel for the Petitioner. I would like  
19 to complete this morning's witness panel by touching on a  
20 few of the legal issues presented in the proceeding.

21 First, subject merchandise and the domestic like  
22 product. In its prior investigations of HEDP from China and  
23 India, the Commission found that the domestic like product  
24 was properly defined as co-extensive with the definition of  
25 subject merchandise, that is, HEDP. No arguments were

1 raised during those proceedings for defining the domestic  
2 like product otherwise.

3 In the prior investigations and specifically in  
4 its report from the preliminary phase of those  
5 investigations, the Commission provided a thorough review of  
6 the traditional six factor like product analysis, namely  
7 physical characteristics and uses, interchangeability,  
8 channels of distribution, common manufacturing facilities,  
9 production processes and production employees, producer and  
10 customer perception and price.

11 These factors were detailed at pages 5 through 7  
12 of U.S. ITC Publication 3998 of May 2008, and at pages 14  
13 through 18 of Volume 1 of our petition. Since the  
14 information detailed by the Commission then remains equally  
15 accurate now, we respectfully submit that the domestic like  
16 product should be defined as it was previously, HEDP.

17 Compass Chemical was then and is now the only  
18 domestic manufacturer of HEDP, and therefore constitutes the  
19 entire domestic industry as defined in 19 U.S.C. 1677(4)(a).

20 Second, the volume of subject imports. As  
21 related in the petition, imports of HEDP are classified  
22 within a so-called basket category of the Harmonized Tariff  
23 Schedule of the United States, subheading 2931, 90, 9043,  
24 which includes other organo-phosphorus compounds. The HTS  
25 U.S. does not provide a means for segregating imports of

1 HEDP included within that subheading from other non-subject  
2 products.

3           While we detailed the volume and value of  
4 imports classified under that subheading in our petition, we  
5 acknowledge that this is not necessarily the most accurate  
6 means for gauging the volume of subject imports. Therefore,  
7 to provide the Commission and Commerce with the best  
8 information reasonably available, we culled imports recorded  
9 from the Port Import-Export Reporting Services or PEERS to  
10 approximate the volume of imports from HEDP during the  
11 Period of Investigation.

12           To give credit where credit is due, when I mean  
13 "we culled," I mean Mark culled and we went through page by  
14 page, and he explain to you the detailed manner in which he  
15 searched the PEERS reports for imports of HEDP.

16           In any case, these data are provided at page 12  
17 of Volume 1 of the petition. Based on this database, a few  
18 important facts emerge. First, imports from China  
19 constitute the vast majority of imports recorded and in each  
20 calendar year, the volume of imports from China vastly  
21 exceeded the volume of imports recorded from the second  
22 largest foreign supplier, India.

23           Second, between 2013 and 2015, imports of HEDP  
24 from China on an absolute basis increased by 2.8 million  
25 pounds, or by 42 percent. Third, the share of total imports

1       accounted for by China increased from just over 56 percent  
2       in 2013 to just over 61 percent in 2015. Lastly and without  
3       delving into business proprietary information, our  
4       accounting demonstrates that the share of the U.S. market  
5       captured by imports from China increased significantly over  
6       the Period of Investigation.

7                 Indeed, and as detailed in the confidential  
8       version of the petition, the share of the U.S. market gained  
9       by Chinese imports during this period on a percentage basis  
10      nearly mirrors the decline in market share held by the U.S.  
11      industry, and the gain in market share by Chinese imports  
12      came almost wholly at the expense of domestic  
13      manufacturing.

14                Third, material injury and threat of material  
15      injury. Because this is a single company domestic industry,  
16      I am limited to what I can say in a public forum. But  
17      generally, production is down. Shipments are down. Average  
18      unit values are down. Sales prices are down. Revenue is  
19      down. Operating income is down and only on the positive  
20      side, due to the sales of the byproduct.

21                Employment and wages are stagnant. There are  
22      lost sales. There are customers which Compass has lost and  
23      may very well never see again. We look forward to providing  
24      the Commission with a detailed analysis of underselling  
25      based on the limited responses received to date to the U.S.

1 importers' questionnaire, and there has been a serious loss  
2 of U.S. market share over just a few years.

3 All combined, it reminds me of what my mother  
4 used to say when she had \$10 of Monopoly money left and all  
5 her properties were mortgaged, this is no way to live.  
6 Indeed, a product line confronting these indicia cannot long  
7 survive, at least insofar as U.S.-based production is  
8 concerned. As Danny mentioned in his testimony, estimated  
9 production capacity in China, estimated in part upon the  
10 Chinese producers' own pronouncements, public  
11 pronouncements, has exploded and the industry here in the  
12 United States is suffering the consequences.

13 One last point to briefly mention in closing,  
14 and that's non-subject imports. I know that this is an  
15 issue typically explored in greater detail during the final  
16 phase investigation, and we hope we'll have the opportunity  
17 then to speak more on this issue.

18 But for present purposes, I note that yes, HEDP  
19 has become commoditized. But we do not believe that imports  
20 from India or from the UK are priced competitive with  
21 subject imports. Moreover, non-subject imports are, for  
22 purposes of these investigations, fairly traded, while  
23 subject imports are not as we respectfully submit. This is  
24 a critical distinction.

25 Compass Chemical is not looking to eliminate

1 competition in the U.S. marketplace. Rather, it is looking  
2 to eliminate the unfair advantage gained by unfair trade  
3 practices. Compass is perfectly willing to compete for  
4 sales in the U.S. market against fairly traded imports, much  
5 as it would face competition from another domestic producer.

6 Therefore, we respectfully submit that the  
7 evidence of record in these preliminary investigation, as  
8 will be further supported by our post-conference brief,  
9 strongly supports an affirmative determination. With that  
10 and on behalf of Compass Chemical and our witnesses, we  
11 thank the Commission and the investigation team for the  
12 opportunity to testify before you this morning. Thank you.

13 MS. HAINES: Thank you very much for the  
14 testimony. It's extremely helpful. We'll start the  
15 questioning with Mr. Petronzio.

16 MR. PETRONZIO: Thank you and thank you to the  
17 witnesses. The testimony was very helpful. I'll start with  
18 a general question, Mr. McCaul. I appreciate the background  
19 as far as giving us the history of the prior investigations  
20 and the decision not to pursue the -- during this sunset  
21 review to not participate given the margins that were  
22 calculated by Commerce.

23 From a business perspective, so I understand if  
24 the orders were not working, that there was a -- if you can  
25 give me some kind of background as far as the decision not

1 to pursue or not to continue participating, and to voice the  
2 concerns which you voiced now about the margins and what you  
3 believe to be an unfair, incorrect calculation, to pursue it  
4 at that time rather than to wait and then to file a new  
5 petition. If you could kind of fill in the gaps in between  
6 the time period to this filing of this new case, of this new  
7 petition?

8 MR. McCAUL: Certainly. The first thing is when  
9 we were successful the first time around, it certainly  
10 helped in the short term, no doubt about that, in my mind  
11 anyway. But it was short-lived because it's my belief that  
12 product was flowing into the United States through the  
13 company that had the zero margin, zero dumping margin.

14 That situation just sort of continued, and  
15 eventually we didn't see that the order was really helping  
16 us very much. To be honest, we sort of lost interest in it,  
17 because it wasn't -- we didn't think it was really  
18 effective. When the five year period expired, I frankly  
19 wasn't paying much attention to it and all of a sudden I  
20 discovered hey, the period of times up here and eventually I  
21 got ahold of Jeff and we talked about it, and you know, Jeff  
22 pointed out to me that in order to extend it beyond the five  
23 years, it would take an investment of time and money again  
24 to maybe even as much as when we initially got the order in  
25 place.

1                   By virtue of the fact that it didn't seem to be  
2 very effective, I talked to him and I talked to some other  
3 people and they said well, you know, you could start over  
4 again and try to get it, you know, in place so that  
5 everybody is affected this next time around.

6                   So ultimately that's what we decided to do, is  
7 just try to file over again and see if this time it would be  
8 more effective.

9                   Now regarding the comment that I made with  
10 regard to the surrogate value of one of the raw materials,  
11 and I don't mean to criticize anybody here. I know these  
12 things are very difficult to get the right data and I mean  
13 we've gone through it ourselves. But the user value for one  
14 of the raw materials which was in our opinion absolutely and  
15 completely too low, and it was wrong, and somehow that  
16 affected the -- well not somehow. It did affect the  
17 calculation and the outcome.

18                   This time around, the data -- it's more readily  
19 available and I'm sure that that won't happen this time  
20 around, because I think we've got enough supporting evidence  
21 to convince anybody who's gathering these numbers that, you  
22 know, that they've got the right numbers and the right  
23 information on the raw materials that are needed to make  
24 this product.

25                   So all in all, that's the picture, and I don't

1 know what else -- do you want to add anything Jeff?

2 MR. LEVIN: I only have one or two things. From  
3 a very practical, real-world perspective, some reviews cost,  
4 as well as petition preparation, so at some point Compass,  
5 which is the only member of the industry and the only  
6 company that's making a financial contribution to what we're  
7 doing here today, needed to make a decision, you know, 'Do  
8 we spend our money trying to pursue a Sunset review to keep  
9 an order that has a large hole in place for another five  
10 years, or should we just sort of let the thing expire, die a  
11 natural death, see what happens in the marketplace, and if  
12 things go awry as they have, refile a new petition?' And  
13 that's what Compass decided to do.

14 To pick the mystery out of what Danny was  
15 saying about the raw material cost, it was the PCL cost used  
16 by the Commerce Department for the one mandatory respondent  
17 that actually responded to the Commerce Department's  
18 questionnaire. That's why they got a zero percent rate.  
19 That's not going to happen again if we get to Commerce.

20 MR. PETRONZIO: Okay. Thank you. And just kind  
21 of a quick follow up to that, you mentioned that the data  
22 became more available or more known to you than it did  
23 prior, so that you feel more confident to kind of make your  
24 case on that. And if this is proprietary, you can include  
25 it in your post conference brief, but if you can go into a

1 bit of, how that became more available? Is this a public  
2 source or what happened to kind of spur the, okay, now we do  
3 have this data to make the case?

4 MR. LEVIN: If I may, Danny, let me take this  
5 because if we get to the Commerce Department investigations,  
6 I don't really want to start talking about surrogate value  
7 sources with other people in the room. I will say that  
8 there was extremely limited, publicly available information  
9 on PCL3 costs in potential surrogate countries at that point  
10 in time.

11 We have identified now other, and we believe  
12 real-world accurate, publicly available sources. And with  
13 your indulgence, that's as far as I'd like to go at this  
14 point.

15 MR. PETRONZIO: Okay. Thank you. I appreciate  
16 that. To go to the production process and to the product  
17 itself, Mr. McCaul, Mr. Allen, you mentioned that Compass  
18 produces a full line of phosphonates.

19 In the prior investigation, there were eight  
20 U.S. producers of phosphonates in various forms of one or  
21 another phosphonate. Is that still true? Are there still  
22 the same number of firms that are producing a full -- not a  
23 full line, but some or part -- of phosphonates?

24 MR. MCCAUL: There are a few companies in the  
25 United States who make some phosphonates. And some of them

1 manufacture for their own end-use -- there really isn't any  
2 company besides Compass that makes the full range of  
3 phosphonates. There are several phosphonates besides HEDP.  
4 There's ATMP, PBTC. There's BHMT phosphonate, HMD  
5 phosphonate, deta phosphonates, etcetera.

6 So there's a wide range of the phosphonates, and  
7 then salts of the phosphonates that are made with sodium and  
8 potassium and so on. So there's quite a range of products  
9 that we manufacture.

10 We're really the only full line producer in the  
11 United States. There used to be others, but they've gone by  
12 the wayside. So today there's a couple of small guys that  
13 are making products for the industry and there are people  
14 who, as I said, manufacture phosphonates for their own use.

15 MR. PETRONZIO: Okay. And Mr. Allen, I believe  
16 you said that it's not possible to shift production from  
17 HEDP to -- so, in other words, if you did not produce HEDP,  
18 you would not be able to produce certain other phosphonates.  
19 Is that correct?

20 MR. ALLEN: In those specific assets that are  
21 currently used for HEDP production, they would need to be  
22 modified with a capital investment to convert them to other  
23 phosphonate production or other material production.

24 MR. PETRONZIO: Okay. Would that be true in  
25 China as well? Would other -- is that kind of a standard

1 thing if, say, a Chinese producer, would they be able to  
2 shift production easily? Or would they have to do those  
3 certain adjustments to --

4 MR. ALLEN: I would let Safi to comment on that,  
5 but I would suspect that it would be difficult for the PCL3  
6 process to switch over. You have a comment on that, Safi?

7 MR. HAWK: For the PCL3 or the Chinese, what we  
8 think the process is -- if they were to switch or stop that  
9 and make other phosphonate, then yes, some of the equipment  
10 would be useless or they would have to find other product to  
11 make the PCL3. Because you need special equipment for the  
12 special handling of PCL3. So I would think it all be that  
13 easy.

14 MR. MCCAUL: I don't want to overstate this. If  
15 we were not making HEDP, we would find other uses for the  
16 equipment. Now, it would require some expenditure and some  
17 capital investment, but yeah, it could be used for other  
18 things. We could make other products and other phosphonates  
19 in that equipment, as well as the HEDP, there's acetic acid  
20 handling as well, so there's quite a bit of equipment that's  
21 required to handle the byproduct from HEDP, so we'd have to  
22 find some use for that as well.

23 I'm not saying it can't be done. I'm just  
24 saying there would be a cost that would be -- it wouldn't be  
25 an overnight thing. As far as the Chinese producers, they'd

1 be in the same situation -- if they weren't manufacturing  
2 HEDP, they'd probably find other uses for the equipment over  
3 time.

4 MR. LEVIN: If I may add something. I think one  
5 of the primary points that Danny was trying to make in his  
6 affirmative testimony is, if Compass can't offer  
7 domestically manufactured HEDP, then it becomes  
8 significantly less valuable to its potential customers as a  
9 full-range phosphonate producers.

10 Now, yes, Compass can switch back and be an  
11 importer of HEDP again, and therefore, yes, we can offer you  
12 domestically manufactured X, Y and Z, and imported HEDP.  
13 But there's pretty short leap for a customer to think, 'Hmm.  
14 Well, if I'm getting imported HEDP from him, I could  
15 probably go someplace else and get imported X, Y and Z from  
16 someplace else as well.' And that really is what we'll do  
17 to lessen damage to Compass in the marketplace. Is that  
18 fairly stated, Danny?

19 MR. MCCAUL: I think that's fair. It is the  
20 largest used phosphonate. I personally believe there's an  
21 advantage in having a manufacturer in the United States.  
22 Obviously, what we bring to the table for customers is short  
23 lead times, responsiveness, we can communicate with them, we  
24 can work on issues and problems and so on and so forth.

25 All of those things are important and keep us

1 competitive. But if you're not close on pricing, then it's  
2 hard for customers to continue to do business with you. And  
3 that's a challenge. And today the pricing on HEDP that  
4 we're seeing -- man, I'm telling you. Some of the numbers  
5 that are coming out are -- they're amazing. It's seems as  
6 though Chinese producers are desperate to move volume right  
7 now and the situation is rapidly getting worse. The numbers  
8 that we've submitted tell the story, but the situation is  
9 getting worse.

10 MR. PETRONZIO: Okay. Thank you. In terms  
11 of your capacity utilization rate, is there a certain --  
12 and again, if this is proprietary, you can include it in a  
13 brief -- but is there a certain capacity utilization rate  
14 that you, as a company, find is sustainable, kind of, we  
15 need to get to this point at least, or if there was a rate  
16 kind of discussed when you made the decision to stop  
17 importing, to become a producer. If you could talk a bit  
18 about that.

19 MR. MCCAUL: Okay. Now I have to explain that  
20 this plant, where we produce these products, has been there  
21 for many years and started producing HEDP back in the 1980s.  
22 That was before Compass acquired the company. Compass came  
23 along, Compass was a company that was importing product  
24 initially, wasn't manufacturing at all. And then Compass  
25 made the decision that they wanted to get into actual

1 production, so they acquired the manufacturing business.

2 So the plant and the organization was there  
3 basically when Compass came along and acquired it. And so  
4 we've been there for some years manufacturing these products  
5 and it's -- now, let's see. Was there another part of  
6 the --

7 MR. PETRONZIO: Just in terms of your capacity  
8 utilization, what rate did you --

9 MR. MCCAUL: Capacity utilization. You know,  
10 overall, our capacity utilization for the entire plant is  
11 probably, right now, I would say at about seventy percent.  
12 Clearly, as a company, we're constantly looking for  
13 additional products that we can manufacture.

14 Expanding our product line, doing more things,  
15 growing the business. We recently hired a very intelligent  
16 young lady who's a business development manager, very  
17 well-qualified. I've got high hopes that she's going to  
18 find additional products for us to manufacture. And we're  
19 going to get that utilization rate up from seventy percent.

20 Can we survive with that level of plant  
21 utilization right now? Yes, we can. We wouldn't like to  
22 see it go much lower, but -- and obviously, with any plant,  
23 the more volume you can put through the facility to absorb  
24 the fixed costs that are there, it's a good thing, you know.  
25 That's generally what I would say in answer to your

1 question.

2 MR. PETRONZIO: Okay. Thank you. In the  
3 petition you noted that the production of HEDP started in  
4 1970s with Monsanto, and once the patent expired, then other  
5 producers go involved into the market.

6 Just in terms of the use of HEDP, you mentioned  
7 it's used to treat commercial water systems, what was used  
8 prior to 1970s? Prior to Monsanto getting involved in the  
9 market? What types of products were used for this use?  
10 Were there any products that were used to treat commercial  
11 water systems? Or now it's used in cleaning products or  
12 pool stain removal systems. So what types of products were  
13 used prior to it?

