

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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

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Tuesday,  
 August 31, 2004

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

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

## APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

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 DEANNA TANNER OKUN, VICE CHAIRMAN  
 JENNIFER A. HILLMAN, COMMISSIONER  
 CHARLOTTE R. LANE, COMMISSIONER  
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Staff:

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In Support of the Imposition of Antidumping Duties:

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

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

APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duties:

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Washington, D.C.

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

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

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

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P R O C E E D I N G S

(9:30 a.m.)

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

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

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

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

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

5                   Madam Secretary, are there any preliminary  
6                   matters?

7                   MS. ABBOTT: No, Mr. Chairman.

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

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

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

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

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

1 month.

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

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

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

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

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

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

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

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

25 Subject imports surged by 68 percent and

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

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

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

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

25 There can be no doubt, and this record is

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

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

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

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

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

20 Thank you.

21 CHAIRMAN KOPLAN: Thank you.

22 Mr. Winton?

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

1 CHAIRMAN KOPLAN: Good morning.

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

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

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

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

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

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

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

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

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

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

25 This isn't an industry that was struggling

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

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

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

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

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

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

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

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

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

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

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

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

18 I see my time has run out.

19 CHAIRMAN KOPLAN: It has.

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

23 Thank you.

24 CHAIRMAN KOPLAN: Thank you.

25 Madam Secretary, will you call the first

1 panel?

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

5 All witnesses have been sworn.

6 (Witnesses sworn.)

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

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

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

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

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

1 business throughout my career.

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

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

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

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

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

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

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

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

1 prices significantly less than domestic prices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6                 Thank you.

7                 MR. SCHAGRIN: Thank you, Parry.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 at our Trenton, Georgia, facility.

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

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

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

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

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

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

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

21 Thank you.

22 MR. SCHAGRIN: Thank you, Jack.

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

25 MR. MITCHELL: Good morning. For the

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

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

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

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

1 mechanical tubing.

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

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

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

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

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

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

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

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

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

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

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

20 Thank you.

21 MR. SCHAGRIN: Thank you, Terry.

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

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

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

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

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

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

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

1 sell directly to some large end users.

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

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

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

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

25 Until the beginning of 2004, these

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

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

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

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

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

12                   Thank you.

13                   MR. SCHAGRIN: Thank you, Glenn.

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

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

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

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

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

10 Bull Moose Tube is a financially --

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

14 MR. DUSTMAN: Thank you.

15 CHAIRMAN KOPLAN: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 MR. SCHAGRIN: Thank you, Mike.

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

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

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

3 CHAIRMAN KOPLAN: Without objection.

4 MR. SCHAGRIN: Thank you, Chairman Koplan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 light-walled rectangular tubing domestic industry.

2 MR. SCHAGRIN: Thank you, Frances.

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

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

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

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

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

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

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

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

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

25           Because of the earlier import surges of the

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

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

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

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

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

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

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

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

1 recovery of demand during the POI.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The Commission staff did plant visits to

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

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

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

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

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

1 opening statement.

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

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

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

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

1 case that Congress says has changed.

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

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

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

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

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

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

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

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

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

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

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

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

17                   CHAIRMAN KOPLAN: Thank you, Mr. Schagrin.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the biggest issue going on in this investigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 VICE CHAIRMAN OKUN: Mr. Mitchell?

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

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

1       sooner for sure.

2                   VICE CHAIRMAN OKUN:   Mr. Baker?

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

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

20                  MR. BAKER:   Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 facilities to make in-line galvanized.

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

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

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

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

23 MR. BAKER: Galvanized ornamental fencing.

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

1 then painted or coated in some way, --

2 MR. BAKER: Right.

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

7 MR. BAKER: Thirty, 35.

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

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

13 COMMISSIONER HILLMAN: Others?

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

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

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

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

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

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

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

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

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

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

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

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

25                   COMMISSIONER HILLMAN: Could be, but is it?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           COMMISSIONER LANE: That would be fine.

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

8                   (Pause.)

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

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

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

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

1 you're doing it on a voluntary basis.

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

5 CHAIRMAN KOPLAN: Thank you.

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

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

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

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

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

6 COMMISSIONER LANE: Yes.

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

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

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

25 COMMISSIONER PEARSON: Thank you, Mr.

1 Chairman, and welcome to the panel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 CHAIRMAN KOPLAN: Thank you, Commissioner  
17 Pearson.

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

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

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

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

25 I need to weigh what I've just described

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

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

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

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

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

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

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

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

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

16 MR. SCHAGRIN: I understand.

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

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

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

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

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

19 MR. KATSAFANAS: Yes, yes. Right.

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

22 MR. KATSAFANAS: Right.

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

25 MR. KATSAFANAS: Okay.

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

5           MR. KATSAFANAS: Correct.

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

8           MR. KATSAFANAS: Yes.

9           CHAIRMAN KOPLAN: You are?

10          MR. KATSAFANAS: Yes.

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

15          MR. KATSAFANAS: Absolutely.

16          CHAIRMAN KOPLAN: Okay. Thanks.

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

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

1 CHAIRMAN KOPLAN: Okay.

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

3 CHAIRMAN KOPLAN: Thank you.

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

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

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

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

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

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

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

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

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

1 industry's business cycle?

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

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

22 CHAIRMAN KOPLAN: Mr. Meyer?

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

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

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

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

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

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

4 VICE CHAIRMAN OKUN: Okay. Mr. Mitchell?

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

22 VICE CHAIRMAN OKUN: Mr. Baker?

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

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

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

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

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

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

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

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

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

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

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

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

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

1 were not able to push along their cost increases.

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

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

19           CHAIRMAN KOPLAN: Thank you. Commissioner  
20 Hillman?

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

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

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

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

1 these are separate like products.

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

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

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

25 MR. SCHAGRIN: Okay.

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

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

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

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

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

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

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

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

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

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

18 COMMISSIONER HILLMAN: Mr. Mitchell?

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

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

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

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

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

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

5 COMMISSIONER HILLMAN: I appreciate those  
6 answers.

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

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

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

25 COMMISSIONER HILLMAN: Again, I'm trying to

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

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

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

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

5 COMMISSIONER HILLMAN: Okay. Mr. Meyer?

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

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

1 me.

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

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

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

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

18 Commissioner Lane?

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

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

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

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

8 COMMISSIONER LANE: Capital cost rates.

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

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

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

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

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

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

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

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

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

1 employees.

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

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

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

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

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

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

12 COMMISSIONER LANE: Okay. Thank you.

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

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

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

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

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

1 underselling of the imports.

2 COMMISSIONER LANE: Okay, thank you.

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

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

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

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

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

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

7 COMMISSIONER LANE: Okay.

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

11 COMMISSIONER LANE: Okay, thank you.

12 CHAIRMAN KOPLAN: Thank you, Commissioner  
13 Lane.

14 Commissioner Pearson?

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

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

25 COMMISSIONER PEARSON: And what level of ROI

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

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

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

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

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

3 Professor Blecker, you have a comment?

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

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

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

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

25 COMMISSIONER PEARSON: Well, the question of

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

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

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

1 the record.

2 Pardon my long question and statement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 CHAIRMAN KOPLAN: Thank you, Commissioner  
22 Pearson.

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

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

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

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

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

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

25 Then I have last one for Mr. Katsafanas.

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

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

16           CHAIRMAN KOPLAN: Thank you.

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

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

1 we hear from you.

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

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

1 well.

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

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

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

1 going to lose your cases.

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

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

20

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

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

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

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

1 in these dumped imports.

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

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

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

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

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

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

16 VICE CHAIRMAN OKUN: Any other industry  
17 comments?

18 (No response.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Thank you, Mr. Chairman.

6 CHAIRMAN KOPLAN: Thank you.

7 Commissioner Hillman.

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

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

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

3 Thank you very much.

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

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

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

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

21 COMMISSIONER HILLMAN: Others in the  
22 industry?

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

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

8 COMMISSIONER HILLMAN: Okay. Others?

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

16 COMMISSIONER HILLMAN: Okay. Mr. Baker?

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

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

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

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

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

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

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

24 COMMISSIONER HILLMAN: Three months of  
25 inventory.

1 MR. KATSAFANAS: Right.

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

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

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

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

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

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

20 COMMISSIONER HILLMAN: I would appreciate  
21 that.

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

24 (No response.)

25 COMMISSIONER HILLMAN: Okay. I think with

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

3 CHAIRMAN KOPLAN: Thank you, Commissioner  
4 Hillman.

5 Commissioner Lane?

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

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

14 COMMISSIONER LANE: Okay, thank you.

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

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

1                   COMMISSIONER LANE:   Okay, thank you.

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

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

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

20                  COMMISSIONER LANE:  Okay.

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

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

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

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

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

14 COMMISSIONER LANE: Okay, thank you.

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

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

22 COMMISSIONER LANE: Okay, thank you.

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

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

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

9 Anybody?

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

16 COMMISSIONER LANE: Okay, thank you.

17 I don't have any other questions.

18 CHAIRMAN KOPLAN: Thank you, Commissioner  
19 Lane.

20 Commissioner Pearson?

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

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

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

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

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

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

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

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

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

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

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

9                CHAIRMAN KOPLAN: Thank you, Commissioner  
10       Pearson.

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

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

16               CHAIRMAN KOPLAN: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 reason for that claim.

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

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

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

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

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

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

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

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

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

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

15 Thank you very much.

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

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

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

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

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

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

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

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

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

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

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

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

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

25           For example, Prolamsa supplies small

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

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

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

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

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

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

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

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

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

25 We appear today on behalf of Prolamsa and

Heritage Reporting Corporation  
(202) 628-4888

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

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

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

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

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

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

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

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

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

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

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

1 threatened with injury now.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 For example, in the first year flat rolled

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

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

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

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

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

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

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

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

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

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

4                   I always wanted to say that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 that's no objection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 VICE CHAIRMAN OKUN: Mr. Bond?

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

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

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

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

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

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

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

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

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

19                    MR. WINTON: Right.

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

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

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

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

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

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

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

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

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

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

21 VICE CHAIRMAN OKUN: Sure.

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

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

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

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

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

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

24 Thank you, Mr. Chairman.

25 CHAIRMAN KOPLAN: Thank you, Madam Vice

1 Chairman.

2 Commissioner Hillman.

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

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

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

17 My view on this issue though is it seems so  
18 absurd to me that we're in here talking about injury -  
19 - and I apologize for saying this -- that I didn't  
20 want to talk about like product because I think if you  
21 look at this industry and you say they're being  
22 injured it's hard to imagine an industry that isn't  
23 being injured, even the most possible ones.

24 So I apologize, that's really why I didn't -  
25 -

1                   COMMISSIONER HILLMAN: And we as the  
2 Commission, whether we like it or not, has to render a  
3 decision on what is the like product at issue in this  
4 case.

5                   MR. WINTON: Well, I think certainly we  
6 have, and Jaime can explain it to you in more detail,  
7 Hylsa produces both black and galvanized light-walled  
8 rectangular pipe. It's system company Galvak produces  
9 primarily galvanized. And they do it with different  
10 processes. Hylsa actually produces black pipe and  
11 then has a separate production process where they hot  
12 dip it. Galvak purchases black coils, galvanizes them  
13 and then runs them through a pipe making machine.

14                   It is different, you know, the overall  
15 activity is different. And it's hard for me to see  
16 how corrosion, putting zinc on a hot rolled coil, you  
17 know, a flat product, is somehow different than  
18 putting zinc on a pipe product. It's putting zinc on  
19 it.

20                   And, frankly, the fact that Mr. Schagrin  
21 said today earlier that there's actually a U.S.  
22 industry that exists to galvanize pipe product, you  
23 know, he said there were -- you don't believe him? --  
24 he said there were these people out there with pots of  
25 zinc galvanizing things is what I remember him saying.

1 That sounds very much to me like a different industry  
2 that makes galvanized pipe.

3 So I have no objection and I thought of wish  
4 I had thought of making the argument.

5 COMMISSIONER HILLMAN: Well, I noticed, Mr.  
6 Bond, you did not address it in your comments. I  
7 didn't know whether we should read anything into that?  
8 I mean it's obviously in your prehearing brief but it  
9 has not otherwise been mentioned at all this afternoon  
10 in your affirmative presentation.

11 MR. BOND: No, please don't take that in any  
12 way as an indication that we don't believe in what we  
13 said we believe, that it's the right way to go. In  
14 order to be quick with our presentation and because of  
15 the reasons that Jeff mentioned, we thought we would  
16 leave it for the question and answer period. But we  
17 remain committed to that. We think that's the way you  
18 should do your injury analysis.

19 COMMISSIONER HILLMAN: Okay. I appreciate  
20 that.

21 Mr. Trevino, given that you produce both  
22 block product and galvanized product I didn't know  
23 whether you wanted to comment on. I mean Mr.  
24 Schagrin's comments this morning suggested that  
25 everyone in the industry regards it as a single like

1 product, a single industry, all one and same. But  
2 it's never in other pipe cases been separated because  
3 all of the participants in the industry think of it as  
4 a single industry, a single product. And if you're in  
5 both lines of business can you tell us from your  
6 perspective how you think it is used?

