

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
SEAMLESS REFINED COPPER PIPE) Investigation Nos.:
AND TUBE FROM CHINA AND) 731-TA-1174 and 1175
MEXICO) (Final)
)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
 SEAMLESS REFINED COPPER PIPE) 731-TA-1174 and 1175
 AND TUBE FROM CHINA AND) (Final)
 MEXICO)

Thursday,
 September 23, 2010

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

The hearing commenced, pursuant to notice, at
 9:34 a.m., before the Commissioners of the United States
 International Trade Commission, the Honorable DEANNA
 TANNER OKUN, Chairman, presiding.

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Representative, 4th District, Tennessee

Embassy Witness:

HUGO PEREZCANO, Head of the International Trade
Practices Unit of the Secretary of Economy of
Mexico

In Support of the Imposition of
Antidumping Duty Orders:On Behalf of Cerro Flow Products, LLC; Kobe Wieland
Copper Products, LLC; Mueller Copper Tube Products,
Inc.; Mueller Copper Tube Company, Inc.:

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Mueller Industries, Inc.

BART ARNDT, Vice President/Industrial Unit
Manager, Cerro Flow Products, LLC

MIKE FLOWERS, Former Employee of Wolverine
Tube, Inc.

BRIAN STEMLER, President, USW, Local 4294

DR. RICHARD BOYCE, President, Econometrica
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JACK A. LEVY, Esquire

MARTIN SCHAEFERMEIER, Esquire

DLA Piper

Washington, D.C.

In Opposition to the Imposition of Antidumping
Duty Orders:On Behalf of Golden Dragon Precise Copper Tube Group,
Inc.; GD Affiliates S. de R.L. de C.V.; GD Copper
(U.S.A.), Inc.:

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THOMAS ROGERS, Economic Consultant, Capital
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KEVIN M. O'BRIEN, Esquire

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ED KERINS, Chief Executive Officer, Cambridge-Lee Industries
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WILLIAM L. TOPPER, Senior Vice President, Operations, Goodman
RAYMOND PARETZKY, Esquire
McDermott Will & Emery LLP
Washington, D.C.

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P R O C E E D I N G S

(9:34 a.m.)

1
2
3 COMMISSIONER LANE: Good morning. On behalf
4 of the United States International Trade Commission, I
5 welcome you to this hearing on Investigation No. 731-
6 TA-1174 and 1175 (Final), involving Seamless Refined
7 Copper Pipe and Tube from China and Mexico. The
8 purpose of these investigations is to determine
9 whether an industry in the United States is materially
10 injured or threatened with material injury of the
11 establishment of an industry in the United States as
12 materially retarded by reason of less than fair value
13 imports of seamless refined copper pipe and tube from
14 China and Mexico. Schedule setting forth the
15 presentations of this hearing, notices of
16 investigation and transcript order forms are available
17 at the public distribution table.

18 All prepared testimony should be given to
19 the Secretary. Please do not place testimony directly
20 on the public information table. All witnesses must
21 be sworn in by the Secretary before presenting
22 testimony. I understand that the parties are aware of
23 the time allocations. Any questions regarding the
24 time allocations should be directed to the Secretary.
25 Speakers are reminded not to refer in their remarks or

1 answers to questions to business proprietary
2 information. Please speak clearly into the
3 microphones and state your name for the record for the
4 benefit of the court reporter. If you will be
5 submitting documents that contain information you wish
6 classified as business confidential, your request
7 should comply with Commission Rule 201.6. Madam
8 Secretary, are there any preliminary matters?

9 MS. ABBOTT: There are none, Madam Chairman.

10 COMMISSIONER LANE: Very well. Will you
11 please announce our first congressional witness.

12 MS. ABBOTT: Our first speaker is the
13 Honorable Lincoln Davis, United States Representative,
14 4th District, Tennessee.

15 COMMISSIONER LANE: Thank you. Welcome to
16 the Commission, Congressman Davis.

17 MR. DAVIS: Thank you very much, Chairman
18 Okun, and members of the Commission. My name is
19 Lincoln Davis. I represent Tennessee's 4th
20 Congressional District in the U.S. House of
21 Representatives. I thank you for giving me this
22 opportunity to speak at today's hearing on the
23 Commission's investigation on seamless refined copper
24 pipe and tubing. I hope to bring a very important
25 concern and perspective to these proceedings and your

1 investigation. According to preliminary data from the
2 Bureau of Labor Statistics, the unemployment rate in
3 the State of Tennessee last month was 9.6 percent, but
4 many counties across the state are coping with
5 unemployment levels that are in some cases more than
6 double the state average.

7 In Scott County, which is part of the
8 district I represent, almost one out of every five
9 people is out of work. While I understand that many
10 workers and many organized labor unions believe that
11 antidumping laws are designed to protect American
12 jobs, this is not always the case. Let me tell you
13 about the Goodman Company which is headquartered in
14 Houston, Texas, and which employs 1,400 workers at its
15 facility in Fayetteville, Tennessee, and another 250
16 workers at its facility in Dayton, Tennessee. Goodman
17 is an American company and a great responsible
18 corporate citizen. It manufactures air conditioning
19 and heating units.

20 All of its nearly 4,000 employees are
21 employed in the United States, with the majority of
22 those workers located in the Houston area and in
23 Tennessee. Goodman is committed to keeping American
24 jobs in America. It has a competitive, productive
25 management/labor relationship. In fact, many of its

1 workers at the plant in Fayetteville are members of
2 the International Association of Machinists and
3 Aerospace Workers Union. For a variety of reasons
4 that Goodman and other witnesses will detail with you
5 today, the company imports seamless refined copper
6 tube and pipe from its suppliers in China, Golden
7 Dragon.

8 Imported copper tube and pipe are then
9 manufactured by Goodman's workers into coil assemblies
10 that are incorporated as a component part in air
11 conditioning units. In all, 175 workers at Goodman's
12 facility in Fayetteville, Tennessee are engaged in
13 making coil assemblies. In sharp contrast, many of
14 Goodman's competitors have moved similar manufacturing
15 jobs outside of the United States. For example, many
16 of Goodman's competitors now have production
17 facilities in Mexico where workers manufacture coil
18 assemblies similar to those made by my constituents in
19 Fayetteville, and those coil assemblies are
20 incorporated in the air conditioning units that
21 ultimately are imported to the United States and
22 purchased by American consumers.

23 Here's why I have asked to testify today.
24 Due to the way in which the antidumping laws work, the
25 Goodman Company, simply because it imports copper pipe

1 and tube directly to its facilities in the United
2 States where workers manufacture coil assemblies,
3 potentially will be encouraged to move jobs out of the
4 United States due to competitive pressures. How can
5 this be? The answer is because Goodman's competitors
6 manufacture the coil assemblies outside the U.S., even
7 though in many instances the copper tube and pipe is
8 imported from the very same supplier or one of its
9 Chinese competitors. Under the law, the supplier of
10 copper pipe and tube to compete in say Mexico is not
11 subject to U.S. antidumping laws.

12 However, where Golden Dragon imports such
13 pipe and tube directed to Goodman in the U.S., it is
14 subject to such duties. If the law imposes an
15 antidumping duty on Goodman suppliers, a duty that
16 will be passed on to Goodman, Goodman could well
17 determine that it must consider moving its
18 manufacturing jobs out of the United States to remain
19 competitive, and that's where the rub comes in. This
20 would be nothing less than a perverse result,
21 potentially at odds with the stated intention of the
22 antidumping laws, the protection of American jobs. I
23 understand that the Commission must conduct this
24 hearing and its investigation consistent with the laws
25 as it exists, not as it would like the law to exist.

1 However, to the extent possible, I urge you
2 to take into consideration the possible unintended
3 consequences of antidumping laws in this, as well as
4 other, cases. The idea that Goodman Company, an
5 American company with American workers, potentially
6 could be encouraged by American law to move some of
7 its job out of this country is not a result that my
8 constituents in Tennessee would understand, nor
9 accept, and neither do I. Nor should it be a result
10 this body should allow. I thank you.

11 CHAIRMAN OKUN: Thank you, Congressman, for
12 your testimony. Madam Secretary, will you announce
13 our next witness.

14 MS. ABBOTT: Our next speaker is Hugo
15 Perezcano, Head of the International Trade Practices
16 Unit of the Secretary of the Economy in Mexico.

17 CHAIRMAN OKUN: Good morning, and welcome to
18 the Commission.

19 MR. PEREZCANO: Good morning, Chairman Okun,
20 members of the Commission. The government of Mexico
21 appreciates the opportunity to appear before you at
22 this hearing and express its views on this case. I am
23 Hugo Perezcano, Head of the International Trade
24 Practices Unit, the Trade Remedy Authority in Mexico,
25 an agency of the Secretariat of the Economy. Let me

1 say firstly that this is an important case for the
2 government of Mexico, and one that it has been
3 following closely. Mexico and the United States are
4 trading partners and both place the highest importance
5 on the free flow of bilateral trade. Specifically in
6 the products that concern us today, Mexico believes
7 that our industries are complementary.

8 Mexican producers involved not only export
9 to the U.S., two of them have made significant
10 investments in the U.S. pipe and tube industry. I
11 would like to address today three specific issues.
12 First, the record evidence does not support that
13 imports have injured the U.S. industry. Second, that
14 in a threat of injury analysis, Mexico should be
15 considered separately from China. Third, that price
16 information is not representative of the condition of
17 the domestic industry, as a whole, or of a major
18 proportion of the domestic industry.

19 Let me turn now to my first point. The
20 government of Mexico respectfully submits that factors
21 other than imports explain the situation that U.S.
22 producers have faced. The economic recession, the
23 drop in the housing and commercial construction have
24 resulted in an overall decline in the demand for
25 copper pipe and tube, and volatility in copper prices

1 also trigger demand for substitute products. In
2 particular, PAC and PVC plastic tubes have displaced
3 large volumes of sales of plumbing tube, and
4 similarly, aluminum tubes are making continual in
5 roads into the industrial copper tube market. This
6 has resulted in a decrease in production, shipments,
7 sales and employments, et cetera.

8 In the preliminary stage, the record shows
9 that in absolute terms, U.S. consumption decreased by
10 267 million pounds between 2006 and 2008. In the
11 first half of 2009 compared to the same period of
12 2008, it decreased by 115 million pounds. In the same
13 periods, U.S. shipments decreased by 253 and 82
14 million pounds, respectively. While imports from
15 China and Mexico increased about 12 million pounds
16 between 2006 and 2008, both decreased 24 million
17 pounds in the first half of 2009, as compared to the
18 same period of 2008. These numbers show that between
19 2006 and 2008, imports from China and Mexico
20 represented only five percent of the volume drop in
21 U.S. shipments.

22 Ninety-five percent of that decline would be
23 associated with a drop in the market. In the first
24 half of 2009 compared to the same period of 2008, the
25 drop in shipments and imports, both those from China

1 and Mexico, as well as those from other sources, would
2 be linked to contraction of the market. These trends
3 in the preliminary determination are confirmed by the
4 additional information in the prehearing staff report.
5 The report states that apparent U.S. consumption
6 decreased by 25.1 percent or 238 million pounds from
7 2007 to 2009, and then decreased by 10.2 percent or 39
8 million pounds in the interim 2010, as compared to the
9 interim 2009.

10 The report also states that in the same
11 period, U.S. shipment decreased by 232 million pounds
12 and two million pounds, respectively. Thus, the
13 record does not support that imports are the cause of
14 injury to the U.S. industry unless all Mexican imports
15 considered individually. Also, Mexican imports pose
16 no threat of injury to U.S. producers, and Respondents
17 from Mexico will address why their individual
18 operations will confirm this argument. I turn to my
19 second point. In the view of the government of
20 Mexico, in any threat of injury analysis, Mexico
21 should be considered separately from China. Imports
22 from each country show quite different trends.

23 Indeed, imports from Mexico have declined,
24 both in absolute terms and in market share. Also,
25 imports from Mexico have been overwhelmingly plunging

1 pipe, whereas imports from China are nearly all
2 industrial tube. There is no practical way to
3 cumulate such disparities in a threat of injury
4 analysis. Finally, and this is my third point, we
5 believe that it is questionable that price information
6 of eight domestic producers that represent 12 percent
7 of the producers' shipments, as noted in the
8 prehearing staff report, represent the state of the
9 domestic industry as a whole, or even a major
10 proportion of the domestic industry, as required by
11 the antidumping agreement. It has not been explained
12 why this is so, or the information should be completed
13 in accordance also with the WTO panel determination in
14 the case of steel pipes and tubes from Guatemala.
15 These, members of the Commission, are my remarks, and
16 I thank you for your attention.

17 CHAIRMAN OKUN: Thank you very much for your
18 testimony. Let me turn to my colleagues to see if
19 anyone has questions. Thank you very much for joining
20 us this morning.

21 MR. PEREZCANO: Thank you very much.

22 MS. ABBOTT: Opening remarks on behalf of
23 Petitioners will be by Jack A. Levy of DLA Piper.

24 CHAIRMAN OKUN: Good morning and welcome.

25 MR. LEVY: Good morning, Madam Chairman,

1 members of the Commission. It's very good to see you
2 all again. For the record, my name is Jack Levy of
3 DLA Piper, counsel for the Petitioners, Cerro, Mueller
4 and Kobe Wieland. For more than a century, the United
5 States has had a rich history of innovation in
6 developing and producing seamless refined copper tube
7 products. Today, domestic producers employ thousands
8 of American workers at plants located in communities
9 across the United States, in states such as North
10 Carolina, Utah, Missouri, Tennessee, Louisiana, Texas,
11 Illinois, Arkansas, Mississippi and Pennsylvania.

12 When you look at the facts of this case, I
13 don't think there's any serious question that in the
14 terminology of the antidumping statute the domestic
15 industry and its workers have been materially injured
16 by reason of dumped imports from China and Mexico.
17 From the beginning to the end of the period of
18 investigation, you can see all the key indicia of
19 injury. Production is down, sales are down, capacity
20 utilization is down, profits have plummeted and the
21 size of the American workforce has been substantially
22 reduced. Perhaps most telling is the fact that there
23 have been no less than four plant closures, which
24 taken alone resulted in a loss of nearly 700 American
25 jobs.

1 And while the details are proprietary, it's
2 also worth noting that certain U.S. producers are
3 losing money. In short, the entire U.S. industry, or,
4 I should say, what's left of it, is injured and
5 extremely vulnerable. We also believe it's equally
6 apparent that subject imports are a leading cause of
7 the problem. During the period of investigation,
8 imports from China and Mexico have undersold the
9 domestic industry across a range of seamless refined
10 copper tube products. The evidence of underselling
11 can be found not only in quarterly price data, but
12 perhaps most importantly in the multiple instances
13 where purchasers have corroborated Petitioners' lost
14 sales and lost revenue allegations.

15 The result of this underselling has been an
16 unmistakable downward pressure on U.S. market prices,
17 and most notably, a steady loss of market share for
18 U.S. producers from 2007 through the filing of the
19 petitions. Most recently, in 2010, subject import
20 volumes have fallen and U.S. producers have recaptured
21 market share, but this reversal is a direct result of
22 the filing of the petition and the preliminary
23 determinations from the ITC and Commerce. Now, in a
24 moment counsel for the Respondents will stand up here
25 and tell you what they always say in one form or

1 another: It ain't us. They will remind you that
2 there has been a recession, that there are
3 substitutes, and, in their view, the U.S. industry
4 injured itself.

5 To be sure, demand in the U.S. market has
6 declined and substitution does exist, but these
7 challenging factors only make the domestic industry
8 even more vulnerable to unfair trade practices, such
9 as those being perpetrated by producers in China and
10 Mexico. And for whatever demand that does remain, the
11 record facts will show that subject imports are
12 competing head to head with domestic producers. They
13 are competing on the basis of price, they are
14 underselling domestic producers and the U.S. industry
15 has lost market share to subject imports from the
16 start of the period up through the filing of the
17 petition. Simply put, the idea that U.S. producers'
18 refusal to match dumped prices of certain customer
19 accounts somehow constitutes self-inflicted injury is
20 absurd.

21 Moreover, with massive unutilized production
22 capacity in both China and Mexico, enough to meet more
23 than 100 percent of total U.S. demand, the threat of
24 continued injury from subject imports is unmistakable.
25 In a moment, you'll hear direct, candid testimony from

1 company officials at Mueller and Cerro, as well as two
2 plant workers from the states of Alabama and Illinois.
3 Their testimony will help inform your understanding of
4 what has happened in this market and how subject
5 imports are unquestionably a leading cause of the
6 problem. Thank you.

7 CHAIRMAN OKUN: Thank you.

8 MS. ABBOTT: Opening remarks on behalf of
9 Respondents will be by Kevin M. O'Brien of Baker &
10 McKenzie and John M. Ryan of Weil, Gotshal & Manges.

11 MR. O'BRIEN: Good morning, Madam
12 Chairman --

13 CHAIRMAN OKUN: Good morning.

14 MR. O'BRIEN: -- and Commissioners. I'm
15 Kevin O'Brien of Baker & McKenzie. I'm splitting five
16 minutes, so I'll move quickly, if I might. We'll have
17 our chance later this afternoon or this morning to
18 explain our story in detail. For now, please just
19 bear in mind there are two very different sides to
20 this story. The record for the final investigation is
21 very different than the record for the preliminary
22 investigation. At our request, the staff went out and
23 got data on new products, in particular, products five
24 through eight, and, in particular, product five.
25 Golden Dragon is the largest exporter to the U.S., and

1 product five is the key product for us.

2 We have with us today our largest customers
3 in the U.S. from Goodman and from Johnson Controls.
4 They will explain to you exactly what is going on with
5 that product and why it was purchased and under what
6 conditions, and you will hear that the domestic
7 producers are unwilling or unable to supply that
8 product. Now, when you consider that with all the
9 other factors, the recession, the economic downturn,
10 et cetera, there really isn't any injury. As to
11 threat, we will discuss the in China demand. Yes, the
12 production capacity is large. The demand in China is
13 enormous. When you consider the balance between the
14 two, there is no threat of imminent harm. Thank you
15 very much.

16 MR. RYAN: Like Kevin, I'll try to be brief
17 as well. I'll need to be brief. I'm John Ryan of
18 Weil, Gotshal & Manges appearing on behalf of IUSA and
19 NACOBRE, the Mexican producers and exporters. I'd
20 like to thank quickly Mr. Perezcano for appearing this
21 morning on behalf of Mexico. The U.S. industry
22 remains profitable despite the large decline in demand
23 that everybody agrees has occurred. The drop in
24 demand fully explains the domestic producers' declines
25 in production and shipments, as Mueller's own SEC

1 statements attest to, and we appended those to our
2 prehearing brief.

3 The profitable copper pipe industry in the
4 United States is not being injured by subject imports.
5 The way we see it, this case is really about a threat
6 of perceived injury. In your threat analysis, we
7 strongly urge the Commission to decumulate imports
8 from Mexico from other imports. Imports from Mexico
9 were predominantly plumbing pipe, while imports from
10 China are predominantly commercial pipe, and IUSA, the
11 company that accounted for 70 percent of exports from
12 Mexico, shifted production to its U.S. subsidiary,
13 Cambridge-Lee, before the petition was filed. The
14 result is that imports from Mexico have dropped
15 dramatically, both in volume and market share. The
16 only thing Petitioner can point to is new capacity in
17 Mexico, but the new capacity largely replaces mills
18 that have been shut down, such as one of two NACOBRE
19 mills, and you'll hear more about that, or are being
20 phased out, as you'll hear from IUSA. There's no
21 reason to think that exports from Mexico will increase
22 significantly. We would urge the Commission to find
23 no threat of material injury with regard to imports
24 from Mexico. Thank you.

25 CHAIRMAN OKUN: Thank you.

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1 MS. ABBOTT: Will the first panel in support
2 of the imposition of antidumping duty orders please
3 come forward and be seated. Madam Chairman, all
4 witnesses have been sworn.

5 CHAIRMAN OKUN: Thank you, Madam Secretary.
6 Mr. Levy, as you're setting up, is this going to come
7 around when you're testifying? Because, actually, I
8 don't think the two Commissioners on this end can
9 actually see your easel. Okay. That's fine then. If
10 you can just refer to both, that would be fine. All
11 right. Your panel is seated. Are you ready to
12 proceed? Please proceed.

13 MR. LEVY: Thank you again, Madam Chairman,
14 members of the Commission. Jack Levy for Petitioners.
15 Before I introduce our panel, I want to first take a
16 moment to express our appreciation to the ITC staff.
17 Their commitment and professionalism investigating
18 this industry is much appreciated, so thank you. Now,
19 let me introduce you to our panel. With me today is
20 John Hansen, President of Manufacturing Operations at
21 Mueller Industries. Next to him is Bart Arndt, the
22 Vice President of Industrial of Cerro Flow Products.
23 Next to him is Mike Flowers, a former employee of
24 Wolverine Tube. We also have Brian Stemler, who works
25 at Cerro's Sauget, Illinois plant and who is the local

1 USW President.

2 We are joined here today by Dr. Boyce of
3 Econometrica International, and finally, we have my
4 colleague from DLA Piper, Martin Schaefermeier. Let
5 me briefly preview for you the testimony of the
6 industry witnesses. First, John Hansen will be
7 talking to you about the product, seamless refined
8 copper tube, and will describe for you the types of
9 applications for copper tube. He will also describe
10 how it's sold, including channels of distribution, and
11 the pricing mechanisms that prevail in the U.S.
12 market. He will also detail the various conditions of
13 competition in the United States, including demand
14 trends, substitution issues and the impact of subject
15 imports.

16 Finally, he will recount for you from
17 Mueller's perspective the injury that dumped Mexican
18 and Chinese copper tube has inflicted on his company
19 and the need for antidumping relief. Next, Bart Arndt
20 will provide an overview of the production process and
21 the differences between the various finished products.
22 He will also recount for you the impact that subject
23 imports had on Cerro's business during the period of
24 investigation. Next, we will hear from Mike Flowers
25 who will speak to his experience as a worker at

1 Wolverine's Decatur, Alabama copper tube mill, and how
2 Chinese imports were responsible for the closure of
3 that plant and the loss of 440 American jobs.

4 Finally, we will hear from Brian Stemler who
5 will explain to you how he and his Sauget coworkers
6 have been injured and how they're threatened with
7 future injury. Listening to their testimony, I think
8 you'll get a very clear sense of what's really going
9 on in the market and why antidumping orders are
10 necessary to save what is left of this industry and
11 its workers. Now, before I turn things over to the
12 industry witnesses, I want to touch on a few technical
13 points. First, we submit that there's a single
14 domestic like product for this case, seamless refined
15 copper tube, that is coextensive with the scope of the
16 investigation.

17 Several Respondents have emphasized in their
18 briefs that there is a notional segmentation of the
19 market between plumbing tube, which is generally sold
20 through distributors, and commercial or industrial
21 tube, which is generally sold to OEMs. We basically
22 agree. However, please bear in mind that there is no
23 clear dividing line between commercial and plumbing
24 tubes either in terms of the way they're made, their
25 physical characteristics and uses, overlapping

1 channels of distribution, et cetera. As a result,
2 we're talking about single domestic like product. On
3 the issue of cumulation, we note that copper tube
4 produced to a given specification is highly
5 interchangeable regardless of whether it's
6 manufactured in the U.S., Mexico or China.

7 As a result, producers compete with one
8 another primarily on the basis of price. Subject
9 imports are simultaneously present in the U.S. market
10 and sales from China and Mexico and the domestic
11 producers are indeed present in the same geographic
12 market, which is a national market. Finally, subject
13 imports share common or similar channels of
14 distribution with one another and with domestic
15 producers. So for all these reasons, we think that
16 cumulation is required by statute. This is at bottom
17 a straightforward case like those you've seen many
18 times before.

19 It's a case where there's simply too much
20 supply chasing not enough demand. As the Commission
21 has observed countless times, structural oversupply
22 has a tendency to result in injurious price effects.
23 As the industry witnesses will testify, the U.S.
24 industry has already been severely injured, and as I
25 will discuss later on, they are also threatened with

1 continued future injury as a result of unutilized
2 production capacity in both Mexico and China that can
3 likely supply the entire U.S. market once, if not
4 several times over. With that introduction, I'd like
5 to turn things over to Mr. John Hansen of Mueller
6 Industries. Thank you.

7 MR. HANSEN: Good morning. My name is John
8 Hansen. I'm President of Manufacturing Operations for
9 the Standard Products Division at Mueller Industries.
10 I've been with the company for 18 years, and I've
11 worked in the copper tube and fittings industry for 26
12 years. Mueller has produced copper tube in the United
13 States for over 70 years and we operate two integrated
14 copper tube mills in Fulton, Mississippi and Wynne,
15 Arkansas. We also have a subsidiary, Precision Tube
16 Corporation, which is a redraw mill. Collectively,
17 Mueller employs more than 400 American workers in our
18 copper tube operations.

19 By way of introduction, I'd like to begin by
20 briefly describing seamless refined copper tube with
21 reference to Exhibit 1. Copper tube can be produced
22 to standard ASPM specifications. These are often
23 referred to as plumbing tube. There are different
24 specifications for different service conditions. Here
25 are some examples. There is hard tube in straight

1 lengths, and there is soft tubing typically sold in
2 coils. In rare occasions, in straight lengths. There
3 are different designations for different wall
4 thicknesses, Type K being the heaviest copper tube, L
5 being thinner than K, and M thinner than L.

6 DWV, which stands for drain, waste and vent,
7 is the thinnest of these. There is OXY/MED tube for
8 the transportation of medical gases, typically in
9 hospitals, but also for the transportation of fluids,
10 like the above. There is also ACR tubing for the
11 transportation of refrigerant. On the soft side, you
12 also have refrigeration service tubing, also for the
13 transportation of refrigerant, and you have line sets,
14 which are coils of liquid lines and suction lines, the
15 latter being insulated. In addition, we sell copper
16 tube to OEMs who delineate custom specifications.
17 Here, the ASPM standards delineate general standards,
18 such as copper purity and testing methods, but the
19 OEM, they require some custom dimensions, tempers or
20 packaging.

21 These are often referred to as commercial
22 tube or industrial tube. As you can see here on the
23 chart, common examples of commercial tube include
24 straight lengths, LWC, which stands for level wound
25 coils, both smooth bore and with internal enhancement.

1 Commercial tubes can also be provided with external
2 enhancements. Next, let me identify the types of
3 copper tube applications we see in the marketplace.
4 Referring to Petitioner's Exhibit 2, we see that there
5 is a wide range of applications in the construction
6 industry with single family houses at one end, through
7 restaurants, shopping malls, schools and large
8 commercial buildings at the other end. Not
9 surprisingly, smaller ODs of plumbing tube, such as
10 half-inch *L*, are commonly found at one end, whereas
11 six or eight-inch plumbing tube is found in the
12 largest commercial buildings.

13 Similarly, there is also a continuum of HVAC
14 applications ranging from residential air conditioning
15 units in houses to large chillers for office
16 buildings. Finally, as you can see in Exhibit 3,
17 there are specialty applications such as ice makers,
18 refrigerated cases and kitchen and bath fixtures, to
19 name a few. There are also other applications you
20 don't see here on the slide, like electrical conduit,
21 compressed air, instrumentation and decorative
22 products. The basic point to keep in mind is that
23 copper tubes are used in a wide range of applications
24 that take advantage of some combination of copper's
25 various properties, including strength, electrical

1 conductivity, thermal conductivity, ductility, or ease
2 of bending, corrosion resistance, chemical purity, for
3 example, it's lead-free, and resistance to fouling.

4 Now, let me describe the way copper tube is
5 sold. First, I should explain that there are various
6 channels of distribution in the U.S. market. There
7 are four basic channels of distribution. First, from
8 the mill to a master distributor who in turn resells
9 to a wholesaler, or from the mill direct to a
10 wholesaler, or from a mill direct to a retailer, or
11 from the mill direct to an original equipment
12 manufacturer. The size of the end user will generally
13 determine whether it can purchase directly from a mill
14 or whether it needs to buy through a distributor.
15 Copper tube produced to standard specification, that
16 is, plumbing tube, is generally sold to distributors,
17 wholesalers or retailers, but some plumbing tube is
18 also sold directly to OEMs.

19 In any event, nearly all plumbing tube sales
20 are spot sales. Bidding is generally based on a
21 published price sheet which is adjusted periodically
22 to account for changes in copper cost and other market
23 conditions. Petitioners' Exhibit 4 is an example of a
24 price list for plumbing tube. What generally happens
25 is that a customer invites bidding for an estimated

1 quantity of pounds. Because tube producers publish
2 price lists that generally show the same list prices,
3 competition takes place on the basis of a multiplier,
4 which means the sales price is the list price times
5 the multiplier that is negotiated. For example, just
6 pointing out the price list a half-inch, Type K, hard
7 length with a list price of \$4.99 per foot.

8 If the multiplier is .5, then the actual
9 sales price to the customer is \$2.50 per foot. For
10 commercial tube the products are generally sold
11 directly to OEMs, although they also sometimes have
12 sales of level wound coils to distributors. The sales
13 process for commercial tube generally involves annual
14 contracts that specify forecasted volumes for a 12
15 month period. Because sales occur over an extended
16 period, and because copper prices are often extremely
17 volatile, pricing is based on a fabrication charge
18 plus the copper metal cost. Depending upon the
19 particular contract, the metal price could be based on
20 COMEX prices in effect on the order date, or the mill
21 shipment date, or based on a firm metal contract for
22 an extended period, or based on the prior month's
23 COMEX average, or based on the COMEX price from some
24 earlier period.

25 For these types of sales, because the metal

1 cost is intended to be a pass-through, competition
2 occurs based on the fabrication charge, which is
3 expressed on a dollar per pound basis. I should say
4 that while the pricing mechanisms for plumbing tube
5 and commercial tube products may seem different, the
6 economics for the copper tube manufacturer are
7 fundamentally the same. We generally seek to pass-
8 through metal costs to compete on the basis of
9 fabrication costs. Next, I'd like to identify several
10 of the key conditions of competition in the U.S.
11 market.

12 First, with regard to interchangeability,
13 once copper tube is produced to a given specification,
14 products from different sources are generally viewed
15 as interchangeable in the marketplace. This is
16 certainly true for products from China, Mexico and the
17 United States, and generally true for other sources of
18 supply as well. Importers have been targeting high
19 volume products for sale in the U.S. market in order
20 to increase their own capacity utilization. What we
21 are seeing is that they are making deeper inroads in
22 terms of their distribution networks in the United
23 States. Golden Dragon, for example, used to rely on
24 Wolverine to market its product.

25 More recently, however, we see that Golden

1 Dragon has established its own U.S. subsidiary. Also,
2 during the period of investigation, we have seen the
3 establishment of Liang America as a distribution arm
4 in the United States. Regarding our cost structure,
5 if you look at our manufacturing costs, the fact is
6 that there are substantial fixed costs in the
7 production processes, such as the high capital
8 expenditures underlying the prefabrication process.
9 For this reason, it is important for us to have high
10 capacity utilization in order to reduce our unit fixed
11 costs.

12 If we were already operating at high
13 capacity utilization, a marginal pound of product sold
14 would not be quite so critical, but in the environment
15 of depressed demand due to the recession, that same
16 marginal pound represents a much larger percentage of
17 our production and has a much larger impact on our
18 units' fixed costs. Simply put, in the current
19 environment, every marginal pound of product is
20 critical to our cost structure. Consumption of copper
21 tube is tied to the business cycle, including
22 construction activity in the United States.
23 Obviously, demand for copper tube has been below
24 average in recent years due to the recession. This is
25 also an industry where substitution is a relevant

1 issue. The applications for copper tube are varied
2 but are primarily: 1) conveyance of fluids; and 2)
3 thermal transfer. With respect to conveyance of fluid
4 applications, we see that plastic tubing, both CPBC,
5 and Tex, are potential substitutes, particularly in
6 residential plumbing and new home construction. In
7 commercial construction, stainless steel may be a cost
8 effective alternative at some relative price for
9 copper and steel.

10 With respect to thermal transfer
11 applications, we see that aluminum is a potential
12 substitute, although its thermal conductivity is
13 inherently inferior to copper, and the redesign and
14 retooling process for OEMs can be lengthy, often 18
15 months, and costly.

16 The bottom line is that if the relative
17 prices between copper tube and competing alternatives
18 is great enough, substitution occurs in some
19 applications. I spoke a bit about demand drivers in
20 the U.S. market, but I should also mention that
21 certain U.S. producers have shuttered capacity in
22 recent years.

23 Wolverine closed its two mills in
24 Mississippi and Alabama. National Copper closed its
25 Michigan tube mill, and Linderme Tube closed its Ohio

1 redrill mill. Together, these mills represented more
2 than 200 million pounds of production capacity.

3 In principle, those of us left standing in
4 the U.S. industry should have found more than adequate
5 demand in the U.S. for our product. But despite these
6 closures, the capacity utilization of the remaining
7 U.S. producers worsened through the period of
8 investigation, and only recovered somewhat after the
9 petitions were filed.

10 Why? Well, with respect to sales of
11 plumbing tube, dealers often tried to raise prices,
12 but what we have found is that distributors of
13 imported products from Mexico and China responded with
14 very aggressive multipliers that depressed market
15 price levels. Similarly, with respect to sales of
16 commercial tube, the OEMs have continued to exercise
17 enormous market power, using low price imports as
18 leverage to negotiate lower prices and terms of sale
19 that are extremely favorable to the buyers.

20 Finally, let me say a few words about the
21 effect of subject import competition has had on
22 Mueller's business. Without getting into details, let
23 me say that Mueller has been injured during the period
24 of investigation.

25 From 2007 to the present, we have

1 experienced reductions in production, sales, capacity
2 utilization, profits, and workforce. Things have
3 gotten visibly better in 2010, but that is only
4 because of this case.

5 If anti-dumping orders are not issued, we
6 expect that the downward spiral will resume. In our
7 proprietary submissions, we have detailed specific
8 instances where we lost millions of dollars in sales
9 to underselling by Mexican imports, IUSA and NACOBRE,
10 as well as Chinese imports from companies such as Hi
11 Liang.

12 Mueller has a long and proud history as a
13 leading producer in the copper tube industry.
14 Unfortunately, the growth of imports in the market at
15 unfairly traded prices has undermined our ability to
16 invest in new technology.

17 We have brought this case because we are
18 afraid that without relief from dumped imports the
19 future prospects for our company and its workers are
20 very much in jeopardy. Thank you for your kind
21 attention. Let me now turn the testimony over to Mr.
22 Bart Arndt, of Cerro Flow Products.

23 MR. ARNDT: Good morning. My name is Bart
24 Arndt. I am the Vice President of Industrial Products
25 at Cerro Flow Products. I have been with Cerro for

1 eight years, and I have worked in the industry for 21
2 years.

3 In my current capacity, I am responsible for
4 all aspects of production, sales, profit and loss, of
5 commercial tubing. Cerro, a 100 year old company,
6 originated with Luen Metals Company, and today employs
7 more than 500 American workers.

8 We operate four copper tube plants in
9 Missouri, Illinois, and Utah, and we also operate,
10 except for a casting facility, in Missouri. Cerro
11 produces a wide range of copper tube products, from
12 3/16ths inch OD, up to 8 inch OD, for the commercial
13 and plumbing tube market.

14 For ODs up to an inch and five-eighths, we
15 make these products using both the extrusion and
16 caster roll processes. From a manufacturer's
17 perspective, we are producing OD and wall. The
18 difference between all these products is minimal, and
19 created by minor adjustments in the manufacturing
20 process.

21 For example, consider a 3/8ths inch OD
22 refrigeration service tube at 50 feet long. This is a
23 standard plumbing tube product, produced ASTM B75, and
24 when OEM calls for a 3/8ths inch OD tube, we proof it
25 the same way, but do not cut it off at 50 foot.

1 Instead, we turn it into a oblong coil. Here are a
2 few samples that can illustrate this point.

3 When it is from a piece of B280 plumbing
4 tube, you may be able to see the incised mark on it,
5 and on that particular stamp, I put a black mark
6 around the incised mark to help you find it. The
7 other is a piece from an oblong coil, which we sell as
8 commercial tube to large OEMs, such as Carrier, Trane,
9 and Lennox.

10 Except for the incised mark, the length of
11 the products, and the packaging, the plumbing and
12 commercial tube products, are absolutely identical.
13 Let me pass around one more set of samples. (Pause.)

14 MR. ARNDT: The first is a three-quarter
15 inch Type L plumbing tube. You should be able to see
16 the ink markings on it showing that it complies with
17 ASTM B88. The other sample is an engineered straight
18 length. It is a commercial tube that has no such
19 markings.

