

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
CHLORINATED ISOCYANURATES) 731-TA-1082 and 1083
FROM CHINA AND SPAIN) (Preliminary)

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Friday,
 June 4, 2004

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

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

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 FRED RUGGLES, INVESTIGATOR
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 and Marketing

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Of Counsel:

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On behalf of Alden Leeds, Inc.:

MARK EPSTEIN, President

On behalf of N. Jonas & Co., Inc.:

STEPHAN JONAS, President

Of Counsel:

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P R O C E E D I N G S

(9:30 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-1082 and 1083
7 concerning imports of chlorinated isocyanurates from
8 China and Spain.

9 My name is Robert Carpenter. I am the
10 Commission's director of investigations, and I will
11 preside at this conference. Among those present from
12 the Commission staff are, from my right: Fred
13 Ruggles, the investigator; George Deyman, the
14 supervisory investigator; on my left, Karen Driscoll,
15 the attorney-adviser; John Benedetto, the economist;
16 and Larry Reavis, investigator.

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

24 Are there any questions?

25 (No response.)

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1 MR. CARPENTER: If not, welcome, Mr. Price.
2 Please proceed with your opening statement.

3 MR. PRICE: Good morning. I'm Joe Price of
4 Gibson, Dunn & Crutcher. We are counsel to Clearon
5 Corporation and Occidental Chemical Corporation, or
6 "OxyChem," the Petitioners in this investigation.

7 We are appearing before you today at an
8 absolutely critical time for the domestic industry
9 producing chlorinated isocyanurates, or "chlorinated
10 isos." Since 2001, imports of chlorinated isos from
11 China and Spain have grown at a truly amazing rate,
12 more than tripling between 2001 and 2003. Not only
13 has the absolute volume of these imports risen
14 dramatically, but the increase in market share held by
15 the Chinese and Spanish imports has expanded at an
16 alarming rate as well. Indeed, even though it appears
17 that the swimming pool demand for chlorinated isos
18 declined because of weather conditions in 2003,
19 subject imports in 2003 were more than double those in
20 2002.

21 Our testimony this morning will demonstrate
22 that price is the only reason the Chinese and Spanish
23 imports have gained market share in the United States.
24 The expansion of the volume of subject imports is the
25 result of an aggressive price-cutting campaign

1 offering prices at whatever level necessary to take
2 business away from the domestic industry. Because the
3 chlorinated isos are a commodity product, price is a
4 potent weapon, overriding any advantages domestic
5 producers might otherwise have.

6 The flood of imports has also been fueled by
7 several recent developments in the market for
8 chlorinated isos, which will be described in more
9 detail in our testimony.

10 First, there is a very significant amount of
11 excess capacity worldwide for chlorinated isos. The
12 causes of this unneeded capacity are ever-expanding
13 production in China and a new facility opened recently
14 by Delsa in Spain, which doubled its capacity for
15 chlorinated isos. As the U.S. is by far the largest
16 market in the world, it is no surprise that foreign
17 producers have aggressively sought to unload their
18 excess production here.

19 Second, there is the fact that certain large
20 distributors have decided that the surest way to
21 remain competitive is to seek out dumped imports at
22 the lowest prices available. That strategy has harmed
23 the domestic industry in two ways: first, by the loss
24 of sales where imports have directly substituted for
25 the domestic product; and, second, by the negative

1 impact of the introduction of low-priced imports,
2 which has forced an overall decline in market prices.
3 Even where the domestic industry has retained its
4 customers, these customers have demanded price
5 reductions in order to remain competitive with others
6 marketing dumped chlorinated isos from China and
7 Spain.

8 Third, regulatory developments have
9 significantly reduced the cost of participating in the
10 U.S. market for foreign producers, particularly the
11 Chinese producers. Trichlor and dichlor must be
12 registered with the EPA before they can be sold for
13 swimming pool sanitization. The domestic industry
14 producing chlorinated isos spent the time and incurred
15 the significant expense of performing all of the tests
16 required to register their products as safe and
17 suitable for use in swimming pools.

18 From 2001, however, Chinese producers have
19 been allowed to use the domestic industry's test data,
20 without any compensation and without any need for
21 further testing, to register their own trichlor and
22 dichlor for swimming pool use. This development has
23 opened the door for further opportunistic dumping in
24 the U.S. market by these Chinese producers.

25 The consistent underselling and rapidly

1 increasing volumes of subject imports have caused
2 material injury to the domestic industry. Because
3 there are only three producers, we are limited to
4 discussing the industry's condition in general terms
5 today, but the questionnaires submitted by OxyChem and
6 Clearon demonstrate beyond doubt the significant harm
7 that has been inflicted by the Chinese and Spanish
8 imports. As those imports continue to increase, and
9 as the domestic producers continue to be confronted by
10 demands to match prices, it is equally clear that the
11 domestic industry is threatened with additional
12 material injury in the very near future.

13 We look forward to presenting our case to
14 you this morning and in obtaining a preliminary
15 affirmative determination, the first step in restoring
16 fair competitive conditions to the U.S. market for
17 chlorinated isocyanurates. Thank you.

18 MR. CARPENTER: Thank you, Mr. Price.

19 Would Mr. James and Mr. Perry and Mr. Clark
20 come forward now, please, and Ms. Davenport?

21 (Pause.)

22 MR. CLARK: Good morning. For the record,
23 I'm Matt Clark of Arent Fox, counsel to Arch
24 Chemicals, Inc., in this proceeding.

25 Arch Chemicals is an importer of chlor iso

1 and chlor iso products from Spain and from China, and
2 we appear in the proceeding today in that capacity.
3 Historically, Arch Chemicals was a major customer for
4 Clearon Corporation. In fact, we think that we were
5 the major customer for Clearon Corporation for bulk
6 iso products.

7 Arch Chemicals is represented today, and we
8 will have testimony from Mr. Steven Johnson, the
9 director of strategic sourcing for Arch. Mr.
10 Johnson's testimony will focus on two fact areas.

11 First, we will demonstrate that it is the
12 conduct and actions of the Petitioners, in particular,
13 Clearon, that caused Arch to become an importer of the
14 subject merchandise from China and from Spain; that it
15 was Clearon's conduct in the market, in particular,
16 that created a situation in which Arch had to move
17 away from a sole-sourcing strategy into a dual-source,
18 global-sourcing strategy.

19 The second aspect of Mr. Johnson's testimony
20 today will focus on the product that we import from
21 China, in particular. That product is, frankly, not
22 the product that the Petitioners produce and that the
23 Petitioners are complaining about. The Petitioners
24 produce a bulk, granular product in unblended form.
25 The product that Arch imports from China is a tableted

1 product produced to our proprietary specifications
2 under a patent license from Arch. It comes into the
3 United States in retail pails -- five pounds, 40
4 pounds -- and goes direct to the retail shelf. What
5 comes from the complaining Petitioners is a one-
6 metric-ton super sack that is then sold to another
7 industry in the United States for tableting. It is
8 the product of that second industry that competes with
9 the product that Arch imports from China.

10 We think it is noteworthy that there is a
11 domestic industry that produces our product; that is,
12 that produces a product that's tableted, blended, a
13 three-in-one, multifunction product. The producer of
14 that product is not here today. That company is
15 BioLab. That is a separate industry. It uses
16 different production workers, different production
17 processes, makes a different product, distributed
18 differently, packaged differently, perceived by
19 consumers to be used differently, and it is made in
20 the United States. That producer is not here.

21 Based on the testimony that you will here
22 today, the totality of our testimony, the evidence
23 that you will develop in the course of this
24 proceeding, and the information that will be provided
25 in the post-conference brief, we believe you will come

1 to the conclusion that there is no reasonable basis to
2 conclude that the domestic industries producing chlor
3 iso and chlor iso products have been injured by
4 imports of subject merchandise from China and from
5 Spain. Thank you.

6 MR. PERRY: Good morning. My name is
7 William Perry of the law firm of Garvey Schubert &
8 Bayer. I'm here for a number of importers and some of
9 the Chinese exporters in the case.

10 First, let me make it clear, this is a life-
11 and-death struggle for another domestic industry: the
12 tableters, the repackers. Probably there are more
13 employees on our side of the aisle than on their side
14 of the aisle, but if these companies are forced to buy
15 from Clearon, a company that competes with them in the
16 downstream market, they probably will die. That is
17 the situation. The reason they started to import from
18 China was when mass-merchandise prices were going
19 down, Clearon raised the prices on them, and they were
20 caught in a price squeeze. As a result of this, they
21 were forced to move to China because they couldn't
22 compete with one of their competitors that also
23 supplies them with the raw material product.

24 A second point here is this is a highly
25 regulated industry. Mr. Price mentioned price. The

1 issue is not price; it's competition. For 15 years,
2 many companies could not get into this market because
3 the entry fee was so high, \$400,000 and up, to use the
4 studies to get in. In 2000, pursuant to the
5 regulations of the EPA, after 15 years, those studies
6 became public domain and could be cited.

7 This industry remains a highly regulated
8 industry. This is very different than in many other
9 chemical cases that I've worked on and that the
10 Commission has handled. There are regulations at the
11 EPA at the federal level and regulations at the state
12 level. These regulations are so difficult that it's
13 very difficult for companies to come into this market.
14 It's not easy. These companies, Oxy and Clearon, are
15 used to a protected market, and all of a sudden some
16 of the protection went away.

17 Finally, we will talk about quality issues,
18 and they are substantial. Clumping, et cetera,
19 gassing; we'll mention all of that in our testimony.
20 Thank you very much.

21 MS. DAVENPORT: Good morning. My name is
22 Michele Sherman Davenport with the law firm of Cameron
23 & Hornbostel.

24 The final presentation you will hear this
25 morning from those opposed to the imposition of

1 antidumping duties will be made on behalf of our
2 client, Aragonesas Delsa, the only exporter of
3 chlorinated isos from Spain.

4 Delsa's position is that the U.S.
5 Petitioners have not made a case on injury sufficient
6 to warrant action by the Commission. If there is any
7 evidence of injury here, it is, at most, evidence only
8 of threat of injury. We urge that staff and the
9 Commission to look carefully at the data Petitioners
10 have supplied, and we remind you that if only threat
11 of injury is found, the Commission is not required to
12 cumulate imports that are not part of that threat. As
13 the data show, and as you will hear later today, Spain
14 is not a threat. Thank you.

15 MR. CARPENTER: Thank you very much. Would
16 the domestic panel please come forward at this time?

17 (Pause.)

18 MR. CARPENTER: Please begin whenever you're
19 ready.

20 MR. PRICE: Good morning again. For the
21 record, my name is Joe Price, and I'm with the law
22 firm of Gibson, Dunn & Crutcher. We're counsel to the
23 Petitioners in this investigation, Clearon Corp. and
24 OxyChem.

25 We appreciate the opportunity to appear

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1 before you to discuss the injury being caused by
2 imports of chlorinated isos from China and Spain. As
3 you will see, the injury is substantial, far exceeding
4 the low threshold of reasonable indication required in
5 a preliminary proceeding.

6 I wanted to briefly describe how we'll use
7 our time this morning for our affirmative
8 presentation. My colleague, Chris Wood, will begin
9 our substantive testimony with an overview of the
10 facts of this case, putting them in the appropriate
11 legal context and showing how they overwhelmingly
12 support a finding of material injury caused by the
13 subject imports.

14 Mr. Wood will then be followed by our
15 industry representatives. We are very fortunate this
16 morning to have four industry witnesses, two from each
17 company, with considerable experience in and knowledge
18 of the chlorinated isos industry. I'm sure you're
19 going to find their testimony very informative.

20 At the conclusion of our industry witnesses'
21 testimony, I will briefly address the threat of
22 material injury and the legal issues relating to like
23 product and cumulation. Thanks, and I'll now turn the
24 microphone over to Chris Wood.

25 MR. WOOD: Good morning. For the record, I

1 am Chris Wood, Gibson, Dunn & Crutcher, counsel to
2 Petitioners OxyChem and Clearon Corporation. I would
3 like to begin our presentation by going through a set
4 of handouts which I have provided to the staff, and we
5 also have additional copies for Respondents and
6 everyone in the room available right here.

7 If I could ask you to turn to the first
8 slide, this describes the location of the production
9 facilities of each domestic producer of chlorinated
10 isos. As you can see on the chart, the Clearon plant
11 is located in South Charleston, West Virginia.
12 OxyChem has two locations, in Luling, Louisiana; and
13 Sauget, Illinois; and BioLab, the third producer, is
14 located in Lake Charles.

15 Turning to Slide 2, we will be talking today
16 about trichlor and dichlor. The left-hand side of
17 Slide 2 shows a typical, three-inch, trichlor tablet.
18 On the right side of the slide, it shows the
19 appearance of granular trichlor. I would add that
20 dichlor looks very similar. Our witnesses will go
21 into more detail concerning the production process and
22 the packaging for the product a little later this
23 morning.

24 We're here today to describe to you the
25 material injury that the domestic industry has

1 suffered as a result of imports of chlorinated isos
2 from China and Spain. While our industry witnesses
3 are clearly in the best position to explain to you the
4 harm caused by the subject imports, I want to spend a
5 few minutes reviewing some of the statutory factors
6 that the Commission must consider in its decision.

7 Let's begin with the volume of the subject
8 imports, Slide 3. By any conceivable measure, the
9 volume of imports from China and Spain has grown
10 significantly since 2001. As our witnesses will
11 describe for you, there has been no change in U.S.
12 demand that would explain the growth in subject
13 imports, and there certainly is no shortage of supply
14 domestically to cause purchasers to turn to imports.

15 The only plausible explanation for the rise
16 in Chinese and Spanish imports is that they have
17 bought their increased share of the U.S. market by
18 aggressively dumping their product. The combination
19 of volume losses by the U.S. producers and a related
20 decline in overall prices caused by the subject
21 imports has materially injured the domestic industry.

22 Turning to Slide 4, we believe that the most
23 complete measure of import volumes available to the
24 Commission at this stage of the investigation are
25 likely to be data from the commercially available Port

1 Import and Export Reporting Service, or PIERS.
2 Because the actual PIERS data is purchased by
3 Petitioners under a license, we cannot reveal the
4 actual import volumes in this public hearing.
5 Instead, on Slide 4, we have scaled the import volumes
6 for chlorinated isos reported in PIERS using 2001 as
7 the base year.

8 The PIERS data show that the volume of
9 chlorinated isos imports from China and Spain has
10 increased by approximately 225 percent from 2001 to
11 2003. The sharp rise in Chinese and Spanish imports
12 is even more remarkable when you consider that 2003
13 was actually a poor year for chlorinated isos in the
14 United States. Because of unseasonably cool and wet
15 weather in the summer last year, we believe that
16 overall market demand was down. As a result, the
17 absolute increase in subject imports has been
18 accompanied by even greater gains in overall market
19 share. In 2004, this year, subject imports are
20 continuing to enter the United States in record
21 volumes. Imports in March 2004 were up about 12
22 percent over March 2003, which indicates that even
23 higher volumes are beginning to come in for this
24 year's pool season.

25 Turning to Slide 5, as subject imports have

1 risen, the gain in market share of Chinese and Spanish
2 imports has come directly at the expense of the U.S.
3 industry. The volume of nonsubject imports of
4 chlorinated isos into the United States, as measured
5 from PIERS data again, shows a modest decline from
6 2001 to 2003. These imports have been relatively
7 stable over the same time period.

8 Put simply, the reason why Chinese and
9 Spanish imports have increased so rapidly is price.
10 Slide 6. The subject imports are gaining share by
11 virtue of consistently underselling domestic
12 production. The effect of the Chinese and Spanish
13 imports has been to depress prices throughout U.S.
14 market. As a result, when the price of raw materials
15 used for chlorinated isos production rise, it is
16 impossible for domestic producers to reflect those
17 changes in their own prices. Market prices have
18 actually fallen as distributors have switched to low-
19 priced imports and other customers have used import
20 prices as a lever to force reductions from domestic
21 suppliers.

22 Slide 7. The damaging price effects of
23 subject imports have resonated throughout the U.S.
24 industry. We have representatives here this morning
25 from two of the three U.S. producers of chlorinated

1 isos: OxyChem and Clearon. The quote on Slide 7 is
2 from the CEO of the parent company of the third U.S.
3 producer, BioLab. In October 2003, "low end material
4 coming in from China" was the cause of falling prices
5 for three-inch trichlor tablets. Three-inch trichlor
6 tablets are among the highest-volume products sold by
7 the domestic industry and make up a significant
8 proportion of trichlor used for pool sanitization.

9 Slide 8. If anything, deterioration in
10 market prices has accelerated this year. Six weeks
11 ago, in BioLab's conference call to discuss first
12 quarter earnings, BioLab again emphasized the negative
13 impact of subject imports. Mr. Bulriss said, "Because
14 someone sourced some very low-priced Trichlor from
15 China, took it to one of the mass customers, it caused
16 tremendous turmoil around Trichlor three-inch tabs.
17 That hurt all of us. And at the end of the day, this
18 is why this is so ridiculous."

19 We couldn't agree more. The current pricing
20 of the subject imports is ridiculous, and it is having
21 a severe impact on the domestic industry.

22 The other point worth noting from Mr.
23 Bulriss's remarks is that once this low-priced
24 material is introduced into the account, it affects
25 pricing throughout the market. It's not limited to

1 the single customer where it comes in. Everyone on
2 the retail and distribution side of this business is
3 aware of the cost advantage in using dumped imports
4 and demand that domestic producers offer comparable
5 pricing to retain their business.

6 Slide 9 identifies some of the key
7 conditions of competition in the chlorinated isos
8 industry. Our industry witnesses will address each of
9 these issues: excess production capacity, commodity
10 products, seasonality, and the pricing trends that we
11 talked about earlier. These will be addressed in our
12 witnesses' testimony.

13 Turning to Slide 10, many of the significant
14 conditions of competition were summarized very neatly
15 in a recent statement by Mr. Michael Campbell, the CEO
16 of Arch Chemicals. Arch is a large distributor of
17 pool-related products and, as you heard this morning,
18 one of the largest importers of subject imports into
19 the United States.

20 Let's look at what Mr. Campbell said. "The
21 fundamental driver in isos' pricing decline is a
22 significant global overcapacity of what is essentially
23 an undifferentiated product until it gets into a
24 branded container." That's exactly right.
25 Overcapacity, mostly located in China and Spain, is

1 what has driven market prices down. Where the market
2 is for a commodity product, an "undifferentiated
3 product," in Mr. Campbell's words, dumped prices are
4 particularly injurious to the domestic industry.

5 As an importer, of course, Arch is well
6 positioned to take advantage of the global
7 overcapacity and the dumped prices. Again, in Mr.
8 Campbell's words, "Because of our ability to buy
9 smartly on the global market, the decline in isos'
10 pricing did not hurt our margins. The pricing shifts
11 were positive, from Arch's point of view."

12 Well, from the point of view of the domestic
13 industry, of course, things looked very different.
14 Arch's ability to buy smartly on the global market
15 translates into finding a supplier willing to offload
16 their excess capacity at the lowest price and using
17 those prices to drive prices down throughout the
18 market and harm the domestic industry.

19 The petition in this case alleges margins in
20 excess of 100 percent for China and over 40 percent
21 for Spain. There is simply no way that the domestic
22 industry can be expected to compete in a market where
23 prices are effectively being set by these unfairly
24 traded imports.

25 Now, it's possible today you may be told

1 that factors other than imports are contributing to
2 the decline in chlorinated isos' pricing. We think
3 there is no evidence to support that.

4 On Slide 11, in the same conference call not
5 five weeks ago, Arch's Mr. Campbell was asked whether
6 the decline in chlorinated isos' pricing was specific
7 to those products or whether it reflected an overall
8 price decline in the pool market. Mr. Campbell said
9 that the pricing decline has been essentially limited
10 to isos. In short, there is no reason other than the
11 massive surge of subject imports for the falling
12 prices observed by domestic producers. In fact, in a
13 time of strong demand and rising raw materials and
14 energy prices, market fundamentals would ordinarily
15 predict stable-to-increasing prices. The influx in
16 the subject imports, however, has artificially
17 depressed U.S. prices and injured the domestic
18 industry.

19 On Slide 12, this chart is a graphic
20 illustration of the supply chain for chlorinated isos
21 in the U.S. pool market. At the top of the chain,
22 there are the three U.S. manufacturers of chlorinated
23 isos. Each U.S. producer has means for tableting and
24 packaging bulk product, and there are also a number of
25 merchant tableters and repackagers. Tableting is not

1 a particularly complicated or expensive process. It
2 basically involves compressing the granular bulk
3 product and placing the tablets in smaller packages
4 for retail sale.

5 There are a large number of distributors who
6 handle chlorinated isos in the United States. The
7 chart lists some of the major national distributors,
8 and there are also many smaller regional distributors.

9 Finally, the chart shows the retail outlets
10 through which chlorinated isos are sold to consumers.
11 The pool retail stores and the mass merchants listed
12 on the bottom of the chart are probably the two
13 largest channels.

14 Also as shown on the chart, imports of
15 chlorinated isos may arrive in the United States in
16 bulk or in tablets. Our position, of course, is that
17 these all form a single product, the composition is
18 exactly the same, and that the tableting is a minor
19 change to the bulk product.

20 While imports may be purchased in bulk, they
21 are also brought in directly as tablets by
22 distributors. Our industry witnesses can also respond
23 to any questions on these channels of distribution.

24 Finally, Slide 13 concludes this part of our
25 presentation. The conclusions are fairly

1 straightforward. In terms of volume, there has been a
2 massive and sustained growth in imports of chlorinated
3 isos from China and Spain. Those imports have taken
4 sales directly from the domestic producers. The
5 pricing declines caused by these subject imports have
6 been so significant that two leading marketers of the
7 products, BioLab and Arch, have expressly referenced
8 the issue in conference calls to discuss company-wide
9 earnings trends. As a result of the subject import
10 volume and pricing, domestic producers are suffering
11 material injury and are threatened with additional
12 injury if effective relief under the antidumping laws
13 is not granted.

14 I would now like to introduce the first of
15 our industry witnesses, Mr. Scott Johnson.

16 MR. JOHNSON: Good morning. My name is
17 Scott Johnson. I'm the vice president of
18 manufacturing and the plant manager for Clearon
19 Corporation in South Charleston, West Virginia. I
20 have been in my current job for seven years and have
21 eight years of experience in dichlor and trichlor
22 production.

23 On behalf of Clearon, I very much appreciate
24 this opportunity that I have to appear before you this
25 morning. I would like to begin by telling you a

1 little bit about Clearon, and then I would like to
2 spend some minutes talking to you about the dichlor
3 and trichlor operations in West Virginia and what this
4 case means to us.

5 Under Clearon's management, we have
6 continually operated in South Charleston since 1995.
7 Clearon has put a substantial amount of investment
8 into the plant. We run a highly efficient and fully
9 modernized operating facility to produce dichlor and
10 trichlor. We also have an in-house facility for
11 tableting and packaging that's located right across
12 the street from our manufacturing facility. We are
13 very proud of our operations in West Virginia, and I
14 hope that you will take the opportunity to come visit
15 and tour our plant when it's convenient to you.

16 We currently employ a total of 115 employees
17 and approximately 60 contract employees in our
18 production facility and our tableting and packaging
19 operation. The South Charleston area has a long
20 history of being at the forefront of chemical
21 technology in the United States, and Clearon, we are
22 proud to be a part of that tradition, and we take our
23 responsibilities to our employees and to the community
24 very, very seriously.

25 The employees at Clearon are active in the

1 community, ranging from firefighters to elected
2 community officials. Clearon has been an active
3 supporter of the Charleston education system, and we
4 have been a partner of a local grade school system for
5 many years.

6 Clearon has one of the oldest community
7 advisory panels in the United States, and we maintain
8 very good and sound relationships with our neighbors
9 and the community leaders.

10 Let me spend a couple of moments, if I
11 could, talking about our production process. With a
12 few variations, everyone in the world producing
13 trichlor and dichlor uses the same process, so our
14 experience should be representative.

15 The first step in producing trichlor or
16 dichlor is the conversion of urea to cyanuric acid.
17 We pyrolize urea in large kilns a very high
18 temperatures. We introduce the urea at one end of the
19 kiln and then discharge the crude cyanuric acid from
20 the other end of the kiln. Because it take so long,
21 that time necessary to bring the kilns to an
22 equilibrium operating temperature, we operate our
23 kilns 24 hours a day, seven days a week, and that's so
24 we can maintain as efficient an operation as possible.

25 The crude cyanuric acid from the kiln must

1 then be refined through acid hydrolysis to convert any
2 byproducts into cyanuric acid and to remove any
3 ammonia waste. This digestion or refining process of
4 the crude cyanuric acid is carried out in pressurized
5 vessels in the presence of heat and sulfuric acid.
6 Once we have purified the cyanuric acid, it is
7 transferred to holding tanks and adjusted with a
8 solution of caustic soda. The resulting solution of
9 sodium cyanurate is the feedstock for the production
10 of either dichlor or trichlor.

11 The next step in producing either of these
12 two compounds is to chlorinate the product. We
13 monitor the temperature, the pH, and other aspects of
14 this reaction very closely with our centralized plant
15 process control system. Chlorine, in particular, is a
16 highly reactive substance and must be handled with
17 great care.

18 Trichlor is produced by adding three
19 chlorine atoms to sodium cyanurate, and that makes
20 trichloroisocyanuric acid. Trichlor has about 90
21 percent available chlorine.

22 Dichlor is made by adding less chlorine to
23 purchase the dichloroisocyanuric acid and then adding
24 caustic soda to form the dichlor salt. It has about
25 56 percent available chlorine. As produced, dichlor

1 is a dihydrate, which means it contains water in the
2 crystalline structure of that salt. We can produce an
3 anhydrous form of dichlor by heating the dihydrate to
4 remove the molecular water. The anhydrous dichlor has
5 about 63 percent available chlorine.

6 At Clearon, we refer to all of these
7 products as CDBs, or "chlorinated dry bleaches." I
8 should add that throughout our production process, we
9 use very efficient and very important pollution-
10 control measures to enhance and to ensure that no
11 contaminants or harmful materials are released into
12 the environment and to make sure that the process is
13 as efficient as possible with respect to the use of
14 our raw materials.

