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Associate Counsel,
On behalf of
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Valley Forge, Pennsylvania
--- Accompanied by ---
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Los Angeles District Sales Manager

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Counsel, on behalf of
Johns-Manville Products Corporation and
Johns-Manville Sales Corporation,
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BEFORE THE UNITED STATES TARIFF COMMISSION

Hearing on
ASBESTOS CEMENT PIPE FROM JAPAN  
Investigation No. 9A1921 91

Hearing Room
Tariff Commission Building
Eighth and E Streets, Northwest
Washington, D. C.

Tuesday, March 21, 1972

Met, pursuant to notice, at 10:00 o'clock a.m.

BEFORE:

CATHERINE BEDELL, Chairman
COMMISSIONER JOSEPH O. PARKER
COMMISSIONER J. BANKS YOUNG
COMMISSIONER GEORGE M. MOORE

ALSO PRESENT:

KENNETH MASON, Secretary
MRS. HERTZ
PROCEEDINGS

CHAIRMAN BIDDLE: Good morning, Ladies and Gentlemen.

This hearing will please come to order.

This hearing is being held in connection with Tariff Commission Investigation AA1921-91, instituted on February 3, 1972, under the authority of section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of asbestos cement pipe from Japan, which the Secretary of the Treasury has determined is being, or is likely to be, sold in the United States at less than fair value.

It is the purpose of this hearing to afford interested parties opportunity to submit information relevant to this investigation. Witnesses, therefore, are urged to confine their testimony to the presentation of pertinent factual information. A tentative calendar of witnesses has been prepared and copies are available at the Secretary's desk. Anyone wishing to testify or enter an appearance who is not listed on the calendar, please see the Secretary.

As each witness is called he will please identify himself and, after being sworn, he will proceed with his statement without interruption except by members of the Commission.

I would ask that there be no smoking in the hearing room except during the recesses. The hearing is now open.
Secretary will please call the first witness.

SECRETARY MASON: Mr. Phillips.

TESTIMONY OF BRUCK J. PHILLIPS, ASSOCIATE COUNSEL, ON BEHALF OF CERTAIN-TEED PRODUCTS CORPORATION, VALLEY FORGE, PENNSYLVANIA

(Having first been duly sworn by Secretary Mason.)

MR. PHILLIPS: Ladies and Gentlemen of the Commission, my name is Bruce J. Phillips.

I am an Associate Counsel and Assistant Secretary for Certain-Teed Products Corporation.

Certain-Teed Products Corporation is a diversified manufacturer and distributor of building material and pipes. We manufacture asbestos cement, pressure water pipe, and sewer pipe, in five locations throughout the United States. We have a plant in Hamler, Pennsylvania; one in St. Louis, Missouri; one in Texas; and two in California, one at Santa Clara and one at Riverside.

I would like to submit for purposes of this hearing that the market with which we are concerned is the West Coast, which would include Arizona, Nevada, Idaho, Montana, as well as the Coastal States. We submit this, on the basis that our eastern plants only under rare circumstances have ever shipped any pipe to the West Coast and the West Coast has never shipped any pipe east of the Rockies.

The effect of imported pipe on our company has been
confined to the West Coast. Specifically, and I am sorry, I do not have this tabulated in a better form to present. I would like to read some statistics to you. These are comprised of, first, Department of Commerce importation figures, of pipe on the West Coast.

These figures do probably contain some small amount of pipe from Canada and Belgium, and other countries, but I would say at least 95 percent of the figures relate to Japanese pipe. These figures relate, basically, to the fire years, 1967 through 1971. The importation figures are in tons: 1967, 15,000 tons; 1968, 25-1/2 thousand tons; 1969, 34.5 thousand tons; 1970, 20,000 tons; 1971, 15.8 thousand tons.

I would like to emphasize that the year 1968 and 1969 were the years in which the greatest amount of pipe was shipped into the Coast.

The next set of figures are the tons produced at our two plants, respectively, Riverside and Santa Clara. The Riverside figures for 1967, we do not regard as being valid. The plant was not up to full capacity and I will skip that and start with '68. 1968 was 39,000 tons; 45,000 tons in 1969; 46,000 in 1970; and 50,000 in 1971.

At the Santa Clara plant, 36,000 in 1967; 35,000 in 1968; 34,000 in '69; and 33,000 in '70; and 39,000 in '71.

Both at Riverside and Santa Clara the tonnage produced at our plants were down in those years in which the imports were up.
Dollar profit per plant at Santa Clara, 1967, 
$940,000; 1968, $807,000; 1969, $736,000; 1970, $835,000; 
1971, $1,135,000.

Riveraide, again, eliminating 1967, since that was not a full year: 1968, $1,086,000; 1969, $1,591,000; 1970, 
$1,692,000; 1971, $2,117,000. Again, these figures show that the profit per plant was down in those years in which the imports were up. Our worst years were 1968 and 1969. In 1971, where the imports slipped back to the 15,000-ton figure, we had our best year of these years.

In relation to these West Coast plants, I would like to add the figures of our other three plants to show that during those two years, where our West Coast plants were suffering most, our other plants enjoyed their best years.

At Hillborough, and I will round these figures off so I won't have to carry on too much: 1967, we are talking about $1,358,000; $1,800,000 1969, $1,300,000, 1970, 
$1,500,000. So again in '68 and '69 our other plants enjoyed their best years, and I think this is indicative of the general marketing conditions which did not prevail at that time to the West Coast.

This same pattern is true of the other plants, and I will not read the figures. They are in the questionnaire. Our answer to the questionnaire contains these, and I would like to relate the sales dollar, sale volume of the Santa Clara
and Riverside dollar values in those years.

At Santa Clara, in 1967, $5,000,000; 1968, $5 million; and 1969, $4,900,000; in 1970, $5,500,000; and in 1971, $4,400,000. Again, the same pattern in sales at Riverside, again skipping 1967, $6,700,000 in '68; $7,200,000, in 1969, $7,000,000, and in 1970; $9,200,000 in '71. The same pattern as to the rest of the country prevailed in 1968 and 1969 at our other plants during this period of time. They were enjoying increased sales.

Finally, I would like to give you the figures. I do not have these in 1971, the excess capacity of -- that we had at two West Coast plants. We consider our product capability in tons at the Santa Clara plants, under normal conditions, to be 36,000 tons a year. In 1967, we produced about 800 tons more than that. In 1968, we were off 5,243 tons, and 1969 we off 4,890 tons; and in 1970, we were off 3,065 tons. This again reflects the same pattern in those years when imports, Japanese pipe, were up, and our capacity was down.

At Riverside, again dropping 1967, we say our Riverside plant has a capacity for about 48,000 tons. In 1967, we were measuring that as 36,000 tons as a part of the startup. Our figures in there are in 1967, we produced 6,232 tons less than capacity. In 1968, 4,754; in 1969, 4,533; and in 1970, 2,753 tons less. I find it hard to believe that it is merely
coincidental that when Japanese imports were at their highest peak, all of our figures show that our West Coast plants were down and our West Coast profits, and so forth, were also down.

Briefly, this is statistically where we feel we are and have been injured because of these imports. We find it significant that neither of the other two Asbestos Companies, Flintkote and CAPCO have established a West Coast plant, although it is a good market. Nor do we have any reason to believe they would. We feel strongly that one of the factors is the imports and the price structure is one of the causes of that, and I would further point out that it is a little inconsequential in this hearing, that we are subjected to, presently, to some increased costs.

The Department of Labor is in the process of establishing a standard under the Safety and Health Regulations which will undoubtedly increase our cost. While I say this is not directly pertinent to this hearing, I think it is important as we, as other industries are vulnerable to these extraordinary costs, and it will be in the not-so-distant future.

I thank you, and I will be happy to answer any questions you may have.

CHAIRMAN BEDELL: Commissioner Parker?

COMMISSIONER PARKER: No questions.

CHAIRMAN BEDELL: Commissioner Young?
COMMISSIONER YOUNG: Do you have any specific evidence of sales loss by virtue of imports at less than fair value?

MR. PHILLIPS: We do, and if I may reserve the question, I have Mr. Bealsford with me, who will answer that more satisfactorily, I think, and he is from the Los Angeles Sales Market and, with your permission — he is going to testify, and he can bring out some specific instances for you of this.

COMMISSIONER YOUNG: All right, sir.

Let me ask you: I had a little difficulty trying to take these figures down. In what regions are Riverside and Santa Clara?

MR. PHILLIPS: Riverside is basically our Los Angeles office, and Santa Clara is our San Francisco plant.

COMMISSIONER YOUNG: According to the files I have here, the imports through the Port of Los Angeles were up in '70, compared with '69; yet, our Riverside plant increased sales in 1970, as compared to 1969. This is not in accord with the thrust of your testimony, is it?

MR. PHILLIPS: Our Riverside plant in 1970 was only 1,000 tons more than produced in 1969. I do not have the figures broken down by Port of Entry; I have the total import
figures and in our Riverside plant we did not show a significant improvement in 1970. Again, I do not know the worth of the imports in the sale of pipe, but in the sale of pipe you have perhaps as long as a six-month lag between the time the commitment is made and the delivery of the pipe.

This can have a substantial effect in swinging the statistics in any period of time. We do not regard 1970 as having been particularly a good year, so I say the profits were basically the same, the sales were up, the profits and tonnage were about the same. As in 1969 --

COMMISSIONER YOUNG: Do the sales of this produce follow the general business activity? The pipe is used, primarily, exclusively in water systems. This depends on whenever your municipalities are spending money on water, this has a significant bearing on their ability to borrow, and it is also true of the other large users in establishing housing development and housing, that would be a significant figure to look out for.

COMMISSIONER YOUNG: What percentage of sales can be attributed to municipalities and what percentage to housing?

MR. PHILLIPS: May I consult with Andy?