7 MR. TREVINO: Okay, yes. Let me describe  
8 first our production process at each one, both  
9 companies. At Hylsa we can produce both the black  
10 square and rectangular tubing and the galvanized  
11 square and rectangular tubing. But galvanized square  
12 and rectangular tubing we have the process of hot  
13 dipped galvanization by immersion in line with our  
14 production of black tubing. The majority of our sales  
15 are at Hylsa is black square and rectangular tubing.  
16 For the case of our sister company Galvak we produce  
17 both black and galvanized. The galvanized square and  
18 rectangular tubing is produced based on galvanized  
19 coils, we galvanize coils prior to forming the pipe.

20 At Hylsa we mainly sell to distributors.  
21 And at Galvak we sell to end users the galvanized  
22 tubing.

23 I don't know if you would like more inform -  
24 -

25 COMMISSIONER HILLMAN: Okay, so it is a

1 different market?

2 MR. TREVINO: Yes. The marketing of  
3 Galvak's galvanized square and rectangular tubing is  
4 done directly to end users instead of going through  
5 distributors.

6 COMMISSIONER HILLMAN: Okay. And what would  
7 you say is the primary end use for your galvanized  
8 product?

9 MR. TREVINO: For the galvanized product at  
10 Galvak for example it's the manufacture of carports in  
11 the U.S. That's the main use of the galvanized  
12 product at Galvak.

13 COMMISSIONER HILLMAN: Are you aware of any  
14 significant end users where there's an overlap between  
15 people that use black and people that use galvanized?

16 MR. TREVINO: Well, for example in that  
17 particular application that I just mentioned the vast  
18 majority is galvanized. And, for example, the  
19 galvanized is mainly used in highly corrosive  
20 environments as compared to the black tubing. And  
21 there is just a difference between the two.

22 COMMISSIONER HILLMAN: But if we go to the  
23 painted and coated product where would you say those  
24 fall both in the range of closing resistance and in  
25 price?

1                   MR. WINTON: I'll let Mr. Trevino answer,  
2                   but just so you understand, the galvanized product  
3                   that Galvak is exporting to the United States for use  
4                   in carports it's galvanized and then it's coated with  
5                   clean organic coating. It's primer I think, it's  
6                   either pre-primed or painted. I've never quit sure  
7                   about that, I think it's primed. So it's not that  
8                   you have black that's painted versus galvanized. Here  
9                   you have galvanized with a coating on it for  
10                  additional protection and it meets the requirements of  
11                  the application.

12                 MR. TREVINO: By the way, that additional  
13                  protection is to protect against white rust.

14                 COMMISSIONER HILLMAN: White rust.

15                 MR. TREVINO: Right.

16                 COMMISSIONER HILLMAN: Okay. All right.

17                 MR. BOND: Commissioner, Hillman, I wanted  
18                  to add that the definition of corrosion resistant as  
19                  it was used in the questionnaire to gather the data  
20                  includes both, you know, pipe that's covered just with  
21                  zinc for example as well as the product that Jeff is  
22                  talking about. So the statistics include just the  
23                  plain galvanized product as well as the galvanized  
24                  organic coating, etc.

25                 There are other Mexican producers, for

1 example IMSA, that export more or less the end use  
2 carports that sell with the galvanized product not  
3 with the additional coating.

4 COMMISSIONER HILLMAN: Okay. Mr. Bond,  
5 since you are the advocate of the idea that we  
6 separate these out into like products where do you  
7 think we should put, I mean let's just say we have two  
8 separate like products here, black versus say  
9 corrosion resistant, where do we put the painted or  
10 the primed product?

11 MR. BOND: I think the painted or the primed  
12 product goes with the black.

13 COMMISSIONER HILLMAN: Goes with the black.

14 MR. BOND: Yes.

15 COMMISSIONER HILLMAN: So the corrosion  
16 resistant should be only those products that have a  
17 zinc coating of some kind on it?

18 MR. BOND: Yes.

19 COMMISSIONER HILLMAN: Even if they also  
20 have this additional coating that Mr. Winton has just  
21 mentioned?

22 MR. BOND: Even if they have the additional  
23 coating they should still be considered corrosion  
24 resistant.

25 COMMISSIONER HILLMAN: As long as they're

1 zinc coated?

2 MR. BOND: Correct.

3 COMMISSIONER HILLMAN: Okay.

4 MR. BOND: If I could point out quickly is  
5 that typically the paint or the primer that would be  
6 applied to the black tube is not the type of paint or  
7 primer that would be sufficient to keep the product  
8 from rusting during its end use. It's something  
9 that's added to the pipe to protect it during  
10 transport and to provide a base for a paint that's  
11 actually applied by the end user. It's a primer, if  
12 you will.

13 COMMISSIONER HILLMAN: Okay. Then again  
14 just so we go down this road we then have to define a  
15 domestic industry that's producing the galvanized  
16 product. Where do we put the people out there that  
17 Mr. Schagrin described and to some extent that I'm  
18 hearing in Mexico all the galvanizers of black pipe  
19 and tube? Are they members of the domestic industry?

20 MR. BOND: I'm not aware that in reality  
21 there are any such people. I mean Roger has told us  
22 that there are people with these vats of zinc around  
23 the United States. I don't know that there are any in  
24 reality. Do we have any specific one that's been  
25 identified?

1                   COMMISSIONER HILLMAN: Well, again, the  
2 problem for the Commission obviously to the extent  
3 that we think that that activity constitutes a  
4 sufficient amount of value added, etc., etc.,  
5 investment to constitute being a member of the  
6 domestic industry then we need data to figure out what  
7 do we make of that. Again, you're the proponent of  
8 this idea which is why I'm trying to make sure I  
9 understand it's implications.

10                   MR. WINTON: But I think from our point of  
11 view what we're saying is -- and the reason I  
12 mentioned the coating and the painting on galvanized  
13 is the suggestion was made today that black painted  
14 was really the same thing as galvanized, that that's,  
15 you know, it's all used to protect the pipe. And  
16 that's not the case. Black painted is different than  
17 galvanized painted. If they were the same nobody  
18 would take galvanized and paint it, which in fact is  
19 what's going on, you know, what we're talking about.

20                   But as to these other possible producers  
21 that galvanize things, clearly they would be part of  
22 the industry that makes galvanized pipe if they exist.  
23 I mean they are, they make galvanized pipe. That's  
24 what they would be there for if they exist. I don't  
25 know that we'll find any information on it because we

1 don't know anyone like that.

2 MR. BOND: No, I agree with Jeff. If they  
3 exist they're corrosion resistant producers.

4 COMMISSIONER HILLMAN: Okay.

5 MR. BOND: If they exist.

6 COMMISSIONER HILLMAN: Unfortunately, the  
7 yellow light has come on. So given that I had a whole  
8 series of other issues to ask about I'll wait until  
9 the next round.

10 Thank you very much.

11 CHAIRMAN KOPLAN: Thank you, Commissioner  
12 Hillman.

13 Commissioner Lane?

14 COMMISSIONER LANE: Thank you.

15 My first question is this exhibit, and I  
16 forget who gave it to us, but at the bottom it says  
17 that the data is from prehearing report table 6-1.  
18 And that does not appear to be accurate. Could you  
19 please tell me where you got that information?

20 MR. BOND: I'll check the cite. But  
21 essentially what we've done is the data for a full  
22 year was taken and it was broken into half years based  
23 on the proportion of revenue and costs in the first  
24 and second halves of 2003 because that was the year we  
25 had data for half years. So based on the ratio of

1 income that was earned in the first half of 2003 to  
2 the second half of 2003 we then broke down 2002 and  
3 2001.

4 So the data came from there but it was  
5 broken in half based on those proportions. But it was  
6 also very similar if you do it just based on the full  
7 year data. But because you have so many -- I'm sorry,  
8 so few data points it's a little, it's actually not as  
9 clear what's going on.

10 COMMISSIONER LANE: Okay, thank you.

11 MR. BOND: Does that help?

12 COMMISSIONER LANE: I'm not sure.

13 MR. BOND: Okay.

14 COMMISSIONER LANE: But I'll think about it.  
15 Thank you.

16 MR. BOND: If you want we can provide the  
17 numbers in our post-hearing brief to show in a short  
18 form how it works.

19 COMMISSIONER LANE: Yes, that's a good idea.

20 MR. BOND: Okay. Thank you.

21 COMMISSIONER LANE: Mr. Bond, this is for  
22 you, also. And I don't think that this was asked and  
23 if it was, just tell me. On table -- on page nine of  
24 your pre-hearing brief, would you please explain why  
25 the majority of distributors only sell either

1 corrosion resistant or black light walled rectangular  
2 pipe?

3 MR. BOND: Whether the majority sell black  
4 or corrosion resistant?

5 COMMISSIONER LANE: Yes.

6 MR. BOND: The vast majority, as I recall --  
7 I have the public version here, but the vast majority  
8 sell just black.

9 COMMISSIONER LANE: Okay. Okay, Mr. Winton,  
10 have the fundamental changes you described in your  
11 brief on page two been limited to the U.S. market or  
12 have they been worldwide?

13 MR. WINTON: I think there's been a  
14 worldwide change in the steel market and anyone, who  
15 reads the industry publications or follows the  
16 industry knows this: the emergence of China and  
17 demand in China has been amazing. I have other  
18 clients, who handle other steel products in Asia.  
19 They've stopped exporting to the United States,  
20 because the China market is so attractive and because  
21 they can't get shipping from other parts of Asia into  
22 the United States. This is a worldwide phenomenon.  
23 There was just an article in the New York Times  
24 yesterday, day before, about how China's development  
25 and economic expansion has really changed the -- and

1 is changing the economic structure of all of East  
2 Asia, from Australia, to Japan, to Korea, to Malaysia,  
3 Thailand.

4 This is a fundamental change in the world.  
5 And when this will end, no one is sure. I think  
6 people are talking about that China is going to keep  
7 very active until 2008, because of the Olympics.  
8 Nobody knows. But, it is a worldwide and it's not  
9 just for light walled rectangular pipe. It's for all  
10 pipe products. It's for all steel products.

11 It's really -- you know, we all sort of have  
12 in the back of our mind this impression that the U.S.  
13 steel industry is in trouble and it goes back to 1992  
14 and the lifting of the BRAs. And we've had case after  
15 case after case of the U.S. industry coming in and  
16 saying, we're closing down, we're shutting plants; all  
17 parts of the U.S. steel industry. I don't want to say  
18 that they weren't telling the truth, but that's -- in  
19 all of our mental makeup, that's the way we look at  
20 this. And it's sort of a shock to us to see a U.S.  
21 steel industry that across the board is making record  
22 profits. And that's really the situation they're in  
23 now. And they're in a situation where supply is tight  
24 across the board. Worldwide, supply is -- demand is  
25 booming and supply is tightening. It's affecting

1 everything. We all need, I'm afraid, to rethink both  
2 our business plan, as lawyers in the trade field, and,  
3 also, our mental impressions of the steel industry.

4 COMMISSIONER LANE: Okay, thank you. I have  
5 one more question. Mr. Bond, this is for you. On  
6 page 10 of your brief, you indicate that corrosion  
7 resistant product has a price, and I'm hesitant to say  
8 what it is, because I'm not sure if it's bracketed.  
9 It's bracketed sort of in the footnote, but it's not  
10 bracketed in the body of the brief. But, anyway, that  
11 the corrosion resistant product is substantially  
12 higher than the black product. Now, does this  
13 difference in price represent a higher cost of  
14 production or is it a value above additional  
15 production costs?

16 MR. BOND: First of all, there was a public  
17 statement in the pre-hearing report that gave the 30  
18 to 40-45 percent range, so I think we're safe saying  
19 it. The difference in price, to a large extent,  
20 reflects the difference in cost. It's expensive,  
21 because ink, as a material, is expensive. I don't  
22 know the cost of the other coatings that, for example,  
23 Galvak may apply, but I imagine they're fairly costly,  
24 as well as the process of actually applying it, which  
25 requires additional equipment, employees, et cetera.

1 There may be some additional margin, because it's a  
2 value-added product that's been aggregated to the  
3 additional cost. But, certainly, the additional cost  
4 is an important component of the difference.

5 Jaime, I don't know if you want to --

6 MR. TREVINO: Yes. I would say it's a  
7 combination of the two. There's very definitely  
8 additional costs involved, plus some additional value  
9 added to the product.

10 COMMISSIONER LANE: Okay, thank you. That's  
11 all the questions I have, Mr. Chairman.

12 CHAIRMAN KOPLAN: Thank you, very much,  
13 Commissioner Lane. Commissioner Pearson?

14 COMMISSIONER PEARSON: Thank you, Mr.  
15 Chairman, and greetings to the afternoon panel. And I  
16 appreciate your patience.

17 I'd like to start by asking, how integrated  
18 is the marketplace along the U.S. border for light  
19 weight rectangular pipe? I mean, is the border a  
20 border, in terms of how you approach the business? Or  
21 is it just as easy for you to serve customers on the  
22 U.S. side of the border, as it is on the Mexican side  
23 of the border?