15 In addition to our attention to our
16 environmental responsibilities, we also maintain the
17 highest safety standards in our production facilities
18 to assure that compliance is held with all regulations
19 and that quality is ensured in our products and to our
20 customers.

21 I also mentioned the tableting and packaging
22 operation, which is where we process the granular
23 trichlor and dichlor after production or manufacture.
24 Most trichlor is ultimately sold as tablets or sticks.
25 If you have a pool, you've probably purchased 25- or

1 50-pound pails of trichlor sticks for your routine
2 sanitization of your pool. We compress granular
3 trichlor into tablets and package those tablets into
4 various sized containers. Most dichlor is sold in
5 granular form, but we repackage the dichlor from one-
6 metric-ton bags into smaller drums and containers.

7 One point I would like to emphasize to you
8 is that the nature of the production process for
9 trichlor and dichlor requires the plant to run at near
10 full capacity. The equipment that we have, from the
11 kilns used to produce the cyanuric acid to the
12 chlorination facilities, cannot be shut down or
13 restarted in a very cost-efficient manner. It is
14 important to maintain equilibrium conditions in order
15 to maximize production and to reduce our costs.

16 Given the nature of the products and the
17 process, we are going to incur substantial costs in
18 depreciation, labor expense, raw materials,
19 efficiencies, and utilities whether or not we are
20 producing. The ability to make a reasonable return on
21 business is contingent upon operating at high
22 capacity.

23 I know you will hear more from the sales and
24 marketing people today about the impact that the
25 imports from China and Spain are having in our market,

1 but I can tell you that the effect on Clearon's
2 production has been clear cut and devastating.
3 Because of sales lost to these imports, we have been
4 forced to reduce our production, and we have laid off
5 50 percent of our workforce, 110 employees. We have
6 cut our capital spending to the bone and basically
7 eliminated research and development activities.

8 From a long-term perspective, I am not happy
9 about having to make these decisions. They have been
10 hard. But we are in the midst of a very real crisis.
11 Even with these steps, our warehouse is literally
12 bursting with unsold product as our inventories have
13 risen to the highest level in Clearon's existence.
14 All of these effects are the direct result of losing
15 sales and customers to Chinese and Spanish imports
16 that have undercut prices across the board.

17 Looking at the current situation, I am
18 seriously concerned that the investments that we have
19 made to improve the efficiency of our plant, the
20 capital expended to centralize and expand our
21 tableting and packaging operations in South
22 Charleston, and the jobs of all of our employees are
23 imperiled to the flood of imports that we have seen in
24 the past two years and that we expect to continue to
25 see if something is not done. If something is not

1 done to prevent unfairly priced imports from claiming
2 our market, then our continued survival as a domestic
3 producer is in very real jeopardy.

4 I believe that if the products are fairly
5 priced, we are more than capable to compete
6 effectively and maintain a strong position in the
7 market with these products. The people in the
8 community of South Charleston deserve better, and I
9 hope that the Commission can stop the unfair trade
10 that is literally destroying the efficient and much-
11 needed production operations that we have established
12 in West Virginia. Thank you.

13 MR. STEPHENSON: Good morning. My name is
14 Dave Stephenson. I'm the director of sales and
15 marketing for the ACL isocyanurates business for
16 Occidental Chemical Corporation. OxyChem is the
17 largest domestic producer of chlorinated isos, with
18 facilities located in Luling, Louisiana, which is just
19 up the river from New Orleans, and Sauget, Illinois,
20 which is just across the Mississippi River from St.
21 Louis.

22 I've been with OxyChem for 18 years and have
23 been in my current role since 2003. My current job
24 responsibilities include developing commercial
25 strategies for OxyChem's sale of chlorinated isos and

1 tracking changes in market pricing and other
2 developments. I'm also involved in negotiating prices
3 and contracts with OxyChem's customers for trichlor
4 and dichlor.

5 I would like to talk to you today about the
6 U.S. market for chlorinated isos and the effects that
7 the imports from China and Spain have had on the
8 market over the last few years. As a preface, I have
9 managed chemical businesses in more than a dozen
10 product areas with OxyChem over the last number of
11 years, many of which have competed with products from
12 overseas, but I have yet to see any product area that
13 has been so profoundly affected as the chlorinated
14 isos have been over the past several years.

15 There are basically three significant end
16 uses for trichlor and dichlor in the United States:
17 pool sanitization, detergent and cleaner formulations,
18 and industrial water treatment. Of these three, pool
19 sanitization is by far the largest. We would estimate
20 that the use of dichlor and trichlor for pool
21 treatment accounts for about 80 percent of the total
22 U.S. domestic consumption.

23 A second important end use for chlorinated
24 isos is in the solid detergents for industrial and
25 institutional use as well.

1 And then, finally, there is also a small
2 portion of the chlorinated isos that are used in
3 cooling tower applications for industrial water
4 treatment at commercial plants.

5 As pools represent the bulk of the
6 chlorinated isos for use in this country, I would like
7 to focus on the pool-sanitization market in my
8 testimony, although we would be happy to take any
9 questions about the other market segments as well.

10 Trichlor and dichlor are both used in pools
11 as chlorine sources for sanitization, although the two
12 products react differently due to the wide variance in
13 water solubility.

14 Trichlor is typically sold to consumers in
15 either one-inch or three-inch tablets, as stated
16 earlier, and you can buy prepackaged tablets and pails
17 at pool retail stores and at mass merchandisers such
18 as Home Depot or Wal-Mart. Because trichlor is not
19 particularly soluble in water, the pool owner can
20 simply add a tablet to his pool skimmer or water
21 tablet feeder and get a controlled release of chlorine
22 over time to maintain a consistent level of
23 chlorination in the pool.

24 Because of its ease of use and long-lasting
25 effects, trichlor is generally preferred by pool

1 owners over other water treatment chemicals such as
2 sodium or calcium hypochlorite. For example, calcium
3 hypochlorite can be used to provide a level of
4 chlorine in pool water, but it requires replenishment
5 every few days or a separate addition of cyanuric acid
6 to act as a stabilizer for the chlorine.

7 By contrast, as trichlor dissolves in water,
8 it dissociates into cyanuric acid and a very weak
9 hypochlorous acid solution that is self-stabilizing.
10 A single trichlor tablet can provide adequate
11 chlorination of a residential pool for several days at
12 a time, so it is very, very low maintenance for the
13 pool owner.

14 Trichlor also has some other advantages.
15 For example, calcium hypo will deposit calcium into
16 the pool over time, which can cause scaling and a
17 cloudy water appearance as well.

18 The result has been that trichlor has
19 increasingly replaced alternative products such as
20 calcium hypo for pool sanitization and is now the
21 leading sanitizer chemical used for water treatment in
22 the residential pool market.

23 As I mentioned earlier, dichlor is much more
24 soluble in water than trichlor is, so that available
25 chlorine is released much more quickly. Dichlor is

1 used by pool owners to "shock" pools by raising
2 chlorine levels over a very, very short period of
3 time. Shock treatments generally are used to
4 dramatically increase chlorine levels to pools to
5 eliminate any high levels of bacteria or algae in the
6 pool as well as destroy any waste compounds that build
7 up in the pool.

8 Dichlor is usually sold in granular form as
9 opposed to tablets and is also available at pool
10 retail stores and mass merchants as well.

11 The distribution system in the United States
12 for pool chemicals is rather complex, so I would like
13 to spend just a few minutes to describe the different
14 levels of the distribution chain as well as the
15 participants.

16 At the consumer level, chlorinated isos are
17 sold through specialty pool retail shops, mass
18 merchants, pool maintenance service professionals,
19 and, to a lesser extent, through some outlets such as
20 grocery stores and hardware stores. Specialty pool
21 stores will carry a full line of pool-related products
22 and are able to provide expert help to pool owners for
23 their sanitization needs. The large pool retailers,
24 such as Leslie's, market chlorinated isos and other
25 products through their own in-house brands via private

1 labeling. Smaller pool retailers will usually buy
2 from a distributor and sell trichlor and dichlor under
3 the distributor's retail brand.

4 Mass merchants, such as Home Depot or
5 Lowe's, will also purchase branded products from
6 distributors and are a significant retail outlet for
7 the chlorinated iso products. These large retailers
8 tend to stock pool supplies only during the summer
9 pool season. They are more focused on high-volume
10 products rather than carrying the full line of
11 chemicals. The mass merchants are targeting the pool
12 owner who is not looking for any specialized
13 assistance but just wants to get a specific product at
14 a fairly low price. The focus on the price at the
15 retail level has very, very important implications for
16 OxyChem as a manufacturer, and I'll discuss that in
17 more detail later. Basically, when low-priced imports
18 are imported into the market and depress retail
19 prices, we are immediately pressured by our customers
20 for similar price reductions.

21 In terms of manufacturing, there are
22 currently three producers of chlorinated isos in the
23 United States: OxyChem, Clearon, and BioLab. OxyChem
24 and Clearon make both trichlor and dichlor, whereas
25 BioLab makes only the trichlor product. All three

1 U.S. producers have their own tableting and packaging
2 facilities. There are also several commercial
3 repackers who purchase bulk trichlor or dichlor,
4 manufacture tablets, and repackage those products for
5 sale at various points along the distribution chain.
6 These repackers will produce under their own brand as
7 well as private label for other companies.

8 Once the product is packaged, there are
9 several channels through which trichlor and dichlor
10 are distributed for retail sales. BioLab, for
11 example, has a number of in-house brands that it has
12 developed for trichlor and dichlor. They will market
13 different brands to different market channels directly
14 to distributors, pool retail stores, and the mass
15 merchants such as Wal-Mart. BioLab is also an
16 integrated marketer, in that they also sell a full
17 line of pool and recreational products, in which pool
18 sanitization chemicals represent just one of many
19 products. Neither OxyChem nor Clearon has the degree
20 of diversification. Our isos business at OxyChem is
21 basically the manufacture of trichlor and dichlor and
22 contract tableting and repackaging. OxyChem is not a
23 distributor, nor do we sell product into the retail
24 outlets under a brand name that we have control over.

25 There are several national distributors for

1 trichlor and dichlor for pool sanitization, along with
2 other ancillary pool chemicals, the largest of which
3 are probably Arch, SCP, ChemLab, and Pool Water
4 Products. Each of these companies has warehouses to
5 distribute products nationwide and sells to pool
6 retailers, mass merchants, service professionals, and
7 smaller regional distributors. Many of them advertise
8 and promote their own consumer brands, which are
9 usually differentiated by product and market segment.
10 For example, Arch will sell trichlor tablets to
11 dealers under its PoolLife brand name and to mass
12 merchants under the HTH Pace brand. The product is
13 exactly the same in either case. The different brands
14 are simply distributed through different channels.

15 Understanding the distribution process is
16 the key to understanding the serious injury that is
17 being caused by imports from China and Spain. What we
18 have seen in the last few years is a very rapid
19 increase in imports from these two countries that has
20 caused tremendous erosion in pricing at all levels in
21 the distribution chain.

22 The way it works is pretty simple, actually.
23 A large distributor, such as Arch, is importing
24 trichlor tablets or bulk product from China and Spain
25 at prices that are far below the prices offered by

1 U.S. producers, and that results in a loss of volume
2 by domestic producers. The chlorinated isos business
3 has a relatively high proportion of fixed-to-total
4 costs, as Mr. Johnson stated earlier, so that we need
5 to operate our facilities at close to full capacity.

6 But it's important to recognize that the
7 harm of the low-priced imports is not limited
8 specifically to a loss of volume. When Arch sells to
9 Home Depot, for example, and undercuts the price of
10 competing distributors using the low-priced imports,
11 there is immediate reaction. Other retailers see that
12 Home Depot has lowered its prices and are forced to
13 pressure their suppliers for similar reductions. That
14 price pressure ultimately gets passed along directly
15 to us as the manufacturer, and the end result is that
16 OxyChem must meet Chinese or Spanish prices in order
17 to retain business and make sure that our customers
18 remain competitive in their markets.

19 We have repeatedly been confronted in the
20 last few years with demands from our largest customers
21 to reduce our prices so they can compete with Chinese
22 and Spanish product. Either our customers tell us
23 that they can source product more cheaply overseas or
24 they tell us that their own sales are falling as a
25 result of import underselling. Either way, we have no

1 real choice but to respond. It's no coincidence that
2 we have seen a dramatic drop in our prices and, I
3 might add, our profitability as well at the same time
4 that the Chinese and Spanish are significantly
5 increasing their sales into this market.

6 We have been told time and time again by our
7 customers that the only advantage to purchasing
8 material from China and Spain is singular, and that's
9 price.

10 The pricing impact from the imports in our
11 market has been sudden and has been dramatic. One
12 reason is that chlorinated isos are a commodity
13 product with very little product differentiation.
14 Even a small difference in price can drive sales,
15 either at the distributor all the way to the retail
16 level or at the consumer level. Trichlor tablets are
17 used as a benchmark product that retailers use to
18 compare their price competitiveness. Ultimately,
19 everyone is forced to respond to the lower prices
20 being offered, which are always either Spanish or
21 Chinese imports.

22 The second reason that our prices have been
23 hit so hard by the importers is that retail prices for
24 chlorinated isos are virtually transparent. Anyone
25 can walk into a Wal-Mart or Home Depot or a Leslie's

1 and see what the current retail selling prices are.
2 It does not take much effort for the retailers to look
3 at pricing at competing outlets and then pressure
4 their suppliers for similar reductions.

5 The confidential data that we have already
6 supplied to the Committee in this investigation
7 clearly demonstrates the degree of damage that OxyChem
8 is suffering as a result of these subject imports. As
9 we are headed into the 2004 pool season right now, we
10 are seeing exactly the same trend that we saw in 2002
11 and 2003: Imports are rising again, and the prices
12 are falling faster than ever. These conditions are
13 simply not sustainable if we are going to be able to
14 preserve our business. It's very clear and simple,
15 from our financial perspective, what will happen
16 without effective relief. The domestic chlorinated
17 isocyanurates industry will not survive. Thank you
18 for your time and attention.

19 MR. NAPOLES: Good morning. My name is
20 Julio Napoles, and I am the general manager of
21 OxyChem's ACL Isocyanurates Division. I started with
22 OxyChem in 1986, and I have worked in different
23 divisions with Occidental Chemical before assuming my
24 current position in 2003.

25 As the general manager of the ACL business,

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1 I am charged with the responsibility for the strategic
2 direction of the business, the profitability, and
3 ultimately for justifying OxyChem's continued
4 investment in and participation in the market for
5 chlorinated isocyanurates.

6 In my testimony today, I would like to
7 discuss some of the key factors impacting the demand
8 for chlorinated isos and the specific circumstances
9 that have led to the massive rise in Chinese and
10 Spanish imports over the last few years. I also want
11 to convey to you the seriousness of the threat that we
12 perceive to the long-term survival of our business
13 precisely because of these imports.

14 As Mr. Dave Stephenson mentioned, the effect
15 that the imports are having on market prices, margins,
16 and profitability has been nothing short of
17 devastating. It is abundantly clear to us that
18 trichlor and dichlor are being dumped in the U.S.
19 market at any price that will enable foreign producers
20 to expand their export sales volume and share of the
21 U.S. market.

22 As previously stated, the swimming pool
23 market represents the majority of the consumption for
24 trichlor and dichlor in the United States. Overall,
25 the U.S. demand for trichlor and dichlor in that

1 segment is driven mostly by pool construction, which,
2 of course, is closely correlated with residential
3 construction trends. Swimming pool construction is
4 also affected by the overall economy, as pools for new
5 and existing homes are a discretionary purchase.

6 The demand for chlorinated isos is also
7 impacted by prevailing weather conditions during pool
8 season, which typically runs from Memorial Day through
9 Labor Day. Thus, a majority of the sales of
10 chlorinated isos for this market segment, for pool
11 sanitization, takes place in the second and third
12 quarters of the year. When we have hot summers and
13 relatively little rain, people tend to use their pools
14 more intensively, and demand for chlorinated isos goes
15 up. In years when weather patterns are less
16 favorable, like last year, there is a very significant
17 in demand for trichlor and dichlor.

18 Looking at the import trends, you would have
19 never guessed that 2003 was a poor year for
20 chlorinated isos in the United States. Imports from
21 China and Spain more than doubled last year. These
22 imports were not coming to supplement U.S. production
23 or to respond to any rapid growth in the market. In
24 fact, the exact opposite is true. In a year where
25 demand for trichlor and dichlor was down

1 significantly, the massive increase in imports came
2 directly at the expense of U.S. producers.

3 Let me be clear. The only reason that
4 imports have taken share from U.S. producers is price.
5 The U.S.-produced trichlor and dichlor is a high-
6 quality product, and U.S. producers have a significant
7 advantage in delivery costs and reliability of supply
8 over competitors in Spain and China. The domestic
9 industry supplies a full range of trichlor and dichlor
10 products and has sufficient capacity for both bulk
11 production and tableting to be able to supply the U.S.
12 demand. The only means by which imports have
13 succeeded in gaining share here is by offering ever
14 lower prices until they take a share of the business,
15 and as the import numbers show, that share is
16 increasing every year.

17 We have spent a lot of time analyzing the
18 factors contributing to the surging imports from China
19 and from Spain. One key factor is that there has been
20 a very rapid and massive buildup of capacity to
21 produce chlorinated isos in China and Spain. In
22 China, there seem to be new producers every year, and
23 existing producers have apparently added significant
24 new capacity. Their selling activities have become
25 much more aggressive in the United States. Over the

1 last two years, and even within the last three months,
2 we have seen offers from Chinese producers to our
3 customers seeking to supply millions of pounds of
4 chlorinated isos annually. There is a tremendous
5 amount of capacity in China, and without a doubt, it
6 is focused on the export markets.

7 In Spain, Delsa's ownership had changed
8 within the last few years, and they have become much
9 more aggressive in selling to the United States.
10 Delsa recently opened a new factory that we understand
11 has doubled their preexisting capacity. In addition,
12 we know from our own experience that market prices in
13 Europe have been driven down by an influx of low-
14 priced Chinese imports. Unfortunately, Delsa has
15 chosen to respond to this development by dumping their
16 excess production into the United States. As you
17 know, the euro has also appreciated against the dollar
18 by a significant amount over the past two years, but
19 we have continued to see lower and lower prices being
20 offered by Delsa. That makes no sense except as a
21 strategy to maximize production and cash flow by
22 selling at any price above variable cost.

23 In the case of both China and Spain, it is
24 clear to us that the plan for the new capacity for
25 chlorinated isos is to sell as much as possible in the

1 United States. There is just no other explanation
2 that makes any sense. The United States is by far the
3 largest market in the world for chlorinated
4 isocyanurates, and that's because of the heavy
5 concentration of residential and commercial pools, and
6 thus is a natural market for excess capacity around
7 the world.

8 The reason that we have been compelled to
9 file this case is that we see no end in sight, either
10 to the volumes of Chinese and Spanish product flooding
11 our markets or to the declines in prices that those
12 imports have brought about.

13 It is no exaggeration to say that the
14 disruption in the market caused by these low-priced
15 imports could not have come at a worse time for the
16 U.S. industry. The cost of producing chlorinated
17 isocyanurates is highly dependent on energy costs
18 (natural gas), which have been rising constantly
19 lately. In particular, the prices of key inputs into
20 production, such as urea, chlorine, and caustic
21 prices, are all impacted by high energy price trends.

22 As the cost of the natural gas has risen
23 recently, we have been hit with increased raw material
24 pricing that we have been completely unable to pass to
25 our customers. Whenever we have tried to increase

1 prices to reflect rising materials costs, we have been
2 rejected. In fact, we have seen substantial declines
3 in pricing instead. We are basically being forced to
4 choose between entering into money-losing contracts to
5 retain our market share or giving up sales volume and
6 operating at unsustainable low levels of capacity
7 utilization. Either way, the results are devastating
8 to our business.

9 At my firm, Occidental Chemical, we have
10 taken a number of steps over the last few years to
11 respond to the challenges we are facing from Chinese
12 and Spanish imports. We have reduced our costs,
13 limited capital spending on R&D, and deferred
14 expenditures wherever possible.

15 Let me share with you some specific data.
16 Over the last three years, we have cut 23 jobs in our
17 manufacturing, technical, selling, general, and
18 administrative areas. Most of those reductions,
19 unfortunately, have taken place within the last 18 to
20 24 months. We have done everything we can to make our
21 operations as efficient as possible, but we cannot
22 simply compete in a market where the prevailing price
23 is determined by the lowest quote offered by any
24 producer in China or Spain.

25 I would ask you to look closely at the

1 confidential data that we have supplied in our
2 questionnaire response. That data shows that we have
3 lost significant sales and revenues to subject imports
4 and that the imports have had a very detrimental
5 effect on our operations.

6 If Chinese and Spanish imports are allowed
7 to continue to use aggressive pricing to undersell our
8 products and capture market share, it is going to
9 damage our ability to continue to invest in our
10 business and continue as a domestic producer of
11 chlorinated isocyanurates. Within OxyChem, the ACL
12 isocyanurates business has to compete with every other
13 business unit for capital and demonstrate its
14 continued value to our shareholders. If we cannot
15 show senior management an ability to achieve a
16 reasonable return on investment through our trichlor
17 and dichlor operations, they will not support us
18 indefinitely.

19 If current import and pricing trends
20 continue unabated, it is highly questionable whether
21 our business has a long-term future. Producers in
22 China and Spain have undoubtedly factored this event
23 into their selling strategies and plant building and
24 expansion plans.

25 We are more than willing to compete with

1 producers anywhere in the world, and we have done so
2 successfully in the United States and in export
3 markets for many years, but we must have a level
4 playing ground with our Chinese and Spanish
5 competitors. We are seeking a restoration of fair
6 competitive conditions for the future. The bottom
7 line is that these unfairly priced imports from China
8 and Spain have caused serious damage to us, and we
9 foresee increasing damage in the future unless some
10 effective relief can be provided by this Commission.
11 Thank you for your attention and consideration.

12 MR. HAND: Good morning. My name is Antony
13 Hand, and I am the vice president of sales and
14 marketing for Clearon Corporation. My
15 responsibilities include developing and implementing
16 Clearon's commercial strategy for the U.S. market and
17 analyzing competitive data on imports of chlorinated
18 isos sold in the United States. I have been working
19 for Clearon for the last six years.

20 I would like to talk to you today about the
21 reasons for the dramatic increase we have seen in
22 Chinese and Spanish imports into the U.S. market in
23 the past few years and the effect that these imports
24 have had on Clearon. By any measure, Clearon's sales,
25 pricing, and profitability have all suffered as a

1 result of the current surge in imports.

2 Let me begin with a little background
3 information on the regulatory structure under which
4 chlorinated isos are sold. As you have heard today,
5 the major use for chlorinated isos in the United
6 States is for swimming pool sanitization. Under U.S.
7 law, sanitizers used in pools are treated as pesticide
8 and must be registered under FIFRA, the Federal
9 Insecticide, Fungicide, and Rodenticide Act. It is
10 illegal to sell trichlor or dichlor for use in
11 swimming pools without a valid registration, and the
12 EPA has issued substantial fines to companies that
13 have failed to conform to FIFRA's requirements.

14 Registration requires extensive testing to
15 prove that the product is safe and will not have any
16 adverse effects on humans or the environment. The
17 tests include subchronic and chronic mammalian
18 toxicology tests, as well as mutagenicity, metabolism,
19 and other toxicity studies. The data requirements for
20 swimming pool disinfectants also include a variety of
21 other tests, including environmental fate studies and
22 efficacy. Suffice it to say that the testing required
23 to satisfy the FIFRA requirements is lengthy,
24 rigorous, and very expensive. Clearon participates in
25 an ad hoc committee of manufacturers of chlorinated

1 isos that sponsored much of the necessary testing and
2 received approvals for trichlor and dichlor to be used
3 in pools. The cost of the data generated by this
4 committee is nearly \$4 million, and this neither
5 includes the cost of the data owned by the individual
6 companies nor the costs involved in commissioning
7 these studies.

8 Thus, until 2001, the significant investment
9 in data required in order to obtain an EPA
10 registration, as well as the long-term nature of some
11 of the studies, acted so as to limit opportunistic
12 sales into the United States. However, under FIFRA,
13 the test results submitted for registration purposes
14 ceased to be compensable after 15 years. The result
15 is that producers wishing to register their products
16 for sale in the United States no longer have to
17 conduct significant independent tests.

18 The EPA permits the results of prior
19 testing, in this case performed by Clearon and other
20 producers, to be cited to demonstrate the safety and
21 substantial similarity of the same product produced by
22 other manufacturers. As a result, Chinese producers
23 and importers have been able to piggy-back on the
24 safety testing done by the domestic industry and other
25 importers to secure registrations for their own

1 products, and there is no real cost to obtaining the
2 registrations necessary for participation in the U.S.
3 market.

4 To the best of our knowledge, the first
5 registrations for Chinese trichlor and dichlor were
6 obtained by an importer, Cadillac Chemical, in January
7 2001. These EPA registrations were challenged by the
8 ad hoc committee members, as this registration failed
9 to cite or provide all the data that was required of
10 an existing registrant. The Cadillac registrations
11 failed to cite over \$1.5 million of studies still
12 compensable at that time. As a result, the EPA, in
13 November 2001, required Cadillac to revise the data
14 citation used in the original registration. However,
15 as by this time, the data was no longer compensable
16 under FIFRA, this registration was amended with no
17 financial implementation for Cadillac.

18 Other registrations, by N. Jonas, Alden-
19 Leeds, Arch, and others, followed soon after, and the
20 result has been a flood of Chinese imports into the
21 United States. My analysis of import data published
22 by PIERS indicates that imports of Chinese trichlor,
23 for example, tripled from 2001 to 2002, and then
24 tripled again from 2002 to 2003.

25 The main tactic, in fact the only tactic,

1 used by Chinese producers to gain share in the United
2 States has been price. They will simply offer lower
3 and lower prices until they secure the business. We
4 have seen the same pattern time and time again with
5 our customers, from the largest to the smallest.

6 Elsewhere in the world, particularly in
7 Europe where the registration requirements are not as
8 strict as in the U.S., the Chinese material rapidly
9 gained the majority of the market. European
10 manufacturers offered lower and lower prices to try
11 and maintain market share but to no avail, as the
12 Chinese maintained a substantial price differential.

