

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:) Investigation Nos.:
WELDED STAINLESS PRESSURE PIPE) 701-TA-548 AND
FROM INDIA) 731-TA-1298 (FINAL)

Pages: 1 – 185
Place: Washington, D.C.
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THE UNITED STATES
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
WELDED STAINLESS STEEL PRESSURE) 701-TA-548 AND
PIPE FROM INDIA) 731-TA-1298 (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Thursday, September 22, 2016

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable Irving A.
Williamson, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman Irving A. Williamson (presiding)

5 Vice Chairman David S. Johanson

6 Commissioner Dean A. Pinkert

7 Commissioner Meredith M. Broadbent

8 Commissioner F. Scott Kieff

9

10

11

12 Staff:

13 Lisa R. Barton, Secretary to the Commission

14 Sharon Bellamy, Records Management Specialist

15 Tyrell Burch, Legal Documents Assistant

16

17 Michael Szustakowski, Investigator

18 Jessica Pugliese, International Trade Analyst

19 Alissa Tafti, Economist

20 Benjamin Allen, Attorney/Advisor

21 Douglas Corkran, Supervisory Investigator

22

23

24

25

1 APPEARANCES:

2 Congressional Appearance:

3 The Honorable Peter J. Visclosky, U.S. Representative, 1st
4 District, Indiana

5

6 Opening Remarks:

7 Petitioners (Roger S.Schagrin, Schagrin Associates)

8 Respondents (Julie C. Mendoza, Morris Manning & Martin LLP)

9

10 In Support of the Imposition of Antidumping and

11 Countervailing Duty Orders:

12 Schagrin Associates

13 Washington, DC

14 on behalf of

15 Bristol Metals LLC

16 Felker Brothers Corporation

17 Marcegaglia USA

18 Outokumpu Stainless Pipe, Inc.

19 United Steelworkers

20 Kyle Pennington, President, Synalloy Metals/Bristol

21 Metals

22 John Tidlow, Executive Vice President, Synalloy

23 Metals/Bristol Metals

24 David Hendrickson, President, Felker Brothers

25 Corporation

1 Kevin Van Zandt, President, Marcegaglia USA

2 Kris Podsiad, Senior Vice President and General
3 Manager, Outokumpu Stainless Pipe

4 Holly Hart, Legislative Director and Assistant to the
5 President, United Steelworkers

6 Roger B. Schagrín, Paul W. Jameson and Christopher T.
7 Cloutier - Of Counsel

8

9 In Opposition to the Imposition of Antidumping and
10 Countervailing Duty Orders:

11 Morris Manning & Martin LLP

12 Washington, DC

13 on behalf of

14 Bhandari Group

15 Prakash Steelage Ltd.

16 Steamline Industries

17 (collectively "Indian Producers")

18 Allied Fitting LP

19 Merit Brass Company

20 Rohit Krishnakumar Sharma, Head Marketing, Steamline
21 Industries Ltd.

22 Chad Robinson, Global Procurement, Warren Ally Valve &
23 Fitting Co., LP and the Allied Group

24 James P. Dougan, Vice President, Economic Consulting
25 Services, LLC

1 Emma Peterson, Staff Economist, Economic Consulting
2 Services, LLC

3 Julie C. Mendoza and R. Will Planert - Of Counsel

4

5 Rebuttal/Closing Remarks:

6 Petitioners (Christopher T. Cloutier, Schagrin Associates)

7 Respondents (R. Will Planert, Morris Manning & Martin LLP)

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1 P R O C E E D I N G S

2 (9:35 a.m.)

3 MS. BARTON: Will the room please come to
4 order?

5 CHAIRMAN WILLIAMSON: Good morning. On
6 behalf of the U.S. International Trade Commission, I welcome
7 you to this hearing on Investigation Nos. 701-TA-548 and
8 731-TA-1298 final involving Welded Stainless Steel Pressure
9 Pipe from India. The purpose of these investigations is to
10 determine whether an industry in the United States is
11 materially injured or threatened with material injury, or
12 the establishment of an industry in the United States is
13 materially retarded by reasons of imports of welded
14 stainless pressure pipe from India.

15 The schedule setting forth the presentation
16 of this hearing, notices of investigation and transcript
17 order forms are available at the public distribution table.
18 All prepared testimony should be given to the Secretary.
19 Please do not place testimony directly on the public
20 distribution table. All witnesses must be sworn in by the
21 Secretary before presenting testimony.

22 I understand that parties are aware of the
23 time allocations. Any questions regarding the time
24 allocations should be directed to the Secretary. Speakers
25 are reminded not to refer in their remarks or answers to

1 questions to business proprietary information. Please speak
2 clearly into the microphone and state your name for the
3 record for the benefit of the court reporter.

4 If you will be submitting documents that
5 contain information you wish classified as business
6 confidential, your request should comply with Commission
7 Rule 201.6. One other preliminary matter, Commissioner
8 Schmidtlein has asked me to tell the parties that she
9 regrets that she cannot be at this hearing today. She had
10 surgery in her right eye on Tuesday and still recovering.
11 She looks forward to reviewing the transcripts and the
12 post-hearing briefs, and I know she very much wanted to be
13 here but we wish her a speedy recovery.

14 Are there any preliminary matters, Madam
15 Secretary?

16 MS. BARTON: No, Mr. Chairman.

17 CHAIRMAN WILLIAMSON: Very well. Would you
18 please call our first Congressional witness?

19 MS. BARTON: Yes, Mr. Chairman. The
20 Honorable Peter J. Visclosky, U.S. Representative, First
21 District, Indiana.

22 CHAIRMAN WILLIAMSON: Welcome Congressman
23 Visclosky, and you may begin when you're ready.

24 STATEMENT OF THE HONORABLE PETER J. VISCLOSKY

25 CONGRESSMAN VISCLOSKY: I appreciate the

1 opportunity again to be before the Commission and as always
2 do appreciate your consideration of the underlying facts and
3 the law in this instance. As you may recall, this is now
4 the fifth time I have testified before you this year. My
5 concern, as I appear today, is how similar the facts of many
6 of these cases have been, and how consistently certain
7 countries continue to violate our trade laws.

8 Of the five cases that I have testified on
9 this year, this is the third involving products from the
10 country of India. On May 24th, it involved cold-rolled
11 steel. On May 26th, it was corrosion-resistant steel.
12 Today, it is welded stainless steel pressure pipe. My sense
13 is countries continue to look for the path of least
14 resistant. But it has an effect. During the past year,
15 more than 4,000 Americans have lost their jobs because of
16 violations of our trade laws.

17 So the case before you I think is a very
18 important one, and certainly would continue to ask for your
19 careful consideration of the facts before you to make sure
20 international trading norms continue to be abided by and as
21 always appreciate the opportunity to be before you.

22 CHAIRMAN WILLIAMSON: Thank you,
23 Congressman. Are there any questions for the Congressman?
24 If not, we want to thank you again. Good to see you.

25 CONGRESSMAN VISCLOSKY: Thank you very

1 much.

2 CHAIRMAN WILLIAMSON: Okay.

3 MS. BARTON: We will have opening remarks
4 from Petitioners. Roger B. Schagrin of Schagrin
5 Associates.

6 CHAIRMAN WILLIAMSON: Okay. Welcome, Mr.
7 Schagrin. You may begin when you're ready.

8 OPENING REMARKS BY ROGER B. SCHAGRIN

9 MR. SCHAGRIN: Good morning Chairman
10 Williamson, Vice Chairman Johanson and members of the
11 Commission. We also would like to wish Commissioner
12 Schmidtlein a speedy recovery and hope she's recovered by
13 the time of our next hearing in a few weeks. For the
14 record, I'm Roger Schagrin and appear on behalf of
15 Petitioners.

16 The domestic industry producing welded
17 stainless steel pressure pipe, WSSPP, has been subject to
18 serial dumping for more than a decade. The two master
19 distributor importers who appeared at the staff conference
20 admitted that they switched from imports of dumped WSSPP
21 from Malaysia, Thailand and Vietnam, to dumped and
22 subsidized imports from India. In fact, imports from India
23 surged from insignificant levels to massive quantities over
24 the POI, much more even than the combined imports from
25 Malaysia, Thailand and Vietnam.

1 Mind you, these were distributors who
2 testified at the preliminary conference, not trading
3 companies. So they could have bought WSSPP from the
4 domestic industry. At the staff conference, they gave two
5 reasons for not buying domestic, which are paraphrased in
6 your public prehearing staff report at pages 4-2 and 3.
7 First, they said the domestic industry couldn't supply the
8 entire size range of WSSPP.

9 But your final staff report at Tables 3-4
10 and 4-4 show that this is not true. The domestic industry
11 produces every size and grade of WSSPP. In fact, two of the
12 U.S. producers each make everything. One distributor
13 mentioned at the staff conference that the domestic industry
14 often sold directly to end users, and therefore went around
15 their distribution company.

16 Really? Look at Table 2-1 of your final
17 staff report. In each period of the POI, 95 percent or more
18 of the domestic industry sales are to distributors, and it
19 really didn't change at all over the POI. Massive excess
20 capacity in India flooded into the U.S. market in 2014 and
21 2015 at prices that undersold both the domestic industry and
22 non-subject imports.

23 Indian market share soared from 4 to 23
24 percent over a two year period. Rarely does this Commission
25 ever see such a massive increase in market share over so

1 short a period of time, and that market share increased
2 whether demand was increasing in 2014 or decreasing in 2015.
3 The domestic industry suffered lost market share and
4 increased losses over the POI. Instead of being able to
5 hire more workers as demand increased in 2014, they were
6 forced to lay off 69 workers over the POI, almost a quarter
7 of the domestic workforce.

8 The majority of U.S. purchaser
9 questionnaires received by the Commission in your final
10 investigation, the majority, 10 out of 19, reported that
11 they switched purchases from U.S. to Indian imports over the
12 POI because of lower Indian prices. While the injury case
13 here is crystal clear, in case you look at threat, it is
14 obvious that the Indian industry has vast unused capacity
15 and then any increases in home market demand will be
16 insufficient to absorb this increased capacity. This is a
17 very vulnerable and weakened domestic industry as well.

18 If the Commission were to make a negative
19 determination here, these distributors who testified at the
20 preliminary conference would certainly buy massive
21 quantities of unfairly traded Indian WSSPP again in a matter
22 of minutes. Don't let them. The domestic industry is more
23 than willing to sell to them. Please make an affirmative
24 final injury determination. Thank you.

25 CHAIRMAN WILLIAMSON: Thank you.

1 MS. BARTON: Opening remarks on behalf of
2 Respondents, Julia M.C. Mendoza, Morris, Manning and Martin
3 LLP.

4 CHAIRMAN WILLIAMSON: Welcome, Mr. Mendoza.
5 You may begin when you're ready.

6 OPENING REMARKS OF JULIA C. MENDOZA

7 MS. MENDOZA: Thank you very much and good
8 morning to all of the Commissioners, including Ms.
9 Schmidtlein of course. My name's Julie Mendoza and I
10 represent Indian respondents as well as Warren Alloy and
11 Merit Brass. We have a very comprehensive staff report in
12 this investigation, which I think reflects the targeted
13 inquiries that the Commission highlighted in the
14 preliminary phase of this investigation.

15 We now have some very important facts about
16 this industry and the market, and the issues that split the
17 Commission in the last investigation on Malaysia, Thailand
18 and Vietnam have been much more fully developed in this
19 record. We know for example that surcharges are pervasive
20 in the WSSPP industry, and that it adds a dimension of
21 transparency to raw material costs, which explains the close
22 correlation between nickel prices and prices for stainless
23 pipe.

24 Despite Mr. Schagrin's valiant attempts to
25 obscure the facts, we also now know that declining nickel

1 prices not only affect pipe prices; they also affect the
2 value of the producers' stocks of raw materials, which
3 became overvalued as nickel prices declined and margins were
4 compressed in 2015 and 2016. During this investigation
5 period, we had a large upswing in nickel prices that began
6 in the third quarter of 2013, followed by a long decline, a
7 sustained decline in nickel surcharges that began in the
8 third quarter of 2014 and continued into 2016.

9 We saw that producer prices responded both
10 to the upswing in nickel prices and the downturn, and what
11 we observed was that even when subject imports were rising
12 in 2014, prices were following up nickel prices, and when
13 nickel prices were falling, U.S. producer prices were
14 falling and they continued to fall even as Indian import
15 volumes were reduced by half in the first quarter of 2016
16 compared to the first quarter of 2015.

17 In other words, no other factor during the
18 period severed the causal link between nickel prices and
19 U.S. producer prices and profits. In fact, we saw in the
20 staff report that U.S. producer prices declined less than
21 the raw material prices over the period on an absolute basis
22 or in percentage terms. This is also a distinction from the
23 prior case.

24 We also know that market share does not
25 correlate with underselling if we examine each major import

1 source as we did in our brief. Clearly, something other
2 than pricing explains why certain import sources have been
3 able to maintain a high market share and oversell. The
4 questionnaire responses also confirm that the majority of
5 purchasers perceive that Indian product is of lower
6 quality, and quality is the most frequently-cited first
7 factor in purchasing decisions.

8 So Indian prices reflect lower quality and
9 lower quality limits their competitiveness. Did Indian
10 producers gain market share and increase their sales to the
11 U.S. market? Yes, they did. But as our witness will
12 testify, U.S. producers were operating at near-full
13 practical capacity in 2014. He will also testify that there
14 are two distinct market segments, the approved market
15 segment and the generic market segment.

16 With the gap created in the generic segment
17 of the market by the departure of Malaysia, Thailand and
18 Vietnam, there was demand for Indian product to fill that
19 gap. The Commission should keep in mind that imports from
20 other major sources also increased market share in 2014.
21 Purchaser questionnaires confirm that imports from Korea and
22 Taiwan are more directly competitive with the U.S. producers
23 than imports from India due to these perceived quality
24 issues, and the fact that Korea and Taiwan do participate on
25 some AMLs.

1 It is much more likely that those imports
2 which purchasers considered more interchangeable with the
3 U.S. product were able to gain market share at the expenses
4 of U.S. producers as opposed to imports. The Commission
5 should be skeptical of U.S. producers' claim that Indian
6 imports are the source of their lost sales or revenue,
7 because U.S. producers admitted they cannot distinguish in
8 terms of their sales between who -- to whom they lost the
9 sale.

10 And simply because India gained market
11 share does not mean that this increase translated into
12 material injury. Given the separate for improved and
13 generic product and the market expansion in 2014, the
14 increase in Indian imports would have had a minor impact on
15 U.S. producer sales, let alone any injurious effect on the
16 industry. Let me just clarify, since I seem to have another
17 second or two, that it's a very significant fact in this
18 case that U.S. producers cannot distinguish who they lost
19 sales to. Thank you very much.

20 CHAIRMAN WILLIAMSON: Thank you. Okay.

21 MS. BARTON: Will the Petitioners please
22 come forward?

23 (Pause.)

24 CHAIRMAN WILLIAMSON: Okay. I want to
25 welcome the panel to this hearing, and Mr. Schagrin, you may

1 begin when you're ready.

2 STATEMENT OF PAUL W. JAMESON

3 MR. JAMESON: Good morning Chairman
4 Williamson and members of the Commission. I am Paul Jameson
5 from Schagrin Associates on behalf of the U.S. industry
6 producing welded stainless steel pressure pipe, or we'll
7 call it WSPP from India. We have a slide show.
8 Unfortunately, there is no power in the projector, so I'd
9 ask you to follow along on the slides that we have in front
10 of you. Thank you very much.

11 So turning to the second slide, the
12 industry that's here before you has unfortunately been
13 before you before. Nothing personal to you, but nobody
14 would want to be here if they didn't have to be, and most
15 recently they are here in the case of WSPP from Malaysia,
16 Thailand and Vietnam, and in that case you determined that
17 the domestic industry was materially injured by reason of
18 imports during the 2011-2013 POI.

19 Since then, things have only gotten worse.
20 The next page please. So let's look at the difference
21 between the first year of the POI and the last year of the
22 POI. In 2013-2015, apparent consumption was nearly the
23 same. However, U.S. producers' shipments were about 3,000
24 tons less in 2015 than they had been in 2013. The sole
25 reason for that is the increase of imports from India.

1 Imports from all other sources declined
2 between 2013 and '15. So the only -- the loss of market
3 share came strictly from the imports from India. As a
4 result of pricing pressure from Indian imports, the domestic
5 industry's losses increased significantly during the POI.

6 Next slide, please. So what happened is
7 that imports from India simply replaced the imports from
8 Malaysia, Thailand and India (sic), I'm sorry Vietnam.
9 Thank you, and the Respondents are arguing that unfairly
10 traded imports from India cannot be injuring the domestic
11 industry because they are simply replacing other unfairly
12 traded imports. That's not grounds for a negative
13 determination. You can't be excused from having negative
14 -- from having injurious imports simply because you're
15 replacing other injurious imports.

16 Next slide, please. So they also blame
17 imports from non-subject sources, and we have Taiwan, which
18 is always in the market, but is a steady presence in the
19 market and at prices that do not tend to cause price
20 depression or suppression. Korea has been much more
21 volatile and lower-priced than Taiwan, but you cannot
22 conclude that imports from Korea caused all of the injury,
23 while imports from India caused none of it. Especially in
24 the last year of the POI, imports from India were at a much
25 higher level than imports from Korea.

1 The next slide. The Respondents' major
2 argument seems to be that the changes in nickel prices is
3 the sole explanation of changes in WSPP prices, and that the
4 effect of imports from India explains none of it. Well, in
5 doing that they argue too much. We have here that their
6 chart -- their table from Table 3 of their prehearing brief,
7 which purports to show that U.S. producer prices increased
8 by more and decreased by less than nickel prices did, and
9 they're kind of mixing up the percentages here.

10 They are basically arguing that the total
11 cost of WSPP, including labor, overhead, SG&A is nickel. So
12 that's the only way those percentages will work. But the
13 A3-12 specification shows that the composition of nickel in
14 a ton of WSPP is at most 13 percent for Grade 304, and about
15 14 percent for Grade 316.

16 So the next slide. The better way to look
17 at it is to look at the prices of raw materials as a whole,
18 and look at the prices as a whole, and this is drawn from
19 our prehearing brief. Basically, you see that between 2013
20 and 2014, the cost of raw materials declined by \$106, but
21 the net price has increased by \$109. But that was during a
22 period when domestic shipments, when apparent consumption
23 increased by more than 29 percent.

24 That should have been a time when the
25 domestic industry had the opportunity to get a back to

1 profitability with that huge increase in demand. But at
2 best they could get back a bit of it, and they could only
3 capture a little bit more of the prices. Then in 2015, the
4 price of nickel, the price of raw materials, the overall
5 cost of raw materials declined by \$223, whereas the price of
6 the finished WSPP fell by \$381.

7 Clearly, there's more going on here than
8 the changes in the price of nickel that affect the prices.
9 It's supply and demand, and that has been the case all
10 along. By the way, the raw material costs shown here are
11 from the cost of goods sold, so that the phenomena from
12 having the sale of lower-priced WSPP made from more
13 expensive coil and inventory is baked into these figures.

14 So the next slide, the last slide. They
15 also -- Respondents also argue that the domestic industry
16 cannot supply the entirety of demand in the U.S., as if that
17 entitles them to a negative determination. But in fact they
18 can -- the domestic industry can well supply all of the
19 shipments, all of the demand that comes from shipments from
20 India. If all the shipments from India went away due to an
21 affirmative determination, the domestic industry would well
22 be able to supply all of it. So thank you very much and now
23 we'll turn to the domestic panel here.

24 MR. SCHAGRIN: Thank you, Paul. Our first
25 industry witness today will be Kyle Pennington, president of

1 Bristol.

2 STATEMENT OF KYLE PENNINGTON

3 MR. PENNINGTON: Good morning Commissioner
4 Williamson, Commissioners and staff. For the record, my
5 name is Kyle Pennington and I am president of Synalloy
6 Metals. Synalloy Metals is the larger of two operating
7 segments of Synalloy Corporation, which was founded in 1945.
8 The other segment is Synalloy Chemicals, a specialty
9 chemical producer. Within Synalloy Metals we have Bristol
10 Metals, which manufactures the subject welded stainless
11 pipe.

12 I am accompanied by Mr. John Tidlow, our
13 executive vice president today. Unfortunately, we have been
14 in this room before. The last time we were here it was
15 because of unfairly traded imports of welded stainless
16 pressure pipe from Malaysia, Thailand and Vietnam, which the
17 Commerce Department found were being dumped.

18 In that case, the Commission determined
19 that our industry had been injured, and we sincerely thank
20 you for making that affirmative determination in those
21 investigations. As a result, the dumped imports from those
22 countries ceased, and we thought we would be able to use our
23 substantial unused capacity to increase our sales in the
24 U.S. market. 2014 was also potentially a good time because
25 the oil and gas industry was gearing up to increase drilling

1 and related activity, and demand for our products increased
2 substantially.

3 Our hopes were dashed, however, when
4 imports from India surged into the U.S. and our markets. In
5 the space of just one year, the unfairly traded imports of
6 welded stainless pressure pipe completely replaced the
7 imports from Malaysia, Thailand and Vietnam. Because of the
8 oil and gas boom our shipments increased somewhat in 2014,
9 but nowhere near the level would we have expected in the
10 absence of unfairly traded imports into the market.

11 The boom in 2014 turned out to be
12 short-lived. The market in 2015 returned to 2013 levels.
13 But it was apparent that imports from India were here to
14 stay, and they were going to try to hold on to as much
15 market share as possible. In such a case, the only way we
16 could fight back was to slash our selling prices, which we
17 did. However, the reduction in our selling prices required
18 to obtain orders greatly exceeded the decline in our raw
19 material cost.

20 As a result, in 2015 we held onto our
21 market but at a cost of huge increases to our net losses.
22 We knew that we could not sustain such losses and once again
23 petitioned you for relief from unfairly traded imports.
24 This time, it was from India. We hope that this time if you
25 make an affirmative determination, we will not be inundated

1 by a new wave of unfairly traded imports.

2 Within a business like ours, decisions have
3 to be made on allocating capital. No capital outside of
4 maintenance and repair work will be allocated to a division
5 that cannot provide a return on investment better than other
6 investment opportunities. Therefore, we have not reinvested
7 in our welded stainless pressure pipe size ranges covered by
8 this investigation, because dumped and subsidized imports
9 mean that we cannot make a return on such investments.

10 These unfairly traded products are
11 destroying the market and jeopardizing the future of our
12 business. You can see that destruction in the financial
13 reports we submitted to you in our questionnaire response.
14 The level of losses Bristol Metals incurred is
15 unsustainable. At some point, Synalloy will have to make a
16 decision regarding keeping Bristol Metals going.

17 Its performance has been a drag on
18 Synalloy's overall financial results. With relief from
19 unfairly traded imports, we'll have the chance to grow and
20 prosper again. Without relief, it does not look good for
21 the future of Bristol Metals. Our employees have suffered
22 as we have lost production volume and market share to
23 imports from India. Bristol Metals has lost more than 50
24 workers over the period of this investigation, and we are
25 likely to lose more in the near future without relief from

1 the Indian imports.

2 Over time, all extras have been cut. In
3 fact, we run all of our small diameter mills. Those mills
4 are two inch in diameter down, one or two shifts per week
5 instead of five or ten shifts per week. With a fixed cost
6 for equipment, we cannot produce competitively priced pipe
7 at a profit at these levels of capacity utilization. We
8 need relief from unfairly traded imports in order to bring
9 our production back up to profitable levels.

10 On behalf of all our valued employees in our
11 Bristol Metals division making welded stainless pipe in
12 Bristol, Tennessee, I kindly ask you for an affirmative
13 determination.

14 Thank you.

15 STATEMENT OF DAVID HENDRICKSON

16 MR. HENDRICKSON: Good morning Chairman
17 Williamson and members of the Commission. For the record,
18 my name is David Hendrickson and I am President of Felker
19 Brothers Corporation.

20 Our company is family owned and was founded in
21 1898 and incorporated in 1903. It has been in the stainless
22 pipe business for approximately 50 years. I have been with
23 the company for more than 20 years and became president in
24 2010.

25 In 1993, Felker built a new manufacturing plant

1 in Glasgow, Kentucky. We did this, in part, to be close to
2 the extremely efficient flat rolled producer, North American
3 Stainless, which has recently begun operations. We have
4 also wanted to be closer to customers in the Southeast and
5 Gulf Coast of the United States where significant quantities
6 of welded stainless pressure pipe are utilized.

7 North American Stainless is about a two and a
8 half hour drive from our Glasgow plant. I think everyone in
9 the stainless industry would agree that this is not only the
10 most efficient stainless flat rolled plant in the United
11 States, but it one of the most efficient in the world.

12 Our Glasgow plant has five continuous mills and
13 one batch mill. Three of the continuous mills produce
14 subject merchandise and one product on the batch mill is
15 subject merchandise. The other two continuous mills produce
16 non-subject stainless mechanical tubing. In 2009, we added
17 one new continuous mill to produce 10- and 12-inch pipe more
18 efficiently and add one additional pipe thickness. We've
19 also added new pickling and water treatment facilities and
20 we just completed in 2012.

21 The plant employs 79 workers in total. About 40
22 percent of them who are engaged in the product you are
23 investigating. I understand from the report that the Indian
24 pipe undersold the domestic market like product throughout
25 most of the period of the investigation. Since somewhere

1 around 70, 75 percent of the cost of stainless pipe is in
2 stainless flat there's no logical explanation for imports
3 from India undercutting our piece in the United States to
4 the extent we've seen.

5 Even though stainless mills are huge, capital
6 intensive pieces of equipment, the overwhelming amount of
7 cost of stainless steel is in the alloy components of the
8 steel -- chrome, nickel, and molybdenum. Stainless steel
9 mills in India, just like mills in the United States or
10 anywhere else in the world should be paying the same price
11 for these raw materials. Each of which is listed on the
12 London Metal Exchange at a very transparent price.