24 MR. DIEDERICH: The border is not really a  
25 problem. It's not a geographical area that we serve.

1 Being in Monterrey, we have a radius that can go a  
2 quantity of miles south or quantity of miles north.  
3 The border is not really anything meant for setting  
4 the product one way or the other. So, going to  
5 Houston from Monterrey, going to Mexico City, it's the  
6 same market in one way. It's just a question of cost  
7 or freight to go from one place to the other.

8 COMMISSIONER PEARSON: Mr. Trevino?

9 MR. TREVINO: Yes. I would like to say that  
10 the market in the southwest of the U.S. and the  
11 Mexican market, at least in our geographical area, are  
12 very integrated. We are very close to some of our  
13 customers geographically. And it's my opinion that  
14 the market is very integrated and we don't have any  
15 difficulty accessing our customers and market our  
16 products. In addition to selling customers in Mexico  
17 and customers in the U.S., we sell to Son  
18 Maquiladoras, also, the product under investigation.

19 COMMISSIONER PEARSON: So, you would have  
20 long-standing customer relationships, both on the  
21 Mexican side of the border and on the U.S. side of the  
22 border?

23 MR. TREVINO: Yes. Our philosophy for  
24 selling our products is to establish long-term  
25 relationships. We are looking more for those type of

1 customers, as compared to spot sales. So, yes, most  
2 of our customers have long relationships that we have  
3 had for a long time, both in Mexico and in the U.S.

4 MR. DIEDERICH: It is the same for Prolamsa.  
5 We just look for long-term relationship. And we have  
6 very long-term relationship in Mexico, of course, and  
7 we're the same in the U.S. I'm not very much  
8 interested in spot market.

9 MR. TREVINO: And I would like to add  
10 something. I mean, since several years ago, I mean,  
11 we have not been actively looking for new customers.  
12 I mean, we have pretty much the same capacity and we  
13 basically have been taking care of our long-standing  
14 accounts.

15 MR. DIEDERICH: Just to mention, Prolamsa  
16 just had its 50<sup>th</sup> anniversary Friday and we had  
17 numerous customers coming from Mexico and the U.S., to  
18 accompany us for that day. That just shows us the  
19 type of respect and relationship we have with the  
20 customers.

21 COMMISSIONER PEARSON: So do some U.S.  
22 producers of light weight rectangular piping tube  
23 compete with you for sales to your Mexican customers?  
24 In other words, is the border integrated in both  
25 directions or only in one direction?

1                   MR. DIEDERICH: The integration could be  
2                   made on both parts. It's just a question that the  
3                   U.S. mill have to do the work to go to do the sales in  
4                   Mexico. I know that Bull Moose is selling in Mexico  
5                   to several customers. In our case, we made an  
6                   agreement with Copper Weld, where we would represent  
7                   part of the production that they manufacture in  
8                   Chicago and resell it in Mexico, where we need this  
9                   type of products, that we are not actually  
10                  manufacturing ourselves. Obviously, it's just  
11                  material, one looking for the other and trying to do  
12                  business. There's no impediment in a U.S. mill being  
13                  able to sell tubing in Mexico and shouldn't be the  
14                  other way either.

15                 MR. BOND: Could I just quickly comment?

16                 COMMISSIONER PEARSON: Please.

17                 MR. BOND: And then I want to comment in  
18                 response to something that was said this morning. A  
19                 large part of my practice consists of representing  
20                 American exporters to Mexico in trade cases in Mexico,  
21                 which is how I met Mr. Mayorga, et cetera. If we're  
22                 exporting hundreds of millions of dollars of products,  
23                 from pipe, to ham, to you name it, it's going to  
24                 Mexico. So, the sense that Mexico is a market that's  
25                 impossible to break into, whether it's because of

1 corruption or whatever, it's just nonsense. If the  
2 effort is made, pipe could be sold in Mexico, as well.

3 COMMISSIONER PEARSON: Okay. Shifting gears  
4 a bit, the capacity utilization figures for the  
5 Mexican industry on Table 7-2, that's page 7-5 in the  
6 staff report -- this is public data -- they range from  
7 about 82 percent to 90 percent during the period of  
8 investigation. That's, in rough terms, about double  
9 the capacity utilization figures for the U.S.  
10 industry. Do you have any thoughts on why there's  
11 such a large difference in capacity utilization on  
12 opposite sides of the border?

13 MR. DIEDERICH: In the case of Prolamsa, we  
14 do -- we run between two and three shifts a day. I  
15 suppose the way the U.S. industry is counting the  
16 number of shifts that is involved and how many days  
17 that's involved during the year, it's a little bit  
18 different than ours. That's why there is just a 45  
19 percent capacity production. It's a number that  
20 doesn't make very much sense.

21 We are usually between 80 and 90 percent,  
22 because the Mexican market is doing very much. We  
23 export, also, in South America and we sell, also, in  
24 the U.S. And we have a very wide range of -- line of  
25 products and we tend to use our capacity for the

1 Mexican market as much as we can and to export in  
2 South America. That is a new market we're developing.

3 But, I mean, if you had three shifts, you  
4 should be around 80, 90 percent, not 45 percent. I  
5 mean, even in Europe, when I was working over there, I  
6 never heard a company that can live with a 45 percent  
7 production capacity.

8 MR. WINTON: But at the end of the day, we  
9 calculated -- Hysla and Galvak calculated their  
10 capacity based on three shifts a day, as well, which  
11 is how they run their mills. At the end of the day,  
12 it's a business decision that the U.S. companies have  
13 made to run two shifts a day. And I think I heard Mr.  
14 Meyer say, he could run three shifts a day and export  
15 the additional amount, but he doesn't want to. That's  
16 his decision, and I'm not here to second guess his  
17 business judgment.

18 COMMISSIONER PEARSON: So, are there any  
19 differences between U.S. and Mexican plants that would  
20 explain the difference between capacity utilization?  
21 I mean, is the equipment the same? The production  
22 processes? Labor laws? Are there some differences or  
23 is everything just the same?

24 MR. BOND: I think the differences, the  
25 number of shifts and the number of hours that underlie

1 the calculations of the various people that submitted  
2 data to you. I think it was during the prelim -- I  
3 don't recall which Commissioner -- but someone asked  
4 to have each of the respondents to make clear  
5 precisely how they calculated that. And I think that  
6 data actually is contained in the footnote. So, I  
7 think if we compare that information for the U.S.  
8 producers versus the Mexican producers, therein  
9 probably lies the distinction.

10 MR. WINTON: And David may know this better  
11 than I do, but when I was reading the transcript from  
12 the preliminary conference, I remember the issue of  
13 capacity utilization came up, why is the U.S. -- and  
14 the U.S. producers said, you know, we want to get our  
15 capacity utilization up higher. And one of the staff  
16 asked, well, when did you last have the higher  
17 capacity utilization; they said, in the mid-1980s, I  
18 think, was the answer. I'm not exactly sure, but that  
19 was my -- it's been a long time that they've been  
20 running their plants this way.

21 COMMISSIONER PEARSON: The capacity  
22 utilization data for the Mexican industry indicate  
23 that the lowest capacity utilization was in the  
24 January to June interim period, now in 2004. Why is  
25 that lower than the earlier periods?

1                   MR. TREVINO: Well, as I was explaining in  
2 my testimony, for example, for a period of -- the  
3 initial months of 2004, we had some shortage, even  
4 though -- availability of flat-rolled products due to  
5 the overall worldwide situation that we just  
6 explained. And then even our own flat-rolled division  
7 caught -- the supply to us by about 10 percent and we  
8 had to cut, also, some of our production of the light  
9 weight rectangular tubing during that period of time.

10                   COMMISSIONER PEARSON: Okay. So, the supply  
11 shortages of flat steel going into the plant were  
12 sufficient, that the run time of the plant was  
13 actually reduced?

14                   MR. TREVINO: Right. That is correct.

15                   COMMISSIONER PEARSON: Okay. My time has  
16 expired. Was there another comment, Mr. Winton?

17                   (No verbal response.)

18                   COMMISSIONER PEARSON: Okay. Thank you,  
19 very much.

20                   CHAIRMAN KOPLAN: Thank you, Commissioner  
21 Pearson. I want to thank the witnesses for their  
22 testimony thus far. Let me pick up on these 19  
23 producers that we haven't heard from yet. If I can  
24 trace this, on September 24, White & Case sent a  
25 letter to the Commission and listed these 22 that

1 you've talked about, Mr. Bond, in your direct  
2 presentation.

3           It appears to me that the basis for your  
4 list was twofold: a search of the web and you came up  
5 with the Steel Tube Institute website and a  
6 publication called Hollow Structural Sections,  
7 Principle Producers and Capabilities. And from that  
8 fishing of the web, so to speak, you came up with this  
9 list of 22 possibles is what it looks like. Let me  
10 just walk through this with you.

11           Subsequently, the Commissioner staff  
12 contacted, sent out questionnaires and we heard back  
13 from three. Nineteen have not responded yet -- well,  
14 19, at the time this was -- our staff, we said we were  
15 -- to be specific, we said in our staff report at 3-1,  
16 that the staff has been in contact with the 19 non-  
17 responding firms, attempting to determine to what  
18 extent they produce the subject LWR pipe and tube  
19 products and will present updated information in the  
20 final staff report to the Commission. That's the  
21 footnote in our staff report that refers to this. Let  
22 me say to you that my understanding is that the staff,  
23 in making these contacts, it would appear that the  
24 final result of their efforts will show that most of  
25 these are making non-subject, not subject products.

1 Now, that will be discussed in our final staff report,  
2 as indicated.

3 So, I'm just putting on notice that you  
4 might be chasing a red herring here; that the fact  
5 that in fishing the web, you came up with these 22  
6 producers does not necessarily mean that it's going to  
7 fall the way you're predicting it should fall. And I  
8 thought I might let you know that, at this point, so  
9 that you can go back and see if you can come up with,  
10 on your own, better information than these two sources  
11 that you made use of. And if you do, certainly, you  
12 can share that information with staff. But, that has  
13 not -- that's the way it looks like it's going.

14 MR. BOND: Okay. If I can make two quick  
15 comments.

16 CHAIRMAN KOPLAN: Sure.

17 MR. BOND: Number one, which is the reason  
18 we asked the staff to issue the questionnaires was  
19 exactly for that reason. As you say, we did go on a  
20 fishing expedition. We found what looked like  
21 credible information of other producers of the subject  
22 merchandise and we appreciate that you followed up.  
23 If it turns out that some of them don't --

24 CHAIRMAN KOPLAN: You're following up on our  
25 behalf.

1                   MR. BOND: That's fine; okay. But the  
2 second point is that perhaps 18 of the 22 don't make  
3 the subject merchandise, but we know with a 100  
4 percent degree of certainty that there are two or  
5 three very major producers of the subject merchandise  
6 that have not submitted data. And if we had that  
7 data, the production, the shipments, and the U.S.  
8 market share information would look very different.  
9 So, it's not the case -- I know it's not the case that  
10 100 percent of those companies are not making the  
11 subject merchandise. There may be some marginal  
12 players that aren't in this product, but there are two  
13 or three very large producers, Jeff mentioned  
14 Wheetland, that we know produce the product. We will  
15 do our best to provide --

16                   CHAIRMAN KOPLAN: I'm not saying -- I'm not  
17 going to say to you that it's going to be a clean  
18 sweep.

19                   MR. BOND: Right.

20                   CHAIRMAN KOPLAN: What I'm saying is that  
21 you might find, though, when all is said and done,  
22 that we have a very high percentage of coverage.

23                   MR. BOND: Okay.

24                   CHAIRMAN KOPLAN: That's what I'm saying.

25                   MR. BOND: Thank you.

1                   CHAIRMAN KOPLAN: Okay.

2                   MR. WINTON: And Commissioner Koplan, even  
3 if you don't find any other, I'm very happy with our  
4 injury case. I think the fact that there -- I believe  
5 from the staff report that there are other producers  
6 is a very nice point to make to the Commission; but,  
7 I'm happy to argue this case without them.

8                   CHAIRMAN KOPLAN: I appreciate that. And I  
9 note that in your pre-hearing brief, although you  
10 didn't join in this September 24<sup>th</sup> letter, you have a  
11 footnote that is appreciative of Mr. Bond's efforts,  
12 but you don't quite jump on that same bandwagon  
13 substantively; isn't that correct? I'm looking at  
14 footnote five.

15                   MR. WINTON: Yes. But, I did jump on it  
16 today quite happily.

17                   CHAIRMAN KOPLAN: I know you did. So, when  
18 I give him that caveat, consider yourself the  
19 recipient of it, as well. Thanks.

20                   Mr. Bond and Mr. Winton, the Commission was  
21 able to make 114 price comparisons between U.S.-  
22 produced piping tube and subject imports during the  
23 period 2001 to 2003 and the first six months of 2004.  
24 That's in Chapter V, page 15 of the staff report.  
25 Subject imports undersold domestic product in about,

1 if my calculation is right, in about 80 percent of  
2 those comparisons, roughly 91 of the 114. In your  
3 pre-hearing brief at page three, you argue, 'whatever  
4 price suppression may have existed last fall has  
5 become a faint memory, as producers and consumers  
6 alike have been forced to change gears to address the  
7 challenges of short supply.' Those price comparisons  
8 were not limited to last fall. They include the first  
9 six months of this years, as well. Furthermore, the  
10 petition in these investigations was filed on  
11 September 9, 2003.