13 As the Chinese have entered the U.S. market,
14 Delsa has also responded with equally aggressive
15 pricing to expand their own market share. Our
16 observations are consistent with what you heard from
17 Mr. Napoles a moment ago. Delsa has had to do
18 whatever is necessary to produce to its new capacity,
19 and that is increasingly difficult because of Chinese
20 competition in Europe. As the pressure has increased
21 in Europe, Delsa has responded by sending more and
22 more product to the United States at lower and lower
23 prices.

24 As a result of actions by the Chinese and
25 Delsa, the prices being quoted now for imported

1 trichlor and dichlor are so far under Clearon's prices
2 that even customers with a preference for domestic
3 supply feel that they must begin buying imports to
4 remain competitive.

5 Clearon's experience with Arch Chemicals,
6 whom you will hear from later, is instructive in
7 understanding how imports have been able to penetrate
8 the U.S. market so rapidly since 2001. Clearon has
9 had a long relationship with Arch. Arch has been
10 Clearon's single largest customer for chlorinated isos
11 since 1995. We have always recognized that the market
12 for pool chemicals is highly competitive and that Arch
13 must compete against aggressive marketers, such as
14 BioLab and SCP, for business. Our philosophy has been
15 that Clearon's own long-term success is tied to that
16 of Arch, and we have consistently looked for ways to
17 strengthen that relationship and allow both companies
18 to compete more effectively.

19 To that end, in August 2000, we proposed a
20 supply agreement with Arch under which Clearon would
21 have provided most-favored-nations pricing and
22 guaranteed to supply all of Arch's requirements for
23 trichlor and dichlor for a period of five year.
24 Unfortunately, Arch rejected that proposal, apparently
25 because they were evaluating the possibility of

1 replacing Clearon with low-priced imports, and over
2 the last three years, that is exactly what we have
3 seen happen. Clearon does not expect to sell any
4 trichlor or dichlor to Arch this year. All of the
5 volume which we previously sold to Arch has been
6 replaced, almost entirely, we believe, by Chinese and
7 Spanish imports.

8 There is simply no question but that Arch
9 has switched to imports because it was able to get
10 lower prices from Chinese and Spanish producers. I
11 attended a meeting with Arch's vice president for HTH
12 Water Products in November 2002 when Clearon was told
13 that Arch intended to shift more of its trichlor and
14 dichlor purchases to foreign suppliers. That was a
15 remarkable meeting. Arch emphasized that the move to
16 imports was not out of any dissatisfaction with
17 Clearon and that Clearon had always been an excellent
18 supplier.

19 We were told that the move was not intended
20 to be anti-Clearon but, rather, pro-Arch. As Arch
21 explained it, they needed lower-priced imports to
22 compete more effectively with BioLab. Nonetheless,
23 the effective result of Arch's actions was to replace
24 Clearon's products with lower-priced imports from
25 China and Spain. That loss of volume and the impact

1 that the low-priced imports have had in driving down
2 prices throughout the market have plainly caused
3 tremendous damage to Clearon.

4 From a competitive standpoint, it is clear
5 that the Chinese and Spanish imports have altered the
6 fundamentals of the U.S. market. Imports have
7 continually driven market prices down, even when
8 market conditions would dictate stable or rising
9 prices. For example, Clearon has absorbed significant
10 increases in the price of a key raw material, urea,
11 over the last two years. Urea production is energy
12 intensive, and prices have increased as natural gas
13 costs have gone up.

14 At Clearon, we attempted to increase prices
15 last April to recoup a portion of our increased raw
16 material cost. The price increase failed completely,
17 and we were forced to rescind it. Even after the
18 attempted price increase was rescinded, we have
19 continued to lose sales and revenue as a result of
20 import competition. Imports continue to undercut our
21 prices and take sales across the market. We have
22 documented many of these instances in our petition and
23 questionnaire response and would ask that you contact
24 these customers for confirmation.

25 The effects of the low-priced imports on

1 Clearon cannot be overestimated. In addition to
2 losing our largest customer to unfairly priced Chinese
3 and Spanish imports, we have seen a general decline in
4 pricing across all our markets. The prices at which
5 imports are being offered today make no sense in the
6 context of trichlor and dichlor production. We
7 actually have seen documents from Chinese producers
8 acknowledging that they are offering material for sale
9 into the United States at a loss simply to gain
10 volume.

11 The antidumping case is very much a final
12 recourse for Clearon to restore a level playing field
13 for chlorinated isos in the United States. The import
14 competition we are seeing today cannot be addressed by
15 cost-reduction measures or increased marketing.
16 Draconian cost-reduction measures taken so far have
17 significantly reduced the workforce and overall cost
18 structure at Clearon, and changes in operating methods
19 have been adapted to maximize our efficiencies.
20 However, even after these measures, market prices are
21 at unsustainably low levels and show no signs of
22 improvement. The confidential financial data that we
23 have supplied thoroughly document the extent of the
24 injury we have experienced and are continuing to
25 experience today.

1 I believe that an affirmative decision in
2 this case is critical to the continued survival of the
3 U.S. industry producing trichlor and dichlor. As
4 you've heard this morning, production capacity has
5 been expanded dramatically in both China and Spain.
6 If importers of Chinese and Spanish materials are
7 permitted to continue to flood the U.S. market with
8 low-priced trichlor and dichlor, they will continue to
9 displace U.S. production and take market share until
10 ultimately there will be no domestic industry for
11 chlorinated isos. Thank you very much for your
12 attention.

13 MR. PRICE: Let me begin our presentation on
14 threat by saying, first, that we believe the facts
15 unequivocally demonstrate present material injury.
16 The domestic chlorinated isos industry has suffered
17 and is continuing to experience today material injury
18 caused by the subject imports. Since threat of
19 material injury is an independent ground for an
20 affirmative determination, however, we will briefly
21 address it.

22 The threat of continuing and increased
23 injury in the future posed by the Chinese and Spanish
24 producers can perhaps best be seen most clearly
25 through a consideration of their large and expanding

1 capacities to produce chlorinated isos. In the case
2 of China, the numbers are simply staggering. Based
3 just on Chinese producers known to Petitioners and on
4 an Internet search, we calculate in the petition
5 capacity in China exceeding 170,000 metric tons, or
6 more than the entire demand for chlorinated isos in
7 the U.S.

8 Now, China is not a country known for
9 residential swimming pools. There is no doubt that
10 most of this capacity is directed at export markets.
11 The U.S. market, which is the largest market in the
12 world, is a clear target. Indeed, we are becoming an
13 even greater target as Mexico has recently issued an
14 antidumping duty order against imports of Chinese
15 trichlor and as an antidumping case against Chinese
16 imports appears to be nearing initiation in the EU.

17 The Chinese producers' intense interest in
18 the U.S. market is also reflected in the EPA
19 registrations that have been obtained for the Chinese
20 material in the last several years. As we explain in
21 the petition and as Mr. Hand has just testified, these
22 registrations are an absolute requirement for sales of
23 chlorinated isos as a sanitization product to the
24 swimming pool and spa market. Even a cursory
25 examination shows the direct correlation between the

1 recent obtaining of these registrations and the
2 significant increase of Chinese imports where their
3 new marketing focus on an all-important swimming pool
4 and spa market segment has occurred.

5 Petitioners believe that the imports of
6 Spanish chlorinated isos are primarily attributable to
7 one company, Delsa. While it's true that, unlike the
8 Chinese, Delsa has been in the U.S. market for a
9 number of years, it recently has significantly
10 expanded exports and cut prices. This changed
11 behavior appears to be directly connected to Delsa's
12 move to a new production facility which has more than
13 doubled its capacity to produce chlorinated isos.
14 Unfortunately, much of that expanded capacity has been
15 directed at the U.S. market, with prices as low as it
16 takes to move product and increase market share.

17 Turning now very, very briefly to the legal
18 issues of like product and cumulation, we believe the
19 facts are straightforward and uncomplicated. It's
20 Petitioners' position that there is a single like
21 product, chlorinated isos, which consists of trichlor
22 and dichlor. As noted in the petition, both are
23 produced by chlorinating cyanuric acid and have
24 similar chemical compositions. Both are used
25 primarily in the swimming pool and spa trade as pool

1 water disinfectants and for sanitization. Trichlor
2 and dichlor are both used for pool maintenance, with
3 trichlor providing continuous sanitization and dichlor
4 used for shock sanitization. These uses fall along a
5 continuum. Both products are marketed and sold
6 through the same channels of distribution, and both
7 are perceived by customer as well as producers as
8 sanitizing products.

9 Finally, in the one prior case involving
10 these products with which we are familiar, Cyanuric
11 Acid and its Chlorinated Derivatives from Japan,
12 trichlor and dichlor were not treated as separate like
13 products.

14 With respect to cumulation, it is
15 Petitioners' position that the Commission is required
16 to assess cumulatively the impact of subject imports
17 from China and Spain. Imports of chlorinated isos
18 from China and Spain are essentially interchangeable
19 with each other and with the domestic product for
20 major uses. Indeed, any technical or quality
21 differences that previously might have been of concern
22 have effectively been eliminated by the EPA
23 registrations of the Chinese material and its
24 acceptance by major U.S. importers, national
25 distributors, and mass merchants. The subject imports

1 from China and Spain also are sold through the same
2 channels of distribution throughout the United States.
3 In sum, there is simply no justification for not
4 assessing impact on a cumulated basis.

5 This concludes our direct presentation, Mr.
6 Carpenter. Thank you very much for your attention,
7 and we are prepared to respond to questions.

8 MR. CARPENTER: Thank you very much,
9 gentlemen, for your presentation.

10 As a housekeeping matter, I just wanted to
11 note that your conference exhibits will be accepted
12 for the record and will be attached to the conference
13 transcript so they are available to the Commission.

14 I would like, actually, to start with a few
15 questions related to channels of distribution and what
16 products are produced by what companies and so on.
17 I'm trying to reconcile some of the statements that
18 were made by the Respondents in their opening
19 statements with statements from the petition and
20 statements that were made this morning in your direct
21 presentation.

22 First of all, I found your chart on page 12
23 of your handout to be very helpful, if you could refer
24 to that. I would like to start by going through each
25 of the three domestic producers and asking you to tell

1 us, to the best of your knowledge, what products and
2 what product forms you're producing.

3 First of all, BioLab; I understand they are
4 not here this morning. My impression, listening to
5 all of the testimony, was that they were primarily a
6 tableter, but I assume they also produce trichlor and
7 dichlor. Is that correct?

8 MR. HAND: Yes. BioLab is a manufacturer of
9 trichlor; however, their primary business is really as
10 a marketer of a full range of swimming pool products
11 to the pool dealers and the mass merchants. They sell
12 everything from, say, a book, a barbecue, the full
13 range of things you would see in a pool store.

14 MR. CARPENTER: I see. But they do not
15 manufacture dichlor.

16 MR. HAND: They don't manufacture dichlor.
17 Indeed, they are a net buyer.

18 MR. CARPENTER: Okay. And as far as you
19 know, do they all of their own tableting themselves?

20 MR. STEPHENSON: They do most of their own
21 tableting themselves. We actually do a small portion
22 of their requirement, but it's very small compared to
23 their total.

24 MR. CARPENTER: I see. Okay. Turning now
25 to OxyChem, and, actually, before I do that, in the

1 petition, under "Characteristics and Uses of the
2 Merchandise," I got the impression that trichlor and
3 dichlor are essentially two different forms of
4 chlorinated isos. But then I was a little bit
5 confused when I got back into channels of
6 distribution, and it says, "In the pool and spa
7 segment of the market, the distribution for
8 chlorinated isos includes the following," and the
9 first item was "manufacturers of bulk chemicals,
10 dichlor and trichlor." My impression was that dichlor
11 and trichlor were just forms of chlorinated isos. Are
12 there some other manufacturers of dichlor and trichlor
13 besides the three companies that we're talking about?

14 MR. PRICE: No. These are the only three
15 domestic producers of dichlor and trichlor, the two
16 Petitioners plus BioLab.

17 MR. CARPENTER: Thank you.

18 Okay. Then for OxyChem, you produce both,
19 trichlor and dichlor. Is that correct?

20 MR. STEPHENSON: That's correct.

21 MR. CARPENTER: And my impression is that
22 you do not do your own tableting, but you contract
23 that out to another company or companies.

24 MR. STEPHENSON: We do. We have a dedicated
25 contract packager right in Sauget where we manufacture

1 our trichlor, and it's a very, very close
2 relationship. It's much less than an arm's length
3 transaction because, in many regards, we put them in
4 business to do our tableting for us.

5 MR. CARPENTER: Is that essentially a
6 tolling arrangement where you don't sell the product
7 to them; you just have them do the tableting for you,
8 and then they send it back to you, and you sell the
9 product, but you maintain ownership of the product?

10 MR. STEPHENSON: That's correct.

11 MR. CARPENTER: In your post-conference
12 brief, would you mind providing us the name of that
13 company?

14 MR. STEPHENSON: Absolutely.

15 MR. CARPENTER: If there isn't information
16 already in the petition or in your questionnaires
17 describing the tableting process and what's involved
18 in that process, I think the Commission would like to
19 know just how involved that process is, so if you
20 could some sort of description of the tableting
21 process and repackaging.

22 MR. STEPHENSON: We would be more than happy
23 to do that, sure.

24 MR. CARPENTER: Thank you.

25 Okay. And then, Clearon, is it true that

1 you also produce both trichlor and dichlor forms?

2 MR. JOHNSON: Yes. That is correct.

3 MR. CARPENTER: And you also do your own
4 tableting or some of your own tableting.

5 MR. JOHNSON: Yes. We have our own
6 tableting facility.

7 MR. CARPENTER: Okay. Do you also, in
8 addition to that, contract out to any other tableters,
9 or do you do it all yourself?

10 MR. JOHNSON: We do all of our own needs
11 ourselves. We do tablet for other repackers.

12 MR. CARPENTER: Okay. Thank you.

13 And in the far right of that second row
14 down, the merchant repackers; are they doing any
15 tableting, or are they just repackaging a product?
16 Could you tell us a little bit more about what their
17 function is?

18 MR. JOHNSON: Either way. It's sort of a
19 combination, I guess. The merchant repackers will, in
20 most cases, tablet and package trichlor tablets and,
21 in some cases, put dichlor in smaller, granular-fill
22 pails as well. So typically, they will buy bulk
23 material and put it in a package that ultimately goes
24 through the distribution chain into smaller packages
25 that wind up on the retailers' shelves somewhere along

1 the chain.

2 MR. CARPENTER: Okay. Thank you.

3 MR. HAND: That's slightly different from
4 Clearon's perspective, where they will buy quite a
5 large quantity that's in the finished pail, their
6 finished pail, and we sell that.

7 MR. CARPENTER: But they tend to buy from
8 you, and then they resell the product after they
9 repackage it. Is that correct?

10 MR. STEPHENSON: Right, right.

11 MR. CARPENTER: Okay. One other thing, just
12 to back up a minute, I forgot to ask. For the
13 dichlor, the petition says it's sold in both a
14 dihydrate form, which is 56 percent chlorine, and an
15 anhydrous form, which is 63 percent chlorine. Do
16 OxyChem and Clearon produce and sell both forms of
17 dichlor?

18 MR. STEPHENSON: Yes. That's correct.

19 MR. CARPENTER: Thank you. Now, if I could
20 ask you, to the best of your knowledge, about the
21 imports that are coming in from China and Spain
22 separately, could you tell me what forms these
23 products are coming in? My impression was that they
24 are coming in primarily in the tablet form, but are
25 they also coming in in bulk form? Are they coming in

1 both as trichlor and dichlor and so on?

2 MR. HAND: The majority of the Spanish
3 material comes in in bulk form predominantly. The
4 Chinese material comes in in a mixture of forms. The
5 largest import is probably in a tableted form in
6 pails. There is also bulk, also trichlor and dichlor.

7 MR. CARPENTER: Is there any tableting or
8 repackaging of the Spanish product that's coming in in
9 bulk form, or does it tend to be sold in bulk form to
10 final users?

11 MR. HAND: If you go through the whole
12 thing, the final user at the retail level will always
13 buy in a pail. You don't go to a pool store and buy a
14 large container. It's not a one-ton super sack. They
15 are a 10-pound, 20-pound, 40-pound pail.

16 MR. CARPENTER: Okay. I'll have some more
17 questions later. Was there something you wanted to
18 add?

19 MR. WOOD: Yes. This is Chris Wood from
20 Gibson, Dunn again. I think the point that might be
21 useful, just to reemphasize here, and maybe our
22 industry witnesses can comment on it more as we go
23 through, that as it's shown on the chart, what there
24 really is is there are various distribution channels
25 for a single trichlor product, for example, or dichlor

1 product.

2 You can get it from the bulk-manufacturing
3 level to the retail level in a number of different
4 ways, but you're always starting with trichlor, and
5 what's being sold at the end of the day is trichlor.
6 We'll expand on this a little more in our post-
7 conference brief, but I just want to make sure that we
8 all understand that as we're trying to navigate
9 through what is a complex distribution system in some
10 different ways.

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

12 I would like to turn now to Mr. Deyman.

13 MR. DEYMAN: George Deyman, Office of
14 Investigations. The Respondents brought up certain
15 issues this morning which I'm sure they will expound
16 on later today, but one of them was that, according to
17 Mr. Clark, Clearon's conduct caused Arch Chemicals to
18 import. He didn't explain at the time exactly what
19 the conduct was, but have you, the representatives
20 from Clearon, have you ever refused to supply any of
21 your customers on the basis of, say, capacity
22 restraints or for some other reason?

23 MR. HAND: The only time I can remember,
24 going back to -- I think it may have been -- again,
25 I'll have to check the dates, but I think it was '99,

1 they came to us with a request to increase the
2 material they took from us, and to supply that, we
3 would have needed to stop supply to other parts of the
4 world or reduce supply, and we said to them, no, not
5 unless we can have a long-term contract -- because we
6 were so many eggs in one basket, and they weren't
7 willing to go for a long-term contract. So that's the
8 only one I can think of that's close to that
9 situation.

10 MR. DEYMAN: And I would like to ask a
11 similar question to OxyChem. Have you ever refused to
12 supply any of your U.S. customers for any reason?

13 MR. STEPHENSON: No, we do not.

14 MR. DEYMAN: Do the chlorinated isos have to
15 be qualified -- the suppliers; are they qualified by
16 the customers other than the EPA registration, of
17 course?

18 MR. STEPHENSON: Right. Once they pass the
19 EPA registration, obviously, with as many customer as
20 you have in a fairly broad field, there is a range of
21 different hurdles from different companies, and
22 everybody has their own different set of
23 specifications. But his is really an industry that
24 has typically not been, I think, particularly careful
25 over the years about that. There is not a long list

1 of specifications for trichlor that you have to pass.
2 It's typically two or three fairly well-heeled
3 components that everybody knows about, and the
4 products are fairly similar and typically meet those
5 specifications.

6 MR. DEYMAN: Have either of your companies
7 ever failed qualification at any of your customers?

8 MR. STEPHENSON: Not to my knowledge.

9 MR. DEYMAN: Another thing brought up this
10 morning by one of the Respondents was the issue of
11 quality, and I believe Mr. Perry stated that the
12 Chinese product has had some quality issues, which, I
13 presume, would result in it being sold for a lower
14 price. Can you tell me what you think the quality of
15 the Chinese product is and of the Spanish product, for
16 that matter? Is it comparable to yours?

17 MR. JOHNSON: I think that the product
18 itself has small differences probably related to a
19 learning curve of the manufacturing process itself.
20 But as far as the actual product that is coming in,
21 the end user, the consumer, would never recognize a
22 difference between the Chinese, the Spanish, or the
23 material produced domestically.

24 MR. WOOD: Again, this is Chris Wood. Just
25 to follow up on Scott's comment, the key point from

1 our perspective, of course, is that I don't think
2 we're going to hear an argument this afternoon that
3 says that the Chinese product is lower quality; and,
4 therefore, it competes in different markets or for
5 different end uses or something. At the end of the
6 day, this is all being sold for the absolute same end
7 use, and it's directly in competition with the
8 domestic material, and the prices are a lot lower,
9 which is what you've heard this morning.

10 MR. DEYMAN: Another thing that was brought
11 up this morning was that the product from China, I
12 suppose, tends to be entering in tablet form or as the
13 Petitioners, I guess, are selling, primarily in bulk
14 or granular form. At least, that's what was stated.
15 The Respondents stated somehow that these are
16 different products. Can you comment on that, please?

17 MR. JOHNSON: I think, as I have indicated,
18 we produce a granular form, both Oxy and Clearon. We
19 also have indicated that we have tableting facilities,
20 and our products are produced into tableted form. So
21 I'm not what is being referred to, but we are
22 producing an end-use product that the marketplace sees
23 and is being used by the consumer.

24 MR. HAND: And if I could just add, as far
25 as I think that comment was an Arch representative.

1 Arch is Clearon's largest customer. We sold them the
2 tableted material.

3 MR. DEYMAN: Another thing that was brought
4 up was the fact that I suppose there will be an
5 argument that BioLab is a separate industry. I don't
6 fully understand what they were referring to, but I
7 guess BioLab is a tableter. How many tableters are
8 there in the marketplace?

9 MR. WOOD: I'm sorry. This is Chris Wood
10 again. Let me just start by responding to that, and
11 then we'll get the industry people to chip in as well.

12 Just to set the stage again, BioLab is a
13 producer of trichlor, exactly in the same way that
14 Clearon and OxyChem are. They have their own
15 tableting and packaging facilities, again, just the
16 same way that Clearon and OxyChem do. Now, in a
17 sense, we'll have to wait to get a little more
18 elucidation on what the argument is, but if the
19 argument is that every time a product goes through a
20 separate level on a single chain of distribution that
21 somehow you've got a different industry there, which I
22 think is closer to what they were saying this morning,
23 rather than just BioLab as a separate industry in and
24 of itself, that's a pretty unusual proposition, and
25 we'll certainly be willing to respond to that in the

1 brief.

2 MR. DEYMAN: But how many tableters are
3 there?

4 MR. STEPHENSON: I would have to count them
5 up fairly quickly.

6 MR. HAND: The difficulty is that it's nice
7 to look at a little picture of the way an industry is
8 set out, but everybody operates at different parts of
9 the supply chain and crosses over. There are
10 virtually no companies -- I can't think of a single
11 one that's a straight tableting company. It's part of
12 their overall operation, be it as a distributor, be it
13 as a seller of branded materials or their private
14 label materials. That's why I say, how many tableters
15 there are, I would have to think.

16 MR. STEPHENSON: Well, without putting too
17 fine a point on it, and don't hold us to this, it
18 would be something on the order of eight to 10 people
19 that do this for the chlorinated isos.

20 MR. NAPOLES: I think it's worthwhile to
21 emphasize what Mr. Hand just stated. When we're
22 referred to as repackers, it is not a singular or an
23 exclusive function that every packer is doing. In
24 other words, these are companies who, in addition to
25 taking bulk trichlor and dichlor and putting it into

1 smaller containers, they may be reselling that product
2 themselves under their own brands to dealers, or they
3 may be performing that labor of taking a granular and,
4 under pressure in a press -- that's how a tablet is
5 made -- it's compressed -- it's the compression of a
6 granular -- and doing that on behalf of others. I
7 cannot think of one single entity in the United States
8 that their mission is exclusively devoted to the
9 repackaging and tableting of isos.

10 MR. DEYMAN: When did you first realize the
11 alleged effect on your firms of the imports from China
12 and Spain? When did this first occur? Is this a
13 recent event?

14 MR. HAND: I was arguing in my mind between
15 whether you would say, early 2000, we started to see
16 it coming, is the date as registration started going
17 into the EPA when the data ceased to be compensable.
18 The real impact in terms of volume turned out to be --
19 it started in 2001 significantly.

20 MR. STEPHENSON: But certainly full blown in
21 2002.

22 MR. DEYMAN: Okay. I just have a couple of
23 other questions. It appears that there are increased
24 imports of the chlorinated isos from Hong Kong. Are
25 you aware of any producers of the product in Hong

1 Kong, and if not, is it your position that any imports
2 from Hong Kong are of product produced in China?

3 MR. STEPHENSON: We're not aware of any
4 producers in Hong Kong specifically. That would just
5 be the port of exit from China for the other Chinese
6 producers.

7 MR. PRICE: I think that's a fair statement
8 for the industry. We've also done an independent
9 search. We could find no producer in Hong Kong, and
10 it's our position that the Hong Kong imports should be
11 considered Chinese and counted as Chinese imports when
12 you look at import data.

13 MR. HAND: And if you look at the from name
14 on the import stats, you'll see in the majority of
15 cases where it's available, it's the same name as the
16 Chinese manufacturers who are importing it straight
17 from China.

18 MR. DEYMAN: And, finally, on page 52 of the
19 public version of the petition, you state that there
20 was a substantial downward trend in U.S. industry
21 indicators, such as production, shipments,
22 profitability, et cetera, for chlorinated isos in the
23 first quarter of calendar year 2004. I know you are
24 alleging that the imports are responsible for that,
25 but are there any other events in the marketplace that

1 happened in the first quarter of this year or any
2 other reasons why you may have had a downturn?

3 MR. NAPOLES: Speaking for OxyChem, we
4 cannot point out any other reasons but the impact of
5 imports. I think that it would be useful to clarify
6 to the Commission that the nature of the business is
7 such that most contract arrangements are negotiated
8 during the fall and winter for the next season; that
9 is, for the current season, most of the contractual
10 arrangements were beginning to be discussed during
11 September, October, and then going on towards the end
12 of the year.

13 For our particular response, those results
14 for the first quarter of the current year reflect loss
15 of sales and lower values as a result of situations
16 that we were confronted. By "situations," I mean
17 competitive situations that we need to address that
18 were triggered by offers from both China and from
19 Spain.

20 MR. HAND: I agree with that situation and
21 the position put forward. You could argue, on the
22 very margins, a few percent, there could have been
23 some inventory left from the poor pool weather last
24 year but not to the level we've seen, the impact we've
25 seen. That would be the only factor that you could

1 put in there.

2 MR. DEYMAN: No further questions.

3 MR. CARPENTER: Ms. Driscoll?

4 MS. DRISCOLL: Good morning, gentlemen. My
5 name is Karen Driscoll. I'm with the Office of the
6 General Counsel here at the Commission. I want to
7 thank you all for coming and thank you for your
8 testimony.