14 MR. MCCAUL: I'm going to let Safi answer that  
15 one. He's the expert.

16 MR. HAWK: Thank you. I believe that back then,  
17 polyphosphate, phosphate or DXPP, DTPP, potassium, all the  
18 polyphosphates, those that have been -- like SUTMPs, more  
19 than a hundred years or even before that. And commercially  
20 known as Calgon. So that was, I believe that was the most  
21 widely used, besides bleach and other things, chloride  
22 bleach to others.

23 MR. PETRONZIO: Okay. And the HEDP that Compass  
24 produces, is that essentially the same product that Monsanto  
25 started producing in the '70s or is it slightly different?

1 MR. MCCAUL: No, it's the same product.

2 MR. PETRONZIO: Okay.

3 MR. MCCAUL: It's the same product.

4 MR. PETRONZIO: So the brand name's just  
5 different, but the product itself --

6 MR. MCCAUL: Yes. Monsanto -- they really  
7 commercialized it. I think it was Proctor and Gamble,  
8 actually, who invented the molecule in the first place, but  
9 Monsanto commercialized the product, and then Monsanto --  
10 they split their company and became -- part of it became the  
11 company called Solutia and the Solutia stopped manufacturing  
12 in the United States and they have -- their product is --  
13 well, first of all, Solutia then became a company called  
14 Thermphos and Solutia had a bankruptcy.

15 Thermphos had a bankruptcy also and then  
16 Thermphos was bought by a company called Italmatch. Today  
17 that same product that Monsanto started with -- the trade  
18 name is called Dequest and that product is still  
19 manufactured and still being sold in the marketplace.  
20 They're the largest producer in Europe. They do some  
21 business in the United States, but they're mainly in Europe,  
22 and their product is manufactured in the United Kingdom  
23 today. They don't have any production anymore in the United  
24 States.

25 MR. PETRONZIO: Okay. Thank you. You mentioned

1 a sixty percent concentration of HEDP is what Compass  
2 produces and what is normally sold in the market. Are there  
3 any other different concentrations? I'm trying to  
4 understand what different types of grades there are of HEDP,  
5 so, in other words, if the customer comes up to you and  
6 says, 'We'd like,' you know, 'X, Y and Z specifications of  
7 HEDP,' what are the factors or what are the components that  
8 differentiate it from different grades?

9 MR. MCCAUL: The sixty percent HEDP is the most  
10 common by far that concentration is used. There really  
11 isn't any market for a lower concentration than that or a  
12 higher concentration than that. HEDP can be made into salts  
13 and there's quite a bit of production and use of the product  
14 by -- HEDP is an acid and if you utilize the acid, you can  
15 produce a salt of HEDP, so there are quite a few  
16 applications where a salt of HEDP is manufactured. And we  
17 make salts of HEDP. But no, I think sixty percent is really  
18 the main product line. Safi, do you want to comment on  
19 that? For example, why is it sixty percent? Why is it  
20 not --

21 MR. HAWK: Sixty percent is the maximum in the  
22 liquid form can get. Anything more than that, it'll  
23 probably precipitate out. And the salt part, sodium salt or  
24 the potassium salt, you can make it and dry it, you know,  
25 make dry powder. But then that is still salt. You cannot,

1 neutralize that, then de-neutralize. You can, but then  
2 it'll be loaded with impurities, sodium chloride or -- in  
3 other words, if you want in acid form -- in a liquid, really  
4 high active product -- that in the sixty percent one and  
5 that's why it is.

6 MR. LEVIN: If I just may add, and just for  
7 point of clarification. The proposed scope would cover all  
8 grades. Just to be on the safe side.

9 MR. PETRONZIO: Okay.

10 MR. MCCAUL: You asked a question about  
11 different types of HEDP. The only other point that I would  
12 make is that some customers, although the vast majority of  
13 customers will buy the interchangeable standard, shall we  
14 say, HEDP sixty percent product. There are customers who  
15 will ask for a particular quality of HEDP. They may request  
16 something with less impurities or a particular strength of  
17 product, something that's a little different from the  
18 normal.

19 But that volume doesn't really represent a large  
20 percentage of the total HEDP. So you do get some special  
21 grades, but even those special grades are not drastically  
22 different from the standard product. They're just slightly  
23 different. But they're tailor-made to somebody's particular  
24 use.

25 MR. PETRONZIO: Okay. Thank you. That's very

1 helpful. As the sole producer in the U.S., do you believe  
2 Compass has the capacity to satisfy demand in the entire  
3 U.S. market?

4 MR. MCCAUL: Yes. Well, let me put it this way.  
5 Today, instantly we could probably double our output of  
6 production of HEDP. In order to supply the entire U.S.  
7 market, we would probably have to install another reactor or  
8 convert another piece of equipment over. It wouldn't be  
9 something that would be terribly difficult. It would take  
10 some investment, could be done relatively quickly.

11 I'm not anticipating that we would wind up  
12 supplying the entire market ourselves. There are going to  
13 be imports from the UK and there's going to be imports from  
14 India, and there'll be imports from China. I'm sure they  
15 won't completely go away. But we could make an awful lot  
16 more product than we currently do.

17 MR. LEVIN: And again, without going into BPI  
18 stuff, the questionnaire response will reflect a change in  
19 the company's production capacity which would serve the goal  
20 that Danny was just mentioning. The change in production  
21 capacity was just the result of good old American ingenuity,  
22 not the installation of new equipment, not new capital  
23 investments.

24 MR. PETRONZIO: Okay. Thank you. In terms of  
25 production process, you mentioned in your opening statement,

1       there are two main methods to produce HEDP. Are there  
2       certain advantages, as far as you end products, using one  
3       method versus another? Or is it strictly access to the raw  
4       material that you're using, or the cost of the raw material.  
5       Is there any kind of differentiation between the two  
6       production methods and the end product?

7                   MR. MCCAUL: The end product is the same. The  
8       quality and the nature of the HEDP is the same. The raw  
9       material cost and the byproducts that are produced are an  
10      important consideration in choosing which method of  
11      production. Now, in the United States, PCL3, for us to  
12      purchase PCL3 and use that method, rather than the method  
13      that we currently use, would be a more expensive proposition  
14      for us, because PCL3 is not inexpensive and --

15                   MR. LEVIN: It's not inexpensive?

16                   MR. MCCAUL: It's expensive. So anyway, so we  
17      use them. We've looked at the other methods and we  
18      constantly do that. We look and say, 'Should we be -- and  
19      we evaluate the cost of making the product using other raw  
20      materials, but the method that we currently use works best  
21      for us. We arrive at the lowest cost production by using  
22      our current method.

23                   Chinese have different economics and they choose  
24      to use the PCL-3. There's a lot of PCL-3 produced in China,  
25      and they use that in acetic acid mainly.

1                   MR. PETRONZIO: Okay, and you're sourcing --  
2                   you're shifting in method from being an importer to a  
3                   producer. You shifted production methodology, is that  
4                   correct, from one method to another? So as far as I  
5                   understand it's --

6                   MR. McCAUL: Oh, let me explain. I mentioned  
7                   that the plant has been around for a long time, and when it  
8                   started -- when the plant began making HEDP and other  
9                   phosphonates, back in those days they did use PCL-3 as a  
10                  starting point. The PCL-3, however, was used to make  
11                  phosphorus acid.

12                  If you take PCL-3 and add water to it,  
13                  essentially you make phosphorus acid, and you make a  
14                  byproduct at the same time, hydrochloric acid. So you make  
15                  an awful lot of hydrochloric acid as well as phosphorus  
16                  acid, and then the phosphorus acid is used to make the  
17                  phosphonates.

18                  So rather than start with PCL-3 and have to deal  
19                  with all the hydrochloric acid -- now if the price of  
20                  hydrochloric acid was high it might change things, but we  
21                  look at that all the time too. But the decision was made  
22                  back in 2006 that it would be -- it would make far more  
23                  sense for us to start with phosphorus acid and not start  
24                  with PCL-3.

25                  The economics haven't changed in that regard

1 since then. They may change one day and if they do, then we  
2 can switch and use PCL-3 as our starting point. But today,  
3 that wouldn't make sense for us.

4 MR. PETRONZIO: Okay, and the phosphorus acid,  
5 the source of that? Where do you source the raw material?

6 MR. McCAUL: Well, we import the phosphorus acid  
7 from China mainly. That's the most prevalent source of  
8 phosphorus acid.

9 MR. PETRONZIO: Okay, and in the prior  
10 investigation, it seemed like there were some supply  
11 disruptions in China for the raw materials, and that kind of  
12 affected the market. Has there been any sort of -- and we  
13 also understood that there's 70 or 80 percent of the world's  
14 capacity to produce phosphorus ore is in China.

15 Has there been any kind of supply disruptions  
16 over the current Period of Investigation or any kind of  
17 changes --

18 MR. McCAUL: No, there hasn't been for some  
19 time. The supply of phosphorus acid from China it's been  
20 readily available for years now, and hasn't been any serious  
21 disruption in recent years. There was -- back in 2008, it  
22 was amazing. There was a big change and a big shortage of  
23 phosphorus and phosphorus acid, phosphorus derivative.

24 MR. LEVIN: Explain the circumstances on that.

25 MR. McCAUL: Yeah. Back in 2008, there were a

1 number of things going on. I think there were changes in  
2 the tax, the export tax that the Chinese government was  
3 putting on phosphorus and phosphorus derivatives.

4 But also in China at that time, I think you  
5 might recall they were having the Olympic games in China,  
6 and the Chinese government was determined to put a good face  
7 on things, and they were telling producers hey, you need to  
8 shut down your operation because you're creating pollution  
9 and, you know, insisting that people relocate their plants  
10 and shut them down.

11 There was tremendous disruption around that time  
12 and a real shortage of phosphorus and phosphorus acid. So  
13 that's what happened then. That's all gone now. That was  
14 quite a while ago now.

15 MR. PETRONZIO: Okay, and if have anything  
16 additional to place on the record as far as Chinese  
17 government policies, as far as export tax or tariffs during  
18 the Period of Investigation with regard to phosphorus, that  
19 would be appreciated.

20 In terms of -- so is that a correct estimate,  
21 that 70 or 80 percent of the world's phosphorus is located  
22 in China, or that they kind of control that large of a  
23 supply of the world's phosphorus?

24 MR. McCAUL: I'm not sure. I'm not sure I could  
25 tell you what the percentage is. All I can say is that it

1 is a major source of phosphorus. But there's phosphorus  
2 available in Kazakstan, there's phosphorus in Morocco.  
3 There's phosphorus in the United States. But the only  
4 people that are actually mining and producing phosphorus in  
5 the U.S. is, to my knowledge anyway, is Monsanto.

6 Monsanto makes a product called Round-Up  
7 glyphosate. So they have -- they have an internal use for  
8 their production of phosphorus and phosphorus acid. So you  
9 cannot -- there aren't any phosphorus acid producers in the  
10 United States.

11 MR. PETRONZIO: And outside of China, there are  
12 sources?

13 MR. McCAUL: Yes, yeah. There's -- well, I  
14 don't know about phosphorus acid, but I know that phosphorus  
15 is available from different countries. Vietnam for example,  
16 is a source. But as I mentioned, Kazakstan and Morocco,  
17 those are places that have phosphorus available.

18 MR. PETRONZIO: Okay, thank you, and are you  
19 aware of any HEDP producers in China that are vertically  
20 integrated, such that they're mining the phosphorus but  
21 they're also producing HEDP as well, or does the economics  
22 not make sense of doing that?

23 MR. McCAUL: There are producers in China who,  
24 yeah, who make PCL-3 as well as phosphonates, and who --  
25 there may be -- I'm not sure if any of them are actually

1 making phosphorus as well. I'd have to check on that.

2 MR. PETRONZIO: Okay. All right, great. Mr.  
3 Levin, you mentioned, and Mr. Allen you worked on the PEERS  
4 data cull to supply us with the mailing list as far as  
5 importers. If it's not on the record already, would you be  
6 able to supply the background data for the PEERS, as far as  
7 --

8 MR. LEVIN: Sure, absolutely. It is an  
9 extensive Excel file. But we'll try to figure out the most  
10 practical way to get that on the record. But it's detailed,  
11 it's lengthy and if we may beg your indulgence to work with  
12 you to figure out the easiest way to deal with that sort of  
13 volume of material.

14 MR. PETRONZIO: Okay. That would be very  
15 helpful, and in terms of our importer, obviously in a prelim  
16 we don't have the ability to see all the questionnaires  
17 right away before the conference. But if you can also  
18 comment in your post-conference brief about in terms of the  
19 responding firms and coverage and what you believe to be an  
20 accurate assessment of the import data, and I'll ask  
21 Respondents the same question.

22 MR. LEVIN: Sure. We'd be happy to. Quite  
23 honestly, I think the PEERS data is the best database  
24 existing at this point. The importers questionnaire, we've  
25 done -- Mark has done a calculation of the shipments

1 reported on the importers questionnaires based on what we've  
2 seen under the APO releases. So far, it's a pretty minor  
3 percentage.

4 Related to that point, we'd like to discuss with  
5 the staff, either today, prior to the post-conference brief  
6 or during the brief, we have identified a few pretty  
7 significant what we believe are data issues in a few of the  
8 questionnaire responses.

9 MR. PETRONZIO: Okay, and kind of the same issue  
10 with Chinese foreign producers' questionnaires, and I'll ask  
11 Respondents as well to kind of provide staff with an  
12 estimate of what, you know, our coverage is and who are --

13 MR. LEVIN: Absolutely.

14 MR. PETRONZIO: Okay. That's all the questions  
15 I have. I want to thank the witnesses. It was very  
16 helpful.

17 MS. HAINES: All right, thank you. Now we'll  
18 turn to Mr. Henderson.

19 MR. HENDERSON: Thank you, and I'd also like to  
20 welcome in particular the company witnesses who traveled to  
21 attend this conference. I wanted to follow up on Mr.  
22 Petronzio's first question in connection with the  
23 anti-dumping duty orders that were in effect from -- with  
24 respect to China and India, and we haven't really addressed  
25 the thought process with respect to India.

1                   I don't know whether Mr. McCaul's presence is  
2                   necessary or not. But while we discussed the issue with  
3                   respect to China and with respect to the company that had  
4                   the zero margin, did Compass feel that the order was  
5                   specifically with respect to India was effective as to  
6                   imports from India?

7                   MR. LEVIN: I can't speak for Mr. McCaul, but  
8                   what I can say is that the margin on India was fairly low  
9                   and we thought what would be necessary to try to jack up  
10                  that margin would be a very difficult and extensive exercise  
11                  through the administrative review process.

12                  I can say on Mr. McCaul's behalf, because we've  
13                  discussed this several times, India just does not present  
14                  the issue now that it apparently did to Compass back in the  
15                  2006 period. I recall, and I mentioned this to Danny last  
16                  night, let's talk a little bit about the comparison of  
17                  prices between China and India and the UK.

18                  UK is the highest, and Danny could probably  
19                  explain why that's the highest. India is generally speaking  
20                  at a level where China would be without the dumping and  
21                  subsidization, and Compass just doesn't feel the competitive  
22                  pressures at this point from India that it does from the  
23                  rapidly declining prices from China.

24                  MR. HENDERSON: And has the -- has Compass  
25                  experienced the revocation of the order with respect to

1 India has had any effects on the market in the U.S.?

2 MR. McCAUL: No, I don't really think so. The  
3 duty on India was very small. It was like three percent or  
4 something, and then I think might have even disappeared.

5 MR. LEVIN: I remember the first review they did  
6 go down to de minimis.

7 MR. McCAUL: Yeah. So I think India, in my view  
8 anyway, we don't see a whole lot of volume from India.  
9 They're not a big factor. I don't really think the Indians  
10 are dumping, and I don't think that they're dumping from the  
11 UK. So really the challenge for us is the Chinese imports.

12

13 MR. HENDERSON: Did the revocation of the orders  
14 have effect on the volume of imports coming from India or  
15 the UK? I mean did they go up, did they go down? Has  
16 Compass had any information on that?

17 MR. McCAUL: You know, we have those volumes and  
18 I think we can provide that information to you, because  
19 we've looked at the volume. India, for example, I believe  
20 in 2014 their volume went up quite a bit, but then it  
21 dropped considerably in 2015. And as far as the UK is  
22 concerned, I think that volume has been kind of steady. But  
23 we can provide that data.

24 MR. HENDERSON: Thank you.

25 MR. LEVIN: Yes. Actually, in the petition,

1 it's imports from China, U.S. shipments, All Other, All  
2 Other being for all intents and purposes UK and India, and  
3 we'd be happy to provide you with the UK-China breakdown.

4 MR. HENDERSON: Thank you. Now we of course  
5 don't have the benefit of having a sneak preview of what the  
6 Respondents will argue, so we can't ask you to respond to  
7 that yet. But we certainly will encourage those kind of  
8 responses in the post-conference brief.

9 But the big thing, whereas you market  
10 participants have been living with this every day since the  
11 Commission's investigation in 2009 we, the Commission staff,  
12 are looking at what the Commission said in 2009 and looking  
13 at the petition and what the witnesses have testified to  
14 this morning.

15 But a big question for us is trying to  
16 understand the conditions of competition and how they've  
17 changed or stayed the same since 2009, and some of my  
18 colleagues will have much more specific questions than I.

19 But you know, we saw in the original  
20 investigation the Commission noted, because it was 2009, the  
21 effect of the financial crisis and the issue about the raw  
22 material supply disruption in China that we've discussed  
23 already this morning, and of course the changes in Compass  
24 over the prior Period of Investigation.

25 But now we're -- as we're trying to figure out

1       how things have changed or have not changed since 2009, one  
2       of the big questions well, what was the effect of the  
3       orders, and we've heard earlier testimony that the orders  
4       may have had a short-term effect, but at some point were no  
5       longer effective.

6                       But you know, in a five-year review, there's  
7       often a question, well a threshold question, did the  
8       domestic industry benefit from the orders and/or were they  
9       able to make investments, etcetera, as a result of the  
10      orders. So we'd like to have some information about, you  
11      know, how did the -- when did the domestic industry -- when  
12      were the orders beneficial, when did they cease to be  
13      beneficial? How was Compass able to react and make  
14      investments or whatever in response to whatever benefits  
15      came from the order?

