

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
CIRCULAR WELDED CARBON-) Investigation Nos.:
QUALITY STEEL PIPE FROM) 701-TA-447 and
CHINA) 731-TA-1116 (Final)
)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
 CIRCULAR WELDED CARBON-) 701-TA-447 and
 QUALITY STEEL PIPE FROM) 731-TA-1116 (Final)
 CHINA)

Tuesday,
 May 13, 2008

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

The hearing commenced, pursuant to notice, at 9:33 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, Chairman, presiding.

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On behalf of the International Trade Commission:Commissioners:

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 DEANNA TANNER OKUN, COMMISSIONER
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 THE HONORABLE BLANCHE L. LINCOLN, United States
 Senator, United States Senate, State of Arkansas
 THE HONORABLE EVAN BAYH, United States Senator,
 United States Senate, State of Indiana
 THE HONORABLE MARK PRYOR, United States Senator,
 United States Senate, State of Arkansas
 THE HONORABLE SHERROD BROWN, United States
 Senator, United States Senate, State of Ohio
 THE HONORABLE ROBERT P. CASEY, JR., United
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 Commonwealth of Pennsylvania
 THE HONORABLE PHIL ENGLISH, U.S. Congressman,
 U.S. House of Representatives, 3rd District,
 Commonwealth of Pennsylvania
 THE HONORABLE MARION BERRY, U.S. Congressman,
 U.S. House of Representatives, 1st District,
 State of Arkansas
 THE HONORABLE TIM RYAN, U.S. Congressman,
 U.S. House of Representatives, 17th District,
 State of Ohio
 THE HONORABLE JASON ALTMIRE, U.S. Congressman,
 U.S. House of Representatives, 4th District,
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Organization and Witness:

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 John Maneely Company
 MARK MAGNO, Vice President, Standard Pipe, Fence
 and Sprinkler Sales, Wheatland Tube Company
 and Sharon Tube Company

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Allied Tube & Conduit
WILL BOGGS, Vice President, Fence Division,
Allied Tube & Conduit
TOM CONWAY, Vice President, International, The
United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied-Industrial and
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DON FINN, Vice President, Sales, Western Tube &
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SCOTT BARNES, Vice President, Commercial, IPSCO
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SCOTT KAPLAN, Consultant, The Brattle Group
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Inc., Shamrock Building Materials Inc.:

JUN LEE, Vice President and General Manager,
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APPEARANCES: (Cont'd.)

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On behalf of Western International Forest
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DOUG RUDOLPH, Steel Trade, Western
STEVE STIPE, Steel Trade, Western
LAURA FRAEDRICH, Of Counsel
DANIEL J. GERKIN, Of Counsel

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P R O C E E D I N G S

(9:33 a.m.)

1
2
3 CHAIRMAN PEARSON: Good morning. On behalf
4 of the U.S. International Trade Commission, I welcome
5 you to this hearing on Investigation No. 701-TA-447
6 and 731-TA-1116 (Final), involving Circular Welded
7 Carbon-Quality Steel Pipe from China.

8 The purpose of these investigations is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury
11 by reason of subsidized imports and less than fair
12 value imports of circular welded carbon-quality steel
13 pipe from China.

14 I would note for the record that
15 Commissioner Pinkert is recused so is not
16 participating in these proceedings. The schedule
17 setting forth the presentation of this hearing, notice
18 of investigation and transcript order forms are
19 available at the Secretary's desk.

20 All prepared testimony should be given to
21 the Secretary. Please do not place testimony directly
22 on the public distribution table. All witnesses must
23 be sworn in by the Secretary before presenting
24 testimony. I understand that parties are aware of the
25 time allocations.

26 Any questions regarding the time allocations

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

5 Madam Secretary, are there any preliminary
6 matters?

7 MS. ABBOTT: Mr. Chairman, all witnesses
8 have been sworn for today's hearing. There are no
9 other preliminary matters.

10 CHAIRMAN PEARSON: Very well. Please
11 announce our first congressional witness.

12 MS. ABBOTT: Our first speaker is the
13 Honorable Arlen Specter, United States Senator,
14 Commonwealth of Pennsylvania.

15 CHAIRMAN PEARSON: Good morning, Senator
16 Specter.

17 MR. SPECTER: Good morning. May it please
18 this very distinguished Commission. It's always a
19 pleasure to appear before this very distinguished body
20 reminiscent of my days as an appellate lawyer when I
21 made similar appearances.

22 Most of the time now I get to ask the
23 questions in the confirmation hearings for Chief
24 Justice, and a variety of Judges and other public
25 officials, so it is a little role reversal but
26 something that I have always enjoyed doing and always

1 make it a point to do because of the very important
2 issues which are involved for your decision which have
3 such a great impact on our national welfare, our
4 national security, our industrial base and many, many
5 jobs in America.

6 The issue which confronts the Commission
7 today is whether to apply new antidumping and
8 countervailing duty orders with respect to Chinese
9 circular welded carbon steel pipe. This issue comes
10 before the Commission in a context where action has
11 already been taken by the Department of Commerce.

12 Under Sections 705(b) and 735(b) of the
13 Tariff Act of 1930, the International Trade Commission
14 must determine whether, "an industry in the United
15 States is materially injured or threatened with
16 material injury or the establishment of an industry in
17 the United States is materially retarded", by reason
18 of subsidized and less than fair value imports from
19 China of circular welded carbon-quality steel pipe.

20 The Department of Commerce has already
21 preliminarily determined that, "the countervailing
22 subsidies are being provided to producers and
23 exporters of circular welded carbon-quality steel pipe
24 from the Peoples Republic of China", and it is, "being
25 or is likely to be sold in the United States at less
26 than fair market value".

1 The Commission must now determine if
2 domestic industry is materially injured or threatened
3 with material injury, and the things to consider are
4 likely volume, price affects and the impact of China's
5 actions on the U.S. industry.

6 I submit that the record is clear with
7 respect to the narrow issue which this Commission has
8 to decide, and that is the issue as to whether there
9 is injury. If you take a look at the China surge it
10 is absolutely overwhelming. In 2002 they had 10,000
11 short tons; 2005, 382,000 short tons; 2007, 750,000
12 short tons.

13 If you look to the future, in 2006 they had
14 the capacity for 37 million metric tons, and by the
15 year 2010 it is projected that they will have the
16 capacity for 45 million metric tons. So when those
17 undeniable statistics are evaluated there is no doubt
18 of the tremendous, tremendous impact and injury to the
19 United States and the loss of jobs.

20 We have seen this occur in a context of a
21 reeling U.S. steel industry. In 1960 there were
22 573,000 steel workers in this country. Today, there
23 are 127,000 steel workers. There are 20,000 steel
24 workers in Pennsylvania, a very, very small number
25 from what it used to be.

26 Among those, there are 5,000 in the pipe and

1 tube fitting line, which is the question in issue
2 today. This proceeding by the Commission is not
3 subject to reversal by the President, which is a very,
4 very important item.

5 When I was here in the year 2005 and had a
6 favorable decision from this distinguished Commission,
7 a 4-2 decision, regrettably, the President overturned
8 it, and that has caused the loss of some 400 jobs at
9 Wheatland Steel in the Shenango Valley, Sharon,
10 Pennsylvania.

11 Today we have in this hearing room two bus
12 loads of workers who came from the valley. I asked
13 them what time they left this morning. They said 1:00
14 a.m. I said well, that's practically yesterday to
15 come down. They're here to observe their government
16 in action, they're here to observe their Senator in
17 action and they're here because their jobs are on the
18 line.

19 It's a tough economy, as we all know, and
20 this has been at the top of my agenda in the 28 years
21 I've been in the United States Senate going back to
22 1980 when the trigger price mechanism was the key, and
23 we have been fighting these Chinese imports again and
24 again.

25 In August of 2006, less than two years ago,
26 I was a part of an eight member Senate delegation to

1 visit China to have talks with the Chinese. Let me
2 tell you, it is not a congenial experience. Senator
3 Stevens and Senator Inouye led our delegation, and we
4 wanted to talk to them about trade, and about
5 commodity and about observing international law and
6 international rules, and at every turn we were
7 stonewalled.

8 I was particularly concerned about an issue
9 which is not on trade but it shows the attitude of the
10 Chinese government and their ranking officials. At
11 that time, Israel and Hezbollah were fighting. They
12 turned up Chinese missiles with Hezbollah, a flat
13 violation of international law.

14 They had gone from China, to Iran, to Syria,
15 to Hezbollah. When I sought to confront the Chinese
16 with what they were doing, they wouldn't so much as
17 reply -- not so much as reply. We have seen China on
18 the international field -- these are harsh words for a
19 great nation but I think it is true -- acting
20 irresponsibly in shipping toys which are dangerous,
21 which have caused deaths of children, in shipping
22 tainted food.

23 We have seen their response on human rights
24 in Tiananmen Square, and we have seen what they are
25 doing in Tibet, we are seeing what they are doing in
26 the Sudan, and it is really important as we move

1 forward and try to maintain our economy and to try to
2 maintain our standard of living that in areas where we
3 are backed by international law that we ought to
4 utilize the international law which we have to keep
5 jobs in the United States.

6 There is no doubt about the material injury,
7 there is no doubt about the violation of our antitrust
8 laws and the issue is a narrow one but one of really
9 great, great importance.

10 I think it is really important to focus on
11 the fact as to what the Department of Commerce has
12 decided as the countervailing subsidies are being
13 provided to producers and they are likely to be sold
14 in the United States at less than fair value so that
15 the issue comes down to whether the Commission decides
16 that the domestic industry is materially injured or
17 threatened with material injury.

18 When you take a look at the enormous
19 increase in the metric tons from 10,000 metric short
20 tons in 2002 to 750,000 last year and the projections
21 from 37 million metric tons capacity in 2006 to 45
22 million tons in 2010, I think it is a plain case and
23 one where we do have the opportunity within the
24 boundaries of existing international law to take a
25 stand.

26 On behalf of 400 people here from Wheatland,

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1 and more fundamentally, on behalf of 127,000 steel
2 workers, and more fundamentally than that, on behalf
3 of 280 million Americans, I ask this distinguished
4 Commission to find this injury and grant the relief
5 requested.

6 Be pleased to respond to questions, and, as
7 I always say, I'd be pleased not to respond to
8 questions.

9 CHAIRMAN PEARSON: Thank you, Senator
10 Specter.

11 Does any Commissioner have a question for
12 Senator Specter?

13 (No response.)

14 CHAIRMAN PEARSON: Okay. Thank you very
15 much. We'll let you return to your other duties
16 without unnecessarily detaining you here.

17 MR. SPECTER: Let me conclude by thanking
18 you all for the very distinguished work which you do
19 on this very, very important Commission for the public
20 welfare. Thank you.

21 MS. ABBOTT: Our next speaker is the
22 Honorable Mark Pryor, United States Senator, State of
23 Arkansas.

24 CHAIRMAN PEARSON: Welcome, Senator Pryor.

25 MR. PRYOR: Thank you, and thank you for
26 having me here today. Good morning to everyone here,

1 and appreciate you having me in. I know it's a very
2 busy day. I'm going to try to be very brief. It's an
3 honor to appear before the Commission today on behalf
4 of Standard Pipe Producers with production facilities
5 in Arkansas.

6 In the last two decades, Arkansas has become
7 a major center for steel pipe and tube manufacturing.
8 In the mid-1980s Century Tube and Omega Tube opened
9 facilities in Pine Bluff and Little Rock well before
10 Nucor flat-rolled steel facility, which began
11 operations in the early 1990s in Hickman, which is
12 near Blytheville, Arkansas.

13 Nucor came to Arkansas in part because there
14 were already pipe producers there to whom they could
15 sell steel. Later, companies like IPSCO, Maverick and
16 Atlas came to Blytheville, Hickman, because they could
17 source steel efficiently from Nucor.

18 In addition to these facilities making the
19 subject standard pipe producers' line pipe, OCTG and
20 structural tubing, we also have two plants under
21 construction in Little Rock to produce large diameter
22 line pipe for oil and gas pipelines. In the State of
23 Arkansas, we literally have thousands of jobs and the
24 contribution of hundreds of millions of dollars to our
25 state's economy by virtue of the steel and pipe tube
26 industries.

1 Our governor, his state economic authority
2 and the Arkansas congressional delegation have all
3 worked hard to develop a business atmosphere conducive
4 to attracting these excellent, high paying jobs to our
5 state. However, continued success in this area is
6 predicated upon the vigorous enforcement of our trade
7 laws.

8 While I've shared with you the current
9 successes of the steel industry in Arkansas, it has
10 not all been good news for the industry in my state.
11 In the late 1990s, Omega Tube and Century Tube were
12 acquired, respectively, by Allied Tube and Wheatland
13 Tube.

14 These companies struggled with surging
15 imports from China over the last decade and eventually
16 were forced to make tough business decisions. In
17 fact, during the summer of last year when imports from
18 China were exceeding 100,000 tons per month, Wheatland
19 was forced to cease its operation in Little Rock.

20 They closed the plant in September of 2007
21 resulting in the permanent loss of 125 jobs in
22 Arkansas. The loss of these jobs and the critical
23 state of the steel industry in Arkansas is why I
24 appear before you today.

25 I understand that there is an issue before
26 the Commission today to consider whether critical

1 circumstances exist to impose countervailing and
2 antidumping duties 90 days retroactively to imports
3 from China in order to remedy the import surge that
4 occurred after the filing of the petition as importers
5 rushed in orders ahead of the Department of Commerce
6 preliminary determinations.

7 As someone representing the workers and the
8 companies in my state, I would like to share my
9 opinion on this matter. I strongly believe that this
10 import surge is responsible for the loss of many
11 important jobs in Arkansas, and any remedy short of
12 critical circumstances funding would be insufficient.

13 It is my hope that you will see this case in
14 the same light and come to the same conclusion. I
15 also want to make you aware of another related concern
16 that's on my mind. As you know, steel producers in my
17 state have recently filed new cases against line pipe
18 from China and Korea.

19 I worry that if this Commission does not
20 make an affirmative critical circumstances decision in
21 today's case you would be sending a green light to
22 Chinese and Korean exporters in these new cases to
23 increase exports to the United States because they
24 will not have to pay a price for engaging in such
25 behavior.

26 For these reasons and in order to maintain a

1 vibrant pipe and tube industry in Arkansas, I ask this
2 Commission to make affirmative determinations in this
3 investigation. Thank you very much.

4 CHAIRMAN PEARSON: Thank you, Senator. Does
5 any Commissioner have a question for Senator Specter?
6 Senator Pryor, excuse me.

7 (No response.)

8 CHAIRMAN PEARSON: I would just observe that
9 in the glorious days of my youth, I served as a
10 staffperson for a Senator from Minnesota, Rudy
11 Boschwitz, and I had the pleasure of being right
12 across the table from another Senator Pryor from
13 Arkansas, who served with distinction on the
14 Agriculture Committee.

15 MR. PRYOR: Yes.

16 CHAIRMAN PEARSON: And if you have a chance
17 to greet him sometime, please extend my greetings and
18 let him know that old staffpeople don't go away, they
19 just circulate into other positions.

20 MR. PRYOR: I will. I talked to him this
21 morning. Thank you very much. And thank you all for
22 your consideration of this. This is an important
23 issue to Arkansas and to the country. Thank you very
24 much.

25 CHAIRMAN PEARSON: Thank you.

26 MS. ABBOTT: Our next speaker is the

1 Honorable Sherrod Brown, United States Senator, State
2 of Ohio.

3 CHAIRMAN PEARSON: Good morning, Senator
4 Brown.

5 MR. BROWN: Good morning, Mr. Chairman. How
6 are you?

7 CHAIRMAN PEARSON: Doing fine. Please
8 proceed.

9 MR. BROWN: Good. Thank you. Thank you
10 very much, and thank you, always, for your hospitality
11 here, and your straightforwardness and your public
12 service, all of you. I'm pleased to testify today on
13 behalf of the circular welded pipe producers of the
14 State of Ohio, including Wheatland Tube and Allied
15 Tube.

16 They're also employees from other companies
17 that live in Ohio and work particularly in western
18 Pennsylvania. These producers have become some of the
19 most efficient and competitive producers in the world
20 despite years of unfairly traded imports.

21 I'm also here to speak on behalf of the
22 United Steel Workers, hard working men and women who
23 are looking to the Commission to enforce U.S. trade
24 laws and find injury resulting from the subsidizing
25 and dumping of pipe imports from China. I've
26 testified before this Commission several times and

1 have always expressed my deep concern about the need
2 to preserve our nation's manufacturing base.

3 As you know, the surge in pipe imports from
4 China not only affects the pipe industry, it also
5 affects the U.S. steel industry generally. Let me
6 explain. Hot-rolled steel is approximately 80 percent
7 of the cost of pipe. U.S. steel producers rely on
8 U.S. pipe companies to purchase their steel.

9 The pipe companies and the steel companies,
10 as a result, have a close supplier relationship. The
11 system works well because it's based on comparative
12 advantage. In contrast, the Chinese government and
13 the massive steel companies that it has fostered do
14 not operate on the same principles.

15 China gives its industries an unfair
16 advantage. In the steel industry alone it's estimated
17 the Chinese firms have collected nearly \$27 billion in
18 energy subsidies since 2001. This distorts the market
19 and undercuts American business. Subsidies to these
20 industries allow them to produce goods for export at
21 an artificially lower cost.

22 Dumping goes hand in hand with subsidies to
23 nonmarket economies, like China. The result of these
24 subsidies is that companies can afford to flood export
25 markets with products priced below what they should be
26 priced. American companies can't compete with these

1 artificially priced produced, and, as a result, are
2 being run out of business.

3 The Commission knows this all too well. I'm
4 told there are at least 60 separate orders outstanding
5 regarding China's dumping in industries from paint
6 brushes to hammers, from paper clips to industrial
7 bearings, from tissue paper to steel. As you know,
8 back in 2005, the Commission came to the aid of the
9 U.S. pipe industry when faced with an unprecedented
10 surge of imports from China.

11 The situation hasn't gotten better since
12 then. In fact, it has gotten worse. Unfairly traded
13 imports from China are continuing to undermine the
14 ability of our pipe companies to remain competitive.
15 If the Commission doesn't find injury, Chinese
16 producers will gain even more market share and more
17 U.S. customers, while U.S. pipe companies will have
18 more lay offs, more lost business, more devastation of
19 communities.

20 The consequences for my state and other
21 states, the consequences for our manufacturing base,
22 the consequences for those communities where --

23 MS. ABBOTT: Your mic went off.

24 MR. BROWN: Sorry about that. Thank you for
25 that. Glad somebody was listening. I appreciate
26 that. Thank you very much. I was just testing you

1 all to see if you were. It's imperative that this
2 country continue to keep producing core steel
3 products. No great nation can depend on steel
4 imports.

5 Our U.S. pipe and tube companies can compete
6 with anyone in the world if the playing field is
7 level. We know that. U.S. companies have had to
8 compete in an environment where circular welded pipe
9 imports have increased dramatically in the past
10 several years. The pipe and tube industry filed a
11 Section 421 case after pipe imports surged, these
12 numbers are incredible, from 10,000 tons in 2002 to
13 267,000 tons in 2005.

14 In 2006, after the loss of the 421 case,
15 imports increased even more to 650,000 tons. This
16 represents a 6,400 percent increase in just four
17 years. Even worse, China imports continued to
18 increase in 2007. This incredible surge in imports
19 should deeply concern all of us.

20 It's difficult when imports supported by
21 intensive Chinese subsidies are destroying U.S.
22 manufacturing communities. It's unfortunate that the
23 increase in imports continues even after the Chinese
24 pipe producers in the 421 proceeding certified to the
25 Commission that exports of pipe to the United States
26 would not increase.

1 These falsehoods must not go unanswered.
2 The American jobs and our communities depend on it.
3 U.S. producers of pipe and tube have undergone
4 tremendous transition over the past several years.
5 Both the steel industry and the pipe industry have
6 seen their fair share of lay offs, plant closures,
7 lost business opportunities to unfairly priced
8 imports.

9 Many communities in my state of Ohio and
10 across America simply can't handle much more of this.
11 Looking ahead five to 10 years, there's no end in
12 sight to injury suffered by these companies. The
13 Commission has already seen in several investigations
14 that underselling by Chinese imports is substantial
15 and it's unrelenting.

16 The Commission has observed as well that
17 over the course of several investigations hundreds of
18 jobs have been lost in this industry equalling about
19 25 percent of the workforce.

20 I, like many of my colleagues here today,
21 Senator Casey, who will succeed me, Senator Pryor,
22 Senator Specter and others, and Congressman Berry and
23 others, have deeply concerned about the damage that's
24 being done as a result of Chinese dumping and Chinese
25 government subsidies of its pipe industry.

26 The Commerce Department has already taken

1 the position that these imports are both subsidized
2 and dumped in the U.S. market. The Commission must
3 also hold the Chinese industry accountable for the
4 damage suffered by our producers.

5 It's imperative, Mr. Chair and Madam Vice
6 Chair, that we enforce our trade laws to create and
7 maintain a fair environment for our domestic
8 manufacturers. The companies and workers in my state
9 and across the country deserve no less.

10 The strength of the steel industry, the
11 economic strength of many of these states, depend on
12 the Commission finding injury in this investigation.
13 I thank the Chair and the Vice Chair.

14 CHAIRMAN PEARSON: Thank you, Senator.

15 MR. BROWN: Thanks.

16 CHAIRMAN PEARSON: Are there any questions
17 for Senator Brown?

18 (No response.)

19 MR. BROWN: Thank you very much.

20 MS. ABBOTT: Our next speaker is the
21 Honorable Robert P. Casey, Jr., United States Senator,
22 Commonwealth of Pennsylvania.

23 CHAIRMAN PEARSON: Good morning, Senator
24 Casey. Welcome to the Commission.

25 MR. CASEY: Good morning. Thank you. It's
26 great to be back here, and thank you for this

1 opportunity. I do want to thank the members of the
2 Commission for allowing me to appear before you today,
3 and it's an honor to testify on such an important
4 issue to Pennsylvania and to all of America.

5 I represent a state with a history and a
6 heritage of hard work and sacrifice which is full of
7 skilled workers, so we know something about producing
8 products, we also know something about what a level
9 playing field should be, and that's something we want
10 to talk about today.

11 So, Mr. Chairman and members of the
12 Commission, I'm here today as a United States Senator
13 from Pennsylvania, but also, as a former state
14 official for 10 years as Auditor General and State
15 Treasurer in our state. I stand before you as a
16 public official who supports free trade and the many
17 benefits that can come from it.

18 I do, however, believe that our trading
19 partners must be held accountable to fair play in the
20 global trade world that we live in. I've been
21 particularly troubled by the failure of this
22 administration to vigorously enforce trade laws and
23 believe that such failures have directly led to
24 significantly decreased employment for hard working
25 Pennsylvanians and Americans.

26 Just in the first four months of this year,

1 for example, payroll employment in the United States
2 has decreased by over 60,000 jobs per month, roughly,
3 netting 260,000 job losses for 2008 so far. According
4 to the Bureau of Labor statistics, manufacturing
5 employment has declined by 326,000 over the past 12
6 months.

7 What's before us today is a situation in
8 which both Chinese pipe imports and Chinese pipe
9 market share have increased drastically. Sadly, U.S.
10 capacity and jobs have decreased correspondingly. As
11 you may hear from some of my esteemed Pennsylvania
12 colleagues here today, and you've already heard, I
13 know, from Senator Specter, my state has taken the
14 brunt of the injury.

15 Imports of pipe from China have grown from
16 10,000 tons in 2002 to 640,000 tons in 2006, an
17 increase of 640 percent. This is an astounding growth
18 in imports in a very short period of time, just a
19 couple of years. Chinese exporters have significantly
20 undersold the U.S. producers, and the U.S. industry
21 has suffered continuing declines as a result of these
22 actions.

23 Chinese imports have been found to be of
24 lower quality and consistency, and there is growing
25 concern that there could potentially be structural
26 failures. The State of Pennsylvania, our Commonwealth

1 of Pennsylvania, has lost over 190,000 manufacturing
2 jobs just since 2001.

3 As a former Auditor General and State
4 Treasurer of our state, I have a lot of experience
5 with the economy of our state and what that job loss
6 does to the people of Pennsylvania. The situation in
7 Pennsylvania is not a surprise. In fact, job losses
8 due to unfair trade have been a problem for years.

9 This Commission has the opportunity to help
10 reverse the job loss trend by finding injury -- injury
11 -- in the circular welded pipe case from China, and I
12 urge you to make a material injury determination now.
13 The United States, as we all know, needs robust trade.
14 It's vital to our economic growth and our future.
15 However, that trade must be conducted on a level
16 playing field.

17 I have urged both Congress and the
18 administration to take a harder line against unfair
19 trade practices. Workers in Pennsylvania and across
20 the country are anxious, understandably so, about
21 their job security. In some towns, factories have
22 literally been taken apart, put on trucks and rail
23 cars and shipped away -- literally. Literally.

24 These are small towns and cities across
25 Pennsylvania and across other parts of the country
26 that have been devastated by this. While those of us

1 in Congress work to ensure that there's a safety net
2 in place for these people and these communities, we
3 look to you, to this Commission, to enforce the rules
4 we have set in place and prevent the job losses and
5 prevent jobs from being destroyed by unfair practices.

6 Our companies in Pennsylvania are not afraid
7 to match their American made products against any
8 products in the world, and our workers can compete
9 with any workers in the world. They cannot, however,
10 compete against the Chinese government. Companies
11 like U.S. Steel and other companies in our state are
12 deeply affected by the dramatic increase in Chinese
13 pipe imports.

14 It is not just the pipe manufacturers that
15 are in danger here. Hot-rolled steel is a primary
16 input into the production of pipe. When you lose jobs
17 in the pipe industry you also lose jobs in the steel
18 industry. I also believe, "end use", that language is
19 necessary to accurately describe the imported
20 products.

21 Without end use language in the scope,
22 importers can circumvent the much needed relief this
23 investigation has given to the U.S. industry, for
24 example, by importing line pipe and calling it
25 standard pipe. I understand that there is language
26 that will clarify this issue and allow unfair trade to

1 be properly implemented, language that says that all
2 relevant pipe imports used for standard and structural
3 applications are covered under the investigations.

4 I urge the Commission to carefully consider
5 this in order to prevent flagrant circumvention of
6 U.S. trade laws by Chinese producers. I hope the
7 Commission will carefully review the facts to
8 determine and to decide to give these workers, our
9 workers in Pennsylvania, a chance. This case is very
10 important to the State of Pennsylvania, to the people
11 of Pennsylvania and to America, as a whole.

12 I appreciate very much the opportunity to
13 appear before you today and look forward to your
14 continued work in leveling the playing field for all
15 employees. Thank you very much.

16 CHAIRMAN PEARSON: Thank you, Senator. Does
17 any Commissioner have a question for Senator Casey?
18 No?

19 (No response.)

20 CHAIRMAN PEARSON: Thanks again.

21 MR. CASEY: Thank you.

22 MS. ABBOTT: Our next speaker is the
23 Honorable Phil English, United States Congressman, 3rd
24 District, Commonwealth of Pennsylvania.

25 CHAIRMAN PEARSON: Welcome back, Congressman
26 English. You've been a stranger. You haven't been

1 here for a little while.

2 MR. ENGLISH: At least weeks, Mr. Chairman,
3 and it's a real privilege to be back. Mr. Chairman
4 and members of the Commission, I frankly wish I were
5 here on a happier topic with happier tidings, but the
6 fact is, you have a very difficult but very important
7 decision to make. I think on the facts, you have a
8 clear case before you, but the implications of the
9 decision that you make are going to be enormous for
10 our economy and for sectors well beyond what is in the
11 case before us today.

12 That's why I am here to present testimony
13 regarding dumped and subsidized imports of circular
14 welded pipe from China. As you know, I represent
15 Pennsylvania's 3rd congressional district. I am a
16 senior member of the Ways and Means Committee and a
17 member of the Joint Economic Committee, and also Vice
18 Chairman of the Steel Caucus. Today, I hope I can
19 sufficiently encapsulize both the importance of this
20 sector and this investigation, the communities in my
21 congressional district, but also impress upon you that
22 the decision that you make will have an enormous
23 impact on our entire manufacturing base.

24 Data on the relevant imports show a
25 staggering increase in imports, both in absolute terms
26 as well as relative to domestic production and

1 consumption. In absolute terms, imports of standard
2 pipe from China have increased from roughly 382,000
3 tons to 748,000 tons in the period of just between
4 2005 and 2007. The relative increases of these same
5 imports have also been extraordinarily large.

6 Surging Chinese imports have displaced
7 domestic producers in terms of market share. While in
8 2005, standard pipe imports from China comprised 16
9 percent of the U.S. market, by 2007 Chinese imports
10 have captured nearly 30 percent of the market. This
11 lost volume for the standard pipe industry is also
12 lost volume for the basic steel industry and its
13 workers, and also a precursor of what could happen to
14 them under similar circumstances.

15 China is the largest producer of pipe and
16 tube products in the world. The U.S. is not the only
17 market threatened with this export powerhouse. I
18 understand that Australia, Canada and the European
19 Union are all engaged in the process of investigating
20 injury to their respective pipe and tube producers as
21 a result of the same Chinese unfair competition. In
22 the United States, only the filing of this petition
23 and the looming imposition of preliminary duties --
24 only if the filing of this petition and looming
25 imposition of preliminary duties are successful, at
26 least temporarily, in reigning in Chinese exporters.

1 My constituents in Sharon, in Wheatland and
2 in the Shenango Valley of Pennsylvania and the
3 surrounding communities, have suffered the brunt of
4 the injury documented in this record. Hundreds of
5 workers in these communities have been approved for
6 trade adjustment assistance, although frankly, that
7 isn't nearly enough. These are communities where
8 steel is the backbone of the local economy.

9 Absent the economic driver of manufacturing,
10 other local businesses will falter, and be assured
11 that Wheatland Tube is the largest manufacturing
12 employer, not just in that area, but also in all of
13 Mercer County, Pennsylvania. These communities are
14 suffering. Farrell is the city that abuts Sharon on
15 one side and Wheatland on the other. Farrell has been
16 declared a distressed community under Pennsylvania's
17 economic criteria.

18 Sharon most likely meets those criteria as
19 well, but right now is engaged in an aggressive
20 municipal reorganization. Small cities suffering
21 economic harm, a most inexcusable situation when the
22 harm comes at the hands of illegal imports. They are
23 faced with devastating choices to stay afloat.
24 Unfortunately, as this Commission has heard
25 repeatedly, the usual outcome is that libraries are
26 closed, staffing for essential public safety services

1 are reduced, and the city is put in a weakened state.

2 I've worked with the Commission on many
3 issues since coming to Congress and I greatly respect
4 all of the work that you and your staff does. I am
5 hopeful that this industry, on an objective review of
6 the facts, will get the relief it needs to retire
7 laid-off employees and restore economic stability to
8 families and communities in Western Pennsylvania.
9 What we have learned through the years with China
10 trade is that all too often, China will target one
11 sector, one particular component of a sector, and will
12 drive from there to much broader gains.

13 We've seen how much China has increased its
14 capacity. The signal that you send to them by making
15 a decision in this case will have a profound effect on
16 whether China pursues fair or unfair trade practices
17 with other parts of the steel sector, and indeed,
18 other parts of our manufacturing base. I'm grateful
19 for the opportunity to testify. Again, I wish,
20 members of the Commission, it were under a happier
21 circumstance.

22 I think that the decision you make will have
23 a powerful effect on whether this important sector of
24 our manufacturing base is allowed to remain
25 competitive on a fair basis within the United States.
26 Thank you very much.

1 CHAIRMAN PEARSON: Thank you, Congressman.

2 Does any Commissioner have a question for
3 Representative English? Thank you very much.

4 MR. ENGLISH: Thank you.

5 MS. ABBOTT: Our next speaker is the
6 Honorable Marion Berry, United States Congressman, 1st
7 District, State of Arkansas. Mr. Chairman, our next
8 speaker will be the Honorable Blanche L. Lincoln,
9 United States Senator, State of Arkansas.

10 CHAIRMAN PEARSON: Welcome. Good to have
11 you here at the Commission.

12 MS. LINCOLN: Thank you, Mr. Chairman, and
13 thanks to all the Commissioners that are here today.
14 I like to see familiar faces, and I am proud to be
15 back before you. I guess a little bit discouraged to
16 be back before you once again, but I do thank you for
17 the opportunity to be here and express my concerns on
18 this issue. I appear before you today to discuss a
19 matter of great importance to Arkansas.

20 I know my colleague Mr. Pryor has already
21 been here and probably expressed as much passion as I
22 hope to express, but it is of great importance to our
23 state in Arkansas, and one that I have been proud to
24 support for many, many years now. Mr. Chairman, this
25 investigation, I think, is potentially one of the most
26 important the Commission has conducted for the U.S.

1 manufacturing sector.

2 Your determination in the Circular Welded
3 Pipe from China investigation will have an enormous
4 impact on the U.S. steel industry, and
5 correspondingly, from my home state of Arkansas and
6 its economy. I am here on behalf of the pipe
7 producers and steel manufacturers in my home state of
8 Arkansas, and as I have said in past testimony, my
9 family has been in eastern Arkansas for over seven
10 generations now.

11 The people of Arkansas work hard, but their
12 economic opportunities have been limited through the
13 years. When the steel mills came in, followed by the
14 pipe producers, whole communities changed for the
15 better. Communities throughout eastern Arkansas,
16 where we needed employment, we had low income and
17 poverty that existed, and yet, the steel companies
18 came in and were willing to make investments in that
19 area.

20 Obviously, with our riverboat traffic and
21 the transportation needs being met through that, there
22 were a wonderful array of potentials that came
23 together to allow our steel companies to come in there
24 and be very economically competitive. Employment
25 increased, which increased our tax revenues, leading
26 to a host of benefits for these communities, these

1 very impoverished communities.

2 I consider Arkansas to be very fortunate to
3 have many companies producing both steel and steel
4 products, companies such as Nucor, IPSCO Tubular and
5 Allied Tube, these minimills, particularly in the
6 steel production, using recycled steel, are the most
7 efficient and effective in the world, and so when we
8 come to you with these types of issues, we know that
9 these are companies that are efficient and effective
10 globally.

11 We know that there is a problem that exists
12 when we can be undercut in the marketplace so
13 tremendously by the Chinese product. However, these
14 companies are suffering from unfair Chinese trade
15 practices. They are in trouble. These companies in
16 east Arkansas and throughout central Arkansas and my
17 state, I testified in support of the pipe and steel
18 producers before the Commission during the 421
19 hearing, and I am here today to reiterate my support.

20 The difficult situation that these U.S.
21 companies face has only worsened in the intervening
22 years. We did not give them the relief that they
23 deserved in the past, and please let us remedy that
24 era and give it to them now. Imports of steel pipe
25 from China have increased almost unbelievably since
26 2002. It is hard to imagine, hard to fathom, but the

1 numbers show that the imports of Chinese pipe have
2 increased 6,400 percent from 2002 to 2006. All of
3 these pipe imports are flooding the market with
4 tremendously low prices.

5 How can any domestic industry survive long
6 in this type of an environment? It's not that the
7 Chinese are more efficient. Our facilities in
8 Arkansas are among the most competitive and efficient
9 in the world. The problem is that the Chinese
10 government illegally subsidizes these industries and
11 creates an economic environment that allows the
12 companies to dump pipe into the U.S. market.

13 Not only have the Chinese virtually flooded
14 the market with their imports, they have gained in the
15 market share at the expense of U.S. producers and
16 other foreign producers who trade fairly in our U.S.
17 market. The pattern of underselling is well-
18 established. Material injury is evident in the
19 layoffs and the plant closures and lost business
20 experienced by the U.S. pipe industry.

21 In Arkansas in particular, Wheatland Tube
22 closed a facility, and Allied Tube was forced to
23 reduce its workforce. It takes no stretch of the
24 imagination to say that these layoffs are due in part
25 to the never-ending surge of imports from China. Mr.
26 Chairman and members of the Commission, my state

1 contains many high-poverty areas, historically, some
2 of the most impoverished areas in the country.

3 I grew up in one of the top 25 impoverished
4 counties of our country. We have worked so hard to
5 bring good jobs into those areas, to try and help
6 sustain the people of those areas with jobs that they
7 can sustain themselves and their families with. The
8 steel and pipe producers have made wonderful
9 investments there, and they have made them where we
10 have needed them the most.

11 Maintaining jobs in such an important
12 industry are crucial to the economic survival of the
13 hardworking people in my state of Arkansas. I am
14 happy to see so many of my distinguished colleagues
15 that are joining me today in support of our pipe
16 industry. We all know the important role that this
17 industry plays in our U.S. economy, and I thank you
18 all for the opportunity, once again, to come before
19 you and speak before you today.

20 As always, I am very appreciative of your
21 consideration of my comments and the comments of
22 others. This issue not only affects my state but the
23 entire country as well, not only in terms of other
24 steel-producing and pipe-producing areas of our
25 nation, but also in terms of those that we have been
26 able to lift out of unemployment and out of poverty,

1 to put them to work in good jobs, to invest in
2 education and bring better, high-skilled jobs into
3 these areas.

4 These are important issues for our country,
5 certainly for my state, and certainly for our economy.
6 I am very confident with the Commission, that they
7 will do the right thing based upon the facts on the
8 record and make an affirmative determination in this
9 investigation, and once again, looking at the
10 Commissioners here today, I am grateful for you all
11 for being ever so patient with me as I continue to
12 come before you at times.

13 I know I feel extremely passionate about
14 this issue as I do most, but also frustrated, in the
15 sense that we have worked this issue for so long, and
16 we have realized for so long that there is an awful
17 lot at risk, and certainly an awful lot at stake, and
18 so we appreciate very much your careful consideration
19 of this case, in hopes that it will prove to be
20 beneficial for the people of Arkansas and for the
21 people of this country.

22 Thank you, Mr. Chairman, and to the members
23 of the Commission.

24 CHAIRMAN PEARSON: Thank you, Senator. Does
25 any Commissioner have a question for Senator Lincoln?

26 (No response.)

1 CHAIRMAN PEARSON: Okay. Thanks.

2 MS. ABBOTT: The Honorable Marion Berry,
3 United States Congressman, 1st District, State of
4 Arkansas, will be our next speaker.

5 CHAIRMAN PEARSON: Good morning, Congressman
6 Berry.

7 MR. BERRY: Good morning, Mr. Chairman.
8 Thank you and the members of the Commission, and it is
9 distinctly a pleasure for me to be before you this
10 morning, and also I consider it my duty. I'm afraid
11 you may find my comments something like my old friend,
12 Charlie Stenholm from west Texas, used to say,
13 everything's been said, but everybody hasn't said it.

14 And I belong to a deer camp. I've been deer
15 hunting with the same group of fellows since I became
16 an adult, something over 40 years, and we sit around
17 the stove and tell these old stories and we are all
18 old and we forget that we have already told them, so
19 we have had to number them so we don't get too
20 confused, and you may have reached that point with my
21 testimony that you just check it off when I show up,
22 but I do thank you for allowing me to appear before
23 you this morning.

24 I'll try to keep this as brief as possible.
25 Clearly, the imports of standard pipe from China has
26 been a problem for a long time. IPSCO Tubulars and

1 Atlas Tube both make the product under consideration
2 today in the district that I represent. In addition,
3 they are operating efficient modern manufacturing
4 plants. These plants provide good jobs, support
5 hundreds of additional jobs, the economic base of
6 northeast Arkansas.

7 The companies continue to invest in their
8 facilities, not necessarily to expand, but to become
9 more efficient and competitive, and when that
10 production capacity goes unused, obviously, it
11 constitutes injury. Allied's plant and Pine Bluff,
12 200 miles away, would also buy much of their steel
13 from the steel producers in the district that I
14 represent, from Nucor.

15 I know you have been aware of plant
16 closures, four by my count. One of the closures was a
17 Wheatland plant in Little Rock which meant the loss of
18 125 jobs, a customer also of Nucor that produces the
19 steel. I think obviously this constitutes injury.
20 The total number of workers impacted by the decision
21 that you make in the district that I represent is
22 about 300, with many times obviously of that number
23 being indirectly affected.

24 I know you're aware that China provides
25 export subsidies, financing for their buyer mills,
26 subsidized energy for many manufacturing units,

1 including steel, not to mention the contribution to
2 global warming that that has, and has restructured a
3 number of steel operations in order to remove debt and
4 provide tax forgiveness. All of these activities
5 provide an unfair advantage to the Chinese pipe
6 manufacturers, and all of them run counter to the
7 conditions that China agreed to in order to gain
8 access to our markets.

9 I would add right here that in the attempt
10 by the United States to be a good trading partner in
11 the world economy, many of our citizens have suffered
12 and paid a big price for that. The central government
13 of China, along with the municipal governments and
14 provincial governments, are principal owners in many
15 of these steel concerns. Five to ten year plans
16 produced by the government of the People's Republic of
17 China reflect the decision by the government to build
18 capacity in these sectors.

19 These are not commercial decisions. These
20 are government decisions. This means that domestic
21 pipe makers that are injured by plant closures, that
22 are injured by shortened work weeks, they are injured
23 by the constant increase in imports by China. I know
24 that the Commission provided an affirmative ruling on
25 the domestic pipe industry's request for relief under
26 Section 421. Since that action, imports have only

1 increased.

2 We are beyond surge, and I think maybe a
3 tidal wave would be a more appropriate way to describe
4 this. Imports of standard pipe have increased 6,800
5 percent since '02. Preliminary CVD and antidumping
6 rates are substantial. The ability of the government
7 of China to undermine the U.S. domestic industry stems
8 from their willingness to subsidize the steel
9 companies and pipe companies.

10 Injury occurs when these subsidies occur.
11 Injury occurs when dumping occurs. It is important
12 for the United States International Trade Commission
13 to act in the case of standard pipe. I know you have
14 taken action before. I certainly hope you will act
15 again to provide relief for the manufacturers of
16 circular welded pipe. I believe the domestic industry
17 has provided ample information for you to rule
18 favorably on this petition.

19 I thank you so much for your kind
20 consideration of our request. Thank you, Mr.
21 Chairman.

22 CHAIRMAN PEARSON: Thank you, Congressman.
23 Does any Commissioner have a question for
24 Representative Berry?

25 Commissioner Lane?

26 COMMISSIONER LANE: I just wanted to say,

1 Congressman Berry, that we welcome you back anytime
2 that you want to come, and as often as you want to
3 come, and you can say whatever you like, and we
4 appreciate it.

5 MR. BERRY: Well, you are always nice to say
6 that, and I appreciate you all very much, and I know
7 you don't have an easy job, but we appreciate very
8 much you being willing to hear us out, and thank you.

9 CHAIRMAN PEARSON: And we are looking
10 forward to hearing some of those deer hunting stories
11 sometime.

12 MR. BERRY: Well, they are probably not,
13 most of them are not suitable for this setting.

14 CHAIRMAN PEARSON: Thank you.

15 MR. BERRY: Thank you.

16 MS. ABBOTT: Our next speaker is the
17 Honorable Jason Altmire, United States Congressman, 4th
18 District, Commonwealth of Pennsylvania.

19 CHAIRMAN PEARSON: Good morning, Congressman
20 Altmire. Welcome.

21 MR. ALTMIRE: Thank you, Chairman Pearson
22 and members of the Commission. I appreciate the
23 opportunity to testify today on this very important
24 issue. I represent Pennsylvania's 4th congressional
25 district in the U.S. House of Representatives, and the
26 4th congressional district has a rich history in the

1 steel industry, and it was home to, as you know, a
2 number of steel plants.

3 Along the Ohio line, I have three counties
4 that we cover, and then in the northern suburbs of
5 Pittsburgh, so we take these issues, as I know you do,
6 very seriously. Unfortunately, over time, many of
7 these plants have closed their doors in the face of
8 unfair trade practices. Towns such as Aliquippa,
9 which was once a thriving steel town, have lost two-
10 thirds of their population over the course of a
11 generation.

12 As a result, families in my district know
13 firsthand that the correct application of U.S. trade
14 laws by members of this body is not a matter of
15 abstract economic theory or arcane legal arguments,
16 but the difference between prosperity and poverty.
17 These are difficult times for many working families in
18 western Pennsylvania. Families are lacking health
19 insurance. Others are facing foreclosure.

20 Seniors are trying to survive on fixed
21 incomes in the face of rising food and gas prices.
22 These families need a paycheck and a living wage, and
23 that's what you get working for a steel manufacturer
24 such as the John Maneely Company. You are probably
25 more familiar with the names Wheatland Tube and Sharon
26 Tube, but the parent company, John Maneely, has been

1 in business since 1877, and has operated Wheatland
2 Tube since 1930.