CHAIRMAN BEDELL: Yes, I am sorry, we didn't have a full list of witnesses. Do you have another witness?
MR. PHILLIPS: Yes, we do.

CHAIRMAN BEDELL: His name is Beauford. I think the
Secretary had better swear him in.

COMMISSIONER YOUNG: Perhaps I will delay my question.

CHAIRMAN BEDELL: Ordinarily, we follow schedule of
hearing witnesses in the order that they are listed, then have
cross examination by the respondent. I think we should try
to keep that order.

I think you should swear Mr. Beauford in now.

TESTIMONY OF ANDREW BEAUFORD, WHO IS ACCOMPANYING
BRUCE J. PHILLIPS ON BEHALF OF CERTAIN-TEED
PRODUCTS, LOS ANGELES DISTRICT SALES MANAGER

(Having first been duly sworn by Secretary Mason.)

CHAIRMAN BEDELL: Commissioner Young, why don't you
go ahead with the question.

COMMISSIONER YOUNG: Is the witness going to present
testimony?

CHAIRMAN BEDELL: Yes.

COMMISSIONER YOUNG: I will defer until after we have
heard his testimony.

COMMISSIONER MOORE: I have a question, Mr. Phillips,
is it your contention that imports of asbestos cement pipe
from Japan per se are injuring the domestic industry, or is it
your contention that the injury is caused by imports of asbestos
cement pipe from Japan sold in the U.S. at less than fair value.
MR. PHILLIPS: I think the latter.

COMMISSIONER MOORE: Your testimony, as I understand it, relates almost exclusively to imports of asbestos cement pipe, and I didn't hear you say anything which related to such imports at less than fair value.

In other words, were there imports at less than fair value in 1967?

MR. PHILLIPS: There is no question about that, as far as we are concerned. We see no reason -- the study, the Japanese imports, which was basically the first six months, I believe, of 1970, roughly.

COMMISSIONER MOORE: The last six months.

MR. PHILLIPS: The last six months. We know no reason why the economic circumstances were any different than two years before that. We don't see any difference in terms of pricing of the Japanese pipe on the West Coast.

COMMISSIONER MOORE: Then, taking that assumption for the moment, we have only the seven months' study, and it is a matter of proof, I think, of how extensive the dumping was during the period of time that you mention. Now, assuming that, however, the figures that you submitted, and I didn't take them all down, shows a gradually bettering position for your company despite the alleged dumping; isn't that true?

MR. PHILLIPS: This is true. Our figures which show
Imports decreased and, therefore, allowed us wider markets.

COMMISSIONER MOORE: Yes, but our problem here is to determine whether there has been injury and the mere fact that there were dumping imports doesn't have anything to do with our determination, unless it is related to injury. But you stated you seemed to be getting to a more prosperous position. As the years go by, profits are up, product is up, and I think you said your sales were up, and I am trying to connect the alleged injury with the importing of dumped articles.

MR. PHILLIPS: What I am trying to say, we assume there is a market at any given time to a number of tons of asbestos cement to the extent the Japanese imports which are sold below our prices, generally, we in many cases don't even try to compete with them. We don't try to compete with them to the extent that those imports are significantly down between '69 and '71, and the 30,000 tons to 15,000 tons, and realizing the 30,000 tons is almost the capacity of our Santa Clara plant, and 30 to 15, and our tonnage goes up and we think the sales go up, we think this is directly related.

COMMISSIONER MOORE: Do you have any intention of submitting proof that asbestos cement pipe has been dumped from Japan from 1967 to 1970?

MR. PHILLIPS: No.

COMMISSIONER MOORE: Do you intend to submit any evidence showing the difference between your prices and
MR. PHILLIPS: We do have figures on that.

COMMISSIONER MOORE: Do you have any intention of submitting evidence with respect to lost sales?

MR. PHILLIPS: Yes, sir.

COMMISSIONER MOORE: Prior to 1970?

MR. PHILLIPS: Yes.

COMMISSIONER MOORE: Thank you, Madam Chairman.

CHAIRMAN BEDELL: If there are no further questions from the Commissioner, the Chair would recognize Mr. Beauford. After Mr. Beauford has testified we will allow cross examination by the Commissioners, the Staff, and then Mr. Hemmendinger.

Mr. Beauford, you may present your testimony.

MR. BEAUFORD: I don't know, Mr. Phillips — I don't about sales on the West Coast, but largely we sell asbestos cement water pipe and water systems on the West Coast to the Bureau of Reclamation.

CHAIRMAN BEDELL: For the reporter, would you identify yourself, please.

MR. BEAUFORD: My name is Andrew Beauford. I am the Los Angeles District Sales Manager for Certain-teed Products Corporation. This is an area which covers the Southern California area, Nevada — we sell mostly pipe in this area.
Corporation. This is an area which covers the Southern
Los Angeles district sales manager for certain-read products
Mr. Roosevelt. My name is Andrew Beanford. I am the

Identify yourself, please.

Commissioner. For the commissioner, would you

Please note: The East, West, South and the

about sales on the West Coast, but typically we sell asbestos

Mr. Roosevelt? I don't know my, I don't know. I don't

It's Beanford, you may present your testimony.

action by the commissioner. The state, and then the. The man;

After Mr. Beanford has testified we will allow a cross exam-

from the commissioner. The chart would recognize Mr. Beanford.

Chairman, if you, do you have any further questions

Commissioner Moore: Thank you, Mr. Chairman.

Mr. Phillips: Yes.

Commissioner Moore: Prior to 1970?

Mr. Phillips: Yes, sir.

Commissioner Moore: Submitting evidence with respect to, is that adequate?

Commissioner Moore: Do you have any indication of

Mr. Phillips: We do have figures on that.

choice of the libraries between 1967 and 1970?
and it is sold from the Riverside plant, and in excess sales, we will pool some from the Santa Clara plant, but depending on the amount that we need for that particular time.

One thing that might answer a question concerning the better sales, I think the increased sales on the West Coast has been largely done in -- largely in large diameter pipe. The Japanese sells up to and including 12-inch pipe. Now, the increase in sales as far as California has been concerned, has been in sizes of 14, 16, 18, 20 and 24-inch sizes.

I think that Johns-Manville produces sizes up through 36-inch sizes and there is where their increased tonnage comes in, rather than at the 12 inches and down.

This is where we seem to run into Japanese on jobs that run in sizes from 12 inches down through 4-inch pipe sizes. We find them in cities that accept the Japanese pipe into their specifications, such as the City of Long Beach, Santa Ana, Westminster, Tucson, Arizona; Glendale, the City of Blythe, Yucca Valley, Palm Springs, San Jacinto, City of Corona, Big Bear City, Running Springs, Vernalis(?), California, City of Linwood, Garden Grove, (not clear), City of San Diego, Vista, Oceancide, and we service about the most part of the Northern State of Arizona with the exception of Phoenix, (not clear), Flagstaff, and Prescott.

These are -- all these areas are right now using Japanese pipe. A lot of places, such as trailer parks and a
lot of private jobs, and these are jobs that we make bids on, and we are sure that if past history is indicative of what will happen, we are pretty sure that we will be priced somewhere between -- I would say -- five and twenty percent higher than
that using, us our, say, the normal pricing we are selling to comparable jobs where the specifications are close to, say, domestic-type of pipe, and we find only the Bureau of Reclamation jobs, we don't run into much foreign pipe, and that is largely due to the large diameter of the jobs starting at 12-inch and going on up to 36 or 42-inch pipe.

And I think that the industry's position as far as the districts out here, is that we have increased, I believe, sales, sales marketing in Los Angeles since 1967, and sales have increased, and I think they have increased in their larger diameter pipe as opposed to the smaller sizes. We find ourselves in a lot of these private jobs, just priced out of the market.

As I say, we do have, I think we have talked -- we do have quotations on a lot of these which we find sometimes, and the bids that we will submit are more in the form of a courtesy to stay on the bidders' list in case someone decides that for some reason that you might want to get back in for a particular reason, into those cities.

It is the same way on some Government jobs. I think Indian jobs, it is open to import pipe, and we find -- we find
ourselves in the same position on this type of building, that we can't -- I wouldn't say, "can't" -- you can't get into that type of battle with pricing.

CHAIRMAN BEDELL: Mr. Phillips or Mr. Beauford, for the period of less than fair value sales from Japan as determined by the Treasury, are you going to submit testimony on your prices: Maybe I should put the question this way: were your prices depressed, did you lower prices to try to compete with the Japanese during that period?

MR. BEAUFORD: We have gone through that, and I think, I believe we learned as a lesson going back prior to the time we are talking about here, when we were on the West Coast, Belgium pipe was coming in and I think the two domestic producers on the West Coast, I think they elected to battle them out, and that all ended up in just depressing the market, and nobody was making any money on it and there are jobs, for various reasons, where we find ourselves in a, say, a contractor is hurt on the job, and assuming it is a $100,000 job and it might be 10 contractors bidding for it.

You got maybe six contractors using domestic pipe and four contractors who will use an import pipe. Well, they will probably have the people that bid the job -- they will be confronted with about a 10-percent difference in, possibly -- possibly less or possibly more in the difference in the bidding.
Assume that it is a $100,000 job, the cost of material would be $90,000 if they use import and $100,000 if they use domestic pipe, and that in the way they have to bid it.

MR. PHILLIPS: If I may say something at this moment.

The Commission Staff has spent time in both our sales offices on the West Coast, and our files were made available to them, and a number of, a great many copies of, so-called trade reports were given to them, and we feel that those trade reports and the information gathered by the staff in our sales office best reflects the pricing practices and the market conditions as of that time, and we are not submitting in addition to that.

CHAIRMAN BEDELL: Thank you, Mr. Phillips.

COMMISSIONER MOORE: Thank you, Madam Commissioner.

CHAIRMAN BEDELL: Commissioner Parker, do you have any further questions of Mr. Beauford or Mr. Phillips?