16                      If you can say anything non-confidential at this  
17      point, that would be of interest.

18                      MR. LEVIN: If I may, you do point out, Mr.  
19      Henderson, a couple of complications that were involved in  
20      the prior Period of Investigation, the change in Compass'  
21      manufacturing process, its overall change from being an  
22      importer to a mixed bag to purely a domestic producer, the  
23      raw material disruption in China. There's one or two  
24      elements that I'm just -- the financial crisis and the  
25      impact that that had especially towards the end of the

1 Period of Investigation.

2           You know, Danny had said and from what I know,  
3 this is absolutely accurate. Yeah, it did provide some  
4 temporary relief. It gave Compass some breathing space.  
5 But because, and we believe this to be the case, one of the  
6 companies was excluded. That was really turned out to be a  
7 problem, we believe.

8           But the other major issue that Compass has run  
9 into and to a large extent prompted their revisiting of  
10 going through this process again and anew is the additional  
11 production capacity, to a large degree, in China. You know,  
12 there's one company that I believe is represented here today  
13 and you'll hear from them later on.

14           You know, well it's on their website, but you  
15 know they put online 60,000 tons of specifically HEDP  
16 production. That's enormous. We have information that  
17 there's another company, Nantong Uniphos. It is unclear to  
18 us whether or not that is a new company, because there are  
19 references to investments into that company by three other  
20 producers.

21           We just can't figure out if they formed a new  
22 company or if they combined forces. But what we're seeing  
23 is this. A lot of production capacity came online in 2014.  
24 The order was revoked in 2014. I'm not sure that the  
25 revocation in and of itself had a huge impact because I

1 think things were starting up again prior to that.

2 But since 2014 into 2015 and beyond, and I  
3 understand 2016 is beyond the Period of Investigation, and I  
4 believe the data that the Commission has in some of the  
5 questionnaires, again steering away from BPI, shows this.  
6 Wow. There's really been some movement on prices.  
7 Coincidence? I don't think so.

8 MR. McCAUL: Let me just add something to what  
9 Jeff said there. When he talked about, for example, the one  
10 company Shandong Taihe and their website, I have actually  
11 visited that plant in China and the people from Shandong  
12 Taihe who have visited with me in the United States.

13 By the way, they're very nice people. I mean I  
14 hate sitting here talking about this stuff and, you know,  
15 portraying these people like they're enemies or something.  
16 But they're not. They're good people, they're very nice  
17 people. They're doing their job and I understand that.

18 Their plant, you know, their plant is enormous.  
19 It is -- it's an incredibly impressive facility. It's first  
20 class from start to finish. They make -- they've got a  
21 capacity there they explained to me of 300,000 metric tons  
22 of products, total products, a lot of it being phosphonates  
23 of course.

24 It's amazing, and then there are other companies  
25 like QSY. They're a significant player. Uniphos, as Jeff

1 mentioned. Uniphos has now got Woo-Jin Water, Woo-Jin Fine  
2 Chemical and Connect. Those companies combined to invest in  
3 this one I believe relatively new large plant in China.  
4 Again, these are -- they're good people, they're nice  
5 people. I've got nothing bad to say about them at all.

6           Just look, we have to deal with the realities.  
7 They've, as we pointed out, I think they've overbuilt  
8 capacity big time in China, and they're, you know, the  
9 result of it is they're all trying to move product and it's,  
10 you know, you get emails every day offering product and  
11 they're calling on the customer base in the United States  
12 and of course around the world, and trying to -- trying to  
13 move the volume that they're capable of producing.

14           Which is a challenge for us. It's not a problem  
15 if everything is, you know, as we said on a level playing  
16 field. We can compete. But we don't think that that's what  
17 we're dealing with here.

18           MR. HENDERSON: Thank you very much.

19           Another issue we are trying to grapple with in  
20 terms of conditions of competition is not just how they are  
21 the same or different from how they were in the original  
22 investigation, but also we have, you know, the period for  
23 which we have been collecting questionnaire data of 2013,  
24 2014, '15, the first year and four months or so where there  
25 are two antidumping orders in place, and then the period

1 since the orders have been revoked. And whereas a domestic  
2 producer and the domestic industry may, you know, feel the  
3 orders are of limited effectiveness, but nevertheless orders  
4 can affect market participant behavior and can affect  
5 competition in the market in ways.

6 And I think, you know, we would also be  
7 interested in finding out how, how those orders affected the  
8 conditions of the market. And then what change there was as  
9 a result of the revocation of those orders during the  
10 period. And again, if there is something nonconfidential  
11 that can be said now, that would be helpful, but you can  
12 address that in the post-conference.

13 MR. McCAUL: I would just say that the revocation  
14 was not helpful. And, you know, when I made the comment  
15 about when the order first went into effect, that we thought  
16 it was beneficial, that was because we saw that the slide in  
17 pricing, it didn't continue the way it was headed. It  
18 stabilized pricing somewhat and we were able to improve  
19 pricing somewhat.

20 And again, volume of our business we felt like we  
21 were afforded the opportunity to supply product to, you  
22 know, more customers and generally I believe it was a  
23 positive thing.

24 But as time went on, the effectiveness became  
25 greatly diminished. And I understand your question, and

1 maybe we can provide a bit more color to all of that as we  
2 submit our brief.

3 MR. HENDERSON: Absolutely. And one specific  
4 question, again not wanting to get into business proprietary  
5 information, but looking at data from the earlier  
6 investigation, and then on this investigation, it looks like  
7 there might be some difference in employment levels. And  
8 without getting into any of the specifics, is there, whether  
9 as a result of the change in production methods, technology,  
10 any other reason why there might be that difference, to the  
11 extent you can say anything publicly here?

12 MR. LEVIN: Yes, I won't say anything publicly  
13 aside from this:

14 The employment numbers, as we look back on it,  
15 for Compass was probably overstated. The person who  
16 completed the questionnaire response, the number cruncher in  
17 the company, is no longer with the company. And so instead  
18 of trying to reconcile employment numbers then versus now,  
19 what Mark and Danny did was try to really narrow down  
20 exactly what the true number of production and related  
21 workers were in 2013-2014-2015. It is actually a group of  
22 numbers, the employment numbers in the Petition, that we  
23 went back to and tried to rework two or three different  
24 ways.

25 The problem is that, and please stop me if I am

1 not accurate here, there are no production and related  
2 workers that are solely for HEDP. And therefore what you  
3 need to do is, you know, find some reasonable rule-of-thumb  
4 which is what you come up with, you know, sometimes a third  
5 of a body, or half of a body in the numbers. But we feel  
6 that these numbers have been reviewed, scrubbed, checked for  
7 logic, and we feel very comfortable with what they are at  
8 this point.

9 MR. HENDERSON: Thank you very much. That's  
10 helpful. That's all I have for now.

11 MS. HAINES: Thank you. Now we will turn to Ms.  
12 Preece.

13 MS. PREECE: Thank you very much. I am going to  
14 be asking questions that are not looking at this question  
15 the same way as our lawyer, or the investigator. My area is  
16 to look at the market. So these questions are market  
17 questions. And I'm not looking at, you know--I'm looking  
18 for substitutability rather than the legal structure.

19 So I am looking at this a little differently, so  
20 I want to warn you of that so that you're not sort of  
21 thinking, oh, my God, yo0u know, she's trying to make  
22 domestic like product arguments. No, I'm not interested in  
23 those arguments. That is not where my area of expertise is.

24 So on that basis, I will ask a few questions.

25 First of all, I want to look at how this product

1 is used. And I heard from Mr. Allen it was used in, first  
2 in industrial water. Second, in anti-scalants. Third in  
3 municipal water for color. And fourth, in textile  
4 bleaching.

5 And then I also heard that there were HEDP salts  
6 that were made from it, and compounders who used it. So  
7 those are the end uses that I've heard of.

8 Are there any other end uses that matter?

9 MR. McCAUL: Some HEDP is used in oil and gas  
10 production, as well. Some of it is used in recreational  
11 water in, for example, swimming pools to stop staining. And  
12 we're probably missing some things here in our comments. It  
13 is a very widely used product in many, many industries, many  
14 applications. Oh, it is also used in making cleaners for  
15 industrial cleaning applications, that type of thing.  
16 Hard-surface cleaners. Safi, am I missing something? Oh,  
17 reverse osmosis in desalination equipment.

18 They use membranes, and keeping those membranes  
19 clear so that the desalination equipment works properly.  
20 HEDP is used there. In general, the application is  
21 anti-scalant, if you like, but in many different  
22 applications.

23 The most common way to think about it, though, is  
24 in industrial water treatment applications. Water of course  
25 has calcium and magnesium and other metals, and the

1 equipment, if the water is not treated, will scale up and  
2 then the equipment won't work properly and they lose heat  
3 transfer capabilities and efficiencies.

4 So in general they would add some phosphenate to  
5 the water to make sure that the scaling doesn't occur.

6 MS. PREECE: Okay. Thank you. That is really  
7 helpful. With that, I want to dig into this a little bit  
8 further. Can you estimate--and I want a very broad  
9 estimate--for this industrial water treatment how much of  
10 the HEDP is used in that? How much of it is used in this  
11 anti-scalant, if that's a separate thing? How much is used  
12 for the municipal water? How much is used in textile  
13 bleaching? How much is used in HEDP salts? And how much is  
14 used for compounders? Just a general idea, a percentage.

15 MR. McCAUL: We can send you some breakdown as  
16 best we know it of those numbers and those percentages. In  
17 general, though, industrial water treating is by far the  
18 largest application for HEDP.

19 MS. PREECE: Right. Thank you. Now I have to ask  
20 you about industrial water treating. Okay, if I am a  
21 factory person who has to have my water treated, in that  
22 system where I've got this water, how much of the cost of  
23 water in that system would be the HEDP?

24 Mr. McCAUL: It would be a small component of the  
25 overall cost. Here's typically what happens. We sell HEDP

1 and other phosphates to companies that provide water  
2 treatment service. We don't provide the service ourself.  
3 We manufacture the chemicals and supply the chemicals to  
4 water treatment service companies.

5 And in water treatment service companies there  
6 are many, many companies in that business. Some are very  
7 large and some are very small.

8 For example, there is an organization called the  
9 AWT, which I always think of as American Water Treatment  
10 Association, but that's not the correct words, I don't know  
11 what it is, but association of Water--

12 MR. HAWK: Association of Water Technology.

13 MR. McCAUL: Okay. That Association, for example,  
14 has probably 300 or more members. These are companies that  
15 might be just one guy, and he's taking care of one hospital,  
16 or one plant. And he's taking care of their water treatment  
17 system.

18 But what these companies do, large and small, is  
19 they take our chemical and then they oftentimes put it into  
20 a formulation which they combine with some other chemicals,  
21 and then they sell their service, including the chemical, to  
22 the customer.

23 So they will go to, let's say it's a refinery, or  
24 a paper mill, or a plant of some description, and they will  
25 sell the service of taking care of and managing the water

1 system for that facility. What does that mean? That means  
2 that they will go out and they'll take samples. They'll  
3 check the condition of the water. They'll decide exactly  
4 how much chemical to add to the water. Then they'll check  
5 over a period of time how well and how clean the system is,  
6 and they'll adjust the formulation, or adjust the quantity  
7 that's added to the water system in order to keep it  
8 operating and efficient.

9           So if you are a plant manager, as I was once upon  
10 a time, I am interested in manufacturing various products, I  
11 don't really want to fool with worrying about the water  
12 treatment system. So I'm going to employ one of these  
13 companies to take care of that for me. And they re going to  
14 provide the chemicals, and they are going to provide the  
15 service, and they are going to keep my system operating and  
16 clean.

17           Because if it isn't operating and clean, I am not  
18 going to be able to make my products, and things are going  
19 to shut down, and problems and corrosion is going to occur,  
20 and blockages are going to occur, that type of thing.

21           So when I think of industrial water treatment,  
22 that's what I'm thinking about. That service to take care  
23 of the water system.

24           MS. PREECE: That's really great. That's very  
25 helpful. And if I were a water treatment person, I'm Mrs.

1 Water Treatment, and now I'm coming in and I have to buy  
2 some HEDP, how much of the whole cost to you who have the  
3 factory that is using my services would be HEDP part? It  
4 sounds like it's one percent, or less than one percent?  
5 Some very small fraction of one percent?

6 MR. McCAUL: If I am the end customer, the end  
7 user, first of all I probably don't even know what the guy  
8 is using to take care of my water treatment system. You  
9 know, I may not even know the term "HEDP." But the water  
10 treatment service guy does. He is the customer for us. He  
11 buys HEDP, and he buys it in large quantities.

12 If he is a big customer, he is buying large  
13 quantities of HEDP. And HEDP is important to him. The  
14 pricing of it is important to him. But even then, it isn't  
15 a huge percentage of his cost of doing business. It adds up  
16 to significant dollars, of course, but it's not the huge  
17 percent.

18 And as far as the end user is concerned, he is  
19 paying for the chemicals and the service, and the HEDP  
20 component as a percentage of his total cost of keeping his  
21 system clean is very small. I can't put a number on it, but  
22 one or two percent would not surprise me, that it would be  
23 as low as that. Yes?

24 MR. ALLEN: You may find it strange that we  
25 actually probably put HEDP in our boilers and cooling tower,

1 and I couldn't even tell you--I know it's ours, but the  
2 actual cost is so small it doesn't even show up as a line  
3 item in our operational facility. And that's probably  
4 typical of a typical manufacturing plant running a steam  
5 boiler, cooling towers, et cetera.

6 So they're small costs, but it's just there's a  
7 lot of industry, and then they add up.

8 MS. PREECE: I understand that people who are  
9 buying it want the lower price, but also this is a question  
10 of if the price went up would people say, oh, I don't want  
11 to use HEDP, I'll use some other phosphonate product?  
12 That's the kind of question. Is there a good substitute  
13 that they could sort of say, okay, now HEDP doubled the  
14 price, I'm going to go out and buy AB--I don't know what  
15 they are.

16 MR. McCAUL: That's a good question. As we had  
17 mentioned, there are a range of phosphonates. And depending  
18 on the conditions you're dealing with, some will work better  
19 than others.

20 For example, ATMP is a commonly used phosphonate,  
21 but if Chlorine is present in the water than ATMP is not  
22 going to work as well as HEDP would, for example.

23 So there are people who use ATMP and they use  
24 HEDP. And there are people who use PBTC. And there are  
25 various, various chemicals that are used under various

1 conditions.

2 For example, I mentioned the oil field industry.  
3 In the oil field industry a common phosphonate that's used  
4 is an amino phosphonate which uses a different type of raw  
5 material. It's a different phosphonate. And you can  
6 imagine then in the oil industry, when you are retrieving  
7 oil from the ground there's a lot of water involved in that  
8 process, and you're trying to separate the water from the  
9 oil, and the water has a very high content of minerals. And  
10 depending on the temperature, depending on the PH that  
11 you're dealing with, one phosphonate is going to work better  
12 than others.

13 So it depends on the application. Now as far as  
14 HEDP is concerned, if for example an order was in place and  
15 we ramped up the price drastically of HEDP, people would  
16 find substitutes. They would look more closely and they  
17 would find another product to use.

18 There are other phosphonates that work. I'm  
19 thinking of one in particular that is a more expensive  
20 phosphonate right now than HEDP, but if we raised the price  
21 of HEDP drastically, people would start using a different  
22 product.

23 It is not something that you can ignore. It is  
24 part of the real world.

25 MR. LEVIN: It's not something you can ignore, but

1       it's probably not something that you can quantify, either.  
2       I mean if you're selling HEDP for X, is it X plus 20 that  
3       people may start looking for imperfect substitutes? Is it X  
4       plus 40? Is it X plus 60? I mean, am I correct that that  
5       really just can't be quantified in the abstract?

6               MR. McCAUL: No, I think that's a fair statement.  
7       But--and customers are different in the market. It's  
8       interesting. There are some people who spend a lot of time  
9       looking for alternatives and evaluating things. There are  
10      other people who just carry on with the same ole/same ole,  
11      you know. We've always used this. We're always going to  
12      use it.

13             And unless you change the price drastically, they  
14      don't respond. So there's no way to sort of quantify it.  
15      It would be difficult. All I'm saying is that I know from  
16      just being in the business that people are sensitive to  
17      price, and especially nowadays. You know, everybody's  
18      trying to be more efficient, and cut costs, and get the  
19      bottom line looking better. And price is an important  
20      thing, no doubt about it.

21             And people will find different ways if you  
22      ratchet up the price too much.

23             MS. PREECE: Okay. And the other question is, we  
24      had this wonderful investigation in 2009, and I am planning  
25      to use some of the information from that about its use, how

1 its made, all those other things. And I am going to work on  
2 the assumption that these things, major things haven't  
3 really changed since the last investigation, unless you  
4 advise me otherwise.

5 MR. LEVIN: In terms of what exactly--Jeff Levin.  
6 In terms of the like-product?

7 MS. PREECE: Yeah, everything. All of the things  
8 that I write about.

9 MR. LEVIN: Yeah. Okay. Like-product, no.

10 MS. PREECE: Well I don't do like product. I do  
11 interchangeability, substitutes, demand, end uses, those  
12 kinds of things. I am just sort of trying to make my life  
13 easier by saying--

14 MR. LEVIN: Sure, sure. And I will let Danny and  
15 Mark and Safi talk more specifically about it. To the best  
16 of my knowledge, no, the end uses are the same. The markets  
17 are the same. The degree of substitutability by alternate  
18 products, phosphonates or polyphosphates, is the same. As  
19 far as I know, there haven't been any new wonder products  
20 that have been brought to market over the last several  
21 years.

22 I have been--it is pretty much as it was during  
23 the original period of investigation, but I am just a  
24 lawyer. So let me let the technical guys talk.

25 MR. McCAUL: I think that's fair, what Jeff said.

1 MS. PREECE: I like that answer. So we'll stick  
2 with it. Okay, thank you very much. I don't have any more  
3 questions at this time.

