

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
TETRAHYDROFURFURYL ALCOHOL) Investigation No.:
FROM CHINA) 731-TA-1046 (Preliminary)

Pages: 1 through 123
Place: Washington, D.C
Date: July 14, 2003

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

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
 TETRAHYDROFURFURYL ALCOHOL) Investigation No.:
 FROM CHINA) 731-TA-1046 (Preliminary)

Monday,
 July 14, 2003

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

The preliminary conference commenced, pursuant to notice, at 9:35 a.m., before the United States International Trade Commission, ROBERT CARPENTER, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

ROBERT CARPENTER, Director of Investigations
 DIANE MAZUR, Supervisory Investigator
 OLYMPIA HAND, Economist
 MARY BETH JONES, Attorney/Advisor
 ERIC FORDEN, Economist Division
 DAVID BOYLAND, Accountant
 CYNTHIA FORESO, Industry Analyst
 ROBIN TURNER

ADDITIONAL APPEARANCES:IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING
DUTIES:

MICHAEL W. NEFF
Vice President and Chief Financial Officer
Penn Specialty Chemicals

BRUCE B. MALASHEVICH
President
Economic Consulting Service

SABINA NEUMANN
Senior Economist
Economic Consulting Service

CHRISTOPHER R. WALL, Of Counsel
Pillsbury Winthrop LLP
Washington, D.C.

WILLIAM L. MATTHEWS
Director of International Services
Pillsbury Winthrop LLP
Washington, D.C.

IN OPPOSITION OF THE IMPOSITION ANTIDUMPING
DUTIES:

KYLE DOYEL
President and Chief Executive Officer
Kyzen Corp.

TOM FORSYTHE
Vice President and Chief Accounting Officer
Kyzen Corp.

MATTHEW P. JAFFE, Of Counsel
Crowell & Moring, L.L.P.
Washington, D.C.

ALEXANDER H. SCHAEFER, Of Counsel
Crowell & Moring, L.L.P.
Washington, D.C.

I N D E X

	PAGE
OPENING STATEMENT OF ROBERT CARPENTER	4
STATEMENT OF CHRISTOPHER R. WALL, OF COUNSEL, PILLSBURY WINTHROP LLP	5
STATEMENT OF ALEXANDER H. SCHAEFER, OF COUNSEL, CROWELL & MORING, L.L.P.	9
TESTIMONY OF MICHAEL W. NEFF, VICE PRESIDENT AND CHIEF FINANCIAL OFFICER, PENN SPECIALTY CHEMICALS	12
TESTIMONY OF SABINA NEUMANN, SENIOR ECONOMIST, ECONOMIC CONSULTING SERVICE	21
TESTIMONY OF WILLIAM L. MATTHEWS, DIRECTOR OF PILLSBURY WINTHROP LLP	32 INTERNATIONAL SERVICES,
TESTIMONY OF KYLE DOYEL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, DYZEN CORP.	48
TESTIMONY OF MATTHEW P. JAFFE, OF COUNSEL, CROWELL & MORING, L.L.P.	51
TESTIMONY OF TOM FORSYTHE, VICE PRESIDENT AND CHIEF ACCOUNTING OFFICER, KRYZEN CORP.	62

P R O C E E D I N G S

(9:35 a.m.)

1
2
3 MR. CARPENTER: Good morning and welcome to
4 the United States International Trade Commission's
5 conference in connection with the preliminary phase of
6 antidumping investigation No. 731-TA-1046 concerning
7 imports of tetrahydrofurfuryl alcohol from China.

8 My name is Robert Carpenter. I am the
9 Commission's Director of Investigations and I will
10 preside at this conference.

11 Among those present from the Commission
12 staff are, from my far right: Diane Mazur, the
13 supervisory investigator. On my right is Olympia
14 Hand, the investigator, who has left to get some
15 copies of the calendar; and on my left, Mary Beth
16 Jones, the attorney/advisor; Eric Forden, the
17 economist; David Boyland, the accountant; and Cynthia
18 Foreso, the industry analyst.

19 The purpose of this conference is to allow
20 you to present your views with respect to the subject
21 matter of the investigation in order to assist the
22 Commission in determining whether there is a
23 reasonable indication that a U.S. industry is
24 materially injured or threatened with material injury
25 by reason of imports of the subject merchandise.

1 We will start the conference with a five-
2 minute opening statement from each side beginning with
3 the petitioners. Following the opening statements,
4 each side will be given one hour for their direct
5 testimony. The staff will ask questions of each panel
6 after their presentation, but no questions from
7 opposing parties will be permitted. At the conclusion
8 of the statements from both sides, each side will be
9 given 10 minutes to rebut opposing statements and make
10 concluding remarks.

11 Speakers will not be sworn in. However, you
12 are reminded of the applicability of 18 USC 1001 to
13 false or misleading statements, and to the fact that
14 the record of this proceeding may be subject to court
15 review if there is an appeal.

16 Additionally, Speakers are reminded not to
17 refer in their remarks to business proprietary
18 information and to speak directly into the
19 microphones.

20 Finally, we ask that you state your name and
21 affiliation for the record before you beginning your
22 presentation.

23 Are there any questions?

24 (No response.)

25 MR. CARPENTER: If not, welcome, Mr. Wall.

1 Please proceed with your opening statement.

2 MR. WALL: Thank you very much. My name is
3 Christopher Wall. I am with the law firm of Pillsbury
4 Winthrop, appearing on behalf of Penn Specialty
5 Chemicals, the sole manufacturer in the U.S. today of
6 the product under investigation.

7 I am here with my colleagues, William
8 Matthews, the Director of International Trade Services
9 for our firm; Bill DeVinney, as well as Michael Neff,
10 Vice President and Chief Financial Officer of Penn
11 Specialty Chemicals; Sabina Neumann and Bruce
12 Malashevich of Economic Consulting Services, who has
13 assisted us in the preparation of this petition.

14 We are here today, of course, to present
15 testimony and answer any questions you may have as the
16 Commission prepares to make its preliminary
17 determination as to whether the imports of the product
18 under investigation are causing or threatened to cause
19 material injury to the U.S. industry, which in this
20 case is Penn Specialty Chemicals, the only company
21 manufacturing the product under investigation.

22 As you know, this product is
23 tetrahydrofurfuryl alcohol from the People's Republic
24 China, or THFA. This is a particular chemical
25 formulation as described in the petition. It's a

1 cleaning solvent used in the electronic industry, in
2 wood refinishing, household cleaners, solvents for
3 lacquers, enamel shellacs, and other industrial uses.

4 THFA is made from the hydrogenation of
5 furfuryl alcohol. There are a couple of different
6 ways of making THFA from furfuryl alcohol, but the end
7 product is the same. It is a bulk product, the sales
8 of which are extremely sensitive to price. The
9 product is a like product to the products imported
10 from China.

11 Penn is facing strong import competition
12 from China. The pricing of the product imported from
13 China has put continuing pressure on Penn and the U.S.
14 industry, of course, just when Penn has been trying to
15 restructure the business after emerging from
16 bankruptcy protection. THFA has been one of Penn's
17 most profitable products, as Mike Neff will explain in
18 his testimony.

19 A number of factors point to the injury that
20 Penn is suffering as a result of low-priced imports of
21 THFA. As detailed in the petition, there has been
22 falling production from 1999 to 2002, falling domestic
23 shipments, declining capacity utilization, declining
24 employment related to THFA, also declining average
25 unit values over 1999 to 2002.

1 This has resulted in a dramatic decline in
2 profits as a consequence of reduced volume and lower
3 prices.

4 Certainly the economic slow down during this
5 period had an effect on Penn's condition, but the
6 effect on THFA has been even more marked than the slow
7 down. Even as consumption of THFA has decreased, low-
8 priced Chinese imports have increased.

9 Prices, market share, profitability, all of
10 these are falling as well as capital expenditure.
11 These numbers all point to material injury that Penn
12 is suffering as a result of Chinese imports. During
13 this time, as I mentioned, imports of THFA from China
14 have generally been increasing in terms of volume,
15 share of apparent consumption in 2003. There has been
16 underselling of Penn's THFA, and that price pressure
17 has been evident to Penn's sales force and has
18 required Penn to reduce its own prices, resulting in
19 lower revenues, and as I mentioned, lower profits for
20 THFA.

21 There is also a continuing threat to Penn
22 from THFA imports from China. Imports from China, as
23 I mentioned, are increasing, although precise capacity
24 numbers are not know, and that will be addressed later
25 in more detail. The potential for producing large

1 quantities of THFA is clearly present.

2 For example, the Commission has already
3 determined that Chinese imports of furfuryl alcohol, a
4 precursor product, are causing injury to the U.S.
5 industry. Furfuryl alcohol is a precursor to THFA,
6 and it would be possible to shift production to THFA
7 as the market warrants.

8 With the dumping order on furfuryl alcohol
9 in place in Europe, there is no place for Chinese
10 production to go but for the United States.

11 For all of these reasons, we believe there
12 is a strong case to find preliminarily that imports of
13 THFA are causing or threatening to cause material
14 injury to the U.S. industry.

15 That concludes my opening statement, and we
16 look forward to the testimony that we will present
17 afterwards. Thank you.

18 MR. CARPENTER: Thank you very much.

19 Could we have the respondents to come
20 forward to make their opening statement, please?

21 MR. SCHAEFER: Good morning. My name is
22 Alexander Schaefer with the law firm of Crowell &
23 Moring. I am here with co-counsel, Matthew Jaffe.

24 On behalf of our clients, Kyzen Corporation
25 and Zhucheng Huaxiang Chemical Company, Limited, I

1 would like to thank the Commission for allowing us the
2 opportunity to make our presentation to you this
3 morning.

4 As you have heard, petitioners are seeking
5 to prove that the increase in imports of THFA from
6 China is causing them or threatening them to cause
7 them material injury. They can't do it. They can't
8 do it for two simple reasons:

9 First, the alleged increase in THFA imports
10 from China is a fiction -- hasn't happened. Second,
11 there is no nexus between imports of THFA from China
12 and the harm the petitioners claim to suffer.

13 To discuss these significant flaws in the
14 petitioners' case, we have two testifying witnesses
15 here today from Kyzen Corporation of Nashville,
16 Tennessee. With their in depth understanding of the
17 THFA market, they will put the petitioners'
18 allegations in the context of the events in that
19 market during the last several years.

20 First, Kyle Doyel, Kyzen's President and
21 CEO, is going to talk about the conditions of
22 competition in the THFA market. In short, examining
23 those conditions leads inevitably to the conclusion
24 that there is a host of factors that have had more of
25 an impact on Penn's THFA than have Chinese imports.

1 In fact, Penn said as early as 1999 that intended to
2 leave the market altogether. Later, in early 2000,
3 demand increases found Penn unable to supply the
4 market. Mr. Doyel will discuss Penn's response to
5 that problem and the role that imports played in that
6 response.

7 In addition, he will talk about the impact
8 of the collapse of the U.S. economy in late 2000 has
9 had on THFA demand, and how that demand has been
10 further affected by Penn's bankruptcy filing in July
11 of 2001. He will also share the conclusions that
12 Penn's own consultants was the causes of that
13 bankruptcy.

14 Finally, Mr. Doyel will describe the
15 market's response to all the question marks
16 surrounding Penn's viability as a long-term supplier
17 of THFA.

18 We are confident that the Commission will
19 conclude that it is these factors and events, not
20 imports from China, that have been the reason for any
21 injury that Penn's THFA has suffered.

22 Second, Mr. Tom Forsythe, Kyzen's Vice
23 President and Chief Accounting Officer, will provide a
24 more accurate analysis of the import data than
25 petitioners have thus far provided. He will show you

1 how the petitioners have mischaracterized the import
2 statistics to overstate THFA import volumes, and how
3 they have ignored commercial practices and realities
4 in their projections of future imports.

5 In fact, Mr. Forsythe will show you that the
6 volume of imports of Chinese THFA has on the whole
7 been level since 2000.

8 Finally, he will demonstrate that Penn has
9 not been and is not being undersold by Chinese
10 imports, and that there are considerations other than
11 price driving Kyzen's decision to purchase Chinese
12 THFA; namely, the legitimate commercial need to retain
13 multiple suppliers of their most critically important
14 input material.

15 Again, in light of the information that Mr.
16 Doyel and Mr. Forsythe will provide for you the
17 Commission must conclude that imports of THFA from
18 China have not increased, and that there is simply no
19 causal connection between what imports there are and
20 the injury that Penn claims to suffer.

21 Thank you.

22 MR. CARPENTER: Thank you, Mr. Schaefer.

23 If the petitioners will proceed with their
24 direct presentation.

25 MR. NEFF: Good morning. My name is Michael

1 Neff, and I am the Vice President of Finance and Chief
2 Financial Officer for Penn Specialty Chemicals.

3 Penn Specialty Chemicals' tetrahydrofurfuryl
4 alcohol, or THFA, business is in serious jeopardy
5 because of the importation into the United States of
6 unfairly traded Chinese product.

7 Penn Specialty appreciates the opportunity
8 to discuss this matter with the Commission. First, I
9 would like to provide a little bit of background
10 information on Penn Specialty Chemicals.

11 Penn Specialty was formed in 1999 for the
12 sole purpose of acquiring the furfuryl, furfuryl
13 derivative, tetrahydrofuran, generally referred to as
14 THF, and the polytetramethylene, ether glycol,
15 generally referred to as PTMEG, business of Great
16 Lakes Chemical Company.

17 Penn Specialty was attracted to the unique
18 chemistry and technology of the businesses as well as
19 the world class production facilities that we have in
20 Memphis, Tennessee.

21 The new management had plans to expand a
22 number of product lines of this acquired business and
23 began to implement those plans soon after the change
24 in ownership.

25 THFA, a part of Penn Specialty's fine

1 chemicals and solvents business, was one of the
2 businesses that was projected to expand significantly.
3 Early on, Penn Specialty estimated that its production
4 of THFA would increase by almost 50 percent between
5 2000 and 2002.

6 From the beginning, THFA was considered to
7 be a key growth candidate in Penn Specialty's product
8 portfolio. This has not occurred because of
9 unrelenting and increasing downward pricing in the
10 U.S. market resulting from unfairly traded Chinese
11 product.

12 THFA is produced through the hydrogenation
13 of furfuryl alcohol. THFA is used as a furfuryl-based
14 solvent and as such THFA does not have a substitute.
15 It is biodegradable, water miscible, specialty solvent
16 made from renewable resources. THFA is not
17 photochemically reactive. It has a high flash point,
18 high boiling point, low freezing point, chemical and
19 thermal stability, and a high solvency for organic and
20 inorganic materials. It is valued for its low
21 volatility, which makes it an ideal product in the
22 electronic cleaning applications.

23 Penn has always believed that THFA had great
24 upside potential. Environmental concerns have created
25 great demands for environmentally sound, low

1 volatility systems. The Chinese product is
2 interchangeable with Penn's THFA.

3 THFA has always been a very important
4 product in the Penn Specialty chemicals portfolio. In
5 the year 2000, sales of THFA accounted for more than
6 20 percent of Penn's gross profit. The upside
7 potential for THFA that I just described, strong sales
8 patterns in the early part of 2000 and discussions
9 with existing and potential customers for THFA all led
10 Penn to believe that the market for THFA would be
11 expanding.

12 During this transition period, as Penn
13 continually developed its production and product
14 marketing mix, Penn planned for this expansion by
15 building inventory through our own production and
16 through the purchases of some additional material to
17 ensure that the expected growth would be serviced
18 smoothly as we continued to work our way through all
19 of the transition issues that result from a change in
20 ownership and new management.

21 Since Penn Specialty's formation, we have
22 worked to developed new THFA customers and still
23 strongly believe in the growth potential of THFA.
24 Penn is actively working to grow the market. However,
25 we are extremely concerned that the continued

1 onslaught of Chinese-produced THFA traded unfair and
2 aggressively low prices jeopardizes our plans.

3 Unfair Chinese competition hit Penn right
4 from the beginning of its existence, reducing Penn's
5 sales volume and selling prices. To get a clear
6 picture of what happened in this industry, I have to
7 start in 1999, at the time of the acquisition.

