

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
CERTAIN PIPE AND TUBE FROM) Investigation Nos.:
ARGENTINA, BRAZIL, INDIA,) 701-TA-253 and 731-TA-132,
KOREA, MEXICO, TAIWAN,) 252, 271, 273, 409, 410,
THAILAND, AND TURKEY) 532-534 and 536
(Second Review)

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 THAILAND, AND TURKEY) (Second Review)

Tuesday,
 May 9, 2006

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:

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

APPEARANCES: (Cont'd.)

Staff:

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 WILLIAM R. BISHOP, HEARINGS AND MEETINGS
 COORDINATOR
 SHARON BELLAMY, HEARINGS AND MEETINGS ASSISTANT
 RUSSELL DUNCAN, INVESTIGATOR
 NORMAN VAN TOAI, INDUSTRY ANALYST
 CATHERINE DEFILIPPO, ECONOMIST
 MARY KLIR, ACCOUNTANT/AUDITOR
 MARC BERNSTEIN, ATTORNEY
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Congressional Witnesses:

THE HONORABLE PHIL ENGLISH, U.S. Congressman, U.S.
 House of Representatives, 3rd District,
 Pennsylvania
 THE HONORABLE MELISSA A. HART, U.S. Congresswoman,
 U.S. House of Representatives, 4th District,
 Pennsylvania

In Support of the Continuation of Antidumping and
 Countervailing Duty Orders:

On behalf of Allied Tube and Conduit, Atlas Tube,
 Hannibal Industries, IPSCO Tubulars, Leavitt Tube,
 Maruichi American Corporation, Maverick Tube
 Corporation, Northwest Pipe Company, Sharon Tube
 Company, Searing Industries, Western Tube and Conduit
 and Wheatland Tube:

STEVE BAILOW, Regional Representative, Fence
 Products, Allied Tube and Conduit Corporation
 SCOTT BARNES, Vice President, Commercial, IPSCO
 Tubulars, Inc.
 MIKE STEFKO, Sales Manager, Industrial Products,
 IPSCO Tubulars, Inc.
 MARK MAGNO, Vice President, Marketing, Wheatland
 Tube Company
 WILLIAM KLINEFELTER, Vice President-Legislative
 Director, United Steel, Paper and Forestry,
 Rubber, Manufacturing, Energy, Allied Industrial
 and Service Workers International Union
 ROBERT A. BLECKER, Economist, Schagrin Associates
 ROBERT E. SCOTT, Economist, Schagrin Associates

APPEARANCES: (Cont'd.)

In Support of the Continuation of Antidumping and
Countervailing Duty Orders:

On behalf of Allied Tube and Conduit, Atlas Tube,
Hannibal Industries, IPSCO Tubulars, Leavitt Tube,
Maruichi American Corporation, Maverick Tube
Corporation, Northwest Pipe Company, Sharon Tube
Company, Searing Industries, Western Tube and Conduit
and Wheatland Tube:

ROGER B. SCHAGRIN, Esquire
Schagrín Associates
Washington, D.C.

On behalf of United States Steel Corporation (U.S.
Steel):

LESLIE J. BROGLIE, General Manager, Tubular
Products, U.S. Steel

STEPHEN J. NARKIN, Esquire
Skadden, Arps, Slate, Meagher & Flom, LLP
Washington, D.C.

In Opposition to the Continuation of the Antidumping
and Countervailing Duty Orders:

On behalf of Hylsa, S.A. de C.V. and Siderar S.A.I.C.:

JEFFREY M. WINTON, Esquire
JOSHUA A. ROGIN, 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.)

CHAIRMAN KOPLAN: Good morning. On behalf of the United States International Trade Commission, I welcome you to this hearing on Investigation Nos. 701-TA-253 and 731-TA-132, 252, 271, 273, 409, 410, 532-534, and 536, Second Review, involving Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey.

The purpose of these second five-year review investigations is to determine whether revocation of the anti-dumping duty orders covering certain pipe and tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Notices of investigation for this hearing, a list of witnesses, and transcript order forms are available at the Secretary's desk. I understand the parties are aware of the time allocations. Any questions regarding the time allocations should be directed to the Secretary.

As all written material will be entered in full into the record, it need not be read to us at

1 this time. Parties are reminded to give any prepared
2 testimony to the Secretary. Do not place testimony
3 directly on the public distribution table.

4 All witnesses must be sworn in by the
5 Secretary before presenting testimony. Finally, if
6 you will be submitting documents that contain
7 information you wish classified as business
8 confidential, your requests should comply with
9 Commission Rule 201.6.

10 Madame Secretary, are there any preliminary
11 matters?

12 MR. BISHOP: No, Mr. Chairman.

13 CHAIRMAN KOPLAN: Thank you, Mr. Secretary.
14 Let us proceed with the opening remarks.

15 MR. BISHOP: Opening remarks on behalf of
16 those in support of continuation of the orders will be
17 by Roger Schagrin, Schagrin Associates.

18 CHAIRMAN KOPLAN: Good morning, Mr.
19 Schagrin.

20 MR. SCHAGRIN: Good morning, Mr. Chairman.

21 Good morning, Mr. Chairman. Good morning to
22 members of the Commission. The two segments of the
23 pipe and tube industry that are before the Commission
24 today are extremely vulnerable industries that will
25 quickly suffer additional material injury if the

1 orders are revoked.

2 While these industries were portrayed in the
3 prehearing brief filed by counsel for the Mexicans and
4 Argentinians as industries enjoying high profit
5 margins, high prices, and an ability to shift
6 production to other products, the real facts as
7 illustrated by the record in this investigation
8 demonstrate that these are two industries that are
9 being marginalized in their own domestic market.

10 The circular welded pipe industry lost 16
11 percent of its U.S. market share, and the light-walled
12 rectangular industry lost over 11 percent of its U.S.
13 market share over the sunset review period. Both
14 industries are struggling to occupy even a majority
15 position in the U.S. market.

16 At the end of the sunset review period,
17 production, shipments and employment indicators are
18 all declining for both industries. Profits and profit
19 margins are also falling. These downward trends are
20 occurring in spite of improving demand indicators and
21 a strong economy over the last several years of the
22 sunset review period. The reason for these downward
23 trends is obvious: Huge surges of imports from non-
24 subject countries, primarily China.

25 The presidential nullification of Section

1 421 has already led to huge increases in imports of
2 circular welded pipe from China in the first quarter
3 of this year, with imports increasing by approximately
4 one third over the same period last year. The rate of
5 increase is likely to accelerate for the rest of 2006,
6 as April import licensing data shows over 50,000 tons
7 of imports from China, itself a 40 percent increase
8 from the monthly average in the first quarter.

9 There's a real chance that the domestic
10 circular welded pipe industry will go the way of the
11 ductile waterworks fittings and steel wire garment
12 hanger industries, two other industries that were
13 recipients of negative 421 decisions by the White
14 House.

15 The repercussions of the negative 421
16 decision on pipe from China have of course spilled
17 over into all other pipe and tube imports from China.
18 Imports of light-walled rectangular tubing, which
19 increased sixfold from China in 2005, were up by one
20 third again in the first quarter, and April licensing
21 data shows an astounding tripling of imports compared
22 to the first quarter average.

23 The results of these import surges on the
24 domestic industry are already being felt in 2006.
25 Wheatland has already announced the shutdown of one of

1 the largest circular welded pipe mills in the U.S.
2 industry.

3 After shutting down mills last year in
4 Portland, Oregon and Bossier City, Louisiana,
5 Northwest Pipe has informed me that they will cease
6 production of standard pipe and light-walled
7 rectangular tubing at their Houston facility, with a
8 loss of approximately 50 additional jobs. The only
9 product that will continue to be produced at that
10 facility will be perforated signposts.

11 Healthy industries don't shut down efficient
12 production facilities during periods of strong demand.
13 Even with continued relief, more plant shutdowns are
14 likely.

15 Now let's look at the likely increase in
16 imports side of the sunset equation. Unfortunately,
17 once again, foreign producer participation in these
18 sunset reviews has been extremely poor. However, the
19 data put together by staff on the record shows
20 enormous amounts of capacity in the industry subject
21 to these reviews.

22 Not only do these foreign industries have
23 capacity to export more dumped products to a very
24 attractive and extremely large U.S. market for these
25 products, but these welded pipe producers in the

1 subject countries are also suffering due to the
2 dislocation caused by the massive welded pipe
3 overcapacity created in China and the Chinese welded
4 pipe industry's access to incredibly large amounts of
5 heavily government-subsidized flat-rolled steel. Many
6 of the producers in the subject countries are serial
7 dumpers and are subject to unfair trade orders in
8 numerous countries around the world.

9 In conclusion, I have not had the
10 opportunity in recent times to participate in sunset
11 hearings at the Commission in which the evidence was
12 so overwhelming that an increase in imports was likely
13 to occur and that a recurrence of injury to a
14 vulnerable industry would occur. For that reason, we
15 urge the Commission to maintain all of these orders on
16 the circular welded pipe and light-walled rectangular
17 tubing. Thank you.

18 CHAIRMAN KOPLAN: Thank you, Mr. Schagrin.

19 Mr. Secretary, would you please announce our
20 first congressional witness?

21 MR. BISHOP: The Honorable Phil English,
22 United States Congressman, U.S. House of
23 Representatives, 3rd District, Pennsylvania.

24 CHAIRMAN KOPLAN: Welcome back.

25 CONGRESSMAN ENGLISH: Thank you so much for

1 the opportunity to appear again. Good morning,
2 Chairman Koplan, members of the Commission. It's a
3 privilege to be back before you again, although I must
4 admit under the circumstances, I'd probably prefer
5 that we not have to be doing this.

6 Representative Hart and I jointly represent
7 the workers of Pennsylvania's Shenango Valley,
8 particularly those that work in the Wheatland plants
9 in Wheatland and Sharon as well as the Sharon Tube
10 employees at their plant at Sharon. I only wish I
11 were able to testify before you today under
12 significantly better circumstances.

13 In my opinion, it is necessary that we
14 continue the anti-dumping and countervailing duty
15 orders. I feel that as the Commission considers the
16 facts in these cases and the vulnerable nature of the
17 U.S. pipe industry today, you might make the same
18 conclusion.

19 Foreign producers and foreign governments
20 did and continue to maintain far more capacity than
21 the global markets require, maintain import barriers
22 in their home markets, illegally subsidize their
23 domestic industries, and dump their excess products in
24 the U.S. market. As a result, the factors that
25 necessitated these orders when you first put them in

1 place continue to be present, and a compelling case
2 exists to retain them.

3 U.S. pipe and tube producers have
4 industriously restructured and reorganized. The
5 industry has furloughed workers, voluntarily closed
6 down mills, made dramatic capital investments, and cut
7 back on production in order to become more efficient.

8 American companies made the difficult but
9 necessary changes in order to remain competitive, but
10 because foreign firms and governments have failed to
11 make similar commitments, the cycle of illegally
12 traded imports to the U.S. continues.

13 I cannot impress upon the Commission enough
14 the underlying factors which necessitated these orders
15 have not been adequately abated. In my view, in order
16 to avoid a recurrence of material injury to domestic
17 steel producers as well as to further job losses,
18 these orders must remain in place.

19 As noted in Table C-1 of the public
20 April 19, 2006 ITC staff report, imports of circular
21 welded pipe from the subject countries increased
22 during the period from 1999 to 2005. In each of those
23 years, the table also demonstrates that imports from
24 the subject countries represented more than half of
25 total imports from all other sources and that overall

1 total imports ranged from 31.9 percent of total U.S.
2 consumption by quantity to 47.8 percent in 2005.

3 I realize that the U.S. market is a large
4 market. Pipe and tube is a commodity product, and
5 these producers have shown that they are willing to
6 dump in the U.S. market or into other markets in order
7 to maintain production.

8 Unless and until a global rationalization is
9 reached to adequately remove the distortions which
10 make these orders necessary to level the playing
11 field, the U.S. market, by virtue of it being the most
12 open market in the world, will continue to be a
13 desirable and perhaps a sole destination for dumped
14 and subsidized steel. As a result, we must continue
15 to appropriately apply our trade remedy laws to
16 counter these distortions.

17 Today, I'm here to ask the Commission to
18 appropriately apply these laws to the cases before
19 you. You have been I think a very interested and
20 willing audience in the past. We're grateful for your
21 past consideration and how you have handled these
22 issues, and we hope that you will look favorably on
23 our request today. And I thank you for the
24 opportunity to testify.

25 CHAIRMAN KOPLAN: Thank you very much for

1 your contribution to this hearing. If there are no
2 questions from the dais?

3 Seeing that there are none, you're excused.
4 Thank you for coming.

5 CONGRESSMAN ENGLISH: Thank you very much.

6 CHAIRMAN KOPLAN: Mr. Secretary, we can
7 proceed with the opening remarks.

8 MR. BISHOP: Opening remarks on behalf of
9 those in opposition to continuation of the orders will
10 be by Jeffrey Winton, Preston Gates Ellis & Rouvelas
11 Meeds.

12 CHAIRMAN KOPLAN: Good morning, Mr. Winton.

13 MR. WINTON: Good morning, Mr. Chairman.
14 I'm sure I'm not the only one in opposition to the
15 continuation of the anti-dumping orders, and I don't
16 pretend to speak for everyone who's in opposition. I
17 speak today only on behalf of the Argentine producer,
18 Siderar, and the Mexican producer, Hylsa. And I'm
19 here today mostly to tell you about what's going on in
20 Argentina and Mexico.

21 In Argentina in the I guess 17 years since
22 the anti-dumping order was issued, at least two of the
23 three significant producers of light-walled
24 rectangular pipe have simply gotten out of that
25 business. The third, the largest producer, Acindar,

1 recently sold its pipemaking facilities to my client,
2 Siderar, which is now for the first time a pipe
3 manufacturer. That transaction occurred in January of
4 this year.

5 Siderar's plans are to focus on sales in
6 Argentina and the Mercosur countries. The market in
7 Argentina and the Mercosur countries is growing
8 strongly. It's projected to grow strongly in the near
9 future.

10 There have been virtually no exports of
11 light-walled rectangular pipe. I think I just looked
12 at the staff report, and I think I can eliminate the
13 "virtually" from that sentence, but in any event, it's
14 zero in almost every year of exports of light-walled
15 rectangular pipe from Argentina to the United States
16 since the anti-dumping order was issued, and there's
17 really no reason to expect that situation to change.

18 In Mexico, where we're addressing a
19 different product, circular welded pipe, or standard
20 pipe as I'm used to calling it, Mexican producers are
21 running at full capacity. My client, Hylsa, is the
22 largest producer of standard pipe in Mexico, and it's
23 running flat out, three shifts a day, seven days a
24 week, with downtime only for maintenance.

25 And I should mention Hylsa has expanded its

1 production capacity since this case was first brought
2 in 1991, but they still have no slack. They've
3 expanded their production capacity, but they've not
4 expanded their production of standard pipe.

5 What they have done instead is diversify
6 their product offering. They have moved to higher
7 value products. This is a mantra in the business
8 community: Seek higher value products. That's
9 exactly what Hylsa has done. It's moved into
10 production of OCTG line pipe and mechanical tubing
11 because it's more profitable, and it has no remaining
12 production capacity.

13 And it's my understanding that the other
14 Mexican producers who are not my clients are in the
15 same situation. So there's no real likelihood of any
16 increased imports of light-walled rectangular pipe
17 from Argentina or of standard pipe from Mexico.

18 I must say I really enjoy listening to Mr.
19 Schagrin. I've been listening to him for the last 15
20 years. He truly does have a colorful style and I have
21 to say an extraordinarily colorful tie today. I will
22 miss hearing his presentations, but I think I can
23 forego that, and it's time for the orders finally to
24 be revoked against my clients. Thank you.

25 CHAIRMAN KOPLAN: Thank you, Mr. Winton.

1 Mr. Secretary?

2 MR. BISHOP: Would those in support of
3 continuation of the anti-dumping and countervailing
4 duty orders please come forward and be seated? All
5 witnesses have been sworn.

6 (Pause.)

7 CHAIRMAN KOPLAN: You may proceed.

8 MR. SCHAGRIN: Thank you again, Mr.
9 Chairman. This morning, we are quite pleased to have
10 a group of witnesses for this extremely important
11 sunset hearing for the industry that is composed of
12 five members of the industry from four companies, four
13 companies that represent the majority of production,
14 inclusive with U.S. Steel, a company that's also a
15 major flat roll supplier to the industry.

16 These five industry executives have a
17 combined over 100 years of experience in the pipe and
18 tube industry, so they will be able as executives with
19 a great deal of experience to answer your questions
20 about current conditions in the industry as well as
21 forecasts.

22 We're also very pleased to be joined by Bill
23 Klinefelter, the legislative director of the United
24 Steelworkers et al., which is the union that
25 represents the majority of the workers in this

1 industry. And then we also have PhD economists, who
2 will explain some of the economic analysis that they
3 have done.

4 Without further introduction, I'll ask Mr.
5 Magno of Wheatland to present his testimony.

6 CHAIRMAN KOPLAN: You may proceed. Good
7 morning.

8 MR. MAGNO: Good morning, Chairman Koplan
9 and members of the Commission. For the record, my
10 name is Mark Magno, and I am Vice President of Sales
11 and Marketing for Wheatland Tube Company. I've been
12 with Wheatland for 23 years.

13 Last September, the president of our
14 company, Pete Dooner, told this Commission of the
15 damage being suffered because of imports from China.
16 He told you and the administration that without
17 relief, it was likely that Wheatland would close down
18 its continuous weld mill in Sharon, Pennsylvania, at
19 the additional cost of approximately 140 jobs. This
20 was after two-thirds of the workforce of that plant,
21 approximately 240 workers, had been laid off through
22 December 2004.

23 We thank the Commission for its affirmative
24 vote, but unfortunately, because of the lack of 421
25 relief against China and the renewed import surge in

1 2006 from China, we announced on March 24 that the
2 Sharon plant would be shut down. That shutdown will
3 occur in approximately three weeks. With that
4 shutdown, pipemaking at the Sharon plant will cease
5 after approximately 50 years of continuous service.

6 To give you a sense of the importance of
7 that mill to Wheatland and to the U.S. standard pipe
8 industry, we operated that plant seven days a week
9 from the time of our purchase in 2002 to mid-2004.
10 That plant produced approximately 230,000 tons of
11 standard pipe in 2003.

12 Wheatland did not purchase the assets of
13 Sawhill Tubular in 2002 with the intent of shutting
14 down our competitors' capacity. Just the opposite.
15 Between 2002 and 2005, Wheatland invested over \$20
16 million in equipment upgrades to the Sharon plant,
17 increasing quality, increasing productivity, and
18 reducing cost.

19 The decision to shut down the Sharon plant
20 was made by Wheatland management before the
21 acquisition of the company by the Carlyle Group.
22 After 129 years of ownership and management by the
23 founder's family, the company was purchased by the
24 Carlyle Group, a private equity firm headquartered in
25 Washington, D.C. at the end of March 2006.

1 I know that the Commission is concerned with
2 the issue of vulnerability of the U.S. industry. Boy,
3 is our company vulnerable to increased imports. I
4 noticed in the prehearing staff report that the
5 industry's profitability for all of 2005 was higher
6 than the industry's profitability in the first half of
7 2005.

8 As the largest producer of standard pipe in
9 the United States, I think that our company's
10 experiences are representative of the industry. After
11 your affirmative vote in the 421 case in October of
12 last year, we saw a lot of customers increasing their
13 purchases from us in the fourth quarter because they
14 were certain, based on the facts of the case and the
15 overall trade situation with China, that the President
16 was going to impose stiff quotas at the end of
17 December on imports from China.

18 When the President issued his negative
19 decision right before New Year's, it was as if they
20 turned off our phone lines on January 3. We couldn't
21 buy an order. Our reading of the marketplace is that
22 imports from China are going to increase very rapidly
23 in the second quarter of 2006 as compared to the first
24 quarter.

25 I can give you two good examples of how

1 things are changing for the worst in the marketplace.
2 First, at the end of March, when we announced the
3 closure of the Sharon plant, our plans were to
4 increase shifts at the Wheatland plant from five days
5 a week to seven days a week to maximize production
6 efficiencies.

7 With continuous weld mills being a hot
8 process, continuous operation is the most cost-
9 effective. We also figured that it should be easy to
10 go from operating one plant five days a week and one
11 plant three days a week to operating one plant seven
12 days a week.

13 Now, with the closure of Sharon only a
14 couple weeks away, it is clear based upon our present
15 volume of business that we will only operate Wheatland
16 no more than six days a week. With the massive surges
17 of pipe from China continuing, where do we go from six
18 days? To five days, then four days, then three days.
19 And you can't go from three days to two. You have to
20 go from three to zero. We have also had layoffs at
21 our mills in Little Rock, Arkansas; Warren, Ohio; and
22 Wheatland, Pennsylvania.

23 I would also like to make a second point
24 that dramatically illustrates our vulnerability to
25 increased dumped imports from the subject companies.

1 Our steel prices have increased \$60 per ton in the
2 last two months, and our steel suppliers have
3 announced additional price increases for June 1.

4 We have announced pipe price increases that
5 would enable us to recoup these costs. However, our
6 zinc costs have more than doubled since the beginning
7 of 2006 and have tripled since the beginning of 2005.
8 Yet, in spite of these massive increased costs for
9 galvanized pipe, we have not put in place any zinc
10 extras or extra price increases for galvanized pipe.

11 If as your data shows domestic market share
12 is now down to approximately 50 percent of the U.S.
13 market for standard pipe in general, my guess is that
14 we are down to about 30 percent market share in
15 galvanized pipe.

16 A very large share of both the subject pipe
17 from countries like Thailand, India, Mexico, and
18 Turkey, but particularly non-subject pipe from China
19 is galvanized. Not only do the Chinese receive steel
20 from subsidized, government-owned steel companies,
21 they must be received subsidized zinc, subsidized
22 energy, and of course they do not have the very
23 substantial environmental costs that we face in the
24 galvanizing process as well as the safety and labor
25 laws American industry deals with every day.

1 As the head of marketing, I am afraid that
2 if we try to pass along our zinc cost increases, our
3 customers will shift to all imported galvanized pipe,
4 and we will have to shut down our galvanizing lines,
5 which are a major part of our operations.

6 There are no real alternatives for
7 Wheatland. We concentrate as much as possible on the
8 conduit business, where there is little import
9 competition, but it is a small market with established
10 domestic players. We also try to focus on round
11 mechanical tubing business, which is sold to OEMs and
12 which tends to be a specialized product.

13 However, we can't really shift into OCTG or
14 line pipe production. Only one of our 10 pipe-welding
15 mills has the capability to produce OCTG. OCTG is
16 made generally to heavier wall thickness to OD ratios
17 than our other mills can handle, and it requires
18 special seam annealing equipment and testing
19 equipment.

20 We have begun just in 2006 to make OCTG on
21 one weld mill in Warren, Ohio, but no matter what
22 happens in the OCTG market, it is physically
23 impossible for us to shift production at our other
24 nine pipe mills.

25 In conclusion, Wheatland has been a leader

1 in the standard pipe business, a good employer and
2 good corporate citizen in our communities. We have
3 taken the steps necessary to remain competitive,
4 invested heavily to help consolidate the industry and
5 increase efficiency.

6 We are experiencing wrenching changes. We
7 have benefitted from the anti-dumping and
8 countervailing duty relief that has been imposed
9 against subject imports, which has allowed us to
10 remain competitive against these imports when they are
11 fairly traded.

12 If such relief is not continued, then
13 hundreds of thousands of tons of imports from these
14 countries will added to the half a million or more
15 likely tons to be imported from China just this year.
16 Then Wheatland will face large financial losses in the
17 standard pipe business and further pipe mill closures.

18 On behalf of our remaining employees, I ask
19 the Commission to continue these orders and give us a
20 lifeline to continue our business until this
21 administration, Congress, or a future administration
22 or Congress changes trade policies to level the
23 playing field with China. Thank you.

24 CHAIRMAN KOPLAN: Thank you.

25 MR. BAILOW: Good morning, Chairman Koplan

1 and members of the Commission. For the record, my
2 name is Steve Bailow, and I'm the Regional Marketing
3 Manager for Fence Products at Allied Tube & Conduit.
4 I've been at Allied for over 24 years, and I have over
5 35 years of experience in the fence industry.

6 Let me begin today by apologizing that our
7 company does not have a more senior executive present.
8 As you know, Allied has been active in pursuing fair
9 trade and has been a petitioner in all the circular
10 pipe cases subject to review and has appeared at all
11 the hearings in these cases as well as the sunset
12 review in the 421 case. Our philosophy is clear.

13 Since the founding of Allied Tube & Conduit
14 in 1957 by an entrepreneur who invented and had the
15 first patent for inline galvanizing in the entire
16 world, our company has had quality products, low
17 manufacturing costs, a workforce and a sales force
18 that can compete with any foreign manufacturer that
19 trades fairly in the U.S. market.

20 With over a million tons of steel purchased
21 for our pipe and strut manufacturing operations in the
22 U.S. and Canada, we have the purchasing power to
23 obtain steel at competitive pricing. Today happens to
24 be our annual budget meetings in Harvey, Illinois.
25 All plant managers and senior sales executives are at

1 our headquarters discussing 2007 fiscal plans and
2 requested capital expenditures. As I will explain
3 later in my testimony, I doubt that many capital
4 expenditures will be approved for the next fiscal
5 year.

6 I am the regional manager to national
7 distributors such as Master Halco, MMI, Stephens Pipe,
8 as well as small regional buyers. My sales territory
9 covers the entire coast from Virginia to Maine. Most
10 of the products I sell are produced at our plant in
11 Philadelphia. The rest come from our plants in
12 Harvey, Illinois and Pine Bluff, Arkansas.

13 Because of the trade relief provided by
14 these cases in the '80s and early 1990s and a
15 significant drop in import volume and market share,
16 Allied was able to expand our national manufacturing
17 coverage through acquisitions. The first was American
18 Tube in Phoenix, Arizona. The second was Century Tube
19 in Pine Bluff, Arkansas.

20 I've always competed against foreign
21 imported fence products. In the past few years, I can
22 tell you that the foreign competition I face is
23 tenfold the foreign competition I've seen in my
24 territory over the first 20 years of my career. My
25 counterparts on the West and Gulf coasts like to kid

1 me now at meetings with phrases like "Welcome to our
2 world, Steve".

3 In the past, many of my customers never
4 purchased imports. Now they are regular import
5 buyers. Customers that did purchase imports in the
6 past are now either buying more or are buying imports
7 exclusively.

8 Import brokers used to presell their
9 products before they arrived. Today I am seeing
10 brokers with quantities so large that they are storing
11 them on the docks at the ports of Camden, Baltimore,
12 New York, New Jersey, and Bridgeport, Connecticut.
13 They will make sells in less than truckload
14 quantities, and in many cases, as small as a bundle at
15 a time.

16 I would like to focus on two immediate and
17 clear manifestations of foreign competition. First,
18 our pipe mills have traditionally operated seven days
19 a week, 24 hours a day. At the present time, our
20 mills are operating four to five days a week in
21 generally two shifts.

22 While I am not at the budget meetings today,
23 I am sure that there is serious discussion about
24 shutting down one of the four major operations so that
25 the other three remaining operations can run more

1 efficiently. Obviously this means loss of jobs.

2 The second manifestation of foreign
3 competition is lower profits, which leads to a lower
4 stock price. In the past year, Tyco's stock has
5 fallen 15 percent while the rest of the market has
6 surged forward. By the end of the year, Tyco will
7 complete an announced spinoff of its medical products
8 and electronic business into separate companies.

9 This means that Allied Tube & Conduit will
10 be a much larger share of the remaining Tyco. In
11 order for Allied Tube to obtain approval for capital
12 expenditures, we have to perform and generate profits
13 and cash flow. I am afraid with the significant
14 deterioration of business because of foreign pipe and
15 tube, we will lose our technical edge that has kept us
16 in the forefront of the pipe and tubing industry for
17 the past 50 years.

18 Given the current competitive environment, I
19 cannot imagine facing additional unfair competition in
20 my marketplace from manufacturers in India, Thailand,
21 Turkey, Mexico, Korea, and Taiwan. They have been
22 unable to ship here because of dumping margins.

23 The same is true of light-walled square
24 tubing. We manufacture and sell this product to the
25 ornamental fence market. Unfortunately, I am now

1 seeing significant encroachments into our market from
2 Mexico and China. We do not need to face the
3 additional competition from Argentina and Taiwan as
4 well.

5 For all these reasons and on behalf of the
6 workers of Allied Tube & Conduit, I respectfully
7 request that the Commission continue these orders.
8 Thank you.

9 CHAIRMAN KOPLAN: Thank you.

10 MR. BARNES: Good morning, Mr. Chairman.
11 I'm Scott Barnes, and I'm Vice President, Commercial,
12 for IPSCO Tubulars. I am accompanied today by Mike
13 Stefko, who is our sales manager for industrial
14 products. It is essential for IPSCO that the
15 Commission retain the present anti-dumping and
16 countervailing duty orders on standard pipe.

17 Both our company and me personally were
18 terribly disappointed with the White House decision on
19 the 4/21 action against pipe from China. That
20 decision has and will continue to adversely impact our
21 standard pipe business in terms of production volumes,
22 sales, employment, pricing and profitability.

23 Not only did I appear at this Commission's
24 hearing which I thought presented us with a fair
25 opportunity to hear our views and made a decision on

1 the facts presented, I also participate in the TPSC
2 meetings as well as separate meetings with staff of
3 various departments and with the White House staff.

4 To be blunt I do not believe that the
5 administration gave us a fair hearing and it did not
6 make a decision based on the facts. I thought that
7 during the process that the negative decision had
8 already been made and that administration officials
9 were just going through the motions of holding
10 hearings and having meetings.

11 I must admit I do not think I will ever
12 fully understand the reasoning behind this
13 administration's policies with respect to trade with
14 China. Now that I've got that off my chest I would
15 like to get back to the issue in these sunset
16 hearings. During the period in which these orders had
17 been enforced IPSCO has made a significant investment
18 and commitment to the standard pipe business.

19 Our high-speed ERW mill installed in
20 Blytheville, Arkansas, is excellent for producing
21 standard pipe. We also have added extensive testing
22 and finishing facilities for standard pipe as well as
23 emphasizing various marketing programs for standard
24 pipe.

25 There is no doubt that IPSCO has generally

1 benefitted during the past several years by
2 cannibalization of our domestic standard pipe market,
3 the demise of former major competitors of ours in
4 standard pipe who used to appear with us at these
5 panels such as LTV Tubular, which was sold and then
6 saw the closure of their Youngstown, Ohio, mill;
7 Maverick Tube, which for all intense and purposes has
8 exited the standard pipe business at the end of last
9 year after their negative 421; Newport Steel, which
10 exited the standard pipe business a couple of years
11 ago; and recently Northwest Pipe, which exited the
12 standard pipe business just last year.

13 All of these exits have allowed IPSCO to
14 continue our presence in the standard pipe market.
15 While the U.S. industry is losing both tremendous
16 market share and producers IPSCO is occupying an ever
17 larger share of a diminishing piece of the pie.

18 Unlike most other players in the standard
19 pipe market we do have the ability to shift workers in
20 mill utilization time from standard pipe to OCTG and
21 line pipe. IPSCO has been able to make the shift to
22 offset lower standard pipe sales. However, I believe
23 it is important for the Commission to understand that
24 during the time when our standard pipe sales were
25 declining our OCTG sales were increasing.

1 We still had additional capacity on our
2 mills that would have allowed us to hire more people
3 and either maintain or increase our standard pipe
4 production but for the Chinese import surge. You
5 should also know that the Chinese import surge is now
6 occurring in OCTG just as it has been in standard
7 pipe.

8 Therefore, even though the OCTG consumption
9 has been increasing lately and the demand side of the
10 market is strong today imports from China of carbon
11 casing and tubing in IPSCO's size ranges are now
12 running 50,000 to 60,000 tons a month.

13 As a result despite strong market conditions
14 our U.S. OCTG production is falling thereby increasing
15 our reliance on the standard pipe market and making it
16 all the more important that these findings be
17 continued.

18 In conclusion IPSCO Tubulars has reinvested
19 in our mills, our finishing equipment and our
20 workforce. We have an excellent workforce and an
21 excellent sales staff and we have made significant
22 financial and a corporate commitment to the standard
23 pipe market.

24 That business has been and is being
25 devastated by massive volumes of low-priced products

1 from China. That situation will be exacerbated should
2 the name countries resume dumping of standard pipe on
3 the U.S. market as the Secretary of Commerce has
4 determined will occur if the findings are allowed to
5 lapse.

6 To allow massive quantities of unfairly
7 traded excess capacity from Indian, Brazil, Korea,
8 Taiwan, Turkey and Mexico enter the market without the
9 imposition of anti-dumping and countervailing duties
10 would likely lead to IPSCO joining a long list of
11 other companies that have decided to exit the standard
12 pipe business.

13 For these reasons and on behalf of our
14 employees in our mills in Blytheville and Comanche I
15 ask you to continue these orders. Thank you.

16 CHAIRMAN KOPLAN: Thank you.

17 MR. BROGLIE: Good morning. I am Les
18 Broglie, General Manager of Tubular Products for
19 United States Steel Corporation. I have worked at
20 U.S. Steel for 32 years and have been in my current
21 position since September of 2003. I am responsible
22 for all aspects of our tubular business including the
23 production and sale of welded circular pipe products
24 that are the subject of these reviews.

25 U.S. Steel has a dual interest in this

1 proceeding. First U.S. Steel is a domestic producer
2 of welded circular pipe. Second U.S. Steel produces
3 and sells hot rolled steel which is a principal
4 material input in both welded pipe and light walled
5 rectangular pipe.

6 These products account for a significant
7 percentage of our commercial sales of hot rolled
8 steel. The revocation of the orders in this case
9 would therefore cause significant injury to U.S.
10 Steel's circular welded pipe operations as well as to
11 our hot rolled steel business.

12 Every additional ton of the product subject
13 to the orders that comes into this market at the
14 expense of a domestic product is one less ton of hot
15 rolled steel that can be sold by domestic producers of
16 hot rolled steel like us.

17 As the Commission knows U.S. Steel is a
18 major producer of seamless tubular products such as
19 OCTG and standard line and pressure pipe. We are also
20 in the welded pipe business because that enabled us to
21 offer a broader line of products to our customers and
22 also because in the absence of unfair trade that
23 business should be a significant source of income in
24 its own right.

25 U.S. Steel is perhaps unique in the welded

1 pipe business because we make hot rolled steel that
2 goes into the product and send that steel to a tolling
3 operation in McKeesport, Pennsylvania, which converts
4 it into the finished product.

5 We have found that this is the most cost
6 effective way for us to make welded pipe. As the
7 Commission is aware the welded pipe industry has been
8 under siege in recent years due to an explosive
9 increase in imports from China. U.S. Steel has felt
10 the affect of that import surge in two ways: lost
11 sales and reduced prices.

12 First in early 2005 we were losing sales
13 because we were unable and frankly unwilling to meet
14 the Chinese price. During this time our prices were
15 eroding, but we did not let them fall to the levels
16 that would have been required to keep our shipments at
17 their 2004 level.

18 By August of 2005 we saw however that this
19 strategy was so seriously affecting our orders that we
20 faced the threat of cutting back our operations to an
21 unacceptably low level. To maintain operations we
22 were forced to lower prices significantly.

23 Our sales price for some products fell by
24 \$100 per ton over the course of 2005 and as a result
25 of all this our volume for 2005 was about as bad in

1 performance that we have experienced for quite a long
2 time. Thus we already in a precarious situation.

3 Because the President declined to provide
4 the relief from Chinese import that you recommended we
5 will be forced to contend with that problem for an
6 indefinite future. Revocation of the orders against
7 welded pipe from the countries that are subject of
8 these orders would therefore come at the worst
9 possible time.

10 Many of these countries are already present
11 in the United States market notwithstanding the fact
12 that they are subject to anti-dumping duties. Thus
13 there is no issue as to whether they will come back
14 into the market. They are already here and they are
15 already underselling the domestic product.

16 Revocation of these orders would greatly
17 enhance their ability to do so. Under those
18 circumstances there is simply no doubt that our welded
19 pipe business would shrink even more. For all those
20 reasons we urge the Commission to keep those orders in
21 place. Thank you.

22 MR. KLINEFELTER: Good morning, Chairman
23 Koplan, members of the Commission. I'm William
24 Klinefelter. I'm the legislative and political
25 director for the United Steel Workers of America. We

1 have a longer name but I'm not going to read it
2 because if we keep merging at some point in time it
3 will take all the time in the testimony to read the
4 title of our union, so we'll move on from there.