4 MR. ANDERSON: Okay, thank you. Mr. Boyland?

5 MR. BOYLAND: Good morning. Thank you for your  
6 testimony. I have already sent the company follow-up  
7 questions, because I can't ask those questions in a public  
8 forum. I appreciate your time in answering those questions.

9 I do have a few questions that haven't been  
10 already asked, but I wanted to follow up with the input  
11 question specifically. You indicated there's no supply  
12 disruptions, but in terms of the cost itself were there any  
13 notable changes in the input price for either phosphorus  
14 acid or acidic anhydride?

15 MR. McCAUL: Over the past 12 months, the price  
16 of phosphorus acid has declined, and that would be -- that  
17 would be the only major change that I would mention on the  
18 -- in our factors of production, our methods of production.

19 MR. BOYLAND: So the acetic and hydride  
20 component itself hasn't changed notably?

21 MR. McCAUL: No, not in the last 12 months or  
22 even in the last couple of years. It's been fairly stable.  
23 It maybe changed a little bit, but nothing significant.  
24 Phosphorus acid, I think, in our case anyway, our cost for  
25 phosphorus acid has, and I think in general in the market,

1 as far as acid prices, declined over the last 12 months.

2 Over the last month or two, it's stabilized. So  
3 it's pretty flat right now. But if you look at January  
4 2015, for example, and compare the price to December 2015,  
5 you would see it's dropped a fair amount.

6 MR. BOYLAND: And would 2015 be the period that  
7 essentially was where the change occurred? I mean 2013 and  
8 '14 relatively is flat.

9 MR. McCAUL: Yes, yes. 2015 is when it  
10 occurred, yes.

11 MR. BOYLAND: Okay. Mr. Levin, you mentioned  
12 publicly the capacity, and again a lot of this is  
13 proprietary in terms of --

14 MR. LEVIN: (off mic) I'm sorry. I just  
15 mentioned there was a change in capacity.

16 MR. BOYLAND: And not to characterize that, but  
17 in terms of the effect on the company's cost structure, did  
18 that affect the yield? Anything in terms of what I'm saying  
19 in cost? Was it impacted?

20 MR. ALLEN: No, it did not. It didn't. None of  
21 the accounting methods. There's no bearing. It simply  
22 changed the cycle time of the process, and we don't vary our  
23 cost allocations with cycle time that much.

24 MR. BOYLAND: Is this something that I would  
25 expect to see? Your ability to produce would be impacted,

1 but on a unit basis, would I expect to see anything  
2 significant? I mean and I'm projecting forward pro forma.

3 MR. ALLEN: No, you won't see any changes in  
4 cost to the product. Just the ability -- the assets are  
5 still the same. The assets just can produce a much larger  
6 quantity than they formerly could. But we don't put  
7 anything else in the place of the reactor. So it's just an  
8 ability to produce with existing, with the same equipment.

9 MR. BOYLAND: Thank you. With respect to the  
10 phosphorus acid itself, does the company have a mechanism in  
11 pricing that would pass through changes in phosphorus acid,  
12 a formula?

13 MR. McCAUL: No. There's -- there have been  
14 times in our history when we've had some customers that --  
15 and this does not happen very often Mr. Boyland, but where  
16 we would have pricing that is indexed to raw material cost.  
17 We don't have any contracts like that, haven't had for some  
18 time. So there isn't any pass through.

19 There is an expectation from customers that as  
20 we might achieve lower costs, that we would -- we would be  
21 expected to adjust our pricing accordingly. But that's just  
22 a loose expectation shall we say.

23 MR. BOYLAND: Thank you. That actually kind of  
24 got to my second question, which is there would be a  
25 correlation but not necessarily a direct through some type

1 of index, but that I wouldn't expect to see some  
2 relationship between changes in average sales value, average  
3 raw material cost, that there is a linkage. But that's a --

4 (Off mic comment.)

5 MR. BOYLAND: Okay. In terms of the product  
6 itself, how does the company sell this product? Is it  
7 through your own sales force? Do you have independent  
8 representatives, sales representatives? How does that work?

9 MR. McCAUL: We have our sales people and they  
10 call on all of the customers and -- so we sell directly. We  
11 do also sell through some chemical distributors. But  
12 chemical distribution probably I can't tell you for HEDP in  
13 particular. But I can tell you that for our total business,  
14 the percentage of our sales that go through distributors is  
15 approximately eight to ten percent. The rest of it sell  
16 directly.

17 MR. BOYLAND: Okay, and that was constant  
18 through the period?

19 MR. McCAUL: Yes, yes. That hasn't -- well,  
20 maybe distribution sales have increased. They've increased  
21 a bit over the period I believe. But as a percentage of the  
22 total business, I don't think it's material.

23 MR. ALLEN: Mr. Boyland if I might, I believe  
24 that data was supplied in the questionnaire.

25 MR. BOYLAND: Okay, and I'm thinking more in

1 terms of the marketing structure itself. So essentially  
2 what I'm looking at is pretty constant through the period.  
3 Maybe some increase, but overall it sounds like you sell the  
4 product directly?

5 MR. McCAUL: Yeah, we do, we do. You know,  
6 distributors have a place and they're important for small  
7 customers who are buying maybe a drum here or a tote bin  
8 there, and selling to a distributor who will then break the  
9 product down into the smaller containers and ship it, take  
10 care of the actual transportation of the product and so on.

11 That's where they -- that's where they come in  
12 and can be extremely helpful. Our preference, of course, is  
13 to ship large volumes, bulk truckloads, that type of thing.

14 MR. BOYLAND: And during the period, where there  
15 any production curtailments or production issues which  
16 impacted the cost of HEDP?

17 MR. McCAUL: No.

18 MR. BOYLAND: And I'm not sure who mentioned  
19 this in their testimony. I think it was Mr. Allen. You  
20 talked about return on investment. How does the company  
21 look at HEDP? Does it consider it as a stand-alone product  
22 in terms of evaluating profitability and return? Is it part  
23 of a larger group? Could you discuss that?

24 MR. McCAUL: We look at all the products that we  
25 produce, and look at the sales dollars, the margins, the

1 contribution if you like, that products bring to the bottom  
2 line. So HEDP, although it is one of a group of  
3 phosphonates, we do look at it as an individual product line  
4 and look at the contribution that it brings.

5 Now yes, we group products together as well and  
6 like polymers as a group, phosphonates as a group, etcetera,  
7 and we also look at market segments. We look at industrial  
8 water treatment, we look at recreational water, we look at  
9 oil and gas. So we're constantly slicing and dicing our  
10 results to understand, as best we can, where we're being  
11 profitable and where we're not being profitable.

12 Obviously those -- that sort of analysis helps  
13 you to decide where you should put resources or where you  
14 need to make some changes or improvements, etcetera,  
15 etcetera. So HEDP is an important product, but  
16 unfortunately it is not -- it's not a highly profitable  
17 product. In fact it's -- without the acetic acid byproduct,  
18 it would be losing money. We couldn't survive --

19 MR. BOYLAND: That really actually was one of my  
20 follow-up questions, which I wasn't sure how much you were  
21 going to discuss that part of the profitability.

22 MR. McCAUL: Well, I'm just being honest about  
23 it. I don't particularly, you know, like other people who  
24 are in competition with us to hear me say those things. But  
25 I don't think it would be a shock to them.

1                   MR. BOYLAND: Partly because the statute changed  
2                   and we do place more emphasis on return on investment,  
3                   either here or in a post-conference brief, maybe discuss the  
4                   extent to which you actually calculate a return on  
5                   investment for this product, or if it's sort of within a  
6                   broader group. If you could just provide a little more  
7                   detail on that.

8                   It doesn't -- I mean however you do it, that's  
9                   the way you consider the information. But I would like to  
10                  know the extent to which a return on investment number is  
11                  actually and considered by the company for this product, and  
12                  if it's not for this product, at what level you would  
13                  actually calculate it, or if you do at all. So that's a  
14                  post-conference. That's fine, thank you, thank you. I  
15                  think that covers all my questions for now. Thank you. I  
16                  appreciate your time.

17                  MR. ANDERSON: Thank you Mr. Boyland, and now  
18                  I'll turn the mic over to Mr. Cantrell.

19                  MR. CANTRELL: Good morning. My name is Ray  
20                  Cantrell. You've heard from the Office of Investigations,  
21                  our General Counsel Group, Office of Economics, and I'm in  
22                  the Office of Industries and we're kind of a jack of all  
23                  trades outfit here. A lot of us are technically oriented  
24                  and I appreciated your describing your backgrounds in  
25                  chemistry.

1                    Mine is also in chemistry. I joined you as a  
2                    fellow chemist, and I graduated out of the University of  
3                    Tennessee with a Bachelor of Science in Chemistry. My dream  
4                    and goal is to become a research organic chemist, and my  
5                    first job out of -- right out of school was down at Augusta,  
6                    Georgia, employed to produce fertilizers and organic  
7                    chemicals. So anyway, I won't do a complete resume. But --

8                    (Off mic comments.)

9                    MR. CANTRELL: That was another reason for my  
10                    decision to join the group down there at Columbia Nitrogen  
11                    Corporation was the corporation, and they provided us  
12                    Masters tickets, and being somewhat of a golf fan and player  
13                    at that time --

14                    LL Do you happen to know if they have any job  
15                    openings?

16                    MR. CANTRELL: At Columbia Nitrogen? But we were  
17                    fairly near the Augusta National Golf Club. I don't know.  
18                    I lost my ticket line on that a number of years ago, and so  
19                    now I can't buy a ticket, too expensive.

20                    So anyway, I'm rather methodical and I have kind  
21                    of done some bullet deals here of items that I'd like to go  
22                    over. Many of them I found out my colleagues have asked,  
23                    and I read your -- the trip report from our staff's 2009  
24                    visit to the Smyrna plant, and you all really did a great  
25                    job. We really appreciate it. I know our staff appreciated

1 your hospitality down there, in going over, describing the  
2 ATD process and so forth.

3 So I was, you know, and I really liked your  
4 production process flow diagram and questions asked have  
5 there been any changes in the process, and I was wondering  
6 if you had any updated process flow diagrams that you could  
7 provide. If so, that would be helpful for our report.

8 MR. ALLEN: We certainly can provide a process  
9 flow diagram updated. I would have to look at the original  
10 2009, but the process hasn't changed significantly with the  
11 exception of some -- the improvements we encountered and the  
12 capacity increase. But I'd be happy to provide that.

13 MR. CANTRELL: Okay, thank you. Anyway, what I  
14 do in the report here for the Commission is we have the  
15 product section it's called, and we do -- I do a -- from  
16 the information you all have provided great information in  
17 the petition already, description of uses. So I write that  
18 up, a description of uses on the product and then also do  
19 manufacturing process, you know, detailing -- well, it looks  
20 like the two different processes, the PCL-3 and the  
21 phosphorus acid routes.

22 So I think this has already been answered, but I  
23 have one of my questions is if -- oh, this was something  
24 that I was a little bit confused about when I went over the  
25 producers' questionnaire. On the numbers for production and

1 capacity, are those based on aqueous solution or -- you  
2 know, I didn't know if they were based on aqueous solution  
3 or expressed on a dry weight basis.

4 MR. ALLEN: Yes, Mark Allen. They're all -- all  
5 those numbers are on an aqueous finished product basis.

6 MR. CANTRELL: I thought so. I wanted to make  
7 certain on that. Then if -- some of these questions I'm  
8 going to ask probably have to be post-conference question  
9 responses. But I was wondering about the sources of your  
10 raw materials there at Smyrna. If you could, you know,  
11 provide like -- well, you have described where the  
12 phosphorus acid comes from.

13 I don't know about the acetic and hydride, but I  
14 mean could you, to kind of shorten this discussion, might  
15 perhaps detailed that later or --

16 MR. McCAUL: We can give you the details on our  
17 suppliers of the raw materials. A general comment would be  
18 on phosphorus acid, we have several sources for that raw  
19 material that we use. We don't just get it from one  
20 supplier.

21 MR. CANTRELL: Okay, thank you. Since the  
22 staff's trip down to Smyrna in 2009, have there been any new  
23 phosphonates developed or products?

24 MR. McCAUL: Yes, yes. We manufacture some  
25 products that we didn't manufacture then, and are they new

1 phosphonates? I don't know if they're brand new, but  
2 they're new to us and we've commercialized some products  
3 that we didn't previously produce. The chemical may have  
4 existed but -- and maybe it was being made in small  
5 quantities somewhere. But we've -- there are a few products  
6 that we now make that we didn't make then.

7 MR. CANTRELL: Thank you. I was -- I enjoyed  
8 going through the Compass Chemical website listing all of  
9 the various products that are produced by Compass, and  
10 noticed kind of keyed in on the Mayoquest 1500, which seemed  
11 to be very close to the product we're talking about, the 60  
12 percent ATDP?

13 MR. McCAUL: It is the product. That is the  
14 product yeah, Mayoquest 1500.

15 MR. CANTRELL: Something that caught my  
16 attention, there's a couple of things that caught my  
17 attention in there. One it's talking about sequestration  
18 capacity for calcium carbonate, and another it lists an  
19 alkaline range, you know, like pH 10 or something like that.  
20 I was just wondering, amongst the systems that may go on to  
21 any of the alkaline, like for the water treatment.

22 For example, if you took a pH of the water, or  
23 so forth, heat exchangers and so forth, what would you see?

24 DR. HAWK: I think most of the formulations are  
25 developed within the pH range of the alkaline neutral pH

1 range. The pH range typically, yeah, around neutral range.  
2 So that's a 4 to 9, most of the formulations. HEDP gets, in  
3 order to figure out what is the maximum penetrate you can  
4 get as an anti-scalant, this is how we do.

5 At that pH we take the pH high. That way, you  
6 get the maximum handle, sequestration handle. That does not  
7 mean that that product will not work at the lower pH. It  
8 will work. But for us to say that okay, when we compare  
9 HEDP with other phosphonates, which one is better as an  
10 anti-scalant?

11 That is the standard we go, and not just us.  
12 I'm sure everybody else does the same thing. So that's the  
13 analytical method to find the maximum sequestration.

14 MR. CANTRELL: Thank you Dr. Hawk. I was a  
15 little bit too close to the mic, I think. Is that better?  
16 Can you all still hear me? Another thing I noticed is that  
17 the product had, was said to have two to three percent free  
18 phosphorus acid. Is that a result of the residual from the  
19 reaction, or is it an additional addition?

20 DR. HAWK: That's the residual unreacted, yeah,  
21 and if somebody wants, we can drive the reaction all the  
22 way, but then --.

23 MR. CANTRELL: On the production process, are  
24 there various processes? I mean can there be a continuous  
25 process as well as a batch process for manufacturing HEDP,

1 or is it pretty well standard?

2 MR. ALLEN: Well I suppose you could, but I  
3 think the volumes would -- these are dramatically large  
4 volumes for a continuous production process, you know. So  
5 when we put it at gallons a minute, it's a pretty small  
6 number, right.

7 MR. CANTRELL: Right. Regarding the sodium salt  
8 of the Mayoquest, I noticed it has sequestration properties.  
9 They seem to be lower than for calcium than for the standard  
10 acetic, 100 percent acetic. But what -- I assume it has  
11 different uses than the standard acid form, or does it? Are  
12 they overlapping?

13 DR. HAWK: Yeah, the sodium salt, the one we  
14 make, that is 30 percent salt and ten percent water. With  
15 anything more than that, I think the maximum we can go up to  
16 40 percent. I believe we used to make it back in the old  
17 days. But then it will fall out under extreme cold  
18 condition. So I think 15-30 is the optimum sodium salt in  
19 liquid.

20 In sequestration, it doesn't matter. You take  
21 15-30 or 1500 or sodium salt or the acid. It's the way we  
22 measure the analytical determination, it applies. If the  
23 product -- if we write down something, let's say at 100  
24 milligram calcium carbonate per gram, that means that  
25 product, if it's 30 percent active and it's 100 milligrams,

1 then the acid, which is measured 1500, that number will be  
2 doubled because that's 60 percent active.

3 Basically, it doesn't matter. You have it in  
4 salt form and acid form, the sequestration number should not  
5 change.

6 MR. CANTRELL: So, but would you be selling that  
7 to a different customer for different use and for the  
8 straight acid product?

9 MR. McCAUL: Yes. The people who buy the sodium  
10 salt, in our case are mainly people who are manufacturing  
11 soaps, soap manufacturers.

12 MR. CANTRELL: Uh-huh. Oh okay. Getting back  
13 to this production flow process diagram, if you could give  
14 me, you know, some detail off, it would be of course  
15 confidential. But as you know, it looked like, I mean just  
16 in general it looked like you would have an anhydrous  
17 situation and then maybe go to the more aqueous situation.  
18 If you could provide some detail on that and along with  
19 temperatures and pressures and so forth, I would appreciate  
20 it. That's kind of for my own edification.

21 MR. McCAUL: One thing I noticed in looking at  
22 perhaps the substitutability issue seemed to be that there  
23 may be other phosphonates that maybe more suitable for use  
24 in the oil field, oil production, oil/gas and processes in  
25 the petroleum industry. I think, I believe you all -- I

1 noticed that you're talking about the amino compound and so  
2 forth.

3                   Would that -- would two or three of the other  
4 phosphonates that you produce you think be more suitable for  
5 the oil fields type application?

6                   DR. HAWK: With the oil field application, the  
7 other phosphonates are more commonly used than HEDP. In  
8 other words, if I have to pick only one product, one  
9 phosphonate for the oil field, I wouldn't pick HEDP.

10                  MR. CANTRELL: Because?

11                  DR. HAWK: Because the performance, you have to  
12 look at for the application. The other products, it's more  
13 stable in high brine, because in the oil field you have to  
14 deal with the brine, high chloride and then extreme  
15 temperature, pH pressure and all that kind of thing. So you  
16 need more stable product under that condition. There are  
17 other phosphonates which work better on that environment,  
18 better than HEDP.