20 It is worth noting, however, that it has the
21 identical OD and the wall thickness as the three-
22 quarter Type L. In this case the only difference
23 between the two products is how we mark them, and how
24 we sell them.

25 Next, I want to briefly describe the

1 production process by reference to Exhibit 528.
2 Exhibit 5, for simplicity, I have broken the
3 production processes down into three distinctive
4 phases; prefabrication, intermediate fabrication, and
5 finishing.

6 Exhibit 6. The first phrase is the
7 prefabrication, which involves charging, melting,
8 casting, hot working, and cold working. In this
9 phase, producers use the cast roll method, as well as
10 intrusion. These technologies successfully coexist in
11 the marketplace, and regardless of which process you
12 start with, the end result is what you see here, and
13 we call this mother tube. Exhibit 7. The next phase
14 is intermediate fabrication, and includes many cold
15 draw passes to successfully smaller dyes in order to
16 achieve desired OD and wall dimensions. It is common
17 to all production technologies.

18 Exhibit 8. The final phase is finishing.
19 As you can see here, we take the OD and wall, and
20 determine it in the intermediate phase, and finish it
21 to the various types of products listed here on the
22 left, indicating or including inner-grooved tubes,
23 smooth bore or oblong coils, pancake coils, and smooth
24 straight lengths.

25 We effect this through some combination of

1 finishing steps which may include a kneeling, cut the
2 links, grooving, coiling, and packaging. Now, I know
3 that certain Respondents are making arguments that
4 copper tube made from the cast-and-roll technology is
5 somewhat superior to copper tube made using the
6 extrusion process.

7 As one of two producers that simultaneously
8 use both technologies, I want to set the record
9 straight. For Ods up through an inch-and-five-
10 eighths, we have the ability to make all these
11 products we sell, both plumbing and commercial, using
12 either extrusion or cast-and-roll technologies
13 interchangeably.

14 Depending upon market demand, we supply an
15 OEM using our cast-and-roll plant, or one of our
16 extrusion plants. For example, we produce inner-
17 groove tubing day in and day out, using both the
18 extrusion process and using the cast-and-roll process.

19 In either case our product consistently
20 meets customer specifications. So, again, let me be
21 crystal clear. No matter which prefabrication
22 technology we use, a finished product manufactured to
23 a given specification will always be the same.

24 If a particular customer really believes
25 that its specification is so special and unique that

1 it cannot be made on an extrusion press, I think they
2 grossly misunderstand the manufacturing process.

3 Finally, I want to describe the market
4 environment in which Cerro was forced to compete.
5 What we have been experiencing is that imports from
6 China and Mexico are coming in and destroying Cerro's
7 market share.

8 This has happened to us over and over
9 through the period of investigation. To give you an
10 example, we had a case last year where the customer
11 had source from both Cerro and Golden Dragon in China.

12 According to our customer, Golden Dragon
13 offered to reduce the current fab by more than 20
14 percent in order to displace Cerro and load up its new
15 Mexican plant. Let me give you another example.

16 We have another customer that sources from
17 Golden Dragon in China and from Cerro. We had to meet
18 Golden Dragon's price for 2009, and then our
19 redistributor for Hi Liang entered the supply chain,
20 undercutting Cerro by more than 20 percent.

21 In a market where contracts are won or lost
22 based on as little as a penny a pound should come as
23 no surprise that this customer stopped taking volume
24 from Cerro, and at the same time that Hi Liang's
25 redistributor entered its bid.

1 Another example. We have a customer in the
2 south that wants to source for 100 percent from Cerro.
3 They approached us for a quote in 2008, but they ended
4 up awarding in excess of 3.5 billion pounds in
5 business to IUSA in Mexico, and imports from China.
6 We lost the bid because of price.

7 Let me give you one final example. This
8 involves a customer that we have out west. In 2006,
9 we supplied 100 percent of the customer's
10 requirements. In 2007 and 2008, we lost 50 percent of
11 that volume to a redistributor of Golden Dragon of
12 China solely because of price.

13 In 2009 the customer visited our plant,
14 complimented us on our modern facility and product
15 quality, and stated that they wanted to try and source
16 all of their volume through a domestic supplier. In
17 the end, however, this customer sourced 75 percent of
18 their volume with Chinese imports. The reason was
19 price.

20 We have also encountered several situations
21 where an OEM simply told us not to bother with the
22 qualification process because Cerro was not even close
23 to meeting the cut rate import prices from Mexico and
24 China. I can think of one case in particular where
25 this happened.

1 The customer says I know who you are. You
2 are a good company, but you simply cannot go anywhere
3 close to Chinese import prices. In this case, we
4 didn't even get a chance to qualify our product for
5 the customer. This business opportunity represented
6 millions of pounds for our company.

7 Throughout the entire period of
8 investigation, we compete head-to-head with companies
9 like IUSA and NACOBRE from Mexico, and Hi Liang from
10 China, for sales of plumbing tube. Similarly, with
11 respect to commercial tubes, we also compete head-to-
12 head with Mexican and Chinese suppliers, such as
13 Golden Dragon and Hi Liang, and OEM customer accounts
14 such as Carrier, Trane, Lennox, Reane, and Nordyne.

15 The issue was never capacity or quality.
16 The issue has always been price. You may ask is there
17 any foundation to certain purchasers' claims that
18 Cerro was either unable or unwilling to supply them,
19 and here again I need to set the record straight.

20 Cerro periodically makes overtures to all
21 OEMs, but certain customers seem less serious than
22 others. In our view, some of them are waiting to see
23 the results of this case. If anti-dumping orders are
24 issued, I expect the situation will change. They will
25 find our prices more attractive and they will be more

1 motivated to work with us. Based on my experience and
2 servicing the requirements of other HVAC OEMs, I am
3 confident that Cerro can fill the specification
4 requirements currently supplied by China and Mexico.

5 Let me say that I was personally involved in
6 the commissioning of our Cedar City plant, and in my
7 opinion this is the most modern plant in the world.
8 If Cerro is unable to compete with its highly
9 efficient tube mill, then the future prospects of the
10 entire domestic industry is dismal.

11 Over the period of investigation our
12 production is down, our sales are down, our capacity
13 utilization is down, our profits are down, and our
14 headcount is down. The outlook is bad. We have a
15 hold on all capital expenditure projects that are not
16 absolutely necessary.

17 We have seen some modest improvement in
18 2010, which we believe is a direct result of the case,
19 but we are concerned that the relief will be short
20 lived unless we get anti-dumping orders. In sum, I
21 know from my firsthand experience that imports from
22 China and Mexico are a big part of the problem.

23 I am convinced that unless the Chinese and
24 Mexican copper tube producers are subject to anti-
25 dumping orders, the problem will even get worse.

1 Thank you. Let me now turn things over to Mike
2 Flowers of Decatur, Alabama.

3 MR. FLOWERS: Madam Commissioner, and other
4 Members of the Commission, my name is Mike Flowers. I
5 am appearing before you today to talk about my
6 experience at Wolverine's copper tube mill in Decatur,
7 Alabama.

8 As you know, our mill was closed in January
9 of 2008, resulting in a loss of 440 American jobs.
10 Also, the Mississippi plant that Mr. Hansen talked
11 about, there were jobs that were lost there, 35 to 40
12 final jobs.

13 I want to tell you in my own words how I was
14 injured, and how others like me have been injured by
15 Chinese imports. Just to give you some background, I
16 have lived in the Decatur area, which is just a little
17 south of Huntsville, Alabama, all my life.

18 When I was a young boy, I remember seeing
19 the Wolverine plant workers around town, and they wore
20 grey coverall uniforms, and when you seen those grey
21 coverall uniforms, you knew that those people had a
22 good job.

23 The jobs were not good back then, and not a
24 whole lot of jobs, but you knew that those people had
25 good jobs, and we thought that they had the best jobs

1 in the world. After graduating from high school, I
2 began working at Wolverine on December 10th, 1975, and
3 I started at the bottom of the ladder as a drain
4 caster helper.

5 I began working my way up, and over the
6 years I was promoted to production planning, and I was
7 then promoted to a supervisor in the level iron coil
8 area, which makes a lot of its tube that we are
9 talking about today.

10 Then I was promoted later on to a
11 superintendent's job in the mill, and worked in
12 several different departments over my career of 32
13 years. At the time that the plant closed, I was
14 supervising the casting shop, where we were
15 responsible for melting the raw copper, casting
16 billets, and extruding the copper billets into the
17 mother tube that Bart talked about.

18 As a result of serving in these different
19 positions, I had a good understanding of what was
20 going on at Wolverine. For many years, Wolverine was
21 a great company, with 60 years in Decatur, Alabama.

22 The wages that I earned at the plant and my
23 fellow workers were modest compared to big city
24 standards, but they allowed us to buy homes, vehicles,
25 raise our families, and send our children to school.

1 And I can tell you from my own personal
2 experience that the Decatur mill had a first-rate
3 workforce. We worked hard, and we produced excellent,
4 high quality, products. We manufactured a wide range
5 of products, including wire tube, level line coil,
6 thin tube that goes into your heat transfer that is
7 cooling this building today.

8 We shipped to Carrier, Trane, York, Goodman,
9 Amana, small tube and national copper. Actually,
10 Fayetteville, that the gentleman talked about earlier,
11 is about an hour-and-fifteen to twenty minute drive
12 from the Decatur plant, and we shipped them millions
13 of pounds of tubes over the years.

14 Sometime in the time frame of around 2006,
15 it became clear to us as the workers that management
16 was getting very cozy with Golden Dragon. There was
17 even talk about us merging, and we were -- and our
18 upper management at that time were ready to push, and
19 we have got to go global to stay in the business.

20 What did happen is that the merger never
21 happened, but what did happen is that we started
22 importing from Golden Dragon, and we started using this
23 Decatur facility and a wire house that they had rented
24 up 65, just a few miles, as a distribution warehouse.

25 We would see Chinese material come through

1 the facility on a routine basis, and it was very
2 disturbing to us. We saw container load after
3 container load of Chinese materials come through our
4 facility and ship out to the customers that we had
5 been shipping to for years.

6 And as these levels ramped up, the more and
7 more we seen the hours at Wolverine and the Wolverine
8 workers' hours started being cut. And let me make
9 this clear. The Chinese material was no better than
10 what we were making in Decatur. it was just cheaper.

11 And now the plant was closing in 2007, and
12 they set records and set numbers for us to get for the
13 people that was left at the plant to 440, and they set
14 numbers for us to get to achieve the most bonuses to
15 actually ship this material out, and so they can make
16 some or have material ahead for all the customers when
17 they shut the plant.

18 They told us at that time that we were
19 making money, and we have done everything that they
20 asked us to do, but the management told us that within
21 3 to 5 years that we wouldn't be making money in
22 Decatur, Alabama.

23 Of course, it is easy to see now why when
24 they built a hundred-million dollar facility in
25 Mexico. I worked at the Decatur plant until the very

1 end, losing my job on January 15th, 2008. By the time
2 the plant closed, again it was clear to all of us what
3 happened.

4 Wolverine felt that it could not compete
5 with the cheaper imports from Golden Dragon. So,
6 instead, it decided to start importing Golden Dragon
7 products to sell to its customers. As I mentioned
8 earlier, about 440 plant workers and their families
9 were affected by this decision.

10 Just to give you some perspective, Decatur
11 has a little more than 20 thousand households. So,
12 the impact of that job loss to the community was
13 substantial I was one of the lucky ones. I found an
14 entry level job at a company that produces polymer
15 resins.

16 I am able to work 12 hour shifts, many of
17 them nights, standing on concrete all day. It is a
18 far cry from a supervisor's job that I once had at
19 Wolverine. But I am grateful to have worked in these
20 difficult times.

21 Most of the folks in my community were not
22 so lucky. People lost their jobs, their homes, their
23 vehicles, their sense of pride. Some families have
24 been literally torn apart. Most of the former
25 Wolverine co-workers today earn a fraction of what

1 they did once.

2 Some of them had to leave the area and
3 search for work, and others are still searching for
4 jobs this very day. You will see that the Decatur
5 area is particularly depressed, with major plants like
6 Goodyear, and Dunlop, and Copeland, and Delphia, and
7 Cargill, have shuttered their plants, and announced
8 major layoffs, or closed their plants in the last
9 three years.

10 To give you a sense of how desperate the
11 situation is, consider my new employer, who announced
12 recently that they had 11 jobs that they were to fill.
13 They received more than 1,400 applications for those
14 11 jobs.

15 I must say that I deeply regret that
16 Wolverine's management did not have the courage and
17 foresight to bring an anti-dumping case back in 2006
18 when they were trying to figure out a strategy for
19 dealing with cheap Chinese imports.

20 But rather than defending their workers,
21 Wolverine gave up on us, and instead decided to begin
22 acting as Golden Dragon's distributor. Of course, I
23 am under no illusion that this anti-dumping case is
24 going to restore jobs at the Decatur mill. Those jobs
25 are lost permanently forever.

1 I am testifying before you today in hopes
2 that you will do the things right and create a level
3 playing field for other workers, and protect what is
4 left of America's copper industry. John F. Kennedy
5 made a statement, "Children are the world's most
6 valuable resource and its best hope for the future."

7 I am testifying before you today on behalf
8 of six grandchildren that I have, the oldest one is 10
9 years old, in hopes that they will be able to grow up
10 in Alabama and find a job as I did once as a young
11 man. Thank you for your attention.

12 MR. STEMLER: Good morning. My name is
13 Brian Stemler. I am a worker at a Sauget, Illinois
14 copper tube plant, a Cerro Flow Products facility. I
15 am also the president of Local 4294 of United Steel,
16 Paper, Forestry, Rubber, Manufacturing, Energy, Allied
17 Industrial Service Workers International Union, also
18 known as the USW, which represents the workers at my
19 facility.

20 Please allow me to give you some perspective
21 on how vulnerable our jobs are to unfairly traded
22 imports, and how your decision in this case will
23 directly affect our families in the community in which
24 I live.

25 By way of background, my father worked at

1 the Sauget plant for 38 years. I have been working
2 there for 32 years, ever since I got out of high
3 school. I started out as a production line worker,
4 and I became a machinist, and I worked as a machinist
5 for about 20 years, and then recently moved back into
6 production, and doing just about anything in the plant
7 right now.

8 Over the years I have been involved in the
9 production of a wide range of water refrigerating
10 tubes, and let me say that our quality at Cerro is as
11 good as anybody, and it is an excellent product.

12 In case you are wondering where exactly
13 Sauget is located, it is a small community in St.
14 Clair County, Southwestern, Illinois, along the
15 Mississippi River, across from the City of St. Louis,
16 not far from the Gateway Arch.

17 The county includes a number of communities
18 that are so-called American bottom communities. They
19 are economically distressed, with few opportunities,
20 and a disproportionate number of poor people.

21 The Sauget plant is one of the largest
22 employers in the area. The workers and their families
23 depend on the wages and health benefits provided
24 through these jobs. Speaking personally, my job at
25 the Sauget plant allowed me to buy a house, raise

1 three children, send them all to college, and they all
2 graduated, which I am very proud of.

3 As part of my job, I have attended briefings
4 from Cerro's senior management regarding the
5 competitive position of the company. Through these
6 briefings, I have come to understand that cheap
7 Chinese and Mexican imports have hurt demand for our
8 product in recent years.

9 Just to give you an example, Sauget's
10 production capacity is more than 200 million pounds.
11 We have been producing copper tube at a rate less than
12 half of that capacity. It is clear to us that these
13 imports have contributed to the problem in a
14 significant way.

15 As a result of these challenges, I have had
16 the difficult job of managing worker layoffs and the
17 curtailment of the work week throughout the period of
18 this investigation. For those of us who have kept our
19 jobs, I can tell you that we have earned less in 2009
20 than any time in the last 10 years.

21 Workers are already injured and without
22 question, we are extremely vulnerable. As bad as
23 things have been in recent years, I am encouraged by
24 the signs of improvement in 2010. This year, Cerro
25 has recalled 19 of our laid off workers at Sauget, and

1 we have not had any curtailments that we were
2 expecting this summer.

3 In fact, we have had some overtime
4 opportunities, which is unusual at this time of the
5 season. From where I am sitting, it appears that the
6 improvement is a direct result of the filing of the
7 anti-dumping case.

8 Looking to the future, I am hopeful that the
9 issuance of anti-dumping orders will allow Cerro to
10 recall the 23 Sauget workers who are still laid off.
11 On the other hand, if it does not result in anti-
12 dumping relief, I fear that the workers at the Sauget
13 plant will suffer the same fate as Mr. Flowers and the
14 hundreds of his co-workers did at the Wolverine
15 Decatur plant.

16 I have friends and colleagues who have been
17 laid off and lost their homes, and it is a real
18 tragedy. It is hard to watch. And for people my age
19 to find an equivalent position elsewhere in the
20 industry is almost impossible in our area.

21 I want to say that the USW workers have
22 sacrificed and made enormous efforts to support the
23 productivity and the profitability of our plant
24 throughout the years, but we cannot compete with
25 imports that are dumped.

1 If anti-dumping orders are not issued, there
2 is every reason to believe that the Chinese and
3 Mexican imports will flood the U.S. in ever increasing
4 volume, and at aggressively low prices.
5 Those imports are not only a source of present injury,
6 but they threaten my welfare, and the welfare of my
7 co-workers at Sauget.

8 When I leave the plant at the end of a
9 shift, I can see the Gateway Arch in the distance. I
10 think of America's promise and I wonder what the
11 future holds in store for me and my co-workers. I
12 firmly believe that there is a fundamental value in
13 American labor and American manufacturing, and that we
14 deserve to be protected from unfair trading practices
15 like dumping.

16 On behalf of my fellow workers at the plant,
17 and on behalf of our families, and on behalf of the
18 USW, I urge you to do the right thing in this case.
19 Please allow us to compete on a level playing field,
20 and allow us to continue to support our families.
21 Thank you.

22 MR. LEVY: I am Jack Levy again from DLA
23 Piper, counsel for Petitioners. There really isn't
24 that much more to add. The industry witnesses have
25 painted a picture for you of companies and workers

1 that have suffered a great deal, and I think they have
2 drawn the link that you require by statute.

3 I think that I would like to wrap up our
4 affirmative testimony by highlighting four points.
5 Point number one regarding the like product issue.
6 You saw Bart Arndt circulate two sets of copper tube
7 samples, and each set consisted of a plumbing tube and
8 a commercial tube.

9 In each case the plumbing tube and the
10 commercial tube had the identical OD and wall
11 thickness. The only differences between the samples
12 related to marking. Look at these two samples.
13 Plumbing tube, and commercial tube. No way is there a
14 clear dividing line here.

15 In fact, since Johnson Controls is alone
16 advocating two separate like products, I would
17 challenge them to propose an operational definition of
18 plumbing tube versus commercial tube that would be
19 administrable by U.S. Customs.

20 And then ask them, for example, how they,
21 based on their proposed definitions, would classify,
22 say, electrical bus tubes. I submit to you that there
23 is a continuum of copper tube products and there is no
24 clear dividing line that can be drawn in this case.

25 Point number two, plant closures. If you

1 refer to Petitioner's Exhibit 9, you will see a
2 summary of the four plant closures that John Hansen
3 described in his testimony. These plant closures,
4 taken alone, represent nearly 700 lost jobs during the
5 period of investigation. To me that is compelling
6 evidence of injury.

7 We also heard from Mike Flowers, and the
8 story behind the closure of Wolverine's Decatur mill,
9 and the loss of 440 American jobs at that mill alone,
10 and the fact that cheap imports from Golden Dragon
11 were the cause.

12 On this point, let me draw your attention to
13 Petitioner's Exhibit 10. During the staff conference
14 last year, Mr. Keith Weil, who was Wolverine's former
15 VP, and who was now an Executive VP at Golden Dragon
16 USA, provided some rather candid and stunning
17 testimony, and let me quote.

18 "Wolverine began acting as Golden Dragon's
19 exclusive U.S. representative shortly after Golden
20 Dragon began selling in the U.S. This arrangement in
21 fact meshed very well with Wolverine's decision to
22 take capacity off-line, because Golden Dragon produced
23 a line of tubing for the industrial market that was
24 similar to tubes Wolverine produced."

25 Mr. Weil is putting the best face he can on

1 a situation where Golden Dragon was dramatically
2 underselling Wolverine. But no matter how you style
3 it the fact is that Wolverine made a conscious
4 decision to shutter the Decatur mill because Golden
5 Dragon made a similar product, and Wolverine thought
6 that it could do better for itself acting as an
7 importer than as a U.S. producer, and acting without
8 any apparent regard for the fate of its U.S.
9 production workers.

10 So, Wolverine adopted an "if you can't beat
11 them, join them" strategy. They started substituting
12 Golden Dragon cooper tube for its U.S. produced copper
13 tube at major customer accounts. To me the story
14 surrounding the closure of the Wolverine mill, and the
15 substitution of Golden Dragon tube in their place,
16 epitomizes both injury and causation.

17 I would challenge Golden Dragon or any other
18 Respondent here today to explain how Mike Flowers and
19 more than 400 of its colleagues were not injured, and
20 how Golden Dragon's cheap imports were not the cause.

21 Goodman will likely tell you that it bought
22 from Golden Dragon through Wolverine because no U.S.
23 producer, including of course Wolverine, would work
24 with it to develop thinner walled inner-grooved tube.

25 However, but for Golden Dragon's willingness

1 to dump inner-grooved tube, Wolverine could have
2 chosen to reinvest in its production operations and
3 continue to satisfy all of Goodman's evolving future
4 requirements.

5 The point is that in the 2007 time frame
6 Wolverine made a fateful decision to abandon its
7 commitment to U.S. production and workers, and joined
8 its customers, including Goodman, in bed with Golden
9 Dragon. Why? Because the Golden Dragon product was
10 similar and cheaper than anything that a U.S. producer
11 could ever hope to provide.

12 Point number three. As John Hansen
13 testified, Mueller would have expected that after four
14 copper tube mills were closed that the U.S. producers
15 left standing would have done okay after more than 200
16 million pounds of U.S. capacity was taken off-line.

17 But instead look at the trend summarized in
18 Petitioner's Exhibit 11. Since 2007, PRWs are down
19 22.9 percent. Production is down 21.6 percent, and
20 operating income is down by 67.9 percent. And again I
21 would draw your attention to the visible improvements
22 scene after the petitions were filed here in 2010.
23 To me, this is further proof of causation, because it
24 shows how responsive the market is to changes in
25 relative prices.

1 Now, regarding causation, and underselling,
2 I would submit to you that comparing average quarterly
3 prices for products is less probative than you might
4 see in most cases. Why? Well, because copper prices
5 are extremely volatile, and can vary by more than 100
6 percent within any given quarter.

7 The point is simply that quarterly price
8 analysis has a higher error term than you are used to
9 seeing in most cases. We believe that the best
10 evidence of underselling is to be found in the
11 collaborated allegations of lost sales and lost
12 revenue.

13 These are without question definitive
14 examples of head-to-head competition between U.S. and
15 foreign producers at the same time, for the same
16 product, and at the same customer account. Staying on
17 the subject of causation, we can see at Exhibit 11, or
18 excuse me, Exhibit 12, that U.S. producer market share
19 declined steadily over the POI until 2010, when the
20 effects of the petitions allowed U.S. producers to
21 regain market share from subject imports.

22 I challenge the Respondents to explain how
23 this noticeable reversal of fortune in 2010, when
24 demand was actually weaker than in 2009, how that
25 squares with their implausible theory that U.S.

1 producers somehow caused their own injury.

2 Finally, point number four, threat of
3 injury. As I just explained, I think the testimony of
4 Mr. Flowers regarding the Decatur mill closure
5 epitomizes present injury, and if Mr. Flowers'
6 testimony epitomizes present injury, then Mr.
7 Stemler's testimony epitomizes threat.

8 Mr. Stemler conveyed that he and his co-
9 workers are deeply concerned that they will suffer the
10 same fate as Mike Flowers if there is no anti-dumping
11 relief. Why is the threat so palpable?

12 Because as described in our brief, there is
13 new capacity in Mexico, including Golden Dragon and
14 Lavado, and massive amounts of unused capacity in
15 China, both for plumbing and commercial tube, and
16 these volumes are enough to supply than the entire
17 U.S. market.

18 These foreign producers will surely use the
19 U.S. export market to fully load their plants and
20 thereby reduce their unit fixed costs, and the only
21 way they can accomplish this is to continue to sell
22 their product at dumped prices, and displace U.S.
23 producers at major customer accounts.

24 In their brief, Golden Dragon states, and I
25 quote Golden Dragon, "If a petitioner has not adduced

1 positive evidence tending to show an intention to
2 increase levels of importation, the Commission must
3 reach a negative determination."

4 Well, here the Petitioners can show positive
5 evidence showing an intention to increase levels of
6 importation, and I wonder whether Golden Dragon will
7 now agree that there is threat of continued injury.

8 What is our evidence? Well, in addition to
9 the compelling capacity overhang data detailed in our
10 brief, let us refer to Petitioner's Exhibit 14. Here
11 we have a recent quote from Mr. Li Changjie, who is
12 the chairman of the entire Golden Dragon group,
13 including both its Chinese and Mexican plants. What
14 does the chairman have to say?

15 Well, let me quote. "It still remains to be
16 seen which side will win in this battle, but even if
17 we lose at the final ruling, we will continue to
18 export to the American market and seize a larger
19 market share."

20 And that is what they will do if they lose
21 this case. You can only imagine what damage they will
22 do without the constraints of anti-dumping orders. So
23 in assessing the threat issue, I don't think the
24 Commission needs to look much further than the plain
25 spoken words of Chairman Lee. Let me stop there and

1 thank you for your attention.

2 CHAIRMAN OKUN: Thank you. Before we begin
3 our questioning this morning, I want to take this
4 opportunity to thank all the witnesses for being here
5 and for taking the time to travel, both the industry
6 and workers, to give us your testimony, and take our
7 questions. We very much appreciate it. And with
8 that, we will begin with Commissioner Aranoff.

9 COMMISSIONER ARANOFF: Thank you, Madam
10 Chairman, and I join the Chairman in welcoming
11 everyone on this morning's panel. We really
12 appreciate you taking the time away from your jobs and
13 businesses to answer our questions. It is really the
14 best way to learn about what is going on in your
15 industry.

16 I want to start by asking some questions
17 about the product. First, I wanted to clarify
18 something that Mr. Hansen mentioned in his testimony.
19 Mr. Hansen, you had talked about stainless steel as a
20 potential substitute for copper pipe, and that is not
21 one of the things that I saw discussed in the briefs,
22 or in the staff report. Can you tell us in what
23 applications stainless steel is a substitute?

24 MR. HANSEN: Historically, stainless steel
25 has not been a cost competitive alternative to copper

1 plumbing tube. Since 2003, the price of copper has
2 risen from about 70 cents a pound to over \$3.50 a
3 pound today.

4 So the economics have changed. With copper
5 at high prices, and large diameter, typically
6 commercial, large commercial structures, it may be
7 economic to substitute stainless steel for copper.
8 That practice is not widespread.

9 COMMISSIONER ARANOFF: This is in plumbing
10 applications for large structures, and not in heat
11 exchange applications?

12 MR. HANSEN: No, this is in plumbing
13 application, water distribution in large structures.

14 COMMISSIONER ARANOFF: Okay. Do you have
15 any sense of how widespread that practice is?

16 MR. HANSEN: It hasn't represented a
17 significant portion of the total market. The market,
18 however, for these very large diameter tubes, 6 and 8
19 inches, is a small one. So while the total pounds may
20 not amount to a great deal, stainless steel began to
21 take a noticeable share of that niche back in 2007,
22 and early 2008.

23 When as now copper was trading at prices in
24 excess of three dollars a pound. That trend would
25 have diminished in late 2008 and early 2009, when

1 copper prices fell to the \$1.40 range.

2 But I would expect to see it re-emerge now that copper
3 prices have risen once again above three dollars a
4 pound.

5 COMMISSIONER ARANOFF: Okay. As someone who
6 has priced certain stainless steel products for my
7 home, it is quite shocking to me to hear that they are
8 becoming relatively affordable, but anything can
9 happen.

10 Let me ask that in the Petitioner's brief,
11 you argue that some distributors purchase products
12 that are produced as industrial tube, and repackage it
13 into plumbing tube for resale, or vice-versa, that
14 they might push it as plumbing tube, and then convert
15 it into industrial tube by adding fittings, or some
16 other way.

17 Can you describe where you have seen this
18 practice, and give us any sense of how widespread it
19 might be?

20 MR. HANSEN: Well, one easy example would be
21 the product category of line sets. We have seen U.S.
22 firms import low priced level wound coils from China,
23 or other sources, and use that coil to manufacture
24 line sets.

25 Another example would be smaller

1 manufacturers who purchase product from distributors
2 because their volume requirements are very small, but
3 the overall impact of the conversion of plumbing tubes
4 for industrial purposes is relatively modest. The
5 plumbing tubes are used primarily in water
6 distribution applications.

7 COMMISSIONER ARANOFF: Okay. Now, if you
8 take a piece of industrial tube, which doesn't have
9 the ASTM markings on it, and a distributor cuts it up
10 and converts it for plumbing applications, how is he
11 getting customer acceptance?

12 MR. HANSEN: Plumbing codes throughout the
13 United States typically make reference to the
14 standards, the ASTM B88 and B280 standards, and these
15 standards require that the product be marked either
16 with an ink marking and/or an incised mark.

17 Therefore, if a manufacturer were to take an
18 unmarked tube and cut it to length to be used in a
19 plumbing application, that would be a violation of the
20 plumbing code. If the plumbing inspectors were alert,
21 they would take note of that and red tag the job.

22 COMMISSIONER ARANOFF: Okay. Golden Dragon
23 argues that for plumbing tube that you can use
24 recycled copper, including copper that might come from
25 outside your own manufacturing process. But that for

1 industrial tube, OEMs require that it absolutely be
2 new copper cathode. Is that your understanding as
3 well?

4 MR. ARNDT: For our company, Cerro, the
5 bulk, the majority of what we buy, is all pure cathode
6 copper. If you went into our facility today, I don't
7 believe that you would see anything but pure cathode,
8 and that has been so for many years within our
9 company.

10 COMMISSIONER ARANOFF: Okay. But is that
11 because the customers require it, or is it because
12 using scrap hasn't been cost effective? Because my
13 understanding is that ASTM specifications can be met
14 using recycled, partially recycled, using recycled
15 copper.

16 MR. ARNDT: True. We believe that we have
17 greater efficiency by using a known pure product so to
18 speak, and not have to worry about blending or
19 anything like that. But I don't have customer
20 specifications that are mandating either/or. This is
21 the policy that we have within our company.

22 COMMISSIONER ARANOFF: Okay. So when you
23 look at OEM specifications when you are making sales,
24 they don't specify your copper cathode?

25 MR. ARNDT: I don't have all of the

1 specifications with me, but I don't recall firsthand
2 cases with customers that I am supplying today if that
3 is the case.

4 COMMISSIONER ARANOFF: Okay. Anybody else
5 on the panel have anything to add on that?

6 MR. HANSEN: If I may?

7 COMMISSIONER ARANOFF: Mr. Hansen.

8 MR. HANSEN: The availability of copper
9 scrap is a function of the level of industrial
10 activity which produces scrap, and also the
11 international trade flows. In recent years, because
12 of the recession, the quantities of copper scrap being
13 generated have been diminished, and there have been
14 very large trade flows of copper scrap from the United
15 States principally to China.

16 Consequently, copper scrap has not been
17 available at very significant discounts from copper
18 cathodes. So the economic incentive to substitute
19 scrap for cathode has been small. But to Mr. Arndt's
20 point, if you are to process only cathode, and if you
21 are processing scrap, and you need to take some
22 additional steps in the manufacturing process to make
23 sure that the final alloy composition meets the
24 specification.

25 And that can add a few pennies per pound of

1 costs, but it is entirely possible, and it has been
2 done, and continues to be done. It is simply a
3 question of whether there is an economic incentive.
4 If there is sufficient scrap available at a sufficient
5 discount to justify that processing cost.

6 COMMISSIONER ARANOFF: Okay. Golden Dragon
7 also asserts that cast-and-roll technology is used
8 solely to produce industrial tube, and not the
9 plumbing product, and that it can't be used to make
10 the larger sizes. How much, if any of that, do you
11 agree with?

12 MR. ARNDT: Having commissioned the Ceder
13 City plant, we have produced day in and day plumbing
14 tube and commercial tube throughout that process. So
15 I don't understand that particular claim.

16 COMMISSIONER ARANOFF: But is it size-
17 limited?

18 MR. ARNDT: It is. It goes up to an inch-
19 and-five-eighths OD is the maximum size, which is the
20 bulk of the market.

21 COMMISSIONER ARANOFF: And there are sizes
22 larger than that that are sold into both plumbing and
23 industrial applications?

24 MR. ARNDT: Correct.

25 COMMISSIONER ARANOFF: Okay. Well, my time

1 is up. So, I will come back to these issues. Thank
2 you very much.

3 CHAIRMAN OKUN: Commissioner Williamson.

4 COMMISSIONER WILLIAMSON: Thank you, Madam
5 Chairman, and I, too, want to express my appreciation
6 to the witnesses for coming today, and also my
7 appreciation for allowing us to visit the Cerro plant
8 in Cedar City.

9 On the scrap question. Are there other
10 industries where copper scrap is used more in the
11 production of copper? I mean, like an electrical
12 line? Could you clarify that?

13 MR. HANSEN: Electrical applications
14 generally require highly refined copper. So you would
15 have relatively little use of copper scrap in a wire
16 facility, for example, or cable. Most of the
17 consumption of copper scrap in the United States would
18 go into products like tube, which are not used in
19 electrical applications.

20 COMMISSIONER WILLIAMSON: Okay. Is there
21 more of an opportunity to use scrap in China than in
22 the U.S. in tube production to your knowledge?

23 MR. HANSEN: I can't say what proportion of
24 copper scrap is used relative to cathode in Chinese
25 production. I will say that China has become the

1 largest consumer of copper in the world, including
2 copper scrap, as well as copper concentrates and
3 refined copper cathodes.

4 COMMISSIONER WILLIAMSON: Okay. Thank you.

5 MR. HANSEN: So it is a very large importer
6 of all those grades of metal.

7 COMMISSIONER WILLIAMSON: Thank you. Any
8 idea what percentage of the copper tube is used for
9 scrap in the U.S.? I am just trying to get some
10 relative proportion. I know that you said it was very
11 small actually.

12 MR. HANSEN: Again, it is a matter of the
13 economics. In 2003, and 2004, when economic activity
14 was at a fairly high level, and China was a less
15 aggressive importer of copper scrap, we found that
16 copper scrap was readily available at significant
17 discounts from the price of copper, copper cathodes.

18 And we employed it in our manufacturing.
19 However, as scrap quantities diminished, and more and
20 more of those quantities were exported to China, the
21 availability of that product in the United States
22 diminished, and the discounts from the price of copper
23 cathode also diminished, and making it an unattractive
24 proposition from an economic standpoint.

25 COMMISSIONER WILLIAMSON: Okay. Thank you

1 for that clarification.

2 MR. FLOWERS: If I can say --

3 COMMISSIONER WILLIAMSON: Sure.

4 MR. FLOWERS: -- that at Wolverine, we used
5 scrap probably a lot more than Cerro or Mueller. We
6 had a new press that we put in that that was to give a
7 600 pound package, which to make a bigger base tube,
8 which would make a longer tube for them when we went
9 it to them.

10 That newer unit would not run pure scrap.
11 It would just seize up and you would just run rejects,
12 and so we could only run about 20 or 25 percent scrap.
13 We basically had to run nearly pure cathode, which
14 like he said, Mr. Hansen, that economically at times
15 the pure cathode was a lot better to buy.

16 We also had the electrical conductivity
17 tubing that required a pure cathode, but we had a 67
18 model press, and extrusion caster, an extrusion press,
19 that actually could run scrap, with about five
20 different types of engineering over the years, and as
21 the Decatur mill and engineers changed, it was still
22 running very high quality product when we left. But
23 it was limited to the size package.

24 COMMISSIONER WILLIAMSON: Okay. Thank you
25 for that added clarification. Let's see. Do all the

1 parties agree that the end-uses and channels for
2 distribution are generally different for copper pipe
3 and tube, and used in industrial applications than
4 those used in plumbing?

5 MR. LEVY: Commissioner, I think the answer
6 to that is no. I think we detailed in our pre-hearing
7 brief, and will do so again in our post-hearing
8 submission, that while there is an emotional
9 segmentation between plumbing and commercial, there is
10 also substantial overlap in very material respects,
11 both in terms of physical characteristics,
12 applications, manufacturing processes, and channels of
13 distribution.