8 Around the same time that Penn was working
9 to close the acquisition from Great Lakes, a major
10 THFA customer of Great Lakes started to purchase THFA
11 from China. Just as Penn took control of the business
12 in mid-1999, this customer stopped purchasing domestic
13 THFA from the U.S. industry.

14 Penn began to vigorously work to regain this
15 business. In the latter part of '99, Penn did regain
16 some of the business but had to reduce its selling
17 price by approximately 20 percent to regain just a
18 portion of the customer's previous volume.

19 Penn continued to work with this customer to
20 fully regain the volume share, and appeared to make
21 progress towards that end in early 2000. Through the
22 first three quarters of 2000, the customer appeared to
23 be ordering THFA at rates almost equivalent to the
24 previous volumes. But from the fourth quarter of 2000
25 on the sales volume to this customer fell by half of

1 the rate Penn enjoyed through the first three quarters
2 of 2000, and annual sales volumes continued to trend
3 downward through the first quarter of 2003, despite
4 Penn's continuing efforts to regain business and
5 willingness to meet competitive prices.

6 During this period Penn experienced cash
7 flow problems that by the middle of 2001 became severe
8 enough that servicing our debt became problematic and
9 we filed for Chapter 11 bankruptcy protection. We
10 emerged from bankruptcy by reorganizing, reducing our
11 costs, and signing a tolling agreement with a major
12 raw materials supplier to toll produce THFA and PTMEG,
13 products that previously represented more than half of
14 Penn's sales revenue. This toll agreement provided
15 needed fixed-cost coverage for Penn Specialty.

16 THFA, a significant value-added product, was
17 very important to Penn before the bankruptcy. With
18 the new THFA and PTMEG toll agreement in place, the
19 importance of our remaining fine chemical and solvent
20 products, especially the THFA business, became even
21 more important to Penn than before.

22 In July of 2002, we received court approval
23 of our plan to emerge from bankruptcy. There were
24 many factors that caused Penn to go into Chapter 11
25 proceedings. The impact of Chinese-produced THFA on

1 Penn's business was not a significant factor in
2 driving Penn to file, although the last sales
3 opportunity and lower prices that we did make to our
4 customer who purchased Chinese material clearly did
5 not help improve our operating results.

6 However, as we emerge from bankruptcy and
7 because of our continuing increasing reliance on the
8 value-added THFA business, which is clearly a
9 significant factor in determining our financial
10 viability, we were unfortunately faced with a new and
11 increasing onslaught of the rest of our THFA customer
12 base from aggressively priced Chinese THFA.

13 As a result of Penn Specialty's aggressive
14 marketing, supply reliability, and world class
15 production facility, the issue of unfair and
16 aggressive pricing of THFA by Chinese competitors
17 appeared to be limited to just one customer for quite
18 awhile.

19 However, in early 2002, we were informed by
20 two additional customers who purchased significant
21 annual volumes of THFA from Penn that they had
22 received extremely aggressive prices from distributors
23 of Chinese THFA.

24 Penn negotiated and ultimately agreed to
25 reduce prices to these customers by significant

1 percentages in return for maintaining our volume
2 position at these accounts.

3 In the fourth quarter of 2002, Penn learned
4 that two relatively small volume accounts received
5 price quotes based on Chinese-produced THFA that were
6 well below the prices Penn provides to the market for
7 the equivalent volume and end use applications.

8 Penn was particularly concerned that one of
9 these quotes was provided to a customer that Penn had
10 been working to develop for many months, a customer
11 that had the potential to develop a significant THFA
12 volume requirement in the near future. This
13 customer's price was decreased by more than 25 percent
14 to levels well below those justified by the account's
15 current demonstrated volume requirement.

16 In both of these cases, again, Penn met the
17 lower competitive prices to maintain the relationships
18 with the accounts.

19 In the first quarter of 2003, further
20 evidence of unfair aggressive pricing from
21 distributors representing Chinese THFA at mid-sized
22 and smaller accounts was obtained. Three more
23 accounts based on Chinese THFA that were well below
24 Penn's existing prices at those accounts. Once again
25 Penn met the lower prices to retain our volume and our

1 customers.

2 The attempts by Chinese producers of THFA to
3 penetrate the U.S. market certain appears to be
4 expanding and accelerating into the lower market
5 volume tiers. As can be seen from the price quotes in
6 Exhibit 10 of the petition, this unfair trading has
7 continued unabated through the end of the first
8 quarter of this year.

9 In the first quarter of 2003, average THFA
10 prices were more than 10 percent lower than they were
11 in the fourth quarter of 2000. Penn's profit
12 performance over time has been continually degraded by
13 this unfair and aggressive pricing assault from the
14 Chinese producers.

15 Since the emergence from our bankruptcy,
16 THFA sales have become a much larger percentage of our
17 total revenue stream and are expected to provide an
18 equivalent earnings benefit. Aggressive and unfairly
19 priced THFA from Chinese suppliers is reducing that
20 revenue and severely deteriorating our earnings from
21 those sales. THFA is critical to us. Expansion plans
22 have been shelved and profits have deteriorated.
23 Penn's future is bleak if something is not done about
24 this unfair competition.

25 We are willing to compete with anyone who

1 trades fairly. We have confidence that we can do so
2 based on our talented workforce and world class
3 production facilities, but we cannot continue to face
4 unfair competition and hope to successfully compete in
5 the THFA market.

6 We respectfully ask the Commission to look
7 favorably on our petition. Thank you.

8 MS. NEUMANN: Good morning. My name is
9 Sabina Neumann. I am senior economist at Economic
10 Consulting Services, and I am testifying today on
11 behalf of Penn Specialty Chemicals, Inc., which I will
12 refer to in the remainder of my testimony as Penn.

13 This morning I will focus on certain major
14 arguments regarding the price, volume and other
15 negative effects of --

16 MR. CARPENTER: Excuse me. Could you bring
17 the microphone a little bit closer to you?

18 MS. NEUMANN: Okay. Is that better? Okay.
19 Do you want me start over?

20 This morning I will focus on certain major
21 arguments regarding the negative effects of subject
22 imports on pricing, volume and the overall conditions
23 of the domestic THFA industry.

24 As Mr. Neff, Penn's CFO, mentioned earlier
25 THFA is a commodity chemical product. THFA is produced

1 to a specific chemical composition, and while
2 different companies may sell it under different brand
3 names it is still just THFA.

4 Domestic THFA is exclusively fungible with
5 subject imports, and price is the key to winning
6 sales. In an earlier antidumping case against China,
7 the Commission already established that furfuryl
8 alcohol, the chemical from THFA is produced, is a
9 separate like product. Further processed chemical
10 products downstream of THFA that depend on its use as
11 a raw material cannot be considered as like products
12 with THFA.

13 There are several reasons for this, and that
14 is because furfuryl alcohol has significant
15 differences in physical product characteristics, end
16 uses, manufacturing processes, and higher
17 manufacturing costs. In fact, THFA is not
18 substitutable with any other furan-based solvent other
19 than subject imports from China.

20 Subject imports in this case involve only
21 one country, China, and that is because only the U.S.
22 and China produce significant commercial quantities of
23 THFA. As has been mentioned before, there is
24 currently only one domestic producer manufacturing
25 THFA, and that is petitioner.

1 Penn sells THFA both to distributors and
2 directly to end users. The majority of its sales are
3 made on the spot market where the competitive
4 pressures from low-priced subject imports are both
5 direct and immediate.

6 Subject imports from China are also sold to
7 both distributors and end users competing head to head
8 with U.S.-produced THFA at all customer levels. We
9 believe that there are at least five manufacturers in
10 China that currently produce and are capable of
11 exporting THFA to the United States, yet their
12 response rate to the questionnaires has been extremely
13 low. Neither staff nor the Commission can make a
14 thoughtful and informed decision given the lower
15 participation rate and corresponding lack of data.

16 In fact, the primary testimony that you will
17 hear today on the other in this proceeding is from a
18 firm that's an importer whose motivations for
19 appearing before you are self-evident and commercially
20 driven.

21 The economic factors that the Commission
22 typically considers when assessing whether or not a
23 domestic industry is materially injured show that the
24 domestic THFA industry is currently facing material
25 injury because of subject imports of THFA from China.

1 The domestic industry's production fell
2 sharply over the POI by over 20 percent, and although
3 capacity remains stable the company's hoped for
4 capacity expansions could not take place because of
5 the negative impact of subject imports from the
6 company's sales and financial performance. Instead,
7 the domestic industry's capacity utilization rate
8 dropped 18 percentage points over the POI.

9 Staff should note that all of the domestic
10 industry's production is sold into the merchant market
11 where it faces direct competition with subject
12 imports. None of the domestic industry's THFA
13 production is either captively consumed or
14 transferred.

15 Both the volume and the value of the
16 domestic industry's U.S. commercial shipments declined
17 significantly as the industry faced increased volumes
18 of Chinese-produced THFA.

19 The most recent full-year data show that
20 domestic commercial shipments fell 11 percent by
21 volume and 16 percent by value. Since there are only
22 two commercial sources of THFA, Penn and subject
23 imports, any gains by subject imports occur at the
24 domestic industry's expense.

25 As the domestic industry's sales volumes and

1 prices dropped, so did its profitability. Over the
2 POI as a whole, the domestic industry's gross profit
3 fell substantially. In 2002, accompanied by a sharp
4 increase in import volumes and a corresponding drop in
5 prices, the domestic industry suffered further
6 declines.

7 The worsening financial situation of the
8 domestic industry continues today. Compared to the
9 interim period in 2002, the domestic industry's gross
10 profit fell further the first quarter of 2003, and as
11 a result of its worsening financial condition, Penn
12 was forced to eliminate jobs and to reduce
13 investments.

14 The effect of Penn's deteriorating financial
15 state is evident in the 24 percent reduction in
16 capital expenditures over the POI. Likewise,
17 investment in research and development, a particularly
18 important investment for the chemical industry whose
19 market success is often driven by the development of
20 new applications, dropped by 75 percent over the POI.

21 The economic indicators clearly show that
22 the domestic industry is in poor and deteriorating
23 condition.

24 Since there are only two commercial sources
25 of THFA in the world, the domestic industry and

1 subject imports from China, any market share lost by
2 one is a market share gain for the other.

3 Since 2001, subject import market share has
4 grown at a steady clip at the expense of the domestic
5 industry. Subject import market share increased
6 between 2001 and 2002, and again between 2002 and
7 2003. Conversely, the domestic industry's market
8 share has declined steadily since 2001, and continues
9 to decline in the first quarter of 2003.

10 THFA had seemingly good sales growth when
11 Penn took over the plant in 1999, which is one of the
12 reasons why Penn considered THFA to be an important
13 business line. However, as Mr. Neff mentioned in his
14 testimony, unbeknownst to Penn unfair Chinese import
15 competition had undermined this before Penn had even
16 opened for business.

17 Penn planned and began efforts to expand the
18 THFA market in 2000 based on early market signals that
19 sales volumes were going to increase dramatically.
20 Penn started to prepare for this market expansion by
21 building up inventory through production and even THFA
22 purchase.

23 However, the expected market expansion did
24 not occur and Penn's commercial sales were low as one
25 of Penn's biggest customers began purchasing

1 increasingly more subject import, and domestic market
2 share fell. These factors accounted for the seeming
3 bulge in subject imports in 2000.

4 Apparent consumption remained level early in
5 the POI, but despite its pending bankruptcy, Penn's
6 commercial sales volumes and market share improved in
7 2001 as imports dropped. Because of the decline in
8 THFA subject import volume, Penn was able to raise
9 THFA prices by roughly 10 cents per pound. This price
10 increase was accepted by most of Penn's customers.

11 The Chinese expansion into the U.S. market
12 however was rapid after 2001, just as Penn was
13 emerging from its bankruptcy proceedings. More
14 dependent and more vulnerable than ever on its THFA
15 product line, Penn's efforts to maintain customer
16 accounts were subverted by unfairly traded subject
17 imports from China, which took advantage of Penn's
18 temporary cash flow problem during the POI by offering
19 Penn's customers lower priced THFA.

20 Subject imports from China almost doubled in
21 volume from 2001 to 2002, and this inflow of unfairly
22 priced subject imports eroded the price increases that
23 Penn had been able to implement in 2001.

24 As subject import volume increased and as
25 Chinese efforts to gain customers became even more

1 aggressive, Penn's prices were forced downward in
2 order to retain sales volume at key customer accounts.

3 As apparent consumption declined in 2002,
4 Penn had to compete an increasingly shrinking market
5 for market share, but it was not able to match the low
6 prices of subject imports. As a result, the domestic
7 producer's prices to continue to fall in the first
8 quarter of 2003, as subject imports from China
9 continued to takes sales volume away from Penn and
10 reduce its revenue by lowering prices.

11 The increasing share of Chinese imports
12 occurred simultaneously with a significant decline in
13 domestic producer's prices. The decline was caused in
14 substantial part by underselling. However, the
15 details in this regard necessarily have to be
16 discussed in our post-conference brief.

17 The most recent trends in subject import
18 volume and pricing are very disturbing. The record
19 indicates that there is reason to believe that foreign
20 producers in China have substantial excess capacity.
21 Moreover, there is no evidence to suggest that this
22 trend will be reversed in the near future.

23 The level of threat from China is even
24 higher, however, than the current record indicates.
25 The capacity of Chinese producers to manufacture

1 furfuryl alcohol, the precursor chemical to THFA, is
2 also a threat to the domestic industry.

3 The reason for this is twofold. First,
4 according to the recent ITC investigation the Chinese
5 have the capacity to produce at least 50 million
6 pounds of furfuryl alcohol, and other estimates
7 suggest that this capacity may be nearly twice as
8 high, 100 million pounds of furfuryl alcohol.

9 Second, the largest markets for Chinese
10 furfuryl alcohol, the United States and Europe, both
11 placed antidumping duty orders on furfuryl alcohol
12 from China.

13 With markets for furfuryl alcohol
14 effectively blocked in two of their three largest
15 markets and so much resulting excess capacity with
16 nowhere to go, Chinese producers have strong
17 incentives to further expand their presence in the
18 already vulnerable THFA market.

19 Throughout most of the POI the volume of
20 subject imports from China increased, so did subject
21 import market share. This trend continued unabated in
22 the first quarter of 2003. A comparison between the
23 first quarter of 2002 and the first quarter of this
24 year shows that subject import volume grew
25 substantially. Likewise, a comparison of the interim

1 periods show that subject import market share also
2 increased in the first quarter of this year.

3 Not surprisingly, there is evidence to
4 suggest that the Chinese exports of THFA are
5 concentrated in the U.S. market, which is an extremely
6 important one to the Chinese producers. There is no
7 reason to believe that China will stop exporting THFA
8 at low prices in large volumes to the United States.
9 There is, however, much reason to believe that the
10 domestic industry continues to be not only materially
11 injured, but as recent trends confirms, also
12 threatened by material injury from subject imports of
13 THFA from China.

14 Thank you.

15 MR. CARPENTER: Does that conclude the
16 petitioners' testimony?

17 MR. WALL: Yes, it does.

18 MR. CARPENTER: Okay, thank you very much
19 for your testimony. We appreciate it.

20 We will start the staff questions by Olympia
21 Hand.

22 MS. HAND: Good morning. Thanks for your
23 testimony, and being so helpful handing in your
24 questionnaire on time.

25 I have a question about a filing that was

1 dated July 11th from counsel for the respondents.
2 This public letter alleges that Penn knew about Kyzen
3 being a major importer of the subject products from
4 China, and warned them that they were not the target
5 in this petition, and then in the public petition only
6 one importer was named, and that importer was a
7 company that we could not find given all the resources
8 of the U.S. Government.

9 So I'm just wondering what happened there,
10 if you have any kind of explanation for that.

11 MR. NEFF: Penn clearly knew that Kyzen was
12 a user and purchaser of THFA from China. There have
13 been any number of interactions. Kyzen is a customer
14 of Penn, and so from a sales standpoint there were
15 calls that indicated what was happening there, and
16 that they were using -- purchasing and using Chinese
17 material.

18 We did not really differentiate or
19 distinguish them from as an importer. It was not
20 clear to Penn that they were the importer of record
21 for this material. We had no information on that
22 other than the fact that we knew they were using
23 significant volumes of THFA that originated in China.

