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Vol. 1

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

UNITED STATES TARIFF COMMISSION

In the Matter of:

ASBESTOS CEMENT PIPE

FROM JAPAN

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Investigation No. AA1921-91

PAGES 1 to 73

Tuesday, March 21, 1972

Washington, D. C.

WARD & PAUL, INC.

410 FIRST STREET, S. E.
WASHINGTON, D. C. 20003

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NATTINGLY:
Tariff 3/21

C O N T E N T S

TESTIMONY OF:

PAGE

Bruce J. Phillips,
Associate Counsel,
On behalf of
Certain-Tied Products Corporation,
valley Forge, Pennsylvania
-- Accompanied by --

3

Andrew Beauford,
Los Angeles District Sales Manager

10

Warren Max Deutsch,
Counsel, on behalf of
Johns-Manville Products Corporation and
Johns-Manville Sales Corporation,
Denver, Colorado;
-- Accompanied by --

S. Jack McDuff,
Vice President and
General Market Manager,
Pipe Division

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BEFORE THE UNITED STATES TARIFF COMMISSION

Hearing on
ASBESTOS CEMENT PIPE : Investigation No. AA1921 91
FROM JAPAN :

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

P R O C E E D I N G S

CHAIRMAN BEDELL: 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. The

1 Secretary will please call the first witness.

2 SECRETARY MASON: Mr. Phillips.

3 TESTIMONY OF BRUCE J. PHILLIPS, ASSOCIATE
4 COUNSEL, ON BEHALF OF CERTAIN-TEED PRODUCTS
5 CORPORATION, VALLEY FORGE, PENNSYLVANIA

6 (Having first been duly sworn by Secretary Mason.)

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

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

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

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

25 The effect of imported pipe on our company has been

1 confined to the West Coast. Specifically, and I am sorry, I
2 do not have this tabulated in a better form to present. I
3 would like to read some statistics to you. These are com-
4 prised of, first, Department of Commerce importation figures,
5 of pipe on the West Coast.

6 These figures do probably contain some small amount
7 of pipe from Canada and Belgium, and other countries, but I
8 would say at least 95 percent of the figures relate to
9 Japanese pipe. These figures relate, basically, to the five
10 years, 1967 through 1971. The importation figures are in tons:
11 1967, 15,000 tons; 1968, 25-1/2 thousand tons; 1969, 34.5
12 thousand tons; 1970, 20,000 tons; 1971, 15.8 thousand tons.

13 I would like to emphasize that the year 1968 and
14 1969 were the years in which the greatest amount of pipe was
15 shipped into the Coast.

16 The next set of figures are the tons produced at our
17 two plants, respectively, Riverside and Santa Clara. The
18 Riverside figures for 1967, we do not regard as being valid.
19 The plant was not up to full capacity and I will skip that and
20 start with '68. 1968 was 39,000 tons; 45,000 tons in 1969;
21 46,000 in 1970; and 50,000 in 1971.

22 At the Santa Clara plant, 36,000 in 1967; 35,000 in
23 1968; 34,000 in '69; and 33,000 in '70; and 39,000 in '71.
24 Both at Riverside and Santa Clara the tonnage produced at our
25 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, \$835,00;
1971, \$1,135,000.

Riverside, 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 Hillsborough, and I will round these figures off
so I won't have to carry on too much: 1967, we are talking
about \$1,368,000; \$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

1 and Riverside dollar values in those years.

2 At Santa Clara, in 1967, \$5,800,000; 1968,
3 \$5 million; and 1969, \$4,900,000; in 1970, \$5,500,000; and in
4 1971, \$4,400,000. Again, the same pattern in sales at
5 Riverside, again skipping 1967, \$6,700,000 in '68; \$7,200,000,
6 in 1969, \$7,800,000, and in 1970, \$9,200,000 in '71. The same
7 pattern as to the rest of the country prevailed in 1968 and
8 1969 at our other plants during this period of time. They
9 were enjoying increased sales.

10 Finally, I would like to give you the figures. I
11 do not have these in 1971, the excess capacity of -- that we
12 had at two West Coast plants. We consider our product
13 capability in tons at the Santa Clara plants, under normal
14 conditions, to be 36,000 tons a year. In 1967, we produced
15 about 800 tons more than that. In 1968, we were off 5,243 tons,
16 and 1969 we off 4,890 tons; and in 1970, we were off 3,065 tons.

17 This again reflects the same pattern in those years
18 when imports, Japanese pipe, were up, and our capacity was
19 down.

20 At Riverside, again dropping 1967, we say our
21 Riverside plant has a capacity for about 48,000 tons. In 1967,
22 we were measuring that as 36,000 tons as a part of the startup.
23 Our figures in there are in 1967, we produced 6,232 tons less
24 than capacity. In 1968, 4,754; in 1969, 4,533; and in 1970,
25 2,263 tons less. I find it hard to believe that it is merely

1 coincidental that when Japanese imports were at their highest
2 peak, all of our figures show that our West Coast plants were
3 down and our West Coast profits, and so forth, were also down.

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

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

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

23 CHAIRMAN BEDELL: Commissioner Parker?

24 COMMISSIONER PARKER: No questions.

25 CHAIRMAN BEDELL: Commissioner Young?

1 COMMISSIONER YOUNG: Do you have any specific evi-
2 dence of sales loss by virtue of imports at less than fair
3 value?

