UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	Investigation Nos.:
	)	731-TA-1146-1147
HEDP FROM CHINA AND INDIA	)	(Preliminary)

Pages: 1 through 149

Place: Washington, D.C.

Date: April 9, 2008

HERITAGE REPORTING CORPORATION
Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888

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Wednesday,
April 9, 2008

Room No. 101
U.S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:30 a.m., at the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

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Staff:

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P R O C E E D I N G S

(9:38 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of antidumping investigation Nos. 731-TA-1146-1147 concerning imports of HEDP From China and India.

My name is Robert Carpenter. I'm the Commission's Director of Investigations, and I will preside at this conference. Among those present from the Commission staff are, from my far right, Douglas Corkran, the supervisory investigator; Nate Comly, the investigator; on my left, June Brown, the attorney/advisor; Jim Fetzer, the economist; David Boyland, the auditor; and Stephen Wanser, the industry analyst.

I understand the parties are aware of the time allocations. I would remind speakers not to refer in your remarks to business proprietary information and to speak directly into the microphones. We also ask that you state your name and affiliation for the record before beginning your presentation.

Are there any questions?

(No response.)

MR. CARPENTER: If not, welcome, Mr. Levin.

Please proceed with your opening statement.

MR. LEVIN: Thank you. Good morning. My name is Jeff Levin, and I am with the law firm of Saul Ewing. I have the pleasure of hosting today Mr. Daniel McCaul, the president of Compass Chemical International, and Mr. Brian Failon, the vice president for Business Development & Technology for Compass Chemical.

Compass Chemical is headquartered in Huntsville, Texas, and has its HEDP production plant in Smyrna, Georgia. It is the last and sole surviving U.S. manufacturer of HEDP. It is the domestic industry.

In a few minutes, Mr. Failon will describe for you the product, its manufacturing processes and its uses. Mr. Failon and Mr. McCaul will walk you through what they as the sole domestic producer see in the marketplace today, and they will outline their bases for this very important petition.

Compass Chemical respectfully asserts that dumped imports of HEDP from China and India are a cause of material injury to the domestic industry and threaten the industry with material injury. Over the past several years, dumped imports from the subject countries have increased by way of extremely low

prices, often below the cost of manufacture of U.S. producers then and now.

This has had a crippling effect on the industry. Since Compass Chemical took over the former Lynx Chemical Group in July 2006 it has invested strongly in capital and in people in order to make a manufacturing base here viable. Only in the very recent period have imports stepped back a bit, and certain operational indicators show a slight, if transitory, improvement.

Imports have stepped back a bit in large part because Compass Chemical determined that the right thing to do was to focus squarely on its domestic production and keep alive the manufacturing base here in the United States, but the industry is still suffering a substantial loss and those certain indicators have gained slightly in the recent past. As the saying goes, you can't make up a loss through volume.

And no doubt should these market conditions continue this company will have to either fold or become an importer only, and that is why this proceeding is so critical to determine whether this country will have this manufacturing base for long.

We look forward to our presentation and to

questions from the staff, and we look forward to providing further information in our postconference brief next week. Thank you very much.

MR. CARPENTER: Thank you, Mr. Levin.

At this point I would ask Ms. Levinson to come forward if you would for your opening statement. Feel free to choose a microphone wherever you would like.

MS. LEVINSON: Good morning. I'm Lizbeth Levinson. I'm with Garvey Schubert Barer. We represent Aquapharm, the largest exporter of HEDP from India, and its U.S. customer, Zibex. Representatives of both these companies are here today to testify.

Like any antidumping petition, this one is rife with allegations that imports have driven down U.S. prices. What distinguishes this case from others, however, is that to the extent there are low prices for HEDP such prices have not been caused by imports, but rather by the pricing tactics of the Petitioner itself.

The questionnaire responses are expected to demonstrate that Compass is the low-priced competitor and that both Aquapharm and Zibex have lost sales on numerous occasions to U.S. customers because of pricing by Compass. Potential U.S. customers have

often been frank with my clients, informing them that their prices are too high, and as a result my clients have lost out on a particular bid again because of low prices from Compass.

While we can allude to some of these instances today, much of this information is confidential and will have to be treated in much greater detail in the postconference brief.

On the other hand, despite the allegations in the petition neither Aquapharm or Zibex is aware of a single situation in which Compass has lost a sale to it. The fact is that Aquapharm sells 80 percent of its products to one customer, Buckman Laboratories, and the other 20 percent to Zibex. Thus, there is only limited competition between the Petitioner and my clients and in fact between my clients and the Chinese importers.

The competition between India and Chinese exports is further limited by the fact that to the best of our knowledge not a single Chinese factory has been inspected and certified to NSF grade material. Only NSF certified product can be used in swimming pools and spa applications, as well as in desalination applications. Aquapharm and Compass are both NSF certified, but the Chinese suppliers are not and thus

the Chinese suppliers are automatically excluded from these two very important segments of the market.

Compass has strived to capture market share through its low prices. Unsatisfied with the results, Compass is now seeking to bolster its market share by bringing this antidumping petition. The fact is, however, the U.S. customers will never accept a situation in which they have only one source of supply. Customers will always insist on having alternative sources of supply, and if duties are imposed on imports of HEDP from China and India then imports from the U.K., the other primary country of origin of HEDP, will increase.

It's very simple. Compass cannot have it all. Thank you very much.

MR. CARPENTER: Thank you, Ms. Levinson.

Mr. Levin, we'll turn it back to you now for your presentation.

MR. LEVIN: Thank you, Mr. Carpenter. I'd like to present Brian Failon, who will be presenting on behalf of Compass Chemical our presentation in chief.

As I noted before, Mr. Failon is the vice president for Business Development and Technology for Compass Chemical International, and it is my pleasure

and privilege to introduce him. Brian?

MR. FAILON: Thank you, Jeff.

Again, my name is Brian Failon. I'm a vice president for Compass Chemical International. I thank the Commission for the opportunity to present our case and look forward to questions afterwards addressed both here and in the postconference brief.

Who is Compass? We're a private held, U.S. based company founded in late 1999. We were originally an import based hybrid specialty chemical supplier that really defied any other description. We were not brokers, traders, distributors, manufacturers' reps or producers, so I came up with the moniker hybrid specialty chemical supplier.

We had product, market and application knowledge of a producer. I myself came from Albright & Wilson. I had been there since 1988, so I've been in HEDP and other phosphonates for 20 years in a number of capacities -- technical service, marketing, sales -- and that's carried over to Compass.

We have the logistics of a distributor from the onset of our company. We established warehousing in California, Illinois and Texas, and, of course, being an importer we had the cost structure of an importer.

HEDP has been an integral part of our core product list since very early on, since our first full year of operation in year 2000. In fact, I believe we sold over 1.5 million pounds of HEDP that year alone, and sales have continued through today's date.

We imported from China with responsible marketing. We were pricing according to the prevailing U.S. market conditions. Having come from a producer, we knew what those conditions were. We didn't take on a cost plus broker mentality. If the market price was $1 and our cost was 50 cents, we didn't price it at 55 cents and be happy with a 10 percent margin. We priced according to market conditions.

We use third party blending and warehousing service providers, so in the early going we didn't have any assets of our own. We leased office space out of Chicago and again used third parties for total blending, de-drumming into bulk tank trucks and other warehouse services.

We grew to the point where we acquired U.S. assets. In mid 2006 -- I believe that was April -- we acquired a blend plant and warehouse in Huntsville, Texas, and that remains our headquarters, and then later that same year in July, as Jeff pointed out, we

acquired a phosphonate manufacturing plant in Smyrna, Georgia, from Lynx Chemical Group, LLC, manufacturing HEDP and other phosphonates, HEDP being the largest of the phosphonates. Our annual sales are approximately $40 million and growing.

Scope. This is actually a revised scope. The merchandise covered by this investigation includes all grades of aqueous, acidic, meaning non-neutralized, concentrations of 1-hydroxyethylidene, 1,1 diphosphonic acid -- we can call it HEDP from here on -- also referred to as hydroxyethylidene diphosphonic acid, hydroxyethane diphosphonic acid, acido diphosphonic acid and etidronic acid. The CAS number is 2809-21-4.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States as subheading 2931.00.9043. It may also enter under HTSUS subheading 2811.19.6090. All HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this investigation is dispositive. I'll discuss some of the HTS subheadings a little bit later on.

The universe of domestic producers. I can't take credit for this term. Vicky Schefter over at

Commerce used it in one of her questions. I liked it, so I've adopted it. Monsanto, a U.S. based company, closed its Everett, Massachusetts, Dequest phosphonate plant in 1992 and moved production away from the U.S. over to the U.K., specifically Wales. Thermphos out of the Netherlands now markets the Dequest line, and it's made for them by Solutia in Wales.

In between these first two bulleted items another significant event occurred when Monsanto spun off their chemical business to Solutia, so Solutia for quite some time was the manufacturer and marketer of the Dequest line.

Under the third point, Albright & Wilson out of the U.K. began moving its Briquest phosphonate production away from Charleston, South Carolina, to its U.K. England works in the late 1990s. Prior to moving phosphonate production away from Charleston, it actually in the early 1990s moved production to the United States.

Like I mentioned, I had joined Albright & Wilson in 1988 with the principal charge of supporting the Briquest line, building market share and building a grassroots phosphonate plant at Albright & Wilson's Charleston, South Carolina, property. We did so in the early 1990s, 1991 or 1992, and began making HEDP

and a range of other phosphonate, but by the late 1990s the luster had faded. It was not the high margin product it was once thought to be. There were other products that could be made in the HEDP unit, and HEDP was transferred over back to England.

Rhodia, a French company, now makes and markets Briquest. Again, in between these two bullets another significant milestone occurred when Rhodia bought Albright & Wilson, and that deal closed in the first quarter of year 2000. Again, I left in late 1999 myself mainly to avoid a move to New Jersey.

Compass, a U.S. based company, began shifting its import volume to domestic production in July of 2006 and revived the well known Mayoquest trade name, which dates back to Mayo Chemical. Mayo Chemical, that Smyrna plant, has gone through several ownership changes. After Mayo Chemical it became Calloway Chemical and after that Vulcan Performance Chemicals and after that Lynx Chemical Group.

We bought only the Smyrna, Georgia, plant from Lynx Chemical Group in July of 2006. Danny perhaps can comment later on about the various ownerships since he was involved with both Calloway, Vulcan, Lynx and now Compass.

As Jeff mentioned in the opening statements,

Compass is 100 percent of the U.S. production. Therefore, the domestic industry today is Compass, and that makes industry support a function of Compass support.

The domestic like product. HEDP. There is the chemical structure in hydroxyethylidene diphosphonic acid, again the CAS number being 2809-21-4. Some common U.S. references to HEDP when not using the chemical acronym would be 2010, again now marketed by Thermphos' Dequest 2010. Some call it ADPA, which is Rhodia's Briquest trade name, ADPA-60-A, and some call it 1500, which is Compass' trade name, formerly Mayo, for Mayoquest 1500. Again, only the 1500 comprises the domestic like product.

A little bit on the history of the compound. It was actually patented by Proctor & Gamble back in January of 1968, U.S. Patent 3366675, entitled Process for the Preparation of Organophosphorous Compounds. In that patent Proctor & Gamble scientists called it originally ethane-1 hydroxy 1,1 diphosphonic acid.

The technology presumably was bought or licensed by Monsanto, and they were what I've always called the pioneers of this chemistry. They sold it and marketed it as Dequest 2010. Mayo Chemical out of Smyrna, Georgia, started making the product upon

expiration of the patent and sold it as Mayoquest 1500.

A little bit about definition and applications. Again, I've said the name enough times now, commonly known as HEDP. It's rarely called ADPA. That was an Albright & Wilson nomenclature for acido diphosphonic acid. The Brits have to come up with a different name for everything.

It was the second generation antiscalant or sequestrant developed for use in a variety of applications. It has considerable resistance to degradation by chlorine. Its applications include cooling water, which is arguably the largest; oil field water treatment applications; reverse osmosis, which is a form of desalination; textile, textile preparation chemicals; recreational water, meaning swimming pools and spas; peroxide manufacture; photochemicals; and industrial and institutional compounding, cleaners, detergents and the like.

Stain and scale control for pools and spas is one and maybe the only example that would be familiar to residential consumers. If you don't mind, I'll perform an experiment that I ran by Nate to demonstrate two of the functional properties of HEDP, as well as two of the applications. The two

applications would be stain control for swimming pools, as well as red water control for municipal water treatment.

MR. CARPENTER: Mr. Failon, you might have to stay pretty close to the microphone. Thank you.

MR. FAILON: Okay. The two functional properties I'm going to demonstrate are chlorine stability and sequestration just with some common household items.

I've got a stain and scale control product used in spas and swimming pools. I've got two bottles of water. I've got an iron supplement, which is 65 milligrams of iron, and since 65 milligrams per liter is a pretty high iron level I'm going to split this in half with a pill splitter, so I've got a half liter of water. I'm going to take half of this, and I'm going to end up with 65 milligrams per liter of iron in these waters.

This ordinarily would be clear, but I think because of the various fillers on the iron supplement that are insoluble in water so we're going to have some cloudy water, but containing 65 milligrams per liter of iron.

Okay. To this one I'm going to add some of the HEDP, and then now simulating chlorination of

either the swimming pool or municipality I'm going to add some household bleach, and with any luck, we'll have red water developing.

It's remaining colorless, so what's happened there is the soluble iron, which was ferrous iron in this case, it's been oxidized by the chlorine to ferric, and it drops out as ferric. That's the red water that would both cause staining of pool surfaces, as well as objectionable drinking water.

This side being pretreated with the HEDP, it's resistant to breakdown by chlorine and it is sequestering or tying up the iron so that the chlorine can't oxidize it. It's perfectly safe to drink, and I may drink them afterwards.

There was a good bit of discussion on internal consumption of HEDP. One product -- it's a niche product -- is the tetrasodium salt of HEDP, usually called tetrasodium etidronate. That's a CTFA name, which is Cosmetics Toiletries Fragrance Association.

Again, it's a tetrasodium salt. It's about 30 percent solids. It's used almost exclusively in bar soap manufacture as a preservative. It also functions as a water softener in soaps to prevent soap scum and bathtub rings by again sequestering or

locking up the calcium and magnesium in the water.

It can be used in other applications where HEDP is used, but where the alkaline pH is preferred so as to avoid an exothermal or heat buildup during blending. Competing products would include the Thermphos Dequest 2016 and the Rhodia Briquest ADPA 21SH. Again, the volume on this product is very small compared to the HEDP acidic version.

The raw materials that go into the manufacture of HEDP. You would start with either phosphorous trichloride, PCL3, or phosphorous acid anhydrous, sometimes called phosphorous acid flake or phosphorous acid crystal, the other key raw material being acidic anhydride. As I'll come onto later, the HEDP equipment is dedicated equipment so really only HEDP is made on this particular set of equipment.

In the HTSUS classification for HEDP, the proper one is a basket category, 2931.00.9043. Other phosphonates do fall under this basket category such as ATMP and DETA phosphonate and BHMT phosphonate and other amino methylene phosphonates. PBTC, which has been referenced in the petition, and other supplementary material is not covered by this basket category. It's got its own separate classification.

Chapter 29, as you know, covers organic

chemicals. HEDP is an organic chemical because it has carbon in it. Chapter 28 covers inorganic chemicals, so technically any imports that are classified with the 28 prefix are incorrect, such as the 2811.19.

The major foreign producers. No offense to Jiangsu Jianghai, but I should have them listed as well. I believe they are in the opposition group. Wujin Fine Chemical Factory, Wujin Water Stabilizer Company, Changzhou Kewei Fine Chemical out of China and Aquapharm and XO Industries out of India, again these being the major foreign producers with one possible exception. I should add Jiangsu Jianghai.

Major U.S. importers. This is not an all inclusive list, but it makes up at least 80 percent, I believe. Brenntag, Univar, Wego Chemical & Mineral, Uniphos, which is a division or subsidiary of Wujin Fine Chemicals, Zibex, Southern Water Consultants, Hydrite, BWA Water Additives and SDA Chemicals. Again, these were all obtained from peers' records under Consignee.