COMMISSIONER PARKER: One question, Madam Chairman.

I think you indicated, Mr. Beauford, that the greatest difference was in the smaller sizes of pipe?

MR. BEAUFORD: That is correct.

COMMISSIONER PARKER: What do you mean you say "smaller sizes."

MR. BEAUFORD: Well, asbestos cement is manufactured in diameters of 3-, 4-inch, 6-inch, 8-inch, 10-inch, and
12-inch. Now, the importers, basically, import 4-inch, 6-inch, 8-inch, 10-inch, and 12-inch sizes, in Class 150 pipe. They are not bringing in, say, -- I might be incorrect on this. You see classes of 200, a class of 100 pipe and if there is any sewer pipe brought over, it is not known to me, but then we manufacture, say, water pipe beyond those sizes, 14-inch, 16-inch, 18-inch, and 24-inch, and Johns-Manville in turn has a capability to produce through 40 inches.

And I believe -- I am sure Johns-Manville, primarily, their top is about 36 inches, maybe 39 -- I don't know.

COMMISSIONER PARKER: Are you saying that it comes, or they import sizes larger than 12-inch?

MR. BEAUFORD: No, I am saying the Japanese do not import anything larger than a 12-inch size, 12 inches in diameter.

COMMISSIONER PARKER: So your remarks apply to imports 12 inches and smaller?

MR. BEAUFORD: Twelve inches and down.

COMMISSIONER PARKER: Twelve inches and down.

MR. BEAUFORD: Our growth tonnage figures show that we have made the tonnage growth in size, the larger than 12-inch, rather than 12 inches and down.

COMMISSIONER PARKER: Now, what size pipe do you sell to the municipalities? What sizes do they usually buy?

MR. BEAUFORD: Primarily, six, eight, ten, and twelve
COMMISSIONER PARKER: And when they purchase, it on a bid basis? Do the municipalities purchase pipe a bid -- on a bid basis?

MR. BEAUFORD: They do it quite a few different ways. A lot of them do it on a yearly requirement. They will place an estimated number of feet by size that they anticipate using during the next calendar year or 12-month period. You bid that and they will guarantee all the pipe sizes for the next 12 months, and we guarantee that it will be at the prices at which you bid on. Now, they are on a lot of jobs, the cities -- they will contract the pipe out and the county usually goes along with this on a labor contract.

The City will put out a bid notice for pipe values, for fittings, and so forth, or whatever goes along with it, plus your pipe, and they will bid on a kind of turn-key type job.

COMMISSIONER PARKER: I wasn't clear from your testimony -- is there much of a difference in prices and sales to the public market and to municipalities?

MR. BEAUFORD: As distinguished to the sales of primarily the private sector -- no, I think that I would say there was not a lot of difference in the way you basically
price them.

You are pretty much controlled on how much you can get on that by your domestic steel pipe, your concrete pipe or whatever, you are pretty much locked into how much you can get, because if you look at what has been sold, you can't get anything beyond that.

COMMISSIONER PARKER: Do the figures which you have submitted to the Commission staff, or which you will submit to the Commission staff enable you to break out the so-called prices of sales you have made on a bid basis, as against that to the private sector?

MR. BEAUFORD: Yes.

COMMISSIONER PARKER: On a comparative basis?

MR. PHILLIPS: I think you will find that both sales to so-called private sectors are on a good basis. In other words, all but a small supply of this is sold to industry.

COMMISSIONER PARKER: No; on a public bid basis.

MR. PHILLIPS: That is right, on a bid basis. We would submit a bid to the contractor; we would submit to him our figure for the job and he submits a figure for the total job.

COMMISSIONER PARKER: In those, you don't know what the competitor's bid is?

MR. PHILLIPS: No. Occasionally we do.

MR. BEAUFORD: We usually guess. You don't generally
know, unless one of your sales representatives can read upside
down, or something of that nature.

COMMISSIONER PARKER: I have no further questions.

CHAIRMAN BEDELL: Commissioner Young, any further
questions?

COMMISSIONER YOUNG: Thank you, Madam Chairman.

Mr. Beauford, just before your testimony I was asking
Mr. Phillips a question as to the percentage of pipe sold to munici-
palities, comparable to that sold to private housing. Can
you give us an approximation on that?

MR. BEAUFORD: I'll have to think a little bit on
that.

Basically, all of the jobs -- all of it is usually
dedicated to a private housing in California, especially all
of your jobs out there are usually private-funded jobs. Your
large jobs through the Midwest are in FHA, in which they re-
quire a large amount of footage, and all the jobs in the
southern part of California are basically for new shopping
centers, usually put in by the owners and usually financed by
some lending institution, and then ultimately it is dedicated
to the City or municipality.

You have a lot that is sold on irrigation systems,
and I would guess, going into, say, directly or indirectly,
if you want to classify track work, I would say in sizes, that
we are looking at, to 12-inch sizes, and I would probably say
80 percent would be, 75 or 80 percent would ultimately go into
a city or municipality water system.

Usually, your larger diameter jobs, what we call a
transmission water main as opposed to a distribution water
system.

COMMISSIONER YOUNG: What is the difference,
generally, in lay terms, of the Class 150 and 200 Class?

MR. BEAUFORD: Basically, your working pressure. In
simple lay terms, the 100 is a thin-wall pipe, tested to 375
pounds; Class 150 pipe is a heavier pipe, generally used in
the water system to carry underwriter pipe; if you want to have
fire protection, you use the 150 to 525-pound pressure, or
3-1/2 times the writer working.

COMMISSIONER YOUNG: Class 200 is —

MR. BEAUFORD: That is a heavy wall pipe, 150 at 525,
and 250 is tested at 750.

COMMISSIONER YOUNG: What is the smallest diameter —
what is the smallest diameter you manufacture?

MR. BEAUFORD: Three inches.

COMMISSIONER YOUNG: This is for water systems

MR. BEAUFORD: Yes, sir.

COMMISSIONER YOUNG: This is not for private housing;
this is for distribution?

MR. BEAUFORD: All this pipe is used in either dis-
tribution or transmission water systems, 3-inch — from 3-inch
COMMISSIONER YOUNG: Do you manufacture the vinyl pipe -- I presume you know what I mean?

MR. BEAUFORD: Polyvinyl chloride.

COMMISSIONER YOUNG: Do you manufacture that?

MR. BEAUFORD: No, sir.

COMMISSIONER YOUNG: What has been your experience in the market for PVC pipe?

MR. BEAUFORD: Our nearest plant that we have right at this time is in Kansas, and our problem with pipe out there is getting it out there. PVC, we are expanding and we are opening a plant in the next couple of months in Sacramento, the Sacramento area.

COMMISSIONER YOUNG: It is a lighter pipe. You do not have the shipping costs.

MR. BEAUFORD: That is like shipping ping-pong balls, but it still costs you a lot. Asbestos pipe is heavy, and it is certainly easier to get a 40,000-pound truck than like PVC.

COMMISSIONER YOUNG: Is it your testimony that you are not shipping much vinyl pipe to the West Coast?

MR. BEAUFORD: It wouldn't be my boss' remarks. We are not selling very much out there. We do hope to be selling quite a bit of it out there.

COMMISSIONER YOUNG: Now small a diameter do they sell in the PVC?
MR. BEAUFORD: I would say a three-quarter-inch to
three-quarter to one and a half, two, two and a half,
three-fourths inch, six and on up.

COMMISSIONER YOUNG: Is it competitive with the
cement?

MR. BEAUFORD: Anything, I would say here, again, you
have so many different kinds of plastic pipe, it can be
competitive or it can't be, depending on the treatment of the
pipe.

COMMISSIONER YOUNG: How much water pressure will it
stand? Is that what you mean?

MR. BEAUFORD: Yes.

COMMISSIONER YOUNG: That is what you mean?

MR. BEAUFORD: Yes.

COMMISSIONER YOUNG: Do other companies ship much
PVC to the West Coast, as far as you know?

MR. BEAUFORD: Most all PVC manufacturers are
located on the West Coast now.

COMMISSIONER YOUNG: You do not have a West Coast
plant now?

MR. BEAUFORD: I think it is going to be around May
or June when we open one, and that will be in the Northern
California area.

COMMISSIONER YOUNG: What is the price of PVC
pipe, compared with cement pipe?
MR. BEAUFORD: You could only look from, say, from 3-inch sizes up, which asbestos is only 3 inches. I think that 3-inch PVC would be, if you are taking, I would say, a 3"-4", or 6-inch pipe, I think it would be cheaper; I think only 8-inch up is where you are getting into probably a higher price than asbestos cement pipe.

I think it becomes a weight cost factor, your pipe weighs -- your raw material determines your PVC selling price.

COMMISSIONER YOUNG: Is PVC pipe produced by other pipe companies competitive with your cement pipe?

MR. BEAUFORD: Not at this point, I don't think we are.

COMMISSIONER YOUNG: When you say "at this point", I was speaking about the last several years.

MR. BEAUFORD: The PVC, which has made a strong introduction into the irrigation market -- this is in your large farm irrigations, but it hasn't made any inroads into your municipality work, primarily because they do not have, say, a AWWA, American Water Works Approval on the pipe as yet, and they do not have underwriter approval. Until such time as they get those two approvals, I don't think that will be much of a factor, that it will be in city water systems.

COMMISSIONER YOUNG: What about cast iron pipe; what is the competitive system? Do you manufacture cast iron
MR. BEAUFORD: We do not.

COMMISSIONER YOUNG: Do you ship it out there?

MR. BEAUFORD: It is shipped out there.

COMMISSIONER YOUNG: You don't ship it?

MR. BEAUFORD: No, sir.

COMMISSIONER YOUNG: That is priced higher than the other two types?

MR. BEAUFORD: Correct.

MR. YOUNG: Is it directly competitive on the job? What determines when you use the high-priced cast iron?

