

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
 )  
POLYVINYL ALCOHOL FROM ) Investigation No.:  
CHINA, GERMANY, JAPAN, AND ) 731-TA-1014-1017 (Final)  
KOREA )

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Thursday,  
 May 8, 2003

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

The hearing commenced, pursuant to notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable Deanna Tanner Okun, Chairman, presiding.

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P R O C E E D I N G S

(9:30 a.m.)

1  
2  
3 CHAIRMAN OKUN: Good morning. On behalf of  
4 the United States International Trade Commission, I  
5 welcome you to this hearing on the Investigation Nos.  
6 731-TA-1014-1007(Final), involving polyvinyl alcohol  
7 from China, Germany, Japan, and Korea.

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 and testimony of witnesses are available  
15 at the secretary's desk. I understand that parties  
16 are aware of the time allocations. Any questions  
17 regarding the time allocations should be directed to  
18 the secretary. As all written material will be  
19 entered in full into the record, it need not be read  
20 to us at this time.

21 All witnesses must be sworn in by the  
22 secretary before presenting testimony. Copies of the  
23 notice of institution, the tentative calendar, and  
24 transcript order forms are available at the  
25 secretary's desk. Transcript order forms also are



1 located in the wall rack outside the secretary's  
2 office.

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

7 Madam Secretary, are there any preliminary  
8 matters?

9 MS. ABBOTT: Yes, Madam Chairman.

10 With your permission, we will add Paul  
11 Zoeller, Chief Litigation Counsel; William Mandrona,  
12 Marketing Manager, Celanese.

13 CHAIRMAN OKUN: Without objection.

14 We will then proceed to opening remarks.

15 MS. ABBOTT: Opening remarks on behalf of  
16 the petitioners will be made by John D. Greenwald,  
17 Wilmer, Cutler & Pickering.

18 CHAIRMAN OKUN: Good morning, Mr. Greenwald.

19 MR. GREENWALD: Good morning, Madam  
20 Chairman, members of the Commission, Commission staff.

21 Some eight years ago this Commission found a  
22 threat of material injury by reason of dumped PVA  
23 imports on the basis of facts that are far less  
24 supportive of an affirmative determination than is the  
25 case today.

1           One of the things I would ask you to do is  
2           to compare then and now data on industry  
3           profitability, the rate of increase of imports over  
4           the period of investigation, trends in U.S. demand,  
5           trends in the average unit value of U.S. producer  
6           shipments and imports, and trends in U.S. producers'  
7           costs.

8           The case for relief that we will be  
9           presenting today is strong on present injury, and I  
10          believe compelling on threat on injury. Let me  
11          summarize the key points that our witnesses will be  
12          making.

13          First, that global supply far exceeds global  
14          demand, and the imbalance will get worse, not better,  
15          as new offshore capacity comes on stream. This  
16          creates a very powerful incentive to export.

17          Second, that for various reasons, including  
18          the effect of value in use pricing and the existence  
19          of an antidumping order in the United States for a  
20          number of years, U.S. market prices have traditionally  
21          been higher than in most other markets. This creates  
22          a powerful incentive among foreign producers to export  
23          to the United States.

24          Because of these incentives, every major  
25          offshore producer has targeted the U.S. market for

1 expansion. To illustrate, when Kuraray recently  
2 purchased Clariant's production facilities in Germany,  
3 it announced its intention to increase its exports to  
4 the United States, and I quote, "ten-fold."

5 Kuraray, in particular, has made a  
6 calculated decision to shift from being a supplier of  
7 small volume specialty graded polyvinyl to the United  
8 States to become a large volume supplier of commodity  
9 grade PVA. The record confirms each of these points.

10 Fourth, China is part of the mix. Chinese  
11 imports are very low priced, have begun to increase  
12 again after a 2002-2001 drop, and as a result are a  
13 major problem imposed and even greater threat.

14 Now, we all know that China's major  
15 producer, Sichuan Vinyon, received a de minimis  
16 preliminary margin from the Department of Commerce.  
17 That margin is based entirely on an allocation cost  
18 away from -- or factors of production away from PVA to  
19 another product.

20 We know full well that you cannot by statute  
21 cumulate China with the other subject imports until  
22 Commerce reverses its finding, which I hope it will do  
23 in short order.

24 But nevertheless, the point I want to make  
25 here is twofold. First, that China is a problem; and

1 second, that with China's presence you have a  
2 condition of competition that makes the imports from  
3 Japan, from Germany, and from Korea that much more of  
4 a problem.

5 The testimony you will hear from witnesses  
6 for DuPont, Celanese and Perry Chemicals will detail  
7 the impact that these imports have had on the U.S.  
8 market and on their own operation. The testimony you  
9 will hear from respondents will no doubt take issue  
10 with what our witnesses will be saying. And all that  
11 I ask of you is that you listen very carefully to what  
12 is said and made a judgment on both substance and  
13 credibility.

14 Let me illustrate some of the things I  
15 expect to come up in this proceeding.

16 When respondents argue, as I expect they  
17 will, that the U.S. industry's profitability suffers  
18 from their low-priced export sales, aren't they really  
19 confirming what we are saying about the likelihood  
20 that without the discipline of an antidumping order  
21 the very low prices we see in overseas markets will  
22 spread to the U.S. market? If so, aren't they making  
23 our threat of injury case?

24 And if a company like Solutia contradicts  
25 sworn testimony by witnesses for DuPont and Celanese,

1 by executives that were personally involved in the  
2 negotiation of pricing at the Solutia account, and the  
3 contradiction involved the way in which Solutia has  
4 used the threat of switching to lower priced imports  
5 to force reduction in domestic producer prices, the  
6 question I would like you to ask is, is that testimony  
7 really credible given the fact that Solutia is up here  
8 spending time, spending energy, and spending money  
9 arguing for a no injury finding?

10 After all, why would a company like Solutia  
11 invest in this proceeding if, as it suggests, imports  
12 are not at issue in its business relationships?

13 There will be many other points that you  
14 will want to ask us about and ask others about as the  
15 proceeding continues. But what I hope to leave you  
16 with is a notion that there will be issues of  
17 substance and issues of credibility that need to be  
18 tested.

19 Thank you.

20 CHAIRMAN OKUN: Thank you.

21 MS. ABBOTT: Opening remarks on behalf of  
22 the respondents will be made by Lawrence R. Walders,  
23 Sidley Austin Brown & Wood.

24 CHAIRMAN OKUN: Good morning, Mr. Walders.

25 MR. WALDERS: Good morning. Good morning,

1 Madam Chairman.

2 For the record, I am Lawrence Walders of the  
3 law firm of Sidley Austin Brown & Wood. I am  
4 appearing today on behalf of Kuraray Company Limited  
5 of Japan, Kuraray Specialties of Europe, and Kuraray  
6 America, Inc., and with me are Maria DiGiulian of  
7 Sidley Austin, and Bruce Malashevich, of Economic  
8 Consulting Services.

9 The Commission will hear from several groups  
10 of counsel and witnesses appearing in opposition to  
11 the petition. The presentation by the opponents will  
12 begin with Solutia, a domestic producer that opposes  
13 the petition for good and sufficient reasons which you  
14 will hear today.

15 The testimony will be followed by witnesses  
16 for Kuraray and Clariant. The Chinese producer,  
17 Sichuan Vinylon Works, has also entered an appearance  
18 in this hearing, but I understand that company  
19 representatives will not testify, although they will  
20 be available to answer questions from the Commission  
21 and the staff.

22 Now, the witness list in this hearing is  
23 much shorter than it was in the conference in the  
24 preliminary investigation. That reflects a dramatic  
25 change in the posture of this case. Now that imports

1 from China are no longer subject to the investigation,  
2 the remaining imports are far too small in quantity  
3 and insignificant in market share to have caused or  
4 threaten to cause material injury to the domestic  
5 industry.

6 The petitioners have tried to muddy the  
7 waters in their prehearings by lumping together  
8 imports from China with the remaining subject imports  
9 from Germany, Japan, and Korea. But the staff's  
10 prehearing report properly focuses on the imports that  
11 are actually subject to this investigation.

12 As we have shown in our prehearing brief,  
13 and as we will show in the hearing today, the  
14 elimination of China undercuts whatever legal and  
15 economic basis this petition may have had because it  
16 removes a major source of low-priced import  
17 competition.

18 As in most cases, the primary issue here is  
19 causation. The requisite degree of causation is  
20 lacking in this case given the extremely small market  
21 share of subject imports and the absence of  
22 significant price or volume effects from subject  
23 imports.

24 Furthermore, after adjusting for factors  
25 affecting the industry's profitability that are

1 totally unrelated to imports, the petitioners'  
2 financial data itself will demonstrate that the  
3 industry is not injured or threatened with injury.

4 Thank you.

5 CHAIRMAN OKUN: Thank you.

6 MS. ABBOTT: The first panel, those in  
7 support of the imposition of antidumping duties, is  
8 seated and has been sworn.

9 (Witnesses sworn.)

10 CHAIRMAN OKUN: You may proceed when you are  
11 ready, Mr. Greenwald.

12 MR. GREENWALD: What we would like to do, if  
13 it's alright with the Commission, is dispense with  
14 lawyer statements and begin right with the business  
15 representatives.

16 Mr. Fred Chanslor, Vice President, Polyvinyl  
17 Alcohol, Celanese, will be our first witness.

18 MR. CHANSLOR: Good morning. I would like  
19 to thank the Commission for this opportunity to speak  
20 on behalf of my company, Celanese, and on behalf of  
21 the polyvinyl alcohol producers.

22 I have been with my company now for almost  
23 29 years. I was involved in the acquisition of the  
24 polyvinyl alcohol business in 2000, and I have been  
25 running the business since that acquisition.



1                   There will be a great deal of discussion  
2 today regarding polyvinyl alcohol markets and  
3 applications. I would like to begin with a brief  
4 background of the PVA industry that I believe is  
5 applicable.

6                   PVA, as you are probably aware, is sold into  
7 a multiplicity of markets: textiles, adhesives,  
8 paper, building products polyvinyl alcohol, to name a  
9 few. The critical fact to bear in mind is that the  
10 molecule that goes into these different applications  
11 is fundamentally the same.

12                   The key to the successful application of  
13 polyvinyl alcohol to anyone of these markets is the  
14 physical properties of the product, depending on the  
15 viscosity or the hydrolysis of the product is what  
16 determines whether the product is applicable for say  
17 the textile industry or for the paper industry. All  
18 those products are made off the same production  
19 equipment in the manufacturing facilities.

20                   PVA technology has been around for a long  
21 time, and all of these products and the applications  
22 that they are suited for are available from a number  
23 of different producers.

24                   For example, Celanese and Kuraray both have  
25 over 20 different production grades. Most of those

1 grades overlap and have equal applicability to a  
2 number of markets. A similar overlap exists between  
3 Kuraray Japan and Kuraray Germany. Many of their  
4 grades overlap, and this is typical of all the subject  
5 importers in this petition.

6 The viscosity and the hydrology properties  
7 range from the various producers, but they all will  
8 fundamentally meet the application needs of the  
9 customer, and typically the qualification going from  
10 one supplier to the next is merely a factor of fine  
11 tuning their manufacturing facilities to adjust for  
12 those modest differences in viscosity and hydrolysis  
13 range.

14 As a result of that, the costs of switching  
15 from one supplier to the next is relatively  
16 insignificant and the primary and dominant basis that  
17 purchasers use for deciding whether to purchase from  
18 one supplier or another is merely price.

19 Let me give you an example of this  
20 overlapping and multiple sourcing. We sell a 325  
21 grade to the polyvinyl butyryl business. We sell that  
22 same grade to adhesive customers and to building  
23 products customers as well, and the 325 grade that we  
24 sell has an equivalent that's provided by DuPont, by  
25 Nippon Gossi, and by Kuraray, and one of the largest

1 polyvinyl butyryl producers, Solutia, buys product  
2 from all of those suppliers across their global  
3 polyvinyl butyryl business.

4 So let me move now from that background to  
5 the specific Celanese experience. We purchased this  
6 business in October of 2000, and almost immediately  
7 after the purchase of this business it was subject to  
8 global recession, an extraordinarily high raw material  
9 costs, principally natural gas and ethylene.

10 We immediately raised prices as is typical  
11 in the petrochemical industry to offset those very  
12 high raw material price increases. However, we were  
13 unable to move those price increases through due to  
14 the competitive positioning of the subject importers.

15 PVA business is a very capital-intensive,  
16 high fixed-cost business, and the variable margin that  
17 you generate in that business and the high capacity  
18 utilization of your facilities are essential to strong  
19 financial performance.

20 In our attempt to raise prices and reclaim  
21 the variable margin that we had lost and maintain the  
22 capacity utilization of our facilities, we saw a  
23 dramatic reduction in our prices in multiple segments  
24 and multiple customers within those segments.

25 A few examples: Adhesive paper in the

1 textile business we lost to the Chinese. We lost  
2 building products and adhesive business to the  
3 Koreans. We lost paper and building products business  
4 to the Germans.

5 So as I said, faced with this variable  
6 margin loss we had to take action, and the action was  
7 we began to pull back our variable margin by going  
8 back after volume, and the result of that was we saw a  
9 five to 35 percent decrease in pricing in over 20 of  
10 our accounts in virtually a matter of weeks.

11 This pricing erosion and responding negative  
12 financial performance has stuck with us up to and  
13 including the first quarter of 2003. Our position has  
14 been extremely impacted by current natural gas and  
15 ethylene costs that are extraordinarily high again  
16 this year.

17 We have announced, as I am sure you are  
18 aware, over 25 cents per pound of polyvinyl alcohol  
19 price increases to try to compensate for this raw  
20 material cost. But as of this date we have had very  
21 limited success in getting those costs passed through  
22 and pricing.

23 Virtually every week we have a customer,  
24 one of the petitioner's offshore suppliers are  
25 offering not to raise their prices in order to acquire

1 our market share with those customers.

2 Just recently, in fact, we have had two  
3 paper accounts and one film account where we were told  
4 that an offshore supplier in our petition offered to  
5 hold pricing below that of the duty, and all of the  
6 costs associated with transporting that product from  
7 overseas to the U.S. in exchange for our market share  
8 at all three of those accounts.

9 So what are the market dynamics that are  
10 causing this to happen? One of the biggest ones is  
11 supply and demand. The industry is operating at 80  
12 percent capacity utilization, and yet the Asians  
13 continue to announce expansion of facilities. Over  
14 90,000 tons of expansion has been announced today.  
15 It's the equivalent of a world-scale polyvinyl alcohol  
16 unit that if you built from the ground up would cost  
17 you over 200 to 300 million dollars.

18 Another key factor is that the U.S. pricing  
19 tends to be higher than the other regions in the  
20 world, Europe and Asia, and the reason for that his  
21 historically the domestic producers tried to capture  
22 the value that polyvinyl alcohol brings to the markets  
23 it serves, and let me give you an example.

24 If you look at the paper industry, it's a  
25 very capital-intensive process. You have got high-

1 speed paper moving and long extended lines. An  
2 interruption is extremely costly to the paper  
3 manufacturers. Polyvinyl alcohol is a very small part  
4 of their total cost, but a very key factor in their  
5 ability to main on-stream time production in that  
6 facility, so we try to capture some of the value that  
7 that product brings in that particular segment, and  
8 it's basically true across all segments.

9 This is in dramatic contrast to that, in  
10 Europe and Asia you see pricing is very similar in  
11 various applications, and the reason for that is that  
12 Europe and Asia tend to be much more commodity-minded  
13 markets, and there is a great deal of competitive  
14 activity in exchanging depressed pricing for market  
15 share.

16 And as a result of that when the Europeans  
17 and Asians look at the U.S. market, our pricing  
18 position is very attractive.

19 As a result of the attractiveness that I  
20 speak of, not too long ago one of the offshore  
21 suppliers in our petition announced that they wanted  
22 to increase their share of the U.S market by ten  
23 percent was over a factor of 10 of their car imports  
24 to the U.S and they named Sony specifically as their  
25 target. Today, we continue to get customers that

1 threaten to switch to subject offshore suppliers  
2 because they have offered to hold their price in the  
3 wake of our priced increases if they give in exchange  
4 for our market share and they prevailed the proposed  
5 duties as not have seen to have any major impact on  
6 that situation. And just looking from the fourth  
7 quarter of 2002 to the first quarter of 2003, our more  
8 material costs have gone up over 20 percent and yet we  
9 have not been able to pass any of that cost forward in  
10 our pricing so far. Without a positive finding in this  
11 petition, we expect to see this financial  
12 deterioration and price deterioration continue  
13 especially in light of the fact that gulf coast  
14 pricing of natural gas is not expected to ever return  
15 to historical rates, and in fact if you look at the  
16 industry experts, they basically say that the  
17 probability that natural gas is going to remain at  
18 today's level in the four-to-five dollar per million  
19 btu range is very high, and that in fact that we will  
20 frequently have periods of time where we will have  
21 supply relative to demand, and we can again see  
22 natural gas prices peak as high as \$10 a million btus.

23 So in light of this expectation of the  
24 future on raw material costs, unless the domestic  
25 producers are allowed to pass some of that cost on to

1 the customers the financial viability of this industry  
2 is very much in question.

3 I mentioned a number of examples in my  
4 presentation this morning, and we will provide the  
5 details of those examples in our post-hearing brief.

6 This concludes my remarks, and I want to  
7 thank you for the opportunity to present them.

8 CHAIRMAN OKUN: Thank you.

9 MR. GREENWALD: Now Ms. Kathryn McCord from  
10 DuPont to give DuPont's perspective.

11 MS. MCCORD: My name is Cathy McCord, and I  
12 am the global business director for polyvinyl alcohol  
13 and vinyl acetate myelomere for DuPont.

14 I have held this position for about six and  
15 a half years, and I have seen tremendous shifts in the  
16 profitability of this business over that time period.  
17 As you can imagine with this much time invested in the  
18 business, this business is very near and dear to my  
19 heart, so I really appreciate the opportunity to come  
20 here and talk with you about what I have seen in the  
21 market.

22 As Fred told you, the major market segments  
23 for PVA include textiles, paper, adhesive and PVB,  
24 polyvinyl butyryl. I would like to describe to you  
25 what DuPont's perspective critical issues in the PVA



1 market that impact the viability of the U.S. PVA  
2 industry.

3 They include, first, rising subject imports;  
4 second, rapidly declining prices; third, price as a  
5 single key determinant in the sourcing decision.

6 Over the last several years we have seen  
7 subject imports from Japan, from Korea, from China and  
8 Germany increases. The market as become more price  
9 competitive, and these lower prices have spread  
10 throughout all the different market segments.

11 Fewer and fewer customers are willing to pay  
12 for non-price factors like tech service, or on-time  
13 delivery, et cetera. Our customers expect us to meet  
14 the lowest price, the low prices of foreign imports  
15 first and foremost. Then we are expected to continue  
16 to supply the tech service, and the delivery that we  
17 have always provided.

18 Many of these customers have been long-term  
19 DuPont customers. We have worked closely with them to  
20 help them develop and customize their formulations and  
21 their processes. However, when they are offered PVA  
22 at such low prices from subject importers they feel  
23 compelled to qualify that product, and qualification  
24 can be very rapid. It can be as short as an afternoon  
25 trial to several months. But due to the big incentive

1 the delta in these prices our customers feel they have  
2 to run these qualifications, and we are then forced to  
3 meet these lower prices in order to retain our  
4 business and keep our plant running to minimize our  
5 unit costs.

6 As Fred told you, PVA is an extremely  
7 capital-intensive, high fixed-cost manufacturing  
8 operation, and keeping the plant running is critical  
9 to an economically viable business. Meeting these  
10 very low prices has had a very negative impact on our  
11 profitability.

12 For many years price was only one of a  
13 number of factors involved in a customer sourcing  
14 decision. DuPont's tech service, on-time delivery and  
15 other non-price factor were very important, but this  
16 really isn't the case anymore. By far the most  
17 important factor today is price, and then price, and  
18 then price again.

19 Once we meet the subject import price these  
20 other non-price factors may become the tie breaker in  
21 a buying decision, but if we don't meet the price we  
22 lose the business.

23 DuPont has pursued a strategy of meeting  
24 foreign producers' prices in order to maintain our  
25 business. As a result the prices and our margins have

1 deteriorated significantly. For example, within the  
2 span of one month after revocation of the previous  
3 dumping order we were forced to reduce our prices at  
4 three different paper accounts by over 30 percent, 30  
5 percent just to maintain our business due to  
6 competitive price offers by subject importers,  
7 including Kuraray and Nippon Gossi.

8           Neither gained any volume from us because we  
9 met the price, but the impact of their actions were  
10 enormous on us.

11           As recently as April of this year, less than  
12 one month ago, a paper customer of ours told us that  
13 they had an offer from Kuraray Germany at 18 cents  
14 below our price. Our customer asked us how we intend  
15 to respond if we want to keep our business.

16           As you know, in 1996, a previous dumping  
17 order was imposed on several of these subject  
18 importers. Since the order was sunsetted several  
19 things have changed.

20           First, the dramatic rise in raw material  
21 prices that Fred described to you; secondly, Kuraray's  
22 global presence in the PVA market; third, the  
23 resumption and even lower price subject imports; and  
24 fourth, our declining NME.

25           Costs of both natural gas and ethane, which

1 are major raw materials in the production of OVA,  
2 began to increase in 2000. As Fred told you, by early  
3 2001 natural gas was about \$10 per billion btu, which  
4 is about four times the historical average. Although  
5 these costs did decline in late 2001, and early into  
6 2002, by the fourth quarter of 2002 costs were again  
7 on the rise.

8 In February of this year natural gas prices  
9 reached about \$10 a million btu. They have since  
10 declined and they are hovering in the \$5.50 a pound  
11 per million btu range, and they are expected to remain  
12 in that range over in the four to five dollar range  
13 for the next several years.

14 Over this time we have attempted to  
15 implement multiple price increases simply to recover  
16 these costs, but they have been mostly unsuccessful  
17 because of price undercutting by subject importers.  
18 It's truly a classic cost/price squeeze.

19 Kuraray has become a global force in the PVA  
20 market. They have added significant capacity through  
21 their joint venture in Singapore and have recently put  
22 a Clariant facility in Europe. They have a publicly  
23 announced strategy to gain 10 percent of the U.S.  
24 market. A copy of this announcement is included in  
25 your prehearing brief.

1           Kuraray moved away from being a high-priced  
2 specialty producer to becoming an aggressive marketer  
3 who uses low price to gain share in the U.S.  
4 Continued expansion by Kuraray, by NiPpon Gossi, and  
5 by Sichuan have resulted in overcapacity in Asia,  
6 which has prompted them to seek other market such as  
7 ours here in the U.S. to unload their excess capacity.

8           Only the declining economy has put  
9 tremendous pressure on price as the single determining  
10 factor in a PVA buying decision in every single market  
11 segment into which we sell. Let me just give you a  
12 few specific examples.

13           The U.S. textile market, I think as we all  
14 know, is declining as production continues to shift  
15 overseas to Asia. However, it's still one of the  
16 largest segment for PVI, so it's a very important one.  
17 The textile industry is served both directly by  
18 producers and also through what's called a textile  
19 blender, blenders PVA, and they mix that PVA with  
20 other materials like starch, and then they sell that  
21 blend to a textile account, sometimes directly against  
22 us with straight PVA, or sometimes those blenders will  
23 just simply resell the PVA itself, no blending.

24           The subject importers initially served only  
25 the blenders, but recently they have begun calling

1 directly on the textile mills. Within the last  
2 several months, one of our textile customers began  
3 trial in Sichuan material to thwart our recent  
4 attempts to raise price and recover our cost  
5 increases.

6 In addition, within the last month we just  
7 lost about a million pounds of business at a single  
8 textile mill due to aggressive underpricing with  
9 Sichuan material from China.

10 And last summer, one blender who was simply  
11 reselling Kuraray material caused us to lower our  
12 price by about 10 percent at a long-term DuPont  
13 textile account in order for us to retain our  
14 business.

15 The PVB market segment is also a very large  
16 PVA segment in the U.S. We supply significant volumes  
17 to that segment to our sister business in DuPont, and  
18 also to Solutia. In September of 2001, at a contract  
19 negotiation meeting with Solutia, we were informed by  
20 them that they had lower priced offers from foreign  
21 producers, which included Kuraray German, included  
22 Nippon Gossi and Kuraray Japan.

23 Since both Kuraray Germany and Nippon Gossi  
24 were fully qualified and supplied Solutia at their  
25 European facility, this represented a significant

1 threat to our business. We felt forced to reduce our  
2 price in order to retain our business.

3 This type of behavior has occurred in every  
4 segment of the business. Let me give you one last  
5 example before I close.

6 In order to retain about 750,000 pounds of  
7 business at an adhesive customer we were forced to  
8 reduce our price 13 percent to meet the Korean PVA  
9 offer. Our customer continues to work with the Korean  
10 materials to keep us from increasing our prices right  
11 now and letting us pass through some of these high  
12 costs we have experienced. Our projected sales at  
13 this account are down as a result of a loss of some of  
14 our business to the Korean material.

15 This significant price cost squeeze has  
16 resulted in such low margins for us that we cannot  
17 continue to invest in the PVA business. Our capital  
18 investment now is focused only on basic safety, health  
19 and environmental standards, or on maintaining plant  
20 equipment. It's certainly not to reinvest in the  
21 capacity or to create new manufacturing jobs for the  
22 domestic industry.

23 In multi-business companies such as our, we  
24 must compete internally for capital resources. Our  
25 PVA business does not come close to meeting corporate

1 financial requirements for new investments. However,  
2 by any standards the domestic PVA business in its  
3 current state would not warrant reinvestment.

4 I greatly appreciate the opportunity to  
5 review our case with you, and I hope I have been able  
6 to convey the critical situation our industry now  
7 faces. This situation has been caused by unfair  
8 dumping of subject imports into the U.S., resulting in  
9 significant deterioration of our financial results.  
10 This activity has not been confined to just one or two  
11 market segments. It has been pervasive throughout all  
12 the market segments.

13 We have had very limited success to raise  
14 prices despite dramatically rising costs. Of even  
15 greater concern is what will happen in the future if  
16 this case is unsuccessful. Even with the imposition  
17 of preliminary markets, we continue to see aggressive,  
18 unfair pricing by subject importers. If this  
19 continues, it could result in business failure for the  
20 U.S. industry and a resultant loss of U.S.  
21 manufacturing jobs. I just don't want to see this  
22 happen.

23 Thank you again for letting me share my  
24 views of this industry with you.

25 CHAIRMAN OKUN: Thank you.



1                   MR. GREENWALD: Our last witness, Mr. Irving  
2                   Laub from Perry Chemicals.

3                   MR. LAUB: First of all, I would like to  
4                   thank the commissioners for giving me the opportunity  
5                   to say a few words on behalf of this case.

6                   I am really here to echo the sentiments of  
7                   Celanese and DuPont, but from really a totally  
8                   different perspective.

9                   Perry Chemical is not a manufacturer of  
10                  polyvinyl alcohol. Perry Chemical is a distributor of  
11                  polyvinyl alcohol. The business is a relatively small  
12                  family business started by my father in the late  
13                  fifties. I got involved in 1974, and have been  
14                  dealing with polyvinyl alcohol ever since then to the  
15                  present. That makes it, I think, almost about 29  
16                  years now.

17                  And I have been through the experiences, the  
18                  ups and downs of the market more than once, shortages,  
19                  outages, when the supply is long, when supply is  
20                  short, and through an antidumping proceeding back in  
21                  1995. And we have seen over the past two years since  
22                  a dramatic shift in the way polyvinyl alcohol is sold  
23                  here in the United States that it really is compelling  
24                  for us to step forward to try to say a few words in  
25                  support of the petitioners.

1           For so many years, particularly during the  
2 time of the antidumping petition when it was in effect  
3 back in 1995, a certain discipline was in the  
4 marketplace. When the petition was removed in May, I  
5 think, 2001, at that time the market was open to  
6 anybody to come in and sell materials to the states,  
7 and we saw a dramatic shift on the part of the subject  
8 imports to try and penetrate the market here in the  
9 United States. It didn't only affect Celanese, it  
10 didn't affect only affect DuPont, but it very much  
11 materially hurt our business that we were currently  
12 supplying our customers here in the United States.

13           Polyvinyl alcohol historically is a fairly  
14 stable commodity, but we have seen over the past two  
15 years, I guess, prices have dropped dramatically. Our  
16 volumes of polyvinyl chemical are down very, very  
17 significantly, and we are scrambling almost on a daily  
18 basis, just trying to hold onto our existing customer  
19 base, trying to deal with the reality of subject  
20 imports coming into the states, subject imports that  
21 are offering products across the product lines. We  
22 see the Japanese courting materials to textile  
23 compounders. We see the Koreans offering product in  
24 the construction industry. We see all the subject  
25 imports pretty much all across the board in all the

1 segments of the industry that we currently service.

2 We are very much at risk at Perry Chemical  
3 if there is no protection in this particular case. We  
4 are trying our best to hold onto what we have got.  
5 We're trying to maintain the business that's been in  
6 place for the past, oh, almost 50 years already. But  
7 we are facing a very, very difficult time now, and all  
8 we ask is for the Commission to establish a level  
9 playing field so that all of us can participate fairly  
10 in this particular market.

11 I thank you very much for your time.

12 CHAIRMAN OKUN: Thank you.

13 MR. GREENWALD: Before we close our direct  
14 testimony, I'm going to ask Mr. Laub to elaborate for  
15 you on something that he told me by phone, and it was  
16 one of the reasons we wanted him to testify today, and  
17 that was the shift in the marketing and business  
18 strategy of Kuraray in particular.

19 MR. LAUB: Well, in the past when we were  
20 competing against Kuraray, we normally found them to  
21 be in segments in the industry that were I would say  
22 on the higher end. We came into competition with what  
23 you would say is a very, very low price in the  
24 industry, which is that the textile compound. We did  
25 not run into the subject import competition at that

1 segment of the industry, oh, for many, many years.

2 And all of a sudden after the sunset review  
3 came into place we found that Kuraray had contacted  
4 one of our customers who we considered to be, oh, we  
5 were servicing that customer since 19 -- I'm not sure  
6 if it's '81, '82, '83, but it's almost 20 years  
7 already, a loyal customer of ours, and we were faced  
8 with a very competitive situation that we were unable  
9 to match, and subsequently lost the volume of business  
10 because of the intervention and the aggressive  
11 policies on the part of Kuraray to assume that  
12 position in that segment of the industry.

13 MR. GREENWALD: Thank you. That concludes  
14 the direct testimony.

15 Can the secretary tell us how much time we  
16 have left?

17 MS. ABBOTT: You used 27 minutes.

18 MR. GREENWALD: We'll reserve the rest for a  
19 lengthy rebuttal.

20 CHAIRMAN OKUN: For the lawyers' comments,  
21 right?

22 Thank you. Before we begin the questioning,  
23 I want to thank all the witnesses for being here today  
24 and particularly the industry witnesses. We  
25 appreciate you taking the time from your business to

1       come here and help us better understand your business  
2       and your operations.

3                   And with that Commissioner Miller will begin  
4       our questioning.

5                   COMMISSIONER MILLER: Thank you, Madam  
6       Chairman, and thank you as well to all of the  
7       witnesses for your participation this morning, and Mr.  
8       Greenwald, that was admirable restraints on your part  
9       in terms of the direct testimony. I'm sure you will  
10      have plenty of opportunity on some of the challenging  
11      legal questions we have in this case.

12                   But let me start with making sure I fully  
13      understand the product if I could, and several of you  
14      sort of commented, Mr. Chanslor in particular, on some  
15      of the product issues.

16                   What I want to make sure is that I  
17      understand the nature of the product for purposes of  
18      both the way we gather the pricing information and  
19      some of the issues that are coming up in terms of  
20      overlap of competition.

21                   When I first looked at the pricing  
22      information and saw that, you know, we gather the  
23      pricing information by application. So one of my  
24      questions to you is, is this product different  
25      depending on the applications it's going to?

1           I'm trying to understand just the nature of  
2           the product. You talked a lot about the viscosity and  
3           the hydrolysis, and that being basically what  
4           determines the application. But you also talked about  
5           the same product. I think you used the example of  
6           365; is that right, what you referred to as the --  
7           325, great.

8           Just tell me, to what degree from a supply  
9           perspective is the product different depending on the  
10          applications that it's going to? And how, when you're  
11          talking about a process, at least as I understand it  
12          is a fairly continuous process, you end up producing  
13          the different grades.

14          MR. CHANSLOR: Sure. Polyvinyl alcohol is  
15          basic polymer chemistry, and we basically polymerize  
16          vinyl acetate and then do a transistor verification to  
17          get the hydroxyl berbs onto the polymer. And  
18          depending on the length of the polymer chain, which  
19          determines the molecular weigh and the viscosity and  
20          the number of OH groups that you put on the polymer  
21          will determine whether it's a good product for the  
22          textile industry or a good product for the paper  
23          industry, depending on the typical properties that  
24          that particular industry needs.

25          It's the same equipment that produces all

1 the different grades of the product. We have  
2 basically 26 base grades that we produce, but the  
3 conditions under which you produce the polymer will  
4 determine those various physical properties, and we  
5 direct those depending on what grade we're trying to  
6 make and which industry it goes into.

7 The only exception to those are what we call  
8 the copolymers or specialty products, and those DuPont  
9 and Celanese have not included in this petition.

10 All other products, basically it's the same  
11 fundamental polymer and you just vary the physical  
12 properties depending on what the end user needs

13 COMMISSIONER MILLER: So you make  
14 essentially adjustments in the manufacturing process  
15 to -- depending on what you need in terms of the  
16 demand for the production and the application?

