

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation Nos.:
LIGHT-WALLED RECTANGULAR) 731-TA-1054 and 1055
PIPE AND TUBE FROM MEXICO) (Final)
AND TURKEY)

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Tuesday,
 August 31, 2004

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

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

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

STEPHEN KOPLAN, CHAIRMAN
 DEANNA TANNER OKUN, VICE CHAIRMAN
 JENNIFER A. HILLMAN, COMMISSIONER
 CHARLOTTE R. LANE, COMMISSIONER
 DANIEL R. PEARSON, COMMISSIONER

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Staff:

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ROBERT HUGHES, ECONOMIST
CHARLES YOST, ACCOUNTANT
KAREN DRISCOLL, ATTORNEY
DIANE MAZUR, SUPERVISORY INVESTIGATOR

In Support of the Imposition of Antidumping Duties:

On behalf of California Steel and Tube; Hannibal
Industries, Inc.; Leavitt Tube Company, LLC; Maruichi
American Corporation; Northwest Pipe Company; Searing
Industries, Inc.; Vest, Inc.; and Western Tube and
Conduit Corporation:

JACK MEYER, President, Bull Moose Tube Company
MICHAEL DUSTMAN, Vice President, Business
Development, Bull Moose Tube Company
PARRY KATSAFANAS, President, Leavitt Tube Company
TERRY MITCHELL, Senior Vice President, Tubular
Products Group, Northwest Pipe Company
GLENN BAKER, Vice President, Marketing, Searing
Industries
ROBERT A. BLECKER, Professor of Economics,
American University

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FRANCES VALDEZ VALDEZ, Esquire
Schagrín Associates
Washington, D.C.

APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duties:

On behalf of Products Laminados de Monterrey, S.A. de C.V. and Prolamsa, Inc.:

JEAN-MARIE DIEDERICH, President, Prolamsa, Inc.

DAVID E. BOND, Esquire
FRANK H. MORGAN, Esquire
MIGUEL MAYORGA, Esquire
White & Case LLP
Washington, D.C.

On behalf of Galvak, S.A. de C.V. and Hysla, S.A. de C.V.:

JAIME TREVINO, Export Manager, Tubular Division,
Hysla, S.A. de C.V.

JEFFREY M. WINTON, Esquire
SAM YOON, Esquire
Preston Gates Ellis & Rouvelas Meeds, LLP
Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 CHAIRMAN KOPLAN: Good morning. On behalf
4 of the United States International Trade Commission, I
5 welcome you to this hearing on Investigation Nos.
6 731-TA-1054 and 1055 (Final) involving Light-Walled
7 Rectangular Pipe and Tube From Mexico and Turkey.

8 The purpose of these investigations is to
9 determine whether an industry in the United States is
10 materially injured or threatened with material injury
11 by reason of less than fair value imports of subject
12 merchandise.

13 Schedules setting forth the presentation of
14 this hearing, notice of investigation and transcript
15 order forms are available at the Secretary's desk.
16 All prepared testimony should be given to the
17 Secretary. Do not place testimony directly on the
18 public distribution table.

19 As all written testimony will be entered in
20 full into the record, it need not be read to us at
21 this time. All witnesses must be sworn in by the
22 Secretary before presenting testimony. I understand
23 the parties are aware of the time allocations. Any
24 questions regarding the time allocations should be
25 directed to the Secretary.

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

5 Madam Secretary, are there any preliminary
6 matters?

7 MS. ABBOTT: No, Mr. Chairman.

8 CHAIRMAN KOPLAN: Very well. Then let us
9 proceed with the opening remarks.

10 MS. ABBOTT: Opening remarks on behalf of
11 Petitioner will be made by Roger B. Schagrín, Schagrín
12 Associates.

13 CHAIRMAN KOPLAN: Good morning, Mr.
14 Schagrín.

15 MR. SCHAGRIN: Good morning, Chairman
16 Koplan, members of the Commission.

17 In 1995, the domestic industry lost a case
18 on this identical like product concerning imports from
19 Mexico at the preliminary stage of the investigation
20 when the ITC found no regional industry analysis was
21 appropriate and then made a negative injury finding
22 because all of the trends for the domestic industry,
23 including profitability, were increasing over the POI.
24 During that POI, 1992 through 1994, Mexican imports
25 were increasing from 500 tons a month to 1,500 tons a

1 month.

2 Now let's move the clock forward a decade to
3 2004. Mexican imports over this POI from 2001 through
4 2003 have increased from 8,500 tons a month to 13,000
5 tons a month and reached 19,000 tons in the month of
6 February 2004.

7 Add to this dumped imports from Turkey,
8 which came virtually from nowhere to 2,500 tons a
9 month and were almost 5,000 tons a month earlier this
10 year. Together we have cumulated imports from Mexico
11 and Turkey which together are more than twice the
12 total imports from all countries into the United
13 States in 1994.

14 Consumption at the beginning of this POI was
15 the same as in the last POI and, as you know, has
16 increased by 20 percent over the POI period. What has
17 happened in this industry is a dramatic loss of market
18 share over the past decade. From 90 percent market
19 share a decade ago, the domestic share of the market
20 today is only 60 percent. This is a shame. It's
21 unfortunate. It's cost a lost of jobs, and it is
22 clearly because of dumping.

23 On the record of this investigation, the
24 market share of the subject imports has exploded from
25 16.5 to 22.4 percent. Again, that is shocking. It is

1 because of dumping. It is because of the underselling
2 of domestic prices, and it has been injurious to the
3 domestic industry.

4 The Respondents, in their prehearing brief
5 and again today I'm sure, wish to tell the Commission
6 an overly simplistic and ultimately misleading story.
7 Respondents assert that when industry performance is
8 trending upward there can be no injury even from a
9 massive import surge. The problem with this analysis
10 is that it ignores the business cycle and thereby
11 ignores the U.S. statute.

12 The trade law was amended in 1988 to include
13 a new provision at the end of list of injury factors
14 that states, and I quote, "The Commission shall
15 evaluate all relevant economic factors described in
16 this clause within the context of the business cycle
17 and conditions of competition that are distinctive to
18 the affected industry."

19 We had a 20 percent increase in consumption
20 over this POI because we exited from a recession, and
21 yet the domestic industry's production, shipment,
22 employment and investment factors did not improve
23 anywhere near this degree as the domestic industry
24 lost market share.

25 Subject imports surged by 68 percent and

1 gobbled up the entire increase in U.S. market demand
2 or almost all of it. Indeed, while this 20 percent
3 increase in consumption was occurring, the domestic
4 industry's profits and profit margins fell as massive
5 underselling by large volumes of dumped imports caused
6 price suppression and a cost/price squeeze.

7 In fact, these were the findings of this
8 Commission in its unanimous affirmative preliminary
9 injury determination, and they are all still
10 applicable to the three year POI of 2001 through 2003.

11 Respondents also contend that if the
12 industry is not showing injury on vote day then the
13 case is over. Once again, they forgot the statute.
14 In the 1995 URAA, the Congress again amended the
15 injury provision by adding a new provision, Section I,
16 which reads, and I quote:

17 "The Commission shall consider whether any
18 changes in volume, price effect or impact of imports
19 of the subject merchandise since the filing of the
20 petition is related to the pendency of the
21 investigation and, if so, the Commission may reduce
22 the weight accorded to the data for the period after
23 the filing of the petition in making its determination
24 of material injury or threat of injury."

25 There can be no doubt, and this record is

1 replete with anecdotal information, that the filing of
2 these petitions in September 2003 had an impact on
3 future volumes, import pricing and, most importantly,
4 the ability of the industry to pass along the massive
5 cost increases which were being experienced at the
6 beginning of 2004.

7 The Commission should not forget that
8 everyone in the U.S. industry and the U.S. customers
9 of Mexican products are well aware of the fact that
10 the Mexican pipe and tube industry are serial dumpers.
11 They have been found to have dumped standard and
12 structural pipe, OCTG, large diameter pipe --

13 CHAIRMAN KOPLAN: Mr. Schagrin, your time
14 has expired.

15 MR. SCHAGRIN: All right. -- light-walled
16 rectangular, all of their products.

17 If the Commission does not make an injury
18 finding, I'm sure that you'll make a threat of injury
19 finding.

20 Thank you.

21 CHAIRMAN KOPLAN: Thank you.

22 Mr. Winton?

23 MS. ABBOTT: Opening remarks on behalf of
24 Respondents will be by Jeffrey M. Winton, Preston
25 Gates Ellis & Rouvelas Meeds.

1 CHAIRMAN KOPLAN: Good morning.

2 MR. WINTON: Good morning. I'm Jeff Winton
3 of Preston Gates Ellis & Rouvelas Meeds -- I need to
4 practice saying it because I just moved there --
5 appearing today on behalf of the Mexican producers, at
6 least some of them.

7 In our main presentation today we will
8 address a number of the technical issues in this case
9 and respond to some of the comments Roger just made.

10 CHAIRMAN KOPLAN: Could you just move the
11 microphone a little closer?

12 MR. WINTON: Sure. In addition, I'll
13 definitely want to talk about the failure of the vast
14 majority of U.S. producers, almost two-thirds by my
15 count, the failure of them to respond to the
16 Commission's questionnaires in this case. Almost two-
17 thirds of the U.S. producers are missing in this case.

18 For now I'd like to spend my initial five
19 minutes giving a somewhat broader overview. The
20 Petitioners' arguments in this case until this morning
21 were based solely on the data for the three year
22 period from 2001 to 2003. Roger has just amended that
23 by going back to 1995.

24 They mention as sort of a minor issue, but
25 they don't talk about the fact that the situation

1 changed fundamentally in the first half of 2004.
2 Their view on that, to the extent they talked about
3 it, is they ask you just to ignore it.

4 Frankly, if we were just talking about 2001
5 to 2003 we'd see that the U.S. producers didn't do
6 badly at all. While Roger says that they didn't get
7 the benefit of the relief, in fact their shipments,
8 unit values and total values all went up, all went up
9 significantly over the three years.

10 Their operating income, while not as high as
11 Roger would like, was pretty steady, in excess of
12 eight percent of sales in all three years. Net income
13 and cash flows were also strong, and their overall
14 return on investment was over 10 percent in each of
15 the three years; over 10 percent return on investment
16 at a time when I'm getting about half a percent on my
17 money market fund.

18 The capital expenditures were steady. Their
19 spending on research and development increased sharply
20 over the period, and, in addition, all the employment
21 factors, including total employment, hours worked,
22 average wages, productivity, were all up from 2001 to
23 2003. All of the indicators that you normally look at
24 were strong.

25 This isn't an industry that was struggling

1 for survival. By any measure, they were quit healthy,
2 and they were making the investments needed to improve
3 productivity and remain competitive.

4 Even if the period of investigation had
5 ended on December 31, 2003, as Roger seems to want,
6 there would be no basis for an affirmative
7 determination of material injury. The most you might
8 have had would be an interesting discussion about the
9 economics of cost increases and how much of a cost
10 increase can be passed on in prices given that
11 economic theory tells you that when demand remains
12 constant cost increases are almost never fully passed
13 through to customers.

14 But, the period under consideration didn't
15 end on December 31, 2003. It began on that date.
16 Under the statute, the Commission is required to
17 determine whether the U.S. industry is in the present
18 tense experiencing material injury or threat of
19 material injury, and as the Commission and the
20 reviewing courts have recognized, the Commission's
21 analysis must focus on the condition "as recent to
22 vote day as possible."

23 When you look at the most recent data
24 available, any rationale for this case completely
25 evaporates. The first six months of this year

1 witnessed a fundamental change in the U.S. market not
2 just for light-walled rectangular pipe, but for all
3 pipe products and all steel products.

4 As a result of soaring demand in China and
5 the United States and increased raw materials costs
6 and transport costs, supply in the U.S. market has
7 been and continues to be very tight. U.S. producers
8 of light-walled rectangular pipe have taken advantage
9 of this situation by pushing through absolutely
10 massive price increases.

11 In our prehearing brief, we submitted copies
12 of the communications that they sent to their
13 customers announcing price increases totaling close to
14 \$400 per ton, \$400 per ton in the first quarter of
15 2004 alone, and they've had additional price increases
16 since then.

17 Now, we submitted the documents in our
18 brief. I brought copies with me. These are from the
19 U.S. producers. These price increases have far
20 outstripped the rise in their cost. As a result,
21 their profits have risen to incredible levels.

22 In the first six months of 2004, they earned
23 more than they did in 12 months of any previous year.
24 Their total net income in the first half of 2004 after
25 deducting all their costs and SGA expenses and

1 interest costs and all the other expenses, their net
2 income was more than 20 percent of sales, more than 20
3 percent of sales in the first six months of the year.

4 In the disclosures that they made to their
5 stockholders under the applicable regulations of the
6 SEC, they have said that they expect these record
7 profits to continue. Now, these record profits are
8 not, as the Petitioners have suggested, the result of
9 distorting caused by their inventory valuation method.
10 We did the calculations in Attachment 6 of our brief,
11 and I think we've proved that beyond a doubt.

12 It's also clear that the U.S. producers'
13 record profits are not the result of the imposition of
14 preliminary antidumping measures. After all, most of
15 these price increases were pushed through in the first
16 quarter of this year before any antidumping measures
17 were in place.

18 I see my time has run out.

19 CHAIRMAN KOPLAN: It has.

20 MR. WINTON: It's very nice to see you all
21 again, but really this is a case that shouldn't be
22 here.

23 Thank you.

24 CHAIRMAN KOPLAN: Thank you.

25 Madam Secretary, will you call the first

1 panel?

2 MS. ABBOTT: The first panel in support of
3 the imposition of antidumping duties, please come
4 forward and be seated.

5 All witnesses have been sworn.

6 (Witnesses sworn.)

7 CHAIRMAN KOPLAN: Thank you. You may
8 proceed.

9 MR. SCHAGRIN: Good morning again, Chairman
10 Koplan, members of the Commission. At this point I
11 would like to introduce our witnesses and invite them
12 to testify to the Commission.

13 We will begin with Mr. Katsafanas, the
14 president of Leavitt Tube.

15 MR. KATSAFANAS: Good morning, Chairman
16 Koplan and members of the Commission. For the record,
17 my name is Parry Katsafanas, and I'm president of
18 Leavitt Tube Company, LLC, located in Chicago,
19 Illinois. I've been president of the company since
20 1997.

21 Leavitt Tube Company was founded in 1957,
22 and I've been with the company for my entire career,
23 which has spanned 30 years. Leavitt Tube has always
24 produced and sold light-walled rectangular tubing and,
25 therefore, I have been intimately familiar with the

1 business throughout my career.

2 Leavitt Tube has two facilities, the
3 original facility in Chicago, Illinois, and in 1985 we
4 built a new plant in Jackson, Mississippi. That plant
5 has four electric resistance weld mills with a product
6 range from half-inch square to two and a half inches
7 square, as well as circular tubing capability
8 utilizing hot-rolled, hot-rolled pickled and oiled and
9 cold-rolled sheet. We do not produce any non-subject
10 rectangular tubing in our Jackson, Mississippi, plant.

11 At our Chicago facility, we have nine
12 electric resistance weld mills. Six of these mills
13 have a capability of producing the subject product.
14 However, in our Chicago facility, by tonnage most of
15 our production is in the larger structural tubing
16 sizes.

17 The vast majority of our sales of light-
18 walled rectangular tubing are to service centers and
19 distributors. These products are commodity products,
20 which are produced to ASTM specifications, normally
21 ASTM A-513 and A-500.

22 For service centers and distributors, as the
23 Commission well knows from all the steel cases that
24 you've heard, when a product is produced and sold
25 solely on a general specification basis the only thing

1 that matters is having the lowest price. Service
2 centers must in turn compete with each other for
3 business to customers who also want the lowest price.

4 If one service center wants to buy only
5 domestic product, they cannot stay in business for
6 long when domestic producer prices are 10 to 20
7 percent higher than the prices of imports being
8 brought by other service centers and distributors.
9 For that reason, even the few service centers that
10 only buy domestic product, they ask their domestic
11 suppliers to keep them competitive with import
12 pricing.

13 During the period from 2001 to 2003, our
14 average cost of steel was increasing, and we were
15 unable to pass along these cost increases in the
16 marketplace. The result was a reduction in our
17 profitability despite the increases in demand that
18 were occurring coming out of the recession.

19 Given the fact that all of our domestic
20 competitors were facing higher steel costs, there's no
21 question that they were also trying to pass along
22 these higher costs. The reason that Leavitt and the
23 rest of the industry were unable to pass along these
24 cost increases was clearly the presence of large
25 volumes of dumped light-walled rectangular tubing at

1 prices significantly less than domestic prices.

2 In addition to the price and profitability
3 pressures caused by the Mexican and Turkish imports,
4 there were other ways in which our business was
5 injured as well. First, at our Jackson, Mississippi,
6 plant which produces only the subject rectangular
7 tubing and round tubing, we cut back our production
8 operations from seven shifts a week to four shifts a
9 week in 2002. The huge influx of imports into the
10 southwest and southeastern markets led to these volume
11 losses and production cutbacks at our Jackson
12 facility.

13 The additional negative effect on our
14 operation of these imports is the effect of reduced
15 cash flow for capital investment. Our company has
16 always prided itself on making capital investments to
17 stay competitive, but these capital investments come
18 primarily from cash flow. As cash flow declines, our
19 investments decline. Not only does that injury us in
20 the present, but it creates a lingering effect because
21 the decreased investment will make us less competitive
22 in the future.

23 When I testified before at the staff
24 conference in September of 2003, if anyone had told me
25 then that hot-rolled steel would be selling for more

1 than \$700 per ton in September 2004, I would have told
2 them they were crazy, yet this is exactly what has
3 happened in the year since the staff conference.

4 This extraordinary situation, combined with
5 the unusual inventory accounting practices, has
6 created a distorted financial picture for 2004. If
7 you look at Leavitt's financial results, we made more
8 money in the first half of 2004 than we did in all of
9 2002 and 2003 combined. There are only two reasons
10 for this. The first is inventory accounting. We used
11 a FIFO, a first in/first out accounting system.

12 With the prices of steel increasing by more
13 than \$300 a ton in just the first half of 2004, our
14 2003 year end steel inventories of approximately
15 40,000 tons were purchased and recorded at
16 comparatively low cost. Since the old cost went into
17 our accounting system, the raw material base price
18 increases paid in 2004 misleadingly indicate high
19 profits when the reality is that these are merely the
20 function of our accounting system.

21 It is important for the Commission to
22 realize that there is no comparison between the
23 periods of 2001 through 2003 and the first half of
24 2004. During the original three year period, cost
25 increases for steel were normal when they occurred,

1 generally in the \$20 a ton to \$40 a ton price range
2 per quarter. We were unable to pass along these
3 increases.

4 The second reason for our strong first half
5 2004 results was the changed market environment that
6 removed the threat of Mexican and Turkish imports at
7 dumped prices. The filing of these cases paved the
8 way for our successful price increases.

9 Just as the sun sets in the west, it is not
10 a question of if fuel prices will fall. It is a
11 question of when fuel prices will fall and by how
12 much. Scrap prices, coke prices and iron ore prices
13 will all go down as more supply is brought into the
14 market in response to higher prices.

15 If I could tell you when and by how much
16 these commodity and steel prices would fall, I
17 wouldn't be here testifying today as president of a
18 tube and pipe company. I'd be a fat cat commodities
19 trader flying around the world in my private jet.

20 One thing I know for sure is that the last
21 time we all heard in the late 1990s we didn't have a
22 bubble economy and everything could keep going up
23 forever, we learned some hard lessons. As the
24 president and part owner of our company responsible
25 for a total of 250 jobs and the families that go with

1 those jobs, I have to make sure that in the short term
2 we don't lose as much or more money when our costs
3 fall as we made on the way up.

4 We remain committed to efficient and modern
5 operations and continue to invest in the company to
6 increase productivity. With a trading environment
7 where dumped imports are limited, our faith in our
8 workers and our investment strategies will be
9 rewarded.

10 For Leavitt Tube to survive in the future,
11 we must have fair trade in our products. We cannot
12 have dumped imports from Mexico and Turkey taking one-
13 quarter of the market for light-walled rectangular
14 tubing and be able to operate our mills at a rate that
15 gives us sufficient conversion costs.

16 We would like to expand our Jackson,
17 Mississippi, plant because we have the space under our
18 roof to add two or more tube mills and help spread
19 some of our overhead cost in that facility, but if
20 dumped imports are continued to just dominate the
21 southeast and southwest markets, we are just as likely
22 to shut down our Jackson, Mississippi, facility as we
23 are to invest and expand the facility.

24 The Commission cannot control steel prices
25 or scrap prices or coke prices any more than I can.

1 However, what you can do is make a decision that will
2 stop dumped imports so that our company can survive.
3 On behalf of all our employees, I respectfully ask the
4 Commission to make a final affirmative injury
5 determination.

6 Thank you.

7 MR. SCHAGRIN: Thank you, Parry.

8 I'd like to introduce Jack Meyer, the
9 president of Bull Moose Tube.

10 MR. MEYER: Good morning, Chairman Koplan
11 and members of the Commission. For the record, my
12 name is Jack Meyer, and I am the president of Bull
13 Moose Tube Company based in Chesterville, Missouri, a
14 suburb of St. Louis.

15 I've been president of the company since
16 1996 and have been in the pipe and tube industry for
17 26 years. Bull Moose was originally a division of
18 National Steel, but since 1988 we have been a division
19 of Coporow Industries PLC, an international steel
20 company with headquarters in London, England.

21 Bull Moose has five U.S. production
22 facilities. Specifically, these facilities are
23 located in Missouri, Illinois, Indiana, Ohio and
24 Georgia. We primarily produce light-walled
25 rectangular tubing at our plants in Gerald, Missouri,

1 and Trenton, Georgia. We believe we are one of the
2 largest U.S. producers of this product, and this
3 product has always been a very important product for
4 the Bull Moose Tube Company.

5 The unfairly traded imports from Mexico and
6 Turkey have definitely caused injury to Bull Moose
7 Tube. In the early 1990s, more than one-third of the
8 production of our Gerald, Missouri, plant went to the
9 Gulf region states of Texas, Oklahoma, Louisiana and
10 Arkansas.

11 The Gerald facility is our largest mill
12 producing light-walled rectangular tubing. First the
13 Mexican mills and then also the Turkish mills steadily
14 took market share away from us in this market by
15 prices significantly below or pricing. You can see
16 what a small share of our total production still goes
17 to the Gulf region from our questionnaire response.

18 Forced out of the Gulf region market, we
19 have tried to increase sales to customers in the
20 western United States. If you look at a map, you can
21 see that Gerald, Missouri, is much closer to Texas,
22 Oklahoma, Louisiana and Arkansas than we are to the
23 Rocky Mountains, much less the west coast.

24 I understand that in the preliminary
25 determination the Mexican Respondents argued that the

1 reason for their growth in shipments was because of
2 the positive economic performance of the Gulf region.
3 I would agree with the Mexicans that there was or has
4 been a significant strengthening of the economy and
5 increase in demand from the construction sector and
6 other users of light-walled rectangular tubing in the
7 Gulf region.

8 However, I would disagree with the Mexicans
9 that with the strengthening in demand it caused their
10 sales to increase. If that was the case, then our
11 shipments into this region would be much higher than
12 they are.

13 The bottom line is that the reason for the
14 increased volume in imports from Mexico was that they
15 substituted for domestic production in demand in the
16 Gulf region. The Mexican producers accomplished this
17 by pricing at below Bull Moose pricing levels and that
18 of other domestic producers.

19 The unfairly traded imports from Turkey and
20 Mexico have also significantly impacted our Trenton,
21 Georgia, facility. We lost so much light-walled
22 rectangular tubing business to these imports that we
23 were forced to scramble to compete with other domestic
24 mills for round mechanical tubing business to OEM
25 customers in order to maintain decent operating levels

1 at our Trenton, Georgia, facility.

2 With the growth in demand for light-walled
3 rectangular tubing, I am certain that our Georgia
4 facility could have been operating flat out with a
5 normal mix of rectangular and round mechanical tubing
6 but for the dumped imports. The imposition of dumping
7 duties will help restore more efficient operating
8 levels at this facility as we regain market share from
9 the dumped imports.

10 The combination of increased freight
11 absorption to sell outside our typical market area,
12 reducing operating efficiencies and price pressures
13 all resulted in Bull Moose experiencing poor operating
14 margins in the 2001 to 2003 period.

15 Having been in this business for as many
16 years as I have, I expect our company to have problems
17 achieving good profit margins in recession years like
18 2001. However, my experience is that our profit
19 margins rebound very quickly as demand increases
20 coming out of recession. This did not happen in 2002
21 and 2003 because of the unfairly traded imports.

22 I would echo the comments made by Mr.
23 Katsafanas about FIFO accounting. Our company
24 actually uses FIFO accounting for monthly reports, but
25 uses LIFO for our tax basis and our year end

1 accounting basis. Therefore, FIFO accounting as
2 definitely skewed our results upwards for the first
3 half of 2004.

4 There is no question in my mind that Bull
5 Moose will be unable to compete in the future with
6 unfairly traded imports if the Commission makes a
7 negative decision. Our past experience shows that we
8 have consistently lost market share to these Mexican
9 and Turkish imports based on price and that this has
10 had an adverse impact on our profit margins even
11 during a period of strong demand. These producers
12 possess the capability to increase shipment volumes to
13 the U.S. market.

14 In sum, no one can run a company based on
15 their business plan on rapidly escalating inventory
16 values of raw material and finished inventory.
17 Rather, long-term competitiveness is only possible
18 when relief from dumping is available to domestic
19 producers. Therefore, I would ask this Commission to
20 make an affirmative final injury determination.

21 Thank you.

22 MR. SCHAGRIN: Thank you, Jack.

23 I'd like to ask Terry Mitchell, vice
24 president of Northwest Pipe, to present his testimony.

25 MR. MITCHELL: Good morning. For the

1 record, my name is Terry Mitchell. I am Senior Vice
2 President and General Manager of the Tubular Products
3 Group of Northwest Pipe Company. I've been with
4 Northwest Pipe for 19 years. We are based in
5 Portland, Oregon.

6 The largest part of our company is our Water
7 Transmission Group with which I am not connected.
8 This is a business of 13 spiral weld pipe mills at six
9 locations throughout the United States which supply
10 municipal water systems with pipe. This is a very
11 good business because we have little import
12 competition.

13 In the Tubular Products Group, we have 11
14 welded pipe and tube mills in Oregon, Kansas, Texas
15 and Louisiana. However, we only produce the subject
16 product at one plant at two mills in Houston, Texas.
17 The Commission should understand that in order to make
18 rectangular tubing, you must first produce round pipe
19 and then continue to transform it into rectangular
20 cross sections with additional sizing rolls at the end
21 of the mill.

22 We acquired this mill in 1998 when we
23 purchased the assets of Southwestern Pipe. The only
24 products we produce in Houston are the subject light-
25 walled rectangular tubing products and round

1 mechanical tubing.

2 The surge in light-walled rectangular tubing
3 imports from Mexico and Turkey have occurred over the
4 past four years and have prevented us from achieving a
5 return on our investment of the purchase of
6 Southwestern Pipe. Total imports, and certainly the
7 market share taken by imports, have more than doubled
8 since 1998.

9 As a consequence, after a modest year in
10 2000, financial results fell precipitously in 2001,
11 and we have suffered serious losses in both 2002 and
12 2003. It is clear that these poor results were caused
13 by imports as we believe the recession of 2001 has
14 ended and that demand in Texas and the southwest has
15 rebounded.

16 Our poor financial results cannot be blamed
17 on the Steel 201 program. While our steel costs did
18 increase like everyone else's, our plant in Houston
19 does not purchase only domestically produced steel.
20 In fact, a portion of our steel purchases are from
21 Mexican steel mills.

22 Moreover, we should not have been at a cost
23 disadvantage as compared to Mexican tubing mills
24 because Mexico undertook safeguard measures on steel
25 at about the same time the President provided relief

1 to the U.S. steel industry. Our problem is that the
2 Mexican tubing producers are willing to dump their
3 tubing into our market and sell at prices below our
4 prices.

5 The imports from Turkey at dumped prices
6 have just compounded this problem. When shipments of
7 dumped imports from Turkey arrive at the Port of
8 Houston then to be disseminated throughout the
9 southwestern market, they not only put pressure on us
10 by undercutting our prices, but they keep the pressure
11 on the Mexican producers to continue dumping and
12 selling at low prices in order to retain their volume
13 and market share that they grabbed in the United
14 States market instead of giving it up to Turkey.

15 I have known for years from our salesmen
16 that Mexican prices have been 10 to 15 percent below
17 our prices to both distributors and end users. I
18 guess you now have data on underselling that shows the
19 Mexican prices are in fact lower than domestic prices.
20 I can assure you that the Mexican and Turkish
21 industries have no freight advantage over us in the
22 southwest market.

23 I can also tell the Commission that we have
24 benefitted from the dumping cases. Our shipments,
25 production and order book really picked up in the

1 first half of 2004, and you can see that in our
2 interim data. We have a lot of additional capacity in
3 Houston and have been able to obtain additional steel
4 to increase production, albeit at higher cost, at our
5 Houston plant.

6 The loser in this has been Northwest Pipe
7 Company and other U.S. producers as we have seen our
8 volume suffer and our market share decrease. Without
9 antidumping relief, there is no doubt in my mind that
10 our company will not only continue to fail to receive
11 an adequate return on our purchase of Southwestern
12 Pipe, but that we will be unable to invest in the
13 Houston facility.

14 We would love to continue to crank up our
15 production, our workers' hours and wages and to
16 finally achieve the return on investment we have been
17 unable to achieve because of dumped imports. For all
18 these reasons, we ask that the Commission make a final
19 affirmative injury determination.

20 Thank you.

21 MR. SCHAGRIN: Thank you, Terry.

22 I'd like to ask Glenn Baker, vice president
23 of Searing Industries, to present his testimony.

24 MR. BAKER: Good morning, Chairman Koplman
25 and members of the Commission. For the record, my

1 name is Glenn Baker, and I am Vice President of
2 Marketing for Searing Industries in Rancho Cucamonga,
3 California, in the Los Angeles area.

4 Searing is a family owned company that
5 started in 1985, and I have been with the company for
6 18 years. We have five mechanical tube mills which
7 can produce either round or rectangular tubing. We
8 have one structural mill that produces structural
9 tubing. It is obviously a much larger piece of
10 equipment.

11 Light-walled rectangular tubing is normally
12 made to the A-513 specification. We do not provide
13 any mill certificates with this product. It just
14 meets the general mechanical properties of ASTM A-513.

15 We produce mostly black LWR, but we also
16 produce galvanized LWR using galvanized strip and then
17 regalvanizing the weld zone. This is done on the same
18 tube mills. We also make LWR with a pre-primer
19 applied.

20 The equipment associated with galvanized
21 production and pre-primed production is relatively
22 inexpensive. Our light-walled rectangular tubing is
23 used in a variety of applications. We sell the
24 majority of the product to distributors who sell it to
25 literally hundreds of different end users. We also

1 sell directly to some large end users.

2 The end uses for light-walled rectangular
3 tubing range from ornamental fencing, which is
4 extremely popular in southern California and Arizona,
5 to window sashes, frames, metal furniture, store
6 shelves, display racks, exercise equipment and on and
7 on.

8 Other than the ornamental fencing and some
9 construction applications, this is a basic product for
10 use in consumer goods. For that reason, demand for
11 light-walled rectangular tubing generally tracks the
12 economy with demand falling during recession and
13 demand rebounding after recession.

14 The presence of large volumes of imports
15 from Mexico and Turkey had a very negative impact on
16 our sales prices and sales volumes, as well as our
17 profits and profit margins.

18 As Vice President of Sales, I have a sales
19 force of six people. Our distributors that handle
20 light-walled rectangular tubing are stocking
21 distributors who stock an inventory of different sizes
22 of product. When they run low on these sizes, our
23 salesmen are supposed to make sure that we get the
24 orders to restock these sizes.

25 Until the beginning of 2004, these

1 distributors got prices on a quarterly basis from us,
2 which has been the norm in the industry during my 18
3 years. If one of our distributors got price quotes
4 from a Mexican importer, they either bought the
5 cheaper product, lowering the average cost of their
6 inventory, or came back to us when we were setting
7 prices for the next quarter and asked us to lower our
8 prices on everything.

9 We sell in California and the other 10
10 western states. There is no question that a
11 significant number of distributors in the western
12 United States, including distributors that we sell to,
13 have been regularly receiving offers from trading
14 companies handling Mexican imports. They may also be
15 hearing directly from Mexican producers. In 2003 and
16 early 2004, distributors have also been receiving
17 offers on products from Turkey.

18 Since the end of the first quarter when
19 dumping duties went into effect, I have received more
20 business from customers who had previously been buying
21 dumped imports from Mexico and Turkey. This is
22 particularly the case with several customers in
23 Arizona and Colorado. This is going to be extremely
24 important to us regarding both volume and pricing
25 going forward.

1 Since I know that steel prices are going to
2 come back down to earth in the future, the single,
3 most important thing to keep Searing from sinking back
4 into losses on our most important product line is to
5 limit the negative price impacts of the dumped
6 imports.

7 For these reasons, we request on behalf of
8 Searing Industries and the other west coast and U.S.
9 producers of light-walled rectangular tubing that the
10 Commission make an affirmative final injury
11 determination.

12 Thank you.

13 MR. SCHAGRIN: Thank you, Glenn.

14 I'd like to ask Mike Dustman, vice president
15 with Bull Moose Tube, to present his testimony.

16 MR. DUSTMAN: Good morning, Chairman Koplan
17 and members of the Commission. For the record, my
18 name is Michael Dustman. I am Vice President of
19 Business Development and Strategic Finance for Bull
20 Moose Tube Company. I have been with the company for
21 eight years.

22 Prior to joining Bull Moose Tube, I spent 13
23 years as a certified public accountant with Coopers &
24 Lybrand's group that served privately held, growth
25 oriented businesses through audit, tax, financial

1 planning and acquisition services. Bull Moose Tube
2 was a client of mine during five of those years.

3 One of my responsibilities at Bull Moose
4 Tube is to explore and develop opportunities with
5 management as to how Bull Moose Tube can grow its
6 business through investments. One of the things I do
7 is evaluate return and return risk on investment
8 capital. Also I assist with market development and
9 exploration of new products for potential production.

10 Bull Moose Tube is a financially --

11 CHAIRMAN KOPLAN: I think you just turned
12 the microphone off. Now it's on. If you could move a
13 little closer, though?

14 MR. DUSTMAN: Thank you.

15 CHAIRMAN KOPLAN: Thank you.

16 MR. DUSTMAN: Bull Moose Tube is a
17 financially strong company with owners willing and
18 looking to make investments in the business. We have
19 been consistently profitable and have a strong balance
20 sheet with which to make acquisitions.

21 Since 1996, Bull Moose Tube has investigated
22 a number of light-walled rectangular tube acquisition
23 investment opportunities in the United States. Our
24 acquisition strategy is to purchase these assets with
25 the goal of eliminating the overhead cost structure of

1 the acquired operation through the existing
2 centralized support function at Bull Moose Tube.

3 We believe this approach is proven, given
4 our prior success implementing this approach and our
5 track record of profitability. However, a recurring
6 point of risk for acquisition consideration has been
7 the impact and the potential impact of import tubing
8 in particular from Mexico and Turkey.

9 Our acquisition analysis has repeatedly
10 pointed toward a history of and the risk of imports
11 from Mexico and Turkey being sold below the
12 acquisition target's projected cost structure.
13 Consequently, in a number of instances we have only
14 been willing to offer a "liquidated basis" acquisition
15 price due to this significant risk.

16 To further highlight this environment, I
17 would point to the history of Excalibur. A number of
18 former managers and employees of Bull Moose Tube
19 Company, including Chuck Iminager, the former
20 president of Bull Moose Tube Company, which was prior
21 to Jack Meyer, started Excalibur in 1997.

22 Excalibur put together several small
23 diameter tube mills around the United States in West
24 Virginia and Alabama and in Indiana. They produced
25 light-walled rectangular tubing, round mechanical

1 tubing and other products in competition with Bull
2 Moose and the rest of the industry.

3 In mid 2001, Excalibur went bankrupt. A
4 number of companies had an opportunity to purchase
5 these Excalibur mills and decided not to do so due to
6 an inability to secure an adequate return on their
7 investment in these mills. Subsequently, Excalibur
8 was liquidated through Chapter 7 proceedings.

9 Another item should be noted with respect to
10 Excalibur. One would think that the demise of a
11 significant competitor would have helped our business.
12 However, as you can see from our questionnaire
13 response, our business did not improve during 2002 or
14 the first half of 2003 in spite of the increased
15 demand for these products.

