UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of: ACETONE FROM BELGIUM, KOREA, SINGAPORE, SOUTH AFRICA, AND SPAIN

) Investigation Nos.: 731-TA-1435-1436 AND 1438-1440
) (FINAL)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of: ) Investigation Nos.:
ACETONE FROM BELGIUM, KOREA, ) 731-TA-1435-1436
SINGAPORE, SOUTH AFRICA, AND ) and 1438-1440
SPAIN ) (Final)

Monday, October 21, 2019
Main Hearing Room (Room 101)
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The meeting commenced, pursuant to notice, at 9:31 a.m., before the Investigative Staff of the United States International Trade Commission, Chairman David S. Johanson, presiding.

APPEARANCES:
Commissioners Present:
Chairman David S. Johanson (presiding)
Commissioner Rhonda K. Schmidtlein
Commissioner Jason E. Kearns
Commissioner Randolph J. Stayin
Commissioner Amy A. Karpel
Staff:

WILLIAM R. BISHOP, SUPERVISORY HEARINGS AND INFORMATION OFFICER

TYRELL T. BURCH, MANAGEMENT ANALYST

ABU K. KANU, INVESTIGATOR

ELIZABETH NESBITT, INTERNATIONAL TRADE ANALYST

CINDY COHEN, INTERNATIONAL ECONOMIST

SAMUEL VARELA-MOLINA, ACCOUNTANT/AUDITOR

MICHAEL HALDENSTEIN, ATTORNEY/ADVISOR

NATHANAEL N. COMLY, SUPERVISORY INVESTIGATOR
CONGRESSIONAL APPEARANCE:
The Honorable Brian Babin, United States Representative, 36th District, Texas

OPENING REMARKS:
Petitioners (Stephen J. Orava, King & Spalding LLP)
Respondents (Mark B. Lehnardt, Baker & Hostetler LLP)

In Support of the Imposition of Antidumping Duty Orders:
King & Spalding LLP
Schagrin Associates
Washington, DC
on behalf of
Coalition for Acetone Fair Trade
Paul Sanders, Global Business Director, Chemical Intermediates, AdvanSix, Inc.
Clay Stephenson, Senior Product Manager, AdvanSix, Inc.
Frank Hayes, Chief Financial Officer, ALTIVIA Petrochemicals, LLC
Tim Duhe, Commercial Vice President, ALTIVIA Petrochemicals, LLC
Nicholas W. Hendon, Deputy General Counsel & Vice President, Epoxy, Olin Corporation
Davor Safar, Global Business Director Upstream, Olin Corporation
In Support of the Imposition of Antidumping Duty Orders
(continued):
Andrew Szamosszegi, Principal,
Capital Trade, Inc.
Charles Anderson, Principal, Capital Trade, Inc.

Roy Houseman, Legislative Director,
United Steelworkers
Bonnie B. Byers, Senior International Trade Consultant,
King & Spalding LLP
Stephen J. Orava, Stephen P. Vaughn, Christopher
T. Cloutier – Of Counsel

In Opposition to the Imposition of Antidumping Duty Orders:
Mowry & Grimson, PLLC
Washington, DC
on behalf of
Sasol Chemicals (USA) LLC
Sasol Chemicals North America LLC
Sasol South Africa Limited
(collectively "Sasol")
Ajith Harypursat, Manager of Product Stewardship and
Technical Services, Sasol South Africa Limited
Kristin H. Mowry, Sarah M. Wyss – Of Counsel
-- continued --
In Opposition to the Imposition of Antidumping Duty Orders
(continued):
Steptoe & Johnson LLP
Washington, DC
on behalf of
INEOS Europe AG
INEOS Americas LLC
    Michael Foster, Business Manager,
    INEOS Americas LLC
    Lynn Calder, Commercial Director,
    INEOS Phenol
    Jim Dougan, Vice President,
    Economic Consulting Services
    Jerrie Mirga, Vice President,
    Economic Consulting Services
    Eric C. Emerson, Luke Tillman - Of Counsel

-- continued --
In Opposition to the Imposition of Antidumping Duty Orders
(continued):

Drinker Biddle Reath LLP
Washington, DC
on behalf of
Lucite International, Inc.
    Christine H. Frederic, Manager, Direct Procurement,
    Lucite International, Inc.
    Robert M. Connolly, Director, Procurement Services,
    Lucite International, Inc.
    Douglas J. Heffner, Richard P. Ferrin - Of Counsel

Barnes, Richardson & Colburn LLP
Washington, DC
on behalf of
Mitsui & Co. (U.S.A.), Inc. ("Mitsui")
    Kathy Rayburn, Mitsui & Co. (U.S.A.), Inc.
    Akifumi Ogawa, Business Manager, Aromatics & Industrial
    Chemicals, Petrochemicals Department, Mitsui & Co.
    (U.S.A.), Inc.
    Matthew T. McGrath - Of Counsel

-- continued --
In Opposition to the Imposition of Antidumping Duty Orders
(continued):

Baker & Hostetler LLP
Washington, DC
on behalf of
The Dow Chemical Company
Monument Chemical, LLC
The Plaza Group, Inc.
CEPSA Quimica S.A.

James R. Knaub, Global Business Director,
The Dow Chemical Company
Jennifer A. Butcher, Senior Strategic Global Purchasing Manager, The Dow Chemical Company
Qamar Bhatia, President,
Monument Chemical, LLC
Sarves Peri, Vice President, Supply Chain,
Monument Chemical, LLC
Jeff Haug, Director of Purchasing,
Monument Chemical, LLC
Randy Velarde, President,
The Plaza Group Inc.
Carlos Diaz Castro, Vice President, Sales & Marketing,
Phenol Chain Business Unit, CEPSA QUIMICA S.A.
Mark B. Lehnardt, Jake R. Frischknecht - Of Counsel
REBUTTAL/CLOSING REMARKS:

Petitioners (Stephen P. Vaughn, King & Spalding LLP; and
    Christopher T. Cloutier, Schagrin Associates)
Respondents (Eric C. Emerson, Steptoe & Johnson LLP and
    Mark B. Lehnardt, Baker & Hostetler LLP)
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MR. BISHOP: Will the room please come to order.

CHAIRMAN JOHANSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on the Final Phase of Investigation Numbers 731-TA-1435 and 1436, and 1438 to 1440, involving Acetone from Belgium, Korea, Singapore, South Africa, and Spain.

The purpose of these final investigations is to determine whether an industry in the United States is materially retarded or threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of acetone from Belgium, Korea, Singapore, South Africa, and Spain.

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

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

Speakers are reminded not to refer in their
remarks or answers to questions to business proprietary information. Please speak clearly into the microphone and state your name for the record for the benefit of the Court Reporter and for those seated in the back of the room.

If you will be submitting documents that contain information you wish classified as business confidential, you are requested to comply with Commission Rule 201.6.

Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, with your permission we will add to the witness Nicholas W. Hendon, Deputy General Counsel and Vice President of Epoxy with the Olin Corporation to the petitioner panel.

With the exception of Mr. Hendon, I would note that all witnesses for today's hearing have been sworn in. There are no other preliminary matters.

CHAIRMAN JOHANSON: Very well. Let us begin with opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioners will be given by Stephen J. Orava of King & Spalding. Mr. Orava, you have five minutes.

OPENING STATEMENT OF STEPHEN ORAVA

MR. ORAVA: Good morning, Mr. Chairman, members of the Commission. My name is Stephen Orava. I will be giving the opening statement for the Petitioners this morning.
First I wanted to thank you and your staff for all the time you're spending on this case. I know you have a full docket, but I think this one should be an easy one for you.

It really is a textbook example of material injury by reason of subject imports. Every factor that you normally consider supports this conclusion.

With respect to cumulation, acetone is a highly fungible product. All subject imports compete in the U.S. market with each other and with domestic production. Without cumulation, it would be impossible to accurately assess the impact of subject imports.

Regarding volume, from 2016 to 2018 subject imports grew by almost 142,000 tons. That is an increase of 144.8 percent. Subject producers took 8.7 percentage points of market share away from the domestic industry. By the end of 2018, the market was heavily oversupplied. There can be no question that the volume of subject imports was significant.

Regarding price effects, the record shows overwhelmingly that subject imports and the domestic like product compete on the basis of price. The majority of responding purchasers stated that they always or usually buy the lowest priced acetone. The public record shows significant underselling by subject imports in the Period of
Investigation, and our witnesses will testify that underselling was particularly aggressive during 2018 when the market became oversupplied. These facts compel the conclusion that the price effects of subject imports were significant.

Now on impact, the record shows that the domestic industry's operating margin fell from 2017 to 2018, as subject imports poured into the U.S. market.

Our witnesses will testify that due to the oversupply caused by the subject imports, they had to accept highly onerous 2019 contracts at prices far worse than recent years.

The public staff report confirms this testimony, showing that domestic producers who saw their operating profits rise from 2016 to 2017 suffered a decline in profits for 2018, and losses in the first half of 2019. These losses, which are directly attributable to unfair trade, show that subject imports had a significant adverse impact on the domestic industry.

On threat, the losses suffered by U.S. producers have left them extremely vulnerable to material injury going forward.

Meanwhile, subject producers exported 1.7 million tons of acetone last year. Even a small percentage of that enormous volume would have a devastating impact when it's
Given these facts, there can be no question that subject imports threaten further material injury. These points are neither complicated nor difficult to prove. In fact, these conclusions are the only objective interpretation of the record before you. The foreign producers and their allies cannot deny the compelling record evidence in support or relief, and instead they try to distract you by making inconsistent arguments, and by asserting that any injury was caused by the inexperience and poor management of those that will be sitting with me on the Petitioner's table today. You will see for yourselves how far that is from the truth.

Respondents assert that subject import rose in late 2017 and early 2018 because of concerns that domestic producer Shell was reducing capacity and that U.S. producers allegedly refused to supply sufficient volumes to customers.

They also claim that any oversupply of subject imports was resolved by the end of 2018. These arguments should be rejected outright. Even if we blindly accepted them as true, they cannot justify allowing subject producers a free pass to aggressively dump almost 240,000 tons of acetone into the U.S. market.

In this instance, the Respondents' arguments are also simply false. Consider the following evidence:
First, despite what happened to Shell, the record shows no significant change in U.S. production in 2018 and certainly no shortage. Moreover, a shortage would logically result in higher margins for acetone, but the domestic industry's margins fell both in 2018 and in 2019.

Second, during the first four months of 2019 very high volumes of subject imports continued to flood the U.S. market. Now this was a full year after Shell's capacity reduction, and even longer since Hurricane Harvey in 2017, and that Hurricane didn't even affect ALTIVIA and AdvanSix. This fact proves that subject imports were not arriving to address a shortage. They came here and they stayed here because subject producers were dumping excess production. No significant reduction in unfair trade occurred until three months after we filed this Petition.

Third, rather than any reduction of the oversupply situation in late 2018, the sustained influx of high volumes of dumped imports forced U.S. producers into contracts that accelerated their operating losses. These contracts can only be explained by the fact that domestic producers were competing against a continuing oversupply caused by unfair trade.

In short, the facts on the record demonstrate that domestic producers have suffered devastating injury, and unfair trade is the only explanation for that injury.
This harm will continue unless you grant relief on all subject imports, and we urge you to do so. Thank you.

MR. BISHOP: Thank you, Mr. Orava. Opening remarks on behalf of respondents will be given by Mark B. Lehnardt of Baker & Hostetler. Mr. Lehnardt, you have five minutes.

OPENING STATEMENT OF MARK B. LEHNARDT

MR. LEHNARDT: Good morning. My name is Mark Lehnardt from Baker Hostetler. I'm here on behalf of the parties opposing the imposition of duties. Almost all acetone is produced from cumene. The cumene molecule is split to produce one pound of phenol for every 0.62 pounds of acetone. Production for cumene is tied to phenol demand. That is, when phenol demand increases, more cumene is processed, and when phenol demand slackens, less cumene is processed, so that the amount of phenol produced is not greater than phenol demand. Phenol is produced in larger quantities and is more valuable than acetone.

The industry refers to acetone as the byproduct. It may be better described, for purposes of the ITC, as a subordinate coproduct. Phenol demand determines acetone production. The Commission evaluates all relevant economic factors in its injury analysis within the context of the business cycle and conditions of competition that are
distinctive to the affective industry. And when there are inquiry complicating facts, the Commission must engage in additional analysis.

And the Commission has done just this in other byproduct and subordinated coproduct cases, including wheat gluten, chlorine, anhydrous sodium sulfite, manganese sulfate, perchloroethylene and more recently in a motion steering butadiene rubber. In these cases cited in our brief, the Commission takes a hard look at the conditions of competition.

The petitioners failed to include a section on conditions of competition in their prehearing brief. This cannot be an inadvertent omission, and possibly is a concession. Industry experts opposing imposition of duties will describe the conditions of competition. These experts include the largest producers of acetone in the world, five of the largest U.S. purchasers of acetone, including distributors who rely on domestic production must more than on imports to supply their customers.

You will hear the following: Phenol demand determines acetone production. Phenol production has been built up in Asia, reducing the export markets for U.S. phenol, causing U.S. phenol producers to rationalize supply. U.S. purchasers are risk-averse, preferring long-term contracts and overwhelmingly prefer domestic production.
U.S. producers cannot supply all demand in the U.S. The U.S. is structurally short of acetone. And domestic supply is often disrupted by weather, rationalization of production because of phenol demand and plant maintenance.

For purchasers, supply security is paramount. Their only solution is to diversify supply and that includes imports. In August, 2017, Hurricane Harvey severely disrupted supply in the Gulf Coast, and in November, 2017, Shell announced it would be shutting down one of its phenol acetone lines, account for about 10% of acetone capacity because of low phenol demand.

Shell customers immediately sought to close the gap for their 2018 needs. Several U.S. purchasers were turned away by petitioners when they sought to contract 2018 volume. So their only option at the end of 2017 to secure their 2018 needs, was to turn to imports. In early 2018, imports began to enter the market to make up the expected shortfall from Shell. Then phenol demand unexpectedly increased significantly. Domestic producers increased production to take advantage of fantastic phenol profits, producing more acetone than expected. And Shell, unexpectedly continued production longer than it had announced.

Large purchasers had contracted all or as much of their 2018 needs as they could in 2017, and the spot market
for acetone turned long. By the end of 2018, phenol demand began to decline and acetone imports were withdrawing from the market. Imports dropped off precipitously in early 2019 beginning before the petition was filed.

Mr. Dougan from ECS will explain how the data match the conditions of competition and establish that imports are not correlated to price or volume effects and did not cause any adverse impact. Any injury was not by reason of imports. You will also hear about a separate like product in the industry, benzene-free acetone, which is produced via an entirely different production process and is sought by certain customers.

One last thought. The petitioners brought with them a representative from United Steel Workers. We encourage you to look at how production workers have been affected in the acetone market in which petitioners claim to be injured. The jobs of cumene process workers at companies cited by USW depend on phenol demand.

In contrast, the jobs of USW workers at Dow's facilities, who produce derivatives of acetone, depend on acetone, not on phenol. We do not understand in an investigation about acetone why any organization representing workers would support workers whose jobs depend on phenol rather than workers whose jobs depend on acetone.

Thank you.
MR. BISHOP: Thank you, Mr. Lehnardt. Would the panel in support of the imposition of the antidumping duty orders please come forward and be seated. Mr. Chairman, this panel has sixty minutes for their direct testimony.

CHAIRMAN JOHANSON: You may begin whenever you'd like.

STATEMENT OF STEPHEN VAUGHN

MR. VAUGHN: Good morning, I am Stephen Vaughn representing the Coalition for Acetone Fair Trade. We will begin our presentation this morning with a brief overview of the critical facts. Here you see the key points in these investigation. In 2018, the U.S. market was oversupplied and subject imports caused that oversupply. The surge of dumped imports forced domestic producers to accept prices that gave them a lower margin on their acetone. By the end of 2018, the market was plainly oversupplied, but subject imports kept pouring into the United States until three months after these petitions were filed.

In late '18, domestic producers negotiated contracts for their '19 sales, but because of the oversupply, they had to accept prices that led to operating losses in 2019. These facts show the domestic producers need trade relief to avoid further harm.

Now, let's go over the key statutory factors beginning with cumulation. As you see here, and as the
Commission found in the preliminary phase of these investigations, the Commission's traditional factors all support cumulation. Acetone is a highly fungible product and subject imports are overwhelmingly interchangeable with the domestic like product. Subject producers were simultaneously present in the U.S. market. They were present in the same geographic market, and they were present in the same channels of distribution. All of the subject producers contributed to the excess supply. All of them engaged in unfair trade and all of them were present in significant volumes until these cases were filed. To properly analyze the record, the Commission must cumulate all subject imports.

Let's talk about volume. Here you see the dramatic surge of subject imports over the period of investigation. In only two years, the volume of dumped imports rose by more than 140,000 tons, an increase of almost 145%. This import surge, and not any factor, caused the excess supply that has plagued U.S. producers of acetone. Here, you can see the increase in the market share of subject imports. Those imports took sales directly from the domestic industry.

Look at this slide. In two years, subject imports gained 8.7 percentage points of market share, while U.S. producers lost 8.8 percentage points. The Commission
should find that all of the increase in subject imports came
at the expense of U.S. production.

The respondents have argued that they were drawn
into the U.S. market by concerns about shortages. But the
facts show otherwise. Here, you can see the domestic
production was stable from 2016 to 2018. Furthermore,
domestic producers had unused capacity that could've been
used to serve the U.S. market. As our witnesses will
testify, and as your record confirms, there was never a
shortage of acetone that justified the surge of dumped
imports which we saw during the period of investigation.

Here you can see what was actually happening in
terms of supply to the U.S. market. From 2016 to 2018, the
volume of acetone sold in the U.S. market by domestic
producers fell by about 24,000 tons. In other words,
basically stayed flat. The volume of nonsubject imports of
acetone rose by 2,600 tons, again, very little change. The
volume of subject imports rose by almost 142,000 tons.
Given these facts, you can be certain that the oversupply
that harmed domestic producers was caused by subject
imports, not any other factor.

Respondents will try to convince you that the
surge in unfair trade was justified by Shell's announcement
that it was reducing capacity, or by Hurricane Harvey, both
of which happened in 2017. But that is not correct. Here
you see that in full year 2018, the data that account for Shell's capacity reduction, the domestic industry had almost 250,000 tons of unused capacity. To put that figure in perspective, the domestic producers' unused capacity was actually greater than the volume of subject imports in 2018.

This is all further evidence that respondents' claims of a shortage or even an anticipated shortage in the U.S. market is not supported by the record and should be rejected.

By the end of 2018, it was clear to all participants that the U.S. market was oversupplied. In fact, both domestic producers and importers leased additional capacity to store acetone in the U.S. Domestic producers ultimately lost money on the sales in the first half of 2019. Given these facts, no one can credibly argue that the U.S. market needed even more dumped imports at the beginning of 2019. But those imports kept coming.

What we've done here is show subject imports in each of the first four months of the year from 2016 to 2019. This allows a comparison that takes out any concerns about seasonality. You can see the huge surge from 2017 to 2018, but what is perhaps even more significant is that in early 2019, a full year after Shell reduced its capacity, subject imports were coming into the United States at almost the
same levels as 2018.

In fact, subject import producers were on page to ship 246,000 tons of acetone to the United States, a figure slightly above 2018 levels. This chart shows why petitioners had to bring these cases. There was no other way to stop unfair trade. The chart also confirms that subject producers were not responding to any shortage. They were dumping excess production.

Let's provide a little more detail on this point. Here, you can see the volume of subject imports during each of the first six months of 2019. As you see, we filed these petitions in February. Three months later, basically the time needed for importers to adjust to the filing, the volume of dumped imports finally declined. This chart confirms that these cases are the only reason subject imports left the market. Without trade relief, they will come back and do further harm.

Now, let's talk about price effects. The record shows beyond all question that subject imports compete with the domestic like product on price. Subject imports and the domestic like product are interchangeable. Almost every responding purchaser identified price as one of the top three facts they consider in purchasing decision. Most purchasers state that they always or usually buy the acetone offered at the lowest price. Given these facts, U.S.
acetone producers have no choice but to compete with subject imports on price.

Almost all the underselling data is confidential, which makes it difficult to discuss here. We have addressed that data in our confidential brief. But the staff has made public the overall volume of underselling and overselling in your pricing comparisons. As you can see, it was plainly a significant volume of underselling during the period of investigation.

Our witnesses will tell you that throughout the summer of '18, their customers pressed them to lower prices to compete with dumped imports. They will also tell you that in their contract negotiations for 2019, dumped imports forced them to accept prices that have resulted in operating losses for the domestic industry.

Now, let's turn to impact. The Commission is supposed to evaluate impact in the context of business cycle and that is particularly important here. The record leaves no doubt that the domestic industry's profitability collapsed toward the end of the period of investigation. But as you see here, demand conditions were generally favorable. Apparent U.S. consumption was up, 8.6% from '16 to '18. Most firms reported an increase in demand, both inside and outside the United States during the POI. Under these circumstances, one would've expected the domestic
industry's performance to improve. But, of course, it did not.

While apparent U.S. consumption rose from 2016 to 2018, domestic production and shipments to the U.S. market both fell. These facts cannot be attributed to demand or to nonsubject imports. They can only be explained by the surge of dumped imports that took so much of the market from domestic producers. Conditions grew even worse in the first half of '19.

We've already talked about the oversupply in the U.S. market and the difficulty domestic producers had in negotiating their contracts for '19. Here you see some of the results. Major declines in U.S. production, U.S. shipments and both the overall value and average unit value of U.S. sales.

Finally, the domestic industry's financial data is confidential and therefore we cannot show it here. We urge you to consider our discussion of that data in our confidential brief. The public staff report does allow us to talk about trends in the data, and those trends are very instructive. As you can see here, the domestic industry's operating profit fell from '17 to '18, despite generally strong demand condition.

And then U.S. producers suffered operating losses in the first half of '19, the same time these cases were
filed to stop subject imports from doing more damage. The only plausible cause of these losses is the oversupply in the market. And subject imports are the only plausible cause of that oversupply. In short, the record shows that dumped imports flooded the United States market, taking market share and devastating the domestic industry's profit margin. Given these facts, you should find that subject imports caused material injury to the domestic industry.

STATEMENT OF PAUL SANDERS

MR. SANDERS: Thank you. My name is Paul Sanders, and I'm the Business Director for Chemical Intermediates for AdvanSix. In this position, I'm responsible for all customer facing aspects of our acetone business. AdvanSix was created in October, 2016, when Honeywell spun off its resins and chemicals business, which included the acetone production operations. I've been with AdvanSix since its creation and held the same role at Honeywell for several years starting in 2014.

I also held other business leadership roles with Honeywell since 2005. Before that, I held multiple roles at Rhodia and Albright and Wilson. I have twenty-nine years of experience in the chemical industry. I'm here with Clay Stephenson, Senior Product Manager of AdvanSix, who has eighteen years of experience working in the chemical industry, including twelve years of managing the commercial
products produced at AdvanSix's Frankford facility.

AdvanSix is one of the largest producers of acetone in the United States. The production and sale of acetone is a critical part of our business operations, generating hundreds of millions of dollars per year in revenue. For many years, AdvanSix and our predecessors have produced the highest quality acetone at our plant in Philadelphia, to the benefit of our workers, the community and our shareholders.

In the last half of 2018, however, our acetone business began to decline precipitously, as imports from subject countries continued flooding into an oversupplied market. To stop these imports, AdvanSix, along with other members of the domestic industry, filed antidumping petitions in February, 2019. I appreciate the opportunity to be here today. Our trade remedy petitions are critically important to the success of our company, and we welcome the opportunity to provide you with information that will support an affirmative final injury determination.

AdvanSix produces acetone at its facility in Frankford, Pennsylvania, in Philadelphia. Our facility has two production lines that coproduce acetone and phenol, as well as alpha-methylstyrene. We have the capacity to produce about 350,000 short tons of acetone per year. In 2018, sales of acetone were approximately $262 million,
representing about 17% of AdvanSix's total sales and about 50% of our chemical intermediate sales. For our plant to remain viable, we must be able to obtain fair market prices for the acetone we produce.

AdvanSix employs about 200 workers at its acetone phenol facility in Frankford and 90 in our headquarters in Parsippany, New Jersey. Our workforce includes about 105 members of the United Steel Workers.

The acetone we produce is used by our customers to make a variety of products including adhesives, coatings, paint, solvents and herbicides. Acetone also serves as a building block for many plastics and resins that we use in everyday life. Key applications include consumer products, housing and automotive products.

For example, acetone is used to produce methyl methacrylate, or MMA, a key building block for acrylic plastics like plexiglass. Acetone is also used to produce bisphenol A, or BPA, the building block for polycarbonates and epoxy resins. AdvanSix makes acetone and coproduct phenol using the cumene peroxidation method.

Almost all acetone in the United States and globally is produced using this method. It works like this: cumene, which is formed through the alkylation of benzene and propylene, is placed into an oxidation vessel with diluted soda ash solution. When the cumene makes contact
with the air, cumene hydroperoxide is formed. The cumene hydroperoxide is then concentrated and fed into a reactor where sulfuric acid is added.

The reaction makes the coproducts acetone and phenol. The coproducts are then separated and purified through distillation. In this process, the propylene component of the cumene input ends up in the acetone, and the benzene component ends up in the phenol. On average, the cumene process produces one unit of acetone for every 2.21 units of cumene and 0.61 pounds of acetone are produced for every pound of phenol coproduct produced. These proportions are governed by the laws of chemistry and cannot be changed.

Our production of acetone and phenol also results in the production of a small amount of alpha methylstyrene, or AMS. AdvanSix consumes some of the phenol it produces in its downstream caprolactam facility in Hopewell, Virginia, and the rest is sold in the merchant market. All of our acetone and AMS is sold to unrelated purchasers.

The production of acetone is highly capital-intensive. The equipment we use is expensive. Building a Greenfield operation similar to AdvanSix would cost in the range of $500 million today. Moreover, the production equipment requires continuing investment for upkeep and repairs. Most producers undertake an annual or
biannual maintenance turnaround to keep their equipment in top working order.

Given the need to cover high fixed costs and to operate most efficiently, acetone producers have an economic incentive to run their production lines constantly and at maximum reliable rates. In fact, the equipment itself is designed to run continuously, twenty-four hours per day, seven days per week. We cannot be profitable unless we maintain high capacity utilization rates. If we are forced to run at lower operating rates, our operating efficiency is significantly reduced and our unit costs go up dramatically.

Because of the way our equipment works, operating at high levels of capacity utilization also makes our work safer, leads to higher product quality and improves our delivery performance. Simply turning our machinery on and off can trigger technical problems upon restart and force us to incur significant costs.

As noted in the staff report, 98% of the acetone sold in the U.S. market is of a single standard grade, also known as technical grade. Domestically-produced acetone and subject imports are also highly substitutable. As stated in your staff report, all responding U.S. producers and most importers and purchasers reported that domestic product and subject imports are used interchangeably.

As you would expect with a fungible commodity
product, competition in the acetone market is primarily on price. This makes our industry particularly vulnerable to underselling. As demonstrated in the staff report, U.S. producers compete head-to-head with subject imports in all parts of the market. Domestically-produced acetone and subject imports are sold in the same channels of distribution to both end users and to distributors. Both are sold in the same manner on a spot and contract basis.

As noted in the staff report, most acetone sales in the U.S. market, both contract and spot, are based on a negotiated discount off the large buyer price. Also sometimes called the large buyer market. First, let me explain how the contract market works. These are not your typical fixed-price, fixed-quantity contracts. Instead, prices are variable based on an index of either market prices or the principle input. Minimum and maximum volumes are specified. Customers can and do typically purchase more than the minimums, up to the maximums. But expect that they will buy the additional product at the contracted price.

The large buyer price is the basis for most contract sales. It is established each month as a result of negotiations between three acetone purchasers that make the MMA, Dow, Lucite, and Evonik, and two U.S. acetone producers, INEOS and Shell. In setting the large buyer
price, the negotiating parties put significant weight on the
price of refinery-grade propylene, or RGP, which is the
primary raw material in acetone.

But--and this is important--they also adjust the
large buyer price upwards or downwards depending on current
supply and demand conditions in the acetone market. Once
the participants establish the large-buyer price, typically
around the 25th of each month, it is published in several
industry publications, including IHS and ICIS. Most sales
then key off that price.

It is really important to understand that the
large-buyer price is not the actual price paid by customers.
In other words, no one actually pays the large-buyer price.
Instead, prices--and especially contract prices--are often
set as a discount percentage off the large-buyer price. For
contract customers, the discount rate is the key variable in
the annual price negotiations. Some of our customers prefer
to set the price as an adder to the price of refinery-grade
propylene, regardless of how prices are set, however,
monthly prices move up and down with the price of
refinery-grade propylene and with acetone supply and demand
conditions.

Contracts of one or two years are typically
negotiated with our customers in the last quarter of each
year. Once the discount rates off of the large-buyer price
is fixed in a contract, it is normally good for the duration of that contract. When we make spot sales, the prices for those sales can be established as a discount off of the large-buyer index. That discount clearly is influenced by current acetone supply and demand conditions.

Because of the close correlation between large-buyer price and the price of the raw material input, refinery-grade propylene, prices can move up and down for reasons unrelated to the supply and demand for acetone. Thus, rising prices do not necessarily correlate when improvement in market conditions for domestic producers, as this may only reflect an increase in the refinery-grade propylene prices.

Accordingly, the absolute price is not what is critical for our business. Rather, we require sufficient margin over raw material costs in order to sustain our business. An analysis that focuses on absolute pricing will not give you an accurate assessment of market conditions. Instead, the spread between raw material costs and prices is the true reflection of what is going on in the market.

With that background in mind, I would now like to provide you with AdvanSix's view of what has occurred in the domestic acetone market over the period of investigation, developments that led AdvanSix to join with other acetone producers in the filing of antidumping petitions.
I would also like to correct some of the misleading, and frankly, erroneous statements of the respondents in their attempt to divert blame from subject imports. The acetone business in the United States was fairly healthy in 2016 and for most of 2017. However, imports rose in 2017 and we started to notice their effect in the last quarter of that year. In fact, imports in 2017 were up 51% from 2016 levels. In 2018, the import surge accelerated and subject imports increased another 62% over 2017 levels.

Meanwhile, the U.S. industry was losing market share to subject imports. Subject import market share more than doubled from 7% of domestic consumption in 2016 to 15.7% of domestic consumption in 2018. Subject imports continued to flood into the U.S. market in the first four months of 2019. It was only after the domestic industry filed antidumping petitions that subjects began to taper off.

As imports surged in 2018, the prices of subject imports dropped below the prevailing market price in the United States and our customers began to put pressure on us to lower prices to match the prices of subject imports. For example, when we negotiated our contracts for 2018 sales at the end of 2017, pressure from subject imports forced us to increase the discount off of the large-buyer price for some
of our biggest customers.

That was bad enough. But conditions grew worse in 2018. By the late spring of last year, our customers were complaining that their contract prices were higher than the prices prevailing in the spot market. In response to these complaints and notwithstanding the existence of previously negotiated sales contracts, we were forced to lower our pricing, that is, increase applicable discount on the large-buyer price for some major customers. By the second half of 2018, we were also starting to see an increase in subject imports being shipped to the United States on speculation.

I heard of instances where traders would purchase shiploads with no specific U.S. customer in mind and, because of excess acetone inventory, would be forced to sell it below their acquisition cost in order to free up storage space for the next boatload. In other words, traders were simply dumping products into the United States. In 2018, another consequence of these practices was that a number of our most important customers began taking only the minimum volumes specified in their contracts with us, choosing instead to make up the shortfall with lower-priced subject imports.

We even had some of our customers break their minimum-volume commitments with us and source instead from
subject imports. In the second half of 2018, the market was completely over-supplied, yet the import trend continued. We ran out of storage-tank capacity to hold the excess supply that we could not profitably sell. Ultimately, we had to match the prices of imports to try to maintain utilization, even when that price was below our cost to manufacture and even our raw material costs.

As a result, our acetone business became unprofitable in the last half of 2018. Refinery-grade propylene prices rose, but we were simply unable to increase our prices to cover costs. This trend continued in 2019 with imports from subject countries rising, even two months after we filed the antidumping petition. Our contracts for 2019, which were negotiated in an oversupplied market, led to further losses.

I want to set the record straight on one of the key arguments made by respondents. Respondents assert that the petitioning companies created a shortfall in the market in 2018 by refusing to enter into contracts with customers at the end of 2017 for the 2018 purchasing year. They claim that we decided to withhold volume from the contract market to chase higher prices in the spot market. They say that we were new, inexperienced producers who made poor management and risky strategic decisions.

They're completely wrong. First, as I've
previously explained, AdvanSix is a continuation of
operations at Honeywell that were in the U.S. market for
many years. We're a well-established producer and our
people have decades of experience making and selling
acetone. Many in AdvanSix management team worked for
Honeywell as I did. Still others worked for Sunoco, who
owned the facility before Honeywell did. The Frankford's
facility has been operating and producing acetone since
1955.

Second, at no time did AdvanSix withhold product
from the contract market to chase higher prices on the spot
market. It has long been our practice to secure sales of
our production in the contracts. We negotiate in the fourth
quarter of each year. 2017 was no different for us than any
other year and, in fact, we sold more product through
contracts in 2018 than we did in 2017.

Finally, I can tell you that we did not refuse to
supply our customers in the wake of the announcement by
Shell to shut down one of its production lines. Instead, as
we were documenting our brief, AdvanSix went above and
beyond in its efforts to make up for any shortfall to
Shell's customers.

AdvanSix is a great company. We have
state-of-the-art equipment and a well-trained and dedicated
workforce, many of whom are USW members. We strive
constantly to be the most competitive player in the market, but we simply cannot get a fair rate of return on this product without your help.

All we ask is that you give us the chance to compete in a market that is not distorted by dumped imports. Thank you, and I look forward to your questions.

STATEMENT OF TIM DUHE

MR. DUHE: Good morning and thank you. My name's Tim Duhe and I'm the Commercial Vice President of ALTIVIA Petrochemicals. I'm joined here today by Frank Hayes, who until this summer was ALTIVIA's Chief Financial Officer and is now an advisor to the President and CEO of ALTIVIA. I joined ALTIVIA in January of 2016. Before that I worked with DuPont and Chemours for thirty-five years, most recently as a sulfur product sales manager. I have thirty-eight years' experience in the chemical industry.

At ALTIVIA, my responsibilities include the sales and marketing of acetone, phenol and alpha-methylstyrene, which are all products at ALTIVIA's facility in Haverhill, Ohio. We're on the Ohio River in the southern part of the state, just across from Kentucky. ALTIVIA was founded in 1986 and is headquartered in Houston, Texas. We have 150 workers at our Haverhill facility. We're also acquiring the acetone derivative business from Dow, located in Institute, West Virginia, adding another 150 employees and dedicated
contractors. That acquisition will close on November 1st, and it'll make it even more important to ensure a fair trade in this market.

These are stable, well-paying jobs and they're critical to the communities in Southern Ohio and West Virginia that otherwise suffered from economic decline for decades. These days, these parts of Ohio and West Virginia have some of the highest unemployment rates in the nation. The jobs at ALTIVIA are critical, not only to the workers, but to the economic health of the region.

ALTIVIA got into the acetone business when it acquired the former Sunoco acetone phenol facility in Haverhill, Ohio. In 2015, our facility, then known as Haverhill Chemical, was owned by the Goradia Capital. Goradia decided to idle the facility and enter into Chapter 11 bankruptcy. In my opinion, the production facility and operations were sound, but some mistakes were made.

Cash flow problems had caused Haverhill to enter into some contracts that were no longer competitive, resulted in some negative margins. Haverhill was also paying some pretty high rates for certain manufacturing services.

We at ALTIVIA thought we could do better. We saw an opportunity and purchased the Haverhill assets out of bankruptcy in November of 2015. There were several factors
that made the investment attractive at the time ALTIVIA acquired the facility. First, the business outlook in North America for acetone and phenol were very strong with growing demand in end-use applications. This was the most important factor and we were particularly interested in significant global growth forecast for paints and coatings, polycarbonates including bisphenol A and phenolic resins.

Second, the facility is strategically located on the Ohio River, which is in close proximity with the acetone customers and with easy barge, rail and truck access.

Third, the facility has an experienced and dedicated workforce with many workers having been at the plant for decades.

Fourth, the facility located only fourteen miles from the primary cumene raw material supplier.

Fifth, ALTIVIA received a very strong support from acetone customers to restart the facility.

Sixth, and finally, Haverhill is unaffected by Gulf Coast hurricanes. This fact means that we can serve as a valuable alternate supplier during periods of weather-related emergencies that occasionally affect other merchant suppliers.

After completing the Haverhill acquisition, ALTIVIA invested heavily to restart the facility and provide working capital for operations. During 2016, our first full
year in charge, ALTIVIA operated one of the two production
lines at Haverhill. We broke even in the first year, which
is a great outcome, given the costs that's normally
associated with restarting an idled facility, and the
challenges of re-entering the market. In fact, we exceeded
management's expectations.

In 2017, our second year in charge, ALTIVIA
restarted the second production line, adding about 110,000
short tons of capacity for the domestic supply. This
decision to restart the second line was supported by
favorable market demand and pricing for acetone. We also
believed it was critical to ensure the financial
sustainability of this facility. Given the high fixed
costs of acetone production, it is vital that the Haverhill
facility generate output for both production lines.

During 2017, we were optimistic. The morale of
our employees and the community was very high. We enjoyed
higher shipments and investments including a fleet of 400
new railcars. Throughout 2017, ALTIVIA was in a strong
competitive position. We had upgraded facilities, a new
fleet of safer and more efficient railcars and a customer
base willing to support our increased production of both
acetone and phenol.

At that point, I certainly had no idea that I
would come here today and seek trade relief. However, in
late 2017 and 2018, imports of acetone into the United States increased significantly at prices well below U.S. market prices and in some cases, below acetone raw material costs. The resulting oversupply caused market prices for acetone in the United States to plummet while inventories grew.

