

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
WELDED STAINLESS STEEL) 701-TA-454 and
PRESSURE PIPE FROM CHINA) 731-TA-1144 (Final)

Tuesday,
January 13, 2009

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

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

APPEARANCES:

On Behalf of the International Trade Commission:Commissioners:

SHARA L. ARANOFF, CHAIRMAN
DANIEL R. PEARSON, VICE CHAIRMAN
DEANNA TANNER OKUN, COMMISSIONER
CHARLOTTE R. LANE, COMMISSIONER
IRVING A. WILLIAMSON, COMMISSIONER
DEAN A. PINKERT, COMMISSIONER

APPEARANCES: (Cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR
SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
ELIZABETH HAINES, INVESTIGATOR
KARL TSUJI, INDUSTRY TRADE ANALYST
CLARK WORKMAN, ECONOMIST
JUSTIN JEE, ACCOUNTANT/AUDITOR
MARY JANE ALVES, ATTORNEY
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

In Support of the Imposition of Countervailing and
Antidumping Duties:

On Behalf of Bristol Metals, Felker Brothers
Corporation, Marcegaglia U.S.A., Inc. and Outokumpu
Stainless Pipe, Inc.:

MICHAEL BOLING, President, Bristol Metals LLC
JOHN TIDLOW, Vice President, Purchasing &
Planning, Bristol Metals LLC
THOMAS HENKE, President, Felker Brothers
Corporation
DAVID CORNELIUS, President, Marcegaglia USA, Inc.
ROB YEPSSEN, Sales Manager, Marcegaglia USA, Inc.
PAUL CARPENTER, Executive Vice President,
Outokumpu Stainless Pipe, Inc.
THOMAS M. CONWAY, International Vice President
(Administration), United Steel, Paper and
Forestry, Rubber, Manufacturing Energy, Allied
Industrial and Service Workers International
Union, United Steel Workers

ROGER B. SCHAGRIN, Esquire
JOHN W. BOHN, Esquire
Schagrin Associates
Washington, D.C.

I N D E X

	PAGE
OPENING STATEMENT OF ROGER B. SCHAGRIN, ESQUIRE, SCHAGRIN ASSOCIATES	5
TESTIMONY OF ROGER B. SCHAGRIN, ESQUIRE, SCHAGRIN ASSOCIATES	9
TESTIMONY OF PAUL CARPENTER, EXECUTIVE VICE PRESIDENT, OUTOKUMPU STAINLESS PIPE, INC.	11
TESTIMONY OF DAVID CORNELIUS, PRESIDENT, MARCEGAGLIA USA, INC.	14
TESTIMONY OF THOMAS HENKE, PRESIDENT, FELKER BROTHERS CORPORATION	18
TESTIMONY OF MICHAEL BOLING, PRESIDENT, BRISTOL METALS LLC	21
TESTIMONY OF JOHN TIDLOW, VICE PRESIDENT, PURCHASING & PLANNING, BRISTOL METALS LLC	87
TESTIMONY OF THOMAS M. CONWAY, INTERNATIONAL VICE PRESIDENT (ADMINISTRATION), UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, UNITED STEEL WORKERS	25
CLOSING STATEMENT OF ROGER B. SCHAGRIN, ESQUIRE, SCHAGRIN ASSOCIATES	151

1 directed to the Secretary.

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

6 Madam Secretary, are there any preliminary
7 matters?

8 MS. ABBOTT: Yes, Madam Chairman. We note
9 that Mr. Conway has not yet arrived. He will be sworn
10 in upon his arrival and be seated at that time.

11 All other witnesses have been sworn.

12 (Witnesses sworn.)

13 CHAIRMAN ARANOFF: Thank you. Let us begin
14 then with opening statements.

15 MS. ABBOTT: Opening statements on behalf of
16 the panel in support of the imposition of
17 countervailing and antidumping duties will be by Roger
18 Schagrín of Schagrín Associates.

19 CHAIRMAN ARANOFF: Good morning, Mr.
20 Schagrín. Welcome back to the Commission for the
21 first time in 2009.

22 MR. SCHAGRIN: It's a pleasure. I hope we
23 all get off to a great year this year and can only
24 hope for the economy is better than last year. I hope
25 from the perspective of success that it's just as good

1 as last year.

2 Good morning, Chairman Aranoff and members
3 of the Commission. This is a clear cut case of
4 material injury caused by subsidized and dumped
5 imports of welded stainless steel pressure pipe from
6 China.

7 During the first three full years of the
8 POI, 2005 through 2007, demand for this product
9 increased significantly, reaching a cyclical peak, and
10 yet the domestic industry and its workers receive no
11 benefit. Instead, subject imports from China more
12 than doubled from 14,000 tons to over 30,000 tons
13 through massive underselling of the domestic
14 industry's prices.

15 The domestic industry's market share
16 plummeted. Production, shipments, capacity
17 utilization all actually fell during a period of
18 booming demand, and employment data was flat.
19 Profitability only improved because of surcharge
20 gains, and underselling certainly suppressed domestic
21 producers' base prices.

22 What has happened since the filing of this
23 case in January? Facing significant unfair trade
24 duties, the subject imports fell dramatically.
25 However, very high inventories of unfairly traded

1 imports held by both distributors and importers
2 continued causing injury to the U.S. industry during a
3 period of a dramatic decline in demand.

4 Nevertheless, thanks to a nearly three
5 quarter decline in new subject imports, the domestic
6 industry was able to show slight improvement in
7 production indicators in spite of its steep decrease
8 in demand.

9 Fortunately, nonsubject imports, while
10 regaining some market share, did decline in absolute
11 quantity, allowing the majority of the benefits from
12 the imposition of trade relief to go to the domestic
13 industry.

14 In the event the Commission does not find
15 present material injury, this is an overwhelmingly
16 strong threat case. Demand has been declining
17 throughout 2008 and, as we have discussed in our
18 prehearing brief, it is clear that the worst is yet to
19 come.

20 The Commission received no questionnaire
21 responses from the Chinese industry. Given that this
22 is the second case in a row in which we have had no
23 participation from the Chinese I must admit, not
24 knowing whether it is you or I that is scaring them
25 off.

1 In fact, it is probably neither, but I am
2 still at a loss to explain why the Chinese are not
3 participating in these ITC injury investigations
4 concerning pipe and tube products.

5 However, as an adverse inference and the
6 information we've provided in our prehearing brief, as
7 well as in the staff report, it is clear that the
8 capacity of the Chinese industry is more than
9 sufficient to both supply the entire Chinese market
10 and the entire United States market and that we would
11 see a massive surge in imports if the antidumping and
12 countervailing duties were not put into effect. This
13 would be catastrophic for the U.S. industry and its
14 workers.

15 I realize that because of the inauguration
16 next week we're having this hearing before Commerce's
17 final determination. However, I am confident that
18 despite the significant participation by the Chinese
19 Government and one Chinese producer in the
20 countervailing duty case that the Department will make
21 final affirmative countervailing duty determinations
22 as to all Chinese producers.

23 We are also waiting to see how large the
24 adverse effects of available dumping duties will
25 increase by reason of Winter's refusal to produce

1 documents and verification and the subsequent
2 cancellation of that verification.

3 On behalf of the industry producing welded
4 stainless steel pressure pipe 14 inches and under and
5 their workers, we ask that you make affirmative final
6 injury determinations. Thank you.

7 Good morning again. Here is Mr. Conway.
8 Why don't I wait, Chairman Aranoff, until he's sworn
9 in. Thank you.

10 CHAIRMAN ARANOFF: Give him a few seconds to
11 be sworn and then go right away.

12 (Witness sworn.)

13 MR. SCHAGRIN: Good morning again, Chairman
14 Aranoff and members of the Commission.

15 We are quite proud today to have six
16 executives, including the four CEOs of the four U.S.
17 companies that really represent almost the entire U.S.
18 industry producing this product, as well as for two of
19 the four companies their chief commercial officers,
20 their vice presidents of sales and marketing.

21 And in addition to have Tom Conway, who is
22 the number two man in the largest manufacturing
23 workers union in this country and has devoted a lot of
24 time and effort to appearing at these proceedings.
25 It's particularly appropriate today because the USW

1 represents the workers at three of the four
2 petitioning companies.

3 Altogether, the six executives appearing
4 here today have over 100 years of experience in the
5 industry and closer to 150 years of experience in the
6 industry, so I'm confident that they can answer all
7 your questions.

8 And I think you can tell that even though
9 our Chinese opposition decided not to show up today
10 that this industry takes this hearing and this process
11 extremely seriously and that this case is vital to the
12 future of this industry and its workers.

13 At the outset, and I didn't have a chance to
14 ask Mr. Conway. I know in the past I was not on top
15 of things when he had to leave early once, so I don't
16 know what his schedule is like today, but I do know
17 that Mr. Carpenter has to leave by no later than 12:40
18 to catch a flight for a meeting with a customer.

19 It's the only direct flight out of the
20 Washington area today to where he has to go, and he
21 didn't want to have to fly a connecting flight through
22 Chicago because these days you can't seem to get
23 through Chicago to anywhere any more, so I did want to
24 let you know that.

25 I am going to tie down the other industry

1 witnesses because I don't want them all trying to
2 chase after Mr. Carpenter so they can try to find out
3 who that customer is because right now virtually
4 everybody in the industry will do anything to try to
5 get an order from a customer, but I promise to keep
6 them here if Mr. Carpenter has to leave before the end
7 of the hearing.

8 With that, let me introduce Mr. Carpenter as
9 our first witness. Paul?

10 MR. CARPENTER: Good morning, Chairman
11 Aranoff and members of the Commission. My name is
12 Paul Carpenter, and I'm the Executive Vice President
13 of Outokumpu Stainless Pipe.

14 I have 23 years' experience in the stainless
15 industry and began my current job in January of 2008.
16 The Outokumpu Stainless Pipe facility in Wildwood,
17 Florida, was originally part of an integrated
18 stainless steel company, Armco, then sold to Avesta
19 Sheffield, then became part of Outokumpu when
20 Outokumpu purchased Avesta Sheffield in 2005.

21 Having worked for a number of different
22 companies, I can assure the Commission that we have
23 fine equipment and an excellent workforce to make
24 small diameter pipe.

25 Outokumpu is one of our remaining U.S.

1 producers whose business still focuses on the welded
2 stainless steel pressure pipe market. Davis Pipe and
3 Acme/Romac disappeared through Chapter 7 liquidation
4 in 2003. These companies had plants around the
5 country, including New Jersey and Tennessee.

6 Trent Tube, previously one of the three or
7 four largest members of this industry, closed a plant
8 in Carrollton, Georgia, in 2005. We bought some of
9 the production mills and equipment from the Carrollton
10 plant.

11 Where the Trent Tube equipment was better
12 than ours we used it to improve our plant by
13 increasing efficiency, improved quality and reduced
14 costs. Of course, we also prevented this equipment
15 from going to the Chinese producers and allowing them
16 to increase capacity faster than they already have.

17 In 2007, Plymouth Tube bought what was left
18 of Trent Tube from Crucible Materials, but the new,
19 larger Plymouth Tube is not a major producer or seller
20 of pipe. They produce products subject to this
21 investigation.

22 They focus instead on more specialized,
23 nonsubject tubing products, so essentially the U.S.
24 industry has been chased out of the commodity welded
25 stainless steel pressure pipe market by unfairly

1 traded Chinese imports.

2 We were close to being the next victim. In
3 July 2008 when the Department of Commerce amended its
4 preliminary countervailing duty investigation to make
5 a negative determination as to Winter, we learned that
6 Winter and its importers were touring the U.S. to meet
7 with the major distributor customers, our major
8 distributor customers.

9 After not having quoted for future
10 deliveries since February 2008, they were telling our
11 customers that they also expected a negative dumping
12 determination in August 2008, and they were ready to
13 re-enter the U.S. market.

14 I informed Roger Schagrín of these
15 developments and told him that Outokumpu was making
16 contingency plans to shut down our small diameter
17 stainless pressure pipe mills and lay off our
18 employees. Roger assured me that we had a good chance
19 of winning the dumping case, and fortunately we found
20 out at the end of August that he was right.

21 I tell you this story because it
22 demonstrates that just Winter, without the entry of
23 these duties, would put us out of the small diameter
24 pipe business in this bad market.

25 The Metal Service Center Institute or MSCI

Heritage Reporting Corporation
(202) 628-4888

1 reported a decline of 30 percent in November 2008
2 steel shipments versus 2007. I believe the same is
3 true for stainless pipe, which is largely distributed
4 by those same MSCI members.

5 Winter alone has nearly as many welding
6 mills as the four companies here today. If you make a
7 negative determination as to all of the Chinese
8 industry, we will have no choice but to leave the
9 small diameter market, and our excellent USW workforce
10 that makes those products will lose their jobs
11 permanently.

12 For these reasons, I ask you to make an
13 affirmative decision. Thank you very much.

14 MR. SCHAGRIN: Thank you, Paul.

15 Dave?

16 MR. CORNELIUS: Good morning, Chairman
17 Aranoff and members of the Commission. My name is
18 David Cornelius, and I am president of Marcegaglia,
19 U.S.A., Inc. I am accompanied today by our Vice
20 President of Sales, Rob Yepsen.

21 I have been with the company for 14 years.
22 I was the chief financial officer of the company for
23 11 years, and I assumed my current position as
24 president in early 2007.

25 Our company has reduced its workforce by

1 one-half over the last 10 years, and if unfairly
2 traded Chinese imports are allowed to return our
3 workforce reductions will continue.

4 As a union company, I believe that our steel
5 workers recognize that management has shared the pain
6 caused by this unfair trade along with our workforce.
7 We have laid off a number of salaried workers to
8 reduce SG&A expenses, while we have reduced our
9 production workforce through attrition and reduced
10 hours.

11 We are one of the largest producers of
12 welded pipe and tube in the world with numerous plants
13 in western Europe, eastern Europe, South America and
14 the United States. We produce welded stainless
15 pressure pipe and tube in the United States and Italy
16 where our parent company is headquartered.

17 Marcegaglia purchased and combined the
18 assets of Bishop Tube and Damascus Tube, two
19 Pennsylvania stainless pipe and tube producers, during
20 the 1990s. We moved some of the combined company's
21 assets to one location in Munhall, Pennsylvania, after
22 purchasing buildings in what had been the U.S. Steel
23 Homestead Works. The combined number of welding mills
24 and the workforce were both much smaller than Bishop
25 and Damascus at the time of purchase.

1 As an international company, we are very
2 aware of stainless flat-rolled prices on an
3 international basis. Virtually all international
4 stainless companies use surcharges to reflect the
5 changes in prices of their key raw materials such as
6 chromium, nickel and molybdenum.

7 Outside of China, these prices are fairly
8 uniform throughout the world. These stainless
9 alloying agents may represent as much as 70 to 80
10 percent of the stainless steel makers' cost of
11 producing Types 304 and 316 strip, and they are
12 worldwide commodities traded daily on the London Metal
13 Exchange.

14 We believe that at Marcegaglia we purchase
15 stainless flat-rolled on a very competitive basis.
16 Since labor is only a small portion of our total
17 production cost, we would be competitive with Chinese
18 producers if they did not sell their products at
19 dumped or subsidized prices in the U.S. market.

20 Our company should have been expanding
21 production and hiring new workers during the booming
22 demand period of 2005 through 2007. We did not
23 because imports from China took the increased demand
24 in the marketplace.

25 Now demand is plummeting because of the

1 recession, and distributors are destocking their
2 inventories in expectation that recent commodity price
3 declines will push down surcharges and make pipe even
4 cheaper in the near future.

5 Marcegaglia is not involved in the large
6 diameter project business like the other companies on
7 the panel today. We only go up to 12 inch diameter on
8 one mill, and we have no brake bench presses. This
9 means we have no order book of project work to rely
10 on, but must compete directly with Chinese commodity
11 imports.

12 Also, while we have a boiler and condenser
13 tubing business, the A-249 and A-269 products, that
14 business is not large enough to absorb all of the
15 overhead of our operations if the Chinese force us out
16 of the stainless pressure pipe business. Thus, this
17 case is about the survival of Marcegaglia in Munhall,
18 Pennsylvania.

19 That is why on behalf of the 135 employees
20 of Marcegaglia U.S.A. we ask this Commission to make
21 an affirmative material injury finding and to give us
22 relief from unfairly traded imports from China.

23 Thank you very much.

24 MR. SCHAGRIN: Thank you, Dave.

25 Tom?

1 MR. HENKE: Good morning, Chairman Aranoff
2 and members of the Commission. My name is Tom Henke,
3 and I'm president of Felker Brothers Corporation. We
4 are a welded stainless pipe producer with locations in
5 Marshfield, Wisconsin, and Glasgow, Kentucky.

6 I have been the president of the company for
7 11 years and have been with the company for 24 years.
8 The company was founded in 1903, and, as the name
9 implies, it's a family-owned company.

10 In 2003, rapid escalation in prices began
11 for stainless raw materials -- chromium, nickel,
12 molybdenum and energy. The U.S. flat-rolled producers
13 reinstated surcharges. These monthly surcharge
14 amounts increased substantially from mid 2003 to mid
15 2007. For example, Grade 304 surcharges have
16 increased 223 percent from 2004 to 2007, but in 2008
17 they fell by more than half.

18 As a welded stainless steel pipe producer,
19 we pass along surcharge increases or decreases to our
20 customers. I believe that every other U.S. stainless
21 pipe producer does the exact same thing. These
22 surcharges are on top of whatever we may negotiate as
23 the per ton base price of the stainless steel we are
24 producing.

25 I can tell you that those surcharges are

1 absolutely non-negotiable. That is because the steel
2 producers don't get a chance to negotiate with their
3 raw material suppliers.

4 These minerals are traded on a world metal
5 exchange and, to my knowledge, except for differences
6 in freight cost from a given shipping point where the
7 metal is located to a given destination point,
8 everyone in the world, with the possible exception of
9 China, pays these prices.

10 Of course, nothing is normal about China.
11 Chinese Government agencies like Minmetals buy these
12 raw materials for government-owned steel companies.
13 Where China mines products such as nickel or
14 molybdenum, they put big export taxes on these
15 products, ensuring they sell for less in China than
16 world market prices.

17 Just a few other related comments to make
18 about this issue. First, looking just at import data,
19 because we rarely see price quotes on Chinese product,
20 the Chinese not only sold stainless welded pressure
21 pipe in the United States at below our raw material
22 costs, but at times for less than the surcharge
23 amount.

24 Of course, the importers of Chinese pipe
25 never use surcharges, so when surcharges were falling

1 Chinese product might temporarily wind up higher than
2 our price if the month's surcharge fell by 20 or 30
3 percent.

4 Second, I know that the Commission
5 questionnaire asks us for information on lost sales
6 and lost revenues by specific identified customer
7 accounts. Unfortunately, with Chinese prices for
8 stainless pressure pipe as much as 25 to 40 percent
9 below our prices, stocking distributors are not going
10 to come to us and ask can you be competitive with the
11 Chinese.

12 We were getting calls only when a shipment
13 of imported pipe arrives late or there was a sudden
14 project requiring more than a distributor had in
15 inventory, and our shorter lead times would give us an
16 advantage.

17 However, I can assure you that because of
18 our very low capacity utilization every ton of Chinese
19 product was a lost sale by the domestic industry
20 because we had the capacity available and can always
21 acquire the flat-rolled steel as long as we can pay
22 the surcharges. Our company was able to hold its own
23 this year only because of the imposition of duties
24 against imports from China.

25 We foresee difficult periods ahead.

Heritage Reporting Corporation
(202) 628-4888

1 Hopefully someday surcharge volatility will be less of
2 a factor in our business, and during the next up cycle
3 in demand we can only hope that we are able to
4 increase our base prices. This is something we were
5 completely unable to do the last up cycle of 2005 to
6 2007 because of unfair China competition.

7 Felker Brothers is a proud and highly
8 efficient family run company. We believe we can
9 compete with anyone on a level playing field.
10 However, our core business of buying stainless
11 flat-rolled raw material and producing stainless
12 pressure pipe for our customer base was being eroded.
13 We have been surviving only as a secondary, last
14 choice sourcing option for domestic distribution.
15 This is not a sustainable business.

16 On behalf of our 260 employees, we ask you
17 to level the playing field so that the appropriate
18 countervailing and antidumping duties can be applied
19 to welded stainless pressure pipe from China and we
20 can compete again for sales in the U.S. market.