3 That's commitment, a commitment to our
4 people, to the community, and to the many customers
5 that they supply. The facts of the record before you
6 should not be surprising. The decision in 2005
7 regarding Section 421, involving the same imports from
8 China, predicted what was to come. The import surge
9 continued, and market disruption, or any threat
10 thereof, swelled to full-scale material injury.

11 The story is quite different, though, in
12 China. China's production of finished hot-rolled
13 steel jumped from 12.7 million metric tons in 2000 to
14 an estimated 75 million metric tons in 2007, an
15 increase of almost 500 percent. Of course, much of
16 that capacity is state-owned. There are also
17 significant incentives for further processing of hot-
18 rolled steel into pipe and tube in China. It's no
19 wonder that the Department of Commerce found
20 substantial subsidy margins along with very large
21 dumping margins, and make no mistake, U.S. producers
22 would have a vast competitive advantage over China
23 suppliers if the latter were not engaging in unfair
24 trade.

25 For example, the John Maneely Company, and
26 indeed the U.S. industry as a whole, has undertaken

1 annual investments to upgrade and streamline
2 production sales. Our pipe and tube producers have
3 good relations with their hot-rolled and other input
4 suppliers. Given a level playing field, our industry
5 can compete, and out-compete anybody in the world.
6 The Commission, I would hope, would recognize the
7 injury to the U.S. circular welded pipe industry
8 caused by unfairly traded Chinese imports.

9 Otherwise, in my opinion, this could begin
10 yet another disastrous chapter in the history of the
11 American steel industry. The history has been a
12 roller coaster ride in which wave after wave of
13 unfairly traded steel imports drives domestic
14 producers to new lows in output and employment, and
15 with each successive wave, the domestic industry
16 emerges smaller and weaker, a new round of heartache
17 and suffering engulfs workers, their families and our
18 communities, like those I serve in western
19 Pennsylvania.

20 So in conclusion, I would ask the
21 Commission, please, draw the line, enforce the law,
22 and allow the U.S. circular welded pipe producers to
23 get back to supplying a quality product and providing
24 for their workers and our communities. And again, I
25 sincerely appreciate the opportunity to testify. I
26 thank the Chairman and the Commission, and would

1 answer any questions that you have.

2 CHAIRMAN PEARSON: Thank you, Congressman.
3 Does any Commissioner have a question for
4 Representative Altmire? Okay, thank you very much.

5 Madame Secretary, are there further
6 congressional witnesses currently available?

7 MS. ABBOTT: No, Mr. Chairman. We
8 understand Senator Bayh is on his way, but if we could
9 move to opening remarks?

10 CHAIRMAN PEARSON: Yes, okay. Let's proceed
11 to opening remarks, and we will break at an
12 appropriate point when other congressional witnesses
13 arrive.

14 MS. ABBOTT: Opening remarks on behalf of
15 the Petitioner will be by Joseph W. Dorn, King &
16 Spalding.

17 CHAIRMAN PEARSON: Good morning, Mr. Dorn.

18 MR. DORN: Good morning, Mr. Chairman. This
19 case is about the damaging impact of unfairly traded
20 imports from China on the U.S. circular welded pipe
21 industry. From 2005 to 2007, as subject imports
22 nearly doubled, the domestic industry's operating
23 income fell by 63 percent. The Chinese government
24 heavily subsidizes its pipe industry, including the
25 cost of hot-rolled steel.

26 The Commerce Department preliminarily

1 determined that all subject imports are unfairly
2 traded, with dumping margins of 69 to 86 percent, and
3 a subsidy margin of 17 percent. Applying the
4 statutory criteria, this industry is materially
5 injured by reason of dumped and subsidized imports.
6 First, the volume of imports and the increase in the
7 volume of imports are significant.

8 In 2007, imports from China were equal to 51
9 percent domestic production and 29 percent of U.S.
10 consumption. Imports jumped 96 percent from 2005 to
11 2007. They also increased sharply relative to
12 domestic production, from 28 percent in 2005 to 51
13 percent in 2007, and relative to U.S. consumption,
14 from 16 percent to 29 percent. The increase in
15 imports would have been even greater had this petition
16 not been filed in June of 2007.

17 Second, there are significant adverse price
18 effects. U.S. importers have used the cheap prices
19 resulting from unfair trade practices to undersell
20 both U.S. pipe and non-subject imports by wide
21 margins. Chinese pipe undersold domestic pipe in each
22 and every quarterly price comparison. The average
23 margin of underselling ranged from 16 percent to 49
24 percent. The underselling caused domestic producers
25 to lose substantial sales and to reduce prices.

26 Numerous purchasers admitted that they

1 shifted from domestic pipe to subject imports, due to
2 lower prices. A subject imports increased their share
3 of the market, U.S. producers were unable to raise
4 prices to offset increased cost of production. The
5 domestic industry's average unit shipment value
6 dropped 5 percent from 2005 to 2007, in the face of
7 higher raw material cost and higher fabrication cost.

8 This caused the industry's gross profit
9 margin to decline from 14.2 percent in 2005 to 9.5
10 percent in 2007. Third, the unfairly priced imports
11 have had a significant adverse impact on the domestic
12 industry. The years 2005 to 2007 should have been
13 outstanding. Nonresidential construction was robust
14 and grew steadily until the end of 2007. In addition,
15 the weakening dollar, in relation to the foreign
16 currencies of substantially all foreign pipe
17 suppliers, should have enabled the domestic industry
18 to gain a larger share of a growing market during the
19 POI.

20 This is especially true with respect to the
21 seven countries already subject to antidumping duties.
22 But rather, the increase in capacity, market share and
23 profits, in tandem with increasing demand and a
24 weakening dollar, U.S. producers closed efficient
25 plants, laid off workers and suffered declines in
26 capacity, market share, prices and profits. The

1 industry's operating income fell from 128 million in
2 2005 to 47 million in 2007, a decline of over 63
3 percent.

4 In 2007, the industry suffered a net loss
5 and negative cash flow. Given the Commission's
6 finding of market disruption based on calendar year
7 2004 data, and given what has happened since 2004,
8 this is a material injury case, not a threat case.
9 The industry's meager operating income margin in 2007
10 was well below any traditional profit level for this
11 industry.

12 In fact, the operating margin was lower in
13 2007 than at any time during the last recession. The
14 threat of continuing injury is real and imminent. The
15 questionnaire responses submitted by 15 Chinese
16 producers show excess capacity of at least 678,000
17 tons, but the entire industry's excess capacity is far
18 greater. Among other things, Yulong, the very large
19 Chinese exporter that was caught submitting fake
20 documents to the Commerce Department, did not even
21 respond to the Commission's questionnaire.

22 In addition, Chinese exports to the EU and
23 Canada are likely to be diverted to the United States
24 due to pending trade remedy investigations of Chinese
25 pip in those countries. The United States is already
26 China's number one export market. The rapidly

1 increasing imports, the enormous and growing unused
2 capacity in China, the large margins of underselling,
3 and the Chinese government's subsidies, virtually
4 assure that subject imports will overwhelm the U.S.
5 market if orders are not imposed.

6 This would occur at the worst of all time,
7 just when the nonresidential construction cycle is
8 entering its contraction phase and demand for CWP is
9 declining. In sum, there is overwhelming evidence
10 that this industry is materially injured by reason of
11 unfairly traded imports from China. The Commission
12 should reach an affirmative determination. Thank you
13 very much.

14 CHAIRMAN PEARSON: Thank you, Mr. Dorn.

15 MS. ABBOTT: Opening remarks on behalf of
16 Respondents will be by William H. Barringer of Heller
17 Ehrman.

18 CHAIRMAN PEARSON: Good morning, Mr.
19 Barringer.

20 MR. BARRINGER: Good morning, Mr. Chairman
21 and members of the Commission. For the record, I'm
22 Bill Barringer. We're representing the Chinese
23 Respondents. I'm a partner at the law firm of Heller
24 Ehrman.

25 The essence of this case is about threat of
26 injury, not injury. To appreciate this, the

1 Commission not only needs to consider the record of
2 this investigation; but also examine the record of
3 prior investigations, and the factors which created
4 short turn down-cycles in industry performance, which
5 masked what in fact was strong industry performance.

6 As those Commissioners who were on the
7 Commission in September 2005 will recall, I and my
8 colleagues appeared on behalf of the Chinese producers
9 in the 421 proceeding. In that proceeding, four
10 Commissioners voted in the affirmative, two finding
11 present injury and two finding threat of injury.

12 Those Commissioners voting in the
13 affirmative ignored our argument that profit cycles
14 are driven by inventory timing and hot rolled steels
15 volatile price swings, not imports. Specifically, as
16 both hot rolled and pipe prices declined in the first
17 half of 2005 from the record levels of 2004, pipe
18 producers were selling pipe for less, but using high
19 priced, hot rolled inventory bought months before at
20 the peak of the market.

21 While pipe prices follow hot rolled prices
22 up and down, the inventory used to produce the pipe is
23 fixed based on the price paid at the time it was
24 bought. Thus, as the hot rolled and pipe prices go
25 up, producers reap the benefit of using low cost hot
26 rolled input to produce higher priced pipe, and pipe

1 prices go down. Margins are squeezed because the pipe
2 producers are using higher cost inputs to supply a
3 declining market.

4 What we predicted, in fact, happened. The
5 6.7 percent first half 2000 profit turned into a full
6 year 2005 profit of 10 percent. The second half of
7 2005 was nearly as strong as the best year the
8 industry has ever had, 2004. This strong
9 profitability was sustained through 2006, the period I
10 would note of the most significant growth in imports
11 from China.

12 Virtually all of the other indicators of
13 injury health remain strong or neutral in 2007,
14 despite an additional modest increase in imports from
15 China. Capacity utilization and shipments both
16 increased in 2006 and 2007.

17 The most important determinant of
18 profitability, the margin between the sales price of
19 pipe and the purchase price of hot rolled, actually
20 increased between 2006 and 2007.

21 If all of this was taking place, then why
22 isn't it showing up on the bottom line? There are two
23 simple reasons. First, the last months of 2007 and
24 the first months of 2008 repeated the phenomena of the
25 second half of 2005. However, certain of the
26 Petitioners have not provided information for full

1 calendar year 2007, which would show this increase in
2 profits.

3 The Commission should request that they
4 amend their responses to cover full year 2007. The
5 Commission should also request information on 2008.

6 The second reason is that there are
7 anomalies in the responses of Petitioners, which
8 distort the performance of the industry. These
9 anomalies have nothing to do with imports from China.
10 Absent these anomalies, the industry would have had a
11 very good year in 2007.

12 These anomalies distort the comparison of
13 industry performance over the POI. They also make it
14 obvious that to the extent industry performance has
15 deteriorated, it is due to factors other than imports;
16 namely, the anomalies.

17 What we didn't predict in 2005 was the
18 increase in imports from China, if there was not
19 Section 421 relief, which ultimately, there was not.
20 At that point, however, we did not know that oil
21 prices would surge to previously unimagined levels,
22 attracting standard pipe producers into higher value
23 energy tubulars; nor did we know at that point that
24 there would be a shortage of hot rolled in the market,
25 forcing producers of standard pipe to choose between
26 shifting to energy tubulars, or devoting that limited

1 supply of hot rolled available to lower value added
2 standard pipe.

3 That leaves the issue of threat. Since the
4 petition was filed, the Government of China has
5 limited the VAT rebate of 13 percent on pipe. They've
6 imposed an export tax of 15 percent; all in an effort
7 to curb exports of this product. In addition, the
8 Chinese currency is projected to increase by 12
9 percent this year against the dollar.

10 In combination, this is a 40 percent
11 addition to costs of exports, before adding escalating
12 freight costs and higher hot rolled input prices in
13 China.

14 Under these circumstances, it is absurd to
15 believe that Chinese exports will return to pre-
16 investigation levels or pre-investigation prices;
17 thank you.

18 CHAIRMAN PEARSON: Thank you, Mr. Barringer.
19 Madam Secretary, do we have a Congressional
20 witness?

21 MS. ABBOTT: Yes, Mr. Chairman, the
22 Honorable Evan Bayh, United States Senator, State of
23 Indiana.

24 CHAIRMAN PEARSON: Good morning, Senator,
25 it's good to have you here.

26 MR. BAYH: Good morning, Mr. Chairman and

1 members of the Commission; I appreciate your
2 accommodating me in the busy schedule this morning. I
3 am grateful for your courtesy, and I've been grateful
4 for the opportunity to appear before you before on
5 several occasions. I think the most recent occasion
6 was last July in the instance of the hot rolled steel
7 dispute, and I want to thank you for the action the
8 Commission took in that regard. It was, in my
9 opinion, the right thing to do.

10 You are one of the few entities in our
11 Government that actually acts to address some of these
12 problems, and I'm most appreciative for that.

13 I hope you won't take this personally, but I
14 frankly wish we didn't have to appear here before you
15 on such a frequent basis. I wish I could say that
16 some of the activities of our trading partners that
17 lead to these disputes had abated; but they have not.

18 I wish I could say that some of the harm
19 that this has caused to our producers and our workers
20 and our communities had abated; but regrettably, it
21 has not.

22 I wish I could say that other parts of our
23 government, other than this Commission, had acted more
24 aggressively to address some of these problems; but
25 unfortunately, we have not.

26 The result of all this has been to undermine

1 the faith and confidence of the American people in our
2 system of global trade. The Chinese in this
3 particular case cheat, because they can. It's
4 profitable for them; and until we take more vigorous
5 action to address that calculus, they will continue
6 doing what they're doing.

7 They seek rapid rates of growth at
8 artificially high levels to offset the potential for
9 instability in our country as people move from the
10 land into the cities. That is a fine decision for
11 them to make. But if we are going to have a conscious
12 practice in this country of favoring cheap consumer
13 goods at the expense of producers, that is a decision
14 for the United States Government to make, rather than
15 for a foreign government to make and impose upon us;
16 hence the dispute we have here today and others like
17 it.

18 As I understand, the question before the
19 Commission today is whether the welded steel pipe
20 industry has suffered material injury; and if so, what
21 is the extent of that injury.

22 My own view -- and you'll hear from many
23 learned people this morning -- is that the only result
24 that can be reached in this determination is that they
25 absolutely have, and that the injury has been
26 material.

1 The subsidies, as I understand it, have been
2 determined by the Department of Commerce to be as high
3 as 265 percent, in some cases. The product is being
4 sold in our markets at below the market price, and in
5 some cases as high as 85 percent below market price.

6 This has led to a dramatic increase in the
7 market share of Chinese competitors from, I believe,
8 16 percent to possibly 29 or 30 percent in a very
9 short period of time. Profit margins in the industry
10 have sunk from about a 10 percent profit margin to
11 about a 3.4 percent profit margin. About 120 people
12 have been laid off because of this predatory activity.

13 We're the fourth highest producer of this
14 kind of pipe in the State of Indiana. One hundred and
15 twenty people may not sound like a lot in the context
16 of the national economy. But for some of our
17 communities, it is a material injury, and it has a
18 cascading effect. Indirect employment effects are
19 felt. Other activities in the community are harmed
20 because of the loss of business and employment.

21 As I said at the beginning, and I'll keep my
22 remarks short because you have to hear from a lot of
23 people today, this, in microcosm, reflects some of the
24 challenges that we face as a country.

25 I saw just today on the front page of the
26 "Washington Post" that about 82 percent of the

1 American people feel that our country has gotten
2 significantly off on the wrong track. The President's
3 approval rating is at an all time low, and I don't
4 mean to criticize him. Congress' approval rating is
5 at about 14 or 15 percent. I note, if it weren't so
6 serious, it would have funny.

7 In the course of the Presidential debates,
8 apparently one of the commentators noted that more
9 Americans feel that they have seen an unidentified
10 flying object, than give Congress a positive approval
11 rating.

12 So unfortunately, it is systemic across the
13 Executive Branch and the Legislative Branch, if you
14 look at the figures, in terms of whether the American
15 people feel the global trading system is operating in
16 a fair and objective manner; whether there is true
17 competition taking place; and winners or losers are
18 chosen on the basis of market forces and the merits,
19 as opposed to Government policies.

20 The American peoples' feelings about that
21 are at an all time low. While the dispute here today
22 certainly is not the cause of all that, it is in small
23 microcosm that contributes to all of that.

24 If people don't feel that economic outcomes
25 are the product of hard work, ingenuity, and
26 competition; if instead they believe and have a right

1 to believe, based upon the facts, that it is a product
2 of other governments' economic policies and economic
3 engineering on the part of governments; rather than
4 true forces taking place in the marketplace, their
5 faith in the whole process collapses. Then the system
6 collapses, and then you can lead to some pretty
7 unfortunate outcomes, including protectionism, and
8 other things.

9 So I would encourage you to take a careful
10 look at the facts. I know you will. You've done that
11 previously. It seems to me that this is just another
12 example of what we've seen, over and over and over
13 again; and I want to just conclude by thanking you for
14 the action that you've taken previously to address
15 some of this. The behavior won't stop until we do.
16 The American public's confidence won't be restored
17 until we do.

18 You have been one of the few entities that
19 has proven to be professional enough and strong enough
20 to actually look at the facts and, when they warrant,
21 take the kind of action you have before.

22 I urge you to do that again; and I hope that
23 we'll have the opportunity to see one another in the
24 future in social settings or other settings, rather
25 than in these constant disputes. Because it shows
26 that the underlying behavior has not changed, and it

1 really needs to.

2 That's all, in terms of my opening
3 statement; but I'd be happy to take any questions, if
4 there are any from the Commission.

5 CHAIRMAN PEARSON: Thank you, Senator; does
6 any Commissioner have a question for Senator Bayh?

7 (No response.)

8 CHAIRMAN PEARSON: Thank you.

9 MR. BAYH: Thank you very much.

10 CHAIRMAN PEARSON: Now we could move toward
11 the domestic industry panel; yes?

12 MS. ABBOTT: Yes, would the panel in support
13 of the imposition of anti-dumping and countervailing
14 duties please come forward and be seating.

15 CHAIRMAN PEARSON: Are you running this
16 show?

17 MR. DORN: I hope so.

18 CHAIRMAN PEARSON: Please be seated.

19 MR. DORN: Thank you, Mr. Chairman.

20 MR. KERINS: Good morning, my name is Bill
21 Kerins. I'm the President of the Wheatland Tube
22 Division of John Maneely Company.

23 I am joined today by over 40 members of USW
24 Locals 1016, 1355, 1375, 1660, and 9306, from our
25 plants in Pennsylvania and Ohio, as well as by
26 Wheatland Management; Mayor Bob Lucas of the city of

1 Sharon, Pennsylvania; and Mercer County Commissioner
2 Brian Bader, all of whom have witnessed the impact of
3 job losses.

4 I started working with Wheatland in 1978 as
5 a conduit shipping foreman in the Council Avenue
6 Wheatland plant. I held various positions with the
7 company over the last 30 years, before becoming
8 President of the division in 2007.

9 The John Maneely Company is the parent of
10 Wheatland Tube, Sharon Tube, and Atlas Tube. It is
11 the leading U.S. producer of circular welded pipe, or
12 CWP, and has over 2,100 employees residing in five
13 states. We have been nationally recognized for our
14 affirmation action efforts to hire veterans, some of
15 whom are with us today.

16 Wheatland makes the full range of products
17 covered by this investigation. Today, we have plants
18 making CWP in Wheatland, Pennsylvania; Warren, Ohio;
19 and Chicago, Illinois. Sharon Tube, located in
20 Sharon, Pennsylvania, makes smaller sized pipe, one
21 inch or less in outside diameter. Atlas Tube, located
22 in Chicago, Illinois, makes some circular construction
23 pipe that is covered in this investigation.

24 Every U.S. steel producer is threatened by a
25 heavily subsidized Chinese steel industry. For CPW,
26 we're well beyond that threat. We have already

1 suffered serious injury from imports from China.
2 Experience has shown that the only thing that can stop
3 cheap Chinese CWP from surging in the United States is
4 the imposition of duties to offset the dumping the and
5 subsidies.

6 Imports of CPW from China exploded, from
7 10,000 tons in 2002, to 748,000 tons in 2007. This is
8 a 7,500 percent increase in five years.

9 We filed the Section 421 case after imports
10 reached 267,000 tons in 2004. We warned that absent
11 relief from the Chinese imports, we'd have to close
12 our Sawhill tubular facility in Sharon. We had just
13 invested \$25 million to upgrade that plant.

14 I was in charge of that upgrade.
15 Unfortunately, President Bush rejected the
16 Commission's relief recommendation of December 2005,
17 and we had to announce the closing of that facility in
18 February 2006. The plant was bulldozed approximately
19 one year later. We did our best to offer our Sawhill
20 workers employment at other facilities, with only
21 limited success.

22 After the loss of the 421 case, imports
23 skyrocketed to 716,000 tons in 2006, and then
24 increased again to 748,000 in 2007. China's market
25 share grew to 29 percent in 2007. It would have been
26 even higher if we had not filed this case in June, and

1 the Commerce Department had not imposed preliminary
2 duties in November.

3 When the case was filed, however, the
4 Chinese producers' imports did all they could to
5 accelerate shipments to circumvent the imposition of
6 preliminary duties in November. That import surge to
7 beat the duties caused serious harm to Wheatland and
8 the industry.

9 In September 2007, we had to close our
10 Little Rock, Arkansas facility. That plant was very
11 efficient and modern. But we could not use enough of
12 its capacity to justify keeping it open.

13 In the same month, we had to close our
14 seminal tube facility in Houston, Texas, which served
15 as a major distribution warehouse for CWP to serve the
16 Gulf Coast market. Had imports from China not taken a
17 larger share of the market, we would not have had to
18 close them.

19 Even with these plant closures, we are not
20 able to operate our remaining plants at full capacity.
21 Our plants are designed to work three shifts a day,
22 seven days a week. We have not done so since 2004.
23 Instead, we have generally operated only five days a
24 week.

25 Most of our plant workers want to work six
26 eight hour shifts which, with overtime, equals about

1 \$1,080 of weekly income, exclusive of benefits. Many
2 have been forced to work only four shifts, with a
3 weekly income of only \$725, or \$455 less per week than
4 they could be making.

5 These lost jobs and reduced incomes are not
6 just data points to me. I go to church with these
7 employees, attend the same community functions, and
8 work alongside of them in volunteer efforts.

9 Our children go to the same schools. We
10 shop at the same malls. Our families are friends.
11 Many of the parents of our current workers help to
12 train me when I worked in the mill. It is very
13 painful to deny them the same job opportunities that I
14 have had.

15 In addition, Wheatland Tube is the largest
16 industrial employer in Mercer County, Pennsylvania.
17 Lost jobs and lost income have a ripple effect that
18 harms the entire community, including the local tax
19 base.

20 Our employees don't want government handouts
21 and trade adjustment assistance. They want
22 manufacturing jobs, where they can earn their living,
23 set examples of a good work ethic for their children,
24 and contribute to the community.

25 Wheatland's overall production capacity for
26 facilities producing CWP fell by almost 30 percent, or

1 by 230,000 short tons from 2005 to 2007. Because over
2 80 percent of Wheatland's production is standard pipe,
3 the closure of this capacity is tied directly to the
4 competition with imports from China for standard pipe
5 sales.

6 In 2006 and 2007, Wheatland should have been
7 enjoying very strong sales volumes and sales revenues.
8 U.S. market demand increased significantly from 2005
9 to 2006, and remained at a high level in 2007.
10 Wheatland shipments, however, declined from 2005 to
11 2006, and our profitability declined in 2007.

12 As the Chinese grabbed 29 percent of the
13 market in 2007, with prices lower than most of our
14 cost of production, we could not obtain price
15 increases to cover increasing cost. You can see the
16 resulting red ink in our response to the Commission's
17 questionnaire.

18 Although the preliminary duties pushed
19 Chinese pipe out of the market, CWP capacity continues
20 to grow rapidly in China. With no checks against
21 unfair trade, that Chinese capacity could supply the
22 entire U.S. market.

23 Chinese producers would focus even more on
24 the U.S. market, because Canada has just imposed very
25 large anti-dumping duties on imports of CWP from
26 China, and the EU is conducting an anti-dumping

1 investigation against Chinese pipe.

2 In addition, the enormous available hot
3 rolled capacity in China cannot come here in hot
4 rolled form because of high U.S. anti-dumping duties
5 on Chinese hot rolled. That hot rolled steel, of
6 course, can be formed and welded into a pipe.

7 Accordingly, the future prosperity of the
8 CWP industry depends on your affirmative vote in this
9 case. I do not want to close more plants and hand out
10 more pink slips to our loyal plant workers.

11 When you're the one receiving a layoff
12 notice, it's 100 percent unemployment; not a single
13 digit monthly unemployment number. Please help me to
14 avoid additional layoffs and plant closings.

15 MS. MAGNO: Good morning, my name is Mark
16 Magno, and I am Vice President of Standard Pipe, Fence
17 and Sprinkler Sales for Wheatland Tube Company and
18 Sharon Tube Company. I have been with Wheatland Tube
19 for 24 years.

20 Wheatland and its sister company, Sharon
21 Tube and Atlas Tube, produce the full range of
22 circular welded pipe that is subject to this
23 investigation. Wheatland's products include A53 pipe,
24 fence, sprinkler, hot dip, and in-line galvanized and
25 water weld casing. We distribute these products
26 nationally, including on the West Coast.

1 Six years ago, I testified before the
2 Commission, when the harmful impact of imports from
3 China was already evidenced. China reported about
4 150,000 tons of standard pipe to the United States in
5 2000. In 2001 and for two years thereafter, China's
6 exports were constrained by the application of Section
7 201 measures. When those duties were terminated,
8 imports from China surged into the U.S. market at
9 extremely low prices.

10 Imports increased to 268,000 tons in 2004,
11 and continued the rapid increase in the first half of
12 2005. This led the industry to file a Section 421
13 case in 2005.

14 At the hearing before the Commission in
15 September of 2005, the representatives of the Chinese
16 producers assured the Commission that imports from
17 China in 2005 would be lower than in 2004; only
18 239,000 tons. When the final 2005 import data was
19 tallied, however, imports from China exceeded 372,000,
20 or about 56 percent greater than predicted.

21 The Chinese producers also told the
22 Commission in their pre-hearing brief in the 421
23 investigation that imports from China would drop to
24 only 204,000 tons in 2006. Instead, imports from
25 China were 650,000 tons, a level three times higher
26 than that predicted by the Chinese producers in the

1 421 case.

2 Notwithstanding the filing of this petition
3 in June 2007, imports from China increased another 21
4 percent from January to October 2006, to January to
5 October 2007. In November and December, imports from
6 China dropped to extremely low levels.

7 Importers, however, had brought in a surge
8 of Chinese imports just prior to the imposition of
9 preliminary duties in November, at the time of the
10 year when seasonal demand is typically slowing. That
11 surge to beat the duties resulted in a massive
12 inventory build-up of imports from China that delayed
13 the benefits of relief for at least three months, and
14 came at a particularly bad time when seasonable demand
15 is historically low.

16 In 2007, the low priced imports from China
17 made it virtually impossible to implement price
18 increases. To stem the loss of sales volumes to
19 imports from China, Wheatland instituted a foreign
20 fighter program, designed to meet competition from
21 Chinese imports of fence pipe.

22 We provided the Commission our pricing
23 schedule for this program in our questionnaire
24 response. Wheatland discontinued this program in
25 November 2007, and the last shipments were made in
26 December. We were disappointed in the results of the

1 foreign fighter for two reasons. First, we were not
2 as successful as we hoped we would be in pulling back
3 orders that were going to the Chinese. Second, we
4 were losing money on the sales we did gain through
5 that program.

6 Imports from China are not a localized
7 problem. Wheatland sells nationally, and we have
8 faced unfair pricing on pipe from China in every
9 market. Moreover, the Chinese prices were so low that
10 master distributors, who are a major factor in the
11 portion of the market serving plumbing supply houses,
12 could build huge inventories, and thereby neutralize
13 any advantage we possessed as to lead time or
14 availability.

15 Master distributors were able to command
16 volume breaks on pricing, on top of already
17 ridiculously low Chinese prices. The rapid growth in
18 U.S. market share obtained by the Chinese pipe
19 establishes not only the effectiveness of their
20 pricing strategy; but also the wide market acceptance
21 of Chinese pipe as a substitute for domestic pipe.

22 In fact, standard pipe is a commodity
23 product that is purchased largely on the basis of
24 price. Even the customers with whom we've had long-
25 standing, strong relationships increased their
26 purchases of Chinese pipe.

1 In closing, the damage our industry and our
2 workers suffered from 2005 to 2007 took place when the
3 market for non-residential construction was strong and
4 growing. Now that the non-residential construction
5 cycle is starting to decline, we are facing slowing
6 demand for our products.

7 If the duties were removed now, our market
8 would be destroyed by a renewed surge of Chinese pipe
9 during a period of weakening demand and sharply
10 increasing costs of production inputs. Please do not
11 let that happen

12 MR. FILETTI: Good morning, my name is
13 Richard Filetti. I am the immediate Past President of
14 Allied Tube & Conduit.

15 I've spent the last 23 years with Allied,
16 holding positions in manufacturing, engineering, and
17 finance. For the last eight years, I served as
18 President. Currently, I maintain my affiliation with
19 Allied as a consultant.

20 Allied produces circular welded pipe and
21 tubing, which is sold into two major markets: the
22 fence and sprinkler industries. We compete head to
23 head with Chinese pipe in both of those segments.

24 Allied has four manufacturing plants
25 producing welded pipe and tubing. These plants are in
26 Harvey, Illinois; in Philadelphia; Pine Bluff,

1 Arkansas; and in Phoenix. We also have additional
2 stocking locations in Housing and just south in the
3 Los Angeles area.

4 Our goal is to maintain geographic coverage
5 to service these markets throughout the United States,
6 with a full product range and a cost effective
7 delivery.

8 We acquired our Phoenix plant in the 1990s
9 and our Arkansas plant in 2001. In each case, we
10 determined where the prime markets were, in the
11 Southeast and the Southwest, as far as growth. We
12 then identified the best available facilities for
13 acquisition. Once acquired, these plants were
14 upgraded with the best technology and equipment.

15 With all of our facilities, over the years,
16 we have consistently invested to improve our
17 technology and our equipment. The reason is to have
18 the state-of-art facilities and maintain a low cost
19 manufacturing.

20 Now as a result, we are one of the most
21 efficient and high speed pipe and tube producers in
22 the world. In fact, our patented in-line galvanizing
23 technology has been licensed to producers in Japan, in
24 India, and in Europe.

25 The years 2005 to 2007 should have been very
26 good years for Allied. U.S. demand for circular

1 welded pipe was very strong. Allied had the capacity,
2 the people. We had the geographic diversity. We had
3 the technologies and the sales people all in places to
4 meet our customers' increase demand.

5 We should have substantially grown our
6 sales, our production, and our employment through 2005
7 and 2007. Instead, we lost sales and market share to
8 the lower priced imports from China.

9 These unfairly priced imports placed us
10 under enormous pricing pressure, which shows up quite
11 clearly in our financial results. We had to lower
12 prices, even on the heels of increased raw material
13 costs. All of this has resulted in adverse impacts to
14 profitability.

15 As I stated at the preliminary conference,
16 our first quarter 2007 earnings were the worst quarter
17 we've ever had. Total year results were no better.

18 As the Commission observed in the
19 preliminary opinion, this is a high variable cost
20 industry. Selling below total cost, let alone below
21 variable cost to hold market share or even to recoup
22 sales, is just not financially feasible.

23 Given the strong market demand, we should
24 have been able to operate each of our four plants a
25 minimum of three shifts, five days a week. We have
26 the ability and the willingness to operate six and

1 seven days, especially if there's a spike seasonally
2 in demand.

3 Unfortunatly, we have not been able to work
4 even the minimal three shifts five days per week
5 during the past few years. Instead, we've had to
6 reduce mill shifts and take periodic weekly shutdowns,
7 as a result of these lost sales to the low priced,
8 government-subsidized imports from China.

9 With low capacity utilization, as a result
10 of the lost sales to the Chinese pipe and subsequent
11 low margins as a result of trying to react to the much
12 lower priced imports from China, it has been difficult
13 to maintain effective operations and good financial
14 results.

15 Please act to impose countervailing and
16 antidumping duties on circular welded pipe from China;
17 thank you.

18 MR. BOGGS: Good morning Chairman Pearson
19 and distinguished Commissioners. My name is Will
20 Boggs. I'm Vice President of the Fence Division for
21 Allied Tube and Conduit. I have 33 years in the pipe
22 and tube industry, and have been with Allied for 15.

23 Mr. Filetti has provided an overview of
24 Allied's operations and described the overall impact
25 of illegally dumped and subsidized Chinese CWP on our
26 business. I will address, in particular, the fence

1 market and substantial market share losses and price
2 erosion that Allied has suffered in that market due to
3 Chinese imports.

4 Fence tubing is one of Allied's leading CWP
5 products. It is also one of the leading product areas
6 supplied by China. When we talk about the fence
7 market for CWP, we mean chain link fence.

8 Chain link fence is a strong, durable,
9 flexible, inexpensive barrier product serving a wide
10 variety of uses. There is no substitute for CWP in
11 the manufacture of chain link fence.

12 The factors that make CWP the only option
13 are its durability, strength to weight ratio, cost,
14 and aesthetics. Also, purchasers of CWP for chain
15 link fence are very price sensitive. Chinese imports
16 are interchangeable with our product range, but
17 consistently are priced 30 to 40 percent below our
18 prices.

19 Chinese pipe is so cheap that importers pay
20 the freight to move it in the upper Midwest markets.
21 We don't see any pipe from any other countries in
22 those markets.

23 I testified on behalf of Allied Tube at the
24 Commission's 421 hearing on CWP in 2005. I described
25 at that time lost sales and volumes and pricing
26 pressure on our fence business. I reported that the

1 cost of the imports was below our raw material costs.
2 We have continued to lose market share and suffer
3 depressed prices. Let me provide you some examples.

4 We sell through distributors. Several of
5 our largest customers then resell to smaller
6 distributors. Although the term "master distributor"
7 is not used in the fencing business, there are
8 certainly such intermediaries in the fence tube
9 market. They have all either shifted sales away from
10 domestic product to imported pipe from China or used
11 the lower Chinese import prices to force us to lower
12 our prices, and we've done both.

13 Our customers, both large and small, have
14 shifted purchases to Chinese pipe. For example, we
15 lost a very large account for residential fence tubing
16 that was supplied by our customer to Home Depot in the
17 eastern half of the United States.

18 We lost another large customer specializing
19 in fence products and serving the eastern half of the
20 United States. The customer resells to smaller local
21 fencing distributors and installers. We provided this
22 customer very favorable pricing on a very substantial
23 tonnage last June. The customer instead paid
24 approximately 25 percent less per ton than we quoted
25 for the same product from China.

26 That single sale resulted in millions of

1 dollars of lost business for us in 2007. We reported
2 this lost sale in our final questionnaire response.
3 The petition reported also another multi-million
4 dollar lost sale involving that same customer back in
5 2005.

6 We also have numerous accounts where there
7 is pressure to meet Chinese prices. Exhibit 5 of
8 Petitioner's pre-hearing brief contains our price
9 sheets to a regional fence product distributor,
10 together with the price quotes that the customer
11 received for the Chinese pipe. The documents
12 demonstrate that to keep this business, we were forced
13 to reduce our prices in early 2006, and to continue to
14 reduce those prices in 2007.

15 We're not only forced to reduce our prices
16 to the customer, but other customers in the same
17 region. Had we not done so, we would have lost more
18 volume to China.

19 In conclusion, fencing is a significant end
20 use product in which Allied and other domestic
21 producers have suffered injury in the form of both
22 lost sales and depressed margins. We can compete
23 successfully with imports from countries other than
24 China, but we can't compete with China pipe that is
25 offered at prices lower than our raw material costs;
26 thank you.

1 MR. FINN: Good morning, for the record, my
2 name is Don Finn, and I am Vice President of Sales for
3 Western Tube & Conduit Corporation, Long Beach,
4 California. I've been employed with Western Tube for
5 42 years. For the last 34 years, I've served in an
6 executive position, and have been head of fence sales
7 since 1982.

8 One of the products Western Tube makes,
9 covered by this investigation, is galvanized fence
10 tubing. Since 2003, our fence sales declined 40
11 percent in tons, totally due to the flood of unfairly
12 trade fence tubing imports from China.

13 Even as market demand grew and I cut prices,
14 we could still not be competitive, because Chinese
15 imports are sold at our steel cost plus zinc cost,
16 leaving us nothing for manufacturing, no room for
17 labor, scrap, overhead, energy cost, or profit.

18 At the same time, our LWR, light walled
19 rectangular business, also was being attacked by
20 unfairly traded imports from China. Thus, our sales
21 of conduit tubing, which have such light walls and
22 stringent specifications that import competition is
23 limited, have grown much more important to Western
24 Tube.

25 If we only made fence pipe and LWR, we could
26 not remain in business. Even worse than the decline

1 in our profitability was the impact of these unfairly
2 traded on Western Tube's workforce.

3 These are good union jobs. Western Tube's
4 workforce has had no overtime for the past three
5 years, which has resulted in reduced pay. We have
6 excellent workers, efficiently running the most state-
7 of-the-art equipment for producing the subject
8 products anywhere in the world.

9 I strongly believe we produce tubing faster
10 or more efficiently, and the American tube mills
11 produce tubing faster and better than anyone in the
12 world.

13 This is not a labor issue. Western Tube's
14 workers suffered because until now, the government
15 failed to stop these unfair trade practices.

16 Our sales began to recover in December,
17 after Chinese imports stopped in November. The
18 recovery has continued, and we are now back to 2003
19 levels for the first quarter of 2008. This also means
20 that fence tubing customers, who had bought Chinese
21 are switching back to domestic, instead of other
22 imports.

23 In closing, I ask that you give us relief
24 from unfairly traded imports, both in LWLR and in
25 standard pipe. If we succeed, our fence tubing sales
26 will grow and our mill capacity will improve, and our

1 employment will increase.

2 If we do not succeed, Western Tube's future
3 looks very dim, and I strongly believe the American
4 pipe and tube industry, as we know it, will disappear.
5 Western Tube's future and the future of all U.S. pipe
6 and tube producers depend on fairly traded products;
7 thank you.

8 MR. BARNES: Good morning, Chairman Pearson
9 and members of the Commission. For the record, my
10 name is Scott Barnes, and I am Vice President of
11 Commercial for IPSCO Tubulars, Inc.

12 Standard pipe has been an important product
13 for IPSCO Tubulars for the two decades in which we
14 have been a manufacturer in the United States. We
15 produce ASTM A53, which is the bread and butter of the
16 U.S. standard pipe market, in sizes ranging from 1.9
17 to 16 inch in outside diameter, in our mills located
18 in Blytheville, Arkansas; Comanche, Iowa; and Wilder,
19 Kentucky.

20 As I testified last summer in the
21 Commission's preliminary staff conference, IPSCO
22 Tubulars was completely unsuccessful in early 2007 in
23 passing along steel cost increases which we incurred.
24 This was primarily because of large volumes of
25 unfairly traded Chinese standard pipe in inundating
26 the market and under-cutting our prices.

1 In December 2006, IPSCO completed the
2 acquisition of the NS Group, which included Newport
3 Steel. This company is not called IPSCO Kentucky.

4 Newport had previously abandoned the
5 standard pipe business because it could not compete
6 with unfairly traded imports. As we stated publicly
7 at the time of the acquisition, Newport's capacity
8 utilization rates for the Wilder, Kentucky plant were
9 in the range of 40 to 50 percent, far below IPSCO's
10 average capacity utilization rates.

11 One of my assignments as Vice President of
12 Commercial was to expand our standard pipe business.
13 The plan was to expand the product size range, take
14 advantage of reduced freight costs to the extremely
15 large Eastern and Southeastern U.S. markets, and
16 achieve production cost efficiencies at IPSCO Kentucky
17 through higher utilization rates.

18 We installed two new weld boxes, non-
19 destructing testing, and off-line cutting equipment at
20 Wilder. We also planned significant capital
21 expenditures at the plant in order to improve quality,
22 increase productivity and reduce production costs.

23 Unfortunately, as you can see from the data
24 in our questionnaire, while we did reintroduce
25 standard pipe production to Newport, which allowed us
26 to increase the overall standard pipe volumes and

1 sales, our profits and profit margins plummeted,
2 because of the price depression caused by the unfair
3 Chinese imports. Given these poor returns, management
4 delayed future capital expenditures at the Newport,
5 Kentucky plant.

6 Now IPSCO's parent, SSAB, has entered into a
7 sales agreement for IPSCO Tubulars. If retained in my
8 commercial role, I would certainly advise our new
9 owners to continue pursuing expanded production and
10 sales in the U.S. standard pipe market.

11 We have the additional capacity and proper
12 geographic locations to replace significant portions
13 of the 700,000 tons of unfairly traded imports from
14 China. However, it is clear to me, based upon the
15 current steel benchmarker series, that government
16 control by China of their steel industry has widened
17 the gap between the Chinese domestic hot rolled prices
18 and world market prices to between \$350 and \$400 per
19 metric ton.

20 If you make negative determinations in this
21 case, the Chinese pipe industry has the capacity, the
22 subsidies, and the willingness to dump that will
23 enable the Chinese industry to force our company out
24 of the standard pipe business.

25 On behalf of IPSCO Tubulars and our
26 employees in Blytheville, Comanche, and Wilder, this

1 is an important decision; and I urge the Commission to
2 make that an affirmative one; thank you.

3 MR. CONWAY: Good morning, Chairman Pearson
4 and members of the Commission. My name is Tom Conway.
5 I'm the International Vice President of the United
6 Steel, Paper, Forestry, Rubber, Manufacturing, Energy,
7 Allied-Industrial and Service Workers International
8 Unions. It's become quite a mouthful of name that we
9 have.

10 The steel workers are the largest industrial
11 union in North America, with 850,000 active members
12 manufacturing a broad range of products, including the
13 pipe produced under investigation today. For more
14 than a decade, our union has been at the forefront,
15 using our trade laws to make sure that our members and
16 industries are not lost to unfair import competition
17 like the pipe we're face here today from China.

18 Our union represents workers at Allied,
19 Atlas, Bull Moose, IPSCO, Livitube, Maverick, Sharon
20 Tube, Stub, Textube, U.S. Steel, and Wheatland. Our
21 workers there suffered just tremendously, and this
22 should never have been allowed to occur.

23 As a way of a brief background, imports from
24 Chinese circular welded pipe began to cause these
25 problems back in 2000, when the levels went from a
26 trickle to over 150,000 tons. During 2001 through

1 2003, when the 201 safeguard was in place, there was
2 relief. For example, the Chinese pipe imports dropped
3 to 9,000 tons during that period.

4 But after the 201 trade relief was
5 terminated, subsidized Chinese imports of pipe
6 skyrocketed, reaching 266,000 tons in 2004. The surge
7 in 2004 caused the USW to join together with seven
8 U.S. pipe companies to file a Section 421 safeguard
9 case on the same pipe products under investigation
10 today.

11 I testified before this Commission in 2005
12 in that case. If ever there were an example of when a
13 Section 421 relief was merited, it was that safeguard
14 case on circular pipe.

15 Yet even though the Commission found market
16 disruption by Chinese imports and recommended relief
17 through a quota of less than 200,000 tons for three
18 years, President Bush disregarded that recommendation
19 entirely. Instead, the President denied any relief
20 whatsoever and essentially gutted the statute's
21 purpose and intend.

22 The impact of that terribly wrong decision
23 was to let Chinese pipe imports enter without
24 restriction. As predicted, those imports almost
25 doubled between 2005 and 2007 to 750,000 tons, causing
26 continued harm to our pipe workers and to the

1 industry.

2 During the course of the Section 421 case in
3 2005, the then-President of Wheatland Tube said that
4 he would close the company's Sharon, Pennsylvania
5 facility if 421 relief were not granted.

6 After President Bush denied relief, that
7 plant was indeed shut down in May 2006, and several
8 hundred USW members lost their jobs permanently.
9 While they did go through the application process and
10 eventually received trade adjustment assistance, I can
11 tell you that these workers would much have preferred
12 to keep the Sharon plant operating, so they could have
13 kept their families supporting manufacturing jobs.

14 Last summer's imports surged into the United
15 States after the filing of this case. Wheatland also
16 shut its Little Rock, Arkansas plant and a plant in
17 Houston, Texas, which made the couplings and nipples
18 that are sold with the pipe under investigation.

19 Northwest Pipe shut their facilities across
20 the country that had made these pipe products,
21 including plants in Portland, Oregon; Houston, Texas;
22 and Bossier City, Louisiana.

23 You might ask, why is the union concerned,
24 given the data in the staff report that employment
25 indicators were relatively flat in this industry over
26 the period of time? But as I mentioned earlier,

1 capacity was shut down and jobs lost during the time
2 we sought the relief under the 421, and we were
3 expecting that relief.

