

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
CERTAIN TISSUE PAPER PRODUCTS) Investigation No.:
AND CREPE PAPER PRODUCTS) 731-TA-1070
FROM CHINA) (Final)

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Place: Washington, D.C.

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Thursday,
December 9, 2004

Room 101
U.S. International
Trade Commission
500 E Street, SW
Washington, D.C.

The hearing commenced, pursuant to notice, at
9:29 a.m., before the Commissioners of the United States
International Trade Commission, the Honorable STEPHEN
KOPLAN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

STEPHEN KOPLAN, COMMISSIONER (presiding)
DEANNA TANNER OKUN, VICE CHAIRMAN
MARCIA E. MILLER, COMMISSIONER
JENNIFER A. HILLMAN, VICE CHAIRMAN
CHARLOTTE R. LANE, COMMISSIONER
DANIEL R. PEARSON, COMMISSIONER

APPEARANCES (continued):

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR

Staff:

FRED FORSTALL, INVESTIGATOR AND COMMODITY ANALYST
AMELIA PREECE, ECONOMIST
MARY PEDERSEN, ACCOUNTANT/AUDITOR
MARK REES, ATTORNEY
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

APPEARANCES (continued):

In Support of the Imposition of Antidumping Duties:On behalf of Seaman Paper Company of Massachusetts, Inc.:

GEORGE D. JONES, III, President,
Seaman Paper Company of Massachusetts, Inc.
JAMES B. JONES, Vice President,

Seaman Paper Company of Massachusetts, Inc.

TED TEPE, Vice President, Sales,

Seaman Paper Company of Massachusetts, Inc.

PETER GARLOCK, President,

Garlock Printing & Converting

WILLIAM SHAFER, IV, Vice President,

Flower City Tissue Mills Co.

ROBERT COSTA, President,

Eagle Tissue, LLC

PATRICK J. MAGRATH, Managing Director,

Georgetown Economic Services, LLC

Of Counsel:

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KATHLEEN W. CANNON, Esquire

ADAM H. GORDON, Esquire

Collier Shannon Scott, PLLC

Washington, D.C.

In Opposition to the Imposition of Antidumping Duties:

On behalf of Cleo, Inc. ("Cleo") and Crystal Creative Products, Inc. ("Crystal"):

ANDREW W. KELLY, President, Cleo

MICHAEL D. BRADLEY, Professor of Economics,
George Washington University

Of Counsel:

FREDERICK L. IKENSON, Esquire
ROBERTA KIENAST DAGHIR, Esquire
Blank Rome, LLP
Washington, D.C.

On behalf of Target Corporation ("Target"):

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Target Stores
GEORGE VOLLMER, Product Manager,
Target Sourcing Services
TONI DEMSKI-BRANDL, Senior Counsel,
Target Brands, Inc.
HOLLIE McFARLAND, Paralegal,
Target Brands, Inc.

Of Counsel:

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Neville Peterson, LLP
Washington, D.C.

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P R O C E E D I N G S

(9:29 a.m.)

1
2
3 CHAIRMAN KOPLAN: Good morning. On behalf
4 of the United States International Trade Commission, I
5 welcome you to this hearing on Investigation No. 731-
6 TA-1070 (Final) involving Certain Tissue Paper
7 Products and Crepe Paper Products from China.

8 The purpose of this investigation is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury
11 by reason of less-than-fair-value imports of subject
12 merchandise.

13 Schedules setting forth the presentation of
14 this hearing, notice of investigation, and transcript
15 order forms are available at the secretary's desk.
16 All prepared testimony should be given to the
17 secretary. Do not place testimony directly on the
18 public distribution table. As all written material
19 will be entered in full into the record, it need not
20 be read to us at this time.

21 All witnesses must be sworn in by the
22 secretary before presenting testimony. I understand
23 the parties are aware of the time allocations. Any
24 questions regarding the time allocations should be
25 directed to the secretary.

1 Finally, if you will be submitting documents
2 that contain information you wish classified as
3 business confidential, your request should comply with
4 Commission Rule 201.6.

5 Madam Secretary, are there any preliminary
6 matters?

7 MS. ABBOTT: No, Mr. Chairman.

8 CHAIRMAN KOPLAN: I have one. The
9 preliminary matter I have is I would like to call your
10 attention to the fact that the Commission no longer
11 has two recess appointees. We now have two fully
12 sworn-in, full-time, permanent commissioners, so if
13 you would like to welcome them, I will pause for a
14 moment for your applause.

15 (Applause.)

16 CHAIRMAN KOPLAN: That was very good. Now
17 we may proceed with the opening remarks.

18 MS. ABBOTT: Opening remarks on behalf of
19 the Petitioner will be by David A. Hartquist, Collier
20 Shannon Scott.

21 OPENING REMARKS BY COUNSEL FOR THE PETITIONER

22 MR. HARTQUIST: Good morning, Mr. Chairman,
23 members of the Commission, and staff. We are
24 delighted to be here with you this morning, and I
25 think, in the spirit of the holidays, it's an

1 appropriate case. We've tried to make the hearing
2 room a little more festive with some samples that
3 we're going to be showing you today.

4 I'm David A. Hartquist at Collier Shannon
5 Scott representing the Petitioners in this case,
6 domestic producers of tissue paper and crepe paper.
7 The information you've gathered in this case, we
8 believe, strongly supports a finding that dumped
9 imports of both tissue paper and crepe paper have
10 injured the domestic industries producing those
11 products. The Commerce Department has found margins
12 of dumping in excess of 100 percent for both products.
13 Chinese producers have used these unfair trade
14 practices to decimate the domestic tissue and crepe
15 paper industries appearing today, yet where are those
16 subject producers and importers?

17 Although many foreign producers and
18 importers of both tissue and crepe paper participated
19 in the Commission's preliminary investigation, and a
20 number of foreign producers are participating in the
21 Commerce investigation of dumping, they have refused
22 to participate in this final stage of the case. Even
23 more troubling, many foreign producers and importers
24 that answered questionnaires at the preliminary stage
25 have not done so in the final investigation.

1 So the lack of responses has led to
2 significant understatement of the present and future
3 effects of imports from China. Not only are the
4 volume and market share of subject imports understated
5 for present injury purposes; only two of 78 foreign
6 producers answered final questionnaires on key issues
7 such as capacity and likely exports relevant to the
8 threat-of-injury analysis.

9 This failure on the part of foreign
10 producers and importers to cooperate with the
11 Commission's request for information and the resulting
12 distortion of the data base warrants the application
13 of adverse inference against the noncomplying foreign
14 producers and importers.

15 Even in the absence of a complete data base,
16 however, the information gathered by the Commission
17 supports an affirmative finding. Imports of both
18 tissue paper and crepe paper have increased
19 substantially in volume, both absolutely and in terms
20 of the share of consumption. Subject imports have
21 undersold domestic industry prices, causing lost sales
22 and lost revenue. Virtually all producers stated that
23 subject imports and the U.S. product are comparable,
24 except that imports are lower priced. These surging
25 volumes of low-priced imports have caused significant

1 declines in domestic production shipments, market
2 share, employment, and profitability over the period
3 reviewed.

4 The domestic industries have been severely
5 harmed by the increased volumes of low-priced imports.
6 Unfortunately, these imports are but the tip of the
7 iceberg, given the huge capacity in China for
8 increased production of their products for export.

9 Respondents Cleo and Target advance a number
10 of creative arguments in an attempt to avoid this
11 compelling evidence. First, they attempt to divide
12 the product into two like products between bulk and
13 consumer sales, and I'm sure we're going to hear a lot
14 about that today. As we will demonstrate, this
15 proposed distinction is unwarranted because there are
16 no bright dividing lines to segregate these sales.

17 Second, Respondents argue that subject
18 imports are of specialty types that U.S. producers
19 cannot supply, a contention that we will prove to be
20 false by the samples we have brought. We essentially
21 can and do make everything.

22 And, third, Respondents will try to distort
23 the domestic trade and financial data by excluding
24 Cleo, a substantial producer during the period of
25 investigation, for reasons that we believe are

1 invalid.

2 We respectfully urge the Commission to reach
3 an affirmative determination in this case. Thank you.

4 CHAIRMAN KOPLAN: Thank you, Mr. Hartquist.
5 Mr. Ikenson?

6 MS. ABBOTT: Opening remarks on behalf of
7 the Respondents will be by Frederick L. Ikenson, Blank
8 Rome.

9 CHAIRMAN KOPLAN: Good morning.

10 OPENING REMARKS BY COUNSEL FOR RESPONDENTS

11 MR. IKENSON: Good morning, Mr. Chairman,
12 members of the Commission, and the Commission staff.
13 I am counsel to Cleo, Inc., and its wholly owned
14 subsidiary, Crystal Creative Products, Inc. Cleo and
15 Crystal have been major participants in the U.S.
16 tissue paper market as importers and a domestic
17 producer.

18 Today, you will be hearing testimony from
19 Cleo and also from Target, another important purchaser
20 and importer of tissue, in opposition to the petition
21 for antidumping duties. Among other things, you will
22 be hearing why the subject tissue is being imported
23 and why domestic producers are unable to meet the
24 requirements of these major market participants. But
25 at the outset, I would say that there are two critical

1 threshold issues that must be taken into account by
2 you in evaluating whether imports of certain tissue
3 from China are causing or threatening material injury
4 to domestic producers.

5 The first of these is the need to identify
6 the domestic like products and to examine the market
7 segments in which they and subject tissue paper are
8 sold. There are two different kinds of tissue paper
9 involved in this investigation. There is tissue that
10 is sold to retail stores for in-store use, namely, the
11 packaging of products purchased at store by customers.
12 This tissue paper is referred to as "retail" or "bulk
13 tissue." It is a supply item for retail businesses.

14 And then there is the tissue paper that is sold
15 to retail stores for resale by them to consumers,
16 which we will call "consumer tissue." This is used at
17 customers' homes for decorative wrapping of gifts.

18 An examination of the Commission's
19 traditional six factors used in like product analyses
20 supports the conclusion that there are two different
21 like products. Given their different uses, bulk
22 tissue and consumer tissue have different physical
23 characteristics, -- color, design, size -- and they
24 are also not interchangeable. Consumers who buy gift
25 tissue to wrap gifts want something that will

1 coordinate with other presentation accessories: gift
2 bags, ribbons, and the like. The logo of a store is
3 not the kind of thing that a consumer would like to
4 see on a sheet of tissue paper that he is going to use
5 to do his wrapping.

6 The channels of distribution are different
7 for each type of tissue, and each type is manufactured
8 with different machinery, usually at different
9 facilities. Customers' perceptions of the different
10 products are necessarily different, as are the
11 manufacturer's perceptions. In that regard, it is
12 instructive to recall that last year the Petitioner,
13 Seaman Paper Company, purchased Cleo's retail or bulk
14 tissue business but not Cleo's consumer tissue
15 business. Seaman expressly purchased bulk finished
16 goods inventory, not consumer. It purchased bulk
17 tissue machinery, not machinery used to make consumer
18 tissue. It purchased the bulk tissue customer list,
19 not the completely different consumer customer list.

20 Now, I would also point out that Seaman has
21 had a vice president in charge of bulk or retail
22 tissue sales and a different vice president
23 responsible for consumer tissue sales. Also, given
24 the material differences in packaging and design
25 characteristics of the two types of tissue paper, it

1 is not surprising that the per-sheet price of consumer
2 tissue paper is much higher than the price of bulk
3 tissue. The lines between the two products are drawn
4 with sufficient clarity to warrant a finding of two
5 like products, but in any event, each market segment
6 should be looked at individually. Each is subject to
7 different dynamics and reflects different trends in
8 the indicators that are relevant to your ultimate
9 determination.

10 The second important threshold consideration
11 is how Cleo should be treated in your analysis. In
12 2001 and 2001, Cleo was an importer of subject tissue.
13 In late 2002, it purchased crystal, and, in so doing,
14 became a major U.S. tissue paper converter.
15 At the time of the purchase, Cleo also entered into a
16 supply contract with Crystal's then-related paper mill
17 to ensure the supply of the jumbo roll tissue stock
18 that was necessary for tissue paper converting. At
19 that time, Cleo expected to produce in the coming year
20 about 80 percent of its tissue paper requirements at
21 its newly acquired converting facility at Maysville,
22 Kentucky. Because of an abrupt interruption in its
23 raw material supply in early 2003, Cleo had to turn to
24 substantial imports to meet its customer requirements
25 that year.

1 The question now is how to look at both
2 Cleo's --

3 CHAIRMAN KOPLAN: Mr. Ikenson, if you could
4 wind up. Your time has expired.

5 MR. IKENSON: All right, Mr. Chairman. The
6 question really is how to look at Cleo's production
7 numbers and their imports, whether or not you could
8 examine the industry in such a way so as not to permit
9 your analysis to be contaminated by imports that were
10 not driven by price and by declines in industry
11 performance that were not caused by imports. Thank
12 you very much.

13 CHAIRMAN KOPLAN: Thank you. Madam
14 Secretary?

15 MS. ABBOTT: The first panel in support of
16 the imposition of antidumping duties, please come
17 forward. Mr. Chairman, the witnesses have been sworn.

18 CHAIRMAN KOPLAN: Thank you, Madam
19 Secretary.

20 (Pause.)

21 CHAIRMAN KOPLAN: Excuse me. Before you
22 start, you might want to, Mr. Jones, remove those bags
23 from the table because they can block vision to some
24 extent. Thank you.

25 You may proceed, Mr. Hartquist.

1 MR. HARTQUIST: Thank you, Mr. Chairman.
2 I'll introduce our panel and then go right into our
3 direct testimony.

4 The first witness will be Mr. George Jones,
5 the president of Seaman Paper Company. He will be
6 followed by Ted Tepe, vice president for sales, Seaman
7 Paper Company. The next witness will be William
8 Shafer, IV, who is vice president of Flower City
9 Tissue Mills Company. Next, Robert Costa, president
10 of Eagle Tissue; Peter Garlock, president of Garlock
11 Printing and Converting, who will be followed by Kathy
12 Cannon of Collier Shannon Scott with a legal analysis
13 and Patrick Magrath of Georgetown Economic Services
14 with the injury analysis.

15 We also have several other folks with us
16 today: James Jones, vice president of Seaman Paper
17 Company, who is sitting next to his brother, George
18 Jones; Gina Beck of Georgetown Economic Services; and
19 Adam Gordon of Collier Shannon Scott. And with that,
20 we'll move to the opening testimony of Mr. Jones.

21 MR. JONES: Good morning. My name is George
22 Jones, and I'm the president of Seaman Paper Company
23 of Massachusetts, Inc. My brother, Jamie Jones, will
24 be helping me with this presentation.

25 Seaman Paper is a third-generation, family-

1 owned company located in Otter River, Orange, and
2 Gardner, Massachusetts. We employ over 500 people,
3 some of whom are also third-generation employees.

4 Seaman is an integrated producer of tissue
5 and crepe paper products. We produce jumbo rolls of
6 paper in our mill that are converted into tissue paper
7 products at our MBW facility and into crepe paper at
8 our Denecrate facility.

9 Let me describe for you briefly the
10 production process and the products that we produce.
11 I will also address some of Cleo's and Target's
12 arguments about bulk and consumer tissue. To produce
13 the subject tissue paper products, we begin with a
14 jumbo roll of paper that weighs up to 1,000 pounds.
15 The same jumbo roll can be used to produce tissue
16 paper sold to retailers or to consumers. In fact, we
17 have inventories of jumbo rolls that we use for either
18 type of customer as the need arises.

19 If printing is required, the roll is first
20 sent to our affiliate, Garlock Printing. You will
21 hear more about printing from Mr. Garlock.

22 The jumbo roll is then converted into tissue
23 paper products through sheeting, which is cutting,
24 folding, and packaging operations. Seaman's
25 converting facility is highly automated and is able to

1 efficiently sheet, fold, and package tissue paper in a
2 variety of dimensions, quantities, and packages to
3 meet customer demands. It is not true, as Respondents
4 claim, that bulk and consumer tissue products are
5 produced in different facilities or on different
6 equipment by different workers.

7 As demonstrated during our plant tour, we
8 produce tissue for both retail and consumer sales
9 within the same facility. We also regularly produce
10 both bulk and consumer tissue on the same equipment.
11 For example, we produce a large variety of tissue
12 folds from reams produced on our sheeters. Several of
13 our bulk sheeters also fold tissue into quire-folded
14 reams like this. This is known as a quire-folded
15 ream. Every 24 sheets are folded in half, and then
16 there are 20 quires put together to form a ream. And
17 all of our folders are also sheeters, so there are no
18 hard-and-fast distinctions. We are capable of, and
19 have produced, every tissue fold format from our
20 sheeters.

21 I have brought along samples of tissue folds
22 sold to customers that were manufactured on our
23 sheeters. This is a 7-by-20 format. This is a 4-by-
24 20 format. This is a shingled product that was formed
25 on the sheeters. Another 7-by-20 print. Also, these

1 are samples of nonconsumer products produced on our
2 folders. This is a small amount of tissue that we
3 folded on our folders that was inserted into something
4 that Victoria's Secret was giving away for packaging.
5 This actually a fold that's produced on our folders
6 that is used in the manufacture of valences for
7 curtains.

8 Further, our employees are cross-trained to
9 operate various equipment that produce tissue for both
10 consumer and bulk sales. Thus, consumer and bulk
11 tissue products may be, and are, produced on the same
12 equipment in the same building using the same workers.

13 The physical characteristics of the tissue
14 paper products we produce are the same, whether sold
15 to retailers or consumers. Respondents would have you
16 believe that bulk or retail tissue is virtually all
17 plain white or printed with simple designs while
18 tissue paper sold to consumers has fancy designs and
19 is a highly specialized product. Clearly, that is not
20 true.

21 First, let me demonstrate that bulk tissue
22 is not just white tissue. Here is our satin-wrapped
23 swatch book. These various types of tissue are
24 marketed to purchasers of bulk paper. We manufacture
25 a wide array of colors, prints, and special products,

1 and we have these on the table for you to look at in
2 detail.

3 As you can see -- and this is all for bulk
4 tissue. As you can see, it is not true that specialty
5 products are only sold to consumers. For example,
6 here are dye-cut and pearlized tissue sold in bulk to
7 a retailer. "Dye-cut" refers to taking a ream of
8 tissue and then actually stamping it with a dye. In
9 this case, it created a serrated edge all the way
10 around the product. This is a product we call
11 "pearlized tissue," where we're actually applying a
12 coating to it that gives it a lustre.

13 Also, as you can see, some of these products
14 are sold in flat form while others are folded up.
15 This is a ream that's flat. These are just sheets of
16 tissue in a ream cut and packaged flat, and this is
17 another quire-folded ream. So you have flat and
18 folded tissue both in bulk form. We put UPC labels on
19 all items in our satin-wrap program, and some of our
20 customers have additional labeling requirements.

21 We also use this book to put together
22 programs for consumer tissue customers. These are
23 samples of consumer tissue Seaman produces. This is
24 known as a 4-by-10 format. This is a 7-by-20 format,
25 which we actually have a paper overwrap, something

1 unique to our company. This is a sample of pearlized
2 tissue for resale. This is a sample of gold-printed
3 tissue for resale. This would be known as a "one
4 step," where you have two different designs or
5 substrates that are offset. This would be known as a
6 "stripe," where there are multiple substrates
7 exhibited. We call this "sequin tissue." It's
8 actually got little sequins in the paper.

9 As you can see, Seaman has been very
10 innovative in developing new types of tissue. Again,
11 you can see that they include not only white but an
12 array of colors, prints, and special products. They
13 may also be sold flat or in folds. This is a resale
14 product in a flat form, and you've already seen a
15 whole bunch of resale products in folded form as well.

16 As you can see, Seaman has been very
17 innovative in developing new types of tissue. In
18 fact, Seaman, not a Chinese producer, was the first
19 company to produce dye-cut tissue. We have brought
20 samples of innovative products that we have developed,
21 which we will be happy to discuss further with you in
22 answers to your questions.

23 Two points are important here. First, the
24 vast majority of both bulk and consumer sales are of
25 plain-white or solid-color tissue, not so-called

1 "specialty product types"; and, second, purchasers are
2 not buying imports from China to get specialty types
3 of tissue that they cannot buy from us. They are
4 importing products that we make every day, and they
5 are buying the imported product because of the
6 unfairly low prices from China.

7 We also, as you see, have a wide range of
8 sizes for bulk and consumer tissue in terms of both
9 the dimensions of the tissue and the number of sheets
10 per pack. It is not true that the sheets of bulk
11 tissue are always larger than sheets for consumer. As
12 an example of this, this is something that we do for
13 Victoria's Secret, and the size here is a 15-by-20-
14 inch size, and this would be referred to as a bulk
15 product. This is resale tissue that we made which we
16 combined with a bag which we don't make, and in this
17 particular case, the sheet is 20-by-24 inches. So the
18 bulk tissue size is actually smaller than the resale
19 size. In fact, a number of retailers, for cost
20 reasons, are cutting back on the dimensions of the
21 tissue paper they produce.

22 There is also no clear difference between
23 the total quantity of sheets in a pack, depending on
24 whether the pack is sold for bulk or consumer sales.
25 Here are samples of bulk sales in relatively small

1 packs. This is something that would be inserted in, I
2 believe, a give-away item, and we also put tissue up
3 in small packages like this which are used by people
4 marketing cosmetics, and they use this for display.
5 So if you go to a cosmetic, and you see bags with
6 tissue paper on the top, that would be a bulk product
7 that we might have made, as well as larger packs.

8 This is another smaller pack. This is one
9 of our stock designs. We have many stock designs
10 which we actually print and own the printing plates
11 for, and you can buy just one package of them. This
12 would be a smaller, 200-sheet package. Then again,
13 this is just a standard ream of tissue, 480 sheets.
14 So bulk tissue comes in a variety of sheet
15 combinations. Club packs, like this one, are sold in
16 stores like Cosco to both retailers and consumers.

17 There are also other high-count packages
18 sold to consumers other than club packs. These packs
19 of 120 sheets and 42 sheets are sold to consumers.
20 Mass merchandisers like Wal-Mart and Target, who buy
21 and resell so-called "consumer tissue," have
22 dramatically increased the average number of sheets
23 per package, particularly during the volume holiday
24 season.

25 Now, let me mention crepe paper briefly.

1 Crepe paper is a different product from tissue paper.
2 Crepe paper is not smooth like tissue but is wrinkled
3 in texture. The paper is generally sold as streamers,
4 not sheets, and is used as party decorations rather
5 than for internal wrapping. The production
6 facilities, equipment, and employees producing crepe
7 paper at Seaman are also different from those
8 producing tissue paper.

9 Here are samples of crepe paper products
10 covered in the case. This would be referred to as an
11 81-foot streamer. This would be referred to as a 500-
12 foot streamer, again, same width but 500 sheet. We
13 also do a variety of prints. These are printed
14 streamers.

15 Crepe and tissue do share the same
16 competitive problems with imports from China. As you
17 can see from this display, the imported crepe product
18 from China is of comparable quality and identical
19 in appearance to the U.S.-produced crepe paper. On
20 this chart, everyone on the left is a Chinese import;
21 everyone on the right is our product, and these are
22 all pieces of business that we lost to China over the
23 last year and a half due to unfairly priced imports.

24 The only difference is that imported crepe
25 paper from China is sold at a lower price than our

1 product. We continued to lose customer accounts to
2 these imports right up until we filed the case. As a
3 result, we have had to shut down some of our crepe
4 operations and lay off employees this year.

5 Seaman Paper prides itself on being an
6 efficient, state-of-the-art company. We do not object
7 to competition from imports as long as that
8 competition is fair. In this case, the imports of
9 both tissue and crepe paper are being dumped at
10 substantial levels. We are losing sales and watching
11 our profits erode severely because of unfair
12 competition. Despite all cost-cutting and efficiency
13 measures, our company cannot survive if we are forced
14 to continue to compete with these dumped imports. We
15 respectfully seek our help in restoring fair trade to
16 our market. Thank you.

17 MR. HARTQUIST: Thank you, George. We now
18 move to Ted Tepe.

19 MR. TEPE: Good morning, members of the
20 Commission and Commission staff. My name is Ted Tepe.
21 I am vice president of consumer products at the Seaman
22 Paper Company. Because of my career path, I have a
23 unique perspective on not only how China has damaged
24 Seaman but also how Chinese imports injured and
25 transformed Crystal Tissue, where I worked for most of

1 my career.

2 I have been with Seaman since 1998. For 13
3 years before I joined Seaman, I worked for Crystal,
4 which was the largest U.S. producer of tissue paper
5 products in the 1980's and 1990's. At Crystal, I held
6 several managerial then vice presidential positions in
7 marketing consumer and retail packaging. My
8 responsibilities included marketing, product
9 development, sales, quoting, and forecasting.

10 CHAIRMAN KOPLAN: Could you move that
11 microphone just a bit closer to you?

12 MR. TEPE: Sure.

13 CHAIRMAN KOPLAN: Thank you.

14 MR. TEPE: You're welcome. Since joining
15 Seaman, I have continued to have many contacts and
16 business dealings with Crystal, even after Crystal was
17 sold to Cleo in 2002. I know for a fact that not only
18 was Crystal deeply concerned about imports from China,
19 but imports were the primary reason the company's
20 owners decided to sell their business. Crystal was
21 particularly vulnerable to imports, since the company
22 specialized in seasonal tissue. In fact, in 2001,
23 Crystal and Seaman Paper began working together to
24 consider a dumping action against the Chinese imports,
25 but after Crystal lost a large part of Target's

1 business to Chinese imports in the spring of 2002,
2 Crystal decided to sell out to Cleo.

3 Cleo was a company that had already
4 abandoned its U.S. suppliers in favor of imports. On
5 the very day that Cleo bought Crystal, Cleo called
6 George Jones to say that they were no longer
7 interested in a dumping suit or any other action
8 against imports. Because Seaman and Crystal had been
9 planning a common action against our import problems,
10 I was amazed to see Crystal's claim in its brief that
11 the decline in its business and sales had nothing to
12 do with Chinese imports. It had everything to do with
13 Chinese imports.

14 Instead, Crystal now claims that it started
15 importing tissue because it lost its domestic source
16 for jumbo rolls and rotogravure printing. My
17 understanding is that Cleo, which had cut off Seaman
18 as its major supplier in 2001 in favor of imports from
19 China, had already decided to move to imports, and the
20 shutdown of the Crystal domestic facility was part of
21 the plan all along.

22 Certainly, the jumbo roll and printing
23 operations were not real impediments to continued
24 tissue production. If Cleo needed jumbo rolls, it
25 could have bought them from other U.S. suppliers. In

1 fact, Seaman, Burroughs, and Flower City all quoted on
2 the Cleo jumbo roll business.

3 As for rotogravure-printed products, several
4 domestic suppliers were available, including Sullivan
5 Paper, which makes rotogravure-printed tissue, as well
6 as Garlock, which makes a similar product. Indeed,
7 Cleo itself is the largest rotogravure, gift-wrap
8 printer in the United States. It is also worth
9 mentioning that rotogravure-printed tissue is a niche
10 product. It was only part of Crystal's printed tissue
11 business. Crystal operated three tissue printing
12 presses, which were included as part of the sale.

13 In short, the loss of one jumbo roll
14 supplier and one printing source used for a niche
15 product did not necessitate closing and shifting all
16 of Crystal's business to Chinese imports. Instead, it
17 was low-priced imports from China that were hurting
18 Crystal's operations. That is why Crystal shut down
19 U.S. production.

20 In July 2003, Seaman purchased some of
21 Cleo's converting equipment in order to keep Cleo from
22 moving more business to China. Cleo, however, had
23 closed its entire converting operation by October of
24 that year, 2003, and began importing 100 percent of
25 its tissue needs from China. However, since this suit

1 was filed, they reopened that facility with temporary
2 workers.

3 Cleo is not the only U.S. company that has
4 replaced U.S. production with Chinese imports in
5 recent years. In 2002, another large customer and
6 former U.S. producer of tissue paper products decided
7 it could not produce tissue in the United States at a
8 cost low enough to compete with the dumped imports
9 from China. In an effort to keep this production in
10 the United States, Seaman negotiated an agreement to
11 purchase the company's sheeting, folding, and
12 packaging equipment in exchange for a contract to
13 supply a percentage of that company's tissue
14 requirements. This contract expires next year, and it
15 is likely that all of this business will go to China
16 at that time if the Chinese dumping is not stopped.

17 I would like to briefly comment on the
18 similarities between Chinese products and our
19 products. There is no difference between the U.S.-
20 produced tissue and crepe paper and the Chinese
21 products. Nothing in the appearance or uses of tissue
22 paper or crepe paper differentiates our company's or
23 the U.S. industry's products from the Chinese
24 products. Information your staff received from other
25 producers, purchasers, and even importers backs up

1 this market fact.

2 Intricate designs, colors, or specifications
3 of products are either developed by our company or
4 dictated by our customers. Cleo, for example,
5 developed specific designs which Seaman would
6 manufacture. The Chinese producers can and do
7 manufacture these same designs, so we are not
8 competing with China on the basis of unique design
9 offerings or production techniques. In fact, we
10 brought with us today several samples of domestically
11 designed and printed tissue.

12 Here is a Santa and a snowman design that
13 we've had for -- excuse me -- I was confused. Here is
14 ours. Here is our Santa and snowman design that we've
15 had for several years. These same designs were found
16 in the market during the Christmas season in imported
17 product. As you can see, these designs are identical.

18 The huge increase in Chinese imports also
19 cannot be explained away as all specialty products
20 that we can't produce. As these samples show, and I
21 have Santa tissue paper, dye-cut tissue paper,
22 embossed and printed films, embossed tissue paper,
23 printed glassine, laminated tissue to embossed Merle
24 films and Mylar films, embossed and pearlized tissue
25 paper -- apparently some of the specialty product is

1 just plain shingled packages of prints and folds,
2 which is very common for us -- printed, nonwoven,
3 which is similar to a hand-made paper, -- we just
4 print that particular material -- Mylar films, and
5 other items.

6 We can and do produce all types of standard
7 and specialty products. We just can't offer them at
8 the low prices offered by imports. To be perfectly
9 clear about this, we have never lost a piece of
10 business due to inability to supply a specialty
11 innovative product.

12 Today, our six largest accounts of tissue
13 paper and crepe paper now purchase imports from China.
14 A new trend in the past couple of years that has been
15 particularly damaging is that several large retailers
16 now import directly from China. We compete head to
17 head against these imports, which are offered at
18 extremely low prices to these accounts. These
19 national retailers, as a group, have increased their
20 market share of tissue paper and crepe paper sales
21 over the past several years because imports from China
22 have allowed them to offer lower prices.

23 The ever-lower prices, whether offered
24 directly by Chinese producers to retailers or by
25 importers of Chinese products, have damaged both U.S.

1 producers' sales and prices as well as our profits. I
2 cannot foresee Seaman remaining competitive or even
3 viable in this market environment unless these unfair
4 practices are corrected. Thank you.

5 MR. HARTQUIST: Thank you, Ted. I'll wager,
6 you had no idea how many different kinds of tissue
7 paper there are. We'll move on to Bill Shafer of
8 Flower City.

9 MR. SHAFER: Good morning. My name is
10 William Shafer, IV, and I am the vice president of
11 marketing at Flower City Tissue Mills Company.

12 Flower City is an integrated producer of
13 tissue paper products, with two production facilities
14 in New York, one in Rochester and another in Fulton.
15 We are a fourth-generation, family-owned business
16 which was found by my great-grandfather nearly 100
17 years ago. I have been a part of the business --

18 CHAIRMAN KOPLAN: Excuse me. If you could
19 also move your microphone a bit closer to you.

20 MR. SHAFER: Sure. And I have been a part
21 of the business for 27 years. My father, who is the
22 president of Flower City, testified in the preliminary
23 investigation but could not be here today because he
24 is recovering from surgery.

25 We have a complete product line that

1 includes over 70 different solid colors of tissue
2 paper and over 200 standard and custom prints. We
3 sell tissue paper in folds to consumers as well as in
4 reams to retailers. Both consumer tissue paper
5 products and bulk tissue products are made on the same
6 type of machines at our company and are produced by
7 the same employees.

8 Tissue paper products made in the United
9 States are identical to those being imported from
10 China. We sell a full range of colors and types of
11 tissue paper to retailers and to consumers, including
12 club packs and specialty products. These are the
13 exact products that the other side is arguing we
14 cannot produce.

15 Flower City is competing head to head with
16 imports for virtually every sale of tissue paper,
17 reams and folds, and we are struggling to maintain our
18 sales. We have kept customers by lowering prices, but
19 we have lost sales in more instances because we could
20 not compete with the low Chinese prices.

21 In 2001, one of our largest customers
22 started purchasing imports from China, and we lost
23 over a half million dollars on one sale. We also lost
24 business from another customer that wanted to continue
25 to do business with us but said they simply can't

1 ignore Chinese prices.

2 Recently, we lost a third large customer
3 that used to purchase printed tissue paper with
4 different animal designs, such as leopard, tiger, and
5 zebra patterns, that were distributed to a well-known
6 chain of retail stores. This customer stopped
7 purchasing these patterns from us in 2003, but we
8 discovered that the particular prints were still being
9 sold at this retail store. Our former customer began
10 importing these printed tissue paper products because
11 the prices were lower.

12 The designs are the same, and they even
13 copied our brand mark. This is a sample of our
14 products here, the leopard and bandanna, and these are
15 packages of leopard and bandanna that were imported
16 from China. They are identical, and on this package,
17 if you look in the lower corner, they even reproduced
18 our mark with the year that we came out with the
19 design.

20 The combination of lower prices and reduced
21 sales volume has had a negative effect on our
22 profitability. Our last significant capital
23 investment took place in 1999 when we invested over
24 \$700,000 in an Elsnor packaging machine used for
25 packaged folds and made a real estate purchase of

1 \$250,000 in order to house this new machinery. In
2 2000, however, the main customer who purchased product
3 made on this equipment decided to take its business to
4 China due to lower prices. As a result, we are no
5 longer running this machine full time.

6 I would also like to address one particular
7 argument made by Cleo. Although Cleo has claimed that
8 they were not able to purchase jumbo rolls of tissue
9 paper from U.S. sources, they bought jumbo rolls from
10 Flower City from March until September 2003. During
11 this six-month period, Cleo purchased a large quantity
12 of jumbo rolls from my company. When Cleo stopped
13 purchasing from us, we suspected that they began
14 sourcing finished product from China, although we had
15 an ample supply of jumbo rolls to continue doing
16 business with them.

17 Our industry is in serious need of relief.
18 If the unfairly low prices from China continue, our
19 family business of nearly 100 years will be in serious
20 jeopardy in the near future. Thank you.

21 MR. HARTQUIST: Thank you, Bill.

22 Bob Costa, president of Eagle Tissue.

23 MR. COSTA: Good morning. My name is Bob
24 Costa, and I am the president of Eagle Tissue. I have
25 been in the packaging business for 25 years and in the

1 tissue paper business for the last 18 years.

2 Eagle Tissue is a highly efficient, low-cost
3 tissue producer, but we find ourselves unable to
4 compete with the flood of low-priced imports from
5 China. I have been in this business a long time, but
6 I have never had to face competition like we are now
7 facing from China. Over the years, we heard that the
8 Chinese were building substantial capacity to produce
9 tissue paper, and we really felt that we would be able
10 to compete with them until their large volumes of
11 cheap imports began penetrating our market.

12 China's high production capacity became
13 particularly noticeable in the U.S. marketplace during
14 the second half of 2001. By the end of 2002, imports
15 from China had become the dominant price force in the
16 market, driving our prices lower and lower.

17 The growth in imports from China has caused
18 our business to change from a thriving one to a
19 struggling one. As the numbers reflect, our sales
20 were increasing year to year, to a peak in 2001. Once
21 the Chinese started dumping, our sales fell in each
22 successive year, to a low point in 2003. While we
23 will show a slight increase in sales this year, that
24 is only because we are receiving orders from new
25 customers that believe duties will be imposed on

1 imports.

2 The reduction in sales over the past three
3 years has caused declines in our profits and our
4 capacity utilization. Our workers have also been
5 directly affected because we have been forced to
6 eliminate our seasonal second shift. Prior to the
7 invasion of Chinese imports, we had a second shift
8 operating from August through December. We no longer
9 need that shift unless we receive relief from these
10 imports.

11 As we reported in our questionnaire
12 response, Eagle's sales are mostly made on a short-
13 term-contract basis. Although technically, the
14 quantity and prices are fixed within these contracts,
15 in reality, our customers demand price reductions even
16 within the framework of the contract. Our customers
17 have little incentive to commit to a price given the
18 continual decline in the selling price of tissue paper
19 that has occurred in the United States market in the
20 past couple of years. From what we hear, foreign
21 producers have been willing to guarantee low prices
22 for an extended period without regard to volume or
23 market changes or, obviously, profit.

24 We have also been outbid by Chinese
25 producers in Internet auctions. On one particularly

1 significant occasion, Target's account for tissue
2 products that we had provided for the five previous
3 years was put up for bid in a reverse Internet auction
4 in 2002. To try to maintain this business, we lowered
5 our prices by more than 10 percent. If we had lowered
6 prices much more, we would have been below our cost of
7 production, and the items would have been sold at a
8 loss, which we're not willing to do. As a result, we
9 lost the bid to imports from China. The loss of this
10 account contributed heavily to Eagle's reduced sales
11 in the following years.

12 Unless fair trade is restored to our market,
13 we will continue to see lost sales and profits as our
14 market share erodes further and further. If the
15 Chinese producers are allowed to continue their
16 practices without penalty, I believe that there will
17 not be a domestic producer of tissue paper left within
18 a very short period of time. Thank you for your
19 attention.

20 MR. HARTQUIST: Thanks, Bob.

21 Pete Garlock of Garlock Printing.

22 MR. GARLOCK: Good morning. My name is Pete
23 Garlock. I am president of Garlock Printing and
24 Converting Corp., located in Gardner, Massachusetts.
25 I have been involved in the printing industry for 35

1 years and the production of tissue paper at Garlock
2 since 1987.

3 Today, Garlock is one of Gardner's largest
4 employers, with over 200 employees. I am here today
5 to discuss our operations at Garlock and the injury we
6 have suffered due to low-priced imports of tissue
7 paper products from China.

8 Garlock Printing is an affiliate of Seaman
9 Paper and was created to print designs and logos on
10 jumbo rolls of paper for Seaman. In addition to
11 printing jumbo rolls of paper that our sold to Seaman
12 for converting into tissue paper products, Garlock
13 also sells printed tissue paper that it produce on its
14 own converting equipment. So we are not merely a
15 printer; we are also a converter of tissue paper and a
16 member of the tissue paper industry.

17 Garlock uses a flexographic printing method.
18 We have seven multicolor, high-speed presses for
19 printing tissue paper and crepe paper. Although we
20 also print some wrapping paper, the main product we
21 print is tissue. Sales of tissue paper are vital to
22 the survival of our company.

23 The production of printed tissue paper
24 begins with the design phase and the development of
25 customized plates. Some customers develop their own

1 designs that we then implement by developing the
2 plates. We also have graphic artists that create
3 designs that we print. The design phase for any
4 printed tissue, whether sold in bulk or to consumers,
5 varies but can take up to 18 months. We are currently
6 working on our 2006 packaging program for bulk and
7 consumer tissue.

8 A significant percentage of custom-designed,
9 printed-tissue product is sold to retailers who
10 purchase tissue in bulk, such as Coach Leatherware and
11 Victoria's Secret. Here are some samples of prints
12 that we have produced for bulk sales. As you can see
13 by these prints, there are no logos on these prints;
14 they are all for in-store use. In fact, bulk-print
15 tissue accounts for an even greater portion of our
16 total production of printed tissue than does
17 production of printed tissue for consumer sales.
18 Further, as you can see, bulk prints are not limited
19 to logos but include the same designs as for consumer
20 sales. I have some samples here.

21 Garlock produces a quality product that is
22 as good as or better than printed Chinese tissue.
23 Chinese imports, however, have undersold our products
24 by significant margins, causing us to lose sales and
25 to lower our prices significantly. Further, our

1 customers tell us that Chinese producers do not even
2 charge for the cost of printing plates.

3 In 2003, Garlock lost two major accounts
4 because of low-priced imports from China. These two
5 accounts represented about 25 percent of our total
6 sales of tissue paper last year. The loss of these
7 accounts had a devastating effect on Garlock. This
8 year, our largest customer asked if the antidumping
9 margins had been set yet so they could determine if it
10 would be cheaper to buy from China.

11 As these examples indicate, our customers
12 have become increasingly familiar with Chinese product
13 and the willingness of the Chinese producers to supply
14 tissue paper at prices far below our own. We simply
15 cannot afford to lose anymore accounts or let our
16 Chinese competitors make inroads with our longstanding
17 customers. We have been forced to defend our
18 remaining business by lowering our prices to our
19 current customers to levels that are below our
20 production costs.

21 As a result of lower prices, our profit
22 margins have completely evaporated. Capital
23 investments in 2004 are virtually nonexistent. It is
24 impossible for Garlock to continue making investments
25 in equipment, processes, and people that are necessary

1 to be viable in the long term under these financial
2 constraints. On behalf of my company and my
3 employees, I urge you to provide the relief we so
4 desperately need. Thank you.

5 MR. HARTQUIST: Thank you, Pete.

6 Mr. Chairman, may I ask the secretary for a
7 time check, please?

8 CHAIRMAN KOPLAN: Certainly.

9 MR. BISHOP: You have 21 minutes remaining.

10 MR. HARTQUIST: Thank you. We now move to
11 Kathy Cannon.

12 MS. CANNON: Good morning. I'm Kathleen
13 Cannon of Collier Shannon Scott. I would like to
14 address two legal issues: the domestic like product
15 definition and the related-party issue.

16 The scope of this investigation encompasses
17 crepe paper and tissue paper products. The Commerce
18 Department has identified these products as two
19 separate classes of merchandise and has undertaken
20 separate dumping analyses of each. The Commission
21 should similarly find that crepe paper and tissue
22 paper each comprise a discreet, domestic like product
23 in this case.

24 There does not appear to be any real
25 question that crepe paper is a single domestic like

1 product, given its different physical characteristics,
2 uses, and production as compared to tissue paper. The
3 only like product issue Respondents have raised is
4 whether the subject tissue paper should be divided
5 into two separate products, depending on whether that
6 tissue is sold for bulk sales to retailers or is sold
7 to consumers. The facts do not support segregating
8 tissue paper into different like products based on the
9 customers to which it is sold.

10 As Mr. Jones testified and demonstrated with
11 product samples, all tissue paper has the same
12 physical characteristics, whether sold in bulk or to
13 consumers. The vast majority of both bulk and
14 consumer tissue is white or solid colors, and both are
15 also sold in prints and specialty forms. Neither the
16 dimensions of the sheets nor the quantities packaged
17 provide any clear dividing line between bulk and
18 consumer sales.

19 Given these similar physical
20 characteristics, whether sold in bulk or to consumers,
21 tissue paper is interchangeable and has the same end
22 use. I can use either tissue paper I get from a
23 retail establishment or tissue paper I get at a drug
24 store for internally wrapping my Christmas presents.
25 Nor are these products differentiated by production.

1 As Mr. Jones stated, the same jumbo roll can produce
2 either bulk or consumer tissue.

3 At Seaman, tissue sold both in bulk and to
4 consumers is manufactured in the same facilities by
5 the same employees, and the same equipment can be used
6 for both. Further, as detailed in our brief, many of
7 the same customers purchase product in both reams and
8 in folds for both bulk and consumer sales. The prices
9 of tissue sold in bulk or to consumers fall in an
10 overlapping range, reflecting a continuum of a single
11 product.

12 Respondents rely heavily on the Folding Gift
13 Boxes case as the basis for arguing that bulk and
14 consumer tissue are different products. That case was
15 properly distinguished by the Commission in its
16 preliminary decision as a case involving a different
17 like product inquiry, specifically, whether the like
18 product definition should be expanded beyond the scope
19 of that case to include out-of-scope merchandise.

20 In this case, the tissue paper products at
21 issue, whether sold in bulk or to consumers, are all
22 encompassed by the scope definition. Although
23 Respondents argue that the scope of the case is not a
24 legally relevant distinction, that is not true. The
25 domestic like product definition must always begin

1 with the scope of the case.

2 While the Commission is permitted to expand
3 its like product definition beyond the scope
4 definition, it is quite a different inquiry to
5 determine whether to expand the like product to
6 include products like those not subject to the case
7 and not subject to any duty that will be imposed, as
8 was true in the Folding Gift Boxes case, as compared
9 to whether to draw lines between a like product
10 category dividing products that are all covered by the
11 scope of the case, as is true here.

12 Here, the Commission must ask whether there
13 is a bright line that can be drawn between U.S. tissue
14 products that are like subject products. Whereas
15 here, no bright line can be drawn, given the
16 overlapping product types and sizes, a single like
17 product finding should be made.

18 The Folding Gift Boxes case is not only
19 different from this case in terms of its scope but
20 also in terms of its facts. Give-away boxes are
21 generally a plain, white box or with a company logo
22 and are given away throughout the year. For-resale
23 boxes, on the other hand, are largely a seasonal
24 product with distinctive holiday motifs and colors.
25 Bulk and consumer tissue, by contrast, share the same

1 physical characteristics, and both have seasonal
2 increases in sales.