21 Thank you.

22 MR. SCHAGRIN: Thank you, Tom.

23 Mike?

24 MR. BOLING: Good morning, Chairman Aranoff
25 and members of the Commission. My name is Mike

Heritage Reporting Corporation
(202) 628-4888

1 Boling, and I am president of Bristol Metals, LLC. I
2 am here with John Tidlow, our Vice President of
3 Purchasing and Planning.

4 We are a division of a public company,
5 Synalloy Corporation. Our division has only one
6 location, and that is in Bristol, Tennessee. I have
7 been with the company for 34 years.

8 We have eight continuous welding mills at
9 Bristol on which we produce welded ASTM A-312 and
10 other welded stainless pipe and a small amount of
11 tube. In general, each mill covers a range of
12 diameters based on the configuration of the mill and
13 the tooling. Therefore, we dedicate the mills to
14 specific sizes with most mills making only two or
15 three diameter sizes.

16 Unfortunately, during much of '07 and the
17 first quarter of 2008 we often did not utilize our
18 four smaller welding mills that would produce product
19 smaller than six inches in diameter. As a result, our
20 workforce worked dramatically fewer hours.

21 I can say with certainty that this reduction
22 in mill utilization and employee work time, as well as
23 the related financial repercussions, were caused
24 solely by low-priced and unfairly traded imports of
25 welded A-312 and A-778 products from China in 2007 and

1 the excessive inventories of these products in the
2 market in the first quarter of 2008.

3 From a volume standpoint, we barely survived
4 during the period in which demand expanded rapidly.
5 As demand declined in 2008, we found ourselves seeing
6 increased volume as we benefitted from the exit from
7 the market of Chinese pipe and a decline in
8 inventories of their product in the second and third
9 quarters of 2008. It would have been disastrous for
10 us if the Chinese were still here throughout 2008.

11 Products covered by this petition are
12 basically sold through the distributor spot market,
13 and U.S. product and Chinese product are quoted to
14 stocking distributors in the entire size range of
15 standard diameter and wall thickness combinations.

16 These stocking distributors in turn -- "end
17 users" -- are in competition with each other based
18 upon having the available sizes of the requisite
19 specification in stock. End users purchase from the
20 distributor who quotes the lowest prices.

21 In the United States, there are only about a
22 dozen major stocking distributors. Unfortunately,
23 virtually all the major distributors stocked more and
24 more welded stainless pressure pipe from China between
25 2005 and 2007.

1 These distributors had to buy Chinese pipe
2 because if they did not they would not be competitive
3 when quoting end users against each other and other
4 distributors who were quoting Chinese pipe. After
5 all, the end users have an engineered use that
6 requires A-312 or A-778 specification product. They
7 do not care whose products meet that specification.
8 They only want the lowest priced product.

9 Fortunately, during 2008, even though their
10 customer demands were decreasing, these distributors
11 came back to us to replace purchases of Chinese
12 product.

13 In 2006, I visited China. It was clear to
14 me that the Chinese pipe producers had enough capacity
15 to take over the entire U.S. market. They did so at a
16 pretty rapid pace, more than doubling their exports
17 from 2005 to 2007.

18 There is now lower demand, and there is a
19 big Chinese industry ready to take over the U.S.
20 market. There is no question that our company faces a
21 dire situation. We are counting on the International
22 Trade Commission to remedy this problem.

23 Therefore, on behalf of our company and our
24 325 employees, we respectfully request that this
25 Commission make affirmative injury determinations

1 against welded stainless pressure pipe from China.

2 Thank you.

3 MR. SCHAGRIN: Thank you, Mike.

4 Once again, we're very appreciative that Tom
5 Conway could join us. I know he needs no
6 introduction.

7 MR. CONWAY: Good morning, Chairman Aranoff
8 and members of the Commission. I'm Tom Conway, Vice
9 President of Steel Workers Union.

10 It is good to be back here in some ways, but
11 it's also sort of deeply disturbing having to return
12 here so soon after my last appearance in the China
13 Line Pipe investigation.

14 I appreciate your affirmative vote in that
15 case, but appearing here twice in such a short period
16 of time sort of really underscores what's going on
17 with our pipe industry and our members, and we're
18 suffering really from repeated assaults of unfairly
19 traded Chinese pipe products. It just continues to go
20 on and on.

21 The steel worker members at companies like
22 Marcegaglia and Bristol and Outokumpu have seen demand
23 for the product produced at their plants increase
24 between 2005 and 2007 and get no benefit of that
25 increased demand.

1 The entire increase was swallowed by China
2 so, I mean, it's not getting through to us. It's not
3 getting to our members. It's not getting to our
4 plants. Imports more than doubled from 14,000 to
5 30,000 during that time period.

6 Since my last appearance here before the
7 Commission really seven, eight weeks ago maybe we've
8 seen thousands of our members laid off at steel mills
9 both in the carbon and stainless sectors, tire
10 factories, paper plants, aluminum smelters. We have a
11 whole host of other industries where our member
12 employees in manufacturing are just really struggling,
13 and the bottom has fallen out.

14 It's without a doubt the most severe
15 recession we've seen in our union, frankly, since its
16 inception and in ways that we never imagined we would
17 see. We all well know that the workers are going to
18 take a beating when the economy goes into a recession,
19 but we also expect to be able to enjoy the gains of
20 the time when manufacturing and jobs are good and
21 during a period of economic growth. That underpinning
22 keeps getting stripped out from under us.

23 As you know only too well, we lost so many
24 jobs in manufacturing like there was no tomorrow
25 during the period of 2002 and 2007. The reason really

1 was that there was no decisive action, no broad action
2 taken against massive mercantilist, unfair trading
3 practices out of China. It just continues on and on
4 as to this specific industry here today producing the
5 welded stainless pressure pipe.

6 The steel workers lost jobs at plants who
7 are producers of these products, like Acme/Romac and
8 Davis Pipe, who exited the industry through Chapter 7
9 liquidations earlier in this decade. We lost jobs
10 again when Trent Tube shut down in Carrollton,
11 Georgia, in 2004.

12 We should have gained jobs with the
13 remaining U.S. producers still operating, but here
14 instead we're unable to do so because of the surging
15 imports from China. My understanding is that over
16 30,000 tons of pipe imported from China in 2007
17 represents an enormous market share in the U.S. and
18 more than the U.S. volume.

19 That 30,000 tons would have represented
20 significant employment opportunities for our members
21 because that stainless pipe is fairly labor intensive
22 pipe. I understand the companies here today have been
23 able to maintain their employment levels even as
24 demand is plummeting through 2008 because the welded
25 stainless pipe they produce has replaced the unfairly

1 traded imports from China which were reduced and then
2 eliminated after the filing of these trade cases.

3 We see that pattern all so often. That's
4 made a real difference to these USW workers producing
5 those products and the communities they work and live
6 in.

7 While we support workers in a range of
8 cases, this case rings particularly true for the steel
9 workers. Marcegaglia bought buildings from U.S. Steel
10 at its Homestead Works. These are the only remaining
11 steel worker jobs at Homestead. Everything else there
12 now is either an apartment building or restaurant or
13 shopping mall. We've even got a WalMart and a Home
14 Depot there.

15 It's a strong symbol of the aspects of
16 globalization that an Italian company now employs
17 steel workers at the very location where our union was
18 founded 100 years ago, so Homestead is an important
19 symbol to our union.

20 In fact, at our union we don't care whether
21 our members work in Pittsburgh or Wildwood, Florida,
22 or Bristol, Tennessee, or are employed by companies
23 based in Pittsburgh or Italy. We just want companies
24 to employ our members, pay them good, middle class,
25 family sustaining wages and benefits here in the U.S.

1 I'd like to also point out that the signs
2 from China are just very troubling. While demand in
3 the U.S. for virtually everything is shrinking, the
4 government in China is providing incentives for
5 Chinese exporters to continue exporting regardless of
6 demand to secure employment in China. These policies
7 have to be forwarded or returned so that China cannot
8 simply export its unemployment to the U.S.

9 Our union will work hand-in-hand with our
10 employers to do everything possible to combat the
11 unfair trade and the practices that come out of China.
12 It's clear that in this particular case if the
13 Commission does not make an affirmative determination
14 the Chinese industry will wipe out this segment of the
15 welded stainless pipe industry very quickly.

16 Therefore, on behalf of all our workers
17 engaged in this industry I ask that you make an
18 affirmative injury determination. Thanks for your
19 time.

20 MR. SCHAGRIN: And thank you, Tom. We very
21 much appreciate your coming to this hearing.

22 Chairman Aranoff, I know we've only used
23 half of our allotted hour, but that completes our
24 presentation. We're going to try to be extremely
25 efficient today.

1 We welcome your questions. Thank you.

2 CHAIRMAN ARANOFF: Thank you very much, and
3 welcome to all the witnesses. We very much appreciate
4 your taking the time out of your schedules to be with
5 us here this morning.

6 Even when we don't have both sides
7 represented we try to give you a good workout with our
8 questions so we can develop the record as much as
9 possible under the circumstances, and we're going to
10 begin the questioning this morning with Commissioner
11 Lane.

12 COMMISSIONER LANE: Good morning. I, too,
13 welcome all of you to this hearing. Mr. Conway, I
14 appreciate that maybe you didn't want to be back here
15 so soon, but rest assured that we pay a lot of
16 attention to your testimony, so thank you for coming.

17 Mr. Schagrín, I'd like to start with you.
18 On page 1 of your prehearing brief you state: Even
19 though U.S. demand grew substantially during this
20 period, subject imports prevented U.S. producers from
21 raising prices enough to earn proportionately higher
22 revenue.

23 I am not sure I understand what data you are
24 looking at to support that statement or what you mean
25 by proportionately higher revenue. Moreover, I am not

1 sure what you mean by earning revenue.

2 If revenues are increasing at a greater rate
3 than demand or costs and earnings are increasing at a
4 greater rate than demand or costs, does that square
5 with your statement?

6 MR. SCHAGRIN: Good morning, Commissioner
7 Lane. Actually, I think it probably would have been
8 better to use the term profits there instead of
9 revenues because in fact what happened to this
10 industry during the really cyclical peak for this
11 product -- this is a cyclical product.

12 The Commission has had a chance to study
13 portions of this industry going all the way back to
14 1992 when some members of the industry filed cases
15 against just A-312 pipe from Korea and Taiwan, and
16 between that original investigation and two sunset
17 reviews, as well as this investigation, we've had a
18 chance to see over now an almost 20 year period of
19 time how demand goes up and down of this product
20 largely related to GDP growth with a little extra
21 emphasis from energy demand.

22 And so for this industry what we're trying
23 to explain in our summary of arguments somewhat maybe
24 inartfully was that this industry should have seen
25 both significant growth in revenues and profits

1 proportionate to the tremendous growth in demand
2 during the POI and it did not.

3 Even though profits improved, they improved
4 solely because of surcharge gains. I think that was
5 explained very well by the staff in the prehearing
6 staff report in I believe it's Table VI or VII.2, and
7 yet their underlying business suffered throughout the
8 POI.

9 So I apologize for --

10 COMMISSIONER LANE: Oh, no. Don't
11 apologize.

12 MR. SCHAGRIN: That's okay, because I
13 recognize in the statement you've made that's not our
14 normal writing style, and yet we try to speak very
15 clearly, briefly and articulately at all times.

16 I don't know if Mr. Bohn has anything to add
17 on that.

18 COMMISSIONER LANE: Let me go on to my next
19 question.

20 MR. SCHAGRIN: Okay.

21 COMMISSIONER LANE: So you go on to argue
22 that the profits of the domestic industry during the
23 peak of the business cycle were mediocre.

24 So what level of profits should the domestic
25 industry have been making during 2005, 2006 and 2007,

1 and what were the major contributing factors to the
2 inability of the industry to achieve such profit
3 levels?

4 MR. CARPENTER: Commissioner Lane, this is
5 Paul Carpenter again.

6 I can't say specifically, but I would say
7 two things. Number one, the difference between the
8 profit we made on our large diameter and small
9 diameter segments was extremely vast, and it would
10 have been I think appropriate for us to at least make
11 a double digit profit in small diameter.

12 We made quite a good profit in large
13 diameter just simply because of the increased demand
14 and the surcharges. We saw that small diameter didn't
15 rise nearly to the same degree as our large diameter
16 business.

17 COMMISSIONER LANE: So are you saying that
18 you were able to put bigger surcharges on your large
19 diameter than you were on your small diameter?

20 MR. CARPENTER: No. The surcharges are the
21 surcharges.

22 What we were able to do is raise the base
23 prices, and we were able to do that with the large
24 diameter product to a much higher degree than the
25 small diameter product because every time we tried to

1 do that to any degree we were told that we were not
2 going to be competitive, even though everything else
3 was going up.

4 COMMISSIONER LANE: Okay. Thank you.

5 Mr. Schagrín, what conditions of competition
6 indicate most strongly that the peak of the business
7 cycle occurred during the period of investigation?

8 MR. SCHAGRIN: Well, the data in the report
9 on consumption is confidential. I can characterize it
10 as showing strong increases in demand from 2005
11 through 2007 and then significant declines in demand
12 in 2008.

13 Given the parts of the economy that is the
14 user of this product, it really followed the overall
15 economy as we now know and maybe take some credit for
16 a little better writing in our postconference brief.

17 I was reading that before the hearing, and I
18 noted that actually in that summary of argument we
19 actually said not only did the peak cycle pass in 2007
20 -- this was written in February of last year -- but
21 the recession in the U.S. economy was going to lead to
22 a decline in demand in 2008.

23 I didn't realize then that I should have
24 been on CNBC and actually called the start of the
25 recession which, as we know, started in December 2007.

1 You know, we were seeing it in February 2008 as just
2 seeing underlying demand fall.

3 Then in addition, this product had a unique
4 condition of competition in that due largely to
5 federal government policy, the support for the ethanol
6 industry, the tremendous expansion in ethanol
7 facilities between '05 and '07, and all those ethanol
8 facilities used large volumes of either A-778 or A-312
9 pipe.

10 By '08, the ethanol industry was already
11 suffering and was stopping its expansion. By the
12 current time, the large portions of the ethanol
13 industry are bankrupt, and all the expansion plans
14 have stopped.

15 So we think clearly, and we had information
16 from the previous sunset review of Korea and Taiwan,
17 that coming out of the '01-'02 recession demand for
18 this product was growing.

19 It really grew dramatically '05 to '07, has
20 turned down in '08 and we expect at least through the
21 first half of '09, and we're just hopeful that the
22 second half -- like everybody else in the economy,
23 that the second half of '09 will see some improvement.

24 We already know that the first half of '09
25 is going to see continued significant decreases in

1 demand.

2 COMMISSIONER LANE: Okay. Thank you. You
3 maintain that subject imports continued to cause
4 injury in 2008. You note in your prehearing brief
5 that subject imports declined in 2008. Moreover, you
6 note that the domestic industry's market share,
7 shipments and employment improved.

8 How is this evidence of continued injury
9 from the subject imports?

10 MR. SCHAGRIN: Well, once again the industry
11 would have done even better but for the fact that
12 there was certainly a surge of imports prior to the
13 filing of the case, I think as we stated on page 15 of
14 the prehearing brief.

15 In the fourth quarter of 2007 and January of
16 2008 we had had more imports than we had in the
17 following eight months. We also know from what I
18 would consider partial information the staff got a
19 pretty good coverage of responses from importers and
20 from purchasers that importer and purchaser
21 inventories of products were far and away at their
22 highest levels at the end of 2007.

23 And so all of those large inventories of
24 Chinese imports were sold in the first and second
25 quarter of '08, and it took a significant period of

1 time from the cessation of imports from China or, as I
2 think Mr. Boling said, until the second quarter and
3 third quarter for the industry to start receiving the
4 benefits of the decrease in imports based on the
5 filing of the petition.

6 I hope that answers your question.

7 COMMISSIONER LANE: Yes. Thank you. I'll
8 come back in my second round.

9 CHAIRMAN ARANOFF: Commissioner Williamson?

10 COMMISSIONER WILLIAMSON: Thank you, Madam
11 Chairman. I just want to thank all the witnesses for
12 taking time to come today. We appreciate it very
13 much.

14 Mr. Conway, I would like to begin with you
15 and would just wonder what share of the subject
16 industry is unionized? Can you give me a rough
17 percentage?

18 MR. CONWAY: Of these plants, three of these
19 four plants are that I believe are represented here
20 today, and then from there a fairly significant
21 portion of the stainless industry in AK and ATI and
22 others.

23 So our level of density in the stainless
24 industry is as high, if not higher, than it is in
25 carbon.

1 COMMISSIONER WILLIAMSON: You said in the
2 full range of stainless steel products?

3 MR. CONWAY: Right.

4 COMMISSIONER WILLIAMSON: Thank you.

5 I was wondering to what extent do employees
6 have profit sharing or other incentives tied to the
7 production or profits of the company? We've seen in
8 other cases where this is really -- and since the
9 downturn it's been even magnified.

10 MR. CONWAY: In these companies, I don't
11 know that I'm as familiar with the details of those
12 labor agreements, what percent of their income is
13 variable.

14 Typically in a steel worker contract you'll
15 find a variable percentage of their pay related
16 sometimes to production bonuses, more recently to
17 profit sharing. In the bigger stainless companies,
18 AK, there we do have probably seven or eight percent
19 of profits tied to a variable plan.

20 So it varies contract to contract. We don't
21 particularly have a set pattern as well as we do in
22 the carbon industry.

23 COMMISSIONER WILLIAMSON: Does someone else
24 want to say something?

25 MR. CARPENTER: Yes, Commissioner

1 Williamson.

2 At Outokumpu down in Wildwood, both the
3 white and the blue collar have profit sharing plans,
4 and we didn't pay very much this year, but everyone
5 benefits from profits in our plant.

6 MR. BOLING: And also we at Bristol Metals,
7 the union employees have a profit sharing plan based
8 on the profits of the company.

9 COMMISSIONER WILLIAMSON: Okay. Mr.
10 Cornelius?

11 MR. CORNELIUS: Our union workers do not
12 have a profit sharing plan. They do have a United
13 Steel Workers pension plan, though.

14 COMMISSIONER WILLIAMSON: Is it fair to say
15 that in those places where there are profit sharing
16 that the impact of the downturn is magnified?

17 MR. CARPENTER: Yes.

18 MR. CONWAY: In all of our operations, the
19 profit sharing -- I mean, it's essentially gone.
20 Nobody will be getting checks for the fourth quarter
21 of 2008 certainly, and going forward we just have a
22 mess on our hands in terms of profit sharing.

23 The profit sharing not in this industry, but
24 in others, funds a lot of the restructuring that we
25 did in health care and other things in the steel

1 industry in particular, so it's just not a check for a
2 down payment on a car someone won't have. It really
3 will have effects on delivery of health care and
4 everything else.

5 I mean, a loss of profits is very
6 significant to the workers now, more so than it's ever
7 been in past years, at least my history in the union.

8 COMMISSIONER WILLIAMSON: Thank you.

9 Does anyone want to add to that?

10 (No response.)

11 COMMISSIONER WILLIAMSON: Okay. Thank you
12 for those answers.

13 I have a question on like product. What is
14 it about the 14 inch outside diameter that makes it an
15 appropriate dividing line for like product in this
16 case?

17 MR. HENKE: Good morning, Commissioner. The
18 14 inch and larger -- I should say the 16 inch and
19 larger -- is very unique from the standpoint that it
20 typically is never produced on a continuous tube mill
21 where you take the coil and automatically produce it
22 through a rolling process and welding process where
23 it's very automated, very material intense and very
24 low labor intense.

25 The 16 inch and above is typically made on

1 what some people call a bench press -- we call ours in
2 particular at Felker Brothers a batch mill -- where we
3 are taking individual pieces of stainless steel plate
4 and sheet and rolling them individually into cylinders
5 and then welding them, so it's much more labor
6 intensive than making it on a continuous tube mill.

7 You also have the issue of it's typically
8 make to order for the customer base versus make to
9 stock as in 14 inch and down, typically no market
10 pricing set. We have industry list price for
11 typically 14 inch and down. This is all make to order
12 and a markup from cost versus a market list price.