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

10 COMMISSIONER YOUNG: All right, sir.

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

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

16 COMMISSIONER YOUNG: According to the files I have
17 here, the imports through the Port of Los Angeles were up in
18 '70, compared with '69; yet your Riverside plant increased sales
19 in 1970, as compared to 1969. This is not in accord with
20 the thrust of your testimony, is it?

21 MR. PHILLIPS: Our Riverside plant in 1970 was only
22 1,000 tons more than produced in 1969. I do not have the
23 figures broken down by Port of Entry; I have the total import
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25

9
1 figures and in our Riverside plant we did not show a signi-
2 ficant improvement in 1970. Again, I do not know the month of
3 the imports in the sale of pipe, but in the sale of pipe you
4 have perhaps as long as a six-month lag between the time the
5 commitment is made and the delivery of the pipe.

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

11 COMMISSIONER YOUNG: Do the sales of this produce
12 follow the general business activity? The pipe is used, primar-
13 ily, exclusively in water systems. This depends on whenever
14 your municipalities are spending money on water, this has a
15 significant bearing on their ability to borrow, and it is also
16 true of the other large users in establishing housing devel-
17 opment, and housing, that would be a significant figure to
18 look out for.

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

21 MR. PHILLIPS: May I consult with Andy?

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

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

4 COMMISSIONER YOUNG: Perhaps I will delay my question.

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

9 I think you should swear Mr. Beauford in now.

10 TESTIMONY OF ANDREW BEAUFORD, WHO IS ACCOMPANYING

11 BRUCE J. PHILLIPS ON BEHALF OF CERTAIN-TEED

12 PRODUCTS, LOS ANGELES DISTRICT SALES MANAGER

13 (Having first been duly sworn by Secretary Mason.)

14 CHAIRMAN BEDELL: Commissioner young, why don;t you
15 go ahead with the question.

16 COMMISSIONER YOUNG: Is the witness going to present
17 testimony?

18 CHAIRMAN BEDELL: Yes.

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

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

1 R. PHILLIPS: I think the latter.

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

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

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

12 COMMISSIONER MOORE: The last six months.

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

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

25 MR. PHILLIPS: This is true. Our figures which show

1 imports decreased and, therefore, allowed us wider markets.

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

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

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

23 MR. PHILLIPS: No.

24 COMMISSIONER MOORE: Do you intend to submit any
25 evidence showing the difference between your prices and

2 MR. PHILLIPS: We do have figures on that.

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

5 MR. PHILLIPS: Yes, sir.

6 COMMISSIONER MOORE: Prior to 1970?

7 MR. PHILLIPS: Yes.

8 COMMISSIONER MOORE: Thank you, Madam Chairman.

9 CHAIRMAN BEDELL: If there are no further questions
10 from the Commissioner, the Chair would recognize Mr. Beauford.
11 After Mr. Beauford has testified we will allow cross examin-
12 ation by the Commissioners, the Staff, and then Mr. Hemmendinger.
13 Mr. Beauford, you may present your testimony.

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

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

20 MR. BEAUFORD: My name is Andrew Beauford. I am the
21 Los Angeles District Sales Manager for Certain-teed Products
22 Corporation. This is an area which covers the Southern
23 California area, Nevada -- we sell mostly pipe in this area.
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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(7), California, City of Linwood, Garden Grove, (not clear), City San Diego, Vista, Oceanside, 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

1 lot of private jobs, and these are jobs that we make bids on,
2 and we are sure that if past history is indicative of what will
3 happen, we are pretty sure that we will be priced somewhere
4 between -- I would say -- five and twenty percent higher than
5 that using, as our, say, the normal pricing we are selling to
6 comparable jobs where the specifications are close to, say,
7 domestic-type of pipe, and we find only the Bureau of
8 Reclamation jobs, we don't run into much foreign pipe, and
9 that is largely due to the large diameter of the jobs starting
10 at 12-inch and going on up to 36 or 42-inch pipe.

11 And I think that the industry's position, as far as
12 the Districts out here, is that we have increased, I believe,
13 sales, sales marketing in Los Angeles since 1967, and sales
14 have increased, and I think they have increased in their larger
15 diameter pipe as opposed to the smaller sizes. We find our-
16 selves in a lot of these private jobs, just priced out of the
17 market.

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

24 It is the same way on some Government jobs. I think
25 Indian jobs, it is open to import pipe, and we find -- we find

1 ourselves in the same position on this type of building, that
?? 2 we can't -- I wouldn't say, "can't" -- you can't get into
3 that type of battle with pricing.

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

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

20 You got maybe six contractors using domestic pipe
21 and four contractors who will use an import pipe. Well, they
22 will probably have the people that bid the job -- they will
23 be confronted with about a 10-percent difference in, possibly --
24 possibly less or possibly more in the difference in the
25 bidding.

1 Assume that it is a \$100,000 job, the cost of
2 material would be \$90,000 if they use import and \$100,000 if
3 they use domestic pipe, and that is the way they have to bid
4 it.

5 MR. PHILLIPS: If I may say something at this moment.
6 The Commission Staff has spent time in both our sales offices
7 on the West Coast, and our files were made available to them,
8 and a number of, a great many copies of, so-called trade
9 reports were given to them, and we feel that those trade
10 reports and the information gathered by the staff in our sales
11 office best reflects the pricing practices and the market
12 conditions as of that time, and we are not submitting in addi-
13 tion to that.

14 CHAIRMAN BEDELL: Thank you, Mr. Phillips.

15 COMMISSIONER MOORE: Thank you, Madam Commissioner.

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

18 COMMISSIONER PARKER: One question, Madam Chairman.
19 I think you indicated, Mr. Beauford, that the greatest
20 difference was in the smaller sizes of pipe?