9 I suppose I have sort of two areas of
10 questioning. One is some conditions of competition,
11 and one is domestic like product and domestic industry
12 questions. Sort of backing this up, just to explain
13 to you where my questions are coming from, that
14 subject merchandise includes the powder and the tablet
15 form. Domestic like product; from your testimony, it
16 appears that you are including dichlor and trichlor --
17 that's how you want the Commission to define it, to
18 include both dichlor and trichlor powders, granules,
19 or the tablet form. Is that correct?

20 MR. PRICE: That is correct. All forms of
21 dichlor and trichlor.

22 MS. DRISCOLL: Okay. Including the tablet
23 form.

24 MR. PRICE: I might say that is the way it
25 has been treated in the past as well.

1 MS. DRISCOLL: Okay. Well, then, you see,
2 the question comes up -- you have the three that you
3 have said are the domestic producers, but the question
4 comes up as to whether the tableters, if you want to
5 call them that, or the converters, if you want to call
6 them that, into the tablet form, whether they engage
7 in enough production-related activities to be part of
8 the domestic industry.

9 MR. PRICE: We do not think they do. We
10 think the domestic industry consists of the three
11 producers.

12 MS. DRISCOLL: So your argument is that the
13 tableters, the repackagers do not constitute part of
14 the domestic industry.

15 MR. PRICE: That's correct.

16 MS. DRISCOLL: Okay. In your post-
17 conference brief, I would really appreciate it if you
18 would go through the expertise taken to do that work,
19 the value added by the work, and the Commission's
20 traditional way of looking at that issue as to why you
21 will be that they are not part of the --

22 MR. PRICE: We will certainly do that.
23 Again, I would point you to, we do have some precedent
24 in this area. Tablets have been made for a long time.
25 They were being made in the eighties when the earlier

1 case was filed, and there was no even consideration of
2 having a separate tableting industry, but we'll
3 certainly address that this time.

4 MS. DRISCOLL: I understand your argument
5 with respect to tablets being part of the domestic
6 industry; the chemical is similar, although I do have
7 some questions on the production process. But I think
8 the other issue is you have the domestic product, and
9 then you have the producers of the domestic like
10 product. Do those people who take the bulk and make
11 it into those tablets; that is sufficient production-
12 related activity to be part of the domestic industry.

13 MR. PRICE: And our position is that it is
14 not.

15 MS. DRISCOLL: It is not.

16 MR. PRICE: It's simply pressing the basic
17 product into tablets, but we'll certainly provide
18 additional information.

19 MS. DRISCOLL: I think we would like to have
20 some detail on that, --

21 MR. PRICE: Sure.

22 MS. DRISCOLL: -- the expertise involved,
23 and who does it, and the value added.

24 MR. PRICE: Thank you. We will be pleased
25 to provide that.

1 MS. DRISCOLL: Quickly, I haven't seen in
2 your petition any discussion of related-party issues
3 or internal consumption for other products. I know
4 that you make it into the tablets, but that's within
5 your domestic like product, but no internal
6 consumption for additional products. Correct?

7 MR. PRICE: That's correct. I think we did
8 point out that you have the situation where you reduce
9 the dichlor product from dihydrate to anhydrous, and
10 that's simply taking the water out, and that may have
11 been reported -- I think it was initially -- as a kind
12 of internal consumption, but it's just simply a raw
13 material function.

14 MS. DRISCOLL: That would all be included in
15 your domestic like product, whether it's the dihydrate
16 or the anhydrous form.

17 MR. PRICE: Yes, yes, all forms of dihydrate
18 or trichloride.

19 MS. DRISCOLL: Mr. Johnson, you're very
20 helpful. I had chemistry a long time ago, and it's
21 all coming back.

22 MR. JOHNSON: I'm sorry.

23 (Laughter.)

24 MS. DRISCOLL: No, no. That's fine.
25 Actually, I find it very interesting.

1 In terms of the production process, and I'll
2 ask Mr. Johnson this, is dichlor and trichlor a
3 completely separate production process, or is there
4 some point in the production process where it would
5 divide, so to speak?

6 MR. JOHNSON: The actual processes -- the
7 production of the cyanuric acid that I describe is a
8 common process. It's producing a raw material feed
9 for the other two. Once you go into the dichlor or
10 the trichlor, within Clearon we have separate
11 processes that we keep separated and isolate those two
12 lines to produce either the trichlor or the dichlor.

13 MS. DRISCOLL: The trichlor has more
14 chlorine in it. Correct?

15 MR. JOHNSON: That is correct.

16 MS. DRISCOLL: The trichlor is more commonly
17 put into the tablet form. Correct?

18 MR. JOHNSON: Yes.

19 MS. DRISCOLL: Is that the reason for
20 trichlor and dichlor, why there is a distinction
21 between the two products? Why are there two different
22 products, and what are the differences in their uses?

23 MR. JOHNSON: As was described, dichlor and
24 trichlor are both providers of chlorine. The dichlor
25 has a lower percentage of available chlorine, but it

1 has a much higher, much faster dissolution rate.

2 MS. DRISCOLL: I see.

3 MR. JOHNSON: The trichlor has a higher
4 level of chlorine, but it dissolves slower. So if you
5 look at your pool-maintenance program, depending on
6 whether you want to get a large amount of chlorine
7 into your pool quickly or shock the pool, you use
8 something that would dissolve quickly; therefore, you
9 would use your dichlor. If you want to use something
10 that provides a continual feed, a slower dissolution
11 of the chlorine into the pool water, then you would
12 use your trichlor product.

13 MS. DRISCOLL: Okay. Would you ever sell
14 trichlor in a powder form?

15 MR. JOHNSON: Yes, it is.

16 MS. DRISCOLL: Okay.

17 MR. HAND: Very, very small quantities.

18 MS. DRISCOLL: Very small quantities.

19 MR. JOHNSON: Yes.

20 MS. DRISCOLL: Generally, in the tableted
21 form.

22 MR. HAND: Generally, the tablet.

23 MS. DRISCOLL: Okay. That's very helpful.

24 What I understand from your petition, and
25 perhaps Mr. Stephenson can answer this question, would

1 it be fair to say that if the Commission was looking
2 at the data, they would see or get evidence on more
3 increased contracts in the fall, perhaps more pricing
4 in the fall, but increased shipments of the product in
5 the summer? In other words, would that be the
6 seasonality of it?

7 MR. STEPHENSON: That's right. We would do
8 most of the contracting for the pool season, as Julio
9 mentioned, typical October, November, December time
10 frame, and by the time the first of the year rolls
11 around, most people have figured out what their supply
12 program is with the suppliers. But they really don't
13 begin to ramp up to build up for the pool season
14 because the pool season runs, as you could well
15 expect, in warmer weather, which would begin March,
16 April in some places and May, June in some other
17 places. But the pool season would typically be March
18 through Labor Day, give or take a little bit, again,
19 depending on weather.

20 So they would begin really ramping up their
21 system, their inventory, throughout their distribution
22 chain, our customers, probably in the February-March
23 time frame in anticipation of the uptick in their
24 volume.

25 MS. DRISCOLL: Okay. There was a reference

1 that there were meet-or-release clauses in the
2 contracts. Can you give me a typical meet-or-release
3 provision?

4 MR. STEPHENSON: Well, as it's commonly
5 referred to, meet or release, what we will give the
6 person on the other side of the contract with us a
7 meet or release. That gives them the option of
8 bringing to us a competitive situation for a product
9 at a lower price, and then we have the ability in that
10 contract to either meet the price or release them to
11 buy product from someone else at a lower price. So
12 that meet or release, obviously, works both
13 directions.

14 MS. DRISCOLL: Okay.

15 MR. NAPOLLES: Let me clarify that, a release
16 from OxyChem's side. Our meet-or-releases are
17 contained typically in contracts of more than one year
18 duration. These are very large agreements, multiyear
19 agreements. Therefore, it is something that buyers,
20 in exchange for a commitment to purchase over a long
21 period of time, they want to ensure themselves that
22 they are going to be competitive, that they will
23 remain competitive with their purchases during the
24 duration of the agreement.

25 Then, as Mr. Stephenson just described,

1 that's exactly the way that it works. What's been
2 happening is that with the increased availability of
3 Chinese and Spanish products, buyers have been looking
4 to access that lower-priced product to effectively
5 trigger a meet-or-release and force ourselves or their
6 supplier to either meet that price or to release them
7 from that contractual obligation. Meet-or-releases,
8 again, are not typical of shorter duration agreements
9 of either six months or a year.

10 MS. DRISCOLL: They are not for the shorter
11 contracts but for longer.

12 MR. NAPOLES: Typically, they are not
13 included in contracts of shorter term durations
14 because those are being negotiated for a shorter
15 duration. The window of deliveries is a little bit
16 smaller.

17 MS. DRISCOLL: So those are usually spot
18 contracts.

19 MR. NAPOLES: Basically, like a spot
20 contract. That is correct.

21 MS. DRISCOLL: I guess we'll get data on
22 this, but generally can you say most of your contracts
23 are more longer term?

24 MR. NAPOLES: Yes.

25 MS. DRISCOLL: Then I just had a general

1 question of the cost. You've said this is a capital-
2 intensive industry. Is your technical expertise a big
3 factor in producing the product? Is it the raw
4 materials? What would be your cost breakdown? Would
5 it be the plant cost, the raw material cost? Give me
6 an idea, if you took the unit cost of a product,
7 what's the biggest factors in it? Is it the plant
8 cost? I'm sure that's big, large in this industry.
9 Is it your raw materials?

10 MR. JOHNSON: I'm just thinking of how to
11 present some numbers here.

12 MS. DRISCOLL: Actually, you can just put it
13 in your post-conference brief.

14 MR. JOHNSON: Yes, if I could. It's very
15 difficult.

16 MS. DRISCOLL: Okay. All right. That's all
17 of my questions at this time.

18 MR. CARPENTER: Mr. Benedetto?

19 MR. BENEDETTO: Thank you all for you
20 testimony. If any of my questions touch on anything
21 confidential, please just say so and follow up in a
22 piece brief.

23 There have been some questions about this
24 already, but, I guess, to sort of maybe go back to it
25 and hopefully get a little more information, overall,

1 why do sometimes you sell to tableters, and sometimes
2 you tablet the material yourself? Under what
3 conditions would you tablet it, and what conditions
4 would you sell it to a tableter? If that's a
5 confidential question --

6 MR. HAND: For instance, if you've got a
7 company that is mainly a marketing company or has
8 limited capacity, doesn't have any capacity to change
9 their goods, wants to sell it in a package where it
10 makes it more efficient for somebody else to supply it
11 -- there's too many different factors going up and
12 down. I'm trying to think of a better way of
13 describing it.

14 MR. JOHNSON: If I could, I guess I would
15 differentiate it from the perspective that producing
16 the basic material, trichlor or dichlor, is a very
17 asset-intensive operation, one that requires resources
18 that usually exceed the capability of most companies,
19 to take that product, the granular form of trichlor or
20 dichlor, and then repackage it into different
21 containers or compress it into tablets requires less
22 expertise or technical capabilities to press the
23 tablet and to do that. And so as companies evolve,
24 they want to gain their share of a market or develop a
25 type of outlet, they are certainly capable of entering

1 into that level of the market with very low
2 restrictions.

3 MR. STEPHENSON: Maybe I can just also add
4 one point of clarification. It, again, depends on
5 which customer you're talking about and where they are
6 in the distribution chain. For example, the mass
7 merchandisers, the small pool retail stores, do not
8 have the option of buying a bulk product, so they will
9 not come to us and ask us to sell them the bulk
10 product simply because they don't have the presses to
11 make the tablets and the filling capability. So they
12 would either have to come to us for tableted product
13 or they would go to one of the repackagers or someone
14 who makes a tableted product. So it's a function of
15 which customer and where they are in the chain and
16 what capabilities they have as to whether you sell
17 bulk or whether you sell tablet.

18 MR. BENEDETTO: So it's based on them coming
19 to you, the customer approaching you?

20 MR. STEPHENSON: Well, I like to think from
21 a sales standpoint that it's us going to them, but --

22 MR. WOOD: The other thing I might just add,
23 and I hope this is responsive to what you're asking
24 about, we've been taking about this in terms of
25 distribution. Another way possibly to think about it

1 is that starting with the bulk product down to what
2 gets sold on a retail level, there's increments of
3 value added along the way. Right?

4 What Scott is pointing out to you is that a
5 really tremendous chunk of the value gets added in the
6 base manufacturing. That's where you really make the
7 product. Then if you want to turn it into a little,
8 three-inch tablet, well, you can go out and buy a
9 press off the street and start doing that if you want
10 to. It doesn't require a really substantial
11 investment in resources at all. You add a little bit
12 of value there.

13 Then a lot of the value, actually, by the
14 time you get to retail is added when people offer
15 distribution functions to get it out. Let's say that
16 you're selling to a Home Depot. Well, you can't
17 supply one Home Depot. You've got to supply a
18 thousand of them. You have to have distribution
19 resources, warehouses, the expertise to do that.

20 Branding is another very significant
21 element, and it's like the quote we showed you from
22 Arch's CEO a moment ago. It's an undifferentiated
23 product until you put it in a branded container.
24 That's where a lot of that value gets added on. I
25 would suspect that if you really looked at it from

1 manufacturing cost to retail sale, you would see that
2 almost all of the value gets added in the base
3 manufacturing, the distribution, and the branding
4 functions.

5 MR. BENEDETTO: Do your tablets end up
6 competing with someone else's tablets that are made
7 from your material by an independent tableter?

8 MR. HAND: Yes, inevitably.

9 MR. BENEDETTO: Is that common?

10 MR. HAND: We don't supply any product to,
11 say, the mass merchant directly, but it may be that
12 somebody will buy our tablets and rebrand or in their
13 brand and then compete, and somebody else may be
14 buying bulk from us and competing with a tableted
15 product.

16 MR. BENEDETTO: Now, you said that trichlor
17 is almost always tabletized, and dichlor, you said, is
18 usually sold granular. Is it also almost always sold
19 granular?

20 MR. JOHNSON: Yes, it is.

21 MR. HAND: With dichlor, the dissolution
22 rate is so fast that if you made a tablet, it falls
23 apart.

24 MR. BENEDETTO: Okay. You may not know
25 this, but do the independent tableters and the

1 repackagers, do they mix chlorinated isos together
2 from different sources when they make a tablet, or do
3 they mix tablets together from different sources? If
4 I buy a brand, is it all going to be from one
5 producer?

6 MR. STEPHENSON: Not necessarily. A
7 tableter or repackager will buy from multiple sources,
8 and sometimes you will know which source you're
9 getting it from, and sometimes you will not.

10 MR. BENEDETTO: It may vary with the same
11 tableter?

12 MR. STEPHENSON: Yes, yes, sure.

13 MR. WOOD: One point of clarification. I
14 would say that they are subject to the same FTC rules
15 on, like, made-in-USA claims as anybody else, so I
16 don't know whether you would see pails that included
17 tablets are clear on origin and half-Chinese or
18 something.

19 MR. BENEDETTO: But if they did say made in
20 USA, do you know if they would, like, mix OxyChem and
21 Clearon? Would that be something they could do?

22 MR. JOHNSON: It's possible.

23 MR. WOOD: It's fungible or interchangeable,
24 I should say.

25 MR. BENEDETTO: So nobody markets

1 chlorinated iso tablets as being like this was made by
2 Clearon or OxyChem or anything like that.

3 MR. JOHNSON: No, absolutely not. It is
4 important to note, though, as you're talking about
5 mixing from producers, that would be mixing along the
6 same chemical lines. You would not be mixing between
7 products, dichlor or trichlor.

8 MR. BENEDETTO: Okay. Mr. Price, we don't
9 have a tablet or a stick pricing product, and I'm
10 wondering, do we need one? I'm also wondering, with
11 the answer to that question, whether we could get one
12 if the stuff is mixed in a tablet. If we do need one,
13 and if we could get one, could we obtain one by asking
14 the parties today to submit prices for, like, a three-
15 inch trichlor tablet, the way we did in the
16 questionnaires?

17 MR. PRICE: Well, we went through that. I
18 think we found it very difficult to get an apples-to-
19 apples comparison because of the distribution problems
20 involved, and you would have to be very specific as to
21 what level of sale you're talking about.

22 MR. WOOD: Let me just add onto that, and,
23 again, it's probably useful to refer back to that
24 distribution chart. Here is the problem: It's not a
25 valid comparison if you're taking a three-inch tablet,

1 a product, that is in a branded container being sold
2 by Home Depot or, for that matter, by a distributor to
3 Home Depot and comparing it with that same three-inch
4 tablet being sold to the distributor. You're at
5 totally different levels of distribution, and that
6 distributor is adding a lot of value in taking the
7 product, managing the supply chain, and branding it,
8 and putting all of the advertising and marketing that
9 goes into that.

10 As Mr. Price mentioned, we looked at that.
11 I think that's going to be a very tough comparison to
12 define, and, frankly, we don't really think you're
13 going to need it to show the injury that's existing
14 here in this case.

15 MR. BENEDETTO: Just a couple of more quick
16 questions. How long has this product been sold at
17 mass merchants? Is that something relatively recent?

18 MR. HAND: The answer is many, many years.

19 MR. BENEDETTO: Okay. So that's nothing new
20 or anything like that.

21 And one final question. Are chlorinated
22 isos ultimately used more in commercial pools, hotel
23 pools, or residential pools, when you said that the
24 pool demand is the largest segment?

25 MR. HAND: The largest part of it is

1 residential pools. There is some use in the other
2 types, but the largest use is residential.

3 MR. BENEDETTO: Is that because there's more
4 of them or because commercial pools aren't using it?

5 MR. HAND: Commercial pools aren't using
6 this product.

7 MR. BENEDETTO: I guess I do have one more
8 question. When it comes to demand, what's more
9 important for demand growth? Is the weather that year
10 more important or new home construction more
11 important?

12 MR. HAND: The honest answer is weather can
13 make a big difference because we know, like last year
14 up in the Northeast, if it starts late because people
15 don't open their pools because it's miserable when you
16 come up to Memorial Day, it delays the season start;
17 and, therefore, you have an impact from the weather.
18 And home construction doesn't impact that quickly.
19 There is an overall trend upwards, but weather causes
20 variations in between that.

21 MR. BENEDETTO: Okay. That's helpful.
22 Thank you all very much.

23 MR. CARPENTER: Mr. Reavis?

24 MR. REAVIS: Much has been made of this
25 tableting process this morning, and Ms. Driscoll has

1 asked you to include the value added of that process
2 in your brief. I think what we specifically would
3 like there is the actual percentage of the total cost
4 of producing this product that the tableting accounts
5 for, and I would also add in that the repackaging of
6 the tableting as well, so it's not just the tableting
7 but the packaging in addition to that.

8 Now, let me address a scope issue here. Are
9 you familiar with this three-in-one product that Arch
10 Chemical markets? They mentioned it briefly this
11 morning.

12 MR. HAND: Yes, we are.

13 MR. REAVIS: Is that, in your estimation,
14 within the scope of this investigation, or do you
15 think it is outside the scope?

16 MR. HAND: Yes. It's within the scope.

17 MR. REAVIS: If it is within the scope,
18 could you explain -- my understanding is that that
19 particular product contains chemicals in it that are
20 not specifically identified in the scope as defined.
21 Could you tell us why, without the specific
22 identification of those chemicals, that you think this
23 product is within the scope and how you might get
24 around that problem if there is a question coming from
25 Commerce or ourselves?

1 MR. HAND: The vast majority, when I say
2 "vast," 90 percent plus, of that material is trichlor
3 physically. The additives that are added in there
4 overall do not impact the cost relative to trichlor.

5 MR. REAVIS: So these extra chemicals,
6 you're saying, are just merely additives to what is
7 basically trichlor to begin with.

8 MR. HAND: Yes.

9 MR. REAVIS: I see.

10 MR. HAND: One of the chemicals does have
11 some identifiable claim under FIFRA, but it is just a
12 small percentage.

13 MR. REAVIS: Could you explain to us what
14 are the disadvantages and advantages, if there are
15 any, of this product over the trichlor and dichlor
16 that we've heard about so far this morning?

17 MR. HAND: From a cynical approach,
18 marketing. In the performance, it's unlikely you will
19 see any difference.

20 MR. REAVIS: Any more comment on this
21 particular product? We'll certainly explore it more
22 with the importers. All right. I'll move on, then.

23 Are you at all in a position to discuss the
24 history of your relationships, particularly OxyChem
25 and Clearon, with Arch Chemical and BioLab? Sometimes

1 the Commission likes to focus on very important
2 relationships in these investigations, and this may
3 not be the place to do it because there might be a lot
4 of confidential information involved, but it would be
5 nice, in your post-conference brief, if you can't
6 state it here, to go into the history of those two
7 relationships, in particular.

8 MR. PRICE: I think that's a very good
9 question. We would hope the Commission would do that,
10 in fact. Let me just say, and I know you're aware of
11 this, we went to some effort in the petition to
12 describe what we thought were the really key customer
13 relationships, and we've provided a fair amount of
14 data. You have that already, but we'll be happy to
15 supplement that.

16 I did also want to say that in these public
17 hearings I rarely have seen, I think, a witness to
18 speak with such candor about a customer relationship
19 than you heard Mr. Hand in his opening remarks talk
20 about Clearon's relationship with Arch. I'm sure he
21 is happy to expand on that, and I'm also sure that
22 there are going to be probably different perceptions
23 of what that relationship was, but we certainly stand
24 by Mr. Hand, the way he has described it and the way
25 they see it.

1 MR. HAND: Again, you can go into the
2 history. Clearon and Arch were part of the same
3 overall company up until '95. So, therefore, there
4 was a very close relationship, and a large part of the
5 materials we were supplying were related to Arch's
6 business that they kept when they sold off the other
7 part of the business. So there are very close ties,
8 very detailed knowledge in Arch about Clearon's cost
9 structures, Clearon's overall way of doing business
10 because they set it up. So there was a very long,
11 close relationship which became under stress related
12 to the Chinese imports.

13 MR. JOHNSON: Let me just clarify what
14 Antony is saying here because when Clearon came into
15 being, Arch had not come into being yet. We came into
16 being from Olin Corporation. So we had the direct
17 relationship with Olin and all of those
18 characteristics, those close relationships that Antony
19 just described, were the relationships that we had.
20 And then Arch came off of Olin at a later point in
21 time, and we continued with that relationship with
22 Arch during the remainder of the years.

23 MR. REAVIS: Given as important as that
24 relationship is, this kind of historical perspective
25 would be nice to see in your brief and also for BioLab

1 with OxyChem.

2 I only have one other thing. I cannot
3 recall if you provided us with partial-period PIERS
4 data in the petition, Mr. Price. I know the full
5 year.

6 MR. PRICE: We did not. We only went
7 through the full year.

8 MR. REAVIS: Would you provide us actual
9 figures for PIERS data in your brief for those partial
10 periods?

11 MR. PRICE: We would be pleased to do so.

12 MR. REAVIS: Thank you. I have no further
13 questions.

14 MR. CARPENTER: Mr. Ruggles?

15 MR. RUGGLES: Just a couple of quick
16 questions. Exports. You stated that you did not want
17 to go into a contract unless it was long term because
18 of your exports. Have your exports been going up,
19 been going down, remained the same?

20 MR. HAND: Exports, certainly to Europe have
21 declined as a result of Chinese activities in Europe
22 and also as a result of, going back further, the
23 exchange rates.

24 MR. RUGGLES: So would you say that the
25 world market for this product is up, down, the same?

1 MR. HAND: It's got a small but consistent
2 growth level.

3 MR. RUGGLES: In the PIERS data, how much is
4 it just this product, and how much is other, you know?

5 MR. PRICE: We were able to break out.
6 That's why we used it because, as you know, the HTSUS
7 is a basket category. The PIERS data, we were able to
8 break out dichlor and trichlor.

9 MR. RUGGLES: At this point, no further
10 questions. Thank you.

11 MR. CARPENTER: Mr. Deyman?

12 MR. DEYMAN: I just have one other question.
13 So there are three domestic producers of the
14 chlorinated isos, all of which either produce tablets
15 captively or through some sort of contract or toll
16 arrangement. Now, this afternoon, we'll hear from the
17 Respondents. I don't know to what extent the
18 companies we'll hear from this afternoon are
19 tableters, but I can see where they may say that, as a
20 tableter, I wouldn't want to obtain my raw material,
21 the chlorinated isos, from my competitor who is
22 selling the tablets themselves. They may say that it
23 makes sense for tableters to get a second source of
24 supply from imports, apart from the question of price.
25 Could you comment on that?

1 MR. WOOD: Sure. Chris Wood from Gibson,
2 Dunn. I think there's two comments on that.

3 First, I think what we heard consistently in
4 the testimony from the industry witnesses today that
5 there are few, if any, companies that we're aware of
6 that do nothing but tableting. These people extend
7 farther down the distribution chain as well. They are
8 providing other value-added services beyond just the
9 tableting, which is, frankly, not very difficult to do
10 from a technical standpoint. That's the other
11 testimony you've heard this morning.

12 So, in that sense, if they can distribute
13 products more efficiently than Clearon or OxyChem does
14 or BioLab does, it makes perfect sense for them to buy
15 from them and to add their own additional value and
16 push the product beyond the distribution chain.

17 The second thing is that just on the
18 availability of -- whether they would be incented to
19 rely on import supply, well, you know, that's an
20 individual business decision, and, of course, they are
21 entitled to purchase imports and to source from anyone
22 or as many people as they would like to. The question
23 that we're here today looking at, though, is whether
24 or not they are entitled to bring that stuff in at
25 less-than-fair-value margins, which we think are over

1 100 percent in some cases. That's where the problem
2 is.

3 MR. HAND: If I could add, there are other
4 importers of these materials. It's not that there
5 aren't other importers. There's manufacturers in
6 Mexico, Europe, and two manufacturers in Japan which
7 are not part of this overall --

8 MR. PRICE: That was actually the point I
9 was going to make. We have not filed a case against
10 all imports. If you look at the import stats, there's
11 some countries that we didn't file against that they
12 send it in, and presumably the people who want to use
13 it are free to buy from them. We've focused the case
14 very precisely because of price problems and what we
15 thought was unfair pricing.