16 This business did not appear to be going to
17 domestic producers other than Bull Moose Tube. Quite
18 the contrary. As noted, another one of our domestic
19 competitors, XL Tube, went bankrupt. Rather,
20 increased demand in the U.S. market appeared to be
21 satisfied with some imports instead of domestic
22 production.

23 Bull Moose Tube continues to look at the
24 opportunities to grow and expand their business
25 profitably, but there is no doubt in my mind that the

1 destructive competitive environment caused by the
2 unfairly traded imports has provided a major
3 disincentive for domestic industry consolidation and
4 rationalization.

5 We believe that the restoration of fair
6 trade and implementation of antidumping duties will
7 give efficient and financially sound companies such as
8 Bull Moose Tube the opportunity to reinvest wisely and
9 to seek good business opportunities in the product
10 lines that we are familiar with, including light-
11 walled rectangular tubing.

12 Thank you for the opportunity to testify
13 here today.

14 MR. SCHAGRIN: Thank you, Mike.

15 At this point, Mr. Chairman, we were going
16 to have Bill Kleinfelter, who is well known to this
17 Commission, present his testimony. Unfortunately, I
18 spoke to Bill yesterday, and he sounded awful. He has
19 some kind of virus. He thinks it might even be an
20 early flu.

21 He said if he recovered he would show up
22 here this morning to give his testimony, and if he
23 didn't he was going to go to a doctor. The union does
24 represent the workers at Leavitt Tube, Bull Moose
25 Tube, among other companies that produce this product.

1 I would ask you, Mr. Chairman, if you would
2 accept his testimony for the record.

3 CHAIRMAN KOPLAN: Without objection.

4 MR. SCHAGRIN: Thank you, Chairman Koplan.

5 At this time I'd like to invite Frances
6 Valdez Valdez to present her testimony.

7 MS. VALDEZ: Good morning, Chairman Koplan,
8 members of the Commission. By way of introduction, my
9 name is Frances Valdez Valdez, and it is an honor for
10 me to be here before you this morning for my very
11 first appearance before this Commission after a
12 practice of 24 years before the Federal District and
13 Federal Appellate Court. I'm the newest member of the
14 Schagrin Associates firm.

15 I will present the threat portion of the
16 Petitioners' case to the Commission. The subject
17 import data and trends strongly support an affirmative
18 threat determination because subject imports have
19 greatly increased their market share. While the
20 domestic producers' market share has declined, subject
21 imports now hold more than one-quarter of the United
22 States light-walled rectangular market.

23 These market share gains are due to large
24 margins of underselling by the subject imports. The
25 current and projected production capacity for the

1 Mexican and Turkish industry further underscores the
2 threat posed to the domestic industry by subject
3 imports.

4 As the staff report data highlights in Table
5 7-4, cumulated production capacity exploded by almost
6 225,000 tons between 2001 and 2003. Even though
7 exports to the United States doubled between 2001 and
8 2003, these foreign producers still have nearly
9 300,000 tons of excess capacity.

10 According to the staff report data,
11 virtually all Mexican exports of LWR are exported to
12 the United States. The limited Turkish responses
13 establish the current and future intention of Turkish
14 producers to target the United States market. Turkish
15 exports to the United States have more than tripled
16 over the period of investigation.

17 Moreover, the current record indicates that
18 the domestic industry faces a greater threat of
19 material injury from imports of light-walled
20 rectangular tubing than what Petitioners described in
21 their prehearing brief.

22 As the Commission is aware, the Turkish
23 Respondent finally decided to participate in this
24 investigation at the eleventh hour. This Respondent
25 filed its long overdue questionnaire response a day

1 after the due date for prehearing briefs. As will be
2 detailed in our posthearing brief, this producer's
3 late response emphatically illustrates the huge threat
4 posed by new Turkish capacity to the domestic
5 industry.

6 In sum, Mexican and Turkish responses make
7 it clear that past subject export sales will be
8 renewed and accelerated if the Commission makes a
9 negative determination. The quantities of end of
10 period inventories also indicate that Mexican and
11 Turkish imports of subject merchandise pose a threat
12 to the LWR domestic industry.

13 The staff report data indicates that end of
14 period inventories for Mexican producers grew over the
15 2001 to 2003 period and that they were the highest in
16 interim 2004. Turkish inventories also grew rapidly
17 over the period of investigation. Moreover,
18 importers' inventories were all at their highest level
19 of the period of investigation in June 2004.

20 The last threat factor for the Commission's
21 consideration is that of antidumping orders diverting
22 Turkish exports into the United States LWR market.
23 During the 2001 to 2003 period of investigation, the
24 EU and Canada and imposed provisional measures against
25 Turkish producers.

1 Presently there are one EU and two Canadian
2 remedies in place against Turkish producers. These
3 anti duty orders will force Turkey to look for other
4 markets to dump its subject merchandise. Absent
5 relief, Turkey will likely continue to dump its excess
6 light-walled rectangular tubing in the United States
7 market, and the United States will be the export
8 market of choice as additional production capacity
9 comes on line.

10 The five factors that I have mentioned here
11 -- the massive increase in subject imports during the
12 period of investigation, the large gain in the United
13 States market share by foreign producers, the huge
14 increases in production capacity of both Mexican and
15 Turkish producers, the large growth in end of period
16 inventories in Mexico and Turkey and, fifth, the
17 existence of antidumping orders against Turkey --
18 demonstrate that the United States light-walled
19 rectangular tubing industry faces an imminent threat
20 of material injury from subject imports from these two
21 countries.

22 Thank you, Chairman Koplán and members of
23 the Commission. Petitioners respectfully request that
24 the Commission find that the subject imports pose a
25 significant threat of harm or material injury to the

1 light-walled rectangular tubing domestic industry.

2 MR. SCHAGRIN: Thank you, Frances.

3 We'd like to have Dr. Robert Blecker present
4 his economic testimony. Dr. Blecker?

5 MR. BLECKER: Thank you, Mr. Schagrin.

6 Mr. Chairman, Madam Vice Chairman and
7 members of the Commission, for the record my name is
8 Robert Blecker, and I'm a Professor of Economics at
9 American University here in Washington. I would like
10 to thank you for the opportunity to testify here this
11 morning.

12 In March 2002, the domestic producers of
13 welded carbon steel tubular products other than OCTG,
14 including light-walled rectangular tubing, obtained
15 partial safeguard relief from imports that remained in
16 effect until December 2003.

17 Also, during 2002 and 2003 the demand for
18 LWR products exhibited a remarkable recovery from the
19 2001 recession. In spite of this favorable
20 combination of import relief and economic recovery,
21 however, the performance of the domestic LWR industry
22 deteriorated markedly between 2001 and 2003.

23 In 2002, the domestic producers suffered a
24 significant decline in their market share as their
25 shipments failed to keep pace with the recovery of

1 demand, in spite of having massive excess capacity.
2 Then, in 2003, they suffered further injury through a
3 decrease in their price/cost margin and a significant
4 decline in profits as domestic firms were unable to
5 pass through rising raw material costs into finished
6 goods prices.

7 What accounts for this deteriorating
8 performance of a domestic industry in the midst of an
9 economic recovery and in the presence of import
10 relief? The answer is that two countries not covered
11 by the safeguard tariff, Mexico and Turkey, greatly
12 increased their sales of dumped LWR imports in the
13 U.S. market during the POI. The subject imports
14 increased their volume by 67.6 percent and increased
15 their share of U.S. consumption by 7.1 percentage
16 points between 2001 and 2003.

17 This large influx of less than fair value
18 imports caused significant injury to domestic
19 producers in two ways; first, by depriving them of the
20 volume gains they should have received from the
21 combination of safeguard tariff relief and recovering
22 overall demand and, second, by depressing domestic
23 prices relative to cost and thereby depressing profit
24 margins in the domestic industry.

25 Because of the earlier import surges of the

1 late 1990s and early 2000s, combined with a recession
2 in 2001, the LWR industry was already in a weakened
3 and vulnerable situation at the beginning of the POI.
4 Then the new surge of unfairly traded imports
5 prevented the domestic LWR industry from benefitting
6 as it should have from the 201 remedy and the recovery
7 of overall demand in 2002 and 2003.

8 Although subject imports held a market share
9 of 18.3 percent at the beginning of the POI in 2001,
10 the increases in subject imports took 58 percent of
11 the total increase in U.S. consumption between 2001
12 and 2002 and 59.5 percent of the total increase in
13 U.S. consumption between 2001 and 2003.

14 In other words, the subject imports absorbed
15 three out of every five tons of increased demand
16 during the POI. As a result, domestic shipments,
17 production and net sales growth all lagged
18 significantly behind the total growth of demand or
19 U.S. consumption resulting in continued low rates of
20 capacity utilization in spite of several plant
21 shutdowns and the recovery of demand I referred to
22 earlier.

23 In addition, the domestic industry also
24 experienced price suppression and depressed profit
25 margins as a result of the dumping activity. In this

1 regard, an important condition of competition is the
2 fact that the main raw material used in producing LWR,
3 that is flat-rolled steel sheet, was rising in price
4 throughout the POI.

5 Because of the unfair competition from the
6 subject imports, the domestic producers were unable to
7 pass through these cost increases into finished good
8 prices respectfully in 2003. This explains the
9 anomaly that profit, whether measured in total profits
10 or as a ratio to net sales or on a per ton basis,
11 declined in 2002 to 2003 and over the whole POI in
12 spite of the strong recovery of demand.

13 As I show in detail in my prehearing
14 economic submission, which is Exhibit 1 in
15 Petitioners' prehearing brief, but the AUV data and
16 the individual product pricing data in the staff
17 report show clearly that the low prices of the subject
18 imports were the cause of the squeeze on the domestic
19 industry's profit margins in 2003.

20 The prehearing brief of Respondent Prolamsa
21 includes some exhibits which appear to show that the
22 rising volumes in market shares of subject imports
23 were not correlated with injury to the domestic
24 injury. If you look carefully, however, you will note
25 that their analysis does not control for the strong

1 recovery of demand during the POI.

2 What their analysis does not show is the
3 much greater sales and profits that the domestic
4 industry would have achieved in the absence of the
5 intense dumping activity in 2002 and 2003. Taking
6 business cycle conditions and other conditions of
7 competition into account, it is clear that the subject
8 imports were correlated with material injury.

9 Prolamsa's brief on page 34 also contains an
10 interesting calculation of a price index for five of
11 the six specific products for which the staff gathered
12 detailed pricing information. Although I cannot refer
13 to the exact numbers here, I think you will see that
14 this price index actually shows substantial and
15 increasing underselling by subject imports during most
16 of the POI right up and until the preliminary duties
17 went into effect in the second quarter of 2004.

18 Indeed, it was only after subject imports
19 fell dramatically during the first six months of this
20 year and only after their prices increased both as a
21 result of the filing of the petition that the domestic
22 industry finally experienced the recovery that it
23 should have had starting two years earlier.

24 I believe that this evidence from the
25 interim POI demonstrates not only that the subject

1 imports were the cause of the injury experienced in
2 the previous two years, but also that there is a
3 continued threat of material injury.

4 If subject imports are allowed to return to
5 the U.S. market with the large volumes and unfair
6 competitive advantages that they had in those years, I
7 have no doubt that this industry will return to the
8 injured state it was in previously in very short
9 order.

10 I hope you will vote to prevent that outcome
11 by an affirmative determination in this investigation.
12 Thank you very much, and I would be happy to answer
13 any questions.

14 MR. SCHAGRIN: Thank you, Dr. Blecker.

15 Chairman Koplan, members of the Commission,
16 before we turn it over to you to answer all of your
17 questions I would like to just comment on a couple of
18 factual areas that were raised in Mr. Winton's
19 opening.

20 While I did not see it in Respondents'
21 brief, unless I missed it, the Respondents spent a lot
22 of time in the preliminary phase of this investigation
23 at the preliminary staff conference talking about the
24 fact that the domestic light-walled rectangular
25 industry, and their counsel was not alerting the

1 Commission and getting members of the "structural
2 tubing industry" to participate in this investigation.
3 They presented lists of domestic producers that they
4 believed made these products from lists of producers
5 of structural tubing.

6 I heard Mr. Winton say this morning that he
7 was surprised that two-thirds of the domestic industry
8 was not cooperating with the Commission. I don't
9 think we can let such an allegation just fall on the
10 Commission's ears without addressing it lest you
11 actually believe something that is blatantly false and
12 hold it against the domestic industry.

13 The fact is that the Commission staff has
14 done an excellent job in this final investigation
15 getting responses from the domestic industry. They
16 probably have data which covers 80 to 85 percent of
17 the industry, which I think this Commission would
18 consider very good because it is a pretty large
19 industry.

20 The folks that somehow the Respondents
21 continue to think ought to be filing questionnaire
22 responses, and I think many of them have already
23 notified the Commission that they don't make this
24 product, are producers of structural tubing.

25 The Commission staff did plant visits to

1 Chicago. I accompanied them. They went to Leavitt
2 Tube. They saw that, producers like Leavitt Tube, and
3 there's a number of producers. Bull Moose had a
4 similar situation. These companies have structural
5 tubing mills that can only make large, heavy-walled
6 rectangular product. They may go from four to 12
7 inches square.

8 These mills are not capable of producing
9 light-walled product. I mean, physically you cannot
10 make a very light-walled product on one of these
11 gigantic structural tubing mills.

12 I think Respondents are just plain wrong in
13 making allegations that two-thirds of the U.S.
14 producers of this product haven't responded. There
15 are a few producers who have yet to respond. I think
16 the Commission staff and counsel are working to get
17 everybody to respond.

18 I'm kind of surprised that Respondents don't
19 like the data for 2004. If they'd like a lot of
20 producers who make the product who haven't responded
21 and have them respond and lower the profits for 2004,
22 we'd be happy to see that happen.

23 Dr. Blecker has already addressed the
24 business cycle arguments that, of course, Respondents
25 have never addressed in their brief or in their

1 opening statement.

2 Once again, Mr. Winton, like the Respondents
3 in their brief, in his opening statement talked about
4 really what the Courts have held in the Bielellenda
5 Seafood case about this Commission putting the most
6 weight on the condition of the industry as of the time
7 of the vote. It's clear that that caselaw has been
8 essentially overruled by a change in the statutes.

9 I know Vice Chairman Okun was a staff person
10 for a member of the Finance Committee at the time.
11 Commissioner Miller, who is not present, was actually
12 on professional staff during the URAA Act review in
13 both the Senate Finance Committee, and it was reviewed
14 in the House.

15 Of course, the Administration set up to the
16 Congress for an up and down vote the Uruguay Round
17 Agreement Act in order to put the Uruguay Round WTO
18 creation into U.S. law.

19 The SAA could not have made it clearer.
20 First they even mentioned in the SAA that to the
21 extent that this new provision conflicts with
22 Bielellenda Seafood then Bielellenda Seafood is
23 disapproved. I mean, when the Congress of the United
24 States speaks to a Court case and says we're changing
25 the law, the Commission can no longer follow the Court

1 case that Congress says has changed.

2 I think it's also important. I referenced
3 the statutory language during my opening statement,
4 but the SAA was very clear on this. I think it's
5 important for the Commission to know when Mr. Winton
6 says the domestic industry is trying to stop the clock
7 as of December 31, 2003, and have the Commission make
8 believe 2004 data doesn't exist on the record, that's
9 not true.

10 What the domestic industry wants the
11 Commission to do is just follow the law. The 2004
12 data is on the record. It is the way it is because of
13 the filing of the petitions. The statute and the SAA
14 make it clear that changes in the condition of the
15 domestic industry, the Commission, and I quote:

16 "...may presume that such change is related
17 to the pendency of the investigation, and in the
18 absence of sufficient evidence rebutting that
19 presumption and establishing that such change is
20 related to factors other than pendency of the
21 investigation, the Commission may reduce the weight
22 accorded to the effective data."

23 That's all we're asking the Commission to
24 do. It's kind of amazing when you have a statute and
25 the FAA which essentially guides everyone as to the

1 statute, as the Court has found and as this Commission
2 follows, saying a presumption is established. Then
3 you have Respondents not only not presenting
4 sufficient evidence to rebut the presumption, but
5 presenting no evidence.

6 I'll leave it at that. We'll be happy to
7 answer all of your questions. Thank you very much,
8 Chairman Koplan.

1 both black and corrosion resistant LWR pipe and tube
2 can be used in the same applications."

3 However, the full text of that sentence in
4 the staff report reads as follows: "While it is
5 reported that both black and corrosion-resistant LWR
6 pipe and tube can be used in the same applications,
7 depending on customer specification and quality,
8 galvanized product is used in applications where
9 corrosion resistance is an important service
10 requirement, for example, air-conditioning equipment,
11 automotive parts, outdoor signs, etc."

12 The basis for that difference in end use
13 cited by staff was questionnaire responses addressing
14 various like product factors in Appendix D of our
15 staff report, and in your brief you make frequent
16 references to Appendix D. I can only assume that the
17 reason you failed to quote the full sentence as it
18 appears in Chapter 1 on page 9 of the staff report was
19 because you felt to do so would detract from your
20 single-like-product argument. Is there some other
21 explanation?

22 MR. SCHAGRIN: No. There is no other
23 explanation, but it detracts in only a minor way
24 because the fact is that what the staff report says is
25 that these products can be used --

1 CHAIRMAN KOPLAN: I read to you what the
2 staff report said.

3 MR. SCHAGRIN: Okay. And essentially it's
4 well understood by the industry and by the Commission
5 that the difference between galvanized product and
6 black product is corrosion resistance, and the staff
7 report chooses a few end uses in which corrosion
8 resistance is the most important factor in purchasing
9 the product, but the previous part before it gets into
10 those few examples, and we have uses of this product
11 that number into the hundreds, shows that across the
12 vast majority of uses customers choose whether to use
13 black or corrosion resistance based upon costs in
14 their decision whether to buy a black product painted
15 or to buy a galvanized product and have the corrosion
16 resistance.

17 CHAIRMAN KOPLAN: Thank you, Mr. Schagrin.

18 Dr. Blecker, Mexico Respondents Prolamsa
19 argue in their final prehearing brief, at pages 36 to
20 38, that in late 2002, after safeguard measures went
21 into effect, the growth in the domestic producers'
22 light-walled rectangular pipe and tube income per unit
23 did not keep up with the increase in their cost of raw
24 materials because of the difference between the higher
25 safeguard measures imposed on imports of flat products

1 -- that was 30 percent -- versus those imposed on
2 imports of welded pipe and tube, 15 percent. I'm
3 referring to what it was in the beginning of the first
4 year of the relief before it was phased down. They
5 argue that together the bifurcated structure of these
6 measures (a) depressed consumption and, therefore,
7 sales of light-walled rectangular pipe and tube
8 because their customers were importing downstream
9 products to avoid the 201 measures and (b) suppressed
10 domestic producers' ability to increase prices needed
11 to keep pace with both cost increases and shortages of
12 input materials. Could you please respond?

13 MR. BLECKER: Commissioner, I'll have to
14 look at the data in detail and respond more fully in
15 the post-hearing submission, but my general impression
16 is that the difference in the duties was not, in and
17 of itself, a really major factor for this particular
18 branch of the pipe and tube industry. The covered
19 imports were a relatively small factor. The flat
20 rolled price increase in '02 was due to a variety of
21 factors. Not all of that was attributable to the 201
22 duties, which also had partial coverage, by the way,
23 in the flat rolled segment as well as in this segment.
24 In fact, if I recall from this Commission's
25 investigation in the 204 case, total imports of flat

1 rolled product, I believe, increased during the period
2 of investigation in the 204 mid-term review, so that
3 was quite partial coverage there. One of our
4 witnesses has testified that they obtained imported
5 flat rolled steel, and there were other causes of the
6 cost increases, but for this industry, that is, the
7 cost of steel sheet went up for other reasons,
8 including the plant closures and reorganizations that
9 were going on in '02, which caused some temporary
10 shortages.

11 So my general response is I think
12 Respondents are greatly exaggerating the impact of the
13 duty differential on this particular industry, but I
14 will get that in more detail for you.

15 CHAIRMAN KOPLAN: I would appreciate it.
16 They spent a fair amount of time on it in their brief,
17 and I'm sure I'll be hearing about it this afternoon
18 as well, so I'll look forward to your expanding on
19 that.

20 Mr. Schagrín, at page 36 of their final
21 prehearing brief, Mexican Respondents Prolamsa quote
22 your testimony during the remedy phase of the 201
23 steel investigation as follows, and I'm quoting:
24 "Common sense dictates that the only effective remedy
25 for welded pipe and tube producers that will benefit

1 both them and their flat rolled suppliers is the same
2 tariff as that which would be imposed on flat rolled
3 products."

4 Prolamsa Respondents argue that because that
5 did not happen, neither subject imports from Mexico
6 nor cumulated subject imports are the cause of the
7 domestic producers' problems. Since the 201 relief
8 has since been terminated, followed by the fact that
9 domestic producers' performance indicators have
10 improved greatly in the six-month interim period this
11 year when compared to interim 2003, how do I weigh
12 this when evaluating present injury?

13 MR. SCHAGRIN: First, that was, I hope, a
14 good advocacy at the time. I think it was well
15 spoken. I still believe it is true. As we know,
16 neither the Commission -- no offense to the Commission
17 -- nor the administration followed that common sense,
18 so I guess when you step to a different drummer, maybe
19 my common sense is not as good as that of others. But
20 I think, as Dr. Blecker already started to point out,
21 and we'll address this further in our post-hearing
22 brief, when you look at the fact that for this light-
23 walled rectangular tubing product you had, and you
24 have to remember, this is a very small segment of the
25 overall welded pipe and tube segment that this

1 Commission looked at in the 201 investigation,
2 probably roughly 10 to 15 percent of that welded pipe
3 and tube segment.

4 Here, you had imports subject to 201 duties
5 that at the begin of the POI were about 40,000 tons.
6 They were already a small progression of this.
7 Mexican imports at the beginning of this POI were
8 already twice as high as the imports subject to the
9 201. So we don't think that the 201 relief had much
10 impact on this segment of the industry, even though
11 imports subject to 201 fell by about 18,000 tons. The
12 imports from Mexico and Turkey increased by about
13 65,000 tons, or about four times that rate. We think
14 the record is clear that regardless of why domestic
15 prices increased for sheet, whether it was the 201
16 case or otherwise, that the domestic industry was
17 unable to pass along those cost increases.

18 Now the 201 has ended. If you follow the
19 Mexicans' analysis, they would say, well, now the 201
20 relief is over and this tariff differential is
21 removed, gee, you wouldn't even expect flat rolled
22 steel prices to increase because there is no longer
23 201 relief. Well, we know 201 relief ended in
24 December, and flat rolled steel prices have doubled,
25 almost tripled. So I don't think that 201 relief is

1 the biggest issue going on in this investigation.

2 Therefore, I would say, Chairman Koplan,
3 neither you nor the rest of the Commission should
4 really accord much weight at all to the 201 relief for
5 the end of 201 relief when viewing the injury to this
6 industry.

7 CHAIRMAN KOPLAN: I see my yellow light has
8 come on. I won't start another question. Thank you
9 all for your answers, and I'll turn to Vice Chairman
10 Okun.

11 VICE CHAIRMAN OKUN: Thank you, Mr.
12 Chairman, and thank you as well to all of the
13 witnesses for appearing here today and your
14 willingness to answer our questions. We appreciate
15 you being here.

16 Let me begin -- I think I want to start with
17 pricing, referenced a little bit, a small amount, by
18 some of the witnesses and by Mr. Blecker, and I want
19 to talk to the industry folks. I have a question for
20 you, Mr. Schagrín and Mr. Blecker, but let me start
21 with the industry folks. Tell me about pricing during
22 the period of investigation and, in particular, when
23 you attempted any price increases that didn't stick
24 and when did you get price increases that stuck. I'm
25 looking at you, Mr. Katsafanas, so let me start with

1 you, and I'll move down there. Just tell me a little
2 bit about pricing in this market as you saw.

3 MR. KATSAFANAS: During the beginning of the
4 period, it was very difficult to pass on the increases
5 that we received from our suppliers, and historically
6 that's the only time, in my experience, that our
7 company ever attempts to raise the prices, when we get
8 our raw material steel costs raised. And over time,
9 we've had success, depending on what's going on in the
10 total marketplace, to include import penetration of
11 the products. The import penetration, the threat of
12 import penetration, and, particularly, the surge of
13 imports coming in is the most debilitating on our
14 ability to raise prices when our raw material prices
15 go up.

16 In the 30 years that I've been in this
17 business, the last six months, actually since February
18 of this year, I've been astounded by what's happened
19 in the total steel industry and particularly in our
20 industry. Obviously, we sit back and try to analyze
21 what's going on and when it's going to change, as I
22 testified, and we haven't been able to figure it out.

23 Well, one of the things that has happened in
24 this period, the last six, seven months, is that it's
25 been a perfect storm, and I don't think that it's

1 going to last, and I think that there is going to be
2 severe downside risk to both the profits of this
3 industry and the pricing of the raw material inputs
4 for basic steel that you talked about a little bit.

5 What helped during this period, as I
6 testified, is that the threat of imports to our
7 customers, where they would be sitting with high-
8 priced, domestic inventory while lower-priced, dumped,
9 foreign light-walled rectangular tubing would come in,
10 was not existent during this period. The threat
11 wasn't there, and so that enabled our industry to pass
12 on our raw material costs.

13 There are other factors. Obviously, there
14 is no question that the supply was tighter than
15 normal, but if buyers did their jobs, there was really
16 sufficient availability of not only flat rolled steel
17 but of light-walled rectangular product. It wasn't as
18 easy to obtain as it had been in the past at the
19 beginning of this period, no question about that, but
20 I know my buyer had to work harder to find supply, as
21 I'm sure our customers' buyers had to work harder to
22 find supply of LWR tubing and pipe.

23 VICE CHAIRMAN OKUN: Just so I understand,
24 in '03, no ability to increase prices, '02, '03.
25 You're only talking about the last six months.

1 MR. KATSAFANAS: Actually, in our particular
2 company, in '03, we saw a severe decline in pricing
3 from the beginning of the year through probably
4 September, which was the inverse of what's happening
5 now, where we entered '03 with inventory at higher
6 prices, and we saw a decline in the profitability in
7 selling prices in the first six months of '03.

8 VICE CHAIRMAN OKUN: Okay. Thank you. Mr.
9 Meyer?

10 MR. MEYER: I would probably echo that in
11 the earlier part, 2001, 2002, 2003, we were not
12 successful in getting price increases into the
13 marketplace. I think the comparison would be, in
14 2004, we have been very successful in getting the
15 price increases through. So with the threat of
16 tariffs being put on, it has led us to get the price
17 increases, and I think that in 2001 and 2002 and 2003,
18 we couldn't do that. In 2004, we have been very
19 successful in getting them.

20 VICE CHAIRMAN OKUN: Did you feel pressure
21 on your prices to go down in '02-'03?

22 MR. MEYER: No question about it. When
23 you're dealing with the audience of distributors that
24 we are dealing with, and there is price out there from
25 Mexico and Turkey, that is going to suppress your

1 prices, no question about it. We're not going to pay
2 any of these increases because we have opportunities
3 to buy this dumped tubing from Turkey and Mexico. We
4 cannot get the prices.

5 VICE CHAIRMAN OKUN: Mr. Mitchell?

6 MR. MITCHELL: As I recall, the price of
7 steel rose significantly in 2002, and we were unable
8 to pass that increase along. Somewhere probably near
9 the third quarter, it peaked and then began to
10 decline, and as that decline happened into and through
11 2003, our sales prices lowered. The impact on our
12 profitability was that we had some of the higher-
13 priced steel in our inventory and applied that higher-
14 cost steel to lower selling prices. In our situation,
15 our facility in Houston is somewhat at the epicenter
16 with the large port there, and our results, as noted
17 in the record, were very, very poor from essentially
18 mid-year 2000 through 2003.

19 From my perspective and being a publicly
20 traded company, we get graded on a quarterly basis,
21 and I would tell you my record for 2001 to 2003 was 0
22 and 12. I would tell you we were so-so in the first
23 quarter of 2004. So I've got one good quarter, the
24 second quarter of 2004. If I were that smart, I
25 probably would have done this a couple of quarters

1 sooner for sure.

2 VICE CHAIRMAN OKUN: Mr. Baker?

3 MR. BAKER: Thank you. There is no question
4 that without pending trade cases, we wouldn't have
5 been successful at all in passing on our raw material
6 increases. In my history of 18 years in the searing,
7 a big increase was \$20 a ton, and if you got any of it
8 implemented, it would typically take three or four
9 months to do so. These increases since the beginning
10 of 2004, I mean, no one has seen increases like this.
11 If we couldn't have gotten those through, it would
12 have been a complete disaster. Without the trade
13 cases, customers would have done what they have always
14 done on imports over your head. It would have been
15 terrible.

16 VICE CHAIRMAN OKUN: What about in the last
17 half of '03 in terms of you were meeting prices to get
18 this increased demand? Maybe I should probably go
19 back and talk a little bit more about --

20 MR. BAKER: Yes.

21 VICE CHAIRMAN OKUN: Tell me about '03 and
22 particularly the end of '03, last half.

23 MR. BAKER: You're always under pressure to
24 meet prices. When the 201's came off, there was a
25 leveling, and then it became much more competitive

1 than it had been. Like I said, getting any increase
2 through at all was next to impossible.

3 VICE CHAIRMAN OKUN: Okay. Mr. Schagrín and
4 Mr. Blecker, I wonder if you could comment on pricing
5 as you see it again. Mr. Schagrín, you started your
6 remarks by saying that all of the findings that we
7 found in the preliminary, you felt, were all
8 applicable. I think there are several we can go
9 through where it looks to me like the record has
10 changed in a number of ways with having all of '03 on
11 there, in particular.

12 But I'm looking at the pricing data that
13 we've collected, and obviously it's confidential, so
14 we can't talk about anything other than trends, but I
15 wonder if you think what you've just heard from your
16 clients is consistent with what I see in the pricing
17 products, and I guess I'm looking particularly at the
18 first four products, pricing products, and trying to
19 look at that time period that you would like us to
20 focus on. What do you see in pricing? Is it spot
21 volume only?

22 MR. SCHAGRIN: Vice Chairman Okun, as you
23 stated, because the specific pricing information is
24 confidential, we'll comment further response to your
25 question in the post-hearing brief when we can use the

1 confidential information. But I think the information
2 demonstrates that, undoubtedly in the final
3 investigation, all of the data that's gathered
4 illustrates that when the Commission said in the
5 preliminary that the imports have had a significant
6 price-depressing and suppressing effect based on the
7 price data you had through the first half, that that
8 is all still in effect. I think that we don't see
9 significant price movements until '04 in these pricing
10 of products, and in the Respondents' brief, they start
11 where they have the litany of price increase
12 announcements, they start out with a price increase
13 announcement that's going to take effect in January of
14 '04. They don't have any '03 price increase
15 announcements.

16 VICE CHAIRMAN OKUN: If you can go to, Mr.
17 Blecker, since my time is going to run out, if you
18 could spend some time on pricing, and, again, what I'm
19 trying to understand is your story in '02-'03, now
20 that we have the full data, and I have a number of
21 questions about '04. But if you're still arguing
22 suppression and depression, some focus on this data
23 would be helpful to me, and I'll have some opportunity
24 to ask some other questions. Sorry to cut you off
25 there.

1 MR. SCHAGRIN: That's all right. We'll
2 address them in our post-hearing brief.

3 CHAIRMAN KOPLAN: Thank you, Madam Vice
4 Chairman. Commissioner Hillman?

5 COMMISSIONER HILLMAN: Thank you, Mr.
6 Chairman, and I would join my colleagues in working
7 all of you. We very much appreciate the testimony
8 that you've provided this morning as well as all of
9 the information in the prehearing briefs.

10 If I can start, I just want to explore just
11 a little bit more this issue of galvanized product
12 versus black product. First, just a quick legal
13 question to you, Mr. Schagrin. Are you aware of any
14 other cases in which the Commission has been asked to
15 actively consider this issue of galvanized versus
16 black pipe or tube products? Again, we obviously have
17 drawn a lot of lines in a lot of cases, and we have
18 traditionally treated galvanized sheet as a different
19 like product than hot rolled or cold rolled sheet
20 product. So I'm trying to understand why that
21 distinction works for flat rolled products, but you're
22 arguing it doesn't work for galvanized, and I'm
23 particularly interested in whether you're aware of any
24 cases in which the Commission has actively considered
25 this issue.

1 MR. SCHAGRIN: I can answer your question in
2 two parts, Commissioner Hillman, because I think
3 that's where I was at. First, as to other cases, with
4 the qualification for the 91 cases on circular welded,
5 nonalloy pipe from a number of countries, Brazil, and
6 inclusive of Mexico and all of the other cases where
7 this Commission has considered various pipe and tube
8 products since 1982, the issue has not been brought
9 up in any way before the Commission, and I think that
10 is a sign to everybody in the industry until the
11 Mexicans came up with it in this case, like circular
12 welded nonalloy, galvanized product is as much as a
13 third of that product segment. The reason nobody
14 raised it is because everybody in the industry
15 recognizes it's the same like product, and that's why
16 the issue wasn't raised.

17 In that Mexican case, Mexicans didn't raise
18 it as galvanized, but they said light-walled fence
19 tubing, 100 percent of which is galvanized, is a
20 different like product, and the Commission went
21 through an analysis and said, no, light-walled fence
22 tubing is not a separate like product, but not on the
23 basis of it being galvanized versus black; on the
24 basis that light-walled fence tubing wasn't different
25 from the rest of the like product. As I say, it just

1 happens that 100 percent of light-walled fence tubing
2 is galvanized.

3 But there is one reason that, to me, having
4 also done work for steel industry producers as well,
5 the difference between galvanized sheet and black
6 sheet in the pipe and tube area, and that is because
7 the flat rolled producers don't have a choice of
8 starting out with a galvanized slab or a black slab.
9 They have these gigantic, separate mills that cost
10 several hundred million dollars to galvanize sheet
11 because sheets are so large that they need these big
12 mills to put in these big galvanizing lines. Everyone
13 who has a pipe and tube mill, literally everyone who
14 has a pipe and tube mill, always has a choice of
15 putting either black or galvanized sheet that they get
16 from the steel supplier through that mill. So every
17 mill that can make black product can make galvanized.

18 COMMISSIONER HILLMAN: How much of the
19 product that is galvanized is produced in that manner,
20 meaning you start with a galvanized sheet, and then
21 you weld it, as opposed to welding the product and
22 then hot dipping it as an already tubular product?

23 MR. SCHAGRIN: You're correct, Commissioner.
24 Only a small portion, but in terms of the possibility,
25 everyone has that possibility. Now, the reason that

1 you've got producers like these Mexican producers and
2 some domestic producers who have facilities to in-line
3 galvanize the product is not because they would put
4 that in for the light-walled rectangular market
5 because there is not enough demand to put in those
6 processes because those producers also make conduit, a
7 product which always, 100 percent of the time, has to
8 be galvanized, and which this Commission in the past,
9 and, in fact, those cases I referenced before, has
10 found to be a separate like product.

11 And, therefore, on those mills that were
12 made up, these in-line galvanizing to make conduit in
13 very large quantities, they can also make in-line,
14 galvanized, light-walled rectangular. By the way,
15 they can also, on those same lines, make black
16 product. All they have to do is turn off the in-line
17 galvanizing equipment, and they just run black sheet
18 through and don't galvanize it.

19 So in terms of the main things the
20 Commission focuses on, which is important to us
21 because we have a lot of different pipe and tube cases
22 where there is galvanized and black product, is that
23 the production facilities people can do either. Some
24 of the Mexican mills that make conduit, some of the
25 U.S. mills that make conduit also use those same

1 facilities to make in-line galvanized.

2 COMMISSIONER HILLMAN: I think it would be
3 helpful for me, in thinking about this issue, to have
4 a little bit better understanding of the end uses of
5 the various products maybe from the industry's
6 perspective. Obviously, we have a lot of information
7 in our staff report, but I will say it doesn't give us
8 a whole a lot of sense of how significant any given
9 application is.

10 If I start with ornamental fencing, can you
11 help me understand what portion of the product, and,
12 again, distinguish black versus galvanized, is used in
13 ornamental fencing?

14 MR. BAKER: I'm Glenn Baker with Searing
15 Industries. In our situation, maybe 5 percent, and
16 it's strictly for people who use it for marketing
17 purposes. The rest of the people strictly have a
18 process where they fabricate the entire fence or
19 panels of fences and gates, they metallize it, prime
20 it, and then put the whole thing together.

21 COMMISSIONER HILLMAN: So 5 percent of your
22 total production would go into ornamental fencing.

23 MR. BAKER: Galvanized ornamental fencing.

24 COMMISSIONER HILLMAN: Galvanized. Okay.
25 Now, if it's not galvanized, your black product is

1 then painted or coated in some way, --

2 MR. BAKER: Right.

3 COMMISSIONER HILLMAN: -- what portion of
4 that would go into ornamental fencing? Of your total
5 production of black product, how much of it goes into
6 ornamental fencing?