17 MR. CHANSLOR: That's right. How long you  
18 produce the polymer.

19 COMMISSIONER MILLER: Right.

20 MR. CHANSLOR: What kind of temperature you  
21 operate at, what kind of additives you make, those are  
22 basically the things that help determine the  
23 particular physical properties that you're after

24 COMMISSIONER MILLER: But do you ever have  
25 the same product, exactly the same product going to

1 different end uses?

2 MR. CHANSLOR: Yes. Yes, we do

3 COMMISSIONER MILLER: Okay.

4 MR. CHANSLOR: You take a specific grade and  
5 that product can go into the textile market, the  
6 textile market, it can go into the adhesives market,  
7 it can go into the paper market

8 COMMISSIONER MILLER: So when you say  
9 "grade," there aren't variations within the grade in  
10 terms of the viscosity or hydrolysis. I mean, a grade  
11 is a uniform product.

12 MR. CHANSLOR: We talked about -- I  
13 mentioned earlier that you typically produce sort of a  
14 range of properties. Well, a grade will have a range  
15 of properties but in a relatively narrow scope

16 COMMISSIONER MILLER: Okay.

17 MR. CHANSLOR: And so for those different  
18 applications that require those particular properties  
19 you can use that same grade in those different  
20 applications.

21 COMMISSIONER MILLER: Okay.

22 MR. CHANSLOR: Just to refer back to my  
23 presentation, I mentioned that we produce over 20  
24 grades ourselves. If you take Kuraray Japan, Germany  
25 and Singapore, they produce actually more grades than



1 we do, and many of those grades overlap, and are  
2 acceptable for the same application. And what may  
3 vary slightly is this range of viscosity or this range  
4 of hydrolysis that we talked about, but the core  
5 properties of that product are applicable in the same  
6 application and for the same customers

7 COMMISSIONER MILLER: Okay.

8 MR. CHANSLOR: And if you look at Kuraray  
9 Japan for example, and Kuraray Germany, also called  
10 KSE, many of the grades that they produce they produce  
11 in both of those facilities

12 COMMISSIONER MILLER: Okay. Ms. McCord, you  
13 looked like you wanted to add something?

14 MS. MCCORD: Yes. Well, for example, just  
15 to add to what Fred was saying. One particular grade  
16 that we make is called 7130, and we use that internally  
17 within DuPont for our PVB operations. We sell that  
18 grade to external PVB customers. We sell that grade  
19 in paper, and we sell that same grade in film

20 COMMISSIONER MILLER: So the same grade that  
21 you would use for your PVB production you also sell,  
22 and there is no difference in the physical product  
23 between what you use for PVB production and what you  
24 sell into these other markets?

25 MS. MCCORD: No. As a matter of fact, I

1 mean, if we are putting it in hopper car, and shipping  
2 it to our sister business in West Virginia, or we  
3 might take that hopper car and just package it up for  
4 paper, and sometimes you may do a little tweak here or  
5 there, add something or not, but when it comes off the  
6 unit for the most part it's the same grade, and you're  
7 just packaging it differently, or putting it in hopper  
8 car or not and shipping it to any of several different  
9 applications.

10 COMMISSIONER MILLER: And Mr. Chanslor said  
11 Celanese is producing 20 some different grades.  
12 DuPont, can you say? I can't remember if it's in our  
13 report, if it's a public number or not, so I don't  
14 know if this is something -- how many grades does  
15 DuPont produce?

16 MS. McCORD: We don't produce as many grades  
17 as Celanese, but we could -- I will put that in a --

18 COMMISSIONER MILLER: Great. Okay. Okay.

19 Mr. Chanslor, you alluded a few moments ago  
20 to the products that were excluded from the scope of  
21 this investigation.

22 Are those products made by the producers in  
23 the United States at all? Is there any U.S.  
24 production?

25 MR. GREENWALD: Let me answer that

1                   COMMISSIONER MILLER: Okay.

2                   MR. GREENWALD: Because that's a preliminary  
3 conferences. I had stated publicly that we had no  
4 intention of doing what I think others domestic  
5 petitioners do, which is including products that are  
6 nothing more than a gleam in their eye. We stated  
7 publicly that we would exclude products that were not  
8 made here. We have done so. We have been very  
9 responsive to the respondents' counsel on that, and it  
10 has taken a measurable quantity of imports,  
11 particularly from one of the Japanese producers, out  
12 of this case.

13                   On the other hand, what is means is that the  
14 residual is material by definition, which there is a  
15 direct head to head competition

16                   COMMISSIONER MILLER: Okay. And I want to  
17 make sure I understand how -- again, the nature of the  
18 product given the sort of you're telling me grades go  
19 to lots of different applications. The products  
20 excluded are specialty polymers? They have some other  
21 process that goes on with them that changes the  
22 product?

23                   MR. CHANSLOR: They are what are called  
24 copolymers. So in addition to the polyvinyl alcohol  
25 polymer, there are other polymers that are other

1 polymers that are bound to the main structure of the  
2 molecule, and they go into a number of specialty  
3 applications.

4 Celanese is making those products, but we  
5 have relatively small volumes of them, and they are  
6 specialty applications, and they are limited in  
7 supply, and as John mentioned, we did not include,  
8 DuPont and ourselves did not include them in the  
9 petition as a result.

10 COMMISSIONER MILLER: Mr. Meltzer?

11 CHAIRMAN OKUN: Would you ask him to pull  
12 the microphone there a little bit closer.

13 MR. MELTZER: There is one more realm of  
14 exclusion and that had to do with products that were  
15 below a certain hydrolysis level, and again the intent  
16 was to make sure that whatever was covered in this  
17 case was products where there was direct competition  
18 between the U.S. producers and the subject imports.  
19 We spent quite a bit of time doing the exclusion

20 COMMISSIONER MILLER: Okay. I'll tell you  
21 what, with the yellow light on I don't think I'll try  
22 to go down another line of questioning because all the  
23 other lines will take as long as this one did, so I'll  
24 come back to them to the extent my colleagues don't,  
25 and I appreciate your help in understanding the

1 product. Thank you.

2 CHAIRMAN OKUN: Commissioner Koplan.

3 COMMISSIONER KOPLAN: Thank you, Madam  
4 Chairman.

5 Ms. McCord, if I could start with you. In  
6 your testimony you described a meeting with Solutia in  
7 which they informed you that they had price offers  
8 from foreign sources.

9 I checked back and I don't think that was  
10 covered in your direct testimony at the staff  
11 conference last September. So let me just ask you  
12 some questions on that.

13 First of all, when did that meeting take  
14 place?

15 MS. MCCORD: September 21st or 20th, I not  
16 sure which, of 2001.

17 COMMISSIONER KOPLAN: And who was present at  
18 the meeting?

19 MS. MCCORD: It was held in Wilmington,  
20 Delaware, and from Solutia's side it was Vickie Holt,  
21 who was then head of their films business, and a  
22 person names James Steele, I think his last name was,  
23 and he was their -- I referred to him as their  
24 financial person.

25 From DuPont, it was Jack Welch, our vice

1 president of the Vinyls Enterprise. It was Steve  
2 Kluff who was our business manager for our butycite  
3 business; and myself, and I think John Grenk, who was  
4 our operations director was also there.

5 COMMISSIONER KOPLAN: Thank you.

6 MS. McCORD: Oh, and legal counsel.

7 COMMISSIONER KOPLAN: And who was that?

8 MS. McCORD: I think Van Lichlietter. I  
9 would have to go and check my notes.

10 COMMISSIONER KOPLAN: Okay. I am asking you  
11 this because I want to get as much detail as I can  
12 from you so that if they care to respond to this this  
13 afternoon, of course, they can.

14 Did those sources that they indicated they  
15 had lower price offers from, did those include non-  
16 subject producers as well or was it just subject  
17 producers?

18 MS. McCORD: No. No. I don't remember any  
19 non-subject importers, and I believes that I -- no,  
20 they did not list them --

21 COMMISSIONER KOPLAN: Excuse me, I did not  
22 hear what Mr. --

23 MS. McCORD: He had asked me, yes, Chang-  
24 Chung's Petrochemical was one of the ones they listed,  
25 and it was not.

1 COMMISSIONER KOPLAN: It was not.

2 MS. McCORD: Nor was Sichuan, to my  
3 knowledge. It was Kuraray Japan, Kuraray Germany or  
4 Clariant, and Nippon Gossi were the three foreign  
5 importers that they listed specifically.

6 COMMISSIONER KOPLAN: Okay. Did the lower  
7 price offers they mention include price offers from  
8 any U.S. source?

9 MS. McCORD: Yes, they did mention they also  
10 had offers from the other domestic supplier.

11 COMMISSIONER KOPLAN: Would be?

12 MS. McCORD: Celanese.

13 COMMISSIONER KOPLAN: Thank you. I'm asking  
14 you just for the record.

15 MS. McCORD: Sure.

16 COMMISSIONER KOPLAN: Thank you very much.  
17 If you think of anything else that I have missed as I  
18 have asked you about this, you can cover that in the  
19 post-hearing, but I appreciate your detailing that for  
20 me.

21 This is for the domestic producers  
22 generally. The staff report indicates that overall  
23 demand for PVA has fallen over the period of our  
24 investigation, and it states that the reduction is  
25 reported to be the result of declines in the U.S.

1 textile market as well as declines in the general  
2 economy over this period.

3 In your prehearing brief you state that  
4 trends in demand for PVA vary among market segments,  
5 and you mentioned declines in demand resulting from  
6 declines in U.S. textile and paper production, but  
7 increases in demand for PVA resulting from the  
8 increased use of PVB in automotive windows, and you  
9 have touched on this as well in your direct  
10 presentation this morning.

11 I would like the industry witnesses to  
12 discuss the demand trends over the period of  
13 investigation for me, and in doing that I would like  
14 you to focus on these four aspects that I'm  
15 particularly interested in, and they are as follows:

16 Has demand declined overall for PVA? How  
17 has demand for PVA by the textile industry changed  
18 over the period of the investigation? Are there other  
19 segments where you have seen either increases or  
20 decreases in demand? And finally, what are your  
21 forecasts for demand for the next 12 to 24 months both  
22 overall and in particular sectors such as for PVB and  
23 textiles?

24 Okay. Now, I know that some of that's been  
25 touched on, but I would appreciate it if you could



1 cover it in the fashion I just asked.

2 Mr. Chanslor?

3 MR. CHANSLOR: I'll start the respond from  
4 the domestic suppliers.

5 COMMISSIONER KOPLAN: Thank you.

6 MR. CHANSLOR: We have been in this  
7 business, as I have said, since October of 2000, and  
8 sometimes the saying is I'd rather be lucky than good,  
9 and our luck was pretty much all bad.

10 Basically, we saw, you know, a fairly  
11 significant global recession, so basically we saw  
12 demand go down in virtually all three, really for us  
13 four, including Latin America, major regions. So from  
14 the very beginning we had seen an overall decline in  
15 demand on PVA, and that as long as we continue in our  
16 recession we expect that to continue as a lot of the  
17 PVA goes into products such as the PVB sheet that goes  
18 into windshields that goes into automobiles.

19 But in addition to that, I think we have  
20 seen an even more significant decline in the textile  
21 industry. They are under a great deal of pressure  
22 from external sources of supply, and I think it's a  
23 matter of public record that a number of the textile  
24 industries have gone bankrupt over the last couple of  
25 years. And we do not see or anticipate a recovery of

1 any kind in the textile industry.

2 As far as the segments are concerned, I  
3 don't see anything similar to what's going on in the  
4 textile industry taking place. What we tend to  
5 believe is just an overall reduction in demand due to  
6 the economy across the globe.

7 MS. McCORD: U.S., overall has demand  
8 declined over the period of review?

9 Yes, and I think that was driven most  
10 significantly by the textile industry. The textile  
11 industry in 2001 declined about 30 percent.

12 COMMISSIONER KOPLAN: I think at the staff  
13 conference you indicated 100 mills had closed?

14 MS. McCORD: Yes, 100 mills had closed,  
15 right. It's very, very significant.

16 But I have to say since that time it appears  
17 to have leveled off. Last year's demand appeared  
18 about flat with 2001, and this year's appears about  
19 flat. Our forecast for that segment is certainly not  
20 to grow. What's questionable is what happens with the  
21 WTO in 2005, but I don't know what will happen there.  
22 But other than that we're basically seeing that to be  
23 a flat industry.

24 Paper did decline as there has been some  
25 consolidation in those mills during 2001. It appears

1 it has also somewhat stabilized now. Building  
2 products, some of our materials are used in like fire  
3 doors, hotel fire doors, things like that. That after  
4 9/11 did decline substantially. It appears to be  
5 coming back now.

6 PVB has been driven -- it's basically driven  
7 by the automotive car builds for the most part, and  
8 that has been -- that has stayed fairly strong. Our  
9 forecast for PVB is basically linked to auto car  
10 builds. The only things that would really impact PVB  
11 growth would be growth in legislation around  
12 architectural applications because PVB is also used in  
13 security windows and hurricane glass, and things like  
14 that.

15 And so if there is more legislation and more  
16 demand for PVB in those applications, we would see a  
17 growth there. And also if PVB is legislated into side  
18 windows in automotive, because right now it's just in  
19 the windshield in front, if it goes to side windows,  
20 there will be a substantial increase in growth in PVB.

21 COMMISSIONER KOPLAN: Thank you.

22 Before I go to the next domestic witness on  
23 this, I wanted to come back to you on my first  
24 question, and just ask you something I forgot to ask,  
25 and that is; these lower prices in the Solutia

1 meeting, the lower prices that you mentioned, what  
2 were they? I mean, what was the price differential  
3 between what you all were offering and what Solutia  
4 brought up at that meeting from the foreign sources?

5 MS. McCORD: Could I respond to that?

6 MR. GREENWALD: If you feel comfortable.

7 MS. McCORD: I would like to respond in a  
8 post-hearing brief on that if I might.

9 COMMISSIONER KOPLAN: Okay.

10 MS. McCORD: It is in the brief.

11 COMMISSIONER KOPLAN: Okay, thank you.

12 MR. GREENWALD: Commissioner Koplan, what we  
13 did was attach, I believe we attached Ms. McCord's  
14 notes taken at the meeting, and put them in the  
15 prehearing brief.

16 COMMISSIONER KOPLAN: I know that. I  
17 couldn't refer to it though because it's all BPI. So  
18 as long as she had raised it, and put it on the  
19 record, it opened the door to these questions. I am  
20 well aware of it. Thank you.

21 I see my time is up so I won't start with  
22 another question. Thank you very much.

23 CHAIRMAN OKUN: Well, there are a number of  
24 interesting issues raised by the case, but I think I  
25 want to follow up on the one that Commissioner Miller,

1 some more product questions just so that I understand  
2 again the nature of the competition and where you see  
3 the subject imports competing. And so maybe, Mr.  
4 Chanslor, I want to go back to you.

5 When you were talking about the same grades  
6 being sold into the different applications, and you  
7 cited some standard grades. Do you get different  
8 prices selling them into different applications?

9 I mean, textiles, I have it referred to as  
10 kind of low end. I think you said the same grade  
11 could be sold into paper, and some other applications.  
12 Do you get the same prices?

13 And if I ask anything -- you know, I know  
14 there is a lot of confidential information on the  
15 record. So if there is anything you can't discuss,  
16 just let me know and we can do it post-hearing, but  
17 I'm just interested in this issue about what's being  
18 sold where and what kind of prices you get.

19 MR. CHANSLOR: Thank you. We do try to get  
20 different prices based on the value that the polyvinyl  
21 alcohol brings to that market, and what kind of  
22 contribution the polyvinyl alcohol is to the  
23 customers' overall cost position.

24 And so in some applications it's a very  
25 critical part of the process. Maybe another

1 application it's not such a critical part of the  
2 process, and I think that distinction is really a  
3 large part of what's driving what we see today,  
4 because we have tried to capture some of the value  
5 that the product does bring to our customers here in  
6 the U.S, and it's been historically the case with  
7 their products in DuPont before Celanese got involved  
8 in the business. You don't see as much of that, if  
9 any of that, in the other regions of the world.

10 CHAIRMAN OKUN: You don't see that in any  
11 other regions of the world?

12 MR. CHANSLOR: You do not see that as much  
13 in the other regions of the world, that's right.

14 CHAIRMAN OKUN: Okay. Ms. McCord, are you  
15 in agreement with that, I mean in terms of where  
16 DuPont sells is that the strategy?

17 MS. MCCORD: Yes, that's correct.

18 CHAIRMAN OKUN: Okay. And then in your -- I  
19 think it was in both Ms. McCord's and Mr. Chanslor's  
20 direct testimony you talked about where you see  
21 subject product, and also in the briefs. I mean,  
22 there was kind of the general reference to where the  
23 Korean product is, where the German product is, where  
24 the Japanese product is, and Korean's construction.  
25 And I have heard these kind of references to the end

1 use, and yet we're talking now about them being sold  
2 into different applications.

3 I am just trying to understand if you can  
4 give me more specific examples of where you see the  
5 same subject products in different applications. In  
6 other words, I'm trying to figure out if they compete,  
7 if what you are saying is the same grade can be sold  
8 into textiles, it can be sold into paper.

9 Is it the Koreans selling into textile,  
10 paper and something else? Because the information in  
11 the record I'm not sure would support that, and I'm  
12 just trying to understand if we really understand kind  
13 of how these applications are defined, so if you could  
14 comment on that for me.

15 MR. CHANSLOR: Well, the example that I  
16 used, for instance, was our 325 grade which we sell  
17 into the polyvinyl butyryl business. We also sell  
18 into other applications, adhesives and building  
19 products. And you know, we typically use application  
20 and end use sort of interchangeably. It's basically  
21 the same thing. Depending on the particular range of  
22 physical properties that an application needs, it  
23 really determines which grade that we sell.

24 And a number of applications basically have  
25 the same requirements on those physical properties, so

1 basically we may send a grade to an adhesive customer  
2 or a building products customer, or the same grade to  
3 a PVB supplier, for example.

4 If I understand your second question, I  
5 think because there is so many overlapping of grades  
6 among the major suppliers that in virtually all these  
7 applications our competitors have products that are  
8 basically in the same range of physical property  
9 requirements that our product is.

10 So when you look at a particular adhesive  
11 application for example, DuPont and the subject  
12 importers all will have a product that meets those  
13 same basic requirements, and we will compete with them  
14 then at that account.

15 CHAIRMAN OKUN: And it would be your  
16 experience in the market that you have seen the  
17 subject imports selling into all those applications  
18 versus, in other words, it may be the same product.

19 What I am trying to establish, is the U.S.  
20 marketing the same product to different things but not  
21 the subject imports in terms of where the competition  
22 is?

23 MR. CHANSLOR: Depending on the specific  
24 application. You may not run into all the subject  
25 importers, but you will run into a number of the



1 subject importers in multiple end uses and multiple  
2 applications.

3 MR. MELTZER: May I just make a couple of  
4 points --

5 CHAIRMAN OKUN: Sure.

6 MR. MELTZER: -- on the line of questions  
7 here?

8 One is that I don't think it makes sense to  
9 limit the analysis to commercial quantities of sales  
10 that were made at particular accounts, but it's also  
11 important to take into account offers for sales, and  
12 the activities of the representatives of the subject  
13 imports going around from account to account offering  
14 the products for sale, and that increases the extent  
15 of overlap.

16 The other point I would like to make is that  
17 you mentioned Korean imports, and there are a number  
18 of issues that come up with respect to the pricing  
19 data in some of the products. But I urge you to take  
20 a look at with respect to the Korean imports. The  
21 questionnaire response by a major Korean importer that  
22 were provided in the preliminary, and compare that to  
23 what was provided in the final investigation, and you  
24 will see more sales in more product categories once  
25 you take a look at both questionnaire responses

1 together.

2 For some reason there was a disconnect  
3 between the data that were reported in the preliminary  
4 and the data reported in the final.

5 CHAIRMAN OKUN: Okay, I appreciate those  
6 requests. I have some questions about that when I get  
7 to price. Let me just, if I can, stay with this to  
8 try and understand where the U.S. competes with the  
9 subject product.

10 This report indicates on page 29, now, Ms.  
11 McCord, this is for Dupont, it says that DuPont has  
12 reported they only produce PVA with the hydrolysis  
13 between 95 and 100 percent.

14 Is that an accurate description?

15 MS. McCORD: Yes, that's correct. It's what  
16 is called fully hydrolyzed PVA. That's what our plant  
17 makes.

18 CHAIRMAN OKUN: Okay. And then in terms of  
19 again what that means for where DuPont competes, does  
20 the product line, the product line you carry compete  
21 with PVA with a hydrolysis below those numbers? And  
22 if so, on what occasions?

23 MS. McCORD: We make a particular product  
24 called -- it's also referred to as a copolymer. It's  
25 different from the specialty copolymers that were

1 being talked about earlier, but we make what's called  
2 a copolymer that we sell into the textile mills. For  
3 the most part that competes with what's called a  
4 partially hydrolyzed PVA that may be produced by some  
5 of the other producers of PVA, and that would be PVA  
6 in the range of say 85 to 88 percent hydrolysis, so in  
7 that case that would compete with it,

8 But our fully hydrolyzed at 97 to 100  
9 percent, you will see that in PVB applications. You  
10 will see that in paper applications, and you will see  
11 that in a small amount of the adhesive applications,  
12 and then again you will see our copolymers in textile  
13 applications.

14 CHAIRMAN OKUN: Okay, appreciate that just  
15 again to help me better understand the products here.

16 Let me also ask you, Ms. McCord, you talked  
17 in your testimony about the qualification process, and  
18 the staff report also goes through the qualification  
19 process, but I want to understand what you were  
20 saying, because you had noted that you can have very  
21 rapid qualification. I think you noted in an  
22 afternoon, or it could take several months, and just  
23 for both the companies if you could tell me is that --  
24 does that depend on like the textile application you  
25 qualify quickly versus, you know, PVB, or does it

1 depend on the applications? And if so, tell me how  
2 that works, what is different.

3 MS. McCORD: I think it does depend on the  
4 application, and for example, I would say that PVB  
5 might be more in the range of three months whereas  
6 perhaps some adhesive formulations, if you are just  
7 simply changing the PVA, and you would have what we  
8 would call a direct drop-in replacement, so that's our  
9 product match or the specifications of someone else's  
10 product they are just dropping it in. They are going  
11 to mix up a batch of adhesive and see if it works or  
12 not, and then they will say yes, this is good. It's  
13 basically an afternoon or a day or a few day. It's a  
14 very limited trial.

15 Some of the more critical applications may  
16 take longer. They may want to run it all the way  
17 through the end product to make sure that things are  
18 well.

19 But again, I think you're talking in terms  
20 of months. You're not talking years of qualification  
21 here.

22 CHAIRMAN OKUN: Did you mention textile?

23 MS. McCORD: Textiles would take -- it  
24 depends on -- they make different -- you know, if it's  
25 a sheet or a towel or something like that. But for

1 the most part you can qualify in textiles -- I am  
2 going to put a number on this -- a couple of weeks.

3 CHAIRMAN OKUN: Mr. Chanslor, any other  
4 information on that?

5 MR. CHANSLOR: I think just generally in  
6 response to your earlier question just to make sure  
7 that we don't confuse matters here. We make a wide  
8 variety of products, and we run into the subject  
9 importers in virtually every segment of the industry.

10 And in terms of the qualification, we used  
11 to think that qualification was -- you know, was a  
12 significant issue with a number of the customers that  
13 we have, particularly in some of the higher end uses.  
14 But I think what we have found today is that basically  
15 price is the ultimate decider, and qualifications can  
16 take place pretty much very quickly if there is enough  
17 driving force to do it.

18 CHAIRMAN OKUN: Okay, I appreciate that. My  
19 red light is on. I'll turn to Vice Chairman Hillman.

20 VICE CHAIRMAN HILLMAN: Thank you, and I  
21 would join my colleagues in thanking this panel. We  
22 very much appreciate your time and all of the  
23 information both in the prehearing briefs and what we  
24 are getting this morning.

25 I guess I want to follow up a little bit in

1 between the questions of Commissioner Miller and  
2 Chairman Okun, and understand a little bit more about  
3 this product. But I am also wanting to understand  
4 that from the production sort of cost side of it.

5 Mr. Chanslor, as I heard you describe it to  
6 Commissioner Miller, this is sort of a continuous  
7 process, but I am just trying to understand if you are  
8 producing whatever this is, Grade 325. You run the  
9 equipment for so long, and kind of a batch of 325, and  
10 then you make these adjustments in the process and run  
11 something else? I'm trying to understand how you  
12 distinguish from one product from another in terms of  
13 grade.

14 MR. CHANSLOR: For the base grades of the  
15 products, it's really just the conditions at which you  
16 run the equipment. You don't necessarily do anything  
17 before or after that's different from one base grade  
18 to the next. It's just the conditions under which you  
19 run that product. And depending on what kind of  
20 properties that you're after, a product may run a  
21 little faster or a little slower through the  
22 production line, but the fundamental unit processes  
23 are the same.

24 VICE CHAIRMAN HILLMAN: Okay, but you don't  
25 stop and then start another product?

1                   MR. CHANSLOR: No. Our systems are all  
2 continuous, and so basically just transition from one  
3 grade to the next.

4                   VICE CHAIRMAN HILLMAN: Okay, then tell me  
5 on the cost side are there certain grades that are  
6 more costly for you to produce?

7                   MR. CHANSLOR: The fundamental science and  
8 the fundamental usages is pretty much the same. Where  
9 you see a cost differential is if you're producing a  
10 product that, for example, is virtually fully  
11 hydrolyzed. You may have to run that product longer  
12 through your facility.

13                   So if you look at, you know, profitability  
14 for production time on a piece of equipment, depending  
15 on the nature of the properties you may get more  
16 product through your equipment over a course of a  
17 period of time in one case than you do the other.

18                   But as far as the amount of energy or other  
19 kinds of things that you use, there is not that much  
20 difference.

21                   VICE CHAIRMAN HILLMAN: Okay. Now, would  
22 those slightly higher costs for some of the products  
23 that takes longer to run through your equipment  
24 translate into higher prices for that product?

25                   MR. CHANSLOR: We would like to, but no,

1 they do not. So basically --

2 VICE CHAIRMAN HILLMAN: So the prices differ  
3 depending on the market segment that it's sold it;  
4 it's not depending on the cost of production to you?

5 MR. CHANSLOR: That's correct. The price is  
6 driven by market dynamics and not by the cost of the  
7 product today.

8 VICE CHAIRMAN HILLMAN: Okay. Mr. Laub, if  
9 I can go back to you on the distribution end of it.

10 First, can you tell me the source of the  
11 products that you distribute?

12 MR. LAUB: Predominantly we get our product  
13 from Chang Chung Petrochemical in Taiwan.

14 VICE CHAIRMAN HILLMAN: Okay. You get all  
15 of it from there or that's --

16 MR. LAUB: No, no, there are occasions where  
17 we have to go out and source the product from a  
18 multiple range of suppliers.

19 VICE CHAIRMAN HILLMAN: Okay. Okay, and  
20 that has always been the case, you have always been  
21 sourcing from Taiwan?

22 MR. LAUB: We started with them in 1978.

23 VICE CHAIRMAN HILLMAN: Okay. And can you  
24 describe for me the various -- from your perspective,  
25 the various market segments for PVA in terms of the



1 hierarchy of value added?

2 MR. LAUB: Okay.

3 VICE CHAIRMAN HILLMAN: I mean, I'm just  
4 trying to understand this.

5 MR. LAUB: I understand.

6 VICE CHAIRMAN HILLMAN: I heard Mr.  
7 Chanslor's response to Chairman Okun in terms of, you  
8 know, it sort of depends on the relative value of the  
9 product to their end use.

10 But from your perspective what is the --

11 MR. LAUB: Okay.

12 VICE CHAIRMAN HILLMAN: -- highest and then  
13 sort of rank them for me in terms of market segment  
14 value added.

15 MR. LAUB: Okay. We don't have very much  
16 experience with the PVB industry. We do not have any  
17 relations. With, of course, DuPont, they produce  
18 their own. With Solutia, we have not contacted them  
19 for many, many years already. So I can only comment  
20 on those industries that we do participate in.

21 I would say probably the paper industry is  
22 the one that you would say pays top dollar, I mean if  
23 that's the best way to characterize it. And then  
24 working down the ladder you would have the adhesive  
25 and emulsion people, then you would have the textile

1 mills, and at the very bottom you would have the  
2 textile compounds.

3 Let's see, the construction industry would  
4 be also in the higher range of products because they  
5 require extra handling in order to get them the  
6 product that they need. In the construction industry  
7 they require what's called an S-type material, which  
8 is a finely ground product, so it has to go through an  
9 extra process in order to get them the material that  
10 they need.

11 VICE CHAIRMAN HILLMAN: Okay. And from your  
12 perspective then as a purchaser, when you are  
13 purchasing product you are purchasing it by grade. In  
14 other words, your supplier doesn't necessarily know  
15 the end use to which you're selling it?

16 MR. LAUB: No, that's inaccurate. What we  
17 try to do is be fair with the manufacturer. And based  
18 on the segment that the material goes to, we advise  
19 them accordingly, and our price is affected that way.

20 VICE CHAIRMAN HILLMAN: Okay. So in other  
21 words, you're not just saying I need so much of X  
22 grade product.

23 MR. LAUB: No.

24 VICE CHAIRMAN HILLMAN: And then you make  
25 your own decision about who you are selling it to.

1           MR. LAUB: That's correct. Usually when we  
2 order product we will give the manufacturer some sort  
3 of indication as to the industry it's going to. Then  
4 that price for that particular grade will then be  
5 affected. So it's very possible we can have what we  
6 call our let's say BPO-5. When we buy it from the  
7 manufacturer we could be buying it at two different  
8 prices.

9           VICE CHAIRMAN HILLMAN: Okay.

10          MR. LAUB: He relies on our credibility to  
11 give him accurate information.

12          VICE CHAIRMAN HILLMAN: What is to stop you  
13 from telling everybody I'm buying it for textile  
14 compound since that's the lowest value added --

15          MR. LAUB: Right, it's a very good question.

16          VICE CHAIRMAN HILLMAN: -- and then turning  
17 around and selling it to the paper industry?

18          MR. LAUB: Right, that's a very good  
19 question. But we realize that our business is based  
20 on our relationship with our suppliers. And if we do  
21 not treat them fairly, we will not have a supplier.

22          VICE CHAIRMAN HILLMAN: Okay, now would you  
23 say that's typical of distributors?

24          MR. LAUB: Yes.

25          VICE CHAIRMAN HILLMAN: It strikes me as

1 sort of an odd arrangement when you have to tell them  
2 ahead of time who you're going to sell it to and  
3 they're going to charge you more for the same product  
4 depending on who you're selling it to.

5 MR. LAUB: I can't explain the reality of  
6 what it is. That's just the way the market has  
7 evolved.

8 VICE CHAIRMAN HILLMAN: And you would say  
9 all distributors do it the way that you do it?

10 MR. LAUB: I can't answer for other  
11 distributors.

12 VICE CHAIRMAN HILLMAN: Maybe I can come  
13 forward to the industry folks.

14 First of all, would you agree with this  
15 hierarchy in terms of: Is there a paper and to some  
16 extent building being kind of near the top of the heap  
17 going down through adhesives, emulsion, textile mills,  
18 textile compounders? Is that the kind of hierarchy?  
19 Would you agree with that, or would you change that  
20 hierarchy from your perspective in terms of the  
21 relative value of those segments?

22 MS. McCORD: I would agree with that as a  
23 basic hierarchy. PVB, in terms of value added to that  
24 final product, should be at the top or close to the  
25 top. It is not.

1                   VICE CHAIRMAN HILLMAN: Had it been  
2 historically? Mr. Welch, go ahead.

3                   MR. WELCH: I'm Jack Welch and I'm the Vice  
4 President in DuPont that's responsible for Kathy's  
5 business, PVA and VAMM, as well as the PVB business in  
6 DuPont.

7                   Historically, that PVA for PVB has been  
8 somewhere between the textile and adhesives  
9 application in terms of pricing. Right now, it's  
10 right down against the textile pricing. So it has  
11 fallen in its value relative to the other segments  
12 over the last several years.

13                  VICE CHAIRMAN HILLMAN: That's helpful.

14                  Mr. Chanslor, would you agree with this?  
15 Would you have any other comments to make on it?

16                  MR. CHANSLOR: I think the hierarchy that's  
17 been described is pretty consistent with the value  
18 that you would look at bringing to those industries.  
19 I think what we would all say today is that what we're  
20 seeing in the market today is that whole spread is  
21 collapsing and it's becoming very difficult to tell  
22 any difference between one segment versus another.

23                  VICE CHAIRMAN HILLMAN: Do you all sell  
24 through distributors to some degree?

25                  MS. McCORD: DuPont uses basically one

1 distributor and it's a very, very small amount of  
2 material.

3 VICE CHAIRMAN HILLMAN: Mr. Chanslor, do you  
4 sell through distributors at all?

5 MR. CHANSLOR: We have one distributor that  
6 we use here in the U.S. for a very small amount of  
7 product.

8 VICE CHAIRMAN HILLMAN: Does it work the way  
9 Mr. Laub described? Your distributor tells you: I  
10 need whatever, Grade 325, whatever it might be, and I  
11 am going to sell it to X customer? I'm going to sell  
12 it into the textile segment or -- do your distributors  
13 tell you that?

14 MR. CHANSLOR: We work very closely with the  
15 distributor in terms of the markets and the customers  
16 that they are selling to. We are very much aware of  
17 where it's going and what's needed by the customer.

18 At least I can speak on behalf of Celanese.  
19 Because, as you look at a different type of customer,  
20 you need to understand what those range of properties  
21 that we talked about that they have. And because we  
22 like happy customers, we want to make sure that we  
23 stay involved in the technical support and other  
24 activities associated with meeting that customer's  
25 needs. So it's almost a requirement for us to have

1 that basic knowledge in order to be sure that the  
2 customer gets what they need.