24 MR. WALL: I think the distinction here is
25 between being an importer of record on the one hand,

1 which is what is described in the petition, versus
2 having knowledge that there is use of Chinese THFA.
3 It's as though -- we saw this letter, of course, as
4 well, and it was rather puzzling to us because there
5 is nothing in the petition that is in the slightest
6 bit inaccurate. It's just a question of what is the
7 difference between a user, a distributor of Chinese
8 THFA, which of course Penn obviously knew, between
9 that on the one hand, and on the other hand being the
10 importer of record. And we do not have data that
11 indicates who the importer of record is for the THFA
12 from China, and that is what is stated in the
13 petition.

14 MR. MATTHEWS: If I may, William Matthews,
15 Pillsbury Winthrop.

16 We spent a considerable amount of time
17 trying to find out exactly who the importers were of
18 THFA, maybe more than I've seen in quite some time.
19 It was a puzzle to Penn. It was a puzzle to us as we
20 tried to determine who the importer, the importer of
21 record or the consignee was, and the only name that
22 came up in any of the discussions we had was this
23 WestPro company.

24 Obviously, since we've seen other data, we
25 do know who imported the merchandise. But when we put

1 that petition together, despite quite a bit of
2 research, various records, and quite a bit of effort
3 on our part as well as Penn's, we could not determine
4 who was the importer, who was the importer of record
5 or who was the consignee.

6 And as Mr. Wall indicated, it's easy to say,
7 yes, I use imported merchandise, and, yes, I'm going
8 to use that for X, Y or Z purposes. That doesn't
9 necessarily equal someone being an importer or an
10 importer of record, and that was the case when we put
11 the petition together.

12 Now, we're going to answer that allegation
13 in a letter later one, but basically that's what it's
14 going to say. Thank you.

15 MS. HAND: Thank you. I have another
16 question about your operations, Mr. Neff. After your
17 company emerged from bankruptcy in 2002, were there
18 any changes to the way that you did business in terms
19 of producing our subject product or selling it, or
20 were there any major changes?

21 MR. NEFF: There were really no major
22 changes to what we were trying to do with THFA or
23 really any of our other fine chemical and solvent
24 products.

25 With our emergence, one of the bases for

1 Penn being able to emerge from bankruptcy was to sign
2 a toll agreement that shifted the sale of THFA and
3 PTMEG products to another entity, allowing Penn to
4 focus solely on the fine chemical and solvent and THFA
5 products.

6 Also along with that was some reduction in
7 force and reshifting, so ultimately we ended up having
8 the same resources to go, although slightly different
9 in terms of people, but the same resources to sell
10 THFA and the other fine chemical and solvent products,
11 and I would say that there was really no change in the
12 way we did business or the strategy. We were still
13 attempting to expand to a variety of customers, both
14 existing and new, and to get back on track with what
15 we saw as the great potential in this market.

16 MS. HAND: So then I understand that the
17 tolling agreements were simply for THFA and PTMEG and
18 not for our subject product?

19 MR. NEFF: That is correct.

20 MS. HAND: Okay. I have another question.
21 You mentioned, I think you mentioned that your company
22 envisioned a huge increase in demand for your product,
23 and you planned for it, and then it didn't happen
24 because of Chinese imports.

25 And I'm just wondering, when I look at the

1 results of our data, I don't see a huge increase in
2 demand for this product. I'm just wondering how you
3 would reconcile maybe the reality of the marketplace
4 with your expectations at the time.

5 MR. NEFF: I think you have to look at this
6 with respect to the various time frame that we're
7 looking here. When Penn initially purchased the Great
8 Lakes business with all of the various businesses that
9 we have discussed, they saw a variety of
10 opportunities. One of them being THFA. They felt
11 that this was going to be a very good growth product
12 for them.

13 They entered into discussions with various
14 customers, potential customers, and felt that there
15 were projects that were being worked on that were
16 going to come to fruition in the time frame that we
17 talked about, late 2000, 2001, and on into 2002 that
18 would provide some very substantial growth to the
19 marketplace.

20 Some of those projects ended up being
21 delayed. Some of them are still in progress, and
22 starting to come to fruition.

23 Another offset in this time period is
24 obviously the economic condition from 2000 into 2001
25 and 2002. 2001, the economy started to slow and that

1 clearly had an impact on the total volumes as well.
2 We see that as a cyclical event, and expect again to
3 come through that as we think we've seen some signs of
4 that as well with the growth should then continue as
5 expected.

6 I mean, our belief is that the growth will
7 get back to the track that Penn had originally
8 envisioned back in 2000, and the end of 2000.

9 MS. HAND: So I heard -- that's what I heard
10 you saying, but is there any way for you to be more
11 specific about what caused the projections for growth?
12 What sort of industries downstream are expected to
13 have these huge increases of demand for your product?

14 You mentioned something about
15 environmentally friendly, that your product is
16 environmentally friendly, whatever. Is there
17 something you could say that might be a little more
18 specific?

19 MR. NEFF: I would be happy to respond to
20 that. I think I would prefer to do that in the
21 confidential setting of the post-conference brief.

22 MS. HAND: Fine.

23 MR. NEFF: If that is acceptable.

24 MS. HAND: No more questions for me.

25 MR. CARPENTER: Okay. Ms. Jones?

1 MS. JONES: Just a preliminary reminder. In
2 case, for instance, any like product issues come up in
3 the next part of the presentation please address those
4 in your post-conference submission in terms of the
5 specific factors the Commission generally looks at,
6 and the same for any arguments about threat. Please
7 address those in terms of the statutory factors.

8 I just wanted to ask if you had any opinions
9 on the various sets of data the Commission has gotten
10 in and what the Commission should be looking at, for
11 instance, for imports and assessing the overall
12 domestic consumption, whether you feel that we've
13 gotten enough from our questionnaires to use that as
14 our database, or these estimates that you submitted,
15 or some other combination of data.

16 And if you would prefer to address that in
17 the post-conference, that would be okay.

18 MR. NEFF: I think I would like to address
19 that in the post-conference brief.

20 MS. NEUMANN: Yes, we're still assessing
21 that, and we will address that in the post-conference
22 brief.

23 MS. JONES: And also to follow up a little
24 bit on what Mr. Hand was asking about. If you could
25 include in your post-conference submission what your

1 expectations were of the market in '99 and 2000, and
2 how that did comport with what actually played out in
3 reality. And that's all I have. Thank you.

4 MR. CARPENTER: Mr. Forden.

5 MR. FORDEN: Are there any seasonal factors
6 affecting the price of THFA?

7 MR. NEFF: No, I don't think that there are
8 sensual factors that would affect the price of THFA.

9 MR. FORDEN: What percentage of your costs
10 are accounted for by labor costs?

11 MR. NEFF: I consider that confidential
12 information and would like to address that in the
13 post-conference brief if that is acceptable to you.

14 MR. CARPENTER: Mr. Boyland.

15 MR. BOYLAND: Good morning. Thank you for
16 your testimony.

17 I have already submitted questions which I
18 know you're working on. One question just in general
19 in terms of changes in profitability over the period.
20 When I'm unitizing the values and looking at changes
21 in revenue versus changes in cost, the primary factor
22 in the changes of profitability seems to be cost as
23 opposed to averaging revenue after 2000.

24 Could you comment no that?

25 MR. NEFF: Again, with the cost information,

1 I consider the cost in all of this confidential
2 information. I would be very happy to address that in
3 the post-conference brief.

4 MR. BOYLAND: Thank you.

5 In terms of capital expenditures in R&D, I
6 don't believe I asked you for a description in my
7 original follow-up question. Could you provide that
8 now or a post-conference?

9 MR. NEFF: I will certainly do that. I
10 think that you did include some questions on both R&D
11 and capital in the fax.

12 MR. BOYLAND: In addition, if you could give
13 me sort of a feel for the time line when you committed
14 to a capital expenditure. Was it six months out, a
15 year out, and whether or not there were any capital
16 expenditures that were committed to previously that
17 were abandoned?

18 In other words, I'm seeing some capital
19 expenditures in a reduction, but I'm not seeing what
20 was committed, and then, you know, subsequently
21 dropped. So if you could provide any information on
22 that to, I'd appreciate it.

23 MR. NEFF: I will be happy to include that.

24 MR. BOYLAND: Thank you. I have no further
25 questions.

1 MR. CARPENTER: Ms. Foreso.

2 MS. FORESO: Thank you, just one question.

3 Either here or in a post-conference brief
4 could you generally describe the environmental demands
5 placed on the domestic industry in the production of
6 THFA; and also any knowledge that you may have on
7 similar environmental controls on the Chinese
8 industry?

9 MR. NEFF: I will be happy to address that
10 in the post-conference brief.

11 MS. FORESO: That's all I have.

12 MR. CARPENTER: Ms. Mazur.

13 MS. MAZUR: Thank you, Mr. Neff, for
14 appearing before us. It's always nice to have
15 industry witnesses here to question and to give us the
16 facts from. The more we develop the public record for
17 our investigations the better.

18 Ms. Neumann, you talked about there being no
19 other, other than Penn Chemicals, the most significant
20 commercial quantities of THFA being produced. Does
21 that mean there are other producers who captively
22 consume their THFA?

23 MS. NEUMANN: There may be other producers
24 out there in the world that do produce a small amount
25 of THFA. Presumably they do that for internal

1 consumption, but there are no others that are large
2 enough to export THFA.

3 MS. MAZUR: What about on the U.S. side, is
4 there any domestic production for captive consumption?

5 MS. NEUMANN: No.

6 MS. MAZUR: Let me explore if I can just a
7 bit the whole question of what is the article being
8 imported and what is being sold in the U.S. market.

9 You aren't able to identify importers of
10 record for us, but you've talked this morning about
11 distributors being your competitors.

12 Can you basically describe who your
13 competitors are for the imported product? Are we
14 talking about imports for internal consumption
15 principally, or are we talking imports for further
16 sale in the U.S. to ultimate end users?

17 MR. NEFF: To our knowledge, the imports
18 other than for Kyzen who claims to be an importer of
19 material for their internal consumption I would assume
20 and sale of other products, all of the imported
21 material, I believe, would be for sale to other
22 customers.

23 MS. MAZUR: Other than --

24 MR. NEFF: But not for use.

25 MS. MAZUR: Other than Kyzen?

1 MR. NEFF: Other than Kyzen.

2 MS. MAZUR: So how many competitors do you
3 have out there? Can you give us a rough feel for who
4 the competitors are for your sales of THFA?

5 MR. NEFF: In the course of moving into the
6 marketplace and trying to sell, we have run across
7 three or four names of distributors that are
8 representing Chinese THFA at various accounts.

9 MS. MAZUR: Okay. All right, thank you.

10 MR. MATTHEWS: Ms. Mazur, if I may. There
11 was actually a fairly good affidavit that was placed
12 in the -- I believe a supplemental response to the
13 Department of Commerce that does lay out, I believe, a
14 number of distributors where we were encountering
15 competitive pressures. That may be pretty helpful, I
16 think.

17 MS. MAZUR: Okay. Thank you for that
18 comment.

19 And one last question deals with Chinese
20 capacity. Based on what we're seeing now in terms of
21 our questionnaire data, it appears that in terms of
22 Chinese exporters of THFA we may be in fact picking up
23 the firms who are in fact exporting to the United
24 States in terms of comparison with imports based on
25 questionnaire responses.

1 What other Chinese producers would be out
2 there then who would be exporting?

3 And you mentioned that, you know, there
4 might be furfuryl alcohol producers, but that dumping
5 order has been in place since 1995, so if they were
6 going to be coming into the market for THFA, they
7 would have done so before this.

8 So who else might be out there who could be
9 exporting to the United States?

10 MR. NEFF: Other than other FA producers, I
11 am not sure that I could think of anyone that would be
12 in a position to make THFA, and export it. So I
13 cannot come up with any other alternatives for you.

14 MS. MAZUR: Okay. And with that furfuryl
15 alcohol order in place here in the United States since
16 '95, if you haven't seen their presence, what do you
17 make of that?

18 MR. NEFF: Well, I think markets change over
19 time and needs change, and if the -- as was mentioned
20 by Ms. Neumann, the antidumping order in Europe for FA
21 is just in place, and they start to affect the
22 production of Chinese producers that have been moving
23 FA into Europe, they may be looking for some new
24 avenue. That would be just in process.

25 But I think in general the FA markets as

1 they may have changed you may have people that are
2 coming up with other requirements to fill their
3 production capacity, or they may have developed over
4 time the capability to make THFA, and decided that
5 they would be better off exporting that as opposed to
6 the FA.

7 MR. MATTHEWS: If I may, there are -- as the
8 Commission is aware from the furfuryl alcohol
9 investigation, there are three big markets for
10 furfuryl alcohol: the European market, the United
11 States, and Japan. And with these two antidumping
12 duty orders in effect, there is a significant
13 impediment for the Chinese with their either 50
14 million or 100 million pounds of furfuryl alcohol
15 capacity. They are hindered in two of their major
16 markets, so that's basically the argument that we were
17 making concerning what we see as a foreseeable -- a
18 threat in the foreseeable future.

19 MS. MAZUR: When did the EU imposition of
20 duties go into place? Do you know offhand?

21 MR. MATTHEWS: May of this year.

22 MS. MAZUR: May of 2003.

23 MS. NEUMANN: As to the completeness
24 question, we're still in the process of assessing
25 that, but we will address that in our post-conference

1 brief.

2 MS. MAZUR: Well, that brings up another
3 question. If in fact you're not satisfied with the
4 questionnaire responses, what is the Commission's
5 alternative then to developing a database of import
6 statistics partially. If you could address that as
7 well in your post-conference brief.

8 Those are all the questions I have. Thank
9 you very much.

10 MR. CARPENTER: Thank you. I have a few
11 questions myself. I guess I'll start with Mr. Neff.

12 I'm trying to piece together when you first
13 felt the impact of imports from China. Mr. Schaefer
14 in his opening statement, I thought he said something
15 to the effect that at one point PMC had planned to
16 exit the market in 1999, and I'm just wondering, did
17 you feel the effect of imports from China in '99 or
18 before that, or was it not until 2000?

19 MR. NEFF: We felt the effect immediately
20 upon acquisition with one account, that account being
21 Kyzen, where Penn came into the acquisition expecting
22 to have like Kyzen as a customer, and the volume there
23 appeared to dry up at the time of the changeover, at
24 least from Penn's perspective, and then was slowly
25 regained. Penn continued to work to try and recover

1 the position at Kyzen at lower prices, so there was an
2 initial effect almost immediately.

3 What is really driving Penn today is the
4 effect coming out of bankruptcy. So it's really in
5 2002 that we have started to see activity on a much
6 broader scope across a much larger customer base. We
7 have one account that was dealing in Chinese material,
8 and we were living with that, trying to regain it, but
9 it seemed to be contained. In 2002, we started to see
10 it first at some of our other major, volume accounts,
11 which is where you would naturally expect to see
12 someone try to sell, and then start to filter down
13 into mid-sized and lower-volume accounts with lower
14 prices.

15 Now, we have effectively maintained the
16 business at all of those accounts -- I believe we've
17 maintained the business at all of those accounts -- by
18 meeting those prices, but we've suffered the price
19 reduction and the revenue reduction from prices, and
20 we're concerned that that is just starting to
21 accelerate now over the last six, nine months, and
22 that it will become a growing problem for us.

23 MR. CARPENTER: Thank you. That's helpful.

24 Ms. Neumann, you had said that there are
25 essentially just the two sources of THFA in the U.S.

1 market: EMC and the subject imports. I was wondering
2 if you could shed some light on why that is, and maybe
3 Mr. Neff can help also. Is this just a small market
4 we're talking about with a fairly limited number of
5 purchasers? Is it high, capital-intensive industry?
6 Do you have any thoughts on that?

7 MS. NEUMANN: I believe that one of the
8 reasons is that, in order to produce THFA, you really
9 need to have FA available, but I'll let Mr. Neff
10 comment on that in more detail.

11 MR. NEFF: That is correct. FA is the
12 precursor to make THFA, so having FA is the best way
13 to be able to get the THFA. There is capital that's
14 required to make that leap from FA to THFA, but I
15 would not characterize it as an extremely large
16 capital number. If you're able to make FA, with a
17 modest capital investment, you can make THFA.