MR. BEAUFORD: There are certain States and so forth which continue to use cast iron pipe. A lot of cities that had completely gone off of cast iron pipe, they are using the cement pipe, or the steel pipe, or asbestos cement pipe. Cast iron, as far as I know, they are not going out of business. They are enjoying a good business. They are not on the West Coast. They -- I would say in the Midwest, are using it some, but not as they are on the East Coast, where cast iron is a very, very strong factor.

COMMISSIONER YOUNG: Do you sell much pipe to projects financed by Federal funds, irrigation or housing, or what-have-you?

MR. BEAUFORD: We sell a lot of pipe to the Bureau of Reclamation as a large user. This is not sold, usually.
the West Coast now — the Bureau of Reclamation has been doing very little in the last couple or three years. We do quite a bit of business across the country with FHA projects.

COMMISSIONER YOUNG: Have you experienced any appreciable variances in this business, due to changes in amount of Federal funds available?

MR. BEAUFORD: It can be felt; yes, sir.

COMMISSIONER YOUNG: What was the experience in 1969 and 1970?

MR. BEAUFORD: Primarily, on the West Coast, out here we have very, very few FHA jobs, if no FHA jobs, and I think there has been during all those years very, very little Bureau of Reclamation work being done. I think, anticipating some more pipe and, you know, a later date —-

COMMISSIONER YOUNG: I was looking at the figures here on the imports through San Francisco. They drop sharply and suddenly, whereas, the drop was 75 percent, where your product was about the same as Santa Clara, as it was in 1969. How would you account for that in relation to your testimony that the sales are at less than fair value? Japan was the problem with respect to your Santa Clara operations?

MR. BEAUFORD: In other words, your question is: were the sales out of Santa Clara increased in '70?
COMMISSIONER YOUNG: The sales were substantially the same, and I have it written down, based on Mr. Phillips' testimony, 34,000 in 1969, 33,000 in 1970; and the dollar value was up, perhaps larger pipes; I do not know which. On the other hand, the imports from Japan and through the Port of San Francisco went down 1143, I know -- 3.7, through a short term, in 1969, and to 1970.

This is a very substantial drop in Japanese imports while your business at Santa Clara was the same. How do you account for this difference in the context of the testimony? Mr. Phillips stated that the problems that prevailed at Santa Clara were caused by sales below fair value.

MR. PHILLIPS: I would not really know the answer to that, other that I suggest it is possible if we could look and see when that pipe was imported. I said before, we do have a lag time on the sales of this pipe, and our sales in 1971 shot up dramatically, and it might have been the effect of the less Japanese pipe being imported during the last part of '70, which is a factor for the '71 sales.

COMMISSIONER YOUNG: I asked you specifically about the sales due to Japanese pipe. Could you give us some specific experiences?

MR. PHILLIPS: I have got some figures in my brief-case here.

COMMISSIONER YOUNG: Are these specific examples?
MR. PHILLIPS: This is the San Francisco District. I have here a memo from one of our salesmen and it shows the City of Molfetta, 12/2/71, 4-inch, Graywood, which is our distributor, $1.00, and ---

COMMISSIONER YOUNG: This is December 21, 1971?

MR. PHILLIPS: Right.

COMMISSIONER YOUNG: Was the Japanese pipe that you are referring to now, a low bid?

MR. BEAUFORD: Yes, the Japanese was the low bid on this. This would be an annual bid for the year 1972.

COMMISSIONER YOUNG: Is that pipe going to be sold at less than fair value?

MR. BEAUFORD: I would say it is; yes.

COMMISSIONER YOUNG: You would say it is. On what do you base that statement on? Are you talking about something in the future?

MR. BEAUFORD: Again, I must simply relate to the period in which the Customs did their study; we do not have any independent figures. We have no capability in determining if their cost structure has changed over there, or if factors
in their business that have changed from the last half of '70, we have no resources. But on the other hand, I think you can appreciate any American industry of determining their domestic prices to their domestic users, and their prices to their exporters; we don't know.

COMMISSIONER YOUNG: I understand that. That is typical of other cases, but at the same time that you are presenting evidence, you have said that you have evidence of loss of sales due to dumping.

MR. PHILLIPS: We have evidence of loss of sales to lower prices.

COMMISSIONER YOUNG: I asked for evidence of sales that you lost because of dumped Japanese-imported pipe sold at dumped prices, and this is what I thought you were giving me. I do not think this last would fall in that category. This is something that you are anticipating in going to the future, 1972, is it not?

MR. PHILLIPS: That particular one, that I took off the top, I will agree with you.

COMMISSIONER YOUNG: Can we get some others?

MR. BEAUFORD: I don't have a complete file but evidence in the City of Santa Anita on a contract which was bid in June of 1970, I think there was a Certain-Teed bid of $1.30 cents a foot on the 6-inch class of 150, and Kubota bid $1.70 cents a foot on the same bid.
COMMISSIONER YOUNG: Do you know whether Chart 3.17 represented the price of pipe sold in Japan, and in relation to what it was sold for in this country? Was it sold at another price in Japan than it was sold in this country?

MR. PHILLIPS: The only basis that we could go on is that Customs study.

MR. BEAUFORD: As far as I know --

COMMISSIONER YOUNG: Can you furnish the staff with other examples?

MR. PHILLIPS: The staff has this packet of documents that I have a copy of. These are, basically, what we call trade reports which we fill out with respect to each job, and our salesmen in competitive prices make their notations on this.

COMMISSIONER YOUNG: I have some information from here, from your annual reports, 1967, 1968, 1969, and 1970, which indicates you were doing better in your pipe business than in the building materials. Of course, I suppose that this is for the whole company. Your testimony here is only confined to the West Coast?

MR. PHILLIPS: Yes.

COMMISSIONER YOUNG: Do you have any general comment with respect to this company's conditions? If so, I would like to have it.
MR. PHILLIPS: As I indicated in the year 1968 and 1969, the other pipe plants all had their best years of this five years that we are talking about, which obviously served to enhance the overall pipe profits. The opposite, I would say, 1960, 1963, 1970, were terrible years in the roofing business and I don't -- I think the pipe from Japan was the basic factor. We all suffered from that.

COMMISSIONER YOUNG: Have you furnished us with prices for the years 1967, 1968, 1969, and 1970?

MR. PHILLIPS: Yes.

COMMISSIONER YOUNG: Madam Chairman, I have no further questions.

CHAIRMAN BEDELL: We will recess for five minutes.

(Whereupon, at 11:10 the Commission recessed, and reconvene at 11:15 a.m.)

CHAIRMAN BEDELL: Do any of the staff have questions of these two gentlemen? Do any staff have questions at all?

MR. SLINGERLAND: I would like to know if there are different competitive factors that influence your prices in Los Angeles and San Francisco, particularly?

MR. BEAUFORD: I think, essentially, these are two different markets. I can't speak for the San Francisco manufacturer, but I think a person in the market, if you looked at this, you would have a difference. Yes, there would be a difference in the two prices.
MR. SLINGERLAND: What certainty do you know you will be meeting with import domestics on the bidder, or negotiations?

MR. PHILLIPS: With certainty, do you know you will be meeting —-

MR. SLINGERLAND: Yes.

MR. PHILLIPS: I think we pretty much determine in the area. We felt in Los Angeles that we don't make too many attempts to meet the Japanese pipe prices but the basic place that we know where it is, it is from on a municipality bid. The bid results are published and sent in by the various companies. It is public information.

On a contractor's job, a lot of times after the bid is over, a contractor will tell you what prices he got from, say, some other company. They always do the same thing for somebody else. They will tell a competitor what, possibly, we bid on a particular job after the job is bid and sold, and if you keep enough records and remember a few things, then you think if a comparable job comes up, if the competitive market appears to be the same, you have a ball-park figure in your mind about what you should do and what the competition might do.

MR. SLINGERLAND: That is all I have. Thank you,

Madam Chairman.

CHAIRMAN BEDELL: Thank you.
Mr. Hemmendinger, or Mr. Kennedy?

MR. HEMMENDINGER: Mr. Kennedy will inquire.

MR. KENNEDY: To you.

CHAIRMAN BEDELL: Give your name to the reporter for the record.

MR. KENNEDY: John A. Kennedy, Jr. I am a member of the firm of Stitt, Hemmendinger and Kennedy in Washington, D.C.

Mr. Phillips, what is your company's percentage of the AC pipe market? What percentage?

MR. PHILLIPS: Our company's percentage as far as the United States?

MR. KENNEDY: Yes, please.

CHAIRMAN BEDELL: May I state that if any questions are asked that are confidential, you do not have to answer them. The Commission, if they so desires, and feels that that information requested comes in this category. I thought this was a good place to point that out.

MR. PHILLIPS: Thank you.

I am going to have to give you a fairly educated guess, and I would say around 20 to 25 percent.

MR. KENNEDY: All right. Do you compete with Johns-Manville?

MR. PHILLIPS: Yes.

MR. KENNEDY: You compete with Johns-Manville in the
West Coast?

MR. PHILLIPS: Yes.

MR. KENNEDY: Would you describe the West Coast market as highly competitive?

MR. PHILLIPS: I would think so; yes.

In addition to the two companies mentioned, we do not have Flintkote or CAPCO. They are relatively small producers anyway. We do have the Japanese importers and we do have Mexican importers on the West Coast, which would make it highly competitive.

MR. KENNEDY: Have you faced competition from Mexican companies in the past?

MR. PHILLIPS: Yes.

MR. KENNEDY: From other countries than Japan?

MR. PHILLIPS: Yes.

MR. KENNEDY: What countries?

MR. PHILLIPS: Belgium.

MR. KENNEDY: How do you establish your selling prices?

MR. BEUFORE: You mean as a published list price?

MR. KENNEDY: Well, I am asking you how you set the price?

MR. BEUFORE: From a published list, from a published list price.

MR. KENNEDY: Do you sell at the list price?
MR. BEUFORD: Quite often.