We suffered an imbalance between supply and demand, as well as a significant price erosion. These conditions were further aggravated when customers broke contractual supply agreements with us. Rather than fulfill their contracts, they wanted to take advantage of the very low spot prices resulting from the unfair trade, and in the case of distributors, because they were unable to compete with the lower-priced imports.

At ALTIVIA, we did everything we could to mitigate the harm caused by unfair trade. For example, we incurred heavy costs to rent additional tank storage capacity for the acetone we could not sell because of subject imports. We also had to lease an additional ten to twelve fleeted barges to store the acetone that we were unable to sell, adding additional high daily demurrage costs. But even with extraordinary measures, this was not enough.

Dumped imports kept pouring into the U.S. and last year, the market for acetone fell below our raw
material costs. These facts forced us to reduce output at our plants, thereby increasing our per-unit costs each for acetone and phenol. Again, let me emphasize that there's nothing we could've done to avoid the problems. Unfairly traded imports destroyed our plans and turned our profits into losses.

Now we face a major crisis. If we cannot sell acetone at a profit, we'll have to soon shut down one of our production lines. If depressed pricing continues for too much longer, we may have to shutter the whole facility. As you heard from Mr. Sanders, fixed costs give acetone producers an incentive to run their production facilities as close to capacity as possible. We can reduce our operating rates somewhat, but there is a rate below we cannot go without triggering a shutdown, or facing shutdown on one or both of the lines.

The adverse financial impact facing the domestic industry could in fact result in plant closures and the reduction of U.S. capacity. Once acetone production facilities are shuttered, the cost of restarting them is often prohibitive. The cost of building a new acetone phenol facility comparable to the ALTIVIA Haverhill facility would require four to five years and cost over $500 million.

I'd like to give you some additional background on the channels of distribution in the industry. Domestic
producers sell to both end users and to distributors, as do U.S. imports of subject imports. Subject imports are also entered into the United States by brokers and traders. Distributors include national, as well as regional distributors.

Imports enter the U.S. market through some affiliated U.S. subsidiaries of the subject producers and also through trading companies. Most of these importers have had their only storage tanks and distribution networks and have recently added additional storage capacity in order to push more acetone into the U.S. market.

As Mr. Sanders noted, when acetone and phenol are made from cumene, the propylene in the cumene ends up in the acetone, and the benzene in the cumene ends up in the phenol. So that's why the large-buyer price is established as a function of the cost of refinery-grade propylene, plus a markup also known as the spread.

As subject imports surged into the U.S. market and in the latter part of 2017, the large-buyer markup over refinery-grade propylene became severely compressed by late 2018. Many contracts involving both domestic and imported acetone are set with reference to the large-buyer price. As you have already heard, the large-buyer price is not the actual price that the large buyers pay, but rather it is a starting point of price negotiations.
The long-term contracts will typically be established at the large-buyer published index price minus a discount. This discount is established through contract negotiations with our customers. So for shipments in any given month, the price will be the large-buyer published index price minus the agreed-upon discount. It'll also reflect the significant distortions resulting from the dumped imports.

Moreover, given the large-buyer price moves monthly with the price of refinery-grade propylene, what matters most is the margin we're able to obtain over the cost over refinery-grade propylene. During contract renegotiations of 2018 and 2019 purchasers, we were forced to increase the discount off of the large-buyer price index. Our customers pointed to the availability of the low-priced imports and gave us a terrible choice. "Increase the discounts or lose the business."

We cannot avoid these problems by selling into the spot market. Spot market prices were also at heavy discounts relative to large-buyer over the course of 2018 and 2019. Contract prices can also be established in another manner. Based on the costs of refinery-grade propylene, plus an adder.

Again, over the course of 2018 and 2019, we have seen the adder over the refiner-grade propylene shrink due
to the low-priced imports. In fact, there are many recent instances in which import prices were below the refinery-grade propylene price. And no adders were even achievable.

I wanna set the record straight on a couple of the arguments made by the respondents. First, while the respondents have finally conceded that acetone is coproduct with phenol, and I'll assert that phenol is the dominant coproduct and acetone is the subordinate coproduct. They assert that production decisions are driven solely by phenol demand and that undersupplied acetone market will not prompt more acetone production. I can tell you categorically that that's not true.

And the way we look at it at ALTIVIA, our production decisions are driven by supply and demand conditions for both acetone and phenol. The U.S. market is somewhat unique in that supply and demand of acetone and phenol is pretty much in balance. Thus, we look to sell both products at a profit.

In fact, as noted earlier, ALTIVIA made the decision to curtail production in 2018 and 2019 because of the oversupply of acetone in the market and because we ran out of storage space. In that instance, acetone conditions drove the production decisions of the facility. To be economically viable over the long-term, ALTIVIA, like any
other producer of the coproducts acetone and phenol, must be profitable on both phenol and acetone. Relying on phenol to carry an unprofitable acetone business is simply not sustainable.

Moreover, through the acetone production process may produce more phenol than acetone, that doesn't automatically make phenol more valuable. In fact, in the early part of the period of investigations, ALTIVIA was ramping up its second production at Haverhill, acetone was the more profitable part of the business.

Second, I wanna address respondents' assertions that there was a shortage in the U.S. market in 2018, prompted by the announcement by Shell in 2017 that it would shut down one of its lines in Texas in mid-January of 2018. The market was not short of acetone at the time that this announcement was made in November, nor was it short when the facility was actually shut down in February of 2018. The market was already awash in subject imports at the end of 2017 and early 2018, even before the shutdown took place. These shipments must've been arranged far in advance of the shutdown announcement. Thus, additional imports were not needed and dumped imports were certainly not needed. But they entered the market anyway.

Respondents also failed to mention that ALTIVIA was increasing its acetone capacity in 2017 as we were
ramping up production on the second acetone phenol line. This added 120,000 short tons of capacity to the U.S. market. Shell's overall reduction and closure of the one of the production lines is said to be in the 130- to the 140,000 ton range. Thus, ALTIVIA made up for most or all of Shell's capacity reduction. As these facts show nothing that happened in the U.S. market justified an increase in dumped imports of nearly 100,000 tons from 2017 to 2018.

ALTIVIA's a great company and we've invested a lot of time and money in making the Haverhill facility as competitive as any other acetone producer in the world. We're very proud of our people and the hard work that they've given us. We believe that on a level playing field, ALTIVIA can thrive for many years to come.

It's heart-breaking to think that the lives of our workers and their families could be ruined by unfair trade. We must have prices that are fair and free of dumping to survive. We cannot achieve this by ourselves, therefore, we need you to make an affirmative injury determination. Thank you, and be happy to take any questions.

STATEMENT OF DAVOR SAFAR

MR. SAFAR: Thank you. My name is Davor Safar and I am the Global Business Director for Epoxy Upstream for Olin Corporation. In this position, I'm responsible for all
its allele, -- phenol acetone and Bisphenol A global performance. I have been in my current position for two years. Before that I worked for Olin as a Product Director based in Zurich, Switzerland and before that, I worked for more than 10 years for the Dow Chemical Company. I have more than 15 years of experience in the chemical industry. Thank you for permitting me to testify here today.

Acetone is an important part of Olin's business and we are extremely concerned about the impact that dumped imports has had on our acetone business. Olin produces acetone and phenol at our facility in Oyster Creek, Texas. Our facility is located next to our manufacturing site in Freeport, Texas. We have over a thousand employees supporting our acetone and other chemical manufacturing facilities in Freeport area.

Olin entered acetone business in October 2015 when we acquired Dow's epoxy resins business which included the acetone phenol facility in Oyster Creek. Many of the people in charge of the operations and sales worked for Dow before the sale of acetone business to Olin and, therefore, has extensive experience in this industry.

We really started to see deterioration in the acetone market in the last quarter of 2017. In late August, Hurricane Harvey struck the Gulf Coast and in November 2017, Shell issued a notice that it would idle one of its two
acetone phenol production lines at its Deer Park, Texas facility in early 2018. Following this notice, and in a speculative effort by the new and pre-existing acetone traders to exploit this U.S. market developments, import volumes increased into the U.S. market from all of the subject countries. The purported supply shortage that led to this highly speculative behavior, however, never materialized. Although Shell idled its production facility at the end of February 2018, the operational issues caused by Harvey were short-lived and have had resolved well before the end of the 2017 as the producers quickly returned to the production.

Despite the rapid adjustment of the domestic production, including the new capacity coming online from Altivia, imports continued to flood the market selling at very low prices. Subject imports in the first quarter of the 2018 were 77,000 tons, almost as much as the total in all of 2016. This import surge started the downward spiral in the acetone market for the remainder of 2018 and 2019. Subject supplier continued to push the volume into the U.S. for 2018 and arrange for long-term leases of new and larger storage tanks capable of taking imports from ocean-going vessels. As a result, the U.S. market became over-saturated which compressed our margins.

In January 2018, despite sufficiently
available U.S. capacity, the United States went from being net exporter to net importer of acetone. In addition, during 2018, spot market prices which, historically, have been higher than the large buyer prices fell below that price. Contract customers buying at a discount to the large buyer price began to complain about having to pay higher price than a smaller truck and rail customers.

Respondents argue that it was an expected shortage in the market after Hurricane Harvey and the Shell announcement that gave rise to the need for imports. I was there, and I can assure you that there was no shortage. In fact, the market was already in over-supply at the end of 2017, which resulted in Olin having to offer bigger discounts of the large buyer price in order to place our volume with the existing customers for 2018 purchases. Moreover, even if one were to accept response [0:05:00.5] of a perceived shortage by the second quarter of 2018, it should have been evident to everyone in the acetone business that the market is severely over-supplied. And yet, imports just continued to flood into this market for the remainder of the year and well into 2019.

Olin competes head to head with all subject imports. There is not a single customer where we do not encounter import competition. Olin's acetone business has been adversely affected by unfairly traded imports. Olin
decided to take a month-long turnaround in March 2019 and, despite that reduction in our supply, and the idling of the Shell production line, prices continued to fall. We found ourselves unable to compete at all in the spot market, where the prices were very low due to imports. We lost contractual volume and some contract customers opted to just begin purchasing in the over-supplied spot market. Other customers would only commit to a certain volume, and also required us to agree that we would increase the discount to the large buyer price mid-contract if the spot market prices fell.

I think it's highly ironic that the respondents accuse petitioners of creating a glut of acetone in the U.S. market because, according to them, we were chasing phenol profits. We did not do that, but the subject producers did. By way of background, the U.S. market, for both acetone and phenol, have historically been pretty balanced between domestic production and domestic consumption with some level of export and import sales. This is not the case for most of the subject producers, however. They produce phenol for domestic and export markets but do not have sufficient domestic demand for their acetone. These facts explain why they are so dependent on the export and why we are at a high risk without trade relief. To deal with the terrible market conditions caused
by unfair trade, Olin is operating at sub-optimal
utilization rates. This hurts our profitability on acetone
because of the high fixed cost associated with acetone
production. We would like to run our facilities at a higher
utilization rate to avoid significant impact on our bottom
line.

I would like to sum up the forms of injury
that domestic industry has suffered as a result of dumped
imports from subject countries. First, we had to lower the
prices by offering steeper discounts to the larger buyer
price. Second, the large buyer price itself was affected as
a margin between the price of the refinery grade propylene
and the large buyer price narrowed. Third, customers only
purchased the minimum levels specified in their contracts.
Fourth, some customers opted to simply break the contracts
and buy on the spot market. Fifth, Altivia and AdvanSix had
to lease additional storage capacity for the acetone that
they could not sell profitably, as you have heard. Sixth, as
the storage capacity reached its limits producers had no
choice but to sell below their cost of good sold. Seventh,
subject imports destroyed the spot market as well as the
contract market.

At Olin, we are very concerned about what will
happen if the duties are not imposed to offset the high
levels of dumping that the patent of comments [0:09:16.3]
for imports of acetone. Producers in the subject countries have a lot of excess capacity. They are also highly export oriented and many have strong focus on the U.S. market. In 2018, subject producers pushed 1.7 million tons of acetone into export market, almost 240,000 tons of which were exported to the United States. The United States was decimated in 2018 when around 15% of their exports came here. If the government fails to impose anti-dumping duties, the subject producers will view this as a green light to dump with impunity into the U.S. market. Even a small diversion of subject exports to the U.S. market will have even more dire consequence on the U.S. producers.

Let me be clear: Olin is very concerned about the future of its acetone business. The rapid penetration of the U.S. market by subject imports with prices often well below cost have already hurt our business and threatens to cause even more harm in the future if the dumping goes unchecked.

I thank you for your attention and look forward to your questions.

STATEMENT OF ROY HOUSEMAN

MR. HOUSEMAN: Good morning. My name is Roy Houseman. I am the Legislative Director for the United Steel, Paper, Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, better
known as the USW. The USW is the single largest industrial union in the United States, and we are the dominant union representing 30,000 workers in the chemical industry, including traditional chemical plants, petrochemical units, and chemical end-product manufacturing. The USW represents workers employed in the production of acetone at AdvanSix Frankfurt, Pennsylvania facility and at Shell Chemical's Deer Park, Texas facility. In total we represent roughly 300 workers in the facilities producing acetone in the United States.

As you know, the USW has a long history of defending the interests of our members against the damage done from unfair trade. We strongly support the petitions filed by AdvanSix, Altivia, and Olin. What is clear to me, from the staff report, is that this is an industry that has suffered from material industry as a result of the imports from the subject countries. Although Altivia is not a union shop, the company saved hundreds of jobs in a rural part of Ohio when they purchased the Haverhill facility out of bankruptcy in 2015. This is one of the most economically depressed parts of the United States and these jobs are an important driver of the economy of the region. The county poverty rate where the facility resides is 21.4% compared to the national average of 12.3%. We have over a hundred members who work at AdvanSix facility in Philadelphia.
As you have heard from the AdvanSix witness, Mr. Sanders, their business is under siege from subject imports. They have lost market share and, unfortunately, have had to compete in a market where the prices have gone below raw material costs. At the USW we know this is an unsustainable situation.

In the chemical industry, which is highly capital-intensive, machinery must be run at high rates of capacity utilization in order to cover fix costs, to generate critical returns to support maintenance and investment and to optimize workplace safety. If companies cannot even cover their variable costs, even production lines are shut down and workers are laid off. We have already had one acetone line cease production at the Shell facility in Deer Park in 2018. The facility is one of the largest taxpayers in Deer Park, Texas, and the chemical plant represents close to 16 million in property taxes alone.

Chemical workers in the domestic acetone industry have advanced experience and are highly skilled. These jobs provide a good living wage and benefits. They play a critical role in their local economies and workers in those jobs have a great opportunity to build a better life for themselves and their families. As already demonstrated, dumped imports of acetone from the subject countries are a
direct threat for these crucial jobs. On behalf of the USW
and all its workers I urge you to reach an affirmative
final determination in its investigation.

STATEMENT OF BONNIE BYERS

MS. BYERS: Good morning, Bonnie Byers on
behalf of petitioners. As you've heard from our witnesses
here this morning, the domestic industry producing acetone
is clearly suffering present injury. In addition, a review
of the threat factor shows that domestic producers will
suffer additional material injury in the absence of relief.

Producers in subject countries have
significant levels of excess capacity beyond that which is
needed for their domestic markets. During the POI, as noted
in the staff report, capacity production, capacity
utilization in subject countries all increased. The record
also shows that acetone producers have a strong incentive to
operate at very high capacity utilization rates. And that's
exactly what they did before, and what they will do unless
the Commission grants relief.

The record also shows that subject producers
are highly export oriented and already has significant
presence in the U.S. market. Furthermore, as China increases
its own production of acetone, subject producers will likely
lose sales in that market, making them much more desperate
to ship to the United States.
In Belgium, INEOS is the world's largest producer and has two production lines with capacity of 465,000 tons. They are not operating at full capacity and can increase exports to the United States. In Korea, there are two acetone producers with a combined capacity of 880,000 tons. They are very highly export oriented and public data shows that they exported about 48% of their production in 2018. Nearly 30% of those exports, over 100,000 tons, actually came to the United States. Korea's largest export market has been China but, as I mentioned earlier, China is increasing its own production of acetone and that means more dumping from Korea into the U.S. market.

Similarly, in Singapore, Mitsui Chemicals has 173,000 tons of capacity. A conservative estimate, based on public data, indicates that Singapore exports about 84% of its production and from 2016 to 2018 Singapore increased its exports to the United States by 320%.

Sasol has 190 tons of capacity and they export about half of the acetone they produce. In 2018, 35% of Sasol's total exports came to the U.S. market. It's a similar story with Spain, based on confidential information.

Considered as a whole, imports are increasing rapidly with devastating impact. Between 2016 and 2018, imports increased by more than 144%. Moreover, the rate of that increase actually increased -- accelerated between 2017
and 2018. Subject imports more than doubled their market share between 2016 and 2018.

As our testimony has shown, subject imports have already resulted in significant price depression and suppression. Inventories of subject imports threaten further injury in the United States. Importers of acetone from subject countries increased their lease storage tank capacity for acetone by over 50% between 2016 and 2018. Because these tanks are tied up for at least two years, they are very expensive to lease and require substantial investment to prepare them to store acetone. The importers now hold a high fixed cost asset in the United States that it can only recover by a steady stream of ingoing and outgoing acetone shipments.

Subject producers also face barriers in third country markets as indicated in the staff report. I just would like to make one final comment which is that the domestic industry, as you've heard this morning, is already very vulnerable to further injury from subject imports.

Thanks very much.

CHAIRMAN JOHANSON: Thank you all for appearing here today. We will now begin Commissioner questions with Commissioner Kearns.

COMMISSIONER KEARNS: Thank you all for being here today. Your testimony has already been very helpful.
I wanted to start with something I heard about the large buyer price and annual contracts.

Mr. Sanders, I believe you stated that contracts establish a discount from the large-buyer price. And if I recall correctly from the staff report, the large-buyer price is published monthly. Is that correct?

MR. SANDERS: Yes, that's right. So--I'm sorry. Paul Sanders, AdvanSix. How it works is that every months three MMA producers, Evonik, Dow, and Lucite negotiate the large-buyer pricing along with two U.S. producers, INEOS and Shell. And the negotiation depends upon the raw material input, which is refinery grade propylene, which is a published marker, and then on top of that they take into account supply demand impacts in the U.S.

And so that marker is basically negotiated, and roughly on the 25th of every month it's published in a number of publications and freely available for everyone to see.

COMMISSIONER KEARNS: Okay, and so then--and you explained that in your annual contracts of course you negotiate a discount from the large-buyer price. So my question is: Does that mean that in an annual contract that the price for the acetone will change per month based on the newly published large-buyer price?

MR. SANDERS: Yes. Absolutely. What will happen
is that every month the refining grade propylene price will
move up and down, and that really does occur every single
month. And so in effect what happens is you'll see a flow
up and down, depending on the raw material costs and the
trade flow and supply demand on the acetone. And then for a
contract, we would have large-buyer price with a discount.
And the discount is what is negotiated on an annual basis.
And the discount is what has increased over the last two
years due to the influx of the dumped material.

COMMISSIONER KEARNS: Okay. And can the other
producers say whether that's true of their annual contracts,
s well?

MR. DUHE: Tim Duhe with ALTIVIA. That is
correct. That's the basis of the annual contracts. And,
again, the influx of the imports have really driven the
discounts even deeper.

COMMISSIONER KEARNS: Okay.

MR. SAFAR: Olin Safar. I mean this is also
correct. I mean--and over time, we needed to increase the
discounts versus the large-buyer mix as well.

COMMISSIONER KEARNS: Okay. Okay, so the
discounts over the past few years, you're saying, have
increased from the large-buyer price?

MR. SANDERS: Paul Sanders, AdvanSix. Yes, and
what's very much occurred is through the last part of 2017,
but certainly through 2018, a lot of our customers started
to see and get very transparent data around the dumped
material being imported from the five subject countries.

So what happens is the pricing for those products
is relatively transparent. It's a very fungible product,
acetone, so it all goes into mix tanks. So then what
happened is essentially in 2018 a number of our customers
came back to us, even though within contracting period, and
said, okay, we have a significant issue here. We're seeing
a lot of low priced material being imported from the five
subject countries. And what occurred then is there were
requests for deeper discounts, even within the contracting
period.

Some of our customers actually restricted the
amount of volume that were being priced to us, and brought
the volumes down to minimum rather than a medium level. And
then on top of that, it's almost like a viscous cycle,
because what really then occurs is the low-priced material
starts to be very clearly understood in the market. So
deeper and deeper discounts are being requested by key
customers.

And it got to the point during 2018, and
certainly in 2019 whereby another market, the distribution
market, got significantly impacted in that traders were
bringing in material from the five subject countries. They
were storing it in lease terminals, lease tanks, and were
essentially flipping the material. Because they weren't
always sold volumes.

So a case in point would be typically an importer
would bring in 3-, 4-, 5,000 tons, short tons. Maybe
they've got a purchase for 2,000 tons. And what could
happen is the remaining 3,000 tons is available for
speculation.

And the problem then is the trader generally has
another ship on the way. So there's a ticking timebomb
almost for the trader to move the material. And so what we
were seeing during 2018 and into 2019, and happening today,
is that material was still being flipped into the
distribution market.

So some of our contract customer came to us and
said, hey, the truck volume, 45,000 pounds, is the same
price as a 2.8--1.4 KT volume in barge. And so it's almost
like a viscous circle that suddenly the whole industry is
seeing these lower, very transparent fungible pricing.

COMMISSIONER KEARNS: Right. And just to make
sure I understand the dynamic here. I mean if you have
increasing, well, imports, essentially, coming in month
after month, I guess there's really two impacts that I'm
hearing.

I mean, one is on an annual basis the discounts
will grow. But then I guess also on a monthly basis, you're doing this by the large-buyer price, so that's probably also going to be deteriorating over time if there's a glut in the market. Is that right?

MR. SANDERS: Yeah. It's two-fold. Certainly the influx of low-priced imports being dumped into the U.S. significantly increased the discounts on an annual basis. So whenever you're going into that negotiation, the customer is well aware of very low pricing coming in at or below cost. Then they're going to show that price and very much a driver, a deeper discount because of that. So that's number one. So almost every year you're locking in a much lower margin, and that's happened in 2018 and certainly into 2019 here, as you've seen from the staff report, a loss-making industry.

The contract market is a very important piece of the market. I mean I can't say exactly how much of a percentage, but it's well in excess of 50 percent, and certainly we'll provide information postconference around the amount that's driven through the large-buyer contracting.

But certainly the spot market, and the distribution market is a more--is not always driven from the large-buyer price. So clearly we're seeing much lower margins and significant impact on our operating profits due
to the distribution market, and the spot market as well.

COMMISSIONER KEARNS: Okay, but now in 2019, I know you all have said that because of the glut in 2018 that forced you all to negotiate contracts that have steeper discounts in 2019, and that's why your profits are low in 2019. But I guess on the other component of this, the large-buyer price, are you all starting to see that that's bringing up prices under your annual contracts in 2019.

MR. SANDERS: Yes, so in terms of the large-buyer price, you have to look at the large-buyer margin over the cost of the raw material. The large-buyer price really is going up and down along with the refining grade propylene and some supply demand.

What you saw in 2019 is that large-buyer margin spread was really at around about the 15 level at one point, 15 cents a pound, and this is published data, and it's kind of dropped down, and now it's roughly around about 10 cents a pound number. But really the most critical thing here is no one buys the price, the large-buyer price.

COMMISSIONER KEARNS: Right, right.

MR. SANDERS: So really what everyone talks about is large-buyer discount. So whatever that margin is, a deeper discount is really going to seriously impact our profits and our ability to maintain fixed cost absorption by running our plants in a strong manner.
COMMISSIONER KEARNS: Mr. Duhe?

MR. DUHE: Tim Duhe with ALTIVIA. I just want to add a couple of comments for ALTIVIA, as well. We had customers who broke contracts. And in addition to what Mr. Sanders was saying, it does absolutely have an impact on where you can go with product.

If the imports are coming in and being dumped, then we lose opportunity to actually move product. In our testimony we talked about adding storage, fleeting barges. So it has a volume impact as well as a price impact.

COMMISSIONER KEARNS: Okay, thank you. And then a related question. Respondents argue that there has historically been an inverse relationship between the RGP prices and the acetone margin, or spread, that is independent of imports. How do you all respond to that?

MR. DUHE: Tim Duhe with ALTIVIA. The imports and the dumping absolutely have an impact on the relationship of pricing as you set the spread. There is a supply and a demand consideration that goes into that negotiation.

But if you think of pricing and you think about that spread, or you think about our build-up from an RGP perspective, and some conversion costs, and you hope to get a little bit of margin for return on investment, there is no margin at this point with the prices that are being dumped
into the U.S. Okay? There is no opportunity to recover converging costs. In fact, imports have come in below RGP.

COMMISSIONER KEARNS: So you don't deny, do you, that there is historically an inverse relationship between the two? Your point is just that right now what we're seeing is that you actually have RGP prices that are higher than the acetone prices?

MR. DUHE: No. Right now, RGP prices have kind of normalized. We're seeing imports coming at below raw material costs. If the RGP, as we talked about, it's the RGP that goes into the acetone, those import prices have come in below our raw material costs.

COMMISSIONER KEARNS: Okay. So what I'm hearing is historically it may be true that there is some inverse relationship? In other words, when RGP prices spike, that doesn't necessarily mean an automatic, immediate increase in acetone prices. However, more recently what we're seeing with imports, I think you're saying, is that the gap has narrowed. And in fact, your costs are exceeding the price of acetone?

MR. SANDERS Paul Sanders, AdvanSix. So you may see a spike in maybe a one-month period on RGP, or refining grade propylene, but within that month, and certainly within the next month, there's a correction in that large-buyer marker.
So it really is a marker. So if refining grade propylene went up two pennies in a month, then that large-buyer market takes into account that movement over the last 45 days in the RGP with its acetone price. So within the month it gets corrected.

COMMISSIONER KEARNS: Okay, thank you. My time is up. I'll continue later.

CHAIRMAN JOHANSON: Commissioner Stayin?

COMMISSIONER STAYIN: Thank you. The staff report says that 14 of 33 purchasers reported that a supplier was unable or unwilling to supply acetone since January 1, 2016. Explanations were supply issue related to Hurricane Harvey, product issues, supplier quality issues, Force Mazur issues, and inability to supply. And some indicated that supply was held—that volumes were held back, unwilling to contract the production, and others the lack of availability due to industry consolidation, production issues, and Force Mazur opened a space for imports to come into the market to respond to those problems with supply.

MR. SANDERS: Paul Sanders, AdvanSix.

COMMISSIONER STAYIN: Go ahead.

MR. SANDERS: So there's a lot of questions within that question. From my point of view, and from AdvanSix's point of view, if you look at the total production of acetone by the U.S. domestic producers, it is
pretty much flat over '16, '17, '18. So there has been no restriction.

The imported product has been dumped into the market and forced the industry into an oversupply situation. As you go through '16, '17, and '18, depending on the different markets, so all the acetone arriving into the U.S. is fungible. All the acetone arriving into the U.S. from the subject importers can go into a large buyer, an MMA producer, a large buyer like a derivative producer, or it can land into the distribution market, truck and rail. It's completely fungible.

So as AdvanSix, for many, many years, for decades, we've built, for example, a distribution network of very clear national and regional distributors that we work with day in and day out. And so, yes, from time to time we will refuse to supply a specific distribution point because it could be a completely erroneous business decision, because it would be customer--it would be distributor who's competing with ourselves.

So obviously I don't have all the information about who was refused, et cetera. So that is one point, in that we will almost always drive our business through long-term strategic customer relationships.

In terms of, for AdvanSix, we will provide some information posthearing, but I can assure you that our sales
were not--were very compatible over those periods. And in fact in 2018 we actually sold more material through contracts, large-buyer contracts, than in 2017.

COMMISSIONER STAYIN: Yes?

MR. VAUGHN: Commissioner Stayin, Stephen Vaughn. I just want to insert just a little bit to understand our theory of the case.

In light of these instances I think that they're talking about, you're talking about very short-term events that may have happened back in 2016 or even in 2017. Our point would be that those things cannot possibly explain why you had a huge surge of imports in 2018, and why that surge continued into 2019 long after there was a, you know, an oversupply in the market. So I just wanted to clarify that point.

MR. DUHE: Tim Duhe with ALTIVIA. I'd like to add a couple of comments to that, if you don't mind.

COMMISSIONER STAYIN: Yes.

MR. DUHE: So in 2017 we were actually ramping up another production facility. So we were actually adding acetone to the market. And there was a big overlap between the time we were adding, and Shell's still in place. So there was plenty of supply of acetone during that period of the Petition.

COMMISSIONER STAYIN: Yes. Ms. Byers, you
commented upon the importance of capacity utilization and
the fact that what this machinery, these kinds of machinery,
you had to really—to do it economically, you had to have
them running full-time. Would you like to comment further
on that?

MS. BYERS: Yeah, sure. You know, these are
massive pieces of equipment. Some of the staff were at
AdvanSix's facility last Friday, so they've seen this. It
is very capital intensive. Not only that, but this kind of
equipment can't just be turned on and off. There are
significant costs associated with restarting a shut down
facility. But beyond that, there are a lot of safety issues
related to turning things on and off.

So you don't want to be doing that. The
equipment itself is designed to be run 24/7, essentially.

COMMISSIONER STAYIN: Thank you. Mr. Duhe, did
you want to comment on that?

MR. SANDERS: Paul Sanders, I would also add--
Paul Sanders, AdvanSix. I would also add that this is the
same true for every global producer of acetone and phenyl.
Everyone wants to run their plants as hard as they can to
absorb the huge fixed costs.

COMMISSIONER STAYIN: Sir, would you like to
comment?

MR. DUHE: Tim Duhe with ALTIVIA. Just adding
to that, that these facilities, you know, you can run them very hard. There is a rate that you can cut them back to, but there is a point where it requires you to shut it down. So this idea of starting them up and shutting them down is not safe, not healthy for the equipment, but even with the additional dumping it does require us to back down the rates as low as we can go.

COMMISSIONER STAYIN: The bottom line is, you are motivated to keep them going--

MR. DUHE: Absolutely.

COMMISSIONER STAYIN: --at full capacity. And does that put you in a position where you would be more competitive in the market to make sure that you have?

MR. DUHE: It would, if it would not be at a loss.

COMMISSIONER STAYIN: At a loss? Okay. There is this allegation that acetone is a subordinated coproduct to the production of phenyl. I'd like you to comment on this, because bottom line, the way it's been stated, is that phenyl is the product that is more valuable, and that is the driver of production. And that the availability of acetone depends on whether phenyl is going up, down, whether the demand is lower or higher. And this is important, I think, to the overall investigation to get this cleared up.

Yes, sir?
MR. HAYES: Yes, I'm Frank Hayes from ALTIVIA. I'm the former CFO. We all make these products from Cumene, and there are no fixed relationship for where we found the phenyl. .61 pounds of acetone is produced, and that's based upon the molecular weights of the product.

So they are manufactured together in a single process in significant quantities. We have to take into consideration the profitability of each product over its cost of raw materials. That's how we generate the profits to cover the high fixed cost.

So as we do our business planning at ALTIVIA, we do that taking both products into consideration.

Also, I'd like to reiterate the point that was made earlier, that in 2017 there was a period where acetone was providing greater profitability per unit of Cumene than phenyl. So categorically it is not run just for phenyl.

MR. VAUGHN: Commissioner Stayin, this is Stephen Vaughn. I would just like to comment on some of the cases that they mentioned earlier, because they mentioned them in their brief, and I just want to talk about them here.

Basically they--I'm going to talk about three cases that they referenced in their brief--chlorine from Canada, manganese sulfate from China, and anhydrous sodium sulfate from Canada. Those are the ones that they give a lot of attention to. And they sort of tried to use these to
sort of claim that in this type of an industry you should really only look at what's happening with the phenyl and not what's happening to the acetone. And that's not what those cases show at all.

In chlorine from Canada, the people actually argued that when you have a situation like this, the Respondents argued you should look at both the products together, and the Commission said, no, we're not going to do that. You can separate the two products, and we're going to treat them separately, which is exactly what you're doing here.

In that case, the Commission found that as a matter of fact the oversupply of the chlorine was being caused by domestic production not by the imports.

Here, as you've heard from the testimony, our production of acetone was stable and did not contribute to the oversupply. So that case just doesn't apply at all.

Manganese sulfate from China, in that case you had one producer who made manganese sulfate as a coproduct, and the Commission said, well, that's something we have to take into account when we look at the performance of that one supplier. Again, here you have strong testimony that these Petitioners value both the phenyl and the acetone.

And then finally, anhydrous sodium sulfate from Canada, again in that case, you were looking at coproducts,
that's true. But in that case the Commission found as a matter of fact that subject imports were losing market share and that the domestic producers were leading prices downward.

Here, the record is very different. Subject imports were gaining market share and they were the ones who were leading prices downward.

So when they talk to you about these cases, they do not apply. And they certainly do not justify disregarding what's happened to the acetone industry.

COMMISSIONER STAYIN: Thank you very much. I think my time is up. I'll pass it on.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: Hi. Thank you. I want to pick up a bit on the line of questioning Commissioner Kearns was pursuing on price, and how prices are set in the market.

As I understand it, for these contracts, these contract prices are set by the large-buyer price, which is a makeup of the refining grade propylene, plus a markup. And as I understand, this markup is determined by supply and demand. Can you talk a little bit about how you get to that markup amount, how supply and demand affects that, and what other factors might be going into establishing that markup?

MR. STEPHENSON: Clay Stephenson with AdvanSix.

That large-buyer price is settled by the three MMA
producers, Lucite, Evonik, and Dow, as well as two acetone producers, Shell and INEOS. So I can't comment exactly how that mechanism works, since we're not involved, but if you look at it over time and you look at the data, you can see that that spread changes based on the supply/demand balance.

MR. SANDERS: Paul Sanders, AdvanSix. And then every month it goes up and down, obviously, with the costs of the raw material. It's a very clear delta. If the refinery grade propylene goes up a penny, then you'll see the large-buyer go up to a similar volume depending on the stoeconomic rate.

MR. VAUGHN: And--Stephen Vaughn--you wanted to hear more about like how the discount gets negotiated off of the large-buyer price? Is that correct?

COMMISSIONER KARPEL: I do, but that wasn't my question initially. I guess I'm trying to understand. You focused on this discount price being impacted by subject imports being in the market, but I guess I'm trying to get my head around whether the large-buyer price is also affected by that. Because to the extent that supply and demand is determining the markup over the RGP price, which gets you to the large-buyer price, it seems that your arguments would apply to both. But correct me if I'm wrong.

MR. DUHE: Tim Duhe with ALTIVIA. What we were saying is that over time as the imports came in and we had
an oversupply situation, you saw the spread, which is the
amount between the refinery grade propylene and the
large-buyer compress. So it actually went down because of
the oversupply. That's the impact of the imports.

MR. SANDERS: Paul Sanders, AdvanSix. One other
point. So the absolute margin that we make is a number of
different factors. Obviously the large buyer marker
settlement is one factor.

However, the deeper discounts that have been
driven specifically by the actions of the five subject
importers with the dumped material, particularly through
larger volume in later 2017 and significant volumes in 2018,
and continued through January to April 2019, those deeper
discounts really impact our overall margin. And those
numbers you will see directly flow through to the profit and
loss statements that obviously are not publicly available
but that will be disclosed postconference.

MR. ORAVA: Steve Orava. Just to clarify and
make sure we've answered your question, I think the answer
to your question is, yes. There's a lot of impacts of these
subject imports, and these subject imports have an impact on
the large-buyer price. They have an impact on the spread.
They have an impact on the discount, as well as many other
impacts that we've talked about in the testimony.

MR. HAYES: Frank Hayes with ALTIVIA. Our costs
in Cumene are based on RGP in part. So our costs are based
on RGP. The large-buyer price spread over RGP went down.
That was the first injury. Our costs did not go down.

Then secondly, we had to give higher discounts
off of that large-buyer price in order to get the business.
So it's a two-fold reduction in our profit potential without
a reduction in our cost to manufacture.

COMMISSIONER KARPEL: Thank you. And then going
to the discount price, can you--I'm sorry, I've forgotten
which of you all mentioned this point, but you said there's
a high degree of transparency about those discounts in the
market.

Can you talk about how those discounts are
communicated among--I mean through the market?

MR. SANDERS: Paul Sanders for AdvanSix. There's
not high transparency of discounts in the market. The
transparency more is around the pricing of the imported
material, the spot-pricing of the landed material from the
subject importers. But the transparency of the discount off
the large-buyer marker is largely a very confidential piece
of information between seller and purchaser.

MR. SZAMOSSZEGER: Andrew Szamosszei from Capital
Trade. The other things that are transparent are the
publication of the large-buyer price, and also the
small-buyer price. So those are widely known in the
industry.

But the actual discounts to those are in the contracts when the producers contract something and come up with a particular discount with a particular buyer and that's confidential.

MR. VAUGHN: Stephen Vaughn. I think what we were trying to get across in the testimony was that when those imports come into the market, their price is very well known. And then these customers who have these contracts where some of the terms may be confidential, but they know what their price is from their producers and they know what the price is from the importers, and then that opens the door for them to call back to their producers and say, hey come on, you've got to do something for me because I can go out into the market and get this stuff much cheaper from the imports than I can get it from you.

And I think that was sort of the transparency effect that we were talking about.

COMMISSIONER KARPEL: So maybe I need to understand a bit better. I heard you talk about how the domestic industry sets out its annual contracts. Are imported products set out on annual contracts under sort of the same sort of similar terms, or using the large-buyer price? Or is it set somehow differently?

MR. SANDERS: Paul Sanders. We understand the
import price--I'll try to answer it, forgive me--we understand what the import prices are generally from the traders. And what's been happening is, because there's been such a huge oversupply of acetone in the U.S. market in 2018 and 2019, a lot of those ships have been arriving and have not been sold under contract.

So let's assume 50 percent is under contract, of which frankly I would not be fully aware of the details because that would be a confidential transaction between the purchaser and the importer, however if 50 percent of that material is available in that tank for resale, and for whatever reason there is no other large buyer available to take up that material for that week, that month, then what's been happening is that material has been offered to the distribution market into a rail car out of a Houston terminal into a truck out of a Houston terminal.