14 COMMISSIONER WILLIAMSON: Thank you. The
15 record indicates that inner-grooved can be required
16 for certain industrial tubes, but that all plumbing
17 tube has a smooth bore. Is that a correct
18 characterization?

19 MR. HANSEN: Yes, sir, that's correct.

20 COMMISSIONER WILLIAMSON: Thank you. Do you
21 have an idea about the share of the industrial tube
22 market in the U.S. accounted for by inner-grooved
23 tube?

24 MR. ARNDT: Share as in total overall
25 volume?

1 COMMISSIONER WILLIAMSON: Yes. Well, if you
2 come across it in post-hearing.

3 MR. ARNDT: We will provide that post-
4 briefing.

5 COMMISSIONER WILLIAMSON: And also an
6 indication of how much more does it cost to put the
7 grooving i the inner-tube? You know, what is the
8 final cost of the end product? What is the cost of
9 that additional step?

10 MR. ARNDT: That is difficult with all those
11 that are in the room.

12 COMMISSIONER WILLIAMSON: Okay. Post-
13 hearing is fine if that is easier.

14 MR. ARNDT: Stage one and stage two are
15 exactly the same. There is no change in that, and
16 there is a processing change that takes place in stage
17 three, but we can provide that.

18 COMMISSIONER WILLIAMSON: Okay. Thank you.
19 The Respondents have indicated that demand for
20 industrial pipe tube has held up much better than
21 demand for plumbing pipe tube, and I was wondering if
22 you agree with that?

23 MR. HANSEN: The demand for both commercial
24 tubes for HVAC applications and for plumbing tube are
25 very much diminished, versus the 2007 time period. In

1 fact, the data that I have seen suggests the market is
2 about half as big as it was at that time.

3 Bear in mind these tubes that are being
4 classified as commercial tubes are used primarily in
5 the manufacture of air-condition and refrigeration
6 equipment, and the demand for that product is in both
7 new construction and in repair and replacement.

8 The larger replacement component of the
9 total demand for air-conditioning equipment, that
10 would be the case for plumbing tube. Plumbing tubes
11 almost never fail in service. So once they are
12 installed, they will serve their purpose for the life
13 of the building.

14 On the other hand, air-conditioning
15 equipment has a service life, and periodically that
16 equipment will need to be replaced. So there is
17 probably a somewhat larger impact of the decline in
18 construction activity on plumbing tube than on the
19 commercial tubes used in air-conditioning equipment.
20 But both market segments have declined dramatically
21 since 2007.

22 MR. ARNDT: I might add that in 2010 there
23 was a freon change that took place, and so there was
24 some increased demand because you weren't able to buy
25 the old freon, and so as a consumer, you may want to

1 upgrade your air-conditioner, versus continuing on the
2 old freon. So, for 2010, that was the situation.

3 COMMISSIONER WILLIAMSON: Okay. And that
4 would encourage more use of new industrial tubing
5 then.

6 MR. ARNDT: Correct.

7 COMMISSIONER WILLIAMSON: Okay. Thank you.
8 My time is about to expire, and so I will come back in
9 the next round. Thank you.

10 CHAIRMAN OKUN: Thank you. I would like to
11 follow up on a few of the questions that Commissioner
12 Aranoff was asking about the cast-and-roll technology
13 to make sure that I understand the arguments.

14 One of the things that the Respondents have
15 argued is that the copper tube produced with the cast-
16 and-roll method is superior to the copper tube
17 produced with the extrusion method. I don't want to
18 get into anything confidential from Mr. Arndt or
19 others, but I am trying to understand is it correct
20 that there is additional machinery that is required
21 for, I guess, the next stage?

22 MR. ARNDT: Well, for stage one and stage
23 two, it is producing mother tube into the finishing
24 process.

25 CHAIRMAN OKUN: Right.

1 MR. ARNDT: I can say that for our company
2 that we supply customers using both of those
3 processes, and we ship based upon the necessary mill
4 loading, and where that particular product is going to
5 ship to.

6 We do not have a constraint from a
7 specification or customer standpoint that limits us as
8 to which process we use. So I don't quite understand
9 their claim.

10 CHAIRMAN OKUN: Okay. Are there additional
11 machines?

12 MR. ARNDT: In the downstream process, no.
13 Stage 3, no.

14 CHAIRMAN OKUN: Okay.

15 MR. ARNDT: Are you talking about between
16 the extrusion process and cast-and-roll process,
17 correct?

18 CHAIRMAN OKUN: Yes, and I would also be
19 asking about the inner-groove portion of it.

20 MR. ARNDT: In Stage 3, that is the same.

21 CHAIRMAN OKUN: Okay. So one of the things
22 -- and again I am still trying to sort it out on this
23 record, is in looking the information in the staff
24 report, there were several purchasers who had claimed
25 that U.S. producers could not supply their purchasing

1 needs, and there were instances where they would put
2 on allocation, and yet we still had domestic producer
3 capacity utilization inroads, even though they were
4 low.

5 And so I am trying to understand if there is
6 the ability by the U.S. producers as a whole, as
7 opposed to individual producers, to supply what the
8 market needs. And if not, and if it is small -- and I
9 do know that you have responded to some of these
10 questions.

11 But again this continues to be an issue that
12 we are trying to sort out with the different
13 information, and is it specific tube that is not
14 available, or is it a specific size that is not
15 available, or was it something else going on in the
16 market?

17 So maybe to the extent that you can talk in
18 a public session, could you respond to the allegations
19 that producers were unable to sell?

20 MR. ARNDT: Generally speaking, during the
21 period of investigation, there has been significant
22 capacity as to some of the things that we have talked
23 about that has taken inner-grooved capacity off-line
24 here in North America.

25 For our own company, we have taken capacity

1 off-line, and we have stopped and put on hold
2 increasing that capacity. So in this type of setting,
3 it is kind of hard for me to explain it. If you would
4 ask a question, we would be happy to provide that.

5 CHAIRMAN OKUN: I appreciate that, and again
6 you should just provide it post-hearing. I don't want
7 to say anything in front of your competitors. Could I
8 have other producers speak to this? Mr. Hansen.

9 MR. HANSEN: We should bear in mind that the
10 transition from traditional smooth board tubes in air-
11 conditioning equipment to inner-grooved tubes was
12 driven largely by the changes in requirements for
13 energy efficiency in air-conditioning products.

14 I think that Mr. Arndt made reference
15 earlier to the impact of the Series 13 requirements on
16 demand for air-conditioning units. Fundamentally,
17 there was a simultaneous increase in the demand for
18 inner-grooved tubes coincident with the dramatic
19 increase in dumped imports from China.

20 And I think that one can infer that the
21 dumped prices of the Chinese tube discouraged U.S.
22 manufacturers from making any additional investments.
23 For example, to purchase inner-grooving machines to
24 meet the growing requirements of the market for that
25 product.

1 In the absence of dumped imports, I think
2 the U.S. manufacturers would have been eager to make
3 whatever investments may have been necessary in
4 finishing equipment to supply the growing demand for
5 inner-grooved tubes.

6 But faced with dumped prices from China, and
7 other sources, the economic incentive to invest to
8 supply that product simply wasn't there.

9 CHAIRMAN OKUN: Okay. And just to make sure
10 that I understand that. If someone had come to you
11 and had asked for inner-grooved product during the
12 period, you would not have been able to supply it
13 because you had not been able to invest in the
14 equipment. Is that accurate?

15 MR. HANSEN: I would say so, yes.

16 CHAIRMAN OKUN: Okay.

17 MR. LEVY: If I could just add. The U.S.
18 industry produced substantial volumes of inner-grooved
19 tube leading up to the period of investigation. As
20 Mr. Arndt testified, the economic incentive for
21 supplying it in large quantities was substantially
22 diminished during the period of investigation because
23 of low pricing from Chinese competitors.

24 What is required technically to produce
25 inner-grooved tube is simply adding an inner-grooving

1 machine at the last or near last step of the finishing
2 process downstream. That is all that is required, and
3 that marginal investment is something that is entirely
4 feasible by way of expansion.

5 The question again is one of reinvestment
6 economics. Is there a profit to be made in an
7 environment with import competition, and U.S.
8 producers didn't witness that incentive. There is
9 another element to the Respondent's thesis, which is
10 that even though the U.S. industry was producing large
11 quantities of inner-grooved tube leading up to the
12 period of investigation, that because this was all
13 produced from extrusion, as opposed to cast-and-roll,
14 that somehow it wasn't to their liking.

15 And as Mr. Arndt has testified in his
16 experience, and they use both technologies
17 interchangeably, there is no difference. He can meet
18 specifications either way.

19 CHAIRMAN OKUN: It looks like someone else
20 has a response. Yes?

21 MR. BOYCE: Richard Boyce. You can confirm
22 this with Mr. Flowers, but my understanding is that he
23 was overseeing the shipments of much inner-grooved
24 tube from Wolverine. They had the capacity, and that
25 was in-part of what was shut down.

1 CHAIRMAN OKUN: Mr. Flowers, go ahead.

2 MR. FLOWERS: Yes, Ma'am. We had the
3 capacity to ship millions of pounds of inner-grooved
4 tube from the Decatur mill, and from the Booneville,
5 Mississippi mill, and from the Shawnee, Oklahoma,
6 mill, which is still in existence, they could produce
7 Turbo-8 as we called inner-grooved tube.

8 We also had the capability of producing a
9 Turbo DX, which is a three-quarter type size to use as
10 a bigger tube that Mr. Arndt showed you, and that
11 basically goes into your industrial cooling and
12 heating units.

13 But, yes, Ma'am, we had the capacity, and we
14 shipped millions of pounds. As Jack said, you had a
15 little basic drilling machine with motors and pulleys,
16 and then the key was the ID groove pin, and that is
17 where your patents and all come in, and your high
18 priority, but we could ship millions of pounds.

19 CHAIRMAN OKUN: Okay. Another argument
20 along those lines from the Respondents, Marubeni and
21 Johnson Controls, was that the U.S. producers were
22 using an antiquated technology that failed to meet the
23 stringent berth pressure requirements that were needed
24 to meet new Federal energy standards. Can you respond
25 to that argument?

1 MR. ARNDT: I don't know where that claim is
2 being based from. I haven't had the experience on
3 failing to meet first requirements of customers which
4 we supplied.

5 CHAIRMAN OKUN: Okay. That would not be
6 applicable. Mr. Flowers, do you have something to say
7 on that?

8 MR. FLOWERS: Yes, I could say that in my
9 Wolverine job facility that we produced basically the
10 tubing that went into the inner-grooved tubes, and as
11 I said, millions of pounds. We had strenuous quality
12 of things to meet, and we shipped just pound after
13 pound to Fayetteville, and we met everything that they
14 needed to make with extruded tube, as well as cast-
15 and-roll tube.

16 CHAIRMAN OKUN: I appreciate those answers.
17 My red light has come on, and I will turn to
18 Commissioner Lane.

19 COMMISSIONER LANE: Thank you for being here
20 today, and I, too, enjoyed visiting the plant at Cedar
21 City, and found it a very interesting process. Mr.
22 Levy, I believe that you stated that the samples that
23 you brought today were identical, including wall
24 thickness, whether sold as commercial or plumbing.

25 To the untrained eye, it appeared that there

1 was a different wall thickness for the .875 inch
2 samples. Should there be a difference in wall
3 thickness for the same outside diameter product,
4 depending on whether you classified it as commercial
5 or plumbing?

6 MR. LEVY: Thank you, Commissioner Lane.
7 You have proven yourself to be a very astute observer
8 of technical specifications. I made the same
9 observation myself, and I asked Bart Arndt to explain.

10 Apparently these tubes were cut to length to
11 make them more easier to pass around, and so the way
12 in which they were cut changes the perception of the
13 wall thickness at the cut point. I don't know if Mr.
14 Arndt can explain exactly how or why that is the case.

15 MR. ARNDT: The samples were gathered from a
16 10 foot long straight length, and so on some of the
17 samples, you will see that there is a little bit of a
18 bevel on one end, and on the opposite end, you will
19 see what I would consider -- it is called roll end,
20 and that is where someone took a tubing cutter, or I
21 had my guys take a tubing cutter, and we cut the
22 tubing down to size so it would be able to be shipped
23 inside a UPS box.

24 COMMISSIONER LANE: Well, at least that is a
25 better answer than telling me to go to the eye doctor.

1 In the first half of 2010 the domestic industry gained
2 market share. You argued that this was directly
3 attributable to the filing of the petition and
4 subsequent preliminary determinations by the
5 Commission and Commerce.

6 Yet, you make a point of quoting the
7 chairman of Golden Dragon that they will continue to
8 export to the U.S. market and seize a larger market
9 share. If that is Golden Dragon's strategy, why do
10 you believe that you were able to capture a larger
11 market share in 2010 after the petition was filed?

12 MR. LEVY: I think the answer to that
13 question is that despite the puffery from the
14 Chairman, there was a restraint and a discipline
15 imposed on the U.S. market during 2010, including
16 calendar year contracts for commercial tube for 2010,
17 and that the effects was noticeable.

18 2010 was a year where demand, as reflected
19 in the prehearing report, was actually lower than the
20 comparable interim period in 2009. But yet in an
21 environment where demand was flat, or actually a
22 little bit down, the U.S. industry witnessed some
23 modest measurable improvements.

24 And the only explanation that the industry
25 witnesses can provide is that the case has made that

1 difference.

2 COMMISSIONER LANE: Okay. Thank you. It
3 seems that I remember in the last couple of weeks that
4 I read that there was a big copper shortage in China,
5 and that the shortage or the supply of copper was
6 going to be far lower than the demand for the copper.

7 Did you all read the same article, and how
8 do you expect this huge copper shortage to affect
9 China's ability to continue producing this product?

10 MR. HANSEN: One of the great mysteries in
11 the world is what is going on with copper in China.
12 China lacks a large domestic copper mining capability.
13 Their resources of copper in the ground are relatively
14 modest.

15 Consequently, China imports very large
16 quantities of copper concentrates to supply its
17 smelters, and large quantities of copper cathodes, and
18 as I mentioned earlier, large quantities of copper
19 scrap.

20 It has been a source of much debate and
21 speculation amongst those who are active in copper
22 trading as to whether or not China is growing its
23 inventories of copper materials, or drawing down its
24 inventory of copper materials, and where that copper
25 is coming from, and where it is going.

1 I did not read the article that you are
2 referring to, but I would say that there is a porosity
3 of reliable evidence about the state of supply and
4 demand for copper in its various forms in China, and
5 this porosity of information, I think, accounts for
6 much of the volatility that we see in copper trading.

7 Just yesterday the price of copper went up
8 over 8 cents a pound from the day before, and it is
9 this opacity with regard to what is happening in China
10 that contributes to this volatility in copper pricing.

11 COMMISSIONER LANE: Okay. Thank you. Mr.
12 Flowers?

13 MR. FLOWERS: Yes. On the copper scrap in
14 China, I will say this that I did not see it with my
15 own eyes, but we had a thin tube facility in China. A
16 few of the Wolverine guys had went to China and spent
17 time in China in 2005, 2006, '07 in there, and we were
18 having it sometime problems getting copper scrap,
19 having to wait, wait to get copper scrap and cathode,
20 and some of the guys had actually told me that they
21 seen first hand in China mountains of copper scrap,
22 mountains of copper scrap.

23 COMMISSIONER LANE: Okay. Thank you. Now,
24 the Petitioners in their brief and in your initial
25 testimony, you talked about the plant closings and job

1 losses. From your perspective, and I'm talking to the
2 union and Mr. Flowers, do you see these job losses in
3 the copper tube and pipe industry as overall job
4 losses for workers or do some of those losses tend to
5 be a shift of employees to other jobs?

6 MR. STEMLER: I don't quite understand. My
7 guys that are on layoff want to come back to work.

8 COMMISSIONER LANE: So with the layoffs in
9 the plants, some of the employees haven't been shifted
10 to other jobs?

11 MR. STEMLER: No.

12 MR. FLOWERS: At Wolverine, when we shut
13 down, 440 people lost their jobs. The hourly people,
14 beyond that 440, there was eight or 10 employees that
15 basically lacked within six to eight months having
16 enough time in to draw their retirement, their pool
17 retirement.

18 COMMISSIONER LANE: Okay.

19 MR. FLOWERS: So they basically let those
20 people stay six or eight months, but the 440 people,
21 none was moved there. They lost their jobs. They
22 were out in the street.

23 COMMISSIONER LANE: Okay. I'd like the
24 industry representative to comment on that. When the
25 plants that you testified to were closed or shut down,

1 layoffs, were any of the employees shifted to other
2 operations within the same company?

3 MR. HANSEN: I'm aware that when National
4 closed its facility in Dowagiac, Michigan, a couple of
5 the salaried employees were transferred to Nationals
6 other plants, but my understanding is that it was only
7 a handful of people, and it was people who had
8 specialized skills or supervisory positions.

9 MR. ARNDT: And for Linderme, I think there
10 was only a couple that migrated to a company in New
11 York called STP.

12 COMMISSIONER LANE: Okay. And you may have
13 testified to this, but have there been reductions of
14 the hours worked even if the employees kept their jobs
15 throughout the industry?

16 MR. STEMLER: At our facility, through 2009,
17 we usually had Fridays off. We worked a 32-hour work
18 week throughout most of 2009 summer for sure. We had
19 a mandatory curtailment week. We call it curtailment
20 week where work guys take vacation, but work was
21 unavailable for our workforce. We had a lot of
22 curtailment all through 2009, and we have yet to have
23 any in 2010.

24 MR. ARNDT: And that's true for every one of
25 our facilities within Cerro.

1 COMMISSIONER LANE: That there were
2 curtailments?

3 MR. ARNDT: Correct. Okay. Madam Chair, my
4 time is up.

5 CHAIRMAN OKUN: Commissioner Pearson?

6 COMMISSIONER PEARSON: Thank you, Madam
7 Chairman. Permit me to join my colleagues in
8 welcoming all of you. I know many of you have
9 traveled long distances, and we appreciate that you're
10 here. Let me begin with a basic question on
11 causation. The fortunes of the domestic industry
12 appear to be correlated fairly closely with the trend
13 in apparent consumption. What on this record would
14 reassure us that we aren't just attributing injury to
15 subject imports that actually might be more
16 appropriately attributed to apparent consumption, the
17 lack of demand in this rather severe recession?

18 MR. LEVY: I'd like to try to answer this
19 and will also speak to it in greater detail in our
20 post-hearing brief. To be sure, the POI bears witness
21 to a recession, and that is one explanation for the
22 poor financial performance of the domestic industry,
23 but it is by no means the only explanation.

24 A material leading cause is subject imports,
25 and perhaps the best way to see this in the data is to

1 look at not only the quarterly under-selling data,
2 which I've explained has sort of a high error rate in
3 this case in relation to others because of the
4 volatility in copper prices, but lost sales and lost
5 revenue allegations, which have been corroborated,
6 which represent millions and millions of dollars,
7 these are specific allegations at specific customer
8 accounts for specific products for specific moments in
9 time where you see head-to-head competition.

10 Numerous purchasers have agreed that yes,
11 subject imports under-sold or took markets away from
12 U.S. producers, and the reason was price. That is
13 direct, compelling evidence of causation I would
14 submit, and it's also worth noting that as a result of
15 such underselling, from the start of the period of
16 investigation up through the filing of the petitions,
17 we see an erosion of market share, and that market
18 share was lost almost entirely to subject imports, and
19 so I think those two trends are quite telling and I
20 think speak to the causation issue.

21 COMMISSIONER PEARSON: I understand that you
22 have some concerns about quarterly pricing data, but
23 we of course do have some experience dealing with
24 other products in which markets are volatile and
25 prices go up and down, and in this record, we see what

1 I would consider a rather balanced pattern of under-
2 selling and over-selling by subject imports, and so
3 it's harder for me to look at that information and say
4 hey, there's really a lot of price pressure coming
5 from subject imports because a significant percentage
6 of the time over-selling. How do you respond to that?

7 MR. LEVY: Well, I think that the quarterly
8 price data need to be looked at in conjunction with
9 the narrative comments from purchasers which by and
10 large those comments say that there is under-selling,
11 and there is downward price pressure by reason of
12 subject imports, and that's clear from purchasers'
13 narrative accounts, and if I might elaborate on this
14 question about quarterly under-selling.

15 I'm not suggesting that those data are not
16 probative, but I simply submit that sort of in
17 weighing those data, you need to consider not only
18 volatility in copper prices, but the fact that those
19 data involved price points on dates of shipments to
20 customers. When you're talking about, for example,
21 commercial tube, the price is going to be a function
22 of not only the fabrication charge, but a COMEX value,
23 and that COMEX value could be from the order date or
24 the date of shipment to customer.

25 It could be for a longer fixed period. It

1 could be from a prior-month average. It could be from
2 several months prior, particularly in the case of
3 shipments from China, so even when you look at
4 essentially the price fixation date and how it relates
5 to the date of shipment to this customer, it's not
6 going to be the same among different suppliers at
7 different points in time, so you have that plus the
8 extreme volatility in copper prices.

9 Don't take my word for it. In the anti-
10 dumping proceeding at Commerce relating to Mexico,
11 IUSA took great issue with the Commerce Department's
12 proposed quarterly cost averaging methodology.
13 Essentially, Commerce Department's preliminary view
14 that in making comparisons, they would look at things
15 at a quarterly level, and IUSA went to great lengths
16 in their brief, and we excerpted it in as one of our
17 exhibits to point out that from minimum to max in a
18 particular quarter, you can well in excess of a 100
19 percent difference within a quarter in copper prices.

20 So if you have a shipment on one day and a
21 shipment on another day within the same quarter, it
22 could be a 100 percent difference, so this can
23 certainly add noise to the data and have the potential
24 for distortion, and I would simply ask that the
25 Commission consider this factor in weighing the

1 totality of evidence on underselling.

2 COMMISSIONER PEARSON: Okay. Much of my
3 career was spent in the commercial world, and in an
4 open and competitive marketplace, I'm quite accustomed
5 to situations in which my firm did not get all the
6 sales. I think it's only monopolies that have that
7 pleasure of getting all the business. Otherwise, you
8 earn some sales. You don't get others, and often
9 that's because someone else, be it the domestic
10 producer or an importer sold for less than you were
11 able to at that day. I mean, I'm still not sure that
12 I'm seeing on this record something different than
13 normal, open competition in the market place.

14 MR. LEVY: Well, again I think if you look
15 at what's happening in the market share trends, for
16 example, U.S. producers clearly lost market share to
17 subject imports for whatever demand there was over the
18 period of investigation.

19 This is an industry that purchasing
20 decisions are extremely dependent on relative prices
21 between domestic producers and subject imports, and
22 maybe I'll ask one of the industry witnesses to speak
23 to their recent experience, and particularly since the
24 Commerce Department's preliminary determination, and
25 again this is an environment where there isn't any

1 surge in demands, right?

2 Demand is still floundering in the housing
3 and construction markets, and particularly the
4 commercial construction market, and to speak to what's
5 going on in terms of their relative competitive vis-a-
6 vis subject imports since the Commerce Department's
7 preliminary determination. I don't know if John or
8 Bart want to speak to that observation?

9 MR. HANSEN: Mueller is primarily a supplier
10 of plumbing tubes, tubes for plumbing applications,
11 but we have a modest position in what you'd call
12 commercial tubes, particularly smooth bore, level
13 round tubes, and it's a quite striking increase in the
14 number of inquiries, unsolicited inquiries, that we
15 receive from U.S. consumers of these tubes within 30
16 days before or after the Department of Commerce
17 preliminary finding publication.

18 Since then, we've seen a dramatic increase
19 in the number of customers who are entertaining quotes
20 or soliciting quotes and in the number and variety of
21 tubes that we're being asked to supply, so I can't
22 attribute that to anything other than the Department
23 of Commerce findings because we're not doing anything
24 different, and I don't think those consumers are doing
25 anything different either, so I attribute that

1 dramatic increase in requests to us to supply these
2 products. I can't attribute it to anything but the
3 dumping.

4 COMMISSIONER PEARSON: Let me ask a somewhat
5 related question to Mr. Arndt. In your comments, you
6 spoke of intense competition with Mexican producers
7 for some business, and you wouldn't see this
8 information because it's not included in the public
9 version of the staff report, but let me just
10 characterize the data by indicating that the Mexican
11 producers haven't been succeeding overly well in the
12 U.S. market, okay?

13 What we see on the data doesn't make it look
14 like they are going gang busters, so is there some way
15 to reconcile what you have seen in your business with
16 what we see in the data that the Mexican producers
17 haven't been doing all that well in the United States?

18 MR. ARNDT: Through the period of
19 investigation, we have competed with Mexican
20 producers. I don't have the data that you have on the
21 volume, but I can say that we've gone head to head and
22 have lost in many of those cases as well as in my
23 testimony I talked about cases where Golden Dragon was
24 bringing their facility online in Mexico, and in order
25 to fill that facility up, competing head to head and

1 coming in and dropping the fabrication rates, not
2 metal, fabrication rates, 20 percent below where the
3 market was to gain capacity in order to fill their
4 mill up. I have see that in numerous accounts.

5 COMMISSIONER PEARSON: Okay. Thank you very
6 much for comments. Madam Chairman, my time has
7 expired.

8 CHAIRMAN OKUN: Commissioner Aranoff?

9 COMMISSIONER ARANOFF: Thanks. I want to go
10 back and ask another question about the cast-and-roll
11 technology. This follows from the questions that the
12 Chairman was asking. I wanted to distinguish between
13 the inner-grooved tube generally and this narrow
14 product, the narrow wall inner-grooved tube that I
15 guess is being sought for some heat exchange
16 applications and ask specifically with respect to this
17 narrow product going into these industrial
18 applications, can you make that product using either
19 cast-and-role or an extruded process?

20 MR. ARNDT: That is correct. In a
21 particular month, we look at what our demand is and
22 where that product needs to be shipped to, and that
23 determines what facility within our company we grow
24 that capacity on, and we're shipping inter-grooved
25 product from using cast-and-roll as well as use

1 extrusion, and we ship it interchangeably to those
2 customers in a particular month based upon demand.

3 COMMISSIONER ARANOFF: And that includes
4 this narrow product, the newer product?

5 MR. ARNDT: When you say "new product,"
6 inner-grooved tube has been inner-grooved
7 specification-wise for a long time. Each customer may
8 have specific specifications. I don't have an issue
9 meeting customers specifications using either of the
10 process. That's been my experience.

11 COMMISSIONER ARANOFF: Okay. And the
12 product that I'm referring to specifically is this one
13 that Golden Dragon talked about that is allowing the
14 producers of I guess air conditioning units to reduce
15 the weight of copper and achieve better energy
16 efficiencies in their product.

17 MR. ARNDT: I haven't seen any report where
18 Golden Dragon has the technology that we have within
19 our facilities, the extrusion process, so I don't know
20 how that claim could be there.

21 MR. FLOWERS: Let me say basically what
22 they're talking about there on the turbo lathe of a
23 grooved teeth is a lighter wall and lighter means
24 "cheap." You can do the same thing with a heavier
25 wall teeth, but the lighter wall means cheaper.

1 Lighter means cheaper. That's all that means.

2 COMMISSIONER ARANOFF: Okay. Let me ask my
3 next question then. Some of the Respondents,
4 specifically the OEM who've participated in the case,
5 argue that customers purchase inner-grooved tubing
6 from China because the U.S. product failed to meet
7 burst pressure requirements that were needed to meet
8 new federal energy standards. Are U.S. producers in
9 fact able to supply tubes that meet these burst
10 pressure requirements?

11 MR. ARNDT: I have not experienced a failure
12 situation from product which we've produced that's
13 failed to meet burst pressure, and I do not recall the
14 case that we're supplying, but that's the situation.

15 COMMISSIONER ARANOFF: Okay.

16 MR. LEVY: Commissioner, if I could just
17 elaborate? I think it was in 2006 that HVAC producers
18 were required to migrate to these Sierra 13 energy
19 efficiency standards, and so different HVAC producers
20 made different engineering choices about how they were
21 going to do that, so a great many HVAC producers,
22 Carrier, for example, focuses on using the smooth
23 bore, Level 1 coil product to accomplish this.

24 Others use inner-groove tubes, and others
25 use a combination of platforms depending upon market

1 conditions. With respect to the inner-grooved
2 product, the testimony you've heard, which is I think
3 quite unequivocal is that U.S. producers can make this
4 product to specifically using either a cast-and-roll
5 or an extrusion-based technology, and to any required
6 dimension and that there's never been an instance of
7 failure to meet customer specification.

8 Maybe Mr. Arndt can also speak to the
9 abundance of inner-grooved tube in other markets that
10 are produced pursuant to extrusion as well because I
11 think it helps to debunk the myth that cast-and-roll
12 is some unique technology. It simply produces an
13 intermediate mother tube just like extrusion, and
14 everything else downstream is the same.

15 COMMISSIONER ARANOFF: Okay. Well, actually
16 let me jump off from there and ask what my next
17 question was, which is the U.S. industry has been
18 investing in this cast-and-roll technology, and some
19 foreign producers were perhaps investing in it even
20 earlier. Can someone just describe to me when and
21 where this technology was Developed and what it is
22 about the technology that's causing it to become more
23 widely adopted?

24 MR. ARNDT: The technology was developed by
25 a company by the name of Outokumpu. Now that company

1 I believe is called Lavada. They were creators of the
2 technology with German manufacturers. There was
3 patents in the United States applied for with that
4 technology, and those patents were in place until I
5 believe March of 2008. Cerro was able to obtain a
6 license to obtain that technology.

7 We began our facility in Cedar City with
8 that technology. I believe that was in 2002 is when
9 we first commissioned and started producing product,
10 but the license that we had explicitly stated that we
11 were not allowed to produce certain specifications of
12 products. One of those specifications was inner-
13 grooved tube, and that did not release until March of
14 2008 if I recall correctly, so no U.S. producer other
15 than Lavada would have had the opportunity to producer
16 inner-grooved tube in North America.

17 COMMISSIONER ARANOFF: Okay. And what is it
18 about the technology that makes it I assume superior
19 in some way that's causing the industry in the U.S.
20 and elsewhere to invest in it. It's lower cost of
21 production? You're arguing it doesn't make a better
22 product.

23 MR. ARNDT: In the pre-stage step that we
24 went through that we put up and the charging
25 standpoint, you're loading in a pure piece of cathode

1 that can be loaded automatically, and it can be
2 charged into the melt furnaces, and it goes directly
3 from the cast furnace directly into a tube, and then
4 it goes through a process called the high-reduction
5 mill, and it turns it into mother tube.

6 With the extrusion process, you cast and you
7 make a billet. You then transport that billet to your
8 extrusion press. We heat that billet back up, and
9 then you extrude it out in order to make your mother
10 tube, so it narrows the amount of manufacturing
11 processes. It narrows it down with a cast-and-roll
12 technology.

13 COMMISSIONER ARANOFF: And does that reduce
14 the cost of production or just the speed?

15 MR. ARNDT: It would reduce your cost of
16 production.

17 COMMISSIONER ARANOFF: Okay. Okay. Let me
18 turn to a slightly different topic now and ask another
19 question about substitute product. In plumbing
20 applications, various plastic substitute products have
21 been in the market for a number of years now, and my
22 recollection is that some of the early plastic
23 products that were tried had very bad experiences
24 with consumers in terms of their springing leaks and
25 causing various problems, so with respect to the

1 current generation of substitute plastic products,
2 about how long have they been in the market and how
3 has the experience been in terms of do they wear at an
4 acceptable level relative to copper pipe. I've got a
5 50-year-old with copper pipe in it, and it's going
6 just fine.

7 MR. HANSEN: And it will be good for another
8 50 years. You recall correctly in the United States,
9 copper was used almost exclusively for plumbing tub
10 from the 1940, well into the 1970s. In the late '70s,
11 a plastic product polybutylene was introduced to the
12 market, and it was a less expensive product than
13 copper, and it grew in its market share through the
14 '80s and into the early '90s.

15 At that point, in the early '90s,
16 polybutylene tubes began to fail in fairly large
17 numbers. In 1994 I believe, the only supplier of the
18 polybutylene resin to the U.S. market withdraw that
19 product, and they were dealing at the time with a
20 multitude of very high-dollar class actions suits
21 because of the failures of that product. That
22 prompted the suppliers of these plastic tubes to seek
23 alternative materials.

24 In the late 1990s, many of the companies
25 that had been providing polybutylene switched to

1 cross-linked polyethylene, pr PEX. This is product
2 that's been used in Europe for some time. It was not
3 introduced in the United States until the late '90,
4 and it's enjoyed consideration grown over the last 10
5 years. Principally, in high-volume, single-family
6 construction, particularly favored by high-volume
7 corporate builders who can take a modest per-home
8 savings over a large volume of homes, that can add up
9 to significant dollars.

10 The other material that has been in use in
11 the United States for some time is CPVC. That's
12 Chlorinated Polyvinyl Chloride, and it's been in use
13 since the 1990s. It is not as inexpensive a material
14 aspects, and it's market share I would say probably
15 peaked in the '90s and it hasn't grown significantly
16 since then.. Some installers, plumbing contractors
17 prefer one material over the other, but the dramatic
18 increase in the cost of copper beginning in 2003 and
19 then cycling up and down to today encouraged many home
20 builders and plumbing contractors to switch from
21 copper to plastic.

22 COMMISSIONER ARANOFF: Okay. And there's
23 been nothing in the experience that's been
24 sufficiently unsatisfactory that you see a bunch of
25 business coming back to copper in the near future?

1 MR. HANSEN: Well, I can't quite say that.
2 I would say CPVC has experienced very few failures in
3 service to my knowledge. PEX Products on the other
4 hand have experienced some large-scale failures and
5 service. There are class action suits pending, for
6 example, in Las Vegas covering I think 50,000 homes.
7 The issue here is how the water chemistry in each
8 market, which varies from market to market, reacts
9 with the chemistry of the materials, and the materials
10 used to join them.

11 I would say we have not seen the widespread
12 failures with PEX occurred with polybutylene, at least
13 not yet, but in selected markets with water chemistry
14 that was particularly unfavorable for the PEX systems,
15 there have been some fairly dramatic failures.

16 COMMISSIONER ARANOFF: Okay. I'm way over
17 my time, but thank you for those answers.

18 CHAIRMAN OKUN: Commissioner Williamson?

19 COMMISSIONER WILLIAMSON: Thank you, Madame
20 Chairman. Mr. Flowers and Mr. Stemler, I was
21 wondering when we look at the -- the cost of labor is
22 really a very tiny part of this product, so I'm trying
23 to figure out what we know? Is there anything about
24 what the Chinese are doing or anything that you know
25 about their productivity that would seem to make them

1 have such a lower price? Just think from your
2 experience in working this factor. I'm just trying to
3 figure out whether or not this labor cost is that a
4 factor in Chinese and Mexican pricing, actually.

5 MR. FLOWERS: I don't know if I understood
6 the question or not. You're saying that there's not
7 very much difference in the labor cost?

8 COMMISSIONER WILLIAMSON: No. What I'm
9 saying is the labor represents a very small percentage
10 of the end cost, so on some products they say well,
11 because there's cheaper labor rates overseas, but it
12 doesn't seem like this would make a big difference
13 here, and I'm just wondering your views on that
14 question? Now, you wouldn't have the data, but I'm
15 just thinking about from anything that you --

16 MR. FLOWERS: Well, I can tell you one thing
17 that didn't put us at Wolverine on the same playing
18 field, and what I'm going to say is it should have
19 happened, and it did happen, is they regulated us,
20 well the EPA did, and made us do away with a
21 degreasing fluid called 111 trichloroethylene, and we
22 used that 50 years to clean tubes in our facility to
23 meet our customers' stringent demand for cleaning.

24 Well, they done away with that, which
25 rightfully so the United States federal government and

1 EPA done away with it and give us an edict to do away
2 with that. I've opened up boxes of material coming
3 out of China, and it would knock you down, and Mexico.
4 They're using it. It's a different playing field.

5 COMMISSIONER WILLIAMSON: Okay. Mr. Hansen?

6 MR. HANSEN: Mr. Williamson, if I could add?

7 COMMISSIONER WILLIAMSON: Yes.

8 MR. HANSEN: Your observation that labor
9 cost is a relatively small component of the delivered
10 cost of these tubes is accurate, but you may recall my
11 earlier testimony. Competition takes place largely
12 amongst competitors on the fabrication charges. All
13 the manufacturers do their very best to pass through
14 the cost of copper, which may be 75 or 80 percent of
15 the delivered cost of the product, but if you look at
16 the labor component as a percent of the fabrication
17 charge, it's not insignificant.