5 You know, usually in the back of this hall
6 you see a lot of steel workers at these hearings.
7 There have been a couple of times when some members of
8 this Commission have seen a lot of steel workers in
9 field hearings, but you don't see any steel workers
10 there today.

11 The reason you don't see any steel workers
12 there today is that there is a lot of frustration,
13 regret, disappointment and a feeling that perhaps the
14 government of the United States is not thinking about
15 these steel workers anymore. A lot of that is the
16 result of the 421 decision.

17 In the labor movement we like to say that
18 it's not the Bush Administration doesn't haven't a
19 China policy, it's that they just have a pro-China
20 policy. They've completely dismantled and virtually
21 eradicated Section 421 which is what the Congress told
22 the people of this country would protect jobs from
23 surges of imports from China.

24 Our union opposed China PNTR and I wonder
25 how many members of Congress now after having seen the

1 rise in imports from China and the surges of imports
2 from China would vote for China PNTR right now.

3 This administration has refused to enforce
4 international obligations on currency manipulation,
5 they refuse to countervail massive exports from China
6 which are subsidized by the government of China, they
7 refuse to engage the Chinese government on violations
8 of human rights, workers rights, religious rights and
9 they refuse to engage the Chinese on environmental
10 issues which allow the Chinese to ruin not only their
11 environment, but the world's environment.

12 The steel workers were part of a national
13 energy commission that was sponsored by the Hewlett
14 Foundation and what we found is that as we move into
15 this next century and we are confronting the issue of
16 global climate change the Chinese have to be involved
17 in that debate, they have to be involved in that
18 solution and we have to force them more and more
19 because they are part of the problem.

20 The administration is learning that closing
21 down energy and environmentally efficient U.S.
22 industries to be replaced by goods made in highly
23 polluting energy inefficient factories in China is not
24 only adding to the global pressure on energy prices,
25 but is leading China in their thirst for energy from

1 wherever they can find it in the world to take foreign
2 policy positions which are preventing the world
3 community from accomplishing important national
4 security and human rights issues in countries as
5 diverse as Iran and Sudan.

6 Today's hearing is extremely important to
7 our members working in the pipe mills and the steel
8 mills that supply the steel to these welded pipe
9 mills. As your staff report shows in Table Circular
10 3-6 we have lost approximately 700 workers in this
11 industry since 2001 or one-quarter of the workforce.

12 We have lost 1,650,000 hours worked and in
13 spite of hourly wage increases negotiated by our union
14 wages paid to workers in this industry have declined
15 by over \$17,000,000 a year yet despite lower
16 production volumes at these mills our workers have
17 managed to maintain fairly constant productivity
18 levels.

19 It is my understanding that labor
20 productivity in these U.S. pipe mills is far and away
21 the highest worker productivity in pipe mills anywhere
22 in the world.

23 During the Commission's sunset investigation
24 we have seen the closure of standard pipe production
25 facilities in East Alton, Illinois; Fairless Hills,

1 Pennsylvania; and Lasalle went through Chapter 7
2 liquidation; the closure of LTV Youngstown plant when
3 that company's assets were brought out of bankruptcy
4 and the closure of pipe plants in Portland, Oregon,
5 and Bossier City, Louisiana, by Northwest Pipe.

6 Now, since the beginning of this year we
7 have lost an additional 140 jobs when Leland decided
8 to close their pipe making facility in Sharon,
9 Pennsylvania. I understand that we have lost
10 approximately 50 jobs and Northwest Pipe has decided
11 to stop producing either standard pipe or light wall
12 rectangular tubing in their Houston plant.

13 How many more jobs are we going to lose?
14 How many more plants will be shut down before this
15 administration adopts a China trade policy? I'm not
16 here today to ask the Commission to do something about
17 China imports. I know you can't.

18 Instead I'm here to ask you to continue
19 orders against countries which have been found to be
20 dumping standard pipe products or light wall
21 rectangular tubing products into the United States
22 market.

23 Obviously the producers in these countries
24 are seeing their markets disrupted and any other
25 export markets they may have had besides the U.S.

1 market disruptions by massive build-up of pipe and
2 tubing capacity and all of the Chinese unfair trade
3 practices I've already discussed.

4 If you were to allow these imports returned
5 to the U.S. market with their unfair trade practices
6 it would be the equivalent of adding fuel to the fire.
7 As an industry already struggling to keep its mills
8 open we find ourselves attacked on two fronts, from
9 both China and from massive imports from all these
10 other countries.

11 Our union will do everything in its power
12 next November to elect people who will help to create
13 a trade policy for the United States. However, this
14 union is asking this Commission to continue to enforce
15 the laws which we have on the books and that don't
16 require any Presidential discretion and to maintain
17 these anti-dumping and countervailing duties that are
18 in effect. Thank you.

19 If I may have just a moment of personal
20 privilege I'd appreciate it and I've still got the
21 green light. This may very well be the last time that
22 I address this Commission as the legislative and
23 political director of the USW. I will be retiring in
24 June and I don't know -- you know how we do things. I
25 may be back here again before June, but I just wanted

1 to take the opportunity to say thank you.

2 It has always been an honor to testify
3 before this Commission and it has always been an honor
4 for me to watch this Commission at work and I thank
5 you not for myself, but on behalf of the hundreds of
6 thousands of American workers whose jobs you have
7 saved, protected and secured through the work of this
8 Commission.

9 I will regret not being able to be here and
10 be the, I don't know, advocate that I have been over
11 the years, but it has been a great honor for me to
12 work with you on these important issues and I thank
13 you.

14 CHAIRMAN KOPLAN: Thank you for that, Mr.
15 Klinefelter. We wish you well. You certainly have
16 represented your union well.

17 MR. SCOTT: Good morning, Mr. Chairman,
18 members of the Commission. For the record my name is
19 Robert Scott. I'm an economist and I thank you for
20 the opportunity to testify here this morning. My
21 prehearing economic submission, which I wrote jointly
22 with Dr. Blecker, presents an analysis of the likely
23 affects of a recurrence of dumping on the domestic
24 producers of circular welded pipe.

25 Our model projects that U.S. shipments of

1 CWP would fall by 22.8 percent, the value of U.S.
2 shipments would decline by 27.1 percent and unit
3 values would fall by at least 7.9 percent. As a
4 result operating income of the domestic producers
5 would fall from \$85.17 per ton to -\$2.82 per ton, a
6 decline of 100.3 percent.

7 The operating income to sales margin would
8 fall from 9.3 percent in 2005 to -0.3 percent. If the
9 orders in these cases are not continued subject
10 producers of CWP will suffer material injury including
11 substantial loss of output revenues and employment.

12 Our analysis also shows that domestic demand
13 for CWP is likely to slow within the next two years.
14 In spite of the recent boom in housing construction
15 most CWP in the U.S. is used in nonresidential
16 construction and this activity has actually been
17 sluggish for the past several years.

18 Hearing Exhibit No. 1, which I believe you
19 have before you, shows the very close correlation
20 between apparent U.S. consumption of CWP and real
21 inflation adjusted fixed investment in nonresidential
22 structures during the period of this view.

23 If you will look at the graph, the top two
24 lines, apparent consumption and real nonresidential
25 investment in structures, are almost completely

1 identical or coterminous. This measure of
2 nonresidential construction is the right inflation
3 adjusted constructing measure index that should be
4 used for analyzing demand trends in this sector.

5 Real nonresidential construction peaked in
6 2001 and has never fully recovered since. Similarly
7 apparent U.S. consumption of CWP peaked in 2000 and
8 then fell in 2003 and has recovered only partly in the
9 past two years.

10 Meanwhile Hearing Exhibit No. 1 also shows
11 that domestic shipments by U.S. producers did not
12 recover as much as apparent consumption in 2004 and
13 2005 because U.S. shipments were depressed by the
14 surge in nonsubject Chinese imports, so U.S. producers
15 did not receive the proportional benefits or the full
16 benefits from partial recovery of demand in the last
17 two years as the Commission has already found in its
18 421 determination.

19 As if the situation is not bad enough in
20 terms of vulnerability the future prospects for the
21 domestic industry look even more bleak because of the
22 sharp rise in U.S. long-term interest rates over the
23 past year and especially in the last few months.

24 As can be seen in our Hearing Exhibit No. 2
25 the benchmark interest rate on 10 year Treasury bonds

1 began to increase about a year ago, that's the solid
2 line in Exhibit No. 2, and it jumped by 0.7 percentage
3 points in the last three months alone to a rate now in
4 excess of five percent.

5 As a result future nonresidential
6 construction will likely slow in response to higher
7 credit costs. The Federal Reserve has raised its
8 short-term federal funds rate 15 times since June of
9 2004. The Fed's actions combined with the rapid
10 growth of oil prices in the past year and recent
11 increases in inflation have all contributed to this
12 rise in long-term rates.

13 The Fed is again widely expected to raise
14 the federal funds rate to five percent at its meeting
15 tomorrow. Some observers project that it could reach
16 five and a half percent by the end of this year.
17 Rising interest rates, higher energy prices and rising
18 inflation and the housing slow down will all put
19 downward pressure on GDP growth for at least the next
20 two years.

21 Investment in nonresidential structures,
22 which drives the demand for CWP, is highly dependent
23 on the rate of growth and output. Finally, rapid and
24 continued growth of U.S. current account deficit poses
25 a further risk in the next two years.

1 There's widespread agreement amongst
2 official and private sector economists that the U.S.
3 trade deficit which reached seven percent of GDP in
4 the fourth quarter of 2005 is simply unsustainable.

5 While a gradual reduction of this deficit is
6 possible even the Federal Reserve's open market
7 committee acknowledged in its minutes of its June 2004
8 OMC meeting that, "the possibility that the adjustment
9 could involve more wrenching changes could not be
10 ruled out."

11 Such an adjustment would cause rapid
12 devaluation, large jumps in interest rates and
13 financial market disruption all leading to a sharp
14 drop in output. The combination of higher interest
15 rates, sharply higher energy prices, the threat of
16 rapid current account adjustment all suggest that the
17 U.S. economy is likely to slow within the next one to
18 two years.

19 This would sharply reduce demand for CWP
20 thereby also reducing operating income and performance
21 ratios for domestic producers of the like product. As
22 a result domestic producers are likely to be
23 vulnerable to material injury in the near future if
24 these orders are not maintained and if nothing recurs.

25 Our prehearing submission also includes an

1 analysis of macroeconomic conditions in the global
2 economy and in the subject countries as well as our
3 comments and the staff's elasticity assumptions. Dr.
4 Blecker and I would be happy to discuss any part of
5 our analysis in response to questions. Thank you.

6 MR. SCHAGRIN: Mr. Chairman, before ending
7 this panel's testimony and accepting the Commission's
8 questions I'd like to take the opportunity to publicly
9 recognize and thank Bill Klinefelter. I've had the
10 opportunity to appear with him at this table
11 enumerable times in Title 7 cases, 201 cases, Section
12 421 cases.

13 Maybe if we search the files Bill
14 Klinefelter given the number of steel cases before
15 this Commission has been a witness more than any other
16 witness before this Commission. I had a chance to
17 work with him also on legislative issues, trade and
18 legislative activities as well as the Uruguay Round
19 and the Doha Round.

20 He has always been a vigorous representative
21 for the workers in the steel workers union and now the
22 other unions that they have merged with and best thing
23 is he's always been honest and forthright. You knew
24 where he and the union were coming from. No games. I
25 think he deserves a lot of thanks from everyone for

1 his excellent representation of the union in
2 Washington.

3 We wish him very well in his retirement, and
4 in case the steel workers are anything like the
5 Commission if they don't name your replacement anytime
6 soon we'll have you in the future as a witness or as a
7 legislative director emeritus. Thank you, Bill.

8 That concludes this panel's presentation,
9 Mr. Chairman.

10 CHAIRMAN KOPLAN: Thank you.

11 Mr. Klinefelter is no stranger to me. In
12 another life I was a trade legislative rep for the
13 AFL-CIO and I always felt I was better off having him
14 on my side than on the other side. Again, I wish him
15 well. I thank everyone for their direct presentation.

16 We'll begin the questioning with
17 Commissioner Pearson.

18 COMMISSIONER PEARSON: Thank you, Mr.
19 Chairman.

20 Welcome to the morning panel. Good to have
21 you here. Eventually I'm going to learn something
22 about pipe if I stay on the Commission long enough.
23 Let me start with basic questions about apparent
24 consumption.

25 In our data as we look over the period of

1 review we see some ups and downs, but quite a modest
2 increase over the period in consumption of CWP and a
3 slightly more robust growth in light walled
4 rectangular.

5 So my question is those of you who are
6 involved with both of these products as you look at
7 the marketplace have you actually seen that type of
8 change in your business or is the difference that I'm
9 measuring in apparent consumption just kind of an
10 anomaly that isn't reflective of the market as you see
11 it?

12 MR. BARNES: Scott Barnes with IPSCO.
13 Commissioner, I don't know that we have anybody here
14 on the panel today that is in both businesses. Steve
15 is. Okay. Sorry. As far as CWP I think that the ups
16 and downs that you see in apparent domestic
17 consumption are reflective of the overall general
18 economy.

19 It seems to track gross domestic product and
20 more specifically nonresidential construction and as
21 we've gone through the ups and downs of the economy
22 you see the variations there. I think that self-
23 explains that.

24 COMMISSIONER PEARSON: Mr. Bailow?

25 MR. BAILOW: Yes. We at Allied Tube have

1 seen an increase in the light wall square primarily
2 into the ornamental fencing market. That's where its
3 prime function is right now. With that we are also
4 seeing considerable increase in foreign in imports
5 from China and Mexico to that same market.

6 COMMISSIONER PEARSON: Mr. Schagrin, did you
7 have?

8 MR. SCHAGRIN: No. I would just say I think
9 that the data shows and I think that the hearing
10 exhibit that Dr. Scott and Blecker demonstrates that
11 actually consumption of CWP was higher at the
12 beginning of the period and that's because maybe in
13 relation to the dot com boom nonresidential
14 construction in this country between particularly 1999
15 and 2001 was extremely strong and we have not gotten
16 back to those levels of nonresidential construction
17 activity, nor have we gotten back to those levels of
18 circular welded pipe consumption.

19 As is typical in this industry
20 nonresidential construction tends to trail the economy
21 into recessions and then trail the economy out of
22 recessions, and so I think even though the recession
23 may have ended in 2001 nonresidential construction and
24 CWP consumption didn't really pick up until 2003 and
25 then it has been improving at a moderate pace in the

1 past couple of years.

2 We would expect that to continue at a
3 moderate pace until finally the higher interest rates
4 or whatever happens to the economy may cause it to
5 turn back the other way. This is a very cyclical
6 industry, the nonresidential. CWP because of
7 nonresidential construction is very cyclical.

8 COMMISSIONER PEARSON: Drs. Blecker and
9 Scott, do you have any thoughts on this? I mean,
10 should we see the --

11 MR. BLECKER: Well, first I just want to add
12 that the peak in the consumption of the circular
13 welded pipe was actually in the second year of the
14 POR, 2000, so when he says it never went back that
15 high he means as of 2000. Secondly I would point out
16 that while the consumption did increase over the whole
17 POR, 1999 to 2005, in both products the domestic
18 production went down in both products.

19 It did go down more in the order of 20
20 percent in the CWP product and on the order of 11
21 percent I think in the -- well, seven percent for
22 shipments and 11 percent for production in the LWR,
23 but domestic production is down in both sectors even
24 though the consumption is up.

25 COMMISSIONER PEARSON: Based on your

1 analysis of these two products you haven't found
2 yourself thinking differently about the demand
3 conditions for light walled rectangular relative to
4 circular welded? I'm just trying to understand do we
5 see this as basically the same underlying demand
6 picture or is there something different between the
7 two?

8 MR. SCHAGRIN: I'd just add one thing that
9 does make a difference, a lot of ornamental goes into
10 residential construction because it's people who build
11 a home and decide to put ornamental fencing around
12 their yard, their pool, so there's very little use of
13 ornamental in nonresidential construction. A little
14 bit in window frames sometimes is made with a light
15 wall rectangular.

16 So that is probably one of the reasons that
17 the demand for light wall rectangular has increased
18 more than the demand for CWP is that residential
19 construction spending has been much stronger than
20 nonresidential. One of the other things that light
21 wall rectangular goes into is furniture. A lot of
22 tables, you know, use small squares or recs in uses of
23 various kinds of furniture.

24 Obviously as people are building more homes
25 they're using more furniture. So demand conditions

1 for light wall rectangular have been stronger than for
2 CWP, and I think the difference is one being more tied
3 in to residential and the other being tied more into
4 nonresidential construction.

5 COMMISSIONER PEARSON: Okay. Well, thank
6 you for that perfectly reasonable explanation.

7 Mr. Scott, did you have anything to add?

8 MR. SCOTT: Just one very small footnote.
9 We don't have data in this case, but in general
10 inventory changes will cause small variations in
11 production relative to the nonresidential construction
12 levels in CWP demand.

13 I think the general point here is that there
14 is a downward trend since 2000 in nonresidential
15 construction.

16 COMMISSIONER PEARSON: Okay. Well, you had
17 commented that this is a cyclical business and I think
18 we will probably accept that proposition.

19 Those of you who are in the business in
20 conducting your own forecasting of demand for circular
21 welded pipe which financial or market indicators do
22 you find to be most useful for short-term analysis?

23 MR. MAGNO: Mark Magno, Wheatland Tube
24 Company. We will look at primarily nonresidential
25 construction activity. Again, as Roger said we do

1 tend to lag that by up to six months, but that for us
2 gives us the best indicator what we believe is out
3 there business-wise.

4 COMMISSIONER PEARSON: Pretty much the same
5 for light wall rectangular?

6 MR. MAGNO: We're not in that business, so I
7 don't know.

8 MR. BAILOW: Yes, it would be.

9 COMMISSIONER PEARSON: Would your short-term
10 analysis of demand prospects be -- how would that
11 differ from your longer-term analysis? I mean,
12 because you invest for the long-term when you add a
13 new line or buy a new plant. You have to operate the
14 plants with a more short-term focus. So I'm just
15 wondering if you could comment on that?

16 MR. MAGNO: We do use -- in the short-term
17 we are looking at nonresidential construction. In the
18 long-term we continue to look at that factor.
19 However, we also look at general economic conditions.
20 I mean, we haven't done it for that -- in recent times
21 we've been more contracting or closing facilities than
22 adding new lines, so my knowledge base is
23 significantly dated.

24 We also look if we're doing a -- trying to
25 add on say an additional size range we will look at

1 that moreso on how does that help our market basket?
2 If we add to a production line and can increase our
3 size range then maybe we can look at a little bit
4 different distribution base and then that would have
5 as much impact as some economic issues when evaluating
6 an expansion.

7 COMMISSIONER PEARSON: Well, let me stay
8 with you since --

9 MR. MAGNO: Sure.

10 COMMISSIONER PEARSON: Given the way you
11 wrestle with these questions in your own business what
12 do you think the Commission should see as a reasonably
13 foreseeable time as we do our analysis in this case
14 because we're supposed to determine whether there will
15 be a recurrence of injury within a reasonably
16 foreseeable time, right?

17 MR. MAGNO: I mean, to me personally I
18 believe it's -- as a businessman looking at our
19 business conditions we have this huge presence in our
20 market and dramatically expanding presence in our
21 market with nonsubject imports from China.

22 Again, we believe that there is tremendous
23 negative impact from the subject imports coming in, so
24 to us we believe that the timeframe is shorter and
25 more immediate as far as hurting our company.

1 COMMISSIONER PEARSON: Okay. Well, my light
2 has changed, but for purposes of the post-hearing if
3 you have anything more to add about how we should
4 understand the concept of the reasonably foreseeable
5 future in this case that would be great.

6 MR. SCHAGRIN: We'll add that in our post-
7 hearing brief, Commissioner Pearson.

8 COMMISSIONER PEARSON: Thank you, Mr.
9 Schagrin.

10 CHAIRMAN KOPLAN: Thank you, Commissioner.
11 Commissioner Aranoff?

12 COMMISSIONER ARANOFF: Thank you, Mr.
13 Chairman.

14 I want to join my colleagues in welcoming
15 the morning panel here today. I had thought about
16 leading up to some of my more central questions by
17 asking some data questions and other things, but I
18 decided, no, I'll go right to my central point.

19 Let's suppose that I come into this saying,
20 yes, I was right in what I said in the 421 and I think
21 that the data I see on the record in this review bears
22 me out and let's suppose that I conclude from that
23 that I can agree that the domestic industry is
24 vulnerable and I can see what's going on with imports
25 from China.

1 I then have to go on and make a
2 determination of well, okay, but if these orders are
3 revoked what's going to happen with respect to imports
4 from the subject countries and what effect is that
5 going to have? We have less on this record to go on
6 when we get to that part of the procedure, so I wanted
7 to ask a few questions that jump me over the beginning
8 stuff and take me there.

9 First of all do we know anything about what
10 has happened with respect to imports from Venezuela
11 since the Commission revoked that order on circular
12 welded pipe in the first review?

13 MR. SCHAGRIN: Yes, and that is that they
14 have stayed pretty subdued which is why I think that
15 the Commission made the right determination. I would
16 say that Venezuela is very different from any of the
17 countries subject to this review in that I don't think
18 the Commission could make a similar finding of no
19 discernable adverse impact because Venezuela had one
20 producer of circular welded pipe, it was fairly small.

21 All of these countries on circular welded
22 pipe have multiple producers and have tremendous
23 capacities, so Venezuela was something of an outlier
24 in the last investigation and as usual with this
25 Commission I don't differ with the Commission's

1 conclusions.

2 I think the Commission made the right
3 decision in the first sunset review, but that's what's
4 happened to imports from Venezuela.

5 I would just say in response to kind of your
6 prefatory comment before the question, Commissioner
7 Aranoff, that if you found nine months ago that this
8 industry was threatened with real and imminent injury
9 in the 421 that finding was very appropriate because
10 that real and imminent injury has occurred.

11 That's why people are actually closing
12 plants today. To me in an industry in which there is
13 rising demand and low capacity utilization closing
14 plants is as great a sign of real and imminent injury
15 as there can be and I think it really goes to that
16 issue of vulnerability.

17 Any increased imports from currently subject
18 countries are going to force in a very reasonably
19 foreseeable timeframe more plant closures.

20 COMMISSIONER ARANOFF: Okay. I appreciate
21 those answers. Going on along the same track Hylsa
22 has argued in its brief that it itself, and as I
23 understood from Mr. Winton's statement this morning,
24 the entire Mexican industry are operating at or near
25 capacity.

1 This is an argument that the Commission
2 recently accepted in its review of large diameter
3 seamless pipe from Mexico in voting to revoke that
4 order. Are you aware of any important differences in
5 the facts here that could lead us to a different
6 conclusion?

7 MR. SCHAGRIN: I'm aware of a number of
8 facts that should lead you to a completely different
9 conclusion. I see the facts in this case as
10 completely different from the large diameter seamless
11 pipe case. I don't think that Mr. Winton has a good
12 factual foundation for the assertion in his opening
13 statement that the entire Mexican industry producing
14 circular welded pipe is operating at full capacity.

15 I would like to address that confidentially
16 in our post-hearing brief. Also, in terms of
17 comparing the welded circular pipe industry in Mexico
18 to the seamless pipe industry, I'd also like to
19 address that in our post-hearing brief. We have only
20 received the confidential version of the Commission's
21 determination not the public version.

22 While I know what's bracketed there and
23 what's not sometimes bracketing can change, and so we
24 should have the Commission's public determination on
25 seamless pipe and I would like to using that public

1 information demonstrate in our post-hearing brief the
2 very significant differences between the record on
3 Mexico in the seamless pipe case and the record on
4 Mexico here.

5 One of the main things which is public, it
6 was discussed at the hearing, is that in seamless pipe
7 the Mexican industry made a significant point of
8 saying or it was the Taneris spokesman talking about
9 the Mexican industry that they had not shifted exports
10 to the United States in products not covered by anti-
11 dumping duty orders.

12 In this situation if you look at the fact
13 that a number of producers in the U.S., a number of
14 producers in Mexico can make on the same small
15 diameter mills either circular welded pipe or light
16 wall rectangular tubing we've had an explosion of
17 imports since the anti-dumping order went into place
18 on circular welded pipe of imports of light wall
19 rectangular tubing from Mexico.

20 It was up to about 145,000 tons last year.
21 So I think we have indications that the Mexican
22 industry will shift to huge exports to the United
23 States of other welded pipe and tube products not
24 covered by orders. We'll address that very fully in
25 our post-hearing brief, Commissioner Aranoff.

1 COMMISSIONER ARANOFF: Okay. I appreciate
2 that and I certainly also invite Mr. Winton either to
3 address it this afternoon or in his post-hearing
4 brief.

5 In Exhibit No. 4 to your prehearing brief
6 you present an analysis that assumes that, "subject
7 producers recapture their peak share of the U.S.
8 market." I think you assume that subject imports will
9 reach a market share of 34 or something over 34
10 percent which my understanding is it's more than they
11 have accounted for in any given year.

12 Is it your position that the Commission
13 needs to find that these market shares will revert to
14 peak levels in order to find that the subject import
15 volume would likely be significant if the orders were
16 revoked? If not what level would be significant?

17 MR. SCHAGRIN: No, it's not our position
18 that they need to return to their preorder peak
19 levels. To be honest here and also this is another
20 major difference with the seamless pipe case -- it
21 goes to vulnerability -- these industries are so
22 vulnerable with declining production shipments,
23 employment levels, pricing and tremendous cost price
24 squeezes between increase in cost for steel, increase
25 in cost for zinc, an inability today to pass those

1 along to customers, tremendous consolidation on the
2 purchaser side -- we pointed out in our brief Home
3 Depot buying the largest independent distributor of
4 these products and knowing that they'll use their
5 increased size to want to leverage and buy more
6 imports -- I really believe the Commission can find a
7 recurrence of injury based on even a slight increase
8 in imports from these countries.

9 The record demonstrates that there is huge
10 additional capacity in these countries and that we
11 could expect very large increases, but given the
12 vulnerability of this industry even findings of small
13 likely increases in imports would lead to recurrence
14 of injury in these two industries.

15 COMMISSIONER ARANOFF: Okay. Thank you.
16 I'm going to start on this, but I know I'm going to
17 run out of time and either one of my colleagues will
18 pick it up or I'll get it in the next round.

19 One of the issues that seemed to be very
20 hotly contested between the briefs in this case was
21 how to measure and allocate capacity in this industry
22 both in the domestic industry -- well, both these
23 industries, domestically and the subject countries.

24 Let me see how to phrase this. Can you have
25 some of the industry representatives explain -- you

1 know, I probably am going to have to come back to
2 this. What I'm trying to get at is what the
3 differences are in the way that your total capacity
4 was calculated.

5 How many shifts you assumed on, which sort
6 of bottlenecks you were relying on in setting what
7 your maximum capacity is and whether you think that as
8 a whole the domestic industries have done it
9 differently than the foreign producers have in their
10 questionnaires?

11 Since the light is yellow I'll leave it and
12 I'll come back to it in the next round.

13 Thanks, Mr. Chairman.

14 CHAIRMAN KOPLAN: Thank you. Actually,
15 that's a question that -- let me see if I can cover
16 that on mine and then you can come back certainly.

17 This is for the producers including U.S.
18 Steel. Hylsa's brief states at pages 7 and 8 that
19 domestic producers of circular pipe have overstated
20 capacity by reporting theoretical capacity based on
21 operating three shifts a day when, "as they themselves
22 admitted two shifts per day five days a week has been
23 the norm in the U.S. industry since 1981."

24 Siderer makes a similar argument as to light
25 wall rectangular at page 6 of their brief. During the

1 period of review have two shifts a day five days a
2 week been the norm for both CWP and light walled
3 rectangular?

4 If so, for the post-hearing will each of you
5 through counsel re-estimate for me your capacity and
6 capacity utilization for each of the years in this
7 review period based on your actual production
8 practice? I know that Mr. Magno and Mr. Bailow
9 touched on this in their direct presentation, but I'm
10 wondering if I could get that kind of specificity?

11 Mr. Schagrín?

12 MR. SCHAGRIN: I would like to invite the
13 different producers -- I would like to start out by
14 saying that I think Mr. Winton can fairly be accused
15 of significant overreaching by trying to take a quote
16 from a U.S. producer at a hearing and saying, you
17 know, this is obviously true of all producers in the
18 industry.

19 I think as you'll hear from these gentlemen
20 that's not true. That was a producer that had
21 traditionally had a business operation of two shifts a
22 day five days a week. As you'll hear from these other
23 producers and obviously U.S. Steel will answer as well
24 their norm has been seven days a week 24 hours a day,
25 and so I'd invite each of the industry witnesses to

1 respond to your question, Chairman Koplan.

2 CHAIRMAN KOPLAN: I appreciate that. I am
3 asking for on a year-by-year basis if it can be
4 provided for purposes of the post-hearing for the
5 period of review that we're looking at so that I have
6 that kind of specificity. So that I know I'll
7 probably have to get as part of the post-hearing, but
8 I'll take anything I can get now obviously.

9 MR. SCHAGRIN: I will say, Chairman Koplan,
10 we'll check back with the producers. I don't think
11 any of the producers at this table, in fact I don't
12 think any of the producers that we represented will
13 have to restate their capacity figures.

14 I believe that each of the producers that we
15 represented in this investigation listed the number of
16 days and shifts that their capacity was based on and
17 it was based as per the instructions on their normal
18 operating rates, and so, you know, it may be that if
19 Wheatland Tube had operated seven days a week 24 hours
20 a day but was back at their Wheatland plant to only
21 three days a week during the past year they still did
22 their capacity based on seven days 24 hours because
23 that was their traditional operations.

24 They were just unfortunately, you know,
25 forced to cut back.

1 I'd invite Scott, and Mark, and Steve, and
2 Mr. Broglie to just talk about your normal operations.

3 CHAIRMAN KOPLAN: Mr. Barnes?

4 MR. BARNES: Yes. First it's our goal to
5 operate the facilities at full capacity because on a
6 two shift basis you're not making any money. We did
7 complete our submission based upon the instructions.
8 Today we are operating 24 hours a day seven days a
9 week at our plants in Blytheville, Arkansas, and in
10 Comanche, Iowa.

11 CHAIRMAN KOPLAN: Has that been the case
12 during the period of review?

13 MR. BARNES: Not completely. No. Earlier
14 in the period of review we were operating two shifts
15 down in Arkansas, and then eventually worked up to
16 three and now we're at four.

17 CHAIRMAN KOPLAN: Would you be able to trace
18 that for me for the post-hearing?

19 MR. BARNES: I'll have to get the HR guys
20 working on that.

21 CHAIRMAN KOPLAN: Okay. Thank you.

22 Mr. Magno?

23 MR. MAGNO: Mark Magno, Wheatland Tube. We
24 operate -- many of our mills are continuously weld
25 mills which are gas fired hot mills and those as I

1 testified are most efficient running at longer
2 production hours.

3 Unlike some other operations we can't just
4 shut it off and then turn it on the next day because
5 of that, so what we'll end up doing is run three
6 shifts and our hope is to do it seven days a week. If
7 not then we start cutting it back to six days a week,
8 five days a week, four days a week, something along
9 those lines because it's a continuous operation.

10 That furnace has to be fired with natural
11 gas to keep it hot unlike some of our electric weld
12 mills where you could relative at some point turn the
13 switch and idle that. During the period of
14 investigation, yes, we were at seven days a week.
15 Three shifts, seven days a week.

16 We made a huge acquisition in 2002 to buy
17 Sawhill Tubular and we continued with those type of
18 stamping levels and then had to cut back because
19 constrained by -- not because of a production issue or
20 a constraint within the manufacturing operation, just
21 constrained by an order book.

22 CHAIRMAN KOPLAN: Thank you.

23 Mr. Bailow?

24 MR. BAILOW: Thank you, Chairman. We have
25 always traditionally operated seven days a week 24

1 hours a day and at present as I mentioned in my
2 testimony we are in budget meetings right now and we
3 are looking at cutting back and there is the real
4 possibility of closing mills. For efficiency purposes
5 we almost have to run 24/7.

6 CHAIRMAN KOPLAN: Mr. Broglie?

7 MR. NARKIN: Chairman Koplan, this is Steve
8 Narkin on behalf of U.S. Steel. As you suggested we'd
9 like to address that in our post-hearing brief.

10 CHAIRMAN KOPLAN: No problem. Thank you.

11 Any further detail that you all submit post-
12 hearing on this point would be appreciated. Thank
13 you. Coming back to circular pipe Mr. Schagrin's
14 brief states at page 2 that, "the domestic CWP and LWR
15 industries are vulnerable to renewed unfair
16 competition due to the highly fungible nature of CWP
17 and LWR."

18 Hylsa's brief on behalf of the Mexican
19 Respondent, their brief states at page 6 that with
20 regard to the domestic industry producing CWP, "their
21 operating income more than tripled and their net
22 income increased more than sixfold" between 2003 and
23 2004.

24 Hylsa also argues at page 6 that operating
25 income in 2005, "was still more than triple 2003

1 levels and net income was more than five times
2 higher." Could the domestic witnesses respond to
3 their counter-argument with regard to the issue of
4 vulnerability, the argument that I've just quoted?

5 MR. SCHAGRIN: Mr. Chairman, I'll give an
6 overview and I'll invite any of the industry witnesses
7 to testify. First I think Hylsa has made a bit of a
8 mistake in --

9 CHAIRMAN KOPLAN: Can you move your
10 microphone closer?

11 MR. SCHAGRIN: Yes. I'm sorry. In equating
12 vulnerability only with profitability. Obviously the
13 statute directs the Commission to consider a number of
14 factors: production, shipments, capacity utilization,
15 employment, as well as prices and profitability.

16 Even addressing profitability it's clear
17 that profitability in this industry has been declining
18 since 2004. Even though it was higher than 2003 which
19 was a bad year for the industry it doesn't compare
20 very favorably with some of the earlier years in the
21 sunset period.

22 When consumption is now increasing you would
23 expect the industry to be improving not declining. I
24 think the most important thing is that there's every
25 indication that because of declining volumes,

1 increased imports, plant closures and the cost of
2 plant closures that there's no question that this
3 industry will be -- is -- losing money and will be
4 losing money on an accounting basis in 2006.

5 I mean, I can tell you that just the cost --
6 and we'll try to put something in this in our post-
7 hearing brief -- of Wheatland's closure of a facility
8 that they purchased in 2002 and invested \$20 million
9 to \$25 million in the last three years, the closure of
10 that pipe making and the losses associated with that
11 will be greater than the profitability in the entire
12 industry in 2005.

13 So, you know, you're looking at what's
14 presently happening and what will happen in the future
15 and the present record is as stated in the Hylsa brief
16 declining profitability at the end of the POR and
17 there is information that those profit declines will
18 continue which makes this industry very vulnerable in
19 addition to the production and shipment market share
20 losses.

21 CHAIRMAN KOPLAN: I see my light's about to
22 change. Did anyone want to join in on that before or
23 did Mr. Schagrin speak for all of you?

24 Mr. Barnes?

25 MR. BARNES: I would only comment that I

1 think the industry is vulnerable if the duties are
2 rescinded because these countries have demonstrated
3 before that they will undersell us.

4 They undersell us today even with the duties
5 in place and they will be competing for our 50 percent
6 that's left of the U.S. market not against the
7 Chinese, but against us and leading to lower pricing
8 will lead to lower profits if any profits.

9 CHAIRMAN KOPLAN: Thank you.

10 Commissioner Hillman?

11 COMMISSIONER HILLMAN: Thank you.

12 I, too, would join my colleagues in
13 welcoming I think all of you back before the
14 Commission.

15 I would certainly join the Chairman in
16 commenting, Mr. Klinefelter, on all of your many
17 appearances here at the Commission. We very much
18 appreciate the time and the attention that you have
19 given to this Commission, and to these issues and for
20 your very helpful and productive testimony. We thank
21 you.

22 I might start with you on this issue. You
23 just heard some discussion with the Chairman on this
24 issue of capacity utilization. How many shifts are
25 running? How many hours a day? I wondered if you

1 could comment from a labor perspective.

2 Is there anything in any of the labor
3 contracts with any of the folks in terms of the
4 employees that you represent in these facilities that
5 would speak to this issue of what is a normal practice
6 in this industry in terms of hours and shifts a day
7 that we should be aware of?

8 If these folks change that is there anything
9 in your contracts that speaks to what kind of notice
10 they give you or anything that we should be aware of?
11 You will need a microphone.

12 MR. KLINEFELTER: Yes. This is something
13 that I'm going to have to check with the people who
14 bargain these contracts and we'll get you an answer in
15 the post-hearing because there are so many varieties
16 of contracts that we have in terms of hours of work,
17 and how those hours of work are divided up and what's
18 a normal period of time.