And then it's very easy, and very transparent in that market to understand what the pricing is, because it's simply an adder to the freight element. And what's been happening is that the 50 percent that's not being sold by the speculative trader has been moving into that distribution market at a huge discount to the market price.

And then the large buyer then is calling us saying, well, hang on a minute. I've heard that truck is available at an even lower price than I'm buying my bulk at.
And the reason why that price is being discounted by the trader is they have another ship on the way and they need to move that product out of that tank because the demurrage charges are significant if the ship arrives and there's no place to go.

But in terms of the contracting of imported material to the large-buyer customer base, that's a confidential piece of information. But certainly doesn't account for anywhere near the volume that's been arriving.

MR. DUHE: Tim Duhe with ALTIVIA. What I can tell you is that we compete against that price, right? And it's a freely negotiated price sometimes between the importer and whoever they can get to buy it.

That price comes back to us as a competitive alternative. So it's at a price not necessarily discount. We measure it, though, versus our contracts, when we see the discount that was negotiated go further down because of that price.

COMMISSIONER KARPEL: Is the spot market price at all tied to the large-buyer price, or RGP price? Or is it just sort of transaction-by-transaction?

MR. SANDERS: Paul Sanders, AdvanSix. The spot price, or prices that are offered in truck and rail into the small consumers, by default is a spot price. It can be negotiated on that day.
It does obviously--there is a reference, and the reference is what is the large-buyer pricing? What are the published markers in that week? But what we've seen in the huge influx of imported dumped product has really crashed that market. And so that the absolute pricing, or the margin over the contained propylene has really gone down to an unsustainable level in that market as well as the contracted market. And you'll see that in the post-submission in terms of the profitability of the industry.

CHAIRMAN JOHANSON: Thanks again to all of you for appearing here today.

Joint Respondents argue that the 2019 data demonstrate the lack of a linkage between subject imports and the performance of the domestic producers because, while subject imports declined, U.S. producers' production, shipments, and sales also declined in comparing the interim periods. And this is shown at page 50 of the Joint Respondents brief.

Why does the domestic industry's performance decline when subject imports' volume was declining? Mr. Vaughn?

MR. VAUGHN: Yes, thank you, Chairman. So I think what they've done here is that they're not really taking into account sort of what was happening in terms of
timing, as you sort of went through the market.

So in the first place, you have a big surge of imports that comes in in 2017-2018. That surge continues well into 2018.

Now when they say, well, we were down from the first half of 2018 to the first half of 2019, the only reason they were down from first half of 2018 to first half of 2019 was because we brought these cases. Because if you look at the first four months, they were basically running at the same level.

So for much of 2019, you had this very high volume that continued to come in.

The second thing of it is, there's a bit of a--you know, there's an effect, the imports have a double effect which I think you've heard from the testimony.

First, in 2018 there's an immediate effect on things like spot prices and other things like that. And that shows up in the data. Because you see the domestic industry's performance declined from '17 to '18, but then there's this longer term effect. Because then the imports affect the contract pricing for 2019, plus you have an oversupply that's hanging in the market. And I think the witnesses will tell you that they're still battling the effects of that overhang.

So the story is, the import surge, the imports
did some harm in 2018. The imports continued to do harm in
2018 and continued to come in. We eventually brought a
case. That did cause their volume to go down, but the
ongoing harm of that volume continues, and to some extent
continues to this day.

CHAIRMAN JOHANSON: Thanks, Mr. Vaughn.

MR. SZAMOSSZEGLI: Andrew Szamosszegi. Just
quickly, the other thing the Respondent try to do is they
try to show month-to-month, or quarter-to-quarter relatively
small variations. And what that methodology ignores is the
very, very large inventory overhang that's going into 2019.

And so whatever else happens in 2019, we do know
that imports continue and inventories were large going into
2019. And that has to have an effect on the price that the
domestic producers receive, both on contract going into
2019, and in spot during 2019.

CHAIRMAN JOHANSON: Thank you, Mr. Szamosszegi.

Mr. Vaughn, to follow up on your comments, Joint
Respondents argue that subject imports began declining even
earlier than 2019, pointing out that second-quarter 2018
subject import volume was lower than the first half of 2018-
-I'm sorry, that's second half of 2018 subject imports was
lower than the first half of 2018.

And this is seen at page 50 of the Joint
Respondents brief. They also argue that imports for the
first four months of 2019 were lower than those in the corresponding period in 2018, also at page 50.

Do these data undermine any argument that the post-petition effects explain subject imports declining volume trend?

MR. VAUGHN: No. If we could go back to the slide--so let's go back to the slide before this one. So as you can kind of see, right, in the first place let's talk about what happened in the second half of the year. Everything is declining to some extent in the second half of the year because the market is getting over-crowded.

But imports, for example, in the second half of the year were still very high. For example, there were 33,000 tons that came in in October of 2018. If you look at the page 4-14 of the staff report. So you had 19,000 tons in July, 18,000 tons in August, 7,000 tons in September, 33,000 tons in October, 19,000 tons in November, 19,000 tons in December. These are still very, very high volumes compared to their historic amounts.

Then, as you see here, when you compare the first four months of January of '18 to the first four months of '19, I mean if you want to call that a "decline," but look at how it compares to the first four months of '17, or the first four months of '16.

And what's amazing about it is, not that it's
down a little bit, but that it is still so high given that
there's supposed to be a--you know, that there's this big
oversupply in the market.

Remember, their theory of the case is the only
reason we came in at all is because people got worried about
what was happening with Shell. Well Shell, they made their
announcement in late 2017. And that was done by February of
2018. Why are these imports still coming in a year later?

So I mean the fact--this completely refutes their
whole theory of the case. So I think for them to try to
rely on, you know, well, we went from 89,000 tons to 82,000
tons. Well, really? Because before you started surging,
you were around 30,000 tons.

CHAIRMAN JOHANSON: Thanks, Mr. Vaughn.

How do the pricing data on this record support
the argument of significant underselling or significant
price effects? According to the staff report, the data show
more overselling than underselling by quarterly instances
and volume during each calendar year 2016 through 2018, and
interim 2019. This is at page 5-25 of the staff report, and
table 5-8 of the staff report.

MR. VAUGHN: Commissioner, yeah--this is Stephen
Vaughn--we have addressed that. Our answer to that is
confidential. We will provide that in the posthearing.

CHAIRMAN JOHANSON: Okay, thanks, Mr. Vaughn.
Okay, now I'm going to move on to the whole Hurricane Harvey situation. Having a friend whose house got flooded during Hurricane Harvey, with pictures of him in a raft in his front yard, I kind of have thought a bit about that one.

Joint Respondents have argued that the 68.5 percent increase in subject import volume in August and September 2017 was in direct response to the effects of Hurricane Harvey on domestic supply. And this was argued at page 37 of the Joint Respondents' brief.

Did the hurricane cause any of the increase in imports that we observed?

MR. SANDERS: Paul Sanders from AdvanSix. At least for AdvanSix we were not impacted by the hurricane at all. In fact, we enabled additional volume to be made available to the industry at that time to assist. And one has to also remember that there's a certain number of consuming plants, or acetone consumers that had reduced volumes, as well, at that time because of the hurricane.

As far as we felt, there was really--it was all over and completed, and the business was kind of back to normal within a month or so.

CHAIRMAN JOHANSON: Yes, Mr. Duhe?

MR. DUHE: Tim Duhe with ALTIVIA. ALTIVIA was not impacted by the hurricane, as well, and has testified
earlier that we were ramping up--

CHAIRMAN JOHANSON: Because you all are located in Ohio?

MR. DUHE: We're in Ohio. But we were actually ramping up our second line. And so that actually just had us ramp it up quicker.

CHAIRMAN JOHANSON: Okay.

MR. DUHE: And most of the issues, we understand, were transportation-related issues, not that there wasn't acetone available. But the railroads were shut down, and some of the other transportations during the hurricane. It usually takes awhile for those things to recover. I'm not aware of any empty tanks.

CHAIRMAN JOHANSON: Mr. Safar?

MR. SAFAR: Davor Safar from Olin. I mean we were impacted by the Hurricane Harvey, and we did declare the Force Mazur. I mean, however, first of all we lifted the Force Mazur six weeks later, and it was not a complete stop of the supply. We just allocated part of the volume.

CHAIRMAN JOHANSON: Thanks. Mr. Sanders?

MR. SANDERS: Yes. Paul Sanders, AdvanSix. So the way the industry is situation, ourselves in Philadelphia, ALTIVIA in Ohio, and a number of the others in the Gulf area, it was almost like a natural hedge for hurricanes and such issues.
CHAIRMAN JOHANSON: Okay. Mr. Anderson?

MR. ANDERSON: I was just going to also reiterate about the natural hedge. I mean one of the arguments that the Respondents were making is that U.S. users require diversity of supply because of things like natural events like Hurricane Harvey. But the fact is that the U.S. production is actually fairly geographically spread to mitigate that.

The second thing is, if in fact there was a shortage because of Hurricane Harvey, you would expect to see an increase in the spread between the large-buyer price and the RPG price. That is, you would expect to see prices, or margins increase. And that just really didn't happen, because there wasn't a shortage of acetone in the market.

As mentioned, there was a sufficient amount of inventory and product available from producers who were not affected by Hurricane Harvey.

In addition, a number of the users of acetone were affected. So the demand actually declined temporarily as well.

So on balance, there was no huge, gaping need for the enormous volume of imports, most of which came in well after the Hurricane Harvey event had come and gone.

CHAIRMAN JOHANSON: Thanks for all your responses. My time has expired.
Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Alright, thank you very much. I would like to thank you all for being here.

So I want to ask a few questions that really go to this argument about lack of correlation. And I guess, so I want to come at it from a few different ways, but let's start with the loss of market share. And the focus, it seems from both sides in this case, has been on 2018 into 2019.

But when I look at the loss of market share--and this is not confidential--you see that producers lost almost the exact same amount of share from 2016 to 2017 as they did from 2017 to 2018. So in both times, around 4.4, 4.5 percent, which is public information.

And so when I try to correlate that with what's going on with regard to the underselling--so you've talked about that this is a fungible commodity, price-sensitive product, and that the underselling on an overall basis was mixed, if you will. In fact, there was more overselling than underselling on a total basis.

And I believe it's your Exhibit 6 where you break down the underselling by quarter, right? And this is all bracketed. But you show that there's a significantly more underselling in the second and third quarter of 2018 than in other quarters, right? And specifically going back when
you're looking at 2017, and even 2016.

So my question is: Why did the domestic industry lose the same amount of market share from 2016 to 2017, if this is a price sensitive, fungible commodity product but we don't see predominant underselling in that period?

MR. VAUGHN: So I think you--I think that's--so here's the way I would sort of ask it. The way we would understand the data. So what happens in, and I think the witnesses have all testified to this, you definitely see an increase in imports from 2016 to 2017. It goes up about 51 percent. Our production stays generally flat.

As you know, there's a couple of things happening in our market in terms of, you know, ALTIVIA is ramping up, other people are cutting back. There are other events that are happening in the market. So there's a number of things happening in the 2017 space.

And also it appears that 2017 was a generally favorable year for demand. Because you had a real increase in demand, and you don't seem to have seen the kind of build up in storage and things of that nature that you're going to see in 2018.

COMMISSIONER SCHMIDTLEIN: Well 2016 to 2017 only saw a two-and-a-half percent increase in consumption, whereas a big increase in consumption came from '17 to '18.

MR. VAUGHN: And a lot of that--and a lot of that
obviously in 2018 is people building inventories. But I
guess what I would say is this: What's happening in 2017
is, yes, you are seeing imports starting to come into the
market. And I think these guys have all testified that by
the end of 2017 they were starting to feel pressure from
imports, and they were starting to get concerned about what
was happening with market conditions.

But if that had just been the end of it, I don't
think that we would necessarily be here today. What's
really concerning, and the reason we are here today, is
because what happened was that those imports just kept
pouring in and pouring in and pouring in.

Now part of that shows up as lost market share.
That's one of the factors that you're supposed to look at,
which is volume. But then the next thing that happens is,
that you start seeing our guys having to compete more and
more and more on the basis of price.

So that situation gets worse as 2018 goes on.
Now they're in a choice. They can either come down and
compete on the basis of price, or they can give up even more
volume.

They, having already given up 8 percent of the
market, they come in and start to compete more aggressively
on the basis of price.

That then has an effect on their margins, and
that leads to all the problems that we see down the road.

COMMISSIONER SCHMIDTLEIN: Okay. Well I guess

I'm not quite understanding why. What is the theory about
why they lost market share from 2016 to 2017? Was it
subject imports?

MR. VAUGHN: They certainly lost subject--they
certainly lost market share--

COMMISSIONER SCHMIDTLEIN: I mean, was it price?

MR. VAUGHN: They certainly lost market share to
subject imports. And, yes, I believe some of that
competition was on the basis of price.

I mean let's look at what's happening with your
underselling and your overselling data, anyway. If they
come down and they match these data, then it's not going to
show up in your data as overselling, right--I mean as
underselling. If they come down and compete on the same
price, then the underselling goes away and you don't have
that overselling.

COMMISSIONER SCHMIDTLEIN: But it was roughly the
same amount.

MR. VAUGHN: Correct. But I would say that what
was going on was that some of it was competition on the
basis of price. Some of it may have been just--I think
there's some testimony from the other side that certain
people just wanted to have other supply options. There are
a number of things that could have been happening in 2017.

COMMISSIONER SCHMIDTLEIN: That weren't happening in 2018, too?

MR. VAUGHN: Yeah, because in 2018 things got much--the behavior of everybody is much different. In 2017, nobody's talking about how you have an overcrowded market, and you have huge amounts of oversupply. That's not what the testimony or the record shows.

The weird and strange behavior is actually in 2018 where you clearly have a market that's oversupplied, and yet they keep attacking, and attacking, and attacking the market and that's what leads to all these terrible losses.

COMMISSIONER SCHMIDTLEIN: Okay. Alright, okay, let's look at it from a slightly different way, then.

When I look at the pricing products--because you're talking about how the supply is affecting the price of all of this--and so obviously we've divided the pricing products into spot, short-term versus annual long-term contracts. Most of the U.S. shipments are in product four, right? I think it's published in the staff report, the extraordinary coverage in the pricing products of all of the products, and 68 percent of that is in product four.

So when you look at what happens to the price of product four, again in 2018, which is when, according to
your-all's exhibit as you broke it out very nicely for us about what's going on with the underselling and overselling, that's when the majority of underselling is going on. But we see in the pricing products—and this is not confidential—that in 2018 U.S. were 68 percent of their shipments is able to increase their prices in the second quarter—-from the first quarter to the second quarter, from the second quarter to the third quarter of 2018.

How were they able to do that, within the underselling and the volume, as you've described it, surge?

MR. VAUGHN   Exactly. So here's what happened. In 2017, they come out of 2017 and they have these contracts locked in for 2018, right? And that's the pricing that you're seeing in product four, is that contract pricing for 2018.

Now as you has said in Q-2 and Q-3, you start seeing lots and lots of underselling compared to those prices that you're seeing there, right? In other words—-now remember that you're looking at the absolute pricing. The absolute pricing is being driven by things like RGP and things of that nature.

So that's another part of what's going on here. It would be—I think if you looked at the data for how the industry actually did in 2018, I think you're going to see that when you start thinking about the actual margins, those
margins are being affected, right?

So to some extent, even in 2018 we think that you're seeing the margins. In other words, if you look at how your staff report—and this is public—the staff report says that the industry made less—made lower margins in 2018 than they made in 2017. So even though the prices are higher on an absolute basis, the margins are lower.

So now in Q-2—Q-3, you're starting to see this underselling. And it's starting to affect their margins, right? And so then have to go back, and they respond. And then you start to see—you may not necessarily see as much underselling once they responded, but that's not because they're no longer facing price effects. That's because they've given in to the price effects. And now they're having to give back price that they don't want to give.

Then of course you're going to see that big drop off in the contract price that comes in in 2019. And again, part of that is the change in what's going on with raw material costs.

COMMISSIONER SCHMIDTLEIN: Right. There's a huge drop in RPG--

MR. VAUGHN: Right. And a lot of that is the absolute change. But again, look at the operating margin and look at what's happening.

So I would argue that throughout that period, I
mean the only possible explanation as to why they made less
money in 2018 than they made in 2017 is because that margin
is shrinking. And that margin is shrinking because of the
oversupply and because of the increased competition of
subject imports.

COMMISSIONER SCHMIDTLEIN: Okay. So, let me go
back for a second, because we've talked about this annual
contract price. Maybe one of the witnesses wants to address
this. But, specifically, more: how does the spot market
price impact the annual contract price negotiations?

MR. SANDERS: Paul Sanders, AdvanSix. So I
confirm Steven's view that, looking at the price is not
really the driver here. It's that margin over the raw
material which drives our margin and that's what you'd seen
a significant reduction through the 2018 and 2019 period.

In terms of how low-price dumped imports
impacts the market price, if you like, I'll try to explain
in that an importer will bring in material at a price and
the driver for those imports are not necessarily anything
linked to the U.S. industry. So that price can come in and
we've seen significant underselling June 2018 and 2019 and
we've had to match some of those prices for spot deals.
We've had to match some of those prices in the distribution.

COMMISSIONER SCHMIDTLEIN: Right. So it
directly affects the spot market price. But my question is,
and I guess in more directly, are customers quoting the spot market price to you --

MR. SANDERS: Yes

COMMISSIONER SCHMIDTLEIN: -- when you're negotiating your annual contracts.

MR. SANDERS: So, absolutely. So, generally --

COMMISSIONER SCHMIDTLEIN: Can you put that on the record? Can you put any contemporaneous documentation of customers quoting you spot market prices and how they've dropped in the context of negotiating your annual contracts?

MR. SANDERS: I'm sure we can.

COMMISSIONER SCHMIDTLEIN: Or long-term contracts.

MR. SANDERS: Yes, yes.

COMMISSIONER SCHMIDTLEIN: Okay

MR. SANDERS: Yes, absolutely. And, so the issue is obviously -- it's roughly in Q4, sometimes a little bit earlier, Q3 to Q4, time framing renegotiated and, at least, AdvanSix our annual contracts and, clearly, at that time of the year the feedback is very clear: huh, all this material coming in, being offered. I've got five traders offering me "x" amount of volume next year and at a large buyer minus big discount or an RGP plus a very small margin and we have to respond to that. Our plants have run on a very high fixed cost, so we have to make sure that we run
and maximize our operating rates. So we've had to absolutely
reset and increase discounts to large buyer which, over a
period of a year, will obviously reduce our margins.

And then the other part is: customers also
have, generally, been buying at or below minimum contract
levels and that's enabled purchasers to go and buy more of
the spot material. So, we've had to them chase the volume
into the -- into other markets, which becomes a spot market.
And that is very transactional, very transparent. And,
again, that's been impacting the overall profitability of
the whole U.S. acetone industry. And that's seen and
demonstrated in the report.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ANDERSON: Commissioner Schmidtlein, I just
want to elaborate on that last argument because it's an
important nexus that you don't normally see in cases
involving contract versus spot which is, the annual
contracts in this industry or the two-year contracts
typically have maximums and minimums. And the, sort of, the
convention in the industry is to purchase somewhere between
the maximum and the minimum but if you go above the
minimums, you pay the contracted price. If the spot market,
basically, becomes uh, price becomes so low, then the
contracted customers will essentially take only the minimums
and, in some cases, refuse to even take the minimums to
chase the price downward. That's the vicious circle, I think, that Mr. Sanders talked about earlier which is, then, when you come towards the end of the year -- the calendar year -- when you're doing contracts, you've lost volume. The only way to get that volume back is to increase the discount on the contract price. So, there is a volume nexus as well as a just straight price nexus between the spot and the contract market.

COMMISSIONER SCHMIDTLEIN: Okay, alright, thank you.

CHAIRMAN JOHANSON: Commissioner Kearns.

COMMISSIONER KEARNS: Mr. Anderson, just continuing on that. I think if you can, post hearing, provide as much documentation for that as possible. So, for example, showing us how, maybe later in the POI, purchasers were buying only the minimum, whereas earlier in the POI you might see them buying, you know, more than just the minimum. And also, you and others have referred a few times, at least, to one contract that was broken, I think, annual contract that was broken because spot prices were so low. So anything that you can put on the record to substantiate that, I think, would be helpful.

I also want to turn back to something else that Commissioner Schmidtlein was asking about: 2016 versus 2017. Um, and I can't remember who, but someone mentioned in
the opening that the industry's income declined in 2018 as subject imports grew. But, as the respondents point out, the industry's income grew from 2016 to 2017 even though subject imports grew during that same period by, roughly, the same amount as they grew from 2017 to 2018. So how would you respond to that argument?

MR. VAUGHN: So, this is Stephen Vaughn. I would say that it's a pattern that the Commission has seen in a number of other cases and I don't think that it's that unusual. In other words, I think the record shows that demand, over the period from 2016 to 2018 is generally quite favorable. And I think the testimony of the witnesses here today has been that, in 2017 for example, Altivia was feeling generally hopeful and things were generally getting better. And so, you have a situation where the market is generally rising and generally improving. Now, in that type of a market, you can have a situation where, for a while, imports can come into the market and can even take some market share and, while you're losing, you may lose some volume, it doesn't really start to affect your price and you don't necessarily see it turn up in your bottom line in terms of your operating margin.

What happened here, and what's happened in other ABCDE cases in the past is, is that the imports just kept coming and coming and coming and coming until the
market was eventually completely over-supplied. So that, basically, the various parts of the statute that you guys were supposed to look at, basically happened in the same order that they're listed in the statute. First, there's a loss of volume. Second, there's a price effect, and third, there's an impact that results from both the price effect and the volume effect. And that's, pretty much, the order that you would expect it to happen in and that's the order in which they happened here.

COMMISSIONER KEARNS: Okay, thank you. But, again, and going to what Commissioner Schmidtlein was asking you about. I mean, how is it that when, early in the POI it seems like there was more overselling than underselling? How were they gaining market share? And you mentioned, you know, they were trying to diversify their supplier base -- the purchasers were. Although I'm not sure if that's -- I don't know why they would have been doing that from 2016 to 2017. I think the respondents have argued they've been doing that from 2017 to 2018 after Shell and the hurricanes and everything else that they're like, you know what, we need to have a different strategy here. But, you know, if the answer is really just that suppliers were trying to become -- to have more diverse. I'm sorry, purchasers were having more diverse suppliers in 2016 to 2017. Why is it, during that period versus 2015-2014?
MR. VAUGHN: I think that's a fair question. What I'd like to do, Commissioner, obviously this is something that you're -- that the Commission is very interested in -- I'd like to address that in more detail in the post-hearing and drill down more into that.

I mean, as I said, our theory has been that, basically, you know, there was a rise in imports. Those imports did take market share. That continued to the point where our people had no choice but to compete on the basis of price. As they competed on the basis of price, that had really harmful effects on their bottom line and, eventually, that got us into the situation where we are now. To me, the most striking thing about the case is, is that, you have everybody's testimony is that demand conditions are relatively favorable from 2016 to 2018 and yet, somehow, the domestic industry is doing much worse in 2018 than it was doing in 2016. So I think that can only be explained by the subject imports. That's the only thing that really changes over the course of the period of investigation. But, in terms of that entire causal link going all the way back to 2016 and including a lot of what happens in 2017, we'd like to provide more information on that in the post-hearing.

COMMISSIONER KEARNS: Okay, that's fine. Thank you. Turning back to phenol and acetone and the connection there. Um, I'll try not to overlap with too much that we've
already heard here, um. I guess one place to start is, I heard from Mr. Hayes, I think, that in 2017 there was a period in which the profits on acetone exceeded the profits on phenol. Did I hear that correctly? Yeah.

MR. HAYES: Yes, that's correct.

COMMISSIONER KEARNS: Okay. Anything you can tell us more post-hearing about the profits that you saw over the POI on phenol versus acetone, I think, would be helpful. I mean, because I agree with what I've heard you all say which is, you can't really just say that, well, you know, cumene ends up in more production of phenol than it does in acetone. That means acetone is a subordinate product. That doesn't make a lot of sense to me. I don't know what the value is of the phenol versus the acetone but, I need some measure of the relative importance of the two products and I would think that looking at profit margins over a period of time on the two would give me some sense of what drives the market. So, if you-all could provide us with some information like that, that'd be helpful.

MR. HAYES: Yes.

COMMISSIONER KEARNS: Thank you. Um, and then Mr. Safar? You had suggested that foreign producers have no significant home market for their acetone so that they produce phenol and over-produce acetone. Right?

MR. SAFAR: Mr. Safar from Olin. Correct.
COMMISSIONER KEARNS: Okay. Can you-all tell us more about that? Do we know, for example, what their exports of phenol look like? And I believe respondents have stated in their briefs that the U.S. is losing sales in Asia because China and others are producing more phenol. So any thoughts on that would be helpful as well and, by the way, and I think, Ms. Byers, you also mentioned China. I mean, to what extent is this a China issue versus an issue of the subject countries? What is going on, not just -- we've heard a lot about what's going on in the U.S. market on phenol. What's going on globally in particular in the subject import countries and in Asia? Anything you can tell us about that would be helpful.

MS. BYERS: We'd be happy to do that. You're talking about post-hearing? Go ahead.

COMMISSIONER KEARNS: Well, yeah. Preferably now --

MS. BYERS: Oh, okay.

COMMISSIONER KEARNS: -- and post-hearing.

MR. SANDERS: So. Paul Sanders, AdvanSix. So, um, if I can just start with the U.S. market and that will help explain what the differences are with the five subject exporters. The U.S. market is an unusual market. It's very well balanced for both phenol and acetone. So, if you look at the capacities of phenol, they're a little bit higher
than the demand of phenol in the U.S. And if you look at the
capacity of the U.S. for acetone, for production, it's
pretty much aligned with demand. So, the U.S. can
essentially meet all its needs with U.S. production. In
fact, chemical data talk around the current operating rates
around 80%, plus or minus, we can get you the latest
numbers. Um, but if you operate at the rates -- at normal
operating rates in the high 80s, then there's enough
capacity in the U.S. to meet all of acetone's demand.

The five subject countries are very different.
They're not structured with a balanced market. So, for us as
AdvanSix, we have to make sure our customers on acetone are
treated fairly and our customers on phenol are treated
fairly and we have to make profits on both lines.

The subject countries have different issues.
They all are heavily export-dependent. Some more so on
acetone, some more so on phenol. But largely you'll see that
acetone is an area that they need to move those pounds and
tons, if you like. And, as you saw in the earlier
presentation, there are 1.7 million tons of acetone to be
exported from their current operations. And the way the
cumene process works, is heavily fixed-cost-dependent. So,
every producer in the world will try to run their plants as
hard as they can. It's a commodity product. No different for
us than anyone else in the rest of the world. So that means,
unless there's a clear affirmative action in this case, we will continue to see dumped imports of acetone coming into the U.S. which will have severe impact on the U.S. production. Overall.

COMMISSIONER KEARNS: Okay. Thank you. Anything you can do more posthearing to help us understand this would be appreciated.

I guess one question I have is, based on what I've heard I guess I would expect to see that phenyl prices in the U.S. versus phenyl prices—phenyl prices in the U.S. I would expect to see would be relatively low compared to world phenyl prices, and the opposite with respect to acetone, right? It sounds like there is just a glut. There's no real demand for acetone in the rest of the world—not "no real demand," but, you know, there's an imbalance there.

So is that what we would see? Do we see lower acetone prices outside of the United States, but higher phenyl prices outside of the United States?

MR. SANDERS: It gets very complicated globally and on the timing, but we can certainly present you with some data posthearing about the different levels.

All I would say—sorry, Paul Sanders, AdvanSix again—that, you know, the U.S. production has still been relatively stable throughout all this period. So we have
been acting very responsibly as a U.S. domestic producer.

COMMISSIONER KEARNS: Okay, thank you very much.

CHAIRMAN JOHANSON: Commissioner Stayin?

COMMISSIONER STAYIN: Thank you.

I wanted to go back to the chart, the table 2-9. It's page 2-27 of the staff report. In terms of the importance of the factors taken into account in purchasing by purchasers, the two highest were availability first, and then reliability of supply, and then of course price was there but it was lower than both of those two concerns.

Can you help us understand what that issue might have been? Why was the availability and reliability of supply the two most important factors taken into account by purchasers?

MR. SANDERS: Paul Sanders, AdvanSix. As we described in the initial information, acetone is a highly fungible product. So once it's in the tank and it's been co-mixed with everyone else's export material by a trader, an offer of acetone from a terminal in Houston can be very adaptable, can be sold into any of the end uses, can be sold into any of the end—whether it's a large buyer, or a truck, or rail.

So at the end of the day, the availability is very similar. However, I would argue that price is an absolute must. Without a good price, you are not going to
sell any acetone whatsoever. And over the period of certainly 2018 and 2019, the huge influx of imported dumped material made us very unprofitable and we had to match and even try to establish sales in terms that's really impacted our results.

COMMISSIONER STAYIN: So basically you don't think reliability of supply and availability were serious factors?

MR. DUHE: Tim Duhe with ALTIVIA. They are serious factors. Our customers are making products based on acetone. They are selling to their customers. So there is a reliability factor.

In fact, historically there was less dependency on imports before the dumping occurred because of the long transit time, the long lead times. Once you have big tanks and they're full of acetone, you can take a little bit more exposure on transit time.

But reliability is what manufacturers are positioned to do.

COMMISSIONER STAYIN: Okay. I also want to talk about some of the difficulties you've had in terms of the production. Cost of goods sold became a significant factor that you've had to deal with. If you look at the raw material cost component, it changed from--the amount was -- short tons, -- per short ton in '16, -- per short ton in
'18. So tell me how this might have affected, and what impact it was having on your profitability and your ability to compete?

MR. SANDERS: Paul Sanders, AdvanSix. As we'd explained earlier, the large-buyer market goes up and down with refinery grade propylene. So the reality is, the raw material is big component of the large-buyer margin.

So what that means is there is an absolute spread, which is locked in for a year. It's X amount. However, what we've seen is the import of the influx of dumped material has driven much deeper discounts off that large-buyer marker.

So what that means in real terms is that the absolute margin over that propylene has been reducing. However, as I said earlier, the large-buyer marker does take into account the movements on propylene. So the absolute movement on propylene is not necessarily such a key factor; it's the margin over the raw material, and that's driven by spot pricing which has been obviously driven down due to the influx of dumped material.

COMMISSIONER STAYIN: Are these raw material costs, are these allocable specifically to acetone? Or is it a cost that included the production of phenyl?

MR. SANDERS: Paul Sanders, AdvanSix. The propylene clearly comes out through the acetone molecule,
and the propylene is the major—is one-third of Cumene. The
other two-thirds of cumene is benzine, and that comes out in
the phenyl pricing.

So when we sell phenyl, you sell off the benzene
marker. When you sell acetone, you sell off the propylene
marker. So they're very distinct and not related.

COMMISSIONER STAYIN: Alright, thank you.

MR. HAYES: Frank Hayes with ALTIVIA. Our cumene
price changes very month based upon the price of benzene and
RGP. The price at which we sell acetone and phenyl also
changes each month based upon the raw material costs and the
negotiated adder, or discount in the case of large-buyer
price.

So it's generally very well matched that our cost
of manufacture of the materials floats each month with
changes in the RGP pricing. So it has not been an issue.

Where it became an issue in 2018 is we had to
build inventories over time. And so we saw a larger
disconnect between the price at which we were selling and
the price of the raw materials when they were manufactured
because of the delay in inventories.

COMMISSIONER STAYIN: And the impact, obviously--
yes, go ahead.

MR. SANDERS: Paul Sanders, AdvanSix. One
further point on cost of goods sold is, because of the
continuing influx of imports in a significantly oversupplied market, we actually got to the point, as AdvanSix was having to secure additional storage just to be able to keep the plant running at normal rates, because we had nowhere to go. We had no sale opportunities. That happened in 2018, and has continued into 2019.

And so you will see within our submission, confidentially, that that also is a significant impact on the profit and loss statements over the year. And it is worth considering, also that traders also, if they have brought on a terminal in Houston, in New York, in Savannah, in Norfolk, in Philadelphia, wherever, they will also have to utilize large volumes through that tank. So without a positive affirmative action, then the importers will continue to pound as much product as possible into the U.S. to be able to make up for the cost of managing that terminal. It's a very significant impact.

COMMISSIONER STAYIN: Okay. Mr. Duhe, with respect to your plants on the Ohio River, have you ever had any problems with flooding in terms of it affecting your ability to produce?

MR. DUHE: Tim Duhe with Haverdill— I'm sorry, with ALTIVIA. I think in February 2019 we actually had high waters on the Ohio River. You probably heard of this polar vortex coming down. We did declare a Force Majeure.
Majeure was actually on phenyl because we were concerned about being able to get cumene in.

But our tanks were so full of acetone, it didn't impact acetone.

COMMISSIONER STAYIN: Okay, thank you very much. That's all that I have.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: I want to pick up on the questions Commissioner Stayin was raising on raw material costs. So as I sort of see it, your pricing on your annual contracts is set up to pass on increases in raw material costs to your purchasers. But what I'm hearing is that at some point in the Period of Investigation, that broke down. Can you talk about when that happened, and--I know your answer about why, but just walk me through sort of that breakdown in what happened there.

MR. DUHE: Tim Duhe with ALTIVIA. The breakdown started in 2017. And I think, you know, there's a lot of data that shows when the dumping began and when it took off. Really, that third quarter preemptive imports associated with the potential shutdown is when it really started to break down, in my opinion.

We were actually ramping up production at the time where Shell was still operating, right? They didn't go down until 2018. So we were ramping up, providing
additional acetone to the market, but in that second half of 2018 you saw the influx of imports coming in.

That's when we started going into the fourth quarter of 2017 where the low pricing as a result of the dumping started impacting contract negotiations for 2018. So it was really during that time period for us is where we felt the breakdown and the disconnect because of the dumping coming in at the very low prices, and the disconnect to what our cost basis is.

COMMISSIONER KARPEL: So to follow that up, on these annual contracts were purchasers asking you to give discounts that were basically greater than what the raw material costs were?

MR. DUHE: Correct. So imports are coming in below propylene. I talked earlier about, you know, what it takes to turn propylene into acetone, and maybe a little bit of margin to recover your investment.

Imports were coming in below the propylene costs. The producers are strapped with the propylene cost.

COMMISSIONER KARPEL: Another point you've made this morning, now turning into afternoon, is that you are arguing that subject imports dropped below what you referred to as the prevailing market price.

Can you talk about what you mean by "prevailing market price" in that context?
MR. SANDERS: Paul Sanders, AdvanSix. So during 2018, clearly there was a large increase of these imports. And at the time, I would suggest that the market pricing for these imports started to become more and more readily available to see. You could actually see report listed in a number of the industry—consultation into the industry magazines saying, hey, it's coming in at X price.

So what that means is that the contracted customers that you alluded to in your previous question that may have been on a large-buyer minus X percent, started to say, well, hang on minute. My large-buyer minus X percent is over and above this latest spot deal that is being published in one of the publications—-IHS, ICIS, Candida.

So clearly that drives a conversation between the purchaser and the seller, or from AdvanSix, as to what are you going to do about it? And some customers were very pragmatic and waited until the end of the contract period, and renegotiated then. But at that point, you're well aware that what's coming, and you know that you have to react to the imported low-level pricing.

Some other customers said: If you want to continue selling to me for the next year, I need a break this year, in the middle of my existing contract.

And we're happy to share those instances with you post-hearing. So it was absolutely the whole industry, the
whole industry did not jump and say you have to crash the price tomorrow. However, it was a mixture of larger, deeper discounts during the next contract period, or larger, deeper discounts even between some contracts that were existing. And we had another contract that was just completely ripped up by the purchaser.

The other point is, the industry is not 100% driven by the large-buyer market. There's a very important distribution industry, kind of roughly—we can give you some better numbers—but my guess, the industry reports would suggest is 20% to 30% of the market. And that is a very much spot-driven market. It's, you know, negotiating trucks on a daily basis.

And when it becomes very visible that a significantly undervalued shipment has arrived, it's way below the market price that's published in these reports, then clearly the truck customers, the truck purchasers, the railcar purchasers are gonna reference that price as, "Hey, I'm paying X, I can see X minus 30% out there. I want some help." So that's what we saw.

So it's multiple impacts. It's contracts being deeper discounts, contracts being limited volumes, more spot, and it's a significant impact into the small-medium distribution, which really crashed during the latter part of 2018, to the point that you could buy a truck for the same
price that you could buy in bulk, that shipment.

MR. VAUGHN: Commissioner Karpel, Stephen Vaughn.

I just wanted to provide a little more support in terms of what Mr. Duhe said, because he talked a lot about what was happening towards the end of 2017, and I know this is something that Commissioners have been interested in as well.

And it's important, and the data absolutely support what Mr. Duhe was talking about, if you look at the import data that you have, there was around 24,000 tons of imports in Q1 of 2017, but by Q4 of 2017, it was almost 50,000 tons. It was around 49,536 tons. So the imports are really shooting up toward the end of that year.

And that's very consistent with the testimony that you're hearing here. And that's why some of that harm that comes in from those 2017 imports is actually felt more in 2018, because December was actually the biggest month of the year for 2017 imports.

COMMISSIONER KARPEL: I guess I'm -- thank you for your answers -- I'm still sort of puzzling in my head what is the prevailing market price. I take it as some general expectation of, if you're talking about contract price, it would be the large-buyer price, which is the raw materials plus some markup. I guess there's some expectation of what the general range of that markup is and
what you expect in the large-buyer price to be, and
therefore the price you would contract at.

I'm also looking at the evidence on underselling
in the record and trying to puzzle whether that's really
representative of the price effects that the domestic
industry is feeling in this market. And I think I'm hearing
from some of what you're saying that that's not entirely
representative because there's this notion that imports are
coming in and blow this prevailing market price that you
were then trying to meet, or meeting, to retain market
share.

So, I guess, I'm not sure what my question is
here, but I guess, how do you comment on that? What do we
make of the underselling data in this investigation and its
representativeness or not? The pricing pressures that the
domestic industry is feeling?