18 COMMISSIONER WILLIAMSON: Okay. Thank you
19 for that clarification, and that raises the question,
20 I think Mr. Levy's point about we shouldn't be looking
21 at our traditional pricing costs, but look at the lost
22 sales and things like that because you can't do the
23 same kind of nice charts and tables that we can do
24 with the pricing data. Would looking at the different
25 fabrication costs between the different producers say

1 in China, Mexico and the U.S., would that tell us
2 anything, and do we have that data, actually?

3 MR. LEVY: I'll ask Dr. Boyce to speak to
4 that.

5 COMMISSIONER WILLIAMSON: Okay.

6 MR. BOYCE: We put in our prehearing brief a
7 compilation which we called the conversion revenue,
8 which was the unit selling price off of the sales data
9 minus the unit raw materials cost off of the cost
10 data, so it's combining data from two different
11 sources. However, it does give you an indication of a
12 price trend for essentially fabrication, and it shows
13 over the period a general downward trend. That was
14 for the U.S. data. Could we do the same thing for
15 foreigners? No. We don't have their unit raw
16 materials data.

17 COMMISSIONER WILLIAMSON: Okay. Could you
18 explain again what you're --

19 MR. BOYCE: The unit conversion revenue was
20 calculated?

21 COMMISSIONER WILLIAMSON: Yes.

22 MR. BOYCE: By taking the unit price or unit
23 value essentially from total U.S. producer shipments,
24 okay? Say \$4.00 a pound, and subtracting the unit raw
25 materials cost, Say \$3.30 a pound.

1 COMMISSIONER WILLIAMSON: Okay. I think I
2 get it now.

3 MR. BOYCE: The difference is 70 cents a
4 pound being a measure of fabrication revenue,
5 fabrication charge or as I termed it, because it is
6 not strictly what you would get from the negotiated
7 fab charge in a contract, a measure of the return to
8 fabrication that Mr. Hansen has said is the basis for
9 competition.

10 COMMISSIONER WILLIAMSON: Okay. Thank you
11 for that clarification. Staying with you, given your
12 arguments in the raw materials, it accounts for 75 to
13 80 percent of the cost, can the copper industry be
14 described as a high-fixed cost industry in this case?

15 MR. BOYCE: Again, the competition occurs on
16 the basis of the fabrication charge, that is metal is
17 a pass through essentially for everybody, yes, there
18 is a high proportion of the fabrication charges that
19 are attributable to the very high investment,
20 especially in the Stage 1 and Stage 2 production, yes.
21 Operating rates matters tremendously in this industry.

22 COMMISSIONER WILLIAMSON: Okay.

23 MR. BOYCE: It's a high-fixed cost industry
24 for the purposes of understanding the economics of
25 competition.

1 COMMISSIONER WILLIAMSON: Okay. Because the
2 cost of the raw materials equals everybody basically.

3 MR. BOYCE: So if my 70 cents a pound
4 conversion revenue is typical, the fixed costs are
5 going to represent a significant share of that 70
6 cents a pound.

7 COMMISSIONER WILLIAMSON: Okay. Thank you
8 for that clarification. Good. Mr. Arndt, you
9 mentioned that you sell to Trane, Carrier, Lennox and
10 Rheem. Do these sales include small diameter grooved
11 tubes?

12 MR. ARNDT: There's certain agreements we
13 have with certain customers that we can't say on the
14 record.

15 COMMISSIONER WILLIAMSON: Understood. But
16 maybe post-hearing?

17 MR. ARNDT: Yes, but the answer is yes, we
18 do sell the variety of different products to all of
19 those OEM-type customers. They have needs for all it,
20 not only when they build the air conditioner coil,
21 they also have to have the hookup tubes to hookup the
22 other parts of the air conditioner in order to hook it
23 up to the compressor in order to hook it up to the
24 additional coil that's inside your house versus the
25 coil that's outside your house. That all is hooked up

1 by copper tubing, so there's all sort of size ranges
2 that they hook that up.

3 COMMISSIONER WILLIAMSON: Okay. And these
4 sales would have occurred throughout the period of the
5 investigation?

6 MR. ARNDT: Correct.

7 COMMISSIONER WILLIAMSON: And I assume
8 there's large volumes of it?

9 MR. ARNDT: Correct.

10 COMMISSIONER WILLIAMSON: Okay. Thank you.
11 Golden Dragon suggests that the staff calculations of
12 apparent U.S. consumption appear to overstate the
13 market share of subject imports because total imports
14 exceed U.S. importer shipments. Do you view the
15 apparent consumption in the final staff report should
16 be adjusted to reflect to U.S. importer shipments
17 rather than total U.S. imports? I don't know if you
18 want to address it now or later?

19 MR. LEVY: I'd prefer to address that in our
20 post-hearing submission.

21 COMMISSIONER WILLIAMSON: Okay. Thank you.
22 How important are Buy America policies in the market
23 of the subject pipes?

24 MR. HANSEN: With respect to plumbing tubes,
25 there has been relatively little distinction made

1 amongst consumers between domestically manufactured
2 product and imports until the passage of the ARRA Act
3 last year at which point we began to receive some
4 requests from customers for certification that our
5 product complied with ARRA, but other than that, I
6 would say there's been little demonstrable preference
7 amongst consumers of plumbing tubes for U.S. products.

8 MR. ARNDT: For commercial, I know there's a
9 customer who's working on the A/C system on the World
10 Trade Centers that are being built up, and that we
11 were requested to supply information certifying that
12 it was made in the U.S.

13 COMMISSIONER WILLIAMSON: Okay. Thank you.
14 Let's see.

15 CHAIRMAN OKUN: Commissioner Williamson,
16 your red light's come on.

17 COMMISSIONER WILLIAMSON: I am sorry. Thank
18 you. I did not even notice. Thank you.

19 CHAIRMAN OKUN: You can come back. I wanted
20 to ask some additional pricing questions, and again I
21 understand the argument about why in this particular
22 case you think they're less probative.

23 Interestingly, the Mexican Respondents
24 actually agree with you on that point with respect to
25 the volatile copper prices, but one question I had,

1 and I'm not sure if you can address here, but just in
2 terms of pricing products themselves and Petitioners
3 involved in taking those products, is there something
4 about this industry why this pricing is not better in
5 terms of coverage because you're talking about the
6 head-to-head competition that you see in the lost
7 sales, lost revenue?

8 The Chinese Respondents would point to
9 product where, I think they mentioned this today,
10 Pricing Product 5 as being one where they're in the
11 market, they're selling it, take a look at their
12 pricing, and they would argue that supports their
13 argument, so I wondered if there's anything else with
14 respect to the pricing data that you would have us
15 look at or the market in terms of looking for the
16 competition?

17 MR. LEVY: Well, I mean, obviously when
18 you're looking for competition, you're looking to find
19 evidence of causation. There's probably nothing more
20 compelling again than I think the narrative account of
21 Mr. Flowers of what happened at Wolverine and customer
22 accounts where customers were sourcing from
23 Wolverine's U.S. produced facilities and simply made a
24 switch to the Chinese because they were cheaper. On
25 sort of an anecdotal level, I think that evidence is

1 clear and compelling.

2 When you get to the quarterly data, what the
3 Commission staff I think tried to do in a very
4 reasonable and even-handed way was identify four
5 plumbing tube products or products that were typically
6 sold as plumbing tubes, not always, but typically, and
7 four products, products five through eight, that are
8 typically sold as commercial tube to OEMs, but again
9 not always, and the data bear out that there's overlap
10 between the channels of distribution.

11 I think that the products selected were a
12 reasonably good guess at where there's overlapping
13 competition. We were somewhat disappointed by the
14 coverage in some areas, but there's just such a wide
15 continuum and variety of products that there's a point
16 at which you have to say you've sampled enough
17 products here, and I think you probably struck a fair
18 balance.

19 There is this argument that I think we'll
20 hear more from Respondents that somehow Product 5 is
21 the market, and the argument that U.S. producers were
22 either unable or unwilling to supply, obviously we've
23 raised our concerns about the probative value of the
24 unit prices in the quarters, but even on the product
25 side issue in response to this question of whether

1 U.S. producers are unable or unwilling to supply this
2 sort of supposedly unique Product 5, I would refer you
3 to the proprietary data concerning U.S. producer
4 shipments of Product 5, and I think that speaks
5 volumes.

6 CHAIRMAN OKUN: I appreciate those
7 additional comments, and I will look forward in the
8 post-hearing brief to some further elaboration just in
9 terms of making sure that we are talking about
10 comparable products with respect to their arguments on
11 Product 5. I think I do have a good understanding of
12 it, but it did strike me at the plant when we were
13 listening to the description of the different channels
14 of distribution and why there's a different piping
15 mechanism for plumbing versus commercial.

16 It's always interesting to me that when you
17 show us these products that look exactly the same, you
18 put a different mark on them, and they go into
19 different channels, and they have a different pricing
20 mechanism, it's odd, but you've had a fair amount of
21 time to describe that, so I don't think I'll ask any
22 additional questions, but I would ask for post-
23 hearing, Mr. Levy, that you address the issue of
24 cumulation for threat purposes with regard to Mexico.

25 I know you've argued there's overlap in

1 where the channels of distribution are, but I guess
2 I'm looking for the significance of some of the points
3 we made and would make in response to the Mexican
4 arguments on where they're selling their product,
5 where the competition is with the Chinese and the
6 Mexicans.

7 MR. LEVY: Certainly, we will, and I think
8 actually when you look at Products 1 through 8 and the
9 quarterly pricing data, one of the things that those
10 data do very well is to show the overlapping presence
11 of China and Mexico and U.S. producers in the U.S.
12 market for a wide range of the products at particular
13 moments in time. It's a very robust data set and very
14 useful for many observations, including points that
15 are pertinent to a question you raised, cumulation.

16 CHAIRMAN OKUN: Okay. When you go through
17 that, pay particular attention in describing that
18 because again if you're arguing the pricing data is
19 not probative for one point, but it is for another, to
20 detail those arguments so we can understand the
21 differences that you would have us look at there, and
22 just with respect to 2010, and I know that several of
23 you have testified how you felt significant
24 improvements, and I think it was Mr. Hansen saying we
25 just had additional inquiries from customers.

1 Could any of the producers discuss whether
2 you have any knowledge of whether that matter, whether
3 those customers might have formally been buying from
4 either a Chinese or Mexican producer? Would you have
5 any information if there's a difference in 2010 and
6 what was going on in the market with respect to the
7 different subject imports?

8 MR. ARNDT: In my testimony, I discussed
9 about a customer that I believe I said in 2008 and
10 2009 had resources to China product because of the
11 price from a distributor, and for 2010, that customer
12 has come back to us at 100 percent of what they were
13 buying in the past, so it's a direct correlation.

14 CHAIRMAN OKUN: Okay. And you may not want
15 to do this hear, but for post-hearing if you did not
16 already include how the pricing was for 2010 as
17 opposed to prior years when they were your customer if
18 you have any observations on that?

19 MR. ARNDT: I'd be happy to include that.

20 CHAIRMAN OKUN: Okay. Okay. And then, Mr.
21 Flowers, and I think, Mr. Levy, I just want to make
22 sure that I understand. One of the arguments of
23 Golden Dragon had to do with that their product did
24 not replace Wolverine product, and I just want to make
25 sure. I think what we're talking about here are

1 different plants, that the plant Mr. Flowers worked in
2 you have testified produced the same product that
3 Golden Dragon was. It wasn't welded product.

4 I mean, there was an argument with respect
5 to welded product being the plants that closed down.
6 Were those the other two? Is that your understanding,
7 and maybe Mr. Flowers could --

8 MR. LEVY: Yes. I mean, Wolverine had a
9 number of plants that closed down. There were two
10 seamless refined copper tube mills that closed during
11 the period, the Decatur, Alabama, and Booneville,
12 Mississippi plants that you see here. There was also
13 a plant I believe in Jackson, Tennessee, which
14 produced welded tube, and that was closed I believe in
15 2006.

16 Now, again, that's not subject product.
17 It's out of scope, but when that mill closed, there
18 was obviously a new demand for seamless refined copper
19 tube in the market, and in particular in inner-grooved
20 product, and so U.S. producers found themselves in
21 competition with subject imports to meet that new
22 demand in the seamless refined copper tube industry,
23 and that again was another example where there was
24 competition where Golden Dragon ate the U.S.
25 industry's lunch.

1 CHAIRMAN OKUN: Okay. Thank you. I thought
2 I understood that, but I just wanted to make sure what
3 the different plants were producing. Another post-
4 hearing request for you, Mr. Levy, which is with
5 respect to related party, if you could brief that in
6 detail. You probably are aware there is some division
7 among the way different Commissioners look at the
8 related party provision and how it should apply, and
9 if you could just make sure that you focus on the
10 relevant information that we would be focusing on?

11 MR. LEVY: Certainly, we will do that. I
12 just want to make one point on that, and particularly
13 with regard to Wolverine. I think the Wolverine story
14 in 2007 is very compelling. It was a major U.S.
15 producer. I think the No. 3 U.S. producer at the time
16 according to my clients, and they made a fateful
17 decision to be a distributor, and now importing is an
18 important part of their business.

19 I understand that there may be an
20 inclination to disregard some of their data. I would
21 argue that a decision to disregard their data would
22 actually skew the data for the overall industry and
23 distort the overall picture, and if someone were to
24 decide to disregard some of Wolverine's data, I would
25 simply submit don't disregard all of it. Don't

1 disregard the loss of plant workers in the U.S.
2 industry.

3 Don't disregard the declining shipment
4 volumes and its impact on market share. I think these
5 things are factors that need to be considered in
6 assessing the condition of the industry and causation
7 throughout the period.

8 CHAIRMAN OKUN: Okay. So for purposes of
9 your post-hearing, there are a number of cases you
10 could look to and make your argument with respect to
11 whether there is some data that should or should not
12 be relevant regardless of the related parties status
13 and also the purpose of the related party status.

14 MR. LEVY: Certainly.

15 CHAIRMAN OKUN: And my red light has come
16 on, so I'll turn to Commissioner Lane.

17 COMMISSIONER LANE: Thank you. I want to
18 follow up on a question that Commissioner Williamson
19 asked, and I apologize if you answered this before,
20 but I want to make sure I understand, and it's
21 relating to conversion revenues and the implication of
22 changes in conversion revenues. Would you explain the
23 importance of conversion revenue and how it changed
24 during the period of investigation and how that
25 reflects the financial health or ill health of the

1 domestic industry?

2 MR. LEVY: Dr. Boyce?

3 MR. BOYCE: In my view, the unit conversion
4 revenue is the best indicator of price trends in this
5 industry given the extreme volatility of metal over
6 the POI. The trend is generally down from 2007 to
7 2009 with most of the other indicia a turn upward in
8 the first half of 2010. Does that answer your
9 question?

10 COMMISSIONER LANE: Yes, and since you
11 consider the movement of net conversion revenue to be
12 a negative factor, please explain whether there is any
13 link between unfairly traded subject imports and the
14 poor trend of the conversion revenue?

15 MR. BOYCE: I would say yes because as Mr.
16 Hansen testified, competition in this market is
17 primarily on the basis of the fab charge. The fab
18 charge is the contractual word that parallels the unit
19 conversion revenue metric, okay? So they are
20 competing on the basis of the fab charge, head-to-head
21 competition with foreign producers, explicit in the
22 case of commercial tub, implicit actually in the case
23 of plumbing tube because at the end of the day,
24 whether it's plumbing or commercial, metals are pass
25 through.

1 You make your money on the conversion charge
2 or the fab charge or the difference between your total
3 price and your metal cost, so be it plumbing or be it
4 commercial, head-to-head competition, the effect is to
5 drive down for the U.S. producers the unit conversion
6 revenue.

7 COMMISSIONER LANE: Okay. Thank you. Now,
8 this is another followup from Commissioner
9 Williamson's question that whether or not the industry
10 was a high fixed-cost industry. Where do you report
11 depreciation and the financial data in the
12 questionnaire responses you provided the Commission?
13 Are they included in other factory costs, and what
14 percentage of total cost including and excluding raw
15 materials would you say is represented by
16 depreciation?

17 MR. BOYCE: We report the depreciation and
18 other factor costs and I believe in a separate line in
19 I don't know what it is. Table 214 or something.
20 Well, let's see. I believe I can see that number.
21 Well, it is not at my fingertips, and I do not recall
22 the ratio offhand, but it is significant to material.

23 COMMISSIONER LANE: Okay. And you can
24 answer that in post-hearing.

25 MR. BOYCE: I would be happy to.

1 COMMISSIONER LANE: Okay. Now I would like
2 for you to discuss the indicators of profits and what
3 targets you would set as being reasonable. In other
4 words, let's look at operating income as a percentage
5 of revenue. What do you consider to be a reasonable
6 or necessary percentage when considering the success
7 or failure of your business activities?

8 MR. BOYCE: Well, this question came up in
9 the preliminary phase of the investigation, and I
10 think that the answer that we gave them then stands.
11 Each company has a hurdle rate of return necessary to
12 engage in new investment projects. First in the
13 recent period, Mueller did a reinvestment project. A
14 few years later, Cerro did a reinvestment project.
15 Kobe Wieland is now engaged in a reinvestment project.

16 Presumably at the time the decisionmakers
17 decided to invest in those projects, they anticipated
18 a rate of return that was adequate to cover their
19 hurdle rate of return. I believe that each will say
20 now that the current rate of return is not nearly
21 adequate to justify a new round of significant
22 investment projects.

23 COMMISSIONER LANE: Okay. Could each of
24 these companies provide in post-hearing what they
25 would consider to be a reasonable or necessary

1 percentage when considering the success or failure of
2 their business activities?

3 MR. LEVY: Certainly.

4 COMMISSIONER LANE: Okay. Thank you, and
5 could you explain in those answers whether you look at
6 return on investment or cash flow payback or what the
7 level of return on investment or cash flow do you
8 consider to be a minimal or minimum reasonable level?
9 I have one more question here. I would like for you
10 to quantify your analysis of the changes you would
11 have expected to see in the period of investigation if
12 subject imports had been fairly traded?

13 In other words, if subject imports had been
14 higher priced, would you have been able to increase
15 your prices, capture greater market share or both, and
16 what do you believe would have been the resulting
17 financial results for the total industry?

18 MR. LEVY: We'd be happy to answer that.

19 COMMISSIONER LANE: Okay. Thank you, and I
20 think I did have another question. Well, I'll come
21 back to it, Madam Chair.

22 CHAIRMAN OKUN: Commissioner Pearson?

23 COMMISSIONER PEARSON: Thank you, Madame
24 Chairman. Mr. Levy, has one of my colleagues already
25 asked about cumulation?

1 MR. LEVY: I believe so, and we committed to
2 addressing it in greater detail in our post-hearing
3 submission.

4 COMMISSIONER PEARSON: Okay. Good, because
5 it is certainly an issue for Mexican Respondents where
6 they are making arguments against cumulation, at least
7 for purposes of threat, so we would want to be fully
8 briefed on your views.

9 MR. LEVY: Certainly.

10 COMMISSIONER PEARSON: Mr. Flowers, when
11 your plant closed, did the workers qualify for trade
12 adjustment assistance?

13 MR. FLOWERS: Some did.

14 COMMISSIONER PEARSON: Was that helpful?

15 MR. FLOWERS: Yes. Yes, that was helpful.
16 It was helpful some, and some are still in school or
17 whatnot from it, which that was a help. There's no
18 question. When you've got a job today, and it's gone
19 tomorrow, you know, it don't take just a little bit to
20 help, but yes, it helped. Very proud to have it.

21 COMMISSIONER PEARSON: Thank you. These
22 questions may be more for the post-hearing, but let me
23 just run through them here. How much cast-and roll
24 capacity does the domestic industry have? I don't
25 know whether that's something you want to talk here.

1 If so, by all means go ahead. Otherwise, it would be
2 good to clarify in the post-hearing.

3 MR. LEVY: I think we can clarify that in
4 the post-hearing submission. The capacity can be
5 found in two companies, Cerro and Kobe Wieland at this
6 time.

7 COMMISSIONER PEARSON: Okay. Then, how much
8 capacity for downstream production of industrial tube
9 does the domestic industry have, and this would be the
10 products that have inner-grooving and whatever other
11 features?

12 MR. LEVY: And I think that's on the record,
13 and we will address that in our post-hearing
14 submission.

15 COMMISSIONER PEARSON: Okay. Does the
16 downstream processing capacity impose any constraints
17 on industrial tube production? In other words, if you
18 ran nothing but industrial tube from the front end,
19 could you finish all of it at the back end?

20 MR. ARNDT: We're producing OD and wall, so
21 as you go smaller in OD and all, you end up with more
22 footage, but the downstream process in stage 3 is the
23 easiest in which to add. It's the upstream process in
24 Stage 1 and Stage 2, which is very capital intensive
25 so to speak and takes a lot of planning as to how to

1 put that in when you have hot molten metal in a
2 facility.

3 The downstream process is pretty much plug
4 and play. I had a vendor tell me recently that from
5 the time downstream process was added, arrive on site,
6 they're sure within 10 days we can be up and running
7 and produce it with their equipment in the downstream
8 process.

9 COMMISSIONER PEARSON: Okay. So as a
10 practical matter, you're suggesting that if the market
11 evolved in such a way that more industrial tube of the
12 small diameter was needed that producers could adjust
13 fairly quickly to that?

14 MR. ARNDT: Correct. There is ample Stage 1
15 and Stage 2 capacity that I'm aware of.

16 COMMISSIONER PEARSON: Okay. Any
17 clarification in the post-hearing or any data that
18 shouldn't be discussed here, Mr. Levy, please just let
19 us know.

20 MR. LEVY: Very good.

21 COMMISSIONER PEARSON: Madam Chairman, at
22 this time, I think I have no further questions, but I
23 would like to thank all witnesses.

24 CHAIRMAN OKUN: Commissioner Aranoff?

25 COMMISSIONER ARANOFF: One of the things

1 that the Mexican producers argue has to do with the
2 closing of the Linderme plant, which is one of the
3 four plant closings that you referred to, Mr. Levy,
4 and they argue that when that plant closed, its
5 customer base and assets were transferred to another
6 domestic producer so that the closing of the plant
7 should not be viewed as evidence of injury to the
8 domestic industry. Do you have a response or reaction
9 to that argument?

10 MR. ARNDT: Those workers did not migrate to
11 the other facility, and not all that product went to
12 that other location. I'm aware of that, so all the
13 customers and all the product and all the pounds that
14 were produced in the Linderme facility did not
15 relocate up to the other facility.

16 COMMISSIONER ARANOFF: Okay. And are you
17 aware of what happened to the production equipment
18 that was at that facility?

19 MR. ARNDT: I am not.

20 COMMISSIONER ARANOFF: Okay. Thanks.

21 MR. LEVY: And just to clarify, we are not
22 aware of what happened to all the production
23 equipment, but we are aware that the lion's share of
24 the workers in Euclid, Ohio, did lose their jobs, and
25 indeed in the context of a TAA proceeding, the

1 Department of Labor certified that imports
2 "contributed importantly" to the closure of that mill.

3 COMMISSIONER ARANOFF: Okay. Okay. Mr.
4 Flowers, do you know what happened to the production
5 equipment from the facility that you worked in?

6 MR. FLOWERS: I cannot tell you exactly
7 where it's at this time. I know for probably at least
8 a year and a half after the plant closed in 2008, a
9 lot of the big equipment was still there. I know that
10 they are trying to divide that plant up now and try to
11 make an industrial park out of it and sell off parts
12 of it to other industry, but to my knowledge, a lot of
13 the bigger equipment was still there up until probably
14 10 months ago was left.

15 COMMISSIONER ARANOFF: Okay. Mr. Arndt?

16 MR. ARNDT: I am knowledgeable that a lot of
17 the equipment that was in the Stage 2 was relocated to
18 Mexico for the facility just down there.

19 COMMISSIONER ARANOFF: Okay. I appreciate
20 that. Turning to another topic, you argue in your
21 brief that the domestic industry has experienced a
22 cost price squeeze during the period of investigation
23 as evidenced by a rise in COGS to net sales ratio. To
24 find suppression, the statute requires the Commission
25 to find that subject imports prevented price increases

1 that otherwise would have occurred to a substantial
2 degree.

3 In light of the significant decline in
4 demand for this product during the POI as well as the
5 ready availability of substitute products, on this
6 record, on what basis would you say that the
7 Commission can conclude that subject imports have
8 prevented price increases that otherwise would have
9 occurred.

10 MR. LEVY: Well, again, I think that the
11 evidence of underselling that is on the record is
12 probative of price depression and suppression. Again,
13 there are some issues with the quarterly pricing data,
14 but the evidence exists in other places including
15 narrative accounts from purchasers which are client
16 specific and of course lost sales and lost revenue
17 allegations that are corroborated by purchasers.

18 I think all of this gives you I think a
19 colorful context for what's going on and what is
20 driving in fact the cost price squeeze, and I would
21 also go back to the point that Dr. Boyce makes, which
22 is if you look at what's going on with conversion
23 charges or FAB charges over the period from the
24 beginning of the POI up to the filing of the petition,
25 you see a general downward trend that essentially the

1 margin earned on the processing of raw copper into
2 tubes has been squeezed dramatically.

3 COMMISSIONER ARANOFF: Okay. If there's
4 anything you want to add post-hearing to put this
5 issue of the fab prices into context, and what I'm
6 really interested in is in some industries, and I
7 think it's true in this industry, there's an
8 understanding that certain things are pass throughs to
9 the customer, and here I think we're talking about the
10 copper prices but that other things maybe aren't.

11 MR. LEVY: Correct.

12 COMMISSIONER ARANOFF: So the issue here is
13 the fabrication cost, and I guess it would be
14 interesting for me to know whether in other periods
15 where demand has declined or where there has been
16 substitution going on to substitute product U.S.
17 producers have nevertheless been able to raise their
18 prices commensurate with cost increases because in
19 most industries there's a reason why you can do that,
20 and in some industries you can't, and so that's what
21 I'm trying to understand here.

22 It's just not automatically understood in
23 every industry that if your costs go up, your price
24 can go up. It depends what's going on out in the
25 market place.

1 MR. LEVY: That's fair, and we'll try to
2 address that in more detail.

3 COMMISSIONER ARANOFF: Okay. I appreciate
4 that. I had one more question, but I think one of my
5 colleagues already asked it, so I will thank the panel
6 for all of your answers this morning. Thank you,
7 Madam Chairman.

8 CHAIRMAN OKUN: Commissioner Williamson?

9 COMMISSIONER WILLIAMSON: Thank you, Madam
10 Chairman. Mr. Levy, I was wondering if you could do
11 this now or post-hearing whether this Kobe-Wieland
12 supplies small diameter pipe to any of its customers
13 in the HVAC industry, and if so, can you provide names
14 of these customers and the value of shipments in 2009?
15 The small-diameter, inner-grooved pip.

16 MR. LEVY: Certainly. I think the answer is
17 yes, and we can provide you with greater detail in the
18 post-hearing submission.

19 COMMISSIONER WILLIAMSON: Okay. Thank you.
20 Let's see.

21 MR. LEVY: In fact, I know from talking with
22 Kobe Wieland that in the years leading up to the
23 period of investigation, they were one of the major
24 U.S. producers of inner-grooved commercial tube
25 products. They lost a substantial position in the

1 U.S. market to Chinese producers, and I image that it
2 continues to be the case during the period of
3 investigation that they do produce and sell in
4 insignificant quantities. I just don't know which
5 customer account.

6 COMMISSIONER WILLIAMSON: Okay. Great.
7 Thank you. Lavada has argued in its brief that its
8 imports should not be aggregated with other subject
9 imports because Lavada in effect replaced welded tube
10 with imported seamless and that it's sourcing decision
11 had no relevance to the Commission's inquiry because
12 it didn't really take away business from the U.S.
13 producers, and I was just wondering if you could
14 comment on this and should we treat their imports
15 differently?

16 MR. LEVY: Well, I think it's sort of a
17 bizarre argument. I think it's a fair state that if,
18 for example, one were interested in importing inner-
19 grooved tubes to meet a demand that was previously
20 satisfied by welded tubes that the demand is now fair
21 game in the U.S. market and should be subject to fair
22 competition for sales of those volumes. What we saw
23 was not fair competition.

24 What we saw were dumped prices from imports,
25 and I think what Lavada's arguing, and maybe I have it

1 wrong, is that the Commission should simply ignore
2 competition for that demand because Lavada created the
3 demand. That to me is nutty.

4 COMMISSIONER WILLIAMSON: Okay. Thank you.
5 Commissioner Aranoff has really already addressed this
6 about Golden Dragon asserts that an increase in COGS
7 to net sales ratio should not be attributed to price
8 suppression from imports given the multiple other
9 factors affecting the industry's performance.

10 I think you've already begun to reply and
11 are going to reply further to that, but I was
12 wondering also if you could say something about volume
13 of imports and what factor that might also play in
14 this change in COGS to the net sales ratio? In
15 addressing the factors and addressing their argument,
16 if you could also just take a look at that question,
17 too.

18 CHAIRMAN OKUN: You've got to turn your
19 microphone on, please?

20 MR. BOYCE: I'm sorry. Mr. Williamson,
21 would you mind asking your question again?

22 COMMISSIONER WILLIAMSON: Sure. Okay.
23 Golden Dragon asserts that increased COGS to net sales
24 ratios should not be attributed to price suppression
25 from imports. That's their argument.

1 MR. BOYCE: Okay.

2 COMMISSIONER WILLIAMSON: And given the
3 multiple other factors that are affecting the
4 industry's performance and Commissioner Aranoff has
5 asked you about that, and I guess you're going to
6 address some of that in post-hearing, and I'm saying
7 in addressing these factors, what roles does the
8 volume of imports play in changes compared to changed
9 in demand, and is that a factor?

10 MR. BOYCE: Okay. I think I understand your
11 question.

12 COMMISSIONER WILLIAMSON: Okay. Thank you.

13 MR. BOYCE: We will address it in the post
14 brief.

15 COMMISSIONER WILLIAMSON: Okay. Thank you,
16 and with that, I have no further questions. I want to
17 thank the witnesses for their testimony.

18 CHAIRMAN OKUN: I wondered if the producers
19 could talk about what they see for demand in the next
20 six months? What do you see in your business drivers
21 telling you about what demand should be in your
22 different markets? Mr. Hansen?

23 MR. HANSEN: Again, our focus was primarily
24 on plumbing tube for portable water applications. The
25 demand for our products is primarily driven by new

1 construction, both single-family construction and to
2 an increasing degree non-residential business
3 construction. You're aware single-family home
4 construction reached historic lows last year. It has
5 modestly improved this year. My own outlook is
6 certainly guarded. I expect further improvements in
7 single family residential construction will come
8 slowly.

9 In non-residential building construction,
10 that activity has been declining for about two years
11 now, and it continues to decline. My own expectation
12 is that it will likely continue to decline for another
13 two or three quarters, and we're hoping that second or
14 third quarter of next year we'll begin to see some
15 recovery in the non-residential market.

16 CHAIRMAN OKUN: Mr. Arndt?

17 MR. ARNDT: On the commercial side, there's
18 been some changes in years past where you had Sierra
19 13 came into play, and then here recently, this year
20 you had the freon change that took place, so some of
21 those older air conditioning units are going to be
22 going out in the future, which will need to be
23 replaced, so in that respect, we would see I would
24 project some single-digit growth projections going
25 forward.

1 Right now, for 2011, the business which we
2 serve, a lot of it is done on a calendar year, one
3 year or two years, and we're in what we call the
4 mating season right now. We're pairing up with
5 customers to supply them for 2011. We have had some
6 customers that have come to us and have already pushed
7 forward some agreements with supplies for us for
8 future years, but we have a great deal of customers
9 that are waiting on the anticipation of this case and
10 when it comes out as to what they're going to do in
11 future years.

12 CHAIRMAN OKUN: And can you remind me, if
13 you're able to say something public, but for the
14 portion of your business that is subject to contracts,
15 do you have both volume and price agreements, and can
16 they be changes throughout the life of the contract?

17 MR. ARNDT: I would say that for the most
18 part in our industry you partner up with a customer,
19 and you supply that customer that product for the
20 entire calendar year. There may be multiple-year
21 agreements that you may have a price increase or price
22 decrease depending on how things work out, but for the
23 most part, you supply that customer for an entire
24 calendar year, and then you look forward for the new
25 year in order to go after additional business going

1 forward.

2 CHAIRMAN OKUN: Okay. And for those
3 customers that are calendar-year customers, the
4 calendar year has stayed the same? There hasn't been
5 changes in the contract timing or duration?

6 MR. ARNDT: No, no.

7 CHAIRMAN OKUN: Okay. Mr. Hansen, is that
8 anything that you can comment on?

9 MR. HANSEN: Again, our focus is primarily
10 on plumbing tube sales, which are sold into spot
11 markets, but where we do some business with OEMs for
12 commercial products, I commented earlier in my
13 testimony that we'd seen a very significant increase
14 since the Department of Commerce preliminary finding
15 in the number of consumers of those tubes who are
16 making inquiries about product availability and price,
17 and we hope to serve a growing number of customers if
18 a final order is entered.

19 CHAIRMAN OKUN: Okay. I appreciate those
20 comments, and then Mr. Levy, for post-hearing with
21 respect to issues related to threat, and I know you
22 did discuss that in your pre-hearing brief, I think a
23 very good situation for the Commission when we have
24 full participation from both sides and lots of
25 information on the record and questionnaires. To the

1 extent that you would point us to use data other than
2 the data submitted by the Respondents with respect to
3 the threat factors, if you can in your post-hearing
4 articulate why we should do so, accuracy, or whatever
5 arguments you want to make.

6 Again, we're looking at different pieces of
7 evidence on the record. I'd like to hear your
8 discussion of that in addition where you have provided
9 excerpts from information such as Sierra U and other
10 industry data. If you can make sure that you've
11 submitted the full issues instead of excerpts, that's
12 very helpful for us if that's available to you.

13 MR. LEVY: Certainly.

14 CHAIRMAN OKUN: Okay. That would be very
15 helpful, and then I didn't know if anyone in the
16 industry or others could comment on the move back from
17 Mexico of production by a company whose name I'm just
18 looking for right here.

19 MR. LEVY: IUSA?

20 CHAIRMAN OKUN: IUSA. Thank you. Does
21 anyone have any information about the reasons for that
22 or anything they could comment on with respect to it?

23 MR. LEVY: Well, it's a very interesting
24 story because we filed these petitions in September of
25 last year, and in October of last year, we were here

1 in this hearing room at the staff conference, and we
2 heard for the first time from IUSA and its U.S.
3 affiliate, Cambridge-Lee, that they had made an
4 internal decision to move substantial production from
5 Mexico to the United States.

6 It's something that was unknown to the U.S.
7 industry and coincidentally was made at roughly the
8 same time the petitions were filed. I think that the
9 success of the case to date has served to motivate and
10 reinforce that decision, and so perhaps Mr. Hansen can
11 speak to sort of how that is working for them in the
12 market place, but I think that there is indication
13 that the Reading, Pennsylvania, mill is doing more at
14 this time.

15 CHAIRMAN OKUN: Mr. Hansen?

16 MR. HANSEN: I really don't have anything to
17 add to Mr. Levy's remarks.

18 CHAIRMAN OKUN: Okay. I was just curious
19 whether there had been anything that has been out in
20 industry publications or data that you've seen, but
21 you're saying it was a surprise to the industry to
22 have heard that?

23 MR. HANSEN: I would I say I first learned
24 of Cambridge-Lee's intention to relocate production
25 from Mexico to its Reading, Pennsylvania mill at the

1 hearing with staff last year, but I've not seen any
2 public announcement since that time of their
3 intentions going forward.

4 CHAIRMAN OKUN: Okay. I appreciate all
5 those comments, and I think I have covered my
6 questions and my colleagues have. I will turn to
7 Commissioner Lane.

8 COMMISSIONER LANE: Thank you. Dr. Boyce, I
9 think these questions would probably be best answered
10 by you or maybe Mr. Levy. In the prehearing brief,
11 you questioned the estimation of substitution
12 elasticity that is included in the prehearing report,
13 but before getting into that I have a few questions
14 about other elasticity estimates in the prehearing
15 report. First, the prehearing report suggests the
16 U.S. supply elasticity is within a range of 5 to 10.
17 Considering the levels of unused capacity of domestic
18 manufacturers and other factors affecting elasticity
19 of supply, do you agree with the estimate of 5 to 10
20 and why?

21 MR. BOYCE: I certainly don't think that is
22 an unreasonable estimate. It is the case that the
23 U.S. industry cannot turn on a dime, as it were. If
24 very large orders showed up tomorrow, you know, tens
25 of millions of pounds, they would have to bring back

1 more workers, they might have to add more finishing
2 capacity, and so on. So it is not the case that there
3 is anything close to an infinite elasticity of supply
4 here. So the 5 to 10 seems to me to be reasonable.