7 MR. BAKER: Thirty, 35.

8 COMMISSIONER HILLMAN: Would you describe
9 generally ornamental fencing as the single largest use
10 of light-walled rectangular product?

11 MR. BAKER: Definitely, in southern
12 California and Arizona, it is.

13 COMMISSIONER HILLMAN: Others?

14 MR. KATSAFANAS: I think one of the things
15 that has to be considered is the environment that the
16 end product is going to be made, and there are
17 environments where galvanized is the only product that
18 people want.

19 I don't have accurate data on how much
20 tubing is ultimately galvanized, and the differential
21 is that, in my sense, in my experience, if someone is
22 going to do anything to the tube, they are going to
23 fabricate it, weld anything else onto the tube, they
24 are probably going to hot dip that subassembly if they
25 need protection for corrosive environments.

1 COMMISSIONER HILLMAN: So they are going to
2 assemble it, do whatever they are going to do with it,
3 and then dip it.

4 MR. KATSAFANAS: Correct. Right. But as
5 Roger mentioned in the application of conduit where
6 it's, I believe, a code issue and in some sprinkler
7 pipe applications, they will galvanize it, and it's
8 primarily used straight. The problem that people have
9 if they are going to do anything to the tube and weld
10 anything else onto it, it shouldn't be galvanized
11 ahead of time. It can be, but they are going to then
12 have to protect anything that's fabricated or anything
13 else that's welded onto the product.

14 The thing that comes to my mind, the point I
15 would try to make, is that if the demand for
16 galvanized, light-walled rectangular tubing was so
17 great, all of us would be producing it because we
18 respond to the demands of the marketplace.

19 You mentioned ornamental fencing. It can be
20 galvanized, or it can be black. We sell people that
21 make ornamental fencing or cattle-handling equipment
22 black product, and most of these people will have some
23 sort of paint line which has a sophisticated cleaning
24 process and either a powder coat or a dipped product
25 that provides the same thing at a lower cost.

1 COMMISSIONER HILLMAN: Maybe, again, to go
2 back to start with, what would you describe as the
3 specific end uses of black light-walled, and, again,
4 just some general sense of percentage. We heard a
5 number, about 35 percent ornamental fencing in Arizona
6 and California. I'm trying to get the rest of you to
7 just help me understand the general uses of your
8 product for black product.

9 MR. MEYER: The black product, if I hear you
10 right, is used in many applications. You can talk
11 about boat trailers. You can talk about sign posts.
12 You can talk about basketball poles. You can talk
13 about car barns. You can talk about greenhouses. It
14 has amazing applications in black.

15 COMMISSIONER HILLMAN: So no one sort of
16 dominant -- from your perspective, there is not one
17 that is a primary use for it.

18 MR. MEYER: I would say that is correct.

19 COMMISSIONER HILLMAN: Others? Then if I go
20 to the galvanized product, would you describe a
21 primary use for that?

22 MR. MEYER: Again, the galvanized product --
23 everything I just mentioned could be also a galvanized
24 product, depending on what the --

25 COMMISSIONER HILLMAN: Could be, but is it?

1 MR. MEYER: In greenhouses, it is. In sign
2 posts, it is. I'm not aware in basketball poles and
3 things like that; that is mostly a black product.

4 COMMISSIONER HILLMAN: I appreciate those
5 answers. Thank you.

6 CHAIRMAN KOPLAN: Thank you, Commissioner
7 Hillman. Commissioner Lane?

8 COMMISSIONER LANE: Good morning. I would
9 like to start by talking about the remarkable numbers
10 for 2004. Could you please tell me what has been the
11 experience of the industry since the June numbers of
12 2004 up to the present? Are those numbers continuing
13 to be sustainable as we have on the record, or are
14 they increasing or decreasing?

15 MR. SCHAGRIN: I'll let members of the
16 industry answer, Commissioner Lane. I give an
17 overview in that. Obviously, what happened in the
18 first half '04 was cost driven, this dramatic increase
19 in steel costs of approximately three to \$400 a ton
20 between January and the end of June, and everybody
21 thought, oh, summer, the automotive plants are shut
22 down, summer things, prices are going to fall back.
23 Well, the big steel producers, U.S. Steel being
24 probably the largest producer of flat rolled sheet,
25 increased prices by another \$80 to \$100 a ton as of

1 September 1st, which is, I guess, tomorrow. So really
2 since the end of your record, I think announced steel
3 pricing has probably gone up about another \$130 to
4 \$150 a ton in just the two months since the end of
5 your record. I'll let folks in the industry answer
6 the question about current conditions.

7 MR. MEYER: I think, like anything else, at
8 some point in time, the bud comes off the rose. We
9 have seen, since the time you're talking about, in the
10 August time frame, which would be July, the scrap
11 price went up again, and we were successful in passing
12 on an \$80-a-ton price increase that was reflective,
13 paralleled the scrap surcharge increase you were
14 getting from the flat rolled producers. I will say
15 that as we sit here today, we are probably seeing --
16 we are seeing the catch-up in the raw materials to
17 selling prices, which we expected was going to happen,
18 and we also had a scrap surcharge increase in
19 September. We're trying to get those prices across.
20 We will probably not be successful in getting those
21 prices across. So you're already seeing some
22 deterioration in the margins going forward.

23 MR. KATSAFANAS: I echo Mr. Meyer's
24 comments. The performance in the first six months of
25 this year was primarily, in our company's case, flow

1 through of low-cost inventory against a replacement
2 cost selling price for our two big products. What
3 we're seeing now is that it's time for the piper to be
4 paid, and our margins have declined since March, and
5 we anticipate that they will continue to decline
6 throughout the year.

7 MR. DUSTMAN: Can I make a comment? As Jack
8 alluded to, the surcharges did increase for August,
9 and that was a \$120-a-ton increase by many of the
10 minimills, Nucor, SDI. That was based upon the scrap
11 auctions that took place in the first part of July,
12 the first half of July. Mid-July, we came out with a
13 \$100-price-increase letter, and we were successful in
14 obtaining \$80 of that \$100. The scrap auctions for
15 the first half of August indicate that surcharges
16 would be going up another \$45 a ton for September, and
17 Nucor, SDI, and others, in fact, increased their
18 surcharges by \$45 a ton for September. Last week, we
19 announced a \$30-a-ton increase, 30 of that 45.
20 Yesterday, that was rescinded, so there was no further
21 price increase.

22 The story we hear from our customers is
23 basically one of imports. We can look offshore at
24 this point in time and bring material in as opposed to
25 paying it to the domestic industry.

1 MR. SCHAGRIN: Ms. Commissioner, one bottom
2 line, since we are focused on accounting issues here,
3 is that I think everyone in the domestic industry
4 would say no quarters going forward will have profit
5 margins anywhere near the first-half '04 margins, and
6 that's because of the catch-up in the accounting. Now
7 that the higher-cost steel is in their accounting
8 systems, this one-time accounting windfall is over,
9 and I guess what they are concerned about is, is there
10 going to be a massive, one-time, downward adjustment
11 on the accounting side. But the profit margins in the
12 third quarter for the industry are definitely, for
13 this product, not as high. Some of the Respondents
14 want to talk about Maverick Tube or other folks in
15 different industry segments, primarily like Oil
16 Country tubular goods, but that's not applicable to
17 this market segment.

18 COMMISSIONER LANE: Would you be able to
19 provide, post-hearing, specific information as to your
20 profits and consumption and all of the other
21 information that we had for the first half of 2004?

22 MR. SCHAGRIN: I think that for the
23 Petitioners and the producers at this table, we could
24 do so for the months of July and August.

25 COMMISSIONER LANE: That would be fine.

1 MR. SCHAGRIN: I don't know if they will
2 have August. If they don't have August completely
3 closed by next Tuesday, we can at least give
4 estimates, or if the Commission wants to make it a
5 formal request and would like to get that data for
6 July and August after the post-hearing submission at
7 some time, I would leave that to the Commission.

8 (Pause.)

9 CHAIRMAN KOPLAN: I don't think we're going
10 to make that a formal request.

11 COMMISSIONER LANE: And I'm just really
12 interested in what you have.

13 MR. SCHAGRIN: Correct. We'll do our
14 absolute best, and we'll get that out to our clients
15 this afternoon, and we'll ask them to proffer it to us
16 as quickly as possible, hopefully by Friday or Tuesday
17 morning, and then we'll package it for the Commission,
18 and as I say, I guess we can discuss with the
19 Commission or with staff, I would presume, estimates
20 probably for August filed on Tuesday would probably be
21 preferred to having absolute, to-the-penny numbers
22 filed later, but I'm sure the Commission will notify
23 us of its wishes.

24 CHAIRMAN KOPLAN: That's not a requirement
25 on our part, Mr. Schagrin. If you're doing that,

1 you're doing it on a voluntary basis.

2 MR. SCHAGRIN: Okay. Then we'll have as
3 much as we can get in our post-hearing brief on
4 Tuesday, then.

5 CHAIRMAN KOPLAN: Thank you.

6 COMMISSIONER LANE: I would like to turn to
7 Table 6-9 of the staff report, which reflects return
8 on investment. Please give me your opinion of the
9 relevance and usefulness of those numbers as part of
10 the Commission's injury evaluation. Mr. Schagrin, I
11 guess I will start with you.

12 MR. SCHAGRIN: Yes. Commission Lane, we do
13 think it is relevant. Not surprisingly, the
14 information on return on investment for the industry
15 attracts the information on profitability for the
16 industry since assets weren't changing dramatically
17 over this POI. So we see a return on investment
18 increasing somewhat between 2001 and 2002 and then
19 falling very significantly in 2003.

20 I think, as you heard in the testimony,
21 these companies look closely at their investment
22 options and will choose not to make investments in
23 product areas in which they see that present returns
24 on investments are falling. They are looking to
25 invest in assets that are going to give them not only

1 both adequate, but improving, returns on investment,
2 and that's a situation that has not been prevalent in
3 this industry over this period of investigation.

4 MR. BLECKER: Commissioner, may I add to
5 that?

6 COMMISSIONER LANE: Yes.

7 MR. BLECKER: Robert Blecker, economist for
8 Schagrin Associates. I would just point out, and I
9 was going to make the same point to Commission Okun if
10 her time hadn't run out, that these data should be
11 viewed in light of the enormous increase in demand,
12 total U.S. consumption, during the period of
13 investigation. You have falling rate of return on
14 investment during the POI at a time when demand for
15 the product went up 20.8 percent. Since, as Mr.
16 Schagrin said, the value of the assets was essentially
17 flat, this is a reflection of profits going down in
18 spite of a market that's up almost 21 percent. So I
19 think that indicates very substantial injury and lost
20 profits.

21 COMMISSIONER LANE: Thank you. My time is
22 up. I'll come back to you my next round.

23 CHAIRMAN KOPLAN: Thank you, Commissioner
24 Lane. Commissioner Pearson?

25 COMMISSIONER PEARSON: Thank you, Mr.

1 Chairman, and welcome to the panel.

2 I'm trying to understand better the basics
3 of your industry. In particular, the capacity
4 utilization figures that are part of the public record
5 indicate that at the start of the period of
6 investigation, the industry was at about a 42 percent
7 utilization rate, and that did climb over time until
8 the 2004 interim period when it reached almost 49
9 percent. Is this a normal and adequate level of
10 capacity utilization for your industry?

11 MR. KATSAFANAS: I think what's difficult is
12 to define what the norm is. When I first started with
13 our company in 1974, we were running three shifts a
14 day six days a week, and we have the numbers, and our
15 company numbers pretty much mirror that over time.

16 So I would answer the question, it's not
17 really sustainable or profitable to operate at these
18 low rates of capacity utilization. In our Jackson,
19 Mississippi, plant, as I said in our testimony, we
20 went from seven shifts a week to four shifts a week,
21 and over the long term, we're seriously looking at
22 whether that's a viable operation still. So, no,
23 we're not satisfied, and we don't think that capacity
24 utilization rates in the forties are acceptable at
25 all.

1 MR. MEYER: Certainly, with capacities of
2 this nature, you're not going to make any significant
3 investments of capital because the return is just not
4 going to be there. I would echo the same thing that
5 Perry said, the fact that our mills, in the last 10
6 years, before the last five years, have operated three
7 shifts. We're down to two shifts in a lot of our
8 facilities as well. So, no, the capacity is not
9 acceptable at 42 or 49 percent, and it certainly would
10 be a limiting factor on capital growth. There is no
11 question.

12 MR. MITCHELL: I would only add that I think
13 most of the tubing and pipe industry tends to operate
14 two shifts five days a week, an awful a lot of them,
15 and so if you just do that math, that's roughly, if
16 you go three shifts seven days, you're operating at
17 about half of that, and historically that's been my
18 experience. I've been in the industry since 1981, and
19 most of us, big steel tends to go three sevens, and we
20 have a tendency to go more five days.

21 COMMISSIONER PEARSON: Okay. So the unused
22 capacity, then, is not either poorly located or
23 inherently inefficient; it is just a function of not
24 running as many shifts.

25 MR. MEYER: Yes, I would say so.

1 COMMISSIONER PEARSON: You had commented,
2 Mr. Meyer, that there has not been a lot of investment
3 in the industry, and yet the record indicates that
4 there has been ongoing investment. How do I reconcile
5 your comment with what I understand the record to say?

6 MR. MEYER: There has been a lot of
7 companies that have gone out of business. I said
8 there has not been a lot of investment, but I know at
9 Bull Moose Tube we have made some minor investments.
10 The amount of capital we put into our facilities is
11 really just to maintain the equipment and not really
12 put a lot of things in there to increase the capacity
13 of our equipment. But I would say that there really
14 has not been, in the last couple of years, a lot of
15 investment in this business. In fact, you've seen so
16 many closures that it probably would negate any
17 investment, I would think.

18 MR. KATSAFANAS: I would like to add a few
19 comments. This is a little historical perspective.
20 Our company, as I testified, has been in business
21 since 1957. In 1996, prior to the time frame, we were
22 acquired by a publicly traded company, Chase
23 Industries. They paid \$92 million for us, a matter of
24 public record. In March of 2001, they spun us off,
25 sold us, for \$30 million because the return on

1 investment wasn't there. So we basically went through
2 Chapter 11 without going through Chapter 11. So our
3 return on investment in our company is maybe a little
4 distorted now.

5 I think the capital investment figures, you
6 have to look behind the numbers. In my position, when
7 I look at capital spending, there's three things that
8 we look at: one, safety; two, obsolescence -- you
9 can't operate what you have unless you spend the
10 capital dollars; and, third, and last, but probably
11 most importantly, is increases for productivity. I
12 think that if you really analyzed the capital dollars
13 that were spent, the capital investment that was
14 spent, in this subject time frame, you would find that
15 very little was spent on increasing productivity, and
16 more was spent on safety and obsolescence of
17 equipment.

18 MR. SCHAGRIN: Commissioner Pearson, if I
19 could just add, while on an absolute basis, capital
20 expenditures over the POI fall somewhat and into the
21 interim period fall somewhat further, overall, looking
22 at the amount of capital expenditures of this industry
23 compared to sales revenues, they range in the 2, 3, 4
24 percent level, and I would say, based upon working
25 with a lot of manufacturing industries, that that's

1 not really adequate levels of capital investment as a
2 percentage of sales in the manufacturing sector.
3 That's not a way for an industry to get ahead and be
4 world-beater competitive.

5 That's a recipe that is going to result in
6 folks falling behind, and their decision is, in a
7 sense, that, oh, gee, we're not going to put money
8 into our mills, and we're going to fall behind; it's
9 that we're not going to put money into our operations
10 if we're not going to get a return on investment
11 that's adequate. We'll look at other things to put
12 investments into. And I think that's much the story
13 in this industry because of the high levels of imports
14 in the last several years.

15 COMMISSIONER PEARSON: Your points are well
16 taken. I think it's clear from what you're saying
17 that much of the investment has been to maintain
18 existing plant and keep it running well and modernize
19 in appropriate ways. It's a lot different than
20 building a new plant. But let me ask, then, are there
21 significant barriers to entry into this industry?
22 Let's assume for a minute that at some point I'm no
23 longer a commissioner, and I want to get into the
24 light-walled rectangular business. What would it cost
25 me to build a greenfield, average-sized mill? Just

1 give me some sense of how much money we're talking
2 about.

3 MR. MEYER: I would say that if you're
4 looking for -- a wide range of money here, based on
5 the fact, are you going to put in a new piece of
6 equipment, are you going to refurbish equipment, or
7 what are you going to do, but I would say, from a
8 practical standpoint, if you've got, probably looking
9 at 18, 20 acres of property and a quarter of a million
10 square footage and so forth and so on, if you probably
11 have eight to \$10 million in your back pocket, you
12 probably could get into it.

13 COMMISSIONER PEARSON: Okay. I appreciate
14 that as a ball park figure.

15 MR. DUSTMAN: Commissioner, may I follow up?
16 Mike Dustman with Bull Moose Tube. What our
17 experience has been, to follow up Jack's comments with
18 regard to the cost, I would agree with that, but the
19 issue is you look at the rate of return on the assets,
20 as mentioned earlier, and you're looking at 10 or 14
21 percent, a 10 or 12 percent rate of return, and that's
22 for a mature, established industry. With a new
23 facility, you have to go through a start-up phase.
24 That throws it into a loss position very quickly, and
25 we've looked at this time and time again. It's very

1 difficult to justify expansions with the margins the
2 industry operates at.

3 COMMISSIONER PEARSON: Let me assure you
4 that if I was getting into the industry, I would look
5 very closely at existing facilities before spending
6 any money on new capacity.

7 One of the reasons that I'm interested in
8 this capacity utilization is that the businesses that
9 I'm more familiar with, at this level of capacity
10 utilization, there would have been utter chaos and
11 devastation, and we would have seen large financial
12 losses. We would have seen downsizing of the industry
13 with somebody going out of business. I'm glad that's
14 not the case for your industry. I understand there
15 have been firms that have, at times, gone out of
16 business.

17 What I'm trying to figure out is how, at
18 this level of capacity utilization, the industry
19 manages to run profitably, and I understand, not as
20 profitably as you would wish related to the subject
21 imports, but, on the whole, things are not terrible
22 for your industry, and yet the capacity is relatively
23 low. Can anyone comment on that, please?

24 MR. MEYER: I think, as Commissioner -- said
25 a minute ago, that basically, historically, our

1 business has been maintained on a two-shift basis, and
2 you have the availability to run 24 hours a day, but
3 it has been -- really the historical situation has
4 been to run two shifts. A third shift, at times, is
5 usually a maintenance shift or something like that.

6 MR. KATSAFANAS: Just real quickly, one of
7 the things that separates the tubing industry, we're
8 converters. We don't have as high a fixed-cost
9 structure as steel mills. We have to operate a 21-
10 shift-a-week operation. We have a lot of variable
11 costs with labor. Obviously, your taxes and other
12 fixed costs are still there but not as great as the
13 basic steel industry.

14 COMMISSIONER PEARSON: Thank you very much.
15 My time has expired.

16 CHAIRMAN KOPLAN: Thank you, Commissioner
17 Pearson.

18 Let me begin with the industry witnesses, if
19 I could. On page 25 of your prehearing brief, you
20 allege, and I quote: "The substitution of dumped
21 subject imports for nonsubject imports covered by
22 Section 201 duties also caused injury to the domestic
23 industry. As detailed in Dr. Blecker's economic
24 injury analysis provided in Exhibit 1, subject imports
25 injured the domestic industry by hijacking relief

1 intended for the domestic industry by underselling
2 through dumping."

3 The Section 201 duties were terminated on
4 December 4, 2003. If underselling through dumping
5 caused the injury you claim during the period 2001
6 through 2003, I ask why there are no lost-revenue
7 allegations? Let me finish the thought. Moreover,
8 the petitioning firms provided 12 allegations of lost
9 sales from Mexico and/or Turkey during the period June
10 2001 through July 2003, totaling specified values at
11 \$559,538. I cannot disclose the amount verified
12 because it is business proprietary information, but
13 your counsel and your economists are privy to the
14 amount the staff was able to verify.

15 I can disclose, however, without naming
16 names, that one customer said it did not use the size
17 of pipe and tube products specified in the allegation.
18 Another stated that it does not stock the specified
19 product. Another said it did not buy the products
20 specified by the Petitioners. Another disagreed with
21 the allegation and further stated that the alleged
22 quantity and value of purchases were higher than
23 actual levels. Still another disagreed. One named
24 customer did agree with the lost-sales allegation.

25 I need to weigh what I've just described

1 when evaluating whether subject imports caused the
2 injury you claim during the period that is under
3 examination, and I'm wondering whether any of you have
4 any additional examples of lost sales or whether you
5 can make any claim of lost revenue in detail for
6 purposes of the post-hearing that we might try to
7 verify. This is a factor that I take into
8 consideration as I look at what's before me. So I
9 would like to hear from the industry witnesses as to
10 whether or not you think you can expand on what you've
11 provided thus far.

12 MR. SCHAGRIN: I'll speak for the industry.
13 You're going to have them say "no" if you want to say
14 "no" if you want to get that on the record, Chairman
15 Koplman, but I've done a few pipe and tube cases since
16 1982, maybe about 70 or 80, and in these products that
17 are made which the Commission is going to make its
18 decision on, you have a commodity product that's sold
19 under a basic specification through distributors. The
20 ability of these producers to make lost-sales and
21 lost-revenue allegations are virtually nil. It's not
22 the way information is transmitted in this industry.

23 CHAIRMAN KOPLAN: If I can save myself some
24 time, I know you've made an argument in footnote 20 of
25 your prehearing brief about that, and you indicated

1 that the nature of the distribution system makes it
2 virtually impossible to generate the specifics that
3 the Commission required for confirmed allegations.
4 I'm aware of that, but I don't understand that, and so
5 if you want to expand on that in the post-hearing, I
6 would like to know why it's so different here than it
7 has been in other cases that I've seen.

8 MR. SCHAGRIN: And as I say, I'll expand on
9 it a little bit now, and we'll put it in the post-
10 hearing. It may be different from other cases you've
11 seen here but not other pipe and tube cases other than
12 large-diameter line pipe, which is a contract business
13 where people are working with a pipeline company on a
14 contract bid. On these products that go to literally
15 dozens, if not hundreds, of distributors, which is the
16 norm throughout pipe and tube industry, information
17 just doesn't get transmitted back to sales persons.

18 CHAIRMAN KOPLAN: Mr. Schagrin, all I'm
19 saying to you is, a dozen allegations were made. You
20 know what the result was. We didn't make the
21 allegations; it came from you all, and I'm just asking
22 whether there is anything else that we can get, and if
23 not, if you could expand on the reason you gave in
24 footnote 20 in the post-hearing.

25 MR. SCHAGRIN: We'll expand on it in the

1 post-hearing, and I would say the results actually
2 support Petitioners' theory that if these guys try to
3 make the allegations, they are not going to be
4 supported because they just can't get the information
5 that's going to be verified, and so they are probably
6 better off not making allegations which can't be
7 verified than you working really hard to try to come
8 up with one. We'll expand on it in our post-hearing.

9 CHAIRMAN KOPLAN: I appreciate that. I just
10 wanted you to understand that one of the reasons I
11 went into this is, although I couldn't identify who
12 said what, you do understand that we did get
13 responses, and I was outlining to you what some of
14 those specific responses were, and that's why I'm
15 troubled, so that was the purpose for the question.

16 MR. SCHAGRIN: I understand.

17 CHAIRMAN KOPLAN: Thank you. Mr.
18 Katsafanas, at the Commission staff conference and
19 again this morning, but at the Commission staff
20 conference in the preliminary phase of this
21 investigation, you stated, at page 33, that, and I
22 quote: "If one service center wants to buy only
23 domestic product, and they cannot stay in business for
24 a long time if domestic prices are 15 to 20 percent
25 higher than the prices of imports being brought by

1 other service centers and distributors, for that
2 reason, even the few service centers that don't buy
3 both imported and domestic product, they ask their
4 domestic suppliers to keep them competitive with
5 import pricing."

6 I think Mr. Baker also touched on this in
7 his testimony this morning. I'm going to ask if you
8 can document specific instances of that happening for
9 purposes of your post-hearing submission, providing
10 dates, customer names, quantity, and value.

11 MR. KATSAFANAS: We'll try our best, but
12 it's been very difficult to obtain, as Mr. Schagrin
13 testified. We have a lot of difficulty getting our
14 customers to verify those things. One of the things
15 we looked at is the results. I understand your point.

16 CHAIRMAN KOPLAN: But the sense I had when I
17 read this to myself was that there must be some
18 anecdotal --

19 MR. KATSAFANAS: Yes, yes. Right.

20 CHAIRMAN KOPLAN: -- information you have
21 that you could document.

22 MR. KATSAFANAS: Right.

23 CHAIRMAN KOPLAN: And if any of you could do
24 that, I would appreciate it.

25 MR. KATSAFANAS: Okay.

1 CHAIRMAN KOPLAN: Let me stay with you, if I
2 could. I think you stated in your earlier testimony
3 today that in 2002, your Jackson, Mississippi, plant
4 cut back from seven shifts a week to four shifts.

5 MR. KATSAFANAS: Correct.

6 CHAIRMAN KOPLAN: Okay. Are you still
7 operating only four shifts a week in 2004?

8 MR. KATSAFANAS: Yes.

9 CHAIRMAN KOPLAN: You are?

10 MR. KATSAFANAS: Yes.

11 CHAIRMAN KOPLAN: Okay. So when you said
12 that you would like to be able to expand your mill,
13 basically what you were saying is you would like to
14 get back to the seven you had before.

15 MR. KATSAFANAS: Absolutely.

16 CHAIRMAN KOPLAN: Okay. Thanks.

17 Ms. Valdez, you cited the provisional
18 measures against LWR pipe and tube in the EU and
19 Canada as a factor contributing to the threat of
20 material injury. I just want to, for the record, note
21 that on December 15, 2003, the EU terminated its
22 antidumping proceeding concerning LWR pipe and tube
23 from Turkey.

24 MS. VALDEZ: I believe that the one we refer
25 to -- there was one that was terminated in 2003, --

1 CHAIRMAN KOPLAN: Okay.

2 MS. VALDEZ: -- but we're aware.

3 CHAIRMAN KOPLAN: Thank you.

4 MR. SCHAGRIN: Chairman Koplan, and we'll
5 put it in our post-hearing, however, the EU does
6 continue an order on what's essentially a circular
7 welded, nonalloy product which will be produced on the
8 same Turkish mills, so there is still an EU order in
9 effect on the round pipe, not the rectangular pipe,
10 from Turkey.

11 CHAIRMAN KOPLAN: Thank you. Let me stay
12 with you. On page 16 of your prehearing brief, you
13 state that "subject imports surged in the first two
14 months of 2004 then fell significantly after February
15 due to the announced implementation of preliminary
16 relief." You then add in footnote 9 that "the
17 Department of Commerce originally was to implement
18 relief in late-February 2004, but implementation was
19 subsequently delayed until April 2004." Then you say,
20 "Nevertheless, import patterns reflect the earlier
21 implementation date," and you cite to the staff report
22 and the table there. Isn't it possible that those
23 import patterns might be reflective of other factors,
24 such as global market conditions or the termination of
25 the Section 201 duties in early December of 2003?

1 You also made a bracketed allegation in that
2 footnote, the basis for which is not detailed, and I
3 would appreciate it if you could document the basis
4 for that allegation in your post-hearing submission.
5 Frankly, I didn't understand why that particular
6 allegation was bracketed. I see my red light has just
7 come on. If you can give a very brief response.

8 MR. SCHAGRIN: I'll be very brief. To the
9 first point, clearly not. There is no other reason
10 that is even possible on the record of this
11 investigation for those imports falling other than the
12 likely imposition of significant dumping duties. It's
13 not steel availability. It's not the end of 201. And
14 I think we'll just put in our post-hearing brief the
15 information that you ask for. There is a reason it's
16 confidential, and then we'll put some other
17 information in our post-hearing brief, Chairman
18 Koplán.

19 CHAIRMAN KOPLAN: Thank you very much.
20 Madam Vice Chairman?

21 VICE CHAIRMAN OKUN: Thank you. I would ask
22 the industry representatives to talk a little bit
23 about the business cycle, and you've mentioned it some
24 in your hearing and in a number of comments, but I
25 would like to hear you tell me a little bit about

1 where you think your industry is in its business cycle
2 right now, when you saw demand pick up, what you see
3 going forward, and whether anything else has been
4 going on in '04 that has affected the business cycle
5 that the Commission should be aware of, and, again,
6 I'll start with you, Mr. Katsafanas.

7 MR. KATSAFANAS: I think that at the
8 beginning of '04, the GDP numbers were starting to
9 improve and fairly good, and our business was strong
10 through the first quarter, but it was not really
11 significantly up from the like period year before, in
12 '03. The current situation, as we see it right now,
13 we feel that we're not optimistic about the economy.
14 We're not optimistic about the demand of our product
15 to keep increasing, especially in this product line.
16 As I've just commented, we're still operating only
17 four shifts a week in our Mississippi facility, so we
18 have not seen any real uptick in this product line.
19 So I'm not real optimistic about the business cycle in
20 general and specifically to this product.

21 VICE CHAIRMAN OKUN: And just before I turn
22 to Mr. Meyer, is there anything -- I've heard a number
23 of comments about what else was going on in '04, what
24 you've seen with your scrap prices. How do you take
25 that into account when you're thinking about your

1 industry's business cycle?

2 MR. MEYER: Well, I think that the
3 perception of shortages stimulated, to use a phrase
4 that's been used in Washington before, irrational
5 exuberance in the purchasing of all steel products, to
6 include tubing, that I don't believe was substantiated
7 by increased demand for the product. I think that
8 that has subsided now, and I think we're back to
9 people are looking and saying, well, what do I really
10 need to buy? My business isn't that good.

11 Consumption of our product is also affected
12 not only by people that buy tubing for inventory but
13 people that actually make products, the OEMs, and as
14 you well know, because of the China situation, that
15 affects the whole economy where finished products are
16 coming in, which has reduced the opportunity for the
17 increased demand of this product because so many
18 finished goods are coming in from China and other
19 countries that are reducing the ability of the
20 ultimate consumers of tubing to make product and sell
21 product.

22 CHAIRMAN KOPLAN: Mr. Meyer?

23 MR. MEYER: On 2004, we've seen an inventory
24 buildup in 2004 based on hedging against the
25 tremendous price increases that have been put together

1 from the steel mills, and that's reflected by the
2 tubers. That inventory buildup, along with the
3 accounting stuff that we talked about where you have
4 the margin buildup and stuff like that, has happened.
5 As I said earlier, it's starting to mellow out, should
6 I say, right now?

7 We are probably -- again, we're looking at
8 our business plan for 2005, and we're scratching our
9 head as to exactly what to look for going forward.
10 Certainly, the inventory buildups because of the
11 prices are not going to happen again, and the
12 profitability because of the inventory buildup and the
13 accounting system are not going to happen again. So I
14 would say that we're seeing the cycle of 2004 start to
15 go the other way as we sit here today.

16 VICE CHAIRMAN OKUN: Just on the inventory
17 buildup -- I'll want to go back and look at some of
18 these numbers, but do you think the inventory buildup
19 in '04 was out of the ordinary, different than what
20 you saw in prior years?

21 MR. MEYER: I think, yes, the inventory in
22 2004 -- anytime you have prices, and, again, to go
23 back a couple of questions before, a lot of our
24 business goes through distribution -- anytime you have
25 prices that are rising as quickly as they are in

1 today's market, you have people building up inventory.
2 When those prices look like they have reached the
3 saturation point, you'll see that diminish.

4 VICE CHAIRMAN OKUN: Okay. Mr. Mitchell?

5 MR. MITCHELL: We had a very strong first
6 quarter in terms of our demand. I would say that our
7 second quarter slowed from that, and the third quarter
8 has stayed on a similar pace. I certainly would echo
9 that we believe that there was a fair amount of
10 inventory building, and part of that flows from two
11 things. I think it's a fairly soft 2003 where people
12 ran their inventories down for a couple of reasons,
13 not the least of which was the prices were declining.
14 I believe that at the beginning of 2004, as reflected
15 by GDP numbers, we began to see some demand, and you
16 take in the demand and put in rapidly rising increases
17 where people were trying making sure they had lower-
18 cost materials, it tended to give us a stronger surge
19 at the beginning of the year than what we had seen in
20 some time. I would tell you that we have kind of
21 slowed slightly to a more reasonable pace currently.

22 VICE CHAIRMAN OKUN: Mr. Baker?

23 MR. BAKER: We saw demand begin to pick up
24 in January of '04, and we definitely feel that demand
25 has peaked, and our business plan for '05 is going to

1 reflect a great downside pressure on prices. I think
2 that we'll start to see demand will start to fall also
3 later this year and early next year.

4 VICE CHAIRMAN OKUN: Mr. Dustman, I don't
5 want to keep ignoring you back there. Just if you
6 disagreed or have something to add to what your boss
7 had to say, you can add it.

8 MR. DUSTMAN: I would just add that our
9 backlog at this point in time is approximately half of
10 what it was in the March time frame. From an order-
11 intake perspective, our order intake for the past 30
12 days -- it's the exception when it would exceed the
13 production or the shipments. When I say "the
14 exception," there might be one or two days out of the
15 past 30 days. So have things slowed from an order-
16 intake perspective? Most definitely, without
17 question.

18 VICE CHAIRMAN OKUN: Okay. I appreciate all
19 of those comments from the industry witnesses.

20 Mr. Schagrín, let me now turn to you on the
21 issue of how to evaluate the interim data and the
22 arguments that you started with on what the SAA and
23 the law tells us about evaluating this time period.
24 Of course, don't quibble at all with what you've
25 stated and what the SAA says; it's the law. The SAA

1 is not the law, but it certainly informs us, and we
2 know what the law says, and we've certainly applied
3 that.

4 But I guess my question is, the Commission,
5 in evaluating periods where you've had a tendency of
6 petition, has also looked at the other data as the SAA
7 and other things tell us to do, what else was going on
8 there, and if I look at '04 and listen to what I've
9 heard here, I think a lot of things were going on in
10 '04, including what's going on in hot rolled. We all
11 sat through the interim review on 201, and everyone
12 said, oh, yeah, you've seen this peak, and now it's
13 all falling. Guess what? It didn't. This is well
14 above what we found during the 201, of course,
15 combined with demand going up and the economy going
16 up.

17 So as I'm trying to evaluate how to evaluate
18 volume and the other factors during this '04 period, I
19 want to have a little more comment on that because
20 you've talked about, well, it's really the imports
21 coming out, and I think the way you've presented it is
22 if you look at the monthly data, you see them go out.
23 If you took the data, rather than just trying to look
24 at the first-half '03 to first-half '04 data, the
25 cumulated subject imports only declined by 269 tons.

1 That's what drives what we see going on, and, again, I
2 don't want to talk about the accounting practices,
3 but, again, it's not what I would call my typical
4 pendency case where you see a petition go into effect,
5 you see imports drop out, you see prices rebound from
6 lows. I think you would agree with me, it's not the
7 typical scenario that I would see in these cases.

8 MR. SCHAGRIN: You know, Vice Chairman Okun,
9 I never do the typical cases. Those are for other
10 attorneys. We've got to make things interesting and
11 keep the mind working. It's the only way to avoid --

12 VICE CHAIRMAN OKUN: Maybe in some cases; 75
13 looked the other way.

14 MR. SCHAGRIN: I think there's two things
15 going on. First, the reason you can't look at just
16 the volume of imports when you're looking at post-
17 petition or pendency-of-petition analysis is that more
18 than half of the interim period '04 imports came in
19 January and February, so we really did have a drop off
20 in imports. But I think, as these witnesses testified
21 to today, I think it's really a perfect fit, the
22 Commission's preliminary determination. This
23 Commission found that looking at '01, '02, and half of
24 '03, that underselling was suppressing prices. That
25 was most of the injury to this industry, is that they

1 were not able to push along their cost increases.

2 What happened in this industry is, yes,
3 costs allocated beyond anybody's wildest imagination,
4 but the reason they were able to pass along full price
5 increases is because their customers couldn't just
6 say, I'm not going to buy from you; I'm going to buy
7 the dumped imports. And we had cases here pending
8 against two-thirds of the importers of this product in
9 just these two countries, and I think that explains
10 their success in passing along price increases.
11 That's what did it, was the pendency of these cases,
12 and if you make a negative determination, I am
13 absolutely positive that these imports are going to
14 surge again, they are going to undersell, and this
15 industry is going to have price problems and margin
16 problems again.