MR. VAUGHN: I'll just make one comment because
-- this is Stephen Vaughn again -- because obviously it's
confidential. I haven't been able to see a lot of the
underselling data, so let me -- I think, part of what you
gotta look at is this. The testimony here is pretty
uniform, that they are not in a position to allow for a lot
of underselling in the market to take place for very long.

They are under a lot of pressure to run at high
levels of capacity utilization and they have a certain
amount of acetone that they need to move out of the market
on a regular basis. And so, therefore, it's not a market
where they can afford to just sort of sit there and concede
sale after sale after sale like you might see in some other
markets.

So you might see other industries where people
can sit back for a long time and allow underselling and
maybe concede volume on the basis of that underselling.
Here, I think what you're hearing is, is that very, very
quickly whenever low-priced imports come into the market,
those prices flow through the market very quickly.

As soon as there's a truck or a barge or
something that comes in, where that is below their contract
price, these guys are hearing from their customers saying,
"Hey, you gotta match this or I'm gonna do something else."
So I think that is something that's important. And I think
some of the witnesses can contribute to that as well.

MR. DUH : Tim Duh with ALTIVIA. To echo that a
little bit is, you know, when those prices do come in, we've
got to keep acetone moving to keep our plants moving.
Number one, number two, we run out of storage capacity as a
result of the dumping. There's just not enough storage to
be able to pile it up and wait for a better day.

In terms of the pricing impact on fourth quarter
contracting, it's kind of the worse time for imports to come
in and crash the market through dumped pricing. In fact, some of the take-it-or-leave-it kinda negotiations that went on, if I'd have taken some of those, you'd probably be talking to a different ALTIVIA Commercial leader. They were that bad. And we just couldn't afford to take some of those at a loss.

MR. ANDERSON: I think it's important to realize that, just assume for a moment that there is overselling. You can still have very significant price effects in this market because of at least two reasons. One, as we've testified, there's a move from the higher-price contract to the spot market. Because customers are telling us that they're only buying the minimum, so they're essentially forcing us into a lower-value market.

The second, and very important one is, even if you're starting out at an overselling situation, given the way these annual contracts work, which are basically large-buyer minus discount, as the spread between the large-buyer price and the raw material costs declines because of the oversupply situation, everybody's price will go down. Everybody in the contract markets' price will go down.

So you might still be overselling, or it looks like you're overselling, but you've had a price effect. Because of the overall compression of prices by virtue of
the fact of the additional supply. It's very important to keep in mind that the large-buyer price, it's not simply a function of the RPG price, but it's also a function of supply and demand. And indeed, the respondents themselves in the joint brief, concede that on Page 71 of their brief. So you can still have price effects, even in situations where there's overselling.

COMMISSIONER KARPEL: In that regard, is there evidence you can point me to in the record that you can provide that shows this shrinking margin? Or this markup? I'm looking -- one of the things I'm looking at is the COGS to net sales ratio. Is that one of the indicators? Are there other indicators or evidence on the record that I should be looking at to see that?

MR. VAUGHN: Yes, we'll follow up and we'll give you more information on that. Obviously, we think that one thing to look at is the industry's operating margin and how the industry was doing over the period of investigation.

And to us, the fact that really jumps out at is why does the industry's performance decline over the second part of the POI, given that demand conditions were generally favorable.

And we think the only way you can sort of explain that is, they're not able to get the type of margins that they were getting earlier in the POI. But we'll follow up
on that and we'll try to give you more on that in the post-hearing as well.

MR. SZAMOSSZEGI: There's also some detailed monthly pricing data on the record that we can point that to you, that's already on the record and it shows the margin compressing relative to the -- it shows the RPG price, and if you compare that to the AUVs, which are also on the record, you can see price compression. But we'll provide that and all the calculations and graphs post-hearing.

Thanks.

CHAIRMAN JOHANSON: I'm gonna get back to Hurricane Harvey just for a minute or so. Do you all dispute that Hurricane Harvey increased costs for the domestic industry?

MR. SAFAR: No, I don't think it had an impact on the cost -- Davor Safar from Olin -- I mean it had the impact on our supply capability short-term, and as I said, the Hurricane Harvey, we did not completely stop the supply, but we had the issues getting the raw material in and getting the final products out. But this was short-lived. This was six weeks force majeure. I mean the only impact that we had is, I mean at a certain point in time, we were not able to run, we needed to run at the lower utilization due to the issues.

CHAIRMAN JOHANSON: Mr. Sanders?
MR. SANDERS: Yeah, Paul Sanders AdvanSix had no impact on AdvanSix.

MR. DUH: Tim Duh with ALTIVIA. No impact on ALTIVIA's cost.

CHAIRMAN JOHANSON: Okay. But sticking with Hurricane Harvey just for a minute, that was of course connected to what happened with Shell, correct? And did the timing in 2017 of Shell's announcement to shut down one of its plants affect the market? And did it affect annual contract negotiations for supplies in 2018?

MR. SANDERS: Just to qualify, I don't believe Hurricane Harvey was necessarily linked to Shell's decision, but obviously we're gonna have to follow up with Shell directly on that.

CHAIRMAN JOHANSON: Okay. I will do that. How do you respond to respondents' claim that not only did Shell's announcement that it would idle a plant impact Shell's supply in the market for 2018? But also that other U.S. producers declined to commit to 2018 volume, giving acetone purchasers no choice but to obtain supply from subject imports. And this is argued at Pages 22 to 26 of the joint respondent brief. Mr. Duh?

MR. DUH: This is a little bit of the story we were telling just then around price depression as a result of the dumped material that was being imported. Some of the
take-it-leave-it decisions or offers were just not healthy. They were unprofitable, and so we declined to accept some of those unprofitable negotiations.

MR. SANDERS: Paul Sanders, AdvanSix.

CHAIRMAN JOHANSON: Yes, Mr. Sanders?

MR. SANDERS: Yeah, for AdvanSix, as I mentioned earlier, 2018 contracting was actually at a higher level than the 2017 contracting. So we actually, certainly did not reduce our contracting position as we went from '17 to '18. And as I described earlier, there are very, you know, very substantive business reasons why one may not decide to go with a customer versus another.

One can be price and margin, which clearly is a big issue. The other one may be, it just doesn't fit in with our strategic priorities in terms of our distribution routes to the market. So it's not fair and it's not real to say that the industry declined to offer -- I mean it's just normal business reasons and, as you'll see, the industry kept producing very similar amounts of volume of acetone over the period of investigation.

CHAIRMAN JOHANSON: Mr. Duhe.

MR. DUHE: Tim Duhe with Altivia. I just want to make one point of clarification. We had the pounds. We were at -- we're ramping up going into the contract season. So it wasn't an issue of supply, it was an issue of price.
CHAIRMAN JOHANSON: thanks for your responses.

Joint respondents claim that some U.S. purchasers were compelled to turn temporarily to subject imports for supply as domestic producers refused to supply customers 2018 requirements as you-all had discussed. Respondents argued this at page 4 of their joint brief. If that is the case, or if that were the case, how would such subject imports be injurious if they were pulled into the market for supply reasons?

MR. VAUGHN: Stephen Vaughn, Commissioner Johanson. Just to address counter their theory here within the statute: I suppose if you had a set of facts where there was a temporary shortage in the market and imports came into the market, filled the temporary shortage and then the shortage was fulfilled and then the imports went away, then that would be a very different case and very different record and we can have that argument. That's not this case, and that's not this record.

What they have here is they've done several things. First of all, they've looked at every possible difficulty in supply that they could find even for periods going all the way back to 2016 that's really irrelevant to a lot of what's going on here in the case. Then, they say, well, we had to deal with a shortage that was taking place in 2017-2018. Actually, we can show that, by the end of
2017, imports were already ramping up and they continued to stay at very, very high levels for, you know, another five quarters into 2019 -- long past the point where there was any shortage or anybody thought there was gonna be a shortage, over a year after Hurricane Harvey. Over a year after Shell's made its adjustment, at a time when Altivia is trying to ramp up production. You know, the imports just keep pouring in and pouring in and pouring in. so I think, you know, it's not that they couldn't have a theory in theory. But in the actual facts of the record of this case, that it just doesn't work.

CHAIRMAN JOHANSON: Okay, I'll leave it at that then. Thanks. Mr. Vaughn. If the market was indeed over-supplied with acetone, as I believe at least one of the witnesses has said today, why were prices increasing over much of the period of investigation?

MR. SANDERS: Paul Sanders, AdvanSix. Again, the reason you will see our price increase is symptomatic of the fact that acetone is priced off of the raw material. And, if you look, there's a very clear trend of raw material price increasing from 2016 through most of 2018. So, the important point to note, and certainly Commissioner Karpel's already asked for the information is to show that the margins have been reducing over the 2018 to 2019 period and, I think, that will be very clear and very obvious to see
that the margins have, in fact, reduced. So the price is not necessarily a good driver for understanding margin and profitability.

MR. SZAMOSSZEGI: Chairman Johanson, Andrew Szamosszegi from Capital Trade. If you look at Figure 5-1 in the staff report, you'll see what Mr. Sanders is referring to, and that, given what we know about the formula.

CHAIRMAN JOHANSON: Okay. Thanks, Mr. Szamosszegi, I will indeed look at that. And this is more of a question, I assume for the attorneys here today: at pages 26-27 of the brief, joint respondents analogize this case to emulsion styrene butadiene rubber from Brazil, Mexico, Korea, and Poland, a 2017 final investigation in which I reached a negative determination. Could you-all today, or in the post-hearing brief, dig into this a little bit? How is the record here different in terms of any domestic supply issue or imports being pulled into the market?

MR. VAUGHN: Yes, we will certainly look into that and we'll discuss that more in the post-hearing case. I think that, you know, in the first place, I would point out that, in that case, obviously the Commission had a tied vote, which is an affirmative vote. But, obviously, we want to address the specific concerns that you had in that case and we will do so.

CHAIRMAN JOHANSON: Okay, thanks Mr. Vaughn.
Okay, I have a question, I believe it's for Ms. Byers. Ms. Byers you spoke on the whole issue of threat. I'm just going to ask one threat question: how does the evidence of more over-selling than under-selling during the period of investigation presented in the staff report support a finding of likely significant under-selling by subject imports or likely adverse price effects in the imminent future?

MS. BYERS: Again, I think the important thing to look at here is the profitability of the industry. It shows how their margins were squeezed. So, they were profitable in '16, profitable in '17, profitable in the first part of '18, not so profitable in the last half of '18, and then unprofitable in '19. That's what we're facing now. Without relief, I think we're gonna see these imports flood right back into the market. They've already got the tanks leased to bring that stuff in here and so I think what you're likely to see is just a repeat of what we've seen in the first half of 2019.

You know, absolute prices are not gonna tell you the whole story. You really have to look at the under-selling on the basis of the margins that they achieve.

CHAIRMAN JOHANSON: Thanks Ms. Byers. Mr. Orava?

MR. ORAVA: Steve Orava, just maybe one other
point on that is that: how that price impacts are being
translated is particularly pronounced in 2019 because of the
contract negotiations that were required at the end of 2018
and so, that helps to show how that price effects being
translated and how that can have a continuing threat going
forward.

CHAIRMAN JOHANSON: Thanks to all of you.

Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Okay. Thank you.

Just to follow up a little bit on that: so, I was looking at
Figure 5-3 V-3, which is confidential but the lawyers and
the economists could look at it. Is that what you were
referring to? I was a little bit confused in talking about -
- I mean, Figure 5-1 is the Index for Prices for RGP and
cumene, but 5-3 has this margin of the large buyer price
minus RGP. Is that the margin we're talking about?

MR. SZAMOSSZEGI: Actually, no. Because that
margin doesn't take into account the discounting that takes
place. That just shows the difference between propylene and
large buyer price. But when you're in a situation of
increased discounting on annual projects and also a shift to
the spot market because -- which is also lower priced, then
you get lower more sales taking place at more compressed
prices. But that's not shown in this figure.

COMMISSIONER SCHMIDTLEIN: And so, how is it
MR. SZAMOSSZEGI: 5-1 doesn't show the margin. It just shows the increasing price of RPG -- the input. In order to compare that with the price you would have to get like an AUV in the record. That's the only way we're gonna find a trend. And, if you do that, if you compare the combined product AUVs with the RPG price on a quarterly basis, you do see a significant compression. But we'll provide more information post-hearing.

MR. VAUGHN: Commissioner Schmidtlein, Stephen Vaughn. Let me just -- I just wanna sort of summarize a few things because there -- we've actually claimed a number of different ways that we can be -- that we were hurt in 2017 and 2018 and I want to make sure that we're clear on all of those.

The testimony is that they were hurt because they were having to give back discounts, right? So, the -- normally, they have a contract price and they have prices set up for discount from the large buyer price. Those discounts got bigger. That was one way they got hurt.

Another way they got hurt was is that, obviously, they had to sign new contracts. And when those new contracts got confirmed there was a bigger discount than there had been before. So that was another way that they got hurt.
Another thing that there's been testimony is that they were hurt because the spread between the large buyer price and the RGP, that was affected, and that was another way that they were affected.

And there's some testimony that the large buyer price itself could be affected by imports. And then there's testimony that the spot price was affected by imports. So, when you have this big over-supply in the market, it affects prices in all of those different ways.

Now I think the testimony has been that the most dramatic and the one that has the biggest impact immediately on the bottom line is the effect on the discount price, you know, and, to some extent, the effect on the spot price. Those are probably the ones where you actually see the most harm in terms of the margin.

But these other things -- these other factors are out there as well. So, I understand that you're trying to work through all this and sort of understand all these different mechanisms. And our point is: that this enormous over-supply, which really begins in late 2017 and carried over through 2018, it has a negative impact across the board. But probably the biggest, and cleanest way, to see it is by looking at the actual operating margins because that's where -- that's, literally, the bottom line, right? So that absolute pricing might hold up for a long time especially
because the relationship between absolute pricing and the RGP. But,

COMMISSIONER SCHMIDTLEIN: There's my question, right. So, I understand the point about, we really need to look at the margin and see the correlation between that and their profitability or lack of profitability. That that's why there doesn't seem to be a lack -- but my other question is, in terms of looking where the impact is on prices, right? So, the pricing products, you know, we have the prices that are actually -- were actually sold at. So, I assume you all agree that price is also driven by the price of RPG.

MR. VAUGHN: Yes.

COMMISSIONER SCHMIDTLEIN: Or RPG. Is it RPG? So, we don't disagree on that. And so, when you look at the trend of what that raw material is, it's not surprising that it follows a trend for the actual prices. And your argument is: well, those prices are also being impacted -- the ultimate price -- by these subject import prices, right? Not just their profitability, which is squeezing their margin, I understand that argument. But wouldn't that show up in the actual price? Why wouldn't the subject import prices -- the spot price -- for instance, let's just limit it to the products that are spot market products? Wouldn't that show up in those ultimate prices?
MR. DUHE: Tim Duhe with ALTIVIA. It does show up, but it shows up in the margin compression. So the margin compression can be exceeded by an increase in RGP. So you may not see it. What you've really got to look at is the margin compression, and that's what we're going to supply in the posthearing.

COMMISSIONER SCHMIDTLEIN: So when RGP is going up, prices would do up. But you're arguing the margin will be compressed by the subject imports.

MR. DUHE: That's right. You get a little bit of an offset there. The bigger issue for a manufacturer/producer is when that import price comes in below RGP. That's when the injury is the biggest.

COMMISSIONER SCHMIDTLEIN: So when prices go down like they do in '19, and RGP goes down in '19, right, how do we untangle what the impact of the subject import prices is at that point?

MR. VAUGHN: I think that's a very good question. And I think if you notice, for example, you know, we would agree that some of what was happening from '18 to '19 is reflected in the RGP.

You know, for us one of the cleanest and easiest ways to do it is to just simply look at what happens to the industry's profitability. In other words, they can be profitable in a period of low prices, or they can be
unprofitable in a period of relatively high prices.

And so we would really urge you to keep your focus on the actual profitability, because that's really where it kind of all, you know, comes into play.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. SZAMOSSZEGI: Commissioner Schmidtlein, Andrew Szamosszegi. Just turning back to your figure 5-3, which kind of does show the large-buyer price minus the RGP, it does--and I didn't notice this before because my eyesight is terrible--

COMMISSIONER SCHMIDTLEIN: Well I don't want to argue--

MR. SZAMOSSZEGI: --and it kills me every time. But the reality is that that line, you see a pronounced downtrend even in that line during the period when the subject imports and inventories are very, very high.

And I know Respondents want you to focus on various month-to-month, or quarter-to-quarter changes, but the bottom line is that we have the data on what imports were in earlier periods. We have the data what imports were in later periods, particularly during late 2017 and late 2019. And those were very high, and the inventories--the imports were high, and the inventories were high, and that just depressed the whole market.

So that's our--
COMMISSIONER SCHMIDTLEIN: In 2018?

MR. SZAMOSSZEGI: Yes.

COMMISSIONER SCHMIDTLEIN: Okay, well I guess in the post-hearing, then, you could address it. Because when you look at the ending inventory quantities, it was actually lower in 2018 than 2017 for the U.S.

MR. SZAMOSSZEGI: But that's—you know, it's really importer inventories that really spiked and were at very high levels, even compared to imports earlier during the POI.

COMMISSIONER SCHMIDTLEIN: Mr. Sanders?

MR. SANDERS: Paul Sanders, AdvanSix. Just on year-end inventory, what you do see year after year is reduction, particularly given that a lot of acetone is stored in the Texas area, and there's a Texas sales tax. So it does actually mean that anyone, whether you're an importer or a producer in that region, you are always driven to try to keep that down as low as possible.

And so what you'll see over the Period of Investigation perhaps is those inventory levels will start to go up again, January, February, March—obviously I'm not privy to that information—but you often see that, because the taxes are basically applied to what you've got on the end of December every year.

So if you're a trader and you've got a ship on
the water, you don't want that ship to arrive on December
the 20th. You'll wait a week and let it come in on January
the 3rd. It saves you a lot of money.

COMMISSIONER SCHMIDTLEIN: Um-hmm. Okay, so the
last question I had I guess along the lines of this, you
know, what should we be looking at the price for the margin,
is--and you can address this in post-hearing as well--is
when you look at the pricing products, right? And again,
just to make it simple, just look at the spot market
products which were one and three, in 2018--and I assume
your answer is going to be well this is because of the price
of RGP--but you see the spot prices go up from the second
quarter to the third quarter for U.S., and for product three
it's fairly substantial.

So again my question is, like if you're being
flooded with imports at a low price on the spot market, why
are spot market prices for U.S. product actually going up?

MR. VAUGHN: Again, I think when the witnesses
used the term "low-priced" they mean low-priced relative to
the margin. Right? In other words, that's what they're
talking about. It's not like, you know, it's not
necessarily an absolute low price. It's a low price
relative to the margin that's available that they need in
order to cover their costs. So that's what they're talking
about.
So you could have a situation where the price could go from, let's say I was making a 10 percent margin at 500, and then the RGP price goes way up and I'm able to raise my price to 800, but now I'm only making 2 percent. Well to me my prices have gone down. That's just the way I'm going to talk about it.

Now when you look at the absolute numbers, you're going to say, wait a minute, he went from 500 to 800. But the way I'm thinking about it, I had a price that was 10 percent above, and now it's only 2 percent above.

And I think that goes back to the way these guys are used to talking about it, which is we're going to negotiate. You and I are going to have negotiation. The negotiation is going to be how much of a discount do you get relative to this price month to month, right?

So they are always thinking about it in terms of margins. So a high price may be actually at a lower absolute price. Whereas, a lower price may be--do you see my point?

COMMISSIONER SCHMIDTLEIN: Yes.

MR. VAUGHN: So that's what I think you're seeing there. I mean--and I'll let Mr. Sanders comment--but as I understand it, the RGP was moving up.

MR. SANDERS: Yeah, I mean over the Period of Investigation in 2018, from memory, I think
November-December it was--maybe November was a peak, and then it started to drop again. So you'll see that gradual increase. So that's why you'll see some pricing moving up.

And, you know, as a responsible producer of these chemicals and acetone for many, many years, we have to be very conversant of what our raw material cost base is on a monthly basis. We can't afford to see below cost.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ANDERSON: And just to add, Commissioner Schmidtlein--Chuck Anderson--it's also important to keep in mind that something like 97 or 98 percent of the world's acetone is produced using the same method with the same raw materials.

So the inputs aren't entirely independent of the raw material price, either. As their raw material prices go up, their prices will increase. But they can still basically try to increase volume by lowering the markup from their raw material price.

So you need--yes, and they can also just basically increase their dumping by lowering the price in the United States vis-a-vis the price in the domestic market.

So an increase in the price during the period of import increases isn't necessarily a sign that there's no basically price-related injury from imports.
COMMISSIONER SCHMIDTLEIN: Okay, Alright, thank you.

CHAIRMAN JOHANSON: Commissioner Kearns?

COMMISSIONER KEARNS: Thank you. So going back to this issue of the discount rates, and I've heard you, that you all think that looking at AUVs is one way to kind of get a handle on this. But could we ask you to provide us with the discount rates on your annual contracts over the POI? Maybe if each of you could do that for maybe your five largest customers, or some way we can systematically see that, you know, for Customer X the discount rate was off of the large-buyer price was 10 percent in 2016, and it was 15 percent in 2019. That would really be helpful if you could do that.

MR. SANDERS: Paul Sanders, we can do that.

COMMISSIONER KEARNS: Okay, great. Thank you. I've got a few other things for post-hearing here.

Oh, just to clean up here a little bit on the phenyl versus acetone. To the extent you can, please provide internal company documents that illustrate your decision process on how much you're going to produce of the two products.

Oh, and also, Mr. Vaughn, I'm guessing you were going to do this anyway, but you gave a pretty good quick summary of how you would respond to the various cases that
Respondents referred to in connection with coproducts, and if you could all just do that in post-hearing.

MR. VAUGHN: We will do that.

COMMISSIONER KEARNS: Thank you. And also we talked earlier about Respondents' argument that there is a historical inverse relationship between RGP prices and acetone spread. I don't want to spend any more time on that now, but--and I know that it's business proprietary, but there's a chart on page 77 of the Respondents brief, and I'm hoping you all can respond to that posthearing.

MR. VAUGHN: We will do that, as well.

COMMISSIONER KEARNS: Thank you. Now going back a bit to the issue of spot versus annual contracts, we saw an increase--the prehearing report makes this clear--we saw an increase in spot sales versus contract sales over the POI. And if I understand them correctly, Respondents argued that at the end of 2017 U.S. producers expected to see a tighter acetone market, or shorter I guess is the word you guys use, acetone market in 2018. So you were opportunistically looking for higher spot prices in 2018, and so were turning down contracts.

And I think they would also say prices in 2017 enabled you to be profitable.

Now, Mr. Duhe, I think you stated that to the extent you declined annual contracts it's because the prices
purchasers offered were too low. Is that correct?

MR. DUHE: Tim Duhe with ALTIVIA. That's correct. We had product.

COMMISSIONER KEARNS: Okay. And that's not so much because your customers were saying hey let's just continue the same discounts and so forth from 2017, but they were saying we want a cut at lower?

MR. DUHE: And we'll provide that information in post-hearing.

COMMISSIONER KEARNS: Okay, yeah, that'd be great. Thank you.

And then I'm also hearing you say, in addition to that--not you, necessarily, but I think a number of other panelists--that the purchasers became more interested in spot purchases by buying minimum quantities under the contract, right? So I guess that would also account for why we seem to be seeing more sales, more volume being covered by a spot contract--or by spot sales, it's because it could have been that in the past maybe they were maxing out under the contract, whereas in 2018 maybe they were going a minimum amount and buying more on the market?

MR. DUHE: That's correct. When the market gets long and the prices go below costs as a result of dumping, then buyers will go to the minimum contract commitments to try to take advantage of the market conditions.
COMMISSIONER KEARNS: Okay.

MR. DUHE: The second part of that, though, is that buyers will change their strategy on how much they're going to put under contract themselves versus playing the spot market. And we see that ratio change over time as well. It depends on market conditions.

The last two years, because we were inundated by dumping, there's more spot activity out there.

COMMISSIONER KEARNS: Okay. Thank you. And can you all provide contemporaneous business records that show these interactions between suppliers and purchasers in the 2018 contracts?

Thank you. I see some nodding out there. Also I think this is post-hearing, we see that some U.S. producers reported increased spot sales in 2018 and 2019 while others did not. So if you all can explain to us why--and I'm assuming this is business proprietary--so if you can explain to us post-hearing why it varies among U.S. producers, that would be helpful.

MR. VAUGHN: We will do that.

COMMISSIONER KEARNS: Thank you.

Can you tell us what explains the trends in apparent U.S. consumption of acetone from 2016 to mid-2019? We've seen small increases in 2017, a larger one in 2018, and then a decline between the interim periods. Why the
apparent consumption change like that? Do you all have any insights into that?

MR. SANDERS: Paul Sanders, AdvanSix. It's pretty well documented. I think you've seen through '16, '17, and '18 a relatively reasonable growth rate, a few percentage points. You know, acetone is used in a lot of very generic end uses—solvents, coatings, adhesives, very much GDP kind of business. Very much commodity like. 2019 there has been some issues within the industry, in the downstream industry, with some end users having some production issues. And that's obviously impacting the total sales in H-1 2019 that you may have seen.

COMMISSIONER KEARNS: Okay, thank you.

MR. SANDERS: That does mean, though, that obviously with the somewhat lower H-1 demand, the need for additional oversupply from the five subject countries is really not required whatsoever in an oversupplied market. It just exacerbates the issue.

COMMISSIONER KEARNS: Okay, thank you.

And I want to talk about inventories for a minute. You've indicated that inventories grew during 2018 creating problems in the industry. But the staff report—and I'm looking at table 3-7—shows that inventories at the end of 2018 were lower than at the end of 2017.

Can you all comment on that? Mr. Duhe?
CHAIRMAN JOHANSON: Mr. Duhe?

MR. DUHE: Yeah, Tim Duhe with Altivia. Because of the dumping and our inability to actually sell acetone, we reduced our rates. And in the reduction in rates, reduced inventories by year-end as well.

MR. SANDERS: I'm Paul Sanders, AdvanSix. As I mentioned earlier, end of year there is often a desire for anyone with a large acetone inventory in Texas to reduce due to a sales tax, so that's why you'll see often a reduction at year-end. I think the more compelling number is the one at the end of full period of interest, June 2019, where I think you'll see another uptick and the highest point ever.

For AdvanSix we can supply some information post-hearing that will explain and show that the inventory levels are at the highest they have been over the period of interest in 2019 and we've actually had to go out and lease additional storage tanks to deal with that.

COMMISSIONER KEARNS: Okay, and I'm hearing you also say that, in 2018, before the very end of 2018, you would have seen higher inventories but, because of tax consequences, you lowered your inventories at the end.

MR. SANDERS: I'm not privy to the information but, my guess is by near end of December there'll be some action around not having stock at the end of the year.

COMMISSIONER KEARNS: Okay. Yes, Mr. Hayes?
MR. HAYES: Frank Hayes for Altivia. Just to further comments Mr. Duh made: for Altivia, you'll see an increase in our acetone inventory from December '17 to December '18. In the fourth quarter of 2018, we did reduce rates to help mitigate those inventory levels.

COMMISSIONER KEARNS: Okay, thank you. Mr. Vaughn?

MR. VAUGHN: Yeah, I just want to point out that on 4-5 of the staff report, and this is all public, it says that the importers -- the capacity of their leased storage went up 15% between 2017 and 2018 and their inventories went up by 309% from '16 to '18 and I think that's -- some of the inventories, obviously, are going to be helped by these traders, who are basically going out and buying these things on speculation then they end up having to put more of it in inventory. So it's not only on the domestic side, it's also on the other side.

COMMISSIONER KEARNS: Okay, thank you. I think my last question: respondents argue that the trends in the industry's production, shipments, and market share are the result of Shell's closure in early 2018. They claim that, if Shell's data are excluded, industry trends turn positive from 2016 to 2018. Can you respond to that argument?

MR. VAUGHN: I think we'd rather respond to that in the post-hearing because it gets into the
performance of individual companies.

COMMISSIONER KEARNS: Okay, great. That'd be fine, thank you. I have no further questions right now. Thank you.

CHAIRMAN JOHANSON: Commissioner Stayin.

COMMISSIONER STAYIN: Just one question going to the issue of inventory and storage and continuing to operate the plant: what are the considerations? And mention that storing of phenol and acetone would be a very important and difficult thing to do. So, it's gonna cost and could you give some idea of how that impacts your business?

MR. HAYES: Frank Hayes for Altivia. So, the plant has a certain storage capacity, tanks on site that we store our inventory in as it is finished production and being moved out to customers either by barge, by railcar, or tanker. So, there's a fixed amount of storage that is sized with the amount of inventory we generally keep. We generally keep a very small number of days' supply of inventory because of that phenomenon of trying to match our selling price to our cost of manufacture.

As 2018 unfolded, and the market prices fell, we chose to hold inventory rather than to sell at severely impacted prices. We quickly ran out of on-site storage capacity and had to make arrangements for temporary storage of the acetone, which we did through fleeting barges on the
Ohio River where we would bring in an empty barge and store acetone. That's how we responded to the lower pricing: by increasing our inventory and incurring significant cost on a demurrage basis for these barges to do so.

COMMISSIONER STAYIN: So, you have an additional cost that you don't normally have in ordinary operation of your business.

MR. HAYES: Exactly.

COMMISSIONER STAYIN: Mr. Duhe.

MR. DUHE: Just to add a couple more comments to Mr. Hayes' comments. Tim Duhe, Altivia. You know, the price of storage went up as the importers grabbed the storage that was available for acetone. This is sophisticated storage tanks. Availability is at a premium right now.

COMMISSIONER STAYIN: Yes.

MR. STEPHENSON: Clay Stephenson with AdvanSix. So, we look at, you know, the options: do you go get additional storage and pay that cost, or do you sell at a loss to compete with the imports. So, we're looking at that kind of trade-off all the time when we're looking at getting additional storage.

The other point is: if you look at phenol storage and acetone, they're not compatible to go back and forth. So, if you have a phenol tank, it can only be used
for phenol and it's different construction than an acetone tank.

COMMISSIONER STAYIN: Okay. Thank you very much. That's all I have.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: Thanks. I wanted to ask a few questions in connection with Sasol's argument that there should be a different like-product for benzene-free acetone. Could you talk about what differences there are between, if any, between pharmaceutical grade acetone that contains small amounts of benzene and benzene-free acetone that's for pharmaceutical grade?

MR. SANDERS: Paul Sanders, AdvanSix. So, firstly, all the subject importers that dump material including Sasol bring in all the material into the same tanks, so Sasol have a tank and they don't have a specific tank or a specialty grade. It's very fungible. So the product is available for sale into every type of end-use.

There are three producers for special grades, as far as I'm aware, in the U.S. today. AdvanSix makes a low-water low-benzene low-impurity level. And then similar, I believe, Dow do and I believe INEOS do. So the market is a de minimis market. It's less than 2% of the total imports. It's very specialty driven at a pharmaceutical grade and we manufacture routinely a low-benzene product that is
perfectly used and is consumed in that 1-2% of our total operations in the U.S. operations market. So, there is really no real special zero-benzene. Customers do not need zero-benzene, they're looking for low-benzene and high impurity.

MR. ANDERSON: Commissioner Karpel, Chuck Anderson. It's always important to keep in mind that these substitutability is asymmetric, that is, whereas the very small demand for benzene-free is a limited market that cannot accept technical grade acetone, the reverse is not true that you can use benzene-free -- you can use Sasol acetone in just general applications. And, in that regard, I would just urge you to take a look at their customer list and you can then decide -- you can find out for yourself where most of their acetone is going.

MS. BYERS: Could I just one thing to that too? We looked at their website, Sasol's website, where they market their materials. There was nothing on their website that even talks about having benzene-free products. So, clearly, they're not marketing it as such.

Also, there was some testimony given at the staff conference by Mr. Thorlow, where he basically confirmed that they're competing head to head with everybody that are producers that sell too.

The other thing is that, I think it's
important that Sasol didn't even comment on this for purposes of the draft petition. If they were going to be raising a like product argument, you think they would have teed that up, and they didn't do that. I mean the questionnaire, the other questionnaire.

COMMISSIONER KARPEL: One follow-up: so, is AdvanSix's low-benzene product competing with Dow's benzene-free product in the U.S. market? Are they?

MR. SANDERS: As I said, it's an extremely small market and, obviously, we compete every day with other producers with similar like products and there are similar products out there with low-benzene low-water, whatever you want to call it, into that pharmaceutical space.

COMMISSIONER KARPEL: To your knowledge, there aren't purchasers in the U.S. who need to have benzene-free acetone and cannot substitute low-benzene acetone for that?

MR. SANDERS: I'm not aware personally of a customer who's insisted on a zero-benzene product. There is definitely a very tiny market for low-benzene, and that's largely pharmaceutical which we sell to ordinarily every day of the week.

MS. BYERS: I would also just -- Bonnie Byers -- would also just urge you to look at the questionnaire responses of the purchasers regarding this issue. I think that'll be quite telling as well.
COMMISSIONER KARPEL: The next question concerns exports by the domestic industry. I notice those declined. Is that -- can you talk about that at all? Any impact on that on the financials of the domestic industry?

MR. DUH: Tim Duh with Altivia. For us, exports mean Mexico and Canada. Most of that's real. There's not a lot, from an Altivia perspective, anything going out in cargos or vessels.

MR. SANDERS: Paul Sanders, AdvanSix. The export market for us is largely Mexico, Canada. Obviously, as I described early the market in the U.S. is pretty well balanced with capacity for the U.S. producers, relatively close to the demand. So it makes a lot of sense for us to service our home market reliably and on time. So we, obviously, prefer to keep all our U.S. product for the U.S., where we can make a profit.

COMMISSIONER KARPEL: So, just to follow up, so you don't see any, you don't attribute any of the financial situation of the domestic industry to what's going on with your export shipments?

MR. SANDERS: I guess we'll have to follow up, that was for AdvanSix, not for us.

MR. VAUGHN: Commissioner, I would just make one point which is that, obviously, you know the U.S. shipments for the domestic industry were 1.27 million tons in 2018,
and it was 70,000 tons of exports. So it is a relatively small portion of what they do.

COMMISSIONER KARPEL: Just a few clean-up questions. If you could, in your post-hearing brief, respond to Table 2-11 of the staff report, indicating that price is generally considered comparable between U.S. production and subject imports, as well as information on Page 5-12 of the staff report that talks about U.S. producers, including AdvanSix, being the price leader in the market.

MR. VAUGHN: We will do that.

COMMISSIONER KARPEL: And just returning to the cost of storage for acetone, if you could, just be sure to address this in your post-hearing brief, I'm trying to get a sense -- these are costs that importers and distributors would face, too, and trying to get a little insight into how you balanced? So at a cheap price, or do I buy additional storage capacity? And how easy is it get additional storage capacity. Maybe there's a upper limit of what's available for leasing in the United States and so forth.

MR. VAUGHN: We will do that.

COMMISSIONER KARPEL: And we've talked about underselling a bit and you've indicated wanting to respond to those questions in the post-hearing brief. But in doing so, could you also elaborate a bit on what you mean by key
periods of underselling and why those are such important
instances?

MR. VAUGHN: Yes, we will do that as well.

COMMISSIONER KARPEL: That's it. Thanks.

CHAIRMAN JOHANSON: Do any other -- oh, yes, Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: In the post-hearing, can you respond to the respondents' argument that we should take into account the expanded scope and analyzing negligibility?

MR. VAUGHN: Yes, we will do that as well.

COMMISSIONER SCHMIDTLEIN: All right. Thank you.

CHAIRMAN JOHANSON: Yes, Commissioner Kearns?

COMMISSIONER KEARNS: A couple also for post-hearing. Can you respond to joint respondents' argument at Pages 56 to 58 of their brief that certain U.S. producers overstated their production capacity?

MR. VAUGHN: Yes.

COMMISSIONER KEARNS: And on capital investments, also that those are under-reported. That's their brief at Pages 104 through 106?

MR. VAUGHN: Yes, we will respond on that.

COMMISSIONER KEARNS: Okay. And then, the last question I have is with INEOS, INEOS Europe and INEOS America argue that they are in a unique position in the
acetone industry. They point out that their Belgium product is always comingled and sold together with their domestic acetone. They claim that this means that the imported product does not compete with domestic producers or with the subject imports and should not be cumulated.

What's your response to this argument? Not just with respect to cumulation, but otherwise, are there things that we're going to need to do to think differently about INEOS in this case? And are you aware of any prior investigations that presented this factual scenario?

MR. ORAVA: I think this is a particularly dangerous interpretation. I mean their concept is that you can take dumped imports, launder them through their domestic production and then put them out to their U.S. customers, not tell them, and if they don't tell them they're imports and instead continue to let them believe it's U.S. production--some customers may even want U.S. production rather than imports--and somehow they can escape the aspects of the consequences of their unfair trade actions.

Maybe just a few points on the law. You know, the law on cumulation is pretty clear. The standard is, if such imports compete with each other in the domestic like products in the United States market. So that's what the statute requires, that's all the statute requires. And if dumped imports from Belgium compete with other imports and
with the domestic like product, then you're required to cumulate.

And so what the respondents have done is come up with a couple of cases that say, "Well, here's how you market that product," and that marketing somehow dictates whether you compete or not. And I think what's dangerous there is that they basically say that, in order for these cases -- well, these are cases are relevant because you have to show that you're marketing these products as subject imports in order to compete with the domestic like product, and that's not accurate. Obviously, imports do not have to be marketed as imports.

And in this particular instance, if you look at the facts of this particular case, INEOS is bringing in dumped imports from Belgium, they're selling those dumped imports to U.S. customers. The dumped imports are sold in the same parts of the country and the same channels of distribution and same timeframe as other subject imports and the domestic like product. And so sales of the dumped Belgium imports took sales away from businesses and workers here in the United States.

Under these circumstances, it would be fairly ludicrous to say try to pretend that Belgium imports were not competing in the U.S. market. Just one more point, I think their interpretation would just create this enormous
loophole where you'd run into a situation, where if that
interpretation was adopted, a U.S. producer who is also an
importer, could bring massive volumes of dumped imports into
the U.S. market without any fear of cumulation, and frankly,
without any fear of damage.