3 Although Respondents have tried very hard to
4 equate the facts presented here to those in Gift
5 Boxes, the different facts of these two cases lead to
6 different results.

7 Finally, let me address the related-party
8 issue. Crystal has asked that it be excluded from the
9 U.S. industry as a related party because it claims it
10 is not being harmed by subject imports. That Crystal
11 has now decided to take advantage of low-priced
12 imports to compete in the U.S. market does not provide
13 a legal basis for excluding Crystal as a related
14 party. Crystal was a substantial U.S. producer of
15 tissue paper during the period of investigation.
16 Exclusion of that production would skew severely the
17 analysis of the data for the industry as a whole.

18 Crystal's further assertion that the
19 Commission should exclude not only its U.S. production
20 but also its imports when examining the volume of
21 subject imports has not legal justification at all.

22 Further, Crystal's claim that it should be
23 excluded because any harm it suffered was not due to
24 subject imports is inaccurate. As Mr. Tepe testified,
25 Crystal was, indeed, being significantly injured by

1 subject imports, so much so that it began pursuing a
2 dumping case. Crystal's assertions that it began
3 importing only because there was an inability to
4 obtain jumbo rolls or printing needs are false.

5 The Commission should continue to conclude,
6 as it did preliminarily, that appropriate
7 circumstances did not exist to exclude Crystal from
8 the domestic industry as a related party. That
9 concludes my statement. Thank you.

10 MR. HARTQUIST: Thank you, Kathy, and now
11 Dr. Magrath.

12 MR. MAGRATH: Could I have a time check?

13 MR. BISHOP: Fifteen minutes remain.

14 MR. MAGRATH: Fifteen minutes? All right.

15 In the interest of saving a little time, I will skip
16 the portion of my testimony on the injury and the
17 causation of the injury to the crepe paper industry.
18 As the Commission knows, that is a separate like
19 product. The data clearly show injury and that the
20 cause is the imports from China, and the Commission
21 also, I'm sure, knows that the Respondents in this
22 case do not even address the crepe paper issue and can
23 be assumed not to contest our allegations.

24 Good morning, members of the Commission,
25 Commission staff, and ladies and gentlemen. My name

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1 is Patrick Magrath of Georgetown Economic Services,
2 and with me is Gina Beck, also of GES.

3 If I can begin with an understatement, which
4 some commissioners may think is rare in these type
5 proceedings, this is a highly unusual case. Usually,
6 Gina and I would use the prehearing staff report as a
7 basis for our testimony. It is typically a
8 comprehensive document containing a wealth of specific
9 and germane data. This is not the case here, despite
10 the best, persistent efforts of your staff.

11 We commend the staff for their continuing
12 efforts. We understand there have been multiple phone
13 calls, e-mails, faxes, et cetera, made in an effort to
14 get more responses, especially from those who
15 participated in this case the first time, and we are
16 talking about the importers and the foreign producers.
17 Still, as of the prehearing report to parties, a
18 number of Respondents who had supplied data in the
19 preliminary phase have not done so here.

20 The Commission has been notified that many
21 of these respondent parties are no longer
22 participating, so you may never get the data either.
23 Among these no-shows are some of the very largest
24 suppliers of Chinese products in the U.S. market, both
25 importers and producers.

1 Aside from what conclusions the Commission
2 should draw as to how damaging to Respondents'
3 position all of that missing data would be, it
4 presents real problems in discussing the volume and
5 price effect of imports. Because there are only
6 basket categories of data available on imports of
7 tissue and crepe paper, volume and market share were
8 compiled from questionnaire responses. This is the
9 way the staff usually does it. But since so many
10 importers have failed to respond to ITC questionnaires
11 and staff requests, the data in the prehearing staff
12 report key to the Commission's analysis are greatly
13 understated.

14 The pricing data, as compiled in the staff
15 report, are also understated due to the failure to
16 report and contain a number of contradictions from the
17 preliminary responses. All of these have been
18 detailed in our prehearing brief. We have alerted the
19 staff to them.

20 Due to these errors and omissions, it is the
21 preliminary ITC report, with its greater number of
22 respondents and its more complete data level, that we
23 relied upon primarily in our brief and testimony. We
24 used the prehearing report data on imports and import
25 prices only for the interim period in which no other

1 data are available. I just wanted to be up front
2 there with the sources of our analysis.

3 The data problems just discussed affect not
4 only the volume and price data but also the conditions
5 of competition. In short, we would like to discuss
6 demand in tissue paper, but we really don't know
7 whether it has gone up or down due to the large-scale
8 underreporting of imports. From preliminary data, it
9 appears that consumption of tissue paper increased
10 modestly over the POI and that of crepe paper fell in
11 2003 but increased noticeably in interim 2004.

12 In any case, demand for neither product
13 declined by such a catastrophic degree so as to give
14 rise to an alternate-cause scenario.

15 Other conditions of competition relevant to
16 your analysis are, first, the broad consensus among
17 producers, purchasers, and even most importers that
18 Chinese and U.S. tissue and crepe products are
19 interchangeable and substitutable; second, that price
20 is important in purchasing decisions and that the
21 lower prices of imports is the only significant factor
22 differentiating Chinese from U.S. products.

23 Finally, the most salient condition of
24 competition, given these other factors in this
25 particular case, is that nonsubject imports for both

1 tissue and crepe paper products are minimal. Without
2 other imports, every additional sale or market share
3 increase achieved by China comes directly at the
4 expense of sales and market share of U.S. producers.
5 For both tissue and crepe products, U.S. producers
6 have reported significantly declining sales and market
7 share. Chinese increases have mirrored those declines
8 exactly.

9 The absence of nonsubject imports serves to
10 place the blame for the U.S. industry's declines and
11 ill health right where it belongs: on imports from
12 China.

13 As with other China cases you have examined
14 over the last couple of years, data show imports of
15 tissue paper from China increased by several hundred
16 percent over the period 2001-2003 and increased
17 substantially in the interim period as well, even
18 given the large number of importers not reporting.
19 With this huge increase in imports, import market
20 share skyrocketed as well, increasing fourfold over
21 the period of investigation to 2003 and also rising in
22 the interim period. The resultant shares of the U.S.
23 market captured by this surge in imports represent a
24 substantial portion of the U.S. market.

25 If the Commission, in its analysis of the

1 significance of imports, finds the underreported data
2 in the prehearing report unreliable, there is another
3 impartial source it can turn to for guidance: the
4 Department of Commerce. In the Tissue case, the
5 Department preliminarily determined that imports from
6 principal Chinese producer, China National, as well as
7 the China-wide entity, "massively increased" from
8 immediately before the filing of the case compared to
9 the period leading up to the preliminary
10 determination.

11 Now, we know that the Commission's critical-
12 circumstances determination is independent of
13 Commerce's determination. What we're asking the
14 Commission to do here, however, especially in light of
15 the substantial noncompliance of Respondents, is to
16 take your sister agency's determination into account
17 when analyzing the significance of import volumes in
18 this case.

19 There is no disputing that the instances and
20 margins of underselling found in the final
21 investigation are significant, but they are, once
22 again, understated due to errors and omissions in
23 importer pricing data. First, the pricing data in the
24 final investigation report stark differences from the
25 more comprehensive preliminary data set due to the

1 many importers failing to respond.

2 What is important from a data standpoint for
3 the Commission's price analysis is this: Those
4 importers' prices reported in the preliminary
5 investigation showed pervasive underselling. Their
6 absence in this final data base has resulted in fewer
7 instances of underselling. The Commission should not
8 reward importers because of their failure to respond.

9 In addition to the substantial
10 underreporting, many of the questionnaire responses,
11 at least as of the publication of the prehearing staff
12 report, contained errors. These are detailed in our
13 brief. We're confident that staff is aware of them.

14 Despite these difficulties, price
15 comparisons in the prehearing report show underselling
16 in the great majority of price comparisons based on
17 importers' purchase price data, direct imports, which
18 were in many cases large-volume import purchases.
19 Underselling was also apparent when importers' sales
20 prices were used for all products except Product 2,
21 the product in which many of the significant anomalies
22 that we're talking about were present.

23 Further, any overselling indicated, once
24 these errors are corrected and the data is in, is not
25 consistent with purchasers' responses. Purchasers

1 were uniform in reporting that imports from China were
2 priced lower than U.S.-produced tissue paper and crepe
3 paper.

4 Deep underselling was also confirmed by
5 information in the staff report on the Internet
6 auctions. This widespread underselling, in turn,
7 caused a significant decline in U.S. tissue prices,
8 which has been reported by our clients and the rest of
9 the industry.

10 The large increases in import volume and
11 market share have significantly impacted the U.S.
12 industries producing these products. As detailed in
13 our brief, almost all injury measures traditionally
14 examined by the Commission show declines for tissue
15 and crepe products. For tissue product operations,
16 double-digit declines were registered in shipments,
17 production, and employment data.

18 The former largest tissue producer, Crystal,
19 quite making tissue paper and began importing its
20 requirements from China in 2003. Ironically, since we
21 filed the case, Crystal has restarted production "in
22 order to mitigate the effects of any duties that might
23 be imposed as a result of these proceedings," that is,
24 our case, and, second, "reduced its volume and imports
25 from China."

1 Seaman Paper, the second-largest producer,
2 as you have heard, has suffered through a series of
3 layoff and capacity reductions. Again, given the
4 minimal state of nonsubject imports and estimated
5 steady demand, there can be no doubt that these
6 negative impacts were caused by China's products'
7 large and growing presence in the U.S. market.

8 The unfair imports from China also present a
9 real and imminent threat of further material injury to
10 the domestic industries producing these products.
11 Again, we must note the Chinese producers' response
12 rate, which, like those of the importers, has been
13 abysmal. The number of responses from Chinese
14 producers actually declined from the preliminary phase
15 of the investigation and the final, with just two
16 producers and one exporter providing usable data to
17 you in the final, from the 78 whom the Commission
18 contacted.

19 What information we do have on the record
20 shows that the threat posed by China is large and
21 ongoing. One unusual threat factor is the admission
22 by several purchasers, in their questionnaires and to
23 the U.S. producers, that they are adopting a "wait-
24 and-see" strategy with respect to sourcing, waiting
25 for this case to be decided, and so is Crystal.

1 In relation to tissue paper products,
2 information from the preliminary phase of the
3 investigation supports a threat finding, including
4 significant growth in Chinese producer capacity,
5 production, and inventories.

6 Reflective of the true capabilities of the
7 Chinese industry, however, is the fact that U.S.
8 imports of tissue paper products increased
9 severalfold, as we have mentioned, between 2001 and
10 2003, as did the Chinese market share.

11 That, mercifully, ends my direct testimony,
12 and Gina and I will be happy to respond to questions.

13 CHAIRMAN KOPLAN: Thank you, Mr. Magrath.

14 MR. HARTQUIST: Thank you, Mr. Chairman. We
15 are ready to take your questions.

16 CHAIRMAN KOPLAN: Thank you very much, and
17 thank you all for your testimony. We'll begin with
18 Vice Chairman Okun.

19 VICE CHAIRMAN OKUN: Thank you, Mr.
20 Chairman, and let me also join the chairman in
21 extending my congratulations to Commissioner Lane and
22 Commissioner Pearson for having survived the great
23 Washington process and having been confirmed
24 officially, and also thank you to all of the witnesses
25 for appearing here today and for the information

1 you've submitted and your willingness to testify and
2 to bring all of these products. Of course, 'tis the
3 season, so I feel like I'm very familiar with a lot of
4 things, having spent a lot of time wrapping presents
5 and putting them in gift bags and purchasing things.
6 So it makes it a fun case to actually hear right now
7 and to try to understand it.

8 Let me use this opportunity with the
9 witnesses to just understand a little bit more in
10 terms of how things are marketed and how things are
11 sold, which is obviously different from my perspective
12 as an ultimate consumer as to who you're selling to,
13 who your purchasers are. A lot of these things are
14 part of the like product, but I really just want you
15 to help me in the beginning to understand how things
16 are marketed because when I hear the references to
17 bulk and consumer tissue and specialty, I want to be
18 sure that -- it sounds like, and based on your
19 catalogs, that you actually market that way, that you
20 have customers who buy something that would be called
21 bulk or consumer, and, you know, you sell specialty
22 tissues.

23 So from the producers here, I just want a
24 better understanding of that, of whether these are
25 terms that are terms within your industry or whether

1 just as a result of how the Respondents have argued,
2 that you've been forced to break them up. So help me
3 out, and I'll start with you, Mr. Jones, and then if
4 the other producers can chime in as well, how are you
5 marketing?

6 MR. JONES: If it's all right with you, I
7 deal mostly in the manufacturing at the mill, and I
8 would like to have Mr. Tepe --

9 VICE CHAIRMAN OKUN: Sure.

10 MR. JONES: -- handle that question. I
11 think he could to a much better job of answering it.

12 VICE CHAIRMAN OKUN: Okay.

13 MR. TEPE: Thank you. Starting with the
14 terms, "bulk" is not a term that we use, and I don't
15 think it's generally used in the industry. Our
16 program is called "retail packaging," and it consists
17 of sheet counts, I think, as you've seen, from two to
18 480 sheets. It's sheets of tissue used in a bag or a
19 box as a wrap, as a decorative wrap, around the gift
20 or coming out of the bag.

21 We call something that you would buy in a
22 store for that same use, the same tissue, either
23 "resale" or "consumer."

24 As far as marketing that, Seaman Paper has
25 three, I think, basic ways and is actually very

1 similar to where Crystal Tissue was a couple of years
2 ago. We have a retail-packaging program that is
3 generally sold through paper distributors or direct to
4 large retailers for their in-store, retail-packaging
5 needs. We sell marketers of resale products who
6 would, in turn, sell retailers their resale or
7 consumer-packaging needs, and then we sell retailers
8 directly their resale or consumer-packaging needs.

9 VICE CHAIRMAN OKUN: Okay.

10 MR. TEPE: Does that answer your question?

11 VICE CHAIRMAN OKUN: I have some follow-ups.

12 MR. TEPE: Okay.

13 VICE CHAIRMAN OKUN: Let me ask the other
14 producers. I guess I should have said "retail" and
15 "bulk" -- I should have said whether those were terms.

16 MR. SHAFER: I would answer that question by
17 saying that the terms used in this case are not the
18 terms that we use on a day-to-day basis. It's
19 basically semantics. We basically have a stream of
20 products, and we're looking for customers. We are not
21 the largest player in the market, so we don't brand,
22 sell the retail tissue under our own name. We
23 basically private label, but it all flows through from
24 the same machine. In some cases, our customers are
25 only buying one type, and in many cases they are

1 buying both the bulk and the other type, so that's our
2 perspective.

3 VICE CHAIRMAN OKUN: Okay. Mr. Costa?

4 MR. COSTA: Basically, we are in what you
5 would call the retail end of the business. We don't
6 really do anything in the consumer end. It's not
7 because I consider it a different market. It had to
8 do with when we started this business, we decided that
9 the investment necessary to compete against my fine
10 competitors here was too high for us to play with, and
11 that's not in the consumer end; that's in the fact
12 that they have 50 colors, they have 100 or 200 stock
13 designs.

14 There is a lot of money invested in that,
15 and those colors and those stock designs are used in
16 both resale and retail, but we decided not to get
17 involved in either end of that because of the initial
18 investment in plates, in stock, in raw material. So
19 we concentrated on selling to the department stores
20 colors, prints, custom prints, and stock white. So
21 I'm not really a player in that end of it.

22 VICE CHAIRMAN OKUN: Okay. Did I hear from
23 Mr. Shafer? I can't see your name -- I apologize.

24 All right. Mr. Garlock?

25 MR. GARLOCK: Yes. We are affiliated with

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1 Seaman Paper, so what Ted Tepe had to say is how we
2 also work. Our printing presses print up to eight
3 color, and they don't care whether we're printing
4 consumer or retail packaging, and we find that some of
5 the designs are very similar for retail packaging and
6 consumer. Our converting equipment is the same; it
7 doesn't distinguish between them. We sell through the
8 same markets as Seaman does.

9 VICE CHAIRMAN OKUN: Okay. And then in
10 terms of, Mr. Jones, when you were going through your
11 different products, you had a Victoria's Secret bag
12 with the insert that is meant to go with it, not this
13 big one but something in the packages that you had.
14 For what would be a consumer pack, you talked a little
15 bit, and I think you or someone else had said that
16 sometimes the customer would be involved in the design
17 phase.

18 One of the things that I was struck by is a
19 lot of times now when you go into the stores, the
20 Hallmarks, the Targets, whatever, you see the gift
21 bags, the bows, the tissue paper all lined up, and
22 they all coordinate. What's your impression? I'm
23 just trying to figure out, is it because those
24 companies are asking someone to coordinate all of
25 that? In other words, is someone asking you, I've got

1 a gift bag coming from X company, and I want to
2 coordinate these things, and it's all going to go into
3 someone else's package. I'm curious as to how big a
4 part of the market that is, and is that the way it's
5 done?

6 MR. JONES: I'll defer to Mr. Tepe.

7 VICE CHAIRMAN OKUN: Okay. That's fine. I
8 asked a question about the scope related to that one,
9 but I'll come back.

10 MR. TEPE: Okay. I don't mind. What part
11 of the market is it? Frankly, solid color and white
12 are the vast majority of the markets in both sides of
13 the business, if there are two sides of the business.
14 It's either wrapped around a shirt or whatever in a
15 gift box or coming out of a gift bag. If you look at
16 that particular seasonal gift bag there, for instance,
17 we have a piece of cerise tissue in there, and you
18 could put red or green or white in that bag. If you
19 designed a print, for instance, and you designed it
20 exactly like that bag, then it could only go in that
21 bag.

22 So, therefore, more general, simple patterns
23 or sequin or colors or white sell more simply because
24 they can go across more products. So while there are
25 customers that will buy a bag and matching tissue,

1 that's not where the volumes are at. At Christmas
2 time, if you go into one of the major mass marketers,
3 --

4 VICE CHAIRMAN OKUN: I've been in many of
5 them.

6 MR. TEPE: -- right -- you'll see a large
7 pack of white, 120 sheets; the next largest pack will
8 be red and green, and then you might see a pack of
9 prints, but nine times out of ten, that pack of prints
10 has more white, red, and green in it than it actually
11 has prints. They do that for a very specific reason:
12 because that's the way the product sells.

13 Believe me, if prints were the best seller,
14 there would be 120-sheet print packs and eight-sheet
15 white packs, but you don't see it that way at
16 Christmas. You see large packs of white and then
17 smaller packs of red and green usually half that size,
18 and then the prints, while they might be the same
19 number of sheets in the package as the red and green,
20 half of that, again, is white, red, and green, and I
21 think that's a good way to look at how that business
22 works.

23 VICE CHAIRMAN OKUN: Okay. I may have some
24 more specific questions on that. Mr. Jones?

25 MR. JONES: Yes. Could I add one thing to

1 that?

2 VICE CHAIRMAN OKUN: My red light is on, but
3 if you can do it quickly.

4 MR. JONES: Okay. I think your question was
5 whether we could coordinate with packaging in there,
6 and as proof of that, I would like to show that the
7 satin-wrap program is actually a color-match program
8 that we coordinate with other manufacturers who
9 manufacture ribbons and boxes and whatever. When
10 people buy that, they buy out of this catalog and
11 coordinate themselves.

12 VICE CHAIRMAN OKUN: Yes. That is
13 responsive to what I was curious about.

14 Thank you, Mr. Chairman.

15 CHAIRMAN KOPLAN: Thank you. Commissioner
16 Miller?

17 COMMISSIONER MILLER: Thank you, Mr.
18 Chairman, and let me join in welcoming all of the
19 witnesses. We appreciate your being here and helping
20 us understand your business. Your testimony is very
21 helpful.

22 I'm trying to decide if I heard sort of all
23 of the answer to the vice chairman's questions about
24 the size of the market that is the white or colored,
25 and I actually may be trying to wonder whether we can

1 put numbers to that. I think the staff report has
2 tried to, although I'm not sure we have it.

3 Dr. Magrath, you can tell me if you think we
4 do, but can we put numbers to how much of the business
5 is white, solid color, versus print? Can you do that
6 for your company? Perhaps you've already done it in
7 the questionnaire responses. I'm sorry if I missed
8 it. I've been trying to find it in the staff report.
9 But either for Seaman or the other producers here
10 today?

11 MR. TEPE: Seaman has its numbers for 2003
12 with us.

13 COMMISSIONER MILLER: Okay.

14 MR. TEPE: In the retail side of the
15 business, that's the package inside.

16 COMMISSIONER MILLER: Right, right.

17 MR. TEPE: Forty-one percent of our sales
18 were white, 38 were solid colored, and the balance was
19 between printed and specialty.

20 COMMISSIONER MILLER: And specialty.

21 MR. TEPE: Right. And the definition of
22 "specialty" is somewhat unclear to us, but obviously
23 you can see that white and solid color is the vast
24 majority of that business, as well as with consumer.
25 We show consumer being 34 percent white, 23 percent

1 solid colors, and 13 percent solid prints, and then
2 there is a 30 percent --

3 COMMISSIONER MILLER: What's a solid print?

4 MR. TEPE: Well, again, back to the
5 specialty issue, --

6 COMMISSIONER MILLER: Okay.

7 MR. TEPE: -- let me show you. This, you
8 can see, has multiple colors in it.

9 COMMISSIONER MILLER: Uh-huh.

10 MR. TEPE: At one point, and I think at this
11 point, the definition of "specialty" became more than
12 one color in a bag, which is very common. Thirty
13 percent of our sales have more than one color or one
14 print in a bag, so what I'm telling you at this point
15 is 34 percent of consumer is just white, 23 is a
16 solid-color pack, and 13 percent is one print in a
17 bag. Thirty percent is simply product like this where
18 we have more than one color or more than one print in
19 a bag, which is very common. People want to buy
20 assorted product -- if they are buying for an
21 individual occasion, they would like to get a couple
22 of colors instead of buying --

23 COMMISSIONER MILLER: All right. What about
24 the other companies and whether you have specific
25 numbers that you can provide that you want to share

1 today, that's fine, or if you would like to share them
2 in a post-hearing submission, but at least
3 characterize for me what you would --

4 MR. COSTA: I just so happen to have that
5 information.

6 COMMISSIONER MILLER: You are well prepared.

7 MR. COSTA: We're a little different, again,
8 because we're not skewed towards the consumer end.

9 COMMISSIONER MILLER: Sure. You're just in
10 the retail. Right.

11 MR. COSTA: Our white tissue runs 71 percent
12 of the total. Our printed, and ours is all custom
13 printed, is 23 percent, and our colored is 6 percent.

14 COMMISSIONER MILLER: Okay.

15 MR. COSTA: And I think that adds up.

16 COMMISSIONER MILLER: And, Mr. Shafer?

17 MR. SHAFER: Based on our production, white
18 tissue is 40 percent, colored tissue is 40, and
19 printed tissue is 20.

20 COMMISSIONER MILLER: So it's 40/40/20, huh?
21 And, Mr. Garlock?

22 MR. GARLOCK: Being a printing company, I
23 had better hope that most of ours is printed tissue.

24 COMMISSIONER MILLER: (Laughter.) Okay.

25 MR. GARLOCK: The only thing I could say is

1 we print not only on white tissue, but we print on a
2 lot of colored tissue, so I would say the bulk of ours
3 is printed.

4 COMMISSIONER MILLER: All right.

5 MR. MAGRATH: Commissioner?

6 COMMISSIONER MILLER: Yes.

7 MR. MAGRATH: I want to respond a little bit
8 just because you mentioned my name. If you don't
9 mention my name, I won't say anything.

10 COMMISSIONER MILLER: (Laughter.) I'll
11 remember that.

12 MR. MAGRATH: The staff report, to this
13 point, has in there merely what U.S. producers have
14 told them, in then on the importer Respondents' side,
15 the only party that's come forward is Target that has
16 certain percentages. It's interesting, given that the
17 specialty issue is the key to their whole case, that
18 the major Respondent, who is also a major producer,
19 Crystal, has not given us its numbers about how much
20 it sells, white, you know, plain versus so-called
21 specialty and what they consider specialty is.
22 Perhaps someone could ask them.

23 COMMISSIONER MILLER: The day is not over
24 yet. Yes. Okay. I'll have to look at that and think
25 about if that leads me to any other questions.

1 But one other question: As I listened to
2 you, Mr. Jones, talking about Seaman's production
3 equipment, and clearly, for Seaman, it sounds as
4 though your point is you make both kinds of tissue on
5 the same -- and I wanted to ask you whether that's, in
6 general, what other producers do. But as I look at
7 the information we have in our record, it tells me
8 that, for the most part, companies tend to be like Mr.
9 Costa's company, that they make one or the other and
10 not both. When I look at the list of the producers
11 that are listed here for tissue, I'm seeing that only
12 three out of 10 that we have that information for do
13 both.

14 So, Mr. Jones, Seaman may do both, but not
15 all producers, in fact, not even most producers, do
16 both, as I understand it. Is that consistent with
17 your understanding of the industry? I see Mr. Tepe is
18 shaking his head. So I guess he wants to respond.
19 But, Mr. Jones, you're the manufacturer, manufacturing
20 expert. Anyway, Mr. Tepe wants to respond.

21 MR. TEPE: I was going to respond in regards
22 to the sales volume versus the number.

23 COMMISSIONER MILLER: Well, Seaman is
24 obviously a large company, so anything Seaman does
25 has --

1 MR. TEPE: The largest two years ago was
2 Crystal Tissue Company, and their business model
3 actually is what we modeled our company off of. They
4 made all of those products, and I believe Flower City
5 is the third largest, and they, again, make all of
6 those products. I think, between those three, if you
7 look back during the period of investigation, maybe at
8 the beginning of it, you would have seen that that
9 business model was 90 percent of the volume possibly.

10 COMMISSIONER MILLER: Okay.

11 MR. TEPE: Is that?

12 COMMISSIONER MILLER: Well, I hear what
13 you're saying. I'm not sure if it totally comports
14 with what I'm looking at, so I would just invite Mr.
15 Hartquist, if you will take a look at the information
16 we have in our descriptions of the producers, Table
17 III-1, in particular, and try to reconcile what I see
18 there, which is a bit more static -- okay? -- it's
19 just 2003. The information about consumer versus bulk
20 is public, whether companies do both or one or the
21 other, so your companies can see that. The percentage
22 numbers aren't public. But as I say, when I look down
23 those, the great majority show that they are only
24 doing one or the other.

25 Now, you tell me it's not because of the

1 production equipment, Mr. Jones. In your view, is
2 there any element of the production equipment that is
3 only used for one versus the other?

4 MR. JONES: There is certain production
5 equipment that we have that can handle both and is
6 actually more efficient at both. So I think
7 Commissioner Hillman, when she was there, we actually
8 did a demonstration for her that high-count consumer
9 tissue is more efficiently produced off of sheeters or
10 whatever. So that would be equipment, and that's the
11 same kind of equipment that's used for bulk as well.
12 I think Mr. Costa will -- it didn't come out in 2003
13 because he was not competitive, but he has produced
14 consumer club packs on his equipment as well.

15 COMMISSIONER MILLER: Mr. Costa, you look
16 like you want to make --

17 MR. COSTA: Yes. Basically, what I said
18 before -- I probably didn't say it right, but the
19 bottom line is that I can make club packs on my
20 equipment, the equipment that I have now, which is one
21 of the things that the other people are saying is one
22 of the issues.

23 I just decided, from a pricing standpoint,
24 first of all, I couldn't compete, price-wise, with the
25 one quote that I did do this year, and it basically is

1 just a pricing issue. But it can be done on my
2 equipment. I'm also nowhere near the size of the
3 other people in this room. So, as Ted said, the top
4 three guys -- Crystal and Seaman and Flower City --
5 make up the bulk of that market, and they do both, or
6 Crystal did when they were doing it.

7 COMMISSIONER MILLER: Okay. I understood
8 your comment earlier. I understood it to be as much
9 about marketing as anything else. You referenced
10 price --

11 MR. COSTA: Yes. Basically, I do all of the
12 marketing, too, so I was trying to save some time so I
13 could sleep.

14 COMMISSIONER MILLER: All right. I
15 appreciate your answers. Thank you very much.

16 CHAIRMAN KOPLAN: Thank you, Commissioner.
17 Commissioner Hillman?

18 COMMISSIONER HILLMAN: Thank you, Mr.
19 Chairman, and I, too, would like to join my colleagues
20 and welcome you very much. We appreciate your
21 testimony and all of the time you've taken and,
22 obviously, all of the beautiful samples. I will
23 confess, Mr. Garlock, as the product of a third-
24 generation, family-owned printing company, I had one
25 of the Seaman sample books home with me over

1 Thanksgiving only to watch my father and my brother,
2 who runs the company, spend probably half of
3 Thanksgiving Day marveling at the ability to print on
4 paper as thin as you print on. So certainly, my
5 compliments from my family at the quality of the
6 printing coming out of Garlock.

7 If I, though, can follow up a little bit on
8 this issue of trying to understand, first, just a
9 quick question to you, Mr. Shafer. Of these 40/40/20
10 figures that you noted, would that be the same for
11 retail versus the product that would be sold to the
12 consumer, same 40/40/20 split, or is it different,
13 depending on whether you're going on the retail bulk
14 side or whether it's going to consumer?

15 MR. SHAFER: That represents the total.
16 That doesn't entail a split.

17 COMMISSIONER HILLMAN: Okay. If you were to
18 split it, would the numbers be significantly
19 different?

20 MR. SHAFER: I would have to think about
21 that before I answered.

22 COMMISSIONER HILLMAN: Okay. Then a number
23 of you have mentioned this issue of club packs as an
24 example of something that's slightly in between, if
25 you will, given that the club pack, as I understand

1 it, as we're describing it, is a relatively high sheet
2 count sold typically as a single color, whether it's
3 white or solid, sold in club stores presumably to
4 consumers. So it's sort of partly bulk on the sheet
5 count but, on the other hand, sold to consumers. I'm
6 trying to understand how big is club packs in the
7 scheme of tissue paper being sold. What portion of
8 the total market for tissue paper is club packs?

9 MR. TEPE: Would you prefer a guess, or
10 would you like us to get back to you later on that?

11 COMMISSIONER HILLMAN: Yes. I would be
12 happy to get back to me later. I would like to
13 understand how to weigh this in the whole scheme of
14 this case. So if it's easier for you to do that
15 looking at data and getting back to us post-hearing,
16 that's fine.

17 MR. JONES: One piece of data that we do
18 have is our sales for 2004, and prior to that, Seaman
19 did not have any club pack business because a lot of
20 that, we weren't competitive in, but we did pick up a
21 piece this year, and that one piece of business
22 represented 13 percent of our consumer sales.

23 COMMISSIONER HILLMAN: Okay. Mr. Costa, I
24 know that's really not totally your line of work, but
25 do you have a sense of how big club packs are?

1 MR. COSTA: Well, I think it's becoming
2 bigger every year. The more these warehouse stores
3 become the place people shop -- five years ago, you
4 didn't really see them that much, but it's become a
5 much bigger area. Based on the quote that I did, it
6 was a huge piece of business.

7 COMMISSIONER HILLMAN: Okay. Bigger than
8 the 13 percent bigger --

9 MR. COSTA: From my standpoint, it was,
10 yes, --

11 COMMISSIONER HILLMAN: Okay.

12 MR. COSTA: -- just that one quote.

13 COMMISSIONER HILLMAN: Mr. Shafer, do you
14 have a view on this? Mr. Shafer?

15 MR. SHAFER: Club packs, for our company,
16 have been difficult for us to obtain business due to
17 competitive problems.

18 COMMISSIONER HILLMAN: Then I wanted to
19 follow up a little bit on the question that the vice
20 chairman started with, which is this issue of how do
21 you market and price. You heard in the Respondents'
22 testimony this argument that, oh, well, look, you have
23 a different salesperson that does the retail part and
24 a different salesperson that does the consumer part.
25 I'm trying to make sure I understand -- for those of

1 you that are in both, how do you sell, market, and
2 price on the retail end of it versus on the consumer
3 end of it? Mr. Tepe?

4 MR. TEPE: Yes. I guess maybe it's best to
5 start with the person on one side of the business and
6 then the other side of the business. The titles
7 aren't very descriptive of what happens on a day-to-
8 day basis. For instance, my third largest customer is
9 our maybe second or third largest purchaser of the
10 retail, in-store-packaging-type business, even though
11 my title says I tend towards consumer products.

12 Additionally, the last company I worked at,
13 which was Crystal Tissue, they thought it best to
14 title -- they had a vice president of sales and a vice
15 president of marketing, and I was the vice president
16 of marketing, and we were over both product groups.
17 So it was sold and marketed under one title, so I'm
18 not sure that titles are really descriptive of what
19 goes on on a day-to-day basis.

20 For instance, I think everyone in our
21 company sells people that you might deem a retailer
22 and an in-store-packaging customer. That being said,
23 we have a lot of customers that buy both. We have
24 customers that buy more of a bulk-type product and
25 turn it into a resale product. It is the same

1 product, so it kind of depends on where they are in
2 the marketplace how they are going to sell it.

3 For instance, there is a lot of very
4 successful paper distributors, some of our largest,
5 that, on the side of their building, they have retail
6 outlets, and they do phenomenal numbers to the
7 consumer out of their warehouse, which is supposedly
8 bulk paper. Some of the largest paper distributors in
9 the country have multiple stores attached to their
10 distribution centers, and, again, most retailers are
11 buying both products, so it really depends on how
12 we're going to market.

13 COMMISSIONER HILLMAN: Okay. If a retailer
14 is purchasing both products, is it the same person who
15 is the purchasing agent for both products?

16 MR. TEPE: Only if it was a small store,
17 smaller chain or individual store.

18 COMMISSIONER HILLMAN: And then in terms of
19 how prices get set, do you have sort of one set of
20 price for a ream and then a different price if it is
21 going to be in a smaller, consumer-ready package?

22 MR. TEPE: No, we don't. We cost our sale
23 at basically a cost-plus. It's kind of how we work,
24 and so, quite frankly, some of the smaller folds that
25 we sell in larger quantities, which you would call

1 consumer, sell less per sheet or per square inch or
2 whatever than some of the ream business. We're
3 talking white versus white or color versus color.
4 Basically, we sell at a cost-plus situation. Some of
5 our lowest-priced product per square inch is in the
6 consumer business because there is a lot of volume
7 there.

8 COMMISSIONER HILLMAN: Okay. And to the
9 extent that a purchaser is purchasing both on the
10 retail side and on the consumer side, are they
11 shopping prices from one across the other? Does the
12 price in one of these segments of the market affect
13 the price in the other segment?

14 MR. TEPE: I'm not sure how to answer that.
15 I don't know that they look at it as two different
16 markets. They are looking for a supplier of tissue
17 paper, either as an OEM or as a marketer. In the
18 scheme of things, for these buyers -- for us, it's
19 everything, but for them, it's, you know, one of maybe
20 a thousand items that they have in their stores.

21 COMMISSIONER HILLMAN: Okay. I appreciate
22 that. If I can, then, turn to the pricing data, which
23 is a little bit difficult, given that most of the data
24 itself is confidential. And, Dr. Magrath, I
25 understand your comments comparing the preliminary

1 report to the staff report that we have now. One of
2 the things that is different and that I'm struggling
3 with what to make of is the pricing data. In the
4 original staff report, we were pricing on a square-
5 meter basis for the tissue paper, and here we're doing
6 it on a per-package basis.

7 I'm particularly struck if I look on the
8 crepe paper side. You all are describing significant
9 underselling, underpricing, by the Chinese, and yet if
10 I look at the data, and, again, the data is now by
11 pack, and I understand the issue of lack of reporting,
12 but the data that we have doesn't necessarily show
13 that pattern and shows a very big discrepancy between
14 the price for those retailers that are direct
15 importers versus the crepe paper that's coming in
16 through a traditional importer-distributor that's
17 going to then turn around and sell it.

18 Part of it is I want to make sure I
19 understand whether some of that may be a function of
20 this issue of asking for the data by package. I think
21 the presumption had been that there would have been
22 one roll of crepe paper per package, and I now, in
23 just looking at it, am understanding that, in fact,
24 there may be a fair amount of crepe paper that is sold
25 with more than one roll per package, and I wondered if

1 you can help me understand whether that is a
2 significant phenomenon and how that might have
3 affected our data. How much crepe paper gets sold
4 with more than one roll in a package?

5 MR. MAGRATH: Excuse me, Commissioner.
6 While we are discussing this, I would just like to
7 point out, and it's APO, that the underreporting is
8 particularly severe in the crepe pricing.

9 COMMISSIONER HILLMAN: I understand that,
10 but as I'm sure you can see from the data, Dr.
11 Magrath, there is a big difference between the data
12 that we're showing as import sales as opposed to
13 purchases, and there is a big difference between the
14 data in the prelim. staff report versus this one, and
15 I'm trying to understand whether that is a function of
16 the date of the underreporting or whether it's a
17 function of this switch. Rather than doing it on a
18 square meter basis, we're doing it on a package basis.
19 I'm just trying to make sure I understand the
20 implications of collecting the data in a different
21 method between the prelim. and the final.

22 CHAIRMAN KOPLAN: Excuse me. Madam
23 Secretary, the lights have gone out.

24 COMMISSIONER HILLMAN: Okay. I now see that
25 there is a yellow light on.

1 CHAIRMAN KOPLAN: Oh, now there is a red
2 light on.

3 COMMISSIONER HILLMAN: Okay. Given that
4 there is a red light on, Mr. Tepe, I will come back on
5 this issue in the next round. Thank you.

6 CHAIRMAN KOPLAN: Thank you, Commissioner
7 Hillman. Commissioner Lane?

8 COMMISSIONER LANE: First of all, it's nice
9 to be here as a real commissioner and not someone who
10 is just here perhaps temporarily, and we appreciate
11 those kind remarks from our colleagues.

12 I would like to turn the question to, I
13 think, Dr. Magrath first. I am concerned about the
14 issue of Crystal and whether or not it should be
15 excluded as a related party. If Crystal were
16 excluded, what does that do to the injury analysis?

17 MR. MAGRATH: Well, we can't discuss,
18 obviously, Crystal's individual questionnaire
19 response. The most I could say here, we have run the
20 numbers without Crystal, and we can say that the
21 trends are still intact, the levels are obviously
22 somewhat different, and that it shows a state of
23 material injury. The imports are affected by Crystal,
24 too, since it's started to import, and it's got the
25 largest distribution marketing network of these

1 products. Crystal is a big part of the import
2 increase, and imports are imports.

3 So it would not change our analysis or our
4 judgment as to injury and causation at all. Kathy
5 Cannon can add to that in terms of the appropriateness
6 of excluding Crystal.

7 COMMISSIONER LANE: Okay. Ms. Cannon?

8 MS. CANNON: Yes, Commissioner Lane. As I
9 discussed earlier, the Commission has been pretty
10 specific in identifying the factors that it looks at
11 in determining whether a company that is a related
12 party by virtue of importation should be excluded.
13 One of those factors is whether it's a substantial
14 producer and whether exclusion of its data would skew
15 the data. That's clearly true here.

16 One of the factors has to do with what
17 exclusion of its data would do, whether it's
18 benefiting from the imports and, therefore, somehow
19 skewing the data because it's doing basically better
20 than others in the industry are doing, and because of
21 confidentiality, I can't get into that to a great
22 degree. But we have discussed that in our brief, and
23 based on the past case precedent and the way the
24 Commission has looked at this issue in other cases,
25 there really are grounds for excluding Crystal legally

1 here because it simply doesn't meet the criteria the
2 Commission typically relies upon to exclude it. Its
3 whole argument is premised on the fact that it says it
4 wasn't hurt by imports, and that's not a factor.
5 That's a causation analysis; that's not a factor the
6 Commission looks to in terms, legally, of excluding a
7 related party.

8 COMMISSIONER LANE: Okay. Thank you.

9 Mr. Jones, I think you testified that the
10 equipment in your facilities is capable of doing both
11 of what have been called bulk and consumer tissue, and
12 you said that the equipment is capable, but do you use
13 your machinery to do both?

14 MR. JONES: Yes, we do, and the samples I
15 showed you were actually made on the equipment that we
16 talked about. I showed you samples of the valance
17 that was done on our folders, and that's a nonconsumer
18 application, and I also showed you some of the high-
19 count packages that were done on our sheeter, which
20 are traditionally bulk things. We also, for smaller
21 runs of consumer tissue, we would sheet it first, and
22 then we might send it out to be hand folded. So, on a
23 regular basis, we do both.

24 COMMISSIONER LANE: Okay. Thank you.

25 I'm not sure who to address this to, but

1 maybe Mr. Jones. Testimony at the preliminary
2 conference suggested that gravure printing offers
3 superior quality to flexographic printing, especially
4 when using metallic silver or gold inks. However, it
5 has been suggested that the difference in quality is
6 due primarily to the difference in the solvent-based
7 inks still widely used in China and the water-based
8 inks favored by U.S. printers as the result of
9 stricter EPA regulations rather than in the difference
10 in the type of printing. Which is most important, the
11 press or the ink, and please tell me what the
12 difference? Okay. Maybe it's Mr. Garlock.

13 MR. GARLOCK: I would be glad to address
14 that. We are a flexographic printer, and actually, in
15 the year 1999, we established a company that's wholly
16 owned by Garlock Printing called 360 Imaging. That's
17 our plate-making company. 360 Imaging is on the
18 cutting edge of technology for flexographic printing,
19 and what we have found -- we actually looked at
20 Target's current tissue line and found that we could
21 print just about any one of those designs
22 flexographically. There are a few designs that
23 probably would have to be printed rotogravure.

24 There have been many, many improvements in
25 flexographic, including the metallic inks. We printed

1 for Cleo back in 2001, and at that point, our metallic
2 ink were not that great. In 2002, there were some
3 tremendous strides made in flexographic printing with
4 water-based inks, and we feel they were very
5 comparable to rotogravure printing.

6 Rotogravure printing normally is superior to
7 flexographic when it comes to high-end process
8 printing. Process printing is merely mixing four
9 color combinations to produce an array of colors. In
10 flexographic, with our 360 Imaging, we have pretty
11 much mastered as close to gravure as we can get, and
12 as we can see, 98 percent of anything that can be done
13 rotogravure can be done flexographically at this
14 point. That 2 percent or so that can't be done
15 flexographically; there are -- within 60 miles from
16 our facility, there is a rotogravure printer of tissue
17 paper. So we feel that it's not that significant of
18 the products that can't be printed by our process.

19 Solvent inks; our plant, we're capable of
20 printing either water based or solvent. We do not
21 print very much of our tissue with solvent based. We
22 find that water-based inks, there's been many
23 improvements, again, in water-based inks, and by our
24 samples, everything that you see in front of you was
25 printed with water-based inks. So I don't think that

1 solvent based, water based is an issue, as far as
2 we're concerned.

3 COMMISSIONER LANE: Okay. Thank you. Do
4 you hear any of your customers say that the ink from
5 the tissue that is made in China is a better quality
6 color than what is done domestically?

7 MR. GARLOCK: I have not heard that from our
8 customer base, no.

9 COMMISSIONER LANE: Okay.

10 MR. GARLOCK: I have not.

11 COMMISSIONER LANE: Okay. That's all the
12 questions I have right now.

13 CHAIRMAN KOPLAN: Thank you, Commissioner.
14 Commissioner Pearson?

15 COMMISSIONER PEARSON: Good morning.
16 Welcome to the panel. I, too, have enjoyed your
17 comments and am, of course, trying to figure out what
18 to make of them.

19 Following up on Commissioner Lane's opening
20 remark, I would just say that, frankly, I very much
21 enjoyed being here as a recess appointee, as a
22 temporary commissioner. My colleagues always treated
23 me like a real person. The staff and even the trade
24 bar; they all seemed to think I was more or less okay.
25 Now I'm in a situation where I just look forward to

1 maintaining a reasonable sense of humor as a confirmed
2 commissioner. We'll see whether I can do that.

3 CHAIRMAN KOPLAN: Now, we'll just have to
4 see what happens, won't we?

5 COMMISSIONER PEARSON: (Laughter.) I have
6 some curiosity about whether there is a merchant
7 market for jumbo rolls. Firms that need to purchase
8 jumbo rolls of tissue; is that an easy thing to do?
9 Perhaps several of you might want to comment on that,
10 both buyers and sellers of jumbo rolls.

11 MR. COSTA: I guess, in this room, I only
12 buy jumbo rolls. I'm not fully integrated, so I do
13 not have my own paper mill, but I have not had any
14 trouble purchasing the needs that I have had since I
15 started the company, and I worked for a company prior
16 to that for nine years that also was not a mill-driven
17 company, and we've been purchasing rolls from
18 different sources. Actually, it gives us a little
19 more flexibility because we're not tied to running a
20 mill 24 hours a day, seven days a week, as Mr. Jones,
21 I'm sure, is.

22 COMMISSIONER PEARSON: From how many
23 suppliers have you purchased jumbo rolls?

24 MR. COSTA: Over the years? Probably 10.

25 COMMISSIONER PEARSON: And currently, you're

1 purchasing from a smaller number?