19 I think I better go back and check with
20 those folks who have negotiated these and I'll get you
21 an answer.

22 COMMISSIONER HILLMAN: All right.
23 Appreciate that. Another question, Mr. Klinefelter,
24 for you, and then I would welcome other comments from
25 the industry. We've obviously seen a lot of sunset

1 reviews of late involving several different steel
2 industries.

3 In many of them we have seen very high
4 levels of productivity gains, much of it attributed to
5 changes in union contracts but also to technologies
6 and other things changing. I would not describe this
7 industry as one in which we've seen those levels of
8 productivity gains.

9 They've been relatively modest on the
10 circular side and even productivity declines on the
11 light walled rectangular side. Help me understand
12 that. I mean, what's different about this than what
13 we see in some of the other steel cases that we've
14 looked at where we've seen very phenomenal rates of
15 productivity gains?

16 MR. KLINEFELTER: Well, I can speak to the
17 other industries because, you know, in terms of those
18 it's investment and it's work rules, changes, and it's
19 contract negotiations that have led to those changes.

20 Now, specifically for this industry, again,
21 I'm going to have to check and find out exactly what
22 practices have changed, have not changed and the
23 precise nature the industry can tell you of what
24 investments they've made in terms of productivity for
25 those gains.

1 So, again, I will check with our folks in
2 regards to the specificity of this industry in regards
3 to productivity and --

4 COMMISSIONER HILLMAN: I'd appreciate that.
5 Anyone else in the industry want to comment?
6 Mr. Barnes?

7 MR. BARNES: Scott Barnes with IPSCO.
8 Commissioner, one of the things I think as far as
9 productivity gains at least for our company is we have
10 made some significant strides. We built the brand new
11 mill in Blytheville, Arkansas, which started ramping
12 up during the beginning of this period of review in
13 1999 specifically at that time to make standard pipe.

14 Now, since then we have as I said in my
15 testimony produced other products on that mill as this
16 market has deteriorated, but at Blytheville it's a
17 brand new facility which was, again, very highly
18 productive and in Comanche, Iowa, we have also had
19 similar type improvements there since we entered the
20 standard pipe business back in 1992, 1993 period.

21 So I think we are a little bit different.
22 I'm sure Mark has made several investments as well as
23 he said.

24 MR. MAGNO: Mark Magno with Wheatland Tube.
25 I would submit that our industry has already

1 dramatically ramped up our productivity to survive
2 over these many years and that what we do and we do
3 every single day is look to see how can we use
4 technology and capital investments to become even more
5 productive?

6 We do that by, you know, buying special
7 packaging equipment so that fewer hands can grab on to
8 that piece of pipe and it lowers our costs and makes
9 us more productive. So I would respectfully claim
10 that we have done a pretty good job being productive.

11 MR. SCHAGRIN: Commissioner Hillman, I would
12 add I think one in the industry I'd agree with Mr.
13 Magno and Mr. Barnes that this already was a very high
14 productivity really state of the art mills world-class
15 innovators in the pipe industry which may or may not
16 be an attribute applied to the integrated steel
17 industry if you looked at it, you know, in the 1980s
18 or 1990s.

19 You would say that when you look at it today
20 and that's why they had those big productivity
21 increases. I think if you look in most other segments
22 of the steel industry in any time period between 1999
23 and 2005 you would most likely see higher U.S. market
24 shares, higher production.

25 I think the fact that in this industry

1 there's been such losses of market share and
2 production that on any of these facilities you can't
3 increase productivity when you start going from seven
4 days 24 hours a day to five days 16 hours a day.

5 Even if you try it's just not going to be
6 possible and I think that really explains, that's the
7 principal explanation for the inability of this
8 industry to increase productivity is it's just
9 impossible as your production is declining so much to
10 increase productivity.

11 COMMISSIONER HILLMAN: Well, help me
12 understand. We've obviously spent a lot of time
13 talking about capacity utilization and in part that
14 is, you know, a fair amount of the argument that is
15 being made in the Hylsa brief, but help me understand
16 it.

17 If I look at the data, you know, in 2005
18 capacity utilization was at its lowest level in the
19 entire period of review and yet if you -- again, I
20 understand your point about not looking only at
21 profitability, but if you look at the financial
22 indicators they're pretty strong in 2005 which
23 suggests to me there's not much of a link.

24 Maybe you should help me understand the
25 relationship between capacity utilization and the

1 performance of the industry because, again, just on
2 the data we have on this record there appears to be a
3 fairly significant disconnect that when the industry
4 is running at relatively low levels of craft
5 utilization, pretty good performance and, you know,
6 you see some years in which the opposite occurred.

7 MR. SCHAGRIN: I think what is happening --
8 and unfortunately it is Mr. Klinefelter's members who
9 are really suffering the pain here -- is that U.S.
10 producers in this industry like U.S. producers in a
11 lot of industries are really deciding to forego volume
12 in order to maintain decent levels of pricing and
13 profitability.

14 So if you look at the declines in capacity
15 utilization it is added to increased cost of
16 manufacture because we not only have an increased of
17 goods sold, increased raw material cost, but you see
18 increased costs per ton in terms of manufacturing
19 costs, SG&A, et cetera, so it is causing cost
20 increases and it is causing declining profitability.

21 I really think this industry has said gee,
22 the import pricing is anywhere from \$100 to \$300 below
23 us.

24 It might be \$300 a ton below if it's from
25 China which is way below raw material costs for the

1 industry, it might be for those subject producers
2 coming in here it might be \$100 a ton below, but we
3 can't go down in price at those levels to regain
4 volume so we're just going to keep selling less, keep
5 saying our overall profit margin has declined, but at
6 least we're going to stay profitable and then we're
7 going to decide which mills do we shut down in order
8 to, you know, stay competitive and reduce costs?

9 That's why I think the drafters of the
10 statutes -- and I've always had a lot of respect for
11 Congress -- I think they did a very good job when they
12 made sure that the Commission has to look at a wide
13 variety and take, you know, labor interests,
14 production and shipments into account as well as
15 profitability because, you know, that could be
16 rationale decisions for executives to make is to say
17 I'm just going to give up volume.

18 I'll close a plant down, but I'm going to
19 try to maintain some profit margin instead of trying
20 to lose money.

21 COMMISSIONER HILLMAN: Okay. The other
22 thing that appears to me happening in this data with
23 respect to capacity utilization is that it looks like
24 capacity utilization for all welded pipe products has
25 increased significantly while the capacity utilization

1 devoted to circular or to standard pipe has not which
2 would mean that at least it appears to me that the
3 industry is shifting to focusing more on OCTG, on line
4 and some other products that may or may not be more
5 profitable and has shifted away necessarily from
6 standard pipe.

7 I'm trying to make sure I understand how you
8 think we ought to look at that fact. There's clearly
9 been a shift from the industry's perspective on where
10 it uses its capacity. What does that tell us?

11 MR. SCHAGRIN: Okay. First it really
12 doesn't tell you about the industry, it tells you
13 about certain industry members.

14 There's no question that OCTG is more
15 profitable than standard pipe, but I think -- and
16 we'll do some analysis in the post-hearing brief --
17 that it's not the industry -- and I'm glad that's why
18 at least I think Allied Tube which makes no OCTG at
19 all, so they are a producer of that with four major
20 plants, certainly one of the largest producers in this
21 industry, they have no ability to shift.

22 That's why they face the prospect of plant
23 closures. Wheatland Tube had no ability to make OCTG
24 in their Wheatland facility, so they couldn't say
25 we're going to shift to OCTG instead of closing the

1 facility. They had to close the facility because they
2 couldn't make standard pipe there. There wasn't
3 enough demand.

4 I think what the overall data for industry
5 members show is that there are few industry members
6 who are really in the OCTG industry and make some
7 standard pipe who have really benefitted from the
8 increase in demand for OCTG. I don't think you can
9 point to that as the industry as an overall.

10 I mean, if we have 20 members in the
11 industry and members one, two, three and four increase
12 OCTG by 50 percent and standard pipe by 10 that will
13 show up as a lot in the overall industry, but if
14 industry members five through 20 make no OCTG at all
15 it doesn't apply to the industry overall.

16 I'd like to address that more in the post-
17 hearing brief, but I also believe you need to focus in
18 the end on the industry producing the like product and
19 see the suffering in the standard pipe industry and
20 not attribute what's happening to a couple of members
21 in the industry benefitting from increased OCTG
22 demand.

23 It really doesn't apply to the industry as a
24 whole. I'll address that in the post-hearing if
25 that's okay.

1 COMMISSIONER HILLMAN: Thank you.

2 CHAIRMAN KOPLAN: Commissioner Lane?

3 COMMISSIONER LANE: Good morning. I, too,
4 welcome a lot of you back, and, Mr. Klinefelter, I
5 join with my colleagues in saying that we will miss
6 you, and hopefully maybe you will be back.

7 I would like to start, first, with some
8 follow-up questions on capacity utilization. Mr.
9 Magno, I may have misunderstood what you said, but in
10 your prehearing statement, I think you said that you
11 had operated the Sharon plant seven days a week, and
12 later in your statement, you talked about operating
13 one plant five days per week and one plant three days
14 per week. Did I misunderstand your statement
15 regarding the seven days per week at the Sharon plant?

16 MR. MAGNO: No. My testimony was that we
17 operated the Sharon plant seven days a week up through
18 mid-2004. Previously, we were operating the Sharon
19 plant at three days a week and the Wheatland plant
20 five days a week. So at one point, we were operating
21 the Sharon plant seven days a week, but more recently,
22 no, and now it's being shut down.

23 COMMISSIONER LANE: So since mid-2004, you
24 have been operating the Sharon plant at three days per
25 week.

1 MR. MAGNO: It had been ramping down from
2 seven days down to three days during that period. I
3 don't know what the progression was, but there was a
4 ramp down, and then, finally, there just wasn't enough
5 business to keep it open, so we had to shut it down.

6 COMMISSIONER LANE: And the Wheatland plant
7 was not operating seven days a week.

8 MR. MAGNO: No, not recently.

9 COMMISSIONER LANE: What do you mean by
10 "recently"?

11 MR. MAGNO: Not previously. I mean,
12 certainly, in 2002, when we had both facilities, both
13 were operating at very high levels, and then as
14 business started to tail off, the Sharon facility's
15 reduction in the workforce would be the first one that
16 would be reduced, and the Wheatland would trail that.
17 We were trying to keep both plants open and then just
18 made the decision to close the Sharon plant.

19 COMMISSIONER LANE: Okay. Thank you.

20 Now, Mr. Klinefelter or Mr. Magno, about the
21 140 or so jobs lost in Sharon when the plant was shut
22 down; could you tell me what happened to those
23 workers, and were any of them shifted to other
24 facilities producing the same or other products, or
25 were they simply laid off?

1 MR. MAGNO: Our plan was to be able to take
2 a portion of those workers and to offer them
3 employment from the Sharon facility over at our
4 Wheatland facility and our nearby Warren, Ohio,
5 facility. In a post-hearing brief, I could give you
6 specifics about how that has occurred. One of the
7 ideas was, though, that if you take a plant that's
8 operating three days a week and one that's operating
9 five days a week, and you add the production, then
10 you're going to have one facility running seven days a
11 week. That's not occurring.

12 COMMISSIONER LANE: Maybe it would help if
13 you would explain to me how you actually run a
14 facility three days a week and one five days a week.
15 How do you configure the shifts, et cetera?

16 MR. MAGNO: Well, let's say the Wheatland
17 facility would run five days a week, so that would
18 probably run Monday through Friday, three shifts a
19 day. The Sharon facility that is closing would run
20 three days a week. We found it best to run that
21 Tuesday, Wednesday, and Thursday, and it's based on
22 how you can keep the furnaces heated. You shut the
23 furnace down and things like that, more of an
24 operational issue. And then one plant would produce
25 one kind of standard pipe size and the other one to

1 try to balance the inventories.

2 COMMISSIONER LANE: Okay. Now, Mr.
3 Klinefelter or Mr. Schagrin, when this Commission
4 considers the vulnerability of a domestic industry, we
5 often factor conditions of competition and
6 profitability of the industry into a vulnerability
7 evaluation. How, if at all, should we factor the
8 vulnerability of employees in the industry into that
9 equation?

10 MR. KLINEFELTER: Well, I find that it's
11 difficult. These folks are vulnerable. These
12 industries are fragile and susceptible to these
13 pressures from other countries. That's why these
14 orders have to stay in place, in order to maintain
15 these jobs. I could answer in more detail in post-
16 hearing brief. I guess we've said it so many times
17 before that this industry and the employees in it --
18 these are good-paying jobs, but they are susceptible
19 to unfair trade practices from other countries, with
20 the pressure of China, and we don't want the
21 additional pressure of these countries coming back in.

22 So the problem is that if you take these
23 orders off, we'll be back going at it all over again.
24 That's why we're asking you to stick with it.

25 MR. SCHAGRIN: Commissioner Lane, I would

1 add that I believe it is perfectly appropriate for
2 this Commission to take into account, in looking at
3 the conditions of competition in an industry, the
4 specific vulnerability of workers in an industry in
5 which you have evidence on the record of very low
6 capacity utilization rate levels, evidence on the
7 record of very recent plant closures. We have had,
8 within the past two years, approximately four plant
9 closures. The Wheatland plant will close down
10 permanently in just another two weeks, and both
11 standard pipe and light-walled rectangular production
12 in Northwest Pipe's Houston facility will completely
13 end in the next few weeks.

14 You have the testimony of Allied that they
15 are considering plant closure, and if there is
16 anything to add coming out of their meetings
17 confidentially that we can put in a post-hearing
18 brief, we will.

19 That type of information on this
20 Commission's record in a sunset review, I think,
21 demonstrates a condition of competition that employees
22 in the affected industries being looked at are
23 especially vulnerable because U.S. market shares are
24 declining so rapidly, U.S. production is declining so
25 rapidly, that producers in the industry are

1 considering plant closures in response. I think that
2 is a specific vulnerability of the employees in the
3 industry that this Commission can and should take into
4 account.

5 COMMISSIONER LANE: Okay. Thank you.

6 Dr. Blecker or -- is it Mr. Scott or Dr.
7 Scott? -- Dr. Scott, do you have any thoughts on this
8 same question?

9 MR. BLECKER: Robert Blecker speaking. I
10 just wanted to say that, hypothetically, suppose there
11 was Worker A who manages to move from a plant that has
12 shut down to some other plant. That doesn't mean a
13 job wasn't lost because then at that other plant they
14 don't hire someone else. So if you see 700, or
15 whatever it is, jobs lost, those are still net job
16 losses. It may be the individual loses the job, or
17 someone else doesn't get a job because that worker was
18 put somewhere else. So a job loss is still a job
19 loss.

20 MR. SCOTT: In a broad, national context --

21 COMMISSIONER LANE: That's Dr. Scott.

22 Right?

23 MR. SCOTT: Dr. Scott, yes, thank you.
24 We've lost three million manufacturing jobs in this
25 country just since 2000, so what we're doing is

1 pushing people out of the manufacturing industry.
2 They earned good wages, and they often have good
3 benefits, and they often end up going to work in very
4 low-paid industries like retail trade with minimum
5 wages and no benefits. So that's really what's going
6 on here. It's a displacement of workers out of good
7 industries, and this is a microcosm of what's
8 happening, I think, throughout American manufacturing.
9 It's being driven in large part by imports from China
10 and other low-wage countries.

11 COMMISSIONER LANE: Okay. Thank you.

12 Mr. Schagrin, I would like to turn to the
13 investigation that we had on light-walled rectangular
14 pipe relating to Turkey and Mexico in 2004. I noticed
15 we haven't discussed that today. I note that the data
16 collected for this case shows profitability of the
17 industry, as measured by the operating income ratio to
18 net sales, is significantly lower in the full year
19 2004 than an interim period in 2004 that we had in the
20 prior case.

21 Do you believe that there is enough
22 consistency and overlap in the data for us to compare
23 the full-year 2004 data in this case to the interim-
24 year data from the investigation of the 2004 Turkey
25 and Mexico case, and if so, what factors explain the

1 significant decline in profitability in the latter
2 part of 2004 and continuing into 2005?

3 MR. SCHAGRIN: First, Commissioner Lane, I
4 think it's completely appropriate for you to utilize
5 that data because I believe it's stated on the record
6 in both that investigation, which was a final
7 investigation, and in this sunset review that industry
8 coverage in both investigations is between 95 and 100
9 percent. The staff in both cases did an excellent
10 job, and unlike foreign producers who usually these
11 days don't participate in Commission investigations
12 anymore, the domestic industry does, and so you have
13 great coverage.

14 Now, I'll get to the explanation. We had
15 the unfortunate position, and I don't complain at all
16 about the Commission's determination, when an industry
17 had, I think, nearly 20 percent profits in that
18 interim period, about you reaching a negative
19 determination. But as Terry Mitchell testified at
20 that case, it was like a basketball team that was
21 going two and 12, and people saying, "But you won your
22 last two games. You're doing great." That industry
23 had two really good quarters in the first half of '04,
24 and it's been downhill since.

25 I can tell you right now, in 2006, it is

1 really horrible for that industry because not only
2 have dumped imports, and I still consider them dumped
3 -- they were found to be dumped at high margins then -
4 - I think they will be found to be dumped at high
5 margins now from Turkey and Mexico -- returned in very
6 large volumes to the U.S. market, but now there's huge
7 volumes of imports of that product from China entering
8 the U.S.

9 I can tell you that's why a plant in Houston
10 was the first LWR plant to really shut down. It's
11 because it's close to Mexico, and the volumes from
12 Mexico of LWR are just gigantic. That's an industry
13 with declining profitability right from the end of the
14 first half of '04 through to the present day, and it's
15 an extremely vulnerable industry.

16 So I think it's perfectly appropriate to
17 take that data into account.

18 COMMISSIONER LANE: Okay. Thank you. I'm
19 going to have some follow-up questions on that on my
20 next round. Thank you, Mr. Chairman.

21 CHAIRMAN KOPLAN: Thank you.

22 Commissioner Pearson?

23 COMMISSIONER PEARSON: Okay. I've enjoyed
24 listening to the discussion about capacity
25 utilization. I don't want to go into that in great

1 depth, but I want to touch on it in this context. You
2 look at the capacity utilization numbers over the
3 period of review, you look at the industry's financial
4 performance over the period of review, and it does
5 appear, as I think Commissioner Hillman indicated,
6 that this industry can be relatively profitable at
7 capacity utilization levels that are fairly low. Does
8 this mean that this industry is not vulnerable, that
9 it's got the ability to continue to reduce capacity
10 utilization and remain profitable?

11 MR. SCHAGRIN: No. It doesn't mean that the
12 industry is not vulnerable. First, I would start with
13 the fact that I think it would be very inappropriate
14 for this Commission to look only at profitability when
15 considering vulnerability. I think that would violate
16 the statute. I think the statute is very clear that
17 there is a number of indicators, as Congress has
18 instructed you, to take into account. I do believe
19 that it demonstrates that unlike, say, the basic steel
20 industry that this industry doesn't have such high
21 fixed costs that it automatically becomes unprofitable
22 as utilization falls.

23 I think that the producers in this industry
24 -- I think they are pretty representative of American
25 industry in general -- have chosen to give up volume

1 in order to maintain prices for their reduced volumes
2 of sales that allow them to continue to sell those
3 units at profitable margins. Now, as you get to the
4 point that your number of units produced has fallen so
5 significantly that you have to shut down plants, the
6 cost of shutting down plants is automatically going to
7 start making this industry unprofitable.

8 I think we can return to this Commission in
9 a year or two and maybe make things more pleasant for
10 you in terms of your analysis by bringing you a very
11 unprofitable industry, and that's the vulnerability.
12 I think any fair assessment of these industry trends -
13 - market share, production, shipments, employment,
14 declining profitability, and plant closures -- it's
15 very easy to foresee that this industry will not be
16 able to maintain profitability in a reasonably
17 foreseeable timeframe, and thus, ipso facto, the
18 vulnerability of the industry is apparent.

19 So I think this industry is near a tipping
20 point where it starts to shut down facilities.
21 Unfortunately, I represented producers who used to
22 make ductile waterworks fittings in this country.
23 They chose, instead of getting to the point of going
24 from profits to losses to larger losses, to shut down
25 those facilities, and then today there is zero

1 employment in that industry, and that's what's going
2 to happen to both of these segments of industry. It
3 may happen that if we don't have some changes with
4 policies with China, that this industry won't be here
5 in another five years.

6 You may not have a third sunset review
7 because of imports from China, and not having an
8 industry, I guess you didn't have an industry in
9 indigo, I'll just call it. There wasn't an industry,
10 so you had to make a negative sunset determination.
11 The industry had disappeared during your sunset
12 period.

13 I hope that's not the case here, but I think
14 that points to the vulnerability, and I think any
15 negative sunset determinations here would just hasten
16 that demise.

17 COMMISSIONER PEARSON: Well, I think I
18 recall from the 421 hearing a few months ago that you
19 were then expecting that the financial results for
20 full year 2005, when we had them, would reflect the
21 effects of the Chinese imports. As we look at the
22 full year financials for 2005 that we now have
23 available, we see still an industry that, at least on
24 paper, is doing pretty well. So would you expect that
25 if we had full year 2006, full year 2007, 2008, at

1 some point, do you think we would see a decline in
2 profitability, setting aside the other indicators that
3 you've indicated we should look at?

4 MR. SCHAGRIN: I would make two points,
5 Commissioner. First, I hope, in general, before this
6 Commission that at least my forecasting, and
7 forecasting is an inexact science -- only Alan
8 Greenspan did it perfectly for a long time -- at least
9 has some credibility.

10 I think what I probably failed to recognize
11 in hearings in August of last year was the benefits
12 the industry would get from the period between an
13 affirmative ITC decision and what, unfortunately,
14 turned out to be a negative presidential decision
15 because while imports from China barely slowed, they
16 were still high.

17 There was definitely a perception in the
18 marketplace -- it's kind of funny how buyers of pipe
19 could foresee results so differently than maybe I
20 could and obviously the president could. But I
21 believe, and Mr. Mango testified to this, and he is
22 the head of marketing for probably the largest
23 producer in this industry, that in the fourth quarter,
24 the industry in circular welded pipe really benefitted
25 from a perception by customers that the president was

1 going to bring down a very harsh quota on imports from
2 China as of January 1. If they were buying a lot of
3 Chinese product, they had better make sure that their
4 industries were in line, that they had more domestic
5 product in hand that they had purchased, and that they
6 were ready for a stiff quota to come down at the
7 beginning of January.

8 When that didn't occur, as Mr. Magno
9 testified, and I can tell you, knowing all of the
10 players in this industry, 2006 has really been
11 horrible for these folks, so, yes, if you were to see
12 in a crystal ball reasonably foreseeable time
13 financial results for this industry for '06, '07, and
14 '08, you would see tremendous declines in
15 profitability, if not losses, for this industry. I'm
16 certain of forecasting that, and that would be because
17 of imports from China alone.

18 If you were to sunset these orders, even
19 just the orders, the Mexico, which I believe should be
20 cumulated, I believe we would see a big surge in
21 imports from Mexico. Mexico is not an industry, like
22 the Venezuelan industry, that we will see that demise
23 of profitability and an acceleration of plant closings
24 occur in an imminent timeframe, much less a reasonably
25 foreseeable timeframe.

1 COMMISSIONER PEARSON: Okay. Thank you.

2 A question for those of you who are actually
3 selling product in the marketplace. Let's assume for
4 the moment that these orders are revoked. What I want
5 to think about is how would the formerly subject
6 imports be able to compete against the Chinese or
7 other nonsubject imports.

8 If we look at our record, I think we can see
9 some decline in subject imports in the last couple,
10 three years, and I'm wondering, is that related to the
11 competition that they are already experiencing with
12 imports from China? Think in terms of the quantities
13 and the prices at which the currently subject imports
14 could enter the U.S. market. Is there room for them,
15 and how do you make an argument that they compete and
16 succeed?

17 MR. MAGNO: Mark Magno with Wheatland Tube.
18 The subject imports don't have to compete against the
19 Chinese imports at those unbelievably low levels.
20 We're selling a commodity product, so all they have to
21 do is sell at roughly 5 to 10 percent below the
22 domestic price, and they will be welcomed to start
23 taking the significant and declining remaining share
24 that the domestic producers have. Once they totally
25 absorb that share, then they would, down the road, a

1 long time from now, might have to compete against the
2 Chinese, but now they don't; they just have to compete
3 against the domestics.

4 Every sales call we make, our customers are
5 asking us questions about imports. Whether they buy
6 them or not in the marketplace, they are facing it
7 also, and with this very large acquisition by Home
8 Depot of Hughes Supply, who is in several different of
9 our segments, it's just going to accelerate.

10 So, in summary, they just have to compete
11 against our price or products at slightly below the
12 market, and they will be successful.

13 COMMISSIONER PEARSON: Mr. Barnes?

14 MR. BARNES: I would like to jump on the top
15 of that answer as well. What's happening is that the
16 Chinese are driving a lot of these subject countries
17 from some of their own areas around the world to the
18 U.S. The Koreans are being chased out of the Asian
19 markets because the Chinese are a bigger factor there,
20 so it's been a migration to the U.S. market from a lot
21 of these subject countries.

22 As far as ease of entry into the marketplace
23 here, it's relatively a low hurdle because, as the
24 staff report, I think, accurately reported, the
25 distribution system is the same. It's easy to get in.

1 In fact, it's much more prevalent today that the same
2 distributor will stock both import and domestic
3 product. Because of the competitive price
4 differential, ABC Distributor here, if he stocks only
5 domestic, and Distributor D down the road has got
6 import, he has got to stock the import as well in
7 order to have an equivalent offering from a pricing
8 standpoint.

9 So I would agree with Mark's comments that
10 they are not going to compete against China initially;
11 they are going to compete against the remaining 50
12 percent of the U.S. domestic share of this
13 marketplace, and to do that, they have got the
14 marketing channel already established, and it's a
15 matter of underselling their pricing by 5 to 10
16 percent to beat our numbers out.

17 COMMISSIONER PEARSON: Mr. Bailow?

18 MR. BAILOW: I can only echo what both Mark
19 and Scott said. The hurdle for them to come into the
20 market is nonexistent. It's a phone call away. They
21 are not going to go after the Chinese market. They
22 are absolutely going to go after our market because
23 we're the vulnerable target.

24 COMMISSIONER PEARSON: What is it about the
25 Chinese product that these subject countries wouldn't

1 compete with? Is there a quality difference or
2 something that China is serving the low end of the
3 market?

4 MR. BAILOW: It's strictly price, strictly
5 price. There would be room between what the Chinese
6 have pricing and what the domestic market has for
7 pricing for them to slide right on in.

8 COMMISSIONER PEARSON: So why don't the
9 Chinese serve all of the import demand, then? Are
10 there limits on their total capacity or on the product
11 range?

12 MR. SCHAGRIN: Unfortunately, they will.
13 There are some present limits. I think that's a good
14 question to ask. Chinese pricing is insane. Most
15 people in Washington forget that China is a Communist
16 country with a lot of planning and targeting, and,
17 unfortunately, pipe and tube is a targeted industry,
18 and steel certainly is.

19 Their products are perfectly acceptable
20 products. They meet the specifications. The only
21 reason that they are presently five or 600,000 tons in
22 the market instead of two and a half million tons is
23 they just haven't been able to make that much to get
24 into the U.S., but they will. Just as the president
25 didn't believe, gee, they are only selling 200 million

1 wire hangers a year. The domestic industry is 85
2 percent of the market. If the Chinese undersell by 50
3 percent, why doesn't everybody buy all of their wire
4 hangers from China right now? Because it took them
5 three more years to take 100 percent of the U.S.
6 market.

7 So Chinese pipe producers will take 100
8 percent of the U.S. market in the next three to five
9 years for reasons of just production volume, maybe
10 just the availability of transport. There is actually
11 a shortage of ships to get all of the Chinese stuff to
12 the U.S., but they will take care of that. The
13 Chinese government will take care of that.

14 COMMISSIONER PEARSON: My red light is on,
15 and valuing my friendship with the chairman, I think I
16 had better stop. Thanks.

17 CHAIRMAN KOPLAN: Can you spell
18 "filibuster"?

19 Commissioner Aranoff?

20 COMMISSIONER ARANOFF: Thank you, Mr.
21 Chairman. I want to pick up right where Commissioner
22 Pearson left off.

23 If the orders are revoked, and the subject
24 producers come back into the market, and let's say I
25 put aside and except for the moment for the sake of

1 argument that they have, from a volume standpoint, no
2 limits on their ability to do that, that they have
3 plenty of capacity, on pricing, though, why wouldn't
4 they have the same incentive that you have to limit
5 volume to keep prices up if nobody is going to chase
6 the Chinese down to the lowest price?

7 MR. SCHAGRIN: I would invite the economists
8 to add to this, but given my knowledge of economics,
9 I'll make two points, Commissioner. First, when you
10 talk about producers in subject countries coming back
11 into the U.S. market, I think it's always important to
12 remember that a lot of subject producers are already
13 here.

14 What we have in this case is that with
15 orders against a number of producers at different
16 dumping margins, that we have producers in certain
17 countries that have low margins who have continued to
18 ship to the U.S. market and then a lot of producers in
19 subject countries who have very high margins who don't
20 ship at all. If you get rid of the orders, those
21 producers are going to come here.

22 Now, you say, why wouldn't they act like the
23 U.S. industry? The difference is they have a home
24 market that allows them to dump into the U.S. market,
25 so what they can sell to the U.S. for a lot of

1 producers in a lot of these industries is their
2 marginal production. Rarely for a foreign industry
3 will the U.S. be their primary market versus their
4 home market being their primary market.

5 So it's nice. Our producers would love to
6 do business in Mexico at the kind of pricing levels
7 the Mexican producers get in the Mexican market or in
8 Thailand or in Taiwan or in India or in Brazil. So
9 those producers, if they can sell at higher prices in
10 their own markets a substantial amount of their
11 volume, they are more than willing to try to operate
12 at full capacity utilization and sell the rest of
13 their production to the U.S. market at profit levels
14 which may not be as great as their home market but
15 still give them a contribution to their costs, and so
16 it's economically beneficial for them to dump into the
17 U.S. market and still sell below the U.S. industry.

18 I don't know if Professors Blecker or Scott
19 have anything --

20 MR. BLECKER: Dr. Blecker. I would just
21 sort of restate what Mr. Schagrin said in economic
22 terms. The essence of dumping is price discrimination
23 so that if they can make the margin on the product
24 they sell at home, then they can afford to sell at a
25 lower price here. That is what dumping is, and for

1 them it allows them to run their facilities at those
2 higher rates of utilization, which you've already
3 heard from the industry witnesses are essential in
4 this product for overall profitability and maintaining
5 the plants in operation. They definitely have an
6 economic incentive to do that.

7 COMMISSIONER ARANOFF: One of the problems I
8 guess we have here is in lumping half a dozen
9 countries together and then treating them all the
10 same, but I do see a little contradiction between the
11 point that you're making, which makes perfect sense
12 standing alone, and the argument that the Chinese are
13 chasing a number of the subject producers out of their
14 markets. Well, I guess I don't know. Could they be
15 only being chased out of third-country markets, or are
16 they also facing Chinese competition in their home
17 markets, and doesn't that make it sort of inconsistent
18 with what you're saying?

19 MR. SCHAGRIN: There is certainly a little
20 tension there, Commissioner, and I think, once again,
21 there is difficulty in talking about eight countries
22 simultaneously versus individually. For example, I
23 think that the producers in the Asian market face a
24 lot more chasing by the Chinese in their own markets
25 than, say, the Mexicans. I'm not aware that imports

1 from China are anywhere near as large into Mexico as,
2 say, they would be into Korea. So I think there are
3 some differences between countries.

4 On the other hand, these are commodity
5 products and are worldwide. In certain countries, the
6 specifications are different. In Korea, their home
7 market is Korean standard. In Brazil, it's actually
8 made to a German standard. There is not that much
9 difference between plumbing plant between a German
10 standard, a Korean standard, a Japanese standard, and
11 the ASTM standard, but everybody in those countries
12 can, and does, also make the ASTM standard to sell to
13 the U.S. market.

14 For the Chinese, they would have to sell, as
15 they are ready to get into these other markets, they
16 would have to make not only ASTM standard for the
17 U.S., but they would have to make the DIN standard in
18 order to export to Brazil. It may take the Chinese a
19 while for their mills to start making multiple
20 different standards on the same mills to hit all of
21 the different export markets.

22 COMMISSIONER ARANOFF: Okay. I appreciate
23 that explanation, and anything that you can add in
24 your post-hearing, actually going country by country,
25 in terms of whether the conditions that are necessary

1 for your argument that they can hold most of their
2 home market, and then they can price a certain way in
3 the U.S. market, whether those conditions actually
4 hold in each of the individual countries versus what
5 Chinese inroads are there, that would be very helpful.

6 Let me turn to some questions about
7 galvanized pipe. This issue came up, to some extent,
8 in the first review in an opinion that's somewhat dear
9 to my heart since I think it's the last one I wrote in
10 my last term of duty here at the Commission. But in
11 that first review, some of the subject producers
12 argued that their volume of exports to the United
13 States was not substantially limited by the orders
14 because there was no limit on their ability to sell
15 dual-stenciled line pipe into the standard pipe
16 market.

17 The Commission found that that was not true
18 when it came to galvanized pipe, which couldn't be
19 dual stenciled. Are all of those things still true at
20 this time, and then I want to look at how much of the
21 market in terms of demand is for galvanized pipe so
22 that I can assess to what effect these orders are or
23 aren't having a restraining effect on the subject
24 producers?

25 MR. SCHAGRIN: I would invite one of the

1 industry witnesses to testify. Everything that was
2 said in the first review in that determination holds
3 as to the market today. There have been no changes
4 over the past six years. Galvanized pipe is still not
5 allowed by the Federal Energy Regulatory Commission to
6 be used in any pipeline, and the Customs Service
7 continues to disallow any galvanized pipe from
8 entering in the HTS categories of a kind to be used in
9 oil or gas pipelines. Since it's not allowed, it
10 can't be. That was in spite of attempts 15 years ago
11 by Mr. Winton and others to try to convince Customs
12 that you should be allowed to enter galvanized pipe as
13 API pipe.

14 The dual-stenciling issue is always an
15 interesting issue. As the price of steel has risen
16 very significantly on a worldwide basis, the
17 difference in the specifications between API pipe and
18 ASTM, which is roughly eight and a half percent of
19 steel content, is much more significant when you start
20 dual-stenciling pipe to only sell as standard pipe
21 because you're giving people now as much as \$50, \$60,
22 \$70 of extra steel.

23 As a result, we keep trying to work with the
24 Customs Service, particularly along the Mexican
25 border, to ensure that pipe that is dual stenciled and

1 which is going only to plumbing distributors actually
2 meets the API specification. Very often, when they
3 have time to check -- we know how busy Customs is --
4 they find that it does not, and there is evasion of
5 the duties, and we presently have an investigation
6 going on in Laredo, and I guess I can provide some
7 information in our post-hearing brief concerning that
8 where we actually have pipe being classified as API
9 but having non-API couplings on it as it enters.

10 As to the size of the market for galvanized,
11 I think we've traditionally said it's about 35 to 40
12 percent of the overall market for circular welded
13 pipe. I don't know, Mr. Magno or Mr. Bailow, if you
14 would like to comment about that.

15 MR. MAGNO: Mark Magno, Wheatland Tube. I
16 would say, from our experience, 35 to 40 percent is
17 probably on the high side. We see it more in the 25
18 to 30 percent. Certain product lines like fence
19 products, nearly all of that is galvanized, two forms
20 OD galvanizing or hot-dipped galvanized. And then in
21 the plumbing and heating industrial pipe, that would
22 be a much smaller percentage of that overall mix would
23 be galvanized.

24 COMMISSIONER ARANOFF: I appreciate that.
25 Mr. Bailow?

1 MR. BAILOW: I would have to also echo what
2 Mark said. There is not a lot of difference between
3 the amount of galvanized they find in their market
4 that we find in ours.

5 COMMISSIONER ARANOFF: Okay. I appreciate
6 that. Anything that any of you can add in your post-
7 hearing in terms of the extent to which this order has
8 had an effect on imports of galvanized or whether they
9 have been able to evade it in any significant
10 quantities, I would appreciate that because obviously
11 if we were able to look at line pipe numbers and find
12 out that a lot of that is really this product, that
13 might make less of a difference if the orders were
14 revoked. Thanks very much.