5 COMMISSIONER LANE: Okay, thank you. The
6 prehearing report estimates a demand elasticity of
7 minus .75 to minus 1.25. Would you describe this
8 range as an elasticity of demand that is relatively
9 inelastic or somewhat elastic, and do you agree with
10 the estimated range and why?

11 MR. BOYCE: I would characterize that as
12 somewhat inelastic, and I think that's appropriate.
13 As you look at the share of copper tube in the various
14 applications it is small, it is a derive demand, and
15 therefore appropriately it should be given a
16 moderately inelastic estimate.

17 COMMISSIONER LANE: Okay, thank you. Now
18 turning to substitution elasticity. Do you disagree
19 with the range in the prehearing report of 3 to 5?
20 And please explain why you disagree and what range you
21 would suggest and why.

22 MR. BOYCE: I believe that our comment was
23 that the elasticity numbers should be aligned with the
24 narrative description of the elasticity, which was
25 moderate to high. We know that for products that have

1 the same, that are built to specification it really
2 doesn't matter where they come from. We heard that
3 IUSA comingles their plumbing tube made from Mexico
4 and Pennsylvania in their inventories. Customers do
5 not care.

6 The substitution elasticity between the U.S.
7 and the foreign product is very high for B-88, B-280
8 products. In the commercial space we know that there
9 is a qualification process, but once a foreign and a
10 U.S. manufacturer is qualified those are essentially
11 interchangeable. For the seven HVAC producers in the
12 United States using product from different U.S.
13 producers and U.S. producers and foreign producers in
14 their product mix is common. I think that the
15 substitution elasticity should be given, I think we
16 said, what did we say? What was the current estimate?

17 COMMISSIONER LANE: 3 to 5.

18 MR. BOYCE: 3 to 5, okay. I think we said 5
19 to 10.

20 MR. LEVY: I think we said 6 to 10.

21 MR. BOYCE: Okay, 6 to 10.

22 MR. LEVY: Which again we view as an
23 alignment with the narrative statement of the staff
24 that it is moderate to high, and we agree with that
25 narrative account.

1 COMMISSIONER LANE: Okay, thank you. And
2 with that I want to thank this panel for your
3 participation and your answers, and, Madam Chair,
4 that's all I have.

5 COMMISSIONER OKUN: Commissioner Pearson,
6 you were complete? Do my colleagues have any further
7 questions for this panel?

8 (No response.)

9 COMMISSIONER OKUN: Do staff have questions
10 for this panel?

11 MR. MCCLURE: Chairman Okun, Jim McClure,
12 Office of Investigations. Staff has no questions for
13 the panel.

14 COMMISSIONER OKUN: Thank you. Let me turn
15 to Respondents. Do Respondents have questions for
16 this panel?

17 MR. O'BRIEN: No, Madam Chairman, we --

18 COMMISSIONER OKUN: For the Court Reporter,
19 that was a no from counsel. Very well, then before
20 taking a lunch break I did want to again express our
21 appreciation to all of you for being here, for
22 answering our questions, we look forward to the
23 posthearing submissions and very much appreciate your
24 testimony. I would also like to remind parties that
25 this room is not secure so please take anything

1 confidential with you before leaving.

2 And then finally, just on a peripheral note,
3 when we return from lunch Commissioner Lane will be in
4 the chair. I hate to miss hearings, I enjoy the
5 exchange with witnesses. My daughter's receiving an
6 award in New York City and it's my daughter's 15th
7 birthday so I wanted to be there for it. So I will
8 not hear, but I will have the opportunity to review
9 the transcript, my staff will be here and will submit
10 questions for the record if my colleagues don't cover
11 the questions that I've already prepared. And I'm
12 going to be glad that we have a very complete record
13 which I can review before the vote. With that, I
14 think we will recess until 2:00, and we will reconvene
15 at 2 p.m.

16 (Whereupon, at 12:57 p.m., the hearing in
17 the above-entitled matter was recessed, to reconvene
18 at 2:00 p.m., the same day.)

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1 into their decision making, what they consider to be
2 important, and why they've selected Golden Dragon to
3 be a supplier. One point I do want to clarify and Mr.
4 Weil will also address, and that's this quote that's
5 from Mr. Weil at the preliminary conference that's on
6 petitioner's exhibit 10. The reference to the
7 Wolverine decision has to do with the Jackson,
8 Tennessee, plant that made welded tube, a product that
9 is not part of the domestic industry.

10 And any suggestion that Mr. Weil was
11 referring to Decatur or Booneville is simply
12 inaccurate. This is the Jackson, Tennessee, plant
13 that was being referred to. And I want to mention
14 just very briefly with all sympathy to Mr. Flowers and
15 his circumstances, his testimony about the reasons why
16 the Decatur and Booneville plants shut down are simply
17 not accurate. Mr. Weil was a senior vice president at
18 Wolverine for six years and was there at the relevant
19 time and will explain the circumstances surrounding
20 those two plants, and it had nothing to do with
21 imports from Golden Dragon.

22 My final comment is we heard very little
23 about the recession and the collapse of the housing
24 and construction industries this morning, and we want
25 to spend our time talking about specific purchasing

1 decisions at least right now, but clearly these had
2 overriding effects on the domestic producers, and when
3 you look at the record in its entirety there simply is
4 no evidence of material injury by reason of subject
5 imports. With that I'll turn to Mr. Weil.

6 MR. WEIL: Good afternoon. My name is Keith
7 Weil, I'm the Executive Vice President for GD Copper
8 USA, responsible for all sales and marketing
9 activities. I testified at the Commission's
10 preliminary conference in October of last year, and
11 thank you for this opportunity to speak to you again
12 today about our industry. I began working for Golden
13 Dragon October 1st of 2009.

14 Prior to August 2007 I was the Senior Vice
15 President for Wolverine Tube for six years responsible
16 for all tube operations, including all copper tube
17 production. Then I was the Senior Vice President for
18 International Operations and Strategic Development. I
19 left the day to day activities of Wolverine in 2007.
20 I am not here representing or speaking on behalf of
21 Wolverine, but I have my own personal experience and
22 observations and I am familiar with the decision
23 making that went on through the time that I left.

24 The claims have been made that Wolverine
25 closed U.S. production facilities in order to begin

1 importing and distributing seamless copper tube from
2 Golden Dragon. This claim is entirely incorrect, and
3 I will urge the Commission to discuss this directly
4 with Wolverine, I believe they will categorically deny
5 it. In fact Wolverine did not take any seamless
6 copper tube capacity offline as a result of its
7 relationship with Golden Dragon. The relationship
8 with Wolverine and Golden Dragon began at the end of
9 2004.

10 Years later, Wolverine did take the Jackson,
11 Tennessee, facility offline which made welded tube,
12 but my understanding is that welded tube is not part
13 of this investigation. The method of manufacturing
14 seamless tube is an important issue in this case. One
15 alternative method of making tube is to weld the edges
16 of a flat piece of copper strip together, creating a
17 seam, a seam extending the length of the tube. At one
18 time advantages of this method were that the welded
19 tube wall thickness could be held to a tighter
20 tolerance, allowing for lighter products on a per foot
21 basis.

22 In addition, welded products provide greater
23 flexibility in embossing and heat transfer patterns on
24 a flat piece of metal, as opposed to drawing in the
25 pattern in a seamless tube. Key disadvantages are

1 that the seam could be a defect location, and the tube
2 producer depends on a limited number of suppliers of
3 copper strip as the material input. Without an
4 affordable and reliable supply of copper strip there
5 is no suitable welded tube.

6 Wolverine's Jackson facility produced welded
7 tube and experienced adverse effects from these
8 disadvantages. The Jackson facility had quality
9 issues, particularly at the site of the weld, which
10 will be corroborated by customers in this room. In
11 addition, Wolverine did not make its own strip but
12 instead relied on third parties for the raw material,
13 one of which is their major competitor.

14 Wolverine thus had a great deal of
15 difficulty ensuring reliable and timely supply of the
16 strip that was essential to its business. At the same
17 time Wolverine's customer base was moving rapidly to
18 smaller tube diameter products which the welded
19 process could not efficiently make. Faced with these
20 problems, Wolverine had an increasingly noncompetitive
21 welded product, Golden Dragon offered its seamless
22 cast-and-roll process that had the advantages of
23 producing thin wall products, small diameters, and
24 high performance without the disadvantages of the weld
25 defect and dependability of copper strip.

1 The customers demanded different products
2 for their small diameter inner-groove applications,
3 and as far as I was aware Golden Dragon was the only
4 supplier that could provide it. So the decision by
5 Wolverine to close the welded facility was
6 straightforward and correct, and I want to emphasize
7 did not in any way affect U.S. seamless production.
8 Petitioners also incorrectly claim that Wolverine's
9 Decatur and Booneville plants closed as the result of
10 Golden Dragon.

11 First, the fact was the Booneville plant
12 actually closed twice. It closed in October of 2003.
13 At that point it produced inner-groove tube prior to
14 Golden Dragon or any other foreign competitor being in
15 the market. It was later reopened to supply primarily
16 internal needs of Wolverine, redraw needs and other
17 needs of other Wolverine internal factories. And then
18 it closed a second time commensurate with Decatur.
19 Wolverine's November 2nd, 2007, 8(k) states that
20 Decatur and Booneville plants primarily serve the U.S.
21 plumbing tube and smooth industrial markets.

22 Demand for plumbing tube had significantly
23 declined over the last several years as a result of
24 substitution of plastic tube in residential
25 construction. This trend is reinforced by high copper

1 prices. Golden Dragon does not ship plumbing tube to
2 the U.S., as well as very little industrial smooth
3 tube. To my knowledge, Booneville only supplied a
4 small quantity of tube for internal consumption. Its
5 closure had nothing whatsoever to do with Golden
6 Dragon.

7 Let me now turn to Golden Dragon's main
8 product, inner-groove tube produced by the cast-and-
9 roll process. Golden Dragon's shipments fall
10 overwhelmingly into product 5 identified in the
11 Commission's questionnaire, which is the 3/8ths inch
12 thin wall thickness tube. When I say
13 "overwhelmingly", I mean the 3/8ths inch product
14 itself is more than three quarters of all our
15 shipments to the U.S.

16 If you include the slightly smaller 5/16ths
17 and 5 millimeter products, it covers essentially all
18 of our shipments. This should be readily apparent
19 from our questionnaire response. This also
20 underscores that our position in the market is narrow
21 and focused on very light, high performance inner-
22 groove products. These products are in high demand
23 because they require very little copper material for a
24 given length and are produced by Golden Dragon in its
25 cast-and-roll process to tight specifications with

1 almost no defects.

2 This tubing goes primarily into evaporator
3 and condenser coils of air conditioning systems. They
4 are only a small part of the air conditioning itself,
5 but the coil must function properly according to
6 increasingly stringent design specifications of our
7 customers and government mandated energy efficiency
8 standards. Two of Golden Dragon's largest customers,
9 Goodman and Johnson Controls, are here today, and they
10 will describe their decision making process.

11 My understanding though is that the domestic
12 copper tube producers were unable and unwilling to
13 supply this IGT product and to this day have not
14 offered to meet the demands of even one of these
15 companies, much less total U.S. demand. Price was not
16 a primary consideration in the decision of these
17 customers to switch suppliers. As you might expect,
18 with a minor but essential component of a larger
19 refrigeration system, availability, performance,
20 weight per foot, and service are more important
21 factors in the supply selection than the price
22 differential of a minor component.

23 Next, questions have been raised about the
24 plans for Golden Dragon's Mexican facility and its
25 relationship to production in China. It is important

1 to recognize that the market for seamless copper tube
2 in China is growing very fast. Golden Dragon could
3 not supply the demand in China for all the products
4 even if it turned all of its production to the Chinese
5 market. In fact, one Chinese customer's current
6 demand in one month exceeds the largest U.S.
7 customer's demand in an entire year.

8 This strong in-China demand has been
9 apparent for some time. In addition Golden Dragon
10 supplies tube to other Asian countries, Europe, South
11 America, and Middle Eastern markets. For this reason
12 Golden Dragon built the Mexican facility, to build the
13 same product it was importing from China. Golden
14 Dragon has had plans over time to replace the products
15 imported from China with the Mexican product to the
16 United States.

17 To the extent demand exists, Golden Dragon
18 would like to supply the Latin American, South
19 American, and North American markets entirely from the
20 Mexican plant and discontinue shipments from China.
21 Also it is important to recognize when reviewing
22 capacity that a manufacturer has to gear their
23 capacity to peak demand. Demand in peak months can be
24 30 to 40 percent greater than non-cooling season
25 months.

1 Capacity can also vary with the types of
2 products, for example manufacturing a 5 millimeter
3 product consumes much more capacity than a 3/8ths inch
4 product because of the additional draws required. For
5 that reason, the theoretical capacity may bear little
6 resemblance to actual capacity. Finally, it is
7 undisputed that plumbing products are made to a
8 standard set of specifications and general considered
9 interchangeable by the market no matter who they are
10 made by.

11 It has also been recognized and agreed by
12 the parties to this case that industrial tubes are
13 made to customers' specific specifications that may
14 include references to certain ASTM specifications. To
15 the extent Petitioners claim that industrial tube made
16 to the same manufacturer's specifications are
17 interchangeable, this is a great oversimplification.
18 OEM customers normally will not accept a product for
19 the new manufacture or even a new manufacturing
20 facility of their current manufacture without
21 extensive certification testing.

22 As recently as this past Monday I visited a
23 new facility of an existing Golden Dragon OEM HVAC
24 customer. I was informed in order to become a
25 supplier to that facility even though GD supplies

1 other facilities of that OEM around the world, we
2 would have to meet their company's specific quality
3 program, go through limited trial run then a more
4 extensive trial run, and pass a site certification
5 audit before we could become a supplier. Thank you.

6 MR. KNIGHTS: Good afternoon, members of the
7 Commission. My name is Michael Knights, I'm the Vice
8 President of Procurement for Goodman Global,
9 Incorporated, a leading U.S. manufacturer HVAC
10 products predominantly marketed under the Goodman,
11 Amana, and Quietflex brand names. Headquartered in
12 Houston, Texas, Goodman operates eight U.S.
13 manufacturing and assembly facilities throughout the
14 USA, in addition to a 1-million-square-foot
15 centralized logistics center in Houston, Texas.

16 Goodman employs approximately 4,700 people,
17 with all of its manufacturing personnel located in the
18 United States, including 2,000 in Texas and some 1,600
19 in Tennessee. Goodman's a major purchaser of copper
20 tube, the vast majority of which is inner-grooved
21 tube, or IGT, for use in our heat transfer surface
22 tubing and evaporator and condenser coil assemblies.
23 While Petitioners contend that purchasers are not
24 buying domestic IGT because foreign made product is
25 cheaper, the absolute truth is that Goodman purchases

1 IGT from Golden Dragon because U.S. manufacturers have
2 been and continue to be unwilling and unable to supply
3 us with the product we need to satisfy our specific
4 requirements.

5 The most critical factor in Goodman's
6 purchasing decisions in regard to IGT is without doubt
7 technology. To implement the Montreal Protocol on
8 substances that deplete the ozone layer, U.S. Congress
9 in the 1990s added provisions to the Clean Air Act
10 that phase out certain refrigerants. After numerous
11 years of study, Goodman concluded that to handle the
12 increased pressure generated by the newly adopted
13 refrigerants we needed to obtain IGT that is made by
14 the cast-and-roll process in 5 millimeter outside
15 diameter.

16 This product is significantly smaller than
17 the 3/8ths IGT, as you can see from the samples that I
18 have present today that we'll share with you. Smaller
19 diameter tubing optimizes the heat transfer properties
20 of the new R-410A refrigerant, resulting in the use of
21 substantially less copper and additional materials
22 such as steel and aluminum to achieve the same or
23 improved efficiency ratings. Not one of the three
24 U.S. producers capable of producing IGT was willing at
25 that time to offer technology, capacity, and the

1 developmental resources to work with Goodman on
2 developing and manufacturing a new IGT product.

3 To the best of Goodman's knowledge today,
4 Mueller still does not offer capable cast-and-roll
5 production, while Kobe Wieland, which introduced cast-
6 and-roll only at the end of the 2009, is still unable
7 to manufacture product to Goodman's specifications.
8 Lastly, Cerro, which has been long time capable of
9 using cast-and-roll to make tubing, focused its
10 production until 2009 on plumbing tube.

11 Goodman approached Cerro when we began work
12 on 5 millimeter tubing, but Cerro had no interest in
13 working with Goodman on developing a new IGT product.
14 It has been abundantly clear that not one of these
15 suppliers was willing and able to supply Goodman with
16 5 millimeter IGT when we actually needed it, which was
17 as we developed our new 5 mil product to meet the
18 revised Federal standards.

19 In absolute contrast to that, Golden Dragon
20 worked with Goodman to determine the material
21 specifications for the 5 millimeter tube through an
22 extensive trial period and a subsequent product
23 development cycle of over three years. Golden
24 Dragon's execution of the cast-and-roll process in
25 conjunction with other technological and design

1 changes implemented in tandem with Goodman were and
2 today remain critical to the continued success of this
3 project.

4 Golden Dragon partnered with Goodman to
5 achieve these goals despite the fact that the switch
6 to the smaller diameter tube has reduced the volume of
7 copper Goodman needs to buy from Golden Dragon by as
8 much as 50 percent. For Goodman the result has been
9 that we have not only satisfied the revised Federal
10 mandate but also reduced the total cost and natural
11 resources required through our new design, as you can
12 see from the additional samples that we have of a
13 finished coil assembly that we'll also circulate.

14 These design and technology driven
15 reductions in material usage furthermore have enabled
16 Goodman unlike many of our competitors to compete
17 effectively and continue to grow despite exceptionally
18 adverse economic conditions whilst maintaining our
19 entire manufacturing base inside the United States.
20 Besides technology, other crucial factors in Goodman's
21 purchasing decision for IGT are without doubt quality
22 and availability and consistency of supply.

23 Goodman has experienced excellent quality in
24 the IGT supplied by Golden Dragon. In contrast, the
25 inferior manufacturing process used by Goodman's

1 previous IGT suppliers, that being Wolverine and Kobe
2 Wieland, created significant quality issues caused by
3 inconsistent welds and poor cleanliness, both of which
4 are virtually nonexistent in tubing produced by Golden
5 Dragon's cast-and-roll method today.

6 On the issue of availability and consistency
7 of supply, Goodman has provided data on the 2011
8 supply commitment offered to Goodman by IGT producers.
9 Only the two China based providers offered Goodman
10 enough capacity to meet our demand obligations to our
11 customers. In contrast, if Goodman were to source IGT
12 as per the combined 2011 supply commitment of
13 Petitioners Cerro, Kobe Wieland, and Mueller, Goodman
14 would not have enough, Goodman would not be able to
15 manufacture anywhere close to our customers'
16 requirements.

17 Moreover, to the best of Goodman's knowledge
18 today, no U.S. producer has been able thus far to
19 produce successfully the 5 millimeter IGT meeting our
20 specifications. In 2010 Goodman attempted to
21 establish both Kobe Wieland and Cerro as suppliers for
22 IGT. With particular reference to Kobe Wieland a
23 variety of issues related to technology, quality, and
24 supply have prevented them from being approved.

25 Firstly, the product quoted by Kobe Wieland

1 did not meet the requirements of Goodman's
2 specification. Secondly, the cast-and-roll process is
3 new for Kobe Wieland and is not yet fully tested or
4 capable. Thirdly, Kobe Wieland has to date delayed
5 final production several times due to equipment and
6 process startup issues. Fourthly, Kobe Wieland
7 required a three-year commitment from Goodman before
8 it would agree to provide any material in 2011 despite
9 the fact that Kobe Wieland still has no 5 mil
10 production today. Finally, the maximum amount of tube
11 offered to Goodman by Kobe Wieland is insufficient to
12 meet Goodman's requirements.

13 With particular reference to Cerro, the
14 initial meeting undertaken at Goodman on July 16th
15 focused on technology and capacity. At that meeting
16 Cerro made abundantly clear to Goodman that they did
17 not yet have a capable 5 millimeter product. It's now
18 been more than 2 months moreover and I'm still
19 awaiting their quotation. In addition, since Goodman
20 provided samples to Cerro on August 9th, 2010, for
21 their review and comment, four attempts have been made
22 to receive a reply but there have been no responses to
23 date. Likewise, since Goodman requested a supplier
24 profile on August 8th, three attempts to date have
25 been made to recover the information from Cerro, still

1 no response.

2 In sum, by its willingness to sell Goodman
3 up to half as much copper for the sake of a long term
4 commitment to fulfilling our needs, Golden Dragon
5 contrasts sharply with the three major U.S.
6 manufacturers, who were unwilling to work with Goodman
7 to design and develop a compliant IGT product and who
8 are now unable to manufacture a product that works in
9 Goodman's design and unwilling to commit to supplying
10 anything close to the amount of product Goodman
11 requires.

12 As Goodman's experience shows clearly, the
13 real cause of any problems Petitioners may be facing
14 is their own continuing actions in offering to supply
15 only what is easiest for them to provide rather than
16 supplying the technology, quantity, and quality that
17 customers such as Goodman demand. On behalf of
18 Goodman Global, Incorporated, I thank you in advance
19 for your understanding and careful consideration in
20 this matter.

21 MR. SMITH: Good afternoon. My name is
22 Scott Smith, I am the Global Purchasing Director for
23 Johnson Controls. I've been in the industry for 14
24 years and at Johnson Controls for the last six. I
25 would remind the Commission that in January of 2005

1 Johnson Controls purchased York International Heating
2 and Air Conditioning and I com from the York group, I
3 am out of Wichita, Kansas.

4 York has eleven plants in the United States
5 with 5,300 employees in the U.S., and I would like to
6 focus this afternoon on two of those plants, our plant
7 in Wichita, Kansas, and our plant in Norman, Oklahoma.
8 Here we make our residential and our light commercial
9 heating and air conditioning products, and these are
10 our two plants that do import the Golden Dragon inner-
11 grooved tubing that is in question this afternoon.
12 And at these two plants we employ 2,430 employees.

13 York has been in business since 1947 making
14 residential and light commercial air conditioning
15 products, and I'd like to paint you if I could a 60-
16 year transition of technology, of quality, and of
17 supplier reliability and service. York in the early
18 years did purchase extruded tube, extruded inner-
19 grooved tube. We started with the smooth bore
20 extruded product, and as the Department of Energy
21 requirements became more growing on us and the
22 Environmental Protection Agency began to impose new
23 refrigerants to us, we converted the smooth tube to a
24 inner-groove bore.

25 We bought products really from all three of

1 the Petitioners today, the extruded product, and in
2 the mid 1990s as the energy efficiency requirements
3 went to the 10 SEER product and as we were required to
4 move from the R-11 refrigerant to R-22, the inner
5 pressures of the tubing requirements became much
6 greater. And when that happened we found that the
7 extruded product that was provided by the domestic
8 suppliers was not working for us, so we looked
9 throughout the marketplace at a product that would
10 support the burst pressures as well as the refrigerant
11 tubulation through the tubing by the inner-grooved
12 tubes.

13 And we settled on a welded product
14 manufactured in Kentucky. The welded tube also, you
15 know, worked very good for us as we moved through the
16 mid '90s into the early 2000s, and once again with the
17 Department of Energy requirements moving up to the 13
18 SEER and the advent of the R-410A requirements by the
19 EPA, once again we saw the internal burst pressures
20 becoming more and more important for us.

21 With the welded seam product we began having
22 substantial quality problems, once again having bursts
23 in the tube with the welded seam. Instead of the
24 extruded tube which has inclusions and causes burst
25 through the sidewalls, the welded seam product tended

1 to zip at the seam, split at the seam, and we were
2 having a warranty problem causing tremendous customer
3 dissatisfaction and a field reject of 13,000 defective
4 parts per million.

5 So once again we needed to find a product
6 that would work for us, and in addition to our eleven
7 U.S. plants York has seven plants throughout the
8 globe, and we looked at the product that they were
9 making both in Spain and in China which makes products
10 very very similar to what we make in Wichita and
11 Norman, and we didn't see the problems there, so they
12 weren't having the burst pressure problems, they
13 weren't having the split seams.

14 So in visiting those plants we found
15 especially in China they were using a product called
16 cast-and-rolled, which we've heard about this morning.
17 The cast-and-rolled product was working very good in
18 China, so we brought that idea back to the U.S. and
19 worked with each of the domestic manufacturers to find
20 what they might support for us. And in talking with
21 the folks at Mueller and at Kobe Wieland, they at that
22 time, early 2005, did not have a cast-and-roll
23 process.

24 We knew that Cerro had recently employed a
25 cast-and-roll technology, so we worked with Cerro but

1 they, until this morning we didn't know why, they
2 would never be willing to sell us the inner-grooved
3 tubing for our heating and air conditioning products.
4 So we went back to China, we visited a number of
5 suppliers, and looking at both the suppliers who have
6 distribution ability and more important those
7 suppliers who would work with us to build, design, and
8 manufacture a technology tube which was very different
9 than anything else in the U.S. at the time.

10 Golden Dragon was able to work with our
11 engineers and provide us a quality product of the
12 highest technology that supported our manufacturing
13 requirements. So importing their product beginning
14 early 2005, we've been very pleased, very happy with
15 the work that Golden Dragon's done for us, but at the
16 same time being a U.S. manufacturer buying American
17 does play a very important part for us. In fact every
18 one of our packages of products that we manufacture
19 all say made in America on it.

20 So as my job as a purchasing agent I
21 continued searching the U.S. market looking for
22 companies that would supply us cast-and-roll
23 technology, supply us a product that would work for
24 us. We visited the folks at Mueller and asked them to
25 support the cast-and-rolled for us, and on June 18th

1 of 2009 we had a meeting with David Rabaloff, the Vice
2 President of Sales of Mueller, and Mr. Rabaloff
3 informed us that Mueller has a cast-and-rolled factory
4 in China that has extra capacity, they would consider
5 importing it, but they didn't want to employ this
6 product in the U.S.

7 So we went away. We talked to the folks at
8 Kobe Wieland, in fact we know that they have spent a
9 lot of money putting this new cast-and-roll facility
10 in North Carolina, and in the last 14 months we have
11 met with Kobe Wieland nine separate times face to
12 face, we have met with the president of the company,
13 the head of their engineering division, the head of
14 their sales division, we've had them at our factory,
15 we've seen their facilities, we've asked them many
16 many times to provide us a quotation, provide us
17 samples, help us to develop the technology that works
18 for us.

19 And they, I wish they were here so I could
20 ask, they refuse to provide us any quotations, any
21 commitment to capacity, they refuse to give us a
22 single pound of material to even test and qualify. So
23 it's very frustrating that even, so much more that --
24 they did come to us and say, well we understand what
25 your needs are, we have this alternate product that

1 has a different inner-groove, can you try it?

2 And quite simply, to make a transition away
3 from the technology we developed to what they are
4 willing to sell would take more than a year of
5 transition time. We'd have to transition our entire
6 product line, our entire production line, and it's
7 simply too much an expense when it is a technology
8 that we really need from them that they refuse to
9 provide.

10 And then further we met with the folks at
11 Cerro on January 27th of this year, met with Phil
12 Pope, the sales manager of the company, told him that
13 we would like to purchase their cast-and-rolled
14 product for our HVAC products, invited him to come to
15 see us. And nine months later we still have not heard
16 a single response from the folks at Cerro.

17 MR. KRAHMER: Madame Chair, members of the
18 Commission, good afternoon. My name is J.P. Krahmer,
19 I'm the Sales Manager for Copper Tubing from Marubeni
20 America Corporation. Marubeni America is the
21 principal U.S. operating subsidiary of Marubeni
22 Corporation, one of the major Japanese trading
23 companies. Marubeni has long been a supplier of
24 inner-groove copper tube, also known as enhanced or
25 rifled copper tubing, to the U.S. air conditioning

1 industry.

2 Just before me you heard from two
3 significant OEMs on why they purchase from China. I
4 sell to two other OEMs, Trane and Nordine. I would
5 like to explain why both produce, purchase Chinese
6 produced inner-groove copper tubing from us. First,
7 Marubeni has continuously supplied inner-groove tubing
8 to the U.S. market from Japanese sources since the
9 1980s. In 2007 we began to switch our source of
10 supply from Japan to China.

11 Today we purchase substantially all of our
12 inner-groove copper tubing from China from the Hi
13 Liang Group. The customers to whom we have sold
14 Japanese produced inner-groove products are
15 essentially the same customers to whom we currently
16 sell our Chinese produced inner-groove products.
17 Therefore, to the extent that our imports from China
18 have increased the increases have come at the expense
19 of the product that we've purchased from Japan.

20 Secondly, we are not the low price leader in
21 the inner-grooved market. Rather, the reason that
22 customers have purchased our inner-groove product is
23 because of the quality problems that our OEM customers
24 have had with their U.S. supplier or the inability of
25 the U.S. supplier to qualify their particular product.

1 We only provide a few products to a couple of OEM
2 customers, such as Trane and Nordine.

3 For one customer in particular that accounts
4 for the largest increase in Chinese imports from
5 Marubeni during the period of review, we received an
6 increased share of that customer's requirements
7 because their U.S. producer Kobe Wieland had a major
8 quality issue concerning the splitting of the copper
9 tube supplied to that customer. Thus, quality
10 problems, not low prices, is the reason that the OEM
11 customer purchased more material from us. In
12 addition, we received business from another OEM
13 because the customer was unable to qualify the inner-
14 groove copper tube supplied by Kobe Wieland.

15 Finally, I'd also like to point out that due
16 to the uncertainty of the antidumping case Marubeni
17 lost some of its business with one of our OEM
18 customers. However, from what we understand, the OEM
19 to whom we were selling decided not to give more
20 business to U.S. producers. Instead, because of the
21 quality problems that they have had with their U.S.
22 supplier, which is the reason we won their business in
23 the first place, the customer ended up awarding the
24 product to a Malaysian producer. Thank you for
25 listening.

1 MR. ROGERS: My name is Tom Rogers. I
2 understand time is limited, I'll try not to speak too
3 fast and still get my points across. I'm appearing
4 today on behalf of Golden Dragon. I'm looking at the
5 industrial tube sets which we've been talking about,
6 there are several key points that define competition
7 in that market. First, nearly all imports from China
8 are of industrial tube. Second, Golden Dragon is by
9 far the largest exporter of Chinese tubes, and Golden
10 Dragon exports almost exclusively inner-groove tube
11 that it produces using the cast-and-roll process.

12 Third, as you've heard these critical IGT
13 products have not been readily available from domestic
14 suppliers. And fourth, in many cases Golden Dragon's
15 IGT products have replaced nonsubject welded tubes.
16 From these indisputable facts it is clear that imports
17 of IGT products from China are filling a gap in the
18 market, not taking sales from domestic producers. As
19 to the question of injury, it is also indisputable
20 that two dramatic external forces, the recession and
21 volatile copper prices, have impacted demand for
22 seamless copper tubes.

23 From 2007 to 2010 on an annualized basis
24 apparent consumption for seamless tube declined by
25 more than 25 percent. This 250-million-plus-pound

1 drop in demand, not the 20-million-pound increase in
2 subject imports, explains the domestic industry's
3 decreased sales and production. This lower production
4 in turn explains the declining employment and the
5 higher per unit processing cost felt by all producers.

6 However, despite this dramatic downturn in
7 demand the domestic industry has remained profitable
8 throughout the three-and-a-half-year period covered by
9 this investigation. And in the preliminary
10 determination several members of the Commission found
11 that those profits were relatively strong. So on an
12 absolute basis we agree that the volume of imports
13 from Golden Dragon is significant. The more relevant
14 question however is, why is it significant?

15 Petitioners want you to believe that it's
16 due to low prices that importers use to capture market
17 share. The factual record does not support this
18 claim. First of all, imports are not lower priced.
19 Instead, the extensive quarterly comparisons show a
20 mix of overselling and underselling. Second, there's
21 no pattern suggesting that imports of particular
22 products notably increased in quarters when
23 underselling margins are higher. Conversely, in other
24 quarters imports were significant in spite of
25 overselling.

1 Third, nonprice factors as we've heard are
2 very important. And in your report table 2-3 shows
3 that availability, quality, reliability, and product
4 consistency all ranked higher than price as a purchase
5 factor. Sixth -- I'm sorry. And finally here price
6 suppression is not linked to imports. The copper tube
7 market was marked by plummeting demand, higher prices,
8 and competition from substitute products. Given these
9 turbulent conditions and the absence of consistent
10 underselling or substantial confirmed lost sales or
11 lost revenues, there is no evidence to tie an increase
12 in cost of goods sales ratio to subject imports.

13 MR. O'BRIEN: That completes our testimony
14 on behalf of the Chinese Respondents.

15 COMMISSIONER LANE: Thank you. We will now
16 turn to -- I'm sorry --

17 MR. RYAN: We're the Mexican Respondents.
18 If it would be all right if -- I'm John Ryan of Weil,
19 Gotshal. I'm accompanied by Stewart Rosen of our law
20 firm and Joe Johnson. And due to the large panel of
21 Chinese Respondents in front of us we thought we'd
22 just walk up here at least give our direct testimony
23 and then respond to questions back at our table if
24 that's okay with you.

25 COMMISSIONER LANE: Yes, go ahead and

1 proceed.

2 MR. RYAN: Our first witness will be Mr.
3 Juan Jose Ochoa, Chief Operating Officer of IUSA,
4 followed by Ed Kerins, Chief Executive Officer of
5 Cambridge-Lee, and finally Steve Kelly who is the
6 President of Copper and Brass International which is
7 Nacobre's U.S. subsidiary. Thank you very much.

8 MR. OCHOA: Good afternoon, Commissioners.
9 My name is Juan Jose Ochoa, and I am the Chief
10 Operations Officer of IUSA Group. I have been
11 collaborating for this great company for the last 13
12 years. I appreciate this opportunity to speak with
13 you on behalf of IUSA about our exports of copper pipe
14 from Mexico into the U.S. I will give you a brief
15 background of our company.

16 IUSA was founded more than 70 years ago,
17 back in 1939, by Mr. Alejo Peralta y Diaz Ceballos,
18 and has been owned by three generations of Peralta
19 family members since that time. IUSA has been in the
20 copper tube industry for almost 60 years. We began
21 manufacturing copper tube back in 1952. IUSA has
22 exported copper tube to the United States since 1997,
23 more than 20 years ago.

24 In 1993 we acquired Cambridge-Lee Industries
25 in Redding, Pennsylvania. By the way, this is a tube

1 mill in the U.S. IUSA's main market is Mexico and we
2 participate in other countries supplying good quality
3 copper tube. IUSA is highly committed to
4 technological improvements. That is the reason for
5 permanent capital expenditures and investments in
6 Mexico and in the United States. During the
7 Department of Commerce period of investigation, IUSA
8 accounted for more than 70 percent of the copper pipe
9 export from Mexico to the U.S.

10 Our relationship with Cambridge-Lee goes
11 back almost 20 years ago. Mutually, all of IUSA's
12 sales of copper tube in the United States is sold
13 through Cambridge-Lee subsidiary. Over the last
14 decade IUSA has invested nearly \$80 million in
15 Cambridge-Lee's facilities for the production and
16 distribution of copper pipes within the United States
17 to support the U.S. industry and the U.S. market.

18 Cambridge-Lee, it's an important source of
19 jobs in the United States. Today we employ more than
20 300 direct people in its Redding, Pennsylvania,
21 facility by itself. Cambridge-Lee distributes its own
22 production of copper tubes, complementing its needs
23 with the use of products from Mexico, we are
24 complementary to their needs. Culminating in 2009,
25 after many months of analysis and even before the

1 Petitioners brought this case, IUSA finalized its
2 corporate decision to consolidate production of copper
3 tube.

4 At that time Mexican production of plumbing
5 pipe was shipped to Cambridge-Lee. If required by you
6 we can submit documentation about this, decisions made
7 prior to the filing of the case. This decision was
8 made for various fundamentals: first, freight cost
9 savings; secondly, Buy America requirements; third,
10 cheaper electricity and gas costs; fourth, production
11 efficiencies; and finally, because of labor cost
12 differentials are minimal.

13 We have to consider that more than 90
14 percent of the total product cost is raw material.
15 It's an international price. We all purchase at the
16 same price, and more than 90 percent of the product
17 cost is that copper. These fundamentals mean we will
18 not shift production back to Mexico if the Commission
19 were to issue a negative determination. We at IUSA
20 think that there is no material injury. Demand for
21 copper pipe and tubing in the United States has
22 dropped to about half of what it was just a few years
23 ago.