18 Probably the larger barrier, to my
19 understanding, is more the technical and the art of
20 producing THFA. We have heard of others that had
21 tried to make THFA over time in the States but were
22 never successful, and generally the feedback we've had
23 is that they could not make the quality, for whatever
24 reason, that is required.

25 MR. CARPENTER: Were there other import

1 sources, historically, before China came into the
2 market?

3 MR. NEFF: I am not aware of any other
4 import sources other than China.

5 MR. CARPENTER: All right. Thank you.

6 Mr. Schaefer indicated that there is a need
7 in the industry for customers to maintain multiple
8 sources of supply. Do you have any comment on that?
9 Do you find that to be the experience with respect to
10 the customers that you sell to?

11 MR. NEFF: I think our experience has been,
12 over time, that customers have been very comfortable
13 with having us as their single source of supply. I
14 will admit that many customers, if they had their
15 'druthers, would like to have a second source, from a
16 reliability standpoint, and I don't think that we
17 would have any issue with that if that second source
18 were going to sell on an equal basis and not resort to
19 unfair or aggressive pricing to take that business.

20 MR. CARPENTER: I think often customers
21 would prefer at least a couple of sources of supply
22 for one reason, as you said, for reliability of
23 supply, but then also for price-competition purposes.
24 Has price competition been a factor for you with your
25 competitors prior to this, or is this a situation

1 where the THFC accounts for a small percentage of the
2 overall cost of producing a downstream product? I'm
3 just trying to understand why customers might be not
4 all that concerned with price competition, if that is
5 the case. I mean, are they essentially price takers,
6 the customers? How much market power do the customers
7 have in terms of price?

8 MR. NEFF: I think that the answer to that
9 is probably dependent upon each customer, to some
10 extent. Most of the applications that we sell into, I
11 think THFA ends up being a relatively small portion of
12 the total cost of production of the products, although
13 we are not terribly close to enough customers to fully
14 have an understanding or appreciation of that in
15 detail. But, clearly, in the industries' markets that
16 we sell to, it would be very likely that THFA
17 represents a small part. Even if it plays a critical
18 role in the production of their product, it, I think,
19 represents a relatively small cost to that product for
20 most of our customer applications.

21 MR. CARPENTER: All right. Thank you.

22 Ms. Neumann, you had indicated that imports
23 had increased in 2002 and 2003 on an absolute basis
24 and, I believe, also as a share of consumption. What
25 were you basing your import data on? Were you basing

1 it on questionnaire data or Census data?

2 MS. NEUMANN: I was mainly basing that on
3 the import statistics that we've submitted in the
4 past, which are public.

5 MR. CARPENTER: I see. Okay. Mr. Schaefer,
6 in his opening statement, seemed to indicate the
7 opposite, that there was no increase in imports, and
8 we can ask him further about that later, but I just
9 wanted to clarify what source of imports we're looking
10 at here.

11 MS. NEUMANN: We would be happy to go into
12 that further in the post-conference brief as well.

13 MR. CARPENTER: Okay. If all of the parties
14 could look at that. I understand, at this point, that
15 seemed to have a pretty good response to the
16 importers' questionnaire, so if all of the parties
17 could focus on questionnaire data and also public
18 data, to the extent that it's reliable, and if you
19 have any comments as to what is the more reliable
20 measure of imports, we would appreciate that, in your
21 brief.

22 I believe that's all the questions I have.
23 Does anyone else have any other follow-up questions?
24 Ms. Mazur?

25 MS. MAZUR: Yes. Just one last question

1 regarding the various production processes the
2 petition identified, the fact that there are two
3 different processes: You in the U.S. utilize one; the
4 Chinese producers utilize another. Does that make for
5 a difference in the ultimate product, any kind of a
6 discernable difference?

7 MR. NEFF: We have seen no real difference
8 between products made by either process.

9 MS. MAZUR: Have your customers ever
10 mentioned that the difference in products can develop
11 a different kind of --

12 MR. NEFF: No. Not that I'm aware of.

13 MS. MAZUR: Thank you.

14 MR. CARPENTER: Once again, thank you all
15 very much for your very helpful testimony and for your
16 responses to our questions.

17 We'll take a brief recess until about ten-
18 forty-five on the clock in the back to allow the
19 Respondents time to assemble up here. Thank you very
20 much.

21 (Whereupon, at 10:36 a.m., a brief recess
22 was taken.)

23 MR. CARPENTER: We will resume the
24 conference at this point. Please proceed.

25 MR. JAFFE: Good morning. My name is

1 Matthew Jaffe. I'm with the law firm of Crowell &
2 Moring, and I'm here today with my colleague, Alex
3 Schaefer. We represent Kyzen Corporation and Zhucheng
4 Chemical. We are going to have two people making
5 presentations today. Our first presentation will be
6 made by Kyle Doyel. He is president and CEO of Kyzen.
7 He will be followed by Tom Forsythe, who is vice
8 president and chief accounting officer of Kyzen.
9 Kyle?

10 MR. DOYEL: Good morning. My name is Kyle
11 Doyel. I'm president and CEO of Kyzen Corporation,
12 and we're based out of Nashville, Tennessee. Kyzen
13 manufactures chemical solutions designed to clean
14 electronic assemblies, semiconductors, and precision
15 metal parts.

16 Kyzen began purchasing THFA in 1990, when
17 the product was only available from QO Chemicals,
18 which was a division then of Great Lakes Chemical
19 Company. I started and co-founded Kyzen when I left
20 QO Chemicals in 1990, where I was the marketing
21 manager for THFA and was also a commercial-development
22 specialist for THFA.

23 Kyzen's purchases of THFA today represent 20
24 to 30 percent, by our estimate, of the world market
25 for THFA. We are a significant buyer of that product.

1 Therefore, I think I'm uniquely qualified to address
2 this Commission and to discuss with you the conditions
3 of competition that exist in this market.

4 Tom Forsythe, our vice president and chief
5 accounting officer, will speak second and discuss
6 import volumes, price trends, and other economic
7 factors that demonstrate conclusively that THFA
8 imports from China did not materially injure Penn
9 during the period of investigation and pose no threat
10 to Penn in the foreseeable future.

11 Let's go back in time. It's the end of
12 1999. A start-up company called Penn Specialty
13 Chemical Company just purchased the QO Chemicals
14 Division from Great Lakes after it sat two and a half
15 years on the selling block. THFA represented just
16 about five percent of that chemical business, by our
17 estimates, in the sale via its purchase, and then Penn
18 also inherited the title of being the one-and-only
19 manufacturer of THFA in the world.

20 We had great hope for Penn after years of
21 Great Lakes' indifference to the THFA marketplace.
22 Penn, unfortunately, showed little interest in THFA.
23 Penn's plan was to take the major production out of
24 that asset purchased from Great Lakes, which was the
25 tetrahydrofuran, polytetramethylene ether glycol, and

1 we shorthand that as "THF" and "PTMEG," and what their
2 whole plan was to convert that from a furfuryl, which
3 is the building-block, base- stock feedstock to a
4 feedstock that was derived from petroleum-based
5 materials. As a result, soon after the acquisition,
6 Penn poured millions of dollars of capital into a new
7 manufacturing facility for BDO, THF, and PTMEG.

8 By contrast, Penn, in early 2000, closed its
9 last remaining furfuryl plant in Omaha, Nebraska. It
10 was the one that was used to manufacture all of the
11 raw-material feedstock that went into making THFA,
12 thereby confirming to the market and to us, as a
13 significant buyer, their plan to really move away from
14 THFA and the derivatives of the furfuryl business.

15 But then Penn's plans hit a snag. It's now
16 early 2000, and all of a sudden there is this huge
17 surge in THFA in early 2000 for the demand for THFA.
18 We understand that they had a large demand in Europe,
19 and they also had a demand from campaign buyers, which
20 hit Penn really hard in early 2000. Now, a campaign
21 buyer is a company who typically will buy large
22 volumes of THFA during the short period of time when
23 they are making a run of a certain product.
24 Typically, these will be pharmaceutical companies or
25 agri-chemical companies.

1 Hit by this sudden demand, Penn scrambled to
2 meet the temporary upswing in its demand for THFA.
3 Penn, however, did not want to admit to customers like
4 Kyzen that it did not have adequate supplies. So to
5 quietly cover its production problems, Penn hired a
6 chemical broker to purchase THFA on the open market,
7 which is a common practice you will find in the
8 commodity-chemical industry.

9 How did we know what happened? Well, this
10 is a small industry. This is not a commodity
11 chemical. There are very few places to buy THFA in
12 the open market, and so Penn's broker, who they hired,
13 naturally came to Kyzen and purchased over 400,000
14 pounds of material from Kyzen of THFA. Since we don't
15 make THFA, there are only really two places that that
16 product could have come from in the first place: Penn
17 and Zhucheng Chemical Company, based in China.

18 Our questionnaire response details just how
19 much Chinese THFA Penn purchased in 2000 and how much
20 Penn-produced THFA they purchased back from us.
21 Without quoting numbers, it's fair to say that Penn's
22 purchases of Chinese THFA in that year 2000
23 represented over 25 percent of the import demand that
24 year for the product, THFA.

25 During the second half of 2000, we saw the

1 bottom fall out of the U.S. economy. Everyone
2 suffered. Demand in our industry, the electronics
3 industry, the high-technology industry, just
4 plummeted. Since that's the industry we serve, our
5 sales suffered as well. As demand for Kyzen products
6 fell, so did our demand for THFA.

7 Penn, meanwhile, later on, in July 2000,
8 filed for bankruptcy. At that time, Penn hired a
9 company called Berwinn Financial, who was looking to
10 find buyers for the plant while in bankruptcy -- that
11 company later became SSG Capital Advisers -- and, as
12 their Web site explains, to explore strategic
13 alternatives under the bankruptcy.

14 SSG's Web site defines the problem that
15 forced Penn into the bankruptcy as follows, and I
16 quote from the SSG Web site: "In year 2000 and 2001,
17 Penn Specialty Chemical's profits suffered from a
18 highly competitive, pricing environment driven
19 principally by a European competitor seeking market
20 share. Additionally, macroeconomic factors posed
21 further challenges for the company's financial
22 performance. Fluctuations in the Euro/dollar exchange
23 rate created unmanaged, international exposure due to
24 the company's substantial, 25 percent, reliance on
25 product shipped to and from Europe. Natural gas costs

1 also increased threefold during the first quarter of
2 2001 from historical levels, directly affecting the
3 bottom-line performance in the first quarter. As a
4 result, on July 9, 2001, the company filed a voluntary
5 petition for relief under Chapter XI of the United
6 States Bankruptcy Code."

7 Notably, competition from China is not
8 mentioned as a cause of Penn's troubles, nor should it
9 be. Tom will show, THFA imports plummeted from mid-
10 year 2000 to mid-year 2001.

11 Now it's July 2001. Penn's bankruptcy
12 stands out as the single, most-important factor
13 impacting the U.S. THFA market. The sole source of
14 U.S.-manufactured THFA has just announced it's going
15 out of business. Unlike Kyzen, most customers here in
16 the United States didn't have a second source of
17 supply, so they reacted with a short-term hoarding
18 strategy, and then many of them opted for a long-term
19 exit strategy. A temporary surge in demand for THFA
20 takes place during the second half of 2001, with
21 customers pre-buying the product, followed by a drop
22 in demand in the first half of 2002, as companies
23 relied on inventory to supply their needs.

24 Meanwhile, as a long-term strategy,
25 companies reformulated their products to exclude THFA

1 as a raw material. They made that fundamental switch
2 from THFA to other solvents that could replace it,
3 such as glycol ethers or perylidones or other
4 alcohols, because of the uncertainty of supply.

5 Penn, the only U.S. source of THFA, was in
6 bankruptcy, and the risk was too great for these
7 companies to wait and see if Penn emerged from
8 bankruptcy intact, especially when, 18 months earlier,
9 it signaled that it might exit the THFA production
10 altogether with the closing of their Omaha plant.
11 Indeed, during Penn's bankruptcy year, we saw the exit
12 of key Penn management, including their CEO and sales-
13 and-marketing personnel, as a bad sign of the
14 company's survival.

15 As for imports, the evidence that Tom will
16 present clearly will show imports increasing in early
17 2000 as people hedged their risk, and they dropped
18 dramatically thereafter, thereby confirming that major
19 customer accounts did not opt to replace Penn THFA
20 with Chinese imports.

21 Penn emerged from the bankruptcy in mid-year
22 2002 and found itself with an entirely different
23 strategy than before, such that most of its revenues
24 today are not derived from direct PTMEG sales but from
25 toll manufacturing products for others. Since THFA is

1 a critical part of our business, it is important that
2 we retain two sources of supply.

3 Kyzen approached Penn with the possibility
4 of toll producing THFA. We met with Penn on July 31,
5 2002, with a company called BrenChem, who assists
6 Zhucheng Chemical Company in the sale of furfuryl
7 derivatives. We wanted to provide Penn with the
8 furfuryl and have them convert it to the products that
9 Kyzen and BrenChem desired. Penn left that meeting,
10 interested but noncommittal.

11 Our last major discussion concerning this
12 topic took place in late-October in Nashville with Mr.
13 Bob Quinn, who is the president and CEO of the
14 company, and in the end, nothing really came from
15 these meetings.

16 Let's now go into the first quarter of 2003.
17 It's important to correct Penn's contention about the
18 THFA import level for this period. THFA is imported
19 from China by us in large container loads equal to
20 about 35,000 pounds. If one or two of these shipments
21 arrive in January instead of, as expected, in November
22 or December, the first-quarter import statistics get
23 skewed.

24 Well, the West Coast dock strike brought
25 imports to a virtual standstill during the last

1 quarter of 2002. Please remember, the strike, when
2 you compare the first-quarter 2003 import volumes to
3 the first-quarter 2002 imports because the reason the
4 import volume is bigger in 2003 is because the strike
5 pushed imports from 2002 into that 2003 time period.
6 If you examine the import volumes for the first-
7 quarter 2003 in context with the import volumes of the
8 fourth-quarter 2002, before, and the second-quarter
9 2003, which are still coming in, you will see that a
10 pattern of THFA imports really has not changed
11 significantly over time.

12 As for the price, in April 2003, I received
13 a phone call from Mr. Bob Quinn, Penn's president.
14 Bob asked if, as part of Penn's effort to get more of
15 Kyzen's business, whether Kyzen would like to buy THFA
16 at a reduced price. I declined, for now, because it's
17 more important, given the history that's happened in
18 this marketplace with Penn's bankruptcy, for us to
19 have two viable suppliers of THFA at this current
20 price range, where they have been for the last four
21 years.

22 Tom will show you price data that compares
23 Penn's prices to the Chinese-import prices. It will
24 become clear that Penn's prices are below the Chinese-
25 import prices for most of the period of the

1 investigation.

2 By the way, this is the last phone call I
3 had with Mr. Quinn and any contact with Penn until he
4 called me about three weeks ago to inform me of the
5 antidumping petition.

6 Finally, the last point I would like to make
7 about the condition of competition that involves
8 direct competition between U.S.-manufactured and
9 Chinese-manufactured THFA from 2002 to today. If you
10 take Kyzen out of the picture, competition between the
11 two products vanishes. During this time period, Kyzen
12 amounted for almost 90 percent of the imports of this
13 product, and except for 2000, when we sold a large
14 volume back to Penn, we've chosen not to resell
15 consequential amounts of THFA, imported or otherwise,
16 but intend to use it for the production of Kyzen's
17 products. Throughout the period of investigation,
18 Kyzen remained, and still remains, committed to our
19 strategy of purchasing a significant portion of our
20 THFA requirements from two sources, and one of those
21 is definitely Penn.

22 THFA is critical to our success as a
23 company. History has proven us the importance of a
24 second supplier. We do not want a Chinese monopoly of
25 THFA any more than we want a Penn monopoly of this

1 product, which, I'm afraid to say, is what this
2 antidumping petition would do, if successful. Thank
3 you very much.

4 MR. FORSYTHE: Good morning. My name is Tom
5 Forsythe, and I am the vice president and chief
6 accounting officer of Kyzen Corporation.