12 Do you deny that those 114 price comparisons  
13 can, at least in part, form the basis for a finding  
14 that price suppression existed during the period of  
15 investigation? I don't believe your pre-hearing  
16 briefs covered the pattern of underselling by Mexico  
17 and Turkey; but for some reason, and I don't  
18 understand why, White & Case ran what is termed --  
19 what I term a basket category calculation, as an  
20 alternative to the Commission's direct comparisons on  
21 a product-by-product basis. I'm referring to the les  
22 paris price index that you run. So, I'd like you to  
23 respond to what we do have in the table I cited.

24 MR. WINTON: Let me begin by saying, your  
25 price comparisons show that when you average the sales

1 by the Mexican producers or by the Turkish producers,  
2 the average price for their sales was lower than the  
3 average price for U.S. producers sales in the same  
4 quarter, and that's it. And you may or may not draw  
5 inferences from that. That doesn't say --

6 CHAIRMAN KOPLAN: Are you talking about this  
7 les paris index that you're running?

8 MR. WINTON: No, no. I'm not saying, your  
9 price comparisons in your staff report, the way you do  
10 your analysis is you say, in the first quarter of  
11 2004, the Mexican producers -- the importers of  
12 Mexican product, which, actually, in our case, are the  
13 Mexican producers, when they sold, they sold in the  
14 first quarter and their average price was x. And when  
15 the U.S. producers sold in the first quarter, their  
16 average price was y. And you say, if x is less than  
17 y, there must be price suppression.

18 Now, there are a number of conceptual  
19 problems with that. I understand the logic and that's  
20 what the Commission does. But, there are a number of  
21 possible conceptual issues. One is, if you don't see  
22 actual price suppression going on, if the U.S.  
23 producers prices are not being suppressed, if their  
24 prices are going up and up faster than their cost of  
25 materials, then you can't say whatever the prices of

1 Mexican product is, we're not suppressing the prices.  
2 That was my argument about what's going on in 2004.  
3 As I said, in the first quarter of this year, the U.S.  
4 producers announced price increases of \$400 a ton,  
5 more than \$400 a ton for one of them. And I have to  
6 say, I don't think I have all of the price increases  
7 and I wish we could get the U.S. producers to submit  
8 all of their price increases, because I think there  
9 are more. But, it's at least \$400 a ton. Whatever  
10 the pricing was, it's not keeping them from raising  
11 their prices.

12 Now, the second point is, when they're  
13 selling -- they're selling to their customers and  
14 we're selling to our customers, the fact that we sell  
15 to our customers at a lower price than they sell to  
16 their customers doesn't tell you anything about how  
17 they negotiate the price with their customers. It may  
18 be -- it may be that their customers say to them, hey,  
19 Hysla is selling to its customers are a lower price;  
20 you'd better give me a lower price. But, it's equally  
21 possible that their customers don't know anything  
22 about what Hysla or Galvak sales prices are and  
23 they're negotiating in a totally different arena. Or,  
24 their customers may say to them, hey, I hear the  
25 Mexicans are offering this, \$100 a ton less than you

1 are, when we're not offering it at \$100 a ton less  
2 than they are.

3           You're talking about separate negotiations.  
4 As we said, as Mr. Trevino said and Mr. Diederich  
5 said, they have long-standing customers that they sell  
6 to. They negotiate their prices to those customers.  
7 They're not competing with the U.S. producers for  
8 their existing customers. They're negotiating prices.  
9 When they negotiate their prices, and I'm sure they  
10 will both say this, they try to negotiate the highest  
11 price they can get from their customers. Their  
12 customer tries to negotiate the lowest price they can  
13 get from them. The U.S. producers, I'm sure it's the  
14 same situation. The fact that those two negotiations  
15 are going on and that they have different results  
16 doesn't tell you that this one affected that one. And  
17 you're assuming, and that's the Commission's  
18 methodology, but you're assuming that because his  
19 negotiation achieved this price, given the freight  
20 costs and the situation in the market, he's selling to  
21 him -- the fact that he's selling it across the board  
22 gives you this price and that a U.S. producers  
23 negotiation maybe in California or Oregon or  
24 Washington or maybe in the Gulf or wherever, when you  
25 average all of those together gives you that price,

1 you're assuming that his negotiation caused that price  
2 or affected that price. And, in fact, when you look  
3 at it, the fact that they are different prices  
4 suggests to me that they're not affecting each other.

5 CHAIRMAN KOPLAN: The light is on.

6 MR. WINTON: I'm sorry.

7 CHAIRMAN KOPLAN: I assume you finished your  
8 response. Thank you for that. What's that?

9 MR. WINTON: I think Mr. Bond is very  
10 anxious to add to what I said.

11 CHAIRMAN KOPLAN: I'll give him the  
12 opportunity to do that in my next round. Vice  
13 Chairman Okun?

14 VICE CHAIRMAN OKUN: Mr. Bond, you can  
15 answer; but just before you do, I want to make clear,  
16 Mr. Winton, what I heard you say, which I think is a  
17 misstatement of what we do. I mean, just because we  
18 find on that basis that there was underselling does  
19 not mean the Commission assumes -- I don't think  
20 anyone up here assumes suppression.

21 MR. WINTON: Right. And I'm not -- what I  
22 was trying to say, the fact that there are different  
23 prices, which you call underselling, but different  
24 results on an average overall basis, doesn't  
25 necessarily mean price suppression. And the question,

1 is there a price suppression or not, is a factual  
2 question. And in this case, when you look at the  
3 facts, I don't think you see it.

4 VICE CHAIRMAN OKUN: Mr. Bond?

5 MR. BOND: I would say that you absolutely  
6 should not conclude that there is price suppression  
7 based on the data that you just mentioned,  
8 Commissioner Koplan. It's true that there is a margin  
9 of underselling. It's, also, true that it's always  
10 existed. You can see from the data that as the margin  
11 of underselling has increased and decreased, there's  
12 really nothing -- there's no cause and affect  
13 relationship that you can see between fluctuations in  
14 the margin of underselling, changes in the volume of  
15 imports, or the operation and other -- the operation  
16 margin and other financial indicators of the domestic  
17 industry. So, yes, I mean, you have this simple  
18 analysis that in 16 out of 17, or whatever it is,  
19 periods, underselling appears to have occurred, but I  
20 don't think you can connect the dots from that to say  
21 that price suppression occurred, especially in the  
22 absence of any hard data from specific customers  
23 confirming that underselling or price suppression or  
24 anything like this is actually occurring in the  
25 marketplace.

1                   VICE CHAIRMAN OKUN: I think, Mr. Bond, I  
2 guess this question, I believe, is for you. White &  
3 Case basically has the les paris price index, is that  
4 correct?

5                   MR. BOND: Yes. That's ours.

6                   VICE CHAIRMAN OKUN: Did you put that in  
7 there to confuse us? I'm just curious -- I mean, I  
8 shouldn't be --

9                   MR. BOND: What possessed us to do that?

10                  VICE CHAIRMAN OKUN: Someone worked very  
11 hard on getting this argument in there. But, I mean,  
12 when we have very specific products, I was just trying  
13 to figure out (a) why it was put in there as being  
14 particularly helpful to us. I mean, even when you ran  
15 it, I wasn't even sure if it proved the point it  
16 wanted it to.

17                  MR. BOND: We had incredible problems at the  
18 last hour trying to get all of that in the brief and  
19 it really turned into an administrative nightmare,  
20 where all the charts were over top of one another and  
21 we had to take them out quickly and try and rewrite it  
22 and stick it all in exhibits. So, I know it wasn't  
23 really a model of clarity.

24                  The idea was, in constructing the index, to  
25 come up with something that would allow us to compare

1 trends in all of the prices of all of the products  
2 against operating margins and things like this, which  
3 you really can't do or you can't do very effectively  
4 just looking at fluctuations of the prices of one  
5 product in relation to operating margins and things  
6 like this. So, the idea behind that was to create a  
7 sort of more global model that would allow us to look  
8 at the impact of fluctuations in prices and  
9 underselling, in particular, on the operations of the  
10 U.S. producers.

11 VICE CHAIRMAN OKUN: Okay. Well, for post-  
12 hearing, for my own purposes, other Commissioners may  
13 feel different, I would appreciate you focusing on the  
14 price data that we collected, because I think it was  
15 fairly thorough and I think it deserves more  
16 attention.

17 MR. BOND: It was based on your price data.  
18 It's just a mixup.

19 VICE CHAIRMAN OKUN: Yes, I know.

20 MR. BOND: Okay.

21 VICE CHAIRMAN OKUN: Okay. Then, let me  
22 turn to the industry representatives. And you had a  
23 number of -- a lot of information in your direct  
24 testimony and I wanted to focus in on a couple of  
25 things that I heard you mentioned, just to make sure

1 that I understood kind of the timing. And the first  
2 one was just regarding your price increases. I think  
3 I heard in both your testimony, you talk about when  
4 you instituted price increases. And could you just go  
5 through again for me when those price increases took  
6 place. And when responding to that, could you, also,  
7 comment on what was going on with hot-rolled prices.  
8 In other words, the raw material, did you feel  
9 pressure on your raw material? Were you meeting U.S.  
10 prices? I just wanted to hear a little bit more in  
11 the context of the price increases, when they occurred  
12 and why.

13 MR. TREVINO: Sure, of course. I think what  
14 I was saying in my testimony, we were able to raise  
15 our prices by the end of the first quarter. I mean,  
16 the price basically doubled on the light weight  
17 rectangular tubing. At the same time, the hot-rolled  
18 coil prices had been going on. But, we were able to  
19 implement the cost increases, that we experienced  
20 loss, some additional profit margin. Prices,  
21 basically, doubled in the first quarter of 2004  
22 period. Then, the situation continued. Up to now,  
23 prices are basically two-and-a-half times the price  
24 level that they were at the beginning of the year.

25 VICE CHAIRMAN OKUN: Okay. When you say,

1 'first quarter 2004,' were those price increases  
2 announced in 2004 or price increases announced in  
3 2003, to take place in 2004?

4 MR. TREVINO: No. We started announcing  
5 price increases in late 2003 and we continued in  
6 January, February, and March of 2004.

7 CHAIRMAN KOPLAN: Okay. Mr. Winton, this  
8 may be information that was in your brief, if so -- if  
9 it's not in there, if there's any additional  
10 information, could you put it in there, because I just  
11 can't remember now if we've -- any press releases or  
12 anything else that we could look at that showed price  
13 increases and when they --

14 MR. WINTON: From Mexico?

15 VICE CHAIRMAN OKUN: Yes.

16 MR. WINTON: We did not submit anything. We  
17 will do that. I think what complicates a little is  
18 that the price increases are imposed as of a certain  
19 date, and you see it with the U.S. producers, as well;  
20 any order after this date, with shipment after that  
21 date. There are previous orders that might be shipped  
22 later or protected to some extent. So, in your data,  
23 it doesn't come in quite as quickly as it's announced.

24 VICE CHAIRMAN OKUN: Right. But, for me, I  
25 guess, again, since there's so much focus on what

1 dependency -- I understand your argument on it; but,  
2 also, if there's anything contemporaneous with what  
3 you're saying about when the order went into effect,  
4 from what your prices were doing and what was  
5 happening in Mexico with raw material, I would look at  
6 it for evidence.

7 MR. WINTON: I'm not sure -- I know -- I'm  
8 pretty sure that we don't have any sort of published  
9 price list that comes out, that communicates to the  
10 world at large, this is what we're willing to sell at.  
11 I think it's done customer by customers. But, there  
12 may be some documentation, internal, things like that.

13 MR. TREVINO: Just the same, we do the  
14 negotiations on a customer-by-customer basis. If that  
15 information has, we can provide it to you; I mean, of  
16 course, yes. And I would to add that we found no  
17 resistance in the implementation of the price  
18 increases throughout 2004. We have been able to  
19 successfully implement the price increases that we  
20 have tried to pass to our customers.

21 VICE CHAIRMAN OKUN: Okay. Mr. Diederich,  
22 same question for you. If you can just put your  
23 microphone on there.

24 MR. DIEDERICH: In our case, we have a fully  
25 integrated office in the U.S. and so we are very close

1 of the U.S. market: price increase, price decrease.  
2 And we usually intend to increase our prices at the  
3 same speed that the U.S. mill increases. So,  
4 basically, any increases that have been done by the  
5 U.S. mill have been matched by Prolamsa, at the same  
6 time, or one or two days before or after the day that  
7 they were choosing. So, there's no differences there.

8 As far as -- Prolamsa has been very pro-  
9 active in not depending only of one country or one  
10 mill, as a lot of U.S. mill has been, let's say, doing  
11 for the past years. We have the chance to be  
12 geographically located in the north of Mexico and, of  
13 course, we purchase a lot of coil in Mexico. But, we  
14 purchase a lot of coil from the U.S. mill. We bring  
15 inside of Mexico transform and tubing and we export in  
16 the U.S. at the cheaper cost sometimes at the U.S.  
17 mill. In the same way, we do edge on buying coil. We  
18 try to look for coil for production from Mexican  
19 market for the export in various parts of the world  
20 and try to have a low cost balance between different  
21 purchases in different countries. But, again, we --  
22 Prolamsa is here to make money. We are not a company  
23 against having high margin. It's a very profitable  
24 and a very well financed company. And we intend to  
25 continue in that way.