17 VICE CHAIRMAN OKUN: My red light is on.
18 I'll return to that in my next round. Thank you.

19 CHAIRMAN KOPLAN: Thank you. Commissioner
20 Hillman?

21 COMMISSIONER HILLMAN: Thank you.
22 Hopefully, I want to just close out a couple of these
23 questions on the like-product issue and maybe just ask
24 for it, to some degree, in the post-hearing brief.
25 Mr. Schagrin, I'll be honest. I am somewhat, you

1 know, concerned about this issue. I think it's the
2 first time, at least, I feel I've been directly
3 presented with this question of if we're going to
4 treat sheet products differently for black versus
5 coded, why aren't we doing the same for a pipe or tube
6 product, so I do want to go through this.

7 The two issues that I would ask you to
8 address, very specifically, are the issue of the price
9 differential. I understand that there is a range of
10 prices that your product has, but if I look at the
11 data that we have, it would suggest that the
12 galvanized product is quite an order of magnitude
13 higher in price, which, again, does, to me, suggest
14 that it's unlikely that an end user is indifferent as
15 to whether they are using a galvanized or black
16 product given the level of price differential between
17 the two. So while there may be substitutability in
18 the general sense, as a practical matter, it does not
19 look to me like you would substitute galvanized
20 product for black just because. There is enough of a
21 price differential that I think that drives that
22 decision.

23 So I would like you to address the issue of
24 whether this is a big enough price differential that
25 it does merit at least looking seriously at whether

1 these are separate like products.

2 The second issue that I would like you to
3 address is the argument within Prolamsa's brief that
4 while, yes, both products are sold through
5 distributors, the actual distributors for the
6 galvanized product are different entities than the
7 typical distributors for the black product.

8 MR. SCHAGRIN: Okay. As to the first, there
9 is no question that there's significant differences
10 between galvanized and black pricing, but I think the
11 comparison, which, of course, the Commission doesn't
12 have on the record, is that for the users, the choice
13 isn't between just a black product and galvanized
14 product. For uses in which galvanized would be
15 considered, the choice is really between painting a
16 black product, which adds additional cost, generally
17 from the user's perspective, and choosing a galvanized
18 product, and it's that extra cost of painting that
19 really brings the products into very close proximity,
20 and then users have to decide, do I want to buy a
21 black product, treat it, paint it, or do I want to buy
22 a galvanized product?

23 COMMISSIONER HILLMAN: Anything else you
24 want to put on the record --

25 MR. SCHAGRIN: Okay.

1 COMMISSIONER HILLMAN: It's my understanding
2 that even between the painted product and the
3 galvanized product there is still -- we could quibble
4 over what is significant, but there is still, again, a
5 markup of the galvanized product over and above the
6 painted products. I'm still trying to understand,
7 again, the traditional things that we look at in
8 making these like-product distinctions, which way do
9 they cut, so I'm asking you to look at specifically
10 this issue of whether there is a different set of
11 distributors and whether the price pushes you in
12 another direction.

13 MR. SCHAGRIN: We'll address that in the
14 post-hearing.

15 COMMISSIONER HILLMAN: From the industry's
16 perspective, how prevalent is painting or the
17 application of protective coatings other than
18 galvanizing? Of your product, how much of it gets
19 sold as a painted or coated product?

20 MR. MEYER: We do have painting and some
21 coating availability, but I would say that most of it
22 is done after fabrication, which we don't do.

23 COMMISSIONER HILLMAN: Fair enough.
24 Presumably, the galvanizing, and, again, that was the
25 question, I guess, I had was, is there a significant -

1 - is there a coating industry out there that does
2 galvanizing, or is the majority of the coating that's
3 done out there painting or other nonzinc, hot-dipped
4 kind of coating?

5 MR. KATSAFANAS: I think most people that are
6 going to paint have their own painting process that
7 are large-volume users. Someone that's small might
8 send it out to a painter, but the vast majority of our
9 experience are people that are larger users have their
10 own paint lines.

11 COMMISSIONER HILLMAN: Is the majority of
12 what all of you here sell sold as a black, uncoated,
13 unpainted, you know --

14 MR. KATSAFANAS: That's the only product we
15 sell. We don't sell any painted or primer coated.

16 MR. MEYER: While we do some coating, the
17 majority of our product is sold as black product.

18 COMMISSIONER HILLMAN: Mr. Mitchell?

19 MR. MITCHELL: Literally, all of our product
20 is sold as black. We don't do any galvanized shapes.

21 COMMISSIONER HILLMAN: And then, Mr.
22 Schagrin, which does beg the question, another one of
23 the arguments the Mexicans made is that an increasing
24 share of their imports are these pre-primed product,
25 and it, to some degree, affects the degree of

1 substitutability or overlap in competition between the
2 imported product and the domestic product. If you
3 could also address that issue in the post-hearing.

4 MR. SCHAGRIN: We'll address that, and
5 before I forget, Commissioner Hillman, you did ask, is
6 there an industry out there that galvanizes, and I
7 don't think any of the witnesses answered. There is a
8 substantial industry out there. There are lots of
9 companies that operate galvanizing pots all over the
10 country, and whether it be this product or a whole
11 myriad of other products, people take their products
12 to these galvanizers, and their job is to galvanize
13 products. So there is a rather large industry out
14 there whose job it is to galvanize products for
15 manufacturers.

16 As to the prepayment, there is no difference
17 in the industry, and there's no lines. I think, as
18 these gentlemen have already testified, probably a
19 significant portion of their customers, whether they
20 are OEMs or really the folks who are buying through
21 service centers, operate in house their own paint
22 lines. So they are doing the pre-primed and painted
23 product, and these folks, with their union work
24 forces, decide, probably for two reasons, (a) why
25 should we do pre-priming in house when our customers

1 can do it and then apply the paint at the same time;
2 and (b), once again, a lot of customers probably want
3 to do some fabrication and then pre-prime and paint
4 rather than the other way around.

5 COMMISSIONER HILLMAN: I appreciate those
6 answers.

7 Let me go, if I could, a little bit
8 following up on Vice Chairman Okun's questions with
9 respect to demand because all of you have described
10 for her your sense of the demand conditions. I will
11 say, in looking over the data for this hearing, I was
12 a bit struck by the fact that the staff report
13 indicates that most producers, as reported, perceive
14 that demand for the product over the period has fallen
15 since January of 2001, yet our data show a pretty
16 sizable increase in total consumption.

17 So I'm trying to understand how it is that
18 you all perceive that there has been no, if not a
19 decrease in demand, and yet our data shows this very
20 substantial increase.

21 MR. KATSAFANAS: I can only go by the orders
22 that we take in. We're taking in less orders. That's
23 what we reported. So I don't know what the total --
24 you're looking at.

25 COMMISSIONER HILLMAN: Again, I'm trying to

1 understand it, and I've heard you say you've gone from
2 seven lines operating down to four, and yet, again, if
3 I look at our numbers, it would indicate that actual
4 U.S. production in volume, -- leave aside what the
5 prices are -- the actual tons produced by this
6 industry has grown each and every year over our period
7 of investigation. So somebody out there -- I
8 understand your testimony, you're shutting down lines,
9 but nonetheless, everybody, as a collective whole
10 here, is making and selling more product each and
11 every year.

12 You're telling me you're perceiving less
13 orders, and you're shutting down lines, and yet you're
14 producing and selling more. That's what I'm trying to
15 understand. How do I square that data with what I'm
16 hearing from your testimony?

17 MR. MITCHELL: I would say that for us, 2001
18 was well off of 2000. Again, I recognize 2000 wasn't
19 part of the review, but 2001 was a very, very bad
20 year. 2002, 2003 were improved over 2001. 2004 has
21 been the best for us through the half-year point since
22 2000. Maybe we're getting some long-term memory that
23 we're remembering that it's not quite as good as the
24 peak of 2000, but, again, we had a crash in 2001, --
25 I'm speaking just from our perspective -- and then

1 we've begun to claw our way back in 2002 and 2003. I
2 think, again, 2004 is significantly improved in our
3 perspective from any of this period, but it's not at
4 some of our previous highs.

5 COMMISSIONER HILLMAN: Okay. Mr. Meyer?

6 MR. MEYER: From our perspective, we have,
7 looking at our overall product, we have diversified in
8 other areas of tubing, and we have done a good job in
9 doing that. This product we're talking about here; we
10 are producing less of that product simply because of
11 competing against the imports coming in. We have
12 diversified in other products.

13 MR. SCHAGRIN: I would just say,
14 Commissioner, I think it was reflected in a lot of the
15 questionnaire responses versus the data is a question
16 of perception. To a domestic producer who is under a
17 lot of volume and price pressure, it may look like
18 demand is not increasing because that's their
19 perspective, and they are looking at their order
20 books. When you get all of the data together, you can
21 see demand is increasing, and as Dr. Blecker pointed
22 out, when 60 percent of a demand increase is taken by
23 just imports from two countries, I think you can
24 understand why the perception on the part of the
25 industry is, well, demand doesn't look so wonderful to

1 me.

2 COMMISSIONER HILLMAN: Yes, but, again, I'm
3 looking at just flat-out production. The domestic
4 industry's production is up --

5 MR. SCHAGRIN: Production shipments were up,
6 no question about it.

7 COMMISSIONER HILLMAN: -- you know, a
8 thousand tons. So actual production and shipments and
9 sales volume is up. That's what I'm trying to square
10 with all of this I'm shutting down lines, and I
11 perceive an increase in demand. But you're actually
12 producing and shipping more. That's what's not quite
13 squaring with me. The red light has come on, so we
14 may need to come back to this issue. Thank you.

15 CHAIRMAN KOPLAN: I don't have a problem if
16 Mr. Katsafanas was about to respond to that. I saw
17 you start to reach for your mike. No? Okay.

18 Commissioner Lane?

19 COMMISSIONER LANE: First, Mr. Schagrin,
20 relating to my questions on trends since June 2004,
21 I'm withdrawing my request that you provide
22 information over and above your oral answer. Now, I
23 would like to go back to Dr. Blecker.

24 We were talking before about Table 6-9 of
25 the staff report on return on investment. My follow-

1 up question is, wouldn't a downward trend in return on
2 investment be acceptable, given the declines in
3 capital cost rates, including interest rates, which
4 have occurred from 2001 and 2003?

5 MR. BLECKER: You're referring to the
6 declines in interest rates in the economy and what
7 else? I'm sorry?

8 COMMISSIONER LANE: Capital cost rates.

9 MR. BLECKER: I would have to answer this in
10 more detail. If I could do it post-hearing and access
11 the actual data, but I would point out that although
12 the interest rates we all hear about like the fed
13 funds rate set by the fed are dramatically down. If
14 you look at long-term borrowing costs, corporate bond
15 rates, they are not down nearly so dramatically, but I
16 would have to look at the data on that to give you a
17 full response.

18 COMMISSIONER LANE: Okay. Fine. Let's turn
19 to another table that's in the staff report. It's
20 Table 6-10, which contains calculations from data of a
21 large number of companies producing welded or seamless
22 or riveted steel pipe and tube. If we look at Table
23 6-10, we see operating margins of 4.4 percent, 4.0
24 percent, and 2.8 percent in Fiscal Years 2001 to 2003
25 and average returns of investment of 7.1 percent, 6.6

1 percent, and 4.6 percent for the same periods. What
2 is your response to the fact that apparently light-
3 walled rectangular pipe and tube have significantly
4 better financials than those?

5 MR. SCHAGRIN: Commissioner Lane, I have a
6 simple response because I was very interested in this
7 table in the staff report.

8 COMMISSIONER LANE: May I have Dr. Blecker
9 speak first?

10 MR. SCHAGRIN: Oh, I'm sorry. Go ahead, Dr.
11 Blecker.

12 MR. BLECKER: Commissioner, I would, again,
13 prefer to look this over in detail and give you a full
14 answer in the post-hearing, if that's all right.

15 COMMISSIONER LANE: Okay. Mr. Schagrin, go
16 ahead.

17 MR. SCHAGRIN: Okay. What this table
18 illustrated to me is that the manufacturing sector, of
19 which this is a subpart, has just been performing
20 dismally over the last several years, which is why
21 we're losing all of this employment in this country,
22 is because people are just simply at these kinds of
23 operating margins and our allies, which have fallen so
24 significantly since the '96-'97 periods, folks are not
25 going to reinvest, and they are going to lay off

1 employees.

2 Also, you know, what's remarkable is that
3 even coming out of a recession, average sales
4 revenues, I don't know if they have gotten the data
5 from the same number of participants, but sales
6 revenues are down, too. To me, this is a segment of
7 the manufacturing sector that is just performing
8 extremely poorly, and if we're going to maintain a
9 light-walled rectangular industry, it obviously has to
10 perform much better than these averages.

11 COMMISSIONER LANE: Okay. Thank you. I now
12 want to turn to page 28 of your brief, where you talk
13 about the operating income reported by the domestic
14 industry in the interim 2004 period is remarkable.
15 However, because of your concern about the effect of
16 FIFO inventory accounting, you would have us place
17 little weight on that remarkable operating income. So
18 I would like to expand some on the accounting effects
19 that you believe are so severe.

20 First, are you aware of whether any of the
21 companies in the data defer inventory gains or losses
22 on their interim financial statements?

23 MR. SCHAGRIN: Commissioner Lane, I am not
24 aware of that. I don't recall seeing in any of the
25 questionnaires any notes to the fact that inventory

1 accounting changes are made on an interim basis. Mr.
2 Dustman is a CPA. He can probably answer about what
3 is the norm, but it's my understanding that companies
4 usually make those adjustments on a year-end basis,
5 not on a quarterly basis. Michael?

6 MR. DUSTMAN: Roger is right. From a LIPO
7 perspective, we don't account for LIPO until year end.
8 The way our accounting system works is we do recognize
9 current costs on the income statement, but we have
10 recognized the "pickup on the inventory" in our June
11 30th statements; otherwise, that would be misleading.

12 COMMISSIONER LANE: Okay. Thank you.

13 MR. SCHAGRIN: And, Commissioner Lane, you
14 will be happy to know that we're going to address this
15 further in our post-hearing submission. We are
16 fortunate in our law firm to have a CPA who is also a
17 JD, and he has taken the analysis prepared in the
18 Hilsa brief and analyzed that and found some faults
19 with it and done a different analysis. However, we
20 would agree with -- you've got a great economist here
21 in Mr. Yost. We would agree with his statement that
22 FIFO accounting does not completely account for the
23 increase in profits because "completely" means all of
24 it, 100 percent, and it clearly doesn't. It's
25 somewhere in the range probably of 50 to 80 percent of

1 the increase in profits as accounted for by FIFO, but
2 we'll be making a separate submission on that in our
3 post-hearing submission.

4 COMMISSIONER LANE: Okay. Thank you.
5 You state that apparent U.S. consumption has
6 increased. And that's page 14 of your petitioner's
7 brief. And that subject imports have gained market
8 share. That's on page 16 of your brief.

9 How does the increased share of the market
10 by the subject imports hurt the domestic industry if
11 overall consumption is decreasing and the domestic
12 industry continues to received a substantial share of
13 this consumption increase?

14 MR. SCHAGRIN: Commissioner Lane, that goes
15 to the heart of the business cycle provision of the
16 statute. We would expect to see the domestic industry
17 improve as the business cycle improves. The fact that
18 here the subject imports took three-fifth of the
19 increase in demand leaving only the remainder for the
20 domestic industry means that, first, the domestic
21 industry didn't receive the benefit of the business
22 cycle that they should have and, secondly, even at the
23 time when demand was increasing, industry profits and
24 profitability and profit margins were falling as a
25 result of the price depression caused by the

1 underselling of the imports.

2 COMMISSIONER LANE: Okay, thank you.

3 I have a question for Mr. Mitchell. You
4 stated in your testimony that Mexican imports are
5 distributed in the southwest market. Would you say
6 that the Mexican imports tend to compete in a region,
7 the southwest, rather than nationwide?

8 MR. MITCHELL: Speaking from our
9 perspective, the majority of our sales are in the
10 state of Texas. And we certainly sell in the Gulf
11 region. And so my frame of reference is going to be
12 things that enter the Port of Houston or come through
13 Laredo.

14 I simply have anecdotal information that
15 product is also imported in other parts of the United
16 States and therefore affect southeast/southwest. But
17 I really can't give you any personal information on
18 that. We see it most severely in what is generally
19 defined as the Gulf region.

20 MR. KATSAFANAS: I'd like to add something
21 to that. And I don't want to read anything into your
22 question, but from my perspective the fact that even
23 if -- and they're not just in the southwest or the
24 southeast -- but the effect is that it reduces the
25 marketplace for the other domestics where we can't

1 sell if we're fighting dumped products in a region
2 where we normally would be shipping product.

3 So, in effect, it shrinks the available
4 market that we have opportunity to in the rest of the
5 country because there's more of us domestics competing
6 for it.

7 COMMISSIONER LANE: Okay.

8 MR. MEYER: We have seen the Mexican product
9 in Chicago, Omaha, Kansas, the southeast. It is
10 definitely much more than just in the Gulf region.

11 COMMISSIONER LANE: Okay, thank you.

12 CHAIRMAN KOPLAN: Thank you, Commissioner
13 Lane.

14 Commissioner Pearson?

15 COMMISSIONER PEARSON: Going back to table
16 6-9 that Commissioner Lane mentioned a few minutes
17 ago, that lists return on investment figures for the
18 period of investigation, not including the interim
19 period for 2004. What in your view is a fair and
20 reasonable return on investment for your industry?

21 MR. DUSTMAN: From a Bull Moose Tube
22 perspective which is our perspective generally we
23 would look at for a new project minimum, a 15 to 20
24 percent rate of return.

25 COMMISSIONER PEARSON: And what level of ROI

1 would be high enough that you would start to be
2 concerned about others entering the business or other
3 competitors expanding to take advantage of that
4 relatively high earnings that come from high ROIs?

5 MR. DUSTMAN: From my perspective, 20
6 percent is an attractive rate of return. The question
7 is we bring a certain amount of synergy to the
8 marketplace, to the operations that we already have
9 existing. Somebody that is simply coming into the
10 industry new doesn't have the levels of synergies that
11 we have. So the level of benefits they would need to
12 derive would be more than what we would have.

13 I don't know if I'm answering your question
14 entirely clearly. But I would say 20 percent.

15 COMMISSIONER PEARSON: Well, in my limited
16 experience that sounds like a fairly generous level.
17 It wouldn't surprise me in the businesses that I am
18 more familiar with to see expansions before you get to
19 20 percent to try to take advantage of the market
20 opportunity that's implied by ROIs at that level, and
21 especially as was mentioned by Commissioner Lane, at a
22 time when interest rates in the economy are generally
23 less than they had been a decade ago so that the
24 alternate opportunities to earn money on money are
25 diminished. And so the ROI at which one would expect

1 to attract new investment also is addressed -- also is
2 reduced.

3 Professor Blecker, you have a comment?

4 MR. BLECKER: Just one comment is that these
5 rates of return are calculated on book value or
6 historical costs of capital and from what we've heard
7 with low net investment rates this is mostly old
8 capital.

9 If you were to compute the rates of return
10 on this same investment at replacement costs these
11 would be much, much lower looking rates of return.
12 And that's what business have to look to for future
13 investment because they can't replay at historical
14 costs, they can only replace or expand at current
15 replacement costs, and that's quite different. So
16 there's sort of an exaggerated impression of the rate
17 of return here compared to what the capital is really
18 worth today.

19 COMMISSIONER PEARSON: Of course. That's
20 the case all across the world of business.

21 MR. BLECKER: Yes, but it relates to the
22 issue of whether they would now make an expansion or
23 major improvement of a facility given that they have
24 to pay current costs.

25 COMMISSIONER PEARSON: Well, the question of

1 whether a business tries to produce relatively more at
2 a lower margin or relatively less at a higher margin
3 is a basic ongoing issue, it's something that
4 businessmen wrestle with every year, if not every day.
5 Okay. And what I'm trying to understand is at what
6 point or at what point do earnings get strong enough,
7 does the current investment get solid enough so that
8 the LWR industry in the United States might feel
9 inclined to more actively try to compete for the
10 demand that seems currently to be filled by imports?

11 I mean we have this very position situation
12 that others have mentioned where demand has been
13 growing. And you look at the empirical evidence that
14 we have in front of us, so far the importers appear to
15 have been more willing to go for volume, perhaps at
16 the expense of margin, and the domestic industry as a
17 whole has increased output somewhat but still, as we
18 see the figures, seems to be focused on margin rather
19 than volume.

20 And not to say that that's in any sense the
21 wrong decision. It could entirely be the correct
22 decision. But I'm just trying to get a sense of what,
23 unless the domestic industry finds a way to increase
24 output we would have to expect to have imports in
25 order to serve the demand increases that are part of

1 the record.

2 Pardon my long question and statement.

3 MR. KATSAFANAS: Yeah, I don't think that,
4 if I understand your question right, I don't think
5 we're afraid to increase volume and lower margins. I
6 mean I don't know if that's really the question. But
7 you're right, we face this every day: how do we make
8 our profitability?

9 If I could sell one ton and make my rate of
10 return I would love to do that, but it doesn't work.
11 But I also have tried it the other way, as has the
12 industry, to try to sell out the facility. Well, you
13 lose on one ton you lose on all the tons. So it's a
14 combination. And that's the dilemma that we all face
15 as businessmen is how much do you chase volume and how
16 much do you chase margin?

17 And I think that what we've seen in the last
18 six months is the margin was forced on us by the
19 inventory flow and the economy practice. It wasn't
20 anything we really ran more efficiently that increased
21 our productivity and our margins because of that.

22 But I wanted to clarify something that may
23 have been misleading on a couple of questions on
24 volume and Chairman Koplan's question about where we
25 were with the shifts we run. If you're looking at the

1 entire time frame of 2001 to 2004, we may be at four
2 shifts now at our Jackson facility, but that's not to
3 state that we didn't have spikes and we're running
4 seven shifts or maybe even nine shifts for short
5 periods of time. But where we are right now is at
6 four shifts.

7 And to your question, Commissioner Hillman,
8 salesmen have a short attention span. And I'm looking
9 at what I'm experiencing right now. And what I'm
10 experiencing right now today and for the last 60 days
11 is reduced order input. And I think Mr. Meyer
12 confirmed that in his comments also.

13 Now, the fact that we may have had increased
14 orders from 2001 to first quarter 2004 I have to look
15 at the data. I was just talking about right now,
16 today, last 60 days because that's reality to us and
17 going forward.

18 MR. MEYER: If I can answer your question
19 from our perspective, if you're running your two
20 shifts and you're getting your price on your two
21 shifts we could certainly go ahead and run our third
22 shift but that would have a devastating effect on your
23 marketing prices for your first two shifts. However,
24 we could be very successful in dumping with what we
25 could do on our third shift if we elected to do that.

1 MR. SCHAGRIN: He means dumping in third
2 country markets. Because really what's happening
3 here, Commissioner Pearson, is you've really
4 identified the beauty of dumping for the foreign
5 producers. They go the volume in the U.S. market.
6 They go for price in their own market. I mean that's
7 -- the two are interconnected, otherwise the Commerce
8 Department wouldn't have found significant dumping
9 margins. This is their, their market to dump into and
10 to achieve significant volumes which benefits their
11 overall cost situation.

12 They do not want to dump in their own market
13 and they don't want folks from other countries dumping
14 in the Mexican market, I can assure you of that.

15 COMMISSIONER PEARSON: Have the Mexican
16 producers been disciplined enough so that they've
17 maintained their domestic price at a level that has
18 allowed some U.S. sales into Mexico?

19 MR. SCHAGRIN: I have been familiar with the
20 Mexicans in trade cases now for over 20 years, and as
21 an industry we were huge supporters of NAFTA because
22 Mexico had very high tariffs, as we were with the
23 U.S.-Canada Free Trade Agreement. And the stark
24 difference is in the experience of this industry, writ
25 large, pipe and tubing, not just LWR, between Canada

1 and Mexico I think is very educational. As the very
2 high Canadian tariffs came down, U.S. exports to
3 Canada just absolutely increased tremendously.

4 As the even higher Mexican tariffs came
5 down, U.S. exports have increased very little, and
6 that's because it's a very difficult market for U.S.
7 producers even though it's higher prices because of
8 the Foreign Fair Practices Act. It's a different
9 nature of business. U.S. producers are not going to
10 broad purchase anything. No offense to our Mexican
11 friends there. But I mean that's been the experience
12 of a lot of my clients over 20 years is that business
13 is changing but it's been historically done
14 differently in Mexico than in the U.S. and Canada.
15 Still a good trade agreement but that's why we don't
16 see a lot of exports to Mexico even though their
17 prices are significantly higher than prices in the
18 U.S. market.

19 COMMISSIONER PEARSON: Okay, thank you for
20 those responses. My time has expired.

21 CHAIRMAN KOPLAN: Thank you, Commissioner
22 Pearson.

23 I just have a couple of short ones I hope
24 left. First is a follow-up to Commissioner's Lane's
25 request that dealt with accounting practices. I think

1 it was you, Mr. Dustman, who said you were going to
2 provide something post hearing.

3 MR. SCHAGRIN: That was me, Chairman Koplan,
4 as I remember it. If Mr. Dustman also said he'd
5 provide something post-hearing I might have missed it.

6 CHAIRMAN KOPLAN: Okay. Well, in any event,
7 in providing that information or when providing that
8 information could you specify for us how much of the
9 inventory is inventory of LWR and how much is
10 inventory of flat rolled steel, if you can break that
11 out.

12 MR. SCHAGRIN: Chairman Koplan, I believe
13 that our analysis already does that because it is
14 based upon the data that the questionnaire responses
15 provided which cover only LWR. So it would count two
16 sides in terms of the accounting adjustment: a) it
17 counts what producers have reported as their cost of
18 raw materials for LWR, and it uses the data from the
19 questionnaire that was asked for information on
20 purchases of steel for use in LWR which was separately
21 reported. So that the two data inputs are specific to
22 LWR.

23 CHAIRMAN KOPLAN: Thank you. I appreciate
24 you clarifying that for me.

25 Then I have last one for Mr. Katsafanas.

1 You mentioned, I believe, that imports of
2 downstream products from sources like China are
3 depressing demand for LWR. The typical products that
4 were mentioned in the answer to a question by
5 Commissioner Hillman were ornamental fencing,
6 signposts, trailers and greenhouses. In what products
7 have you seen the greatest increase in imports from
8 sources like China?

9 MR. KATSAFANAS: More consumer products like
10 furniture, juvenile furniture. There's not a bicycle
11 made in the United States anymore. Exercise
12 equipment. Not to give them publicity but a lot of
13 the products you see at Wal-mart, Lowe's, Menard's,
14 Home Depot that people use like hammocks, swingsets, a
15 lot of that product comes in from foreign, from China.

16 CHAIRMAN KOPLAN: Thank you.

17 Does anyone else want to add to that? Any
18 of the domestic? If not, thank you very much for that
19 response and I have no further questions. I will turn
20 to Vice Chairman Okun.

21 VICE CHAIRMAN OKUN: Thank you. I wanted to
22 go back and follow up on some responses that you gave
23 both in terms of your response to Commissioner Hillman
24 on, you know, what we see in the data on production
25 and shipments going up and how that squares with what

1 we hear from you.

2 And then also, Mr. Schagrin, you kind of in
3 response to Commissioner Lane talked about the
4 business cycle what you saw here and this issue that
5 took three out of five imports out of the increased
6 amount. And I guess it struck me in reading the
7 briefs that a lot of what you're saying hinges on this
8 idea that you should have captured, the industry
9 should have captured, what, five out of five of that
10 increased amount? I guess I'm trying to understand
11 when you're saying it's injury when you've got an
12 expanding pie -- again I know you focused on market
13 share -- but again it's an expanding pie, not a
14 shrinking pie, the injury comes because you didn't get
15 all of it or? Help me out there. And I guess first
16 on how much you should have gotten in volume?

17 And then the other thing that I've heard
18 repeatedly is this issue of how much is cost increase
19 and the amount the domestics were able to raise the
20 sales prices, you've used the \$56 per ton of raw
21 material increases from '01 to '03 versus domestic
22 sales volumes rising only \$34 per ton. I think those
23 numbers tend to be over slightly different periods.
24 But anyway, those are the two things that I'd like to
25 hear further response on, and from the industry as

1 well.

2 MR. SCHAGRIN: Two comments. It's tough to
3 give an exact number for how much of the improvement
4 in the business cycle the domestic industry ought to
5 get. Obviously Mr. Mitchell's response maybe was a
6 baseball type response about him having done well in
7 two quarters out of 14. And that's not very good.
8 And, you know, obviously the domestic industry would
9 like to get if demand increases by 20 percent we get
10 four out of five, 80 percent of that increase, that's
11 a lot better than only getting 40 percent.

12 But what we ought to see is from a
13 significant improvement in the business cycle in any
14 industry is we ought to see both improved volume and
15 improved profitability. And here we saw modest
16 improved volume and a declining profitability.

17 And I would just, look, I know everybody on
18 this Commission is very well aware of the reasons for
19 the 88 change in the Trade Act because prior to that
20 we had a lot of commissioners who were just looking at
21 trends. And for trade practitioners you would say if
22 you have trend commissioners you only file cases on
23 the down side because if you have significant
24 improvement in demand the industry is always going to
25 show a lot of factors improving and you're always

1 going to lose your cases.

2 And we went to Congress and we said, you
3 know, isn't this kind of ridiculous that we have a
4 Trade Commission which the domestic industry can only
5 win when we time our filings to a period when demand
6 is falling. And they looked at what the results of
7 the cement case and they looked at things and they
8 said, You're right. We need to change the law here.
9 We have to command the ITC -- it wasn't a suggestion -
10 - we have to command the Commission to take into
11 account the business cycle and conditions of
12 competition in the affected industry.

13 And I would say that, you know, as I know
14 this Commission does, you're required to do that in
15 every case. You can apply your subjective view to it
16 and say, hey, two out of five isn't bad, that's not
17 injury to me, you know, versus maybe you think four
18 out of five isn't bad, that's not industry. Or the
19 domestic industry is going to have to get 100 percent.

20

21 We would never argue the domestic industry
22 has to get 100 percent improving the business cycle.
23 But we think cases like this point out that you have
24 to take the business cycle into account. And when
25 dumped imports are taking three out of every five

1 increased tons of demand that to us is clearly injury
2 in the business cycle, that's not a close call, that's
3 a slam dunk for us.

4 VICE CHAIRMAN OKUN: But again, injury
5 looking only at market share only because the
6 profitability for -- I mean I guess one thing about
7 prelim. versus this final data is it looks to me that
8 '03 starts to turn around, that you start seeing that
9 again. And I don't think that's pendency. I mean so
10 you might want to look into post-hearing and give some
11 additional comments on that. And I think you can go
12 with that.

13 MR. SCHAGRIN: Okay. Since we filed the
14 case in September, half of the '04, four-sixths of the
15 second half of '03 relate to pendency. I mean we
16 literally have four months of the second half of '03
17 that relate to pendency. But, overall we think 2003
18 definitely shows injury. The market doesn't increase
19 in 2003 like it did in 2002. You know, it makes
20 sense, the recession ended in 2001. You hear that
21 everyday in the Republican Convention, you know, we
22 got out of the recession we inherited from Clinton,
23 etc., etc. If the recession ended in 2001 you'd
24 expect the biggest boost to be an '02. There was a
25 big increase in demand and there was a gigantic surge

1 in these dumped imports.

2 And then the market starts to level out.
3 And the imports showed they were a one-trick pony,
4 they in fact increased their share again. So
5 obviously we think the Commission should give great
6 weight to market share data. The beauty of market
7 share is it doesn't matter what's happening in the
8 cycle when you look at market share because market
9 share is based on consumption and the level of
10 imports. Here we have just a huge increase in market
11 share over the POI. And it happened that happened
12 that the big increase in market share was happening as
13 the pie was increasing. They were taking a much
14 bigger chunk of a growing pie.

15 And I know speaking for all the people in
16 this industry and every industry I represent, boy,
17 when that pie grows these guys have got to get their
18 chunk of it actually dumping because they've got to be
19 able to weather the years when the pie is shrinking.

20 VICE CHAIRMAN OKUN: Any additional comments
21 on that, Mr. Meyer?

22 MR. MEYER: I think when you're looking at,
23 yeah, a little different perspective, or add to it,
24 market share, the volume is up five and they got three
25 you also have to look at the effect that that has on

1 the pricing of the entire pie. Because that puts a
2 tremendous amount of pressure on the pricing in the
3 market so that that significant market growth of
4 theirs has also a treat and it's real in regard to the
5 entire pricing scenario to fall even further. So it's
6 not just what they increased in volume, it's what the
7 threat was and what actually happened in regards to
8 margin and prices.

9 Also, I think to add to that, our industry
10 is doing -- we're trying very hard to get product that
11 other elements are using to use steel tubing. And
12 we're doing a good job in trying to get those things
13 changed. And with that we do spend a great deal of
14 money and expect a return on that investment by having
15 these changes occur.

16 VICE CHAIRMAN OKUN: Any other industry
17 comments?

18 (No response.)

19 VICE CHAIRMAN OKUN: Mr. Meyer, a response I
20 recall to one of my opening questions, Mr. Schagrin,
21 which is whether this pricing data tells that same
22 story? And if not, why, and to have you address that.

23 I think you've gotten a number of requests
24 with regard to the accounting issue, so I will look
25 forward to seeing the post-hearing submission on that.

1 One thing that I guess I'm curious about, I
2 don't know if it could be part of that request is, to
3 the extent that this is an issue, and we're focused on
4 it for '04 because the numbers are so big, you also
5 have a price increase in '02. Are the '03 numbers
6 affected? And if so should we be looking at that?
7 And, you now, are we talking about this widening for
8 this whole period because you have prices go up and
9 down during the period?

10 MR. SCHAGRIN: It's not very significant in
11 periods other than '04. But in fact we are going to
12 give you information that does look it for the summary
13 data in the report over the entire POI.

14 VICE CHAIRMAN OKUN: That would be very
15 helpful.

16 MR. SCHAGRIN: It will be addressed for the
17 other periods as well as the interim period.

18 VICE CHAIRMAN OKUN: Okay. That's very
19 helpful. I will look for that as well then.

20 And then one I guess question or kind of one
21 you had raised and the respondents had raised the
22 issue of participation and who has or has not
23 responded. And obviously staff continues to work with
24 some. But I guess one thing I was listening for, Mr.
25 Schagrin, is I understand what you were saying about,

1 you know, you've got most of the industry and your
2 figure is 80 to 85 percent and, you now, whatever you
3 can do to help our staff understand what those figures
4 are and how accurate that is.

5 But your brief, in particular the brief page
6 25, note 21, includes a reference to that the data
7 really would be worse except for survivor bias. And I
8 think that's the point of this issue on the data
9 whereas when you have the companies out there that we
10 know about who haven't participated, I'm not sure that
11 I'm willing to say, well, I know it must be survivor
12 bias from those who've exited when those who have
13 fought and remain in business haven't replied. That's
14 where I think if you're going to claim survivor bias I
15 think we need to hear from the folks who are actually
16 surviving and not participating to the extent we know
17 them.

18 MR. SCHAGRIN: We would agree with you
19 completely. Obviously, you know, the survivor bias
20 issue is very clear and that people going out of
21 business obviously didn't perform very well. We don't
22 know how the people who didn't respond to the
23 Commission's requests for information have performed.
24 It's our sense actually that they performed worse than
25 those who have responded.

1 But, you know, I'm a big practitioner before
2 this Commissioner, I'm all in favor of not only
3 working with the staff but have you have the staff
4 wing as big a hammer as possible at folks who don't
5 participate, and to have it not upset the ability for
6 my clients, who are obviously participating as
7 petitioners, their ability to win. So I say to the
8 Commission I'm always in favor, you want to file
9 subpoenas against folks you'll have my complete
10 support on that.

11 I'd say, you know, those folks ought to
12 participate. I don't care whether they're making
13 10,000 tons, 5,000 tons, 30 or 50,000 tons, whatever
14 the numbers may be. I know staff will always say that
15 some company says, aw, we've got vacation schedules,
16 we're a small company, we've got this excuse, that
17 excuse. Staff always says, well, give me just the
18 data. You don't have to answer all 30 essay
19 questions, just give me the data. And I don't think
20 anybody in business has excuse to not provide that
21 data to the Commission. If they're going to be in
22 business they can provide data on their production,
23 shipments and employment to this commission. And as I
24 say, so that maybe the Mexicans and us don't have to
25 argue about it, let's go beat them over the head with

1 a two-by-four. I'm all for it. And then I think the
2 data will be fine for us.