19                  MR. CANTRELL: Because you don't -- you're not  
20 dealing with chlorine?

21                  DR. HAWK: Right, yeah.

22                  MR. CANTRELL: Or chloride.

23                  DR. HAWK: Yeah. In the high brine, HEDP is not  
24 good.

25                  MR. CANTRELL: Oh okay. Thank you. That clears

1 that up. One thing I'm interested in too is the Huntsville  
2 plant. I believe you all said that you shipped product over  
3 there and they -- do they formulate product over there or  
4 are they a distribution point for your finished products?

5 MR. McCAUL: It's more of a distribution point  
6 for our products. But the Huntsville facility also produces  
7 70 percent phosphorus acid from crystal that we purchase.  
8 So we can do some blending there as well. We've done a  
9 little bit of blending of formulations at Huntsville.

10 But Huntsville is more of a blending facility  
11 than a manufacturing plant. The synthesis is all at our  
12 plant in Georgia, and we manufacture products and ship them  
13 down to Huntsville and store some products there and  
14 distribute them from the Huntsville facility.

15 MR. CANTRELL: So they wouldn't have reactors  
16 over at Huntsville?

17 MR. McCAUL: No. They have -- they have vessels  
18 where they can do blending, but you know, vessels with  
19 agitators, etcetera. But they're not really reactors in the  
20 same sense that we have in our plant in Georgia.

21 MR. CANTRELL: Speaking of the containers that,  
22 you know, like I've seen rail cars, drums, so forth. What  
23 kind -- it would seem, I mean I know you've got glass-lined  
24 reactors and everything in the reactor vessel.

25 But anyway, it seems that this pretty corrosive

1 material. So what type of -- do you have to have special  
2 alloys, polymer bags, polymer drums that it goes in,  
3 stainless steel? What type of materials of construction for  
4 this?

5 MR. ALLEN: For packaging?

6 MR. CANTRELL: Yeah.

7 MR. ALLEN: Typically, the HEDP can be shipped  
8 in 3/16ths stainless tank wagons, tank trucks. But the  
9 package material we typically load into polyethylene drums  
10 and/or the IBCs, the totes or polyethylene bottles lying in  
11 a metal cage. So it would be plastic, you know.

12 MR. CANTRELL: So you go in that truck and rail  
13 car also?

14 MR. McCAUL: No, we typically don't ship HEDP in  
15 rail cars. It's a little bit large for us. Typically there  
16 largest quantity would be 45,000 pound tanker trucks, yeah.

17 MR. CANTRELL: Oh okay.

18 MR. McCAUL: Over the road trucks.

19 MR. CANTRELL: I guess one kind of research  
20 question I have, do you think there will ever come a day  
21 when phosphorus can be taken from say like a wet process  
22 phosphoric acid route, perhaps to potassium phosphide and  
23 used to produce phosphorus acid instead of going through  
24 elemental phosphorus, or do you think it will always -- in  
25 our day anyway, be produced from the elemental phosphorus

1 route?

2 DR. HAWK: In other words making the salt first,  
3 potassium phosphide and then we want to go to phosphorus  
4 acid? Probably, but very, very expensive. With potassium  
5 phosphide, in order to get the pre-acid, you have to add  
6 lots of inorganic acid like hydrochloric acid or sulfuric  
7 acid to feed that potassium.

8 So in other words you get the -- either  
9 potassium sulfate or potassium chloride and get that out in  
10 order to free your phosphorus acid. I would -- I think for  
11 R&D work, probably, okay I can.

12 MR. CANTRELL: Thank you. I guess my final  
13 question is I was just curious about the current situation  
14 and supply/demand outlook for elementary phosphorus. Do you  
15 think, I mean is there going to be -- are there going to be  
16 shortages?

17 I know we don't have any elemental phosphorus  
18 left in the United States except Monsanto, as you all have  
19 pointed out, and they use that for their herbicide. But is  
20 there -- is the business cyclical, the elemental phosphorus  
21 business?

22 MR. McCAUL: The phosphonate business is  
23 somewhat cyclical, in that in warmer weather, when more  
24 water is being -- clean water is being used, there are more  
25 phosphonates used. But phosphorus in general, the volumes

1 of phosphorus available around the world are considerable,  
2 and I don't foresee any shortages on the horizon.

3 Now a caveat. The government in China sometimes  
4 will make decisions about electricity supply and in the  
5 past, there have been times when people couldn't get enough  
6 electricity to make phosphorus and run the furnaces that are  
7 used to produce the phosphorus, and shortages were created  
8 by a lack of -- a lack of electricity.

9 But China over the years seems to have solved  
10 that problem, and they've got more plentiful electricity now  
11 than they used to have, and we haven't seen that occur in  
12 recent years. Overall, I don't know when the world is going  
13 to run out phosphorus. I don't know.

14 MR. CANTRELL: Okay, thank you very much.  
15 That's all the questions I have and thank you again for  
16 coming out. Your testimony has been very helpful to us.

17 MR. HENDERSON: Mr. Duncan.

18 MR. DUNCAN: Yes. Thank you for coming to D.C.  
19 Excuse me, I've been coughing a bit. I suffer from the  
20 annual pollen outbreak in D.C., so I have nothing  
21 contagious, and you don't need to worry about that. Now if  
22 you could find a way to sequester pollen from the air, that  
23 may be a helpful product that your company could come up  
24 with.

25 I want to begin with a simple question, because

1 I don't think it's been discussed previously, either in  
2 direct testimony or in response to staff questions. But how  
3 would you characterize demand for HEDP currently in our  
4 Period of Investigation?

5 MR. McCAUL: HEDP over the Period of  
6 Investigation, I would characterize it that in 2014, there  
7 was an increase in demand that was driven to an extent by  
8 the higher level of activity in the oil field business, and  
9 that declined somewhat in 2015. But the oil field  
10 requirements for HEDP are a small percentage of the entire  
11 business.

12 But I do think it had some impact in 2014, which  
13 then went away in 2015 as oil field activity declined. I  
14 think a general statement would be that HEDP demand is  
15 slowly increasing, and I think it increased -- it's  
16 increasing in general just as the GDP increases.

17 MR. DUNCAN: How would that then square with  
18 data that we would have available for us to look at in terms  
19 of your company's sales, which you've indicated have  
20 declined slightly over the period, but we have an indication  
21 either through the PEERS data or through questionnaire  
22 submissions of increasing imports? A pretty high level  
23 increase in apparent consumption over the period?

24 MR. LEVIN: To steer clear of BPI, we'd be happy  
25 to address that in the post-conference brief.

1                   MR. DUNCAN: All right, and also in particular,  
2 I'm trying to get at who are driving some of the increase,  
3 and your testimony you just gave about oil field end uses  
4 perhaps driving a little bit of activity in 2014 is helpful.  
5 But the bread and butter so to speak of this product seems  
6 to be those water treatment applications.

7                   Over this period, have there been an increase in  
8 the users of this for that end use, or have they just been  
9 more heavily been using it in their treatment facilities?

10                  MR. LEVIN: And if we may, allow us please to  
11 take a look at this and address in the post-conference  
12 brief.

13                  MR. DUNCAN: Okay. So we're going to try weed  
14 that out, because we have information on the record that  
15 shows that there's an increase in demand measured by  
16 apparent consumption at least. I'm trying to see what the  
17 market dynamics there are. It would be helpful.

18                  MR. LEVIN: Understood.

19                  MR. DUNCAN: A question for counsel. We saw  
20 this case in a previous iteration. That was extensively  
21 discussed based on earlier questions. Has any thought been  
22 put into requesting authority for F proceeding, to have a  
23 statistical breakout for the product in question?

24                  MR. LEVIN: We've never had that discussion.  
25 It's probably not a bad idea to look at that, but it's just

1 not an issue that we've looked at up to this point.

2 MR. DUNCAN: It may be something you wish to  
3 consider. Obviously, we're looking at this again and trying  
4 wrap our heads around volumes.

5 MR. LEVIN: Absolutely. Yeah, there would be  
6 some obstacles to doing that. It's a rather large basket  
7 category. As you probably know, there's been some changes  
8 in the classification I believe over the last two or three  
9 years, at least in terms of the six or eight digit level.  
10 But yes, it is something that we should look at.

11 MR. DUNCAN: It might have useful other  
12 benefits, not just --

13 MR. LEVIN: Oh understood.

14 MR. DUNCAN: Prior to the -- now particularly in  
15 your company, it was a privately held company before sold to  
16 the private equity fund?

17 MR. McCAUL: Yes.

18 MR. DUNCAN: Okay, and it was sold --

19 MR. McCAUL: Yes, it was.

20 MR. DUNCAN: --to One Rock Capital. What were  
21 some of the driving factors in the sale to the private  
22 equity?

23 MR. LEVIN: I don't want to put --

24 MR. McCAUL: Can I answer that privately yeah,  
25 if you don't mind. It's not -- there's nothing mysterious,

1 but I would just prefer to answer it offline.

2 MR. DUNCAN: All right, appreciate it. And in  
3 relation to this particular product, is there -- this  
4 proceeding will have a driving factor in any decisions that  
5 will be made in relation to the exit strategy that the  
6 private equity firm has in terms of what they wish to  
7 accomplish with the acquisition? Again, post-conference  
8 brief if this is touching on sensitive information.

9 MR. LEVIN: Yeah, this is touching on sensitive  
10 stuff. But I will make a general statement, because I have  
11 asked the question directly to Danny and to Mark and Safi.

12 MR. DUNCAN: Okay.

13 MR. LEVIN: The investment company that has  
14 purchased Compass is supportive of what Compass is doing,  
15 but they didn't drive the decision.

16 MR. DUNCAN: That's helpful to know, and whether  
17 or not -- now any decisions are being held back until  
18 clarity on this proceeding. So if you provide that in  
19 post-conference brief. I have two last buckets of  
20 questions, essentially just two questions.

21 One was one of the uses of this product was for  
22 sort of the treating lead levels. Red water was discussed  
23 as one of the things that this product could be used. As  
24 you know, lead levels in sort of publicly available water  
25 sources have been the subject of a lot of discussion

1 recently.

2 That's not what this is used for, right, the  
3 health benefits of certain -- correcting for certain lead  
4 levels is not what your product could address?

5 DR. HAWK: No. That red color comes from the  
6 iron.

7 MR. DUNCAN: From the iron.

8 DR. HAWK: Iron, yeah. The iron precipitate.  
9 So this HEDP takes care of the iron or makes it inactive, so  
10 that it doesn't get the red color.

11 MR. DUNCAN: But it doesn't have an impact with  
12 lead levels?

13 MR. ALLEN: Even if the lead were related or  
14 complex, it would still be present in the water, is that  
15 accurate? So you would not be removing the lead.

16 MR. DUNCAN: All right.

17 MR. LEVIN: I did ask them, can we pin the Flint  
18 situation on kind of -- no, we can't.

19 MR. DUNCAN: All right. Thank you, and the  
20 final question just touched on -- you're selling to a lot of  
21 companies that treat water and municipal authorities often  
22 are involved. To what extent is sales of this product  
23 protected by Buy American provisions, if at all?

24 MR. McCAUL: None to my knowledge.

25 MR. LEVIN: And I can only agree with that. I

1 know of no Buy American restrictions, formal Buy American  
2 restrictions as opposed to I want to buy from a domestic  
3 manufacturer. But no formal Buy American restrictions, at  
4 least that we're aware of.

5 MR. DUNCAN: All right, thank you. That's the  
6 extent of my questions.

7 MR. ANDERSON: Okay. Thank you Mr. Duncan. I'm  
8 going to look to the members of the panel to see if they  
9 have any follow-up questions.

10 (No response.)

11 MR. ANDERSON: Okay. Not seeing any, I would  
12 just in anticipation of the next panel, look forward to  
13 seeing your post-conference comments on the arguments that  
14 will be made, since we will be hearing from them the first  
15 time today.

16 MR. LEVIN: Absolutely. We look forward to  
17 addressing them.

18 MR. ANDERSON: Okay. Thank you all very much.  
19 This panel, thank you for very much for your testimony and  
20 for answering our questions. They're very helpful, thank  
21 you.

22 MR. LEVIN: Thank you.

23 MR. ANDERSON: So the Secretary has asked me a  
24 question about a break, and I think we'll take a five minute  
25 break to allow a transition, if that will be okay. We'll

1 just go into the next panel. Thank you.

2 (Whereupon, a short recess was taken at 12:23

3 p.m.)

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1 McCaul referred this morning.

2           The people at Taihe also think that the folks at  
3 Compass are very nice. So we can have a big group hug and  
4 all be nice.

5           I appreciate the opportunity to appear. I also  
6 wanted to start by apologizing for not being here for the  
7 opening summary. I was planning an elaborate interpretive  
8 dance, but that's not allowed by the rules, so... I didn't  
9 have much to say as an overall statement because, as you  
10 will see, I have a very limited list of issues to cover.

11           So I want to at least point out a few issues that  
12 we ask the Commission to take into account, things that you  
13 usually do look at, but some issues that I think bear  
14 special recognition in this particular case.

15           Taihe is, as was indicated this morning, was not  
16 really a factor in the previous case. They were not  
17 producing and selling HEDP . They have been in existence  
18 producing phosphonate products since 1998, and only in the  
19 last couple of years have started shipping to the United  
20 States--shipping HEDP to the United States.

21           There are three main areas that I wanted to focus  
22 on here. First of all, this question of import volume,  
23 which is always tricky in a case like this where you don't  
24 have differentiated import data, and you may have limited  
25 responses to questionnaires at this early point, and you'll

1 have a lot more later on I'm sure, it looked as if in the  
2 previous investigation you had full questionnaire response  
3 that you used, a data that you used for volume of imports,  
4 and here it's not clear to me yet. I just got involved.  
5 It's not clear yet just how much you have in the way of  
6 import responses.

7 But as an initial comment, I think I have to  
8 point out that the data, the import data, I think it's  
9 pretty obvious, the official import data is vastly  
10 overstated because it's a basket category. And we estimate  
11 HEDP is probably less than 5 percent of that. So it's  
12 not really showing very much that's useful.

13 We also took a look at the PIERS data that's  
14 there. I know that there was discussion of it this morning.  
15 We oftentimes use an alternative data source for that. I  
16 don't know how often you use it here when you need a  
17 fallback, but we use Data Mine, another commercial source  
18 that gets the same data from ships' manifests information,  
19 and has much of the same information that's available. It's  
20 an alternative database.

21 When we look at that data, we find a different  
22 picture. And we certainly will provide all of it to you,  
23 the entire base that we looked at, and all of the search  
24 terms which are very important when using any of these  
25 databases. There are so many ways a product can be

1 described on manifest information that you have to make sure  
2 you're using trade names as well as alternative, alternative  
3 chemical names in order to come up with the best information  
4 that you think you can derive from that source.

5 We found that absolute volumes appear to us to be  
6 smaller than what the Petitioners are representing are the  
7 import volumes of HEDP from all sources in fact. And that  
8 also results in the trends being somewhat different, if you  
9 can call them "trends," the movements up and down.

10 We do see that there was an increase in imports  
11 along with the market increase in 2014. We see some evening  
12 off or decline in 2015. And we also would point out that, I  
13 know some questions were raised. There was some discussion  
14 this morning about India, and India was covered by the last  
15 case by the last order.

16 And when you look at these alternative sources,  
17 you find that India's volume is more significant than as  
18 it's been presented so far. So we would certainly ask that  
19 this be looked at. It was the subject of examination in the  
20 past, as was UK. UK's volume is not as high as either India  
21 or China, but it is a significant contributor to the market  
22 here in the U.S.

23 We did hear this morning that Compass feels that  
24 the Indian product is not really the target this time  
25 because they feel it is fairly traded, and that is about the

1 extent of it, I think, from what I heard, which may well be  
2 the case but its volume is significant enough, and the  
3 history of India's presence in the market. One of the large  
4 producers is Aqua Farm, and the history of their presence in  
5 the market suggests that the possibility of impact from an  
6 alternative source I think really needs to be taken into  
7 account.

8           It is obvious that the Commissioners really  
9 worked on this point in the final results the last time  
10 around.

11           So in summary, we will be happy to provide all of  
12 our Data Mine information. We might even have another  
13 alternative source. I am not urging you necessarily to use  
14 it. The best approach of all is to get something you feel  
15 is comprehensive enough as import questionnaire information,  
16 and I don't know if that is possible in the time that you  
17 have, but barring that if you have to use an alternative  
18 source I would look at the others closely and take a close  
19 look not only in our search terms and database, but the  
20 PIERS search terms as well to make sure that you have the  
21 best possible coverage on that.

22           A second point that is very important to the  
23 overall evaluation, and it's possibly important to the  
24 factors or the conditions of competition, but it may well be  
25 something that is significant to the causal nexus between

1 imports and domestic performance. And that is, the  
2 production process that is used.

3 We heard this morning from expert witnesses about  
4 the different types of production processes that are used.  
5 There was significant discussion about the difference  
6 between what Compass believes is the primary type of  
7 production process in China versus the process that they  
8 use, and the raw materials.

9 And it seems, from what we are starting to  
10 understand, that the process they are using in itself  
11 creates some impediments to their own success and their own  
12 growth when compared to how virtually everyone else in the  
13 world is manufacturing this product.

14 Now I apologize in advance. I am not a chemist.  
15 We will try to respond as best we can to technical  
16 questions. But the product that is manufactured by Taihe  
17 produces a valuable co-product to HEDP which hasn't really  
18 been talked about here, and was not talked about this  
19 morning.

20 It is called acetyl chloride, which is a product  
21 that is made on the same production line with the same raw  
22 materials, adjusted somewhat to be able to produce this  
23 acetyl chloride, which is used in the manufacture of  
24 intermediates for active pharmaceutical ingredients.

25 So the pharmaceutical industry uses this, and it

1 is not a byproduct of the production process, but it is  
2 produced because Taihe starts with acidic acid, as was  
3 stated this morning. They also use PC30, PCL-3, excuse me,  
4 and their process through continuous production, instead of  
5 batch processing, allows them to segregate and produce this  
6 acetyl chloride, which is valuable in its own right as a  
7 co-product.