1           So, yes, we match any price increase or  
2 decrease that the U.S. is doing.

3           VICE CHAIRMAN OKUN: I guess one of the  
4 things I was trying to understand is just, in terms of  
5 the issues that have been purported, in terms of the  
6 structural changes in the market, and I think one of  
7 my colleagues asked about was it kind of global the  
8 whole -- you know, China, the shortages, the raw  
9 material increase on hot-rolled, is it affecting you  
10 the same way it's affecting the U.S. market? Or were  
11 you able to pass along the savings --

12           MR. DIEDERICH: The whole American market  
13 has been affected in the same way. Mexico, U.S., or  
14 Canada, there's not very much difference between one  
15 and the other. The big advantage that we have on some  
16 others, it's the way that we are purchasing, where we  
17 are purchasing, and when we are purchasing. We take  
18 advantages of a lot of opportunities that some others  
19 wouldn't take of and that gives us sometimes an  
20 advantage on our production cost.

21           VICE CHAIRMAN OKUN: Okay. I see my -- Mr.  
22 Trevino, did you have something you wanted to add?

23           MR. TREVINO: Yes, please. I would like  
24 just to add, what caused all of these price increases,  
25 in our case, was the combination of the several parts

1 that we have been mentioning: the strong demand in  
2 China; the strong demand, also, in North America and  
3 in Europe, as well as in our domestic market; the  
4 type, availability of the raw materials that we use  
5 for producing our flat steel; the weak dollar  
6 situation and the increase in the shipping costs  
7 basically worldwide.

8 VICE CHAIRMAN OKUN: Okay. I thank you for  
9 the additional comments. Thank you, both.

10 CHAIRMAN KOPLAN: Thank you, Vice Chairman.  
11 Commissioner Hillman?

12 COMMISSIONER HILLMAN: Thank you. Just  
13 following up a little bit, just to make sure I  
14 understand again this whole issue of the various  
15 implications of things going on. Take us back to when  
16 the President announced the 201 duties and, obviously,  
17 Mexico was an exempt country. At that point, in March  
18 of 2002, what did that do to the price and the  
19 availability of hot-rolled sheet in Mexico. I mean,  
20 were your Mexican suppliers of sheet much more drawn  
21 into the U.S. market, because you were in an exempt  
22 country?

23 MR. TREVINO: Since we are fully integrated,  
24 we were not actually --

25 COMMISSIONER HILLMAN: You don't purchase

1 any outside sheet?

2 MR. TREVINO: No, we were not affected by  
3 that. So, we continued --

4 COMMISSIONER HILLMAN: Not affected at all.  
5 Now, are you tempted by sheet prices to move sheet in  
6 or is it still more attractive for you to produce pipe  
7 and tube, a more value-added product?

8 MR. TREVINO: We continued to do the  
9 marketing of our coils in our flat rolled division  
10 and, at the same time, selling our tubular products.  
11 So, it was a combination of the two.

12 COMMISSIONER HILLMAN: Okay. Mr. Diederich,  
13 from your perspective, when the 201 duties were  
14 announced on -- and, again, I'm trying now to just  
15 focus on the sheet side of it, was there a significant  
16 change in either price or availability of sheet for  
17 you to use to make pipe and tube? I'm sorry, you just  
18 need that microphone.

19 MR. DIEDERICH: The market was tight,  
20 obviously, after the 201; but, again, because of the  
21 political strategies that we have in purchasing, we  
22 had a huge stock of coil already coming from Mexico,  
23 ready to produce our tubing. So, we were not really -  
24 - we didn't see the same stress that other mill, at  
25 the time.

1 COMMISSIONER HILLMAN: Okay.

2 MR. DIEDERICH: I don't know if I answered  
3 your question, but --

4 COMMISSIONER HILLMAN: Okay. And then over  
5 the long haul, obviously, at some point, you used up  
6 the stock of coil.

7 MR. DIEDERICH: Yes, we use it. And, again,  
8 because of the strong relationship we had on both side  
9 of the border, we always have the availability of coil  
10 that we need. We never had really a problem of not  
11 being able to ship merchandise to our customer,  
12 because we didn't have coil. We're fearing not having  
13 coil tomorrow, if that's the question.

14 COMMISSIONER HILLMAN: Okay. Then, I wanted  
15 to follow up just a little bit on another response  
16 that you gave to Vice Chairman Okun, in terms of this  
17 issue of pricing. You say, you are very close to  
18 following the prices in the U.S. market. I mean, how  
19 does that work? Does your customers tell you or is  
20 there a publication that you all look to? Or how is  
21 it that you are very aware of what pricing is?

22 MR. DIEDERICH: Well, there are several  
23 factors. Obviously, they're going to take information  
24 that is public that everybody can get. After that,  
25 you have a full set of force turning the customers.

1 You get a lot of information from the customers. And  
2 after that, as we purchase coil from the U.S., we have  
3 the same price increases of what they have. So, it's  
4 not very difficult to make a decision based on that  
5 information.

6 COMMISSIONER HILLMAN: I appreciate that.  
7 Going back to the pricing -- the arguments with  
8 respect to pricing, Mr. Winton, to you, I'm sort of  
9 sharing, to some degree, the Vice Chairman's -- I just  
10 want to make sure I'm clear on it, because the  
11 statute, as I've read it, as it was very clear, that  
12 we're making arguably two findings under prices: one,  
13 was there significant underselling; and, then, the  
14 statute is very clear, and we are to determine whether  
15 or not there was price suppression or price  
16 depression.

17 MR. WINTON: Right.

18 COMMISSIONER HILLMAN: I just want to make  
19 sure I'm hearing exactly what you're saying. With  
20 respect to the issue of, was there significant  
21 underselling, leave aside whether it caused  
22 suppression or depression, was there significant  
23 underselling, are you saying that the pricing data in  
24 here is suggesting the answer to that is no, was not  
25 underselling -- significant underselling? Now, the

1 statute sorts it out.

2 MR. WINTON: No, no, no, no, I understand.

3 COMMISSIONER HILLMAN: The statute very  
4 clearly has underselling and then the second complete  
5 subparagraph, 'and whether suppression or depression.'

6 MR. WINTON: I understood. But, I  
7 understood Chairman Koplan's question to be about  
8 price suppression, not about underselling. If I mis -  
9 - I understand. However, having said that, I mean, I  
10 need to go look at the data, to sound like Dr. Lecker,  
11 a little bit, because what you have here is Mexican  
12 producers selling in a -- you know, it's not the whole  
13 United States they're selling in. Whatever you may  
14 feel about geographic separation, it's not the whole  
15 United States they're selling in.

16 The prices you have from the importers  
17 questionnaires are, at least in our case, and I don't  
18 know about the other companies, but for Hysla and  
19 Galvak, they are the importers for their exports,  
20 okay. So, when you get pricing data from us, it tells  
21 us, here's the prices that the Mexicans were selling  
22 in the part of the market where they sold, at the  
23 level of trade of themselves selling to their first  
24 customers. That's what you get from us.

25 What you get from the U.S. producers is

1 different. It includes sells in other parts of the  
2 country. It includes sells with, I'm assuming, at a  
3 further advanced level of trade. So, they're  
4 different.

5 Now, I have not done the analysis and maybe  
6 I can't do the analysis and maybe the information that  
7 we have is just not sufficient and it's impractical.  
8 I, personally, don't know if there's underselling.  
9 Are the average prices that you get in your staff  
10 report -- what the average prices that you get in  
11 your staff -- are they what they say? I assume that  
12 the staff has done the calculations correctly. But, I  
13 have questions. If somebody in Oregon, where a  
14 Mexican product never goes, happens to be selling it  
15 at three times the market price and that raises the  
16 average U.S. prices that you see, you won't see that  
17 in your data, and there was this guy in Oregon, who  
18 threw off the curve. You'll see a higher average U.S.  
19 price and then you'll say, oh, there's underselling,  
20 because the average Mexican price is lower.

21 So, given that, I think the staff report  
22 stands for what it says. I apologize, Chairman  
23 Koplun, because I clearly mis -- I was thinking about  
24 price suppression, whether the fact that the average  
25 prices are lower, does that indicate price

1 suppression, and I was trying, probably in an  
2 articulate way, to say, I didn't think so. And I  
3 think David pointed out, this is -- the difference in  
4 prices that you see are persistent throughout the  
5 period.

6 COMMISSIONER HILLMAN: I appreciate that  
7 clarification. That helps my understanding of the  
8 point of the argument. But, then, let me go to this  
9 issue of the competition between the imports and the  
10 domestic product. At least one of the briefs or  
11 somewhere, it's this issue of it's attenuated by this  
12 issue of concentration in the Gulf region, which  
13 you've just touched on, and there is this comparison  
14 of things in the Gulf region, as opposed to the  
15 argument that's made in the Petitioner's brief, which  
16 is, that if you do that and just try to do that, what  
17 you see is that the companies that have a greater  
18 concentration in the Gulf region suffered more greatly  
19 in terms of their financial performance than the rest  
20 of the industry as a whole, as their way of furthering  
21 the argument on causation; that if you saw greater, if  
22 you will, declines within the Gulf region, it is more  
23 directly related to the imports, since the imports  
24 are, also, more concentrated in the Gulf region. What  
25 is your response?

1                   MR. BOND: I think probably it would be best  
2 for us to address this in our post-conference brief,  
3 because of the confidential information; but just in  
4 very general terms, a few thoughts. It seems to me  
5 that primarily the way that the Petitioners  
6 constructed that was just to look at one or two very  
7 small producers that happened to be located in the  
8 Gulf region. They ignored completely the performance  
9 of others that are close to the Gulf region, that are  
10 not physically located in the Gulf region that ship a  
11 lot of tons into that area. So, if you include the  
12 performance of those other people, those other U.S.  
13 producers that are, in fact, shipping into the Gulf  
14 region, that are competing with the Mexican imports,  
15 you'll have a very different picture.

16                   COMMISSIONER HILLMAN: Okay.

17                   MR. BOND: We can do that for you.

18                   COMMISSIONER HILLMAN: I would ask you, if  
19 you don't mind, to address it a little more fully.  
20 Because, there are clearly -- I mean, as I hear a  
21 number of the claims that they're making, they're  
22 pushing on this causation issue. And to the extent  
23 that you think there is not an argument there on the  
24 Gulf side, I would appreciate whatever comments you  
25 want to add.

1                   The other issue that was raised in -- I  
2                   believe it's in your brief, Mr. Bond, is the issue of  
3                   the sort of timing correlation, if you will, between  
4                   when the imports are highest versus when the domestic  
5                   industry is or isn't coming down in its operating  
6                   income or ratios and your comments on the lack of  
7                   correlation between these trends. But, if I look at  
8                   it, in this chart in your brief, that shows cumulated  
9                   subject import market share and I look at it and I'm  
10                  thinking, okay, it's actually highest -- import  
11                  markets, your subject market import share is highest  
12                  in the January to June 2003 period, which is the exact  
13                  same period at which the greatest decline in operating  
14                  income of the domestic industry occurs. So, we can  
15                  argue over whether that decline is significant or not;  
16                  but, to me, there is, at least from looking at those  
17                  two factors, this temporal correlation between when  
18                  the subject import market share is highest versus when  
19                  the domestic industry appears to be -- you know,  
20                  having the largest decline in its operating  
21                  performance.

22                  MR. BOND: Can you direct me to the page?  
23                  I'm sorry.

24                  COMMISSIONER HILLMAN: It would be in your  
25                  brief, I believe, at page 29, the chart on top of the

1 page, which shows, again, the -- what I'm looking at  
2 is the cumulated share of imports, showing that it  
3 reaches its peak in interim 2003, which would, also,  
4 be the peak decline in the domestic industry's  
5 operating income.

6 MR. BOND: Right. I have the public version  
7 here and that's been taken out.

8 COMMISSIONER HILLMAN: Okay.

9 MR. BOND: But just generally, I would say  
10 that I'd have to look at the data about that one  
11 particular point in time. But, I think, overall, if  
12 you look at the data and try to look for correlations  
13 throughout the entire period, what you see is that  
14 they just don't exist. Sometimes, you see the type of  
15 positive correlation that you say exist here; whereas  
16 in other periods, you see the exact opposite type of  
17 relationship. So, I think our point is that  
18 throughout the period, if you look at the trends  
19 between increases, decreases in volume, operating  
20 margins of the U.S. producers, changes in the degree  
21 to which they're underselling, you don't see the type  
22 of consistent trend that would allow you to say, aha,  
23 this is causing this to occur. Sometimes it may; but  
24 at other times, six months later, the exact opposite  
25 relationship exists. So, you really can't draw a

1 specific conclusion from the data.