MR. KENNEDY: How often?

MR. BEUFORD: I would say, as far as a published
list, what is classified as a published list price, I would
say about maybe five to ten percent of it might be a published
list price.

MR. KENNEDY: Five to ten percent?

MR. BEUFORD: Yes, sir.

MR. KENNEDY: Do you maintain a schedule of discounts?

MR. BEUFORD: No, per se, schedule of discounts.

MR. KENNEDY: Mr. Beuford, is this what you were
referring to when you referred to a price list? I have one
entitled "Certain-Teed Products Corporation, Effective
February 1971"?

MR. BEUFORD: Yes.

MR. KENNEDY: Madam Chairman ---

CHAIRMAN BEDELL: I would like to have you identify
that rather than submit it at this time.

MR. KENNEDY: Yes. This is a compilation of prices
by size and by class, Certain-Teed Products, carrying the area
categorized as Area 1, and dated February 15, 1971.

MR. MASON: This will be Exhibit 1, Madam Chairman.

CHAIRMAN BEDELL: This will be Exhibit No. 1, with-
out objection, it is so ordered.

(The document above-referred to
MR. KENNEDY: How do you decide your discount? How do you decide when you will discount?

MR. PHILLIPS: I think, normally, the prices as you have on the sheet here, with just using 6-inch pipe as an example, as we write up our trade reports, we would not write a trade report, $1.43. We would only write up a trade report if it was sold for something less than $1.43. I think normally it is about where this is a price, normally, as a published fact.

Everything goes into it. Say, the Los Angeles area, at three percent of the -- say, what is listed here as a public list price.

MR. KENNEDY: What geographic areas are contained in Area 1?

MR. BEAUFORD: All of California, the area we are talking about. Now, actually, without having our ship manifest in front of us, I wouldn't know exactly, all of California, Arizona, and Nevada is in the area.

MR. KENNEDY: Washington State?

MR. BEAUFORD: Washington State would be.

MR. KENNEDY: Oregon?

MR. BEAUFORD: Oregon.

MR. KENNEDY: Idaho?
MR. BEAUFORD: So far as I know.

MR. KENNEDY: Wyoming?

MR. BEAUFORD: So far as I know. I would have to get
our area maps.

MR. PHILLIPS: Parts of Wyoming and Montana are in
this. This is not a big market, of course.

MR. KENNEDY: Do you sell at the same price in all
of these markets or all of these States?

MR. BEAUFORD: We start out, we have -- this is a
list price in all these States; yes, sir.

MR. KENNEDY: How do you sell, directly or to dis-
tributors?

MR. BEAUFORD: Well, we sell both ways. Most of the
area we have is a -- on a direct sales basis.

MR. KENNEDY: Are you a vertically integrated company?

MR. PHILLIPS: Not basically in this field; no. We
do, I think, directly to answer your question, we do have one
water works district that we recently acquired in California.
It is not a large district and it never has been, but aside
from that one area, we are not. We are strictly a manufacturer.

MR. KENNEDY: Is the company referred to a water
works distributing company?

MR. PHILLIPS: That is correct.

MR. KENNEDY: Which recently you acquired?

MR. PHILLIPS: That is correct. That is a very, very
small supply house in Sacramento.

MR. KENNEDY: Mr. Beauford, do you represent the sales in the Northwest?

MR. BEAUFORD: No, sir.

MR. KENNEDY: Do you know, does your company maintain an inventory in Washington and in Oregon?

MR. BEAUFORD: It might be through an agent that we have. I believe we have several companies in Seattle. They would probably carry an inventory. They would probably carry a small inventory. But the company itself does not maintain an inventory.

MR. PHILLIPS: An inventory, other than it is a nominal amount.

MR. KENNEDY: Are you familiar with the terms "National Contracts"?

MR. BEAUFORD: Yes, I am familiar with it.

MR. KENNEDY: Would you describe for the Commission what a National Contract is?

MR. BEAUFORD: A National Contract is usually one that might be negotiated with a company -- an example: a water works, American Water Company, General Water, Gulf America Corporation -- this is a contract that would not be too different in bidding, say, a city or a year requirement. It would be that they give you anticipated figures; they will tell you what materials they will use, and sometimes you might get it
broken down into areas which, if they owned water companies, maybe in 25 States they might anticipate where it might be sold and you bid a price where a guaranteed delivery for this material for a period of time would come about.

MR. KENNEDY: And this would be throughout the Nation?

MR. BEAUFORD: Yes, sir.

MR. KENNEDY: Are you familiar with the term "Combination Bidding"?

MR. BEAUFORD: Well, I might be if you could explain it a little.

MR. KENNEDY: Are you familiar with a situation where the purchaser wants pipe of various sizes including 12 inches?

MR. BEAUFORD: Yes.

MR. KENNEDY: You bid on such jobs?

MR. BEAUFORD: Yes.

MR. KENNEDY: Are there situations where the purchaser might buy water pipe as well as your sewer pipe?

MR. BEAUFORD: Not too often.

MR. KENNEDY: But they do occur?

MR. BEAUFORD: I can't recall one occurring, but it does occur.

MR. KENNEDY: Would you bid on that?

MR. BEAUFORD: Sewer pipe and water on it?
MR. KENNEDY: Yes.

MR. BEAUFORD: Yes; if it was in our range of manufacturing, we would bid on any type of job.

MR. KENNEDY: Mr. Phillips, I may have missed this -- gave sales figures for AC Pipe. Did you give the
res for the National Sales of AC pipe?

MR. PHILLIPS: No, I didn't.

MR. KENNEDY: Do you have those figures?

MR. PHILLIPS: Yes.

MR. KENNEDY: I would appreciate it if you could
us the AC pipe figure -- in 1971, in dollars.

MR. PHILLIPS: There was a time I regarded this
raction as confidential, but I have been giving it out so
, I might as well give it out here.

In 1971, net sales, approximately $39 million.

MR. KENNEDY: Would you have that in tonnage also?

MR. PHILLIPS: Tonnage, all kinds, 250,000 tons.

MR. KENNEDY: Two hundred fifty thousand tons?

MR. PHILLIPS: Slightly less than that.

MR. KENNEDY: What do you mean by all kinds?

MR. PHILLIPS: That would be sewer and pressure.

MR. KENNEDY: Do you have the same figures for 1970 '69?

MR. PHILLIPS: Yes

MR. KENNEDY: May we have those for the record?
MR. PHILLIPS: Seventy was 205,000; 69 was 235,000.

MR. KENNEDY: Do you have the corresponding dollar figures?

MR. PHILLIPS: Dollars?

MR. KENNEDY: Yes, dollars.

MR. PHILLIPS: Seventy, $52.6 million.

MR. KENNEDY: Thirty-two million, six hundred thousand dollars?

MR. PHILLIPS: Yes. And '69 is $36 million.

MR. KENNEDY: Let me clarify those tons. That was in short tons?

MR. PHILLIPS: Yes.

MR. KENNEDY: Has it, the recession, affected your business?

MR. PHILLIPS: Pardon?

MR. KENNEDY: Has the recession affected your business?

MR. PHILLIPS: What do you mean, or what do you define as the "recession"?

MR. KENNEDY: Say, a period of higher interest rates and lower production.

MR. PHILLIPS: Would you define that in a specific period of time?

MR. KENNEDY: Let's start with 1969.

MR. PHILLIPS: Would our sales have been affected in
MR. KENNEDY: Yes.
MR. PHILLIPS: By that?
MR. KENNEDY: By general business conditions.
MR. PHILLIPS: Yes, probably, to some extent.
MR. KENNEDY: In '70?
MR. PHILLIPS: Yes.
MR. KENNEDY: 'Seventy-one?
MR. PHILLIPS: Yes.
MR. KENNEDY: 'Seventy-two?
MR. PHILLIPS: Hopefully, yes.
MR. KENNEDY: Have you any information as to a forecast for your sales in 1972?
MR. PHILLIPS: I don't, but let me put it this way: I don't really have those figures.
MR. KENNEDY: Was it your intention to suggest that all of the Japanese sales in this market were sales which you lost, rather than Johns-Manville?
MR. PHILLIPS: No.
MR. KENNEDY: Did you lose sales to Johns-Manville?
MR. PHILLIPS: Yes.
MR. KENNEDY: It could affect Kubota, Limited? are you aware of the presence of another Japanese Company in this market at the same time?
MR. PHILLIPS: There was.
MR. KENNEDY: Do you think they lost sales; do you think Johns-Manville did?

MR. PHILLIPS: Anything that they sold, you know, was sold at, you know, at a loss sales to someone in the corporation.

MR. KENNEDY: And Kubota did?

MR. PHILLIPS: I am sure they did.

MR. KENNEDY: Madam Chairman, may I have a minute to consult with our clients?

CHAIRMAN BEDELL: Yes.

MR. KENNEDY: I would like to clarify one final point. You described the market as highly competitive?

MR. PHILLIPS: Well, you described it as being highly competitive, but it is probably highly competitive.

MR. KENNEDY: That would represent competition between you and Johns-Manville?

MR. PHILLIPS: I am talking about between Johns-Manville, Kubota, and Nipponite.

MR. KENNEDY: Nipponite?

MR. PHILLIPS: A manufacturer of cement pipe.

MR. KENNEDY: Are you saying it is competitive only because of the importers?

MR. PHILLIPS: No, that is both with domestic, with the number of -- if you look at it -- let me clarify that. On the surface, if you have only two manufacturers, you can't be
terribly competitive. You have, -- what I am saying, you have
two domestic manufacturers, but you have imports, that which
come in, so you are talking about four or five different
companies bidding for a particular job.

MR. KENNEDY: Are you are aware there are many jobs
that importers do not bid on?

MR. PHILLIPS: That is true.

MR. KENNEDY: And are you saying that if it were not
for imports, there would not be a competitive market?