16 MR. RUGGLES: Thank you. I appreciate your
17 answers.

18 MR. CARPENTER: A couple of other follow-up
19 questions. First, on the issue of trans-shipments
20 through Hong Kong. Maybe Mr. Price or Mr. Wood, if
21 you could respond to this. First of all, you've
22 already indicated that you believe there are no
23 producers of chlorinated isos in Hong Kong. As we
24 know, the chlorinated isos enter under a basket
25 category. So what I'm wondering is what kind of

1 evidence you have that the product from Hong Kong is
2 chlorinated isos as opposed to some other product
3 within that basket.

4 MR. WOOD: Okay. Well, you're right. From
5 the HTS numbers, there is no way to tell because it is
6 a basket category, and there is no line item-specific
7 description of what's coming in from that HTS
8 category. But when you go to the PIERS data, which is
9 what we really think is the best source, for exactly
10 this reason, what happens is that you get a shipment-
11 by-shipment list, and each one of those is going to
12 have a commodity description coming straight off the
13 shipping invoice, I believe, and from that, we can
14 look at it and make a judgment. If it says
15 "trichloroisocyanuric acid" on the line from Hong
16 Kong, then we know that that is trichlor, for example.
17 And by the same token, some, but not all of the time,
18 there will be manufacturer information in that data as
19 well, and that simply reinforces our belief that there
20 is no indigenous production in Hong Kong, that most,
21 if not all of it, is being trans-shipped from China.

22 MR. CARPENTER: Thank you. Now, in your
23 post-conference brief, are you planning to submit, or
24 have you already submitted, the PIERS import data that
25 indicate what the import levels are from Hong Kong

1 that actually are chlorinated isos?

2 MR. WOOD: I think, in the petition, and
3 correct me if I'm wrong on this, Joe, that we've
4 submitted that information through the end of the year
5 2003. I think our position would be that Hong Kong,
6 being where it is, it makes sense that virtually all
7 of it is from China, but we can certainly go back and
8 look at that in a little more detail and try to give
9 you as fine a breakout as we're able to provide on
10 that.

11 MR. CARPENTER: Okay. I would appreciate
12 that, to the extent that you could, and we're not
13 asking for invoices on every single shipment coming
14 from Hong Kong, but if you could provide some evidence
15 in your brief that what is coming in from Hong Kong is
16 chlorinated isos and make a reasonable attempt to try
17 to isolate the chlorinated isos from Hong Kong from
18 the remainder of that HTS category from Hong Kong.

19 And also, if you have any information about
20 -- is it your understanding that this product, the
21 chlorinated isos coming from Hong Kong, are they being
22 repackaged there and relabeled as product of Hong
23 Kong? Why are they being reported as the country of
24 origin of Hong Kong as opposed to China? Do you have
25 any theories on that?

1 MR. PRICE: Well, it may be, since you're
2 using PIERS data, this is not customs data, so it
3 simply may be that was a convenient port to ship it
4 from, and that's where PIERS picked it up, and they
5 are not concerned with country-of-origin issues in the
6 same degree that customs would be, so, for them, they
7 just put in Hong Kong, that's the port. That's what's
8 likely. We're not aware of anything being done to it
9 in Hong Kong.

10 MR. CARPENTER: Okay.

11 MR. HAND: I think it's fair to say that
12 feeder vessels will come from China and be loaded in
13 Hong Kong, so you will get that confusion in the
14 statistics. There are things there. You will see
15 some of the Hong Kong stats say Hong Kong, but the
16 actual city it comes from is in China. It's not
17 obvious on some of the figures, but some of that is
18 hidden in the way the PIERS stats are produced.

19 MR. CARPENTER: Okay. I would like to turn
20 now to a different area, and that's the Respondents --
21 I believe it was Mr. Perry in his opening statement --
22 said that this is a highly regulated industry by the
23 EPA and various state agencies, and I got the
24 impression he was saying it's difficult for the
25 imports to penetrate the U.S. market because of these

1 regulations. Could you elaborate further on that and
2 also give us some sort of the history?

3 Mr. Price, you touched on this in your
4 opening statement, I think, about how the U.S.
5 producers complied with regulations, and then there
6 was some change at one point, and then the importers
7 were allowed to simply use the documentation that U.S.
8 producers have provided a more detailed explanation,
9 but the point I wanted to make is Mr. Perry was
10 indicating that somehow we are here today because we
11 had a protective market and all of a sudden now that
12 the Chinese have gained EPA registration somehow we
13 are concerned.

14 What that totally ignores is that this
15 market has been open to the Japanese. It's been open
16 to the Spanish. Indeed, the Spanish registered a long
17 time ago. Our concern in bringing this case against
18 them is not because they suddenly obtained EPA
19 registration. They've had EPA registration.

20 Other foreign producers have been willing to
21 pay the cost of the test and get qualified. It has
22 not been a major barrier. It has not protected us
23 from import competition. We've had import competition
24 through the years.

25 What changed dramatically is that the

1 Chinese not only for the first time registered once it
2 didn't cost them anything to do so -- very
3 opportunistic, I might add -- but what's changed is
4 after they did that they suddenly started flooding the
5 market with a low-priced product.

6 That created a real problem for us involved
7 in this case, but we would disagree completely that
8 the so-called regulatory atmosphere has anywhere
9 insulated us from import competition.

10 MR. CARPENTER: I see.

11 MR. HAND: I mentioned briefly in my
12 testimony the sort of ad hoc committee that has formed
13 under FIFRA. That comprises 10 companies, all
14 manufacturers of chlorinated isos all around the
15 globe. Scratch that. There are nine.

16 Those companies, all of them produced and
17 took part in generating this data. It wasn't suddenly
18 a barrier to entry to all the other importers domestic
19 or whatever. There was an existing marketplace there.

20 MR. CARPENTER: Okay. Thank you, Mr. Hand.

21 MR. HAND: Just one more thing. In 2001,
22 that data ceased to be what they called compensable
23 under FIFRA because once it's 15 years old from when
24 it's submitted under FIFRA it ceases to have a value
25 for compensation, so that allowed the opportunistic

1 importers to effectively cite that data; not have them
2 generate their own, but show that product is
3 substantially similar to the existing registrations,
4 and then they can basically with a very small cost
5 related to basic data get into the market.

6 MR. CARPENTER: Thank you. That's very
7 helpful.

8 Just one final question. Mr. Price, I
9 believe you mentioned in connection with your
10 testimony about threat the investigations involving
11 Mexico and the EU. If you have any further
12 information about those investigations, could you
13 provide that in your brief?

14 MR. PRICE: Yes, we certainly will.

15 MR. CARPENTER: Thank you very much. Any
16 other questions?

17 (No response.)

18 MR. CARPENTER: Okay. Once again, thank you
19 very much for coming and for your testimony this
20 morning. We'll take about a 10 minute break until
21 about 12:05.

22 (Whereupon, a short recess was taken.)

23 MR. CARPENTER: Could we resume the
24 conference now, please?

25 Please proceed whenever you're ready.

1 MR. STEVEN JOHNSON: Good afternoon. For
2 the record, I'm Steve Johnson, Director of Strategic
3 Sourcing for Arch Chemicals, which includes our global
4 water products business. Water Products is the
5 business unit within Arch responsible for water
6 treatment and sanitizing products, including
7 chlorinated isocyanurates, which I'll shorten in
8 today's discussion to chlor isos.

9 I've held my current position for the past
10 one and a half years, and I have worked in the
11 chemicals industry for the past 29 years, all of that
12 time for Arch and its predecessor, Olin Corporation.

13 As Director of Strategic Sourcing, I am
14 chiefly responsible for Arch's major strategic
15 materials purchasing, including the global sourcing of
16 chlor isos. I am also familiar with the marketing of
17 Arch's pool and spa products. Arch sells chlor iso
18 products only for pool and spa use. We do not
19 participate in the so-called industrial market.

20 We are a relatively new importer of chlor
21 isos from China and from Spain. You have received our
22 response to the Commission's importer questionnaire
23 and are therefore broadly familiar with our importing
24 pattern.

25 How and why Arch became an importer and what

1 we import are important to your analysis and to your
2 understanding of what this case is about. This
3 petition is not about unfair competition. This
4 petition is about regrets over bad business decisions
5 made by the Petitioners.

6 Arch has been a customer of Clearon for many
7 years. From 1995 to early 2003, Clearon was Arch's
8 exclusive U.S. source for chlor isos, and I believe we
9 were one of Clearon's biggest customers for that
10 product, if not the biggest.

11 We were not a customer of OxyChem because
12 OxyChem was in a longstanding major chlor iso
13 relationship with BioLab, Arch's major competitor in
14 the pool and spa market. BioLab, itself a producer of
15 chlor isos, as you've heard, was not an attractive
16 chlor iso sourcing option for Arch due to its status
17 as our major competitor in the marketplace and because
18 we knew them to be a net buyer of chlor isos despite
19 the fact that they are a producer.

20 In April 2003, Clearon announced to Arch
21 that it was raising its chlor iso price to us by 10
22 percent and that the price increase would take effect
23 in two weeks. You need to understand what that meant
24 to Arch. In our business, April is the high point of
25 the seasonal demand curve for pool products. As I

1 said, Arch only sells chlor isos to the pool and spa
2 segment. This is summer seasonal demand.

3 To meet that seasonal demand, we begin
4 taking deliveries in the first quarter of the year so
5 that our warehouses are full and product is on the
6 retail shelves in April and May. April and May are
7 when our deliveries peak.

8 Clearon's price increase hit at this peak
9 time. We negotiate prices with our customers in
10 advance of the season. For the 2003 season, that
11 meant we negotiated prices with our retail customers
12 -- WalMart, Costco and many others -- in the fall of
13 2002.

14 We could not pass along any of Clearon's
15 April 2003 price increase, and Clearon knew that we
16 could not. We asked Clearon to rescind the price
17 increase. They refused. We then asked Clearon to
18 reduce the amount of the increase. They refused. We
19 explained that we would have to eat the price increase
20 and reminded Clearon that this is not how longstanding
21 customer/supplier relationships are supposed to work.

22 Clearon did not care. They had the leverage
23 of the season, and they took full advantage of it at
24 our expense. Just so we're clear, it is not that Arch
25 didn't expect Clearon to ever raise its prices. We

1 just expected price increases to be reasonable, to be
2 justifiable and to occur in the normal course of
3 business when we negotiated the supply agreement with
4 them for the next pool season.

5 In eight years of Arch's exclusive
6 relationship with Clearon, to my knowledge Clearon had
7 never raised its prices under these types of
8 conditions. Shortly after Clearon's unilateral
9 pricing action, we began to hear reports that Clearon
10 was developing a strategy to go into direct
11 competition with Arch as a supplier to mass market
12 retailers like WalMart.

13 In other words, Clearon was trying to
14 position itself to simultaneously sell chlor isos to
15 customers like Arch who compete in the retail sector
16 and to also sell direct to the same retail customers.

17 Also, we learned from discussions with
18 others in the industry that Clearon had only increased
19 its price to a few of its customers, including Arch,
20 their largest chlor iso customer. Therefore, Arch
21 seemed to be the only major target of Clearon's April
22 2003 price increase.

23 In the spring and early summer of 2003, Arch
24 was confronted with the following scenario. Our
25 biggest chlor iso supplier and only available U.S.

1 source had exploited our course of dealing
2 relationship to extort a price increase, and it
3 simultaneously was working to become our direct
4 competitor. We knew that we had to aggressively
5 develop an alternative sourcing strategy and that we
6 could no longer continue to rely on Clearon to be our
7 exclusive U.S. supplier of chlor isos.

8 When Clearon's actions made it clear that
9 Arch could no longer afford such a dependent
10 relationship, we accelerated our efforts to qualify
11 and source chlor isos for the U.S. market from
12 additional suppliers. We began negotiations with
13 other suppliers, including a Chinese manufacturer that
14 we had previously qualified based on a small quantity
15 of product that we had imported in 2002.

16 Let me note one critical fact. At no point
17 did we pressure Clearon to reduce its price to us
18 leading up to April 2003. The price we were paying to
19 Clearon was acceptable to Arch through the end of the
20 2003 pool season, and we expected to continue to do
21 business with Clearon as we had in the past.

22 Foreign suppliers were not pushing prices at
23 us, and we were not putting downward pressure on
24 Clearon at that time. We had not considered dropping
25 Clearon as a supplier. The catalyst here was Clearon,

1 which in short order, number one, raised its prices
2 apparently to only select customers, including Arch,
3 and, two, began developing into a direct competitor.
4 We made a strategic sourcing decision to reduce the
5 risk of relying on only one major supplier of chlor
6 isos.

7 The second important point that I think you
8 should understand is that the product we import from
9 Hebay in China is completely different from the
10 product made by the Petitioners. This is not the
11 unblended, pure chlor isos product that is the subject
12 of the petition. The product we source from China is
13 a blended product, not pure TCCA.

14 The product is blended with other chemicals
15 in China under an Arch owned U.S. patent using
16 equipment that is different from the equipment used by
17 the Petitioners to produce unblended granular bulk
18 product. The product is then pressed into tablets
19 using equipment that is different from the equipment
20 used to produce unblended granular bulk product. The
21 product is then packaged in China in final retail
22 packaging and labeled for retail sale and shipped
23 directly from China to our U.S. distribution center.

24 To say it another way, we source an Arch
25 developed proprietary, patented, blended, tableted

1 chlor iso product that is different from the unblended
2 bulk granular chlor iso product described by the
3 Petitioners. Our proprietary three-in-one multi-
4 function product, which now accounts for nearly 100
5 percent of our imports from China in late 2003 and in
6 2004, competes in a different market segment than do
7 the Petitioners' unblended bulk products.

8 We sell our product to retail customers and
9 dealers in exactly the form that it enters the U.S.
10 from China. Petitioners' bulk product is sold to
11 tableters or packagers who sell in competition with
12 us. In other words, the Petitioners sell their bulk
13 product in a different channel of distribution than we
14 sell the product Arch imports from China.

15 Customers expect our three-in-one multi-
16 function product to sanitize their pool, clarify the
17 water and control algicide That's the three-in-one
18 concept. Because the Petitioners' bulk chlor isos can
19 only sanitize, customer perceptions and end uses are
20 different as between blended and unblended products.
21 Therefore, Petitioners' product can't be substituted
22 for the product that Arch imports from China.

23 Obviously the three-in-one multi-function
24 product that we import from China in tablet form and
25 in final retail packaging is physically distinct from

1 the bulk granular products supplied in 2,000 200-pound
2 bags that the petition illustrates via their
3 production flow chart.

4 Indeed, for the most part where tableting
5 and blending are done in the United States is by
6 companies other than Petitioners using different
7 machinery, equipment and production workers than are
8 used to produce bulk, unblended chlor iso product.

9 From Arch's perspective, this case is about
10 Clearon mishandling its relationship with us by
11 forcing a price increase down our throats in April
12 2003 at a time when they knew we were vulnerable and
13 then hatching a plan to go into direct competition
14 against us.

15 The imported three-in-one multi-function
16 product that we import from China is a patented
17 proprietary product that does not compete with
18 Petitioners' bulk product. Our decision to become an
19 importer of chlor isos was not a function of lower
20 prices. It was a strategic decision to diversify our
21 chlor iso sourcing.

22 Thanks for the opportunity to appear today.

23 MR. PERRY: I'm William Perry of the law
24 firm Garvey, Schubert & Barer. I'm here representing
25 the Chinese exporters and a number of importers and

1 the tableters in this case.

2 There was a statement made by the
3 Petitioners in their presentation that somebody can
4 simply go out and buy a press and start tableting.
5 That is absolutely wrong. This is a highly regulated
6 industry not only by federal, but also by the state
7 government.

8 Understand, these registrations are not held
9 by the Chinese exporters. They are held by the
10 importers and the tableters themselves. This makes it
11 a very different situation than the situation the
12 Petitioners are painting.

13 Now I'd like to ask Dave Graham of Special
14 Materials Corp. to testify. He's here with Adam
15 Feldman of Special Materials.

16 MR. GRAHAM: Good morning. My name is David
17 Graham, and I'm VP of sales and marketing for Special
18 Materials Company, an importer of trichloride
19 isocyanuric acid or trichlor from China. I'm a
20 chemical engineer with 30 years of experience in the
21 chemical industry.

22 I've had 15 years of direct involvement with
23 coordinating isocyanurates beginning with Monsanto
24 Company in 1984 as a sales rep and continuing with
25 OxyChem in 1993. I left Oxy in 2001 and joined

1 Special Materials Company, where I've been directly
2 involved with gaining EPA registration for a Chinese
3 producer of trichlor and selling this product to U.S.
4 customers, to U.S. repackagers.

5 We received our EPA registration in April of
6 2003. We qualified our product to two customers in
7 2003 and began selling to the U.S. repackaging
8 industry in 2004.

9 I'd like to make two points today. Number
10 one, the price of chlorinated isocyanurates has fallen
11 in the U.S. because of the removal of an artificial
12 trade barrier that existed until only recently, this
13 EPA situation that other people have described, and
14 I'll expound a little bit.

15 Number two, there is lower quality and
16 longer delivery times for Chinese trichlor, which
17 causes our customers to spend more to use our product
18 than that of domestic manufacturers.

19 Since we are new suppliers to the U.S.
20 market, our customers must take on more risk also to
21 buy from us. Therefore, we're forced to sell at
22 prices that cover these additional costs and the extra
23 risk of buying from an uncertain source.

24 Point No. 1, the artificial trade barrier.
25 As you've heard, most of the U.S. market for trichlor

1 is for the treatment of swimming pool water. Trichlor
2 is a sanitizer and requires EPA registration as a
3 pesticide from FIFRA. The EPA registration process is
4 lengthy and involved, as you've heard. A new
5 registrant must provide detailed product chemistry
6 data and process information about their production
7 plan.

8 Most significantly, the registrant must cite
9 many tests for toxicity and environmental impact of
10 material, as you've heard described. My company
11 provided citation of 36 different required studies in
12 our registration. These studies are very expensive to
13 perform. One would spend years and well over a
14 million dollars to perform them.

15 However, there's no need to repeat the tests
16 if these valid studies have already been filed with
17 EPA and provided for the material. A registrant needs
18 only to cite a valid study at EPA. One must
19 compensate the study, however, if the test has been
20 performed in the last 15 years.

21 Many years ago, the various producers of
22 isocyanurates pooled their toxicity tests under the
23 banner of the isocyanuric ad hoc committee. A new
24 registrant could join the committee for a very high
25 initial fee and have access to the test results.

1 This high up front cost was a significant
2 barrier to entry to other products or producers.
3 However, this situation changed. Under EPA rules, a
4 registrant may cite a study without compensation if
5 the study is over 15 years old.

6 In 2001, all the studies that EPA requires
7 for registering isocyanurates met this criteria. New
8 registrants could cite all the studies required for
9 registration without compensation to the study owners
10 or the ad hoc committee. A new registrant must still
11 provide product chemistry and manufacturing
12 information, but can now avoid the very expensive
13 initial fee.

14 It was commented that that fee is not so
15 significant for producers. However, this is a very
16 large barrier for my company and many of the Chinese
17 trichlor producers. \$400,000 or a half million
18 dollars is a lot of money in our perspective. It may
19 not be to an OxyChem or a Clearon, but it's a huge
20 barrier to us.

21 Just as in the exploration of a patent, the
22 entrance fee to enter the U.S. markets for these
23 chemicals dropped substantially. In effect, this
24 trade barrier disappeared, and U.S. customers could
25 now access lower prices for isocyanurates that are

1 available elsewhere in the world.

2 This market and industry do remain highly
3 regulated, and it does limit the number of importers
4 in the United States. EPA at the federal level still
5 requires registrations, and registrations are also
6 required at the state level. One must have
7 registrations for both manufacturing use and end use
8 to sell these chemicals through to the end market.
9 Because of this -- prices for these chemicals were and
10 still remain much higher than the rest of the world
11 market price for isocyanurates.

12 As I said, the entry fee to register this
13 product declined substantially because of the 15 year
14 rule. Now prices are starting to come down to the
15 world market level. The American consumer directly
16 benefits, but U.S. companies are now trying to find
17 another way to artificially prop up the prices for
18 this product in the U.S. market.

19 Point No. 2. Chinese isos are more costly
20 to use than domestic isocyanurates. Granular
21 trichlor, as you've heard, is typically compressed
22 into tablets for use in the pool market. The quality
23 of the trichlor has a significant effect on the
24 interchangeability of new isocyanurates with U.S.
25 produced trichlor. Critical factors are granulation

1 distribution, the level of fines, minor impurity
2 levels and the presence of foreign inert materials.

3 Chinese trichlor is typically of lower
4 quality than U.S. produced trichlor. Tableters have
5 to add sometimes a screening step to the product and
6 compensate for other factors in their tablet press
7 settings, thus slowing it down and running less
8 efficiently. This can lead to higher manufacturing
9 and handling costs by the tableters.

10 Finished tablets may have an appearance that
11 is less desirable than tablets from U.S. produced
12 trichlor and have a stronger chlorine odor. These
13 quality factors require Chinese trichlor to sell at a
14 discounted price to U.S. produced trichlor.

15 Thank you.

16 MR. PERRY: Now I'd like Peter Ferentinos of
17 Cadillac and COALCO to speak.

18 MR. FERENTINOS: Good morning. My name is
19 Peter A. Ferentinos, and I am the chief executive
20 officer of Cadillac Chemical and COALCO, Inc.
21 Cadillac imports chlorinated isocyanurates from China,
22 which it then sells to COALCO.

23 COALCO is a small, family run business that
24 since 1986 has been a tableter and repacker of
25 trichlor and dichlor in the swimming pool market and

1 sells to regional mass merchants, home centers,
2 distributors and pool dealers. We currently are in
3 our second generation of offspring who are running our
4 company and are hopeful that soon we will add our
5 grandsons.

6 COALCO has approximately 100 employees whose
7 very jobs are being threatened by the Petitioners.
8 Let me assure you that this is not a case of
9 eliminating imports from China or Chinese prices, but
10 an attempt by the Petitioners to destroy and kill my
11 company and the other small repackers and force me to
12 let go of our 100 employees and the other hundreds of
13 employees of the other repackers, which are
14 approximately eight to 10 in the whole U.S., whose
15 number of employees in total are certainly
16 significantly more than the few employees who work for
17 the Petitioners in their highly automated plants.

18 The Petitioners are very large,
19 multinational companies whose intent is to dominate
20 the U.S. market while we, the repackers, are small,
21 family run businesses that are the founders and
22 backbone of the pool supply industry.

23 Let me explain the impossible position that
24 my company faces if the ITC DOC grants the
25 Petitioners' request. My company competes with

1 BioLab, Clearon and Oxidental Chemical. By forcing me
2 to buy trichlor and dichlor from the very same
3 companies that I am competing with in the pool
4 marketplace is an intolerable situation.

5 In the past, we have purchased isos from
6 other world producers such as Spain, Italy and France.
7 As Dave Graham has stated, the U.S. chlorinating iso
8 market is a highly regulated market and industry in
9 which trichlor and dichlor cannot be sold in the USA
10 without EPA registration, a process that could have
11 cost us approximately \$400,000 to cite the data that
12 was then owned by the ad hoc committee.

13 However, in 2001, Cadillac was the first
14 company to be granted an EPA registration for a
15 Chinese producer. We were able to cite the data that
16 had become in the public domain. We had previously
17 sought out producers that would offer us isos at world
18 market prices, but would not be our competitors in the
19 retail marketplace.

20 There are three domestic producers in the
21 marketplace, and each is a competitor. BioLab is
22 vertically integrated with its trichlor being sold
23 downstream to mass merchant retailers such as Home
24 Depot, Lowes, WalMart and BioGuard stores. BioLab's
25 production is not enough to satisfy its needs and

1 hence must purchase trichlor from Oxy or Clearon.

2 Biolab has never been a supplier of granular
3 trichlor to the tableters and repackers in the pool
4 industry. Further, Biolab produces no dichlor and
5 must rely on either Oxidental or Clearon for its
6 needs.

7 In addition, Oxidental has not been a
8 willing marketer of either trichlor or dichlor. It
9 has no sales professionals calling on the pool
10 industry, and it has never called on us. We've been
11 in business since 1985.

12 It supplies very big users such as Leslie's,
13 who is the largest pool dealer chain with over 400
14 stores in the U.S. It also fulfills BioLab's
15 shortfall in trichlor and dichlor. It seems that
16 Oxidental Chemical has very little capacity or
17 interest in selling to the tableters and repackers.

18 The only other source for trichlor and
19 dichlor is Clearon, which is a direct competitor.
20 Clearon has been offering packaged tabs and dichlor to
21 our customers since it has extensive in-house
22 tableting and repacking facilities. By their own
23 admission today, they stated that they are a tableter
24 and a repacker of isos.

25 COALCO must simply have a second source to

1 compete and remain a viable company in the swimming
2 pool market. As stated above, entrance to the U.S.
3 market is restricted by the necessity of having an EPA
4 registration. A Chinese producer needs to have his
5 product approved for use in the swimming pool
6 industry, a process that is both expensive and time
7 consuming.

8 To date, there is no Chinese producer that
9 has an EPA registration. The registration is in the
10 hands of the small tableters and repackers who will be
11 the potential damaged parties if the ITC grants the
12 Petitioners' request.

13 I've had an extensive review of many of the
14 Chinese manufacturers. In fact, there are only a
15 limited number of Chinese producers that can meet the
16 quality standards of the U.S.; probably no more than
17 three or four. These producers must meet the
18 available chlorine levels, granulation sizes, moisture
19 content, salt content, et cetera. These restrictions
20 and supply must be understood in the context of an
21 expanding market.

22 The market for trichlor and dichlor
23 continues to grow because it continually is replacing
24 calcium hypochlorite, the traditional source, since it
25 is a safer and more convenient form of chlorine for

1 pool water treatment. The Chinese share of the U.S.
2 market is estimated to be 12,000 to 15,000 metric
3 tons, while the U.S. market is about 120,000 metric
4 tons and growing at five to seven percent per year.

5 The Chinese represent a small fraction of
6 the U.S. market and fulfill volume and packing needs
7 of customers that the domestic producers are reluctant
8 to do. Only a few of the Chinese producers are
9 capable of producing product that would be acceptable
10 to the U.S. tableters and repackers. These Chinese
11 producers in total have a production capacity of only
12 15,000 to 20,000 metric tons.