2 MR. COSTA: Six -- seven, actually.

3 COMMISSIONER PEARSON: All domestic
4 manufacturer?

5 MR. COSTA: No, no. I would rather not -- I
6 can give you that information later, if you don't
7 mind.

8 COMMISSIONER PEARSON: I'm not intending to
9 go --

10 MR. COSTA: Some of it is domestic; some of
11 it is not.

12 COMMISSIONER PEARSON: Okay. Other
13 purchasers of bulk rolls?

14 MR. GARLOCK: Obviously, we're affiliated
15 with Seaman Paper. We do purchase from Seaman Paper.
16 We also purchase from several other domestic and
17 international sources. Again, we would rather not
18 divulge that, but we can do that separately.

19 COMMISSIONER PEARSON: And those of you who
20 sell bulk rolls, is there a lot of competition out
21 there from other people who want to sell them, or
22 don't we have anyone here who really does sell bulk
23 rolls?

24 MR. SHAFER: Speaking for Flower City, we
25 are a manufacturer and a converter, but we also

1 purchase jumbo rolls. There are certain grades that
2 we don't make certain finishes, and we have purchased
3 rolls domestically over the years to supply those
4 requirements, and we've never had any trouble getting
5 the paper.

6 COMMISSIONER PEARSON: Okay. Europe has a
7 sophisticated paper industry. Is there some European
8 product that comes into the United States?

9 MR. COSTA: Yes.

10 COMMISSIONER PEARSON: Okay. And there are
11 also some bulk rolls that come from China?

12 MR. COSTA: I have not seen any bulk rolls
13 coming from China.

14 COMMISSIONER PEARSON: Okay. So if I
15 wouldn't have to recuse myself for doing this, if I
16 wanted to go into the tissue paper business, and I
17 decided to be a converter and purchase bulk rolls, I
18 wouldn't have a hard time obtaining that source of
19 supply.

20 MR. COSTA: I don't believe so, no.

21 COMMISSIONER PEARSON: And with your
22 multiple suppliers there's enough competition among
23 them so that you can, you're not just plain squeezed
24 to accept a price that you think is too high. You can
25 turn around and find someone else who probably provide

1 the roll at a more reasonable cost?

2 MR. COSTA: Pretty much. Obviously if
3 you're buying from one supplier you're kind of at
4 their mercy, but there's enough competition to keep
5 the prices honest.

6 COMMISSIONER PEARSON: So if, in the
7 situation that the Respondent Cleo/Crystal was in, if
8 it had wanted to purchase bulk rolls and stay in the
9 converting business it would have been able to do so?

10 MR. COSTA: From the information that I've
11 heard today, they were offered that product. They
12 didn't have to go out of that business because they
13 didn't have jumbo rolls.

14 COMMISSIONER PEARSON: Mr. Jones?

15 MR. GEORGE JONES: Yeah, if I could respond
16 to that, please.

17 We were contacted by Mr. Akers who owned
18 both Crystal Creative and Green Tree Specialty Paper
19 and when they split he had a contract, we believe, for
20 one year to supply the converting operation. He had
21 decided, as the Respondents said, to try and pursue
22 some other products. But he did recognize that he had
23 an obligation to supply and he contacted us and we
24 were in the process of negotiating prices with him.
25 We would have loved to have supplied him because it

1 would have filled some voids in our schedule that were
2 created by imports from China, and when we were about
3 two-thirds of the way through the process he called us
4 and said I don't need to do it any more.

5 MR. TEPE: I'd like to add just something
6 about the paper business in general, and that is
7 you've got to run the machines 24 hours a day, seven
8 days a week to survive. I think we are closed 14 days
9 a year, otherwise we're running 24x7 which is pretty
10 much the nature of the paper business, and that is
11 manufacturing jumbo rolls. So that's true of all
12 paper machines all over the world. There is a lot of
13 tissue available. More, quite frankly, than we'd
14 like, but there's quite a bit out there.

15 COMMISSIONER PEARSON: So you're saying in
16 essence that because of the production process for the
17 jumbo rolls that producers end up with some in
18 inventory. They may produce some for which they don't
19 have a use right at that moment.

20 MR. TEPE: It's an all or nothing business
21 as far as being in the paper business. You're either
22 running all the time or you're not, you're out of
23 business. The business we are in, both the retail
24 packaging side and the consumer side are used for the
25 same thing, which is to wrap a gift. That is very

1 active today. We're in the holiday season. So all
2 that tissue paper is being used today much more so
3 than it's going to be used a month from now. A month
4 from now you can buy a lot of tissue paper from mills
5 that are looking for somewhere to go with that paper.
6 There is nowhere to go with that paper, and you can
7 buy right. I'm sure that's what the people in here
8 that are not integrated do. They get great deals on
9 product.

10 It happened to be that time when Cleo's
11 primary source decided it was all or nothing and they
12 weren't getting enough tissue paper orders from Cleo
13 to survive, so they closed. It was a good time for
14 them to close for Cleo, because that's the time of
15 year when there's a glut of paper out there. It's not
16 when it's being used. It's when it's being built by
17 paper companies like Seaman Paper, Flower City, and
18 Burroughs and a host of others. So there couldn't
19 have been a better time to buy jumbo rolls than
20 February I think it was of '03. That time of year.

21 COMMISSIONER PEARSON: So if I'm
22 understanding correctly, the marketplace that you're
23 describing is one that is both relatively liquid, a
24 lot of product sloshing around there that can be
25 bought and sold at most times of the year, but it's

1 also somewhat seasonal. It would be easier for a
2 buyer to get product in February than in September.

3 MR. TEPE: If your intent is to be in this
4 business domestically and for the long term, you would
5 have had a multi-year contract for all the volume you
6 needed. You wouldn't have bought that operation and
7 got a one year supply contract for part of what you
8 needed knowing that the mill only made product for
9 that particular business just two years prior. It was
10 a heck of a risk to set up that situation and it more
11 likely than not would not have worked. But it
12 wouldn't have been a problem getting a multi-year
13 contract from everybody sitting around here. The
14 three, four of us, and there are dozens of paper mills
15 that could supply that product.

16 COMMISSIONER PEARSON: Can you give me an
17 idea of the percentage of the jumbo rolls that are
18 bought spot versus on contract?

19 MR. TEPE: I'm sorry now, we can probably
20 get that information but I'm not aware.

21 COMMISSIONER PEARSON: Mr. Jones, you wanted
22 to say something?

23 MR. GEORGE JONES: I just wanted to say that
24 we are a net buyer of tissue and one of our suppliers
25 is taking down time right now due to lack of business,

1 so there is availability of tissue.

2 COMMISSIONER PEARSON: Thank you very much,
3 my time is expiring.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.

5 Mr. Tepe, in response to a question by
6 Commissioner Miller regarding the share of tissue
7 paper that is white, solid color and specialty, you
8 answered separately for retail or bulk and consumer.
9 Do you keep internal records for these two types of
10 products separately? And if so, are they kept in
11 separate departments?

12 MR. TEPE: Prior to I guess it was the April
13 meeting, I think -- Actually, preparing for that. I
14 think we were asked to prepare it separately so at
15 that point -- First of all, I guess, I do all those
16 records.

17 CHAIRMAN KOPLAN: That's why I was coming
18 back to you.

19 MR. TEPE: Okay. For both sides. And at
20 some point prior to that I think we were asked to
21 split it out because I believe that's when it
22 happened. But I think it was a request either from
23 Collier, Shannon, Scott or possibly from the
24 Department of Commerce or the ITC. To be honest, I'm
25 not sure. But at that point we started separating it

1 out.

2 CHAIRMAN KOPLAN: So that would have been
3 when?

4 MR. TEPE: Maybe a year ago in preparation
5 for this possibly.

6 CHAIRMAN KOPLAN: Thank you.

7 MR. GEORGE JONES: Could I add something to
8 that, please?

9 CHAIRMAN KOPLAN: Certainly

10 MR. GEORGE JONES: We don't really track
11 that data. That's something we had to generate for
12 this inquiry. What we actually do is we run to
13 inventories. So we'll put, we have all of our colors
14 and anything that's something we want to run in
15 quantity, we'll actually run an inventory on that
16 which Commissioner Hillman saw when she visited us.
17 That product is on the floor. It can go to either
18 product. So we don't specify which product it's going
19 to when we make it, unless we know it's going to a
20 specific order. And this data, the reason why we
21 segregated the data is because we knew you were going
22 to be asking us those questions. It's not something
23 we track on a regular basis.

24 CHAIRMAN KOPLAN: Thank you for that, Mr.
25 Jones.

1 If I can come back to you again, Mr. Tepe.
2 Can you present documentation in support of your claim
3 that prior to the sale of Crystal to Cleo in 2002
4 Crystal saw subject imports as the primary cause of
5 its financial troubles? Can you do that for the
6 purpose of the post-hearing.

7 MR. TEPE: I'm sorry, documents?

8 CHAIRMAN KOPLAN: I didn't know whether you
9 had any documentation in support of the argument that
10 you made.

11 MR. TEPE: I'm not sure that I would have
12 documentation necessarily. I imagine I could get
13 copies of the legal fees they paid to the law firms
14 that we were employing to --

15 CHAIRMAN KOPLAN: I'm sure we'd all be very
16 interested in that.

17 (Laughter)

18 MR. TEPE: No, it was other groups we were
19 working with starting to know one, I mean I could get
20 access to that. I'm not so sure they would give me
21 access to anything else.

22 CHAIRMAN KOPLAN: Whatever you can come up
23 with, that would be appreciated.

24 Do I see someone else with a hand up?

25 MS. CANNON: No, Commissioner Koplan. We

1 can give you that in post-hearing. I think a lot of
2 what other information that Mr. Tepe has told us would
3 probably be best submitted in confidence.

4 CHAIRMAN KOPLAN: Certainly. Thank you.

5 MR. GEORGE JONES: One public piece of
6 information that really generated, according to Mr.
7 Tepe's testimony, is the reverse auction by Target
8 where Crystal lost so much business. I think probably
9 you have documentation of that but if you don't, we
10 can provide that. That was a huge piece of business
11 for them and it showed their vulnerability to imports.

12 CHAIRMAN KOPLAN: I'll check and if we don't
13 have that we will come back to you for that. I'll
14 check with staff.

15 This is for the domestic witnesses, and as
16 we go through this because of the number of folks at
17 the tables if you could continue to identify
18 yourselves for the record for the reporter that would
19 be helpful.

20 Cleo/Crystal's pre-hearing brief at pages
21 five and six detail alleged differences between bulk
22 and consumer tissue paper in support of their argument
23 that there are two, distinct, separate like products.
24 At the time of our preliminary views we indicated that
25 we'd seek additional information on this issue in the

1 final phase of this investigation. This was addressed
2 in the Commission's views in the prelim.

3 Cleo/Crystal's made an effort to expand on
4 their prior argument in its pre-hearing brief and
5 today you all have continued to detail your arguments
6 in opposition to that.

7 Based on my review of their arguments, could
8 you please answer the following questions.

9 First, can you give me your best estimate of
10 the percentage of consumer tissue paper, if any, that
11 is sold by your firm in the same retail package with
12 or is designed to coordinate with other related
13 products such as gift boxes or gift bags? If I could
14 hear from the individual firms on that. And if you
15 can, if you could expand your estimate with regard to
16 your particular firm to include not only you but the
17 domestic industry as such.

18 MR. TEPE: We can get that to you. A
19 tremendous amount of the tissue we make is sold to
20 marketers that then would do the coordinating of their
21 program. It's very common.

22 We also work joint sales calls at retailers
23 with marketers and manufacturers of gift bags and gift
24 boxes. We go in as a group and sell a coordinated
25 pack. So there is a lot of sales like that.

1 Additionally, again if you'll look at what's
2 being sold and what's being used by in-store packaging
3 at retail, the vast majority of the business is white
4 and solid colors. So the coordination is there.

5 We have, I think there are 60 stock colors
6 that we provide. I think, Bill, in your testimony you
7 said you had 70. We do that for that reason. They
8 can pick colors that we make in large volume so they
9 can get it at a reasonable price. We have to have a
10 large color palette to coordinate with different
11 programs.

12 In addition to that, there are still
13 customers that have their own color palette. We use a
14 system called a Pantone Matching System, PMS system.
15 They will give us a number and we'll match to that
16 number so we can coordinate with the bags, the tissue,
17 whatever.

18 But it's not uncommon that we'll get, we'll
19 work with a retailer and they'll pick the bag or the
20 box, because that's the more expensive end of the
21 package, and it will drive what's going on in design
22 and color, et cetera, then they'll give us the color
23 to match to and then we'll match the tissue or the
24 print to go with that coordinate.

25 CHAIRMAN KOPLAN: Can you estimate what

1 percentage of subject imports are sold in this manner?

2 MR. TEPE: When you say subject imports are
3 you talking about a sheet of tissue that is specific
4 to a gift bag?

5 CHAIRMAN KOPLAN: Right. Or box.

6 MR. TEPE: So it can only go with that one
7 item?

8 CHAIRMAN KOPLAN: Either gift boxes or gift
9 bags, yeah.

10 MR. TEPE: I'd say it's very small. I would
11 guess less than ten percent.

12 CHAIRMAN KOPLAN: Thank you.

13 Could I hear from the other companies on
14 that?

15 MR. SHAFER: Speaking for Flower City, we
16 would have to take a look at that information and
17 provide it to you at the post-hearing.

18 CHAIRMAN KOPLAN: Okay. Mr. Costa?

19 MR. COSTA: There's one, as I said before,
20 I'm not really in the consumer market, but it just
21 dawned on me because I forgot that I actually do it.
22 I do sell customers, one in particular, where I
23 actually print designs for them, cut them to ream
24 size, and send them to an outside packager who then
25 makes consumer packages out of them. So that product

1 is being made on sheeting equipment that is mainly
2 used for retail but in this case is being used for
3 consumer packages. So it kind of defends some of the
4 stuff that's being said here. You can make this
5 product on either one. This just happens to be things
6 that are then going out and being folded by hand into
7 the consumer package.

8 CHAIRMAN KOPLAN: Thank you.

9 Mr. Garlock?

10 MR. GARLOCK: We can also get that
11 information to you.

12 CHAIRMAN KOPLAN: Thank you.

13 Ms. Cannon, in your opinion is tissue paper
14 imported in a retail package with a gift bag included
15 within the scope as defined by Commerce?

16 MS. CANNON: That's an issue that we have
17 raised with Commerce and I believe the product is
18 supposed to be covered. There's an enforcement issue,
19 obviously, depending on how the product is packaged,
20 but technically speaking it's suppose to be
21 encompassed by the case.

22 We run into this problem a lot, Chairman
23 Koplan, when you have a product that comes in in an
24 assortment as to how Customs is going to assess duties
25 on it, and that would be an enforcement issue down the

1 road, I'm sure.

2 CHAIRMAN KOPLAN: Thanks. I have a similar
3 question. Is tissue paper used to wrap and protect an
4 imported item within the scope in your opinion?

5 MS. CANNON: If the product is already
6 coming in as packaged with a protective wrapping like
7 stuffing in a package it probably would not be covered
8 because it would be incidental under Customs rulings.
9 It wouldn't be the product itself.

10 CHAIRMAN KOPLAN: Thank you for that. Thank
11 you for the answers to my questions thus far. I'll
12 turn to Vice Chairman Okun.

13 VICE CHAIRMAN OKUN: Thank you, Mr.
14 Chairman, and again, I'm very interested in what
15 you've had to say this morning. It's been very
16 helpful.

17 Let me go back, I was interested on the
18 scope question, Mr. Chairman, mostly because any of us
19 who have school-age children and purchase Sally Foster
20 paper, a lot of it comes -- the tissue paper is with
21 the gift bags. Just out of curiosity I wondered
22 whether that was an issue or not so I appreciate that
23 answer for my own curiosity.

24 But let me return to a question that
25 Commissioner Lane posed about whether Crystal should

1 be excluded from the domestic industry. Ms. Cannon, I
2 know you had responded to that. But I had a couple of
3 other questions and obviously I know you will be doing
4 more post-hearing as well.

5 But in listening to Mr. Tepe describe why
6 Crystal chose to import. Let's say I believe him and
7 I think therefore that Crystal's primary interest is
8 in importation. Then I look back at the cases and how
9 we've applied our statutory criteria, not our
10 statutory criteria, the factors we've used to
11 determine whether exclusion is appropriate and I say
12 okay, primarily interested in importing. In other
13 cases it hasn't mattered really necessarily how big
14 they were. We've excluded some big domestic producers
15 in our cases. And then I come to the other side and
16 say okay, maybe they should be excluded. If their
17 primary interest is in importation, why shouldn't I
18 take them out of the domestic industry here? In
19 conjunction with the other facts again that we've
20 applied in other cases.

21 MS. CANNON: Sure. I've looked at a lot of
22 the other cases and I think you've seen similar
23 scenarios. One of them was the Dole pineapple
24 situation where they were a big producer and because
25 they were being injured by imports you end up in one

1 of two positions. We've all been injured by imports.
2 Crystal's been injured, the companies around this
3 table have been injured. You can either try to fight
4 or you can sell out. They chose the latter option.

5 But what that doesn't change and what would
6 be very distorting to your database is the fact that
7 they were major producers during the period you're
8 looking at. If you were to take them out then you
9 would be radically changing the data for the 2001-2002
10 period when they were a major producer and making it
11 appear as if the domestic industry has increased in
12 terms of production and sales and other things when
13 just the opposite has happened because the domestic
14 industry has been struggling to compete with these
15 imports.

16 So when a company behaves that way, then to
17 take them out of the database simply because they are
18 no longer interested and supportive of action would
19 really skew the manner in which you're looking at what
20 happened to this industry overall.

21 You have to remember, you're just not
22 looking at a company whose executives made a decision
23 to import. You're looking at a company that got rid
24 of a bunch of U.S. workers who would love to be
25 manufacturing this product today.

1 So you have to look I think under the
2 related party provision at that company as a whole.
3 I'm not aware of instances where the Commission has
4 taken a company out simply because the company has now
5 said I'm on the other side of the room.

6 VICE CHAIRMAN OKUN: I think that's true,
7 but again, the fact pattern here is unusual. Again,
8 I've looked at a number of those cases. Looking at
9 the financials and the trends and why you would
10 normally take one out or keep one in, it presents, I
11 think a slightly different fact pattern than many that
12 we've seen, so for purposes of post-hearing if you can
13 look -- I've looked at pineapple, looked at a number
14 of these others, and again, and at the purpose of the
15 statute. We've applied it. Obviously there wasn't a
16 lot of legislative history there, but I would
17 appreciate anything further you can do on that because
18 I do think it poses some interesting questions with
19 regard to how we -- If we were to take them out of
20 course it changes a number of things, but --

21 MS. CANNON: Right.

22 VICE CHAIRMAN OKUN: On the other side,
23 let's say I agree with you and at the end of the day
24 say they need to be included to appropriately analyze
25 the domestic industry during the period of

1 investigation. Walk through for me on the causation
2 side then how you see that if I were to say okay, I
3 can see this if I'm looking at the domestic industry
4 as a whole, but I know Crystal over here has a unique
5 set of circumstances. How would you have us analyze
6 that in terms of the volume price impact?

7 Mr. Magrath, I know you want to answer as
8 well, but Ms. Cannon if you can start.

9 MS. CANNON: Sure. Certainly when you get
10 to volume price and impact that's a very good
11 question. As you know, the related party provision
12 doesn't have anything to do with volume. You don't
13 adjust import volume simply because one of the U.S.
14 companies has chosen to import, so you have to look at
15 all of those imports. You have to look at their
16 prices which they've reported both from a domestic
17 producer vantage and from an importer vantage. So I
18 don't think it alters either one of the volume or
19 price analysis. IT really is when you come to impact
20 legally that this question comes up.

21 Under the statute when you look at the
22 domestic industry as a whole, once you decide they're
23 not to be excluded, legally you're supposed to look at
24 the industry overall.

25 Now you can and the courts have allowed you

1 to look at individual situations just to assess what's
2 going on, to get behind the data, even though you're
3 looking at the trends overall, but when you do that
4 here for all the reasons we've given, you're seeing a
5 company that has been injured by imports and has gone
6 out of business basically because of price-related
7 import injury. The only things they're giving you
8 actually are arguments about jumbo rolls and
9 rotogravure printing which we have shown to be
10 inaccurate.

11 So if the reason that they've gone out of
12 business was not an inability to produce as I think
13 the testimony today is showing, then causality wise
14 you are looking at a company that has just made a
15 decision to move overseas but did so because of injury
16 from dumped subject imports. That's basically the
17 bottom line.

18 VICE CHAIRMAN OKUN: Mr. Magrath, did you
19 want to add something to that?

20 MR. MAGRATH: Yes, although Kathy did a good
21 job.

22 In terms of the marketplace, imports are
23 imports. Crystal stopping U.S. production, importing
24 its needs instead for their customers. If they hadn't
25 done that all that business would have been available

1 to other domestic producers who have this very low
2 capacity utilization, rising inventories. They could
3 have sold Crystal's customers and benefitted by that.

4 So there's no justification for excluding
5 imports by Crystal outside of the fact that they want
6 their imports out of there.

7 Might I add, Commissioner Okun, that an
8 examination of Crystal/Cleo's filings, 10Ks, 10Qs, is
9 replete with statements that they have to change
10 things. That they have to go abroad. That imports
11 are impinging on all their businesses. And this
12 latest one that I read in my testimony, their latest
13 10Q said that they went back into U.S. production
14 because of this case.

15 It only seems to be this one lone instance
16 in 2002-2003 where this jumbo roll problem came up and
17 that particular decision in that particular product
18 line had nothing to do with imports. You can't help
19 us for just not buying that.

20 VICE CHAIRMAN OKUN: While I have you, Mr.
21 Magrath, you raised one of the other points that I had
22 wanted to ask a question on, and that is looking at
23 capacity utilization for the industry where you have
24 seasonality in production and whether there is
25 anything we should note in terms of determining the

1 capacity utilization for this industry with regard to
2 the seasonality of production.

3 MR. MAGRATH: There is some seasonable
4 component. Also a large part of this business is
5 everyday business as we all know by looking at CVS
6 Drug Stores since this case started, and other places.

7 Mr. Tepe could detail this more, but
8 basically the situation is that as a matter of course
9 there is a seasonal surge and that the products are
10 made well ahead of time so that you don't bump up
11 against your capacity. And that you don't have to put
12 on a lot of excess capacity and have that just lying
13 around throughout the year waiting for Christmas.

14 MR. TEPE: -- on capacity. Actually,
15 because of some changes that have happened in the
16 marketplace we're getting our orders earlier than we
17 have in the past.

18 It used to be we'd go to something called
19 Toy Fair that you may have heard of. Usually the
20 Today Show or somebody like that goes there and talks
21 about the hot new toys for next Christmas. It's
22 happened every February for the last 80 or 90 years.

23 Prior to that show -- That was the domestic
24 show. Prior to that show our customers would go to
25 the Orient, place their business first with them, then

1 come back and start the process with us which gave us
2 less time to do our business and to get it delivered.
3 Anyway, that show today, what I'm trying to get to, is
4 gone. There is so much importing coming in that
5 they've moved the whole buying season back to October.
6 It's going on hot and heavy right now, quite frankly,
7 to give them more time to produce. It's also given us
8 more time to produce so we're a little better off. We
9 get a couple more months to produce the seasonal
10 products. So it has helped us level out a little
11 better.

12 VICE CHAIRMAN OKUN: To make sure I
13 understand, the orders are now being placed earlier
14 for you, and even earlier is what your perception
15 would be for overseas orders?

16 MR. TEPE: Right. It used to be that a much
17 smaller portion, 15 years ago, was imported, so they'd
18 get that done in January and then show up in mid-
19 February at this Toy Fair. Now it's almost all
20 imported. There's very few domestic companies left
21 producing, and quite frankly, it also is very hard if
22 you didn't get orders until April, May and June to get
23 all that turned around and ship it August, September,
24 October. It was always a fight to get the retailers
25 to give you the orders earlier. And what won that

1 fight I guess for the domestic industry is they had to
2 do so much of their business early because it was
3 becoming an import business that giving, that they get
4 all the work done. So giving the domestic guys the
5 few dollars that are left was much easier to do in
6 December as opposed to May because they had to work it
7 starting in October to give the Chinese the time to
8 produce and ship the product because they would have
9 the same issues that a domestic mill would have and
10 that is you can't give them an order in June, all the
11 orders in June and expect them all to show up in
12 September.

13 VICE CHAIRMAN OKUN: I appreciate that
14 further understanding of the seasonality here. My red
15 light's been on.

16 Thank you, Mr. Chairman.

17 CHAIRMAN KOPLAN: Yes, Commissioner Miller?

18 COMMISSIONER MILLER: Thank you, Mr.
19 Chairman.

20 I appreciate the exchange, and I share the
21 Vice Chairman's interest in some of the related party
22 issues and what she's just asked you to brief so I'll
23 look forward, I won't ask any additional questions,
24 but I think you understand it's an important issue to
25 us, to me as well.

1 To the extent that you look at the
2 legislative history and it gives you an indication --
3 in all honesty I think we, me, here at the Commission,
4 we struggle with the application of the related party
5 provision and I've always felt like it's a little
6 uncertain how we apply it.

7 I would welcome your looking at both the
8 legislative history and our practice and suggesting to
9 us how you think it's instructive to us in this case.

10 I know the Chairman asked earlier, Mr. Tepe,
11 the question about any documentation regarding
12 Crystal's views of imports and import competition.

13 Dr. Magrath, just now you referenced some
14 SEC filings. I think you said they are replete with
15 comments about the competitive environment. So I
16 would invite you to share those with the Commission.
17 I don't think I saw them in your brief. So if they
18 haven't been shared with the Commission and there is
19 information there you think we should be aware of I'd
20 be interested in seeing it.

21 Then I think another question, I'd just like
22 the companies to comment a little bit more on and you
23 did in many ways in your initial testimony, but partly
24 because we have this difficulty with our pricing data
25 that Dr. Magrath has alluded to. The pricing data is

1 pretty slim for this case. Because of that, one
2 question I have for the companies. We see companies
3 responding to import competition in different ways.
4 Sometimes they lower their prices to try to hold the
5 business. In other case they can't lower their
6 prices, they just lose volume.

7 I think I heard a little, I'm not quite
8 sure, I think I kind of heard a little bit of both but
9 I'd be interested in the companies' comments about how
10 you've chosen to compete. By losing volume or
11 dropping prices, or both?

12 Mr. Tepe, we'll let you off for a minute and
13 go to Mr. Shafer. Why don't we start with you?

14 MR. SHAFER: Price has always been an issue
15 even before the Chinese entered the scene. However in
16 this instance the pattern is usually the same. The
17 pressure is on price and the pressure continues to be
18 on price and you lower price or you improve terms, you
19 sweeten the deal as you can, and then as it begins to
20 unravel the volume begins to go away. Sometimes you
21 lose it all, other times you keep business which is
22 just a fill-in because a boat is late, or there are
23 nuisance items which are of smaller quantity which
24 they keep domestic. So that summarizes briefly what
25 our experience has been.

1 COMMISSIONER MILLER: You're saying you
2 tried to meet price. Maybe you did to a certain
3 extent, but then sometimes you just lost the volume
4 because you couldn't --

5 MR. SHAFER: Correct. We would usually have
6 to initially hold prices when we'd want to raise
7 prices when it was time and justified we would not be
8 able to, so prices were held down. Then we would, in
9 order to hold the business we'd have to actually begin
10 discounting. Then finally you just lose it.

11 COMMISSIONER MILLER: Okay. Mr. Costa,
12 what's been Eagle's experience?

13 MR. COSTA: When you're involved in the
14 reverse auctions those kind of happen pretty quick and
15 you're just sitting there in disbelief as the prices
16 just keep getting lower and lower. You reach a point,
17 as we did, that it was ridiculous. We can't work in a
18 loss so you walk away from it.

19 The ones that aren't reverse auctions, the
20 larger accounts, a couple that we've lost, we did get
21 an opportunity to match a low price. I had enough of
22 a relationship with certain customers that they would
23 come back and say look, I need you to do this and we
24 can keep the business with you. Well looking at those
25 numbers again, it would have been running product at

1 basically no margin and it made no sense and we made
2 the decision to walk away from it.

3 There are cases where we have avoided price
4 increases that should have come through because of raw
5 material increases or whatever, but most of it we've
6 lost it and our numbers unfortunately reflect that.

7 COMMISSIONER MILLER: Mr. Garlock?

8 MR. GARLOCK: In my testimony I alluded to
9 two major losses of pieces of business that we had. I
10 can tell you one of the losses, we did a lot of
11 printing for Crystal in 2002, which obviously we've
12 lost that business to China.

13 The other piece of business that we lost was
14 done through Seaman Paper for one of the major
15 marketing companies that sells to people like Wal-
16 Mart, Target. We not only could not meet
17 the price they were looking for, but we were also told
18 that your up front costs need to be severely reduced
19 because there's no up front cost that China gives
20 them. In other words, they were providing the plates
21 at no cost.

22 There have been instances where we've been
23 able to retain other business, but only by reducing
24 our margins to levels actually, in some cases below
25 our cost. That's pretty much where we are.

1 COMMISSIONER MILLER: Mr. Tepe? I assume
2 Mr. Jones will leave this one to you as well.

3 MR. TEPE: You want me to go. I thought you
4 were going to take the crepe side.

5 COMMISSIONER MILLER: Either way. Whichever
6 you prefer.

7 MR. GEORGE JONES: So everybody knows, I do
8 do a few things back there.

9 (Laughter)

10 MR. GEORGE JONES: I can talk a little bit
11 about crepe tissue. We've basically, as you saw on
12 the board, lost some major pieces of business. The
13 first one we lost when our distributors tried to raise
14 its price without telling us. By the time they told
15 us, they said you're probably going to lose that
16 business, and we said we'll give you whatever you're
17 looking for, please don't lose the business. But they
18 actually had not only managed to preserve the price
19 they had before the action, they were able to reduce
20 the price. So really, the door was shut on that
21 particular piece of business.

22 We had another piece of business with a
23 major marketing company where they kept coming at us.
24 We made some price reductions. Finally they said
25 we're going to have to import the program. We offered

1 to meet the imported price and they said no, we're
2 going to go ahead with the imported program because we
3 think that's the future.

4 The final piece of business we lost without
5 even knowing it. We were selling to a marketing
6 company. We actually talked about it in the
7 preliminary investigation. The problem is that the
8 price differentials are so large that it's not -- You
9 can give a penny or two or a few percent of this, but
10 when they look at it they realize that we're not going
11 to be able to make up that difference.

12 So the only thing, why people will stay with
13 us, there are three factors. One is price which the
14 Chinese obviously have a huge advantage. The other is
15 quality where they've been able to match our quality.
16 The third is are they going to deliver? Once somebody
17 establishes yes, they can do it, it's like a herd
18 instinct and it happens very very quickly.

19 COMMISSIONER MILLER: All of the examples
20 you just gave were crepe.

21 MR. GEORGE JONES: Yes. I'm talking about
22 crepe.

23 COMMISSIONER MILLER: What I hear you
24 describing there is you didn't really have the
25 opportunity to meet prices. You basically lost the

1 volume.

2 MR. GEORGE JONES: We offered to meet price
3 in certain cases.

4 COMMISSIONER MILLER: The reason I'm asking
5 this so much is because if our pricing data is
6 incomplete we don't -- I'm not even -- Usually we can
7 see in our pricing data whether companies have dropped
8 their prices and made sales. The volume data tells us
9 -- If the prices hold up it's because you didn't even
10 make the sale so the prices stay high, they never come
11 down. Just so you understand why I'm asking a
12 question which to you may be self-evident.

13 How companies respond to this competition
14 affects -- We see it in the pricing data. We see it
15 in a couple of different ways.

16 MR. GEORGE JONES: Unfortunately we don't
17 have access to that data so we really don't --

18 COMMISSIONER MILLER: I know you don't.
19 That's why I ask for your --

20 MR. GEORGE JONES: If you're talking about
21 81-foot crepe streamers, we were told that they're
22 offered at nine cents a streamer over in China. Our
23 price was way above that. That's a fact. We actually
24 have quotations.

25 The only thing I can think of is that you

1 have different levels. Let's take the case of one of
2 our marketers. They may have dropped us to obtain a
3 lower price, but if the prices they're reporting are
4 the prices they sell to the retailer, they may not
5 have passed that on, or they may have passed on a very
6 small amount of that.

7 If you're talking about prices to consumers,
8 I think during the reverse auction that Target held,
9 they were able to reduce their cost but I don't think
10 they changed the retail on their tissue. So a lot
11 depends on are you looking at the right place to see
12 the injury.

13 COMMISSIONER MILLER: Sure. And we have to
14 make sure we do.

15 Mr. Tepe gets totally off on my question
16 until the next round, given everything else. So thank
17 you.

18 CHAIRMAN KOPLAN: Thank you.

19 Commissioner Hillman?

20 COMMISSIONER HILLMAN: Thank you, Mr.
21 Chairman.

22 For continuity's sake, Mr. Tepe, let's go
23 ahead and let you answer Commissioner Miller's
24 question at this point in the transcript.

25 MR. TEPE: Thank you.

1 We are losing sales. We can't compete on
2 price. Generally in these situations -- I mean the
3 pricing's not even close.

4 If you look at the whole industry and how
5 this, and George kind of mentioned in the crepe side,
6 it's a domino effect. It's starting in certain areas
7 and it's happened in a very short time if you look at
8 the period of investigation and the amount of imports,
9 it's happened very rapidly.

10 Where it started was where it was easiest to
11 get at. Longer lead times, bigger volumes.

12 If you take Target out, which is a little
13 unique because they decided to go out and import on
14 their own, most of the businesses come from department
15 store, high volume contracts and seasonal tissue,
16 again, because you have that long lead time. So there
17 you have price and quality matching up exactly and six
18 months to get it over here just in case there are
19 shipping problems.

20 So they've picked off -- For instance, our
21 largest conduit into one of these markets was Cleo.
22 They sold specifically seasonal white, red, green and
23 prints. They left us back in late 2000 because the
24 pricing was there, it was half of what we sold it to
25 them for or could sell it to them for. They left us

1 in December of 2000 and their first ship date was
2 August 2001.

3 PlusMark which was a company much like Cleo,
4 their business went to about 30 percent of where it
5 was with us in 2000, 2001, by 2003. Just like Cleo
6 they sell the seasonal Christmas business. It was
7 very easy to move it over there so they went first.
8 And obviously, as soon as that happens everybody else
9 says well wait a second. Those guys are buying it for
10 half, I've got to buy it for half.

11 But there are a lot of issues there in that
12 there may be in the all occasion business where
13 they've got to be very concerned not about price, not
14 about quality, but delivery. So they're moving it
15 over a little slower.

16 One of our largest customers moved 20
17 percent over just like that, but they weren't about to
18 move it all over. Most of our customers, all of our
19 large customers import. Quite frankly, they're
20 waiting for the results of this case and if it goes
21 not in our favor they will just move over as large a
22 portion as they possibly can safely in each succeeding
23 year. If nothing's done, in five years we'll all be
24 gone.

25 COMMISSIONER HILLMAN: Just to make sure I

1 understand the issue of the seasonal versus everyday
2 because a number of you have talked about it.

3 Help me understand again, and if you can
4 even separate it out on the bulk or what you're saying
5 the retail side versus the consumer side, what portion
6 of the paper that you produce would you describe as
7 seasonal, and what portion would be every day?

8 MR. TEPE: That's a good question. I can
9 tell you we happen to be fortunate as compared to
10 Crystal, is that more of ours was to the everyday
11 versus seasonal. That's why they were the first to go.
12 Had it been reversed --

13 COMMISSIONER HILLMAN: More than theirs, but
14 more than the total. If you're looking at your total
15 production.

16 MR. TEPE: Our total production is less
17 seasonally skewed than Crystal's total production.
18 That's why --

19 COMMISSIONER HILLMAN: As a percentage of
20 all of it. Just yours. What portion of your
21 production is seasonal versus everyday?

22 MR. TEPE: It's very hard to answer, even to
23 define it. For instance, most retailers will carry
24 white tissue throughout the year and in the fall
25 they'll just order two or three times as much. So do

1 we count that as an everyday item? Do we count it as
2 a seasonal item?

3 I guess if you just look at usages, I think
4 the last two months of the year it might be a third of
5 the business is actually, that's what actually
6 happens.

7 COMMISSIONER HILLMAN: Would others have a
8 view on this? Mr. Shafer or Mr. Garlock? What portion
9 of what you produce would you think is seasonal as
10 opposed to everyday?

11 MR. SHAFER: The seasonal business is much
12 more competitive. It has higher volumes so there's a
13 tradeoff there.

14 We do participate in seasonal business but
15 deliberately have tried to skew as much as we can into
16 everyday since that's 364 days versus one day. But
17 obviously we are interested in seasonal.

18 COMMISSIONER HILLMAN: Of what you do, how
19 much of it is seasonal? What percentage?

20 MR. SHAFER: Probably ten percent.

21 COMMISSIONER HILLMAN: Mr. Garlock, would
22 you have a sense from your end?

23 MR. GARLOCK: Just to give you an idea how
24 we handle seasonal business, usually with the major
25 customers that we have we try to work with them to

1 give us early visibility of orders and what their
2 needs are going to be, knowing that we're going to
3 have seasonal sales for them.

4 So what we do is we build up inventory of
5 finished goods and put it in our warehouses that they
6 can take out when they need it.

7 As far as sales, we do see from the months
8 of July to say November that our sales do spike up due
9 to the seasonality of that business, but we try to
10 level load it by having these longer term contracts
11 that we store in our facility.

12 COMMISSIONER HILLMAN: But in terms of the
13 prints, et cetera, what portion of it is geared to the
14 Christmas holiday season?

15 MR. GARLOCK: I'd say 30 to 40 percent.

16 COMMISSIONER HILLMAN: Mr. Costa, from your
17 end? Do you have a sense of what portion of your
18 product is a seasonal product?

19 MR. COSTA: Only in the fact that we do
20 about 50 percent of our volume the last four months of
21 the year and that would obviously be the Christmas
22 season. It's kind of the same product, it's just we
23 sell more of it because they're using it for
24 Christmas.

25 COMMISSIONER HILLMAN: I appreciate that.

1 Mr. Jones, go ahead.

2 MR. GEORGE JONES: Would you mind if I just
3 added one --

4 COMMISSIONER HILLMAN: Sure.

5 MR. GEORGE JONES: -- thing to Mr. Tepe's
6 comments.

7 If you asked us that question back in 2000
8 before we lost the Cleo business we probably would
9 have said a very high percentage of our business was
10 seasonal, at least on the consumer side there. When
11 we lost them, which Mr. Tepe said is the first ones to
12 go, through fortune of circumstances when another
13 customer who was buying jumbo rolls decided to exit
14 production and either was going to go to China or made
15 a deal with us to have us buy his machinery and run it
16 for him, I think you saw the machine when you visited
17 us. We got a three year contract out of it. So our
18 business started to go to everyday, which was a little
19 bit the last one to go. But we lost a lot of that
20 seasonal business. We were kicked right out of it.

21 COMMISSIONER HILLMAN: I appreciate those
22 answers.

23 If we can then go back, again, to making
24 sure I understand the issue of the retail versus the
25 consumer. Mr. Jones, what is the lowest sheet count

1 that you sell for on the retail or bulk side of it?

2 MR. GEORGE JONES: I think we have a two-
3 sheet.

4 COMMISSIONER HILLMAN: Okay.

5 MR. GEORGE JONES: That was actually, again,
6 I'm not in sales but I believe this would be matched
7 with other components and maybe put into some sort of
8 a package.

9 COMMISSIONER HILLMAN: But you would be
10 selling in as low a sheet count as two.

11 MR. GEORGE JONES: We would supply two
12 sheets.

13 COMMISSIONER HILLMAN: Even though it is
14 going into what we would describe as the bulk or
15 retail market?

16 MR. GEORGE JONES: Yes.

17 COMMISSIONER HILLMAN: On the flip side,
18 what share of your bulk or retail sales do you package
19 in lower than a half a ream amounts? What portion?
20 What share of what you would describe as retail or
21 bulk sales are packaged less than half a ream?

22 If it's easier to do this post-hearing,
23 that's fine.

24 MR. GEORGE JONES: I may have to.

25 COMMISSIONER HILLMAN: Okay.

1 Mr. Tepe?

2 MR. TEPE: Can I get back to you on that?

3 I'm not really sure.

4 COMMISSIONER HILLMAN: Again, on this issue
5 of the Crystal sale and how it went, one of the issues
6 you heard raised in the opening statement by the
7 respondents was this fact that, the fact that Crystal
8 was able to sell its bulk business as a separate issue
9 rather than selling its consumer issue. They're a
10 consumer business. They're obviously saying that is
11 an indication that these do operate separately and
12 that out there in the industry they're regarded as
13 separate, otherwise they would not have been able to,
14 again, piece off and just sell what is their bulk or
15 retail business.

16 I wondered if you could comment on that. Is
17 that how you saw it? That they were selling only
18 their bulk/retain business, and what should that say
19 to us about how separate the businesses are?

20 MR. TEPE: It was a unique sale, first of
21 all. We approached them to buy it because we knew
22 what they were going to do, so we were a very eager
23 purchaser because we knew they were going to move it
24 to China and kind of decimate that market. They knew
25 that also.

1 We offered a price for it. They said that's
2 not even close to what we think it's worth, and we
3 disagreed, and they said we have other options which
4 we were quite concerned about.

5 Anyway, we agreed to a price, then there was
6 a lot of discussion around defining where the
7 boundaries were. And they certainly had the upper
8 hand because we couldn't walk away from the deal.

9 For instance, there was a lot of discussion
10 around club. In our opinion it shouldn't have been
11 consumer. It should have been bulk. They said no,
12 it's a consumer item and our option was to walk away
13 which had some very serious impacts.

14 The other discussion, we said okay, fine,
15 how about you can't sell reams to Wal-Mart. They said
16 if Wal-Mart wants them, we're going to sell them to
17 them.

18 So the definition is not necessarily on
19 product, it's on what their major customers will buy
20 and they thought possibly they would buy that.

21 COMMISSIONER HILLMAN: I appreciate those
22 answers. Thank you.

23 CHAIRMAN KOPLAN: Thank you.

24 Commissioner Lane?

25 COMMISSIONER LANE: i have just a few more

1 questions. I guess I'd like to direct these to Mr.
2 Jones, Mr. Shafer and Mr. Costa.

3 Do you all sell or have you in the past
4 tried to sell your product to like Target? And what
5 were the results?

6 MR. GEORGE JONES: I'm going to refer to Mr.
7 Tepe because he has direct knowledge.

8 COMMISSIONER LANE: Mr. Tepe?

9 MR. TEPE: Have we tried to sell to Target
10 stores?

11 COMMISSIONER LANE: Yes.

12 MR. TEPE: Yes, we participated in a reverse
13 auction through one of our marketers in 2002. The
14 product ended up being imported from China.

15 COMMISSIONER LANE: What about other big
16 stores like Wal-Mart, K-Mart?

17 MR. TEPE: We sold K-Mart up until 2002, I
18 believe, when they left us for another customer's
19 imported crepe paper. We'd been a customer at K-Mart
20 for eight, ten years, I believe. Quite some time.

21 Wal-Mart we've made calls on. Sam's,
22 Costco, quite a few other retailers. We sell the
23 largest dollar chains in the country -- Dollar Story,
24 Consolidated, Big Lots, Family Dollar.

25 COMMISSIONER LANE: Are you currently

1 selling to K-Mart? I'm sorry, I didn't understand
2 what you said there.

3 MR. GEORGE JONES: We do supply those
4 companies. We're in there but we do private label
5 work for people, so our product is in there.

6 COMMISSIONER LANE: My next question was
7 going to be is the merger between K-Mart and Sears
8 going to affect your business if that goes through?

9 MR. GEORGE JONES: I'm not sure that it
10 would affect our business. I can't see how it might.

11 MR. TEPE: It would not affect our business.

12 I think there was another reverse auction
13 that Bob Costa for Target was involved in. He might
14 want to comment on that.

15 COMMISSIONER LANE: Mr. Costa?

16 MR. COSTA: They went to bid on their, two
17 different divisions. The actual Target division and
18 the Marshall Fields division. We were the vendor of
19 record on both those divisions. We sold through
20 distributors who did the distribution for them for
21 both products. That is the one that I commented on in
22 my testimony that, like I said, we actually had it for
23 longer than five years. I had it for the whole time I
24 was in business. We just could not compete. The
25 comment made is there are two different buyers, I

1 guess, for Target. One buys retail and one buys
2 resale.

3 The information I was getting from the old
4 buyer was that, when I asked about -- Once they gave
5 the bid to the Chinese I asked them, are you sure
6 you're going to get product? Her answer to me was, we
7 know these people. We're buying resale from them now.

8 So they in effect, if what she's telling me
9 is right, they bought the retail product from the same
10 importer that was supplying them their resale line
11 which blurs the line again.

12 COMMISSIONER LANE: Mr. Shafer, do you have
13 anything to add?

14 MR. SHAFER: Our company was not involved
15 with any sales to Target or K-Mart during this period.

16 MR. TEPE: Since the period of investigation
17 we've been in contact with Target on several occasions
18 discussing future sales.