24 This drop in demand has affected IUSA in its
25 sales of copper pipe and many of the other products

1 that we manufacture that are also used in residential
2 and commercial construction. Our exports to the
3 United States from Mexico dropped more than 60 percent
4 between August 2009 and December 2009. Our exports to
5 the United States dropped 80 percent if you compare
6 the first half of 2010 with the first half of 2009.
7 Our volume has been declining over the last few years,
8 even before our final decision to consolidate
9 production in the United States was made early 2009.

10 We have also lost market share during this
11 same period. Exports of our products into the United
12 States are down, in absolute volume and as a share of
13 the U.S. market. We also think that there is no
14 threat. IUSA's exports to the United States do not
15 threaten the U.S. industry. Looking forward there is
16 no reason to believe that exports of copper tube from
17 Mexico will increase if the Commission issues a
18 negative decision.

19 We understand from the Commission's
20 perspective its concern about new capacity in Mexico.
21 From IUSA's perspective, if you look at our data in a
22 vacuum, yes, IUSA has an overall slight increase in
23 capacity, but the capacity we have added is because
24 IUSA has implemented new technology, new investments,
25 and this technology, cast-and-roll process, is

1 designed to take the place of our other technology
2 which is the process to being phased out. For in
3 reality there has been no real increase in capacity.

4 The Commission should also keep in mind that
5 IUSA's production in Mexico is primarily focused on
6 domestic consumption within Mexico, but we serve
7 multinational customers which are located on both
8 sides of the borders for our two countries, plus many
9 other countries worldwide. Even before we shifted
10 production to Redding, Pennsylvania, our exports of
11 copper tube to the U.S. were less than half of our
12 production.

13 IUSA capacity is used to complement
14 Cambridge's requirements. About cumulation, as you
15 have heard from Mr. Ryan, it would be wrong to
16 consider imports from Mexico with the imports from
17 China. It wouldn't be fair because the facts for
18 these two countries are completely different. We are
19 a NAFTA partner for the U.S. Exports from Mexico have
20 been concentrated in plumbing during the previous
21 investigation, and exports and market share have
22 declined. Please take this into account when
23 evaluating whether there is any threat from Mexico.

24 Next slide please. As you see in this graph
25 you will see here the U.S. copper shipments starting

1 1995 all the way to 2010, and the red line it's the
2 dollars per copper pound cost in the international
3 markets. As you see there is an inverse correlation
4 between what they have seen in the performance of the
5 copper tube shipments within the U.S. versus the price
6 of the copper again in the international market.

7 If you see here back in 2003, that we have
8 talked about this previously when copper started
9 rising, it's when the market started substitution for
10 PVC for materials and the trends have kept going on,
11 because of substitution, because subprime, because of
12 market recession, not because of threat of Mexico.
13 IUSA's shipments of copper tube including plumbing
14 tube, commercial tube, and lancets have all dropped
15 during the period of investigation due to the drop in
16 demand.

17 Our exports and market share have declined.
18 As the Commission is aware, this is the opposite from
19 imports from China. The volume of imports from China
20 and their market share have increased during the
21 period of investigation. As a conclusion, following
22 slide please, and I will ask if you can remit to the
23 Petitioners exhibit 11 from their document, and as you
24 see the operating income that they are reporting in
25 the Petitioner's document that they filed this

1 morning, you will see in exhibit 11 that they are
2 arguing that starting 2009 it's when their operating
3 income is starting to grow because of all the things
4 that they have already explained.

5 If you see exactly in 2009 it's exactly when
6 the copper market starts rising after a very huge
7 drop. When you have a carrying cost of inventories
8 with a very low volume and you're selling in the spot
9 market you see exactly these numbers in your results.
10 It's a market driven product, okay? Finally, as a
11 conclusion, it has not just been demand, it has been
12 the extreme volatility in the copper price that has
13 made it difficult for producers to make money in this
14 period. In the last 20 years this is the most
15 volatile we have been. These difficulties confronting
16 all producers is the reason for decline in the
17 performance of the U.S. producers and of imports from
18 Mexico. Thank you for your time.

19 MR. KERINS: Good afternoon. I'm Ed Kerins,
20 I'm the Chief Executive Officer of Cambridge-Lee
21 Industries. I appreciate this opportunity to speak
22 with you about imports of copper tube from Mexico.
23 First let me briefly put my discussion into context.
24 Cambridge-Lee was founded in 1963 and produces copper
25 pipe and tube at its facilities in Redding,

1 Pennsylvania, and Cambridge-Lee is a wholly owned
2 subsidiary of IUSA. We manufacture both plumbing tube
3 and commercial tube but mostly plumbing tube. In
4 addition, Cambridge-Lee also distributes IUSA copper
5 pipe and tube produced at IUSA's plants in Mexico.

6 The Petitioners complain about imports of
7 U.S. copper tube from Mexico, but IUSA has already
8 shifted most of its production to the United States
9 before this case began. What this has Cambridge-Lee
10 is we have increased our production and employees here
11 in the United States, at the same time we've decreased
12 our imports of copper pipe and tube manufactured at
13 IUSA's plants in Mexico.

14 Additionally, earlier this year we opened a
15 new plant in Stone Mountain, Georgia, to assemble line
16 sets that were previously produced in Mexico. Both
17 the decision to shift to Cambridge-Lee and the
18 decision to assemble line sets in the United States
19 were made before the Petitioners initiated the
20 investigation. There was discussion this morning
21 about two plant closures I'd like to address.

22 Number one Linderme. Linderme was a redraw
23 mill in Cleveland. It was a family run business, the
24 family was getting close to retirement age. They had
25 really no prospects of selling the plant, so rather

1 than try to sell the plant, they had no one who wanted
2 to run the plant, they basically sold the customer
3 list to another redraw mill, most of it, I don't know
4 if all of it, but I know those customers are still
5 being serviced by another mill out of Pennsylvania.
6 As far as National Copper in Dowagiac, Michigan, they
7 were shut down in I believe December '08 because the
8 bank withdrew their credit line, and I hired the
9 president of National Copper soon after that so I know
10 that's a fact and I think his letter is in the
11 prehearing brief.

12 Imports of copper pipe from Mexico have not
13 harmed the domestic industry and they are not a threat
14 to the domestic industry. As a member of the U.S.
15 industry Cambridge-Lee has coped with the drastic
16 decline in demand for copper tube that has occurred
17 over the past few years. In Mueller's latest 10Q
18 reporting the second quarter results, and I quote,
19 "Plumbing and refrigeration segment, net sales by the
20 plumbing and refrigeration segment were \$285.7 million
21 in the second quarter of 2010, which was approximately
22 a 24 percent increase from \$229.8 million for the same
23 period in 2009."

24 "The increase was due to increased selling
25 prices resulting from higher average raw material

1 costs. This increase was partially offset by lower
2 unit volumes mainly in copper tube and fittings
3 resulting primarily from continuing adverse conditions
4 in the residential and commercial construction
5 markets." It is this decline in demand that's the
6 reason production has decreased, not copper pipe from
7 Mexico.

8 Mueller's own financial statements recognize
9 there is two causes for the drop in demand, the
10 housing market/economic recession, and the drastic
11 increase in the price of copper. These still affect
12 our industry today. Demand for plumbing tube and
13 commercial tube are both tied to residential and
14 nonresidential construction. With less new home
15 construction there's less need for copper plumbing
16 tube and copper commercial tube.

17 Also, the relatively high price of copper
18 during the period of investigation caused the users of
19 plumbing tubes to substitute plastics for copper. For
20 commercial tubes some OEMs have substituted copper
21 tube with aluminum. These materials are cheaper than
22 copper tube, especially when the price of copper is as
23 high as it is today. These are the causes of
24 decreased demand, not copper tube from Mexico.
25 Cambridge-Lee is not out to dump IUSA's copper tube

1 into the U.S. market. Our prices are set in according
2 with the prevailing price of copper and are consistent
3 with other U.S. producer prices.

4 Cambridge-Lee is not the price leader in the
5 industry, and during the period of investigation we
6 sold the IUSA product at the same price as we sold the
7 product manufactured in Redding, Pennsylvania. The
8 price leaders in the copper tube market plumbing are
9 Mueller and Cerro. Typically what happens is either
10 Mueller or Cerro will publish a list price and then
11 the rest of the industry will fall in line because all
12 the customers want to have the same list price to look
13 at.

14 In the face of declining demand IUSA has
15 simply reduced production. If IUSA had been
16 undercutting the domestic industry's prices it would
17 have gained market share, not lost it, and there would
18 be more imports from Mexico, not less. Now I want to
19 address the inner-groove tube issue just a little bit.
20 Cambridge-Lee was importing inner-groove tube 25 years
21 ago from a company named Forakawa in Japan.

22 Over the years they transferred their
23 production to Malaysia for cost purposes. We stopped
24 doing this because IUSA built the new plant in Mexico
25 to make inner-groove. All this talk of all this

1 recent problem with inner-groove taking away the U.S.
2 producers' market, well they were a little late to the
3 party because I was buying it 25 years ago. Looking
4 forward the housing market can only rebound, and the
5 shift to substitute products has largely run its
6 course. There's no reason to think that imports from
7 Mexico will increase, and we urge the Commission to
8 find there is no material injury or threat of material
9 injury from Mexico. Thank you.

10 MR. KELLY: Good afternoon, Commissioners.
11 My name is Steve Kelly. I'm the President of Copper
12 and Brass International or CBI. CBI is a subsidiary
13 of NACOBRE. NACOBRE produces copper pipe and tube in
14 Mexico and markets it in the United States through
15 CBI. I appreciate the opportunity to discuss with you
16 NACOBRE's operation in the U.S. and Mexico and explain
17 to you our company's role in the U.S. copper pipe and
18 tube market.

19 CBI began operations as a subsidiary of
20 NACOBRE in 1986. Since operations began, CBI's
21 primary responsibility has been to sell copper-based
22 products, produced by NACOBRE, in the United States
23 and Canada. Copper pipe and tube represent a small
24 percentage of our overall business. We focus on
25 speciality made-to-order products.

1 In my time here today, I'd like to briefly
2 explain to you what has been happening in the U.S.
3 market for copper pipe and tube from NACOBRE's
4 perspective. We agree with the picture of the market
5 that was set out by Mr. Ochoa from IUSA and Mr. Kerins
6 of Cambridge-Lee. I have three basic points.

7 First, demand has declined due to reductions
8 in residential and commercial construction and the
9 substitution of plastic pipe for water distribution in
10 the residential construction. Second, the COMEX price
11 drives the price of copper tube for NACOBRE and all
12 the other participants, including the Petitioners here
13 today. Mueller and Cerro are the price leaders among
14 the sellers in the U.S. market. Third, imports from
15 Mexico and other suppliers in Mexico have been a small
16 and declining share of the U.S. market and have not
17 harmed or threatened the U.S. producers.

18 Now let me begin with my first point, the
19 ubiquitous effects of the decline in demand.
20 Beginning in November 2009, our market saw significant
21 contraction due to the credit freeze resulting in
22 economic downturn. November 2008, sales were 36
23 percent less than October 2008. Reduced housing and
24 commercial construction directly reduced the demand of
25 copper-based products used in the industry. As you've

1 already heard, the effects in the decline in the
2 construction were exacerbated by the switch of
3 substitute material, such as PVC, CPVC, and aluminum.
4 This trend continued into 2009. Demand has nearly
5 been cut in half compared to 2007 consumption levels.
6 No producer can credibly deny that the declining
7 demand, not imports, dictate the production in
8 shipment levels for copper pipe. I would agree with
9 Mueller's own assessment in its recent annual reports
10 regarding the pervasive effects of the decline in the
11 demand.

12 Mexico has not been immune to the decline in
13 demand. As the demand declined in the U.S. market,
14 NACOBRE's sales to the U.S. declined as well. NACOBRE
15 has not decreased price in an effort to maintain these
16 decreases in volume. In fact, from 2007 to 2009, we
17 have had flat or decreasing sales on our seamless
18 copper pipe and tube. Even before this petition was
19 filed, from 2007 to 2009, NACOBRE's sales of copper
20 tube in the United States decreased by 36 percent.

21 There is no credibility to the claim that
22 imports from Mexico have caused any negative effect on
23 the price of seamless copper tube in the United States
24 or prices of seamless copper tube sold by the
25 companies you heard from this morning. As you've

1 already heard earlier today, the main companies that
2 determine price in the U.S. are Mueller and Cerro.
3 NACOBRE's exports are not sold in the United States or
4 prices have any negative effect on domestic producers.
5 On the contrary, we have refused many orders due to
6 our unwillingness to compete with aggressive pricing
7 by Mueller and Cerro.

8 NACOBRE has not undersold domestic producer
9 prices in the U.S. market. NACOBRE sells on the basis
10 of meeting customer's individual needs not on the
11 basis of world prices. NACOBRE concentrates on
12 particular products, other than -- that other
13 producers cannot or do not care to produce, as our
14 customers confirmed. U.S. customers have told us that
15 they cannot get many of these seamless copper tube
16 products from the U.S. suppliers that have them
17 produced consistently by NACOBRE over the past years.
18 Right now, there is a shortage of commercial pipe and
19 our customers are rightfully angry about the lack of
20 domestic supply. But as U.S. producers dominate the
21 U.S. market, the purchaser's reluctance to appear in
22 this public hearing today is understandable.

23 These producers continue to operate
24 profitably and invest extensively, despite some of the
25 negative developments regarding demand since 2006.

1 The petition that was filed seems to be most concerned
2 about the perceptive threat of injury, not actual
3 injury. If there is any threat of injury, it's
4 certainly not coming from my company, nor imports from
5 Mexico.

6 I believe that it would be unjust and
7 contrary to any commercial reality to include imports
8 from Mexico should the commission find that the
9 imports from China are a threat to the domestic
10 industry. As mentioned, NACOBRE sells a quality
11 product and has built a business on supplying copper
12 tube products that no other U.S. producers can make.

13 Exports from Mexico pose no threat to U.S.
14 producers. In fact, NACOBRE shut down one of its tube
15 mills in Mexico 2008, with a significant drop in our
16 capacity. That facility is now a parking lot. These
17 facts must be looked at separately from what's going
18 in China and the Commission should issue separate
19 determination finding imports from Mexico that pose no
20 threat. Thank you.

21 COMMISSIONER LANE: Could you turn on your
22 mic?

23 MR. RYAN: We're done. That concludes the
24 testimony of the Mexican Respondents and we'll reserve
25 whatever time we have for Bill to fix the microphones

1 and for rebuttal --

2 COMMISSIONER LANE: Okay, thanks.

3 MR. RYAN: -- and answer the Commission's
4 questions.

5 COMMISSIONER LANE: Since there's such a
6 large group out there now, has everybody testified
7 that was supposed to testify before I jump the gun and
8 call on Commissioner Williamson to start the afternoon
9 questioning. Well, first of all, thank you all for
10 coming and we look forward to getting our questions
11 answered. Commissioner Williamson?

12 COMMISSIONER WILLIAMSON: Thank you, very
13 much, Commissioner Lane. I, also, want to express my
14 appreciation to the witnesses for coming and giving us
15 a full presentation.

16 While it's fresh in my mind, why don't --
17 Mr. Kerins, a couple of questions for you. Do you
18 produce -- does NACOBRE produce pipe, both commercial
19 pipe and pipe for the plumbing market?

20 MR. KERINS: Number one, I'm Cambridge-Lee.
21 He's NACOBRE.

22 COMMISSIONER WILLIAMSON: I'm sorry. I'm
23 used to Cambridge-Lee. NACOBRE, Mr. Kelly, right?

24 MR. KELLY: Yes.

25 COMMISSIONER WILLIAMSON: I'm sorry.

1 MR. KELLY: Yes, we do produce copper water
2 tube and levelon coil for the industrial market in
3 Mexico. Although, as you've seen from our reports,
4 the industrial tube have been negligible; it's been
5 almost no imports and that goes for several years.

6 COMMISSIONER WILLIAMSON: Okay. Now, you
7 made a reference to a shortage of commercial pipe in
8 the U.S.

9 MR. KELLY: Well, commercial, it's very
10 generic. But, we make tubes that other people cannot
11 make. We make tube that goes into heat exchanges. We
12 make tube that goes into shipbuilding. We make
13 speciality tube that goes into different heat exchange
14 applications that our customers cannot find supply
15 for.

16 COMMISSIONER WILLIAMSON: And those are all
17 subject products?

18 MR. KELLY: Those are all subject product.
19 We tried to get about nine products eliminated
20 because, basically, my understanding of this case is
21 about levelon coil for air conditioning and plumbing
22 tube and we wanted to remove about nine products and
23 we were told no.

24 COMMISSIONER WILLIAMSON: Okay. And those
25 are the ones that you say --

1 MR. KELLY: Those are the ones that there's
2 a shortage of, yes.

3 COMMISSIONER WILLIAMSON: Okay. But it's
4 not a general shortage, other than certain specialty
5 products?

6 MR. KELLY: For the specialty products that
7 we produce, correct.

8 COMMISSIONER WILLIAMSON: Okay, thank you,
9 because that was the first time that I had heard about
10 that. Thank you for that clarification.

11 Let's see, could someone very briefly just
12 explain what's the advantage of the inner groove in
13 the commercial product?

14 MR. SMITH: Mr. Williamson, Scott Smith from
15 Johnson Controls --

16 COMMISSIONER WILLIAMSON: Yeah.

17 MR. SMITH: -- would tell you that the
18 inner-grooved tube, the inner grooves allow the
19 refrigerant to be turbulated, that is flow around as
20 it goes through. That flowing-around action causes
21 the heat transfer properties of the refrigerant to be
22 more robust and the heat transfer through the wall of
23 the copper tube to be more pronounced.

24 COMMISSIONER WILLIAMSON: Okay. Now is the
25 need for that greater with the new fluids or is it

1 just -- they just happen to go hand-in-hand? Yes?

2 MR. TOPPER: My name is Bill Topper. I'm
3 the Senior Vice President of Operations for Goodman
4 Global, Inc. Mr. Williamson and members of the
5 Commission, I would like to address that by saying
6 that the higher efficiency standards today do require
7 that the efficiency of the product is enhanced and
8 there are several ways to do that. One of the ways to
9 do that is to, in fact, increase the heat transfer
10 efficiency by utilizing different shapes within the
11 inner groove tubes that create the liquid to gas
12 turbulence that my colleague spoke of that can
13 favorably affect the efficiency of product.

14 Furthermore, in the discussion of small
15 tube/five millimeter, those inner grooves and their
16 design are a very important component of the
17 technology enabling Goodman to produce long length
18 condensing coils. We have patents pending on that
19 manufacturing process, and the coil samples provided
20 are an example of the end result.

21 COMMISSIONER WILLIAMSON: I was wondering,
22 because I couldn't keep track of you and also figure
23 out what the examples are. So that's what the last
24 thing that came around is.

25 MR. TOPPER: Excuse me, the two samples that

1 you have there of the straight singular pieces of
2 tubing, one represents three-eighth style tubing inner
3 groove. The other is the five millimeter design
4 revision that we made to meet the Montreal protocols
5 requirements and the efficiency standard change to 13
6 SEER for 2006.

7 COMMISSIONER WILLIAMSON: Okay.

8 MR. TOPPER: The sections we gave you
9 represent the difference between a three-eighth fin
10 pack and a five millimeter. And if you look at those,
11 you can see distinctively the difference in size, thus
12 the usage of less With material, which coincides with
13 the cost of the business model. Material going up
14 like it did, you can see the need for us to control
15 cost. We did it by reducing material consumption.

16 COMMISSIONER WILLIAMSON: Okay. And the
17 five millimeter, that's the all thickness or the
18 diameter?

19 MR. TOPPER: It's outside diameter.

20 COMMISSIONER WILLIAMSON: Outside diameter,
21 okay, good.

22 MR. TOPPER: And the five millimeter outside
23 diameter, if I could continue to explain, what that
24 reduced circumference does, it creates a radii that
25 puts us in a more capable position to manage increased

1 system pressures.

2 COMMISSIONER WILLIAMSON: Okay. Thank you
3 for that clarification.

4 MR. WEIL: If I may add --

5 COMMISSIONER WILLIAMSON: Mr. Weil?

6 MR. WEIL: -- other points. Other factors
7 you have to control is actually the height of the
8 fins, the number of the fins, the width of the fins,
9 and the angle of the fins, all can vary from one
10 inner-grooved tube to another depending on the
11 particular application.

12 COMMISSIONER WILLIAMSON: By the "fins,"
13 you're talking about --

14 MR. WEIL: The rifling and the inside.

15 COMMISSIONER WILLIAMSON: Okay, okay.

16 MR. WEIL: So, how high they are, how thick
17 they are, the number of them that there may be, and
18 the angle that they are in that tube are all the
19 things that have to be controlled or specs that will
20 be established with particular customers.

21 COMMISSIONER WILLIAMSON: Okay, good. Thank
22 you. This morning, CERRO talked about not being able
23 to produce inner groove for certain purposes because,
24 I think, of patent restrictions. Did that also -- I
25 don't know whether this has to be done post-hearing or

1 not -- apply to the product from -- producers in China
2 or where they introducing different licenses?

3 MR. WEIL: Gold Dragon first got into a
4 license, the cast-and-roll process, in the 1990s. So
5 many times people think of the Chinese being
6 followers. They were really an innovator and worked
7 very early on with the Outokumpu patents. But there
8 were restrictions up until that point of bringing
9 tubing from China into the United States. Wolverine
10 actually started early on with the cast-and-roll
11 process. It was never developed to the same level
12 that Golden Dragon developed it, making light-wall
13 products. Wolverine never made light-wall products
14 with its cast-and-roll process.

15 COMMISSIONER WILLIAMSON: Okay. Now, there
16 are some U.S. producers -- are some producers making
17 the groove using -- I forgot the name of the other
18 process --

19 MR. WEIL: The extrusion process.

20 COMMISSIONER WILLIAMSON: -- the extrusion
21 process, yes.

22 MR. WEIL: Yes, they were. Originally, the
23 technology was developed by the Japanese. I believe
24 there was originally an Hitachi patent for inner
25 grooving and you started seeing some work with inner-

1 grooving products in the late 1980s or the early 1990s
2 in the United States -- an extrusion process.

3 COMMISSIONER WILLIAMSON: And I guess you
4 can make a comparable product; it's just that it might
5 not be as efficient as using the cast-and-roll. Is
6 that the difference?

7 MR. WEIL: You're asking two different
8 questions. The cast-and-roll process, as far as the
9 process, itself, has a lot of advantages, one of which
10 Mr. Arndt addressed, that you actually can skip the
11 extrusion process. Another advantage that wasn't
12 talked about is the size of the piece of copper that
13 you start with. When you're making copper tube, it's
14 a continuous process, from one process to another.
15 You're reducing it, you're reducing it, you're
16 reducing it, maybe 14 times, indiscrete steps. So if
17 you start with a piece of copper that might be 12 or
18 13 hundred pounds, which I believe is one of the
19 largest sizes when you're extruding, as opposed to a
20 cast-and-roll process, where I think the Golden Dragon
21 package is about 23 hundred pounds. That also
22 presents a distinct advantage in the manufacturing
23 cost of that product, as well, and also the size of
24 the package that you can deliver to a customer.

25 When you get into the technical

1 specifications of the product, one of the advantage of
2 cast-and-roll is controlling the wall thickness and
3 then the mean wall and people, you heard talking about
4 burst pressure. So, you're going to be worrying about
5 that mean wall thickness and the pressure in that tube
6 has gone up, as you've changed refrigerants. So in
7 the extrusion process, you're putting it through a big
8 5,000 ton press and it has a side you're extruding it
9 over that floats. So the wall thickness is very
10 differently. In the cast-and-roll process -- I guess
11 I have to go quicker -- you're reducing it in a
12 different matter, that the variation in that wall is
13 going to be less. The less variation in the wall, the
14 more consistent that wall, the lighter the product
15 that you can make, and also the better, more
16 consistent product that you're going to make. The
17 quality is going to go up, as well.

18 COMMISSIONER WILLIAMSON: Thank you. Mr.
19 Kerins, the product that you've been -- saying you
20 were bringing in 25 years ago, I assume that was an
21 extrusion process; is that correct?

22 MR. KERINS: Yes. As far as I know, the
23 Japanese process was an extrusion process 25 years
24 ago. I'm not sure when the Outokumpu was refined in
25 Finland, but I'm pretty sure it was extrusion.

1 COMMISSIONER WILLIAMSON: Okay. Now that
2 I've had that tutorial, let me apologize for asking
3 the questions. Thank you, very much, for that
4 information.

5 COMMISSIONER LANE: I'll begin the
6 questioning with IUSA. Am I saying that right?
7 There's been significant discussion of copper process
8 and COMEX activity by Petitioners and Respondents. In
9 one of your slides, you show COMEX prices, I guess, by
10 month. Could you provide an exhibit that shows the
11 actual price that is reflected in your graph for 2006
12 through June 2010 and show not only the average
13 monthly numbers for your chart, but show that data for
14 the average weekly prices, 2006 through 2010?

15 MR. OCHOA: Yes, ma'am. We can surely
16 submit that later.

17 COMMISSIONER LANE: Okay.

18 MR. RYAN: In the post-hearing brief, we'll
19 include that.

20 COMMISSIONER LANE: I'm sorry, what?

21 MR. RYAN: We'll include that in the post-
22 hearing brief. We'll be happy to.

23 COMMISSIONER LANE: Okay. And can you
24 explain how you determined that average weekly price?
25 You can use a daily high or low or daily closing or

1 whatever method you prefer, as long as they are
2 consistent and explain how you derived the averages.

3 MR. OCHOA: Okay. Basically, the COMEX --
4 and I will make a comparison -- the COMEX rates every
5 single day, every single minute, in international
6 markets. In Europe, it's along with the exchange.
7 Here, in America, we use the COMEX.

8 COMMISSIONER LANE: Okay.

9 MR. OCHOA: So, basically, what we do is
10 that we have an opening average for COMEX and a
11 closing -- each day closing market value. So what we
12 do is that we always keep the track of this value of
13 copper in -- all of us, we do the same. We keep track
14 on a daily basis and we have the closing -- the
15 business closing day average and we average those
16 daily averages to have the weekly average.
17 Nevertheless, just like the Petitioners explained this
18 morning, you can close deals with the customers based
19 on the spot basis on a previous week average, previous
20 month average. You can even make hedges on the future
21 value, on known future value. So, there are different
22 ways of approaching this.

23 COMMISSIONER LANE: Okay, thank you. I look
24 forward to reading your answers. Goodman Global
25 argues that only copper tubing produced using the

1 cast-and-roll production method would be acceptable
2 for Goodman. The Petitioners seem to be saying that
3 there is no difference in tube made by the cast-and-
4 roll method. Why do you disagree with that?

5 MR. TOPPER: I would address that with the
6 previous results that we incurred in our operations
7 relative to quality, first past yield defects. We
8 have found that the cast-and-roll process yields a far
9 less defect rate as a result of how the material is
10 processed and that's the major reason why we switched
11 suppliers.

12 COMMISSIONER LANE: Did I understand the
13 Congressman this morning to say that Goodman gets its
14 tubing from Mexico, I believe, because it's cheaper
15 and that if we went affirmative in this case, Goodman
16 would move its whole operation to Mexico? Is that
17 what I understood and is that correct?

18 MR. TOPPER: I would answer that, that if we
19 were to incur additional expenses to what our products
20 cost today, because we obviously have a higher expense
21 relative to the tariffs, if they were to be incurred,
22 we have already evaluated what the difference would be
23 for us, as it relates to the current measured tariffs
24 as we know them today and what it would cost us if we
25 were to produce subassembly condensing coils in Mexico

1 and ship it back to the United States, that that might
2 be the avenue that we would need to go.

3 MR. PARETZKY: Madam Chairman, Raymond
4 Paretzky, counsel to Goodman. If I could just
5 elaborate and make clear, Goodman currently has all of
6 its manufacturing in the United States, all of its
7 manufacturing jobs, including making those coil
8 assemblies that are just to your right, right now,
9 employing, as I say, hundreds of workers just making
10 those coil assemblies in Tennessee and in Texas. And
11 what the Congressman is saying is that those jobs
12 making the coil assemblies in Tennessee would be in
13 danger if Goodman were forced to pay dumping duties on
14 top of high copper prices for the imported copper tube
15 that it uses to make those coil assemblies. And I
16 know Congressman Culberson submitted a letter that
17 talked about the even more manufacturing jobs that
18 Goodman has in Texas that face the same issue making
19 those coil assemblies in the United States.

20 COMMISSIONER LANE: Okay.

21 MR. RYAN: Commissioner, if I could just
22 clarify, as well. The Congressman, the written
23 statement, at least, was referring to imports, import
24 suppliers China, not Mexico. So, the only reference
25 to Mexico was with regard to potential effects of the

1 dumping duty on imports from China, not anything with
2 regard to imports of copper pipe from Mexico.

3 MR. SMITH: Madam Chairman?

4 COMMISSIONER LANE: Yes.

5 MR. SMITH: Scott Smith from Johnson
6 Controls. We have been asked that same question and I
7 would tell you that we would -- if you voted
8 affirmative to continue this program, we would pay the
9 10.26 percent duties because it's far more important
10 to have the quality and the technology that's coming
11 out of China instead of the uncertainty with the U.S.
12 producers. I would further tell you that in 2008, we
13 did close a factory in Mexico and bought 400 jobs back
14 into Wichita and into Norman, Oklahoma. Again, we are
15 very much sold on the idea of buying and making in
16 America, but will tell you that we need to have the
17 Chinese product even under tariff because of the
18 quality it provides for us.

19 COMMISSIONER LANE: Okay, thank you. And
20 that leads me to my next question, going back to the
21 gentleman sitting next to Mr. Paretzky, yes, if you
22 don't want to answer this in open hearing, could you
23 provide in the post-hearing brief, assuming that Cerro
24 could provide you the tubing that you need for your
25 product and could you tell me what the price

1 differential is between sourcing from the United
2 States and sourcing from Mexico or China?

3 MR. TOPPER: Madam Chairman, that's
4 something I would like to entertain in the post-brief,
5 please.

6 COMMISSIONER LANE: That's fine, thanks. I
7 don't think Lovato is here, am I correct?

8 MR. RYAN: Lovato is not part of the witness
9 panel here today.

10 COMMISSIONER LANE: Okay.

11 MR. RYAN: They did file a pre-hearing brief
12 though.

13 COMMISSIONER LANE: Okay. The Petitioners
14 assert that Lovato, Nuco Leon plant has an expected
15 capacity of 110 million pounds. Is that accurate, if
16 any of you know?

17 MR. RYAN: I think we could -- we'll direct
18 that question to counsel for Lovato and ask them to
19 respond to it directly in the post-hearing brief.

20 COMMISSIONER LANE: Okay, thank you. Would
21 it be appropriate for the Commission to place any
22 weight on the Department of Labor trade adjustment
23 assistance findings or statements and do you dispute
24 the statements cited by the Petitioners?

25 MR. O'BRIEN: I'll ask Mr. Weil to comment,

1 as well, but there's a fundamental misstatement in
2 what Petitioner's argument is, which is that the
3 closing of the Decatur and Booneville plant was
4 related to imports from Golden Dragon. These were
5 completely different products that were coming in, as
6 we've explained, and neither factory was making the
7 product that Golden Dragon shipped to the United
8 States. So, it certainly was not in any way due to
9 imports from Golden Dragon.

10 COMMISSIONER LANE: Okay. Now, let me just
11 make sure I understand. The Decatur, Alabama plant,
12 was it making the subject product that's the subject
13 of this hearing?

14 MR. O'BRIEN: It was making seamless refined
15 copper tube. Yes, it was making subject merchandise.
16 It was not making any product that was similar to what
17 Golden Dragon was shipping or has shipped to the
18 United States.

19 MR. WEIL: It was said that both Booneville
20 and Decatur had inner groove capability. Both of them
21 had been around for a long time and at one time, both
22 of them had that; but, they had not had that
23 capability for some time before they were closed.

24 COMMISSIONER LANE: Okay. I'm almost
25 running out of my time and I can't resist asking a

1 question about the graph. What is the significance of
2 this, I guess, bridge to nowhere?

3 MR. OCHOA: Well, it's not a bridge. In
4 colonial Mexican-style architecture, we used to
5 transport water in those kind of devices and that's
6 the headquarters of IUSA in our main complex in
7 Parsaham. That's a fountain. So when we turn it on,
8 it flows water into -- the water that you see at the
9 bottom part of the picture. So, it's more descriptive
10 than any other thing.

11 COMMISSIONER LANE: It's an aqueduct, right?

12 MR. RYAN: Yeah, an aqueduct.

13 COMMISSIONER LANE: Aqueduct.

14 MR. OCHOA: It's el acueducto in Spanish.

15 COMMISSIONER LANE: And so it's normal for
16 it to stop right here?

17 MR. OCHOA: No, no, no. When they used to
18 use those kind of aqueducts, it was for long
19 distances. That's only a --

20 COMMISSIONER LANE: Okay, thank you.

21 MR. OCHOA: It's not broken.

22 COMMISSIONER LANE: Commissioner Pearson?

23 COMMISSIONER PEARSON: Thank you, Madam
24 Chairman. Welcome to the afternoon panel. It's good
25 to have so many of you here. Let's see what we can

1 learn.

2 This morning, I spoke to the domestic
3 industry about the whole question of causation because
4 I've served to them that there appears to be some
5 correlation between what is happening to apparent
6 consumption and the fortunes of the domestic industry.
7 However, it's also correct to say that there appears
8 to be a relationship between what's happened to
9 subject imports, which you can see in the public
10 version of the C Table, the increase in market share
11 of subject imports from period to period and the
12 decline in the fortunes of the U.S. industry. How do
13 you respond to that? How could we be sure that at
14 least some injury that may be happening to the
15 domestic industry is not being caused by subject
16 imports?

17 MR. ROGERS: Commissioner Pearson, this is
18 Tom Rogers. I think one of the things you need to
19 look at first is the total volumes that are involved
20 here and we're looking at, as we've heard repeatedly,
21 that the market declined by 25 percent, 250 million
22 pounds, big, big number. In that context, imports
23 during the period went up by 20 million pounds, okay.
24 So on an absolute basis, the industry suffered
25 dramatically from the decline in demand, not from this

1 -- not as increase in imports.

2 Now, because of the decline in demand, the
3 apparent share of the imports went up. That's visible
4 in the data, up through 2009. Of course the trends
5 reversed in 2010. But, again, as we've heard from
6 these witnesses, the big reason for their increased
7 purchases of the imported product, of the Golden
8 Dragon product, is because they could not get it from
9 the domestic sources. So, I think that is really
10 what's driving these imports.

11 COMMISSIONER PEARSON: Do we have anything
12 on the record that would quantify whether the increase
13 in demand for the specialized products that have been
14 discussed here, that are being imported by these firms
15 -- does that correlate to some degree with the
16 increase in actual shipments volumes that we've seen
17 from --

18 MR. ROGERS: I think in the table in Section
19 E, in those appendices, which are all bracketed,
20 certainly with respect to the imports, you have
21 separate shipment trends for the industrial and the
22 plumbing tube product.

23 MR. RYAN: We also have on the record the --
24 Mueller's annual -- we've submitted the various
25 excerpts and complete pages and we can submit more in

1 the post-hearing brief of Mueller's own assessment in
2 their SEC filings year after year, pointing to their
3 own declines in production and shipments being
4 directly tied to decline in demand due to the reasons
5 we've all talked about here today, and no mention of
6 these imports or any imports. So, I think that's on
7 the record, as clear evidence as we can find with
8 regard to the volume question that you just had.

9 COMMISSIONER PEARSON: Okay. Mr. O'Brien?

10 MR. O'BRIEN: If I could just add, this is
11 not a case where the exporter happened to find one or
12 two customers to come in and tell you a story of which
13 there are many, many, many other customers. This is a
14 very narrow product that's coming in from China and
15 these are the two biggest customers that represent a
16 very, very large portion of the product coming in. So
17 what you're getting this afternoon is the reason for
18 most of the product coming in.

19 COMMISSIONER PEARSON: Okay, thank you. Mr.
20 Rogers, you may already have done this for the pre-
21 hearing; but, if so, it alluded me. You probably have
22 written about this volume issue in some detail and
23 it's already on the record, is that correct? Or if
24 not, you'll do it for the post-hearing?

25 MR. ROGERS: Most certainly.

1 COMMISSIONER PEARSON: Okay.

2 MR. ROGERS: We will address that.

3 COMMISSIONER PEARSON: Good, because it
4 would be useful to have as much analysis of this issue
5 as we can get, so that we have a record that is clear.