MR. PHILLIPS: No; I am saying they make it more
competitive.

MR. KENNEDY: I have no further questions.

CHAIRMAN BEDELL: If there are no further questions,
these two gentlemen are excused.

Mr. Secretary, would you swear the next witness.

TESTIMONY OF WARREN MAX DEUTSCH, COUNSEL, ON
BEHALF OF JOHNS-MANVILLE PRODUCTS CORPORATION
AND JOHNS-MANVILLE SALES CORPORATION, DENVER,
COLORADO; ACCOMPANIED BY S. JACK MC DUFF, VICE
PRESIDENT AND GENERAL MARKET MANAGER, PIPE DIVISION

(Having first been duly sworn by Secretary Mason.)

Mr. Deutsch. As the Commission has observed, Johns-
Manville will have a second witness and I will call the witness
after making some preliminary remarks. I am a lawyer, so that

CHAIRMAN BEDELL: Will you identify yourself for the
record, please.

MR. DEUTSCH: My name is Warren Max Deutsch. I am a lawyer for Johns-Manville. I am the Associate General Counsel for Johns-Manville Corporation.

Johns-Manville Corporation is the parent corporation of the Johns-Manville Products Corporation and Johns-Manville Sales Corporation, and I have been asked by the Product Corporation and by the Sales Corporation to represent them at this hearing today.

As I pointed out, I am a lawyer. I am Counsel to Johns-Manville Corporation, and as such I do have some personal knowledge; a good deal of what I will say to you is information provided to me and for that reason I brought Mr. McDuff, who has personal knowledge from the books and the records of the two corporations:

Johns-Manville Products Corporation and Johns-Manville Sales Corporation.

Preliminarily, I would like to point out that Johns-Manville products Corporation is a producing subsidiary, Johns-Manville Sales Corporation is a selling subsidiary. Both of these subsidiaries are located in the United States of America.

COMMISSIONER YOUNG: May I inquire: are they wholly owned?

MR. DEUTSCH: Yes; they are, "Z. Young."
COMMISSIONER YOUNG: Would not it facilitate this proceeding to include the subsidiaries?

MR. DEUTSCH: I am sorry, sir. We consider there to be a vast difference, and I only want to talk about Johns-Manville Products Corporation, and Sales Corporations. We have always considered these to be legal entities, recognized as such under the laws of their States of incorporation, and the States in which they are doing business.

With reference to Johns-Manville Sales Corporation, they are selling through the United States, and Johns-Manville Corporation is not, and we want -- we do not want this record to show that we consider Johns-Manville Corporation to be the same as the sales and products.

COMMISSIONER YOUNG: When you are talking about the products, you are talking about the Product Corporation, and the sales, the Sales Corporation?

MR. DEUTSCH: Yes, sir.

I want to make some preliminary points with respect to the fairness of this hearing. We merely point this out because there are people we come in contact with as customers that we believe should have been notified of this hearing. We know about 100 persons, generally speaking, I believe, across the board, small businesses, and we believe that they have been given no notice by this Commission of the hearing today. And that is an unfairness to these small businesses, to not
Apparently, the Commission representatives do not regard the sellers of our pipe as part of the American asbestos cement pressure pipe industry. However, we think this is a misconception of the meaning of the word "industry", because in our view an industry includes both production and selling, and to leave out this large segment of American small business, it seems to us to really leave out an important part of the industry. We did volunteer to give the names of at least 100 West Coast small businessmen, who buy pipe from Johns-Manville for resale, to the representatives of your Commission, but they were not interested in having those names and, in fact, it would have been, probably, at the time we met last Tuesday, not sufficient time to really notify them of these hearings.

But I do want to point that out, that a large segment that we deem American industry has not been notified of these hearings and given an opportunity to be heard.

COMMISSIONER YOUNG: Mr. Chairman, I would like to make a comment at this point, very briefly.
COMMISSIONER PARKER: Commissioner Young.

COMMISSIONER YOUNG: With respect to the notification of interested parties, I do not have the date right here, but a few days following February 3 — perhaps the 6th or 7th or 8th, there was a notice in the Federal Register on this investigation. It gave the date of the hearing and it indicated that interested parties would be heard. This notice is published in several different places, I do not recall all of those at the moment, but the Commission does not try to mail notices to all individual companies that might be affected — but public notice is given of the investigation and the hearing date.

MR. DEUTSCH: Mr. Young, I would point out —

COMMISSIONER YOUNG: — February 9 is the date it was published in the Federal Register, and one point that goes to the question of — excuse me. Would you like to comment on that?

MR. DEUTSCH: I realize the point that you are making sir, and I would respectfully submit that by the very nature of the smallness of their businesses, I respectfully submit that those small businesses could not reasonably be expected to read the Federal Register. This may not be a concern of this Commission that small business knows about this hearing, and I think it should be a concern, and it is for this reason
that I raise this point.

I am not disputing the publication in the Federal Register. What I am saying, sir, is that I think that this Commission could take notice of the circulation of the Federal Register among small businesses and possibly on its own, by reason of its knowledge of the business community, the larger corporations versus the small businesses, that the publication in the Federal Register is not effective notice to these small concerns.

COMMISSIONER YOUNG: Well, one further point, and that is with respect to what constitutes "industry" herein under investigation. There has been no determination by the Tariff Commission as to what constitutes the industry. That would be made at the time the Commission makes its findings on this investigation.

I believe those are the only two comments I care to make at this time.

COMMISSIONER PARKER: Have you finished your statement on this particular point.

MR. DEUTSCH: On that point, yes.

COMMISSIONER PARKER: When the notice was published on February 9, did you make any effort to inform the Commission of your desires to have other people notified?

MR. DEUTSCH: No, I did not. We are a large corporation, and I did not see that notice on February 9.
I subsequently received a copy of that notice from the Counsel for Certain-Teed Products, who appeared here today, and up to that point of time, Johns-Manville Corporation and its Sales Corporation and Products Corporation had absolutely nothing to do with these proceedings. Up until the time that I put in a notice of appearance last week, after the visit of the Tariff Commission, Johns-Manville Products Corporation and Johns-Manville Sales Corporation had not been a party to any of the proceedings charging the Japanese manufacturer with dumping, and we are only here today, having been asked to come by your representative, understanding that you have subpoena power, and as a good citizen of the United States of America, interested in upholding the laws of this country, but frankly on February 9, we did not see that notice.

I do not read the Federal Register. I do not know of anybody in Johns-Manville who does.

COMMISSIONER PARKER: Is it your testimony that the first information that Johns-Manville Company -- three companies -- had of this proceeding which was instituted initially before the Department of the Treasury, and subsequently before the Tariff Commission, was when the Commission staff called at your company's plant?

MR. DEUTSCH: No, sir; slightly prior to that, during this year of 1972, I learned from Mr. Phillips that this action was taken by his company.
COMMISSIONER PARKER: And during all of this time, and even up to the present time, Johns-Manville has not taken any position, either before the Treasury or here, as a complainant or participant?

MR. DEUTSCH: That is correct, sir.

COMMISSIONER PARKER: And you understood, I am sure, though, that, at least the legal effect of a notice in the Federal Register?

MR. DEUTSCH: Yes; I do, I understand your point.

COMMISSIONER PARKER: And you also understand, I presume, that either you or Certain-Teed or any other interested party could call as witnesses, or present any information that these 100 or so companies that you referred to might have available?

MR. DEUTSCH: Yes, but, however, I might say as to these small businesses, they have their own businesses, not ours, so, though, we could name at least one that we know, from our own knowledge has been hurt, we do not have -- we do not have any complete knowledge that we could present before this Commission.

COMMISSIONER PARKER: And with respect to the question which you have raised, and I think very properly, so what is the "industry"? This is a question which Commissioner Young stated that the Commission will have to ultimately decide in the final result, but it would be helpful if you
would submit a brief on this question as to what you think
the industry is.

MR. DEUTSCH: I might say this, Your Honor, Johna-
Manville merely wants to call this to the attention of the
Commission as a matter of record, and we do not have any
desire to be a fighting party here. We want to give you the
information that you need, but we don't want to submit
briefs.

COMMISSIONER PARKER: That is your privilege, and
there is no issue, if you care to file a brief on it.

MR. DEUTSCH: If you feel there is no issue, then
that is for Your Honor's determination. I might also say
that the second comment I want to make as another point ---

COMMISSIONER YOUNG: I would like to make this state-
ment now, and hopefully later we will have more specific infor-
mation. I am informed at the time this investigation was insti-
tuted the notice was published, sometime early in February,
and that Johns-Manville -- I do not know which corporation--
was sent a notice of the hearing.

MR. DEUTSCH: Gentlemen, Johns-Manville received it
after February 9 -- a notice sent to Mr. Windblad, who is in
this room, and Mr. Windblad forwarded it, and I eventually
received it. It was sent to Johns-Manville Product
Corporation, and Johns-Manville Sales Corporation. I don't
know the date. I assume the record would show it, Your Honor.
COMMISSIONER YOUNG: I do not say this intentionally but you do not expect the Tariff Commission to be responsible for the interoffice communications within of your Company?

MR. DEUTSCH: No, not at all. My point was completely separate from that, not that Johns-Manville has had no notification of this hearing. My point is that a larger segment, merely worth mentioning; we don't want to brief the point. We leave it to the discretion of this tribunal, to point out and do that, because we feel bound to people who are our customers.

COMMISSIONER YOUNG: May I inquire just very briefly about these 100-odd small companies you have been talking about. Are they companies that only sell Johns-Manville products or Johns-Manville pipe?

MR. DEUTSCH: They have no restriction as to the pipe they sell, but we are informed that none of these distributors can buy Japanese pipe because the Japanese manufacturers have given an exclusive to the parties who are appearing here today, Voss International Corporation and the Pacific Water Works Supply, Incorporated, so the Japanese pipe is not available to them.