19 COMMISSIONER LANE: Thank you.

20 Has your business been affected by -- Some
21 people using other substitutes, something other than
22 tissue paper for the same purposes?

23 MR. TEPE: If there is an impact it's very
24 small. First of all, tissue really is a decorative
25 packaging. There is some utility to it, so on one end

1 of the spectrum you might go towards something like
2 newsprint which is all about protection and not much
3 decoration. There are some customers, not very many,
4 that are interested more in the packing aspects of it,
5 not the decoration. That's kind of one end of it.
6 And quite frankly, if someone's looking for a
7 decorative paper they're not going to go to something
8 like a newsprint or stuffing sheet.

9 On the other end of it there are products
10 that I think we held up here that we also have
11 supplied a lot of customers where we don't make them
12 but we process them, we convert them. So I guess in
13 effect, I guess we would make them. But we would buy
14 like mylar films and holographic films and those kinds
15 of things and convert them out into folds or sheets or
16 whatever. So they're not part of the case but they're
17 quite expensive, so again, there's not a lot of
18 substitution when it's ten times the price for that.

19 COMMISSIONER LANE: The last question I have
20 can be directed toward any of you. I know that you've
21 been in the business a long time and you bring a lot
22 of experience to this industry.

23 Over the years when you've been faced with
24 price competition, have you done things like changing
25 the number of sheets in your packages, reducing the

1 number of sheets, doing things like that to make up
2 for what has happened in the industry? Sort of like
3 the candy bars. You used to get nice candy bars, and
4 then they kept reducing them and increasing the
5 prices. Has your industry gone through that type of
6 change?

7 MR. TEPE: That's exactly what our industry
8 does. The standard sheet is 24x36. If it's a percent
9 of sales I'd be shocked. The next big standard was
10 20x30, and maybe up to 20 years ago it was a pretty
11 standard size. If you look at pulp, it cycles up and
12 down and up and down. If you look at the pulp cycles,
13 the pulp cycle going up, the price of pulp going up,
14 you'll see the size of sheets go down in that same, in
15 the opposite way.

16 20x26 was the standard consumer size from
17 20x30. Now it's 20x24, 18x24. Target does I think
18 18x24, 18x26. There's a lot of 20x20 out there. It's
19 even more severe on the bulk side. There are sheets
20 that are, Bob, what are they? 10x18, 10x20, 10x15.

21 Number of sheets per pack are critical
22 because, more so maybe in retailers because they're
23 going to sell at a price point. So they're going to
24 spend let's say 40 cents and sell it for a dollar. So
25 it's what can I get, how much can I get for 40 cents?

1 Therefore if the prices have to go up which, believe
2 me, has become more and more difficult, the options
3 are smaller sheets, less sheets.

4 COMMISSIONER LANE: Thank you. Those are
5 all the questions I have, Mr. Chairman.

6 CHAIRMAN KOPLAN: Thank you, Commissioner
7 Lane.

8 Commissioner Pearson?

9 COMMISSIONER PEARSON: How important are
10 labor costs to your industry? Is labor a big
11 percentage of your overall cost structure?

12 MR. GEORGE JONES: Labor is relatively
13 small, and what we've been working on very hard is
14 speeding up our machines and reducing the percentage
15 of labor in the total product.

16 So ten years ago when we first started
17 getting in the folded tissue business we did it by
18 hand like the Chinese are doing it. Now we operate
19 machines that can do 180 a minute or 120 a minute,
20 different sizes, with five people going from rolls
21 right to finished boxes, ready to go out the door.

22 So we feel we've been able to reduce the
23 labor percentage and that's kept us competitive as
24 long as we have. It's kept us very competitive within
25 the domestic industry, but the difference that we're

1 fighting against China, really, we don't see it as
2 labor. If it was labor we'd just be spending our
3 money on more automation and not be here. But there's
4 more to it.

5 COMMISSIONER PEARSON: The pre-hearing
6 report indicates that wage rates in tissue production
7 rose by approximately a dollar an hour in 2002 and
8 another 50 cents in 2003. I can envision a
9 circumstance under which we would see that as a sign
10 of health in your industry. What do you think about
11 that? Is it a sign of health?

12 MR. GEORGE JONES: Not necessarily health
13 because that means we have to go ahead and earn it.

14 One of the things we do is the last people
15 we try and pick on is our employees. We do have
16 instances where they share in health care at our
17 converting plants. We've said we're going to share 50
18 percent of the increases in either, beyond a base year
19 which as absolute health care costs go up it's
20 becoming more and more of an issue.

21 Our wage increases should be around three to
22 three and a half percent.

23 COMMISSIONER PEARSON: Mr. Costa?

24 MR. COSTA: You really have to put this
25 whole thing in perspective. You have to understand

1 the scope of this dumping.

2 If you took my labor cost completely out of
3 my product I still couldn't compete against the
4 Chinese pricing. So labor really has nothing to do
5 with the fact of us trying to compete. We're not
6 paying our people more money than makes us
7 uncompetitive. Like I said, you make it zero, we
8 still cannot come close to their prices.

9 COMMISSIONER PEARSON: So what factors did
10 allow the wage rates to rise then during this period
11 of investigation?

12 MR. COSTA: In my case, I have a lot of new
13 employees. I get severe turn-around. Now I'm
14 starting to get some people that have been there
15 awhile. I try to reward them for staying and doing a
16 good job and everything else. It's not a lot of
17 money, \$1, \$1.50 an hour really isn't a lot of money
18 from my standpoint. I don't know about everybody
19 else's.

20 COMMISSIONER PEARSON: Mr. Shafer?

21 MR. SHAFER: We pay, thanks to the happier
22 days and the cost of living adjustments back in the
23 '70s and '80s, our employees are quite highly paid for
24 manufacturing workers. However, we have had a wage
25 freeze for three years. Nobody in our firm has had

1 any increases during that time.

2 COMMISSIONER PEARSON: Any other comments?

3 MR. MAGRATH: Just briefly, as you know from
4 looking at the staff report, the number of workers in
5 the industry is severe decline. That is an indication
6 that the workers aren't doing so well.

7 Second, a 50 cent raise in a year is, I'd
8 certainly hate to pay a mortgage and health care and
9 support a family on a 50 cent a year pay raise.

10 COMMISSIONER PEARSON: Right, although --

11 MR. MAGRATH: And I'm glad Mr. Hartquist
12 agrees.

13 COMMISSIONER PEARSON: Based on the
14 information on the record, in percentage terms the
15 increases that we show here are not insubstantial.
16 There's been some noticeable upward movement in wage
17 rates.

18 Let me shift back to the point that a couple
19 of you alluded to regarding the competition with
20 China. Do you have some sense of why China is able to
21 offer such low pricing? You're indicating that even
22 at zero wages for U.S. producers the Chinese would
23 still have a pricing advantage. Can you comment on
24 that?

25 MR. COSTA: I wish I could. I wish I could

1 understand what allowed them to do that. I went back
2 to the mills that I do business with after the Target
3 quote and the Target bid and a couple of the other
4 ones and said what am I doing wrong? You guys must be
5 killing me with raw material and everything else. We
6 talked about where this stuff went and they said we
7 can't make the paper for some of the prices that are
8 out there.

9 I don't know what's going on in China. All
10 I know is they're buying pulp in the states, they're
11 buying the same pulp that some of the mills here are,
12 and it isn't a labor-intensive product. So how can
13 they compete? And they've got to ship it back over
14 here. So I don't really know what the answer is, but
15 it sounds like dumping to me.

16 MR. GORDON: Commissioner Pearson, it's Adam
17 Gordon from Collier, Shannon.

18 The short answer to your question is they've
19 been able to offer these low prices by engaging in
20 massive dumping. The Department of Commerce in the
21 tissue case has preliminary determined margins of
22 dumping ranging from 9.55 percent up to 163.36
23 percent. In the crepe paper investigation all the
24 Respondents have been assigned dumping margins of
25 266.83 percent. These are not small numbers.

1 COMMISSIONER PEARSON: I understand that,
2 but how is that being funded? What's going on within
3 the industry in China? I presume that even Chinese
4 firms on their own can't afford to dump at the rate of
5 200 percent.

6 MR. GORDON: I would presume that too, but
7 having practiced in the trade bar for a number of
8 years I consistently am proven wrong.

9 MR. HARTQUIST: Commissioner Pearson, if I
10 could make a couple of observations here.

11 COMMISSIONER PEARSON: Please.

12 MR. HARTQUIST: I can't speak specifically
13 to this product because we don't have information. If
14 we were putting together a countervailing duty case we
15 might present to you significant information.

16 But a general observation is that the
17 Chinese government is deeply involved in the
18 development of its industry pretty much across the
19 board. The banking system is widely known to have
20 about \$500 billion in bad loans. It's very fragile.

21 Their currency is manipulated, we've been
22 working on that for a period of time to try to get the
23 Chinese to revalue their currency.

24 And we think that they get government help
25 in the purchase of raw materials in a number of

1 different industries.

2 So I can't offer you documentation on that
3 today, but there's a lot of reason to speculate that
4 they're getting a variety of government supports,
5 perhaps including export subsidies as well, that allow
6 them to compete at these low price levels.

7 COMMISSIONER PEARSON: Have any of you ever
8 had a chance to tour any of the Chinese facilities?

9 MR. GEORGE JONES: Yes, I have.

10 COMMISSIONER PEARSON: Any observations you
11 would share? Nothing that gives away something that's
12 proprietary knowledge on your part. But are these
13 modern, new facilities?

14 MR. GEORGE JONES: No.

15 COMMISSIONER PEARSON: Is the machinery
16 similar to what you have in Massachusetts, et cetera?

17 MR. GEORGE JONES: It's probably about 50
18 years behind us in technology. I was able to see
19 three paper mills and there was quite a bit of
20 similarity. Their machines run much slower than ours,
21 much narrower than ours. Multiple web breaks per
22 roll. Their machine efficiencies couldn't have been
23 that good.

24 I was told that they use 100 percent virgin
25 soft wood pulp which is probably the most expensive

1 furnished that you can use.

2 With regard to the converting facilities,
3 they take the rolls of tissue, sheet them, and then
4 everything is done by hand. There's no automation
5 whatsoever.

6 I was watching a woman doing shingle folds.
7 The shingles is when you have the multiple stripes
8 across. I think it was like a ten-count shingles
9 fold. She would take two sheets of blue tissue, fold
10 it in half, put it aside; take two sheets of yellow
11 tissue, fold it in half, put it aside; take two --
12 continue on that. Then she would collate all the
13 samples together and then fold them into a final pack,
14 then insert them into a bag. After that, I mean we
15 produce those up to 65 a minute.

16 I just don't understand how we can't
17 compete. That's one of the reasons why we decided to
18 file the case. If we'd gone over there and saw
19 technology superior to ours, I would have probably
20 come back and said we're beaten. But we don't
21 understand it.

22 COMMISSIONER PEARSON: The growth in the
23 industry that we believe is happening in China, is
24 that taking place basically in somewhat antiquated
25 facilities or are there some new ones getting built,

1 or just don't we know?

2 MR. GEORGE JONES: To my knowledge, all the
3 facilities are of the caliper that I was describing.
4 If they're putting in new machines, and this goes to
5 our industry, if you put in a state of the art modern
6 machine nowadays, they would be making a commodity
7 grade like facial tissue used in sanitary purposes,
8 would run 6,000 feet a minute. It wouldn't be able to
9 produce all the different colors and the small runs
10 and all that stuff, so there is not a match in that.
11 So we don't think that's happened.

12 But what we're deathly afraid of happening
13 is as China attracts the investment and the new
14 equipment they're going to take these new tissue
15 machines that make facial tissue and they're going to
16 displace all these small machines that used to supply
17 the industry and all of those are going to open up
18 into our business. That could be a massive damage to
19 our --

20 COMMISSIONER PEARSON: Thank you very much.
21 Mr. Chairman?

22 CHAIRMAN KOPLAN: Thank you, Commissioner
23 Pearson.

24 Let me follow up to a question I believe
25 that Commissioner Hillman was asking on her first

1 round.

2 Target reports at page four of its pre-
3 hearing brief that its purchases of bulk and consumer
4 purchases are through completely different channels.
5 Bulk tissue through its non-retail procurement group,
6 and consumer tissue through its holiday, trim,
7 stationary and gift wrap departments.

8 Are sales of bulk tissue paper and consumer
9 tissue paper to department stores typically to
10 different departments? And the second part is are
11 such sales or contracts of bulk and consumer tissue
12 paper negotiated separately? I'd like to hear from
13 each of the domestic witnesses on that. I'll start
14 with you, Mr. Jones or Mr. Tepe.

15 MR. TEPE: At large retailers like Target it
16 is normal I think for there to be a group specializing
17 in different products. They have groups that
18 specialize within the consumer side purchasing just
19 part of that tissue business.

20 So in corporations that size they break out
21 the seasonal product from the all occasion product, so
22 there's actually two separate processes within the
23 consumer piece to sell. It's two separate buyers,
24 maybe headed by a vice president of merchandising over
25 those two areas, but believe me, it's two separate

1 functions.

2 Then the third piece which is the in-store
3 package. Naturally that would be broken out into
4 another buyer also.

5 There is sometimes overlap and that is if
6 it's, when you walk into retailer there's a lot going
7 on there that you may not notice, but when those
8 retailers walk into those stores, believe me, they've
9 looked at the color scheme in the store, the signage,
10 that whole experience is a big, big deal. Part of it
11 is what they're selling and part of it is what they're
12 packaging it in. In the case where retailers sell both
13 tissue for sale and they also used package tissue,
14 that's where those things may come together.

15 CHAIRMAN KOPLAN: Are the contracts
16 negotiated separately for bulk and consumer tissue
17 paper in stores like this?

18 MR. TEPE: The contracts would be, yes, as
19 would the every day and the seasonal consumer.

20 CHAIRMAN KOPLAN: Can you identify for me
21 other department stores besides Target that would
22 follow this kind of practice?

23 MR. TEPE: I think the majority of them
24 would follow that kind of practice.

25 CHAIRMAN KOPLAN: Mr. Garlock?

1 MR. GARLOCK: Most of our consumer tissue is
2 done through Seaman Paper, so I'd have to agree with
3 Ted.

4 CHAIRMAN KOPLAN: Mr. Shafer?

5 MR. SHAFER: I would say we cater to
6 probably smaller companies. Typically the people who
7 are doing the purchasing are buying both products. We
8 have been involved in some majors and I would say that
9 we deal with a person who has called us. I would say
10 we have not sold both in the larger companies. We
11 don't have as full a line as Seaman Garlock.

12 CHAIRMAN KOPLAN: You might be dealing with
13 the same person, but does it go to the same department
14 within the store or is it to separate departments?

15 MR. SHAFER: Could you follow up with that
16 and clarify what you mean?

17 CHAIRMAN KOPLAN: I'm trying to understand
18 whether or not they separate it out by departments,
19 even in smaller stores.

20 MR. SHAFER: I would say no. I'm dealing
21 with the same person.

22 CHAIRMAN KOPLAN: Mr. Costa?

23 MR. COSTA: I really only deal with the
24 retail side of it anyway. The Target one I'm pretty
25 sure it is two different buyers.

1 CHAIRMAN KOPLAN: Mr. Tepe, you wanted to
2 come back to it?

3 MR. TEPE: I just wanted to point out that
4 there are a lot of retailers that buy both products,
5 the same buyer. We sell to a whole host of marketers
6 that cater to the smaller retailers and they will sell
7 both the packaging and the resale product. Not just
8 tissue, but it would be gift wrap and ribbons and bows
9 and they also market reams for the in-store packaging.
10 So it really is more a function of the size of the
11 corporation and how they're going to split up all the
12 different functions because there's a tremendous
13 amount of functions going on in an organization that
14 size.

15 CHAIRMAN KOPLAN: Thank you.

16 Let me stay with the domestic witnesses, if
17 I could. AT several points in their pre-hearing
18 brief, Cleo/Crystal mentions sales of bulk tissue
19 paper to other businesses such as laundries and dry
20 cleaners. That's at pages four, seven and nine.

21 Also a the staff conference Mr. Mullin with
22 Citipaper described a number four tissue paper that is
23 used in bulk to wrap items for sale. And Mr. Freeman
24 with Wago Chemical described a bulk tissue paper that
25 is not as white as that sold to consumers. I quote,

1 "Most of this goes into dunnage, stuffing shoes,
2 stuffing handbags and for dunnage."

3 Is that type of bulk tissue paper
4 interchangeable with that sold in the consumer
5 segment? If the answer is no, what share of all sales
6 of tissue paper and what share of bulk tissue paper is
7 accounted for by sales of tissue that is not
8 interchangeable with consumer tissue paper?

9 Mr. Tepe?

10 MR. TEPE: That product that you mentioned
11 is really more functional, obviously, than decorative.
12 However if you go to a Staples or an Office Depot or
13 someone that's selling packing supplies --

14 CHAIRMAN KOPLAN: Excuse me, so you're
15 telling me that would not be interchangeable?

16 MR. TEPE: It's two different functions,
17 absolutely. Right.

18 CHAIRMAN KOPLAN: Okay. Go ahead.

19 MR. TEPE: But they sell those. You can go
20 buy that material in a Staples for those purposes.

21 CHAIRMAN KOPLAN: Okay.

22 Can I hear from the other domestic witnesses
23 on that? Mr. Costa?

24 MR. COSTA: They really aren't
25 interchangeable. There are customers that will call

1 up and ask for quotes and they'll look for product and
2 they'll be looking for what we call a number two, what
3 you're calling a number four, because they want it
4 more for protection than looks. They can be used for
5 the same stuff but it's usually the heavier weight,
6 number four or number two is used for protection.

7 CHAIRMAN KOPLAN: Mr. Shafer, Mr. Garlock,
8 are your answers the same?

9 MR. SHAFER: We don't manufacture any
10 dunnage so I couldn't comment on that.

11 CHAIRMAN KOPLAN: Okay.

12 Mr. Garlock?

13 MR. GARLOCK: I have no comment.

14 CHAIRMAN KOPLAN: Mr. Magrath, I come to
15 you. Your pre-hearing brief argues on page two that
16 the data in the final phase of these investigations is
17 less comprehensive than the data in the preliminary
18 phase because certain importers and foreign producers
19 that participated in the preliminary phase ceased
20 participating in the final phase. You got into that
21 again today.

22 You urge, again, that the Commission rely on
23 data presented at the time of the preliminary staff
24 report for all but the nine-month interim comparisons.
25 Can you provide a Commission precedent in support of

1 that argument?

2 MR. MAGRATH: We could research that and
3 supply it in the post-hearing brief. I don't know and
4 I've been doing this, I started out doing this eight
5 years on the ITC staff. I don't know if you've ever
6 really had a problem -- Certainly you have people that
7 drop out in the final investigation. Usually you have
8 more people that fill out questionnaires and
9 respondents and producers in the final investigation.
10 This time it's much much less. So I don't know if
11 you've ever been faced with this kind of, this
12 magnitude of this issue. That's why we're all saying
13 this is such an unusual case.

14 We did a very good job, I thought, in our
15 pre-hearing brief and Ms. Beck is to be credited for
16 this. With going through response by response what
17 the failure to respond by the importers and by the
18 Chinese producers, how that affected the database and
19 how that made the database inadequate and unreliable.

20 We feel the staff agrees with us on this and
21 we know they're pursuing the issue vigorously.

22 CHAIRMAN KOPLAN: I appreciate all that.

23 MS. BECK: Chairman Koplan, can I add one
24 point please?

25 CHAIRMAN KOPLAN: Sure.

1 MS. BECK: Just in that regard and this
2 actually follows up with an earlier question of
3 Commissioner Hillman about the crepe data and in
4 particular on the pricing. This would just be an
5 example of how the under-reporting plays a part.

6 If you go back and compare the prelim to the
7 final, we do think that there could be a package
8 issue, for example, that there are two rolls. But
9 even that aside, if you looked at the actual volumes
10 and you convert it from square meters to pack,
11 particularly in the year 2003 there is a significant
12 under-reporting. And if you happen to compare those
13 quarters, there is underselling in the preliminary
14 investigation but not in the final. So it's
15 definitely a combination of issues.

16 And also to address the volume issue,
17 whether the domestic producers are having to lower
18 their price. If they're having to lower their price
19 to keep the sale or if they're losing the revenue. If
20 you look at the volumes, and again, this is even with
21 the under-reporting. What you're seeing is that the
22 volumes of the Chinese product are going up, up, up
23 each quarter by the U.S. producers' product is going
24 down, and further down each quarter.

25 So just as an example, if that can put

1 things in perspective. Why we feel the preliminary
2 data is important.

3 CHAIRMAN KOPLAN: That is helpful.

4 MR. MAGRATH: Mr. Chairman, I think that for
5 the foreign producers' data in your pre-hearing report
6 there is such a paucity of data that I think the staff
7 did that. They did take a lot of the preliminary
8 information and put it forward into this pre-hearing
9 report.

10 CHAIRMAN KOPLAN: I see my light's about to
11 come on. Let me just say for purposes of the post-
12 hearing, assume for the sake of argument that we don't
13 treat the nine-month interim comparisons the way you
14 suggested. If you can come up with an alternative
15 suggestion I'd appreciate seeing that.

16 For the record, Mr. Magrath, you will --

17 MR. MAGRATH: Yes, sir.

18 CHAIRMAN KOPLAN: -- to respond?

19 Thank you. I'll turn to Vice Chairman Okun.

20 VICE CHAIRMAN OKUN: Thank you. And again,
21 thank you for all the information you've given us.

22 I wanted to return to some price questions
23 and I know both in response to Commissioner Hillman
24 and in your direct you've had an opportunity to talk
25 about some of this and a little bit of it relates to

1 what the Chairman was just asking about. But I did
2 have some other questions.

3 One, maybe first for you Mr. Magrath, even
4 looking at whether there is Commission precedent for
5 treating a lot of the information from the prelim as
6 what we do in the final, and I guess I say all this
7 realizing that it's going to be a different final
8 staff report so some of this, I feel like I need to
9 see what the numbers are at the end to figure out how
10 to treat these arguments.

11 But the one that I wanted to come back to
12 was with regard to pricing. It is often the case that
13 we don't have great pricing coverage even in a case
14 where we have lots of questionnaires because of the
15 nature of the pricing products. And so I just wanted
16 to make sure that I understand from you and I know
17 you've done some of this in your brief, but I also
18 want to make sure that I understand that even if the
19 Commission were to say, okay, we're going to look at
20 this data and we think it's as complete as we're going
21 to get, we can't look at the preliminary pricing data.
22 This is better.

23 What your arguments would be with regard to
24 why we see some of the things, and I know, Ms. Beck,
25 you commented on this, but I also had a question about

1 like product four, where we asked for tissue paper
2 reams, 480 to 500 sheets, 20x30 white. I read the
3 staff report and I understand there are grades of
4 white. Maybe the purchasers can help me. Would we
5 have caught a big range in prices there in just the
6 different, if people were responding for a particular
7 grade of white -- a higher grade versus a lower grade?
8 Is there much of a spread there that might be
9 reflected in product four, for example?

10 MR. TEPE: There would be pricing
11 differences. I'm not that familiar with that dunnage
12 business, if that's what you're referring to. The
13 dunnage to the white, that range?

14 VICE CHAIRMAN OKUN: That 20 product via the
15 480 to 500, 20x30 white.

16 MR. MAGRATH: That shouldn't be in there.
17 The dunnage shouldn't be in product four if it were
18 reported correctly.

19 Let me say, Commissioner, in response to the
20 front part of your remarks. In many investigations
21 you don't have complete price data at the end. The
22 difference here is you did in the preliminary. You
23 did have good price coverage, you did have good
24 responses. You had the major importers here. And now
25 they've taken a powder and we were very satisfied and

1 we thought that the preliminary report accurately
2 reflected the state of the industry and we request
3 that you include this as part of the final record --

4 VICE CHAIRMAN OKUN: There were problems,
5 and again, I'm saying this only because I'm still
6 trying to think about it. But my understanding is we
7 did have problems with how we'd asked questions even
8 about the products. That's the reason why we have
9 packs now and we didn't. Then you have all this
10 conversion going on to do that. That's why it
11 concerns me to say the prelim is the best when we make
12 changes to try to actually make it, it should look
13 better.

14 So I guess what I'm asking for, I understand
15 what your first argument is, but if at the end of the
16 day I want to look at this pricing data, I want you to
17 help me understand why we see, if it continues to be
18 overselling in a number of these products, why? Are
19 there things in how we asked the question? Is it just
20 that -- Again, if it's just the number of importers or
21 the response rate, you have to assume that everybody
22 who would have responded who didn't would have had
23 different pricing practices from the people who
24 responded for it to change, for the trend to change.

25 That's what I'm trying to understand. I'm

1 trying to figure out, or have your help in going
2 through these and saying what is wrong with this
3 pricing data, because even if we had everybody
4 responding I still think it would have been -- I don't
5 know why I would say that it would necessarily change
6 from overselling to underselling if we had a response
7 rate. But you're much more familiar at this point
8 with this data.

9 MR. MAGRATH: Yes, you know, perhaps it has
10 something to do with the switchover to packages. But
11 you just reminded me, the instances of overselling, to
12 the extent they exist here, basically are concentrated
13 in that one product, product two. Number two. More
14 importantly, they are directly at odds with all the
15 general information you collected from purchasers and
16 even from importers in the conditions of competition
17 section where it showed interchangeability and
18 substitutability. The purchasers all said that price
19 was really the only distinction between Chinese and
20 U.S. product and that price was important.

21 That kind of general information came out
22 very clearly. Then you have these anomalies in the
23 prices. That's why we think it must be on the basis
24 of errors made or in these inconsistencies and the
25 lack of response from the preliminary to the final

1 VICE CHAIRMAN OKUN: Again, we'll see what
2 it looks like in the final staff report. The
3 underselling that we see, I don't know if I would just
4 say I think it's this product two. But anyway, at the
5 end of the day there's going to be some different data
6 and I want you to look at it, and if we decide we have
7 to use this pricing data, and I know you've talked a
8 lot about this, what the purchasers had to say is not
9 reflective, and I understand that.

10 What I think we've also tried to get at is
11 is there a price range in there? If their argument is
12 you've got a lot of -- let me ask you this. AUVs.
13 How probative are AUVs in this case? And are they a
14 good proxy for what we should be looking at?

15 MR. MAGRATH: Not very. Because -- in my
16 opinion. All the products before you, a basic white
17 tissue -- The prices in the AUVs are driven a lot by
18 the product mix. The prints versus the plain paper
19 and then the large reams, half reams like sold to Wal-
20 Mart versus the very small packages that are sold at
21 CVS.

22 VICE CHAIRMAN OKUN: Okay. Having said
23 that, if this question was asked then just let me
24 know. But in terms of what is called a specialty
25 product, do you all have a sense of what that

1 definition is? Maybe in response to Commissioner
2 Miller you were talking about some of that, but I want
3 to make sure I understand how big you think the
4 specialty market is that, as Respondents have called
5 it, and what kind of price premiums we're talking
6 about there vis-a-vis other.

7 Mr. Tepe, I guess I'll start with you, but
8 if others have anything they could add.

9 MR. TEPE: We'd be happy to cut the data up
10 any way you'd like it cut up.

11 At one point what I thought the definition
12 with specialty was something that the domestic
13 industry couldn't supply, so therefore they had to go
14 to China.

15 If that's the definition, then it's very
16 very small. Single digit. Two-three percent.
17 There's just not much there.

18 We can make anything. We've made most
19 everything. And frankly, that was a lot of the
20 business that went first.

21 If the definition is multiple colors in a
22 pack, we have a large business in that area, or
23 multiple prints in a pack, or red and green tissue in
24 a pack. I think at one point that was considered
25 specialty tissue. At Christmas time that's obviously

1 a big item that everybody sells, red and green
2 combination packs.

3 VICE CHAIRMAN OKUN: And we'll obviously
4 spend some time with the Respondents on understanding
5 these definitions, but the reason I ask it in
6 connection with these pricing questions is just,
7 again, trying to understand if purchasers on the one
8 hand you can point to and say they said price was in
9 U.S. price inferior, meaning higher; but others saying
10 we couldn't get particular products or buying more
11 specialized. Then I'm trying to understand again how
12 you discount pricing data that we've collected vis-a-
13 vis what is said in response to some of these
14 questions and making sure that I understand what you
15 do produce, what you sell, what it sold for, in the
16 post-hearing I'll be looking for what you have to say
17 on that. So I'll be looking at pricing in particular.

18 Ms. Cannon, just to go back to you, I know
19 you in your remarks had also talked about in terms of
20 like product and had gone through the gift boxes
21 example in your analysis and it was also in your
22 brief, but just for purposes of post-hearing, if there
23 are any other particularly relevant Commission case
24 that you could also go through that, and in particular
25 with regard to the Commission's analysis of something,

1 whether to divide products that are within the scope
2 as opposed to when we are looking to products outside
3 the scope, how the Commission has treated that. I
4 would appreciate continuing to see that for purposes
5 of post-hearing.

6 MS. CANNON: I'll be happy to do that.

7 Let me just add one other point in response
8 to both the question that you and Commissioner Koplan
9 raised about the preliminary versus the pre-hearing
10 report. I want to make our position clear.

11 We're not really arguing that you should
12 throw out the pre-hearing report and rely solely on
13 the preliminary report. Our concern is simply that
14 you look at the data that was more complete in the
15 preliminary report and make sure in your final report
16 that it's included. That would be our preference. In
17 other words, for volume it seems fairly simple where
18 you have importers that reported their volumes at the
19 preliminary stage, but didn't do so here, you should
20 add them in. Even if they don't send you a final
21 questionnaire response for three years. Recognizing,
22 as Chairman Koplan did, that that throws us off on the
23 interim period but at least you know what a volume and
24 market share is for those three years which is
25 presently understated. That's number one, and that is

1 in fact what you did when you looked at the foreign
2 producer questionnaire responses, was you looked at
3 the more complete database and responses from the
4 preliminary stage.

5 With price we have a different issue because
6 of all the problems we've identified here, and we're
7 going to be working to try to rectify those, but in
8 that case I submit there's no reason to throw out the
9 findings that were made preliminarily on a different
10 basis and based on a more comprehensive database, that
11 that could be considered as well, legally.

12 So I don't want to leave it sounding as if
13 we are arguing not to look at your findings which in
14 some respects are more comprehensive at this final
15 stage, but that where there were omissions or apparent
16 inaccuracies in the final that were present in the
17 preliminary where it was more complete, it's perfectly
18 appropriate for you to consider that data in your
19 final analysis as well.

20 VICE CHAIRMAN OKUN: I appreciate those
21 further comments and I will look forward to the post-
22 hearing brief.

23 Thank you, Mr. Chairman.

24 CHAIRMAN KOPLAN: Thank you.

25 Commissioner Miller.

1 COMMISSIONER MILLER: Thank you. I don't
2 have many more questions. My colleagues have covered
3 a number of things I was interested in, including the
4 question about AUVs and the pricing data discussion
5 that you just had with the Vice Chairman. It was all
6 very helpful.

7 One question that I wanted to ask that I
8 just wanted to make sure we heard a full response.

9 Commissioner Hillman asked you to address
10 the arguments the Respondents have made regarding
11 Crystal's sale of the bulk tissue business. Mr. Tepe
12 did respond to it.

13 At the time, Mr. Jones, it seemed as though
14 you wanted to add something about that discussion so I
15 wanted to give you the opportunity to, and to invite
16 you to address the argument more thoroughly in your
17 post-hearing submission, and if you'd prefer to do it
18 there, that's fine too. I can understand that some of
19 it may be sensitive as a business matter.

20 MR. GEORGE JONES: If I can address it in a
21 post-hearing brief I'd appreciate that.

22 COMMISSIONER MILLER: Sure. I appreciate
23 that.

24 With that I have no further questions. I
25 appreciate all the testimony from this morning. Thank

1 you.

2 CHAIRMAN KOPLAN: Thank you.

3 Commissioner Hillman?

4 COMMISSIONER HILLMAN: Thank you. I hope
5 just a couple of quick follow-ups.

6 One, Mr. Tepe, you've said on a number of
7 occasions that you have a number of customers that
8 purchase both for retail and what you're describing as
9 resale or consumer. I know you submitted a list in
10 Exhibit 5 of your pre-hearing brief.

11 As I read Exhibit 5 it is more about whether
12 the product is sold as ream versus fold. I want to
13 make sure those are one and the same. In other words
14 as I read your exhibit it's telling me that anybody
15 that's purchasing in ream form, in essence you're
16 putting over into the purchasing for retail as opposed
17 to the folds.

18 I just want to make sure that's accurate.
19 So to the extent that you're saying you have
20 purchasers that are buying both for use on the retail
21 side and for use on the consumer side, I want to make
22 sure that that's what we actually have before us. So
23 if it's not the same, if there is some distinction
24 here between -- Again, your list, your exhibit, is
25 giving me reams versus folds and I'm not sure whether

1 I'm comfortable saying that's how the world gets
2 divided up. In other words, is it really the case
3 that nobody that's buying folds is in fact a retail
4 user of the product as opposed to nobody buying reams
5 is in fact a consumer?

6 MR. TEPE: I think we have several different
7 categories and we'll detail those later. Thank you.

8 COMMISSIONER HILLMAN: What I'm wanting to
9 make sure is that we do have a list that we can rely
10 on that says who is in fact purchasing both for sale,
11 I mean for use on the retail, bulk side and also
12 selling to the consumer that's going to buy it in a
13 package to take home. I just want to make sure we do
14 have an accurate list of those.

15 A second question on this issue of the
16 pricing data. You've argued in your brief that we
17 should compute the underselling margins using the
18 purchaser prices. In other words, those retailers
19 that are direct importers, we should use that column,
20 if you will, of our pricing data and not look at the
21 more generic purchase data that comes from importers.

22 I just want to make sure those are in fact
23 comparable comparisons. You're asking me to compare a
24 retailer's import price to your prices in making a
25 price underselling analysis.

1 I'm just wanting to make sure there are not
2 other costs or risks that are not reflected in that
3 purchase price, or whether what you're saying is those
4 are in fact fair apples to apples comparisons. What
5 is in essence the first set of columns of U.S. prices
6 compared to the last column in our pricing data that
7 is the direct import prices.

8 Are those fair comparisons?

9 MR. TEPE: The question is is it fair to
10 compare to compare our price to a Chinese price
11 directly to a retailer?

12 COMMISSIONER HILLMAN: Let me try to, again,
13 the problem for you, Mr. Tepe, and others is that the
14 actual number are confidential. So it may be that
15 this is something you have to address in the post-
16 hearing. But as our pricing data is laid out we have
17 first your prices, the domestic industry's prices. We
18 secondly have import prices. We thirdly have the
19 direct retailers who are now directly importing the
20 product. We have those prices.

21 As I understand your brief, you're telling
22 me that I should be comparing column one to column
23 three and that I should be ignoring, leaving out, not
24 looking at the middle column. I want to make sure
25 that in fact those are fair comparisons, to compare in

1 essence what is column one and column three. And this
2 may be more of a question to either counsel or the
3 economists in terms of again, whether --

4 MR. MAGRATH: We're not saying ignore column
5 two, the traditional importer price. We're flagging
6 all these omissions and errors and people reporting
7 the wrong count product and different products than
8 what was asked for in the price descriptors. We think
9 you should look at both. And the third column, the
10 direct import purchase price column, the Commission
11 cannot discount that. That is the targets of the
12 world. That is the way retail consumption in the
13 United States is going. It's going more towards the
14 big box retailers, Wal-Mart, Target, et cetera,
15 directly importing the product rather than working
16 through a person whose total function is to import or
17 through a distributor. So that is a big and growing
18 factor in the market.

19 COMMISSIONER HILLMAN: But again, my
20 question was whether there are costs or risks that
21 would not be reflected in those prices that would
22 therefore make that direct comparison between our
23 column one and our column three not really
24 appropriate.

25 MR. MAGRATH: I think if the people filling

1 out the questionnaire responded the way the
2 instructions were written in the questionnaire, that
3 those should be fair comparisons.

4 COMMISSIONER HILLMAN: Okay. Last question
5 for the brief is, and I understand your arguments on
6 not separating out, treating as one like product the
7 bulk retail product versus the consumer product.

8 Just in case, I just want to hear the
9 argument in your post-hearing brief, if we treat them
10 as two like products I would like you to give me your
11 analysis on whether it nonetheless is an affirmative
12 determination on both. If we were to separate them, I
13 would like to see your analysis of the volume, price
14 and impact factors that we would traditionally look at
15 and would you nonetheless think we should come to an
16 affirmative determination on both of them if we treat
17 them as separate like products? I understand that's
18 not how you want us to look at it, but I want to hear
19 the argument.

20 MR. HARTQUIST: We will do that.

21 COMMISSIONER HILLMAN: Okay. And with that
22 I have no further questions, but I thank you all very
23 much for your answers. It's been very helpful.

24 CHAIRMAN KOPLAN: Thank you, Commissioner.
25 Commissioner Lane?

1 Commissioner Pearson?

2 COMMISSIONER PEARSON: Ms. Cannon, I have a
3 domestic industry question following up on the
4 questions asked earlier by Commissioner Lane and
5 Commissioner Okun.

6 You'll appreciate that my knowledge of the
7 law is somewhat limited, so you no doubt can help me
8 with this. My knowledge of math is pretty good,
9 though, so that's what brings this about.

10 Cleo's financial results were not terribly
11 strong. My question is, if in fact they had been
12 strong, would your argument before us be different?
13 My observation is that Cleo's financial results in
14 some respects make it convenient for you to keep them
15 as part of the domestic industry. So either now or in
16 the post-hearing could you address that please?

17 MS. CANNON: Yeah. I'll address this
18 further in the post-hearing. This is some of the
19 confidential information that I was referring to that
20 I can't discuss publicly. But part of the answer to
21 your question is that within the legal issues that the
22 Commission and the court, there's a recent court case
23 that we've cited in our brief, identify is whether a
24 company is benefitting from imports. In other words,
25 whether its financial position is improved and

1 therefore it's skewing the data precisely because its
2 benefitting from imports. If that is not present then
3 that factor is not met, it's not that it's convenient
4 for us, it's that that's a factor that the Commission
5 and the courts recognize when you decide whether to
6 exclude a related party, is if it is benefitting from
7 the imports then it's excluded. But if it's being
8 injured by the imports and it's just reflective of
9 what others in the industry are doing, it is not.

10 COMMISSIONER PEARSON: Okay. I just wanted
11 to avoid, if possible, the situation in which you would
12 appear in front of us at some point in the future and
13 have to make the opposite argument. No doubt that
14 will all be dealt with in the brief.

15 Another like product question. If the
16 Commission decides that bulk and consumer paper are
17 one product, should we then consider the existence of
18 two channels of distribution as a condition of
19 competition?

20 MS. CANNON: I appreciate that Respondents
21 have made that argument as well, that it's a market
22 segmentation case and frankly it's a lot closer to
23 being a market segmentation issue. That's the way
24 that they've couched it. Then two different like
25 products from all the different products that we

1 brought today, as you see, the products are the same.
2 Their whole basis for distinguishing these is based on
3 market segments. But do I think that's appropriate
4 here? No. Because as we've said there isn't any real
5 difference in the way these products are marketed.
6 You've got the same type of product going into a lot
7 of the same customers for the same reasons and we
8 don't think it's justifiable to segment the market,
9 nor is this a case where imports as you've seen in
10 some other cases, target a particular market segment
11 and for that reason the Commission isolates its focus
12 there.

13 Here the imports are sold broadly across all
14 of these customers. It's basically a customer issue.
15 They sell their customers that buy in bulk, they sell
16 customers that buy for resale to consumers, and
17 they're injuring the domestic industry in all of
18 those customer sales. So for that reason there's no
19 justification for market segmentation approach either.

20 COMMISSIONER PEARSON: Thank you.

21 A question for producers. Do you have a
22 minimum run size? If you are asked to make a small
23 run do you do that with some surcharge?

24 Mr. Jones?

25 MR. GEORGE JONES: Let me talk about it on

1 two levels. Number one, on the paper-making side and
2 secondly on the converting side.

3 On the paper-making side we try to run to
4 inventory of different colors. So if for instance
5 Pete needed one role of parade blue we could sell him
6 one role of parade blue because it would be coming out
7 of stock rather than something we would make
8 particularly for him.

9 We do get requests for custom colors and we
10 do have minimum sup to 5,000 pounds on them, depending
11 on how difficult it is to do them. Some colors we can
12 pump in on the machine and some we have to fill up the
13 whole system.

14 With regard to runs on converting products,
15 we can accommodate both of those as well. We really,
16 I think Ted probably should answer this because I
17 don't exactly know what he's set for levels, but I
18 know that we can accommodate them either on automated
19 equipment for the larger ones or we would do working
20 off the bulk sheeters and doing some handwork. I'm
21 talking about consumer products at that point in time.
22 Our bulk line is basically out of stock, so you can,
23 if you want to have one case of parade blue and one
24 case of a stock design and your credit's good, we'll
25 ship it tomorrow.

1 MR. TEPE: Just to follow up, the minimum
2 order in that particular line is 16 cases across I
3 think there's about 140 different items. A case is a
4 couple of thousand sheets.

5 However, if you're looking for a pack like
6 this, because we have all those sheets in inventory,
7 we supply some stores that are one store, two store,
8 three store chains that want it custom packaged, even
9 with their name on it, so we inventory a supply of
10 bags that we've had pre-printed with their name on it.
11 The polybags might last a year, year and a half, but
12 we'll break open the sheets, and this isn't an
13 example, but it's this size pack and we'd put maybe
14 five or eight sheets in here that would have a custom
15 label for a particular retail store. All we would do
16 then is take a sticker on the back which would be a
17 UPC code that would define red different than blue.

18 We do 500 pieces, 750 pieces per color for
19 stores like that. So we take some very small orders
20 and some very very large orders.

21 COMMISSIONER PEARSON: As a practical matter
22 is there a somewhat higher per sheet cost for a store
23 owner to place a small order than if that owner was
24 placing a larger order?

25 MR. TEPE: There is. Actually to get to

1 sheets, it's really the same cost because we're
2 feeding off of a stock inventory that we've produced
3 at high speed, high volume. But then if they wanted
4 to get into the package, we've got to touch it and
5 that becomes, that adds a significant number to it.
6 But if it's large volume I have different methods of
7 doing it. If it's real large volumes where it's
8 actually going back to the paper machine, there's some
9 savings in there for us also. Again, most of our
10 pricing is really cost plus. It's what does it cost
11 us to do it and we add our mark and go.

12 COMMISSIONER PEARSON: So the industry isn't
13 normally using surcharges as such. It's pricing
14 order by order.

15 MR. TEPE: I think that's the norm, yes.

16 COMMISSIONER PEARSON: Is the shift to on-
17 line retailing having any influence on the demand for
18 tissue paper? For instance, are we seeing more items
19 shipped needing dunnage and fewer items sold that need
20 nice-looking tissue paper?

21 Mr. Tepe?

22 MR. TEPE: I can't say I see it in the
23 numbers, but obviously once it gets to the house, the
24 home, whatever, it's going to be gift wrapped, so the
25 tissue is still there.

1 COMMISSIONER PEARSON: At this point you
2 haven't seen a decline from your traditional retail
3 customers, your retail buyers? They're not losing so
4 much business to on-line selling that it's spilling
5 over into the demand for tissue paper?

6 MR. TEPE: I can't say that we've seen that.
7 In the dunnage side, you mentioned that, I'm just not
8 that familiar with what goes on in that piece of our
9 industry.

10 COMMISSIONER PEARSON: One last brief
11 question for Mr. Shafer. You had mentioned earlier
12 that some product had come in from China that, if I
13 understood correctly, had your company's trademark on
14 it inappropriately. Have you considered filing a 337
15 case to address that?

16 MR. SHAFER: Yes.

17 COMMISSIONER PEARSON: Okay. I'll look
18 forward to it if it ever comes.

19 Mr. Chairman, I have no further questions.

20 CHAIRMAN KOPLAN: Thank you.

21 MR. HARTQUIST: Commissioner Pearson, if I
22 could just make an observation. Your questions lead me
23 to believe that you may be considering setting up the
24 Pearson Paper Company, and if so I would suggest you
25 wait until after the Commission's vote to make any

1 significant investment.

2 (Laughter)

3 COMMISSIONER PEARSON: Yeah, and I would
4 really struggle with the conflict of issues there so I
5 probably will delay for a good long while. Thank you.

6 CHAIRMAN KOPLAN: If it's all the same to
7 you, Mr. Hartquist, it took two years. I'd just as
8 soon keep him here for awhile.

9 MR. HARTQUIST: Agree.

10 CHAIRMAN KOPLAN: Let me come back to a
11 question that I asked earlier in my last round about
12 the share of sales of tissue paper that's accounted
13 for by I guess what we've called for protective
14 purposes only. Mr. Costa described it as number two
15 product and Mr. Moreland of Citipaper described it as
16 number four tissue paper. I didn't really get an
17 answer to the question of what share of all sales that
18 particular product is accounted for that's not
19 interchangeable with consumer tissue paper and I think
20 it's probably because neither Citipaper nor Wago
21 Chemical is here today. They're not represented here.