3 VICE CHAIRMAN HILLMAN: Ms. McCord, just  
4 because I've heard a few comments from the others.  
5 From your perspective, what makes some PVB higher  
6 value than others? I mean: If it's physically the  
7 same product, I'm just trying to understand what makes  
8 it higher value to the paper folks than -- if it's  
9 physically the same product, why is it a higher value  
10 to the paper folks than --

11 MS. McCORD: The PVA? What makes the PVA  
12 more valuable?

13 VICE CHAIRMAN HILLMAN: Yes.

14 MS. McCORD: It's really I think the nature  
15 of the application. For example, in textiles, what  
16 happens is it's mixed in, the PVA is mixed in with  
17 starch and other things. It's basically used as a  
18 sizing, so that you can weave the threads more  
19 rapidly.

20 VICE CHAIRMAN HILLMAN: Textiles -- Is it  
21 applied at the yard stage or applied after the fabric  
22 is woven?

23 MS. McCORD: It is applied as it is --  
24 before it's being woven; and, as it's being woven,  
25 it's what they call slashed. So, then, it improves

1 the weaving efficiency so you can weave it more  
2 frequently. Then it's washed off. So, in the end, it  
3 ends up coming off the product.

4 What it gives the textile manufacturer is  
5 weaving efficiency. That's what it provides him. So  
6 how many stops he can avoid, et cetera, is what your  
7 textile manufacturer wants to do.

8 But in paper, and there are multiple  
9 locations for paper, you may be applying it to help  
10 lay down fibers on a cardboard box or something so  
11 that you can print on it and make it look nicer. We  
12 really look at it and say: What percentage of the cost  
13 is that to the final operation at your customer and  
14 what can they afford to pay? What is the value of  
15 that?

16 If it's very important that the fibers are  
17 laid down properly, so they can get a nice print and  
18 get a good package, I think that has higher value than  
19 perhaps making sure that the weaving without X number  
20 of stops. So that's really what's happened. I'll  
21 tell you that the prices in the textile industry and  
22 in all of the markets, as Fred as said, are basically  
23 coming down here in the U.S. to almost a single price.

24 VICE CHAIRMAN HILLMAN: I see that the red  
25 light is on, so I thank my colleagues for their



1 indulgence. Thank you.

2 CHAIRMAN OKUN: Commissioner Miller?

3 COMMISSIONER MILLER: Thank you, Madame  
4 Chairman.

5 I have questions on our pricing record but I  
6 think I actually should do the China question before I  
7 get to that. Because we all know that this case is in  
8 a unique posture, I think, in terms of the way it  
9 looks at this point because of the split investigation  
10 and the nature of the different kinds of imports.

11 So, Mr. Greenwald, this is your opportunity,  
12 if you would like to take it, to elaborate on how we  
13 view, and I understand obviously all parties agree  
14 imports from Sinopec Sichuan Vinylon are not eligible  
15 for cumulation. We understand that.

16 We do have some other inputs. We do have an  
17 "other" category in here so that raises some legal  
18 questions as well, but even with respect to the  
19 Sinopec Sichuan Vinylon -- what's the short name for  
20 this company? What do you call it? Sichuan. Okay.  
21 You have taken the position that we should consider  
22 them as a condition of competition which, okay, but,  
23 first of all, are they subject or non-subject?

24 MR. GREENWALD: They are subject. The staff  
25 report, I think, is in error when it say sit is non-

1 subject. I assume it did that because of the rule on  
2 cumulation, but the case is proceeding. In fact, I  
3 can't guarantee you but I am very confident that the  
4 Commerce Department's decision is going to be  
5 affirmative and actually by a fairly healthy margin.

6           You have dealt with this. I think there's  
7 one case in fact where there was something similar,  
8 where there was a Chinese exporter that was excluded,  
9 couldn't be cumulated for purposes of a truncated  
10 injury determination. Then the margin for that  
11 producer, I believe went from negative preliminary to  
12 positive final. That's what I fully expect to happen  
13 here.

14           The question you face is: Given the fact  
15 that you can't cumulate, how do you treat these  
16 things? They are subject to investigation. I can't  
17 see how you can conclude otherwise. I believe that  
18 you have to take them into account as a condition of  
19 competition just as you would any other economic  
20 factor and, to me, the answer is very clear. If you  
21 look at Kuraray, both Japan and Germany now, and the  
22 Koreans, you see a rise in imports. And the fact of  
23 the matter is that the imports from those sources,  
24 that additional competition, has aggravated a  
25 situation that is done independently by the Chinese.

1 So you're going to have to look at two sets of  
2 causation. But the context in which you look at each  
3 is informed by what's happening with the other.

4 COMMISSIONER MILLER: That is perhaps the  
5 answer. I wanted to understand how you felt we should  
6 consider them for purposes of our causation analysis,  
7 and I guess that's what you just put forward.

8 MR. GREENWALD: Unless you want me to change  
9 them. (Laughter)

10 COMMISSIONER MILLER: No, that sounded like  
11 the answer. I struggle a little bit with it sounding  
12 a lot like cumulation.

13 MR. GREENWALD: That's right. I understand  
14 that, but it's not. It's clear, unless I can do what  
15 I really want to do, and we'll see whether it actually  
16 will accommodate. The problem goes away, if we can  
17 persuade Commerce to actually speed up the  
18 bureaucracy. The record is clear. They're going to  
19 know after the hearing exactly where they stand. The  
20 issues are not issues of fact. They are issues of:  
21 How you apply the law and how you assess allocation  
22 methodologies. So it's a simple thing for them to do.

23 What I will urge them to do is to remove  
24 this problem by speeding up their decisionmaking  
25 process. Now that's sort of like shouting into the

1 wind. I recognize that there are some bureaucratic  
2 imperatives that have a dynamic of their own, but that  
3 to me would be the easiest solution.

4 Short of that, it's clear you can't cumulate  
5 it, but I think it's equally clear you can't just say:  
6 Well, therefore, we have to treat Chinese as non-  
7 subject. If that were right, then, if Commerce came  
8 out with an affirmative final, the basis for your  
9 determination would be invalid.

10 COMMISSIONER MILLER: Mr. Meltzer? Turn the  
11 microphone on. I don't think it's on.

12 MR. MELTZER: I'm sorry.

13 I think there's one area where the  
14 cumulation is different. You're saying it's just like  
15 cumulation. It's not quite in that, if you cumulate  
16 the Japanese, the Korean and the German product and  
17 then look at the pricing of those cumulated products,  
18 you can do that separate from the pricing of the  
19 Chinese product. But you can also look at the impact  
20 of the Chinese product that is subject to this  
21 investigation, in some basic sense, as a separate  
22 causation factor; and look at the grouped imports as  
23 another causation factor; and look at the pricing of  
24 each group. So you get the effect of what's going on  
25 in the market without going through the full

1 cumulation that you would otherwise be able to do.

2 COMMISSIONER MILLER: That's why I was going  
3 to do pricing second.

4 MR. GREENWALD: Let me add something else.  
5 I've been involved in some recent cases where it was  
6 clear imports from one group were coming at the  
7 expense of imports from another group and weren't  
8 really competing with the domestic industry. That's  
9 not the case here.

10 With China, you see -- the import data are  
11 public. You see a drop in imports between 2000 and  
12 2001 but then a rise in 2002. The other subject  
13 imports are rising. It's very difficult to make an  
14 argument that somehow the other imports are rising at  
15 the expense of China and the competition is just  
16 between China and the other imports. In fact, that's  
17 almost certainly not the case. So that you don't  
18 have, I don't think, quite as difficult a problem as  
19 you think you have.

20 COMMISSIONER MILLER: The data is public but  
21 if I look at -- I'll let you address this in your  
22 post-hearing submission. The U.S. market share is  
23 confidential and I'm not sure what I see in the U.S.  
24 market share just in the numbers is consistent with  
25 what you just said.

1                   I don't know -- when you can use the  
2 numbers, make the same argument.

3                   On the pricing information, I know, Mr.  
4 Meltzer, you referred earlier to, and in your brief  
5 you reference a particular importer, making sure that  
6 data is included in our pricing record. That mostly  
7 has -- I don't know what I can say publicly. I know  
8 you made that point.

9                   But let me say, and maybe this is something  
10 to say to the companies: Our current pricing in the  
11 record is not exactly a record that I take great  
12 confidence from for this part of the investigation.  
13 You know we have very low coverage in terms of some of  
14 the countries. So because of how low that coverage  
15 is, frankly, it's not clear to me that I can see that  
16 it backs up what I hear from the producers in terms of  
17 what they're saying about price competition.

18                   I guess I'm really saying the record to me  
19 does not really substantiate what I'm hearing about  
20 price competition with the Japanese or the Germans or  
21 with Kuraray, does it? Tell me I'm wrong. Does our  
22 record substantiate it?

23                   MR. MELTZER: There's one further issue in  
24 the product cover: the pricing data in particular  
25 products.

1                   If you look at product one, the textile  
2 product, that's a very important product and there are  
3 data in, I'm not sure how much I can say publicly.  
4 One of the subject producers that fit the  
5 characteristics of that product but that were  
6 characterized as the product being used for a  
7 different type of application. We can go into more  
8 detail, but that I think will go to one of your  
9 concerns about product coverage that will show pricing  
10 effect.

11                   MR. GREENWALD: In the post-conference  
12 brief, I guess we will elaborate if we haven't done so  
13 already on this one, what to us was a pretty startling  
14 omission from the pricing data, and it strikes us as  
15 it was both deliberate and misleading on the part of  
16 the Respondent on that particular issue; and there are  
17 other pricing data that in fact confirm exactly what  
18 we're saying.

19                   Now it is true that the pricing data are  
20 sparse and it is true that there are some instances of  
21 overselling. But, for example, when you look at  
22 product four, we think that's instructive. We think  
23 product one properly analyzed is instructive.

24                   COMMISSIONER MILLER: I appreciate your  
25 answers. The red light's on, so thank you very much.

1 CHAIRMAN OKUN: Commissioner Koplan?

2 COMMISSIONER KOPLAN: Thank you, Madame  
3 Chairman.

4 Let me ask this of the industry witnesses  
5 and what I'm going to get into at this point is your  
6 exports. I'm doing that in part because Kuraray's  
7 pre-hearing brief at pages 26 to 28 and Solutia's at  
8 pages 20 to 24 get into the issue of U.S. exports in  
9 some detail.

10 The staff report shows that the domestic  
11 industry exported a large quantity of PVA in each year  
12 of the period of investigation and that it increased  
13 significantly over the period of investigation.

14 I'd like you to provide some detail for me  
15 if you would now about these exports.

16 For example, I'm interested in more detail  
17 concerning what countries you export PVA to, what  
18 products you export, and how the product mix of your  
19 exports compares to the product mix of your domestic-  
20 merchant-market sales. Let's start with that.

21 Mr. Chanslor or Ms. McCord

22 MS. MCCORD: We do export material. In  
23 general, it goes into textile applications, for the  
24 most part in Asia. We sell a very small amount of  
25 material in Europe and a relatively small amount of



1 material in Latin America. The bulk of the material  
2 that we sell for export is textile, what we would  
3 refer to as textile-grade material.

4 MR. GREENWALD: Some second grade, isn't  
5 there?

6 MS. McCORD: Yes. And some second quality.

7 COMMISSIONER KOPLAN: Some what?

8 MS. McCORD: What we call second quality,  
9 out of spec.

10 COMMISSIONER KOPLAN: Mr. Chanslor?

11 MR. CHANSLOR: I'd prefer to provide  
12 specific details in the post-hearing brief but I can  
13 give you some general perspective.

14 The grades that we export are basically the  
15 same grades that we sell in the Americas. We'll  
16 export for a variety of reasons. Kathy alluded to one.  
17 The textile industry is obviously moving out of the  
18 U.S. into other regions of the world. Our supply to  
19 those businesses move with it.

20 We have a number of global customers in a  
21 number of the different segments. They want to buy  
22 our product not only in the U.S., but they want to buy  
23 it in Europe or Asia or Latin America or all of the  
24 above depending on who they are.

25 So I think there are a number of different

1 reasons why we export to the different regions. But  
2 the primary point of note I think is that they're  
3 basically the same grades in all cases.

4 COMMISSIONER KOPLAN: If I could pursue it  
5 with the domestic producers first, Mr. Greenwald.

6 Thank you, and I would appreciate Mr.  
7 Chanslor as much detail in the post-hearing as you  
8 can, and Ms. McCord.

9 Let me ask some follow-ups here first. I'll  
10 come back to you, Mr. Greenwald.

11 Mr, Chanslor, Ms. McCord?

12 MS. MCCORD: I'd say in Asia over the last -  
13 - In 2001 it appeared to be about flat and 2002 pick  
14 up a little bit. This year seems to be about as  
15 strong as it was last year, perhaps increasing a  
16 little bit. Again, our business in Europe is  
17 relatively small and flat for us.

18 COMMISSIONER KOPLAN: Mr. Chanslor?

19 MR. CHANSLOR: I think in the initial stages  
20 of ownership our exports probably increased as we  
21 began to take a stronger position with some of our  
22 global customers and move into markets like textiles,  
23 for example, that are moving outside the country.

24 But I think if you look over the last year  
25 our export rates have been fairly stable.

1                   COMMISSIONER KOPLAN: Have prices in your  
2 export markets been increasing, stable, or decreasing?  
3 Ms. McCord?

4                   MS. MCCORD: Prices in Asia change a lot.  
5 We've seen prices in Europe of course fluctuate with  
6 the exchange rate, but they had been going down in  
7 Europe over the last few years. They have just  
8 started to increase. I think a lot of that is exchange  
9 rate.

10                  In Asia they have been up and down, and they  
11 are now coming up slightly. Prices in Asia tend to be  
12 lower than in the U.S., and prices in Europe are  
13 definitely lower than in the U.S.

14                  COMMISSIONER KOPLAN: Mr. Chanslor?

15                  MR. CHANSLOR: I think in general our prices  
16 have basically declined in all the regions of the  
17 world over the years that we have owned this business.  
18 You'll see slight changes due to mix or occasional  
19 success in getting some relief on raw material costs  
20 although it's modest. But in general I think if you  
21 look at our data and you look at our average pricing  
22 over the ownership of this business you'll see a  
23 steady decline.

24                  COMMISSIONER KOPLAN: Thank you.

25                  How are prices set in your export markets?

1 Ms. McCord?

2 MS. McCORD: We're a relatively small player  
3 in both of those markets in Europe and Asia so they're  
4 basically set by other producers and what the market  
5 will bear. We are not a price leader in any sense of  
6 the word over there.

7 COMMISSIONER KOPLAN: Mr. Chanslor?

8 MR. CHANSLOR: The situation's the same with  
9 us. We're basically responding to the dynamics in  
10 place in those various markets and Kuraray would be  
11 typically the price leader in Europe. It's difficult  
12 to find a price leader in China. A number of the  
13 Asian producers tend to be the price leader in  
14 Southeast Asia. So we basically respond to the market  
15 dynamic in those regions.

16 COMMISSIONER KOPLAN: Thank you.

17 Lastly, are the sales made under short or  
18 long term contracts or are they spot sales?

19 MS. McCORD: For the most part in Asia the  
20 sales are made on a quarterly basis, so you agree to a  
21 certain amount of pounds for a quarter.

22 COMMISSIONER KOPLAN: Mr. Chanslor?

23 MR. CHANSLOR: In large part my answer is  
24 the same as Kathy's. They're typically short term  
25 periods for specific volumes with the singular

1 difference for us that if it's a global customer, one  
2 of our larger customers, we may have contracts in  
3 place for those but they are very much in the  
4 minority.

5 COMMISSIONER KOPLAN: Thank you.

6 Now, Mr. Greenwald, I have one for you along  
7 the same line of questioning, so maybe this will cover  
8 it for you.

9 Footnotes 1 and 2 to Table VI-2, in Chapter  
10 6 and page 9 of the staff report contains some  
11 information concerning export shipments.

12 In your post-hearing submission, please  
13 discuss the impact this information has on the  
14 Commission's analysis of the financial condition of  
15 the domestic industry. I can't get into it now  
16 because it's BPI but you know what I'm referring to.

17 MR. GREENWALD: I do, and we will address it  
18 in detail in the post-hearing brief.

19 COMMISSIONER KOPLAN: If I could keep going  
20 with my line, I will come back to you, I promise.  
21 Thank you.

22 This again is for the industry witnesses.

23 When I look at the average unit value data  
24 for imports reported in the staff report there's a  
25 large range in the average units values with the

1 average unit values of imports from Japan and Germany  
2 at the high end of the range, the AUVs of the imports  
3 from Korea and Taiwan in the middle of the range, and  
4 the AUVs of the imports from China at the bottom of  
5 the range.

6 I'd like to hear from you as to how imports  
7 from these countries compete in the U.S. market. Are  
8 imports from Japan and Germany, for example, competing  
9 in different segments than the imports from China?  
10 Where do you compete with imports from each of these  
11 countries?

12 Ms. McCord?

13 MS. MCCORD: When we see imports from China  
14 we compete with them head to head in the textile  
15 industry. We have certainly seen imports from Japan,  
16 from Kuraray and have had to compete with them, as I  
17 mentioned in my earlier testimony. At Solutia we've  
18 also had to compete with imports from Japan,  
19 specifically in the textile industry.

20 Imports from Korea we have seen also in the  
21 textile industry. Imports from Germany we have seen  
22 very actively in the paper industry. And imports from  
23 Japan in the paper industry as well.

24 COMMISSIONER KOPLAN: Mr. Chanslor?

25 MR. CHANSLOR: We typically run into the

1 Chinese in the dezu segment, the paper segment, and  
2 the textile blender segment, and recently also at the  
3 textile mills. The Koreans we typically see in the  
4 building products segment and the adhesives segment.  
5 The Kuraray Japan we typically see in adhesives and  
6 the PVBC business. And Kuraray Germany we typically  
7 see in the paper and building products business.

8 COMMISSIONER KOPLAN: Thank you.

9 My time is up, but I'm going to ask the  
10 question of you, Mr. Greenwald, because I don't want  
11 to leave you out again. And then you can respond in  
12 my next round because it's a follow-up here.

13 The import data in the staff report shows  
14 that imports from German, Japan and Korea increased by  
15 about 4.5 million pounds between 2000 and 2002, and  
16 imports from China and non-subject countries decreased  
17 by about 11 million pounds. Respondent Kuraray would  
18 have us conclude that the increase in the quantity of  
19 imports from Germany, Japan and Korea came at the  
20 expense of non-subject imports and not the domestic  
21 like product.

22 On my next round I'd like you to respond to  
23 that.

24 Thank you very much, and I thank you Madame  
25 Chairman for indulging me.

1                   CHAIRMAN OKUN: I guess I would follow up  
2 both with Commissioner Miller's request for the post-  
3 hearing, to look at the pricing data and give us a  
4 good analysis of what it does or doesn't support, and  
5 I think Commissioner Koplan's questions go to that as  
6 well. The questions I had earlier about where do you  
7 compete with the countries and do the countries  
8 compete in the same markets with each other, which  
9 again, I'm not sure the record indicates that and I'm  
10 trying to get whatever information from you to better  
11 understand where the competition is and with who.

12                   I guess I would follow up on that line, and  
13 we've heard a little bit from you, Mr. Laub, in terms  
14 of your distribution. But one of the things that  
15 struck me in looking at this particular product is  
16 that we had a situation where almost all the reporting  
17 of U.S. importers indicated that they imported from  
18 only one country. Which again, different for the  
19 different hearing, wouldn't be the case.

20                   I wanted to get the industry -- or maybe,  
21 Mr. Greenwald, you're the better person to comment on  
22 this. What does that mean for the nature of this  
23 case? In other words, I think the Respondents have  
24 argued that it's indicative of this kind of  
25 specialized nature, the non-commodity nature, where



1 one country is selling to a particular end use. And  
2 some of things I've heard, I would say maybe support  
3 that.

4 MR. GREENWALD: I think when you look very  
5 carefully at the record, it doesn't support it. I was  
6 listening, you find in textiles, for example, Kuraray  
7 is active, the Chinese are active, I think the Koreans  
8 are active. Germany may not be but, in building  
9 materials, you have an overlap; in adhesives you have.  
10 Is that right, Germany, Japan, China? So there is  
11 not this segmentation that the Respondents are trying  
12 to say exists.

13 In addition, you have part of the sort of  
14 evidence on activity at accounts. For example, in  
15 terms of the Solutia account. Both Japan and Germany  
16 supply their PVA for PFB, I hope this is right, in  
17 Europe. I don't know, I think what Solutia may or may  
18 not be doing is confidential, but none of it supports  
19 the notion that the markets are segmented as the way  
20 they may have been in other hearings.

21 Finally, you do have activity at accounts  
22 that don't result in sales. In other words, what you  
23 are seeing a lot of is: Where, for example, does Korea  
24 sell? That is half of the question. The other half  
25 of the question, which we have testimony that has not

1       been contradicted by anything, is: Where does Korea  
2       try to sell?

3               The Korean product, the range of grades they  
4       produce, is no different or not much different from  
5       the range of grades that are produced in Japan or in  
6       Germany or in the United States. It was true that  
7       before the old antidumping order expired, Kuraray  
8       Japan was very much in specialized markets. That is  
9       no longer true.

10              Don't forget that what you're looking at, in  
11       the data that now excludes all the specialized grades,  
12       are imports of much more commodity-grade products, and  
13       you see a rise in the import data from Japan. Then,  
14       when you go down to the specific pricing data or some  
15       other questionnaire- response data that I can't go  
16       into in a public forum, you will see that the record  
17       supports the testimony of Mr. Laub, that beginning in  
18       May of I think 2001, Kuraray made a major switch in  
19       its tactics and that more than anything else I think  
20       was one of the factors that led to the decision to  
21       take action.

22              MR. LAUB: Can I comment something?

23              CHAIRMAN OKUN: Yes, Mr. Laub.

24              MR. LAUB: You're viewing in the market  
25       polyvinyl alcohol that I would say at least from

1 Perry's perspective, we are in what you would call a  
2 protective mode. We're very,very sensitive to  
3 competition. We're very, very aware of when we are  
4 under attack from the subject imports, and what the  
5 data may be showing are the areas of success where the  
6 subject imports have been able to penetrate the  
7 market. But that should not be taken as a total to  
8 mean that the influence is not pervasive throughout  
9 the industry.

10 We have to fight almost on a daily basis to  
11 try to hold onto our accounts, and our success is the  
12 reason why they're unable to show an increase in the  
13 numbers that are actually coming into the country. So  
14 it's not just limited to the physical data of what is  
15 entering through the ports, but also the impact their  
16 sales are having on our ability to maintain our  
17 customers.

18 CHAIRMAN OKUN: Mr. Meltzer, you wanted to  
19 add something?

20 MR. MELTZER: Yes, I'd like to follow up on  
21 that.

22 You've heard both Celanese and DuPont talk  
23 about the strategies that they have adopted in the  
24 U.S. market, and both now have a strategy of because  
25 of their high fixed costs and the economics of PVA

1 production, need to hold onto whatever business they  
2 can. That means significant price erosion.

3 And with respect to, you mentioned Madame  
4 Chairman, Korea and wondering about the effect of  
5 Korea. As I'm sure you see from the record, Korea is  
6 one of the fastest-growing elements of the U.S.  
7 marketplace in terms of the growth of their sales.  
8 But sales, imports are not just the whole story here.

9 I think Kathy talked about a particular  
10 instance which I think is fairly common, and maybe it  
11 makes sense to go into that particular case again  
12 because it shows the dynamic in the marketplace.  
13 Again, it's not simply commercial quantities being  
14 sold at particular accounts, but it is the  
15 availability of and the offers of low-priced material  
16 which supplements the fast-growing rise of these  
17 imports and has a further impact, particularly on a  
18 U.S. industry which because of its production  
19 economics feels compelled to try to hold onto every  
20 pound they can possibly hold on to.

21 Maybe, Kathy, you can go into that,  
22 examples.

23 MS. McCORD: Yes, as I mentioned earlier,  
24 just less than a month ago at one of our paper  
25 accounts we were told by the purchasing director that

1 he had an offer from Kuraray Germany at about 18 cents  
2 a pound below ours, and it's a relatively small amount  
3 of volume that we have there. He said: What do you  
4 intend to do? We were trying to raise price because  
5 of the significant cost increases we've seen and he's  
6 looking for us now to reduce our price.

7 That was from Kuraray Germany. But as I  
8 mentioned earlier when the initial dumping order came  
9 off several years ago, Kuraray Japan and Nipon Gosai,  
10 it really appeared like they were driving down I-95 on  
11 the east coast and they just decided to go into every  
12 paper account on the east coast and ended up reducing  
13 our price by 30 percent at three different accounts in  
14 order to retain our business. We didn't lose a pound  
15 of business. But we lost 30 percent of our price.

16 CHAIRMAN OKUN: Hearing about the attempted  
17 price increase, it reminded me I wanted to go back  
18 both to you and Mr. Chanslor to the extent that you  
19 have mentioned the attempt to raise prices in the most  
20 recent time period. If you could, I don't believe we  
21 have that information on the record on specifics of  
22 whether a price did or did not stick; and, if you  
23 could, whatever you could give us on that I believe  
24 would be helpful, Mr. Greenwald, for post-hearing.

25 CHAIRMAN OKUN: I'm going to be out of time

1 and I haven't gotten to captive production. Just  
2 quick things then.

3 Mr. Greenwald, I just want to be sure that I  
4 understand. Your argument now is that you would have  
5 Solutia excluded from the domestic industry as a  
6 related party. That that's --

7 Use your microphone please, Mr. Meltzer.

8 MR. MELTZER: Yes. I think we stated in the  
9 brief that that is a basis for exclusion as well as  
10 the fact that the captive consumption provision should  
11 apply in this case. I think there was some question  
12 during the preliminary stage about one of the factors  
13 that go into captive production and I think the record  
14 now has clarified that point and it's pretty clear as  
15 to the application of that provision.

16 So our --

17 CHAIRMAN OKUN: I personally still have some  
18 questions about the applicability, but the red light's  
19 on, so, if my colleagues don't go charging into that  
20 one, I will.

21 Let me turn to Vice Chairman Hillman.

22 VICE CHAIRMAN HILLMAN: I am always tempted  
23 but you know what: I will wait and hear the responses  
24 I guess because I would like to go back to a couple of  
25 these things and again get to this competition, et

1 cetera.

2 I guess I first want to start -- again this  
3 is this issue of I'm trying to square, to some extent,  
4 the story that I'm hearing; and, then, trying to make  
5 sure I feel like it's supported in the record that we  
6 have in front of us.

7 Maybe I want to start first with -- again,  
8 the question is going to some extent to the volume and  
9 the impact of the imports.

10 In your brief, you indicate that the decline  
11 in the domestic industry's commercial shipments  
12 between 2000 and 2001 was, as you put it in the brief,  
13 directly attributable to low-price subject imports.  
14 Yet I have to say I'm looking at a fairly-to-very-  
15 large decline in domestic shipments between 2000 and  
16 2001; and a relatively modest, quite a bit less than  
17 this decline in shipments.

18 I just trying to understand how I square  
19 your statement that the big decline in shipments is  
20 due to imports, but the decline in shipments is here  
21 and the increase in imports is quite a bit smaller.

22 MR. GREENWALD: There is a decline in  
23 marketing. One of the dangers you face in appearing  
24 before you all is not to overstate things. I don't  
25 think you can say that everything that is sort of

1 adverse to the U.S. industry is related to subject  
2 imports.

3 When you talk about decline in U.S. industry  
4 shipments, and which years were you using? 2000,  
5 2001?

6 VICE CHAIRMAN HILLMAN: Again, I'm taking it  
7 from your brief. You said between 2000 and 2001.

8 MR. GREENWALD: Right. What you find there  
9 is that there were different, I think Celanese was  
10 direct and they said that they pursued the strategy of  
11 trying to maintain price and that this had a very  
12 sharp impact on operations. Part of that impact is  
13 directly attributable as we say, and I believe  
14 Celanese will confirm, to subject imports which rise.

15 Again, I don't want to overstate it. I  
16 think it would be a mistake to say everything is.

17 VICE CHAIRMAN HILLMAN: All right.

18 Then Mr. Laub, if I can come back to you to  
19 try to understand again this issue of sort of what's  
20 going on in the volume of the market. Because you  
21 said that you source from Taiwan. If I look at  
22 imports from Taiwan, they've come down pretty  
23 substantially between 2000 and 2002.

24 MR. LAUB: That's correct.

25 VICE CHAIRMAN HILLMAN: A fairly significant



1 decline.

2 I'm trying to understand again what in your  
3 view caused this decline in imports from Taiwan. What  
4 impact do you think imports, and again specifically  
5 from China, from Germany, from Japan and Korea have  
6 kind of on your sales on imports from Taiwan?

7 MR. LAUB: We service our customers with, I  
8 guess I'll say within the specification range of what  
9 they require. We primarily get our material from  
10 Taiwan but there are opportunities, or I should say  
11 reasons for us why we sometimes have to source the  
12 product outside of what we would consider our primary  
13 channel.

14 The fact that we multiple source gives us a  
15 greater flexibility to service our customers. It  
16 gives us the ability to make sure that our inventory  
17 levels are appropriate in order to handle their  
18 requests. But as a whole when we take our business  
19 and how we sell to our customers and then we look at  
20 the competition that we have to face, it makes a  
21 difference to us how we source the material. The  
22 problem we're running into is the competition that  
23 we're facing, who's trying to take the business away  
24 from us.

25 VICE CHAIRMAN HILLMAN: And of these import

1 sources -- China, Germany, Japan, Korea -- would you  
2 say one of them, in terms of competition with  
3 Taiwanese imports, is there a particular import source  
4 that you think had more of an impact on Taiwan's  
5 product?

6 MR. LAUB: I don't know. We don't  
7 necessarily view it as competing against Taiwan. We  
8 look it as competing against Perry Chemical.

9 VICE CHAIRMAN HILLMAN: Okay.

10 MR. LAUB: Perry Chemical has the  
11 responsibility to maintain its viability, and  
12 therefore we need to stay in the game and we have to  
13 compete against whoever is up against us.

14 VICE CHAIRMAN HILLMAN: I'm just trying to  
15 understand. Did you feel like you felt import  
16 competition more from China or more from Japan or --

17 MR. LAUB: It's hard to quantify because  
18 what you find is that the competition is from  
19 everybody. Meaning the Koreans are quoting, Japanese  
20 are quoting, Chinese are quoting. Each customer will  
21 respond back to you that he's being quoted from not  
22 just necessarily one subject importer, but from  
23 multiple subject importers. So it's hard to say which  
24 one subject importer is one that is impacting us the  
25 most directly.

1                   CHAIRMAN OKUN: I guess if I can go to  
2 another one of these issues of trying to make sure I  
3 think the record I'm looking at is squaring with at  
4 least what I think I'm hearing you say. That goes to  
5 this issue, both you Ms. McCord and you, Mr. Chanslor,  
6 talked about this kind of cost/price squeeze. You're  
7 having these cost increases and the difficult I think  
8 in the brief there was a clear indication that the  
9 COGS increased from 2002 to 2001 was because of  
10 natural gas costs and PVA raw materials.

11                   Yet I have to say when I look at the tables,  
12 and this is again a little bit tricky because of the  
13 confidential nature of the data, raw material costs in  
14 our data look like they went down between 2000 and  
15 2001. The COGS increase was not related to raw  
16 material costs, it was related to other factory costs.  
17 One of the major increases in other factory costs was  
18 specific to one of the producers. Again, some of this  
19 is BPI.

20                   But again, I'm just trying to square, I've  
21 heard this testimony that suggests to me this big  
22 increase in raw material costs and I'm just telling  
23 you, I'm trying to square that with what I see in our  
24 record which is showing declines.

25                   MR. CHANSLOR: Speaking on behalf of

Heritage Reporting Corporation  
(202) 628-4888

1 Celanese, we started the business in the 4th quarter  
2 of 2000, and during the 4th quarter of 2000 through I  
3 believe the first, second, second half of 2001 we saw  
4 dramatic increases in natural gas price and dramatic  
5 increases in ethylene. I'm sure our data would  
6 support that.

7 In fact as I recall, I think during the  
8 first quarter of 2001 natural gas hit \$10 a million  
9 BTUs which is basically four times what the normal  
10 average has been.

11 So we started out, we are a petrochemical  
12 company and started out with the natural petrochemical  
13 response. Your raw material costs go up, you raise  
14 prices to compensate for those costs and we did that.  
15 What we found, and I think our data supports that,  
16 that we had a dramatic reduction in our sales volume  
17 over the course of 2001 as a result of that early  
18 strategy.

19 We were new to the business but we quickly  
20 learned that the profitability of this business is all  
21 about variable margin and all about capacity  
22 utilization, and as a company that's back-integrated,  
23 we said we need to go and regain our market share and  
24 we did that.

25 What we saw as a result of that is a

1 dramatic reduction in our sales price as we went out  
2 competing with the subject importers to get our volume  
3 back.

4           Once we were successful in doing that, our  
5 strategy has been from that forward on, maintain your  
6 customer base, maintain your volumes and maintain your  
7 capacity utilization.

8           VICE CHAIRMAN HILLMAN: I'm hearing you say  
9 from your perspective your raw material costs went  
10 very high in 2001 and then came down some from there  
11 in 2002 as gas prices came down.

12           MR. CHANSLOR: I think in the latter stages  
13 of 2001 and in 2002 we saw gas prices come down.  
14 Again, not to historical levels, but down below the  
15 peaks that we saw in late 2000, early 2001. And as  
16 I'm sure the Commission knows, recently we've seen  
17 that same spike in gas and ethylene prices occurring.