13 The weld bead, when you're manufacturing it
14 this way, is not ironed or rolled, so the weld seam is
15 certainly different, quite a bit looser tolerances
16 that you can manufacture that product to and typically
17 different uses in the industry, so there is
18 substantial differences from the standpoint of 16 inch
19 and above and 14 inch and down.

20 COMMISSIONER WILLIAMSON: Thank you.

21 What contributes to the fact that the
22 Chinese have sort of been concentrating in smaller
23 diameters? What are the factors of those you listed?

24 MR. CARPENTER: It has to do with air versus
25 metal. When you look at a one inch or two inch pipe,

1 if you ship it across the Pacific Ocean you're
2 shipping mostly metal. If you ship a 24 or 36 or
3 greater size pipe, you're shipping mostly air.

4 The economics don't support shipping large
5 sized OD pipe from either Europe or from China or
6 Asia. You have a more densely metallic shipment, and
7 that's why the companies have concentrated on that.

8 The other reason is it's easier to make
9 continuous milled pipe than it is batch pipe.

10 MR. SCHAGRIN: Commissioner Williamson, I'll
11 also add, and we've seen this in a lot of cases. It
12 seems as Chinese industries start up and grow they
13 tend to start out focusing on the commodity type
14 products.

15 The 14 inch and under, A-312 and A-778, is a
16 perfect definition of a commodity type product. It's
17 sold almost exclusively through distributors so
18 trading companies can go to these large national
19 distributors and regional distributors and sell them
20 this commodity product which you're stocking all the
21 time.

22 As Mr. Henke mentioned earlier, larger
23 diameter product tends to be made for a specific end
24 user's custom order, and for someone entering a new
25 market that's a more difficult market to service, the

1 custom order business.

2 However, unfortunately I am sure that the
3 Chinese who are adding capacity in everything will,
4 and we've already heard that they are starting to
5 approach that custom order business, and that's not
6 untypical from what we've seen in other steel products
7 and other products.

8 They tend to start focusing on the easier to
9 penetrate commodity businesses, and later they get
10 more sophisticated -- give them a three, four year lag
11 time -- and then they will start to focus on the
12 higher end and maybe more custom end user business.

13 COMMISSIONER WILLIAMSON: Thank you.

14 I was wondering. In talking about the
15 effects of the filing of the petition, is there any
16 record information that would connect the decline in
17 subject imports in 2008 specifically to the filing of
18 the petition?

19 MR. SCHAGRIN: These gentlemen can tell you
20 from a market perspective that essentially starting in
21 February trading companies stopped taking orders for
22 future business.

23 I think in the posthearing brief,
24 Commissioner Williamson, we can confidentially give
25 you information from responses -- importer, purchaser

1 responses -- that would support that fact.

2 COMMISSIONER WILLIAMSON: Okay. Thank you.

3 I see my time is expiring.

4 CHAIRMAN ARANOFF: Commissioner Pinkert?

5 COMMISSIONER PINKERT: Thank you, Madam
6 Chairman, and thank all of you for being here today
7 and helping us to understand what's going on in this
8 industry.

9 I want to follow up on a question that
10 Commissioner Williamson asked Mr. Conway. He was
11 asking about profit sharing arrangements, but are
12 there also employee stock option plans within this
13 industry?

14 MR. CONWAY: Not typically anymore. Years
15 ago there was a fair amount of employee stock
16 ownership, but we don't have much of it anymore.

17 It's now where we have variable compensation
18 or a stake in an enterprise it's typically done
19 through a profit sharing arrangement and we just sort
20 of rise and fall with everything.

21 COMMISSIONER PINKERT: Thank you.

22 Does anybody want to add to that?

23 MR. CORNELIUS: We are a privately held,
24 family-owned business.

25 MR. CARPENTER: At Outokumpu we don't have

1 any kind of stock ownership plan for the blue collar
2 workers at all.

3 MR. BOLING: Although we are a publicly
4 traded company and our steel workers are allowed to
5 participate in a 401(k) plan where we match with some
6 stock, we do not have stock options for the employees.

7 COMMISSIONER PINKERT: Just to clarify on
8 that point, are you saying that the 401(k) plan has a
9 specific option of investing in the company stock?

10 MR. BOLING: Yes. The company matches up to
11 a certain percentage of the employee's contribution
12 with company stock.

13 COMMISSIONER PINKERT: Thank you.

14 Any other comments?

15 MR. SCHAGRIN: I would only say looking at
16 his parent company stock price, that 401(k) might now
17 be categorized as a 101(k).

18 No offense, Mike, but, I mean, like
19 everybody else in the industry, I think the parent
20 company stock price might be down 70 or 80 percent in
21 the past year. It's a pretty sad situation and fairly
22 representative of U.S. industry today.

23 COMMISSIONER PINKERT: Thank you.

24 Now turning to Mr. Henke, you had talked a
25 little bit about the export restrictions in China on

1 the raw materials.

2 Do we know what the impact of those
3 restrictions has been on prices in China, domestic
4 prices?

5 MR. SCHAGRIN: Commissioner Pinkert, I might
6 be somewhat better able to answer that than Mr. Henke.

7 We do know, and I specifically know because
8 I spent a lot of time over the past 18 months working
9 with a number of other industry representatives, a
10 very broad cross section -- high tech, steel, other
11 materials -- that the Chinese Government absolutely
12 manipulates across a broad range of raw materials in
13 which China is blessed with having large portions of
14 the total world resources that they have put both
15 export taxes and export quotas on these raw materials,
16 and there is significant documentation that it has
17 caused the prices of these raw materials to be
18 significantly less in the domestic Chinese market than
19 in the world market.

20 I would hope, speaking a little bit further
21 afield from this case, that the Obama Administration
22 will move to quickly file a WTO case against practices
23 that clearly violate the WTO and are having a very
24 adverse impact across a wide swath of American
25 industry.

1 COMMISSIONER PINKERT: If you could supply
2 any additional documentation on that issue in the
3 posthearing that would be very helpful.

4 MR. SCHAGRIN: We'll be happy to.

5 COMMISSIONER PINKERT: Thank you.

6 Staying with you, Mr. Schagrin, for a
7 moment, I heard you say something about the industry's
8 operating income margin from 2005 to 2007, and I'm
9 wondering whether you're saying, and I'm not trying to
10 put words in your mouth. I'm just trying to
11 understand what you're saying.

12 Are you saying that the trend from 2005 to
13 2007 is entirely explained by the income derived from
14 the fluctuation in the raw materials prices, or are
15 you saying it's partly explained by that?

16 MR. SCHAGRIN: No. It's entirely explained
17 by the surcharges.

18 There is no question, I think, that the
19 analysis done by the staff by lagging costs and
20 analyzing surcharges shows that if you do try to level
21 out those surcharges that in fact except for the
22 surcharges the industry's financial performance was
23 actually worse in 2007 than it was in 2006, and that
24 correlates to the impact of the imports from China.

25 So these companies would have probably lost

1 a tremendous amount of money had there been flat raw
2 material costs across the whole '05 to '07 period,
3 given the massive surge in imports from China both
4 taking away the growth in the market from them, but
5 also suppressing their base prices because that's the
6 one price that they do have control over.

7 Surcharges are basically established by the
8 marketplace, not by them. They literally just pass
9 along under the exact same surcharge formula the
10 surcharges that come from their steel suppliers, who
11 in turn are passing along costs of raw materials that
12 are established by the metals exchanges.

13 So, yes, Commissioner Pinkert, but for the
14 surcharges the financial condition would have
15 worsened, and the entirety of the improvement in
16 operating profits is explained by surcharges.

17 COMMISSIONER PINKERT: For the posthearing,
18 if you have any additional analysis on what the
19 operating income margins for the industry would have
20 been in the absence of the raw material surcharges I
21 think that would be helpful as well.

22 MR. SCHAGRIN: We'll do that. The good news
23 is I think we're just going to explain what the staff
24 has done, and I would like to credit the staff for
25 having done an excellent job in addressing that issue

1 in the prehearing staff report.

2 It saved us from having to go hire an
3 economist because I would hope we would have been able
4 to do that kind of analysis, but I think the Office of
5 Economics can do it better than we lawyers, and
6 luckily in this case we didn't have to hire a Ph.D.
7 economist.

8 COMMISSIONER PINKERT: That may be another
9 market that's suppressed.

10 MR. SCHAGRIN: It is. They're suffering
11 everywhere. You wouldn't believe what's happening in
12 law firms in Washington and economic firms. It's
13 horrible.

14 People have even accused me of dumping, but
15 that's a different issue.

16 COMMISSIONER PINKERT: In any event, keying
17 off of this notion of suppression, I'm wondering
18 whether in your arguments here and in your prehearing
19 brief you're advocating an alternative to the
20 COGS-to-sales ratio as a measurement of price
21 suppression.

22 That is, are you asking us to focus on the
23 spread between the raw materials costs and the prices,
24 or is cost of sales in your view an adequate
25 measurement of the price suppression?

1 MR. SCHAGRIN: I think I'd like to address
2 that further in the posthearing brief.

3 COMMISSIONER PINKERT: Thank you.

4 Also in that context if you could address
5 what would have happened to the COGS-to-sales ratio
6 during the period in the absence of the raw material
7 surcharges that would be helpful.

8 MR. SCHAGRIN: We'll attempt to do that. I
9 don't know if anyone else in the industry has any
10 comments on that.

11 A technical issue? Okay. That's fine.

12 COMMISSIONER PINKERT: Thank you. And I
13 hope that doesn't require a Ph.D. economist, but you
14 never know.

15 MR. SCHAGRIN: Let me say this. We'll do
16 our best because right now I think during Inaugural
17 Week I'm going to have problems getting a hold of a
18 Ph.D. We'll do our best, and I think it's within our
19 means.

20 COMMISSIONER PINKERT: Thank you.

21 Now turning to the domestic like product
22 range of issues, what end use applications, if any,
23 specifically require the pressure pipe in diameters
24 greater than 14 inches?

25 MR. BOLING: One of the big markets for

1 larger diameter, larger than 14 inch, is the liquid
2 natural gas industry. They use large diameter up to
3 30, and 42 and 54 inch. Wastewater treatment
4 facilities use up to 96 inch diameter stainless steel
5 pipe. Those are probably two of the bigger users.

6 Some of the refineries are using some large
7 diameter, and in the power production business, at
8 coal fired power plants the scrubber systems for the
9 emissions control use some larger diameter pipe.

10 COMMISSIONER PINKERT: Thank you. Thank
11 you, Madame Chairman.

12 CHAIRMAN ARANOFF: I want to start by asking
13 a few more questions about like product. The fact
14 that I'm focusing on this issue shouldn't necessarily
15 be viewed as a sign of skepticism on my part about the
16 argument so much as a desire to make sure that we've
17 filled out the record and answered a bunch of
18 questions that are out there.

19 So first I just wanted to ask do customers
20 when they order your product, do they always request a
21 specific diameter size or do they ever frame their
22 purchaser request in terms of other characteristics,
23 like tolerance or wall thickness?

24 MR. HENKE: They would always specify a
25 specific diameter size, and then that typically is

1 complemented by a specification to manufacture it to
2 either A312 or A778, and then of course specifying the
3 type of stainless.

4 CHAIRMAN ARANOFF: Okay. Mr. Carpenter, you
5 wanted to add something?

6 MR. CARPENTER: Yes. Furthermore, anyone
7 that's familiar with it would either order pipe or
8 tubing. They would order a nominal pipe size and a
9 schedule or an OD and wall thickness. They would
10 certainly know, and one of their first sentences would
11 be I need two inch pipe or I need two inch tubing.
12 They would never mix it up.

13 CHAIRMAN ARANOFF: Okay. I assumed that
14 would be the answer but I wanted to be sure we had
15 that on the record. Now, as you know, in past
16 investigations of this product the Commission has not
17 differentiated in the like product based on diameter.
18 We've included the large and the small in the same
19 product.

20 So I just wanted to check on whether there
21 are certain things that have changed since say 1992
22 when the Commission made that determination in terms
23 of, for example, whether the domestic producers have
24 become more specialized in making pipe that's either
25 less than or greater than 14 or 16 inches or whether

1 that hasn't changed at all since the early 1990s.

2 MR. SCHAGRIN: I can invite somebody whose
3 been in the industry since before the early 1990s and
4 to the present day to add to that, but I really
5 believe, Commissioner Aranoff, having not been
6 involved in the original scope or the original
7 investigation but having been involved in the first
8 sunset review getting in at the very last minute and
9 then in the second sunset review that the reason for
10 the Commission not differentiating size in those
11 investigations of Korea and Taiwan was solely based on
12 the scope.

13 That scope, unlike pipe and tube cases I
14 have been involved in in which I've drafted the scope,
15 had no size differentiation. So I know working with
16 these producers in that first sunset review, they were
17 almost stunned that they would be reporting 120 inch
18 pipe along with their smaller diameter, and I remember
19 them saying to me that, you know, there's never been
20 imports of really large pipe, we don't know why this
21 scope was drafted this way and why it would be, you
22 know, all together and one like product.

23 I'm not aware, having worked since about
24 1999 or 2000 with members of this industry, that
25 anything has changed since then between small and

1 large, and I doubt that anything has changed between
2 small and large since the early 1990s either. I don't
3 know, Mike, if you're aware of any changes given your
4 time in the industry.

5 MR. BOLING: No, other than you look at
6 manufacturers I think have added maybe continuous
7 mills that do up to 12 or 14 as compared to maybe in
8 the past continuous mills went up to six inch or four
9 inch, so it's a broader category now. Continuous pipe
10 now is half inch through 14 inch. In the past,
11 continuous pipe was half inch through three inch or
12 half inch through four inch, so it has changed from a
13 manufacturing standpoint for us.

14 MR. SCHAGRIN: Commissioner Aranoff, that's
15 actually how we drew the scope here. I mean, we
16 recognized that actually in some of the HTS items the
17 HTSs go 60 inch and below. I think that's largely
18 based on the norms in carbon pipe. Having looked at
19 some of those HTSs, a lot of those HTS breaks up to
20 four and a half, four and a half to 16, they go all
21 the way back to the 1930s and 1940s.

22 In this particular industry, when the
23 members of the industry told me that greater than 14
24 inch they have to use these batch mills or break bench
25 presses, knowing the Commission's six factors on like

1 product, I said, well, if that's where the break is in
2 the industry between a totally different type of
3 manufacturing method, that's the appropriate place to
4 address the scope and to break off the scope between
5 the continuous product, which can go up through 14,
6 and then greater than 14 needing this completely
7 different manufacturing process.

8 Then of course there's the other issues.
9 They tend to be different markets, custom orders, et
10 cetera, but that's how we drew the line.

11 CHAIRMAN ARANOFF: Okay. That's helpful.
12 So just to make sure that I press this just a little
13 bit further, nobody uses continuous welding for a
14 product larger than 14 inches.

15 MR. SCHAGRIN: That's correct, to the best
16 of our knowledge.

17 CHAIRMAN ARANOFF: But there are occasional
18 uses of the batch process for smaller product?

19 MR. SCHAGRIN: That's also correct. Some
20 people produce smaller product. You can produce
21 smaller products on the batch process, but we think
22 it's a very small fraction of the industry where batch
23 process is used for 14 and under.

24 CHAIRMAN ARANOFF: Okay. Now, aside from
25 the -- Mr. Boling?

1 MR. BOLING: I'd like to add to that. We do
2 do 16 inch on a continuous mill. We're unique because
3 our big mill goes through 16 instead of just through
4 14, but it's an exception to the market.

5 CHAIRMAN ARANOFF: Okay. Well, let me ask
6 then, I mean, we've obviously seen a progression in
7 manufacturing in the market where the continuous weld
8 process is able to produce ever larger product. At
9 some point you're limited by the size of the sheet
10 that you've put in, right? That's going to provide a
11 limitation on how far you can go. Is there
12 development afoot to go up to 16 or 18?

13 MR. BOLING: Well, there is a mill in
14 Germany that does through 30 or 36, I guess 30 inch,
15 but they have to weld two coils together to get wide
16 enough material. The possibility exists to do that.
17 I don't foresee us doing that in the near future. The
18 equipment is very expensive. The domestic producers
19 of coils only go up to about 72 inches wide so we
20 could only get about 20 inch material continuously
21 anyway.

22 From a footage standpoint, there's not
23 enough feet sold in those larger sizes to justify
24 spending the amount of money it would cost to make a
25 mill that would do 20 inch continuous pipe, so I don't

1 foresee us doing it. I don't know about any of these
2 guys, but it wouldn't be a good decision on our part.

3 MR. CARPENTER: Yeah. We at Outokumpu have
4 no plans on producing above 14 inch continuously.

5 MR. CORNELIUS; And at Marcegaglia we only
6 produce up to 12 inch continuously and don't have any
7 plans to go beyond that.

8 CHAIRMAN ARANOFF: Okay. Now, aside from
9 the production process where, you know, we've just
10 established the breakpoint and the exceptions that
11 there may be to that, the pipe itself, I guess when
12 we're looking for these clear dividing lines there's
13 always a question of, you know, is a 14 inch diameter
14 pipe more like a 16 inch than it is a two inch? I
15 mean, what can you say about that in this instance?

16 MR. SCHAGRIN: I think here, Chairman
17 Aranoff, in terms of establishing that clear dividing
18 line the differences are that in the greater than 14
19 inch, unlike the 14 and the two, the products tend to
20 be made to order, they are made on different
21 machinery. Believe it or not, the two inch mill and
22 the 14 inch mill, while the sizes are vastly
23 different, they share a lot in common. It's the same
24 kind of mill.

25 So they have more in common than the product

1 produced one piece at a time on these breakbench
2 presses, and it just seems, based on the industry
3 norms, that once you go greater than 14 inches you
4 just tend to have a lot of specialized, made to order
5 product. There may be a little bit of 16 inch, or 18,
6 or 20 stocked by a distributor, but it tends to be a
7 made to order, unique product.

8 Then you get into these separate end uses,
9 which I think Mr. Boling talked about, that from two
10 to 14 you share a lot of common end uses. You get
11 greater than that you tend to get different end uses.
12 You have the different customer/producer perception.

13 CHAIRMAN ARANOFF: I'm not going to see that
14 clear dividing line just in terms of the pure physical
15 characteristics. If I took a 14 inch and a 16 inch
16 pipe, it's going to have a single weld, it's going to
17 look pretty much the same to me. That's not where I
18 need to be looking.

19 MR. SCHAGRIN: Correct. The weld is going
20 to look a little different based on the different
21 production techniques, but to probably your eye and my
22 eye it's not going to look that different. It would
23 to somebody who is in the industry.

24 CHAIRMAN ARANOFF: Okay. Thank you very
25 much. Vice Chairman Pearson?

1 VICE CHAIRMAN PEARSON: Thank you, Madame
2 Chairman. Greetings to all of you. Good to have you
3 here this morning. Some faces more familiar than
4 others, but I won't hold anything against the familiar
5 faces. Following-up on the Chairman's questioning
6 about, you know, in search of a clear dividing line in
7 this product, in carbon quality line pipe it took me a
8 little while to get comfortable with the idea that
9 there was a clear dividing line at 16 inches.

10 Eventually, I think I have gotten
11 comfortable with it, largely because the coils tend to
12 be wide enough to make 16 and not wide enough to make
13 something larger, although I would be corrected if
14 that's not right. So what's going on? Why did you
15 write the scope at 14 instead of 16 for this product,
16 especially given that there appears to be one member
17 of the domestic industry that's making 16?

18 MR. SCHAGRIN: Well, Vice Chairman Pearson,
19 you know, like you, I had to get used to some of these
20 dividing lines in the other cases. Originally of
21 course, and I'm not breaking any privileges here, when
22 I first started talking to the members of this
23 industry about the case my natural inclination was to
24 go with 16 because, you know, it's tough to teach old
25 dogs new tricks, and, as you mentioned, I've been here

1 a few times, and so, you know, I haven't done lots of
2 cases.

3 On circular welded pipe the break was at 16,
4 on line pipe we broke in 16 and below and greater than
5 16. I said, gee, seems to me we'll do this at 16.
6 What I heard was, you know, no, with one exception out
7 of five or six members of the industry, we break at
8 14. Our continuous mills go up to just 14 inches, and
9 greater than 14 we use this different process, and
10 discussing the like product criteria.

11 You know, I do focus a lot on different
12 machinery. In the case of a couple of these producers
13 they're actually in different plants. So in the case
14 of Outokumpu, they have a plant that has the
15 continuous weld mill in it, then they have a different
16 plant that has the breakbench presses.