13 Also, the Commission should keep in mind
14 that both trichlor and dichlor are volatile products.
15 If a plant accident or interruption at any of the
16 three domestic suppliers or a shutdown for any reason,
17 there would be a severe shortage in the U.S. market.

18 An indication of the hazardous and volatile
19 nature of chlorine can be seen in the recent fire on
20 May 25 of this year at the BioLab warehouse in
21 Conyers, Georgia. Another instance is last year's
22 fire at the Autofinas iso plant in France, a fire that
23 completely destroyed their iso plant, thereby
24 eliminating a source of trichlor and dichlor from the
25 U.S. market.

1 Please, do not force me to lose my company
2 and the jobs it provides. Thank you.

3 MR. PERRY: Can I get Frank Abramson of Wego
4 to speak?

5 MR. ABRAMSON: Good morning. My name is
6 Frank Abramson, and I'm the global product manager of
7 Wego Chemicals, which is a privately held company
8 which sells trichlor in the global market. Wego has
9 been selling trichlor since 2001 after the 15 year
10 period expired at the EPA.

11 For many years, due to the nature of the
12 highly regulated trichlor industry in the U.S. that
13 was protected by EPA registration, domestic producers
14 were able to inflate their prices without competition
15 from import material. With the creation of the ad hoc
16 committee, it was price prohibitive for importers to
17 get EPA registration at a reasonable price.

18 The ad hoc committee was formed to share
19 data from test results which would be used to get EPA
20 registration. Membership to this group could cost
21 \$400,000 and above. In 1999, I brought the idea of
22 selling Chinese trichlor to my management, but the
23 entry fees made it simply impossible for us to
24 consider.

25 In 2001, when the tests went into the public

1 domain, I approached various customers about
2 registering Chinese trichlor at the EPA so that we
3 could begin to import the product. Finally, imports
4 of Chinese trichlor started to enter the United
5 States, but the prices for trichlor in the United
6 States remained higher than prices in other markets
7 around the world.

8 At the current time, we understand that the
9 wholesale market price for domestic TCCA tablets in
10 the United States is approximately 90 cents a pound
11 for tablets and 80 cents a pound for granular.
12 However, in Europe and other global markets where
13 there is no EPA regulation required we understand that
14 the current wholesale market price for tablets is
15 approximately 60 cents a pound.

16 We firmly believe that the U.S. producers
17 are presently exporting to Europe and are able to
18 compete at this level. This indicates that the
19 current United States prices are inflated compared to
20 the world market.

21 With regards to quality and other issues,
22 like other members of the panel here Wego has had
23 great difficulty in importing this product. We have
24 had a major problem with leaking steamship containers,
25 which has caused us a great deal of expense.

1 I would like to make it clear that Wego
2 Chemicals' market strategy has primarily been to
3 market our product to repackers who are purchasing
4 import products from other countries such as Spain,
5 Japan and Italy. Our intention was not to replace
6 domestic material with Chinese imported trichlor.
7 Wego simply provided an alternative second source of
8 supply at fair market value.

9 Finally, I'd like to state that due to
10 various factors in China, factories have been faced
11 with severe shortages of raw materials and electricity
12 that fuels these plants. These severe problems have
13 been documented by articles almost on a weekly basis
14 in the *New York Times* business section.

15 Since January 2004, we have incurred two
16 substantial price increases, and we only see more
17 price increases on the horizon related to these
18 problems that will continue to China in the future.

19 Thank you.

20 MR. PERRY: Now I'd like to ask Steph Jonas
21 of N. Jonas & Company to speak.

22 MR. JONAS: Good morning. My name is Steph
23 Jonas. I am president of N. Jonas & Company. Like
24 most of us here, I'm a family owned business started

1 by my father in 1948.

2 In the early 1950s we started repackaging
3 swimming pool chemicals. Like some of us here, we
4 started in other industries, and we decided to kind of
5 switch over, so we started doing the swimming pool
6 industry. We saw our calling, so to speak.

7 As soon as Monsanto introduced the tri and
8 dichlor in the 1960s, we joined in and started
9 marketing that product. We originally purchased the
10 raw materials strictly from Monsanto. Later we
11 purchased from FMC and Shikoko Chemical, which is a
12 Japanese source.

13 As a result of the highly regulated nature
14 of this market, from the 1970s to the 1990s our
15 pricing was identical from all three sources.
16 Identical. When prices were increased, letters would
17 be sent within days of each other and with the exact
18 same price increase.

19 Olin later purchased a plant from FMC, and
20 the practice continued into the 1980s and 1990s. In
21 fact, in 1989, as we visited Olin's headquarters in
22 Connecticut, we met Victoria Holt outside, who was
23 ACL's sales manager from Monsanto.

24 In the early 1990s, Olin divested their two
25 plants, one purchased by BioLab and the other by

1 Clearon. Monsanto sold their facility to Oxy Chemical
2 in 1993, and the practice continued.

3 You have to understand. About 10 or 15
4 years ago the price of chlorine was selling for \$1.65
5 per pound. The price in the following 10 years
6 without the Chinese decreased by almost half. It had
7 nothing to do with the Chinese whatsoever. It
8 decreased by almost half. Those are stats. I can
9 show you proof or whatever later on of prices that I
10 was quoted and paid during the previous 15 years.

11 Meanwhile, I'm explaining what caused this
12 actually were the mass merchants and Leslie's. They
13 pushed Clearon, Oxy and BioLab to drop their prices
14 substantially. It had nothing to do with the Chinese.
15 BioLab has also pushed down the prices by creating
16 buying groups and offering the groups very low prices
17 below current market value. That's probably why
18 they're not here. This created more price pressure on
19 my company.

20 I tried to raise prices, but -- excuse me.
21 The raw material prices dropped during the previous --
22 excuse me one second. Over the next few years, prices
23 increased, but the prices to me decreased.

24 However, in year 2000 our prices went in
25 opposite directions. We got an increase from every

1 one of the competitors plus Shikoko, and yet the
2 prices from our competition forced me to lower my
3 prices, so we were going in opposite directions.
4 Prices were increasing to me, and at the same time I
5 was forced to lower my prices.

6 I have people that are in competition with
7 Clearon or BioLab, and the customers kind of tell me
8 what they want to pay or what they have to pay. They
9 add on a certain percentage. We have no choice in
10 that matter. We're selling a lot of customers that
11 are identical with each other, and they kind of tell
12 me what BioLab's price is and what I have to charge.
13 Those prices continually drop. Nothing to do with the
14 Chinese. Way before this happened.

15 The same thing happened in 2001 with the
16 same scenario. Prices were increased to me, yet the
17 prices kept going lower and lower from my immediate
18 customers. I approached my sources and stated that if
19 this trend continued for five years I would be out of
20 business. No one seemed to care. No one seemed to
21 care. In this closed market, where could I turn?
22 Certainly not to Clearon, a competitor, and not to
23 OxyChem, who was sold out.

24 After 1998, we purchased 100 percent of our
25 trichlor from Shikoko Chemical our Japanese supplier.

1 When we started buying from China, not one pound of
2 the trichlor was taken away from Oxy or Monsanto or
3 Clearon. Not one pound. It was strictly going from
4 the Chinese to the Japanese.

5 In early 2001, and I really wouldn't have
6 done that if I hadn't been pressed to do it because I
7 wanted to keep the people that I had. I liked the
8 relationships I had and everything, but I didn't have
9 a choice. I literally would have been out of business
10 in five, six, seven, eight years if it hadn't been for
11 the Chinese to come to this country.

12 In early 2001, Frank Abramson from Wego
13 Chemical called to introduce himself and to see if we
14 were interested in purchasing trichlor from China. At
15 that time, no one from China had been registered, and
16 without having an alternative I agreed to put the
17 required forms in the EPA. After almost 12 months of
18 testing and waiting, along with substantial costs paid
19 by our company, our registration was accepted.

20 Buying materials from China saved my company
21 from possible disaster. Instead of dropping my prices
22 and ruining the marketplace by buying cheap business
23 in 2002 and 2003, I decided to keep the price
24 comparable and make profit from trichlor. I did not
25 reduce the prices. I followed the market price.

1 Where I had to reduce, I reduced, but I walked out
2 with my head high, and I did not reduce any prices
3 whatsoever.

4 These were the only years in the last 20
5 that Jonas was able to make profits from chlorinated
6 products. I made a profit from the other items, but
7 from chlorine. I didn't think I could make a profit
8 until I started buying from other sources because they
9 kept me at a certain level, and no one would budge.

10 Without our advantage from China, almost 100
11 employees would possibly be out of a job, and I really
12 mean out of a job because when you're going in
13 opposite directions, you know, how much further can
14 you go before you say ouch, it's not worth it.

15 When you examine the employees at Clearon
16 and Oxy, their production crew is not much greater
17 than mine. When you add the employees at Alden Leeds,
18 COALCO, Special Materials and Arch, who are
19 represented here, our total U.S. employment easily
20 exceeds that of our raw suppliers, which is your Oxy
21 and your Clearon.

22 In conclusion, N. Jonas & Company cannot
23 financially go back to where we were 10 years ago. I
24 thank you.

25 MR. PERRY: Bob, can I just check? How much

1 time do we have?

2 MR. DEYMAN: George Deyman, Office of
3 Investigations. You have -- it's kind of hard to tell
4 from this -- 24 minutes left.

5 MR. PERRY: Go ahead.

6 MR. EPSTEIN: Good afternoon. My name is
7 Andy Epstein. I am vice president of Alden Leeds,
8 Inc., a family owned and operated repackager in
9 Kearny, New Jersey. We sell our own brands, as well
10 as private label pool and spa chemicals, primarily to
11 the mom and pop retail stores throughout the country
12 with our stronghold being in the northeast.

13 I am one of four owner brothers involved in
14 the running of the day-to-day business. I have a
15 background in chemistry and have been involved with
16 Alden Leeds for about 40 years. Alden Leeds has been
17 in the business of repackaging chemicals for the pool
18 and spa industry for 44 years and currently employs
19 about 100 people in the U.S.

20 Repackaging includes the process of
21 compressing granular product into slower dissolving
22 tablets. I believe that the U.S. producers of
23 chlorinated isocyanurates are feeling the effects of
24 foreign competition that in previous years was
25 effectively excluded due to the high cost of obtaining

1 federal EPA registration. Now with the high cost of
2 registering being eliminated, the U.S. industry is
3 facing competition they've never seen before.

4 I want to clarify the situation by first
5 describing how trichlor and dichlor are two distinct
6 products and how the quality of the Chinese products
7 differ from U.S. products. Finally, I will provide an
8 overview of our purchasing history.

9 Petitioners inaccurately describe dichlor
10 and trichlor as a single category of like products.
11 Dichlor and trichlor are in fact separate like
12 products having different properties and uses.
13 Clearly, the chemical composition is different.
14 Dichlor is a weaker product, having roughly 60 percent
15 available chlorine, and contains sodium, which
16 trichlor does not. Trichlor provides about 90 percent
17 available chlorine.

18 In addition, besides its use in consumer
19 products such as laundry detergent and dishwasher
20 soap, dichlor is typically retailed as a pool chemical
21 in granular form. Dichlor is fast dissolving and is
22 used primarily to rapidly disinfect water. Consumers
23 who want to use chlorinated isos to give their pool or
24 spa a shock treatment will likely purchase dichlor for
25 immediate effect.

1 Trichlor is more often sold in tablet form
2 or sometimes in granular form, dissolves slowly and
3 provides long-term water treatment. Trichlor is
4 purchased by consumers who would rather treat their
5 pools weekly instead of daily.

6 Also, dichlor is usually used in pools with
7 vinyl liners because it dissolves before hitting the
8 bottom of the pool. Trichlor, which does not dissolve
9 as quickly, would remain on the bottom long enough to
10 bleach the liner.

11 Because of its high concentration of
12 chlorine, it takes about 111 pounds of trichlor to
13 produce the same amount of chlorine as 100 pounds of
14 chlorine gas. It should take about 158 pounds of
15 dichlor to produce the same 100 pound equivalent of
16 chlorine gas.

17 Besides the obvious differences between
18 strength and solubility, trichlor has more of an
19 effect on the pH of a pool in that it is much more
20 acidic than dichlor. A pool using 25 pounds of
21 trichlor for a season would need about 12½ pounds of
22 pH increaser to counteract the low pH of the trichlor.
23 The same pool would need 37 pound of dichlor due to
24 its weaker strength, but only about four pounds of pH
25 increaser to balance the pH.

1 For the reasons just stated, one must
2 conclude that trichlor and dichlor are different as
3 gasoline and kerosene. There are also quality
4 differences between the Chinese and U.S. product. The
5 granulation of the Chinese product is not consistent.
6 This creates manufacturing problems and quality issues
7 for the tabletizer.

8 Other problems include omission of
9 polyethylene liners in the super sacks, creating
10 chlorine odors emanating from the super sacks. The
11 raw material itself often has foreign objects, large
12 clumps of product up to softball size, and tends to
13 have an objectional chlorine odor. Here is a photo of
14 some clumping. This is right out of a super sack. I
15 think you'll have copies passed around.

16 The U.S. manufacturers have long overcome
17 these quality issues. For the reasons stated above,
18 along with the delays in ocean shipping and the lack
19 of extended payment terms, the Chinese product is less
20 desirable than the domestic product, given the same
21 price.

22 It should also be noted that we incur
23 greater inventory costs purchasing from the Chinese
24 when seasonal sales are poor because of market
25 fluctuations. In 2003, for instance, demand for our

1 product dropped considerably in response to a
2 relatively cool and wet summer, and we were forced to
3 maintain a higher inventory level than we would have
4 preferred.

5 Finally, Alden Leeds has never been a
6 significant customer of either of the Petitioners,
7 OxyChem and Clearon. Our main reason for seeking
8 other sources of isocyanurates was to distance
9 ourselves from the domestic producer because both of
10 them changed their business models and went into
11 direct competition with us.

12 Alden Leeds has been in business since 1959.
13 For over 20 years we purchased our isocyanurates from
14 a major domestic source, Monsanto. Monsanto later
15 sold its isocyanurate business to OxyChem. In those
16 days, the domestic producers sold their production to
17 repackagers such as Alden Leeds.

18 Both Petitioners, OxyChem and Clearon, made
19 the decision to compete with the repackagers. In
20 doing so, they put the repackagers at a competitive
21 disadvantage. After all, the producers were basic in
22 the raw material and, therefore, operating at a
23 distinct advantage over the repackagers.

24 Examples of this behavior include OxyChem
25 selling isocyanurates to Leslie's Pool Mart, the

1 world's largest retailer, and Clearon starting to sell
2 finished product directly to retailers. The retailers
3 had been the traditional customer base of the
4 repackagers. Both Petitioners decided to sell branded
5 products in consumer packages, thereby going into
6 direct competition with the very repackagers they were
7 trying to supply.

8 Alden Leeds has been a major importer of
9 isocyanurates for well over 20 years. Our sources
10 were from Japan, Italy and Spain. More recently, we
11 have favored Spain and China and have purchased much
12 less from Italy and Japan. Neither of the Petitioners
13 lost our volume since they never enjoyed our volume in
14 the first place.

15 Alden Leeds made a very simple decision long
16 ago to align ourselves with those suppliers who did
17 not compete against us. Petitioners would love to
18 eliminate the foreign competition and force the
19 repackagers to buy from them. This would kill our
20 business and jeopardize 100 jobs.

21 Thank you.

22 MS. SHERMAN DAVENPORT: Good afternoon.
23 Again, for the record my name is Michele Sherman
24 Davenport with the law firm of Cameron & Hornbostel.
25 I am accompanied today by my colleague, Dennis James.

1 We appear here today on behalf of Aragonesas
2 Delsa or Delsa, the only exporter of chlorinated isos
3 from Spain. Representing Delsa are Mr. Perry
4 Balcells, the commercial director of Aragonesas Delsa,
5 and Mr. Antonio Calvo de Juan, the commercial director
6 of the Chemical Division of the Aragonesas Group.

7 Our presentation will be brief, in part
8 because much of the information relevant to our
9 position is confidential, but mainly because we have a
10 very short story to tell. Our position is that the
11 U.S. Petitioners have not made a case on injury
12 sufficient to warrant action by the Commission.

13 At most, if there is any evidence here, it
14 is evidence only of threat of injury, and we will
15 address in our post-conference brief the confidential
16 evidence that supports this position.

17 We wish to emphasize that even if there is a
18 threat of injury it is obvious from the available data
19 that there is no threat of injury to the U.S. industry
20 from Spanish imports. Spanish imports are minimal
21 compared to U.S. shipments and Chinese imports and are
22 higher priced than Chinese imports.

23 We remind the Commission staff that if only
24 threat of injury is found, the Commission is not
25 required to cumulate imports that are not part of that

1 threat. Thus, if the Commission finds only threat,
2 and we believe that is at most all it can find based
3 on the available data, then it should next determine
4 whether Spain is in any way a cause of that threat.
5 Again, we believe the available data will demonstrate
6 that Spain is not a threat.

7 When the Commission makes its finding, it
8 should then determine that it is not appropriate to
9 cumulate Spain and should terminate the investigation
10 insofar as Spain is concerned.

11 Our witnesses, Mr. Balcells and Mr. Calvo,
12 prefer not to make a long statement in English and
13 have asked us to make a direct presentation for
14 Aragonesas Delsa.

15 Aragonesas Delsa produces chlorinated isos
16 in Spain and sells them in various forms throughout
17 the world. The company's total production capacity
18 represents only a limited amount of the available
19 production capacity worldwide. Because Delsa is so
20 small and clearly is not a price setter, it was very
21 surprised to be named in this petition.

22 In Aragonesas Delsa's own market in Europe,
23 it is suffering from the same situation that the U.S.
24 Petitioners here have complained about this morning --
25 significantly increased, low-priced competition from

1 Chinese imports -- and in fact Delsa felt this first.

2 In Europe, Chinese imports first entered in
3 significant volumes about four or five years ago. As
4 a result, prices came down. Here in the United
5 States, it was only three or four years ago that
6 Chinese imports first entered the market, and here too
7 Delsa saw prices go down. To remain in each market,
8 the company had no choice but to reduce its prices to
9 some degree, just as the U.S. producers did to
10 maintain their market.

11 We believe that the data available to the
12 Commission will clearly show that in the United States
13 Delsa is a price follower. It is not setting the
14 price and has no ability to set the price. From
15 conversations with customers, Delsa believes its
16 prices are consistently higher than the Chinese.

17 In fact, Delsa was surprised to see in the
18 petition a suggestion that it has undercut Chinese
19 prices. To the best of the company's knowledge and
20 belief, it has never done that. Chinese prices have
21 been consistently lower than Delsa's.

22 Aragonesas Delsa was also surprised to see
23 as one of the Petitioners here a U.S. company recently
24 willing to sell Delsa a significant quantity of
25 chlorinated isos when Delsa was short of material to

1 meet its own commitment to its U.S. customer.

2 The petition suggests that Delsa is a threat
3 because it recently increased capacity and will focus
4 this capacity on the United States. Let me explain
5 Delsa's current situation. In the last year,
6 Aragonesas Delsa moved its production facilities in
7 Spain to a new plant.

8 This move was in large measure necessitated
9 by the fact that the old plant was in the metropolitan
10 area of Barcelona. The old plant did not have
11 chlorine production facilities on site. All the
12 chlorine required for production had to be trucked
13 through populated areas. Additionally, the old site
14 could not easily guarantee proper treatment of
15 effluents without a significant investment.

16 Because of these concerns, the company
17 decided to move its plant. The new plant has chlorine
18 available on site. The new plant does have some
19 increased production capacity as Delsa has explained
20 in its questionnaire response because it only made
21 sense when building a new plant to increase capacity.
22 The cost of the additional capacity is minimal if done
23 at the initial stages.

24 However, the increase in production capacity
25 is not significant when compared to the company's

1 previous sales volume. Explanation for this is
2 confidential, and we will discuss it further in our
3 brief.

4 Moreover, the capacity increase was not done
5 with a view toward directing increased production to
6 the United States. As noted, capacity was increased
7 because it was reasonable to do so when constructing a
8 new facility.

9 Also, at the time Delta's new plant was
10 under consideration and construction the only French
11 producer of chlorinated isos closed its facility. The
12 capacity of this plant in Toulouse was about the same
13 as the new capacity Delsa added.

14 Although Petitioners have emphasized this
15 new plant as a threat, any increase in production is
16 not directed at the United States. Delsa's only
17 intention is to serve its current U.S. customers at
18 the same time the company is trying to increase its
19 other export markets and its sales within Spain.

20 It's also important to put the size of
21 Delsa's new plant into context. The worldwide market
22 for chlorinated isos is at least 200,000 metric tons
23 per year, and it is estimated to grow at least five
24 percent per year as swimming pool construction
25 increases. Delsa's increase in production capacity is

1 much less than only one year's growth in worldwide
2 demand.

3 Aragonesas Delsa has been selling in the
4 United States for over 11 years. The company made a
5 significant financial investment to obtain its EPA
6 registration. Delsa's plan has always been to try to
7 occupy a niche in the United States market, not to
8 become a dominant factor. In the United States,
9 Aragonesas Delsa is not competing with its customers'
10 repackaging business.

11 There is a clear feeling in the market that
12 Petitioners are generally more interested in supplying
13 large volume customers. Aragonesas Delsa has
14 different interests. In the United States, Delsa
15 never tries to supply 100 percent of one customer's
16 demand. Delsa is interested in supplying part of its
17 customers' demand and in being an alternative source
18 of supply for its customers.

19 Delsa's growth in imports into the United
20 States over the last few years is modest when compared
21 to the growth of imports from China. Aragonesas Delsa
22 is also feeling the effect of Chinese imports, but it
23 is not a cause of any injury or threat to the U.S.
24 producers.

25 We urge the Commission to find that imports

1 of chlorinated isos from Spain are not injuring the
2 U.S. industry and that they are not threatening the
3 U.S. industry.

4 During the question period, both Mr.
5 Balcells and Mr. Calvo will be pleased to answer your
6 questions. Despite their reluctance to make this
7 direct presentation, I assure you that they
8 underestimate their abilities in English.

9 I believe that wraps up our presentation.

10 MR. CARPENTER: Thank you, very much, for
11 your testimony and your willingness to come here today
12 to share your insights with us. We'll begin the
13 questioning with Mr. Deyman.

14 MR. DEYMAN: I'm George Deyman, Office of
15 Investigations. Those of you that are importers here,
16 could you indicate in your post-conference brief when
17 you received the APA registration; that is what dates
18 you received the various registrations?

19 MR. PERRY: By the way, George, one thing
20 that Dave Graham didn't mention, but I'll give it you
21 for the general counsel's office, the EPA cite, you
22 might be interested, this is the 15-year's study, it's
23 40 CFR 152.93b(3)(ii).

24 MR. DEYMAN: Thank you. The representatives
25 of Delsa, now, it was indicated this morning by the

1 Petitioners that the imports were coming in from Spain
2 well before the imports began coming in from China.
3 Is that true? When did you start exporting to the
4 United States?

5 MR. JUAN: I've been in the States for 11
6 years now -- more than 11 years.

7 MR. DEYMAN: And when did you receive - or
8 your importers here, when did they receive their
9 registration for your product in the United States?

10 MR. JUAN: The administration is ours; it is
11 Delsa's administration. It was in 1993, April.

12 MR. DEYMAN: Did you have to go through the
13 expensive process, at the time of qualifying and
14 registering?

15 MR. JUAN: I was a member of the ad hoc
16 committee.

17 MR. DEYMAN: Okay. Mr. Johnson, you
18 mentioned a blended product that you import.

19 MR. JOHNSON: Yes, sir.

20 MR. DEYMAN: Is the blended product that you
21 import covered by the scope of the investigations;
22 that is, if ultimately the antidumping duties were put
23 on chlorinated isocyanurates, is what you import
24 covered?

25 MR. CLARK: We have raised this issue with

1 the Department of Commerce and we're waiting to get an
2 answer back from them. We've taken the position that
3 the petition does not cover the blended product, which
4 also comes in tableted form. The alternative
5 formulation has been that these petitioners, that is
6 clear on an Oxichem, do not have standing to complain
7 about a blended tableted product, because they're not
8 the U.S. producer of that product. It is a different
9 product. There is a U.S. producer of a blended
10 tableted proprietary product that goes direct to
11 retail. That U.S. producer is Biolab.

12 So, our position is that it is not - our
13 understanding as of late yesterday is that the
14 Department of Commerce has not yet initiated its
15 investigation. So, we actually don't know what they
16 are going to define as the scope. We did hear the
17 petitioners say earlier today that they view their
18 petition as covering this product; but, it's not a
19 product that they manufacture.

20 MR. DEYMAN: All right. Without knowing
21 Commerce's scope, it's your contention that the
22 imports by your company - by the way, are all of your
23 imports of the blended product?

24 MR. JOHNSON: Nearly 100 percent, sir -

25 MR. CLARK: Of the imports from China.

1 MR. JOHNSON: -- of the imports from China
2 are what we call a blended or we refer to it as our 3-
3 in-1-and-one tablet.

4 MR. DEYMAN: So, it is your contention,
5 without knowing the scope yet, but you feel that we
6 should not include in our import data the imports by
7 your company, of the blended product?

8 MR. CLARK: That is correct.

9 MR. DEYMAN: I have another question for the
10 representatives of Delsa. As far as the product that
11 you export to the United States, is it any different
12 from the product exported from China; that is, do you,
13 for example, export - well, I'll let you answer.

14 MR. BALCELLS: No. In fact, we had to be
15 careful in the last years to meet the standard of
16 quality in the market, in the European market and the
17 American market, and we think that we've succeeded on
18 that, and our quality is first-class quality. Does
19 this answer your question?

20 MR. DEYMAN: Yes and no. You feel that your
21 - that Spain should not be cumulated with China -

22 MR. BALCELLS: Absolutely not.

23 MR. DEYMAN: - in these investigations. So,
24 I would like to know, is there something different
25 about the product that you sell in the United States

1 from the product sold by the Chinese, maybe some sort
2 of characteristics that are completely different. Or
3 is there any reason why the product is clearly
4 different from the Chinese product?

5 MR. BALCELLS: Okay. In chemistry, if you
6 make a molecule, the molecule can - if it is not
7 right, it cannot be sold. But, that molecule can have
8 impurities or other components - small quantities of
9 other components and make it different. But,
10 basically, the molecule is the same. And, sometimes,
11 have sinus problem could have color or some impurities
12 or some moisture or things like that, which could be
13 different.