13 Add to this the significant cost of sending the
14 product halfway around the world. Once again, we can't
15 understand how producers in India can undercut our prices by
16 so much when raw materials accounts for the vast majority of
17 our overall cost of the final pipe product and their freight
18 costs are so much higher.

19 We participated in cases against China in 2008,
20 against Malaysia, Thailand, and Vietnam in 2014. Demand was
21 beginning to rebound in 2014 when, unfortunately, trading
22 companies like Sybil and mass distributors, like Warren Ally
23 and Merit Brass switching sourcing to imports from India and
24 within less than two years the Indian imports increased from
25 essentially nothing to commanding 20 percent of the market

1 and we had to come back here again to ask for relief from
2 subsidized and dumped imports.

3 2014 should've been a good year for the
4 industry, but 20,000 tons of this subsidized and dumped pipe
5 from India took the opportunity away from us. You may have
6 read in the transcripts from last year's conference
7 testimony from importers and their counsels that the
8 domestic producers, like my company, do not like to supply
9 mass distributors because we compete from the same
10 downstream customers. You might even have read that at some
11 point in the recent past my company purported declared that
12 no longer supplied stainless steel pipe to Warren Ally.

13 None of these statements are true. To the
14 contrary, we were told by Warren that it would be no longer
15 buying from domestic sources unless there was some sort of
16 problem that the imported goods would not arrive in time
17 because our prices were nowhere close to Indian prices.

18 Unfairly traded pipe from India has had a very
19 negative effect on our performance. We have not laid off
20 any workers yet, but for the reasons that should be evident
21 from our questionnaire response, I do not think that I could
22 justify keeping the Glasgow plant open with the only
23 products we make there are welded stainless pressure piping,
24 including ASTM 8312.

25 The imposition of preliminary duties earlier

1 this year was extremely helpful and allowed us in June of
2 this year to announce our first price increase since the
3 Indian onslaught began in 2014. The new pricing went into
4 effect at the start of August. Based on our own
5 performance, we believe that there is clear evidence that
6 dumped and subsidized imports from India have injured our
7 business.

8 As a family-owned company that has invested in
9 good equipment and has an excellent workforce all we ask is
10 the U.S. Government enforce the trade laws passed by
11 Congress to give our company and its employees a chance to
12 compete fairly. When the competition is fair, I am
13 confident that our company, which has already survived 118
14 years, can continue to reinvest in our plant and our
15 employees. Thank you.

16 STATEMENT OF KRIS PODSIAD

17 MR. PODSIAD: Good morning Chairman Williamson,
18 members of the Commission, and staff. For the record, my
19 name is Kris Podsiad and I'm the Senior Vice President and
20 General Manger of Outokumpu Stainless Pipe located in
21 Wildwood, Florida.

22 We are a division of Outokumpu YJ. Our parent
23 is one of the largest stainless steel producers in the
24 world, based in Finland and publicly traded. In the past
25 several years the company has undertaken one of the largest

1 corporate reorganizations in its history.

2 First, the company acquired the worldwide
3 stainless operations of TK Stainless. That acquisition was
4 effective January 2013 and included a new state-of-the-art
5 integrated facility in Calvert, Alabama.

6 Secondly, the company divested 51 percent of its
7 worldwide pipe operations to an investment firm. Our U.S.
8 operation was not part of that transaction and we remain 100
9 percent a subsidiary of Outokumpu.

10 I started with the company in 2001 and held a
11 number of other positions in the company, including time
12 spent in Scandinavia before being sent to Florida to take
13 over the pipe operations in January 2010 as Senior Vice
14 President and General Manager.

15 Our Florida operations have a number of press
16 brakes and rolls in order to make pipe through 84-inch in
17 outside diameter and with wall thicknesses up to two inches.
18 We've been investing in this business because it is a
19 specialty business with very little foreign competition and
20 with primarily sales to specific end user projects.

21 At our plant we now have nine continuous welding
22 mills that make only subject project. We idled two of those
23 mills making 2-inch in January 2013. At that time we laid
24 off 15 workers. In August of 2015, we laid off an
25 additional 18 employees and reduced work hours to 32 hours a

1 week in response to reduced volumes resulting from the
2 massive surge in Indian imports earlier in the year.

3 The smaller sizes of welded stainless pressure
4 pipe cost much more to produce per ton, but subsidized mills
5 in India charge the same price per ton regardless of size,
6 making our operations uneconomical. We have not been
7 investing in the business for a number of reasons. ASTM
8 8312 is a commodity product and has been subject to intense
9 foreign competition.

10 Contrary to what you're likely to hear later
11 this afternoon, the market for this product is not separated
12 into distinct segments for domestic and imported products.
13 These products are interchangeable and there is no
14 bifurcated market. A product either meets specification or
15 it does not. With only limited exceptions, if a product
16 meets spec an end user does not care where it comes from.

17 Our sales improved briefly after duties were
18 imposed against the imports from Malaysia, Thailand, and
19 Vietnam. Unfortunately, many of our four master
20 distributors and small distributor customers shifted to
21 buying unfairly traded Indian pipe. Again, because ASTM
22 8312 is a commodity product, it's sold on the basis of
23 price.

24 Imports from India surged in 2014 and '15 at
25 prices that were well below our prices. Indian imports

1 basically bought market share on the basis of price. The
2 continued presence of Indian imports in 2015 was
3 particularly harmful because demand had decreased in the
4 energy sector. The domestic industry had to adjust its
5 production and their importers did not.

6 At the staff conference, these parties blamed
7 long lead times for the continued tidal wave of imports that
8 kept arriving as demand was sinking, but from my point of
9 view and that of our laid off workers and those working
10 reduced schedules, the excuses offered by importers and
11 their lawyers are irrelevant.

12 My company, its owners, our team members needed
13 to deal with even more dumped and subsidized imports in a
14 declining market, making the injury that these imports
15 caused even more acute. My company's performance regarding
16 welded stainless steel pressure pipe in 2015 declined
17 considerably and the reason is clear.

18 Without relief from these unfairly traded Indian
19 imports our small diameter welded stainless pressure pipe
20 business will not survive and we undoubtedly have to execute
21 plans to shut down these operations and continue only as
22 customized, large diameter producers.

23 On behalf of our remaining employees in Wildwood
24 and their families, I ask you to enforce the laws and give
25 our employees a chance to keep their jobs. Thank you.

1 STATEMENT OF KEVIN VAN ZANDT

2 MR. VAN ZANDT: Good morning Chairman Williamson
3 and members of the Commission. For the record, my name is
4 Kevin Van Zandt. I'm the President of Marcegaglia USA
5 located in Munhall, Pennsylvania. I've been active in the
6 steel industry for 36 years and rejoined Marcegaglia in 2015
7 after a 15-year absence, having worked for them previously
8 for 11 years.

9 Marcegaglia is the last steel plant operating on
10 the grounds of the former U.S. Steel Homestead Works. There
11 is, in fact, a memorial right next to our building
12 commemorating the famous Homestead strike. The rest of the
13 old U.S. Steel Homestead Works has been demolished and
14 turned into apartment buildings, restaurants, a Costco, and
15 Macy's. This is a landmark for the transition of the
16 American economy for manufacturing to services and the
17 consumption of almost entirely imported products.

18 Our parent company, Marcegaglia Steel of Italy,
19 is the world's largest welded stainless pipe and tube
20 producers. It purchased two United States steel pipe and
21 tube companies in the early 1990s, but outgrew their
22 capacity, so we combined their operations in our present
23 facility that we built in Munhall. They also rationalized
24 some of the two companies' capacity, utilizing the best of
25 those companies welding mills since that time Marcegaglia

1 has invested in upgrading our plant as well as expanding our
2 product range.

3 As the Commission is aware, these have been very
4 difficult few years for our company. First, we battled
5 unfairly traded imports from Malaysia, Thailand, and
6 Vietnam. As soon as we obtained relief from those imports,
7 Indian product began arriving in the United States at
8 unprecedented levels. Our sales and profitability have
9 suffered. Our production workers their hours and wages are
10 all down. We've had to lay off 20 people in 2015.

11 As the staff learned while visiting our
12 facility, in addition to joining with the other U.S.
13 producers to bring this case, we have also refocused on our
14 core competencies, which include pipe in the half to
15 eight-inch sizes. In order to maintain operations, we're
16 doing everything possible to reduce costs that are under our
17 control; however, our single biggest cost, by far, is the
18 flat rolled stainless steel. We cannot control the cost of
19 the steel. Basically, all four of the major U.S. flat
20 rolled stainless steel producers sell at the same price.

21 Since we do not receive government subsidies,
22 our parent company will not continue to keep open a
23 loss-making operation for very long. If we cannot make a
24 profit, then we will shut down. I can tell you without any
25 doubt that the imports of the subject product from India

1 have had a devastating impact in the marketplace.

2 As the other speakers have told you, these
3 products are sold almost entirely into distribution. Even
4 though welded stainless steel pressure pipe is extremely
5 difficult to make, once a product meets the specification it
6 becomes a commodity and is sold on the basis of price. I
7 noticed that the pre-hearing staff report issued two weeks
8 ago indicates that imports from India are considered to be
9 lower priced than U.S. produced price by most purchasers and
10 lower priced than imports for Korea and Taiwan by at least
11 half of the purchasers responding to the questionnaires.
12 That has been our experience as well when trying to compete
13 with the imports from India.

14 In closing, Marcegaglia USA and its 100
15 employees in Munhall need your help in making an affirmative
16 determination against dumped and subsidized imports from
17 India in order to keep our plant open and workers gainfully
18 employed. Thank you.

19 STATEMENT OF HOLLY HART

20 MS. HART: Good morning Chairman Williamson and
21 members of the Commission. For the record, my name is Holly
22 Hart and I'm the Legislative Director and Assistant to the
23 President of the United Steel Paper and Forestry Rubber
24 Manufacturing Energy Allied Industrial and Services Workers
25 International Union; otherwise, known as the Steel Workers

1 or USW.

2 We represent the production workers who make the
3 subject welded stainless steel pressure pipe at Petitioner's
4 Bristol Metals in Bristol, Tennessee, Outokumpu Stainless
5 Pipe in Wildwood, Florida, and Marcegaglia, Inc. located in
6 Munhall, Pennsylvania, which is just miles from our
7 headquarters in Pittsburgh.

8 The record in these cases shows that imports of
9 welded stainless pressure pipe from India increased at an
10 amazing rate from just 3,151 tons in 2013 to 19,821 tons in
11 2014. This prevented our members from benefiting from the
12 imposition of duties on this product against Malaysia,
13 Thailand, and Vietnam. The massive quantities of these
14 dumped imports has already had injurious impact on our union
15 workforce, as you've heard from the testimony of Mr.
16 Podsiad, his company laid off 15 of our union members in
17 2013 and an additional 18 workers in August of 2015. Our
18 remaining workers were reduced to 32-hour work weeks.

19 Fortunately, we've been told that after the
20 preliminary duties were imposed against unfairly traded
21 imports from India that Outokumpu has been able to recall
22 these workers that were laid off in August of 2015 and
23 restore a 40-hour work week. We also just completed a
24 three-year contract with Outokumpu a few days ago.

25 At Bristol Metals, one of the largest employers

1 in the county, we've lost more than 50 jobs in the last
2 three years. This industry is now suffering financial
3 losses that we at the union know is the precursor to
4 companies contemplating exit from the industry. In addition
5 to the direct jobs as well as the hours and thus the wages
6 that have been lost to these unfairly traded imports in the
7 welded stainless pressure pipe industry, the Steel Workers
8 represents the workers at stainless flat rolled facilities
9 at to of the major U.S. producers of stainless flat rolled.
10 These companies are Allegany Technologies and AK Steel.

11 Welded stainless pipe is a major user of
12 stainless flat rolled to manufacture the product; therefore,
13 ever ton of unfairly traded imports is not only affecting
14 domestic pipe production, but is taking away a ton of
15 domestic flat rolled stainless production as well. These
16 cases, in many ways, are a microcosm of the problem that
17 we're seeing with the trade laws in world steel over
18 capacity that the industry and our union members face every
19 day. You've seen me here countless times recently.

20 In 2009, this industry won cases against China.
21 Then the importers switched sources and the industry had to
22 file cases against Malaysia, Thailand, and Vietnam in 2013.
23 And now the importers have switched to India. We hope that
24 this time unfairly traded imports from any source will be
25 stopped so that our members can be brought back on the job

1 and the workers still on the job can stay secure and fully
2 employed.

3 So on behalf of the workers, their families, and
4 their communities, we kindly request that you reach an
5 affirmative decision. Thank you very much.

6 MR. SCHAGRIN: Thank you, Ms. Hart. Well, that
7 completes our direct testimony today. We have no
8 razzle/dazzle, no economists, just industry executives and a
9 representative of the union that represents three of the
10 four members of the industry and all the excellent facts and
11 your excellent staff report. We'll be happy to answer the
12 Commission's questions.

13 CHAIRMAN WILLIAMSON: Thank you, Mr. Schagrin
14 and I want to express appreciation to the members of the
15 industry and the union who are here today and we'll begin
16 the questioning this morning with Vice Chairman Johanson.

17 VICE CHAIRMAN JOHANSON: Thank you, Chairman
18 Williamson. And I would like to thank all of you for
19 appearing here today. And Mr. Van Zandt, I might add that I
20 saw your plant last August. I visited Kerry Furnace, which
21 is part of the Rivers of Steel -- I believe it's called
22 Natural Manufacturing Area or Historic Area. I was about
23 800 feet away. It's a very distinctive, blue building.
24 That's good for marketing because I remember it very well,
25 but I know exactly the area you're talking about where all

1 the shops are now. I actually bought a slurpie or an
2 equivalent in one of those building, so I appreciate the
3 history of steel making in that region of the country.

4 Alright, I'd like to begin by referring to some
5 of the Respondent's arguments, in which they argue that
6 domestic competition has been the source of lost sales and
7 revenue. And they quote SynAlloy, the parent company of
8 Bristol, saying that domestic competition is a potential
9 risk factor, and that can be found at pages 36 and 39 of
10 their brief.

11 Could you all please discuss competitive
12 pressures that the U.S. industry faces for inter-industry
13 competition? And if you'd like to discuss that now that
14 would be great. If you'd rather discuss it in post-hearing,
15 I would understand. Thank you.

16 MR. PENNINGTON: Kyle Pennington with Bristol
17 Metals, for the record. You know I think that statement is
18 in there and I think on a daily basis we probably compete
19 amongst ourselves as well as the imports on situational
20 basis base don what types of order inquiries are out there.

21 I could not quantify that statement specifically
22 and I really have no way of knowing what internal or
23 intra-competition amongst us have we priced against you know
24 day-to-day activity or special orders, but I would say that
25 as a result of the entire depression of the market created

1 by imports we all must price more competitively. So without
2 being able to specify which competitor on any given day,
3 which I cannot do, I can tell you, generally, that's the
4 behavior of the market now.

5 VICE CHAIRMAN JOHANSON: I appreciate your
6 response. And once again, if you all could refer to the
7 pages I cited in the brief of the Petitioner's I would
8 appreciate it and address that in the post-hearing.

9 MR. SCHAGRIN: And Commissioner, we'll also
10 address it further in our post-hearing brief.

11 VICE CHAIRMAN JOHANSON: Okay, I certainly
12 appreciate it.

13 Okay, I'm going to turn now to some of the
14 issues involving perceived quality differences. To what
15 extent are differences in price between domestic product and
16 subject import from India the result of perceived quality
17 differences and is the underselling evidenced on this record
18 explained by discounting that would be expected for product
19 to be perceived of lesser quality?

20 MR. PODSIAD: For the record, Kris Podsiad from
21 Outokumpu Stainless. The first time I ever heard of any
22 perceived quality difference was actually in the briefs
23 submitted by the Respondent, so as far as we're concerned
24 there is no -- it's a commodity product and the only time
25 we're ever compared to them is entirely based on price.

1 MR. SCHARGIN: Chairman Johanson, you know this
2 is not the first time the Commission has dealt with this
3 product and you've dealt with a lot of other steel products
4 as well. Look at the uses of this product. It's used in
5 refineries, petrochemical facilities, chemical facilities,
6 food processing, beverage processing. The first few are
7 really very, very safety oriented. I mean your Houston Chip
8 Channel down in the Houston area this is the product that
9 gets used in all those plants. That's why they're so shiny.
10 You would use something that cost three or four or \$5,000 a
11 ton if you didn't have to. And as you can tell from the
12 staff report, virtually every ton of product, domestic or
13 import, goes through distribution to all these end users --
14 to the chemical companies, to the energy companies, to the
15 refinery companies, to the pharmaceutical companies, food
16 processing, so the engineers in all those companies depend
17 on their intelligence of what do they need in these plants.
18 And we they say we need ASTN 8312, either Grade 304 or 316,
19 that's what they go to distributors and ask for.

20 I'm just stunned. I'm sure you'll ask this
21 question of Warren Alloys today. I mean is this master
22 distributor and their lawyers and their economists really
23 trying to tell this Commission that they're out there
24 selling products that don't meet the specification?

25 As far as I know, that's a violation of all the

1 Federal Trade Commission rules. That is criminally
2 fraudulent to sell someone a product that doesn't meet
3 specification. Everyone depends on this. The liability for
4 a distributor like Warren Alloys if a refinery blows up and
5 they come and say, wow, we bought ASTN 8312 from you and now
6 that we've done the investigation from the federal
7 authorities as to why we had explosion in the plant it
8 turns out the product didn't meet specification. You had a
9 false mill test report? The liabilities are huge. So this
10 is really -- I mean even in the China case no one ever came
11 in and said, you know, ha, we got to sell at lower prices
12 because we don't really sell a product that meets
13 specification. So the extent that any purchaser told you we
14 have quality concerns about India, I would say that that was
15 a response that was coached by someone. I mean really based
16 on the experience of all these executives with hundreds of
17 years of experience in this industry the idea that somebody
18 would come to the International Trade Commission and say
19 we're out there selling a product that's perceived as not
20 meeting an industry specification. I just think it's almost
21 absurd.

22 VICE CHAIRMAN JOHANSON: Thank you, Mr. Schagrin
23 and continuing in that area, the Respondents bring in the
24 possible segmentation of the market caused by quality
25 issues, is there segmentation in the market with a large

1 share of domestic sales going to oil and gas as opposed to
2 other sectors?

3 MR. TIDLOW: Hello, this is John Tidlow from
4 Bristol Metals. Unfortunately since we sell almost all of
5 our products through distribution we don't have a lot of
6 detailed information about what the final segments are.
7 However we don't see segmentation that way from our point of
8 view because it is a standard product. We specify ASTM
9 A312. It meets that requirement. It goes to the
10 distribution and they can sell it to any end use that
11 requires that specification. We see a little bit of one of
12 their comments was about the approved manufacturing list
13 but that's a very small segment of our market.

14 We assume in our market, I think the table here
15 would say 10% is what goes through AMLs. We expect
16 everything that goes through distribution to be able to sell
17 to any segment or any end use.

18 MR. SCHAGRIN: And Vice Chairman Johanson only
19 having dealt with this industry now for about 15 to 20
20 years, my experience has been that maybe 15 or 20 years ago
21 those AMLs approved Manufacturers list, usually Dow Exxon is
22 probably the best known of those, might have been a quarter
23 of demand twenty years ago. Now these gentleman would say
24 that it's probably less than 10 percent and that seems to
25 have happened kind of throughout the energy industry.

1 Everybody wants something at a lower price. They go to
2 distributors and say "this is what we need" and AML has
3 become of less and less importance.

4 The only other thing is that if the industry were
5 so segmented and it wasn't based on price for a commodity
6 product meeting a spec, how do you increase your share of
7 the market from virtually nothing to a quarter of the market
8 if demand is so segmented? I mean, how do you get a quarter
9 of the market? They did it through low prices and I think
10 it just shows and with the Domestic Industry it's public
11 information in your Staff Report. The industry has less
12 than half of the market.

13 If everything was so segmented that "Oh, we only
14 buy Domestic Product" these guys should have a very large
15 market share and be doing very well but obviously, I mean
16 this is a really commodity product that people want. I
17 mean, it's unusual. There's only two major specifications,
18 two grades, a bunch of key sizes and that's it. After that
19 it's price and everything goes through distribution which
20 means it's distributors going after each other for sales to
21 end users saying "I got a lower price than that guy."

22 VICE CHAIRMAN JOHANSON: Alright. Thank you for
23 your responses and I appreciate it. I'm going to get back
24 really quickly to Carrie Furnace just to mention that it's,
25 for those of you who don't know about it, it's an old steel

1 mill which was going to be torn down. Construction began
2 about 100 years ago, it was going to be torn down and a
3 decision was made to leave it so it could be a museum for
4 folks who want to learn about the steel industry.

5 So that's what it is. It's an interesting place.
6 For those of us who love history, it's a good place to go.
7 Thank you for your responses.

8 COMMISSIONER WILLIAMSON: Thank you.
9 Commissioner Pinkert?

10 COMMISSIONER PINKERT: Thank you, and I thank all
11 of you for being here today to help us understand the issues
12 in this case. Without getting into proprietary information,
13 if you can point out to me either during the hearing or in
14 the post-hearing where on this record we can see how the
15 Domestic Industry would be doing in terms of profits and
16 losses in the absence of unfairly traded imports? I think
17 that would be helpful.

18 MR. CLOUTIER: Commissioner Pinkert, I think
19 we'll address that in our post-hearing brief.

20 MR. SCHARGRIN: Much better, that's an industry
21 perspective, much, much better but let us try to do some
22 economic-type work by non-economists in the post-hearing
23 brief.

24 COMMISSIONER PINKERT: I mean is there is a
25 particular time period that you would point to Mr. Schagrin.

1 MR. SCHAGRIN: Yeah, I mean I would say that in
2 particular, if you look at the increase in demand between
3 '13 and '14, I mean we know what was happening in energy.
4 You know, in 2014 oil prices were 100 dollars a barrel,
5 there was just lots of new investment in this country in the
6 energy industry and that's just one of the main drivers of
7 demand here.

8 So I think that as was in some of the
9 testimonies, these industry members thought that with their
10 excess capacity, it's almost hilarious that the Respondents
11 say "well you know they couldn't supply the growing market
12 in '14". This industry was never even close to 50 percent
13 capacity utilization. They've been operating mills like 8
14 or 16 hours of the week that they could operate 140 hours a
15 week and so you know I think they all expected that in '14
16 they could have a great year, they could presumably
17 increase prices, profits, bring on more people, utilize
18 their mills better, you know, reduce their labor costs.

19 One thing I thought we might get into here, I
20 even noticed in the Staff Report, we're so used to saying
21 how many tons per hour are manufactured. We'd even changed
22 it in the Staff Report here it still says tons per hour but
23 they really mean hours per ton because when you visit these
24 stainless mills, stainless is so hard to weld it it moves at
25 a matter of inches per minute. I'm used to seeing carbon in

1 pipe mills moving at hundreds of feet per minute, this moves
2 at inches per minute.

3 So you see that labor component here. It's not
4 just about the prices of nickel. The labor component here
5 is 5 or 6 hundred dollars per ton because you've got to be
6 so careful with the way a product is welded to meet the
7 specification, the way it's annealed to meet the
8 specification. So the amount of labor here, Ms. Hart,
9 really skilled labor is very important. This industry
10 should have really done great when demand was increasing in
11 '14 and you just don't see any evidence of that.

12 COMMISSIONER PINKERT: But that gets exactly at
13 my question. You say the industry should have been
14 performing better. Have we ever seen on this record the
15 industry performing better? For example, with the impact of
16 the Petition, is the Industry performing better in financial
17 terms as a result of the petition?

18 MR. SCHAGRIN: There's some lag on the pricing.
19 I think you heard one of the testimonies that the first
20 price increase occurred in June because also, the
21 distributors can tell you this better than anybody. They
22 brought in so much stuff from India that even after the
23 imports from India slowed after the imposition of duties the
24 amount of inventories here were massive so it's taken months
25 for the Industry's recovery to begin in terms of pricing and

1 that's why you see the bad financial results.

2 You do see improvements in production and in
3 market share in the early part of '16. Now, I get the sense
4 with all the appropriate anti-trust concerns that this
5 industry, in a period of still-weak demand, now that the
6 imports from India are dissipating in inventories that the
7 industry is now beginning to recover. I think nothing's a
8 better example and I think I will turn it over to Mr.
9 Podsiad that they've been able to just in the last month
10 return to work, employees who've been laid off in August of
11 last year. So that's a big step. That's a big sign of
12 improvement. Mr. Podsiad would you like to add anything?

13 MR. PODSIAD: Yes, as Ms. Hart testified the
14 workers that we laid off in 2015 and reduced their work
15 hours we had that continued through January of this year and
16 then we returned them the full hours for the balance of that
17 quarter and then by the middle of the 2nd quarter we were
18 able to recall all of those employees as the preliminary
19 duties allowed us to access more volume.

20 MR. PENNINGTON: Kyle Pennington, Bristol Metals.
21 Commissioner Pinkert, in answer to your question, we could
22 model that. I know we don't have it before us right now but
23 when you think of your question and what would the
24 performance or the financial performer be with that volume
25 on the plants we could certainly do that. When the mills

1 are running, we're absorbing fixed cost or semi-fixed or
2 variable and it would be quite easy to model actually.

3 COMMISSIONER PINKERT: Thank you. Ms. Hart, did
4 you wish to add?

5 MS. HART: Holly Hart from the Steel Workers.
6 No, I just. This is anecdotal but you know the fact that we
7 were able to get a three year contract and do so in a
8 companionable fashion I think reflects the fact that the
9 preliminary duties have had an effect. I would hate to
10 think what those negotiations would have been like were we
11 still suffering reduced work hours and you know the
12 conditions prior to the imposition of the preliminary
13 duties. Thank you.

14 COMMISSIONER PINKERT: Thank you. Now, there was
15 testimony earlier that the Subject Imports have been filling
16 in to some extent for imports that were previously subject
17 to investigation in the 2014 case. From the petitioner's
18 point of view, is this case basically the same case as the
19 2014 case? Is it a better case or is it a worse case?