There's a quote in their brief that basically
says that, unless you tell a customer that it's an import,
then it actually doesn't constitute a sale, and obviously
that can't be the case. So this aspect of INEOS saying that
they're somehow shielded from all the consequences of their
dumped imports simply because they're disguising or hiding
the fact that these are imports rather than domestic
production is frankly absurd.

COMMISSIONER KEARNS: Okay.

MR. ORAVA: And maybe just one more point on
that. They make the argument that there was no lost sales
or lost revenue reported for Belgium, but that's obviously
the case, because it's a function of this scheme that
they've got in place that they say matters, which is, "We're
not gonna tell the domestic customers where this product
comes from," so they may believe that it's U.S. product, but
in fact, it's dumped imports, and they're able to leverage
these dumped imports into capturing more and more market
share with higher and higher imports from Belgium.

COMMISSIONER KEARNS: Okay, thank you. And that
last point gets me to my follow-on question, which is, outside of the cumulation context, what other sorts of things should we keep in mind? And you can answer this post-hearing, if you like. What are the things we need to keep in mind, given this strange issue. I mean you just pointed out lost sales, lost revenues, that it would seem that those are being masked basically. Anything else you can tell us about the way to think about, you know, industry performance, anything else, would be helpful, and again, post-hearing's fine if you like.

MR. ORAVA: We'll do that.

MR. ANDERSON: Commissioner Kearns, one thing, because it's in our prehearing brief, is that we think that the INEOS pricing data should be adjusted to reflect the fact that, as they claim, that they sell exactly the same price. And the data should be adjusted to reflect that, because apparent overselling and underselling from the INEOS data is simply a function of inventory timing. By their own definition, they cannot sell at a different price, so the data should reflect that. That does change the volume of underselling. And so that is one other implication.

COMMISSIONER KEARNS: Okay, thank you very much.

CHAIRMAN JOHANSON: Do any other Commissioners have questions? None do. Do staff have any questions for this panel?
MR. COMLY: Nate Comly, Office of Investigations.

Staff has no questions.

CHAIRMAN JOHANSON: Do respondents have any questions for this panel?

MR. EMERSON: This is Eric Emerson. On behalf of INEOS, we have no questions.

CHAIRMAN JOHANSON: All right, thank you. Then, let's now take a lunch break. Let's come back at 2:00. I'd like to remind the parties that the room is not secure, so please be sure to take any confidential business information with you. We'll see you back here at 2:00.

(Whereupon a lunch recess was taken, to reconvene this same day at 2:00 p.m.)
AFTERNOON SESSION

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

Mr. Chairman, our Congressional appearance has arrived. The Honorable Brian Babin, United States Representative from the 36th District of Texas.

CONGRESSMAN BABIN: Am I ready, Mr. Chairman?

CHAIRMAN JOHANSON: Okay, yes, you may proceed whenever you would like, Congressman.

STATEMENT OF THE HONORABLE BRIAN BABIN

CONGRESSMAN BABIN: Thank you very much, Mr. Chairman and members of the ITC. We really appreciate the opportunity to come over here and speak on this very important subject. As a Congressman who represents over 150 chemical plants and petrol chemical or refining facilities, it could be nothing more important.

Well, thank you Mr. Chairman and members of the Commission. I very much appreciate the opportunity to testify before you today. I am Brian Babin, Representative from the 36th District of the great State of Texas, and the issue that brings me here is the possible imposition of anti-dumping duties on imports of acetone.

I support strong trade remedy laws that protect American jobs and industries from unfair trade practices. However, in this particular case, the tariffs are harming the very American industry that they are supposed to be
protecting. The tariffs will hurt the U.S. acetone
derivatives producers because they will cause permanent harm
to the domestic derivatives industry, shrinking the U.S.
acetone industry's customer base, and harming domestic
producer's long-term viability.

And this has absolutely already started
happening. Acetone is produced in the U.S. from Cumene,
which produces phenol and acetone in a ration of one phenol
to .61 acetone. Acetone workers produce both phenol and
acetone, and the production is inseparable.

Phenol is the more valuable product. Acetone is
produced in the United States only because phenol is
produced in the United States. Because phenol is the
driver, however, there are times when more or less acetone
is produced based upon demand for phenol and disconnected
from demand for acetone.

Recently, phenol has been hugely successful,
while acetone has experienced a long market. Acetone
workers have jobs, however, because they are also phenol
workers. In my District, we have several important
producers of acetone derivatives, including the Dow Chemical
Company's Rohm and Haas Plant in Deer Park, which I
represent, and Monument Chemicals facility in Houston.

They are large, sophisticated facilities that
employ many skilled workers. The operators are United Steel
workers. The key difference between on the one hand, acetone workers who are producing phenol and acetone, and on the other hand, acetone derivatives workers, is that the price of acetone in the United States only affects the derivatives workers. The jobs of phenol acetone workers are not threatened by the long acetone market.

And therefore, they do not need protection from imports. However, duties on acetone threaten the global competitiveness of acetone derivative products, and therefore threaten the jobs of hundreds of workers.

When the price of acetone is high in the United States relative to the global quantity price, acetone derivatives like isopropyl acetone, better known as IPA, methyl methacralate, or MMA, and others are not competitive in the U.S. or in the rest of the world.

There have already been spikes and imports of acetone derivative products like IPA. Increases in imports of other acetone-based derivatives are certain to follow. And I understand that production of acetone derivatives in the United States is already slowing down -- not because of a slowdown in demand for derivatives, but because of artificially high acetone prices that make U.S. companies simply uncompetitive.

This trend threatens to run U.S. acetone derivative producers out of business and decimate the U.S.
market for acetone. Anti-dumping duties on acetone pose an existential threat to acetone derivative producers and to their workers, and ultimately to acetone producers.

Any injury to domestic acetone producers is because of the dynamics of phenol combined with a misunderstanding of the inseparable acetone phenol dynamic. The threat to acetone derivative producers deserves the full consideration of the Commission. And as you examine whether a domestic industry is materially injured or threatened with material injury by reason of imports, or simply by reason of fluctuating phenol demand.

And in closing, I would urge the Commission to recognize the unusual nature of the facts in this case. During its deliberations on the extent of injury, I want to thank you very, very much for the opportunity to come testify today Mr. Chairman, and members of the Commission, and I would close with that. Thank you very much.

CHAIRMAN JOHANSON: Thank you Congressman Babin for appearing here today. We appreciate it. Do any Commissioners have questions of the Congressman? No Commissioners do, but we appreciate you being here.

CONGRESSMAN BABIN: Okay, alright thank you, thank you so much.

CHAIRMAN JOHANSON: Thanks again, sure.

CONGRESSMAN BABIN: I'm excused I assume, thank
you.

CHAIRMAN JOHANSON: Yes, you are.

MR. BISHOP: Mr. Chairman, the panel in opposition to the imposition of the anti-dumping orders have been seated. This panel has 60 minutes for their direct testimony.

CHAIRMAN JOHANSON: You may proceed whenever you'd like.

STATEMENT OF JAMES R. KNAUB

MR. KNAUB: Good day. My name is Jim Knaub. I am the Global Business Director for Dow's Performance Monomers business. Dow is the largest purchaser of acetone in the United States. Our Deer Park, Texas plant located outside of Houston is the largest acetone consuming methacrylate's plant in the world.

Until 2015, we produced phenol and acetone from Cumene at our nearby facility in Oyster Creek. We sold that business to Olin about four years ago. We also produced a small amount of acetone along with several acetone derivatives at a facility in Institute, West Virginia, which we are selling to Altivia.

We understand both sides of the issues presented today. At Dow, we strongly support free and fair trade, especially in support of growing U.S. manufacturing, job creation and exports. In the last five years alone, we have
invested more than 8 billion dollars to expand our capacity and grow new high-skilled, high-valued jobs in the U.S. Gulf Coast.

We believe it would be a mistake to impose anti-dumping duties on acetone. We purchased several hundred thousand tons of acetone every year for Deer Park facility and for further processing in a site in Louisville, Kentucky, supporting close to 800 jobs.

Hundreds of these hard-working employees are members of United Steelworkers. We are proud that products from these two American facilities are used in American homes and are exported around the world. The largest product we produce of acetone by volume is methyl methacrylate or MMA.

Our MMA becomes the paint on the wall and the white and yellow lines on the roads, clear screens for TV's and cellphones, skylights, Corian countertops, and many more products all made at plants across the United States.

MMA and related products can be made from acetone, ethylene or butadiene. Currently, all of our MMA's made from acetone, but making MMA from ethylene is more cost-effective. Acetone-based MMA production has begun a secular decline.

Anti-dumping duties would hasten that decline.

We compete against foreign MMA producers in markets around
the world, so an artificially high acetone price in the United States makes us less competitive. Put simply, anti-dumping duties on acetone threaten our MMA production, and our United Steelworkers jobs.

Phenol demand drives acetone production. Phenol market dynamics, not imports, creates short and long acetone market cycles. Injury analysis must take this into account, the condition of competition which establishes that any decline of financial performance by Petitioners was by reason of phenol demand dynamics.

A finding otherwise would severely disadvantage U.S. acetone derivative manufacturers, potentially causing loss of jobs and loss of domestic market for the Petitioners.

Acetone pricing in the United States is guided by the monthly large buyer price benchmark. Dow, Lucite and Evonik, now Rohm, are the large buyers who individually negotiate with INEOS and Shell. Acetone availability depends on demand for phenol.

U.S. acetone manufacturers produce phenol to meet phenol demand and so, whatever acetone is made that they do not consume internally. Dow purchases much of its acetone from domestic sources by design. The logistics are easier and more reliable. But Dow must ensure reliable supply of acetone.
To adequately address supply risk, Dow must have both domestic and import sources. It would be irresponsible not to. As we saw in 2016 and 2017, domestic supply tightened because of weakened phenol demand and weather destructions.

For example, Hurricane Harvey caused force majeure declarations preventing acetone deliveries and Shell shut down a phenol acetone line, reducing its ability to supply the market. These events threaten the continuity of Dow's production, and we turn in part to imports to ensure supply reliability.

In early 2018, global demand for phenol soared, primarily due to increased phenol demand in Asia. The relatively new management of Altivia and new spinoffs of AdvanSix and Olin, overproduced phenol to take advantage of this market demand which created more acetone. Because of a surplus of acetone, spot prices were lower than Dow's contracted price. This is backwards, reflecting a fundamental misunderstanding of output strategy, or how to manage the acetone market while making production decisions based upon phenol demand.

In our view, Petitioners are requesting a bail out. That would be a mistake. General manufacturing is facing challenges in the U.S. Durable goods demand will drop, reducing phenol demand. As this happens, history
1 shows that acetone will become short around the world.
2 Sustaining our American manufacturing requires certain new
3 supply, and that means access to global supplies.
4 We urge you to consider the impact to American
5 manufacturing who needs security or competitive supply to
6 ensure the ability of American companies to compete in the
7 U.S. and in export markets around the world. I'll be happy
8 to answer any questions you may have.

STATEMENT OF ROBERT CONNOLLY

MR. CONNOLLY: Good afternoon Commissioners and
staff. My name is Robert Connolly, and I'm the Director of
Procurement for Lucite International. Lucite is a
subsidiary of Mitsubishi Chemicals. Mitsubishi Chemicals is
the largest global producer of MMA and Lucite is the second
largest MMA producer in the United States as well as the
second largest acetone purchaser in the United States.

Lucite directly imported only a small amount of
acetone during the period of investigation and the vast
majority of the acetone they purchased is U.S. produced.
So, why is Lucite here at this hearing?

Lucite is here because it depends on a stable and
balanced U.S. market supply of acetone in order to produce
MMA. It is difficult to maintain a balanced U.S. market for
acetone because the supply of acetone is not driven by
demand of acetone, but instead is driven by supply and
demand of phenol.

Introducing anti-dumping duties in order to artificially increase the price of acetone and decrease U.S. acetone imports will make that path harder. Instead of helping U.S. acetone producers, anti-dumping duties will significantly impair the U.S. acetone market and encourage Lucite to simply cut back U.S. acetone-based MMA production and instead import MMA directly into the United States.

Currently there is a depressed demand worldwide for both phenol and acetone, but we believe that the current global economic environment will rebound, resulting in stronger demand for both phenol and acetone. However, if at this point Lucite has shifted from producing MMA from acetone in the United States, to instead importing MMA directly from lower cost global assets, the U.S. acetone market will not rebound. It will have been permanently handicapped.

Lucite would much rather keep jobs in the United States to manufacture MMA. To do this, we need market forces to restore the supply/demand balance in the U.S. market without introducing further market distortions from anti-dumping duties on acetone.

To understand the difficulty of maintaining a balance in the U.S. acetone market, we have to remember that U.S. producers are in the business of producing phenol, not
acetone. Acetone is a subordinate co-product. Phenol
demand determines the operating rates of these plants.

If phenol demand increases faster than acetone
demand, acetone inventories increase. The inverse is also
true. Over and above the normal price movement of acetone
in relation to refinery grade propylene, there have been
numerous occasions in the past five years when phenol demand
was sluggish, resulting in less acetone product being
produced, and resulting in acetone prices increasing due to
constrained and limited supply, regardless of the costs of
refinery grade propylene.

Over the past 10 to 15 years, U.S. producers have
over built capacity in the United States to manufacture
phenol, which led to oversupply and very poor profitability
for phenol. Eventually, Shell closed one of its units due
to the unprofitable nature of its phenol business. That had
the beneficial effect of returning U.S. phenol market supply
to a balanced state and presenting the opportunity to bring
all U.S. phenol producers back to profitability.

However, Shell's closure also resulted in a drop
in U.S. acetone production, leaving U.S. acetone supply
short in the long-term of approximately 150,000 short tons,
resulting in the absolute need for imports in the mid to
long-term. Thank you for your time.

STATEMENT OF CHRISTINE H. FREDERIC
MS. FREDERIC: Good afternoon Commissioners and staff. My name is Chris Frederic. I am Manager of Direct Procurement, including raw materials at Lucite International. The single most important factor to consider in the U.S. market is this -- that supply and demand for acetone in the United States, and the question of whether acetone is imported or exported, depends on the need for U.S. production of phenol.

As a result, traditionally, U.S. production of acetone is capped by the amount of phenol produced to satisfy U.S. phenol demands, plus phenol exports. Accordingly, acetone imports are required to bridge the gap between overall U.S. acetone production and demand for acetone, as U.S. production availability is premised on acetone being a subordinate coproduct of phenol production.

Another important factor is that the elasticity of demand for phenol tends to be much higher than the elasticity of demand for acetone. When the phenol market demand and profitability go down, producers tend to decrease phenol production in order to rebalance the phenol market.

But when producers do that, the result is that acetone production necessarily decreases as well, which pushes acetone prices upward. In the summer of 2017, global phenol capacity additions in Asia and the Middle East, reduced the demand for U.S. phenol exports.
As a result, demand for U.S. phenol, including exports dropped. This decrease in production had the effect of increasing U.S. acetone prices. In the fall of 2017, two events occurred that increased acetone imports into the United States. First, in September 2017, Hurricane Harvey flooded Houston, temporarily shutting down production of Shell and others.

Several producers, including Shell, declared a force majeure as a result of Hurricane Harvey. Second, in October 2017, Shell announced it would mothball the smaller of its two phenol acetone production units in Deer Park, Texas, with the intent of balancing the phenol market.

Shell's original plan was for the shutdown to be completed in early January of 2018. With the closure of Shell's phenol's unit, obviously Shell's acetone production would be shut down as well -- since again, acetone is the subordinate coproduct of phenol production. Because of these events, suppliers and traders began shipping acetone imports into the U.S. Gulf Coast, anticipating a shortage of acetone supply.

However, Shell delayed the mothballing of its Deer Park unit until the end of February 2018 and continued to run their phenol acetone units at high operating rates. The Commission heard this morning from the Altivia representative that Altivia had plenty of capacity to supply
the shortfall of acetone due to its second unit coming online.

If that was the case, why did Altivia refuse to supply the acetone volumes that Lucite requested in 2018? Instead, Altivia chose not to participate in a Lucite RFQ process in 2018, claiming that it did not have enough acetone to support the MMA market.

In 2018, global demand for phenol began to increase, just as the U.S. phenol market had been balanced from the Shell shutdown in February. U.S. phenol producers, seeing an increase in export possibilities, raised their operating rates, which resulted in more acetone produced than was expected.

In 2019, phenol demand in the U.S. and across the globe has dropped significantly. At an industry conference in early October, the message from phenol producers was that phenol operating rate had dropped to the 65 to 75% range. This means that less acetone is being produced, meaning that global acetone prices are increasing.

Moreover, U.S. RGP prices are expected to be stable to slightly up next year. In fact, three U.S. producers have told us recently that acetone prices will be increasing. They also said they will be capping the amount of acetone that they can supply to Lucite for 2020.

In short, the dynamics of the U.S. acetone market
are different from the incomplete picture presented by the
Petitioners. I thank the Commissioners and staff for giving
me an opportunity to discuss these features of the U.S.
market and I would be glad to answer any questions.

MR. EMERSON: Good afternoon. I'm Eric Emerson
with Steptoe and Johnson, representing INEOS. And before
you hear from Mr. Foster, I'd like to spend two minutes
addressing cumulation and issues related to INEOS's
reporting of its data.

As explained in our pre-hearing brief, INEOS
believes that the Commission must consider Belgian imports
separately on a non-cumulated basis. The statute requires
that for the Commission to cumulate, subject imports must
compete both with the domestic-like product, and with other
imports subject to investigation.

In reviewing the issue of cumulation, the CIT has
held that competition means "rivalry in the marketplace."
As Mr. Foster will testify, Belgian imports do not
themselves compete in the U.S. market -- all Belgian imports
are purchased by INEOS America, and are fully comingled,
from both the physical and commercial perspective with
INEOS's own U.S. production.

As a result, these Belgian imports never compete
on a head-to-head basis with any other imports in the
marketplace, and thus cannot be cumulated. Petitioners
argue that INEOS's reported financial performance and
pricing data are erroneous, unreliable and distorted, but
nothing could be further from the truth.
Because these arguments rely heavily on INEOS's
confidential data, we can't address them here, but we will
do so in our post-hearing submission. Suffice it to say
that INEOS strongly disagrees with the wholly unfounded
characterization of its reported data.
STATEMENT OF MICHAEL FOSTER
MR. FOSTER: Good afternoon and thank you for the
opportunity to testify today. My name is Michael Foster and
I'm the Business Manager for INEOS Americas LLC, America's
largest phenol/acetone producer.
I've been with INEOS since 2015 and I have been
responsible for the phenol/acetone sales, supply chain, and
overall business performance at INEOS Americas since 2017.
Prior to joining INEOS, I was at Shell Chemicals for 22
years in various commercial and operational roles, including
phenol/acetone.
I am joined today by my colleague, Lynn Calder,
Commercial Director of INEOS Phenol. INEOS Americas is but
one company within the INEOS Group. Our affiliate, INEOS
Europe AG, is the only producer/exporter of acetone from
Belgium, which it does through a tolling arrangement with
INEOS Phenol Belgium NV.
In total, the INEOS Group employs around 22,000 people across 183 facilities located in twenty-six countries producing a wide range of chemicals.

The INEOS Americas phenol/acetone business comprises our phenol/acetone facility in Mobile, Alabama, our storage facility in Deer Park, Texas and as part of our growth strategy in the United States, a recently acquired cumene facility located in Pasadena Texas, which is the largest in the world.

Since opening our phenol/acetone facility in April 2000, INEOS Americas has become the largest acetone producer in the United States and will continue to invest and grow the business. We believe that INEOS Americas has enjoyed this success by managing its acetone -- phenol/acetone business in a responsible manner.

We are dedicated to running an efficient and reliable business and believe those fundamentals, among others, have made us an industry leader.

INEOS Americas is one of the only two producers who engage in monthly negotiations with the three largest acetone purchasers in the United States to establish the large buyer acetone price. We are an important supplier to several of the companies you see here today. In my opinion, INEOS Americas has to be considered part of the domestic acetone industry.
Like almost all of the producers you will hear from today, INEOS Americas utilizes the cumene process to convert benzene and propylene into phenol/acetone at the same chemical ratios you have heard by other witnesses today.

Although phenol/acetone are produced simultaneously through the cumene process, acetone is generally viewed as being subordinate to phenol as the process produces more phenol than acetone, and because phenol is a more valuable product than acetone on a per pound basis.

In closing I'd like to -- I'm sorry. Because phenol is the more valuable product, phenol/acetone producers like INEOS Americas always set their production levels to accommodate projected phenol demand. While acetone revenue is of course important to INEOS Americas, we would not operate our facility to meet produced acetone demand since we could end up with phenol that we couldn't sell and couldn't easily store.

What this means is that from time to time, there can be an imbalance between acetone supply and demand, and this is what we saw in the United States market over the period of investigation the Commission is examining.

Even though we have been operating our Mobile facility at almost full capacity, we have had to supplement
our acetone production with imports from our affiliate in Belgium, particularly in 2018, in order to meet demand in the United States for acetone contracts with long-term customers.

Recently, acetone supply and demand is in more better balance. Our 2019 imports have declined and are projected to remain far lower since that Belgian quantity isn't necessary to satisfy demand in the United States.

In closing, I'd like to emphasize the key point we raised in our pre-hearing brief, which is that Belgian acetone does not compete against U.S. produced acetone, or against acetone produced in the other countries subject to your investigation.

INEOS Americas is the exclusive reseller of acetone produced in Belgium. No other company markets or sells Belgian-produced acetone in the United States. But INEOS Americas does not market Belgian-origin acetone separately from U.S. origin acetone, we just market, sell and deliver acetone under long-term contracts that never specify country of origin.

At the time of sale, and at the time of delivery, our customers are unaware and frankly unconcerned, about the country of origin of acetone they are buying. In this respect, Petitioner's counsel's suggestion that we are fraudulently delivering Belgian origin acetone as U.S.
origin acetone is totally false.

Moreover, at the time of sale there is never a price difference between acetone we produce in Mobile, and the Belgium acetone we resell. Our long-standing business model simply does not support a conclusion that Belgium acetone competes with any other acetone in the market.

Thank you for your time and for allowing me to testify today. I'm happy to answer any question you may have.

STATEMENT OF QAMAR BHATIA

MR. BHATIA: Good afternoon. My name is Qamar Bhatia, and I'm the President of Monument Chemical. Before joining Monument in 2017, I worked for Honeywell Corporation from 2002 to 2016. Honeywell spun off resins and chemicals in 2016 and is now known as Advansix.

At Honeywell I was the General Manager of resin and chemical division, which included the phenol acetone business from 2006 to 2014. I hired many of the current Advansix executive team while I was managing that business and I consider them friends and colleagues.

But as I will explain, I believe the decision to seek anti-dumping duties is their attempt to mitigate strategic decisions that are made during a normal transitional phase in the market. Monument Chemical is an American specialty chemical manufacturer and exporter in
Indianapolis, Indiana.

Our Houston plant manufacturers and sells a line
of chemicals made from roughly 180 million pounds per year
of purchased acetone that I used as solvents and coatings
and for cleaning.

I believe the petition gives an incomplete story
of the profit level and profit drivers for the petitioning
response, as well as the reasons behind short-term prices
and import volumes. When I managed what is now Advansix, I
never made a production decision based on acetone.

I always made my decision based on caprolactam, a
phenol derivative and contracted phenol volume. Accounting
methodologies related to product and subordinate product
means that phenol acetone produces into a profit or loss
depending upon how they allocate costs.

You can't assess a producer's true performance by
acetone alone. No producer will produce acetone at full
capacity if there is no home for phenol. Moreover, in my
experience, older U.S. phenol acetone plants like Advansix
cannot generally run it more than about 95% of nameplate
capacity on an annual basis.

You do planned and unplanned turnarounds, forced
majeure events and other problems associated with the age of
the plant. When I left Honeywell, I moved to a company that
consumes acetone to make derivatives. Now, I also fully
understand the purchaser side of consideration and I want to share one -- how Monument manages our acetone supply needs;
Two -- our experiences in the last three years that drove us to increase purchases of import materials; and three -- why the industry needs free flow of acetone imports and exports for its long-term health.

U.S. phenol producers use to have a large market in Asia, but phenol plants have been built in Asia causing export markets for phenol to strain. As a result, U.S. phenol production started to rationalize in the last several years, including the shutdown of three U.S. plants from 2013 to 18.

The Blue Island plant shutdown in 2013, the Axiall/Ineos plant in 2016, and the Shell Houston plant in early 2018 -- these three total about 15% of the total U.S. capacity. This has left U.S. structurally short of acetone and requires imports to be balanced. The current situation is actually a period of rebalancing and of finding a new norm for import volumes needed.

The adjustment to U.S. phenol production had a more profound effect on Monument. Most of the U.S. acetone market for large buyers and sellers is based on annual or multi-year supply commitments that are typically negotiated in the fourth quarter to cover the following year after producers know how much phenol they will be producing and
In 2017, we were told by several of our usual U.S. suppliers, including all three Petitioners, that they would be restricting the volume of acetone they could supply us for the following year. At the end of November 2017, we were about 50 million pounds short of supply needs for contractual commitments for 2018.

One Petitioner told us that that the volume he had already contracted for, is best we can do with Monument and the contract could have some spot availability, "but depends on how phenol side evolves."

This email is a concession that acetone availability is entirely dependent on phenol production. Our acetone short forced us to increase the volume of supply from imports to keep our business running. Disruption like the four to six week shutdown after Hurricane Harvey and the Shell plant closure, led to Monument losing committed acetone volume during the critical contracting time of the year, and was the catalyst to our policy of diversifying our supply chain.

Monument's purchasing strategies focused on having a very reliable supply that meets the quality requirements and within world market pricing parameters, including shipping costs. We compete in global markets. If we do not have global priced imports, we cannot compete.
Reasonable prices for acetone can differ based on temporary differences, local value of propylene, which is one of the raw materials for making acetone. However, the industry data shows that differences are temporary and the price balances in the long-term.

For these reasons, Monument's long-term business success is dependent upon us having a diverse set of U.S.-based and international supply sources. With the preliminary duties in effect, we are already seeing the demand in the United States.

IPA is a derivative of acetone that we produce and now being imported in more than 10 times its prior normal volume. There are also technical advances that have been made in recent years that will allow MMA producers to make acetone-free MMA.

Duties would have a long-lasting negative impact on derivative producers such as Monument Chemical and will ultimately destroy acetone demand in the U.S. and jobs related to derivative production. Thank you and I am willing to answer any questions you may have.

STATEMENT OF CARLOS DIAZ CASTRO

MR. DIAZ CASTRO: Good afternoon, my name is Carlos Diaz. I've been working for September 23 years, and I have spent 18 of those years with the phenol and acetone business. I am the Vice President of Sales and Marketing.
for the Phenol Chain Business Unit or CEPSA QU MICA.

My position has a lot of responsibilities. CEPSA is a 90 year old multi-national energy company based in Spain with operations in oil and gas refining, electricity and of course, petrol chemicals. The petrol chemical business is known as CEPSA QU MICA.

CEPSA QU MICA has four different businesses, and production plants in Spain, Germany, Brazil, China, Indonesia and Canada. The phenol acetone business unit has manufacturing facilities in China since 2015 and in Spain since 1994. We are the largest cumene producer in the world, and the second largest producer of phenol acetone in the world.

CEPSA plans its production. It uses the cumene process to produce phenol and acetone. Cumene itself uses phenol acetone for each bound of the primary product, phenol. .62 pounds of acetone is produced as a super designated coproduct.

To economically operate a phenol unit, the total cost of converting cumene into phenol and acetone must be covered by the commercialization at our partner participant into the developing of products for both, phenol and acetone. Phenol producers do not plan or analyze their acetone production efficiently or financial results, separate from phenol, but as a combined margin.
When we plan phenol and acetone production from cumene, phenol demand drives our production decisions. The phenol spot market is insignificant for CEPSA. We contract long-term with our phenol customers. While phenol contracting gives you a clear vision of the future returns, acetone contracts are usually exposed to market prices, which depend on supply and demand balances.

Acetone is a commodity that is traded freely between different geographical areas as a pure commodity, acetone global prices are mainly driven by supply and demand in the market, with a consideration that acetone production is determined by phenol demand.

Some of the customers have lower positions by being present in Europe, Asia and the U.S. The main markets for CEPSA QU MICA are Europe and China. CEPSA's position in the U.S. for decades, CEPSA has had a small, stable position in the U.S. market representing approximately 5% of our global acetone sales.

Our position in the U.S. markets has historically been supplied from two sources -- a certain percentage from Spain, and a certain percentage from a swap contract we had with a producer in the United States. For 2018, our U.S. partner was unwilling to continue our sub-contract relationship, so we decided to service the U.S. customer with exports from Spain.
While our exports to the U.S. from Spain increased in 2018, the total volume we sold in the U.S. market remained very much the same.

Starting in May this year at CEPSA, we completed stopped exporting our acetone to the United States. Acetone situation -- the year 2017 seemed like the best year in history when we look at the combined margin of phenol and acetone. We had relatively low phenol demand, high demand for acetone -- neither we, nor any other phenol acetone in the world was producing that capacity.

As an accessory consequence, we were producing less acetone. The acetone market was really short -- that is, demand was higher than supply. A short market means profitable prices. These conditions led phenol and acetone producers to accept more exposure to the spot market for 2018, with hope of higher returns.

But market conditions flipped in 2018. Global demand began stronger while demand for acetone slowed down. This caused acetone supply to increase which demand was decreasing, so acetone went long and became more available on global basis until today.

The U.S. is the net importer of acetone, particularly after the announcement of the shutdown of one of the U.S. phenol acetone lines in 2017 by one of the largest producers in the country, Shell. Thank you for your
STATEMENT OF RANDY VELARDE

MR. VELARDE: Good afternoon Commissioners. I am Randy Velarde, Founder and President of The Plaza Group. I have been involved in acetone for over 38 years. Previously, I worked for Shell and Texaco Chemical. Acetone is a by-product of making phenol but has been a core product of our company since our start in 1994.

The Plaza Group is a chemicals marketing company. We market by-products largely from chemical plants and refineries. The producers of these facilities prefer to focus their organization on their core products and businesses. We perform this function for companies such as CEPSA, Dow, Totel, Shell, Sabic, Vallero, and many others.

We perform these functions for a fee -- a percentage of the price of what we sell the product. And for our major acetone agreements, this is exactly what we've done for our 25 years in business.

Over the last five years, a number of phenol plants in our country have shut down. The U.S. is now structurally short of acetone by approximately 150,000 short tons. I would like to make two main points -- first, the shutdown of Shell in late 2017.

Second -- about claims by the coalition that they will be willing to supply us. In late 2017, Shell announced...
that it was shutting down one of its two phenol production
units in the Houston area, which meant the loss of about
100,000 metric tons of acetone from what was then a fairly
balanced market in the U.S.

The announcement was made during the contracting
season when acetone buyers sought the contract for their
2018 needs. Buyers had to find their volume somewhere, and
in the fact of unavailability from U.S. suppliers, looked to
imports to fill out their 2018 needs.

Then, to everyone's surprise, phenol demand began
to increase, and Shell's actual shutdown was delayed by
nearly two months. This meant that there was much more
acetone in the market than anyone anticipated.

Commissioners, I've been involved in this product
for over 38 years. I've seen a few cycles where acetone is
down and recovers. This too, I believe would pass, and in
fact it did. Imports returned to traditional levels if
normalized for the product required after Shell's shutdown.

The second point is that Petitioners refused to
supply The Plaza Group under the same terms that had been in
place for many years before. At the end of 2017, we
approached Olin to secure volume to satisfy contracts, to
supply our customers with acetone over the coming year.

Olin, and its predecessor Dow, had previously
supplied us with acetone, but Olin refused to do so. Olin
told me that they would not sell acetone to The Plaza Group unless the Plaza Group abandoned its fee-based model and purchased it for resale.

Offers from Advansix were made on the same basis, presumed they could not accept the much higher risk of buying and reselling large volumes of acetone, rather than marketing and selling acetone for a fee. Advansix also attempted to cut-off our supply of domestic supply. Since 2014, we had been sourcing a large volume of our acetone from Sabic's plant.

In 2018, Advansix, be it an abnormally high-price for this acetone. We believe that they did this to deprive us of this supply. Why, if Advansix claims they had had an oversupply of acetone in 2018, as a result of imports, would they purchase acetone from Sabic, especially at such an abnormally high price.

As a result, we turned to our long-time partner CEPSA, for a larger amount of product. That amount that we could not source domestically. CEPSA understood and accepted our business model.

Finally, acetone production of course is based on demand for the primary product phenol. Duties on imports of acetone would not lead to anymore production in the United States. Instead, all it would do is force the many industries that rely on acetone as a raw material, to either
shutdown their production, or move production to other parts of the world, decreasing U.S. demand for acetone. Thank you for your time and attention.

STATEMENT OF KATHY RAYBURN

MS. RAYBURN: Good afternoon. My name is Kathy Rayburn, I am the Marketing Manager of Industrial Chemicals for Mitsui & Company U.S.A. based in Houston, Texas. I've been with Mitsui U.S.A. since 1991 and have been responsible for importing acetone for the past 6 years.

Mitsui U.S.A. is a purchaser of acetone from domestic and foreign producers for resale to the Americas. Of the subject imports, we most import from Korea and Singapore. We want to ensure that the Commission is provided with a true picture of industry conditions during the period of investigation.

At present, Petitioners failed to present a complete and accurate story for reasons of an increase in the number of subject imports. Purchasers were forced to seek supply from subject imports because first, the demand for phenol drives the production of acetone; and second, during 2017 and 2018, U.S. producers were faced with a number of operational issues.

In 2017, Hurricane Harvey hit the Gulf region, halting phenol production lines and naturally resulting in acetone shortages in the domestic market. Further, it is
common industry knowledge that some producers declared force
majeure for phenol and acetone in 2017 and 2018.

Both the hurricane and the force majeure
declarations meant that U.S. producers were not able to meet
supply demands for acetone. Ultimately, the domestic
industry could not meet industry demands and Mitsui U.S.A.
had no choice but to obtain acetone from subject import
countries.

Another factor to consider from 2017 is Shell's
announcement that it would shut down one of its lines of
phenol production. The announcement came in October 2017,
with a predicted closure date at the start of January 2018.
At this time, Mitsui had to find other sources of acetone to
fulfill existing contracts and to plan for future contracts
with the least amount of disruptions.

Shell did not shut down its line until the end of
February 2018, two months later than planned, increasing
production of phenol and its subordinate co-product,
acetone. Mitsui U.S.A. had already negotiated contracts to
ensure supply and demand was met by imports.

Petitioners have also failed to acknowledge the
pricing structure in the U.S. domestic market, which differs
from other regions. It is generally industry practice that
the pricing of acetone derives from the cost of their
feedstock of refinery grade propylene.
The U.S. domestic market uses large buyer prices in the negotiation of contracts for future supply and uses the price of refinery grade propylene as its basis. During the period of investigation, feedstock costs of refinery grade propylene were high in the U.S., resulting in a large price gap.

The price gap was not due to an influx of dumped acetone by subject countries, but instead because of price differences between the U.S. and subject countries. We have had a longstanding arrangement or agreement with a supplier in Korea and recognizes several years ago that there was a domestic undersupply of acetone. Following the announcement of Shell's plant shut down, Mitsui U.S.A. had to ensure a stable supply of acetone was established to compensate for the lack of U.S. production and to avoid any expected supply shortages. Therefore, we had no choice but to look to imports, all of which were sourced from Korea and Singapore.

There was a demand for imports because of the lack of availability in the domestic market, not because of lower prices. Thank you.

STATEMENT OF AJITH HARYPURSAT

MR. HARYPURSAT: Good afternoon. My name is Ajith Harypursat, and I am the Manager of Products and Technical Services for the base chemical's unit at Sasol,
South African Limited. I'm a chemist, and I have --

MR. BURCH: Will you please pull your microphone up?

MR. HARYPURSAT: I'm a chemist and I have been in the field for over 30 years. I'm here today to discuss the technical and chemical properties that makes Sasol's acetone different from most acetone produced here in the United States.

You're asking that the Commission consider benzene free acetone as a separate like product and find that it is does not injure the U.S. industry. Sasol is an international integrated chemical and energy company that employs over 30,000 people in 32 countries and has been selling chemicals to the United States for the past 20 years.

Sasol's unique production process involves the complex state of chemical reactions that is not performed anywhere else in the world and results in unique chemical products such as benzene free acetone.

There is a clear dividing line between Sasol's benzene free acetone and cumene based acetone. These two products share no common manufacturing facilities, production processes or production employees.

The cumene based process in the Fischer-Tropsch process, involve two entirely different sets of chemical
reactions which require different technology and machinery. They use different raw material inputs. Cumene, which is made from propylene and benzene for the cumene process and mainly coal for Sasol's process.

We have differently trained employees. They work from the cumene production plants, could not work in Sasol's plants and likewise our Sasol employees are not qualified to work in a cumene-based operation.

In Sasol's Fischer-Tropsch process, coal feedstock is used for all gas production, which is then subjected to a stringent purification protocol to remove impurities. This gas is introduced into several reactors utilizing proprietary reactive design and high-efficiency catalysts to produce a series of hydrocarbon products and byproducts, which are recovered downstream by a variety of preparation techniques.

The Fischer-Tropsch method is essentially a distillation of acetone from chemicals, comes from another production stream and does not involve the introduction of other chemicals. We do not produce acetone we extract it in exact quantities that already exist in the water coming out of the Fischer-Tropsch central reactor.

On the other hand, the cumene oxidation process involves the introduction of chemicals, including oxygen and sulfuric acid, amongst others, to general phenol and
acetone. The cumene is oxidizes in the air to produce
cumene hydroperoxide, which is then with the sulfuric acid
to form phenol and acetone.

Further, cumene-based acetone is not
interchangeable with Sasol's acetone for our customers that
are particularly concerned about acetone's impact on human
health. Simply put, Sasol's acetone is chemically different
because it does not contain benzene, a known carcinogen.