4 Also, I'd point out that the increased U.S.
5 demand for pipe that occurred, which increased between
6 2005 and 2006 by over 15 percent was taken entirely by
7 increased dumped and subsidized imports from China.
8 So in other words, an economic expansion that
9 otherwise should have been a boom for our workers and
10 industry was a bust.

11 It can't mean and it shouldn't be the case
12 that the only Americans who benefit from economic
13 expansion in the U.S. markets are importers,
14 distributors, and big box retailers, who sell those
15 goods here.

16 The Chinese steel industry has been nurtured
17 and encouraged by the Chinese government through the
18 provisions of illegal subsidies and have been dumping
19 by wide margins, as found by the Commerce Department.

20 It's also the case that Chinese pipe
21 producers benefit from the Chinese government's
22 delivered, under-valuing of its currency vis-a-vis the
23 dollar, which provides an additional bonus to all
24 Chinese exports by approximately 30 to 40 percent.
25 Currently manipulation not only harms U.S.
26 manufacturers and workers; but it's created an

1 unprecedented and staggering bilateral trade deficit
2 which has ballooned to nearly \$300 billion on an
3 annualized basis.

4 Sitting in the back of the room with us
5 today is George Borens, the now-retired Local 1016
6 President of the shut-down Wheatland Tube plant in
7 Sharon, Pennsylvania, where several hundred workers
8 lost their jobs.

9 Also joining us are about 40 steel worker
10 members, who are all highly skilled pipe workers, with
11 family-supportive jobs, working for pipe companies in
12 Pennsylvania, Ohio. These pipe workers are attending
13 this hearing because they well understand its crucial
14 impact on their futures. I'd like to ask them to
15 stand for a moment. Some of these workers have been
16 terminated by Wheatland and have lost their jobs but
17 hope to get their jobs back if relief is granted so
18 Wheatland can increase production again.

19 How many times do American workers,
20 taxpayers and citizens have to come before its
21 government and essentially beg for their jobs and
22 relief against countries like China, who are just
23 absolutely violating the law?

24 On behalf of the Steel Workers Union in this
25 case and all members of our union, we urge you to take
26 a strong stand against this well-documented unfair

1 trade and vote affirmatively to impose duties. Thank
2 you.

3 MR. THOMPSON: Good morning. My name is
4 George Thompson. I am General Manager, Commercial,
5 U.S. Steel Tubular Products, and I would like to focus
6 your attention on four critical points regarding these
7 investigations:

8 First: Chinese subsidies are an enormous
9 problem, not only for U.S. producers of circular
10 welded pipe but for steel makers throughout the world.
11 It is imperative that in this case, one of the first
12 in which the Commission has considered a CWD
13 investigation involving steel imports from China, that
14 you send a strong message that this unfair trade will
15 not be tolerated.

16 Backed by massive support from their
17 national and local governments, Chinese steel
18 producers are building an industry far larger than
19 market forces could possibly justify. The cost of raw
20 materials, like coal, iron and scrap, are exploding as
21 a result of the subsidized production of China's new
22 mills.

23 Meanwhile, the U.S. market is being flooded
24 with an almost limitless supply of unfairly traded
25 imports as China dumps its subsidized steel products
26 here.

1 If this Commission fails to enforce our
2 anti-subsidy laws, the consequences for domestic steel
3 producers, including the domestic industry before you
4 today, could be calamitous.

5 Second: Chinese imports have certainly
6 caused material injury to domestic producers of
7 circular welded pipe. The last few years should have
8 been good for this industry. Your Staff Reports show
9 that from 2005 to 2007, U.S. consumption rose by
10 almost 9 percent, and U.S. productivity increased by
11 almost 4 percent. Under these circumstances, our
12 profits should have grown.

13 Unfortunately, Chinese imports surged from
14 382,000 tons in 2005, to 748,000 tons in 2007, an
15 increase of 96 percent. Those imports undersold
16 American production by hundreds of dollars per ton.
17 As a result, domestic industry lost market share and
18 saw its prices fall by an average of \$51 per ton. The
19 results were severe.

20 From 2005 to 2007, the industry's operating
21 income fell by over 63 percent, and its operating
22 margin fell by 66 percent.

23 The fact that all of this happened during a
24 period of strong demand and improved domestic
25 productivity leaves no doubt that Chinese imports were
26 the cause of the injury.

1 Third: U.S. Steel has been injured by
2 Chinese imports. We make circular welded pipe
3 primarily through a tolling arrangement with Camp Hill
4 Corporation in McKeesport, PA. We only use one shift
5 at that facility, and any lost volume there really
6 hurts us.

7 Unfortunately, last year our production of
8 circular welded pipe at McKeesport fell by almost 70
9 percent, primarily because of dumped and subsidized
10 Chinese imports. We were not able to make up all of
11 the lost production by increasing production of other
12 items made at the McKeesport Mill due, in part, to the
13 fact that we are also being hurt by dumped and
14 subsidized welded line pipe from China and Korea.

15 We face a similar situation at our East
16 Texas facility, where Chinese imports denied us the
17 opportunity to diversify our production mix to include
18 more circular welded pipe.

19 Finally, domestic producers are facing an
20 incredible surge in raw material costs, costs, as has
21 been mentioned, themselves being driven higher by
22 subsidized production in China.

23 Since last year, the price of steel scrap has
24 increased almost 160 percent. The price of choking
25 coal has risen by over 200 percent, and the price for
26 iron ore is up by 65 percent to 85 percent. These

1 developments are plainly driving up costs for domestic
2 producers of circular welded pipe.

3 In short, it is critical that domestic
4 producers, who have already suffered material injury
5 by reason of unfair trade, have the opportunity to
6 pass along these higher costs. This will not be
7 possible if the market continues to be flooded by
8 dumped and subsidized goods from China.

9 Thank you for the opportunity to be here
10 today.

11 MR. DORN: Mr. Chairman, and members of the
12 Commission, my name is Joe Dorn. I'm with King &
13 Spalding on behalf of Petitioners.

14 I would like you to revisit the statutory
15 criteria regarding material injury that I briefly
16 touched upon in my opening remarks. I think when you
17 apply those criteria to the record of this
18 investigation, a very thorough record including 21
19 producers of CWP, this is clearly a material-injury
20 case.

21 I understand Mr. Barringer trying to divert
22 your attention in saying it's not. Make it a threat
23 case.

24 Mr. Barringer also, in his pre-hearing
25 brief, spends a lot of time talking about data that is
26 not in the record from other investigations from prior

1 times. He also looks to the data in a partial period
2 within the period of investigation. He looks at data
3 from outside the record regarding products that are
4 not CWP.

5 But he cannot deal with the facts that were
6 gathered in this pre-hearing report regarding the 21
7 producers who provided actual data on which this
8 Commission should make its determination.

9 Mr. Barringer also would have this
10 Commission overlook the predictions that the Chinese
11 producers made in the Section 421, that their imports
12 were going to go way down. As you saw from the prior
13 slides, in fact those predictions turned out to be
14 grossly false.

15 The first statutory criteria, of course, is
16 the volume of imports. Here it's pretty clear. The
17 Commission found the Section 421 investigation that
18 China became the largest single supplier for the first
19 time in 2004; and it was the largest supplier in the
20 first half of 2005.

21 In 2007, imports from China represented 64
22 percent of imports from all countries. Our equal was
23 51 percent of U.S. production and 29 percent of U.S.
24 consumption. Fairly significant. The increase, of
25 course, was also extraordinary. Imports jumped 96
26 percent from 2005 to 2007. And that's off a very high

1 base in 2005, as you've heard from all the testimony
2 today.

3 Imports had already increased dramatically
4 leading up to 2005, which is the base year for this
5 investigation. The increase, of course, would have
6 been even greater had the petition not been filed and
7 had preliminary duties not been imposed on November
8 13, 2007.

9 As shown on the slide, on a year-to-year
10 comparison basis, subject imports increased every
11 quarter during the POI until the fourth quarter of
12 2007, when imports fell sharply in November and
13 December in reaction to the duties.

14 China's share of imports from all countries
15 increased from 38 percent in 2005, to 64 percent in
16 2007. Relative to domestic production, subsidy
17 imports increased from 28 percent in 2005, to 51
18 percent in 2007. They increased their share of the
19 U.S. market from 16 percent to 29 percent.

20 Second: Subject imports have grossly
21 undersold, and adversely affected, domestic prices.
22 Imports from China were priced far lower than non-
23 subject imports and far lower than domestic pipe
24 during the PLI.

25 As shown on the slide, in 2005, the AUV of
26 imports from China was \$174 per ton below that of all

1 other countries. By 2007, China's AUV was \$264 per
2 ton lower than that of all other countries. This
3 difference is even more striking when you consider
4 that imports from China include a larger share of
5 higher valued galvanized pipe than do imports from
6 non-subject countries.

7 Imports from China undersold domestic
8 products in all possible quarterly pricing
9 comparisons, all 96. The average margin of
10 underselling was from 16 percent to 49 percent. I
11 realize these numbers speak for themselves, but this
12 is really remarkable considering the fact that this is
13 a commodity product.

14 Twelve of the 17 purchasers surveyed in the
15 preliminary investigation admitted that they shifted
16 purchases from domestic pipe to subject imports in
17 each one of these cited price as the reason for the
18 change.

19 We also have significant allegations of lost
20 sales and lost revenues that have been confirmed in
21 the final investigation.

22 So, notwithstanding robust demand,
23 increasing raw material and fabrication costs, and a
24 weakening U.S. dollar, in the face of this
25 underselling, the unit value of domestic industry
26 shipments fell over 5 percent from 2005 to 2007. The

1 prices of some individual pricing products even fell
2 more sharply.

3 The domestic producers were caught in a
4 cost-price squeeze. For the third time, the cost of
5 goods sold increased while the value per ton sold
6 decreased. As a result the industry's cost of goods
7 sold over sales ratio increased and its gross profit
8 fell 29 percent from 2005 to 2007.

9 Third: The adverse environment price affects
10 have had a significant negative impact on the domestic
11 industry's performance and financial condition.

12 The demand for CWP is largely derived from
13 demand for non-residential construction, which
14 steadily increased from 2005 to 2007.

15 In addition, the weakening dollar, in
16 relation to foreign currencies of substantially all
17 foreign pipe supplier, should have enabled the
18 domestic industry to gain a larger share of a growing
19 market during the POI because it was becoming more
20 competitive with those non-subject producers.

21 This is especially true with respect to the
22 seven countries subject to anti-dumping orders. If
23 those exporters had lowered their prices to compensate
24 for the weaker dollar, it would just drive up their
25 anti-dumping duty liabilities. Given the confluence
26 of these favorable market conditions, the domestic

1 industry should have enjoyed increasing capacity,
2 market share prices and profits.

3 But instead, from 2005 to 2007, the domestic
4 industry experienced an 11 percent drop in capacity,
5 closed plants and worker layoffs. And those worker
6 layoffs, of course, had ripple affects on these small
7 communities where these workers were employed: an over
8 3 percent decline in market share, at a time when the
9 domestic industry was becoming more competitive and
10 should have been gaining market share, vis-a-vis non-
11 subject suppliers; a 5 percent drop in average unit
12 shipment values, a 29 percent drop in gross profit, a
13 101 percent drop in cash flow, a 63 percent drop in
14 operating income, a drop in operating income margins
15 from 10 percent to under 4 percent, and a drop in
16 operating income over total assets from 18 percent in
17 2005, to under 4 percent in 2007.

18 In 2007, the domestic industry suffered a
19 negative cash flow in negative net income. In fact
20 the domestic industry's financial results in 2007 were
21 worse than in each of the years from 1999 to 2006, as
22 set forth in Figure 1 of the China producer's brief,
23 even though those years span the last recession.

24 Again, these should have been years of
25 increasing profits in response to strong demand. You
26 see the non-residential construction value going up on

1 the slide continuously from 2005 to 2007, but the
2 operating income margin is going in the opposite
3 direction.

4 The reason for that is on the next slide,
5 which shows that the operating income margins were
6 going down as the Chinese imports share of the market
7 was going up.

8 In sum, this really is a material injury
9 case, based upon the record of this investigation.
10 There is no need for the Commission to reach a threat,
11 but Roger Schagrin will address those criteria as
12 well.

13 MR. SCHAGRIN: Good morning, Chairman
14 Pearson, and members of the Commission. For the
15 record, my name is Roger Schagrin of Schagrin
16 Associates, and I am also counselor to the
17 Petitioners.

18 As Joe mentioned, I'm actually going to
19 address both critical circumstances and threat of
20 injury. However, before I do, I want to take one
21 quick moment for the record and just express my
22 condolences and sympathy to the Chinese earthquake
23 victims of yesterday's devastating earthquake in the
24 Sichuan Province. And I think I speak on behalf of
25 everybody in this room.

26 We want to advocate for our industry and for

1 our jobs, but there is no ill will towards the Chinese
2 people. I hope they will have a lot of international
3 assistance, and a speedy recovery as well as for the
4 victims.

5 And we, meanwhile, have to remember to count
6 our blessings.

7 Now, let me talk about critical
8 circumstances because in fact not only is this a solid
9 injury case, as solid as they come, the real issue
10 before you today, which is going to be argued by a
11 number of importers later this afternoon, is whether
12 or not this Commission should make an affirmative
13 critical circumstance determination in addition to
14 your affirmative injury determination.

15 We would say, based upon this record, that
16 you should make an affirmative critical circumstance
17 determination. Imports increased rapidly right after
18 the riling of this petition, and before the November
19 preliminary CBT determination.

20 As we argued in our pre-hearing brief, we
21 think the Commission should use five month time
22 periods, and exclude November. That's because the
23 imposition of very significant CVD duties, which were
24 expected by importers and by Chinese producers, had a
25 dramatic impact on lowering imports from China.

26 We just hope that the Commission would look

1 at the significance of this import increase in terms
2 of volume rather than just percentage. There is a lot
3 of talk about all of the other affirmative critical
4 circumstance determinations. How there were 50
5 percent, 80 percent, 100 percent increases in imports.
6 But going from 10,000 tons to 20,000 tons a month is a
7 100 percent increase in imports.

8 In this case, we're going from 75,000 to
9 100,000 tons a month of imports after the filing of
10 the petition. That may only be a 30 percent increase
11 in imports, but it's 25,000 tons a month, and it was
12 very injurious to this industry.

13 While importer's inventories may not have
14 increased tremendously, they did increase. I'm sure
15 as the Commission is well aware, in this product area,
16 most of the imports go directly to distributors, and
17 distributor inventories definitely increased rapidly
18 of Chinese products in the third quarter.

19 Because distributors were buying dumped and
20 subsidized Chinese pipe, they were overjoyed to
21 increase their purchases of these below-priced Chinese
22 imports. They were getting them at 20 percent, 30
23 percent, 40 percent below domestic prices. The
24 attitude of distributors was: We'll buy all you can
25 supply us during this quick period.

26 The third major reason you should make an

1 affirmative critical circumstance determination is
2 that the remedial effect of the normal imposition of
3 AD and CVD duties would be undermined. Because of
4 this import surge, we had additional plant closing, we
5 had a dramatic negative impact on employment and the
6 number of hours worked.

7 On profits in this industry, in fact in the
8 third quarter of 2007, the period in which these
9 imports surged if you look at the pricing products
10 selected by the Commission, which are the big
11 commodity products in this industry, you will see that
12 there were actually higher sales of Chinese imports
13 than there were of domestic products in the third
14 quarter of 2007. That really, in a nutshell, shows
15 how dramatic that post-filing import surge was.

16 But there is another key reason for this
17 Commission to make an affirmative critical
18 circumstance determination, and that goes to the
19 statutory basis cited by this Commission, and by the
20 courts, and by the congress, of the need of a
21 deterring affect against post-filing import surges.

22 Here, I point to the fact that I learned
23 after the filing of these cases, and unfortunately I
24 don't like the tip sheet, which some of you remember
25 from the 2004 investigation, I wasn't able to get it
26 in writing, but after 26 years of working in this

1 industry, I have a lot of sources at all different
2 points in the industry.

3 I was told that the Importers Association, I
4 believe all the importers appearing this afternoon are
5 members of the AIIS, that they routinely send out
6 information after the filing of a steel case.

7 And they basically tell their members: No.
8 1, this is when the ITC is going to make its prelim;
9 and No. 2, Commerce's CVD and AD prelims will be
10 extended. They say that they are always extended. So
11 you can add 60 days to the CVD and AD prelims of
12 Commerce.

13 In fact, that happened in this case.

14 Then they say: Now here is the 90-day date
15 in which critical circumstances might apply. But you
16 really don't have to worry about it that much because
17 the ITC rarely, if ever, finds critical circumstances.

18 So I submit to you that if the Importers
19 Association is telling their members that it's okay
20 for your imports to surge after these cases are filed,
21 then we're losing the deterring affect.

22 I think it would be appropriate for the
23 Commission to ask some of these importers: Did they
24 receive these AIIS submissions?

25 I don't know whether they come from their
26 counsel, or from their director David Phelps, but I

1 think the Commission ought to be able to gather these
2 directives from AIIS as part of its final
3 investigation.

4 So I think it's time for us to really put a
5 deterrent effect into practice, and we urge you to
6 make an affirmative critical circumstance.

7 Now, I agree with my colleague Joe Dorn that
8 this really is not a threat case. But if you decide
9 to consider threat, we have a few points to make as
10 the threat.

11 First and foremost is: Look at what happened
12 after the 421 Case. The Chinese industry came into
13 this Commission and said; You don't have to worry
14 about our exports. We have all these reasons, growth
15 of demand in China, the Olympic building is starting,
16 and our exports to the U.S. are going to decline in
17 2005 and 2006. That was their testimony; that's what
18 they submitted.

19 Two of the members of this Commission
20 believed the Chinese. You'll get a chance to make up
21 for your past mistakes.

22 Unfortunately, most importantly, the
23 President of the United States believed the Chinese,
24 too, and he doesn't get a second chance. This case is
25 only before you. It's not again before the President.

26 So, in the preliminary conference, we heard

1 from counsel for the Chinese, Mr. Porter, an
2 explanation response to the Commission's questions
3 about why did exports actually surge by over 100
4 percent instead of declining? His explanation was
5 some type of economic theory called: Things happen.

6 Now we get to the final.

7 Today, we have Mr. Barringer not blaming the
8 Chinese at all for the export surge, but in fact
9 blaming the U.S. industry. That's why their
10 predictions were wrong, he said, for two reasons.

11 And I submit to you, as my friend Marian
12 Barry from Arkansas would say, since he's such a
13 hunter: Those dogs don't hunt.

14 First of all, he says: Oh, everybody in this
15 industry shifted to OCDG. Who ever knew that oil
16 prices would go up? But I submit to you everyone in
17 this industry didn't shift to OCDG.

18 The three biggest producers in this
19 industry, and it has been like this for 20 years,
20 Wheatland, Allied and Bullmoose aren't really in the
21 OCDG industry at all. In fact, to my knowledge,
22 Allied and Bullmoose don't make a stick of OCTG. And
23 I submit that most of the increase in OCDG production
24 are by fairly minor players in the standard pipe
25 market.

26 Then, the second thing we heard is: Oh,

1 these guys had to decide what to make because there
2 were steel shortages in the POI. If I ask anybody at
3 this table, they were no steel shortages in 2005 to
4 2007. Is Mr. Barringer confusing 2004 again with this
5 POI?

6 As I say, those dogs don't hunt.

7 The reason that exports from China surged is
8 because Chinese producers didn't tell you the truth in
9 2004. And I doubt what their credibility,
10 particularly with fake documents at the Commerce
11 Department, that they're ready to tell you the truth
12 today either.

13 The last two items which you already know
14 from our briefs: They are under investigation in
15 Canada and the EU.

16 Their exports to Canada and the EU combined
17 are greater than their exports to the United States.
18 So if those countries impose duties, they're shifting
19 their exports could double their exports to the U.S.

20 And finally, congratulations to Mr. Cameron,
21 who will appear later. He is now representing a
22 Standard Pipe Importers Coalition. So, now, not only
23 is there a coalition of domestic producers, there is a
24 coalition of importers of standard pipe. Their goal
25 has to be to import standard pipe from China and put
26 the U.S. industry out of business.

1 Now they're organized and I would say that
2 that, in and of itself, constitutes an additional
3 threat.

4 Thank you very much. I think that that
5 completes, unless I'm wrong, Mr. Dorn, our
6 presentation, and I'm not even a politician.

7 MR. DORN: I think that concludes our direct
8 presentation, Mr. Chairman.

9 CHAIRMAN PEARSON: Okay, thank you.

10 I would like to welcome all the panelists
11 here today. You've put a lot of time and energy into
12 preparing for this petition, and preparing for the
13 hearing. You've taken time out from other things that
14 you could be doing with your businesses, and we
15 appreciate that.

16 The luck of the rotation gives me the first
17 questioning this morning. I have a question relating
18 to basic demand and supply. The energy tubular's
19 market in general has been relatively strong. In line
20 pipe in particular, there has been a lot of demand for
21 it. What has that strength for related pipe
22 production, what effect has that had on both demand
23 and supply of standard and structural pipe, Mr. Boggs?

24 Please turn on the microphone.

25 MR. BOGGS: Yes. At Allied Tube, we don't
26 make any of those line pipe products. We only make

1 standard pipe and our business has been hurt by China.
2 But we haven't shifted to the other products. We
3 don't have the capability to do so.

4 CHAIRMAN PEARSON: So it's had no affect on
5 your business.

6 Mr. Magno?

7 MR. MAGNO: I'm Mark Magno with Wheatland
8 Tube. We would look at these as really two different
9 markets. You have an energy market, which is
10 consuming the line pipe products.

11 Primarily, the standard pipe and the CWP is
12 going into non-residential construction. So where
13 we're putting fire sprinkler systems into buildings,
14 office buildings, warehouses, and things like that,
15 that's where we're seeing the demand.

16 It has been very clear, during this period
17 of investigation, that non-residential construction
18 was expanding throughout that time.

19 But to answer your question specifically: We
20 view an energy market, which we don't participate in
21 to any great extent, as a separate market from non-
22 residential construction.

23 CHAIRMAN PEARSON: Right. I understand that
24 it's separate. But what I'm trying to understand is:
25 Has there been enough demand for line pipe, so that
26 producers who produce both line pipe and structural

1 pipe may have shifted some of their capacity over to
2 line pipe, Mr. Filetti?

3 MR. FILETTI: Yes, thank you, Commissioner.

4 MR. BOGGS: In most cases, and especially at
5 Allied Tube and Conduit, we cannot shift our equipment
6 to make line pipe because of the design of the
7 equipment. It's not designed to make the wall
8 thicknesses, and there are also testing procedures and
9 certification issues.

10 So it would have to be almost a green field
11 investment for another company, such as ours, to say:
12 Okay, now we're going to get into the line pipe
13 business.

14 CHAIRMAN PEARSON: Okay, fair enough. But
15 are there any producers present who do have the
16 capability to produce either line pipe or standard,
17 Mr. Barnes?

18 MR. BARNES: Yes, Scot Barnes with IPSCO.
19 We do produce standard pipe and line pipe in the same
20 mills.

21 As Mr. Boggs and Mr. Magno testified, they
22 are two different markets. We look at different
23 indicators for those markets. The oil and gas, or
24 energy market, that you referred to, is driven by the
25 price of oil and the price of natural gas.

26 We look at the rate count as an indicator of

1 those markets.

2 On the standard-pipe side, as we've
3 testified before, it's generally a reflection of the
4 general economy. During the investigation, this was a
5 good economy going on, as measured by the non-
6 residential construction, the GDP, what have you, were
7 relatively stable.

8 But they are completely separate markets.

9 As I mentioned in my testimony, at Mynor,
10 we're only operating that facility 50 percent of the
11 time, so we certainly have the capacity available.

12 CHAIRMAN PEARSON: Mr. Kerins?

13 MR. KERINS: Commissioner, Wheatland can
14 produce a limited amount of line pipe, but certainly
15 nothing that is substantial enough to offset the
16 declining standard pipe market.

17 MR. SCHAGRIN: Chairman Pearson, this is
18 Roger Schagrin. I would just add: I know that the
19 Respondents are making a lot of Table 3-4 in the Staff
20 Report.

21 And I think you're probably thinking that as
22 well, that you do have a lot of increase in line pipe
23 in OCDG production by "producers who can make standard
24 pipe and line pipe, and large diameter line pipe in
25 OCDG."

26 But I think it would help the Commission,

1 and it is perfect for the Staff to have done this, you
2 do have overlapping products on the same mills. I
3 think in the post-hearing brief, we can give you a
4 chart that really shows that most of the folks who are
5 making the majority of these other products account
6 for a very small minority of the standard pipe
7 industry.

8 And the folks who account for the vast
9 majority of the standard pipe products are actually
10 making a very small minority of this other product.

11 So, a company that might make 10,000 tons of
12 standard pipe, and I'm just throwing out
13 hypotheticals, and 300,000 tons of OCDG, may really
14 weigh all this stuff, and the Respondents have a great
15 argument based on this chart, but it's really not
16 reflective of this industry.

17 There really isn't much of an overlap of
18 producers who make a lot of OCDG line pipe and a lot
19 of standard pipe. There are some overlaps but they're
20 largely different industries, and that's why the
21 Commission has largely found them to be different
22 industries in the past.

23 CHAIRMAN PEARSON: Okay, thank you for that
24 clarification.

25 Mr.Thompson?

26 MR. THOMPSON: Yes, Mr. Pearson, the line

1 that we make most of our standard material on also
2 produces line pipe. And I would state that line has
3 been anything but full. We only work one shift on
4 that line. We've struggled to go to two shifts.

5 In fact, we continue to struggle. Part of
6 the struggle there is: No. 1, the injury done by the
7 lack of a market of standard pipe.

8 But then, also, the damage done to the line
9 pipe industry by both Chinese and Korean pipe as well.
10 The markets are just not there to sustain growth. We
11 have no shortage of steel; and we have no shortage of
12 capacity of time.

13 What we have are: Shortage of orders.

14 CHAIRMAN PEARSON: Dr. Kaplan?

15 MR. KAPLAN: Yes, the Respondent's argument
16 only makes sense if two conditions are met.

17 First, that people can switch between
18 standard and other products; and, second, that you're
19 operating at full capacity. So if you do switch to
20 one, you make less of the other.

21 We have that both predicates to their
22 argument are demonstrably false. First, many, in fact
23 the majority of the producers, don't make both. And,
24 second, even among those that do, there is excess
25 capacity. So that argument just doesn't stand
26 scrutiny.

1 CHAIRMAN PEARSON: Okay. Mr. Mango?

2 MR. MAGNO: Just also to clarify a Wheatland
3 Tube response is: Out of all of our pipe producing
4 mills, we have one mill that produces a very small
5 amount of line pipe products.

6 It doesn't have the required API
7 certifications to go into the greater market; and
8 also, it doesn't have the size range capability to go
9 into that.

10 CHAIRMAN PEARSON: Thank you for those
11 comments, that's been very helpful.

12 The most recent year of the period of
13 investigation, 2007, is the year of highest production
14 for the domestic industry, as shown in our data.

15 How capable are U.S. producers of
16 substantially increasing production of standard and
17 structural pipe, given the challenges that can exist
18 from adding an extra shift? You know they've got the
19 price increases for hot-rolled steel.

20 Can you actually produce more, or do the
21 numbers that we have in the Staff Report reflect
22 something close to a ceiling for the domestic
23 production of standard pipe, given demands for other
24 types of pipe as well?

25 MR. KERINS: Commissioner, Bill Kerins,
26 Wheatland Tube. We have substantial extra capacity at

1 each of our locations to handle the offset of any
2 additional standard pipe out there in the market
3 that's available at each location.

4 Our Warren, Ohio facility, our Council
5 Avenue facility, our Mill Street facility, all of
6 those facilities have excess capacity.

7 CHAIRMAN PEARSON: And this would be without
8 adding an additional shift, just with running an extra
9 day?

10 MR. KERINS: Running an extra day, yes.

11 CHAIRMAN PEARSON: And overtime?

12 MR. KERINS: Yes, we can run extra days, and
13 we can run overtime, et cetera.

14 MR. BARNES: Mr. Scott Barnes with Ipsco.

15 As I mentioned earlier, we've already begun
16 recruiting more employees there to hire. So the
17 training process is under way. That's not an issue.
18 We have capacity there.

19 In respect to your question about being able
20 to pass on the additional costs, that really comes
21 down to what this body decides. The Chinese
22 underselling of the price is what prevented us from
23 recovering past price increases.

24 If there wasn't the underselling from China,
25 I feel fairly confident that we would be successful in
26 passing on those costs.

1 CHAIRMAN PEARSON: Okay. Are there any
2 further observations?

3 MR. KERINS: Commissioner
4 , we could more than triple our sales
5 offense without having any problem.

6 CHAIRMAN PEARSON: Okay, good.

7 MR. KERINS: We have 400 pipe workers
8 sitting out on the street ready to go back and do it.
9 The mills are there and we're ready to go. It's not
10 an issue.

11 MR. FILETTI: Allied has open capacity at
12 each of its facilities. And in the facilities that I
13 mentioned in my testimony about curtailing operations
14 and cutting back shifts, there is plenty of capacity.

15 CHAIRMAN PEARSON: Okay. Thank you very
16 much. The light has just gone red, so let me turn now
17 to Vice Chairman Aranoff.

18 VICE CHAIRMAN ARANOFF: Thank you, Mr.
19 Chairman, and I join the Chairman in welcoming this
20 morning's panel for taking the time out of your
21 schedules to be with us today. I want to start by
22 asking some questions about pricing and how product
23 pricing is determined in this market. We know that
24 when you're buying hot-rolled steel and perhaps other
25 inputs, as well, you're paying surcharges to the
26 manufacturers. And so, I want to understand from you,

1 first, how that works coming in, and then talk about
2 how that works going out with your finished product.
3 So, as a general rule, are you currently paying
4 surcharges for hot-rolled steel costs and maybe any
5 other costs coming in that are determined at the time
6 of your order or at the time of shipment?

7 MR. FILETTI: Commissioner, Rick Filetti
8 from Allied Tube & Conduit. There are certain
9 surcharges that we here in the marketplace, you know,
10 where the flat-rolled producers will say scrap is
11 going up and you can buy steel at certain things.
12 But, we're primarily a spot buyer and generally what
13 happens to us is the market demands and the pressures
14 and the competition of our suppliers, they raise the
15 prices. We're in the higher-priced arena of buying.
16 So, it's almost an after effect of what is actually
17 happening in the market. And as you heard, their
18 prices are going up, scraps is going up, energy is
19 going up, iron ore is going up, and they're passing
20 those costs onto us as we buy in the spot market
21 basis.

22 VICE CHAIRMAN ARANOFF: Okay. So, if you
23 are ordering hot-rolled steel for use in the
24 production process, how far in advance do you order
25 your hot-rolled in order to have it ready when you're
26 ready to roll it?

1 MR. FILETTI: Generally, anywhere from four
2 to seven weeks, because, you know, they have to
3 produce it and it has to be delivered to our
4 operations.

5 VICE CHAIRMAN ARANOFF: And are you paying
6 the spot price at the time that you ordered it or the
7 spot price at the time that you receive it?

8 MR. FILETTI: You pay the price at the time
9 you order it. But, as you may have seen, there are
10 situations out there where they've put price and
11 effect in price at times.

12 VICE CHAIRMAN ARANOFF: Okay. Does anyone
13 have anything they want to add to that or a different
14 experience that they want to relate?

15 MR. BARNES: Scott Barnes with IPSCO. I
16 think purchasing steel is something that's varies by
17 company and company as to how you -- what you're
18 strategy is and how that works and we'd be happy to
19 provide maybe more information confidentially. But,
20 oftentimes, the surcharges are price and effect at
21 time of shipment, as well, not just at the time of the
22 orders.

23 MR. MAGNO: Commissioner, Mark Magno with
24 Wheatland Tube. I can speak to on how we're reselling
25 our products into the customer base. I think that was
26 also part of your question.

1 VICE CHAIRMAN ARANOFF: That was going to be
2 the next part. Sure, go ahead.

3 MR. MAGNO: Okay. Our customers, at least
4 the Wheatland customers, will not pay surcharges. And
5 right now, let's say for right now, we're going
6 through dramatically higher freight costs. So, they
7 want it built into the price of their product. If you
8 put it as a separate line item, they won't pay it and
9 that's been our experience. So, any sort of added
10 cost has to go into the price of the product, not as a
11 surcharge.

12 VICE CHAIRMAN ARANOFF: Okay. And those
13 prices are negotiated on a transaction-by-transaction
14 basis?

15 MR. MAGNO: Yes.

16 VICE CHAIRMAN ARANOFF: Okay. Can you tell
17 me about what the average time is -- I guess, Mr.
18 Filetti told us that you have to order hot-rolled
19 steel four to seven weeks, I think he said, in
20 advance. Is there an average period of time where
21 you're holding those inputs in inventory before you
22 actually make them into pipe?

23 MR. KERINS: For the record, Commissioner,
24 Bill Kerins, Wheatland Tube. Probably on average
25 about six weeks or so. We keep our inventories four
26 to six weeks. The mills are very responsive, as you

1 put your orders in, and we do not maintain the high
2 levels of inventory that were historic years ago.

3 VICE CHAIRMAN ARANOFF: Okay. Because one
4 of the arguments that the Respondents have been making
5 in this case is that you're benefitting when hot-
6 rolled prices are rising from holding hot-rolled steel
7 in inventory, so that you bought it at a lower price
8 than whatever it's worth at the time that you turn it
9 into pipe and then sell it. Are you actually
10 collecting that difference when you sell it on to the
11 customer?

12 MR. BARNES: Scott Barnes with IPSCO. We
13 don't have a hedge fund or whatever you want to call
14 it for coil pricing or for coils. Our inventory comes
15 in and it turns in 30 to 40 days on coil. It's not
16 efficient for us to have a six-month inventory of
17 coil. That's a product that ties up cash. It just
18 doesn't make sense.

19 VICE CHAIRMAN ARANOFF: Sure. Well, I
20 understand that. But, even in a period of four to six
21 weeks in the market we've seen, there can be very
22 dramatic changes in the price of hot-rolled.

23 MR. MAGNO: Commissioner, Mark Magno with
24 Wheatland Tube. Typically, if we were to see an
25 increase in raw material and we attempt to raise
26 prices in the marketplace, there is a lag for that,

1 about the similar 30 days that might be the window of
2 our -- 30 to 45 days, a window for the raw material
3 supply.

4 MR. SCHAGRIN: Vice Chairman Aranoff, this
5 is Roger Schagrin. It's interesting, we had a 25th
6 anniversary meeting in this pipe and tube trade
7 association last week. We had some of the founders
8 there and people were just talking about the changes
9 in the marketplace between 1984 and 2008. And the
10 joke was, because we had several gentlemen in their
11 70s, who started this association 25 years ago, and
12 everybody say, wow, you know, we see that when we have
13 these huge movements in steel prices, people seem to
14 do better, at least in the short term. Why didn't you
15 guys back in 1984, when the industry was failing, just
16 go to the steel suppliers and say triple your prices.
17 And, of course, the answer is, this is all about a
18 marketplace. And I would just caution the Commission,
19 it's okay to see economic analysis and AMM, price
20 series for hot-rolled, FOB, mid-west mills; but, you
21 know what the Commission has here as a record is you
22 actually have the cost paid by these producers for all
23 their raw materials and all of their labor costs and
24 factory costs compared to their pricing and the
25 difference equals profit. And you see the movements
26 in profits. And, you know, I'm not denying that

1 they're going to be inventory gains or inventory
2 losses over any really short period of time. But the
3 fact is, in an industry like this, which is a
4 conversion industry, their long-term success is based
5 on trade in a fair marketplace where they can price
6 their products based on all their total costs at a
7 strong profit margin. And this record proves they
8 weren't able to do that and I submit they weren't able
9 to do it, because of Chinese underselling.

10 The other important thing when you look at
11 these lags on steel costs and pricing is to recognize
12 the unbelievable differentials between steel prices in
13 China and the United States. It's just mind boggling.
14 You know, early in this POI, we were looking at \$100
15 to 150 deltas between Chinese pricing and world
16 pricing. We are now looking at \$400-500 a ton deltas.
17 And I'm telling you, no matter what these guys are
18 getting in terms of short-term inventory gain, if you
19 make a negative determination and the Chinese are able
20 to buy steel at \$500 a ton less than U.S. producers,
21 we will see two million tons of Chinese steel
22 converting to pipe coming in here. So, that's another
23 important item to think about as you're thinking about
24 movements in steel prices.

25 MR. DORN: And Joe Dorn, if I could just add
26 to that. Mr. Barringer, in his brief at Figure 3, at

1 page 12, he talks about the metal margin. He's using
2 the AMM monthly prices of hot-rolled. We don't have
3 hot-rolled prices in the record of this case. What we
4 have is total raw material costs for short ton. But
5 just to show you how distorted Mr. Barringer's
6 approach is, he claims the cost of hot-rolled steel
7 fell \$20 per ton from 2005 to 2007, based on AMM data,
8 but the record of this case shows that for the 21 CWP
9 producers, who provided data, that their per ton cost
10 of raw materials increased \$26 per ton from 2005 to
11 2007 at a time when the average unit sales value fell
12 \$27 per ton. So, it's very misleading to go outside
13 the record and cherry pick data from a hot-rolled
14 steel series, especially when it's contradicted by
15 your record evidence.

16 VICE CHAIRMAN ARANOFF: Okay. I appreciate
17 those answers. On a related issue, the Respondents
18 argue that there's a natural price premium for
19 domestic pipe and they assert that it might be as high
20 as 20 percent. I know there was some discussion of
21 that in the preliminary staff conference. My
22 understanding is that a premium might exist, but at a
23 much lower rate, maybe even like one percent. Can any
24 of you comment on what is the price premium and if
25 there is one, is it a quality linked one or is it more
26 related to fast delivery or are there other facts at

1 play? Mr. Boggs?

2 MR. BOGGS: Yes, Will Boggs from Allied
3 Tube. And we service our fence industry through
4 several distribution and manufacturing spots around
5 the country and in servicing home centers, where they
6 watch their inventory levels quite tightly, we're able
7 to get trucks with maybe 23, 25 SKUs there within a
8 couple of days notice. And we can realize a five to
9 seven percent premium, because we argue all the time
10 with the customer about what the value of that is.
11 So, that's what I understand from my customers.

12 MR. MAGNO: Mark Magno with Wheatland Tube.
13 I would agree with that, a zero to five percent
14 premium. There have been cases where we go and give a
15 price to a customer and they say, you're price is not
16 the same as the Chinese. And we said, well, we've
17 been doing business for 30 and 40 years; our salesmen
18 calls on you every week; we'll ship you exactly what
19 you want. And they say, no, we're not going to pay
20 you a penny more, because our competitors in the
21 marketplace aren't going to pay a penny more either.
22 So, we've seen it up to five percent; but, clearly,
23 sometimes it can be zero percent.

24 MR. FILETTI: Commissioner, sometimes when
25 you're asking a question about a range of what that
26 would be, whether it's zero or seven percent,

1 sometimes it's related to the service of the product
2 and other things. If you've got standard total links
3 and they're not going to -- the distributors, who
4 aren't going to do anything with it, cut it down or
5 service it in any way, then there is no premium. But,
6 he knows if he has to cut it down to a certain length
7 and we'll cut it down for him for that length, for
8 that short order span that he has, then you can kind
9 of get a bit of a premium and it's like in the four,
10 five, six percent range.

11 VICE CHAIRMAN ARANOFF: Okay. I appreciate
12 all those answers and my time is up. Thank you, Mr.
13 Chairman.

14 CHAIRMAN PEARSON: Commissioner Okun?

15 COMMISSIONER OKUN: Thank you, Mr. Chairman.
16 I want to join my colleagues in welcoming many of you
17 back today. And to those workers, who joined us in
18 the room, welcome to you, as well, for being here.

19 Well, let's see, Mr. Schagrin, I guess I
20 will take you up on the -- since I was one of the
21 Commissioners, who voted in the negative on the 421,
22 you are right about the Chinese. I think I can look
23 at it and say, well, in my opinion, I cited to their
24 projections, again a different group of Chinese, that
25 their projections for 2006 turned out to be
26 significantly different than the record we see before

1 us. So, point taken. I believe that and I will talk
2 to the Respondents about that when they appear before
3 us this afternoon.

4 But, I, also, had the chance, and my
5 colleagues did during that hearing, to ask several of
6 you here, Mr. Boggs, Mr. Magno, Mr. Barnes about
7 future demand for your product. And at that point,
8 you had said that you believed that demand would be
9 fairly flat. And, in fact, on the record that we have
10 before us today, demand wasn't flat.

11 So, in the 421, my finding was that I didn't
12 see the injury yet to the domestic industry. And so,
13 I'm going to spend a lot more time on what you see in
14 the record before you, because, again, there is a lot
15 more Chinese product in the market. I can look at the
16 operating income and I can see a big change in 2007,
17 big change in 2007 on the results that we have in.
18 So, I wanted to ask the purchasers to -- or ask the
19 producers to tell me specifically what you think
20 happened in the 2006-2007 period, because, again, one
21 way to look at the record is to say the biggest
22 increase in Chinese imports comes in 2006 and I don't
23 yet -- you don't see the big impact on the bottom
24 line. But, something happens between 2006 and 2007.
25 So, help me understand how I should think about that
26 in this case. And I will start over here with you,

1 Mr. Boggs, and just work down the line, if I could.

2 MR. BOGGS: Thank you. Will Boggs, Allied
3 Tube. And, again, what I represent is the fence
4 industry and speaking at the fence industry, a lot of
5 times it's affected by changes in the weather. When
6 it's real cold and snowing, you get one of those
7 winters that's long, you get some lag in demand. And
8 I noticed through 2007, that it was pretty weak in the
9 beginning part, picked up a little bit in the middle,
10 and was so-so toward the end.

11 Going back to 2006, we were scared to death
12 after the President didn't support the 421. And as
13 far as demand, I can't really remember it being off
14 significantly. I just remember a lot more Chinese
15 pipe coming into the fence market. So, maybe the
16 overall standard pipe market grew because of non-
17 residential construction, because it wasn't really in
18 the fence industry.

19 And looking forward to 2008, you know, it
20 seems like the business is going to be down this year.
21 Non-res is down. Residential has been down for a
22 while. Our chain linked fence sales, which is tied to
23 the home center business, is tied to residential, it's
24 off 25, 30 percent, compared to years in the past.

25 COMMISSIONER OKUN: And during that period
26 that you're talking about, the 2006-2007 period, did

1 you see the Chinese product prices behave any
2 differently in those years, 2006 to 2007, or how they
3 were pricing or how they were attempting to get their
4 product into the market? Did you see any difference
5 in their behavior?

6 MR. BOGGS: The prices seemed to be -- they
7 went down. They got to be significantly lower than
8 our price, up 35, 40 percent during most of that time,
9 actually. And then some of the problems I suffer in
10 my business is what my domestic competitors do in
11 reacting to the Chinese prices. It brings about more
12 price decline in the marketplace. But, there's times
13 when their prices were in the 600, low 600 per metric
14 ton range. And at that time, our prices were 40
15 percent higher. We couldn't get there.

16 COMMISSIONER OKUN: Okay. Mr. Magno?

17 MR. MAGNO: Mark Magno with Wheatland Tube.
18 Between 2006 and 2007, non-residential construction
19 stayed fairly strong. We saw the continued impact and
20 penetration of undersold Chinese product into our
21 markets. So, in 2007, Wheatland Tube started to
22 attempt to fight back. One is what I testified in our
23 Foreign Fighter Program, where we attempted to pull
24 product back into the domestic market by aggressively
25 pricing it. And so, yes, that -- we shipped more
26 product out the door; however, it was unprofitable

1 product. So, yes, demand could be perceived as going
2 up, but it doesn't help to ship unprofitable tons out
3 the door for a manufacturer.

4 Second, you asked about did we see any
5 difference in the marketing of Chinese product. And
6 on the record, and it's newer to these proceedings,
7 but we saw the continued expansion of a distribution
8 channel called master distributors, where this is a
9 group that buys product and sells it principally to
10 other distributors. And because of the extreme
11 underselling, it provided the fuel for them to expand
12 and to expand now to an area where there is really no
13 geographic area that's now not covered by this master
14 distributor chain. So, yes, we saw during that period
15 the change in distribution, as well.

16 COMMISSIONER OKUN: I will remember to come
17 back to that, but let me continue. Mr. Barnes?

18 MR. BARNES: Yes, Scott Barnes with IPSCO.
19 With respect to the period of review, I think,
20 particularly with 2006 and 2007, when you look at
21 demand, you have to kind of average those years
22 together, because 2007, in particular, the consumption
23 was still very good, but the way, I think, the staff
24 determines apparent consumption is a calculation and
25 it doesn't really take into consideration inventory
26 and destocking, which happened quite a bit during the

1 2007 period. Obviously, I think from our standpoint,
2 what we saw was more Chinese imports that were coming
3 in and displacing more of the domestic product during
4 that period.