18           VICE CHAIRMAN HILLMAN: Beginning pretty  
19 much in 2003. It didn't start at the end of 2002.  
20 Okay.

21           Ms. McCord?

22           MR. CHANSLOR: It started at the end of 2002  
23 and it's carrying forward in 2003.

24           If you work with national gas experts,  
25 there's a reason for these kinds of trends depending

1 on weather patterns, peak utility demands and those  
2 kinds of things. I think what you see now are those  
3 same experts telling us that the natural gas price  
4 will never get back to historical levels for the  
5 reasons that currently exist today and the dynamics of  
6 the market, and that we will continue to see periodic  
7 peaks in gas as we saw in late 2000, early 2001, and  
8 as we saw in late 2002, early 2003.

9 VICE CHAIRMAN HILLMAN: Ms. McCord, do you  
10 agree with -- If there's something that --

11 MS. MCCORD: I agree with Fred. I think in  
12 part, we certainly saw the decline in raw materials  
13 through the first half of 2002, but raw materials  
14 began climbing in about the fourth quarter, if I  
15 remember correctly, of 2002, but what you see  
16 happening is you've got an inventory effect. So for  
17 example our inventory, a lot of the costs don't roll  
18 through the inventory until about three months so what  
19 you're seeing hit is in the first quarter of 2003 are  
20 costs from the end of 2002. We really won't see the  
21 February, the peak natural gas prices that occurred  
22 here in February of this year, we won't see roll  
23 through our inventory until about May, this month.

24 VICE CHAIRMAN HILLMAN: Mr. Greenwald,  
25 because you do have access to the BPI data, I would

1 simply ask you to take a look. Again, what our data  
2 shows in terms of what has happened to raw material  
3 unit COGS over this POI and see if you can help me  
4 understand how that squares with the testimony that  
5 I've just heard.

6 MR. GREENWALD: We'll be happy to do that in  
7 the post-hearing.

8 VICE CHAIRMAN HILLMAN: As a follow-on to  
9 that because it's also BPI, respond to the analysis  
10 set out in Kuraray's brief, Exhibit 7 of their brief,  
11 relating to the industry's financial performance. In  
12 other words, it is sort of getting at this issue and  
13 at this company-specific issue.

14 MR. GREENWALD: Absolutely.

15 VICE CHAIRMAN HILLMAN: If you could please  
16 help me understand how I square that with the  
17 testimony?

18 MR. GREENWALD: Definitely.

19 VICE CHAIRMAN HILLMAN: Thank you.

20 CHAIRMAN OKUN: Commissioner Miller?

21 COMMISSIONER MILLER: Thank you, Madame  
22 Chairman.

23 Kind of cleanup things here.

24 One, Mr. Greenwald, in my last question,  
25 with respect to China, you referenced a case, you

1 cited a case but you didn't give us the name. If you  
2 don't have it now, you can give it to us in your post-  
3 hearing submission.

4 MR. GREENWALD: We'll do that.

5 COMMISSIONER MILLER: Also, for purposes of  
6 the post-hearing submission, we do have this question  
7 of the imports from China other than the Sichuan  
8 imports and exactly how you think, I'd like you to  
9 address exactly how we handle those at this stage. Do  
10 we cumulate them?

11 It's sort of a whole other -- I'm intrigued  
12 by the Chairman's reference to going into captive  
13 production because I was just going to ask you to do  
14 it in your post-hearing submission. The related  
15 party issue and the captive-production issue, while I  
16 recognize you address them in your brief, you  
17 basically address them in your brief in the way that  
18 sort of says decided. I think I would like to hear  
19 more elaboration on the point.

20 On related party -- for example in terms of  
21 how the Commission has actually applied the provision,  
22 and based on its past application of the related party  
23 exclusion whether you think Solutia, excluding Solutia  
24 would be consistent with the Commission's past  
25 practice.



1           And on captive production, whatever the  
2 Chairman doesn't do -- you can put in your post-  
3 hearing submission I could say. Although I won't pass  
4 the buck so totally.

5           And only because Mr. Greenwald, particularly  
6 on factor two on the issue of predominant material,  
7 you in the past have had some interesting comments on  
8 that and I recall that, I don't necessarily recall  
9 exactly which case and exactly where we came down and  
10 you're probably going to tell me that you lost.

11           But I do think on factor two, Solutia  
12 definitely doesn't come to the same conclusion that  
13 you do in your pre-hearing brief. They don't think  
14 it's met still. So if you'd like to elaborate now you  
15 can, or you can wait until --

16           MR. GREENWALD: I can elaborate now. We do  
17 have a producer that does just what Solutia does,  
18 DuPont. DuPont's analysis and DuPont's data support  
19 what we said in the brief.

20           So much of this again is company  
21 confidential information.

22           COMMISSIONER MILLER: Well there's also the  
23 issue of how we apply the predominant material factor.  
24 Value, cost, weight. We've had some interesting  
25 discussions about that in the past.

1 I'll let you address it either with the  
2 Chairman or in the post-hearing submission. I think  
3 it's worth going into a bit more.

4 With that I think I will stop. I appreciate  
5 all the answers that you've given to our questions, my  
6 questions, and I thank you.

7 MR. GREENWALD: Thank you.

8 CHAIRMAN OKUN: Commissioner Koplan?

9 COMMISSIONER KOPLAN: Thank you, Madame  
10 Chairman.

11 First, I want to join in Commissioner  
12 Miller's cleanup. I think I join in all of that. So  
13 I too look forward to receiving everything that she  
14 just referred to a I'm sure she'll join in what I'm  
15 about to do.

16 Let me start out now, Mr. Greenwald, by  
17 coming back to you with a question that I raised but  
18 didn't have the time to get your response to and that  
19 had to do with subject versus non-subject --

20 MR. GREENWALD: And the notion being somehow  
21 that the increase in imports from Korea, from Germany,  
22 and from Japan came entirely at the expense of non-  
23 subject imports.

24 COMMISSIONER KOPLAN: That's at page 16 of  
25 Kuraray's brief, that's what I'm referring to.

1           MR. GREENWALD: The account specific  
2 information, the description of what goes on, the  
3 discussion of price as well as volume contradict that.

4           You have in the record accounts where there  
5 is either a shift of volume or a price impact. That  
6 does not come at the expense of non-subject imports.

7           You have activity at accounts where non-  
8 subject imports aren't present. We talk about, for  
9 example, that all foreign producers are to one degree  
10 or another in all segments and that's right.

11           At the same time it is also true that, for  
12 example, I hope the industry witnesses will support me  
13 on this, imports from Taiwan and especially imports  
14 from China are concentrated in the textile sector.  
15 It's not exclusive. It's not this rigid segmentation,  
16 but that's where they're concentrated. You would  
17 expect them to go down.

18           Imports from China are less a factor and  
19 imports from Taiwan are not a factor. For example, to  
20 my knowledge, in the PVB market. But imports from  
21 Germany or potential imports from Japan are. That is  
22 again competition with the U.S. industry.

23           When you get into other market segments --  
24 paper, adhesives, building materials -- what -- with  
25 multiple competitors at the accounts. But on a

1 frequent basis what is happening is either a switch  
2 from the domestics to subject or alternatively, the  
3 price impact of the subject imports are pervasive.

4 I understand the math. I understand the  
5 attractiveness of an argument which says look, an  
6 increase of \$4 million, and an increase of \$11  
7 million, it's perfectly clear on the math that the  
8 four must have come out of the 11. That's just not  
9 true.

10 COMMISSIONER KOPLAN: Thank you. I  
11 appreciate that response.

12 MR. GREENWALD: May I -- unless you want to  
13 ask me the question I'd like to answer -- get to the  
14 issue of --

15 COMMISSIONER KOPLAN: I'm not done.

16 MR. GREENWALD: Okay.

17 COMMISSIONER KOPLAN: Go ahead.

18 MR. GREENWALD: The last time around you  
19 asked a lot of questions about exports and export  
20 markets. That seems to me to be one of the critical  
21 questions. Your question to the industry, and the  
22 industry answered, was what about your participation?  
23 How does that affect your financials? How does it  
24 affect the economics of your operation?

25 It is true that Respondents make much of

1 that, and what I would like to do is to turn it  
2 around.

3           You have heard testimony from everybody here  
4 that pricing in overseas markets is systematically  
5 lower than pricing in the U.S. markets. And you have  
6 heard testimony from Mr. Laub among others that after  
7 the antidumping order went off part of the magnet of  
8 the U.S. market was, for example, a value in news  
9 pricing structure which didn't exist elsewhere, and  
10 generally higher prices.

11           This case is about present injury but it is  
12 also about threat of injury. What will happen, as  
13 sure as day follows night, is that what you see in  
14 overseas markets in terms of pricing and market  
15 activity is coming to the U.S. The differential is  
16 lowered. So when Respondents say look at the problems  
17 there are for domestic producers in export markets, my  
18 answer to that is you betcha. That is precisely the  
19 threat that's at issue. The fundamental difference  
20 between exports markets and the U.S. market is the  
21 historical absence of any discipline of the  
22 antidumping order.

23           And if in fact export market pricing  
24 prevails in the United States I don't think U.S.  
25 production is viable. I think it's that simple.

1           There is huge global excess capacity.  
2           Something has to give. It seems to me that  
3           Respondents have teed up the issue perfectly because  
4           what's going to have to give if this export market  
5           pricing is imported into the United States, is the  
6           U.S. industry.

7           COMMISSIONER KOPLAN: Thank you for that,  
8           Mr. Greenwald. I appreciate it.

9           I was going to give you a shot. It was just  
10          a question of time.

11          I have four questions for the post-hearing,  
12          and then I have one other that I'd like answered now.  
13          But let me run through the four for the post-hearing.

14          I say post-hearing because they involve  
15          business proprietary information so I'd rather get as  
16          much detail as possible post-hearing and just touching  
17          on it now.

18          First, Respondents argue that subject  
19          imports had no significant impact on the domestic  
20          industry overall condition at pages 21 to 28 of the  
21          pre-hearing brief submitted on behalf of Kuraray. In  
22          those pages they present three arguments to support  
23          their position. Please address each of those  
24          arguments in detail in your post-hearing submission.

25          Second, Respondents raise an issue

1 concerning the financial data reported by the domestic  
2 producers. Please address the specific issue raised  
3 in Solutia's pre-hearing brief at page five, footnote  
4 five.

5 Third, Respondents argue that there are  
6 "other factors" besides the volume of subject imports  
7 that impact the domestic producers. One of these  
8 factors is discussed in the Kuraray pre-hearing brief  
9 in the paragraph beginning on the bottom of page 18.  
10 Please discuss this argument in your post-hearing  
11 brief.

12 Lastly, similarly, please discuss the  
13 argument made by Respondents in the Kuraray pre-  
14 hearing brief at pages 20 to 21.

15 MR. GREENWALD: May I just ask for a point  
16 of order, perhaps from the general counsel's office  
17 here?

18 One of the -- the business proprietary  
19 information is one company's or the other's for much  
20 of the analysis that you want. We have not showed the  
21 allegations to --

22 COMMISSIONER KOPLAN: I couldn't hear that.

23 MR. GREENWALD: -- the business proprietary  
24 information. We have not shown the confidential data  
25 to the companies. It is their own data.

1           What I would like to have clear here is that  
2 we can discuss the way in which their data have been  
3 used without violating the tenets of the protective  
4 order.

5           CHAIRMAN OKUN: Mr. Greenwald, what I'll ask  
6 you to do is consult with the general counsel's  
7 office. Ms. Alice is here, but if you do that before  
8 submitting anything further, as opposed to telling you  
9 at this point. But I appreciate you asking about  
10 that.

11           COMMISSIONER KOPLAN: Thank you for that,  
12 Madame Chairman.

13           I have one additional question. That is  
14 other than, and I've heard you talk about Solutia,  
15 what record evidence supports the claim that prices of  
16 PV grade PVA were impacted by potential purchases --  
17 potential purchases -- of subject imports as opposed  
18 to non-subject imports or completion between the  
19 domestic producers.

20           I'm interested in as much specificity as  
21 possible other than what I already have.

22           MR. GREENWALD: Let me ask a question by way  
23 of clarification. In the market for PVA for PVB  
24 production, there are two U.S. accounts. One is  
25 DuPont's captive production and the other is Solutia.



1 And as I understand the question, it is give us as  
2 much information as you possibly can on what the  
3 impact of offers for sale from subject merchandise to  
4 Solutia.

5 There is no other user, I don't think,  
6 there's no other user other than DuPont of PVA for  
7 making PVB.

8 Thank you.

9 COMMISSIONER KOPLAN: Thank you.

10 I'll wait for the next round. I do have a  
11 couple of other things. Thank you.

12 CHAIRMAN OKUN: No one wants to go outside  
13 in that rain anyway so we can just stay here awhile.

14 On captive production, actually,  
15 Commissioner Miller went through the things that are  
16 of interest to me and you can do it post-hearing and I  
17 think that's an appropriate place, but because for the  
18 second factor it's not one that captive production has  
19 normally turned on in the Commission's practice,  
20 that's why I'm saying that you can't just treat it --  
21 your treatment was it's done. There are some  
22 interesting arguments, and again I have the same  
23 recollection as Commissioner Miller, Mr. Greenwald,  
24 that you had raised this on other occasions and I was  
25 trying to remember how that fit in. Your own words

1 either help you or hurt you, I'm not sure. We'll go  
2 back and find them.

3 But also, she had mentioned the cost versus  
4 weight issue, look at it in a chemical case, whether  
5 this is different that in some of the other cases  
6 where we've applied it. We have done it in some  
7 chemical cases.

8 And the other thing which I'm not sure she  
9 mentioned but which interstate interested me was the  
10 change in the percentages over the POI and what that  
11 meant for all of this.

12 So with that I would ask for that in post-  
13 hearing unless there's anything in particular you  
14 wanted to say now.

15 MR. GREENWALD: If I had a clear  
16 recollection of what I'd said in the past case I would  
17 elaborate on it, but I'd have to go back and check.

18 CHAIRMAN OKUN: Okay. That is fair enough.

19 I would also ask, and I think this is best  
20 for post-hearing, but a number of the questions that  
21 I've raised and my colleagues have raised have related  
22 not only to the nature of competition between your  
23 companies and the foreign companies but also the  
24 foreign companies competing among themselves. Of  
25 course that goes to cumulation which you have to reach

1 first before you go to whether this is a cumulated  
2 volume or not.

3 I note in both Petitioner's brief, in  
4 Clarion's brief and in the Kuraray Respondent's brief  
5 there were a number, I guess everyone trying to go  
6 behind the questionnaire responses and I've heard a  
7 little bit of it today in trying to tell the story of  
8 what you think really is going on in this market, so I  
9 would just ask that you pay particular attention to  
10 that in your post-hearing brief to respond to those  
11 and to give us additional information both as it  
12 relates to cumulation.

13 Then I guess, Mr. Greenwald, the other thing  
14 that has struck me all day is in terms of how we treat  
15 China for, I mean let's assume that we take your  
16 position and China's imports are -- so that they are  
17 non-subject. And if and when the Commerce Department  
18 makes a decision then that's when we make the decision  
19 about negligibility or whatever else is called for  
20 then.

21 But I guess China is out there. You look at  
22 the prices in the staff report. At this point they're  
23 fairly traded prices or de minimis margins and their  
24 volumes, and I really think I want to hear more,  
25 because then I heard both from Ms. McCord and Mr.

1 Chanslor talking about lost accounts to China, this  
2 about China, this about China. And you're saying  
3 their condition of competition.

4 My question is, okay, there might be a  
5 condition of competition, I understand, but you've got  
6 a whole other issue out there which is are the subject  
7 imports that we will be voting on in the first  
8 instance causing material injury to this industry?  
9 And I want to hear some more elaboration on that.

10 MR. GREENWALD: I think the answer to the  
11 last question is clearly yes. But I don't want to  
12 mince words here. China is a great big problem and if  
13 this case is not won on China an order against Kuraray  
14 Japan, Kuraray Germany and Korea will restore a  
15 measure of discipline to the market but it won't be  
16 enough.

17 So that in a very real sense we recognize  
18 that China is a problem. The case we are making here  
19 is that yes, China is a problem. Yes, because China  
20 is a problem the outcome of that investigation is  
21 terribly important to the U.S. industry. But with  
22 China in the market one way or the other, the fact  
23 that Kuraray has now made a decision which we hope to  
24 reverse to reenter commodity markets which it had been  
25 out of, and the fact that Korea made a decision to

1 increase its shipments to the United States, is also a  
2 problem, present problem and a threat of sort of much  
3 worse in the future. That on its own merits an  
4 affirmative decision.

5 Finally, the presence of Kuraray, other  
6 Japanese producers although frankly to a much lesser  
7 extent and Kuraray from Germany and the Koreans is  
8 that much more difficult to absorb in light of what  
9 China's been doing. There's just no way of getting  
10 around that. I don't think you can ignore it.  
11 Certainly the industry can't ignore it.

12 CHAIRMAN OKUN: Let me ask the industry  
13 witnesses. If you're thinking about your business,  
14 your product lines, and you take away those things  
15 where you're talking about China, where you've  
16 referenced China which I think is heavily textile. I  
17 don't want to put words in your mouth.

18 Tell me whether it matters that China  
19 continues in that -- In other words, if you still have  
20 China are you going to get back to the accounts that  
21 you think you've also got the Japanese and the Koreans  
22 competing in?

23 Are there prices, anything about pricing or  
24 anything else that makes you think it's really about  
25 Japan or Korea, not about China?

1           It's hard to ask this question for business  
2 people because I know you're just doing your business  
3 and you're competing against all these guys. But I'm  
4 trying to figure out what the injury is from the other  
5 -- If it takes consultation, we'll go to the post-  
6 hearing brief.

7           What I'm trying to get at is put aside China  
8 and tell me about the others.

9           MS. McCORD: I think we're definitely  
10 injured even without China. China is a huge problem,  
11 but we are definitely injured without China. Some of  
12 the examples I gave in paper and in textile mills are  
13 not China. They are Kuraray Japan or Kuraray Germany  
14 or Korea in adhesives.

15           So we're definitely injured by those three  
16 countries. China just makes it so much worse.

17           CHAIRMAN OKUN: Mr. Chanslor?

18           MR. CHANSLOR: I think because the breadth  
19 of our products -- We're injured by all the subject  
20 petitioners and I just echo Kathy's comments that  
21 China is a serious problem. It's been a serious  
22 problem in the textile industry and in some of the  
23 adhesives application and it's becoming a more serious  
24 problem in some of the other areas.

25           But in response to your request I'll set

1 that aside and look at the other subject importers.  
2 They are equally a problem. If you look at --

3 CHAIRMAN OKUN: Clearly a problem in the  
4 prices they come in with? In volume? In what --

5 MR. CHANSLOR: It all takes basically the  
6 same shape. We are very diligent in maintaining the  
7 market share we have because it is absolutely  
8 essential to any hope of reasonable financial  
9 performance. So we are forced to respond when we  
10 believe that we have been challenged by a customer  
11 with a serious offer from a subject petitioner that  
12 says when we're trying to push prices, raise prices to  
13 offset the raw material costs that we've talked about,  
14 and a customer comes back and tells us well Kuraray or  
15 BCC Chemical has basically said they'll hold our price  
16 today, they won't require the price increases that you  
17 had, and they're willing to supply product from us.  
18 What are you going to do about it?

19 We are convinced because of the product  
20 overlap that we've discussed and the reasonable ease  
21 at which a new supplier can be qualified, that if in  
22 fact we don't comply we will lose volume.

23 In our case we've already experienced it  
24 once when we first acquired the business and we  
25 challenged whether or not some of these offers were

1 realistic threats and we found out the hard way that  
2 they were in fact real. So this time around, and  
3 since that original period of time in 2001, we have  
4 been very diligent in protecting our market share.  
5 The result of that has been clearly a continuous  
6 decline in pricing since we acquired the business from  
7 what other products had experienced previously and  
8 what we had put in the pro forma of the business when  
9 we acquired it.

10 MR. MELTZER: There is one aspect of this  
11 which is almost metaphysical in that you have Chinese  
12 imports and then you have the other cumulated imports  
13 and somehow because of the staging of these  
14 proceedings we have to deal with China later, although  
15 we are pretty confident you will have to deal with  
16 them as dumped products in your injury anonymous.

17 But what you're asking really is are the  
18 group of Chinese, Korean and Japanese imports in some  
19 way an independent cause of injury impacted by the  
20 Chinese, the presence of the Chinese import, but  
21 nonetheless independently are they a cause of injury?

22 I think what you have to ask yourself is  
23 what is the fastest growing set of products in the  
24 U.S. market and it's clearly the cumulated imports  
25 from Japan, Korea and Germany. And you have to say



1 with an industry facing significant cost/price squeeze  
2 with, as the record shows, the amount of excuses  
3 capacity and available inventory out there from those  
4 countries, what is the likelihood that if there is no  
5 order or orders in this case against those three  
6 companies, that those exact same trends will not  
7 continue.

8 I think you have not only the macro data in  
9 terms of the import trends but you have lots of  
10 account specific instances where either there were  
11 lost sales or far more prevalent, lots of lost revenue  
12 cases, particularly attributable to Korean, Japanese  
13 and German products.

14 CHAIRMAN OKUN: Okay, I appreciate those  
15 comments and I will look forward to the post-hearing  
16 brief going into detail on an number of the questions  
17 that were raised about relating to the record to what  
18 you've just been saying.

19 But let me turn to Vice Chairman Hillman.

20 VICE CHAIRMAN HILLMAN: Thank you, I hope  
21 just a couple of follow-ups.

22 I'm still trying to make sure I see the  
23 facts on the records in terms of this cost/price  
24 squeeze.

25 Both you, Mr. Chanslor, and Ms. McCord

1 talked a fair amount about the high fixed cost nature  
2 of this industry. In your brief, Mr. Greenwald, you  
3 argued about capacity utilization being below what's  
4 necessary.

5 Just so I understand it, and if you have to  
6 put it in the post-hearing fair enough but is there a  
7 general sense of how high capacity utilization needs  
8 to be in this segment in order to be profitable? Is  
9 there a number that you have readily in mind?  
10 Obviously that may be business proprietary, but is  
11 there a sense of how high does it have to be in order  
12 for you to be profitable?

13 MR. GREENWALD: It depends on what prices  
14 are. You can have very little capacity utilization  
15 and sky high prices and you might be okay.

16 I think if I can ask the witnesses to answer  
17 the question in the context of today's --

18 VICE CHAIRMAN HILLMAN: In 2001, 2002, kind  
19 of what capacity utilization were you needing or  
20 hoping for in terms of being profitable?

21 MR. CHANSLOR: I think I'd prefer to respond  
22 to that in some detail in the post-hearing brief. I  
23 think in general perhaps I can say that once we  
24 reversed our pricing policy we were running at  
25 exceptionally high capacity utilization. But given

1 the effect that we were seeing on pricing and given  
2 the raw material costs at that time, our financial  
3 performance was still unacceptable by my company's  
4 standards and I think by any company standards.

5 So it clearly is a function of price and  
6 volume and you have to basically establish what one is  
7 and then you can determine the other.

8 MS. McCORD: We do run our plant at  
9 essentially full capacity and have for many years.  
10 That has been our strategy. It's been only over the  
11 last several years that our financial performance has  
12 become totally unacceptable in our company and that's  
13 all due to price. Price and then of course the rising  
14 costs.

15 VICE CHAIRMAN HILLMAN: Mr. Greenwald, going  
16 back to this issue that Commissioner Miller raised  
17 initially which is to some extent the paucity of price  
18 comparisons and sort of what are we going to do with a  
19 record that is so think on the price side?

20 You indicate in your brief to look at AUV  
21 data to evaluate price trends of imports. Obviously  
22 we're going to hear a little bit about whether that's  
23 appropriate, particularly with respect to the Japanese  
24 given that there may have been a significant product  
25 shift, a mix shift in the products. I wondered if you

1 can comment.

2 Can we really look at AUVs in this case?

3 MR. GREENWALD: AUVs matters because of one,  
4 if the mix is constant it obviously is informative in  
5 and of itself. If the mix is not constant then it  
6 seems to me there is a real question what is going on,  
7 what's the range, how low are the low pricing.

8 I think with regard to the Japanese in  
9 particular there is a data point in the pricing  
10 analysis that should have been provided and was not,  
11 and all we can do on that is talk to the staff.

12 But I think you will be able to get from the  
13 record one low pricing -- basically a substantiation  
14 of the story that you have heard from every witness  
15 here about the change in Kuraray's tactics.

16 VICE CHAIRMAN HILLMAN: Ms. McCord, just so  
17 I make sure I understand it, Solutia is arguing that  
18 PVB grade PVA should be a separate like product  
19 because it has more demanding performance requirements  
20 among other things, and that the product must qualify  
21 using various multiple separate criteria.

22 I'm just wondering, are there other PVA  
23 grades or applications that require this kind of  
24 stringent hence various criteria that would be  
25 analogous to what you do for PVB grade PVA?

1 MS. McCORD: The PVA that goes to Solutia is  
2 very, very similar to the PVA that goes to our own  
3 operation. As I mentioned earlier, it's also the same  
4 PVA, we can also ship that exact same PVA to paper  
5 companies, to some adhesive companies and to film  
6 companies. There may be tweaking here or there but  
7 those changes are relatively minor. That's really the  
8 gist of it.

9 VICE CHAIRMAN HILLMAN: On the issue of the  
10 hydrolysis level. Are there certain market segments  
11 that you are foreclosed from because you only make PVA  
12 with a hydrolysis of 97 or above?

13 MS. McCORD: There are may adhesive  
14 applications that we don't participate in with our  
15 production from LaPorte in Texas where we make this  
16 product because it requires a partially hydrolite that  
17 we cannot product at LaPorte.

18 VICE CHAIRMAN HILLMAN: So adhesive is one  
19 market you're not in with the product that you make.

20 MS. McCORD: For the most part, yeah.

21 VICE CHAIRMAN HILLMAN: Okay.

22 To Celanese, just to make sure I understand  
23 it.

24 When you acquired Air Products, the name of  
25 the products I guess were changed from Airval to

1 Celval or something else. I'm just trying to make  
2 sure I understand whether that had any impact on your  
3 business as opposed to Air products. I'm trying to  
4 understand whether these trademark names have any sort  
5 of significance, whether any of that switch would have  
6 had any impact on your business as compared to when it  
7 was sold as products under Air Products names?

8 MR. CHANSLOR: No, I don't believe so. I  
9 think everyone was very aware of the fact that  
10 Celanese had acquired the business. They were very  
11 aware of the fact that we were changing trade names.  
12 And also a lot of the customers that were talking  
13 about it were already Celanese customers with other  
14 products.

15 One of the reasons for acquiring the  
16 business obviously was it had synergy with a lot of  
17 our other businesses, and so many of the customers  
18 knew of us, knew of the kind of quality product we  
19 make for many years. So it had absolutely no impact  
20 on our problems.

21 VICE CHAIRMAN HILLMAN: The last question I  
22 want to make sure I understand, it may be that this  
23 was folded into one of the questions that Commissioner  
24 Koplan was going through, but I wasn't sure I was  
25 following it all.

1           That gets to this issue of -- meaning I  
2           didn't have the references to the briefs in front of  
3           me. But Kuraray and Solutia have calculated these  
4           alternative profit and loss figures. Again I'm trying  
5           to get to this issue of making sure I understand  
6           exactly from your perspective your take on this.  
7           Where they're clearly taking out export sales.

8           Obviously the argument being it's your own  
9           fault you're losing all this money in the export  
10          markets. That shouldn't be attributable to imports as  
11          a cause of injury. Some of the sales for PVBUs are  
12          also taken out, getting to this argument about whether  
13          PVB grade or whatever, PVB type PVA should or should  
14          not be included. And then in one instance all captive  
15          sales.

16          So I'm just trying to get your reaction to  
17          whether, to how we should view these issues of the  
18          impact of the export sales at the prices that they are  
19          to sales for PVBUs or captive sales in terms of  
20          looking at the profit and loss figures.

21          MR. GREENWALD: At the risk of being accused  
22          of being too dismissive, those arguments are  
23          profoundly silly.

24          What you have is a capital intensive  
25          industry. There's enormous overhead. You've heard

1 both witnesses say you have to operate flat out or as  
2 close to flat out as you possibly can. If you do not  
3 participate in an export market what happens is your  
4 capacity utilization goes down and all those fixed  
5 costs have to be shifted to the products you sell and  
6 therefore the products rise.

7 The notion that somehow any reputable  
8 analyst of a financial statement would seriously  
9 suggest that you can do the sort of analysis they have  
10 done and reach a conclusion about what's going on in  
11 the U.S. market is preposterous.

12 And more fundamentally with the export  
13 market, it does make the case that so worries the U.S.  
14 industry.

15 It is true that export markets are very low  
16 priced markets. It is equally true that that is the  
17 future. So if you look at threat and you ask yourself  
18 where's the U.S. market going if there is no  
19 antidumping discipline? The answer is right before  
20 you. And in that sense a lot of the analysis that  
21 they have offered for you in my view makes the threat  
22 of injury case that we're trying to make.

23 VICE CHAIRMAN HILLMAN: I thank you for  
24 those answers.

25 No further questions.



1 CHAIRMAN OKUN: Mr. Koplan?

2 COMMISSIONER KOPLAN: I've got one. This  
3 will be for the post-hearing as well.

4 Which if any of the products excluded from  
5 the scope of these investigations are produced  
6 domestically and in what quantities? Please report in  
7 your post-hearing brief the quantity of each such  
8 product excluded from the scope of these  
9 investigations that is produced domestically.

10 MR. GREENWALD: We will confirm this in the  
11 post-hearing brief but I think I can say none. The  
12 Respondents came to us with legitimate points about  
13 products that U.S. didn't make and we had no interest  
14 in posing any trade barriers on them. But I'll  
15 confirm that in writing.

16 COMMISSIONER KOPLAN: Thank you, Mr.  
17 Greenwald.

18 Now then, Madame Chairman, while I have a  
19 full house and over the objection of my colleague who  
20 has accompanied me to this hearing.

21 Today marks the last time my economist Tom  
22 Vanderveen, and for today's purposes I'm going to call  
23 him Dr. Tom Vanderveen because he is, will participate  
24 with me at a public hearing.

25 Mid-June he will move to Chicago and enter

1 the private sector.

2 I have been extremely fortunate to have been  
3 closely associated with numerous dedicated and  
4 talented people since beginning my professional career  
5 in this city in 1962 -- before some of you were born.

6 Tom Vanderveen ranks right at the top of  
7 those associations. He began his association with the  
8 ITC by working here for two summers in the early  
9 1990s. One for Commissioner Carol Crawford; the other  
10 for our Director of Operations, Rob Brogowski. He has  
11 been with me for the past four and a half years. His  
12 talent, his people skills, his sense of humor and his  
13 total dedication to our mission are unsurpassed.

14 I am sure he will excel at anything he does.  
15 He certainly has excelled here.

16 Thank you, Tom.

17 (Applause)

18 COMMISSIONER KOPLAN: I yield back the  
19 balance of my time.

20 CHAIRMAN OKUN: I'll overlook the age joke  
21 and just join you in saying that I've had the good  
22 fortune to work very closely with Tom while he's been  
23 here and to travel, including the great state of Idaho  
24 with him and we had a good time. We'll miss him a lot  
25 up here.

1 I think there might be one question I have  
2 left, but it's always hard after we're thinking about  
3 that.

4 Let me just ask this for post-hearing. With  
5 regard to the questions that I've asked about where  
6 the competition is and where these other countries  
7 are, there is a Table 2-1 in the staff report, the  
8 contents of which are confidential but which go to  
9 this issue of end uses.

10 One of the categories is other. If you  
11 could consult with your industry folks and determine  
12 what these other categories might be and why the other  
13 ones that we've identified that might be helpful as  
14 well.

15 You'll do that for me? Okay.

16 MR. GREENWALD: Yes.

17 CHAIRMAN OKUN: The other thing, just in  
18 terms of threat and I know you've addressed it in your  
19 brief and I heard your last comments on threat looking  
20 at export prices. But the one thing I had asked you  
21 to pay careful attention to and address is again where  
22 this is looking at the threat material or the  
23 information we've collected from Respondents with  
24 regard to capacity utilization and really the  
25 percentages of home market versus export market, who

1 in this type of case that would indicate the threat of  
2 increased material coming to the United States and to  
3 go into that in some detail.

4 I think those were my remaining questions.

5 Let me see if Vice Chairman Hillman has  
6 anything?

7 (No response)

8 CHAIRMAN OKUN: Let me turn to staff and see  
9 if staff has questions of this panel.

10 MR. DEYMAN: I'm George Deyman, Office of  
11 Investigations.

12 A question has arisen as to whether imports  
13 from the non-subject countries Italy and the United  
14 Kingdom entering under the tariff provision for  
15 polyvinyl alcohol are indeed the types of polyvinyl  
16 alcohol covered in these investigations.

17 Those two countries account for about ten  
18 percent of total imports.

19 Staff is examining this matter, but do you  
20 recommend that imports from Italy and the United  
21 Kingdom be excluded from the import data and  
22 consumption data in the final staff report? If so, do  
23 you have any basis or any evidence for recommending  
24 that?

25 You can answer in the post-hearing brief if

1 you wish.

2 MR. GREENWALD: I think the answer is we do  
3 believe that a very large portion, if not all of that,  
4 is material that's been excluded, specialty grade. We  
5 will try and get you corroborating information from  
6 the business.

7 MR. DEYMAN: Mr. Chanslor, you mentioned I  
8 believe that the products that you export are in the  
9 same range of grades as the products that you produce  
10 and sell in the United States. Is that correct?