21 MR. BEAUFORD: That is correct.

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

24 MR. BEAUFORD: Well, asbestos cement is manufactured
25 in diameters of 3-, 4-inch, 6-inch, 8-inch, 10-inch, and

1 12-inch. Now, the importers, basically, import 4-inch,
2 6-inch, 8-inch, 10-inch, and 12-inch sizes, in Class 150 pipe.
3 They are not bringing in, say, -- I might be incorrect on
4 this. You see classes of 200, a class of 100 pipe and if
5 there is any sewer pipe brought over, it is not known to me,
6 but then we manufacture, say, water pipe beyond those sizes,
7 14-inch, 16-inch, 18-inch, and 24-inch, and Johns-Manville
8 Inturn has a capability to produce through 40 inches.

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

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

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

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

18 MR. BEAUFORD: Twelve inches and down.

19 COMMISSIONER PARKER: Twelve inches and down.

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

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

25 MR. BEAUFORD: Primarily, six, eight, ten, and twelve

1 inches.

2 COMMISSIONER PARKER: And when they purchase,
3 it on a bid basis? Do the municipalities purchase pipe
4 a bid -- on a bid basis?

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

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

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

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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

1 price them.

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

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

12 MR. BEAUFORD: Yes.

13 COMMISSIONER PARKER: On a comparative basis?

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

17 COMMISSIONER PARKER: No, on a public bid basis.

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

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

24 MR. PHILLIPS: No. Occasionally we do.

25 MR. BEAUFORD: We usually guess. You don't generally

1 know, unless one of your sales representatives can read upside
2 down, or something of that nature.

3 COMMISSIONER PARKER: I have no further questions.

4 CHAIRMAN BEDELL: Commissioner Young, any further
5 questions?

6 COMMISSIONER YOUNG: Thank you, Madam Chairman.

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

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

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

22 You have a lot that is sold on irrigation systems,
23 and I would guess, going into, say, directly or indirectly,
24 if you want to classify track work, I would say in sizes, that
25 we are looking at, to 12-inch sizes, and I would probably say

22
1 80 percent would be, 75 or 80 percent would ultimately go into
2 a city or municipality water system.

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

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

8 MR. BEAUFORD: Basically, your working pressure. In
9 simple lay terms, the 100 is a thin-wall pipe, tested to 375
10 pounds; Class 150 pipe is a heavier pipe, generally used in
11 the water system to carry underwriter pipe; if you want to have
12 fire protection, you use the 150 to 525-pound pressure, or
13 3-1/2 times the writer working.

14 COMMISSIONER YOUNG: Class 200 is ---

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

17 COMMISSIONER YOUNG: What is the smaller diameter --
18 what is the smallest diameter you manufacture?

19 MR. BEAUFORD: Three inches.

20 COMMISSIONER YOUNG: This is for water systems

21 MR. BEAUFORD: Yes, sir.

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

24 MR. BEAUFORD: All this pipe is used in either dis-
25 tribution or transmission water systems, 3-inch -- from 3-inch

1 on up.

2 COMMISSIONER YOUNG: Do you manufacture the vinyl
3 pipe -- I presume you know what I mean?

4 MR. BEAUFORD: Polyvinyl chloride.

5 COMMISSIONER YOUNG: Do you manufacture that?

6 MR. BEAUFORD: No, sir.

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

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

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

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

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

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

24 COMMISSIONER YOUNG: How small a diameter do they
25 sell in the PVC?

1 MR. BEAUFORD: I would say a three-quarter-inch to
2 a -- three-quarter to one and a half, two, two and a half,
3 three-fourths inch, six and on up.

4 COMMISSIONER YOUNG: It is competitive with the
5 cement?

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

10 COMMISSIONER YOUNG: How much water pressure will it
11 stand; is that what you mean?

12 MR. BEAUFORD: Yes.

13 COMMISSIONER YOUNG: That is what you mean?

14 MR. BEAUFORD: Yes.

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

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

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

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

24 COMMISSIONER YOUNG: What is the price of PVC
25 pipe, compared with cement pipe?

1 MR. BEAUFORD: You could only look from, say, from
2 3-inch sizes up, which asbestos is only 3 inches. I think the
3 3-inch PVC would be, if you are taking, I would say, a 3-, 4-,
4 or 6-inch pipe, I think it would be cheaper; I think only
5 8-inch up is where you are getting into probably a higher
6 price than asbestos cement pipe.

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

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

11
12 MR. BEAUFORD: Not at this point, I don't think we
13 are.

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

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

24 COMMISSIONER YOUNG: What about cast iron pipe;
25 What is the competitive system? Do you manufacture cast iron

1 pipe?

2 MR. BEAUFORD: We do not.

3 COMMISSIONER YOUNG: Do you ship it out there?

4 MR. BEAUFORD: It is shipped out there.

5 COMMISSIONER YOUNG: You don't ship it?

6 MR. BEAUFORD: No, sir.

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

9 MR. BEAUFORD: Correct.

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

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

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

24 MR. BEAUFORD: We sell a lot of pipe to the Bureau
25 of Reclamation as a large user. This is not sold, usually,

27

1 the West Coast now -- the Bureau of Reclamation has been doing
2 very little in the last couple of three years. We do quite a
3 bit of business across the country with FEA projects.