22 I'm wondering whether you can get that
23 information for me for purposes of the post-hearing,
24 Mr. Hartquist or Ms. Cannon?

25 MS. CANNON: We can try to do that.

1 CHAIRMAN KOPLAN: That would be helpful if
2 you could.

3 Coming back to the domestic witnesses.
4 Cleo/Crystal's pre-hearing brief states on page eight
5 that, and I quote, "A review of the company's 30
6 largest customers each year for consumer tissue annual
7 sales 2001-2004, and for bulk tissue annual sales
8 2001-2003, discloses no overlap whatsoever in these
9 customer lists."

10 Is that basically the case? Or are large
11 purchasers of bulk tissue also large purchasers of
12 consumer tissue paper?

13 CHAIRMAN KOPLAN: Mr. Tepe?

14 MR. TEPE: You said the time was 2001 to
15 2003?

16 CHAIRMAN KOPLAN: Yes.

17 MR. TEPE: Large purchasers of bulk
18 tissue -- I think Target is an example of a large
19 purchaser of bulk tissue and resale tissue. That's
20 one that was mentioned earlier.

21 CHAIRMAN KOPLAN: Anybody else?

22 MR. TEPE: I'm sure there's other. We have
23 a list of retailers who buy both reams and folds. Do
24 you want to go down through that list? No.

25 CHAIRMAN KOPLAN: Did you want to submit

1 that?

2 MR. TEPE: We believe it is submitted.

3 MS. CANNON: That's an exhibit to our
4 prehearing brief --

5 CHAIRMAN KOPLAN: Okay.

6 MS. CANNON: -- which identifies their
7 customers that make folds versus reams.

8 CHAIRMAN KOPLAN: Okay. Anybody else?
9 Okay. If not, let me ask you one more. Do you agree
10 with the Respondents' contention that demand for bulk
11 tissue paper is gradually declining while that for
12 consumer tissue paper is increasing? Mr. Costa?

13 MR. COSTA: Again, I don't know whether the
14 consumer is increasing. With the customers that I
15 have, I'm not seeing a reduction in their use of bulk
16 tissue.

17 CHAIRMAN KOPLAN: Okay. Mr. Tepe?

18 MR. TEPE: I don't believe it is declining.
19 As a matter of fact, I think this Christmas, the
20 department store business is showing better numbers --
21 I think it was Wal-Mart was the one major retailer
22 that had numbers that were down at the end of
23 November, and the upscale department stores, I think,
24 were doing better. I think that's one indication of
25 ream sales. So from what we've seen, we don't believe

1 that's the case.

2 CHAIRMAN KOPLAN: Mr. Shafer?

3 MR. SHAFER: Well, although this is a mature
4 market, there is still growth related to population
5 and demand as well, and our numbers are reflecting
6 that.

7 CHAIRMAN KOPLAN: All right. Mr. Garlock?

8 MR. GARLOCK: We've actually seen a major
9 increase in bulk sales this year. What we are seeing
10 is a lot of the in-store-use tissue where they are not
11 putting company logos on anymore, but they are putting
12 designs and also utilizing color tissue with prints.

13 CHAIRMAN KOPLAN: Thank you for that. I
14 have no further questions. I want to thank you all
15 very much for your responses this morning, and I'll
16 turn to Vice Chairman Okun. Then I'll turn to
17 Commissioner Miller. No other questions from the
18 dais?

19 All right. Mr. Corkran, does staff have any
20 questions of this panel?

21 MR. CORKRAN: Douglas Corkran, Office of
22 Investigations. Thank you, Mr. Chairman. Staff has
23 no additional questions.

24 CHAIRMAN KOPLAN: All right. Mr. Ikenson,
25 do you have any questions of this panel before we

1 release the witnesses?

2 MR. IKENSON: I have none.

3 CHAIRMAN KOPLAN: Okay. Well, with that, I
4 guess that concludes the first half of our hearing
5 today. I want to thank you all for your testimony.
6 We will break for lunch until two-twenty. How is
7 that, Madam Vice Chairman? Does that work? Okay.
8 And I want to remind you that the room is not secure,
9 so any business-proprietary information that you have
10 with you, you should take. See you back here at two-
11 twenty.

12 (Whereupon, at 1:17 p.m., a luncheon recess
13 was taken.)

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1 witnesses for Target, and I would turn the
2 introductions over to my esteemed colleague, George
3 Thompson.

4 MR. THOMPSON: Good afternoon, Mr. Chairman
5 and members of the Commission. My name is George
6 Thompson from the law firm, Neville Peterson,
7 appearing on behalf of Target Corporation. I'm
8 accompanied today by two fact witnesses from Target,
9 Deborah Kelley and George Vollmer, as well as two
10 members of Target's general counsel's office, Tony
11 Demski-Brandl and Hollie McFarland. Thank you.

12 MR. IKENSON: Thank you. With that and your
13 permission, Mr. Chairman, I would ask Mr. Kelly to
14 introduce himself and to present his testimony.

15 MR. KELLY: Good afternoon, Mr. Chairman,
16 members of the Commission, and Commission staff. I am
17 Andy Kelly, president of Cleo and its subsidiary,
18 Crystal Creative Products, both of which are
19 headquartered in Memphis, Tennessee. Prior to my time
20 at Cleo, I was president at Crystal Tissue from 1995
21 to 1999.

22 I have been an executive in the tissue
23 business for the past 14 years, including production,
24 converting, purchasing, sales, and product
25 development. I'm here to present our company's

1 perspective on issues before the Commission in this
2 antidumping investigation.

3 Cleo and Crystal are part of CSS Industries,
4 a listed company on the New York Stock Exchange.
5 Through its subsidiary, CSS, it's engaged in the
6 design, manufacture, procurement, and sale of seasonal
7 and social-expression products to mass-market
8 retailers. Cleo and its subsidiary, Crystal,
9 specializes in providing gift wrap, gift bags, and
10 decorative gift tissue to stores for resale to
11 consumers. Cleo's sister companies, Lurik Offre and
12 Paper Magic Group, specialize in ribbons and bows,
13 seasonal box greeting cards, paper decorations, as
14 well as other related products. CSS employs well over
15 4,000 people in the United States at our seasonal
16 peak.

17 While the petition treats the tissue in this
18 proceeding as one single product, the petition
19 actually encompasses two distinct tissue product
20 lines, namely, retail packaging or bulk tissue which
21 is purchased by retailers or merchants as a supply
22 item for in-store packaging and consumer tissue
23 purchased by retailers as merchandise for resale to
24 consumers for decorative gift presentation in their
25 homes.

1 Because of their different end uses, there
2 are significant physical production and marketing
3 differences between bulk and consumer tissue. For
4 example, bulk tissue is usually sold as flat sheets in
5 reams that commonly contain 480 sheets, and it
6 requires only functional packaging and poly bags. In
7 fact, Cleo-Crystal's experience when we were involved
8 in the bulk tissue business, more than 99 percent of
9 our bulk tissue was sold in reams of 480- or 500-sheet
10 count.

11 This exhibit, marked Exhibit A, is an
12 example of a ream of tissue not packaged for resale to
13 consumers. It contains no prepricing labeling or
14 other information that you would typically find, or is
15 required to be, on packages of consumer tissue.

16 Consumer tissue, on the other hand, normally
17 is sold folded in relatively small quantities,
18 generally five to 40 sheets. It is attractively
19 packaged and customized for the retailer, taking into
20 account such customer-specific factors as color, color
21 mix, artwork, and packaging requirements.

22 These packages, marked Exhibits B and C, are
23 examples of various types of consumer tissue that we
24 sell. This would be a 4-by-10 pack, an 8-by-20 pack
25 with multiple-step folding and designs in the same

1 pack, and here would be samples of other 4-by-10 packs
2 with mixed tissue, dye cutting, Mylar sleeves, and
3 tissue all combined. As you can see, the dye cutting
4 is very sophisticated rather than just a simple
5 scalloped edge. Here you have the dye-cut tissue,
6 which is actually in the interior of the tissue as
7 well, mixed with Mylar.

8 Production of bulk tissue is relatively
9 straightforward, consisting principally of processing
10 jumbo rolls of tissue paper through a sheeter that
11 cuts the rolls into sheets, then stacks and seals the
12 sheets and bags them. In some instances, there is
13 printing or coating before the cutting process.

14 Production of consumer tissue is a more
15 involved process, which starts with preproduction
16 design of the tissue and its packaging. Manufacturing
17 of consumer tissue from jumbo rolls requires not only
18 cutting but folding, collating, and packaging
19 operations that are not performed for bulk tissue, as
20 well as special decorative treatments for many
21 products, such as dye cutting, spot glitter printing,
22 and hot stamping.

23 Consumer tissue is sold to retailers
24 prepackaged for sale to the consumer. Packages may
25 contain different quantities of a single color or a

1 combination of colors and types of tissue.
2 Possibilities include white, colored tissue,
3 rotogravure printed, dye-cut, hot-stamped, and glitter
4 tissue and also sheets of nonsubject merchandise, such
5 as Mylar, fabric, and nonwoven paper, as well as
6 polypropylene.

7 Consumer tissue products require a
8 significant lead time, as retail customers and Cleo
9 develop concept and artwork for the tissue, as well as
10 customized packaging. Cleo works with its customers
11 to jointly plan gift-packaging sales programs that
12 include different configurations for each customer.
13 In order to be competitive, Cleo must offer on-trend,
14 sophisticated design concepts, quality products, and,
15 most importantly, on-time delivery. Indeed, given the
16 highly seasonable nature of the product, reliability
17 of delivery is a very narrow window and is absolutely
18 crucial.

19 I want to emphasize that Cleo is not in the
20 business of selling a standard line of tissue products
21 from stock. We don't sell out of a catalog. We don't
22 have a swatch book, and we don't ask a customer to
23 choose a stock design out of what inventory we may or
24 may not have.

25 The customer selects the number of sheets

1 per package, the size of each sheet, whether the
2 package contains sheets having all the same colors or
3 all the same printed design, or whether the package
4 contains an assortment of sheets having different
5 colors and/or designs in a single package. The
6 customer selects the ultimate dimensions of the
7 packaging, which, in turn, dictates the number of
8 times the tissue needs to be folded to achieve the
9 desired dimensions.

10 The customer selects the artwork that will
11 appear on the outside of the package and the number of
12 packages per case. The customer also selects the
13 artwork that appears on the carton in which the
14 individual packages are displayed for sale on the
15 retailer's shelf.

16 When all of these variables are taken into
17 account, we typically have an excess of 1,600
18 individual items in our tissue paper product line.
19 Additionally, the demand for tissue paper products is
20 highly seasonal, with peak demand associated with the
21 Christmas season. These two dynamics, customization
22 and seasonality, result in a highly compressed
23 production cycle.

24 Typically, the sale cycle for seasonal
25 tissue products begins approximately 18 months in

1 advance of the holiday itself. About 90 percent of
2 our printed-tissue offerings are new each year. It
3 ordinarily takes several months before we receive
4 information from customers as to the tissue products
5 they intend to purchase, and when the information is
6 received, it's received in stages, not all at once.
7 For instance, a customer may indicate only the design
8 and colors it intends to purchase. I'll refer to this
9 as Stage 1 of the sale cycle.

10 Later in the sale cycle, we may receive
11 information as to the number of sheets and the
12 particular colors and the designs to be included in
13 each tissue package. I will refer to this as Stage 2.

14 Still later in the sale cycle, we will
15 receive in information as to the artwork to be printed
16 on the packaging and the displayer cartons. I will
17 refer to this as Stage 3 of the sale cycle.

18 The sale cycle is incompatible with the
19 converting processes used by domestic producers that
20 are highly automated because domestic producers
21 ordinarily complete the cutting, folding, and
22 packaging process in line, or desire to do it that
23 way, as part of one continuous operation. This means
24 that the U.S. producers cannot begin production at
25 Stage 1 when we receive the color and design

1 selections or even at Stage 2 when we receive
2 information on the particular number of sheets per
3 package and the colors and designs to be included in
4 each package. Rather, converting cannot commence
5 domestically until we reach Stage 3, meaning that we
6 must receive the customer's artwork for packaging and
7 packaging dimensions before converting can commence
8 due to the automation.

9 This results in elongated periods of time
10 when converting equipment is either not utilized or
11 utilized at less than full capacity. It also results
12 in significant constraints on production capacity
13 during peak periods, given that converting must be
14 completed in time to have product on retailers'
15 shelves to satisfy seasonal demand.

16 In contrast, the sale cycle that I described
17 actually dovetails with the converting processes
18 utilized by Chinese producers. Chinese producers
19 typically complete the cutting, folding, and packaging
20 operations separately. So to supply the seasonal
21 Christmas market, we can have the Chinese producer
22 begin the cutting process at Stage 1 when we have the
23 color and design selection from the customer. The
24 Chinese producers are then able to complete the
25 collating and folding operations at Stage 2 and the

1 packaging operation at Stage 3.

2 The flexibility offered by the Chinese
3 producers' staged production process ties to the
4 natural sales cycle for these consumer tissue products
5 and enables us to provide maximum flexibility for our
6 retail customers to finalize their packaging needs,
7 all of their components, and even their artwork
8 decisions to coordinate across their line.

9 Let me give a little background with respect
10 to Cleo's role prior to our acquisition of Crystal and
11 the global tissue paper market. Cleo has been
12 involved in the manufacturing of wrapping paper for
13 over 40 years in Memphis, Tennessee, and tissue paper
14 for over 30 years. In the late eighties and early
15 nineties, at our manufacturing facility in Memphis,
16 Cleo had more than 100 pieces of machinery dedicated
17 to the manufacture of gift wrap and only one dedicated
18 to the manufacture of consumer tissue folds.

19 With so much of its resources focused on the
20 manufacturing of wrapping paper, Cleo determined that
21 it would be more efficient to outsource its tissue
22 paper production. In 1993, Cleo entered into an
23 agreement with Petitioner Seaman Paper whereby Cleo
24 leased its tissue folder to Seaman with the
25 understanding that Seaman would supply Cleo with its

1 tissue requirements. The corresponding lease and
2 supply agreements, which became effective in 1994,
3 were extended through the end of 2000. During that
4 period, Cleo's tissue paper requirements were met
5 exclusively, or nearly exclusively, by Seaman.

6 Relations between Cleo and Seaman became
7 strained under this arrangement for a variety of
8 reasons, including late delivery, production by Seaman
9 for a competitor of Cleo's using Cleo's equipment, and
10 general nonresponsiveness to the evolving product
11 requirements of Cleo in the marketplace.

12 First, the seasonality of the tissue market
13 demands that deliveries be on time. Cleo's
14 relationship with its customer is similarly dependent
15 on prompt delivery by customer-specified dates. Late
16 deliveries by Seaman caused stress and strain in
17 Cleo's relationships with its customer as to whether
18 Cleo could timely meet their supply needs.

19 Second, Cleo became aware that Seaman was
20 using Cleo's tissue folder to manufacture consumer
21 tissue for sale to Cleo's customers and direct
22 competitors.

23 Finally, Seaman was not responsive to Cleo's
24 specific requirements with respect to the timing of
25 production. For example, Seaman insisted that Cleo

1 provide forecasts of its requirements for printed
2 tissue or for any tissue in advance of the time when
3 Cleo would receive commitments from its customers.
4 Thus, Seaman expected Cleo to guess as to the
5 customer's product selections, and to the extent that
6 Cleo's guess was wrong, Cleo was responsible for
7 purchasing the tissue that it did not need.

8 Alternatively, if Cleo refused to provide
9 such forecasts, Seaman indicated that they would not
10 meet the delivery dates required by Cleo's customers,
11 the reason being that Seaman did not have adequate
12 production capacity to meet the needs during periods
13 of peak demand.

14 Given these issues and given that Cleo's
15 consumer tissue sales were trending downward at the
16 time, Cleo became increasingly concerned over the lack
17 of competitiveness resulting from being locked into
18 Seaman as our source of supply. Cleo gave Seaman
19 notice of termination of the lease agreement in late
20 2000. This termination also had the effect of
21 terminating the supply agreement.

22 Cleo advised Seaman that it was developing
23 an alternative source of supply in China for a portion
24 of its needs and that it no longer planned to sole
25 source its requirements with Seaman but indicated that

1 it would continue to make substantial purchases from
2 Seaman. Seaman's response was that it would not sell
3 product to Cleo if we were going to purchase tissue
4 from China. Since Cleo had determined that it needed
5 an additional source of supply in order to overcome
6 problems encountered with Seaman, this meant that
7 Seaman was no longer available as a supplier to Cleo
8 due to Seaman's position requiring all or none of
9 Cleo's business.

10 In 2002, Cleo was presented with an
11 opportunity to acquire Crystal Creative Products, a
12 designer, manufacturer, and marketer of convenience
13 gift-wrapped products, including gift tissue, gift
14 bags, and related specialty products. In addition to
15 its design and marketing assets, Cleo owned and
16 operated a plant in Maysville, Kentucky, at which it
17 converted purchased jumbo tissue rolls into consumer
18 tissue products and also bulk tissue products.

19 At a different plant, Crystal also
20 manufactured battery tissue, a product line that Cleo,
21 at the time, did not intend to pursue.

22 Cleo made the decision to purchase Crystal
23 with the full expectation of integrating it into
24 Cleo's other businesses. At the time of acquisition,
25 it was Cleo's plan for the next year to produce

1 approximately 80 percent of its requirements at the
2 Maysville, Kentucky, facility.

3 Prior to being acquired by Cleo in October
4 of 2002, Crystal was under common ownership with the
5 company that owned and operated a paper mill that
6 supplied Crystal with jumbo tissue rolls used by
7 Crystal in its converting operation. While Cleo did
8 not purchase the paper mill as a condition of
9 purchasing Crystal, Cleo required the mill to enter
10 into an agreement to supply jumbo tissue rolls to
11 Crystal during the 2000 calendar year with options to
12 extend the agreement beyond 2003.

13 However, in early 2003, less than four
14 months after Cleo's purchase of Crystal, the mill
15 announced that it was closing due to the loss of a
16 major customer for commodity paper products, a 30-
17 pound craft paper, not tissue, for a domestic
18 converter. Therefore, I was notified that it was
19 unable to fulfill its 2003 supply obligation to
20 Crystal.

21 Shortly thereafter, the printer that
22 supplied Crystal rotogravure tissue became unavailable
23 or closed as well. This supply lost occurred at a
24 time when Cleo was facing the need to start running
25 production for the upcoming Christmas season.

1 Production was already underway to ensure that Cleo
2 could meet its customers' commitments. Burrows, the
3 only domestic producer of both colors and whites that
4 was not a competitor, was not able to produce enough
5 tissue paper to meet Cleo's requirements.

6 At that time, Crystal was sourcing a limited
7 amount of its folded-tissue requirements from a
8 supplier in China. Given the loss of tissue roll
9 supplier, as well as the rotogravure printer, both of
10 which we had relied on for the Maysville converting
11 plant, and the urgent need to quickly secure a stable
12 product supply, Crystal decided to place its entire
13 consumer tissue program with the Chinese supplier and
14 to close the Maysville plant. The Maysville plant was
15 closed in October 2003.

16 In July 2003, Cleo sold its bulk tissue
17 business to Seaman, or retail packaging. That
18 business was not profitable or attractive to Cleo
19 because of the razor-thin profit margins. The low
20 margins were not caused by imports but by aggressive
21 pricing by Seaman. The sale to Seaman included bulk
22 tissue sheeting equipment, bulk tissue inventory,
23 customer lists unique to the retail packaging, and use
24 of the Crystal name in the bulk tissue market for one
25 year.

1 In connection with this sale, we entered
2 into an agreement with Seaman in which we agreed not
3 to compete with Seaman in the bulk tissue business
4 sector, thus leaving us solely in the consumer tissue
5 market.

6 Upon the filing of the petition initiating
7 this antidumping investigation in February 2004, Cleo
8 once again had to grapple with instability in its
9 tissue paper supply. As a result of the great
10 uncertainty now hanging over the marketplace, Cleo had
11 to explore other options and take further actions to
12 ensure its ability to meet customer obligations. Cleo
13 explored alternative foreign tissue sources in China
14 and elsewhere. Cleo also secured sources of jumbo
15 rolls, both domestically and from China, for
16 production of consumer tissue at the Maysville plant.
17 Our domestically supplied jumbo rolls have come from
18 Burrows, but Burrows has not been able to meet all of
19 Cleo's supply needs.

20 The jumbo rolls purchased from the Chinese
21 sources were subject to a lengthy qualification
22 process. For example, product ordered in April was
23 not delivered until August. Through this combination
24 of imported and domestic supply of jumbo rolls, the
25 Maysville plant has been operating since April 19,

1 2004.

2 Consumer tissue is not a standalone product
3 but is part of a product line that also includes
4 color- and design-coordinated gift bags, gift wrap,
5 ribbons, and even tags. Here is an example of
6 coordinated items of bags, tissue, wrapping paper,
7 ribbons. This is marked as Exhibit E. Here would be
8 the wrap. Here would be a matching tag, the matching
9 tissue, the matching tissue in a different format, and
10 a coordinated gift bag. Matching these colors across
11 the line, I'm sure Target will tell you, is extremely
12 crucial to meeting their needs and requirements.

13 I also want to show you a sample of -- there
14 was testimony earlier that typically when there is
15 printed tissue that there is not much of it sold, so
16 it's usually mixed in with red or white tissue and
17 might be a 20-sheet count, I believe, was what the
18 testimony was. This is a 60-sheet, step-folded,
19 printed package produced for Wal-Mart, which is one of
20 their best-selling items. You can imagine what the
21 volume is on this each year. This is marked Exhibit
22 F.

23 The growth in demand for consumer tissue
24 paper is directly related to the growth and the
25 popularity of gift bags as an alternative to

1 traditional wrapping paper. In fact, the gift wrap
2 market is stable or at a slight decline.

3 These products are becoming more
4 sophisticated each year, and Cleo must keep up with
5 the trends in order to maintain its position as the
6 market leader not only for tissue but for our entire
7 gift-packaging line. We have found that our present
8 supplier in China provides the type of support,
9 flexibility, and responsiveness for our business that
10 we need in order to effectively serve customers in
11 this environment.

12 First, let's discuss responsiveness to our
13 sophisticated product line. Cleo designs seasonal
14 programs and maintains a showroom to display our
15 concepts to customers, and we work with customers to
16 create the package they wish to purchase. This past
17 year, we had over 50 customers come to our facility
18 into our showroom in Memphis, Tennessee. Those would
19 all be major retailers. Products include packages of
20 plain white tissue, packages of colored tissue,
21 packages containing a combination of white and colored
22 tissue, and packages containing a combination of
23 tissue and sheets of Mylar, fabric, and nonwoven
24 products. In addition, sheets may be dye cut,
25 embossed, holographic, spot decorated with glitter,

1 rotogravure printed, or hot-stamp printed.

2 Our Chinese supplier is able to provide
3 virtually any combination desired by our customer.
4 Domestic suppliers do not offer certain types of
5 sheets, such as hot stamped, -- or rotogravure
6 printed, and they are not set up to do the collating
7 necessary to provide these combination packages.

8 It is our belief that rotogravure printing
9 using solvent inks allows you to do a much better job
10 with golds and the silvers, and you can imagine, with
11 the Christmas season being our primary focus, that
12 gold and silver are key components of the holiday
13 tissue designs. Mr. Garlock testified that in the
14 early 2000's his printing process, flexographic, was
15 not as good as rotogravure. In addition, the
16 rotogravure printing process in China uses much more
17 lightweight equipment than the domestic industry.
18 Furthermore, Chinese producers are willing to print a
19 much smaller, raw material roll than the domestic
20 industry is typically.

21 In contrast, domestic producers do not
22 perform rotogravure printing, and they print a much
23 larger roll, typically 500 pounds. So the flexibility
24 is there to not have to create as much sales to
25 justify customizing something for someone, which is

1 what our customers want. The Chinese offer more
2 flexibility to customize small production runs.

3 Not only the tissue but the package is an
4 inherent part of the product. Our retail customers
5 wish to present the most attractive packaging to
6 consumers and take great care in designing the printed
7 portion of the package to advance their own program
8 concepts. While the domestic industry has largely
9 automated the packaging process, per the testimony of
10 Mr. Jones, this automation limits packaging choices
11 available to the customers for their merchandizing
12 needs. It has effectively increased capacity
13 constraints during production times.

14 Here is an example of tissue folds in an
15 automated package that is not as aesthetically
16 appealing as a resealable package from China. It's
17 marked as Exhibit G. As you can see, it has a seam
18 down the back, the header is not printed, and the
19 package is not a tight seal at all, but it does go
20 across an automated line.

21 In contrast, here would be the sample of
22 what Target has told us that they desire. They want a
23 package that has the header printed, has a resealable
24 package. You open it, take the tissue out, even with
25 one arm, and put the tissue back and save it for the

1 next time that you're going to decorate a gift if you
2 don't want to use all of your tissue. That's not
3 offered on an automated, in-line process.

4 The reason that the domestic industry is
5 pushing towards automation is that, as Mr. Tepe
6 testified, they are interested in running their paper
7 machine and their equipment 24/7, 360 days a year.
8 They think capacity, got to fill the paper machine.
9 However, it's not what the retailers or the customers
10 desire or want; it's what Seaman has the capability to
11 manufacture.

12 In the Chinese production process, the
13 printing, the folding, and the packages are all
14 separate production steps, so to supply the seasonal
15 Christmas market, we're able to do forecasting with
16 the Chinese, have them go ahead and make up paper
17 ahead of time so when we do get final information or
18 in stages, as late as August in some cases, to ship
19 within 30 to 45 days, they are ready to go.

20 Domestically, we were at an extreme
21 disadvantage, especially with the majority of our
22 needs falling during the peak Christmas period.
23 Basically, the domestic industry is geared more
24 closely to what its equipment can produce rather than
25 what the marketplace demands or wants.

1 I want to thank you for your attention. I
2 hope that my comments have added to the Commission's
3 understanding of the consumer tissue market as
4 perceived by companies that have a direct interest and
5 a longstanding participation in that market, and I'll
6 be pleased to respond to any questions you have.

7 CHAIRMAN KOPLAN: Thank you, Mr. Kelly.

8 Mr. Ikenson, the secretary has informed me
9 that Petitioners would like to see Exhibit F. Perhaps
10 if you could just hand that back now, it will save
11 time later.

12 MR. IKENSON: May I ask for a time check,
13 please, Mr. Bishop?

14 MR. BISHOP: You have 31 minutes remaining.

15 MR. IKENSON: I would like to turn this over
16 to Ms. Kelly to Target, please.

17 CHAIRMAN KOPLAN: Certainly.

18 MS. KELLEY: Good afternoon. I'm Deborah
19 Kelley, senior buyer for greeting cards, stationery,
20 and gift wrap for Target Stores.

21 Target Stores is a division of the Target
22 Corporation and is one of the largest mass-merchandise
23 retailers in the United States.

24 CHAIRMAN KOPLAN: Could you move the
25 microphone a little closer, please?

1 MS. KELLEY: Sure. In 2003, Target Stores
2 operated over 1,200 stores and sold over \$40 billion
3 in merchandise. My responsibilities in this position
4 include the purchase of consumer tissue paper
5 products, which is subject to this investigation.

6 I have held this position for eight months.
7 Prior to holding this position, I worked for 16 years
8 at Spiegel Catalog, which is one of the largest
9 specialty catalogs in the United States. I held
10 positions in buying for 10-plus years. In my last
11 position, I was the divisional vice president of
12 product development and design for the Home Team. In
13 this position, I had responsibilities for design and
14 trend direction, which included shopping the
15 marketplace looking for consumer direction for color
16 and pattern preference and behavior, sourcing,
17 merchandizing, financial, and team development. I
18 draw upon all of my experience at Spiegel in my
19 current position.

20 I would like to start my comments by first
21 addressing our purchases of bulk paper. Earlier, my
22 colleague, Anita Rooney, testified that Target
23 Corporation purchases bulk tissue paper for use at its
24 checkout lanes. I would like to restate that bulk
25 products are purchased by a completely different

1 organization within Target, nonretail procurement.
2 This group purchases office and store supplies for
3 Target Corporation. Nothing this team sources is made
4 available for sale in our retail operation.

5 Bulk tissue paper is given away to guests
6 with purchases to wrap merchandise at the checkout,
7 particularly fragile items. Bulk tissue, besides not
8 being for sale at the store, is also packaged
9 differently than consumer paper, being delivered to
10 the store in a plain-brown box that contains a ream of
11 paper. Bulk paper is traditionally associated with
12 high-end retailers who use it to wrap many purchases,
13 including clothing and fragile items. These stores
14 have been fighting to maintain market share as
15 discount department stores have grown over the past
16 decade. It seems logical to think that with their
17 declining sales, those purchases of supplies would
18 also decline.

19 I would like to discuss consumer paper. In
20 2001, Target introduced an entirely new marketing
21 concept to the gift-giving market. This innovative
22 concept introduced a fully coordinated, mix-and-match
23 color program. Prior to this time frame, while most
24 of these products were available to the consumer, or
25 "guests," as we call them at Target, the creativity of

1 making a unique gift-giving presentation was left up
2 to them. The old presentations did not necessarily
3 coordinate easily or in a way that encouraged
4 incremental sales.

5 The average guest wants to be creative but
6 doesn't really know how to go about doing it. The
7 whole idea of creating your own gift package has taken
8 off since 2001. All of Target's growth in the
9 consumer tissue paper has come from these innovations.
10 This marketing trend is evident in other areas as
11 well: scrapbooking, personalization, create your own,
12 a resurgence of art kits for kids and teens, and the
13 do-it-yourself programs we all watch on HDTV.

14 Another trend that has been evolving is the
15 trend toward gift bags. The Target guests have shown
16 a preference for gift bags in place of the more
17 traditional roll wrap. We have experienced a 20
18 percent decrease in roll wrap over the past three
19 years while during the same period, floor space for
20 gift bags has grown by over 20 percent.

21 Our purchases of consumer tissue paper are
22 essentially broken down into three programs: Value
23 Basics, Special Occasion, and Holiday. I would like
24 to show you some photographs of our Value Basics
25 program, which is just one aspect of the innovation I

1 just mentioned. On the bottom, they all say "VB-1,"
2 and then there will be numerous photographs.

3 In this program, we offer up to eight colors
4 that include both warm and cool tones. The sections
5 are set up to overlap to show color coordination and
6 synergy, and that's how the programs developed. We
7 are educating our guests on ways to mix and match and
8 express their creativity with their own personal gift
9 package.

10 The Value Basics program is, on average, 25
11 percent larger than our average planigram. This
12 program encourages our guests to buy various
13 components in the same or coordinating colors. They
14 can easily mix and match, add ribbons, bows, tissues,
15 and tags to address each of their needs. There are
16 different statements, or "stories," as we call it, to
17 address most of our guests' lifestyles and address all
18 ages. In other words, we offer masculine and feminine
19 statements, bold statements and more subtle
20 statements. We offer the basic and fashion colors and
21 add seasonally appropriate colors during specific time
22 frames. This presentation creates a color story that
23 creates a lot of energy and excitement.

24 The product is available in our Value Basics
25 program and makes sense to the guest. For example,

1 the guest might purchase a big, blue bag here for a
2 specific gift, and we make sure that she has all that
3 she needs to complete the gift wrap that's available
4 to her. There's tissues that coordinate with the bag,
5 and it's packaged with the right amount of sheets to
6 fill the bag. There's also gift tags, dimensional
7 stickers, and bows available for her.

8 Offering this complete, coordinated
9 selection encourages the guest to buy these
10 incremental items to personalize the gift wrap. For
11 another guest, the Value Basic assortment could be the
12 perfect way to coordinate multiple gifts. She might
13 buy a large, solid bag and put the coordinated,
14 individually wrapped gifts inside with tissue at the
15 top for color and texture, and then add a bow to the
16 bag. This is value at the same time being trend-
17 right.

18 Beyond the Value Basics program, Target has
19 introduced significant innovations in its Better-Best
20 party wrap. We introduced design elements that were
21 previously only available at high-end stationery
22 shows. We'll show you two different stories. One is
23 a pink story that we put together, and then one is a
24 birthday story that is orange, and it all color
25 coordinates.

1 These gift-wrapping products include unique
2 bows and curl swirls that feature colors or patterns
3 that coordinate, gift bags that have higher- quality
4 features, such as cords or fabric handles. The
5 treatments to the paper used in the gift bags and wrap
6 include glitter, beading, fringe, and hot stamping;
7 coordinated tissues that have specialized treatments,
8 such as glitter and hot stamping, and also a variety
9 of other embellishments. We believe that this
10 selection is trend-right with color combinations that
11 go beyond the norm. Each section tells a cohesive
12 story of coordination in pattern and color.

13 This is something unique to Target, as other
14 retailers at mass do not offer such elaborate
15 assortments. This builds on Target's promise of
16 expect more, pay less. These items are not purchased
17 by our guests as a commodity to be retrieved out of
18 the closet for any event but, instead, are designed to
19 add the finishing touches to a special occasion. And
20 I have also got pictures of these planigrams to show
21 you also.

22 Both programs begin with the development of
23 the concepts. This process begins by trend shopping
24 with our design team. I have my own dedicated design
25 team which trend shops, designs, and gives direction

1 to our vendor partners. They literally shop fashion
2 all over the world so that we can forecast what the
3 hottest fashions in gift giving will be for the next
4 year. Target simply would not purchase our Better-
5 Best tissue paper from a stock selection offered by
6 any vendor.

7 After we have made an evaluation of the
8 fashion trends, we work with our design team to create
9 objectives for the entire program. Our objectives
10 encompass goals, themes, or stories and any additional
11 components. Specifics that are given to the vendor
12 for our Value Basics program include the PMS colors,
13 designs, specs including sizes and dimensions of all
14 of the pieces, and the individual components.

15 After we have given the objectives to the
16 vendor, the next step is for the vendor to come back
17 to us with samples of the product to see if they can
18 meet our specifications. If the sample products do
19 meet our specifications, we would then qualify them
20 for the up-and-coming event. The type of bidding
21 event depends on what type of product is being
22 sourced. For Value Basics, we have a firm expectation
23 that a vendor will provide us with 98 percent of the
24 run. If the vendor cannot make the bulk of the Value
25 Basics program, we are just not interested.

1 We would not consider buying the core
2 products from more than one vendor because it would be
3 too complicated, it would not be beneficial in
4 building a strong relationship, it would increase
5 workload for both the marketing and the planning
6 staff, and it would leave room for inconsistency among
7 the products in the program.

8 In addition, such a large amount of product
9 space is devoted to this category, we would only
10 entrust it to a vendor that has had a very good track
11 record for Target.

12 Sourcing the Better-Best program is much
13 more complicated than sourcing our Value Basics
14 program. We coordinate with several vendors that
15 provide multiple products to create a seamless
16 program. We provide the vendor with design direction.
17 We show the vendors concept samples, clippings from
18 magazines, and a color palette for direction. We
19 write up objectives that include lifestyle direction,
20 retail price points, PMU goals, and planigram
21 presentation ideas. From there, the vendors go back
22 to their design and marketing teams and develop
23 products that fit our objectives.

24 Once the vendors have had a chance to
25 develop these designs, Target will set up line reviews

1 with each vendor to select samples to be sent into the
2 planigram room. Sending the product to the planigram
3 gives us an opportunity to look at products side by
4 side and then determine what a final assortment will
5 be. We then select the final bag and roll-wrap SKUs.

6 Once the roll wrap and gift bags are
7 finalized, we bring in the potential tissue vendors.
8 Each vendor will have been prequalified for the tissue
9 competitive line review. They will have been given
10 the opportunity to review the bag and roll-wrap SKUs
11 so that they can design tissue that coordinates with
12 our bags. We award the business to the vendor who has
13 brought the best designs at the most competitive
14 prices. The winning vendor will get all of the
15 business for the Better-Best tissue program.
16 Traditionally, we pick only one vendor because of the
17 additional benefits this brings.

18 Holiday paper is sourced in much the same
19 way as Special Occasion, Better-Best, with all tissue
20 coming from a single vendor and designs being inspired
21 by other product offerings.

22 Additionally, Target has introduced another
23 innovation in the market which is driving year-round
24 sales of tissue paper. Target is the destination of
25 gift giving among mass merchandisers. Target has two

1 gift registry programs -- Club Wed, our bridal
2 registry; and Target Baby, our baby gift registry --
3 for which I have two catalogs to have you look at.

4 We are one of the top registries for baby
5 and the largest by number of registrants for wedding
6 in the United States. Target invests millions of
7 dollars each year in marketing these registries. Our
8 tissue paper selection has expanded as our gift
9 registries have grown and is a key part of our
10 strategy. The combination of our registry, with our
11 unique and fashion-forward merchandizing assortment,
12 along with our innovative and inspiring gift-
13 presentation products, makes Target a one-stop-shop,
14 gift-giving destination.

15 I would like to briefly make a few comments
16 regarding the packaging we use for our tissue paper.
17 Target has specialized packaging requirements. These
18 requirements allow our guests to touch our paper. We
19 have a sample that we can show you. Much of our paper
20 is sold with a simple band that allows the guest easy
21 access. The remaining tissue is in a resealable
22 package that is specially designed for our display
23 pegs. We have found that the experience of being able
24 to feel the quality of the tissue contributes to our
25 guests' loyalty. Also, the package we use makes for a

1 very neat and tight presentation on the planigram
2 without wasting a lot of valuable space.

3 The oversized and ill-fitting packaging used
4 by the domestic industry is problematic. The
5 Petitioners did not seek Target's business until
6 recently. One of the Petitioners did approach Target
7 about becoming a potential supplier last spring.
8 During the brief meeting, the representative stated
9 that he felt he was stepping on toes because they
10 supplied American Greetings and Hallmark, who are
11 Target vendors. He told us that they had no creative
12 team in place, nor did he have any idea how they would
13 address the lack of a design team.

14 The lack of a design team, in itself, would
15 disqualify them from participating in either the
16 Holiday program or the Better-Best program in cards
17 and party. These two programs are two of the largest
18 programs at Target. The only remaining purchase of
19 tissue at Target is the Value Basics program. He left
20 a catalog of the different tissues, but the Value
21 Basic program vendor must supply tissue, as well as
22 bags, wrap, and tags. There was no indicating that
23 the Petitioner would be able to supply the entire
24 program. Their catalog certainly did not reflect
25 these capabilities, nor did he discuss them. He did

1 tell us that he would like our solid-color business,
2 but this is not a program that we bid alone. It has
3 always be wrapped into the core program.

4 I would like to thank you for your time, and
5 I would be happy to answer any questions that I can.

6 MR. VOLLMER: Good afternoon. My name is
7 George Vollmer. I am a product manager for Target
8 Sourcing Services. I have been in this position for
9 two years and 10 months. Previous to that, I owned my
10 own retail and design business for seven years.

11 Target Sourcing Services, or TSS, is a
12 subsidiary of Target Corporation, the sourcing arm of
13 Target Stores. It is our job to identify potential
14 manufacturers and suppliers for the various products
15 sold in Target Stores, especially products that
16 differentiate Target's marketing strategy. We are
17 able to do this with our sourcing offices worldwide.
18 These offices help add expertise to our objectives to
19 source cutting-edge merchandise. They add knowledge
20 on the best suppliers and are able to compare various
21 potential suppliers from various areas of the world.

22 I am here today to discuss the process by
23 which Target identifies possible merchandise sources.
24 As you have heard Deborah explain, Target will prepare
25 merchandise objectives for vendors. Before we pass an

1 objective to a vendor, we start a process to identify
2 the potential suppliers.

3 My counterparts overseas begin with a pool
4 of all of the vendors they can identify in a specific
5 merchandise category. They prequalify potential
6 vendors by first evaluating production facilities.
7 This process consists of evaluating the condition of
8 the factory, quality of the machinery, quality-control
9 processes, packing and shipping capabilities,
10 warehousing capabilities, and reviewing numerous other
11 factors.

12 Once these reviews are completed, the
13 potential manufacturers are brought in for vendor
14 training to learn about Target's procedures and our
15 basic business practices. This training includes
16 Target's shipping requirements, packaging and
17 labeling, documentation, legal requirements, terms of
18 payment, testing protocols, and also information on
19 registering with Target to be qualified as a vendor
20 with our on-line vendor operations.

21 After the prequalification is complete,
22 vendors introduced to me and I decide if they're
23 appropriate for a vendor matrix. I, also, decide what
24 program of targets would be the best way to introduce
25 the manufacturer to our business.

1 We generally start vendors on a small
2 program, to see if they can execute the program for
3 us. They need to have a close to flawless execution
4 to be considered for future programs. Once they have
5 a proven record with us, we would provide them with
6 the merchandise objectives. Deborah discussed our
7 objectives in more detail earlier.

8 Not many vendors have the capabilities to
9 meet our requirements. We do not look for one item or
10 SKU vendors. We need manufacturers, who can do
11 multiple products and can add to our assortment. They
12 need to be able to renew themselves and their products
13 and stay current with the present trends. We expect
14 our manufacturers to go above and beyond. For
15 example, one of our current vendors has the ability to
16 make paper bags and tissue, but also has the ability
17 to bring in decorative boxes, stickers, and cellophane
18 bags that they do not produce.

19 Target demands exclusivity for design. As a
20 competitive retailer, we need to offer assortments,
21 which are differentiated in the market. We cannot do
22 this if we offer the same designs and assortments as
23 other retailers. By demanding exclusivity, we are
24 able to further differentiate ourselves from our
25 competitors. A good example is our Value Basics

1 program, our everyday program, which Deborah talked
2 about earlier. This basic program is creative and
3 exclusive in design, which leads the guests to
4 purchase multiple items to create the ultimate gift-
5 giving experience, and is of the quality, which our
6 guest demands.

7 In order to compete at Target, price is not
8 the only key point. Quality and design are key
9 factors to ensure guest loyalty and increase sales.
10 It is crucial for us to convey this to our
11 manufacturing partners, as well. For instance, in the
12 first auction for the Value Basics program, the
13 winning vendor was supplied with projections for the
14 program and started production. The vendor was not
15 able to meet their commitment to the auction. They
16 were unable to fulfill the quantities and shipping of
17 the program was in jeopardy. We needed to find
18 another vendor to relieve part of the program from the
19 winning vendor, to ensure quantities would be in
20 stores in time for the program set. Both vendors had
21 to air and ship product from China to the U.S. to meet
22 the set date.

23 Once the product set in stores, the
24 merchants and myself started to notice quality issues:
25 bags tearing, color of the solid items was poor,

1 tissue was blotched, color of tissue paper didn't
2 match the bags. Every bag that tears within the store
3 is a loss sale ultimately. Moreover, this poor
4 quality creates a bad consumer impression that results
5 in the loss of our guest loyalty. The vendor was
6 given additional opportunities to alleviate the
7 issues, but they were never able to prove that they
8 could provide our desired level of quality and our
9 timing needs.

10 This issue resulted in the removal of the
11 program from the winning vendor. This was due to the
12 quality and production issues with the vendor.
13 Therefore, price is not the deciding factor in all of
14 our decisions. We consistently choose quality over
15 price. Our guest should expect more, as we expect
16 more from our manufacturers. Vendors, who can meet
17 Target's demand for assortment, quality, and
18 production capabilities are difficult to identify.
19 Simply making a single product that everyone carries
20 is not sufficient to be a consumer tissue vendor at
21 Target.

22 Target's Sourcing Services was involved in
23 locating a source of bulk tissue for Target. Target's
24 sourcing of bulk tissue is the exception to purchasing
25 a single SKU from a single vendor. Target purchases

1 one size of bulk tissue in one package and in one
2 color from one vendor. We do not review these vendors
3 for design capability and the only aspect that we
4 check with regard to quality is the weight of the
5 paper. A vendor that failed to meet Target's quality
6 standards for consumer paper was selected as the
7 supplier for bulk tissue. This is another indication
8 that bulk and consumer tissue are different products.

9 Finally, in the course of my career with
10 Target Sourcing, I have visited dozens of factories
11 that produce paper products in both China and Europe.
12 It is not my experience that the paper factories in
13 China are substandard. In fact, I have been impressed
14 by the quality of machines producing paper in both
15 countries. They are operating state-of-the-art
16 machinery in China and investing in new machines to
17 improve productivity.

18 I thank you for your time today and welcome
19 any questions.

20 MR. BRADLEY: Good afternoon. My name is
21 Michael Bradley and I'm a professor of economics at
22 George Washington University, which I can probably say
23 happens to have the best basketball team in the entire
24 metro area right now.

25 This afternoon, I think -- actually today, I

1 think both sides were wise enough to put their
2 economists last, so I will necessarily be brief, just
3 like Dr. Magrath was this morning. And I really only
4 have four points that I want to try to talk to you
5 today. I am going to be working from a handout that
6 has a header that looks like this. If you have it
7 already, great. Thank you, very much.

8 If you turn the first page, you can see the
9 four points that I want to talk about. They are in
10 economists lingo, but I think they are
11 straightforward enough, if we just go through them.