20 MR. SCHAGRIN: I'd say it's about a hundred times
21 better, more or less, so that you'll vote affirmative in
22 this one versus the last one. But knowing the data in both
23 because the memory has not gone yet, in that case, just
24 given the timing of the filings and I'll take responsibility
25 for that, we had in the final record a situation where the

1 Subject Imports had been declining over the POI. I think
2 that was the basic reason that the three Commissioners voted
3 negative.

4 Here, we have an increase from 3000 tons to
5 20,000 tons over the POI I mean versus a record which
6 Subject Imports were declining. We have a record in which
7 Subject Imports are soaring and I would also say just maybe
8 given the different relevant sizes of the Indian Industry
9 compared to those industries. Malaysia, Thailand and
10 Vietnam as I remember it, they each had basically one or
11 maybe two producers.

12 India has like 25. I mean, the ability of, and
13 these gentlemen testified to it at the preliminary stage,
14 the ability of the witnesses from Warren Alloy and Merit
15 Brass to say "wow we just got on a plane and went to India
16 and we found all these mills with all this product and they
17 could just sell us all this stuff cheap." It was just like
18 Christmas in July for them. You know, that also makes a
19 difference.

20 The Indian Industry, I think Congressman
21 Visclosky testified to this. I mean, we're findings as
22 they're trying to become another China that India is just
23 adding all this capacity and steel product so quickly. So I
24 also think their ability to ratchet up their sales, their
25 ability to keep it coming, the threat case here. All their

1 excess capacity. It really is in my mind a totally
2 different record. We love all our cases. It's just some
3 records jump out at you and you say "Oh, I can sleep at
4 night on this record" and this is one of those.

5 COMMISSIONER PINKERT: Thank you.

6 CHAIRMAN WILLIAMSON: Commissioner Broadbent.

7 COMMISSIONER BROADBENT: I wanted just to follow
8 up on Commissioner Pinkert's questions. If you look at
9 Table 4-2 of the Staff Report I think it's on pages 4, 6,
10 and 7 the U.S. seems to have orders on welded stainless
11 steel pressure pipe from countries selling most of that
12 product in the U.S. Market but when we look at the Domestic
13 Industry's financial conditions for this investigation we
14 don't see improvements in interim 2016 after the petition
15 was filed. When was the last time the Domestic Industry
16 generated profits at the operating income level?

17 MR. SCHAGRIN: We'll go back in the other records
18 as I remember it, because we have had the Sunset Reviews, it
19 was after the China case but before the great recession so I
20 would say probably in the period of about 7, 8 and maybe
21 somewhat even before the China case but Commissioner
22 Broadbent, we'll go back and do the statistical analysis
23 based on the records we have from prior investigations and
24 Sunset Reviews and I would just invite anybody in the
25 Domestic Industry if you'd like to comment now.

1 MR. PENNINGTON: Kyle Pennington, Bristol Mills.
2 Roger couldn't come in because I don't know what their
3 timeline would be. It's been some time back but I would
4 just be a very unofficial time period or date that I would
5 give you on that. However, I don't think that it would be
6 difficult to look at our financials and determine
7 specifically what that is.

8 COMMISSIONER BROADBENT: What were conditions
9 like when you were making a profit?

10 MR. PENNINGTON: Well, I'll go on my recollection
11 and I've been with Bristol, January will be 9 years. The
12 conditions were that the plant was running as many as three
13 shifts. We have 8 continuous mills that run this product
14 and John Tidlow my associate and I were scratching on the
15 back of an envelope yesterday driving up and we counted the
16 personnel who are assigned to that sector by our
17 manufacturing plant now. That's 13 employees versus what
18 used to be 34 employees and there are more than just well
19 mill operators. There are material handlers, straightener
20 operators and so forth but what I could tell you
21 Commissioner is that the plant was vibrant. It was running,
22 it was running efficiently.

23 The downtime was less and we were able to better
24 cover our cost, our fixed costs, our variable costs on
25 utilities, contract services, even labor. Everything. So

1 that's a general recollection without specific financial
2 results in a specific period but again we would be happy to
3 go back and look at those records and provide that data. I
4 don't know if that's a general question but I'm just
5 suggesting that cost was better, activity was better and
6 returns were better.

7 COMMISSIONER BROADBENT: So higher demand and you
8 said raw material costs were lower or?

9 MR. PENNINGTON: Well, there was certainly higher
10 demand. We were obtaining orders on a more consistent basis
11 and even larger orders, larger quantity orders. I could not
12 speak to what raw material was at that time.

13 COMMISSIONER BROADBENT: And then what was the
14 import picture like generally?

15 MR. PENNINGTON: Well, again I will have been
16 here for 9 years coming up on January and I would say that
17 during this period that I'm speaking of when we had more
18 like product on our manufacturing plants, imports were less.
19 We were not competing with them at these high quantities
20 that we've seen over the last couple of years with India.

21 MR. PODSIAD: Kris Podsiad from Outokumpu. If I
22 can just add a couple things to Kyle's comments. What he's
23 talking about, we see the same thing where we're just
24 talking about averaging our fixed costs. Our business is a
25 high-fixed cost business and the up-front capital needs to

1 be averaged over more volume so we've witnessed the same
2 thing as we've dropped our employee count and our volume has
3 dropped, of course we average those costs over a much
4 smaller base.

5 One of the issues over the last six years that
6 I've been in this business is that the waves of imports keep
7 coming. The frequency at which we have to come and see you
8 doesn't really give us enough time to react because of the
9 capital nature of the business. So we can add the people
10 and start to ramp up fairly quickly but to really optimize
11 your business and also get your managers to support further
12 investment to become a significant player in the market is a
13 very difficult sell because they know the product's a
14 commodity and there will be another importer coming
15 potentially so that's one of the challenges. We just have
16 not had any longevity with no unfairly traded product
17 competing against us.

18 COMMISSIONER BROADBENT: And what was the
19 thinking about the delay in filing the case against India
20 versus the earlier case that we looked at?

21 MR. SCHAGRIN: This is Roger Schagrin. I don't
22 think there is any delay in filing the case against India.
23 I think we, but the time we saw how rapidly the imports had
24 increased in 2014 by the middle of 2015 we were filing and I
25 remember very well, you know, Ms. Mendoza coming in at the

1 preliminary conference and saying "this is all just an
2 aberration you know. The only reason there were so many
3 imports is all the boats kind of arrived at once, but you
4 shouldn't make an affirmative prelim because now the
5 imports are disappearing. The market is down so you don't
6 see a lot of imports."

7 I think we were here in maybe September of last
8 year. You don't see hardly any imports in you know, June,
9 July, August and she walked out of the room and next day got
10 the import data and Bam, they went right back up in
11 September, October, November so I don't think it was just a
12 question of you know, temporarily boats not arriving. I
13 think these importers set the stuff so cheap we'll just
14 stock up again before the duties go into effect. I think we
15 acted pretty quickly.

16 COMMISSIONER BROADBENT: Well, tell me what you
17 would expect to restraining I think it was what? Malaysia,
18 Thailand and Vietnam, what did you expect after those unfair
19 imports were restrained under the order?

20 MR. SCHAGRIN: Maybe I'm too patriotic. I would
21 --

22 COMMISSIONER BROADBENT: I doubt that.

23 MR. SCHAGRIN: Yes, okay. We can all differ on
24 our perception of that. I would really expect that
25 distributors. I mean we come up here with a lot of cases in

1 which the importers are trading companies, international
2 trading companies. International trading companies are
3 going to look for the next set of imports. They are not
4 going to buy from Domestic Producers.

5 COMMISSIONER BROADBENT: I mean, why are the
6 domestics not getting those sales? That's what I'm not --

7 MR. SCHAGRIN: That's the question because I
8 mean, here it's master distributors who are the best kind of
9 customer. They buy in large quantities and redistribute to
10 smaller distributors or big end users. I mean, I just don't
11 know why they don't give the Domestic Industry the
12 opportunity to sell to them.

13 This idea that we just have to go from one import
14 source to another and the Domestic Industry out to die. I
15 mean, I just, I think there's something unpatriotic. I know
16 they like to drive Rolls Royces, I know they like to have
17 private jets and live in big homes but I mean why not give
18 domestic workers and Domestic Producers a chance to compete
19 and sell products instead of looking for the next China,
20 India, Malaysia, Thailand, Vietnam?

21 So hopefully times are going to be changing. I
22 hope so. Maybe that's what this election is about.

23 COMMISSIONER BROADBENT: Okay. What do we do if
24 demand of the natural gas and oil market segments doesn't
25 recover substantially? What's the alternative?

1 MR. HENDRICKSON: David Hendrickson, Felker
2 Brothers Corporation. We sell into several different
3 industries like Kyle had talked about earlier. Sometimes we
4 don't know where our distribution is selling into but we got
5 wastewater, water purification, mining, pulp and paper, food
6 processing, several different markets so although the oil
7 and gas is only one segment of it, a large segment of it,
8 these other ones are also very large.

9 The water purification market is going to grow.
10 Water is a problem in the United States. It's a problem
11 around the world and infrastructure for wastewater is well
12 behind in most countries so I can see us taking advantage of
13 that so I'm not as concerned about that industry as it was
14 reported in the briefing. I just don't think if we don't
15 put all our eggs in that one basket.

16 MR. PODSIAD: Commissioner Broadbent. Just to go
17 back on -- oh, sorry. Kris Podsiad from Outokumpu. Going
18 back to your previous question, just to kind of paint the
19 picture, the distribution base that we sell into. We talk a
20 lot about the four masters but it's an extreme, there's a
21 tremendous amount of small regional distributors that also
22 play a significant role and with the traders that David
23 mentioned in his testimony, they give them access to the
24 imported products.

25 Really, because of the lack of consolidation in

1 the distribution segment the reason that they prefer or want
2 to buy or end up buying these imported products is purely
3 competitive advantage because it is a commodity. They're
4 just trying to find the cheapest price in order to beat
5 their competition.

6 COMMISSIONER BROADBENT: Okay my time has expired
7 but we will get back to this later. Thanks.

8 CHAIRMAN WILLIAMSON: Thank you. Commissioner
9 Kieff.

10 COMMISSIONER KIEFF: I join my colleagues in
11 thanking you for coming to both groups and presenting. I
12 just want to I guess follow up on the last two sets of
13 questions to maybe in a pretty just I hope concrete way ask
14 you first do you think that there is a core error in the
15 logic of the dissenting, the joint dissenting opinion in the
16 prior case? If so, I as an author of that I would love to
17 fix my work. So please tell me.

18 MR. SCHAGRIN: This is Roger Schagrin. I'm
19 probably more familiar with both sides of that opinion than
20 the corporate folks. No, we don't see an error the way we
21 presented the case but the wonderful thing about the
22 Commission which we fight to protect your deference at both
23 the CIT and the CFC probably I would say 9 times out of 10
24 is that you can have substantial evidence supporting it
25 generally, either an affirmative or a negative determination

1 and that's within your discretion and generally believe the
2 court should uphold your ability as different Commissioners
3 to find substantial evidence to support your decisions.

4 COMMISSIONER KIEFF: Okay, and again we make
5 mistakes like anybody else. I don't -- it's a feature, not
6 a flaw of our system that in subsequent appearances before
7 us you should feel completely welcomed to point out if you
8 think it's there and you're not stopped from doing so later
9 in your written submissions we will be, at least I will be
10 eager to hear from both sides what you each think is
11 materially different between this investigation and the
12 last one and whether there is any way the thinking I showed
13 in the last one could be improved. Thinking can always be
14 improved.

15 So I took Commissioner Pinkert to have asked part
16 of that question to you. He, in effect, said what's
17 different between this case and the last one and you
18 highlighted a difference and I just invite you and your
19 opponents in the post-hearing to just very specifically
20 address what you think is the same or different and what
21 aspects of the reasoning elaborated in the opinion to which
22 I subscribed whether there are any aspects of that thinking
23 that should be modified or whether I should continue to feel
24 comfortable adhering to it in this matter.

25 I just hope that that can be an efficient way to

1 focus the discussion. I don't want to be either unduly
2 rigid and simply carve out a stamp and say ditto nor do I
3 want to be unduly elaborate and completely re-conceptualize
4 things. I hope that for everybody's sake that efficient
5 tailoring of the argument can at least appear in one of the
6 segments of the post-hearing for both sides.

7 MR. SCHAGRIN: Commissioner, we'll amplify in
8 our post-hearing, but I think probably nobody has made our
9 arguments better in this case than the respondents. They
10 told you at the preliminary conference in sworn testimony
11 that they immediately substituted Indian product for
12 Malaysian, Thai and Vietnamese.

13 I think, if in their minds, as sellers of these
14 products, those are perfect substitutes, then first, they're
15 telling you that, in fact, Indian product is of at least the
16 same quality as Malaysia, Thailand and Vietnam, because they
17 immediately substituted it. I just think the big difference
18 in this record is, when they went to India, they were able
19 to get more product from India, which is why this is so much
20 better record. We have more volume, we have a bigger volume
21 increase, a much bigger market share here than we did in
22 Malaysia, Thailand and Vietnam, and we have more
23 underselling.

24 So essentially these importer master
25 distributors are saying, "Wow, we've done a better job

1 injuring the U.S. industry because we got more product at
2 lower prices," and in a commodity product, more volume at
3 lower prices is going to be more injurious.

4 COMMISSIONER KIEFF: And can you remind me how
5 the margins compare across those different countries?

6 MR. SCHAGRIN: The unfair duties or the import
7 share margins? Because, as I say, Malaysia, Thailand,
8 Vietnam, as I remember it, the market share was in -- I want
9 to say, about the 10 to 12% range -- and here we're talking
10 about the 20 to 24% range at the peaks, so almost --

11 COMMISSIONER KIEFF: Those are the volume
12 margins?

13 MR. SCHAGRIN: Those are the volume.

14 COMMISSIONER KIEFF: But what about the pricing
15 -- what Commerce has determined to be the unfair pricing
16 margins?

17 MR. SCHAGRIN: Well, we will address that in our
18 post-hearing brief, because we're not going to know that
19 until tomorrow. So we'll find out, and often margins change
20 between prelim and final, so as soon as we find that out,
21 which will be before our post-hearing brief, we'll address
22 that in our post-hearing.

23 COMMISSIONER KIEFF: Do you have an intuition
24 whether it's going to be vastly higher or lower for India?

25 MR. SCHAGRIN: My intuition is, it should be

1 higher. Maybe Ms. Mendoza's intuition is different than
2 mine, but we try to stay pretty close. Higher on the
3 dumping side for at least one of the producers and all
4 others, and maybe still negative on one, and maybe somewhat
5 higher on the subsidy side for everyone.

6 COMMISSIONER KIEFF: So should that then be a
7 big factor for us to think through when we do our analysis
8 of this case, is different from those?

9 MR. SCHAGRIN: Probably not. Because we think
10 the impact will be the same, even with the level of margins
11 that we're likely to obtain, we think that is going to be at
12 levels which are going to hopefully make these master
13 distributors, distributors, importers say wow, why don't we
14 give the --

15 I think they're already seeing the marketplace
16 where they're given the domestic guys more of a chance to
17 compete for business and the domestic industry's already
18 pick up volume and has at least, according to one testimony,
19 announced price increases in their base prices for the first
20 time in several years. So the preliminary duties have
21 already had a very beneficial impact, not very much on your
22 record because it goes back to Q1, but they're seeing it
23 every day and we think that would continue after the finals
24 tomorrow.

25 COMMISSIONER KIEFF: Okay, and then Ms. Hart,

1 can you give us -- you briefly mentioned this earlier and
2 you, I think at that time called it anecdotal, which is
3 generous -- but I just want to ask if you can, either now or
4 later, elaborate a little bit more how you think the labor
5 management interactions may have been materially impacted by
6 the prior decision?

7 MS. HART: Holly Hart, Steelworkers. I'll
8 probably have to address that after --

9 COMMISSIONER KIEFF: That's fine.

10 MS. HART: -- to our folks that are there and
11 were actually engaged in that.

12 COMMISSIONER KIEFF: And then that's completely
13 helpful and again, also to the management here, if you have
14 a take on that, that you'd like to provide, either now or in
15 the post-hearing, just to help us best understand if the
16 ways in which the prior decision in your favor has
17 materially helped you.

18 MR. HENDRICKSON: David Hendrickson, Felker
19 Brothers Corporation. I keep hearing the question of, "Are
20 you seeing an impact from the trade cases in a positive
21 manner?" And Roger said that there was a time lag between
22 the announcements and the inventory being dropped down.

23 And I would use the analogy of a bathtub.
24 You've got the bathtub and you've got the faucet wide open.
25 It's just filling up. Then you close the faucet. Well, the

1 water's only going to go off as fast as the drain is open.
2 And the drain is going to be demand. So there is a lag
3 period. But what I've seen a difference between when we did
4 our case against China and then Malaysia, Vietnam, is there
5 is a longer time period before they replaced new material.

6 This time between Malaysia, Vietnam and Thailand
7 going to India, there was very little lag time, which would
8 lead me to suspect that there was a game plan already in
9 place for the next country to utilize imports. And my guess
10 would be there's another one out there right now.

11 COMMISSIONER KIEFF: Thank you. My time is up.

12 CHAIRMAN WILLIAMSON: Thank you. I want to go
13 back to a question that Commissioner Pinkert and
14 Commissioner Broadbent sort of raised about, shall we say,
15 profitability of the industry over the long time. And they
16 talked about, actually when was the last time they had
17 profits. And I was just wondering if you could add in that
18 analysis?

19 The respondents have sort of argued that the
20 losses are really of a structural characteristic and that's
21 because the industry's fortunes are very much tied to the
22 volatility of nickel prices. I mean, we've sort of asked
23 you what was going on in the period when they were making
24 profits, and I raised this question about respondents'
25 arguments regarding the relevance of nickel prices.

1 And then let me add one more question before you
2 ask -- Mr. Podsiad, you mentioned that the industry's a high
3 fixed-cost industry. Generally when we see the high
4 fixed-cost industry they have significantly higher
5 utilization rates, even if they have to cut prices to do so?
6 In this case, we're looking at relatively low utilization
7 rates over a longer period. And so is there something
8 different about this industry from most other high
9 fixed-cost industries? I kind of see these questions as all
10 related, that's why I put them all together.

11 MR. PODSIAD: Kris Podsiad from Outokumpu.
12 That's a good point. The big difference in our business,
13 and I can't speak for the other gentlemen on the panel, but
14 certainly for Wildwood, there's a high barrier to enter
15 because of the fixed-cost. We've entered it years ago, but
16 we haven't upgraded any of our equipment. So the
17 utilization rates, at least the assets are fully
18 depreciated. But we still need the volume in order to
19 average the other costs over the higher volume.

20 CHAIRMAN WILLIAMSON: Okay.

21 MR. SCHAGRIN: And Chairman Williamson, we'll do
22 this also further in the post-hearing. We think of all the
23 steel cases you've had in the past nine months with the same
24 economists and their side, Mr. Dougan, who has come up with
25 a chart in every single steel case so far, showing that, in

1 his opinion, the only thing that influences finish prices
2 are raw material costs, and this Commission has now made
3 unanimous decisions in every case, essentially finding
4 that's not the case or else industries would make the same
5 profits all the time, and they haven't been.

6 And I think we all learned in our base economics
7 that supply-and-demand for a finished product will probably
8 have a greater impact on the price of that product than just
9 the changes in the cost of that product. I would point out,
10 you know, appropriate to Mr. Podsiad's comments, this
11 product is different. Nickel is a very important component
12 in the raw material costs. But here on products that sell
13 between \$3- and \$4,000 a ton, you have \$5- or \$600 of labor
14 costs. It's not like in hot-rolled sheet where on a \$500
15 product, there was \$15 a ton of labor costs.

16 So we have other cost components other than raw
17 materials, which are really important. And you can see that
18 those labor costs can change by upwards of \$100 a ton,
19 depending on what's happening with capacity utilization. So
20 I think apropos to Mr. Podsiad's comments -- if this
21 industry is prevented from operating at higher utilization
22 rates by importers bringing lots of unfairly traded
23 products, they're not gonna be able to get off the map at
24 utilization rates around 50%. I mean they're going to need,
25 like most high fixed-cost industries, to get up into the 70s

1 and 80s to get profitable.

2 And I know the staff visited and next time I
3 hope Vice-Chairman Johanson's in that area, he could visit
4 Marcegaglia. This equipment, the stainless mills and the
5 laser-welding equipment, compared to a carbon pipe mill,
6 it's like night and day. These pieces of equipment are
7 incredible to deal with stainless steel. It really is a
8 different kind of product from carbon steel. I know you
9 have stainless flat-roll cases going on now.

10 It's like a whole different situation. And the
11 costs of making this, the milling equipment, it's expensive
12 equipment and needs to be well-maintained, needs to be
13 re-invested in and needs to operate at higher rates of
14 utilization. And we'll address things further in the
15 post-hearing.

16 CHAIRMAN WILLIAMSON: Okay. Because it does
17 raise the question then, have you ever -- have you had those
18 70% utilization rates? And I don't know whether people want
19 to go back and do the post-hearing, but --

20 MR. PENNINGTON: Kyle Pennington, Bristol Metals
21 again. Again, I couldn't speak to the specific time, but I
22 can certainly communicate from my experience. We have these
23 eight continuous mills that compete in these product lines.
24 And John, perhaps you can know of a timeline that you could
25 pitch here, but we have thirteen personnel on those mills

1 now.

2 Now this doesn't count support personnel such as
3 pickling, lubing, condition the pipe after it's made,
4 shipping it, loading it on a truck and all that stuff. But
5 we had thirty-four personnel just on those mills before. I
6 got to get you a timeline on that, Commissioner Williamson.
7 But we've been there.

8 CHAIRMAN WILLIAMSON: Okay. If there's
9 something you -- post-hearing will be fine out that. But
10 it's just -- talking about raw material costs and this, your
11 -- the chart of per ton prices and raw material costs, Mr.
12 Jameson, I was wondering, is it possible to break out or
13 give us an indication of the -- I mean this raw material
14 cost is a big factor, but nickel's only about 8 to 11%, so
15 there's some other things that are in there, in that raw
16 material cost.

17 Is there some breakout of those products and is
18 it the volume or price of nickel alone that drives this, or
19 do they all -- are the other expensive inputs also a big
20 factor? The reason I'm raising this question is because
21 respondents have tried to link, say it's nickel prices that
22 are --

23 MR. TIDLOW: Hello, this is John Tidlow from
24 Bristol Metals. Our raw materials are made up of a base
25 price, which is set by the steel mills, plus the surcharge,

1 which is a factor that you can look up on Alleghany's
2 website or any of our suppliers' website. During high
3 nickel prices, the nickel component can be 40, 50, 60, 70%
4 of the overall selling price, purchasing price that we have
5 for the raw material.

6 During low nickel prices like we have now, it's
7 a much lower percentage. I don't know the exact percentage
8 off the top of my head, but we can find that for you. It's
9 less than 50% of our raw material costs at this point. So
10 it is not the sole driver for --

11 CHAIRMAN WILLIAMSON: Okay. Are there other
12 metals or raw materials that are big factors here that --

13 MR. TIDLOW: Yes.

14 CHAIRMAN WILLIAMSON: -- and does the pricing
15 pattern of those differ significantly from nickel.

16 MR. TIDLOW: Yes. I'm sorry I spoke over you,
17 sir. There's molybdenum and chrome and there's an iron
18 content. The definition of the surcharge is available on
19 the Alleghany website. I'm sure we can pull that together
20 and provide that as well.

21 CHAIRMAN WILLIAMSON: Okay. So the way that
22 surcharge, the composition of the surcharge would give you
23 some indication of how these prices work?

24 MR. TIDLOW: Yes.

25 CHAIRMAN WILLIAMSON: What do all these

1 components play?

2 MR. SCHAGRIN: And Chairman Williamson, this is
3 Roger Schagrin. You can also see from the Table that staff
4 has put together at Table 5-2 at Page 5-3, that you know,
5 while there's generally similar movements in the raw
6 material components, you have periods in which nickel is
7 flat, but moly is going way up.

8 And you do have generally, my understanding is
9 different mines that, where molybdenum will be mined in one
10 area of the world, and nickel in another area, and you could
11 have mine issues someplace and that would influence the cost
12 of molybdenum and not influence the cost of nickel and
13 ferrochrome seems to be much steadier, which is the other
14 raw material, chrome. So I think you can see that there's
15 some generally similar movements, but within just your own
16 POI, there's periods of six or nine months where these raw
17 materials are moving in different directions.

18 CHAIRMAN WILLIAMSON: Okay. Thank you for those
19 answers. Vice-Chairman Johanson?

20 VICE CHAIRMAN JOHANSON: Thank you, Chairman
21 Williamson. I'd like to turn to Page 220 of the staff
22 report. The last sentence of that page states, "One
23 purchaser reported that U.S. producers, Bristol Metals and
24 Marcegaglia have been dropped for quality reasons since
25 January 1, 2013, noting that both mills delivered material

1 with defective welds."

2 I was wondering if y'all could address those
3 issues of quality concerns involving U.S. product?

4 MR. PENNINGTON: Kyle Pennington, Bristol
5 Metals. Commissioner Johanson, I can think of one case
6 currently whereby we have been disapproved on one customer
7 list, and that was because of a quality issue in a weld, a
8 weld defect. We are still evaluating that and working with
9 that customer and even end-users. But it's an isolated case
10 and that is the only situation that I can recall right now
11 at the moment whereby we've been dropped as an approved
12 supplier. I know that customer. Is that enough information
13 for your question?

14 VICE CHAIRMAN JOHANSON: Yes, it is. But has
15 that hurt your sales? I know you mentioned with one
16 customer, but overall --

17 MR. PENNINGTON: Yeah, I don't think -- you
18 know, we have these longstanding relationships and
19 partnerships with our customers and we've been very
20 proactive, ensuring that we provided active communications
21 with the marketplace. We've had inquiries from the
22 marketplace and I think if you take the context of this
23 quality issue at hand, and even there's some debate as to
24 whether or not it is really a quality issue or not.