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

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

8 COMMISSIONER YOUNG: What was the experience in
9 1969 and 1970?

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

15 COMMISSIONER YOUNG: I was looking at the figures
16 here on the imports through San

17 Francisco. They drop sharply and suddenly, whereas, the drop
18 was 75 percent, where your product was about the same as
19 Santa Clara, as it was in 1969. How would you account for
20 that in relation to your testimony that the sales are at less
21 than fair value? Japan was the problem with respect to your
22 Santa Clara operations?

23 MR. BEAUFORD: In other words, your question is: were
24 the sales out of Santa Clara increased in '70?

1 COMMISSIONER YOUNG: The sales were substantially
2 the same, and I have it written down, based on Mr. Phillips'
3 testimony, 34,000 in 1969, 23,000 in 1970; and the dollar
4 value was up, perhaps larger pipe; I do not know which. On
5 the other hand, the imports from Japan and through the Port of
6 San Francisco went down 1143, I know -- 3.7, through a short
7 term, in 1969, and to 1970.

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

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

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

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

25 COMMISSIONER YOUNG: Are these specific examples?

1 MR. PHILLIPS: This is the San Francisco District.

2 I have here a memo from one of our salesmen and it
3 shows the City of Molfetta, 12/2/71, 4-inch, Graynead,
4 which is our distributor, \$1.00, and ---

5 COMMISSIONER YOUNG: This is -- December
6 21, 1971?

7 MR. PHILLIPS: Right.

8
9
10
11
12 COMMISSIONER YOUNG: Was the Japanese pipe that you
13 are referring to now, a low bid?

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

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

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

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

22 MR. BEAUFORD: Again, I must simply relate to the
23 period in which the Customs did their study; we do not have
24 any independent figures. We have no capability in determining
25 if their cost structure has changed over there, or if factors

1 in their business that have changed from the last half of
2 '70, we have no resources. But on the other hand, I think you
3 can appreciate any American industry of determining their
4 domestic prices to their domestic users, and their prices to
5 their exporters; we don't know.

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

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

12 COMMISSIONER YOUNG: I asked for evidence of sales
13 that you lost because of dumped Japanese-imported pipe sold at
14 dumped prices, and this is what I thought you were giving me. I
15 do not think this last would fall in that category. This is
16 something that you are anticipating in going to the future,
17 1972, is it not?

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

20 COMMISSIONER YOUNG: Can we get some others?

21 MR. BEAUFORD: I don't have a complete file but
22 evidence in the City of Santa Anita on a contract which was
23 bid in June of 1970, I think there was a Certain-Teed bid of
24 \$1.30 cents a foot on the 6-inch class of 150, and Kubota bid
25 \$1.70 cents a foot on the same bid.

1 COMMISSIONER YOUNG: Do you know whether that \$1.17
2 represented the price of pipe sold in
3 Japan, and in relation to what it was sold for in this
4 country? Was it sold at another price in Japan than it was
5 sold in this country?

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

8 MR. BEAUFORD: As far as I know ---

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

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

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

22 MR. PHILLIPS: Yes.

23 COMMISSIONER YOUNG: Do you have any general comment
24 with respect to this company's conditions? If so, I would like
25 to have it.

1 MR. PHILLIPS: As I indicated in the year 1968 and
2 1969, the other pipe plants all had their best years of this
3 five years that we are talking about, which obviously served
4 to enhance the overall pipe profits. The opposite, I would
5 say, 1968, 1969, 1970, were terrible years in the roofing
6 business and I don't -- I think the pipe from Japan was the
7 basic factor. We all suffered from that.

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

10 MR. PHILLIPS: Yes.

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

13 CHAIRMAN BEDELL: We will recess for five minutes.

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

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

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

21 MR. BEAUFORD: I think, essentially, these are two
22 different markets. I can't speak for the San Francisco
23 manufacturer, but I think a person in the market, if you
24 looked at this, you would have a difference. Yes, there
25 would be a difference in the two prices.

1 MR. SLINGERLAND: What certainty do you know you
2 will be meeting with import domestics on the bidder, or
3 negotiations?

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

6 MR. SLINGERLAND: Yes.

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

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

23 MR. SLINGERLAND: That is all I have. Thank you,
24 Madam Chairman.

25 CHAIRMAN BEDELL: Thank you.

1 Mr. Hemmendinger, or Mr. Kennedy?

2 MR. HEMMENDINGER: Mr. Kennedy will inquire.

3 MR. KENNEDY: Thank you.

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

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

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

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

12 MR. KENNEDY: Yes, please.

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

18 MR. PHILLIPS: Thank you.

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

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

23 MR. PHILLIPS: Yes.

24 MR. KENNEDY: You compete with Johns-Manville in the
25

1 West Coast?

2 MR. PHILLIPS: Yes.

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

5 MR. PHILLIPS: I would think so; yes.

6 In addition to the two companies mentioned, we do
7 not have Flinckote or CAPCO. They are relatively small pro-
8 ducers anyway. We do have the Japanese importers and we do
9 have Mexican importers on the West Coast, which would make it
0 highly competitive.

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

3 MR. PHILLIPS: Yes.

4 MR. KENNEDY: From other countries than Japan?

5 MR. PHILLIPS: Yes

6 MR. KENNEDY: What countries?

7 MR. PHILLIPS: Belgium.

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

0 MR. BEUFORD: You mean as a published list price?

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

3 MR. BEUFORD: From a published list, from a pub-
4 lished list price.

5 MR. KENNEDY: Do you sell at the list price?

1 MR. BEUFORD: Quite often.

2 MR. KENNEDY: How often?

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

7 MR. KENNEDY: Five to ten percent?

8 MR. BEUFORD: Yes, sir.

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

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

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

15 MR. BEUFORD: Yes.

16 MR. KENNEDY: Madam Chairman ---

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

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

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

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

25 (The document above-referred to

1 was marked for identification as
2 Exhibit No. 1 (Kennedy).)