12 The first one is referring to the fact that
13 the tissue paper market really is a segmented market.
14 This is not a legal term. This is an economic term.
15 And how do we determine whether a market is segmented
16 or not. And we look at a variety of factors.
17 Identifiably different buyers and sellers on both
18 sides of the market, with a limited amount of overlap.
19 Is there a limited amount of leakage between the two
20 segments. I think it was Commissioner Hillman this
21 morning was asking about what we call cross-price
22 elasticity. And that's an important point. If the
23 price of bulk goes up or down a couple of percentage
24 points, what effect does that have on the demand on
25 the consumer side. When there's relatively small

1 amount of leakage between one segment and the other,
2 again, that's information that these are segmented
3 markets.

4 Why is this important? Well, when the
5 Commission does its analysis of the data before it, I
6 think when the markets are segments, it's important to
7 look at the individual segments. If, in fact, they
8 both turn out to have the same economic story, nothing
9 has been lost. But, if, in fact, they do have
10 different economic stories, you can well imagine --
11 I'm sure you've had cases where putting together the
12 aggregate masked each of the individual stories.

13 Here, I believe, both side's testimony
14 support the notion that we do have identifiable
15 segmentation, different economic issues taking place
16 on each side. And I would urge the Commission to
17 think about looking at analysis of the bulk and
18 consumer side separately.

19 The second point I'd like to make is market
20 concentration. You heard this morning, and we
21 completely agree, that this -- both parts of this
22 market, bulk and consumer, are highly concentrated.
23 It's just a couple of firms, three or maybe four,
24 account for the vast majority of production. What
25 that means is that the behavior of those individual

1 firms is critical to understanding what's going on in
2 this market, in this industry. You have the advantage
3 here being able to focus in on just a few players to
4 understand their economic decisions. Obviously, the
5 big issue in this case is Cleo/Crystal. And from Mr.
6 Kelley's testimony and other testimony, I think it's
7 pretty clear that Cleo's decision to dramatically
8 increase its imports in 2003 was associated with its
9 inability to get a critical input. I would argue
10 that's a response to the supply decision. It wasn't
11 the forcing issue; the imports responding issue. And
12 I would urge you to consider that in doing your
13 overall causality analysis.

14 The third issue I'd like to bring to your
15 attention is that as you saw this morning's samples
16 and this afternoon's samples, these are really
17 differentiated products. Now, I'm not saying bulk
18 versus consumer. But, for example, within the
19 consumer sector there are many different styles and
20 colors and prints and brand names. I think we even
21 heard earlier that during one of the acquisition, the
22 brand name went along; something was purchased, the
23 brand name for a year. Strong evidence of production
24 differentiation.

25 Why does that matter? Well, that means that

1 not all producers make every single item. And, again,
2 I'm not saying just bulk or consumer, within a
3 consumer area. Not everybody is going to sell to all
4 the big stores or all the small stores. Some people
5 are going to concentrate in seasonal. Some may
6 concentrate in every day. Again, the point I'm trying
7 to make here is that competition is not homogeneous or
8 uniform across the whole market. And in analyzing the
9 data before you, I think you have to be sensitive to
10 where the competition is amongst the big players that
11 we saw under the concentration analysis.

12 And my final point really is, I'm sure you
13 actually know better than I, because you do this quite
14 often and that's in every case, I'm sure you hear that
15 there are other potential sources of injury besides
16 just low-priced imports.

17 I think the point I'm trying to make here is
18 that those other sources of injury have their own data
19 patterns that are somewhat different than the data
20 pattern with classic import injury. If you would turn
21 your attention to my schematic, all I've done here is
22 try to draw up what you do intuitively in a little bit
23 of an analytical fashion. And, you know, right in the
24 middle of the diagram is the class channel of low
25 import prices, as you were talking about this morning,

1 taking revenues and/or sales, and not causing injury
2 to the domestic industry.

3 But, I think in this case, we have to
4 consider some alternatives. We talked about supply
5 disruptions. Potentially, you could have domestic
6 market changes. You can cost increases. You can have
7 new products coming along. And I don't want to get
8 into any sort of details, but I would suggest that
9 when you look at the data, you should think about
10 whether it's consistent with the classic import caused
11 injury or other patterns.

12 Just to give you an example what I mean, if
13 we turn to the last handout, this is just a
14 hypothetical. I made it up. There's no data behind
15 it, I'll admit that. But, it makes the point that if
16 we go to the very last set of bars, that's operating
17 income. And in this graph, it fell from \$250,000 to
18 \$100,000, a market decline showing injury. And if we
19 saw that indicator alone, we might say, well, this is
20 an industry that's marked with injury from imports.

21 However, if we look a little bit deeper in
22 my hypothetical, we see that revenues are actually
23 increasing, from about a million to a million-two.
24 So, this really isn't a case of loss sales or loss
25 revenues. This is a cast where their cost structure

1 have changed. And in my simple example, you can see
2 SGA has gone up from about 150,000 to 400. So, it's
3 possible and it does happen to companies, marketing
4 mistakes or decision to diversify, revenues go up and
5 profits go down. And, again, as you look at the data
6 from the industry generally, I would urge you to look
7 for patterns that are consistent with other sources
8 besides pure import harm.

9 The concludes what I'd like to say and I,
10 also, would be pleased to answer questions.

11 MR. IKENSON: That concludes our
12 presentation, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you, Mr. Ikenson.
14 And I want to thank you all for your presentation this
15 afternoon. We'll begin the questioning with
16 Commissioner Miller.

17 COMMISSIONER MILLER: Thank you, Mr.
18 Chairman, and let me welcome all of the witnesses. We
19 appreciate your willingness to be here, to help us
20 understand the industry and the market and we
21 appreciate the purchasers, Target representatives
22 being here, particularly because the purchaser's
23 perspective is a very important one. So, we do -- it
24 is quite helpful. Okay, you're just going to confuse
25 things, because I've got Mr. Kelley and Ms. Kelley

1 here. So, I'll try to always be very precise in my
2 pronunciation here.

3 Mr. Kelley, I think I'd like to start with
4 you, if I could. We heard some interesting testimony,
5 as you did, as well, this morning, regarding Crystal
6 and Cleo's acquisition of it and what's become of
7 that. And I want to make sure that I caught correctly
8 the beginning of your testimony when you identified
9 your own background. You said you were with Crystal
10 from 1995 to 1999. You were the president of Crystal,
11 is that what you said? Or did I just --

12 MR. KELLY: Yes.

13 COMMISSIONER MILLER: -- did I just elevate
14 you?

15 MR. KELLY: No, I was with Crystal from 1990
16 to 1990. I was president from 1995, late 1995, until
17 September of 1999, when I joined Cleo.

18 COMMISSIONER MILLER: Okay. So, you left
19 Crystal and joined Cleo prior to the acquisition --

20 MR. KELLY: That is correct.

21 COMMISSIONER MILLER: -- of Crystal. Okay;
22 all right. So there's a bit of a gap in your history
23 with Crystal, but I wanted to make sure I understand
24 that. You heard Mr. Tepe's testimony this morning
25 with respect to Crystal's -- his view of Crystal's

1 competitive situation and the role of the imports.
2 And while you've related your own version, let me
3 invite you first to respond to that description, as
4 best you know it, from your time at Crystal, in terms
5 of the way imports were impacting Crystal's business.

6 MR. KELLY: Terrific, because there were
7 really two key events that Mr. Tepe read my mind
8 apparently on, as that capability, which was
9 unfortunately not accurate. I'll go back to the
10 comment at the time when Mr. Tepe was at Crystal the
11 same time that I was and that he claimed that our
12 biggest scare or major concern was Chinese tissue
13 imports. And I will tell you that was not at all the
14 case. I will tell you that our biggest concern was
15 the profitability of our paper mill operation.

16 We had our own paper mill -- excuse me, I'm
17 trying to get close, because I'm losing my voice, too
18 -- and the paper mill was not making money. It was
19 very capital intensive. It was an older mill, as most
20 of the mills are of the Petitioners, as well. And it
21 was very difficult to make it profitable, because, as
22 the Petitioners have testified, you literally have got
23 to keep that paper mill full. It cost you -- even
24 though you might be losing a little bit of money
25 running the paper mill, if you stop it or shut it

1 down, the money was an even greater loss. So, you
2 actually took tonnage at a time that you didn't make
3 money on just to keep it running. So, that drove the
4 pricing that you had. It drove your interest and high
5 volume. Bulk tissue type of accounts, you were
6 thinking volume, volume, because that what the paper
7 mill needed.

8 It was such a concern to us at Crystal that
9 we separated Crystal into two different separate
10 companies and legal entities. We moved the paper mill
11 operation into a company called Crystal Tissue and
12 then the converting business was moved into the
13 company called Crystal Creative. And we didn't want
14 the paper mill influencing our decisions or driving
15 our converting business, because success on the
16 converting side truly has to be, as Target has
17 testified here today, an outside in approach, not an
18 inside out. And what I mean by that is when you have
19 a big capital intensive, and I was at the steel
20 industry prior to the paper industry, it drives your
21 thinking and you go try to find people that buy what
22 you make. What keeps your sales and marketing
23 creative people from doing is figuring out what it is
24 the customers need and want and how do you get it or
25 how do you make it.

1 So, we wanted to make sure that we were
2 going to be successful. We wanted to make sure that
3 we were investing in the creative where the market was
4 going. So, we separated the two businesses. And that
5 was what was paramount at that given time.

6 COMMISSIONER MILLER: Sorry to interrupt,
7 but when was that that you made the separation of the
8 business?

9 MR. KELLY: It would have been in the late
10 1990 -- probably in the early 1995 period or early
11 1996 period.

12 COMMISSIONER MILLER: Okay, all right.
13 Sorry for interrupting you.

14 MR. KELLY: No, that's fine.

15 COMMISSIONER MILLER: Continue.

16 MR. KELLY: That's fine. Then the other
17 significant event was the acquisition of Crystal in
18 October of 2002. And at that time, we had signed a
19 supply agreement with the Crystal tissue business,
20 which we bought the rights to that name, because that
21 name was so well known in the industry. It's over 100
22 years old in making specialty tissue. So, that was
23 very important to us.

24 We, also, of course, bought all the
25 converting facilities and leased the office, had

1 arrangements to maintain those offices for at least a
2 two-year period, I know for at least for a year. We
3 had a supply agreement for a year with renewal -- with
4 the ability to renew, if we chose to do so. And that
5 gave us time to plan and see where we're at. It's
6 clear that we were already importing tissue on a much
7 smaller scale than what Crystal's volume was. We were
8 very pleased at what was happening there, as well.
9 But, we were also very concerned with capability. I
10 mean that's a huge volume to drop in any -- to change
11 that much of your production supply in a short period
12 of time. You would never ever attempt to do that,
13 especially when you've just spent \$40 million for a
14 business. You want it to be successful.

15 So, I would tell you what drove our thinking
16 at that time is what drives everybody's thinking.
17 It's quality, it's delivery, and it's price. All
18 three factors were important to us. I'll tell you
19 what was especially important to us once I received
20 the telephone call that they were not going to honor
21 the contract is what I was first told, and then I was
22 told that they were actually not going to manage the
23 supply of jumbo rolls for us, meaning Green Tree
24 Specialties, which was the name of the company that
25 became the Crystal paper mill. Because when -- right.

1 COMMISSIONER MILLER: Okay.

2 MR. KELLY: When we bought the paper mill --
3 I'm sorry, when we bought Crystal Tissue, the paper
4 mill was a separate legal entity and they renamed
5 themselves as Green Tree Specialty Products. And
6 unbeknownst to us, they had contacted Seam and Flower
7 City and Burrows, to make sure they could honor their
8 contract with us, because they apparently had started,
9 which we were unaware of, plans to shut down. Then on
10 the morning of January 23rd, I'm sitting in Kansas
11 City, I can remember it vividly, and got a phone call
12 advising me that they were not going to honor the
13 contract. And then a week later, they said they were
14 contemplating bankruptcy and that they were not going
15 to help us acquire sources of supply. At that point
16 in time, that put us into a panic and we had to
17 evaluate what our options were. So the piece of
18 evidence that I would point out, that if we were
19 really concerned with price, we wouldn't have spent
20 \$750,000 in air freight to meet our customer
21 deliveries on a very short notice to get tissue into
22 the states, as well.

23 Did I answer your question?

24 COMMISSIONER MILLER: Well, you started.

25 So, yes, you're providing a lot of information. I've

1 got to think about it and then figure out the right
2 questions to follow with. But, then, when Cleo
3 acquired Crystal, it was only acquiring the Crystal
4 Creative part of the business that you've described.
5 Crystal was divided into two companies, okay.

6 MR. KELLY: That's correct.

7 COMMISSIONER MILLER: It only acquired
8 Crystal Creative and not the paper facility, which was
9 this other company?

10 MR. KELLY: Correct.

11 COMMISSIONER MILLER: Okay, okay. But, it
12 was with the expectation of continuing to produce as
13 Crystal Creative?

14 MR. KELLY: Correct.

15 COMMISSIONER MILLER: Until the supply issue
16 arose, the jumbo roll supply issue arose?

17 MR. KELLY: Correct. In fact, our tissue
18 line today is known as Crystal, as well.

19 COMMISSIONER MILLER: Right.

20 MR. KELLY: Right. But when we acquired it,
21 we did acquire all the assets or Crystal Creative
22 Products, which included the Maysville converting
23 facility, and we picked up the leases, of course all
24 of the employees. Essentially, it was everything
25 except the -- we did not purchase Crystal Tissue,

1 which was the paper mill.

2 COMMISSIONER MILLER: Right, okay. Now to
3 the extent that -- you know, we see quotes from the
4 time of the acquisition that talked about disposing of
5 product line, certain product line assets, and these
6 quotes about adjusting to the market realities and the
7 decorative tissue and bag business. What were those
8 references to? I'm sorry, my red light --

9 MR. IKENSON: Commissioner Miller?

10 COMMISSIONER MILLER: Yes.

11 MR. IKENSON: Are you referring to a
12 newspaper quote that referred to Mr. Kelley --

13 COMMISSIONER MILLER: Yes.

14 MR. IKENSON: -- or SEC filing?

15 COMMISSIONER MILLER: I think both. It's in
16 our -- these are all things that are in our staff
17 report and I believe they were out of newspaper
18 reports and SEC filings. And my red light is on, so
19 if you want to just answer very shortly. I'm sure
20 others are going to have additional questions for you
21 just about this time period.

22 MR. KELLY: That's fine. Actually, a lot of
23 the questions I'd like to answer in a post-conference
24 --

25 COMMISSIONER MILLER: That's fine.

1 MR. KELLY: -- simply because that's CSS
2 Industries --

3 COMMISSIONER MILLER: I understand.

4 MR. KELLY: -- and I don't prepare the 10Ks
5 and the 10Qs.

6 COMMISSIONER MILLER: Yes, okay. And I
7 understand the business sensitivity.

8 MR. KELLY: Thank you.

9 COMMISSIONER MILLER: Okay. Thank you. I
10 appreciate it. That helped.

11 CHAIRMAN KOPLAN: Thank you. Commissioner
12 Hillman?

13 COMMISSIONER HILLMAN: Well, thank you, and
14 I, too, will join my colleagues in welcoming all of
15 you here this afternoon. We very much appreciate your
16 taking the time to be with us and appreciate all the
17 samples that you've brought and the information in the
18 pre-hearing briefs.

19 I'd like, if I could, Mr. Kelley, just to
20 stay on this line just for a minute with two issues.
21 One, I just want to make sure I understand a response
22 that I just heard and whether it relates to what we
23 heard this morning. We heard this morning that there
24 were three U.S. companies that bid on this jumbo
25 business once Green Tree was not available to supply

1 it. I think the testimony this morning was that
2 Seaman, Burrows, and Flower City bid on that. I'm
3 trying to understand how that's consistent with your
4 testimony that you could not get access to jumbo
5 rolls, that you had to go to China to get it. If, in
6 fact, these three domestic companies are bidding for
7 your business, again, why was there a perception that
8 you had to go to China?

9 MR. KELLY: Thank you for the question. I'm
10 dying to answer it. Basically, the bidding was to
11 Green Tree Specialty Products. They were actually
12 bidding the supply requirements, in order to assist
13 Jim Akers, who owned Crystal Tissue, previously, who
14 we acquired the company from. He now had this paper
15 mill that he was trying to make a go of and he was
16 supplying -- he lost a substantial portion of his
17 tonnage on a 30-pound craft paper that we testified to
18 earlier. So, Jim knew that -- or Mr. Akers knew that
19 his paper mill wasn't profitable. And he, also, knew
20 that he had, due to the acquisition contract that we
21 had with him, an obligation to supply us at least for
22 the first year with an option to renew, and knew how
23 important that jumbo roll supply was to us, that he
24 approached Flower City, he approached Seaman, and
25 approached Burrows to fulfil his agreement. There was

1 never a quoting process by Cleo or Crystal for jumbo
2 roll supply, first of all. So, there was not any
3 quoting process.

4 COMMISSIONER HILLMAN: So at the time,
5 though, that this acquisition occurred, in essence,
6 did you know that there was this, in essence, these
7 offers out there from these three domestic companies
8 to supply Cleo?

9 MR. KELLY: Yes, Commissioner, we did. But,
10 here's the situation, sort of the rest of the story,
11 so to speak. Flower City is rather a small mill, a
12 long-time family owned, great people. And at one time
13 when I was president of Crystal, we actually
14 subcontracted to them. And when we did that, their
15 salesperson, I believe they had one, went to the
16 customers, who they made the product for us, said, why
17 are you buying from Crystal. You can be buying this
18 direct from us. And Bill Shafer, I believe the III,
19 Mr. Shafer's father was so embarrassed by it, that he
20 called me up and apologized. So, again, there's an
21 instance of, you're forcing -- it was forcing us to do
22 business, if we chose to do business with any of
23 these, with someone who is also looking to compete
24 with us.

25 And then in the case of Seaman, I've given

1 long testimony of our history and track record, having
2 done business with them. They testified that they
3 copied our business model. They've testified that
4 they've sold direct. They've testified that they sold
5 Hallmark and American Greetings, who we compete
6 directly with at Target and at every major retailer.
7 And they gave me no ability to differentiate myself
8 from my competition. It was a model that would not be
9 successful. Seaman has actually even used our trade
10 name today. We own the name 'pearlized.' That's a
11 trade name tissue for us. Ask Crystal. We got an
12 agreement from them to quit using that, but apparently
13 they started using it again.

14 Mr. Tepe worked at Crystal prior to -- and
15 was recruited away to set up their consumer business.
16 Previous to that, when they decided to get into the
17 bulk business, they recruited Crystal's independent
18 rep to get them into the retail packaging business.
19 They copied all of our -- the names of our colors
20 verbatim. They used the swatch book manufacturer that
21 we had in Middletown, Ohio, even though they're
22 located in the Boston, Massachusetts area, because
23 they wanted to make sure they knew how to get that
24 done.

25 So, again, I won't go into everything, but

1 there's a long history --

2 COMMISSIONER HILLMAN: What about Burrows?

3 MR. KELLY: I'm sorry.

4 COMMISSIONER HILLMAN: You've mentioned
5 Flower City and you've now mentioned Seaman.

6 MR. KELLY: Seaman, correct.

7 COMMISSIONER HILLMAN: What about Burrows?

8 MR. KELLY: Well, Burrows, we continued to
9 buy -- have bought roll stock from them and have
10 continued to buy it from day one since the
11 acquisition. So, we continue to buy from Burrows. I
12 will tell you the subsequent of that. When the
13 dumping petition was filed, at that point in time, we
14 were looking into evaluating our options. We did a
15 North American search trying to locate jumbo rolls and
16 were very unsuccessful in doing that. This idea that
17 there's lots of tissue manufacturers out there that
18 can supply the type of tissue that we need is not
19 true. I would tell you that there are several mills,
20 in the neighborhood of five or six, that have the
21 capability to make the 10-pound white. But, they're
22 making other businesses. They're making tissue that
23 goes on medical tables. Coastal, who was a long-time
24 supplier, was sold. They could not supply us when
25 that happened.

1 And then, there's the color tissue. I would
2 tell you, and, again, I'm sure there's others, but
3 having been in the industry, the only known folks that
4 can make colored tissue are Seaman and Flower City to
5 a little machine, and Burrows, and we buy roll stock
6 from Burrows today.

7 The problem we had even with Burrows, who is
8 the largest specialty tissue manufacturer, I believe,
9 and is not a Petitioner, interesting enough, couldn't
10 supply our needs, as well. It took us about a six-
11 month period -- a four- to six-month period to get
12 them to ramp up to meet our needs. The amount --

13 COMMISSIONER HILLMAN: Cleo couldn't supply
14 on what basis?

15 MR. KELLY: Didn't have enough capacity.

16 COMMISSIONER HILLMAN: Okay.

17 MR. KELLY: It was already sold out or they
18 just -- you know, they had to do different things to
19 get -- eventually they got -- let me give you some
20 numbers. Their initial response was that they could
21 give us 20,000 pounds a day. Our requirement at our
22 peak was for 100,000 pounds a day is what we needed to
23 meet our converting needs. Burrows then came back and
24 said, we can do 20,000 pound a day -- I'm sorry,
25 initially, they said they could do 20,000 pounds a

1 week. Then, they came back and said they could do
2 20,000 pounds a day. About a month later, and
3 eventually they got up to where they could supply us
4 in the range of 50,000 to 80,000 pounds a day. They
5 were never able to commit to the 100,000 pounds that
6 we needed. And then it was too late. The season was
7 over.

8 COMMISSIONER HILLMAN: Okay. Now, I
9 understand your testimony, but I just want to make
10 sure I'm clear on it. Your view is that Seaman could
11 have provided those kind of volumes; it was just that
12 you did not, for the reasons that you've just
13 explained, not choose to do business with them. There
14 was some bad blood.

15 MR. KELLY: No.

16 COMMISSIONER HILLMAN: We'll describe
17 generally.

18 MR. KELLY: Right.

19 COMMISSIONER HILLMAN: There were some
20 competitive issues, so that you -- but, I just want to
21 make sure I'm clear. They would have had the capacity
22 to supply you?

23 MR. KELLY: With my knowledge of the
24 industry, knowing that they, also, need to supply
25 Hallmark, need to supply American Greetings, and they

1 need to supply themselves, that we would be number
2 four at best on their priority list and it would be
3 unreasonable or not good business to think that they
4 were going to service us, when they didn't really even
5 service Cleo before we owned Crystal and shipped us
6 late with finished good products then.

7 COMMISSIONER HILLMAN: Let me try to put
8 that issue, to some degree, in some perspective, just
9 to make sure I understand it. You mentioned the two
10 problems were late -- I'm sorry, there were two
11 issues, as I recall, and I'm sorry. One of them was
12 late and one of them was using the equipment for
13 another customer. Just so I'm clear, would you say on
14 the late delivery issue, again, how often, how much,
15 what percentage of product was that affecting?

16 MR. KELLY: Actually, we have submitted, as
17 part of our information, details on their shipping
18 record with us.

19 COMMISSIONER HILLMAN: And then on this
20 issue of the equipment for non-Cleo customers, I
21 assume that was something that was in this --
22 explicitly in the agreement that you worked out, as
23 part of this lease, that they were presumably not to
24 do that?

25 MR. KELLY: No. I believe part of the

1 agreement, which was done before my arrival there, was
2 they did have -- were able to -- or the right to do
3 that, as long as they gave us a lower price than I
4 believe than what they were selling. It was not a
5 long-term contract that you would want to build an
6 important part of your business on.

7 COMMISSIONER HILLMAN: Okay, all right. I
8 appreciate that and I'll look back on the records that
9 were submitted.

10 MR. KELLY: Thank you.

11 COMMISSIONER HILLMAN: If I can turn back to
12 the Target folks. I very much appreciate your
13 testimony and want to make sure I understand a couple
14 of things. One, we have data on a number of Internet
15 auctions, in which you participated. And Ms. Kelley,
16 I wondered if you could help me understand, of the
17 three different lines that you're talking about, were
18 any of those subject to these Internet reverse
19 auctions?

20 MS. KELLEY: Yes.

21 COMMISSIONER HILLMAN: Okay. And then the
22 bulk was, as well; is that right? Did I hear that?
23 I'm sorry.

24 MS. KELLEY: I don't have that information
25 on bulk.

1 COMMISSIONER HILLMAN: I'm sorry. Did I
2 hear Mr. -- Mr. Vollmer, did you testify at all to
3 whether or not any of the bulk product that was
4 purchased?

5 MS. DEMSKI-BRANDL: This is Toni Demski-
6 Brandl with Target Stores. Yes, the bulk was once
7 subject of an auction.

8 COMMISSIONER HILLMAN: Okay, all right. So,
9 one of the three consumer lines and the bulk product.
10 And is it clear that the -- in the testimony about the
11 use of the bulk product, it is used solely for
12 wrapping fragile items. It's not -- you don't put
13 apparel in it. You're only using it for glass or
14 china or breakable items of some kind.

15 MS. KELLEY: As far as we know, that is what
16 it's supposed to be used for at the checkout lanes.

17 COMMISSIONER HILLMAN: Okay. But, it's
18 clear that it is subject product, meaning it's within
19 the right weight ratio. I thought we had heard
20 testimony earlier that some of the product used for
21 protective wrapping tends to be slightly heavier than
22 what would be technically within the scope tissue
23 paper.

24 MS. DEMSKI-BRANDL: Yes, it is within the
25 scope as --

1 COMMISSIONER HILLMAN: It is within the
2 scope?

3 MS. DEMSKI-BRANDL: Yes, it is.

4 COMMISSIONER HILLMAN: No, I appreciate
5 that. And then we had tried to get a better
6 understanding, as we heard this morning, of the
7 percentage of product that is white, versus solid
8 color, versus printed. Actually, I see the red light
9 has come on. I will come back to this in the next
10 round. Thank you.

11 CHAIRMAN KOPLAN: Thank you, Commissioner.
12 Commissioner Lane?

13 COMMISSIONER LANE: Good afternoon. I'd
14 like to start with Mr. Kelley. In your testimony, you
15 went through three stages that you went through to do
16 tissue paper: stage one, stage two, and stage three.
17 And I think you said that those three stages you went
18 through with your Chinese facility or the Chinese
19 producer. And that because you could do that in
20 stages rather than buying domestically, which would be
21 done all at once, that you preferred these three
22 stages. How long is the process from stage one
23 through stage three to get your finished product?

24 MR. KELLY: It's a good question. In the
25 case, as Target testified, it could be an 18-month

1 process. I would tell you that our VP of marketing
2 would have spent this past week in New York City doing
3 trend shopping with a major retailer. That kind of
4 starts the process. So, we're looking at Christmas
5 either 2005 or even 2006, to see what trends are
6 happening, looking for what's going on color-wise.
7 So, you're looking at probably, at the greatest
8 length, could be 18 months.

9 COMMISSIONER LANE: Okay. I guess I'm
10 somewhat at a loss. So, you are saying that this 18-
11 month process is a benefit to your company, rather
12 than going to a domestic producer that can do it a lot
13 quicker.

14 MR. KELLY: Well, what I was trying to say,
15 maybe the stages might have made it too difficult. At
16 its most simplest denominator, what we're really
17 saying is, is that the domestic industries prefer to
18 automate. That's how they've dealt with labor cost.
19 That's what I did when I was at Crystal. We put in
20 automated lines that could do, in the case of
21 consumer, the sheeting. There was a folder. There is
22 unique pieces of equipment that you do bulk versus
23 folder on, to do the packaging, to actually wrap the
24 carton and ship it. So, that was all automated.

25 The disadvantage of that is, is when we're

1 dealing with mass marketers or large retailers, who
2 want customized packaging, this year with one of our
3 largest customers, we didn't get final information on
4 their packaging until August. So, luckily, with the
5 converter we were working with, it had a much simpler
6 process. It was a hand operation. They would do the
7 sheeting and they would have the folding there
8 available. And then they could do the packaging, the
9 outer wrap, to do that as a second step. It's not
10 done in line. So, they don't have to have all that
11 information before they begin producing. Because,
12 these volumes are huge.

13 And then before you get the final carton
14 markings, because there are specific carton markings
15 on which DC it goes to or what is direct to store and
16 then, also, what's going to be the art. Because,
17 Target would have, as an example, a department that
18 would say, we want all of our Christmas displayers to
19 look like this this year. And in some cases, we don't
20 get that information on a timely basis.

21 Mr. Tepe testified that the retailers were
22 getting better with giving you information sooner.
23 Well, then he's totally out of touch with the consumer
24 market, because that's not the case at all and we're
25 the major player there. The information becomes

1 narrower and in a tighter time frame all the time.

2 COMMISSIONER LANE: Okay. I must be missing
3 something.

4 MR. KELLY: Okay.

5 COMMISSIONER LANE: The way that you
6 explained it to me is that you're dealing on a 18-
7 month time frame and the domestic industry would be --
8 the turnaround time would be much quicker.

9 MR. KELLY: No, I'm not explaining it well.
10 The turnaround with the domestic industry is
11 automated. The manufacturing process to do the tissue
12 is highly automated. The downside of that automation
13 is that you need complete information before you can
14 start manufacturing. So, therefore, it causes you to
15 push volume into that peak period where there's
16 limited capacity and maximum shipment. The Chinese
17 industry, on the other hand, can manufacture in
18 different steps. So, they're able to respond to
19 partial information through the manufacturing process.
20 The 18 month relates to the total selling season, not
21 the manufacturing. Maybe that's where I'm confusing.

22 COMMISSIONER LANE: Okay.

23 MR. KELLY: Commissioner Lane, it's really
24 not the production that's driving the 18-month design.
25 That's really being driven by the customer. There are

1 two separate processes. One is manufacturing and the
2 other one is selling and designing, working with the
3 customer to develop a program.

4 COMMISSIONER LANE: Okay. Let's try this
5 again. So the customer comes to you on day one and
6 tells you the color and design. And then at what
7 point does the customer tell you how many sheets it
8 wants?

9 MR. KELLY: Well, what we were describing
10 was an oversimplification, obviously. But what we're
11 saying is that right now, we are spending time in New
12 York City with buyers and trend people, starting to
13 talk about what Christmas might look like next year
14 and even the year after that. Okay. So, probably,
15 you know, let me talk about right now, we, also, have
16 people visiting us in Memphis, Tennessee, at our
17 showroom, who are looking at, well, let's talk about
18 what designs. We don't like this. Can you do this,
19 can you do that. So, that's happening right now and
20 it's been August, September, October -- actually, it
21 happens August through March, we'll have customers
22 visiting us in Memphis. And then probably, you know,
23 they'll indicate to us what designs they like and all
24 that. So, now, we know kind of what's going to sell
25 and what's not going to sell, but we don't know what

1 their sheet count is going to be, what their
2 dimensions are going to be.

3 Then, they might come back and tell us, you
4 know, we're going to go with the 25-sheet package and
5 we think we're going to need a couple 100,000 of them.
6 Okay, that's great. Then, later one, which could be
7 this year, as late as August, they could come back and
8 say, here's what the label needs to look like,
9 customer specific. Here's what the UPC is. Here's
10 what the pre-price is. Is it going to be \$1.99 or
11 \$1.97 or whatever, and then, also, the balance of the
12 shipping information. So, if were automated, we
13 really couldn't have gotten started until August,
14 where by working with the Chinese, we had already
15 indicated to them what designs were popular and then
16 we were able to tell them how many fold and then they
17 were able to get the cartons done and do that final
18 step.

19 COMMISSIONER LANE: Okay, thank you.

20 MR. KELLY: Thank you for hanging in there
21 with me.

22 COMMISSIONER LANE: The next question I have
23 is you said that you had paid \$750,000 to air freight.
24 Are you still paying that type of freight to get your
25 deliveries over here from China?

1 MR. KELLY: The answer to your question is,
2 in 2003, we initially paid \$750,000 within the first -
3 - I can get you this information specifically, but I'm
4 going to say within the first three to four months.
5 And then we spent an additional \$700,000 later in that
6 year getting Christmas product in. So, the initial
7 \$700,000 just spoke with what we needed to do
8 immediately to cover the everyday portion of our
9 business. So, we spent over a million-and-a-half
10 dollars that year in premium freight.

11 COMMISSIONER LANE: Okay. My question is,
12 are you still getting your product over here by air
13 freight?

14 MR. KELLY: Actually, we're bringing --
15 we're not air freighting. We've improved our
16 sourcing. We've invested resources in how to do more
17 up front work and we've been able to reduce that
18 substantially. There is still premium freight
19 associated with bringing it in from overseas.

20 COMMISSIONER LANE: Oh, I had another
21 question. The paper mill that you shut down, the one
22 in Kentucky, I think, is it still shut down?

23 MR. KELLY: What was in Kentucky was what we
24 call a converting facility and that is not. It is up
25 and running.

1 COMMISSIONER LANE: Okay. You had a mill
2 that was shut down?

3 MR. KELLY: Right. What happened was when
4 we acquired Crystal, we bought all the assets, but did
5 not buy the paper mill. What we did that was crucial
6 to that acquisition was we got a supply contract from
7 the owner of that mill, who later, within three months
8 or four months, notified us that he was shutting it
9 down, not us.

10 COMMISSIONER LANE: Okay. And is that paper
11 mill still shut down?

12 MR. KELLY: Yes, it is.

13 COMMISSIONER LANE: Okay, thank you.

14 CHAIRMAN KOPLAN: Thank you, Commissioner.
15 Commissioner Pearson?

16 COMMISSIONER PEARSON: Thank you, Mr.
17 Chairman. Welcome to the Respondent's panel. It's
18 been very interesting listening to you and I would
19 like to offer a special greeting to, I assume,
20 perhaps, four of you have come in from Minneapolis for
21 today's festivities. I regret significantly that
22 we're subjecting you to kind of a gray, rainy day.
23 You know, this is the holiday season. One should have
24 proper temperatures and snow. Or at this time of
25 year, do you prefer to have snow or sales?

1 (Laughter.)

2 COMMISSIONER PEARSON: I suppose I should go
3 just a bit further and confess that from my children's
4 point of view, their quality of life went up very
5 significantly when a Super Target opened at the
6 intersection of Highway 7 and 101 in Minnetonka, which
7 was only two miles from home and on the back streets,
8 they could ride there very safely on their bicycles.
9 They did that often, serving as your guests. They
10 really developed serious doubts about their father's
11 judgment when he moved them 1,000 miles away from
12 their favorite store and then plopped them down in
13 northern Virginia, where it's six miles to the nearest
14 Target and you would not let anyone ride a bicycle
15 there and with northern Virginia traffic, even driving
16 there is a significant undertaking. So, I hear
17 occasionally gripes from the kids about what I've done
18 to them and you're partly responsible for that.

19 Let me actually ask you a question. You
20 provided quite interesting comments on your customers'
21 preferences and how those preferences drive your
22 requirements for your suppliers. But, I wonder, could
23 you clarify Target's position on the factors that the
24 Commission must consider by statute when we determine
25 injury? It's really looking at volume, price, and

1 impact. And I'm happy for anyone to respond. Perhaps
2 you wish, Mr. Thompson, or one of the other witnesses.

3 MR. THOMPSON: I'd be happy to, Mr.
4 Commissioner. But, if I could ask about the -- what
5 exactly you were looking for in our analysis of it,
6 the factors, generally, or the unique circumstances
7 that we see in this case, as they relate to those
8 factors?

9 COMMISSIONER PEARSON: Well, how this -- how
10 we would apply the facts of this case to the statutory
11 factors.

12 MR. THOMPSON: Well, certainly -- well, I'd
13 also like the opportunity to address this in more
14 detail, of course, in our post-hearing submission.
15 But, there's a couple of aspects of this case that we
16 would ask the Commission to take into account in
17 evaluating the statutory factors. Certainly, in
18 looking at the volume of imports, what we heard --
19 well, without going into confidential information, I
20 think it's fair to say that Target is a significant
21 importer. Target has a significant import volume and
22 percentage of imports and Target's imports have grown
23 a bit. And the Commission has the numbers and can
24 look at those.

25 What we heard this morning -- or rather this

1 afternoon was a discussion of why Target's sales of
2 the product has grown. And in particular, Target
3 emphasized that its new color coordinated program
4 really commenced in 2001, coincident with beginning of
5 the period of investigation, and Target emphasized
6 that all of its growth in its sales has been in this
7 area. So, we can look at Target's success as being
8 associated with and stemming from its emphasis on
9 quality, uniqueness, innovation, and, of course,
10 timely delivery, which seems to be crucial across the
11 board.

12 So, in evaluating why Target's import trends
13 are the way they are and putting that in the context
14 of overall import trends, you have to look at why
15 Target was successful; why did its sales start
16 growing. Because, it invented -- essentially invented
17 a new market segment of the color coordinated
18 programs. We provided a couple of photos of the way
19 in which those are sold.

20 Now, in terms of whether this volume is
21 having an adverse impact on the domestic industry, we,
22 also, heard a couple of interesting aspects from
23 Target's witnesses that, I think, you have to take
24 into account in putting that volume into the correct
25 perspective. First, we heard that Target -- well, the

1 domestic industry, as we heard from Target's buyer,
2 has made no direct attempts to sale to Target until
3 very late in the investigation period. And the
4 product that it was offering was not of the -- did not
5 have the unique characteristics that we heard Target
6 describing. It was stock material out of a book. It
7 was not specially designed. We heard Target say their
8 high-quality stuff, the product that has grown is
9 specialty designed. It's not merchandise that comes
10 out of stock. We heard Target say that it looks for
11 unique products, items that are designed for it and
12 not used by anybody else. Well, coming in with a book
13 of product that is available to the world at large
14 isn't going to meet that requirement.

15 We, also, heard Target say that for certain
16 of its products, it seeks -- I'd guess you would call
17 it an integrated vendor, which is going to provide not
18 only the tissue, but also the bags, the wrapping, the
19 other encoutrements that go with this coordinated
20 scheme. A couple of reasons for that: you want to
21 have the colors match --we heard about a discussion of
22 that earlier.; you want to have the efficiencies of
23 having one vendor rather than spreading out all of
24 these purchases over a number of different ones; and -
25 -

1 COMMISSIONER PEARSON: Right, but bags and
2 name tags and so on are outside the scope of our
3 investigation.

4 MR. THOMPSON: Oh, I understand, of course.
5 But, Target looks to purchase those from a single
6 vendor. And if a vendor comes in and says, well, I
7 can supply you with tissue paper, I can't supply you
8 with bags, then that vendor is very unlikely to
9 qualify for Target's business. It has nothing to do
10 with price. It has to do with the nature of the
11 acquisition process at Target, where they try to get
12 all of that acquired from a single source. So what
13 we've seen is a very notable trend for Target over the
14 past few years. It's been successful in this market
15 that, as far as I can tell, it essentially invented,
16 and has tried to perfect. And at the same time, we've
17 seen a domestic industry that really didn't make
18 attempts to acquire that business and that, as far as
19 I can tell, based on current circumstances, is not
20 even in the position to supply that business.

21 Now, we've heard one of the witnesses this
22 morning say, well, we could do that. That is his may
23 be. But, that has not occurred. And what I ask you
24 to take into account, in looking at the trends for
25 Target, is these cannot be considered to be injurious

1 to a domestic industry that neither had the interest
2 nor the capability to supply the part of Target's
3 business that has shown the growth that it has. And
4 put that in the context of overall imports and I think
5 you'll see that, leaving aside the condition of the
6 industry, there's no way to determine causation from
7 those imports, because they simply are not competing
8 with what the domestic industry sales.

9 COMMISSIONER PEARSON: And either now or in
10 the post-hearing briefs, you'll provide some review of
11 previous investigations where the Commission found a
12 basis for making special consideration of a large
13 volume of imports that you're asking us that we
14 somehow analyze that differently, Target's imports
15 versus imports by other parties?

16 MR. THOMPSON: Oh, I may have misstated our
17 position.

18 COMMISSIONER PEARSON: Oh, you probably just
19 --

20 MR. THOMPSON: What I'm asking you to --

21 COMMISSIONER PEARSON: -- you probably just
22 got an unsophisticated Commissioner listening to you.
23 That's probably what happened.

24 MR. THOMPSON: What we are asking is that
25 the Commission do what it does in every investigation

1 and take into account the conditions of competition
2 that obtain in this particular investigation. We're
3 not -- I think the domestic industry misunderstood the
4 position certainly that Target takes on treatment of
5 Crystal's imports and possibly Target's imports.
6 We're not saying take these out of the volume of
7 imports that you evaluate. We're saying, look at the
8 reasons why we have this particular import growth and
9 this particular trend in imports and relate that to
10 the purchasing decisions by Target and its
11 relationship with the domestic industry. And you'll
12 find that under the Commission's factors, you have to
13 look at whether imports, both by volume and
14 penetration, and growth, are significant and put into
15 that perspective. In our view, you must determine
16 that they were not significant.

17 COMMISSIONER PEARSON: Thank you. My time
18 has expired, Mr. Chairman.

19 CHAIRMAN KOPLAN: Thank you, Commissioner
20 Pearson. Let me stay with Target, if I could. I'd
21 like to explore with you these reverse auctions, these
22 Internet reverse auctions. As I understand them, you
23 began approximately 10 months prior to an item's
24 placement on the sales floor. You begin discussions
25 with potential suppliers to evaluate their packaging

1 capabilities, the quality and consistency of their
2 products, and their reliability to supply. And those
3 people, who pre-qualify, you allow them to bid; right?
4 Ms. Kelley?

5 MS. KELLEY: Yes. They have to be pre-
6 qualified prior.

7 CHAIRMAN KOPLAN: Right.

8 MS. KELLEY: It's prior to 10 months though
9 before --

10 CHAIRMAN KOPLAN: Prior to 10 months?

11 MS. KELLEY: Yes.

12 CHAIRMAN KOPLAN: Tell me, for what share of
13 your tissue purchases in 2003 with regard to these
14 auctions were domestic producers pre-qualified? What
15 percentage of your purchases did you have domestic
16 producers pre-qualified?

17 MS. KELLEY: What percentage of vendors
18 would pre-qualify?

19 CHAIRMAN KOPLAN: Let's say you --

20 MS. KELLEY: Sorry, I don't --

21 CHAIRMAN KOPLAN: Let's say you purchased
22 \$100,000 worth of product during the course of the
23 year. You did these auctions. Would domestic
24 producers pre-qualify for each of those auctions? All
25 of those auctions? A portion of those auctions?

1 MS. KELLEY: We would look at all the -- we
2 would pre-qualify any vendors that could hit the
3 different requirements. It wouldn't matter if they
4 were domestic or import.

5 CHAIRMAN KOPLAN: I understand that. What
6 I'm trying to understand is, in fact, were these
7 domestic producers pre-qualified in 2003 to bid?

8 MS. DEMSKI-BRANDL: Sir, perhaps I could
9 respond to that. We might not have this ability to
10 where the product -- where the producer actually was
11 located. There are people, who bring products
12 together, as we've discussed. Two of these Internet
13 auctions, in fact, weren't for tissue alone. They
14 were actually for an entire program: bags, gift tags,
15 and tissue. We don't necessarily know who would have
16 produced any one of those given products; but,
17 instead, would have purchased from somebody, who was
18 able to bring together all of those components. So,
19 we wouldn't have necessarily been analyzing based on
20 source of production. We would have been analyzing
21 based on the ability to pull together what we were
22 looking for. So, the information as to the producer
23 of any one component isn't anything that we would have
24 been searching for in our analysis as to who was
25 qualified and not qualified.

1 CHAIRMAN KOPLAN: Well, I guess I'm
2 confused, because I heard testimony that said there
3 wasn't any attempt to sell until very late in the
4 period on behalf of the domestics. So, you must have
5 known who was trying to sell to you.

6 MS. DEMSKI-BRANDL: That was a first
7 approach from Petitioner, specifically.

8 CHAIRMAN KOPLAN: Okay. But, you have been
9 conducting purchases in this fashion all during the
10 period, haven't you, 2001, 2002, 2003?

11 MS. DEMSKI-BRANDL: Well, as we said, we
12 didn't -- we don't purchase single SKUs of tissue
13 ever. We purchase in three large purchases. So, what
14 Petitioner was proposing was outside what we were
15 prepared to do at any given time.

16 CHAIRMAN KOPLAN: Let me see if I can ask it
17 this way. In 2001, were any of the domestic producers
18 pre-qualified to make a bid on one of your auctions?
19 You don't know the answer to that?

20 MS. DEMSKI-BRANDL: We did have domestic
21 producers that qualified for our bulk tissue.

22 CHAIRMAN KOPLAN: You did?

23 MS. DEMSKI-BRANDL: Yes, we did.

24 CHAIRMAN KOPLAN: And in 2002, as well?

25 MS. DEMSKI-BRANDL: 2001 was not a bulk

1 tissue auction. That was actually an assortment
2 auction.

3 CHAIRMAN KOPLAN: Okay.

4 MS. DEMSKI-BRANDL: And on the assortment
5 auction, unfortunately, we don't have very perfect
6 visibility. I believe that some of them were domestic
7 producers. But, I -- we can look into that. We can
8 respond in --

9 CHAIRMAN KOPLAN: I appreciate it if you
10 could. And if you could break it up between bulk and
11 consumer, I'd appreciate it, during the period. If
12 you could do that for the post-hearing.

13 MS. DEMSKI-BRANDL: Yes.

14 CHAIRMAN KOPLAN: Thank you. Let me stay
15 with Target, if I could. Petitioner's pre-hearing
16 brief notes at page 30 that stores such as Cosco, Wal-
17 Mart, BJ's and Target all sell larger packages of
18 consumer tissue paper to both individual customers and
19 small businesses. What is the largest package of
20 consumer tissue paper sold at retail by Target?