15 CHAIRMAN KOPLAN: Thank you, Commissioner.

16 Mr. Schagrín, I would like to ask you a
17 question that I think you can simply say yes to.
18 Don't disappoint me.

19 MR. SCHAGRIN: I'll be very short.

20 CHAIRMAN KOPLAN: On my first round, I made
21 a request of the producers present for capacity and
22 capacity utilization figures, if necessary, a
23 reestimate, for each of the years in this review
24 period based on their actual production practice. My
25 request is, for the post-hearing brief, will you

1 provide similar information for me with regard to each
2 of the remaining domestic producers you represent who
3 are not here today?

4 MR. SCHAGRIN: Yes.

5 CHAIRMAN KOPLAN: Right on, Mr. Schagrin.

6 Mr. Bailow, in Siderar's brief -- I'm
7 sorry -- at page 3, they state, and I'm quoting:
8 "When the Commission investigated this industry about
9 a year and a half ago, it found, in October 2004, that
10 the U.S. industry was neither injured nor threatened
11 by injury by imports of LWR from Mexico and Turkey
12 that were much larger in volume than Argentina has
13 ever exported. That's their quote. Could you
14 describe for me how I should distinguish those imports
15 from Mexico and Turkey just referenced from subject
16 imports from Argentina and Taiwan in the current
17 review?

18 MR. BAILOW: Generally, they are made to the
19 same specification. When an OEM is going to
20 manufacture an ornamental fencing, the specification
21 that he has is created by himself. There is no real
22 federal specification that's involved with it. They
23 can change it midstream if they can't get what they
24 are looking for.

25 So they are interchangeable, for the most

1 part. In the subject country, it's almost irrelevant
2 to them where the product is actually coming from.
3 They are just looking for the product.

4 CHAIRMAN KOPLAN: Thank you. I'll stay with
5 you. Their brief states, at page 14, and I'm quoting
6 again: "The U.S. market for LWRPT has more than
7 doubled in size since the original investigation in
8 this case. Imports from Argentina and Taiwan were a
9 small portion of that market in 1987 when this case
10 was first brought. Even if their exports rose to
11 former levels, they would be insignificant in the
12 vastly expanded U.S. market."

13 They also claim, at page 12, that at least
14 three smaller producers of LWRPT in Argentina have
15 ceased production, so they face, and I quote, "the
16 happy coincidence of growing demand and shrinking
17 supply in its domestic market." They claim, at page
18 3, that they have no plans to supply LWRPT to the U.S.
19 even if the order is revoked and that the only reason
20 they are participating in this review is because their
21 Mexican affiliate, Hylsa, was already participating.
22 How do you respond to that?

23 MR. BAILOW: If the market has grown
24 significantly since '87, and they haven't
25 participated, as the market gets larger, and it is

1 getting larger because of the increased use of
2 ornamental-type fencing in residential use -- people
3 are willing to upgrade, and as you see the change,
4 people in bigger homes, they are going to a more
5 upgraded product line -- the market will get larger,
6 and it will be an area where these people will just
7 see it and move in because of pricing. Again, they
8 will be able to do it because of pricing.

9 CHAIRMAN KOPLAN: Thank you. I think I'm
10 going to stay with you for one more right now. They
11 argue, at page 12, that they produce LWRPT to the
12 "less rigorous RIRAMIAS U500 2592TE20 specifications,
13 which are used in Argentina and the Mercosur
14 countries."

15 They claim that U.S. production is typically
16 in compliance with A-513 or A-500 ASTM specifications,
17 and, at page 13, they say: "As a practical matter, it
18 would be difficult for Siderar to meet the more
19 restrictive tensile and chemical requirements and
20 dimensional tolerances of the ASTM standards without
21 substantial setup costs and down time." Such costs
22 and down time, as I understand it, would include
23 training personnel, adjusting machine settings and
24 testing procedures between production runs.

25 Can you estimate for me the time and expense

1 that would be involved? I do note they concede as a
2 technical matter that they should be able to
3 accomplish this at their existing facilities. How
4 much of a chore is it?

5 MR. BAILOW: Honestly, I can't tell you
6 exactly, not knowing the full extent of the RIRAM
7 specification, but I don't believe that it would be a
8 big step for them to move to the other standards, the
9 500 standards. Short of saying it's not rocket
10 science, it would not require a lot of change for them
11 to, and training personnel to make to the new
12 standards, I don't think it would be a major step.

13 CHAIRMAN KOPLAN: Okay. If, for purposes of
14 the post-hearing, you could go back and see if you can
15 come up with any kind of quantification in terms of
16 what might be involved for that, could you do that for
17 me?

18 MR. BAILOW: Surely.

19 CHAIRMAN KOPLAN: Thank you very much.

20 MR. SCHAGRIN: And, Commissioner Koplan, I
21 would just add that if I have any difficulties -- I
22 don't know that Allied will have the RIRAM standards -
23 - I'll feel free to give Mr. Winton a call.
24 Obviously, his client has those, so maybe I can get
25 those quickly from him so that technical people at

1 Allied can compare the two standards because that's
2 really what's relevant. I just don't know between now
3 and the post-hearing brief how long it will take us to
4 get a hold of Argentinean standards because they are
5 probably not widely present in the technical areas at
6 the different U.S. mills. You may want to request
7 that of him when he is up here, if you so choose.

8 CHAIRMAN KOPLAN: Well, I see Mr. Winton is
9 in the room, and I would like to hear about that this
10 afternoon or in the post-hearing, whichever is more
11 convenient. Thank you.

12 Let me come back for a moment to China. At
13 page 23 of your brief, you report that Bureau of
14 Census Data indicates that CWP imports from China
15 increased from 9,849 tons in 2002 to 368,771 tons in
16 2005, and at page 27 you stated that LWR imports from
17 China increased from 4,004 tons in '03 to 40,801 tons
18 in '05. Can anyone quantify for me the effect on the
19 domestic industry in terms of lost sales or lost
20 revenues caused by Chinese product during the review
21 period?

22 I'm wondering whether any of your customers
23 have demonstrated a preference for Chinese product
24 over either domestic product or subject imports or
25 both. I'm trying to understand, as I look into the

1 foreseeable future, how I separate what's happening
2 with regard to China from the subject countries,
3 what's happening with them. So can anyone give me
4 some more detail with respect to the effects that
5 you're feeling from the Chinese products? Any of the
6 domestics? Mr. Magno?

7 MR. MAGNO: Mark Magno with Wheatland Tube.
8 We believe that we know that the effect of the
9 dramatic increase in Chinese imports is the direct
10 result of why we have to close down our plant. That
11 facility, at one point, was making 230,000 tons, and
12 then eventually whittled away, and we had to close it
13 down. So, to us, it's a dramatic and significant
14 impact.

15 CHAIRMAN KOPLAN: Mr. Barnes?

16 MR. BARNES: Yes, Commissioner. We at IPSCO
17 make some standard pipe for the water well industry,
18 and we have had examples of Chinese water well pipe
19 displacing our own sales in Wisconsin and Minnesota as
20 an example, so it does have an impact.

21 CHAIRMAN KOPLAN: Thank you. Mr. Broglie?

22 MR. BROGLIE: We participate in the standard
23 pipe market, and we would feel a direct effect from
24 the Chinese. We did last year, as I mentioned in my
25 opening comments. It's a very price-sensitive issue

1 for us.

2 CHAIRMAN KOPLAN: Mr. Barnes, coming back to
3 you again, I see.

4 MR. BARNES: Yes. Thank you. In our
5 submission, we indicated we sell nationally, and that
6 is true. We still market on a nationwide basis, but
7 in prior years, we sold a fair bit of standard pipe in
8 the complete size ranges on the West Coast, but the
9 influx of Chinese pipe has pretty much eradicated
10 those sales for us.

11 CHAIRMAN KOPLAN: Thank you. I see my
12 yellow light is on, so I won't start another question.
13 I'll turn to Commissioner Hillman.

14 COMMISSIONER HILLMAN: Thank you. I hope
15 just some follow-up questions.

16 There was a fair amount of discussion
17 earlier with Commissioner Pearson on the issue of
18 demand and projected demand in the future. Just a
19 couple of things just so I understand it. Of the
20 light-walled rectangular, what portion of that product
21 goes into residential as opposed to nonresidential?

22 MR. BAILOW: I'm going to guess, at this
23 point, it's probably 50 percent. It's actually
24 probably a little higher into residential than
25 nonresidential. Mind you, I'm viewing it in the

1 defense industry. There is also substantial use in
2 manufacturing in furniture and the like that I just
3 don't have the information on right this second.

4 COMMISSIONER HILLMAN: Okay. If there is
5 anything that could be added in the post-hearing just
6 to help understand.

7 And then from a forecasting perspective,
8 looking out in terms of what you think your demand is,
9 we obviously have data on the record of what
10 nonresidential and residential construction were
11 during our period of review. Are there standard
12 forecasts that you all look at that would tell you
13 what you think either nonresidential or residential
14 construction is going to be for 2006, 2007, what you
15 would suggest would be a reasonably foreseeable
16 future, what would those be, and can you put any of
17 that on the record?

18 MR. SCHAGRIN: I'll invite the doctors and
19 Mr. Magno. I'm sure, as residential construction, I
20 believe the Realtors Association does a lot of
21 forecasting, and hopefully we can get a hold of that.
22 Just, you know, based on history being a good
23 predictor of the future, history has taught us that
24 any time that interest rates go up and mortgage rates
25 go up significantly that residential construction will

1 fall, and I think we're already at the beginning of
2 that period, and the question is how much does it fall
3 and how quickly does it fall? I think the same is
4 true of nonresidential, only with much more of a lag
5 in terms of its response to interest rate increases
6 than residential.

7 COMMISSIONER HILLMAN: Again, what I'm
8 really looking at is are there standard forecasts that
9 you in the industry look at when you're trying to
10 think about what demand for your product is likely to
11 be?

12 MR. MAGNO: Mark Magno with Wheatland Tube.
13 We will start our budgeting cycle in just a couple of
14 more weeks, so we will look at a variety of economic
15 forecasts for nonresidential construction and GDP.
16 When you asked the question, I was leaping for the
17 mike to answer the question, but that's really just
18 from a pipe marketing perspective, not our Ph.D.
19 economists' perspective. But that's what we'll do.
20 We'll take a composite of what they are looking at for
21 nonresidential and then factor that into some of our
22 forecasts.

23 COMMISSIONER HILLMAN: Again, if there are
24 forecasts that you are relying on because, again, I
25 understand these broad, macro-economic factors -- I'm

1 trying to get a sense from your perspective of what
2 you think demand for this product is going to be in
3 the reasonably foreseeable future and what you base
4 that on. Mr. Barnes, I don't know whether you look at
5 any particular forecasts or whether there is any
6 forecasting your company has done for demand for
7 circular product that could be put on the record.

8 MR. BARNES: We just look at the general,
9 broad economic forecasts, GDP and so on, and
10 historically the market has followed that trend. We
11 look at the interest rate that Roger has talked about
12 and believe that going into the 2007 period that
13 interest rates have been rising; therefore, there is
14 usually this lag where there is a falloff in the GDP,
15 and that's what we're expecting to happen.

16 COMMISSIONER HILLMAN: Mr. Barnes, you had
17 testified earlier about the distributors that you sell
18 to and about their move into carrying imports as well
19 as domestic product. Do you have a sense, for the
20 circular product, of what portion of distributors
21 carry both and how that has changed over this period
22 of review?

23 MR. BARNES: Well, I think it's changed
24 fairly dramatically over the period of review.
25 Typically, you had very few distributors that were

1 stocking import pipe that were, I would say, more
2 removed from the docks. Those distributors that were
3 located in the Port of Houston or in the Port of Long
4 Beach were heavily dependent on import material but
5 also stocked a fair bit of domestic for the advantage
6 that we used to have with deliveries. The domestics
7 were able to respond quicker than a lot of the
8 imports.

9 But over the period of review, that
10 percentage has increased as more and more distributors
11 have decided to stock a little bit and gradually more
12 and more to where I think you have many that will
13 stock 50/50 domestic and import material where I live
14 back in the Midwest. I might ask Mike Stefko if he
15 has anything else to add to that.

16 COMMISSIONER HILLMAN: Again, if there is
17 any way to help us understand what portion of
18 distributors are now carrying significantly both
19 imports and domestic product.

20 MR. STEFKO: Mike Stefko, IPSCO. It's been
21 more of a growing concern as of the last year or two.
22 We have very small distributors who were not able to
23 participate and import this type of product before
24 where now they are buying from the master
25 distributors. Where we used to just see it in the

1 port cities, it has gone all the way into the
2 heartland, as Scott had mentioned. To get the exact
3 percentage, it would take further study on our part
4 because this is very much a growing concern, and,
5 weekly, daily, we have more smaller distributors who
6 could not buy import product, did not have the avenues
7 to do that. They are doing more so now than ever in
8 the past.

9 COMMISSIONER HILLMAN: Okay. Mr. Bailow?

10 MR. BAILOW: I would like to add to that
11 also. I could honestly say that 100 percent of my
12 distributors now carry both. I don't know of any that
13 do not. Not only that; as I testified, I am battling
14 on a daily basis against the importer and the broker
15 himself working on the docks, making phone calls, and
16 selling direct to the contractor in quantities that
17 they can put on a pickup truck.

18 COMMISSIONER HILLMAN: All right.

19 MR. SCHAGRIN: Commissioner Hillman, could I
20 just add very quickly, we're going to give you our
21 forecasts for demand in the post-hearing brief, as you
22 requested. Of course, we'll also include, but I think
23 it's important to just mention here during the hearing
24 that it's not just what happens to demand that these
25 businesspeople have to consider; it's what happens to

1 supply.

2 The problem is when forecasts, and very
3 often executives, Mr. Magno, in particular, and other
4 marketing executives, when they are looking to
5 forecast demand, they will call me up and say, "What
6 are you forecasting import supply to be?" I might say
7 to them as they are planning, "Well, I think imports
8 from China are going to be 550,000 tons and 750,000
9 tons next year, and subject imports are 250,000 tons
10 now. If we lose the sunset hearing, they are going to
11 be 500,000 tons."

12 So they will look and sometimes take
13 exchange rates into consideration. Right now, the
14 dollar is plummeting against people who have flexible
15 currencies. I'll say that ought to help us.
16 Unfortunately, it doesn't change at all via China, but
17 if the Korean won is going to really appreciate, then
18 we ought to have some fewer imports from Korea, or if
19 the Mexican peso is going to appreciate.

20 So they take that into account. They might
21 say in their forecasting, great, if we forecast demand
22 to increase by 5 percent, 125,000 tons, but imports to
23 increase by 300,000 tons, we're looking at a net
24 negative 175,000 tons. So they take those into
25 account.

1 COMMISSIONER HILLMAN: I appreciate that.

2 If I can go on the price side, I don't
3 recall who said it, but there was testimony that there
4 has not been a zinc surcharge on galvanized product.
5 If we look more broadly, though, we've clearly seen a
6 very significant increase in the prices of hot rolled,
7 in the prices of energy, in the prices of lots of
8 other things that contribute to your costs of
9 production. Are there surcharges on any raw materials
10 that you have imposed either on the standard pipe side
11 or the light walled?

12 MR. MAGNO: Mark Magno from Wheatland. Our
13 customers won't accept surcharges. They said, if you
14 are going to raise our price, don't put a fuel
15 surcharge because they won't pay it. Don't put a zinc
16 surcharge. They want it in the price of the product
17 so that they can, in turn, try to pass it on to their
18 customers.

19 So unlike in 2004 where we were at least our
20 timing was similar to the raw material increases and
21 some of the other increases, and we were able to stay
22 at least abreast of that, we're already several months
23 behind some of these significant increases.

24 I testified, you know, the increase on
25 galvanized pipe should have been significantly higher

1 than on the black pipe for standard pipe, but we
2 couldn't because of just the very, very strong and
3 overwhelming presence of imported galvanized pipe. So
4 we just couldn't get that through.

5 COMMISSIONER HILLMAN: Okay. The red light
6 is on, so I will come back to this issue of pricing
7 and surcharges and where hot rolled plays into that on
8 the next round. Thank you.

9 CHAIRMAN KOPLAN: Thank you. Commissioner
10 Lane?

11 COMMISSIONER LANE: Mr. Magno, I would like
12 to talk to you a little bit about the Home Depot
13 acquisition of Hughes. In your prehearing brief, you
14 suggested that the Home Depot acquisition of Hughes
15 Supply will make Home Depot a major player in the home
16 distributor market. Can you give me some idea of the
17 relative size of Home Depot's supply before and after
18 the acquisition of Hughes Supply?

19 MR. MAGNO: I'm sure the figures are out
20 there because there are published figures about the
21 size of the companies before. I do know that roughly
22 Hughes Supply, who is this latest acquisition by Home
23 Depot, which is of great concern, was roughly a \$4
24 billion company, and significant to their business
25 model are the plumbing and heating, industrial pipe

1 valves and fittings, and fire sprinkler markets, which
2 are all subject products. They have a little bit of
3 light pole business and some electrical distribution
4 business, but I'm sure there is some information out
5 there that we can do.

6 So that is of great concern, that this very,
7 very strong purchaser of imported products purchased
8 this company, and they have, from my discussions with
9 Home Depot, with the Hughes Supply personnel,
10 immediately started their practice of putting their
11 Home Depot people in with the supply business, and we
12 believe it will just lead to ramping up of purchases
13 of imported products, whereas before, Hughes did buy
14 some domestic. And then that ripples through the
15 industry as they, in turn, compete against other
16 traditional distributors with low-priced import
17 products. So then they have to, in their business
18 model, go out and buy more imports to compete locally.

19 MR. BAILOW: Excuse me. I would like to add
20 to that. Five years ago, Home Depot was a domestic
21 supplier of pipe and tubing to the defense business,
22 as well as the electrical business. Today, you don't
23 see domestic product in home depot. It's on a rare
24 occasion that you will run into it in today's
25 environment at Home Depot.

1 COMMISSIONER LANE: Okay. Thank you. Are
2 there any geographical concentrations in Home Depot's
3 supplies' current operations and Hughes Supply, or is
4 there significant geographical overlap between the
5 operations of these two operations?

6 MR. MAGNO: My understanding of the origin
7 of the Home Depot supply was originally in the
8 Southeast where Apex Supply was the first acquisition,
9 and then Hughes Supply is, again, based out of Orlando
10 but more concentrated to the Mid-South, Southeast, and
11 Mid-Atlantic regions.

12 COMMISSIONER LANE: You may have answered
13 this, but are Home Depot and Hughes Supply primarily
14 distributors of circular welded pipe or light-walled
15 rectangular pipe or both?

16 MR. MAGNO: I can speak on the circular
17 welded. They do distribute circular welded pipe.

18 COMMISSIONER LANE: Okay.

19 MR. BAILOW: Excuse me. They have also, in
20 the past few years, started to distribute not
21 individual pieces of rectangular product but as
22 finished goods as part of their fencing business. In
23 other words, they will have the ornamental panel as
24 opposed to a customer coming in, buying the parts, and
25 putting them together.

1 COMMISSIONER LANE: Okay. Thank you.

2 I think you may have touched on this, but I
3 think it might be a good idea to put more in your
4 post-hearing brief to explain to me how Home Depot's
5 supplies' acquisition of Hughes Supply will lead to
6 price pressure on the domestic market and greater
7 imports of circular welded pipe or light-walled
8 rectangular pipe.

9 MR. SCHAGRIN: We'll address that further in
10 our post-hearing brief, Commissioner Lane.

11 COMMISSIONER LANE: Okay. Thank you.

12 Now, you probably answered this in response
13 to Commissioner Pearson and Aranoff, but I want to
14 make sure that I understand, and that's talking about
15 the Chinese imports that have been discussed today.
16 Are these orders that are currently in place helping
17 the Chinese imports as much or more than they are
18 helping the domestic industry, and if the orders are
19 revoked, should we expect to see your projected surge
20 in subject imports displace domestic production or
21 Chinese imports or both? And in answering these
22 questions, address the respective prices and price
23 differentials between domestic product, Chinese
24 imports, and subject imports, and how do those prices
25 support your answer.

1 MR. SCHAGRIN: First, I know it's a compound
2 question because I was almost excited at the beginning
3 of the question, Commissioner Lane, that I was going
4 to be able to give you a one-word answer like I gave
5 Commissioner Koplan, which was going to be no because
6 your first question was --

7 COMMISSIONER LANE: I don't expect one-word
8 answers from you, Mr. Schagrin.

9 MR. SCHAGRIN: Okay. That's fine. Your
10 first question is, have the orders helped the Chinese
11 get into the U.S. market, and I think the answer to
12 that is no. At the levels of Chinese pricing, they
13 were going to come into the market with or without
14 these orders.

15 The second part of your question was
16 describe the pricing of domestic products, subject
17 imports, and Chinese as to what the different pricing
18 levels are, and I think there is good, average
19 information in the staff report on that. We have lots
20 of information -- by country it's confidential, but we
21 have lots of information on underselling by subject
22 producers in the report and lots of comparisons.

23 In general, we would see pricing of subject
24 and other nonsubject imports other than Chinese at
25 approximately \$100 a ton or about 10 percent or so

1 below domestic. We would see Chinese pricing levels
2 at about 30 to 40 percent below domestic, or another
3 \$150 to \$200 a ton less for Chinese product than for
4 any subject imports.

5 If the orders were revoked, we believe the
6 increase in subject imports would come entirely at the
7 expense of the domestic industry, possibly a little
8 bit of other nonsubject imports other than the
9 Chinese, but primarily domestic industry. They will
10 not displace Chinese product because of the big
11 pricing differential, and yet Chinese product will not
12 prevent them from coming in because there is room for
13 them to take market share from the domestic industry
14 at pricing levels below domestic prices.

15 COMMISSIONER LANE: Bear with me for a
16 moment. If price is a big factor, and the orders came
17 off, and the Chinese product is lower than the
18 formerly subject product, and the Chinese have lots of
19 product, why would the people in the United States
20 that want this product not just by Chinese product?

21 MR. SCHAGRIN: It's a question of total
22 availability. Right now, everyone who buys imports,
23 if they are ordering 10,000 tons of Chinese a month,
24 they would like to get 25,000 tons of Chinese because
25 they can make a lot of profits. I can tell you

1 because -- I hate to admit it -- I shop at Home Depot,
2 and I see where their product comes from. They don't
3 lower their prices. It's one of the great misnomers
4 in this country that cheap imports are so good for
5 American consumers. It keeps lowering all of our
6 costs, so forget about having any American jobs.

7 You know, Home Depot, I didn't notice them
8 lower their prices when they shifted from selling
9 Wheatland A-53 pipe to Chinese A-53 pipe. They are
10 just making a much fatter profit margin, so they would
11 love to get all they can, and because they are such a
12 big buyer, they do get all they can, but not every
13 buyer can get all of the Chinese they want.
14 Eventually, it's just going to keep going up, but in
15 the meantime, the reason that there will be more
16 subject imports because price is the key determinant
17 of sales in this marketplace, fungible products made
18 to the same specifications, is that until there is no
19 domestic industry left or until the Chinese have 100
20 percent, people will buy subject imports as long as
21 the price is lower than domestic.

22 I'll be honest with you. It is a matter of
23 time. I struggled with this coming into this hearing.
24 What do you do when you forecast? The Chinese will,
25 in a period of, let's say, five years, take 100

1 percent of the U.S. market. You can't say it's not
2 possible because they have taken 100 percent of the
3 wire hanger market, 100 percent. They have taken 95
4 percent of the ductile waterworks fittings market.
5 They will take 100 percent, but I don't think they are
6 going to do it next year. They are going to do it
7 over five years. I pray we'll have some changes in
8 policies so we can prevent that.

9 I apologize for using all of your time and
10 going into the red light, but it was a compound
11 question, Commissioner Lane.

12 COMMISSIONER LANE: Thank you.

13 I have just one follow-up question. Is that
14 okay?

15 CHAIRMAN KOPLAN: Absolutely.

16 COMMISSIONER LANE: So for the Chinese to
17 take over this market, it will be beyond what you are
18 arguing is a reasonably foreseeable time for this
19 particular case.

20 MR. SCHAGRIN: I usually think reasonably
21 foreseeable is within a two-to-three-year period.
22 This market for circular welded pipe is approximately
23 two and three-quarter million tons a year; for light-
24 walled rectangular, approximately three-quarters of a
25 million tons. I do not believe the Chinese can take

1 over this market within two or three years. I would
2 think it would be more likely to be three to five
3 years.

4 COMMISSIONER LANE: Okay. Thank you.

5 MR. BARNES: Commissioner Koplan?

6 CHAIRMAN KOPLAN: Mr. Barnes.

7 MR. BARNES: If I might just add, the
8 Chinese have a lot of in-country building going on
9 right now in preparation for the Olympics, and that's
10 going to happen very soon. That will be done, and
11 when that's done, with the increased capacity and so
12 on, you'll see a bigger push in exports.

13 CHAIRMAN KOPLAN: Certainly. Commissioner
14 Pearson?

15 COMMISSIONER PEARSON: Following up on
16 Commissioner Lane's questioning, you've described a
17 marketplace in which there are distinctly different
18 levels of pricing for pipe from different origins. Is
19 this really a commodity market? Any commodity that
20 I'm familiar with, the price tends to converge and
21 generally very rapidly. Can you discuss that, please?

22 MR. SCHAGRIN: I'll let the economists.
23 Obviously, pipe is not grain. Pipe is not grain.
24 Pipe is not gold. Pipe is not zinc. Pipe is not
25 nickel. Notwithstanding that, the fact is that the

1 users are the most important determinants of what
2 product they need to purchase. When this building is
3 built, the contractor says, "I need 3,000 feet of
4 eight-inch A-53 pipe so that we don't have any sewage
5 backups. I need X amount of --"

6 COMMISSIONER PEARSON: I think it was a 10-
7 inch line that was --

8 CHAIRMAN KOPLAN: We're a little touchy on
9 that right now.

10 MR. SCHAGRIN: Okay. Anyway, and they will
11 say, "For the sprinkler system, I need X number of
12 feet of maybe A-795 product for sprinkler." That's
13 what the contractor does, working with the various
14 mechanical. They come up with, once they have all of
15 the building plans, how many feet do I need to, and to
16 accomplish what I need to do, what specification and
17 what size? When they go out to distributors to buy
18 it, the contractors, that's how they place their
19 order, by size and specification. That's what makes
20 this an entirely commodity product.

21 Now, why don't prices converge for this
22 commodity product? It's because I would say it's a
23 more complex distribution system with hundreds of
24 distributors, and, you know, the price may not be the
25 same in Washington as Long Beach, in Minneapolis-St.

1 Paul. You gather data on a national basis. Are there
2 going to be some regional issues? Freight is
3 important, and yet buyers will be searching for the
4 lowest prices for the products that meet their
5 specifications.

6 COMMISSIONER PEARSON: Dr. Blecker wanted to
7 add something.

8 MR. BLECKER: Yes. Robert Blecker speaking.
9 In order to have a uniform price for all of a
10 commodity, you have to have what we would call in
11 economics an infinitely elastic supply curve, or, in
12 somewhat plainer English, a horizontal supply curve,
13 so you can get all you want at the going price like
14 you can of soybeans or something like that.

15 That doesn't exist here because of a couple
16 of factors. One is the fact that, as Mr. Schagrin
17 said, there is still a supply constraint from China.
18 They are up to being able to ship somewhere around a
19 half of a million tons here now. We expect that to
20 increase, but it hasn't increased yet. And then among
21 the subject countries, well, they are under these
22 orders, and I think this actually goes back to a
23 question that Commissioner Aranoff asked earlier: Why
24 don't they undersell more now? Well, they are under
25 orders, so they can't undersell.

1 So I think one way to conceptualize this
2 industry would be that the supply function looks more
3 like a step function. First, you have the lowest
4 step. That's the Chinese product coming in at a
5 certain price so people, the distributors, the
6 purchasers, buy all they can get up to that as far as
7 that step goes, and then you would go up to what you
8 can get from other foreign countries, and some of
9 those are subject to orders which prevent the prices
10 from being lower, and then, finally, the residual is
11 going to the domestic producers.

12 I think what Mr. Schagrín has been
13 describing in economic terms is that second step
14 widening if the orders are revoked and also coming
15 down a little bit because they would no longer have
16 the antidumping duties and sort of squeezing back the
17 highest step, which is the domestic producers who have
18 costs that they have to make and stockholders that
19 they have to satisfy, so they cannot sell at the
20 Chinese price.

21 COMMISSIONER PEARSON: I understand the
22 point that you're making. I'm not disagreeing with
23 it, but as we look at this in this investigation at
24 these products, don't we have to start to see the
25 market as being rather segmented, and thus there may

1 be some meaningful attenuation of competition that we
2 need to take into effect as we come to our
3 determination?

4 MR. SCOTT: My impression, and I'm sure the
5 industry witnesses can correct me, is that the vast
6 majority of the product in this industry is sold
7 through distributors, and so they are purchasing pipe
8 from a number of different supply sources, and I would
9 be very surprised if they sold it to consumers at
10 different prices since it's basically a commodity
11 product.

12 MR. SCHAGRIN: I would say categorically,
13 Commissioner Pearson, the fact that you may have
14 different steps on the supply basis doesn't make the
15 competition for the domestic industry with either
16 subject imports or nonsubject imports attenuated. It
17 is a product in which distributors actively seek
18 quantities of deliveries and prices from multiple
19 suppliers, domestic, subject, and nonsubject, and
20 there is competition for that distributor business
21 every single day in the marketplace between those
22 products. The fact that, in the end, distributors
23 wind up paying different prices for the different
24 amounts of supply because they may not be able to get
25 all that they want at the lowest price offered doesn't

1 seem to me to attenuate the competition at the
2 distributor level at all.

3 COMMISSIONER PEARSON: You talked some about
4 downstream pricing, the pricing that the distributors
5 might get, but as we measure pricing, we have to
6 measure it at the level that the domestic industry or
7 the importers are selling the product, and so they are
8 selling to distributors, a little bit to end users.
9 So we have now on the record some considerable
10 discussion of the issue that there are price
11 differences at the point where we're measuring them.

12 So perhaps for purposes of the post-hearing,
13 unless there is anything quick to add, help us
14 understand how we should see that because it looks to
15 me like there is some attenuation of competition
16 there.

17 MR. SCHAGRIN: I can answer it here, and
18 we'll answer in the post-hearing. It would almost
19 seem, taking your conclusions to a natural extreme,
20 that even when there is information on the record, and
21 I think the staff report is very clear that there is a
22 commodity product sold to commodity specifications,
23 that the existence of underselling on the record would
24 mean for this Commission that every time you saw a
25 case in which there was a commodity product, but there

1 was underselling, but the sellers of the product
2 underselling didn't have 100 percent of the market,
3 that there was attenuated competition.

4 I don't think that makes sense economically.
5 The Ph.D. economist can correct me. To me, that
6 doesn't make sense economically, nor, based upon my
7 background at the Commission, would that make any
8 sense in terms of Commission practice, and that, to
9 me, is the natural outcome of your question. You
10 would posit that there is attenuated competition
11 because the record contains information on
12 underselling, but imports don't have 100 percent of
13 the market. That's how I would answer it.

14 COMMISSIONER PEARSON: Okay. Well, I'll
15 look forward to what you have to add in the post-
16 hearing.

17 Shifting gears, Hylsa has provided its own
18 calculation of subject imports from Mexico and notes
19 that those are distinct from imports of all tubular
20 products that are measured under the HTS categories.
21 So the numbers that Hylsa has put forward as
22 representing subject imports are quite a bit lower
23 because obviously they are not including nonsubject
24 product. Do you have any issues with Hylsa's
25 calculations? Are you comfortable with the way they

1 did that analysis?

2 MR. SCHAGRIN: I think I'm going to have to
3 comment on that in the post-hearing brief.

4 COMMISSIONER PEARSON: Okay.

5 MR. SCHAGRIN: But I would point out that
6 even in our brief I think there is agreement between
7 Hylsa's counsel and ourselves that just as to Canada
8 and with Canadian data we're better able to
9 differentiate nonsubject mechanical pipe and tube that
10 enters into the HTS items that there certainly is
11 nonsubject mechanical that enters from Mexico, and we
12 will look at their data and comment on it in the post-
13 hearing brief.

14 COMMISSIONER PEARSON: Okay. A quick
15 question on the yellow light. This can be basically
16 for post-hearing.

17 Mr. Magno has made the point that Wheatland
18 is the industry's largest producer, and thus its
19 results provide a good indication of the state of the
20 industry. For the purposes of the post-hearing, could
21 you please compare Wheatland's performance to the rest
22 of the industry because I note that it doesn't track
23 the average of the industry all that closely?

24 A specific question: Is the difference that
25 we see attributable, at least in part, to the

1 different production processes that can be used to
2 make continuous circular-welded pipe? I would just
3 note, too, that I benefitted very much from the
4 opportunity that you made available to see both the
5 continuous-welding process and the electric-
6 resistance-welding process, so I have some
7 understanding of the actual production process. What
8 I don't have is an understanding of the economics and
9 whether that's working its way through to our data.

10 MR. SCHAGRIN: Because of the red light, and
11 it will make the chairman very happy, we will answer
12 that in the post-hearing brief.

13 COMMISSIONER PEARSON: Thank you very much.

14 CHAIRMAN KOPLAN: Thank you, both.

15 Commissioner Aranoff?

16 COMMISSIONER ARANOFF: Thank you, Mr.
17 Chairman. In his last 30 seconds, Commissioner
18 Pearson nabbed two of the three questions that I had
19 waiting.

20 MR. SCHAGRIN: I don't know if that's a good
21 sign or a bad sign, Commissioner Aranoff.

22 COMMISSIONER ARANOFF: I'm not going to
23 comment on that. It means we all think the same
24 things are important.

25 One question that I wanted to -- it's almost

1 a philosophical question, but in making your point
2 earlier, Mr. Schagrin, that this industry might not be
3 here anymore in three to five years because of what's
4 happening with respect to imports from China, I can't
5 help but call your attention to the Commission's
6 recent sunset review of the order on synthetic indigo,
7 and in that case, I guess, calling the domestic
8 industry on its last legs was kind of a generous or
9 rosy description of its condition.

10 But in that case, one of the things you can
11 draw from the Commission's views was that if an
12 industry is on its last legs to the point where
13 whether a particular order is revoked or not makes no
14 difference to the fact that that industry is likely to
15 be gone soon -- in that case the Commission said that
16 it doesn't matter, and we revoked the order. I can
17 tell that you were sort of trying not to skirt too
18 close to that scenario here, but do you have any
19 thoughts on how this is different?

20 MR. SCHAGRIN: To me, this is very
21 different. I do hope that the industry is here in
22 three to five years. I hope I'm here with them in
23 three to five years.

24 Synthetic indigo, you know, it's a pity.
25 I know a little bit about that case because we have a

1 lot of clients in the Buffalo area and it just seems
2 horrible to me that an industry that won a dumping
3 case wound up going out of business because it
4 couldn't get effective dumping relief because the U.S.
5 Customs Service doesn't have the people or manpower to
6 stop circumvention. I mean, it's just really sad that
7 our country has made enforcement of trade laws such a
8 low priority.

9 This industry, thank goodness, you know,
10 still has over a dozen members; is extremely
11 efficient, is world-class efficient, and still has
12 roughly 2000 employees. This industry is far from its
13 last legs. On the other hand, the threat from China
14 is overwhelming.

15 I just really hope and pray as an American
16 who represents such great companies, fabulous workers,
17 really efficient world-class, innovating facilities,
18 that we can do something about our trade policies so
19 that those kinds of industries continue to exist here.

20 So I would urge you not to take from my
21 fears about industry demise the fact that if you
22 sunset these cases this is an industry going out of
23 business anyway. This is an industry that ought to be
24 able to survive, but if it's going to survive and
25 prosper in the future, our country -- this is just a

1 microcosm -- has got to do something about the big
2 China issues like currency and targeting and
3 subsidies. These folks are facing massively
4 subsidized competition and the idea that they face --
5 the government itself knows they're facing subsidized
6 competition and says, well, for political reasons
7 we're not going to countervail those subsidized
8 imports. I think that's wrong.

9 I'll let Mr. Klinefelter say something.

10 MR. KLINEFELTER: I think that we have to
11 take into consideration -- I don't know what's going
12 to be down the road five years from now. I heard this
13 in '98, that the basic steel industry was gone. Well,
14 the basic steel industry is not gone. It
15 reconstituted itself and it survives and is
16 profitable. And we don't know in any way what the
17 political changes are going to be in 2006 and 2008 and
18 what kind of policies will be derived out of those
19 changes.

20 We have no way of knowing what the internal
21 processes are going to be in China one way or the
22 other. People say, well, it's just going to go on and
23 on. Well, I don't know if it's going to go on, nobody
24 knows if it's going to go on. There's going to be
25 great pressures on the Chinese economy to try to bring

1 as many of the billion and a half people along as they
2 possibly can. Can they do it? I don't know.