14 MR. DEYMAN: Okay.

15 MR. BALCELLS: It doesn't clump like that.
16 We've never sold such product.

17 MR. DEYMAN: Page 49 of the public version
18 of the petition states that the capacity to produce
19 chlorinated isos in China is 171,000 metric tons. You
20 mentioned, Ms. Davenport, that - I think it was you -
21 that the worldwide consumption is about 200,000 metric
22 tons. Does anyone take issue with the Petitioner's -

23 (Off mic.)

24 MR. CARPENTER: Excuse me, could you,
25 please, repeat that into the microphone, so the court

1 reporter can pick it up?

2 MR. FERENTINOS: In terms of product that is
3 of the same or similar quality that can be used in the
4 U.S. market in the swimming industry, there's only
5 about 15,000 or 20,000 metric tons available in China.
6 If there's 170,000 metric tons of capacity, it ain't
7 useful. You can only bring stuff into the U.S. that
8 can be sold into the U.S. and that we can repack, that
9 we can tabletize. I mean, most of the trichlor that's
10 in China is too powdery. It's got too much fines.
11 It's just not of a quality that's useful in the U.S.

12 MR. PERRY: George, one other thing to
13 emphasize, again, that what's to me is different in
14 this chemical case and the other ones that we've seen
15 before the Commission is the registration, because the
16 registration - it's not a situation where Naning and
17 China gets the registration and can export as much as
18 it wants to the United States. The registrations are
19 being held by the importers and the tableters. So,
20 it's a much more difficult thing for a Chinese company
21 to come into this market.

22 MR. FERENTINOS: There is no Chinese company
23 with a registration. Delsa has a registration. It is
24 a producer of trichlor. There is no producer in China
25 with a registration that it owns in the U.S. market.

1 So, no Chinese product can come in other than what I
2 buy or Jonas buys or Alden Leeds buys. And we buy for
3 our own use, not for worldwide consumption.

4 MR. DEYMAN: Finally, my last question is on
5 the imports from Hong Kong. Are any of you aware of
6 any producers of the product in Hong Kong?

7 MR. FERENTINOS: No. Naning is located
8 close to Hong Kong. It probably is Naning product
9 being shipped out of Hong Kong.

10 MR. DEYMAN: Thank you for your answers. I
11 have no further questions.

12 MR. CARPENTER: Ms. Driscoll?

13 MS. DRISCOLL: Hello, I'm Karen Driscoll
14 from the Office of General Counsel, again. Thanks to
15 all of you for being here today. I'd like to first of
16 all make sure I've got your arguments on the legal
17 issues. First of all, Mr. Epstein, you seem to
18 disagree with Petitioners domestic like product
19 definition.

20 MR. PERRY: Yes. I think we'll be trying to
21 argue that trichlor and dichlor are two separate like
22 products. We're going to try to get authority.

23 MS. DRISCOLL: If you make that argument,
24 would you, also, state who you consider to be the
25 domestic producers for each of those domestic like

1 products and, also, if you would, also, use - well,
2 discuss the sufficient production-related activity for
3 the -

4 MR. PERRY: The tableters.

5 MS. DRISCOLL: - tableters. Do you consider
6 them to be part of the domestic industry?

7 MR. PERRY: I think they probably are, but
8 we have to look at that and issue a value on that.

9 MS. DRISCOLL: Okay. And if you could,
10 also, look at the value added, as Mr. Reavis
11 discussed, the percentage, to the extent you know it.
12 I don't expect you to have that here, but it could be
13 confidential, but that is very - that's going to be
14 important to the Commission, at least in the issue
15 that they'll be looking at.

16 In terms of cumulation, in terms of - for
17 Delsa, do you - in terms of the four factors, do you
18 have - I guess George talked - spoke on this -- do you
19 see any distinctions between either the U.S. product
20 and the Spanish product, the Spanish product and the
21 Chinese product, in terms how they are sold in the
22 U.S. or their characteristics?

23 MR. BALCELLS: In our opinion, the
24 characteristics of the product for the European market
25 or the American market are exactly the same.

1 MS. DRISCOLL: Okay.

2 MR. BALCELLS: Perhaps some in the States,
3 perhaps there is some special requirements, in terms
4 of PM spot removal of sodium, for instance, or things
5 like that, that in Europe doesn't work. But, this is
6 just a requirement that we meet to and it's not
7 complicated. The product is exactly the same.

8 MS. DRISCOLL: Same. It's not so much the
9 markets, but from the different countries. So, you
10 don't really see a difference between the different -
11 between the product from the -

12 MR. BALCELLS: No.

13 MS. DRISCOLL: - okay; all right.

14 MR. JAMES: Excuse me, if I can clarify
15 something.

16 MS. DRISCOLL: Okay.

17 MR. JAMES: My name is Dennis James with
18 Cameron & Hornbostel, counsel for Delsa. Our position
19 on cumulation is, it's not so much with respect to
20 injury, with respect to threat of injury, we believe
21 that there is most only a threat of injury. And under
22 the statute, if there is only threat of injury, the
23 Commission is not required to cumulate the two
24 countries. So, it's not a question of the products
25 being different, but the issue here is whether there

1 is threat or whether there is injury, and we believe
2 there is only threat. And since Spain is not a
3 threat, it should not be cumulated with China.

4 MS. DRISCOLL: Do you see any difference in
5 import patterns that would relate to that?

6 MR. JAMES: In terms of import patterns,
7 yes. I mean, it's pretty clear that the Chinese
8 material is increasing at a much, much faster rate
9 than the Spanish material. So, there is that factor.
10 And as we've said, as Ms. Davenport said, the Spanish
11 material is a price follower. It's not setting the
12 prices in this market. It's going along with whatever
13 the market would bear. And, obviously, the Spanish
14 company would prefer to raise its prices, but it's
15 unable to do so.

16 MR. JUAN: So, in fact, our position in the
17 U.S. market after so many years being here is very
18 modest in terms of percentage of product. Eleven
19 years importing to the States, our market quota,
20 market participation is very modest. Of course, we
21 have nothing to increase very rapidly.

22 MS. DRISCOLL: Okay. And the Chinese
23 response, how do you feel about cumulation? Do you
24 think that -

25 MR. PERRY: We'll look at that in our post-

1 hearing brief. I think there is a similarity in the
2 product, but let me look at it.

3 MS. DRISCOLL: Okay. And, also, in terms of
4 - if Delsa could come up - if you have anymore
5 additional information on the discussion, I think it
6 was by the Petitioners, of a potential EU antidumping
7 order, do you know anything - or investigation, do you
8 have any information on that?

9 MR. JUAN: We have decided very recently to
10 try to start an antidumping proceeding against Chinese
11 import into Europe.

12 MS. DRISCOLL: Okay.

13 MR. JUAN: We have filed a case before the
14 Commission. We know that it is now being decided.
15 That's because we want expediency in our markets in
16 Europe. In the local market in Spain, the same kind
17 of prices are increasing. It's been very evident, the
18 rapid increase of the Chinese.

19 MS. DRISCOLL: Okay. So, in fact, if I
20 understand you correctly, you are actually one of the
21 parties, who have taken action to start such a -

22 MR. BALCELLS: We are the one taking action,
23 yes.

24 MS. DRISCOLL: Oh, okay; all right. That's
25 all my questions, at this time, Mr. Carpenter.

1 MR. CARPENTER: Mr. Benedetto?

2 MR. BENEDETTO: Thank you all for your
3 testimony. If I ask any questions that are
4 confidential, please say so and follow up in a post-
5 conference brief. My first question, I guess, is for
6 the tableters, and I asked this, this morning. I
7 probably should have asked just you all. Can you or
8 do you mix chlorinated isos from different sources in
9 the same tablets ever?

10 MR. FERENTINOS: You mean, different
11 supplied sources?

12 MR. BENEDETTO: From different suppliers,
13 right.

14 MR. FERENTINOS: Probably not, but it's -
15 but, you know, when you fill a machine up, it comes in
16 a super sack. If that super sack is empty, the next
17 super sack may not be from the same manufacturer.

18 MR. BENEDETTO: Okay.

19 MR. FERENTINOS: That's just a process.

20 MR. BENEDETTO: So, a branded tablet that
21 you might - if you product a branded tablet, it could
22 have different chlorinated isos in it or from one -

23 MR. FERENTINOS: There's no such thing as a
24 branded tablet. A tablet, itself, is put into a
25 branded bucket. The bucket has the brand. The tablet

1 is - if it came - if the raw material came from
2 Clearon or Oxi or Delsa, it would be pretty much
3 indistinguishable.

4 MR. BENEDETTO: Okay. So within a bucket,
5 you could have material from different -

6 MR. FERENTINOS: In a bucket, depending upon
7 when that bucket went through production and what was
8 happening at the tablet press, you could have a Delsa
9 tablet and a Clearon tablet in the same bucket, yes.

10 MR. JONAS: Personally, for myself, I would
11 say, no, because, especially, Chinese, the material is
12 different, has different density. So, if I were to
13 run it in my tablet press, I would have to adjust the
14 pressure to identify the different material. So, you
15 wouldn't want to really go from one to another,
16 especially Chinese.

17 MR. BENEDETTO: After the tablet is made,
18 could you put all the tablets in the same bucket,
19 though?

20 MR. JONAS: Sure.

21 MR. BENEDETTO: Okay. And for the
22 repackers, you said you sell other pool products.
23 Specifically, what else do you sell and how relatively
24 important are chlorinated isos compared to the other
25 products that you sell?

1 MR. FERENTINOS: For us, chlorine probably
2 represents around 50 to 60 percent of the dollars that
3 we collected at wholesale to our retail customers. It
4 represents an insignificant part of the profit,
5 because we're all being forced to sell at low prices.
6 You've got to remember, we didn't start - the Chinese
7 imports didn't start this. It starts back at Biolab,
8 who took the price down to 80 cents. That's the
9 differential in the marketplace.

10 Way before the Chinese came in, the market
11 price was being driven down. Biolab was, in fact,
12 lowering prices to its customers, its customers being
13 the big box mass merchants. The Walmarts of the
14 world, the Home Depots of the world were squeezing the
15 Biolab and probably Arch, at the same time. That
16 ripples through our customer base. Our customer base
17 is primarily the independent pool dealers, which make
18 up a majority - you know, a large percentage of the
19 business, but not as big as Cosco or Walmart or K-Mart
20 or all those others.

21 And so, the price came down. I mean, as
22 Steph has said, we find ourselves in a squeeze. We
23 find ourselves where our customers, because of what
24 Biolab had done in the past, expecting lower prices.
25 And so, they say, hey, look, look what's happening in

1 the marketplace. I can go to a Cosco and get a 25-
2 pound bucket of tabs at lower than what you're selling
3 to me at wholesale. That's an intolerable situation.
4 How can that happen? How can I have a customer, who
5 says to me, hey, look, you're selling tabs in a 25-
6 pound bucket more expensively than I can go to Cosco
7 and buy it? And the problem with that is you've got a
8 Biolab and an Arch in a battle for mass merchants,
9 lowering prices, lowering prices, lowering prices.

10 The problem we have is that we're not a
11 producer. Biolab is a producer, can lower prices, it
12 can decide where it wants to spend the profit. It
13 either wants to make profit at the producer level or
14 make profit at the bucket level. We have to buy
15 granular product and tabletize. We have to buy those
16 granules, that molecule from Delsa or from Clearon.
17 Those are the only two. We can't buy it from Biolab.
18 Biolab hasn't got a pound to sell to anybody. Can't
19 buy it from Oxi, because Oxi doesn't have a pound, it
20 looks like, I mean, to buy it. So, we can only buy it
21 from Clearon.

22 But here's the twist of that market.
23 Clearon decides not only does it want to sell granular
24 product to us, it wants to sell that 25-pound bucket
25 to Cosco and to our customers. So, that's an

1 intolerable position. I mean, we're having to -
2 you're forcing us to buy from Clearon, a competitor,
3 who has also changed its market model to go
4 downstream. It goes to our distribution channels. It
5 goes to our distributors and says, hey, look, you want
6 to buy a trailer load of 25-pounders. We'll give it
7 to you for a buck. We're paying 80 cents for raw
8 material. I've got to tabletize it. I've got to put
9 it in the bucket. I've got to sell it to the - I've
10 got selling cost for it. And at the same time, I'm
11 supposed to make some money and I can't.

12 That's my problem. It's not a pricing
13 problem. It's a problem that Clearon and Biolab have
14 screwed up this market. They're the ones that have
15 lowered the price. And the price differential, Steph
16 said it, we used to pay \$1.60 a pound for trichlor.

17 MR. PERRY: One-dollar-sixty-five.

18 MR. FERENTINOS: One-dollar-sixty-five for
19 trichlor. Today, the price today is 80 cents. Before
20 the Chinese came into this market, that price went
21 down to 80 cents, and maybe even lower than 80 cents
22 for some very, very large unique situations. So, it's
23 not the Chinese that took \$1.65 and rammed it down in
24 half to 80. That was way before the Chinese. That
25 was the market that did that.

1 Now, if the local - if Clearon - I mean,
2 Biolab has no problem selling, because it's model from
3 the very beginning to be not to sell granulars, not to
4 sell to repackers, but to sell downstream. It looks
5 like Clearon has said to themselves, hey, let's follow
6 the Biolab model. To hell with Arch. We're not going
7 to sell to Arch. We're going to sell to Arch's
8 customers. And to hell with us, we're going to go
9 back to the repackers customers.

10 Well, you asked the question earlier, how
11 many repackers are there in the United States.
12 There's less than 10 of us. I mean, this is not a big
13 industry. First of all, you've got to remember, I
14 can't sell this in any State. Forget that I have to
15 have a federal registration, I can't sell it in any
16 State without being registered. If I wanted to sell
17 this product in New York State, for which is a major
18 market for us, from the time I enter a registration in
19 New York State to the time I get approval can be nine
20 months. So, from the time I decide I'm going to sell
21 this brand - the product inside is all the same. I've
22 got four, five, 10 brands in New York, all with the
23 same product inside, all with that same three-inch
24 tab, but it's got a different name on the label. And
25 that - in New York State and all States represent a

1 different product, and I have to register that product
2 in each and every State. I've got to pay a
3 registration fee, which is hundreds of dollars - not
4 thousands, but hundreds.

5 But that's not the problem. The problem is,
6 I've got a nine-month wait. I can't go to a customer
7 today and say to him, during the season, I'll supply
8 you a product, especially if he's a private-labeled
9 customer, which means he has his own brand. I can't
10 go there. I can say to him, look, do business with me
11 next year, give me nine months to get a registration.
12 So, it's not a fluid market. I mean, it's not -
13 that's the reason why there's only nine. That's the
14 reason why we very rarely have new customers. I mean,
15 you can ask Steph how many new customers he gets a
16 year, near zero. You can ask me how many new
17 customers we get every year, near zero.

18 MR. JONAS: I only get them because someone
19 messes up.

20 MR. FERENTINOS: Yeah, you know, I mean, if
21 Biolab can't supply, like right now, I mean, because
22 of their fire, they may have a little bit of a
23 shortfall. So, you may get a Biolab customer coming
24 to us and saying, sell us a product. If I have it
25 registered in that State and they're willing to take a

1 brand that I've already registered in that State, then
2 I can sell them. But, I can't sell them if they
3 wanted their Bioguard label or they wanted their
4 private label or anything else, unless I've
5 registered. And I can tell you, in New York, it takes
6 nine months - six to nine months easily. So, it's not
7 a very - you know, marketplace that one can easily get
8 into.

9 MR. BENEDETTO: Is that the general
10 experience here?

11 MR. JONAS: You're talking a mix. We had
12 some Biolab customers come up to us, who needed
13 material right away, and they needed tablets. I said,
14 well - you know, make money in tablets. Sorry, you
15 have a mix. Okay, sure, we'll give you algaecide.
16 Okay, fine. Well, that's your answer. You know, if
17 the customer is going to cherry pick and just order a
18 couple items, where you don't make money on, I'm not
19 interested whatsoever. I want to make money on the
20 customer. And I know from experience, at least in the
21 past 30 years, I have not made money in chlorine, so I
22 know darn well, I'd better make money on everything
23 else. So, I look at the mix when I get the order and
24 if it's not there, I turn them down. I tell the sales
25 rep, go out and get the order. If it's not a full

1 line, I turn it down.

2 MR. PERRY: In economic terms, that's called
3 bundling, I believe.

4 MR. BENEDETTO: Does anyone else have any
5 comments?

6 MR. FERENTINOS: The problem we have is
7 that, unfortunately, chlorine is the one item that
8 every pool owner needs to put into its pool and it's
9 that item that has got footballed, in terms of margin.
10 There is no margin. And it's the stupidest thing from
11 a marketing point of view, the product that the
12 consumer has to buy has no margin in it. And we've
13 all tried to make margin by selling what we call
14 ancillary products. We try to sell them a ph+, a ph-,
15 an algaecide, a clarifier, everything but chlorine,
16 because that's where we can make a little money. And
17 it's nuttiness, in terms of the market model. I mean
18 the one thing - I mean, a consumer doesn't need
19 algaecide, he doesn't need clarifier, he may or may
20 not need ph+ or ph-, he may not need a minimal
21 eliminator, he may not need any of the others; but the
22 one thing he does need is chlorine and that's the one
23 thing that we don't make any money on. We just don't
24 make any money on chlorine. It's impossible, because
25 the market conditions have driven the price of

1 chlorine down, not the Chinese.

2 I mean, look, when you go from a \$1.65 to 80
3 cents, without the Chinese coming into the
4 marketplace, that's a significant - now, we're talking
5 about going from 80 cents or less, because that's the
6 true market price, to 60 cents. That differential
7 isn't what's hurting. It's that the model that the
8 producers have started have said to us, we can't do
9 business with them. We need a second source. We
10 can't do business with somebody, who is going to go
11 and undercut me at my own customer. Clearon has gone
12 to my own customers in my own backyard and said, we'll
13 sell you truckloads of 25 pounders for a buck a pound.
14 Now, what do I do? I lose this customer? It's a
15 problem that we have. It's a problem in the market
16 dynamics. It's changing. It's not just the Chinese
17 and it's just not prices.

18 MR. BENEDETTO: Thanks. Speaking of other
19 sources, has there been any impact on the U.S. market
20 of the fire in France that was referred to? Has that
21 had -

22 MR. FERENTINOS: Sure. I used to buy from
23 ICI, who had the exclusive distributorship for that
24 factory's plant. I can't buy one ounce of it today.
25 No one can. It just doesn't exist anymore.

1 MR. BENEDETTO: And when was that? That was

2 -

3 MR. FERENTINOS: Last year.

4 MR. BENEDETTO: - last year.

5 MR. FERENTINOS: Either last year or the
6 year before; I don't remember now.

7 MR. JUAN: Three years ago.

8 MR. FERENTINOS: Three years ago?

9 MR. BENEDETTO: Three years ago. What are
10 the transportation costs like to get the product
11 across from Spain or China to the United States?

12 Would that be higher than normal for a chemical or -

13 MR. ABRAMSON: Well, being, first of all,
14 that trichlor is a very hazardous product, the
15 transportation costs are now at a premium. When
16 shipping out of China, hazardous chemicals are the
17 last on the chain and the highest priced commodity
18 that you can ship out of China. We alluded to the
19 fact, in the past, that we've had problems where we've
20 had containers that have gassed off and have leaked,
21 causing problems with Coast Guard and other agencies
22 that are involved with a lot of cleanup costs and
23 fines. And the steamship companies recognize - become
24 very aware that trichlor is extremely hazardous and
25 they charge a premium for this material to come in.

1 So, our shipping costs have risen dramatically.

2 MR. BENEDETTO: You mean in the last year or
3 the last few years?

4 MR. ABRAMSON: Definitely in the last year-
5 and-a-half, two years, steadily, by almost 60 percent,
6 I would say.

7 MR. BENEDETTO: Thank you. Anyone else?

8 MR. BALCELLS: Yes. The cost of that
9 freight is more expensive than any chemical dangerous,
10 like Inco 5.1. This is an oxidizer material,
11 different dollars.

12 MR. BENEDETTO: More expensive than a less
13 dangerous chemical?

14 MR. BALCELLS: It's a 5.1 Inco, yes.

15 MR. JOHNSON: In terms of freight from
16 China, I think our observation would be, yes, part of
17 it is the nature of the product being shipped; but, I
18 think an even bigger factor in the last couple of
19 years has just been a very tight supply/demand balance
20 from China to the U.S. market for all goods. There
21 are not enough container ships. It's a great time to
22 be in the shipping business, frankly.

23 MR. ABRAMSON: They would rather take a 100
24 containers of computers or shoes than they would do
25 100 containers of trichlorites or cyanurates. And

1 what will happen to us, many, many times, is we'll
2 have 10 containers at the pier that will be bumped for
3 two or three weeks, because they're putting other
4 products on the vessel in place of ours. And that
5 does add to the costs of the goods and whatnot, that
6 we're faced with.

7 MR. BENEDETTO: What other markets are there
8 for Chinese and Spanish chlorinated isocyanurates? I
9 know we've talked a little bit about them, but does
10 anyone have anything else to add about demand in other
11 markets, how that's been changing or any other -

12 MR. PERRY: Well, the one thing you should
13 know is dichlor, and that's what Andy was talking
14 about. Dichlor is a little different, because dichlor
15 was, also, used in bleach, right, and, also in
16 laundry. So, it's a little bit different products.

17 MR. BENEDETTO: In what way?

18 MR. FERENTINOS: Dichlor, if you're selling
19 into an industrial user, like a Cascade dishwasher, if
20 it was a dry component, it can use dichlor and it
21 didn't have to be registered. So, it's a different
22 thing. But in the swimming pool industry, if you're
23 using trichlor or dichlor, it's got to be registered.
24 But, it's different in terms of how people use it.
25 People use it as a shock in the world of dichlor and

1 they use trichlor as a chlorinating agent, in the
2 sense that it is slow dissolving. The usage is
3 different. People look at it differently. Our
4 customers look at it differently.

5 MR. JUAN: Well, as far as we know, the
6 market is increasing all over the world. Perhaps,
7 it's a little bit lower than it used to be, but it's
8 still growing, three, four percent existing value a
9 year.

10 MR. BENEDETTO: Each year?

11 MR. JUAN: Yes.

12 MR. BENEDETTO: And would you agree with
13 what we heard this morning about the demand trends in
14 this country, that they're sort of steady growth with
15 residential housing, but with big swings due to
16 weather? Is that accurate?

17 MR. FERENTINOS: Weather has a roughly - in
18 the northeast, roughly a 10 percent differential. So,
19 here's what happens: if you're at a good year, you're
20 going to get 10 percent extra in sales; if you had a
21 bad year, like we had last year, you're going to get
22 10 percent less. So, the differential between a good
23 year and a bad year is 20 percent and that can be
24 tough.

25 And that's what happened to us, we had a

1 great year in 2002, so we had increased sales. We had
2 a lousy year, so we had decreased sales. The
3 differential between our 2002 and 2003, because of the
4 weather, was almost 20 percent, because of the
5 weather.

6 MR. ABRAMSON: I'd like to answer another
7 question that you have -

8 MR. BENEDETTO: Sure.

9 MR. ABRAMSON: -- that relates to something.
10 The answer is - I think you asked, you know, other
11 markets, where it is. I mean, Chinese are definitely
12 selling on a global basis, but the factories - the
13 amount of factories that are selling on a global basis
14 are extremely limited. And as we testified before,
15 the total capacity in China is only approximately
16 15,000 metric tons. And that should be -- the point
17 that should be made is all that capacity is not coming
18 here into the United States. It's being spread over
19 globally. Even though you've seen some growth here,
20 they're maxing out at their particular level, at this
21 particular juncture, because they're worldwide.

22 MR. BENEDETTO: Are there any other -
23 besides the United States and Europe, are there any
24 other major markets?

25 MR. FERENTINOS: Australia.

1 MR. ABRAMSON: South Africa.

2 MR. FERENTINOS: And South Africa.

3 MR. JOHNSON: We run a global business at
4 Arch and we use and buy the product literally all
5 around the world; but, our principle markets are -
6 besides the U.S., are Europe, South Africa, and
7 Brazil.

8 MR. PERRY: By the way, I might mention
9 something, because this was brought up about capacity.
10 We've given you three foreign producer questionnaires.
11 According to our people, those three represent 80
12 percent of the production in China. And you've got
13 almost - the foreign producer, almost 90 percent of
14 the imports. That's what I've been told.

15 MR. BENEDETTO: Thank you. One final
16 question for Arch, the blended product that you
17 import, you said it competes with Biolab - a Biolab
18 product. Does it compete with anything else? Is that
19 pretty much - I mean, if you don't want to answer
20 here, I understand that, but is Biolab your -

21 MR. JOHNSON: Our product is called a 3-in-1
22 tablet and I've described, in my testimony, what it
23 did and what it was and how it was different than a
24 conventional product.

25 MR. BENEDETTO: Right.

1 MR. JOHNSON: We've patented it several
2 years ago. Our patent, actually dates back to, I
3 believe, 1996, I believe, and it uses a certain kind
4 of chemistry that's described in the patent, certain
5 kind of other chemicals besides trichlorocyanurate
6 acid. It's all described in the patent and I think we
7 filed a copy of the patent with -

8 MR. BENEDETTO: With the response?

9 MR. JOHNSON: - with our response. Biolab,
10 we have seen in this year, has begun marketing a
11 product that is another type of blended product,
12 another type of multi-functional product that is,
13 also, patented, but uses a different chemistry. They
14 can't use ours, obviously, because we've got it
15 patented; but, they've got their own version of it.
16 We'd like to think that they followed us, in this
17 case, but -

18 MR. BENEDETTO: And you use to source the
19 trichlor for the 3-in-1 from U.S. companies, but now
20 you don't anymore; is that correct?

21 MR. JOHNSON: Well, we bought all of our
22 trichlor, as I mentioned, prior to mid-2003, from
23 Clearon. But, we didn't begin marketing the blended
24 tablet until this pool season, the 2004 pool season.

25 MR. BENEDETTO: Okay. Thank you all, very

1 much.