2 COMMISSIONER HILLMAN: I appreciate those  
3 responses. Thank you.

4 CHAIRMAN KOPLAN: I was enthralled.  
5 Commissioner Lane?

6 COMMISSIONER LANE: No questions.

7 CHAIRMAN KOPLAN: Commissioner Pearson?

8 COMMISSIONER PEARSON: I recognize that  
9 there are some differences in business conditions  
10 between the United States and Mexico. For instance, I  
11 think it's correct to say that interest rates are  
12 generally a little higher on the Mexican side of the  
13 border. But, stepping back from the specifics, let me  
14 ask just one general question. In your view, what is  
15 a fair and reasonable return on investment for light  
16 weight rectangular pipe and tube in Mexico?

17 MR. WINTON: Unfortunately, we have a sales  
18 person here. He doesn't -- what we will do, if it's  
19 okay, is see if we can get some information from the  
20 managerial people in Hysla and Galvak and what they  
21 consider an acceptable rate of return and submit that  
22 in post-hearing brief.

23 COMMISSIONER PEARSON: Mr. Diederich, any  
24 thoughts on your side?

25 MR. DIEDERICH: I would prefer to answer

1 later on that one. I don't have the data with me and  
2 I don't want to give you the wrong number.

3 COMMISSIONER PEARSON: Okay, fair enough.

4 MR. BOND: We would prefer to talk to the  
5 people on the production side that actually own the  
6 production facilities in Mexico and get their input,  
7 rather than the sales side in the United States.

8 COMMISSIONER PEARSON: That's not  
9 unreasonable.

10 MR. BOND: Okay.

11 COMMISSIONER PEARSON: That will be fine. I  
12 have no further questions, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you, Commissioner  
14 Pearson. First, if I can straighten out the  
15 impression of what I said. I did not, when I  
16 questioned on my first round, and I'm looking at the  
17 text of the question, I did not equate underselling to  
18 price suppression.

19 MR. WINTON: Chairman Koplan, I take full  
20 responsibility for the mistake. It was my fault. I  
21 apologize.

22 CHAIRMAN KOPLAN: Well, maybe I could have  
23 phrased it more aptly, but I definitely wasn't -- I'm  
24 on the same page as the Vice Chair and Commissioner  
25 Hillman on that. But, I did inquire in detail about

1 the underselling and what I said was, that at least in  
2 part, I look at that as a factor, when I am trying to  
3 determine whether there's price suppression or price  
4 depression.

5 MR. WINTON: Chairman Koplan, may I make  
6 just one observation and maybe this will clarify why I  
7 may seem to be dancing around this question a little  
8 more than you might like.

9 CHAIRMAN KOPLAN: That was my next point.

10 MR. WINTON: Okay, thank you. When we did  
11 our questionnaire responses, as I said, we reported --  
12 responded as the importers of these products, because  
13 Hysla and Galvak, in addition to being producers, act  
14 as the importer of record through Custom's, which is a  
15 method of business that Mr. Schagrin finds distasteful  
16 for some reason; but, that's, in fact, what we do.  
17 When we reported our pricing, our pricing is on a  
18 delivered duty paid at the Loreda basis. In other  
19 words, just as it crosses the border, it's not  
20 delivered to the customer. It's not delivered to the  
21 U.S. It's just as it crosses the border. So, at  
22 least for Hysla and Galvak -- have I got that right?  
23 I finally got that right. So, at least for our data,  
24 I'm concerned that when you see an average price for  
25 us, it may not be comparable to the average prices

1 you're seeing for other people.

2 CHAIRMAN KOPLAN: Tell me, if instead of 80  
3 percent of comparison showing underselling, we had  
4 come up with 80 percent showing overselling, would I  
5 be hearing this argument from you today?

6 MR. WINTON: What you would be hearing would  
7 be --

8 CHAIRMAN KOPLAN: Can you give me a yes or  
9 no on that?

10 MR. WINTON: Yes, you would and what you  
11 would be hearing is, our prices are understated and  
12 even with understated prices, we're overselling.  
13 That's what you would have heard from me.

14 CHAIRMAN KOPLAN: Well, I think I have  
15 exhausted this line of questioning. I'll move on to  
16 another one. Thank you for that.

17 Mr. Diederich, and this is a follow-up to  
18 Commissioner Hillman's request -- I think it's an  
19 important issue -- on page of Petitioner's pre-hearing  
20 brief, they state, and I quote, 'there are several  
21 major domestic production facilities located in the  
22 purported southern tier or Gulf region. Petitioner  
23 Leavitt Tube has a Jackson, Mississippi plant.  
24 Petitioner Northwest Tubes, LWR mill, is in Houston,  
25 Texas.' There are cites here. 'There are numerous

1 other domestic mills with plants in Texas, Oklahoma,  
2 Alabama, and Georgia. Notably, non-petitioner Bull  
3 Moose Tube Company will provide testimony that its  
4 sales to the Gulf region have been severely hurt by  
5 dumped imports. In aggregate, domestic industry sales  
6 to the Gulf region was 13 percent of total domestic  
7 sales in 2003.'

8 Now, this argument that I've just quoted was  
9 contrary to the allegation at page 21 of your pre-  
10 hearing brief, that 'most U.S. producers do not sell  
11 or sell very little in Texas and the Gulf region.'  
12 So, in responding post-hearing on this issue, I would  
13 appreciate if you would take -- counsel, if you take  
14 this quote from Petitioner's pre-hearing brief into  
15 account. And there's more that follows, actually, on  
16 this point, in their brief, and respond to that in as  
17 much detail as possible. If there's anything Mr.  
18 Diederich would like to add to that now or say now, I  
19 would welcome it.

20 MR. DIEDERICH: I would prefer to wait until  
21 the post-hearing.

22 CHAIRMAN KOPLAN: Okay. I am very  
23 interested, though, in the response that I get on  
24 this. Mr. Winton, on page three of Galvak and Hysla's  
25 pre-hearing brief, you argue that 'the interim period

1 is not in this case a mere extension of trends that  
2 had existed before. Instead, it represents a  
3 fundamental departure from past conditions.' One  
4 change that occurred in 2004 was that the price of  
5 subject imports from Mexico rose substantially. The  
6 public version of our staff report, table 4-2,  
7 reflects that the unit value of Mexican subject  
8 imports increased from \$494 a ton in interim 2003, to  
9 \$654 per ton in interim 2004. And for Turkey, the  
10 increase went from \$533 to \$550. Why should I not  
11 regard dependency of these investigations as having  
12 led to those price increases during interim 2004?

13 MR. WINTON: If -- and I'd have to find the  
14 table, but there's a table where you have the import  
15 volumes by month and what you find is that most of the  
16 imports that came in from Mexico and Turkey were in  
17 the first three months of this year, before there were  
18 any antidumping measures in effect. What you'd have  
19 to assume is --

20 CHAIRMAN KOPLAN: Perhaps, you might, for  
21 purposes of the post-hearing, check and make sure that  
22 you are looking at the right information.

23 MR. WINTON: Okay.

24 CHAIRMAN KOPLAN: But, go ahead.

25 MR. WINTON: But, no, but the volume of

1 imports in the first six months of 2004, they're  
2 higher in the first quarter before the antidumping  
3 measures are put in place. You'd have to say, why  
4 would we raise our prices because of antidumping  
5 measures that haven't been put in place yet, on sales  
6 that are never going to be subject to an  
7 administrative review, because they're before  
8 Commerce's preliminary determination. There's no  
9 reason for us to --

10 CHAIRMAN KOPLAN: I didn't quite phrase my  
11 question that way.

12 MR. WINTON: I'm sorry?

13 CHAIRMAN KOPLAN: I said, I didn't quite  
14 phrase my question --

15 MR. WINTON: No, I'm sorry, because what I  
16 understood your question may be was why are the price  
17 increases not related to the pendency of this  
18 investigation.

19 CHAIRMAN KOPLAN: Right.

20 MR. WINTON: And what I'm saying is why  
21 would we have raised our prices just because the  
22 petition was filed. And we might raise our prices if  
23 we thought it was going to be subject to dumping  
24 calculations and we want to make sure we're not  
25 dumping and so we raise our prices. That, I could

1 understand. But raising our prices -- first of all,  
2 we have to get our customers to agree to pay more.  
3 That's not something we can unilaterally do. They  
4 have to be willing to do it. And, frankly, if they  
5 had been willing to do it before, we would have done  
6 it before.

7           The second thing is, you have all this  
8 evidence that there is something going on worldwide.  
9 This is not -- in all products, this isn't light  
10 walled rectangular pipe. We submitted the same  
11 information in line pipe before the petition was  
12 filed. We had the same information that was going on,  
13 on line pipe. Jaime testified that it's all of his  
14 tubular products to the United States. Everything is  
15 going under the same trends. Prices are going up in  
16 the U.S. market. The U.S. producers' prices are going  
17 up in the U.S. market. And, yet, they want you to  
18 believe that of all these prices that are going up, of  
19 all of the products, every one in the world is raising  
20 their prices, but it's just the Mexican producers of  
21 light walled rectangular pipe are doing it because the  
22 petition was filed. Everyone else is doing it for  
23 other reasons, supply, demand, China, the whole thing.  
24 But, us, that's not our reason. We're doing it  
25 because they filed an antidumping petition. It

1 doesn't make sense.

2           If you look at what's going on in the world,  
3 this is consistent. The increase in prices from  
4 Mexico, the increase in prices for the U.S. producer,  
5 is consistent with all pipe products, with all steel  
6 products. That's what is going on in the market right  
7 now. And the customers recognize it and that's why  
8 they're willing to pay more. I mean, I don't think  
9 anyone here, I don't think anyone you saw this morning  
10 is in business to sell their products for less than  
11 the customers are willing to pay. They all want to  
12 get the most from their customers and throughout the  
13 period. If we got more from our customers now, it's  
14 because we could get more from the customers now.  
15 It's the only reason our prices go up.

16           MR. BOND: I just wanted to add one detail,  
17 if I might, Chairman Koplan. The increase can't  
18 possibly be related to the dumping duties, at least in  
19 our case, and you can see that by simply looking at  
20 the fact that our dumping margin at the preliminary  
21 was five-and-a-half percent. It's been raised to six  
22 percent in the final from the Commerce Department,  
23 which just came out. And nevertheless, our prices  
24 have increased by similar margins. The prices have  
25 gone up far, far, far more than could be explained by

1 the imposition of the dumping duty. Something else is  
2 going on here and our prices have gone up equally on  
3 products that are not subject to the case, as well.  
4 So, there's no cause and effect relationship that you  
5 can see there.

6 CHAIRMAN KOPLAN: I want to thank you all,  
7 very much, for your responses to my questions. I have  
8 nothing further. Vice Chairman?

9 VICE CHAIRMAN OKUN: Thank you, Mr.  
10 Chairman. I don't have any other questions for this  
11 panel. With the indulgence of my colleagues and the  
12 witnesses, I would like to take this opportunity to  
13 recognize Debra Booth on my staff, who has taken a job  
14 to go to the private sector, go out and do the things  
15 that I think everyone has strived to do once in their  
16 life. She's been with me. She's served me well.  
17 Before that, she served as an industry analyst in the  
18 Office of Industries and focused on agriculture,  
19 sugar, in particular, very well known for that, and  
20 served in the USTR on a detail. So, I wanted to take  
21 this opportunity to say good bye to her and I will  
22 miss her and wish her well. And I welcome Warren  
23 Payne, also, an aggie from Office of Industries, who  
24 is going to be on detail to my staff, with Debra  
25 departing. Thank you, Mr. Chairman.

1                   CHAIRMAN KOPLAN: Oh, no, thank you, Vice  
2 Chairman. If I may, I'd like to just add to that and  
3 say that each one of us here on this dais and other  
4 Commissioners that have preceded us have all  
5 benefitted from Debra's contributions to us on the  
6 floor. It's the one time I forgot to use my  
7 microphone. So, I would just like to echo your  
8 praise. Thank you.

9                   COMMISSIONER HILLMAN: I'm sorry, Mr.  
10 Chairman, I have two quick little questions for the  
11 hearing, but I would certainly not want to rain on  
12 Debra's parade --

13                   CHAIRMAN KOPLAN: We're not trying to put  
14 any pressure on you or anything.

15                   COMMISSIONER HILLMAN: -- and would  
16 certainly join my colleagues in wishing her well and  
17 thanking her for her tremendous service to all of us  
18 here at the Commission; not only to the Vice Chairman,  
19 but to all of us. It is always a collaborative effort  
20 up here and her contributions are many and much  
21 appreciated.

22                   And then just two little minor -- going back  
23 to the subject of light walled rectangular pipe and  
24 tube, two minor questions for post-hearing. One is,  
25 Mr. Bond, in your brief, you briefed very well the

1 issue of should we end up in a threat context in this  
2 case, the issue of cumulation of imports between  
3 Turkey and Mexico. But, I guess I would ask both of  
4 you could just address the issue of should we cumulate  
5 the two. What, if anything, would you suggest that we  
6 do about the lack of data that we have from Turkey?  
7 If there's any information or anything else that you  
8 would suggest that we do, given that we have gotten a  
9 fairly minimal response on the Turkish side of this  
10 case.