This factor is important to certain customers
because of its -- of the harmful health effects of exposure
to benzene, a chemical which is both irritating to the skin
and is a known carcinogen. For example, one of the
important end users of acetone is as an industrial cleaning
agent where acetone is used as an industrial cleaner in the
production of things like food products, makeup, and
pharmaceuticals, it's important that it does not contain
irritants or carcinogens.

Sasol's acetone does not. Benzene free acetone
is not a high purity acetone or a specialty grade acetone as
the Petitioners have suggested. Purity is unrelated to the
benzene content as every producer in this room is aware.

Probably the first of the acetone content
compared to the presence of other materials, normally water.
Specialty grade is a different designation. You can refer
to no alcohol or no benzene product that is marketed for
certain end uses, but specialty grade is not benzene free.

Importantly, benzene free acetone is not simply higher purity than U.S. acetone with respect to benzene, or a low benzene specialty grade, but it's completely free of benzene. Because of these physical differences, Sasol employs its own dedicated sales team who are educated as to the unique properties of this product. We do not sell through third party representatives.

Our sales team is able to educate our customers about the unique benefits of Sasol's product. In addition, Sasol's benzene free acetone commands a higher price in the market than standard acetone containing benzene.

It is my understanding that there is some benzene free acetone production in the U.S. at the Dow facility in West Virginia, which produces benzene free acetone. I know that this facility uses the isopropyl dehydrogenation production process. From a purely chemical perspective, I can tell you that the IPA produces results in benzene free acetone. This is because it does not use cumene as a raw material which does contain benzene.

I hope the Commission now has a better understanding of Sasol's unique Fischer-Tropsch process, which results in a benzene free acetone that is a distinct product from the majority of what is being used here in the United States. Thank you.
STATEMENT OF JIM DOUGAN

MR. DOUGAN: Good afternoon, I'm Jim Dougan from ECS on behalf of the joint defense. I'll begin by reviewing a few key conditions of competition. Acetone, as you've heard, is a subordinate coproduct with phenol, that results from a chemical process yielding roughly one-third acetone and two-thirds phenol, when produced from cumene.

Phenol is the larger and higher priced market, and therefore the higher value market of the two. An industry source cited in the pre-hearing report states that "Phenol demand, rather than acetone demand, usually determines capacity utilization."

Indeed, no U.S. producers reported that their acetone production decisions were driven solely or primarily by acetone. This means that when there's a shocked acetone supply, other producers cannot necessarily, increase acetone production to replace that supply.

It also means that acetone production won't necessarily increase in response to an increase in acetone demand. But when phenol demand increases, so does the supply of acetone, regardless of the demand for acetone. Acetone pricing is established based on established reference points -- published reference points.

Most market participants reference the large bar price or LBP as a starting point in their negotiations, and
the LBP is in turn based on the price of the primary raw
material input for finery grade propylene. When the acetone
market is in balance, acetone prices move in step with RGP
prices, with a fairly steady spread between the two.

When the acetone market is short, the spread
increases, and when the acetone market is long, the spread
shrinks. This industry is cyclical, and spreads grown and
shrink over the cycle independent of import volumes.

As RGP demand is driven primarily by the
polypropylene market and not by demand from the acetone
market, phenol acetone producers are price takers with
respect to RGP. So, for a subordinate coproduct whose
production output is driven by another product, and for
who's key raw material feedstock producers are price takers,
the returns on that product are going to be volatile,
entirely because of exogenous conditions.

This is why it is illogical to track the returns
on acetone in isolation, rather, the logical way is to
assess the returns of phenol and acetone combined. And
indeed, this is what the large global producers represented
on this panel do in the normal course of business.

With respect to the volume indicator, the U.S.
producers dominate the market with a share that average
nearly 90% over the POI. U.S. producer's position in the
market was affected by multiple factors that constrained
their supply of acetone but none of which was related to subject imports.

U.S. producers and suppliers to acetone producers issued force majeure declarations during the POI. Hurricane Harvey caused a major disruption in acetone supply in 2017. And shortly after Hurricane Harvey, domestic supply constraints were exacerbated by the idling of part of Shell's phenol plant in Texas.

Shell's decision was based on the phenol market, not acetone, and wasn't related to subject imports. Shell's announcement occurred towards the end of 2017 during the contracting season for 2018. Shell initially announced that the line will be closed in January 2018, but growing demand for phenol caused Shell to keep it operating longer and it continued to supply acetone from inventory until at least May of 2018.

During the 2017 contracting season, certain U.S. producers declined to accept new customers, refused to supply other existing customers, wouldn't commit to the volume it needed by some customers and restricted other customer's volume. You've heard that from the witnesses on this panel, and I emphasize that these are customers -- these customers who were turned away were large and important purchasers who needed reliable supply and they were forced to turn to imports.
Contrary to Petitioner's claims, purchasers did not turn away U.S. producers and nor would they have any incentive to do so, to what was expected to be a tight market in 2018. More on that in a moment.

The pre-hearing report has page after page of examples of supply constraints, including producer's own self-inflicted constraints. Remarkably, Petitioners have minimized their impacts, asserting that these factors were "very minor." But when they say that, they have a footnote that cites to eight pages of the pre-hearing report.

These supply constraints were anything but minor. First, the sheer number of examples described on those pages demonstrates that the supply constraints were significant. And this morning Petitioner's claimed that domestic production was fairly steady from 2016 to 2018, so there cannot have been a shortage. But they didn't talk about demand and demand increased from 2016 to 2018.

So, that meant when domestic production was relatively constant, it actually went down a little, that demand would have to be served by subject imports. Second, I'd like the Commission to keep this slide in mind -- 5 year, which doesn't look so great on the screen, when weighing Petitioner's claims of a flood or surge in imports over the POI.

The increase in subject import volume between
2016 and 2018 is roughly proportional to the gap caused by the idling of Shell's capacity -- not exactly one for one, but the similarly and magnitude is pretty striking.

Third, just a handful of purchasers who reported in their questionnaires that domestic producers refused to supply them adequately or at all, accounted for nearly half of the increase in subject imports between 2017 and 2018. If domestic producers were turning away these big customers, it's likely that they were also turning away smaller, less powerful customers as well.

And while data to estimate the impact of Hurricane Harvey and other weather-related events are readily available, it's unquestionable that these restrictions constrained acetone supply and influenced purchaser's perceptions of the reliability of domestic supply.

I want to take a minute to talk about the transition in 2017 to 2018. Without the decline in the domestic industry performance in 2018, it's likely that none of us would be here today. But it's important that the Commission not apply perfect hindsight to the data from 2018.

To understand what happened, you must put yourselves in the mind of market participants in late 2017. In the fourth quarter of 2017, when customers were
contracting for 2018, acetone supply was already reported as
"snug" and was expected to tighten still further.

Because phenol markets were expected to be in balance, increase in the U.S. production was not expected. We've provided industry reports to that effect, and you've heard that corroborated from the industry witnesses on the panel.

So, let's think about incentives. If you're a large purchaser, like the ones on this panel, and others who reported refusals from domestic producers in late 2017, security of supply is key. You're not going to risk that by having to potentially go to the spot market in 2018 to get your requirements, especially again, when expectations are for a tight market and high priced.

You're going to want to secure that supply as soon as possible with a contract. And if that means turning to imports to a greater degree than you did before, then that's what you have to do.

Now think about domestic producers. You're expecting tight supply and high prices. Your incentive might be the opposite of the purchasers. You might reasonable expect high spot prices in 2018, and remember the spreads in margins had been growing throughout 2016 and 2017, even as subject import volume and market share grew as well.
Maybe you don't contract all of your volume and hope to earn higher margins in the spot market, but even if that's not the case, remember that you cannot make a decision to increase acetone production without considering that you'll produce roughly twice as much phenol, which means that you won't increase acetone production in response to these acetone market conditions unless it's warranted by phenol market conditions.

So, let's walk through exactly what happened in 2018. First, the large purchasers who had been refused by domestic producers increased their supply from import sources. Second, phenol demand and prices were unexpectedly high, leading U.S. producers to increase their phenol production.

As a result, acetone producer's capacity utilization increased in 2018, particularly in the first half when it reached its highest level of the entire POI. Third, because it wanted to keep its phenol line running, Shell didn't shut down its line in January, but kept producing until the end of February, and was selling from inventory until at least May of 2018.

This was a temporary phenomenon and the oversupply was resolving by the end of 2018 as import volumes fell by more than consumption in the second half of the year. This morning you heard about import volumes
coming in with no set customer and "being available for speculation," but the data show otherwise.

If you convert the percentages in the pre-hearing report Table V-II, Roman V-II, to quantity and ton, the increase in domestic industry shipments to the spot market from 2017 to 2018, was more than double the increased in subject import shipments to the spot market.

Thus, to the degree that the spot market was long, it was long with domestic acetone, not imports. The vast majority of the increase in subject imports from 2017 to 2018, was for contract shipments, which is consistent from what you've heard from this panel. Purchasers were looking to secure a supply when refused by domestic producers and they did so under contract with imports.

Now, Petitioners have also, at least in their briefs, spent a lot of time talking about how their inventories grew, and how this is indicative of injury. But as the Commissioners pointed out this morning, Table Roman III-VII of pre-hearing report shown on Slide 9, shows that this isn't true either.

The ratio of U.S. producers' inventories to production and shipments was relatively stable during the POI, fluctuating within a narrow band. And despite Petitioner's claims in 2018, U.S. producer's inventories fell. In absolute terms, and on the share of shipments.
What's more, the increase in U.S. producers' inventories at the end of part year 2019, was less than 2,000 short tons, and that constitutes only 0.3% of U.S. consumption quantity in part year '19.

So, again, keep this table in mind when weighing Petitioner's discussion of their inventories and the additional storage they had to get to hold them. As a concluding point with respect to volume, U.S. producers can't credibly argue that they could have increased production volumes or held a higher market share than they actually achieved.

First, the industry's capacity utilization was high, exceeding 80% throughout the POI, and it increased between 2017 and 2018. And this was likely understated because several producers overstated their capacity. They reported nameplate capacity without accounting for regular down time and maintenance, which is what the instructions in the questionnaire require.

But in any event, acetone production can't simply be increased in isolation. Phenol production is what drives operating rates. So, moving onto the price indicators. There's no evidence of significant underselling by subject imports, or that increases in subject imports were driven by underselling. Rather, there was a predominance of overselling during the POI.
In 67% of instances, and 54% of the volume. With regard to price depression -- all parties recognize overall price levels and trends are driven by larger buyer price which is set by reference to RGP prices. As you can see on this slide, these prices move in lock step.

So, the Commission's traditional price trends analysis isn't applicable here. In this market, imports can't cause price depression, and this is supported by the fact that only a tiny minority of purchasers reported that domestic producers lowered prices to compete with subject imports. Subject imports, likewise, did not suppress prices. Fluctuation in the industry cause to net sales ratio are explained by fluctuations in the spread between the LPB and RGP prices. Wow, that really doesn't come out, does it?

Sorry about that. It looks better on the printed version, so please refer to that, thanks. Let's see, the reduction in the U.S. producer's margins in 2018 was the result of the contraction in the spread brought about by a sharp increase in the RGP price in the second and third quarters of 2018 -- at least you can see that.

And this coincided in a period for which the market was temporarily long. The sharp increase in RGP prices was completely unanticipated as it wasn't driven by supply and demand factors, but rather a simple artifact of
how RGP prices were calculated.

One large RGP purchaser decided to shift its purchases from spot to contract, thereby removing its low-priced transactions from the calculations of the benchmarks and causing the published RGP price to spike temporarily. As you can see on the slide, the RGP price is corrected by the end of 2018, and the spread began to grow again, but none of this had anything to do with imports.

Historical context reinforces this conclusion. And wow, I really have to apologize. This does not come out well on the screen. Slide 14 shows spreads looking back to 2009, and you can see situations where the spreads change much more dramatically than between 2017 and 2018. There have even been times when the spread was negative, meaning that RGP prices were above acetone prices.

These smaller negative spreads occurred when import volumes and market shares were much lower than they have been during the POI. From 2013 to 2017, spreads were on an increasing trend and from 2016 to 2017, the spread and industry's profit margins increased, along with subject import volume and market share.

But this chart makes it clear that those spreads and likely, U.S. producer's profits were the highest in a decade. Considering the cyclicality of the spreads, the modest decline in 2018 was a temporary phenomenon. By the
end of 2018, the spread had corrected and returned to the
same level as in early 2016.

Turning to impacts -- there was no observable
causal link between subject imports and the industry's
financial condition. As shown on Slide 15, the domestic
industry's profitability improved significantly in 2017
despite an increase in subject import volume and market
share. Profitability declined in 2018 when the volume and
market share of subject imports increased by a similar
magnitude.

But this isn't the only example of a lack of
correlation between subject imports and the domestic
industry's indicia. By late 2018, the market was correcting
itself and the spread began to increase, and as the spread
began to increase or stabilize in the first half of 2019,
U.S. producer's profits declined further, but that can't be
attributed to subject imports, whose volume and market share
both declined and which oversold domestic producers in a
majority of instances and quality in 2019.

Earlier I discussed the circumstances facing
market participants at the end of 2017, and how that
influenced their decisions regarding 2018. In closing I'd
like to return to that. So, Petitioners unwillingness or
inability to supply large important customers seems puzzling
in light of their claims of available acetone capacity.
However, it makes sense when you realize that A -- they had an expectation of tight supply, high prices and large spreads in 2018, and B -- these producers couldn't have increased production of acetone without also increasing phenol production.

It took the increase of phenol demand and pricing for these companies to increase their acetone production. But at this point, their opportunity to contract for this volume had already passed and they were left to sell it on the spot market.

This also goes for any volume that they might have planned to produce but refused to contract at the end of 2017, in hopes of selling into the spot market at higher prices. The pre-hearing report confirms the domestic industry's increased participation in the spot market. And as I said earlier, the increase in domestic industry shipments in the spot market from 2017 to 2018, was more than double the increase in subject import shipments to the spot market.

If the spot market was long, it was long with domestic acetone, not with subject imports. And not all domestic producers increased their spot sales, and the data show that the producers that increased their reliance on spot sales, performed more poorly, compared to those producers that did not.
Petitioner's worsening financial performance after 2017 was thus to a certain degree, at least self-inflicted by refusing to contract for 2018, Petitioners left those volumes to be sold in the spot market, just as supply lengthened due to the factors I've described, and RGP's prices spiked due to those anomalous factors.

I refer you to the quote from the pre-hearing report on this slide, "In the second quarter of 2018, U.S. producers spot and contract prices diverged with spot short-term contract prices continuing to decline and annual long-term contract prices increasing."

In sum, the record does not support a finding that domestic industry is materially injured by reason of subject imports and for the reasons discussed in our pre-hearing brief, the industry also is not threatened by subject imports. Thank you.

MR. EMERSON: This is Eric Emerson. That concludes our direct presentation. We look forward to the Commission's questions.

CHAIRMAN JOHANSON: Thanks to you all for appearing here today. We will begin Commissioner questions with Commissioner Stayin.

COMMISSIONER STAYIN: Thank you. Very interesting the contrast between what we're hearing now and what we heard this morning. I'm really interested in the
response that some of you received when you sought to renew the contract and you were basically rejected.

Earlier this morning one of the responses was that the offer that you were offering to do, put into the contract, was too low and it was below their cost of production. To those of you who were in that situation, might you please respond to that, Lucite?

MS. FREDERIC: Good afternoon, I'm Chris Frederic with Lucite International. In 2018, in the first three months, Lucite was contracting volume for the last nine months of 2018 and anything into 2019 where it was appropriate.

During that time, we were told that very specifically I mentioned Altivia, was not capable to providing the volumes required for the MMA market. There was no discussion about price whatsoever. Now, in 2020 as we are currently negotiated for 2020 as I mentioned, three U.S. producers have limited the amount of acetone that Lucite can source from them for 2020.

COMMISSIONER STAYIN: So, basically you were looking at a difficulty in getting the supply that you required, and you could rely upon?

MS. FREDERIC: Correct, we were looking to source the security of supply is what we were looking for, to make sure that we had enough acetone contracted to cover what our
expected demand would be.

COMMISSIONER STAYIN: Interestingly, in the questionnaire that the Commission sent out, a reliability of supply and availability of supply were likely as high or higher than price. Would you agree with that conclusion?

MS. FREDERIC: Absolutely, yes, I'm sorry, Chris Frederic. The last thing I want to do is be the person responsible for shutting our plant down, because we do have customers, we need to provide material to.

COMMISSIONER STAYIN: The other person who was talking about this?

MR. HAUG: Jeff Haug, with Monument Chemical. Yes, I did want to just also follow-up to Chris's first answer that we were in a very similar situation. And as we talked with other you know, folks in the industry, we get a very consistent message, and I want to stress it's very critical on the timing.

You know, again this is in the third and fourth quarters of 2017 as we were going into 2018. Our businesses require for supply security that we have a high percentage of our raw material demands contracted. Okay, so that goes along with part two of the question that we don't have the luxury or the risk to say we're just going to play in the spot market.

We have to have committed contracted supply, you
know, for our top raw materials, and so that's why I think personally, we ranked those so highly. You know, I have to have one and two. I have to have availability and I have to have reliability, otherwise the price is you know, it has to be third. You know, it has to be -- and I will be honest and say there's a strong, strong part of our decision-making, but when asked to rank them, I think most producers would rank them in that order.

COMMISSIONER STAYIN: What did you ultimately do? Did you sign a contract with one of the importers?

MR. HAUG: Monument Chemical used a very -- I'm sorry, Jeff Haug with Monument Chemical. We used a very diverse approach, so we also did have contractual supply from a majority of the domestic producers, but we took a strong look at our potential short fall and we made a decision based on that short fall, you know, what we needed to do.

And part of that did involve potential contract volumes from outside the U.S. We can answer that in more detail at the post-conference briefing.

COMMISSIONER STAYIN: Please do. The concept that acetone is a subordinated coproduct of the production of phenol, it's an interesting thing where you have phenol goes to one market and acetones going to another one, and the one that acetone goes to, has to wait and see how phenol
goes before they know what kind of price they're going to pay.

That kind of complicates it. It would seem that you have two different products going at two different markets and the volume available of acetone depends upon the volume of phenol that is agreed to and is produced, and that is interesting. Do you have a -- do you have acetone that is being stored in tanks and refineries, or does everything have to come out right then in that, right away, marked and signed off on, or is it just something where you just have to go and look to find phenol acetone wherever you can, wherever you can, maybe imports?

MS. BUTCHER: Jennifer Butcher, Dow Chemical. I'd first like to introduce myself. I've been with Dow close to 30 years. I've been in a number of commercial roles. The last 9 years I'm the Global Purchasing Manager for about a billion dollars of product, one of which is that of acetone global.

I'd like to first go back to the question and support some of the data that was just stated. As you saw in my survey, the reliability and the security of supply is paramount. My fiduciary responsibility to make sure the largest producer in North America of methyl methacrylates is Dow, a/k/a Rohm and Haas, and so my number one priority is security of supply.
And in order to do that, I do need global reach. Through the 9 years I've been buying, there's been an incredible amount of industry consolidation. There's been an incredible amount of change, management, bankruptcy, et cetera. So, with that, I just wanted to echo that yes, I need competitive pricing, but it is not my number one position.

However, we need after security and supply, it is key that we have competitive product as well because our costs of running our success is paramount on our costs, because we're supporting our large assets as well.

COMMISSIONER STAYIN: When you talk about the reorganization or the adjustment of the U.S. acetone market, how do you -- what do you rely upon, and how do you see that happen?

MS. BUTCHER: Could you repeat the question, I'm not sure I understand.

COMMISSIONER STAYIN: You're talking about the acetone market being revised because of shutdowns and difference suppliers not being available and others are or not. How has it changed over the last few years that requires you to have that security concern?

MS. BUTCHER: Sure, again, Jenn Butcher, Dow. It's changed, I can speak actually from our carve out in 2015 when we sold our assets to now, what's called Olin.
And that's changed, because we were no longer being able to tap on my phenol production door and say how much acetone can I count on for that Rohm and Haas business, in order to go supply the rest of my acetone?

So, that particular example highlights a carve out of a business where Dow determined to go more asset light and reduce our footprint and our feedstock. Coupled with changes in companies, bankruptcies, different strategies for some of those companies, and again we've cited through the POI the Shell announcement was a huge factor of a phenol producer that exited, which affects us as well.

And with again, they being --, and INEOS, the two largest phenol acetone producers that put a dent in the market. So, it really bluntly put, outside of other materials, this particular raw material it's always one incident away from an issue, from a catastrophe -- whether its weather related, economic, market, unfortunately production issues. It is just a very volatile and dynamic market.

COMMISSIONER STAYIN: So, you need to have that reliability to supply in terms of being able to get imports as well as U.S. production?

MS. BUTCHER: Jenn Butcher, absolutely.

MR. HAUG: Jeff Haug with Monument Chemical.
I'll just --

COMMISSIONER STAYIN: Go ahead.

MR. HAUG: Just to add briefly, something that we've also been -- we've heard about the increase in tank storage for acetone, so outside leased tanks increasing for acetone. And part of that is also due to security of supply. So, if you have limited storage on site at your production facilities, another option for security of supply is to increase your safety stuff.

So, we do see some of those reports saying there's more acetone being stored, but part of that was based on the decision to increase safety stock to guard against some of these issues that are out of, not only our control, but sometimes the producer's control.

COMMISSIONER STAYIN: There was a statement from some of you that if this anti-dumping duty were put in place that you would have to go elsewhere and actually move production offshore. Did Lucite say that?

MR. CONNOLLY: This is Robert Connolly of Lucite. Correct, Commissioner. We will have the -- we have 12 global assets around the world producing MMA from various production technologies, and at the end of the day we can import MMA at a lower cost than we can produce it here in the advent of constrained acetone supply.

COMMISSIONER STAYIN: And the other in that same
situation? I think somebody?

MR. KNAUB: Jim Knaub for Dow. Yeah, I think for us we would have to look at alternative options. So, for us we have one global asset that supports our business globally. If we were not able to source and supply that product from that asset, we won't be able to compete in those foreign markets.

So, we'll have to source in those local markets which ultimately puts at risk our facility here, so reducing production, which is not really a viable option since it's such a large asset, our fixed costs would fly through the roof and then we're competing with alternate technologies now, like Lucite highlighted, where this is not a competitive technology, so any further kind of increase in raw material sourcing puts us at a disadvantage and puts that asset at risk.

COMMISSIONER STAYIN: Alright thank you, that's my time is up.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: I'm hoping to get a better understanding of the timeline in terms of the demand trends for phenol as well as for acetone. Can you sort of walk me through what happened with demand for phenol from the 2016 to 2018 time period?

MR. FOSTER: Mike Foster, INEOS. I'll tackle the
phenol side of the equation and let some of the others talk
about acetone demand. In terms of phenol demand in 2016 we
started to see a decline in phenol demand that led to a
decline in phenol production, but also a decrease in
acetone production.

So, in 2017, phenol production was down in the
U.S. market and also, we started to see deterioration of
exports outside of the U.S. where a lot of U.S. producers
were sending product outside of the U.S. into Asia market.

As that occurred, the acetone market started to
tighten up because of less supply and so, acetone became a
very valuable product and the price for phenol started to
deteriorate. Going into 2018, things started to change
somewhat for the domestic phenol market in the U.S.

Phenol demand picked up a little bit, there were
opportunities to sell at time into the export market, thus
production picked up in the U.S. and more acetone became
available. So, overall, I think what we're seeing is that
there's a lot of interaction with supply demand based on
what's happening globally, so that's really what I think one
of the fundamental changes in the U.S. phenol market is,
that there's less opportunities to export phenol
internationally, which is causing the U.S. to be constrained
on acetone, which probably kind of dictates need to bring in
imports from other parts of the world because of less phenol
demand.

MR. DOUGAN: Commissioner Karpel, Jim Dougan, real quick. I want the industry folks to speak to this more broadly, but there's some data at page 32 and Exhibit 12 of our pre-hearing brief that shows trends in phenol and acetone demand over the past oh, seven years or so. And while the data are subscription-based, and I can't get into them specifically, what you do see, in terms of trends, is a decline as Mr. Foster was saying, a decline in phenol demand from '15 to '16, and '16 to '17, despite an increase in -- so you have a decline in phenol demand '16 to '17.

Acetone demand goes up a little bit. That means your acetone market is going to be tight. Then in '18, you see a sharper increase in phenol demand and a more modest increase in acetone demand. Well, that means you're going to be a little bit long because the phenol production increased by more than the acetone demand would require, so.

MS. FREDERIC: Chris Frederic with Lucite. And I think to further what Jim said, in 2019, this year we've seen probably a bigger drop in demand in acetone in the United States, especially in the first half of 2019, primarily driven by the fact that both Lucite and Dow, the two largest purchasers of acetone and the two largest MMA producers in the U.S. -- both of those companies were running at reduced rates, significantly reduced rates due to
an unplanned outage and a supply constraint.

And that both of those lasted through at least
the end of July and for Lucite into September.

MS. BUTCHER: Jen Butcher, Dow. I concur, as
well as one of those incidents we're still waiting for this
particular producer that's also a produce that goes I not
our MMA to lift their force majeure. It's been, again as I
stated earlier, a difficult time as we've had two huge
operational issues this year that has lessened our demand.
Forced for us not to get the production rates and the
supply to our customers in 2019.

MR. VELARDE: Commissioner, Randy Velarde from
The Plaza Group. You've heard from two of the large buyers
for acetone. Our company sells to many of what I'll call
the smaller buyers in the market. The market they represent
largely truck and rail customers, they take truck and rail
quantities.

Those customers represent a broad spectrum of our
economy, and as Jim, just to provide some color to the
numbers that Jim referred to, those customers are largely
GDP related. So, you're going to see acetone largely
speaking, respond to the economy.

And to that end, this year we're beginning to see
from about mid-year on, a slight decline in acetone demand.
We think, largely again, related to the overall economy.
MR. FOSTER: Mike Foster, INEOS. One other comment I'd like to make about operational issues. In 2019, there was an incident at a Houston terminal that they had a fire that impacted the whole ship channel and the building for product to move in and out of the terminal, and also to move across the ship channel, that didn't have an impact on the overall phenol and acetone industry, but a lot of the major suppliers and major buyers that shut down the ability to buy and sell and transact, and to bring in any imports for a significant period of time until that terminal and the Houston ship channel was back open.

So, a lot of operational issues, I just wanted to make sure that one didn't get left out. Thank you.

MS. FREDERIC: Chris Frederic with Lucite. I would like to remind you that at any industry conference just a couple of weeks ago, the message we heard consistently from phenol producers was that -- and this is phenol producers from the United States and from outside the United States as well, is that operating rates are now running in the 65% to 75% range, and actually most of them said it was below 70%.

But there was one or two that were above that, so I've used that broader range.

COMMISSIONER KARPEL: So, is that reflective of a decline in phenol demand for the 2019 period?
MS. FREDERIC: I'm sorry, can you repeat the question? I didn't hear it.

COMMISSIONER KARPEL: Right, so we're seeing a decline in demand in phenol for the 2019 period?

MS. FREDERIC: Correct, there's a decline in demand for phenol for 2019, which means that production for acetone will drop as well.

COMMISSIONER KARPEL: And, so as you reviewed, it looks like we have a bit of a tight market for acetone in 2016-2017, an increase in supply in 2018 and this is solely based on the demand trends -- production trends for phenol, according to what I heard from you all.

But then you've also identified additional factors in terms of the shutdown, or the announced shutdown of the Shell facility as well as the hurricane in end of 2017. How much are we -- should we be attributing to those two events, versus this up and down of phenol demand in terms of supply of acetone?

MR. DOUGAN: Jim Dougan, from ECS. I'll respond first and we'll see what the other folks can chime in as well. I think a lot of this has to do again with the timing of these events and the expectations and how say demand for phenol was revealed, because again, looking at that chart, it looks like oh yeah, well phenol demand went up in 2018, so everyone knew there was going to be more supply and there
was going to be more acetone supply so that was fine.

But that was not expected at the end of 2017.

That was not expected during the contracting season. We put an industry report in that said almost exactly that -- that acetone is going to be tight and they're not going to increase production, because phenol demand doesn't look great.

And I think if the other folks would think that's consistent with their experience, they could chime in, that's my understanding from our conversation yesterday. You've got that in place, and then you've got in part that's due to the Shell situation.

So, then the purchasers need the supply, they try to get it. You've heard two or three of the big ones here say no, can't have it. Well they have to go get the imports. Well, Shell keeps producing longer than expected. There's more in the market and the overall phenol production, and therefore acetone production, goes up a little bit.

So, now all of a sudden, the contract that these folks couldn't get from the domestics, they've filled with imports and domestic production is going up at the same time and that's where you sort of end up with that temporarily like long market.

So, I think the sequence of events is important,
not just the sort of you know, combining everything into one idea or applying hindsight to the situation. So, I think if you guys want to chime in, I think the sequence really matters here.

MR. HAUG: No, Jeff Haug with Monument Chemical. And I agree, Jim stated that very well that the timeline is critical and as you pointed out. But you also asked directly about the Hurricane Harvey and the Shell shutdown.

I think what's critical is that the industry, excuse me -- the industry, for Hurricane Harvey that was an unprecedented event and we heard earlier in different testimony, that not only was acetone phenol production affected, but acetone phenol consumption was also affected.

So, it was a very dramatic event that affected almost everybody here in this room, either from a supply customer or partner relationship, but that was also a -- what I would consider it was longer for some folks, but it was a short-term issue.

A lot of folks were back up and running as fast as they physically -- and I say back up and running, back up and producing, as fast as physically possible, including Monument Chemical.

Now, when we look at the Shell -- so, that's one issue. And we also heard Mr. Foster talk about the ITC fire, which some of you may have saw on the news, that was a
very dramatic bulk storage tanks, eight of which caught fire in the Houston area, and shut that down. So, we will see events like this continue and these are unpredicted, unplanned, unforeseeable force majeure issues.

Shell's issue is very different. Shell had realized that the phenol market was significantly long for several years and there was a very astute gentleman that was part of that business that we all respected, a gentleman named Russ Herman that was very integral with Shell's acetone phenol business.

And I only bring up his name because he had the challenge of telling a lot of customers that he was no longer able to supply phenol and acetone. And I think why that's relevant again, that was a decision based on years of looking at the phenol industry. Not necessarily, acetone industry, but that -- and again, I am speaking slightly out of turn on Shell's behalf, but that decision was a longer term, you know, longer impact versus a Hurricane Harvey, you know.

They still need to invest significant capital if they're going to turn that phenol acetone unit back to production. And to date, I haven't heard that's in any plans in the near future. So, again my point there is distinguishing the two events. We kind of put them in the same bucket because of the timeline, but they are very,
very different.

CHAIRMAN JOHANSON: Thank you all, again for appearing here today. Mr. Haug, I'm going to continue, so you're discussing Shell on its decision to curtain operations, correct?

MR. HAUG: Jeff Haug, Monument Chemical, correct.

CHAIRMAN JOHANSON: Yes, could you -- it's too bad Shell's not here, I understand why they're not here, but could you perhaps provide any information to the record explaining what happened with Shell?

MR. HAUG: Jeff Haug, Monument Chemical. Yes, to the best of my ability. I think, you know, I can relay some of those details. As it was relayed to us, so Shell had, you know, two different phenol acetone lines, so two different -- what would be considered even though they were on the same site two different production units.

For years, you know, the Shell management recognized that the phenol market was oversupplied. And it was told directly in some cases to me, that somebody "would have to shut down," you know, there's just too much phenol. What was related to me again also from Shell, was that a significant capital expenditure was needed at the site, okay, that could no longer be postponed. Okay, so this was related to -- we heard this earlier in the conference, safety -- this was related to consistency of
operations. This was related to you know, health
standards, that they could no longer postpone.

And it was in the tens of millions of dollars.
So, again critical of the timeline, this happened at the
time when we're saying look, phenol's going to be bad.
Okay, phenol's going to be bad in 2018 and as again, was
related to me, Shell made the tough decision to -- we say
mothball in the industry, but you know, they shuttered that
asset, okay.

They basically shut it down, and as we heard
earlier from the Petitioners, these units are very, very
difficult to start up again. So, we had a two-fold effect.
Shell was looking at a long-term impact on the phenol
market. They also were faced with a significant capital
expenditure that was not justified at the time.

And that's about the best. Now, just to quickly
follow-up all of this, they still have significant phenol
acetone production, but Shell was faced with the tough,
tough decision, you know, and we heard from Randy Velarde
earlier about some of the second tier users and buyers of
acetone.

And Shell had to make the tough decision on that
tier two as I call it, who they would continue as a contract
customer. And Monument Chemical was one that was on tier
two that since day one of Monument Chemical's inception,
Shell was part of our contract supply and we were fired as a customer -- as a contract customer.

MR. DOUGAN: Chairman Johanson, sorry if I could -- Jim Dougan from ECS, if I can just add. The Exhibit 13 to our pre-hearing brief, there's an industry report. It's subscription-based, so I'm not going to quote from it, but right on page 1, under the market summary, there's a discussion of what this industry analyst's report believed to be the factors behind the Shell closing of that line and it corroborates what you hear from the witnesses.

CHAIRMAN JOHANSON: Okay, thanks Mr. Dougan, thanks, Mr. Haug, for how this led to you of course, importing product, increasing imports of product.

MR. HAUG: Jeff Haug, with Monument Chemical. Yes, it was one of the factors. Again, we lost a long-time partner, you know, in the acetone supply, and it came again, we talk a lot about timing and the timing is a very critical item here as we all sit around and look at this factual timeline.

And I had to go to our President, who's sitting right in front of me and say, oh, by the way, tomorrow we just got fired as a customer, so, yes.

MR. BHATIA: Let me add to that and we provided some of the emails we got from --

MR. BURCH: Will you please identify yourself?
MR. BHATIA:  Qamar Bhatia, Monument Chemical. We provided emails where we had been categorically denied volume, you know, because we were fired from Shell. Jeff went and you know, I said hey, you need to get some acetone. He said I can't get it from the domestic guys, they're not willing to give it. So, we had to go and get imports. I also want to make another correction, please. In my testimony, I misspoke about the maximum practical capacity. I think I said 95, while the exact number should be 85. I just want to make that correction, thank you.

CHAIRMAN JOHANSON:  Okay, thanks Mr. Bhatia. And, do all Respondents take the position that beyond any supply problems it created, Hurricane Harvey also increased costs for the domestic industry. Can you point to in the record, in addition to the single questionnaire you cite at page 37 of your brief to quantify the impact of the hurricane on domestic industry costs?

MR. DOUGAN:  This is Jim Dougan from ECS. We will try to do that for post-hearing. I don't know that we can do it sitting here beyond what we've already pointed to, but we'll do our best for that for post-hearing.

CHAIRMAN JOHANSON:  Okay, thanks. That would be helpful.

MR. DOUGAN:  Sorry, but if I can just add to
that, I think quantifying a cost is there's certainly an
aspect to that and whether we can do that or not, I don't
know, we'll see what the record supports, but I think when
we're talking about an industry where, you know,
availability and reliability of supply are the two most --
the factors ranked as very important by the most
purchasers, as Commissioner Stayin pointed out, it certainly
had an impact on perceptions of the reliability of domestic
supply.

And to have the Shell closure of one of its lines
follow so closely on the heel of that, I think certainly did
start some flashing yellow, if not red, lights for some of
these purchasers.

CHAIRMAN JOHANSON: Thanks Mr. Dougan, yeah,
that's exactly on point. I'm curious as to what happened
with supply.

MR. BHATIA: Because of this situation, we got a
tank on which we spent 1.2 million dollars a year to store
acetone. Because of this unreliability or lack of domestic
supply, we engaged where we spend 1.2 million dollars a year
renting that tank just to get security of supply and so that
we can have some, you know, safety stock.

CHAIRMAN JOHANSON: Once again, you saw the
supplies being insecure.

MR. BHATIA: Exactly.
CHAIRMAN JOHANSON: Okay, thanks, Mr. Bhatia.

And I apologize if this has been answered before, but it's already been kind of a long day, but what role do subject imports play in acetone prices in the spot market?

MR. DOUGAN: Chairman Johanson, I'll let the industry witnesses join in here, but you know, there was a lot of references this morning to you know, speculative supply, and there was one barge that was in and they were waiting for another ship to come in, so they just had to get rid of it and someone heard about how cheap they were selling it and so everyone now, all the large purchasers, want to get that same price for this one guy who's got a barge and is trying to liquidate it.

But, you know, to the degree that -- and the data actually show, and we'll put this in post-hearing. We did the calculation. There's a table at the pre-hearing report Roman V-II, which says the percent of sales of each type from domestic and subject imports to you know, long-term contract, annual contract, short-term contract and spot.

And so, you can actually derive volumes from domestic and subject sources that go along with that. You just multiply it by shipments, right? You don't have to be an economist to do that.

So, you multiple those numbers and you can see how much volume is going in each of those channels. And,
you know, again, the domestics dominate this market.

They're most of the market. They're most of the spot market too. And they're most of the increase in the shipments to the spot market from '17 to '18.

So, I mean, I don't think anybody is claiming that there's zero -- that there's zero consideration of subject imports as part of a spot market, but when the overwhelming majority of the volume there, and the overwhelming majority of the increase in volume to the spot market is domestic, it's kinds of hard for me to accept that the subject imports are the one driving the price there.

MS. FREDERIC: This is Chris Frederic with Lucite. Lucite primarily participates in the contract market. Our spot volumes are miniscule, so we don't consider ourselves spot buyers.

MR. HAUG: Jeff Haug, Monument Chemical. To concur with Jim, you know, the spot market is the spot market. And it's -- we've heard a lot about the spot market price being driven down. There are times, even within the period of investigation, where the spot market is much higher than the contract and even at times, it has been higher than the large buyer settlement flat.

So, we heard earlier from the Petitioners that the contract price is the large buyer minus the discount.
The spot market can swing, and it can swing where it's large buyer plus a premium. Now, it's happened in the period of investigation when acetone is short.

You're paying a premium, excuse me, a premium over the large buyer settlement.