25 It's, I guess, some subjective gray matter, but

1 I think that all of our customers understand that and have
2 been very supportive, and I would tell you that anytime
3 something has any negative twist to it, you know, in the
4 public, we wouldn't think that we've had overwhelming
5 positive response from that in a way, but materially I think
6 that has hurt us very, very little, if any at all.

7 VICE CHAIRMAN JOHANSON: Thank you for your
8 response, Mr. Pennington.

9 MR. VAN ZANDT: The Marcegaglia product that we
10 produce goes through various testing processes. We test the
11 product to make the standards. Since I've been with the
12 company for the last eighteen months, our quality, no
13 quality issues. We've produced pipe, 100% in the market,
14 without quality defects. I mean that's what is expected by
15 the customers. That's what must be shipped to the
16 distributors, we haven't had any issues and customers are
17 very pleased with the product that we're shipping.

18 VICE CHAIRMAN JOHANSON: All right. Thank you
19 for your responses. I appreciate it. How do you all
20 respond to the respondents' contention that the domestic
21 industry's current operating margins are consistent with
22 historical norms for the industry? And this can be found at
23 Page 42 of the respondent brief.

24 MR. SCHAGRIN: This is Roger Schagrin. Again,
25 we'll do this further, I think that, you know, saying that,

1 gee, that you've lost money during the three years of
2 massive imports from India, just like you did historically
3 during three years of massive imports from Malaysia,
4 Thailand and Vietnam in last case by the same importers.

5 I don't look at that as a great defense in an
6 injury case, saying look, we got you down on the mat. You
7 know, we got our boot heel right on your throat, and we're
8 going to keep you down and as long as we keep you down, the
9 Commission shouldn't find injury. Because we're going to go
10 back and, I think, demonstrate to you that before the big
11 influx of imports from China and after that relief and I
12 think as Mr. Hendrickson testified to, because he's been
13 with Felker for over twenty years, that this industry did
14 benefit from the relief from China.

15 Those imports were not replaced immediately with
16 imports from other sources. So we think we will be able to
17 show the Commission that historically this has not been an
18 industry that always loses massive amounts of money, that
19 there have been time periods when this industry was
20 profitable, and those time periods generally coincided with
21 time periods in which there was less import market share and
22 the U.S. industry was operating at higher capacity
23 utilization rates. And we'll do that in the post-hearing.

24 VICE CHAIRMAN JOHANSON: All right. Thank you,
25 Mr. Schagrin. I look forward to seeing that. One of the

1 arguments of the respondents that particularly caught my
2 attention can be found at Page 43 of their brief. The
3 respondents contend that the domestic industry's financial
4 performance has varied inversely with the volumes of imports
5 and bubbles of underselling over the period of
6 investigation. Could you all please address that argument?

7 MR. SCHAGRIN: I think, once again, and I know
8 they've got an economist, but it's like, you know, if you
9 just look at import volumes and how the domestic industry is
10 doing, and you forget that there's something in the
11 marketplace called demand, it's really easy to jump to
12 conclusions that don't make a lot of sense, and so I think
13 that's the problem with their argument. I mean to say that
14 the industry did somewhat better in '14 than it did in '13,
15 in spite of the big increase in imports from India, is to
16 make believe that there wasn't an over 20% increase in
17 demand in 2014.

18 And to say, gee, you know, and then the import
19 volumes, not their market share, started to subside in 2015,
20 but the industry did worse, it's like, yeah, but the energy
21 business collapsed. As the energy, I forgot to be able to
22 tell if Commissioner Broadbent, energy will come back. My
23 pension advisers told me that. It's a cyclical industry.
24 It will come back, and hopefully these folks will be around
25 to supply it. But I think that's the problem with their

1 analysis, Vice-Chairman Johanson. It's only looking at
2 import trends and domestic industry performance and it
3 doesn't take changes in demand into account.

4 VICE CHAIRMAN JOHANSON: Thank you. Respondents
5 write quite extensively on the whole issue of surcharges.
6 Could you all please explain the role of surcharges in the
7 U.S. market for welded stainless steel pressure pipe?

8 MR. HENDRICKSON: In our particular industry, a
9 surcharge mechanism has evolved since I came in, I think in
10 the mid-90s, and it has evolved in different formats,
11 becoming more and more a part of the fixture. And what we
12 found in our industry, it's better just to give a net price.

13 So as far as the surcharge, we don't separate
14 the line-off for surcharges. It's part of the cost, but as
15 we talked about earlier, so are a lot of other things. Base
16 price is in there, there's labor and there's overhead in
17 there. All that is in here. So we get a net price and the
18 effect of the surcharge is in there, but it isn't as
19 significant as I read.

20 The other thing is, there's really not any
21 correlation between the surcharge and the market price.
22 Now, we've seen where the surcharges have gone up and yet,
23 the market price did not. And we've seen different levels
24 of material pricing, yet the foreign price was always
25 domestic price minus a certain percentage, whether it was

1 going up or was going down.

2 So there was no correlation between the two. Do
3 we look at them? Yes. We absolutely do. It's like any
4 part of your cost component. You always are working on
5 different avenues of it. But to say that it has a -- the
6 only effect on the pricing in the market, I would not agree
7 with that.

8 MR. VAN ZANDT: I'd like to make a comment.
9 The elements that are composed of the surcharges, they're
10 traded on the world market. The London Metal Exchange sets
11 the price for nickel. Everywhere in the world has to pay
12 the same price or the prices are set worldwide, and so it's
13 a common price that everyone knows what the prices are for
14 nickel, for chrome, molybdenum and it's published, and again
15 it's a worldwide market.

16 MR. SCHAGRIN: On last comment. We'll get
17 into this more in post-hearing brief. When Ms. Mendoza says
18 in her opening that the staff report has now made clear that
19 everyone in the U.S. industry uses surcharges, these four
20 people are the U.S. industry. I don't think they use
21 surcharges. They don't have surcharges in their pipe
22 prices. I don't know what her misreading of the staff
23 report was.

24 Generally, they give a set price to their
25 customers. It's not a price plus any change in surcharge

1 from the time the order's placed until it's done. So unlike
2 their suppliers, who do use a formal surcharge mechanism,
3 they are generally selling at a -- as I think Mr. Henderson
4 claimed, a net price, not a price plus surcharge.

5 VICE CHAIRMAN JOHANSON: You can expound on
6 that, if you keep it rather brief please.

7 MR. TIDLOW: Yes. This is John Tidlow from
8 Bristol Metals. Ten years ago, we used to charge our
9 customers price plus surcharge. We still continue to get a
10 vendor price on a raw material price as a raw material plus
11 surcharge. Right now, a vast majority, almost all of our
12 sales are at a firm price. We do not have a price plus
13 surcharge in any of our contracts.

14 VICE CHAIRMAN JOHANSON: All right. Thank
15 you for your response, Mr. Tidlow. My time is expired.

16 CHAIRMAN WILLIAMSON: Thank you.
17 Commissioner Pinkert.

18 COMMISSIONER PINKERT: Thank you. In
19 response to an earlier round of questioning from the Vice
20 Chairman, you talked about your views on these arguments
21 about segmented markets or a segmented market in the United
22 States, and I'm not reiterating that question. But to take
23 it in a slightly different direction, Respondents argue that
24 declining demand in the U.S. oil and gas sector has had more
25 of an impact on domestic producers than on subject

1 producers.

2 So this is more of a comparative kind of
3 question, rather than an absolute segmentation kind of an
4 issue. How do you respond to that argument? Do you agree
5 with them?

6 MR. SCHAGRIN: This is Roger Schagrin. In
7 a general sense, because probably the only segment of the
8 market that has approved manufacturers list is in the energy
9 side of the market, the general statement is not untrue.
10 The relevance is very, very little, and that is because if
11 of all the demand drivers for WSSPP energy is 25 percent and
12 everything else is 75 percent, so then the fact that a
13 quarter of the energy market may be AML and it might be zero
14 in the other 75 percent of the market, means that there's
15 very little relevance to the fact that as energy goes down,
16 if that's the only slice, if that's the only ten percent of
17 the entire market that is reserved for --

18 And by the way, it's not just reserved for
19 the domestic industry. So my understanding, we had
20 discussions about AMLs, is that producers from India are not
21 on the AMLs. Not every U.S. producer is on the AMLs. But
22 in addition to several U.S. producers being on the AMLs,
23 there are also producers from Taiwan, Korea, Japan that are
24 on AMLs. So just because the Indian producer is not on AMLs
25 doesn't mean that AML means it can only be domestic.

1 There are both domestic and foreign
2 companies in the Dow Exxon list for ASTM A312 products. So
3 it doesn't just affect the domestic industry. I know it's
4 kind of a long-winded answer, but it's like I'm thinking in
5 my mind of pie charts, and I'm trying to explain how yeah,
6 if you know, a certain portion of one quarter of the pie
7 chart has -- is governed by AMLs, and that's the portion
8 where the pie is shrinking, it will have somewhat greater
9 impact.

10 If this were a really close cases
11 Commissioner Pinkert, and imports took five percent of the
12 market, subject imports and then we were arguing about where
13 were they impacting the domestic industry, because we were
14 arguing well, they may only be five percent but they impact
15 100 percent of selling prices, it might have more relevance.
16 But these guys gobbled almost a quarter of the U.S. market
17 like that.

18 So their argument seems to be we may have
19 gobbled up a quarter of the U.S. market, but man, we really
20 can't even access the U.S. market. It's reserved for the
21 domestic industry. Somehow, I can't get my hands around
22 that argument given the data on this record.

23 COMMISSIONER PINKERT: Thank you. I want
24 to follow up on another question that Commissioner Johanson
25 asked, and that had to do with the underselling, and whether

1 or not it was an effect of differences in perceived product
2 quality. Without putting words in your mouth Mr. Schagrin,
3 I think what I heard was well, it's all subject to the same
4 certification, so how could there be differences in
5 perceived product quality.

6 I just want to inquire as to whether there
7 could be differences in perceived product quality within the
8 category of certified product, whether it's ASTM or some
9 other certification?

10 MR. PENNINGTON: Kyle Pennington, Bristol
11 Metals. You know, my response to that would be that there
12 would not be a perceived difference, and I don't know how
13 there could be, because it's an apples to apples commodity
14 product. Just to comment in a statement I would like to
15 make to the Commission is that, you know, I think Kris and
16 Dave, Kevin, we all get out and visit customers, you know,
17 try to. We run other things, so we're not out there like
18 the sales teams every day.

19 But not, it wasn't until I read this report
20 have I ever had a conversation with a customer, and I'm
21 talking about long tenured relationships with customers,
22 where we do have good partnerships and we work to win-win
23 situations to try to understand the market, their needs,
24 supply, time lines and all that. And the only, the only
25 influence that I've ever discussed with a customer relative

1 to pricing product for them has been against price.

2 So Commissioner Pinkert, I cannot say that
3 I think quality is a valid argument here on these like to
4 like products, sir.

5 COMMISSIONER PINKERT: Okay. Let's go --

6 MR. PENNINGTON: From my experience.

7 COMMISSIONER PINKERT: Thank you. Let's go
8 from underselling to overselling. Can somebody explain to
9 me the market share or the -- let's just say the amount of
10 non-subject merchandise that is being oversold in the U.S.
11 market, that is imports but not subject to this
12 investigation? How is that possible?

13 MR. SCHAGRIN: Commissioner Pinkert,
14 probably better for me to answer this and we'll do more in
15 the post-hearing. I think it's really more perception. The
16 way that the data is gathered is that when you have any
17 foreign seller that may also have their own distribution to
18 the U.S., the way the data is reported to you then from a
19 distributor or master distributor of sales to customers is
20 going to be different than let's say the way that U.S.
21 industry might report, not might, would report their selling
22 prices to that same entity.

23 And without getting anywhere close to
24 anything confidential, why don't we explain that further in
25 the post-hearing brief with the real information about how

1 it's probably explained at prices being reported at
2 essentially different levels of trade? So let us do that in
3 the post-hearing brief, using the actual confidential
4 information. I think it will be clearer.

5 COMMISSIONER PINKERT: Thank you very much.
6 I have no further questions.

7 CHAIRMAN WILLIAMSON: Great, thank you.
8 Commissioner Broadbent.

9 COMMISSIONER BROADBENT: I've got to ask
10 this one. Let's see. Mr. Podsiad, what's the derivation of
11 the name of your company out of?

12 MR. PODSIAD: I'm sorry.

13 COMMISSIONER BROADBENT: What is -- where
14 did you get the name of your company? Is that an Indian
15 name or something?

16 MR. PODSIAD: No. It's actually a Finnish
17 company and it's a Finnish word. It means odd-looking hill
18 I've been told in Finnish, although my Finnish isn't very
19 good.

20 COMMISSIONER BROADBENT: Odd-looking hill.

21 MR. PODSIAD: It used to be a copper
22 deposit, and that's where it came from.

23 COMMISSIONER BROADBENT: Okay, good. My
24 last name is Broadbent, so I can't make any fun of that.
25 Let's see. I hate to fixate on this, but our staff went

1 back and did some research and they said the domestic
2 industry was probably last profitable in 2007. It just
3 makes me very uncomfortable that you guys can't tell me when
4 you were last profitable.

5 MR. HENDRICKSON: David Hendrickson from
6 Felker Brothers Corporation. You're asking for a specific
7 group of product, and we have a wide range. Like I said in
8 my testimony, I have two other mills that makes up
9 non-subject material, plus I have another mill that makes
10 several non-subject, plus I do fabrication, plus I do
11 fittings.

12 So I look at it as a product line in
13 different avenues. To take a particular piece out, I mean
14 it does take some work to do these cases. I mean our
15 accounting people cringe when I walk into the office and ask
16 them to pull this information out, because that's not the
17 way our P&Ls are set up, you know. That's not the way our
18 balance sheets look.

19 So it's a very difficult process for me,
20 and we're not going to sit there and just lose money either.
21 We're going to try to do whatever we can with the other
22 products we have to stay afloat. But I need this particular
23 product line to get the volume to be able to buy the steel
24 prices at the numbers we can buy them at. So I guess that's
25 -- my answer to that is it's a difficult process to pick out

1 a few little things and say this particular one is not
2 doing, is not doing as well as the other ones.

3 I mean you can see it. We try to look at
4 more value-added at times, and but we still have to rely on
5 this kind of the building block to the rest of our products.

6 COMMISSIONER BROADBENT: Okay. Let's see.
7 This is following up on some of my colleagues' questions.
8 Page 226 of the staff report provides a table comparing
9 subject imports from India to the domestic like product.

10 In many areas, these products are
11 considered comparable by purchasers, but in certain key
12 areas they are not, as we've discussed. For example, on any
13 point related to price the Indian product is generally
14 considered superior and on any point concerning
15 availability, delivery time or purchaser perceptions of
16 quality, the U.S. producer is considered superior.

17 Either here or probably in your
18 post-hearing brief, because I know we've talked about it
19 here, can just address this table and the various factors --
20 the factors that are listed in this table, that you consider
21 to be important in understanding the substitutability
22 between these products?

23 MR. SCHAGRIN: We'll do that in the
24 post-hearing.

25 COMMISSIONER BROADBENT: Great, thank you.

1 Just big picture, why are subject imports from India more
2 injurious than non-subject imports from Korea and Taiwan?

3 MR. SCHAGRIN: Just in general it's because
4 they are sold in larger volumes and at lower prices.

5 COMMISSIONER BROADBENT: Okay. Excuse me.
6 Employment data on Table 3-8 of the staff report shows fewer
7 workers in January to March 2016 compared to January to
8 March 2015. Yet Table 3-5 shows an increase in production
9 volume in that time period. Similarly, in 2014 domestic
10 producers were able to produce more WSSPP compared to 2013
11 with fewer workers.

12 If production-related worker data are
13 indicia of injury as Petitioners claim on page 26 of their
14 brief, please distinguish decreasing employment due to
15 unfairly traded imports compared to losses in employment due
16 to productivity gains?

17 MR. SCHAGRIN: We'll address that in the
18 post-hearing brief. But we also noticed that data and we
19 discussed that with the members of the industry, and one of
20 the reasons that we were told that employment data seemed to
21 be a lagging indicator of injury, i.e. at the time that
22 volumes were first declining and market share was being
23 lost, why weren't employment losses occurring at that time?

24 It was basically that employment in this
25 industry is pretty sticky, i.e., that given the amount of

1 training that these workers have, the companies are very
2 reticent to just say well, we're not as busy right now.
3 We'll just get rid of these people immediately. They're
4 hoping to keep them on, reduce their work weeks, hoping
5 things will recover rather than having to lay them off.

6 It's not until they see over a longer
7 period of time that we're just not be able to keep them that
8 they lay them off, because it's not -- there's a lot that
9 goes into training these workers and they don't want to just
10 immediately jettison them at the first sign of reduced
11 volumes. That's why it seems that the labor data lags the
12 production data somewhat.

13 COMMISSIONER BROADBENT: Thank you for that
14 answer. Chairman, I have no more questions at this time,
15 thanks.

16 CHAIRMAN WILLIAMSON: Thank you.
17 Commissioner Kieff.

18 COMMISSIONER KIEFF: I too have no more
19 questions for the panel, and thank you very much for coming
20 as well as for your post-hearing submissions, which I look
21 forward to reading. Thank you.

22 CHAIRMAN WILLIAMSON: Okay, thank you.
23 Commissioner Broadbent asked a couple of my questions
24 already, but I was wondering -- and I was particularly
25 curious about the changes in productivity, because we did

1 see sharp changes from year to year, and she's already kind
2 of asked that question. But I'll be curious to see if Ms.
3 Hart has any comments on that, because this has dealt very
4 much with, you know, the role of the workers.

5 MS. HART: Again, yeah. Holly Hart from
6 the Steelworkers. Again, I would have to have conversations
7 with the local union staff presidents there, so I could
8 answer the question in greater detail. I, as I said, just
9 have anecdotal evidence.

10 CHAIRMAN WILLIAMSON: That would be
11 interesting, because we saw a number of cases, particularly
12 right after the recession of '08-'09 where I would have said
13 changes in employment were one of the leading indicia of
14 injury. In this case, as Mr. Schagrin said, that there's a
15 lag there, that there's more a lag than a leading indicator.
16 So shedding some more light on that would be interesting.

17 MS. HART: Be happy to address it in a
18 post-hearing brief, so we can do it accurately.

19 CHAIRMAN WILLIAMSON: Okay. Mr.
20 Hendrickson.

21 MR. HENDRICKSON: David Hendrickson, Felker
22 Brothers Corporation. As I said in my testimony, we haven't
23 laid anybody off, okay. There's two reasons why that is.
24 We've been around 118 years and our ownership is fourth
25 generation. Our best asset is our employees. Put a lot of

1 time and effort in training them, and we look for a living
2 wage, a good health package and a retirement package to
3 allow them to live their life out, and we have very little
4 turnover. So that's a philosophy that's been driven through
5 the company for over 100 years.

6 The second thing on the operations side of
7 it, you constantly have people coming in and training on
8 these machines. I mean this is highly technical work. I
9 mean they're like good electricians or very good plumbers.
10 You can't, you can't take them and lay them off for a while
11 and bring them back, because if you have a good worker,
12 anybody that's worth his salt, he's going to go someplace
13 where it doesn't happen.

14 So the short term advantage of laying them
15 off is nowhere compared to the loss if you can't bring that
16 person back. As far as productivity goes, a lot of times
17 what happens, and this is just human nature, is when people
18 see business start to slow down, they slow down. I mean you
19 see it all the time, you know, and we go on. We've been
20 very proactive and lean, and so our productivity hasn't
21 bounced around as much as it has before that, because they
22 got -- they bought into the idea that we need to be
23 efficient and effective in all points of the market.

24 But there are still times when, I mean
25 human nature is that when they see orders slowing down and

1 they talk in the lunch room. Hey, you know, we've got no
2 orders this week to book, they have a tendency to slow down.
3 You'll see it in the numbers.

4 CHAIRMAN WILLIAMSON: Okay, thank you.

5 MR. PODSIAD: Kris Podsiad from Outokumpu.
6 I mean one issue you have when you lay off people, we tend
7 to be a little slow. We probably should always do it a
8 little quicker than we do for the reasons that David and
9 Roger outlined. But the other thing we tend to be slow to
10 call them back, for the same reason, because we are
11 disrupting families. So we want to make sure we have some
12 sustainable orders going forward.

13 One thing we were able to do in 2015, we
14 work very closely with our union and we eliminated a lot of
15 the non-value added jobs, which did show a short term spike
16 in our productivity, because we were eliminating, you know.
17 The garbage picking role was consolidated with someone else.
18 So we were able to do some things which we had to do with
19 the lower volumes and the lower work hours.

20 CHAIRMAN WILLIAMSON: Okay.

21 MR. PENNINGTON: Kyle Pennington, Bristol
22 Metals. I want to revert back to Commissioner Broadbent's
23 statement relative to profitability and yours as well as sir
24 on personnel just to clarify something. I think that's a
25 good point. You would be, may be astonished that we

1 wouldn't know the last time we were profitable. A very fair
2 question, and I think that if you went back and researched
3 and the data said 2007, in this particular product line,
4 that's probably the right era.

5 Now that doesn't suggest that we haven't
6 been profitable. We were profitable last year, but inside
7 Bristol Metals, similar to Dave, we do produce other
8 products, high nickel alloy and duplex products, large DO,
9 heavier wall products. Those products helped carry, you
10 know, the losses that we incur by one, either the pricing
11 that we have to do to get the subject material on the mills
12 or not even produce this product and leave those mills
13 idle.

14 So now I'll tie that also into your
15 question, Commissioner Williamson, about personnel.
16 Sometimes our employee numbers don't necessarily match up
17 with the low activity on the subject production mills in
18 this product line because we may have some project work
19 going on and therefore we, you know, have employment to meet
20 the needs of that product in demand, not the subject
21 material in this investigation.

22 CHAIRMAN WILLIAMSON: Okay, thank you.
23 Does anyone offhand know anything about say the workers in
24 India? I mean is this a high skilled industry for them or
25 -- I imagine costs are lower but --

1 MR. SCHAGRIN: They're very nice people. I
2 don't know them personally, but no. To be honest, India has
3 an extremely high education level, you know. There's so
4 much outsourcing there. We've seen in all these steel cases
5 that India has lots of new facilities. The days when I
6 first started doing this, India was more or less a state-run
7 economy.

8 So the biggest -- there was almost a single
9 monopolist in India, the state authority or the Steel
10 Authority of India Limited, and now India's opened up their
11 economy. It's expanding rapidly. I think it's been growing
12 faster than China in the last several years.

13 Very highly educated workforce and to be
14 honest, I don't think they could produce a product as
15 exacting as ASTM A312 without excellent equipment and
16 excellent workers. This is a -- when it's finished, it's a
17 commodity product. To make the product is very difficult.
18 This is really -- of the steel products the Commission sees,
19 this is a very demanding product and its applications are
20 very demanding.

21 CHAIRMAN WILLIAMSON: Okay. Thank you for
22 that. Someone else have something else? Mr. Pennington,
23 yes.

24 MR. PENNINGTON: Kyle Pennington with
25 Bristol Mills. I was going to make a comment to hitchhike

1 on top of Mr. Hendrickson and Podsiad. It takes months to
2 train an employee on some of this equipment, if not a year
3 or longer. It's a very tedious and long process.

4 CHAIRMAN WILLIAMSON: Okay, thank you.
5 Thank you for all of those answers. I have a lot of
6 questions on AMLs. I think the one I was -- the thing that
7 might not have been addressed is how difficult is it to
8 quality, or to get on an AML list? How long does it take?

9 MR. TIDLOW: Hello, this is John Tidlow
10 from Bristol Metals. We have a couple of people who are
11 assigned to make sure that they follow through with all AML
12 requests. We have a package of materials and quality specs
13 and documents that we provide. To get onto an AML for our
14 company is a process that takes a week, two weeks, sometimes
15 a month if they want to approve your product or this project
16 that's ongoing. It is not a long time. It's not a six
17 month process. It's weeks or days.

18 CHAIRMAN WILLIAMSON: Okay. So in a sense,
19 the Indians could, if they wanted to invest in that,
20 probably get on there?

21 MR. TIDLOW: Yes. This is John Tidlow
22 again. Yes, Mr. Williamson. It's obvious that some of the
23 foreign companies that we compete with have taken the time
24 to do that. We see the AMLs with German producers and
25 Korean producers and Chinese producers. So the AMLs are not

1 restricted to the country of origin.

2 CHAIRMAN WILLIAMSON: Okay, thank you.
3 According to Table 3-3 of the staff report, during 2013 to
4 2014, there is this shift in production from out of scope
5 pipe to subject pipe. Is it a simple coincidence that
6 subject pipe increased during this period while out of scope
7 pipe decreased by a comparable amount? If U.S. producers
8 had only the -- had the available capacity to produce all
9 products, why didn't it? I don't know if that's something
10 you can address now or post-hearing.

11 MR. SCHAGRIN: Commissioner, I'm going to
12 do that in the post-hearing. I think that the data on the
13 out of scope is confidential in that table. I would just
14 make one general comment, because I'm pretty familiar with
15 this industry's operations. I think a larger share of out
16 of scope WSSPP, which essentially are larger diameters,
17 which are made on these press breaks, goes towards the
18 energy industry versus the subject sizes. I think that's
19 what explains.

20 But there wouldn't be much shifting in
21 terms of the same mills, because there's only very tiny
22 overlap between -- and I know this is the same equipment, so
23 let's look at that. I know that the totals are there, and
24 but some of the subsegments are confidential. But I think
25 it's largely related to the focus of the out of scope

1 products being much more focused on the energy industry and
2 not used as widely as the in-scope products in other
3 industries. We'll do it further in the post-hearing.

4 CHAIRMAN WILLIAMSON: Okay, thank you for
5 that, and Vice Chairman Johanson.

6 VICE CHAIRMAN JOHANSON: I have just one
7 more question. Is there any part of the market to which
8 domestic producers do not sell or are unwilling to sell? Is
9 there any part of the market in which purchasers are
10 required to turn to foreign sources of supply?