11           And then the second issue, Mr. Winton, for  
12 you, given that we've had this big discussion about  
13 the relationship and the statute between underselling  
14 and price suppression and depression, I wondered if  
15 you could help us think about whether we have done and  
16 to think about the implications of can we, under the  
17 statute and the way that it's laid out, find  
18 significant underselling; that, yes, there is  
19 significant underselling, but, no, there is not price  
20 suppression or depression; and if we make that kind of  
21 bifurcated finding, where does it lead us, in terms of  
22 what the statute tells us with respect to an overall  
23 finding on price effect.

24           MR. WINTON: I take it, you want me to  
25 address that in the brief?

1 COMMISSIONER HILLMAN: Correct.

2 MR. WINTON: I'd be happy to do that.

3 COMMISSIONER HILLMAN: Okay. And with that,  
4 I have no further questions, Mr. Chairman.

5 CHAIRMAN KOPLAN: Thank you, Commissioner  
6 Hillman. Are there any other questions from the --

7 VICE CHAIRMAN OKUN: I wonder, Vice Chairman  
8 Hillman, if we could direct the same question to Mr.  
9 Schagrín.

10 COMMISSIONER HILLMAN: Absolutely. I'm sure  
11 this is not an unfamiliar issue to Mr. Schagrín,  
12 because I know we, at least in one other case that I  
13 can recall, this issue came up very directly. But, I  
14 would certainly welcome Mr. Schagrín's comments on  
15 that same issue.

16 MR. SCHAGRIN: We'll address that in our  
17 post-hearing brief.

18 COMMISSIONER HILLMAN: Thank you.

19 CHAIRMAN KOPLAN: Thank you. Staff? Ms.  
20 Mazur, do you have any questions for the panel?

21 MS. MAZUR: Mr. Chairman, staff has no  
22 questions.

23 CHAIRMAN KOPLAN: Thank you. Mr. Schagrín,  
24 do you have any questions of this panel before we  
25 release them?

1                   MR. SCHAGRIN: No questions. Con dios, no  
2 questions. Gracias.

3                   CHAIRMAN KOPLAN: Thank you all, very much,  
4 for your testimony. And I'll release the panel.  
5 Petitioners have a total of 17 minutes remaining,  
6 including five for closing. Respondents have a total  
7 of 20 minutes remaining, including five for closing.  
8 Mr. Schagrin, how do you want to proceed? I'm  
9 impressed, because I recall that at one time, you  
10 asked for 90 minutes today and you didn't even use 60.

11                   MR. SCHAGRIN: Chairman Koplan, you know,  
12 the fact that Mr. Kleinfelter usually speaks for about  
13 20 minutes when he has five minutes of testimony, I  
14 think that's what made the difference today. But, I  
15 do hope that he recovers quickly. I do appreciate the  
16 use of some of his time.

17                   CHAIRMAN KOPLAN: Nice try, Mr. Schagrin.  
18 I've reviewed the text of his testimony and I would  
19 say that was about three of those minutes.

20                   MR. SCHAGRIN: I'm willing to proceed  
21 anytime the Commission would like with closing  
22 argument and rebuttal.

23                   CHAIRMAN KOPLAN: Go ahead.

24                   MR. SCHAGRIN: Would you like me to do it  
25 from here?

1                   CHAIRMAN KOPLAN:  Wherever you'd like,  
2                   either at the dais or from your table.

3                   MR. SCHAGRIN:  I think I'll approach the  
4                   dais.

5                   CHAIRMAN KOPLAN:  Counsel, I've released  
6                   your -- Respondents, I've released your witnesses, if  
7                   they want to leave the table.  Did they want to --  
8                   it's up to you, but we're moving to another stage now.

9                   (Pause.)

10                  MR. SCHAGRIN:  If it's okay, I'll sit up  
11                  here, I think.  It's better eye contact than I would  
12                  have from back there and I was thinking that at the  
13                  dais, I might not be able to read anything I want to  
14                  read without playing the trombone.  My eyesight is  
15                  going.

16                  Let me begin with some of the broader  
17                  arguments put forth by the Mexican industry.  Their  
18                  story seems to be going to the 2002-2003 period, that  
19                  everything that happened in the domestic industry can  
20                  be blamed on the 201 case and the difference in  
21                  relief.  And they make a lot of use out of my  
22                  commonsense quote.  And if the worse thing they put on  
23                  my tombstone is that he showed a lot of commonsense  
24                  before the Commission and USTR and Commerce, things  
25                  could be worse.  So, I'll take that as a complement.

1 But that somehow the 201, I think they used the term  
2 had a seismic impact on U.S. producers in the U.S.  
3 market, but really didn't have any impact on the  
4 Mexican industry; that even though Mexico had a 201,  
5 they had other ways to source steel and it's really  
6 not what caused their import increase to the United  
7 States and it was the 201 that hurt the domestic  
8 industry, not the 68 percent increase in subject  
9 imports, the underselling of those imports to the  
10 domestic industry's prices and the prices suppression.

11 Well, you all and I have spent virtually the  
12 entire summer last summer, it wasn't pleasant, ended  
13 with the hurricane, as I read in Vice Chairman Okun,  
14 formerly Chairman Okun's annual report about the work  
15 through the hurricane, but we spent all last summer on  
16 the 201 case. And I participated in those  
17 proceedings. I think I read your 1,500 page report  
18 pretty carefully, because I'm very interested in the  
19 work of this Commission, particularly vis-a-vis the  
20 steel industry in the case I participated in. And,  
21 you know, I'm going to review it between now and the  
22 post-hearing, but what I took from that report was  
23 that unlike the customers, who wanted to come into the  
24 Commission and say this 201 had a seismic impact on  
25 every steel user, I thought the conclusions of the

1 Commission's 201 report was, in fact, that the 201 did  
2 not have a seismic impact on the U.S. steel market.  
3 And if I have to decide where to put the most credit  
4 and credibility with this Commission's exhaustive  
5 analysis or with an argument concocted by counsel of  
6 the Mexicans, I'm walking with my feet, you know,  
7 squarely behind the Commission. And I really believe  
8 that as much as I argued for the 201 case, as much as  
9 I argued for equivalent tariffs, I don't think the 201  
10 case had a seismic impact. Some changes that were  
11 done either by the 201 or by conditions, such as the  
12 consolidation within the U.S. steel industry, the  
13 closure of some plants, have had significant impact.  
14 But, the 201 duties, because they were quite coarse,  
15 did not have a seismic impact.

16 Now, what had a significant impact on the  
17 U.S. industry producing light walled rectangular  
18 tubing? First of all, we had an increase in imports  
19 from Mexico, from 105,000 to 152,000 tons, between  
20 2001 and 2003. Now, the Mexicans excuses for that are  
21 numerous, as they put them before you. One, they say,  
22 well, we might have had significant increase, but  
23 you've got to remember, we sell very much hand in  
24 glove with our customers. We're really special. We  
25 go for special customer relationships. And you know

1 that we couldn't have an impact in the market, because  
2 they presented a chart that showed kilograms, dollars  
3 per kilograms on the land to duty paid basis. And  
4 they say, look at imports from Mexico and cumulate  
5 imports and compare those to China, Japan, Korea,  
6 South Africa, Spain. Well, they don't say in their  
7 chart whether, in fact, they added the 201 duties. It  
8 says, 'land to duty paid.' I'm going to presume they  
9 added the 201 duties in, which were 15 percent on the  
10 tubing, because that would increase all these prices.  
11 I know when we normally run things and say duty paid,  
12 we just include the normal duties. I would hope that  
13 they did this properly.

14 But the other thing is, this doesn't show  
15 any volumes. And you have to ask yourself, you know,  
16 is 1,000 tons of low-priced product from South Africa  
17 is going to have as big an impact as 150,000 tons of  
18 low-priced product from Mexico or 30,000 tons from  
19 Turkey. So, I think the analysis, this effort of  
20 saying, it really wasn't us, it was somebody else, it  
21 was the 201 case, it was other imports, I don't think  
22 that holds any water.

23 Now, an issue has been presented by the  
24 Respondents to this Commission -- I think Chairman  
25 Koplun, you've already dealt with it pretty well --

1 but, you know, they basically said, look, when you're  
2 valuating injury here, you've got a big problem,  
3 because you don't have the right data set. And since  
4 Mr. Winton led off his opening statement with this  
5 issue, I really think it's kind of incumbent upon  
6 counsels, who come before this Commission, if you're  
7 going to start out a hearing with a sucker punch, that  
8 you have some basis on the record for it. And what  
9 really happened here, and it troubles me, because I  
10 don't want to see it happening in other cases that I  
11 have before this Commission, I don't want to see it  
12 happen in the Commission, is that Mexican respondents  
13 pretty irresponsibly at the preliminary phase gave the  
14 Commission staff a list of people that don't make the  
15 subject product, a majority of them don't. And they  
16 got the list from an STI website and it was called,  
17 'Hollow Structural Sections.' Had they called the  
18 director of STI, whose phone number, I'm sure, is  
19 there, he would have told you that the STI considers  
20 hollow structural sections not to be this product.  
21 They consider it to be heavy walled product. And so,  
22 it's no surprise that most of the folks, who were  
23 contacted, don't make the product.

24 Of course, I think when they provided it,  
25 they didn't take the additional steps of giving the

1 staff contact names. I suspect that some of these  
2 companies, somebody saw a questionnaire and said, we  
3 don't make this product, and just they might have  
4 tossed it. Now, we know they should have filled it  
5 out and said, no, and send it back. But, people don't  
6 always do the right thing. I'm still troubled. The  
7 fact is, I know that some of the folks, who haven't  
8 responded, are in the Gulf region. You saw our  
9 analysis. It shows that people in the Gulf region are  
10 people, who are hurt the most. I'm really anxious for  
11 those folks to respond. I don't know what else I can  
12 do. I don't know what else the staff can do. We are  
13 trying our hardest, I can assure the Commission of  
14 that.

15 I think 80 to 85 percent, that's my  
16 estimate, I think that's the way it will come out. If  
17 those other people respond to make it 100 percent, I  
18 think you'll find the data you have now is about 80 to  
19 85 percent of the industry. That's pretty good. We  
20 all shoot for 100 percent. As I say, I'm more anxious  
21 than anybody for the remaining producers to respond.  
22 I think that helps our case. I'm glad Respondents are  
23 pushing it, because they may not realize how much it  
24 helps our case.

25 Since I'm talking about the Gulf region, let

1 me talk about an issue that was raised earlier, where  
2 they said they really weren't sure how we did it. We  
3 might have just picked a couple of tiny producers and  
4 so our analysis doesn't mean much. I know you asked  
5 them to address it in the post-hearing brief. We'd  
6 like to think, when we use numbers or when we quote  
7 from the staff report, and Chairman Koplan, you caught  
8 me earlier with us not having quoted fully and I  
9 regret that. And whether I write that section of the  
10 brief or not, my name is on it; the buck stops here  
11 with Mr. Schagrin for everything that says Schagrin  
12 Associates. But, what we'd like to think is that when  
13 we present the Commission with information, we give  
14 you all good explanations. And so, we explained in  
15 our exhibits the methodology we used for picking the  
16 folks in the Gulf region and we really did pick, out  
17 of all the questionnaire responses, because we gave  
18 you the data on the chart, so you didn't even have to  
19 go back to the staff report, we gave you a percentage  
20 of sales into the Gulf region and we picked the  
21 people, who had significant percentage of sales in the  
22 Gulf region. And I think when other Gulf region folks  
23 respond, you will see that this influx of imports --  
24 of dumped imports really had a very negative impact on  
25 those folks and that not only wasn't competition

1 attenuated, but competition was very close for a  
2 number of producers in the U.S. market and very  
3 injurious.

4 Now, as I say in this effort to try to  
5 attenuate the competition between the Mexican industry  
6 and the U.S. industry, I think you heard Respondents  
7 say, look, what we try to do is establish close  
8 relationships with customers. We're looking for long-  
9 term customers. Now, the domestic producers aren't  
10 dummies either. Everybody likes long-term customers.  
11 I like long-term clients. Everybody likes long-term  
12 relationships in the business world. You might have  
13 got the impression that, well, the Mexicans must be  
14 selling to lots of end users versus the domestic  
15 industry. But, there's table, table 1-1, it's the  
16 first table in the whole staff report, that shows the  
17 breakdown of sales to distributors versus end users  
18 for the U.S. industry, the Mexicans and the Turks.  
19 For the Mexicans, it was 75 percent sales -- I'm  
20 looking at 2003 now -- of their sales now were to  
21 distributors; for the U.S. industry, 70 percent; for  
22 the Turks, 96 percent. Now, given that most of their  
23 sales are to distributors, how do their imports  
24 increase by 50 some odd percent between 2001 and 2003?  
25 Is it just their particular relationships with these

1 customers? They happen to pick the customers to have  
2 relationships with, whose businesses increase by 50  
3 percent and the U.S. producers were dumb and picked  
4 out relationships with customers, whose business  
5 didn't improve? Of course not. In fact, to a great  
6 extent, the Mexican producers and the U.S. producers  
7 have the same customers. And the reason that imports  
8 from Mexico and from Turkey were increasing so  
9 significantly is that they were offering these  
10 distributors lower prices, and that's where the  
11 competition comes home to roost. To the extent that  
12 there's a distributor carrying mostly Mexican or  
13 Turkish and not carrying domestic and their business  
14 is growing, that's because they have lower prices to  
15 end users. Once again, it's a result of the dumping.