17 So you have different manufacturing
18 facilities, different employees, and I thought that
19 the exception, because I really believe that
20 Bristol's, you know, one welding mill that makes the
21 16 inch is the exception, that the exception shouldn't
22 make the rule. It seemed that the rule applied very
23 well to the rest of the industry, that it was really
24 14 inch and below was the clear dividing line that we
25 all search for at the Commission and as counsel

1 dividing the products.

2 It was just unique to this segment of the
3 industry, stainless pipe, that the break would be at
4 14 instead of 16, even though I recognize that the HTS
5 itself has a break at 16. I think that's because in
6 stainless people who did the HTS, with some help I'm
7 sure from the Commission, just followed in stainless
8 what had been done in carbon.

9 VICE CHAIRMAN PEARSON: Is the normal
10 stainless coil of a width that conveniently produces
11 the 14 inches or are you slitting a coil to get it to
12 the right width to make your 14 inch pipe instead of a
13 16 inch pipe?

14 MR. BOLING: Well, we buy coils slit to
15 width, so we buy coil that's slit to the correct width
16 to make 14 inch pipe.

17 VICE CHAIRMAN PEARSON: Okay, but it would
18 be normal that a coil would be manufactured in a
19 somewhat wider width, and if you're going to make 14,
20 you get it slit, narrowed up a bit, to fit the mill
21 that you're putting it into?

22 MR. BOLING: Yes, sir.

23 MR. SCHAGRIN: Just one other comment, Vice
24 Chairman Pearson, having done so much work in carbon
25 before I started working in stainless is it's amazing

1 the differences. None of these producers can cut the
2 stainless coils. In carbon, virtually everybody slits
3 their own coil.

4 It's amazing how hard stainless steel is
5 that it's so special to be able to cut the coil and
6 make the width, just as the welding takes just so much
7 energy and has to move so slowly because stainless
8 steel is so hard to weld. So, you know, there are
9 significant differences there. I don't know if anyone
10 else has anything to add.

11 VICE CHAIRMAN PEARSON: Mr. Carpenter?

12 MR. CARPENTER: Also, one of the standard
13 widths from sheet producers is 48 inches wide. When
14 you have a little bit of edge trimming, the 48 is a
15 pretty convenient break off point. Now, they go 72,
16 and 96 and beyond that, but 48 is a very, very
17 standard coil size to do the slitting and lose a
18 little bit of the yield factor.

19 VICE CHAIRMAN PEARSON: Okay. Is it
20 physically more difficult to bend this sheet then into
21 a tube then would be the case with carbon quality
22 pipe?

23 MR. CARPENTER: The answer is yes. I can't
24 recall the tensile strength differences, but they're
25 significant. The tensile strength of stainless is

1 going to be much higher than carbon. A tensile
2 strength affects the bending.

3 MR. SCHAGRIN: Just to give you an idea,
4 Vice Chairman, these products that move down these
5 continuous weld mills, the combination of the bending
6 and the welding, these products tend to move at inches
7 per minute. In carbon, we have producers who are
8 making upwards of 1,000 feet per minute, and here they
9 literally, it's like watching paint dry is how slowly
10 the stainless steel moves down the line. I think it's
11 just because it's so hard and so difficult to work
12 with. Mr. Conway?

13 MR. CONWAY: It's almost an entirely
14 different product. I know of only one mill, AK has
15 one in Rockport, where they try and mix it. The truth
16 is if you put stainless on a carbon mill you're just
17 going to beat the mill to death. Stainless is a hard
18 product to make and a very hard product to run, and
19 you run it a lot slower, and it beats your mills up.
20 It's just a tougher steel.

21 VICE CHAIRMAN PEARSON: Okay. And is the
22 fact that the stainless material is harder to run,
23 does that tend to mean that a 14 inch mill is for some
24 historic reason about as large as manufacturers --

25 MR. CONWAY: I think it tends towards the

1 newer mills. I think, as has been said, you don't
2 sort of get the wide hot mill bends that you do out of
3 the carbon mills, and you tend to get a narrower
4 product, and it probably tends to characterize the
5 pipe as it is here in just sort of smaller families.

6 VICE CHAIRMAN PEARSON: Mr. Carpenter?

7 MR. CARPENTER: Yeah. It also has to do
8 with the economics of -- and the mills cost millions
9 of dollars. At some point the initial investment and
10 the speed at which you have to run them doesn't make
11 sense, you know? As has been said, there are 24 inch
12 and 30 inch mills. They're not run very often, and
13 they're run in gigantic stainless companies. Budding
14 is absolutely huge.

15 As a matter of common economics, it doesn't
16 make sense at some point to say, okay, we're going to
17 run a 30 inch continuous mill just simply because of
18 the initial cost and the demand for the products. So
19 it's a matter of economics where you break off. Right
20 now, because of the wide bands and what the mills
21 cost, 14 inch and one exception, 16 inch, right now in
22 today's technology and cost is the break off between
23 continuous and batch.

24 VICE CHAIRMAN PEARSON: Mr. Henke?

25 MR. HENKE: Vice Chairman Pearson, I just

1 simply want to add that it certainly is a big time
2 economic issue, but from a demand standpoint, when we
3 set up and run, for instance, four inch Schedule 10, I
4 mean, we set up and run 10,000 feet of it based on the
5 lot sizes that you buy economically from your raw
6 material suppliers.

7 The lot sizes that you would have to buy on
8 the larger coil, the minimums would be a year, two
9 year usage on those sizes. Your investment to not
10 only purchase the mill and the tooling, the mill is
11 one thing, but then to purchase all the sets of
12 tooling that you'd want to run on that mill is very,
13 very expensive. The cash that you would tie up with
14 your inventory because it's such sporadic demand, it's
15 by project, made to order, it just doesn't make any
16 sense.

17 VICE CHAIRMAN PEARSON: Okay. So if I'm
18 hearing things correctly, there are some fairly sound
19 economic and physical reasons why this product, the
20 stainless tube, why it's a different product than
21 carbon, and we should see it as different.

22 MR. SCHAGRIN: I think that's an excellent
23 summation, Vice Chairman Pearson. The only other
24 thing I would add is that I think it was in maybe Mr.
25 Boling's testimony that the continuous weld mills

1 might make two or three different sizes, inch, inch
2 and a half, two inch, that's the limit given the
3 tooling of those.

4 In contrast, on these breakbench presses,
5 they do have different breakbench presses. You can't
6 make 96 inch and 16 inch on the same press, but you
7 can make maybe 48 inch up to 72 inch on the same
8 press, so there, the ability to make different
9 diameters on this piecework is so huge compared to the
10 very small limitations of these continuous weld mills
11 which are specialized along a size or two.

12 VICE CHAIRMAN PEARSON: Okay. Well, I have
13 some very limited experience working with stainless
14 steel. I know that it is indeed a different product
15 than carbon. I even have a brother who can weld
16 stainless, but I'm not going to go there. That's for
17 someone more skilled than I. Madame Chairman, back to
18 you.

19 CHAIRMAN ARANOFF: Commissioner Okun?

20 COMMISSIONER OKUN: Thank you, Madame
21 Chairman. I join my colleagues in welcoming all of
22 you here today. Very much appreciate the businessmen
23 taking the time to share your experiences with us,
24 and, Mr. Conway, to you for sharing your view on the
25 impact on the implement factors that we must take into

1 consideration. So, again, very helpful to have all of
2 you here.

3 I wanted to return for a moment to the price
4 suppression questions. I appreciate your response,
5 Mr. Schagrín, that you'll address Commissioner
6 Pinkert's question posthearing. I did want to add,
7 though, that to me, with all due respect to the
8 economists, I would not think this is something where
9 you'd want economists looking at it.

10 I don't know if it was Mr. Cornelius who
11 used to be the CFO, but to me the question about the
12 cogs to sales and, you know, how we traditionally look
13 at cases versus, you know, the argument in this case
14 about the lag time and the surcharges impacting the
15 bottom line is really, I want the perspective of how
16 the companies look at how they're making money or not.

17 So that's really the perspective I think is
18 interesting and goes to this question of whether the
19 Commission's traditional analysis of cogs to sales
20 needs to be altered or looked at differently in
21 particular cases, which I think is what you raise even
22 though you put it in the classic price suppression
23 argument, Mr. Schagrín, but I'm just trying to push it
24 a little bit to try to understand it.

25 So I don't know, Mr. Cornelius, if it's

1 something you can do here, but I also want to make
2 that urging and propose changes as well. Mr.
3 Cornelius?

4 MR. CORNELIUS: Sure. The way that we
5 measure it profitabilitywise obviously is relative to
6 the previous quarter's average surcharge mechanism.
7 Oftentimes, when the surcharge is ascending, we're in
8 a position where our inventory, because it's a stock
9 commodity product, is relatively old, sometimes 60 up
10 to 120 days old, so that material was costed much
11 lower than today's sales prices because the surcharge
12 mechanism changes on a monthly basis.

13 So when it's rising, you're very much able
14 to get the newest price from the customers that's
15 substantially higher than what your inventory position
16 was. Contrary to that, when you see it descend, and
17 recently, rapidly descend from a high in June of 2007
18 of \$25 a pound to today's price of roughly \$5 a pound,
19 you're in that opposition position so that we now have
20 inventory that's 60 to 120 days old which is thousands
21 of tons that is much more expensive than what today's
22 sales price can bring in the marketplace.

23 So that's where we're severely penalized in
24 terms of surcharge mechanism because we're having to
25 respect it, as I think we testified earlier, because

1 our suppliers will not deviate from that published
2 steel price, whereas the Chinese price is not
3 respective of the world price. So I hope that answers
4 your question to some degree.

5 COMMISSIONER OKUN: Well, I think that's
6 helpful. I mean, I think that is a helpful way to
7 look at the record we have before us. Again, for
8 posthearing -- Mr. Schagrín, it looks like you might
9 want to add something now -- it's just, again, as we
10 are required to look at the financial indicators and
11 look at trends in these cases and the trade data, you
12 know, in different industries how one would evaluate
13 the cogs to sales ratio may or may not indicate price
14 suppression.

15 So I'm just, again, just trying to
16 understand the particulars here because, you know,
17 most industries have inventories and sometimes people
18 are hedging energy prices or they're hedging
19 something. So I'm just trying to again make sure that
20 we understand the particular conditions of competition
21 for your industry as we evaluate the pricing argument.
22 Mr. Schagrín?

23 MR. SCHAGRIN: The only thing I want to add,
24 Commissioner Okun, because I think you all know me
25 pretty well here, is I rarely avoid answering a

1 question when given an opportunity at the Commission,
2 but in this particular case, you know, all the
3 financial information was made confidential and out of
4 an abundance of caution, because I have nightmares
5 that if I was to take APO information home, you know,
6 what if I'm in a car accident and my briefcase is
7 there and, you know, what do I say on the stretcher?

8 No, there's APO information, I have to have
9 it right now. So I don't have that information with
10 me because I don't take the confidential staff report.

11 COMMISSIONER OKUN: Right. It was more of a
12 comment, too, on, you know, the analysis of the staff
13 report is an accountant's analysis. It's not, you
14 know, this idea that, you know, you're going to
15 present some theory. I want to know kind of, you
16 know, from the bottom line of these companies, you
17 know, exactly how this works.

18 MR. SCHAGRIN: And I think to, you know,
19 mirror some of the answers before, and I think it was
20 in the answers, not in the testimony, is that attempts
21 to increase base prices during the period of
22 investigation were unsuccessful for this industry, and
23 that's the one area that these producers have control
24 over. They don't have control over the surcharges.
25 So it's from that that I come to the conclusion that

1 there was price suppression because the base prices --
2 I almost have a little bit of regrets as to the way we
3 asked for the record.

4 Obviously the Commission always asks for
5 quarterly price data based upon, you know, what were
6 your sales during the quarter by volume and what were
7 your revenues, that, you know, we didn't change things
8 just based upon these surcharges and say, you know,
9 give us your base prices as well during the period
10 because that might have been more illustrative. So
11 we'll know that for the next case.

12 COMMISSIONER OKUN: Anticipated my next
13 question which was are you asking us in effect to
14 ignore the quarterly pricing data because of, you
15 know, again, it would not support that or it doesn't
16 demonstrate that, I guess is what I --

17 MR. SCHAGRIN: Essentially we are for
18 purposes of analyzing, you know, price suppression and
19 price depression. You almost have to avoid the
20 quarterly pricing data for purposes of that analysis.
21 Obviously it's very instructive as to underselling,
22 which is, you know, a related point because it clearly
23 shows underselling, and we think there's a very strong
24 correlation if you look at that quarterly information
25 between the quarters when there's very large

1 underselling of very large sales of Chinese products.

2 When you have quarters in which you have
3 small underselling or overselling, you have very small
4 sales of Chinese products. So clearly there's a very
5 strong correlation in the pricing data between the
6 ability of the Chinese to sell significant volumes is
7 tied to their ability to undersell, and when they're
8 not underselling, they don't sell as large volumes.

9 From the classic analysis of how does that
10 price underselling translate into price suppression
11 and price depression when you're looking a period over
12 11 or 12 quarters where surcharges were always going
13 up, it's really difficult when you're just looking at
14 absolute prices to draw that correlation. We know
15 it's there because the only reason those prices went
16 up was because of the change in surcharge.

17 The actual base prices apart from the
18 surcharges were not increasing at the same time that
19 you see these big increases in prices. I think it
20 will be instructive, we'll go back and use the
21 confidential information to look at the cogs to sales
22 revenue ratios and do the analysis that way.

23 COMMISSIONER OKUN: Okay. Appreciate that,
24 and I may confer with staff and see if there's
25 anything else I think we would need to look at it in

1 the way that you would advocate. Let me move on to
2 the demand issues, both during the period of
3 investigation and looking forward a bit as well.

4 I guess my question, and I guess I'll start
5 with you, Mr. Schagrín, but would want the industry's
6 perspective on this, is how do we parse out what's
7 going on with demand during the time versus the impact
8 of the subject imports. Let me start this way.

9 In the interim period, and we have a long
10 interim period of data here and you've talked about
11 that, again, we have this demand coming down, as
12 you've all discussed. Subject imports dropped
13 entirely out of the market, or almost entirely out of
14 the market, dropped way down. Sometimes when we have
15 a situation like that, well, sometimes we have an
16 interim situation postpetition where you see the
17 industry doing well once subject imports go out of the
18 market because you see that they gain it.

19 So you can look at that and you can use that
20 as kind of counterfactual of, okay, see what happens
21 when subject imports go out. Here, you have almost
22 the reverse on the number of the indicators. So I'm
23 trying to make sure, you know, how we should think
24 about that in terms of nonattribution analysis.

25 MR. SCHAGRIN: I would make two points.

1 First, obviously looking at things in the context of
2 the business cycles, you did have a big drop in demand
3 here. It's stunning the fall off in consumption for,
4 say, the ethanol industry, which was a big driver of
5 the growth in demand in 2005 to 2007, a big driver of
6 the decrease in demand in 2008.

7 Then of course we tried to address inventory
8 issues, which we did extensively confidentially in the
9 brief. Clearly, during the growth in the business
10 cycle the imports took almost the entirety of the
11 growth, and so the industry didn't benefit on any
12 production indicators. The profitability information
13 doesn't follow the normal range because of the
14 surcharge issue.

15 On the downside, it's just the opposite.
16 They start to benefit as the inventories were worn off
17 on the production side. I mean, during our period,
18 declining demand. At least their production shipments
19 are increasing slightly. That's all because of the
20 big drop in imports from China. Yet, on the financial
21 side they're getting hurt by the downside of the
22 surcharge, the tail end of the surcharge.

23 The only other thing that's certainly going
24 on a little bit but there's not accurate data as to it
25 is that certainly since this goes through

1 distribution, whenever you have this fall in pricing
2 and in surcharges, the combination of both declining
3 business, as well as the expectation of lower prices,
4 causes distributors, who sell about 90 percent of this
5 product, to want to decrease their inventories even
6 more.

7 So that yet exacerbates what's already
8 declining demand. You have inventory destocking which
9 even further exacerbates the information on declining
10 demand. I hope that's helpful.

11 COMMISSIONER OKUN: Okay. It is helpful.
12 My red light's come on. I have some follow-up
13 questions, and I wanted to explore that with the
14 producers as well. Thank you, Madame Chairman.

15 CHAIRMAN ARANOFF: Commissioner Lane?

16 COMMISSIONER LANE: As I understand the cost
17 and price issue with regard to surcharges, if you are
18 billed surcharges for raw materials, you usually
19 include these surcharges as separate pass-through
20 increments in your prices. Is that correct?

21 MR. HENKE: That is correct. Yes, they are
22 separate pass-through amounts on the invoice.

23 COMMISSIONER LANE: Okay. The staff report
24 states that pipe producers bill their customers the
25 surcharge amount in effect when the finished pipe is

1 shipped. Is that true in all instances?

2 MR. HENKE: That is our procedure at Felker
3 Brothers, yes.

4 COMMISSIONER LANE: In other words, when you
5 get orders for pipe that will not be shipped for a
6 month or more in the future, are your customers pretty
7 much speculating about what their price will be when
8 you ship that order?

9 MR. HENKE: Yes.

10 COMMISSIONER LANE: Okay. What is the
11 typical lag between your receipt of flat-rolled steel
12 and the use of that steel in the form of finished
13 pipe?

14 MR. CORNELIUS: Typically 30 to 60 days from
15 arrival of the flat-rolled at our facility to the
16 conversion time.

17 COMMISSIONER LANE: Okay. Could you
18 describe how each company here today accounts for the
19 cost of the flat-rolled steel raw material? Do you
20 use LIFO, FIFO, average cost or some other methodology
21 when pricing the cost of the flat-rolled steel into
22 the cost of the pipe being produced?

23 MR. CORNELIUS: We use average costing,
24 adjusted at year end for lower cost or market
25 adjustments.

1 MR. CARPENTER: At Outokumpu we use average
2 cost, again, then adjust it quarterly.

3 MR. HENKE: At Felker Brothers we have what
4 we simply call a frozen cost that we report on monthly
5 on the financials, and then we have a standard cost
6 that is also in the cost system for the salespeople to
7 recognize the standard, what is the current cost
8 reflection. So we're actually, we use two sets of
9 costs.

10 MR. BOLING: We at Bristol use the actual
11 cost.

12 COMMISSIONER LANE: Okay. And you may all
13 have touched on this before but in my case it doesn't
14 hurt to tell me two or three times. Could you explain
15 how the timing difference between the surcharges which
16 you pay on raw material and the pass-through of these
17 surcharges in your pipe prices affects your financial
18 performance and why that should be taken into
19 consideration in this case?

20 MR. CORNELIUS: Sure. It's mostly driven by
21 the fact that we have a commodity product that needs
22 to be stocked, and to allow ourselves time from the
23 arrival of the raw material to produce it. On a
24 finite number of mills we're producing a wide variety
25 of not only diameters, but wall thicknesses. Then of

1 course allowing for tooling changes, it sometimes
2 results in inventories of on average 60 to 90 days.

3 The disparity in the pricing and the costing
4 is sometimes enormous because of the rapidly changing
5 surcharge mechanism, and that's totally derived from
6 the 30 day average on the LME here in the United
7 States. So the London Metal Exchange is determining
8 really what our pricing will be from the flat-rolled
9 stainless steel that we're buying, and then two months
10 from that timeframe is the cost that we have from our
11 purchased product.

12 Then, beyond that, large fluctuations can
13 greatly affect whether or not we're making or losing
14 money just by how rapidly it changes month to month.
15 What we've seen in the last three and a half plus
16 years is a terrible inconsistency where we had
17 dramatic rises and now we've had dramatic falls in
18 that mechanism just largely based on those impact
19 costs of nickel, molybdenum and chromium. So it just
20 fluctuates so significantly that it can have dramatic
21 differences on your bottom line.

22 COMMISSIONER LANE: Okay. Did anybody else
23 want to respond to that? Mr. Carpenter?

24 MR. CARPENTER: Well, number one, I concur
25 with what David said. Also, please remember that the

1 Chinese, when they quote into the U.S., they don't
2 quote a surcharge. So on that dramatically increasing
3 surcharge period not only did we have to deal with low
4 base prices, but then no surcharge.