The export prices that we see. Out of China during the period of investigation, which is the last two quarters of 2007, $930 per metric ton, which equates to 42.2 cents per pound FOB Shanghai in drums and out of India approximately 50 cents per pound FOB

India. Using the normal value calculations prescribed, the alleged dumping margins for China are a little over 111 percent and out of India a little less than 80 percent.

These numbers both would have been even higher had it not been for an unrealistically low PCL-3 cost obtained from India's export/import data bank. The PCL-3 cost in our opinion is at least 10 cents per pound too low, maybe 15 cents per pound.

Volume and value of imports for 2007 valued at the U.S. full cost, which I'll come onto later. Out of China, about 4,000 metric tons or $6.7 million. Out of India, 1,100 metric tons, about $1.8 million. The value of the domestic like product for 2007 is about $6.2 million. Note that this figure is less than imports from China. Again, this is valued at the U.S. full cost as well.

Compass does desire to produce all its HEDP requirements in the United States. We have had some inquiries or speculation from customers and others that when we bought the Smyrna facility it was our intention to just buy market share, shut that plant down and continue importing from China. That is untrue. We have invested significant capital, as Jeff pointed out and Danny is going to come onto later, in

excess of $2 million of capital, at Smyrna to bring it up to speed.

Likewise, these next three graphs are going to demonstrate that we're committed to ramping down on our imports, ramping up on our produced HEDP. Again, this is only Compass, and this period of time is first quarter of '05 through first quarter of '08 so you see for the first six data points that was when Compass was strictly an importer at the yellow line. We were importing at that time about 500,000 to 600,000 pounds per quarter.

When we bought the Lynx Chemical Smyrna, Georgia, plant we had an up-tick in business, so we were in a bit of a transition period while we adjusted to the new level of increased business so we temporarily increased imports while we were increasing production. You'll see that with the exception of one data point at the end the trend has continued. We've continued to increase sales of U.S. production as opposed to sales of the imports.

This is similar to the last graph except this is now quantity imported and quantities produced. The other graph was quantities sold of both import material and production material. This maybe doesn't tell the story as well. There was some oscillation in

late '07. We can maybe touch on that later.

The next graph I believe does tell the story. This is the same data where I've got on the Y axis percent of our HEDP requirements produced, so it's basically U.S. produced material divided by the sum of U.S. produced plus import, and then on the X axis we have time from Q1 of '05 through Q1 of '08.

So again we were at zero. We weren't producing any for Q1 of '05 through Q2 of '06. Since that time we have ramped up, and in first quarter of '08 we didn't import any. One hundred percent of our requirements were filled with production at the Smyrna, Georgia, plant.

We're not manufacturing in the U.S. Due to some noble cause, we do need to make money, and in order to continue that we've had to announce price increases. We've announced three increases in 2007 totaling 15 cents per pound, which is significant when market prices were on the order of 60 cents per pound. Fifteen cents out of 60 is 25 percent, a very healthy price increase in order to make this business profitable or even marginally profitable.

Internally we refer to a level of profit called reinvestment economics. That's the profitability we need to show in order to continue

reinvesting in domestic manufacture. This calculation assumes we're building a one million pound per month HEDP unit starting from scratch, and we need land, utilities, roads, storage tanks, waste treatment structure and reactors.

The capital estimate being $15 million, working capital required being 45 days of receivables and 30 days of inventory, assuming $7.5 million in sales, thus the working capital required is $1.5 million. The total capital employed therefore, adding those two up, $15 and $1.5, is $16.5 million. Assuming a minimum return on capital employed of 12 percent, therefore the earnings before interest and taxes minimum is $16.5 million times the 12 percent or $2 million.

Taking that profit of $2 million and dividing by 12 million pounds, which again we were making one million pounds per month, so again $2 million divided by 12 million pounds for the year gives us the 16.7 cents per pound, what we would call reinvestment economics.

Moving on to the six characteristics of the domestic like product, the first of these being the physical characteristics. HEDP is uniquely defined by its colorless appearance, its chlorine stability, its

low chloride impurity and the excellent calcium and iron sequestration. Again, this experiment here demonstrated really three of these, the colorless appearance of the product, the iron sequestration and the chloride stability.

Interchangeability. The domestic HEDP is completely interchangeable with imported HEDP, whether it be from India or China. It's not substitutable by polyphosphates like SHMP or sodium hexametaphosphate. It's not substituted by other phosphonates like ATMP, and it's not substituted by amino carboxylates like EDTA.

Each of these other chemistries have some deficiencies. The polyphosphates break down. They're not as stable as the HEDP. Likewise, the ATMP and the other amino methylene phosphonates, they break down in the presence of chlorine. They have higher residual hydrochloric acid content.

In many cases the appearance of the finished product looks more like this, more of an amber or even brown as opposed to HEDP when it's produced properly looks like this, and it's not substituted by amino carboxylates like EDTA, which is strictly a chelant or sequestrant. It doesn't have any scale inhibition properties.

Channels of distribution. The domestic and the imported HEDP is sold into the same three channels of distribution, the two primary being through distributors and compounders or formulators, the third and less common being end users.

Customer and producer perceptions. Customers commingle domestic and imported HEDP in their bulk tanks. They assign the same raw material codes to imported and domestic HEDP. Producers and importers swap HEDP with each other, provided the specifications are identical.

Common manufacturing facilities. The domestic and imported HEDP are produced in similar equipment. Again, it requires dedicated reactors. The domestic and imported HEDP are produced using the same process. Domestic and imported HEDP are produced using the same production employees.

Pricing. Imported HEDP could command the same price as domestic HEDP if the importer is competent and responsible. Price should be a function of order size, package, annual requirement, freight terms and customer leverage with other products, but cost plus marketing by some importers has erased this logic.

Applications that benefit from domestic

product availability, namely a short supply line: Desalination, for example, reverse osmosis. There's an increasing demand for both industrial and drinking water generated by desalination. Our raw water quality is deteriorating. Water demand is increasing. Therefore, this process is critical.

Municipal water. That's the drinking water. There's a growing application for phosphonates in the control of red water, which is iron, and black water, which is manganese. The HEDP also controls scale in addition to the red and black water.

The biggest application for HEDP again is in industrial water treatment, specifically for cooling water. It's an integral component of formulations designed for water reuse and conservation. It's also the biggest raw material and sometimes only additive in recreational water stain and scale control products.

It's also used in peroxide manufacture. It's a small but important role for the phosphonate. If peroxide is not stabilized it can present a safety concern.

Market shares. Volumes shown are in metric tons. These are figures extracted from peers' and our own records. In 2005, the U.K. market share was 39

percent; the U.S. market share at 28 percent; China, 24 percent; and India at nine percent. Moving on a year, the U.K. was stable at 39 percent; the U.S. market share dropped to 20 percent; China had increased to 32 percent; and India remained at nine percent.

I don't have 2007 figures with me. As Jeff pointed out, imports have stabilized, that being in large part due to the reduction of imports by Compass out of China.

Looking at HEDP domestic profitability, the domestic industry is operating at a real loss. Our variable cost after deducting credit for an acetic acid byproduct is about 67 cents per pound. Our conversion cost is a very low nine cents per pound considering the chemistry involved.

Adding those two gives a full cost of 76 cents per pound, and adding to that the reinvestment level profit of 17 cents per pound, we would have liked to sell in 2007 at 93 cents per pound. However, the prevailing market conditions forced us to sell at an average selling price below 60 cents per pound in spite of the announced 15 cent per pound increases.

There is a very real threat of future injury. In the petition I referred to a troubling

statistic out of China with a doubling of volumes imported directly by distributors such as Brenntag and Univar.

Historically these distributors have distributed Briquest and Mayoquest and Dequest exclusively, but the distributors see the low prices available out of China and they have reduced purchases from those three producers -- from Compass, from Rhodia, from Thermphos -- and are importing directly from China to increase their profits.

Their volumes, though still in 2007, were 1.5 million pounds. That might not sound like a lot, but this also is how imports from China began back in the late 1990s and the year 2000. They started small and since year 2000 up to 2005 those volumes were up tenfold. So this is a troubling statistic to us that the Brenntags and Univars will continue their ramp up of direct importation.

We're also threatened with increasing volumes out of India. Aquapharm has announced a doubling of production capacity I believe due to come onstream later this year. They are already a significant player in the market obviously. That nine percent market share for India is effectively all Aquapharm.

Finally, we need relief. As Jeff pointed out, Compass is the last U.S. producer. There's been a trend of negative investment in HEDP manufacture that we are trying to reverse. In fact, we have invested heavily in Smyrna, Georgia, in both assets and human resources.

HEDP is a key additive for many industries and applications that will benefit from a short and reliable supply line. Compass can and will terminate domestic production, however, if profitability remains at its current unacceptable levels.

Thank you.

MR. LEVIN: That concludes Petitioner's presentation for the morning, and we look forward to the staff's questions. Thank you.

Thank you, Brian.

MR. CARPENTER: Thank you very much, panel. We'll begin the questions this morning with Mr. Comly.

MR. COMLY: My name is Nate Comly. I'm the investigator.

Let me start off with one I guess general question. Can you tell me if there's any difference between the different branded products? You mentioned the 2010, the ADPA and the 1500. Is there any difference between those, or those are just brands?

MR. McCAUL: This is Danny McCaul, president of Compass. No. The answer is there's no significant difference between those products.

MR. COMLY: Do you see the Indians or the Chinese branding their products and selling them as brands, or are they coming in as unbranded products?

MR. FAILON: They are branded, but I don't believe the trade names are nearly as well known as Briquest, Dequest or Mayoquest.

MR. COMLY: Okay. Thank you.

Moving on, I'm not sure if you can tell me this now or in your postconference brief, but can you tell me who the large nonsubject sources of HEDP are other than China and India?

MR. FAILON: Could you repeat that, please?

MR. COMLY: Who are the other large non-Chinese or non-Indian import sources into the U.S.? What other countries?

MR. FAILON: The only other country is the United Kingdom, which now is Thermphos and Rhodia. I guess Rhodia out of France, but their plant being in the U.K.

MR. COMLY: Ms. Levinson noted that there is no NSF grade certified manufacturers in China. Do you agree with that? Also, can you estimate about what

percentage of the market that makes up in the U.S.?

MR. FAILON: I have no reason to dispute that. I believe we tried to get some product NSF listed out of China and did not.

The market share that requires NSF, and this is my opinion, is relatively small, probably five or 10 percent at most.

MR. McCAUL: If I could comment? I agree with Brian that the market share that requires NSF is extremely small. I don't know about that percentage, five or 10 percent. I believe he's probably right about that level, but we'd have to check that.

I have been told that there is NSF material available from China. I don't know if that's true or not though, but I'm aware of customers that have indicated they could get NSF certified material from China.

MR. COMLY: I guess going along with that, you've already described the China and India market in some ways as a number of large producers, et cetera.

Are there a number of smaller producers within I guess specifically China, or it's just that handful of large producers for HEDP?

MR. FAILON: We're aware that there are probably seven or eight total manufacturers. Again,

besides those four the others are smaller.

MR. COMLY: And I'm not sure if this is a question for you or the Respondents, but do you know anything about the internal market of China? Is that growing or is that not large at all?

MR. FAILON: I'm not qualified to comment on the market in China.

MR. LEVIN: That certainly strikes me as a better Respondents' question, but we'll be happy to pass along any information we can dig up on that point.

MR. COMLY: Okay. That would be great. Thank you.

Let's see. How would you characterize the world market for HEDP, so other than the U.S.? How would you characterize things such as demand or supply trends and then also price trends outside of the U.S.?

MR. McCAUL: Generally I would comment this way to say that the market in Europe for this product is probably larger than the market in the United States.

You know, not significantly larger, but maybe a bit larger. The biggest players in Europe would be Thermphos and Rhodia. That's all I could say at this point.

MR. COMLY: Can you comment in your postconference brief about maybe price trends as well? That would be great.

MR. LEVIN: We'll be happy to do so.

MR. COMLY: Thank you.

I believe it might have been in your petition, but you did mention that it's expensive or cost prohibitive to ship HEDP across long distances, particularly in the U.S.

Does this affect the Chinese imports in any way? Is it cost prohibitive for them to ship it? If they bring it in to say Los Angeles can they ship it across the U.S. to the east coast or are imports concentrated near that port of entry?

MR. FAILON: The vast majority of imports from China do come in to Long Beach, California, and of Compass' importation experience we would use Long Beach almost exclusively and put product on a rail if we were moving it to Chicago or Houston or even to the east coast.

I believe some of the importers now do bring it around to Houston and Savannah rather than what we opted to do.

MR. McCAUL: I just would make another comment. I mean, we know the product has come in to

Savannah and I think Charleston, right?

The cost of bringing product from China to the U.S., as you probably are aware, is less per pound than it is to ship it from Georgia to the west coast.

MR. COMLY: I guess going on top of that, from your experience are purchasers or users concentrated in one geographic area in the U.S.? Are they concentrated on the west coast or southwest?

MR. McCAUL: No. There's users all over the United States.

MR. COMLY: And my final question is is HEDP purchasing or imports cyclical in nature?

MR. FAILON: Yes. There is a strong seasonality to HEDP sales, the HEDP market. It's a warm weather product mostly due to the cooling water use, the industrial water treatment use.

The second and third quarters are usually very strong and the first and fourth quarters relatively weak.

MR. COMLY: All right. Thank you. That's all the questions I have.

MR. CARPENTER: Ms. Brown?

MS. BROWN: Thank you. I'm June Brown. I'm the attorney working on this case. Thank you for your presentation.

I'm still trying to understand the product a little bit. Can you tell me? Is the chemical and physical characteristic of HEDP the same whether it's used in a swimming pool or in industrial water treatment? Is it the same HEDP?

MR. FAILON: It is the same HEDP.

MS. BROWN: All right. Okay. Thank you. Also, can you clarify the Compass relationship with its parent? Compass is owned by Cathay. Do they also own a Chinese producer of HEDP? Is Cathay Pigments China a producer of HEDP in China?

MR. McCAUL: Compass has merged into and is now owned by a company called Cathay Industries.

MS. BROWN: Right.

MR. McCAUL: Cathay Industries is also in the pigments business besides chemicals. Cathay Industries does not produce HEDP. Cathay Industries has contractual relationships with different companies in China who produce various chemicals.

MS. BROWN: Right.

MR. McCAUL: And Cathay Industries has over the years purchased -- I'm using the name Cathay Industries, although it had a name before that, a previous name.

Cathay Industries has purchased the HEDP and

acquired it and shipped it over to the United States just like other importers do, but does not actually produce. It's not a producer.

MS. BROWN: So Cathay Pigments China does not produce HEDP?

MR. McCAUL: Does not produce, no. No.

MS. BROWN: Okay. Thank you very much. Okay. On the internal consumption again, I know you said that was a relatively small percentage of your production. Again, I'm just trying to understand what's going on.

You use the internal consumption to make tetrasodium whatever, which is used to make bar soap. Okay. Do some of your customers also use HEDP to make that same thing that goes into bar soap, or are you the only people that do that?

MR. FAILON: I don't believe any of our customers make the tetrasodium etidronate from HEDP.

MS. BROWN: Okay. Thank you very much. With respect to the geographic distribution of U.S. product and imports, would you say it's relatively the same or are imports sold more into certain regions of the U.S. than the U.S. product? Could you comment on that a little bit?

MR. McCAUL: There's no specific

concentration of where the imports are showing up. Just like the manufactured product, they're used by people throughout the United States.

MS. BROWN: Okay. And you sell a significant portion yourselves on the west coast, for example?

MR. McCAUL: We do. A significant portion? I would say yes, we sell on the west coast. I couldn't really tell you offhand, you know, if we tried to break it down and say what are our percentages compared to the imported sales in the west coast region, what that would be. I can try to find that information for you if that would be of value.

MS. BROWN: Thank you very much.