3 VICE CHAIRMAN OKUN: Thank you very much.
4 My red lights been on. But thank you very much.

5 Thank you, Mr. Chairman.

6 CHAIRMAN KOPLAN: Thank you.

7 Commissioner Hillman.

8 COMMISSIONER HILLMAN: I have just a couple
9 quick follow-ups. One is on the issue of the third
10 country orders. I just want to ask for the post-
11 hearing to be very clear. Because our staff report
12 reflects two different orders in the E.U. Mr.
13 Schagrin, both you and Ms. Valdez addressed this to
14 some degree. But I think it would be helpful to just
15 very clearly lay out. And to the extent that you can
16 attach to it the actual E.U. order of what the
17 provisional E.U. orders covered, which portion of our
18 subject product it covered, when it went on, when it
19 came off. Ditto for the other orders, as well as for
20 the Canadians.

21 And then if by any chance you have any data
22 or any ability to help us understand what effect it's
23 had in terms of prior existing Turkish exports into
24 either Canada or the European Union that would be very
25 helpful. I just wanted to be very clear on exactly

1 what has come on and off and what its implications are
2 for the subject product in terms of Turkish shipments.

3 Thank you very much.

4 MR. SCHAGRIN: We will do so in our post-
5 hearing.

6 COMMISSIONER HILLMAN: Secondly, I wanted to
7 make sure I understand this in response to some of the
8 questions that Vice Chairman Okun had asked with
9 respect to the use of the business cycle. Is there a
10 seasonality to your product? I mean to the sense that
11 it's used in ornamental fencing around swimming pools
12 there's a part of me that says maybe that's seasonal.
13 And on the other hand, in some parts of the country
14 the pool season is virtually year-round.

15 So I'm just trying to make sure I understand
16 for the record whether from your perspective you think
17 this product, you know, demand for this product has a
18 seasonal aspect to it.

19 MR. KATSAFANAS: -- by September, the
20 slowest period for us.

21 COMMISSIONER HILLMAN: Others in the
22 industry?

23 MR. MEYER: Only add the fact that there is
24 such a diversification of product we're talking about
25 here that while I agree with Parry in the highs and

1 the lows, it's the highs and lows are fairly
2 consistent, you have a lot of product here going to a
3 lot of different applications so there isn't really a
4 -- while they may be up and down a little bit in the
5 second quarter, the third quarter, the fourth quarter,
6 it's a fairly consistent phase of the amount of
7 product you're servicing.

8 COMMISSIONER HILLMAN: Okay. Others?

9 MR. MEYER: Yeah. We just have a little
10 more slowness in the latter part of the fourth quarter
11 and the very beginning of the first quarter. We have
12 a little bit of product that goes outside, and
13 consequently we do run into that, you know, weather,
14 weather situation. So we seem to be stronger from
15 probably March through October.

16 COMMISSIONER HILLMAN: Okay. Mr. Baker?

17 MR. BAKER: Our trends pretty much follow
18 what Mr. Meyer described. In Southern California the
19 ornamental fencing business actually due to weather
20 can stay fairly strong year-round. But as far as
21 consumer products and things like that it's relatively
22 steady.

23 COMMISSIONER HILLMAN: Okay. And then one
24 other point that I want to make sure I understood.
25 Part of it reflects I think your comment, Mr.

1 Katsafanas, on the irrational exuberance, I mean this
2 view that there was a lot of purchasing up. There was
3 a lot of discussion this morning about this issue of
4 inventories and the role they play.

5 And obviously we have data on inventories
6 maintained by the domestic industry and we have data
7 on import inventory. But I'm not sure a lot of that
8 squared with what I was hearing you all describe in
9 terms of inventories. So I'm trying to make sure I
10 understand the degree to which you're reflecting
11 increased inventories from your perspective or do you
12 think there are increased inventories of imports or
13 whether you think it is the distributors themselves
14 that are holding increased levels of inventories?

15 MR. KATSAFANAS: I think in the first two
16 quarters of this year distributors increased their
17 inventories or tried dramatically to increase their
18 inventories to hedge against future price increases.

19 COMMISSIONER HILLMAN: And a typical
20 distributor would normally keep an inventory that
21 would cover how long a period of time?

22 MR. KATSAFANAS: Usually three months I'd
23 say.

24 COMMISSIONER HILLMAN: Three months of
25 inventory.

1 MR. KATSAFANAS: Right.

2 COMMISSIONER HILLMAN: And do you have a
3 sense of from your perspective what you think they're
4 carrying now?

5 MR. KATSAFANAS: I'm not sure of the latest
6 figure but I believe it's a little over three months
7 right now.

8 COMMISSIONER HILLMAN: Okay. Are figures
9 publicly available in terms of how much inventory is
10 held by distributors for your product?

11 MR. KATSAFANAS: For tubular product but not
12 specifically into LWR.

13 COMMISSIONER HILLMAN: Then if it's not
14 asking for too much, Mr. Schagrin, if that can be put
15 on the record for the post-hearing.

16 MR. SCHAGRIN: It is from the Service Center
17 Institute and it covers, I believe the category is
18 welded tubing or just tubing. Yes, we can provide
19 that NSCI data.

20 COMMISSIONER HILLMAN: I would appreciate
21 that.

22 Anyone else want to comment on this
23 inventory issue?

24 (No response.)

25 COMMISSIONER HILLMAN: Okay. I think with

1 that I have no further questions, Mr. Chairman. Thank
2 you very much.

3 CHAIRMAN KOPLAN: Thank you, Commissioner
4 Hillman.

5 Commissioner Lane?

6 COMMISSIONER LANE: Dr. Blecker, I'd like to
7 come back to you please. On figure 3 on page 10 of
8 your submission it reflects percentages. Could you
9 please provide a similar chart using the same source
10 documents but showing unit values in dollars per ton
11 instead of percentages?

12 MR. BLECKER: Of course, I can do that,
13 Commissioner.

14 COMMISSIONER LANE: Okay, thank you.

15 I hope I don't mispronounce this name too
16 bad. Mr. Katsafanas, you testified that you send
17 light-walled product from your product facilities to
18 various service centers and distributors. Could you
19 tell me approximately the furthest distance to these
20 service centers or distributors that you use?

21 MR. KATSAFANAS: Out of our Mississippi
22 plant we ship product into Indiana, into Iowa, into
23 the Dakotas, into Texas, Denver, Florida. Pretty much
24 primarily south of St. Louis and from Texas to
25 Florida.

1 COMMISSIONER LANE: Okay, thank you.

2 Now, I have another question for you and Mr.
3 Meyer and Mr. Mitchell. In addition to physical
4 inventory does your company employ any hedging
5 strategies related to your raw materials, either
6 financial hedging or alternative hedging such as long-
7 term or medium-term contracts for steel?

8 MR. KATSAFANAS: I'll answer first. We
9 don't have an official hedging. We consider ourselves
10 astute at buying steel. And nobody can time the
11 market perfectly. But if we look at historical lows,
12 historical range of steel, when we feel it's low and
13 we feel there's little downside risk to having
14 inventory we'll buy. And the opposite occurs when we
15 feel there is significant downside risk to increasing
16 our inventory we'll play it close to the vest.

17 And we do not -- What was the second part of
18 the question? No, we do not have any financial
19 hedging, Commissioner.

20 COMMISSIONER LANE: Okay.

21 MR. MEYER: We do not hedge our inventory at
22 all.

23 MR. MEYER: Nor do we. I have equated the
24 steel injury and trying to hedge as almost a version
25 of day trading where most everyone loses. We have

1 probably quit doing any speculation because every time
2 historically when we thought the prices would keep
3 going up we found that they went down, in which case
4 we ended up getting burned by having too much high-
5 cost inventory. So that's sort of kept us from doing
6 that.

7 And then you're always looking at if you
8 were to speculate you have to be able to pay. You
9 know, if you're making a bigger bet than your normal,
10 you know, monthly or quarterly buy-out would be then
11 you have to be able to pay for that.

12 MR. BAKER: We don't do any hedge buying at
13 all either.

14 COMMISSIONER LANE: Okay, thank you.

15 Mr. Katsafanas, in your original testimony
16 you said that you had 250 employees. Has that number
17 been steady or how would you characterize your number
18 of employees over the period of investigation?

19 MR. KATSAFANAS: We're down. I can get you
20 the exact numbers, but we're down. And that is our
21 total company not just in relation to subject product.

22 COMMISSIONER LANE: Okay, thank you.

23 One more question. And this goes back to
24 the product itself. Mr. Schagrin, in page 8 of your
25 brief you say that galvanized or corrosion-resistant

1 product must be kept dry prior to being sold. I'm not
2 sure I understand why if galvanized is weather
3 protected?

4 MR. SCHAGRIN: I think these gentleman can
5 explain it better than I. With galvanized product
6 there's something that develops very quickly called
7 white rust. Customers don't want to see white rust on
8 their galvanized product.

9 Anybody?

10 MR. MEYER: White rust is, that's exactly
11 what it is. And people do not want to see it. It's
12 amazing after you see the product, you see a stop sign
13 on your local street and you'll see white rust on it.
14 But people don't want to see that at the time they're
15 going to start to manufacture on the product.

16 COMMISSIONER LANE: Okay, thank you.

17 I don't have any other questions.

18 CHAIRMAN KOPLAN: Thank you, Commissioner
19 Lane.

20 Commissioner Pearson?

21 COMMISSIONER PEARSON: I think I have just
22 one more.

23 Exhibit 7 of your prehearing brief, the
24 first table, is comparing weighted average value of
25 purchased steel raw materials against the unit value

1 of raw materials that are included in the cost of
2 goods sold calculations. These are your table is
3 taken from two other tables in the staff report.

4 The question has to do with the interim
5 period in 2004 where the weighted average value of
6 purchased steel raw materials is \$466 versus the \$420
7 of the unit value of raw materials that we've included
8 in our cost of goods sold calculation. I know it's
9 loaded. I appreciate that issues here with FIFO
10 accounting and why that can have the effect of skewing
11 the analysis in this period where the steel prices are
12 increasing rapidly, so I'm with you there. The
13 question that I have is should we -- would you support
14 us redoing our calculations using the \$466 figure and
15 putting that in cost of goods sold instead of the
16 lower \$420 figure that comes from FIFO?

17 MR. SCHAGRIN: Certainly I would support it.
18 I actually think I don't have that table in front of
19 me. I thought, I'm remembering the numbers, but the
20 differential was in fact larger. But as I say, we're
21 going to give you some analysis in our post-hearing
22 brief.

23 But, yes, we would support that. I think,
24 you know, obviously Mr. Yost can from an accounting
25 perspective give you a variety of different ways to

1 look at the financial data given that the information
2 is available to all of the parties because the staff
3 and the Commission very wisely in their questionnaires
4 gathered data about steel costs separately from
5 reported costs of raw materials.

6 So, yes, we think it would be beneficial for
7 the Commission to look at profitability taking out the
8 accounting adjustment. And we think that would make
9 sense. Obviously all of the
10 companies that I'm aware of that responded to the
11 Commission's questionnaire followed the instructions,
12 which is give us the database don your accounting,
13 even for companies, as I think one witness testified
14 here, for companies that do it differently on an
15 annual basis versus a quarterly basis. They did it in
16 accordance with the instructions which is the
17 Commission got financial data based on companies'
18 normal accounting principles.

19 But, yes, Commissioner Pearson, we would
20 certainly suggest that the Commission have the
21 accounting staff prepare alternative views of
22 profitability because we think the difference caused
23 by FIFO accounting is used somewhere on the order of
24 two-thirds to 80 percent of the increase in recurring
25 profits, which is different from the figures that the

1 Mexicans came up with because they had some problems,
2 which we'll discuss in our post-hearing brief, they
3 mentioned errors in the way they did it. They might
4 not have had a CPA do it. I know my colleague is in a
5 new firm and maybe hasn't found all the CPAs at that
6 new firm yet. But I'm sure they will.

7 COMMISSIONER PEARSON: Thank you very much.
8 I have no further questions.

9 CHAIRMAN KOPLAN: Thank you, Commissioner
10 Pearson.

11 Let me see if any of my colleagues have any
12 further questions? If not, does the staff have
13 questions? Questions from the staff?

14 MS. MAZUR: Mr. Chairman, staff has no
15 questions.

16 CHAIRMAN KOPLAN: Thank you.

17 Mr. Winton, do you have any questions of
18 this panel before we release them? I noticed during
19 the course of the presentation you seemed to be in
20 pain on occasion.

21 MR. WINTON: I was in pain and also very
22 much amused. But I think I'll save my remarks for our
23 presentation.

24 CHAIRMAN KOPLAN: All right, thank you.
25 I want to thank the witnesses for their

1 testimony. We will take one hour for lunch and come
2 back with respondents this afternoon.

3 I will caution you that this room is not
4 secure so any business proprietary information you
5 should take with you during the noon break. And with
6 that we will recess until a quarter to 2:00.

7 (Whereupon, at 12:48 p.m., the hearing was
8 recessed, to reconvene this same day at 1:45 p.m.)

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1 tubular product division. In that position I am
2 responsible for sales and marketing of Hylsa's tubular
3 products to the U.S. and to all their export markets.

4 Our rectangular shaped, light-walled pipe
5 and mechanical tubing is part of the investigation you
6 are considering today. I also handle our exports of
7 standard pipe, lined pipe, OCPG, structural pipe and
8 round mechanical tubing. I am routinely in contact
9 with U.S. customers for all of our tubular products,
10 including the customers for light-walled rectangular
11 pipe and tube.

12 I should mention that I also very familiar
13 with the tubular product sales of our sister company
14 Galvak. In fact, although Hylsa and Galvak are
15 separate legal entities, we are wholly-owned
16 subsidiaries or the same parent, and our tubular
17 product divisions operate together as a single entity
18 known as Galvacer.

19 I was here in Washington, D.C. to testify to
20 the Commission's staff about conditions in the lined
21 pipe market. As I said at that time, in normal years
22 in this business I have never seen anything like the
23 conditions we experienced in the first quarter of this
24 year. Basically customers were desperate for product.
25 They came to us and told us that price was simply not

1 an issue. They said that they were unable to find the
2 product they needed for their businesses from other
3 suppliers, and they told us that they were willing to
4 pay us whatever we asked if we would promise to supply
5 it.

6 All of our pipe products were affected. The
7 conditions were the same for lined pipe, standard
8 pipe, OCPG, rectangular pipe, rectangular tubing and
9 every other product that we sell. As a result, our
10 production was already fully booked through June when
11 I came here in March.

12 The reasons for this situation are well
13 known to anyone who follows the steel industry,
14 soaring demand in China in the U.S. created worldwide
15 shortages of the raw material for making steel. Also,
16 rapid increases in shipping costs and the falling U.S.
17 dollar reduced the availability of steel products from
18 Europe and Asia. The result was a panic in the market
19 in which flat steel producers were unable to meet the
20 demand for pipe producers. And pipe producers were
21 unable to meet the demands of their customers.

22 The situation in Mexico was very similar.
23 Imports of steel coils into Mexico virtually dried up
24 in the first quarter of the year. One of the major
25 Mexican producers of steel coil cut back its

1 production due to shortages in the raw materials it
2 needs for its production. The result was a reduction
3 in the supply of coils to the Mexican pipe producers.

4 At Hylsa and Galvak we are fortunate that
5 our main supplier for steel coil is our own company.
6 Our flat rolled division produces flat steel coil
7 using iron ore as the primary input. But this in-
8 house source of supply did not fully protect us from
9 the impact of the worldwide steel shortages. As other
10 Mexican steel producers reduced their production due
11 to raw material shortages and as imports from other
12 countries became less available in Mexico the
13 opportunity for our steel coils in the Mexican market
14 continued to grow.

15 Our flat roll division which makes the steel
16 coils we used reduced our allocation by about 10
17 percent in order to allow them to pursue other
18 opportunities in Mexico. This meant that we had to
19 cut back our own production. Our initial strategy for
20 dealing with these conditions was to gently encourage
21 the customers to go elsewhere by raising our prices.
22 But that strategy did not work. Even as we raised
23 prices, customers continued to place orders.

24 By the end of March our prices were double
25 what they had been at the start of the year. But

1 customers kept placing orders. Since pricing was not
2 able to restrain demand for our pipe products we were
3 forced to adopt more direct methods. We stopped
4 taking on any new customers for any pipe products in
5 general. We rejected many, many orders and at the
6 beginning of March we stopped taking any new orders
7 for pipe from distributors. Basically until the end
8 of May the only orders that we were willing to take
9 were from end user customers who were running out of
10 inventory and would have to shut down their operations
11 if we did not supply them.

12 Even with these drastic measures our
13 production still lagged behind our shipping
14 commitments. I should emphasize that the restrictions
15 on our shipments in the first quarter of 2004 and the
16 higher prices that we charged were not the result of
17 this case or any of the other cases that had been
18 filed against us. Instead, they were purely the
19 result of the conditions in the market and the
20 shortage of steel.

21 I know that Mr. Schagrín has argued that the
22 high price for light-walled rectangular pipe this year
23 were the result of the preliminary anti-dumping
24 measures imposed by the Department of Commerce in
25 their case. In my experience there is simply no

1 reason for that claim.

2 First, I should emphasize that the
3 production facilities of both Hylsa and Galvak are
4 located in Monterrey which is only about 140 miles
5 from the U.S. border. It takes about three hours for
6 a truck to go from our plant to the border and perhaps
7 a day for the shipment to clear customs. As a result,
8 we did not need to ship our products months in advance
9 to get them into the U.S. market before the anti-
10 dumping measures in this case took effect.

11 Also, there was absolutely no confusion in
12 my mind about the date when the anti-dumping measures
13 would come into force. I have unfortunately had a lot
14 of experience with U.S. anti-dumping investigations.
15 In fact, there have been a few cases filed against our
16 tubular products. In every case except one that we
17 won at the preliminary hearing stage, the Commerce
18 Department has postponed its preliminary determination
19 to the maximum extent possible. In this particular
20 case we were expecting that Commerce would fully
21 postpone the preliminary decision. And we were
22 absolutely sure that there would be an extension when
23 Mr. Schagrin filed his sales below cost allegation in
24 this case in early January since we knew that Commerce
25 would need more time to analyze the cost issue.

1 We did not consider the anti-dumping case to
2 present any real reason to reduce our exports during
3 the first quarter. And we knew that the sales we made
4 in the first quarter would never be the subject of any
5 assessment in an annual review. We did not restrict
6 our exports in the first quarter except to the extent
7 that we did not have enough steel to meet the demands
8 of our customers. We did raise our prices
9 substantially. By the end of the first quarter our
10 prices were more than double what they had been at the
11 start of the year. This was true by the way not only
12 for light-walled rectangular pipe but also for every
13 other pipe product that we export.

14 Because of the shortages of raw material we
15 restricted our sales and raised our prices for all of
16 our products. And we were not alone in taking these
17 actions. The U.S. distributors I know had complained
18 bitterly to me about U.S. producers refusing new
19 orders, stretching out deliveries on confirmed orders,
20 and raising prices through increases to the base price
21 and a surcharge even after the orders were confirmed.

22 I should mention that I have heard these
23 complaints from customers about all tubular products,
24 including but not limited to light-walled rectangular
25 pipe.

1 You will notice that most of my testimony so
2 far has concerned the first quarter of the year. I
3 wanted to make sure that you understood that there
4 were supply problems and soaring prices long before
5 Commerce's preliminary determination in this case.
6 But let me assure you the situation has not changed
7 all that much in the second quarter. As I mentioned,
8 we've had strict restrictions on our order intake
9 until the end of May.

10 In June and July the situation eased only
11 slightly. Buyers are still worried about finding
12 adequate supply and they are still willing to pay
13 higher and higher prices to ensure that they will get
14 the product they need. Our prices have continued to
15 rise since the end of the first quarter. And our U.S.
16 customers tell us that the U.S. producers are
17 continuing to raise their prices as well.

18 Today prices are about two and a half times
19 what they were at the start of the year. I asked a
20 number of our U.S. customers today to tell you about
21 these conditions themselves. These are people I have
22 known for a long time. Privately they tell me that
23 they want to help but none of them is willing to come
24 here and speak up publicly because they know that we
25 cannot supply all of their requirements under current

1 conditions and they are very much afraid that the U.S.
2 suppliers will cut them off if they come forward to
3 oppose the case. In today's market none of them are
4 willing to risk offending any potential customers.

5 In the present circumstances it simply does
6 not make sense to impose higher duties on imports of
7 pipe product from Mexico at a time when the U.S.
8 market is suffering from inadequate supply and U.S.
9 producers are reporting record profits. Cutting off
10 traditional sources like Mexico will simply cause
11 further disruption in the market. That is not in our
12 interest. It is not in the interests of our U.S.
13 customers. And in the long run it is not in the
14 interest of the U.S. producers either.

15 Thank you very much.

16 MR. DIEDERICH: Good afternoon. My name is
17 Jean-Marie Diederich and I am the president of
18 Prolamsa, Inc., located in Houston, Texas.

19 Prolamsa imports light-walled rectangular
20 pipe and tube from our parent in Mexico. I have been
21 the president of Prolamsa for seven years. Today I
22 will address a number of market conditions that
23 explain why factors other than price are enabling the
24 Mexican industry to compete in the U.S. market. I
25 know from reading the Mr. Schagrins' brief on the way

1 here that he is primarily concerned with conditions in
2 2002 and 2003 and I have tried to focus on those
3 periods.

4 2002 was a unique year in the steel
5 industry. In March, President Bush imposed 201 duties
6 on almost all steel products, including hot rolled,
7 cold rolled and galvanized coil, the primary input
8 into LWR tubing. That action, coupled with plant
9 closures and attempts to capitalize flat rolled
10 capacity created concerns among U.S. customers about
11 whether U.S. LWR tube producers will have adequate
12 coil supply to continue as reliable source of tube.

13 This was not an issue for Prolamsa because
14 it has well-established supply relationships with flat
15 coil producers in the United States, Mexico and other
16 countries. In addition, LTV was in bankruptcy during
17 this time and Excalibur closed its plants placing
18 further stress on the steel industry. The steel
19 shortages, both real and imagined, following
20 imposition of the safeguard measure was put to our
21 advantage as U.S. customers sought new suppliers.

22 We were a natural choice because we have a
23 full sales team at our office in the United States
24 and, therefore, customers did not need to deal
25 directly with a foreign name and because we were able

1 to ship tube from our plant in Texas in a few hours.

2 At the same time, these companies were
3 looking for new sources of tube. We were expanding
4 the range of our products. Prolamsa secured each load
5 on the same truck of tubing, sheds, etc., this enabled
6 our customers to buy between 15 and 20 products in a
7 single shipment. As far as I am aware, no domestic
8 LWRT producer offers similar service.

9 In addition, we had value added items like
10 copper pots and other welded components made from
11 tubing as well as LWR tube. Many of our U.S. OEM
12 customers began to do business or increase their
13 business with us during this period, especially
14 because of value added components. These producers
15 were faced with the prospects of closing U.S.
16 operations completely and moving them to Asia or
17 finding ways to stock at competitive prices that would
18 allow them to produce their product in the United
19 States. Because we were able to fabricate the parts
20 and supply the LWR tube we were an attractive option

21 2002 also was unique because trucks were
22 readily available in the Gulf states, particularly at
23 the U.S.-Mexico border at low rates. This was due to
24 the weak U.S. economy, an oversupply of trucking
25 companies, many of which faced financial difficulty,

1 and a sharp drop in the volume of export shipments by
2 Mexican maquiladoras. As a result, Prolamsa was able
3 to compete at an attractive price but without
4 discounting the price of the merchandise.

5 Unfortunately, those freight rates are not
6 available today. By the time the president issued the
7 201 duty at the end of 2003 all the market sectors had
8 adjourned to short supplies. On the supply side U.S.
9 flat rolled is at reduced capacity. Today the U.S.
10 flat rolled market has only two major players, Nucor
11 IG and U.S. Steel. At the same time U.S. supplies
12 failed, many of the European suppliers remain out of
13 the U.S. market due to the strength of the Euro
14 relative to the dollar.

15 On the demand side the economy began to
16 rebound and China began to increase it's sources of
17 cold and scrap. Throughout this period Prolamsa
18 maintained the customers that had come to it after the
19 201 measures were imposed. We were expanding our
20 business. Contrary to what the petitioners say, we
21 did not do this by offering low prices. Instead,
22 Prolamsa continued to expand its product and to focus
23 on items that U.S. producers prefer not to
24 manufacture.

25 For example, Prolamsa supplies small

1 diameter, light gauge LWR tube, products that U.S.
2 producers prefer not to manufacture. U.S. producers
3 generally prefer to maximize returns which means that
4 they prefer making heavier sizes with greater
5 thickness. In addition, Prolamsa has created a new
6 market in the United States for pre-primer tube.
7 Prolamsa sells these tubes under the color sign, water
8 based primer will serve as an undercoating so that
9 paints can be applied.

10 And allow us to meet the need of all ends
11 with finished product covered with paints or with
12 power paints. To my knowledge Copper Weld is the only
13 U.S. producer that participates in this use. And
14 Prolamsa works jointly with it to promote the use of
15 this product. Prolamsa and Copper Weld now have a
16 joint marketing and sales agreement under which
17 Prolamsa must seven sizes of copper weld, clean coat,
18 product in Mexico.

19 Since May 2003 the weld tube market has had
20 goals and possibilities. It has been caused by one
21 main factor. The important point from my perspective
22 shows that these changes appear to be the result of
23 fundamental structural changes in supply and demand.
24 The world has seen major changes in this capacity. We
25 continue to be strong and -- At the same time, after a

1 period of adjustment, welded tube producers --
2 increased cost alone, costs a whole lot more to U.S.
3 customers.

4 I read everything that -- has done and
5 because it is new that high prices for pipe and tube
6 are here to say. These increased prices affect
7 literally all tube products and are not limited to LWR
8 tube or to the actions of the Commerce Department as
9 imposed on our exports over the last few months.

10 Under these conditions I cannot understand
11 how the petitioners can stand before you and claim
12 that they are injured and in need of special relief.
13 Twenty percent operating margins are unheard of in
14 this business.

15 Thank you. That completes my statement and
16 I'm available for questions.

17 MR. BOND: Good afternoon. My name is David
18 Bond and I'm an attorney with the law firm of White
19 and Case. With me today is Frank Morgan and Dr.
20 Miguel Mayorga.

21 Dr. Mayorga, it may interest you to know,
22 was previously the head of the injury area within the
23 Mexican government's pumping authority and he's now
24 with our law firm.

25 We appear today on behalf of Prolamsa and

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1 Prolamsa, Inc. I want to touch on several problems
2 with petitioner's injury theory, all of which
3 ultimately relate to causation. Petitioners' view of
4 how this market operated in the last two quarters of
5 2002 and into the first half of 2003 completely
6 ignores the seismic impact the U.S. safeguard measures
7 on steel had on both U.S. producers of LWR pipe and
8 tube and their consumers.

9 As the Commission knows, market do not react
10 in an orderly way to shocks, particularly in the short
11 term. And the uncertainty created about the
12 imposition of the safeguard measures before they were
13 imposed, followed by even greater uncertainty once
14 they were imposed was a major shock. I think everyone
15 can agree that the U.S. steel market has not endured
16 an equivalent set of circumstances in recent memory,
17 yet petitioners' theory of this case ignores all that.

18 Despite the chaos in the market once the
19 measures took effect, petitioners assert that they
20 would have adapted seamlessly and immediately to the
21 impact of the shock if it were not for the presence of
22 LWR pipe and tube from Mexico and Turkey. The truth
23 is that while U.S. LWR pipe and tube producers were
24 not able to operate in a this idyllic way, they
25 quickly and successfully adapted to the changed

1 conditions. The subject imports are not an
2 impediment. And right now today U.S. producers are
3 not injured.

4 U.S. producers' operating margins are
5 stellar, ranging to 21 percent for the first half of
6 the year. Prices were at record highs for the first
7 half of this year and revenue was up 377 percent. And
8 as Mr. Trevino and Mr. Diederich have explained, the
9 accepted view is that these market conditions are here
10 to stay and prices will go still higher.

11 During the last 18 months U.S. producers'
12 revenue has increased at a much more rapid pace than
13 raw material costs. You can see this quite clearly in
14 Exhibit 1 of our handouts. In this chart we compare
15 the percentage change in U.S. producers' revenue with
16 the percentage change in material costs. Right now
17 raw material costs as a percentage of revenue are
18 lower than they have been at any other time during the
19 period under analysis.

20 And as you can see, this trend began well
21 before provisional measures were imposed and even
22 before the petition was filed. Other indicators for
23 the U.S. industry are currently at or close to their
24 best levels during the entire period. Production rose
25 16 percent from 2001 to 2003 and rose an additional

1 2.5 percent in the interim period. Capacity
2 utilization increased by 6 percent from 2001 to 2003
3 and by 1.2 percent during the interim period.

4 At the same time the production increased
5 inventories as a percentage of shipments shrank by 2
6 percentage points from 2001 to 2003 and by 1.3
7 percentage points during the interim period.
8 Furthermore the hours worked and hourly wages have
9 climbed throughout the period, increasing by 9 percent
10 and 11 percent respectively from 2001 to 2003.

11 So what is there to suggest the petitioners
12 are injured? Petitioners claim that they were injured
13 in 2002, almost three years ago, because their
14 production and shipments would have increased more if
15 they had not had to compete with the subject imports.

16 Putting aside speculation about what might
17 have happened in 2002, it is clear that actually what
18 did happen was positive. U.S. production increased 14
19 percent, operating income increased 23 percent, and
20 operating margins increased by a percentage point to
21 11 percent. Operating income per unit increased 12
22 percent. These terms are not consistent with
23 petitioners' theory that they were injured by the
24 subject imports, and they certainly are not relevant
25 to whether U.S. producers are injured or are

1 threatened with injury now.

2 Even if what happened almost three years ago
3 in 2003 were relevant to the Commission's analysis of
4 current injury, petitioners' theory that the subject
5 imports prevented production and shipments to increase
6 any further does not hold together under close
7 examination. First, petitioners claim that
8 underselling by the subject imports led to an increase
9 in volume. However, we do not see any change during
10 this period in the relationship between U.S. prices
11 and the prices for imports to Mexico or to related
12 imports that would have caused increased imports.

13 As Commissioner Koplan mentioned this
14 morning, we have very weak data on actual live sales.
15 The fundamental economic connection between increased
16 undersellings and higher import volumes simply does
17 not exist.

18 Second, as shown in Exhibit 2 of our
19 handout, there were several other major supplies of
20 LWR pipe and tube in the U.S. market in 2002 at prices
21 significantly below those of Mexico and other imports.
22 Taking the United States as a whole, we see that
23 Spain, South Africa and Korea all were selling LWR
24 pipe and tube at landed prices far below those of
25 Mexico and related imports.

1 Looking at the western region which is the
2 most important market for many responding U.S.
3 producers, we see the U.S. producers were faced with
4 imports from China and Korea, among others, at prices
5 much lower than the prices at which the subject
6 imports were entering the United States.

7 And looking at the Gulf region where the
8 subject imports are concentrated we see that imports
9 are entering from Spain, South Africa and Korea at
10 prices far below ours.

11 The presence of these imports at lower
12 prices is particularly important because, as Mr.
13 Schagrin has reminded us in his brief, LWR pipe and
14 tube is generally a commodity product. as the
15 gentleman from Leavitt stated this morning, the only
16 thing that matters is having the lowest price. If the
17 shift in volume from U.S. producers had been driven
18 simply by price Mexican producers would not have
19 increased their volumes. The volume would have gone
20 to Korean or Chinese producers. But that is not what
21 happened.

22 Third, the Commission has gathered ample
23 evidence that in 2002 U.S. producers faced the
24 combination of an outright shortage of coil and very
25 high coil costs. Although there is some debate about

1 exactly which of the two was more pronounced, the
2 combined effect of these factors was that U.S.
3 producers of LWR pipe and tube were unable or were
4 perceived as being unable to service demand.
5 Consequently, U.S. customers sought alternative
6 sources of supply that could reliably provide a range
7 of products.

8 In fact, during the Section 332 review of
9 the safeguard measures on steel the Commission found
10 that coil sourcing problems were felt particularly
11 heavily in the welded pipe and tube industry. And
12 U.S. welded pipe and tube producers specifically
13 attributed reduced and lost sales to the lack of
14 supply of coil.

15 Mexican producers did not have this
16 limitation. As Mr. Trevino mentioned earlier, Hylsa
17 and Galvak, as well as IMSA are self-sufficient in
18 that they produce their input. Other mills like
19 Prolamsa have a wide range of coil suppliers within
20 and outside the United States.

21 The Commission also has documented the
22 increase in coil costs in 2002. For example, in table
23 5-1 of the prehearing report hot rolled prices almost
24 doubled from January to July of 2002. The impact of
25 the duties on flat rolled is particularly harsh in the

1 west region and downstream users of flat product there
2 such as many of the petitioners were severely
3 affected. The Commission documented this as well
4 during the Section 332 investigation.

5 As demonstrated in the Commission's report
6 at Exhibit 12, six months after the imposition of the
7 safeguard measures in October of 2002, hot rolled
8 prices on the west coast were about \$400 a ton, which
9 was higher than any other region in the United States
10 or the world for that matter. Likewise, the
11 Commission determined that cold rolled and galvanized
12 sheet were higher in the western region than in any
13 other part of the country.

14 Fourth, the figures set forth in the
15 prehearing brief fail to take into account major U.S.
16 producers of the subject merchandise. It is important
17 that the Commission take into account the fact that
18 more than half the U.S. producers sent the
19 questionnaire did not even bother to respond. These
20 are not possible producers of the subject merchandise,
21 as Mr. Schagrin suggested this morning, these are
22 major known market participants.

23 As a result, U.S. shipments and total
24 consumption and ultimately U.S. producers' market
25 share are understated. If sufficient producers were

1 included, we believe that U.S. producers' market share
2 would be significantly higher than reflect in the
3 prehearing report. However, regardless of how the
4 Commission calculates these figures, U.S. producers'
5 market share has remained stable since 2002. U.S.
6 producers have increased production and shipments as
7 demand has grown.

8 Therefore, with respect to 2002,
9 petitioners' simple assertion that imports from Mexico
10 and Turkey caused their market share to drop is not
11 credible. In 2002 U.S. producers suffered the impact
12 of the 201 measures. To the extent that they lost
13 market share to the subject imports it was due to a
14 complicated mix of factors, not underselling.

15 Petitioners also claim that they were
16 injured by a price/cost squeeze in 2003 as their cost
17 of coil increased more than they were able to increase
18 sales prices. In reality, petitioners faced only a
19 minor dip in operating profits in the first half of
20 2003 when for the only time during the entire period
21 under analysis operating margins fell below 10
22 percent.

23 Indeed, as can be seen in Exhibit 1 of our
24 handout, increases in revenue were already outpacing
25 increases in cost by the second half of 2003 as

1 operating margins rose to 10.1 percent. So in
2 addition to the fact that this dip occurred 18 months
3 ago, it was short lived.

4 To the extent this brief drop in operating
5 profits can be considered to have been injurious to
6 U.S. producers it was not caused by the subject
7 imports. A close examination of the pricing data for
8 2003 reveals no consistent pattern of unselling or of
9 underselling at margins that would have caused the
10 price/cost squeeze that petitioners alleged. In fact,
11 as in 2002, the data show that imports from other
12 major suppliers were entering the United States at
13 prices well below the price of LWR pipe and tube from
14 Mexico or to related prices.

15 Furthermore, there was not an increase in
16 early 2003 in the volume of imports from Mexico or
17 cumulated imports that would have caused the squeeze
18 complained of by petitioners. The obvious and direct
19 cause of the so-called squeeze was the bifurcated
20 safeguard measures imposed by President Bush. As the
21 Commission knows, under that bifurcated scheme the
22 duties imposed on flat rolled products was
23 significantly higher than the duties imposed on welded
24 pipe and tubes.

25 For example, in the first year flat rolled

1 was subject to a duty of 30 percent while welded pipe
2 and tube wa subject to a duty of only 15 percent. The
3 different in duties of 15 percent points created a
4 situation in which prices for flat rolled products
5 were bound to increase more rapidly than the prices of
6 welded tubes. Because of this structural problem in
7 the duties, U.S. producers of LWR pipe and tube would
8 have suffered the exact same squeeze, even if they
9 were able to pass on increased costs and duties
10 completely and immediately.

11 During the remedy phase of the safeguard
12 investigation Mr. Schagrin insisted that the
13 Commission should recommend equal duties for flat and
14 welded tubular products. It bears repeating that Mr.
15 Schagrin's logic was as follows:

16 "Common sense dictates that the only
17 effective remedy for welded pipe and tube producers
18 that will benefit both them and their flat rolled
19 suppliers is the same tariff as that which would be
20 imposed on flat rolled products." Yet now petitioners
21 simply ignore the safeguard measures.

22 As demonstrated in Exhibit 1 though, there
23 is a clear correlation between the impact of the
24 safeguard measures in market 2002 and an immediate
25 increase in the rate of growth of coil costs.