5 COMMISSIONER LANE: Okay. Mr. Schagrín, I
6 would like for you to look at Table 6-II in the
7 prehearing report. That table shows that the monthly
8 surcharges included in the prices which are charged
9 for steel pipe in the revenue column, that data is
10 compared to the average surcharge that is paid for the
11 flat-rolled product during the three months ending
12 several months before the revenue months.

13 Do you believe that the table represents a
14 fair estimation of the affect of the lags and their
15 impact on inventory and profits that we have been
16 discussing?

17 MR. SCHAGRIN: Yes, Commissioner Lane, I do
18 think it's a fair assessment. I studied it quite
19 extensively when we first received the staff report,
20 and because it's public I was able to share it with
21 members of the industry. I think we agree that it is
22 representative, and, you know, provides potential for
23 alternative analysis.

24 I would just say in follow-up to I think
25 your previous question, which was both technical, how

1 do you do the accounting and how does that affect the
2 profitability data, and then I think you also asked
3 what I would view as more of a legal question, how
4 does that impact the Commission's analysis of
5 profitability in this case, I have always thought
6 since we were first putting this case together that
7 because of the wild changes in surcharges here that if
8 there were ever a case in which the Commission would
9 want to put more emphasis -- which is clearly within
10 your discretion.

11 You have to review each of the factors in
12 the statute, but you're allowed, based on conditions
13 of competition, to put more emphasis on some factors
14 rather than others. This is a case in which the
15 information on the impact of the increased Chinese
16 imports on market share, production, shipments,
17 capacity utilization, employment, it's so apparent the
18 volume impacts on the industry.

19 When you get to profitability, you get
20 differences. I mean, we're used to, well, if the
21 industry is having lower capacity utilization, lower
22 shipments, you expect lower profits. If they're
23 regaining market share, you expect improvement. Here,
24 those normal correlations are essentially interrupted
25 by the influence of the surcharge.

1 So I think from a perspective of legal
2 analysis, I think the Commission could say given these
3 issues, you really have two choices. We can either
4 take some adjustments made by staff, which I think are
5 reflective, and I mentioned them earlier, you know,
6 during the period of the greatest growth in demand and
7 the greatest growth in Chinese imports, the domestic
8 industry's adjusted profitability declined
9 significantly.

10 I think that demonstrates the injury that
11 was caused. So you can either use that alternative or
12 you could say because of the influences of these
13 surcharges on profitability, given what I think I
14 heard was mostly average cost by most of the
15 companies, we're going to put more emphasis in injury
16 findings on the production factors than on the
17 financial factors.

18 COMMISSIONER LANE: Okay. Mr. Boling, I
19 want to go back to you for a minute. You said that
20 your company reflects the surcharges and the cost of
21 production by actual costs.

22 MR. BOLING: What we do is we keep up with
23 the steel that we buy.

24 COMMISSIONER LANE: I'm sorry. Could you
25 get a little bit closer?

1 MR. BOLING: I'm sorry. As we make pipe
2 from steel that we purchase, the cost of the pipe
3 becomes the actual cost of the raw material plus our
4 production cost for the product. So further to that,
5 though, if we're making it for our inventory, if we
6 have some in inventory of the same product, it gets
7 averaged along with that product. We use the actual
8 cost of the steel, the raw material.

9 COMMISSIONER LANE: Okay. Thank you. Thank
10 you, Madame Chair.

11 CHAIRMAN ARANOFF: Commissioner Williamson?

12 COMMISSIONER WILLIAMSON: Thank you, Madame
13 Chairman. Since we talked about the importance of the
14 base prices, I was wondering whether producers here
15 would be able to provide pricing data that includes
16 only base prices.

17 MR. CARPENTER: I mean, we can give that to
18 you.

19 COMMISSIONER WILLIAMSON: Okay. Would this
20 probably be on a quarterly or a monthly basis you
21 think?

22 MR. CARPENTER: It could be monthly. I
23 mean, we're keeping track of all that.

24 COMMISSIONER WILLIAMSON: Okay. Good. I
25 think that would be helpful given trying to understand

1 the --

2 MR. SCHAGRIN: I think probably given the
3 timelines, Commissioner Williamson, it would probably
4 be easier to get information on just the base prices
5 of products rather than redoing all the quarterly
6 pricing data for the all the quarterly pricing
7 products.

8 I think we could probably provide that in
9 the posthearing, you know, what are the base prices of
10 A, B, C products over the course of time and not tie
11 it to the specific quantity of sales each, you know,
12 quarter for the pricing products, if that would seem
13 acceptable to you.

14 COMMISSIONER WILLIAMSON: Okay.

15 MR. SCHAGRIN: Okay?

16 COMMISSIONER WILLIAMSON: Thank you. In the
17 preliminary determination on page 26 the Commission
18 observed that a substantial share of subject imports
19 are negotiated for delivery five to six months in the
20 future. By contrast, domestic producers make a large
21 proportion of their sales out of inventory. How do
22 the much longer lead times for subject imports affect
23 the way they compete with the domestic price? How
24 does a purchaser evaluate buying domestic versus
25 imported product?

1 MR. SCHAGRIN: You want to take a shot at
2 that one? Go ahead. I'll just start by saying, you
3 know, in analysis and talking to the producers in the
4 industry is that on average of course because the
5 domestic producers are selling out of inventory, they
6 have shorter lead times than do the imports. However,
7 I think this case, similar to a number of other China
8 pipe cases, is characterized by the fact that there's
9 a number of very large importers that purchase
10 consistently and carried inventories of Chinese
11 products.

12 So even though the relationship between the
13 importer and the Chinese producers has a long lead
14 time, the relationship between the importer and the
15 U.S. purchasers has a much shorter lead time because
16 those importers are both taking orders to place with
17 foreign producers, and clearly, from the information
18 gathered by the Commission in importer responses,
19 importers were also carrying inventories that they
20 could then resell on much shorter lead times to
21 domestic distributors.

22 Then, of course, the distributor's job is to
23 carry inventories. We also saw, because I hear the
24 Commission gathered in their questionnaire from
25 purchasers information on their own inventories, a

1 tremendous growth in the inventories of Chinese
2 product carried by distributors. When these gentlemen
3 are trying to make sales to distributors, they're
4 essentially competing against both importers and other
5 distributors because there are master distributors and
6 regular distributors.

7 To the extent that a distributor wants to
8 buy product, that distributor would both check with a
9 domestic producer and might check with a master
10 distributor who has Chinese product in inventory or
11 domestic product in inventory as to what the selling
12 prices would be.

13 So, in effect, as I read all the data over
14 the POI, the differences between domestic producers
15 selling out of inventory and foreign producers having
16 longer lead times, it gets much more dissipated and
17 starts blending over the POI because there is
18 seemingly a lot of Chinese product in the marketplace
19 all the time, either in importer inventory or
20 distributor inventory.

21 COMMISSIONER WILLIAMSON: Mr. Henke, you
22 have something to add?

23 MR. HENKE: I certainly agree, and just
24 simply to add, the issue has been compounding for
25 years with the availability of the Chinese product.

1 It used to be in the late 1990s there were a few
2 master distributors that have Chinese product on hand,
3 and now there is a network of not only master
4 distributors stocking primarily all Chinese, you have
5 what I would simply call the major regional PVF
6 distributors that now are importing the Chinese
7 product and stocking it primarily as --

8 COMMISSIONER WILLIAMSON: PVF?

9 MR. HENKE: PVF, pipe, valve and fitting
10 distributors. I'm sorry. As their primary source of
11 stock on half inch through 14 inch. So the level and
12 the availability of the stock of the Chinese product
13 has grown enormously in this country. Unfortunately,
14 you know, we can do some value added services and
15 certainly have the product on hand, but with that type
16 of inventory infrastructure in the country, it's
17 turned into this type of issue.

18 COMMISSIONER WILLIAMSON: Mr. Cornelius?

19 MR. CORNELIUS: I would just like to add
20 that due to the extended lead times, had the Chinese
21 been fairly pricing their products, I think there
22 would have been some months when their pricing was
23 more close to the U.S. domestic price, but because
24 they always maintain a disparity of 25 to 50 percent
25 below our price, it made no sense as to why they were

1 able to maintain that disparity in pricing because
2 they didn't follow any kind of nickel pricing
3 throughout the world.

4 Had those lead times of five months been in
5 a time when surcharge was declining, their price would
6 have been closer to the domestic price.

7 COMMISSIONER WILLIAMSON: Do their base
8 prices change more frequently because they are not
9 including surcharges, or are you saying just the
10 opposite, that they never seem to change no matter
11 what the raw material costs?

12 MR. CORNELIUS: Well, their price, from what
13 we experience, was always a 25 to 50 percent
14 difference than the U.S. price. The gap never
15 narrowed.

16 COMMISSIONER WILLIAMSON: Would you identify
17 yourself?

18 MR. TIDLOW: I'm sorry. I'm John Tidlow.
19 When we see the market prices from the Chinese, they
20 do not separate surcharges from their base prices.
21 They quote one price delivered to the U.S. market
22 including surcharges.

23 COMMISSIONER WILLIAMSON: But are they
24 factoring in these various costs, or how are they
25 factoring in, you know, the varying cost of the raw

1 materials? Are you saying they're not?

2 MR. TIDLOW: That's the question that we
3 can't understand because those costs come to us from
4 the mills, we can't negotiate those costs with the
5 mills, but their pricing doesn't seem to reflect the
6 changing prices that we have in front of us.

7 MR. SCHAGRIN: To the best of my
8 understanding, Commissioner Williamson, stainless
9 steel mills in China don't use surcharges. We don't
10 know how they, you know, price their products.
11 Obviously when you're a state owned enterprise they're
12 more interested in production volumes than with
13 profitability, but everyone had to recognize just the
14 huge run up.

15 I mean, products like nickel and molybdenum
16 almost tripled in price between say early 2006 and
17 mid-2007. Now, Chinese mills were experiencing the
18 same cost pressures. They might have been somewhat
19 mitigated by the way they do business. They tend to
20 buy through Chinese government agencies and those
21 government agencies may or may not resell the product
22 to them above or below their own cost of obtaining the
23 materials.

24 There just seem to be fundamental
25 differences between the Chinese system and the rest of

1 the world when it comes to these surcharge mechanisms.
2 As I think you heard in the opening testimony, many of
3 these companies are related to multinational companies
4 in the stainless steel business. It seems that
5 everybody worldwide is doing business one way except
6 for China. I think that manifested itself in the
7 massive surges of unfairly traded imports that we saw
8 in the U.S. market for these goods.

9 COMMISSIONER WILLIAMSON: Thank you. I may
10 have a posthearing request regarding my request for
11 base prices, but we'll get back to you if we want it
12 differently. Thank you. Thank you, Madame Chairman.

13 CHAIRMAN ARANOFF: Commissioner Pinkert?

14 COMMISSIONER PINKERT: Thank you, Madame
15 Chairman. I noticed that in your prehearing brief at
16 page 13 you make reference to a business cycle peak.
17 I'm wondering if the industry witnesses can give me
18 some idea of what the business cycle is in this
19 industry.

20 MR. CARPENTER: In the good old days the
21 business cycle for stainless steel was amazingly
22 regular at seven years. Every seven years we had a
23 peak in demand, and that happened four times that I'm
24 aware of. Once I was told about it because I'm much
25 too young. Since then, the last peak took three years

1 and then there was another one after two years.

2 It's very, very, very, very unusual now or
3 maybe the seven year cycle is gone, but I don't see
4 that we could count on the same sort of cycle that we
5 used to have. Most steel companies, by the way, came
6 to rely on that natural progression and cycle so much
7 that we would talk about a return over a standard
8 cycle, we'd talk about an average return, and in our
9 company that's becoming more and more difficult
10 because those peaks and valleys are very hard to
11 predict now.

12 MR. HENKE: Very hard to predict. Certainly
13 through testimony here today, the last one was
14 strongly driven by the ethanol industry. We
15 certainly, if any of us could predict what's going to
16 be driving the next one, I'm sure nobody does know but
17 they are very hard to predict. When I first got into
18 the industry in 1985, seven years I was told about,
19 and it really kind of matched the pulp and paper
20 industry.

21 Now, of course, there's not much of a pulp
22 and paper industry left in this country. They are
23 very difficult to predict, but there is on doubt that
24 we went through a strong one from about the second
25 half of 2003 into the second half of 2007, and it was

1 primarily driven by the strong, strong demand and
2 government support for ethanol.

3 MR. BOLING: The only thing I could add to
4 that was I agree with Mr. Henke. Our business,
5 Bristol Metals, was built on the pulp and paper
6 industry from back in the 1940s, we started in the
7 1940s, and it was every seven years. It was a seven
8 year cycle for the paper industry. We made all the
9 pipe we could and sold all we could every seven years,
10 and we waited for it to come around again.

11 That stopped happening I think about nine
12 years ago or so. Now it just depends on what industry
13 comes along that happens to drive a demand for
14 stainless pipe. The liquid and natural gas market
15 came along. That was a big demand. Ethanol came
16 along. That was a big demand. The power business
17 started using a lot of stainless in the scrubbers and
18 FGD, so that drove the demand. I don't think there's
19 a single industry now that drives that seven year
20 cycle like we used to see.

21 COMMISSIONER PINKERT: Thank you. Now, Mr.
22 Boling, I recall from your original testimony that you
23 said something about looking forward to an order that
24 would remedy the problem. I'm wondering, in your
25 view, will an order in this case remedy the problem or

1 will we see imports from other countries coming in to
2 fill the void that perhaps may be left by the subject
3 imports?

4 MR. BOLING: We don't anticipate that there
5 will be any substantial increases in imports from
6 other countries. We do see some from Korea now and
7 some from Taiwan, but in the past we haven't
8 encountered any big penetration as we have with the
9 Chinese at this point. So we don't anticipate another
10 country filling the void, so to speak.

11 MR. SCHAGRIN: And, Commissioner Pinkert, I
12 might just add, based on the record information, that
13 of course one of the things unique about this case is
14 that imports from China during the period of
15 investigation wound up accounting for the majority of
16 total imports. One country, even though obviously
17 this product is made in a number of countries.

18 And then when we did see the imports from
19 China decline we did not see imports from nonsubject
20 countries increasing. We did see them decreasing. So
21 I think the record here shows that at least during the
22 interim period when imports from China were declining,
23 we did not see the absolute volume of imports from
24 other countries increasing to fill the Chinese void.

25 I think the majority of the market share

1 benefit of the decline in imports from China clearly
2 went to the domestic industry. I think we used the
3 term mirror image in the prehearing brief that when
4 imports from China were gaining market share, the
5 domestic industry was losing market share in a
6 corresponding way, and when imports from China after
7 the filing of the case were losing market share, the
8 domestic industry was gaining market share in a
9 corresponding way.

10 COMMISSIONER PINKERT: Thank you. Now you
11 know that my question to Mr. Boling wasn't really
12 focused directly on Bratsk or Mittal, but I will ask
13 you what you think our analysis in light of those
14 cases ought to be. What are the questions that we
15 ought to answer in that context?

16 MR. SCHAGRIN: Well, I am of the view that
17 Mittal has replaced Bratsk. It's nice to see our
18 Court of Appeals in the Federal Circuit now and then
19 get back in touch with both reality and the statutes
20 passed by the Congress. Unfortunately, as you're well
21 aware, not a common occurrence with our Appellate
22 Court.

23 And so I look at Mittal as essentially
24 returning the Commission ability to interpret the
25 statute passed by Congress to essentially where it was

1 before Bratsk, which is you've always been directed to
2 new causation of injury by reason of the imports, by
3 looking at the imports, their impact on the industry,
4 and you know, along with all the statutory factors.

5 And if, you know, the imports weren't having
6 any impact, and it was all other events, other
7 imports, something else in the context of the business
8 cycle, then you didn't have to make a finding that the
9 imports were causing injury.

10 So I'm of the view that the Commission can
11 largely go back, and it should be accepted by the
12 Court. And I heard Judge Restani I think take this
13 position, as well, that we're essentially back to the
14 status-quo ante, which I look at as very positive.

15 I think it's going to be an extremely busy
16 year for the Commission. That's my guess. Normally
17 when there's recession, things are busier here. And
18 when you combine the recession with the massive over-
19 capacity from China, it's very likely it's going to be
20 a very busy year for the Commission. And I think
21 you've had to spend an enormous amount of resources
22 with little return over the past several years,
23 looking at Bratsk factors. And I think the Commission
24 would be well-served to be able to devote those
25 resources to be able to handle a larger number of

1 cases.

2 COMMISSIONER PINKERT: So then is it your
3 view that under no circumstances, in the context of
4 the by-reason-of analysis, do we have to perform a
5 counter-factual analysis?

6 MR. SCHAGRIN: I don't think you have to
7 perform a counter-factual analysis as to the
8 replacement of subject imports with other imports.
9 I'm not saying, you know, draw a counter-factual
10 analysis in every circumstance. But as to other
11 imports, which is what Bratsk is focused on, I believe
12 that you do not have to do a counter-factual analysis
13 of the replacement of subject imports.

14 COMMISSIONER PINKERT: Thank you. Thank
15 you, Madame Chairman.

16 CHAIRMAN ARANOFF: I'm tempted to start by
17 asking, you know, if we're going to be very busy this
18 year, you know, how you know that, in terms of, you
19 know, what you might be planning for us.

20 MR. SCHAGRIN: I can't comment. That's all
21 privileged, Chairman Aranoff. But past experience,
22 they've had the seven-year cycle; I've had now over 26
23 years I've seen three other recessions. And nothing,
24 as Mr. Conway commented, I mean, luckily my father is
25 86 and still alive, and really grew up during the

1 Great Depression. And he says, you know, God forbid
2 we have anything like that again.

3 Because I have certainly never, representing
4 manufacturers across a pretty wide swath of different
5 manufacturing industries, I've never seen demand just
6 decline so rapidly in so many different parts of the
7 economy at one time. And yet, having been in China in
8 October, I think the attitude of the Chinese
9 Government and what they did with the changing of the
10 export tax regimes, their attitude, to sum it up
11 broadly, is we don't want anybody in the world to do
12 protectionist measures. That's what the group of 20
13 said. But boy, we in China plan on maintaining and
14 continuing increased employment and economic growth in
15 China, we're just going to have to take a larger share
16 of a smaller market.

17 And you combine those two, I think the trade
18 lawyers are going to be busy. I just don't know, it
19 may not increase your workload that much if the
20 Chinese never show up at the Commission on the other
21 side of these cases. But it's still plenty of work.

22 CHAIRMAN ARANOFF: Time will tell. Let me
23 just clean up around the edges of a couple of
24 questions that my colleagues have asked.

25 First of all, you've got a lot of questions

1 about how surcharges work in the market, and the
2 domestic producers use them, and the Chinese producers
3 don't. So I wanted to ask about non-subject imports,
4 the major non-subject import sources being, what,
5 Taiwan, Korea, maybe, I guess it was Taiwan or
6 Malaysia.

7 Do those producers use surcharges, or the
8 importers who sell those products?

9 MR. BOLING: To the best of my knowledge,
10 when we see those guys in the marketplace, they're
11 quoting one price, not price-plus-surcharge as we do.
12 So I think most of those importers do the same as
13 China, they quote one price.

14 MR. CORNELIUS: The other Asian imports that
15 we've seen are much closer to the domestic price than
16 are the Chinese. And then the other major importers
17 we see would be Canada, and they follow with their
18 judgment I think fairly close to the U.S.

19 MR. SCHAGRIN: And if we have any other,
20 we'll check with some of the other sales folks in the
21 industry. If we have anything to add, Chairman
22 Aranoff, we'll add it in the posthearing brief.

23 CHAIRMAN ARANOFF: Okay, I'd appreciate
24 that.

25 A couple of questions on demand. Are there

1 any sources that people look to and that we could put
2 on the record with respect to likely future demand for
3 or pricing of nickel, molybdenum or other key inputs
4 into stainless steel?

5 MR. CARPENTER: I'll speak to that because
6 we tried this once. We couldn't find a single factor
7 at Outokumpu. We ended up with a combination that
8 loosely involved just general GDP, some stainless
9 steel pipe goes into fundamental industry. And we
10 also followed stainless steel plate sales. Their
11 members in that industry report all their shipments,
12 and those numbers are much more reliable. And we
13 looked at those, and we found a loose correlation
14 between stainless steel plate sales and stainless
15 steel pipe size, and general GDP numbers.