21 MS. DEMSKI-BRANDL: The largest package is
22 100 sheets. It's available in our stores during the
23 month of November and December.

24 CHAIRMAN KOPLAN: Thank you. Are the larger
25 packs of consumer tissue paper sold as flat,

1 individually folded, or quire-folded? Do you want to
2 do that post-hearing?

3 MS. DEMSKI-BRANDL: It's folded.

4 CHAIRMAN KOPLAN: It's folded, okay. Mr.
5 Ikenson, Petitioners' pre-hearing brief states on page
6 two that the data in the final phase of these
7 investigations is less comprehensive than the data in
8 the preliminary phase, because several importers and
9 farm producers that participated in the prelim are no
10 longer participating in the final phase. They urge
11 the Commission to rely on data presented in the
12 preliminary staff report for all but the interim nine-
13 month period. You heard Petitioners' response to my
14 question concerning their argument this morning. I'd
15 like to hear your comment.

16 MR. IKENSON: I think we have to divide up
17 the question. Some data, you may, if you have no
18 choice --

19 CHAIRMAN KOPLAN: Could you move the mic a
20 little closer?

21 MR. IKENSON: Yes. With respect to some
22 data, if you have no choice, it may be a very
23 reasonable approach to use data collected at the
24 prelim. For example, import volume might be -- it
25 might be acceptable to look at the preliminary

1 database. However, at the prelim, import data was not
2 broken down between consumer and bulk. So, I think if
3 you were to try to come up with a second best source
4 of data on imports using the prelim, we're going --
5 you might have something, but it really will be a
6 second best. It will not -- we'll have problems with
7 that. And with respect to the other aspects of the
8 data, certainly with regard to price and -- I don't
9 think you can make any inferences at all as to what
10 the price's average unit values showed using a
11 different unit of measurement in the prelim. I don't
12 think you can carry that over here.

13 And I think also, statistically, there's no
14 reason to assume that the average unit values that are
15 reflected in the current report, the pre-hearing
16 report, just because there are fewer importers would
17 have a different trend or different pattern if there
18 were more importers. I think Vice Chairman Okun was
19 suggesting that and I think I would agree.

20 I'm not trying to minimize the problem. I
21 think there is a problem and I'm trying to give some
22 thought as to how to come up with a helpful
23 suggestion.

24 CHAIRMAN KOPLAN: Thank you. I appreciate
25 it. Is there anything you want to add to that, Mr.

1 Thompson?

2 MR. THOMPSON: Certainly on the import price

3 --

4 CHAIRMAN KOPLAN: Move the mic closer.

5 MR. THOMPSON: On the pricing as between the
6 two stages of the investigation, I don't think that
7 the information determined in the preliminary is going
8 to be readily translatable into the format used in the
9 final. We had, as I recall, there was a different
10 measure of measurement, as well as a somewhat
11 different product descriptions. And so, I don't think
12 that the two really could be used interchangeably.

13 CHAIRMAN KOPLAN: Thank you. This is for
14 both Target and Cleo. Could you give me your best
15 estimate of the percentage of consumer tissue paper,
16 if any, that is sold by your respective sales in the
17 same retail package with or is designed to coordinate
18 with other related products, such as give boxes or
19 gift bags? And can you estimate what percentage of
20 subject imports are sold in that manner? I asked this
21 question to Petitioners this morning, as I'm sure you
22 remember. I'll start with you, Mr. Kelly.

23 MR. KELLY: In order to ensure complete
24 accuracy, I'd like to submit that in a post-
25 conference. And, also, that would be confidential,

1 too.

2 CHAIRMAN KOPLAN: I appreciate that, no
3 problem.

4 MR. KELLY: Thank you.

5 CHAIRMAN KOPLAN: Mr. Thompson or Ms.
6 Kelley?

7 MS. KELLEY: We'll give you that
8 information.

9 CHAIRMAN KOPLAN: Post-hearing?

10 MS. KELLEY: Yes.

11 CHAIRMAN KOPLAN: Okay, thank you. Mr. --
12 let's see if I can get this out. Mr. Ikenson and Mr.
13 Thompson, in your opinion, is tissue paper imported in
14 a retail package with a gift bag within the scope, as
15 determined by the Department of Commerce? I asked
16 that question this morning and I ask if you agree with
17 Petitioners on that.

18 MR. THOMPSON: Commissioner, I haven't been
19 involved on the Commerce side and I'd have to evaluate
20 that in a written submission.

21 CHAIRMAN KOPLAN: You were, Mr. Ikenson, so
22 let me bring that back to you.

23 MR. IKENSON: I, also, have not been on the
24 Commerce side and I think I would wish to do the same.

25 CHAIRMAN KOPLAN: Okay.

1 MR. IKENSON: But, I would say, you asked --
2 you said a retail tissue? Did you mean consumer
3 tissue?

4 CHAIRMAN KOPLAN: Yes. Let me go back and
5 give it to you again. Yes, consumer tissue, that's
6 right.

7 MR. IKENSON: Okay. We'll --

8 CHAIRMAN KOPLAN: Do you want me to repeat
9 the question again?

10 MR. IKENSON: No, I understand the question
11 and we'll address that in the post-hearing.

12 CHAIRMAN KOPLAN: All right. And the second
13 part of that is what percentage of subject imports are
14 sold in that manner. If you could do that for me
15 post-hearing, as well.

16 MR. IKENSON: We shall.

17 CHAIRMAN KOPLAN: Thank you. Vice Chairman?

18 VICE CHAIRMAN OKUN: Thank you, Mr.
19 Chairman, and let me join in thanking the witnesses
20 for being here this afternoon for the information you
21 submitted and your testimony and willingness to answer
22 questions. I, very much, appreciate it and learned a
23 lot. I was following the discussion you were having
24 with Commissioner Pearson with regard to Target and
25 how it markets and I found that a fascinating

1 discussion and I may come back to that on what that
2 means in this particular case.

3 But, let me go the price issue and just
4 follow up on a couple of things that were raised by my
5 colleagues. And why don't I start, Mr. Ikenson, with
6 you, because you just mentioned that, which is -- I
7 mean, we have this issue with the pricing data and we
8 talked a lot with Petitioners this morning about what
9 they would ask us to do versus what you've just
10 commented on. But, let me put this question to you,
11 which is, all right, I've heard what you've just said
12 about the pricing data and what our current pricing
13 data shows us. And then you have, as Petitioners have
14 argued, all this purchaser testimony elsewhere in the
15 staff report, where, you know, in terms of, do
16 purchasers see Chinese product as being comparable; an
17 overwhelming yes, except on price. And then, I look
18 at this data here. Help me understand how you would
19 reconcile what to me looks like two really different
20 stories being told in the staff report: the pricing
21 data collected thus far, versus what the majority --
22 what many of the purchasers said in response to
23 questions about the price of Chinese product. Mr.
24 Bradley, sure.

25 MR. BRADLEY: Thanks. I think the problem

1 you allude to is potential conflict between two
2 sources of information and how does one reconcile
3 those two. In my view, when looking at the
4 qualitative information, I think one has to couch the
5 inferences drawn based upon the fact that quality and
6 price do both matter. My understanding is that the
7 purchaser said that both are important. And it may
8 that for particular purchasers, their perception is
9 that Chinese prices were lower. They may hear that in
10 the marketplace. They may hear that as a general
11 matter. But, it's not the perfect substitute for
12 actual head-to-head comparisons. Because,
13 underselling, as you well know, requires us to be
14 comparing comparable products. And lower prices, as a
15 general matter, doesn't necessarily mean underselling
16 on comparable products. It could be lighter weight
17 papers, fewer sheets, a variety of things that can go
18 into that qualitative decision.

19 So, you know, obviously, you have to weigh
20 them in your mind when you look at the two of them.
21 But, my general pendency is to say, to the extent that
22 the head-to-head comparison are acceptable, if not
23 great, I would suggest relying upon those.

24 VICE CHAIRMAN OKUN: And before I ask this
25 next question, let me ask you, as I did the

1 Petitioners, in terms of AUV data, how probative are
2 they, in this case?

3 MR. BRADLEY: I would agree with Dr.
4 Magrath's comment, that there is such a variety of
5 individual items sold, from big to little, to fancy to
6 cheap, that the AUVs are not going to be helpful to
7 you.

8 VICE CHAIRMAN OKUN: Do you think the AUVs
9 could be used as a check against the pricing data,
10 where some things are complete outliers, as just a way
11 to check the data that's coming in, in our pricing
12 data?

13 MR. BRADLEY: One always looks for outside
14 information for corroboration and I'd hate to say, no,
15 don't look at the data. But, I would do so very, very
16 carefully, because there is a tremendous variety, in
17 terms of the pricing of -- even within just the
18 consumer side. You know, we were talking earlier
19 about percentages and if we look at the percentage of,
20 say, pure white paper versus what they call specialty
21 paper, that may be one thing by square meters, very
22 different by price -- or by revenue, because the
23 pricing is so different. So, as he said this morning,
24 compositional effects could really overwhelm the
25 comparisons and one must be very careful, I think.

1 VICE CHAIRMAN OKUN: Okay. And this may be
2 part of the question that the Chairman just posed, but
3 just for post-hearing, Mr. Ikenson, we've asked for
4 additional information from Petitioners in responding
5 to, you know, if the pricing data -- to identify the
6 problems they see with the pricing data and they did
7 do that already, in terms of their pre-hearing brief
8 at pages 37 to 39. And I would ask that you, also,
9 respond in your post-hearing brief to the specific
10 issues that they've raised with regard to what they
11 see as the errors in the pricing data.

12 MR. IKENSON: We shall do that.

13 VICE CHAIRMAN OKUN: Okay. And then, I
14 guess, to you, Mr. Bradley, you raised that and that
15 reminded me that I did want to ask this panel, I
16 guess, start with you, Mr. Kelly. In terms of -- if
17 you can answer this, maybe you have to do it post-
18 hearing, which is this breakdown again with -- I
19 believe Commissioner Miller had asked the Petitioners
20 this morning to go through the breakdown of, you know,
21 white versus colored, bulk versus -- or bulk retail
22 versus consumer side. Can you do that here or do you
23 need to do that post-hearing?

24 MR. KELLY: I need to do it post-hearing.

25 VICE CHAIRMAN OKUN: Okay. So, you have

1 been asked that. I thought so. In terms of
2 specialty, what definition of -- I know as one thing
3 that the Petitioners' panel raised is that, to them,
4 the specialty has moved between -- you know, red and
5 green used to be a specialty versus dye-cut with
6 scallops. Can you help me out, in terms of what you
7 see as the size of the specialty market and how you
8 define that? And I would ask if Target has any
9 response on that, as well.

10 MR. KELLY: How I would define the different
11 products with the size or the market?

12 VICE CHAIRMAN OKUN: Well, both, I guess. I
13 need to know how you define the products and then what
14 size you think that is of the market.

15 MR. KELLY: Okay. As far as the size of the
16 market, I'd like to define that in the post-hearing.
17 But, probably an over simplification would be that you
18 basically have white tissue and then you have colored
19 tissue and then you have printed tissue. And then,
20 you start into what we call the specialty products,
21 which is a mixture. It can be a scope product or a
22 mixture of a scope product, Mylar, just a variety of
23 different products and different sheet counts and
24 different put-ups. So, basically, that's -- you know,
25 from my personal perception, that's what I put into

1 the specialty tissue. When you have a package, that
2 is, in the case of bulk, where they're offering a
3 package that is all printed tissue, then that's
4 printed. You know, it's pretty clear. When you have
5 one that's color, it's color and bulk is bulk. So,
6 those are really the way I look at the four
7 categories, with specialty being either a mixture or
8 something different than those three.

9 VICE CHAIRMAN OKUN: Okay.

10 MR. BRADLEY: If I could just interrupt; I
11 apologize. Just to be clear, because these
12 percentages really do vary by the metric, did you want
13 that in terms of square meters, packages, or revenue?

14 VICE CHAIRMAN OKUN: Well, I'm not sure what
15 we asked -- I want to try to have as much comparable
16 against what we're asking the Petitioners to provide,
17 as well.

18 MR. BRADLEY: I didn't actually --

19 VICE CHAIRMAN OKUN: And I'm not sure --

20 MR. BRADLEY: It occurred to me this morning
21 that I wasn't sure that the metric was defined then,
22 either, when they were giving their percentages. So,
23 maybe it's something you just want to say, one or all
24 or whatever. But, it would be useful, I think --
25 because, otherwise, you may get percentages that don't

1 line up.

2 VICE CHAIRMAN OKUN: Yes. I would talk to
3 staff. I know there were some percentages in the
4 staff report, so I want to make sure we try to --

5 MR. BRADLEY: All right. We'll make sure we
6 all give you consistent numbers.

7 VICE CHAIRMAN OKUN: Yes.

8 MR. BRADLEY: That's excellent.

9 VICE CHAIRMAN OKUN: Okay.

10 MR. KELLY: Commissioner?

11 VICE CHAIRMAN OKUN: Mr. Kelly?

12 MR. KELLY: Quite honestly, if it was me
13 doing it, in order to do an accurate picture of what
14 really is going on, you really need to look at it in
15 dollars, as well as pounds or square meters. So, I
16 would encourage you to ask for all three.

17 VICE CHAIRMAN OKUN: Okay. Well, again, I
18 do want staff to work with the parties, to make sure
19 that however this is collected and easy for you to
20 get, both from the Respondents' panel and from the
21 Petitioners' panel this morning, so that we have some
22 comparability, that we're not looking at apples to
23 oranges, that would be helpful.

24 Then, Ms. Kelley, let me go back to you on
25 just a couple of follow-up questions with regard to

1 how Target selects suppliers and how they purchase and
2 some of the comment you made. Because, I just want to
3 make sure, in terms of -- in this exchange of did you
4 know -- did the domestic industry -- was the domestic
5 industry involved in these and do you know who they
6 are, versus -- what I was trying to understand when
7 you were saying -- let's take your better-best
8 category. You were saying, I thought, one company may
9 be getting the tissue paper from one vendor and the
10 gift bag from another and they, then, jointly would
11 give you one of these joint things that are all put
12 together, a gift bag, a tissue paper, a bow, or
13 whatever, so that that company may be a different
14 company than is actually producing the tissue paper.
15 Was that --

16 MS. KELLEY: Actually, Toni was just
17 discussing that. She brought that up, but I can talk
18 to that. There will be marketing companies that come
19 to us that have been pre-qualified based on the
20 different criteria and they will present a complete
21 picture, because we want to be able to buy from one
22 vendor. So, they'll provide the bags, the roll wrap,
23 the tissue, everything, so that it's all color
24 coordinated. It will be one company. We may not know
25 who was actually producing behind that marketing

1 company.

2 VICE CHAIRMAN OKUN: Okay. And so is a
3 company, who would just be coming in to do one of
4 those products, are they -- you don't talk to them,
5 because they're not in --

6 MS. KELLEY: We want to be able to buy from
7 one company.

8 VICE CHAIRMAN OKUN: Okay. So, when you
9 were talking about, I think maybe in your direct, the
10 ability of a company, if they didn't have a design
11 team, are you talking about design team different from
12 a -- I mean, does it have to be -- I mean, some of the
13 complainant's this morning were talking about design
14 teams and how is the work with customers. Are you
15 talking about a different type of design team?

16 MS. KELLEY: In our Better-Best program,
17 what happens is, we'll have the bags and roll wrap
18 preselected and then we invite the pre-qualified
19 tissue manufacturers to come in to bid on the business
20 in the Better-Best program. And they will look at --
21 they'll bring their designers with and look at what
22 we've already selected for bags and roll wrap and then
23 they will take that information back and actually
24 design the tissue. They'll either do hot-stamping or
25 glitter, whatever the printed pattern is, or

1 scalloped, whatever it is that they do. And we'll
2 give them ideas about what is selling, what's not
3 selling, kind of what we want to do within that
4 assortment. And they'll go back and work and come
5 back to us with this is what we think would be the
6 best assortment for your guest and for Target. And we
7 need the design capabilities of their companies to do
8 that, because we don't have that -- I mean, we are
9 just getting started with our design staff within
10 Target, but we rely very heavily on our vendors and
11 their design staffs to help us with these different
12 programs.

13 VICE CHAIRMAN OKUN: All right. My red
14 light has come on. I thank you for those comments.

15 CHAIRMAN KOPLAN: Thank you. Commissioner
16 Miller?

17 COMMISSIONER MILLER: Thank you. I think
18 let me stay with the witnesses from Target, if I could
19 for a moment, because a couple of things I want to
20 clarify, I guess. In listening to you talk, Ms.
21 Kelley, about how you want one company, the marketing
22 company, it's raised a series of questions in my mind.
23 But, let me first clarify one bit of information and
24 Mr. Thompson, we may need your help on this. I'm now
25 wondering, to the extent the staff report includes

1 information about auctions in it, Ms. Demski-Brandl,
2 your comments about usually the auctions being for
3 assortments, in response, I think it was for the
4 Chairman, you mentioned the one bulk auction, but
5 otherwise for the most part, you were suggesting that
6 the auctions have been for assortments. And that is
7 making me wonder about the information we have
8 regarding auctions, Mr. Thompson. I mean, if we have
9 a sort of a partial bit of information pulled out from
10 what was a broader auction, I'm not quite sure how
11 informative that is to us. You're shaking your head
12 in agreement.

13 MS. DEMSKI-BRANDL: Yes, that is a problem,
14 because, quite frankly, we bid in a weighted manner,
15 not for individual products within the assortment.
16 So, pulling out prices was problematic for us.

17 COMMISSIONER MILLER: Okay. Well, you
18 provided us this information in your questionnaire
19 response, but I guess -- and maybe in the detail here
20 or something, I'm missing it makes clear that that was
21 actually part of a broader auction. But, I don't
22 know, this just strikes me as something -- Mr.
23 Thompson, I don't know if in the post-hearing
24 submission, you want to help us understand how we can
25 look at this or whether -- I just want to -- I'm kind

1 of looking and saying, well, is this part of an
2 auction and, then, how useful is it to our analysis.
3 I mean, I assume there were a lot of different things
4 that went into, you know, who won the bid. So --

5 MR. THOMPSON: Well, I think what we will
6 attempt to do is provide you with the products that
7 were covered and see whether we can comment --

8 COMMISSIONER MILLER: Okay.

9 MR. THOMPSON: -- on the usability of the
10 data.

11 COMMISSIONER MILLER: Okay.

12 MR. VOLLMER: I can discuss further the
13 auction in question and the weighted bid on the
14 auction.

15 COMMISSIONER MILLER: Mr. Vollmer, sure.
16 Which auction in particular are you referencing, then?

17 MR. VOLLMER: I think we're all referencing
18 the first one, the Value Basics auction.

19 COMMISSIONER MILLER: I let you choose. All
20 of this information is confidential, but you know it.
21 So, it's your information to share. And if you'd
22 rather address it in the post-hearing submission,
23 that's fine. But --

24 MR. VOLLMER: I can give you the methodology
25 behind how the bidding for the auction.

1 COMMISSIONER MILLER: How --

2 MR. VOLLMER: It's a weighted average within
3 the auction. How that weighted average is derived is
4 from not only the units of the individual pieces; but,
5 also, the cost for each of those pieces. So, as a
6 vendor or manufacturer is trying to figure out their
7 weighted average price, they will be calculating
8 within a sheet how many units of a particular item.
9 So let's say, the Value Basics auction has bags. It
10 would say, x amount of units of the bags at x price.
11 And then for the tissue, it would have x amount of
12 units of tissue at x price. Well, there's different
13 sizes within those bags and within the tissue and
14 there's different colors and there's different
15 quantities for each one of those. But, everything
16 within that grid will roll up and come up out as a
17 weighted average cost for that vendor.

18 COMMISSIONER MILLER: All right. But, are
19 you looking at the weighted average of the tissue
20 alone

21 MS. DEMSKI-BRANDL: No.

22 COMMISSIONER MILLER: -- or the tissue in
23 bags together?

24 MS. DEMSKI-BRANDL: He described how the
25 calculating work, how the worksheet works. But, at

1 the end of it, the assortment is comprised of many,
2 many items and so we've asked them to weight the
3 average across all of the products, all of the
4 different sizes of the unit, all -- for tissue paper,
5 it would be five sheet, 25 sheet, 10 sheet, whatever
6 we'd be offering the bags. The big bags, little bags,
7 the printed bags, the plain bags, the roll wrap, the
8 flat wrap, the gift treat bags, all of that gets
9 rolled together. And what we've asked them to do is
10 weight the average for everything. We're sort of
11 blind to what the tissue paper, itself, might be
12 valued at; just everything in that entire assortment
13 averages out to the specified price, to the weighted
14 average price.

15 COMMISSIONER MILLER: Okay. Well, I might
16 be missing something in our footnotes. That happens
17 sometimes. But, if the numbers that we're looking at
18 on initial bids, final bids, winning bids are not just
19 tissue paper, but the whole thing of the assortment,
20 then that's not our subject product here. So, I think
21 in some way, we need to work with you, to make sure
22 that we're looking at information only on our subject
23 product and not on products that aren't part of this
24 investigation. Okay. So, that gives you -- both you
25 and our staff have something to work together on. And

1 probably you've done that, but we just need to make
2 sure.

3 Then, again, thinking, Ms. Kelley, about how
4 you described your interest in finding the marketer.
5 I actually think this question, I may have to address
6 to Mr. Vollmer, as well, to the extent that he talked
7 on behalf of Target sourcing services. But, as you
8 were describing that, I'm thinking to myself, well, to
9 be censured, we've seen Target sourcing directly. Who
10 is that marketing company that's pulling it together
11 for you? If you're sourcing overseas, it's not the
12 U.S. company, then, that's pulling it together for
13 you? Or --

14 MS. KELLEY: For the Value Basics program,
15 it is a direct import and we have a company overseas
16 that does all of those pieces, that manufacturers all
17 of those pieces.

18 COMMISSIONER MILLER: Okay, okay.

19 MS. KELLEY: Yes.

20 COMMISSIONER MILLER: For the other
21 programs?

22 MS. KELLEY: For the Better-Best tissue
23 program, we have had a competitive line review and
24 we've had overseas sources come to that and, also,
25 domestic sources come to that.

1 COMMISSIONER MILLER: Okay.

2 MS. KELLEY: We're open to both.

3 CHAIRMAN KOPLAN: Okay. Well, thank you;
4 thank you, very much. Mr. Kelly, I think I want to
5 come back to you, if I can, for a few minutes, to ask
6 this sort of general question. It was very
7 interesting listening to you talk about your business
8 and the business model, as you described it in your
9 initial testimony. If you've described Crystal and
10 your business at Crystal back in 1999, when you were
11 their president, would you have been describing the
12 same -- would it have sounded the same? Has the
13 process of how you do business changed for you with
14 Cleo, as an importing company, from what it was when
15 you were Crystal, the U.S. manufacturer?

16 MR. KELLY: No, Commissioner Miller.
17 Actually, when I was talking about the reasons why we
18 split the company to the Crystal Tissue versus the
19 Crystal Creative was to get close to the model that we
20 have at Cleo today, which is really one that views how
21 do we service the large retailers, the mass merchants;
22 what are their needs. Their needs really are -- I'm
23 as much of a logistical expert, as I am a tissue
24 expert. The key is for us to be able to get tissue,
25 for them to have a comfort level with us, that if they

1 buy their tissue requirements from us, they know that
2 it will be on their shelves during the Christmas
3 season, during that very critical period. As an
4 example, it's so seasonal that data we have, as
5 category manager for several of the large retailers,
6 50 percent of the Christmas tissue is sold two weeks
7 before Christmas.

8 So, again, making all that happen
9 logistically, getting that volume in there, making
10 sure that you have your shipments staged -- I hope I'm
11 answering your question. But, the model that we were
12 moving towards, we're very close to. In fact, I think
13 we were there in 1999, was, again, not trying to sell
14 tonnage for our paper mill, it was trying to figure
15 out what is it that Target, as an example, needs. We
16 were recognized as vendor of the year there a couple
17 of times and continue to be a very important of ours,
18 as well. So, that's our model. Our sales and
19 marketing people are charged to go find out what the
20 marketplace wants and figure how to give it to them.

21 COMMISSIONER MILLER: Okay.

22 MR. KELLY: You know, the other thing is we
23 print -- I was thinking of Commissioner Hillman's
24 family rejoicing our operations in Memphis, Tennessee.
25 We print eight-and-a-half million feet of gift wrap

1 every single day in Memphis, Tennessee and, obviously,
2 that's a large printing operation. But the key there,
3 along with our tissue, is bringing that together with
4 the tissue, whether we get it from overseas, whether
5 we make it in Maysville, Kentucky, to bring that -- we
6 ship 150 trucks a day during our peak out of Memphis,
7 Tennessee. And then as of Thanksgiving, that goes to
8 zero. So, we have to find trucking companies that are
9 willing to give us that many trucks for a four-month
10 period and then not do business for the rest of the
11 year and that's not easy. But, that's the business.

12 COMMISSIONER MILLER: All right. I
13 appreciate that. Thank you, very much.

14 CHAIRMAN KOPLAN: Thank you. Commissioner
15 Hillman?

16 COMMISSIONER HILLMAN: Thank you. Ms.
17 Kelley, I'm sorry to come back on this. I guess I
18 thought I had understood it and now I'm having some
19 doubt. So, just, if I can, just walk you through at
20 least my -- what I thought I heard and let you clarify
21 for me. Ms. Kelley, on the Target side, on the Value
22 Basics line, you are seeking bids just on the tissue
23 paper?

24 MS. KELLEY: No.

25 COMMISSIONER HILLMAN: Okay.

1 MS. KELLEY: We are seeking bids for the
2 total program, which includes bags, roll wrap, flat
3 wrap --

4 COMMISSIONER HILLMAN: Okay.

5 MS. KELLEY: -- tissue.

6 COMMISSIONER HILLMAN: Okay. I am sorry. I
7 thought I heard in response to a question Vice
8 Chairman Okun asked that once those bags have been
9 developed -- again, that's why I'm trying to make sure
10 I understand it, on the Value Basics side, are you
11 developing the bags and the roll wrap first or that's
12 only on the Better-Best side?

13 MS. KELLEY: That's for the Better-Best.
14 The bags and the roll wrap are for --

15 COMMISSIONER HILLMAN: Both lines are bid as
16 a package? In other words, you're going out for a bid
17 for everything?

18 MS. KELLEY: The bids are done -- one bid is
19 done for Value Basics. That's an option. And then,
20 we do a competitive line review for the Better-Best.
21 So, they're different events for the different
22 programs --

23 COMMISSIONER HILLMAN: Okay.

24 MS. KELLEY: -- and are handled very --
25 they're very handled very differently.

1 COMMISSIONER HILLMAN: Okay. But, the
2 auctions that let you bid for the Value Basics, you
3 are asking people to bid on an entire package?

4 MS. KELLEY: Yes.

5 COMMISSIONER HILLMAN: X amount of bows, Y
6 amount of bags, Z amount of tissue paper --

7 MS. KELLEY: Not the bows; but, yes.

8 COMMISSIONER HILLMAN: -- et cetera.

9 MS. KELLEY: Yes. We don't do the bows, but
10 we do the bags, the roll wrap, the tissue, the treat
11 sacks, there's couple -- tags.

12 COMMISSIONER HILLMAN: Okay, all right. So
13 when you're evaluating a bid in theory, you're
14 evaluating it on the bottom line price for the entire
15 package?

16 MS. KELLEY: For the whole program, correct.

17 COMMISSIONER HILLMAN: Okay. And then on
18 the other side, on the Better-Best side, a competitive
19 line review, is it, also, the notion that you want one
20 source for all of those pieces?

21 MS. KELLEY: Yes. It's actually, the
22 Better-Best is divided into four components. It's
23 baby, wedding, all occasion, and birthday, and that's
24 how we kind of look at it. And we want to be able to
25 give all four of those components that make up the

1 Better-Best to one manufacturer.

2 COMMISSIONER HILLMAN: Okay; all right.

3 MS. KELLEY: So that we have those
4 efficiencies, the consistency.

5 COMMISSIONER HILLMAN: And then, again,
6 within you wanting to do all four of those pieces, but
7 within those pieces, you're also wanting to do, again,
8 the bags, the paper, the tissue paper, et cetera, also
9 from the same source?

10 MS. KELLEY: No. We have multiple sources
11 for the bags and the roll wrap in the Better-Best.

12 COMMISSIONER HILLMAN: Okay; all right.

13 MS. KELLEY: But the tissue is one
14 manufacturer in the Better-Best.

15 COMMISSIONER HILLMAN: So as long as that
16 one manufacturer can do baby and seasonal and --

17 MS. KELLEY: Yes.

18 COMMISSIONER HILLMAN: Okay. So, all right.

19 MS. KELLEY: Yes.

20 COMMISSIONER HILLMAN: Now, I think I've got
21 it. I'm sorry. I was -- it's like a bridge --

22 MS. KELLEY: It's confusing.

23 COMMISSIONER HILLMAN: -- we're being
24 crossed over somewhere there. So, I appreciate those
25 clarifications. So, you're saying, it is on the Value

1 Basics line that you're doing the direct -- you are
2 the direct purchaser of the tissue paper -- direct
3 importer or purchaser?

4 MS. KELLEY: Yes, of tissue paper and the
5 bags, the whole package. Yes, that's correct.

6 COMMISSIONER HILLMAN: Okay. Then, I'm
7 wondering if you can help me understand, which means
8 you're purchasing tissue both as a direct importer and
9 for this Better-Best line in a different way?

10 MS. KELLEY: Correct.

11 COMMISSIONER HILLMAN: Okay. The pricing
12 data that we have, and again this is a little bit
13 difficult, because the actual numbers are
14 confidential, but the numbers that we have, and I'm
15 wondering if you could help me understand them, show a
16 very significant difference between the -- again,
17 this, in theory, is an imported price, if it's been
18 brought in by an importer and, then, in essence, sold,
19 and, again, presumably to a retailer to turn around
20 and sell again -- it's the same product -- versus
21 direct imports. All right. So, we have two different
22 pieces of pricing data. And they're quite a bit
23 different. We've obviously seen a lot of cases, in
24 which we look at prices this way, and no doubt there
25 is usually a difference in the number, because the

1 importer is taking on some risk and they've got to
2 turn around and sell it and they're going to want
3 something of a markup. So, I'm not -- I'm very
4 familiar with seeing some difference. But, I'll tell
5 you here, these are some pretty significant numbers,
6 some of them as high as 75 percent difference between
7 the direct import price for the same thing and the
8 importer. If it's an importer that's not a retailer,
9 their prices are showing here, you know, again
10 significantly, significantly higher. Can you help me
11 understand why would that be the case?

12 MS. KELLEY: Well, one of the things is that
13 they have to cover their cost for their design
14 department to design all the tissue in the Better-
15 Best, because they bring in all the creativity. So,
16 they've got to cover that cost. And then, also, the
17 Better-Best tissue is actually -- has specialized
18 treatments to it. It's either dye cut. It's got
19 crystal -- or glitter on it. It might have hot-
20 stamping. It's got handmade paper. It's a better,
21 you know, more unique paper.

22 COMMISSIONER HILLMAN: Okay. Let me just
23 read you a description of one of these products that
24 we would price, that would have had this big
25 difference in it, and try to help you help me

1 understand exactly what you're just saying. But would
2 that fit, if I'm looking at tissue paper folds, 40
3 sheets, 20 x 24 inches or 20 x 26 inches white, in
4 poly bag or band? So, I'm reading this thinking there
5 can't be that much variance in 40 sheets in a poly bag
6 white in a specific size. And, yet, I'm seeing this,
7 you know, somewhere between 25 and 75 percent
8 difference in price, whether it's being brought in
9 directly by a retailer or whether it's being brought
10 in by an importer. Can you help me understand for a
11 product like that, where would 75 percent markup come
12 from?

13 MS. KELLEY: I'm not sure I exactly
14 understand what you're looking at versus -- maybe if I
15 could get back to you on that.

16 COMMISSIONER HILLMAN: Yes. Again, Mr.
17 Thompson, I think you can look at the actual data I'm
18 talking about. Like I said, we received this in a lot
19 of cases, it is -- I will say, I don't ever remember a
20 case in which we saw this big of a difference between
21 the prices for the direct imports versus the prices
22 that are coming in from the imports, which makes me
23 think there is something going on with this pricing
24 data. So, I guess for both Mr. Ikenson and Dr.
25 Bradley and you, Mr. Thompson, if there's anything

1 that you can help us understand about how it is
2 possible to see these big differences between the
3 prices reported by the direct retail importers versus
4 the prices reported by the importers of record that
5 are then going to turn around and sell it to a
6 retailer. If there's anything you want to say now
7 and, if not, if it can be addressed in the post-
8 hearing. I mean, it's a phenomenon I see in all of
9 the products that we've priced, but it is larger in
10 some than in others. So, again, if there are these
11 product specific issues that would explain these
12 differences that Ms. Kelley was just describing,
13 again, that would be useful information for us to
14 have. In other words, that we should expect to see a
15 big difference in product, whichever one it is, for
16 the following reasons, that's what I need to hear from
17 you.

18 MR. THOMPSON: We'd best address that in
19 post-hearing comments --

20 COMMISSIONER HILLMAN: Okay.

21 MR. THOMPSON: -- to evaluate the numbers.

22 COMMISSIONER HILLMAN: Mr. Kelly, you look
23 like you wanted to add something on this. No? Okay;
24 all right. Then, if I could go -- I, also, asked,
25 just so I understand it, this issue of how big is the

1 seasonal market for tissue paper, again, trying to get
2 some sense of -- again, obviously, there's some issues
3 of how do you define seasonal. But, Mr. Kelly, I
4 don't know whether you would have any view of if we're
5 looking at the market generally, the tissue paper
6 market, what portion of it would you describe as a
7 seasonal product or seasonal market?

8 MR. KELLY: If you look at it from a volume
9 standpoint, from my perspective and from our company's
10 numbers, it's weighted heavily toward the Christmas
11 seasonal business.

12 COMMISSIONER HILLMAN: It's weighted
13 heavily, more than 50 percent?

14 MR. KELLY: Yes, from a volume standpoint it
15 would be. And the other thing that's important to
16 remember, I know there's been a lot of talk about the
17 clubs and whether they're a consumer, whether they're
18 bulk, or whatever. But, they're clearly consumer, in
19 that they fit all the packaging requirements. And the
20 other thing that's interesting, they talk about, you
21 know, that there's this market out there for 400-sheet
22 count packages sold at the clubs. Well, there's one
23 club, one SKU that buys a 400 -- that buys that
24 particular package and they buy it once a year for
25 their Christmas season. It's in and out. So, it's

1 not an everyday item. So, again, it's not as if, you
2 know, it's a widespread usage of high consumer count.
3 And then after that one SKU, then the second largest
4 SKU is at Sam's and it's about around a 330 sheet; and
5 then BJ's, which is a small club, also has one in the
6 350 range. And then there's a drastic drop off the
7 rest of the universe on number of sheet count. So,
8 everything is kind of misleading.

9 COMMISSIONER HILLMAN: And if you added all
10 that club together, again, would you have a sense of
11 how big that is of the total market?

12 MR. KELLY: I'd be glad -- yes, I do, and
13 I'll provide that to you in post-conference.

14 COMMISSIONER HILLMAN: Thank you, very much.
15 Last question, and because it's confidential, I'm
16 going to address it just to counsel to address. You
17 attached to your brief the report of the investment
18 bankers, the Harrison Williams Company. And because I
19 understand the attachment is confidential, but I
20 wondered if specifically, you could address the text
21 of page 41 of that report, that refers to both the
22 sourcing auctions and costs associated with those
23 auctions and the availability of specialty tissue
24 stock in the U.S. and abroad. I'm just trying to make
25 sure that you discuss that, in terms of your arguments

1 about the reasons why Crystal switched to importing
2 and whether or not that is or is not consistent with
3 what the investment bankers were saying prior to the
4 sale. Thank you, very much.

5 CHAIRMAN KOPLAN: Thank you. Commissioner
6 Lane?

7 COMMISSIONER LANE: Thank you. Mr. Kelly, I
8 want to go back to you, to talk about an issue that
9 we've raised this morning about whether or not Crystal
10 should be excluded from the domestic industry. How do
11 you respond to the Petitioners' claim that the
12 percentage of domestic production attributable to
13 Crystal is substantial and that the exclusion of
14 Crystal data would skew the data for the remainder of
15 the domestic industry?

16 MR. KELLY: I'd like to ask Mr. Ikenson to
17 respond to that.

18 COMMISSIONER LANE: Okay.

19 MR. IKENSON: I would respond this way,
20 Commissioner. In our brief, we indicated that we
21 thought there are two different sources of authority
22 for you, to take into account.

23 CHAIRMAN KOPLAN: Mr. Ikenson, could you
24 move that mic closer, because it's not picking you up?

25 MR. IKENSON: Yes. We identified two

1 separate sources of authority for you to take into
2 account Cleo's special situation and we indicated that
3 you do have authority under the related-party
4 provision to exclude a company like Cleo. And we,
5 also, indicate -- and it's entirely discretionary.
6 But, we, also, indicated whether you exclude under
7 that provision or not, you have the authority and the
8 duty to consider conditions of competition in this
9 market and to make certain that you don't get a
10 skewing of data by including certain entity's data
11 that could result in that effect.

12 The counsel for the Petitioners this morning
13 suggested that you would get a skewing of data by
14 excluding Cleo, because it accounted for a substantial
15 amount of production. However, the point that we are
16 making is you get a skewing of the data, in trying to
17 analyze the reason for -- or whether there's injury to
18 the industry by reason of subject imports, you take a
19 look at Cleo's financial performance and its
20 operational performance and you couple those declines
21 with the increasing imports and do not go beyond that
22 and just ask whether or not this is evidence of harm
23 to an industry by reason of increasing imports.

24 The point that we were trying to make is
25 that Cleo really is different. Cleo left the industry

1 as a producer in early 2003, because of the shock to
2 its supply system. And for that reason, we think you
3 have to look at them differently. And if you ignore
4 that, you then run the risk of attributing these
5 aggregated negative results for the industry to
6 imports, when imports really did not cause that
7 effect. That was the position that we've taken. I
8 hope that answers your question.

9 COMMISSIONER LANE: Okay, thank you. Well,
10 maybe I'm right this time, Mr. Kelly. Maybe this is
11 the question you can answer or you should answer.
12 It's going back to the air freight costs that you
13 talked about. How did those high costs affect your
14 prices in 2003, I think was the year that you had the
15 initial substantial costs, and then would you
16 logically expect those costs to affect your prices in
17 2004?

18 MR. KELLY: I will tell you in 2003, they
19 did not affect it at all. We were, again, focused on
20 a longer range focus and making sure that we take care
21 of the customer. If you don't do that, you know,
22 you're not back in 2004, as well. Right now, we are -
23 - 2004, there was not a price increase nor a decrease
24 to any extent by Cleo/Crystal on tissue that I can
25 think of. What I'm really saying, too, is we really

1 did not change our pricing based on the -- once we
2 moved from domestic to imported.

3 COMMISSIONER LANE: So, the substantial air
4 freight wasn't reflected in your prices?

5 MR. KELLY: No, Commissioner. We did not
6 pass that through. As an example, if we had, I would
7 tell you that we used to have a 400-sheet item at
8 Cosco, white, in 2003. And immediately after the
9 petition -- antidumping petition was filed, we lost
10 that item to Seaman, who was able to come in and quote
11 at the same price as the imported item was the
12 previous year. And, actually, that 400-sheet item was
13 folded this year, where it was flat the previous year,
14 as well. So, again, we would not be -- we're not a
15 cost-plus pricer. Our business is what is it that the
16 market will allow us to charge based on supply and
17 demand. We try to differentiate ourselves on
18 delivery, design, provide the logistics. All the
19 other non-price factors is the only way we can
20 differentiate ourself.

21 COMMISSIONER LANE: Okay, thank you. The
22 next question is probably for Mr. Ikenson and,
23 perhaps, Mr. Thompson. Is it appropriate, in this
24 investigation, for the Commission to draw an adverse
25 inference against Chinese producers for their refusal

1 to respond to the Commission's questionnaires? If
2 not, what explains the low response rate of such
3 producers, particularly when considered against the
4 number that completed questionnaires in the
5 preliminary phase?

6 MR. IKENSON: Commissioner, I can assure you
7 I cannot answer the second question. I don't know the
8 reasons that they've not provided answers. I can
9 surmise, but it won't be helpful to you.

10 With regard to the first question, I have
11 some trouble with adverse inferences in this
12 proceeding. This morning, the Petitioners were
13 careful to say with respect to non-responding
14 participants or recipients of questionnaires, you
15 should make adverse inferences. The problem with that
16 approach is you have some respondents, who did
17 respond, and spent quite a bit of effort to get it
18 right and those folks are here right now. And so if
19 you draw an adverse inference against the people that
20 didn't respond, you are also drawing one against us.
21 So, I think there has to be a more balanced solution.
22 And we'd be pleased to provide you -- we'll do the
23 best we can to give you a thoughtful answer in our
24 post-hearing.

25 COMMISSIONER LANE: Okay. Now, I have one

1 more question for you. Do critical circumstances
2 exist concerning imports of Chinese tissue paper
3 products, as Petitioners contend?

4 MR. IKENSON: Well, we -- the Petitioners'
5 contention with respect to critical circumstances is
6 quite a bit fluid. They are relying on certain
7 changes and approach that the Commerce Department is
8 expected to make or they hope that the Commerce
9 Department will make. Our perspective on critical
10 circumstances is more narrowly focused. We are
11 looking at our client's supplier that was the subject
12 of a critical circumstance's determination by Commerce
13 preliminarily. That battle is not over. We believe
14 the Commerce Department made a significant error in
15 finding critical circumstances with our client
16 supplier and we are hopeful that they will see the
17 error of their ways. If not, we will clearly -- well,
18 we will be addressing critical circumstances, in any
19 event, because of the timing problems of these
20 decisions. The Department will make its decision
21 after our post-hearing brief is due. So, we will
22 provide you with confidential data, indicating why we
23 are -- we think there isn't -- that you should not
24 make an affirmative critical circumstance's
25 determination with regard to our client supplier.

1 COMMISSIONER LANE: Okay, thank you. I see
2 my yellow light. Mr. Chairman, that's all I'm going
3 to ask. Thank you.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.
5 Commissioner Pearson?

6 COMMISSIONER PEARSON: Thank you, Mr.
7 Chairman. For both Target and Cleo, I think that I
8 understand now that you're arguing that the market for
9 consumer tissue is relatively segmented and that
10 subject imports and the domestic like product fill
11 different niches, to such an extent that the
12 Commission should discount the significant increases
13 that we've seen in import volume during the period of
14 investigation. So, in that case, if that's not
15 correct, let me know. The question is, what
16 percentage of your imports are products that the
17 domestic industry can't supply? If you can comment
18 now, that would be great; otherwise, if that's
19 something that would need to be addressed in the post-
20 hearing, we can do it that way.

21 MR. IKENSON: I think Cleo would prefer to
22 address that in the post-hearing brief. Can we recast
23 the question, Commissioner, to either can't or don't
24 or haven't supplied?

25 COMMISSIONER PEARSON: Yes. Answer it as

1 thoroughly as possible, if you could.

2 MR. IKENSON: all right.

3 COMMISSIONER PEARSON: Because, I understand
4 there may be some difference circumstances for one
5 product versus another. And Target?

6 MR. THOMPSON: We would appreciate that
7 opportunity, as well. We may -- well, it raises a
8 couple of different questions: technical
9 capabilities, marketing involvement. And we'll
10 address as many as those as we can identify.

11 COMMISSIONER PEARSON: Okay. Then another
12 question: the record suggests that a large portion of
13 domestic consumption of consumer tissue consists of
14 fairly standardized solid color tissue. Are you aware
15 of any prior Commission decisions that found such a
16 high degree of market segmentation, when so much of
17 the market consisted of such similar material? That's
18 a question probably more for counsel than for other,
19 but I'm open to responses.

20 MR. IKENSON: I would personally feel more
21 comfortable doing the research and responding in the
22 post-hearing brief.

23 COMMISSIONER PEARSON: Okay. But, you
24 understand the reason for asking the question?

25 MR. IKENSON: I think so.

1 MR. THOMPSON: If I could seek a
2 clarification?

3 COMMISSIONER PEARSON: Sure.

4 MR. THOMPSON: Are you talking about market
5 segmentation in terms of bulk versus consumer; let's
6 assume that you go with one like product, so that we
7 see the segmentation? Or is it segmentation within
8 the consumer, either industry or the consumer segments
9 of the market, so we're looking at sub-segment, if you
10 will?

11 COMMISSIONER PEARSON: Both.

12 MR. THOMPSON: I was afraid of that.

13 COMMISSIONER PEARSON: Okay. Now a
14 different question that I've been curious about here
15 for a while. For both Cleo and Target, in the event
16 that we end up with final antidumping duties going
17 into effect, how would your firms respond? I mean,
18 what is the rational marketplace response to final
19 duties? I mean, do you try to work with U.S.
20 suppliers to meet your needs? Do you continue to
21 import from China and pay some duty? Do you seek
22 other suppliers overseas that might have the
23 flexibility to meet your needs? I'm just trying to
24 understand what the market would do.