11 MR. PENNINGTON: Kyle Pennington, Bristol
12 Metals. Not that I'm aware.

13 MR. PODSIAD: Kris Podsiad, Outokumpu.
14 None that I know of as well.

15 MR. HENDRICKSON: Dave Hendrickson, Felker
16 Brothers Corporation. No, I'm not aware of anything like
17 that myself either.

18 VICE CHAIRMAN JOHANSON: All right. Well,
19 thank you for your responses. I appreciated hearing from
20 you all today. That concludes my questions.

21 CHAIRMAN WILLIAMSON: Does any other
22 Commissioner have any additional questions?

23 (No response.)

24 CHAIRMAN WILLIAMSON: If not, does staff
25 have any questions for this panel?

1 MR. CORKRAN: Douglas Corkran, Office of
2 Investigations. Thank you Mr. Chairman. Staff has no
3 additional questions.

4 CHAIRMAN WILLIAMSON: Okay. Do Respondents
5 have any questions for this panel?

6 MS. MENDOZA: No, we do not.

7 CHAIRMAN WILLIAMSON: Okay, fine. Well, I
8 want to thank the panel for their testimony, and I would
9 propose that we break for lunch now and reconvene at one
10 o'clock.

11 MR. SCHAGRIN: And thank you Chairman
12 Williamson and other members of the Commission, and just to
13 put on the record in case Commissioner Schmidtlein has any
14 questions for us, obviously we'd be happy to receive those
15 in writing. We could address them in our post-hearing
16 brief.

17 CHAIRMAN WILLIAMSON: Good, okay. Thank
18 you for that. Okay, thank you. So I'll see you all at one
19 o'clock.

20 (Whereupon, a luncheon recess was taken.)

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AFTERNOON SESSION

MS. BELLAMY: Will the room please come to order.

CHAIRMAN WILLIAMSON: Good afternoon, Ms. Mendoza. You can start when you're ready.

MS. MENDOZA: Thank you very much. We'd like to start with the testimony of our witnesses -- Julie Mendoza, for the record. Chad Robinson, to my left, who is with Warren Alloy and to my right is Mr. Sharma, who is from Steamline and is one of the producers in India, Will Planet, from our office, that you know, and Jim Dougan and Emma, from Economic Consulting Services, and we'll start with our witness testimony.

STATEMENT OF CHAD ROBINSON

MR. ROBINSON: Mr. Chairman and members of the Commission, good afternoon. My name is Chad Robinson. I'm the head of Global Procurement for Warren Alloy and the Allied Group. Warren Alloy is a master distributor of stainless steel and alloy pipe, butt well fittings, forged fittings, flanges, and valves. We serve distributors of stainless pipes for various end use markets.

As a master distributor, we stock a complete line of stainless pipe in a wide variety of sizes as well as fittings, flanges, and valves. We design our inventory so that valves, fittings, and flanges match up to the pipe we

1 sell. When our customers buy from us, they normally are
2 buying a package deal of pipe, flanges, valves, and fitting,
3 so we provide a one-stop, just-in-time shopping for our
4 customers of all the stainless products they may need for a
5 particular project.

6 This is a service that is not available from the
7 domestic pipe and tube manufacturers or from most
8 distributors, so this helps us to set ourselves apart and
9 make us more competitive. Our customers tell us that this
10 is a very important component of why they buy from us.

11 I would like to talk to you today about the U.S.
12 market for welded stainless steel pressure pipe or WSSPP.
13 Imports have been a consistent presence in the U.S. market
14 for many years. The reason for this is that the domestic
15 industry cannot supply the entire U.S. market for stainless
16 steel pipe and due to this fact there have always been
17 market segments in which imports dominate. This is a
18 long-term characteristic of the U.S. market. In fact, the
19 absolute volume of imports has not really varied very much
20 over the last 10 years.

21 There are two distinct market segments for WSSPP
22 in the United States. The first is for approved product,
23 meaning product produced by manufacturers who are on
24 approved manufacturers' lists or AML of major U.S. end
25 users. Approved WSSPP serve market segments such as oil and

1 gas and other end use segments where health and safety are
2 of utmost concern. End users use AML as a way of
3 establishing their due diligence by purchasing only from
4 established suppliers who have a proven record of quality
5 and the ability to deliver merchandise on time and as
6 required.

7 The other major sector is what we refer to as
8 the generic sector, which serves end users such as the
9 plumbing and commercial markets that do not operate based on
10 AMLs. This distinction between the approved and generic
11 market segments is not limited to just WSSPP, but also exist
12 for other stainless products in which we deal, including
13 pipe fittings, flanges, and large diameter stainless pipe
14 that is outside the scope of this investigation.

15 Domestic producers sell approved product and the
16 major U.S. producers are on the AMLs of all the major end
17 users. Other suppliers of approved product include
18 producers in Europe. Indian producers are not on any AMLs
19 and thus serve strictly the generic market.

20 As a master distributor Warren Alloy
21 participates in both market segments, but for our WSSPP
22 offerings in the approved sector have always consisted of
23 either domestic product or more recently product imported
24 from Europe. We also have some experience with WSSPP from
25 Korea, which I would characterize as semi-approved, that is,

1 Korean producers in particular, are on some AMLs, but they
2 are less widely accepted than domestic producers or
3 producers in Europe. Ta Chen is also on some AMLs and can
4 be considered semi-approved.

5 Because imports from India are serving strictly
6 the generic sector of the market, there is little or no
7 direct competition between the imports from India and
8 domestically-produced WSSPP. As a master distributor, we
9 understand which markets will take which products. We buy
10 from imports sources other than India and we've bought from
11 Thailand and Malaysia before the orders on those countries
12 went into effect. We see very limited competition between
13 U.S. produced-product and these imports. In my experience,
14 our competition for sales into the generic sector of our
15 market primarily comes from Ta Chen and from Korean
16 suppliers. The domestic industry, understandably, focuses
17 its effort on the approved market.

18 I read in the public staff report, and I heard
19 again this morning that the domestic industry has operated
20 at low capacity utilization and is claiming that they
21 would've produced and sold a lot more WSSPP in 2014 if not
22 for imports from India.

23 Based on my experience in this market, that is
24 not correct. First, it is the nature of pipe and tube
25 business that all producers compute their capacity on a

1 theoretical basis. As a result, producers always report
2 relatively low capacity utilization. The domestic producers
3 have reported low capacity utilization for years. The same
4 is true of producers in India, by the way, but in 2014 when
5 demand surged the WSSPP producers were operating flat out.
6 They had a very high backlog of orders and lead times were
7 drawn out. In my opinion, 2014 represented what is pretty
8 much the practical maximum production of the domestic
9 producers, regardless of what their theoretical utilization
10 may have been.

11 Second, over the past six years, Bristol and
12 Outokumpu have not expanded or upgraded their facilities for
13 small diameter pipe and I'm not aware of any upgrades by
14 Marcegaglia. Given the validity of nickel prices even
15 before the tremendous swings of the last few years, it is
16 difficult for producers to plan major increases in their
17 capacity utilization. The market simply changes too quickly
18 to allow for building up the needed raw materials
19 inventories for capacity utilization increase.

20 Third, the focus of the major domestic producers
21 has been and remains on the production of large diameter
22 stainless pipe that is outside of the scope of this
23 investigation. They have chosen to focus their investments
24 and their competitive efforts on the large diameter segment
25 of the welded stainless steel pipe market, over 14 inches,

1 which is associated with large projects for many years.
2 Many of these large diameter products are produced on
3 different equipment and in many cases feature specialized
4 welds. This market segment has been very strong for the
5 last few years due to the boom of the oil and gas sector and
6 increased capital expenditure projects.

7 While 2014 was a very good year for the WSSPP
8 market, 2015 and 2016 have not been. I can tell you as a
9 resident of Houston, Texas that the near collapse of the oil
10 and gas demand has had a tremendous affect on our economy.
11 Although, as I explain, Indian WSSPP does not sell into the
12 oil or gas sector or other segments using approved product.
13 The crash in the oil and gas demand has rebounded throughout
14 the WSSPP market. When drilling activity increases, this
15 leads to additional spending on related infrastructures,
16 such as hotels, retail stores, et cetera, all of which
17 consume generic WSSPP.

18 In late 2014 and through 2015 and '16, drilling
19 all but stopped and demand was greater, not only for
20 approved product, but also for generic as well. All
21 suppliers of WSSPP have also been hit very hard by the
22 falling nickel prices. I've never seen such a constant
23 decline over such an extended period. We got pretty beat up
24 by that because our Indian suppliers were not very good
25 about getting us the material we ordered on time and in

1 full, so we were sitting there watching our ordered
2 inventory devalue even before it reached us. There's
3 nothing worse than sustained nickel declines eroding
4 inventory values while WSSPP pricing is falling.

5 We depend on nickel prices going up and down to
6 leverage our inventory, but nickel prices dropped 20
7 straight months between the end of 2014 and through the
8 second quarter of 2016. Of course, the industry has made
9 itself more susceptible to commodity price fluctuations by
10 having an important part of that price depend on nickel
11 surcharges that are completely transparent to customers.

12 2015 was the worst year for this industry in
13 terms of profitability and sales for us as a master
14 distributor in many, many years. The confluence of a large,
15 sustained decline in nickel prices and a collapse in demand
16 in the largest end use sector has been very difficult for
17 us, so I'm not surprised that U.S. producers had a very bad
18 year too. I would be very surprised if domestic producers
19 were making any money for the first part of this year. We
20 are not in the same dynamics that have been at work in
21 2016. Falling nickel prices and falling prices for WSSPP,
22 but Indian imports are not the cause of the domestic
23 industry problems and imposing penalty duties on these
24 imports will not help the domestic producers. Things will
25 get better when the oil and gas market recovers and nickel

1 prices increase. The dramatic decline in imports from India
2 this year has had no affect on the market. Prices certainly
3 haven't recovered at all.

4 It may be surprising after hearing this
5 morning's testimony, but quality is very important in this
6 industry and in my experience if a producer is perceived as
7 having quality that is below the purchaser's acceptable
8 level that issue is not going to be overcome by a price
9 negotiation. While WSSPP is expensive, it is a relatively
10 small share of the total project costs in most
11 applications, so differences in price are outweighed by
12 quality and reliability. In other words, it is only if the
13 purchaser perceives that the quality is at an acceptable
14 level that you can then negotiate a price which reflects the
15 lower, but acceptable quality.

16 In the WSSPP industry quality means more than
17 simply meeting the applicable specification. WSSPP is also
18 differentiated by factors such as the weld bead, the type of
19 packing provided and cosmetic factors. These
20 characteristics are important to many customers and there is
21 no question the Indian WSSPP lags behind the domestic
22 producers with regard to those factors.

23 Until 2014, imports from India were not a
24 significant presence in the U.S. market; however, the orders
25 on Malaysia, Thailand, and Vietnam that went into effect in

1 2013 significantly reduced the supply of imports to the U.S.
2 market. With demand increasing in 2014, demand for imports
3 was also strong. Import volumes increased in 2014, not only
4 from India, but also from Korea and Taiwan. The first half
5 of that year was particularly strong. We put the brakes on
6 all purchases around the third quarter of 2014 when the
7 market started to soften and nickel prices continued to
8 fall.

9 As a master distributor, we have purchased from
10 domestic producers in the past, particularly, for 10-inch
11 and larger pipe, which we sold in the approved segment. The
12 fact is the U.S. producers do not accept our role as a
13 master distributor and prefer to sell directly to our
14 customers; however, in 2013 and '14 the domestic producers
15 increasingly were stocking the same items we carried in our
16 inventory and offering to sell them to our customers at the
17 same prices they quoted to us. In other words, they viewed
18 as competitors and tried to cut us out of the distribution
19 chain. This lead to our reducing our purchases from the
20 domestic industry, then in 2015, after years of doing
21 business together, Felker Brothers notified us that they
22 would no longer sell to us.

23 Given the approach of the U.S. producers, we
24 found there was no way to distinguish ourselves with the
25 customers if we both handled the same producer's products.

1 As a result, we shifted our sourcing for our approved
2 business to a European supplier. For the generic business,
3 we have never sourced those products from domestic
4 producers. We were purchasing from Thailand and Malaysia
5 in 2013, but after the duties were imposed those sources
6 were no longer available.

7 We had previously done business in India with
8 some of our other product lines, so when we lost our source
9 of generic product and demand took off in 2014 we developed
10 new suppliers in India. We also purchase from other import
11 sources. India, as a source of supply, is more challenging
12 than other import sources, mostly because it is new to the
13 U.S. market and it is perceived to be of lower quality. As
14 I mentioned, while India pipe meets all the applicable
15 specifications, the fact is that the market still has the
16 perception that Indian imports lag behind in overall
17 quality.

18 I can also say that Indian production schedules
19 and supply can be erratic and that has caused us some issues
20 with our customers. We had to increase inventories to deal
21 with it, but the fact is that we have not been able to
22 completely protect our customers from disruptions. During
23 the period of investigation, the time from order to delivery
24 has been nine to ten months with some deliveries delayed
25 even longer. The majority of the shipments in 2015 were

1 orders placed in the first half of '14 or even '13. We
2 began reducing our orders in the last quarter of 2014 and
3 continued that trend throughout 2015.

4 Indian suppliers do not offer the same breadth
5 of products in terms of special alloys and custom wall
6 thicknesses that the U.S. producers offered. While the
7 volume is not large, the domestic producers have high
8 margins on these specially alloy segments. That business is
9 100 percent AML-based and imports from India do not compete
10 there at all. There's also some market segments that insist
11 on domestic-only either out of concerns about quality or for
12 political reasons. In the case of projects that are funded
13 with public funds they rely on unionized labor.

14 On many of these projects there may be no legal
15 "Buy America" restrictions and in some cases there may be no
16 explicit customer specifications stipulating domestic only,
17 but the reality is that these orders go to the domestic
18 industry, not imports. And among end users will purchase
19 imports, many prefer imports from Korea or Taiwan because of
20 their more established record for quality.

21 In the past few months, nickel prices have
22 stabilized and we have seen some growth in the non-oil and
23 gas sectors. These trends are relatively strong and it is
24 important to remember that this is a very mature market for
25 these products. So absent other oil and gas crisis, demand

1 tends to be quite stable. Pricing tends to be volatile
2 because a U.S. producer simply cannot control nickel prices
3 and with the surcharge mechanism every change is instantly
4 transmitted in the most transparent means possible. Thank
5 you.

6 STATEMENT OF ROHIT KRISHNAKUMAR SHARMA

7 MR. SHARMA: Mr. Chairman and members of
8 Commission, good afternoon. My name is Rohit Krishnakmar
9 Sharma and I am the head of Marketing at Steamline
10 Industries, Ltd. I appreciate the opportunity to appear
11 before the Commission to discuss my company's role in the
12 U.S. WSSPP market.

13 Steamline has been in business for a long time,
14 but we only entered into production of WSSPP in 2012. Prior
15 to that time, Steamline has been a distributor and trader of
16 various other stainless steel products, including stainless
17 steel coils, pipe fittings, flanges, and have also operated
18 other lines of business.

19 Steamline entered into the WSSPP industry with
20 the expectation of supplying the India domestic market. We
21 are confident that Indian WSSPP market has tremendous
22 long-term potential. India still has a great need for
23 improved infrastructure and is expected to future growth in
24 petrochemical, pulp and paper, pharmaceutical manufacturing
25 in other sectors that consume large quantities of WSSPP.

1 However, in the shorter term, there have been impediments to
2 the development of Indian WSSPP market. The domestic WSSPP
3 market is poorly organized and lacks an efficient
4 distribution system. While there are only a handful of
5 premium Indian producers, there remain a number of small,
6 unregulated producers throughout India.

7 These companies have rudimentary production
8 operation that are producing small volumes with little or no
9 quality control. In addition, there is only one integrated
10 domestic supplier of high quality stainless steel coil in
11 India, that is Jindal. As I will discuss in a moment,
12 Jindal has proven to be an unreliable supplier over the past
13 few years. India has a duty on imports of stainless steel
14 coil for the limiting sourcing options. Given these
15 challenges in India in the Indian domestic market, when we
16 were contacted by Warren Alloy in 2013 about supplying the
17 U.S. market, we saw this as an opportunity to increase our
18 production and sales while we waited for the Indian domestic
19 market to develop.

20 When WSSPP demand in United States surged in
21 2014, supplying the U.S. market was a challenge for us. As
22 Chad has testified, we have struggled at times to meet
23 delivery schedules. In large part, due to our own supply
24 problems in obtaining reliable deliveries of stainless steel
25 coil from Jindal. Despite these challenges, the strong

1 demand and rising nickel prices made the U.S. market an
2 attractive one for us during this period. We only sold to a
3 limited number of U.S. importers lead by Warren Alloy.

4 Beginning in last 2014 things changed. Nickel
5 prices began to decline and demand in U.S. market fell off.
6 As a result, Warren Alloy and other customers slashed their
7 orders and our imports to the United States have dwindled.
8 In the meantime, demand in the Indian domestic market was
9 also slow. As a result, we have had to reduce our
10 production and our capacity utilization. Despite these
11 setbacks, the long-term outlook for Indian market remains
12 strong.

13 We are now in the process of obtaining approvals
14 to supply the OEN customers in India and in oil and gas,
15 paper, sugar industries. Once these approvals have been
16 obtained, we expect our sales to the domestic market to
17 improve so that we can increase our production and capacity
18 utilization. We are continuing to project reduced shipments
19 of WSSPP to the United States for foreseeable future.

20 As Chad has discussed, our product is not on any
21 AMLs and our customers have not given us any indication that
22 they expect to resume placing significant orders in the near
23 future. Thank you.

24 STATEMENT OF JULIE MENDOZA

25 MS. MENDOZA: This is Julie Mendoza again. I

1 just wanted to do a few fact-checking discussions about some
2 of the things that Mr. Schagrin and his clients said today.
3 I'd just like to start with -- I believe that one of the
4 Commissioners was asking a question about the overwhelming
5 evidence in the record from purchasers that quality is a
6 major consideration. He then launched into a triad, shaking
7 his hands and accusing our side of being criminals, which
8 reminds me of someone. And then he proceeded to suggest
9 that we were maintaining that we were not meeting
10 specifications and I'd just like to clarify that we at no
11 time were arguing that we did not meet specifications. We
12 were arguing that there were perceived quality differences
13 in the market. So that's number one.

14 Number two, when Mr. Schagrin testified in his
15 opening statement, he said that Warren Alloy said that he
16 couldn't buy smaller sizes because the U.S. industry
17 couldn't make them. We never said that. We said that
18 Warren Alloy, at one point in time, tended to buy from U.S.
19 producers certain sizes above 10 inches, correct?

20 Secondly, he said that when Warren Alloy said
21 that the U.S. producers went around them to their customers
22 that we were suggesting that U.S. producers were selling to
23 end users. In fact, we were talking about distributors. We
24 were saying that when the U.S. producers went around Warren
25 Alloys they went and sold to their distributor customers,

1 again, just a clarification.

2 Then when you asked about why it was that in
3 public statements SynAlloy said that domestic competitors
4 presented a major challenge in the market they acted like
5 they didn't know anything about that; however, in our brief
6 on the same pages we also quote from their statements in the
7 first quarter of 2016 where they say it again.

8 In fact, they say at least one producer has been
9 extremely aggressive on pricing, particularly in the 6-inch
10 and under sizes, and that's on page 38 of our brief. So I'm
11 kind of mystified as to why they are unaware of this issue
12 about inter-industry competition -- inter-producer
13 competition.

14 I've learned that it's seems that the more Mr.
15 Schagrin voices his complete disregard of an argument and
16 distain at the argument being made the closer we're getting
17 to the truth. At one point he said that it was laughable to
18 suggest that the U.S. industry was at practical capacity
19 levels in 2014. We're going to talk about that more, but as
20 you heard from Mr. Robinson his own personal experience in
21 the market in 2014 was that lead times were very long and
22 that U.S. producers were fully booked.

23 We saw data in the record which demonstrated
24 that what they did in 2014 was to reduce the production of
25 other products in order to increase the production of this

1 product. Now remember this is 2014 where they also
2 testified this morning that 2014 was an excellent year in
3 their large diameter sizes as well, their out-of-scope
4 products. So this is not really adding up.

5 Finally -- not finally, but another point that I
6 think we need to clarify for the record is that -- and I'll
7 turn this over to Jim Dougan to talk about, is just their
8 entire reliance on the year of 2007. And I would say that,
9 other than their comment that it was their last year of
10 profitability, and I'd note that they've only profitable
11 three times in 15 years, virtually everything else they said
12 about what was going on in the industry in 2007 is wrong.

13 And in fact, if they had referred to our brief
14 which contains in the second exhibit a comparison over time
15 from 2000 of all of these individual things like capacity
16 utilization, U.S. producer profits, U.S. producer market
17 share they would've seen that, in fact, all of the claims
18 Mr. Schagrin made about 2007 are, in fact, wrong.

19 STATEMENT OF JAMES P. DOUGAN

20 MR. DOUGAN: Good afternoon, Commissioners. Jim
21 Dougan from ECS. I want to take a few minutes here to
22 address some of the questions that the Commissioners had
23 asked of the Petitioner's panel this morning.

24 First, with regard to the impact of nickel and
25 other raw material prices and we've never contended that

1 this is the only thing that affects the pricing and
2 profitability of this industry; however, the record evidence
3 -- and this is the record evidence going back quite a long
4 time -- shows a very strong relationship. This has been
5 testified to by purchasers. You have it in your staff
6 report. And in fact, it was explained to you directly by
7 representatives of the domestic industry themselves in 2009
8 about how this worked when they had to explain why they were
9 so profitable and yet still deserved relief.

10 But in their presentation this morning, the
11 Petitioners attempted to diminish the significance of nickel
12 as a driver of welded stainless pressure pipe prices.

13 The slides aren't labeled, but the one that
14 shows the grade and nickel composition presents nickel
15 composition by weight or some other quantity measure, not as
16 a share of cost and so the fact that this may be a range
17 between 8 and 14 percent is not a true, accurate
18 representation of nickel's weight in the cost of producing
19 welded stainless and therefore its affect on prices, and
20 this was established by their own witnesses.

21 Mr. Van Zandt testified that flat rolled steel
22 is the single biggest cost. And Mr. Hendrickson testified
23 that the "overwhelming" amount of cost of stainless steel is
24 from the alloy components of steel. He said this not only
25 today, but in the preliminary conference because he's quoted

1 in the staff report saying the exact same thing at page 5-5.

2 Another witness, whose name I didn't catch, said
3 that at certain times the nickel or alloy could account for
4 up to 50 to 70 percent of their raw material costs, so you
5 know this slide is misleading and not an accurate measure of
6 how important these alloys are to the cost and pricing of
7 this product. And notwithstanding Petitioners' claims about
8 labor costs being an important part of the cost composition
9 of this product that is true. They are a larger in per ton
10 share than in other products, but in Table 6-1 of the staff
11 report the raw materials cost per ton is in the neighborhood
12 of about \$3,000 and the direct labor cost is in the
13 neighborhood of about \$300, which means that the raw
14 materials are literally 10 times the contribution to costs
15 that labor is.

16 Now you asked also what are the differences that
17 you can see between this case and the prior case, the 2014
18 Malaysia, Thailand, Vietnam case and one interesting thing
19 that you can see here and allows you test these arguments
20 about raw materials, about nickel prices is that you see
21 variations in nickel price over this POI. In 2011 to 2013,
22 nickel prices were essentially on a continually declining
23 trend.

24 Here you have an increase from 2013 to 2014 and
25 then a decrease beginning at the end of 2014 all the way

1 through into 2016 and you can see that variation represented
2 in pricing for this product and in profitability for the
3 domestic industry. It follows a similar trend, so you can
4 actually see the relationship going up and going down, where
5 in the last case you didn't have that opportunity.

6 What you also have in this case that you didn't
7 have in the last case is variations in demand. Demand in
8 the last case between 2011 and 2013 was essentially flat.
9 It was pretty steady. But here you have a boom and a bust
10 cycle all within your POI. You have a roughly 30 percent
11 increase in demand between '13 and '14, largely driven by
12 the oil and gas sector and you see a very significant
13 decline in demand from '14 to '15, also attributable
14 largely to the oil and gas sector. So those are some
15 variations that you can see in the record that allow you to
16 test the claims of them versus us and understand how things
17 like demand and how raw material prices affect pricing and
18 profitability in this industry.

19 The next thing that you asked about was when was
20 the industry last profitable, what was its most profitable
21 recent year. And as Ms. Mendoza pointed out, this isn't a
22 difficult thing to find. We actually presented a time
23 series of these data at Exhibit 2 to our pre-hearing brief,
24 so it shouldn't be so burdensome for Petitioners to figure
25 out what happened. But what you can say is it was correct.

1 I believe it was Commissioner Broadbent who pointed out that
2 2007 was the most profitable year in recent time periods, at
3 least since the year 2000 forward.

4 And in the January to September 2007 period, the
5 industry earned an operating income margin of 11.7 percent,
6 by far, the largest that it had earned throughout the
7 15-year period. What was the domestic industry's market
8 share that year? They said, well, you know we can't earn
9 money when imports hold such a large share of the market
10 when we're being dominated by imports. So what was the
11 domestic industry market share in the year where they
12 earned the greatest profits they have in 15 years? It was
13 29.2 percent. That is lower than at any time during the
14 current POI and lower than any time all the way going back
15 to 2000, and yet, that was their most profitable year, by
16 far.

17 They also said today that, well, at the current
18 utilization rates they can't make money. If they can't get
19 above 50 percent utilization, they can't money. And to
20 really do well they need to be getting into the 70 to 80
21 percent utilization range. What was their utilization range
22 in 2007, 45.7 percent, pretty much were they are now. What
23 was the highest utilization rate that they've experienced
24 since the Year 2000, 65 percent in the Year 2002. That's
25 getting up into the area where Mr. Schagrín said that's when

1 they should be doing well.