16 MR. CONWAY: We're in a somewhat unique
17 position, because I do stainless flat rollers, too, so
18 surcharge is a big issue there. Like I'm aware that
19 they're passing it on to these guys.

20 But we also have the nickel miners. And in
21 the labor agreement with the nickel miners, we put in
22 a bonus index to the LME on nickel. And we have this
23 nickel bonus that the nickel miners just were in love
24 with, you know, nine months, a year ago; not so
25 thrilled with now.

1 And we don't see any, anything coming back
2 on the nickel end of it that, as Roger said,
3 everything has just, in particular commodity, that we
4 have a lot of raw material commodity-type operations
5 that have just completely collapsed. And no one has a
6 good guess, or any guess, about when it might begin to
7 return.

8 So we're on the phone with a lot of nickel
9 miners telling them hold on. We don't know when the
10 bonus might be back, and if it will ever be like that
11 again.

12 MR. SCHAGRIN: And the only other thing,
13 Chairman Aranoff, is that in a way, for some of these
14 raw materials, it's the demand for stainless steel
15 kind of drives the pricing of the commodities that go
16 into it, such as nickel. I mean, most nickel is used
17 in stainless steel, not in other types of goods.
18 Molybdenum similarly.

19 And so normally, if the commodities markets
20 are working properly, the demand for the commodity is
21 driven by the demand for the goods they are used in.
22 And of course, maybe through '05, '07, and maybe now
23 the way we've done away with I guess some of the
24 trading deficits and some of the, what were Wall
25 Street investment firms that have been taken over by

1 the U.S. Government more or less.

2 There clearly was kind of extra, unrelated
3 to the supply and demand that came from just everybody
4 trading these contracts. And that seems to have
5 dissipated entirely.

6 So I would expect in the future, demand for
7 the commodities is going to be driven by the demand
8 for the goods, which can be driven by overall economic
9 growth. And so that's a long answer, which is we
10 should get back to some fundamentals of supply and
11 demand. And right now the demand is horrible, and
12 nobody knows when it's going to recover.

13 CHAIRMAN ARANOFF: Right. Well, at least
14 until, you know, the next commodity level, which is
15 probably outside the period we would describe as
16 imminent.

17 One other demand question that I wanted to
18 follow up on. In your brief you cite to a couple of
19 sources on what's going on with ethanol demand, but
20 those are all a little bit dated, the ones that are in
21 your brief. I think in particular there's a CitiGroup
22 report which dates to sometime back in 2007.

23 So if there's anything that you can give us
24 on the record that would reflect, you know, events
25 over the first nine months or so of 2008, I don't know

1 how far things have gone as far as what's going on in
2 ethanol. I know that you represented to us here that
3 things have gone from bad to worse, but it would be
4 good to have some type of analyst reports that try to
5 quantify that effect for us.

6 MR. SCHAGRIN: We'll try to organize some,
7 with our clients, some other studies on the ethanol
8 industry. I do know that, while we weren't able to
9 get studies unfortunately, what we were able to put in
10 that was more topical, you know, all the information
11 on all the bankruptcies and cutbacks, which were all
12 within the last, I think all pretty much in the fourth
13 quarter of 2008, even after the POI.

14 CHAIRMAN ARANOFF: Okay. Well, anything you
15 can do to round that out. I'm looking for something
16 that, I mean, all those bankruptcies do add up. But
17 if there was something that paints a broader picture,
18 you either, you know, sized it relative to total
19 demand, or some way to put it in a broader spectrum
20 would be helpful.

21 Going back to my questions about non-subject
22 imports. I just wanted to check whether any of you
23 are aware of any new production capacity or expansions
24 of production capacity that we should be aware of in
25 the major non-subjects with buyers, that maybe have,

1 you know, come on line in the last year or so, or are
2 close to or at the point where they're not going to be
3 canceled or postponed.

4 MR. SCHAGRIN: I don't think anyone is aware
5 of any. Once again, we can check, and if we find any
6 of that information, we'll include it in the
7 posthearing.

8 CHAIRMAN ARANOFF: Thank you, I appreciate
9 that.

10 One other question I wanted to ask. We have
11 at least one or two questionnaire respondents who had
12 reported that the imports from China might not be
13 acceptable in some uses because they're not on, for
14 example, oil company approved lists. And I just want
15 to check with you whether approved lists are really an
16 issue for the small-diameter products. Because I
17 didn't think, I thought that was an issue with the
18 large-diameter products.

19 MR. BOLING: No, it's for the full product
20 line. For example, Exxon sees on their AML. If
21 you're not on their AML, they will not take the
22 product, and it goes down to half-inch. So it covers
23 the whole size range.

24 CHAIRMAN ARANOFF: So it is an issue?

25 MR. BOLING: It is.

1 CHAIRMAN ARANOFF: Are Chinese producers on
2 those AMLs?

3 MR. BOLING: Some they are, some they're
4 not. It's just a matter of if they've done the work
5 to get approved there.

6 MR. CONWAY: In our experience, the request
7 to have the approved vendor list suppliers is
8 relatively minor. And most of our customer base does
9 not buy based on that consideration but more relative
10 to price than anything.

11 MR. CARPENTER: Yes. Just for the record,
12 at Outokumpu we agree. A very small amount of our
13 business is AML approval.

14 CHAIRMAN ARANOFF: Okay. Is it only
15 relevant for the oil companies? Or are there other
16 industries that have some kind of similar arrangement,
17 where you've got to be on some kind of approved list
18 before they'll buy from you?

19 MR. CARPENTER: The chemical company also
20 requires it. For instance, Dow has an extensive list.
21 And it's such that if you're not on it, there are no
22 exceptions.

23 So I would say yeah, chemical, as well as
24 oil and gas.

25 CHAIRMAN ARANOFF: Okay. Well, my time is

1 up. But if there's anything you can do posthearing to
2 just let me know to what extent, you know, this
3 results in any attenuated competition, either because
4 Chinese producers are not on the list or because these
5 lists cover a large share of, you know, horrible
6 customers, or the opposite, that will be helpful.

7 MR. SCHAGRIN: We'll address it. I know the
8 time is up, Chairman Aranoff. I would suggest
9 overview is it didn't prevent them from more than
10 doubling their exports to the U.S. between '05 and
11 '07. So I think we're going to, in the posthearing
12 we'll follow up I think with a very minuscule portion
13 of demand in this segment of the industry.

14 CHAIRMAN ARANOFF: Point taken on what
15 happened during the POI. I guess, if you mean we're
16 looking at a threat, you might ask yourself, well,
17 have they gotten to the saturation point where they
18 can't get further because of these things? But I know
19 you'll address that.

20 Thank you. Vice Chairman Pearson.

21 VICE CHAIRMAN PEARSON: Thank you, Madame
22 Chairman.

23 Mr. Schagrin, earlier in the proceeding you
24 made reference to I believe it was Table 6-2, which is
25 available in the public version of the staff report so

1 we can talk about it.

2 But it illustrates the effect of surcharges.
3 It's called "Estimated Unit Revenues Cost and
4 Resulting Profits or Losses as a Result of Stainless
5 Steel Surcharges by Month." I found that to be a
6 really interesting table. It illustrated for me the
7 effect of surcharges on the profitability of the
8 stainless pipe manufacturers in a very visible way.

9 Just for instance, you look at the change in
10 profitability using the growth margin between July of
11 2007 and September of 2007. In two months, a 54.20,
12 you know, in terms of percentage terms, in margin.

13 So I look at this as wow, it looks to me
14 like I'm seeing injury by reason of stainless steel
15 surcharges. And if that sort of thing is going on,
16 how can I weed out, separate out whatever might be
17 attributable to subject imports?

18 Because it looks to me like something is
19 going on here with surcharges that has a really
20 material effect on the financial performance of this
21 industry.

22 MR. SCHAGRIN: Obviously I don't look at it
23 the same way. But --

24 VICE CHAIRMAN PEARSON: That's why I made
25 the comment.

1 MR. SCHAGRIN: I appreciate that. And yet,
2 in the same answer I would say I don't disagree with
3 you, Vice Chairman Pearson, that looking at this
4 table, and even without this table -- this table kind
5 of codifies what we're already seeing in general in
6 terms of the trends for the industry and what you've
7 already heard from the producers is that during this
8 entire POI, some 45 months, there are wild swings in
9 these surcharges. Just, I mean, things that nobody in
10 this industry I think -- no offense to Mr. Boling. I
11 think he's got the record at 34 years.

12 And I don't think in his 34 years he had
13 ever seen any period in which there were these changes
14 in raw material costs as there have been over the last
15 two, two and a half years. And so there's no question
16 that that has had an impact overall on profitability.

17 But I would say the reason that it's not the
18 surcharges that injured the industry, but instead it
19 was the more than doubling and the tremendous market
20 share growth of the imports from China, is that the
21 evidence on the record shows that during a period of
22 massive increase in consumption, the domestic industry
23 did not receive any volume benefit. And that goes
24 right to injury.

25 Secondly, while the monthly changes can be

1 very large, over the course of the year they obviously
2 get averaged out more. And I think what you did hear,
3 might even have been in the response to the first set
4 of questions about average returns, this industry,
5 over the peak of the business cycle, when imports from
6 China were large in the beginning of '05 and then
7 became huge by '07. And that clearly was the peak of
8 this business cycle. Maybe it was only a three-year
9 cycle this time instead of a seven-year cycle. That
10 the average profitability of this industry should have
11 been much, much higher. I mean, much to a degree of
12 five, six, tenfold. I can't say the actual profits to
13 the industry because it's confidential, but it should
14 have been much higher.

15 And the interesting thing is you do have
16 some means of comparison that obviously includes the
17 surcharges, because you have information on the
18 industry that produced products greater than 14
19 inches.

20 Similar increase in demand, maybe not quite
21 as big, because ethanol doesn't tend to use as much as
22 a large product, but you had increased demand. You
23 didn't have imports from China impacting the
24 marketplace. They were very low. In fact, '05 to '07
25 I think there were minuscule amounts of imports from

1 China.

2 And you have all these producers, at least
3 three of the four, who make boats, saying wow, we
4 really benefitted from the increase in demand over 14-
5 inch. We were able to profit from that. Increased
6 base prices make higher profits. We didn't get that
7 in 14-inch and under because they're so dramatically
8 impacted by the imports.

9 And of course, that's the beauty about what
10 this Commission does, is that you get to look at the
11 whole record. And you know, take all these different
12 factors at play, and try to figure out what's going
13 on. And it just becomes both more complicated, at
14 least from my perspective, more interesting as well,
15 when you do have these unique circumstances. And
16 there's no question that surcharges is a very unique
17 issue in this case.

18 VICE CHAIRMAN PEARSON: Right. So let me
19 express it this way. We can see periods in this table
20 in which the gross margins of the industry went really
21 negative in relation to the surcharges. Why shouldn't
22 we look at that and conclude boy, if I'm a pipe
23 producer, and all of a sudden the surcharges are
24 hitting me and my costs are going way up, and in the
25 short term I have a hard time passing all of that

1 along, I don't bid as aggressively for business? And
2 someone else comes in and takes the business. And my
3 costs are too high, and so others in the marketplace,
4 either those holding inventory or those bringing
5 product in from overseas who have different cost
6 considerations, or a time lag that affects how their
7 costs flow into the U.S. market.

8 Why don't we have those issues, those
9 problems creating the injury, rather than the subject
10 imports themselves?

11 MR. SCHAGRIN: Because I don't think that's
12 the nature of the way these gentlemen think. Having
13 gotten to know them, I don't think it's part of their
14 business modeling. I think it was actually in Mr.
15 Henke's testimony, you know. Surcharges are something
16 they just can't deal with, other than to pay them to
17 their suppliers and pass them onto their customers.

18 But that's not their fundamental business.
19 They employ these USW workers, or in the case of one
20 company not USW, in order to take stainless flat-
21 rolled, convert it into well-distinguished pressure
22 pipe, and sell it mostly to distributors in the U.S.
23 market.

24 That's their business. I don't think they
25 ever sit back -- and they can correct me if I'm wrong

1 -- and say gee, we're going to change what we do in
2 pricing and deciding whether we want to compete for
3 business. Do we want to sell now based on where
4 surcharges have been, based on what's going on there?
5 That would essentially turn these really good industry
6 people into essentially commodity traders, like some
7 NAFTA people on Wall Street, instead of, you know,
8 what their fundamental business is.

9 VICE CHAIRMAN PEARSON: Let's consider a
10 possible reaction in the marketplace to a significant
11 increase in the surcharge. You're going to have some
12 distributors or master distributors that are holding
13 inventory, okay.

14 And all of a sudden the surcharge goes up.
15 And they know if they're going to buy more stainless
16 pipe from the industry represented here, they're going
17 to have to pay a big surcharge to do it.

18 If I'm a master distributor, I'm thinking
19 boy, I think I might not want to buy any for a few
20 weeks here, and I'll work off inventory, and we'll see
21 whether the surcharge comes down.

22 So isn't that type of adjustment back and
23 forth, with inventory adjustments back and forth with
24 the distributors, isn't that likely to be a
25 significant cause of a reduction in production by the

1 domestic industry? More directly than you would see
2 from the subject imports. Mr. Carpenter.

3 MR. CARPENTER: The surcharge formula we all
4 use is based on the London Metal Exchange. It's
5 whatever happens in one month affects 60 days from
6 now. So the distributors in the stock get a 60-day
7 snapshot of where they're going to be in two months.

8 So they can predict when inventories are
9 going up and down, and how they're going to buy 60
10 days out. And they did that all throughout the second
11 half of 2006. They did that through 2007. And
12 extremely unfortunately for us, they're doing that in
13 2008. Where in October they looked at the December
14 surcharge and said it's dropped two months in a row;
15 we're going to buy only basically what we need. Know
16 what I'm saying?

17 And lastly, manufacturers look at surcharges
18 as cost. We don't speculate, we look at it as a cost.
19 And lastly, if prices are up and down, we have to run
20 our mills and employ our people 30 days a month. So
21 we don't decide not to be in the market for three
22 weeks. Because if we're not in the market, we're
23 going to be on this list of dead companies.

24 VICE CHAIRMAN PEARSON: Okay. Well, I
25 appreciate that. I just don't think I understand

1 fully yet what's going on here. Go ahead. How would
2 you think price fluctuations and surcharges affect
3 sales activity in the industry?

4 MR. SCHAGRIN: They do. But, Vice Chairman
5 Pearson, I would say this is one area, even though the
6 surcharge is dramatic, it's no different from carbon
7 or from a lot of different industries. Any time you
8 go through distribution, distributors, I would posit,
9 always want to get more inventory when they're
10 predicting. And here their predictive ability is much
11 greater, because they get to look at the LME prices.

12 They always want to build inventories when
13 they think prices are going to increase. I presume
14 it's the same in just trading corn and things like
15 that. Whenever the market sinks, obviously, and the
16 people speculate on just contracts in the LME. If the
17 market sinks, prices are going to go up. Everybody
18 wants to have more of it, because you want to have
19 more inventory because your inventory is increasing in
20 value.

21 When the market sends the opposite signal,
22 which is why deflations and depressions are so
23 difficult to get out of, nobody wants to have
24 anything, if they think the next month the price is
25 going to be lower.

1 And so we do have some of that at play here.
2 But in the end, the distributors have to furnish the
3 goods to the customers. And in all these industries,
4 a dozen different industries using this product, I
5 don't think anybody in the chemical industry, the
6 paper industry, the food industry, the pharmaceutical,
7 ethanol, they're not thinking about what's the cost of
8 stainless pipe going to be next month as to how much
9 I'm going to use.

10 So if the change is only a little bit as
11 distributors are stocking and destocking, it doesn't
12 affect the real demand. The problem now is real
13 demand is horrible.

14 VICE CHAIRMAN PEARSON: We're really abusing
15 the red light here. So in the posthearing, if you can
16 help disentangle for me what I see in this chart 6-2
17 versus what's happening with imports from China and
18 the profitability of the industry, that would be a
19 great help.

20 And Madame Chairman, thank you for your
21 indulgence.

22 CHAIRMAN ARANOFF: Commissioner Okun.

23 COMMISSIONER OKUN: Thank you, Madame
24 Chairman. I'm going to have some additional questions
25 on trying to sort out the impact of the subject

1 imports on industry versus the other factors in there.
2 But maybe I'll start with this, a little bit of the
3 subject. And if I'm lucky, Mr. Schagrin welcomed the
4 Mittal decision, because I think it did take a while
5 for us to get out of the straitjacket that we were put
6 into in brass, and return to an analysis that I fits
7 much better with the statutory scheme.

8 But I don't think that anything in the
9 opinion relieves us from the difficult question we
10 have as commissioners in sorting out the record, and
11 in figuring out the impact of subject imports on the
12 business of all the gentlemen sitting before us and
13 the workers, versus everything else going on. And
14 this is a record, I guess, with a lot of noise in it
15 because of the surcharges, and because of what's going
16 on in demand.

17 And one question just again demand-related.
18 And Mr. Schagrin, your response may be more relevant
19 if, as you say, there are a lot more cases coming up.
20 And this particular period is, you know, when
21 industries are doing well, when demand is going up,
22 and you look at a but-for type of analysis, you might
23 want to comment on that, as well.

24 But you can say well, but for the subject
25 imports growing demand, these guys should have

1 captured more of the market. And you've put into the
2 record, you know, what the Chinese, what part of the
3 market the Chinese captured.

4 When demand goes down, it seems to me our
5 jobs get a little bit more difficult. Because I'm not
6 sure exactly how you perform that but-for in a market
7 where everything's falling.

8 So I wanted to get your reaction to that, in
9 terms of looking at this market again, and what is
10 going on over the period with demand. Because again,
11 you see demand, you see subject imports start to fall
12 off even before the petition is filed, based on the
13 monthly data I'm looking at.

14 So you know, I can also look at this record
15 and say everything that's going on, I can attribute
16 either to surcharges or what's going on in demand. If
17 demand is up, they may not have, you know, we can make
18 the argument of they should have done better, but you
19 have these squirrely surcharges. And then you have a
20 wait where demand drops off, and subject imports drop
21 off. So that's a very long-winded question, but start
22 with it, and then I'll have some specifics for the
23 producers.

24 MR. SCHAGRIN: And that's what I told these
25 producers. They said gee, the Chinese aren't going to

1 be showing up tomorrow, what are we going to argue
2 about? And I said don't worry, you'll see these six
3 commissioners; they'll make the arguments that the
4 Chinese would have made if they were here. And that's
5 why you still have to pay me, because I've got to use
6 my brain even if the opposition doesn't show up.

7 COMMISSIONER OKUN: As you remind your
8 clients we're quasi-judicial.

9 MR. SCHAGRIN: Exactly, quasi-judicial.

10 COMMISSIONER OKUN: This isn't about the
11 lack of counsel on the other side.

12 MR. SCHAGRIN: Correct. But answering your
13 question, I think here there are clearly defined
14 trends in the data that have nothing at all to do with
15 surcharges. They go back to the fundamental issues
16 of, you have increasing demand over the period '05 to
17 '07. We have the huge surge in imports from China.
18 And we have evidence, even if you lagged a quarter,
19 you know, that help take domestic surcharge in effect.

20 There's just no question that during the
21 period when imports from China were surging, that we
22 have massive under-selling. And because this is, you
23 know, we have surcharges at base, A312 and A778 welded
24 stainless steel pressure pipe is a totally commodity
25 product. I mean, it's sold to specification. The end

1 users who go to distributors to say I need this
2 nominal pipe size, this wall thickness, be it Schedule
3 10, Schedule 40, Schedule 80, I need X number of feet
4 of it. What is your price?

5 And the distributors, in turn, whether
6 buying domestic or import, want to buy at the lowest
7 prices because it's a commodity product.

8 And what we have during this period is we
9 have a massive surge in imports from China, both by
10 volume and market share, at the expense of the
11 domestic industry. It's not at the expense of other
12 imports. Their market shares stay relatively static.
13 The domestic industry just loses all this market
14 share.

15 And during this tremendous period of
16 increased demand, they, number one, get no benefit of
17 increased volume, increased production, increased
18 capacity utilization. I haven't even brought up yet
19 today, it was obviously in the testimony, the survivor
20 effect.

21 Because one of the things that happened in
22 this industry is that during the last down cycle, some
23 of the major players in the industry exited. So you
24 come into this period with fewer players, and the
25 ability of those fewer players to really take

1 advantage of increase and demand, and they get none of
2 it.