MR. FAILON: Let me add to that. I'm not going to respond with figures, but they should be found on page 18 of the U.S. importer questionnaire we completed. It's got a geographic breakdown.

In general terms, the west coast business is not all that high considering the volume that comes through the Long Beach port, the reason for that being that California is just not all that business friendly and a lot of manufacturing has left the state.

But the answer as far as geographic distribution of where the imports go, at least as far

as Compass' imports go, is found in the importer questionnaire.

MS. BROWN: Well, would you expect that to change if Compass got relief and was importing less? Would it be selling more in the west, for example, would you expect?

MR. McCAUL: Well, it would definitely make us more competitive on the west coast, yes.

MS. BROWN: Thanks.

MR. McCAUL: Because the freight from Georgia or the west coast is significant.

MS. BROWN: Okay. I think my last question is could you address a bit what demand is doing in the U.S. for this product and what you foresee in the next year or so?

MR. FAILON: I believe this product is still a growth product. Some of the applications driving the growth are the ones I alluded to earlier, the desalination such as reverse osmosis, the municipal water treatment.

I believe the recreational water is still growing. The rest like the industrial water treatment, it's growing about with the GDP.

MS. BROWN: Okay. Thank you very much. I have no further questions.

MR. CARPENTER: Mr. Fetzer?

MR. FETZER: Jim Fetzer, Office of Economics. Thank you, Mr. Failon and Mr. McCaul, for making the trip up here to help us understand this product more.

I'm just trying to get a better handle on what's going on in the marketplace. I wanted to start off by following up on Nate's earlier question about certification. I'm not sure if I quite understand when we're talking about NSF.

When you're talking about the Chinese product being certified at five to 10 percent or whatever -- I know you want to take a closer look at what that number is -- is that the type of certification that would make it interchangeable with U.S. product, or is that just sort of a special?

I was a little confused on that because I know in your petition and in the presentation you say that Chinese and Indian product is interchangeable if it meets the proper specifications, and I think there's an appendix in the petition you refer to.

So in terms of that, is to your knowledge the Chinese and Indian product generally certified, the imports that are coming in, or if not, do you have an idea what percentage is certified today to a degree?

MR. FAILON: I don't have an idea on percent of Chinese import that is NSF listed since we're not even all that certain that any of it is. We have heard that at least some of the producers have NFS listed material. Again, if the Chinese product is NFS listed, it is completely interchangeable with Compass NFS listed material and Indian NFS listed material.

I guess to the extent that the Chinese material is not NFS listed, it wouldn't be interchangeable at that very niche market application for municipal or other NFS market use.

MR. FETZER: Okay. Sure.

MR. McCAUL: If I could just make a further comment. A NFS listing, there is no magic about it; there's not anything different with the products. To get your product NFS listed, you pay the money to have your plant inspected; they look at your product and your processes, if you're making the same products, and most of these people are, if it was worth it, they would all get NFS certified.

That's the truth of the matter. As for the market, the vast majority of customers could care less about NFS certification. Now, some people do, it's true, and they require it. But the vast majority do not.

And the product itself, I would suggest to you that while most all of the people that Brian has been talking about today that produce HEDP could easily get NFS certified if they thought it was worthwhile.

MR. FETZER: Okay. Well, setting the NFS certification aside, because the reason I guess I brought that up was that's the way it was stated in your brief following your petition.

Do you think that the Chinese and Indian product is interchangeable with the U. S., whether it's certified or not?

MR. McCAUL: Yes.

MR. FETZER: Okay. And the product you're inquiring about is not necessarily certified, but it's interchangeable?

MR. McCAUL: Yes.

MR. FETZER.: Okay. How about your own subject imports, you know they came from other countries, are they generally interchangeable?

MR. McCAUL: Yes.

MR. FETZER: Okay. There was some talk about co-mingling, I believe in the most recent petition or the presentation, the product is supposedly co-mingled.

Is that because it's interchangeable, or because there's complimentary properties? And is there is a reason why, if there's co-mingling, I guess assuming that's there's multiple suppliers of the product to particular purchasers, is that an important thing in this industry? Do purchasers want to have multiple suppliers, for some reason, they sometimes use exclusive arrangements?

MR. McCAUL: Yes, it's common for large users to have multiple suppliers, probably it's most common to have a majority supplier and maybe one minor supplier. They're all going to maintain one bulk storage tank for this particular raw material, however.

So they would co-mingle tank truck shipments from the domestic producer from the Indian producer from the Chinese producer. It's not because it gives the product some special properties. It's just a matter of practicality and convenience to offer a shipment, whether it be light-tank truck or full containers of drums, or is iso-container into the one raw material storage tank.

MR. FETZER: Okay. In terms of the large purchasers using multiple suppliers, is that due to availability issues, or do you know what the

motivation is I guess?

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MR. McCAUL: Is your question: Why would somebody want to have multiple suppliers?

MR. FETZER: Yes, I'm sorry.

MR. McCAUL: Well, it's just a competition thing. In some cases, they want to make sure that they keep you honest by having a second supplier, so that they know that they've got something to compare with.

Purchasing managers like to be able to say: Well, I'm buying 80% of my product from A, and 20% from B. The pricing is similar, so, therefore, I know I'm not being overcharged by A, that type of thing.

Then, secondly, in times of shortages, sometimes if you don't have a second supplier and the first guy has some problems, then you go to somebody else and they want to charge you a lot more because you haven't been buying it from them, that type of thing. It's just normal business practice.

I assume that some customers are happy to have a single source, but the majority of people always like to keep I think, well, I shouldn't say the majority. I should say that many people want to have a second source just in case.

MR. FETZER: Okay. Do you know, during the period of investigating recently, has there been any problems with you or other suppliers having shortages and not being able to supply the market, to your knowledge?

MR. McCAUL: During the period of the investigation, if we're talking about 2005, 2006 and 2007, I don't think there were any significant shortages during that period.

I do recall that there was a period of time when China had a drought and there was a shortage of electricity, and there were shortages for a short period of time, a month or two, or three months. But I couldn't say that there is anything that I could point to that was greatly significant in that area.

MR. FETZER: Okay. Are long-term relationships important in this industry between purchasers and suppliers?

Is it something where you develop a long-term relationship, and you'd be somewhat reluctant to switch, or at least totally switch, away from a particular supplier?

MR. McCAUL: My comment on that would be that there was a time when long-term relationships seemed to more important in the industry.

Today, it's a very competitive world and people like the relationships but your price better be good. If you can't compete against the fact that they can buy product from an imported source a lot cheaper, no matter how much they like the relationship, they can't afford that relationship, so they're going to buy it from the cheaper source.

MR. LEVIN: Jim, I would suggest, as a general rule, that the importance of long-term relationships is inversely proportional to the fungibility of the product.

MR. FETZER: Okay.

MR. LEVIN: And, since this is an extremely fungible product, long-term relations tend to fade in importance behind other factors such as price.

MR. FETZER: Okay. Well, that would theoretically seem to be reasonable. I just wanted to see what the actual, what's going on on the ground in the industry.

MR. LEVIN: Certainly, it might that for small price differences, you may not want to switch too. Certainly, with a large enough price difference, any long-term relationship would probably not last long. But there might be some degree of -- and I'm just trying to get a sense of that.

MR. FAILON: Let me reply to that. Though it seems that the growing percentage of what we would call transaction-based purchasing or buyers, there is still a degree of relationship buying out there.

And, as Danny pointed out, they're not going to pay huge premiums to us because we've had a long-time relationship. But what that does bring to us is a market intelligence if they're approached with a price from a competitor, they may give us a heads up that you need to sharpen your pencil a little bit, maybe not meet the price but just come a little closer in order to keep your share of the business, or follow the business if that's the case.

MR. FETZER: Okay. You said there weren't any shortages recently. But do you have any customers, let's say, who expect quick turn-around who maybe you haven't been able to provide them product in the time that they wanted, or is generally an industry where the turn-around times are longer?

MR. McCAUL: No, we haven't really experienced any problems with quick turn-arounds.

What happens is that we carry some injury of finished goods, usually people who are importing product, they import product and put it in warehouses, and they can ship it from there.

I would say that that hasn't been a big issue. I'm sure there have been the occasional event that occurred, but it's insignificant.

In our case, we can usually respond very quickly. We have extra capacity at our plant and, unfortunately, we'd love to use up that capacity, but if it's there and we can respond very quickly to customers.

MR. FETZER: Okay. I'm having trouble putting my arms around he cost-plus pricing that you talked about earlier. The way I'm thinking of it is that it sounds like what you're saying is that the importers are focusing on the supply-side pricing, which is pricing above their cost, but not looking at the client discounts or market power in customers.

Do customers have market power in this industry? I just want to try to get some sense of what you think should be driving the prices, if it's not to be the costs?

MR. FAILON: Let me comment there.

Again, you've hit the gaiter on the head with cost-plus marketing. Not all of the importers were irresponsible or reckless.

But some that I would consider more brokers than marketers do look at it from what their cost is,

and what their acceptable profit margin is. Again, so if their cost if $.50 and they typically make 10%, so they price it at $.55 or $.60.

And if you are relatively ignorant of the market pricing, which could be let's say $1.00 a pound, factors that should determine market pricing, or an individual customer pricing is what their volume is, what they're annual requirement is, whether they take the product in bulk, or whether they take it in drums or totes, the proximity from our production plant, where freight becomes a consideration, the leverage they may have by bundling HEDP with other products that they buy from Compass, or whoever the supplier is, so if they're requirement for HEDP is a million pounds, but they could buy two million pounds additional of some other products making a three-million-pound basket, they expect some volume-driven discounts either in the form of the price or rebates.

MR. FETZER: In terms of the bundling, is that appropriate way of marketing things in this industry? Is HEDP usually bundled together with other chemicals from you, and from the other suppliers, or does it vary by supplier?

MR. FAILON: Almost every supplier bundles the weight is in different bundles. But, in this

case, HEDP would be the one area of commonality.

We certainly bundle HEDP with other phosphates that we make in Smyrna, Georgia, and we can also combine it with other water-treatment raw materials that we import. Likewise other suppliers may combine HEDP with products that they actually produce. Our competitors, they're importing from India or China may bundle it with some products that they make.

MR. FETZER: Is the HEDP usually the majority part of the bundle, or does it depend on the transaction?

MR. FAILON: It would depend on the transaction.

MR. McCAUL: I would just say, though, that I find anyway that you can have a customer that you're selling other phosphates to, but you may not have the HEDP business because they can get that from somebody else at a lower price.

In our case, it's fairly common that the specialty phosphates are not imported commonly. We might have that business but not the HEDP volume because we wind up not being able to compete on HEDP prices.

MR. FETZER: Okay.

MR. McCAUL: And HEDP is the largest volume phosphate that's used I would say of the total phosphate re-engineered products if you took the volume of HEDP, I would say that it's got to be 50% of the total.

MR. FETZER: Okay. Does the suppliers that you said are cost-plus pricing, they're not bundling I assume generally, or are they just ignoring the other parts of the bundling in their pricing?

MR. McCAUL: they're not bundling it. They're just happy to sell the HEDP at a mark-up from their imported price.

MR. FETZER: Okay, thanks. Have you had any -- and you can answer in a post-conference brief if it's confidential, issues of quality or delivery issues recently, or during the period of investigation, to any of your customers?

MR. McCAUL: No, there hasn't been any significant -- I mean that I can't tell you that we've never had a problem with any customer with some issue once in a while.

But, as far as HEDP quality is concerned, I'm not aware of anything of any significance regarding quality.

There's always occasionally a customer

who'll come along and he might have a specification that is different from others, and he's got some tighter specification on say one constituent in the product, and you look at that and see whether you're going to meet or not.

If you can adjust your process to meet it, you do that if it's economical, that sort of thing. But the general answer to your question is: Absolutely not.

MR. FETZER: Okay. How about packaging, is that an issue?

Have your suppliers ever brought up packaging issues with you, or is that a pretty standard thing in the industry?

MR. McCAUL: Packaging is very standard, yes. There is nothing unusual about the packaging. You sell this product in bulk, or in containers that are usually plastic drums or tote binds, that's pretty common.

MR. FETZER: In the questionnaire responses, we asked for cost share of HEDP in final end uses. One of the big end uses is water treatment, and we got a variety of answers.

So if you could help me understand. There were some people who said it was about 100%; and there

were other people who said it was less than one percent, which doesn't tell me much. It varies a lot.

Maybe the answer is that it depends on what you're using it for in terms of water treatment. I wonder if you'd feel comfortable commenting on that?

MR. McCAUL: I'll comment on that.

Certain applications like the recreational water treatment, swimming pools, it's not at all uncommon to have a product like that over there, the standing-scale control product that's just a simple dilution of HEDP, the old HEDP line standing-scale control product that has the biggest brand name recognition, that was strictly a dilution of HEDP diluted down to about 21% actives.

The product that we sell is about 60. So, in that case, yes, 100% of the finished product cost, at least on a variable basis, is HEDP. That's not the norm however.

The biggest application for HEDP is in industrial water treatment. And that would be companies are blending scale inhibitors with corrosion inhibitors to go out and treat cooling water.

It's not uncommon at all to have HEDP at a level of about 20% or 25% by weight in the formulation, and then blend in some other polymers and

corrosion inhibitors. That's where we came up with our responses.

MR. FETZER: So, if it's 20% by weight, is that 20% by cost because those other things could have different costs? Do you have a sense?

MR. McCAUL: The real cost I think it's still in that range of 20 to 25.

MR. FETZER: Okay. And for other end users?

MR. McCAUL: It will have a range, of course. Obviously, it goes all the way up to 100, and I guess conceivably could go as low as 1% or 2% but that's not the norm.

That's kind of the exception to the rule. I guess if you looked at the peroxide stabilization application, if the majority of your product is hydrogen peroxide, and you might only add a tenth of a percent, or a couple of tenths of a percent of HEDP to stabilize that product, yes, I could see how that finished peroxide might only have one percent by cost from HEDP, but that's not the norm.

The typical applications are those that have somewhere in the range of 20% of HEDP.

MR. FETZER: Okay, that's actually very helpful, thanks.

You talked about your announced price

increases. But in the presentation it sounded like -- where you fully able to implement that? I think it was $.15 a pound or not in 2007? If you want to comment in a post-conference submission that's fine, too.

MR. LEVIN: We'll discuss that, if we may, in the post-conference brief.

MR. FETZER: Okay, thanks. I think that's all for now. Thanks so much for your responses. It's been very helpful.

MR. CARPENTER: Mr. Boyland?

MR. BOYLAND: Good morning, thank you for your testimony. You've already responded to questions that I sent last week. I appreciate that.

One additional point, with respect to 2005, I have a question regarding the absence of certain information. At this point, I don't want to fill in the blanks, so I would appreciate it if the company could provide a statement indicating what the problem is.

Again, it gets back to the predecessor company I understand. But 2006, however, I should comment, sort of presents some of the same issues. Yet, the company did provide some information. So there's a bit of a disconnect in terms of what the

problem was for 2005.

If you want to discuss that now or at the post conference?

MR. LEVIN: Mr. Boyland, that was a topic of dinner conversation last night. I think we have figured out a way to be able to handle the Commission's requests on that point.

We appreciate your understanding of some of the obstacles and complexities involved, but we will do the best job possible and submit that confidentially in the post-conference brief with your okay.

MR. BOYLAND: Okay, that sounds very good. Thank you.

With respect to Compass Chemical International, the company that's responding to the questionnaire, does it have audited financial statements?

MR. McCAUL: Yes, we do. In fact, we are just completing an audit of 2007.

MR. BOYLAND: I would appreciate if you could provide the audited financial statements for 2006, as well as the preliminary balance sheet, and statement of cash flows as well as the notes.

MR. McCAUL: Okay, we should be able to

provide those.

MR. BOYLAND: I understand that 2007 wouldn't be audited.

MR. McCAUL: Yes.

MR. BOYLAND: Okay, thank you. With respect to the merger with Cathay, when did that take place?