8 The production process that is used by Compass,  
9 as described by them, is that they use, starting off with a  
10 more expensive initial input with acidic anhydride, which  
11 incidentally is--it's difficult to use that in China because  
12 it is highly regulated as a narcotics precursor.

13 So various countries around the world make it  
14 difficult to use that product. It is regulated in the U.S.  
15 It is a List 2 Drug Precursor. So acidic anhydride has some  
16 expenses associated with it that using acidic acid process  
17 does not.

18 And their process results in a--and they use  
19 phosphoric acid--excuse me here, phosphorus acid, and their  
20 process does result in a byproduct of concentrated acidic  
21 acid. We also heard this morning that the value of that  
22 product, its sales value, is declining, which makes it  
23 nowhere near as valuable as a co-product that this  
24 alternative production process produces.

25 Now this is something that Taihe has done very

1 well in developing. It's not something everyone around the  
2 world does. They don't--not everyone produces this  
3 co-product. But it is the use of the alternative process  
4 that has been described here by at least Taihe, perhaps  
5 others in China, to be able to produce a co-product.

6 It is not--I'm not saying that the, that a  
7 company like Taihe should get a pass in an evaluation at the  
8 ITC because they're more efficient. That doesn't usually  
9 work here in an injury investigation.

10 What I am saying is that the decisions that are  
11 made by the producer, by the domestic industry, in how they  
12 choose to make their product are fair game for valuation by  
13 the Commission. The legislative history shows that the  
14 Commission is expected to examine all potential impacts,  
15 including productivity, which would be directly related to  
16 how a company makes its product.

17 So we ask that that be taken a look at because we  
18 think it's a very important consideration that has not  
19 really been put on the table in this case.

20 Then the other point that I wanted to mention is,  
21 this really ties into the expansion of capacity that was  
22 talked about as being so threatening. And the entire issue  
23 of threat, we look at domestic consumption. We look at  
24 sales to third countries. When you take a look at Taihe's  
25 production and sales record over the last three years, what

1 you are going to find it growth. You're going to find some  
2 increase in capacity. You're going to find tremendous  
3 growth in domestic markets and third-country sales and  
4 exports. Far, far greater than any sales to the United  
5 States.

6           There is very little, if any, unused capacity  
7 even with all this increase in capacity that's taken place.  
8 There is very little to be sending off to the United States.  
9 And the growth in the home market and third countries is  
10 certainly much greater than we've heard anything about.

11           So our questionnaire answers do make that kind of  
12 clear. We haven't seen other answers yet from others in the  
13 industry, but I would also point to one important thing.  
14 And incidentally, we have a different figure in terms of the  
15 size of the global market.

16           Mr. McCaul had an estimate that he felt was  
17 decisive. The total global market, Taihe believes, is much  
18 bigger than that. And we will provide that information to  
19 you and what our sources are for it.

20           But one of the things that has not been mentioned  
21 is that in the last three years, or two years I guess, the  
22 amount of capacity in China has actually contracted. Some  
23 of the capacity that's been added by Taihe and some others  
24 is making up for the loss of some capacity which has been  
25 caused by increased environmental restrictions placed on the

1 production of this product in some of these plants where  
2 it's produced by the central government.

3           So there is an impact on total capacity. I can't  
4 estimate a one-for-one offset here, or come up with numbers  
5 just yet because we're just kind of getting this information  
6 now about the fact that there is some substitution going on.  
7 But I wanted to raise the possibility that perhaps the  
8 expansion of capacity is not the never-ending growth of th  
9 Chinese Leviathan that every industry comes in and complains  
10 about.

11           There are dynamics taking place in the Chinese  
12 market which actually justify expanding capacity by some  
13 larger, better controlled producers in replacing the loss of  
14 capacity by some of the smaller producers that can't meet  
15 environmental restrictions.

16           So as much as we can provide on that, we will  
17 gather up and make sure the Commission has that. That is a  
18 new condition. I guess you'd call it a new condition of  
19 competition, perhaps, or a new factor that has come into  
20 place. But as we heard repeatedly, there's this great fear  
21 of the threat of never-ending capacity expansion in China.

22           And that wouldn't be the case, or they wouldn't  
23 be adding the capacity. Taihe feels that there is a demand  
24 to be met, and that in some cases it's not even simply a  
25 matter of world growth of demand. It's also a matter of

1 loss of some capacity for other legal reasons.

2 So that's something to be taken into account.

3 So I am certainly happy to answer questions. And  
4 I had a few thoughts that I would offer in rebuttal at the  
5 end of the presentation, but Ms. Cheng and I are available  
6 for questions and whatever we're not able to provide here  
7 we will be happy to do in post-hearing brief. Thank you.

8 STATEMENT OF BRENT BANKOSKY

9 MR. BANKOSKY: Good afternoon. My name is Brent  
10 Bankosky, and I am the company business manager for Enviro  
11 Tech Chemical Services, Inc. We are a privately owned small  
12 business headquartered in Modesto, California.

13 On behalf of Enviro Tech, we are an interested  
14 party in opposition to the proposal to place duties on  
15 imports of HEDP from China. I would like to make a few  
16 brief points about why Enviro Tech is opposed to such duties  
17 on imports of HEDP from China.

18 Just real quick, some background on Enviro Tech.  
19 Enviro Tech was founded in 1991. We are a specialized  
20 chemical manufacturer, with manufacturing operations in  
21 Modesto, California, as well as in Helena, Arkansas, which  
22 is south of Memphis on the Mississippi River.

23 Enviro Tech makes and sells primarily  
24 EPA-registered and FDA-registered products. We have  
25 currently 22 EPA-registrations and 11 FDA Food Contact

1 Notifications.

2 One of the key raw materials in many of our  
3 formulations is HEDP. By the Petitioners' estimates of  
4 volume in the United States, Enviro Tech represents  
5 somewhere between 1 and 1-1/2 percent. So we are a  
6 relatively small importer, or manufacturer, user of HEDP, I  
7 should say.

8 So Enviro Tech currently purchases HEDP from  
9 China, but Enviro Tech does not resell any HEDP that is  
10 purchased from China. One hundred percent of the HEDP  
11 material that is purchased from China is used in the  
12 manufacturing of Enviro Tech's EPA/FDA-registered, or other  
13 nonregistered products.

14 Enviro Tech previously purchased HEDP material  
15 from Compass as late as, July 2014 was our last purchase.  
16 We are, we are a supplier, or actually we are a vender, and  
17 we purchase other materials from Compass Chemical as well.  
18 So we actually have a pretty good relationship, which kind  
19 of makes this a little bit difficult.

20 But Enviro Tech purchases HEDP from China that  
21 only that material that meets our analytical laboratory  
22 specifications. And these are high purity HEDP. And to the  
23 best of your knowledge, no company that manufactures HEDP in  
24 the U.S. meets our specifications at this time.

25 To be perfectly clear, Enviro Tech tests our HEDP

1 before it ships from China, and tests samples in the U.S.  
2 before we ever even ship product from China to the United  
3 States.

4 So this--and I'll speak more specifically to the  
5 high purity HEDP is necessary for making our products, and  
6 otherwise our products will not remain stable. So primarily  
7 our peracetic acid line of products uses high purity HEDP.

8 In our opinion, not all imports of HEDP from  
9 China are fully interchangeable with domestic manufactured  
10 HEDP. So we would agree that it's true that high purity  
11 HEDP is interchangeable, but tech grade HEDP is not fully  
12 interchangeable with respect to the manufacturing of our  
13 peracetic acid products.

14 So with that I would say that Enviro Tech  
15 requests that this committee decline the request to place--  
16 to recommend antidumping duties on Chinese imports of HEDP,  
17 or provide some sort of a mechanism for high-purity HEDP  
18 that is purchased from China.

19 And I will be happy to take any questions you  
20 might have.

21 MR. ANDERSON: Okay, thank you, Mr. Bankosky.  
22 With that, thank you for your direct testimony and now we  
23 would like to turn to questions.

24 We will start with our Investigator, Mr.  
25 Petronzio.

1                   MR. PETRONZIO: Good afternoon, everyone. Thank  
2 you for appearing and providing testimony.

3                   Mr. McGrath, my first question is for you. And  
4 if you would walk me through this one more time, if I am  
5 understanding this correctly the difference in production  
6 process that you're saying, basically differentiates Compass  
7 from the Chinese producers, is this co-product, that you  
8 seem to be kind of placing a lot of emphasis on, and that  
9 the co-product that is produced via the production process  
10 used in China is more profitable than the co-product that  
11 results from the process that Compass uses? Is that an  
12 accurate assessment?

13                   MR. McGRATH: I want to make sure I'm using the  
14 proper terminology here. The acetyl chloride which is made  
15 at least by Taihe, and maybe some others in China, I'm not  
16 speaking for them, but Taihe is one of the large ones,  
17 acetyl chloride is a co-product, as opposed to the acetic  
18 acid which is made by the Compass process, which is a  
19 byproduct.

20                   A byproduct is a necessary result of a certain  
21 production process. A co-product is a product that is  
22 intentionally made that's taken from the main production  
23 stream. It's usually--it's not really an issue so much here  
24 before the Commission. It often is discussed in doing cost  
25 evaluations at the Commerce Department, since the co-product

1 and the byproduct, the difference between them is a cost  
2 accounting difference, which is significant in calculating a  
3 dumping margin.

4 But it is also significant physically in that  
5 co-product doesn't have to be made. Byproduct is a  
6 necessary result. So oftentimes one particular production  
7 line might end up with two or three different products.  
8 Oftentimes a lot of those products are a necessary result.

9 But to show you a very simple example, if you're  
10 growing a piece of fruit that can be used to make juice, if  
11 you just grow the fruit for consumption as a piece of fruit  
12 the juice is not a byproduct. The juice could in that type  
13 of an instance end up being a product itself that's being  
14 attempted to be made, or it could be a byproduct, depending  
15 on what the production is for the fruit product.

16 In this case, the acetic acid that we're talking  
17 about that they produce as a byproduct that Mr. McCaul  
18 talked about this morning as being, I think he said it was a  
19 declining value byproduct, normally a byproduct would be  
20 looked at as something that you would sell in order to  
21 reduce your overall cost of production. You get some  
22 revenue from that, and that would reduce your cost of  
23 production.

24 In a co-product situation, an accountant would  
25 divide the cost of production between the two products that

1 are made. So as a result, you have a lower cost of  
2 production for both products. You're starting with the same  
3 ingredients, but you're coming up with two different  
4 products.

5 So, yes, what I'm saying is that by using the raw  
6 materials that Taihe uses and that we understand most of the  
7 Chinese use, they are capable of making this co-product,  
8 which is valuable, which is a valuable revenue stream, but  
9 as we understand it Compass cannot make that co-product  
10 using the raw materials that they use.

11 MR. PETRONZIO: Okay. Would you say that it's a  
12 more profitable product than HEDP? I mean, take us back to  
13 2008 when the decision was made to bring the plants online.  
14 Was there consideration that this co-product is highly  
15 profitable, if not more profitable than HEDP, and that we're  
16 going to factor this business decision in?

17 MR. McGRATH: Well it is going to depend on  
18 demand. The volume of demand is--well, it is valuable, but  
19 the volume of demand in terms of overall profitability, the  
20 volume of demand is much greater for HEDP than it would be  
21 for the acetyl chloride. Much smaller amounts would be used  
22 for production of pharmaceutical products.

23 So total profit and total profitability would not  
24 necessarily be greater. Perhaps the unit profit might be,  
25 depending on how you measure the profitability. The fact is

1 that it is being made because the company has built a plant  
2 to produce HEDP.

3 So they were able to make a co-product with that  
4 in that plant by producing something else, as well. And it  
5 is a co-product which could be--the point being, a different  
6 production process can produce that co-product. If a  
7 producer of HEDP wanted to use a different process, they  
8 could also be doing that product. I'm sure it would  
9 necessarily take some change in investment and in plant and  
10 materials, no question. But it is possible.

11 MR. PETRONZIO: Okay. I would just ask I guess in  
12 your brief to address how this pertains to our  
13 investigation, how the Commission should look at the scope  
14 of the investigation which is obviously HEDP. And so we  
15 want to see how that would fit into any argument that you're  
16 making via this co-product.

17 MR. McGRATH: I think I understand what you're  
18 asking. We're not making any arguments about like product,  
19 or definition of the industry, no legal arguments there. We  
20 are saying that HEDP, we accept the HEDP scope and the  
21 definition of the industry. We are not challenging the  
22 previous one.

23 We are pointing it out as being a difference in  
24 the way these things are produced that is a decision made by  
25 the producer that has a financial impact.

1           MR. PETRONZIO: Okay. Thank you. We talked a  
2 bit this morning about the sourcing of the raw materials  
3 that are used for HEDP in the prior investigation. There  
4 were supply disruptions in China due to various reasons,  
5 natural or otherwise, and we asked the panel there to  
6 describe any changes, if there were any supply disruptions  
7 during the current Period of Investigation.

8           Has anything happened in terms of the  
9 phosphenate--phosphorus supply in China during the Period of  
10 Investigation, either in terms of natural or in terms of  
11 government policies in terms of export tariffs on the  
12 products?

13           (Pause.)

14           MR. McGRATH: Ms. Cheng informs me that the cost  
15 of manufacturing phosphorus acid changes by season. We will  
16 have to--I think we will have to get some specific  
17 information to give you in the post-hearing brief about the  
18 cost elements that might affect phosphorus acid. But that's  
19 the only one of the ingredients that I think we would point  
20 to has having, having some impact.

21           Maybe Ms. Cheng can answer this.

22           MS. CHENG: Hello. Actually, our government has  
23 not controlled this chemical. It's all open to export. And  
24 the price can be changed because of the cost to manufacture  
25 it depends on the season. So normally rainy season is more

1 cheaper because the electricity is there. Well, it's a  
2 little bit higher if you use more electricity.

3 MR. PETRONZIO: Okay. That's helpful. You  
4 mentioned that the domestic Chinese market and third-country  
5 markets play very prominently in terms of shipments for your  
6 firm. Of the third-country markets in particular, are there  
7 any specific markets that you target?

8 MS. CHENG: For us, America is not a big market  
9 for us. We sell to all over the world. So Europe can be a  
10 very big market for us, as well as the China domestic  
11 market. And also we sell to Africa and Latin America,  
12 Middle East, and Southeast Asia. So there are other big  
13 markets.

14 MR. PETRONZIO: Okay. In terms of the Chinese  
15 domestic market, can you say anything about the demand since  
16 2013 through '15 as far as increasing or decreasing demand  
17 in the Chinese market?

18 MS. CHENG: Okay, the demand actually, because the  
19 environmental protection rule is tighter in China, so a lot  
20 of more companies are not capable, who is not fulfill the  
21 role, is being shut down. I cannot say whether the demand  
22 is increasing. However, there has a gap which is need  
23 somebody to fill, which is the less office supply. We can,  
24 we can see the very clear over several years. That's the  
25 reason why we enlarge our capacity as we see the trend for

1 that part. And we do increase our volume because of that.

2 MR. PETRONZIO: Okay.

3 MR. McGRATH: And I think you will also see from  
4 the producers questionnaire that deliveries to the domestic  
5 market in each of the last three years have significantly  
6 increased each year.

7 There's been increases that show up in exports to  
8 the U.S. in the export sales questionnaire answer. But as  
9 compared to the same information on deliveries to third  
10 country purchases, it's a tiny fraction, really, of what  
11 goes to other markets.

12 MS. CHENG: And one thing I want to point out, in  
13 the past several years, so several years ago in China  
14 probably have manufacture of this chemical, manufacturer or  
15 producer of this chemical. However, right now is a really  
16 last company can manufacture it. That is a lot of the  
17 production capacity has been getting together for several  
18 manufacturers only. In the world there's not too many  
19 manufacturers there. You have one in UK and one, Agrifarm  
20 in India as well.

21 MR. PETRONZIO: Okay. And there was mention this  
22 morning about Univos, the Nantung Univos that was either a  
23 combination of two plants that were producing HEDP  
24 separately and petitioners weren't quite sure what exactly--  
25 do we have any information about that firm and what exactly

1 happened as far as consolidation?

2 MR. McGRATH: I don't have specific information.  
3 It's easy enough to get. There was consolidation of some  
4 companies together, and I just don't have the exact facts on  
5 why that took place. But I do know there was some  
6 consolidation.

7 MR. PETRONZIO: Well any information that can be  
8 put on the record, especially from other respondents that  
9 aren't appearing here, with regard to that firm and the  
10 consolidation, that would be very helpful.

11 MR. McGRATH: We'll see what we can do with that.

12 MR. PETRONZIO: Mr. Bankosky, you have a question.  
13 In terms of, so if I understand what you're saying in terms  
14 of the tech grade versus the high purity HEDP, these are  
15 very different products in terms of their composition, in  
16 terms of their use? Or what exactly is the differentiation?

17 MR. BANKOSKY: No. The primary difference is the  
18 purity. And I don't want to get into too many details there  
19 because it's confidential, but it really comes down to the  
20 purity. And I'll just say, I guess--I don't want to go too  
21 far into details, but it really comes down to the purity.  
22 And the purity is important because peracetic acid at the  
23 concentrations that we make and sell. And we sell large  
24 volumes of peracetic acid to a variety of markets--oil and  
25 gas, industrial water treatment, agriculture--but the bulk

1 of our sales of peracetic acid are to the food and beverage  
2 markets.

3 And important in that is stability. And HEDP  
4 aids high quality, high purity HEDP actually yields a more  
5 stable product. And that is very important for our  
6 customers whether it be at a poultry processing plant, or at  
7 an oil and gas, you know, at a produced well where they're  
8 treating the flowback water, or produced water.

9 So really it comes down to stability and  
10 competitive advantage that we have by producing the most  
11 stable product. And keep in mind that we have to produce  
12 stability data to the EPA for our products that are EPA  
13 registered.