3 But what I do know is that you have before
4 you the possibility of helping this industry keep
5 moving and keep going in the right direction so that
6 it's not gone in a year or two years, but it has the
7 ability to continue the fight and that's what we do
8 know.

9 COMMISSIONER ARANOFF: I appreciate those
10 answers.

11 One more question. I know one of my
12 colleagues was speaking earlier about the issue of
13 pricing and about passing on increases in raw material
14 costs and I think the answer that I heard was
15 customers prefer that we raise our prices rather than
16 charge them surcharges because it makes it easier for
17 them to pass that on, so I have two questions. One is
18 why does that make it easier? I would think the
19 customers were savvy enough to know kind of either
20 way, that it's the same phenomenon, but just more
21 generally, to ask you if you can describe to me now or
22 maybe on a company-by-company basis in your
23 post-hearing briefs what price increases have you
24 instituted since the price of hot rolled and zinc
25 started on their spectacular rises and how successful

1 have those been?

2 Mr. Magno, did you want to start?

3 MR. MAGNO: Mark Magno. We have announced
4 four our standard pipe products a 6 percent increase
5 and it is effective relatively on June 1st, roughly on
6 June 1st, so we don't know where that stands.

7 Clearly, what happens when we announce an
8 increase some people place orders in advance to try to
9 beat that increase. We have not seen that increase on
10 the order book yet, which has, as a marketing person,
11 great concern for me. But I don't understand the
12 question about our customers not accepting surcharges,
13 but they say -- and they're nearly universal to that
14 effect and in many cases they would have some
15 established prices with their customers, not necessary
16 on a spot basis like we would sell them but a little
17 bit more established. So they're not accepting of a
18 surcharge or they're doing it from a list price and a
19 discount and that type of pricing scenario doesn't
20 account for a special add-on surcharge.

21 Sometimes we have customers on the panel and
22 that would have been a good question to direct to
23 them, but I can't help you on that part.

24 COMMISSIONER ARANOFF: Okay. So as best as
25 you can tell, it's something about the way that they

1 do their own pricing formula with their customers
2 which as a technical matter allows them to pass on a
3 price increase but not a surcharge?

4 MR. MAGNO: Yes. That's what they tell me.
5 It might also be another way to dig their heels in and
6 not accept any additional increases from us because
7 they have other lower priced material available.

8 COMMISSIONER ARANOFF: It seems a little
9 counterintuitive to me because the surcharge has the
10 sort of sense of being temporary and a price increase
11 generally doesn't.

12 Mr. Bailow?

13 MR. BAILOW: But I think when you're sitting
14 with a customer and you're discussing pricing, it
15 gives him the feeling that you are taking that
16 surcharge off the table in the negotiations. That's a
17 non-negotiable item because you can justify increase
18 in fuel and you can justify increase in zinc. They
19 want the ability to argue with you and if you put it
20 in the price, they have that ability. If you put it
21 in a surcharge, they feel that you won't discuss it
22 with them and generally that's what happens.

23 COMMISSIONER ARANOFF: Okay. All right.
24 Just follow up Mr. Magna's answer, you had mentioned a
25 price increase that you have going into effect, you

1 hope, in June. Surely that's not the only one you've
2 tried since the price of hot rolled started going up,
3 which is, what 18 months, two years ago at least,
4 right?

5 MR. MAGNO: It's the most recent increase
6 that we're starting to see from several months ago.
7 We had tried an increase back late last fall that did
8 not go through.

9 COMMISSIONER ARANOFF: Okay. Since my light
10 is on, I'll just ask the others if you would in the
11 post-hearing for the period of time since we started
12 to see this huge rise in costs give us whatever
13 information you can about what price increases you've
14 tried and to what extent they've been successful, that
15 would be very helpful.

16 With that, I want to thank the panel for all
17 of your answers this morning.

18 MR. SCHAGRIN: Commissioner, I'm just going
19 to say, it is pretty amazing and an incredible
20 comparison. In 2004, the pipe producers were
21 generally increasing -- they were announcing price
22 increases like the day they got price increases from
23 their steel suppliers. Their costs for steel, zinc,
24 energy have been going up since like January or
25 February of this year and the first announced attempts

1 to capture some of those cost increases are effective
2 June 1st. That's how far behind they are and just the
3 dramatic differences in both the CWP industry and the
4 light-walled rectangular industry between now and,
5 say, just two years ago in 2004, it's a dramatic
6 difference for people familiar with the industry.

7 COMMISSIONER ARANOFF: It would be very
8 helpful to have you document that because, of course,
9 in looking at earlier periods we were able to conclude
10 that the industry was being able to raise its prices
11 more than enough to keep up with rising costs and so
12 if that's changed, we want to have that on the record.

13 Thank you very much.

14 Thank you, Mr. Chairman.

15 CHAIRMAN KOPLAN: Thank you.

16 I have a few matters left, I think three
17 questions for Dr. Blecker or Dr. Scott.

18 On this first one, I would welcome anything
19 that you might want to add as well, Mr. Bailow.

20 The confidential staff report at page LWR
21 3-3, the staff states as follows: "Quantifying
22 production capacity is difficult. Most U.S. producers
23 reported a percentage of their raw pipe and tube
24 welding capacity based on product mix on LWR pipe and
25 tube products out of their overall pipe and tube

1 operations as their average capacity."

2 The staff concludes at page 4 of that
3 chapter that although the domestic industry's method
4 of quantification makes it appear that it has a lot
5 of excess capacity to increase production of LWR pipe
6 and tube, it overstates its ability, and I quote, "To
7 produce a given product of LWR pipe and tube which
8 might still be capacity constrained based on finishing
9 or processing capacities that are specific to the
10 product."

11 I'm wondering how you respond, whether it's
12 possible for high track data to be further refined and
13 it ties into my earlier question that I had asked
14 about capacity and capacity utilization in connection
15 with my earlier rounds. How do you respond to that?
16 Either Dr. Blecker or Dr. Scott or Mr. Bailow?

17 Can it be further refined? Is there a
18 problem?

19 MR. SCHAGRIN: I know you want the
20 economists to answer this, Chairman Koplan.

21 CHAIRMAN KOPLAN: Excuse me?

22 MR. SCHAGRIN: But because I know these
23 producers maybe better than Dr. Scott and Dr.
24 Blecker --

25 CHAIRMAN KOPLAN: If they don't think

1 there's a problem in your answering it --

2 MR. SCHAGRIN: I don't think they have a
3 problem with me answering it because they're not quite
4 as familiar with the producers.

5 CHAIRMAN KOPLAN: Go ahead.

6 MR. SCHAGRIN: Every single U.S. producer
7 who makes LWR can make and does make round mechanical
8 on the same equipment because what makes it LWR is
9 they just put extra rollers at the end and form the
10 round into a rectangle.

11 Now, having said that, I think a producer
12 determining their overall mill capacity and their
13 capacity utilization based on the normal mix between
14 the products produced on that mill is an accurate way
15 to do that. If you've got a welding mill and
16 40 percent of what you have normally made on that mill
17 is rectangular versus circular --

18 CHAIRMAN KOPLAN: Can that result in
19 overstating?

20 MR. SCHAGRIN: No, I don't think so because
21 they've reduced it --

22 CHAIRMAN KOPLAN: That's what I'm trying to
23 get at.

24 MR. SCHAGRIN: Chairman Koplan, my
25 understanding from the producers is that they said if

1 this mill can make 60,000 tons a mill if I operate it
2 seven days/24 or five days/16, whatever they choose as
3 their normal operations, so that makes it 60,000 tons
4 of capacity for the mill. I normally make 40 percent
5 of my production as light-walled rectangular, I'll say
6 for light-walled rectangular for that particular
7 welding mill, the capacity is 24,000 tons, 40 percent
8 times 60,000. I think that's appropriate.

9 I would also say in light-walled
10 rectangular, unlike circular, there really are no
11 post-production bottlenecks. Some circular pipe,
12 significant portions of it gets threaded or gets
13 couplings added. In light-walled rectangular, it's
14 just a matter of cutting it as it comes off the mill.
15 There's not further fabrications that would create
16 production bottlenecks, so I don't really think
17 production bottlenecks would affect capacity
18 information on light-walled rectangular and I do
19 think, as a footnote, I think the industry did what
20 was appropriate and I believe what is instructed by
21 the commission staff in the instruction to use normal
22 product mix to adjust the capacity of a mill and
23 that's what they do. They know a mill's capacity,
24 there's nameplate capacity for a certain welding mill,
25 and they've adjusted that capacity. They haven't

1 said, "I could make 100 percent rectangular on this
2 mill." They said, "If I normally make 40 percent
3 rectangular and 60 percent round, I'll say the
4 capacity of this mill is 40 percent of its welding
5 capacity."

6 CHAIRMAN KOPLAN: Okay. If you could get
7 together with Mr. Corkran subsequent to the hearing
8 and make sure that this point has been adequately
9 covered here in the public session, I would appreciate
10 it.

11 MR. SCHAGRIN: I would be happy to. I have
12 no problems working with Mr. Corkran. I've worked
13 with him in a lot of cases and I'm sure that we can
14 satisfy the commission's needs.

15 CHAIRMAN KOPLAN: Thank you.

16 Now, Dr. Blecker or Dr. Scott, I'm going to
17 come to your economic submission which is Exhibit 4 to
18 the pre-hearing brief.

19 When referencing your economic model at page
20 1, it points out, and I'm quoting, "It's based on a
21 scenario which assumes that subject products each
22 capture their peak share of the U.S. market as shown
23 in Table 1." That's from that page.

24 For the record, that table entitled CWP
25 Market Shares and Comparative Data appears following

1 page 16 in your exhibit. I note your table reflects
2 that subject imports from subject countries reached
3 their peak share of the U.S. market for the most part
4 in different years.

5 Isn't it likely that subject countries would
6 also take market share from each other? Also, have
7 you factored in the effect of the increase in imports
8 from China during the review period?

9 I am not persuaded on the basis of that
10 exhibit to devalue our staff's elasticity estimates,
11 so if you could respond in furtherance of this in your
12 post-hearing submission or now, either way.

13 MR. SCOTT: I think we'd like to respond in
14 the post-hearing brief.

15 CHAIRMAN KOPLAN: Okay. Fine. Let me stay
16 with the model, one last part for that.

17 At page 2, you argue that based on your
18 counterfactual model, and I quote, "The unit value of
19 U.S. shipments would fall by at least 7.9 percent."

20 Now, the next paragraph states that the
21 assumptions used are, and I'm quoting, "based on
22 identical percentage declines in U.S. shipments and
23 revenues."

24 How, then, did you arrive at the
25 estimated percentage point changes in U.S. shipments'

1 value in column 3 of your Table 2 entitled
2 Counterfactual Estimate of Potential Impacts of
3 Removal of Orders?

4 Do you want to do that post-hearing as well?

5 MR. SCOTT: Yes. Thank you. I'd like to do
6 both of them then.

7 CHAIRMAN KOPLAN: No problem.

8 I have one last thing I want to cover, if
9 I can find it here.

10 Coming back to Home Depot and Hughes Supply,
11 this is just a follow-up. Since the acquisition was
12 completed only about five weeks ago, I'm trying to
13 determine when in the foreseeable future its effects
14 will be felt with respect to increased imports of
15 subject products and from what subject countries.

16 I'm also trying to understand what share of
17 overall U.S. shipments of CWP in 2005 was to Hughes
18 Supply and what share was accounted for by sales to
19 Home Depot.

20 Is there any available documentation that
21 you all can provide on those particular points?
22 Post-hearing?

23 MR. MAGNO: Mark Magno with Wheatland. That
24 information -- we will look. It might be very
25 difficult to try to determine that, whether through

1 the annual reports -- clearly, we know what our sales
2 have been to Home Depot/Hughes Supply.

3 I can speak just in my direct discussions
4 with some Hughes Supply employees and some former
5 Hughes Supply employees about what is happening, just
6 in these last five weeks. They have told me that the
7 Home Depot way of running a business is dramatically
8 being forced upon the Hughes Supply, which means, you
9 know, Saturday morning meetings, Saturday night
10 meetings, people that work 20 hours a day, six and a
11 half days a week, those things, and that's what is
12 happening. In particular, this person that I spoke to
13 said, "That's it, I'm not for this new Home Depot
14 company," and he left the company.

15 So we do see some of those type of changes
16 already taking place. It's not as if this was going
17 to be a long and general transition. It's been an
18 immediate transition.

19 CHAIRMAN KOPLAN: Thank you.

20 I have nothing further.

21 Commissioner Hillman?

22 COMMISSIONER HILLMAN: Thank you. I hope
23 just a couple of follow-ups.

24 One, Mr. Schagrin, you've commented a number
25 of times when we were talking about the financial

1 condition of the industry on the fact that at the end
2 of the day your view is 2006 is not going to be a good
3 year and in part attributed that to a number of these
4 shutdowns and the significant costs that will be
5 incurred in the shutdowns.

6 I wondered if you could in your post-hearing
7 brief to quantify the recent and expected costs of
8 shutting down facilities, both on the standard pipe
9 side and on the light-walled side to the extent that
10 they're relevant, to the extent possible. I just want
11 to make sure I'm putting the costs of these shutdowns
12 into the proper perspective.

13 MR. SCHAGRIN: We will do that in our
14 post-hearing brief, Commissioner Hillman.

15 COMMISSIONER HILLMAN: And then if I could,
16 you mentioned just very briefly in response to the
17 most recent question, the issue of bottlenecks and the
18 fact that there weren't any on the light-walled side,
19 but to the extent that there are bottlenecks on the
20 standard side, we've talked a lot about the capacity
21 and the capacity utilization and, on the other hand,
22 at some level, you have to then come down to are there
23 bottlenecks that in fact are real constraints on the
24 capacity. I'm wondering if you can describe
25 bottlenecks on the standard pipe side in terms of what

1 are they and how significant are they, how much should
2 we read into them as opposed to looking at just raw
3 welding capacity as the best way to look at the
4 capacity and therefore the capacity utilization of the
5 industry.

6 I don't know whether there's anything that
7 can be commented on publicly or whether there's
8 anything that can get added in terms of for each of
9 the producers where you see your significant
10 bottlenecks that would in essence ameliorate the
11 production capacity data that we might have on the
12 record.

13 Mr. Magno?

14 MR. MAGNO: We don't have any bottlenecks
15 and, if we did, we would not have done this plant
16 shutdown. So in years past, if we were producing all
17 of our facilities at capacity, then we would
18 occasionally hit an issue with some threading. It's a
19 very laborious proposition but that has not been an
20 issue for a many years and clearly bottlenecks aren't
21 an issue of our company right now.

22 COMMISSIONER HILLMAN: Mr. Bailow?

23 MR. BAILOW: I just can only echo what
24 Mr. Magno has said. Bottlenecks are almost
25 non-existent for us also.

1 COMMISSIONER HILLMAN: All right.

2 Mr. Barnes?

3 MR. BARNES: I think the point here is if
4 you have an underutilized facility you don't have a
5 bottleneck. We can address that in the post-hearing
6 brief as far as where there are certain operations
7 that are matched with other facilities.

8 COMMISSIONER HILLMAN: Mr. Broglie?

9 MR. BROGLIE: We don't have any bottlenecks
10 either.

11 COMMISSIONER HILLMAN: All right. In this
12 issue of surcharges not being applicable, instead you
13 have to increase your prices to try to pass along any
14 cost increases that come to you, I am interested in
15 the issue of hot rolled prices.

16 Mr. Broglie, I'll take advantage of the fact
17 that you're here and both on the hot rolled side as
18 well as on the tubular side, in terms of what is your
19 sense of what's likely going to happen on hot rolled
20 pricing in the reasonably foreseeable future.

21 MR. NARKIN: Commissioner Hillman, this is
22 Steve Narkin. I'm sorry to do this, but we would
23 prefer to address that in the post-hearing brief.
24 It's something we discussed at some length yesterday,
25 it raises some complicated issues that we'd rather not

1 discuss in public.

2 COMMISSIONER HILLMAN: Fair enough, if you
3 could. And then help me understand from the
4 perspective of the producers what portion of your
5 costs are associated with your hot rolled. How much
6 of your raw materials and/or costs are connected to
7 hot rolled?

8 MR. MAGNO: Mark Magno. It would vary
9 slightly by product, but generally we talk about 60 to
10 70 percent is steel, hot rolled.

11 COMMISSIONER HILLMAN: And all hot rolled?
12 None of it would be something that would be cold
13 rolled or something else, it's all hot rolled product?

14 MR. MAGNO: There are a very limited amount
15 of standard pipe products like very thin wall fence
16 product or something else, but, no, it's really hot
17 rolled.

18 COMMISSIONER HILLMAN: Mr. Barnes, would you
19 agree with that?

20 MR. BARNES: If I understand your question,
21 you're asking specifically what percentage of our
22 costs are hot rolled coil?

23 COMMISSIONER HILLMAN: Yes.

24 MR. BARNES: I'd like to address that in the
25 post-hearing.

1 COMMISSIONER HILLMAN: Sure.

2 Mr. Bailow?

3 MR. BAILOW: I'd have to say the same thing.

4 COMMISSIONER HILLMAN: All right. I would
5 appreciate, Mr. Narkin, whatever can be put on the
6 record in terms of just helping us understand where we
7 think hot rolled is going in terms of what it would do
8 this industry's costs in light of what we hear, on
9 where hot rolled fits into your cost structure.

10 MR. NARKIN: Absolutely, Commissioner.

11 COMMISSIONER HILLMAN: Thank you.

12 And then last I would ask for a post-hearing
13 brief to counsel, if you could brief to me the issue
14 of a recent Federal Circuit Court of Appeals opinion
15 involving Brast Aluminum Smelting is the name of the
16 company involved. Specifically, the issue of how the
17 commission treats non-subject imports was what the
18 Federal Circuit was addressing in part in that
19 opinion.

20 First, I'd like your view on whether you
21 think it is applicable at all in a sunset
22 investigation as opposed to as in an original
23 investigation and, if so, what the commission should
24 make of it. In other words, what additional
25 information should we be collecting, how should we be

1 factoring non-subject imports in given the very
2 significant role of non-subject imports, particularly
3 Chinese imports, in this case; how should we look at
4 it and should we look at it any differently in light
5 of what the Federal Circuit said in Brast Aluminum
6 Smelting.

7 MR. SCHAGRIN: First, Commissioner Hillman,
8 I, of course, as a Petitioners' counsel read with
9 quite a bit of consternation that decision. I won't
10 comment given my respect for the court with what
11 I think is the quality of the decision, because the
12 decision is the decision.

13 But having no current investigations and
14 having not had current investigations here for quite a
15 while, kind of like the rest of the trade bar and like
16 the commission itself, in reading that decision, my
17 thoughts -- and then having a number of sunset
18 reviews, my thoughts were right in line with your
19 question, which is I was thinking should the
20 commission have to apply these criteria to sunset
21 reviews.

22 And in reviewing that decision, I came to
23 the opinion, we'll address it legally in the
24 post-hearing brief, that that would not be appropriate
25 and I don't read that decision as being applicable to

1 sunset reviews. I think given the nature of the
2 decision and the dynamic that the court was
3 discussing, I think those dynamics are automatically
4 different when you get to the sunset review stage
5 because of the effect of the orders. But we'll kind
6 of fully explain that legal analysis in our
7 post-hearing brief.

8 CHAIRMAN KOPLAN: Mr. Narkin?

9 MR. NARKIN: Commissioner Hillman, Steve
10 Narkin. I agree with what Mr. Schagrin just said and
11 we may have some additional thoughts which we will
12 pass along in our post-hearing brief.

13 COMMISSIONER HILLMAN: We would very much
14 appreciate that.

15 With that, I have no further questions but
16 I would like to join my colleagues in thanking this
17 panel for all your answers to our many questions this
18 morning and now into this afternoon. We thank you
19 very much.

20 CHAIRMAN KOPLAN: Thank you, Commissioner.
21 Commissioner Lane?

22 COMMISSIONER LANE: I would like to address
23 my first questions to Dr. Blecker and Dr. Scott and
24 refer to Table 2 of the economic evaluation that you
25 prepared and is attached to the pre-hearing brief.

1 In that exhibit, it appears that you assume
2 that the cost of goods sold is totally variable. As
3 I read this table, you assume that a drop of
4 22.8 percent in production will result in a drop of
5 precisely 22.8 percent in the cost of goods sold. Is
6 that correct? Is that a reasonable assumption?

7 MR. SCOTT: That's a very conservative
8 assumption, that all of the costs would fall linearly.
9 I was trying to give the most optimistic projection
10 that I could of what the profits would be, but I would
11 expect that in any industry like this that the cost of
12 goods sold would actually fall less than the total
13 output, so this was very conservative. I sort of
14 stress that and will do that in the post-hearing
15 brief.

16 COMMISSIONER LANE: Those of you who are who
17 are involved in the day-to-day operations of your
18 manufacturing facilities, do you agree that there is a
19 direct relationship between the output and all
20 components of your cost of goods sold?

21 Mr. Barnes?

22 MR. BARNES: Could you rephrase the
23 question, please, or restate it? I'm not sure
24 I follow.

25 COMMISSIONER LANE: Do you believe that

1 there is a direct relationship between the output and
2 all components of your cost of goods sold?

3 MR. BARNES: Well, I'm not an accountant, so
4 bear with me, but certainly if you have a lower
5 utilization rate, there is less product to cover your
6 fixed costs, which is a component of the cost of goods
7 sold, SG&A. Does that answer your question?

8 COMMISSIONER LANE: I think so.

9 MR. BARNES: Okay.

10 COMMISSIONER LANE: Okay. Going back to Dr.
11 Blecker and Dr. Scott, if your model assumes a linear
12 relationship between all components of cost of goods
13 sold and sales, does it follow that the model that you
14 present suggests that in addition to the loss in
15 income by domestic manufacturers projected in your
16 Table 2 there would also be an expected loss of
17 roughly 23 percent in manufacturing jobs or wages in
18 the circular welded and light-walled pipe industry in
19 the United States?

20 MR. SCOTT: That's approximately correct,
21 that we would see -- again, what we're talking about
22 here is a linear response, assuming fixed proportions,
23 that is, output falls by 23 percent roughly, that you
24 would see a similar drop in employment. Actually, in
25 the case of employment, that might not be the case.

1 You might see somewhat of a smaller decline in
2 employment. It's a little harder to lay workers off,
3 you need to keep them working to maintain plants.

4 COMMISSIONER LANE: Okay. Continuing with
5 Table 2, why does your model suggest no change in
6 domestic consumption or the overall value of domestic
7 consumption if the orders are lifted?

8 I don't understand that if the assumption is
9 that there will be significant price competition
10 brought on by the unfairly traded imports if the
11 orders are lifted or did you simply leave those values
12 unchanged because it did not matter for the purposes
13 of this exhibit?

14 MR. SCOTT: Those are, again, simplifying
15 assumptions. I was trying to just keep it very
16 straightforward, although I will suggest that in
17 general the demand for this product is relatively
18 price inelastic, so I wouldn't expect to see large
19 changes in domestic demand.

20 COMMISSIONER LANE: Okay. Thank you.

21 Mr. Schagrín, your cumulation argument does
22 not address the question of no discernable adverse
23 impact. Do you believe that revocation of the
24 pertinent orders under review will likely have a
25 discernable adverse impact on the domestic industry?

1 MR. SCHAGRIN: Yes, we do and that's why we
2 didn't -- the way you framed your question, do we
3 believe it will have a discernable adverse impact, not
4 do any countries have no adverse discernable impact,
5 and so, yes, we believe that revocation of the orders
6 would have an adverse impact on the domestic industry
7 and would lead to recurrence of injury and, no, we do
8 not believe that any country taken individually that
9 the increase in their orders would have no discernable
10 adverse impact on the U.S. industry.

11 COMMISSIONER LANE: There for a moment
12 I thought he was going to give us a yes and a no
13 answer.

14 CHAIRMAN KOPLAN: You were close.

15 COMMISSIONER LANE: One more question.
16 Table Circular 3-6 of the pre-hearing report indicates
17 the domestic producers make several products other
18 than CWP and LWR at their production facilities.
19 Could you characterize relative prices among CWP, LWR,
20 OCTG, mechanical tubing and lined pipe?

21 MR. BARNES: I can't address light-walled
22 rectangular, we don't make that.

23 COMMISSIONER LANE: Okay.

24 MR. BARNES: But generally speaking, the
25 hierarchy of the pricing is oil country is the

1 highest, followed by lined pipe, followed by standard
2 pipe.

3 COMMISSIONER LANE: Followed by? I'm sorry,
4 say that again.

5 MR. BARNES: Oil country tubular goods,
6 lined pipe and then standard pipe.

7 COMMISSIONER LANE: What factors do domestic
8 producers consider in determining whether to switch
9 capacity from one product to another?

10 MR. BARNES: I can address that at least
11 with respect to our own company. Obviously, there is
12 a cost implication, as we talked about in a roundabout
13 way, that we are reluctant to lower our standard pipe
14 prices to sell below our costs. So therefore there is
15 a market that makes a decision for us as to how much
16 standard pipe we can sell and we have been feeling the
17 effects of that and the fact that we are no longer
18 shipping as much product further afield from our
19 facilities because of the competition from imports.

20 The other decision that comes in besides the
21 profitability issue is also a commercial one in that
22 we have invested a lot of time and effort in
23 developing the standard pipe market over the years in
24 terms of not only developing customers and also
25 programs and so on with certain customers that have

1 come to rely on us as their supplier of choice and we
2 don't want to abandon those alliances or
3 relationships. We're in it more for a long-term basis
4 and we have certain core customers that we want to
5 participate.

6 There's also a manufacturing issue that we
7 look upon as well as far as trying to determine what
8 to make and there is through scheduling, and one of
9 the commissioner's questions was to address
10 bottlenecks in the post-hearing brief, and we'll get
11 to that a little bit more, but through scheduling we
12 can balance a lot of our facilities between standard
13 pipe, lined pipe and oil country tubular goods. So
14 there are several issues that we look to to consider
15 and, of course, one of the other overwhelming
16 umbrellas that we kind of consider is obviously we
17 have shareholders and other stakeholders in the
18 company that we have to look out for their interests
19 and so therefore profitability also plays into that
20 equation.

21 MR. BAILOW: I'd just like to add that we
22 don't have the ability to switch.

23 COMMISSIONER LANE: Okay. Then let me go
24 back to Mr. Barnes.

25 In making investment decisions, to what

1 extent do producers weigh likely production and
2 pricing trends for individual products produced at a
3 facility as opposed to the overall product mix?

4 MR. BARNES: The problem with making
5 investment decisions is that you have to look out into
6 the future over a horizon. As I mentioned earlier, we
7 built the standard mill in Arkansas originally to make
8 standard pipe, so when you make an investment decision
9 you have to recognize that markets can change and we
10 tried to put a little bit of flexibility into the
11 layout of that facility so that if indeed we need to
12 look at other products we could do that.

13 Pricing does make a difference as to what we
14 would do as far as getting new investment. As Steve
15 mentioned earlier, I doubt if we could get a lot of
16 support at our board of directors to make more
17 improvements or add a new mill today that would be
18 exclusively dedicated to standard pipe.

19 COMMISSIONER LANE: Okay. Thank you.

20 Thank you, Mr. Chairman.

21 CHAIRMAN KOPLAN: Thank you.

22 Commissioner Pearson?

23 COMMISSIONER PEARSON: I'm interested in the
24 relationship between pipe producers and distributors.
25 Do distributors have exclusive relationships with

1 certain suppliers of pipe or do the distributors buy
2 from whichever U.S. producer offers them the most
3 attractive terms?

4 MR. MAGNO: This is Mark Magno. That's a
5 very good question because typically when one hears
6 the term distributor it seems to be that exclusive
7 and, in some cases, contractual or geographic
8 relationship. In our business, we're selling to
9 wholesalers who have the freedom of very low
10 thresholds for switching costs. In particular, with
11 technology out there, if they have an inquiry, in the
12 old days, you used to have to call people up or send
13 it on a Telex. Now, it's to 10 potential suppliers in
14 an instant. At least Wheatland Tube is selling to
15 wholesalers.

16 COMMISSIONER PEARSON: We've talked mostly
17 today about competition against imports, but as a
18 practical matter, as you look around the room, you see
19 other companies represented that you compete with
20 quite actively in your day-to-day sales to
21 wholesalers?

22 MR. MAGNO: Very much so. Yes.

23 COMMISSIONER PEARSON: Okay. And so then
24 would the importers have the same sort of relationship
25 with distributors where they wouldn't have an

1 exclusive relationship but rather they would obtain
2 some supply and then offer it to a number of
3 wholesalers to try to obtain the most favorable price?

4 MR. MAGNO: That's correct. And in
5 addition, I think as Steve had testified, they're now
6 going to the next level in the channel and selling
7 contractors or end users direct, things like that.
8 But to answer your question, yes, it's just a
9 telephone or e-mail or fax machine and they're in
10 business.

11 COMMISSIONER PEARSON: So how much
12 competition exists among the distributors,
13 wholesalers, then? Do they compete pretty actively
14 against each other to obtain their pipe supplies and
15 then on the next step of the business to find somebody
16 to buy it? How competitive a business is the
17 wholesale distributing business?

18 MR. BAILOW: Mark, I'll take that.

19 It's very competitive. To some extent, they
20 will almost hold you hostage against your competitor
21 and literally against foreigner as well.

22 COMMISSIONER PEARSON: It doesn't surprise
23 me, I was just wanting to make sure I understood that.
24 Because I'm still having a hard time figuring out what
25 it is that's prompting the Chinese exporters of pipe

1 to leave a bunch of money on the table by selling the
2 product for less than it appears to be worth because
3 if the environment among the distributors is
4 sufficiently competitive, it would be rational for the
5 Chinese exporters to shop the product around and one
6 would think the market pressures would cause the price
7 to rise.

8 I have had the pleasure of knowing some
9 Chinese businessmen. None of them ever were
10 interested in leaving money on the table, so I'm just
11 trying to understand what's going on here.

12 Comments, please?

13 MR. SCHAGRIN: I would just comment that in
14 certain industries in China -- and I would agree with
15 you, I know some Chinese business people too who are
16 extremely sharp and are not going to leave a penny on
17 the table, but I think when you get into industries
18 like steel where there is so much government ownership
19 and where in fact the Chinese government is insisting
20 that it will continue to have government ownership
21 that they become more interested, the people who
22 manage those plants that are government-owned tend to
23 be Communist Party members. They don't take people
24 out of who is the best and brightest from business
25 school, that is controlled by the Communist Party and

1 the people who run those plants are the most important
2 Communist Party members. And I think their overriding
3 concern, and we have had a number of clients who have
4 visited steel mills and pipe mills in China that
5 overall their biggest concern is to maintain
6 employment. That's what is important for them as
7 Communist Party leaders, is if they have a pipe mill
8 that employs 1000 people where one of ours might
9 employ 200 that they don't care about what's the best
10 way to price the product, they want to make sure they
11 keep those 1000 people employed.

12 So I think it's the mind set of the people.
13 I think when you get into other segments of industry
14 where you have less Communist Party involvement and
15 more of this move to market economy factors you get a
16 different business perspective. So that's my
17 explanation. Communism and employment is my two-word
18 answer for that.

19 COMMISSIONER PEARSON: And then that does
20 explain something.

21 Mr. Blecker?

22 MR. BLECKER: Robert Blecker again. I think
23 there are two things to bear in mind. The first one
24 is that the Chinese prices have increased. We don't
25 have them exactly in this record, we just have the all

1 other sources. They were in the 421 record. But the
2 Chinese prices have definitely gone up, not as much,
3 so that actually the underselling margins, if I recall
4 correctly, were increasing when we looked at it in the
5 421, although I will have to recheck that. I'm doing
6 that from memory.

7 The other point I would make is that there
8 are a lot of ways to get money and one of them is to
9 buy market share, so what they are doing by not
10 raising their prices to maybe the highest price they
11 could get is to buy more market share, so they may be
12 making a decision that that's better for them and
13 their interests because if they charged a higher price
14 they wouldn't get as much market share as they have.
15 They have gone from almost nowhere to, what, about
16 20 percent, I think.

17 COMMISSIONER PEARSON: Well, that may work
18 in theory, but in this record, I think we have already
19 testimony that there are capacity constraints at this
20 point in terms of how much pipe the Chinese have
21 available to put into the U.S. market and so when you
22 have that constraint on what the Chinese can do, then
23 the justification for them selling cheap to buy market
24 share is not really consistent.

25 Mr. Bailow, did you have something that you

1 wanted to say?

2 MR. SCHAGRIN: I just think that unlike the
3 U.S. industry where capacity is declining, that while
4 there may be present capacity restraints on the
5 Chinese, the fact that the Chinese are constantly
6 adding capacity, they're removing those capacity
7 constraints and I know -- we shared this with the
8 White House, people who went to visit pipe mills in
9 China said, oh, we're going to add two or three more
10 mills because we are at capacity, so within six or
11 nine months, we'll have more mills, we plan on
12 doubling or tripling our exports to the United States.
13 So only some people who have a different policy
14 objective don't believe that the Chinese in industry
15 after industry are adding massive amounts of capacity
16 with the direct thought that they will take over the
17 U.S. market in these areas.

18 So present capacity constraints for the
19 Chinese are not a big issue. They will add the
20 capacity as they are in industry after industry.

21 COMMISSIONER PEARSON: You earlier raised
22 the point about Communist Party involvement in central
23 planning in the steel industry in China and that may
24 have something to do with that side of the equation,
25 but central planning has relatively little to do with

1 how distributors in the United States would bid for
2 product and so even if you have a situation where
3 there was a decree from Beijing that all steel pipe
4 had to be sold really cheaply into the world market,
5 we still would expect to see competitive pressures in
6 the robust U.S. market driving up the purchase price
7 of Chinese pipe to not so much different than other
8 pipe unless there are some reasons that distributors
9 find the Chinese pipe to be of less value. And there
10 could be those reasons. It could be quality issues,
11 it could be delivery issues. It could be customer
12 resistance issues. All of that. But I don't know
13 that we know enough at this moment to make that
14 judgment.

15 Does anyone have any comment on that?

16 Mr. Bailow?

17 MR. BAILOW: I think in the past the quality
18 was an issue, but today it's not. They're making a
19 quality product. And you see it -- I walk into
20 people's facilities and I look at it and I'm amazed at
21 the significant change, not even over the past five
22 years, just over the past year.

23 COMMISSIONER PEARSON: In Chinese
24 facilities?

25 MR. BAILOW: Well, no. In product that's in

1 a distributor's yard that comes from China.

2 COMMISSIONER PEARSON: Okay.

3 MR. SCHAGRIN: I would just add that while
4 we may not have all that information on this record
5 the commission does have all that information on the
6 record of the 421 investigation which is only nine
7 months ago that demonstrated that there was no
8 justification for the Chinese having such lower prices
9 in terms of quality, delivery or other issues, that
10 they were selling products to the exact same
11 specifications at the same quality as U.S. producers,
12 just selling them for 30 percent less, and that is why
13 imports have gone from 10,000 tons to 500,000 tons, is
14 price, not quality, not delivery, just price.

15 COMMISSIONER PEARSON: Okay.

16 MR. KLINEFELTER: Commissioner Pearson, if
17 I could add --

18 COMMISSIONER PEARSON: Please.

19 MR. KLINEFELTER: I've always thought that
20 that was really bizarre, too, but I've been at this a
21 long time and the bizarreness compounds itself in
22 steel. I remember when we were dealing with Russia
23 and Kazakhstan and places like that during the
24 beginning of the steel crisis and saying why don't
25 they just up the price of steel a little bit, it will

1 help them out, but they did not. I mean, they just
2 would not do it and they just wanted to keep those
3 mills going, they were supporting whole communities,
4 15,000, 20,000 people, and so I'm not surprised to see
5 a rationality for market share in terms of the basic
6 steel industry. It's happened before and it will
7 probably happen again.

8 COMMISSIONER PEARSON: My red light is on,
9 so I guess I'd better stop.

10 CHAIRMAN KOPLAN: Thank you, Commissioner.

11 Let me see if there are any other questions
12 from the dias.

13 Seeing that there are none, Mr. Corkran,
14 does staff have any questions?

15 COMMISSIONER PEARSON: In that case, I do
16 have a couple more questions that I think will be
17 fairly quick. I thought that someone else might ask
18 them.

19 CHAIRMAN KOPLAN: I surprised you, didn't I?

20 COMMISSIONER PEARSON: Not to do with
21 distributors, okay? Two different issues.

22 In the 421 proceeding, we raised the
23 question of whether the hurricanes, Katrina and Rita,
24 had had some effect on demand and then it was really
25 too early to know. My question is could we, for

1 post-hearing, unless you want to comment much now, how
2 do we now see those disasters and the rebuilding?
3 We're having residential rebuilding, certainly. We
4 may be having some non-residential rebuilding. Do we
5 expect to see an effect from that?