7 Kyle has outlined the U.S. conditions of
8 competition in the THFA market. My job is to show you
9 why, given these conditions of competition, there is
10 no reasonable indication that an industry in the
11 United States is materially injured, or threatened
12 with material injury, by reason of THFA imports from
13 China.

14 First, the volume of THFA imports from China
15 during the period of investigation was not
16 significant, either in absolute or relative terms. My
17 first chart corrects the import data supplied by Penn
18 in its petition, Appendix 6. As Kyzen mentioned, Kyle
19 has been involved in the THFA market for much longer
20 than Penn, so we have a thorough understanding of all
21 of the major import players in this area.

22 Also, as Kyzen represents nearly 90 percent
23 of the imports, it makes it much easier to sort out
24 the statistics by individual shipments, comparing our
25 purchasing records with the import data. This data,

1 as you can see, was drawn from the Web page, the ITC
2 Web source. That information was downloaded, and it
3 was what we comprised this chart from. This data
4 includes both THFA and furfuryl alcohol.

5 I identified the imports of Kyzen. Again,
6 we are the largest and, by far, the dominant importer
7 of THFA from China during the period in question. I
8 then identified by customs district the imports of
9 other companies familiar to us, specifically, Advanced
10 Resins and AllChem. This left me with an unknown
11 importer entering about 56,000 pounds into Seattle
12 late in the year 2000.

13 By examining the data in this manner, I was
14 then able to separate imports of THFA from furfuryl
15 alcohol, based on Kyzen's knowledge of the industry,
16 and double-check against container sizes and value,
17 and this is a key point. The materials that come in,
18 THFA has had a very consistent price. FA has a very
19 different price point. There are other furan
20 derivatives that have different price points as well.
21 So, by getting into that detail, one can sort this out
22 quite finely.

23 The results, as you can see from my chart,
24 follow a track not unlike Penn's, the high point of
25 imports being the year 2000, over here inside the blue

1 box. The major difference is our calculations in 2000
2 are about 200,000 pounds lower than Penn's, while our
3 estimates in the out years are slightly higher -- not
4 significantly but slightly higher.

5 But this first chart doesn't really tell the
6 full story. To understand the imports during this
7 period, you really need to shift the timeline so it
8 matches the critical moments, both in the marketplace
9 and in Penn's history: Penn's purchase of QO
10 Chemicals in mid-'99; the economic crash that began in
11 mid-2000; the bankruptcy that began in mid-2001, and
12 their reorganization, which began in mid-2002. My
13 second chart reflects these critical points. The same
14 data, but rather than going January to December, it
15 runs from July to June. The import numbers now mirror
16 the conditions of competition that Kyle just spoke of.

17 As we look at the first time period, July
18 '99 through 2000, Penn buys QO Chemicals, signals to
19 the market that its focus is elsewhere, disinterest in
20 THFA, then finds itself shorthanded when there is a
21 temporarily surge in demand, as Kyle mentioned. To
22 cover this mistake, Penn buys THFA on the open market,
23 thereby fueling demand for imports. In other words,
24 when you examine the import volume for the period,
25 remember to attribute at least 25 percent of that

1 figure to Penn purchases of imported THFA from Kyzen
2 via a broker. And this is a conservative estimate,
3 since we also know Penn purchased imported THFA on the
4 open market from other companies as well.

5 If you subtract Penn from the market, which
6 is this second bar here, subtracting out that number,
7 you will see that the import numbers look rather
8 consistent as we move across the page, and we'll talk
9 each of these individually.

10 In the following year, 2000-2001, the
11 economy crashes, the demand declines, and imports drop
12 a bit, and you can see, they have dropped a bit.

13 July 2001 through June 2002: Penn declares
14 bankruptcy. Companies scramble for a short-term
15 solution to the problem posed by the only U.S. source
16 of THFA going out of business. They buy Penn THFA;
17 they buy imported THFA, but not a lot. Instead, their
18 long-term strategy, we believe, is to test and
19 manufacture products that substitute other solvents
20 for THFA and exit the THFA market altogether. Look at
21 the next time period, and you can see how this is
22 confirmed.

23 As we look at July '02 through June '03,
24 Penn recovers from bankruptcy and returns to a THFA
25 market that will never be the same again. Penn now

1 blames imports for its self-inflicted wounds, but the
2 data show that import volumes have fallen, confirming
3 that customers have rejected imported THFA as a
4 solution to the risks posed by the Penn bankruptcy.

5 Just to review, these yellow boxes are the
6 imported products not imported by Kyzen. That's what
7 those yellow boxes are.

8 My next chart focuses on this area. It
9 removes imports consumed by Kyzen in our production
10 processes from imports sold to other companies. There
11 are two bar graphs for the period, July '99 through
12 2000, as there were in the other slides. The first
13 bar indicates those imports purchased by Kyzen and
14 subsequently resold to Penn. The second bar removes
15 the Penn sales and shows the true '99-2000 market for
16 imported THFA, less than 50,000 pounds. This market
17 increases a bit during 2000 and 2001, then temporarily
18 jumps during the bankruptcy year as companies, for
19 short term, hedge their bets against Penn's emerging
20 from bankruptcy successfully.

21 As you know, Penn did survive and left bankruptcy
22 in mid-year 2002. The import volume for THFA from
23 China subsequently dropped to its lowest level during
24 the period of investigation.

25 As I noticed at the beginning of my

1 statement, Kyzen represents about 90 percent of the
2 imports during the period in question. Kyzen also
3 purchases, depending on the year, between 30 and 50
4 percent of its THFA requirements from Penn. A
5 comparison of the prices at which Kyzen purchases THFA
6 from Penn to the prices at which it purchases THFA
7 from China thus defines the price competition between
8 the two products. This is the subject of my fourth
9 slide.

10 I've removed the exact price figures from
11 the vertical axis because it constitutes confidential
12 information, but each horizontal line equals a penny,
13 and the exact prices for each quarter are reported in
14 the questionnaire. As you can see, with the exception
15 of fourth-quarter 2000, the price for Chinese THFA
16 equals or exceeds the price for Penn THFA. And a
17 comment about that: That's actually a billing error
18 that occurred that was missed.

19 From the first quarter of 2001 through the
20 second-quarter 2003, the price of Chinese THFA always
21 exceeds the price for Penn THFA, and the price
22 differential between the two has grown over time. In
23 other words, in 90 percent of the market where THFA
24 imports compete head to head with Penn, Penn has
25 consistently undersold the imports.

1 Finally, THFA imports from China have had no
2 adverse impact on the domestic industry during the
3 period of investigation and pose no threat to Penn for
4 the foreseeable future.

5 Kyzen's intimate understanding of the THFA
6 market has not been driven by idle curiosity.

7 THFA is central to our success and survival.
8 It represents our largest single raw-material cost.
9 It is the principal ingredient in virtually all of our
10 best-selling products. It is the reason why, over
11 five years ago, Kyzen sought out and developed a
12 second source of THFA supply. It is for that same
13 reason that Kyzen has declined Penn's offer of even
14 lower prices. In other words, it has been, is, and
15 continues to be in Kyzen's best interest to have two
16 viable sources of THFA supply, both making reasonable
17 returns on the THFA that they sell to the world's
18 largest buyer of this product. Based on our own make-
19 versus-buy analysis, the current Kyzen price levels
20 allow such a return to both suppliers.

21 If the petition is successful, and our costs
22 increase by the nearly 90 percent antidumping duty
23 requested by Penn, the negative consequences for Kyzen
24 would be severe, threatening the good-paying jobs at
25 our company.

1 As Kyle mentioned, the single, most-
2 important event that affected the American THFA market
3 during the period in question was Penn's bankruptcy,
4 closely followed by the dismal economic environment of
5 2001 and '02. Surprisingly, the word, "bankruptcy,"
6 appears infrequently, only twice, I believe, in Penn's
7 petition. In Penn's May 2002 bankruptcy
8 reorganization filing, which ran 84 pages before the
9 attachments, the word, "THFA," if it is a word,
10 appears with comparable infrequency. I think the
11 reason is obvious: Imports of THFA from China have
12 not had, nor will they have, an adverse impact on
13 Penn's financial condition.

14 Just over 12 months ago, with Chinese
15 imports at a peak, Penn did not see Chinese THFA as a
16 threat, nor did it see THFA as central to its future
17 success. Now that those imports are at their lowest
18 levels ever for the period of investigation, and all
19 indications are they will remain at that level, Penn
20 sees them as a critical threat to their survival. We
21 disagree. Forty thousand pounds in merchant THFA
22 sales over the last 11 months cannot be a threat to a
23 company with 30 or \$40 million dollars in revenue.

24 As for the THFA we consume, Kyzen has
25 repeatedly confirmed and continued our commitment to

1 Penn as a major supplier. Therefore, if Penn's
2 financial condition is as dire as suggested in its
3 presentation, then we would suggest, Penn's time would
4 be better spent addressing the true root causes for
5 its financial situation, which have nothing to do with
6 imports of THFA from China.

7 Thank you for your time. Both Kyle and I
8 are prepared to answer any questions you may have.

9 MR. JAFFE: Actually, Tom, if I could ask
10 you some questions first --

11 MR. FORSYTHE: Sure.

12 MR. JAFFE: -- about -- let's just start
13 with this price chart.

14 Kyle mentioned that he received a telephone
15 call in April 2003 from Penn's president, in which he
16 noted that Penn's president offered to actually lower
17 your price. Did you ever receive a call in 2002 from
18 Penn having anything to do with prices, increasing
19 price? lowering price?

20 MR. FORSYTHE: No. Pricing for this product
21 has been very stable for decades, I think it's fair to
22 say. This is, as was mentioned, --

23 MR. JAFFE: So no telephone call in 2001 and
24 no telephone call in 2000.

25 MR. FORSYTHE: No.

1 MR. JAFFE: So I think you already explained
2 that that one blip basically was not some type of
3 negotiation; it was basically a billing error.

4 MR. FORSYTHE: Right. We actually noticed
5 that as we were going back, digging through all of the
6 data, which required pulling all of the invoices, as
7 you would expect; and although it's some time ago, we
8 hope to submit a claim for that error to our good
9 supplier.

10 MR. JAFFE: Could you go back two charts,
11 please? I'm looking at Year 4. I notice you have 11
12 months there. I was just wondering, since you know
13 your own data, could you fill in the twelfth month
14 that there had been additional imports by Kyzen?

15 MR. FORSYTHE: There is one additional
16 container, for sure. Again, when things actually
17 clear and which month things hit in; there is not
18 perfect symmetry between the data and what we see from
19 the purchasing end. But there is certainly one
20 container. We do not believe that there were any
21 additional purchases on the merchant side in that
22 43,000 number. So our number here, this 48-and-change
23 number, will likely go up about 35,000, which would
24 put it quite similar to the prior 12-month period.

25 MR. JAFFE: Okay. So, basically, if you

1 look at Year 1, Year 2, Year 3, Year 4 for Kyzen, it's
2 all about the same number. It's a little higher now
3 than the 488 that's mentioned there but it's, you
4 know, pretty consistent.

5 MR. FORSYTHE: Exactly. When you come back
6 here to the adjusted number, this 494, the difference
7 between this number and this number is essentially one
8 container, one container hitting the dock. The
9 difference between the 494 number and the 452 number,
10 likewise, is a container.

11 So when you buy in these large chunks, --
12 these numbers represent perhaps a dozen or so of these
13 containers -- one moving around or not being purchased
14 has a big swing in the numbers, even though it's just
15 one purchase order. And in a like way, our purchases
16 from Penn come in comparable quantities: tanker
17 trunks that have close to 45,000 pounds or so. As a
18 large buyer, we buy in large chunks. They come in big
19 chunks.

20 MR. JAFFE: And just let me make sure to
21 confirm so that there is no misunderstanding, Year 1,
22 without the adjustment, is the actual imports. What
23 you did with the Year 1, adjusted, was basically take
24 out the product that you sold to Penn.

25 MR. FORSYTHE: That's correct. We increased

1 our imports to meet their demand for our products, and
2 we were happy to sell them that 200,000 or so pounds
3 at a profit.

4 Okay. I just wanted to look at that Year 3
5 again. I just want to quote from the bankruptcy
6 statement filed by Penn. We will file this as part of
7 our post-hearing brief, along with the Web site that
8 was quoted by Mr. Doyel so that you can see it on the
9 record. But it basically says, from Penn's
10 bankruptcy, that "sales from the fine-chemical and
11 solvent business --" that includes THFA "-- decreased
12 by 15 percent, from 4 million in the first quarter of
13 2001 to 3.4 million in the first quarter of 2002,
14 primarily as a result of pre-buy sales made in the
15 fourth quarter of 2001 by customers who purchased in
16 advance of their needs out of a fear that the debtor
17 would not be viable as a continuing supplier due to
18 the filing of the petition."

19 MR. JAFFE: Okay. That's all of the
20 questions I have for you. Thank you.

21 (Discussion off the record.)

22 MR. JAFFE: Okay. That concludes our direct
23 presentation. I would like to request, at this time,
24 if we could have the Power Point slides become part of
25 the hearing record, or would you prefer that we file

1 them separately?

2 MR. CARPENTER: Yes. We'll do so. We'll
3 incorporate your slides as Respondents' Exhibit 1, and
4 those will be made part of the transcript.

5 MR. JAFFE: Okay. Thank you.

6 MR. CARPENTER: And we'll begin the staff
7 questions with Ms. Hand.

8 MS. HAND: Thank you for your presentation
9 and for your prompt supply of your importer
10 questionnaire. Good. I do have a few questions as a
11 result of your testimony.

12 First, someone mentioned an SSG Web site and
13 that it contained a reference to a large, European
14 competitor for THFA. I'm just wondering what firm you
15 might be referring to, or do you know who that would
16 be?

17 MR. DOYEL: I believe the response that they
18 had on the SSG Web site was really preferring not to
19 THFA but to PTMEG and THF. Okay? That's the way the
20 statement was written there.

21 MS. HAND: Okay.

22 MR. FORSYTHE: It appears to be describing
23 the overall conditions that contributed to their
24 filing Chapter XI --

25 MS. HAND: Yes.

1 MR. FORSYTHE: -- and targeted other
2 competitive issues over in Europe that, again, had, on
3 the face of it, nothing to do with Chinese THFA.

4 MR. JAFFE: Yes. If you look at the Web
5 site, when you look at the bankruptcy filing, you'll
6 see that it says, and here is the client profile as
7 defined on the SSG Web site: "Penn Specialty
8 Chemicals, debtor in possession, is among the top-
9 three, global producers and marketers of," and then
10 for a short term, "PTMEG, THF, and furfuryl and
11 furfan-based fine chemicals and solvents." But when
12 you look at their actual bankruptcy, you'll see that
13 their major source of business is the PTMEG and the
14 THF and that this European competitor is not a
15 producer of the product that is being reviewed by the
16 Commission here.

17 MS. HAND: So, just for the record, do you
18 also believe that the only suppliers of THFA are China
19 and the United States?

20 MR. DOYEL: Yes. That's correct.

21 MS. HAND: And is there a reason why the
22 European firms that make THFA do not then go on
23 further to make -- the ones who make furfuryl alcohol,
24 that they do not go on to make --

25 MR. DOYEL: Again, that plant was a QO

1 Chemicals plant when I was on board there, and it's a
2 very large, vapor-phase facility. I believe it has
3 two trains, and I'm not entirely accurate on that.
4 It's very difficult for them because the capacity of
5 that plant is about 80 million pounds a year, and the
6 world THFA market, in our estimation, is about 5
7 million pounds. So it would be like trying to drive a
8 nail in with a sledgehammer. It's just way too large
9 of a facility ever to produce THFA.

10 MR. FORSYTHE: I think more to your question
11 was, why is it, if this is such a desirable thing, why
12 are only two people on the planet interested in making
13 it? Is that more to your question?

14 MS. HAND: Yes, because I believe there are
15 other world producers of furfuryl alcohol, so I'm not
16 sure why they wouldn't get into the business if it's
17 so profitable.