3 MR. KENNEDY: How do you decide your discount? How
4 do you decide when you will discount?

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

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

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

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

21 MR. KENNEDY: Washington State?

22 MR. BEAUFORD: Washington State would be.

23 MR. KENNEDY: Oregon?

24 MR. BEAUFORD: Oregon.

25 MR. KENNEDY: Idaho?

1 MR. BEAUFORD: So far as I know.

2 MR. KENNEDY: Wyoming?

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

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

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

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

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

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

15 MR. KENNEDY: Are you a vertically integrated company?

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

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

23 MR. PHILLIPS: That is correct.

24 MR. KENNEDY: Which recently you acquired?

25 MR. PHILLIPS: That is correct. That is a very, very

1 small supply house in Sacramento.

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

4 MR. BEAUFORD: No, sir.

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

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

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

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

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

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

19 MR. BEAUFORD: A National Contract is usually one
20 that might be negotiated with a company -- an example: a water
21 works, American Water Company, General Water, Gulf America
22 Corporation -- this is a contract that would not be too differ-
23 ent in bidding, say, a city or a year requirement. It would
24 be that they give you anticipated figures; they will tell you
25 what materials they will use, and sometimes you might get it

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1 broken down into areas which, if they owned water companies,
2 maybe in 25 States they might anticipate where it might be
3 sold and you bid a price where a guaranteed delivery for this
4 material for a period of time would come about.

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

7 MR. BEAUFORD: Yes, sir.

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

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

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

15 MR. BEAUFORD: Yes.

16 MR. KENNEDY: You bid on such jobs?

17 MR. BEAUFORD: Yes.

18 MR. KENNEDY: Are there situations where the pur-
19 chaser might buy water pipe as well as your sewer pipe?

20 MR. BEAUFORD: Not too often.

21 MR. KENNEDY: But they do occur?

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

24 MR. KENNEDY: Would you bid on that?

25 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 information 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

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MR. PHILLIPS: Yes

MR. KENNEDY: May we have those for the record?

1 MR. PHILLIPS: 'Seventy was 205,000; 69 was 235,000.

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

4 MR. PHILLIPS: Dollars?

5 MR. KENNEDY: Yes, dollars.

6 MR. PHILLIPS: 'Seventy, \$32.6 million.

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

9 MR. PHILLIPS: Yes. And '69 is \$34 million.

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

12 MR. PHILLIPS: Yes.

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

15 MR. PHILLIPS: Pardon?

16 MR. KENNEDY: Has the recession affected your busi-
17 ness?

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

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

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

24 MR. KENNEDY: Let's start with 1969.

25 MR. PHILLIPS: Would our sales have been affected in

1 1969?

2 MR. KENNEDY: Yes.

3 MR. PHILLIPS: By that?

4 MR. KENNEDY: By general business conditions.

5 MR. PHILLIPS: Yes, probably, to some extent.

6 MR. KENNEDY: In '70?

7 MR. PHILLIPS: Yes.

8 MR. KENNEDY: 'Seventy-one?

9 MR. PHILLIPS: Yes.

10 MR. KENNEDY: 'Seventy-two?

11 MR. PHILLIPS: Hopefully, yes.

12 MR. KENNEDY: Have you any information as to a fore-
13 cast for your sales in 1972?

14 MR. PHILLIPS: I don't, but let me put it this way:
15 I don't really have those figures.

16 MR. KENNEDY: Was it your intention to suggest that
17 all of the Japanese sales in this market were sales which you
18 lost, rather than Johns-Manville?

19 MR. PHILLIPS: No.

20 MR. KENNEDY: Did you lose sales to Johns-Manville?

21 MR. PHILLIPS: Yes.

22 MR. KENNEDY: It could affect Kubota, Limited?

23 are you aware of the presence of another Japanese Company in this
24 market at the same time?

25 MR. PHILLIPS: There was.

1 MR. KENNEDY: Do you think they lost sales; do you
2 think Johns-Manville did?

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

6 MR. KENNEDY: And Kubota did?

7 MR. PHILLIPS: I am sure they did.

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

10 CHAIRMAN BEDELL: Yes.

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

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

15 MR. KENNEDY: That would represent competition be-
16 tween you and Johns-Manville?

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

19 MR. KENNEDY: Nipponite?

20 MR. PHILLIPS: A manufacturer of cement pipe.

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

23 MR. PHILLIPS: No, that is both with domestic, with
24 the number of -- if you look at it -- let me clarify that. On
25 the surface, if you have only two manufacturez, you can't be

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1 terribly competitive. You have, -- what I am saying, you have
2 two domestic manufacturers, but you have imports, that which
3 come in, so you are talking about four or five different
4 companies bidding for a particular job.

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

7 MR. PHILLIPS: That is true.

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

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

12 MR. KENNEDY: I have no further questions.

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

15 Mr. Secretary, would you swear the next witness.

16 TESTIMONY OF WARREN MAX DEUTSCH, COUNSEL, ON
17 BEHALF OF JOHNS-MANVILLE PRODUCTS CORPORATION
18 AND JOHNS-MANVILLE SALES CORPORATION, DENVER,
19 COLORADO; ACCOMPANIED BY S. JACK MC DUFF, VICE
20 PRESIDENT AND GENERAL, MARKET MANAGER, PIPE DIVISION
21 (Having first been duly sworn by Secretary Mason.)