MR. McCAUL: That took place in --

MR. BOYLAND: Not to put you on the spot, but yes.

MR. McCAUL: It's early 2007, but I'd have to check on the exact date.

MR. BOYLAND: Did the company's operations change after the merger? Was there any directive?

MR. McCAUL: No, no change. It's just a wholly owned subsidiary, as it were.

MR. BOYLAND: Okay. In terms of Compass's acquisition of Lynx, or the assets, I want to clarify: Did Compass purchase the plant in its entirety?

MR. McCAUL: Yes, Compass purchased the business and the plant, and the property and equipment. It did not initially purchase the real estate, but, subsequently, it did complete the purchase of the real estate Compass completely owns.

The Smyrna facility that was part of the

Lynx's business, Lynx owned two other plants besides, smaller plants besides the Smyrna operation, plants that were not involved with this type of business that we're talking about today.

MR. BOYLAND: You've mentioned this in the presentation and your discussion regarding investments that the company has made. When Compass moved in and started altering the operations, what were those changes? What did the company need to do to upgrade and make the company more competitive?

MR. McCAUL: I'm commenting on this because I've been involved with the business. I was one of the owners of Lynx, and I was also acting as the chief operating officer for Lynx.

I was also, before that, the president of Compass Chemical, who owned the facility. So I've personally been involved with three different ownerships of the same manufacturing facility.

What happened was: Lynx had a corporate office. In the corporate office, there were people like me in the accounting department in various other functions. And Lynx had ownership of the plant at Smyrna. It also had, as I mentioned, a couple of other plants in Georgia.

When Compass bought the company, of course,

they thought it was necessary to move some people, who had previously functioned in the corporate office of Lynx, into the Compass facility.

What happened then was some of the supervisory management folk that were part of the Lynx's organization now moved over to Compass and helped Compass to function in Smyrna.

Compass, previously, had been operating as a very small company. It had probably grown to maybe $18 million dollars a year in sales or something like that. The Lynx-Smyrna operations were probably in the order of magnitude of $25 million a year.

Now you had a combined business here with a lot more people involved because it's not a manufacturing facility, and a lot of the activity involved in running the manufacturing business.

The operation at the plant, though, didn't stop. We didn't shut down or anything. One day the employees were Lynx's employees, and, the next day, they were Compass employees.

During that transition, however, there was a definite slow down. If you can imagine that Compass had some inventory of imported product, and here was Lynx as a manufacturing facility, so there was some transition there. While the former Lynx's plant now

became a manufacturing facility for all of Compass's business, and that transition occurred.

The other significant change that occurred at that time was that just before that change, the relationship that Lynx had with Rhodia, as the sole producer of all of the product that Rhodia was marketing in the U.S., that contract ended.

Now the volume required out of the plant had to be picked up by Compass. So there was a drop-off in volume, as you probably saw in the information, and then gradually the volume of the plant increased. I don't know if that answers your question, but I'm trying.

MR. BOYLAND: No, no, that's very helpful.

I guess one of the questions in addition to this sort of corporate change, it was the actual operations in manufacturing itself. Was there any change, in terms of how the HEDP was being manufactured?

MR. McCAUL: Let me put it this way: The first thing that I would say to you, and I don't think I addressed this, is that when Compass acquired the facility, Compass had to put in some capital into the plant for improvements.

In fact, I would say over the first eighteen

months, we probably put about $2.5 million of capital into the facility to bring the plant up to the level that we considered satisfactory.

What I mean by that is that there were in Lynx's ownership of the plant, Lynx was having some difficulty financially. The business was difficult for Lynk, so Lynx was not able to put the amount of money into maintenance of the facility that one would normally require.

There was equipment that had to be replaced; there were upgrades that had to be made. That was done by Compass, and that was a significant difference in the operation. The plant, currently, is in much better shape than it's ever been and it's running very smoothly now. But that was something that was extremely important as part of the Compass ownership.

Now, there was something else you asked about?

MR. BOYLAND: That really was the main question: What was the actual change in the plant operations?

That certainly addresses part of it. But, in terms of the efficiencies, when I compare the cost to produce HEDP, when it was Lynx compared to HEDP of Compass, should I expect there to be differences as a

result of these changes?

MR. McCAUL: I would say that Compass was, because of its situation, able to provide some raw materials at better costs than Lynx was able to, so there would have been some improvement in that regard.

As far as the manufacturing of HEDP, in fact, I would tell you that when Compass first took over the facility, we considered not making HEDP at all. Then, we looked at it carefully.

In fact, our first decision was that we weren't going to make any HEDP. We continued importing product in the second half of 2006; and then we kept looking at it, though, and thinking we ought to be able to try to compete here on making HEDP in the U. S. So we changed our position on that and we started focusing on manufacturing HEDP.

One of the changes that we'd made, that we sort of played around with previously, was switching to use phosphoric acid as the main raw material rather than using phosphorate trichloride and making the phosphoric acid in situ.

We have the ability to go either way on that. But, preferentially for the moment, I'm not sure that I could tell you what the difference is right now. But we choose to focus more on using

straight phosphoric acid rather than converting the PCL-3 in situ. That's probably the only significant change I would say, in terms of operations, that we did.

MR. BOYLAND: Okay. So, prior to when it was operated as Lynx, it was phosphorate trichloride in situ, as opposed to phosphorate acid? If I look at the raw material from post and pre, I have to sort of keep that in mind?

MR. McCAUL: Yes, let me just say that when Lynx was producing the phosphorate for Rhodia over that period of time, Rhodia evaluated whether we should use PCL-3, or whether we should use phosphoric acid.

Rhodia had us use phosphoric acid rather than PCL-3 for I would say somewhat of an experiment. But Rhodia concluded that the difference was not significant cost-wise to suggest that we switch completely to using phosphoric acid.

In the 2005 period, almost all of the HEDP that was manufactured by the plant was using PCL-3 for Rhodia. When we, as Compass, took over in 2006, we used PCL-3 almost all of 2006.

Near the end of 2006, when we reevaluated whether or not we should use PCL-3 versus phosphoric

acid, we concluded that it was probably advantageous to use the phosphoric acid rather than make it in place using PCL-3.

In 2007, I would say that most of our production would have been using phosphoric acid. So it's a mixture story over the period in question. I would say that for two-thirds of the period in question, we used PCL-3, and maybe in the last third, maybe phosphoric acid.

MR. BOYLAND: Thank you. Not being an accountant, I have to sort of beg your indulgence here. But is it fair to say that the PCL-3 as a raw material compared to phosphoric acid is going to be more expensive because it's been further processed?

MR. McCAUL: The PCL-3 would be a higher value input as opposed to phosphoric acid.

As I mentioned, when Rhodia evaluated it, they concluded that there wasn't a whole lot of difference. We looked at our situation of not manufacturing for Rhodia was such that we had to have a source of PCL-3, and Rhodia was not a competitor. So we couldn't look to Rhodia as to be our supplier of PCL-3 any longer. We had to look at using phosphoric acid instead of PCL-3.

We did have another supplier of PCL-3, it's

true. But the volume involved was such that we had to say: Well, does it make sense to switch. And we concluded that it was. I couldn't tell you that I could right now explain to you what the cost difference was there. I think there would have been a better cost position using phosphoric acid, but the difference I don't believe is a vast difference.

MR. BOYLAND: Okay, fair enough. I guess that sort of got to it. It was a long-winded way of asking the question about raw materials in general because we unitize the values. We look at them over time and there did appear to be a fairly clear break in 2007 compared to 2006. It sounds to me that part of that could simply be this difference. I mean, is that fair to say?

MR. McCAUL: Yes. I don't think that the experience we've had or the evidence would show that our raw material costs per pound has changed significantly.

MR. BOYLAND: Okay.

MR. McCAUL: I would make this point, however, that the, and you know this of course, but the idea and the direction that we've been trying to go in as we looked at the plant in making HEDP is that if we can get more volume through the plant that the

fixed costs don't change significantly, and obviously our cost per pound improves, and, you know, that's normal economics, okay?

MR. BOYLAND: Fair enough.

MR. FAILON: Let me also comment on the drivers from switching from phosphorous trichloride to phosphorous acid. It was not strictly one of economics or product availability. It does pertain to environmental considerations, the hazardous nature of the phosphorous trichloride. It was the single most hazardous compound on the Smyrna sit.

I think our evacuation footprint was a 50 mile radius or something, and just eliminating that raw material from the site vastly improved that aspect, and Danny, I think, can comment a little more in detail.

MR. MCCAUL: Yes, Brian, that's a good point. The decision to first of all try to continue manufacturing HEDP, we looked at that and then we looked at how would we make it?

Among the factors pushing us towards using phosphorous acid were the availability of PCL-3, and the cost of PCL-3 and the cost of phosphorous acid, and then, also, the desirability of moving away from using PCL-3, as Brian mentioned.

MR. BOYLAND: That's an interesting point, that there are indirect benefits, too. So, I mean, I'm assuming that if the footprint for, you know, hazardous material is shrunk then your costs associated with that would be affected. Okay.

This sort of gets to I guess the initial point you were making about HEDP wasn't even necessarily a product that you were going to continue manufacturing, you decided to ultimately. How does HEDP fit into the overall operations of Compass?

MR. MCCAUL: Well, HEDP is, as I mentioned before, the largest single phosphonate that we manufacture volume-wise. Were we to decide not to manufacture HEDP, at this point I'm not sure if we would choose to continue manufacturing at all at that plant site.

I think we've supplied you some numbers and, you know, we can answer more questions about those, but if we can't be successful with producing HEDP there, we're going to have to look closely at whether or not the whole operation there is really viable.

MR. BOYLAND: Okay. I understand what you're saying as a general matter, but HEDP, with the exception of the internal consumption for the tetrasodium etidronate, that's the only thing that's

dependent directly on HEDP at the plant, so everything else essentially could still be produced without HEDP, is that fair to say?

MR. MCCAUL: Yes. The internal consumption that was talked about, obviously if we didn't make HEDP we wouldn't proceed with those. Now, I'm not saying Compass would disappear if we didn't manufacture HEDP. I'm saying Compass would revert back to becoming an importer just like, you know, other people are importing it from -- but we wouldn't be a manufacturer anymore in the United States.

As far as the economic impact on the plant, you know, obviously, as a producer of this largest of the volumes of phosphonates, it also puts us in a position to have infrastructure as well as supply relationships that benefit from being a larger volume producer, and so it would probably impact us in those regards as well.

MR. FAILON: Let me take a stab, also. I think maybe you were just asking if we didn't make HEDP, would it have an impact on other units or operations at the plant? The answer to that is no. The HEDP reactors would just sit there idle, collecting dust.

MR. BOYLAND: Okay. That was sort of the

initial question, but, you know, I take the point that it sort of broadens your product mix and it adds that as an effect on your operations as well, but from just a purely manufacturing standpoint, HEDP, everything does not hinge on it. Okay. I believe those are all the questions I have. Thank you.

MR. CARPENTER: Mr. Wanser?

MR. WANSER: Thank you very much. I want to go back to the production again. You've answered all the questions, but just one more time. We'll go around it again. I understand that the phosphorous acid may be a byproduct of another reaction, and I would like to know what the reaction is, and where do you get the product?

And then, you have supplied the cost of the phosphorous acid in your questionnaire? If you haven't, perhaps you could on a quarterly basis? You said you started in 2007 using phosphorous acid.

MR. FAILON: For 2007 we will provide on the quarterly basis our phosphorous acid raw material costs.

MR. WANSER: Do you know anything about its source?

MR. FAILON: Yes. I mean, to make HEDP you need virgin phosphorous acid and hydrous

chlorophosphorous acid flake or phosphorous acid crystal. You're right, there are some phosphorous acid byproduct streams available in the U.S. market, and those are manufactured by reacting phosphorous trichloride with a fatty acid or a fatty alcohol.

There are three main generators of byproduct phosphorous acid: Buckman, in Cadet, Missouri; Lonza, in Mapleton, Illinois; and Hercules, in Franklin, Virginia. Those byproducts are 70 percent aqueous phosphorous acid, and because of the presence of the 30 percent water they're unacceptable for making HEDP.

You can make other phosphonates from that byproduct but not HEDP.

MR. WANSER: Okay then. That's very good. Thank you.

MR. MCCAUL: Can I just clarify something?

MR. WANSER: Yes.

MR. MCCAUL: And, Brian, if I'm saying something that's incorrect, I know you'll fix it here, but the numbers that we gave you for 2007, our costs for production, reflect the use of phosphorous acid.

MR. WANSER: Okay.

MR. MCCAUL: Those numbers, our cost of production raw material cost, come from very detailed batch sheet information that we have. For every batch

of product that we make, every kind of every product that comes out of inventory that goes into the final batch, we have those records.

That's where we got the information to say this is our cost of production. So the fact that we switched to use phosphorous acid is reflected in those numbers. Those are accurate numbers.

MR. WANSER: Okay. Thank you, once again. Just one quick question along this line. What is the advantage of the salt versus the acid, with the exception of the use in the bar soap? I guess it's the four sodium salts?

MR. FAILON: The only advantage of having a raw material that's already neutralized is if you're a compounder, or formulator, or blender, and you don't have the capability of handling the exothermic or heat generating reaction.

When you take the very acidic HEDP, 60 percent, and then react it with sodium hydroxide, or potassium hydroxide, generally the formulations that you're going to be seeing are at a neutral pH, and to bring HEDP up to neutral pH you've got to have some kind of jacketed reactor, or heat exchanger, or something to handle the heat that's evolved when you neutralize the acidic HEDP.

MR. WANSER: Okay. Thank you. That's very good. Now, I want to look at the domestic like products among the different organophosphonates. Is there any real problem in producing these? Do they have the same difficulties in manufacturing them that you had with HEDP when you used the phosphorous trichloride?

I mean, it is corrosive, I imagine, to the equipment, so are the other organophosphonates using have these same problems during production? I mean, you make a couple of them at your plant there, I understand.

MR. FAILON: Yes. As a rule, the amino methylene phosphonates, such as ATMP, are going to be made from 70 percent phosphorous acid, rather than from PCL-3, so there are less problems during manufacture and some of the manufacturers of the amino methylene phosphonates can take advantage of using the byproduct phosphorous acid, which is a lower cost.

MR. WANSER: Okay. And you keep talking about first, second and third generation. Is that sort of general in the industry among these different phosphonates?

MR. FAILON: I started my career at the largest industrial water treatment firm, Nalco, before

I moved on to Albright and Wilson, in the industry amongst the water treaters it's pretty well-acknowledged that ATMP was the first generation phosphonate used for scale control. HEDP came along next and had some advantages over ATMP.

I'd say as a third generation, PBTC came along next, and it had some advantages over HEDP. It didn't displace HEDP to the same extent that HEDP displaced ATMP, however.

MR. WANSER: If you were to get very specific comparing with these different organophosphonates it still comes down to say the application. It's application specific and may be function specific. Eventually, I'd like to know where are the other phosphonates going? It seems like HEDP has a lock on everything.

I know you make the other ones, so I was wondering where they go.

MR. FAILON: The ATMP, for example, is widely used in industrial and institutional compounding, like for detergents, laundry, well washing. They have much better solubility in caustic soda. That's one of the drawbacks of HEDP. It has sparing or a limited solubility or compatibility with sodium hydroxide.

Generally, when you neutralize HEDP you would use caustic potash, KOH. So ATMP is widely used in the I&I sector. It's also used in the brewery bottle wash and brew tank wash for a similar type of application. They clean bottles, and brew tanks and piping by blending usually gluconate or glucoheptonate with ATMP, maybe about three percent each, and the balance 96 percent, 94 percent, being caustic soda.

Again, even though HEDP has the desired functionality it doesn't have the solubility and caustic soda, so ATMP is used in that application. It still is used in industrial water treatment to a lesser degree than HEDP and now PBTC, but those are some examples.

MR. WANSER: Okay. That's fine. Thank you very much for your time. I appreciate it.

MR. CARPENTER: Mr. Corkran?