5 MR. SCHAGRIN: Commissioner Okun, Roger
6 Schagrin, if I may add two points. First, I actually
7 think it is mostly the same Chinese companies and the
8 same lawyers for the Chinese, as you saw in the 421
9 case. But, as to looking at demand, as Mr. Barnes
10 said, a lot of apparent consumption is influenced by
11 distributor inventories. And if you look at the chart
12 in Exhibit 3 in our pre-hearing brief, there is a
13 chart with a quarterly shipment, imports from China,
14 and you can see that in the latter part of 2005, the
15 last two quarters, after the 421 case was filed, now
16 we believe because the Chinese thought there actually
17 was going to be 421 relief and they had better be
18 careful, imports were going down and that probably led
19 to less reported apparent consumption in 2005. In
20 2006, you see, after the negative 421, imports started
21 skyrocketing. And when you look at your staff report,
22 you see that there's a reported 350,000 ton increase
23 in apparent consumption in 2005 and 2006 and there's a
24 350,000 ton increase in imports from China. And I
25 would submit to you, one of the main things that
26 drives distributor decisions on inventory is they

1 don't want big inventories of domestic. They know
2 they can get domestic on somewhat shorter. But, boy,
3 if they can buy Chinese at 30 or 40 percent less than
4 domestic prices, they'll take as much as they can.
5 They'll build their -- there's no inventory risk for
6 them with Chinese product. They're always going to be
7 able to resell it at a significant profit. And then,
8 you see 150,000 decline in 2007 apparent consumption
9 and, boy, between third quarter of 2007 and the fourth
10 quarter of 2007, you have over 100,000 ton decrease in
11 imports from China.

12 So, I would say not only Mr. Barnes makes
13 the right point and that you almost have to average
14 2006 and 2007. Demand was strong, non-residential
15 construction was strong. But, it wasn't as strong in
16 2006 as it looks. It wasn't off as much in 2007 as it
17 looks. It's about changes in distributor inventories
18 and a lot of that has been driven by the changes in
19 the imports from China.

20 COMMISSIONER OKUN: Okay. Before my red
21 light comes on, did Mr. Finn or Mr. Thompson have
22 anything to add, just in terms of 2006 and 2007, what
23 may have been different about that period, or is it
24 your experience, it was somewhat --

25 MR. FINN: I have the same opinion that Will
26 said. What's amazing, they were beating us by 30 and

1 40 percent. I mean, we tried to get away from it.

2 COMMISSIONER OKUN: Okay. Mr. Thompson?

3 MR. THOMPSON: Yes. As Mr. Schagrin has
4 said in the past, we're somewhat of a minor player in
5 standard pipe. However, what we saw over this time
6 period was a market that quite frankly was just not
7 even remotely attractive to us. And so, consequently,
8 we moved away from it, having a little bit better
9 options than some of the other producers you see on
10 the panel today.

11 COMMISSIONER OKUN: Okay. I appreciate all
12 of those comments. Thank you. Thanks, Mr. Chairman.

13 CHAIRMAN PEARSON: Commissioner Lane?

14 COMMISSIONER LANE: Good morning. I, too,
15 want to welcome all of you back and I really
16 appreciate the audience, because I know how important
17 this is. And so, I thank you all for coming.

18 Mr. Schagrin, I want to start with you. You
19 made some reference to the infamous TIP case or issue.
20 Are you suggesting that the Respondents in this case
21 have done something improper?

22 MR. SCHAGRIN: No, absolutely not, and I
23 want to contrast that. I don't want to give anybody
24 the impression they have done anything wrong. In
25 fact, under the law, they are allowed to try to rush
26 in as much imports from China as they want. After a

1 case is filed, the only question is whether Commerce
2 and the ITC decide on critical circumstance. So,
3 unlike the TIP sheet, in which a member of the bar
4 practicing before this Commission did something
5 definitely wrong in encouraging improper behavior,
6 here, the only reason I brought this up was --

7 COMMISSIONER LANE: I wondered why you
8 brought it up.

9 MR. SCHAGRIN: Well, I brought it up,
10 Commissioner Lane, because one of the main reasons for
11 critical circumstances is the deterrent effect. We're
12 supposed to have in the law a deterrence to importers
13 rushing in unfairly-traded imports, which are found to
14 be significantly subsidized and heavily dumped after a
15 case is filed and before that preliminary imposition
16 of duties by Commerce's preliminary determinations.
17 And it seems to me that if the importers association
18 that represents importer's steel in the United States
19 has the assumption that you don't have to worry about
20 rushing in your imports -- now, obviously, they're
21 here today because they are worried --

22 COMMISSIONER LANE: Okay, Mr. --

23 MR. SCHAGRIN: -- that we use the deterrent
24 factor.

25 COMMISSIONER LANE: -- wait just a minute.
26 Don't you think that maybe the numbers speak for

1 themselves and we can stick to that particular
2 argument, rather than wondering what the motives might
3 be and what --

4 MR. SCHAGRIN: I don't disagree,
5 Commissioner Lane. We can stick to the numbers.

6 COMMISSIONER LANE: Okay.

7 MR. SCHAGRIN: I am concerned with having a
8 number of steel cases that we don't always have import
9 surges. But, I think the numbers in this case speak
10 for themselves.

11 COMMISSIONER LANE: Okay, thank you. Okay.
12 Now, I want to turn to your pre-hearing brief. On
13 page 28 of your brief, you attribute some of the
14 capacity reductions to the fact that you did not
15 receive any relief from subject imports in the 421
16 investigation. I would like your views of what the
17 domestic industry would look like today from a
18 standpoint of capacity if there had been relief
19 granted in the 421 investigation. I'll get to the
20 other -- part of the other ramifications of the lack
21 of 421 relief on further questions. But, right now,
22 I'm interested in what the capacity would look like.

23 MR. KERINS: Commissioner Lane, for the
24 record, Bill Kerins, Wheatland Tube Company. In
25 response to that question, I would say that the Sharon
26 pipe plant that we demolished would still be

1 operating. We had invested significant dollars in it
2 and 400 people would still be working. The capacity
3 would be there, if we had been granted relief in 421
4 and we would have had 400 more jobs.

5 COMMISSIONER LANE: Okay, thank you. Now, I
6 have several questions about the economic analysis
7 presented in the pre-hearing brief, particularly
8 Exhibit 9. So, Dr. Kaplan, I am assuming that you
9 prepared that. So, these questions are for you.

10 First, I want to make sure that I'm looking
11 at the correct numbers. Turning to your Exhibit 9,
12 page 18, are there errors in your base case numbers
13 that you have already corrected with a subsequent
14 exhibit?

15 MR. KAPLAN: The base case numbers use
16 production rather than shipment numbers and we will be
17 modifying that. But, it changes things by less than a
18 percentage point. It doesn't change the results, the
19 qualitative results at all and the quantitative
20 results just in a very minor way.

21 COMMISSIONER LANE: Well, I'm talking about
22 the total cost. It looks like the values shown are
23 understated and should be the sum of the total fixed
24 cost and the total variable cost.

25 MR. KAPLAN: I will modify the tables to
26 make clear what we did --

1 COMMISSIONER LANE: Okay, okay.

2 MR. KAPLAN: -- in the post-hearing brief.

3 COMMISSIONER LANE: Okay. Now, looking at
4 page 26 of your exhibit, would I be correct in
5 assuming that the heading over the various scenario
6 columns should not indicate an import duty simulation
7 of 85.8 percent? In other words, in previous tables,
8 you had simulated an import duty of 85.8 percent. But
9 beginning on page 26, you are simulating something
10 else, an elimination of the Chinese imports
11 altogether. Is that correct?

12 MR. KAPLAN: That's correct.

13 COMMISSIONER LANE: Okay. Sorry for the
14 buildup. Now, I can get to the questions. On page B-
15 1 of your pre-hearing report, of the pre-hearing staff
16 report, it is stated that for this industry, fixed
17 costs are approximately 18 percent and variable costs
18 are approximately 82 percent of total cost. Looking
19 at your base case financials, page 18, for example,
20 the percentages vary a little bit each year. But, you
21 seem to correct total cost number rather than what is
22 shown in the exhibit. It looks like this exhibit
23 assumes fixed costs that are higher than the 18
24 percent discussed in the staff report. Why did you
25 assume a higher fixed cost percentage rather than the
26 18 percent shown in the staff report?

1 MR. KAPLAN: Well, what I did and based on
2 discussions with certain industry representatives is I
3 looked at, for example, labor and labor could be
4 viewed as fully a variable cost, in that the more you
5 make, the more labor you use. But, many firms operate
6 in a way that when there's variation in the output,
7 they don't immediately lay people off and immediately
8 hire people. So, if you're operating the plant, you
9 consider a certain part of the labor is fixed and then
10 a certain part of it is variable. So, I made
11 assumptions like that, that differed slightly from the
12 assumptions where you count all labor as fixed and all
13 -- I mean, variable and all materials is variable and
14 all depreciation is fixed. I think they're more
15 realistic over time based on my experience in the
16 industry.

17 COMMISSIONER LANE: Okay. How would the
18 impacts on profits of the domestic industry shown in
19 the various scenarios change, if you assumed 18
20 percent fixed cost instead of the higher percentages
21 that you used for your exhibits?

22 MR. KAPLAN: It would allow the industry to
23 adjust and shed costs more quickly, as output fell.
24 But, that's why I said, I think it's unrealistic. I
25 don't think people are laid off long term from day-to-
26 day variations. I think that management looks and

1 says, we're going to try to keep the labor force
2 intact, because they're efficient and because they're
3 trained and we don't treat it like it's a hot-rolled
4 steel input, where we buy more or less when output
5 changes.

6 COMMISSIONER LANE: Okay. Could you provide
7 revised exhibits that show the changes from the base
8 case across all scenarios, if the fixed costs were 18
9 percent and the variable costs were 82 percent?

10 MR. KAPLAN: Sure. And what you would find
11 is you would get bigger output effects and smaller
12 profit effects. So, you would see bigger effects to
13 labor, you know, in my estimates of what labor would
14 be making and how many people would be employed. You
15 would have bigger declines from the dumping and bigger
16 gains from fixing it and you would have smaller profit
17 changes. But, I would be happy to do that in the
18 post-hearing brief.

19 COMMISSIONER LANE: Okay, thank you. Based
20 on your Exhibit 9 and based on your original fixed
21 versus variable cost spread, your calculations
22 basically show higher domestic sales volumes, higher
23 domestic prices, and greater profitability for the
24 domestic industry, whether you assume import duties on
25 Chinese imports or whether you simply remove Chinese
26 imports from the market altogether; is that correct?

1 MR. KAPLAN: Right. You would get greater
2 effects if they were removed completely from the
3 market. But since the dumping and subsidy margins are
4 so great and is demonstrated by actually what happened
5 when the preliminary margins went on, you would still
6 get very large effects from the imposition of the
7 duties.

8 COMMISSIONER LANE: Okay. Just remember
9 that and when I come back to my second round, I have
10 some follow-up questions.

11 MR. KAPLAN: Okay.

12 COMMISSIONER LANE: Thank you.

13 CHAIRMAN PEARSON: Commissioner Williamson?

14 COMMISSIONER WILLIAMSON: Thank you, Mr.
15 Chairman. I, too, want to express my appreciation to
16 the witnesses for your testimony and for spending your
17 time with us here today. And I, also, want to express
18 my appreciation to the workers, who have come here,
19 knowing that they have a great stake in this.

20 I want to go back to a question that was
21 touched on earlier, to what extent of the subject
22 product is demand for the seasonal product. I can
23 understand that in the fencing area. But, what about
24 other areas, in terms of is it a seasonal product or
25 not?

26 MR. MAGNO: This is Mark Magno with

1 Wheatland Tube Company. We don't -- the largest
2 seasonality that we see in standard pipe is the fence
3 season, where there is -- in the fence product line,
4 where there is a fairly industry recognized fence
5 season. Beyond that, business does slow down in
6 November and December, as inventories are tried to
7 drawn down. There are many either corporations or
8 states that have something that our customers call
9 floor taxes. So, they try to draw their inventories
10 down. And it's a period of slower demand. It's
11 really after about the first or second week of
12 November.

13 On the standard pipe side, there used to be
14 something that we called the heating season, which
15 would happen in late September and in October. It was
16 people around the country that would turn their
17 heating systems on for the first time and it didn't
18 work. So, they went out and bought a heater and had
19 it replaced and there were five or six pieces of black
20 standard pipe used to replace that. And
21 traditionally, we would see an increase, particularly
22 of small diameter pipe, going into that what we called
23 the heating season. That was virtually eliminated
24 because of the underselling of Chinese imports and, in
25 particular, into this channel of plumbing and heating
26 that would service that market. So, we haven't seen a

1 heating season for many, many years.

2 COMMISSIONER WILLIAMSON: Thank you. To
3 what extent does fencing account for -- what share of
4 the overall consumption does that account for roughly?
5 Mr. Boggs, do you know?

6 MR. BOGGS: Will Boggs, Allied Tube. I'm
7 not sure I understand the question.

8 COMMISSIONER WILLIAMSON: Of overall
9 consumption of the subject product, fencing accounts
10 for what percent roughly? Do you have --

11 MR. BOGGS: I don't think I'm the guy to
12 answer that, because we only participate in sprinkler
13 and fence. I'm not a specialist on the whole
14 industry. Allied Tube, it represents 15 to 20 percent
15 of my volume.

16 COMMISSIONER WILLIAMSON: Okay.

17 MR. MAGNO: Mark Magno, Wheatland Tube. We
18 can supply that number post-hearing. We do have those
19 factors. I'm not comfortable making a guess. I have
20 a pretty good idea, but let us get back with you on
21 that.

22 COMMISSIONER WILLIAMSON: Post-hearing is
23 fine. The record indicates a general increase in
24 monthly subject imports from May through August of
25 2007. And I am just wondering to what extent to you
26 attribute this increase?

1 MR. SCHAGRIN: Commissioner Williamson, this
2 is Roger Schagrin. We would attribute the big
3 increase to the fact that, number one, Chinese prices
4 were so much lower than domestic that distributors
5 were just buying more and more. And, second, that
6 after the case was filed on June 7th, if you talk about
7 -- and the Respondents talk about lead times on
8 ordering Chinese product. I think Western referred to
9 it at the preliminary conference. I believe their
10 testimony was something in the range of a lot of
11 times, it's three to six months or sometimes boats may
12 arrive late. It seems that every importer talked to
13 their Chinese suppliers and said, hey, no matter what,
14 you know, we're going to see preliminary CVD duties
15 coming. You guys get this stuff produced and shipped
16 to us ASAP. And so, that would be, I think, our
17 explanation of why we see such a big import increase
18 June through August, in particular.

19 COMMISSIONER WILLIAMSON: Thank you. I,
20 also, want to go back to another question that was
21 discussed regarding allocation between line pipe and
22 other products and sort of re-ask the question again.
23 Respondents have made arguments relating to producers
24 shifting production among products to maximize
25 profits. Now, how do you allocate capacity between
26 different tubular products and is there any kind

1 hierarchy? Did you say you would prefer to produce
2 OTCG to standard structural pipe?

3 MR. FINN: This is Don Finn. For our
4 company, the fence pipe is the least profitable
5 product we make. It's because we have to get somewhat
6 closer to Chinese prices. Prior to 2003, fence was 17
7 percent of our business. Today, it's 10 percent of
8 our business in 2007. Fortunately, it's recovering in
9 the first quarter of 2008. But during the depression
10 of 2007, you would get down to 10 percent of our
11 volume and it was five percent of our profit.

12 COMMISSIONER WILLIAMSON: Okay. So, you're
13 saying that the Chinese imports were basically --

14 MR. FINN: The Chinese imports forced us to
15 sell -- we were fortunate we were able to sell another
16 product. But, the least profitable product we make is
17 the fence product and the second least profitable
18 product we make is the LWR and that's also caused by
19 the Chinese.

20 COMMISSIONER WILLIAMSON: Okay.

21 MR. DORN: Commissioner, I think there are
22 two points I would like to make. One, there's plenty
23 of excess capacity mill-wise, so there's no need to
24 allocate capacity between line pipe and CWP. So, you
25 don't really have to do that. And, second, there's
26 not the ability to shift back and forth. Allied

1 cannot make any line pipe in its mills. In Wheatland,
2 you cannot make line pipe in three of its four mills
3 and one mill can make a very limited niche part of
4 that line pipe product line. And these are the two
5 biggest producers of CWP, Allied and Wheatland. So, I
6 just don't think there's this allocation. The
7 decision isn't real for these folks.

8 COMMISSIONER WILLIAMSON: Okay. So once
9 you've made the investment in the line, that's what
10 you're going to do; is that it?

11 MR. MAGNO: Yeah, but the equipment, itself,
12 that we have at some facilities and it can only make a
13 certain wall thickness grade of product because of
14 that investment. So, it doesn't allow us to switch
15 out to a product line that might have greater demand.
16 I can assure you if -- as business people, we would
17 have and had that opportunity, we would have liked to
18 sell into that other market. But, we just didn't have
19 either the capability from the -- we did not have the
20 manufacturing side.

21 MR. THOMPSON: Commissioner, we did have
22 that ability to move back and forth and we would very
23 much like to have a broader base of businesses of
24 which standard pipe would be a strong part of that.
25 But, unfortunately, because of the conditions in that
26 particular portion of the business, we don't have

1 nearly the volume that we would like, just because the
2 profitability is not there.

3 COMMISSIONER WILLIAMSON: Does anyone else -
4 -

5 MR. BARNES: This is Scott Barnes with IPSCO
6 and I just would reemphasize I think the point that
7 was made earlier, that you don't have to deal with
8 allocation of your production unless you're at full
9 capacity. And in IPSCO's case, we're not at full
10 capacity. We have room to grow further.

11 From a commercial planning standpoint, we
12 have made the decision long ago that standard pipe is
13 an important part of our business and we're dedicated
14 to remain in that business. And I think similar to
15 what U.S. Steel's experience has been, we used to sell
16 products on the west coast quite a bit. In fact,
17 Western International used to be a customer of ours,
18 but then we were faced with pricing of 20 to 40
19 percent below, what you can sell to. And, in a way,
20 it's a price allocation mechanism that's at work, as
21 well.

22 COMMISSIONER WILLIAMSON: Okay. Thank you
23 for those answers. In your brief, you state that
24 underselling has caused the domestic industry to lose
25 substantial sales to subject imports. However, the
26 quantity pricing data show that large increases in

1 subject imports, especially during late 2006 and early
2 2007, did not lead to large declines in shipments of
3 domestic product. How do you square your statements
4 in this data?

5 MR. DORN: I think as the Commission found
6 in the preliminary determination, there was a big
7 shift away from domestic to Chinese pipe in 2006. So,
8 the U.S. industry gave up a lot of market share in
9 2006 to imports. In 2007, two things were going on.
10 First, having given up so much share, folks like
11 Wheatland were using foreign fighter programs in other
12 ways to try to compete more aggressively to try to
13 regain some market share or keep losing market share
14 to the Chinese. And the other thing to keep in mind
15 is that the competitive position of the U.S. industry
16 was improving in 2007 vis-a-vis non-subject imports.
17 I mean, they were getting -- they were having a better
18 pricing situation, because their product was becoming
19 better in the marketplace because of the weak dollar.
20 But, they weren't able to take advantage of that to
21 the full extent. They gained some share from non-
22 subject imports. But, keep in mind, vis-a-vis China,
23 China still gained market share in 2007. So, vis-a-
24 vis China, the U.S. industry still lost market share
25 to Chinese imports in 2007.

26 COMMISSIONER WILLIAMSON: Okay. Thank you

1 for those answers and my time is up. Thank you.

2 CHAIRMAN PEARSON: Apparent consumption of
3 standard pipe exceeds domestic production capacity, so
4 some imports apparently are needed. If the proposed
5 ADCVD orders go into effect on Chinese product, will
6 that effectively preclude imports from China?

7 MR. DORN: We think that it would be very
8 difficult for them to continue to bring in product
9 with such high duties and that's shown with the data
10 so far. There was a plunge in imports from China in
11 November and December. I think the confidential
12 record explains that's a reaction to the petition and
13 the imposition of duties.

14 MR. SCHAGRIN: Chairman Pearson, Mr.
15 Schagrin here. I would just point out, legally
16 speaking, that to the extent that the domestic
17 industry didn't have the capacity to supply 100
18 percent of the U.S. market and that there's a need for
19 some imports, that CVD duties and dumping duties
20 against China, like the AD and CVD duties against
21 seven other countries, don't automatically bar imports
22 from any country. Importers would just have to pay
23 the duties and then they can import. So, you know,
24 obviously, probably the country with the highest
25 margins would be least successful in that regard,
26 compared to some other countries. But, we don't see,

1 given the 40 percent, some 700,000-800,000 tons of
2 additional capacity of the domestic industry, any
3 problem with replacing all the imports from China with
4 present domestic capacity. We can't maybe presently
5 replace all the imports from China and all the non-
6 subject imports, but that's not really a problem in
7 the marketplace.

8 CHAIRMAN PEARSON: Okay. Well, I agree
9 with, as a legal matter, that the product could
10 continue to come in. Whether it does, I don't know.
11 What I am trying to understand is the practical
12 implications for what's likely to happen in the
13 marketplace. I mean, let's be realistic. This would
14 be a serious adjustment. Imposition of these duties
15 would very likely cause a serious adjustment in the
16 marketplace and I'm trying to understand how the
17 demand that is there would likely be filled.
18 Obviously, some amount of it could come from domestic
19 production, some amount of it from non-subject
20 imports. And I would like to get your thoughts on
21 that. I mean, would you expect some increase in non-
22 subject imports or would the domestic industry very
23 quickly be able to expand output to fill the entire
24 demand? Mr. Magno?

25 MR. MAGNO: Mark Magno, Wheatland Tube.
26 Several things. One is that we would have then the

1 justification to go in and significantly reinvest even
2 further into our production facilities to create even
3 a more efficient operation and to create more
4 throughput, which then creates more production to be
5 able to fill this market that we'll see. In addition,
6 as we are facing in 2008 very uncertain economic times
7 and decreasing non-residential construction, we
8 believe, at least our company believes moving forward
9 that overall demand is slowing and our customers
10 report that every day to us, just as a reflection of
11 the credit markets, the contraction in the residential
12 markets, which actually affects the non-residential
13 markets.

14 MR. FINN: In 2002, only 10,000 tons came
15 from China and the marketplace was served.

16 CHAIRMAN PEARSON: Right, and that's why I'm
17 wondering, are we likely to see an enormous increase
18 in non-subject imports to serve the market? Because,
19 I don't think domestic production hasn't changed all
20 that much since 2002, has it?

21 MR. FINN: I think it has.

22 CHAIRMAN PEARSON: We don't have it on this
23 record. If anyone has knowledge of that and would
24 like to put it on the record, that would be fine.

25 MR. KERINS: Commissioner Pearson, Bill
26 Kerins, Wheatland Tube. With the last several months

1 since the preliminary duties were put on, the tonnage
2 coming in from China has basically stopped. We're
3 handling all of the demand out there right now and we
4 still have excess capacity. So, I think, certainly,
5 we could handle it.

6 CHAIRMAN PEARSON: So, have we seen an
7 increase in non-subject imports since the preliminary
8 ADCVD duties went into effect?

9 MR. KERINS: The majority has been the
10 domestic mills, but there has been some increases.
11 Thailand has now brought in 18,000 tons in March and
12 brought nothing in, in February. But, the majority of
13 the increase has gone to the domestic market.

14 MR. DORN: Keep in mind, Mr. Chairman, as
15 we've said before, I mean, the U.S. industry really
16 has a comparative advantage with respect to most non-
17 subject imports right now because of the weakness of
18 the dollar and that's why you saw the quantity of non-
19 subject imports fall 31 percent from 2005 to 2007.
20 And you, also, have the data on the unit values of
21 imports from non-subject countries being --

22 CHAIRMAN PEARSON: You wouldn't contribute
23 some of the decline in non-subjects just to the fact
24 that they got beaten in the marketplace by the Chinese
25 product?

26 MR. DORN: Well, I think that they're -- if

1 you look at the -- if there are unit values, you can
2 see that they weren't competitive. And so, the U.S.
3 industry gained market share against non-subject
4 imports in 2007. We were still losing market share to
5 China, but we gained some to non-subject in 2007,
6 getting the benefits of the weaker dollar, increasing
7 ocean freight rates. And, sure, there could be some
8 partial replacement, but keep in mind that about half
9 of the non-subject imports are covered by antidumping
10 duties already. And exporters lower their prices to
11 try to penetrate the market just to increase their
12 antidumping duty liabilities. So, there will be, you
13 know, some minor partial replacement, but at much
14 higher prices, so that prices will be restored to fair
15 market levels in the United States and that will
16 induce bringing on more shifts, investing to increase
17 capacity.

18 CHAIRMAN PEARSON: Let me challenge you on
19 that assumption that taking the Chinese products out
20 of the marketplace necessarily would raise the price
21 for domestic producers. Because, as we look at this
22 record, we see throughout the period of investigation
23 a substantial gap between the price at which the
24 Chinese product was selling and the price that is
25 received by the domestic producers. So, there was the
26 price difference, but the direct effect on U.S.

1 producers is not so obvious. And it's not clear to me
2 that you couldn't have a substantial influx of non-
3 subject imports at a price close enough to what the
4 domestic industry is selling at, so that you would get
5 no price gain to the domestic industry and have a big
6 market share increase for the non-subjects. Frankly,
7 I'm not sure that are not Bratsk issues here that we
8 should consider.

9 MR. DORN: Let's just put underselling to
10 the side right now --

11 CHAIRMAN PEARSON: Okay.

12 MR. DORN: -- and just talk about supply and
13 demand, which determines prices in the market. Mr.
14 Barringer admitted this is a commodity product that
15 sells largely on the basis of price. And so, let's
16 just -- let's say we were moving 750,000 tons of
17 supply from China into that market. Economics 101
18 tells us that that's got to have an impact on the
19 market price, putting aside underselling. Now when
20 you add to that the fact that the prices from China
21 are much lower than those from any non-subject
22 countries, it just intensifies the effect. We're
23 going to get a benefit from the removal of those
24 750,000 tons of cheaper product from the market. It
25 has to happen.

26 MR. SCHAGRIN: Chairman Pearson, this is

1 Roger Schagrin. Two points. First is the
2 underselling. I would agree with you that there is
3 always a significant gap between Chinese and domestic.
4 That's not a subject of great discussion. But, I
5 would disagree as to the idea that even though there
6 was always this gap, that it wasn't having any effect
7 of depressing domestic prices. On page 18 and 19 of
8 our pre-hearing brief, some of which is confidential,
9 some of which is public, depending on the pricing
10 product, we show that between mid-2006 and the end of
11 2007 significant declines in domestic prices for each
12 pricing product. And unlike the analysis based on AMM
13 hot-rolled, FOB of mid-west mill, the record
14 information shows that while those domestic prices
15 were being depressed, the average costs for the
16 domestic industry were actually increasing.

17 As to Bratsk, what makes this not a Bratsk
18 case, even though we can speculate about what share of
19 the Chinese imports will go to non-subject, and there
20 will be some division between the domestic and
21 foreign, the reason that we don't have Bratsk in this
22 case is the Chinese are 63 percent of the total
23 imports. You know, to have Bratsk, you have to have
24 non-subject imports be really significant in the
25 market. They're no longer really significant, because
26 as Joe talks about, it's the dollar and it's the

1 dumping orders against the other countries. So, I
2 just don't see any way in which Bratsk really has any
3 legs in this type of analysis.

4 CHAIRMAN PEARSON: At the start of the
5 period of investigation, the Chinese share was much
6 less and the non-subject share was much greater. So,
7 is there some reason that things couldn't move back in
8 that direction?

9 MR. SCHAGRIN: Yeah, and it's --

10 CHAIRMAN PEARSON: My red light is on.

11 MR. SCHAGRIN: Okay. We can get back to it.

12 CHAIRMAN PEARSON: Do you have something
13 brief?

14 MR. KAPLAN: I would just like to point out
15 that during that first period when they were switched,
16 demand was lower and prices were higher than they are
17 today. So, if you went back -- you know, from that
18 type of reasoning, if you went back to where their
19 share was higher, you would have higher profits for
20 the domestic industry, because demand is higher in
21 2007 than it was in 2005.

22 CHAIRMAN PEARSON: Thank you. Madam Vice
23 Chairman?

24 VICE CHAIRMAN ARANOFF: Thank you, Mr.
25 Chairman. With respect to critical circumstances, the
26 Respondents argue that the Commission should take into

1 account when looking at the pre and post filing import
2 volumes that there's a lag of up to three months
3 between when Chinese product is ordered and when it
4 actually arrives. Can counsel respond to that? Should
5 we be taking a three month lag into account in looking
6 at critical circumstances?

7 MR. SCHAGRIN: Vice Chairman Aranoff, this
8 Roger Schagrin.

9 I don't think so. The reason is that to the
10 extent that there's a normal lag, and importers can
11 tell you over a three year, five year period, whatever
12 time they've been importing about what the normal lags
13 were between the time they placed an order for Chinese
14 product and the time they received it, there is just
15 no doubt that after this petition was filed on June
16 7th that the importers said you've got to rush in all
17 your product. We know the duties are going to be big,
18 we've got to get the product.

19 So their actions definitely decreased that
20 lag. I don't know if the Commission has the data to
21 assess. Okay, if you had a normal lag over three or
22 five years of three months, what was the time period
23 between order and shipment between what was ordered 30
24 days before June 7th and when everything got shipped
25 after June 7th, because the huge imports in June, July
26 and August make it clear that the Chinese were loading

1 up the boats. That's what the import data shows.

2 VICE CHAIRMAN ARANOFF: For purposes of
3 critical circumstances, should it matter to us whether
4 those shipments that arrived in June, July and August
5 were ordered before or after the petition was filed?

6 MR. SCHAGRIN: I don't think so, because I
7 believe the statute as to critical circumstances talks
8 about imports and I think by virtue of the statutory
9 language, talking about imports, it's really talking
10 about when imports arrive in the United States. The
11 statute isn't talking about when imports were ordered.
12 That would be my reading of the statute, which I think
13 is a justifiable, plain reading of the statutory
14 language.

15 VICE CHAIRMAN ARANOFF: So this conversation
16 about whether or not people were receiving advice,
17 that this was their window and they needed to rush
18 orders in, that's sort of a red herring. Really all
19 we should be looking at, what you're saying is, the
20 facts. They came in after the petition was filed.

21 MR. SCHAGRIN: It's not so much that it's a
22 red herring, it just explains why there was such a
23 rush. As I say, the red herring would be if people
24 were advised oh, order more. They wouldn't. They were
25 advised, bring it in --

26 Actually, to be honest, what sources tell

1 me, they're not even advised what to do. They're just
2 told. It's just a service that this organization
3 gives its members saying here's all the statutory time
4 limits and here's your critical circumstance dates. I
5 think it's a reasonable assessment by whichever
6 counsel is -- Commerce always extends, and let's face
7 it, let's be honest, they always do. And they would
8 say, and the ITC almost never finds critical
9 circumstances. As an attorney practicing before this
10 Commission I wouldn't disagree with that assessment
11 either.

12 I really don't think the advice is
13 significant as to anything other than are we able to
14 retain the deterrent effect? And if we're trying to
15 deter, not orders. I don't think Congress intended
16 that critical circumstances was just supposed to deter
17 new orders. It's supposed to deter a post filing of
18 the petition massive increase in imports and that's
19 why I believe it's appropriate, as I believe this
20 Commission always has, to focus on the imports, not on
21 the time the imports were ordered.

22 VICE CHAIRMAN ARANOFF: I'm still trying, if
23 it's a factual matter, if it's a legal matter all I
24 need to look at is did the imports come in after the
25 petition was filed. I think that's right there in the
26 paper and I can look at that.

1 If the question is does it matter whether
2 they were ordered before or after and whether someone
3 did or didn't try to rush them in once they knew there
4 was this window, that's a separate and more factual
5 question that I'm not sure we have all the answers to,
6 and in particular, even if someone had an incentive to
7 rush product in, it's not clear to me on the record
8 that they could, given the availability of shipping
9 containers and backup at the ports coming into the US
10 and whatever else might be going on.

11 So I think to the extent the argument
12 depends on that, it needs a little bit more factual
13 development. The volume and when it came in,
14 obviously I can see that part for myself.

15 MR. DORN: Commissioner Aranoff, Joe Dorn.

16 Just adding to what Roger said, the statute
17 is silent with respect to intent or motivation. I
18 think it's just a matter of looking at the import
19 surge and then determining whether that took away the
20 remedial relief that was intended from the statute.
21 And it seems to us that the relief was delayed at
22 least for three months because of this import surge,
23 the buildup in inventories, and that you need to go
24 back 90 days with retroactive to cure that additional
25 harm. But it doesn't have to do with intent or
26 motivation.

1 VICE CHAIRMAN ARANOFF: Okay, we'll leave it
2 there.

3 Many of the arguments that the Chinese
4 Respondents make in their brief are based on looking
5 at full year 2007 data. So I have some questions that
6 go to the probative value of looking at full year
7 2007.

8 In particular, the Chinese Respondents point out
9 that Chinese exports to all markets declined in late
10 2007 and beginning of 2008. I'm wondering whether
11 this suggests that declining exports to the United
12 States are mainly due, as they suggest, to the changes
13 in the Chinese export tax regime or to shipping costs,
14 which would affect exports to multiple markets rather
15 than to the existence of these investigations.

16 MR. G. KAPLAN: Madame Vice Chairman, this
17 is Gil Kaplan, if I could just address that.

18 I think their analysis of the trade data is
19 really incorrect. If you look at the census data it
20 indicates that exports to the United States were just
21 as high after the VAT rebate was repealed on July 1,
22 2007 as they were prior to the repeal.

23 If you look at the third quarter of 2007,
24 imports were 234,782 tons which were only slightly
25 less than the 239,093 tons recorded for the second
26 quarter of 2007 and much greater than the 140,716 tons

1 recorded for the first quarter of 2007.

2 When the imports went down is when the
3 duties went on which was in November 2007, not after
4 the VAT rebate was repealed in July 2007.

5 With respect to the export tax you have a
6 very similar kind of analysis because the duties went
7 on in 2007 and that's when the imports really dropped.

8 Imports in November 2007 were only 16,620
9 tons. In December they were even lower, 1,725 tons.

10 So the export tax, by the time it went on on
11 January 1, 2008, there was already a precipitous drop
12 as a result of the countervailing duty, so it's really
13 not a question of the repeal of the VAT rebate or the
14 export tax.

15 VICE CHAIRMAN ARANOFF: I still have a
16 little trouble with the fact that the original
17 elimination of the VAT rebate and the filing of the
18 petition in this case occur within a few weeks of each
19 other, and if you believe on this record, and I think
20 there's pretty strong evidence that there is a pretty
21 substantial lag. It may not be three months, but
22 there's a lag between when importers ordered this
23 product from China and when it arrived here, that you
24 really can't tell a whole lot from looking at the
25 third quarter 2007 data about whether that's because
26 of the VAT tax rebate, the filing of the case, or some

1 other reason. So you really need to start looking at
2 what happened in the fourth quarter of 2007 and maybe
3 the beginning of 2008 and asking yourself if you can
4 tease something meaningful out of that.

5 MR. BARNES: This is Scott Barnes with
6 IPSCO.

7 Obviously the Chinese government has a lot
8 of control over their markets because they can change
9 these rebates.

10 If you vote negative, what's to say that
11 they wouldn't remove that?

12 MR. SCHAGRIN: Vice Chairman Aranoff, I
13 would just add one thing and that is that it's pretty
14 clear from the timing of the filing of the cases in
15 Canada and the EU which is after the US case was
16 filed, that the Chinese were shifting some part of
17 their exports to those other markets. That's why
18 producers in those countries filed cases. It also
19 appears, because I've studied these Chinese export tax
20 changes, that the Chinese government is really
21 sensitive to trade case filings. There are cases on
22 products just from the EU and not from the US, and all
23 of a sudden within a month of the case filing by the
24 EU they slap a big export tax on the product.

25 So you're right, it's difficult to divine,
26 but there seems to be a lot of correlation between

1 trade case filings against China and the Chinese
2 government all of a sudden coming up with the thought,
3 oh, we'll change our export taxes.

4 MR. G. KAPLAN: I would just add one other
5 important point. When the Department of Commerce put
6 the preliminary duties on coated free sheet, within a
7 very short period of time the government in China
8 reinstated the VAT rebate to help them out in effect
9 pay the countervailing duties and cover that.

10 So it's been used as a trade policy tool.
11 It's not a tax in the way we think of where you have
12 to wait for months and pass it through Congress. It's
13 done with the stroke of a pen and there's nothing that
14 would change their ability to just eliminate an export
15 tax or reinstate a VAT rebate if this Commission were
16 to vote the other way.

17 VICE CHAIRMAN ARANOFF: And I don't want to
18 give the impression that I don't agree with you fully
19 on that. If I were looking forward looking, if this
20 were a threat case, which you tell me it's not, then
21 obviously I would have to look at the question of are
22 these policies that are going to stay in effect or are
23 they susceptible to change? So I completely
24 understand your argument on that point. But if I'm
25 looking at present injury and I'm looking back at what
26 happened, these were the policies that were in effect

1 and so the question is what effect did they have. So
2 I do see that those are two separate questions and I
3 appreciate all of your answers on that.

4 Thank you.

5 CHAIRMAN PEARSON: Commissioner Okun?

6 COMMISSIONER OKUN: Thank you, Mr. Chairman.

7 I guess I will direct this question to
8 counsel, and you might want to expand on it in post-
9 hearing. But in his opening statement and also in the
10 brief Mr. Barringer has argued that to have a complete
11 picture of the current state of the industry the ITC
12 should be requesting full year '07 data, and I guess
13 in this instance referring to the producers' results,
14 depending on when they reported. I wanted to hear you
15 respond to why or why not, whether or not the
16 Commission should do that.

17 MR. DORN: Commissioner Okun, what the
18 Commission did in this case is what it does in every
19 case. It asks for trade data on a calendar year basis
20 and it asks for financial data on a fiscal year basis.
21 And so what Mr. Barringer is suggesting here is highly
22 unusual.

23 There is an advantage in using fiscal year
24 data because you do have year end adjustments and so
25 forth that are not necessarily made on a quarterly
26 basis. So we think the Commission should use the

1 approach that it always uses which is to rely on
2 fiscal year data for the financials and calendar year
3 data for the trade data.

4 MR. SCHAGRIN: Commissioner Okun, I would
5 echo Joe's comments. It's kind of interesting for
6 Respondents' counsel to try to pick and choose in each
7 different case when they want the data to be.

8 Mr. Filetti, who before becoming President
9 of Allied was their Chief Financial Officer and
10 previously Controller, and was a cost accountant, so
11 he knows about these questionnaire responses over the
12 past 23 years, and I'd invite him to comment. But I
13 think representing Allied in I don't know, 35, 40
14 different investigations here since 1982, they have
15 never had a calendar year fiscal year. I think it
16 changed at one point eight or nine years ago from a
17 March 31 year to a September 30th year. No one ever
18 suggested in any other previous case oh, gee, they're
19 doing it wrong. They've always submitted the data the
20 way the Commission requested it.

21 My second point would be, in this case we've
22 also had a verification of the financial data by the
23 Commission's accountants. I would think if you would
24 ask the Office of Accounting at the Commission would
25 they prefer that people jigger together numbers for
26 different quarters, and then go out and verify a part

1 fiscal year and a part of another fiscal year, they
2 would tell you like all auditors that you always want
3 to try to tie the response to the company's books for
4 their fiscal year. So I think it would create havoc.

5 Now having said that, I don't think if these
6 companies actually changed -- talk about red herrings.
7 I don't think if these companies changed it would make
8 any difference at all to the overall trends in this
9 case. But as a matter for those of us who practice
10 here all the time, I just think it's really dangerous
11 to suggest that the Commission change all of its
12 precedents and the companies who were used to keeping
13 their fiscal year data and the auditors in your Office
14 of Accounting would want to start suggesting that
15 people start doing something other than the way they
16 normally keep their books in a way that can then be
17 verified. That would be my response.

18 COMMISSIONER OKUN: I appreciate those
19 responses.

20 The Commission, I think you accurately
21 described the Commission's practice. Sometimes
22 Petitioner, sometimes Respondents come here and make
23 arguments that the Commission should do something
24 different for some particular reason, and I'm actually
25 not recalling, and I'll ask Mr. Barringer when he gets
26 here, but do you know of any case where the Commission

1 has done what they're requesting? Maybe this could be
2 for post-hearing, but again, since the Commission,
3 sometimes, rarely in my experience does something
4 different --

5 MR. DORN: I certainly don't remember a
6 case, and if this is the kind of issue that Mr.
7 Barringer is concerned about he should have been
8 briefing it at the time of the draft questionnaires.
9 He shouldn't be doing it after he looks at the record
10 and doesn't like the record and wants to change it.

11 COMMISSIONER OKUN: I appreciate those
12 comments, Mr. Dorn.

13 I heard the responses regarding non-subjects
14 in the Bratsk and I think that was a pretty fulsome
15 discussion. I guess I just wanted to follow up on one
16 point about non-subjects. That is, there was a lot of
17 I guess information put in Respondent's brief
18 regarding what's going on in '08. My question is not
19 so much about the threat implications of the '08 price
20 increases, but whether producers or others can tell me
21 what is going on with non-subject pricing in the
22 current market. And you can respond about the '08
23 price increases if you like as well.

24 MR. BARNES: This is Scott Barnes with
25 IPSCO.

26 What we've noticed, and the others can

1 speak, but we've noticed pricing from the non-subject
2 imports also increasing, a reflection of the global
3 increase in raw materials and steel and energy and
4 freight, all the things that have been mentioned
5 earlier. We're seeing an increase in their prices.

6 COMMISSIONER OKUN: Any other comments about
7 non-subject pricing?

8 MR. MAGNO: Mark Magno with Wheatland Tube.

9 We're also seeing price increases and what
10 it's doing for a company like Wheatland Tube. It's
11 giving us the opportunity to sell material,
12 particularly if we load it on a rail car and ship it
13 to the West Coast, we can kind of negate some of that
14 freight and diesel fuel disadvantage over what we're
15 seeing right now in the marketplace by putting it on a
16 rail car. We're doing that now with increasing
17 frequency, more so than I've ever seen in my 24 year
18 career at Wheatland.

19 COMMISSIONER OKUN: Okay. Was there another
20 hand up to respond to that? Yes, Mr. Boggs.

21 MR. BOGGS: Yes. Will Boggs, Allied Tube.
22 We're starting to see a little bit of nonsubject
23 imports coming in, but it's really at prices that are
24 comparable to our pricing. Certainly not anything
25 like what we've seen from the country of China.

26 COMMISSIONER OKUN: Mr. Dorn?

1 MR. DORN: I just would add one thing.
2 You're talking about increasing hot-rolled prices.
3 Remember that the Commerce Department has found that
4 the Chinese government subsidizes hot-rolled prices to
5 the Chinese producers.

6 The rest of the world, we hope, is going to
7 price in relation to their actual hot-rolled cost. If
8 that goes up their prices should go up. That was not
9 the case with China.

10 COMMISSIONER OKUN: Mr. Magno, I wanted to
11 return, in response to one of my earlier questions you
12 had talked a little bit more about the role of master
13 distributors. I'm not sure if it got covered in a
14 subsequent question.

15 We've talked about them in a number of cases
16 that I'm familiar with, but I just wondered, I don't
17 think we have any master distributors here, but I
18 wondered if there was anything in particular you think
19 during this period of investigation that's different
20 in how the master distributors do business, or whether
21 you were just talking about the volume they're able to
22 move.

23 MR. MAGNO: I think the difference with
24 master distributors as we see it now, during this
25 period of investigation is that again, because of the
26 underselling, they were able to expand their

1 distribution channels. So instead of being
2 regionally, they're now national. They've now
3 concentrated across the entire marketplace.

4 So the distribution channel is established.
5 It's well established. They concentrate their sales
6 on pipe and tube products and they do it very
7 effectively, either through telemarketing or through
8 sales people. So I think that the difference in this
9 period and today is that we've seen this expansion of
10 that channel.

11 COMMISSIONER OKUN: Okay. Did anyone else
12 have any comments on the master distributors?

13 (No response).

14 COMMISSIONER OKUN: Okay. With that, Mr.
15 Chairman, I think I've covered all my questions. I
16 want to thank all of you for your responses. You've
17 been very helpful today.