6 MR. MAGNO: Mark Magno with Wheatland Tube.
7 For a non-subject product, steel conduit, we actually
8 saw one large inquiry. It was for the conduit to wire
9 a lot of this temporary housing. That order was never
10 placed. It created a lot of buzz. Again,
11 non-subject, never placed. And, really, frankly, for
12 the standard pipe products, we've seen little to
13 nothing. In fact, the devastation altered the
14 distribution channels down there where wholesalers who
15 were previously in business were not in business or
16 just they stopped commerce for months and months on
17 end, so at least from our perspective we have seen
18 little impact, little positive impact, from a business
19 side. We actually view it as a negative.

20 COMMISSIONER PEARSON: Other observations?

21 Mr. Bailow?

22 MR. BAILOW: Yes. I have to agree with
23 Mark. We have not seen any significant increase.
24 And, in fact, recently there was a large order placed
25 and it went all foreign, it went to the Chinese. That

1 route. I almost liken it to the after 9/11, there was
2 this serious talk of increased security at ports and
3 at military facilities. That business never
4 materialized.

5 COMMISSIONER PEARSON: They didn't put up
6 more fencing?

7 MR. BAILOW: It just never happened. As
8 I go to these homeland security shows and we talk
9 about it -- and it's not just in my industry, it's
10 other security aspects also, the business just never
11 showed up, whether it's Homeland Security just
12 building their internal structure, no one seems to
13 have an answer, but from the construction side, it's
14 been minuscule.

15 COMMISSIONER PEARSON: So if there is going
16 to be an effect from the hurricanes, we haven't seen
17 it yet. Okay.

18 My last question is a cumulation question
19 and I normally try to stay away from these, but none
20 of my colleagues who are attorneys asked it, so
21 I guess I'll try. This involves Brazil. Imports from
22 Brazil have been barely measurable, at least since
23 1997. Does this suggest that if the order was lifted
24 that Brazilian producers would face distinct
25 conditions of competition as they would attempt to

1 re-enter the U.S. market?

2 MR. SCHAGRIN: The answer is no. The reason
3 for the Brazilian import decline is because the
4 margins against the Brazilian exporters are
5 100 percent and that means that they haven't been able
6 to ship at all and while our record from Brazil is
7 pretty scant, it's a country with a lot of very, very
8 big producers with a tremendous amount of capacity and
9 all they have to do to get back into the U.S. market
10 is to contact a distributor and offer them a low price
11 and they're back in the market in maybe 24 hours. It
12 might take them a month to ship it here, but they
13 literally could be -- if you made a negative decision
14 as to Brazil, a Brazilian producer can be back in the
15 U.S. market with a phone call to a distributor within
16 24 hours. There's no barriers.

17 COMMISSIONER PEARSON: Do Brazilian
18 producers have relationships with U.S. distributors
19 for some non-subject products?

20 MR. SCHAGRIN: I'm not aware of specifics,
21 but, as I said, there are a number of Brazilian
22 producers and there's a lot of U.S. distributors, so
23 I don't know that we're able to really answer that,
24 but we will at least look at the import data and see
25 what other products come here for Brazil.

1 COMMISSIONER PEARSON: For purposes of the
2 post-hearing, if you can turn up anything on that,
3 that would be great.

4 MR. SCHAGRIN: Sure.

5 COMMISSIONER PEARSON: Mr. Chairman, I have
6 no further questions. Thank you for our indulgence.

7 CHAIRMAN KOPLAN: Mr. Corkran?

8 MR. BERNSTEIN: This is Mark Bernstein, the
9 Office of General Counsel. A quick request for
10 Mr. Schagrin.

11 If in your post-hearing brief you could
12 elaborate on the reasons for your answers to the
13 question Commissioner Lane asked in her last round
14 about no discernable adverse impact, we would
15 appreciate that. Also, to the extent you can provide
16 details of your position on an order specific basis
17 for each of the products. Thank you.

18 MR. SCHAGRIN: We will do so.

19 MR. CORKRAN: Douglas Corkran, Office of
20 Investigations.

21 CHAIRMAN KOPLAN: Is that microphone
22 working? Okay.

23 MR. CORKRAN: Douglas Corkran, Office of
24 Investigations.

25 Thank you, Mr. Chairman. Staff has no

1 further questions.

2 CHAIRMAN KOPLAN: Thank you, Mr. Corkran.

3 Thank you for that question, Mr. Bernstein.

4 Mr. Winton, before the panel is released, do
5 you have questions of this panel?

6 MR. WINTON: No, I don't. Thank you.

7 CHAIRMAN KOPLAN: Thank you.

8 With that, that concludes a rather
9 exhaustive -- we just didn't want to let you go,
10 Mr. Klinefelter, so we just kept going, you see.

11 We will break for lunch. I want to thank
12 each of the witnesses for their responses to our
13 questions. You can tell, I think, from the exhaustive
14 nature of the questions that we find a lot of value to
15 what you had to contribute this morning and this
16 afternoon.

17 We will take a break for lunch for
18 three-quarters of an hour and I will see you back
19 then.

20 I would remind you that you can't leave any
21 BPI information in the room because it's not secure,
22 so you need to take that with you during the break.

23 See you back in three-quarters of an hour.

24 //

25 (Whereupon, at 1:25 p.m., a recess was

1 taken.)
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1 Now, I don't usually read the names of all
2 the countries that are involved in the case, but I was
3 surprised as I was looking at the staff report that
4 China is not on here anywhere because all I heard this
5 morning was China.

6 Not only is China not included in this case,
7 but there is no evidence on the record of this
8 proceeding about China.

9 And, as much as I enjoy Mr. Schagrin's
10 testimony, I am not sure I'm prepared to rely on him
11 as a witness to talk about Chinese production
12 capacity, business practices or intentions.

13 I understand the commission's interest in
14 the issue and I understand the argument made by the
15 domestic industry, but we are constrained by the
16 record that we have and by the nature of this
17 proceeding.

18 I apologize also for not having witnesses to
19 join me today. I know hearing lawyers speak is not
20 something anyone really enjoys. Usually, I have been
21 joined when I come to these hearings at the commission
22 on pipe on issues by the export manager of Hylsa, a
23 gentleman named Jaime Trevino, who I don't know if you
24 remember, but he has testified here several times and
25 is really a delightful person and a very good friend.

1 Unfortunately, he is on vacation now. He's actually
2 just changed jobs, he no longer works with Hylsa,
3 which I think would be a relief to Mr. Schagrín
4 because the first time I ever heard him use the phrase
5 serial dumper it was in connection with Jaime.
6 Perhaps Jaime's departure alone is reason to revoke
7 the antidumping order on Mexico.

8 In any event, I am here to talk about
9 Argentina and Mexico, but before I do so, I have to
10 point out, I feel conflicted about this but there are
11 just some anomalies in the stories we've heard from
12 the U.S. industry and I can't let them go, though
13 perhaps I should because they're not relevant to
14 Argentina and Mexico.

15 The first anomaly is all the discussion we
16 heard about Wheatland closing down its production
17 facility and we heard extensive testimony about the
18 projected life expectancy of the U.S. industry,
19 somewhere between three and five years before it goes
20 entirely out of business. And yet I suppose just two
21 months ago the Carlisle group, which I understand is a
22 sophisticated group of businessmen, decided to make a
23 major investment by buying Wheatland. I don't imagine
24 that they have an investment strategy of intentionally
25 investing in companies that are going out of business.

1 It just doesn't make sense to me.

2 Another problem with the Wheatland testimony
3 we heard today concerns their decision to close the
4 Sharon plant. We heard that that decision, I'm not
5 sure exactly when it occurred, I probably have it in
6 my notes, but that that started in the middle of 2004.
7 They decided they simply couldn't maintain the Sharon
8 plant at full production operations and they had to
9 cut back.

10 The middle of 2004, we may all remember, is
11 the middle of the best year ever in the history of the
12 steel industry and the best year ever in the history
13 of the standard pipe industry. So here's Wheatland
14 starting to pull back a production facility at the
15 height of the best year ever. Again, there's probably
16 some explanation, but it doesn't occur to me.

17 Another anomaly that I've been struggling
18 with is just some data that as I looked at the staff
19 report, and I really meant not to do this because
20 I want to focus on Argentina and Mexico, but I look at
21 the staff report and the tables about the
22 profitability of the U.S. industry and, Chairman
23 Koplman, you summarized a lot of the points we had made
24 in our brief about the overall profitability of the
25 U.S. industry, I just handed out a few pages from the

1 circular and light-walled rectangular sections, it's
2 two sets of tables.

3 The first table is Table 3-7, which shows
4 the values on a per ton basis and I think this goes to
5 questions that we had this morning about passing
6 through costs and to what extent are costs reflected,
7 steel increases and zinc increases.

8 Obviously, this data is not broken down
9 between steel coil and other costs, but what you see
10 first of all when you look at this, and this is true
11 for circular pipe which is the first page and also for
12 light-walled pipe, is that prices were relatively
13 steady, some up, some down, until 2002. Started to go
14 up in 2003, shot up in 2004 by something like \$250 a
15 ton more in the case of light-walled rectangular, and
16 then it continued to increase in 2005. Prices went
17 up. In the case of standard pipe, prices are up --
18 what is that, \$83 a ton.

19 Of course, you can also see raw materials
20 costs have gone up. Raw materials costs went up.
21 They went up from 2003 to 2004. Actually, I'm looking
22 at it, they went up from 2002 to 2003, from 2003 to
23 2004 and 2004 to 2005.

24 When you get down to the bottom line,
25 operating income and net income, what you see is 2004

1 is the best year ever and that's on an overall basis,
2 on a per ton basis, it's the best year ever.

3 And 2005 is not a bad year, it's the second
4 best year ever. Not every year can be the best year
5 ever; second best -- they're very, very profitable.
6 The operating income for 2005 for standard pipe is \$85
7 a ton. The previous high, if you exclude 2004, which
8 was the best year ever, 1999, they made \$57 a ton.
9 2005 was a good year. In net income terms, again, \$77
10 a ton profit in 2005 compared to \$80 a ton in 2004,
11 the best year ever, and much higher than the previous
12 high of \$48 per ton in 1999.

13 Light-walled rectangular, there's a higher
14 peak in 2004, more of a falloff in 2005, but, again,
15 2005 compared to all the other years is a very good
16 year.

17 So I am puzzled. If prices have gone up in
18 2005 and if profitability per ton is good, why are
19 they complaining about lost sales and losing market
20 share? Maybe they could instead of making \$85 a ton
21 they can make \$80 a ton and keep some of their sales.
22 I'm hearing things that don't make sense to me and
23 I don't know how to make sense of them.

24 The next two pages we have attached are
25 Table 3-2 from the circular pipe and the light-walled

1 rectangular pipe and this goes to the issue of
2 production capacity. If you look at the very bottom
3 line of that table, you see production capacity
4 started at 52 percent and fell and reached 42 percent
5 production capacity in 2005.

6 But if you look at their overall production
7 capacity of the facilities where they make standard
8 pipe, their total production was up every single year
9 and their production capacity utilization rate was up
10 and so 2005 was actually their best year of capacity
11 utilization, even though they're reporting for
12 standard pipe that it was their worst year for
13 capacity utilization.

14 And, again, the figures for light-walled
15 rectangular are not exactly the same but the same
16 general trends can be seen. There's actually an error
17 in the light-walled rectangular pipe table in the
18 staff report. We have identified that in our brief,
19 but it's not significant. It does change the trends a
20 little, but it doesn't answer this.

21 So what you see here is an industry who is
22 making not the best profits ever, but very good
23 profits historically in 2005, the highest level of
24 production they have had is in 2005, and yet they are
25 telling you they're going out of business in the space

1 of three or four years. It doesn't make sense to me.

2 We had some discussion and I'm sensitive to
3 this issue because it came up extensively in the light-
4 walled rectangular pipe from Mexico case which I was
5 here for a year and a half ago about how capacity is
6 measured in this industry. We submitted for you some
7 of the testimony from the previous light-walled
8 rectangular pipe case about some discrepancies in how
9 capacity is calculated.

10 I will tell you we have gone through the
11 questionnaire responses and tried to figure out for
12 each producer what was going on with capacity, given
13 overall capacity how did you get to reported capacity
14 for standard pipe, what was the basis for production
15 capacity, how many hours per week, and the truth is
16 when you get into the details you can't figure it out.
17 There may be an explanation out there somewhere.

18 I had one of our legal assistants who had
19 been a physics major in college go through these
20 because I figured he'd be able to handle the higher
21 math involved. He came back totally disappointed in
22 himself, actually thought he must have something wrong
23 with him because he couldn't make sense of it, but
24 nobody in our office could make sense of it. There
25 may be an answer; I don't know what it is, but I do

1 know that overall this is an industry that's producing
2 at its highest level ever and making profits in 2004
3 that are the best ever and in 2005 not the best ever,
4 but very, very good.

5 So the other thing we've noticed, and we
6 submitted some data in our pre-hearing brief, is that
7 the shift of production -- we talked about total
8 production going up and shift of production -- the
9 shift production is to higher value products and there
10 is an interesting thing this morning. As I listened
11 to the testimony, I heard -- I think it was Mr. Magno
12 say we can't produce OCTG and maybe somebody else said
13 that, too. The gentleman from Allied Pipe I think
14 said we don't produce OCTG and Wheatland said we
15 generally can't but we're converting one line but
16 that's all we can do.

17 The shift, though, is not limited to OCTG
18 and OCTG is not the only higher value product here.
19 In fact, lined pipe production has gone up by 300,000
20 tons over the period that you have information for and
21 I didn't hear anybody say we couldn't produce lined
22 pipe.

23 Also, I should mention I find it very
24 interesting that statistics show that multiple stencil
25 lined pipe production has gone up significantly and

1 I spent many years listening to Mr. Schagrín explain
2 why there really was no such product and it was
3 invented solely to circumvent the antidumping order
4 and so I am now puzzle why the U.S. industry is
5 circumventing its own antidumping order with a product
6 that doesn't exist, but they are producing it and
7 their production went up 340,000 tons, if I read the
8 figures in the staff report correctly for the circular
9 pipe producers. That's page Circular 3-6, Table
10 Circular 3-2, multiple stencil production up from
11 122,000 to 461,000; single stencil up from 414,000 to
12 524,000; other product production which would be
13 mechanical tubing up from 1 million tons to 1.5 tons.
14 So you have very large increases in products that are
15 not OCTG.

16 Now, obviously, everybody today wants to be
17 in OCTG. Why? Well, I remember in 1999 we had one of
18 the oddest things I've ever experienced. Somebody
19 filed an antidumping case on crude oil because the
20 price of crude oil in those days was less than \$10 a
21 barrel. Crude oil today is \$70 a barrel and drilling
22 is exploding and the OCTG market is exploding and
23 anyone who can produce OCTG wants to and that's why
24 you see a very large shift in these figures from
25 standard pipe to OCTG from the people who can do it

1 and you also see as pipelines increase from the
2 drilling an increase in lined pipe production and
3 significantly an increase in other production and we
4 submitted in our pre-hearing brief information on the
5 relative prices that we could find of those and what
6 you see is the U.S. industry is doing a very smart
7 thing, it's what a businessman should do. They are
8 following the money. They are producing the higher
9 value products and making higher profits. Nobody
10 faults them for that, but it does add a distortion
11 into the arguments that they are making.

12 As I said, I can't help myself from arguing
13 these things, but I'm really not here to talk about
14 the overall industry. I'm here to talk about
15 Argentina and Mexico.

16 I'll start with Argentina. The staff report
17 identifies three companies that produce welded pipe
18 products in Argentina. One was Acindar, which had
19 purchased a company called Laminfer, which was the
20 company originally investigated back in 1987 and 1988.
21 Acindar bought them. They have now sold their
22 production facilities to Siderar.

23 The other two producers are M. Royo and
24 Tubhier. Tubhier has already informed the commission
25 that it doesn't produce the subject merchandise. Our

1 information is that M. Royo also does not produce the
2 subject merchandise. We have through contacts in
3 Argentina asked them to get in touch with the
4 commission and confirm that.

5 We also understand that there was a fourth
6 producer in Argentina called Rapi-Estant. I went to
7 their website and the only thing on their website was
8 shop fitting which seems to be putting shelves and
9 goods into 7-11 type stores, from what I could tell.
10 The other thing was home furniture. We understand,
11 again, they do not produce light-walled rectangular
12 pipe any more.

13 So you have of the four companies that we
14 know of who were significant light-walled rectangular
15 pipe producers, none of them are still in the
16 business. The only production facility that is still
17 producing light-walled rectangular pipe are the former
18 Acindar facilities which are now owned by Siderar and
19 Siderar is now, as a result of that purchase, the
20 largest Argentine producer.

21 We submitted in our pre-hearing brief on
22 behalf of Siderar the available information we had
23 about projected growth in the Argentine economy, both
24 on an overall basis, where it's projected to grow
25 about 6.8 percent in 2006 and 4 percent in 2007. If

1 you break it down by sectors, construction is
2 projected to grow 16 percent this year and 9 percent
3 next year. Manufacturing activities are projected to
4 grow 8 percent this year and 4.2 percent next year.
5 The automotive sector is projected to grow
6 19.6 percent this year and 4.9 percent next year. And
7 the other information we had shows -- we don't have as
8 much detail, but shows projected growth in the other
9 Mercosur markets, the area of South America near
10 Argentina.

11 So you have, as I mentioned, of the four
12 former producers that we know of, there's only one
13 left and its domestic market is growing. There have
14 been no exports from Argentina to the United States
15 for the last 17 years and there's simply no reason to
16 expect anything new to come in and I didn't hear
17 anything this morning that would change that
18 conclusion.

19 MR. WINTON: Mr. Schagrin, during lunch,
20 teased me, by the way. He said that I probably will
21 be grilled with questions about the Argentine pipe
22 industry about which I know very little since Siderar
23 has only purchased the pipe producer a few months ago
24 and I have not represented them very often, actually
25 never represented them in the past. So I'm not going

1 to pretend to be able to answer anything more in
2 detail, but any questions you have I'd be happy to
3 forward to people who would know.

4 I am more familiar with the industry in
5 Mexico because I've been working on the Mexican pipe
6 case since the beginning. As a matter of fact, my
7 son, who's now a sophomore in high school, I think was
8 a towering one-year-old back in 1991 when the case was
9 first brought. He was much easier to deal with then.

10 Imports from Mexico today are insignificant.
11 And there was a question this morning I think from
12 Commissioner Pearson about how you distinguish between
13 subject and non-subject imports. And you have the
14 problem that the tariff classification includes
15 subject imports and non-subject products. Mechanical
16 tubing comes to mind. I think some conduit comes in
17 under the same tariff classification.

18 How do you divide those? Well, we didn't
19 actually do anything. The staff report provided the
20 information based on the information from U.S.
21 Customs. And what they asked Customs was how many
22 tons of imports had anti-dumping deposits put on them,
23 because if it had anti-dumping deposits, it's subject
24 merchandise, and if it didn't have anti-dumping
25 deposits, it's non-subject merchandise. And Customs

1 came back with figures, which are confidential in the
2 staff report, which is why we've treated them as
3 confidential.

4 The staff report then notes it is possible
5 that an exporter who has a de minimis deposit rate
6 would not make any anti-dumping deposits. And so when
7 you see an import that's not dutied, it's possible
8 that may be subject merchandise from an exporter with
9 a de minimis deposit rate.

10 Would that that were the case with Mexico.
11 Unfortunately, both of the Mexican producers who have
12 been investigated have non de minimis dumping margins.
13 It's a great shame to me. I would have sworn my
14 client was not dumping, but we have non de minimis
15 deposit rates. There are no Mexican exporters with a
16 de minimis dumping margin in place. So when you see
17 imports that are nondutiable, it means they are non-
18 subject. And the information in the staff report is
19 reliable.

20 And when you look at it, I can't talk about
21 the tons, but the Customs statistics show 73,000 tons
22 of imports within the tariff classification in 2005.
23 The number for dutied merchandise, which would be
24 subject merchandise, is much, much smaller than that.

25 The question then is, is there any chance

1 that imports from Mexico are going to increase?
2 Actually, that's probably legally the wrong standard.
3 It's not any chance, because we have to say, you know,
4 is it likely or is it not unlikely. I get confused
5 about the likely part of this.

6 Well, based on discussions with Hylsa, we
7 can submit -- unfortunately, I couldn't get anyone
8 here to talk who has personal knowledge -- but
9 certainly historically there were two major producers
10 of standard pipe in Mexico. One was my client, Hylsa.
11 The other is the Mexican producer, Tuberia Nacional,
12 known -- much easier to say TUNA.

13 There are some other producers who have
14 capability to produce standard pipe. The staff report
15 identifies a few other producers. We've checked them
16 out. There's a company called Fabrica de Tubos
17 Bufalo. I apologize for my Spanish pronunciation.
18 It's really quite horrible. And Bufalo, I'm told,
19 produces non-subject conduit.

20 Galvak is another company listed. Galvak is
21 actually my client. They were an affiliate of Hylsa.
22 They've since been merged into Hylsa and no longer
23 exist. They produced only mechanical tubing and did
24 not have the capability to produce standard pipe.

25 The next company listed is Hylsa, which I

1 can talk endlessly about. The next company is a
2 company called Formacero, which is also a conduit
3 producer. The next company is La Metalica, which is a
4 conduit producer.

5 The next company is Tuberia Laguna, which
6 produces line pipe in larger diameters. Its website
7 also indicates that it produces ASTM A53 standard
8 pipe. We have contacted them, and they said yes,
9 that's on our website. They don't actually do it.
10 We've asked them to contact the Commission directly to
11 confirm that so that you're not relying on my
12 testimony on this. And then the last is Tuberia
13 Nacional, or TUNA.

14 As I explained previously, and I don't want
15 to talk about it too much, although I'm happy to
16 answer any questions, my client, Hylsa, is operating
17 flat out full capacity. They've shifted to higher
18 value products, focusing on OCTG, line pipe,
19 mechanical tubing. Production of standard pipe is
20 much less important to them today than it was -- how
21 many years ago is it -- 15 years ago.

22 But in any event, they are at some very high
23 number of capacity utilization, and their numbers are
24 based on, as I said before, three shifts a day, seven
25 days a week, with the exception of three shifts off a

1 week for repairs and maintenance. So they can't
2 produce any more.

3 Now I don't have the information about TUNA
4 as much. I know that TUNA's counsel was here. I
5 don't know if he's still here. But they've certainly
6 submitted a questionnaire response.

7 I have looked for information on the
8 internet, and there's some interesting facts about
9 TUNA that probably should be mentioned. One is that
10 the owner of TUNA is something called the Villacero
11 Group. The Villacero Group also owns a U.S. producer
12 of standard pipe, the company called Textube, and it
13 also owns an importer called S&P Steel Products.

14 And both TUNA and Textube can produce both
15 standard pipe and line pipe, which means that they
16 have a great deal of flexibility, even more than other
17 people, in dealing with an anti-dumping order, because
18 they can shift production. If they have a customer
19 for standard pipe and they can't export standard pipe
20 from Mexico, they can make it in Textube's facility.

21 And if Textube doesn't have the capacity,
22 Textube can say to TUNA produce some line pipe, you
23 know. And unless Textube is producing 100 percent
24 capacity of standard pipe, they always have the
25 ability to shift.

1 So if you see Textube and TUNA together not
2 at 100 percent capacity -- and I don't have their
3 information; I don't want to talk about their
4 information -- but if they weren't, it would mean they
5 don't have customers, because if they had customers
6 for more standard pipe, they could supply them.

7 So this is the situation. As I said, we
8 look at this and for the Mexican producers, there
9 really is no possibility of increased exports to the
10 United States in anything like the reasonably
11 foreseeable future.

12 Now of course you may say well, then why are
13 you here? It's because obviously there is, you know,
14 added flexibility in not having an anti-dumping order,
15 and life is much longer than reasonably foreseeable
16 future periods, and it would be nice not to have to
17 deal with standard pipe things.

18 And when they do export standard pipe, and
19 there are some small numbers of exports of standard
20 pipe, it would be nice not to have to worry about
21 somebody requesting an administrative review and
22 having to go through that whole Commerce Department
23 proceeding for one sale of a truckload of pipe, which
24 we have in the past had to do.

25 But when you look at the data and the

1 information on the record, there really is no evidence
2 that either Argentina or Mexico are going to increase
3 their exports in any way in the reasonably foreseeable
4 future, and for that reason, the orders on those two
5 countries at least should be revoked. Thank you very
6 much.

7 CHAIRMAN KOPLAN: Thank you, Mr. Winton.
8 We'll begin the questioning with Commissioner Aranoff.

9 COMMISSIONER ARANOFF: Thank you, Mr.
10 Chairman. Welcome to the afternoon panel, modest in
11 numbers though you are. Let's see. Mr. Winton, in
12 your presentation to us, you've just gone on and
13 looked in particular at the per unit profitability of
14 the domestic industry.

15 As I understand the argument that the
16 industry was making this morning, it was that it is
17 making okay profits on fewer and fewer units because
18 the injury that it is facing and will face if the
19 order is revoked is volume-based. So if I don't look
20 on a per ton basis and I just look at absolute
21 numbers, do you have something different to tell me
22 about the picture that it paints?

23 MR. WINTON: I do. I have two answers to
24 that. One answer is if you look at the overall
25 numbers, and I was sort of kicking myself for not

1 giving those to you too because they're very good
2 numbers as well, Table 3-7, I've given you just the
3 second part of it, which is the per ton.

4 In fact, overall profitability is very high
5 as well. Operating income in 2005 was \$121 million.
6 In 2004, it was \$145 million. The only other time it
7 was over \$100 million was in 1999 when it was about
8 \$102 million. So, on an overall basis, 2005 is a good
9 year, very good year. Not the best year ever, but you
10 can only have one best year ever. Every year can't be
11 the best year ever.

12 The other thing is the second set of tables
13 I included, which is the overall pipe production
14 operations, what you see is the decline in production
15 of circular pipe and tube, some decline in production
16 of light-walled rectangular pipe, but a very large
17 increase in production of line pipe, OCTG, and other
18 products and others, I'm assuming -- there's a
19 breakdown of what those are in the confidential
20 version. And those are all higher value.

21 And so what you have is an industry that's
22 producing more of the higher value products and less
23 of the lower value products. We heard testimony this
24 morning by Mr. Barnes I think, who said in the
25 hierarchy of pipe products, standard pipe is the

1 lowest. And so when you see producers who are
2 producing more and selling more of higher value added
3 products, that sounds to me like, you know, that's a
4 smart business decision.

5 It has nothing to do with conditions in the
6 standard pipe market. You know, if they were to
7 produce more standard pipe and give up opportunity in
8 the OCTG market, they would maybe be injured, but it
9 wouldn't be because of imports. It would be because
10 they were just bad businessmen. And I don't believe
11 they are bad businessmen.

12 COMMISSIONER ARANOFF: Okay. Turning to a
13 different subject, looking at your prehearing brief,
14 you write your brief as though you are arguing that
15 the Commission should not cumulate subject imports
16 from Mexico with those from the other subject
17 countries for circular. But I don't see that you
18 actually explicitly make the argument about why we
19 shouldn't cumulate, so why don't you go ahead and make
20 that argument, please.

21 MR. WINTON: Well, I think the argument is
22 there are not likely to be -- I know the term we would
23 use in an investigation is negligible; the term we
24 would use here is no discernible adverse impact. It's
25 impossible for you to apply the cumulation criteria

1 when the exports are going to be as small and sporadic
2 as these are going to be. And so that's our argument
3 against cumulation.

4 We are differently positioned than the other
5 producers. And unlike other producers, and I don't
6 have the information to know what their capacity is
7 and what their likelihood of exports to the United
8 States are, but I do know about ours, and we are in a
9 different competitive situation.

10 COMMISSIONER ARANOFF: Okay. Now I
11 understand then you're telling me you're making a no
12 discernible adverse impact argument, which is what we
13 say in sunset reviews instead of negligible.

14 But assuming for just a moment that for some
15 reason, you know, we were not to accept that argument
16 and were to go on and look at the regular cumulation
17 criteria and at the kinds of discretionary factors
18 that we look at in deciding whether or not to cumulate
19 a sunset review, is there anything that you can tell
20 me about why the conditions of competition under which
21 Mexican imports, small as they might be, would compete
22 in the U.S. market as compared to the other subject
23 countries, or do you just not want to put forth that
24 argument?

25 MR. WINTON: Have you ever looked and known

1 a lawyer not to put forth an argument? It's part of
2 our job training. I think there are differences for
3 Mexico. And, you know, part of it is the two Mexican
4 producers, the two major Mexican producers, Hylsa and
5 TUNA, are located in Monterrey, Mexico or very near
6 Monterrey, Mexico, which is inland. It supplies the
7 U.S. by shipping truckload quantities.

8 And really none of the other subject
9 producers have that kind of geographic location, and
10 that's an advantage and it's a constraint. It's an
11 advantage in the sense that Hylsa and TUNA can respond
12 quickly to customer orders.

13 They're not, you know, limited to several
14 months ahead of schedule so you can get it on the ship
15 and get it to the United States, and who knows what's
16 going to be happening two months from now? They don't
17 have that issue. They can be in the United States
18 within a matter of a day or two. I mean, I used to
19 know this. It's like 150 miles to the border or
20 something like that.

21 On the other hand, because they're shipping
22 by truck, it limits the geographic area that they can
23 compete in. Now do they never compete with other
24 imports? No, that's not true. They have seen other
25 imports in the areas where they market. But it is a

1 limited geographic impact. And so I would be shocked
2 if the people up in Pennsylvania, for example, ever
3 saw Hylsa's products up there or TUNA's products.

4 There is one other condition of competition,
5 and I don't really have any of the facts of this other
6 than I saw it in the Commission's report in the
7 preliminary investigation of line pipe from Mexico and
8 Korea, which is that, as I mentioned, TUNA and Textube
9 are owned by the same company, and Textube has some
10 sort of marketing relationship with Lone Star, and I
11 don't know any of the details of it and to what extent
12 that applies to TUNA or anything at all about it.

13 But to the extent that there are issues
14 about TUNA, that may come into play. And again, you
15 know, having a source of supply that's somehow under
16 the control of a U.S. producer would be a very
17 different thing than any of the other imports. But I
18 don't honestly have the details, except to say I saw
19 it in the staff report in the line pipe case.

20 COMMISSIONER ARANOFF: Okay. If there's
21 anything that you can add in your posthearing. I
22 think I heard you making both a geographic overlap
23 argument, which goes to reasonable overlap of
24 competition, as well as making some conditions of
25 competition arguments that may go to more

1 discretionary factors, so anything that you can do to
2 flesh those out in your posthearing would be
3 appreciated.

4 One of the issues that came up this morning
5 in the discussion was are subject producers competing
6 in their home market against product from China, so
7 I'll ask you. Is your client, Hylsa, or are you aware
8 with respect to other producers in Mexico competing
9 with Chinese product, either of standard pipe or
10 light-walled rectangular in the Mexican market or in
11 other export markets other than the United States?

12 MR. WINTON: Well, for my client, let me ask
13 them and get back to you, because I have some views on
14 this, but they're probably better if they're informed
15 by the facts.

16 COMMISSIONER ARANOFF: Okay. Well, that
17 will be fine. While you're having this conversation
18 with them, obviously one of the things we're
19 interested in is relative prices. And to the extent
20 that China is present either in the Mexican market or
21 in other markets to which your client is exporting,
22 what, you know, kind of what their share or volume has
23 been in terms of making inroads on those markets.

24 I want to address the argument that was
25 raised this morning about subject producers being

1 pushed out of third country markets and therefore
2 having an incentive to ship to the United States, as
3 well as the issue that was raised this morning about
4 whether subject producers have protected home markets
5 where they may not be competing against the Chinese
6 product.

7 And with that, I'll pass, because my light
8 is yellow. Thank you, Mr. Chairman.

9 CHAIRMAN KOPLAN: Thank you, Commissioner.

10 Mr. Winton, let me start with your brief for
11 Hylsa. At page 5, you argue that "By expanding
12 production of high value products like line pipe,
13 OCTG, and mechanical tubing, the Mexican industry has
14 managed to maintain high operation levels while
15 enhancing its profitability", and then you go on and
16 you say, "At these high levels of capacity
17 utilization, domestic and pipe industry simply does
18 not have the capability to expand its production of
19 subject or non-subject merchandise." That's the end
20 of the quote.

21 However, the confidential data, for example,
22 I'm looking at Tables Circular, Chapter 4, 10 and 11
23 at pages 29 to 31 in that circular chapter. They
24 indicate high capacity utilization for non-subject
25 pipe and tube products and much lower capacity

1 utilization for the subject product.

2 To me, that evidences substantial capacity
3 to increase production of subject pipe. Without
4 disclosing the details of the confidential data, can
5 you reconcile the data I'm looking at in our staff
6 report with the argument in your brief? And if you
7 prefer to do that posthearing, I'm happy to have you
8 do that.

9 MR. WINTON: I can do that, I think, if we
10 can speak in codes. If you look at circular 431 --

11 CHAIRMAN KOPLAN: I'm looking at it.

12 MR. WINTON: -- and you see there are two
13 levels of capacity utilization, and then you look
14 below that to the footnote, the footnote, I think,
15 explains a lot of the difference between those numbers
16 and my argument. In addition, there's a --

17 CHAIRMAN KOPLAN: What about the balance of
18 your argument?

19 MR. WINTON: Well, there's -- if your pipe
20 production facilities are operating -- and I will
21 make up a number, because I don't want to use the
22 confidential numbers -- if your overall pipe
23 production facilities are operating at 90 something
24 percent capacity or high 80s or whatever the number
25 is, it doesn't make sense to say your subject

1 merchandise capacity is much higher, because -- I'm
2 sorry, capacity utilization is much lower, because
3 this is interchangeable capacity.

4 CHAIRMAN KOPLAN: Let me just, and I just
5 correct myself, I just want to -- you don't dispute
6 the numbers that I'm looking at on the table, though?

7 MR. WINTON: I see that there are numbers in
8 the table, yes. No, I recognize the numbers.

9 CHAIRMAN KOPLAN: Okay.

10 MR. WINTON: There's a problem with the
11 numbers, which is identified in the footnote, and I
12 think there is a conceptual problem. If the overall
13 production capacity utilization is very high, it
14 doesn't make sense to say for individual products,
15 it's much lower. It just doesn't make sense. Let me
16 explain -- I can tell you about Hylsa's situation,
17 although Hylsa is at very high levels of capacity
18 utilization and we reported that for the subject
19 merchandise and for all merchandise. But, Hylsa has a
20 number of different pipe production facilities. It
21 has a stretch reduce line and what the stretch reduce
22 line does is you take a piece of steel and you roll it
23 into a pipe and you make pipe using the normal ERW
24 process. And they make another pipe, I think it's
25 four inches. And then they pull it to the appropriate

1 diameter, so it gets stretched and reduced in size to
2 whatever diameter you want. So, if you want a two-
3 inch pipe, you make a four-inch pipe and you pull it
4 and stretch it. That's one of their production
5 facilities and that can be used to make OCTG, line
6 pipe, or standard pipe, or certain types of structural
7 pipe. I mean, it has lots of potential uses.

8 And the reason it can be used for OCTG and
9 line pipe is one of the things that happens when you
10 stretch it, is you have to heat it. And so, as a
11 consequence of just the production facility, it's heat
12 treated. It's not that you do separate heat
13 treatments, but it is heat treated. So, that's heat
14 treated. That means with that facility, they can
15 produce all OCTG or all line pipe or all standard
16 pipe.

17 They have other facilities, which are not
18 limited -- not using stretch reduce process, which are
19 just ERW mills that you product directly to a specific
20 size. So, if you want to make a two-inch product, you
21 take the steel and you roll it to two inches and then
22 you have a two-inch pipe. And you don't stretch
23 reduce it and you don't heat treat it. So, that's not
24 OCTG and it's not line pipe. It could be mechanical
25 tubing, which is non-subject.

1 And so what Hylsa does, they say, how do we
2 maximize our profits, which, as we heard this morning,
3 is what they're after. And the answer is, you look at
4 what the product mix is and you can use those
5 facilities. And unless you're producing entirely OCTG
6 on the stretch reduce mill, you always have the
7 ability to produce more OCTG and to shift standard
8 pipe to one of the ERW mills or to produce mechanical
9 tubing on the ERW mills. So, it's all
10 interchangeable. And to say because we are in some
11 period, you know, we're operating all these mills at
12 90 percent capacity utilization, but somehow our
13 standard pipe production capacity is -- utilization is
14 40 percent, it just -- to me, I don't know how you get
15 there, because it's all interchangeable. You can use
16 it all -- every mill they have can be used to make
17 standard pipe, but they can all be used to make non-
18 subject products, as well. So, it's not like there's
19 a separate capacity for standard pipe.