MR. CORKRAN: Thank you, and thank you all very much for your presentation. It's been very helpful this morning. I think we've covered a great deal of ground already, so I only have a very few remaining questions, one of which is quality. When you're looking at the quality of HEDP from various different sources, how do you measure that concept?

Is quality a matter of purity versus

impurity? Is it a matter of certifications that have been obtained? What really constitutes quality for this product?

MR. FAILON: The quality for this product is a handful of quality control test methods, one being the percent of HEDP in the product, or percent actives, and that's generally 58, 62 percent, sometimes 59 to 61 percent, but generally, 58 to 62 percent, centering on 60.

Directly proportional to percent actives is the density or specific gravity, so that's often specified and certified. The color of the product. There is an APHA color scale, and that stands for American Public Health Association, and it's a range of colors ranging from water light or completely colorless to pale yellow.

So there's a color specification. Likewise, there are some impurity specifications. Since it is a very corrosive compound, when it comes into contact with metallurgy you're going to pick up some iron. So iron, there's usually a 25 or 35 part per million maximum.

There's a chloride maximum since, again, the product is often made from phosphorous trichloride, so that impurity is stripped out to I believe usually a

0.1 percent maximum. There are two other impurities, phosphorous acid and phosphoric acid. Those generally are controlled, maybe not always reported, on the certificate of analysis.

I guess to answer your question, it's a combination of the percent of the active ingredient as well as its physical appearance, it's density as well as a few impurities.

MR. CORKRAN: Thank you very much. That's very helpful. Did you get any feedback, did you have any customer concerns as Compass was making the transition from being wholly a provider of imported HEDP to one that was trying to meld its domestic production and its import availability in terms of quality of the product?

MR. MCCAUL: No, there wasn't any. Nothing that I can recall.

MR. FAILON: It was a pretty seamless transition, and, actually, we renamed our import product as well to Mayoquest 1500 so that we were strictly supplying Mayoquest 1500 to the industry. We weren't making any distinction between domestically produced or imported.

MR. CORKRAN: Thank you. That kind of leads into my next question which involves pricing. Again,

as you were making this transition into becoming both a domestic producer and a provider of imported product, how was pricing established? Did you have separate prices for U.S. produced HEDP and Chinese produced HEDP or was there basically a single price structure based on a blend of the two?

MR. FAILON: Well, we certainly had a blended standard cost, but the price structure was just one price. We made no distinction between pricing of imported material versus domestically produced material.

MR. CORKRAN: Okay. And then in terms of timing, can you help tie in -- thinking about that last statement about blending or having a single price for domestically produced and imported product, how does the timing for the three price increases that you mentioned in your presentation, how does that tie in with your progression in terms of providing a greater and greater share of product that was produced in the United States?

MR. FAILON: I believe they do correlate with the ramp up that we had, moving to a greater reliance on self-production in Smyrna. We experienced a number of cost increases on acidic and hydride, which largely was behind those three, but I do believe

we also experienced some cost increases on the phosphorous acid we were importing from China.

MR. CORKRAN: Thank you. You identified in general what price levels are now, even after implementing price increases. Can you talk a little bit about the prevailing prices for HEDP in the United States prior to July 2006? And also I'm curious, why did you acquire the assets of a facility, assuming the prices were substantially lower than they are now, for a facility, particularly one which you weren't even sure that you were going to operate equipment that you testified is dedicated to the production of HEDP. So I guess it's a two-part question.

What were the prevailing prices prior to your acquisition of the Smyrna facility, and what led to the decision to actually purchase it before you were sure you were going to be an HEDP producer in the United States?

MR. FAILON: I think we should address the prevailing market pricing prior to July 2006 in the post-conference brief, and Danny can comment on the rationale behind the Compass acquisition.

MR. McCAUL: The rationale for the acquisition has been questioned, and I would rather do justice to that question by taking a bit more time to

prepare a better answer and give it to you in the post-conference brief, if you don't mind.

MR. CORKRAN: I certainly understand, in part, because I think you need to be able to answer both questions in the same way, so I think, yeah, I certainly understand that. You've addressed cost trends. I had a question on customer feedback, but I believe you indicated that largely you have not gotten, certainly not negative customer feedback as you moved from supplying largely Chinese to a blend.

MR. McCAUL: Correct.

MR. CORKRAN: I have a question that goes more to the nature of the product. Is this generally a stable product? Is it a product that lends itself to being inventoried, and, if so, does it have a shelf life, or can it be inventoried almost indefinitely?

MR. FAILON: It can be inventoried almost indefinitely, whether in bulk storage or drums or tote bins. We have bulk storage at the plant that approaches a million pounds. No concerns about shelf life greater than a year; certainly, well past that.

MR. CORKRAN: Just a couple of other very quick questions.

In Ms. Levinson's opening statement, there was an allusion to what might happen if antidumping

duties were applied, potentially a shift in supply to the United Kingdom. How do you see the role of U.K.-produced HEDP in the U.S. market? How extensively do you compete against that product? What do you see their role in the market as?

MR. LEVIN: With your permission, Mr. Corkran, we would prefer to respond to that in the post-conference brief.

MR. CORKRAN: Certainly. Then I only have one last question, which gets to -- it's basically a terminology question, but when we refer to "compounders," on the one hand, and "end users," on the other hand, as you would use those terms, how do you see the companies that you would characterize as compounders and the companies that you would characterize as end users?

MR. FAILON: Compounders, who we would also call "formulators" or "blenders" or "water treatment service providers" or "oil field chemical service providers," they are generally taking HEDP and blending it with other components and selling it to an end customer, for example, maybe an oil refinery or a steel producer.

Sometimes end users -- one example that comes to mind is a utility producing electricity.

Sometimes their HEDP requirement is such that they feel confident applying the product themselves and not relying on a service company, like Analco, for example, and, in that case, they could buy HEDP directly from either a producer or an importer and considering a utility or a steel mill or a refinery an end user.

MR. CORKRAN: Thank you very much. That concludes my questions, and I very much appreciate your time. Thank you.

MR. CARPENTER: I just have a couple of quick additional questions related to your slide on prices and profitability, Slide No. 31. These questions, you may also prefer to respond to in your brief.

First of all, you indicate that your full cost is 76 cents a pound, and, in 2007, your target selling price was 93 cents a pound, the difference of 17 cents per pound being what you described as reinvestment-level profit. Could you, in your brief, I think, describe how you arrived at that figure and what your plans would be, if you were able to achieve that level of profit, how you would use those funds to reinvest in your operations and how that level of profit would be necessary to continue to profitably

operate your plant over the long term? Does that question make sense?

MR. LEVIN: It does, indeed, and we would be happy to take our best crack at it in the post-conference brief. We'll provide a full and comprehensive response.

MR. CARPENTER: Thank you. Also, just below that, Mr. Fetzer had asked a question about to what extent you are able to get this announced 15-cents-per-pound price increase to stick, and you're going to respond to that in your brief.

The question I have is, it appears from your figures that even if you are successful in achieving that level of price increase, you still would not be able to cover your full cost of production. My question is, had you considered an even larger price increase and then had to reject it just because of the reality of pricing in the marketplace?

MR. FAILON: These price increases were, I believe, just pass-through increases on what we had seen in raw materials, so we really weren't gaining ground, so to speak. I know we're going to comment some more in the post-conference brief, but I know that nowhere near the 15 cents per pound of the increases stuck in the market.

MR. CARPENTER: If you have any further comments in your brief as to why you did not seek even a larger price increase; was that due to the prevailing competitive prices in the marketplace?

MR. FAILON: We'll go into it in some more detail in the brief.

MR. CARPENTER: Thank you. I appreciate it. Are there any other questions?

(No response.)

MR. CARPENTER: Okay. Again, we appreciate very much your coming here today and your testimony and your very patient responses to all of our questions.

At this point, we'll take about a 10-minute break, allow the two sides to switch, and we'll resume the conference with the Respondents' presentation. Thank you.

(Whereupon, at 12:00 p.m., a short recess was taken.)

MR. CARPENTER: Please proceed whenever you're ready.

MS. LEVINSON: Yes. The mike is on. It's not lit up.

For the record, this is Lizbeth Levinson, and I'm with Garvey, Schubert, Barer. I represent the

largest exporter of HEDP from India, Aquapharm Limited, and with me today is a representative of Aquapharm Limited. To my right is Vimal Mangwani. He is the director and has been with Aquapharm for 35 years.

To Mr. Mangwani's right is John Zibrida. John is president of Zibex, and Zibex is one of only two customers to whom Aquapharm sells in the United States, and Aquapharm sells about 20 percent of its exports to the United States to Zibex.

To the right of Mr. Zibrida is Mohan Karve. Mohan Karve was formerly employed with Buckman Laboratories. Buckman Laboratories is the other customer of Aquapharm. Mr. Karve now works independently, but he acts as an agent for Buckman and facilitates sales from Aquapharm to Buckman.

With that, I will turn the mike over to Mr. Mangwani.

MR. MANGWANI: Good afternoon, Mr. Carpenter, and ladies and gentlemen of the staff. My name is Vimal Mangwani. I am the director of Aquapharm Chemicals Private Limited. I have held this position for the past 35 years, and I am knowledgeable about Aquapharm's production, sales, marketing, and finances.

I have a bachelor's degree in chemistry and a post-graduate degree in business. I have traveled from India to testify before you in opposition to the antidumping petition filed by Compass.

Aquapharm is a family-owned company with approximately 200 employees and with a revenue of $35 million U.S. dollars per year. In addition to HEDP, we produce the full range of phosphonates, biosides, and polymers.

We export our products to countries throughout the world, including the United States, the European Union, Japan, and Australia. We also sell HEDP in India.

At the outset, I should emphasize that Aquapharm has only two customers in the United States: Buckman Laboratories and Zibex, Inc. We sell approximately 80 percent of our U.S. exports to Buckman and 20 percent to Zibex. In order to sell to Buckman and Zibex, Aquapharm had to go through a certification process that lasted several months. Aquapharm is the only company from India that is certified to sell to these two companies.

To the best of our knowledge, there is no Chinese manufacturer that is certified to sell to Buckman, and Zibex is currently purchasing all of its

supplies from Aquapharm.

The basic reason that Buckman and Zibex purchase from Aquapharm and not Chinese sources is that both companies have a strong preference for material that is quality traceable and that comes from a plant that has been inspected and certified for NSF-grade material.

Aquapharm is NSF certified, unlike factories in China. Only NSF-certified product can be used in swimming pool and spa applications, as well as resalination, a process used to inhibit the formation of scales in the production of drinking water.

Buckman does not want to keep two grades of HEDP in their warehouses, as Buckman also supplies to customers who require NSF-certified HEDP. The company seeks only NSF-certified material.

To the best of my knowledge, Chinese HEDP generally does not meet the quality levels necessary to obtain NSF certification, especially as such certification limits the level of impurities in HEDP.

To the Chinese suppliers, HEDP is a commodity product. Aquapharm looks upon HEDP as a semi-specialty product, and we seek to accommodate the special needs of our customers. We provide logistic support, analytical and applications support for

Buckman. For example, we warehouse HEDP in Alabama and arrange for transportation to Buckman at short notice, which other companies located further away cannot do so.

Our independent agent in the United States for sale to Buckman, Dr. Mohan Karve, is here today and will be happy to respond to questions about the Buckman account. Dr. Karve was employed by Buckman for 35 years and retired as a vice president. He is very familiar with the operations and the purchasing requirements.

Stated simply, because of this unique relationship that Aquapharm has with Buckman and with Zibex, and due to the high quality of our merchandise, which is NSF certified, Aquapharm does not generally compete with the Chinese. Our major competitors are suppliers, such as Compass, sold under the brand name of Brequest; Ambrodia, sold under the brand name of Brequest. Both of these companies are exporting HEDP to the United States from the United Kingdom.

The public version of this petition contains several allegations that Compass lost sales to Aquapharm. As we sell only to two customers in the United States, Buckman and Zibex, and we do not believe that Compass ever lost sales to these

customers, and we are at a loss to explain or understand Compass's allegation that they have lost sales to Aquapharm.

Quite the contrary, Buckman has informed us that Aquapharm has lost sales to Compass due to low prices by Compass. We will provide more details about these lost sales in our post-conference brief.

Please understand that the United States is not the primary market for Aquapharm's HEDP. Our largest market for HEDP is the European Union, and we are continually developing markets inside India. In the year 2007, Aquapharm sold twice as much HEDP in other markets than in the United States and four times as much HEDP in the European Union than in the United States. The European market demands superior quality HEDP, and the Chinese have not been well-accepted in the market.

Once again, this trend underscores the differences in quality between Indian and Chinese HEDP, which I discussed previously.

We further expect the demand for HEDP in the European Union to increase at a far greater pace than in the United States. The reason is that the EU has recently passed legislation known as REACH, which would decrease the demand and the use of NTA, which

has been determined as a possible carcinogen.

HEDP is a substitute product for NTA, and it is expected that many consumers will turn to HEDP to replace NTA, especially in the INI sector, which is the largest consumer of NTA.

Finally, Aquapharm has refused, on many occasions, to lower its prices for HEDP, despite requests from U.S. customers to do so in recent past. If Aquapharm wanted to dump HEDP in the United States, it could have easily done so but refused to do so.

We will document these instances in our post-conference brief. I thank you all for this opportunity to speak today, and I welcome your questions. Thank you.

MR. LEVINSON: John?

MR. ZIBRIDA: Good afternoon. My name is John Zibrida. I'm the president and the owner of Zibex, Inc. Zibex, Inc., is a Georgia corporation that was incorporated in June of 1999. My company specializes in the specialty chemicals and equipment used by the water service industry and other market areas.

My personal experience has been in the area of chemical production, research, and sales. I've worked in the area of phosphate, molybdenum, and

acrylic polymers, with specific emphasis on research and sales in the area of industrial water prior to forming Zibex. Zibex's sales of products include scale and corrosion inhibitors, and biosides.

I'm here today because you have invited me to discuss HEDP imports. Zibex specializes in the application of products for water service technology in industrial and municipal systems. We currently supply a variety of products to a variety of customers. We do offer our customer base phosphonates. There are many phosphonates available to customers.

HEDP is a compound that we have promoted, dating back to 1987. HEDP was once the dominant phosphonate in water treatment. Other, more efficient phosphonates have replaced and supplemented its use. Although HEDP continues to be important, we expect its use to decline as good water quality for industrial uses becomes scarce, and conservation measures increase.

We sell both domestically produced products from the U.S. and imports from India and Taiwan. Our imports of HEDP from India come exclusively from Aquapharm.

We work diligently to differentiate product

sales to customers with proper application and quality. We have concerns regarding the case before you and free trade. We are before you because there is a concern on our part that quality phosphonates from India are being lumped with lower-quality materials from China.

We have selected products for our firm from India because of its inherent higher quality, NSF certification, and product support. Many of our customers recognize the quality HEDP product from India with traceability to the dedicated manufacturing source. We have observed product-documentation issues from other sources.

We have been satisfied with our purchases and sales of products from Aquapharm and its dedication to a specialty chemical market. We pride ourselves on supplying HEDP to customers that have been abandoned by many HEDP manufacturers and import brokers who treat HEDP as a commodity.

To impose duties on India would deprive the U.S. of cost-effective, quality HEDP that provides for cost-effective solutions. Unnecessary duties on HEDP from India would be disadvantageous to many U.S. companies involved in water treatment. Our company, which deals in domestic and international sources of

raw materials, would be depriving its customers of high-quality products and would leave the U.S. with limited sources of HEDP.

Compass Chemical has been the low-priced importer of low-cost phosphonates from China for many years. These low prices from China have negatively impacted the market conditions and prevented development of successful sales of Indian products by Zibex. Current pricing of HEDP has kept it competitive to alternatives, which include other phosphonates and acrylic polymers.

The imposition of antidumping duties could put HEDP at a disadvantage in relation to other alternative technologies.

I thank you very much for your time. That's all I have to say. Thank you.

MS. LEVINSON: Mr. Karve does not have a prepared statement, but he is available for questioning. With that, I'll turn the mike over to Mr. Craven.