11 MR. CHANSLOR: Yes, that's right. We don't  
12 necessarily export all of the grades, but many of the  
13 grades we export are -- We don't make any grades  
14 specifically for export.

15 MR. DEYMAN: Then would you say that your  
16 average costs for the PVA products that you export are  
17 essentially the same as the average costs for the PVA  
18 products that you sell here?

19 MR. CHANSLOR: Let me refer back to a  
20 statement I made earlier today. The fundamental  
21 difference between cost of the various grades is how  
22 long it takes in the production equipment to produce  
23 that specific grade, and that is a direct relation to  
24 the physical properties that you're trying to achieve.  
25 So that's really the predominant difference in cost.

1 And for the most part it's relatively small.

2 MR. DEYMAN: Ms. McCord, would you agree  
3 with that from Dupont?

4 MS. McCORD: Yes. We don't sell our full  
5 line of products. We sell predominantly in the  
6 textile industry in Asia. It is for the most part the  
7 normal costs but we are selling some second quality  
8 material which although it carries the same cost  
9 doesn't have the same specifications.

10 MR. DEYMAN: In order to increase our  
11 pricing coverage staff would like the parties to give  
12 to the staff pricing data on one new product. That  
13 product would be PVA for use in paper applications  
14 with a range of hydrolysis between 95 to 100 percent  
15 and a viscosity between zero to 19.

16 We would need price and quantity information  
17 quarterly from January of 2000 to December of 2002  
18 just as we asked for the other pricing products. We  
19 need those from the petitioners and also from  
20 Respondents here representing importers from the  
21 subject countries.

22 If you could provide them if possible in the  
23 post-hearing brief, but if necessary we'll take them  
24 after that time period.

25 Do you think you could do that

1           MR. GREENWALD: What you're doing is you are  
2 asking for product as I understand it that is used in  
3 various applications and you want it just on paper?

4           MR. DEYMAN: I believe that's a product  
5 which you had brought up to the staff early on in the  
6 investigation, a product that we did not accept in the  
7 first place but now we feel we need it.

8           I think you specified paper. If that is  
9 incorrect, maybe we can --

10          MR. GREENWALD: Let us answer the question  
11 as it was posed, and then if it turns out this is one  
12 of these products that's sold into multiple  
13 applications we'll let you know.

14          MR. DEYMAN: Very well.

15          The market share of the subject imports,  
16 that is the imports from Germany, Japan and Korea, has  
17 increased between 2000 and 2002. The market share  
18 itself is business proprietary. But I think it can be  
19 characterized as not a very large increase in market  
20 share.

21          Is it your argument that you are injured  
22 more on price than on volume from these companies?

23          MR. GREENWALD: It's a combination. I don't  
24 want to get into a debate on the record with you. I  
25 don't think it's appropriate.

1                   When you say it's not a very large increase  
2                   are you taking percentage terms or are you talking in  
3                   absolute amounts?

4                   Let's not answer that, but the question, the  
5                   way the question was phrased is the sort of thing that  
6                   deserves a response.

7                   It's both price and volume -- the testimony  
8                   has been consistent from everybody including from Mr.  
9                   Laub. You have activity across the board you have,  
10                  except for Celanese's effort to try and maintain  
11                  production which was not a happy experience, a  
12                  decision by the United States industry to keep the  
13                  plants running. Therefore, pricing and what has  
14                  happened to prices matters a great deal.

15                  You have account-specific activity, product  
16                  specific activity that is directed at sales, but not  
17                  directed at offers. Therefore it is sort of  
18                  necessarily limited.

19                  The short answer is it's both quantity and  
20                  price.

21                  MR. DEYMAN: Would it be fair to say that  
22                  since DuPont produces in the 97 to 100 hydrolysis  
23                  level that it competes relatively less against the  
24                  subject imports from Germany, Japan and Korea than say  
25                  Celanese which produces at all the ranges of



1 hydrolysis levels which the subject imports are coming  
2 in.

3 MR. GREENWALD: The short answer is no. I  
4 don't know the extent to which we've been affected at  
5 getting through the testimony. What you heard from  
6 Ms. McCord was that there is a difference i adhesives.  
7 They are limited there. But they have a fully  
8 hydrolyzed product that is sold into textiles. I hope  
9 I get this right.

10 They are in paper, they are in PVB, they are  
11 in --

12 To the extent there is a difference it is  
13 primarily in the adhesive market, but in all the other  
14 markets the answer would be no.

15 MR. DEYMAN: The final question I have is  
16 for Mr. Laub.

17 Sir, do you buy PVA from DuPont and Celanese  
18 also or do you only import the products?

19 MR. LAUB: We also will buy from DuPont and  
20 from Celanese Yes.

21 MR. DEYMAN: Have you seen price competition  
22 in specific instances where products that have DuPont  
23 or Celanese could or could not meet the import price  
24 and could you elaborate on that if possible.

25 MR. LAUB: I just have to show I understand

1 the question. If you could repeat it, I will  
2 definitely respond.

3 MR. DEYMAN: Are there instances where you  
4 have tried to obtain PVA from a supplier, maybe a  
5 foreign supplier, maybe DuPont or Celanese, where you  
6 have found that the foreign supplier beat the price of  
7 Dupont or Celanese and sold at a lower price and got  
8 the deal, and vice versa. Are there instances --

9 MR. LAUB: Definitely

10 MR. DEYMAN: -- where DuPont and Celanese  
11 beat out the foreign supplier?

12 MR. LAUB: This is a fluid market.  
13 Everybody is trying to hold onto what they've got and  
14 our focus is to hold onto what we've got.

15 And yes, we do come across in circumstances  
16 where we cannot procure the product at a price  
17 necessary in order to hold onto the business. That's  
18 how come our volumes have dropped. If you look at the  
19 data we submitted, you'll see over the course of the  
20 past few years how volumes I think are down by about  
21 25 percent because we've been unable to procure  
22 product having a competitive price.

23 MR. DEYMAN: Would you say that in general  
24 the prices at DuPont and Celanese, and you can answer  
25 this confidentially if you wish, are equal to, higher

1 or lower than those of specific subject imports?

2 MR. LAUB: I'll respond to that in the  
3 confidential brief. Thank you.

4 MR. DEYMAN: That would be very helpful.  
5 I have no further questions.

6 CHAIRMAN OKUN: Thank you. Let me turn to  
7 counsel for those in opposition to the imposition of  
8 antidumping duties to see if they have questions for  
9 this panel.

10 MR. WALDERS: We have no questions, Madame  
11 Chairman.

12 CHAIRMAN OKUN: All right, then this would  
13 be a good time to take a lunch break, but before we do  
14 let me again thank this panel of witnesses for your  
15 testimony, for your willingness to answer a lot of  
16 questions, and we will see the next panel back in one  
17 hour, at 1:30.

18 I will remind everyone that the room is not  
19 secure and please take any business confidential  
20 information with you.

21 (Whereupon, at 12:30 p.m. a luncheon recess  
22 was taken to reconvene at 1:30 p.m. this same day.)

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1                   CHAIRMAN OKUN: This hearing of the U.S.  
2 International Trade Commission will please come back  
3 to order. Madame secretary, I see that the second  
4 panel is seated, are we ready to proceed?

5                   SECRETARY: Chairman, if we could add  
6 Sabrina Neumann as a senior economist with the  
7 Economic Consulting Services and all witnesses have  
8 been sworn.

9                   CHAIRMAN OKUN: Thank you. Without  
10 objection. You may proceed.

11                  MR. GOLD: Good afternoon. I'm Mark Gold,  
12 Technology Manager for Polyvinyl Alcohol and PDB at  
13 Solutia. I appear before the commission as a manager  
14 of Monsanto Company in the 1996 antidumping  
15 investigation. I appeared again last September at the  
16 staff conference. I appear before the commission  
17 today in an effort to share with you on my thoughts on  
18 the proceedings before you and from what I believe is  
19 a rather unique perspective. You see not only is  
20 Solutia a manufacturer of PVA but we are also a  
21 purchaser of PVA. In the course of my 29 years with  
22 Monsanto, and now Solutia, I have participated in this  
23 business from many different angles. Initially as a  
24 first line supervisor at Monsanto PVA production  
25 facility. I have also led Solutia's polyvinyl alcohol

1 purchasing and qualification teams. As I indicated,  
2 Solutia is a U.S. manufacturer of polyvinyl alcohol.  
3 In fact, under ordinary circumstances, you might  
4 expect to see us at the table with Celanese and  
5 Dupont. Over the years, we have experienced material  
6 injury caused by imports of various products and have  
7 appeared as petitioners in various cases. We are  
8 participating in this investigation and opposing the  
9 petition for two reasons. First, the PVA that is used  
10 to make PVB is a unique like product and should not be  
11 part of the case. Secondly, we do not believe there  
12 is any injury to the U.S. industry. The petitioner's  
13 are essentially attempting to use the antidumping laws  
14 to pre-empt import competition that has not existed in  
15 the PVB market. Because of time constraints, I'll  
16 only briefly get into the numerous facts that support  
17 these arguments. But be assured that supporting  
18 evidence not already presented will be provided in our  
19 post hearing brief.

20 Petitioners argue that the PVA is PVA the  
21 world around. That the PVA that is used for PVB  
22 market, is not a distinct like product. Further, they  
23 would have you think that PVA has only one or two key  
24 properties to distinguish between types. They talk  
25 about the degree of hydrolysis and viscosity as the

1 only variables that distinguish categories of PVA.  
2 Yet the petitioners well know that many physical  
3 characteristics and uses distinguish PVA products.  
4 The petitioners have allowed for the exclusion of 15  
5 different types of PVA, all the while maintaining that  
6 all PVA is the same. Except for the differences that  
7 they have endorsed. PVB market, the most significant  
8 differences are not the hydrolysis or the viscosity.

9           Critical characteristics of the PVA for the  
10 PVB market include ash content and color. This  
11 morning, you heard Celanese describe product 325.  
12 Three twenty-five designates viscosity and hydrolysis.  
13 The product we by however, is 325LA. LA standing for  
14 low ash. To avoid penetration from an attack in a  
15 collision, the PVB must adhere to the glass. Holding  
16 the pieces of glass together and expanding with the  
17 blow. PVA destined for the PVB, requires extremely  
18 low ash content because ash interferes with the  
19 ability of PVB to adhere to glass. Without this low  
20 ash content, the PVB would not adhere properly and  
21 perform the safety function needed by the glass  
22 industry.

23           Another major factor distinguishing PVA from  
24 PVB, is the low resin color. Because the PVB will be  
25 used in a windshield or laminating into architectural

1 glass, it must meet the demanding requirements for  
2 optical clarity. PVA that is used for making textiles  
3 or glue, would need not be optically clear. Hence,  
4 the requirement of low color to provide optical  
5 clarity, establishes a clear dividing line, between  
6 the products covered in this investigation and the PVB  
7 grade PVA that is purchased by Solutia.

8         The unique characteristics of low ash and color  
9 for PVB grade polyvinyl alcohol are not easy to  
10 achieve. In addition to specifying these very tight  
11 quality perimeters, Solutia must subject the PVA to  
12 rigorous testing in order to qualify supplier of PVA  
13 for use PVB resin and film products. Starting with no  
14 less than 10 tons of test material per iteration, we  
15 use the PVA to produce a qualification quantities of  
16 PVB sheet. This sheet, fabricated into windshields,  
17 must then follow the automotive industry's rigorous  
18 preproduction approval process or P-PAP, required of  
19 all suppliers. During this process, the windshields  
20 undergo up to two years of testing, and we perform  
21 these tests for every grade of PVB we make.

22         In order to qualify an alternate PVA  
23 supplier, we make a substantial investment in  
24 purchasing a large quantity of PVA, interrupting our  
25 commercial production and conducting the test

1 themselves. Currently, there only a handful of  
2 multinational PVA producers that are capable and  
3 qualified to produce PVA to the PVB specification that  
4 we require. As we reported in our questionnaire  
5 response, we are currently testing some PVA materials  
6 that were received over 16 months ago and we are not  
7 halfway through the test. These unique chemical  
8 requirements of the PVA are directly related to its  
9 end use. That is, PVB producers only use PVA that is  
10 manufactured to the high quality standards demanded  
11 for making PVB. Producers of paper, textiles, or  
12 building materials do not call for low ash or low  
13 resin that we call for.

14           The Commission should determine that PVA  
15 used to make PVB is a unique and a distinct like  
16 product. It is distinguished by its physical  
17 characteristics and by its unique application in  
18 laminating glass.

19           Now let me turn to the question of injury.  
20 It's no secret that in the chemical industry, one  
21 struggles to make money with plants running below 80  
22 percent utilization. However, if you can sell enough  
23 product, at almost any price to keep your plant  
24 running at high utilization rates, profits begin to  
25 roll in. Facilities operating above 95 percent



1 utilization make money within the same industry,  
2 faster than the Bureau of Engraving and Printing.

3 So in our opinion, it is important to  
4 understand that the performance of the Petitioners  
5 business is directly linked to their utilization  
6 rates. According to SRI'S industry and market  
7 intelligence report, the petitioners installed gas is  
8 the United States is more than sufficient to meet the  
9 demand in this country. SRI reports total U.S.  
10 capacity of 380 million pounds versus total demand of  
11 only 300 million pounds.

12 Therefore Dupont and Celanese must export to  
13 fill their capacity. Looking at the most recent U.S.  
14 export statistics, the petitioners have increased  
15 their exports of PVA by 50 percent. Exports now  
16 amount to 92 million pounds, which is over eight times  
17 the volume of the allegedly dumped imports. Any  
18 injury caused by low prices in the exports market has  
19 nothing to do with import competition or dumping in  
20 the United States. To also fill PVA capacity, both  
21 petitioners sell PVB grade material in the merchant  
22 market. In fact there are no foreign PVA producers  
23 that are currently qualified to supply our U.S.  
24 facility. We have been a "buy American" producer for  
25 the nearly 20 years we have been purchasing PVA.

1                   From our unique perspective, that of the  
2 largest purchaser of PVA and the largest market  
3 segment, there can be no injury to this portion of the  
4 U.S. PVA industry from imports, because we have not  
5 imported commercial quantities of PVA. Since there  
6 have been no commercial imports of the product that we  
7 buy, there can be no injury to Celanese or Dupont that  
8 have been caused by these imports.

9                   Why then would the petitioners request  
10 protection against PVA imports that are not occurring?  
11 The answer appears to be that the petitioners want to  
12 pre-empt imports in this segment of the market. To  
13 understand the strategy, the Commission needs to know  
14 that not only is the market for PVB growing, but is  
15 poised to double in size.

16                   Since 1938 laminated windshields made with  
17 PVB have been mandated in the United States. The PVB  
18 layer allows a windshield to absorb an impact in case  
19 of a collision, minimizing severe head or bodily  
20 injuries. The National Highway Traffic and Safety  
21 Administration was in 2002, required by law to conduct  
22 a rulemaking considering performance standards for  
23 prevention of passenger ejections through the side and  
24 rear windows of vehicles. Such a rule which must be  
25 in place by the end of next year, could greatly expand

1 the market for PVB and therefore PVA. This change  
2 could expand the PVB sheet market from approximately  
3 12 square feet per vehicle to over 25 square feet per  
4 vehicle.

5 Other applications for PVB include laminated  
6 glasses and building construction. Architectural  
7 glass imparts many security, acoustical, and energy  
8 saving attributes. But laminated glass is being  
9 increasingly called upon to impart a more important  
10 attribute. The PVB layer adds safety against threats  
11 from break-ins to bomb blasts. In fact, all new  
12 federal building construction, whether its a court  
13 house, embassy or military installation, requires that  
14 laminated glass be used for bomb blast protection.

15 In short, the petitioners would like nothing  
16 better than to restrict imports of PVA so they do not  
17 face import competition in an expanding sector of the  
18 market, the PVB sector. I should emphasize that  
19 Solutia does not want to change our suppliers or  
20 switch to imports as a source of PVA. In fact we  
21 cannot qualify a new supplier rapidly. However, on  
22 the heels of this antidumping case, the petitioners  
23 have sought to raise prices, even in our sector of the  
24 market. Because we compete with DuPont in the down  
25 screen market for PVB, we cannot afford to pay more

1 for PVA without losing our competitiveness.

2 Solutia is a multinational producer, with  
3 sister companies and plants in other countries. As  
4 such we rationalize our production. In a sense, our  
5 own plants compete with each other upon based on raw  
6 material, transportation, and other costs. In fact,  
7 if Solutia's plant in Belgium can obtain PVA at world  
8 market prices, but our U.S. facility cannot obtain  
9 comparable prices, we will be forced to shift of PVB  
10 resin production from the United States to Belgium.

11 In closing, the Commission should find that  
12 first PVB grade material is a unique like product,  
13 defined by its optical quality and safety aspects.  
14 Secondly, there are no commercial imports of grade PVB  
15 material, so there has been no finding of dumping  
16 based upon actual sales of this material. And  
17 finally, in a business environment where they are  
18 currently raising prices, looking forward to a  
19 tremendous surge in demand in the PVB market and  
20 increasing exports, the petitioners are not otherwise  
21 injured. Thank you for your attention.

22 CHAIRMAN OKUN: Thank you.

23 MR. CANNON: I would like to add a very  
24 brief footnote to Mark's testimony. In our brief in  
25 Exhibit 2, in our confidential brief, we broke out the

1 impact of the export market and the PVB market on the  
2 profit and loss performance of the petitioners. We  
3 assigned cost to the export sales and we assigned cost  
4 to the PVB market sales to indicate what happens to  
5 their performance if you remove that segment of the  
6 market. Because we think that otherwise the data you  
7 look at would be misleading and I note that Kuraray in  
8 brief in Exhibit 2B, did the same analysis. Showing  
9 that sometimes the left and right hand don't know what  
10 each other is doing, or at least all of us on the same  
11 side of the room in this case. Our results are  
12 different. I have reviewed, in detail a  
13 reconciliation done Mr. Malashevich of the two, to see  
14 what the difference is. The difference between the  
15 two is the result of allocating SG&A charges. The way  
16 I allocated SG&A charges was much more conservative.  
17 The way in which Kuraray allocated SG&A charges was  
18 exactly the manner in which the staff accountants of  
19 the ITC in which the way they should be allocated in  
20 the questionnaire response. And so, I just wanted you  
21 to know that, we are in agreement. The impact that  
22 export sales and PVB sales have on the profit and loss  
23 of the petitioners. Thank you.

24 COMMISSIONER OKUN: Thank you.

25 MR. WALDERS: Good afternoon. Again for the

1 record, I am Lawrence Walders appearing with Maria  
2 DiGuilian, Bruce Malashevich and Sabrina Neumann on  
3 behalf of the Kuraray Companies. This case is changed  
4 radically since the preliminary investigation.  
5 Despite what Mr. Greenwald told you this morning,  
6 China is out of the case. The rest of the producers  
7 have raised prices and the remaining subject imports  
8 account for and insignificant share of the U.S.  
9 market. Yet the petitioners brief reads as if China  
10 is still part of the case. Now the petitioners may  
11 hope that the Commerce Department will change its mind  
12 and find a dumping motion for China. The record  
13 before the Commission in this  
14 investigation, establishes that imports from China have  
15 not been dumped. And they cannot be therefore be  
16 cumulating with imports from Germany, Japan and Korea.  
17 Therefore, the lost sales, lost revenues, and other  
18 injuries that the petitioners allege from Chinese PVA  
19 cannot be attributed to subject imports. Imports from  
20 China and Taiwan are responsible for almost all of the  
21 confirmed allegations of lost sales or lost revenue.  
22 This is not surprising because imports from China and  
23 Taiwan account for the vast majority of total imports  
24 and for a far larger share of the U.S. market, than  
25 imports from Germany, Japan, and Korea combined. The

1 fact that Mr. Laub is here testifying today in support  
2 of the petitioners, demonstrates the significance of  
3 Taiwan in this market. We believe there's no basis  
4 for an affirmative finding, even if the Commission  
5 cumulates all subject imports. But, we believe that  
6 the Commission should not cumulate imports in this  
7 case either for present or threatened injury. Because  
8 the imports do not compete with each other in the  
9 American market.

10 The Commission decided to cumulate imports  
11 in the preliminary investigation but it stated that it  
12 wanted to revisit this issue in the final  
13 investigation. This is inappropriate, because the  
14 record demonstrates a lack of fungibility between  
15 imports from Germany, Japan and Korea. The apparent  
16 overlap between imports in the broad end use  
17 categories described by the petitioners is misleading.  
18 The use of broad categories such as paper or even  
19 other -- masks the actual differences between the  
20 markets for imports from the three subject countries.  
21 The evidence of these differences is discussed at  
22 pages 8 to 13 of our prehearing brief.

23 MR. WALDERS: In view of the absence of  
24 competition between subject imports in each of the  
25 products that were selected for price comparison by

1 the Commission with the advice of the petitioners, and  
2 the difference in customers' prices and specific end  
3 uses. There is insufficient competition between  
4 subject imports to warrant cumulation.

5 If the imports from Germany and Japan and  
6 Korea are considered separately, the individual market  
7 shares from each country obviously are far too small  
8 to have caused injury or threat of injury. Mr.  
9 Malashevich will discuss the issues of injury and  
10 causation in more detail in his testimony.

11 I would just like to emphasize that it's  
12 particularly important to examine the petitioners'  
13 profitability data, to identify the actual causes of  
14 the alleged problems. Imports play no role in free  
15 markets that account for most of the petitioners'  
16 sales; that is, PVB exports and internal consumption.

17 The Commission, we submit, should carefully  
18 examine the importance of these markets to the  
19 petitioners' overall profitability in deciding whether  
20 the alleged injury can be attributed to subject  
21 imports.

22 It should also consider the indications that  
23 Calenese paid in excessive price for their air  
24 products, and is therefore burdened with excessive  
25 costs not attributable to imports.



1           The petitioners attempt to divert attention  
2           from a small volume in market share of subject imports  
3           by citing selected examples of underselling, lost  
4           sales and so-called lost sales opportunities that they  
5           attribute to subject imports. We have analyzed the  
6           record on this issue in some detail at pages 32 to 55  
7           of the prehearing briefs.

8           I cannot discuss the evidence at the hearing  
9           because most of it is confidential, but I would like  
10          to point out the petitioners' allegations based on  
11          selected partial quotations from the staff report and  
12          the questionnaire responses. They do not tell the  
13          full story by any means.

14          Often the lost sales or lost revenues are  
15          due to competition from China, Taiwan, or a domestic  
16          producer. Even in the very few cases where the lost  
17          sales or lost revenues can be attributed to imports  
18          from Germany or Japan, the quantity and the value  
19          involved is minuscule and could have had no material  
20          effect on the domestic industry.

21          I now turn to Mr. Malashevich to provide  
22          more discussion of the injury issue.

23                 MR. MALASHEVICH: Good afternoon, Madam  
24                 Chairman, members of the Commission. I am Bruce  
25                 Malashevich with Economic Consulting Services.

1           Our prehearing brief very comprehensively  
2 address all the economic arguments raised by  
3 petitioners in their briefs, and effective rebuts  
4 petitioners' claims of material injury on account of  
5 subject imports.

6           This afternoon and considering this public  
7 forum I will focus only certain major arguments  
8 regarding the absence of volume effect, price effect,  
9 and adverse effects of subject imports on the overall  
10 condition of the domestic industry.

11           But first I would like to commend staff on  
12 the thoroughness of the prehearing report. I will  
13 frequently be referring to it during the course of my  
14 testimony.

15           One of the many distinctions the staff  
16 correctly made was the treatment of imports of PVA  
17 from China as nonsubject throughout its report. In  
18 our post-hearing brief we will submit a statistical  
19 proof that there is no reason to change that  
20 treatment.

21           My first point is that subject imports of  
22 PVA from Germany, Japan and Korea, that's what I mean  
23 by subject imports throughout my testimony, whether  
24 assessed country by country or on a cumulated basis  
25 simply were not influential in the U.S. market.

1           Kuraray's prehearing brief demonstrates that  
2           the adverse volume effects attributable to those  
3           subject imports were nonexistent during the POI.  
4           There are many ways to demonstrate this, but let's  
5           talk about market share first.

6           The market share held by subject imports has  
7           been a key variable to the Commission's reasoning in  
8           practically every decision that has ever been rendered  
9           in an antidumping or CBD case. This case is no  
10          different.

11          Then why is it that petitioners' prehearing  
12          brief makes no mention of subject imports market share  
13          at all until page 35? Even that mention goes only to  
14          import share in the commercial market segment.

15          Petitioners' brief nowhere makes mention of  
16          subject import share of the entire U.S. market. The  
17          reason, of course, is that the market share of imports  
18          that remain the subject of this investigation is tiny,  
19          too small to have had an adverse impact on three of  
20          the world's largest chemical manufacturer. Without  
21          market power there can be no material injury.

22          As shown on pages Roman IV-12 and IV-13 of  
23          the confidential prehearing report, whether assessed  
24          in relation to commercial consumption or total  
25          consumption subject imports market share was simply

1 too small to matter during the POI. Nonsubject  
2 imports accounted for the majority, 75 percent, and I  
3 double checked, that's a public figure, of total  
4 imports in 2002, 75 percent. When combined sales by  
5 domestic producers and imports from nonsubject  
6 countries vastly outweighed the subject imports in  
7 terms of both volume and of course market power.

8 In contrast, subject imports represent an  
9 insignificant portion of the total market.

10 If you have our prehearing brief before you,  
11 the confidential version, please turn to confidential  
12 Exhibit 12-A as in Adam, which was submitted as part  
13 of our prehearing brief. As you can see in this  
14 exhibit, even when total subject imports are assessed  
15 against the smaller commercial segment of the U.S.  
16 market, their combined share of consumption is  
17 minimal. These charts are based on 2002 data. The  
18 proportions that you see were reasonably consistent  
19 throughout the POI.

20 As you can see on the next page when broken  
21 out separately subject imports from Germany account  
22 for an even smaller fraction of the domestic  
23 commercial market segment.

24 On the last page of this exhibit you will  
25 likewise see that the domestic producers and other

1 imports commercial market share overwhelm the market  
2 share accounted for by subject imports from Japan.

3           Next, I would like to turn your attention to  
4 the matter of underselling. It goes without saying,  
5 as I mentioned earlier, without credible market power  
6 subject imports could not have depressed or suppress  
7 domestic prices to a significant degree. Activity, a  
8 word you heard frequently this morning, a very vague  
9 concept on its face, activity does not constitute  
10 market power.

11           The dropping of Singapore, China and various  
12 products from Japan since this petition was filed  
13 changed the landscape of the record of price  
14 comparisons in this case. It was not any failure of  
15 diligence of staff to ensure adequate coverage.  
16 Extensive comments were solicited from the parties to  
17 add products to the questionnaire at the appropriate  
18 time. Petitioners themselves chose products 1 through  
19 4 presumably based on their belief that subject  
20 imports competed throughout the market, and those  
21 products presumably are important. The fact is they  
22 don't.

23           Please turn to confidential Exhibit 17 which  
24 you now have before you. We have provided certain  
25 exhibits separately from the brief for your

1 convenience of reference, I believe. You will see  
2 what I believe is a very convenient summary of how  
3 frequently subject imports oversold domestic  
4 producers' prices where price comparisons were  
5 possible.

6 Based on the record in this final phase  
7 overselling by subject imports predominate. The few  
8 additional data that petitioners would have you add to  
9 the record would not change this landscape because the  
10 sales volumes involved are too paltry to matter. This  
11 and an abundance of other evidence provided in  
12 Kuraray's prehearing brief show an absence of  
13 significant price effects that can be attributed to  
14 subject imports.

15 The record is very clear on this point.  
16 Pages Roman V-7 through V-14 of staff's confidential  
17 prehearing report show the limited competitive overlap  
18 between subject imports and sales of domestic product  
19 1 through 6. This is because U.S. imports from  
20 Germany are limited to a small range of highly  
21 specialized products that have no equivalence among  
22 other subject imports.

23 Imports of PVA from Japan likewise do not  
24 compete with imports from Germany or Korea in the U.S.  
25 market. In contrast, imports of PVA from Taiwan and

1 China are the most significant source of competition  
2 in the U.S. market. And examination of the  
3 Commission's tradition price comparisons for evidence  
4 of an impact from "price cutting" from subject imports  
5 during the narrow period after the previous orders  
6 were revoked in the middle of 2001 shows that  
7 nonsubject imports had the greatest impact on the  
8 domestic industry during the period of investigation.  
9 All of that data are in the prehearing report.

10 In their prehearing brief petitioners try to  
11 negotiate around the clear message that arises from  
12 the record of price comparisons as a whole by focusing  
13 on selected anecdotes, but their attempt fails owing  
14 to the details left incomplete.

15 For example, at one point an instance  
16 labeled as underselling in fact was an instance of  
17 overselling. At another point a sales characterized  
18 as lost actually was regained by a domestic producer.

19 The minute quantities involved in the  
20 instances are simply skirted over. The Commission  
21 should not be distracted by the anecdotes and instead  
22 should focus on the record as a whole. This is  
23 underscored by the paltry record of lost sales and  
24 lost revenue allegations in this investigation. Even  
25 in the very few instances where staff confirms a lost

1 sales or a lost revenue allegation of imports from a  
2 subject country, the total value was insignificant  
3 compared to the domestic industry's total shipments.

4 The very paltry of allegations against  
5 subject countries compared to the allegations made  
6 against nonsubject imports from China is yet another  
7 powerful reminder that if any imports of PVA are to be  
8 held accountable they are from nonsubject sources.

9 Finally, there is the issue of the domestic  
10 industry's condition and the effects of subject  
11 imports on that condition. From the very filing of  
12 this case claims of the domestic industry's financial  
13 distress have been central to petitioners' injury case  
14 concerning both price effects and effects on their  
15 overall conditions.

16 Considering petitioners ample time to  
17 prepare their case and considering the clarity of the  
18 Commission's questionnaire and staff instructions, it  
19 is surprising that at this late date the petitioners'  
20 data are still incomplete.

21 Please see confidential Appendix A exhibit  
22 before you. This is a summary of how petitioners have  
23 submitted their financial data during the course of  
24 this case. Flip-flop is a word that comes to mind. I  
25 draw in particular your attention to the lower part of



1 the exhibit that shows the history of the operating  
2 income that's been reported, and we learned only days  
3 before the prehearing brief was due that there will be  
4 yet another revision that we have yet to see.

5 Thanks to the diligence of staff's  
6 investigation and coming as no surprised the revised  
7 data submitted thus far has painted a picture of the  
8 domestic industry's financial health which is far  
9 different from that portrayed in the petition, and  
10 initially in the preliminary phase of this case. I  
11 hope the Commission will examine the changes and their  
12 implications to this case very carefully.

13 I also hope the Commission focuses on the  
14 analysis summarized in confidential Appendix B exhibit  
15 also now before you. From your questioning earlier, I  
16 clearly already have focused on that to some degree.  
17 But using the revised financial data submitted by  
18 domestic petitioners to date, this is all petitioners'  
19 data, I emphasize, that exhibit demonstrates the  
20 domestic industry is doing quite well in the market  
21 segment where the adverse effects of subject imports,  
22 if there were any, presumably would be most  
23 pronounced. So I believe it's highly probative.

24 This is compelling proof of the absence of  
25 any casual link between the presence of subject

1 imports and adverse effects on the domestic industry's  
2 overall condition. In fact, other factors, including  
3 the financial impacts of Celanese's overpayment for  
4 the PVA assets of air products have had much more  
5 pronounced effects which now have been not only  
6 confirmed, but quantified through staff's very thorough  
7 investigation and those quantified amounts appear in  
8 the prehearing report.

9 I submit that petitioners' economic injury  
10 case on the merits has completely collapsed since the  
11 Commission's initiation of this investigation. They  
12 cannot demonstrate significant adverse price effects  
13 or volume effects on account of currently subject  
14 imports, and their case regarding financial impacts  
15 has been turned on its head. A negative determination  
16 is warranted.

17 Now back to Mr. Walders.

18 MR. WALDERS: Thank you. I would just like  
19 to say a few words on the issue of threat.

20 First of all, even if the Commission were to  
21 cumulate subject imports for the purposes of the  
22 present injury analysis, it should exercise its  
23 discretion not to cumulate for purposes of threat.  
24 The absence of competitive overlap between subject  
25 imports warrants noncumulation in the threat analysis

1 as well as in the analysis of present injury. The  
2 additional factors that the Commission considers for  
3 cumulation for threat purposes, similar rates of  
4 increase in imports, similar margin of underselling,  
5 and similar pricing patterns are not present in this  
6 case. These factors are discussed at pages 57 to 59  
7 of our brief.

8 When considered separately there is  
9 obviously no threat of injury from imports from  
10 Germany or Japan, and the same is true for cumulated  
11 imports. There is no excess capacity or reliance on  
12 the U.S. market in the case of Germany or Japan. In  
13 both cases the producers are operating at nearly full  
14 capacity, and they have always concentrated on markets  
15 other than the United States.

16 The petitioners raise the specter that  
17 Kuraray's acquisition of the Clariant plant in Germany  
18 in December 2001 will result in a flood of imports  
19 from Germany, but they ignore the fact that imports  
20 from Germany dropped by 39 percent in the year after  
21 the acquisition.

22 They warn that Kuraray will expand its  
23 capacity and that this expansion will be directed at  
24 the U.S. market. This argument is based on a few  
25 articles in the Japanese press. There have been press

1 reports that expansion dating back to 2001, but to  
2 date Kuraray's management has not decided to make the  
3 investment in expanded capacity.

4 Even if the capacity of the German plant is  
5 eventually expanded, it will not be focused on the  
6 American market. KFC, that is, the German facility,  
7 consumes most of its PVA internally in producing PVB.  
8 The company's commercial sales have always been  
9 concentrated on the European market, and that is  
10 likely to continue.