1 Although the growth in the U.S. producers' income per
2 unit initially did not keep up with increases in the
3 cost of raw materials, U.S. producers turned the
4 corner 18 months ago and have now made up -- have now
5 more than made up for the initial squeeze caused by
6 the safeguard measures.

7 What of the future? In considering the
8 threat we do not believe the Commission can cumulate
9 imports from Mexico and Turkey. Mexican imports do
10 not pose a threat to the U.S. industry. As discussed
11 earlier, U.S. producers are doing extremely well and
12 are not susceptible. Indeed, more than half of the
13 U.S. producers to which the Commission sent the
14 questionnaire were not interested enough to even
15 respond.

16 Furthermore, Mexican producers are operating
17 at higher and sustainable levels of utilization, and
18 U.S. inventories of Mexican LWR pipe and tube are low
19 and falling. Furthermore, the Mexican market
20 historically has accounted for about three-quarters of
21 Mexican producers' shipments and that ratio should
22 remain true into the future.

23 Finally, the data do not suggest any changes
24 in the relationship of U.S. and Mexican pipe and tube
25 prices that might threaten injury.

1 That concludes my remarks and I'll pass the
2 microphone to Mr. Winton.

3 MR. WINTON: Thank you, Mr. Bond.

4 I always wanted to say that.

5 I'm only going to make a few brief comments
6 I hope today. The first is I'd like to talk a little
7 more about the non-responding U.S. producers. And let
8 me be clear, I'm not accusing Mr. Schagrin or the
9 petitioners of having done anything wrong here, I'm
10 simply pointing out that we have problems that a lot
11 of U.S. producers have not responded.

12 This is also not a criticism of the staff.
13 If you look at footnote 1 on page 3-1 of the staff
14 report the staff indicates that they sent out
15 questionnaires to 22 producers who they thought might
16 be producers. They followed up with them. Of those
17 22, three of them have said we don't produce the
18 subject merchandise.

19 Now, if the other 19 didn't produce the
20 subject merchandise you'd imagine it would be a pretty
21 easy thing for them to say, no, we don't produce it
22 either, and have the staff leave them alone. But they
23 haven't done that. They're out there. There are 19
24 producers out there who the only possible conclusion
25 is that they do produce the subject merchandise and

1 don't want to be bothered responding. And that's
2 fine. I mean it makes our job more difficult. It
3 distorts certain parts of the analysis that you're
4 doing because you can't tell what the U.S. producers'
5 overall market share is if 19 of the U.S. producers
6 aren't telling you how many shipments they had.

7 But there's another point to this which is
8 you have those 19 producers, you have at least three
9 of the producers that the petitioners are admit are
10 U.S. producers of the subject merchandise who don't
11 respond to your questionnaire. So now we're up to
12 about 22 out of I think a total of 34 or 35, which is
13 where I came up with my two-thirds number earlier
14 today. I'm just qualifying that because my accounting
15 skills have been called into question today and I want
16 to make sure I document all my numbers.

17 You have 22 of 35 U.S. producers, and you
18 can count it a little differently, who say we don't
19 care enough about this case to fill out the
20 questionnaire. That's what we call voting with their
21 feet. They don't care enough about this case by a 22
22 to 13 majority. And it seems to me that's highly
23 indicative of the lack of injury here.

24 It would be great if we got the information.
25 I should also mention that this, those numbers are a

1 little understated, and this is not anyone's fault,
2 but as I was working on our prehearing brief I really
3 wanted to use a letter that we had gotten from
4 Wheatland which is -- I know them as a standard pipe
5 producer but they also produce line pipe -- and it
6 really capsulized what was going on in the market in
7 the first quarter. So I went to their website and,
8 you know, and looked and there was the letter. It's
9 still posted very prominently on their website.

10 Also I looked at their products because I
11 wanted to see, well, can I say that this is mechanical
12 tubing. And sure enough on their product description
13 they list not only mechanical tubing but they show a
14 very nice picture of light-walled rectangular pipe.
15 So we've got yet another U.S. producer, and this one
16 is a client of Mr. Schagrins. And obviously so again
17 isn't complaining about imports causing them injury.

18 I think there are some inferences you can
19 draw from that.

20 The second issue I'd like to talk about is
21 this issue of pendency or whether you look at the
22 present condition of the industry or not. And, you
23 know, I think we all agree that where we need to start
24 is with what the statute tells us. And the statute,
25 as I mentioned before, uses the present tense, Is

1 there material injury in the industry? Material
2 injury is present tense. And the courts and the
3 Commission has recognized that you should as much as
4 you can use the most recent information available.

5 Now, the statute in 1677(i) does have a
6 specific provision about consideration of post-
7 petition information. And it makes a very reasonable
8 point, which is if you think that the post-petition
9 information has been somehow distorted by the filing
10 of the petition you should give it less weight, or you
11 may give it less weight. It doesn't say you ignore
12 it. There's nothing here that says never consider
13 post-petition information. It's quite the contrary,
14 all it talks about is reducing the weight.

15 But beyond that, if you find that the post-
16 petition information has not been affected by the
17 filing of the petition then you should give it full
18 weight. And the rule that the Commission and the
19 courts have always recognized, which is look at the
20 most recent information available, is the rule that
21 you should follow.

22 Now, I apologize for this, I had an
23 associate with me from my new law firm who was also an
24 associate at my old law firm but he was supposed to be
25 here today to help me hand out materials and he had to

1 go back to the office for something else. So I have
2 brought with me -- actually I gave them to Jaime --
3 this was information that was in our prehearing brief.
4 If you'd like I can hand it out. You have it. But
5 it's copies, it's a chart that was in our brief which
6 lists the price increases for two of the producers for
7 whom we were able to get this information. And then
8 attaches the actual document that they sent out.

9 I'm happy to hand it out but I'm happy to
10 keep the paper too. It's entirely up to you if you'd
11 like to see it.

12 The point that's important here though is
13 that almost all of the price increases we see are in
14 the first quarter of 2004. Now, every case I've seen
15 you know -- not every case. As we all find, cases all
16 are different. But there are claims of critical
17 circumstances that imports have surged into the market
18 ahead of the preliminary determination, that importers
19 are trying to get everything they can in. And so what
20 you usually would expect to see is in the interim
21 period imports surging.

22 And it's unusual in this case the petitioner
23 is saying actually just by filing the case, just by
24 filing the case we were able to keep imports out. But
25 it's really implausible. I mean if just by filing the

1 case the petitioners were able to achieve a \$400 per
2 ton price increase in the first quarter of the year I
3 mean they'd be all making money every time they filed
4 a case. You'd have this issue in every single case.
5 And we don't.

6 And the reason we don't is because the price
7 increase in the first quarter of this year had nothing
8 to do with this dumping case. As Mr. Trevino
9 testified, it takes him about a day and half to get
10 produce from Monterrey, Mexico into the United States.
11 And almost all, I think all of the Mexican producers
12 that are involved in this case are located in
13 Monterrey.

14 So you would have to believe that we didn't
15 know until sometime after February 16 that Congress
16 was going to extend its preliminary determination, and
17 that even though we knew February 16, because we had
18 to know by then, that we still didn't increase --
19 didn't make any shipments because we were worried it
20 might somehow still be February 16 even though
21 Congress had published a notice saying it wasn't
22 February 16, and that we'd be worried about this even
23 though Mr. Schagrin had actually requested the
24 postponement of the final determination on January 28,
25 and even though we knew that he had filed the sales

1 below cost allegation which we also knew, an analysis
2 by Commerce which was going to postpone the
3 preliminary determination sometime earlier in January.
4 It just doesn't make sense.

5 What's going on in the U.S. market in the
6 first quarter of the year has nothing to do with the
7 pendency of this dumping case. And if you were
8 inclined to believe that, that it was the pendency of
9 the dumping case then you'd have to wonder why did you
10 hear testimony this morning from the U.S. producers
11 saying that right now for the first time this year
12 they're not going to be able to put the price increase
13 through because of concerns about imports?

14 How could it be that in the first quarter of
15 the year they were able to push through these price
16 increases because we were so worried about the dumping
17 case even though no remedies had been imposed but now
18 remedies have been imposed since April and somehow
19 they can't push their price increase because of our
20 imports? It's just implausible.

21 The first quarter is an amazing period in
22 terms of price increases. And what you see is the
23 U.S. industry recovering whatever cost increases
24 they've had with an absolute vengeance. And good for
25 them. They made a lot of money. Nobody objects to

1 that. But it's not anything to do with this case and
2 it shows that imports, which were still coming in,
3 weren't suppressing the prices, weren't preventing
4 them from raising prices, weren't preventing them from
5 recovering their costs, weren't preventing them from
6 making record prices. The price increases were all,
7 as I said, pushed through before the end -- not all,
8 most of the price increases, \$400 per ton were pushed
9 through before the anti-dumping duties were put into
10 place.

11 I'd also mention we heard this morning a lot
12 about price suppression, about, you know, we couldn't
13 raise our prices. But, in fact, when you look at the
14 record, and you don't even need to look at the
15 confidential record, when you look at the record for
16 the years until 2004, even before 2004, what you see
17 is average prices are going up each year. Now, I know
18 there are problems with average unit values because of
19 product mixed uses. But when you're talking about the
20 same U.S. producers and you see their prices are going
21 up consistently over the period their argument isn't
22 that we somehow forced them to lower their prices,
23 their argument is they wanted to raise them more than
24 they did. That's fine. I think our position is we'd
25 like to raise our prices as much as we can too. And

1 that's no objection.

2 But it's important when we look at this
3 data, and especially when we look at 2004 and you see
4 a very large price increase, the U.S. industry has
5 really had no problem raising prices over this period.
6 Looking at the period as a whole prices have gone up,
7 they've more than recovered their costs. The argument
8 in this case has always been about how quickly they
9 should be able to cover their costs.

10 I didn't participate in the preliminary
11 conference. I did read the transcript. And the whole
12 argument there was Mr. Schagrin saying we should have
13 been able to raise our prices by now and we haven't
14 been able to.

15 And then in the first quarter of 2004 he
16 raises his prices more than he could imagine. He's
17 done it. He's gotten the price increases. All that's
18 gone here is he thought he was going to get it earlier
19 and he got it a little later. And his response to
20 that is it's somehow all because of the petition;
21 ignore it.

22 It's a little bit like the Wizard of Oz
23 saying pay no attention to the man behind the curtain.
24 The truth is here they've gotten the price increases,
25 they've more than recovered their costs, there's no

1 evidence here that the imports from Mexico have
2 suppressed their prices. To the contrary, their
3 complaint now that they can't raise prices when
4 imports from Mexico are subject to anti-dumping
5 remedies just shows that their story doesn't make
6 sense.

7 I apologize for this. Still a little
8 disorganized.

9 I think I agree with what Mr. Bond has said
10 about the situation from 2001 to 2003. If we had to
11 defend this case based just on 2001 to 2003 I think
12 we'd prevail. But the fact is that's not the
13 statutory test. The statutory test is whether there
14 currently is injury. And I think on that one there's
15 just no question.

16 So I will leave the mike and wait anxiously
17 for your questions unless someone else here would like
18 to add anything.

19 CHAIRMAN KOPLAN: Thank you. Appreciate
20 your presentation. And we'll begin questioning with
21 Vice Chairman Okun.

22 VICE CHAIRMAN OKUN: Thank you, Mr.
23 Chairman. And thank you to all the witnesses for
24 being here, particularly to the industry witnesses.
25 We already appreciate your participation. And also

1 welcome to Mr. Mayorga. Is that correct? It's good
2 to have someone here whose shadow goes a little bit on
3 the other side of the table. So appreciate your
4 participation as well.

5 Let me start if I could with the argument we
6 heard this morning about looking at this case from the
7 context of the business cycle and that in this
8 business cycle that these domestic producers were not
9 able to capitalize on the -- you know, can't make hay
10 when the sun shines, kind of that part of the argument
11 or that part of the statute as I like to refer to it.

12 I've heard a little bit of your comments on
13 that in your testimony but I'd like you to address it
14 more specifically. I mean I've heard what you said
15 about the pendency issue, Mr. Winton. And obviously,
16 you know, I'm looking at that in terms of how I view
17 particular facts of this case. But again, you hear
18 how they described the business cycle. Do you have
19 any disagreements with the business cycle or is your
20 disagreement fundamentally that there were fundamental
21 changes, 201 I guess is one thing or the high prices
22 of hot rolled that people didn't anticipate that's
23 really more fundamental than what the business cycle
24 is? I don't know if I put that very well. But I'm
25 trying to understand what your argument is and your

1 response to the business cycle part that I heard this
2 morning.

3 MR. WINTON: No one else wants to speak.
4 I'm always happy to speak.

5 I think you're required to look at this in
6 the context of business cycle and obviously you need
7 to do that. It's also clear that during this period
8 we had a business cycle. We all know there was a
9 recession. We all know there was a recovery. There's
10 been, and I think there is continuing to be
11 disagreement about how good that recovery has been,
12 when it exactly it occurred, what you would expect to
13 see in a recovery and you hear in the paper all the
14 time about jobless recovery. Is this really a
15 recovery? Is it different this time? Is it the same
16 this time?

17 So, yes, there's a business cycle here.
18 Yes, I don't expect the U.S. industry to have the kind
19 of results, you know, stupendous results forever that
20 they've had in the first six months of this year but,
21 you know, the question is how does that affect you
22 now, how are you supposed to know?

23 And I think you look at this and say they
24 are more profitable now than they have ever been. If
25 this is the peak of the business cycle, good for them.

1 At the trough of the business cycle this was an
2 industry that was doing very well, that had very good
3 profits. Even at the trough of the business cycle.

4 So, yeah, a business cycle is there but I
5 don't see it as a major factor in this when you look
6 at the U.S. industry because I don't see the evidence
7 of price suppression and of injury that would be
8 required whether you were when you talk of the
9 recession whether you were at the peak or the trough
10 of it.

11 The other thing I would say about the
12 business cycle is you have a lot of other factors, as
13 we mentioned, coming into play here. You have, you
14 know, increases in raw material costs, you have
15 changes in demand. It's sort of hard to look at this
16 and say, well, this is, you know, change in demand,
17 this is raw material costs, this is business cycle.
18 It's just it's complicated in this case to say what's
19 going on at which particular time, is this business
20 cycle or not?

21 But on the whole I'm quite confident that
22 the U.S. industry has been able to more than recover
23 their costs increases, they've pushed through massive
24 price increases, they're doing extremely well.
25 They've continued investments throughout the period.

1 They've continued what I think we all recognize, they
2 may not recognize, as very high levels of return on
3 investment throughout the entire business cycle. This
4 is really a healthy industry.

5 VICE CHAIRMAN OKUN: Mr. Bond?

6 MR. BOND: I would like to add one thing but
7 I'm not sure how helpful it's going to be which is
8 that I have a very difficult time determining what the
9 business cycle is. And I think Jeff mentioned this.
10 We have various people saying various things about
11 their point of view about when the business cycle was
12 going up and going down. At the end of the day it
13 seems to me we have the data and stick with the data.
14 And the data says that throughout the period even with
15 saying there was a downturn in the cycle, the U.S.
16 producer's production and margins and all these things
17 were going up.

18 In theory I understand the need to take the
19 business cycle into account but I'm not sure how we do
20 that when the data seems to contradict completely the
21 anecdotal evidence that we have about when the cycle
22 was going up and down.

23 VICE CHAIRMAN OKUN: Does your argument
24 change if, and just for sake of argument here, if
25 we're looking at this '04 period and we agree with the

1 petitioners that profits are overstated because of the
2 economy, whether it's 50 or 80 percent, I mean
3 obviously we need more information on this, but it's
4 not half as much, would it change your argument at all
5 on what you've just said? I mean in terms of again if
6 you look at, you know, '02, look at the period of
7 investigation as the Commission does and try to
8 understand what was going on in each of these periods
9 and how the producers responded, how subject imports
10 responded, were prices lower volume-wise and where the
11 profitability was? Does it take away from your
12 argument if you say, well, we're going to --

13 MR. WINTON: I don't think it does. And
14 although I've been criticized because I'm messy, I
15 must admit I'm the one who did the calculations which
16 Mr. Schagrin has complained. I did them all by
17 myself, and I'm not a CPA. And I have no doubt it's
18 possible and I'm not sure what I did wrong but it's
19 possible I did something wrong.

20 But the purpose of that, and it was very
21 simple what I did, I took the shipment quantities and
22 I said, well, if I want to know the costs of goods
23 sold and I have shipment quantities, that the cost of
24 those shipments, they have an average raw material
25 cost that they have from the inventory, and I just

1 took out that raw material cost and instead used the
2 average purchase price that was reported in the
3 Commission's staff report. That's all I did.

4 It does change the numbers, the absolute
5 levels. And I don't want to go into this too much
6 because it was designated as confidential information,
7 so I have to be careful with it. But I think the
8 basic point is that however you look at the numbers,
9 this is an industry that over the period has been able
10 to more than recover the cost increases that they
11 faced. And, you know, their prices have gone up. You
12 know, not just absolutely.

13 VICE CHAIRMAN OKUN: That characterization
14 is the same. You were focused there on the last two
15 or are you focused -- again I'm talking the numbers
16 you go through Mr. Schagrin used in his brief, I think
17 57 and recovery 36 I think is what he used for '01 and
18 '03.

19 MR. WINTON: Right.

20 VICE CHAIRMAN OKUN: Do you disagree with
21 that or?

22 MR. WINTON: I think the numbers are a
23 little different when you do it, look at it
24 differently. Because this, you know, this FIFO issue
25 cuts both ways, although obviously the current period

1 there is a much bigger run-up in material costs than
2 there was a fall in material costs earlier. But the
3 issue cuts both ways.

4 I think what we're doing there are two
5 problems I have with the petitioners' analysis. One
6 is that it assumes instantaneous recovery of costs,
7 that if my supplier raises my costs today I raise my
8 price today. And that's, that's not true. I mean I
9 have contracts, I have commitments to people, I can't
10 raise my price today just because my supplier has
11 raised his price.

12 If I'm selling to a different market than
13 I'm buying the cost increase raises the supply curve
14 but it doesn't necessarily change the demand curve.
15 And so you can show through even the level of
16 economics I can understand -- and maybe Professor
17 Barker could have explained it better -- equilibrium
18 price when you raise costs is actually lower, the
19 price shouldn't go up as much as the cost increase.
20 That's just basic microeconomic theory.

21 Now, over time you hope that it would. And
22 what you see in this case is that over time this
23 industry has been able to recover its costs. It
24 hasn't been instantaneous and it hasn't been
25 immediate. Mr. Schagrin at the preliminary hearing

1 said, you know the difference in this case and 1995
2 was in 1995 we were doing badly because there was a
3 recession. We came out of the recession, we were
4 really able to raise our prices.

5 Well, that description applies equally well
6 here. It's just a question of when did they -- when
7 were they able to do that? And he's saying it should
8 have been a quarter or two earlier. And all I'm
9 saying is why? Why should it be a quarter or two
10 earlier? There's nothing, it's not because of
11 pendency of the case. Eventually they were able to
12 recover their costs.

13 And if you look at this and say in 2003 the
14 price should have gone up more than it did then you
15 say, well, in 2004 it should have gone up less than it
16 did. You know, it's just you look at this thing over
17 the whole period to see the trend. And what you see
18 is over the time they have recovered their costs.

19 MR. BOND: Could I just sneak in a few quick
20 thoughts?

21 VICE CHAIRMAN OKUN: Sure.

22 MR. BOND: Number one, if we were to take
23 the accounting and do it completely on the exchange
24 basis that everyone seems to be suggesting, I haven't
25 done the numbers but I think you would see is that

1 profits were somewhat lighter or lower in the first
2 half of 2004, but the reduction in profits the
3 petitioners complain of in the first half of 2003
4 would go away. What we would see is in every single
5 half-year period during this entire period of analysis
6 equity wasn't above 10 percent.

7 So if your question is, well, how does it
8 look if we do that, my response is things look pretty
9 darn good.

10 In footnote 39 of our brief we mentioned
11 some of the findings of the Commission during the 332
12 investigation and with respect to welded pipe
13 producers as a whole. And at times when these guys
14 are making 10 percent welded producers as a whole were
15 making 5.6 in 2000, .8 in 2001 and 1.3 in 2002.

16 So to the extent that these guys are making
17 6, 7, 8 percent more than welded producers overall I
18 think the picture looks pretty good. And it also
19 suggests that there is no negative impact being caused
20 by imports from Mexico or Turkey.

21 VICE CHAIRMAN OKUN: Appreciate those
22 comments. My light's come on. Next time I'll have a
23 chance to talk to the industry representatives.

24 Thank you, Mr. Chairman.

25 CHAIRMAN KOPLAN: Thank you, Madam Vice

1 Chairman.

2 Commissioner Hillman.

3 COMMISSIONER HILLMAN: Thank you. And I
4 also would join the Vice Chairman in thanking you for
5 all being with us this afternoon. We very much
6 appreciate your testimony.

7 Maybe I can start with a couple legal
8 issues, Mr. Winton. That I recall at least, I did not
9 see any mention in your brief of the like product
10 issue and whether or not we ought to be finding black
11 and galvanized like product to be separate like
12 product. What is your opinion on that issue?

13 MR. WINTON: I think I don't have a strong
14 issue on that issue. I think what Mr. Bond has argued
15 makes a lot of sense. I can see the advantages, I
16 mean it makes sense.

17 My view on this issue though is it seems so
18 absurd to me that we're in here talking about injury -
19 - and I apologize for saying this -- that I didn't
20 want to talk about like product because I think if you
21 look at this industry and you say they're being
22 injured it's hard to imagine an industry that isn't
23 being injured, even the most possible ones.

24 So I apologize, that's really why I didn't -
25 -

1 COMMISSIONER HILLMAN: And we as the
2 Commission, whether we like it or not, has to render a
3 decision on what is the like product at issue in this
4 case.

5 MR. WINTON: Well, I think certainly we
6 have, and Jaime can explain it to you in more detail,
7 Hylsa produces both black and galvanized light-walled
8 rectangular pipe. It's system company Galvak produces
9 primarily galvanized. And they do it with different
10 processes. Hylsa actually produces black pipe and
11 then has a separate production process where they hot
12 dip it. Galvak purchases black coils, galvanizes them
13 and then runs them through a pipe making machine.

14 It is different, you know, the overall
15 activity is different. And it's hard for me to see
16 how corrosion, putting zinc on a hot rolled coil, you
17 know, a flat product, is somehow different than
18 putting zinc on a pipe product. It's putting zinc on
19 it.

20 And, frankly, the fact that Mr. Schagrin
21 said today earlier that there's actually a U.S.
22 industry that exists to galvanize pipe product, you
23 know, he said there were -- you don't believe him? --
24 he said there were these people out there with pots of
25 zinc galvanizing things is what I remember him saying.

1 That sounds very much to me like a different industry
2 that makes galvanized pipe.

3 So I have no objection and I thought of wish
4 I had thought of making the argument.

5 COMMISSIONER HILLMAN: Well, I noticed, Mr.
6 Bond, you did not address it in your comments. I
7 didn't know whether we should read anything into that?
8 I mean it's obviously in your prehearing brief but it
9 has not otherwise been mentioned at all this afternoon
10 in your affirmative presentation.

11 MR. BOND: No, please don't take that in any
12 way as an indication that we don't believe in what we
13 said we believe, that it's the right way to go. In
14 order to be quick with our presentation and because of
15 the reasons that Jeff mentioned, we thought we would
16 leave it for the question and answer period. But we
17 remain committed to that. We think that's the way you
18 should do your injury analysis.

19 COMMISSIONER HILLMAN: Okay. I appreciate
20 that.

21 Mr. Trevino, given that you produce both
22 block product and galvanized product I didn't know
23 whether you wanted to comment on. I mean Mr.
24 Schagrin's comments this morning suggested that
25 everyone in the industry regards it as a single like

1 product, a single industry, all one and same. But
2 it's never in other pipe cases been separated because
3 all of the participants in the industry think of it as
4 a single industry, a single product. And if you're in
5 both lines of business can you tell us from your
6 perspective how you think it is used?

7 MR. TREVINO: Okay, yes. Let me describe
8 first our production process at each one, both
9 companies. At Hylsa we can produce both the black
10 square and rectangular tubing and the galvanized
11 square and rectangular tubing. But galvanized square
12 and rectangular tubing we have the process of hot
13 dipped galvanization by immersion in line with our
14 production of black tubing. The majority of our sales
15 are at Hylsa is black square and rectangular tubing.
16 For the case of our sister company Galvak we produce
17 both black and galvanized. The galvanized square and
18 rectangular tubing is produced based on galvanized
19 coils, we galvanize coils prior to forming the pipe.

20 At Hylsa we mainly sell to distributors.
21 And at Galvak we sell to end users the galvanized
22 tubing.

23 I don't know if you would like more inform -
24 -

25 COMMISSIONER HILLMAN: Okay, so it is a

1 different market?

2 MR. TREVINO: Yes. The marketing of
3 Galvak's galvanized square and rectangular tubing is
4 done directly to end users instead of going through
5 distributors.

6 COMMISSIONER HILLMAN: Okay. And what would
7 you say is the primary end use for your galvanized
8 product?

9 MR. TREVINO: For the galvanized product at
10 Galvak for example it's the manufacture of carports in
11 the U.S. That's the main use of the galvanized
12 product at Galvak.

13 COMMISSIONER HILLMAN: Are you aware of any
14 significant end users where there's an overlap between
15 people that use black and people that use galvanized?

16 MR. TREVINO: Well, for example in that
17 particular application that I just mentioned the vast
18 majority is galvanized. And, for example, the
19 galvanized is mainly used in highly corrosive
20 environments as compared to the black tubing. And
21 there is just a difference between the two.

22 COMMISSIONER HILLMAN: But if we go to the
23 painted and coated product where would you say those
24 fall both in the range of closing resistance and in
25 price?

1 MR. WINTON: I'll let Mr. Trevino answer,
2 but just so you understand, the galvanized product
3 that Galvak is exporting to the United States for use
4 in carports it's galvanized and then it's coated with
5 clean organic coating. It's primer I think, it's
6 either pre-primed or painted. I've never quit sure
7 about that, I think it's primed. So it's not that
8 you have black that's painted versus galvanized. Here
9 you have galvanized with a coating on it for
10 additional protection and it meets the requirements of
11 the application.

12 MR. TREVINO: By the way, that additional
13 protection is to protect against white rust.

14 COMMISSIONER HILLMAN: White rust.

15 MR. TREVINO: Right.

16 COMMISSIONER HILLMAN: Okay. All right.

17 MR. BOND: Commissioner, Hillman, I wanted
18 to add that the definition of corrosion resistant as
19 it was used in the questionnaire to gather the data
20 includes both, you know, pipe that's covered just with
21 zinc for example as well as the product that Jeff is
22 talking about. So the statistics include just the
23 plain galvanized product as well as the galvanized
24 organic coating, etc.

25 There are other Mexican producers, for

1 example IMSA, that export more or less the end use
2 carports that sell with the galvanized product not
3 with the additional coating.

4 COMMISSIONER HILLMAN: Okay. Mr. Bond,
5 since you are the advocate of the idea that we
6 separate these out into like products where do you
7 think we should put, I mean let's just say we have two
8 separate like products here, black versus say
9 corrosion resistant, where do we put the painted or
10 the primed product?

11 MR. BOND: I think the painted or the primed
12 product goes with the black.

13 COMMISSIONER HILLMAN: Goes with the black.

14 MR. BOND: Yes.

15 COMMISSIONER HILLMAN: So the corrosion
16 resistant should be only those products that have a
17 zinc coating of some kind on it?

18 MR. BOND: Yes.

19 COMMISSIONER HILLMAN: Even if they also
20 have this additional coating that Mr. Winton has just
21 mentioned?

22 MR. BOND: Even if they have the additional
23 coating they should still be considered corrosion
24 resistant.

25 COMMISSIONER HILLMAN: As long as they're

1 zinc coated?

2 MR. BOND: Correct.

3 COMMISSIONER HILLMAN: Okay.

4 MR. BOND: If I could point out quickly is
5 that typically the paint or the primer that would be
6 applied to the black tube is not the type of paint or
7 primer that would be sufficient to keep the product
8 from rusting during its end use. It's something
9 that's added to the pipe to protect it during
10 transport and to provide a base for a paint that's
11 actually applied by the end user. It's a primer, if
12 you will.

13 COMMISSIONER HILLMAN: Okay. Then again
14 just so we go down this road we then have to define a
15 domestic industry that's producing the galvanized
16 product. Where do we put the people out there that
17 Mr. Schagrin described and to some extent that I'm
18 hearing in Mexico all the galvanizers of black pipe
19 and tube? Are they members of the domestic industry?

20 MR. BOND: I'm not aware that in reality
21 there are any such people. I mean Roger has told us
22 that there are people with these vats of zinc around
23 the United States. I don't know that there are any in
24 reality. Do we have any specific one that's been
25 identified?

1 COMMISSIONER HILLMAN: Well, again, the
2 problem for the Commission obviously to the extent
3 that we think that that activity constitutes a
4 sufficient amount of value added, etc., etc.,
5 investment to constitute being a member of the
6 domestic industry then we need data to figure out what
7 do we make of that. Again, you're the proponent of
8 this idea which is why I'm trying to make sure I
9 understand it's implications.

10 MR. WINTON: But I think from our point of
11 view what we're saying is -- and the reason I
12 mentioned the coating and the painting on galvanized
13 is the suggestion was made today that black painted
14 was really the same thing as galvanized, that that's,
15 you know, it's all used to protect the pipe. And
16 that's not the case. Black painted is different than
17 galvanized painted. If they were the same nobody
18 would take galvanized and paint it, which in fact is
19 what's going on, you know, what we're talking about.

20 But as to these other possible producers
21 that galvanize things, clearly they would be part of
22 the industry that makes galvanized pipe if they exist.
23 I mean they are, they make galvanized pipe. That's
24 what they would be there for if they exist. I don't
25 know that we'll find any information on it because we

1 don't know anyone like that.

2 MR. BOND: No, I agree with Jeff. If they
3 exist they're corrosion resistant producers.

4 COMMISSIONER HILLMAN: Okay.

5 MR. BOND: If they exist.

6 COMMISSIONER HILLMAN: Unfortunately, the
7 yellow light has come on. So given that I had a whole
8 series of other issues to ask about I'll wait until
9 the next round.

10 Thank you very much.

11 CHAIRMAN KOPLAN: Thank you, Commissioner
12 Hillman.

13 Commissioner Lane?

14 COMMISSIONER LANE: Thank you.

15 My first question is this exhibit, and I
16 forget who gave it to us, but at the bottom it says
17 that the data is from prehearing report table 6-1.
18 And that does not appear to be accurate. Could you
19 please tell me where you got that information?

20 MR. BOND: I'll check the cite. But
21 essentially what we've done is the data for a full
22 year was taken and it was broken into half years based
23 on the proportion of revenue and costs in the first
24 and second halves of 2003 because that was the year we
25 had data for half years. So based on the ratio of

1 income that was earned in the first half of 2003 to
2 the second half of 2003 we then broke down 2002 and
3 2001.

4 So the data came from there but it was
5 broken in half based on those proportions. But it was
6 also very similar if you do it just based on the full
7 year data. But because you have so many -- I'm sorry,
8 so few data points it's a little, it's actually not as
9 clear what's going on.

10 COMMISSIONER LANE: Okay, thank you.

11 MR. BOND: Does that help?

12 COMMISSIONER LANE: I'm not sure.

13 MR. BOND: Okay.

14 COMMISSIONER LANE: But I'll think about it.
15 Thank you.

16 MR. BOND: If you want we can provide the
17 numbers in our post-hearing brief to show in a short
18 form how it works.

19 COMMISSIONER LANE: Yes, that's a good idea.

20 MR. BOND: Okay. Thank you.

21 COMMISSIONER LANE: Mr. Bond, this is for
22 you, also. And I don't think that this was asked and
23 if it was, just tell me. On table -- on page nine of
24 your pre-hearing brief, would you please explain why
25 the majority of distributors only sell either

1 corrosion resistant or black light walled rectangular
2 pipe?

3 MR. BOND: Whether the majority sell black
4 or corrosion resistant?

5 COMMISSIONER LANE: Yes.

6 MR. BOND: The vast majority, as I recall --
7 I have the public version here, but the vast majority
8 sell just black.

9 COMMISSIONER LANE: Okay. Okay, Mr. Winton,
10 have the fundamental changes you described in your
11 brief on page two been limited to the U.S. market or
12 have they been worldwide?

13 MR. WINTON: I think there's been a
14 worldwide change in the steel market and anyone, who
15 reads the industry publications or follows the
16 industry knows this: the emergence of China and
17 demand in China has been amazing. I have other
18 clients, who handle other steel products in Asia.
19 They've stopped exporting to the United States,
20 because the China market is so attractive and because
21 they can't get shipping from other parts of Asia into
22 the United States. This is a worldwide phenomenon.
23 There was just an article in the New York Times
24 yesterday, day before, about how China's development
25 and economic expansion has really changed the -- and

1 is changing the economic structure of all of East
2 Asia, from Australia, to Japan, to Korea, to Malaysia,
3 Thailand.

4 This is a fundamental change in the world.
5 And when this will end, no one is sure. I think
6 people are talking about that China is going to keep
7 very active until 2008, because of the Olympics.
8 Nobody knows. But, it is a worldwide and it's not
9 just for light walled rectangular pipe. It's for all
10 pipe products. It's for all steel products.

11 It's really -- you know, we all sort of have
12 in the back of our mind this impression that the U.S.
13 steel industry is in trouble and it goes back to 1992
14 and the lifting of the BRAs. And we've had case after
15 case after case of the U.S. industry coming in and
16 saying, we're closing down, we're shutting plants; all
17 parts of the U.S. steel industry. I don't want to say
18 that they weren't telling the truth, but that's -- in
19 all of our mental makeup, that's the way we look at
20 this. And it's sort of a shock to us to see a U.S.
21 steel industry that across the board is making record
22 profits. And that's really the situation they're in
23 now. And they're in a situation where supply is tight
24 across the board. Worldwide, supply is -- demand is
25 booming and supply is tightening. It's affecting

1 everything. We all need, I'm afraid, to rethink both
2 our business plan, as lawyers in the trade field, and,
3 also, our mental impressions of the steel industry.

4 COMMISSIONER LANE: Okay, thank you. I have
5 one more question. Mr. Bond, this is for you. On
6 page 10 of your brief, you indicate that corrosion
7 resistant product has a price, and I'm hesitant to say
8 what it is, because I'm not sure if it's bracketed.
9 It's bracketed sort of in the footnote, but it's not
10 bracketed in the body of the brief. But, anyway, that
11 the corrosion resistant product is substantially
12 higher than the black product. Now, does this
13 difference in price represent a higher cost of
14 production or is it a value above additional
15 production costs?

16 MR. BOND: First of all, there was a public
17 statement in the pre-hearing report that gave the 30
18 to 40-45 percent range, so I think we're safe saying
19 it. The difference in price, to a large extent,
20 reflects the difference in cost. It's expensive,
21 because ink, as a material, is expensive. I don't
22 know the cost of the other coatings that, for example,
23 Galvak may apply, but I imagine they're fairly costly,
24 as well as the process of actually applying it, which
25 requires additional equipment, employees, et cetera.

1 There may be some additional margin, because it's a
2 value-added product that's been aggregated to the
3 additional cost. But, certainly, the additional cost
4 is an important component of the difference.

5 Jaime, I don't know if you want to --

6 MR. TREVINO: Yes. I would say it's a
7 combination of the two. There's very definitely
8 additional costs involved, plus some additional value
9 added to the product.

10 COMMISSIONER LANE: Okay, thank you. That's
11 all the questions I have, Mr. Chairman.

12 CHAIRMAN KOPLAN: Thank you, very much,
13 Commissioner Lane. Commissioner Pearson?

14 COMMISSIONER PEARSON: Thank you, Mr.
15 Chairman, and greetings to the afternoon panel. And I
16 appreciate your patience.

17 I'd like to start by asking, how integrated
18 is the marketplace along the U.S. border for light
19 weight rectangular pipe? I mean, is the border a
20 border, in terms of how you approach the business? Or
21 is it just as easy for you to serve customers on the
22 U.S. side of the border, as it is on the Mexican side
23 of the border?

24 MR. DIEDERICH: The border is not really a
25 problem. It's not a geographical area that we serve.

1 Being in Monterrey, we have a radius that can go a
2 quantity of miles south or quantity of miles north.
3 The border is not really anything meant for setting
4 the product one way or the other. So, going to
5 Houston from Monterrey, going to Mexico City, it's the
6 same market in one way. It's just a question of cost
7 or freight to go from one place to the other.