16 And, in fact, we're going to do some  
17 analysis in the post-hearing brief. You know, we've  
18 got 23 purchaser responses in this case. A fair  
19 number of those purchasers purchase product from both  
20 U.S. producers in Mexican or from U.S. producers in  
21 Turkish and in a minority of cases, from all three. I  
22 think overwhelmingly those purchase responses  
23 demonstrate that over the period of investigation, for  
24 purchasers, who purchase from both domestic and  
25 subject imports, that the purchases of subject import

1 grew much faster than the purchaser of domestic, or  
2 that their purchases of subject imports grew a lot and  
3 their purchase of domestic might have declined.

4 Now, those are purchaser responses. I would  
5 love, Chairman Koplman, on the final to kind of  
6 substitute those as our loss sales and loss revenue  
7 allegations, because that's really where the rubber  
8 meets the road. These distributors, these purchasers,  
9 who respond to the ITC, they just don't tell their  
10 suppliers, hey, I'm getting x from this Mexican mill  
11 at y price and you're losing x tons. But, they've  
12 told it to the Commission. And so, I think that  
13 analysis is really going to serve two purposes. To  
14 the extent that a purchaser was buying more subject  
15 imports at lower prices than buying domestic, the  
16 domestic industry obviously lost their volume and lost  
17 their tonnages. But, it, also, shows that the  
18 competition between the imports and the domestic is  
19 not attenuated. It's real. It's right there. And  
20 that's where the underselling translates into  
21 increased market share for the subject imports.

22 Now, I'm probably as confused as you are  
23 about the way the pricing data was allegedly given by  
24 the Mexican industry. I've done a few cases here at  
25 the Commission. I don't think pricing sections of the

1 importer's questionnaires have changed much in the  
2 last 20 years. I could have sworn that the request  
3 for pricing to importers, not to foreign producers,  
4 but to importers is to give the prices to your  
5 customers. And the domestic industry is asked to give  
6 the pricing to their customers. And so for Hysla to  
7 say, well, you know, that's just our price as we  
8 imported from Mexico, that's just our Loreda price,  
9 it's not really a selling price, I don't quite  
10 understand that. I mean, once again, the domestic  
11 producers don't say, you know, I'm located in Illinois  
12 or I'm located in Missouri, you know, here's my price  
13 at a point in Arkansas or Texas. They say, here's a  
14 price to our customer. The price may be FOB mill, but  
15 it's prices to customers. I think the Commission  
16 gather data the same way they always do. I think the  
17 underselling data speaks for itself. There were  
18 significant underselling and the real question for the  
19 Commission is, did this underselling have the effect  
20 of suppressing domestic prices. I'd like to think  
21 that if you find that it does, we win the case. I'd  
22 like to think that. And that's what you did in the  
23 preliminary determination. And, yes, there have been  
24 changes since the preliminary determination. But, I  
25 think the data -- we're going to analyze this further

1 in our post-hearing brief -- I think the data shows  
2 pretty clearly that the domestic industry, in terms of  
3 the prices it received through the end of 2003 was not  
4 able to pass along cost increases, that they didn't  
5 get the price increases that they sought and so there  
6 was price suppression and it reduced profitability,  
7 both on a percentage basis and overall.

8 Now, obviously, we would have a lot easier  
9 case today, if -- since the filing of this case, since  
10 the beginning of the year, we didn't have \$400 or \$500  
11 ton increase in steel prices and we were talking about  
12 a \$50 increase in steel costs and a \$50 increase in  
13 tubing prices. That's not the way it is and that's  
14 the way the cards are dealt. But the fact is the  
15 witness testimony today was that when they tried to  
16 increase prices in the past, before the dumping cases  
17 were filed, they were relatively unsuccessful. After  
18 the dumping case was filed, they were successful in  
19 getting their price increase through. And by the way,  
20 the statute refers to a period since the filing of the  
21 petition, the statute does not talk about the DOC  
22 preliminary. When the producers spoke this morning  
23 about resistance to further price increases, which are  
24 right now already stratospheric, because of imports,  
25 they weren't talking about subject imports. They were

1 talking about non-subject imports. Obviously, prices  
2 eventually get to a point where you're going to get a  
3 lot more imports coming in.

4 If you get the threat, we think the  
5 increases in market share, all of the excess capacity,  
6 the underselling that still is going to exist, these  
7 folks have shown that they know how to sell into the  
8 market. It's a distributor market. They're going to  
9 really ramp it up. And I'd hate to come back to this  
10 Commission in a couple of years, with a new set of  
11 case on this product and say, now, I'm here with the  
12 domestic industry having 40 percent of the market, not  
13 60 percent. We lost it in 90 percent. I'm confident  
14 this Commission will rely on the record. I urge you  
15 to make an affirmative determination of either injury  
16 by reason of subject imports or threat of injury.  
17 Thank you, very much.

18 CHAIRMAN KOPLAN: Mr. Winton?

1 MR. BOND: Thank you. I just want to make  
2 two brief comments relating to the data before the  
3 Commission and, hopefully, data that can be before the  
4 Commission before it reaches its final determination.  
5 I really can't resist the attempt to respond to Mr.  
6 Schagrin's comments about our irresponsible behavior  
7 in identifying those 22 companies to you during the

1 preliminary investigation.

2           The truth is that those companies were  
3 identified, as you mentioned, Chairman Koplan, by  
4 looking on the Internet but not just by simply  
5 choosing names out of a hat. According to the  
6 Internet sites for those companies, they made the  
7 specifications subject to this case, 513- and 500-type  
8 steel, they make mechanical tubing, they make  
9 structural tubing, and they make it in the diameters  
10 and wall thicknesses that are subject to this case,  
11 and we provided papers from the Web sites of those  
12 companies, to the extent that they were available, to  
13 show to you that, in fact, they did. They made the  
14 right grades, they made the right diameters, and they  
15 made the right wall thicknesses.

16           So we weren't just sort of throwing names to  
17 you irresponsibly, suggesting that perhaps these  
18 people were producers. The public information that we  
19 have access to demonstrated that they likely were  
20 producers of the subject merchandise. And, again, I  
21 want to repeat that there are at least two or three of  
22 those companies that we are 100 percent certain  
23 produce and sell huge quantities of subject  
24 merchandise in this country. At this point, we don't  
25 have any data. Hopefully, we will, and we think that

1 once we do, the U.S. market share numbers that we have  
2 right now will look a whole lot more positive from the  
3 domestic industry's perspective.

4 The second data issue I wanted to mention  
5 relates to lost sales. Without going into detail that  
6 might create APO problems, I think it's sufficient to  
7 say that there really is none. Without that kind of  
8 data, I don't see how anyone can reasonably  
9 extrapolate from margins of underselling to a  
10 conclusion that there were lost sales or price  
11 suppression. There simply is no data before the  
12 Commission at this point of specific lost sales or  
13 specific cases of price suppression. The truth is  
14 that Mr. Schagrin's clients sell directly to OEMs.  
15 They don't simply sell to distributors that are far  
16 removed from the client and, therefore, unable to  
17 report instances of lost sales or price suppression.  
18 If this had occurred, Mr. Schagrin and his client  
19 should be able to provide specific information about  
20 it. Thank you.

21 MR. WINTON: Thank you. Let me say for the  
22 record, I did not, in my opening statement, impugn the  
23 integrity of anyone. I didn't attempt to blame  
24 anyone. I merely pointed out, and I think it's  
25 supported on the record, that we don't have

1 questionnaire responses or information from a large  
2 number of the U.S. producers.

3 Now, Mr. Schagrín says, well, they produce  
4 hollow structural steel, HHS, not light-walled  
5 mechanical, but there is nothing that prevents someone  
6 who makes thick-walled pipe from making thin-walled  
7 pipe. If you can't make the size range, that's one  
8 thing, but once you're within the size range, if you  
9 can make the thick walled, you can make the thin  
10 walled; it's a question of whether you choose to.

11 But if, as you say, Chairman Koplán, the  
12 companies identified by White & Case are not producers  
13 of the subject merchandise, they are not.

14 I want to make clear, as we talk about the  
15 Gulf region in this case and the impact of it, that  
16 we're not talking about a regional industry case.  
17 There are specific criteria under the statute for  
18 making regional industry arguments, and they are not  
19 met in this case, and no one says that they are. What  
20 we're talking about is the way that competition works  
21 in this market, how the market is segmented not into  
22 regional markets in the statutory sense but just in  
23 ways people compete.

24 The one thing you can say with certainty is  
25 that this truly is a commodity product. It's sold on

1 the basis of price, and if we were truly selling on a  
2 nationwide basis and we were truly selling at lower  
3 prices than the U.S. producers, we wouldn't sell  
4 anything. That's what the commodity product at a  
5 lower price is, and yet they are selling things, and  
6 they are selling more. Every single year, they sold  
7 more than they did the year before.

8 So there is something going on here that  
9 isn't described by Mr. Schagrin's description of the  
10 industry. He says that the distributors are buying  
11 from both of us, and maybe they are. We can check  
12 their questionnaire responses. But if they are buying  
13 just on the basis of price, and we're always lower  
14 priced, why are they buying anything from the U.S.  
15 producers? There is something else going on here. It  
16 doesn't make sense.

17 The problem you have, I believe, is with our  
18 pricing data, and just because I have now confused Mr.  
19 Schagrin, and I'm very sorry for having done that, let  
20 me be clear, at least as to who I understand this, and  
21 I will confirm it with my client, and we will make  
22 sure we address it in our post-hearing brief. The  
23 importer's questionnaire required us to report the  
24 prices on an F.O.B., U.S.-point-of-shipment basis as  
25 an importer. As an importer, Hysla and Galvak

1 reported their prices to their customers on an F.O.B.,  
2 point-of-shipment-U.S. basis. Their point of shipment  
3 in the United States is just across the border in  
4 Laredo. It's not middle of the bridge; it's just-  
5 over-the-bridge basis.

6 In the past, when we would sell to  
7 unaffiliated U.S. customers and not act as the  
8 importer of record, we wouldn't fill out the  
9 importer's questionnaire because we weren't the  
10 importer. Our U.S. customer would fill out the  
11 importer's questionnaire. Now, if we were selling to  
12 a customer in Houston, we might sell him on the same  
13 basis. While we couldn't sell delivery duty paid  
14 because then we would be the importer of record, we  
15 might sell what used to be called "middle-of-the-  
16 bridge basis." We would sell just short of Customs in  
17 Laredo, and they would take it across the border, take  
18 it to Houston or wherever and sell it to their  
19 customers, and in those cases, you would get an  
20 importer's questionnaire response from the distributor  
21 in Houston, who would be reporting his sales from  
22 Houston to his customers. That's what you would  
23 typically see in these cases.

24 You're not seeing that with our data.  
25 You're seeing the price F.O.B. Laredo or delivered-

1 duty-paid Laredo, depending on whether your  
2 perspective is Mexican or U.S. The distributor is  
3 buying from us, and that is what I believe is  
4 distorting the comparison, and I hope that that's  
5 clear. We will try to make it even clearer.

6 But at the end of the day, no matter what we  
7 do, and I think Mr. Schagrin, to his credit,  
8 recognizes it, we're in a situation where the U.S.  
9 industry that comes before you today is enjoying  
10 record profits. They pushed through absolutely  
11 massive price increases, \$400 a ton in the first  
12 quarter. In the first quarter, before any antidumping  
13 measures were in place, they raised their prices \$400  
14 a ton. We raised our prices about the same, as we  
15 testified, all before antidumping measures were in  
16 place, and everybody is making more money than they  
17 ever did before.

18 And the question before the Commission is  
19 whether, in my view, and I'm happy, if I need to, to  
20 argue this based on 2001 and 2003, but as I read the  
21 statute, the question before you is whether an  
22 industry that's doing that well, doing so well, and  
23 able to push through that kind of price increases  
24 before any antidumping measures were put in place has  
25 any claims for injury or threat, and it seems to me

1 that that's a question I answer easily, but, of  
2 course, I'm not a commissioner, so I will leave it to  
3 you. Thank you very much.

4 CHAIRMAN KOPLAN: Thank you, both.

5 Post-hearing briefs, statements responsive  
6 to questions and requests of the Commission and  
7 corrections to the transcript must be filed by  
8 September 7, 2004. Closing of the record and final  
9 release of data to parties is September 22, 2004, and  
10 final comments are due September 24, 2004.

11 I want to thank all of the witnesses and  
12 counsel, and with that, this hearing is adjourned.

13 (Whereupon, at 4:28 p.m., the hearing was  
14 adjourned.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Light-Walled Rectangular Pipe and Tube  
from Mexico and Turkey

**INVESTIGATION NO.:** 731-TA-1054, 731-TA-1055

**HEARING DATE:** August 31, 2004

**LOCATION:** Washington, D.C

**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

**DATE:** 8/31/04

**SIGNED:** LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

**SIGNED:** Carlos Gamez  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

**SIGNED:** Mason Edwards  
Signature of Court Reporter