Johns-Manville pipe is available to them.

COMMISSIONER YOUNG: Mr. Chairman, I do have the mailing date. It was February 8th. A copy went to Johns-Manville Corporation, W. C. Windblad, 2009 Arlington, Virginia.
MR. DEUTSCH: Mr. Young, might I just say again, this definitely not the point. There is no question that we are saying to this tribunal that Johns-Manville or Johns-Manville Sales Corporation and Johns-Manville Sales Corporation has had legal notice of this hearing. I was in answer to Commissioner Parker's question, pointing at the Federal Register, as far as I was concerned, had an effective notice to us.

COMMISSIONER YOUNG: But you said you found out few days ago, and I understood that you had no other and I assumed you meant Johns-Manville.

MR. DEUTSCH: I was speaking of my notice, personally as the notice is concerned.

COMMISSIONER YOUNG: You are representing Johna-

MR. DEUTSCH: Let's let the point stand clarified, Johns-Manville received notice on the dates you stated.

COMMISSIONER YOUNG: All right, sir.

One other point. You say the Tariff Commission you to come to testify here.

MR. DEUTSCH: They did, and they told us with to certain of the records that we had refused to
produce, if we did not produce them, the Commission would
exercise its subpoena power.

COMMISSIONER YOUNG: Would exercise its subpoena
power?

MR. DEUTSCH: I understood that it would.

COMMISSIONER YOUNG: Now, ---

MR. DEUTSCH: I don't want to quote that, but they
made reference to the subpoena power.

COMMISSIONER YOUNG: You think you were threatened
with a subpoena if you did not come to testify?

MR. DEUTSCH: I think so.

COMMISSIONER YOUNG: By who, sir?

MR. DEUTSCH: I don't think we were threatened. A
telephone call was made, or would be made to discuss the
subpoena power of the Commission with some person here at
Washington, and a telephone call, I believe, was made.

COMMISSIONER YOUNG: To Washington?

MR. DEUTSCH: To discuss this, on Tuesday of last
week.

COMMISSIONER YOUNG: To put into process the issuing
of a subpoena?

MR. DEUTSCH: We were not told that.

COMMISSIONER YOUNG: Well now, Madam Chairman, we
ought to make it clear to this witness that he is not here
under duress of the Commission, that he doesn't have to
testify if he does not want to, but that we are most pleased to
have him here and help us in the investigation. However, I do not
think he ought to be here -- and I am speaking only for myself;
my fellow Commissioners might disagree with me -- I do not be­
lieve he ought to be here under the apprehension that he is
required to be here.

CHAIRMAN BEDELL: Commissioner Young, I also would like
to state that for the record, Mr. Deutsch, I am sorry I was called
out because of a phone call. Commissioner Parker has filled
me in on your statement concerning, I believe, what you
referred to as the unfairness of the hearing. I will study
the record on this point with Commissioner Parker and
Commissioner Young tomorrow morning after it reaches me.
I certainly agree with Commissioner Young that if there is a
feeling here that you are appearing under duress, you have not
established what that duress is.

Now, I am sure no member of the Commission would in
any way ---

MR. DEUTSCH: There is no allegation of duress. It
is merely that we understood that the Commission has the power
to subpoena witnesses.

CHAIRMAN BEDELL: We do.

MR. DEUTSCH: We consider our laws. We consider
ourselves as law-abiding citizens of the United States and we
want to further the application of the laws of this country,
so it is within that context that we appear here, not under
duress.

CHAIRMAN BEDELL: I am not sure I understand. The
Commission by statutory law passed years ago, does have
subpoena power, which is, used, very infrequently. For the
purposes of gathering information relevant and important to
the various cases that we hear.

MR. DEUTSCH: Yes.

CHAIRMAN BEDELL: But I gather you brought up the
matter of a subpoena. I am just seeking clarification —-

MR. DEUTSCH: This was only incidental to some
colloquy between myself and Commissioner Parker, and there were
two preliminary points that I made so far, and the first was
with respect to our view, but merely a view put before the
Commission for whatever the Commission values it, and for
whatever authority it wishes to make of it, and that is a
large segment, in our opinion, that the American industry has
not been notified of these hearings by effective notice, and
we are — our view is that effective notice is not through the
Federal Register, but it should be done by a letter of
notification.

We had offered to give to the Tariff Commission
investigators a list of our distributors whom we considered to
be part of the American industry affected by these hearings.
We consider manufacture and selling ——
CHAIRMAN BEDELL: Is it my understanding that you want to submit that list to us and you want us to write to each of them that this investigation is going on so they can submit statements for the record?

MR. DEUTSCH: We are willing to give it if you want it. If you don't want it, after we raised this point---

COMMISSIONER YOUNG: I request that you furnish such a list.

MR. DEUTSCH: We will do so.

Commissioner Young made an additional point with respect to the American industry. This is my second preliminary point: this is that at least so far as -- for example, cast iron is concerned, that the American industry in selling the pipe markets, includes competing materials, and one of them that competes against cement is the cast iron industry. I just don't know whether any of them have been notified of these hearings. It is part of the factual presentation that we will make, that we find that the prices of asbestos cement have been depressed by foreign pipe, and the question that we put before you, is that there has been depression of the price structure with respect to asbestos cement pipe, is this not possibly a concern to competing piping materials that have to compete against the asbestos cement price structure?
The question, again, is merely raised in a pre-
liminary fashion, solely for this Commission as concerned with
the fairness of its hearings, to consider if it wishes whether
there really has been notice of these hearings that has been
sufficiently brought. We merely raise the question, and we
leave it completely to you.

CHAIRMAN BEDELL: Mr. Deutsch, the Chairman is still
confused about the point you are raising. Let me, if I can,
restate it so we can understand what you are saying: your point
is that you believe that there has not been adequate notice to
those involved in the entire industry. In this regard you
believe the producers of cast iron pipe should have been infor-
med?

MR. DEUTSCH: Of the hearing.

CHAIRMAN BEDELL: They are concerned about imports
of asbestos cement pipe from Japan?

MR. DEUTSCH: Yes, ma'am.

CHAIRMAN BEDELL: You understand that the whole case,
under the law, revolves around the finding of the United
States Treasury of sales less than fair value?

MR. DEUTSCH: That is right.

CHAIRMAN BEDELL: Of only asbestos pipe from Japan?

MR. DEUTSCH: Yes, but, however, as Commissioner
Young has pointed out, cast iron is competing -- is a compet-
ing material. I would like to go on to it --

COMMISSIONER PARKER: I would like to ask, if I don't
believe in our colloquy anything was said by me about the
question of subpoena. I think you indicated that earlier
in your testimony, and I think the record
should be clear that, whether you are here now today as a
participant in this proceeding because of the interest of John-
Manville Corporation, or are you here because the staff indi-
cated or downed, or used some other term to get you here.

MR. DEUTSCH: May I discuss that.

CHAIRMAN BEDELL: Thank you. We would like you to
answer Commissioner Parker's question if you can.

MR. DEUTSCH: I have been authorized by Mr. McDuff
to go forward on a voluntary basis.

CHAIRMAN BEDELL: It is understood that you are
appearing here with an interest in the case and on a voluntary
basis.

MR. DEUTSCH: Yes, Your Honor.

The brief summary that I will give will be supple-
mented by the questions that you see fit to ask. The major
effect of foreign dumping on Johns-Manville has been the
closing of a plant; the plant closing was at Marrero, Louisi-
ana, and the plant began to close in 1970. The closing of
the plant became complete in 1971.

The foreign dumping was not merely the dumping of
Japanese pipe, but also the dumping of Mexican pipe,
that brought about this closing, in our opinion. And,
basically, the effect of the Japanese dumping was, it is
nationwide. It has had a nationwide effect in depressing
pipe prices.

To illustrate: if you were back to approximately
ten years ago when the Japanese pipe first appeared in the
United States home markets — I am talking about Class 8-inch,
the Class 150 8-inch pressure pipe that the investigation
staff of the Tariff Commission has told us is their representa­
tive class of pipe that we should consider for purposes of
this hearing, it was approximately price-wise $2.30 a foot,
and today, the approximate average price per foot is somewhere
around the $2.00 level, despite the effect over the past ten
years which, like everybody else, feels or has experienced
higher material cost, higher labor costs, and nonetheless, the
general price level over the approximate ten-year period that
Japanese pipe has been entering American markets, has gone
down from this approximate price of $2.30 for Class 150
8-inch pressure, to the average of $2.00.

This depressant effect on prices has gone beyond
just the Western United States. It has had an effect through­
out the country. We respectfully differ with the presentation
of Certain-Teed Products that the market must be conceived of
as merely a western regional market. It is our view that it
is a national market and the potential competition of imported
pipe has had an effect nationwide at any seaport, and Maxreno
was near the
The additional major effect, the sale of sewer pipe in the United States at dumping prices can be seen by the orders that we have lost, and in this connection I would like to enter for the record as an exhibit, which is merely a sampling of a complete record given to the investigators who came to visit us, of what we presently have by way of information as to our price differences with the Japanese 150 8-inch pipe.

CHAIRMAN BEDELL: Mr. Secretary —

SECRETARY MASCH: It will be No. 2.

CHAIRMAN BEDELL: This will be Exhibit No. 2; without objection, it is so or.

The document above-referred to has marked for identification as Exhibit No. 2 (Deutsch.)

MR. DEUTSCH: I would like to hand this exhibit to you, Madam Chairman.

CHAIRMAN BEDELL: This is one copy?

MR. DEUTSCH: There is one copy plus my own copy.

CHAIRMAN BEDELL: I would have it marked and logged in.

MR. DEUTSCH: I would like to make reference to it.

CHAIRMAN BEDELL: This exhibit is not marked "Confidential".
MR. DEUTSCH: No.

CHAIRMAN BEDELL: And you have no other copies?