6 MR. ROGERS: Right.

7 MR. KRAHMER: Commissioner Pearson, JP
8 Krahmer, Marubeni. I'd just like to add an example.
9 One of the OEMs that I supply, just a couple of years
10 ago, their -- I principally supply the inner-grooved
11 copper tubing. Their annual consumption was 11
12 million pounds. This year, it's down to six-and-a-
13 half million pounds. That's completely due to
14 substitution; in this particular case, aluminum,
15 micro-channel technology.

16 COMMISSIONER PEARSON: Substitution with a
17 product other than the subject copper tubing we're
18 talking about?

19 MR. KRAHMER: Yes.

20 COMMISSIONER PEARSON: Okay.

21 MR. PARETZKY: Commissioner, Raymond
22 Paretzky from Goodman. I just wanted to make one more
23 point. I think that with regard to the inner-grooved
24 tubing that we've been discussing, it wouldn't be an
25 accurate description to call it a specialty product.

1 You know, I think really it is the product. It's by
2 far the largest product of any of the industrial
3 products for the HVAC industry. It's not only the
4 largest volume product, it's also the most important
5 product; the vast majority, as Mr. O'Brien said. It's
6 by no means a specialty product.

7 COMMISSIONER PEARSON: Okay.

8 MR. RYAN: Could I add one point? Mr. Kelly
9 from NACOBRE alluded to the fact that --

10 COMMISSIONER PEARSON: This is Mr. Ryan.

11 MR. RYAN: -- I'm sorry, John Ryan from
12 Weil, Gotshal -- alluded, not alluded to, but stated
13 the fact that we had a hard time getting purchasers to
14 come forward to talk directly with the Commission
15 because, to be frank, the U.S. producers that are
16 Petitioners dominate the market. So, they don't want
17 to come in to speak against people that they need to
18 potentially do business with in the future. But the
19 purchaser questionnaires that the Commission does have
20 corroborate exactly what you've heard, that the
21 purchasers are having a difficult time in getting
22 commercial tube that the OEMs need to produce their
23 products, extremely long lead times, et cetera. So,
24 it's not just these customers, which have been brave
25 to come here today, but a lot of other purchasers that

1 submitted information in confidence.

2 MR. SMITH: Commissioner, Scott Smith at
3 Johnson Controls. I would further say that we would
4 be glad to purchase a product from the domestic
5 suppliers, if they would just make it available to us,
6 work with us, and help us develop the technology
7 together.

8 COMMISSIONER PEARSON: Okay. Well, that
9 actually leads me to my next point, question. Let's
10 not use the term "specialty product" then. I think I
11 understand the reasoning for not using it. Which of
12 the products that you import, you various firms, face
13 no competition from U.S. producers because of the
14 point that Mr. Hefner just -- is it Hefner, no, I'm
15 sorry, Mr. Smith, yes -- the point that Mr. Smith has
16 just made? Which products are you importing that
17 fundamentally face no direct competition from the
18 domestic producers because they don't make the stuff?

19 MR. SMITH: Commissioner, Johnson Controls.
20 We only bring in one product and that's our inner-
21 grooved tubing and we bring in, again, one part and we
22 cannot get a domestic supplier to even talk to us
23 about supplying it, even though we approached them
24 numerous times, numerous occasions, and they failed to
25 even give us a single quotation.

1 MR. TOPPER: At Goodman, we share the same
2 problem as JCI. One, we can't get a quote. Two, we
3 can't see what they do make to see if it is compatible
4 with our design intent. And more importantly, we
5 haven't seen any evidence proving that the capability
6 exists today, that the U.S. manufacturers can, in
7 fact, make five millimeter.

8 COMMISSIONER PEARSON: Okay. And Mr.
9 Topper, it's only the one product, the inner-grooved
10 tubing that your firm is importing; is that correct?

11 MR. TOPPER: That is correct.

12 MR. KELLY: Mr. Pearson, also NACOBRE
13 produces a military tubing that goes into
14 shipbuilding, offer of carrying water, special
15 specifications, testing, marking. We have
16 confirmation from our major suppliers to this industry
17 that they cannot get this. They have been refused
18 quotes from the three companies that are putting a
19 case together here.

20 COMMISSIONER PEARSON: Just a second, you
21 have to help us out here, because we have a large
22 number of Respondents. The previous speaker was Mr.
23 Kelly, is that correct?

24 MR. KELLY: I am Mr. Kelly.

25 COMMISSIONER PEARSON: Yes, right.

1 MR. KELLY: Yes.

2 COMMISSIONER PEARSON: The court reporter
3 has a difficult time ascertaining who is doing what.
4 Mr. Ryan, you were --

5 MR. RYAN: I'm sorry, this is John Ryan from
6 Weil, Gotshal. We did submit evidence to corroborate
7 what Mr. Kelly just said. We have letters from some
8 customers to support that point in our pre-hearing
9 brief.

10 COMMISSIONER PEARSON: Okay. But let me
11 take the question from the opposite side. Which of
12 your firms import something that does compete directly
13 with what is produced by the domestic industry? Mr.
14 Kelly?

15 MR. KELLY: Yes. We produce copper water
16 tube to the same specifications. It's not a big part
17 of our business; however, we do bring some of that
18 product in.

19 MR. RYAN: Over the POI, I mean, it's a
20 matter of record that Cambridge-Lee was importing -- I
21 think Mr. Kerins can speak to this, was importing
22 plumbing pipe that is now produced by Cambridge-Lee
23 instead.

24 MR. KERINS: In my testimony, I said that
25 we've moved all of our production to Redding,

1 Pennsylvania, prior to the filing of the case. And
2 prior to that, we imported a certain percentage of our
3 product from our factory at IUSA in Mexico.

4 COMMISSIONER PEARSON: Okay. And do we have
5 on the record some data indicating the quantity of
6 imports that fundamentally by your argument are
7 competing with domestic production?

8 MR. RYAN: We certainly have the volume of
9 Mexican imports from each of these companies on the
10 record, from NACOBRE and from IUSA, showing that they
11 declined dramatically over the POI and other words
12 that you've heard already about declining volume and
13 market share.

14 COMMISSIONER PEARSON: I think there's a
15 market segmentation argument here, perhaps, that I'm
16 not sure, maybe I'm not understanding it well. I just
17 don't know how well developed the record is regarding
18 competition. Mr. Rogers --

19 MR. ROGERS: This is Tom Rogers.

20 COMMISSIONER PEARSON: -- I'm out of time.
21 So, we have to -- so be quick.

22 MR. ROGERS: Okay. I believe you have total
23 imports from the importers. You have plumbing and
24 industrial imports from the importers. And you also
25 have shipments of the eight pricing products again

1 from the importers. You, also, have purchaser's
2 questionnaires, which identify their total purchase
3 during the period. And from that, particularly for
4 Goodman and JCI,, you'd say they only buy one product,
5 you can determine the quantity.

6 COMMISSIONER PEARSON: Okay. Well, for
7 purposes of the post-hearings, please connect the
8 dots, in case I don't otherwise see it. Madam
9 Chairman, apologies for the overrun here.

10 COMMISSIONER LANE: That's okay. We're two
11 Commissioners short this afternoon, so I'll allow all
12 sorts of variations. Commissioner Aranoff?

13 COMMISSIONER ARANOFF: Thank you, Madam
14 Chairman. For the OEM who are present here today,
15 question. In this industry, how often, if ever, does
16 it happen that you receive proposals or quotations
17 from your copper tube suppliers for a product that
18 varies from the specs that you put out there? Is it
19 common for suppliers to come back and go, well, it's
20 not going to be exactly what you said, but it's going
21 to work in your process, let us tell you how? Or is
22 that very uncommon?

23 MR. TOPPER: Ms. Chairman, this is Bill
24 Topper speaking. I would say that that's somewhat
25 uncommon, that one would come and offer what

1 technology or capability they have available and then
2 would tell us how it would fit in our application. In
3 developing technology it should be a joint effort.

4 I would add, though, that that was one
5 distinctive difference between the presentation of
6 Golden Dragon, as compared to Petitioners in the room
7 and not in the room, is that Golden Dragon approached
8 Goodman, we didn't go out to seek their answers as to
9 what they could do for us. They approached us as a
10 customer that they wanted to do business with. What
11 they proposed to us is what their resources and design
12 capability could do conducive to quality improvement
13 and design revision.

14 MR. SMITH: Madam Chairman, I would also say
15 that at Johnson Controls, it's our common practice to
16 send to the potential supplier a sample of our design
17 and ask them to evaluate it and to provide a
18 comparable equivalent. Certainly with Golden Dragon,
19 likewise, they did come back to us with further
20 enhancements that they provided that went even beyond
21 our design. But normal practice is for a supplier to
22 duplicate the design that our engineering staff has
23 put forth.

24 COMMISSIONER ARANOFF: Okay. I'm trying to
25 evaluate those answers. It's sounding to me like the

1 answer is yes and no, that there can be some
2 deviations when you're bringing a new product out and
3 people are trying to figure out how to satisfy your
4 needs. They might not all offer exactly the same
5 thing, but you like the ones who come to closest.

6 MR. SMITH: And to that point, when we are
7 bringing out a new product, yes, we like to go out and
8 ask for lots of different options and areas. But when
9 we have a product that's already developed, one that
10 we have been using for a number of years and want to
11 continue that design forward, especially to have a
12 rapid implementation, then we need an equivalent, not
13 a new offering. Again, Kobe Wieland did bring to us a
14 new offering that was different and did not provide
15 the same capacity, the same efficiencies, and told us
16 that that would be what they would provide to us and
17 not provide the product that we do need.

18 MR. TOPPER: Another point I would add is
19 that the changes within the industry, in the energy
20 efficiencies in the cooling chemicals that we use,
21 that is, the revisions to SEER minimums and the
22 elimination of R-22 as the applied refrigerant, there
23 are not as many variable options now to meet design
24 requirements. It's what we require -- to meet the
25 legal requirements of the businesses now don't leave

1 room for, latitude for one to give you something
2 that's all from what you've designed that can meet
3 those requirements.

4 COMMISSIONER ARANOFF: Okay. I want to ask
5 another related question. And my understanding, at
6 least in the case of Goodman, is that you solved that
7 technical problem with meeting all of the performance
8 and energy efficiency and environmental requirements
9 that you had to make by adopting this five millimeter
10 inner-groove product. Is that the technical solution
11 that all of the U.S.-based OEMs have adopted or have
12 others been able to solve the same problem using the
13 extruded product or a non-five millimeter cast-and-
14 roll product or something else?

15 MR. TOPPER: The answer is, the five
16 millimeter design inner-groove tube, that particular
17 tubing has existed within the HVAC world business
18 model for a long time. The Asians employ five
19 millimeter inner-grooved tube in applications in
20 China, Vietnam, and other parts of Asia.

21 In North America, the five millimeter design
22 inner-grooved tube, it had been tried previously by
23 competitors in the North America HVAC business, but
24 they were incapable of manufacturing that particular
25 design with current assets. So, they had to run a

1 tube that was larger. What Goodman did, looking at
2 the cost of cooper, which we've talked about, that is
3 it rose, we were unable to control that cost, really
4 unable to control the fabrication costs. So, we said,
5 well, let's use less material.

6 So, we took an approach of using less
7 material to meet the marketplace's requirements. So,
8 we were able to perfect that process using existing
9 assets, unlike any of our North American manufacturing
10 competitors.

11 COMMISSIONER ARANOFF: Okay. So, I
12 understand why you've done what you've done. But, I
13 guess I want know is, Johnson Controls, did you solve
14 this problem the say way or have you done something
15 different? And what about Trane and Lennox and
16 whoever else is out there in the market doing this
17 stuff?

18 MR. SMITH: So, Johnson Controls, we solved
19 the problem, one, by a substitution of micro channel,
20 aluminum product, and that allowed us to achieve the
21 efficiency standards and the burst pressure standards.
22 But with the work of Golden Dragon, we were able to
23 employ the cast-and-roll technology, where the welded
24 seam would not work because of quality, and certainly
25 where the extruded product would not work because of

1 the quality failures.

2 COMMISSIONER ARANOFF: Yeah. And you were
3 using the same five millimeter inner-grooved product
4 or a different one?

5 MR. SMITH: We're staying in the traditional
6 three-eighth size. That was what our machinery -- by
7 using the enhanced technology of the Golden Dragon
8 inner-grooved tubing, which was designed for our
9 application specially, it was able to maintain that
10 same three-eighth tubing that we already had employed.

11 COMMISSIONER ARANOFF: Okay.

12 MR. TOPPER: In the pre-hearing briefs, you
13 would recognize that we have patents pending that more
14 than likely our competitors are aware of that prohibit
15 them from, at this current point, to our knowledge,
16 using five millimeter.

17 COMMISSIONER ARANOFF: Okay. So I just want
18 to understand you correctly, because you guys only
19 speak for two of the OEMs that are operating in the
20 U.S., but it sounds like each company developed its
21 own solution to the technical and legal problem that
22 was presented and that solution is not dependent on a
23 five millimeter inner-grooved product produced by a
24 cast-and-roll process. There's a variety of ways to
25 solve the problem.

1 MR. TOPPER: That is correct.

2 COMMISSIONER ARANOFF: Okay. I want to
3 follow up, a number of folks testified here, and,
4 again, I guess this was the OEMs, that the domestic
5 producers, and I think the quote was " failed to give a
6 single quotation," that they wouldn't quote on
7 products that you were finding that you needed to
8 address these environmental and legal requirements
9 that you would be -- and performance requirements that
10 you were being -- needed to meet. And either today or
11 in the post-hearing, if you need to, I would you to
12 identify very specifically the specifications for
13 which the domestic industry "failed to give a single
14 quotation," so I can give thee a chance to respond to
15 the specific, very specific product specifications
16 that we're talking about.

17 And for the domestic industry, for purposes
18 of post-hearing, I hope that -- I know your argument
19 is that it's not really about getting product that you
20 can't make. It's about price. So, I would like you
21 to respond to this because if it's true that you never
22 gave a single quotation, they never got to compare
23 your two products based on price. So, I think that
24 this is sort of a clash that we need to address and
25 anything that either side can submit post-hearing to

1 help sort that out would be helpful.

2 Okay. I see my time is almost up and I was
3 going to move on to a different subject. So, Madam
4 Chairman, I'll just wait until the next time.

5 COMMISSIONER LANE: Okay. Thank you,
6 Commissioner Williams?

7 COMMISSIONER WILLIAMSON: Thank you. I was
8 wondering what the Respondents would say about the
9 Petitioner's argument, that the decrease in subject
10 import volumes and market share in 2010 was due to the
11 filing of the petition and these investigations. You
12 may have already addressed this, but maybe somebody
13 can just briefly -- what is your response to that
14 argument?

15 MR. RYAN: This is John Ryan on behalf of
16 IUSA. I think that was -- for Mexico, anyway, I think
17 Mr. Kerins could reiterate some of the points he made
18 about why volume has declined and when it started to
19 decline and what's been going on with Cambridge-Lee's
20 production at the same time. It would be directly
21 responsive to your question.

22 COMMISSIONER WILLIAMSON: Okay.

23 MR. KERINS: Yes. In the middle of 2006,
24 the price of copper went to almost four dollars a
25 pound and almost overnight, the plumbing contract

1 decided substituting PEX for copper tubing in new
2 residential construction. During the time between then
3 and, I don't know, 2007, most of the residential
4 plumbing tube -- new residential plumbing tube market
5 went to PEX. We talked about the substitution. I
6 think in my closing comments, I said substitution on
7 plumbing tube I think has run its course. There are a
8 number of plumbers out there that are going to use
9 copper no matter what the price is. And the ones that
10 have already switched to plastic are probably going to
11 stay with plastic. That, plus the drop in housing and
12 the economic recession in general, difficult to get
13 any financing. They've all been contributing factors
14 to the drop in demand. From 2006 to 2009, plumbing
15 tube shipments to the U.S. dropped 50 percent on a
16 pound basis, not on dollars. We express them in
17 pounds.

18 MR. RYAN: I think the direct question was
19 with regard to the first half of 2010, was your drop
20 in imports in 2010 due to this case or some other
21 corporate decision that preceded the case.

22 MR. KERINS: I'm sorry. We made that
23 decision back earlier in 2009 and it took us a while
24 to implement the decision. We started producing more
25 and more product in Redding, Pennsylvania, in the

1 middle of 2009. We did supply a chart that was in the
2 pre-hearing brief that shows the production of
3 plumbing tube in Mexico by month and the production of
4 plumbing tube in Redding by month. And you can see
5 one is dropping drastically and the other one is
6 increasing drastically, and that was the reason for
7 the change, plus the Buy America act. We were getting
8 requests from customers to sign a document saying that
9 all the tubing we supplied were made in the U.S.A.
10 With a commingle inventories, we couldn't tell what we
11 were going to ship because they're all mixed together
12 prior to that in our inventory . So, in the process,
13 we've replaced all of that inventory with all domestic
14 product.

15 COMMISSIONER WILLIAMSON: Okay. And the
16 status now is that -- is all of the production now in
17 the U.S.?

18 MR. KERINS: Yes. We have 100 percent
19 inventory as all U.S. We're not bringing anymore
20 product from Mexico because it's difficult to quote a
21 job, if you don't guarantee it's all domestic product.

22 COMMISSIONER WILLIAMSON: Okay, thanks. You
23 offered earlier to just give us documentation, Mr.
24 Ochoa did, about the fact that -- showing that the
25 decision was made I guess -- well, before the case

1 filed. And I was just accepting your offer, look
2 forward to --

3 MR. OCHOA: Yes, indeed. We should be
4 looking for some e-mails regarding decisions and some
5 minutes of meetings that we held back in late 2008,
6 early 2009 about this matter.

7 COMMISSIONER WILLIAMSON: Okay. Thank you
8 for that. And thank you, Mr. Kerins. What about in
9 terms of the Chinese imports, any comments on the drop
10 in shipments in the case in 2010?

11 MR. KNIGHTS: Mike Knights from Goodman.
12 Some of our reduced imports really -- you've seen the
13 samples of the materials, the coils. It's quite
14 simple to understand that you're actually going to use
15 less poundage of material by using a five millimeter
16 product versus three-eighths.

17 COMMISSIONER WILLIAMSON: So what percentage
18 of the domestic -- of the consumption does the five
19 millimeter make? How large is it? How significant is
20 it, in terms of the shipments that are used in this --
21 is that possible to give at this time?

22 MR. ROGERS: I think we'll have to address
23 that in post-hearing.

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. ROGERS: As I understand, if Goodman is

1 the consumer of that product, then that can be
2 calculated from information that's on the record.

3 COMMISSIONER WILLIAMSON: Okay, because
4 there's been a lot of reverence to it. I'm just
5 trying to figure out, you know --

6 MR. ROGERS: Right.

7 COMMISSIONER WILLIAMSON: -- how significant
8 is it in terms of --

9 MR. ROGERS: It is significant and it's not
10 captured in the pricing products.

11 COMMISSIONER WILLIAMSON: Okay.

12 MR. ROGERS: Okay, because five millimeter
13 is not one of the eight products.

14 COMMISSIONER WILLIAMSON: Okay. No, that
15 would be helpful because I've been trying to put those
16 statements in context.

17 MR. SMITH: And Mr. Williamson, Scott Smith
18 at Johnson Controls once again. I will tell you and
19 remind that all of the imports that Johnson Controls
20 began bringing in offset a seamed product. For the 15
21 years prior, we've been using a seamed product, not an
22 SRC product. So -- a welded -- there have been welded
23 products. We've been in a welded product and not a
24 product that's made by the Petitioners.

25 COMMISSIONER WILLIAMSON: Okay. Until you

1 started using the product, you bring it in from --

2 MR. SMITH: Correct.

3 COMMISSIONER WILLIAMSON: -- China? Okay.
4 Thank you for that clarification. Let's see, first of
5 all, you had said, and I want to clarify again,
6 Wolverine was producing subject price, but you say
7 it's different from a product -- subject pipe, but
8 it's different from the pipe that Golden Dragon
9 started bringing in?

10 MR. WEIL: That's correct. If you're
11 talking about the products out of Decatur --

12 COMMISSIONER WILLIAMSON: Yeah.

13 MR. WEIL: -- and it was primarily producing
14 plumbing tube and smooth industrial. Wolverine made a
15 concerted decision to exit the plumbing business.
16 They sold an operation that they had in Canada that
17 made that and they stopped manufacturing it in the
18 Decatur facility, which was a majority of what they
19 did in Decatur. The other product was smooth
20 industrial, which is a product that we import very
21 little of into the U.S., Golden Dragon does.

22 COMMISSIONER WILLIAMSON: Okay. So the
23 plumbing product, where did it -- did they stop
24 selling it or just stopped --

25 MR. WEIL: They stopped selling plumbing

1 tube. The smooth industrial, they moved some of that
2 to the Shawnee operation. Wolverine still has a mill
3 in Shawnee, Oklahoma.

4 COMMISSIONER WILLIAMSON: Now why did they
5 exit the plumbing tube business?

6 MR. WEIL: That question is best addressed
7 to them, but I think it was largely some financial
8 reasons and some cash reasons, if you look at their
9 statement related to it.

10 COMMISSIONER WILLIAMSON: Okay.

11 MR. RYAN: In that regard, also, in our
12 post-conference -- this is John Ryan again -- in our
13 post-conference brief, we submitted a quote from a
14 contemporaneous press report regarding that closing
15 and attributing it to declines in demand. And I'll
16 dig that back up and include it in our post-hearing
17 brief.

18 COMMISSIONER WILLIAMSON: Okay, thank you.

19 MR. WEIL: So, I guess in summary, Golden
20 Dragon was not importing any of the plumbing products,
21 so it did not affect that decision that they stopped
22 manufacturing plumbing product and started importing
23 plumbing product. They just exited that business.

24 COMMISSIONER WILLIAMSON: Okay.

25 MR. WEIL: That business was certainly

1 declining. You've heard a lot about that today, not
2 only because of the economy, but because of threats of
3 plastic. There was a lot of pressure, certainly.

4 COMMISSIONER WILLIAMSON: Okay. Mr.
5 O'Brien?

6 MR. O'BRIEN: Just so it's clear, Golden
7 Dragon does not ship plumbing product to the U.S.
8 It's pure industrial product.

9 COMMISSIONER WILLIAMSON: Okay. I
10 understand. Petitioners are free to comment post-
11 hearing if they have any insights on that. Mr.
12 O'Brien, have you taken -- have Respondents taken a
13 position with respect to cumulation for our present
14 injury analysis?

15 MR. O'BRIEN: We have not taken a position
16 on cumulation. Our position is that it will not
17 matter to the Commission's decision, whether you
18 cumulate or don't cumulate. There isn't any injury,
19 one way or the other.

20 COMMISSIONER WILLIAMSON: Okay, thank you.

21 MR. RYAN: Of course, Mexico has taken --
22 this is John Ryan -- we, of course, have taken a clear
23 position on cumulation with regard to threat and I
24 think you're familiar with that.

25 COMMISSIONER WILLIAMSON: Yes, it was duly

1 noted. Okay, thank you. So Golden Dragon suggests
2 that our staff calculation of apparent U.S.
3 consumption appears to be overstated, to overstate the
4 market share of subject imports because total imports
5 exceeded U.S. importer shipments. And do you believe
6 that apparent consumption in the final staff report
7 should be adjusted to reflect U.S. importer shipments
8 rather than total U.S. imports? I asked this of the
9 Petitioners this morning, so I'm asking you.

10 MR. ROGERS: Yes, this is Tom Rogers. There
11 is a difference, as we've noted, between the total
12 imports and the import of shipments. Typically, it's
13 our understanding that the Commission calculates
14 apparent consumption market shares based on importer
15 shipments. That's the point where the product is
16 truly competing with U.S. products. We think that's
17 appropriate.

18 COMMISSIONER WILLIAMSON: Okay, thank you.
19 My time is about to expire, so thank you.

20 COMMISSIONER LANE: Thank you, Commissioner
21 Williamson. Following up on Commissioner Pearson's
22 question, if it's possible could you obtain a
23 breakdown of the import data already in the record to
24 show the volume of the imports each year, that is
25 inner-groove product produced by the cast-and-roll

1 technology?

2 MR. O'BRIEN: Yes, Commissioner Lane, we
3 could certainly either give you exact numbers or close
4 estimates.

5 COMMISSIONER LANE: Okay. I guess, did I
6 make myself clear? I want both the inner-groove and
7 the cast-and-rolled technology.

8 MR. WEIL: The cast-and-roll technology is
9 the beginning part of the process that makes the
10 inner-groove process, so they're one and the same.

11 COMMISSIONER LANE: Okay, thank you.

12 MR. WEIL: We could provide that data for
13 ourselves, I'm not sure about the others that are
14 bringing it in, if it's coming off cast-and-roll, it
15 may be.

16 MR. ROGERS: We do not have that data
17 available for any other Chinese producers, but the
18 product that's at the heart of this case is the
19 product that we export. So I think by looking at what
20 we ship you'll get a pretty good picture of what's
21 going on.

22 COMMISSIONER LANE: And you were going to
23 break that down for Commissioner Pearson, is that
24 correct?

25 MR. ROGERS: That's correct.

1 COMMISSIONER LANE: Okay, thank you.

2 MR. WEIL: And everything we bring in is
3 cast-and-roll.

4 COMMISSIONER LANE: Okay, thank you. Now
5 you talked about using less copper with the 5
6 millimeter tube. While it is smaller it looks like
7 you have twice as many strips or loops in the sample.
8 So what is the ratio of copper or copper savings?

9 MR. TOPPER: Madam Chairman, Bill Topper
10 again. It depends on various designs, whether it's a
11 1-and-a-half-ton, 3-and-a-half-ton, 5-ton et cetera,
12 the air conditioning unit. In some instances it's as
13 much as a 50 percent savings in copper cost per unit
14 or weight. As it compares to some others it may be in
15 the range of 20 to 25 percent reduced weight of
16 copper. Although we have more circuits, the reduced
17 diameter of the tube and then the size of the overall
18 coil bring the total consumption of copper down.

19 COMMISSIONER LANE: Okay, thank you. Now
20 I'm going to ask the same questions that I asked of
21 the Petitioners this morning, and, Mr. Rogers, I'm
22 assuming that you would be the right person to ask.
23 The prehearing report suggests that the U.S. supply
24 elasticity is within a range of 5 to 10. Considering
25 the levels of unused capacity of domestic

1 manufacturers and other factors affecting elasticity
2 of supply, do you agree with the estimate of 5 to 10
3 and why?

4 MR. ROGERS: I would say as a general matter
5 we do not quibble too much with the staff numbers.
6 With respect, if I may just continue with all three?

7 COMMISSIONER LANE: Yes, go right ahead.

8 MR. ROGERS: Because I did hear the
9 questions this morning. My only concern would be
10 there is somewhat less substitution going on in this
11 market because an industrial product is not an
12 industrial product. And so I think if you were to
13 modify those elasticities a little bit you would scale
14 them down on the substitution, that is you would scale
15 those down a little bit to reflect that on the
16 industrial product, you know, a product from China is
17 not necessarily the same thing as a product from the
18 U.S.

19 COMMISSIONER LANE: So you don't agree that
20 the substitution elasticity is 3 to 5?

21 MR. ROGERS: We'll take another look at that
22 and comment on that in our brief.

23 COMMISSIONER LANE: Okay, thank you. That's
24 all the questions I have, and I want to thank you for
25 your answers and your interest this afternoon.

1 Commissioner Pearson?

2 COMMISSIONER PEARSON: Thank you, Madam
3 Chairman. It's not clear to me that all panelists
4 have the same view on this issue so let me ask
5 everybody, are you arguing that we should find two
6 distinct like products? And if so how should we
7 distinguish them? Mr. Smith?

8 MR. SMITH: This is Scott Smith at Johnson
9 Controls. Yes, I think we need to find two like
10 products, would that what we see as an industrial
11 product in one segment and a plumbing product on
12 another segment, yes there might be a very slight
13 overlap, but 90 to 95 percent of the applications for
14 industrial use are the inner-groove tube that we've
15 been talking about this afternoon especially.

16 As I listened to the Petitioners this
17 morning and read through their brief, they've come out
18 with six distinct, you know, things that they say are
19 reasons not to have different products. Let's look at
20 each one of those, the first being the physical
21 characteristics of the product. I see three major
22 distinctions as we look at that. The first is the
23 purity of the copper that goes into the product.

24 For the industrial product we need very very
25 pure copper. For the plumbing tube they can use scrap

1 copper if they choose, we've heard some issues with
2 the scrap market. But really it is two distinct
3 products that the ASTM does allow. The second
4 physical characteristics is the burst pressure
5 requirement. For the inner-groove tube and the
6 industrial tube if you will, the minimum pressure
7 needs to be 1,832 pounds per square inch so that we
8 achieve the maximum optimum tubulation.

9 And then the third physical characteristic
10 distinction is that of being cleaned and capped. So
11 if you will, for the industrial product, the product
12 we use in our HVAC products, it must be cleaned
13 inside, done by purging and oxygen out of the tubes,
14 filling it full of nitrogen, capping the ends, and
15 that keeps the tubes from corroding inside, from
16 oxidizing, and it provides for a very clean surface
17 which operates within our HVAC product. And we know
18 that plumbing can be washed out, so it, they're
19 different characteristics.

20 The second thing I would talk about is
21 interchangeability. We heard the Petitioners talk
22 about you can use industrials for plumbing and
23 plumbing for industrial. That simply is not true.
24 And if it is, there's no plumber going to pay the cost
25 for industrial product and put it into someone's home

1 or use a high technology tube for a plumbing
2 application. Corollary, you can't take a plumbing
3 tube, which is a relatively commodity product, and put
4 it into a high technology industrial application, it
5 simply will not work.

6 The third thing we would talk about are the
7 channels of distribution. When we look at the various
8 channels that, Mr. Hansen did a nice job of explaining
9 the four different channels, we'd say plumbing does go
10 through three channels, retailers, wholesalers, and
11 such, and they've got quite a market, but the
12 distinction we have, the clear bright line on this is
13 OEMs industrial product comes directly from the mills,
14 there is no intermediary, there is no middle man, we
15 simply buy everything direct from the mill and that's
16 the distinction there.

17 The fourth thing they talked about is
18 customer versus producer perception. So it's quite
19 amazing to hear the manufacturers' view of the
20 customer perception. I would tell you as the
21 customer, my view of this is very very different. We
22 look at the producers who make plumbing tube and their
23 practices and the way they go to market very different
24 than the way businesses go to market to serve the
25 industrial segment.

1 In fact if you look at the Petitioners
2 themselves, they even divide up their business.
3 They'll have a division that calls them plumbing and a
4 division that will call on the industrial group.
5 They're two different sales forces, oftentimes two
6 different locations, so they approach the market
7 distinctly different. Again the clear bright line
8 here is one group calls on plumbing, one group calls
9 on industrial.

10 The fifth thing they talked about today was
11 how, and this is very important also, another clear
12 bright line, the substitutability of the manufacturing
13 process itself would say that they've shown us three
14 nice ways of manufacturing, the preproduction, the
15 midproduction, and the postproduction. I'll grant
16 that there potentially could be again, but a very
17 small, 5 to 10 percent, there may be some
18 similarities, but it really is that final production,
19 that final stage of production that there are no
20 tweaks, you can't make a very small change in the
21 production process and get the technology to get the
22 product, the engineered custom designed industrial
23 product that fits our industry by simply doing a small
24 tweak.

25 And then the very last, number six, pricing,

1 they called that at a distinction. Yes, the plumbing
2 tube is a, they have a grid, they have a worksheet,
3 and then depending on how you negotiate your
4 multiplier is how they go to market. So they take the
5 plumbing product to market totally different than the
6 industrial product. The industrial product, again the
7 clear bright line is we negotiate a long term
8 contract, it's not just one year, it's multiple years.

9 The time that it takes to qualify this
10 technology is substantial so oftentimes we'll have a
11 three to five-year contract period with the supplier
12 because of the time, the energy, and the effort on
13 both parts, the supplier's part and the customer's
14 part, to design that technology and their
15 applications. So really all six of the distinctions
16 that the Petitioners call out as being not different,
17 really for each one there is a very clear bright line
18 difference of what the industrial product has versus
19 what the plumbing product has. And again 90 to 95
20 percent. Yes there'll be a very small overlap, but
21 it's insignificant and it's not common.

22 COMMISSIONER PEARSON: Thank you, Mr. Smith.
23 Are there other perspectives?

24 MR. RYAN: Yeah, well I would congratulate
25 Mr. Smith on doing as well as on legal like product --

1 COMMISSIONER PEARSON: This is Mr. Ryan
2 again.

3 MR. RYAN: John Ryan. Yes, I'm sorry.

4 COMMISSIONER PEARSON: Yes, the Court
5 Reporter is very capable but she doesn't have X-ray
6 vision.

7 MR. RYAN: I'm sorry, I'm sorry. John Ryan.
8 Mr. Smith did as good a job with the legal issue as
9 any lawyer, as any seasoned lawyer in the room I've
10 ever seen argue separate like products. But we, and
11 we agree with the facts that he's presented, but we
12 did not take a position that the Commission should
13 separate the like products. More importantly the
14 Commission should understand exactly these
15 distinctions that Mr. Smith just discussed and their
16 importance in the market, particularly because our
17 products have been primarily plumbing pipe quite
18 different and distinct than the industrial products
19 that you've heard about from China.

20 COMMISSIONER PEARSON: Mr. O'Brien?

21 MR. O'BRIEN: Yes, our position is the same
22 as Mr. Ryan just articulated.

23 COMMISSIONER PEARSON: And Mr. Paretzky?

24 MR. PARETZKY: Yes, Goodman Global also
25 takes no position on the legal issue of like product

1 but we do buy only industrial tubes.

2 COMMISSIONER PEARSON: Okay. Then, okay, we
3 have some difference of opinion on whether we should
4 find two separate like products. But are you making a
5 market segmentation argument then?

6 MR. RYAN: The Mexican -- this is John Ryan
7 again. The Mexican Respondents definitely are,
8 there's definitely market segmentation between
9 plumbing and commercial. We think you should look at
10 the market in that way, look at imports in that way,
11 look at the imports from Mexico in that way,
12 competition in the market, who's doing what in the
13 U.S. industry, absolutely.

14 COMMISSIONER PEARSON: And Mr. O'Brien?

15 MR. O'BRIEN: Yes. As noted we agree with
16 Mr. Smith's description of the facts entirely. These
17 are two very different segments, whether it's plumbing
18 or industrial, and you have to look at each one
19 independently, we absolutely agree with that, that the
20 market is segmented.

21 COMMISSIONER PEARSON: Okay, and Mr.
22 Paretzky, are you?

23 MR. PARETZKY: Yes, Goodman also agrees.

24 COMMISSIONER PEARSON: If there's more to
25 say in the posthearing, by all means go ahead and add

1 further elaboration. There is a question regarding
2 Chinese capacity. It's an issue for threat. In the
3 Golden Dragon brief on page 2 it's contended that
4 strong in-China demand for the subject product
5 continues to increase at a pace beyond that which the
6 Chinese producers can supply. According to
7 Petitioner's estimate on page 7 there are at least 29
8 Chinese SRC tube producers with a combined capacity of
9 at least 2.7 billion pounds. According to the Chinese
10 producers that responded to the Commission's
11 questionnaire, capacity for 2011 will be an estimated
12 780 million pounds. Can you please comment on these
13 figures and your estimates for Chinese capacity both
14 now and in the future? Mr. O'Brien?

15 MR. O'BRIEN: Yes, certainly. We will take
16 it up in the posthearing brief. We did attach as
17 exhibit C to our brief the estimates of the in-China
18 demand issued by the China International Copper
19 Association, and what it shows is very large in-China
20 demand and a growing one. So Mr. Weil, if he can
21 comment briefly on Golden Dragon's personal
22 experience, it's very consistent that there is very
23 strong in-China demand and at least in Golden Dragon's
24 case not the capability to satisfy it.

25 MR. WEIL: China has its own stimulus

1 program, and some of it's around the HVAC industry
2 where they're trying to spread HVAC into further parts
3 of the nation. So what is normally low season right
4 now as most of the manufacturers are going flat out,
5 and our production is fully occupied at this point in
6 time. But in my further testimony I'll also caution
7 when you're looking at capacity, because normally it
8 isn't like that, it's you have some seasonal elements
9 of it and you have to gear yourself to have enough
10 capacity during the peak time.

11 And of course with the cost of copper during
12 the off-peak times you don't sit there and build a lot
13 of extra tube because of the expense to have it, plus
14 tube sitting around has a tendency to discolor. So
15 you can look at capacity any number of ways. And also
16 it depends on the type of products you're building.
17 Your capacity if you were building a heavy wall
18 product is much greater than if you're building a 5
19 millimeter product.