2 MR. CARPENTER: Mr. Reavis?

3 MR. REAVIS: Just a couple of questions.

4 One, would any of you like to comment on the viability
5 or accuracy of the Peer's data that the Petitioners
6 have provided to us? Well, I may put it another way:
7 is -

8 MR. PERRY: I am concerned, Larry, because
9 those imports are coming in under a basket category.
10 In previous cases, this has turned out - we've got a
11 case now, which the Commission is going to final, and
12 it was a basket category at the prelim and the
13 Commission overestimated the imports by 100 percent.
14 It was basket. So, I'm not sure this Peer's data is
15 accurate.

16 Also, we'll check with Naning to find out
17 about Hong Kong, but it's not clear to me that all the
18 imports from Hong Kong are coming in from China. They
19 could be from somewhere else. You never know, Hong
20 Kong is -

21 MR. ABRAMSON: Just so you, Naning, Hong
22 Kong is our major transshipment port. Beihai is an
23 offshoot port area, so they have to come through Hong
24 Kong and tranship through that port.

25 MR. CLARK: Mr. Reavis, just one other quick

1 comment. It's not at all unusual for a petition to
2 rely on Peer's data like it would rely on Custom's
3 data. But, I think the Commission's experience has
4 proven that the information you collect in your
5 questionnaires, especially when you have the level of
6 coverage that you have, when you're getting importer
7 questionnaires, in a case like this one, is going to
8 be vastly superior. And I can't think of a single
9 instance where the Commission has looked at Peer's
10 data and said the Peer's data is superior to the data
11 that we collect in questionnaires that are sworn and
12 subject to verification.

13 MR. PERRY: Larry, to follow up on that.
14 This is a limited industry. So, it's not like a
15 situation like in bags, I've got so many importers, I
16 can't keep track of them. But, in this case, you've
17 got really only a limited number of importers, because
18 you have a limited number of registrations. You can
19 almost figure out the number of importers by going to
20 the registrations, themselves. So, you really have
21 very limited number of importers here and I think
22 you've got all our questionnaires.

23 MR. JAMES: If I could just follow up on
24 what Mr. Clark said. In Spain's case, you have only
25 one exporter, so it's questionnaire response should be

1 what you rely upon, not any other data.

2 MR. REAVIS: Yes. We're thinking more in
3 terms of situations where we are not able to use
4 questionnaire data for any one particular country or
5 one situation. If that's the case, I would invite -
6 if you think at all that you would like to take issue
7 with some of the numbers that are in the Peer's
8 information, do so in your post-conference brief and
9 let us know what the best available alternative would
10 be, if you think there is an alternative.

11 MR. PERRY: We'll do so.

12 MR. REAVIS: And I only have one other
13 question and that's to the importers, you importers
14 and repackagers. In many industries, we often see
15 that imports have to sell at a certain amount less
16 than the U.S.-produced product, to make up for the
17 additional risk and lead times and everything else
18 that you need to bring it in. If this is, also, true
19 in your industry, if there's a tradition, how much in
20 cents per pound are we talking about, less than the
21 U.S.-produced product, are they going to have to offer
22 to before you will even consider it? There might be
23 differences between the Chinese product and the
24 Spanish product here, but if that's -

25 MR. FERENTINOS: Let me just - you know, we

1 buy from Delsa and he has to come into my factory and
2 say, you know, buy my product. And I say to him,
3 Perry, don't even talk to me until you're at least
4 five percent, and that's got nothing to do with the
5 cost of money, the freight shipments, just that he's a
6 foreign producer. It's just the difference between my
7 being able to call up a domestic supplier and within
8 two days getting the products. I don't have any of
9 the costs that deal with, you know, just in time. I
10 mean, I can call up and say, just in time, it's a
11 Tuesday, on Thursday, I want a truckload of (missed on
12 tape) where any - and it's worse with the Chinese,
13 because I've got an eight-week or bigger time frame.

14 If you want specific course -- there's a lot
15 of course factors that make a difference when we buy
16 from the Chinese, than we buy domestically. But, it's
17 hard to quantify, at least for me; maybe not for an
18 economist. To give you an example, when we buy from a
19 domestic source, we get what we call June dating.
20 That's the traditional way, in which the domestic
21 supplier sell us. June dating means that we can take
22 product in January, December, February, and not have
23 to pay for it until June. We can't do that with the
24 Chinese. The Chinese - that product has to be paid
25 for either with an LC, in some cases, which is money

1 up front before they even produce, in my case, or we
2 have to pay for it when it gets put on a container, on
3 a ship with the bill lading documents, or you have to
4 pay for it when it reaches your port. But, in any
5 case, I'm paying for that.

6 Now, it's hard to quantify what is that
7 additional cost between not having to pay for it until
8 June 10th, when I've collected all the money from my
9 customers, to having to pay for it in December. And
10 it's even worse than that, because I've got to factor
11 in that I've got to have eight weeks of time frame.
12 From the time I order something, to the time I receive
13 it is at least eight weeks and maybe longer. And
14 I've, also, got to factor in - I've got to keep
15 inventory. I've, also, got to factor in - if I have a
16 good season and I need to get an extra 10 containers,
17 I can't call them and say, send me 10 containers
18 tomorrow. That's the problem. So, it's hard to
19 quantify that, in terms of dollars. But, there are
20 significant dollar differences that a Chinese producer
21 would have to sell for us in the U.S. market to buy
22 it; but, it's hard to quantify it.

23 MR. JONAS: I agree with that, but - like
24 last year was, I would say, an off year and with the
25 Chinese, you have to tell them how much pounds you

1 need and you get it whether you product it or not.
2 And we had so much material left over that we had to
3 buy another - not buy - rent another warehouse to
4 store the material. So, where do the costs stop?
5 Material has to be paid for, you know, maybe six
6 months in advance and, then, on top of that, we have
7 maybe 10 or 20 percent, like you said, of inventory
8 left over that, you know, we can't do anything with.
9 So, we've got to take that money and wait another year
10 until we get paid. And then on top of that, we have
11 to get a warehouse to store it, because I don't have
12 the warehouse to store that much merchandise.

13 MR. FERENTINOS: At some point, we're going
14 to have to give you some estimate, but it's very
15 difficult for us, just to quantify. And we know we
16 have to; it's not that we don't, we know that we have
17 to. It's just very difficult for us to do so.

18 MR. REAVIS: Well, a range would be helpful.
19 I mean, what I'm hearing is, that, yes, they're going
20 to have to offer you a discount -

21 MR. FERENTINOS: You bet.

22 MR. REAVIS: - for you to take on the
23 product. But, each individual situation is different
24 and that discount might be one cent a pound, in one
25 case, and 10 cents per pound in another - something

1 along those lines.

2 MR. FERENTINOS: We need to work on that and
3 try to give you a -

4 MR. REAVIS: If you can give us a range,
5 maybe. And I have no further questions.

6 MR. CARPENTER: Mr. Ruggles?

7 (No verbal response.)

8 MR. CARPENTER: I just have one follow-up
9 question, again, on this 3-in-1 blended product. Mr.
10 Johnson, I know in your earlier testimony, I
11 understood you to say that the Petitioner's product
12 sanitizes, but the blended product has a couple of
13 other functions that it performs. What were those
14 again?

15 MR. JOHNSON: Clarifier and an algaecide.

16 MR. CARPENTER: Okay. And I, also - I
17 thought I heard that the great majority of the Chinese
18 product coming in is the blended product; is that
19 correct?

20 MR. JOHNSON: Since we introduced it - we
21 introduced the 3-in-1 multi-functional tablet
22 beginning in this 2004 pool season.

23 MR. CARPENTER: Okay.

24 MR. JOHNSON: And since we did that, we have
25 sourced almost 100 percent -- approaching 100 percent

1 of the volume that we've brought from the U.S. to
2 China has been that product. We do sell other
3 products, as well, but that's our sort of flagship
4 product for this pool season.

5 MR. CARPENTER: Now, again, your position is
6 that your product competes more directly with Biolab'
7 product, as opposed to Clearon's and Oxichem's
8 product?

9 MR. JOHNSON: Yes, sir, that's correct.

10 MR. CARPENTER: Okay. Because your product
11 has additional functionality, is that the reason that
12 it doesn't compete? Or what I'm getting at is this
13 issue, is there one-way interchangeability here, where
14 your product can be used in the same applications as
15 the Petitioner's product, but the Petitioner's product
16 cannot be used in the same applications as your
17 product. Does that make sense?

18 MR. JOHNSON: We believe our product has
19 special additional performance features and the new
20 product that Biolab has brought to the marketplace
21 very recently is their version of that same product,
22 and both products are superior to the conventional
23 product, in our opinion.

24 MR. CARPENTER: Okay. So, your product - if
25 I can just focus on your product, as opposed to the

1 Petitioner's product, you're saying that your product
2 is superior, because of the additional functionality.
3 But, I guess I have two questions: one is, are there
4 additional applications that your product can be used
5 in, that the Petitioner's product cannot; and if so,
6 could you provide those applications in your brief or
7 now?

8 MR. JOHNSON: Our business is totally the
9 pool and spa business.

10 MR. CARPENTER: Okay.

11 MR. JOHNSON: So, it's - we believe our
12 product performs better -

13 MR. CARPENTER: Okay.

14 MR. JOHNSON: - in swimming pool
15 applications.

16 MR. CARPENTER: Then, does it compete with
17 the Petitioner's product, but it's just a superior
18 product; is that what you're saying?

19 MR. JOHNSON: The Petitioner's product is
20 granular chlo-isos sold in 2000 pound super sacks.

21 MR. CARPENTER: Okay, well --

22 MR. JOHNSON: That was the product that was
23 described in their petition.

24 MR. CARPENTER: Let me rephrase it, then.
25 Once it's produced in a tablet form, does the tablet

1 form of their product compete with your product?

2 MR. JOHNSON: Yes, but I believe our product
3 is better.

4 MR. CARPENTER: Okay.

5 MR. JOHNSON: That is our position, is our
6 product is a superior performer.

7 MR. CARPENTER: Okay.

8 MR. CLARK: Just one added comment. The
9 nature of that competition is - Arch's proprietary
10 product provides chlorine base sanitizing for pools
11 and spas. It, also, clarifies the water and controls
12 algae. If you want to use the product that starts out
13 from Oxichem and Clearon, as both product gets
14 tableted, it comes out in pure form. All it does is
15 sanitize the water. So, if you need to sanitize your
16 water, which you do, you want to clarify your water,
17 your need to control algae, you have to buy three
18 products and bring them home from the store, as
19 opposed to you can buy a Biolab product that will do
20 all of those things at one time and an Arch product
21 that will do all of those things at one time. So, the
22 product that we have patented and that Biolab has
23 patented competes against three products.

24 MR. CARPENTER: I see. That's very helpful.
25 Just one follow-up question, then: are you able to

1 command a higher price for your 3-in-1 blended product
2 than the tablet form that just does the -

3 MR. JOHNSON: Sanitizing.

4 MR. CARPENTER: - sanitizing? Thank you.

5 MR. JOHNSON: And that's a fair question,
6 sir. I'll have to - can we get back with you on that?

7 MR. CARPENTER: Sure.

8 MR. JOHNSON: I'm a little bit removed from
9 the sales and marketing end of our business -

10 MR. CARPENTER: Right.

11 MR. JOHNSON: - and so, I think I need to go
12 consult with some of my colleagues and give you some
13 feedback, as to the relative pricing.

14 MR. CARPENTER: Thank you, very much. Any
15 other questions? Okay, once again, thank you for
16 coming here this afternoon and for your testimony and
17 for your patient responses to our questions. We'll
18 take another - about a 10-minute break, until 2:00,
19 and then we'll begin with the closing and rebuttal
20 statements, beginning with the Petitioners.

21 (Whereupon, a brief recess was taken.)

22 MR. CARPENTER: Could we resume the
23 conference now? Mr. Wood, whenever you are ready,
24 please come forward.

25 MR. WOOD: Thank you. Again for the record,

1 I'm Chris Wood of Gibson, Dunn, and Crutcher, and I
2 appreciate the opportunity to present these closing
3 remarks for Petitioners.

4 I'd like to start by noting some of the
5 things that, by all appearances, we seem to be in
6 agreement on, at the end of the testimony today. I
7 don't believe there's any dispute that the volume of
8 imports from China and Spain has gone up dramatically.
9 We've used the Peer's data, which we described to you
10 earlier, to discuss a 225 percent increase since 2001.
11 Obviously, if the Commission's questionnaire data is
12 sufficiently complete, we would fully expect that
13 those numbers what we back up what we see in Peer's.
14 It's shipment by shipment. And there doesn't seem to
15 be any real dispute, but that the subject imports have
16 gone up by a tremendous amount over the last few
17 years.

18 And, of course, as we heard this afternoon,
19 as well, this is, in part, with respect to the Chinese
20 imports, the same pattern that's been seen elsewhere
21 in the world. As it became easier for Chinese imports
22 to flow into Europe, we heard the Delsa
23 representatives testify that prices had gone down
24 there. We know from the antidumping decision in
25 Mexico that an influx of Chinese imports led to the

1 declines in prices there.

2 Our point is that now, we're seeing the
3 exact same thing in the U.S. market. You've heard the
4 testimony of our industry representatives this
5 morning. You saw the public statements that have been
6 made by very high ranking executives at both Biolab
7 and Arch suggesting that they are - that Chinese
8 product is coming in and, moving to the second factor,
9 price, that it's being offered at prices much, much
10 lower than what the domestic industry can sell at and
11 actually expect to run a healthy business.

12 Again, on price, I don't believe - I think
13 the testimony from the Respondents was remarkably
14 candid about that, too, and Chinese prices are much,
15 much lower than domestic prices. Spanish prices are
16 much lower. As they said, for a variety of factors,
17 these imports have to come in, have to be underselling
18 the domestics, in order to compete. And that's
19 exactly what's happened. As the volume has risen -
20 the volume has risen, because the prices are - the
21 prices being offered are continually lower and lower
22 and they go down as low as they need to get that
23 additional volume. Volume effects and price effects,
24 no real - there doesn't even seem to be much of an
25 issue there.

1 In terms of the impact on the domestic
2 industry, I can't add much more to the testimony that
3 you've heard this morning from our industry
4 representatives. Both at Clearon and Oxichem, the
5 businesses are facing a very severe crisis that's been
6 brought about in the last couple of years by the
7 increasing quantity of these imports that are coming
8 in at lower and lower prices.

9 Several of the individuals that spoke to you
10 in the second panel mentioned that no one makes any
11 money on chlorine; that you can't make any money in
12 chlorine; that they have to make their profits, well,
13 they're going to get them from accessory products,
14 like algaecides, things like that. Well, that's well
15 and good for the repackers. It's certainly well and
16 good for somebody like Arch, that covers a very full
17 line of pool-related products and can afford to use -
18 can afford to price chlorine as a loss leader, if they
19 want to. But, we don't have that recourse. Our
20 clients make chlorinated isocyanurates and that's all
21 they make. It's a very, very serious problem for the
22 industry.

23 Let me spent just a couple of moments
24 talking about the Arch-Clearon relationship, because,
25 as we anticipated, you heard two very different

1 narratives on that today. Mr. Johnson's narrative
2 starts in April 2003, where he alleges Clearon, with
3 no justification at all and for no reason at all,
4 simply tried to cram a price increase down Arch's
5 throat. Now, again, you didn't hear anyone question
6 the very significant, very serious raw materials price
7 increases, energy price increases, widely reported,
8 widely known, that forced Clearon and Oxichem to
9 attempt to recoup some of that loss. Did it work?
10 No, it didn't work. Mr. Johnson, of course, would
11 rather have us eat that entire loss, rather than go
12 back and talk to anyone else.

13 But more important than that, Mr. Johnson's
14 narrative starts in April 2003. He omitted a lot of
15 very significant history between Arch and Clearon that
16 had come before that. You heard it from Mr. Hand,
17 this morning. Back in 2000, when Clearon offered Arch
18 a contract, which, I believe, would have covered
19 everything that was discussed here this afternoon,
20 most favored nation's pricing, full requirements of
21 all their volume for trichlor and dichlor, they said,
22 no thanks, we think there might be better options out
23 there elsewhere.

24 In November 2002, when they sat down
25 together -- and I'm sorry there wasn't an individual

1 here from Arch today present at that meeting that you
2 could have spoken to about that -- when they sat down
3 together, they said, Clearon, you know you've done a
4 good job for us for a long time, but we're sorry, we
5 think we can get the product cheaper someone else.
6 And that's exactly what they did. And, again, the
7 impact of that on the industry has been fairly
8 dramatic. And so what I would suggest to you is that
9 when Mr. Johnson claims that they were offended that a
10 supplier could have attempted to raise prices on them,
11 there's a lot of background there. Arch's view of
12 that long-term relationship between Clearon and Arch,
13 itself, had been made pretty darn clear quite a bit
14 before that. Loyalty between suppliers and customers,
15 of course, is not a one-way street.

16 Let me spend just a couple of moments
17 talking about - trying to clarify a few of the issues,
18 with respect to tableting, as well, based on what we
19 heard this afternoon. Obviously, our view is that the
20 scope of this case covers chlorinated isocyanurates.
21 It covers trichlor and dichlor no matter what form
22 that they are imported in. As you heard, all of the
23 domestic industry doesn't just make bulk product; they
24 make bulk product and tablet products, being on a
25 tolling basis, be it an in-house basis. Everybody

1 makes those tablets.

2 And the other point, which I really hope
3 came through today, is that there's a supply chain for
4 chlorinated isocyanurates in the United States,
5 starting with the manufacturers of the bulk product
6 and the tableted product, and it goes down to the
7 retail level, where it's sold in these branded
8 containers, often in tablets for trichlor, often as
9 granular material for dichlor. But, events that
10 happen at different levels of that distribution chain
11 come back to affect everyone in that entire supply
12 chain. Again, you heard several of the repackers say
13 today that when prices go down, when Biolab reduces
14 its prices, when Arch reduces its prices at the retail
15 level or selling to retailers, that they're pressured
16 for similar reductions on their product. Well, in the
17 same means, we're pressured for similar reductions at
18 the primary manufacturer level, as well. It's all
19 part of one integrated supply chain and I don't think
20 it makes sense to somehow try to segregate tablets out
21 as a unique industry, in and of themselves.

22 Everything that happens in tablets at retail in the
23 distribution level affects bulk and vice versa.

24 Let me, also, just spend just a moment on
25 this blended tablet issue that we heard quite a lot

1 about this afternoon. I will confess, I'm not
2 personally very familiar with this 3-in-1 tablet
3 thing. I haven't moved up to having my own pool yet,
4 I guess, and it's a new product. But, from all
5 appearances, the blended tablets compete in the same
6 pool sanitization market as trichlor, itself - as the
7 trichlor tablets, itself. The understanding that we
8 have is that the product is mostly trichlor. Perhaps,
9 it's got some other minor additives that were
10 mentioned this after. But the key point is this: is
11 that it sounds very much like the argument that this
12 Commission sees on a routine basis, which is that one
13 product, which competes in the same market as other
14 products, with just slight differences or variations,
15 some marketing, some perhaps functional, that they're
16 all part of a continuum in the pool sanitization
17 market. You can use Arch's 3-in-1 or you can go out
18 and buy the regular trichlor tablets and use them for
19 exactly the same thing.

20 Again, I think I heard one or two
21 individuals refer to things like algaecides as
22 ancillary. These are minor products. You can choose
23 whether to use them or not. If you can offer - what
24 you're basically offering is what you have to have,
25 which is the trichlor. You have to have the trichlor

1 to keep the chlorine in your pool. The other things,
2 some consumers may be persuaded that there is an
3 additional benefit there. Some may decide that
4 there's not. But, it's all part of a continuum.

5 So, in conclusion, I think that where we
6 wind up at the end of today is very much where we
7 started. There's no question, but that there's a
8 large increase in imports; that the prices are down --
9 everyone in the market seems to recognize it; and that
10 the domestic industry, we think the evidence that --
11 the data we've submitted speaks for itself. There's
12 some very serious injury going on here. We, very
13 much, appreciate your consideration and we hope we'll
14 see an affirmative preliminary determination, in this
15 case. Thank you.

16 MR. CARPENTER: Thank you, Mr. Wood. Would
17 the Respondent representatives please come forward, at
18 this time.

19 (Pause.)

20 MR. CLARK: Thank you. Once again for the
21 record, Mat Clark of Arent Fox, for Arch Chemicals.
22 Just a few very short comments.

23 Mr. Wood just started off, as is often done
24 in rebuttal, trying to recite the points of agreement
25 and one of the points of agreement he alluded to were

1 statements that were attributed to interestingly
2 Biolab and to Arch, who, after all, are a U.S.
3 producer and an importer of a unique product that is
4 distinct in the market. And what did both say? I ask
5 you to look at their page seven: big word, next to
6 last line, 'undifferentiated product.' The product
7 that Arch sources from China is a highly
8 differentiated product. In fact, it is the whole
9 reason that it is patented. It did not read on any
10 prior art. It is unique in the market and it competes
11 head-to-head with a product that is manufactured not
12 by these Petitioners. These Petitioners manufacture,
13 sell to tableters a bulk product and sell direct a
14 tableted product that is pure. That is an
15 undifferentiated product.

16 They do this, on this chart, in a way that
17 is not completely illustrated. One of the things that
18 is very noteworthy about the table, the illustration
19 they put on page 12, here, we have a situation where
20 they illustrate Biolab going all the way through,
21 through its captive tableting, to the end market. You
22 don't see lines like that for Oxichem and Clearon.
23 But, you had testimony today to the effect that that
24 is exactly the strategy that both have adopted. So
25 from the perspective of Arch, we have the situation

1 where not only did Clearon attempt to leverage its
2 position, but it is, by its own admission, going into
3 direct competition with Arch. Thank you.

4 MR. JOHNSON: Steve Johnson, Arch Chemicals.
5 Just a couple of follow-up comments. One, you've
6 heard a lot about the famous Clearon April 2003 price
7 increase and some rebuttal just now. I just wanted to
8 make sure that everybody understands, we paid the full
9 impact of that price increase to Clearon for the
10 balance of the 2003 season. And it appears from
11 everything that we could gather and you've some -
12 there's some - I heard some additional things today,
13 that we were, if not the only one that paid that, we
14 were one of the few Clearon customers, who ended up
15 paying that. We did.

16 Secondly, I want to turn, also, to the same
17 chart that - from the Petitioners on page 12. I was
18 struck by the description of the industry and the
19 attempt to describe this as the sort of monolithic
20 industry here and to really belittle the two middle
21 bars on the chart. Really, the only thing that really
22 matters in this industry is the manufacturer of the
23 raw product and the retail sale at the consumer level,
24 and the other two segments here are seemingly
25 unimportant, easy to do, and there's nothing magical

1 about that. And I think that does this industry an
2 injustice to characterize it, in that way.

3 MR. PERRY: William Perry of the law firm
4 Garvey Schubert. Just a couple of brief points here.
5 Petitioners, in their rebuttal, basically say first
6 that imports are rising. Well, in the case of China,
7 when you go for a low base of zero in 2001, yes,
8 imports are going to rise. It depends upon what base
9 you're starting from.

10 More importantly, there's a common theme
11 here and the common theme is that prices are going
12 down at the mass merchandising level and have gone way
13 down before the Chinese even showed up. Biolab is a
14 domestic producer. It's part of the industry. And if
15 it's driving prices down, it's not caused by the
16 Chinese.

17 The other problem that's driving the prices
18 down is what happened to Arch. First, they have a
19 blowup with Arch over the contract; but, then, they
20 decide to compete against Arch, just like they tried
21 to compete against my tableters in the downstream
22 markets. And when you do that, prices go down.

23 The issue is cause; the causal link.
24 Remember, any material injury here has to be by reason
25 of the imports from China. If you, the domestic

1 company, are the one driving down the price and
2 creating the low prices, it's not the Chinese that are
3 the cause here. It's something else that's going on.
4 Thank you, very much.

5 MR. JAMES: For the record, my name is
6 Dennis James, counsel for Spain. I will be very
7 brief, because, in a sentence, Spain is not the
8 problem. We would not be here today if Spain were the
9 only exporter to the United States. You heard from
10 the Petitioners that the problem began in 2001. What
11 happened in 2001? EPA registrations became available
12 to another major exporting country. Spain, you, also,
13 heard, had its registration back as early as 1993 and
14 Mr. Price admitted this. You've, also, heard
15 testimony from the Petitioners that China is driving
16 prices down. You heard testimony from the importers
17 that Biolab is driving prices down. As far as Spain
18 is concerned, it doesn't matter who is driving prices
19 down, what matters is that Spain has to stay in the
20 market and all it can do is follow those prices.

21 You heard Mr. Wood, in his closing argument,
22 say, 'China's prices are much, much lower,' I'm
23 quoting. Then, almost as an afterthought, he thought
24 to add Spanish prices are, also, lower. We believe
25 that this case, at most, is a threat case; that there

1 might be threat, but there's clearly no material
2 injury. And Spain is not a threat. And if you find
3 the case is threat, you are not required to cumulate
4 Spain with China.

5 Now, I do want to make one comment, because
6 Mr. Wood repeated the statement that imports from
7 these two countries have increased by 225 percent. I
8 hate to correct his math, but the correct amount is
9 125 percent. That's all I have to say. Thank you.

10 MR. CARPENTER: Thank you, gentlemen. In
11 closing, let me just mention a few key dates. The
12 deadline for both submission of corrections to the
13 transcript and for briefs in the investigation is
14 Wednesday, June 9. If briefs contain business
15 proprietary information, a non-proprietary version is
16 due on June 10th. The Commission is tentatively
17 scheduled to vote on the investigation for Monday,
18 June 28, at 11:00 a.m. It will report its
19 determinations to the Secretary of Commerce later that
20 day. Commissioner's opinions will be transmitted to
21 Commerce on July 6th.

22 Thank you for coming. This conference is
23 adjourned.

24 (Whereupon, at 2:21 p.m., the hearing was
25 concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Chlorinated Isocyanurate from
China and Spain

INVESTIGATION NOS.: 731-TA-1082 & 1083 (Preliminary)

HEARING DATE: June 4, 2004

LOCATION: Washington, D.C.

NATURE OF HEARING: Briefing and vote
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: 6/4/04

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

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

SIGNED: Carlos Gamez
Signature of Proofreader

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

SIGNED: Kyle Patrick Johnson
Signature of Court Reporter