20 And this goes to -- you know, conceptually,
21 I think it's very hard to come up with good capacity
22 numbers for just standard pipe here, because take an
23 example Mr. Schagrin gave this morning. Suppose you
24 have a mill with the capacity of 100 tons and,
25 typically, you produce 40 tons of light-walled

1 rectangular pipe on that. That's your traditional.
2 But, now, the market -- for some reason, the market
3 for round pipe goes up. You know, there's a -- round
4 mechanical tubing. There's like a run on choppers,
5 you know, the motorcycles with the long tubes or
6 something like -- who knows. Some reason, all of a
7 sudden, the price for round mechanical tubing goes up.
8 And rational businessmen say, okay, let's produce
9 round mechanical tubing. Why should we continue to
10 produce light-walled rectangular, if round mechanical
11 is more profitable. So, we shift and we're producing
12 100 tons now of round mechanical, whereas before, we
13 used to product 60. And Mr. Schagrín would say, well,
14 in that case, you have 40 tons of unused capacity to
15 produce light-walled rectangular. Why? Because our
16 traditional product mix was 40 percent rectangular and
17 60 percent round and so, today, we're producing 100
18 percent round. That means we still have 40 percent
19 capacity to produce mechanical.

20 It just -- I'm not faulting him for that,
21 I'm just saying it doesn't make sense. If you're
22 producing everything you can produce on the mill, then
23 you don't have excess capacity. And it doesn't make
24 sense to say, well, we traditionally produce 40 tons
25 of light-walled rectangular and if we're not producing

1 40 tons, we're under full capacity, if you're using
2 that same capacity to make other products, which is
3 what's going on here, and especially if the other
4 products you're making are higher value products,
5 which is, certainly in our case, what's going on.

6 CHAIRMAN KOPLAN: Thank you. Let me turn to
7 Argentina. You're arguing at pages 13 and 14 that if
8 the orders are revoked, and I'm quoting, 'the
9 historical evidence suggests that if there were
10 imports from Argentina and Taiwan, they would probably
11 serve different regions of the U.S. market.' That's
12 on page 14. In the first review, my recollection was
13 that no party argued against a reasonable overlap of
14 competition between subject imports of light-walled
15 rectangular from Argentina and Taiwan, if the orders
16 were revoked. Siderar 'only became a producer of
17 light-walled rectangular pipe and tube on January 31,
18 2006, when it purchased the assets formerly owned by
19 Acindar, an unaffiliated producer until that time when
20 Acindar's customers for flat sleet.' That's at page
21 two of your brief.

22 I'm not persuaded by what you term the
23 'historical' basis for your argument. What else can
24 you add on this point?

25 MR. WINTON: Well, in terms of -- Siderar

1 was not in the market, so Siderar's knowledge of the
2 history, of course, is limited. The historical
3 information we submitted was based on the original
4 staff report in the original investigation and I
5 think, without disclosing confidential information, I
6 think it does support the claim that there is a
7 different geographic market. Besides that, and we can
8 try in a post-hearing submission to get you
9 information on this, Argentina -- I don't want to make
10 it too simple, but Argentina is on the east coast of
11 South America and the natural market is to ship to the
12 east coast, gulf coast of the United States. Taiwan is
13 obviously on the Pacific. The natural market is to
14 ship to the west coast of the United States, which is
15 not to say that you can't ship from Taiwan to the gulf
16 coast or that you can't ship from Argentina to the
17 west coast. But, it's more expensive. You have to go
18 through the Panama Canal. So, there are other reasons
19 why, in terms of -- if you were going to export a
20 quantity, you would think the Taiwanese would first
21 look to the west coast; the Argentines would first
22 look to the east coast, gulf coast.

23 CHAIRMAN KOPLAN: These things can be made
24 on the same equipment. I think you conceded that in
25 your brief, at some point, that CWP and LWR can be

1 made on the same equipment with the same people;
2 correct?

3 MR. WINTON: Sometimes.

4 CHAIRMAN KOPLAN: Okay.

5 MR. WINTON: Not always, but sometimes.

6 CHAIRMAN KOPLAN: Okay. I see my red light
7 is on. I was just going to observe, one thing that is
8 new now with Siderar in the picture and Hylsa being an
9 affiliate of Siderar in Mexico, I'm wondering how that
10 all factors into the question I just asked. And I see
11 my red light is on, but I'd like you to come back to
12 that, if you would, in my next round, because that is
13 something new right now. And with that, I'll turn to
14 Vice Chairman Okun.

15 VICE CHAIRMAN OKUN: Thank you, Mr.
16 Chairman, and let me join my colleagues in welcoming
17 you here this afternoon. And Mr. Corkran, welcome for
18 your first appearance before the Commission. I regret
19 that I had to be away this morning and did not have
20 time to question the Petitioners and their panel.
21 But, I understand from the length of time that was
22 spent with them, that I think every question that I
23 would have wanted to ask was covered and will
24 obviously have a chance to look at the transcript.
25 So, I will be sure and do that.

1 For this panel, Mr. Winton, let me just go
2 back. Commissioner Aranoff had asked you with regard
3 to cumulation both to address no discernible adverse
4 impact and the discretionary factors in post-hearing.
5 And you had a chance to comment on some of your
6 arguments with regard to Mexico. Do you have anything
7 you want to say in the public hearing here with regard
8 to Argentina, with regard to cumulation issues?

9 MR. WINTON: Yes. Thank you. Of course, we
10 don't think Argentina should be cumulated with Taiwan.
11 Part of that again is the no discernible adverse
12 impact. The Argentine products really are focused on
13 the Argentine market. They just -- it's not -- they
14 don't have any plans to export to the United States.
15 Also, there are issues of geographic overlap, as I
16 mentioned. Although Chairman Koplman was not convinced
17 by it, there is some historical evidence from the
18 original investigation and some other reasons to
19 believe that there wouldn't be geographic overlap.

20 And then there also is a product issue and
21 this was the subject of a question this morning. The
22 Argentine producers produced to something called the
23 Iram -- I hate trying to pronounce Spanish terms --
24 but I-R-A-M standards. They don't have experience
25 with the ASTM standards that are typically used in the

1 United States. And this doesn't mean they can't
2 produce ASTM standards, but they haven't done it.

3 And I heard Mr. Schagrin say this morning
4 when talking about China, that he thought that one of
5 the reasons Chinese exports may not have been found in
6 other markets was because other markets have different
7 standards and it could take them a while, you know, a
8 year or so to figure out those standards. I think
9 Siderar is in that situation. They clearly could
10 produce ASTM, but they haven't produced ASTM and they
11 need to sort of figure out how to do that and then,
12 you know, figure out do they have the equipment, what
13 needs to be done. It would require -- it's not
14 impossible by any means, but it would require some
15 effort. It's not something they do. So, that's --
16 you know, there's a product differentiation, because
17 they're not producing to the same standards as the
18 U.S. producers and the Taiwanese producers, at least
19 not now.

20 VICE CHAIRMAN OKUN: Okay. Well, for post-
21 hearing, if you could ask your client on that whether
22 they could make an estimate of both how long it would
23 take to implement the changes necessary to comply with
24 the ASTM standards, an estimate of the cost, and
25 whether there is an amount of LWR the affiliated would

1 have to produce to make that worthwhile and provide
2 that for the record. And then with respect to the
3 other issues that you addressed in cumulation, with
4 regard to the regional overlap and the questions the
5 Chairman had for you, if you could discuss that in the
6 context of the operation of this market, the one that
7 I've always understood, where you have master
8 producers that are able to move product across the
9 country. It strikes me that that is a harder argument
10 to make. But, if there is other information that you
11 could point to, I will take a look at that for post-
12 hearing.

13 Let me ask you, again, talking about
14 Argentina now, you had noted in your opening comments,
15 there was a lot of talk about China, at least from the
16 point I was here, I did hear that. But, obviously, it
17 is, I think, a condition in this market, where you
18 have a large amount of non-subjects, that we do have
19 to pay attention to it. But, you had also made a
20 comment that I wrote down here, saying that we were
21 constrained by the record we had here. And I feel
22 that -- I think that's an accurate statement, but for
23 me the information I'm constrained by is the
24 historical evidence with regard to the subject
25 countries. And while I appreciate you being here and

1 representing your clients and giving the information
2 that you can, the chapter for rolled circular and LWR
3 lack a lot of information that we've had in some of
4 the other recent sunsets.

5 And so, there were a couple of things that I
6 wondered if you could help fill in. One would be with
7 regard to Argentina, you have argued that Siderar will
8 be focused on their home market and we have
9 information that your client has submitted with regard
10 to that. I wondered if you could address in post-
11 hearing or now, to the extent you're familiar with it,
12 and I know you've indicated you're more familiar with
13 the Mexico market, just any there macro-economic
14 developments going in that market, both in Mercosur
15 and Argentina directly that would help me better
16 understand what conditions are likely to be in the
17 reasonably foreseeable future. We have some data we
18 collected, you know, North America, China; but to the
19 extent that you've made that argument, if there's any
20 other data that can be collected, I think that would
21 be really helpful.

22 MR. WINTON: Yes. And we submitted as an
23 appendix to our brief something called the FIEL macro-
24 economic forecast --

25 VICE CHAIRMAN OKUN: Right.

1 MR. WINTON: -- for Argentina, which is
2 really, I think, the best information we have of
3 what's projected --

4 VICE CHAIRMAN OKUN: Okay. It wasn't broken
5 out kind of the same way as some of the other data
6 that we were able to collect and other ones. But, if
7 there's not anything else available, I will look to
8 that. I appreciate that, that you did try to do that.

9 Then, help me understand your argument with
10 regard to what pricing would be like in the market, to
11 the extent that the orders were lifted and there was -
12 - let's say, if it's a cumulated case, there was
13 subject imports that come in. How do you see the
14 price pressure being translated in this market vis-a-
15 vis a large non-subject presence, not only from China,
16 but from Canada, and how should we evaluate that?

17 MR. WINTON: I have -- I want to say I have
18 no idea. I have an idea. It strikes me as
19 implausible that if the Chinese, who have no
20 constraints on their products, are selling it at what
21 we were told as massive underselling, that we would
22 somehow come in and be able to take other market share
23 away from the U.S. producers. I mean, I would assume
24 that whatever market share they were going to lose,
25 they'd lost already, if their story is correct,

1 unless, you know, there may be Buy American
2 preferences. There may be people, who -- not formal
3 Buy America preferences, but informal Buy America
4 preference. It may be geographic reasons -- all the
5 things, I think, Commission Pearson was getting to,
6 why this market doesn't have one equilibrium price,
7 but has two equilibrium prices. But, you know, as
8 from what I understand, anyone, who is interested in
9 price, would be buying from China. And I haven't
10 heard the evidence that would suggest that that's not
11 happening or that there's some market that we're
12 miraculously going to go in for people, who want to
13 buy imports at a lower price, but don't want to buy
14 Chinese imports at an even lower price. I just don't
15 understand how that works. I'm sorry, that was
16 Commissioner Pearson's question, I think, but I come
17 to the same point. So, I don't see how we're going to
18 take market share.

19 I can say this, certainly on behalf of
20 Hylsa, who I have known for 15 years, they, like the
21 Chinese, do not like to leave money on the table. I
22 have never seen them come in and say, let's take less
23 money than we could get for this, and I, frankly,
24 don't think any of the U.S. producers or anyone else
25 supplying this market is taking less money than they

1 can -- that they can get.

2 VICE CHAIRMAN OKUN: Well, on that point,
3 would you -- in terms of, you know, again, I've done a
4 lot of sunset cases at this point, do you think that
5 that is a different argument when you have, like in
6 this industry, where the subject imports have gone out
7 of the market for a particular country and would have
8 to come back in, versus a case where subject imports
9 have stayed in at fairly-traded prices and based on --
10 well, you have imports still in the market, do you
11 there's a different pricing pressure for the subject
12 imports reentering?

13 MR. WINTON: I don't think so. This comes
14 back to an argument I'm trying very hard not to make,
15 because I think it complicates things, but it is
16 nevertheless true, which is anyone, who wants -- it's
17 certainly for black products, anyone, who wants to
18 sell black standard pipe in the United States, is able
19 to do it notwithstanding these antidumping orders,
20 because they can sell dual certified line pipe,
21 standard pipe. And so, if somebody really wanted to
22 be selling black standard pipe in the U.S. market,
23 there are ways to do it. It's not standard pipe; it's
24 standard pipe and line pipe and it's classified, for
25 our purposes, as line pipe. But, they can supply

1 customers, who want to put it in a black standard pipe
2 application. There's no question about it.

3 I know with my clients, they sell a variety
4 of pipe products in the United States. They sell --
5 we heard -- they sell light-walled rectangular pipe.
6 They sell OCTG. They sell line pipe, single certified
7 and dual certified. I don't think they need to come
8 into the market fresh and say, hey, we'll sell at a
9 very low price, because nobody knows us. That's not
10 their situation and I don't think it's the situation
11 of the Koreans, for example.

12 VICE CHAIRMAN OKUN: Okay. I appreciate
13 those comments. My red light has come on. Thank you,
14 very much.

15 CHAIRMAN KOPLAN: Thank you. Commissioner
16 Hillman.

17 COMMISSIONER HILLMAN: Thank you and I, too,
18 will join my colleagues in welcoming you to the
19 afternoon panel. If I could, let me start a little
20 bit on this issue of cumulation, as well, because I
21 appreciate all the arguments made in your brief. To
22 be perfectly honest, my view is I don't even reach
23 them, unless I first reach the issue of not cumulating
24 either Mexico or Argentina in these cases. And I
25 appreciate your response to Commissioner Aranoff, that

1 you think we should do this on the basis of no
2 discernible adverse impact. I had to say, I'm one of
3 those people that takes the Congress relatively
4 literally when they is it not discernible. My
5 reaction to that is I can see a lot. And to be
6 perfectly honest, I can see already a volume of
7 imports on the Mexican side on standard that is above
8 what we would normally say above the not discernible
9 threshold.

10 So, if that's where we are, I guess my
11 question would be a couple of things. One, what
12 arguments would you make on the assumption that we
13 are, in fact, cumulating all of the subject countries?
14 I mean, what would you have us look at, in terms of
15 the volume, price, impact factors, in reaching a
16 negative determination, if I don't accept the notion
17 that Mexican imports are not discernible, not going to
18 have any discernible adverse impact and I cumulate,
19 then what? What would you point me to, in terms of
20 your arguments?

21 MR. WINTON: Can I say, and Commissioner
22 Hillman, I don't know if you were here, and I
23 apologize, you may not have been here during my
24 statement, but there actually is -- the evidence on
25 imports from Mexico is that --

1 COMMISSIONER HILLMAN: I'm sorry. I take
2 that back.

3 MR. WINTON: Okay.

4 COMMISSIONER HILLMAN: But, let's still go -
5 -

6 MR. WINTON: Okay. But, let's --

7 COMMISSIONER HILLMAN: -- to the fundamental
8 question of let's say we're not accepting that we're
9 not going to view them as not discernible or that we
10 are going to not find some of the other conditions
11 that you were discussing with Commissioner Aranoff as
12 a basis for not cumulating.

13 MR. WINTON: Here's --

14 COMMISSIONER HILLMAN: Again, this is a
15 discretionary factor, I understand. It's different
16 than it is in the original investigation.

17 MR. WINTON: Here's how I see this case.
18 This is a U.S. industry that just came off its best
19 year ever, to have its second best year ever. But,
20 they're complaining to you, because they're worried
21 about imports from China. And we heard China, China,
22 China, China, China. That was the whole morning
23 presentation. And I thought I heard Mr. Klinefelter
24 say, after he said that he was retiring, that there
25 was a good chance he would be here again before he

1 actually retired and I took that to mean that they're
2 going to file a dumping case against China. And if
3 they do that, then it seems to me, they have no
4 grounds to complain about the rest of us, because it
5 will take care of their problem and the rest of us --
6 you know, we're not China, as they keep saying, and
7 certainly Mexico and Argentina are not China in any
8 way. I've noticed that from my travels that they're
9 not China.

10 COMMISSIONER HILLMAN: I actually didn't
11 read that much into Mr. Klinefelter's comments that he
12 might be back here. But, leave aside the case on
13 China. Let's -- again, I'm struggling with, I'm
14 trying to take your argument and I guess on both
15 light-walled and on standard pipe, I would ask you to
16 if we do cumulate, whether you would continue to make
17 the same arguments or whether there are other things
18 that you think we should look at, in rendering a
19 determination, should we, in fact, cumulate on both
20 products?

21 MR. WINTON: I think you have to look at
22 them separately, because they're very different
23 factual records. In light-walled rectangular, when
24 you look at the volumes that were coming in from
25 Argentina and Taiwan at the time of the original

1 investigation, they were very low. It was a threat
2 case, as I recall, because imports had gone up in a
3 short period. But, even the level that they had gone
4 up to was quite low. There's not a history of large
5 volumes of light-walled rectangular pipe coming in
6 from Argentina and Taiwan ever. And compared to the
7 volumes that the Commission found non-injurious a
8 year-and-a-half ago, when we were here for the Mexico
9 and Turkey case, Argentina and Taiwan are in -- just
10 not significant. Now, I know it's not the same thing
11 as the case on Mexico and Turkey. It's a different
12 statutory standard, different record, different
13 period. But, the volumes that you're talking about
14 are much lower.

15 COMMISSIONER HILLMAN: As I vaguely recall,
16 the Mexico, Venezuela case, that was largely a price
17 issue. I mean, as I recall the Commission's
18 determination, it was not so much a volume-based
19 determination, as it was the issue of prices had gone
20 up very much at the time. I think we were not -- we
21 did not see evidence of price depression or
22 suppression, as opposed to rendering an opinion that
23 said this volume, in and of itself, is not
24 significant. Like I said, I will go back and re-read
25 the opinion. But, my recollection is that it was

1 largely a price impact --

2 MR. WINTON: Right.

3 COMMISSIONER HILLMAN: -- negative
4 determination, rather than volume.

5 MR. WINTON: Right. While that is true, I
6 don't think you can separate volume of imports
7 entirely from price impacts. You know, a small volume
8 of imports is not likely to have a large price impact.
9 I can imagine situations where that might occur, but
10 we don't have any evidence here. And the question is,
11 do you have any reason to believe that the Argentines
12 and the Taiwanese would be pricing their products in a
13 different way than the Mexicans and the Turks were,
14 when you looked at that a year-and-a-half ago. And
15 it's not the volume coming in.

16 Now, having said that, I have to tell you, I
17 am conflicted and I am conflicted in responding to
18 your question, because I'm the one here on behalf of
19 Argentina and Mexico and if the Koreans and the
20 Taiwanese want to get out of this case, they should
21 pay me to defend them. They haven't done that. But,
22 on the other hand, I would like to get my clients out
23 of the case. So, you know, I don't want to -- I can't
24 talk about what's going on --

25 COMMISSIONER HILLMAN: Once again, and I

1 would welcome if you wish, in your post-hearing brief,
2 to help us address, as we have struggled to do so over
3 all of these sunsets, of what to do in these
4 instances, in which we have participation from some
5 and not from others and how do we fairly render a
6 determination that does not, in essence, hold it
7 against either side that we have some participation
8 from some and not from others, in light of the need to
9 make a cumulation decision. So, I would welcome
10 anything that you would want to tell us, in terms of
11 how -- what the Commission should do in an instance,
12 in which we are not attempting to penalize either you
13 and your clients for the fact that we did not have
14 participation from a number of other countries. And
15 on the other hand, I don't think we want to penalize
16 the domestic industry, because, again, various players
17 did or did not show up.

18 So, I would invite you to address -- you've
19 talked now about light-walled. Are there arguments
20 that you would want to make on the standard side,
21 assuming that we were to cumulate all of the subject
22 countries?

23 MR. WINTON: Again, there certainly are
24 arguments and I don't want to concede the issue. I am
25 sort of constrained by the fact that we all made a run

1 at this five years ago and, at that point, we had a
2 lot of evidence and discussion about what the meaning
3 -- what it meant that you could import multiple
4 certified pipe without being subject to antidumping
5 duties. The Commission, I think, was three to three
6 on Mexico, which was heartbreaking for me. It was
7 more negative on the other countries. And so -- but,
8 I think those arguments are still valid, in that you
9 have, to the extent that you were going to see black
10 standard pipe from any of these countries, it could
11 come in. It may be here or it may not be here, but
12 there's no antidumping constraint on it and the
13 constraint is on the galvanized.

14 I think Mr. Schagrin told the story about
15 what I did 15 years ago. Actually, he got it
16 backwards. The rule was originally that galvanized
17 line pipe fell -- was line pipe and he went to Customs
18 and got them to change the rule. I mean, he should
19 take credit for that. It was totally outrageous and
20 our industry experts can't believe it, but that is the
21 rule Customs applies.

22 COMMISSIONER HILLMAN: All right, but if --
23 again, I'm looking at a lot of the things, the
24 factors, the conditions of competition, if you will,
25 that we found, again, on a cumulated basis in the

1 first five-year review. So, I'm trying to make sure I
2 understand whether you think there is something about
3 those kind of conditions of competition that has
4 changed in this intervening five years, not just with
5 respect to Mexico, but more broadly, things like the
6 demonstrated ability of producers to increase their
7 U.S. market penetration rapidly, the existence of
8 large capacity allocated to the production of standard
9 pipe, additional subject capacity allocated to the
10 production of non-subject product that could be
11 shifted. I mean, there were a number of these factors
12 that the Commission looked at in the first five-year
13 review and I'm trying to make sure I'm hearing whether
14 you think something has now changed.

15 MR. WINTON: Anyone in the steel industry,
16 who tells you it's the same today as it was five years
17 ago is pulling your leg. It is very different today
18 than it was five years ago. We all see it. The price
19 of coil is up. Five years ago, the steel industry was
20 in here every week with a new case for you. Now,
21 they're making record profits. The cost -- the hot-
22 rolled coil costs have gone up. Raw material costs
23 for the hot-rolled producers have gone up. Energy
24 costs have gone up. The producers have been able to
25 pass those through. The standard pipe producers have

1 been able to pass it through. We are dealing now with
2 much higher price products than we were five years
3 ago. It's just not the same market. But, I will be,
4 because -- we can address this in our submission how
5 this works. But, I don't think anyone would say it's
6 the same today as it was five years ago.

7 COMMISSIONER HILLMAN: Okay. I appreciate
8 those responses. Thank you.

9 CHAIRMAN KOPLAN: Thank you. Commissioner
10 Lane?

11 COMMISSIONER LANE: Good afternoon. I, too,
12 welcome both of you here. I sort of wish clients were
13 here too, but I guess you have no control over that.
14 At page five of your pre-hearing brief, you discuss
15 expansion of production of higher-valued products,
16 such as line pipe or OCTG. Could you, please, tell me
17 how easy it is to shift -- to product shift from
18 circular welded pipe to line pipe or OCTG? Can you
19 make that product shift from one work shift to another
20 or are there longer lead times required for equipment
21 or other changes? And if longer lead times, please
22 describe what is involved and how long it takes?

23 MR. WINTON: I should check this with the
24 production people, but this is not a problem for them.
25 It's a function of how -- at least for my client --

1 COMMISSIONER LANE: Could you speak into
2 your mike just a little bit?

3 MR. WINTON: Sorry.

4 COMMISSIONER LANE: I'm sorry.

5 MR. WINTON: Sorry. For Hylsa, it all comes
6 out of the same production line. It's a question of
7 what steel you put in and how you test it at the end
8 of the process, okay. For OCTG, I believe there's a
9 slightly different quality of steel. For line pipe, I
10 believe you can use the same quality of steel. I'd
11 have to confirm this. But, you put the steel into the
12 stretch reducing mill and depending on which steel you
13 put in and it comes out and you have a pipe and you
14 test it. And if you test it one way, you say it meets
15 the ASTM standards and it's standard pipe; if you test
16 it a different way, you say it meets the API5L
17 standards and it's line pipe; or you can test it both
18 ways and say it's both ASTM and API5L. So, for line
19 pipe, it can be exactly the same product.

20 OCTG is a little different. I don't think
21 they triple certify it. They do triple certify some
22 products, but I've been told they don't triple certify
23 to OCTG. I think there's some difference in the
24 thickness. I'd have to check that. Probably Mr.
25 Schagrin knows better than I do, but I can check that

1 with the production people. I think, though, it's
2 just a function of what steel you put in and how you
3 test it. And then other than that, it's the normal
4 setup that you would go through for different sizes,
5 you know, if you were making different sizes of
6 standard pipe on the stretch reducing mill.

7 For the other mills that Hylsa has, the ERW
8 mills, you can't do it. You can't make line pipe and
9 OCTG, because there's no heat treatment. You'd have
10 to run it through a separate heat treatment facility
11 to get the normalization of the weld. But, you can
12 make mechanical tubing on those pipes -- on those
13 lines and you can make light-walled rectangular pipe
14 on those lines. So, the changeover is not that
15 extreme, but I can get you details -- more details
16 than that, if you want more details than that.

17 COMMISSIONER LANE: Okay, thank you. At
18 page six of your pre-hearing brief, you indicate that
19 the domestic industry's profitability dropped slightly
20 in 2005 as compared to 2004. Now, limiting the answer
21 to the comparison between 2004 and 2005, why do you
22 categorize the change in profitability as slight and
23 how much would it had to change before you would call
24 it significant?

25 MR. WINTON: The issue in these cases, I

1 think, is always what do you use --

2 COMMISSIONER LANE: I'm sorry, could you get
3 to --

4 MR. WINTON: I'm sorry.

5 COMMISSIONER LANE: Yes.

6 MR. WINTON: The issue, I think, in these
7 cases is always what do you use as a baseline. We
8 tend to look at things and say is this a big increase
9 or is it a small increase. I say it's slight, because
10 it's still very profitable in 2005. It's not the best
11 year ever, but it's still very profitable. And you
12 might say, well, it's a large drop. I think it's like
13 20 percent, right, from 2004 to 2005 overall in
14 operating income. It goes from 145 million to
15 121million. On a per ton basis, it's not that big.
16 So, you would say, that's 20 percent; that sounds big.
17 But, I say, if you drop to \$120 million a year in
18 profit and your previous high ever was 100 million,
19 you know, the drop is not significant, because you're
20 still having an extremely good year by any historical
21 standard. So, that's the way I tend to look at it.

22 COMMISSIONER LANE: Would you be concerned
23 about the downward trend at all?

24 MR. WINTON: At all. You know, I have a
25 bet, 2004 was the best year for the steel industry

1 ever. When we were here in 2004, the statements by
2 the steel producers were -- some of the old guys said,
3 we haven't seen anything like this since 1973, okay.
4 That was -- you know, which 1973, I was 12 years old,
5 in junior high school. I mean, that's how long ago --

6 COMMISSIONER LANE: And that's supposed to
7 make me feel better?

8 (Laughter.)

9 MR. WINTON: Sorry. But, I was still very
10 concerned about the pipe industry even then. You
11 know, it was -- I can remember the Latin phrase, the
12 year annum mirabile.

13 COMMISSIONER LANE: Mr. Winton, the point I
14 am trying to ascertain from you is if you look at
15 2004, which you characterize as a good year, and then
16 it drops in 2005, are you concerned that of a downward
17 trend and how would you characterize that?

18 MR. WINTON: I am not concerned by the
19 downward trend, no. I am trying to think of the right
20 analogy and I apologize, because this is -- first of
21 all, a baseball analogy, which may not work, and
22 second of all, it's a baseball analogy which is soon
23 to be overtaken by events. But, I think it was in
24 1927, Babe Ruth hit 60 home runs and it was the
25 record. No one ever hit 60 home runs. And I don't

1 remember what he hit the next year, but let's say it
2 was 45 home runs. Would you say 45 home runs, we
3 should be concerned about a downward trend? No. He
4 had hit the most home runs ever in history in 1927.
5 You can't do that every year. The question is, is 45
6 home runs a good year even for Babe Ruth and the
7 answer was, yes. It may have been more than 45, if
8 anybody knows, please correct me. Two-thousand-five
9 was a good year by any standard except for the
10 standard of the best year ever. And, you know, you
11 can't hit a record number of home runs every year, you
12 just can't.

13 COMMISSIONER LANE: Okay. The last lawyer
14 that used a baseball analogy, I suggested that I would
15 like to trade two lawyers for an industry
16 representative.

17 (Laughter.)

18 COMMISSIONER LANE: And so, I shouldn't
19 treat you any differently than the other lawyer.
20 Let's go to page eight of your pre-hearing brief. You
21 argue that the domestic industry is actually operating
22 at a higher capacity utilization level than it reports
23 when considering its practical capacity. You go on to
24 state that an industry operating at full practical
25 capacity cannot easily expand output in response to

1 expanding demand. I think the question here is not
2 one of expanding output, if those orders are revoked,
3 but rather the domestic industry is suggesting that it
4 will lose a large market share to unfairly traded
5 imports. You're not suggesting that subject imports
6 are necessary to meet increased domestic demand, are
7 you? And if not, what point are you making on pages
8 seven and eight of your pre-hearing brief?

9 MR. WINTON: As I understand the domestic
10 industry's position, they are suffering because
11 imports have come in and they've lost market share in
12 the standard pipe market. And if it weren't for
13 Chinese imports, they would be selling more and making
14 more money. That, I believe, is their argument. My
15 view of the data is that the domestic industry has
16 chased the higher-value products, OCTG, line pipe,
17 mechanical tubing, and is making more money producing
18 those. And it's a good business decision, but there's
19 a consequence of that business decision. If you're
20 producing higher-value OCTG, line pipe, and mechanical
21 tubing, you cannot also be producing standard pipe at
22 the same time.

23 Now, if you had the ability to increase your
24 capacity, you could increase your capacity and do it
25 all. But, I don't think they can. I don't see the

1 evidence that they can. And I don't think when you
2 look at the historical evidence, what you see is they
3 are actually producing more pipe products on their
4 facilities today than they have ever produced in the
5 past. That's the answer. They can tell you about
6 they could produce more, but there's no historical
7 data that they have, certainly not on this record.
8 The production in 2005, total production, was highest
9 of any year, at least since 1999, which is the data we
10 -- the period we have data for.

11 So, given that they're producing more than
12 they've ever produced in the past and most of that is
13 producing more OCTG and more line pipe and more
14 mechanical tubing, they've had to cut back on standard
15 pipe. And that seems to be what's happening here.
16 And it doesn't seem to be that they've been driven out
17 of the market, is that they've chased the more
18 profitable sector and good for them for doing it.

19 COMMISSIONER LANE: Okay, thank you. Mr.
20 Chairman, I will wait until my next round.

21 CHAIRMAN KOPLAN: Thank you, Commissioner.
22 Commissioner Pearson?

23 COMMISSIONER PEARSON: Thank you, Mr.
24 Chairman. My welcome to the afternoon panel. It's
25 okay to have a small group there, some advantages of

1 that. What's your view on the question of whether CWP
2 and LWR are commodities or specialized products?

3 MR. WINTON: My understanding with LWR, at
4 least, is that it's very much customer specific; but
5 that you have a customer, who has specifications, and
6 you produce to those specifications. But, that
7 doesn't mean it's not a commodity, if there are a lot
8 of people, who can do it.

9 I don't know that -- I think we tend to
10 overuse the term 'commodity' too. I worked on cases
11 years ago on printing presses and on mechanical
12 transfer presses, where each project was one off. You
13 know, you designed it -- that to me, I get that that's
14 custom made. This stuff is not custom made. There
15 are certain specifications that you make and lots of
16 people can do it and whether you call that a commodity
17 or something else, I think they're old in a
18 competitive market. I don't think that Hylsa has a
19 market that nobody else competes with, because we have
20 some high tech way of making this. I don't think any
21 of the U.S. producers have shielded markets, in terms
22 of we make it in a special way that gives our product
23 special characteristics that no one else can do. It
24 may be, I haven't heard of it. There are probably
25 quality issues. There are reliability issues. There

1 are issues that go beyond the product to sort of
2 companies you can trust to do business with and
3 companies you can't trust to do business with. I
4 think that all factors into it and makes this -- not
5 every seller is on the same footing, but I don't think
6 this is a product where Allied Tube has its unique
7 technology, which no one else can copy. I don't --
8 so, if that's what you mean by not being a commodity,
9 then it's not a commodity. But, if you mean everybody
10 is the same and it's like wheat, it goes into a silo
11 and nobody cares who grew it, I don't think it's that
12 kind of a commodity.

13 COMMISSIONER PEARSON: Okay. Well, then, to
14 what degree, if any, is the market segment is such
15 that there might be an attenuation of competition? Do
16 you see any of that in this investigation?

17 MR. WINTON: I'm the wrong person to talk
18 about this, because I don't know the market. And I
19 apologize, because I would have loved to have the
20 salespeople from Hylsa or Siderar come and talk about
21 that, although the Siderar people don't know much
22 about the U.S. pipe market, but the Hylsa people do.
23 It does seem to me, though, there's got to be
24 something going on here. If the story we're hearing,
25 which is the Chinese product is \$300 a ton cheaper

1 and, yet, it hasn't taken over the whole market,
2 there's got to be something else, there's got to be
3 some segmentation. I can't think of any other way
4 that happens. Either that or the Chinese are very bad
5 business people and I haven't experienced that. So, I
6 see the evidence suggests segmentation, but I,
7 personally, am not knowledgeable enough to say why
8 that exists.

9 COMMISSIONER PEARSON: Do you have a
10 perspective on how the wholesale distributors that are
11 purchasing CWP and LRW, how they might view issues of
12 availability and delivery time in regards of how they
13 see one product as substitutable for another?

14 MR. WINTON: I don't know. I hope they do,
15 because, as I said before, my client Hylsa certainly
16 has an advantage in terms -- in its market area of
17 being able to respond more quickly. So, I hope that
18 helps them sell their products. But, I don't have any
19 personal knowledge about it.

20 COMMISSIONER PEARSON: Okay, and I
21 understand the limitations. You practice law.
22 Nonetheless, these questions, if you get anything to
23 add in the post-hearing from your clients, by all
24 means do that.

25 Now, Hylsa has maintained a presence in the

1 U.S. market in CWP, where Siderar has not in light-
2 walled rectangular. If the order on LWR is lifted,
3 would it be difficult for Siderar to establish
4 relationships with U.S. distributors such that it
5 could enter the U.S. market, if, indeed, it had
6 product to sell and the prices were advantageous?

7 MR. WINTON: I don't know. I kind of doubt
8 it. As Chairman Koplan mentioned, Siderar is now
9 affiliated with Hylsa. Hylsa certainly knows the
10 distributors for light-walled rectangular or some of
11 them at least in its area. So, I would imagine that
12 if somebody wanted to talk, who do you know, it
13 wouldn't be hard. There would be issues about, well,
14 is the Siderar product any good; does it meet our
15 spec, I mean, that sort of thing, I imagine, would
16 occur. But, they wouldn't have to just open a phone
17 book and say who do we call. I think that knowledge
18 exists.

19 COMMISSIONER PEARSON: Do you know whether
20 Siderar sells any non-subject product to the United
21 States?

22 MR. WINTON: I don't. They did tell me they
23 don't sell standard pipe, although they product it.
24 They don't sell standard pipe to the United States. I
25 didn't ask -- Siderar, as I recall, was primarily a

1 flat-rolled steel producer in Argentina and it's just
2 recently in the pipe business. And I don't know what
3 they're doing with flat-rolled steel. That's another
4 law firm's responsibility.

5 COMMISSIONER PEARSON: Okay, fair enough.
6 Do you have any insights as to whether the prices for
7 CDW and LRW are higher in the United States than in
8 other countries?

9 MR. WINTON: I can check.

10 COMMISSIONER PEARSON: Okay. And someone
11 else may have touched on this, but do we know whether
12 Hylsa and Siderar compete against imports from China
13 or from other countries in their home markets? I
14 mean, to what extent do they have their home markets
15 tied up and to what degree do they have to compete
16 quite actively against imports?

17 MR. WINTON: Again, I have some ideas, but
18 I'm going to check that, too.

19 COMMISSIONER PEARSON: Okay. You may have
20 also commented on this already, but do you have any
21 thoughts to add on the question of how the U.S.
22 industry has managed to remain relatively profitable,
23 while operating at relatively low levels of capacity
24 utilization? I mean, is this something that would be
25 understood by a manufacturer in another country and it

1 would make sense then what we're seeing in the United
2 States?