18 CHAIRMAN PEARSON: Commissioner Lane?

19 COMMISSIONER LANE: Dr. Kaplan, I remember
20 that I'm going back to you. I hope you remember the
21 question.

22 (Laughter.)

23 MR. KAPLAN: I have an answer to your old
24 question. The total cost line was actually a typo.
25 It was the materials line from the variable cost line.
26 It doesn't affect any of the results at all. What

1 happened originally is I had 2004 in there as well,
2 and we decided just to do it for the POI and not the
3 prelim period, and so that's what it is and I'll fix
4 it for you.

5 CHAIRMAN PEARSON: Okay, thank you.

6 Let's go to the 421 case. As you know, four
7 Commissioners who shall remain unnamed recommended one
8 of two different relief scenarios, one being a firm
9 quota of 160,000 tons and the other being a tariff
10 rate quota beginning at 267,000 tons with a tariff
11 rate of 25 percent on over quota quantities.

12 Considering those two remedy
13 recommendations, what would the impact have been on
14 the domestic industry over the POI if either of those
15 remedies had been enacted? And could you generally
16 describe how those remedies would likely have changed
17 the base case domestic sales prices and
18 profitabilities presented on your Exhibit 9 if either
19 remedy had been in effect?

20 MR. S. KAPLAN: Yes, I could describe it
21 qualitatively briefly. There would have been more
22 imports than in the scenarios that I calculated so
23 that the effects that I found would be a little
24 smaller. So the industry would have improved but not
25 as much as by the dumping margins that we see today.
26 I will in a post-hearing brief give you the exact

1 numbers. But the improvements would have been
2 significant but not as large as we're seeing now from
3 an actual offsetting of their unfair acts rather than
4 just setting up a tariff rate quota.

5 MR. SCHAGRIN: Commissioner Lane, if I can
6 just add because of course it seems like I lost a good
7 part of my life fighting for that 421 relief, and I
8 know when Commissioner Okun becomes Ambassador Okun
9 that she'll fight for 421 relief from the inside at
10 USTR. But I agree with, I just think it needs to be
11 put into perspective. I know it's an economic
12 modeling question, and obviously as Dr. Kaplan has
13 answered, the industry looking backwards on an
14 economic modeling wouldn't have done as well with
15 180,000 tons as we would with 80 percent dumping
16 duties.

17 COMMISSIONER LANE: 160,000.

18 MR. SCHAGRIN: I'm sorry, 160,000.

19 But looking at the reality of what's
20 happened to this industry had that relief gone into
21 effect these mills wouldn't have closed down. We
22 would have been going into a period of stronger demand
23 which would have allowed these producers to get higher
24 prices, more profitability, key people employed, not
25 shut down mills, reinvest in the industry and because
26 of the fall in the dollar the vast majority of the

1 relief would have definitely gone to the domestic
2 industry not to non-subject imports.

3 So now maybe we can make up for lost time by
4 imposing these very high dumping and countervailing
5 duties against the Chinese. But no one should forget
6 the real injury, particularly to the workers that
7 occurred because they didn't get 421 relief. It was
8 tragic.

9 COMMISSIONER LANE: Thank you.

10 Is Mr. Conway coming back? I had a question
11 for him?

12 MR. SCHAGRIN: He had to leave, and I was
13 going to announce that he had to leave. But he said
14 if anyone had questions for him, you go ahead and make
15 them and he promises that he will respond through
16 counsel for the post-hearing brief.

17 COMMISSIONER LANE: So should I read it into
18 the record?

19 MR. SCHAGRIN: That would be great,
20 Commissioner Lane. I'll make sure it's answered.

21 COMMISSIONER LANE: This is for Mr. Conway.

22 Could you briefly describe the current
23 condition of benefit plans, particularly for retired
24 employees. Have there been any modifications to
25 pension plans or health care plans for active or
26 retired employees, and do any of the existing plans

1 depend on profit levels achieved by the industry?

2 MR. SCHAGRIN: I'll make sure it's answered.
3 We have a witness from US Steel. They might be able
4 to partially answer that. I don't want to put them on
5 the hook, but I know that they had certain
6 modifications as to their agreements and I think some
7 vibas, and I'm not sure how many other companies in
8 the industry those changed labor agreements covered.
9 But I'll make sure it gets answered, and if anyone
10 from the industry perspective knows about their
11 contracts with the union and could help answer the
12 question, feel free. Otherwise I'll make sure Mr.
13 Conway responds in the post-hearing brief.

14 COMMISSIONER LANE: Mr. Dorn, did you want
15 to say something? I thought I saw you raise your
16 hand.

17 MR. DORN: It must have been inadvertent.
18 Sorry.

19 COMMISSIONER LANE: Okay, sorry. Good thing
20 we weren't at an auction.

21 (Laughter).

22 MR. DORN: What did I just buy?

23 (Laughter).

24 COMMISSIONER LANE: Mr. Schagrin, I want to
25 come back to you on critical circumstances.

26 You argue in your pre-hearing brief that

1 critical circumstances do exist. First of all, I
2 would like you to focus on the month of June. Since
3 the petition was filed on June 7, should the
4 Commission consider the entire month of June as a
5 post-petition month or a pre-petition month? Or
6 should we pro-rate the June data? And would your
7 answer be any different if the petition had been filed
8 later in June?

9 MR. SCHAGRIN: I guess I must have raised my
10 hand, too.

11 First, we think you should treat June as a
12 post-petition month. If you're going to pro-rate, if
13 you have the data to do it you can pro-rate seven and
14 23 days. That wouldn't be a problem.

15 If that petition had been filed towards the
16 latter part of June my answer would be different, and
17 I think filing in the latter part of the month would
18 probably change it to a pre-petition month instead of
19 a post-petition month.

20 COMMISSIONER LANE: Are you aware of any
21 Commission or Court precedent that discusses the
22 actual petition month data one way or the other with
23 regard to critical circumstances?

24 MR. SCHAGRIN: Commissioner, I'd like to
25 address that in a post-hearing brief. I am. I've
26 looked at a lot of the precedents, but I've looked at

1 both affirmative and negative determinations and
2 there's a lot of critical circumstance determination.
3 So I would like to address that in a post-hearing
4 brief.

5 COMMISSIONER LANE: Thank you.

6 I have a question about the inventory. For
7 each of the producers represented on this panel, can
8 you indicate whether you use a LIFO inventory
9 accounting method for your hot-rolled steel or an
10 average of something else? And if you want to do it
11 post-hearing that would be okay.

12 MR. FINN: Western Tube is on FIFO.

13 MR. BARNES: Scott Barnes with IPSCO. We're
14 on an average cost.

15 MR. FILETTI: Rick Filetti, Allied Tube &
16 Conduit, we're on a FIFO basis.

17 MR. THOMPSON: George Thompson, US Steel.
18 I'll address that in the post-hearing brief.

19 COMMISSIONER LANE: Thank you.

20 MR. MAGNO: Wheatland will answer that in
21 its post-hearing comments.

22 COMMISSIONER LANE: Thank you.

23 Let's go to the issue of multiple
24 stenciling. What are the incentives or disincentives
25 to multiple stencil welded tubular pipe to standard
26 pipe and line pipe certifications? And in responding,

1 please address whether the incentives change as the
2 cost of hot-rolled steel increases or decreases?

3 MR. BARNES: This is Scott Barnes with
4 IPSCO. As I said earlier, we are a manufacturer of
5 both standard pipe and line pipe. Really they're two
6 different markets. We sell those products through
7 really two different distinct sets of distributors.
8 We have a group of line pipe distributors who
9 primarily service the energy market, call on pipeline
10 companies and so on. Then we have the standard pipe
11 set of distributors who primarily are supporting the
12 pipe valve and fittings industry, and it's a different
13 market.

14 We do produce both products, as I said, and
15 we do multiple stencil our line pipe product to both
16 the API and to the ASTM A53 specification.

17 We do that primarily because there are a
18 select group of line pipe distributors who have a
19 small cross-over market with the pipe valve and
20 fittings. For them to stock two separate and distinct
21 inventories just doesn't make a lot of economic sense.
22 Their primarily business is line pipe and they service
23 the line pipe market, but on occasion they may get a
24 request for a piece of standard pipe for a low
25 pressure application or what have you, and they want
26 to be able to turn to their inventory and be able to

1 supply that product.

2 The difference between the two
3 specifications is obviously more testing is required
4 for the line pipe product if it goes into a more
5 critical application. The risks go up as far as
6 catastrophic events if the product were to fail. So
7 there's a higher degree of testing that goes on.

8 But when you get right down to the real
9 distinction, one of the real distinctions between the
10 two is the API specification has a mass requirement.
11 By that I mean a weight requirement whereby the API
12 tolerance on weight is 1.75 percent per carload or
13 truckload shipment which means there's more steel
14 involved with an API specification than there is ASTM
15 because the ASTM tolerance on mass is, it can be 10
16 percent under the nominal wall. So you've got
17 somewhere between zero and ten percent wall thickness
18 difference between the two products.

19 As the price of steel goes up, obviously
20 that differential becomes more significant as far as
21 the advantage or disadvantage in multiple stencils.

22 I guess the one thing that relates to scope
23 in this investigation, dual stenciled or what have
24 you, is that in my long experience with selling line
25 pipe it's very rare that you find line pipe that is
26 less than 32 feet, as an example. Most of it is sold

1 in longer lengths -- 40 foot, even 60 foot, some even
2 in 80 foot lengths because the product is not, in
3 pipeline applications, is not connected by using
4 thread and couple connections, it's usually field
5 welded. It's all planned.

6 Line pipe is not galvanized, overwhelmingly
7 not galvanized. And generally you don't see line pipe
8 in less than two inch diameter in the marketplace. We
9 do make line pipe in two inch and larger, but that
10 market is, the bulk of the market is in the larger
11 sizes.

12 My fear is that because of this weight
13 differential between the two that if we do indeed see
14 duties hopefully emplaced on standard pipe, 60 percent
15 or whatever the number is, I think it's 66 percent,
16 that the Chinese will choose to absorb that cost
17 difference of zero to ten percent because it certainly
18 is less punitive than the dumping margin of 65
19 percent.

20 COMMISSIONER LANE: Thank you.

21 And thank you, Mr. Chairman, for letting me
22 go over.

23 CHAIRMAN PEARSON: No problem.

24 Just a note to counsel for future reference,
25 please advise the secretary if a sworn witness has to
26 leave. We have never prevented any witness from

1 leaving. No shackles, no chains. However, what we
2 have done is to adjust the questioning order so that
3 every Commissioner can be accommodated, and we would
4 wish to continue that practice.

5 MR. SCHAGRIN: I apologize, Mr. Chairman. I
6 would have, but all of a sudden Mr. Conway said I have
7 to run. He's a big guy. I wasn't going to try to
8 shackle him down either. But I appreciate that, Mr.
9 Chairman. I understand.

10 CHAIRMAN PEARSON: Commissioner Williamson?

11 COMMISSIONER WILLIAMSON: Thank you, Mr.
12 Chairman.

13 I actually did have questions for Mr.
14 Conway. Maybe some of the others can address it and
15 it also can be done in post-hearing.

16 Several people I think talked about the
17 domestic industry being more competitive, productivity
18 going up, and this ought to be a good time. I wanted
19 to get some indication of what has been done to sort
20 of make the workers in the industry more competitive
21 in the recent period.

22 MR. BARNES: This is Scott Barnes with
23 IPSCO.

24 As I mentioned in the testimony, at our
25 Wilder plant which had gotten out of the standard pipe
26 business under previous ownership, we installed two

1 new weld boxes which are the crux of how you make ERW
2 pipe. You have to have, and we, just the efficiency
3 of that, you get more through-put. It's a lower cost
4 application.

5 Standard pipe, the majority of it is sold in
6 21 foot lengths. I mentioned also we were putting in
7 place an off-line cutting facility so that it doesn't
8 slow the through-put of the mill so the cost would go
9 down, and being able to cut these in a more efficient
10 manner. Those were just some of the things that we
11 have already done. Obviously we had other plans as
12 well but because of the market and where the price
13 levels went, we deferred those investments.

14 MR. FILETTI: Mr. Commissioner, from Allied
15 Tube and Conduit's perspective we would like to refer
16 to that in the post-hearing briefs if that's okay. We
17 don't really want to let some of our competitors know
18 of some of the things we've been doing and have on the
19 drawing board.

20 COMMISSIONER WILLIAMSON: Understood. Thank
21 you.

22 MR. KERINS: Commissioner, Bill Kerins,
23 Wheatland Tube.

24 In addition to just general capital
25 investments at our different locations, we've invested
26 heavily in training of our employees, not just the

1 salary group but the hourly group. We've introduced a
2 continuous improvement process at all of our locations
3 and have made some significant improvements in our
4 changeover time, et cetera, all which helped drive
5 down our costs and make us more competitive.

6 COMMISSIONER WILLIAMSON: Thank you for
7 those answers.

8 How would you describe the current price
9 levels for the circular welded pipe in the United
10 States now and how much higher are current prices than
11 say in the fourth quarter of 2007?

12 MR. BARNES: Scott Barnes with IPSCO.

13 We would respond to that in the post-hearing
14 brief.

15 MR. MAGNO: Mark Magno with Wheatland Tube.
16 We would do the same. We're not comfortable sharing
17 our pricing levels in this forum.

18 COMMISSIONER WILLIAMSON: I appreciate that.

19 MR. FINN: Western Tube would also do the
20 same.

21 COMMISSIONER WILLIAMSON: Thank you.

22 This is for Wheatland.

23 Respondents made a number of arguments
24 regarding the effects of Wheatland's new ownership on
25 its reported financial performance. Can you respond
26 to these arguments? In post-hearing if need be.

1 MR. DORN: We'd be pleased to, Commissioner.

2 COMMISSIONER WILLIAMSON: Thank you.

3 Respondents also have argued that for a
4 commodity product like this one we should expect to
5 see similar results or trends across domestic
6 producers. They then argue that the varied
7 performance of domestic producers indicates that
8 something other than subject imports are affecting
9 producers. How do you respond to this?

10 MR. S. KAPLAN: It's just kind of a very odd
11 notion to me that if everyone charges the same price
12 everyone's cost structure at every single firm should
13 be identical.

14 I think if you look across any financial
15 data of any industry some firms do better than other
16 firms and that has to do with their historical capital
17 stock, with location, management issues, how they fund
18 their firm. So I think it would be extremely odd if
19 you found everyone's financial condition the same.
20 Firms differ and in commodity businesses they do as
21 well. If you look at any of the commodity businesses
22 that appear before here. If you look at farming where
23 everyone's making corn, some farmers are more
24 successful than others, having to do with their land,
25 having to do with how good they are at it, having to
26 do with particular circumstances of where it rains.

1 In the industrial business the same thing
2 happens. There are management consultants out there
3 galore. People trying to get best practices between
4 companies.

5 So you should expect costs to differ. I
6 guess that's my bottom line on that.

7 COMMISSIONER WILLIAMSON: Thank you.

8 MR. SCHAGRIN: Commissioner Williamson,
9 Roger Schagrin.

10 I would just add, I was interested to see
11 the analogy that was used in the Respondents' pre-
12 hearing brief saying well, you know, the pipe industry
13 isn't like the steel industry. It's not like those
14 blast furnace producers compared to electric furnace
15 producers. As if every electric furnace producer in
16 the steel industry had the same profits in the 201
17 case or the hot-rolled sheet investigations or sunset
18 reviews and every integrated producer had the same.
19 It really is preposterous, as Dr. Kaplan said. I
20 represented I think all the electric furnace producers
21 in those cases and a number of different integrations
22 and they all had different profits. Even though they
23 may have all been selling hot-rolled sheet at
24 basically the same commodity price, they all had
25 different results. That's the way it is in
26 industries. Prices for commodities are generally very

1 close to each other but costs are influenced by a
2 whole large number of factors like geography and other
3 issues. It seems normal to me, not abnormal like
4 Respondents are saying, which is by the way why this
5 Commission is instructed by not only Congress and the
6 Courts to look at an industry as a whole. We don't
7 want to differentiate particular producers.

8 COMMISSIONER WILLIAMSON: If there is
9 anything company specific that you want to put in
10 post-hearing, we'd appreciate it.

11 Mr. Schagrin, for its critical circumstances
12 analysis the Commission usually compares a six month
13 period. Why should it depart from this in this
14 investigation?

15 MR. SCHAGRIN: I think it's more appropriate
16 and the Commission has done this in the past, to take
17 a shorter period. In this case we propose in the pre-
18 hearing brief to take five months and that's because
19 of the really abrupt change in the imports because of
20 the imposition of duties. I think in a way, just
21 thinking about this and looking at all the cases, that
22 six month period on either side, it goes really well
23 with the Department of Commerce's dumping timelines.
24 Just by virtue of the fact that I think we're on our
25 1116th dumping case, but only our 447th CVD case, you
26 have more dumping cases than CVD cases. With the CVD

1 timetable and with the expectation here of large
2 subsidy findings, I think it had a major influence on
3 imports not arriving after those preliminary CVD
4 duties, and that's the reason we think it's more
5 appropriate to look at a somewhat more truncated
6 timeline is because of the CVD preliminary
7 determination.

8 MR. DORN: Commissioner, I know there's at
9 least one case, maybe more, in which the Commission
10 has done a three month to three month comparison, but
11 we can discuss those in our post-hearing brief.

12 COMMISSIONER WILLIAMSON: Thank you.

13 I have no further questions at this time.
14 Thank you.

15 CHAIRMAN PEARSON: I wanted to ask a couple
16 of issue briefly, both having to do with threat in
17 case we have the opportunity to make such a
18 determination.

19 The Canadian International Trade Tribunal
20 has made a preliminary affirmative injury
21 determination on standard pipe from China. Assuming
22 that becomes a final determination, what effects is
23 that likely to have on Chinese imports into the United
24 States and the availability of Canadian imports into
25 the United States? And how do we assess the
26 implications for threat?

1 MR. DORN: Certainly if this Commission went
2 negative and there were no duties on imports from
3 China into the United States and they were facing
4 large duties in Canada, that's just going to divert
5 those exports to the United States. I think it's
6 fairly logical that's what would happen.

7 MR. SCHAGRIN: In addition, Chairman
8 Pearson, it's only appropriate to point out that that
9 Canadian case goes up to 6-5/8 inch instead of ours
10 which goes up to 16 inch, but we believe the vast
11 majority of imports from China into the US are in the
12 size range less than 6-5/8ths. But I would say given
13 an almost certainty that the Canadians will make
14 affirmative determinations, that will number one,
15 decrease greatly imports from China into Canada. The
16 preliminary margins are in the range of 80 to 160
17 percent. So very likely those will disappear in that
18 size range going to Canada. They would obviously come
19 to the US if you were to fail to make an affirmative,
20 or you could use that to support your threat
21 determination.

22 In addition, as to Bratsk, while the big
23 change in the Canadian dollar already has a limiting
24 impact on exports from Canada to the US, if you assume
25 the likely affirmative determination by the Canadian
26 Tribunal, that will mean that Canadian producers will

1 be able to supply significantly more product for the
2 Canadian market, thus limiting their interest in
3 exporting to the United States. IPSCO is in both
4 markets. Maybe Mr. Barnes would want to comment on
5 this.

6 MR. BARNES: Scott Barnes with IPSCO.

7 I would agree with what Roger's comments
8 were. We do have an example of this where the
9 Canadian government did find on an OCDG case against
10 China. If you look since that filing or that final
11 determination, their imports of OCDG from China have
12 increased.

13 CHAIRMAN PEARSON: And in the event that we
14 make an affirmative determination in this proceeding,
15 and there is a meaningful reduction in imports of
16 Chinese standard pipe into the United States, the
17 Canadians make an affirmative determination there so
18 they have to use more of their pipe domestically. Is
19 that going to have the effect of further shorting the
20 pipe market in the United States?

21 MR. SCHAGRIN: Not until all these US
22 producers are at full capacity utilization and they
23 have a long way to go.

24 I am just certain that all of the folks in
25 the back of this room would either like an additional
26 job at a Wheatland facility or would like to work more

1 hours or probably both.

2 You have the information on the record. The
3 Respondents think it's wonderful, and yes, it is
4 higher than it was in the past because we've cut so
5 much capacity.

6 I go back to when this industry had nearly
7 four million tons of annual capacity. We did in the
8 '80s see a lot of mills shut down.

9 CHAIRMAN PEARSON: That was when you had
10 hair?

11 (Laughter).

12 MR. SCHAGRIN: Yes. And I had no white in
13 my beard.

14 It's not your fault, Chairman Pearson, it's
15 all the other Commissioners I practiced before that
16 caused this hair loss and whitening of the bears.

17 CHAIRMAN PEARSON: I'd be disappointed if I
18 didn't get credit for at least some of it.

19 MR. SCHAGRIN: I'm going to give you credit
20 for some. Well, it depend on your future votes.

21 But the fact is this industry has been
22 cutting capacity. Wheatland shut two mills. They
23 shut that Sharon mill. I believe I visited it with
24 you back during the 421 case. That was a huge mill.
25 Mr. Kerins knows it. He was with us at the time. I
26 think that mill had about 250,000 tons of capacity,

1 more or less. It used to, I was with the gentleman
2 who ran that mill for 25 years, that mill probably for
3 years, even though you talk about some periods of low
4 capacity utilization, I can remember that mill running
5 basically 24 hours a day, six days a week for years on
6 end, and now it's gone.

7 So certain of the mills, like Wheatland's
8 continuous weld mill. Those mills are set up to just
9 go all the time if they can, and they haven't been.

10 So I would say we hope to have to deal
11 within six months to a year, although I'm on the
12 pessimistic side, I think demand is going to decline a
13 lot given where this economy is going, but I would
14 love to see a situation in which all of these mills
15 are running flat out and people actually need to buy
16 some non-subject imports at high prices. That would
17 be a great thing for everybody in this market. Maybe
18 even some of the importers would like to sell some
19 non-subject imports at high prices instead of massive
20 amounts of Chinese product at extremely low prices.

21 CHAIRMAN PEARSON: My second threat issue
22 has to do with the potential for increasing US exports
23 of standard pipe. My sense is that those have been
24 increasing, that the relatively weak dollar and the
25 price for hot-rolled coil in the United States is
26 probably relatively competitive compared to some other

1 major parts of the world, that export opportunities
2 are being created.

3 Mr. Magno, would you comment?

4 MR. MAGNO: Mark Magno with Wheatland Tube.

5 I wish that we had a great export story to
6 tell, but I know of only one case where we sold some
7 material that sent to Israel, and that is it.

8 CHAIRMAN PEARSON: Nothing to Canada,
9 nothing to Mexico?

10 MR. MAGNO: Nothing to Mexico. I'm sorry,
11 when I think of export I don't think about, I want to
12 put it on a boat.

13 We do sell into Canada a small amount. It's
14 not changed appreciably.

15 CHAIRMAN PEARSON: Mr. Barnes?

16 MR. BARNES: Scott Barnes with IPSCO.

17 Yes, export opportunities have improved, but
18 it's not going to save the industry. The big thing is
19 if you look at how many tons of Chinese pipe come in.
20 If we can deal with that, that's the future.

21 But we do export into Canada. That's been a
22 steady market. We've also done a little bit of export
23 overseas, but it's not of significance.

24 MR. SCHAGRIN: Chairman Pearson, Roger
25 Schagrin.

26 I would just add that even though the staff

1 report shows a 60 percent increase in exports, even
2 after a 60 percent increase in exports it's only up to
3 three percent of shipments. So it would have to be a
4 radical improvement to have any impact on the US
5 market, and I would think that for market economy
6 producers the extremely high ocean freight rates now
7 would unfortunately, even with the weaker dollar,
8 present some extra barrier to exports just as they
9 would be a barrier to non-subject imports because at
10 freight rates that are now up in the range of \$150 a
11 ton, and people are now talking with the weak dollar,
12 I heard this at a seminar in Houston, that pretty soon
13 all these European owned freight companies are going
14 to start charging freight in euros instead of dollars
15 because they're tired of charging in dollars and then
16 finding out how much the dollar erodes once the
17 shipment is made.

18 So I think higher ocean freight rates are
19 here to stay, and our barrier on both sides, not for
20 the Chinese because they're so much less in the
21 market.

22 CHAIRMAN PEARSON: Thank you.

23 I have no further questions at this moment.

24 Madame Vice Chairman?

25 VICE CHAIRMAN ARANOFF: Thanks, Mr.

26 Chairman.

1 One follow-up question and this may be for
2 post-hearing.

3 Table 5-1 in the staff report summarizes on
4 a company by company basis efforts to increase prices
5 during the investigation period. If you look at it, I
6 see both a difference in the number of increases for
7 some of the companies as well as the number of
8 increases that actually held.

9 So the question is, does this reflect data
10 reporting issues, or are there certain companies that
11 are seen as price leaders so that if their price
12 increase doesn't hold, others don't even bother to
13 propose them?

14 That's the first part of the question. I
15 don't know if anyone wants to tackle that.

16 MR. DORN: Let me just make a comment. Joe
17 Dorn, Madame Commissioner.

18 I think there was a lot of confusion in
19 terms of how to answer that question, particularly in
20 terms of whether a price increase held. In just
21 talking to our own clients who filled these out, what
22 happens when something holds for two weeks and then
23 you have to reduce the price? So it was very
24 confusing. It was sort of a wild mix of approaches
25 and it's kind of hard to aggregate it.

26 It also is a little misleading to put it all

1 into one column as opposed to 2005, 2006, 2007,
2 because the pattern does change over time.

3 VICE CHAIRMAN ARANOFF: Okay. If there's
4 anything you can do to make that information more
5 helpful to us, and maybe that may also involve
6 bringing it up more current so we can see the
7 difference, if there's a difference between now and
8 before the case was filed, or before the duties went
9 into effect, that would be also helpful.

10 MR. DORN: We'll certainly take a look at
11 that. Thank you.

12 VICE CHAIRMAN ARANOFF: Thank you very much,
13 and with that, I don't have any further questions. I
14 do want to thank this morning's panel for all of your
15 answers.

16 CHAIRMAN PEARSON: Commissioner Okun?

17 (No response).

18 Commissioner Lane?

19 COMMISSIONER LANE: In your brief and on
20 Exhibit 2 you project a decline in demand for CWP
21 based on a downturn in non-residential construction.
22 If you were to include all non-residential
23 construction including government, utility and other
24 infrastructure construction, are the forecasts
25 indicating an actual decline in non-residential
26 construction? Or that it will continue to increase

1 but at a slower rate of increase?

2 If there are projections of actual declines
3 rather than a lower growth rate in non-residential
4 construction, please indicate what your sources are
5 for those projections.

6 MR. S. KAPLAN: I'd be happy to address this
7 further in the post-hearing brief. But we see non-
8 residential structures on the private side going down.
9 There's been a pretty broad consensus that they're
10 going to fall.

11 On the public side, which is the smaller
12 share of those structures, if anything they're going
13 to be flag. So overall, things are going to fall
14 because there's going to be less office buildings,
15 less strip malls, less commercial real state, and
16 things like hospitals on the public side, it seems
17 relatively flat.

18 I'll address it in more detail in the post-
19 hearing.

20 COMMISSIONER LANE: Thank you.

21 This goes back to an earlier question, way
22 earlier, and it's a follow-up to one of the other
23 commissioners' questions. It relates to the Bratsk
24 issue.

25 Do you believe that prices of fairly traded,
26 non-subject imports are such that even if they could

1 replace subject imports there would be no benefit to
2 the domestic industry?

3 MR. DORN: Commissioner Lane, as we set
4 forth in our pre-hearing brief, we question whether
5 Bratsk even applies because we don't think the non-
6 subject imports are significant within the meaning of
7 Bratsk as they were declining significantly from 2005
8 to 2007. Plus the non-subject imports that are not
9 covered by the existing antidumping order account for
10 less than nine percent of consumption in 2007. But
11 even assuming that Bratsk applies, given the record
12 evidence of how much higher priced the non-subject
13 imports are than the subject imports, we don't think
14 there would be much replacement, and to the extent
15 there is replacement there would be much higher prices
16 which would benefit the domestic industry in lifting
17 prices higher, to fair levels.

18 MR. SCHAGRIN: I would just add,
19 Commissioner Lane, that a substantial portion of the
20 non-subject imports that aren't covered by order, that
21 nine percent that Mr. Dorn referred to, are from
22 Canada and there's a lot of cross-ownership between
23 the Canadian producers and US producers. A number of
24 those Canadian mills are either owned by US producers
25 or those Canadian mills have US operations so we think
26 they are unlikely, both because of cross-ownership and

1 the extremely significant increase in the Canadian
2 dollar, to present a problem, and they do account for
3 a substantial portion of the non-subject imports not
4 covered by existing orders.

5 COMMISSIONER LANE: Thank you.

6 That's all I have, and thank you all for
7 your answers this morning and this afternoon.

8 CHAIRMAN PEARSON: Commissioner Williamson?

9 COMMISSIONER WILLIAMSON: I have no further
10 questions, and I do want to thank the witnesses for
11 their testimony.

12 CHAIRMAN PEARSON: Are there any further
13 questions from the dais?

14 (No response).

15 CHAIRMAN PEARSON: Do members of the staff
16 have questions for this panel?

17 MR. CORKRAN: Douglas Corkran, Office of
18 Investigations.

19 Thank you, Chairman Pearson. Staff does
20 have one question directed at counsel, and for your
21 post-hearing brief, not for right now.

22 If you would, could you please review the
23 questionnaire responses for US producers for the data
24 that went into the staff report Table 4-9? That gives
25 just a profile, if you will, of the type of pipe
26 shipped by US producers. Then cross-reference that

1 with Table C-2 which excludes certain producers
2 because at least at the staff level there was some
3 question about the profile of shipments they had
4 compared to the investigation scope which said that
5 dual stenciled pipe was only included to the extent
6 that it meets certain defined physical
7 characteristics. If you could address that in your
8 post-hearing brief that would be very helpful. Thank
9 you.

10 MR. DORN: We'll be glad to do so.

11 CHAIRMAN PEARSON: Does staff have any
12 further questions?

13 MR. CORKRAN: Thank you, Chairman Pearson.
14 Staff has no further questions.

15 CHAIRMAN PEARSON: Thank you.

16 Mr. Barringer, does counsel for the
17 Respondents have any questions for this panel?

18 MR. BARRINGER: No, Mr. Chairman, thank you.

19 CHAIRMAN PEARSON: That pretty well
20 concludes our morning's activities.

21 My thanks once again to the panel. It's
22 been most interesting. You've been patient and
23 thorough.

24 We should take a lunch break. I think we
25 should return at about ten minutes before 3:00, in
26 about 55 minutes. So this hearing stands in recess.

1 (Whereupon, at 1:55 p.m., the hearing in the
2 above-entitled matter was recessed, to reconvene at
3 2:50 p.m. this same day, Tuesday, May 13, 2008.)
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11 //

1 productive one. In addition to the customers they
2 serve, this industry also is an important customer to
3 the US steel producers, accounting for 20 percent of
4 hot-rolled steel produced in the United States.

5 Wheatland Tube Company and Sharon Tube
6 Company which operate plates in my district and just
7 outside of my district have had to lay off hundreds of
8 workers due in part to surging imports from China.
9 These companies provide good paying jobs to local
10 workers and are vital components to the local economy.
11 We cannot afford to lose them because of unfair trade
12 practices by the Chinese government.

13 I've testified before you several times
14 highlighting the economic plight in my district in
15 northeastern Ohio. I can't, however, stress enough
16 the importance of this industry to my constituents in
17 the state of Ohio. I've witnessed first-hand how
18 unfair imports have forced many of the steel companies
19 and pipe producers out of my district.

20 I come from an area that is struggling
21 economically. This reality results in an ever-
22 shrinking tax base which in turn adversely impacts the
23 quality of life of my constituents, our schools, our
24 libraries, our mental health system.

25 Wheatland Tube Company, Sharon Tube Company
26 and other manufacturers are critical to the health and

1 vitality of our area. Keeping these manufacturers
2 strong has a direct and unmistakable impact on our
3 community.

4 Unfortunately, the reality is that the
5 circular welded pipe manufacturers have struggled
6 under a deluge of import from China for several years.
7 I know you are familiar, from '05 to '07 Chinese
8 imports of pipe increased an astonishing 100 percent.
9 But this is on top of an even larger 2544 percent
10 surge of imports from '02 to '04.

11 We can't compete with that. The high volume
12 of cheap imports has resulted in many documented
13 instances of underselling and lost sales as well as
14 lost market share to Chinese companies.

15 Based upon my knowledge of the Chinese
16 economy, I'm convinced that China's industry is not
17 operating on a level playing field. I have
18 cosponsored legislation with Duncan Hunter from
19 California to make the countervailing duty law
20 applicable to currency manipulation. We are
21 constantly discovering new examples of the government
22 of China's unfair subsidization campaign, and we know
23 without doubt that the Chinese government subsidizes
24 its pipe producers.

25 For one, the Chinese government provides its
26 industry with cheap hot-rolled steel at prices that

1 are \$200 lower than the US price and the world market
2 price.

3 I realize that the Commission will carefully
4 review the record of this investigation. The outcome
5 of this investigation is very important to the
6 manufacturing sector of my district. I've worked hard
7 in Congress to ensure that our domestic manufacturers
8 have a level playing field on which to compete and I
9 hope that the Commission will take the appropriate
10 steps to ensure that this investigation results in a
11 countervailing duty order.

12 Thank you again, and I appreciate you
13 accommodating me.

14 CHAIRMAN PEARSON: Thank you.

15 Are there any questions for Congressman
16 Ryan?

17 (No response).

18 CHAIRMAN PEARSON: We very much appreciate
19 that you were able to come by.

20 MR. RYAN: Thank you very much.

21 MS. ABBOTT: Mr. Chairman, the second panel
22 in opposition to the imposition of antidumping and
23 countervailing duties has been seated and is prepared
24 to present their testimony.

25 CHAIRMAN PEARSON: Welcome.

26 Mr. Barringer, is this your show?

1 MR. BARRINGER: Well at least it's my
2 colleague's show.

3 The injury, threat of injury, causation
4 issues, Matt McCullough and Professor Prusa will
5 address first, then we will turn to the other
6 witnesses that will address the issue of critical
7 circumstances.

8 MR. McCULLOUGH: Good afternoon. For the
9 record, my name is Matt McCullough with the law firm
10 of Heller Ehrman appearing on behalf the CCCMC and its
11 member companies. My testimony will focus on the
12 health of the domestic industry over the period of
13 investigation and whether imports from China are a
14 cause of material injury to the domestic industry or a
15 threat thereof.

16 Let me focus first on the health of the
17 domestic industry. Over the period of investigation
18 the domestic industry performed on average as well or
19 better than it has over at least the past nine years.
20 This is true whether you look at the public number
21 published in the Commission staff report or the
22 adjusted numbers reflected in revisions after the
23 staff report was issued.

24 In particular when you look at the operating
25 performance of the domestic industry in 2005 and 2006
26 it measures up quite favorably with the domestic

1 industry's record year in 2004. The adjusted numbers
2 for 2005 and 2006 that can't be presented here today
3 simply confirm this point.

4 The graph shows that there are highs and
5 lows in the operating margin every three year period.
6 The Commission's period of investigation is not
7 distinguished in any particular way from such trends
8 seen in earlier periods. As discussed in our brief,
9 there is actually very good reason to believe that the
10 three year trend during the period of investigation
11 looks much more consistent, if not better, than prior
12 periods. This is true when you take into accounts
13 profits we believe the Commission is missing in
14 calendar year 2007 based on uneven fiscal years within
15 the domestic industry, and once you adjust for some
16 highly anomalous data in the questionnaire responses
17 of the domestic producers.

18 If you take these factors into account the
19 difference is not trivial. I will have more on that
20 later.

21 Now is the domestic industry's operating
22 margin lower in 2007 than in the prior two years?
23 Yes. But as discussed in our brief, we believe that
24 decline to be based on data that is unrepresentative
25 and skew the results.

26 Again, the failure to capture full year

1 results for some producers and the presence of
2 extremely anomalous data contained in the financial
3 information provided, distort the real picture. The
4 published results stand in contrast to other indicia
5 of industry performance that all point to an industry
6 that is doing better, not worse.

7 Let me take a moment to highlight these
8 indicia for you.

9 We start with capacity and capacity
10 utilization. The domestic industry's capacity and
11 capacity utilization showed strength during the period
12 of investigation. Although capacity declined by ten
13 percent over the 2005-2007 period, capacity viewed in
14 the context of an industry that has suffered from
15 chronic over-capacity for decades and certainly over
16 the past nine years.

17 Consider that in the six years prior to the
18 Commission's period of investigation in this
19 proceeding, the domestic industry had an average
20 capacity utilization rate of just 59.4 percent. In
21 2004, a record year for the industry, capacity
22 utilization was just 56.9 percent.

23 In the last two years of the period of
24 investigation, it improved on this rate until
25 achieving a capacity utilization rate in 2007 that is
26 higher than at any other point over the past nine

1 years.

2 Capacity and capacity utilization also have
3 to be viewed in the context of an industry that has
4 shifted more and more capacity and production to non-
5 subject products. Over the POI total plant capacity
6 increased by almost six percent, but the allocation to
7 non-subject capacity increased by 13.6 percent.
8 Production of non-subject product increased by nearly
9 330,000 tons while CWP production increased by just
10 72,000 tons.

11 So has capacity been eliminated in this
12 industry? It most certainly has, but the effect has
13 been a 20 percent improvement in utilization rates
14 over the POI. Thus elimination of capacity has been a
15 positive development in light of over-capacity in this
16 industry.

17 Simply put, capacity and capacity
18 utilization devoid of proper context is not a
19 meaningful indicia to ascertain injury to domestic
20 industry. To the extent the domestic industry
21 complains about capacity utilization during the period
22 of investigation, it is simply impossible to attribute
23 the issue to subject imports.

24 Let me now focus on shipments and sales.

25 Net sales improved over the period of
26 investigation, increasing 9.5 percent over the period.

1 Although average unit values declined over the same
2 period by 2.8 percent, the cost of key material inputs
3 including hot-rolled steel and zinc also declined
4 since the first half of 2006. This decline improved
5 the domestic industry's raw material margins from 2006
6 to 2007.

7 In 2007 hot-rolled steel and zinc accounted
8 for roughly between 75 and 85 percent of the cost to
9 produce pipe. On average, those material costs
10 declined from 2006 to 2007, so while unit prices
11 declined \$12 a ton between 2006 and 2007, hot-rolled
12 steel costs declined \$57 a ton based on prevailing
13 market prices.

14 According to the Commission staff report,
15 zinc costs also fell from slightly over 2 a pound in
16 the third quarter of 2006 to about \$1.25 a pound by
17 the end of 2007. These data indicate that the average
18 unit price recorded by the domestic industry over the
19 period was stable and improving relative to raw
20 material costs.

21 In terms of market share, the domestic
22 industry's market share declined between 2005 and 2007
23 by roughly three percentage points. However, it
24 showed a significant increase between 2006 and 2007,
25 gaining nearly six percentage points over the period.
26 This increase occurred despite an apparent consumption

1 base that was eight percent higher than in 2005. It
2 also occurred in a tight hot-rolled steel market with
3 a domestic industry shifting to energy tubulars,
4 further constraining the domestic industry's capacity
5 to supply CWP.

6 With respect to employment, based on the
7 staff report all aspects of domestic industry
8 employment improved over the period of investigation.
9 The number of workers, wages, hourly wages and
10 productivity all increased over the period of
11 investigation. While unit labor costs also increased,
12 the increase was well below the rate of inflation over
13 the same period.

14 Finally, the domestic industry maintain
15 stable capital expenditures and investment over the
16 period of investigation above historical averages for
17 this industry.

18 These indicia stand in sharp contrast to the
19 decline in industry operating performance between the
20 first two years of the POI and 2007 and I think raise
21 good questions about the representativeness of the
22 2007 data the Commission has collected for the
23 domestic industry.

24 Let me move on to causation and volume.

25 The record does not support the conclusion
26 that imports from China displaced domestic production

1 or US shipments, whether in absolute or relative
2 terms. To the contrary, in the last year of the
3 period when imports from China reached their peak, the
4 domestic industry produced and shipped the most tons
5 it had shipped over the entire POI.

6 Looking at the 2005-2006 period, there is no
7 question that when apparent US consumption increased
8 by 362,000 tons, domestic production in US shipments
9 flattened, but that trend had very little to do with
10 Chinese imports. Rather the data reveal that the
11 domestic industry reallocated production to non-
12 subject products. With little or no increase in total
13 plant capacity to produce pipe, the domestic industry
14 increased its allocation of non-subject capacity by
15 3.5 percent. It produced 325,000 more tons of non-
16 subject product than produced in 2005 or roughly the
17 equivalent of the increase in apparent consumption of
18 CWP in the United States.

19 To the extent the increase in apparent
20 consumption was higher than the shift to non-subject
21 production by roughly 35,000 tons, I would point out
22 that non-subject imports increased by 70,000 tons
23 during this same period. Should there be any surprise
24 about this shift? In 2006 CWP was generating a ten
25 percent operating margin, well above the historical
26 average for the industry. But guess what? OCTG

1 earned operating margins of 29.1 percent in 2006.
2 That's a 29.1 percent margin of a product with a
3 higher unit value than CWP, so dollar for dollar the
4 product incentive to shift to OCTG was irresistible.

5 Given the boom in the energy sector, line
6 pipe no doubt was very much the same way.

7 What about all this unused capacity? Why
8 not ship more of everything? That is just not how it
9 works.

10 The Commission knows that capacity and
11 utilization numbers in this industry are a poor metric
12 of industry health or real capacity to produce and
13 ship more product. Among other things you have to
14 have the labor or the hot-rolled input to produce
15 more. If you're using these resources for something
16 else, that is a business decision.

17 In this regard the Commission has documented
18 in sunset reviews for hot-rolled steel that
19 allocations, supply disruptions and newfound
20 production discipline among hot-rolled steel producers
21 made getting more hot-rolled steel difficult in 2006.

22 Just to check I looked back at the
23 Commission's report for the most recently completed
24 sunset review of hot-rolled steel which ended in 2007.
25 Out of 33 responding purchasers, 23 reported that
26 suppliers refused to supply hot-rolled steel, with

1 most reporting that they faced shortages beginning in
2 2004.

3 The majority of responding US producers,
4 producers of hot-rolled steel, nine of fourteen also
5 reported that they had refused, declined, or were
6 unable to supply hot-rolled steel.

7 So how do you utilize the hot-rolled steel
8 you do obtain? You put it in production for your
9 highest margin product. And no, CWP has never earned
10 anything close to 29 percent operating margins.

11 Let's look at the volume trends between 2006
12 and 2007. When US apparent consumption fell by
13 155,000 tons or 5.6 percent during this period,
14 domestic industry production increased by 74,000 tons
15 and US shipments increased by 77,000 tons. In
16 contrast, the increase in Chinese imports over the
17 same period was less than half this amount at 32,000
18 tons. All other imports declined by 260,000 tons.

19 In this market the domestic industry
20 expanded its market share by 5.9 percentage points.
21 Chinese imports increased their share by just 2.8
22 percentage points.

23 To put it differently, the difference
24 between the fall in apparent consumption and the fall
25 in non-subject imports was 109,000 tons. That is
26 109,000 tons of real demand that had been sourcing

1 from imports.

2 The increase in US shipments captured 70
3 percent of this demand. The increase in Chinese
4 volume, just 30 percent. Thus Chinese imports were
5 not displacing US volume, but non-subject volume, and
6 the US industry was doing the same thing just at a
7 much better rate. The domestic industry was still
8 emphasizing and expanding its shipments of energy
9 tubulars but it was also taking advantage of more
10 readily available supplies of hot-rolled steel in the
11 market.

12 It also looked elsewhere for opportunities
13 that limited its potential increase in market share in
14 the United States. At the same time the domestic
15 industry expanded US shipments in a down market, it
16 also increased export shipments by more than 18,000
17 tons.

18 Finally, if there was any doubt about
19 whether Chinese import volumes displaced domestic
20 production and shipments it can be resolved by monthly
21 shipment trends seen in the recent past after imports
22 from China declined at a dramatic rate.

23 In a market that remained strong and stable
24 with spending in the non-residential construction
25 sector at its peak at the end of the year, the near
26 disappearance of Chinese imports did not result in a

1 commensurate increase in US shipments. To the
2 contrary, US shipments tapered down.

3 I might point out that if you overlaid
4 another line on this graph, non-subject imports, you
5 would see them going up at the end of the year.

6 In summary, the record as a whole does not
7 provide a basis to conclude that the volume or rate of
8 increase of imports from China was significant within
9 the meaning of the statute. It does not reveal
10 adverse volume effects on the domestic industry as a
11 result of import volumes from China.

12 Now I'd like to turn the presentation over
13 to Professor Prusa who will address the issue of
14 adverse price effects and the pricing arguments of the
15 Petitioners.