14 And so having a product that is stable makes that  
15 process a lot smoother. It gives us a competitive advantage  
16 in the market by having a very stable, long-lasting  
17 formulation, where we have seen that does matter in the  
18 market.

19 MR. PETRONZIO: And so this is a product that when  
20 you made the decision to source it, it was basically a  
21 decision based on just availability in terms of not being  
22 able to domestically source it? Or you did try to  
23 domestically source it and it just turned out that the  
24 Chinese source was more available? Or the cost was  
25 cost-effective?

1           MR. BANKOSKY: So there's more than just--just to  
2 be clear, there's more than one source. We don't single  
3 source anything from a raw materials standpoint. We have a  
4 source in China. We have a source elsewhere, outside the  
5 U.S. in Europe that both meet our specifications.

6           And so for us it is very important. It is such  
7 an important product to our portfolio that we have to have  
8 at least dual sourcing. And it really comes down to the  
9 purity of the product that we source. I may have said too  
10 much already, but at least that gives you a clear answer.

11           MR. PETRONZIO: Okay. From testimony we  
12 understand that it is common practice to co-mingle HEDP  
13 regardless of source. So you can co-mingle a domestic  
14 source with a Chinese source and still end up with the same  
15 properties of a product that you can use? Would you say  
16 that that is accurate, or a common practice in the industry?

17           MR. BANKOSKY: For tech grade, not for us. We  
18 will source--I mean, in terms of co-mingling HEDP from  
19 separate vendors, we don't condone that practice. Because  
20 if there's an issue, then it will be difficult for us to  
21 determine where did the root cause come from? What source?

22           If you put two different sources in a bulk tank  
23 used for blending purposes and there's a problem, well you  
24 just don't know then which source--where the problem came  
25 from.

1           MR. PETRONZIO: Okay. Thank you. That's very  
2 helpful. I think that's all the questions I have, Mr.  
3 McGrath. I will look forward to those submissions that you  
4 promised us in the post-conference brief, and thank you  
5 again.

6           MR. ANDERSON: Thank you, Mr. Petronzio. Now, Mr.  
7 Henderson.

8           MR. HENDERSON: Thank you. I just have a few  
9 questions. First, as was already said, or almost said, but  
10 I wanted to confirm, I understand, Mr. McGrath, you were  
11 saying that you agree with, or at least do not contest the  
12 Commission's like product definition from the original  
13 investigation, or the 2009 investigation?

14           MR. McGRATH: That's correct. We don't challenge  
15 that.

16           MR. HENDERSON: And the same with the domestic  
17 industry definition?

18           MR. McGRATH: Yes, with the definition of the  
19 domestic industry the same.

20           MR. HENDERSON: And we were discussing the role of  
21 what are in this investigation nonsubject imports from  
22 India, and you were saying the volumes are, from what your  
23 research has shown, appear to be at least more significant  
24 than what was discussed this morning? Is that what you were  
25 saying?

1                   MR. McGRATH: That's correct. They are not  
2 greater than China based on my data, but they are higher  
3 than-- certainly the percentage comparison between them is  
4 much closer than the other data sources.

5                   MR. HENDERSON: And I mean of course the  
6 Commission actually looks at, you know, closely at  
7 nonsubject imports. But I'm wondering, are you making any  
8 particular argument as to the role of nonsubject imports  
9 from India in this investigation? That they are a cause of  
10 injury, or that pricing or anything that we should be taking  
11 a special look at at this point?

12                  MR. McGRATH: Well, we don't really have  
13 sufficient value and price data to be able to determine that  
14 right now. So there's very little time to do that. So it  
15 may be that we are simply at this point able to show that  
16 the volume is significant enough that I think value ought to  
17 be taken a look at as well.

18                  All we have is at face value the Petitioners have  
19 said they don't believe that that product is a threat from  
20 India. But they certainly did believe so initially, and had  
21 a dumping order in effect. So we think it ought to be  
22 considered.

23                  MR. HENDERSON: Thank you. And I believe when we  
24 were talking about the issue of capacity and unused  
25 capacity, I believe there was a statement that Taihe itself

1 has relatively little unused capacity?

2 MR. McGRATH: In terms of the capacity  
3 utilization, we're trying to clarify. We do have  
4 questionnaire answers on file. We think that they have to  
5 be corrected because some of the data might not be totally  
6 accurate there. But the company believes that its capacity  
7 growth, which is going to appear on the record, has been  
8 consumed with production and with growth of sales around the  
9 world. Mostly around the world, not in the U.S.

10 But I can't say with 100 percent accuracy that  
11 they are at 100 percent capacity. I think they're at  
12 something of a high level of capacity utilization, though.

13 MR. HENDERSON: Thank you. And I'm sort of  
14 particularly interested in what does this mean for the  
15 subject Chinese industry as a whole? I mean, does that--are  
16 we to take it that that is representative, or that is what  
17 the investigation of the Chinese industry as a whole will  
18 show? Or is that something specific with respect to Taihe?

19 MR. McGRATH: I think Taihe and other, and similar  
20 large producers are going to have the experience with the  
21 decline of the smaller producers, and the elimination of  
22 that capacity. The larger ones are going to have higher  
23 capacity utilization, whether they increase their capacity  
24 or not.

25 The thing about capacity is, when 10 small

1 companies shut down and eliminate their capacity, no one  
2 puts out a press release. If one company says, hey, we're  
3 going to add capacity and a production plant, they post a  
4 notice on their website. So there you have it.

5 But as I said initially, I don't have a  
6 one-for-one comparison of the data just yet, and we will  
7 certainly get, you know, whatever we can about this  
8 replacement of capacity. But I would think the large ones  
9 would be in a similar position to Taihe, and that is to  
10 replace closed capacity.

11 MR. HENDERSON: That's all the questions I have  
12 for now.

13 MR. ANDERSON: Thank you. And now we'll turn it  
14 over to our economist, Ms. Preece.

15 MS. PREECE: Thank you all for coming. I don't  
16 really have a lot of questions for you, but I would like to  
17 ask you whether or not the end-uses that -- they've talked  
18 about the U.S. producer, Compass, talked about those  
19 end-uses are the same in the markets you're serving, in  
20 addition to the United States as they are in the United  
21 States, or are there other market types of end-uses for the  
22 product that occur in other countries that aren't in the  
23 United States, are more important perhaps in other countries  
24 than they are in the United States? Do you want me to just  
25 go through the list of what they said they were used for?

1 MS. CHENG: Yes.

2 MS. PREECE: Okay, that's fine. They were  
3 talked about -- first, the most important use was industrial  
4 water treatment applications. And the second use they  
5 reported was anti-scalants. They said that they were useful  
6 in municipal water supplies, particularly issues of color  
7 caused by -- red from iron and something else was causing  
8 water to turn black, magnesium or something. All those are  
9 perfectly decent chemicals that nobody's going to die from  
10 getting a little rust in their water, but it'll look bad.  
11 And they said it was used to bleach textiles. Now there  
12 might be more textile production in China than there is in  
13 the United States, so that might be a more important use  
14 there. They were used to make HEDP salts and for  
15 compounders, oil and gas, and swimming pools. And there  
16 they were for reverse osmosis membrane cleaning. I hope  
17 that covers most of what they said. I probably missed  
18 something, but those were the ones that I was able to write  
19 down. Are those the same uses that they have for China and  
20 the rest of the world? Are there any other uses that you  
21 think of?

22 MS. CHENG: Probably the main use is what you  
23 just mentioned. They maybe have -- because of different  
24 regions have different industry. So many different  
25 countries that use different volume of that chemical, for

1       them textiles, not too much in United States. So it  
2       probably, as a bleach stabilizer it can be used in other  
3       countries where there's more volume. And maybe the water  
4       desanitation plant for the membrane probably can be used  
5       more in Middle Eastern market because of the lack of  
6       drinking water things. So it's all different quantity use,  
7       but similar application.

8                   MS. PREECE: Thank you very much. That was very  
9       helpful. And then I have a question for Mr. Bankosky. This  
10      is my perennial fishing for cost shares, because people have  
11      real trouble understanding what I mean by cost shares, so  
12      I'm going to try to make it clear to you and maybe you can  
13      give me a good answer. You produce -- I can't remember what  
14      it was -- something from --

15                   MR. BANKOSKY: Peracetic acid.

16                   MS. PREECE: Peracetic acid. That's it. From  
17      HEDP.

18                   MR. BANKOSKY: No. It's one of the components  
19      in the formulation.

20                   MS. PREECE: Okay. So it's a component to  
21      peracetic acid, is that right?

22                   MR. BANKOSKY: It's a component in the peracetic  
23      acid formula, so it's one of the ingredients.

24                   MS. PREECE: So it's an ingredient. Okay. For  
25      the cost of the peracetic acid, how much of the cost is

1 HEDP? And I would like you to include, not only just the  
2 ingredients, but also sort of your overhead plant, if you  
3 see my meaning. So, is it half the cost? Or is twenty  
4 percent of the cost? Do you have -- you know, just give me  
5 a good guess. I'm not asking for a chemical formulation.

6 MR. BANKOSKY: It's a low percentage of the  
7 cost.

8 MS. PREECE: Less than five?

9 MR. BANKOSKY: Um --

10 MS. PREECE: You can do it post conference if  
11 you want to. I don't --

12 MR. BANKOSKY: It's --

13 MS. PREECE: Okay, that's great. That's great.  
14 Because I don't want to -- I'm not trying to pressure you.  
15 I'm just -- it's just so hard to get people to understand  
16 what the question is. That's the only question I have,  
17 except if you look over the old report and you see something  
18 that you think is inaccurate or has changed, since we might  
19 be using information from that report, I would love to have  
20 you give us feedback on anything from that. That's all my  
21 questions for today. Thank you.

22 MR. ANDERSON: Thank you. Mr. Boyland,  
23 microphone is yours.

24 MR. BOYLAND: Good afternoon. Thank you for  
25 your testimony. You may have already discussed this in your

1 testimony, but the U.S. producer describes a batch process.  
2 Your production process, you focused in your conversation  
3 with Ed, about the co-product, the CO chloride, etcetera,  
4 and the different input, but how would you characterize the  
5 actual production process itself. Is it a continuous  
6 process? How does --

7 MR. MCGRATH: I understand it's a continuous  
8 production process, which is different from the batch  
9 process that the petitioners use. And I don't know if you  
10 have any more to add to that?

11 MR. BOYLAND: That's pretty much it. I mean, in  
12 addition to the point you were making before -- it's a  
13 different input.

14 MR. MCGRATH: Well, it's different input. It's  
15 a continuous process -- all of these things combined allow  
16 us, in our process, to be able to come up with that specific  
17 co-product.

18 MR. BOYLAND: And is it fair to say, and again,  
19 I'm not talking about the actual capacity itself, but  
20 continuous to me suggests a different scale of production.  
21 Is that a fair characterization?

22 MR. MCGRATH: I think usually that it does  
23 suggest a larger scale of production and it's fair to say  
24 that our production levels are higher than a lot of  
25 producers. Our market is much greater and we're serving the

1 domestic Chinese market, as well as the rest of the world.  
2 The volume that's coming out is enhanced by the fact that  
3 there is continuous production process.

4 MR. BOYLAND: Okay. Thank you.

5 MR. MCGRATH: Continuous reaction.

6 MR. BOYLAND: Okay. Thank you. I have no  
7 further questions.

8 MR. ANDERSON: Thank you, Mr. Boyland. Now, Mr.  
9 Cantrell.

10 MR. CANTRELL: Good afternoon. Thank you. On  
11 this acetyl chloride route, it would be helpful if you could  
12 provide post conference on stoichiometry. By that, I mean  
13 the chemical equations for producing the products, HEDP and  
14 the acetyl chloride.

15 MR. MCGRATH: Yes. I believe we have those  
16 formulas. We can provide that.

17 MR. CANTRELL: Okay. And, you say that the  
18 acetyl chloride is a co-product and not a byproduct. Does  
19 that mean that this process that the company that you're  
20 producing in China, can it produce more than one set of  
21 co-products? In other words, is it -- I mean, otherwise I  
22 would just define the acetyl chloride is just a byproduct.  
23 Or the acetic acid for that -- I mean are the two terms  
24 interchangeable? Co-products and byproducts?

25 MR. MCGRATH: Well, we're using the term

1 co-product here because we're looking at it as a production  
2 result that's not a necessary outcome of the production of  
3 HEDP. A choice is made to produce both products.

4 A byproduct, we would define as something that  
5 is a necessary result. You end up having a byproduct from  
6 the production process, like in the alternative production  
7 process with acetic acid. I don't know the answer to your  
8 question as to whether there are other co-products or  
9 potential co-products that might be made in that process.

10 We're also looking at it from the standpoint of  
11 the terminology applies to how the cost structure is built  
12 on an accounting basis. And in terms of whether you  
13 consider the sales of the byproduct to be an offset to your  
14 cost of production for HEDP or whether you consider whether  
15 you allocate your cost of production across both products.  
16 And I guess a true co-product, that's the approach that I  
17 would say you would take.

18 But, in answering the question whether there's  
19 other co-products, we'll have to find out and get back to  
20 you.

21 MR. CANTRELL: Okay, thank you. On the acetyl  
22 chloride, were you saying that it goes into pharmaceutical  
23 manufacturer or something of that nature?

24 MR. MCGRATH: Yes. It's used for producing  
25 intermediates for pharmaceutical active ingredients for API

1 production.

2 MR. CANTRELL: So does that make it more  
3 expensive product than HEDP?

4 MR. MCGRATH: In terms of a purchase or a  
5 consumers' purchase of it, I'm sure it is more expensive per  
6 pound. But it's not -- the market is not as great for that  
7 as for HEDP in terms of its overall volume.

8 MR. CANTRELL: Now, regarding a -- there's been  
9 some testimony to the effect that there are other large  
10 plants that have been -- are under construction or coming  
11 on-stream in China and while smaller plants are closing. Do  
12 you have any information on the process of these new higher  
13 scale plants? Are they -- I mean, do you have a patented  
14 process there in your plant in China? Or can other  
15 producers also go the same route and produce HEDP and acetyl  
16 chloride?

17 MS. CHENG: At first we do not have patent for  
18 our production process. So anybody in the world, if they  
19 would like, they can use the same method. So it's quite  
20 common -- it just depends on whether the U.S. or other owner  
21 decide to do that.

22 MR. CANTRELL: Do you know of other producers in  
23 China that are using this process?

24 MS. CHENG: You mean the two raw material which  
25 is PCL3 and the acetic acid to react together to get HEDP?

1       Actually it is a very common use method in the world, to be  
2       honest.

3                   MR. CANTRELL:   So this method of producing the  
4       acetyl chloride.  So you start with PCL3 --

5                   MS. CHENG:   PCL3 --

6                   MR. CANTRELL:   -- and acetic acid?

7                   MS. CHENG:   Yes.  It's the same raw material.  
8       Well, it depends on whether the producer will like to have  
9       acetyl chloride or not.  We would like to have it though.  
10      We change the --

11                   MR. CANTRELL:   Otherwise, I mean, you would  
12      produce hydrochloric acid, wouldn't you?  Is the other  
13      element?

14                   MS. CHENG:   If you see the formulation, acetyl  
15      chloride can be semi-productive chemical, which is reactive  
16      will have it.  It will in the end, by add different dosage  
17      off the raw material.  By the way, we will like to have it,  
18      because it's more profitable than HEDP.

19                   MR. CANTRELL:   It will be interesting to see the  
20      equations that are in some of the process parameters that  
21      are involved in this process.

22                   MR. MCGRATH:   We'll be happy to submit it.  I  
23      think we might have it with us, so if you want to talk  
24      afterwards, you can see what the equations are.

25                   MR. CANTRELL:   Okay.  And anything, any

1 additional information that you could provide more detail,  
2 we would appreciate it.

3 MR. MCGRATH: We'll be happy to do that.

4 MR. CANTRELL: Are you familiar with any of the  
5 other Chinese operations? I mean, do they use a straight  
6 PCL3, acetic acid going to HEDP and hydrochloric acid?

7 MS. CHENG: I'm not sure whether they have  
8 acetyl chloride, but they use the same raw material, PCL3  
9 and the acetic acid. So China use it, India use it, and UK  
10 use it as well.

11 MR. CANTRELL: So everyone is using those  
12 starting products?

13 MS. CHENG: Yes. The rest of the world use  
14 that.

15 MR. CANTRELL: No matter what the end product  
16 produced with HEDP is? Whether it's acetyl chloride or  
17 hydrochloric acid or something else. Talking about the  
18 reactants, the reaction products.

19 MS. CHENG: It's not everyone produce acetyl  
20 chloride, but everybody use the two raw material.

21 MR. CANTRELL: The two starting products?

22 MS. CHENG: Yes.

23 MR. CANTRELL: Okay. Thank you. I believe  
24 that's all I have on that process. Anything else that you  
25 would like to add for the record, please do so. We would

1 appreciate it.

2 MS. CHENG: So one thing is, normally HEDP  
3 manufacturer will close to the raw material. This is the  
4 rule, or if you ask it, either you can manufacturer, India  
5 manufacturer, so it must have raw material nearby for safety  
6 purposes and for the cost purpose.

7 MR. CANTRELL: So I mean I take it that this  
8 HEDP product is a technical grade? And not FDA approved or  
9 anything? Or not a high purity product?

10 MS. CHENG: It's industrial grade.

11 MR. CANTRELL: Industrial grade?

12 MS. CHENG: Yes.

13 MR. CANTRELL: All right. Thank you. Mr.  
14 Bankosky, is that right?

15 MR. BANKOSKY: Yes.

16 MR. CANTRELL: I noticed you said you had a  
17 plant near Memphis. That's my hometown.

18 MR. BANKOSKY: Oh, okay.

19 MR. CANTRELL: If anyone didn't know from my  
20 accent --

21 MR. BANKOSKY: I'll be there on Monday.

22 MR. CANTRELL: All right. Now this acetyl  
23 chloride. I mean, excuse me. I've got that on my mind.  
24 The peracetic acid.