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

25 CHAIRMAN BEDELL: Will you identify yourself for the

1 record, please.

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

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

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

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

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

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

25 MR. DEUTSCH: Yes; they are, Mr. Young.

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1 COMMISSIONER YOUNG: Would not it facilitate this
2 proceeding to include the subsidiaries?

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

9 With reference to Johns-Manville Sales Corporation,
10 they are selling through the United States, and Johns-Manville
11 Corporation is not, and we want -- we do not want this record to
12 show that we consider Johns-Manville Corporation to be the
13 same as the Sales and Products.

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

17 MR. DEUTSCH: Yes, sir.

18 I want to make some preliminary points with respect
19 to the fairness of this hearing. We merely point this out
20 because there are people we come in contact with as customers
21 that we believe should have been notified of this hearing. We
22 know about 100 persons, generally speaking, I believe, across
23 the board, small businesses, and we believe that they have
24 been given no notice by this Commission of the hearing today.
25 And that is an unfairness to these small businesses, to not

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1 have been given an opportunity to show their injury, and I
2 have discussed this with the representatives of the
3 Commission who visited us in Denver and told us of this hear-
4 ing, and that they had subpoena powers of the Commission that
5 could require our production of records and documents.

6
7 Apparently, the Commission representatives do not
8 regard the sellers of our pipe as part of the American asbestos
9 cement pressure pipe industry. However, we think this is a
10 misconception of the meaning of the word "industry", because
11 in our view an industry includes both production and selling,
12 and to leave out this large segment of American small business,
13 it seems to us to really leave out an important part of the
14 industry. We did volunteer to give the names of at least
15 100 West Coast small businessmen, who buy pipe from Johns-
16 Manville for resale, to the representatives of your Commission,
17 but they were not interested in having those names and, in
18 fact, it would have been, probably, at the time we met last
19 Tuesday, not sufficient time to really notify them of these
20 hearings.

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

24 COMMISSIONER YOUNG: Mr. Chairman, I would like to
25 make a comment at this point, very briefly.

1 COMMISSIONER PARKER: Commissioner Young.

2 COMMISSIONER YOUNG: With respect to the notifica-
3 tion of interested parties, I do not have the date right here,
4 but a few days following February 3 -- perhaps the
5 6th or 7th or 8th, there was a notice in the
6 Federal Register on this investigation. It gave the
7 date of the hearing and it indicated that interested parties
8 would be heard. This notice is published in several different
9 places, I do not recall all of those
10 at the moment, but the Commission does not try to mail notices
11 to all individual companies that might be affected --
12 but public notice is given of the inves-
13 tigation and the hearing date.

14 MR. DEUTSCH: Mr. Young, I would point out ---

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

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

1 that I raise this point.

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

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

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

18 COMMISSIONER PARKER: Have you finished your state-
19 ment on this particular point.

20 MR. DEUTSCH: On that point, yes.

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

24 MR. DEUTSCH: No, I did not. We are a large
25 corporation, and I did not see that notice on February 9.

1 I subsequently received a copy of that notice from
2 the Counsel for Certain-Feed Products, who appeared here
3 today, and up to that point of time, Johns-Manville Corporation
4 and its Sales Corporation and Products Corporation had
5 absolutely nothing to do with these proceedings. Up until the
6 time that I put in a notice of appearance last week, after the
7 visit of the Tariff Commission, Johns-Manville Products
8 Corporation and Johns-Manville Sales Corporation had not been
9 a party to any of the proceedings charging the Japanese
10 manufacturer with dumping, and we are only here today, having
11 been asked to come by your representative, understanding that
12 you have subpoena power, and as a good citizen of the United
13 States of America, interested in upholding the laws of this
14 country, but frankly on February 9, we did not see that notice.

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

17 COMMISSIONER PARKER: Is it your testimony that the
18 first information that Johns-Manville Company -- three com-
19 panies -- had of this proceeding which was instituted
20 initially before the Department of the Treasury, and subse-
21 quently before the Tariff Commission, was when the Commission
22 staff called at your company's plant?

23 MR. DEUTSCH: No, sir; slightly prior to that, during
24 this year of 1972, I learned from Mr. Phillips that this
25 action was taken by his company.

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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

1 would submit a brief on this question as to what you think
2 the industry is.

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

9 COMMISSIONER PARKER: That is your privilege, and
10 there is an issue, if you care to file a brief on it.

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

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

20 MR. DEUTSCH: Gentlemen, Johns-Manville received it
21 after February 9 -- a notice sent to Mr. Windblad, who is in
22 this room, and Mr. Windblad forwarded it, and I eventually
23 received it. It was sent to Johns-Manville Product
24 Corporation, and Johns-Manville Sales Corporation. I don't
25 know the date. I assume the record would show it, Your Honor.

1 COMMISSIONER YOUNG: I do not say this facetiously
2 but you do not expect the Tariff Commission to be responsible
3 for the interoffice communications within of your Company?

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

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

15 MR. DEUTSCH: They have no restriction as to the
16 pipe they sell, but we are informed that none of these dis-
17 tributors can buy Japanese pipe because the Japanese manu-
18 facturers have given an exclusive to the parties who are
19 appearing here today, Voss International Corporation and the
20 Pacific Water Works Supply, Incorporated, so the Japanese pipe
21 is not available to them.