20 MR. ROGERS: This is Tom Rogers if I may. A
21 couple days ago there was an article in the Wall
22 Street Journal about shortages of steel coming from
23 China, and part of that is because the Chinese
24 government was imposing energy conservation measures
25 on many sectors. And last night we just received a

1 letter from Golden Dragon indicating they were having
2 to place domestic customers on allocation because of
3 this mandate. We can supply further information on
4 that in the posthearing.

5 COMMISSIONER PEARSON: Okay, well please do
6 so because this whole question of Chinese capacity,
7 excess capacity, is a very relevant issue as we
8 consider threat.

9 MR. ROGERS: Sure. And I think that the
10 Commission actually has a pretty good coverage in
11 their questionnaires because if you look at the total
12 exports that are reported by these exporters that also
13 reporting capacity, it dovetails almost perfectly with
14 the total imports reported by Census.

15 COMMISSIONER PEARSON: Okay.

16 MR. WEIL: Even if we turned 100 percent of
17 our capacity to meet customers' needs right now just
18 to the Chinese market, we would not be able to keep up
19 at this point. And I guess I'd also point out that
20 China and the United States are not the only markets
21 in the world for this product. There are other
22 markets in Asia, Europe, Middle East that are also
23 substantial.

24 COMMISSIONER PEARSON: Okay, well thank you
25 very much for those responses. My time is expired.

1 Thank you, Madam Chairman.

2 COMMISSIONER LANE: Commissioner Aranoff.

3 COMMISSIONER ARANOFF: Thank you, Madam
4 Chairman. For the OEMs who are represented on the
5 panel, for the posthearing can you make sure that we
6 have in the record the approximate percentage of total
7 copper pipe demand in the U.S. that your company
8 accounts for? Or in the event that you're advocating
9 two like products the amount of demand for industrial
10 product that you account for? I'm trying to, you
11 know, assess what portion of the total U.S. market is
12 affected by the concerns that you've expressed over
13 availability of very specifically engineered products.
14 Is that something that you'll be able to help us
15 ascertain?

16 MR. SMITH: Madame Commissioner, we will do
17 that. It is in our questionnaire; we'll make sure
18 it's submitted.

19 COMMISSIONER ARANOFF: Okay.

20 MR. RYAN: This is John Ryan. We could also
21 try to supplement that with the review of the
22 purchaser questionnaires that the Commission has from
23 other OEMs, see if we can glean some additional
24 support on that particular question.

25 COMMISSIONER ARANOFF: Okay, that would be

1 helpful. I think you probably know, Mr. Ryan, where
2 I'm going with this, but, you know, assuming that the
3 Commission were to agree that there are certain
4 products that the U.S. industry is unwilling or unable
5 to supply, you know, if those only account for a small
6 amount of the total demand out there that's different
7 than if they account for a large amount.

8 MR. RYAN: We will attempt to address
9 exactly that with the information available.

10 COMMISSIONER ARANOFF: I appreciate that.

11 MR. PARETZKY: Madam Commissioner, Raymond
12 Paretzky for Goodman. We have, I have access only to
13 the public data but I'll attempt to do that as best I
14 can based on the public record.

15 COMMISSIONER ARANOFF: Okay. I'm suspecting
16 that your client has some idea of how much of the
17 market that they think they account for, so.

18 MR. PARETZKY: For total copper pipe
19 imports?

20 COMMISSIONER ARANOFF: No, for total copper
21 pipe consumption in the United States, or demand in
22 the United States.

23 MR. PARETZKY: Okay.

24 COMMISSIONER ARANOFF: Okay. For the
25 representatives of Mexican producers, I believe that

1 there are OEMs who are producing air conditioning
2 units and the like in Mexico. Who are those OEMs
3 buying their copper tube from?

4 MR. OCHOA: This is Jose Ochoa from IUSA.
5 They have different sources. Basically in Mexico as
6 far as I understand there is no production at this
7 moment for inner-groove tube so everything is imported
8 also from Asia from Golden Dragon. Even there is
9 capacity that has already been installed in Mexico for
10 producing these kind of products. So there is
11 multiple suppliers, local domestic suppliers and
12 international suppliers.

13 COMMISSIONER ARANOFF: Okay, so does your
14 company, Mr. Ochoa, do you supply the OEM market?

15 MR. OCHOA: We supply for what we call the
16 level 1 called heavy wall and light wall, and we are
17 in the process of supplying inner-groove tube also,
18 that's part of, when I made my testimonial, part of
19 that additional, or not additional, that capacity that
20 we have put in place, cast-and-roll process, is
21 basically so we can achieve that very light wall
22 product that is required by the OEM industry for
23 achieving the inner-groove tube production.

24 COMMISSIONER ARANOFF: Okay. What about
25 Nacobre?

1 MR. KELLY: I am responsible for the United
2 States and Canada, but my limited knowledge of how
3 Nacobre works, we do the inner-groove tube and we do
4 sell that into the Mexican market. When I say "we"
5 I'm talking Nacobre Mexico, domestic Mexico. But that
6 is the heavier wall, it's not the same product that
7 Golden Dragon is making with the light wall inner-
8 groove 5 millimeter tube.

9 COMMISSIONER ARANOFF: Okay. Does anyone
10 know the relative size of the OEM market in Mexico
11 versus the U.S.?

12 MR. OCHOA: This is Jorge Ochoa. No, we
13 don't have that number.

14 COMMISSIONER ARANOFF: Okay.

15 MR. WEIL: Just to add that Golden Dragon
16 does produce a small amount of inner-groove tube in
17 Mexico at this point in time.

18 COMMISSIONER ARANOFF: Okay, and are you
19 selling that to OEMs in Mexico?

20 MR. WEIL: Yes we are.

21 COMMISSIONER ARANOFF: Okay. On the issue
22 of Mexico there has been an argument made that, you
23 know, there's been declining imports and we've heard
24 from the two producers who've accounted for I think
25 the large majority of imports that have come in during

1 the period of investigation from Mexico. Assuming
2 that I make it to the issue of threat and that I
3 decumulate Mexico from China for purposes of the
4 threat analysis, if we're looking at the likelihood of
5 future imports from Mexico, you know, I understand the
6 stories that IUSA and Nacobre have made about, you
7 know, how you are running your operations, but we now
8 have this new Golden Dragon facility in Mexico. How
9 do I weigh that when I'm looking at the threat of
10 increased imports in the future?

11 MR. OCHOA: Okay, this is Jorge Jose Ochoa
12 again from IUSA. If you recall my presentation, when
13 I was talking about total production costs of the
14 copper tube, 90 percent of the total cost or more than
15 90 percent it's raw materials. So basically the only
16 argument for producing products, not copper tubes,
17 products in Mexico is labor cost. Labor cost between
18 Mexico and the U.S. it's huge differential, but in the
19 production of these kinds of products it's more
20 technological speaking. It's not labor intensive,
21 it's very little labor costs involved here.

22 So in terms of freight cost there is a lot
23 of differential by producing those products in Mexico
24 versus here in the United States. Those were one of
25 the drivers that took us in our case to ship

1 production into Cambridge-Lee as we have all the
2 capacity here. In the plumbing segment there is an
3 excess capacity in Mexico and here in the United
4 States. And in our case that we have factories and
5 facilities in both countries, there is no driver for
6 making or taking back that decision into Mexico again.

7 COMMISSIONER ARANOFF: Right, no I
8 understand that and I think my question is probably
9 better directed to Mr. Weil or to somebody from Golden
10 Dragon.

11 MR. O'BRIEN: Well let me just start and Mr.
12 Weil will supplement. First, we put the capacity of
13 the Mexican plants on the record in our foreign
14 producers questionnaire. It is modest, there is a
15 facility there but in terms of actual production or
16 actual capacity it is not large. There is no specific
17 or even approximate time frame for making that any
18 larger, right now it is the line is the line. Mr.
19 Weil spoke about the in-China demand, the growing in-
20 China demand, and it may be, it may be at some point
21 as production gets taken off or taken away from U.S.
22 shipments from China, they may be replaced by product
23 from Mexico. But again there's nothing specific that
24 the company has in mind in terms of timing or amounts.

25 COMMISSIONER ARANOFF: Okay, but they

1 invested a lot of money to build a plant to serve the
2 North American market and I assume that the demand in
3 the U.S. is one of the larger pieces of demand in the
4 North American market for this product. So, you know,
5 what was the business justification that justified
6 that, that someday there might not be enough capacity
7 in China, or is it that right now they plan to supply
8 the U.S. market from that plant?

9 MR. WEIL: Certainly the demand was growing,
10 Golden Dragon has added plants in China. So the
11 consideration was if you're going to add another plant
12 that you want to add it closer to the markets that
13 you're servicing. Some of the consideration's
14 certainly the freight, how quickly you can service
15 customers, cost of capital with the amount of metal
16 that you might have on the water when you're cutting
17 that supply chain. But also the North American market
18 but also the South American market, the Brazilian
19 market, which is growing, and there's certain
20 advantages and duties and items like that coming from
21 Mexico into the South American market as well as
22 actually some European markets as opposed to bringing
23 the tube from China.

24 MR. RYAN: We can't speak for Golden
25 Dragon's intentions, this is John Ryan again, but we

1 can put the plant in context, and the overall capacity
2 change in Mexico has been minimal. Nacobre shut down
3 a plant, IUSA's consolidated its production
4 transitioning to a different plant. There's really,
5 the emphasis on a new plant really needs to be put in
6 the context of the whole industry, not just one plant.
7 I mean that's all we'd add with regard to construction
8 of new plants in Mexico.

9 COMMISSIONER ARANOFF: Okay. If Chairman
10 Okun were here I'm sure she would ask Golden Dragon if
11 there is any documents that you could put on the
12 record that would show the company's business planning
13 process that were not prepared in anticipation of this
14 case that would show us the considerations that went
15 into the investment in Mexico, so if there's any
16 business plans that maybe you already submitted them
17 with your questionnaire and if not that you could
18 submit, that would be helpful.

19 MR. O'BRIEN: Certainly we will.

20 COMMISSIONER ARANOFF: Okay. Going to the
21 question of closed plants in Mexico, I know IUSA
22 closed its Vallejo operation --

23 MR. RYAN: Madam Chairman, this is John
24 Ryan. That was Nacobre has the Vallejo that's the
25 Mexico City operation.

1 COMMISSIONER ARANOFF: I'm sorry, Nacobre.
2 Can the representative from Nacobre tell me what
3 happened to the production equipment at that facility
4 and whether that facility is in a condition that it
5 could be reopened with some ease or if the equipment's
6 been sold off or moved?

7 MR. KELLY: This is Steve Kelly. The
8 equipment that we had, what we were able to salvage,
9 some of the older draw benches were moved to our San
10 Luis Obispo facility, our only tube mill. The actual
11 real estate where this equipment was is now a parking
12 lot and it will not be a tube mill ever again, it's a
13 permanent change.

14 COMMISSIONER ARANOFF: Okay, thank you very
15 much. And I see my time is up. Thank you, Madam
16 Chairman.

17 COMMISSIONER LANE: Thank you. Commissioner
18 Williamson?

19 COMMISSIONER WILLIAMSON: Okay. Just,
20 actually Commissioner Aranoff had taken all the
21 questions I had. Although I guess for Golden Dragon I
22 was wondering in light of what you said about the
23 plant in Mexico I was just wondering, the Petitioners
24 quoted your statement that even if we lose at the ITC
25 ruling we will continue to export to the American

1 market and seize the larger market share, and I was
2 wondering if you have an explanation for that; maybe
3 it's been asked already?

4 MR. WEIL: Mr. Li doesn't speak any English,
5 he only speaks Mandarin.

6 COMMISSIONER WILLIAMSON: Okay.

7 MR. WEIL: And the first question that came
8 when I asked about that was, what does "seize" mean?
9 Because even translating they weren't familiar with
10 the word. So I believe the statement was a
11 reassurance to customers that we just weren't going to
12 abandon them in this market, the folks that we were
13 supplying. And certainly it makes for maybe better
14 press to bump it up and put some words in like
15 "seize", but that was not the intention and has not
16 been our intention.

17 COMMISSIONER WILLIAMSON: Okay. Well thank
18 you for that clarification.

19 MR. WEIL: One other clarification, you
20 asked me earlier about cast-and-roll selling in the
21 United States.

22 COMMISSIONER WILLIAMSON: Sure.

23 MR. WEIL: And actually Golden Dragon bought
24 a license for the United States when it entered into
25 the market for several million dollars in order to

1 start selling that product into the United States. So
2 that's why we were able to do it earlier than what
3 some of the Petitioners mentioned, apparently they did
4 not buy a license to produce the IGT for the U.S. at
5 that time.

6 COMMISSIONER WILLIAMSON: Could you tell me
7 now or posthearing when, approximately what date was
8 that, how long ago was that?

9 MR. WEIL: It was at the end of the year of
10 2004.

11 COMMISSIONER WILLIAMSON: Okay.

12 MR. WEIL: Or the beginning of 2005, right
13 in that close area there that that was done, I can
14 check the exact date.

15 COMMISSIONER WILLIAMSON: Okay, okay, thank
16 you. Okay, and I think with that I have no further
17 questions. I want to thank the witnesses for their
18 testimony.

19 COMMISSIONER LANE: Thank you, Commissioner
20 Williamson. I just have one question. And this is
21 for Mr. Rogers. This is a marketing or perhaps an
22 economic question, I'm not sure. If you had two good
23 products, but one had a designer name and one was a
24 no-name brand, if the no-name brand product normally
25 sells for \$25 and the designer brand normally sells

1 for \$50, what would likely happen to the no-name brand
2 sales if the designer brand decided to sell for \$30?

3 MR. ROGERS: Well I guess I first have to
4 start off by saying I would have a different view on
5 that than my teenage daughters would. With such a
6 hypothetical I'm afraid I might have to punt that one
7 to a posthearing, it's, I think that's a very
8 individualized response, I need to think about that
9 one.

10 COMMISSIONER LANE: Okay, thank you. Do any
11 of my colleagues have any more questions?
12 Commissioner Aranoff.

13 COMMISSIONER ARANOFF: When I was speaking
14 with the domestic producers this morning we started to
15 talk about the development of the cast-and-roll
16 technology, and they indicated that it was under
17 patent until some time in 2008 and that there were
18 certain licensees. So for each of the companies that
19 is producing with that cast-and-roll technology, can
20 you tell me whether you started using the technology
21 when it went off patent or whether you had a license
22 to it before that, and if you had a license whether
23 that license placed any restrictions on either the
24 products that you could produce using the technology
25 or the geographic areas in which you could market

1 those products?

2 MR. WEIL: I'll give you my understanding
3 and then may have to go and double check some of the
4 facts. But Golden Dragon obtained a license from
5 Outokumpu for that in the 1990s at some point in time.
6 That was restricted to Asia or China, I'm not exactly
7 sure what the restrictions were for that. So they
8 learned a great deal and --

9 COMMISSIONER ARANOFF: When you say
10 restricted it was restricted to production in Asia or
11 China or sales?

12 MR. WEIL: Production and sales.

13 COMMISSIONER ARANOFF: And sales, okay.

14 MR. WEIL: And when they started marketing
15 the product in North America they procured a license
16 from Outokumpu to be able to sell the product in North
17 America, that was the question before, which was at
18 the end of 2004 or 2005.

19 COMMISSIONER ARANOFF: Did they purchase an
20 exclusive right to sell in North America?

21 MR. WEIL: No. No, actually at the same
22 time that Golden Dragon got the license in Asia
23 Wolverine had worked with Outokumpu and did have an
24 exclusive license for a limited period of time for
25 cast-and-roll technology in the North American market

1 in a facility in Roxboro, North Carolina. That
2 license also required them to invest in further
3 systems. The success of the cast-and-roll technology
4 for Wolverine was not what it was for Golden Dragon.
5 The Roxboro facility was actually closed. That
6 rolling mill was actually moved into the Decatur
7 facility. The casting portion of it was done away
8 with and it was fed with extruded tube, and was only
9 used for heavy wall products.

10 COMMISSIONER ARANOFF: Okay. All right,
11 what about the Mexican producers, can you tell me when
12 you adopted cast-and-roll?

13 MR. OCHOA: Yes, ma'am. This is Jose Ochoa.
14 In the IUSA case we made the ground breaking for our
15 facility back in early 2007 and we went live by late
16 2008 for what we call a trial. And basically the only
17 new equipment that we incorporated in that proceed was
18 inner-groove tube machines. So basically this does
19 not include any extra pound capacity to our overall
20 capacity as I was telling you in the phase-out of the
21 old technology. Basically we only put some inner-
22 groove tube machines additional to what we had, and we
23 were in the process of being certified by some
24 customers when this process arrived, so we put
25 everything on hold.

1 COMMISSIONER ARANOFF: Okay, so were you
2 using the same technology once it went off patent or
3 are you using a different technology --

4 MR. OCHOA: No, it's basically the same
5 thing. It's a cast-and-roll process, it's not from
6 Outokumpu, it's from Danieli & Kalamari, different
7 manufacturers, European manufacturers, Italian. But
8 it's exactly the same principal, it works exactly the
9 same.

10 COMMISSIONER ARANOFF: But you've never had
11 a license from Outokumpu?

12 MR. OCHOA: No, no, no.

13 COMMISSIONER ARANOFF: Okay. Okay, how
14 about Nacobre?

15 MR. KELLY: This is Steve Kelly. Nacobre
16 does not use the cast-and-roll technology.

17 COMMISSIONER ARANOFF: Okay. All right,
18 well for posthearing, and this goes to both sides, if
19 anybody can add more information and sort of a time
20 line of who got this technology when and what sort of
21 restrictions may have been in any of the licenses, I
22 think that would be really helpful to the Commission
23 in understanding the spread of this technology in the
24 marketplace.

25 MR. SMITH: Madam Commissioner, Scott Smith

1 of Johnson Controls. Wanted to further our discussion
2 on Kobe Wieland, they are the one manufacturer
3 Petitioner in the U.S. who seems to be really wanting
4 to market their product, at least for the HVAC
5 industry and the IGT industrial tubing. Would once
6 again state that we have been very actively pursuing
7 Kobe Wieland in requesting them to provide us a
8 product that meets our requirements and have given
9 them many opportunities.

10 They have been to our factories, we've been
11 to their factories, we have sent them samples, and
12 they've even taken those samples and sent them to
13 their laboratories in Germany to quite frankly find a
14 solution that matches the Golden Dragon's solutions.
15 So we are working very diligently. We have to find
16 product in the U.S. that we can employ and put into
17 our product.

18 Our customers and the Buy America
19 requirements that go into buildings like this, our
20 school systems that we sell to, our various different
21 incentive programs that are purchasing our products.
22 So we look forward to sending you our specification
23 that you requested and seeing if you can unravel why
24 the Petitioners claim to have so much capacity and
25 claim to have the ability to tweak their product but

1 unfortunately have failed to even show us the first
2 opportunity for that.

3 COMMISSIONER ARANOFF: All right. I
4 wouldn't want to put words in their mouth but I
5 suspect that you'll hear from them shortly after the
6 Commission votes in this case. Let me see if I have
7 any further questions.

8 I think for now I don't have any further
9 questions, so I do want to thank the panel and
10 apologize to Commissioner Pearson who I apparently cut
11 off because he had a question to ask.

12 COMMISSIONER LANE: It's my fault. You
13 raised your hand first and I just picked on you. So,
14 Commissioner Pearson, I apologize.

15 COMMISSIONER PEARSON: No apology necessary,
16 I actually have no questions, I just wanted to express
17 my appreciation to the afternoon panel and thank you
18 for your perseverance. And of course if I can
19 embarrass my fellow Commissioners a little bit that's
20 an additional plus.

21 COMMISSIONER LANE: Well then both
22 Commissioner Aranoff and I withdraw our apologies.
23 Does staff have any questions of this panel?

24 MR. MCCLURE: Jim McClure, Office of
25 Investigations. Madam Chairman, the staff has no

1 questions.

2 COMMISSIONER LANE: The time remaining for
3 the Petitioners is 5 minutes for direct and 5 minutes
4 for closing. Now do the Petitioners have any
5 questions of this panel?

6 MR. LEVY: Madam Commissioner, I just have
7 one question, and it's directed to Goodman. We heard
8 some rather shocking statements today that U.S.
9 producers were unwilling to engage in negotiation with
10 regard to sale of certain copper tube products. The
11 question for Goodman is, to the extent there have been
12 conversations between Goodman and certain Petitioners
13 will Goodman confirm that such Petitioners are
14 authorized to disclose the details of such contacts to
15 the Commission notwithstanding any confidentiality
16 agreements that may be in place?

17 MR. KNIGHTS: I guess we'd need to think
18 about that and respond after the hearing.

19 COMMISSIONER LANE: Sorry, Mr. Knights, you
20 said that, for the Court Reporter, you said that you
21 would think about it and respond later?

22 MR. KNIGHTS: Correct.

23 MR. LEVY: I think the answer speaks for
24 itself.

25 COMMISSIONER LANE: Okay, now if there are

1 no further questions now the Petitioners have 9
2 minutes left and the Respondents still have 13. So
3 the Petitioners can combine their direct and their, or
4 their rebuttal and their closing if they so desire and
5 we'll take a minute to --

6 MR. RYAN: Madam Chairman, could I ask a
7 point of clarification? Could we divide up the
8 closing time between the Mexicans and the Chinese,
9 what group had what, and could you let us know? I
10 thought we were timed separately, they had 35 and we
11 had 25.

12 COMMISSIONER LANE: The first Petitioners
13 did use 35 minutes, and so if I recall correctly, and
14 so that means that there were 25 minutes left for the
15 second portion.

16 MR. RYAN: I see, so we had 3 minutes left
17 at the end there? If you could just let us know how
18 much we have for closing that would be good.

19 COMMISSIONER LANE: At this point it would
20 seem that the fair thing to do is divide 9 by 2 and
21 you each get 4 and a half minutes. Is there any
22 objection to that?

23 MR. RYAN: We'll talk to Mr. O'Brien and,
24 you know, whoever comes back with the biggest black
25 eye can talk the longest.

1 MR. O'BRIEN: I think that's fine, Madam
2 Chairman, we'll work it out.

3 COMMISSIONER LANE: Okay, thank you. I
4 thought we were talking about the Petitioner's time.

5 MS. ABBOTT: Respondents have 13 minutes
6 total left. Our calculations of what we remember is
7 that the first part of the panel took 35 minutes, so
8 the remaining time was from the second part of the
9 panel, and however you break it up.

10 MR. RYAN: Thank you, that was our
11 understanding as well.

12 COMMISSIONER LANE: Okay, let's take two
13 minutes to rearrange the room.

14 MR. O'BRIEN: Thank you, Madam Chairman.

15 (Pause.)

16 COMMISSIONER LANE: Are the parties ready to
17 proceed? Gentlemen, if we could proceed please.
18 Proceed.

19 MR. LEVY: Thank you very much. Good
20 afternoon again. Jack Levy for Petitioners. I'd like
21 to make a few points in rebuttal and closing and use
22 what's left of my collective time, I believe it's
23 about 9 minutes. I doubt I'll have to use it all.
24 The first point I'll speak to is the like product
25 point. We heard from Johnson Control a number of

1 factual assertions in support of its position that
2 there are two like products.

3 I'm not going to address them all now, we
4 will address them completely in our posthearing
5 submission, but just to respond to a few to show you
6 how unworkable their position really is. They claim
7 that the utilization of scrap as compared with pure
8 copper cathode is a distinguishing factor between
9 plumbing and commercial tube. But what you heard here
10 was testimony from Cerro that they use nothing but
11 cathode for making plumbing and commercial tube, so
12 where's the clear dividing line there?

13 Similarly they said, ah but industrial tube
14 is cleaned and capped so that's a distinguishing
15 factor. But what Johnson Controls neglected to point
16 out is that certain plumbing tubes are cleaned and
17 capped including OXY/MED products and certain ACR
18 products. And so there again where's the clear
19 distinction? On the issue of interchangeability, to
20 be sure there is a notional segmentation between
21 plumbing tube and commercial tube, but if you've ever
22 opened up, done a tear-down of an OEM HVAC unit, you
23 know, sometimes you'll find that the connecting tubes,
24 you know, have ASTM labels on it as if the tube had
25 been bought at Home Depot.

1 So there has to be some modicum of
2 interchangeability from time to time. Again, there's
3 overlap. With regards to channels of distribution,
4 you heard testimony today that commercial tube like
5 level wound coil is sometimes sold to distributors,
6 particularly in situations when it's ultimately going
7 to smaller end users. And as I just described there
8 are situations where plumbing tube may be sold
9 directly to an OEM. So again here there's overlap.

10 In terms of perceptions in the marketplace,
11 I think the Commission is very familiar with this fact
12 pattern. This is one of these industries that from
13 the manufacturer's perspective all they have to do is
14 tweak very minor aspects of their production process
15 to effect changes in specifications. But from the
16 perspective of certain customers these differences are
17 monumental and this product in this point along the
18 continuum is nothing like a product along an adjacent
19 point in the continuum.

20 But from the manufacturer's perspective it's
21 a small detail. Several of you visited Cerro's plant
22 in Cedar City and you saw an inner-grooving machine
23 and the rifled mandrel that the tube gets pulled over
24 to create the internal enhancement. You know,
25 changing that process, tweaking that process to effect

1 a particular internal enhancement is something that
2 U.S. producers have been doing for literally decades,
3 and the notion that they lack the technological
4 capacity to do it is silly.

5 I won't speak to the remainder of the points
6 because I think you see where I'm coming from, but let
7 me address a few more issues. We heard testimony from
8 Mr. O'Brien on behalf of Golden Dragon that he was
9 sort of indifferent on the issue of cumulation
10 because, and he used words, there's no injury here.
11 Well I would remind you and I would ask him to
12 remember Mike Flowers and his testimony.

13 This is an industry with plant closures.
14 This is an industry where plants are losing money.
15 This is an industry where those left standing are
16 extremely vulnerable. So there is unquestionably
17 injury in this industry. It's also interesting we
18 didn't hear much about plumbing tube today. Plumbing
19 tube is nearly half of U.S. demand. And, you know,
20 also listening to Golden Dragon you'd think that all
21 they make is a particular kind of inner-groove tube.

22 We'll make as part of our posthearing
23 submission an excerpt from Golden Dragon's Commerce
24 Department questionnaire response which shows that
25 they have 28 products that they sell, 11 of them are

1 inner-grooved but 4 are straight lengths and 13 are
2 smooth bore level wound coil. So there's a real
3 diversity of products that we see in the marketplace.
4 The point is that when you look at Petitioner's
5 corroborated lost sales and lost revenue allegations
6 they cover circumstances where the U.S. producers have
7 been injured by reason of Chinese imports, by reason
8 of Mexican imports, in the plumbing tube segment, in
9 the commercial tube segment. We see it in all these
10 places and it is corroborated by purchasers.

11 Finally, I think we heard a thesis or a
12 theme here today from Golden Dragon and certain of its
13 purchasers, and they would have you believe that tens
14 of millions of pounds of dumped copper tube is being
15 shipped to Goodman and Johnson Controls and that it
16 cannot be causing injury to U.S. producers because the
17 imports were inner-groove tube made on a particular
18 technology, cast-and-roll, and that the tube shipped
19 to Goodman and JCI could not, that is to say the tube
20 shipped was not competing with U.S. producers. Why?
21 Because U.S. producers were either unable or unwilling
22 to supply.

23 And I want to just make sort of three points
24 in response. First, you heard unequivocal testimony
25 from Bart Arnolt that the cast-and-roll and extrusion

1 technologies as employed by his companies are
2 interchangeable, and that when he is supplying his OEM
3 customers, be it Carrier, Trane, Lennox, Ream,
4 Nordine, there may be others, he can switch between
5 one production platform and the next and be up to
6 spec. so the notion that cast-and-roll is a unique or
7 exceptional production technology is an overstatement
8 to say the least.

9 Second, we heard some very bold accusations
10 about U.S. producers being unwilling to engage in
11 bidding and to work with Goodman or Johnson Controls
12 in connection with possible supply of product
13 including inner-groove product. We're at a bit of a
14 loss here because there are confidentiality agreements
15 in place and so we want to respect our legal
16 commitments to customers. But let me speak at least
17 with some specificity to Johnson Control's allegation.

18 On January 24th Cerro contacted Johnson
19 Controls for a meeting, and in February 2010 in
20 Florida both Bart Arnolt and Phil Pope met with a
21 senior Johnson Controls buyer. They expressed
22 interest in doing business, they gave him business
23 cards, they exchanged numbers. Cerro left multiple
24 voice mails and emails. To date Johnson Controls has
25 never returned its calls. Those are the facts in that

1 case and we can provide you with greater details in
2 relation to other customer accounts to the extent
3 permitted by law.

4 Finally and perhaps most importantly,
5 Respondents are ignoring the fact that, and this
6 particular, by virtue of having access to dumped
7 imports these two HVAC producers, Goodman and Johnson
8 Controls, helped drive down the price level for all
9 products sold to the other five U.S. HVAC OEMs,
10 Carrier, Trane, Lennox, Ream, and Nordine. All seven
11 OEMs have to meet the same SEER standard and have to
12 use the same refrigerants. Each of the seven may use
13 different combinations of smooth bore level wound
14 coil, inner-groove tube made from extruded base,
15 inner-groove tube made from cast-and-roll base --

16 COMMISSIONER LANE: Mr. Levy, could you wrap
17 it up please?

18 MR. LEVY: Sure. The point simply is that
19 since U.S. producers fundamentally compete in the HVAC
20 sector as a whole, the presence of material quantities
21 of copper at dumped prices will tend to depress the
22 prices of all products that are consumed for that
23 application, be it smooth bore, inner-groove from
24 cast-and-roll, inner-groove from extruded base. There
25 is a domino effect throughout the market.

1 And on that note I would simply say in
2 closing that what you heard from our panel on injury,
3 causation, and threat is in now way diminished. And
4 under these facts we think the case for antidumping
5 relief is nothing short of compelling. On behalf of
6 Petitioners and the workers they employ I want to
7 thank you again today for your attention.

8 COMMISSIONER LANE: Thank you, Mr. Levy.
9 Would Respondents please come up please?

10 MR. O'BRIEN: Thank you, Madam Chairman.
11 Kevin O'Brien for the Respondents. And then Mr. Ryan
12 will follow up. Just a few brief points. One is,
13 just comparing the people that appeared at the hearing
14 today, if you want to know what the customers are
15 thinking, what are they considering, what's important
16 to them, and we think you should want to know that,
17 ask the customers. At least that was our approach to
18 this hearing.

19 You heard from our largest customers which
20 are by themselves a significant portion of the
21 imports. They testified directly and at length what
22 they are thinking. And just to contrast it, you heard
23 Kobe Wieland's name mentioned many many times today,
24 but we don't even have a Kobe Wieland witness here
25 that we could pose the questions to directly. The

1 Johnson and Goodman witnesses were extremely
2 persuasive.

3 This whole movement, the IGT small diameter,
4 it didn't come out of nowhere. It's driven by EPA and
5 Department of Energy regulations. They did not just
6 pull these designs out of the air. They had to be
7 more efficient and they looked for more efficient
8 suppliers and they were just, they were simply
9 rebuffed by the domestic industry. And that is the
10 demand that Golden Dragon is filling.

11 Going to the record itself and the
12 Commission's job, you have to consider the price
13 impact or the relative pricing and then its impact on
14 the domestic industry. At best this is a mixed record
15 of underselling or overselling. There is no clear
16 pattern whatsoever. Mr. Levy's answer to that frankly
17 unusual situation is to go to the lost sales
18 allegations. But while we think that's legally
19 improper to try to pull price impact information from
20 the lost sales and revenue, they do not support his
21 case either. So what you have is a lot of
22 allegations, very very little hard evidence.

23 I wanted to make one more point on the
24 Golden Dragon Mexican facility. To the extent it
25 ships to the United States, these are the same

1 products we're talking about, it's the Goodman and
2 Johnson Controls products designed to their
3 specifications. So it is not product that's going to
4 be in competition for the same reasons that you heard
5 today.

6 So for these reasons we submit, and I'll
7 make just one final point, clarification to the extent
8 it wasn't clear, we are not opposing a finding of two
9 like products, we simply are taking no position on
10 that one way or the other. We believe the answer is
11 the same regardless of the Commission's determination.
12 And for those reasons we feel there is no material
13 injury or threat. Thank you very much, Madam
14 Chairman, Commissioners.

15 COMMISSIONER LANE: Thank you.

16 MR. RYAN: John Ryan of Weil Gotshal,
17 appearing on behalf of IUSA and Nacobre. And sorry
18 for not mentioning my name earlier in my many
19 interruptions. I'll try to be brief in my few minutes
20 remaining. I congratulate the Commission on asking
21 many probing and very relevant questions during the
22 entire day and for your long attention. And
23 particularly the Commission was concerned about,
24 rightfully so, about whether decline in production and
25 shipments is due to the decline in demand and whether

1 that decline in demand also explains the 2009
2 reductions in profitability of the industry.

3 The industry remains profitable, but still
4 it's undeniable that decline in demand has had an
5 effect. And in our prehearing brief and we'll again
6 in our posthearing brief explain that the decline in
7 demand fully explains the reduction in volume of
8 shipments and production. So I would have expected
9 the Petitioner to come out strong on a price case. If
10 you can't show a volume effect, let's show some
11 underselling, let's look at the data.

12 Instead they run from the data because it
13 doesn't support their case. There is no underselling,
14 much less significant underselling. I also found it
15 surprising that Petitioner's counsel when looking at
16 the charts about pricing say, well these are strong
17 evidence of the "overlapping presence in the market of
18 imports and the domestic product". I'll look this up,
19 but I'm quite sure, and actually in closing as well
20 we've heard presence of imports is enough to prove
21 their case.

22 I'll look it up but I'm quite sure that the
23 Court of International Trade and Federal Circuit have
24 heard these words before and found that presence of
25 imports is not sufficient to prove causation. A mere

1 presence of imports is not sufficient to prove
2 causation and that Petitioner has to fall back on
3 presence of imports to make their case is very
4 compelling.

5 Lost sales information does not support
6 their case, as Mr. O'Brien already pointed out, and
7 we'll have detail on that. The amount of confirmed
8 lost sales is, it cannot prove injury. So we have to
9 turn to threat. And we think the Commission should
10 get to the threat case because the Petitioner's case
11 on injury is just not there. And when you look at
12 threat we again urge the Commission to look at Mexico
13 separately from China.

14 We think it's critically important not just
15 to these producers but to Mexico as well because
16 Mexico has behaved quite differently than China over
17 the period of investigation. Our imports have been
18 primarily plumbing pipe, as you've already heard, and
19 our imports have declined both in volume and market
20 share for good reasons not having to do with the
21 pendency of these cases.

22 So with regard to threat, what can there be
23 with regard to Mexico? We heard a lot about new
24 plants but there really hasn't been any expansion in
25 capacity. The standard is whether there's significant

1 unused capacity indicating a significant likelihood of
2 increased imports. It's just not there. And all of
3 the other statutory factors it's actually quite to the
4 contrary. If you look at the trends in imports for
5 Mexico, significant declines indicating a likelihood
6 not of increases but of continued low presence of
7 imports.

8 So on both current material, we will
9 actually also be looking carefully at the purchaser
10 questionnaire, we appreciated the purchaser testimony
11 that, the purchasers that did come forward. As I
12 mentioned the purchasers have been reluctant to come
13 forward and testify before the Commission because of
14 the tight availability of supply.

15 And we'll comb through the questionnaires
16 and hopefully get some Petitioners to submit some
17 letters in confidence to the Commission regarding
18 tight supply of commercial pipe in the market. So
19 with that we look forward to answering the
20 Commission's questions in our posthearing brief, and
21 again appreciate your attention and many great
22 questions during the course of the day.

23 COMMISSIONER LANE: Thank you. I want to
24 once again thank all of you for participating in
25 today's investigation. We always appreciate when we

1 have full participation by both Petitioners and
2 Respondents. It helps give us a better picture of
3 what's going on in the industry.

4 Posthearing briefs, statements responsive to
5 questions, and requests of the Commission and
6 corrections to the transcript must be filed by
7 September 30th, 2010. Closing of the record and final
8 release of data to parties, October 20, 2010. Final
9 comments are due October 22nd, 2010. With that, this
10 hearing is adjourned.

11 (Whereupon, at 4:56 p.m., the hearing in the
12 above-entitled matter was adjourned and concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Seamless Refined Copper Pipe and Tube
INVESTIGATION NO.: 731-TA-1174 and 1175 (Final)
HEARING DATE: September 23, 2010
LOCATION: Washington, D.C.
NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: September 23, 2010

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

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

SIGNED: Carlos E. Gamez
Signature of Proofreader

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

SIGNED: Christina Chesley
Signature of Court Reporter