16 MR. PRUSA: Thank you. Good afternoon, my
17 name is Tom Prusa. I'd like to discuss the impact of
18 the pricing of Chinese imports on the domestic pipe
19 industry.

20 There are several important issues with
21 respect to price that need to be understood. First,
22 let's begin with the most important issue with respect
23 to price, the ability of the domestic industry to
24 maintain strong markups over its raw materials cost.

25 The staff report makes it clear that the
26 domestic industry has been able to maintain a

1 consistent markup over its hot-rolled cost.

2 Given that hot-rolled steel accounts for
3 approximately 70 to 75 percent of the cost of pipe,
4 this margin is the best metric of the true pricing
5 power of the domestic industry. As is shown in Table
6 4 of the confidential brief, the domestic industry's
7 markup over raw material cost increased over the POI.
8 The domestic industry's robust pricing power is
9 perhaps the best indicator that Chinese imports have
10 not materially affected domestic industry's health.

11 We emphasize that the markup has been stable
12 and for some pricing products has even risen over the
13 POI.

14 As is shown in Table 4 of the confidential
15 brief, the domestic industry's markup was the same or
16 higher in the second quarter of 2007 than during the
17 first quarter of 2005 for all four pricing products
18 that we can discuss publicly.

19 Said differently, the industry's strong
20 pricing power was present prior to the filing of the
21 petition.

22 The Petitioners emphasize the decline in
23 pipe prices prior to the filing of this petition in
24 2007. But you must recognize that the price of hot-
25 rolled also fell. To see this most clearly let's look
26 at the time just before the petition was filed. This

1 timeframe is particularly probative as it is exactly
2 the time period the domestic industry alleges its
3 operating margins decreased.

4 In addition, the Petitioners cannot discount
5 the pricing power as being driven by the petition
6 filing.

7 In the 12 months prior to the filing of this
8 petition, the price of hot-rolled steel fell by 7.1
9 percent. by contrast, over the exact same timeframe
10 the price of pricing product one fell by 5.8 percent;
11 the price of pricing product 1A fell by 2.4 percent;
12 the price of pricing product 3 fell by 6.5 percent;
13 the price of pricing product 3A fell by 7.9 percent.

14 As this example highlights, almost all the
15 pricing variation is due to hot-rolled pricing
16 variation.

17 Thus the data collected by the staff refutes
18 the argument that Chinese imports have depressed or
19 suppressed the domestic price.

20 As it has always done, the domestic industry
21 marks up its key input price when setting its pipe
22 price. While there is quarter to quarter variation,
23 overall the staff report paints a picture of an
24 industry with stable pricing power.

25 Second, as revealed by the pricing product
26 data collected by the Commission, subject import

1 prices do not display a downward trend over the
2 period. To the contrary, pricing product data
3 indicates that Chinese prices have either been stable
4 over the period or have increased significantly over
5 the period. In fact for four of the eight pricing
6 products, Chinese prices have increased.

7 It must be stressed that the Chinese price
8 increases are not coincident with the filing of the
9 petition and hence cannot be attributed to a filing
10 effect.

11 Given the confidential nature of several of
12 the pricing series, we cannot go into further detail
13 here, but we encourage the Commission to look at
14 figures eight and nine in the confidential brief.

15 The Commission's data indicates that Chinese
16 pipe prices track the price of hot-rolled steel. As I
17 previously mentioned, a similar link to hot-rolled
18 prices is also seen for US pipe pricing. The only
19 substantive difference is that the delivery lags mean
20 the Chinese prices reflect the price of hot-rolled in
21 the prior one to two quarters, while US pipe prices
22 reflect hot-rolled prices in the same quarter.

23 Nevertheless, the data in the staff report
24 demonstrates both Chinese and US pipe prices both
25 reflect the pricing dynamics of the key input, hot-
26 rolled steel.

1 Third, Chinese pipe prices undersell US pipe
2 prices, but this has always been the case. This has
3 been true throughout the period, and it was also true
4 prior to this period. Importantly, US pipe makers
5 have experienced very high operating profits before
6 and throughout the POI. Underselling is not an
7 indicator of the industry's profitability or fortunes.

8 Matt?

9 MR. McCULLOUGH: Thank you.

10 I'm going to turn back now to adverse
11 impact.

12 The Commission often looks to trends in
13 imports in domestic injury performance to see if the
14 respective trends support the argument that imports
15 are causing some decline in domestic industry
16 performance.

17 In this regard, trends seen in imports in
18 domestic industry performance from before the period
19 of investigation through 2006 do not even allow
20 speculation about overall adverse impact. This
21 Commission has previously acknowledged 2004 was a
22 record year for the industry, and data collected by
23 the Commission for 2005 and 2006 show continued above
24 average performance by the industry even as imports
25 from China increased.

26 So this case really boils down to what

1 happened in 2007. When Chinese imports increased by
2 33,000 tons over 2006, and net total imports declined
3 by more than 230,000 tons.

4 In this market, domestic industry operating
5 margins declined despite other positive indicia of
6 industry performance. The lack of apparent volume
7 effects from subject imports and largely unremarkable
8 pricing trends. So what happened? The answer to that
9 question cannot be deduced from a simple comparison of
10 domestic industry's 2007 operating margin and the
11 level of Chinese imports. As previously stated, the
12 underlying financial data for the industry as a whole
13 is skewed.

14 The Commission has also missed profits at
15 the end of the period of investigation because of
16 reporting differences among domestic producers.

17 Let me talk about missed profits first.

18 Pipe prices track current hot-rolled steel
19 prices. But pipe sold in a rising hot-rolled steel
20 market will earn better margins because it is produced
21 from lower cost hot-rolled steel inventory. You can
22 ask Tenaris or Northwest Pipe about this profit
23 dynamic since both publicly confirmed it during the
24 period of investigation.

25 Here are some quotes from both acknowledging
26 that when hot-rolled prices fall, profits decline; and

1 when hot-rolled prices rise, profits increase.

2 The dynamic was not terribly pronounced when
3 hot-rolled prices moved up or down \$10 a ton every few
4 months, but in this new steel era when hot-rolled
5 prices move up or down by \$50 to \$100 a month or even
6 more than that, it can have a big impact.

7 The effect of this dynamic is such that the
8 Commission likely did not capture increased profits
9 earned by the domestic industry at the end of 2007
10 because certain producers representing significant
11 tonnage in this market reported their financial
12 performance on a fiscal basis that did not cover all
13 of 2007.

14 I cannot get into specifics about the
15 domestic producers involved, but I can illustrate the
16 effect with other publicly available data.

17 As illustrated in this slide using public
18 data on pipe and hot-rolled prices, pipe prices
19 increased from the third quarter of 2007 to the fourth
20 quarter of 2007. At the same time there was a decline
21 in the cost of hot-rolled steel inventory used to
22 produce pipe. Hot-rolled steel that had been
23 purchased in the prior quarter when hot-rolled prices
24 were lower.

25 Hot-rolled is a cost component of pipe
26 production, was \$43 per ton less in the fourth quarter

1 than in the fourth quarter, thus taking the stronger
2 pipe price and declining hot-rolled inventory costs
3 together there was between an \$84 and \$134 per ton
4 positive swing in the industry's metal margin.

5 This means additional profits for the
6 industry, profits that were not completely captured by
7 the Commission in its data.

8 Not only is the Commission missing profits
9 at the end of 2007, but the Commission's data is
10 distorted by events at the end of 2006 that reflect
11 exactly the opposite trends as the second half of
12 2007.

13 Between the third and fourth quarters of
14 2006, hot-rolled prices declined, squeezing margins on
15 pipes sold in the fourth quarter of 2006.

16 Let me try to illustrate the magnitude of
17 this effect by using a hypothetical.

18 To keep things simple, rather than try to
19 account for various reporting periods that cover more
20 or less of calendar year 2007, let's assume that the
21 entire domestic industry in this investigation
22 reported on a fiscal year that ends in September.
23 Assuming average quarterly net sales of 369,000 tons
24 which is the average based on total reported net sales
25 for 2007, and using the lower range estimate of \$84 as
26 the change in profits presented in the last slide, we

1 are talking about \$31 million in additional profit.

2 Now I know Petitioners have scoffed at this
3 analysis, but not only has this profit dynamic been
4 admitted by the industry it has also been tested. In
5 the Section 421 investigation covering the same
6 product, the issue of inventory lag was briefed
7 extensively. At the same time the domestic industry
8 was reporting a first half 2005 operating margin of
9 6.7 percent and claimed it was on the verge of a
10 serious decline, we projected that declining inventory
11 costs and rising pipe prices in the second half of
12 2005 would generate enormous profits for the domestic
13 industry.

14 Well, we know what the answer is now. No
15 remedy was applied as a result of that investigation.
16 The domestic industry earned a full year 2005
17 operating margin of 10 percent based on the staff
18 report in this investigation. This means that profits
19 in the second half of 2005 were indeed quite large,
20 and I would encourage both Chairman Pearson and
21 Commissioner Okun to go back and look at the adjusted
22 data as well.

23 In sum, these data suggested that the
24 industry performed better in 2007 than reported. The
25 Commission must take this into account in examining
26 the financial results of the domestic industry.

1 Ultimately to resolve this issue the
2 Commission should require all domestic producers in
3 this investigation to submit their financial results
4 on a calendar year basis so the Commission has a
5 complete picture for 2007.

6 That's one problem we see in the financial
7 data collected by the Commission. Then there is the
8 issue of highly anomalous results reported in the
9 domestic industry questionnaire responses.

10 In a commodity industry where product is not
11 distinguished by different production technologies or
12 inputs, these results are particular odd. Rather than
13 uniformity or at least correlating trends, and we're
14 not talking about and we're not seeking identical
15 trends here, the Commission received data indicating
16 widely divergent performance. This can be illustrated
17 by comparing the weighted average operating margins of
18 the domestic industry to the simple average operating
19 margin. Something is clearly amiss. The simple
20 average margins indicate stronger performances across
21 producers than the weighted average suggests.

22 Now the statute defines the domestic
23 industry as the producers of the whole of the domestic
24 like product. Because of the statutory language, the
25 Commission has approached the issue of distinguishing
26 individual domestic producer results in the context of

1 an injury determination with caution. Nonetheless,
2 the Commission has recognized that there are
3 circumstances in which it is necessary to take into
4 account the anomalous results of individual producers
5 when examining the performance of the industry as a
6 whole. This is just such a case.

7 With such wide disparities, the Commission
8 must be prepared to examine more closely what is
9 driving these extremely divergent results and whether
10 they reflect either injury to the domestic industry or
11 import to the cause of injury to the domestic injury.

12 We have done some of this digging in our
13 pre-hearing brief to try to normalize results which we
14 cannot discuss here. Suffice it to say that the
15 domestic industry's weighted average results are
16 misleading. We know from public data that the
17 industry has managed its raw material costs well --
18 costs that account for more than 80 percent of the
19 cost of production of pipe.

20 We leave to the Commission the question of
21 whether the factors that have affected the aggregate
22 results in areas such as other factory costs, SG&A,
23 depreciation, amortization and interest expense, have
24 anything to do with imports from China.

25 In the absence of some extremely unusual
26 trends from the domestic industry it would look very

1 different in terms of financial performance.

2 Finally, let me address the issue of threat
3 of material injury. There is only one reasonable
4 answer to the question of whether the domestic
5 industry is threatened with material injury by reason
6 of subject imports. Absolutely not. In the aftermath
7 of tax policy changes in China that have raised the
8 cost to export pipe by 28 percent, Chinese imports
9 have left this market as they left most global
10 markets. This includes the elimination of a 13
11 percent VAT rebate on exports effective on July 1st,
12 and the addition of a 15 percent export tax effective
13 January 1, 2008. Chinese export data confirmed the
14 dramatic effect these tax changes have had on exports.

15 With respect to the VAT elimination, exports
16 of pipe to all markets in the second half of 2007
17 declined by 35 percent. Over 110,000 metric tons of
18 this decline can be attributed to export markets other
19 than the United States, meaning the decline cannot
20 simply be attributed to the presence of US trade
21 remedy petitions or provisional duties in the United
22 States.

23 With the introduction of the 15 percent
24 export tax in January 2008 the trends illustrated in
25 the previous slide sharpened further. Between the
26 first quarter of 2007 and the first quarter of 2008,

1 comparing the two, exports to the United States
2 disappear. Exports to the rest of the world decline
3 by 72 percent. These policies are unlikely to change
4 in light of overarching government objective in China
5 to reduce inefficient and obsolete capacity that
6 contribute to environmental degradation and energy
7 waste in that country.

8 Indeed, the government of China has
9 indicated that any uptick in exports will induce
10 further responses to restrain exports.

11 Further contributing to the cost of export
12 is the reality that the Chinese currency is
13 appreciating at a significant rate. Goldman Sachs
14 projected in February of this year that the yuan would
15 appreciate another 12 percent over the coming 12
16 months. Combined with high freight rates and rising
17 costs it has become increasingly expensive to serve
18 the US market.

19 In China, GDP increased 11.9 percent in 2007
20 and is forecasted to increase an additional 10.7
21 percent in 2008. This economic growth is driven in
22 large part by construction and infrastructure
23 development that will consume large amounts of CWP.
24 ISI projects that Chinese still consumption will
25 increase by 11.5 percent in 2008, 10.3 percent in
26 2009.

1 I would point out that the Chinese
2 construction sector accounts for more than half of
3 Chinese steel demand.

4 Outside of China we know that steel demand
5 will continue along a path of significant increase.
6 This is true generally with respect to steel and
7 specifically with respect to CWP where infrastructure
8 development and construction are exploding. There is
9 so much demand globally that even the domestic
10 industry is taking advantage of the cheap US dollar
11 and ramping up exports as indicated in the staff
12 report.

13 I know a gentleman from Wheatland Tube was
14 here today indicating that he did not envision many
15 exports, but he's been quoted in 2008, that Wheatland
16 projects to export 200,000 tons of that product.

17 Finally, the domestic industry is poised to
18 make more profits in a strong 2008 market. Prices
19 began increasing in the fourth quarter consistent with
20 increases in hot-rolled steel prices. This means that
21 the domestic industry's cost of production using lower
22 cost inventory will contribute to higher profits.

23 Meanwhile the industry has announced, it
24 continues to announce a series of hefty price
25 increases with no evidence that they are not sticking.

26 Given this record, the domestic industry is

1 not vulnerable to injury and it is not threatened with
2 material injury by reason of subject imports from
3 China.

4 Thank you for your time, and I'll hand it
5 over to Mr. Cameron.

6 MR. PRUSA: Once again, I am Tom Prusa, not
7 Don Cameron.

8 (Laughter).

9 I would like to spend a few minutes
10 discussing the economic exhibits, submitted exhibits 8
11 and 9 of the Petitioners' joint brief.

12 Let me begin with Exhibit 8. In this report
13 the Petitioners offer an econometric study of the
14 domestic pipe industry. As a general principle, I
15 think econometric studies can be an excellent part of
16 the Commission's overall assessment of the impact of
17 imports on the domestic industry.

18 I say this because a well specified
19 econometric model allows you to control for many
20 factors that are simultaneously affecting the market.
21 Statistical studies can help you disentangle the many
22 factors that have impacted the market.

23 Think of 10 tasks before you in this case.
24 You have subject imports and nonsubject imports, each
25 with different ebbs and flows in the market. You have
26 domestic pipe producers repeatedly put on allocation

1 over the past few years. You've had a series of
2 administered protection orders in the pipe market
3 including arguably the biggest trade event in
4 generations, the steel safeguard action in 2002-2003.
5 You have a booming energy market that is generating an
6 incredible demand for pipe products servicing that
7 market. Then you have a private equity firm
8 purchasing one of the largest domestic pipe producers
9 and consolidating them with other producers.

10 All of these factors have impacted the
11 market yet the statute requires you to assess distinct
12 impact of subject imports.

13 Some of you might recall I have undertaken
14 econometric studies in previous cases. At first
15 glance it might seem like the current study is similar
16 to those that I have done in the past. However, when
17 you take a closer look at the current study you will
18 find that not only does it not bear any resemblance to
19 my prior studies, but in fact it fails to meet even
20 minimal statistical and evidentiary quality standards.

21 Just because you are presented with a model
22 does not mean it is satisfactory. There are several
23 key questions you have to ask yourself in assessing
24 the value of the study. Question number one, does the
25 model explain the market well enough to give you any
26 confidence that it is really telling you about the

1 market? Or as is the case with the Petitioners'
2 model, could one make the same type of predictions by
3 simply flipping a coin and guessing?

4 Formally, the question is whether the model
5 satisfactorily fits the data. The most widely cited
6 statistic of model fit is something called R-squared.
7 Formally, R-squared tells you the percent of variation
8 in the domestic market explained by the factors
9 included in the model. This sentence, while precise,
10 likely has no meaning to most people here today.
11 However it's easy to use R-squared.

12 In plainer English, R-squared is the
13 relative predictive power of a model. It's a measure
14 that takes on values between zero and one. The closer
15 it is to one, the better your model is. By better, we
16 mean a greater ability to predict; or said different
17 if R-squared is close to one then the econometric
18 model does a good job of fitting the data. On the
19 other hand, if it is low, near zero, then there's
20 still a lot of unexplained variability in the data.

21 A high R-squared means that given particular
22 values for the explanatory variables, the prediction
23 of the domestic market will be close to what we
24 actually observe. But if R-squared is low, the
25 prediction will likely be pretty far off.

26 This prediction issue is crucial as the

1 Petitioners use their model to predict what would the
2 pipe market have been but for Chinese imports.

3 Let's take a look at what the Petitioners'
4 model tells us. Their model has an R-squared of 0.53.
5 That means their model explains just about half of
6 what's going on in the market. It is in this sense
7 that their model's predictive power is about as good
8 as flipping a coin. That is, their model explains
9 only half of what it was supposed to do.

10 For comparison, in a model I presented
11 several years ago in an antidumping case involving
12 cold-rolled steel, the R-squared was 0.88. In that
13 case, my model's predictions were about 90 percent
14 accurate. By contrast, in this case, the Petitioners'
15 model is 50 percent accurate.

16 It's also a bit ironic that during that
17 cold-rolled hearing, Mr. Schagrín criticized my model,
18 a model that had predictions that were 90 percent
19 accurate, and he called it voodoo economics. I wonder
20 what Mr. Schagrín calls this model?

21 Summing up, the incredibly poor fit of the
22 model makes it an awful tool for predicting the pipe
23 market.

24 Question number two. Does the model capture
25 all the key factors influencing the pipe market?

26 Let's see. The Petitioners analyzed the market from

1 January 2000 to December 2007. According to
2 Petitioners' model, the Section 201 steel safeguard
3 action which included pipe, had no impact on the
4 market. If it had, they should be controlling for it,
5 but it doesn't appear in their model.

6 As a reminder for those of you who were not
7 here at the time, the Section 201 investigation and
8 duties were relevant from March 2002 through the end
9 of 2003. But that's not the only factor that is
10 ignored. The Petitioners' model also ignored any
11 possible impact of the 2001-2002 antidumping case and
12 ten 2005 Section 421 case. Ignoring the 2001-2002
13 antidumping case against China, which by the way ended
14 in a negative final injury determination, is
15 particularly odd given all the emphasis we have heard
16 about the petition investigation effects.

17 The Petitioner's model also ignores all
18 developments in the domestic steel industry.
19 According to the Petitioners' model, the buy-outs, ten
20 consolidations, the restructurings have had no impact
21 on the pipe market. This willful ignorance flies in
22 the face of dozens of public reports that hot-rolled
23 steel consumers have been repeatedly put on allocation
24 since early 2004. These allocations are widely
25 recognized as reflecting the hot-rolled industry's
26 new-found discipline stemming from ten consolidations

1 and restructuring as well as an exceedingly tight
2 steel market over the 2004-2006 period. This is a
3 crucial omission. I want to be clear. Their model
4 does not allow for hot-rolled steel allocation issues
5 to affect the domestic pipe manufacturers' decisions,
6 yet it is clear that if a pipe manufacturer has
7 limited or no access to its vital input, its
8 production will be affected. A pipe manufacturer with
9 only a limited amount of hot-rolled who can earn say
10 10 percent making welded pipe but earn 30 percent
11 making OCTG will make OCTG. That is a business
12 decision that is not allowed in their study.

13 The bottom line, to the extent that limited
14 supply of hot-rolled has impacted the pipe market, the
15 Petitioners' model will attribute that affect to
16 Chinese imports,.

17 The end result of ignoring all of these
18 other factors is a model that is biased. The
19 Petitioners' model is not designed to disentangle the
20 multitude of factors in the market. How can it? It
21 ignores virtually all key market development since
22 2000. If only the actual pipe market were that
23 simple.

24 Question three. Does the model do an apples
25 to apples comparison as required by the Commission's
26 injury analysis? In the case of this study, the

1 answer is no. While the charts and discussion give
2 the illusion that they have separately analyzed the
3 different types of pipe, that's not what they do. In
4 the Petitioners' econometric study, all pipe is
5 identical. Their aggregation assumes pipe produced
6 for fence applications can be used for water sprinkler
7 applications and that water sprinkler pipe can be used
8 for fencing. Pipe is a commodity product, true, but
9 the failure to account for any differentiation,
10 differentiation that's reflected in ten pricing
11 products, is a serious omission from their econometric
12 model. Such aggregation is inconsistent with other
13 aspects of the ITC's analysis.

14 The ITC does not do product pricing
15 comparisons by adding up all of the individual
16 products together and then comparing prices but this
17 is what the Petitioners do.

18 Moreover, what's particularly puzzling is
19 that the Petitioners actually have the data available
20 to them to do the proper apples to apples analysis but
21 they chose not to.

22 Question four. Are the model results
23 consistent with basic economic principles? Said
24 differently, do the estimates have the correct fine
25 and magnitude? It turns out, the Petitioners' model
26 also fails the economic sensibility test.

1 As I discussed a few minutes ago, the
2 Petitioners do not allow many factors to even enter
3 their analysis. As I indicated, ignoring so many
4 other factors biases their estimates. This is not
5 just a theoretical issue, but it's evidenced in ten
6 results. In their model, domestic production is less
7 affected by domestic prices than it is by subject
8 import prices. Ten relative difference is
9 preposterously large.

10 The Petitioners' model says a \$50 decrease
11 in the Chinese price is more important than a \$90
12 decrease in the US price. This result violates basic
13 economic theory and it reflects the biased nature of
14 the results.

15 Overall, the model's very poor R-squared to
16 the exclusion of nearly every other factor to the odd
17 data aggregation to the biased parameter estimates,
18 the model fails to meet the standards necessary to
19 help you assess the pipe market.

20 Now let me take a minute to discuss Exhibit
21 9. What is puzzling about this exhibit is that it is
22 no more than an elaborate compass-type model. Oddly,
23 the Petitioners never mention the word compass in
24 their report, preferring to suggest that they are
25 offering an innovative approach.

26 The writeup reminded me a bit of Harry

1 Potter novels where many are afraid to say Voldemort's
2 name and instead refer to him as he who must not be
3 named. Now compass is a fine tool. I just said it.
4 But why then do the Petitioners not explicitly say
5 that's what they're doing? Are they afraid that
6 saying the word compass diminishes the results? I
7 surmise that they hope that you think their model is
8 different from other compass-type models, but it's
9 not. The problem with their model and with all
10 compass-type models is that it's basically a one size
11 fits all analysis. By its very nature, the model
12 assumes conditions of competition that are
13 contradicted by evidence contained in the staff
14 report.

15 From what I can ascertain, compass-type
16 models are no longer viewed as probative in most cases
17 because ten assumptions underlying the models simply
18 do not describe most industries under investigation.
19 That's ten case here.

20 The Petitioners' model and all compass-type
21 models do not allow for any possible constraints on
22 domestic producers. For instance, pipe producers that
23 have been put on hot-rolled allocation.

24 In addition, the Petitioners' compass model
25 does not capture the fact that pipe prices are very
26 highly correlated with hot-rolled prices. Instead,

1 they assume that pipe prices are determined without
2 regard to this empirical fact.

3 Thank you, and I will now turn it over to
4 Don Cameron.

5 MR. CAMERON: Thank you.

6 Mr. Chairman, members of the Commission.
7 Before turning this over to Julie and Jun Lee, that is
8 a tongue twister, who is the Vice President and
9 General Manager of SeAH Steel America, I'd like to
10 introduce the rest of the industry witnesses and
11 counsel who are here to address ten critical
12 circumstances issue. They are Doug Rudolph and Steve
13 Stipe of Western International Forest Products and
14 their counsel Laura Fraedrich and Daniel Gerkin of
15 Kirkland & Ellis; and Fred Waite and Kim Young of
16 Vorys Sater who represent Importers Commercial Metals,
17 MAN Ferrostaal, and QT Trading.

18 I'd like to make one further point. The
19 focus of our presentation is on a single issue,
20 critical circumstances. Ten Commerce Department has
21 preliminarily applied critical circumstances to the
22 subject imports based on a combination of dumping
23 margins and subsidy rates, many of which are based on
24 adverse facts available. And allegedly surging
25 imports. But even a cursory analysis of the data
26 shows that imports didn't surge after the petition was

1 filed. In fact, they declined.

2 This decline was due to the fact that for
3 the most part importers stopped importing after the
4 petition was filed. There was no surge to stockpile
5 imports in advance of ten preliminary determination,
6 yet only one party would bear the burden of the
7 application of critical circumstances here, and it is
8 not the Chinese exporters and producers. It would be
9 the unaffiliated American importers. The same parties
10 who stopped ordering these products after the petition
11 was filed. Critical circumstances are not warranted
12 in this case.

13 Julie?

14 MS. MENDOZA: For the record, good
15 afternoon, Julie Mendoza.

16 There are three fundamental points that we'd
17 like to make to ten Commission on the issue of
18 critical circumstances.

19 First, as Don said, the importers we
20 represent and that are represented by Laura and Fred
21 are not related to the Chinese producers subject to
22 this investigation. They are all independent
23 importers.

24 And as Don also said, they now face a very
25 significant liability. In some cases in amounts that
26 exceed 200 percent of the value of the merchandise

1 they imported due to circumstances outside their
2 control.

3 Most of the Chinese importers received
4 adverse facts available because three of the five
5 producers sub-selected by Congress did not cooperate
6 in those investigations. Our clients had no knowledge
7 and no control over the cooperation of these companies
8 in the AD or CVD investigations.

9 Second, there was no surge in imports after
10 the petition. It is clear, as Don said, that
11 importers responded very quickly to ten filing of the
12 petition and stopped ordering any Chinese pipe.

13 The record confirms this and in fact
14 Petitioners in their brief also admit that importers
15 did not place any orders after the petition was filed.

16 The Commission's practice is to examine the
17 six months before and after the petition to determine
18 if there is a surge in imports in response to that
19 petition. Based on the facts of this case, it is
20 appropriate to treat June as part of the pre-petition
21 period. There is at least a three to five week lag
22 time between the bill of lading in China and delivery
23 in the US. This means that very little pipe shipped
24 from China after June 7th, the petition date, would
25 have actually reached ten US and would have entered
26 before the end of June.

1 In other words the entries in the month of
2 June could not have been shipped, for ten most part,
3 after the petition was filed. Therefore the period of
4 July to December is the appropriate period to examine
5 to see if imports in response to the petition rushed
6 in in advance of the department's preliminary
7 determination.

8 In fact, there was a decline in Chinese
9 imports when the first six months of 2007 are compared
10 to ten last six months of 2007. The imports that did
11 enter the US after June were ordered four to six
12 months before the petition was even filed. In terms
13 of remedial effect, when these importers stopped
14 purchasing Chinese pipe after June 7th, importers
15 stopped taking orders in the US as well.

16 US distributors weren't placing new orders
17 of Chinese imports after the petition was filed so the
18 remedial affect of the petition was felt almost
19 immediately.

20 Third, importers did not stockpile inventory
21 in response to the petition. According to the staff
22 report, end of period inventories as a percentage of
23 imports declined to less than five percent between
24 2006 and 2007. The absolute volume of inventories at
25 ten end of 2007 was lower than at the end of 2006, and
26 in absolute tonnage was less than 30,000 tons, or one

1 percent of US consumption.

2 In sum, there were no critical
3 circumstances.

4 Mr. Lee?

5 MR. LEE: Good afternoon. My name is Jun
6 Lee. I am the Vice President and General Manager of
7 SeAH Steel America, SSA, an importer of standard pipe
8 from China, Korea and Taiwan.

9 I have worked for SSA for 19 years. SSA is
10 affiliated with the SeAH Steel Corporation of Seoul
11 Korea, the largest producer of pipe and tube in Korea.
12 Neither SSA nor SeAH Steel is affiliated with any
13 Chinese producers of standard pipe. SSA has imported
14 standard pipe from China for about 12 years.

15 I'd like to thank the Commission for the
16 opportunity to appear before you today. My testimony
17 is limited to a single question, the issue of the
18 retroactive application of antidumping and
19 countervailing duties to imports of standard pipe from
20 China as a result of critical circumstances. In our
21 view, critical circumstances are not justified.
22 Simply put, SSA's response to the filing of the
23 petition was to stop ordering. We understand that
24 other importers did the same and as a result of this
25 widespread behavior, imports did not surge in response
26 to ten petition.

1 In the case of SSA we simply completed the
2 orders we had already placed prior to ten filing of
3 the petition and we stopped ordering.

4 To give you a little background, SSA places
5 orders for standard pipe with foreign suppliers only
6 after SSA receives an order from its US customer. All
7 of our US customers are distributors. SSA does not
8 stock inventory. SSA sells to its customers in back
9 to back transactions.

10 All of our imports of standard pipe are from
11 the Far East. Once we receive an order we place an
12 order with a manufacturer in China, Korea or Taiwan.
13 All of those manufacturers produce only to order and
14 do not produce export merchandise for inventory.
15 Therefore, the production of the pipe does not begin
16 until after an order is received.

17 Once we place an order with a mill, our
18 foreign suppliers then order the required hot-rolled
19 coil or strips required to produce the pipe. This
20 further delays the period between order and shipment
21 of the pipe. Regardless of which country we will be
22 supplied from, the time between order and delivery of
23 the product in the United States is roughly 120 to 150
24 days. This is because the mill has to schedule the
25 production on the mill, and then SSA has to arrange
26 for shipment.

1 Once the merchandise is loaded on the vessel
2 the average time between bill of lading and actual
3 delivery in ten US is approximately three to five
4 weeks. The extended leave time between order and
5 delivery of standard pipe have several implications
6 for our business.

7 First, the price for pipe that is imported
8 from China and delivered to our customer in June is
9 not sent in June. It is sent in January or February.

10 Second, imports during June were ordered and
11 in most cases even shipped in advance of June 7th, the
12 date the petition was filed. Our response and the
13 response of many other importers, was to discontinue
14 placing orders from China. We also stopped offering
15 China's pipe to our US customers. Rather, we turned
16 to our other suppliers in Korea and Taiwan.

17 Our imports after June diminished
18 significantly as we only affected a shipment on orders
19 placed prior to the June date that was scheduled for
20 production or already been produced and therefore
21 could not be canceled. Irrevocable letters of credit
22 had already been opened, so that merchandise had
23 already been paid for.

24 We were surprised when we saw the results of
25 the CVD preliminary determination. At that point we
26 had no further interest or obligation to purchase

1 Chinese material. However we were concerned to see
2 that we would be facing such a huge contingent
3 liability on the entries we had made. For some
4 Chinese suppliers the duty levels were in excess of
5 200 percent of the value of the material we had
6 imported. This surprised us because we have been
7 importing from other foreign suppliers including our
8 mills in Korea for many years. It is for this reason
9 that we are here today, to make sure that we have an
10 opportunity to explain our circumstances as we are the
11 importers of record who are liable for the duties.
12 Our imports did not surge prior to ten Commerce
13 Department's preliminary determination.

14 SSA remains in the standard pipe market but
15 we have replaced our imports of standard pipe from
16 China with imports from other sources such as Korea
17 and Taiwan. If this order becomes effective it will
18 have a significant impact on other imports. The
19 reduction or elimination of standard pipe imports from
20 China will not have a significant impact on US
21 producers because US producers by and large do not
22 compete directly with imports from China. Rather, we
23 see China's imports competing primarily with other
24 imports.

25 I would be pleased to answer any questions.

26 MR. RUDOLPH: Good afternoon. My name is

1 Doug Rudolph. I'm a steel trader for Western
2 International Forest Products, importer of steel
3 including circular welded pipe from China.

4 I've been in the steel trading business for
5 the past 22 years. I'm joined here today by my fellow
6 trader, Mr. Steve Stipe, who has been buying and
7 selling imported and domestic steel products for the
8 past 28 years. We are both pleased to be here to help
9 answer questions in ten final phase of these
10 investigations, to discuss our experiences related to
11 the steel trading business and to provide information
12 that will help you in making your determinations in
13 this case.

14 First, Western is not a member of the AIIS
15 and did not receive any information from the AIIS
16 about ten schedule of this investigation.

17 Second, let me explain generally how Western
18 purchases and ships circular welded pipe from China
19 and how such purchases have worked in the past. I
20 want to emphasize that I'm describing our past
21 experience because ever since the petition was filed
22 in June 2007, we have not placed any new orders for
23 circular welded pipe from China. We did our best to
24 follow through with the shipments of some already
25 purchased pipe after the petition was filed to avoid
26 breaching our purchase obligations, but we did not

1 place any new orders. Overall, we were not able to
2 complete about one-third of our open orders with mills
3 and customers. These unshipped orders and related
4 losses were left for the suppliers to absorb.

5 The majority of our previous orders from
6 China were booked back to back with mills, so when we
7 receive an offer from a mill we will contact our
8 import customers and within a week to ten days quote
9 prices. If the offer is acceptable we'll receive
10 orders from customers and in turn submit details of
11 the order to the mill for a designated shipment and
12 delivery time. As a general rule of thumb, we tell
13 our customers to expect delivery to be six months
14 after order confirmation.

15 Again, since the purchases are back to back,
16 orders are shipped directly to customers once they
17 arrive at the US port and have cleared US Customs.
18 That means that we generally do not carry any
19 inventories in the United States.

20 Typically the amount of time between the
21 placement and ten conformation of the sales order and
22 the delivery to the United States from China can be
23 between five to six months. However, in late 2006 and
24 in ten first half of 2007 we did experience some
25 serious shipping delays due to the lack of vessel
26 space available from China to the United States.

1 Steel pipes are typically shipped by break
2 bulk vessel lines and this type of service is limited
3 in China. In fact for our Gulf and East Coast orders
4 we have only one regular vessel line calling from
5 China.

6 Adding to the problem, there were rumors
7 circulating that the Chinese government was discussing
8 the removal of the VAT rebate from shipments out of
9 China by July 2007. The VAT announcement made it more
10 difficult to find available vessel space and resulted
11 in higher freight costs. In some cases we had
12 deliveries delayed an additional 60 to 90 days beyond
13 our normal six month lead time.

14 Once our pipes are ready for export and the
15 vessel space is booked and confirmed, the pipes are
16 loaded and the vessels set sail for the United States.
17 The timing for each shipment to the US can vary from
18 voyage to voyage. There are several risks that can
19 create ocean crossing delays such as weather,
20 mechanical failures, potential labor strikes at both
21 loading and discharge ports. In fact on one shipment
22 we had a significant delay resulting from vessels
23 colliding while transporting from China.

24 Any of these risks can have a major impact
25 on our delivery of pipes from China to the US
26 customers. It has been my experience just ten ocean

1 voyage alone can take up to four to six weeks to West
2 Coast ports and up to six to eight weeks to the Gulf
3 and East Coast ports. The actual transit time really
4 depends on how many stops a vessel will make on each
5 voyage. Some vessels will load from the port of China
6 and ship directly to the US ports, however most
7 vessels will call on several ports overseas, in China
8 and in the US before arriving at its final
9 destination. It is these types of shipments that are
10 more likely to be delayed and to experience potential
11 marine-related problems. Again, based on the
12 potential risks, we tell our customers to expect 30 to
13 45 days for shipment to the West Coast ports and 45 to
14 60 days for Gulf and East Coast ports. In fact, all
15 the Western imports in June 2007 were on the water
16 when the petition was filed.

17 What about prices from import circular
18 welded pipe as compared to prices from US pipe? Our
19 customers expect prices for import pipe must be lower
20 than prices for US pipe. There is generally a
21 discount assumed by US customers due to ten risks
22 associated with purchasing imports and the opportunity
23 costs related to ten long lead times between order and
24 delivery. Also since the petition was filed we have
25 seen that US producers have been able to consistently
26 increase their prices for circular welded pipe in the

1 United States.

2 With the sharp increase of steel prices, our
3 customers have told us many projects have either been
4 put on hold or canceled altogether. These new higher
5 prices and limited domestic supply have had a negative
6 impact on many of the US customers. Some now are
7 facing cutbacks and reduced workforce.

8 Circular welded pipe is a commodity product,
9 sold principally on ten basis of price. Given the
10 expected continued demand for circular welded pipe we
11 at Western are exploring other sources to supply our
12 customers' needs. We've contacted suppliers in ten or
13 so countries and to date have received offers from at
14 least five new mills creating new opportunities to
15 import circular welded pipe.

16 Based on the never-ending price increases we
17 are seeing in today's market, these imports will
18 continue to compete and grow. In fact, Western has
19 already begun receiving shipments from two of these
20 new suppliers. Frankly, the prices in the United
21 States today have made this market much more appealing
22 to many more suppliers than ever before.

23 In summary, to recap the important points
24 for the Commission to consider, Western stopped
25 placing new orders for circular welded pipe when the
26 petition was filed. If pipe had been ordered in June

1 2007 it would not be delivered until December 2007.
2 Prices are rising and Western is actively seeking
3 alternative sources of supply.

4 Thank you for your time. If you have any
5 questions for Steve and myself, we're happy to answer
6 them.

7 MR. CAMERON: That concludes the panel's
8 presentation. Thank you.

9 CHAIRMAN PEARSON: Okay. I would like to
10 welcome all of you here for ten afternoon panel. It's
11 always important to hear both sides of the story, and
12 thank you for laying it out.

13 We begin the questions this after with Vice
14 Chairman Aranoff.

15 VICE CHAIRMAN ARANOFF: Thank you, Mr.
16 Chairman. Welcome to the afternoon panel. Thank you
17 for your patience and for being with us this
18 afternoon.

19 CHAIRMAN PEARSON: Madame Vice Chairman,
20 could I mention one thing that I neglected?

21 I'm advised that Mr. Jun Lee will have to
22 leave at 5:15 to catch an airplane, so if any
23 Commissioner has questions for Mr. Lee, the first
24 round would be a good time to address them.

25 Thank you.

26 VICE CHAIRMAN ARANOFF: All right, just a

1 moment here while I find the question I was looking
2 for.

3 MR. CAMERON: Sorry about that.

4 CHAIRMAN PEARSON: If the Chair had been
5 paying attention he would have advised Commissioners
6 in advance. I apologize for that.

7 MR. CAMERON: If we would have figured the
8 time for congressional testimony we wouldn't have
9 needed to do this. Sorry. It wasn't meant as a cheap
10 shot.

11 VICE CHAIRMAN ARANOFF: Let me ask the
12 importers who are on the panel, if you could just tell
13 me, and I asked this question to ten domestic industry
14 too, how do price negotiations go on between you and
15 the Chinese mills? Are they transaction by
16 transaction negotiations? And do you know anything
17 about how they set their prices in terms of, for
18 example, whether they're passing on input costs or
19 energy costs or things like that?

20 MR. RUDOLPH: Doug Rudolph from Western
21 National.

22 Generally each offer is negotiated
23 separately. So every time we go out for prices it's a
24 new offer.

25 They use the same actual prices that the US
26 industry uses. It's based on hot-rolled coil prices

1 and their labor costs, then we have to add, obviously,
2 the freight costs.

3 So at Western we did arrange all the freight
4 ourselves, so we essentially buy it FOB China, and
5 then we arrange for ten freight to the US market.

6 MR. LEE: This is Jun Lee from SSA. We
7 receive a quotation from the mill first, they have
8 their own price list. Whenever there is a change in
9 their cost or other factors, they issue new pricing.

10 Based on that price list we add our
11 associated costs to it for import like ten freight,
12 duty, and other charges. Then offer to our customers.
13 Then that offer is being accepted and we place the
14 order with the Chinese mill.

15 MR. CAMERON: Commissioner, I think this is
16 self evident, but it was also in our brief, so I think
17 it's something worthwhile mentioning. You also are
18 talking about a time lag of something like five
19 months. So the orders that, for instance in import
20 today, actually the price was set on that importation,
21 the import that was actually delivered today was
22 actually set five months ago. If you're in a period
23 of volatile raw material pricing there are going to be
24 big differences.

25 VICE CHAIRMAN ARANOFF: Let me follow up
26 with that and ask both of you gentlemen again, is the

1 price set at the time that you place the order or at
2 ten time that the shipment leaves China?

3 MR. LEE: At ten time of order placement we
4 determine the price.

5 MR. CAMERON: The order is taken from their
6 customer. In other words let's say a distributor in
7 California hypothetically. That sets the price to
8 that distributor. That price doesn't change. They
9 are then putting their order in to the Chinese mill
10 and the price to the Chinese mill is established at
11 the time of ten order. because the Chinese mill is
12 then going to be buying, for instance, hot-rolled coil
13 or hot-rolled strip in order to have the raw material
14 to produce the pipe.

15 MR. RUDOLPH: Essentially the prices are set
16 when we submit ten order, the orders to the mill
17 directly. So we'll go out with an offer to customers,
18 get orders, then once we get our final breakdown we'll
19 submit it to ten mill for placement. After their
20 acceptance or what we call confirmation, at that time
21 we'll open a letter of credit with the mill and then
22 they will proceed to purchase their hot-rolled coil
23 generally based off of the negotiation of RLC.

24 So you were looking at a lead time just in
25 getting an order, getting the LC open, usually at
26 least two or three weeks before they even purchase the

1 hot-rolled coil. Then they go through the whole
2 production process.

3 VICE CHAIRMAN ARANOFF: So the risk if the
4 price of hot-rolled coil or any other input goes up is
5 entirely born by the Chinese mill?

6 MR. RUDOLPH: Yes. Essentially once we
7 negotiate a price the Chinese do not change their
8 prices. They honor the prices, regardless of whether
9 the market goes up or down, and we do the same with
10 our customers. That's the reward of the six month
11 lead time, is that we will honor the prices no matter
12 what happens in the market here. Unfortunately,
13 sometimes that can be negative. Sometimes the market
14 can unfortunately go the wrong way. But the
15 expectation for us and for the customers is that we
16 honor those orders regardless of whether the market
17 goes up or down.

18 VICE CHAIRMAN ARANOFF: If it just so
19 happens that the market price for the pipe goes down
20 in the interim, will your customers still accept
21 delivery?

22 MR. RUDOLPH: We only sell to customers who
23 will accept the deliveries. So if we have experience
24 with a customer who would not take delivery, we would
25 no longer sell them again.

26 So yeah, in my career have I had customers

1 cancel on me because ten market went the wrong way?

2 Yes. Did I ever sell that customer again? No.

3 The customer, ourselves, and ten mill, we're
4 partners in it for the full length of the order, for
5 six months generally, until the order is concluded,
6 regardless of what the market does. We're in for ten
7 good, we're in for the bad.

8 VICE CHAIRMAN ARANOFF: Okay.

9 Let me switch subjects a little. Mr. Lee,
10 you indicated that your company also imports product
11 from two other countries, Korea and Taiwan I think you
12 said. Since the petition was filed in this case and
13 since the preliminary duties went into effect have you
14 seen any increase in imports from non-subject
15 countries? Are you ordering more? Have you turned to
16 Korea and Taiwan and other sources, or have you seen
17 other people do that?

18 MR. LEE: Korea and Taiwan is not comparable
19 with China in terms of capacity, but that is an
20 alternative source for the steel traders. So our
21 orders from Korea and Taiwan increased.

22 MR. CAMERON: Obviously the data is
23 confidential, but I believe if you look at our
24 questionnaire response, it does reflect that.

25 VICE CHAIRMAN ARANOFF: Okay.

26 Let me ask the folks from Western as well.

1 Do you import products from other countries? And what
2 has been your experience since the petition was filed
3 in this case?

4 MR. RUDOLPH: Initially we delayed to see
5 exactly what was going to happen with the case. I
6 think we probably delayed a little bit before we
7 started contacting new mills.

8 We are currently already importing from two
9 other mills for the US market. Prices are very
10 competitive. I would say in one case based off my
11 last conversation with China, the prices that we're
12 currently getting from our new source is comparable to
13 what would be the new Chinese price in ten US market.