MR. CRAVEN: Good afternoon. My name is David Craven. I'm with the law firm of Riggle and Craven. We are in Chicago, Illinois. I'm appearing today on behalf of the Ad Hoc Water Treatment Chemical Producers' Committee. With me today is George Collias

of Uniphos, and he will be speaking briefly on several issues involving this case. Thank you very much.

MR. COLLIAS: Good afternoon. As David said, my name is George Collias. I work with Uniphos, a wholly owned subsidiary of Wujin Fine Chemical Factory, one of the leading phosphonate manufacturers in China. My background is with over 20 years with a major, water-treatment chemical company, so I'm quite familiar with the compounding of chemicals such as HEDP into the formulations that ultimately serve end users, and I am affiliated with businesses that do compound.

As I go a little further, I would like to just explain a few things that might be a bit contrary to what you've heard.

First and foremost, from the standpoint of a user, our customers, as you were told earlier, there is a risk that is incurred by a customer if they only rely on one factory for the entire output of their needs.

A single-source relationship is relatively rare in my experience. The typical experience among the major users, and the major users of phosphonates such as HEDP are the largest water-treatment chemical companies in the country and the largest manufacturers

of industrial cleaners and detergents. That is a group of approximately five to eight companies.

They take the decision to use an ingredient such as HEDP very seriously and with extreme caution. These companies are global in nature, and they only approve, on a geographic basis, the use of a chemical such as HEDP.

This is a very time-consuming process. Nothing is left to chance. We are undergoing an evaluation with one of the larger companies who has approved Wujin Fine Chemical Factory's HEDP in other parts of the world. They will not accept the data and the experiences from their counterparts, and we're going through a rather lengthy evaluation, sending samples to approximately six different organizations, and these people go through several different formulations, hopefully, not to discover a problem but to confirm that there is no problem with the formulation.

I want to give you, again, another perspective about these things called "formulations" in water-treatment chemicals and in detergents. We're not talking about one formulation. In general, these companies market 50 to 150 different formulations so the process of going through a technical evaluation is

lengthy, and the scientists involved have to go through a process of their experiences of what they think are the most sensitive formulations, and they evaluate each supplier's product to assure that no problems are discovered, and, hopefully, those problems are problems that would be instantaneous in nature, not one that would evolve over time.

We have experiences with different HEDP qualities. There is one experience where all specifications were met and a reaction occurred with an HEDP that formed a yellow. Now, generally, you might say colors are insignificant, but to people in the business of typically relying on products that they really don't understand, they look for consistency and quality.

If a product is colorless for the last five years, and it becomes yellow, the natural reaction on the part of the person who is using the chemical is to ask a question, "What's changed?" and that creates angst on the part of the supplier, and everybody has to start addressing and looking for answers and providing that there isn't a problem.

There are situations where HEDP quality can cause a destabilization of a formula. As Mr. Failon suggested, one of the impurities in HEDP and other

phosphonates are chlorides. As you accumulate a variety of different chemicals, and the chloride concentration increases to a certain level, certain chemicals fall out. These formulations typically have five to 10 different chemicals in them, and I'm speaking from the water-treatment perspective.

So it's a very complex, sensitive relationship that all of the chemicals have with each other, and people have to go through each and every step to make sure that when HEDP or any other ingredient is added to the formula, that problems have not occurred.

So the interchangeability factor, I believe, has been more liberal and easier than my experience has found to be the case.

There was an example about interchangeability and the commingling of HEDP from various suppliers. I'm familiar with the majority of the largest-volume users of HEDP, and the majority of them do not store HEDP in bulk. It's received in drums or tote tanks. I believe that they would not want to take the risk of commingling in those facilities.

Now, as far as NSF certification, I'm affiliated with just one of the Chinese phosphonate

manufacturers, and it seems as though they are given a broad brush of not being capable of meeting the needs of certification as demanding as NSF. I'm here to tell you that that is not the case with Wujin Fine Chemical Factory.

NSF certification is a process that is done to assure the public that the chemicals used in drinking water plants are made according to a standard process. That process is documented so that records can be retrieved in the future, if necessary. Companies undergo a rigorous process to become NSF certified. Wujin Fine Chemical Factory has three of its phosphonates that are NSF certified.

When somebody asks whether your chemical is NSF certified, there isn't just a reliance on good faith. The NSF has a Web site that communicates to the public and to every user whose products are NSF certified. So you can go to www.nsf.org to determine whose phosphonates are NSF certified and whose aren't. I can assure you that Wujin's three phosphonates mentioned are NSF certified.

One last point: I'm involved in making many different formulations of water-treatment chemicals for cooling water. The HEDP component in those formulations is typically in the range of three

percent. Twenty percent is a rarity in water-treatment chemicals.

I would be glad to answer any questions that you might have that I can answer at this session. If not, I will answer them post-conference. Thank you very much for your time.

MR. CRAVEN: I have nothing more to add at this time. We're ready to take some questions. Do you have anything, Ms. Levinson?

MS. LEVINSON: I just wanted to clarify with Mr. Collias on the Wujin NSF-certified product. I wanted to confirm that it is, in fact, HEDP.

MR. COLLIAS: Yes, it is.

MR. CARPENTER: Thank you very much, Panel, for your presentation and for coming here today from various places to be with us. We appreciate it. We'll begin the questions with Mr. Comly.

MR. COMLY: My name is Nate Comly. I'm the investigator. I have only a couple of questions, since you have answered several of them in your presentation.

Do you agree with Compass's assertion that the U.K. is the only, other than China and India, nonsubject source of HEDP into the U.S.?

MR. MANGWANI: Yes. The U.K. is the only

source. There is some small material coming in from Germany called Schumer and Shultz, but that may not be only HEDP. There are other phosphonates.

MR. COMLY: Does Aquapharm compete with Compass for HEDP?

MR. CARPENTER: Excuse me.

MR. COLLIAS: I'm sorry. I'm a little hard at hearing, Mr. Comly, so I didn't even hear the question.

MR. COMLY: The question was, are there any other sources, other than England, of nonsubject HEDP?

MR. COLLIAS: Not that I'm aware of.

MR. MANGWANI: Yes. Aquapharm does compete with Compass.

MR. COMLY: Just to reiterate, but not with any Chinese producers.

MR. MANGWANI: Yes. That's true.

MR. COMLY: Can you describe for me the markets in India and then also in China, giving me kind of an example of the number of manufacturers in each country and whether or not the manufacturers are export oriented, or are they oriented more towards their home markets, and kind of the growth trends or the trends within each one of those markets, India and China?

MR. MANGWANI: There are four manufacturers of HEDP in India. The two largest are Aquapharm and Excel Industries. The other two are Renkel and United Phosphorous, but they are relatively small.

MR. COLLIAS: I'm not as familiar with the market conditions in China as I am in the United States.

MR. CRAVEN: We are in the process of compiling something, and we'll provide that with the post-hearing brief.

MR. COMLY: Great. Thank you.

MS. LEVINSON: Mr. Comly, Mr. Mangwani, I would just like you to respond to the part of his question asking about which companies in India are export oriented, and what is the demand for HEDP in India itself?

MR. MANGWANI: Aquapharm and Excel generally export their products, and the demand in India is about seven to 8,000 metric tons per year.

MR. COMLY: Do you see that growing?

MR. MANGWANI: Yes. India is growing at 9 to 10 percent every year, and the demand for HEDP is growing about 14 to 15 percent. The reason is a lot of growth of infrastructure is there, and a lot of people were not using the chemicals in water

treatment. Now they realize that recycling has to be done in water, and they have started using the chemicals.

MR. COMLY: I guess, going on top of that, can you describe maybe some general demand and supply trends throughout the world market for HEDP and maybe also touch on price trends, which you may have to talk about in your post-conference brief?

MR. MANGWANI: I can only tell you about Aquapharm. Our biggest market is the European Union. We have been approved by major users there, and we sell four times more HEDP than we sell in the United States.

Generally, we sell our products directly to the end users. There is very small product which goes to the formulators or to the distributors because we believe in directly going to the customers and giving them application support. So we have a direct relationship with the customers.

In the United States also, 80 percent of our product is to Buckman, which is a direct consumer, and only 20 percent goes to Zibex, which is a distributor.

The demand in the European Union is increasing faster than in the United States, and in India and Southeast Asia also. So we expect our

future growth to come from those markets.

MR. COMLY: This is a question for Mr. Karve, I guess. Has Buckman attempted to have any Chinese producers certified to supply you?

MR. KARVE: At Buckman, at present, no Chinese HEDP has been certified.

MR. COMLY: Have you approached them to be certified?

MR. KARVE: Just to make it clear, I do not work for Buckman; I work for myself now. What I know from them, they have looked at Chinese sources in the past, but they did not meet their expectations in terms of all of the criteria they had in place.

MR. COMLY: Moving on to something a little different, would you agree with Compass's assertion that the purchasing and imports are cyclical in nature?

MR. CRAVEN: Is the question, are they cyclical in nature or seasonal in nature?

MR. COMLY: I'm sorry, seasonal, seasonal.

MR. CRAVEN: The question is, are the imports of HEDP, the sales of HEDP in the U.S., seasonal in nature, i.e., it varies from quarter to quarter?

MR. COLLIAS: Yes, that's true. The major

influence of the seasonal demand is the air-conditioning systems of buildings when it's a water process. Many of your air conditioners do not have water circulating through the buildings, but the bigger buildings have water circulating through them, and you'll see cooling towers somewhere near the ceilings, the roofs, or adjacent. So, as Mr. Failon said, in the second and third quarter, it would be your highest air-conditioning demands for cooling water chemicals for comfort cooling.

Now, even industrial cooling has a little bit of seasonal demand but not as much. That's because the temperature of river water increases somewhat during the spring and the summer, and, again, that creates an extra demand for chemicals.

MR. COMLY: In the public version of the petition, Compass notes that there is an increasing rate of importation from China, specifically by conventional distributors, and I believe they brought that up in their presentation as well. Do you agree with this statement? I mean, are you seeing the same thing? Are you seeing more competition from distributors?

MR. COLLIAS: If I could, could I ask you to speak a little louder? Actually my doctors tell me I

should get a hearing aid, but I've been a little slow at doing that.

MR. COMLY: Sorry. I'll repeat my question. Is that better?

MR. COLLIAS: Yes.

MR. COMLY: Okay. In the public version of the petition, Compass notes, and they also noted I believe in their presentation, that there's an increasing rate of importation from China specifically by conventional distributors that have typically sold branded products. Do you agree with this? Are you seeing the same thing?

MR. COLLIAS: I think you're referring to whether there is an increasing proportion of HEDP sales through distributors in the United States. I don't have that experience to say that because we sell to compounders as well as distributors. We're relatively new. The Uniphos Corporation was just formed in October of 2006 so we don't have as much experience, as you'll see in our response to your questionnaire. We don't have 2005 or 2006 data. So I can only comment from 2007.

MR. CRAVEN: To the extent that we have that information we will certainly be providing it to the Commission in the post-hearing submission, but any

details we have, frankly, would be a bit confidential.

MR. COMLY: Understandable. That's all the questions I have for now.

MR. CARPENTER: Ms. Brown?

MS. BROWN: Thank you.

I had a couple more questions on the NSF certification. How long does that certification take place, and if you can give me some idea what it entails, the process?

MR. MANGWANI: It generally takes about six months. What they do is we have to apply to the NSF authorities in the United States. Then we fill out a questionnaire. Then they visit the plant in India. They visited our plant. They have gone through the process. They have seen the old records. They physically collect the samples of material and take it back to the United States and get it tested for the requirements. If it meets the grade, then they give you the NSF certification.

MS. BROWN: Does this have to be renewed every year or is it something that is --

MR. MANGWANI: There is a limit. I'm not sure whether it is one year or two years, but it has to be renewed.

MS. BROWN: For Buckman and Zibex, you

probably said this but I'm not clear, is the only product you buy NSF certified product? The only HEDP that you buy?

MR. KARVE: Yes. At Buckman they have a requirement that all HEDP supplied to them be NSF certified.

MR. ZIBRIDA: We buy both NSF and non-NSF, depending on the customer application.

MS. BROWN: What would you say the proportion of NSF is of what you buy?

MR. ZIBRIDA: I can't say offhand, but let's say in the range of 15-20 percent. Somewhere in there. That's a guess.

MS. BROWN: And with respect to the NSF that you purchase, do you buy NSF from U.S. suppliers and UK suppliers?

MR. ZIBRIDA: Aquapharm only.

MS. BROWN: Only Aquapharm?

MR. ZIBRIDA: Yes.

MS. BROWN: And with respect to Buckman, is that also true?

MR. KARVE: At Buckman one of the NSF suppliers is Aquapharm and the other is Compass.

MS. BROWN: If the Chinese product is NSF certified would your consider buying, purchasing that

product? We were under the impression this morning there was no Chinese product that was NSF certified, but now we're hearing that --

MR. ZIBRIDA: The product quality from Aquapharm, even the non-NSF material, will probably pass the NSF. There are certain trace minerals that we are very concerned about in phosphanates that are on the order of a thousand times drinking water standards, for example, on certain metals that we do not consider desirable for our customers and we would not put that into our supply chain.

MS. LEVINSON: Could I ask Mr. Karve to respond to that question as well on Buckman?

MR. KARVE: The same thing applies for Buckman as well. NSF is one of their expectations and the other, as Mr. Zibrida is saying, the other trace elements in the product itself, and they have very strict limitation on what they will accept and what they will not. And Aquapharm is one of the producers that has consistently passed their expectations.

MS. BROWN: Thank you.

When we talked about NSF this morning with Compass they I believe said they felt the product that needs to be NSF certified represents a rather small portion of the U.S. market. Do you have any sense of

that? Anybody can answer that.

MR. MANGWANI: We supply only to two customers. We don't know the U.S. market as such.

MS. BROWN: I understand.

MR. COLLIAS: I don't think I know the percent of NSF certified product that has to be in the market. We made a decision to market only NSF certified HEDP in the United States. That gives the customer the flexibility of using the same product for an application.

MS. BROWN: Thank you.

Mr. Mangwani, I know you only represent Aquapharm. Are you the major Indian supplier to the U.S. market? I probably should know this, but I don't. And you mentioned Excel. Are they also selling --

MR. MANGWANI: They are also selling to the United States.

MS. LEVINSON: I think Aquapharm represents over 90 percent of exports to the United States. Do you know?

MR. MANGWANI: As per the figures I think given in this petition, 80 percent.

MS. BROWN: To your knowledge are the other Indian suppliers supplying NSF certified product or is

it just --

MR. MANGWANI: No.

MS. BROWN: You're the NSF supplier.

Since you supply all over the world, can you give us some idea of, maybe you have to do this in a post-conference brief, of prices that you're getting in other markets for this product? Maybe generally and then more specific later on.

MR. MANGWANI: We do it in the post-conference.

MS. LEVINSON: Speaking generally we can say that prices in the European Union are generally higher than prices in the United States. Is that correct?

MR. MANGWANI: That's correct.

MS. BROWN: And the European Union is your main export destination right now?

MR. MANGWANI: That's right.

MS. BROWN: The Petitioners have pointed out and it was pointed out in their petition and this morning, that you're planning, the Indian producers are planning to add quite a bit of capacity, and that this poses a threat. Can you address that a little more? You've said your focus is going to continue to be the European Union, or do you have commitments for this new capacity, or what?

MS. LEVINSON: They never said it was capacity of HEDP, and I'm going to let Mr. Mangwani, they have increased capacity for other products.

MR. MANGWANI: About two years ago Chemical Week which is the chemical magazine approached us for writing an article on Aquapharm. As a general marketing practice we just gave an article out in which we had plans to double the capacity of all the products. So generally we double, and that has been written as only HEDP here. But if you see the article, it's very clear the whole company -- biocides, polymers, as such was are doubling our capacity.

So we did increase HEDP capacity, but generally the whole company's capacity increased.

MS. BROWN: And with respect to the HEDP capacity increase, what are your plans for that? Why did you increase? Where are you planning to sell it?