8 COMMISSIONER PEARSON: Mr. Trevino?

9 MR. TREVINO: Yes. I would like to say that
10 the market in the southwest of the U.S. and the
11 Mexican market, at least in our geographical area, are
12 very integrated. We are very close to some of our
13 customers geographically. And it's my opinion that
14 the market is very integrated and we don't have any
15 difficulty accessing our customers and market our
16 products. In addition to selling customers in Mexico
17 and customers in the U.S., we sell to Son
18 Maquiladoras, also, the product under investigation.

19 COMMISSIONER PEARSON: So, you would have
20 long-standing customer relationships, both on the
21 Mexican side of the border and on the U.S. side of the
22 border?

23 MR. TREVINO: Yes. Our philosophy for
24 selling our products is to establish long-term
25 relationships. We are looking more for those type of

1 customers, as compared to spot sales. So, yes, most
2 of our customers have long relationships that we have
3 had for a long time, both in Mexico and in the U.S.

4 MR. DIEDERICH: It is the same for Prolamsa.
5 We just look for long-term relationship. And we have
6 very long-term relationship in Mexico, of course, and
7 we're the same in the U.S. I'm not very much
8 interested in spot market.

9 MR. TREVINO: And I would like to add
10 something. I mean, since several years ago, I mean,
11 we have not been actively looking for new customers.
12 I mean, we have pretty much the same capacity and we
13 basically have been taking care of our long-standing
14 accounts.

15 MR. DIEDERICH: Just to mention, Prolamsa
16 just had its 50th anniversary Friday and we had
17 numerous customers coming from Mexico and the U.S., to
18 accompany us for that day. That just shows us the
19 type of respect and relationship we have with the
20 customers.

21 COMMISSIONER PEARSON: So do some U.S.
22 producers of light weight rectangular piping tube
23 compete with you for sales to your Mexican customers?
24 In other words, is the border integrated in both
25 directions or only in one direction?

1 MR. DIEDERICH: The integration could be
2 made on both parts. It's just a question that the
3 U.S. mill have to do the work to go to do the sales in
4 Mexico. I know that Bull Moose is selling in Mexico
5 to several customers. In our case, we made an
6 agreement with Copper Weld, where we would represent
7 part of the production that they manufacture in
8 Chicago and resell it in Mexico, where we need this
9 type of products, that we are not actually
10 manufacturing ourselves. Obviously, it's just
11 material, one looking for the other and trying to do
12 business. There's no impediment in a U.S. mill being
13 able to sell tubing in Mexico and shouldn't be the
14 other way either.

15 MR. BOND: Could I just quickly comment?

16 COMMISSIONER PEARSON: Please.

17 MR. BOND: And then I want to comment in
18 response to something that was said this morning. A
19 large part of my practice consists of representing
20 American exporters to Mexico in trade cases in Mexico,
21 which is how I met Mr. Mayorga, et cetera. If we're
22 exporting hundreds of millions of dollars of products,
23 from pipe, to ham, to you name it, it's going to
24 Mexico. So, the sense that Mexico is a market that's
25 impossible to break into, whether it's because of

1 corruption or whatever, it's just nonsense. If the
2 effort is made, pipe could be sold in Mexico, as well.

3 COMMISSIONER PEARSON: Okay. Shifting gears
4 a bit, the capacity utilization figures for the
5 Mexican industry on Table 7-2, that's page 7-5 in the
6 staff report -- this is public data -- they range from
7 about 82 percent to 90 percent during the period of
8 investigation. That's, in rough terms, about double
9 the capacity utilization figures for the U.S.
10 industry. Do you have any thoughts on why there's
11 such a large difference in capacity utilization on
12 opposite sides of the border?

13 MR. DIEDERICH: In the case of Prolamsa, we
14 do -- we run between two and three shifts a day. I
15 suppose the way the U.S. industry is counting the
16 number of shifts that is involved and how many days
17 that's involved during the year, it's a little bit
18 different than ours. That's why there is just a 45
19 percent capacity production. It's a number that
20 doesn't make very much sense.

21 We are usually between 80 and 90 percent,
22 because the Mexican market is doing very much. We
23 export, also, in South America and we sell, also, in
24 the U.S. And we have a very wide range of -- line of
25 products and we tend to use our capacity for the

1 Mexican market as much as we can and to export in
2 South America. That is a new market we're developing.

3 But, I mean, if you had three shifts, you
4 should be around 80, 90 percent, not 45 percent. I
5 mean, even in Europe, when I was working over there, I
6 never heard a company that can live with a 45 percent
7 production capacity.

8 MR. WINTON: But at the end of the day, we
9 calculated -- Hysla and Galvak calculated their
10 capacity based on three shifts a day, as well, which
11 is how they run their mills. At the end of the day,
12 it's a business decision that the U.S. companies have
13 made to run two shifts a day. And I think I heard Mr.
14 Meyer say, he could run three shifts a day and export
15 the additional amount, but he doesn't want to. That's
16 his decision, and I'm not here to second guess his
17 business judgment.

18 COMMISSIONER PEARSON: So, are there any
19 differences between U.S. and Mexican plants that would
20 explain the difference between capacity utilization?
21 I mean, is the equipment the same? The production
22 processes? Labor laws? Are there some differences or
23 is everything just the same?

24 MR. BOND: I think the differences, the
25 number of shifts and the number of hours that underlie

1 the calculations of the various people that submitted
2 data to you. I think it was during the prelim -- I
3 don't recall which Commissioner -- but someone asked
4 to have each of the respondents to make clear
5 precisely how they calculated that. And I think that
6 data actually is contained in the footnote. So, I
7 think if we compare that information for the U.S.
8 producers versus the Mexican producers, therein
9 probably lies the distinction.

10 MR. WINTON: And David may know this better
11 than I do, but when I was reading the transcript from
12 the preliminary conference, I remember the issue of
13 capacity utilization came up, why is the U.S. -- and
14 the U.S. producers said, you know, we want to get our
15 capacity utilization up higher. And one of the staff
16 asked, well, when did you last have the higher
17 capacity utilization; they said, in the mid-1980s, I
18 think, was the answer. I'm not exactly sure, but that
19 was my -- it's been a long time that they've been
20 running their plants this way.

21 COMMISSIONER PEARSON: The capacity
22 utilization data for the Mexican industry indicate
23 that the lowest capacity utilization was in the
24 January to June interim period, now in 2004. Why is
25 that lower than the earlier periods?

1 MR. TREVINO: Well, as I was explaining in
2 my testimony, for example, for a period of -- the
3 initial months of 2004, we had some shortage, even
4 though -- availability of flat-rolled products due to
5 the overall worldwide situation that we just
6 explained. And then even our own flat-rolled division
7 caught -- the supply to us by about 10 percent and we
8 had to cut, also, some of our production of the light
9 weight rectangular tubing during that period of time.

10 COMMISSIONER PEARSON: Okay. So, the supply
11 shortages of flat steel going into the plant were
12 sufficient, that the run time of the plant was
13 actually reduced?

14 MR. TREVINO: Right. That is correct.

15 COMMISSIONER PEARSON: Okay. My time has
16 expired. Was there another comment, Mr. Winton?

17 (No verbal response.)

18 COMMISSIONER PEARSON: Okay. Thank you,
19 very much.

20 CHAIRMAN KOPLAN: Thank you, Commissioner
21 Pearson. I want to thank the witnesses for their
22 testimony thus far. Let me pick up on these 19
23 producers that we haven't heard from yet. If I can
24 trace this, on September 24, White & Case sent a
25 letter to the Commission and listed these 22 that

1 you've talked about, Mr. Bond, in your direct
2 presentation.

3 It appears to me that the basis for your
4 list was twofold: a search of the web and you came up
5 with the Steel Tube Institute website and a
6 publication called Hollow Structural Sections,
7 Principle Producers and Capabilities. And from that
8 fishing of the web, so to speak, you came up with this
9 list of 22 possibles is what it looks like. Let me
10 just walk through this with you.

11 Subsequently, the Commissioner staff
12 contacted, sent out questionnaires and we heard back
13 from three. Nineteen have not responded yet -- well,
14 19, at the time this was -- our staff, we said we were
15 -- to be specific, we said in our staff report at 3-1,
16 that the staff has been in contact with the 19 non-
17 responding firms, attempting to determine to what
18 extent they produce the subject LWR pipe and tube
19 products and will present updated information in the
20 final staff report to the Commission. That's the
21 footnote in our staff report that refers to this. Let
22 me say to you that my understanding is that the staff,
23 in making these contacts, it would appear that the
24 final result of their efforts will show that most of
25 these are making non-subject, not subject products.

1 Now, that will be discussed in our final staff report,
2 as indicated.

3 So, I'm just putting on notice that you
4 might be chasing a red herring here; that the fact
5 that in fishing the web, you came up with these 22
6 producers does not necessarily mean that it's going to
7 fall the way you're predicting it should fall. And I
8 thought I might let you know that, at this point, so
9 that you can go back and see if you can come up with,
10 on your own, better information than these two sources
11 that you made use of. And if you do, certainly, you
12 can share that information with staff. But, that has
13 not -- that's the way it looks like it's going.

14 MR. BOND: Okay. If I can make two quick
15 comments.

16 CHAIRMAN KOPLAN: Sure.

17 MR. BOND: Number one, which is the reason
18 we asked the staff to issue the questionnaires was
19 exactly for that reason. As you say, we did go on a
20 fishing expedition. We found what looked like
21 credible information of other producers of the subject
22 merchandise and we appreciate that you followed up.
23 If it turns out that some of them don't --

24 CHAIRMAN KOPLAN: You're following up on our
25 behalf.

1 MR. BOND: That's fine; okay. But the
2 second point is that perhaps 18 of the 22 don't make
3 the subject merchandise, but we know with a 100
4 percent degree of certainty that there are two or
5 three very major producers of the subject merchandise
6 that have not submitted data. And if we had that
7 data, the production, the shipments, and the U.S.
8 market share information would look very different.
9 So, it's not the case -- I know it's not the case that
10 100 percent of those companies are not making the
11 subject merchandise. There may be some marginal
12 players that aren't in this product, but there are two
13 or three very large producers, Jeff mentioned
14 Wheetland, that we know produce the product. We will
15 do our best to provide --

16 CHAIRMAN KOPLAN: I'm not saying -- I'm not
17 going to say to you that it's going to be a clean
18 sweep.

19 MR. BOND: Right.

20 CHAIRMAN KOPLAN: What I'm saying is that
21 you might find, though, when all is said and done,
22 that we have a very high percentage of coverage.

23 MR. BOND: Okay.

24 CHAIRMAN KOPLAN: That's what I'm saying.

25 MR. BOND: Thank you.

1 CHAIRMAN KOPLAN: Okay.

2 MR. WINTON: And Commissioner Koplan, even
3 if you don't find any other, I'm very happy with our
4 injury case. I think the fact that there -- I believe
5 from the staff report that there are other producers
6 is a very nice point to make to the Commission; but,
7 I'm happy to argue this case without them.

8 CHAIRMAN KOPLAN: I appreciate that. And I
9 note that in your pre-hearing brief, although you
10 didn't join in this September 24th letter, you have a
11 footnote that is appreciative of Mr. Bond's efforts,
12 but you don't quite jump on that same bandwagon
13 substantively; isn't that correct? I'm looking at
14 footnote five.

15 MR. WINTON: Yes. But, I did jump on it
16 today quite happily.

17 CHAIRMAN KOPLAN: I know you did. So, when
18 I give him that caveat, consider yourself the
19 recipient of it, as well. Thanks.

20 Mr. Bond and Mr. Winton, the Commission was
21 able to make 114 price comparisons between U.S.-
22 produced piping tube and subject imports during the
23 period 2001 to 2003 and the first six months of 2004.
24 That's in Chapter V, page 15 of the staff report.
25 Subject imports undersold domestic product in about,

1 if my calculation is right, in about 80 percent of
2 those comparisons, roughly 91 of the 114. In your
3 pre-hearing brief at page three, you argue, 'whatever
4 price suppression may have existed last fall has
5 become a faint memory, as producers and consumers
6 alike have been forced to change gears to address the
7 challenges of short supply.' Those price comparisons
8 were not limited to last fall. They include the first
9 six months of this years, as well. Furthermore, the
10 petition in these investigations was filed on
11 September 9, 2003.

12 Do you deny that those 114 price comparisons
13 can, at least in part, form the basis for a finding
14 that price suppression existed during the period of
15 investigation? I don't believe your pre-hearing
16 briefs covered the pattern of underselling by Mexico
17 and Turkey; but for some reason, and I don't
18 understand why, White & Case ran what is termed --
19 what I term a basket category calculation, as an
20 alternative to the Commission's direct comparisons on
21 a product-by-product basis. I'm referring to the les
22 paris price index that you run. So, I'd like you to
23 respond to what we do have in the table I cited.

24 MR. WINTON: Let me begin by saying, your
25 price comparisons show that when you average the sales

1 by the Mexican producers or by the Turkish producers,
2 the average price for their sales was lower than the
3 average price for U.S. producers sales in the same
4 quarter, and that's it. And you may or may not draw
5 inferences from that. That doesn't say --

6 CHAIRMAN KOPLAN: Are you talking about this
7 les paris index that you're running?

8 MR. WINTON: No, no. I'm not saying, your
9 price comparisons in your staff report, the way you do
10 your analysis is you say, in the first quarter of
11 2004, the Mexican producers -- the importers of
12 Mexican product, which, actually, in our case, are the
13 Mexican producers, when they sold, they sold in the
14 first quarter and their average price was x. And when
15 the U.S. producers sold in the first quarter, their
16 average price was y. And you say, if x is less than
17 y, there must be price suppression.

18 Now, there are a number of conceptual
19 problems with that. I understand the logic and that's
20 what the Commission does. But, there are a number of
21 possible conceptual issues. One is, if you don't see
22 actual price suppression going on, if the U.S.
23 producers prices are not being suppressed, if their
24 prices are going up and up faster than their cost of
25 materials, then you can't say whatever the prices of

1 Mexican product is, we're not suppressing the prices.
2 That was my argument about what's going on in 2004.
3 As I said, in the first quarter of this year, the U.S.
4 producers announced price increases of \$400 a ton,
5 more than \$400 a ton for one of them. And I have to
6 say, I don't think I have all of the price increases
7 and I wish we could get the U.S. producers to submit
8 all of their price increases, because I think there
9 are more. But, it's at least \$400 a ton. Whatever
10 the pricing was, it's not keeping them from raising
11 their prices.

12 Now, the second point is, when they're
13 selling -- they're selling to their customers and
14 we're selling to our customers, the fact that we sell
15 to our customers at a lower price than they sell to
16 their customers doesn't tell you anything about how
17 they negotiate the price with their customers. It may
18 be -- it may be that their customers say to them, hey,
19 Hysla is selling to its customers are a lower price;
20 you'd better give me a lower price. But, it's equally
21 possible that their customers don't know anything
22 about what Hysla or Galvak sales prices are and
23 they're negotiating in a totally different arena. Or,
24 their customers may say to them, hey, I hear the
25 Mexicans are offering this, \$100 a ton less than you

1 are, when we're not offering it at \$100 a ton less
2 than they are.

3 You're talking about separate negotiations.
4 As we said, as Mr. Trevino said and Mr. Diederich
5 said, they have long-standing customers that they sell
6 to. They negotiate their prices to those customers.
7 They're not competing with the U.S. producers for
8 their existing customers. They're negotiating prices.
9 When they negotiate their prices, and I'm sure they
10 will both say this, they try to negotiate the highest
11 price they can get from their customers. Their
12 customer tries to negotiate the lowest price they can
13 get from them. The U.S. producers, I'm sure it's the
14 same situation. The fact that those two negotiations
15 are going on and that they have different results
16 doesn't tell you that this one affected that one. And
17 you're assuming, and that's the Commission's
18 methodology, but you're assuming that because his
19 negotiation achieved this price, given the freight
20 costs and the situation in the market, he's selling to
21 him -- the fact that he's selling it across the board
22 gives you this price and that a U.S. producers
23 negotiation maybe in California or Oregon or
24 Washington or maybe in the Gulf or wherever, when you
25 average all of those together gives you that price,

1 you're assuming that his negotiation caused that price
2 or affected that price. And, in fact, when you look
3 at it, the fact that they are different prices
4 suggests to me that they're not affecting each other.

5 CHAIRMAN KOPLAN: The light is on.

6 MR. WINTON: I'm sorry.

7 CHAIRMAN KOPLAN: I assume you finished your
8 response. Thank you for that. What's that?

9 MR. WINTON: I think Mr. Bond is very
10 anxious to add to what I said.

11 CHAIRMAN KOPLAN: I'll give him the
12 opportunity to do that in my next round. Vice
13 Chairman Okun?

14 VICE CHAIRMAN OKUN: Mr. Bond, you can
15 answer; but just before you do, I want to make clear,
16 Mr. Winton, what I heard you say, which I think is a
17 misstatement of what we do. I mean, just because we
18 find on that basis that there was underselling does
19 not mean the Commission assumes -- I don't think
20 anyone up here assumes suppression.

21 MR. WINTON: Right. And I'm not -- what I
22 was trying to say, the fact that there are different
23 prices, which you call underselling, but different
24 results on an average overall basis, doesn't
25 necessarily mean price suppression. And the question,

1 is there a price suppression or not, is a factual
2 question. And in this case, when you look at the
3 facts, I don't think you see it.

4 VICE CHAIRMAN OKUN: Mr. Bond?

5 MR. BOND: I would say that you absolutely
6 should not conclude that there is price suppression
7 based on the data that you just mentioned,
8 Commissioner Koplan. It's true that there is a margin
9 of underselling. It's, also, true that it's always
10 existed. You can see from the data that as the margin
11 of underselling has increased and decreased, there's
12 really nothing -- there's no cause and affect
13 relationship that you can see between fluctuations in
14 the margin of underselling, changes in the volume of
15 imports, or the operation and other -- the operation
16 margin and other financial indicators of the domestic
17 industry. So, yes, I mean, you have this simple
18 analysis that in 16 out of 17, or whatever it is,
19 periods, underselling appears to have occurred, but I
20 don't think you can connect the dots from that to say
21 that price suppression occurred, especially in the
22 absence of any hard data from specific customers
23 confirming that underselling or price suppression or
24 anything like this is actually occurring in the
25 marketplace.

1 VICE CHAIRMAN OKUN: I think, Mr. Bond, I
2 guess this question, I believe, is for you. White &
3 Case basically has the les paris price index, is that
4 correct?

5 MR. BOND: Yes. That's ours.

6 VICE CHAIRMAN OKUN: Did you put that in
7 there to confuse us? I'm just curious -- I mean, I
8 shouldn't be --

9 MR. BOND: What possessed us to do that?

10 VICE CHAIRMAN OKUN: Someone worked very
11 hard on getting this argument in there. But, I mean,
12 when we have very specific products, I was just trying
13 to figure out (a) why it was put in there as being
14 particularly helpful to us. I mean, even when you ran
15 it, I wasn't even sure if it proved the point it
16 wanted it to.

17 MR. BOND: We had incredible problems at the
18 last hour trying to get all of that in the brief and
19 it really turned into an administrative nightmare,
20 where all the charts were over top of one another and
21 we had to take them out quickly and try and rewrite it
22 and stick it all in exhibits. So, I know it wasn't
23 really a model of clarity.

24 The idea was, in constructing the index, to
25 come up with something that would allow us to compare

1 trends in all of the prices of all of the products
2 against operating margins and things like this, which
3 you really can't do or you can't do very effectively
4 just looking at fluctuations of the prices of one
5 product in relation to operating margins and things
6 like this. So, the idea behind that was to create a
7 sort of more global model that would allow us to look
8 at the impact of fluctuations in prices and
9 underselling, in particular, on the operations of the
10 U.S. producers.

11 VICE CHAIRMAN OKUN: Okay. Well, for post-
12 hearing, for my own purposes, other Commissioners may
13 feel different, I would appreciate you focusing on the
14 price data that we collected, because I think it was
15 fairly thorough and I think it deserves more
16 attention.

17 MR. BOND: It was based on your price data.
18 It's just a mixup.

19 VICE CHAIRMAN OKUN: Yes, I know.

20 MR. BOND: Okay.

21 VICE CHAIRMAN OKUN: Okay. Then, let me
22 turn to the industry representatives. And you had a
23 number of -- a lot of information in your direct
24 testimony and I wanted to focus in on a couple of
25 things that I heard you mentioned, just to make sure

1 that I understood kind of the timing. And the first
2 one was just regarding your price increases. I think
3 I heard in both your testimony, you talk about when
4 you instituted price increases. And could you just go
5 through again for me when those price increases took
6 place. And when responding to that, could you, also,
7 comment on what was going on with hot-rolled prices.
8 In other words, the raw material, did you feel
9 pressure on your raw material? Were you meeting U.S.
10 prices? I just wanted to hear a little bit more in
11 the context of the price increases, when they occurred
12 and why.

13 MR. TREVINO: Sure, of course. I think what
14 I was saying in my testimony, we were able to raise
15 our prices by the end of the first quarter. I mean,
16 the price basically doubled on the light weight
17 rectangular tubing. At the same time, the hot-rolled
18 coil prices had been going on. But, we were able to
19 implement the cost increases, that we experienced
20 loss, some additional profit margin. Prices,
21 basically, doubled in the first quarter of 2004
22 period. Then, the situation continued. Up to now,
23 prices are basically two-and-a-half times the price
24 level that they were at the beginning of the year.

25 VICE CHAIRMAN OKUN: Okay. When you say,

1 'first quarter 2004,' were those price increases
2 announced in 2004 or price increases announced in
3 2003, to take place in 2004?

4 MR. TREVINO: No. We started announcing
5 price increases in late 2003 and we continued in
6 January, February, and March of 2004.

7 CHAIRMAN KOPLAN: Okay. Mr. Winton, this
8 may be information that was in your brief, if so -- if
9 it's not in there, if there's any additional
10 information, could you put it in there, because I just
11 can't remember now if we've -- any press releases or
12 anything else that we could look at that showed price
13 increases and when they --

14 MR. WINTON: From Mexico?

15 VICE CHAIRMAN OKUN: Yes.

16 MR. WINTON: We did not submit anything. We
17 will do that. I think what complicates a little is
18 that the price increases are imposed as of a certain
19 date, and you see it with the U.S. producers, as well;
20 any order after this date, with shipment after that
21 date. There are previous orders that might be shipped
22 later or protected to some extent. So, in your data,
23 it doesn't come in quite as quickly as it's announced.

24 VICE CHAIRMAN OKUN: Right. But, for me, I
25 guess, again, since there's so much focus on what

1 dependency -- I understand your argument on it; but,
2 also, if there's anything contemporaneous with what
3 you're saying about when the order went into effect,
4 from what your prices were doing and what was
5 happening in Mexico with raw material, I would look at
6 it for evidence.

7 MR. WINTON: I'm not sure -- I know -- I'm
8 pretty sure that we don't have any sort of published
9 price list that comes out, that communicates to the
10 world at large, this is what we're willing to sell at.
11 I think it's done customer by customers. But, there
12 may be some documentation, internal, things like that.

13 MR. TREVINO: Just the same, we do the
14 negotiations on a customer-by-customer basis. If that
15 information has, we can provide it to you; I mean, of
16 course, yes. And I would to add that we found no
17 resistance in the implementation of the price
18 increases throughout 2004. We have been able to
19 successfully implement the price increases that we
20 have tried to pass to our customers.

21 VICE CHAIRMAN OKUN: Okay. Mr. Diederich,
22 same question for you. If you can just put your
23 microphone on there.

24 MR. DIEDERICH: In our case, we have a fully
25 integrated office in the U.S. and so we are very close

1 of the U.S. market: price increase, price decrease.
2 And we usually intend to increase our prices at the
3 same speed that the U.S. mill increases. So,
4 basically, any increases that have been done by the
5 U.S. mill have been matched by Prolamsa, at the same
6 time, or one or two days before or after the day that
7 they were choosing. So, there's no differences there.

8 As far as -- Prolamsa has been very pro-
9 active in not depending only of one country or one
10 mill, as a lot of U.S. mill has been, let's say, doing
11 for the past years. We have the chance to be
12 geographically located in the north of Mexico and, of
13 course, we purchase a lot of coil in Mexico. But, we
14 purchase a lot of coil from the U.S. mill. We bring
15 inside of Mexico transform and tubing and we export in
16 the U.S. at the cheaper cost sometimes at the U.S.
17 mill. In the same way, we do edge on buying coil. We
18 try to look for coil for production from Mexican
19 market for the export in various parts of the world
20 and try to have a low cost balance between different
21 purchases in different countries. But, again, we --
22 Prolamsa is here to make money. We are not a company
23 against having high margin. It's a very profitable
24 and a very well financed company. And we intend to
25 continue in that way.

1 So, yes, we match any price increase or
2 decrease that the U.S. is doing.

3 VICE CHAIRMAN OKUN: I guess one of the
4 things I was trying to understand is just, in terms of
5 the issues that have been purported, in terms of the
6 structural changes in the market, and I think one of
7 my colleagues asked about was it kind of global the
8 whole -- you know, China, the shortages, the raw
9 material increase on hot-rolled, is it affecting you
10 the same way it's affecting the U.S. market? Or were
11 you able to pass along the savings --

12 MR. DIEDERICH: The whole American market
13 has been affected in the same way. Mexico, U.S., or
14 Canada, there's not very much difference between one
15 and the other. The big advantage that we have on some
16 others, it's the way that we are purchasing, where we
17 are purchasing, and when we are purchasing. We take
18 advantages of a lot of opportunities that some others
19 wouldn't take of and that gives us sometimes an
20 advantage on our production cost.

21 VICE CHAIRMAN OKUN: Okay. I see my -- Mr.
22 Trevino, did you have something you wanted to add?

23 MR. TREVINO: Yes, please. I would like
24 just to add, what caused all of these price increases,
25 in our case, was the combination of the several parts

1 that we have been mentioning: the strong demand in
2 China; the strong demand, also, in North America and
3 in Europe, as well as in our domestic market; the
4 type, availability of the raw materials that we use
5 for producing our flat steel; the weak dollar
6 situation and the increase in the shipping costs
7 basically worldwide.

8 VICE CHAIRMAN OKUN: Okay. I thank you for
9 the additional comments. Thank you, both.

10 CHAIRMAN KOPLAN: Thank you, Vice Chairman.
11 Commissioner Hillman?

12 COMMISSIONER HILLMAN: Thank you. Just
13 following up a little bit, just to make sure I
14 understand again this whole issue of the various
15 implications of things going on. Take us back to when
16 the President announced the 201 duties and, obviously,
17 Mexico was an exempt country. At that point, in March
18 of 2002, what did that do to the price and the
19 availability of hot-rolled sheet in Mexico. I mean,
20 were your Mexican suppliers of sheet much more drawn
21 into the U.S. market, because you were in an exempt
22 country?

23 MR. TREVINO: Since we are fully integrated,
24 we were not actually --

25 COMMISSIONER HILLMAN: You don't purchase

1 any outside sheet?

2 MR. TREVINO: No, we were not affected by
3 that. So, we continued --

4 COMMISSIONER HILLMAN: Not affected at all.
5 Now, are you tempted by sheet prices to move sheet in
6 or is it still more attractive for you to produce pipe
7 and tube, a more value-added product?

8 MR. TREVINO: We continued to do the
9 marketing of our coils in our flat rolled division
10 and, at the same time, selling our tubular products.
11 So, it was a combination of the two.

12 COMMISSIONER HILLMAN: Okay. Mr. Diederich,
13 from your perspective, when the 201 duties were
14 announced on -- and, again, I'm trying now to just
15 focus on the sheet side of it, was there a significant
16 change in either price or availability of sheet for
17 you to use to make pipe and tube? I'm sorry, you just
18 need that microphone.

19 MR. DIEDERICH: The market was tight,
20 obviously, after the 201; but, again, because of the
21 political strategies that we have in purchasing, we
22 had a huge stock of coil already coming from Mexico,
23 ready to produce our tubing. So, we were not really -
24 - we didn't see the same stress that other mill, at
25 the time.

1 COMMISSIONER HILLMAN: Okay.

2 MR. DIEDERICH: I don't know if I answered
3 your question, but --

4 COMMISSIONER HILLMAN: Okay. And then over
5 the long haul, obviously, at some point, you used up
6 the stock of coil.

7 MR. DIEDERICH: Yes, we use it. And, again,
8 because of the strong relationship we had on both side
9 of the border, we always have the availability of coil
10 that we need. We never had really a problem of not
11 being able to ship merchandise to our customer,
12 because we didn't have coil. We're fearing not having
13 coil tomorrow, if that's the question.

14 COMMISSIONER HILLMAN: Okay. Then, I wanted
15 to follow up just a little bit on another response
16 that you gave to Vice Chairman Okun, in terms of this
17 issue of pricing. You say, you are very close to
18 following the prices in the U.S. market. I mean, how
19 does that work? Does your customers tell you or is
20 there a publication that you all look to? Or how is
21 it that you are very aware of what pricing is?

22 MR. DIEDERICH: Well, there are several
23 factors. Obviously, they're going to take information
24 that is public that everybody can get. After that,
25 you have a full set of force turning the customers.

1 You get a lot of information from the customers. And
2 after that, as we purchase coil from the U.S., we have
3 the same price increases of what they have. So, it's
4 not very difficult to make a decision based on that
5 information.

6 COMMISSIONER HILLMAN: I appreciate that.
7 Going back to the pricing -- the arguments with
8 respect to pricing, Mr. Winton, to you, I'm sort of
9 sharing, to some degree, the Vice Chairman's -- I just
10 want to make sure I'm clear on it, because the
11 statute, as I've read it, as it was very clear, that
12 we're making arguably two findings under prices: one,
13 was there significant underselling; and, then, the
14 statute is very clear, and we are to determine whether
15 or not there was price suppression or price
16 depression.

17 MR. WINTON: Right.

18 COMMISSIONER HILLMAN: I just want to make
19 sure I'm hearing exactly what you're saying. With
20 respect to the issue of, was there significant
21 underselling, leave aside whether it caused
22 suppression or depression, was there significant
23 underselling, are you saying that the pricing data in
24 here is suggesting the answer to that is no, was not
25 underselling -- significant underselling? Now, the

1 statute sorts it out.

2 MR. WINTON: No, no, no, no, I understand.

3 COMMISSIONER HILLMAN: The statute very
4 clearly has underselling and then the second complete
5 subparagraph, 'and whether suppression or depression.'

6 MR. WINTON: I understood. But, I
7 understood Chairman Koplan's question to be about
8 price suppression, not about underselling. If I mis -
9 - I understand. However, having said that, I mean, I
10 need to go look at the data, to sound like Dr. Lecker,
11 a little bit, because what you have here is Mexican
12 producers selling in a -- you know, it's not the whole
13 United States they're selling in. Whatever you may
14 feel about geographic separation, it's not the whole
15 United States they're selling in.

16 The prices you have from the importers
17 questionnaires are, at least in our case, and I don't
18 know about the other companies, but for Hysla and
19 Galvak, they are the importers for their exports,
20 okay. So, when you get pricing data from us, it tells
21 us, here's the prices that the Mexicans were selling
22 in the part of the market where they sold, at the
23 level of trade of themselves selling to their first
24 customers. That's what you get from us.

25 What you get from the U.S. producers is

1 different. It includes sells in other parts of the
2 country. It includes sells with, I'm assuming, at a
3 further advanced level of trade. So, they're
4 different.

5 Now, I have not done the analysis and maybe
6 I can't do the analysis and maybe the information that
7 we have is just not sufficient and it's impractical.
8 I, personally, don't know if there's underselling.
9 Are the average prices that you get in your staff
10 report -- what the average prices that you get in
11 your staff -- are they what they say? I assume that
12 the staff has done the calculations correctly. But, I
13 have questions. If somebody in Oregon, where a
14 Mexican product never goes, happens to be selling it
15 at three times the market price and that raises the
16 average U.S. prices that you see, you won't see that
17 in your data, and there was this guy in Oregon, who
18 threw off the curve. You'll see a higher average U.S.
19 price and then you'll say, oh, there's underselling,
20 because the average Mexican price is lower.

21 So, given that, I think the staff report
22 stands for what it says. I apologize, Chairman
23 Koplman, because I clearly mis -- I was thinking about
24 price suppression, whether the fact that the average
25 prices are lower, does that indicate price

1 suppression, and I was trying, probably in an
2 articulate way, to say, I didn't think so. And I
3 think David pointed out, this is -- the difference in
4 prices that you see are persistent throughout the
5 period.

6 COMMISSIONER HILLMAN: I appreciate that
7 clarification. That helps my understanding of the
8 point of the argument. But, then, let me go to this
9 issue of the competition between the imports and the
10 domestic product. At least one of the briefs or
11 somewhere, it's this issue of it's attenuated by this
12 issue of concentration in the Gulf region, which
13 you've just touched on, and there is this comparison
14 of things in the Gulf region, as opposed to the
15 argument that's made in the Petitioner's brief, which
16 is, that if you do that and just try to do that, what
17 you see is that the companies that have a greater
18 concentration in the Gulf region suffered more greatly
19 in terms of their financial performance than the rest
20 of the industry as a whole, as their way of furthering
21 the argument on causation; that if you saw greater, if
22 you will, declines within the Gulf region, it is more
23 directly related to the imports, since the imports
24 are, also, more concentrated in the Gulf region. What
25 is your response?

1 MR. BOND: I think probably it would be best
2 for us to address this in our post-conference brief,
3 because of the confidential information; but just in
4 very general terms, a few thoughts. It seems to me
5 that primarily the way that the Petitioners
6 constructed that was just to look at one or two very
7 small producers that happened to be located in the
8 Gulf region. They ignored completely the performance
9 of others that are close to the Gulf region, that are
10 not physically located in the Gulf region that ship a
11 lot of tons into that area. So, if you include the
12 performance of those other people, those other U.S.
13 producers that are, in fact, shipping into the Gulf
14 region, that are competing with the Mexican imports,
15 you'll have a very different picture.

16 COMMISSIONER HILLMAN: Okay.

17 MR. BOND: We can do that for you.

18 COMMISSIONER HILLMAN: I would ask you, if
19 you don't mind, to address it a little more fully.
20 Because, there are clearly -- I mean, as I hear a
21 number of the claims that they're making, they're
22 pushing on this causation issue. And to the extent
23 that you think there is not an argument there on the
24 Gulf side, I would appreciate whatever comments you
25 want to add.

1 The other issue that was raised in -- I
2 believe it's in your brief, Mr. Bond, is the issue of
3 the sort of timing correlation, if you will, between
4 when the imports are highest versus when the domestic
5 industry is or isn't coming down in its operating
6 income or ratios and your comments on the lack of
7 correlation between these trends. But, if I look at
8 it, in this chart in your brief, that shows cumulated
9 subject import market share and I look at it and I'm
10 thinking, okay, it's actually highest -- import
11 markets, your subject market import share is highest
12 in the January to June 2003 period, which is the exact
13 same period at which the greatest decline in operating
14 income of the domestic industry occurs. So, we can
15 argue over whether that decline is significant or not;
16 but, to me, there is, at least from looking at those
17 two factors, this temporal correlation between when
18 the subject import market share is highest versus when
19 the domestic industry appears to be -- you know,
20 having the largest decline in its operating
21 performance.

22 MR. BOND: Can you direct me to the page?

23 I'm sorry.

24 COMMISSIONER HILLMAN: It would be in your
25 brief, I believe, at page 29, the chart on top of the

1 page, which shows, again, the -- what I'm looking at
2 is the cumulated share of imports, showing that it
3 reaches its peak in interim 2003, which would, also,
4 be the peak decline in the domestic industry's
5 operating income.

6 MR. BOND: Right. I have the public version
7 here and that's been taken out.

8 COMMISSIONER HILLMAN: Okay.

9 MR. BOND: But just generally, I would say
10 that I'd have to look at the data about that one
11 particular point in time. But, I think, overall, if
12 you look at the data and try to look for correlations
13 throughout the entire period, what you see is that
14 they just don't exist. Sometimes, you see the type of
15 positive correlation that you say exist here; whereas
16 in other periods, you see the exact opposite type of
17 relationship. So, I think our point is that
18 throughout the period, if you look at the trends
19 between increases, decreases in volume, operating
20 margins of the U.S. producers, changes in the degree
21 to which they're underselling, you don't see the type
22 of consistent trend that would allow you to say, aha,
23 this is causing this to occur. Sometimes it may; but
24 at other times, six months later, the exact opposite
25 relationship exists. So, you really can't draw a

1 specific conclusion from the data.