2 What was their operating income margin in 2002,
3 negative 22 percent. That was, by the way, their lowest
4 operating margin for 15 years. So they had their highest
5 utilization rate and their lowest operating margin. So
6 clearly, these things don't add up. Everything that they
7 were saying about what drives their profitability was wrong.

8 Now the one thing that they don't talk about or
9 they tend to diminish the relationship, again, is nickel
10 prices and raw materials. And so what was happening in the
11 time period when they earned all this profit, 2006/2007? We
12 invite the Commission to look, again, at an exhibit that
13 appears in our pre-hearing brief, Exhibit 16, that displays
14 from the Year 2004 to 2015, trends in nickel prices and
15 trends in domestic industry profitability.

16 And while I can't say exact nickel prices
17 because of confidentiality reasons or copyright reasons, the
18 nickel prices in 2006 and 2007 were double to triple to what
19 they were during the current POI and not just large at --
20 high at sustained level, but an enormous spike, a huge spike
21 between 2004 and 2007 and then back down. Now that is
22 exactly what we say drives increase in profitability for
23 this industry, when they're purchasing raw materials at a
24 lower price, at a lower surcharge and able to sell at a
25 higher prevailing price. And in fact, the domestic industry

1 and its witnesses explained this very thing to this
2 Commission in the China case in the 2009 hearings because
3 they had to explain to you why they could earn all of this
4 money in 2006 and 2007 and yet, still deserve remedy.

5 And so now when the tables have turned, when
6 nickel prices are moving in the other direction, they want
7 to tell you that this doesn't hold any more, but that's not
8 true.

9 MR. DOUGAN: And finally I think the way that
10 you can see this is again a question that some of you
11 Commissioners got at, which is in 2016. What explains their
12 performance in 2016? Consumption was up from the same
13 period in 2015. Production and utilization was up. U.S.
14 shipments were up. U.S. market share was up. Subject
15 import volume and market share down. And yet, the domestic
16 industry's operating margin dropped from -2% in First
17 Quarter '15 to -14.7% in First Quarter 2016.

18 Why? If all these other indicators that they
19 say drive their profitability were moving in the right
20 direction, and their profitability moved in the wrong
21 direction? How can that be so? It doesn't add up. Well,
22 what did happen between the First Quarter of 2015 and the
23 First Quarter of 2016? Nickel prices dropped. And they
24 continued to drop. They had been dropping for twenty months
25 at that point.

1 So again, as Ms. Mendoza said in her opening
2 remarks, there aren't any other factors that break the
3 consistency of this causal link that's observed over time.
4 And the Commission has roughly fifteen years of data to test
5 these claims. And we'll say that, when you look at these
6 data, you will see that their story does not add up. And if
7 their theory of the case with regard to what influences
8 their profitability is wrong, dead wrong, then you cannot
9 make that causal link and attribute their injury to imports
10 from India. Thank you.

11 MS. MENDOZA: Thank you very much. This is
12 Julie Mendoza. That concludes our direct testimony. Thank
13 you.

14 CHAIRMAN WILLIAMSON: Thank you. I want to
15 express appreciation to the witnesses for their testimony
16 this afternoon. And we'll begin our questioning with
17 Commissioner Pinkert.

18 COMMISSIONER PINKERT: Thank you, Mr. Chairman.
19 And I thank all of you for being here today to help us
20 understand these issues. As you know, with the earlier
21 panel, I was asking where on the record we can see how the
22 domestic industry would be doing, in terms of profits and
23 losses, but for the dumped or subsidized imports.

24 And there was some discussion from Mr. Schagrin
25 about how they should be doing better in various periods,

1 and I said, well, no, what I'm looking for is, where we can
2 see on this record, the industry performing at the level
3 that he thinks it should be performing. And the response I
4 got, more or less, was that things are picking up now, post
5 the data that we had fully articulated in the staff report.
6 So I want to give you an opportunity to respond to that
7 response.

8 MS. MENDOZA: Julie Mendoza. Thank you,
9 Commissioner Pinkert. I think our response to that, which
10 we tried to elaborate in our brief, was that the First
11 Quarter of 2016 is really the proof of the fact that it's
12 not imports from India that are affecting the industry's
13 performance. It's these other factors that we have
14 discussed.

15 I think that his hypothetical about how well
16 they should be doing, finally he had to revert to 2007 and I
17 guess we would stand by what Mr. Dougan just testified to
18 regarding the inaccuracies of what he said happened in 2007,
19 and I think there's a much more recent period, that being
20 2016, the first quarter.

21 His statements about the market getting better
22 now are also consistent with our theory, because nickel
23 prices have stabilized and shown some improvement. I think
24 it's been limited and I think it's been limited by the fact
25 that oil and gas has not come back. It's limited by the

1 fact that nickel prices still have not gone up
2 significantly, but I think 2016 is the test case. I mean it
3 really proves that it really had nothing but a marginal
4 impact, Indian imports being present in the market. Thank
5 you.

6 COMMISSIONER PINKERT: Thank you. Now maybe,
7 Mr. Dougan, you can help me to understand the economics
8 behind this nickel impact on pricing for the domestic
9 industry. If the nickel price is merely passed through to
10 the customer, then why doesn't it just net out and have no
11 impact on the profitability of the domestic industry?

12 MR. DOUGAN: Commissioner Pinkert, I think if
13 you were purchasing your raw materials and being charged the
14 surcharge on them, at the same time that you sold your
15 finished product, and the change in the prices for those raw
16 materials had not changed in the interim, then it would net
17 out.

18 Or if you had fluctuations where nickel prices
19 were sort of moving up and down in a narrow band over a
20 period of time, I think it probably would. What you have
21 here is, at least in 2015 and 2016, you have sustained
22 periods of nickel price declines. And so the industry, any
23 welded stainless producer is purchasing the raw materials at
24 time zero, and it takes a month or two for that to
25 translate into a finished welded stainless pipe product.

1 And in that interim of a month or two, well the
2 nickel prices have declined, and because all of that is
3 transparent to customers in the market, they're going to
4 expect the price that they pay for that finished product now
5 to represent the prevailing price at that time. And so you
6 have purchased something at time zero at \$100, and now the
7 prevailing price is \$80 two months later, and the customers
8 are going to expect that to be the price. And so you are
9 stuck having to pass through this \$100 and that's what
10 appears on the cost of goods sold for the sale of that
11 product. So it's a timing differential.

12 Now, it works the opposite way when nickel
13 prices are going up. And you can see this during this POI.
14 From 2013 to 2014, you saw a decrease in the COGS to sales
15 ratio for this industry because their prices were increasing
16 by more than the raw material cost, because they were able
17 to charge the prevailing price, but yet the raw materials
18 were purchased earlier time at a lower price, and they were
19 able to expand their margin there.

20 The reverse happened from '14 to '15. But this
21 is consistent with the story that we've been telling all
22 along. And I think what you have here is, for that to
23 really happen, you have to have sustained periods of
24 increases and sustained periods of decreases. If things
25 were fluctuating within a narrow band, you might not see

1 these types of differentials. But, you know, you have a few
2 months of nickel price increases and then twenty months of
3 nickel price decreases. You know, during that twenty
4 months, you're never going to be able to catch up. So your
5 margins are going to continue to get squeezed.

6 MS. MENDOZA: Commissioner Pinkert, could I just
7 add one quick thing, too? Also it's interesting to note, I
8 think, for those of us who dealt with the steel cases, this
9 industry has an amazing amount of sales made from inventory,
10 almost 70% in the staff report. Which means that not only
11 do you have this lag between purchase and production, but
12 you also have the industry acting, to an extent, like a
13 distributor and holding inventory.

14 So to the extent they do that, they're also
15 watching that inventory -- it's basically over-valued at
16 that point in time. So I just point that out because I
17 think that's rather unusual that they would hold so much
18 inventory and sell out of inventory.

19 COMMISSIONER PINKERT: Thank you. Now, you
20 recall also, there was a discussion earlier about the impact
21 of declining demand in the U.S. oil and gas sector on
22 domestic producers and the impact of that on subject
23 producers.

24 And I my take away from that discussion was
25 that, yes, there may be some greater impact on domestic

1 producers than on subject producers, but you're just talking
2 about the margins there. It can't really explain the very,
3 very substantial increase in the market share of the subject
4 imports during the period. Would you like to respond to
5 that?

6 MS. MENDOZA: I think that that discussion kind
7 of got caught up, too, in the discussion about AMLs and
8 their role in the market. I think what we were saying is
9 that because -- and they said this, too -- the oil and gas
10 industry tends to be more heavily reliant on AMLs, in
11 selling AML-type products than other sectors. There aren't
12 exclusively AMLs in oil and gas. There are also AMLs in
13 other sectors, so Roger's wrong about that.

14 But because the AMLs so dominate in that oil and
15 gas sector, it makes sense that U.S. producers are going to
16 feel more of a decline in their sales into that sector if
17 they're heavily reliant on them. And there's some stuff in
18 our brief that's confidential about some of the things that
19 the purchasers and importers said about the effect of the
20 oil and gas declines on their sales. So I think we stand by
21 that. I mean I think we stand by the fact that yes, it
22 would've had a greater impact on U.S. producers' sales than
23 on the sales of imports, because the imports, although
24 they're selling in sectors that might serve that market, so
25 they get pulled up as well, it's not as great an impact.

1 It's not as direct an impact.

2 COMMISSIONER PINKERT: I think what would help
3 me for the post-hearing on that is if you could supply what
4 you think the overall impact of that difference between the
5 subject producers and the domestic producers and their
6 involvement in the oil and gas sector. What's the overall
7 impact on the numbers that we're looking at for the domestic
8 industry? Of that difference?

9 MS. MENDOZA: We can try to do that. It's
10 somewhat difficult to quantify that exactly from our point
11 of view. I mean I think what we can say is that the U.S.
12 industry has agreed that the increase in consumption in 2014
13 was due to oil and gas, so I mean we are talking about a
14 pretty significant increase in terms of the volumes that
15 went into the oil and gas sector.

16 And, you know, we can try to use other sources
17 to estimate what that would've been. But I think our point
18 is that the U.S. industry doesn't disagree with us that the
19 most heavily AML sector is oil and gas. So it does make
20 some sense. But we'll try to do something more precise in
21 our brief.

22 COMMISSIONER PINKERT: Thank you.

23 CHAIRMAN WILLIAMSON: Thank you. Commissioner
24 Broadbent?

25 COMMISSIONER BROADBENT: Okay. I wanted to get

1 Ms. Mendoza, see if you had a chance to respond to this
2 comment, this quote from the petitioners' brief. They argue
3 that "it cannot be the case that unfairly traded imports
4 from India are to be regarded as noninjurious if such
5 imports increase as a replacement for other injurious
6 imports from Malaysia, Thailand and Vietnam," the previous
7 cases that we looked at, "if the original volume of
8 unfairly traded imports was injurious, that volume of
9 imports from another unfairly traded source, should also be
10 considered injurious."

11 How do you respond to that argument? Can you
12 put, sort of, the three orders that we put in place, their
13 effect on the market in context with this case?

14 MS. MENDOZA: First of all, whether imports are
15 injurious or not depends on the particular circumstances in
16 each investigation of those imports. You can't just say
17 that, because someone else comes in -- I mean, for example,
18 they said that Korea and Taiwan did not have any injurious
19 impact, and yet, those imports increased in 2014 as well, so
20 to some extent, I suppose they also replaced Malaysia,
21 Thailand and Vietnam.

22 What we're saying is that there's an underlying
23 reason why imports from those three countries, as well as
24 imports from India, are in the market. And the reason that
25 they're in the market is because there is this segment, as

1 Chad was saying for generic product. So that explains why
2 both of them are in the market. It explains why Warren
3 Alloy's in the position of saying, once I've lost my source
4 of supply to that segment of the market, I need to replace
5 it with another source of supply to that segment of the
6 market.

7 So I don't think you can just say, well, if some
8 imports were injurious and then other imports came in and
9 they had a similar market share, then by definition, they're
10 both injurious. I don't think that works.

11 MR. PLANERT: Commissioner, one other point
12 where I think, at least in our brief we sort of addressed
13 this issue of replacement, was -- and you heard a lot this
14 morning about, you know, look at the enormous growth in
15 Indian imports. It started from nothing and in three years,
16 they had this share of the market and the implication is
17 that you should start extrapolating forward that they'll
18 just keep growing at that pace.

19 And I think part of the point we were making
20 was, there was a short term shortfall in the market when
21 these other imports exited, and so you really can't
22 extrapolate that growth rate or those volumes and assume
23 that this is the projectory in which India was on and
24 would've continued, but for this case.

25 MS. MENDOZA: Could I add one more thing? I'd

1 also point out that I really think that there are two
2 fundament things that are different about this case from the
3 case against Malaysia and Thailand and Vietnam.

4 One is that we have a lot clearer record at this
5 point on the issue of surcharges, although I was sort of
6 surprised to hear Mr. Schagrin again trying to claim that
7 surcharges didn't exist in the market, but be that as it
8 may, we know now, based on record of it, that surcharges do
9 play a very important role in the market.

10 Secondly, we know about this effect on the stock
11 of raw materials, and the major effect that has on the
12 industry's profitability. So we know two new facts in this
13 investigation that really weren't that apparent in the prior
14 investigation.

15 And then you also had in this investigation, as
16 others have said, some test periods so that you could see
17 what was going on in the market, which you did not have in
18 the prior case. So in the prior case, you had a situation
19 where nickel prices were consistently falling, and in fact,
20 in that case, U.S. producer prices fell more than nickel
21 prices. In this case, the reverse is true.

22 In this case, nickel prices fell more than U.S.
23 producer prices. So that's an important distinction in
24 between this case and that case. So I think we have to
25 acknowledge that the record in that investigation, I think,

1 was unclear on some very, very important points, and you
2 saw, to some extent, for those Commissioners who concluded
3 that, that there was somewhat of a break in that causal link
4 between nickel prices and U.S. producer prices, because you
5 saw U.S. producer prices falling more.

6 Here you don't have that. You have the
7 opposite. And in fact, you have a very good indication of
8 what happens with Indian imports lead the market. In fact,
9 it had no effect on prices. Prices didn't go up at all, and
10 profitability didn't go up at all.

11 COMMISSIONER BROADBENT: OK, let's see. Were
12 the imports from Malaysia, Vietnam and Thailand AML or were
13 they generic?

14 MR. ROBINSON: They were generic.

15 COMMISSIONER BROADBENT: Okay. And we're all in
16 agreement that the Indian imports replaced those after the
17 --

18 MR. ROBINSON: Yes.

19 COMMISSIONER BROADBENT: Ms. Mendoza, kind of
20 following on what you were saying just a minute ago, what
21 were the price trends in the AML and generic markets? If
22 we're assuming that they're distinct.

23 MS. MENDOZA: The price trends -- I mean I think
24 we're saying -- we're certainly not disagreeing that both
25 generic and AML are approved product follow nickel prices.

1 We're definitely agreeing on that.

2 COMMISSIONER BROADBENT: Right. But did they
3 affect one segment more than the other?

4 MR. ROBINSON: The nickel prices affect it
5 equally and it also goes into other products -- so we stock
6 fittings and flanges and other stainless steel products.
7 Nickel price affects all of it. Because it's essentially
8 the cost of the raw material and fittings are made from
9 pipe, flanges are made from billet, so really it's any
10 stainless grade. The 304 and 316 composition of steel is
11 the same, no matter what the product is. So whether it's a
12 generic pipe or an approved pipe or it's a fitting or a
13 flange, nickel will affect the price of that product.

14 COMMISSIONER BROADBENT: OK. Petitioners argue
15 -- and this would be for Ms. Mendoza, I think -- petitioners
16 argue that apparent consumption in 2015 was effectively the
17 same as in 2013, and yet the industry had lower market share
18 and greater financial losses than in 2013. Therefore, they
19 argue the decline in demand in 2015 cannot fully explain the
20 industry's worst trade and financial indicators in 2015.
21 How would you respond to this argument?

22 MR. DOUGAN: Julie has passed this one to me.
23 Or I've taken it rather. The demand may not have been all
24 that different, but the composition of demand certainly was,
25 and oil and gas, which was the largest end-use segment for

1 the domestic producers, declined significantly and
2 disproportionately affected the domestic producers. So to
3 the degree that their shipments were lower in '15 than in
4 '13, in '13 you would've had a healthier oil and gas
5 market, so that explains that.

6 In terms of the profitability, in addition to
7 the decrease in volume, you have a very different picture
8 with regard to the nickel prices, so throughout 2015, you
9 had the declining nickel prices and again, they were getting
10 caught in that squeeze where that would not have been the
11 case to the same degree in 2013. Although, I guess there
12 was a decline in 2013 relative to 2012, but again, not to
13 the same degree that you would observe in 2015.

14 COMMISSIONER BROADBENT: Okay. Can someone
15 speak to me about how you get added to an AML? It is
16 expensive? Are there any Indian producers that are
17 currently on AMLs?

18 MR. ROBINSON: We actually own a fitting factory
19 in Italy that makes butt well fittings. It's a different
20 product, but when we bought that company, we started sending
21 material to the U.S. and we were an unapproved supplier. We
22 were a generic supplier. And over the course of time, we
23 had to become approved, and it takes -- if you are a no-name
24 player in the market, it takes years to start to get
25 approvals, because no one knows who you are. You have no

1 track record. You have to supply samples, you have to do --
2 we hired a metallurgist, which we had never had before.

3 And it takes a lot of detailed, technical
4 discussions and even the most difficult part is trying to
5 find the right person at Conoco Phillips or BP or somewhere,
6 or to even try to talk, to entertain the idea, and then try
7 to convince them why they need you on their AML. So in the
8 beginning, it's a very difficult task.

9 Now that we've been in the market for over a
10 decade, we're on all the major AMLs now. If there's a new
11 AML that comes out, usually they'll look at the other AMLs
12 and see what the common denominator is and say, OK, they're
13 on all these other AMLs, let's go ahead and do the testing
14 and have the technical discussions to be added on.

15 To answer the question about the Indian
16 suppliers, there are no Indian suppliers of the AMLs in the
17 market, so -- could they get added onto an AML?
18 Theoretically yes, but it would take years and lots of time
19 and money of them over here pursuing those end-users.

20 COMMISSIONER BROADBENT: All right. Thank you.
21 My time is expired.

22 CHAIRMAN WILLIAMSON: Thank you. Commissioner
23 Kieff?

24 COMMISSIONER KIEFF: I join my colleagues in
25 thanking you for coming and presenting and of course

1 providing the follow-up written submissions and so I just
2 thought I'd give the same opportunity to this panel that I
3 gave to the morning's panel and ask you if you could to
4 direct -- you've, in a sense, already done this to some
5 extent with my prior two colleagues.

6 But if you could just take a moment and
7 highlight what you see to be perhaps some key weaknesses and
8 majority opinion in the prior case, and some key
9 distinguishing features of this case that, and this record,
10 that might be important to the authors of that prior
11 opinion.

12 MS. MENDOZA: We'd be happy to do that. You're
13 correct. I did try to stress that in some ways I don't
14 think it's so much a factor of wrong decision-making, as I
15 do that the record in this case is very different, both
16 because I believe that some things were not very transparent
17 in the prior case, and also because you had this sort of
18 test cases of nickel prices going up, nickel prices going
19 down, Indian imports being in the market, not in the market.

20 So I think that provided a lot of very important
21 information about what was really happening and what was
22 really driving prices that you didn't have before. But we'd
23 be happy to go into more detail.

24 COMMISSIONER KIEFF: And then, in particular, I
25 think that the morning panel in a sense agrees with you, if

1 I understood them correctly, that they, like you think the
2 facts of this case are different, they emphasized some facts
3 that they thought were important to their case. They seemed
4 to think that there was a flood into the market of Indian
5 volume. Do you see that flood?

6 MS. MENDOZA: I don't. And I'd like to go back
7 and look at the record, but I'm guessing the petitioners
8 said there was a flood of imports into the market in the
9 last investigation. I mean I can verify that. No, I mean I
10 think what we were trying to say and what Mr. Robinson is
11 trying to say is, look, there is a segment of the market and
12 this isn't new. It's been around since 2000, where imports
13 pretty much stay at pretty consistent absolute levels.

14 And so what does that mean? Well, it means that
15 there's a segment of the market which is what his company
16 calls the generic segment of the market, where imports
17 compete. And so when you lose imports that were serving
18 that segment of the market, other imports come in to serve
19 that market. We see it in 2016. What happened when India
20 left the market? Did all the other imports just stay where
21 they were? No. I mean some of that data's confidential,
22 but they didn't. They got replaced. And I think that's
23 really our point.

24 COMMISSIONER KIEFF: Thank you very much. No
25 further questions.

1 CHAIRMAN WILLIAMSON: Thank you. Mr. Robinson,
2 this morning, Mr. Schagrín estimated that the purchasers
3 that rely on AMLs account for only about 10% of U.S.
4 consumption. He also estimated that -- I think it may have
5 been in the oil and gas sector -- maybe 25%. Do you agree
6 with these estimates?

7 MR. ROBINSON: I would tend to think they're
8 typically higher. It's difficult to quantify. The only way
9 that I can really quantify it is by what kind of business we
10 see in day-to-day from our sales people. And the first
11 thing we train our sales people is when a customer calls, is
12 to say "when do you need it?" and "what are your
13 restrictions?" Restrictions being, is it to the Shell AML,
14 the Exxon Mobil AML, is it to just some random
15 distributors' AML.

16 Those are -- it's very important for our
17 customers, too, to know. They want to know where it's
18 coming from. Is it a generic product or an approved?

19 CHAIRMAN WILLIAMSON: I mean, given that your
20 argument, so much of your argument lays on this distinction,
21 is there any evidence to support that the AML, this share is
22 actually larger than that 10% or 25%? I mean, you've made
23 such a strong point about it, but then I just want to say,
24 where's the proof? What basis do we have to take it
25 seriously?

1 MR. ROBINSON: This is -- with all of our
2 products that we stock, we stock a generic level and an
3 approved level. And in the welded pipe, it's in the smaller
4 sizes, we've just decided not to be in the approved market.
5 In the subject material on the 10" and up, we are in the
6 approved market, but we buy from Europe instead of in the
7 U.S., and what I can say is, we look at the relationship of
8 our other products to see how much approved material are we
9 selling and how much generic material are we selling?

10 And that's where I base off, you know, it's
11 probably about, in between, I'd say, 30 and 40%, but it's
12 just because when I look at my --

13 CHAIRMAN WILLIAMSON: You mean 30 to 40% of what
14 you sell --

15 MR. ROBINSON: Correct. So 30 to 40% --

16 CHAIRMAN WILLIAMSON: -- is in the approved
17 market?

18 MR. ROBINSON: Correct.

19 CHAIRMAN WILLIAMSON: And is that across the
20 board? Or just oil and gas? Or are there distinct
21 differences?

22 MR. ROBINSON: I would say it's a generic trend
23 amongst all of our products. So in butt-weld fittings and
24 carbon sealing and stainless steel, we sell approved and we
25 also sell generic. It's the same with the pipe. It just so

1 happens we have never been able to find a good source for
2 the approved market on 8" and down, so we've just stayed out
3 of that market.

4 So I guess I'm coming up with my figures, saying
5 it's -- I'm guessing it's probably similar to our other
6 products, but I don't have any real facts because I'm not in
7 that market on the smaller sizes.

8 MR. PLANERT: Mr. Chairman, one other -- or
9 maybe two other quick points. One is -- your question's a
10 good one, but I would point out that I don't believe there
11 was any evidence given by Mr. Schagrin for his 10% estimate
12 either. I think he pulled it out of his head. So trying to
13 quantify this is a fair point, but I don't think we should
14 start with the baseline is 10% and who can prove different.

15 CHAIRMAN WILLIAMSON: Okay. Well, post-hearing,
16 can both sides produce whatever evidence they have for the
17 estimates that they have?

18 MR. PLANERT: Yes. And while it's not a strict
19 quantity matter, there is some fairly significant anecdotal
20 evidence if you look at the amount of discussion of AMLs and
21 the purchasers' questionnaires, and we have an exhibit in
22 our brief that summarizes the highlights, you know, see that
23 the number of purchasers mention AMLs fairly prominently.

24 MS. MENDOZA: And not only in response to the
25 question on AMLs, they bring it up in a lot of other places

1 in the questionnaire as well. I mean this is clearly at the
2 top of their minds. Even on questions where there's no
3 question about it, like, "Do you think that Indian product
4 is comparable to the U.S. product?" and they'll bring up the
5 fact that no, because they're not on AMLs.

6 So it's not something that we have an exact
7 figure to be able to quantify, but what we do know is that
8 the purchasers themselves overwhelming discussed AMLs and
9 it's not just oil and gas. Mr. Robinson can talk to that.
10 I had understood from this morning's testimony that perhaps
11 that was the only industry in which there were AMLs, but
12 that's, in fact, not the case.

13 MR. ROBINSON: It could be any industry could
14 have an AML. It depends on who's doing the buying and what
15 they're, how their company buys. So it could be
16 petrochemical, food processing, oil and gas. AMLs are not
17 just in oil and gas.

18 MR. DOUGAN: Chairman, if I can add one thing.
19 Thirteen of nineteen responding purchasers reporting using
20 AMLs in purchasing WSSPP, either their own or those of their
21 customers. That's in our pre-hearing brief at Page 10, but
22 it cites to the staff report at 2-21.

23 CHAIRMAN WILLIAMSON: Okay. You see the problem
24 I'm having? Now this thing is important and so if you could
25 just sort of pull all of that stuff together and again,

1 while we're at that, I guess we -- it's pretty weird because
2 here you've stated that Indian imports have failed to
3 qualify for AMLs. I guess the question is, have they done
4 so and have they tried to do so, and are they still willing
5 to do so and I guess, certain purchasers realize who's the,
6 on AMLs -- I'm sorry.

7 Confidential Exhibit 1 of your brief provides
8 responses from purchasers, questionnaires regarding AMLs.
9 In the exhibit, it appears that several purchasers
10 identified at least one Indian producer as being on an AML.
11 Does this supplier play a meaningful role in the U.S.
12 market? So if you could look at that post-hearing.