3 And the same thing happens to Mr. Conway's
4 workers. They lose their jobs at the factories that
5 closed down, and then they get no new jobs at the
6 factories that are still operating, even though demand
7 soars. And that's all because of imports from China.

8 And in my little world of analysis of injury
9 factors, that, in and of itself, is a clear-cut injury
10 case. I mean, the Commission doesn't need anything
11 further. You can make your decision based on either
12 volume effects or financial impact, and you'll be
13 upheld by the Courts if you just find that the
14 material injury, in terms of the volume impacts on the
15 industry, were caused clearly, no question about it,
16 by the imports from China.

17 As for the financial impact, there you have
18 to get more counter-factual. Because obviously the
19 trends in profitability are going up as the demand is
20 going up, but as the imports from China are going up;
21 and then down as demand is going down, but also the
22 imports from China are going down.

23 And except for looking at the fact that
24 their base prices should have been higher -- they
25 should have been increasing base prices during the

1 increase in demand, which I think was the case in past
2 cycles -- and so they should have done better over the
3 entire cycle, when you get rid of the surcharges,
4 there is just no question that, more so on a monthly
5 basis, less so on an annual basis, but that surcharges
6 have an impact on the industry's profitability over
7 the POI.

8 And we'll try to analyze it better, but I've
9 been wrestling with this, to be honest, long before we
10 filed the case. Because the time that we were seeing
11 these massive import surges from China, we were
12 fighting these cross-trends even as we were organizing
13 the case.

14 I mean, in the first half of '07 we were
15 getting -- we. I'm speaking on behalf of the
16 industry, and the royal "we." But the industry was
17 getting its clock cleaned on volume. And we're saying
18 my God, these imports from China are under-selling us,
19 they're taking all the volume. We should be doing
20 great, and we're getting killed on volume.

21 I said yeah, but look at your profitability.
22 I mean, it's incredible. And they said well, it's
23 just a short-term spike because of surcharges.

24 I said well, we can't go in to the
25 Commission if you have a short-term, I don't know, I'd

1 have to look at the data for the first few months of
2 '07. But you know, I think you see effects on
3 profitability in the 15-, 20-, 30-percent range in
4 terms of the surcharge impacts?

5 And you all know, I shouldn't come running
6 in here with an industry that's got 20- or 30-percent
7 profit margins, even though it had nothing to do with
8 them. It's all about just surcharges.

9 And so you have to look at it over a longer
10 period. I think this is a perfect case for looking
11 more at the volume impact than a profitability impact.
12 Even though clearly, over the entire POI, there is a
13 very dramatic impact of the imports on profitability.
14 It's just you have to look at it over the whole POI.
15 It's really tough to parse it by periods because of
16 the surcharge impact.

17 I know that was a long answer, and I
18 promised everybody I was going to keep it short today.

19 COMMISSIONER OKUN: Well, I know that on the
20 issue with respect to base prices, you've been asked
21 to provide some more data about those. I think that's
22 helpful.

23 Would we gain anything on that by looking at
24 price lists this industry used? Price lists? I mean,
25 you used price lists. I'm not sure, is there anything

1 else we can get on that that might be helpful?

2 MR. SCHAGRIN: I think like most pipe and
3 tube products, commodity pipe and tube products, their
4 pricing is a combination of price lists and discounts.
5 And I think that when we gather that data, and if
6 anyone wants to add to that without talking about for
7 anti-trust reasons their own specific price, but just
8 the norm in the industry how pricing is done. It's
9 base prices plus discounts, and we'll gather as to
10 both.

11 COMMISSIONER OKUN: Okay. And then while my
12 yellow light is still on, with respect to the, I know
13 the Chairman had asked you some additional questions
14 with respect to ethanol in particular. If you could
15 address, I mean, because I know you put in anecdotal
16 information about the enclosure of these things. And
17 I'm sure apparent consumption takes a big dip, I'm not
18 disagreeing with that.

19 But the Energy Information Administration
20 and the USDA both collect data on ethanol production.
21 And you know, for '08 production just kept going up.
22 So I'm not sure, you know, if the weak links fell out,
23 and the other guys were still good, and how that
24 impacts your industry. And then, you know, the USDA
25 energy, the EIA's, you know, energy outlook still

1 shows ethanol going up. So just to take that into
2 account as you're talking about the impact on this
3 particular industry.

4 MR. SCHAGRIN: I know the time is up, so
5 we'll address it in the posthearing. But I believe
6 the answer to that is that the reason for the
7 increases in ethanol production is twofold.

8 A, they reflected the big capacity
9 increases, because there's timelines in these ethanol
10 plants. There was a big capacity increase during '05
11 and '07, allowed greater production in '08.

12 I also think we're likely to see, which is
13 why we should gather data, that ethanol production
14 increases more when oil prices are high and gasoline
15 prices are high. And I think we'll see that as they
16 drop, and we'll try to get information that that also
17 leads to a decline in production of ethanol. And
18 we'll just try and gather up that data and put it in
19 the posthearing.

20 COMMISSIONER OKUN: For posthearing I think
21 that probably is not in the imminent timetable on
22 energy. But whether, as some of the producers talked
23 about, looking for the next thing to drive the
24 business cycle, whether anything you see in the
25 stimulus, possible stimulus package, or in kind of the

1 green energy area might impact your industry, if you'd
2 like to see that, as well.

3 Thank you.

4 CHAIRMAN ARANOFF: Commissioner Lane?

5 COMMISSIONER LANE: Thank you. In
6 responding to one of my earlier questions in the first
7 round, one of you said that you would have expected or
8 hoped to be able to earn double-digit margins in 2005
9 through 2007. Or that small-diameter business should
10 have been able to earn at margins equal to the large-
11 diameter business.

12 I believe that the large-diameter margins
13 can be extrapolated from Table C-1 and C-2. Could you
14 verify that, and provide those calculations
15 posthearing?

16 MR. SCHAGRIN: That's all confidential.
17 We'll analyze it in the posthearing brief,
18 Commissioner Lane.

19 COMMISSIONER LANE: Okay, thank you. Now,
20 this is similar to what Commissioner Okun just asked,
21 but mine is a little bit more specific. So I'm not
22 really duplicating, I don't think.

23 It doesn't say, like on the projects that
24 are being discussed in the stimulus package are
25 shovel-ready infrastructure projects that would be big

1 users of stainless steel pipe, am I correct?

2 MR. SCHAGRIN: You're correct, Commissioner
3 Lane.

4 COMMISSIONER LANE: Okay. What type of
5 projects would you be looking forward to? For
6 example, would a concerted effort toward coal
7 gassification, carbon capture, or nuclear power
8 generation be energy-related projects that would lead
9 to an increased demand for stainless pipe?

10 MR. BOLING: Well, we believe nuclear energy
11 would be for us. We produce nuclear-grade pipe. I
12 don't know about the other producers here, though.

13 What were the other, I'm sorry, the others?
14 Coal gassification? It does require some nickel
15 alloy-based pipes, but very little stainless steel
16 that I'm aware of. And then the carbon-capture
17 business would be very little stainless that I'm aware
18 of.

19 MR. SCHAGRIN: And I believe, Commissioner
20 Lane, just to clarify that, the nuclear-grade pipe
21 that Mr. Boling is speaking of is not a subject
22 product. It's not A-312 or A-778.

23 COMMISSIONER LANE: Okay, thank you. And
24 going back to my question about your profitability, et
25 cetera. Could you provide, posthearing, any updated

1 financial information that you have on your
2 performance in the fourth quarter of 2008, and what
3 you might have so far in 2009?

4 MR. SCHAGRIN: Commissioner Lane, a brief
5 polling is that I don't think the fourth quarter data
6 is going to be finalized until anywhere from the end
7 of January to mid-February in the case of one company.
8 So I don't think that's going to be available.

9 I can maybe see if we can put estimates in.
10 That wouldn't be the actual data through the fourth
11 quarter.

12 COMMISSIONER LANE: Okay, that would be
13 fine. Thank you.

14 MR. SCHAGRIN: Okay.

15 COMMISSIONER LANE: Mr. Conway, in some
16 cases we have heard about industries not actually
17 cutting employees, but cutting shifts and reducing
18 employee paychecks. What is happening to employees in
19 this end of the industry? Are you aware of cutbacks
20 in employees, or cutbacks in shifts and hours worked
21 in this industry?

22 And company witnesses can also weigh in on
23 this question.

24 MR. CONWAY: In a lot of our shops, one of
25 the first things we do is we go to four-day weeks.

1 Now, frankly, I'm not certain how prevalent that is in
2 the three companies. It is in the rest of the
3 industry in the flat-roll segments of stainless, which
4 I know isn't part of the subject here.

5 But we'll see overtime, drop-off overtime
6 had been running anywhere from 15 to 20 percent.
7 You'll sort of first see that go. Then you'll see a
8 lot of share of the work provisions for a while. And
9 then people will finally make a decision, and will do
10 a reduction in the work force, and try to get
11 everybody back on a minimum of 40 hours a week.

12 So there is a lot of that going on across
13 all of the steel industry right now, with many plants
14 down and shut. But in here in particular, I'm not,
15 you know, exactly certain how we're dealing with it.

16 MR. CORNELIUS: Well, we have eliminated
17 overtime to the greatest extent possible, which means
18 it's now less than one to two percent. And we did
19 average throughout the first nine months of the year,
20 probably in terms of hours, 20-percent overtime.
21 Which in terms of dollars would be about one and a
22 half times that.

23 In the fourth quarter we've seen significant
24 reductions in volumes because of the recession and the
25 severity of it. So we will at all costs try to avoid

1 any layoffs that we can, because these are very
2 skilled workers that cannot be brought in in just a
3 matter of weeks and trained. The training process and
4 the experience that our workers have is pretty
5 invaluable, and takes multiple years to be able to
6 produce this material, and produce it efficiently.

7 MR. CARPENTER: We at Outokumpu cope in two
8 ways. While we didn't have any official layoffs, we
9 haven't replaced blue-collar workers that have left
10 through attrition. That's to a small degree.

11 We've moved some people from our small-
12 diameter operation to our large, for two reasons: to
13 increase our capacity in large-diameter, and not lose
14 those valuable employees. Because it takes a minimum
15 of a year to train a welder, and in some cases much
16 longer than that.

17 In addition to that, we've cut overtime, not
18 completely, but severely, starting in November 1. So
19 we've allowed people to leave, and we've cut back
20 hours, both.

21 COMMISSIONER LANE: Okay. Mr. Henke?

22 MR. HENKE: Commissioner, we have eliminated
23 all overtime. We have eliminated several work shifts
24 in different areas of the plant. And with the 2009
25 forecast as it's been submitted by the sales

1 department, we are making contingency plans for
2 partial plant closings.

3 As an example, with the Kentucky facility,
4 if the forecast for the first month, we're going to
5 let it go one month, and then we're prepared to close
6 the plant for a month in May. Because you have the
7 lead time for the raw material. We've already
8 purchased our raw material because of their lead time
9 through April. So the soonest we could really shut it
10 down and make some sense from a cost-savings
11 standpoint would be, would be May.

12 COMMISSIONER LANE: Okay, thank you. Now,
13 does it take longer to produce a given length of pipe
14 of different diameters?

15 MR. CORNELIUS: Yes. Typically, the thicker
16 the wall, the longer it takes to produce that.

17 COMMISSIONER LANE: Okay. Your capacity is
18 reported in tons. Would your capacity change if you
19 shifted your product mix to a larger or smaller
20 diameter pipe?

21 MR. CORNELIUS: As measured in terms of
22 tons, yes. If you're producing a smaller diameter,
23 you would have fewer tons and more feet than if you
24 produced large diameter.

25 COMMISSIONER LANE: Okay. The pricing

1 products used in this case ranged from one-half-inch
2 to six-inch pipe of various grades. Could you provide
3 conversion factors that could be used to convert the
4 footage of each of these products to tons?

5 MR. CORNELIUS: Yes. We can provide the
6 weight per foot of all sizes.

7 COMMISSIONER LANE: Okay, thank you. I
8 appreciate that.

9 And Madame Chair, that's all I have. And I
10 want to thank all of the witnesses for being here
11 today. And Mr. Schagrín, maybe we could take a lunch
12 break, and you could pretend to represent the Chinese.

13 MR. SCHAGRIN: I think you'd rather go home,
14 Commissioner Lane.

15 CHAIRMAN ARANOFF: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you, Madame
17 Chairman. Just a couple of quick things.

18 First, we actually haven't yet asked for the
19 base price data, but we will be doing it. I'm going
20 to consult with staff as to how we formulate the
21 questions.

22 I also want to go back to this Table 6-2 on
23 the profits, the gross profits from, due to the
24 surcharges. And if you look at the annual data in
25 2006 and 2007, you'll see that the industry seemed to

1 benefit a great deal more in 2006 from the surcharge
2 effect than in 2007.

3 But then if you think about the change in
4 industry profits, overall profit between 2006 and
5 2007, there seems to be a different trend.

6 And I was wondering if you could, in
7 connection with the questions Mr. Pearson asked, you
8 could address that, either now or posthearing.

9 MR. SCHAGRIN: We'll address it now and in
10 the posthearing, Commissioner Williamson. And that's
11 the reason the trends are different, is because here,
12 the staff has lagged the information, it's my
13 understanding, of the analysis that was being done.
14 And so, and their purpose of doing that I think was to
15 say okay, we're going to try to account for the
16 surcharges.

17 They're trying to, you know, get a better
18 picture of the industry without the impact of the
19 surcharges. And that's why I think you see the
20 difference in the trends on the annual data between
21 what the companies report their financial results, and
22 what the surcharge-adjusted information does. Which,
23 you know, clearly shows the big drop in gross profits
24 between '06 and '07, which is not the information that
25 you have on the industry's financial results.

1 So that's why I thought it was a helpful
2 exercise to try to do this estimate by trying to
3 quantify the effects of the surcharges, and get the
4 data on a less surcharge-impacted basis.

5 So I don't know, it will take probably some
6 further analysis. I may have some discussions with
7 the staff economists, if I'm sure that would be okay
8 with MS. We're looking at addressing these issues in
9 the posthearing.

10 COMMISSIONER WILLIAMSON: Yes, because I
11 don't think you've addressed whether or not, maybe
12 it's really, what the role of the subject imports are
13 on the profit change, as opposed to the impact of the
14 surcharge. And that's the question I've got.

15 MR. SCHAGRIN: Correct. And there, I don't
16 think that's addressed completely in the chart,
17 because the chart is just lagging. Obviously the
18 chart tries to give you a revision of what gross
19 profits impact is of the surcharges.

20 We see obviously the financial impact of the
21 imports being met. This industry had very poor
22 results over the entire 05/07 period. Average it out.
23 Because I think there's no question that averaging out
24 three years, for that matter the three and three
25 quarter years, then gets rid of any annual surcharge

1 impact. And this industry performed very, very poorly
2 during a period of significantly increasing demand, on
3 average.

4 And so we think in each and every year from
5 '05 to '07, the effect of the imports on the industry
6 was to lessen their profits. And the differentiation
7 of seeing better profitability because of the
8 surcharges, it's still much lower than it would have
9 been but for the effect of the imports on the firms'
10 volumes. Because -- and I think there's a variance
11 analysis, and I do believe the variance analysis is
12 also confidential. But there's clearly an impact on
13 profitability of volume, as well as price. And the
14 imports had an effect on the profitability of the
15 industry, both in terms of volume and price.

16 If these producers were able, on this
17 equipment, during the period of increasing demand
18 between '05 and '07, if they could have significantly
19 raised their capacity utilization -- i.e., had their
20 market share just stayed constant between '05 and
21 '07 -- I think their profitability would have soared.
22 And then -- just from the volume impact of the
23 additional capacity utilization. And then, of course,
24 if they were able to increase their prices other than
25 their surcharge, every dollar of price increase that

1 has nothing to do with surcharge is a dollar that just
2 goes to the bottom line.

3 And normally, I think, and they can comment
4 based on their experiences, it's these periods of
5 cyclical peaks is when they're supposed to do the
6 best. And they clearly didn't.

7 I don't know if anyone in the industry would
8 like to add anything to that.

9 COMMISSIONER WILLIAMSON: Thank you for that
10 answer. Just one quick question.

11 Mr. Cornelius, in your testimony, in the
12 beginning I think you mentioned something about you
13 changing employment over, it wasn't clear what period.
14 It seemed like it was dropped in half. And I was just
15 wondering if you could repeat that, because I found
16 that interesting.

17 MR. CORNELIUS: Yeah, it was a 10-year
18 period. So from the late nineties through today, it's
19 been a reduction of about half.

20 COMMISSIONER WILLIAMSON: Okay. I thought
21 maybe you did more of a period of investigation, but -
22 -

23 MR. CORNELIUS: No. I'm sorry, it was a 10-
24 year period.

25 COMMISSIONER WILLIAMSON: Thank you. And I

1 want to thank the witnesses for their testimony, and
2 for the questions, Madame Chairman.

3 CHAIRMAN ARANOFF: Commissioner Pinkert?

4 COMMISSIONER PINKERT: Thank you, Madame
5 Chairman. I just have a couple of questions.

6 Mr. Schagrín, you may have hit on this in
7 your last answer, but I understand that you're arguing
8 both for present material injury finding and, in the
9 alternative, a threat finding from the Commission.

10 And I'm wondering what factors do you think
11 argue most strongly for the present material injury
12 approach, as opposed to the threat analysis?

13 MR. SCHAGRIN: Commissioner Pinkert, in a
14 nutshell, the present material injury case is based
15 primarily on, for present material injury, is the
16 increase in import significance. Yes, they more than
17 doubled, and they increased tremendously by market
18 share.

19 The impact on the domestic industry. The
20 domestic industry lost almost as much market share to
21 China as China increased their market share. So a
22 tremendous loss of market share.

23 The result is, in a period of investigation
24 before the filing of the case, in which there was
25 tremendous increase in demand, we have, in the context

1 of the business cycle clearly, but even on an absolute
2 basis, we have reduced production, reduced shipments,
3 reduced capacity utilization. That's during a period
4 of when I can just generalize, because the actual
5 increase in demand is confidential, was just a
6 tremendous increase in demand.

7 We had reductions in production, shipments,
8 capacity utilization. We had employment indicators
9 that were flat. Demand is soaring, and the USW
10 doesn't get a new worker hired. I mean, that's just,
11 that's just clearly injurious in the context of the
12 business cycle.

13 And then, of course, as to profitability,
14 the industry doesn't perform anywhere near as well as
15 it should during this peak in the business cycle. You
16 have, over the course of the business cycle, what I
17 would only characterize particularly -- I mean, just
18 look at the welded line pipe case, these are just poor
19 results. And it's because the impact of the Chinese
20 imports, and the massive under-selling. Which is the
21 other thing we have here.

22 We have in general information of massive
23 under-selling. And I think when you see the base
24 price information, it will lead to the conclusion that
25 under-selling resulted in price depression. So that's

1 the injury case.

2 And you know, in the context of my history
3 of these cases, I would have to say this is one of the
4 strongest material injury cases I've seen.
5 Notwithstanding recognizing boy, we've got a real
6 issue with surcharges here. Which I think just kind
7 of throws a curveball. Obviously we had a Kentucky
8 plan here, and we weren't able to bring in Sen.
9 Bunning to address the proper way to approach the
10 curveball. But it's clearly a curveball in what's
11 otherwise very, very straightforward analysis.

12 So I hope that answers your question.

13 COMMISSIONER PINKERT: I appreciate that.
14 Now, let me ask you a counter-factual question.

15 Suppose that the surcharge issue didn't
16 exist on this record. Would the industry
17 profitability data push you or push us in the
18 direction of a threat analysis, as opposed to a
19 present material injury?

20 MR. SCHAGRIN: I don't think so. And my
21 reason for that analysis is, without the surcharge
22 issue, even though the trend is a trend of increasing
23 profitability in this industry over the POI, before
24 the losses of '08, I think that, looking at this
25 industry in the context of its business cycle, the

1 Commission would still find that profitability for
2 this industry was poor. And that profitability for
3 this industry was negatively impacted in a material
4 way by the increase in imports from China.
5 Notwithstanding the trends, I think that's, in the
6 context of the business cycle, the tremendous growth
7 in demand, I think that would be the proper conclusion
8 to draw, without the surcharge issue.