18 MR. FORSYTHE: And I think that comes down
19 to the root of this is a modest market. The THFA
20 solvent has many uses. We've certainly made a nice
21 business out of developing cleaning materials with it.
22 But it's also an expensive solvent, and,
23 traditionally, it has always been a bit on the
24 expensive side. Therefore, it typically did not
25 compete with the more generic, as Kyle mentioned,

1 glycol ethers or perylidones or things that often are
2 much less expensive.

3 In the land of solvents, a three or four or
4 five-million-dollar global business, it's kind of like
5 comparing the federal budget to the budget of
6 Brentwood, Tennessee, where I live. Yeah, they are
7 both government budgets, but, you know, they really
8 don't have much in common beyond that. The decimals
9 are different and this sort of thing.

10 It simply is a very small market that has
11 existed for many years as a derivative of the furfuryl
12 business. One of the reasons there weren't many
13 suppliers is because, in the Great Lakes days, Great
14 Lakes was a global, sole-source supplier of the stuff.
15 They made all of the furfuryl, mostly, in those days.
16 They made the furfuryl alcohol. They made the THF.
17 They made the PTMEG. They made everything. As worlds
18 changed and markets changed, making furfuryl wasn't
19 very complicated it turns out, and people started
20 making it in other places. The jump from furfuryl to
21 FA apparently wasn't as complicated it as it might
22 have been, so some people made that jump. But then,
23 again, the global markets for this FA material is tens
24 of millions of pounds. It's a much bigger market.
25 THFA is just a small, little, niche product.

1 Now, unlike most commodities, where a
2 question was asked earlier about seasonality or this
3 sort of stuff, most commodity prices move in sync with
4 something. Maybe it's oil; maybe it's a corn harvest.
5 Who knows what it may be? THFA prices don't move in
6 sync with anything because they don't move.

7 You notice that our chart there was rather
8 flat. Those numbers didn't move much. Well, that's
9 quite consistent with what it's been for many years.
10 There was just very little movement on that because it
11 was this little, specialty, niche product that had
12 certain properties that were desirable to some people,
13 and it was used coincidentally by others.

14 So I think that's the reason that it didn't
15 invite more people making it, simply because there was
16 not an enormous amount of demand. Over the years, the
17 demand has not grown by leaps and bounds, if you take
18 out what we created. Take us out of the numbers over
19 the last five or ten years, and the demand has been a
20 flat line, more or less.

21 MS. HAND: I believe, in your testimony
22 earlier, you said that Penn's bankruptcy caused some
23 of its customers to reformulate their raw materials
24 away from THFA, implying that there are other
25 substitutes, and yet I'm hearing you saying that THFA

1 is the sort of Cadillac of solvents. So I'm a little
2 confused about --

3 MR. FORSYTHE: Bear in mind that a Yugo is
4 an alternative for a Cadillac. Okay? They are both
5 cars. Both have four wheels. Maybe they are not as
6 comfortable.

7 The reality is that THFA is a unique product
8 in the world. The other reality is that there are
9 other materials that, in certain of its uses, can
10 replace it. In our own business, we supply cleaning
11 materials mostly to the electronics business and in
12 other areas, as Kyle mentioned. In our own case, we
13 have chosen to use other solvents to do comparable
14 cleaning tasks for specific reasons, some of them
15 technical, some of them economic; it varied.

16 Now, there are, I am sure, certain
17 applications where THFA is simply the only thing that
18 can get the job done. We know little of the
19 pharmaceutical business. One would suspect that that
20 would probably be an area where that would be true
21 perhaps. But also, some of the applications for THFA
22 are in, I believe, insecticides and in paints and
23 things like that, and in those areas there is a high
24 probability that different solvents, very different,
25 not related, feedstock solvents -- not milk but Coke -

1 - you know, they are both things you drink, but they
2 are not really related to each other, and I think the
3 data presented indicates that the market -- in the
4 last 12 months, Penn indicated that their demand
5 decreased, and we've shown that outside of Kyzen, a
6 mere 40,000 pounds or so came into the marketplace.
7 Well, those people that don't have that THFA demand
8 must be using something because they are not using
9 Chinese THFA; there isn't any for them to use.

10 MR. DOYEL: If I can add, from a
11 formulator's perspective, a lot of these people take
12 THFA, and, as the Petitioners said, yeah, we believe
13 it's a small part of people's formulations, and I
14 won't disagree. It goes into a lot of formulations,
15 but when you have a formulation, and let's say, for
16 example, you've been making a paint for 10 years, and
17 then all of a sudden you get the information from a
18 distributor, which is where most of these people buy
19 this, that, "Well, did you understand that the
20 supplier of this material is in Chapter XI
21 bankruptcy?" a lot of these guys will go back, and
22 they will say, "You know, we've been making that
23 formulation for 10 years. Boy, we're really running a
24 risk. Why don't we have the distributor bring in some
25 extra quantities of it, and let's put our chemists

1 into reformulating the product away from that?"

2 Ten years ago, when they formulated that
3 product, there were not available some of the
4 alternatives that you have today, things like
5 propylene-based, glycol ethers that have been produced
6 in large quantities in the last half of the 1990's.
7 It's a great advent and a very suitable replacement,
8 with similar volatility characteristics, similar
9 solubility characteristics, a lot of the
10 characteristics that people were looking for for a
11 product, and typically it's cheaper.

12 Why didn't they change because it was
13 cheaper before? It really gets down to a hassle
14 factor. If you have a specification for a certain
15 paint, and it's working, the cost to go through that
16 reformulation is a cost you have to incur, so they
17 choose not to do it.

18 When you have something, and we've run into
19 it at our place, where we'll have surfactants and
20 things like that that we use in our formulations, and
21 we get information from our supplier, "Hey, did you
22 understand that this company got bought out? They are
23 going to cease production of this solvent or this
24 surfactant," likewise, ourselves, we go back, and we
25 say, "Well, gee, how can we formulate away from that,

1 and let's change it into a different or a new
2 product?"

3 So it's a common thing that you see when
4 companies have trouble or get acquired. People go
5 through and re-rationalize their production
6 experience, re-rationalize what they put in for the
7 ingredients in their products.

8 MS. HAND: And given that, why is it that
9 Kyzen has not reformulated away from THFA?

10 MR. DOYEL: That's because I have two
11 sources. I have a number of patents. One of the
12 things that hasn't been said is that Kyzen spends
13 \$300,000 a year on research and development. We have
14 a considerable number of patents on tetrahydrofurfuryl
15 alcohol, patents that are filed around the world in a
16 number of countries. It's a specified product. It's
17 in a lot of specifications.

18 For example, we make a lot of products that
19 go into cleaning a lot of the electronics that go into
20 defense hardware, parts that go onto the space
21 shuttle, for example. One of our largest customers,
22 Thiokol Corporation, uses it to clean the rocket fuel
23 that goes into the space shuttle, and it's a
24 formulated product. There is an enormous cost that
25 they had to go through to qualify this product, and

1 the product contains a large amount -- it's not
2 totally THFA, but a large amount of THFA, and it was a
3 lot of work and a lot of investment we did and also
4 the customer.

5 So, to answer your question, we didn't
6 really worry about it, we've worried about it for
7 years. To be honest, the Chinese supplier really
8 exists in this marketplace because of our direction.

9 At the time, we were very uncomfortable with
10 having one supplier. When Great Lakes said that they
11 were going to put this business up for sale, we said
12 to ourselves, Well, gee, what happens if they sell it
13 to somebody who doesn't like this business and decides
14 to shut it down? We really need to find another way
15 to do this. And so we sat down, and we looked at a
16 make-or-buy decision and evaluated having it made for
17 us through a toll producer here in the United States.

18 We also got in touch with some people who
19 said, Well, hey, you know, there may be somebody
20 interested in China, where they make the base raw
21 materials. So we evaluated the make-or-buy decision
22 and decided that it would be in our best interest as a
23 company to have two viable suppliers.

24 So, to answer your question, we're
25 comfortable because we have two supplies. If Penn

1 went bankrupt, well, then we would be back into the
2 one-supply situation, and that would make us very
3 uncomfortable.

4 MS. HAND: Does your company have any
5 relationship with any of the Chinese suppliers? If
6 you say that you helped, in a way, to get it going --

7 MR. DOYEL: Let me put it this way: We
8 encouraged them. In other words, this is a very small
9 business, when you really get down to it, you know.
10 There is a handful of people, most of whom are alumni
11 of the old Quaker Oats Chemicals Division, and a
12 number of them had relationships with facilities in
13 China, and so we leveraged off of that in order to
14 say, could these people produce THFA? And then we
15 spent a considerable amount of time working with them
16 to make sure it was of the quality that we needed to
17 make a quality product for our customers.

18 MR. FORSYTHE: And there is a good point to
19 add there, that as we also had conversations with
20 domestic sources, because of the small volumes
21 involved, there wasn't a great deal of interest
22 because, in the land of solvents, this is a trickle.
23 This is not a river or an ocean; this is a trickle.

24 MR. DOYEL: Yes, and may I add? That was
25 back in 1996.

1 MR. FORSYTHE: Long before.

2 MR. DOYEL: Yes, long before. I mean, when
3 we started this, we started imports of THFA in 1997 in
4 a considerable quantity, and I would just say that our
5 volume of THFA back in that time horizon probably
6 peaked in about 1998, when we purchased close to about
7 1.3 million pounds of THFA.

8 MR. FORSYTHE: And the share. We mentioned
9 Penn having a share of our business in the 30-to-50
10 percent range, which is certainly a substantial
11 portion, by anyone's measure, and that has been the
12 case since 1998.

13 MS. HAND: I think I heard your testimony
14 earlier refer to a pattern with the imports where, in
15 2000, imports increased in part as a reaction to the
16 problems that Penn was having and that the material
17 went into inventory. So then would I be seeing in my
18 data base high inventories in 2000 and being sold off
19 during the rest of the period? I'm not sure I
20 understood what that part of your testimony said.

21 MR. FORSYTHE: What we saw in the data, and,
22 again, you have the quarter-by-quarter data in the
23 questionnaire -- we've lumped into annual because we
24 felt comfortable discussing it in that sort of mode --
25 Penn went into bankruptcy in the summer of 2001. The

1 industry, again, a small industry. What was really
2 going to come of that? We certainly didn't know.
3 Obviously, Penn had the best of intentions, and they
4 were quite successful with their reorganization, but
5 that was an unknown outcome for everyone in the
6 industry.

7 Well, the traders, the various brokers or
8 distributors, looked at that and said, "My goodness,
9 if this does not go well, I need to have some things
10 on hand here." If you look at the printout on page --
11 this is Chart 3, I believe, or Chart 4 -- the data is
12 the same -- Chart 2 and Chart 3 -- the data is the
13 same -- this import number, the yellow number, in
14 excess of 100,000 pounds, in the Year 3 column -- it's
15 the same number on the next chart -- almost all of
16 that material came in in the early part of 2002. It
17 did not come in in the fall, when they first went into
18 bankruptcy. It came in in the spring in response to
19 people saying, "Well, gee, how is it going to go? I'm
20 not really sure. I should bring some product in."

21 One of the distinct advantages Penn has as a
22 supplier is we can call them, and a tank truck can
23 roll over from Memphis to Nashville within a few days.
24 Ordering product from China is a little more
25 complicated than that; there is a boat involved.

1 MR. JAFFE: I think what you meant is that,
2 in 2001 -- I know you asked about 2000, but it was in
3 2001 that they declared bankruptcy, Penn did, and then
4 the customers of THFA, they are the ones who pre-
5 bought after the bankruptcy, basically bringing THFA
6 into the product stream so that they would have enough
7 in their inventory in the short term to continue the
8 production of their products. And that's why, in
9 2002, as it mentions in the bankruptcy, there's no
10 sales, according to Penn, of their particular
11 products, and what happened then is they pre-bought,
12 they used it out of inventory, and the companies are
13 then reversing -- not reversing -- are going to their
14 long-term strategy where they are exiting the THFA
15 market altogether as they reformulate.

16 MS. HAND: I think I was looking for --

17 MR. FORSYTHE: I'm sorry. There was no
18 purchaser data collected. I'm sorry.

19 MS. HAND: I think I was looking for an
20 explanation for the large amount of imports in 2000,
21 and somehow I thought that that was increased as a
22 result of possible instability in the marketplace
23 because of -- I think I misunderstood on that. So --

24 MR. JAFFE: The 2000 is the campaign buyers.

25 MS. HAND: What was that about, the large

1 demand in 2000? You seem to know something about your
2 own imports, but you also mentioned other importers,
3 and I'm just not sure how much you knew about that
4 marketplace. But what is the cause of such a large
5 demand?

6 MR. DOYEL: Again, as we indicated, Penn
7 wanted to quietly go out in the marketplace and buy
8 back THFA wherever they could find it to meet the
9 demand that they had. Because it's such a small
10 marketplace, Sproker contacted us. They know we're,
11 you know, a big buyer, and so they communicated to us
12 that Penn is short. Would you be interested in
13 selling me some THFA because it's going to go back in,
14 and we're going to resell it to Penn? And so we did
15 increase it, based off the information we were given.
16 We asked the question why, and the information we got
17 back was, well, they had a large surge of demand in
18 Europe, and they also had a large surge in demand from
19 campaign buyers.

20 My familiarity with the THFA business when I
21 was there is typically you had a few of these guys who
22 would make a run and want to buy 200,000 pounds of
23 THFA over a very short period of time, one to two
24 months, in order to make a product, and then they
25 would not buy anymore THFA for another year or 18

1 months.

2 And so that's the information we got. Based
3 off of that information that Penn was short, we wanted
4 to take advantage of an opportunity, so what we did is
5 we sold what we had in inventory of THFA at that time,
6 which was in the first and second quarter, and then
7 increased our take of THFA from China correspondingly
8 to replace the material that we sold to Penn. In
9 addition, we also bought extra material from Penn and
10 turned around and sold it back to them at a profit.
11 And that was a --

12 MS. HAND: So you aware of the underlying
13 reasons for the demand? You're talking about campaign
14 buyers, but do you have any idea what campaigns those
15 were?

16 MR. DOYEL: No, no. I couldn't tell you
17 specific customers or who, what, when, or where. All
18 we knew was that there was an unusual spike in demand
19 and that, given that, and given that people were
20 looking to purchase material, we looked at our
21 inventory situation, projected what we thought, how
22 quickly we could get material in, and so that's what
23 we did. We took advantage of a short-term
24 opportunity.

25 MR. JAFFE: You have to understand the

1 market. Penn just bought this division. They are
2 pouring millions of dollars in investment into another
3 product, PTMEG, THF. At the same time, they are
4 selling their Omaha plant that manufactures FA.

5 So the signal to the market is, well, you
6 know, Quaker Oats didn't care about THFA, neither does
7 Penn, and then, all of a sudden, Penn finds itself
8 where there is this spike in demand, these campaign
9 buyers, and I believe you mentioned Europe as well.
10 And so all of a sudden, they are caught short, and so
11 they go back into the market quietly, through a
12 broker, and are looking for imports -- excuse me --
13 not imports -- for a supply of THFA, and they end up
14 purchasing significant quantities from Kyzen.

15 MR. FORSYTHE: Indirectly.

16 MS. HAND: Okay. I think I understand that.

17 I have a question about the import numbers
18 that you've given us. They appear to be based on
19 official statistics from our data Web but not totally.
20 For instance, the 2000 number is significantly lower
21 than what we have on the data Web, and you mentioned
22 taking out certain shipments because you knew that
23 they were, I guess, FA versus THFA and so forth.

24 So, Mr. Jaffe, I'm just wondering if you're
25 going to give us a full explanation, now or in your

1 post-conference brief, about which source of imports
2 we should be using, the volume of imports.

3 MR. JAFFE: We can certainly do that. We
4 started with your data base, but, as you know, your
5 data base, because of just the way the statistics are
6 compiled, includes THFA combined with FA. As Mr.
7 Forsythe explained during his presentation, 90 percent
8 of the imports, they are able to look at that data and
9 able to pick it out basically what it is that they
10 import in the United States.

11 Because of their familiarity with other
12 importers -- I think it was AllChem and ARS -- they
13 are able to identify, and they did that, by customs
14 port. By going down and looking at each of the
15 various different ports, they are able to identify
16 their imports, and that's why they were able to come
17 up with these numbers. And we will explain that in
18 the narrative. Again, I think we'll put it as an
19 appendix so that you can see it again on the record
20 exactly how we derive these particular import numbers.