But again we are--we are not, you know, heavily in the spot market, as I mentioned earlier, but we would concur that obviously a combination of both import availability and domestic availability will drive that spot price. And sometimes it's lower than contract, and other times it's been higher.

CHAIRMAN JOHANSON: Thanks, Mr. Haug and others. My time has expired.

Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Okay, thank you. Let me just follow up, because I had a question about the spot sales versus the annual long-term contract sales, Mr. Dougan. And I've been looking through the staff report to see if we had that graph in there, that chart compiling the actual shipment information. I guess we don't. But you did it on your own?

MR. DOUGAN: That's correct. I just multiplied it by the C Table.

COMMISSIONER SCHMIDTLEIN: Yes, we will do that after this. One question I have, though, is--and I guess in
looking at those absolute numbers you say that there's a larger increase in shipments going into spot sales for domestic purchases than imports?

              MR. DOUGAN: That's correct.

              COMMISSIONER SCHMIDTLEIN: Okay. So when I look on a percentage basis, of course, all of the--for long-term contracts, annual contracts, short-term contracts, on a percentage basis those all decrease over the three years for imports in terms of the percentage of total shipments that are going into each of those types of sales. And spot sales increase. In other words, spot sales take from each of those other types of transactions to increase.

And given that the overall volume of subject imports went up obviously over the POI--that's not in dispute--then the shipments--again, I'm not looking at those numbers, you have them, but the volume of shipments going into spot sales for imports must have increased while the other three types of transactions decreased, right?

              MR. DOUGAN: The--that's actually not true, but I will--

              COMMISSIONER SCHMIDTLEIN: It's not? Okay.

              MR. DOUGAN: But I can--I don't have the numbers in front of me, but the most of the increase was in for the other--because I guess the way that it works out with the percentages is that, you know, the increase in--the shift in
share from spot wasn't enough to overwhelm the increase that was applied to all the other categories.

COMMISSIONER SCHMIDTLEIN: Right.

MR. DOUGAN: So the majority of the increase was still attributable to contract sales for subject imports.

COMMISSIONER SCHMIDTLEIN: Right. But on a percentage basis, the spots increased.

MR. DOUGAN: On a percentage basis, that's what the chart shows. Yes, correct.

COMMISSIONER SCHMIDTLEIN: Okay. And so is that what you would expect to see, I guess, given that when I listened to your testimony in the presentation talking about how the fact that U.S. producers were refusing to supply, there was also a supply disruption because of Hurricane Harvey, and that drove purchasers to look for contracts from imports because they wanted to lock in those prices.

So is this consistent? Even though, because of the basis from which we're going, right, the absolute numbers--I understand what you're saying--are larger, but on a percentage you're seeing a shift in the spot sales. Is that consistent with that?

MR. DOUGAN: On a percentage basis, the shift isn't consistent. It's not what you would expect. But in the absolute numbers, it is supporting what we're saying.

So, I mean that's all I can say--
COMMISSIONER SCHMIDTLEIN: Because wouldn't you expect to see spot sales stay at least even? Right? Like if everybody's rushing to get their contracts locked in, there's more volume coming in, wouldn't you expect spot sales to stay at least even, not to increase?

MR. DOUGAN: I mean you might, but this is, you know--this is what the data have told me. So--

COMMISSIONER SCHMIDTLEIN: Okay. Okay--

MR. DOUGAN: We can discuss it at more length with the confidential data. I agree with what you're saying, and it does seem on its face inconsistent, but the result is kind of otherwise. And sort of consistent with what we've been hearing from the folks here on this panel.

COMMISSIONER SCHMIDTLEIN: Okay. So I'm sure you had to anticipate this question. Given that we've heard arguments that the increased volume was as a result of the supply disruptions and purchasers looking for security of supply--in other words, the imports are being pulled into the market, right? And in fact U.S. producers are refusing to supply, and in some cases can't because they're lacking in raw material and so forth. Why do we see underselling increase the way we do in 2018, given the alleged supply constraints? Because if you're being pulled into the market and you're needed, you wouldn't expect to see that product underselling the U.S. product, right?
MR. DOUGAN: So I think part of the answer to
that is the underselling that you are seeing, or a portion
of the underselling that you're seeing--and again I can
parse this with the proprietary data--does have to do with
spot. And for the spot products, particularly. And if the
spot market is long overall, you're likely to see more price
competition occurring there.

Our argument is that it was long by virtue of
mostly domestic volume, but, you know, are the prices going
down? Are the prices more competitive in a spot market?

COMMISSIONER SCHMIDTLEIN: Okay, but I thought
you said that domestic volume decreased; that the idling of
the Shell capacity was roughly equal to the increase in
subject imports?

MR. DOUGAN: From '16 to '18, that is correct.
Yes. Yes. And the decrease in Shell's capacity from '17--
which would effectively be '17 to '18 because they were
running in '16 and '17--was greater than the increase in
subject imports from '17 to '18.

COMMISSIONER SCHMIDTLEIN: Right. So subject
imports increased roughly 100,000 from '17 to '18, 50 from
'16 to '17, and--

MR. DOUGAN: Correct.

COMMISSIONER SCHMIDTLEIN: Right. So you still
attribute the--even though there was an increase of, what
was it, 60 percent or something, by subject imports you
still attribute any longness of the market to U.S.
producers?

MR. DOUGAN: Well, if the--yes, and because most
of the--if the volume--this is where the timing becomes
important, right? Because if the volume that was arranged
for from subject imports was contracted at the end of 2017
by purchasers who couldn't get supply from domestic
producers, and then Shell keeps running longer than
anticipated, and then U.S. producers also increase phenyl
output and acetone production, yes, there's going to be long
length, not longness, in the market. Because the imports,
in a sense, are already there. And, yes, there was a small
increase in--or a small portion of the increase in subject
import volume was attributable to the spot market, sure.
Okay? That's undeniable. The numbers show that. But most
of the increase in imports was contract.

So in essence those were kind of already there
and provided for.

COMMISSIONER SCHMIDTLEIN: Okay. U.S. production
went down in '18. I'm trying to see in the record, like
where do we see that, aside from the Shell idling being
delayed, right--

MR. DOUGAN: Well, the--sorry, go ahead and
finish.
COMMISSIONER SCHMIDTLEIN: --so we see that.

MR. DOUGAN: Well the decrease in U.S. production from '17 to '18 is inclusive of Shell, right?

COMMISSIONER SCHMIDTLEIN: Right.

MR. DOUGAN: So if you take Shell out of that, U.S. production from '17 to '18 actually increased. From the producers other than Shell, collectively. And that's in our prehearing brief.

COMMISSIONER SCHMIDTLEIN: I see. Okay.

Alright, well, I'll look at that more closely.

I had sort of a factual question, and I'm not sure if--well, it's mentioned in the Joint Respondents brief, but for the representative from the Plaza Group, I wonder. There's a reference in the Joint Respondents brief about the marketing for fee business model--I'm sorry, let me see, where are you? Okay, and I just wonder--and maybe you don't want to talk about it too much here, but I wondered if you could expand on that a little bit, and what the marketing for fee business model is.

MR. VELARDE: Sure. Randy Velarde of Plaza Group. And if I may just add some to support Jim's input there, it's difficult to look at your question over an 18-month period of time. It really deserves a response from the end of 2017 when major events took place, which as you properly described drew in imports. But then the events of
late 2017 and into early 2018, those imports became unnecessary because of the fact the U.S. producers had ramped up their production. There was some demand decline that took place during that time with some of the major users. So it really deserves to be looked at in a smaller amount of time, if I may just add to that.

Now to--

COMMISSIONER SCHMIDTLEIN: Well, and I would invite you to--and I think Mr. Dougan--

MR. DOUGAN: In posthearing--

COMMISSIONER SCHMIDTLEIN: Yeah, in posthearing you can address that, along with why do we see the underselling? And then how does that comport with the price trends we see, which was sort of an obvious add-on, follow-on question.

MR. DOUGAN: Will do.

COMMISSIONER SCHMIDTLEIN: If the market is long, then wouldn't we see prices going down during that period?

MR. DOUGAN: Well, you mean--sorry, wouldn't you see prices going down in the period to markets long, like second and third quarter 2018?

COMMISSIONER SCHMIDTLEIN: Right.

MR. DOUGAN: Well the overall price levels would be determined by the RGP. And so--

COMMISSIONER SCHMIDTLEIN: So you would look at
the margin?

MR. DOUGAN: Right, which we don't really have on a quarter-to-quarter basis.

COMMISSIONER SCHMIDTLEIN: Right, okay, so you don't disagree with the Petitioners that that's more relevant than looking at where the impact might be?

MR. DOUGAN: Right. Right. Because we don't disagree, because the overall movements of prices going up and down, and saying that prices were lower here than there, I mean it's a function of RGP. So it's really about the realized margin and why those might have changed.

COMMISSIONER SCHMIDTLEIN: Okay. Okay, and I'm sorry, I'm out of time. If you want to answer now, we can do it in the second round.

MR. VELARDE: Your call.

COMMISSIONER SCHMIDTLEIN: Okay, why don't we do it in the second round. Thank you.

CHAIRMAN JOHANSON: Commissioner Kearns?

COMMISSIONER KEARNS: Alright, thank you all again. This morning Petitioners pointed to a graph on page 11 of their slides showing that January through April 2019 imports were still much higher than the same period in 2016 or 2017. They argued that your argument is largely that imports went up in 2018 because of the Shell shutdown, but this chart totally refutes that, as they put it. Would you
like to respond to that?

MR. DOUGAN: Sure, Commissioner. Jim Dougan. I was a little bit perplexed by that argument because if the idea that imports were coming in in response to a structural decline in domestic supply availability, and that is the Shell shutdown more or less, I don't see why there would be—Shell didn't start producing again. So I don't see why they believe that that structural deficit would have been remedied.

I know that they've argued that, well, yes, some other folks had brought capacity online, but I mean based on the information in the staff report, that capacity was already online at the end of 2017.

So, you know, the idea that imports came in to, in part at least, or mostly to replace that structural deficit, that's not a condition of competition that changed from 2018 to 2019.

COMMISSIONER KEARNS: Okay, thank you.

Also for you, Mr. Dougan, you made a point in your opening that you also made on page 72 of your brief, which I guess I would call sort of the inflated RGP benchmark issue, or this one large supplier—supplier, yes—

MR. DOUGAN: Purchaser, propylene purchaser.

COMMISSIONER KEARNS: --or purchaser, yeah. So
assuming that that's right, where does it lead us? Because I mean it seems to me that what it suggests is that this RGP benchmark is sort of inflated. But that would mean that actual costs of the U.S. producers aren't as great as the RGP benchmark would suggest. But what we're seeing in the data, of course, is their costs, their COGs, their raw material costs, did increase over this period of time.

So what am I supposed to take from the fact that the RGP benchmark may have been inflated in 2018? Does that question make sense?

MR. DOUGAN: Sure. I understand your question, and I will try to come up with a thoughtful response now, and perhaps a more thoughtful response for posthearing.

But I think where it leads us is, you know, again it gets to this idea—well, first of all, sort of a broad, more broad conceptual point that, as I mentioned earlier, sort of at the very beginning about conditions of competition, here you have a product whose output and supply is basically determined by the supply of another product. And you are a price taker with respect to your raw material. You have no ability to influence it. RGP prices are not affected by acetone demand.

So you're kind of at the mercy of these different things. And so this is precisely—that kind of—so you are subject to volatility from totally exogenous factors. This
is an example of an exogenous factor that doesn't have
anything to do with imports.

And so this is why it doesn't make sense, and
none of these large producers here on this panel anyway look
at the profitability for acetone in isolation. Right?
They look at it for basically their cumene output because
they want to see how phenyl is doing at the same time.

So that's the sort of conceptual point, right?
Like here's a perfect example of something just coming in
completely exogenous that affects RGP prices and affects
their margins.

On the other hand, you have a thing where it
spiked sharply and then decreased sharply. That affected
prices. That affected very rapid price swings. And, you
know, it may have affected the mismatch of not just their
pricing but what raw materials they had in inventory and how
those COGs were reflected in their cost of goods sold, and
their end price to the customer. I mean, you had--it's a
very volatile period where, you know, you were exposed to
just simply this, even regardless of what's happening with
subject imports.

That's going to affect your profitability in a
very substantial way. Because it was so, what's the word
I'm looking for, so dramatic of an increase, and so dramatic
of a decrease because, again, you know now--maybe you paid a
high price for your RGP one month and it collapses the next month, and the price that you can sell at is determined based on that RGP benchmark and you're maybe stuck with it temporarily one month higher RGP cost, and now, again, nothing to do with imports, but from month to month your large-buyer price, or even if your discount is a contract one and it's flat at whatever, 10 percent, 15 percent off of LBP, that dramatic swing up and down is going to affect sort of a mismatch between your sales revenue and your cost of goods sold.

So, yeah, you might get caught upside down on that and have a negative impact on your profitability. None of that has anything to do with subject imports. So that's part of the reason that—and it wasn't anticipated. It wasn't people looking forward, projecting RGP and saying, hey, we expected to do this. We see demand in propylene is this. So this means the price for RGP is going to look like this. No, it was really this sort of bizarre discontinuous thing that happened for two quarters.

It also happened to be at the same time that the market was temporarily long for the same reasons that we talked about. You know, Shell continuing to produce, and the phenyl production going up. And, yes, the imports having been brought in to satisfy the contract demand that the domestic producers wouldn't supply.
So you have all--it's sort of like this weird perfect storm that definitely broke badly for them in the second and third quarters of 2018. But I would argue that it's not caused by subject imports in any meaningful sense. And that would be the takeaway that I would have from that.

I can get into it more with a precise analysis for posthearing, if you'd like.

COMMISSIONER KEARNS: Yes, that would be helpful. Because I'm hearing you sort of basically say it's just more noise in this already noisy market, so I understand that to some extent, but it seems to me that if the RGP benchmark is inflated, that that would be, I mean to some extent it's good news for U.S. producers because my acetone price is based indirectly on the RGP price. And so if people think the RGP price is higher than it actually is, then I'm going to have higher acetone prices.

On the flip side, what we actually see in the data is regardless of what the RGP benchmark says, what we know is we had a cost/price squeeze I think during this period, and we had the costs, the raw material costs were going up.

So that seems to suggest that, I don't know, maybe the benchmark wasn't so inflated, that actually in fact the raw material costs were increasing.

So I mean you can do better posthearing, I would
guess, but I'm just not sure how this kind of fits in with
the rest of the case.

MR. DOUGAN: Sure. I'll speak to it more, right
to it more for posthearing. But one thing that I think is
important in terms of--so, you know, it may be a good thing
because prices go up, because RGP goes up, the LBP--that's
true. But the amount of the LBP spread over RGP, as we've
heard from the other witnesses, that does vary from month to
month. Right? And one thing that we do know, for having
spoken to these industry folks, is that the tolerance among
the large buyers for larger spreads gets less when the price
goes up and gets more when the price goes down.

So they are willing to let the producers have a
higher spread and make greater margins in fact when the RGP
prices go down than when they go up.

I think also when they are negotiating--and I
can't speak to this from personal experience, maybe some of
the folks on the panel can, but if you've got an RGP spike
that's attributable to known actual supply and demand
factors in the marketplace, it was anticipated, they may be
more willing to say, you know what, alright, pass that on to
us, we get it.

If this weird artifact of oh, we all know that
so-and-so's not buying spot anymore, they're buying
contract, or the other way around, sorry, you're just going
to have to eat that this month. You know, that might have
been what happened, I don't know.

COMMISSIONER KEARNS: Yeah--

MR. DOUGAN: But again, none of that, in our
view, has anything to do with subject imports.

COMMISSIONER KEARNS: Okay, thank you.

I wanted to talk to Lucite a bit. If I heard you
correctly, ALTIVIA refused to bid on a contract with you?
And a I understand it, that was a bid, I'm thinking at the
end of 2017, for 2018? Is that right?

MS. FREDERIC: It was in early 2018, yes.

COMMISSIONER KEARNS: The bidding was?

MS. FREDERIC: And it was an RFQ that we sent out
to the industry, to all the U.S. producers and suppliers.

COMMISSIONER KEARNS: Okay. So even though we've
been hearing about how most contracts can be negotiated at
the end of 2017 for 2018, this was actually a negotiation at
the beginning of 2018 for the remainder?

MS. FREDERIC: That flowed from the end of 2017
into early 2018, correct.

COMMISSIONER KEARNS: Okay. And at first I
didn't think that this mattered that much because I figured
what we would hear from ALTIVIA would just be, you know,
look, we didn't agree on price so we weren't interested.
But you're saying specifically that price was never even
discussed?

MS. FREDERIC: Chris Frederic with Lucite. That is absolutely correct. Price was never part of the conversation. The conversation centered around how ALTIVIA was choosing not to respond to the RFQ because they didn't have volume to support the MMA industry.

COMMISSIONER KEARNS: Okay. If you could give us any documentation of that that you have that establishes that price wasn't part of the reason, that would be helpful.

MS. FREDERIC: Yes.

COMMISSIONER KEARNS: Okay, thank you. And you were focused on ALTIVIA. What about the other U.S. producers? I mean, why are we only talking about ALTIVIA?

MS. FREDERIC: Now I'm going to go back in memory. Most of the other producers participated in the RFQ. What we'd have to look at was what sort of volumes that were presented as part of their responses.

COMMISSIONER KEARNS: Okay, if you could provide that documentation for us, as well, posthearing, that would be appreciated.

MS. FREDERIC: Thank you.

COMMISSIONER KEARNS: Okay, thank you.

CHAIRMAN JOHANSON: Commissioner Stayin?

COMMISSIONER STAYIN: Yes. This morning we heard discussion about the purchasers doing minimum contracts with
leaving openings for them to buy on a spot market. And this way they were able to have contract, but also to be able to go into the spot market. And it was kind of a confusing thing which some of the producers didn't want to go into. Do you have any idea about that?

MR. HAUG: Jeff Haug, Monument Chemical. What I can speak to is that in a majority, if not all of our contracts, we base those on a range, a volume range with a min and a max, to protect both the buyer and seller, you know, so that -- and especially for Monument Chemical, we are a campaign manufacturer. We are not a continuous process. So there are times when our demand can be two-fold what it is in the prior month.

So a lot of the contracts are built where there's a min and max per the month. So to protect, again, both the sellers and buyers, you know, that's good for both parties. You know, you have a min and you have your maximum. Now, I can speak openly and say that there were times when we didn't need that maximum volume, whether it be demand or campaign schedule. But these are business flexibilities that any good purchaser, you know, or director of procurement, or Vice President of Procurement, is gonna put in place.

So we were a little shocked to hear that. Because that's, you know, you're still within your
contractual obligation. You're just on the lower side for different business reasons. And I can say openly that's exactly what Monument did for different business reasons, there were times when we bought the minimum. There were also times when we requested the maximum. It's just our business model.

COMMISSIONER STAYIN: So it's more of having a minimum contract and then going out and negotiating purchases from imports? As opposed to having a contract that gave you that option. You had a contract commitment and then you went and bought imports for the balance of your need?

MR. HAUG: Not necessarily. I can speak openly, because again, this was public. We actually had a force majeure event that was unrelated to acetone during this same time period. We heard from Jenn Butcher earlier. Another coproduct, sometimes, you know, we had an issue, acetic acid was a very difficult product to get in 2018 also. And that caused Monument Chemical to declare a force majeure. And with that, we were at our minimum contractual commitments for acetone. So I can honestly say that, no, we were not out, you know, supplying additional volume from imports. Again, I go back to what I said earlier. That was a business strategy and a business reason that we were at our minimum contract obligation.
COMMISSIONER STAYIN: Okay.

MR. VELARDE: Commissioner, Randy Velarde with the Plaza Group.

COMMISSIONER STAYIN: Yes.

MR. VELARDE: If only to support what Jeff is saying, it's a very common practice in our industry where these contracts have a minimum and a maximum. As Jeff described in his particular case, it had to do with the way their business operates. It's more of a campaign kind of business. But surely, the minimums and the maximum speak to both buyer and the seller. If the buyer is in fact believing that there'll be some availability of product in the marketplace, they may, in fact, exercise their minimum on that contract.

Same goes to the supplier. If they see that there's an opportunity to sell into this spot market at a higher number, they may only supply the minimum. So the minimums and the maximums apply to both the buyer and the seller.

COMMISSIONER STAYIN: In your brief, there was a suggestion that the domestic suppliers were looking to get into the spot market themselves and were, instead of -- I'm sorry, not the suppliers, the purchasers -- they were buying in the spot market, they were going in the spot market in order to try to take advantage of pricing, because they saw
the market going up.

And then the -- I guess I'm confused on this. It was the contract partners who were refusing contracts because they wanted to get into the spot market, is that -- is a suggestion that's in your brief?

MR. DOUGAN: Commissioner Stayin, the inference was drawn from a combination of two facts on the record. One, you had the domestic producers refusing to supply either the requirements that the purchasers wanted under contract or otherwise, or reducing the quantities that they would make available, on the one hand.

And on the other hand, an increase of domestic shipments into the spot market, both absolutely, and as a percentage of their overall sales. So there may have been other reasons for that. It may have been attributable to the unexpected increase in phenol production that left them with acetone that they hadn't contracted for. They kinda had to put it in the spot market. That might've been part of it, too.

But the inference of, we don't have acetone for you for 2018, telling the contract customers that at the end of 2017, and then increasing their spot shipments in 2018 eventually, that is one inference that could be drawn from those two facts on the record.

COMMISSIONER STAYIN: Okay.
MR. LEHNARDT: I'd also like to point out that the petitioners, when they talked about declining to supply based on low prices or low offers, they didn't say that was the only reason. They said that was one of the reasons. The other was competitive reasons. They wouldn't sell to a competitor. They didn't explain, you know, what the percentage was between the two, but low prices wasn't the only thing that they mentioned.

COMMISSIONER STAYIN: Okay.

MR. DOUGAN: Commissioner, if I could just add one thing. You know, this, obviously contracting season 2017 is a big part of our presentation. It's a big part of what they had to say. The market expectation was that prices were gonna be good in 2018, right? I mean this was the industry. I mean most of the other folks probably believed that that was the case. What you heard from the petitioners this morning was, well, there's already so much import supply in the market and it was already pricing pressure and that's why we refused, because we were getting, you know, basically, negotiated down on prices for 2018.

I'd like the Commission to look at the underselling data from the second half of 2017. I don't know where they're seeing that pricing pressure coming from. Those numbers are confidential, but it doesn't suggest that imports were doing anything to put downward pressure on
prices, I'll just say that.

COMMISSIONER STAYIN: Okay.

MS. FREDERIC: Chris Frederic with Lucite International. Lucite is one of the largest acetone purchasers in the United States. We do not tear up contracts as was said about purchasers this morning. And also, Lucite is a contract buyer. We don't participate in the spot market, and we've been buying on the contract market for the past several years.

COMMISSIONER STAYIN: So do you contract both with the importers, as well as domestic suppliers? Maybe you want to put that in the confidential submission?

MS. FREDERIC: Yes, we're willing to answer that in post-hearing brief.

COMMISSIONER STAYIN: Okay. Thank you very much. That's all that I had. Thank you.

CHAIRMAN JOHANSON: Commissioner Karpel?

COMMISSIONER KARPEL: Can you explain to me, you've mentioned the unexpected increase in phenol demand in 2018. Why was it so unexpected? What market signals, did everyone misread and not predict this? What was going on with that?

MR. FOSTER: Mike Foster, INEOS Phenol. Couple of things—if I can recall correctly—happened in 2018. There was some additional volume exported into Asia.
Typically what we see is for product to leave the U.S. that has to be kind of a arbitrage opened between U.S., Gulf Coast phenol and prices in Asia. That tended to open up a little bit as some producers in Asia, if I recall correctly, may have had a slowdown in their phenol production, but the downstream derivative still needed phenol, so that opened up some opportunities for exports.

Beyond that, I think the different sectors in the U.S. market pretty much perform as expected. So I will have to attribute the biggest gain to opportunities to export, as well as the Shell issue. Their plant was going down, and that created some opportunities for others who, in terms of their portfolio, may have created some additional volumes for the market. But the biggest I think is exports. And we can give you some more data in post-hearing brief.

MR. DIAZ-CASTRO: Carlos Diaz, CEPSA. From our point of view, we saw exactly the same effect as Mr. Foster was describing. In Europe, the main drivers for phenol demand comes from automotive sector, construction sector, textile. We saw an unexpected demand in 2018, as well as in Asia, so bigger production in cars that we were not expecting, more construction everywhere. So that was the main sectors where the demand was coming from, was not forecasted.

MS. CALDER: Lynn Calder, INEOS Phenol. I would
just add to kind of one more point. I think it was mentioned earlier that acetone is very much a GDP-related product. If the economy is doing well, people spend money on stuff. Phenol can be said the same. Just to echo all the points that Carl has made.

COMMISSIONER KARPEL: But I guess, were those unexpected? So I guess the decrease in phenol production in Asia was what the unexpected market factor was?

MS. CALDER: I think one of the key structural changes that we have touched upon a couple of times today, but maybe haven't underlined as much, because part of it really proceeds, although continues into the POI, is the capacity build of phenol and acetone producers in Asia. So whereas historically, the U.S. has been a big supplier of phenol into Asia because they were not self-sufficient in the past few years, they have become more self-sufficient. They've built a lot of their own capacity.

So how that released to acetone is that there used to be a lot of domestic U.S. phenol that was produced and sent to Asia, which allowed the acetone to remain in the country and be used by U.S. consumers. When the pipeline, if you like, of phenol from U.S. to Asia dried out because Asia became much more self-sufficient, the acetone became -- it was no longer produced in the U.S. So it's a phenomenon that kind of almost predates the POI, but certainly, you
know, to a certain extent, continues through the POI, because not all the capacity came online at the same time.

COMMISSIONER KARPEL: I'm still not sure I fully have an answer to my question, or maybe we can move onto something else now. But if you think of other ways to elucidate this in your post-hearing submission, I would welcome that.

I also wanna turn to some arguments that we heard from petitioners this morning. One would be along the lines, if acetone production increased in 2018, why is it that the level of subject imports in 2019 is similar to the level we saw in 2018?

MR. DOUGAN: If I can add to that. So the overall U.S. production of acetone declined from '17 to '18, and that's largely attributable to Shell coming offline. The increase was for the sort of remaining producers. But the sort of structural deficit left behind by Shell's ability to supply the market, remains. They talked about it as if, "Oh, well, it was a temporary thing."

Harvey was a temporary thing. Shell coming offline was not a temporary thing. That capacity's gone. They're not restarting that. So from that point of view, it isn't really surprising that the level of imports is still high, or was still high relative to 2016 and 2017. It's down from 2018 a little bit, but their comparison was,
"Well, why is it so big relative to '16 and '17?" It's 'cuz Shell's not making that anymore.

COMMISSIONER KARPEL: But I also heard you say that phenol production increased in 2018. So that would also increase production of acetone. So is that not factored in?

MR. DOUGAN: The production did increase, but the capacity is still -- there's still capacity short. The domestic market is still -- basically there's a deficit between demand and the ability to supply the market. So production went up for the remaining U.S. producers, but the overall industry's ability to supply the market as a whole is less now in 2019 than it was in 2016 and 2017.

MR. CONNOLLY: If I might add to that. Robert Connolly, Lucite International. The increase in domestic phenol production generating coproduct acetone was not sufficient to bridge the deficit in the shutdown of Shell's acetone production.

MR. DOUGAN: Which is why you see overall production declines from '17 to '18.

MR. FOSTER: The other thing I would add is, as the incremental phenol production happened, there was potentially no plan for the additional acetone that came along with that phenol, because the contracting season was gone. The only alternative was to move it into the stock
market.

So if all of a sudden, I plan my phenol production and now I get more phenol, and I haven't contracted the acetone, I got two choices: I don't take the phenol sales and cut my plant back, or I take the phenol sales and I push acetone in the spot market, that could create some issues. And I think we saw a lot of people just pushing their incremental phenol production acetone into the spot market from a domestic perspective. Because it was unexpected.

MR. DOUGAN: Commission Karpel, one thing to add to that. The petitioners presentation of the data and the subject imports volumes is kind of a misreading of it, but their characterization -- you know if you were to believe them, basically all of the subject import volume is opportunistic.

All of it is coming here with no planned customers, just waiting on a barge to be sold. That's not true. Okay? The vast majority of it is still sold to contract. And most of the increase was to contract. So it's not really surprising that when you have domestic capacity and production coming offline and you have an increase in subject imports--most of which is under contract--to make up for that, there wouldn't an expectation that necessarily in the next year it would fall off, all the
way back down to the two prior years. Because it's brought in under contract to satisfy that supply.

I mean if their story were true, yeah, it's speculators. But it's not mostly speculator, it's mostly contract stuff. And so you wouldn't expect huge volatility in the level of subject import volume. The reason that you see the large increase in subject import volume is the deficit created by Shell coming offline and the need to bring in contract volumes of subject imports to replace it.

MR. DIAZ-CASTRO: I just wanted to add, 100% of the types of volume coming to the U.S. is under contract.

COMMISSIONER KARPEL: Can you, and I think you'll have to do this in the post-hearing, because it's confidential, but can you break-out and do the math for me here? I'm looking at the production by producer in Table 3-4, and it shows the production for Shell in 2018. What I understand is Shell only produced for two months of 2018.

So some of this number we see here is gonna be two months of that facility operating, and the rest is going to be, it's other facilities operating. So I'm trying to figure out, what is really this volume that's the shortfall left by the closing of the Shell facility? And does that really match up with the volume of imports we're seeing coming in for 2018 or for 2019?

MR. DOUGAN: Sure, we can do that calculation and
parse it a little bit more closely to you. And again, the
gap is also relative to demand, right, and the ability to
supply. And the other part of this is, you know, the
responsiveness of domestic acetone supply is not driven by
acetone demand. It's driven by phenol demand.

And so the idea that there's available capacity
or that they can just ramp it up, or that there's something
that could be, that the other ones could just step in and
fill necessarily, is not necessarily true. If you have --
you know, your utilization rate to some degree, you're
"available capacity" is somewhat irrelevant if there isn't
an increase for phenol.

Because if you produce to meet acetone demand,
you're gonna be left with phenol that you--twice as much
phenol--that you can't place and is too dangerous to store.
So it doesn't work that way. The tail doesn't wag the dog.
We'll parse it out more for post-hearing with the
confidential data for sure.

CHAIRMAN JOHANSON: All right. How do you
respond to petitioners' argument that was obvious by the end
of 2018 that the U.S. market was oversupplied with acetone,
yet dumped imports continued to pour into the market from
all five subject countries. And they discuss this at Pages
3 to 4 of their brief. Do the data for January to April,
2019, demonstrate--as petitioners argue--that subject
imports were not responding to market forces, but were rather exacerbating the oversupply problem?

MR. DOUGAN: Obviously we disagree with that characterization. This is a little bit what I just discussed in response to Commissioner Karpel about the majority of this being contracted volume. You wouldn't expect there to be necessarily -- if that's what the customers are demanding and were contracted for, then you'd expect the import suppliers to be continuing to provide that.

Continuing to pour in, you know, I think they mentioned in particular, you know, a large spike in October as evidence of this, there's a big peak, but there's a large valley in September. We understand that to be a timing difference of a ship arriving, you know, early in October as opposed to late in September, something along those lines.

If you smooth it out, the import volumes were sort of more steady over the second half of the year, but did decline. So the imports in second half of '18 were lower than the first half of '18. And the first four months of '19 were somewhat lower than the first four months of '18 as well. So we can get into this more.

The other question that sort of we have is, the U.S. producers have characterized the market as being oversupplied and there's too many subject imports. And so,
because the market isn't in balance, and because it's
oversupplied, then, that's what's killing prices, that's
what's killing our margins. That's all that's up.

Well, then, if that's true, why didn't they
reduce their production to help rationalize the supply? If,
by cutting back, they would rationalize production a little
bit, bring things into balance, increase prices, but they
can't. Their production of acetone is driven by phenol
demand. So there's all of those factors that kind of play
into it and, anyway, we have obviously a very different take
on the data than petitioners, and we can talk about it more
for post-hearing.

MR. HAUG: Just one quick follow-up note. We
talk a lot about the contracting season and the agreements
that users, consumers and resellers put in place. What we
didn't mention is a lot of these are multi-year deals.
These are not necessarily just a one-year deal. These are
sometimes one to two, upwards of three, and in a lot of
cases, you have an evergreen factor, where these agreements
will renew automatically, you know -- for, again, if both
parties agree to continue that.

So I think, again, to the direct question about
why we still saw those imports coming was, again, we were,
as Jim mentioned, a lot of this was contracted volume coming
to the United States. And in most cases, in some cases I
should state, that could be a multi-year deal or an evergreen clause, you know, continuing that contract into 2019.

MR. DOUGAN: Chairman Johanson, if I can also just add to this a little bit. I think there's further evidence that supports that that continued presence of imports in the market was due to the contracts. Not just that I mentioned, but that Mr. Haug just mentioned. And if you look at this Table V-II that's in the staff report.

The percent of subject imports that were sold to the spot market in the first half of 2019 was down from 2018. So, we'll provide the underlying numbers that we calculate from that. We spoke to Commissioner Schmidtlein about it before, but again that's sort of evidence that you know, most of what you're getting here in that continued volume between the first half of '18 and the first half of '19 is because it was contracted for.

CHAIRMAN JOHANSON: Thanks Mr. Dougan. And following up on that period of time, what is your position on post-petition effects? Petitioners contend that subject imports finally declined in May 2019, three months after the petitions were filed, and that this shows that the petitions are the only factor capable of slowing subject import volumes.

They discuss this at page 18 of their brief.
Could you all respond?

MR. DOUGAN: Chairman Johanson, I know I heard from someone else today that -- and they can perhaps respond to it in post-hearing, but my understanding is because there were production difficulties, there was force majeure at the consuming facilities, that their ability to consume, their ability to demand and need for imports also declined in the latter half of the first half. But I'll let other folks talk to that as well.

MS. BUTCHER: Jenn Butcher, Dow. I will state that 2019 has been more operationally challenging, so we have had to curtail somewhat of our diverse strategy global. And again, that just prefaces the dynamics and the volatility of this industry where your -- there's just, it's complex with regard to how the operation is run, who your suppliers are, some of your co-producer partners.

And then that effect it can have on your demand that you plan.

CHAIRMAN JOHANSON: So, it's largely due to demand?

MS. BUTCHER: The root cause of our less demand this year were due to operational issues for 2019, so we had two major events as I stated earlier. We had restrictions with the ITC fire in March. And we also -- until recently had a product from a producer that we need, that we can't
make enough of, that could not supply us due to their force majeure.

So, I think again the net is you have all these different factors that can come in that can, whether it's a domestic producer of phenol acetone, or a global importers of phenol acetone on how it can adjust your demand, your max, your expectations of what your year may look like, that makes sense.

MR. CONNOLLY: Robert Connolly, Lucite International. One of our two assets, our Texas asset, was in an unplanned outage for six months, and just came back recently in September. As a result, we had to import from our global asset base, MMA, to subsidize the loss of production here in the United States.

And as a result, that has put us in a difficult position as far as our minimums, with certain suppliers and we're trying to do all we can to rectify that, but unplanned outages are unplanned outages.

CHAIRMAN JOHANSON: And, is that reflected in the staff report which shows -- I assume that this is what you're getting at in the staff report. It shows apparent consumption decline in the first half of 2019 compared to the same period in 2018. This is at Table C-1?

MR. DOUGAN: Chairman Johanson, I don't know that the industry folks have looked at the file before.
CHAIRMAN JOHANSON: Okay, I understand. I apologize.

MR. DOUGAN: I think that would be, in part, our characterization of it, yes. I mean there may be a decline in demand just from end users, or there may be just decline in demand because of a consumer’s ability to actually use the acetone, but there is, you know, there is a decline in demand as observed in the data bank.

CHAIRMAN JOHANSON: Okay, thanks and sorry for alluding to that when not everybody has the material. This is a very basic question, but I don't know if it’s been answered yet. Petitioners contend that beginning in the middle of 2018, raw material costs rose, but domestic producers were unable to pass those costs along to purchasers due to an oversupply of dumped imports in the market. This is argued at page 4 to 5 of the Petitioner's brief.

How do you respond to Petitioner's argument for finding price suppression?

MR. DOUGAN: Chairman Johanson, Jim Dougan again. I got into this a little bit with Commissioner Kearns before he asked about the spike in our GP prices, and we had discussed about how it was this sort of anomalous increase that wasn't driven necessarily by supply and demand in -- for RGP, or appropriately because of one large purchaser's
purchasing practices.

They shifted from contract or spot or the other way around, I can't remember. But they were a low price purchaser. Their transactions came out, the index went up and then so, RGP spiked and then it went way back down. That certainly would have an impact on domestic producer's costs, and when it comes to their ability to pass that through, you know, we mentioned before that the LBP spread over RGP is negotiated monthly.

It is dependent on a number of factors and there is a sort of less appetite for a larger spread when the RGP is higher than when it's lower. You know, when it's lower, they say kind of take your margin, that's fine, we'll take a higher spread. When it's up, there tends to be lower margins, lower spreads I should say.

And particularly in this case, where it seems to be not even the supply and demand driven spike, but just a kind of calculation anomaly. There would presumably be less appetite among the large buyers to allow that to be passed through as your reference point.

So, that's one aspect of it, why the spreads would have certainly shrank in the second and third quarters of 2018, independent of whatever was negotiated. Then, I think there's an agreement among basically everyone, that the market was comparatively long for acetone in the second
and third quarters of 2018.

We disagree about the why and who was responsible for it, but what that means is -- and if the LBP in the spreads or the discounts that folks have to get on their prices, are based in reference in some way to current supply and demand conditions, or imbalances in the market, you know, that's going to effect a squeeze as well.

But again, my calculations show that to the degree that the spot market was oversupplied in 2018, it was oversupplied with domestic acetone, not with subject imports. And so, to the degree that spot prices had an influence on the spread or on domestic producer's inability to pass through the spike in RGP, it wasn't attributable to subject imports.

CHAIRMAN JOHANSON: Thanks Mr. Dougan. My time has expired. Commissioner Schmidtlein?