11 In fact, the press report on planned  
12 expansion quoted by the petitioners points out that  
13 Kuraray expects growing demand for PVA in Europe.  
14 Also, the substantial decline in the value of the  
15 dollar relative to the euro makes the U.S. market less  
16 attractive to European producers because it reduces  
17 their return on sales to the United States.

18 Now, petitioners claim that prices in the  
19 United States are higher than in any other markets,  
20 and that that will attract increased imports in the  
21 future. That's simply no longer the case as far as  
22 Europe is concerned given the drop in the value of the  
23 dollar.

24 In the case of Japan as well, PVA producers  
25 have consistently concentrated on markets other than

1 the United States. Japanese producers have played a  
2 minor role in the American market as demonstrated by  
3 the low volume and market share of Japanese imports.

4 Petitioners greatly exaggerate the  
5 significance of the increase in imports from Japan in  
6 2002. The rate of increase is misleading because it  
7 is over a very low base, and the volume of imports is  
8 still quite low. The increase is of little  
9 competitive significance -- this is noted in our  
10 brief. Most of it is due to sales to a single  
11 customer.

12 In summary, the issue here as in all cases  
13 is causation. The statute and the case law are clear.  
14 The Commission must carefully examine all factors that  
15 may be affecting the domestic industry, and it must  
16 ensure that it does not blame subject imports for any  
17 injury that is due to other factors. The requisite  
18 causal link is missing in this case, and the  
19 Commission should therefore issue a negative  
20 determination.

21 Thank you.

22 JUDGE REED: Thank you.

23 MR. McGRATH: Madam Chairman, members of the  
24 Commission, I am Matt McGrath of Barnes, Richardson &  
25 Colburn appearing today on behalf of Clariant

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1 Corporation. With me is Mr. Jeff Saeger.

2 I just wanted to say at the outset that we  
3 agree with the testimony that's been provided so far  
4 by Solutia and Kuraray. It appeared from listening to  
5 testimony this morning that, with respect to the  
6 remaining countries that are involved in this case as  
7 subject imports, the petitioners seem to be focusing  
8 on the Republic of Korea and the Republic of Kuraray.  
9 There are three countries here. You're not  
10 investigating companies.

11 The claim that somehow Kuraray's ownership  
12 of a plant in Germany is part of a large legally  
13 significant aspect of your investigation is  
14 fallacious.

15 I would like to turn it over to Mr. Saeger  
16 to describe why we believe Germany should not be  
17 cumulated with the other subject imports with respect  
18 to this investigation.

19 MR. SAEGER: Good afternoon. My name is  
20 Jeff Saeger. I'm the product manager for Surface  
21 Chemicals with Clariant Corporation, headquartered in  
22 Charlotte, North Carolina. I've been with the company  
23 approximately 11 years and part of that -- my current  
24 position, I was technical director at a paper mill.

25 I have a B.S. in paper science and

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1 engineering from SUNY, State University of New York,  
2 School of Environmental Science and Forestry. And my  
3 entire professional career has been in technical and  
4 sales positions concerning the paper industry,  
5 especially in coatings for high-quality papers.

6 As you might know, Clariant Corp. is a large  
7 U.S.-based manufacturer, especially chemicals, located  
8 in Charlotte, North Carolina, employing approximately  
9 2,200 American workers, 24 U.S. manufacturing  
10 facilities, and has more than one billion in U.S.  
11 sales. Clariant is the primary importer of polyvinyl  
12 alcohol from Germany and prior to January 1, 2002, was  
13 related to the PVA Manufacture Company, now owned by  
14 Kure.

15 Clariant has focused its United States sales  
16 of PVA in high-quality art paper and in paper market.  
17 This includes specialized products, which were not  
18 excluded from the scope of the investigation by the  
19 Commerce Department; but, nevertheless, do not compete  
20 directly with domestic production, imports from Taiwan  
21 for DuPont, or with other imports from Japan and Korea  
22 still covered by this investigation.

23 In the past, Clariant has imported PVA from  
24 Germany, for the high-quality art paper market and  
25 products market, and various other niche markets, such

1 as cosmetics, pharmaceuticals, films, and resins.  
2 Starting this year, Clariant is only importing and  
3 selling PVA from Germany, which is suitable for the  
4 U.S. specialty paper market and will no longer be  
5 selling PVA to the other specialty markets outside the  
6 paper industry.

7           Pyramid PVA imported by Clariant must be  
8 exacting specifications, superior quality standards of  
9 our customers, and we do not market it as a commodity  
10 product. All of our customers require us to be  
11 prequalified for paper applications before purchasing  
12 PVA from Clariant. It cannot simply purchase the  
13 lowest priced PVA on the market, because not all PVA  
14 is suitable for the same uses.

15           Furthermore, even when PVA is used in  
16 general applications, such as paper products, not all  
17 PVA is the same and cannot be used interchangeable for  
18 all types of paper products. For instance, high  
19 molecular weight PVA used in tissue paper production  
20 as a release aid or creping aid is a commodity type  
21 market, in which German imports do not participate.

22           The customers in the market, which Clariant  
23 services, typically require PVA with low ash content,  
24 full free methanol content, very consistent hydrolysis  
25 and molecular weight properties. Typically, there is



1 less consistency of these properties in PVA produced  
2 in batch processes, such as DuPont. Based on our  
3 analysis of PVA from Asian sources, as much as 15  
4 percent falls outside manufacturer specifications,  
5 disqualifying it from many paper applications.

6 Clariant's PVA has low dusting tendencies  
7 preferred for paper manufacturing operations, as  
8 opposed to some finely ground domestically  
9 manufactured materials. This is the reason we can  
10 command premium prices, as alluded to the witnesses  
11 this morning in the paper industry. And this is why  
12 German PVA is one of the highest priced products of  
13 any major supplier subject to this investigation,  
14 domestic or import. Because of the higher costs  
15 required to meet these specifications, Clariant is  
16 unable to price its PVA at competitive levels in the  
17 U.S. textiles or adhesives market. Therefore, German  
18 imports do not appear in those high volume U.S.  
19 markets.

20 After it purchased air products, Sonies  
21 technical staff had reduced the company's marketing  
22 and support capabilities, especially to the paper  
23 industry, which traditionally has a high requirement  
24 for technical support. It is generally understood  
25 within the industry that Sonies purchased the air

1 product assets at well above their market value and,  
2 thus, cutbacks in many areas, such as marketing and  
3 service, were not unexpected.

4 DuPont, meanwhile, is focused on the  
5 production of PVA for internal consumption of PVB and  
6 other products, and sells excess output to the  
7 commercial market. In the paper market, DuPont offers  
8 a limited range of PVA, used mostly in barrier and  
9 container board footings, rather than in the high-end  
10 inkjet and coated web offset grade papers serviced by  
11 Clariant. Neither DuPont nor Sonies offers the same  
12 range and types of PVA as Clariant.

13 Sonies and DuPont have challenged the  
14 comparability of two of the pricing products selected  
15 for the Commission's questionnaire. It was pointed  
16 out that these are sold in small volumes and they do  
17 not sell comparable products. This is not surprising  
18 in the specialized market that Clariant serves in the  
19 United States. We sell smaller quantities of a  
20 higher-priced non-commodity grade PVA to distinct end  
21 users, generally not served by the Petitioners.

22 We, also, offer our customers a full line of  
23 paper chemicals and maintain a technical support staff  
24 dedicated to service the entire range of paper  
25 chemicals. In fact, PVA is only a small portion of

1 its business. Clariant, also, assists its customers  
2 in optimizing usage, increasing output, improving  
3 efficiencies, and developing new products. For  
4 instance, we are marketing our PVA in conjunction with  
5 our U.S. manufactured optical brighteners,  
6 fluorocarbons in applications. Neither Sonies nor  
7 DuPont makes such commitments to the market.

8 Imports of German PVA have always been in  
9 small volumes and high prices. As such, they cannot  
10 be contributed to any alleged injury suffered by  
11 Sonies or DuPont. In fact, the only reason the  
12 domestic industry seems interested in German PVA is  
13 because Kure purchased the German company, as alleged  
14 earlier.

15 The domestic industry mistakenly believes  
16 that this means Kure will use a German plant to  
17 increase exports of commodity type PVA to the United  
18 States. Despite the change in ownership, Clariant  
19 maintains ties with a German manufacturer and has seen  
20 no indication that Kure Specialities Europe intends to  
21 increase its production for PVA export in the  
22 foreseeable future. In fact, imports of German PVA  
23 actually decreased since Kure assumed ownership of the  
24 German plant. The recent stronger value of the Euro,  
25 also, tends to discourage any growth in exports to the

1 United States.

2 We, also, encounter no competition from  
3 Japanese or Korean source, and one of the primary  
4 reasons is that few producers are willing to develop  
5 technical staffing and resources to meet the paper  
6 customer's needs. Many of the highly specialized  
7 small volume products imported from Japan, which were  
8 sold to similar high-end paper markets, have now been  
9 excluded from this investigation and, thus, German  
10 imports are even less competitive with other imports  
11 that might have been argued outside of this  
12 proceeding.

13 The battleground for the U.S. PVA industry  
14 is in textiles, adhesives, and the PVB market. It's  
15 not in the quality paper market.

16 I'm also familiar with PVA pricing and  
17 markets outside of the United States. It is clear  
18 that Sonies is dumping in European and Asian markets.  
19 Any injury they claimed to have suffered is much more  
20 likely attributable to the lower revenues that they  
21 realized on these export sales, rather than the  
22 minuscule specialized imports of Clariant.

23 We ask the Commission not to accumulate  
24 German imports with other subject imports and reach a  
25 negative determination in this case. I'll be pleased

1 to answer any questions the Commission might have.

2 In addition, I'd like to just, I guess,  
3 respond to a statement that DuPont made about some  
4 pricing that was offered to a potential paper  
5 customer. I think I might know the customer that's in  
6 question and that particular customer, we do a  
7 significant -- does a significant amount of business  
8 with Clariant in other areas. And they came to us,  
9 when they found out that we offered polyvinyl alcohol  
10 and suggested that this was a price that they were  
11 purchasing the material from DuPont. So, it was in  
12 response to a customer's request. Thank you.

13 MR. MCGRATH: I believe that ends our  
14 testimony and we are all available for questions.

15 CHAIRMAN OKUN: Thank you, very much, and,  
16 again, thank you to all the witnesses for appearing  
17 here today, for your willingness to provide testimony  
18 and answer questions and for the written material that  
19 you have provided. Commissioner Koplan will begin our  
20 questioning this afternoon.

21 COMMISSIONER KOPLAN: Thank you, Madam  
22 Chairman. I, too, want to thank this panel for its  
23 contribution to today's hearing.

24 First, this question is for Mr. Gold, Mr.  
25 Saeger, Mr. Rabaglia. This morning, I asked

1       Petitioners to discuss the trends in demands for PVA  
2       over the period of investigation, and I would like to  
3       hear your views, as well. Has demand declined overall  
4       for PVA? Are there segments where you have seen  
5       either increases or decreases in demand? And what are  
6       your forecasts for demand for the next 12 to 24  
7       months, both overall and in particular sectors, such  
8       as PVB and textiles? Why don't I start with you, Mr.  
9       Gold.

10               MR. GOLD: I can only answer that question  
11       for the PVB, because we're not familiar with the other  
12       markets. But, as I said in my prepared statement, we  
13       believe that demand for PVA and to the PVB industry  
14       remains strong, confirming what I think you heard this  
15       morning from Ms. McCord. And the growth prospects are  
16       good. I can't really tell you whether good means two  
17       percent or 22 percent in the next 12 to 24 months;  
18       but, we, clearly, believe that there's a growth  
19       opportunity in this industry.

20               COMMISSIONER KOPLAN: Thank you. Mr.  
21       Saeger?

22               MR. SAEGER: I can only answer in regard to  
23       paper. But, we look at the paper industry as being a  
24       fairly stable market for polyvinyl alcohol. If there  
25       is any growth, it would be in some high-end areas,

1 such as inkjet and those types of things, coated  
2 inkjet papers.

3 COMMISSIONER KOPLAN: Mr. Rabaglia? Am I  
4 pronouncing that right?

5 MR. RABAGLIA: Rabaglia.

6 CHAIRMAN OKUN: Rabaglia.

7 MR. RABAGLIA: Yes. I'd like to introduce  
8 myself. I'm the product manager for Wego Chemical for  
9 polyvinyl alcohol. I've been involved in the  
10 polyvinyl alcohol market now for approximately 17  
11 years, so I've seen a lot of changes. And to answer  
12 briefly on the question, as Mark indicated, we've all  
13 been waiting for some of the changes in our government  
14 from a 12 square feet per vehicle, to 25 square feet  
15 per vehicle of laminated sheet. And if you're looking  
16 at the types of volume that PVB uses in that industry,  
17 there would not be enough capacity domestically to  
18 support that volume.

19 Also, in the textile industry, which we're  
20 very familiar with, Kathy McCord testified at the  
21 preliminary hearing and, also, today, that over 100  
22 mills have closed over the last several years. I  
23 don't know if it's that large of a number, but the  
24 textile industry has maintained its own right now, and  
25 the way I see it, has generated a good volume of

1 business in very specialized areas and is slightly  
2 growing each year, rather than being flat.

3 And in the paper industry, I'm also seeing a  
4 good amount of growth in paper. I'm not that familiar  
5 with some of the specialized adhesive markets, so I  
6 couldn't really answer on that, at the moment. Thank  
7 you.

8 COMMISSIONER KOPLAN: Thank you. Let me  
9 stay with you all, if I could, and ask this. Demand  
10 for PVA overall decreased over the period of  
11 investigation. Although one area of growth in  
12 consumption of PVA was in the production of PVB,  
13 according to Solutia, there were no imports of PVB  
14 grade PVA. Over the period of investigation, the  
15 quantity of imports from Germany, Japan, and Korea  
16 increased by 67.8 percent. If consumption of PVA has  
17 declined over the POI, that's over the period of  
18 investigation, what explains the increase in subject  
19 imports? Mr. Gold?

20 MR. GOLD: I guess I can't answer that  
21 question, because in the segment I'm in, in PVB, it  
22 has increased very slightly. So, I'm going to  
23 hopefully pass that to some of our other panel members  
24 here.

25 COMMISSIONER KOPLAN: Mr. Saeger?



1           MR. SAEGER: Actually, if you look at the  
2 statement for Germany, it went down. From 2001 to  
3 2002, import volumes went down.

4           COMMISSIONER KOPLAN: I was referring to the  
5 combined figure, when I referenced the 67.8. Mr.  
6 Rabaglia?

7           MR. RABAGLIA: Could you repeat the  
8 question?

9           COMMISSIONER KOPLAN: Sure.

10          MR. RABAGLIA: I'm sorry.

11          COMMISSIONER KOPLAN: The question started,  
12 demand for PVA overall decreased over the period of  
13 investigation. Although one area of growth and  
14 consumption of PVA was in the production of PVB,  
15 according to Solutia, there were no imports of PVB  
16 grade PVA. Over the period of investigation, the  
17 quantity of imports from Germany, Japan, and Korea  
18 increased by 67.8 percent. If consumption of PVA has  
19 declined over the period of investigation, what  
20 explains the increase in subject imports?

21          MR. RABAGLIA: Could reflect that the import  
22 volume from China during that period decreased by a  
23 good margin. That could play a role in those numbers.

24          COMMISSIONER KOPLAN: Thank you. Mr.  
25 Malashevich, I'd like to hear from you on this. I

1 don't want to neglect you.

2 MR. MALASHEVICH: I appreciate that, very  
3 much. If you will allow me to elaborate post-hearing,  
4 I might need some confidential information.

5 COMMISSIONER KOPLAN: That's fine.

6 MR. MALASHEVICH: But, for one, I concur  
7 entirely with the gentleman's testimony earlier, there  
8 has been reductions in non-subject imports, that the  
9 subject imports have filled, if you were. There are  
10 some other reasons, including -- how should I say --  
11 in our pre-hearing brief, we make the point that the  
12 apparent increase in volume of imports is very  
13 narrowly based and explained by a single unusual  
14 variable. All the details are laid out in our brief.  
15 But, we will address it again post-hearing.

16 COMMISSIONER KOPLAN: Thank you. Mr.  
17 Walders?

18 MR. WALDERS: Yes. I'd like to add one  
19 point. When you look at a percentage rate of  
20 increase, you have to also look at the absolute  
21 numbers and consider what the base period is. And the  
22 level at which imports may have increased over that  
23 period, in a percentage term, is very much a function  
24 of the low base at which the period begins. The  
25 imports in total from all three subject countries are

1 still insignificant, as is the market share  
2 insignificant. The rate of increase, again, is an  
3 increase over a very low base and, as Mr. Malashevich  
4 points out, is essentially attributable to one  
5 particular factor, which we described in our brief.  
6 So, we would submit that in terms of the statute, the  
7 rate of increase is not significant.

8 COMMISSIONER KOPLAN: Thank you. Let me  
9 come back now to Solutia. You argue in your pre-  
10 hearing brief, at page 14, that, "by including PVB  
11 grade PVA in the antidumping investigations, the  
12 Petitioners hope to obtain an antidumping order that  
13 will restrain prices on products that: one, were not  
14 imports; two, were not dumped; and three, were not a  
15 cause of injury." You've talked about that in your  
16 direct testimony this afternoon.

17 Since 2000, have you been solicited by  
18 subject producers, to produce PVB grade PVA from them?  
19 Or have you requested price quotes for PVB grade PVA  
20 from any subject producers? Were the offers, if there  
21 were offers, were the offers of prices below what you  
22 were paying for the product from domestic sources?

23 MR. CANNON: You'll appreciate that our  
24 response would have to be in the post-hearing brief,  
25 in order to reflect the level of prices. We do buy

1 PVB grade material for our operations that are not in  
2 the United States, or our operation in Belgium. We  
3 are supplied by other PVA makers and so -- including  
4 U.S. producers export to Belgium. And so, we are  
5 aware of who in the world can produce to our  
6 specification and we are sought by other countries and  
7 companies, new entrants, who wish to show us that they  
8 can make PVA that's good enough for the PVB market,  
9 because we're such a large end user. Our volume of  
10 PVA is so high that they are attracted and would love  
11 PVA and will come to us. But, so far, we have been  
12 unable to qualify more than a few of what you might  
13 call the world class PVA producers.

14 Now, with regard to the prices that they  
15 offer us when they come, in an attempt to get us to  
16 qualify them, I need to respond to that only in  
17 confidence.

18 COMMISSIONER KOPLAN: Thank you. This  
19 morning, you heard Ms. McCord at DuPont testify  
20 regarding a meeting with Solutia that took place in  
21 September of 2001. I'd like to hear your comments on  
22 that. I'm wondering have you used or do you use price  
23 quotes from subject producers in your negotiations  
24 with domestic producers, in order to receive a lower  
25 price offer from the domestic produces. If the Chair

1 would indulge me, I'd just like to get the answer to  
2 this. Thank you.

3 MR. CANNON: I think it would be poor  
4 business as purchasers, and I would not deny the fact  
5 that we would pit suppliers against each other, in an  
6 attempt to obtain the best prices, if that's what  
7 you're asking. With regard to more about the actual  
8 sequence of events, who was competing against whom, we  
9 have put an affidavit in with our questionnaire  
10 response that lays out the full picture. What you  
11 have heard this morning and what you see in the record  
12 from the Petitioners is really on DuPont's perspective  
13 on the transaction. So, you need to look at the  
14 affidavit that we put in the record, to see the more  
15 full picture.

16 COMMISSIONER KOPLAN: Thank you for that.  
17 If there is anything you can add to that post-hearing,  
18 I would appreciate it. And while you're speaking,  
19 counsel, let me just say to you, in your post-hearing  
20 submissions, please address the allegations and  
21 arguments made by Petitioners regarding PVB on pages  
22 50 to 52 of their pre-hearing brief. Thank you.

23 MR. CANNON: Certainly.

24 COMMISSIONER KOPLAN: Thank you.

25 CHAIRMAN OKUN: Let me turn, if I could, to

1 the pricing and the record before us. And, Mr.  
2 Malashevich, I think I'll ask you to respond, in  
3 particular, and, also, Mr. McGrath and Mr. Saeger,  
4 some particular questions about Germany and the prices  
5 that we see in the record. But, I guess, Mr.  
6 Malashevich, just a general comment, which is heard  
7 Commissioner Miller, in her questions this morning,  
8 talk about the sparsity of data that we have on this  
9 record, and that makes it difficult to evaluate. And  
10 I think that goes both ways. And I think it is -- you  
11 know, to the extent the Petitioners are arguing one  
12 thing, we don't see it; it's not in the record. Some  
13 of the arguments you were making about overselling,  
14 underselling, prices, we don't have a lot of data.  
15 And so, I wanted to get some further thoughts from you  
16 on what we look to, because I think that troubles me,  
17 for both parties.

18 MR. MALASHEVICH: As you know, Madam  
19 Chairman, I'm not a lawyer, so I will be answering  
20 strictly as an economist. Certainly, there have been  
21 a number of cases that the Commission has considered  
22 in the past, and not necessarily distant past, I think  
23 of some five or six years, where there have been --  
24 the coverage of the pricing data has been in question,  
25 by one side or another. And I guess my sense of

1 reading the opinions that have been coming out is  
2 that's not been a barrier to the Commission  
3 considering the data for what they are and giving  
4 whatever weight they feel appropriate.

5 We do have a certain amount of testimony  
6 about averaging values. That was discussed earlier.  
7 But, I really do think that the essence of your  
8 inquiry has to begin with what happened to market  
9 share. The Petitioners have painted this as a so-  
10 called commodity product case, in which case, if lower  
11 price really prevails all the time and if there's all  
12 the underselling going on there, as Petitioners have  
13 claimed, the market share would be a lot larger than  
14 it is now.

15 So, one has to ask, well, why is the market  
16 share so small. And if you start with that inquiry  
17 and then look at the price data, you'll see that a lot  
18 of the imports from remaining subject countries are  
19 sold in very narrow applications that do not make up  
20 the mainstream of the domestic industry's shipments in  
21 the United States. That's simply the way it is.

22 As I mentioned before, it's not that the  
23 wrong product were surveyed. The right products were  
24 surveyed, but the imports currently subject to  
25 investigation are simply not sold there.

1                   So, I think what has been characterized  
2 earlier, I forget by whom, the paucity of the pricing  
3 data is due to the circumstances of this case. And  
4 the paucity, in itself, tells you about the lack of  
5 causal link between the presence of subject imports  
6 and price behavior among domestic producers. I think  
7 there's an important message to be gained by the  
8 paucity. It shouldn't be a barrier to reaching that  
9 conclusion.

10                   CHAIRMAN OKUN: Okay. Well, let me turn  
11 back, if I could, to you, Mr. McGrath and Mr. Saeger,  
12 with regard to the products for Germany prices, where,  
13 again, it's -- one of the things we try to do in a  
14 value market, is to try to get the broadest coverage,  
15 by taking one product that someone will tell us, we  
16 believe we'll get good coverage on, that we will and,  
17 in fact, we don't. And my question is: why for those  
18 products? I mean is it that we missed a -- did we  
19 miss a product? When you're saying they're  
20 specialized -- but, I guess I would think, if the  
21 argument is, you import German products and it doesn't  
22 compete with the U.S. product, we would be able to see  
23 a product, where you would Germany selling and the  
24 U.S. not selling, and that's not the record.

25                   MR. MCGRATH: Well, Madam Chairman, I



1 certainly would ask Mr. Saeger to comment, as well.  
2 It is unusual hearing that, with respect to Germany,  
3 the staff has made a super effort to try to come up  
4 with some price products, where there can be some  
5 comparison. The first time around, when the first  
6 four categories were put together, that was a list of  
7 product definitions provided by the Petitioners and  
8 there was only one of those products that we had an  
9 answer to, for, I guess, product number three, which  
10 was a product that we sell in the paper market. And  
11 we provided price information on that one and I invite  
12 you to take a look at what the comparison is. I guess  
13 it's confidential, but we'll stand by that comparison.

14 Then, they asked us for some broader survey.  
15 We suggested a couple of other items that Clariant  
16 sells and feels is somewhat representative of their  
17 range of imports. The Petitioners, my understanding  
18 was they provided price information with respect to  
19 the closest thing they could come up, but it wasn't an  
20 exact fit.

21 So, now, I understand staff is going to try  
22 again with another product, which we got the  
23 definition to. We'll provide some more price data on  
24 a fully hydrolyzed product. And maybe four times is  
25 the charm.

1           But, I agree with Mr. Malashevich, that the  
2 simple fact is, as Mr. Saeger testified, there is not  
3 a lot of head-to-head competition between Germany and  
4 domestic products. So, I think you're probably better  
5 off evaluating some of the other data, such as the  
6 fact that Germany accounts for a minuscule portion of  
7 imports. Its import level has gone down. That all of  
8 the testimony you heard this morning had to do with  
9 pricing of commodity products from China and other  
10 suppliers.

11           Sorry to monopolize. Maybe, Mr. Saeger --

12           MR. SAEGER: I think because we concentrate  
13 on the paper industry and that came up over and over  
14 again this morning, that that is one of the higher  
15 priced markets out there and it's more specialized.  
16 Like I said, our customers in the past year have cut  
17 back on technical expertise at the mill location. So,  
18 they depend more and more on the supplier and they  
19 take that into consideration when they decide who they  
20 are going to purchase from and what other products  
21 they're purchasing from us. So, that's how we've made  
22 inroads into the industry. It's not on pricing.

23           CHAIRMAN OKUN: Okay. Let me come back, if  
24 I could, to Mr. Walders and Mr. Malashevich, with  
25 regard to Korea and Japan, in particular. One

1 question I was curious about is with the expiration of  
2 the AD order in the original -- in the 1996 case, one  
3 of the things that I heard several times, in  
4 Petitioner's brief, is the change in where Japan's  
5 products, the type -- maybe -- I don't know if it's  
6 the type of products, because I'm still trying to work  
7 out if it's just the grades that are being sold to all  
8 these different things, but that the Japanese are  
9 selling into different applications than they were.  
10 And I wondered if you could comment on that and point  
11 to anything in the record, if you could, on that.

12 MR. MALASHEVICH: Yes. The details,  
13 unfortunately, are confidential. No one more than I  
14 would just like to put this to bed here and now. But,  
15 essentially, my answer to you is the same source, when  
16 I responded to Commissioner Koplan's question earlier.  
17 We have tried, in excruciating detail, to look at this  
18 one factor. I just can't characterize it as anything  
19 else. But, I don't know, this one factor is such a  
20 narrow set of circumstances, I can't imagine anyone  
21 could characterize that as a change in strategy or a  
22 change in trend or a shift. It's funny to think that  
23 that factor can be characterized in the way  
24 Petitioners have. I just don't know where it's coming  
25 from.

1                   CHAIRMAN OKUN: Okay. I will look, then, to  
2 the post-hearing briefs for further information on  
3 that. But --

4                   MR. MALASHEVICH: Excuse me, Madam Chairman,  
5 if you'll wait just 10 seconds, we'll give you the  
6 page numbers --

7                   CHAIRMAN OKUN: Okay.

8                   MR. MALASHEVICH: -- which I think will be  
9 helpful, so we can all talk about the same thing.

10                   (Pause.)

11                   MR. MALASHEVICH: We'll look for it and tell  
12 you where to find it.

13                   CHAIRMAN OKUN: That's fine. You can get  
14 back. But, I'm trying to figure out if anyone -- oh,  
15 my yellow light is going to come on. This was going  
16 to be kind of a long and involved question. So, I  
17 think I will skip that and go to Vice Chairman Hillman  
18 and I'll come back. And if you find that, you can  
19 tell me when I come back to my round. Thank you.

20                   VICE CHAIRMAN HILLMAN: Thank you, very  
21 much, and I would join my colleagues in thanking this  
22 panel. We very much appreciate it.

23                   I guess I want to start with maybe you, Mr.  
24 Gold, or the others more on the industry side, just to  
25 try to understand this phenomenon that we heard

1 described this morning, which is that it's typical in  
2 the chemical industry or for chemical products that  
3 when raw material prices go up, that the producers  
4 prolong those increases in raw material costs to their  
5 customers. And I guess I just wanted to have your  
6 sense of whether you think that is normally what has  
7 happened -- I mean, that is a standard sort of  
8 operating procedure in the chemical industry. And  
9 would you agree that raw material, the cost went up  
10 and that there was a kind of normal response, to try  
11 to increase prices during the POI?

12 MR. GOLD: My understanding is that indeed,  
13 generally in our economy, prices have gone up. Raw  
14 material prices have gone up. I do not believe that  
15 it's traditional or customary that you can't  
16 automatically pass that along in the chemical  
17 industry. And the public record that I could point to  
18 is what we report to in our public 10K statements, et  
19 cetera, is that the PVB industry prices have been in a  
20 general decline for the last eight to 10 years.

21 Again, selling to the auto industry, the  
22 auto industry may be different from other industries.  
23 I'm not familiar with the textile industry or the  
24 paper industry per se; but, in the auto industry,  
25 particularly, there's a significant pressure on

1 pricing of supply materials. And in that industry, we  
2 don't pass things along. Our customers, who are also  
3 sometimes suppliers to the auto industry, we know they  
4 can't pass along any raw material prices. And we  
5 would expect the same thing of our suppliers.

6 VICE CHAIRMAN HILLMAN: Okay. Mr. Saeger or  
7 Mr. Rabaglia, do you want to comment at all? I'm just  
8 trying to understand whether this is sort of a common  
9 expected phenomenon; that is, raw material prices go  
10 up, that they get past through to the purchasers of  
11 chemical products.

12 MR. SAEGER: Our typical response is one of  
13 two things: either try to increase pricing or look at  
14 our plants on ways to optimize our manufacturing. And  
15 that's usually, either look for different raw material  
16 sources or optimize at our plants. So, I mean, those  
17 are the two methods to take and, usually, we try to --  
18 in the paper industry, it is fairly competitive in  
19 some of the markets that we're in. So, we're forced  
20 to optimize internally through production costs, raw  
21 material costs, those types of things.

22 VICE CHAIRMAN HILLMAN: But, were you aware  
23 that the domestic producers during this period were  
24 trying to get prices up?

25 MR. SAEGER: Yes, because the way that they

1 make a general blanket statement on the Internet or  
2 trade magazines. And that's more indicative of  
3 commodity-type products. Most of the products we sell  
4 are very specialized. So, if we do a price increase,  
5 it might be on a case-by-case basis with individual  
6 customers and that the pricing is sent out to  
7 individual customers -- price increases.

8 VICE CHAIRMAN HILLMAN: So, you're aware  
9 that, as a general matter, they were trying to get  
10 prices up?

11 MR. SAEGER: Sure.

12 VICE CHAIRMAN HILLMAN: And that the price  
13 increase -- they were asserting that the reason for  
14 the price increases was cost increases?

15 MR. SAEGER: Yes. It's raw material, vam  
16 cost, energy costs; yes.

17 VICE CHAIRMAN HILLMAN: Okay. But, your  
18 view was that you are kind of in a little bit of a  
19 different market, so that even if the prices are going  
20 up for the textiles guys or the building materials,  
21 that doesn't necessarily mean that they would be going  
22 up for you?

23 MR. SAEGER: We're still higher than those  
24 markets in paper. So, either -- of course, we'd like  
25 to raise prices, too; but, there are other durations.

1 So --

2 VICE CHAIRMAN HILLMAN: Okay. Mr. Gold or  
3 Mr. Rabaglia? Mr. Rabaglia, go ahead.

4 MR. RABAGLIA: Yes. During the last 15 or  
5 16 years of business, I did witness more frequent  
6 price changes within the PVA market, as raw material  
7 for vam went up. Immediately following the next  
8 quarter, you would see prices of polyvinyl alcohol  
9 going up. But, the general business practices that  
10 have taken place over the last five years are totally  
11 different than what they were in the past.

12 Most organizations now have contracts that  
13 are either three years in duration. So, during that  
14 period, as a supplier or manufacturer, you swallow  
15 those price increases, because you are contracted to  
16 supply your customers. And some clauses are in  
17 contracts that represent a certain type of dollar  
18 value would be where the change has to be put in place  
19 and for a certain duration of time, also.

20 So, during this period, let's say a three-  
21 year contract period, if the price of energy for two  
22 consecutive quarters goes up by a certain dollar value  
23 or you can use a barometer, the price of oil has gone  
24 up to a certain dollar value per barrel two  
25 consecutive quarters, during that contract period.



1 Now, you're allowed to raise the price of your product  
2 and your customer recognizes that as a reason to raise  
3 your price. Otherwise, no, prices don't fluctuate  
4 anymore up and down on a frequent basis.

5 VICE CHAIRMAN HILLMAN: Okay. And would you  
6 say the majority of your contracts have this kind of  
7 price escalator, the escalator clause in them?

8 MR. RABAGLIA: Most long-term contracts, you  
9 have that in, yes.

10 VICE CHAIRMAN HILLMAN: Mr. Gold?

11 MR. GOLD: I believe at the preliminary  
12 stage, we put in the record from our long-term  
13 contracts with DuPont and Sonies. If not, we can do  
14 it in the post-hearing. That will be obviously  
15 confidential --

16 VICE CHAIRMAN HILLMAN: Correct.

17 MR. GOLD: -- what's in our contracts. I  
18 wanted to point out, though, that they are very long  
19 term. We're not talking one quarter contracts; we're  
20 talking years. And so, price increases that may occur  
21 because of terms of the contract are quite different  
22 than what you're talking about here, such as raw  
23 materials --

24 VICE CHAIRMAN HILLMAN: Right.

25 MR. GOLD: -- go up one year, something like

1 that.