MR. MANGWANI: Increase the capacity basically to meet the demand of the European Union. And in fact after increasing the capacity we are still running the plant at practically 100 percent. It is 90 percent plus without even considering breakdowns, so we are running the plant fully and catering mainly to the European Union. So I don't think we have

capacity even to come to the United States.

MS. BROWN: Do you supply the European Union under contracts? Do you have contracts with them?

MR. MANGWANI: Yes.

MS. BROWN: One year contracts or --

MR. MANGWANI: That's right. Generally the large customers insist on one year contracts, but it's only the distributors normally we have six month contracts.

MS. BROWN: Any information you can provide us on your commitments going forward to your customers, particularly the European Union, would be useful.

I guess I have a question for both groups of Respondents. What's your position on how the Commission should define the like product in this case? The Petitioners are asserting that we should define it consistent with the scope.

MS. LEVINSON: On behalf of India, we're not challenging the definition of like product in this case.

MR. COLLIAS: I don't think we have a problem with the definition of like product either.

MS. BROWN: Thank you.

How about with respect to cumulation?

What's your position on whether we should be cumulating the Chinese?

MS. LEVINSON: That is very important to us. Part of the reason that we've taken a great deal of care to distinguish between products from India and products from China is because we would like to see the Commission not cumulate products from India with products from China, and that's a legal issue that we'll treat in more detail in the brief.

MS. BROWN: Thank you.

MR. CRAVEN: Frankly, one of the things that we have to do is review the business confidential information to make that determination, and due to various issues I actually haven't had a chance to review any of the BPI yet. So we're going to reserve our opinion on cumulation until after I've looked at the data and we will certainly provide our views on that in the post-conference brief.

That being said, I think some of the discussions today may already have enlightened the Commission on the cumulation issue.

MS. BROWN: Thank you, I'd appreciate any further light you can shed on that issue.

Also with respect to geographic distribution of your products, whether they're reaching the same

parts of the United States. Thank you.

MR. COLLIAS: From, I'll call it the Uniphos perspective, there isn't a major area of I'll call it market penetration that's based on a difference in pricing. There may be a difference in our sales based on the distribution of the customers, and that's really what's predominant in giving a response, and we did give a response on the geographies in our questionnaire. But it's primarily based on where the customers are at this time, and since we are relatively new at distributing in the United States, it's also a function of our relatively young age.

MS. LEVINSON: I'd just like to add to that, on the freight, it is my understanding and this is for Mr. Zibrida to confirm, but it's my understanding that the freight is fairly significant in the United States. I think Compass may have mentioned that this morning as well, that to transport the HEDP across the country would be a big expense. But that is part of the reason that Aquapharm has opened a warehouse near the Buckman facility so they can ship their product right to that warehouse and they have an advantage in supplying Buckman from that warehouse over others suppliers.

MS. BROWN: With respect to the UK product,

do any of you have any sense of how that pricing compares with what you're selling in the U.S. market?

MR. MANGWANI: Since we're supplying to two customers we are not well aware of the situation. But generally at Buckman, previously Rhodia, a UK company, was supplying the product, so we were sharing the business. Only last year Compass displaced Rhodia. So we believe our prices are more or less similar to Rhodia, because a customer will not pay higher prices. They would like to have the similar prices, to share the quantities. So we believe our prices were similar.

MS. BROWN: Mr. Karve, do you have any input on that?

MR. KARVE: Yes, as Mr. Mangwani says, this year, in 2007, we are sharing the business at Buckman with Compass and according to the purchasing people at Buckman, both companies are supplying them at comparable prices. This is what they tell us. That we are not necessarily the lowest price. We are the same or higher price as what Compass is charging.

MS. BROWN: How about UK? Do you --

MR. KARVE: I don't know.

MS. BROWN: Mr. Zibrida, do you know?

MR. ZIBRIDA: I don't know.

MS. BROWN: I believe that's, do you have any --

MR. CRAVEN: We don't have any specific comments on the UK pricing at this time. We will try to add something in the post-conference brief.

MS. BROWN: Thank you. I believe those are all the questions I have. Thank you very much.

MR. CARPENTER: Mr. Fetzer?

MR. FETZER: I'd like to thank the panel for their testimony, and especially those who have traveled long distances to be here. I'm just trying to figure out what's going on in this market.

I'd like to thank Mr. Collias for responding to some of the things that were said this morning in particular. That's very helpful, some of the questions I brought up. But I do want to follow up on a few of those.

One was on the end use, three percent number that you said was probably more representative than the 20 percent. Was that on a value basis or on a content basis?

MR. COLLIAS: For sure it's on a content basis. It's possibly less on a value basis.

MR. FETZER: The question was in terms of cost share, which obviously it's probably easier to

figure out what it is on a content basis than on a value basis.

MR. COLLIAS: I'm familiar with the various chemicals that go into these. They're called multi-functional products because they have five to ten different ingredients, and many of those ingredients have higher prices than the prices you observed in the presentation.

MR. FETZER: I appreciate that. And this would include any uses, water treatment and some of the other major uses that we talked about?

MR. COLLIAS: My perspective is primarily based on the water treatment chemicals.

MR. FETZER: Thanks.

Does anyone else on the panel have any thoughts? Mr. Craven?

MR. CRAVEN: I just wanted to clarify. When you're talking about water treatment chemicals here you're talking about boiler water treatment and not sanitation water.

MR. COLLIAS: Actually what I'm talking about are water treatment chemicals that are used for cooling applications, process cooling or comfort cooling.

MR. FETZER: Thank you.

Does anyone else on the panel have any comments regarding the end use cost share, whether it's for this application or for other ones?

MR. ZIBRIDA: There are so many formulations that it would be difficult to generalize, but what Mr. Collias indicated at three percent use rates would probably be on the order of 1.5 to 2 percent on a cost basis. There are other ingredients that are much more costly that are used at a higher rate in a formulation.

MR. FETZER: Thank you, I appreciate that.

Regarding the single source relationship which you said was rare, I think the Petitioners characterized it as the larger producers had multiple relationships, which wouldn't apply. Some of the smaller ones might have had single.

When you say rare, can you give a sense of how rare? Ten percent? One percent of the time that there might be purchasers who are only sourcing from one source?

MR. COLLIAS: Actually I'm not aware of a single source relationship that exists beyond one year. I think I said that companies, the major users do not typically share the business. The business is put out for, there are requests for quote that are

done on an annual basis. The technically qualified suppliers can bid on the business. The winner is awarded the business for, at most, one year.

MR. FETZER: Okay, thanks.

Does anyone else have any thoughts on this, the prevalence of single source relationships between suppliers? Of purchasers who only source from a single supplier.

Okay. The other thing was the commingling which you said typically doesn't happen. Does anyone else on the panel have any thoughts on the commingling? Does it happen? Does it not?

MR. KARVE: In the business model that I have seen they usually will not commingle just to be on the safe side, so they have traceability on the records going back to where the product was sourced from in case there are any follow-up complaints in the end user market.

MR. FETZER: Thanks.

We talked about the NSF qualifications. I guess one of the reasons it was important to me is because in the petition the Petitioners, or Compass said that Chinese and Indian product were interchangeable as long as they met certification. Now I'm hearing that maybe not everything is certified

but there might even be other things on top of that, trace elements.

I want to get back to the original question. Aside from NSF do you think that U.S. product is interchangeable with Indian or Chinese product? Whether it be NSF certification, whether it be the trace elements. Putting all those factors into play. And also the fact that okay, maybe something's not certified, but it may have the same qualities. Is there a way, and I'll open it up to the panel to give me their perspective on the interchangeability between U.S. product and imports from other countries, including the United Kingdom also, if you have any knowledge to that.

MS. LEVINSON: Does your question include the interchangeability between Indian and Chinese products?

MR. FETZER: Yes, sure. I didn't think of that, but any permutation.

MR. CRAVEN: I would simply suggest that the evidence that Compass presented this morning where they wouldn't even tell their supplier whether they were supplying them imported product or U.S. domestic product certainly suggests an interchangeability of product. In terms of our views, we believe the

Chinese product is of the first order and fully interchangeable, but I think in fact Compass' actions where they didn't even tell their customers, at least as I heard their testimony this morning, they didn't tell their customers whether they were providing them from the Smyrna plant or an import, would suggest that they believe that at least the Chinese and the U.S. product were interchangeable.

And I think the fact that I believe Buckman indicated they were buying from Compass and from Aquapharm, suggests that they don't view the, that they view the Indian and the U.S. product as interchangeable.

MR. FETZER: Any other thoughts on that from the rest of the panel?

MR. ZIBRIDA: I am aware of specific accounts that have dismissed their supplier over interchangeability issues when they realized they were buying product from origins with certificates that were not commensurate with what they thought they were buying. They changed the supplier at that point. Which indicates not necessarily 100 percent interchangeability between sources of product.

MR. FETZER: Is there any way we can generalize that across countries or say there is some

-- I mean is there a way to generalize that across countries?

MR. ZIBRIDA: Companies, not across the countries? Across countries?

MR. FETZER: Yes.

MR. ZIBRIDA: We haven't have any interchangeable problems with material from Aquapharm. I know we have increased sales at accounts that have had problems with interchangeable from China.

MR. FETZER: So you would say, just to be clear, U.S. and India would be interchangeable, but Chinese wouldn't?

MR. ZIBRIDA: That sounds about right. Quality products from the U.S. and quality products from India would be interchangeable.

MR. FETZER: And that's even with the issues of trace elements and such?

MR. ZIBRIDA: We are assuming that the products manufactured in the U.S. have the high quality standards with the low trace minerals in it. Assuming such. I haven't seen the analyses of some of these products at this time yet.

MR. CRAVEN: One other point. I don't think we're saying that you can just pick a random barrel of product and interchange it. It's a situation, as

George explained, there is a relatively significant review period by a supplier before they will put a particular factory into place. So what we're saying is that a Chinese producer after being reviewed can be put in to a factory if its quality level meets the requirement. It's not a freely interchangeable product. It's not fungible like say wheat.

MR. FETZER: Okay. Any other thoughts from the panel on that?

MR. ZIBRIDA: I think the opposition, with all due respect, represents one manufacturer of products, am I correct? Okay.

MR. FETZER: Okay.

MS. LEVINSON: John has imported from Taiwan product and has imported from India obviously. John, have you had particular problems with the product that is of Chinese origin that you don't witness in the Indian? Could you compare the Indian and the Chinese product?

MR. ZIBRIDA: We haven't had problems with our supplier from Taiwan, but we have had fewer acceptability issues with Indian material.

MR. FETZER: Thanks. That's very helpful.

Any other comments on that?

Mr. Collias, you made a comment earlier

about NSF certification being on a geographic basis. Or something about suppliers being approved on a geographic basis.

MR. COLLIAS: Yes. The major users of phosphanates such as HEDP are global in nature. They are companies such as Nelco Chemical Company, GE Betz, Ashland, Johnson Diversy, Ecolab. All these companies have a global position in selling their products and services. What I said to you is that the approval process for ingredients such as HEDP are generally done on a geography by geography basis. Because formulations may be different that are sold in Europe versus Asia versus North America.

Did that answer your question?

MR. FETZER: Yes, so when you're talking geographic region, you're talking North America let's say versus country specific?

MR. COLLIAS: I'm generally talking about continental regions.

MR. FETZER: And we're talking about NSF qualification or we're talking about something else beyond that?

MR. COLLIAS: We're talking about the company's qualification of the ingredient for their respective products.

MS. LEVINSON: I just want to emphasize, again, NSF certification, it's factory by factory. You could have a factory in China that's certified or a factory in India that's certified, but the same company could have a factory in the UK that's not certified.

MR. FETZER: But I think what you're talking about in the geographic, this type of qualification is just what ingredients or what different types of things are in a particular formulation.

MR. COLLIAS: That's right.

MR. FETZER: Not so much NSF, it's not a quality issue as much as maybe a content. Okay. I might have got those confused.

This morning we heard Petitioners saying that many imports are sold on a cost plus basis instead of being bundled and possibly not taking advantage of customer leverage. Any comments from the panel in terms of that? And in particular, are imports typically sold in a bundle or sold separately? And if you have any comments on the cost plus.

MR. COLLIAS: I'm glad you asked that question. One of my degrees is in marketing and finance, and the training we go through on pricing is that there can be value pricing, there can be cost

plus pricing, and there can be a competitive reference pricing that a company chooses to price their products. It's my experience that in the United States with so many competitors selling HEDP, the pricing power is in the hands of the customer, not the supplier.

We're talking about major companies from the UK, many companies from China, and very capable companies from India, but the power is in the hands of the customer on pricing. That's not just at the large level, it's at the smaller level as well. So the customer is king in determining whether they're going to buy from us or anybody else.

MR. FETZER: What form does that usually take? How do they usually exercise that power?

MR. COLLIAS: Pardon me?

MR. FETZER: How do the customers usually exercise that power? Do they --

MR. COLLIAS: A simple yes or no. They have a reference of what their current supply capability is, and then they make a decision on whether your pricing is relatively reasonable. I say relatively reasonable. There are other factors. There could be the situation where the current supplier cannot supply the chemical in the time that's required. They may

not have the inventory. This thing called bundling, if you want to call it, and I want to spend a little more time on that, but when people make decisions to buy they could possibly buy I'll say two to five different chemicals, hoping that a company like Uniphos or a company like Compass or others, Zibex included, might have all the products available. Now where that becomes important is in the cost of delivery, if the situation is that the point of distribution is relatively far away from the customer's location.

So I've just described inventory availability of many chemicals, not just one, that become a factor in the purchase decision of a typical formulator.

Did that answer your question?

MR. FETZER: Yes. Any other thoughts on the panel regarding that?

So the customer, do you generally agree, Mr. --

MR. ZIBRIDA: There's an abundant number of suppliers in the market today and some of them more sophisticated than others, but the pricing that is abundant, if you look at this peers data, Los Angeles is a wash in HEDP according to this peers data. So

the closer you are to Los Angeles, the more number of players you may run across.

I think what George is saying, there are adequate choices of different companies that a purchaser could go to should they seek it, and they would get a number of prices from these various suppliers. Some more sophisticated than others.

MR. FETZER: Mr. Karve?

MR. KARVE: In the case of Buckman definitely. Every year they put out a request for proposal from the suppliers on their approved list and they ask them to quote for the following year's complete supply of a certain quantity, then they compare the bids, then they do the selection on what they think is the best mix for them.

MR. FETZER: Okay. So in light of that, the characterization this morning from the Petitioners that imports were coming in, or subject imports at least on a cost price basis, I mean is that happening from some suppliers? Or is everybody sort of responding to this market power by trying to bundle or in other ways?

MR. COLLIAS: Our response is to try to have many things that the customer wants. We know we don't have significant pricing power. I saw that cost plus

argument almost, I'll call it criticized, but many people can't get much more than cost plus with the degree of competition in the marketplace.

There is the quality aspect as we discussed. Do you have the inventory aspect? In some cases do you count on me or somebody that I know to provide technical support? There are factors that come into the decision for people to do business with us. But the bundling is done as a response to what the customer wants, and I say bundling. That's to supply the product. Or supply several products at one order.

MR. FETZER: Okay. Any other thoughts?

MR. ZIBRIDA: This is not a particularly highly profitable market area of HEDP because of what we mentioned, the number of players. We certainly can't participate in many of these venues because in fact it would be a cost minus the way the prices are in the marketplace.

As George pointed out, some of these customers go through elaborate qualifications, but when it comes to reverse auctions that they engage in, all those qualifications are kind of a moot point because the price will beat all.

MR. COLLIAS: That's why I say customers work to have many technically qualified suppliers, and

then of course they work to drive the prices to as affordable level as possible.

MR. FETZER: So is it true that price, quality, availability are important, but at the end of the day there are enough suppliers out there that price sort of becomes the main factor?

MR. COLLIAS: There are many issues that still occur. The ability to supply can't be underestimated.