2 COMMISSIONER HILLMAN: I appreciate those
3 responses. Thank you.

4 CHAIRMAN KOPLAN: I was enthralled.
5 Commissioner Lane?

6 COMMISSIONER LANE: No questions.

7 CHAIRMAN KOPLAN: Commissioner Pearson?

8 COMMISSIONER PEARSON: I recognize that
9 there are some differences in business conditions
10 between the United States and Mexico. For instance, I
11 think it's correct to say that interest rates are
12 generally a little higher on the Mexican side of the
13 border. But, stepping back from the specifics, let me
14 ask just one general question. In your view, what is
15 a fair and reasonable return on investment for light
16 weight rectangular pipe and tube in Mexico?

17 MR. WINTON: Unfortunately, we have a sales
18 person here. He doesn't -- what we will do, if it's
19 okay, is see if we can get some information from the
20 managerial people in Hysla and Galvak and what they
21 consider an acceptable rate of return and submit that
22 in post-hearing brief.

23 COMMISSIONER PEARSON: Mr. Diederich, any
24 thoughts on your side?

25 MR. DIEDERICH: I would prefer to answer

1 later on that one. I don't have the data with me and
2 I don't want to give you the wrong number.

3 COMMISSIONER PEARSON: Okay, fair enough.

4 MR. BOND: We would prefer to talk to the
5 people on the production side that actually own the
6 production facilities in Mexico and get their input,
7 rather than the sales side in the United States.

8 COMMISSIONER PEARSON: That's not
9 unreasonable.

10 MR. BOND: Okay.

11 COMMISSIONER PEARSON: That will be fine. I
12 have no further questions, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you, Commissioner
14 Pearson. First, if I can straighten out the
15 impression of what I said. I did not, when I
16 questioned on my first round, and I'm looking at the
17 text of the question, I did not equate underselling to
18 price suppression.

19 MR. WINTON: Chairman Koplan, I take full
20 responsibility for the mistake. It was my fault. I
21 apologize.

22 CHAIRMAN KOPLAN: Well, maybe I could have
23 phrased it more aptly, but I definitely wasn't -- I'm
24 on the same page as the Vice Chair and Commissioner
25 Hillman on that. But, I did inquire in detail about

1 the underselling and what I said was, that at least in
2 part, I look at that as a factor, when I am trying to
3 determine whether there's price suppression or price
4 depression.

5 MR. WINTON: Chairman Koplan, may I make
6 just one observation and maybe this will clarify why I
7 may seem to be dancing around this question a little
8 more than you might like.

9 CHAIRMAN KOPLAN: That was my next point.

10 MR. WINTON: Okay, thank you. When we did
11 our questionnaire responses, as I said, we reported --
12 responded as the importers of these products, because
13 Hysla and Galvak, in addition to being producers, act
14 as the importer of record through Custom's, which is a
15 method of business that Mr. Schagrin finds distasteful
16 for some reason; but, that's, in fact, what we do.
17 When we reported our pricing, our pricing is on a
18 delivered duty paid at the Loreda basis. In other
19 words, just as it crosses the border, it's not
20 delivered to the customer. It's not delivered to the
21 U.S. It's just as it crosses the border. So, at
22 least for Hysla and Galvak -- have I got that right?
23 I finally got that right. So, at least for our data,
24 I'm concerned that when you see an average price for
25 us, it may not be comparable to the average prices

1 you're seeing for other people.

2 CHAIRMAN KOPLAN: Tell me, if instead of 80
3 percent of comparison showing underselling, we had
4 come up with 80 percent showing overselling, would I
5 be hearing this argument from you today?

6 MR. WINTON: What you would be hearing would
7 be --

8 CHAIRMAN KOPLAN: Can you give me a yes or
9 no on that?

10 MR. WINTON: Yes, you would and what you
11 would be hearing is, our prices are understated and
12 even with understated prices, we're overselling.
13 That's what you would have heard from me.

14 CHAIRMAN KOPLAN: Well, I think I have
15 exhausted this line of questioning. I'll move on to
16 another one. Thank you for that.

17 Mr. Diederich, and this is a follow-up to
18 Commissioner Hillman's request -- I think it's an
19 important issue -- on page of Petitioner's pre-hearing
20 brief, they state, and I quote, 'there are several
21 major domestic production facilities located in the
22 purported southern tier or Gulf region. Petitioner
23 Leavitt Tube has a Jackson, Mississippi plant.
24 Petitioner Northwest Tubes, LWR mill, is in Houston,
25 Texas.' There are cites here. 'There are numerous

1 other domestic mills with plants in Texas, Oklahoma,
2 Alabama, and Georgia. Notably, non-petitioner Bull
3 Moose Tube Company will provide testimony that its
4 sales to the Gulf region have been severely hurt by
5 dumped imports. In aggregate, domestic industry sales
6 to the Gulf region was 13 percent of total domestic
7 sales in 2003.'

8 Now, this argument that I've just quoted was
9 contrary to the allegation at page 21 of your pre-
10 hearing brief, that 'most U.S. producers do not sell
11 or sell very little in Texas and the Gulf region.'
12 So, in responding post-hearing on this issue, I would
13 appreciate if you would take -- counsel, if you take
14 this quote from Petitioner's pre-hearing brief into
15 account. And there's more that follows, actually, on
16 this point, in their brief, and respond to that in as
17 much detail as possible. If there's anything Mr.
18 Diederich would like to add to that now or say now, I
19 would welcome it.

20 MR. DIEDERICH: I would prefer to wait until
21 the post-hearing.

22 CHAIRMAN KOPLAN: Okay. I am very
23 interested, though, in the response that I get on
24 this. Mr. Winton, on page three of Galvak and Hysla's
25 pre-hearing brief, you argue that 'the interim period

1 is not in this case a mere extension of trends that
2 had existed before. Instead, it represents a
3 fundamental departure from past conditions.' One
4 change that occurred in 2004 was that the price of
5 subject imports from Mexico rose substantially. The
6 public version of our staff report, table 4-2,
7 reflects that the unit value of Mexican subject
8 imports increased from \$494 a ton in interim 2003, to
9 \$654 per ton in interim 2004. And for Turkey, the
10 increase went from \$533 to \$550. Why should I not
11 regard dependency of these investigations as having
12 led to those price increases during interim 2004?

13 MR. WINTON: If -- and I'd have to find the
14 table, but there's a table where you have the import
15 volumes by month and what you find is that most of the
16 imports that came in from Mexico and Turkey were in
17 the first three months of this year, before there were
18 any antidumping measures in effect. What you'd have
19 to assume is --

20 CHAIRMAN KOPLAN: Perhaps, you might, for
21 purposes of the post-hearing, check and make sure that
22 you are looking at the right information.

23 MR. WINTON: Okay.

24 CHAIRMAN KOPLAN: But, go ahead.

25 MR. WINTON: But, no, but the volume of

1 imports in the first six months of 2004, they're
2 higher in the first quarter before the antidumping
3 measures are put in place. You'd have to say, why
4 would we raise our prices because of antidumping
5 measures that haven't been put in place yet, on sales
6 that are never going to be subject to an
7 administrative review, because they're before
8 Commerce's preliminary determination. There's no
9 reason for us to --

10 CHAIRMAN KOPLAN: I didn't quite phrase my
11 question that way.

12 MR. WINTON: I'm sorry?

13 CHAIRMAN KOPLAN: I said, I didn't quite
14 phrase my question --

15 MR. WINTON: No, I'm sorry, because what I
16 understood your question may be was why are the price
17 increases not related to the pendency of this
18 investigation.

19 CHAIRMAN KOPLAN: Right.

20 MR. WINTON: And what I'm saying is why
21 would we have raised our prices just because the
22 petition was filed. And we might raise our prices if
23 we thought it was going to be subject to dumping
24 calculations and we want to make sure we're not
25 dumping and so we raise our prices. That, I could

1 understand. But raising our prices -- first of all,
2 we have to get our customers to agree to pay more.
3 That's not something we can unilaterally do. They
4 have to be willing to do it. And, frankly, if they
5 had been willing to do it before, we would have done
6 it before.

7 The second thing is, you have all this
8 evidence that there is something going on worldwide.
9 This is not -- in all products, this isn't light
10 walled rectangular pipe. We submitted the same
11 information in line pipe before the petition was
12 filed. We had the same information that was going on,
13 on line pipe. Jaime testified that it's all of his
14 tubular products to the United States. Everything is
15 going under the same trends. Prices are going up in
16 the U.S. market. The U.S. producers' prices are going
17 up in the U.S. market. And, yet, they want you to
18 believe that of all these prices that are going up, of
19 all of the products, every one in the world is raising
20 their prices, but it's just the Mexican producers of
21 light walled rectangular pipe are doing it because the
22 petition was filed. Everyone else is doing it for
23 other reasons, supply, demand, China, the whole thing.
24 But, us, that's not our reason. We're doing it
25 because they filed an antidumping petition. It

1 doesn't make sense.

2 If you look at what's going on in the world,
3 this is consistent. The increase in prices from
4 Mexico, the increase in prices for the U.S. producer,
5 is consistent with all pipe products, with all steel
6 products. That's what is going on in the market right
7 now. And the customers recognize it and that's why
8 they're willing to pay more. I mean, I don't think
9 anyone here, I don't think anyone you saw this morning
10 is in business to sell their products for less than
11 the customers are willing to pay. They all want to
12 get the most from their customers and throughout the
13 period. If we got more from our customers now, it's
14 because we could get more from the customers now.
15 It's the only reason our prices go up.

16 MR. BOND: I just wanted to add one detail,
17 if I might, Chairman Koplan. The increase can't
18 possibly be related to the dumping duties, at least in
19 our case, and you can see that by simply looking at
20 the fact that our dumping margin at the preliminary
21 was five-and-a-half percent. It's been raised to six
22 percent in the final from the Commerce Department,
23 which just came out. And nevertheless, our prices
24 have increased by similar margins. The prices have
25 gone up far, far, far more than could be explained by

1 the imposition of the dumping duty. Something else is
2 going on here and our prices have gone up equally on
3 products that are not subject to the case, as well.
4 So, there's no cause and effect relationship that you
5 can see there.

6 CHAIRMAN KOPLAN: I want to thank you all,
7 very much, for your responses to my questions. I have
8 nothing further. Vice Chairman?

9 VICE CHAIRMAN OKUN: Thank you, Mr.
10 Chairman. I don't have any other questions for this
11 panel. With the indulgence of my colleagues and the
12 witnesses, I would like to take this opportunity to
13 recognize Debra Booth on my staff, who has taken a job
14 to go to the private sector, go out and do the things
15 that I think everyone has strived to do once in their
16 life. She's been with me. She's served me well.
17 Before that, she served as an industry analyst in the
18 Office of Industries and focused on agriculture,
19 sugar, in particular, very well known for that, and
20 served in the USTR on a detail. So, I wanted to take
21 this opportunity to say good bye to her and I will
22 miss her and wish her well. And I welcome Warren
23 Payne, also, an aggie from Office of Industries, who
24 is going to be on detail to my staff, with Debra
25 departing. Thank you, Mr. Chairman.

1 CHAIRMAN KOPLAN: Oh, no, thank you, Vice
2 Chairman. If I may, I'd like to just add to that and
3 say that each one of us here on this dais and other
4 Commissioners that have preceded us have all
5 benefitted from Debra's contributions to us on the
6 floor. It's the one time I forgot to use my
7 microphone. So, I would just like to echo your
8 praise. Thank you.

9 COMMISSIONER HILLMAN: I'm sorry, Mr.
10 Chairman, I have two quick little questions for the
11 hearing, but I would certainly not want to rain on
12 Debra's parade --

13 CHAIRMAN KOPLAN: We're not trying to put
14 any pressure on you or anything.

15 COMMISSIONER HILLMAN: -- and would
16 certainly join my colleagues in wishing her well and
17 thanking her for her tremendous service to all of us
18 here at the Commission; not only to the Vice Chairman,
19 but to all of us. It is always a collaborative effort
20 up here and her contributions are many and much
21 appreciated.

22 And then just two little minor -- going back
23 to the subject of light walled rectangular pipe and
24 tube, two minor questions for post-hearing. One is,
25 Mr. Bond, in your brief, you briefed very well the

1 issue of should we end up in a threat context in this
2 case, the issue of cumulation of imports between
3 Turkey and Mexico. But, I guess I would ask both of
4 you could just address the issue of should we cumulate
5 the two. What, if anything, would you suggest that we
6 do about the lack of data that we have from Turkey?
7 If there's any information or anything else that you
8 would suggest that we do, given that we have gotten a
9 fairly minimal response on the Turkish side of this
10 case.

11 And then the second issue, Mr. Winton, for
12 you, given that we've had this big discussion about
13 the relationship and the statute between underselling
14 and price suppression and depression, I wondered if
15 you could help us think about whether we have done and
16 to think about the implications of can we, under the
17 statute and the way that it's laid out, find
18 significant underselling; that, yes, there is
19 significant underselling, but, no, there is not price
20 suppression or depression; and if we make that kind of
21 bifurcated finding, where does it lead us, in terms of
22 what the statute tells us with respect to an overall
23 finding on price effect.

24 MR. WINTON: I take it, you want me to
25 address that in the brief?

1 COMMISSIONER HILLMAN: Correct.

2 MR. WINTON: I'd be happy to do that.

3 COMMISSIONER HILLMAN: Okay. And with that,
4 I have no further questions, Mr. Chairman.

5 CHAIRMAN KOPLAN: Thank you, Commissioner
6 Hillman. Are there any other questions from the --

7 VICE CHAIRMAN OKUN: I wonder, Vice Chairman
8 Hillman, if we could direct the same question to Mr.
9 Schagrin.

10 COMMISSIONER HILLMAN: Absolutely. I'm sure
11 this is not an unfamiliar issue to Mr. Schagrin,
12 because I know we, at least in one other case that I
13 can recall, this issue came up very directly. But, I
14 would certainly welcome Mr. Schagrin's comments on
15 that same issue.

16 MR. SCHAGRIN: We'll address that in our
17 post-hearing brief.

18 COMMISSIONER HILLMAN: Thank you.

19 CHAIRMAN KOPLAN: Thank you. Staff? Ms.
20 Mazur, do you have any questions for the panel?

21 MS. MAZUR: Mr. Chairman, staff has no
22 questions.

23 CHAIRMAN KOPLAN: Thank you. Mr. Schagrin,
24 do you have any questions of this panel before we
25 release them?

1 MR. SCHAGRIN: No questions. Con dios, no
2 questions. Gracias.

3 CHAIRMAN KOPLAN: Thank you all, very much,
4 for your testimony. And I'll release the panel.
5 Petitioners have a total of 17 minutes remaining,
6 including five for closing. Respondents have a total
7 of 20 minutes remaining, including five for closing.
8 Mr. Schagrin, how do you want to proceed? I'm
9 impressed, because I recall that at one time, you
10 asked for 90 minutes today and you didn't even use 60.

11 MR. SCHAGRIN: Chairman Koplan, you know,
12 the fact that Mr. Kleinfelter usually speaks for about
13 20 minutes when he has five minutes of testimony, I
14 think that's what made the difference today. But, I
15 do hope that he recovers quickly. I do appreciate the
16 use of some of his time.

17 CHAIRMAN KOPLAN: Nice try, Mr. Schagrin.
18 I've reviewed the text of his testimony and I would
19 say that was about three of those minutes.

20 MR. SCHAGRIN: I'm willing to proceed
21 anytime the Commission would like with closing
22 argument and rebuttal.

23 CHAIRMAN KOPLAN: Go ahead.

24 MR. SCHAGRIN: Would you like me to do it
25 from here?

1 CHAIRMAN KOPLAN: Wherever you'd like,
2 either at the dais or from your table.

3 MR. SCHAGRIN: I think I'll approach the
4 dais.

5 CHAIRMAN KOPLAN: Counsel, I've released
6 your -- Respondents, I've released your witnesses, if
7 they want to leave the table. Did they want to --
8 it's up to you, but we're moving to another stage now.

9 (Pause.)

10 MR. SCHAGRIN: If it's okay, I'll sit up
11 here, I think. It's better eye contact than I would
12 have from back there and I was thinking that at the
13 dais, I might not be able to read anything I want to
14 read without playing the trombone. My eyesight is
15 going.

16 Let me begin with some of the broader
17 arguments put forth by the Mexican industry. Their
18 story seems to be going to the 2002-2003 period, that
19 everything that happened in the domestic industry can
20 be blamed on the 201 case and the difference in
21 relief. And they make a lot of use out of my
22 commonsense quote. And if the worse thing they put on
23 my tombstone is that he showed a lot of commonsense
24 before the Commission and USTR and Commerce, things
25 could be worse. So, I'll take that as a complement.

1 But that somehow the 201, I think they used the term
2 had a seismic impact on U.S. producers in the U.S.
3 market, but really didn't have any impact on the
4 Mexican industry; that even though Mexico had a 201,
5 they had other ways to source steel and it's really
6 not what caused their import increase to the United
7 States and it was the 201 that hurt the domestic
8 industry, not the 68 percent increase in subject
9 imports, the underselling of those imports to the
10 domestic industry's prices and the prices suppression.

11 Well, you all and I have spent virtually the
12 entire summer last summer, it wasn't pleasant, ended
13 with the hurricane, as I read in Vice Chairman Okun,
14 formerly Chairman Okun's annual report about the work
15 through the hurricane, but we spent all last summer on
16 the 201 case. And I participated in those
17 proceedings. I think I read your 1,500 page report
18 pretty carefully, because I'm very interested in the
19 work of this Commission, particularly vis-a-vis the
20 steel industry in the case I participated in. And,
21 you know, I'm going to review it between now and the
22 post-hearing, but what I took from that report was
23 that unlike the customers, who wanted to come into the
24 Commission and say this 201 had a seismic impact on
25 every steel user, I thought the conclusions of the

1 Commission's 201 report was, in fact, that the 201 did
2 not have a seismic impact on the U.S. steel market.
3 And if I have to decide where to put the most credit
4 and credibility with this Commission's exhaustive
5 analysis or with an argument concocted by counsel of
6 the Mexicans, I'm walking with my feet, you know,
7 squarely behind the Commission. And I really believe
8 that as much as I argued for the 201 case, as much as
9 I argued for equivalent tariffs, I don't think the 201
10 case had a seismic impact. Some changes that were
11 done either by the 201 or by conditions, such as the
12 consolidation within the U.S. steel industry, the
13 closure of some plants, have had significant impact.
14 But, the 201 duties, because they were quite coarse,
15 did not have a seismic impact.

16 Now, what had a significant impact on the
17 U.S. industry producing light walled rectangular
18 tubing? First of all, we had an increase in imports
19 from Mexico, from 105,000 to 152,000 tons, between
20 2001 and 2003. Now, the Mexicans excuses for that are
21 numerous, as they put them before you. One, they say,
22 well, we might have had significant increase, but
23 you've got to remember, we sell very much hand in
24 glove with our customers. We're really special. We
25 go for special customer relationships. And you know

1 that we couldn't have an impact in the market, because
2 they presented a chart that showed kilograms, dollars
3 per kilograms on the land to duty paid basis. And
4 they say, look at imports from Mexico and cumulate
5 imports and compare those to China, Japan, Korea,
6 South Africa, Spain. Well, they don't say in their
7 chart whether, in fact, they added the 201 duties. It
8 says, 'land to duty paid.' I'm going to presume they
9 added the 201 duties in, which were 15 percent on the
10 tubing, because that would increase all these prices.
11 I know when we normally run things and say duty paid,
12 we just include the normal duties. I would hope that
13 they did this properly.

14 But the other thing is, this doesn't show
15 any volumes. And you have to ask yourself, you know,
16 is 1,000 tons of low-priced product from South Africa
17 is going to have as big an impact as 150,000 tons of
18 low-priced product from Mexico or 30,000 tons from
19 Turkey. So, I think the analysis, this effort of
20 saying, it really wasn't us, it was somebody else, it
21 was the 201 case, it was other imports, I don't think
22 that holds any water.

23 Now, an issue has been presented by the
24 Respondents to this Commission -- I think Chairman
25 Koplun, you've already dealt with it pretty well --

1 but, you know, they basically said, look, when you're
2 valuating injury here, you've got a big problem,
3 because you don't have the right data set. And since
4 Mr. Winton led off his opening statement with this
5 issue, I really think it's kind of incumbent upon
6 counsels, who come before this Commission, if you're
7 going to start out a hearing with a sucker punch, that
8 you have some basis on the record for it. And what
9 really happened here, and it troubles me, because I
10 don't want to see it happening in other cases that I
11 have before this Commission, I don't want to see it
12 happen in the Commission, is that Mexican respondents
13 pretty irresponsibly at the preliminary phase gave the
14 Commission staff a list of people that don't make the
15 subject product, a majority of them don't. And they
16 got the list from an STI website and it was called,
17 'Hollow Structural Sections.' Had they called the
18 director of STI, whose phone number, I'm sure, is
19 there, he would have told you that the STI considers
20 hollow structural sections not to be this product.
21 They consider it to be heavy walled product. And so,
22 it's no surprise that most of the folks, who were
23 contacted, don't make the product.

24 Of course, I think when they provided it,
25 they didn't take the additional steps of giving the

1 staff contact names. I suspect that some of these
2 companies, somebody saw a questionnaire and said, we
3 don't make this product, and just they might have
4 tossed it. Now, we know they should have filled it
5 out and said, no, and send it back. But, people don't
6 always do the right thing. I'm still troubled. The
7 fact is, I know that some of the folks, who haven't
8 responded, are in the Gulf region. You saw our
9 analysis. It shows that people in the Gulf region are
10 people, who are hurt the most. I'm really anxious for
11 those folks to respond. I don't know what else I can
12 do. I don't know what else the staff can do. We are
13 trying our hardest, I can assure the Commission of
14 that.

15 I think 80 to 85 percent, that's my
16 estimate, I think that's the way it will come out. If
17 those other people respond to make it 100 percent, I
18 think you'll find the data you have now is about 80 to
19 85 percent of the industry. That's pretty good. We
20 all shoot for 100 percent. As I say, I'm more anxious
21 than anybody for the remaining producers to respond.
22 I think that helps our case. I'm glad Respondents are
23 pushing it, because they may not realize how much it
24 helps our case.

25 Since I'm talking about the Gulf region, let

1 me talk about an issue that was raised earlier, where
2 they said they really weren't sure how we did it. We
3 might have just picked a couple of tiny producers and
4 so our analysis doesn't mean much. I know you asked
5 them to address it in the post-hearing brief. We'd
6 like to think, when we use numbers or when we quote
7 from the staff report, and Chairman Koplan, you caught
8 me earlier with us not having quoted fully and I
9 regret that. And whether I write that section of the
10 brief or not, my name is on it; the buck stops here
11 with Mr. Schagrin for everything that says Schagrin
12 Associates. But, what we'd like to think is that when
13 we present the Commission with information, we give
14 you all good explanations. And so, we explained in
15 our exhibits the methodology we used for picking the
16 folks in the Gulf region and we really did pick, out
17 of all the questionnaire responses, because we gave
18 you the data on the chart, so you didn't even have to
19 go back to the staff report, we gave you a percentage
20 of sales into the Gulf region and we picked the
21 people, who had significant percentage of sales in the
22 Gulf region. And I think when other Gulf region folks
23 respond, you will see that this influx of imports --
24 of dumped imports really had a very negative impact on
25 those folks and that not only wasn't competition

1 attenuated, but competition was very close for a
2 number of producers in the U.S. market and very
3 injurious.

4 Now, as I say in this effort to try to
5 attenuate the competition between the Mexican industry
6 and the U.S. industry, I think you heard Respondents
7 say, look, what we try to do is establish close
8 relationships with customers. We're looking for long-
9 term customers. Now, the domestic producers aren't
10 dummies either. Everybody likes long-term customers.
11 I like long-term clients. Everybody likes long-term
12 relationships in the business world. You might have
13 got the impression that, well, the Mexicans must be
14 selling to lots of end users versus the domestic
15 industry. But, there's table, table 1-1, it's the
16 first table in the whole staff report, that shows the
17 breakdown of sales to distributors versus end users
18 for the U.S. industry, the Mexicans and the Turks.
19 For the Mexicans, it was 75 percent sales -- I'm
20 looking at 2003 now -- of their sales now were to
21 distributors; for the U.S. industry, 70 percent; for
22 the Turks, 96 percent. Now, given that most of their
23 sales are to distributors, how do their imports
24 increase by 50 some odd percent between 2001 and 2003?
25 Is it just their particular relationships with these

1 customers? They happen to pick the customers to have
2 relationships with, whose businesses increase by 50
3 percent and the U.S. producers were dumb and picked
4 out relationships with customers, whose business
5 didn't improve? Of course not. In fact, to a great
6 extent, the Mexican producers and the U.S. producers
7 have the same customers. And the reason that imports
8 from Mexico and from Turkey were increasing so
9 significantly is that they were offering these
10 distributors lower prices, and that's where the
11 competition comes home to roost. To the extent that
12 there's a distributor carrying mostly Mexican or
13 Turkish and not carrying domestic and their business
14 is growing, that's because they have lower prices to
15 end users. Once again, it's a result of the dumping.

16 And, in fact, we're going to do some
17 analysis in the post-hearing brief. You know, we've
18 got 23 purchaser responses in this case. A fair
19 number of those purchasers purchase product from both
20 U.S. producers in Mexican or from U.S. producers in
21 Turkish and in a minority of cases, from all three. I
22 think overwhelmingly those purchase responses
23 demonstrate that over the period of investigation, for
24 purchasers, who purchase from both domestic and
25 subject imports, that the purchases of subject import

1 grew much faster than the purchaser of domestic, or
2 that their purchases of subject imports grew a lot and
3 their purchase of domestic might have declined.

4 Now, those are purchaser responses. I would
5 love, Chairman Koplman, on the final to kind of
6 substitute those as our loss sales and loss revenue
7 allegations, because that's really where the rubber
8 meets the road. These distributors, these purchasers,
9 who respond to the ITC, they just don't tell their
10 suppliers, hey, I'm getting x from this Mexican mill
11 at y price and you're losing x tons. But, they've
12 told it to the Commission. And so, I think that
13 analysis is really going to serve two purposes. To
14 the extent that a purchaser was buying more subject
15 imports at lower prices than buying domestic, the
16 domestic industry obviously lost their volume and lost
17 their tonnages. But, it, also, shows that the
18 competition between the imports and the domestic is
19 not attenuated. It's real. It's right there. And
20 that's where the underselling translates into
21 increased market share for the subject imports.

22 Now, I'm probably as confused as you are
23 about the way the pricing data was allegedly given by
24 the Mexican industry. I've done a few cases here at
25 the Commission. I don't think pricing sections of the

1 importer's questionnaires have changed much in the
2 last 20 years. I could have sworn that the request
3 for pricing to importers, not to foreign producers,
4 but to importers is to give the prices to your
5 customers. And the domestic industry is asked to give
6 the pricing to their customers. And so for Hysla to
7 say, well, you know, that's just our price as we
8 imported from Mexico, that's just our Loredo price,
9 it's not really a selling price, I don't quite
10 understand that. I mean, once again, the domestic
11 producers don't say, you know, I'm located in Illinois
12 or I'm located in Missouri, you know, here's my price
13 at a point in Arkansas or Texas. They say, here's a
14 price to our customer. The price may be FOB mill, but
15 it's prices to customers. I think the Commission
16 gather data the same way they always do. I think the
17 underselling data speaks for itself. There were
18 significant underselling and the real question for the
19 Commission is, did this underselling have the effect
20 of suppressing domestic prices. I'd like to think
21 that if you find that it does, we win the case. I'd
22 like to think that. And that's what you did in the
23 preliminary determination. And, yes, there have been
24 changes since the preliminary determination. But, I
25 think the data -- we're going to analyze this further

1 in our post-hearing brief -- I think the data shows
2 pretty clearly that the domestic industry, in terms of
3 the prices it received through the end of 2003 was not
4 able to pass along cost increases, that they didn't
5 get the price increases that they sought and so there
6 was price suppression and it reduced profitability,
7 both on a percentage basis and overall.

8 Now, obviously, we would have a lot easier
9 case today, if -- since the filing of this case, since
10 the beginning of the year, we didn't have \$400 or \$500
11 ton increase in steel prices and we were talking about
12 a \$50 increase in steel costs and a \$50 increase in
13 tubing prices. That's not the way it is and that's
14 the way the cards are dealt. But the fact is the
15 witness testimony today was that when they tried to
16 increase prices in the past, before the dumping cases
17 were filed, they were relatively unsuccessful. After
18 the dumping case was filed, they were successful in
19 getting their price increase through. And by the way,
20 the statute refers to a period since the filing of the
21 petition, the statute does not talk about the DOC
22 preliminary. When the producers spoke this morning
23 about resistance to further price increases, which are
24 right now already stratospheric, because of imports,
25 they weren't talking about subject imports. They were

1 talking about non-subject imports. Obviously, prices
2 eventually get to a point where you're going to get a
3 lot more imports coming in.

4 If you get the threat, we think the
5 increases in market share, all of the excess capacity,
6 the underselling that still is going to exist, these
7 folks have shown that they know how to sell into the
8 market. It's a distributor market. They're going to
9 really ramp it up. And I'd hate to come back to this
10 Commission in a couple of years, with a new set of
11 case on this product and say, now, I'm here with the
12 domestic industry having 40 percent of the market, not
13 60 percent. We lost it in 90 percent. I'm confident
14 this Commission will rely on the record. I urge you
15 to make an affirmative determination of either injury
16 by reason of subject imports or threat of injury.
17 Thank you, very much.

18 CHAIRMAN KOPLAN: Mr. Winton?

1 MR. BOND: Thank you. I just want to make
2 two brief comments relating to the data before the
3 Commission and, hopefully, data that can be before the
4 Commission before it reaches its final determination.
5 I really can't resist the attempt to respond to Mr.
6 Schagrin's comments about our irresponsible behavior
7 in identifying those 22 companies to you during the

1 preliminary investigation.

2 The truth is that those companies were
3 identified, as you mentioned, Chairman Koplan, by
4 looking on the Internet but not just by simply
5 choosing names out of a hat. According to the
6 Internet sites for those companies, they made the
7 specifications subject to this case, 513- and 500-type
8 steel, they make mechanical tubing, they make
9 structural tubing, and they make it in the diameters
10 and wall thicknesses that are subject to this case,
11 and we provided papers from the Web sites of those
12 companies, to the extent that they were available, to
13 show to you that, in fact, they did. They made the
14 right grades, they made the right diameters, and they
15 made the right wall thicknesses.

16 So we weren't just sort of throwing names to
17 you irresponsibly, suggesting that perhaps these
18 people were producers. The public information that we
19 have access to demonstrated that they likely were
20 producers of the subject merchandise. And, again, I
21 want to repeat that there are at least two or three of
22 those companies that we are 100 percent certain
23 produce and sell huge quantities of subject
24 merchandise in this country. At this point, we don't
25 have any data. Hopefully, we will, and we think that

1 once we do, the U.S. market share numbers that we have
2 right now will look a whole lot more positive from the
3 domestic industry's perspective.

4 The second data issue I wanted to mention
5 relates to lost sales. Without going into detail that
6 might create APO problems, I think it's sufficient to
7 say that there really is none. Without that kind of
8 data, I don't see how anyone can reasonably
9 extrapolate from margins of underselling to a
10 conclusion that there were lost sales or price
11 suppression. There simply is no data before the
12 Commission at this point of specific lost sales or
13 specific cases of price suppression. The truth is
14 that Mr. Schagrín's clients sell directly to OEMs.
15 They don't simply sell to distributors that are far
16 removed from the client and, therefore, unable to
17 report instances of lost sales or price suppression.
18 If this had occurred, Mr. Schagrín and his client
19 should be able to provide specific information about
20 it. Thank you.

21 MR. WINTON: Thank you. Let me say for the
22 record, I did not, in my opening statement, impugn the
23 integrity of anyone. I didn't attempt to blame
24 anyone. I merely pointed out, and I think it's
25 supported on the record, that we don't have

1 questionnaire responses or information from a large
2 number of the U.S. producers.

3 Now, Mr. Schagrín says, well, they produce
4 hollow structural steel, HHS, not light-walled
5 mechanical, but there is nothing that prevents someone
6 who makes thick-walled pipe from making thin-walled
7 pipe. If you can't make the size range, that's one
8 thing, but once you're within the size range, if you
9 can make the thick walled, you can make the thin
10 walled; it's a question of whether you choose to.

11 But if, as you say, Chairman Koplán, the
12 companies identified by White & Case are not producers
13 of the subject merchandise, they are not.

14 I want to make clear, as we talk about the
15 Gulf region in this case and the impact of it, that
16 we're not talking about a regional industry case.
17 There are specific criteria under the statute for
18 making regional industry arguments, and they are not
19 met in this case, and no one says that they are. What
20 we're talking about is the way that competition works
21 in this market, how the market is segmented not into
22 regional markets in the statutory sense but just in
23 ways people compete.

24 The one thing you can say with certainty is
25 that this truly is a commodity product. It's sold on

1 the basis of price, and if we were truly selling on a
2 nationwide basis and we were truly selling at lower
3 prices than the U.S. producers, we wouldn't sell
4 anything. That's what the commodity product at a
5 lower price is, and yet they are selling things, and
6 they are selling more. Every single year, they sold
7 more than they did the year before.

8 So there is something going on here that
9 isn't described by Mr. Schagrins description of the
10 industry. He says that the distributors are buying
11 from both of us, and maybe they are. We can check
12 their questionnaire responses. But if they are buying
13 just on the basis of price, and we're always lower
14 priced, why are they buying anything from the U.S.
15 producers? There is something else going on here. It
16 doesn't make sense.

17 The problem you have, I believe, is with our
18 pricing data, and just because I have now confused Mr.
19 Schagrins, and I'm very sorry for having done that, let
20 me be clear, at least as to who I understand this, and
21 I will confirm it with my client, and we will make
22 sure we address it in our post-hearing brief. The
23 importer's questionnaire required us to report the
24 prices on an F.O.B., U.S.-point-of-shipment basis as
25 an importer. As an importer, Hysla and Galvak

1 reported their prices to their customers on an F.O.B.,
2 point-of-shipment-U.S. basis. Their point of shipment
3 in the United States is just across the border in
4 Laredo. It's not middle of the bridge; it's just-
5 over-the-bridge basis.

6 In the past, when we would sell to
7 unaffiliated U.S. customers and not act as the
8 importer of record, we wouldn't fill out the
9 importer's questionnaire because we weren't the
10 importer. Our U.S. customer would fill out the
11 importer's questionnaire. Now, if we were selling to
12 a customer in Houston, we might sell him on the same
13 basis. While we couldn't sell delivery duty paid
14 because then we would be the importer of record, we
15 might sell what used to be called "middle-of-the-
16 bridge basis." We would sell just short of Customs in
17 Laredo, and they would take it across the border, take
18 it to Houston or wherever and sell it to their
19 customers, and in those cases, you would get an
20 importer's questionnaire response from the distributor
21 in Houston, who would be reporting his sales from
22 Houston to his customers. That's what you would
23 typically see in these cases.

24 You're not seeing that with our data.
25 You're seeing the price F.O.B. Laredo or delivered-

1 duty-paid Laredo, depending on whether your
2 perspective is Mexican or U.S. The distributor is
3 buying from us, and that is what I believe is
4 distorting the comparison, and I hope that that's
5 clear. We will try to make it even clearer.

6 But at the end of the day, no matter what we
7 do, and I think Mr. Schagrin, to his credit,
8 recognizes it, we're in a situation where the U.S.
9 industry that comes before you today is enjoying
10 record profits. They pushed through absolutely
11 massive price increases, \$400 a ton in the first
12 quarter. In the first quarter, before any antidumping
13 measures were in place, they raised their prices \$400
14 a ton. We raised our prices about the same, as we
15 testified, all before antidumping measures were in
16 place, and everybody is making more money than they
17 ever did before.

18 And the question before the Commission is
19 whether, in my view, and I'm happy, if I need to, to
20 argue this based on 2001 and 2003, but as I read the
21 statute, the question before you is whether an
22 industry that's doing that well, doing so well, and
23 able to push through that kind of price increases
24 before any antidumping measures were put in place has
25 any claims for injury or threat, and it seems to me

1 that that's a question I answer easily, but, of
2 course, I'm not a commissioner, so I will leave it to
3 you. Thank you very much.

4 CHAIRMAN KOPLAN: Thank you, both.

5 Post-hearing briefs, statements responsive
6 to questions and requests of the Commission and
7 corrections to the transcript must be filed by
8 September 7, 2004. Closing of the record and final
9 release of data to parties is September 22, 2004, and
10 final comments are due September 24, 2004.

11 I want to thank all of the witnesses and
12 counsel, and with that, this hearing is adjourned.

13 (Whereupon, at 4:28 p.m., the hearing was
14 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Light-Walled Rectangular Pipe and Tube
from Mexico and Turkey

INVESTIGATION NO.: 731-TA-1054, 731-TA-1055

HEARING DATE: August 31, 2004

LOCATION: Washington, D.C

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 8/31/04

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Mason Edwards
Signature of Court Reporter