COMMISSIONER SCHMDITLEIN: Thank you. Just following up on that, so I think if I understood you, you said when there is a higher RGP, people are less willing to take the large spread. But when RGP is down, then they'll let you take that margin. The margin could be greater.

MR. DOUGAN: That's my understanding from the industry sources, and I think the time -- unfortunately, the data don't project very well, but the sort of long time series over the past 10 years would tend to support that.
COMMISSIONER SCHMIDTLEIN: Okay. But so, my question is -- and when you're looking at figure Roman V-III, it shows this at least as you know, this is somewhat one proxy I guess, right, for the spread -- the difference between the large buyer price and the RGP and the spread there starts to go down.

It starts to shrink towards the end of 2018 and then into 2019. But RGP goes down as you mentioned, it spikes and then it drops way down. And then RGP continues to go down in 2019, but their spread continues, the margin continues to shrink. So, what is causing that margin to continue to shrink?

MR. DOUGAN: I will have to take a look -- Jim Dougan from ECS. I'll have to take a look at that because our calculations of the spread which we have in one of the slides, I don't know how well it's going to project unfortunately.

COMMISSIONER SCHMIDTLEIN: Not very well.

MR. DOUGAN: Not well at all. I'm sorry, I'm going to have to calibrate my slide colors to the projector from now on, I'm so sorry. But if you okay -- slide 13.

COMMISSIONER SCHMIDTLEIN: What slide is that 13?

MR. DOUGAN: Slide 13. We see, I mean the axis are different, the time series is maybe different. But we see a greater recovery in the spread after, say October of
2018. So, maybe we'll go back and compare our numbers to what we understand to underlie Figure V-III.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. DOUGAN: Because it shows a more moderate spread in Figure V-III and ours is more volatility.

COMMISSIONER SCHMIDTLEIN: What's the source of your spread there?

MR. DOUGAN: We think it's the data that were released by the Commission, so I think we're relying on the same data. So --

COMMISSIONER SCHMIDTLEIN: Because I think we're using proprietary data, it's not party data, but it's -- you know, the source is in the staff report, you can see the two indices.

MR. DOUGAN: Yes, in our source here is the ITC document under which those data were released, so.

COMMISSIONER SCHMIDTLEIN: I see, okay.

MR. DOUGAN: So, I don't know, ours look more volatile. You're looks smoother. I'm not -- I'm actually not entirely sure. So, we can go back and look at that for --

COMMISSIONER SCHMIDTLEIN: But the gray area on your slide --

MR. DOUGAN: Yes.

COMMISSIONER SCHMIDTLEIN: That represents the
spread?

MR. DOUGAN: Correct.

COMMISSIONER SCHMIDTLEIN: Right, that's the spread.

MR. DOUGAN: Correct.

COMMISSIONER SCHMIDTLEIN: Yeah, okay.

MR. DOUGAN: Yeah, so ours if yours is more volatile, yours is smoother, I don't know. We think we're relying on the same data, but I don't know, we'll go back to the woodshed on that one.

COMMISSIONER SCHMIDTLEIN: Okay, and then for The Plaza Group, my question was during the last round is whether you could talk a little bit about the marketing for a fee business model?

MR. VELARDE: Sure, Randy Velarde with The Plaza Group and thank you for that question. For our 25 years in business, we're celebrating our Silver Anniversary this year, and my 38 years in the business, 13 more than that, we have found many domestic producers that simply I guess, the best way to say it has not found the acetone molecule to be strategic enough to concentrate their resources on that product.

So, they outsource that product to our company. We manage what we call the soup to nuts of that business, we take the product from the plant gate, we put it in rail cars
or trucks. We do the commercialization. We do all the
supply chain and resell it to those truck and rail customers
across the U.S. And we do that for a fee, so.

COMMISSIONER SCHMIDTLEIN: So, just so I'm clear.
So, that means you don't actually buy the product from them.

MR. VELARDE: We actually buy the product.

COMMISSIONER SCHMIDTLEIN: Oh, you do?

MR. VELARDE: Yes, ma'am. Those customers are
actually our customers. That receivable is our receivable.
We have to collect on that receivable, repay our supplier on
the negotiated terms of that agreement. And those are
usually multiple year agreements.

As I said, they choose to outsource the
commercialization of that product, and I think that's really
central to our theme today, and that is as we have done
business with one of the Petitioners, and not the gentlemen
that's in the room here, but his predecessor. It was kind
of a long running joke between us because he said, "Randy, I
want to spend one hour of one month on this -- on acetone,
that's it. If I ask you to spend anymore time than that,
then you're probably going to get fired."

So, it does really speak to, in that case, to the
non-strategic nature of that product to that producer.

COMMISSIONER SCHMIDTLEIN: So, I'm just a little
bit confused then, why do you call it fee for marketing?
Why isn't that -- why aren't you just a purchaser who's buying it and then reselling, because you're reselling it to whoever is buying at the end of that railcar, right?


COMMISSIONER SCHMIDTLEIN: Right.

MR. VELARDE: Good question. What we do, and we can go into this in more detail at post-hearing, is that we sell it to the market at the prevailing market price. And it's a term of art in our business, it's called the prevailing market price. And so, we sell it to that client. We deduct the freight, we deduct all the direct costs associated with that sale and then we take a fee and then we return the remainder back to the supplier.

COMMISSIONER SCHMIDTLEIN: I see, even though you take legal title, excuse me, legal title to the product?

MR. VELARDE: Absolutely. No, we take -- we effectively purchase the product under that kind of a fee based arrangement. FOB that plant gate. That product becomes our property until we then transfer that product to the client.

COMMISSIONER SCHMIDTLEIN: Okay, thank you very much. I don't have any further questions, I guess, Commissioner Kearns?

COMMISSIONER KEARNS: I want to turn back to
something that you all discussed a bit with Commissioner Karpel, and that has to do with sort of the reasons why phenol and acetone demand may change and kind of how imbalances can happen between the two, I guess.

You know, I don't feel like we've heard a whole lot about why that happened, or why that can happen. I think the one thing we have heard from you all, and from Petitioners, is it has a lot to do with the demand for U.S. exports of phenol to the rest of the world, in particular, Asia, that there may be less demand for U.S. exports of phenol today than there was maybe 10 years ago because there is more production of phenol in Asia, is that right? Mr. Foster, maybe you can speak to that.

MR. FOSTER: Yes, Mike Foster, INEOS Phenol. The market in Asia definitely has changed with the additional of phenol facilities there. You know, to answer your question in terms of how the two markets can kind of diverge, if you will, we're actually starting to see that today. To a more extent, the subsequent gentlemen mentioned the auto sector. We're also seeing a bigger decline because of -- I want to get into this in Washington because of some tariff issues.

We have started to see some -- certain markets be impacted by that tariff more than others. And one of those markets is associated with the automotive industry. Our product, especially phenol, when you go into polycarbonate
BPA and PPO are supplied into the auto sector.

So, demand for those products went down significantly over the last six months while the demand for MMA in solvents products, actually they have somewhat declined, but not at the same ratio that we've seen in the auto sector.

So, we are seeing the need to reduce production, I think someone mentioned numbers I think it was the lady from Lucite, numbers in 65 to 75% range. I'll stick with her numbers for now. And that's all driven by phenol demand, because mainly the automotive sector has started to deteriorate.

The other phenol sectors are down, but not to the same extent as automotive. And MMA will use the acetone, their sectors are maybe slightly down, but more down because of production issues that you've heard about and not because of demand.

So, you know, at times there's always a difference between those two markets. They don't grow and shrink together, and that's kind of part of the challenge, phenol producers have, in trying to balance those two.

COMMISSIONER KEARNS: Okay, thank you, that's helpful. Putting aside the more recent auto issue you just described, and I think what we've heard from Petitioners, and I'd like to hear from you all on this, is my sense of it
is kind of big picture change on phenol versus acetone is
that there's now more production of phenol and so I guess
necessarily, acetone in Asia than there once was.
And there's more -- and so, the phenol that's
produced there is serving the Asian market there, phenol,
but there's no market for -- there's not as much market for
acetone in Asia, and so those -- that product has come into
the United States. So, basically the upside is, what I'm
hearing, at least from Petitioners, is U.S. phenol exports
are down and U.S. -- and maybe Asian acetone exports are up
to the U.S.
And that that's sort of how the balance is
working. Do you all have any thoughts on that?
MS. CALDER: Lynn Calder, INEOS Phenol. I think
one key point here is that when the phenol, and pardon me if
I'm repeating myself, when the phenol from the U.S. stopped
going to the U.S., that created --
COMMISSIONER KEARNS: Stopped going to Asia, you
mean?
MS. CALDER: Stopped going to Asia, that created
an incremental reduction in acetone that would have
otherwise remained here.
COMMISSIONER KEARNS: Yes.
MS. CALDER: So, you know, yes, we have seen some
subject imports coming in, but you know, we've talked a lot
about the reasons for that. One of the reasons is certainly
to date, the permanent closure of Shell, for several years.

The other permanent effect was that the reduction
in acetone that used to remain in the home market, that
could no longer be produced because there isn't a home
phenol.

COMMISSIONER KEARNS: So, right, I think what I
heard you say this could add one more step to what I had
said. So, step one is fewer exports from the U.S. of phenol
to Asia. Step two is therefore cutting production in the
U.S. of phenol and acetone -- that's what you're adding.
And then step three is therefore more exports
from the rest of the world to the U.S. of acetone, is that
right?

MS. CALDER: Yes, sorry Lynn Calder, Phenol, as a
result of need in the U.S., we've talked about that. I
think it's probably also important to say that the Asian
region is net importer of acetone. They're not long on
acetone, so it's not acetone that's looking for a home.

MR. DIAZ CASTRO: Carlos Diaz, CEPSA. I just
wanted to point out China is the market bigger than the U.S.
or Europe altogether, importer of phenol and acetone. In
China you see more than half a million tons of phenol every
year, coming from different countries. Acetone probably, I
don't know, I don't remember, hundreds of thousands I
suppose. And it's not exporting acetone, I'm talking about only China, not exporting acetone or phenol.

COMMISSIONER KEARNS: Alright, okay, and just to kind of clean up what I had said before, so, when we say Asia, to what extent are we talking about China here as opposed to, for example, some of the subject countries here?

MR. DIAZ CASTRO: Carlos Diaz, CEPSA. I guess we were talking about China because it's the largest market in the world. It's the largest demand.

COMMISSIONER KEARNS: And that's the biggest change over the past few years?

MR. DIAZ CASTRO: Most capacity, the new capacity has come into China, yes.

COMMISSIONER KEARNS: Okay, okay thank you. And then staying on the subject of phenol and acetone, I guess this is mainly for INEOS, maybe also for CEPSA and Mitsui. Can you please describe how your firm makes these decisions on phenol and acetone? And to the extent you can, please provide internal company documents to illustrate your decision process post-hearing.

As you may have heard me say this morning, I mean it seems to me that what we would want to know is you know, profit levels for phenol, profit levels for acetone, to get some sense of how you would make this decision.

You know, I don't think it's you know, as I said
this morning, it's not driven by the fact that well, every
time you take cumene you end up with more phenol than you
end up with acetone and so therefore, you're more concerned
with phenol. I think it's more complicated than that.

It has to do more with the prices, and I think I
heard from Mr. Dougan that the price of phenol is higher as
well. But I would think that if you can tell us more about
how you make that decision, and I would think it has to do
with relative profitability of the two products and so
forth. And to the extent you can do that based on, you
know, internal documents, I think that would be helpful.

MS. CALDER: Commissioner Kearns, thank you for
the question. We'll be very happy to answer it, sorry Lynn
Calder, INEOS Phenol. And I'd probably just like to take
the opportunity to put something on the record.

I mean Phenol hasn't been as high as I would have
liked on the agenda today, because we're understandably here
to talk about acetone, so we appreciate the opportunity to
talk about phenol profit margins as well.

Producers look at the overall margins for phenol
and acetone as one unit. We don't, you know, ever look at
them separately, and I think that that was actually agreed
to by the Petitioners earlier today, even though they said
that the costs were easily allocable, I would disagree
fundamentally with that.
And but what this means is that when the market for one of the products is challenged, the market for the other can potentially take some of the pain, on that said with the car business. We don't look at ourselves as a phenol and an acetone producer in separate molecules where we have the whole unit.

But what happens if you cannot find relief on either product, i.e., if you have both products performing poorly, then you understandably have margins that become challenged. So, one thing I wanted to put on the record today is that we are certainly we are in a market situation of the other side of the equation -- the phenol equation where Petitioners have during the POI, entered into long-term fixed priced, low fixed priced contracts for phenol, not acetone.

So, we talked a lot today about you know, how the market transpired between 2017 and '18. Everyone thought the phenol demand was going to remain low, acetone demand was going to be high. And had that remained the case then you know, a strategy of low phenol long-term fixed prices, and spot market acetone might have worked well.

But what we saw was the opposite. We talked about that a lot today. Phenol demand spiked up and kicked off leading to lengths in acetone driving high prices in a phenol challenged acetone market.
Make no mistake, this is a very typical swing in our markets. We see this all the time, and we have to be fairly agile under rebuff to it. So, the Petitioners by, I think, their own admission that the preliminary hearing had a large proportion of uncontracted acetone volume, and hence they were exposed disproportionately to the plummeting spot market.

But most importantly, and what we haven't discussed today but I wanted to put on the record was that we were unable to take advantage of higher phenol prices as a result of their phenol contracting strategy. We did take advantage of higher phenol demand by increasing production, but of course that added to the acetone problem, and as my colleague Michael Foster mentioned earlier, got a situation then where they've got higher phenol being produced for their customers but nowhere necessarily, to put the acetone.

Which mean that you know, except for in this room here today, there wasn't really anywhere else to look for, so that's I guess a large part of my frustration as the largest producer of phenol and acetone globally. And I should have introduced myself, I'm the Commercial Director for INEOS Phenol with global responsibility for sales, marketing business performance. And I think it's been you know, difficult for us to conduct an acetone only
investigation when the products are so inextricably linked and acetone, as I think we have all agreed as a party in this room, is a subordinated co-product. Thank you for your time.

COMMISSIONER KEARNS: Okay, thank you. And again, just post-hearing if you can just sort of document that with contemporaneous documents about what the thinking was at that time, that'd be helpful as well, thank you.

MS. CALDER: Will do, thank you.

CHAIRMAN JOHANSON: Commissioner Stayin?

Commissioner Karpel?

COMMISSIONER KARPEL: Let me go back to the supply issue. So, I think what I hear you saying is that there is an oversupply. We've experienced an oversupply in 2018 of acetone, but the debate is why do we have that. And I guess I want to go back to you on that. You say if there's an oversupply it was domestic production, not imports that caused that.

And can you break that down for me because I'm looking at the data, and we have domestic producers closed a facility -- the Shell facility. Capacity utilization is about steady and production is down a bit, so what do I look at to see who is responsible for this oversupply in the market?

MR. DOUGAN: Jim Dougan of ECS. I can -- I'll be
happy to break that down with confidential data in
post-hearing. But when I talked about the responsibility
for the oversupply, it goes to the decline in domestic
production you say it's from '17 to '18, actually wasn't as
much of a decline as was expected, because Shell, you know,
kept producing.

There was the other producer's collectively, like
X-Shell, did increase production from '17 to '18. And all
of that was unexpected and disproportionately went into the
spot market. So, the subject import volumes sort of were
what they were, there was unambiguously an increase from '17
to '18.

Our position is that was pulled in, it was
contracted for and a relatively small portion of that went
into the spot market. So, if you know, again in the
sequence of events, rather than applying a backwards lens to
what the actual volumes were, looking sort of the time as it
occurred, it seemed when the volumes entered the market, and
if the length in the market was in the spot market, and the
domestics had a greater contribution to the spot market, the
increase in their shipments was greater than the subject
import increase to the spot market, and that's the length
that impacted prices, that may have impacted the LBP spread
over RGP, whatever you have, the discounts off of LBP.

Whatever it was that it effected, to the degree
that there was price transmission effects from the spot market to other parts of the market. And the majority of that supply, and the majority of that increase in supply was from domestics, then that's the reason we are saying that the length in the market was caused by domestic producers, because that sort of came later.

COMMISSIONER KARPEL: So, your argument is domestic producers should have reduced production even more, because the long-term contracts for 2018 had been locked up in the end of 2017 and given that they were left to sell in the spot market, where many purchasers had already made their purchasing plans for that year, they should have decreased production.

MR. DOUGAN: Well the point was that they couldn't because their production of acetone was not driven by their acetone demand. Their production of acetone was whatever they ended up with after they made their phenol, and so that's why they didn't increase.

That's why there was, you know, because the thinking is if the market's not in balance, but you make it -- putting it into balance would rectify the price situation, why didn't you do that? Well, the reason that -- in part that it's out of balance is because you didn't slow your production, and the reason you didn't slow your production was because of your phenol demand.
COMMISSIONER KARPEL: I want to turn to a different type of question. I wanted to go back to the argument that Sasol has made and maybe Mr. -- am I pronouncing it right here, Harypursat, is that?

MR. HARYPURSAT: That was correct.

COMMISSIONER KARPEL: Maybe you can speak to this. But there's been an argument that benzene free acetone should be a separate like product. And there was some discussion this morning about that, including argument that Sasol doesn't market its product as benzene free, that it sells to the same customers for the same end uses as other acetone, can you respond to that?

MR. HARYPURSAT: Ajith Harypursat, Sasol, thanks for the question. So, in the Fischer-Tropsch process, we produce a treasure chest of different chemicals which are unique, right? And acetone is one of them. There are other examples and we are actually in the process of just commencing exports to the U.S. for a very specific product that could -- that can be used in the production of drugs, human hormones, right.

So, these can be used for that sort of purpose because of the fact that they don't contain any toxins. So, in the case of acetone, we are continuously challenged by our CEO's and the different layers of management to try to extract maximum value from these molecules because of the
unique characteristics.

Well if the Petitioner had a closer look at all the specification sheets that are available on the website, then it would be pretty apparent that we list the benzene spec of 0.8 parts per million. Nobody else in the world has such a specification limit for acetone, right.

I also want to mention that in the United States, aside from the State of California, which has very stringent regulations, including for benzene, general limits on toxins likely those that are listed in Europe.

In Europe, the pharmacopeia limits are two parts per million for benzene and we are cognizant of this and we do sell a special grade of acetone in Europe, taking advantage of that fact. But the level of benzene in our products, orders of magnitude below that limit. And it just means that you know, as a signatory to the global -- to the United Nations responsible global charter, we can produce products and put them in applications, you know, where there's substantially reduced risk of any harm to human health and to the environment.

So, we do market these products as special products, not specialty grade, but different from what you would expect to see from other industrial suppliers. The demand is lower than for industrial products, and yes, there's a fungibility but it's unidirectional, not
bidirectional. So, in our case, our product is of the quality that could be used either in industrial applications, or in the sensitive applications requiring much lower levels of toxins, carcinogens, and things that could be of -- could have consequences for human health.

MS. MOWRY: Commissioner Karpel, Kristin Mowry, Counsel for Sasol. Thanks for that question and just to follow-up. I was struck, going to your initial question about the website, I was struck how different today's hearing was from last week's hearing on mattresses, when we spent so much time talking about internet base advertising and all of the metrics that go along with that.

This is not -- clearly not, a web-based ecommerce industry. So, as Mr. Harypursat said, although it's not a flashy marketing element of the website, the dedicated customers of Sasol know that they have a benzene free product and of course, the spec sheet for their acetone does specify the benzene free level.

So, we'll provide that in the post-hearing. There's a couple of other things that were mentioned this morning that I'd just like to address since I have to seize my opportunity to tackle this issue. You know, you heard about fungibility and how everything is the same and there's so many differences about the Sasol product that I want to highlight.
First, you heard about mixed containers. That is not true for Sasol. We have dedicated benzene free containers that are dedicated for the benzene free product tanks, for the benzene free product. Everything is produced to order. We don't use traders -- everything is marketed through the Sasol North America Chemical team.

And one thing that's super important, if you look at the C Table, the increase in volume of imports from South Africa of this product was 4%, that's a public number. So, all the hyperbole you heard all morning about the vast increases in subject imports, look at all of the C Tables where you see the volume of some South African, which is all benzene free, increased by 4%, single digits.

Another thing that you heard this morning was that Sasol did not provide comment to the staff on the draft questionnaires, and for that we have to thank the dedicated staff, because Sasol, of course, did raise the domestic like product issue in the preliminary conference, and staff incorporated those comments into -- incorporated that argument into the draft questionnaires themselves.

So, when the draft questionnaires were issued to parties in July, the questions that we would have suggested on benzene free product, were already included in all of those draft questionnaires. So, there was no need for us to comment further. The staff had already done the legwork and
solicited that benzene free data.

Finally, I'd just like to say it's not frequent that the Commission makes a separate domestic like product decision, but the factors here are indisputable. All six of the factors, there's measurable, clear, concise, neutral and objective criteria, and we meet all of them.

And you know, respectfully, there was some discussion this morning about maybe this is a de minimis market. One of the six factors -- none of those six factors requires you to look at the relative size of the markets, so it may be small, but it's important to Sasol, and I think the record is clear that we meet all of the six factors and that there's no injury to the domestic product, thank you.

COMMISSIONER KARPEL: I'm sorry if I missed it, but do you have customers that you sell your benzene free product to that you know necessarily need benzene free acetone versus low benzene acetone, which some of the other producers make?

MS. MOWRY: Sure, Kristin Mowry, we will provide the -- we'll point you to that record evidence in our post-hearing brief, but yes, there are customers that we have that require the benzene free product.

CHAIRMAN JOHANSON: Do any of the other Commissioners have questions? Commissioner Kearns?

COMMISSIONER KEARNS: I'd like to keep it real
brief, but I do have two questions for post-hearing and then one for a quick discussion here. Starting with the latter, Petitioners argued that a surge in imports in 2018 caused U.S. producers to enter into low priced contracts in 2019 and the pricing data in the staff report show that U.S. producers contract prices declined in the first half of 2019.

Were increased import volumes in 2018 in a higher volume of underselling than overselling in 2018 a factor in the lower contract prices in 2019? And more generally, does the preponderance of underselling by volume in 2018 indicate that underselling was significant?

MR. DOUGAN: Commissioner Kearns, if I can add to that. So, there's a lot of questions in there. One is about did 2018 cause what happened in 2019? So, prices were indisputably lower in 2019 than in at least parts of 2018. Overall, price levels again though, being determined by RGT prices. So, the reason that generally you first have 2019 prices that were lower than 2018, first half, second half, was driven by the decline in RGP prices. Whether underselling in 2018 led to lower contract pricing, you know, also it's majority overselling in 2019. So, subject imports mostly oversold in 2019, both in terms of instances and in terms of volume. So, you know, I don't -- sitting here, have the ability to know which
contracts were negotiated and with whom, perhaps we can talk
to some of the customers and some of the suppliers here who
are more aware of that.

But you know, again you end up in a situation
with you have sort of a temporary period of where there was
some underselling, but again you go back to a pattern of
majority overselling in 2019.

COMMISSIONER KEARNS: Okay, thank you. And then
just two quick questions for post-hearing, both for INEOS,
one on pricing data. In post-hearing, can you respond to
Petitioner's argument in Exhibit 2, that the Commission
should adjust any price data to align prices for domestic
and imported acetone?

MR. DOUGAN: Yes.

COMMISSIONER KEARNS: Thank you, and then on
financial data, either now or in a post-hearing -- really
post-hearing submission, I think is probably all we need
now, please respond to Petitioner's criticisms in Exhibit 5
of INEOS's reported financial data.

MR. EMERSON: This is Eric Emerson from Steptoe.
We'd be pleased to respond to both of those points. We
believe that the Petitioner's allegations of inaccuracy and
distortion in the data that was reported by INEOS are
completely baseless. I think the data that were reported
are sound and data on which the Commission should rely and
we will also take the opportunity to build out on the
cumulation argument as well, which the Commissioner Kearns,
I believe you asked about this morning, where we believe
that the Petitioners have really fundamentally
mischaracterized what INEOS is doing in the marketplace has
been never an effort to pass off Belgian acetone as U.S.
acetone as Mr. Foster testified.

The company simply sells acetone period, without
regard to country of origin. And the notion, and the idea,
the suggestion that the company is passing off imported as
U.S. is completely false and completely unsupported by this
record, but back to your two questions, yes, I'll be happy
to.

COMMISSIONER KEARNS: Okay, thank you very much.

CHAIRMAN JOHANSON: Do any of the other
Commissioners have questions? Commissioner Karpel?

COMMISSIONER KARPEL: I guess I -- I'm not sure I
want to save all of that argument for the post-hearing. I'm
sorry to keep us late in the day, but I guess I was struck
by the Petitioner's response this morning to your argument
saying that we shouldn't be looking at competition
between Belgian imports and domestic products, or between
other subject imports merely because INEOS has a practice of
bringing in its imports, comingling with its domestic
production, and then putting it out on the market.
I mean at some point, if these are dumped imports and are underselling, or at least in some instances, domestic product, is it fair to not look at that, given that those two factors are having a downward pressure, potentially on price?

MR. EMERSON: This is Eric Emerson from Steptoe. To go back to the -- first of all to go back to the cases that we cited in our brief, which the Petitioners really didn't address at all. The court has said that to interpret compete in this context means rivalry in the marketplace. It suggests that there needs to be an independent marketing effort -- coincident marketing effort, of the Belgian product in the U.S. market, as a separate and identifiable product. That's what compete means under the statute. And if there is no such competition between Belgian imports on the one hand and the domestic like product or subject imports on the other, then that requirement under the statute simply isn't met.

Now, appreciate that Belgian imports are in the marketplace. They are here in the United States, of course, but the court has also said that theoretical competition -- where imports are theoretically competing against other imports, is not sufficient to satisfy the cumulation requirement.

So, we would say that if those imports are not
being sold as a separate and identifiable product in the marketplace, then the competition requirement under the statute cannot be met. One of the other things that the Petitioner's counsel suggested this morning, and I think it falls really into the realm of scare tactics, is that somehow agreeing with INEOS in this case, would open up some major loophole that would allow further imports in to undermine the effectiveness of such an order.

And I think that that is, again I think that's scare tactics. I think that the circumstances of this particular case, and INEOS's sales are really quite unusual. You have a U.S. producer, who is the sole importer of the particular subject merchandise, of a fungible product, that fully comingles that product into its own production, and you're looking at an obviously, at a multi-country case where cumulation is in fact a legal issue that needs to be addressed.

I would suggest -- I'm not going to say that there are no such cases that have ever occurred or will in the future, but I am saying that the number of cases that would satisfy all of those requirements, is vanishingly small.

COMMISSIONER KARPEL: Are you saying that in those instances, and I guess those facts don't seem too rare, given a number of cases. But if there is a domestic
producer who also imports, how does that not have a sort of spill over effect to other cases where you have that same fact pattern? We often have commodity products, is it the mere fact that that sale isn't marketed as an import enough to argue that there isn't head to head competition and kick then out of the cumulated imports?

MR. EMERSON: Either the language -- this is Eric Emerson again. The language that is relied on by the courts or used by the courts is coincident marketing. The term marketing is used by the Court of International Trade to interpret this particular term in the statute, compete.

So, yes, we would argue that if there is a -- if there are cases where a domestic producer is simply marketing a fully fungible product where there is no competition between the imported product and either other domestic products or other subject imports, and that competition requirement isn't satisfied under the statute.

I don't think that you will probably find that many cases where the country of origin is utterly immaterial to the purchasers at issue. I think that that's going to be rarer than you think.

COMMISSIONER KARPEL: That's quite a -- I mean there's quite a number of cases where you look at the purchasing factors in section 2 and, it's often to see that the country of origin doesn't really impact purchasing
decisions. It's you know, price, and availability and
supply and all that. So, again, I'm going back to the idea
that just because the purchaser doesn't know that the
product they are considering buying is imported, means it's
not competing with this product over here which they're also
considering buying, depending on how the contract terms and
pricing all work out.

MR. EMERSON: Eric Emerson again. I think,
Commissioner Karpel, the difference is does country of
origin matter in the purchasing decision, or does the
purchaser even know what the country of origin is of the
product that they're purchasing?

I might agree that there are many cases in which
the country of origin doesn't particularly matter to the
purchaser. You know, where they are indifferent to the
country of origin of the product that they're buying, but
they may, nevertheless, know what that product -- what the
country of origin of that product is at the time that it's
being purchased, here they don't.

Here it can be -- here the product that's being
delivered by INEOS could be Belgian, it could be U.S. and
it's likely a mixture of the both -- of the two, rather, at
the time of delivery.

MS. CALDER: Lynn Calder, INEOS Phenol, if I
could just add one more point which is not going to address
the legal point at all but just to say more widely that
there's no scheme. There's no attempt to find loopholes
here. I think we've heard some testimony from the acetone
consuming market today that said that they have spoken to
the Petitioners during the POI, and they have either been
unwilling or unable to provide product.

We were asked to provide product, that's what we
do. We supply -- it was as simple as that.

COMMISSIONER KARPEL: And then there's two
questions, you can address them in post-hearing given the
hour. But there is in joint Respondent's pre-hearing brief,
there's an assertion on pages 70 to 72 that there was no
price suppression due to subject imports because contracts
prevented U.S. producers from passing through rising costs.

But later on pages 81 to 84, you assert that U.S.
producers who sold on the spot market faced more a cost
price squeeze. How do you reconcile these claims?

MR. EMERSON: This is Eric Emerson. Can we
address that in a post-conference submission, thank you.

COMMISSIONER KARPEL: Sure, and then the last one
is how do you account for the data in Tables 2-8 and 2-9 of
the staff report, about the importance of price given your
arguments about price not being an important purchasing
factor?

MR. DOUGAN: We'll address that too, and I don't
think we said price wasn't an important purchasing factor, and I think there were several purchasers here who said it definitely factors into their purchasing decisions. But reliability of supply and availability are more important to them, and so, you know, certainly price would be subordinate to those two.

And what you did -- and you know, there's always these arguments and often you see the same fact pattern in the purchaser responses, right? They'll say, well, price is like third or fourth, and availability and reliability come before.

And when there aren't availability issues, when there aren't reliability of supply issues, it's probably fair to say that all else being equal, maybe it does come down to price. Here you have lots of evidence of availability issues.

' You have lots of evidence of reliability of supply issues, and so all other things aren't equal, and so it doesn't get to price if you can't get it from the domestic producers.

CHAIRMAN JOHANSON: Do any of the other Commissioners have questions? Okay, no Commissioners do.

Do staff have any questions for this panel?

MS. CHRIST: Chairman, staff has no questions.

CHAIRMAN JOHANSON: Do Petitioners have any
questions for this panel?

MR. ORAVA: No.

CHAIRMAN JOHANSON: Alright, the Petitioners have no questions. Then let's prepare for closing statements. This panel is dismissed, we appreciate you being here today. Let me just read out the following -- Petitioners have zero minutes of direct, zero minutes of closing for a total of 5 minutes. Respondents have the same, Respondents have a total of 5 minutes for closing.

MR. BURCH: Closing and rebuttal remarks on behalf of Petitioners will be given by Stephen D. Vaughn of King & Spalding. Mr. Vaughn, you have five minutes.

CLOSING STATEMENT OF STEPHEN D. VAUGHN

MR. VAUGHN: Thank you, Members of the Commission, thanks to staff for all the good work that everybody has done on this case. I know it has been a long day, and I will try to be efficient in my use of time.

The key issue on the question--the key issue before the Commission today is whether the dumped imports from the subject countries caused material injury to the domestic industry.

But almost all of the testimony you heard this afternoon is actually about the question of why they want to buy dumped imports. And basically I think under Commissioner Kearns' questioning, we've seen that they are
making what seems to be a fairly straightforward argument. Their view is that phenyl producers in other countries are hurting U.S. market sales of phenyl. Therefore, as we lose phenyl sales, we can't make as much acetone and therefore they are entitled to attack this market in terms of by shipping dumped acetone. Presumably the next thing we will hear is that, since we can't make as much acetone, then we aren't making as much phenyl, and then that will give them more room to make even more phenyl overseas.

As acetone production falls, the producers can then ship dumped acetone to the U.S. market. Unfortunately for them, this is not how U.S. law works. What actually happened in the market is obvious. They have made too much acetone. They do not have enough customers to buy their acetone, and they are trying to take market share with dumped imports. And they intend to keep coming into this market even though it is obvious that the market is over-supplied.

In response to the question from Commissioner Karpel, they made it very clear. All the stuff about it was unexpected, or it was temporary, no, no, no. Once Shell is gone, we get that market share forever. We're never leaving. These are long-term contracts, and we're just going to keep that market share as long as we want.

Now that's not how the law works. You can ship
imports into the United States, and customers can buy imports. But those imports must be fairly traded, or they must not cause material injury to the domestic industry.

So, for example, INEOS says they needed imports to supply customers, but they didn't need dumped imports. They could have brought in fairly traded imports. Or they could have bought domestic. We had people who would have been happy to sell to their customers.

You cannot use unfair trading practices to grow your business.

As for the cumulation argument for INEOS, we will address that in our post-hearing brief, but I think they have proven our point that it would open up a very large loophole. The facts are these. Subject imports actually started to increase in the third quarter of 2017, and they remained at a very high level until these cases were filed. And apparently they were going to remain at high levels forever.

They were not responding to any shortage in the market. For all the talk about--you have testimony from ALTIVIA about how they were ramping up. They intended to take some of the share left behind by Shell. But these guys say, no, we get that market with our dumped imports.

They claimed that we won't supply the marketplace, but then they also claim that we created an
oversupply. Well of course neither of these claims is correct.

Our testimony has shown that domestic producers are willing to supply this market. But they cannot supply it at prices that are so low that they can't afford to match it. It would be absurd to argue that relief should be denied on the grounds that we refuse to make deals that would be bad for our business over the long run.

They have said multiple times that the oversupply was unexpected. It was not unexpected. If you look at their brief, the public version of their brief, Exhibit 8, they have an article from November of 2017. In the article it said the problem with acetone imports is that they can make the market go from tight to long really quick.

That is in their brief. That as a U.S. trader saying this in November of 2017. They knew that this could happen. Everybody understands that if you bring in too much dumped imports it's going to have a big--it's going to create big problems in the markets for domestic producers.

Now a couple of things, finally, on what happened with their charts. They have conceded on page one of their charts that a long acetone market causes the spread between large-buyer prices and RGP to decrease, ad that's very useful. That was one of the points we were trying to make this afternoon.
They have also given you a chart that purports to compare the LBT/RGP spread with, you know, with what's going on with the prices. But that is of course not the only thing that—the only way in which we were hurt.

We were not only hurt in that way. We were also hurt during the discounts. We were also hurt by not getting as much volume as we wanted. We were also hurt because we had to negotiate new and lower contracts. We were also hurt by lower spot price sales.

So this chart does not account for any of those harms, and therefore it does not account for the full harm that we have suffered.

We urge you to grant relief to the domestic industry.

MR. BURCH: Thank you, Mr. Vaughn. Rebuttal and closing remarks on behalf of respondents will be given by Mark Lehnardt of Baker & Hostetler and Eric C. Emerson of Steptoe & Johnson. Mr. Lehnardt and Mr. Emerson, you have five minutes.

CLOSING STATEMENT OF ERIC EMERSON

MR. EMERSON: Chairman Johanson, Commissioners, thank you very much for your time and I will keep it brief. I will start by talking just a little bit about the nature of this case and the truly unusual nature of this case as a subordinate coproduct. Phenol has gotten discussion today.
It probably should've gotten even more.

Because the fact that acetone is the subordinate coproduct to phenol really needs to color almost every aspect of the Commission's analysis, including, for example, issues like capacity utilization. Because, as we have said over and over, producers make their decisions on the basis of phenol production and phenol demand and not acetone demand.

So as the Commission considers the data in this case and the arguments, you have to consider it within the context of phenol and the demands of the phenol side of the house. We have also tried to tie the supply-demand balance of acetone in the U.S. market to the broader supply-demand balance of phenol, because again, that is the more dominant product.

One of the things we have tried to explain today, and I think it was largely hidden in what the petitioners have talked about, is that the structural decline in phenol production in the United States, driven largely by Asia's pivot towards self-sufficiency and lack of a need for U.S. phenol, that has driven down phenol production.

That means that the United States is structurally in a deficit situation with respect to acetone. One of the statements that was made earlier today, the U.S. acetone market is largely in balance. We fundamentally disagree
with that. This market is in a deficit situation, which is what has drawn these imports into the United States market.

CLOSING STATEMENT OF MARK B. LEHNARDT

MR. LEHNARDT: Just a couple of points I'd like to raise. This morning there were a lot of questions about overselling and price suppression. And the characterization of the pricing record between the petitioners and those opposed to the imposition of duties, seems like we were looking at two different records. The main point of this is that there was still majority overselling in the POI. And the petitioners did not have a good answer for that.

The second is, Commissioner Stayin asked if force majeure and Shell opened a window for imports. And this afternoon, you heard overwhelmingly yes from all the members of the panel and that there were refusals by the domestic industry to provide, or to supply purchasers and that the reasons for the refusals were not related to price.

The petitioners did not have an answer why subject market increased in 2016 to 2017, despite majority overselling. And in the gain of market share in 2016 with price increased, contrasting what happened in 2016 to 2017 with what happens between 2017 and 2018. The market share in relation to price didn't have a correlation or a causation.

So we urge the panel to find that any injury in
this case was not by reason of subject imports. Thank you.

CHAIRMAN JOHANSON: All right. Thanks again to all who appeared here today. I will now make the closing statement. Post-hearing briefs, statements responsive to questions and requests of the Commission, and corrections to the transcript must be filed by October 28th. Closing of the record and final release of data to parties occurs on November 6th, and final comments are due on November 8th. With that, this hearing is adjourned.

(Whereupon the hearing was adjourned at 5:33 p.m.)
CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Acetone from Belgium, Korea, Singapore, South Africa, and Spain

INVESTIGATION NOS.: 731-TA-1435-1436 and 1438-1440

HEARING DATE: 10-21-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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

DATE: 10-21-19

SIGNED: Mark A. Jagan
Signature of the Contractor or the Authorized Contractor’s Representative

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