13 MS. MENDOZA: We'll happy to -- because
14 obviously that's confidential.

15 CHAIRMAN WILLIAMSON: I know that, but it's --

16 MS. MENDOZA: Yeah.

17 CHAIRMAN WILLIAMSON: Good. If you could. So,
18 it's a ball of wax right now. Can y'all sort it out? Thank
19 you. And I, of course, extend the same request to the
20 petitioners.

21 Table 6-1 of the staff report shows that the
22 average total cost per ton for raw materials has steadily
23 decreased throughout the period of investigation. And this
24 is despite the large increase spike in nickel prices in
25 2017. Doesn't this suggest that raw material costs aren't

1 solely determined by nickel prices?

2 MR. DOUGAN: We wouldn't argue that they're
3 solely determined by nickel prices. It's certainly a large
4 driver, maybe even the largest driver, but not the sole
5 driver, as we've also mentioned other alloys like,
6 molybdenum and things of that nature. So there are
7 different factors that go into the pricing of raw
8 materials, that's for sure. But our understanding of how
9 prices are tracked in the market and how surcharges are
10 applied and how customers look to have their welded
11 stainless pipe priced, certainly follows the trends in those
12 raw materials.

13 CHAIRMAN WILLIAMSON: Okay. Does this mean --
14 what about the Indian producers? Does price of nickel play
15 the same driving role for them? Since this is a global
16 commodity?

17 MR. SHARMA: In India, we base nickel as the
18 base metal for the, when we decide about the price of
19 selling the products to our customers. So the main driver
20 in India for selling stainless steel pipes is nickel.

21 CHAIRMAN WILLIAMSON: Okay. So you would say it
22 has the similar impact of nickel prices on the U.S.
23 industry, the impact on the Indian industry is comparable?

24 MR. SHARMA: Yes. Because we take the London's
25 metal exchange and it is comparable to both industries, so

1 at the rate at which we buy the raw material, we add up our
2 production cost on it, and then we sell it to the end-user,
3 or the distribution or call it what it is. So nickel price
4 is the base driver for the prices.

5 CHAIRMAN WILLIAMSON: Okay. Mr. Dougan, you
6 were talking about the row, like, in 2007, what was
7 happening with nickel prices, as well as what happened, I
8 guess in 2016, and you didn't mention anything about what
9 was going on with global demand and global prices of raw --

10 If I remember, wasn't 2006, '07, in 2008, a
11 period of almost like, bubbles, you know, the things were, a
12 lot of stuff was going up very fast? And so you didn't talk
13 about the demand side or the pricing side, and a couple of
14 the petitioners this morning were saying that was an
15 important factor, too.

16 MR. DOUGAN: It was. And I -- that was not an
17 omission based on, because we're trying to hide something.
18 I mean, definitely, demand was the 2006 and '07 was stronger
19 than in 2016 and, you know -- that's not up for dispute.

20 But I think what is really -- the demand in
21 2007, we only have the numbers that are public for, I think
22 the part-year period, so I'd have to sort of back into a
23 full-year period, but it certainly was very strong for that
24 year, and stronger, I think even than any point during the
25 POI. However, domestic industry market share was

1 significantly lower and the utilization wasn't any better.

2 So our point was that, yes, that demand was
3 good, demand was better, but all of these other indicators
4 that the petitioners said should drive their profitability
5 were the opposite of what they were saying.

6 And in particular -- if you look at exhibit 16
7 to our brief, the demand might've been somewhat stronger,
8 but the nickel prices are completely off the charts with
9 respect to the current POI. I mean it is really striking
10 just how different that is.

11 CHAIRMAN WILLIAMSON: OK. I'm running out of
12 time, but I'll come back to you and ask you later what
13 happened with prices of the end product in 2016, which was
14 quite significantly lower than what it was in the period the
15 year before. But let me turn to Vice Chairman Johanson.

16 VICE CHAIRMAN JOHANSON: Thank you, Chairman
17 Williamson. And I would also like to thank the witnesses
18 for appearing here today. I'm going to get back to the
19 issue of AMLs. I know there's been quite a bit of talk on
20 that, but I have at least one more question on that,
21 probably more than one question. Even if certain purchasers
22 rely exclusively on AMLs, why doesn't that mean that subject
23 import competition is more heavily concentrated in the rest
24 of the welded stainless steel pressure pipe market?

25 MS. MENDOZA: I don't think we disagree with

1 that. I mean I think we were saying that Indian imports are
2 concentrated exclusively in the generic segment of the
3 market.

4 VICE CHAIRMAN JOHANSON: Which means non-oil and
5 gas?

6 MS. MENDOZA: Yeah. I mean as Mr. Robinson was
7 saying, many in the industry consider there to be this sort
8 of approved market and the generic market. And in fact, he
9 can kind of talk to you about even how they do their sales
10 planning based on forecasts for those two markets. So what
11 we're saying is yes, imports from India are exclusively
12 competing in that generic segment of the market.

13 MR. DOUGAN: If I can add a little bit to that.
14 You know, one of the striking things about looking at the
15 record, and we discussed this more in our pre-hearing brief,
16 is that if this market were, as petitioners contend, a
17 monolithic market over which a ton is a ton, and it's a
18 commodized product and everyone's competing over every sale,
19 the patterns that you see in market share from different
20 sources, both the domestics, for the subject country and the
21 non-subject countries, and you look at what their pricing
22 was, relative to one another, how their market share
23 changed over the POI from '13 to '14 , '14 to '15 and then
24 in between the interim periods, it's not what you'd expect.

25 If this is a product, if there's no attenuation,

1 if there's no segmentation, if there's no view that Indian
2 imports are perceived to be of a different quality or
3 different than domestic, then what you see reflected in
4 changes in market share doesn't follow what you see with
5 regard to changes in underselling and overselling behavior.
6 And that was quite striking to me in something that I would
7 invite the Commission to look at again, as well.

8 VICE CHAIRMAN JOHANSON: All right, thank you
9 Mr. Dougan. And Ms. Mendoza, getting back to the question
10 you just answered, so if non-generic means non-oil and gas,
11 pressure pipe on the whole, is that correct?

12 MS. MENDOZA: No, I think what we're saying is
13 that there's, and I'll let Mr. Robinson do this, but we're
14 saying there's an approved list, which means an AML list,
15 which includes oil and gas, but is not exclusive to oil and
16 gas. There are also other sectors, like petrochemicals and
17 other sectors where AMLs are required. The remaining part
18 of the market is what he's calling the generic.

19 VICE CHAIRMAN JOHANSON: Okay. Do y'all have a
20 breakdown of what is generic or could you maybe try to put
21 that together for the post-hearing?

22 MS. MENDOZA: Well, you know -- the problem is
23 that our clients are selling for subject merchandise.
24 They're selling into the generic market, for the most part.
25 So they know sort of what parts of the market they're

1 excluded from, but it's very difficult to sort of add it up
2 and determine exactly how much there is of this one and that
3 one.

4 VICE CHAIRMAN JOHANSON: Is that because you're
5 not the consumer, you are the supplier. Is that your point?

6 MR. ROBINSON: That's correct. We are -- we
7 sell to the distribution that then sells to the end-user or
8 someone else and so we're not exactly sure where it goes,
9 but what they do tell us is what their restrictions are.
10 And I'm sorry if I'm creating confusion with approved and
11 generic. It's just how we classify our inventory in our
12 company.

13 We'll say, oh this approved or this is generic.
14 And we stock our material by supplier name, and certain
15 suppliers are approved and certain ones are generic. And so
16 it's like this in all of our products. We stock two
17 different options to serve the two different markets. So if
18 the customers have a special job, it's for Exxon Mobil,
19 they'll come to us and say hey, this is the items and
20 quantities we want, but we need it per the Exxon Mobil AML,
21 which would then restrict it to only the companies on that
22 AML.

23 VICE CHAIRMAN JOHANSON: Okay. Thanks, Mr.
24 Robinson. I appreciate it. And sticking on the whole AML
25 issue, without being on an AML, imports from the Indian

1 market, their share has increased from 4% in 2013 to 23% in
2 2015. Doesn't having over one-fifth of the market share
3 show the Indian product has been broadly accepted?

4 MS. MENDOZA: I don't think we're saying that
5 there is no market for the generic product from India.
6 We're just saying that the U.S. industry, we believe has a
7 focus on the approved segment and Chad can talk more about
8 --

9 MR. ROBINSON: I think the companies that spend
10 the time and the efforts and the money to get approved,
11 they're focused on business where you need the approval, the
12 expertise, the engineering the things like that, where if
13 someone's making a wastewater line, they don't need the
14 high-end high-quality approved pipe. They're looking, just
15 for a generic product that meets the specification and that
16 is the market that we try to supply with our generic
17 offering.

18 Now if it's a power plant or anything like that
19 and they're asking for approved product, then we will supply
20 the product that meets that.

21 VICE CHAIRMAN JOHANSON: Okay, thank you. And
22 Ms. Mendoza and Mr. Dougan and Mr. Planert and any other
23 witnesses, y'all are probably familiar with the orders that
24 are already in place on welded stainless steel pressure
25 pipe. The Commission has not previously found the U.S.

1 market for welded stainless steel pressure pipe to be
2 segmented on any basis. Can you all please explain why you
3 view the market segmented and why the strict differences
4 exist in the U.S. market at this time?

5 MS. MENDOZA: We're not saying this is new.
6 What I think we're saying is that in the previous
7 investigation, if you look back at the people who
8 participated in the Commission's final investigation, I
9 think what you're going to find is that, unlike in this case
10 where you have master distributors and members of the
11 Indian industry here to talk about what's going on in the
12 market, I don't think that we had the benefit of that kind
13 of insight in that previous investigation.

14 So we're not saying it's new. It's been around
15 for a long time. The fact that it's been around for a long
16 time, I think is proved indirectly by the fact that imports
17 have consistently had a share of the market and kept it. I
18 think it really has to do very much with how much
19 information was available to the Commission at the time of
20 that prior determination, because there really wasn't
21 participation by other market members, other than some
22 lawyers and the petitioners.

23 So I think that is our position that now, on
24 this record, because you do have that participation, you do
25 have that explanation and because the Commission asked in

1 the questionnaire. They asked in the questionnaire of the
2 purchasers. They said, did AMLs play a part? And by asking
3 that question, and that's kind of what I was referring to in
4 my opening statement, by the Commission asking that
5 question, you got a lot of responses on that. And you made
6 them think about it.

7 And then when they responded to all kinds of
8 other questions in the purchaser questionnaires, they
9 independently brought up the issue of AMLs. So I think it's
10 just a matter of how developed the record was, and the fact
11 that you hadn't asked this question of the purchasers in the
12 past investigation, because unfortunately there wasn't a lot
13 of participation by members of the market in that last
14 investigation on our side.

15 VICE CHAIRMAN JOHANSON: Okay, thanks for your
16 response. Mr. Sharma, you might be able to answer this
17 question, and anyone else would be welcome to do so. Is
18 Indian welded stainless steel pressure pipe sold for oil and
19 gas applications in any other markets in the world?

20 MR. SHARMA: Yes, but I'd like to point out that
21 we were the creating company since 1991, but we came into
22 production of the WSSPP in 2012, having lost experience of
23 trading and distribution of pipe, which we brought in from
24 China, from other countries. Now, about your question, that
25 on the O&G market, like Chad said, we need vast experience,

1 a proven manufacturing experience to be able to fill up that
2 form also.

3 And we need, what we say, the purchase orders
4 that we have supplied to oil and gas companies already. And
5 our products are working well. But for that, we need quite
6 a bit time, as least seven to eight years. And before that,
7 we did not even think of going in that kind of market. Now,
8 the only focus is getting our company on its legs.

9 And selling to the distribution network and
10 other industries' applications, like paper and pulp,
11 pharmaceutical -- I can say in short, applications where the
12 pipe is not that critical. The user pipe is not that
13 critical. Oil and gas, refineries, these are critical areas
14 and require, what do we say, a good manufacturing
15 experience.

16 VICE CHAIRMAN JOHANSON: All right, thank you,
17 Mr. Sharma. Mr. Planert, did you want to state something?
18 Okay. Thank you for your responses.

19 CHAIRMAN WILLIAMSON: Okay. Commissioner
20 Pinkert?

21 COMMISSIONER PINKERT: Mr. Dougan, I believe
22 that you've testified that this industry has not been
23 profitable over a sustained period of time. There've been
24 some periods, like 2006, 2007, where it's been profitable,
25 but overall, there's been a sustained loss experience in

1 this industry. And so I'm wondering, as an economist, what
2 you would expect the industry to do in that situation,
3 leaving aside trade cases and the like, but what would you
4 expect to see in an industry like that? And do you see that
5 in this industry?

6 MR. DOUGAN: This may be something I'm going to
7 want to think about it more at length, and perhaps provide
8 an answer in post-hearing, but one of the things that I've
9 been thinking about and we've been thinking about -- and for
10 the very reason that you mentioned -- is, is this, is the
11 operations on the scope as defined?

12 And perhaps they can answer this question for
13 you, or we can do a little research ourselves. Is it a sub
14 segment of a line of business that they otherwise invest in
15 as profitable? The larger diameters and different things.
16 So when they think of their welded stainless pipe business,
17 that is doing okay and worthy of investment, but there's a
18 sub segment of it within the scope here that just hasn't
19 been profitable for a long period of time. And so that
20 might help to explain what's going on.

21 You know, it's sort of a product that -- I'm
22 trying to recall -- I'll have to go back and look for a
23 site, from, I believe it was the prior case where one of the
24 domestic industry witnesses said that, at the larger
25 diameters and some of the welded stainless stuff that is

1 outside of the scope, it tends to be more project oriented,
2 more customized, and therefore they can, you know, charge
3 premiums for that because it's customer specific.

4 And so, when you put that all together as a line
5 of business, the line of business is, you know, healthy and
6 sustainable. But if there are parts, there's a sub segment
7 of it that isn't doing as well, independent of imports, the
8 source of imports, the penetration of them, whatever else is
9 going on with demand, it's just not a profitable business,
10 but as part of the suite of products that they need to be
11 able to offer to their customers, they need to be able to
12 offer the full range of things and that includes what's
13 within scope here, as well as things that are out of scope.

14 Well, they need to keep making it to keep the
15 whole business going. Even if this is, even if this segment
16 of the business is not a profitable one for them, because
17 the other part of it is, and it's worth it for them to keep
18 it going throughout the full range of products. I'll give
19 some more thought to that though.

20 MS. MENDOZA: Commissioner Pinkert, as you know,
21 I'm not an economist, but I thought it was very remarkable
22 when you were all asking about when their last year of
23 profitability was and they all seemed to not really know the
24 answer to that question, and best I understood the answer,
25 it seemed to be that they didn't look at it on a normal

1 basis by this kind of product line, that they were looking
2 at sort of the overall profitability of their operations as
3 opposed to any particular product line.

4 So you know, we can think about it more, but
5 that would seem to just substantiate what Jim's saying that
6 they're producing this product in a way, just to be able to
7 provide their customers with a full range of products in the
8 same way that Mr. Robinson does, and that perhaps that
9 explains why you would have a part of your company produce a
10 product that only was profitable three times in fifteen
11 years.

12 MR. DOUGAN: Just to build a bit more on what
13 Ms. Mendoza said, I mean, theoretically one could say that
14 if you had a product that didn't earn any money for fifteen
15 years, you would disinvest. You'd get out of that business
16 completely. Why would you keep making it if it lost money
17 for you? And I think there has to be an answer to that.
18 And the answer can't be, well, every once in a while, we get
19 a trade remedy order. I mean that just doesn't seem to make
20 good business sense or economic sense.

21 So I think the broader answer has to be
22 something along the lines of what Ms. Mendoza was
23 suggesting, and in fact what the witnesses hinted at today.
24 But this is part of a suite of products that we make, that
25 we offer to our customers, that is a worthwhile and

1 profitable line of business. And this segment of it isn't
2 the profitable part of it, but that's okay, because to be in
3 this business at all, we need to offer this.

4 MR. ROBINSON: If I could add one more thing. I
5 think kind of what they were saying was there are multiple
6 businesses and they make the pipe so they can have their own
7 raw material for the other products they make, because they
8 also make fittings which come from pipe. So they're saying
9 that by making -- but in order to get the price they need on
10 the raw material for their other products, they need to sell
11 the rest of the pipe out in the market elsewhere. I don't
12 know if that helps clarify.

13 COMMISSIONER PINKERT: Thank you. Now, another
14 question that has been discussed by the prior panel and also
15 by this panel to some degree, is the difference between the
16 2014 case and the case that we're looking at presently. And
17 one of the answers we got earlier from the petitioners'
18 panel was that this case is better than the 2014 case
19 because of movements in volume and market share.

20 Now, I understand the point that you're making
21 about the replacement of the imports that were coming in
22 under the old case with the -- or that are coming in under
23 this case. Is that a sufficient rejoinder to the argument
24 that this is a stronger case because of movements in volume
25 and market share?

1 MR. PLANERT: Commissioner, I think one other
2 difference was that the increase in imports here really
3 coincided with a very exceptionally strong increase in
4 demand overall. And I understand that the domestic industry
5 wants you to believe that but for imports they could have,
6 in fact, supplied every single piece of pipe that the
7 Indians brought into the market, but the reality is demand
8 was increasing, nonsubject imports increased as well, and so
9 to some extent, that's why you are seeing a little bit more
10 significant demand or significant volume effect, as well as
11 the fact that Indian imports were essentially starting from
12 zero, so that it, you know, you can draw that nice big area
13 going up.

14 And I do think it's important to reiterate that,
15 on that question, in 2014, when everyone agrees demand was
16 going up, but it was going up most in the sectors that
17 really should be the sweet spot for the domestic producers,
18 which is oil and gas, which is an AML business and which,
19 you know, India was not able to supply directly.

20 You saw that domestic production and shipments
21 did increase, but as Ms. Mendoza mentioned earlier, you also
22 saw at the same time that they actually had to reduce their
23 production of other products on the same equipment, which I
24 think does suggest that there is some constraint, at least
25 in the medium term about their ability to ramp up.

1 And I think when you put that together with some
2 of the numbers Jim gave earlier about sort of the historic
3 levels of capacity utilization, but particularly in really
4 good times, such as 2007, when their capacity utilization
5 was still very low, I think that -- and their market share
6 was actually worse, you start to see that this story of --
7 well, this case is different because we have such a great
8 volume effect, we don't think really holds together.

9 MS. MENDOZA: I also, this is Julie
10 Mendoza, I also think that they're not right about market
11 share. I mean if you look at it on a market share basis in
12 2013 for Thailand, Malaysia and Vietnam, I think it's
13 public, right. I mean it's about what is it Emma?

14 COMMISSIONER PINKERT: If you want, you can
15 discuss it in post-hearing to avoid the public.

16 MS. MENDOZA: Okay. I'm just saying I
17 think that if you look at it from a point of view of market
18 share, I mean they're talking about absolute tons. But of
19 course we know the market went way up in 2014, right. So
20 but if we compare market share of Thailand, Malaysia,
21 Vietnam in 2013 and market share of India in 2014, they're
22 very comparable.

23 COMMISSIONER PINKERT: Well, I'll look
24 forward to seeing more about in the post-hearing.

25 MR. DOUGAN: Indeed, and Commissioner one

1 other thing. I could see how, you know, the Petitioners
2 would regard at least the volume section of their cases as
3 stronger this time around because they had the increasing
4 share in every period of the last case, whereas here you see
5 shifts. You see a loss of market share and then a regaining
6 of market share.

7 So I think from the point of view, their
8 point of view, it's at least they lost a little bit of
9 market share this time as opposed to gaining it in every
10 period. So from that point of view, I think they would
11 think that they're better off this time. But I think what
12 you have the opportunity to do here that you didn't have in
13 the other case is the test periods of, you know, the post
14 case and the reduction actually in subject import volume
15 and market share, and how that didn't have any effect
16 whatsoever on improving the industry's profitability.

17 COMMISSIONER PINKERT: Thank you very much.

18 CHAIRMAN WILLIAMSON: Thank you.

19 Commissioner Broadbent.

20 COMMISSIONER BROADBENT: Mr. Sharma, what
21 you can tell us about demand for this product in India in
22 the future? What are your estimates?

23 MR. SHARMA: Demand? What I see is demand
24 for this product in India is quite big. In India, we also
25 see imports from countries like Vietnam, Taiwan, which would

1 sell the products at much cheaper prices than we do as
2 premium manufacturers. What do I mean by the premium
3 manufacturer is there are many other companies in India who
4 work from, you can say from the garage, or you can say the
5 rudimentary kind of business, who do not have already good
6 setup, but still are able to sell these products through the
7 traders, small traders.

8 But for the premium market, it is
9 unorganized, but it is getting organized slowly and we are
10 trying to get into the approvals and the sugar industry. We
11 are trying to make them understand the difference between
12 what they buy and what we actually manufacture, and those
13 include this kind of black market in India you can see for
14 this product, because yeah. So we are just trying to make
15 them explain and it will take time.

16 But I think by the next five to seven years
17 we can see already good demand for the selling of this
18 product from the premium manufacturers.

19 COMMISSIONER BROADBENT: And that demand is
20 driven by infrastructure projects or what kind of uses will
21 it go towards?

22 MR. SHARMA: Mainly as of now, if I can
23 speak from the details which I have, is we are selling most
24 in the sugar industry.

25 COMMISSIONER BROADBENT: Sugar.

1 MR. SHARMA: And the paper and pulp
2 industry, in the pharmaceutical industry and infrastructure
3 industry is yes, we are able to sell there but not that
4 much, because this is kind of ornamental, not -- quality is
5 not that important in the infrastructure industry especially
6 so -- in India especially. So they go on the different
7 grade of materials. So infrastructure not that much, but
8 soon it is getting up.

9 COMMISSIONER BROADBENT: Okay, and then you
10 and Mr. Robinson, maybe you could talk to me a little bit
11 about where do you see -- what you see about demand in the
12 water purification and waste water infrastructure segment.
13 That's in the U.S., Mr. Robinson. I know you mentioned
14 that. What do you see in that sector as far as demand
15 growth or not?

16 MR. ROBINSON: We've seen it slow down
17 some, not quite as much as the oil and gas, but the downfall
18 there was very dramatic. So we've seen it slow down, but
19 it's -- I think for us, looking forward, I think it will be
20 steady for a while. But I think we've kind of hit the
21 bottom of demand, it would be my guess.

22 COMMISSIONER BROADBENT: So I thought you
23 were predicting demand growth, pretty strong demand growth
24 in water purification and waste water infrastructure?

25 MR. ROBINSON: No. There was a time. I

1 mean I think maybe my comment earlier, I was trying to say
2 that it was growing along with the oil and gas. But it is a
3 byproduct of all this oil and gas infrastructure that were
4 also having, you know, doing, building projects and things
5 like that that required this product. So as oil and gas
6 grew, it grew with it, and as it tapered off, it tapered off
7 with it. But that business right now I would say is steady,
8 with demand -- I could see in the future demand going up.
9 But for the foreseeable future in our opinion, it will stay
10 stable.

11 COMMISSIONER BROADBENT: Okay, all right,
12 and then Mr. Sharma, do you sell into the waste water
13 purification market?

14 MR. SHARMA: Not exactly. Maybe through
15 the distribution in India, because we also are selling the
16 distribution and yes. Well, so maybe through them. But
17 directly no, not as of now.

18 COMMISSIONER BROADBENT: Okay, all right.
19 Thank you Mr. Chairman. I don't have any further questions.
20 I appreciate the panel's contribution.

21 COMMISSIONER KIEFF: No. I too have no
22 further questions. I look forward to the post-hearing
23 submissions from both sides.

24 CHAIRMAN WILLIAMSON: Thank you. Let's
25 see. Ms. Mendoza, the domestic industry lost about 4.6

1 percentage points of market share during the Period of
2 Investigation, 2013-15, while India gained 19.2 percent,
3 percentage points. Are you arguing that the amount of
4 market share lost by the domestic industry is not
5 sufficient to constitute material injury?

6 MS. MENDOZA: Yes, but the reason that
7 we're arguing that is that we are not accepting that there
8 was a one for one loss of market share between India and the
9 domestic industry because you have to also take into account
10 the growth from Korea and the growth from Taiwan, and
11 because purchasers said that imports from those countries
12 were much more competitive with U.S. product because of AMLs
13 and quality, this is what the purchasers said, we believe
14 that to some extent that market share was lost to other
15 imports, not to Indian imports.

16 CHAIRMAN WILLIAMSON: Even though I guess
17 the all other sources lost market share during the POI?

18 MS. MENDOZA: Well, but if you look at it
19 from 2013 to 2014, actually all import sources increased at
20 that time, except that Malaysia, India -- I mean Malaysia,
21 Taiwan and -- Malaysia, Thailand and Vietnam all lost market
22 share.

23 MR. DOUGAN: Commissioner Williamson, Jim
24 Dougan. What table are you looking at to show that other
25 sources lost market share?

1 CHAIRMAN WILLIAMSON: I'm looking at the C
2 table, the C-1 and the changes in market share over the
3 Period of Investigation.

4 MS. MENDOZA: Oh, you're talking about 2013
5 to 2015?

6 CHAIRMAN WILLIAMSON: Yes, uh-huh.

7 MS. MENDOZA: And then in 2016 you observed
8 that Indian imports went way down and other imports went way
9 up?

10 CHAIRMAN WILLIAMSON: Well, I don't know
11 they went way up. There was -- yeah. I mean the other,
12 they did improve market share and the domestics did improve
13 some market share in the interim period.

14 MR. DOUGAN: Commissioner Williamson, I'm
15 cautious about this because I know there's at least some BPI
16 embedded in those numbers. But if those all other sources
17 include Malaysia, Thailand and Vietnam in 2013, right. So
18 --

19 CHAIRMAN WILLIAMSON: Post-hearing, address
20 my question.

21 MR. DOUGAN: Yep, okay. We'll talk about
22 it. Yeah, we'll talk about it post-hearing. We can get
23 into without fear of --

24 (Simultaneous speaking.)