MR. DEUTSCH: I have one copy that I have retained for myself, and I will ask your help. I have given you the best copy. I believe we have the original also in our files, and I don't have those with me.

CHAIRMAN BEDELL: The Chairman will have copies made and they will be made available for all parties interested in this case, as soon as possible.

MR. DEUTSCH: If you turn to -- I will go just the first five sheets. I want to read items 5 and 6. I want to read also the prices we were told by the Commission investigators to obtain for 8-inch class 150. You will notice that the footage involved was for Lagoon PT Water District, Greenbank, Washington. That was 7,762 feet. The Johns-Manville bid was $1.84, Certain-Toed was $1.76, the Pacific Water Works Japanese price was $1.73. I think this was dated September 25, 1970, and you will notice also, just as a point of reference, the 6-inch was involved, and 14,339 feet were involved, and the Johns-Manville price was $1.24; the Certain-Toed price was $1.18; and the Japanese Pacific Water works was $1.16.

So, if you used what we were quoting at that time as list Johns-Manville, was between three to five percent off
list; Certain-Teed was approximately 2% percent off list; and Pacific was 13.5% percent off list. The order was placed for Certain-Teed and Pacific Motor Works and the reason given Certain-Teed and competing -- Certain-Teed and PW are competing without us in the picture, and I am sure the price in the 6-inch will be $1.10.

CHAIRMAN BEDELL: What did you say the date was on this? It says September 5th.

MR. DEUTSCH: I believe it is 1970.

CHAIRMAN BEDELL: Is there a way to verify that for the record?

MR. DEUTSCH: I will note this was all prepared at the time, without any thought whatsoever of the meeting.

CHAIRMAN BEDELL: It is all right.

MR. DEUTSCH: You will notice that next bid tabulation is dated October 1, 1970, Gold Bar, Washington. You will notice that is for 37,700 feet of pipe which was involved, and the Johns-Manville prices were 97 cents, $1.39, and $1.56. We did -- we were not able to get Certain-Teed prices, and the Kubota or Pacific prices were 78 cents, $1.14, and $1.56.

You will note the comment of the salesman as to the price contractor would not give us a chance to take order because PW gave him low prices to quote the job. Only five contractors bid for the job, and all are PW-oriented, and I assume all received good prices. You will turn to the next one, September 4, 1970.
You will notice again this was lost to Pacific Water Works. You will notice Pacific Water made a hugeROME
deduction of payment, about $150, and the salesman reports
we quoted storm drain and sewer as an exception to specificat-
ions, but unable to use as contractor immediately gave order
to PWW for water pipe.

(Reading from report.) "This one hurt. We are slow-
ly losing our good customers because they are using PWW prices
to bid low and obtain jobs. Morris in the past has paid us
a premium but ten percent." I don't have what he has on the
back sheet on my copy. I don't think you do, either. You will
notice the next was June 22, 1970, to the City of McGeary.

You will notice that 4,760 feet of pipe were invol-
volved, and you will notice that PWW Japanese was low. I will
stop reading with the next one, August, 1970. Your Honors
can read the rest.

The City of Olympia. You will notice 11,800 feet of
pipe was involved, and you will notice this was lost to the
Japanese Pipe, and in all instances and Japanese Pipe was
lower in this case, 12-inch and 8-inch. The reason "Pacific
Water Works is succeeding to buy our good customer with low
prices, no matter what size of project."
prices, no matter what size product.

So the Commission has this as an exhibit in evidence.

At this time I am going to call our witness, for you to ask questions about the subject of dumping that I have shown, to be a cause of a plant closing, the loss of business, and there are further records that your investigators have with respect to other locations on the West Coast.

A further point that we would make, the final point, is that our two West Coast plants at Stockton and Long Beach are operating on an average over the last five years at 75 percent of capacity. We have been more vulnerable to the dumping prices that the Treasury has found than our competitor, Certain-Tread, as witness can see by our plant closing.

We, using our best judgment, did not feel we could follow the Japanese prices down. And in most instances, not rare instances that has happened. As a result, we believe we have been the main loser to the dumping by Japanese products, and evidence of that is the operation of our West Coast plants at less than capacity in contrast to the Certain-Tread operation.

There are some peripheral points that we are not really able to testify about this. We merely mention these in case you wish to have your investigators dig into the facts more thoroughly, and we do know as a fact that a company called Flintkote, the Flintkote Company had planned to open a
plant in California. They had a plant site. We know from an employee who left their employ and went to another plant they never went through with that plant, and the option was for the specific purpose of building a pipe plant. They never built the plant.

We do know from our information, I believe they were notified of this hearing. I don't know much about them, but I know that they are a much smaller company. We do know that both Flintkote and Monsanto Chemical Products Company have had minimal sales on the West Coast. We made a rough approximation and we believe -- and I forgot even which one of the companies -- one was .2 of one percent of the sales on the West Coast, approximately, and the other had half of one percent, and you might possibly find, if you really dig into it, that these companies, despite their absence of plants on the West Coast, might have been able to either -- for example, Flintkote, who has held this option, might have been able to expand its plant or been able to come more strongly into this market if it hadn't been for the loss of this business, the loss to low, low prices from the Japanese pipe.

COMMISSIONER YOUNG: Madam Chairman, I have been informed that Flintkote has been notified on this point.

MR. DEUTSCH: Thank you very much, sir. So, at this point, in completing our testimony, Madam Chairman, we will complete the presentation that we are making by calling Mr.
It's gone grey.

Essential notice was necessitated to recognise at 12:00 o'clock P.M.
(renewed at 12:00 noon, the hearing in the above.

...after the room, we are hearing a meeting at this time.

and I might ask a special favor of all of you: Would you all
I will recess the hearing until 2:00 o'clock. Now,

...after lunch.

Children present: We are going to call N. Hoppit.
AFTERNOON SESSION

CHAIRMAN BEDELL: The Chair has an announcement to make.

At this morning's hearing, in Mr. Deutsch's statement, there were some questions raised, first as to the inadequacy of hearing notice, and more importantly, as to the methods used by Tariff Commission staff in obtaining information for this investigation. During the noon recess, the Commissioners met. They made an attempt to get the transcript of Mr. Deutsch's remarks back from the court reporters, but it was impossible and that transcript will not be available to us until early tomorrow morning.

The Commissioners have decided that they would like to suspend this hearing until they have had a chance to re-read the transcript, and go into the matter with the staff, and get the facts straightened out for the record. We want to satisfy ourselves as to just exactly what has happened in this investigation before continuing this hearing.

The Chair deeply regrets the delay in time, but we think this is the only proper procedure that we can follow.

Therefore, I am recessing this hearing until tomorrow morning at 10:00 o'clock.

MR. DEUTSCH: Your Honor, may I speak to the point?

CHAIRMAN BEDELL: Yes.

MR. DEUTSCH: On my part, we see no reason to recus
the hearing. The thing is we are willing, so far as any matters with respect to our attendance here, we are willing to abide by whatever statement is given to the Commission.

Messrs. Garil and Slingerland.

As far as the notification to Johns-Manville, that has never been in issue. My point was completely apart from any notice to Johns-Manville. My point was as to the distributors but not as to Johns-Manville. We are in no questioning notice to Johns-Manville.

CHAIRMAN BEDELL: The Chair merely referred to points that had been expressed this morning on this, Mr. Deutsch, and I think you have given us a good example here.

Some of the Commissioners have not, were not in attendance your statement was made, including the Chair, for part of and we do want to look at the transcript. Our position is we are deeply concerned over certain inferences and we think is not only protection to our interests as a commission, to all parties to this case, as well as others, to be sure this straightened out.

So the Chair, with the Commissioners, voting we have decided for that reason to recess until tomorrow morning.

MR. DEUTSCH: But, Madam Chairman, I might say for example, for myself, it imposes -- I had expected to be for example, in Denver tomorrow, and where we as a party completely willing to abide by whatever statement is made.
your investigators, I think — I cannot see the relevance of that.

CHAIRMAN BEDELL: Well, we are not saying this is relevant to the case, Mr. Deutsch. It is very relevant to the Tariff Commission's reputation and its hearing record.

MR. DEUTSCH: Yes, and we are willing as a party and I am willing as a witness to abide by whatever statement Messrs Garil and Slingerland give to you with respect to whatever transpired with respect to a reference to the subpoena power of the Commission.

CHAIRMAN BEDELL: Mr. Deutsch, I understand that, but the Commissioners are not satisfied. They have to go into the transcript, those that were not here especially, and they do want a chance to talk to the staff. I am aware that this does cause inconvenience to all witnesses any time a hearing goes on. Of course, I might point out that the Chair has no way of assuring any parties to a case, whatever hearing we have here, that it will not go on for several days.

MR. DEUTSCH: Yes.

CHAIRMAN BEDELL: Because there is no way to anticipate length of cross-examination.

MR. DEUTSCH: And you see, with respect to notice to Johns-Manville, I think that Commissioner Young's point was well taken, that though I was not personally aware that the notice came in on a given date, I think that is completely
Young pointed out that if we went into Washington, we are bound by that. And I was not in any way going to that point. The only thing that I wanted to point out was to Commissioner Parker that the Federal Register, in the way I view it, is not an efficient notice-giver and I was concerned with respect to the notice to these 100 distributors that we have on the West Coast who, apart from the Federal Register, have no notice.

CHAIRMAN BEDELL: Mr. Deutsch, we understand. We do think that that point is perhaps minor as compared to the question that has been raised over the type of investigatory tactics that were used by our investigating team in calling upon you in Denver. It is this point that the Commissioners are very anxious to go into further with staff and it is on that basis that the decision has been made, Mr. Deutsch, to recess these hearings until tomorrow morning.

MR. DEUTSCH: We must abide by that.

CHAIRMAN BEDELL: Thank you.

(Whereupon, at 2:15 p.m., the hearing in the above-entitled proceedings were adjourned until Wednesday, March 22, 1972.)