22 Johns-Manville pipe is available to them.

23 COMMISSIONER YOUNG: Mr. Chairman, I do have the
24 mailing date. It was February 8th. A copy went to Johns-
25 Manville Corporation, W. C. Windblad, 2009 Arlington, Virginia,

Johns-Manville, Monroe Hall, P. O. Box 518, Colorado,

copies were mailed on February the 8th, 1972.

MR. DEUTSCH: Mr. Young, might I just say again, this is absolutely not the point. There is no question that we are coming to this tribunal that Johns-Manville or Johns-Manville Products Corporation and Johns-Manville Sales Corporation has had legal notice of this hearing. I was in answer to Commissioner Parker's question, pointing to the Federal Register, as far as I was concerned, had an effective notice to us.

COMMISSIONER YOUNG: But you said you found out a 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 Johns-Manville. I assumed that you were talking about the interest in Johns-Manville.

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 told you to come to testify here.

MR. DEUTSCH: They did, and they told us with reference to certain of the records that we had refused to

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1 produce, if we did not produce them, the Commission would
2 exercise its subpoena power.

3 COMMISSIONER YOUNG: Would exercise its subpoena
4 power?

5 MR. DEUTSCH: I understood that it would.

6 COMMISSIONER YOUNG: Now, ---

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

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

11 MR. DEUTSCH: I think so.

12 COMMISSIONER YOUNG: By who, sir?

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

17 COMMISSIONER YOUNG: To Washington?

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

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

22 MR. DEUTSCH: We were not told that.

23 COMMISSIONER YOUNG: Well now, Madam Chairman, we
24 ought to make it clear to this witness that he is not here
25 under duress of the Commission, that he doesn't have to

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1 testify if he does not want to, but that we are most pleased to
2 have him here and help us in the investigation. However I do not
3 think he ought to be here -- and I am speaking only for myself;
4 my fellow Commissioners might disagree with me -- I do not be-
5 lieve he ought to be here under the apprehension that he is
6 required to be here.

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

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

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

22 CHAIRMAN BEDELL: We do.

23 MR. DEUTSCH: We consider our laws. We consider
24 ourselves as law-abiding citizens of the United States and we
25 want to further the application of the laws of this country.

1 so it is within that context that we appear here, not under
2 duress.

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

8 MR. DEUTSCH: Yes.

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

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

22 We had offered to give to the Tariff Commission
23 investigators a list of our distributors whom we considered to
24 be part of the American industry affected by these hearings.
25 We consider manufacture and selling ---

1 CHAIRMAN BEDELL: Is it my understanding that you
2 want to submit that list to us and you want us to write to
3 each of them that this investigation is going on so they can
4 submit statements for the record?

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

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

9 MR. DEUTSCH: We will do so.

10 Commissioner Young made an additional point with
11 respect to the American industry. This is my second prelim-
12 inary point: this is that at least so far as -- for example,
13 cast iron is concerned, that the American industry in selling
14 the pipe markets, includes competing materials, and one of
15 them that competes against cement is the cast iron industry.

16 I just don't know whether any of them have been
17 notified of these hearings. It is part of the factual
18 presentation that we will make, that we find that the prices
19 of asbestos cement have been depressed by foreign pipe, and
20
21 the question that we put before you, is that there has been
22 depression of the price structure with respect to asbestos
23 cement pipe, is this not possibly a concern to competing
24 piping materials that have to compete against the asbestos
25 cement price structure?

1 The question, again, is merely raised in a pre-
2 liminary fashion, solely for this Commission as concerned with
3 the fairness of its hearings, to consider if it wishes whether
4 there really has been notice of these hearings that has been
5 sufficiently brought. We merely raise the question, and we
6 leave it completely to you.

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

14 MR. DEUTSCH: Of the hearing.

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

17 MR. DEUTSCH: Yes, ma'am.

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

21 MR. DEUTSCH: That is right.

22 CHAIRMAN BEDELL: Of only asbestos pipe from Japan?

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

 COMMISSIONER PARKER: I would like to ask, if I don't

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1 believe in our colloquy anything was said by me about the
2 question of subpoena. I think you indicated that earlier
3 in your testimony, and I think the record
4 should be clear that, whether you are here now today as a
5 participant in this proceeding because of the interest of Johns-
6 Manville Corporation, or are you here because the staff indi-
7 cated or demanded, or used some other term to get you here.

8 MR. DEUTSCH: May I discuss that.

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

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

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

16 MR. DEUTSCH: Yes, Your Honor.

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

23 The foreign dumping was not merely the dumping of
24 Japanese pipe, but also the dumping of Mexican pipe,
25 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 representative 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 throughout 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 Manzanillo was near the

seaport of New Orleans.

The additional major effect, the sale of German 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 MASON: It will be No. 2.

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

The document above-referred to is 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"?

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1 MR. DEUTSCH: No.

2 CHAIRMAN BEDELL: And you have no other copies?

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

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

10
11 MR. DEUTSCH: If you turn to -- I will go just the
12 first five sheets. I want to read items 5 and 6. I want to
13 read also the prices we were told by the Commission investiga-
14 tors to obtain for 8-inch class 150. You will notice
15 that the footage involved was for Lagoon PT Water District,
16 Greenbank, Washington. That was 7,762 feet. The Johns-Manville
17 bid was \$1.84, Certain-Teed was \$1.76, the Pacific Water Works
18 Japanese price was \$1.73. I think this was dated September
19 25, 1970, and you will notice also, just as a point of
20 reference, the 6-inch was involved, and 14,339 feet were
21 involved, and the Johns-Manville price was \$1.24; the
22 Certain-Teed price was \$1.18; and the Japanese Pacific Water
23 works was \$1.16.