2 VICE CHAIRMAN HILLMAN: Okay. No, I  
3 appreciate that. Like I was saying, I was just trying  
4 to get a sense of whether the DuPonts and the Sonies -  
5 - you know, this is the way business has always been  
6 done; that when raw material costs go up, they get a  
7 cost increase coming to them, they pass it along, and  
8 the purchasers just generally are -- have, as a matter  
9 of practice, always paid it. They were telling us  
10 this morning that they weren't getting these price  
11 increases that they were trying to get, and I was just  
12 trying to understand whether that was aberrational  
13 that they're not getting them or whether they normally  
14 do get the kind of price increases that they're  
15 seeking.

16 MR. GOLD: I think Mark would testify that  
17 it's certainly our experience, we cannot get price  
18 increases from automotive customers on PVB. It's  
19 exactly the same analogy. We buy the PVA to make PVB.  
20 We can't get our customers to give us price increases.

21 VICE CHAIRMAN HILLMAN: Mr. Rabaglia?

22 MR. RABAGLIA: I was going to add to that.  
23 The price changes in the market or the notification  
24 that goes out by DuPont or Celanese recently on their  
25 website indicated they're going up, I believe, 20

1 cents a pound. And within the period of  
2 investigation, that total price increase could  
3 accumulate to 25 cents a pound. And that at the end  
4 of the contracted periods that they were supplying  
5 their customers, whether it be June, July, August,  
6 that when that contract was up for renegotiation, that  
7 they would be faced with those price increases. But,  
8 since the time frame that they had made that public  
9 statement of 20 to 25 cents per pound, a lot of  
10 contracts have not come into place for renegotiation.  
11 So, whether or not they actually are going to achieve  
12 that type of dollar value, obviously, we'll see in the  
13 future.

14 VICE CHAIRMAN HILLMAN: Okay. I appreciate  
15 that. Thank you.

16 I guess, Mr. Walders or Mr. Malashevich, if  
17 I could go to you, just to try to understand a little  
18 bit more the relationship between Kure's Japanese and  
19 its German operation. Do they produce similar PVA  
20 products? Do they serve similar markets? Has there  
21 been any effort to integrate or rationalize the  
22 production in Japan versus that that occurs in  
23 Germany?

24 MR. WALDERS: They supply very different  
25 products to different markets. There's very little,

1 if any, overlap in the sales in this market.

2 VICE CHAIRMAN HILLMAN: Let's start with  
3 production. Do they produce similar PVA products,  
4 both in Germany and in Japan?

5 MR. WALDERS: Both companies are full-line  
6 producers. But, as we've said, the issue, at least  
7 with respect to cumulation, is what's happening in the  
8 American market.

9 VICE CHAIRMAN HILLMAN: I understand that.  
10 I'm just trying to understand --

11 MR. WALDERS: They're both --

12 VICE CHAIRMAN HILLMAN: -- the output of  
13 both facilities would be basically the same?

14 MR. WALDERS: The product line is similar.  
15 It's not identical. But, they are essentially both  
16 full-line producers.

17 VICE CHAIRMAN HILLMAN: And would they be  
18 supplying the same markets or would pretty much the  
19 German products go to certain markets or certain  
20 applications versus the Japanese?

21 MR. WALDERS: The German product is sold  
22 primarily in Europe. The Japanese market is sold  
23 primarily in Asia. Both of them are competitors in  
24 the world market; so, obviously, they sell elsewhere,  
25 as well. But, the concentrations are Europe for KSE;

1 Asia for Kure Limited.

2 VICE CHAIRMAN HILLMAN: How about on an end-  
3 use basis? Do the Germans tend to sell more into a  
4 particular end use than the Japanese, or are they  
5 selling to the same end-use market?

6 MR. WALDERS: I don't know as far as the  
7 world market is concerned; but, as far as the U.S.  
8 market is concerned, the end uses are different.

9 VICE CHAIRMAN HILLMAN: Okay. Do you know  
10 whether they sell PVA -- does Kure sell PVA in the  
11 United States for textile applications, either to  
12 textile blenders or to textile mills?

13 MR. WALDERS: Yes, they have sold to textile  
14 blenders.

15 VICE CHAIRMAN HILLMAN: To blenders?

16 MR. WALDERS: Yes.

17 VICE CHAIRMAN HILLMAN: Okay. I see that my  
18 red light is on. Thank you, Madam Chairman.

19 CHAIRMAN OKUN: Commissioner Miller?

20 COMMISSIONER MILLER: Thank you, Madam  
21 Chairman. And let me join my colleagues in thanking  
22 all of the witnesses for being here, participating in  
23 the hearing today.

24 It wasn't where I was going first, but as  
25 long as Vice Chairman Hillman was just asking these

1 questions, Mr. Walders, I'm trying to reconcile what I  
2 just heard you say and the information we have in our  
3 staff report, regarding end uses by country. And I  
4 know some of that we're trying to clarify that there  
5 is some data issues there. Well, first of all, let me  
6 ask this question. We had this other category. We  
7 have a fair amount in the other category. What do we  
8 think the other category is? Is that something you  
9 can comment on here today or do I need you to  
10 elaborate on that in the post-hearing? Whenever you  
11 have overlap in other, you kind of say, so, what's  
12 that.

13 MR. WALDERS: Well, we can try to explore  
14 that. But, I think, from what I have read, at least,  
15 there is a myriad of individual end uses for polyvinyl  
16 alcohol apart from the basic commodity markets and  
17 volume markets. I think to some extent, they're sold  
18 in pharmaceuticals. They're sold for use in  
19 cosmetics. They're sold for use in various other  
20 products, which I guess would fall within the other  
21 category.

22 But, other is a metaphysical term, I  
23 suppose. Other than what is the question. And I'd  
24 say, it is difficult to draw any conclusion from a  
25 basket category as broad and as undefined as that.

1 But, we'll see what we can determine from the  
2 information we have, as to what some of these other  
3 markets might be.

4 COMMISSIONER MILLER: All right. Well,  
5 you've argued about limits on the fungibility here.  
6 But, again, I ask myself, what is the overlap and  
7 other means for fungibility of the product?

8 MR. WALDERS: I would submit that it means  
9 nothing, because the decision of the Commission has to  
10 be made upon the record. And a record of overlap in a  
11 category as general as other can't really tell you  
12 anything as to fungibility of products, which is the  
13 standard for determining cumulation.

14 COMMISSIONER MILLER: All right. I look  
15 forward to whatever comments you have on it, in your  
16 post-hearing brief.

17 Let me go on to a couple of questions I  
18 would like to ask Mr. Gold or Mr. Cannon about  
19 Solutia. First, Mr. Gold, in your testimony, you  
20 referenced an SRI report. You referenced an SRI  
21 report that, at least to my knowledge, I don't think  
22 you submitted the report with your pre-hearing brief.  
23 And I would like to ask you to do so.

24 MR. CANNON: All right. The report was in  
25 our post-conference brief and it provides another

1 source for things like consumption and exports of  
2 similar magnitude to the staff report, which Mr. Gold,  
3 not being on the APO --

4 COMMISSIONER MILLER: Right.

5 MR. CANNON: -- could look at.

6 COMMISSIONER MILLER: Okay. And was the  
7 entire report submitted as part of your post-  
8 conference brief?

9 MR. CANNON: Yes, it was.

10 COMMISSIONER MILLER: Okay. I should have  
11 access to it. And if I don't -- I'll admit to you, I  
12 don't go back and read post-conference briefs for  
13 purposes of a hearing. But, I appreciate you pointing  
14 the way, so that I can find it.

15 Then, Mr. Gold, I wanted to ask you a little  
16 bit more about the rulemaking that you reference, that  
17 the National Highway Traffic Safety Administration is  
18 involved in, because you cited that as a basis for  
19 your expectations of increased demand for PVB,  
20 basically, as I understood it. And from your  
21 testimony, it wasn't clear to me what the status is of  
22 that rulemaking and because I think it goes to some of  
23 the demand questions, for example, that Commissioner  
24 Koplan had asked. I wanted to learn a little bit more  
25 about that.



1                   MR. GOLD: Certainly. This is a newsletter  
2 from -- it's called the EPGAA. It's Enhanced  
3 Protective Glasses Automotive Association. It's the  
4 group that -- it's an industry standard organization  
5 working to promote the use of laminating safety glass  
6 in side and back windows of cars. And I'll just quote  
7 from just a portion of that. It says, "in February  
8 2003, U.S. House of Representatives and U.S. Senate  
9 sent guidance to NISA and how and when to complete its  
10 work on ejection mitigation in the Omnibus  
11 Appropriations Bill," which became Public Law 108-7 on  
12 February 20, 2003. In the bill, Congress stated it  
13 "supports the adoption of measurement to improve  
14 ejection prevention performance of motor vehicles no  
15 later than December 31, 2004 and recognizes that the  
16 agency may need to develop new test procedures."

17                   What that means to us is that in about -- I  
18 guess it's about 18 to 19 months from now, we're  
19 expecting NISA to comply with this and issue ejection  
20 mitigation constraints, which will have, as part of  
21 that, a strong, if not compelling requirement for the  
22 implementation of side laminates in vehicles.

23                   COMMISSIONER MILLER: But, how -- you're  
24 expecting that this will happen? I mean, how certain  
25 is it, in fact? I mean, the fact that Congress

1 suggests what you just read still seems to me as  
2 though it's a way to go, in this process.

3 MR. GOLD: There's likely to be a long way  
4 to go, you're right. But, we've already seen this  
5 coming. There are vehicles, and I can name brands and  
6 models, that already have -- in North America that  
7 have side laminated windows and most of that is for  
8 things other than safety. It's for things like noise  
9 reduction, et cetera. But, we believe it's coming  
10 sooner rather than later for a variety of driving  
11 reasons and this would probably be the final issue  
12 that would bring it through, much like passenger air  
13 bags, bring it through to completion.

14 COMMISSIONER MILLER: Okay; all right.  
15 Well, if there's anything more you want to provide  
16 with respect to that, although I take the testimony  
17 that you've given and your one comment about the one  
18 article, you might submit that. I would only invite  
19 the representatives of Petitioners to comment, if they  
20 have any information or thoughts on what this means  
21 for demand in the product and what the time frame  
22 might be, in terms of increased demand for PHB.

23 Then, again, Mr. Gold, one thing -- and I  
24 think you've answered some more questions about this,  
25 but I was a little confused in your testimony,

1 because, at one point, you said that there are only a  
2 handful of multinational PVA producers that are  
3 capable and qualified to produce the PVB  
4 specification. Can you name those for me here?

5 MR. GOLD: We'd prefer to put that in the  
6 post-hearing brief.

7 COMMISSIONER MILLER: All right, that's  
8 fine. You said there are a handful that are capable  
9 and qualified; but, at a later point, you said, in  
10 fact, there are no foreign PVA producers that are  
11 currently qualified to supply our U.S. facility.

12 MR. GOLD: There is a difference -- and let  
13 me draw a distinction between capable and potentially  
14 qualifiable, as opposed to qualified.

15 COMMISSIONER MILLER: That, I would have  
16 understood the difference.

17 MR. GOLD: Okay.

18 COMMISSIONER MILLER: But, you said,  
19 "capable and qualified," and maybe you meant for other  
20 producers and not you. I don't know.

21 MR. GOLD: No. On our global business,  
22 there are only a handful of PVA producers capable and  
23 qualified to provide PVB specifications and PVA to us.  
24 But, in our North American facility, or United States  
25 facility, there are no foreign suppliers qualified.

1 So, one statement refers to our global capability; the  
2 other North America.

3 The reason being, there are two issues of  
4 qualifications. One is, ours says, you know, you can  
5 put it in the front of the process and it comes out  
6 the back of the process. That's minor portion of  
7 qualifying the product for us. The other portion is,  
8 now I've got this product, I've got to demonstrate to  
9 my customers, glass companies, and their customers,  
10 the U.S. auto industry, that their windshield is not  
11 going to fall apart in a year or two years, and that's  
12 the lengthy qualification process.

13 So, although a PVA supplier may be qualified  
14 in Europe for making glass windshields by synchoband  
15 for use in Peugots, they're not necessarily qualified  
16 in North America by PPG to make windshields for  
17 General Motors.

18 COMMISSIONER MILLER: Okay; all right. I  
19 did understand the distinction of qualifications by  
20 your customers, as well. But, I was just -- I was a  
21 little confused here by it. So, I appreciate it.  
22 That helps clarify.

23 Then, one other point that I was trying to  
24 make, you talk about import competition. Your view  
25 that the Petitioners are trying to restrict imports of

1 PVA, so they don't face import competition in an  
2 expanded specialty market, the PVB sector. But when  
3 you say PVB sector there, you're still talking about  
4 PVA -- imports of PVA for PVB, aren't you?

5 MR. GOLD: Yes, I am.

6 COMMISSIONER MILLER: You're not talking  
7 about -- you said, at a later point, that there are no  
8 imports of PVB, itself, isn't that right? I think you  
9 said that in your conclusion, there are no commercial  
10 imports of -- no, that's something different.

11 MR. GOLD: It is very confusing. And,  
12 honestly, Commissioner, we don't use PVA. We use  
13 PVOH, because it's just so confusing when we're  
14 talking. So, sometimes, I fall into that trap, as  
15 well.

16 COMMISSIONER MILLER: Okay.

17 MR. GOLD: But, I will be glad to answer  
18 your questions.

19 COMMISSIONER MILLER: Are there imports of  
20 PVB? In other words, at one point, you suggest in  
21 your testimony, I think, that if you can't afford to  
22 pay a higher price for PVA, you might -- I think you  
23 suggested you might import -- didn't you suggest you  
24 would be forced to ship your PVB resin production from  
25 the U.S. to Belgium; in other words, to go downstream

1 and then import the PVB, itself. Is that what you're  
2 suggesting?

3 MR. GOLD: Perhaps not. Some of our product  
4 that we -- the PVB sheet we make in North America is  
5 shipped to Latin America, Asia, whatever. So, we  
6 wouldn't bring the PVB back here. It might just go  
7 directly to those end customers.

8 COMMISSIONER MILLER: Okay. Sorry, but I  
9 just wanted to make sure I understood your testimony.

10 MR. CANNON: At the preliminary phase, the  
11 question came up about PVB imports, and I recall that  
12 we looked at import stats for PVB and they were a  
13 very, very low volume. It was no competition, in  
14 terms of imports in the PVB market.

15 COMMISSIONER MILLER: Okay. Thank you, Mr.  
16 Gold. I appreciate you answering my questions.

17 CHAIRMAN OKUN: Commissioner Koplan?

18 COMMISSIONER KOPLAN: Thank you, Madam  
19 Chairman. I've got two questions left. The first  
20 one, I'd ask either Mr. Walders or Mr. McGrath both to  
21 respond to. On page 41 of Petitioners' pre-hearing  
22 brief, they argue that the Commission should disregard  
23 the price data for products five and six. Product  
24 five is PVA for use in art paper applications and  
25 product six is PVA for use in resin applications.

1 They claim that the price data "collective for  
2 products five and six do not reflect the broader price  
3 trends in the U.S. PVA market, because these products  
4 are narrowly defined, involve very low volume of  
5 sales, and are sold into tiny niche markets."

6 What is your position on this issue? Should  
7 the Commission disregard this data?

8 MR. MCGRATH: Maybe, if I can try that.

9 COMMISSIONER KOPLAN: Sure.

10 MR. MCGRATH: I remember reading that line  
11 from the brief and thinking, yes, I agree entirely.  
12 It's not representative of the broader price trends in  
13 the United States market, because the German imports  
14 that meet those definitions don't really compete in  
15 the broader market in the United States. And as I was  
16 explaining earlier, I think we have tried to identify  
17 some product areas where there might be some overlap  
18 or some product that either Sonies or DuPont is  
19 producing a similar specification, maybe not selling  
20 to the same type of customer, to maybe obtain some  
21 information.

22 But, the fact that there is a small volume  
23 that's accounted for and the fact that they may not  
24 report something that's identical to it, I don't think  
25 should be a reason for you to dismiss that data or not

1 use it, in your analysis. The very existence of that  
2 data for the particular -- for one of the countries  
3 that you're trying to get data on, which is Germany, I  
4 think is revealing in itself of one of the reasons why  
5 there should not be cumulation in this case. Because,  
6 the price data you're getting is confirming what  
7 you're seeing in divergence, for instance, in levels  
8 of imports; other countries going up, Germany going  
9 down.

10 So, I think that the short answer is, no, it  
11 should not be ignored. And, yes, I agree with the  
12 statement that it doesn't reflect the larger trends in  
13 the marketplace, because they're competing with  
14 something different.

15 COMMISSIONER KOPLAN: Thank you. Mr.  
16 Walders?

17 MR. WALDERS: Yes, Commissioner Koplan. I  
18 would just like to add that if the Petitioners are  
19 correct, that these price differences should be  
20 disregarded, because the products of the domestic  
21 producers and the products of the German manufacturers  
22 don't compete, then by the same token, you should  
23 focus on that as a reason not to cumulate Germany with  
24 imports from other countries, which are not sold,  
25 also, in that market.



1                   COMMISSIONER KOPLAN: Thank you. My final  
2 question: Petitioners argued this morning that prices  
3 of PVA are higher in the United States than they are  
4 in other countries and, therefore, that the U.S. is an  
5 attractive market for foreign producers. Are PVA  
6 prices in the U.S. higher than in other markets? Can  
7 you provide any evidence showing that PVA prices in  
8 the U.S. -- regarding PVA prices in the U.S. versus  
9 other countries? I throw that out to the panel.

10                   MR. CANNON: In our brief, we can provide  
11 you with the prices that we pay for PVA to be exported  
12 and used in Belgium, as well as in the U.S. It's the  
13 same supplier. In your own export statistics that you  
14 can get off the ITC website, you can see the average  
15 unit values for exports, some 92 million pounds, and  
16 you can see the prices that the U.S. producers charge  
17 when they export to China or Mexico or other markets.  
18 And you can judge from that, that, in fact, the prices  
19 in those markets are far lower than prices in the U.S.  
20 market.

21                   COMMISSIONER KOPLAN: Thank you.

22                   MR. MCGRATH: Commissioner?

23                   COMMISSIONER KOPLAN: Thank you, Mr. Cannon.  
24 Mr. McGrath?

25                   MR. MCGRATH: We, also, have some

1 information we'd be happy to provide. Clariant sells,  
2 of course, in the European market, and they encounter  
3 DuPont, in selling these product that's in that market  
4 at much lower prices than what they see as being  
5 charged in the United States. So, we'll provide that  
6 as part of our post-conference.

7 MR. PERRY: Commissioner Koplan, my name is  
8 William Perry. I represent Sichuan Vinylon Works. I  
9 would just like to comment that my client in China has  
10 seen it, has seen very low prices by Celanese and  
11 DuPont. I remember there are dumping laws in China  
12 and they're looking at that seriously.

13 COMMISSIONER KOPLAN: Thank you for that,  
14 Mr. Perry. Anybody else?

15 (No response.)

16 COMMISSIONER KOPLAN: If not, I thank you  
17 for your responses to my question and I'll turn it  
18 back to you, Madam Chairman.

19 CHAIRMAN OKUN: Thank you. Mr. Walders, in  
20 your direct testimony and, also, in response to  
21 questions, you've gone through, in some detail, your  
22 response to the Petitioners' argument regarding Kure's  
23 intent for the North American market. But one thing I  
24 wondered is whether you have available or could submit  
25 a post-hearing brief, Kure, whether they had such

1 plans at the time of the acquisition, the Clariant  
2 acquisition, indicating its business plans for North  
3 America, Kure's business plans for North America.

4 MR. WALDERS: I'll inquire. I don't have  
5 that information, at this time.

6 CHAIRMAN OKUN: Okay. And I think with  
7 regard to the capacity increases, was there anything  
8 further you wanted to add on that, with regard to the  
9 allegations where Kure's capacity would be marketed?

10 MR. WALDERS: Well, as I said, there has  
11 been no indication, at this time, to expand capacity.  
12 And as to where that expansion would go, if it does  
13 take place, the only thing we can look at, at this  
14 time, is the record of Kure and before, as Clariant,  
15 in marketing this product, most of which has been  
16 focused on the European market. The sales to the  
17 United States, as you've heard today, are focused on  
18 narrow niche specialized markets. I know of no  
19 indication of any change in that pattern. And above  
20 all, given that KSC is a German company, located in  
21 Europe, with a primary market in Europe, it would make  
22 sense to assume that any expansion, should it occur,  
23 would be directed primarily at the European market.  
24 As for whether or not there might be some  
25 increased shipments to the United States in the

1 future, at this point, no one knows. But, as we all  
2 know, the Commission's decision on threat cannot be  
3 based on speculation. It must be based on evidence of  
4 a real and imminent threat. And I think there is no  
5 such evidence here.

6 CHAIRMAN OKUN: I appreciate those comments.

7 MR. SAEGER: Excuse me, I'd like to address  
8 that, as well. The rumor or the possible expansion of  
9 the plant goes back to pre-Clariant ownership, when  
10 Hurk Celanese owned that plant and it was expanded in  
11 1993 and 1995. So, there's been rumors of plant  
12 expansion that date back probably eight, nine years,  
13 about the addition of an additional production line.  
14 And while Clariant had the plant, if the plant was  
15 expanded, it was strictly for additional PVB  
16 production. Kure Specialties Europe, also, produces  
17 polyvinyl buterol and that is a very strong growth  
18 market in Europe, especially with legislation on  
19 architectural safety glass that's been designated in  
20 many countries. Buildings over a certain have to have  
21 architectural safety glass. So, they are strictly  
22 probably looking at that, if they were to expand the  
23 plant, for polyvinyl buterol production.

24 CHAIRMAN OKUN: I appreciate those comments.

25 And the other question I had, you may have addressed

1       it, I just may not have heard it, which was with  
2       regard to another of the press releases, which had to  
3       do with a new U.S. research and development facility  
4       and whether that would impact PVA sales in the United  
5       States by Kure.

6               MR. WALDERS: I read the article. I don't  
7       see the connection. Research and development is not  
8       production. R&D can be conducted anywhere in the  
9       world. I don't believe that the Petitioners have  
10      drawn any link between that development and any  
11      increase in imports into the United States from Japan,  
12      Germany, or anywhere else.

13             CHAIRMAN OKUN: Okay. Anything else you  
14      want to submit post-hearing on that, I would  
15      appreciate. Let me turn back, if I could, to you, Mr.  
16      Perry, on a couple of questions related to Sichuan,  
17      since, given how the record closing will go, we will  
18      have these staggered votes. And I wanted to ask you a  
19      couple of things. One is with regard to, we had  
20      engaged Mr. Greenwald this morning with regard to the  
21      legal issues regarding cumulation and how to treat the  
22      deminimus, at this point, product, and I wanted to  
23      know whether you had any further comments, based on  
24      what you've heard this morning. I know that this has  
25      been briefed, so I don't need to rehash that; but,

1 just in terms of anything you heard this morning you  
2 wanted to comment on.

3 MR. PERRY: Well, let me just counter a  
4 little bit. Mr. Greenwald believes the dumping margin  
5 will go up at the final. Obviously, we believe it  
6 will remain zero or diminimus. Couple of comments on  
7 that. Remember, high prices in the U.S. market result  
8 in one other thing, low dumping margins. High prices  
9 result in low dumping margins. That's a fact of life.  
10 If the prices are low, that's where you get higher  
11 dumping margins here. You have higher prices.

12 The most recent issuance from the Commerce  
13 department is probably the verification report of  
14 Sichuan Venlon Works, and the verification report, it  
15 was clean as a whistle. I mean, they couldn't find  
16 anything at Sichuan, so it's going to make it much  
17 more difficult.

18 I think the other problem for the Petitioner  
19 coming up at Commerce is, remember, we have had a  
20 prior case. In the prior case, Sichuan got a zero,  
21 and many of the arguments that the Petitioners  
22 attempted to raise here were already rejected by the  
23 Commerce Department in the first case. That case was  
24 appealed to the Court of International Trade. The  
25 Court of International Trade affirmed the Commerce

1 Department.

2 So it's going to make it more difficult for  
3 the Petitioner to get that margin up above diminimus.  
4 Now I'm here because, obviously, with the Commerce  
5 Department, you can't guarantee anything, but, if I  
6 were a betting man, I wouldn't bet on the Petitioner  
7 in this case.

8 How do you treat -- I mean, I think we're  
9 nonsubject at this point, and we're out. And that is  
10 the vase majority, not all of them, but the vast  
11 majority of the imports from China.

12 CHAIRMAN OKUN: Okay. Well, then let me  
13 just engage in a hypothetical with you because --  
14 again, because of the record closing, there's going to  
15 be limited time as this thing goes on to get  
16 information.

17 I mean, assume for purposes -- again, very  
18 hypothetical, that we continue to treat the Chinese  
19 material as subject, for purposes of going forward,  
20 but diminimus waiting for Commerce's final, that we  
21 went negative on the two countries that we will vote  
22 on first, but Commerce changes its mind -- not  
23 changed. I shouldn't say, "Changes its mind." My  
24 friends at Commerce would take issue with that -- but  
25 comes up with a different result at the end of the

1 day, and you're not diminimus, your client is not  
2 diminimus. What would be your position regarding  
3 cumulation with Korea at that point as well as the  
4 other issues?

5 MR. PERRY: Then they're out. I think it's  
6 a difficult --

7 CHAIRMAN OKUN: No, no. They're not.

8 MR. PERRY: I mean, if you've already  
9 reached a negative determination on injury on Korea,  
10 Japan, and Germany, and they're out, then they can't  
11 be cumulated anymore because they're no longer subject  
12 to investigation. I mean, I understand your problem,  
13 but --

14 CHAIRMAN OKUN: We still have Korea because  
15 --

16 MR. PERRY: Oh, Korea, yeah. So I would  
17 assume -- well, the other thing is whether the Korean  
18 are competitive with the Chinese imports or not. We  
19 would have to look into that, and let me reply to that  
20 in a post-hearing brief.

21 CHAIRMAN OKUN: Okay. That would be helpful  
22 to do that again as well as --

23 MR. PERRY: I mean, just one point. We have  
24 taken the position throughout, I mean, at the  
25 preliminary stage and the pre-hearing brief here, that



1 we don't compete with the Japanese or the Germans. I  
2 mean, our stuff is the lower end of the market.  
3 Theirs is much higher end.

4 CHAIRMAN OKUN: Right, which is the reason I  
5 asked that you address Korea, given that that could be  
6 one possible outcome.

7 MR. PERRY: Okay.

8 CHAIRMAN OKUN: Then the other thing, just  
9 staying with you and maybe going to Mr. Rabaglia for  
10 just his take on this, which is, you know, again, I  
11 mean, the data -- the details are confidential, but if  
12 we look at the staff report and look at imports from  
13 China and their trends in the fourth quarter of 2002,  
14 I wonder if you could comment on what you think is  
15 going on with Chinese pricing and import trends and  
16 why.

17 MR. PERRY: Well, they're going down, and  
18 one of the reasons why they're going down is the  
19 Chinese market is going like gangbusters right now.  
20 The reason why Celanese and Du Pont are exporting is  
21 demand is shooting through the roof in China. The  
22 reason is textiles. They have a huge, growing textile  
23 market in China. And, yes, we've even admitted, yes,  
24 SCW is adding capacity, and when we were there, we  
25 talked to them, and they said it's totally for the

1 Chinese market. Demand in China is really going up  
2 substantially, and that's one reason.

3 MR. ROMANO: There was also a publication  
4 that I read about a year ago. I believe it was Fred  
5 Chanslor that they stated that he was not through yet  
6 with polyvinyl alcohol and that they were still  
7 looking for another plant to purchase because of the  
8 increase of growth in the Asian community of polyvinyl  
9 alcohol. That would be a good indication on what type  
10 of growth is taking place there right now.

11 CHAIRMAN OKUN: Okay. Again, anything that  
12 hasn't been submitted on that would be helpful for the  
13 post-hearing brief. And I guess my final question on  
14 China would be, in the staff report there was a -- I'm  
15 trying to find it -- a footnote indicating the volumes  
16 that were the non-Sichuan volumes that -- with  
17 Commerce statistics, and I wondered if you agree or  
18 have any reason to disagree with those figures that we  
19 would have there as the non-diminimus --

20 MR. PERRY: Let me take a look at the  
21 numbers. I know it's pretty small. I mean, we  
22 represent most of it, but I know there's some other  
23 stuff out there.

24 CHAIRMAN OKUN: Okay. Thank you very much.  
25 And thank you again for all the responses to

1 my questions. Let me turn to Vice Chairman Hillman

2 VICE CHAIRMAN HILLMAN: Thank you.

3 I guess a quick follow-up on that is just to  
4 make sure I understand that, other than Sichuan, what  
5 are the largest -- do you know the largest producers  
6 of PVA in China, and would you anticipate competition  
7 from these firms in their sales to the U.S. market?

8 MR. ROMANO: I am familiar with the majority  
9 of the polyvinyl alcohol manufacturers in mainland  
10 China. I believe there is a total of 13 factories.  
11 There is only one factory that really produces a  
12 capacity that is a substantial type capacity comparing  
13 to a Du Pont or a Celanese or some of the other  
14 factories here, and that's Sichuan Ventalon Works.  
15 The other factories are all very small, and their  
16 products are really not manufactured for export  
17 purposes.

18 However, one thing that is very interesting,  
19 because I testified in the preliminary hearing, that  
20 both Du Pont and Celanese brought about this wave of  
21 polyvinyl alcohol that's sitting on the shoreline of  
22 China right now waiting to crash into the American  
23 market.

24 Well, when the first antidumping petition  
25 was lifted, there was, I believe, an almost two-year

1 period in which all other 12 factories could freely  
2 trade polyvinyl alcohol into America. Within that  
3 two-year period, if, perhaps two to five containers of  
4 polyvinyl alcohol came in during that period, that is  
5 a good indication on what type of role those factories  
6 play as export manufacturers of alcohol.

7 VICE CHAIRMAN HILLMAN: Okay.

8 MR. ROMANO: Five containers is less than,  
9 maybe, a hundred metric tons or a couple hundred  
10 thousand pounds in two years.

11 VICE CHAIRMAN HILLMAN: Okay. If it's not  
12 already on the record -- and I apologize that I didn't  
13 look at everything that came in in the post-conference  
14 briefs. If we don't have the information in terms of  
15 this number of these 13 facilities and any information  
16 that you have on those that's available to you, if  
17 you could submit it in the post-hearing brief, I would  
18 appreciate it.

19 MR. PERRY: We did take the Commission --  
20 Deborah and George sent us the foreign producer  
21 questionnaires. We have forwarded it on to the  
22 Chamber of Commerce for Chemicals in Beijing, and they  
23 have been designated by the government to form their  
24 responses and ask them to hand it out to the other  
25 foreign producers. I'll follow up and say that you're

1 looking for whatever you can get from them

2 VICE CHAIRMAN HILLMAN: Okay. No, we would  
3 very much appreciate it. Thank you.

4 I guess just a couple of questions to you,  
5 Mr. Malashevich. I just want to make sure I  
6 understand to some degree the import of your kind of  
7 statements. I guess, first of all, you persistently  
8 referred in your original testimony to this issue of -  
9 - that the imports are so small that they don't have  
10 any market power. That's not normally a term or a way  
11 in which the commission assesses volume in these  
12 cases.

13 I mean, obviously, in theory, the  
14 introduction of any additional supply, along with  
15 offers to supply more, could put downward pressure on  
16 prices regardless of this idea of market power. So  
17 I'm just trying to understand sort of how you define  
18 it and sort of from whence comes this notion that we  
19 should be looking at whether imports have market  
20 power.

21 MR. MALASHEVICH: There is a general notion  
22 -- and I'll try to get some academic references for  
23 you -- that the simple offering of product that is not  
24 backed by a credible physical supply will have a  
25 fleeting, as opposed to sustained, impact on the

1 market.

2           So, for example, our company does not  
3 perform audit services as the Big Four accounting  
4 firms do. We can hire five people tomorrow and  
5 undercut the auditing firms by 80 or 90 percent and  
6 send out fliers to all the companies in the United  
7 States that we have auditing services here, we have  
8 the capability to do this, and we could do it for 20  
9 percent of what the Big Four do. But we will, I  
10 suspect, have no takers, which is why we don't do it,  
11 because we don't have enough people, we don't have the  
12 background in it, et cetera.

13           So the Commission has considered this in the  
14 past, actually, in the early '90s steel cases, there  
15 was this theory that you have a boatload of steel in  
16 India coming across the ocean, and that has immediate  
17 impact on U.S. prices. And the Commission reject  
18 that, properly so, at the time because one boatload  
19 may affect a particular sale, but it's not sufficient  
20 supply to affect the market generally. That's what I  
21 mean by market power, a physical supply.

22           And the physical supply of the material that  
23 actually was delivered to the United States is too  
24 small to have market power sufficient to move the  
25 price generally as opposed to an isolated, anecdotal

1 transaction. And even in that regard, you'll see that  
2 the great majority of the lost sales and lost revenue  
3 allegations by value or quantity were not verified by  
4 staff.

5 VICE CHAIRMAN HILLMAN: I mean, I hear what  
6 you're saying, and I understand the point. I'm just  
7 not sure that this -- introducing this notion that  
8 somehow our volume analysis equates to some notion of  
9 market power is something that we would normally do if  
10 there's -- I mean, I understand what you've said.

11 Secondly, I just want to make sure I  
12 understand in your Appendix B materials that you've  
13 submitted here -- again, to some extent, I'm trying to  
14 make sure I'm squaring this with some of the arguments  
15 Mr. Greenwald was making because, obviously, you know,  
16 the argument is, if you just simply take out  
17 everything connected to export sales, it's not clear  
18 to me how you take into account the -- if you will,  
19 the capacity utilization need, I mean, that you can't  
20 just withdraw out everything connected to export sales  
21 without having an effect on what the total capacity  
22 utilization of a facility would be.