MR. ZIBRIDA: A business relationship is more important than just pricing. Quality is a given. You have to have the product quality. But a business relationship with a customer is one of the most important things that we talk about, so we seek to develop a better business relationship with customers to avoid these pitfalls of having to play a commodity pricing game. That's our strategy.

But nonetheless, the bitter economics, if there's an abundant supply, then prices will fall to the level of what the market conditions are.

MR. FETZER: I think this morning when I asked about long term relationships between suppliers and customers, Compass indicated it was something that was more in the past. Would you agree with that? Has it changed? Is it less true today? It sounds like

it's still true to some extent.

MR. KARVE: It is. In my particular experience with Buckman Laboratories I would say the customer relationship is a vital aspect of doing business. Aquapharm and Buckman have been related in business now for a little over ten years. It was a slow process to get to know each other, we can rely on each other that the product as promised is delivered when needed, as required, with what support is needed, and there is just a long term relationship that has taken place and I think that's very critical in maintaining the business with Buckman.

MR. FETZER: Okay.

MR. ZIBRIDA: Long term business relationships are paramount to our company's existence. There's no way I'd be here before you if we didn't have long term relationships.

MR. FETZER: Thank you.

MR. COLLIAS: I thin I speak on behalf of Wujin as well, they have the trust of several of the major users of phosphanates and that comes from many many different days where they could have been tested for a failure and they have passed the test in many different ways -- supply, quality, technical support, response.

MR. FETZER: Thanks.

Do you find in this market that there's usually, it might vary by customer, but is a quick turn-around usually demanded? Or are things usually sold out of inventory?

MR. COLLIAS: What's your definition of quick?

MR. FETZER: I don't know. How quick is the turn-around usually? Maybe that's a way of phrasing it.

MR. COLLIAS: It's customer dependent, but we have a customer that generally expects the order to delivery response time to be five business days.

MR. KARVE: In the case of Buckman, they require the supplier, they need a two day call-off notice, so the stock should be available as they need it within a two day period. Aquapharm is able to do this.

MR. FETZER: Thanks.

Compass has said, they I believe characterize it as a limited number of substitutes for HEDP and specifically said I think in their presentation that other polyphosphates, I can't pronounce them all, but aminocarbinates, EDTA, ATMP. Anyway, I just wanted to throw it out to the panel,

are there other substitutes for HEDP, whether they're physically or commercially viable?

MR. ZIBRIDA: There are other substitutes for HEDP and there are other phosphanates, there are acrylic polymers, there are glassy phosphates, there are other technologies. There's reverse osmosis that can go either way. And there are ways to remove calcium. There are other technologies available that would change the use of HEDP. Vinal brought up the example of NTA, I think. Counslar cravings from the Chicago area, that was removed from detergents back in the '60s or '70s from that area. So we have experienced changes in technology, and we'll always change. So it's not like it's completely unique.

MR. FETZER: I guess, can your customers come and say, I mean they have a lot of power as it is. Can they say gee, if you charge me too much for HEDP I'll buy something else instead and use it? Does that happen? Is that part of their bargaining power? As other products become cheaper do you have to lower your prices in response? Is there that level of substitutability?

MR. ZIBRIDA: I would say that's a longer term trend, not something that happens instantaneously, but the answer would be yes. They

would seek to change to fit the economics of say a formulation or a technology for purposes. Or if there were limitations, for example, on HEDP with hardness, they would seek another compound to utilize as a substitute for HEDP.

MR. COLLIAS: I would say the work done to create a formulation, again, like I said, this is something that just doesn't happen in a minute. When somebody works to create a formulation to solve a certain type of performance requirement, there isn't I'll call it an enthusiasm to go and look for a different formulation. There's a first preference, of course, to try to have an acceptable alternative to each ingredient, whether it's HEDP, another phosphanate or another polymer. Only if those performance requirements can't be met by another supplier would somebody work to go and search for another ingredient or changing the proportion of HEDP in the formula.

MR. FETZER: Okay. It sounds like it's something that could happen but wouldn't be a short term in terms of, when you say long term, are we talking about five to ten years or --

MR. ZIBRIDA: Months.

MR. COLLIAS: Take the example of Molybdate

price runup in the recent past, the amount of Molybdate being used in say open recirculation is greatly reduced compared to 10 or 15 years ago because of a significant price runup.

MR. FETZER: In the past three years has this happened in the HEDP market? Have there been substitutes or products that have become cheaper or more expensive whether either more HEDP has been either substituted for that product or vice versa?

MR. ZIBRIDA: There may be examples in desalinization where lower priced materials could gain an edge over other alternate technologies, yes. There have been examples of that.

MR. FETZER: Okay.

MR. ZIBRIDA: And would go the other way with increased prices.

MR. FETZER: Sure.

Any other thoughts on that?

MR. COLLIAS: I think if somebody is going to look at an improvement of a product they will evaluate everything. The HEDP is there for one purpose. Many of the formulations will have more than one phosphonate. They'll have ratios of PBTC. It's something you may or may not be aware of, but it's another phosphanate as well as HEDP. I would say that

if people are going to review the product, I'd say that's what they're going to do initially is review the entire product and then see what ingredient has to lose or has to be changed to meet another objective.

MR. FETZER: Thanks on that.

I think that's all my questions. Thanks so much for your patience. We're just trying to figure this stuff out, so I really appreciate it.

MR. CARPENTER: Mr. Boyland?

MR. BOYLAND: Good afternoon. Thank you for your testimony. I have no questions.

MR. CARPENTER: Mr. Wanser?

MR. WANSER: Mr. Mangwani, I know you've been asked this before, but you were so adamant about it, that this is not a commodity chemical. So just asking the same question one more time, after you remove or account for all the impurities, why wouldn't that be a commodity chemical? Are you really talking about service?

MR. MANGWANI: Yes.

MR. WANSER: So that's what distinguishes it.

MR. MANGWANI: Our customers we are giving the service along with the product.

MR. WANSER: Such as? I mean do you help

the formulators?

MR. MANGWANI: We can use the example of Buckman, what service we give. We are giving them.

MR. KARVE: One thing, not just a chemical but the delivery requirement in terms of time, in terms of packaging, what they require, and also in terms of technical backup and analysis of anything they require connected to the use of that product.

One thing that was not brought out in earlier discussions was that Aquapharm has an excellent analytical quality control laboratory and it is called upon several times to provide analytical work done on either the product itself or when it's used at a certain place. Some questions that came up, that would resolve the issues to the customers of the customer. Those are all done, that is all included in the bundle of services offered, so to speak, by Aquapharm. So that kind of support is a really unique feature that exists between the Buckman and Aquapharm relationship

MR. MANGWANI: Sometimes what happens is Buckman laboratories do not have the time to do certain formulations because their chemists are busy with other work. So they'll ask you do this formulation and tell us how it behaves. We do it in

our laboratory and give them the results.

So even they buy the product, but still they have to do all this analysis, which we have been doing, and we don't charge for it. That's the type of service we give.

MR. WANSER: Thank you very much. I appreciate you folks coming here.

That's all my questions.

MR. CARPENTER: Mr. Corkran?

MR. CORKRAN: Thank you. And thank you all very much for the time and the very thoughtful presentation that you've given us. I have just a few questions to kind of follow up on what's already been asked.

One, just very briefly, I asked the Compass representatives this morning how susceptible, how easily this product could be inventoried and did it have a shelf life. It appeared from this morning's panel that it could be inventoried and at least did not have a short shelf life. Do you agree with that characterization?

MR. MANGWANI: Yes, it has a very long shelf life. That is true.

MR. COLLIAS: We agree.

MR. CORKRAN: Very good.

The next question I had goes to the issue of the potential for product shifting. Can you tell me, Mr. Mangwani, for Aquapharm, do you produce other chemicals on the same equipment that you use to produce HEDP? Or is your equipment already dedicated to HEDP?

MR. MANGWANI: Our equipment is dedicated to HEDP. The other equipment is dedicated to other phosphonates.

MR. CORKRAN: Thank you. That's very helpful.

This morning when Compass was talking about its operations it talked about that there was some internal consumption of product primarily tetrasodium salt of HEDP, but the volume was characterized as being very small. Again, can you tell me for Aquapharm, do you consume product internally? And is it typically used for products such as tetrasodium salt as Compass, or do you have a different type of operation?

MR. MANGWANI: Yes, we do consume to make tetrasodium salt, but we do not sell it in the U.S. market. That is for India and other markets.

MR. CORKRAN: Have you seen any changes in your operations for producing the downstream product,

any changes in the market, any changes in your ability to produce the downstream product?

MR. MANGWANI: Not really. There's been not significant change the last two or three years. In fact many customers are going away from buying the tetrasodium salt because that is more expensive than just buying the HEDP and utilizing it themselves.

MR. CORKRAN: Very good.

This question I'd like to address on Uniphos. Uniphos is a relatively new player in the U.S. market. Somewhat like Compass, and maybe in terms of the timeframe, or at least Compass as a domestic producer. So I have something of a similar question for Uniphos. What brought you into this market for HEDP? What did you see in this market that made it attractive?

MR. COLLIAS: Our response to the, I'll call it to the investigation for the formation of Uniphos was broader than HEDP. It was to serve North American customers in the way that they would like to be served. It became more than like. In the way they require being served. Some customers do not want to deal with the I'll call it the relatively high amount of working capital that's allocated to the purchase of a container full of chemical. A container typically

has let's say 75 drums, 35,000 pounds, and even the largest users would in many cases not need 35,000 pounds a month.

So the largest users would ask for I'll call it the ability to have a relatively quick turn-around time as Mr. Fetzer started discussing, and they seek the presence of several U.S. locations for distribution near their manufacturing facilities.

So Uniphos was created to expand on the service capabilities that are needed to serve the North American market. It's not an unimportant factor that people at the Uniphos office are working at relatively the same time periods that their customers are working. Pacific time and Eastern standard time versus Asian standard time. So there's an ability to manage the customer's needs on the time zones that people would actually be talking to each other by phone call.

Those simple improvements were the kind of improvements we were working to create when we created Uniphos.

MR. CORKRAN: I have a question for Aquapharm which is something of the opposite type of question. My understanding was that Aquapharm has been in the U.S. market now for quite some time, is

that correct?

MR. MANGWANI: That's correct.

MR. CORKRAN: Can you describe for me how the U.S. market has changed over time, or at least what changes you've seen in the last three to five years, if anything has struck you as being particularly noteworthy.

MR. MANGWANI: We have very limited customers so we generally do not know most of the market in the United States. But generally what we have seen, the prices have come down because of Chinese manufacturers.

MR. CORKRAN: Okay. That concludes my questions.

I do have one request before I wrap up and that is, we have gotten some very good and very much appreciated responses to our questionnaires from a whole variety of market participants. I do want to urge, there are, in a few instances we are still missing questionnaires from certain importers of record for which we need to try to make sure we have the complete record for our Commissioners. So I would just urge one last time to try to get those questionnaires in as quickly and as completely as possible.

But again, your testimony today, all the work, you've put in on the questionnaires, all of it is very greatly appreciated and I thank you very much.

MR. CARPENTER: Thank you very much, panel, for your responses to all of our questions. This is a new product for us and we have a lot to learn in a short period of time so we do appreciate your helping us through this.

At this point we're going to take about a ten minute break to allow each side to prepare their closing statements. We'll begin those with Petitioners. Thank you.

(Whereupon, a brief recess was taken.)

MR. CARPENTER: Could we resume the conference at this point, please?

Would Petitioners come forward for their closing statements?

MR. McCAUL: Thank you very much for your time today and everybody for their involvement in this process.

I just have a few closing comments to make. Before I go any further I would like to address a couple of things that were raised in the Respondent testimony.

The first one is HEDP, is it interchangeable? I would tell you this. I wish that HEDP was a specialty chemical. Unfortunately, HEDP is a commodity chemical. There is no difference between the product that we supply, the product that comes from China, the product that comes from India. Minor differences. That's the first comment I would make and I'll leave it there.

The second thing I would like to comment on, there was much comment about long term relationships. I would say this to you about long term relationships. We love long term relationships with customers and we work to have long term relationships with customers. We care about them very much. But if long term relationships were as important today as they were some years ago, we would still be supplying 30-plus million pounds of product from the plant in Smyrna, compared to where we are today.

I would ask you also to consider that where is the long term relationship when, as the Respondents pointed out, a lot of the large customers today use a technique called reverse auctions where they do bidding for products. That is not exactly what I would define as long term relationships.

So that was my point when I was trying to

say that yeah, long term relationships used to be a bigger thing years ago than they are today. Not that they're unimportant.

Over the past eight years I believe it's an indisputable fact that imports from China of HEDP have increased 15-fold. Imports from India have risen from nothing, and over the last few years to today about probably a third of Chinese volume. Imported pricing from China and India has had a detrimental effect in the market in the United States for producers' products, and we believe that the evidence clearly shows that the product has been sold at less than fair market value.

Compass, in order to compete in that marketplace, has had to deal with the sort of bids that I was talking about, the competition from China and India, and would be completely out of business had it not offered pricing that allowed us to supply in this very competitive market.

Compass is the last manufacturer in the United States. We are determined to succeed. We've spent, as I mentioned before, $2.5 million in capital improvements in the plant site since we acquired the plant.

If we are to succeed, we need some relief.

We are happy to compete on a level playing field.

Finally, I would ask you a rhetorical question. If we are the last manufacturer in the United States and we disappear, then what do you think will happen to pricing of HEDP in this marketplace?

Thank you very much.

MR. CARPENTER: Thank you, Mr. McCaul.

Would Respondents please come forward now for their closing statements?

MS. LEVINSON: I have very brief remarks because I think a lot has been said today and I think the panel is very well informed.

One thing that struck me about Petitioner's testimony that I think will allow you to judge their credibility more than anything else is what they said about NSF certification. Perhaps I misunderstood, but I thought Mr. McCaul said that it's a nothing process, you can buy it, just call them up, you apply for it, you get it. And you heard our panel tell you that actually quite the contrary is true, that it's a very extensive process. It can take as long as six months. It involves samples. It involves visits by the United States government to factories abroad.

To me the significance of that fact is just how you look at the testimony you've heard from the

Petitioners today in light of that statement.

However, I will note that although they've complained about exports from India, that by their own admission, by their own slide show, India's market share has remained constant at nine percent. Part of the reason for that may be that, as you heard, the Indians basically have two customers in the United States. Those are two customers neither of which is inclined to purchase Chinese product. And neither of which today is purchasing any significant quantities from China.

Finally I would submit that what Petitioners are really complaining about here today is a bad investment decision. You heard them talk about their Smyrna plant. There have been a whole host of companies that have owned that plant. There's Mayo, Calloway, Vulcan, Lynx. Compass bought that plant knowing all that. I assume they did some kind of due diligence. You have to question now, what made them think that all those other companies had failed, that they were going to succeed?

Because in fact what they did is they bought a dilapidated piece of equipment and they're now complaining that they were not able to make a go of it when they took that risk of not being able to make a

go of it with all of the information that was before them at the time of the investment.

Those are my only comments. Thank you.

MR. CARPENTER: Thank you, Ms. Levinson.

On behalf of the Commission and the Staff I want to thank the witnesses who came here today as well as counsel for helping us gain a better understanding for this product and for the conditions of competition in this industry. We do appreciate it very much.

Before concluding let me mention a few dates to keep in mind.

The deadline for the submission of corrections to the transcript is Monday, April 14th.

We are postponing the deadline for post-conference briefs from close of business Monday until Tuesday, April 15th at 12:00 noon.

If briefs contain business proprietary information, a public version is due on April 16th.

The Commission has not yet scheduled its vote on the investigations. It will report its determinations to the Secretary of Commerce on May 5th, and Commissioners' opinions will be transmitted to Commerce on May 12th.

Thank you for coming. This conference is

adjourned.

(Whereupon, at 2:07 p.m., the preliminary conference in the above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: HEDP from China and India

INVESTIGATION NO.: 731-TA-1146-1147

HEARING DATE: April 9, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Preliminary Conference

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: April 9, 2008

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Signature of the Contractor or the Authorized Contractor's Representative
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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).

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