25 MR. DOUGAN: Yep, sounds good.

1 CHAIRMAN WILLIAMSON: That's fine. At the
2 Table 6-1, I guess I'm also curious. Why did prices go down
3 so much in the interim period? If you look at Table 6 dash,
4 where is it, I'm sorry. I just lost it. Yes, 6-1 on page
5 6-3, and you know, the costs went down but the median values
6 went down. I was just kind of curious, what's going on?

7 MR. DOUGAN: Well we --

8 CHAIRMAN WILLIAMSON: And if you look at
9 raw material costs, particularly when you look at the price
10 of nickel in the interim period it's stabilized, at least in
11 2016 and the value was kind of beginning to go up some.

12 MR. DOUGAN: But that would -- that going
13 up would not be reflected in the first quarter. So that
14 stabilization didn't occur until after the end of the first
15 quarter. Prices certainly went down. I mean there was,
16 let's see. I mean we certainly know that nickel prices had
17 been declining for 20 straight months by the time you get to
18 March 2016.

19 CHAIRMAN WILLIAMSON: Not from the chart
20 that I was -- take a look at the chart that shows the raw
21 materials, the cost of nickel and those other components,
22 and we can probably look at that post-hearing, because
23 that's definitely going up, yeah.

24 MR. DOUGAN: Okay. But one thing that I
25 will -- sure. But I think the one thing is whatever market

1 factors contributed to the downward pricing pressure on the
2 domestic industry, it wasn't coming from imports because --
3 subject imports I should say. Subject imports volume and
4 market share declined, and I can't get into this. But if
5 you look at -- I can't get into this in detail, but if you
6 look at page 49 of our prehearing brief, we show what
7 happened with underselling for the subject imports relative
8 for the first quarter of 2016 versus 2015, and you know,
9 that is not indicative of downward pricing pressure, let me
10 just say that.

11 CHAIRMAN WILLIAMSON: Okay, let's see. In
12 your prehearing brief, you argue that Indian imports needed
13 to discount or undersell to gain market share. You have
14 also argued that Indian imports filled the volume left by
15 Malaysia, Thailand and Vietnam, and then Indian imports have
16 separate market share, separate markets. So I'd like a
17 discussion. Why were imports from India discounted if there
18 was a vacuum to fill and if these imports do not compete
19 with U.S. products?

20 You're saying on one hand they needed to
21 discount and kind of undersell, and this gets to this
22 quality question that comes up all the time.

23 MS. MENDOZA: Right. What we're saying is
24 that the amount of the discount is reflective of the
25 market's perception that it's of lower quality.

1 MR. DOUGAN: And while they were serving
2 customers that were primarily -- customers that had been
3 buying from Malaysia, Thailand and Vietnam, India still was
4 a new entrant to the market comparatively. They hadn't been
5 selling very much, and so even though they were perching the
6 same customers, they still had to demonstrate to those
7 customers that they could produce and do it at a quality --
8 basically they had to meet their needs as well.

9 So the fact that there was a perceived
10 quality difference, you know, would be something that they
11 would -- they're still new entrants. They would still have
12 to show that they could get into the market and provide.

13 CHAIRMAN WILLIAMSON: Okay. But it
14 shouldn't have been as hard as it would be if they -- if you
15 didn't have the vacuum and if --

16 MR. PLANERT: They also had to compete
17 with, of course, with imports from Korea and other sources
18 so --

19 CHAIRMAN WILLIAMSON: Yeah, okay. Other
20 than AMLs --

21 MS. MENDOZA: Commissioner --

22 CHAIRMAN WILLIAMSON: I'm sorry.

23 MS. MENDOZA: I was just going to say
24 because the one thing that remember Mr. Robinson testified
25 to is that his biggest competitor is Ta Chen and the Koreans

1 so -- on his Indian product.

2 CHAIRMAN WILLIAMSON: Okay, good. Let's
3 see. Other than the AMLs, what else makes the subject
4 product a non-commodity product, or is there anything else
5 other than the AMLs that does that?

6 MR. PLANERT: Well, I think Mr. Robinson
7 testified earlier as to the quality issues and as Julie
8 pointed out, this isn't an issue of meeting or not meeting
9 the spec, but going beyond that and looking at some of these
10 other quality factors, and you know, that's not something
11 that Mr. Robinson just came up with or that we just made up.

12 That's reflected in the answers to the
13 purchaser questionnaires where, you know, that your
14 questions distinguish between -- they asked questions about
15 how often does this product meet the spec, and the general
16 answer, you know, the answers were Indian product was rated
17 comparable to the U.S.

18 Then there was a question that said what
19 about purchaser perceptions of quality, and there,
20 consistently, purchasers rated the U.S. product superior to
21 the Indian product. So these quality differences are real
22 and they're not just -- it's not just a question of -- no
23 matter how many times Mr. Schagrin says this is just a
24 commodity product, it really isn't, and I think the
25 purchaser questionnaires as a whole bear that out, whether

1 you're looking at questions about quality, whether you're
2 looking at the fact that quality is rated consistently as
3 the first factor over price, whether you're looking at
4 answers to questions about how often are non-price factors
5 significant.

6 We tried to summarize a lot of that in our
7 brief. But we think this compared to a lot of the cases you
8 see, if you really look at sort of how purchasers are
9 responding, I think it supports the idea that this is not a
10 pure commodity product.

11 MR. DOUGAN: Commissioner, if I could add
12 to what Mr. Planert said, and I mentioned this earlier in
13 response to a question from another Commissioner. If this
14 were a commodity product sold entirely on the basis of price
15 and completely fungible and interchangeable among sources,
16 you wouldn't see the market shares and changes in market
17 shares among the different sources that you do.

18 It doesn't add up, and again I can't talk
19 about it because even the market share data are
20 confidential. But when you look at how the presence in the
21 market and the ability to increase share in the market from
22 producers who oversell and sell at a high price, and even
23 producers or sources that undersell not gaining market
24 share, it's the opposite of what you expect in a pure
25 commodity product.

1 CHAIRMAN WILLIAMSON: Okay. Just briefly,
2 when you say "other quality," I mean there's delivery time,
3 other factors that -- I know it's probably in that table but
4 I -- on the purchaser questionnaires, but just briefly.

5 MR. ROBINSON: Chad Robinson, Warren Alloy.
6 When we talk about the perception of quality, it's not does
7 it meet the spec or not. It has something --

8 CHAIRMAN WILLIAMSON: I understand that.

9 MR. ROBINSON: Okay. So for instance like
10 the size of the weld bead sometimes customers prefer, you
11 know, the Indians on their pipe typically it's a little bit
12 more sloppy. It's maybe a little bit bigger and the
13 customers tend to not prefer that. It also comes down to
14 packing requirements. Usually, the Indian pipe isn't quite
15 packaged as nicely. The cosmetics of the pipe, is it
16 perfectly clean, no dirt. I mean it's ^^^^ I think it's
17 more cosmetic issues, not the functionality of the pipe.

18 CHAIRMAN WILLIAMSON: Okay, thanks. No, I
19 just wanted to get some clarity on that. I know my time is
20 going out, but I think -- I don't have that many questions
21 left. In your post-hearing brief, please address the extent
22 to which BPI data in table D-2 of the staff report does or
23 does not show that subject imports compete across the entire
24 spectrum of sizes. This has to be done post-hearing.

25 MS. MENDOZA: We will do that. We will do

1 so.

2 CHAIRMAN WILLIAMSON: Okay, and page 5-21
3 of the staff report indicates that more than half of
4 responding purchasers shifted from domestic producers to
5 subject imports during the POI, and then many shifted due to
6 price. Doesn't this suggest broad competition irrespective
7 of the importance of AMLs to certain purchasers?

8 MR. DOUGAN: Commissioner Williamson, we
9 address that and rebut that argument at pages 40 and 41 to
10 the prehearing brief.

11 CHAIRMAN WILLIAMSON: Okay, thanks.

12 MS. MENDOZA: And we will reiterate and add
13 to that for our post-hearing.

14 CHAIRMAN WILLIAMSON: Good, okay. Thank
15 you for that. I think -- those were all that I have. Vice
16 Chairman Johanson.

17 VICE CHAIRMAN JOHANSON: Thank you,
18 Chairman Williamson. I'm going to get back to the issue of
19 quality again. Respondents indicate that there is a quality
20 difference between Indian product and domestically produced
21 welded stainless steel pressure pipe. Why would this be the
22 case when the product sold in the United States is produced
23 according to ASTM specifications, and I understand Ms.
24 Mendoza you touched on this a minute ago. Could you talk a
25 bit further?

1 MR. ROBINSON: I think the quality
2 difference are the finishing stages, the handling and the
3 care, you know. Sometimes when the Indian pipe comes in
4 there's scratches and dents and dings. It's not going to
5 affect the use of the pipe, but the handling and the final
6 care of the pipe by the domestic industry, their pipes tend
7 to look nicer. They're packaged in a more sturdy
8 packaging. So I think --

9 MS. MENDOZA: And the weld.

10 MR. ROBINSON: Yeah, and the weld. Some
11 people have a preference on what the weld looks like or not.
12 So I think when it's more perceived quality differences and
13 I think people feel like there's less problems if they buy
14 domestic pipe, versus if they buy import pipe or Indian
15 pipe.

16 VICE CHAIRMAN JOHANSON: Okay, and Mr.
17 Robinson, the staff reports mentions in public areas some of
18 the problems with Indian pipe, including lengthy lead times
19 and quality concerns. I was wondering why does your company
20 continue to import this pipe if there are indeed a number of
21 quality problems associated with the product?

22 MR. ROBINSON: For us, we don't perceive
23 them as a quality problem. We perceive them as maybe not
24 quite as high of a quality as the domestics but it's
25 perfectly okay for use. Also for us, we feel that we can

1 handle these trials that, you know, some of these speed
2 bumps. We feel like we can handle them maybe better than
3 others.

4 We have a team of inspectors that live in
5 India, that they inspect the pipe for us. So I think for
6 us, we just -- yes, it's more challenging, but we feel like
7 we can handle it and still do okay.

8 VICE CHAIRMAN JOHANSON: All right. Well
9 that concludes my questions. I know it's been a long day.
10 Y'all have been sitting out there for a long time. We
11 certainly appreciate you coming here and to testify. Thank
12 you again.

13 CHAIRMAN WILLIAMSON: Do any other
14 Commissioners have questions?

15 (No response.)

16 CHAIRMAN WILLIAMSON: No? Well, does staff
17 have any questions for this panel?

18 MR. CORKRAN: Douglas Corkran, Office of
19 Investigations. One very quick question for Mr. Robinson.
20 You indicated that you maintain a generic inventory and an
21 approved inventory. Is there a single sort of bellwether
22 AML that you use to determine whether pipe should be in that
23 generic or approved? Are you using like the Exxon Mobil AML
24 to make that determination?

25 MR. ROBINSON: Chad Robinson, Warren Alloy.

1 Typically for us, we do look at the AMLs. But also just
2 internally, we kind of use a country of origin mechanism.
3 Typically, customers will accept if there's not necessarily
4 an AML restriction of some type. Usually they'll limit it
5 to either domestic or Western European. So if a, you know,
6 we're buying from a company in Italy, we'll typically mark
7 them as approved unless for some special reason there would
8 be considered generic.

9 MR. CORKRAN: And by that, do you mean that
10 you're maintaining in a way your own sort of AML list, or
11 you're using both AMLs and country of origin to make the
12 determine of which inventory to keep it in?

13 MR. ROBINSON: Yes. It would be considered
14 as both. So we have kind of our own approved vendor list,
15 but then we also determine which one is approved and which
16 one is generic, either by how many AMLs they're on or what
17 country they're -- what country they produce material in.

18 MR. CORKRAN: Thank you very much. Staff
19 has no additional questions.

20 CHAIRMAN WILLIAMSON: Do the Petitioners
21 have any questions for this panel?

22 MR. CLOUTIER: Chris Cloutier from Schagrin
23 Associates. No questions.

24 CHAIRMAN WILLIAMSON: Okay. Okay, thank
25 you. Fine. Well, it's time for closing statements.

1 Petitioners have 30 minutes direct and five minutes for
2 closing for a total of 35. Respondents have 27 minutes from
3 direct, five for closing for a total of 32. As usual, we'll
4 combine these times and of course you don't have to use all
5 the time. Okay.

6 So I want to very much thank the panel for
7 their testimony this afternoon, and you can step back and
8 we'll have our closing statements.

9 CHAIRMAN WILLIAMSON: You may begin when
10 you're ready.

11 CLOSING REMARKS OF CHRISTOPHER T. CLOUTIER

12 MR. CLOUTIER: Thank you very much. Again,
13 Chris Cloutier from Schagrin Associates for the domestic
14 industry. I'd like to start by expressing our appreciation
15 of the time that everyone has spent with us this afternoon.
16 I'd also like to thank the staff for the hard work that went
17 into the report and all of the details that have been
18 provided for the Commission to consider.

19 For the start of our closing, I'd like to
20 refer the Commission back to our prehearing brief, and
21 especially pages two and three where we discuss the
22 standards that you should apply while making your decision
23 in this case. In particular, as the federal circuit has
24 pointed out, as long as the effects are not merely
25 incidental, tangential or trivial, the foreign product sold

1 at less than fair value meets the causation requirement.

2 As you also know from the Senate report,
3 the "by reason of" standard does not require that unfairly
4 traded imports be the principle cause of injury or
5 contemplate that injury from unfairly traded imports be
6 weighed against other factors, such as non-subject imports,
7 which may be contributing to overall injury to an industry.

8 What we have in this case is pretty
9 straightforward. The deterioration of the condition of the
10 domestic industry is the result of a tremendous influx in
11 imports of unfairly traded WSSPP from India, and this
12 strongly supports the conclusion that whatever the other
13 causes of injury may be, the negative impact of the unfairly
14 traded imports from India is a cause of the injury that is
15 significantly more than trivial. Under the statute and the
16 case law, that's all that this Commission needs to make an
17 affirmative determination.

18 In the Respondents' prehearing brief and
19 today, we've seen people throw a lot of chaff up in the air,
20 in an effort to distract from the core issues facing the
21 Commission, and whether to make an affirmative
22 determination. If you would recall, and I regret that we
23 can't put the slide up for you, but Slide 3 from our
24 presentation earlier today showed a number of factors in
25 2013 in the start of the POI and in 2015.

1 For example, apparent consumption was more
2 or less equal. U.S. producer shipments were down. Indian
3 shipments were up. U.S. producer market share was down.
4 Indian producer market share was up, and the U.S. producers'
5 net losses increased. That's the record before you right
6 now.

7 Some of the other things that are
8 distractions at best include arguments about whether or not
9 the domestic market is bifurcated. You've previously found
10 in other cases that it's not. We do admit that there are
11 AMLs and they do affect some pricing, or I'm sorry, some
12 purchases and some purchase decisions. But as my colleague
13 Mr. Schagrin indicated today, the AML market is not that
14 big, and Respondent started their presentation today by
15 trying to equivocate or equate, you know, the AML market and
16 the rest of the market as more or less equal, and that
17 somehow their failure to cause injury in the AML market
18 would absolve them of causing injury in the rest of the
19 market, but that's not the case.

20 If subject imports have injured the
21 domestic industry in what's called the generic part of the
22 market, well then that's still injury. Part of what I think
23 I just heard at the end of the presentation by the
24 Respondents was also some statements that in 2014, the
25 factor that drew Indian imports into the United States was

1 growth in the oil and gas industry.

2 I think there's a little dissonance here
3 between that argument and what I also heard that Indian
4 WSSPP can't serve the oil and gas industry. More likely,
5 what I think we've seen and what we had admitted earlier in
6 the staff conference was that Indian welded stainless steel
7 pressure pipe was just a replacement for other unfairly
8 traded imports from the three countries that you previously
9 found injured the domestic industry.

10 I'd also like to discuss a little bit about
11 nickel. The Commission's been presented with similar
12 arguments in a variety of cases over the course of this
13 summer about raw material prices and how they affect
14 pricing, downstream pricing for the finished product. My
15 colleagues at ECS are quick to point out that they don't say
16 that nickel is the only determinant, but yet that's what
17 their argument really requires.

18 If anything else is affecting the pricing,
19 then I think that you have to make an affirmative
20 determination because it's the subject Indian imports coming
21 in in large volumes and underselling the domestic industry
22 that are contributing to the injury being suffered.

23 There are a number of problems with the
24 nickel argument that you've addressed in some other cases,
25 you know, involving different raw materials. But you know

1 in general if nickel really is the driving force behind
2 pricing of WSSPP, then profit rates should be more or less
3 constant, and they should affect all producers all around
4 the world. But here somehow the domestic industry seems to
5 be more affected.

6 This argument is also weaker in this case
7 because as you heard today, the amount of labor that does
8 into producing WSSPP is a lot higher than in some of the
9 other products you've looked at. I believe you'll see in
10 the staff report that it costs upwards of \$300 in labor per
11 ton. This is a lot different than let's say in the
12 flat-rolled steel product, where labor accounts for maybe
13 \$15.

14 So the idea that input material alone
15 drives pricing really doesn't fit the facts of this case,
16 because labor is so much more intensive and constitutes such
17 a large proportion of the cost of the product. Commissioner
18 Pinkert has also asked about how we can determine what the
19 domestic industry would look like in the absence of Indian
20 imports, and we intend to address this in our post-hearing
21 brief.

22 But we would refer you to Slide 3. If
23 you'll recall, at the beginning of 2013 Indian imports were
24 relatively modest, and then in 2015, Indian imports have
25 somehow come to occupy nearly 25 percent of the domestic

1 market, notwithstanding their apparent quality problems. We
2 think that this is some indication of what the market could
3 look like in the absence of dumped and subsidized Indian
4 product.

5 I would also refer you to the analogy you
6 heard about the bathtub and how it takes time for all of
7 this dumped and subject -- dumped and subsidized product to
8 work its way through the system. In the first quarter of
9 2016, the staff report shows that the domestic industry
10 increased shipments, increased their market share, increased
11 capacity utilization, and we think that going forward the
12 domestic industry will continue to exhibit these positive
13 indicators, as dumped and subsidized Indian products are
14 removed from the domestic market.

15 And finally I'd like to bring up just a
16 couple of things that didn't come up in the Respondents'
17 presentation today, but they are addressed in the
18 Respondents' case brief, the first of which is their
19 argument that the volume of subject imports is not
20 significant. As everyone knows at this point, Indian
21 imports grew from essentially nothing to take 25 percent of
22 apparent consumption. It's hard to consider how that could
23 not be significant.

24 The Respondents have also argued in their
25 case brief that subject imports had no negative price

1 effects. But I would refer you again to the staff report
2 that shows that 37 out of 50 comparisons showed
3 underselling. 10 of 19 purchasers reported switching to
4 Indian imports, and seven of these reported doing so
5 because of price.

6 All of this combined should make for a
7 really straightforward vote on your part if you disregard
8 the sort of more extreme arguments about quality that no one
9 can see but yet somehow affects pricing, and the bifurcated
10 nature of the market that no one seems to know anything
11 about except for the people who testified before you this
12 morning. We think that when you review the facts of the
13 case in their totality, that you should make an affirmative
14 determination, and I thank you for your attention today.

15 CHAIRMAN WILLIAMSON: Thank you. Mr.
16 Planert and Ms. Mendoza, you can begin when you're ready.

17 STATEMENT OF R. WILL PLANERT

18 MR. PLANERT: Thank you, Mr. Chairman.
19 Again for the record, Will Planert on behalf of Respondents.
20 You know, the summary we just heard about the statutory
21 standard and imports don't have to be the only cause or the
22 predominant cause; they just have to be a cause. Well we
23 can't disagree with that. That's what the law says. But
24 they do have to be a cause, and for them to be a cause,
25 there has to be a causal link.

1 The domestic industry in the presentation
2 today has sort of floundered around for how they're going to
3 show you this causal link. They would -- at times they seem
4 to be suggesting and in their brief that well, the imports
5 were here and we didn't do very well. So they have to have
6 some effect, and it only has to be a little effect and they
7 had to have some, so you should vote affirmative.

8 We don't think that's what a cause means.
9 A cause means they have to be shown to have a causal effect.
10 The question that several Commissioners asked, I think, is
11 exactly the right one, which is okay, so show me what, and
12 you know, what would this industry look like but for Indian
13 imports, so we can see that they were a cause?

14 And the first answer that you got was well,
15 the logical answer you should have gotten is let's look at
16 the first quarter of 2016. It's in our POI, you know. We
17 have, you know, when you compare it to the first quarter of
18 2015, we have Indian imports dropping, we have market share
19 going up, we have good things but profitability is still
20 terrible, and in fact if anything is worse and declined
21 significantly since the first quarter of 2015.

22 And in response to that, we got analogies
23 to bathtubs, but the reality is that, and we will elaborate
24 in the post-hearing, that what explains it is yes, nickel
25 prices did keep declining and they have stabilized a little

1 bit in 2015, but not in the first quarter. So that period
2 doesn't work for causation.

3 So then we heard about, when it was pointed
4 out to them that well, 2007 you made some money, and we
5 heard well yes, and that's what a healthy industry would
6 look like because we would be, you know, we need to have a
7 much larger market share than what we have now. We need to
8 have much better capacity utilization than we have now, and
9 that's how we make money in this business.

10 And as Mr. Dougan pointed out, that doesn't
11 really work either, because in 2007 when they did do very
12 well, capacity utilization was no better and their market
13 share was actually considerably lower. But again, what was
14 significant about the 2007 period was nickel prices were
15 extraordinarily high by today's standards, and they
16 increased very, very steeply. So that year doesn't work
17 really either.

18 So then a moment ago we heard well maybe,
19 maybe 2013 is what you should look like for -- what the
20 industry should look like absent imports from India. That's
21 interesting because of course in 2013 they argued, and the
22 Commission found that they were injured from imports from
23 Malaysia. But again, their chart that says well let's look
24 at 2013, let's look at 2015, I think Mr. Cloutier said, you
25 know, that's your record.

1 Well actually no. Your record does go
2 through the first quarter of 2016, and we do think you need
3 to look at that period and we do think that that's extremely
4 relevant for causation. So at the end of the day, we just
5 don't think that they have a causation theory, and they are
6 trying to get you to basically say well look, the imports
7 were there. They had a significant market share. There has
8 to have been some causation. We don't have to show very
9 much, and I think we would just encourage you to reject that
10 approach and actually ask yourself what is the actual causal
11 link they're relying on and do you see it in this record.

12 As we pointed out several times, you know,
13 we think that this Period of Investigation is very helpful
14 for testing that, because you have -- you have periods where
15 demands was rising, you have periods where demand was
16 falling. You have periods where nickel prices were rising,
17 you have periods where nickel prices were falling.

18 You have unusually good data on non-subject
19 imports, not just their volume but their pricing and their
20 underselling, which we haven't talked a lot about today
21 because of confidentiality concerns. But we address them in
22 our brief and we think they're very illuminating. So at the
23 end of the day, we don't think that there's a causation case
24 here, and we don't think it can just be assumed. It does
25 need to be shown on the record.

1 I guess I'd like to conclude with a few
2 more just sort of responses to things that we heard a moment
3 ago. First of all, on the issue of raw materials prices,
4 you know, with all due respect, I don't think -- it just
5 doesn't do to say look, there have been other cases where
6 Respondents argued that raw material prices explained, you
7 know, sales prices in the market, and you voted affirmative
8 in those cases so you should do so here.

9 They really need to make their case on this
10 record, not on other records. Raw materials prices are
11 always relevant, but this is a rare -- I don't think there's
12 another case where there's as clear a direct correlation
13 where you have a very large component of the raw materials
14 price which is not only transparently traded, but which is
15 subject to these very significant fluctuations.

16 Our brief spent a lot of time going through
17 the evidence on how you can see the correlation between the
18 nickel prices and the WSSPP prices and their profitability.
19 No other factor over a long period of time seems to
20 interrupt that causation, whether it's imports, whether it's
21 demand going up, whether it's demand going down.

22 So to just say well, there's been other
23 cases where you didn't find that argument persuasive, I
24 don't think that's sufficient. The issue of labor costs
25 that was just raised again. As Mr. Dougan pointed out, you

1 know, they're a little higher share of total cost on this
2 product. They're still less than ten percent and they don't
3 fluctuate the way nickel does.

4 Our point about nickel is that it moves
5 very significantly and very transparently, and we just
6 think, you know, the record is pretty complete on that. But
7 again on quality, Mr. Cloutier said well nobody seems to be
8 able to understand or know what it is. Well actually our
9 witness testified as to what it is. But more importantly,
10 you actually have purchaser data that is unusual in a steel
11 case to talk about where you have a clear majority saying
12 there's a different perception of quality for the imported
13 product, where you have purchasers consistently rating
14 quality as the most important factor.

15 So again, this isn't something that you
16 need to take our word for. We think the record supports
17 that there are clear quality distinctions and just because
18 they keep saying it's a commodity product that sells only on
19 price doesn't make it so. As Mr. Dougan pointed out just a
20 few moments ago, if that were the case, the market share
21 movements during the period would be very different than
22 what you've seen.

23 So again, in conclusion, we appreciate the
24 Commission's time today and again, we think this is a
25 causation case and we don't think that there is causation

1 here, and we urge you to vote negative. Thank you.

2 MS. MENDOZA: That concludes our
3 presentation.

4 CHAIRMAN WILLIAMSON: Thank you very much
5 for the closing statement. Post-hearing briefs, statements
6 responsive to the questions and requests of the Commission
7 and corrections to the transcript must be filed by September
8 29, 2016. Closing of the record and final release of data
9 to parties is October 18th, 2016. Final comments are due
10 October 20th, 2016. With that, I want to thank everyone who
11 participated in today's hearing and this is closed. Thank
12 you.

13 (Whereupon, at 3:15 p.m., the meeting was
14 adjourned.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Welded Stainless Pressure Pipe from India

INVESTIGATION NOS.: 701-TA-548 and 731-TA-1298

HEARING DATE: 9-22-16

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 9-22-16

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