25 MR. BANKOSKY: Yes.

1                   MR. CANTRELL: That, of course, is not a  
2 phosphonate. I mean it doesn't have phosphorus and --

3                   MR. BANKOSKY: No, peracetic acid is a biocide.  
4 It's generally made by combining acetic acid and hydrogen  
5 peroxide.

6                   MR. CANTRELL: Oh, okay.

7                   MR. BANKOSKY: It's a very potent oxidizer,  
8 nondiscriminant oxidizer, so it means it kills bacteria very  
9 quickly, breaks down into benign byproducts. That's why  
10 it's used on poultry, as poultry is being processed to  
11 reduce the amount of salmonella or campylobacter bacteria,  
12 which is a benefit to all of us who eat chicken. And cooked  
13 chicken. Obviously you cook it, but the FDA, FSIS, food  
14 inspection service, you know, takes notes of how much  
15 bacteria are present on poultry, for example. Peracetic  
16 acid's very good as a biocide for use on poultry and beef,  
17 for that matter.

18                   MR. CANTRELL: Do you have a technical data  
19 sheets and material data sheets on that process?

20                   MR. BANKOSKY: We have it on all of our  
21 products, yes, and are available on EPA website. I mean  
22 they're available on our website, as well as the approvals  
23 are listed on the EPA website as well.

24                   MR. CANTRELL: Including the HEDP formulation?

25                   MR. BANKOSKY: We don't include the

1 concentration of any of the components on any tech data  
2 sheet. That's a confidential formula that we've conduct R&D  
3 to develop, but yes, they do contain, in most cases, HEDP,  
4 which stabilizes the product and helps improve the shelf  
5 life stability of the product.

6 MR. CANTRELL: Anything that you could submit and  
7 any additional data?

8 MR. BANKOSKY: Sure.

9 MR. CANTRELL: And you know, of course, in your  
10 post conference brief, would be appreciated.

11 MR. BANKOSKY: Sure.

12 MR. CANTRELL: Okay. Thank you very much.

13 MR. ANDERSON: Thank you, Mr. Cantrell. Now,  
14 Mr. Duncan.

15 MR. DUNCAN: Thank you for coming to the  
16 respondent panel. I have only really one line of  
17 questioning. I'm going to pick on Mr. Bankosky a little  
18 bit. And I sense some discomfort level from your earlier  
19 testimony response to some questions on some of the  
20 information in relation to the high purity HEDP that staff  
21 was trying to get some information on. So if anything is  
22 sensitive, feel free to submit information in writing on a  
23 confidential basis after the conference.

24 You've already made a claim that for your  
25 end-use purposes, the -- what you've qualified as

1 high-purity HEDP -- is not interchangeable in end-use  
2 applications with what you've called tech grade. Can you --

3 MR. BANKOSKY: That's correct. Basically, if  
4 you use a tech grade product when making a high  
5 concentration, say a fifteen or even a twenty-two percent  
6 peracetic acid formulation, or even a five percent, for that  
7 matter, that the products, stability-wise, will start to  
8 decompose over a period of time.

9 Generally, that's what we see when, if we were  
10 to use a tech grade, sometimes tech grade HEDP, the product  
11 can decompose very rapidly. And basically not even make it  
12 to the market where you start out with, let's say, fifteen  
13 percent peracetic acid and within a week or two, you're down  
14 at twelve peracetic acid. Well, the customer doesn't want  
15 to pay for fifteen and receive twelve. And so, that's why a  
16 very high purity product is important. All of our materials  
17 are very high purity for the stability in these  
18 formulations.

19 MR. DUNCAN: You indicated also in testimony  
20 that you currently have two suppliers, one in China, one in  
21 Europe, for this particular product. In terms of suppliers  
22 of high purity HEDP, is that something they advertise? Or  
23 is that something based on your specific requirements? You  
24 have to go out to manufacturers and say, can you do this for  
25 me?

1           MR. BANKOSKY: No, absolutely. It's entirely  
2 based on our working together and finding out whether a  
3 company can provide a higher purity material or not. And if  
4 it does, will it even meet our specifications. And so it  
5 does take an extended period of time. Sometimes up to a  
6 year in terms of working with that partner or that company,  
7 to determine whether they can make a more pure material and  
8 supply it to us. And sometimes they can't. And, in fact, a  
9 lot of times, they can't. So we just agree to part ways at  
10 that point.

11           MR. DUNCAN: You also indicated that the last  
12 time you had purchased HEDP from Compass, the domestic  
13 manufacturer of this product was in July of 2014. Sort of  
14 midway in our current period of investigation, the period  
15 we're looking at data. The merchandise that you had  
16 procured from Compass, did it meet the specifications of  
17 high purity HEDP that you're describing?

18           MR. BANKOSKY: At the time that material was  
19 used as tech grade.

20           MR. DUNCAN: So it did not match that purity  
21 level. Okay. To your knowledge, is the pure product able  
22 to be produced on equipment that the U.S. Manufacturers  
23 currently own or would they need separate equipment to  
24 product to that purity level?

25           MR. BANKOSKY: That's going to be a question for

1       them. I actually don't know the answer to that.

2                   MR. CANTRELL: Okay well that's for the U.S. but  
3       when you talk with companies globally as suppliers you have  
4       these conversations you had just alluded to. Have you  
5       noticed in those discussions that when they cannot make it  
6       to the specifications that you hope to get it at is it  
7       because they didn't have certain equipment to your  
8       knowledge?

9                   MR. BANKOSKY: I don't know whether they have the  
10      equipment although they test in their analytical lab the  
11      purity of the product then typically send a sample of that  
12      material to us to validate that testing. And so we are  
13      looking for very specific results, I can't get into details  
14      on what we are looking for but we are looking for very  
15      specific results in terms of the material itself and any  
16      contaminants that might be present in that material.

17                  MR. CANTRELL: Thank you for that testimony. So  
18      we have a thing where a product may not be fully  
19      interchangeable, has different physical uses you know,  
20      market perceptions at least from your perspective are  
21      different for the grades. You have a case where the panels  
22      -- you have to go out and sort of construct that panel  
23      directly so it is a direct end user which probably exists in  
24      the tech grade as well but it is just not -- arguably a  
25      separate channel is occurring here with the amount of

1 interaction that you have to have with your suppliers.

2 What about price differences between the purity  
3 -- the high purity and the tech grade?

4 MR. BANKOSKY: It's more expensive.

5 MR. CANTRELL: Okay do you have a rough estimate  
6 of what like sort of a premium this type of purity commands  
7 in the market, you don't have to touch on BPI but --

8 MR. BANKOSKY: Well it depends on -- it actually  
9 depends on the supplier and we do see there is some  
10 variation in pricing and generally the trend is increasing  
11 the price not so much decreasing the price so -- but there  
12 is a difference. In terms of magnitude it can be you know  
13 it can be 20% different in terms of the price as a ballpark.

14 MR. CANTRELL: Alright thank you. The reason for  
15 that live question is to sort of get out whether or not this  
16 may be a domestic-like product issue. I know you are not  
17 represented here today so you probably don't have someone  
18 advising you on what arguments you might be able to make to  
19 get an outcome that you would like but at least in terms of  
20 our analysis that's one area where you may make an argument  
21 to get an exclusion.

22 So the degree which you can look at those factors  
23 and try to go through them and differentiate this product  
24 from that if you are indeed making a like product argument  
25 this should be analyzed separately for our purposes please

1 do so.

2 MR. BANKOSKY: Okay thanks.

3 MR. CANTRELL: That's the extent of my questions.

4 MR. ANDERSON: Okay thank you Mr. Duncan and  
5 Cantrell. I will visually scan the panels and see if they  
6 have any follow-up questions.

7 NOTE: Mr. Levin speaking off mic.

8 MR. ANDERSON: Let me turn this off for a second.

9

10 MR. MCGRATH: We are certainly happy to share it  
11 but we are not sure if it is confidential so I think what we  
12 need to do is determine that before we show it to anybody,  
13 including staff and we are going to submit it for the record  
14 no matter what but maybe the easiest thing to do is for us  
15 to just find that out and we will submit it so that  
16 everybody can get it at the same time.

17 MR. ANDERSON: I think that's a good solution  
18 submit it in your post-conference brief regardless.

19 MR. MCGRATH: That's what we will do.

20 MR. ANDERSON: Alright, thank you. Okay, I am  
21 going to turn the microphone over so Mr. Henderson can  
22 follow up.

23 MR. HENDERSON: Okay well in light of the  
24 questions raised by Mr. Duncan I would just invite you know  
25 Mr. McGrath and the Petitioner's counsel if they wish to

1 address the implications of this issue about high or tech  
2 grade HEDP like product whether just if you wish to address  
3 that in the post-conference brief, thank you.

4 MR. ANDERSON: Okay with that I want to thank all  
5 of our panelists. Thank you for your direct testimony and  
6 for being here today and answering our questions and we will  
7 now cede the closing arguments and transition to depositions  
8 and please start when you are ready Mr. Levin.

9 CLOSING REMARKS OF JEFFREY LEVIN

10 MR. LEVIN: Mr. Chairman, members of the  
11 investigation team thank you very much for I thought a very  
12 good and helpful to us Preliminary Conference. And thank  
13 you for all the questions. We do look forward to addressing  
14 all the matters that have been requested of us in the  
15 post-conference brief. We would also like to formally  
16 extend an invitation for one or more or all of you to come  
17 down to Smyrna which is beautiful in the Spring and the  
18 Summer and see the plant.

19 Hopefully we do get to that point that's an open  
20 invitation. That's okay Danny right?

21 MR. MCCAUL: Absolutely.

22 MR. LEVIN: Alright he takes me to lunch at this  
23 nice place with this great soda machine and I have got to  
24 show it to you. Anyway there is very little that I can or  
25 will say at this particular point. There's not a whole lot

1 substantively to rebut but let me just make one or two very  
2 quick points and I know Danny wants to make a very quick  
3 point.

4 First of all let me lead with the headline the  
5 Commerce Department has now formally initiated their  
6 investigation with the dumping margin of 96% and they have  
7 initiated on a series of subsidy programs. I just got the  
8 word from the Commerce Department right when the Respondent  
9 panel was starting.

10 Second of all the PEERS versus data monitoring  
11 I'm familiar with the other source. We haven't done that  
12 for AGDP but I know of that source and we look forward to  
13 providing you with the detailed rundown of the PEERS data as  
14 we have spoken about and as we will detail in our  
15 post-conference brief.

16 Yeah the calling the data was based on a whole  
17 slew of company names, brand names, trade names,  
18 abbreviations, other possible things that AGDP goes under.  
19 So we will be interested to see what Shandong Taihe comes up  
20 with and whether or not it does in fact show any sort of  
21 substantive differences in terms of either absolute volumes  
22 or in terms of trends. I tend to doubt it. This was a  
23 pretty darn comprehensive review.

24 That's really all I am going to say at this time  
25 but I know Mr. McCaul wants to make one quick comment with

1 regard to EnviroTech, Danny?

2 MR. MCCAUL: Okay just quickly I was very  
3 surprised to see EnviroTech involved here. EnviroTech is a  
4 company that we at Compass have had a relationship with for  
5 a number of years. They are a company that has helped us to  
6 get registrations on products in the past and we have an  
7 on-going relationship with EnviroTech.

8 EnviroTech uses a very small amount of AGDP. I  
9 think Mr. Bankosky mentioned maybe 1% of the market, I'm not  
10 sure it's even that high. But in case you missed it he said  
11 that they used to buy the product from Compass. Why?  
12 Because we were able to meet their specification -- we made  
13 the product specifically for them, made sure that it met  
14 their specifications.

15 They don't buy it from Compass anymore because  
16 they are getting it from China cheaper. That's the reason  
17 they are buying it from China. They can get the quality and  
18 they can get the price that's better than the price that  
19 they were getting from Compass. End of story.

20 MR. LEVIN: And with that we thank the  
21 Commission, we thank the investigation team. We  
22 respectfully submit that the evidence of record will  
23 demonstrate that there is a reasonable indication of  
24 material injury and/or threat of material injury to the  
25 domestic industry and that there is a good and solid basis

1 for affirmative determinations in these preliminary phase  
2 investigations. Thank you very much.

3 MR. ANDERSON: Mr. Levin and Mr. McCaul thank  
4 you.

5 CLOSING REMARKS OF MATTHEW T. McGRATH

6 MR. McGRATH: Thank you very much to the staff for  
7 indulging us in our late appearance and late participation  
8 here. We have been looking forward to participating and  
9 providing as much input as we can. We do have a number of  
10 things that I think will be useful for this analysis -- if  
11 not here, certainly for further analysis in a final  
12 investigation if we get to that point.

13 All I really wanted to mention -- we did get a  
14 look at -- we just had some communication here about the --  
15 the proprietary nature of the formulas for the production  
16 process for the co-product and I think we have concluded it  
17 is not going to be proprietary. I think we will be  
18 submitting it as a public formula. So it's best for us to  
19 make sure we have the right thing and submit it in the brief  
20 and that is what we will be doing but it won't have to be  
21 part of our confidential submission.

22 There are only about two or three points that I  
23 wanted to make in rebuttal. I want to reiterate once again  
24 the concept that was repeated this morning that Taihe's  
25 capacity in particular, but Chinese capacity in general is

1 growing enormously and is increasing explosively like some  
2 sort of dark star that keeps growing.

3 I think the important thing to do is to obtain  
4 the information on the reduction in capacity. We will do it  
5 the best we can to find some of that out, it is a little bit  
6 hard to get at that information if small companies simply  
7 close up because the government has told them to. It's not  
8 necessarily going to be easily visible to the public.

9 What is visible is historical lists of  
10 manufacturers that existed in China at one time which makes  
11 it look like there is a lot more production than there might  
12 be but this is something that I think is if not now, in the  
13 final investigation should be investigated because there is  
14 just no incentive to have that much over supply of AGDP.

15 We are not talking about the steel industry or  
16 the aluminum industry. We are talking about a chemical -- a  
17 water treatment chemical. There is a demand for it and the  
18 gross of capacity is there to serve that demand and we would  
19 like that to be considered.

20 One of the other statements that was made which  
21 we agree with Mr. McCaul had indicated that if the price of  
22 AGDP went up due to some sort of a trade restraint what  
23 would consumers do, what alternative would they turn to and  
24 at what point would they do that -- what would be the price  
25 point for that.

1           There definitely would be a price point for a  
2           certain number of applications. I understand that BPTC  
3           would be a useful alternative because of its performance  
4           capabilities and depending on how much of a price increase  
5           there were for the AGDP. That was one I don't think I heard  
6           it mentioned in the discussion, that's an alternative.

7           There was also I think a reference to -- well I  
8           did want to point out that with the discussion of the  
9           circumstances surrounding the previous investigation and  
10          what was going on at the time -- there was I don't know if I  
11          would characterize it as revisionism but there was at least  
12          a look back by the Petitioners to what were the  
13          circumstances of that finding in trying to explain why it  
14          was they allowed it to lapse through the Sunset process.

15          And I did hear a reference to some concerns about  
16          not getting a square deal from the Commerce Department on  
17          the choice of surrogate values in one instance for one of  
18          the manufacturers and all I can say is Mr. Levin I feel your  
19          pain. That happens to me all the time. We spend a lot of  
20          time in court challenging the selection of surrogate values  
21          in many cases and the better data that I assume he is  
22          referring to in the public version of the Petition. They  
23          made it clear that they were using Mexico for purposes of  
24          calculating surrogate values.

25          So choice of surrogate values though I think is

1 not really -- doesn't really make up for the fact that the  
2 finding of the agency in the previous case was that a large  
3 portion of the imports from China were not being dumped. So  
4 it is not merely a matter of trying to right an injustice,  
5 the finding was that that level of imports was not being  
6 dumped.

7           So to the extent that we are looking at the  
8 impact of allegedly dumped imports now in the marketplace  
9 that has to be looked at as an entirely new situation, not  
10 simply a continuation of a past history of dumping for all  
11 imports from China. It is a lot more found at the beginning  
12 to not have this sold at less than fair value.

13           So I would just point that out that this is a  
14 second attempt, a second go around and to the extent the  
15 agencies involved do their examination and decide whether or  
16 not there are sales at less than fair value that will be not  
17 simply reactivation of a finding of injurious dumping.

18           In the past there was a finding of non-dumping  
19 and whatever was left in the pot at the end of that case was  
20 found to be threatening by the agency not by the ITC, not  
21 directly injurious. So with that I want to thank everyone  
22 for their attention and their questions and we will provide  
23 everything that you have asked for as much as we can in the  
24 few days that we have and we appreciate your efforts and  
25 your work.

1                   I know how difficult it is to deal with  
2 preliminary determination in the short period of time that  
3 you have and we appreciate it, thank you.

4                   MR. ANDERSON: Thank you Mr. McGrath for your  
5 statement. On behalf of the Commission and the staff I  
6 would like to thank our witnesses who have come here today  
7 as well as counsel for helping us gain a better  
8 understanding of the AGDP product in the market and the  
9 conditions affecting this industry.

10                   Before concluding a few housekeeping matters and  
11 particular dates to note in this investigation -- the  
12 deadline for submission of corrections to the transcript and  
13 for submission of post-conference briefs is Tuesday, April  
14 26th and if the briefs contain any business proprietary  
15 information a public version is due the following day on  
16 Wednesday the 27th then.

17                   The Commission has tentatively scheduled its vote  
18 on these investigations for Friday, May 13th and it will  
19 report its determinations to the Secretary of Commerce on  
20 Monday, May 16th. And Commissioner's opinions will be  
21 issued on Monday, May 23rd and with that I thank you all  
22 again very much for being here today and the conference is  
23 adjourned.

24                   (Adjourned at 2:03 p.m.)

25

## CERTIFICATE OF REPORTER

TITLE: In The Matter Of: 1-Hydroxyethylidene-1, 1-Diphosphonic (HEDP) Acid from China

INVESTIGATION NOS.: 701-TA-558 and 731-TA-1316 (Preliminary)

HEARING DATE: 4-21-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 4-21-16

SIGNED: Mark 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

I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

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