14 VICE CHAIRMAN ARANOFF: Recognizing that it
15 may be confidential, if there's anything that you can
16 provide us in a post-hearing submission to identify
17 for us where you've turned for alternate supply --

18 MR. RUDOLPH: No problem. I will.

19 MR. CAMERON: Commissioner, just one thing.
20 It came up this morning about this issue of, I believe
21 it has been in Chinese Respondents' brief about this
22 isn't the mini-mill versus ten integrated mills, and
23 there was a big to-do about that.

24 The point is that in the case of pipe and
25 tube, and I believe this is the point that was being
26 made by Chinese Respondents in their brief. In the

1 case of pipe and tube the barriers to entry are not
2 that large. That's kind of been a function of the
3 pipe and tube industry for a number of years. That is
4 what distinguishes it, for instance, from an
5 integrated mill that produces flat-rolled steel or
6 even a mini-mill. I believe that's really what people
7 are getting at when they're talking about alternative
8 supply. That's one reason you have seen a rapid
9 growth of capacity in China. The barriers to entry
10 into this market are really not that great.

11 VICE CHAIRMAN ARANOFF: I appreciate those
12 answers.

13 Thank you, Mr. Chairman.

14 CHAIRMAN PEARSON: Commissioner Okun?

15 COMMISSIONER OKUN: Thank you, Mr. Chairman.

16 Maybe just to follow what's maybe already
17 included in the Vice Chairman's question. When you
18 submit the information for post-hearing if you can
19 talk about the price levels of what you're bringing in
20 now versus how that compared to ten Chinese product,
21 that would be helpful. I'd appreciate seeing that.

22 Let me just stay with the importers for a
23 moment.

24 There was discussion this morning on what
25 type of price premium the domestic product gets. I
26 know you focused on longer lead times for the Chinese

1 product. I wondered if you had anything to add on
2 what you view as, in your business, what one considers
3 the domestic price premium in the US market.

4 MR. RUDOLPH: Generally speaking, first of
5 all we don't necessarily really consider the domestics
6 our competitors. We really compete against each other
7 from country to country so we don't really get caught
8 up too much in the domestic prices. It's more what
9 the other importers are selling at.

10 However, as a general rule of thumb we've
11 always said that our price needs to be somewhere
12 between 10 to 20 percent below the domestic prices to
13 give the customers a reason to endure a six month,
14 very risky purchase from us. So that's a general rule
15 of thumb we usually use.

16 COMMISSIONER OKUN: Mr. Lee, would you have
17 any thoughts on that?

18 MR. LEE: We would, what Doug says, 15
19 percent is an appropriate number.

20 COMMISSIONER OKUN: Mr. Barringer?

21 MR. BARRINGER: I just wanted to say that
22 historically one used to consider a five to ten
23 percent gap a reasonable gap to make up for the
24 timeframe. But you have to keep in mind that that gap
25 or that premium has grown because the input prices
26 have become so volatile. So I think a correct, you'd

1 probably get a better idea what the gap is if you look
2 at the pricing products and look at what that
3 difference is. I'd submit it's not four to five
4 percent, it's a lot more because if hot-rolled is on
5 the down and I'm buying pipe from domestics six months
6 after I'm getting the delivery from China, I may be
7 losing my shirt on what I'm buying from China, or the
8 other way around if the domestic price is going up.

9 So one has to get into a little different
10 mindset because the market today for the input product
11 is so different than it was five years ago or six
12 years ago or whatever.

13 COMMISSIONER OKUN: I appreciate those
14 further comments.

15 Again, for Mr. Rudolph and Mr. Lee. Mr.
16 Lee, I think in your response to ten Vice Chairman you
17 had commented on the difference in capacity in China
18 versus Korea and Taiwan. I wondered if you could
19 expand on that and then maybe just talk about if
20 you're saying if you don't see yourself as competitive
21 in the US market or with the domestic mills, if it's
22 just the Far East countries that are kind of in the
23 same range, I mean do you think of Canada separately?
24 Just make better sense of how you see the different
25 product competing.

26 MR. LEE: Since Chinese pipe is not any more

1 available in this market we are seeking other supply
2 sources. Korea and Taiwan is the easily accessible
3 ones for us. But when I say the capacity is not
4 comparable with China, Korea or Taiwan, they have a
5 very limited capacity to export to the United States.
6 So we are having kind of allocation. You can send
7 only this amount to US market because they have to
8 sell their own market, domestic market, or other
9 export market to take care of.

10 But China, there are many standard pipe
11 mills, so when we dealt with a Chinese mill we didn't
12 have that type of restriction about quantity. But we
13 do now with Korea, with Taiwan.

14 COMMISSIONER OKUN: Mr. Rudolph, do you have
15 anything more to add just in terms of when you talk
16 about the different prices you see out there, do you
17 see an Asian price, a North American price, or --

18 MR. RUDOLPH: Right now we're just talking
19 to people in Asia, the Middle East, and also Europe.
20 So prices seem to be relatively comparable to each
21 other. It's all really indicated by hot-rolled coil
22 pricing and hot-rolled coil availability. We're
23 facing the same things overseas that they're facing
24 here in the US which is putting domestic mills on a
25 little bit of an allocation and price increase as
26 well.

1 So essentially the prices are fairly
2 comparable. I will say I've identified a couple of
3 fairly attractive price mills that we think we can be
4 very competitive in this market with, yes.

5 COMMISSIONER OKUN: I appreciate those
6 comments.

7 Let me come to you, Mr. McCullough. In
8 Slide 24 which was from Table 9 of the pre-hearing
9 brief, I just looked at the source on that. If you
10 haven't already submitted it, can you submit the
11 actual data from which, the actual report from which
12 that data is --

13 MR. McCULLOUGH: Matt McCullough.

14 That's going to be a press release or a
15 printout off of the ISI web site.

16 COMMISSIONER OKUN: Do you know, I assume
17 we'll make sure it's included, when they made those
18 forecasts?

19 MR. McCULLOUGH: I believe these forecasts
20 may have been done, I think it's stated in our brief,
21 I'm trying to think February or something to that
22 extent, but I can check on that for you.

23 COMMISSIONER OKUN: Okay, it may be
24 somewhere else, but if you can just submit that and
25 make sure that I know. I'm curious, obviously,
26 because some of the projections that we're saying have

1 been revised downward, looking at demand, and I'm
2 curious whether for this product we see any of that.

3 MR. McCULLOUGH: Just to make clear, though,
4 this is about general steel consumption. This is non-
5 pipe consumption.

6 COMMISSIONER OKUN: Right. I understand
7 that as well.

8 Why don't I just stay with you, Mr.
9 McCullough, or Mr. Barringer may want to comment as
10 well, I asked the Petitioners this morning about your
11 argument that we should be looking at the full year
12 data for ten financials for ten producers. Ten
13 response, as you know, is that ten Commission's
14 practice has been to look at the data just as we have
15 it, and that if you didn't think that was good for
16 this case the time to have raised that would have been
17 in commenting on the questionnaires. So I wanted to
18 hear your response to that.

19 MR. BARRINGER: There are always different
20 circumstances. In fact I think on the critical
21 circumstances issue Petitioner suggested you might
22 want to look at something a little bit differently.

23 Our view is that the same phenomena that was
24 taking place in 2005 where essentially the second half
25 2005 profit was double the first half 2005 profit
26 because of the direction of the market was going up in

1 the second half and they had low cost hot-rolled, that
2 same phenomena was taking place at the end of 2007.

3 If you included ten end of 2007 you would
4 probably see a profit level comparable to what you
5 would see in 2006.

6 We don't see anything, it's been
7 demonstrated, we have quotes from the domestic
8 industry that this happens. To make a decision that
9 there's injury because you're looking at the down
10 cycle as opposed to the up cycle to me seems a little
11 bit biased, if I can put it that way. And I have to
12 say we have interim periods all the time where you ask
13 for quarterly data. We give quarterly data for
14 foreign respondents all the time. Most companies, I
15 know these pipe companies are not all public, but most
16 companies have monthly trial balances and have
17 quarterly trial balances. So this is not a very big
18 deal. It should take them about one hour to put it
19 together.

20 COMMISSIONER OKUN: Mr. Barringer, would
21 you, the other point made and raised as well in some
22 discussions we had here is from an institutional
23 perspective, from the accountants here who look at
24 this data, that to do so is doing something different
25 than we normally do and kind of increases some
26 uncertainty about what we're comparing when we've had

1 a practice of, you can go on verification on this
2 particular data, but that would increase the
3 institution's risk of making a mistake or looking at
4 data that's not quite comparable. Or do you think
5 that's not the case here?

6 MR. BARRINGER: In fact I think it's the
7 opposite. I think it is distortive to look at part of
8 the industry on a calendar year basis and part of the
9 industry on a non-calendar year basis. You're not
10 coming up with an apples to apples comparison there.
11 As a result you're going to get a distorted outcome.

12 COMMISSIONER OKUN: My red light's come on.
13 I have some other questions about it, Mr. McCullough,
14 and if my colleagues don't cover it I'll come back to
15 you. Thank you.

16 CHAIRMAN PEARSON: Commissioner Lane?

17 COMMISSIONER LANE: Thank you.

18 Mr. Prusa, I will start with you.

19 With regard to your argument regarding
20 Maverick, and that was Slide 17, using an average
21 inventory valuation methodology for raw materials, we
22 heard this morning that some companies use a last in
23 first out or LIFO inventory valuation methodology for
24 raw materials. To the extent that companies use LIFO,
25 would the lag between prices and hot-rolled input
26 costs be significantly reduced?

1 MR. PRUSA: To the extent that they have
2 very short inventory holdings in the context of
3 extremely volatile hot-rolled markets it surely would
4 be. But I do want to note that this issue came up
5 extensively in 421 and my view is we made this
6 argument, they of course made the same arguments which
7 is oh no, many of us are LIFO, you guys are assuming
8 FIFO or some mix. And the proof is in ten pudding.

9 We projected significantly increased profits
10 following 421, this period. They predicted the sky
11 would fall. And now they've reported that in fact
12 they had near record profits. What was happening
13 there was exactly what's happening now.

14 So I think the concern whether well, some do
15 and some don't, look back to 421 where it was exactly
16 the same issue, and it was confirmed that argument was
17 exactly correct the second half of 2005 was a giant
18 second half without 421 relief.

19 COMMISSIONER LANE: Do you have any idea
20 whether ten companies you referred to as reporting on
21 a fiscal year that did not include the last quarter of
22 2007, all used an average methodology for raw material
23 inventory through all that valuation?

24 MR. McCULLOUGH: Commissioner Lane, I don't
25 know if I can discuss that here. I did look at the
26 questionnaire responses. We'll be happy to respond to

1 that in post-hearing.

2 COMMISSIONER LANE: Okay. Now I have a
3 question for any of you on ten front row there.

4 In the 421 proceeding we were looking at
5 data that subject imports from China had increased to
6 over 260,000 tons in 2004. In mid 2005 the Chamber,
7 that's the Chamber, the China Chamber of Commerce,
8 made several points about the industry in China.
9 These were: importers have slowed their purchases
10 from China; most Chinese pipe mills are running their
11 production lines 24 hours non-stop with two shifts of
12 workers and thus are unable to further increase their
13 capacity; some if not all Chinese producers are facing
14 a shortage of raw materials and electricity as well as
15 transportation bottlenecks, reducing their ability to
16 increase capacity utilization; growing demand in China
17 will absorb most of the industry's capacity and keep
18 the products consumed domestically; Chinese shipments
19 to the US will level off and decrease in 2005 because
20 the Chinese are increasingly focusing their attention
21 on non-US markets.

22 These were the arguments made by the Chamber
23 in 2005. Subject imports from China did not level off
24 or decline in 2005. They increased to over 380,000
25 tons and since then have continued to increase to
26 nearly 750,000 tons.

1 What happened that made all of those
2 arguments that we heard in 2005 inaccurate?

3 MR. BARRINGER: Let me start on that one
4 because a number of changes occurred. First of all,
5 there was an effort internally in China which started
6 with hot-rolled which has since expanded to pipe and a
7 number of other products, to curb the exports of
8 steel.

9 Of course what happened, which they
10 subsequently discovered was, once they curbed the
11 exports of hot-rolled, that pushed it down to pipe so
12 they subsequently took away the VAT on pipe and put
13 the export tax on pipe.

14 So if I can put it this way, there was a
15 larger supply of the raw material for export.

16 Second, the US, the prices in the US market
17 became, as we talked about ten second half of 2005 and
18 what we predicted for the US industry, the prices in
19 the US market went up dramatically, drawing in much
20 more product than one would have expected based on the
21 first half of 2005 prices.

22 Third, demand increased. That is apparent
23 consumption increased substantially. And fourth,
24 there was a shift of some non-trivial magnitude by the
25 domestics into energy tubular products. I believe in
26 2007 that amounted go something like 362,000 tons,

1 something like that. '05 to '06, 362,000 tons of
2 shift by the domestics from standard into energy
3 tubular products.

4 I thin those are the principal reasons. I
5 will get back to something Mr. Cameron said, that it
6 is easy to increase capacity in this particular
7 product. It is not a matter of building a blast
8 furnace or major equipment, these are production lines
9 with relatively common technology. And that could
10 have happened as well.

11 MR. McCULLOUGH: Commissioner Lane, if I
12 could add a few more points to what Mr. Barringer
13 said, on a few issues.

14 One, actually the Chinese did expand the
15 number of their export markets. We put that on the
16 record that showed that they expanded their shipments
17 to other markets because of demand. They expanded
18 shipments to domestic demand as well.

19 I think both Respondents and Petitioners
20 work with the best information we have at the time.
21 At that time I think the record reflects that in the
22 months leading up to the hearing and when ten briefing
23 was done, in fact Chinese imports were showing a
24 declining trend. I think we also relied to a certain
25 extent, and I think the record will reflect that, on
26 information we learned from importers and their

1 characterizations of what they saw happening in the
2 market over the next year. And we based it on the
3 data collected at the time with respect to the Chinese
4 industry.

5 I know this has been made a big deal of
6 today bout who certified what, when and where. We all
7 walk into this room and we take an oath to tell the
8 truth. Respondents do it, Petitioners do it. Again,
9 you have to take the facts as you're presented.

10 We were here in 421 and we told ten
11 Commission that the pipe industry was going to make
12 record profits in ten second half of 2005, and we were
13 right. We had it dead on. The Petitioners obviously
14 believed that ten sky was going to fall.

15 I sat in here last year on hot-rolled and
16 said hot-rolled prices are going to go to a thousand
17 dollars a ton by the end of the year and they said it
18 wouldn't happen.

19 COMMISSIONER LANE: Let me jump in here
20 because my time's going to run out.

21 I was focusing mostly on ten capacity and we
22 heard that China simply did not have ten capacity to
23 increase production. Were those arguments wrong, or
24 did circumstances just change?

25 MR. BARRINGER: I would say a combination of
26 things.

1 One, the Chinese government has been making
2 a concerted effort to cut capacity, excess capacity in
3 a number of areas. One of ten areas that they want to
4 cut that excess capacity in is what they call low
5 value added products. And they are in fact trying to
6 do that. Part of their discouraging exports of this
7 product is in order to accomplish that.

8 I think that the information that we were
9 relying on made some assumptions about capacity that
10 would no longer be operating. And I'm sure you've
11 seen this in other cases where China has said they're
12 going to cut 50 million tons of raw steel capacity and
13 35 million tons of rolling capacity. In fact they are
14 doing that but it is taking them a lot longer than
15 they expected. Unfortunately, every time the price
16 goes back up which is now happening in China, the guys
17 who they want to shut down maintain their capacity.
18 So it's a difficult prediction.

19 COMMISSIONER LANE: Thank you.

20 Thank you, Mr. Chairman.

21 CHAIRMAN PEARSON: Commissioner Williamson?

22 COMMISSIONER WILLIAMSON: Thank you, Mr.

23 Chairman. I do want to welcome the witnesses and
24 express appreciation for their patience.

25 Mr. Rudolph and Mr. Lee, you were talking
26 about I guess ten six month lead time in terms of the

1 time you enter a contract and a fixed price. I was
2 wondering whether or not transportation costs, is that
3 factored in at the beginning? And what happens if you
4 have rapidly rising oil prices?

5 MR. RUDOLPH: Actually all costs are
6 calculated at ten very beginning when we place the
7 order. So we're basing our freight costs on
8 anticipation that the prices will hold in six months
9 when ten material actually gets around to shipping.

10 In some cases, and particularly in the tail
11 end of '06 and pretty much all of '07, we got caught
12 with freight costs that were increasing on us. We as
13 the importer of record absorbed those losses.

14 MR. LEE: At the time of order placement we
15 estimated the ocean freight. Six months later when,
16 at the time of shipment, if there is increased ocean
17 freight I think we have to pay according to shipping
18 companies request. In the last couple of years it was
19 really difficult to arrange the vessel in a timely
20 manner and at ten right cost because vessel space is
21 just a shortage everywhere. So we also got the space
22 allocation from the shipping company.

23 COMMISSIONER WILLIAMSON: Given that we're
24 in such rapidly changing times, does this have any
25 implications in terms of future shipments, future
26 practices in terms of trade with China?

1 MR. CAMERON: Let me start off, and I think
2 they can chime in.

3 I believe that the thrust of what you've
4 heard today, whether it be the imposition of export
5 taxes or let's say the difficulty of getting raw
6 material out of price and knowing what that price is
7 doing go be, and knowing what the price of the end
8 product is going to be six months from now, it does
9 make things more uncertain. The uncertainty does have
10 a chilling affect. That's going to vary by product
11 and that's going to vary by supplier, depending upon
12 how high your threshold is, but we've certainly seen
13 that in other ares in the world and I don't really
14 believe that's different here.

15 MR. LEE: I agree with what Mr. Cameron
16 said.

17 MR. RUDOLPH: Essentially if we get back in
18 the market with China, from this point forward it's
19 going to be very challenging to export from China to
20 the US. Obviously freight's going to be a factor.
21 The freight rates have been going up for break bulk
22 and for container shipments. So that's a new
23 challenge for us. Also there will be the new VAT and
24 the export taxes that are in place that will increase
25 ten cost as well.

26 So exporting from China, even today if you

1 were to start doing it tomorrow, it's going to be more
2 expensive. I think that's the point I was making with
3 my other sourcing. Based on these new costs for
4 China, we can find other import product that will be
5 similar in price.

6 COMMISSIONER WILLIAMSON: Thank you.

7 What effect has the relatively strong demand
8 for energy tubular products and line pipe specifically
9 have on the demands for standard structural pipe?
10 Particularly in terms of exports from China.

11 MR. BARRINGER: I'm not sure the demand of
12 the two are related. I think there's been very strong
13 demand for line pipe and other energy tubulars,
14 certainly for OTCG. There has been strong demand as
15 well for standard pipe.

16 The issue is if you can produce both on the
17 same equipment, which are you going to produce?
18 You're going to produce the higher value added
19 product. I think that's what we think has happened
20 with the domestic industry. We have not seen that
21 happen with the Chinese industry, but to be frank, we
22 haven't really looked at the Chinese industry from
23 that perspective of whether they are in a shifting
24 mode.

25 But keep in mind, this is an enormous market
26 here for oil country tubular goods and demand has gone

1 through the roof. Line pipe demand is extraordinarily
2 strong as well.

3 If you can make both and there's a market
4 for both you're probably going to prefer the energy
5 market over the standard pipe market.

6 COMMISSIONER WILLIAMSON: What would you say
7 to ten testimony we heard from a number of Petitioners
8 this morning that they really don't do both? If you
9 invest in the standard pipe you just don't switch back
10 and forth.

11 MR. McCULLOUGH: I think it is true that
12 some don't do both. I believe most do some other
13 product. A lot of them do energy tubulars. Others do
14 other product, that we may be looking at ten same
15 dynamic, a higher profit margin. I don't know how
16 much more breakdown I can do from the data the
17 Commission has collected.

18 But at the end of the day, that table in the
19 staff report is relevant. That is the industry and
20 that reflects their equipment and the products they
21 can make on that equipment. That's what we broke down
22 for you today up on ten slide.

23 COMMISSIONER WILLIAMSON: It takes time to
24 shift, too, even if you're thinking about future
25 investments.

26 MR. McCULLOUGH: It takes time to shift,

1 you're right, if you're moving in and out of product
2 on the same piece of equipment so you're devoting more
3 time to energy tubulars, that's going to be less time
4 on the mill for your standard pipe as well.

5 MR. CAMERON: Commissioner?

6 COMMISSIONER WILLIAMSON: Yes.

7 MR. CAMERON: One of the points that I
8 believe our panel is making, this really is not a news
9 flash. You've got pipe mills, you have a limited
10 number of pipe mills that make a certain OD of pipe
11 and tube. They don't have an unlimited number of
12 these things. For counsel or their economists to
13 suggest that well, there's capacity there and
14 therefore there is no issue is really somewhat
15 misleading. You have a limited number of machines
16 that produce certain ODs. If they're producing line
17 pipe, for instance, they also have to be able to
18 certify on API so they're going to be producing that
19 to different certifications. They also have to have
20 the hot coil. As you say, there's also time to
21 transfer between.

22 So to say that capacity is not a problem,
23 it's true. It's not a problem for allied because
24 allied doesn't produce line pipe or OCDG. Granted.
25 Does US Steel? Sure. Do some of the other producers?
26 Sure, they do. Does Wheatland? Yes, they do. So

1 it's not that simple to say this is our capacity. Ten
2 question the Commission asks is what is the production
3 that you have that is common on the machinery that you
4 have. And that's really what you're getting at with
5 this question. It is not, I don't believe that it's
6 accurate to say we can produce, as we basically heard
7 this morning, the sky's the limit as to the amount of
8 production. It doesn't matter how much you take out,
9 the sky's the limit as to what we can produce.
10 Really? That does defy belief.

11 COMMISSIONER WILLIAMSON: How do you respond
12 to Petitioners' assertions that the VAT rebate taxes
13 in China are subject to rapid change? And how much do
14 exporters in China rely on such policies in their
15 business planning?

16 MR. BARRINGER: I'll give you the polite
17 answer. The changes in the export tax policy, first
18 of all, were discussed for approximately one year
19 before they were implemented. I'm sorry, the
20 elimination of the VAT rebate. There was a great deal
21 of debate, there was a great deal of study as to what
22 the effect would be.

23 The same thing is true of the export tax,
24 although it took about six months.

25 But you have to understand that these taxes
26 are part of a larger policy. They're not about

1 standard pipe. They're not about a few individual
2 products. This is about a policy. The first part of
3 the policy is that China is heavily polluted and China
4 doesn't want, shall we say, to use its pollution or to
5 absorb the rest of the world's pollution by making the
6 polluting products and exporting them.

7 If they're going to be polluted, they want
8 them used at home. Or they want them to be a very
9 high value added product. That's step one, and I'm
10 happy to document all of this.

11 COMMISSIONER WILLIAMSON: Why don't we come
12 back to that.

13 MR. BARRINGER: Okay. It's a broad policy.

14 COMMISSIONER WILLIAMSON: And they seem to
15 be very selective in what products they put them on
16 and which ones they don't. But let's come back to
17 that.

18 MR. BARRINGER: Okay.

19 COMMISSIONER WILLIAMSON: Thank yo, Mr.
20 Chairman.

21 CHAIRMAN PEARSON: I have questions for Mr.
22 Lee and Mr. Rudolph. You do business with producers
23 in China and in other countries. Would less Chinese
24 pipe be produced if it couldn't come to the United
25 States? In other words, if there is a final ADCVD
26 order imposed on Chinese standard pipe, is it going to

1 have the effect of reducing pipe production in China?

2 MR. LEE: Yes, I believe so. If the ADs who
3 are receiving the order becomes effective, there won't
4 be any Chinese pipe in the U.S. market.

5 CHAIRMAN PEARSON: Right. I understand
6 that, but that's a different question because my
7 question is quite specific. To the extent that those
8 of you who deal with the Chinese manufacturers might
9 have knowledge of this, are they likely to produce
10 less pipe in those mills, or are the economic
11 incentives so strong that they will run around the
12 world to find some other customers so that they can
13 continue to run their pipe mills?

14 MR. LEE: I don't have a direct knowledge
15 about that question, but they would be seeking other
16 markets or domestic market.

17 CHAIRMAN PEARSON: Mr. Rudolph, do you have
18 any thoughts on that?

19 MR. RUDOLPH: It's hard to say. The
20 domestic market for them is going to always be
21 growing, and they are going to have tremendous growth
22 there internally.

23 As far as the export markets, obviously, it
24 would be a big blow if they were to lose the U.S.
25 market, and it certainly would have some kind of
26 impact on some of the mills, I'm sure.

1 CHAIRMAN PEARSON: Mr. Barringer, did you
2 have something to add?

3 MR. BARRINGER: First of all, the volume of
4 exports has already started going down because of the
5 export tax and the elimination of the VAT.

6 To be blunt, part of the plan is to force
7 some producers out of business. Okay? When I get
8 into the details of the plan, I guess, in the post-
9 hearing brief, that's part -- the Chinese government
10 would like to bring into balance production with
11 domestic demand. They are not interested in a big
12 standard pipe export.

13 So to answer your question, I think,
14 regardless of what you do, what the Chinese government
15 has done is going to shrink that industry, and the
16 industry is going to be much more in line with what
17 domestic demand is in China.

18 CHAIRMAN PEARSON: Okay. Well, I have some
19 experience with commodity markets, but primarily
20 agricultural commodities. If you take a product like
21 wheat, so many tons get produced around the world in a
22 year, and if one country decides that it doesn't want
23 to import wheat from any particular country, the
24 global market is sufficiently liquid and fungible that
25 the stuff sloshes around and, like water in any type
26 of vessel, it goes from the high side to the low side,

1 and it levels out pretty quickly.

2 So I'm trying to understand whether we
3 should see the standard pipe market in that same way,
4 and you've indicated that there may be production
5 decreases, or a lack of continued increases, in China,
6 but I think you're saying, due largely to factors
7 other than a potential antidumping duty order in the
8 United States, but, rather, due to policies of the
9 Chinese government relating to pollution and that sort
10 of thing.

11 MR. BARRINGER: Yes. That's correct. There
12 is a government policy. It is not the sloshing
13 around, if that makes sense.

14 CHAIRMAN PEARSON: For those who deal in the
15 global pipe market, is it quite liquid and fungible?
16 Can you really move pipe from -- switch from doing
17 business with Chinese pipe producers and, instead,
18 find supplies in Indonesia or Ukraine or any of a
19 number of other countries? Will the market receive
20 the pipe from various origins pretty much as
21 equivalent?

22 MR. LEE: Yes. We could switch supplying
23 source rather easily because pipe is what we call a
24 "specification product." If it meets a certain
25 specification and criteria, then we can use it. So it
26 could be either Indonesia or Vietnam, or it could have

1 been any other countries who can be a candidate of a
2 Chinese replacement. At this moment, at this specific
3 moment, the steel market, everybody feels a tight
4 supply of raw materials, so nobody wants to replace
5 Chinese pipe.

6 MR. CAMERON: It's also useful to, at least,
7 point out that the parent company of, say, Steel
8 America, has built a pipe plant in Vietnam, for
9 instance. So, again, the barriers to entry on pipe
10 are not that great. Does that mean that all pipe is
11 equivalent? No. There are quality differences in the
12 market. The market does recognize quality
13 differences.

14 This Commission has seen quality differences
15 between pipe producers in various countries in some of
16 your past decisions. So we are not suggesting that if
17 it meets a standard, then everything is the same.
18 That isn't what we're saying.

19 In fact, in the case of China, there have
20 been producers whose quality was not the same. There
21 are good producers in China; there are some not-so-
22 good producers in China. Not-so-good producers in
23 China do end up putting in a discount for Chinese
24 producers. But to suggest that, well, this case means
25 the end of foreign imports, and we won't have to worry
26 about any other sources of supply, and all of these

1 are a fantasy, let's get realistic. You know, how
2 long did it take for the Chinese industry to build
3 capacity?

4 MS. FRAEDRICH: Hi. Laura Fraedrich from
5 Kirkland & Ellis. As Mr. Rudolph testified, they have
6 already been importing pipe from other sources, and we
7 will put the details of that in our post-hearing
8 brief.

9 CHAIRMAN PEARSON: Okay. Are you able to
10 say, either now or on the record, what percentage of
11 the pipe tonnage that you had been importing from
12 China you expect to be able to replace with pipe from
13 other countries within the coming year or so?

14 MR. RUDOLPH: To be perfectly honest with
15 you, it's going to depend on the hot-rolled coil.

16 CHAIRMAN PEARSON: I'm sorry. Depend on
17 what?

18 MR. RUDOLPH: Hot-rolled coil, the
19 availability of hot-rolled coil. We have capacity for
20 the mill. The mill has capacity to match what we were
21 doing for our pipe for the U.S. market, but we do not
22 have the availability of hot-rolled coil, and that's
23 what's keeping, for now, the capacity down.

24 CHAIRMAN PEARSON: And you see hot-rolled
25 coil as being in tight supply globally and not a
26 phenomenon just in this country.

1 MR. RUDOLPH: Everywhere, everywhere. It's
2 essentially on allocation everywhere in the world,
3 including China.

4 CHAIRMAN PEARSON: And what are China's
5 conditions for export of hot-rolled coil? Are they
6 applying --

7 MR. RUDOLPH: Export to the U.S. because of
8 the dumping duties suit.

9 CHAIRMAN PEARSON: Yes, of course, but, more
10 generally, do they have an export tax on hot-rolled
11 coil, for instance, to limit its --

12 MR. BARRINGER: Yes, they do, and I believe
13 it may as well be an export quota, but I can get you
14 the details on that, but there is very little, if any,
15 hot rolled being exported from China, and I'll
16 elaborate on it in the post-hearing brief.

17 CHAIRMAN PEARSON: I'm correct to assume,
18 Mr. Rudolph, that you would love to replace all of
19 what you had been sourcing from China with --

20 MR. RUDOLPH: My preference would be to
21 continue to export from China because we developed a
22 couple of great partners there. If that's not
23 available, then we have no other choice than to go on
24 trying to develop suppliers, yes, to stay in business.

25 CHAIRMAN PEARSON: Okay. Did you have
26 something to add, Ms. Fraedrich?

1 MS. FRAEDRICH: No, thank you.

2 (Pause.)

3 CHAIRMAN PEARSON: As you have replaced some
4 of your Chinese volume with volume from other
5 countries, has the pricing been higher on the newly
6 sourced product, or has it been basically similar to
7 the pricing on Chinese product?

8 MR. RUDOLPH: Well, we did essentially take
9 about a quarter off the marketplace where we started
10 looking for new sourcing. Once we returned, yes, the
11 prices were elevated. Once again, it's more related
12 to the hot-rolled coil prices. So we will follow the
13 exact same trends as the domestic mills in regards to
14 price. So, except for now, we do have the freight
15 factor as well to build into our price structure.

16 So the prices now are higher than when we
17 purchased out of China, but the last time I purchased
18 out of China was May 31st, the day before June 7th.
19 So we haven't bought from China in a year.

20 CHAIRMAN PEARSON: Okay. Well, thank you.
21 I appreciate your answers.

22 Madam Vice Chairman?

23 VICE CHAIRMAN ARANOFF: I want to go back to
24 that VAT tax rebate, and I apologize if I'm asking the
25 same question my colleagues did turned around just a
26 little bit, but I'm still trying to think it through.

1 One of the questions that I had is, with
2 respect to the VAT tax rebate and its elimination last
3 summer, when is a product deemed exported from China?
4 Is it when it's loaded on the boat, or is it possible
5 that it could be placed in a warehouse or in some
6 other place awaiting shipment and deemed exported at
7 some earlier point in time? Does anyone know the
8 answer to that?

9 MR. BARRINGER: No, ma'am. I can try to
10 find out. My guess is when there is a bill of lading
11 issued, but we'll be happy to find out.

12 VICE CHAIRMAN ARANOFF: Okay. I think it
13 helps, with respect to the circumstances and some of
14 the other issues that we're considering, to know
15 whether we're looking really at any product that went
16 on a boat after the date that the rebate was
17 eliminated or whether some of those products that went
18 on the boat after that date might still have received
19 the rebate because they were deemed exported at some
20 prior date.

21 MR. BARRINGER: I understand.

22 VICE CHAIRMAN ARANOFF: Thank you. Now, am
23 I correct that line pipe is not subject to the recent
24 changes in the Chinese export tax scheme?

25 MR. BARRINGER: I will have to answer that
26 in the brief because I don't know the answer to that

1 particular one. I know that OCTG is not, but I'm not
2 sure about line pipe.

3 VICE CHAIRMAN ARANOFF: Okay. My
4 understanding is that it's not subject to either the
5 new tax or the elimination of the export tax, the
6 rebate. If that is the case, I guess my question is,
7 does that mean that dual-stenciled line pipe that's
8 sold in the U.S. for standard pipe purposes would not
9 be subject to the changes in the Chinese tax regime?

10 MR. BARRINGER: I understand where you're
11 going, Commissioner Aranoff, and we will explore that.

12 VICE CHAIRMAN ARANOFF: Okay. All right.
13 That's the best we can do now. Thank you.

14 Turning to another knotty issue that I find
15 particularly knotty in this case is the Bratsk issue.
16 We have a case here where there are potential
17 suppliers of this product in something like 60
18 countries around the world, which, to my mind, makes
19 that first question that the Commission looks at,
20 whether there could be replacement, almost an
21 immediate, yes, of course, there could. There is a
22 whole a lot of capacity to produce this product around
23 the world, and it's not fully occupied.

24 But the "would" question, I think, is much
25 more difficult to answer, and, to look at it, you
26 really have to look, to the extent you can, on a

1 country-by-country basis. So, to the extent that you
2 can help me, and certainly the domestic industry is
3 also invited to answer this question as well, I would
4 like to look at, first of all, countries that are not
5 subject to any trade remedies in the U.S., in terms of
6 what their incentives might or might not be, and then
7 with respect to countries that are subject to
8 antidumping or countervailing duty orders.

9 In past cases, the Commission has found that
10 countries that are subject to orders are constrained
11 and either wouldn't send very much here or would do it
12 at particularly high prices. Given that we're already
13 seeing increases in imports from some countries that
14 are subject to preexisting orders, I'm not sure that
15 logic applies in this case, but I would like to think
16 about it.

17 I don't know if anybody has any comments
18 they want to make on that now.

19 MR. McCULLOUGH: We tried to do a couple of
20 things. I'm sorry. Matt McCullough with Heller
21 Ehrman. We tried to do a couple of things in the
22 prehearing brief. We just ran the monthly import
23 data. We identified those countries that had AUVs
24 that undersold some of the pricing products, looked at
25 their tonnage, grouped them together to see what kind
26 of potential chunk tonnage they had shipped over a

1 particular quarter, and it was quite significant in
2 previous quarters how much additional tonnage could
3 potentially be there and could be in the U.S. market.

4 At different times, we saw both countries
5 that were not under order -- I believe, Indonesia, for
6 one -- and countries that were under order shipping
7 tonnage below the price charged by the domestic
8 producers, and I think it's important to point out,
9 and I think it's something Chairman Pearson discussed
10 a little bit. It's not really the margin of
11 underselling but whether or not the domestic product
12 is actually going to get any price benefit with these
13 imports present, and I think the answer would be no.

14 VICE CHAIRMAN ARANOFF: Okay. Well,
15 obviously, that's something I want to look at because,
16 at least, for me, not for all of my colleagues, I did
17 the Bratsk analysis on a backward-looking basis to see
18 what would have happened during the period of
19 investigation. So if you were forward looking, you
20 could say, "Well, it depends on exchange rates. It
21 depends on freight rates," but when you're backward
22 looking, you know those things, so you can kind of
23 back them out of the calculus.

24 Okay. I'll leave it to the parties in their
25 post-hearing briefs. I'll look again at what you said
26 in your prehearing brief.

1 This, again, is for post-hearing. In
2 considering data for a Bratsk analysis, I've asked the
3 staff to put together monthly nonsubject import data
4 for 2007 and 2008 and relevant domestic monthly data.
5 The staff has proposed relying on AISI data for the
6 domestic industry, so I would request that parties
7 comment on whether that's a good idea, or whether
8 there are alternatives, in their post-hearing briefs.

9 MR. McCULLOUGH: Just a point of
10 clarification. Matt McCullough. AISI data for what,
11 for pipe shipments?

12 VICE CHAIRMAN ARANOFF: Yes, pipe shipments.

13 MR. McCULLOUGH: I think we would have to
14 look at that. Obviously, there is another data
15 source, Preston Pipe and Tube, that tracks this market
16 specifically at a very detailed level. So we would
17 have to look, and all pipe producers are not members
18 of AISI. I'm wondering if the Preston data would not
19 be more representative of this market.

20 VICE CHAIRMAN ARANOFF: I will leave it to
21 Mr. Corkran, when the staff has time for questioning,
22 to see if he wants to follow up with you on that.

23 MR. McCULLOUGH: I've put that down on the
24 record, too, in our brief.

25 VICE CHAIRMAN ARANOFF: Okay. Thank you.
26 With that, Mr. Chairman, I don't think I

1 have any further questions at this time.

2 CHAIRMAN PEARSON: Commissioner Okun?

3 COMMISSIONER OKUN: Thank you, Mr. Chairman.
4 Mr. McCullough, I was going to go back to you. You
5 were on my last round when I ran out of time, but did
6 you want to comment?

7 MR. McCULLOUGH: I must be honest. I'm
8 trying to remember what point I was going to make at
9 this point.

10 COMMISSIONER OKUN: I think it was about the
11 financial data. I'm quite sure it was because I was
12 finished with Mr. Barringer. We were talking about
13 whether about the Commission precedent and then also
14 your other arguments with regard to what would be
15 gained by seeking this additional data.

16 MR. McCULLOUGH: I think I wanted to make
17 one or two points. One is there is a Commission
18 practice, and, obviously, at different points when an
19 investigation happens, you do collect interim period
20 data. I would point out that the statute on injury
21 directs the Commission to look at the conditions of
22 competition in this industry and the business cycle
23 during the period, and, to me, I think that gives you
24 some basis to want to look at what I think is very
25 highly relevant information, information that has been
26 tested and proven correct in the past, in terms of

1 this dynamic.

2 COMMISSIONER OKUN: Okay. You might have
3 done this in your brief, but if you haven't, if you
4 could find other cases on the financial reporting
5 where the Commission has done something different and
6 take a look at that as well, I would appreciate seeing
7 that. Yes, Mr. Cameron?

8 MR. CAMERON: Commissioner, just one point.
9 In your original question, if I recall, and those gray
10 cells may have been killed already also, you were
11 indicating the possibility of a systemic issue; in
12 other words, that this is the way that it's always
13 done, and, therefore, if you do it in this case, could
14 that be disruptive of the method of doing things at
15 the Commission?

16 I think that the answer to that would be no,
17 and the reason is that the only reason that it comes
18 up in this case is there are highly unusual, factual
19 circumstances basically dealing with volatility of raw
20 material prices, the relationship between raw material
21 prices and finished goods. That's not always the
22 case.

23 In a normal case, or a case in which
24 basically there have been no major changes that have
25 been identified in a tail-end quarter, why would you
26 need to vary your normal practice? In other words,

1 the only reason that these types of issues come up in
2 the course of an investigation such as this is that
3 issues do become specifically identified because of,
4 as Matt just said, the conditions of competition that
5 are peculiar to this investigation.

6 So I think, in answer to your question
7 about, if we were to ask for this, does this create a
8 systemic problem? I think the answer is clearly no.
9 This is a unique situation. I was kind of struck,
10 listening to the responses this morning. You would
11 have thought that we were asking for the man in the
12 moon.

13 I mean, you're asking for a quarter's worth
14 of data. As Bill said, when we go to the Commerce
15 Department, when we do cost-of-production responses,
16 they make us update it, put in the additional quarter
17 and take out the additional quarter from behind. It's
18 really not that difficult, and the difference is we
19 actually verify it for a whole week with the Commerce
20 Department.

21 So the idea of the request isn't that
22 revolutionary.

23 COMMISSIONER OKUN: Dr. Prusa?

24 MR. PRUSA: Thank you. I think one thing
25 that strikes me about this case is it's seems like
26 it's a rather rare set of events, that this case has

1 this issue. On the record -- we have to be careful
2 about how we discuss it, but there are clear, large
3 differences among the domestic industry. You have no
4 interim period. Out of a hundred antidumping cases,
5 how many have no interim periods? It matters in this
6 case.

7 And then, number three, you have a market
8 that has incredibly volatile hot-rolled prices,
9 incredibly volatile hot-rolled prices. So this case
10 hinges on 2007. The industry has incredibly high
11 profits, as we predicted in 421 and 2005 and 2006. It
12 all hinges on how much you believe, despite the lag,
13 they needed to produce high output. What happened in
14 2007?

15 We're saying there is key information.
16 We're asking to report the time period for the period
17 of investigation, and it really matters in this case.
18 There is a set of circumstances that makes this
19 question extremely important for you to understand
20 what happened in 2007.

21 This isn't like saying this is the practice
22 that you do all of the time. How often do you have
23 this unique set of circumstances? If everybody in the
24 industry reported on a fiscal year basis that ended
25 last June or last September, it's this mix, and it's
26 the difference among the firms that makes this

1 extremely important for you to understand what's
2 happening in this industry.

3 COMMISSIONER OKUN: Okay. I appreciate
4 those further comments on that. I'm still thinking
5 about that and talking it over with staff.

6 Let me ask, and go back to Dr. Prusa, Mr.
7 Barringer, and Mr. McCullough to comment on first,
8 which is the causation questions that you raise. In
9 going through your presentation, I think you put a lot
10 of emphasis on a lack of correlation on the shipments,
11 that even as volume is coming in, you see domestic
12 shipments going up.

13 Your Chart 14, although, arguably, we've got
14 the post-petition effect in there, but even so, I
15 think what I heard the Petitioners testify to this
16 morning, the producers, is that while they were able
17 to continue to increase their shipments, they had to
18 make a stand on price. It was in the pricing where
19 you start seeing, then go down to the impact.

20 So, Mr. Prusa, I know you maybe did pricing,
21 and you did volume, so maybe I should go to you first.
22 Tell me more about what you think went on with pricing
23 during this period, understanding we're constrained by
24 the actual pricing data. I know that, but just
25 generally responding to the point that, you know,
26 there are often cases where producers make a stand,

1 either on volume or on price.

2 MR. PRUSA: Right. So I think, in this
3 case, that -- let me emphasize, you had hot rolled
4 sunset last year. Hot-rolled prices are more volatile
5 -- historically, \$10 to \$20 a change over a year or
6 six months would have been the status quo. You now
7 have firms announcing hundreds of dollars of changes
8 in hot-rolled prices on a monthly basis.

9 So the fact that you're seeing large swings
10 in prices in the product-pricing data has to be taken
11 in the context of what was happening to the input
12 that's 70 to 75 percent of their costs? So I can only
13 interpret the changes in product prices as a
14 reflection of the margin that you're marking up the
15 overwhelming part of their costs. In the brief, we
16 make it clear that these metal margins are very
17 stable. So the idea that they made a stand-on price,
18 to me, is they continue to keep these large margins.

19 So, again, it gets back to, well, wait a
20 second. They have volume. You're telling me they
21 have kept their margins, but, Professor Prusa, their
22 operating margin is down in 2007. This brings us back
23 to this question again of it's not imports that are
24 causing the losses; it's these other costs that are
25 causing it.

26 So I don't think you see a market price

1 decrease or a large volume decrease. I think you have
2 a mystery here that goes beyond imports, and it's
3 something about the domestic industry that you can't
4 pin, despite how much they would like to, to blame
5 some issue that's domestic on China.

6 MR. McCULLOUGH: If I could add one more
7 thing. Matt McCullough of Heller Ehrman. It's not
8 just about these other costs that are representative
9 of the industry. We're not saying that we're going to
10 call these other causes of injury. We're talking
11 about costs that are clearly not representative of
12 this industry, serious anomalies in the data, that you
13 cannot possibly attribute to Chinese imports. We've
14 briefed this. We've tried to do a little bit with it
15 to show you what we're talking about, but it is
16 significant.

17 MR. BARRINGER: Can I add my two cents?
18 This is what we wanted to explain in detail in the in-
19 camera hearing. But if you look at the portion of our
20 brief that talks about the anomalies, it is very clear
21 that neither the industry's prices nor the industry
22 metal costs, zinc costs, or, for that matter, their
23 cost of goods sold. None of those account for the
24 downturn in profits between 2006 and 2007. Okay?

25 If you look at it, that's what you're going
26 to see. So it's somewhere else in there. There is

1 some other reason in there that they did worse in 2007
2 than they did in 2006. That's as much as I can say in
3 public, but it is very clear in our brief.

4 COMMISSIONER OKUN: Okay. Then for post-
5 hearing, I may have some written questions, one of
6 which is because I did want to go back to that part of
7 your brief, in light of Petitioner's argument this
8 morning, to look at which data you used, comparing
9 that to what the staff reports so that I better
10 understood their argument about the data you were
11 trying to make comparable that they think is not
12 comparable. So I will try to draft something that
13 takes that into account.