24 So, if you used what we were quoting at that time as
25 list Johns-Manville, was between three to five percent off

1 list; Certain-Teed was approximately 12 percent off, and
2 Pacific was 13-1/2 percent off list. The order was placed by
3 Certain-Teed and Pacific Water Works and the reason given
4 Certain-Teed and competing -- Certain-Teed and PWW are
5 competing without us in the picture, and I am sure the price
6 in the 6-inch will be \$1.10

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

9 MR. DEUTSCH: I believe it is 1970.

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

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

14 CHAIRMAN BEDELL: It is all right.

15 MR. DEUTSCH: You will notice that next bid tabula-
16 tion is dated October 1, 1970, Gold Bar, Washington. You will
17 notice that is for 37,700 feet of pipe which was involved,
18 and the Johns-Manville prices were 97 cents, \$1.30, and \$1.94.
19 We did -- we were not able to get Certain-Teed prices, and the
20 Kubota or Pacific prices were 78 cents, \$1.14, and \$1.50.

21 You will note the comment of the salesman as to the
22 price contractor would not give us a chance to take order
23 because PWW gave him low prices to quote the job. Only five
24 contractors bid for the job, and all are PWW-oriented, and I
25 assume all received good prices. You will turn to the next
one, September 4, 1970.

1 You will notice again this was lost to the Pacific
2 Water Works. You will notice Pacific Water made a lump-sum
3 deduction of payment, about \$1500, and the salesman reports
4 we quoted storm drain and sewer as an exception to specificat-
5 ions, but unable to use as contractor immediately gave order
6 to PWW for water pipe.

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

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

17 The City of Olympia. You will notice 11,800 feet of
18 pipe was involved, and you will notice this was lost to the
19 Japanese Pipe, and in all instances and Japanese Pipe was
20 lower in this case, 12-inch and 8-inch. The reason "Pacific
21 Water Works is succeeding to buy our good customer with low
22 prices, no matter what size of project."
23

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-Teed, as witness can see by our plant closing.

We, using our best judgment, we 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-Teed 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

1 plant in California. They had a plant site. So now --
2 from an employee who left their employ and came to us. They
3 never went through with that plant, and the option was for
4 the specific purpose of building a pipe plant. They never
5 built the plant.

6 We do know from our information, I believe they were
7 notified of this hearing. I don't know much about them, but I
8 know that they are a much smaller company. We do know that
9 both Flintkote and Cement Asbestos Products company have had
10 minimal sales on the West Coast. We made a rough approxima-
11 tion and we believe -- and I forget even which one of the
12 companies -- one was .2 of one percent of the sales on the
13 West Coast, approximately, and the other had half of one
14 percent, and you might possibly find, if you really dig into
15 it, that these companies, despite their absence of plants on
16 the West Coast, might have been able to either -- for example,
17 Flintkote, who has held this option, might have been able to
18 expand its plant or been able to come more strongly into this
19 market if it hadn't been for the loss of this business,
20 the loss to low, low prices from the Japanese pipe.

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

23 MR. DEUTSCH: Thank you very much, sir. So, at this
24 point, in completing our testimony, Madam Chairman, we will
25 complete the presentation that we are making by calling Mr.

McDUFF.

CHAIRMAN BIDDLE: We are going to call Mr. McDuff after lunch.

I will recess this hearing until 2:00 o'clock. Now, and I might ask a special favor of all of you: Would you all clear the room. We are having a meeting at this time.

(Whereupon, at 12:00 noon, the hearing in the above-entitled matter was recessed, to reconvene at 2:00 o'clock P.M. this same day.)

THURITT
GARRO:eh

Fr.
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AFTERNOON SESSION

April 11, 1961

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 noontime 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 reread 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 recess

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. Gaxil 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 that we are deeply concerned over certain inferences and we think it is not only protection to our interests as a commission, but all parties to this case, as well as others, to be sure that this is straightened out.

So the Chair, with the Commissioners, voting on it 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 in, for example, in Denver tomorrow, and where we as a party are completely willing to abide by whatever statement is made.

1 your investigators, I think -- I cannot see the relevance of
2 that.

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

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

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

19 MR. DEUTSCH: Yes.

20 CHAIRMAN BEDELL: Because there is no way to antici-
21 pate length of cross-examination.

22 MR. DEUTSCH: And you see, with respect to notice to
23 Johns-Manville, I think that Commissioner Young's point was
24 well taken, that though I was not personally aware that the
25 notice came in on a given date, I think that is completely

1 beside the point. The notice was mailed and called for.
2 Young pointed out that it came into Washington. We were bound
3 by that. And I was not in any way going to that point. The
4 only thing that I wanted to point out was to Commissioner
5 Parker that the Federal Register, in the way I view it, is not
6 an efficient notice-giver and I was concerned with respect to
7 the notice to these 100 distributors that we have on the West
8 Coast who, apart from the Federal Register, have no notice.

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

17 MR. DEUTSCH: We must abide by that.

18 CHAIRMAN BEDELL: Thank you.

19 (Whereupon, at 2:15 p.m., the hearing in the above-
20 entitled proceedings were adjourned until Wednesday, March 22,
21 1972.)
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