25 MR. KELLY: I will tell you what we've done.

1 Basically, at this point in time, we've reopened our
2 Maysville facility on a much reduced basis. We're
3 importing jumbo rolls from China. We're purchasing
4 domestic rolls from Burrows. And we're also looking
5 at other Pacific Rim locations where we will be
6 converting tissue, as well. Again, because our
7 customers want to direct import a lot of their
8 products -- they do gift bags, they do lots of
9 products in our categories. So, if you're going to be
10 in the consumer product business, you have to provide
11 the maximum flexibility to be able to respond to all
12 of those different scenarios. So, what we really will
13 do is what the market requires us to do and we've
14 always done that.

15 Unfortunately, if that situation happens, I
16 think that there will be a deterioration in sales
17 volume, probably at retailers, because the products
18 won't be as exciting for a while. They might not be
19 as flexible. And I shouldn't speculate. I don't like
20 when other people do. But, I won't -- I shouldn't, as
21 well. I'll stop there.

22 COMMISSIONER PEARSON: Okay. Well, thank
23 you. And from Target?

24 MS. KELLEY: We would not change our product
25 assortments, so we would be seeking alternate

1 suppliers in other countries, other areas. But, the
2 product that we source today is what our guest expect
3 and we would continue to do that. We would not seek
4 the domestic product that is their standard product,
5 because we need our own exclusive product.

6 COMMISSIONER PEARSON: Okay. In some
7 marketplaces, we see an evolution over time, where
8 participants become more sophisticated. Is it
9 possible to envision a circumstance in which the
10 domestic industry becomes sufficiently adapted at
11 understanding customer's needs, that they might be
12 able to serve Target's requirements for product?

13 MS. KELLEY: I don't know that answer.

14 MR. KELLY: I would point out that both
15 Flower City and Seaman are very proud of their long
16 histories and second and third family generations.
17 So, I think they've had adequate time to respond. And
18 we chose to recognize at Crystal a need to change.
19 And now, we're seeming to be, I want to say, the
20 people -- that other people want to hurt our success.
21 They're trying to model themselves after us, do other
22 things to try to keep us from being successful. But,
23 you know, these companies are 50-60 years old.
24 They've had time to adjust.

25 COMMISSIONER PEARSON: Okay. Well, Mr.

1 Kelly, another question for you. You've mentioned the
2 jumbo rolls and that you have obtained some from China
3 and some domestically. This morning, I asked about
4 the jumbo roll market and I asked how liquid is it,
5 how easy is it to obtain rolls on spot purchase versus
6 contract, et cetera. Could you comment on that a
7 little more?

8 MR. KELLY: Yes. I was surprised by the
9 answers, as well, because I know the difficulty that
10 we have had. Once the petition was filed, we
11 literally contacted over, I'll be conservative, and
12 say at least 10 tissue manufacturers, trying to source
13 jumbo rolls from them. Again, we have -- white is
14 more available, where colors is very, very limited.
15 And then rotogravure printing is, you know -- you
16 know, I've been Sullivan and we've been up to them.
17 We purchased gift wrap. The person, Mr. Garlock,
18 mentioned they could print tissue and that was never
19 shown to us while we were there. And we buy gift wrap
20 from them. So, that was news to us. We were not able
21 to locate any jumbo roll printer of rotogravure in
22 North America.

23 So, again, it becomes a capacity thing. If
24 you come to Cleo today and you want me to run a gift
25 wrap on my presses, if you can wait about a month or

1 two, I can give you all you want within 24 hours. If
2 you come to me in August, June, or that period, you've
3 got to wait about six months. So, there's that
4 seasonal capacity thing and that's true, it impacts
5 the jumbo roll business. Mr. Tepe testified that they
6 make paper year round and put it inventory to try to
7 get ahead. So, it is not readily available.

8 And in the tissue, the other thing that I
9 think is important that the Commission understand,
10 that the Chinese producers are not all the same
11 either. We had a heck of a time qualifying, who we
12 would work with over there. And it was considerable
13 effort put in place that could make tissue that meet
14 our brightness standards, our stencil standards. Our
15 printing has standards, as well. And most of the
16 Chinese producers can't. That's why we work with a
17 pretty narrow supply base over there.

18 COMMISSIONER PEARSON: Well, when your
19 previous supplier of jumbo rolls disappeared into
20 bankruptcy and left you very much in the lurch,
21 obviously, you were in a situation where you needed to
22 be able to do something quickly and in volume. So, I
23 can appreciate the difficulty of finding jumbo rolls
24 available on a spot basis that would have met your
25 requirements. Now, you've had a little more time to

1 anticipate possible changes in the marketplace. So,
2 going forward, is there enough production capacity for
3 jumbo rolls in the United States that it might be
4 possible to obtain the supply? Or is the market tight
5 enough in the United States, so that of necessity, you
6 would go offshore for at least some volume?

7 MR. KELLY: I will tell you that Burroughs
8 has been an outstanding provider of jumbo rolls and
9 have demonstrated their willingness to work with us.
10 But, again, because of our seasonal requirements, it's
11 very disruptive to their business, because in order to
12 take care of us, they really had to turn other
13 business away. And the reason why they took care of
14 us was because our business was higher priced than
15 what they turned away.

16 COMMISSIONER PEARSON: It's amazing how that
17 works.

18 MR. KELLY: Yes, it is.

19 COMMISSIONER PEARSON: Thank you, very much.
20 Mr. Chairman.

21 CHAIRMAN KOPLAN: Thank you, Commissioner
22 Pearson. I don't want to beat this to death, but I
23 want to come back to the inverse auction and to you,
24 Mr. Thompson. There is a table, 6-1, in the
25 confidential version of the staff report and I can't

1 get into the detail of the table, because it's
2 business proprietary information. I know Target's
3 counsel wouldn't have access to that, but you do. And
4 the heading on that table is 'certain tissue paper and
5 crepe paper products, auctions for tissue paper
6 products by purchaser, date, volume, product, firm's
7 bidding, winning bids, as reported by producers,
8 importers, and purchasers.' For purposes of the post-
9 hearing, I would like you to tell me whether or not
10 you disagree with the information in that table. If
11 you can tell me yes or no on that now, I'd be
12 interested.

13 MR. THOMPSON: I'd have to --

14 CHAIRMAN KOPLAN: You have to look --

15 MR. THOMPSON: -- evaluate that.

16 CHAIRMAN KOPLAN: Okay. Would you do that
17 for me post-hearing?

18 MR. THOMPSON: And it's Table 6-1?

19 CHAIRMAN KOPLAN: Thank you, the staff.

20 It's 5-1, Table 5-1.

21 MR. THOMPSON: Thank you.

22 CHAIRMAN KOPLAN: Sorry about that. Chapter
23 V in the confidential version, the table appears on
24 pages five and six of Chapter V. And I believe it
25 appears on those same pages in the public version,

1 except for the heading. The heading doesn't
2 disappear. And that's all I can read into the record
3 right now, plus the fact that all five products are
4 covered in that table. Do you see it?

5 MR. THOMPSON: Certainly. And I would
6 expect that our comments, at least in detail, would be
7 limited only to the information on Target.

8 CHAIRMAN KOPLAN: Absolutely, yes. So, with
9 that understanding, you will do that?

10 MR. THOMPSON: Yes, of course.

11 CHAIRMAN KOPLAN: Thank you, very much. I'd
12 also like to hear from Petitioners on this issue in
13 the post-hearing, as well, Mr. Hartquist, for the
14 record.

15 MR. HARTQUIST: We'll be pleased to do so.

16 CHAIRMAN KOPLAN: Thank you. Mr. Kelly, the
17 Cleo/Crystal brief asserts that 'bulk tissue is
18 presented only in white or other solid colors and, if
19 printed, generally displays only a simple pattern or a
20 retailer's logo. It is packed in large volume
21 quantities, reams, and then a utilitarian and more
22 durable format, boxes or poly bags, holding flat
23 sheets, reflecting the use of bulk tissue as a supply
24 in the need for storage until the ream is depleted.'
25 Petitioners' pre-hearing brief cites testimony by Mr.

1 Tepe at the staff conference that indicates that bulk
2 tissue to retailers is offered in more colors than is
3 consumer tissue and that 'bulk paper is often highly
4 customized with logos and prints.'

5 As to the issue you have raised urging us to
6 find additional separate like products, can bulk and
7 consumer tissue paper be positively distinguished on
8 the basis of color or printing? I'm not satisfied yet
9 that it can be.

10 MR. KELLY: I would say in the case of like
11 tissue, other than -- maybe by tissue size. They
12 testified today, the Petitioners did, that they now
13 have, I think it's 12 by 20 and 10 by a different
14 size. I would tell you that there is no consumer
15 tissue that are those sizes. The smallest consumer
16 would be 20 by 20. So, in the case of the wide, it
17 would only be by size that would give you some
18 indication whether it would be typically bulk or
19 consumer. In the case of printed, when they speak of
20 a logo, that immediately would tell me that this is
21 not a consumer tissue, that it was intended for in-
22 store packaging. So, you know, those would be
23 indications of whether it would be bulk or whether it
24 would be consumer, would be sheet size or the type of
25 printing that was done, whether it was a logo, as Mr.

1 Tepe pointed out that bulk tissue is.

2 CHAIRMAN KOPLAN: Okay. Let me continue
3 along with you on this. Petitioners' pre-hearing
4 brief at the same page states that 'bulk tissue is
5 sold in half ream packages of 250 sheets, as well as
6 in reams of bulk tissue may be folded, as well as
7 flat; whereas, consumer tissue paper sold in club
8 packs are often sold flat and may be sold in packages
9 of up to 400 sheets.' The Cleo/Crystal pre-hearing
10 brief acknowledges the club packs sold at retail are
11 considered to be consumer tissue products and states
12 at page six, 'the consumer tissue in club packs may
13 contain up to 200 sheets of printed or colored tissue,
14 or up to 400 sheets of white.' Similarly, can bulk
15 and consumer tissue paper be positively distinguished
16 on the basis of package size? I'm not satisfied yet
17 that it can be.

18 MR. KELLY: Okay. I don't know, but I'm
19 hoping I'm answering again. I'm sure you'll come back
20 if I don't.

21 CHAIRMAN KOPLAN: Yes, I will.

22 MR. KELLY: I want you to. Basically, on
23 the items that you spoke about, the 400 sheet, I would
24 tell you in 2004 is folded. It's not flat. I would
25 tell you that the package of the 400 sheet provided by

1 Seaman this year to the club, that we used to
2 provide, would have a pre-pricing on it. It would
3 have Cosco specific packaging labeling, other
4 requirements for consumer type of packaging. When I
5 look at Seaman's 480-sheet ream, which is Exhibit A,
6 it does have a UPC on it, but it has satin wrap. It
7 says it's white. And then there's a checkmark on
8 whether it's 20 by 30, 20 by 30 flat, or 15 by 20
9 flat. So, again, if you put a package of Coco's white
10 400-sheet ream, which they sell one time a year as an
11 in and out seasonal item, versus this, which is sold
12 every single day to the bulk people, I think anybody
13 should pick out the difference.

14 CHAIRMAN KOPLAN: All right. I appreciate
15 that. I'm not going to follow up on that. I
16 appreciate your answer. Thank you.

17 This is for Mr. Ikenson and Mr. Thompson.
18 And it's a follow up to, I believe, a question that
19 Commissioner Hillman was asking. Information on the
20 record indicates that some imports of tissue paper and
21 crepe paper by firms that import the products and then
22 sell them directly to consumers. Commission staff
23 does not normally determine margins of underselling or
24 overselling between the selling price of U.S.-produced
25 product and the purchase price of imported product, as

1 doing so could mix prices at different levels of
2 trade. Can you tell me how we should analyze and
3 compare such direct import data? I asked a similar
4 question of Petitioners this morning.

5 MR. IKENSON: Mr. Chairman, we will give
6 that a shot, but I can tell you that Professor Bradley
7 and I have spent quite a bit of time discussing this
8 and I would defer to his expertise on this point.

9 CHAIRMAN KOPLAN: I'm happy to hear from
10 you. Sure.

11 MR. BRADLEY: Thank you. My answer here
12 really is the same answer I gave when I was sitting on
13 the other side in a previous case this year when the
14 same question came up. I believe the right way to do
15 this is to attempt to construct the comparable price.
16 That is to say to think about what value has been
17 added by the importer, what steps are missing in
18 between the level of trade for the direct import
19 versus what the importer brings and calculate an
20 estimate of those to add them back into the price.
21 That way you've gotten back to apples to apples.

22 So to me the right way to answer this is to
23 do the best way you can to construct the appropriate
24 comparable price for the direct import.

25 CHAIRMAN KOPLAN: Thank you.

1 MR. THOMPSON: Commissioner Koplan, if I may
2 comment?

3 CHAIRMAN KOPLAN: Sure.

4 MR. THOMPSON: First, as the data are
5 presented now it does not appear that they are
6 comparable and I think your question recognizes that.
7 I have to point out and perhaps disagree with
8 Professor Bradley here, there are judicial as well as
9 Commission administrative precedents that cast out on
10 both the wisdom and the Commission's legal capability
11 to make an adjustment of this nature, to essentially
12 construct a price that would be different, at a
13 different level of trade, or to make such an
14 adjustment.

15 So my offhand view at the hearing is that
16 this would not be a permissible means of taking
17 account of the distinct levels of trade that these two
18 price levels represent.

19 CHAIRMAN KOPLAN: Could you expand on that
20 in your post-hearing submission?

21 MR. THOMPSON: Yes, indeed.

22 CHAIRMAN KOPLAN: I'd appreciate that very
23 much.

24 MR. BRADLEY: I would also apologize, I
25 wasn't intending to suggest anything impermissible. I

1 didn't know there --

2 CHAIRMAN KOPLAN: Are you apologizing to me
3 or to Mr. Thompson?

4 MR. BRADLEY: No, to you. To make a
5 suggestion of something impermissible. I didn't
6 realize that it was.

7 CHAIRMAN KOPLAN: Okay.

8 I see my red light's about to come on.
9 Vice Chairman Okun?

10 VICE CHAIRMAN OKUN: Thank you, and in terms
11 of post-hearing, both what you have just responded to
12 Mr. Thompson and you, Mr. Ikenson, I think it's
13 consistent with the question also posed by
14 Commissioner Hillman and the questions posed earlier
15 to, in post-hearing to spend some time on the pricing
16 data. The arguments have been raised including this
17 issue about whether you can make an apples to apples
18 comparison, even if you were to make some adjustment
19 to it. I will look forward to seeing that in post-
20 hearing.

21 Also two post-hearing things, one on related
22 party. Mr. Ikenson, I know you responded several
23 times on that and how you view it but I would ask you
24 in post-hearing to use Commission precedent to point
25 to other cases that you think are similar in terms of

1 production, import, financial data when we would have
2 excluded a company as you would have us do here with
3 Crystal. I'd appreciate that.

4 And similarly with regard to like product.
5 We spent some time this morning with Ms. Cannon, she
6 went through their gift boxes distinction. There are
7 other cases out there. I would ask you to brief that
8 post-hearing as well in terms of what is the most
9 relevant precedent for us with regard to like product.

10 MR. IKENSON: We'll do all of those things.

11 VICE CHAIRMAN OKUN: Thank you.

12 Let me just, I think my last question, I
13 just want to go back to you, Ms. Kelley, a comment
14 that I heard you make and I wanted to make sure I
15 understood it.

16 When Commissioner Pearson asked you what
17 would happen if duties went into place and you said
18 you wouldn't go to the domestics because you need
19 exclusivity of design. I need to understand what that
20 means vis-a-vis the domestic industry. In other
21 words, as I heard you describe your process you want
22 exclusivity of design with this package you put
23 together and Target wants to have something that no
24 one else has and that's your thing. I understand
25 that.

1 For a domestic producer of tissue paper,
2 when I think about the tissue paper end of it, and the
3 wide variety I've seen, I guess the thing I have a
4 hard time understanding is why a domestic producer
5 can't do what you need. You're a big player out
6 there. Target's a big player. You're not the lowest
7 cost player out there. You're not the lowest -- I pay
8 more at Target than I would at Wal-Mart I guess I'll
9 say that. Your price point is not the lowest price
10 point. What you're making is confidential.

11 But tell me again why it is the domestic
12 industry can't play in your market? You've just said
13 they're not going to play in the future. We had
14 different questions about whether they've played in
15 the past. I want to understand a little bit more
16 about what you're saying.

17 MS. KELLEY: For example in the Value Basics
18 program we want to have a manufacturer who can
19 manufacture bags, roll wrap, the whole program
20 together. There isn't a domestic manufacturer today
21 that does that or that has actually presented that to
22 us, I should say. I don't know if someone does that
23 or not, but we have not been brought that program from
24 anyone.

25 VICE CHAIRMAN OKUN: How about the better-

1 best?

2 MS. KELLEY: In better-best, again, one of
3 the biggest issues that we have is we have the
4 different manufacturers that come in to bid on those
5 programs, come in and they bring their design team.
6 To my knowledge, the one domestic, the petitioner that
7 did come to us, does not have a design team. We rely
8 heavily on the design team on the people that are
9 bidding in that to actually do the designs.

10 VICE CHAIRMAN OKUN: The lack that someone
11 doesn't have a design team, you think you couldn't get
12 exclusivity of design?

13 MS. KELLEY: They actually do --

14 VICE CHAIRMAN OKUN: -- capable of doing it.

15 MS. KELLEY: They do all the designing.

16 VICE CHAIRMAN OKUN: I appreciate those
17 comments.

18 MR. VOLLMER: I have one other comment to
19 add to that.

20 VICE CHAIRMAN OKUN: Yes.

21 MR. VOLLMER: When we're sourcing as well
22 and when we're looking at, especially when you look at
23 the better-best category and the type of printing and
24 the difference between flexo and the rotograve', if
25 you want through a Target store and you look at the

1 patterns and the intricacies of the patterns, we
2 really are looking for the rotograve' printing because
3 of the quality. It's a better quality. We can get a
4 finer line in the print. And overall, our guest
5 expects that from us so that's an additional item we
6 look for as well when we're sourcing that out.

7 VICE CHAIRMAN OKUN: I understand that. In
8 some ways, and obviously the case isn't just about
9 Target, but just in terms of the information in the
10 staff report with regard to the quality of the
11 domestic product and the variations available, it's
12 hard for me right now to say that you're talking about
13 two different market segments here where the U.S. is
14 producing white tissue paper and you're asking for
15 something nice. It doesn't seem to me that that's the
16 segment, that we're looking at that type of spread.
17 Everyone's producing a wide range and that's what I'm
18 trying to understand, why in that wide range it
19 doesn't fit within what Target --

20 MR. VOLLMER: The other piece that I would
21 look at too would be the packaging that we've shown
22 today and that's extremely important to us and
23 important to our guest, and that's something that we
24 have not seen from the domestic industry.

25 VICE CHAIRMAN OKUN: Okay. Again there's

1 some information on the record but if there's anything
2 further on that, I would appreciate it as well.

3 Again, I want to thank you all for being
4 here, for your testimony and for your continued
5 cooperation as this investigation goes forward.

6 Thank you, Mr. Chairman.

7 CHAIRMAN KOPLAN: Thank you.

8 Commissioner Miller?

9 COMMISSIONER MILLER: Just two things that I
10 would ask that you brief in the post-hearing
11 submission. Both because they're, it strikes me that
12 they're sensitive, and two, because it's late.

13 One is whether or not to your knowledge, Mr.
14 Kelly or the knowledge of your company, whether
15 Crystal considered either supporting or being a
16 petitioner in an antidumping case regarding tissue
17 paper at any point in time as suggested this morning.

18 The other is to also brief, and this I may
19 ask both Target and Cleo to brief, the circumstances
20 around what was described as Crystal's lost sale to
21 Target. Again, something that Mr. Tepe referred to
22 this morning. I think when you began in response to
23 my first question, Mr. Kelly, you said well that
24 wasn't what was really, we were focusing on as a
25 competitive issue. Our biggest concern was your paper

1 facility. And you launched into that. I didn't come
2 back to you and say tell me more about the
3 circumstances around that lost sale to Target that he
4 mentioned and I would like to hear that, but I would
5 invite you to do it in a post-hearing submission. And
6 as I say, yes, it's late, but both of them I think are
7 sensitive issues so in the event you need to do it
8 confidentially.

9 I appreciate all your answers and all the
10 testimony this afternoon. Thank you very much.

11 CHAIRMAN KOPLAN: Thank you.

12 Commissioner Hillman?

13 COMMISSIONER HILLMAN: I hope to just follow
14 suit and ask for a couple of things again for the
15 post-hearing brief in large part because of the
16 confidential nature of the data.

17 First on this issue that the Vice Chairman
18 asked you to address, this issue of how do we look at
19 prices. I want to make just one point to add to that.
20 I'm looking forward to seeing that because as I read
21 your brief, you're underselling analysis, as I see it,
22 is focused entirely on the U.S. importer sales prices
23 and has in essence ignored the column in the pricing
24 chart on the direct importer prices.

25 My problem with that is that the volumes are

1 large and in some instances significantly larger for
2 those direct imports than they were for the product
3 being brought in by importers. So it's not clear to
4 me that we can imply ignore that.

5 Mr. Thompson, I hear you in terms of what
6 the courts have said. On the other hand I have to say,
7 I think we are increasingly going down a road that we
8 have not traditionally gone down in that we are
9 increasingly seeing cases on retail ready products,
10 which has again not been the bread and butter of what
11 the Commission has seen, where the retailers
12 themselves are increasingly a significant importer.
13 So it raises in this case as it has in a very few
14 other cases, this issue of how the Commission should
15 approach underselling analysis, where you have
16 something that has not been the fact pattern for the
17 vast majority of the cases that the courts would have
18 considered or that would have been a traditional
19 methodology for us to collect pricing data. Again, I
20 think we're likely to see more and more where we have
21 this issue, but I think it's fair to say it's somewhat
22 a new phenomenon to have retailers being large enough
23 that they are taking on the importing risks directly
24 as opposed to going through importers. So any
25 analysis you can help us with in terms of how best to

1 look at this data, short of what I read, infer in your
2 brief which is just ignore it, I'm saying I think it's
3 too big a volume in terms of the portion of imports
4 for that to be the appropriate response for us so I
5 would ask you to help us think through this issue of
6 how we might approach it. If you could add that to
7 the analysis that you're providing for the Vice
8 Chairman, I'd appreciate it.

9 Secondly in the Cleo/Crystal brief with
10 respect to this issue of related parties, to me you've
11 described the test is whether or not Cleo/Crystal have
12 benefitted from imports and I have to say I think the
13 test that we've normally looked at is whether the
14 domestic production operations, domestic production of
15 tissue paper operations have in fact benefitted from
16 imports.

17 So I would ask you to take a look at that
18 and give me your answer of whether it's your position
19 that Crystal/Cleo's domestic production of tissue
20 paper operations have benefitted as a result of the
21 imports of tissue paper.

22 Lastly, when we look at this issue of what
23 data we got in the prelim versus what data we have
24 now. One of the issues is a significant change in the
25 volume of imports by one Respondent. Again, I would

1 ask you to look at and help us understand why we're
2 seeing from a particular respondent a much lesser
3 number in terms of the volume of imports than what we
4 saw in the prelim. Again, given that that's also
5 confidential data, I'll simply leave it for the post-
6 hearing brief and would also join my colleagues in
7 thanking you for all the many many answers to our many
8 questions. We very much appreciate your taking the
9 time to be with us and for answering all the questions
10 that we have got here and in the post-hearing briefs.
11 Thank you very much.

12 CHAIRMAN KOPLAN: Thank you, Commissioner.
13 Commissioner Lane?

14 COMMISSIONER LANE: I have no further
15 questions but I would like to observe that I enjoyed
16 seeing all of the packaging and all of the tissue. It
17 reminds me that I have plenty of packages and tissues
18 at home but nothing to put in them yet. So I think
19 I've got my work cut out for me. Thank you.

20 (Laughter)

21 CHAIRMAN KOPLAN: Commissioner Pearson?

22 COMMISSIONER PEARSON: I do have a couple of
23 questions but I think they will be quick.

24 This morning I asked Petitioners whether
25 they would think differently about including Cleo in

1 the domestic industry if Cleo's earnings had been
2 different over the period of investigation. I'd be
3 interested in your thoughts on that? Would you have a
4 different view on whether Cleo should be in the
5 domestic industry if the earnings had been different?
6 Mr. Ikenson, I'm sure you know what I'm asking.

7 MR. IKENSON: Commissioner, it was a quick
8 question but it's going to require -- it's a difficult
9 question. You're asking me to assume that after
10 receiving this rather substantial shock to its supply
11 system Cleo would have somehow been able to have
12 improved its financial performance. It's quite a
13 hypothetical.

14 COMMISSIONER PEARSON: Let me make it a
15 little more tangible then.

16 Perhaps in the post-hearing you could
17 provide a little more analysis of what exactly was
18 causing Cleo's financial performance to be as it was
19 during the period of investigation.

20 MR. IKENSON: Absolutely. We can do that.

21 COMMISSIONER PEARSON: My last question then
22 for you, Mr. Kelly, perhaps uniquely among the people
23 who have been before us today, you have experience
24 involved in the making of paper, the converting of
25 paper, dealing with the customers to meet their

1 specifications, and you've done that both in the
2 United States and at least to some degree overseas,
3 and you've been involved in China in qualifying one or
4 more suppliers to serve you.

5 What is it that is giving the Chinese what
6 seems to be a significant cost advantage? Can you
7 comment here? And if you have more to say in the
8 post-hearing, that would be great.

9 MR. KELLY: I'd be glad to comment. I've
10 visited several paper mill operations as well as lots
11 of converting facilities in China as well as other
12 Pacific Rim countries. I would tell you some of the
13 paper mills, different than what was reported this
14 morning, you see everything from ultra-modern paper
15 operations that are very impressive, and then you see
16 paper operations that I literally have walked by the
17 paper machine and not realized that I had. It was
18 very small. That small paper machine is what we don't
19 have here.

20 If I need, Mr. Jones testified that their
21 minimum is 5,000 which is one of the lowest in the
22 whole specialty tissue industry. It's typically
23 anywhere from 10,000 pounds up to 20,000 pounds, and
24 they're not going to want to run -- He also qualified
25 that saying it depends on what color he's running

1 whether he was willing to do that or not. Which is
2 the same way we were at Crystal when we had a paper
3 mill.

4 Over there they can run 1,000 pounds of
5 something. In the printing operation my rotogravure
6 printing press, and the report that Crystal has
7 rotogravure presses. Sorry. Cleo has rotogravure
8 presses in Memphis, Tennessee, you could print tissue
9 there.

10 Well, if you saw one of our printing
11 presses, it's about the size of this room. They're
12 huge. They run at ultra-high speeds. We literally
13 print 8.5 million feet a day there.

14 The tissue business is what differentiates
15 and what Target's looking for is that specialty
16 tissue. Yes, by volume there's lots of white and lots
17 of red and green at Christmas time, but that's not
18 what the consumer wants.

19 Commissioner Lane's comment, she's exactly,
20 it's always fun for me because this is our target
21 market, is 95 or 98 percent female. It's a fashion
22 business. So most of our creative people are female.
23 It's a business that you better be on trend, you
24 better be on fashion, and if you're going to be
25 successful in the consumer business you've got to be

1 able to provide this whole array of products. You just
2 can't supply white, red, green or colors or even
3 printed. It's the combination of that that makes you
4 successful along with the packaging and everything
5 else involved and the Chinese are willing to do that.

6 COMMISSIONER PEARSON: And their cost
7 advantage is related to --

8 MR. KELLY: I don't think it's any surprise,
9 it's their labor cost. What we pay for labor over
10 here, we're unionized in Memphis, Tennessee. Mr.
11 Jones is unionized up in his plant as well. And
12 there's a difference in labor rates.

13 That doesn't hurt us when we're printing 8.5
14 million feet of gift wrap a day. It absolutely kills
15 you when you're taking tissue and trying to put it in
16 a small package for a special application. So that's
17 a cost advantage that they have. I don't think that's
18 a surprise.

19 COMMISSIONER PEARSON: And your response to
20 the assertion this morning that some Chinese product
21 is offered into the United States at prices low enough
22 that it couldn't be matched if there were zero labor
23 costs in this country? I didn't state that very
24 clearly, but what's your response to that? That
25 there's something more than just low labor cost in

1 China that's allowing them to price competitively?

2 MR. KELLY: There are so many factors that
3 impact our cost. A huge factor, you can have a
4 differentiation in price on the same item based on the
5 volume that a customer buys from you.

6 When we sell a program we look at what's the
7 profitability of a program, what's the gift wrap
8 profitability, what's the tissue profitability, what's
9 the bag profitability? So if the retailers wants to
10 run a special two for one or something like that we'll
11 work with them because we make it up on the gift wrap.
12 That's how we approach it. There's too many factors -
13 -

14 CHAIRMAN KOPLAN: Excuse me. I think your
15 witnesses are leaving but you can't until I give
16 Petitioners a chance to ask questions at the
17 conclusion of this. So you're not excused yet.

18 I'm not asking you to finish, but they're
19 not finished yet. That's all.

20 COMMISSIONER PEARSON: Mr. Kelly did you
21 have anything more to say on that?

22 MR. KELLY: That's all.

23 COMMISSIONER PEARSON: I yield back the
24 remainder of my time, Mr. Chairman.

25 MR. HARTQUIST: Mr. Chairman, excuse me. We

1 have no questions for those witnesses.

2 CHAIRMAN KOPLAN: Okay, you can start out
3 again. I'm sorry.

4 (Laughter)

5 CHAIRMAN KOPLAN: Thank you.

6 I have nothing further.

7 I see there's nothing further from the dias.

8 Mr. Corcoran, does staff have questions of
9 this panel?

10 MR. REES: Mr. Chairman, Mark Rees, Office
11 of General Counsel. I appreciate the hour but if you
12 beg my indulgence I just had a couple of questions.

13 CHAIRMAN KOPLAN: No problem.

14 MR. REES: The only reason I'm going to go
15 back to this, there's been some previous testimony and
16 I understand you're going to --

17 CHAIRMAN KOPLAN: Excuse me, did you need
18 these witnesses?

19 MR. REES: NO, I don't need the Target
20 witnesses. I just had a few questions for Mr. Kelly.

21 Mr. Kelly, if I understand the timeline, you
22 were president of Crystal until 1999, is that correct?

23 MR. KELLY: August of 1999.

24 MR. REES: Then you left Crystal to work for
25 Cleo, is that correct?

1 MR. KELLY: That's correct.

2 MR. REES: And then Cleo acquires Crystal in
3 early 2003, correct?

4 MR. KELLY: October of '02.

5 MR. REES: Thank you.

6 So there's a period between August '99 and
7 October 2002 where you're not working for Crystal.

8 MR. KELLY: That's correct.

9 MR. REES: When you were at Crystal in '99,
10 who owned it?

11 MR. KELLY: It was owned by the family
12 called Akers. It was a Subchapter S corp.

13 MR. REES: Did the Akers family continue to
14 own it until it was sold to Cleo?

15 MR. KELLY: That's correct.

16 MR. REES: So in fact it was the Akers
17 family that sold it to Cleo.

18 MR. KELLY: Correct.

19 MR. REES: Are you friends with Mr. Akers?

20 MR. KELLY: Yes, I am.

21 MR. REES: Okay. Between 1999 and 2002,
22 when you weren't at Crystal, did you have any business
23 conversations with Mr. Akers? You had an ongoing
24 relationship with him, social or otherwise.

25 MR. KELLY: Well, yes.

1 MR. REES: My question is simply, did Mr.
2 Akers, obviously we don't have Mr. Akers here today
3 but we've heard representations on a variety of
4 matters relating to whether Crystal was harmed or not
5 by Chinese imports. Did Mr. Akers ever, did you ever
6 have any conversations with Mr. Akers about whether
7 Crystal was harmed by Chinese imports?

8 MR. KELLY: Are you talking about the period
9 when I wasn't there?

10 MR. REES: Let's take it in parcels. When
11 you were at Crystal did you ever have any
12 conversations with Mr. Akers about whether Chinese
13 imports were hurting Crystal?

14 MR. KELLY: Yes, while we were there.

15 MR. REES: What was said? What did he say,
16 what did you say?

17 MR. KELLY: We went to China and visited
18 Taiwan Paper and actually Crystal purchased tissue
19 from China.

20 MR. REES: So Crystal was purchasing tissue
21 paper from China during your tenure at Crystal?

22 MR. KELLY: I don't recall.

23 MR. REES: Did you have any conversations
24 with him then when you were at Cleo but before Cleo
25 purchased Crystal about whether Chinese imports were

1 hurting Crystal?

2 MR. KELLY: Yes.

3 MR. REES: Did he tell you that Chinese
4 imports were hurting Crystal?

5 MR. KELLY: He mentioned during the
6 acquisition period, during when we were doing our
7 acquisition of Crystal, there were discussions that I
8 was having with him during the due diligence period.

9 MR. REES: Do you remember what he said to
10 you? Obviously this is going back a little ways and
11 it's late in the day and I fully appreciate that this
12 must seem like ancient history.

13 MR. KELLY: It truly does.

14 MR. REES: But you understand why it's
15 germane and why I'm actually taking your time right
16 now.

17 MR. KELLY: The recollection I have is
18 during the latter part of the due diligence period Jim
19 would call me up, and I believe this was actually on,
20 now that you're refreshing my memory, I believe Target
21 was doing a competitive line review, and I can't
22 recall whether it was on gift bags which is also one
23 of our products or tissue. I don't recall.

24 MR. REES: But the substance of the
25 conversation, if I understand it, was he conveyed to

1 you that he thought his company was being injured by
2 Chinese imports?

3 MR. KELLY: No, those words were never used.

4 MR. REES: Then what did he say to you?

5 MR. KELLY: Well, at that time he said that
6 we're getting ready to do a CLR and what do you want
7 me to do? I specifically said that's your decision, I
8 don't own it yet. You own it but I would tell you
9 that we would hate to see you lose any revenue at this
10 point in time. That was the gist of the conversation.

11 MR. REES: What's a CLR?

12 MR. KELLY: Target testified earlier, it's a
13 competitive line review.

14 MR. REES: Thanks.

15 Did you ever have any conversations with
16 Akers after the sale of Crystal about Crystal's
17 condition, whether Akers ever thought it was harmed by
18 Chinese imports?

19 MR. KELLY: None that I can recall.

20 MR. REES: And the last --

21 MR. IKENSON: Can we have a second?

22 MR. REES: Absolutely.

23 (Pause)

24 MR. IKENSON: If I may interject a comment,
25 we were asked by one of the Commissioners to comment

1 in our post-hearing brief on the possibility of, I
2 think it was an antidumping petition. There is some
3 discussion that we would like to get perfect correct
4 for you, perfectly right. We do intend to put that in
5 the post-hearing brief so it relates at least
6 obliquely to the questions you're asking. I would
7 hope that would be satisfactory if --

8 MR. REES: Perfectly satisfactory. That's
9 fine.

10 Thank you, sir, and sorry to take your time.

11 MR. KELLY: Thank you.

12 MR. REES: That's all I have, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you, Mr. Rees.

14 Mr. Hartquist, do I take it you still don't
15 have any questions?

16 MR. HARTQUIST: I still do not.

17 CHAIRMAN KOPLAN: All right, if that's the
18 case I want to thank you all very much for your
19 testimony and we will go to rebuttal and closing
20 arguments.

21 Mr. Hartquist, you have a total of three
22 minutes remaining from your direct presentation if you
23 choose to use them, and five minutes for closing.

24 Mr. Thompson and Mr. Ikenson, you have one
25 minute remaining from your direct presentation and

1 five minutes for closing.

2 (Pause)

3 CHAIRMAN KOPLAN: Are you going directly to
4 your closing I take it?

5 MR. HARTQUIST: Yes, I am.

6 CHAIRMAN KOPLAN: You may proceed when
7 you're ready.

8 MR. HARTQUIST: Thank you.

9 If I may, let me make just a couple of
10 personal observations. This is the first time in
11 almost three decades of appearing before the
12 Commission that the Commissioners didn't ask me a
13 single question all day, so thank you for an easy day
14 and I'll expect a ruthless grilling the next time I
15 appear, Mr. Chairman.

16 CHAIRMAN KOPLAN: Could you repeat that?

17 (Laughter)

18 CHAIRMAN KOPLAN: You can consider that a
19 question.

20 MR. HARTQUIST: Thank you, Mr. Chairman.

21 Commissioner Pearson, as a fellow native of
22 Minnesota it was good to hear some Minnesota accents
23 in the hearing room today, although I left Minnesota
24 about 50 years ago, long before Target existed.

25 Let me proceed. We're going to take issue

1 with a number of statements primarily that were made
2 by Mr. Kelly today and one in particular was his
3 comment about the material that Seaman provides to
4 Costco and as to whether it would be categorized as
5 bulk paper or consumer paper. He indicated I think
6 that it would be in a pre-priced package with a Costco
7 label on it.

8 I have here an example of a so-called club
9 pack that Seaman provides to Costco and it does not
10 have any pricing information in it, and it does not
11 have the Costco name on the product. It's a very
12 generic product that Costco purchases.

13 Mr. Kelly has talked about quality, delivery
14 and price being the key factors in terms of what
15 purchasers want to buy, but I would note that in the
16 questionnaire that the Commission sent out the only
17 real difference between the Chinese product and the
18 domestically produced product is price. Otherwise
19 they ranked quite similarly.

20 Mr. Kelly also referred to issue with Seaman
21 about delivery time versus the Chinese. If you look
22 again at Table 2-3, the purchasers chose the U.S. over
23 the Chinese on delivery issues by a factor of two to
24 one.

25 Mr. Kelly blamed much of the industry woes

1 on the paper operations, but Eagle and other domestic
2 producers who are converters are also suffering
3 financially and they don't have paper mills, they're
4 simply converters.

5 Our friends from Target, Ms. Kelley
6 essentially said if we win this antidumping case
7 Target would not buy domestically anyway, and she said
8 that Petitioners didn't supply Target until quite
9 recently, but that's not true.

10 For example, Eagle supplied Target until the
11 second quarter of 2002 when Chinese imports were
12 really surging into the United States.

13 Seaman, and maybe the Target folks just
14 didn't know this today, Seaman supplied Target's
15 Christmas program this year through its relationship
16 with American Greetings which puts these ensemble
17 packages together.

18 So it does appear that the quality is just
19 fine as far as Target is concerned.

20 All of Target's business was domestic in
21 2002. The product is basically the same as now. The
22 only difference is it was supplied by Crystal at an
23 earlier stage.

24 The pictures of Target's display shelves
25 that it has shown you today are not reflective of most

1 of their sales and I would refer you to Exhibit 4 of
2 our brief which contains pictures of Target's shelves
3 stacked with large packages of red and white and green
4 tissue that are sold to Target. Very big volume
5 items.

6 The jumbo rolls issue is really kind of a
7 strawman because jumbo rolls are not part of the
8 product at issue here.

9 Mr. Kelly also testified that this
10 particular exhibit, Cleo Exhibit F, contains 60 sheets
11 of printed tissue. In fact it contains 20 printed
12 sheets, eight solid red sheets, eight solid green
13 sheets, and 24 solid white sheets.

14 Thank you very much.

15 CHAIRMAN KOPLAN: Thank you, Mr. Hartquist.
16 Just for the record, I believe I did ask you this
17 afternoon if you would comment on Table 5-1 involving
18 internet auctions and I believe you answered you would
19 for the post-hearing.

20 MR. HARTQUIST: I stand corrected, Mr.
21 Chairman, thank you.

22 CHAIRMAN KOPLAN: So you haven't broken your
23 30 year record.

24 (Laughter)

25 CHAIRMAN KOPLAN: Mr. Thompson?

1 MR. THOMPSON: Thank you, Mr. Chairman.

2 CHAIRMAN KOPLAN: Just for the record, are
3 you going directly to your closing?

4 MR. THOMPSON: I'll go directly to closing.

5 First I ask your indulgence for Target's
6 departure. They had a flight going out and I didn't
7 want to interrupt the proceedings.

8 CHAIRMAN KOPLAN: I'm glad that worked out.

9 MR. THOMPSON: A couple of points I'd like
10 to focus on, specifically the nature of the conditions
11 of competition that we believe the Commission should
12 evaluate in this investigation.

13 First we heard from Crystal as to the
14 reasons for its off-shore purchases and we've gone
15 through them. The supplier of jumbo rolls and
16 rotogravure, those suppliers are no longer providing
17 the raw materials. Seaman was an undependable
18 supplier of raw materials. And in view of the
19 importance of on-time delivery and the potential
20 disruption to Crystal's delivery schedule, it felt, we
21 heard them discuss why they went to China to supply.
22 Especially to Target.

23 We heard Target discuss the importance of a
24 dependable supplier. When you put that together with
25 Crystal's experiences you understand that keeping an

1 uninterrupted flow, particularly in the holiday
2 season, is crucial to a vendor's credibility and
3 future capability to continue sales to a company like
4 Target.

5 Mr. Kelly knows his business. The
6 consequence for Crystal was that China was the only
7 practical source.

8 Looking at it first from a related party
9 analysis, we'll comment on -- It's clear in the broad
10 sense that Crystal benefitted from its imports. It
11 kept Crystal as we put in our brief, gave it a life
12 line to continue its sales in the United States.
13 We'll discuss the impact on its product in our, that
14 will be addressed in the post-hearing.

15 But we heard the domestic industry discuss
16 how the requested exclusion of Crystal could skew the
17 industry trends. I would point out that its
18 inclusion, especially in light of the reason for those
19 trends, has a skewing effect and provides yet another
20 reason for excluding Crystal from the domestic
21 industry.

22 But even if Crystal is not excluded as a
23 domestic producers, you have to take into account the
24 circumstances for its decision to move off-shore.
25 We've discussed them in great length today, but you

1 cannot just look at that volume in isolation. You
2 have to take into account why it occurred and see it
3 in terms of Crystal's inability to produce in the
4 United States during that period.

5 Turning to Target. I've covered some of
6 these points to an extent already, but Target is a
7 significant importer. We heard that its sales grew
8 during the period of investigation. We also heard the
9 reasons why that occurred, that it was because Target
10 was offering innovative, unique products to consumers
11 in the United States. That accounts for its success.
12 Target created a new market, in my view.

13 We also heard Target discuss what did not
14 occur during that period in that it did not have
15 overtures from the domestic industry to supply that
16 unique and innovative product.

17 Now it's true, as counsel for Petitioners
18 pointed out, that one supplier of bulk tissue had
19 supplied Target in the past. That's not the type of
20 product we're talking about. Target's sales did not
21 increase because it was selling bulk tissue to
22 consumers.

23 We also heard, and Target does realize this
24 and did bring samples to the Commission if the
25 question arose during the discussion today, Target

1 does indirectly purchase from Seaman in some of its
2 holiday products. With your blessing we'd like to ask
3 Target to address some of the problems that arose in
4 those products that were supplied by Seaman. But those
5 were sold through another, sold to Target through
6 another vendor. It was not sold directly by Seaman.
7 So it was a very different circumstance than what Ms.
8 Kelley had discussed earlier.

9 Finally a comment on the statement by the
10 domestic industry that never mind the actual numbers
11 in the prices, the purchaser questionnaires indicated
12 --

13 Two more sentences?

14 CHAIRMAN KOPLAN: Two more sentences.

15 MR. THOMPSON: Questionnaires indicated a
16 view that Chinese pricing was lower than that of the
17 domestic industry but there's no indication that these
18 were being compared by purchaser of both. There's no
19 indication that they were comparable products.
20 There's no indication of the quantities involved. I
21 also point out that the Commission's report -- okay,
22 it's a long sentence.

23 (Laughter)

24 CHAIRMAN KOPLAN: No, that's five sentences,
25 actually.

1 MR. THOMPSON: One more point.

2 (Laughter)

3 MR. THOMPSON: I'll call it rebuttal.

4 CHAIRMAN KOPLAN: You can submit that.

5 MR. THOMPSON: Thank you for your
6 indulgence.

7 CHAIRMAN KOPLAN: Certainly.

8 I want to thank both sides for their
9 presentations today. It was a very good hearing.

10 Post-hearing briefs, statements responsive
11 to questions and requests of the Commission and
12 corrections to the transcript must be filed by
13 December 16, 2004 with respect to certain crepe paper
14 products.

15 With respect to certain tissue paper
16 products they must be filed by January 12, 2005.

17 Closing of the record and final release of
18 data to the parties with respect to certain crepe
19 paper products by January 3, 2005; and with respect to
20 certain tissue paper products by March 1, 2005.

21 Final comments with respect to crepe paper
22 products are due by January 5, 2005; and with respect
23 to tissue paper by March 3, 2005.

24 With that, this hearing is concluded.

25 //

1 (Whereupon, at 5:52 p.m. the hearing was
2 adjourned.)
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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Tissue Paper Products
INVESTIGATION NO.: 731-TA-1070 (Final)
HEARING DATE: December 9, 2004
LOCATION: Washington, D.C
NATURE OF HEARING: Hearing

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

DATE: 12/9/04

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

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

SIGNED: Renee C. M. Katz
Signature of Court Reporter