14 MR. BARRINGER: We'll do it five different
15 ways for the post-hearing brief.

16 MR. PRUSA: Tom Prusa. I believe it's in
17 the brief, the metal margins argument. We argued that
18 they have not lost their margin. It's all done on
19 product pricing. So while we might refer that there
20 is a hot-rolled price out there that we're using as a
21 benchmark, in fact, it's metal margins we have in
22 there.

23 COMMISSIONER OKUN: I appreciate those
24 comments. Thank you, Mr. Chairman.

25 CHAIRMAN PEARSON: Commissioner Lane?

26 COMMISSIONER LANE: I'm still in a state of

1 shock. You're going to explain something to us five
2 different ways, and we just get to pick which one we
3 like.

4 MR. BARRINGER: I thought there could be one
5 for each of the commissioners voting.

6 COMMISSIONER LANE: Okay. That sounds good.
7 Could I have mine first?

8 I have these questions for Mr. Cameron,
9 talking about critical circumstances. Petitioner
10 argues that critical circumstances do exist. Since
11 the petition was filed on June 7th, should the
12 Commission consider the entire month of June as a
13 post-petition month or a prepetition month, or should
14 we pro rate the June data, and would your answer be
15 any different if the petition were filed later in
16 June?

17 MR. CAMERON: Commissioner, first of all,
18 thank you very much for the question. After I answer
19 it, I'm sure that my colleagues would like to do their
20 own views.

21 I guess the first question is, do you, or do
22 you not, believe that the critical-circumstances issue
23 is at least related to the filing of the petition? In
24 other words, it is our view that the provision was put
25 in in order to prevent a surge in imports in response
26 to the filing of a petition. I think that that's a

1 very basic concept that I don't think there is that
2 much dispute with. I don't think that you would
3 disagree with that.

4 Well, let me put it to you this way. Unless
5 they put jet skis on ships -- okay? -- there are very
6 few, if any, imports that are going to come in in the
7 month of June that were shipped after the petition,
8 and, therefore, the month of June should be in the
9 prepetition period because the imports that occurred
10 during the month of June were not in reaction to the
11 petition. In fact, they were on already on the water.

12 That gets to your other point. Let me ask
13 you another question. Why would it matter whether or
14 not the petition was filed -- if you're talking in
15 this way, let's say that the petition was filed on the
16 25th. Well, does that mean that we should discount
17 the month of June and shouldn't include it? The
18 Petitioners, this morning, said, Yes, we would agree
19 that that would be different.

20 Well, why would that be different? I mean,
21 if you're saying that an import that came in on June
22 26th should count towards the surge, which seems to me
23 to be counterintuitive to the purpose of the statute
24 because the purpose of the statute is basically to
25 say, "Look, we don't want you to surge in your imports
26 once the petition has been filed."

1 Okay. So that's the reason that we have
2 pointed out that, by and large -- nobody is saying
3 there is anything absolute -- by and large, importers
4 stopped ordering after the petition. That's exactly
5 what the behavior of the statute encourages, and I
6 would suggest to you that that is the behavior that
7 this Commission would want. That is responsible
8 behavior of businessmen.

9 So the simple answer to your question is
10 June should be treated as prepetition because that's
11 what the facts of the case show, that none of the
12 imports that came in in June were in response to the
13 filing of the petition, and that's why, if you're
14 going to start a post-petition period, it should start
15 in July, and it's not because of some theory of early
16 in the month or late in the month or tomorrow or
17 yesterday. It's a simple matter of, look, does it
18 take at least three weeks for a ship to leave China
19 and get here? The answer to that is yes. If the
20 answer to that is yes, then June ought to be
21 prepetition as a factual matter.

22 I'm sure that Fred and these guys would like
23 to --

24 MR. WAITE: Thank you, Don. Commissioner
25 Lane, I just have two supplemental comments to what my
26 colleague, Mr. Cameron, just said.

1 First, you asked, this morning and again
2 now, whether the Commission ever has looked at
3 petitions filed during the month and considered that
4 month during the prepetition period. The answer is,
5 yes, we included two examples in our prehearing brief
6 where petitions were filed on the 14th of the month
7 and on the 10th of the month, and the Commission
8 considered that month during the prepetition period
9 for its examination of the critical-circumstances
10 issue.

11 Forgive me, Commissioner Lane, but I also
12 would like to use this opportunity to respond to a
13 question that the vice chairman asked, earlier today,
14 of the Petitioners, if you will indulge me.

15 COMMISSIONER LANE: Oh, yes. Go right
16 ahead.

17 MR. WAITE: Thank you. And the question had
18 to do with responding, I believe, to Mr. Schagrin's
19 comments about his characterization of the intent of
20 importers, and the vice chairman asked whether intent
21 had anything to do with the statute, or was the
22 statute simply the statute? The response from the
23 Petitioners was the statute is the statute; read the
24 statute.

25 I would urge you to go beyond the statute
26 and also read the legislative history, which, I

1 believe, makes it very clear that what the Congress
2 was looking at was behavior, after a petition was
3 filed, to increase imports, not simply the fact of an
4 increase of imports which could be the result of the
5 kinds of facts that Mr. Cameron just mentioned, but
6 actually a situation where imports were deliberately
7 increased after a petition was filed in order to make
8 entry before the Commerce Department's preliminary
9 determination.

10 Thank you for your indulgence, Commissioner
11 Lane.

12 COMMISSIONER LANE: Okay. Thank you. Maybe
13 you might want to take a shot. Somebody else? Go
14 right ahead.

15 MS. FRAEDRICH: Laura Fraedrich from
16 Kirkland & Ellis. Thank you. I agree with both Mr.
17 Cameron and Mr. Waite and just would continue to point
18 out, as Mr. Rudolph testified, that all of their
19 imports in June were on the water before the petition
20 was filed.

21 COMMISSIONER LANE: Mr. Waite?

22 MR. WAITE: Thank you, Commissioner Lane. I
23 would also make another point which is related but not
24 exactly the same point that was made by Mr. Cameron
25 and by Ms. Fraedrich, and that is we can show you that
26 not only were the imports in June contracted for and

1 shipped before June; we can also show you that the
2 shipments in June by the Chinese producer, who
3 actually was one of the cooperative respondents in the
4 investigation of the Commerce Department, were orders
5 that were placed, in about 90 percent of the cases,
6 two months before the petition was filed, and in the
7 remaining few percentage of cases, two weeks before
8 the petition was filed.

9 So not only do you have imports that were
10 made in June that were contracted for and shipped
11 before June; you also have shipments from China in
12 June that were contracted for many months before the
13 petition was even filed.

14 COMMISSIONER LANE: Ms. Mendoza? You know,
15 I think maybe we're seeing something here. You all
16 should have been sitting on the front row, and, I
17 guess, maybe you feel ignored, but we'll get to you.
18 Go right ahead.

19 MS. MENDOZA: Thank you. I just would like
20 to make one final comment, and it's also with respect
21 to a question that Vice Chairman Aranoff asked, and
22 that is the issue of remedial effect and the issue of
23 order and the importance of orders.

24 I think that, in addition to the comments
25 that have been made, the other significance of the
26 order issue is that, to the extent these companies are

1 not placing orders in China after the petition was
2 filed, they are also not accepting any orders in the
3 U.S. market. So that's going to have a very immediate
4 effect. As Don said, it's not 100 percent, it's not
5 absolute, but the fact of the matter is that the
6 orders were not being placed with U.S. customers, and,
7 therefore, the effect of the petition was felt very
8 quickly.

9 MR. CAMERON: And you see that in the
10 numbers.

11 COMMISSIONER LANE: Does anybody else have
12 any question they would like to answer that you didn't
13 get an opportunity to today?

14 Okay. Mr. Cameron, I have one more question
15 for you.

16 MR. CAMERON: Thank you.

17 COMMISSIONER LANE: Turning to the inventory
18 levels as a factor to consider for a critical-
19 circumstances determination, beginning on page 37 of
20 the prehearing brief, Petitioners argue that inventory
21 levels of almost 30,000 tons are high levels of
22 inventory. How do you respond to that argument?

23 MR. CAMERON: Again, my colleagues may want
24 to join in this, to the extent that we have time, but
25 the answer is, no, that isn't a high level. Number
26 one, if you look at it compared to 2006, what

1 happened? Contrary to what Petitioners suggested this
2 morning, inventory levels went down, absolutely went
3 down, and they went down significantly.

4 Secondly, look at the inventory levels in
5 comparison to shipment levels. Import levels, between
6 2006 and 2007, went up. Inventory levels, between
7 2006 and 2007, went down. What does that tell you?
8 What that tells you is exactly what you're looking
9 for. Why did import levels go down? Import levels
10 went down because orders stopped. Orders stopped.
11 Therefore, you had a diminution of imports, and you
12 could actually see that on one of the graphs that Matt
13 had demonstrated earlier.

14 They don't fall off right away. These guys,
15 when they buy, they buy on an irrevocable letter of
16 credit. That money is gone. So the shipments where
17 production had already been done, yes, they did
18 complete their orders, but the reason that inventory
19 levels went down is that orders had stopped. Well,
20 when inventory levels went down 30,000 tons, as Julie
21 said in her statement, compare those inventory levels
22 to your consumption. It's less than a percent.

23 This is not having a major impact on the
24 market. It is that fact that actually supports our
25 position. I know you're on your red light, and I do
26 sincerely apologize, Commissioner.

1 COMMISSIONER LANE: No. That's okay. I
2 just don't want the chairman to yell at me. Thank
3 you.

4 COMMISSIONER LANE: The chairman is feeling
5 very generous this afternoon. After all, he is the
6 one who only gave 55 minutes for lunch. Commissioner
7 Williamson?

8 COMMISSIONER WILLIAMSON: Thank you, Mr.
9 Chairman. Let me turn to a couple of other questions.

10 I think you argued that the underselling
11 margins have declined over the period of investigation
12 for some products. Does this reflect subject imports
13 bringing down the price of the domestic product?

14 MR. PRUSA: No. It reflects that the hot-
15 rolled prices, domestically, were falling, allowing
16 them to maintain their margin, but the Chinese prices
17 were either stable or rising.

18 So, yes, I understand your question, which
19 it seems like, if you look at the data, the public
20 data that we can talk about, that the U.S. pricing
21 data is coming down, but that's reflecting a decrease
22 in hot-rolled prices rather than the Chinese imports.

23 COMMISSIONER WILLIAMSON: So you still say
24 there is overcapacity in the domestic industry.

25 MR. McCULLOUGH: Matt McCullough. I think
26 there is chronic overcapacity in this industry. It's

1 been admitted by the industry. It's reflected in the
2 data. I could go back further. I put that slide up
3 back to 1999. There have been other pipe cases. I
4 could take that trend back a long way. Yes, there is
5 overcapacity in this market.

6 MR. BARRINGER: If I could just give you my
7 two cents, I can't remember whether I was on the other
8 side of the first case that Mr. Schagrín did or the
9 second case that Mr. Schagrín did, but he mentioned,
10 this morning, 23 years.

11 This industry has had overcapacity for 23
12 years. I do not remember a case where they had
13 capacity utilization levels up in the 80, 85 percent
14 range. The 65 percent that we saw for 2007 is the
15 highest that I can remember ever seeing.

16 COMMISSIONER WILLIAMSON: Another question
17 on capacity. If the capacity of the domestic industry
18 is in line with the less than apparent U.S.
19 consumption over the period of investigation, why do
20 you say there is a chronic overcapacity? It doesn't
21 look like it's excessive consumption.

22 MR. BARRINGER: Capacity is affixed. Now,
23 if you can shift products, you obviously have to
24 somehow allocate some to one of the products you can
25 make and some to the other, but capacity is fixed.

26 Capacity utilization depends on the level of

1 demand for your products or the level of input that
2 you can get to operate your machinery. I don't recall
3 ever seeing the domestic industry have a demand that
4 pushed its capacity up into the ranges that you
5 normally see when you look at other industries. So
6 they are operating at 65 percent. If they, in fact,
7 have an additional 35 percent capacity, then they have
8 a lot of unused capacity, and, in most years, going
9 back, if not in all, they have had more than 35
10 percent of unused capacity.

11 MR. McCULLOUGH: I think part of what you're
12 looking at, too, is imports have always been a part of
13 this market, and if you want to look at capacity
14 issues, go back to 2004, the record year for this
15 industry -- big market, big profits, low capacity
16 utilization. There is capacity that is not being
17 used, and it's been there for a long time, and it's
18 overcapacity.

19 THE WITNESS: So you're saying, even in
20 periods of strong demand or weak demand --

21 MR. McCULLOUGH: It hasn't changed.

22 MR. BARRINGER: Let me just add a little
23 bit. This is not a capital-intensive industry. Okay?
24 Where capacity really becomes an important issue is in
25 a capital-intensive industry, and the reason is that
26 you have to allocate your fixed costs over what your

1 production is, and so if you have a blast furnace, and
2 you're only operating your blast furnace 50 percent of
3 the time, that blast furnace is very expensive, and
4 you are allocating its amortization over half of its
5 capacity, which means all of your costs shoot right
6 up.

7 That, as a general matter, is not a factor
8 in this industry. So the fact of the matter is that
9 you will probably not, because it's not capital
10 intensive, you will probably want to recover
11 substantially more than your variable costs in order
12 to keep operating because you're not losing that much
13 by not operating because if your facility just sits
14 there, you don't have huge depreciation costs for it.

15 COMMISSIONER WILLIAMSON: Thank you for
16 those answers.

17 You argue that the cost of import inputs
18 fell since the first half of 2006, yet our financial
19 data show that industry raw material costs per ton
20 increased substantially in 2007. Is there an anomaly
21 here?

22 MR. McCULLOUGH: First of all, I would,
23 again, look at the individual questionnaire responses
24 to see some interesting variations. We're talking
25 about a hot-rolled feedstock that's a fairly uniform
26 price in this market. The staff has published data

1 from purchasing magazines on the market price for hot
2 rolled. We have used purchasing magazine prices
3 before. In fact, when Nucor was still publishing its
4 list prices for hot rolled, purchasing magazine prices
5 basically laid right over top of those prices.

6 The trends in the American metal market
7 prices that we have provided are the same as those in
8 the staff report. Zinc prices have gone down. I
9 think it was entirely valid for us to use those prices
10 to demonstrate publicly what the industry's metal
11 margin is.

12 COMMISSIONER WILLIAMSON: Where are the hot-
13 rolled prices going this year?

14 MR. McCULLOUGH: Hot-rolled prices -- this
15 is a great question because, again, of the sunset
16 review that we just did last year. When hot-rolled
17 prices were \$510 a ton and projected by many in the
18 market to go to \$1,000 a ton by the end of the year
19 that summer, and, indeed, they are between \$800 and
20 \$1,000 a ton for hot-rolled coil at this point.

21 By the way, just to point out, so pipe
22 prices have increased commensurate with those hot-
23 rolled price increases.

24 COMMISSIONER WILLIAMSON: Okay. You also
25 argue that nonresidential construction and
26 infrastructure development in the United States would

1 provide consistent demand for the subject product, and
2 I wonder if this is plausible, given the economic
3 problems that we are currently facing, and the fact
4 that, in a threat analysis, we usually look at the
5 imminent future.

6 MR. MAGNO: We use data that was published
7 by AIA on nonresidential construction, looking
8 forward. That was an initial forecast in 2008 that
9 came out in February. I know Petitioners have since
10 put on the record something that was published in
11 April by AIA saying the market was going to go down.

12 I would point out a couple of things. One,
13 that's a forecast looking out at least nine to 12
14 months in the future, and, on top of that, I think the
15 statute, again, it's about threat by subject imports,
16 and I think we've demonstrated that subject imports
17 are not going to be in this market, either the nine-
18 to-12-month future or in the imminent future that the
19 Commission looks at under the statute, for variety of
20 reasons.

21 COMMISSIONER WILLIAMSON: Some of which were
22 related to, I guess, the possibility of the orders.

23 MR. McCULLOUGH: No. Whether or not the
24 orders are in place, you're not going to see Chinese
25 imports in this market because of the tax policy
26 changes, because of the appreciation of the currency,

1 the weak U.S. dollar, because of freight rates,
2 because of demand in China, because of demand in
3 regional markets, and other factors which we've
4 outlined in our brief. I think that's why you will
5 not see much Chinese volume in this market.

6 COMMISSIONER WILLIAMSON: What happens if
7 the EU and Canada put orders in place?

8 MR. McCULLOUGH: I think the answer to that
9 is reflected in the export data that we put in our
10 prehearing brief showing the effect before and after
11 the VAT rebate and the effect in the comparable
12 periods -- first quarter of 2007, first quarter of
13 2008 -- of the export tax on Chinese pipe exports.
14 You see a dramatic reduction in all markets for that
15 product.

16 COMMISSIONER WILLIAMSON: My red light is
17 on. Thank you, Mr. Chairman.

18 CHAIRMAN PEARSON: There has been some
19 discussion about the global shortage of hot-rolled
20 steel and the effect that has on availability for pipe
21 production. I would like to pose this question both
22 to you and to the domestic industry because I did not
23 do it this morning. To what degree do you believe
24 that shortages of hot-rolled steel have constrained
25 production in U.S. standard pipe mills?

26 So if the domestic industry also could

1 comment on that in the post-hearing brief, that would
2 be great. Over the three years of the POI, if there
3 is any way to make some assessment of the extent to
4 which any potential tightness in the hot-rolled steel
5 market has affected the ability to produce pipe, that
6 would be good to know.

7 I would entertain responses from your panel
8 right now, if you have any.

9 MR. McCULLOUGH: Yes. I think we can try to
10 do more in post-hearing, but, obviously, there is a
11 rather large record on this from the hot-rolled sunset
12 review. When you look at the market in 2004, 2005,
13 and 2006, it was a strong steel market. It was a
14 tight steel market.

15 This is not only about domestic sources of
16 supply. This is about the reality that there are
17 import restrictions on hot rolled from numerous
18 countries, and it's also about consolidation and
19 concentration in the hot-rolled steel industry.
20 You've seen everyone talk about it. Latry & Battal
21 talks about it. Everyone else does.

22 There is a newfound production discipline in
23 this industry, and even when there is demand there,
24 you may not get the supply because hot-rolled steel
25 producers are managing their prices and their
26 production very well.

1 CHAIRMAN PEARSON: You have no direct
2 knowledge of whether the U.S. standard pipe producers
3 have been under either allocation or controlled order
4 entry of some sort from their hot-rolled suppliers.

5 MR. McCULLOUGH: I can only base response on
6 what I've seen in the hot-rolled sunset review, and in
7 that review major purchasers of hot-rolled steel, many
8 of them all stated that they had been put on
9 allocation or denied supply.

10 Better than that, if you don't want to go to
11 the purchasers, go to the hot-rolled steel producers
12 themselves. Nine of 14 said that, in fact, that they
13 have denied supply to purchasers during the period.

14 CHAIRMAN PEARSON: Okay. Well, I'll be
15 interested to see what the domestic industry has to
16 say about that issue of controlled order entry or
17 allocation on hot-rolled supply. Mr. Cameron?

18 MR. CAMERON: Commissioner, very briefly,
19 Mr. Lee testified that they have seen this in Korea,
20 in terms of the ability to source hot-rolled coil for
21 pipe production. We'll see if we can get any more
22 details in our post-hearing brief, but I would suggest
23 that this also gets back to the issue that a number of
24 commissioners have asked today about capacity and
25 about production.

26 In other words, if there are hot-rolled

1 constraints, they may be difficult to prove. You
2 don't have to have allocation. You may not be able to
3 get everything that you want, but to the extent that
4 there are any limits, there are going to be choices
5 made. Those choices aren't always simply, "Okay. I'm
6 going to produce everything at the highest level."

7 Nobody is saying that this is an all and
8 absolute thing because these producers are in markets
9 just like producers that we represent in other
10 countries. They have established customer bases that
11 they have to supply, but it does then have an effect
12 on the marginal supply and the marginal production and
13 the choices, to the extent that they have them
14 available, "I can get this much coil, and where do I
15 want to put that production?" We'll see what other
16 information we can get on that issue, but it is an
17 interesting question.

18 MR. STIPE: Mr. Commissioner?

19 CHAIRMAN PEARSON: Yes.

20 MR. STIPE: Steve Stipe, Western
21 International. I do have some experience with
22 purchasing from domestic pipe manufacturers. I don't
23 purchase from any of the ones that were here today at
24 this time. I have dealt with IPSCO in the past. But
25 I can say that the pipe manufacturers that I buy from
26 right now in the U.S. currently have me on allocation.

1 Okay?

2 Now, I've even had one supplier, one
3 manufacturer, tell me that they were thinking about
4 not producing any more standard pipe at this time and
5 going exclusively to line pipe because of the tonnage
6 that they can produce and the dollar value that they
7 can get out of the line pipe.

8 Now, they tell me that they are going to try
9 to continue to give me some support, but it's
10 marginal.

11 CHAIRMAN PEARSON: Do you know whether they
12 are putting you on allocation because they have their
13 mills full of other products, or is it because they
14 have a hard time getting hot-rolled coil?

15 MR. STIPE: I can't answer that exactly. I
16 think that they are very busy with line pipe, and I
17 would say also that there are a couple of mills,
18 though, that have had limited supplies, but I don't
19 know if it's because they are just slammed completely
20 with orders. The way they indicate it, it seems that
21 they can't get enough tonnage quick enough.

22 CHAIRMAN PEARSON: Well, let me follow up on
23 that question. Those of you who sell to distributors
24 or users in this country, to what extent do those
25 distributors purchase both from importers and from
26 domestic producers? Do most distributors deal with

1 both imported and domestic product?

2 MR. STIPE: Well, I would say that there are
3 certain customers that prefer to buy domestic. If
4 they are in the right area, then they will buy only
5 domestic. I couldn't say, as far as, you know,
6 distributors, if they would buy just exclusively any
7 one product, but I know there are preferences out
8 there, and some people are willing to pay more money.

9 CHAIRMAN PEARSON: Have you seen
10 circumstances where your customers have come to you
11 saying, I'm having a hard time getting what I need
12 domestically because of whatever reason. Can you get
13 me more imported product?

14 MR. STIPE: We're starting to see that right
15 now. Some customers that would normally only want to
16 purchase domestic; they are worried that if this keeps
17 going the way it's been going the last five months,
18 that they may be forced into buying some import or
19 will choose to buy some.

20 You know, I guess some of the customers do
21 what they have to do. They can't close their doors.

22 MR. RUDOLPH: We also have customers that
23 have to maintain a dual inventory because there are
24 some jobs that have to go state. Government jobs are
25 always USA only. So there is a large percentage of
26 business that we don't even try to pursue because it's

1 USA only. So we just go for really the scraps that
2 are left over, which can be significant.

3 CHAIRMAN PEARSON: Okay. Thank you.
4 Earlier today, we heard Mr. Schagrin say that freight
5 rates for moving product from China have increased
6 dramatically. He mentioned rates now in the
7 neighborhood of \$150 per ton. Can you provide more
8 detail on the recent history of these rates? You're
9 the guys who are actually doing the importing. What
10 are the forecasts for trends of the rates? Then what
11 information sources do importers use to estimate
12 freight rates?

13 MR. RUDOLPH: Well, when we were importing
14 from China, we were handling the freight ourselves,
15 but, obviously, we're not doing that right now. From
16 the sourcing that I'm importing from right now,
17 actually the mills are handling the freight, and it's
18 included in their quote to us. So they are quoting us
19 essentially a cost-of-freight U.S. port.

20 I can tell you that I have heard of rates as
21 high as \$150 a ton out in the marketplace. I can also
22 assure you that that's not the rate we're paying. If
23 you wanted to get a guesstimate from me, I would say
24 we're probably roughly between \$100 and \$110 a metric
25 ton, and that would be for Gulf and East Coast ports.

26 CHAIRMAN PEARSON: Okay. And if you were in

1 charge of booking freight out in the future, how would
2 you decide what would be a reasonable rate? What
3 information sources would you use?

4 MR. RUDOLPH: Well, part of it is
5 experience, knowing generally -- you can kind of tell,
6 if you see a rate at \$150 a metric ton, you probably
7 know you're going to have a problem selling it here in
8 the U.S. That's pretty excessive.

9 Generally, we just take all costs that are
10 included in exporting here to the U.S., we build it
11 in, and we get our information from the customers. So
12 we'll go out -- I think Jun mentioned this as well --
13 we'll go out and put the offer out to the customers,
14 quote them, and they will either advise us you're too
15 high, you're too low, forget it, you know, check with
16 me next quarter.

17 So, really, most of our market information
18 comes back from the customers.

19 CHAIRMAN PEARSON: To what extent -- I'll
20 ask it anyway. Well, it has a few advantages. To
21 what extent are the rates determined or influenced by
22 conferences, the shippers' conferences?

23 MR. RUDOLPH: I'm really not familiar.

24 CHAIRMAN PEARSON: Any type of collaboration
25 or cartel effort on the part of shippers; is that an
26 issue here?

1 MR. RUDOLPH: No. I have not run into that.
2 We negotiate with each shipping company separately.

3 CHAIRMAN PEARSON: Okay. Frankly, it may
4 not be in container shipments. I'm dealing with old
5 information from long ago.

6 MR. RUDOLPH: We're mainly doing break-bulk
7 vessels. We only would do containers if, for some
8 reason, we couldn't get a break-bulk vessel because
9 break-bulk vessels are cheaper in rate. So that's
10 another factor. When you're booking your vessels, if
11 you want to be booking for us, break-bulk vessels
12 versus container vessels.

13 CHAIRMAN PEARSON: Okay. Well, ignore the
14 specific question about conferences, but if, for
15 purposes of the post-hearing, you are able to fill in
16 a little bit what's going on with freight rates and
17 the information that guides that market, that would be
18 great. Thank you. Madam Vice Chairman?

19 VICE CHAIRMAN ARANOFF: Actually, I don't
20 have any further questions, Mr. Chairman. I just want
21 to thank the panel for your answers this afternoon.

22 CHAIRMAN PEARSON: Commissioner Okun?

23 COMMISSIONER OKUN: I also have no further
24 questions other than a possible follow-up question
25 that I'll submit in writing. I do want to thank you
26 very much for all of your testimony today, and we will

1 look forward to reading the post-hearing briefs.

2 CHAIRMAN PEARSON: Commissioner Lane?

3 COMMISSIONER LANE: No further questions.

4 Thank you.

5 CHAIRMAN PEARSON: Commissioner Williamson?

6 COMMISSIONER WILLIAMSON: I have no further
7 questions, and also I want to thank the panel.

8 CHAIRMAN PEARSON: Well, then this just
9 shows how slow I am because I do have a couple more.

10 Earlier, we beat around the bush regarding
11 Bratsk. For counsel, should we see this as a negative
12 on Bratsk? Is the Bratsk case strong enough so that
13 it's a negative? In the post-hearing, if you want.
14 It's on my mind. Okay? How would you see that, based
15 on what we've got on the record?

16 MR. McCULLOUGH: Well, based on Bratsk, and
17 based on what we know about this market, and the fact
18 that imports have always served this market at
19 consistent levels, and based on the data that we've
20 put in our brief and put in on the capacity of
21 nonsubject sources of supply to supply this market,
22 and at prices that undersell the U.S. price, and the
23 fact that the level of underselling really doesn't
24 necessarily dictate what the U.S. price is and whether
25 they will get any benefit from an order, I think this
26 is a negative on Bratsk.

1 CHAIRMAN PEARSON: Okay. If you want to
2 elaborate in the post-hearing, that would be fine.

3 My last question is a request for the
4 Petitioners. I ask this in the knowledge that some
5 Petitioners with fiscal years that are different than
6 the calendar year have voluntarily submitted their
7 financial data on a calendar-year basis to assist our
8 analysis.

9 So I am going to go ahead and request that
10 the companies that do not have December 31st fiscal
11 years and who have not previously submitted their data
12 on a fiscal year basis, please restate your financial
13 results on a calendar-year basis for 2005, 2006, and
14 2007.

15 I ask this, knowing that it's some extra
16 work but also knowing it's been a significant issue in
17 this hearing, two very different points of view. I
18 think it's best that we just go ahead and get that
19 information. Far better to do it now than to have the
20 possibility that one of our friends on the Court of
21 International Trade hands it back to us to dig into it
22 in the future. So while it's fresh in our minds,
23 let's go ahead and get that.

24 MR. DORN: Mr. Chairman, Joe Dorn for
25 Petitioners. Can I just ask a question in terms of
26 the timing of that because it's, frankly, not as easy

1 as you might think because of the allocations and so
2 forth? Is that due with the post-hearing brief, or
3 could we have a little bit more time on that?

4 CHAIRMAN PEARSON: Frankly, I will have to
5 confer, and we'll get back to you on that.

6 MR. DORN: Thank you.

7 CHAIRMAN PEARSON: I have no further
8 questions. Are there any further questions from the
9 dais?

10 Okay. Do members of the staff have
11 questions for this panel?

12 MR. CORKRAN: Douglas Corkran, Office of
13 Investigations. Thank you, Chairman Pearson. I do
14 have one question for counsel on behalf of the Chinese
15 producers.

16 It's basically sort of a technical question,
17 which is, to the extent that we are looking at, and
18 some of our import data include, pipe that is dual
19 stenciled but has characteristics that tend to be
20 associated with standard pipe, but, nonetheless, it is
21 certified to API 5L or to a line pipe standard, from
22 an export standpoint, how is that treated in China?

23 I'm trying to get a sense of whether that
24 dual-stenciled product was affected by the VAT rebate
25 or the additional taxation, and I know that's only a
26 portion of the total imports we're looking at, but I

1 just wanted to see what that was, and, with that, I
2 have no further questions.

3 MR. BARRINGER: Your guess is as good as
4 mine, but we'll get you the answer.

5 CHAIRMAN PEARSON: Does counsel for the
6 Petitioners have any questions for the Respondents'
7 panel?

8 MR. DORN: Thank you. No, Mr. Chairman.

9 CHAIRMAN PEARSON: Okay. Thank you. Well,
10 permit me to thank this panel for your patience and
11 endurance. It's quarter-to-six. It got to be kind of
12 long today.

13 We really appreciate it that you've been
14 here and answered so many questions. So please now
15 feel free to be excused, and we will move to the
16 closing statements. Somewhere I should have -- this
17 is not the secretary's fault for me losing what they
18 have given me.

19 I have now found the remaining time. The
20 Petitioners have one minute left from their direct
21 presentation, five minutes for closing, a total of six
22 minutes, and the Respondents, four minutes left from
23 the direct presentation, five for closing, a total of
24 nine.

25 So, Mr. Dorn, how do you prefer to proceed?

26 MR. DORN: I'm going to use all 60 seconds

1 of rebuttal and let Mr. Schagrin do the closing, if
2 that's all right, Mr. Chairman.

3 CHAIRMAN PEARSON: That would be just fine.
4 Do you care to come forward, or would you like to do
5 it from there?

6 MR. DORN: I think it would not be cost
7 efficient for me to move for 60 seconds to deliver it,
8 so I'm going to stay right here --

9 CHAIRMAN PEARSON: You want the full value.

10 MR. DORN: -- if that's okay.

11 CHAIRMAN PEARSON: That's fine. So you're
12 ready to begin?

13 MR. DORN: Yes, Mr. Chairman.

14 CHAIRMAN PEARSON: Okay. Please proceed.

15 MR. DORN: Dr. Prusa's price-effects
16 argument ignores the impact of incremental supplies of
17 subject imports on market price as domestic producers
18 tried to avoid losing more market share in 2007. You
19 remember, they lost a substantial share to China in
20 2006. In 2007, they are trying to hold onto share,
21 and to do so, they had to lower their prices.

22 In Slide 5, Dr. Prusa ignores very
23 compelling record evidence of price suppression that's
24 in the record. His Slide 5 relies on a \$20-per-ton
25 drop in hot rolled from 2005 to 2007, based on AMA
26 data, but the prehearing report, at Table 6-3, shows

1 that actual raw material costs, including hot rolled,
2 actually went up \$26 per ton from 2005 to 2007,
3 resulting in a negative margin with respect to raw
4 material costs, and a price of \$53 per ton from 2005
5 to 2007.

6 The variance analysis of the staff report
7 hits it right on the head by saying, "Between 2006 and
8 2007, the decrease in operating income of \$83.4
9 million again resulted from the negative effects of
10 increased cost expenses and decreased sale price,
11 despite modest increases of sales volume." So this is
12 a classic, price-suppression case, especially with
13 respect to 2007. Thank you.

14 CHAIRMAN PEARSON: Thank you, Mr. Dorn.

15 Mr. Schagrin, you may come forward.

16 MR. SCHAGRIN: Did they want to do a
17 rebuttal first and then have me do closing? It's up
18 to you, Mr. Chairman.

19 CHAIRMAN PEARSON: Well, what would
20 Respondents' counsel prefer? Would you like to do
21 four minutes of rebuttal, or do you wish to wait and
22 take your time all in a single chunk?

23 MR. CAMERON: We'll take it all as a chunk.

24 CHAIRMAN PEARSON: Okay.

25 MR. SCHAGRIN: I'll come forward, because I
26 can't look down and see -- having anything to do with

1 seeing you all, and I better be careful that I don't
2 read Bill Barringer's statement. That would be really
3 embarrassing.

4 (Laughter.)

5 MR. SCHAGRIN: Thank you, Chairman Pearson
6 and members of the Commission, for sitting through a
7 very fine and detailed hearing today.

8 One thing is very clear from the
9 Respondents' presentation: The Chinese Respondents
10 don't want to address the record evidence for the POI
11 '05-'07 that's in the very fine, Commission staff
12 prehearing staff report. They want to use nonrecord
13 periods, but they haven't even argued to the
14 Commission that you should expand the POI. They want
15 to use nonsubject products, but they haven't asked for
16 an expanded like product.

17 Number one, as we pointed out this morning,
18 the main players in this industry can't shift to
19 nonsubject products.

20 Number two, economics tell you that if
21 everybody is shifting to nonsubject products, the
22 amount of supply should be declining for subject
23 products, forcing prices and profits up, and people
24 ought to do that until the prices and profits for
25 subject are as high as nonsubject. That's not
26 happening. That argument just doesn't work.

1 They want to use AMM pricing data, as Mr.
2 Dorn pointed out, when, in fact, why have to bother
3 with that? You collected the data from everybody in
4 the industry.

5 They want to talk about fiscal year periods
6 different from what everybody has presented. I think
7 you're going to find out, when you get '05-'07
8 calendar year data, there is going to be no changes in
9 the trends. In fact, when they want to talk about how
10 super the second half of '05 was, they are actually
11 comparing calendar year first-half data from the 421
12 with fiscal year data for 2005. So that doesn't
13 figure either.

14 Finally, they want to recycle the old 421
15 arguments by, incredibly -- it was a deja vu moment
16 for me -- using the exact same quotes they used in
17 their briefs in the 421 case, and it didn't work then,
18 and you would think, in three long years, they could
19 have found some new quotes.

20 Now, what does the actual record show? Oh,
21 my God, the record. Well, the record shows that,
22 contrary to predictions, imports from China had an
23 increase from 382,000 to 748,000 tons. That is just
24 astounding. Imports from China took more than 100
25 percent of the '05-'06 increase in consumption. There
26 was no benefit to the domestic industry or its workers

1 of this increase in consumption.

2 Over the POI, the domestic industry's market
3 share fell, so, as a result, even though production
4 and shipments rose slightly over the POI, they only
5 rose a quarter as much as consumption.

6 Underselling caused price depression.
7 That's clear from this record. The domestic producers
8 lowered their prices, not because their costs were
9 going down -- in fact, their average costs were
10 increasing -- but because they were competing with
11 Chinese profits. The result was profits and profit
12 margins plummeted.

13 Now, this is a strong injury case, plain and
14 simple, based upon '05-'07. They want to talk about,
15 wow, there were all of these crazy \$200- to \$300-a-ton
16 changes in flat-rolled prices. There were people on
17 allocation and shortages. They are talking about '04
18 -- that's not in this POI -- and they are talking
19 about '08.

20 You've got the record here. Prices hardly
21 changed for steel. If you wanted to pick the last 10
22 years and find a period where steel prices were
23 stable, and you could look at a fairly normal POI, you
24 would pick '05-'07. We're just lucky. That's what we
25 have here. But they don't want to deal with that.
26 They want something else.

1 Now, let's talk about critical
2 circumstances. Now, the focus should be on the
3 imports surge because importers and foreign producers
4 accelerated their imports and their purchases. And
5 something else about this: They say, "Oh, we really
6 put all of these orders in before we ever knew about
7 this case."

8 Well, we're going to give you, in the post-
9 hearing brief, my good friend, Bill Barringer, in
10 April 2007, who was quoted in the American Metal
11 Market, the Bible for this industry, as saying that a
12 China pipe case was going to be imminently filed. In
13 fact, it was supposed to be imminently filed. It got
14 delayed by five or six weeks. It's kind of like
15 shipping from China. It took us a little while to get
16 it together.

17 So it's not like these people knew nothing
18 about this case. They knew everything about this case
19 being filed. This case was precleared at the
20 Department of Commerce. In April, May, the first week
21 of June before it was filed, every single one of those
22 importers and Chinese producers knew a case was going
23 to be filed, and they said, These prices from China
24 are so cheap, we should order as much as we can. And
25 what happened?

26 When it came into the United States, it came

1 in in a huge amount in June, July, August, and
2 September, and the result was not an increase in
3 importer inventories because Mr. Lee told you that
4 they don't hold inventories; they go right to
5 distributors, and this is explained by their Slide 14.
6 This is why, even when Chinese imports were going
7 down, domestic shipment were going down, because
8 distributors were full of inventories.

9 So, in order to remedy their actions, you
10 should make an affirmative determination.

11 A small item as to Bratsk. SSA said we're
12 replacing imports from China with imports from Taiwan
13 and Korea. We'll show you, in the post-hearing brief,
14 that that's not the case statistically. They can't
15 replace all of the imports from China.

16 Finally, I can't believe you would get to
17 threat, but just because one judge one time said, "If
18 Petitioners don't say something about threat, you
19 don't look at it." So I'm saying, "If you don't find
20 injury, find threat." Thank you very much.

21 CHAIRMAN PEARSON: Thank you, Mr. Schagrín.
22 As always, having your act together, or whatever
23 reference you made.

24 How do you wish to allocate the time?

25 MR. CAMERON: It doesn't matter. I'm not
26 going to take very much --

1 CHAIRMAN PEARSON: You're not going to have
2 an allocation or controlled order entry, either one.

3 MR. CAMERON: We're not having anything.
4 It's going to be a total free for all. We're going to
5 show what a free market is all about.

6 CHAIRMAN PEARSON: So you will run the clock
7 for five minutes.

8 MR. CAMERON: Correct.

9 CHAIRMAN PEARSON: Okay. Please proceed.

10 MR. CAMERON: For the record, Don Cameron.
11 I was simply going to say, "Thank you," because we've
12 made our case. Now, at the last minute, we are told
13 that, in fact, the critical circumstances should not
14 be based upon a June filing date; it should now be
15 based on an April filing date because the authority of
16 the industry, Bill Barringer, said, A case is coming.
17 A case is coming.

18 Look, I don't mean to be too flip about
19 this, but the fact that a Washington lawyer says that
20 a case is coming is not what one would call Biblical
21 truth. I realize that's a news flash in this room,
22 but I'll go out on a limb and say that.

23 As a matter of fact, I'm confident that I
24 can get a number of people on this Commission, even
25 people who have not necessarily voted for me in the
26 past, to agree with that part of the statement.

1 Now, the fact of the matter is this case was
2 filed in June. The fact of the matter is that when
3 the case was filed, by and large, the importers
4 stopped ordering, and that is important. That is the
5 behavior that this Commission is seeking. That's the
6 behavior that the statute is seeking, and we believe
7 that the ultimate data, which is the import levels,
8 which is the inventory levels, in fact, reflect
9 exactly what happened. And, as Ms. Mendoza and the
10 other witnesses on our panel stated, the orders
11 stopped. The orders stopped from the customers.

12 What does that mean? That means that,
13 indeed, to the extent this Commission does order
14 relief, that relief is not being undercut. With
15 respect to the statement about distributor
16 inventories, every time we come here, and every time
17 the inventory data that is on the record of this
18 Commission shows that inventories, indeed, are not the
19 problem, we hear there is another inventory pile
20 behind the tree; you just don't have it.

21 Well, I'm sorry. The fact of the matter is
22 that importer inventories, which are the data that you
23 have, in fact, do not show an increase; they show a
24 decline, of course, that is consistent with the
25 decline in imports over that period.

26 Indeed, if you look at the distributor

1 inventories that are on the record, they are not quite
2 as reliable. They show a small increase between 2006
3 and 2007, but the data -- we will be glad to discuss
4 it in our post-hearing brief -- is not quite that
5 reliable.

6 So I'm glad that this case, in fact, was
7 filed in April. I guess it's a different POI. I
8 wasn't aware of that. Personally, I wasn't aware that
9 a case was coming, but I'm also a Washington lawyer,
10 so that doesn't count very much either.

11 On behalf of all of the importers on this
12 panel and the reason, of course, and I don't want to
13 lose sight of this, the reason the importers appeared
14 here is because it is the importers. It is not the
15 Chinese producers. It is not the Chinese exporters.
16 It is the importers who are on the hook here for these
17 duties, and that is the reason that they have appeared
18 here, and we sincerely appreciate the time of all of
19 the commissioners and the way that you've treated our
20 witnesses. We do sincerely appreciate it. Thank you.

21 MR. BARRINGER: I'm just going to make two
22 brief points. I certainly hope, after how many hours,
23 that you all do understand our arguments. Whether or
24 not you agree with them is another issue, so I'm not
25 going to repeat them.

26 I just want to make two brief points. The

1 first is about the variation in profitability among
2 the companies. In many industries, you would expect
3 that there would be a lot of variation. What is
4 unique about this industry is it's making a commodity
5 product, and roughly 80 percent of that commodity
6 product is steel or zinc, and the technology is the
7 same.

8 If 80 percent of your costs are within a
9 fairly narrow range of each other, you've got 20
10 percent left, and what I want the commissioners to do,
11 if they would, is look at the lowest and the highest
12 profit levels. It's almost unbelievable in a
13 situation where 80 percent of your costs are
14 essentially the same.

15 The second point I wanted to make about this
16 gloom-and-doom industry is I think it would be
17 interesting for the Commission to think about why the
18 Carlyle Group, one of the largest private equity
19 groups, an extraordinarily successful private equity
20 group, in 2006, precisely the period when the Chinese
21 shipments were going way, way up, precisely the period
22 when the industry says it's beginning to experience
23 problems, why did these people in the Carlyle Group
24 not only buy Wheatland but two other producers?

25 If this industry was going -- I apologize
26 for my language -- to hell in a handbasket, what were

1 these brilliant Carlyle people doing buying this?

2 I'll be very frank with you. We were at the
3 Commerce Department. They would ask to see our
4 analysis of why this transaction took place. But, to
5 me, it is unfathomable that, throughout 2006, Carlyle
6 was making these acquisitions if they thought this
7 market was so bad.

8 I'm simply going to conclude by saying that
9 Mr. Schagrin, years ago, accused me of being at the
10 center of the cartel that was trying to put his
11 clients out of business. He has accused me of
12 counseling pipe companies around the world on how to
13 circumvent antidumping and countervailing duty orders.
14 He has now discovered that I'm an oracle.
15 Unfortunately, the rest of the world hasn't.

16 But thank you for your patience, and thank
17 you for your consideration of our case.

18 CHAIRMAN PEARSON: Thank you, gentlemen. I
19 would just observe that counsel for both sides of this
20 industry simply know each other too well.

21 MR. CAMERON: Roger never did have hair, by
22 the way.

23 CHAIRMAN PEARSON: We need a closing
24 statement, guys.

25 In accordance with Title VII of the Tariff
26 Act of 1930, post-hearing briefs, statements

1 responsive to questions and requests of the
2 Commission, and corrections to the transcript must be
3 filed by May 20, 2008.

4 Supplemental comments on the Department of
5 Commerce's final determinations with respect to
6 subject imports from China, not to exceed 10 pages in
7 length, June 2, 2008.

8 Closing of the record and final release of
9 data to parties is June 16, 2008, and final comments
10 at noon on June 18, 2008. This hearing is adjourned.

11 (Whereupon, at 6:03 p.m., the hearing in the
12 above-entitled matter was concluded.)

13 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Circular Welded Carbon-Quality Steel
INVESTIGATION NOS.: 701-TA-447, 731-TA-1116 (Final)
HEARING DATE: May 13, 2008
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: May 13, 2008

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 E. 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: Barbara Berney
Signature of Court Reporter