23 So I'm trying to understand how you take  
24 into account the beneficial effect on the industry or  
25 the fact that these additional export sales help

1 spread their fixed costs over a larger base. It's not  
2 clear how, when you've just simply taken this out,  
3 you've dealt with this issue of their need to spread  
4 over a large amount of fixed cost.

5 MR. MALASHEVICH: Well, the answer to that  
6 in a couple of ways -- first of all, understand that  
7 this is one part of the exhibit. There is a very  
8 detailed description in the mechanics involved in  
9 arriving at these numbers that was intended to allow  
10 staff or anybody else to duplicate our work.

11 Secondly, the Commission, I guess -- we are  
12 not intending to evaluate the profitability of each  
13 business segment standing alone. It's the  
14 contribution of each business segment to the total  
15 operations of the industry. And, furthermore, there  
16 have been a lot of cases in the past where there has  
17 been market segmentation discussed, and the Commission  
18 has looked at various indicia of the industry's  
19 operating performance in the segment where there are  
20 no imports and in the segment where imports are  
21 concentrated.

22 You've done that. I mean, the Commission  
23 has done that with price data, it's done that with  
24 shipment data, it's looked at market shares and tried  
25 to see if there is a relationship between,



1 hypothetically, where -- in a segment where the  
2 imports are concentrated and the behavior of prices in  
3 that segment versus the behavior of prices in a  
4 segment where they are not concentrated.

5           What we are doing is entirely consistent  
6 with methods the Commission has applied in the past,  
7 and it seems to me fairly obvious that, if there is  
8 injury owing to the subject imports and if that  
9 industry is causing distressed financial performance,  
10 then you will see that in the behavior of prices  
11 relative to cost in the segment of the market  
12 competing most directly with subject imports, but you  
13 don't see that here.

14           VICE CHAIRMAN HILLMAN: Well, I guess I  
15 could at least understand it as your rationale for  
16 taking out the data related to PVA sold in to the PVB  
17 market on the argument that, to the extent that you  
18 can show that that is an isolated market -- I'm not  
19 sure you can, but, nonetheless, just say you could. I  
20 could at least understand your saying, "Okay. Imports  
21 are not competing in the PVB segment of this market,"  
22 assuming, for purposes of argument that there is such  
23 a segment, and we segment it out.

24           I do think that's very different though from  
25 taking out exports. I mean, again, I'm not sure I'm -

1 - I don't think the same exact logic holds in terms of  
2 why one would look at this differently and take out  
3 exports. And, again, it does, to me, raise this issue  
4 of how you're treating fixed costs.

5 MR. MALASHEVICH: Well, let me answer that  
6 in two ways. First of all, you heard the testimony  
7 earlier today that the mix of what the companies  
8 exports are basically the same as what they sell here.  
9 So, you know, the average unit -- you've got the  
10 average unit cost associated with those as they  
11 testified earlier also would be the same.

12 So, generally, if you're doing this kind of  
13 analysis, it would have a problem if you had a very  
14 different product mix, if you have very different  
15 costs. But there is testimony on the record from the  
16 preliminary phase of this investigation as well as in  
17 the final phase of this investigation that they export  
18 and sell domestically the same stuff that costs the  
19 same to produce. And, under those circumstances, this  
20 is an entirely legitimate method of examining and  
21 measuring the contribution of both.

22 Now on the element of fixed costs, I suppose  
23 you could do that, and we'll take a look at it, but  
24 the Commission never does it itself. For example,  
25 when you have -- you've considered cases involving

1 steel bar and wire rod. They're largely produced on  
2 the same equipment. An allocation is made based upon  
3 the product mix of what's sold.

4 So virtually any case the Commission has  
5 where operations of the relevant establishment produce  
6 things in addition to what is subject to  
7 investigation, you allocate the cost and sales  
8 precisely as we have done in this appendix. So if we  
9 have done something wrong here, the Commission has  
10 been doing something wrong for many, many years.

11 VICE CHAIRMAN HILLMAN: Well, I mean, again,  
12 I hear your answer. I mean, again, to the extent that  
13 the Commission has done this, we have tried to look at  
14 whether -- you know, at those places where there is  
15 competition, particularly, price competition. I do  
16 not believe that we have then tried to sort of take  
17 this down to the notion of, you know, rewriting profit  
18 and loss statements to try to figure out if you, you  
19 know, hypothetically, were not in this line of  
20 business and were only in some other line of business,  
21 what would it be.

22 I mean, I don't -- again, I understand our  
23 analysis in terms of looking at where we thing prices  
24 are segmented across a particular market. I  
25 understand your argument. I just want to make sure I

1 understood the nature of the testimony.

2 MR. WALDERS: I would just like to add one  
3 point, Commissioner Hillman, and that is -- I guess  
4 it's an obvious one. Exports and imports don't  
5 compete. And, if, as the information shows, the  
6 impact on overall profitability is heavily influenced  
7 by the export performance of domestic producers, that  
8 can't be attributed to competition from subject  
9 imports.

10 VICE CHAIRMAN HILLMAN: I understand the  
11 point. Thank you very much.

12 CHAIRMAN OKUN: Commissioner Miller?

13 COMMISSIONER MILLER: I have no further  
14 questions. I was just watching to see if -- it looked  
15 like somebody else wanted to respond to Vice Chairman  
16 Hillman's last question. But, if not, then I have no  
17 further questions, so thank you.

18 CHAIRMAN OKUN: Commissioner Koplan?

19 COMMISSIONER KOPLAN: I don't think I do. I  
20 just want to check with Tom. Tom says I have no  
21 further questions. Thank you very much.

22 CHAIRMAN OKUN: For the rest of your tenure?

23 COMMISSIONER KOPLAN: No, I won't stipulate  
24 to that, not a chance.

25 CHAIRMAN OKUN: Seeing no further questions

1 from my colleagues, let me turn to the staff to see if  
2 staff has questions of this panel.

3 MS. ALVES: This is Mary Jane Alves from the  
4 General Counsel's office. I'd like to ask  
5 Respondent's counsel to specifically address in each  
6 of their briefs -- although I recognize that they may  
7 not necessarily be issues to you, I would be  
8 interested in knowing all of your responses with  
9 respect to the legal issues in this case.

10 Specifically, I would particularly like  
11 response as to whether or not there is more than one  
12 domestic like product at issue in this case, your  
13 positions regarding captive production and whether or  
14 not the statutory factors and the threshold have been  
15 met, the issue of negligibility, the issue of whether  
16 or not the imports from Sichuan Cenepec are or are not  
17 subject or nonsubject imports, and your reponse to the  
18 related party analysis.

19 Because of the record-closing component in  
20 these staggered investigations, it would also be  
21 helpful if you could distinguish, where possible, how  
22 changes in Commerce's final determinations would be  
23 impacted with respect to any of these legal issues as  
24 well.

25 MR. WALDERS: Could you repeat that last

1 question, please?

2 MS. ALVES: Because of that fact that the  
3 investigations have been staggered at the Department  
4 of Commerce, to the extent that the answers to these  
5 questions would differ with respect to any changes in  
6 Commerce's final determination, i.e., non-de minimis  
7 margin, for example --

8 MR. WALDERS: With respect to this  
9 investigation?

10 MS. ALVES: If your answers would, for  
11 example, the 10 in the subsequent case.

12 MR. WALDERS: Very well.

13 MR. DEYMAN: I'm George Deyman, Office of  
14 Investigations. The staff has no further questions.  
15 Thank you.

16 CHAIRMAN OKUN: Thank you.

17 Mr. Greenwald, do you have questions for  
18 this panel?

19 MR. GREENWALD: No questions.

20 CHAIRMAN OKUN: I again would like to thank  
21 all the witnesses for appearing here today, very much  
22 appreciate all the testimony you have given.

23 Let me go over the time allocations before  
24 the panel is dismissed. For petitioners, you have 33  
25 minutes or actually 34 minutes remaining from your

1 direct, including five minutes for rebuttal, for a  
2 total of 38 minutes. Respondents, you have 16 minutes  
3 left for rebuttal and five minutes for closing for a  
4 total of 21 minutes.

5 And Mr. Greenwald, how will you proceed?

6 MR. GREENWALD: If you would give me five  
7 minutes of the 38 minutes to think, I would very much  
8 appreciate a five-minute recess. You can take it out  
9 of my time.

10 CHAIRMAN OKUN: No, you're a much quicker  
11 thinker than that. How much are you going to use?

12 MR. GREENWALD: I can't imagine using more  
13 than 10 to 15 minutes. I think it's probably going to  
14 be less.

15 CHAIRMAN OKUN: Okay, if we take a five-  
16 minute recess, we will come back to Mr. Greenwald's 10  
17 minutes rebuttal and closing.

18 And Mr. Walders, for you?

19 MR. WALDERS: I don't think I will be taking  
20 any more time than Mr. Greenwald, but I also would  
21 like think about it.

22 CHAIRMAN OKUN: Okay. Well, you have the  
23 same five minutes, not an extra five. All right, we  
24 will stand in recess for five minutes. Think fast.

25 (Whereupon, a short recess was taken.)

1 MS. ABBOTT: Could everyone be seated,  
2 please?

3 CHAIRMAN OKUN: We will resume with Mr.  
4 Greenwald's closing and rebuttal. Mr. Greenwald, are  
5 you going to come to the podium?

6 MR. GREENWALD: If you insist.

7 CHAIRMAN OKUN: Well, I would appreciate  
8 that as well.

9 MR. GREENWALD: Thank you very much. John  
10 Greenwald from Cutler & Pickering for petitioners.

11 What I am going to try and do in the next 10  
12 minutes or so is take stock of the testimony and note  
13 areas where there is agreement, perhaps also some  
14 comment on areas where I think that the weaknesses in  
15 some of the respondents' arguments have been exposed,  
16 and I want to do this by taking each issue before you  
17 serially.

18 The first is the cumulation. There was an  
19 awful lot said about cumulation. It took up a lot of  
20 time. But in fact the more that was said by  
21 respondents the stronger the cumulation case became,  
22 and let me give you specifics.

23 Mr. Walders, I think, in response to a  
24 question said publicly that Kuraray is in fact in the  
25 textile sector. That contradicts the argument that



1 they are not in the low end. I think the record, to  
2 some extent, details this, and here I would like to  
3 turn to staff.

4 One of the thing that I think staff has to  
5 do in looking at this testimony and then looking at  
6 what is fact is on the confidential record is check  
7 the sectors that it says people are present in, and  
8 make sure that it comports with what the testimony  
9 showed. Let me just give you an example.

10 If for whatever reason a respondent selling  
11 to sector X, which is one of your enumerated sectors,  
12 were to say that it's in that other category,  
13 something is wrong and that record should be  
14 corrected. And I believe that as you look at your own  
15 records and your various cumulation charts there is an  
16 important correction that has to be made.

17 Similarly, on the pricing data. Now, this  
18 gets into a little bit to injury and causation, but  
19 similarly on the pricing data. If Mr. Walders is  
20 right, and I assume he is, that Kuraray is in the  
21 textile business, then you ought to make sure that if  
22 the product that is sold is within one of the product  
23 categories on which you have asked for information,  
24 and it's not in fact there, there is a problem that  
25 ought to be corrected.

1                   So we're talking here about cumulation. I  
2 think given the admission of my friend Mr. Walders you  
3 also need to check some of the things on the record,  
4 and you -- well, what you will also find, I think the  
5 testimony is very clear, that in fact Korea is in the  
6 textile segment, that China is in the textile segment,  
7 et cetera, et cetera, et cetera.

8                   Then with regard to Germany, the testimony  
9 that was given was actually very clear. It was given  
10 by -- I wish I were better at names -- the gentleman  
11 from Clariant, Mr. Saeger. And he spoke about highly  
12 specialized grades. In fact, what happened in this  
13 investigation is, I believe, Clariant or Kuraray,  
14 both, suggested products in the paper sector. I think  
15 the products 5 and 6 that are in fact relatively  
16 specialized. There are rough U.S. equivalents so they  
17 are not excluded. But that's not the business that  
18 Clariant is in, and that was a misimpression.

19                   Now, why can I say with confidence that  
20 that's a misimpression? Because one of the things  
21 that Mr. Saeger said actually confirmed one of the  
22 points that DuPont has made, and that is, that very  
23 recently a producer of paper, a paper customer that  
24 has bought from DuPont immediately went to Clariant in  
25 the face of DuPont's disclosed price increase. The

1 amounts at issue are not small.

2 Our intelligence about the Clariant price  
3 offer was that they were perfectly prepared to  
4 undercut the DuPont price and the price increase, and  
5 whether that -- you know, I don't have any independent  
6 verification of that, but it is very clear that  
7 Clariant is not in this high-grade special paper  
8 market, the segment of the paper market exclusively.

9 I would also urge you to look at the other  
10 areas where Clariant -- if any -- where Clariant  
11 report sales, because it seems to me the discussion  
12 was solely around paper. In fact, that was  
13 disingenuous. There is a lot more going on.

14 Finally, I read Mr. Saeger's testimony, and  
15 he said going forward Clariant is limiting to a very  
16 narrow area, and that's probably right insofar as  
17 Clariant is concerned. The unspoken part of that what  
18 is Kuraray doing. Kuraray now own the Clariant plant.  
19 And are they bringing in more commodity grade  
20 products? I suspect the answer to that is yes, if  
21 only by the way in which the testimony was drafted.

22 So on cumulation, I think that when you  
23 parse through and you listen carefully to what was  
24 said a lot of the protestations, the reasons -- the  
25 protestations about how inappropriate it is to

1 cumulate -- you will find it to be pretty empty.

2 A minor point, I am not going to quarrel  
3 over lawyers' issues. It is unfortunate that Korea  
4 was not here and did not articulate to you exactly  
5 what it is doing. But in the world we live in there  
6 should be an adverse inference there.

7 Then with regard to injury, there really  
8 wasn't much question about injury. It is true that  
9 respondents have raised questions about the  
10 financials, and the Commission has asked, and they are  
11 all good questions, and they have to be answered in  
12 confidence. But more broadly, what the respondents  
13 were doing, were not saying this is not an industry  
14 that is not injured. Rather, what they were doing was  
15 saying this is an industry that is not injured by  
16 imports into the United States. So it's essentially a  
17 causation argument.

18 The first point they make is that the  
19 problem is exports. And when you look at the  
20 financials, and you somehow disaggregate exports,  
21 everything in fact is fine. The exchange between  
22 Commissioner Hillman and Mr. Malashevich was right on  
23 Commissioner Hillman's end and less than robust on Mr.  
24 Malashevich's end.

25 In fact, when he said, somebody said, it's a

1 wonderful statement, "Exports and imports don't  
2 complete." Well, okay, I mean, you can accept that.  
3 But in fact if you're looking at export markets, what  
4 you find is not only is there a presence of Kuraray  
5 and the Chinese, and Kuraray Germany, and the Korean,  
6 in fact they are the predominant suppliers in those  
7 markets. So to the extent there is anything  
8 instructive to be gained about export markets, it's  
9 that. Without the discipline of an antidumping order  
10 there is no conceivable way that the U.S. industry can  
11 survive at what it needs to essentially justify its  
12 economic existence, and if that ever comes to the  
13 United States the industry is as good as finished.

14 But let me go now to sort of more, more  
15 specifics or the more traditional causation factors,  
16 and let me first start with -- again, sometimes I wish  
17 I were an economist because I could use phrases like  
18 "market power" with authority, and I really can't, but  
19 let me try and understand what the argument was.

20 Mr. Malashevich concluded that because he is  
21 not competing with Arthur --

22 MR. MELTZER: They are gone.

23 MR. GREENWALD: Whoever the Big 5 are --  
24 Price Waterhouse -- whoever the Big 5 are, therefore  
25 Kuraray doesn't have any market power with regard to

1 DuPont and Celanese. I mean, you know, get real.  
2 There are some arguments that are entertaining to  
3 listen to, and then there are arguments that are --

4 MR. MELTZER: That are better not made.

5 MR. GREENWALD: -- better not made. And Mr.  
6 Meltzer is right. If you are looking at a Big 5  
7 analogy you can put DuPont there, you can put Celanese  
8 there, that's true. You also have to put Kuraray  
9 there, you have to put Sichuan there, you have to put  
10 the Koreans there.

11 So the notion that somehow the volume of  
12 imports translates into the lack of market power  
13 doesn't really ring very true.

14 At this point let me go to the testimony of  
15 Solutia. Everyone of us agrees that there are not a  
16 whole heck of a lot of imports of PVA for PVB. We  
17 don't dispute that, and certainly Solutia doesn't.  
18 But when the exchange came, did you or do you use  
19 competitive offers, competitive prices from foreign  
20 suppliers in your negotiations with DuPont and  
21 Celanese?

22 The answer was, in my sort of -- as I heard  
23 it, of course, we do. That's what you do in business,  
24 and that's true.

25 When Kuraray or Nippon Gossi supplies

1 Solutia Europe and Solutia says to DuPont you better  
2 have a price that is competitive if you want to keep  
3 our business. It may very well be that all the people  
4 at Solutia go back and say, ha-ha-ha-ha, boy, we were  
5 just kidding. But the phrase that was used in the  
6 testimony, again when you parse the language, is,  
7 well, DuPont may have had the perception that that was  
8 serious, and in fact, of course, they do. They have  
9 to, and it happens in sector after sector after  
10 sector.

11 The notion that there must be a quantum of  
12 sale to have that sort of price impact when in fact  
13 the people you are talking about, if I can use Mr.  
14 Malashevich's own characterization, a world class  
15 supplier is nonsense. What you have is offers.

16 The testimony on our side was that for the  
17 most part DuPont throughout the period, and Celanese  
18 later in the period made a conscious decision to keep  
19 operating at high capacity. Celanese departed from  
20 that when it had disastrous result. In order to do  
21 that DuPont and Celanese cannot afford to ignore  
22 credible offers that are given to them by their  
23 customers.

24 When whoever the customers in the paper  
25 business goes to see Kuraray or Clariant, whoever it

1 is in Germany, and gets a quote, DuPont, which is  
2 trying to get a price increase through because there  
3 are these higher costs, cannot say we can ignore it.

4 So, so far it seems to me that in terms of  
5 the basic testimony both by Solutia and by the Germans  
6 support the essence of what DuPont and Celanese have  
7 been saying. The rise in imports from Korea, from  
8 Japan, from Germany, I suspect did not come entirely  
9 at the expense of the United States. In other words,  
10 I do not believe that every single account that bought  
11 from one of these producers the displaced supplier was  
12 a U.S. producer.

13 On the other hand, I do believe, and I think  
14 the testimony confirms without contradiction, that in  
15 this market prices get out. Let me use textiles as an  
16 example. The truth of the matter in textiles is that  
17 there are companies like Millikan that have U.S.-  
18 source preference, and that's very clear. It is  
19 equally true that companies like Millikan know what  
20 their competitors are getting from compounders, and  
21 that whatever that price is is the price that  
22 Millikan, citing foreign producer prices, throws at  
23 the U.S. industry. And they have a choice of meeting  
24 or not meeting that competition.

25 Finally, a couple of points that are sort of



1 -- yes, as to cost, the testimony by respondent was  
2 unequivocal on rising costs. I know the number that  
3 you are looking at in your staff report, but something  
4 there is wrong, and I'm not quite sure -- I mean, I've  
5 got to go back and find that out. But you have heard  
6 from us and from respondents that in fact, yes, costs,  
7 material costs have gone up, the energy problem  
8 flowing through the system.

9 This does lead to a cost/price squeeze and  
10 this goes to, finally, my sort of last point, I have  
11 probably gone on more than 10 minutes. Yes, okay.  
12 Give or take a few. Which as to --

13 COMMISSIONER KOPLAN: We're counting.

14 MR. GREENWALD: -- do with threat. Let me  
15 just summarize. Things that everybody agrees to,  
16 everybody agrees that prices offshore are lower in the  
17 U.S. market. Nobody can make money at those prices,  
18 and the issue of survivability is who can lose the  
19 most, not who can make the most. Don't forget that  
20 the margins that Commerce found against Kuraray Japan,  
21 Kuraray German, Nippon Gossi were all sales to low  
22 cost margins. They basically dropped out of the  
23 investigation.

24 So what you have in this situation is too  
25 much supply chasing too little demand. It is, you

1 know, sort of Basic Econ 101. Then supply is coming  
2 into the United States. In many ways my job would be  
3 a lot easier if the imports had rise to 10 percent  
4 rather than whatever percent, or 20 percent. They are  
5 talking about imports this small. We know the  
6 numbers.

7 But this industry can't wait. It is not  
8 able to absorb losses on the scale that -- their  
9 performance -- let me say performance, and certainly  
10 in the future it cannot continue under current  
11 conditions.

12 Now, finally, with regard to pricing and  
13 price underselling, and here I promise you I will  
14 close, but I want to talk to both the Commission and  
15 the staff, there were confidential handouts referred  
16 to by Mr. Walders and Mr. Malashevich on pricing.  
17 There are differences between the universe of prices  
18 that were supplied by respondents in the preliminary  
19 phase of this investigation and in the final.

20 We don't know why there are those  
21 differences but there are. So I would ask the staff  
22 will have to go through the confidential record and  
23 explain the differences, and explain why there are  
24 changes that people made to their questionnaire  
25 responses, or the like.

1                   But it is a serious issue and there are  
2                   questionnaire response gaps, if you will, or changes,  
3                   whatever, that need to be addressed.

4                   The universe of prices that you have in the  
5                   product-specific analysis less than we would like. It  
6                   will be more when the record is corrected. There are  
7                   some products, especially the ones selected by counsel  
8                   for Kuraray, where, you know, it shows what they want  
9                   to show but not in enough quantity to matter, and  
10                  there are other areas where in fact the price  
11                  underselling is clear and is evident, and in fact to  
12                  my mind sustains the basic proposition with regard to  
13                  Kuraray that they made a conscious decision to change  
14                  their marketing strategy to get into commodity grade  
15                  products, and that's what the future holds.

16                  If this Commission decides no, I can predict  
17                  to you that within a matter of months, if not -- you  
18                  know, or a year, this industry will have no choice but  
19                  to come back because the only thing that is different  
20                  between the U.S. market and the offshore market, and  
21                  everybody agrees prices are not at a sustainable  
22                  level, is in fact the existence of U.S. antidumping  
23                  laws.

24                  Thank you.

25                  CHAIRMAN OKUN: Thank you.

1                   Now I'll turn to Mr. Walders.

2                   MR. WALDERS: Thank you, Madam Chairman.  
3 I'm going to yield some of our time to my colleagues  
4 here who have important statements to make on behalf  
5 of Solutia and Clariant.

6                   CHAIRMAN OKUN: Okay.

7                   MR. CANNON: This morning we heard a lot  
8 about tweaking, tweaking physical characteristics.  
9 You need to know that a tweak of 25 parts per million  
10 in chemistry makes the PVA unable to adhere to glass  
11 when you're making PVB an unusable. These very slight  
12 physical differences make a lot of difference.

13                   More importantly, we heard about markets  
14 that are distinguished by their use. This case has  
15 been defined around these different markets and use  
16 looms very large in this case now. The top five of  
17 the 15 products that were excluded were not  
18 copolymers. They were excluded by their end use. And  
19 to be excluded you had to sign a certificate we  
20 promise we will only use it in this market. So the  
21 petitioners chose use to define their case, PVA used  
22 for PVB merits your consideration on that basis.

23                   Secondly, I want to address the one offer,  
24 the September negotiation. The Commission has never  
25 found injury in any market or case or segment on one

1 offer. I had a petitioner, a client, an engineer,  
2 Erbo Processors from Japan, we had one sale. We got  
3 an affirmative decision from the Commission. It was a  
4 \$20 million sale. But there has been no case with one  
5 offer.

6 And there was no lost sale here as a result  
7 of this discussion, and you know when business people  
8 talk about price negotiations there will be multiple  
9 sources of information. What has not been said here  
10 is that we are a producer of PVA. We know what it  
11 costs. When Celanese and DuPont come to us and say,  
12 we want to raise the price, we can look them in the  
13 eye and say, you know, we make PVA. We know whether  
14 your raw materials are going up or your energy costs,  
15 and we work with them when that happens. So this is a  
16 more complex scenario than I can get a lower price  
17 from one supplier.

18 Lastly, I would like to talk about what is,  
19 I guess, the -- it's the argument that we raise that  
20 actually drew the adjective of being silly or  
21 preposterous. It's the argument that no financial  
22 analyst would exclude export performance. Of course  
23 not. The Commission is not a body of financial  
24 analysts. You're executing a statute.

25 In the '94 legislative history and the '79

1 legislative history, both, Congress said that you  
2 should not attribute to subject imports effects that  
3 are from other sources.

4 Now, I'm not talking about weighing causes.  
5 I'm talking about focusing on subject imports.  
6 Because that is what the dumping law is about. The  
7 dumping law does not exist to rescue DuPont and  
8 Celanese for overbuilding capacity, and that's what  
9 they have. They have more capacity in the United  
10 States than they need to serve this market. They are  
11 exporting one-third of their production based on the  
12 public figures, and you can see the actual numbers in  
13 the record.

14 And the U.S. as a whole is a net exporter.  
15 They are exporting more than we import. So in this  
16 case, unlike most cases before the Commission, you  
17 shouldn't ignore the impact of those exports on their  
18 financial condition.

19 Thank you.

20 MR. McGRATH: Good afternoon again. Matt  
21 McGrath on behalf of Clariant, and there were just a  
22 few points I would like which really go to the issue  
23 of cumulation that we discussed all afternoon, and  
24 which is important to your analysis of Germany in this  
25 case.

1                   Among the many comments that were made  
2 throughout the testimony this morning, certainly again  
3 and again I think you heard emphasis on where Celanese  
4 and DuPont run into cheap, large quantities of  
5 commodity-grade product in the market, where they are  
6 hearing quotes in competition that have to do with  
7 textiles and adhesive. Oh, yes, and paper, let's not  
8 forget paper.

9                   I think it was very revealing, paper has  
10 always been an afterthought, and is even more so in  
11 this case now that we're down to subject countries  
12 which really are not the major impact. I think at the  
13 end of testimony this morning Mr. Greenwald very  
14 frankly admitted that the dumping order against these  
15 countries, this wouldn't do the trick. What they are  
16 really interested in is China and Korea. They are  
17 interested in something else, and they are interested  
18 in the possibility that Clariant and Kuraray which is  
19 connected somehow or other with a bunch of different  
20 countries might become a problem in the future because  
21 of their presence and because of their size. So  
22 that's really how kind of the gnat of Germany gets on  
23 this elephant of a case.

24                   The fact is German volume is extremely low  
25 even if we do find a product for price comparison

1 between Germany and products in the U.S. that are  
2 somewhat close to those specifications but not exactly  
3 the same end use. You're still not going to see a  
4 very high volume no matter what you look at. That's  
5 because there just isn't -- there isn't that much in  
6 the market.

7 One piece of testimony that was offered this  
8 morning, Ms. McCord discussed one customer -- we will  
9 try to deal with this in detail in the post-hearing  
10 brief -- one customer which she said there was a lower  
11 offer, and then Mr. Greenwald again just made  
12 reference to it just now, and that it involved a large  
13 volume.

14 Our understanding, while we may differ what  
15 the volume was, but this once again, I think,  
16 highlights the reason why we caution against using too  
17 much of the very narrow, a couple of little pieces of  
18 anecdotal information in trying to evaluate this.

19 That particular customer that we think we're  
20 talking about here is one that buys lots of other  
21 paper chemicals from Clariant. Clariant sells to them  
22 and is working with them on other things. In the  
23 course of their work with other customers, PVA  
24 occasionally comes up. That was the nature of how  
25 this happened. It wasn't a situation where an



1 importer was going around and shopping a lower price  
2 to another U.S. customer.

3 And at the end of the day, if we have the  
4 right situation, Clariant ended up no agreeing to  
5 offer that price anyway. There was a small amount  
6 that was taken for qualification and that was the end  
7 of it.

8 Another point that had been made was that  
9 the petitioners here felt that they had to take large  
10 price cuts in order to keep quantity going, keep  
11 volume going in their plant since capacity utilization  
12 and keeping that utilization high is critical to their  
13 success, or to their staying in business.

14 And again, all the examples given had to do  
15 with the necessity of taking lower prices in order to  
16 maintain volume, significant volumes, that accounts  
17 that dealt with textiles and adhesive and other end  
18 uses.

19 Mr. Laub did indicate right off the bat that  
20 paper holds the highest price, and that's not what  
21 they are talking about when they say taking big price  
22 cuts in order to keep capacity high.

23 And finally, Mr. Greenwald did make  
24 reference to the fact that Clariant has decided to  
25 focus its efforts in the future for German product on

1 the paper market. The only question you are left with  
2 then that Mr. Greenwald leaves you with is what will  
3 Kuraray do, and all the Commission can really do is  
4 look at the record it has. There is no evidence that  
5 Kuraray has any sort of master plan on its German  
6 plant into a new platform for shipping commodity-grade  
7 chemicals to the United States.

8 Theoretically, any producer of PVA in the  
9 world could make a commodity-grade product, but that  
10 doesn't meet the economics of this particular market,  
11 and of that particular production, and of that market  
12 in Europe which is the base for that plant, as it is  
13 now, and the only product that comes here is focused  
14 on the specialty paper market.

15 So I conclude just by saying once again that  
16 I think the factors are here for not cumulating  
17 Germany with the other countries. Even if you do  
18 cumulate, I think the numbers are pretty strongly in  
19 favor of a negative finding.

20 MR. WALDERS: Thank you. I would like to  
21 just express a truism, which is that the Commission's  
22 decision in this case, as in every case, has to be  
23 based upon substantial evidence in the record of the  
24 investigation. I can sympathize with Mr. Greenwald  
25 because he is lacking that substantial evidence to

1 support his claims of injury and causation, and  
2 instead what he has given us is speculation, anecdotes  
3 and quarrels with the staff report.

4 For example, the allegation that Kuraray is  
5 now bringing in commodity product from Germany, where  
6 does that come from? Where is the evidence? He said  
7 so. But where is the evidence? Where does the record  
8 support it? Certainly not the record that has been  
9 developed in this case. The record, as we have shown,  
10 is quite to the contrary.

11 What comes in from Germany is specialized  
12 product that does not compete with other imports and  
13 barely competes at all with domestic products, and is  
14 certainly not a commodity product.

15 Mr. Greenwald said there is not much  
16 question about injury here. Well, I beg to disagree.  
17 There is a considerable question about whether this  
18 industry is in fact injured, and we have pointed out  
19 the questions and the conclusions that should be drawn  
20 in our brief when you analyze the individual  
21 profitability of each of the companies who are  
22 petitioners before you.

23 The other issue that I find very difficult  
24 to follow is Mr. Greenwald's statement that because  
25 prices are low in export markets, therefore there will

1 be a flood of imports into the United States at lower  
2 prices.

3 I don't see how that follows. The market  
4 conditions, the conditions of competition, the  
5 exchange rates, and many other factors in foreign  
6 markets are quite different than they are in the  
7 United States. As we all know, a finding of threat of  
8 injury must be based on evidence that the threat is  
9 real and imminent, and what we have here is mere  
10 conjecture, and I would submit empty rhetoric. There  
11 is no link between what is going on in export markets  
12 and what might happen here. What might happen here  
13 depends on market conditions in this country.

14 Mr. Greenwald said that his job would be  
15 easier if the market share of subject imports were  
16 higher. I can understand and sympathize. The fact is  
17 the market share is much lower. It is so low, it is  
18 so insignificant that it could not be a cause of  
19 injury or threat of injury.

20 Mr. Greenwald probably also feels that his  
21 job would be easier if China were included in this  
22 investigation. The fact is that China is not subject  
23 to this investigation. No matter what his speculation  
24 may be as to what the Commerce Department will do in  
25 the future China is not subject imports. He may try

1 to characterize it as being a condition of  
2 competition, but the key issue for the Commission is  
3 causation.

4 The courts have said repeatedly that you  
5 must find a causal link between subject imports and  
6 injury, and that you may not attribute to subject  
7 imports injury that some other causes, including most  
8 particularly non-subject imports, and in that respect  
9 I would include Taiwan as well. It is noteworthy that,  
10 unlike the previous investigation, this time Taiwan is  
11 not named as a respondent. It doesn't require any  
12 speculation at all to conclude why that is the case.  
13 You heard the testimony today from an importer from  
14 Taiwan who is on the side of the petitioners. You  
15 also know the petitioners themselves have a strong  
16 interest in imports from Taiwan.

17 Let's look at the record, not at the  
18 speculation, look at the facts, follow the law with  
19 respect to causation, and we are confident that you  
20 will find that there is no evidence, no substantial  
21 evidence on the record of injury or threat of injury  
22 from subject imports.

23 Thank you.

24 CHAIRMAN OKUN: Thank you. Post-hearing  
25 briefs, statements responsive to questions and

1 requests of the Commission and corrections to the  
2 transcript must be filed by May 15, 2003. Closing of  
3 record and final release of data to the parties is May  
4 30, 2003, and final comments are June 3, 2003.

5 I note that in addition parties may submit  
6 additional comments on Commerce's final determinations  
7 with respect to China and Korea not later than close  
8 of business on August 18, 2003.

9 With no other matters to come before the  
10 Commission, this hearing is adjourned.

11 (Whereupon, at 4:15 p.m., the hearing in the  
12 above-entitled matter was adjourned.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Polyvinyl Alcohol from China  
**INVESTIGATION NO.:** 731-TA-1014-1017 (Final)  
**HEARING DATE:** May 8, 2003  
**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:** May 8, 2003

**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:** Maria Hester  
Signature of Court Reporter