9 COMMISSIONER PINKERT: Thank you. And that
10 completes my questions. And I appreciate the
11 testimony today, and I look forward to the submission.

12 CHAIRMAN ARANOFF: Just a few small follow-
13 ups. You know, our staff report, we have information
14 about the Chinese export tax on this product being 15
15 percent as of January 1, 2008. Is that still the
16 case, or has there been any update?

17 MR. SCHAGRIN: To my understanding, Chairman
18 Aranoff, we're always struggling to get verified, on
19 Chinese Government actual announcements.

20 But we believe that as of January 1, 2009,
21 the Chinese Government is no longer applying export
22 taxes to any steel products. And yet, because it's so
23 recent, you know, while we have some general
24 announcements in the trade press about China
25 abandoning their export taxes, we just haven't been

1 able to get it nailed down on a Chinese Government
2 announcement with the appropriate HTS items. But
3 we're going to work further on that. And we've asked
4 USTR for help, since obviously they have an office in
5 Beijing. And we'll try to include as much information
6 as we have on that with our posthearing brief.

7 CHAIRMAN ARANOFF: Thank you very much. The
8 record includes also a reference to a new Chinese mill
9 owned by Baofeng that was set to come on line in June
10 2008. Is there any more recent information about the
11 status of that facility?

12 MR. SCHAGRIN: I'll have to look into that,
13 Chairman Aranoff, and address it in the posthearing.

14 CHAIRMAN ARANOFF: Okay. There were several
15 other, I think there were like two joint ventures that
16 were undertaking new production capacity plans, new
17 production capacity in China that are mentioned in the
18 record, as well. So if there's any updated
19 information on that, that would be helpful.

20 MR. SCHAGRIN: We'll do so. And I know that
21 in our prehearing brief, in addition to some industry
22 analysis on Chinese capacity, which had shown increase
23 in capacity, I think for the posthearing we can
24 compare the data we had on some of the Chinese mills'
25 capacity from the petition to the posthearing. I

1 don't think we did that because we put it together at
2 the end. As well as I think we tried to give you some
3 recent website information on some of the Chinese
4 mills as to new capacity.

5 But we'll address that again in the
6 posthearing, and try to give a more detailed analysis
7 based on the datapoints we have of changes in capacity
8 over the past year or so.

9 CHAIRMAN ARANOFF: Thank you, I appreciate
10 that. One last question, and it follows on some
11 questions that my colleagues asked about the under-
12 selling and price comparison data that we have. And I
13 think this gets into confidential information, so I
14 just want to put it out there for posthearing.

15 But to the extent that there are instances
16 of over-selling, there are some that predate the
17 filing of the petition, and some that don't. And so I
18 wanted to ask whether there is a different explanation
19 for those two groups.

20 MR. SCHAGRIN: I think it's largely based on
21 the changes in the surcharges affecting the domestic
22 price. And that you have the same impact as to the
23 period before the filing of the petition and after.

24 I would reiterate that I think I can
25 characterize the overall data, that clearly your

1 under-selling analysis tends to be based on just
2 quarters, count the quarters. And I have no problem
3 with that. But I would say just, you know, general
4 analysis is, because you also have the quantity of
5 both domestic and Chinese sales, it's hard not to
6 notice how much larger the volumes of Chinese product
7 are in the quarters of under-selling than the volumes
8 of Chinese products in the quarters of over-selling.

9 CHAIRMAN ARANOFF: Okay. Thank you for
10 that. And with that, I think that wraps up all of my
11 questions. So let me turn it to Vice Chairman
12 Pearson.

13 VICE CHAIRMAN PEARSON: Thank you, Madame
14 Chairman. What would you consider the lag time
15 between ordering stainless steel pipe from China, and
16 having it show up in inventory at a distributor in the
17 United States? How many months is that likely to
18 take?

19 MR. HENKE: I would say on the average,
20 three months.

21 VICE CHAIRMAN PEARSON: That quick?

22 MR. HENKE: Yes.

23 VICE CHAIRMAN PEARSON: Okay. Then, this is
24 probably for you, Mr. Schagrín. I'm wondering on this
25 record, what explains over-selling by subject imports

1 in 24 out of 90 quarters? Is it a delayed effect of
2 something that might have been equivalent to a
3 surcharge that the Chinese were absorbing at the time
4 they produced the pipe? But then by the time it gets
5 to the United States, it still retains the higher
6 price relative to the surcharge or whatever, okay?
7 But when it enters the United States and starts
8 competing with U.S. product, it is priced above what
9 the U.S. market might be at that time if the
10 surcharges have fallen.

11 Could you elaborate, comment on that,
12 please?

13 MR. SCHAGRIN: I would make two comments,
14 Vice Chairman Pearson. First, that to the extent the
15 Chinese -- and all the testimony today is that the
16 Chinese never use surcharges. So if you have the
17 domestic industry's surcharges falling dramatically,
18 and the Chinese aren't using surcharges, then their
19 product price, when it appears in the U.S. market, is
20 going to oversell the domestic industry, because they
21 haven't taken down their price because of the change
22 in the nickel molybdenum chrome costs.

23 But secondly, you know, you gather data on
24 pricing from importers, not from the foreign
25 producers. Clearly, if importers are selling out of

1 inventory product that they may have imported any time
2 in an earlier period; and they know, because of the
3 imposition of duties against China, they're not going
4 to be able to import any more; then I think you can
5 see some very, very small volumes of sales, it's
6 almost the flip side of what Mr. Henke was talking
7 about. If an importer has a product in inventory, and
8 a distributor needs something, it might be, if the
9 domestic guys are going to take two or three weeks or
10 a month to get it to them, but the importer of Chinese
11 product has it immediately because he has inventory,
12 he's actually able to charge a somewhat higher price
13 on this small fill-in order.

14 And I would say my analysis of the under-
15 selling, not by having done all the weighted average
16 information, is while you may have 24 quarters out of
17 90 where there's over-selling, which I think
18 percentage-wise is maybe a little over --

19 VICE CHAIRMAN PEARSON: About 27?

20 MR. SCHAGRIN: -- yes, 27 percent. I would
21 say if you looked at the volumes -- and I think I'm
22 allowed to hazard a guess at this -- it would probably
23 be less than 10 percent. I think it's pretty small,
24 if one were to weight average total volumes of
25 products that oversold the domestic industry. Far,

1 far below, clearly, the 27 percent of the quarters.

2 And yet once again, you know, looking at the
3 statute, I would say when you look at under-selling,
4 is under-selling by the imports 73 percent of the time
5 just the quarterly analysis, is it significant? Is it
6 material? I think I would draw the conclusion that it
7 is.

8 VICE CHAIRMAN PEARSON: No, I don't
9 disagree, there's a material amount of under-selling
10 here. But this is a China case, okay?

11 MR. SCHAGRIN: I know, and it's not the
12 norm.

13 VICE CHAIRMAN PEARSON: And it's a ferrous
14 product. A ferrous product --

15 MR. SCHAGRIN: It's all because the
16 surcharge --

17 VICE CHAIRMAN PEARSON: -- is a modest
18 amount of the cost, okay?

19 MR. SCHAGRIN: Right.

20 VICE CHAIRMAN PEARSON: And so I'm not
21 accustomed to seeing quite this much over-selling.
22 And not just barely over-selling, there's some really
23 substantial over-selling in percentage terms.

24 MR. SCHAGRIN: I'm not, either. I assume in
25 every China case you're going to get 100-percent

1 under-selling all the time. And that's, once again
2 it's our friend, Mr. Surcharge, that's just having an
3 impact on the data. That's what makes it different
4 than a run-of-the-mill China case. And I'm glad that
5 we're able to handle non-run-of-the-mill China cases.
6 It's good. It shows flexibility. We just don't
7 handle cookie-cutter cases.

8 But it's clearly the surcharge. You know,
9 the fact that, you know, I think the staff report
10 evidences that Chinese don't sell with surcharge; the
11 domestics do. And that's why you can get the flip-
12 flop.

13 VICE CHAIRMAN PEARSON: Well, even if the
14 Chinese were selling with surcharges, with a lag
15 between when the sale is made and the product reaches
16 market, you are going to have some anomalies anyway.

17 MR. SCHAGRIN: I would agree.

18 VICE CHAIRMAN PEARSON: So if there's
19 anything in the, for purposes of posthearing, as you
20 probe this data, if you can shed any additional light
21 on these questions that are bothering me, that would
22 be, that would be --

23 MR. SCHAGRIN: Okay. And we'll do more of
24 that volume analysis. As I told you, I think, you
25 know, you can get a wild number. But if the volume of

1 the sale is really slow, small, it's anomalous in just
2 the difference in the amount of volume between the
3 normal quarters of under-selling and some of these
4 isolated over-selling quarters. So we'll do that for
5 the posthearing.

6 VICE CHAIRMAN PEARSON: Right, I appreciate
7 that. I'll look forward to seeing it.

8 The last question that I think I have, it's
9 a like-product question. I'm not sure whether this is
10 on the record.

11 Mr. Carpenter, I take no offense. Have a
12 good flight. Sell some pipe.

13 MR. SCHAGRIN: Yes, sell some pipe. I know
14 you have to miss my closing, but it's more important
15 to sell some pipe. Go ahead.

16 VICE CHAIRMAN PEARSON: Okay. This may
17 already be on the record, and in that case you can
18 just point me to it in the posthearing. Otherwise
19 answer it in the posthearing.

20 Do all of the companies here today
21 manufacture the full range of products within the
22 scope? And to the extent that's not the case, do some
23 companies specialize in one size range or another?

24 MR. CORNELIUS: We do, yes. We produce up
25 to 12-inch diameters. So, both A-312 and A-778.

1 VICE CHAIRMAN PEARSON: Okay, but not in the
2 12 to 16 range. That part of the scope you're not in,
3 right?

4 MR. CORNELIUS: Inclusive of 12, but not
5 greater than 12.

6 VICE CHAIRMAN PEARSON: Okay, thanks.

7 MR. HENKE: Felker Brothers manufactures the
8 complete range.

9 MR. BOLING: As does Bristol Metals.

10 MR. SCHAGRIN: I'll speak for Mr. Carpenter
11 now that he's gone. I know that is the case with
12 Outokumpu, as well. They manufacture the full size
13 range of the products within the scope.

14 VICE CHAIRMAN PEARSON: Okay. Thank you
15 very much. I appreciate all of you putting up with my
16 questions. It's been a very interesting morning.

17 Madame Chairman, I have no further
18 questions.

19 CHAIRMAN ARANOFF: Commissioner Okun.

20 COMMISSIONER OKUN: Thank you. I thought
21 for a moment maybe if I didn't do any more questions,
22 all the rest of you could jump on the same plane with
23 Mr. Carpenter and chase down a customer. But since he
24 already left, I'll just ask a couple of more things,
25 mostly for posthearing.

1 One is just with respect to capacity
2 utilization, Mr. Schagrin, we had noted in the prelim,
3 just looking at the capacity utilization levels and
4 some disparity among them, how that relates to the
5 impact on the industry. And I think I understand the
6 general argument. But if you can just address some of
7 the confidential information with respect to what's
8 going on with capacity utilization for this particular
9 industry, I'd appreciate that.

10 MR. SCHAGRIN: We'll do that in the
11 posthearing.

12 COMMISSIONER OKUN: Yes, that would be fine.
13 And then my last question. Just with respect to the
14 arguments on threat, in your brief and today you
15 talked about, you know, that substantial Chinese
16 imports arrived just prior to the filing of the
17 petition. I guess as I'm looking at the monthly data,
18 to me it doesn't look like that. It looked like
19 several things are starting to fall off, and the last
20 quarter of '07 really wasn't the high quarter anyway.
21 So again, it's kind of fishy that the Chinese were in
22 and out, you know, following demand.

23 And so I just want to make sure I understand
24 your threat argument on that. Because again, it
25 doesn't seem to be about the last quarter of '07 being

1 really the indicator.

2 MR. SCHAGRIN: Well, I would just say
3 obviously for all of '07, with 30,000 tons, I
4 recognize that the 5,000 tons in the fourth quarter is
5 less than normal. I don't know to what extent there
6 is a little bit of seasonality in this industry. I
7 know that for a lot of the energy products, and for a
8 lot of these products do go into energy, and for all
9 the distributors sitting in Texas, which has a year-
10 end inventory tax, that you know, you do tend to get
11 some drop-off in some of these products in the fourth
12 quarter compared to the other quarters of the year. I
13 don't know if anybody wants to comment on that, but I
14 believe that's the case.

15 MR. CORNELIUS: That's very true.
16 Oftentimes in the fourth quarter, your distributors do
17 destock for year-end reporting purposes.

18 COMMISSIONER OKUN: Okay. Any other
19 respondent comment on seasonality for any of these
20 products?

21 MR. HENKE: I would simply agree with Mr.
22 Cornelius. At the year-end, especially if pricing has
23 been trending down, there is destocking by our
24 distributors.

25 COMMISSIONER OKUN: Okay. But just for

1 the -- go ahead.

2 MR. BOLING: I was just going to say the
3 same thing basically, is we see it the fourth quarter
4 of every year, that business is the slowest of all for
5 the period, for the year.

6 COMMISSIONER OKUN: Okay. Well then, to the
7 extent you want to --

8 MR. SCHAGRIN: And the only other thing I
9 would point out, Commissioner Okun, is that, you know,
10 then, when the imports would be ramping back up again,
11 we file a petition in January, and the imports don't
12 ramp up. And that clearly is because, come February,
13 everybody stopped taking orders. And there may be
14 even order cancellations. We had a good history of
15 very large margins, and then I think, as was in Mr.
16 Carpenter's testimony, that it almost looked like they
17 were coming back again when one company got a negative
18 prelim, amended negative prelim and countervail, and I
19 guess got a little bit head-filled, and was running
20 around the U.S. market saying we're going to get a
21 negative on the dumping side, as well.

22 And you know, the fact that they were out
23 telling all their customers if we also get a negative
24 on dumping, you know, we're ready to just fill up this
25 market, just shows, A, reinforces the impact of the

1 petition. And as to the threat argument, shows how
2 clearly just letting the Chinese out of this, that
3 they are so willing to come back and fill up this
4 market with unfairly traded product.

5 COMMISSIONER OKUN: Okay. Well, that might
6 be more relevant than the argument that you originally
7 made at page 15 of your brief. So for posthearing if
8 you could just address that, and include in there the
9 seasonality issue, which I don't think all of the
10 staff may have covered it.

11 And with that, I don't believe I have any
12 other questions. I do want to thank you very much for
13 all the responses we've received today.

14 CHAIRMAN ARANOFF: Are there any other
15 questions from commissioners?

16 (No response.)

17 CHAIRMAN ARANOFF: Do the staff have
18 questions for this panel?

19 MR. CORKRAN: Douglas Corkran, Office of
20 Investigations. Thank you, Chairman Aranoff. The
21 staff has no additional questions.

22 CHAIRMAN ARANOFF: All right. Well, then I
23 think we are prepared to proceed to closing
24 statements.

25 MR. SCHAGRIN: Would you like me to do it

1 now, Chairman Aranoff, or take a small break first?

2 CHAIRMAN ARANOFF: Up to you.

3 MR. SCHAGRIN: Okay. I wouldn't mind taking
4 a five-minute break.

5 CHAIRMAN ARANOFF: I will proceed directly
6 to the ladies' room while you take your five-minute
7 break.

8 MR. SCHAGRIN: I'm doing the exact same
9 thing, only I'm going to the men's room. And I just
10 would feel more comfortable using the facilities
11 before closing rather than after.

12 CHAIRMAN ARANOFF: That's fine. Be back in
13 five minutes.

14 (Whereupon, a short recess was taken.)

15 CHAIRMAN ARANOFF: Mr. Schagrin, are you
16 ready to proceed?

17 MR. SCHAGRIN: I am, Chairman Aranoff.
18 Thank you very much.

19 First, on behalf of everyone on the domestic
20 panel, the producers and the union, I want to thank
21 the Commission for all of your efforts today. And in
22 particular, thank the Commission staff for having put
23 together an excellent prehearing staff report; doing
24 extra work on some of these complicated issues that
25 arise in particular in this case because of the

1 surcharge issue and the rapid changes in raw material
2 costs.

3 And I also know, knowing the members of the
4 staff and the Commission so well, the frustration of
5 trying to put together a staff report in which you
6 don't get cooperation from one of the most critical
7 parties in the investigation: the foreign industry.
8 You know, we all have to do our best with what's
9 available, and fill in the missing information as best
10 we can. I'll talk to the adverse inferences in a
11 moment.

12 Getting back to basics. I do believe in the
13 end, it's a very straightforward injury case. Imports
14 were significant at the start of this period of
15 investigation from China, and then surged massively
16 from 2005 to 2007, from 14,000 to 30,000 tons. And
17 given the value of this product, they increased to
18 \$150 million, dollars that could have gone into the
19 pockets of the domestic industry if the imports hadn't
20 surged, or if the imports had been fairly traded, as
21 they will be forced to be in the future if you make an
22 affirmative determination.

23 The impact of that significant surge in
24 imports was a significant loss in market share for the
25 industry during a period of increasing demand,

1 decreasing production, shipments, capacity
2 utilization, flat employment, and poor profitability
3 during the period.

4 As a result of massive under-selling by the
5 Chinese in 77 percent of the quarters, probably 90
6 percent by volume, very significant under-selling at
7 the same time that the imports from China were
8 increasing. It is a commodities product sold on the
9 basis of price. Importers were selling increasing
10 quantities of imports from China from both existing
11 Chinese producers, from new Chinese producers, because
12 they were offering lower prices for this commodity
13 product in the U.S. market. That's how they were
14 making sales.

15 This industry could have supplied every ton
16 needed in the domestic industry. They had the
17 capacity. They could have obtained the steel. They
18 had the workforce to supply that increased demand.
19 But they saw no benefits of the increasing demand.
20 All they saw was poor performance. So I do think it's
21 a straightforward material injury case.

22 If the Commission has to turn to threat
23 factors, of course in terms of vulnerability, we have
24 a horrible recession going on. And you already have
25 the data in this case showing the significant decline

1 in demand already in interim 2008. The testimony from
2 the industry is that that's going to worsen at least
3 in the imminent future through the first half of 2009.

4 We know there is massive capacity on the
5 part of the Chinese industry. The information on the
6 record and the staff report, the information we
7 supplied shows that it's massive. Obviously without
8 their participation, this Commission should apply
9 adverse inferences, and determine that the Chinese
10 industry has a tremendous amount of capacity that's
11 targeted on the U.S. market, and is able to increase
12 that.

13 I would contrast their non-participation
14 here and what happened in verifications. Verification
15 of the Chinese industry, Chinese producer having
16 documents requested a couple of weeks previous to
17 verification, refused, for the first three days of
18 verification, to produce those requested documents.

19 When your accountants here wanted to do
20 verification of a domestic producer, they sent the
21 same kind of verification outline. Have these
22 documents ready. Total cooperation from the domestic
23 industry. Some changes were made to the data. I
24 think that Mr. Jee would tell you no problem. And
25 there's a fundamental difference there. I mean,

1 nobody in this industry ever has anything to hide. I
2 mean, they come here, they give you their information.
3 They participate. And I think they've demonstrated on
4 the record the injury that has been caused to this
5 industry, their vulnerability to increased imports
6 from China.

7 And so we just ask you to make affirmative
8 injury or threat of injury determinations. And we
9 thank you again for your time today. Thank you.

10 CHAIRMAN ARANOFF: Thank you very much. And
11 I want to just thank all of the witnesses one more
12 time for coming to share your experience with us and
13 taking the time.

14 Posthearing briefs, statements responsive to
15 questions and requests of the Commission and
16 corrections to the transcript must be filed by
17 January 23, 2009. Closing of the record and final
18 release of data to parties will be on February 11,
19 2009. And final comments are due on February 13,
20 2009.

21 With that, I believe we've completed our
22 business, and the hearing is adjourned.

23 (Whereupon, at 1:02 p.m., the hearing in the
24 above-entitled matter was concluded.)

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Welded Stainless Steel Pressure
Pipes From China

INVESTIGATION NOS.: 701-TA-454, 731-TA-1144 (final)

HEARING DATE: 1/13/09

LOCATION: Washington, DC

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: January 13, 2009

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: Rebecca L. McCray
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: Christina Chesley
Signature of Court Reporter