21 MS. HAND: So is it your belief that there
22 were just quite a lot of imports of furfuryl alcohol
23 on that first year of our period here, 2000?

24 MR. JAFFE: Furfuryl alcohol, and I think
25 there were other derivatives.

1 MR. FORSYTHE: There were other derivatives.
2 The furfuryl alcohol materials typically are at a much
3 lower price than the THFA, circa. half or less. There
4 were also come import loads, when you look at
5 individual imports, that were significantly higher
6 priced that could have been some specialist, could
7 have been something mischaracterized, hard to tell.
8 But, again, there is little or no variability in this
9 price other than in the ones unit.

10 So if you see something that's double or
11 triple the cost of what THFA would typically be, you
12 can be quite certain that that load certainly was not
13 all THFA and most likely was not THFA at all because
14 the THFA loads from China typically come in as
15 homogeneous loads that are, you know, a full container
16 of 70-odd drums, whatever the number is.

17 MR. JAFFE: It's easy to identify.

18 MR. FORSYTHE: So there were some that were
19 low that looked clearly to be FA. There were others
20 that were high that we weren't quite sure what they
21 were, but because of that high cost, we were quite
22 sure they were not THFA. We're quite confident with
23 our numbers, and we would be happy to share as much
24 detail as the Commission would suffer through.

25 MR. JAFFE: You know, this is not

1 necessarily, with all due respect, to our advantage.
2 I mean, if you want a high 2000 number that then drops
3 considerably during the period of investigation, I'm
4 willing to go with that.

5 MR. FORSYTHE: We're trying to give you as
6 accurate a picture of the numbers as we possibly can,
7 and we feel that the numbers we've presented
8 accurately reflect what actually came in. As Mr.
9 Jaffe said, making those adjustments may not be the
10 wisest course of action, but it is the accurate course
11 of action.

12 MS. HAND: Okay. Just as long as you
13 address that in your post-conference brief, if you
14 have a problem with our importer questionnaires as a
15 data base for volume of imports versus the volume of
16 imports that you're proposing here.

17 MR. FORSYTHE: We will address that in the
18 post-hearing brief.

19 MS. HAND: Okay. I just have one final
20 question. Can you tell us, why would the prices for
21 the Chinese material be, you know, so much higher than
22 the Penn prices, when there is a boat involved and,
23 you know, that kind of thing? It sounds like you're
24 saying that the prices are just steadily, you know,
25 different and that the Chinese are --

1 MR. FORSYTHE: Well, they are. That chart
2 was accurate. That chart is based on purchase order
3 information that's locked in our accounting system,
4 and I guess that point was made by Penn themselves, in
5 that they said this is a very profitable product, a
6 very profitable product.

7 We are the largest consumer on Planet Earth
8 of this material. We use between 20 to 30 percent of
9 it, so if someone is going to get an attractive price,
10 one would suspect it would be me. Why there is a
11 slight differential between those two is there is not
12 a tremendous amount of ongoing negotiation on these
13 things. As we've talked about, there has been very
14 little dialogue about price on these products over the
15 course of time.

16 And, as you mentioned, rather than simply a
17 tanker coming over from Memphis, which is only 200
18 miles away, shipping costs change, and oil changes,
19 and the freight rates seem to change moment -- I'm not
20 sure what they are in sync with, frankly, but they
21 certainly wiggle around quite a bit. And the Chinese
22 costs; their costs have increased over time, and their
23 prices have increased over time. I mean, they are the
24 ones that set their price.

25 I can't testify as to why, but certainly the

1 price increasing over time is due to costs increasing
2 over time, and all but for the first couple of
3 quarters of Penn's existence, as the slide shows
4 there, Penn has had an advantage in price with Kyzen.

5 MS. HAND: Well, is there a reason, then,
6 why you wouldn't give more of the business to Penn if
7 they have a price advantage, and they are closer?

8 MR. FORSYTHE: Those are business decisions,
9 and we feel that 30 to 50 percent is an enormous
10 share. We think that having two viable suppliers that
11 have viable quantities for their production, as Penn
12 mentioned, that the underutilization of facilities can
13 dramatically affect costs. It's not our desire to
14 necessarily cause either of our suppliers to
15 experience that, and Penn's share has been within that
16 range for really since this got --

17 MR. DOYEL: Maybe it's best to explain how
18 we order our THFA. Maybe that would shed some light
19 on why you get variability.

20 What we do is, we don't really sell any of
21 our products on contract. They are pretty much
22 consumables used by people, and so if their throughput
23 for making circuit boards goes up, well, my demand or
24 my share will go up, or my sales will go up. So what
25 we try to do is look forward, on a quarter-by-quarter

1 basis, and communicate with the Chinese facility that
2 we want a certain amount. What we try to do is
3 project where that amount is for our next quarter,
4 which is a portion of our needs, and usually we'll try
5 to look at that as being two-thirds to half of our
6 needs.

7 What happens is then we try to fill in the
8 rest with Penn, depending on how the quarter goes.
9 For example, we will have some quarters where we'll
10 have a tremendous surge in demand, and Penn benefits
11 from that because they have it readily available, as
12 we explained in our questionnaire, so that they will
13 benefit from upswings in my demand. Likewise, if I
14 have a tough quarter, and my customers aren't ordering
15 as aggressively, well, the share that we try to
16 allocate to Penn will be less. But typically, it has
17 to do with the logistics and that we have to plan
18 forward for our Chinese producers.

19 MS. HAND: I don't have any further
20 questions.

21 MR. CARPENTER: Ms. Jones?

22 MS. JONES: Do you agree with the
23 Petitioners' domestic-like-product definition?

24 MR. DOYEL: I would say, with the exception
25 of possibly one or two customers, yes, that THFA from

1 China and the THFA from the United States are
2 interchangeable products.

3 MR. JAFFE: I think we, however, otherwise
4 disagree with their decision to call this a commodity
5 product.

6 MS. JONES: I take it, you disagree with it
7 as a commodity product because you don't feel it's
8 sold primarily on the basis of price and is largely
9 fungible with each other.

10 MR. JAFFE: I work on a case involving
11 tomatoes, and tomatoes is a commodity product.
12 Basically, a person brings it to the market, and
13 whatever the price is, that's the price they get.
14 That's not the case here.

15 MS. JONES: Perhaps you could elaborate a
16 little bit on that for your post-conference
17 submission.

18 MR. JAFFE: Certainly. The tomatoes or?

19 MS. JONES: Tomatoes, too. Why not?

20 And also, I would like to remind you, to the
21 extent that you're going to discuss the threat of
22 injury, please do that in terms of the specific
23 statutory threat factors, and that's all I have.
24 Thank you.

25 MR. CARPENTER: Mr. Forden?

1 MR. FORDEN: No questions.

2 MR. CARPENTER: Mr. Boyland?

3 MR. BOYLAND: Thank you for your testimony.

4 I have no questions.

5 MR. CARPENTER: Ms. Foreso?

6 MS. FORESO: No questions.

7 MR. CARPENTER: Okay. Ms. Mazur?

8 MS. MAZUR: Going back to your price chart,
9 your exhibits, and the reason we have no data points
10 in the first two quarters of 2000 is, for Penn?

11 MR. FORSYTHE: Because they are the same.
12 The lines are incident to each other.

13 MS. MAZUR: What explains the increase,
14 then? If they are tracking on the same line prior to
15 our period of investigation, what would explain the
16 increase in the Chinese price? Do you know of
17 anything happening, reformulations?

18 MR. DOYEL: No. Primarily, that's freight.
19 There is a little bit -- we're asked to provide prices
20 on a CIF basis, and there is a little uptick in
21 freight every once in a while. That's what you're
22 seeing there.

23 MS. MAZUR: When you talked about the
24 reformulation that other consumers of the product
25 might be undergoing, typically how long might this

1 process take? You obviously haven't undertaken it
2 because of the number of reasons you cited, but --

3 MR. FORSYTHE: Well, we have, to a limited
4 degree. We have, as Kyle mentioned, patented the
5 technology central to THFA. That gives us a
6 competitive advantage, and, obviously, we're eager to
7 protect and benefit from that. However, over the last
8 several years, we have developed other products that
9 are not covered by those patents that do not employ
10 any or consequential amounts of THFA to meet special
11 needs and demands.

12 The costs associated, I think, will vary
13 dramatically. A good example, perhaps as one extreme,
14 might be our good customer, Thiokol, who spent years,
15 literally years, approving this product at a cost
16 that, I'm sure, exceeded six figures, -- I'm quite
17 sure of that -- and it would be a tremendous
18 discomode for them and a tremendous expense to
19 replace that, whereas other customers that are
20 cleaning commercial electronics, per se, they are far
21 more willing to make adaptations to their
22 manufacturing process to consider a new product, that
23 sort of thing.

24 So I think it will vary quite significantly
25 based on, you know, the industrial segments. One

1 might suspect that pharmaceuticals would take longer
2 and paints might take less, but I really don't have
3 any expertise to back that up.

4 MR. DOYEL: It depends on the end user, who
5 are they selling to and our specifications in that
6 industry. For example, if we're selling to the
7 Department of Defense, they really don't like to have
8 a whole a lot of changes, so it could take a
9 considerable amount of time. But if I'm selling a
10 paint or paint-removal formulation, it's just a matter
11 of you probably introducing a new product. So for a
12 new product launch, you would probably formulate and
13 internally test for anywhere from three weeks to three
14 months. It just really depends.

15 It's a tough question to answer because it
16 really gets down to what is the end user trying to do,
17 and what are the specifications he is selling to to an
18 end use. For us, Mr. Forsythe is right, it could be
19 anywhere from three months to three years, and the
20 cost could depend -- you know, it could be all over
21 the map.

22 MS. MAZUR: Thank you. That was very
23 helpful.

24 The purchases that you made in 2000,
25 apparently to satisfy Penn's needs; how long did that

1 take? I mean, can you simply drop a note to your
2 Chinese suppliers and say, send me 600,000 pounds or
3 whatever? How long did that take?

4 MR. FORSYTHE: It's usually an e-mail
5 nowadays, and there is a significant time lag. Things
6 are on the water for a solid 30 or so days, and then
7 making its way to Nashville through the rail system
8 and all that sort of stuff. Typically, it's six to
9 eight weeks from tooth to tail, and it does vary.

10 Obviously, during the fall of 2002, it was a
11 lot longer than that during the dock strike, but
12 typically it's pretty consistent. When we saw that
13 uptick in demand, we did, in fact, increase -- made
14 that phone call, and that six to eight weeks started
15 the next day. Ships leave these ports on a very
16 regular basis, and, as I'm sure you are aware, they
17 operate better than the airlines. When they say they
18 are leaving Tuesday, the 12th, well, that boat is gone
19 on Tuesday, the 12th, you know, sort of thing.

20 MS. MAZUR: Okay. Since, Mr. Doyel, you
21 apparently have been around for a few years in terms
22 of this product, describe the marketplace or the
23 players in the marketplace in historical perspective.
24 You developed this market. Then you indicated that
25 Penn or QO, the predecessor company, was the sole

1 supplier in the world, and it was only at your
2 encouragement that the Chinese came along.

3 MR. DOYEL: For the most part, yes.

4 MS. MAZUR: And the Europeans never entered
5 into your picture.

6 MR. DOYEL: No, no.

7 MS. MAZUR: Okay. And the Chinese
8 apparently have a different process for manufacturing
9 this product.

10 MR. DOYEL: That is correct.

11 MS. MAZUR: Does it make a difference to
12 you?

13 MR. DOYEL: No, not for all but one of my
14 users.

15 MS. MAZUR: So there is nothing technically
16 or chemistry different in the products that --

17 MR. DOYEL: Not to go into gory details, we
18 tried to answer that in our questionnaire. There are
19 very, very subtle differences. To the lay person,
20 it's not remarkable. To people in the industry doing
21 different things with THFA, there are very, very
22 slight differences that make a difference with certain
23 customers. But to the most part, I would say, to 98
24 percent of the people using THFA, the differences are
25 not important.

1 MS. MAZUR: Did the Chinese need to have
2 U.S. technical expertise in developing their process?
3 As you brought them on line, did --

4 MR. DOYEL: We assisted them by providing
5 them feedback, things that we saw in the early stages.
6 When we went to qualify, obviously, the first material
7 we saw back in '96 was of lesser quality. We then
8 went back through people who were working directly
9 with them and made some suggestions.

10 No. We did not provide any production
11 experience or anything like that. We're not qualified
12 to do that, other than we can say we don't like this,
13 we don't like that, about the product. From a
14 consumer standpoint, if we didn't like the color, we
15 didn't like the assay, this one molecule that was an
16 impurity, we really didn't like, that's the type of
17 feedback that we provided to the Chinese.

18 MS. MAZUR: Okay. One last question deals
19 with your imports. Can you characterize their use? I
20 mean, is it all internal consumption? You did mention
21 selling some of it obviously on to Penn.

22 MR. FOYSYTHE: The Penn year was
23 extraordinary in that there was literally tons of this
24 stuff moving around. If you look on the chart before
25 the pricing chart, the small stacks, the blue color on

1 that chart is the little bit that we did sell out in
2 the merchant market.

3 There's a good point here in that we did not
4 sell any of this to end users. We were approached by
5 the various brokers and distributors that are out
6 there handling a vast array of things, I suspect, as a
7 known source of THFA and said gee, you know, I could
8 really use a little bit of THFA; can you sell me some
9 sort of thing?

10 While Mr. Doyel was the product manager for
11 this business many years ago, now no doubt a number of
12 those customers are still customers. We haven't
13 approached any of those folks. It's really been what
14 the distribution channels have kind of sought out, and
15 those are very modest numbers.

16 You can see in fact that they went down
17 during the bankruptcy year. They went up a little bit
18 during the pre-bankruptcy year because we were quite
19 unsure what was going on in the marketplace, what
20 their intentions long-term were, so we thought we'd
21 test the waters just a tad.

22 As they went into bankruptcy, you know, that
23 was a lousy business environment for just about
24 everyone, including ourselves. Frankly, we went back
25 to our knitting and have more or less stayed there.

1 MR. DOYEL: Our characterization of the
2 market today is that we have a lot of opportunities in
3 our existing marketplaces. We see the THFA market
4 obviously as eroding, that people are going to
5 alternatives, so why do I want to spend valuable
6 resources of Kyzen to go after a marketplace that, you
7 know, it appears to us to be shrinking in volume.

8 MS. MAZUR: Okay. One last question dealing
9 with the furfuryl alcohol orders in the United States
10 and the EU. Is that a threat to the U.S. market?

11 MR. DOYEL: Contrary to what was said by the
12 Petitioner, my familiarity is with the Zhucheng
13 facility. The Zhucheng's antidumping duty that was
14 placed on them by the EU I believe was at three
15 percent. It's very minor. They're not locked out of
16 the European market. That's incorrect. That's not a
17 true statement.

18 There are two manufacturers that had a very
19 minor duty that was placed on their product and then
20 the bulk. There are a number of manufacturers over
21 there in China, and obviously those got hit with the
22 larger duty.

23 MR. FOYSYTHE: The U.S. duty is a different
24 story. The U.S. duty, and I don't know the number,
25 but it's enormous.

1 MR. DOYEL: Right. A very large number.

2 MR. FOYSYTHE: One hundred percent or some
3 take-you-out-of-the-game kind of number.

4 But, that went into effect in 1995, and, you
5 know, we see no reason to believe that people have
6 been lying in wait for eight years ready to pounce.
7 It just doesn't strike us as logical, and the European
8 duty is so modest as to be inconsequential.

9 MR. DOYEL: See, the comment on the U.S.
10 one, and it's really ironic if you look at, you know,
11 when did that duty go in, in 1995? Well, let's see.
12 Five years later is 2000. Gee, was somebody testing?
13 Were all those FA imports that masked?

14 We can go right along with the numbers. We
15 can see Kyzen's THFA imports. All of a sudden you
16 have this big blurb in the summer of 2000. Gee, what
17 was taking place at that point in time? We have
18 reason to believe that the antidumping duty was going
19 through a renewal process, and people were testing the
20 waters.

21 MS. MAZUR: Okay. This is definitely my
22 last question. Do you have any information that you
23 can supply to us, or if you can characterize it
24 briefly here and then supply us additional information
25 in your post-conference brief, on the world market for

1 THFA?

2 You seem to know the markets very, very
3 well, Mr. Doyel. Do you have anything that tells us
4 what the European market is, what the Japanese market
5 is or Asian market?

6 MR. DOYEL: Can we characterize that in a
7 post brief? I would just say that overall it's a very
8 sleepy market.

9 MS. MAZUR: Sleepy meaning?

10 MR. DOYEL: Very GNP growth market.

11 MR. FOYSYTHE: And that's really critical to
12 this change in behavior because this truly was this
13 kind of sleepy market.

14 You go back and look at data over very
15 extended periods of time. You know, growth isn't a
16 curve. It's one of those step function things. You
17 know, somebody lands a pharmaceutical guy that buys a
18 couple hundred thousand pounds, and the market demand
19 grows a bit.

20 It was one of these sleepy markets that got
21 the heck scared out of it when the only guy on the
22 planet that makes it went into bankruptcy because now
23 I'm asleep. I don't pay much attention. We've been
24 selling that product for five years, 10 years, Lord
25 knows how long. I mean, THFA has been around for

1 decades.

2 All of a sudden I'm thinking about something
3 I haven't thought about in years, and every hair on my
4 body is standing on end going oh, my God. If they
5 roll over and die, I'm going to lose my job because
6 I'm the product manager, and I'm supposed to know
7 stuff like this. That's what changed the behavior, we
8 believe, of people.

9 You know, no one else had a second source of
10 supply. Our stuff that bled out was inconsequential.
11 Those people had to sit back and go oh, my God. I
12 mean, if we were in that situation, trust me. We
13 would have been catatonic if they were our only source
14 of supply. We would have been lights out. Kyzen is
15 dead if they simply stopped making, had the Judge
16 decided to go in a different direction.

17 Of course, as an outsider, you know, no one
18 has any way to know that as it's going on.

19 MR. DOYEL: Yes. They didn't buy Chinese.
20 That's obvious to us. They bought something else. If
21 you look at the market numbers that you probably have,
22 you're showing a decline that Penn is claiming that
23 they've had. We can do the math balance over here.
24 We know what's come in to us. We know what's come in
25 from others. Do the math.

1 Talking to me or speaking to me, this market
2 is declining. The only real growth in this
3 marketplace has been Kyzen Corporation. We're the
4 ones that have grown this market, made it a very
5 exciting market in the early 1990s for Great Lakes
6 Chemical. We spent a lot of money on research and
7 development. We spent a lot of money patenting these
8 things. It's very important to Kyzen Corporation.

9 MS. MAZUR: To the extent to which you have
10 any information on other markets in the world, if you
11 could provide us with that, please? Thank you very
12 much.

13 MR. CARPENTER: I just have a couple
14 followup questions or requests.

15 First of all, apparently there are a number
16 of producers in China that did not respond to the
17 questionnaires that we sent them. For those of you
18 who are counsel who are on the APO service list and
19 who would be aware of who those companies are, if you
20 have any contacts with those companies if you could
21 encourage them to get responses in quickly, we would
22 appreciate that if it's possible.

23 Secondly, Ms. Hand has asked a number of
24 questions about the import data, and in your charts
25 you've made an attempt to adjust the Census data to

1 remove products that are not subject to the
2 investigation. As you know, we've also sent out
3 questionnaires to importers where we've asked just for
4 imports of the subject merchandise. My understanding
5 is that we've gotten a good response to those
6 questionnaires.

7 In situations like this where we have
8 questionnaire data, where we have good coverage and
9 the Census data include imports that are not subject
10 to the investigation, we usually will use
11 questionnaire data, so I was wondering. Again, this
12 would be for the attorneys who have access to the
13 business proprietary data under APO.

14 In your post-conference briefs, if you could
15 compare the import data that you've provided in these
16 charts with questionnaire import data and let us know
17 what you think are the more reliable set of data and,
18 if you see any problem in the questionnaire data, if
19 you could so indicate and contrast the two?

20 Also, if you could do the same thing with
21 respect to the pricing data that you've provided in
22 the last chart here? If you could compare those with
23 the data that we've received from producers and
24 importers in their questionnaire responses and again
25 indicate if you think there are any problems with the

1 questionnaire data that we've received.

2 Also one last request. On the price chart,
3 if you could duplicate that in your post-conference
4 brief, provide a confidential version that has the Y
5 axis prices actually filled in and bracketed?

6 Those are all the questions I have. Ms.
7 Mazur?

8 MS. MAZUR: I have no further questions for
9 this panel, but, for the record, I just wanted to
10 mention to Petitioner's counsel. I understand that
11 the Commission did not receive the supplemental
12 information you provided to the Department of Commerce
13 regarding the petition. Mr. Matthews referenced an
14 appendix to it this morning.

15 If you could by the close of business today
16 duly serve and file with the Commission with the
17 appropriate number of copies that supplemental
18 information? Please and thank you.

19 MR. CARPENTER: Okay. Once again, thank you
20 for your testimony and for your very helpful responses
21 to our questions.

22 We'll take a brief five or 10 minute recess
23 to allow the parties to prepare for their closing
24 statements. At that point, if the Petitioners could
25 come forward to the table we can get started.

1 Thank you.

2 (Whereupon, a short recess was taken from
3 12:06 p.m. to 12:17 p.m.)

4 MR. CARPENTER: Please start.

5 MR. WALL: Thank you very much. First of
6 all, I'd like to thank the staff for the opportunity
7 to present testimony here today and to answer
8 questions and hope that it's been a useful session in
9 the staff formulating its views on the pending
10 petition.

11 I would like to take this opportunity to
12 respond to a few points that were made by the Kyzen
13 presentation in rebuttal to a number of their
14 statements. First of all, I think it's important for
15 us to focus on what is really at issue in the case.
16 The issue is Chinese imports of THFA. Kyzen is
17 certainly a large distributor of THFA. It is not the
18 only one. There are others out there, and the focus
19 is on China.

20 The statements were made frequently that
21 there had not been any increases in imports of THFA
22 from China during the period of investigation. The
23 numbers will speak for themselves. Obviously the
24 numbers presented by Kyzen we would have issues with.
25 We have based our submissions on Census numbers. We

1 will be getting, of course, information in from the
2 producers, and the numbers will show what they show.

3 We believe there have been increases in
4 imports from China, and in that regard I think it's
5 important to make two subsidiary points. First is
6 it's important to focus on the trend lines over the
7 entire period, not any particular period or quarter
8 that one might point to. I think over the period,
9 particularly during the more recent years, the trends
10 are showing increases in imports.

11 The second point related to this has to do
12 with the correlation between imports and prices. I
13 think, and we can develop this information obviously
14 in more detail during the confidential post-hearing
15 submission, but I think it will be seen that during
16 periods of time when there have been increased imports
17 from China, that is the period when there has been the
18 greatest price pressure on domestically produced THFA.

19 Prices may be stable over certain periods of
20 time, but when there have been increased imports it
21 has the effect of driving prices down, keeping prices
22 continually down at that lower level, and you have
23 sort of a ratchet down plateau effect in terms of the
24 way the prices operate in relation to the trend lines
25 of increasing imports.

1 Kyzen has, in its presentation in its
2 testimony, devoted a significant amount of time to
3 making the assertion that there is no nexus to the
4 harm caused to Penn by the increases in imports and
5 that other factors caused Penn's difficulties rather
6 than imports of THFA.

7 Now, of course, during Penn's presentation
8 we certainly acknowledged that there were other
9 factors that have had an impact on the market
10 generally. Obviously there was the economic downturn
11 in the early part of the period of investigation.
12 These factors led, of course, to Penn's bankruptcy
13 filing. The bankruptcy filing was not related to THFA
14 at all. It had to do with credit crunch and other
15 issues affecting other parts of Penn's business.

16 As it emerged from bankruptcy, what Penn
17 found was that as it was actively seeking to grow in
18 THFA business it found itself continually,
19 consistently undersold, putting pressure on it in this
20 profitable area of its business activity and making it
21 difficult to expand business in its expected way.

22 Kyzen talks, of course, about the market
23 uncertainty caused by the Penn bankruptcy and the fact
24 that this had a shock effect causing others to look
25 for second sources of supply. I think the market data

1 will show that Penn's bankruptcy was not a significant
2 impact with regard to THFA.

3 The market knew that Penn would continue
4 production of THFA. It was a profitable area of its
5 business and that Penn would continue this business
6 even as it developed other areas of its business as it
7 emerged from bankruptcy as well.

8 The market had assurances to this effect.
9 The market knew that Penn has a world class facility
10 for producing THFA in Memphis and that there would be
11 no shift away from THFA production in Memphis, so it's
12 important I think to take issue with the effect. That
13 may have been the effect on one particular customer.
14 There are other customers in the market, and the
15 market knew that THFA production would continue.

16 To the extent it did have an effect,
17 however, on shifting production, shifting purchases,
18 excuse me, away from a single source of supply, there
19 is nothing wrong with that. As Mr. Neff pointed out
20 earlier in his testimony, it is perfectly normal to
21 have second sources of supply. Customers do like to
22 have that for certainty, and competition is a good
23 thing.

24 The problem here, however, is that when you
25 have competition at unfair prices, at dumped prices

1 from imports, that is not fair competition, and that
2 is causing injury to Penn's business, and that is what
3 is at issue in this proceeding.

4 The statement of facts, the recitation of
5 the history of the market and what the market's
6 reaction was and the various parties and so forth, I
7 simply would like to say at this point that we take
8 issue with that presentation.

9 There are many points that we can address in
10 the post-hearing submission. For example, the
11 statement was made that certain companies have sought
12 to reformulate and shift away from other products. We
13 believe that's a red herring.

14 From Penn's perspective, there does not seem
15 to be any significant evidence of that occurring.
16 That's just one example, but for the time being it's
17 important just to leave it at the history as recited
18 is not the history that Penn would accept as fact.

19 The statutory requirement, as we know, for
20 the Commission regarding causation does not require a
21 finding that imports are the only cause of injury.
22 There is clearly a nexus between imports in this case
23 and the harm that Penn is causing. The imports need
24 only be a material or a not insignificant cause, and
25 that's certainly the case here.

1 There is ample authority to demonstrate that
2 preliminarily at this point, at this stage of the
3 proceeding, that Chinese imports of THFA are causing
4 or threatening to cause material injury to the U.S.
5 industry.

6 When Penn acquired Great Lakes, its THFA
7 business was critical to its business strategy, and it
8 had every reason to believe that sales over the next
9 years would continue. Obviously Penn's experience has
10 not lived up to its expectations.

11 From the time it entered the THFA market and
12 continuing today, it has faced competition from
13 Chinese importers, and that competition has been
14 unfair, causing continued price pressure, underselling
15 and dampening profits, and resulting in the other
16 economic factors that the Commission will continue,
17 including capacity utilization, declines in
18 employment, research and development and so forth.

19 The THFA market is critical to Penn today,
20 as it was when it took over the business. Penn has
21 restructured that business, has reduced its cost and
22 entered into favorable contracts that has enabled it
23 to emerge from bankruptcy.

24 Penn doesn't claim that unfair competition
25 from China was the sole cause of these difficulties,

1 but it is presently now critical for Penn to be able
2 to compete in a fair market for THFA that's not
3 affected by unfair imports.

4 These unfair imports continue to erode the
5 market price for THFA in general and has caused
6 customers to require Penn to drastically cut its
7 prices or lose that customer's business altogether.
8 The threat of Chinese imports, as we have discussed,
9 is increasing.

10 In conclusion, Penn has emerged from
11 bankruptcy, as we have seen, as a better, strong
12 company that's capable of competing with any company,
13 foreign or domestic, in the THFA market so long as
14 that competition is fair and expects the THFA market,
15 if fair, will thrive and grow over the next several
16 years and that it will contribute to Penn's growth as
17 a company.

18 Penn cannot, however, continue to operate
19 its THFA business in competition with foreign
20 manufacturers who are dumping their products. Penn
21 welcomes competition so long as it is fair competition
22 and only asks that the Commission provides a level
23 playing field on which to compete.

24 Thank you.

25 MR. CARPENTER: Thank you, Mr. Wall.

1 Would the Respondents come forward, please?

2 MR. JAFFE: On behalf of Kyzen and on behalf
3 of Zhucheng Chemical, I would like to thank the
4 Commission for giving us the opportunity today to
5 present our views.

6 I think Mr. Wall said it best. The numbers
7 will show what they will show. Well, in 1999, a
8 start-up company known as Penn Specialty bought a
9 chemicals division of which THFA constituted only five
10 percent of that particular asset.

11 They poured millions of dollars into a
12 different industry, and they closed the Omaha plant
13 that manufactured the raw material for THFA, signaling
14 to the industry, everybody who bought THFA, that, one,
15 they weren't interested, and, two, they knew nothing
16 about the business.

17 Well, they got a surprise. All of a sudden
18 there was a huge demand, a temporary demand. What
19 they haven't acknowledged here today, certainly not in
20 their statement you just heard, was that they drove
21 the import market to the highest level ever in an
22 effort to cover their mistake.

23 Then in 2000 the market dropped out of the
24 economy. THFA imports, THFA purchases dropped. In
25 2001, they filed for bankruptcy. Businesses did what

1 they should do. They looked for alternatives. They
2 did a short-term strategy. They hoarded the product,
3 and there you see a temporary upswing in the imports.

4 Then they did a long-term strategy, which is
5 they exited the market so that by 2002 when Penn came
6 back, and nobody was sure that they would, you
7 suddenly see a situation in which the market for THFA
8 purchases has changed. What you saw in that third
9 graph was import volumes other than Kyzen, and it's
10 small. It's about 40,000 pounds.

11 I think the key here to remember also is
12 that Kyzen constitutes 90 percent of the imports of
13 this product into the United States. In other words,
14 Kyzen is in that market, but outside that market there
15 is no competition between Penn and other Chinese
16 imports.

17 Within that market you have to also look at
18 the price. Kyzen? Who is the low-price seller? It's
19 Penn. Who offered in April 2003 to lower the price
20 further? They called Kyzen, not the other way around.
21 Who turned them down because of the importance of
22 having a second supplier? Why have a second supplier?
23 The proof is over there. If one of your suppliers
24 goes bankrupt, you're in a very difficult situation.

25 This is a case about Kyzen. Penn is a

1 monopoly in the United States, and they want Kyzen's
2 business. They are upset that they have to compete
3 for it. This is not a commodity, and they would like
4 you to know. What it is is we're talking competition.
5 When they go out there and they see competition, they
6 don't like it.

7 In this particular case, we would hope that
8 you would, as Mr. Wall said, look at the numbers.
9 You'll see imports going down. You'll see that in 90
10 percent of the market where the competition takes
11 place it's Penn that is the low-price producer.

12 You're going to see that notwithstanding all
13 these statements made about a 1995 FA order or a minor
14 order on FA in Europe that there's not going to be any
15 changes. There's been consistency throughout the
16 period. There is no injury, no nexus between the
17 self-inflicted wounds suffered by Penn and the imports
18 of THFA from China.

19 Thank you.

20 MR. CARPENTER: Thank you, Mr. Jaffe.

21 Just a few concluding remarks. The deadline
22 for both the submission of corrections to the
23 transcript and for briefs in the investigation is
24 Thursday, July 17. If briefs contain business
25 proprietary information, a public version is due on

1 July 18.

2 The Commission has scheduled its vote on the
3 investigation for August 5 at 10:00 a.m. It will
4 report its determination to the Secretary of Commerce
5 on August 7. Commissioners' opinions will be
6 transmitted to Commerce a week later on August 14.

7 Thank you for coming. This conference is
8 adjourned.

9 (Whereupon, at 12:34 p.m. the hearing in the
10 above-entitled matter was concluded.)

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Tetrahydrofurfuryl Alcohol
INVESTIGATION NO.: 731-TA-1046 (Preliminary)
HEARING DATE: July 14, 2003
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: July 14, 2003

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

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

SIGNED: Gabriel Rosenstein
Signature of Court Reporter