3 MR. WINTON: I actually -- I have many
4 ideas. One thing is -- and, Mr. Schagrin accused me
5 of stretching something. But, when we were here for
6 the light-walled rectangular pipe case a year-and-a-
7 half ago, it was really evident that the capacity
8 figures were based on unrealistic expectations of what
9 their production capacity would be. And there was
10 testimony, the witnesses came forward and said, we
11 want to product three shifts a day and when we looked
12 at their questionnaire responses, capacity was based
13 on three shifts a day. And the staff asked them,
14 this was at the preliminary conference, when was the
15 last time you produced three shifts a day and they
16 said 1981. Now, that's not true for everybody, as we
17 heard today, but I think there is something of that
18 going on. It's a question of what is your capacity,
19 as opposed to what have you actually been able to
20 accomplish anytime in the recent historical past. So,
21 I'm not sure that their capacity utilization is that
22 low.

23 When you look overall for their facilities,
24 their capacity utilization now is 63 percent, which is
25 not a -- doesn't seem historically to be a very bad

1 number for them. It's the highest number since 1999
2 certainly. They show lower capacity utilization for
3 standard pipe -- I'm sorry, CWP -- I keep using the
4 wrong term -- for CWP, but they have higher capacity
5 utilization for other products. So, in terms of how
6 would low capacity utilization affect your
7 profitability, right? Well, it doesn't affect your
8 sales prices. Sales prices are sales prices. It
9 doesn't affect your material costs, because steel coil
10 doesn't go up the more it uses it. You pay a price
11 per ton. It affects things like allocations of labor,
12 allocations of overhead. And since it's the same
13 production facility, the question is how much total
14 throughput do you have, not how much throughput of
15 standard pipe.

16 So, if the producers are doing high levels
17 of capacity utilization in their production
18 facilities, you would expect them to have -- you know,
19 to be not having the impact on labor or overhead per
20 ton that you would otherwise see, if they were really
21 at low levels of capacity utilization. So, that's my
22 sense of what's going on here, is that they're at high
23 levels of capacity utilization or steady levels of
24 capacity utilization and so they're not being
25 penalized on the cost side of it.

1 COMMISSIONER PEARSON: This is a question
2 that I probably should have asked to the domestic
3 parties, if I hadn't asked so many other questions.
4 But, is there anything on the record that would help
5 us understand whether the relatively low capacity
6 utilization in the United States might be related to
7 some restriction on the availability of hot-rolled
8 coils?

9 MR. WINTON: We had a lot of evidence of
10 that in 2004. I haven't honestly looked in 2005 to
11 see. But, certainly, in 2004, it was a very big
12 factor in the story.

13 COMMISSIONER PEARSON: Because if that was
14 the situation then, that would give some reason why
15 prices could remain relatively strong for the finished
16 product and there might be less capacity utilization
17 and, yet, still the industry could be profitable.
18 But, I don't know whether that's the case. Mr.
19 Chairman, my time has run out.

20 CHAIRMAN KOPLAN: Thank you. Commissioner
21 Aranoff?

22 COMMISSIONER ARANOFF: Thank you, Mr.
23 Chairman. I wanted to follow up on a few things.
24 First, in the discussion of dual stenciled line pipe,
25 I understood Mr. Schagrin to be saying this morning

1 was that in order to have dual stenciled pipe, what is
2 legitimately dual stenciled as meeting the line pipe
3 specifications and then sell it for standard pipe,
4 you're basically giving away steel by selling it at
5 the standard pipe price, because it has to have more
6 in it than it would just to meet standard pipe
7 specifications, at least that's what I understood him
8 to be saying, that you're giving something away. And
9 you argued extensively today, as was argued in the
10 first review, that with respect to black pipe, the
11 orders don't prevent imports, because they can be dual
12 stenciled. How do you respond to this idea that
13 you're basically throwing money away when you do that?

14 MR. WINTON: My response, I'm sorry for
15 saying this, but I think I've been doing this too
16 long. I spent years listening to Mr. Schagrin
17 complain about there was no such thing as multiple
18 stenciled pipe. It was a sham created. The only
19 reason anybody would sell multiple stenciled pipe was
20 to circumvent the antidumping order. We had years and
21 years of this. It went to the Commerce Department.
22 It went to the courts. I had an anti-circumvention
23 inquiry, which was patently illegal against my client.
24 We had to go to court to get that stopped, all because
25 Mr. Schagrin said, if it's multiple stenciled, it's a

1 sham designed to be sold as standard pipe. That was
2 his position. If you want, I can go back and dig up
3 quotes where he said that.

4 I think it's a little disingenuous for him
5 now to say, well, actually, if it's multiple
6 stenciled, it's line pipe and it wouldn't be sold as
7 standard pipe. I think our position, I hope I've been
8 consistent, is we dual stencil, because it promotes
9 flexibility and our customers can use it either as
10 standard pipe and line pipe and that's their business,
11 not our business, what they do with it.

12 COMMISSIONER ARANOFF: Okay. Well, I mean,
13 I take your point about that and I understand that
14 there's a lot of history here, some of which I was
15 here for. But, here's the thing, I'm asking you a
16 factual question, is there something you have to do
17 for pipe to legitimately be dual stenciled to a line
18 pipe standard that you don't have to do to sell it as
19 standard pipe?

20 MR. WINTON: What I believe Mr. Schagrin is
21 talking about is the tolerances and I'd have to get
22 the specifications out. But, I believe for standard
23 pipe the tolerance is 10 percent and for line pipe,
24 according to Mr. Schagrin, it's smaller. I don't have
25 the exact same figures. And what that means is with a

1 10 percent tolerance, if a customer orders 10 tons of
2 standard pipe, you can seel nine tons of steel, right.
3 But if the tolerance were smaller, if it were three
4 percent tolerance permitted, you couldn't sell nine
5 tons of steel for his 10-ton order, because you'd be
6 outside the tolerance. You'd have to sell 9.7 tons of
7 steel, right -- no, did I get the numbers right --
8 yes. You get the point. So, what he's saying is if
9 you dual certify, and if I have my numbers right,
10 which I don't think I do, you have to ship 9.7 tons of
11 steel to the customer, whereas if you single stenciled
12 it as standard pipe, you could sell them just nine
13 tons of steel. And in both cases, it would satisfy an
14 order for 10 tons of pipe. And so, that's -- his
15 claim is that because of different tolerances under
16 the specifications, when you get an order, which is
17 for a nominal quantity of 10 tons and you legitimately
18 sell line pipe, if the tolerance on line pipe is
19 smaller, you have to ship more actual steel to the
20 customer, than if it's standard pipe, where the
21 tolerance is wider. So, that's his argument.

22 COMMISSIONER ARANOFF: Okay. And why
23 doesn't that make sense in a market where the price of
24 steel per ton is what it is right now? That's a lot
25 of extra steel to have to throw in to circumvent the

1 order. I won't say circumvent, because that's a legal
2 term, but product that's outside the order for use
3 where it fetches a lower price.

4 MR. WINTON: Well, first of all, I would
5 have to check what the tolerances actually are,
6 because I don't know off hand. I don't know how big a
7 difference it is. But, the fact is the price of the
8 standard pipe is \$935 a ton, I think was the number we
9 had, something like that in 2005. That more than
10 makes up for whatever effect this may be. There's
11 also -- I can't speak for every producer about how
12 important this is and I don't want to say we're doing
13 this to circumvent, but we have found a market for
14 dual certified. And if somebody wanted to buy dual
15 certified from us and use it as standard pipe, they
16 could. I think the best argument Mr. Schagrin might
17 make is, if we sell them dual certified, right,
18 instead of single certified, when they really want
19 standard pipe, we'd have to charge a higher price,
20 because our cost is higher because we have more steel.
21 So, we have a somewhat higher price, which means we
22 undersell him somewhat less, would be -- I think his
23 argument. I think that's what his argument has to be.
24 It doesn't get us to \$300 a ton, which is what he
25 claims the Chinese are underselling.

1 COMMISSIONER ARANOFF: Okay. One of the
2 other arguments that came up this morning, you had
3 indicated earlier in response to one of my colleagues,
4 that you're not really concerned about some of the
5 downward trends we see in the data in 2005, because
6 you always go down when you're at your highest point
7 ever. One of the arguments that we heard this morning
8 was that things look worse in 2006. That goes beyond
9 the period for which we collected data, you know, our
10 tables, but it's not beyond -- our record is not
11 closed. We can certainly consider such information,
12 if we receive it. Does it change your review?

13 MR. WINTON: I have absolutely no idea
14 what's going on in 2006. And unlike Mr. Schagrin, I'm
15 not going to testify about the health of the U.S.
16 industry. He may know. I certainly don't. The press
17 reports we've seen is that OCTG producers are doing
18 great. I think we've seen Maverick or -- we've seen a
19 couple. I can submit them. But, it's more focused on
20 OCTG, because the OCTG market is doing phenomenally
21 right now, because prices for oil keep going up. The
22 drill rig count was at a record high a couple of weeks
23 ago. So, what I would expect to be seeing is anyone,
24 who can produce OCTG, shifting, to the extent they
25 haven't already shifted, shifting more to OCTG. But,

1 I know anything beyond that. It is only five months
2 into the year, so --

3 COMMISSIONER ARANOFF: That's true. All
4 right, I'm not sure where I want to go with that next,
5 so I'll put it aside for a minute. Another argument
6 that was discussed a little bit this morning was this
7 issue of whether or not the domestic industry gets a
8 price premium in the U.S. market, because of inability
9 to deliver faster. And the domestic industry has
10 argued that that has eroded, because of the way that
11 distributors are now stocking imports and because of
12 the way that some importers are acting as distributors
13 directly from the dock, essentially. Do you have any
14 knowledge on that subject? Could you comment on the
15 issue of whether or not the domestic industry still
16 gets any kind of a price premium based on delivery or
17 other factors in this market?

18 MR. WINTON: We will check and put it in our
19 post-conference submission.

20 COMMISSIONER ARANOFF: Okay. I'll look
21 forward to that. I raised this question this morning
22 and I'll raise it for you. In the Commission's recent
23 sunset review of the order on large diameter seamless
24 pipe from Mexico, the Commission voted to revoke that
25 order, based in part on the fact that the sole Mexican

1 producer, the product was operating flat out. In this
2 case, we have data from your client, but not -- or at
3 least not yet from all the producers in Mexico of this
4 product. Are there any differences between the way
5 that the Commission analyzed the situation in the
6 seamless pipe case and here that we should be
7 cognizant of or do you think we should look at it
8 exactly the same way?

9 MR. WINTON: I haven't honestly seen the
10 seamless pipe decision. We are obviously looking for
11 it to see what happened there. Very happy about the
12 vote and we would hope that the decision would be the
13 same. But, I think as in every case, and as the
14 Commission knows, you have to go with the information
15 on the record. The Commission, I think, has said
16 quite clearly that its decision are not precedential
17 in that way; that you found no injury in seamless
18 pipe, so you, therefore, must find no injury here.
19 Having said that, whatever you did in seamless pipe,
20 I'm convinced there should be no injury here -- I'm
21 sorry, no recurrence or continuation of injury from
22 Mexico here.

23 COMMISSIONER ARANOFF: Okay. Well, when
24 you've had a chance to look at it, if you could take a
25 look at it, there are some different facts here,

1 especially given the number of producers and the
2 amount we know about them, that would be helpful.
3 Thank you, very much. Thank you, Mr. Chairman.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.
5 Mr. Winton, I want to come back to your baseball
6 analogy. Since 2004, I've paid a lot more attention
7 to baseball actually than I had for I don't know how
8 many years. Assume that Babe Ruth is operating on a
9 one-year contract each year, okay, and he had a 25
10 percent drop in productivity, which I think is what
11 you used in your analogy, from 60 to 45. You think
12 that he would go into his next contract year feeling
13 that he could get the same contract he had or that
14 that 25 percent drop in productivity might give him
15 some concern that he might have to absorb that
16 decrease? You don't see a problem there?

17 MR. WINTON: I always regret making baseball
18 analogies. But, I don't --

19 CHAIRMAN KOPLAN: Well, I'll take that as an
20 answer.

21 MR. WINTON: No. I don't -- I think it is
22 overly simplistic to say because his productivity
23 dropped off 25 percent, if that's the criteria -- he
24 hit 25 percent fewer home runs --

25 CHAIRMAN KOPLAN: That's what you used.

1 MR. WINTON: Yes. No, but I'm not saying --
2 it's not the same as productivity, home run hitting,
3 okay. But, let's say that was the sole measure.
4 Would he be able to earn less money? I think what --
5 I mean, we're so far afield. The owner of the Yankees
6 would look at things --

7 CHAIRMAN KOPLAN: I didn't go there.

8 MR. WINTON: I know -- are looking like
9 things like, you know, pulling fans into the city --
10 the stadium, what he's likely to do next year. You
11 know, there is a concept known as --

12 CHAIRMAN KOPLAN: Mr. Winton, don't beat it
13 to death. Do you think that that would be reflected
14 on his contract?

15 MR. WINTON: No, I don't, because I think --

16 CHAIRMAN KOPLAN: You don't?

17 MR. WINTON: No, I don't, and let me tell
18 you why.

19 CHAIRMAN KOPLAN: Then, I won't pursue my
20 question any further.

21 MR. WINTON: Okay.

22 CHAIRMAN KOPLAN: I'll move to my next one,
23 if that's your answer.

24 MR. WINTON: Yes.

25 CHAIRMAN KOPLAN: Your answer is it would

1 not be reflected in his next contract.

2 MR. WINTON: No.

3 CHAIRMAN KOPLAN: Is that right? Okay.
4 Moving on, Mr. Schagrin's brief at page one claims,
5 'the CWP and the LWR orders under review resulted in a
6 significant reduction in the volume of subject
7 imports.' At pages seven and eight, domestic
8 producers cite the questionnaire responses of several
9 foreign producers and one importer that they claim
10 support their argument that subject CWP exports to the
11 U.S. market are likely to increase if the orders are
12 revoked. At pages 14 and 15, they make a similar
13 argument with respect to subject LWR products. Since
14 much of their arguments are bracketed, would you,
15 please, respond to the details of those arguments in
16 your post-hearing submission?

17 MR. WINTON: We'd be delighted to.

18 CHAIRMAN KOPLAN: Thank you. Let me come
19 back to Hylsa and Siderar and ask it this way. If the
20 orders on Argentina and Mexico are revoked -- now, as
21 I recall, the margin assigned to Argentina is 56.2
22 percent and Mexico, 32.62 percent. If they're
23 revoked, how should factor into my analysis of whether
24 increased subject imports of CWP and LWR will result
25 in recurrence or continuation of material injury in

1 the foreseeable future, given the fact that Siderar
2 has just become the largest Argentine producer of LWR
3 and Hylsa is Siderar's affiliate?

4 MR. WINTON: I think it's important to
5 recognize those dumping margins are on different
6 products. I know you know that, but --

7 CHAIRMAN KOPLAN: No, but I has asked you
8 before whether, for example, you could use the same
9 equipment.

10 MR. WINTON: Right. If someone wanted to
11 supply the U.S. -- if someone wanted to supply the
12 U.S. market with light-walled rectangular pipe from
13 what's now known as the Ternium Group, which is Hylsa
14 and Siderar --

15 CHAIRMAN KOPLAN: Right.

16 MR. WINTON: -- they would have a choice.
17 You could supply it from Mexico. You could supply it
18 from Argentina. Most likely, if it was the U.S.
19 market, I would think for a lot of reasons you would
20 use Mexico, but you might use Argentina. I mean,
21 that's a business decision they'd have to make. What
22 I understand, they have -- it's more complicated than
23 that, because there are different regions, there are
24 different management. The people in Siderar are
25 focused really on Argentina. They're not so concerned

1 about Mexico. You know, in any organization, there
2 are different reporting channels, different rewards.
3 And so, I don't know the details of this to say, you
4 know, it might not help somebody in Argentina to help
5 Hylsa. You know, if that's the issue, can you help
6 Hylsa, could Hylsa help Siderar by taking their
7 customers, which I think is what you're getting at.
8 You know, couldn't we just say, okay, let's produce
9 standard pipe in Argentina and LWR in Mexico and
10 supply the U.S. market that way. And, theoretically,
11 yes, we could and, therefore, the antidumping order
12 would have no impact on us. Neither antidumping order
13 would have an impact on us, because we just produce
14 all the standard pipe for the U.S. market in Argentina
15 and all the light-walled rectangular pipe for the U.S.
16 market in Mexico and that would take care of it. And
17 it's a tempting argument and I'm sure it's a tempting
18 argument for Mr. Schagrin, who is saying, I'm going to
19 get them the next case.

20 But, I think the reality of that is somewhat
21 more complicated, because as in any corporation, they
22 have lots of different issues. The interest of
23 Siderar is in supplying Argentina primarily. The
24 interest of Hylsa is in supplying Mexico primarily.
25 The extent to which they would cooperate in that way,

1 I don't know. But, certainly, you can make the
2 theoretical argument that -- I don't want to use the
3 circumvention term, because it's not circumvention,
4 but we could manage sales in a way to avoid it.

5 CHAIRMAN KOPLAN: Thank you. Let me go onto
6 another topic with you. The U.S. Steel brief notes at
7 page five, that 'even with the orders I place, there
8 is significant underselling of the domestic like
9 product by the subject imports.' That's a quote.
10 More specifically, the confidential staff report at
11 Table Circ. 5-8, at Chapter 5, at page 26, reports
12 'subject imports from Mexico undersold the domestic
13 like product in 13 of 15 comparison with margins of
14 underselling ranging from 8.1 to 28 percent.' Why
15 shouldn't I conclude that if we revoke the 32.62
16 likely dumping margin on Mexico that Commerce found,
17 both volume or of an underselling by subject imports
18 from Mexico would increase significantly?

19 MR. WINTON: I think you have too small a
20 sample to draw any conclusions from. I can't tell you
21 what the number is for subject imports from Mexico,
22 but, as I mentioned before, it's quite small. The
23 concern here is not that we're going to continue that
24 level of imports at prices below the U.S. industry.
25 The concern is, as I understand it from Mr. Schagrin,

1 that we're going to pile on, on top of the Chinese,
2 and export large volumes at low prices. And I just
3 don't think you can extrapolate from the small volumes
4 of sales that are being made what would happen if
5 there were larger volumes by different producers, who
6 are not selling, different customers that are not
7 selling to -- I just -- I don't know that this data is
8 in anyway comparable.

9 CHAIRMAN KOPLAN: Would your answer be the
10 same if they were overselling by those margins?

11 MR. WINTON: Yes, I think so, but then I
12 don't think Babe Ruth's contract --

13 CHAIRMAN KOPLAN: You're not sure?

14 MR. WINTON: -- would be different either.
15 So -- it's a good question.

16 CHAIRMAN KOPLAN: Thank you. I know my
17 answer wouldn't be the same. My question would have
18 been different. Let me ask you this, in your direct
19 testimony, I believe you said you had checked the
20 website of Tubos Argentinos and that they did not
21 produce the subject LWR. And there were two other
22 producers you testified told you they do not produce
23 it either. Is it possible to get affidavits from them
24 or get them to respond to our questionnaires?

25 MR. WINTON: They're -- as I said, there are

1 three producers other than -- well, Siderar, which
2 purchased Acindar. One is Tubeair and I understand
3 they have responded already and it's in the staff
4 report that they don't produce subject LWRP -- LWR,
5 whatever. And we have contacted the other two and
6 asked them to submit information.

7 CHAIRMAN KOPLAN: Okay, thank you. I
8 appreciate that. I see my yellow light is on, so I'll
9 wait for my next round. Vice Chairman Okun?

10 VICE CHAIRMAN OKUN: Thank you, Mr.
11 Chairman. Just to set the record straight, Babe Ruth
12 hit 54 home runs in 1928. The Chairman's entire Red
13 Sox team only hit 38, so if you win in the
14 negotiations, Babe Ruth may actually get a raise, if
15 the Boston Red Sox would have taken him then. Well,
16 I'll drop the baseball analogy, because I --

17 CHAIRMAN KOPLAN: I've just been zapped.

18 VICE CHAIRMAN OKUN: -- can't go any further
19 with it. Mr. Winton, let me go back and just make
20 sure it's clear, just to follow up on Commissioner
21 Hillman's question with regard to cumulation, because
22 I do want to make clear that I'm also interested in
23 seeing for post-hearing you briefing as if we
24 exercised our discretion to cumulate, if we don't find
25 the arguments you've put forward enough to take out

1 either Argentina or Mexico.

2 MR. WINTON: I'm sorry, I was --

3 VICE CHAIRMAN OKUN: Okay. Then, the other
4 issue that I think would be helpful for you to go into
5 more detail post-hearing is with regard to the
6 argument you make about the product shifting and the
7 chasing the higher value products and why that would
8 be a smart business strategy for these businesses to
9 do and, therefore, wouldn't indicate that they're
10 injured by doing that on this record, which is if you
11 would look at -- you've talked about Table 3-2 found
12 on Circular 3-6. If you could go into detail on your
13 argument with regard to this record and which
14 companies can, in fact, chase a higher value product
15 versus those, who cannot. While I was not here to
16 hear this response this morning, I understand that
17 there was a lot of detail provided by the domestic
18 producers with regard to who can or cannot. And for
19 my purposes for this question, I don't want you to
20 assume that they can go out and purchase the equipment
21 to do that. On this record for those, who currently
22 can do it, does the argument still hold?

23 MR. WINTON: Let me -- I may have said this
24 before and I apologize for repeating myself, my
25 understanding is that every single producer of

1 standard pipe that spoke to you today, every single
2 U.S. producer of standard pipe in the industry has the
3 ability to chase higher-valued products. We heard
4 this morning a number of them say they could not
5 produce OCTG, but -- and so we heard. We can't chase
6 higher-valued products, because we can't product OCTG.
7 But, there are other higher-valued products. And, in
8 fact, we heard the same people, who said we can't
9 produce OCTG, say, well, we've expanded our production
10 of round mechanical tubing and we've submitted data
11 showing that mechanical tubing prices have been
12 significantly higher, especially in the recent period,
13 than standard pipe. Line pipe, you know, I don't know
14 everybody's production capability, but I didn't hear
15 people say, we can't produce line pipe. I heard, we
16 can't shift products, because we can't product OCTG
17 and I would think, you know, the U.S. industry's line
18 pipe. Maybe it's overstating it, but I would be
19 surprised if there's anybody out there, who can't
20 produce at least mechanical tubing. And I don't know
21 about line pipe; I'd have to check. So, they may not
22 all be all be able to product OCTG. I will concede
23 that.

24 VICE CHAIRMAN OKUN: Okay. Well, I think it
25 would be helpful for that argument, for me to

1 understand what you see with these producers, and then
2 with respect for the producers, who are -- well, how
3 they're situated and whether the argument holds,
4 because, again, there's been a lot of talk about the
5 OCTG. I understand your argument about the other
6 products, but if you could go through the record and
7 see if you how you make that argument.

8 MR. WINTON: Could I, also, say --

9 VICE CHAIRMAN OKUN: Yes, Mr. Winton.

10 MR. WINTON: Can I, also, say, even if --
11 we're looking at the industry overall, right, and so
12 if some people can produce OCTG, that's less standard
13 pipe that they product, it may be opportunities for
14 other people, if they have the capacity to produce it.
15 So, the fact that there may be different -- people
16 have different capabilities doesn't mean that people,
17 who can't produce OCTG, may still benefit from the
18 product shift, because they're competitors are moving
19 out of standard pipe to OCTG. It creates more
20 opportunities for them in the standard pipe market.

21 VICE CHAIRMAN OKUN: I understand that
22 argument, but I guess my point is, if you're making
23 the argument that based on this record, to the extent
24 the domestic industry is arguing that what you've seen
25 is weakening -- and, again, take your argument that

1 2005 and -- it's not 2004, but it's a good year, it's
2 not 67, but it's 54, to the extent there is either a
3 cost price squeeze going on or something that the
4 domestic industry has pointed to on the record for
5 those producers, who were not able to do something
6 else, that's what I'm trying to sort out and whether
7 looking forward, how I should take that into account,
8 in determining what the impact would be in increased
9 volume of subject imports.

10 MR. WINTON: Actually, we will address that
11 in the post-hearing information.

12 VICE CHAIRMAN OKUN: Okay. And then just to
13 continue on, I know you responded at least partially
14 to his question about changes since the original
15 investigation and we've talked about the domestic
16 industry, and I wanted to have -- see if you wanted to
17 expand on that in light of how you see the domestic
18 industry positioned because again there was a lot of
19 discussion about the vulnerability, whether the
20 domestic industry is vulnerable and I think partially
21 that relates to on the record those where you've seen
22 closures. So I wanted to hear what else you think has
23 changed.

24 And I guess the big picture it's not the
25 same steel industry it was. The question is in this

1 particular subject product whether you'd say what
2 those changes would be and whether it makes the
3 industry less vulnerable?

4 MR. WINTON: Sure. Let me talk to my client
5 and try to get some more factual information about
6 what's going on in the marketplace.

7 VICE CHAIRMAN OKUN: Okay. I would
8 appreciate that.

9 And is there anything else with regard to
10 global demand or demand for this product, changes from
11 the original investigation that you'd have us point to
12 on the record that we have before us?

13 MR. WINTON: We may submit some information.
14 I don't know about global demand. I think though we
15 sometimes forget how much has happened in the last 15
16 years. When this case was first brought I believe it
17 was brought before the North American Free Trade
18 Agreement took effect. It was a standard pipe case at
19 least. The Argentine case is even older than that on
20 light rolled. Mexico then went through the tequila
21 crisis of 1994 to 1995 which we all forget because in
22 the scheme of economic crises that we've seen since
23 then, you know, that was a small one.

24 We had the Asian economic crisis in the late
25 '90s which, incidentally, my friends in Korea call the

1 IMF crisis. I think it's a wonderful term and shows a
2 different perspective on it.

3 There has been the Argentine crisis which I
4 think was 2001 - 2002. We had the Russian meltdown
5 which was 1980's.

6 There's been a lot of disruptions in the
7 world. And obviously, you know, we now live in a
8 world of rapidly increasing oil prices which we didn't
9 have, you know, back in the 1980's, at least the late
10 '80s, early '90s. So it is in so many ways the global
11 situation is very different. The emergence of the
12 Chinese economy. I mean we heard from Mr. Schagrin
13 his personal testimony about the incredible capacity
14 of China. But anybody who's been to China has also
15 seen the incredible growth, the demand growth. The
16 construction that's occurred in China has been just
17 incredible. You know, if you've been to Shanghai and
18 you look at Pudon which looks like Manhattan now and
19 ten years ago was basically fields, you know, it's a
20 very different world.

21 So globally I think if you look at the
22 statistics, and we can certainly put this information
23 on the record, all of the indicators that would relate
24 to demand for standard pipe are way up from 1991. You
25 know, the U.S. economy, you look at the size of the

1 U.S. market which is a developed country and the
2 market is much bigger than it was in '91, and then you
3 think of the world and all the things that have
4 happened around the world and demand is just
5 enormously greater.

6 And in Mexico demand is much, much greater
7 than it was in '91. Argentina, you know, was through
8 a difficult period earlier but now its demand is
9 skyrocketing. So I think if you look at this globally
10 what you see is there is a huge global demand for
11 these products that is much greater than it was when
12 this case was originally brought.

13 VICE CHAIRMAN OKUN: Okay. Well, any
14 additional information you can provide post-hearing I
15 would greatly appreciate. And with that, Mr.
16 Chairman, I have no further questions.

17 CHAIRMAN KOPLAN: Thank you, Commissioner.
18 Commissioner Hillman?

19 COMMISSIONER HILLMAN: Only one question I
20 would ask you, as I did the Petitioners this morning,
21 to brief the issue of the impact of the Federal
22 Circuit Court of Appeals decision on Bratsk aluminum
23 smelting and whether first of all does it apply at all
24 in subset investigations? And if so, what should the
25 Commission make of it in terms of what we need to be

1 looking at and factoring in in terms of non-subject
2 imports?

3 Can you do that in your post-hearing brief
4 or?

5 MR. WINTON: I'd be delighted. Actually, I
6 should mention -- maybe I shouldn't mention, I was the
7 counsel for Bratsk Aluminum in the Court of
8 International Trade. But they actually sold their
9 silicon metal production facility and so they fell out
10 of the case. And Fred Waite is the one who argued the
11 case to the Federal Circuit. So whether you're happy
12 or unhappy, he's the one who deserves the credit or
13 blame for that.

14 I think the case there as I remember it was
15 there was available non-subject imports at lower
16 prices and the argument was made if the imports hadn't
17 been coming from Russia they would be coming from
18 other places. It wouldn't help the U.S. industry.

19 I think the argument here is similar and
20 different. It's similar in the sense if China really
21 is what we heard today, you know, the threat. And we
22 heard the production capacity is going to double in
23 nine months, I think is the testimony from Mr.
24 Schagrin this morning, you know, the incredible, the
25 extraordinary capacity increasing every day, and

1 they're selling at lower prices and it's conceded
2 lower prices than any of these subject imports, then
3 it's hard to see why subject imports are ever going to
4 be factor here. You know, the Chinese are going to
5 take as much of the market as they can. And, you
6 know, the only reason, you know, the only constraint
7 would be if there are protected areas of the market
8 that they can't compete in and presumably any areas
9 that are protected from them would be protected from
10 us and from the other imports.

11 So I don't know that you need to argue this
12 in terms of Bratsk, though I would be happy to address
13 that in a post-hearing submission, but I think the
14 fundamental issue is if there are, you know, massive
15 imports at lower prices from China why are you worried
16 about anybody else? You know, what are we going to do
17 that China isn't already doing, and doing at a much
18 lower price we're told than any of us would?

19 So I don't know if I need to make this a
20 legal argument. I think factually it's actually a
21 stronger case than the Bratsk case was in terms of the
22 availability of non-subject imports and the price
23 differential.

24 COMMISSIONER HILLMAN: But obviously with a
25 big distinction because here you have all of the

1 subject imports subject to an order so it isn't the
2 same as an original investigation because in all of
3 that we have to somehow factor in the degree to which
4 the order was restraining the competition between the
5 subject imports and the Chinese products and the non-
6 subject product in light of the fact that there is an
7 order in place.

8 MR. WINTON: I understand your point and I
9 understand the difference. And I think there is a
10 different, there is some difference in that way. But
11 the testimony this morning is that imports from China
12 are at a much lower price than other imports would be,
13 are or would be. The testimony was that the other
14 imports would come in below the U.S. price but not
15 nearly as low as China.

16 And then the question was why would anybody
17 buy from the other imports then? Why would the
18 purchasers who want low-priced imports just buy from -
19 - why don't they just buy from China?

20 I don't know, I hesitate and I, you know, I
21 don't like to tie my arguments too carefully to the
22 cumulation provisions of the statute and to the Bratsk
23 decision, although I mean I can do that and I will,
24 but I just think logically there is a real problem
25 here if you believe that imports from China are coming

1 in at \$300 a ton below what the U.S. producers would
2 sell, \$290 a ton below what the subject imports would
3 sell, and yet somehow we're going to come into the
4 market and it's going to be, you know, large volume
5 taken from the U.S. industry. I don't understand
6 logically how you can hold that argument.

7 COMMISSIONER HILLMAN: All right. I'll look
8 forward to any further embellishments on that. And if
9 you think this Bratsk decision applies, what kind of
10 data on non-subject imports do you think the
11 Commission is required to collect, how we should
12 factor that in, and again how it factors in any
13 differently in a sunset investigation versus an
14 original investigation would be very helpful.

15 Thank you. With that I have no further
16 questions, Mr. Chairman.

17 CHAIRMAN KOPLAN: Thank you.

18 Commissioner Lane?

19 COMMISSIONER LANE: This question may have
20 already been asked and, unfortunately, I may have
21 already asked it but I forget, so forgive me. And
22 maybe Mr. Rogin might like to answer it since he's
23 been here all afternoon and he has to answer a
24 question sometime.

25 Please explain the assertion in your

1 prehearing brief on page 4 that Mexican producers are
2 currently producing at full capacity. Even if one
3 uses the data in table circular 4-11 for all pipe
4 products, Mexican producers' capacity utilization in
5 2005 was still below the maximum capacity utilization
6 reached during the period of review.

7 MR. ROGIN: Yeah, I appreciate the
8 opportunity but I think I am going to defer to Mr.
9 Winton on this.

10 MR. WINTON: I think I'm the Babe Ruth of
11 answering capacity questions. I think having said
12 that, Babe Ruth wouldn't have done this, but I prefer
13 to answer that in a post-hearing submission because I
14 think we should talk about the confidential
15 information.

16 I would say that, you know, no one, it's
17 very hard ever to be at 100 percent capacity
18 utilization for reasons you can readily expect: you
19 have change-overs, you have things like that. And
20 there are effects of product mixes. And so when you
21 have a capacity it assumes a certain product mix and
22 you may be working on a product mix that's less
23 efficient and you have to change over, and you don't
24 know to what extent all that's reflected. But I think
25 we may have some spare capacity but it is very small.

1 COMMISSIONER LANE: Okay, just a moment.

2 (Pause.)

3 COMMISSIONER LANE: Okay, so you're talking
4 about the capacity for all pipe and not just the
5 capacity utilization --

6 MR. WINTON: Right.

7 COMMISSIONER LANE: -- for circular welded
8 pipe?

9 MR. WINTON: Right.

10 COMMISSIONER LANE: Okay.

11 MR. WINTON: I'm sorry, did I miss -- I
12 thought that was the question. Did I --

13 COMMISSIONER LANE: Okay, what effect as CWP
14 from China had in your home market sales and in your
15 ability to compete in the U.S. market?

16 MR. WINTON: It hasn't affected me
17 personally because I'm a lawyer. But let me ask and,
18 you know, get information from my clients on that.

19 COMMISSIONER LANE: Okay. Well then maybe
20 this will go to your clients also. Can you clients
21 compete with non-subject imports in the United States
22 currently? And in the absence of the anti-dumping
23 orders on Mexico could your clients compete with non-
24 subject imports in the United States?

25 MR. WINTON: Okay. Again we'll try to get

1 information from our clients.

2 COMMISSIONER LANE: Okay. That's all the
3 questions I have, Mr. Chairman.

4 CHAIRMAN KOPLAN: Thank you, Commissioner.
5 Commissioner Pearson?

6 COMMISSIONER PEARSON: This morning there
7 was some discussion of Home Depot's acquisition of
8 another firm. Do you think that has any relevance to
9 our analysis? And if so, what should we make of it
10 either now or post-hearing?

11 MR. WINTON: I think we'll address that in
12 the post-hearing. Again I think I can speculate but
13 let me get people who actually know what's going on.

14 COMMISSIONER PEARSON: Okay. Another
15 question. Unlike CWP, the apparent consumption of
16 light-walled rectangular is much higher currently than
17 it was at the time of the original investigation. I
18 mean it's come up somewhat during this period of
19 review but if you go back and look at the early days
20 of this project it's come up really quite noticeably.
21 Do you have any explanation for this? You know,
22 contrast what we see in light-walled rectangular
23 versus what we see in CWP.

24 MR. WINTON: I will have to check. I did
25 hear there was testimony this morning about larger

1 houses and more ornate. But I, I mean I believe that
2 but I don't know. I'll check with people who may
3 know.

4 COMMISSIONER PEARSON: Okay. Then following
5 the lead of Commissioner Lane, I too sometimes try to
6 make a point of trying to ask a question of every
7 panelist, and this is one instance when that's
8 feasible. Mr. Rogin, do you have anything to add to
9 the comments of your learned colleague?

10 MR. ROGIN: I would just like to retract
11 everything from the statement regarding Babe Ruth.
12 And I appreciate it.

13 COMMISSIONER PEARSON: Okay, thank you.

14 Mr. Chairman, I have no further questions.

15 CHAIRMAN KOPLAN: Thank you.

16 Commissioner Aranoff?

17 I have a little bit left. Mr. Winton, Mr.
18 Schagrin's brief at pages 15 and 16 cites the first
19 sunset review to have found demand for CWP to be price
20 sensitive and price inelastic and that virtually all
21 importers reported that CWP was sold on a spot basis
22 rather than under contract.

23 In addition, at page 51 of those views I
24 note we found based on these market characteristics we
25 concluded that sustained underselling by even a

1 relatively small volume of imports in this market is
2 likely to have a significant suppressing or depressing
3 effect on domestic prices in the event of revocation.

4 How do you respond to that with regard to
5 Hylsa? What's changed? Is it still sold on a spot
6 basis?

7 MR. WINTON: I believe, I believe so. I
8 have to check.

9 CHAIRMAN KOPLAN: Yes, I think so.

10 MR. WINTON: I think, yes, I believe it is.
11 I think, well, I don't know whose sales from Mexico
12 are in these price comparisons. And I'll have to look
13 in more detail to see that. And it's a small volume.
14 I --

15 CHAIRMAN KOPLAN: Can you do it post-
16 hearing?

17 MR. WINTON: Yeah. But I would make one
18 observation which is the domestic industry can't have
19 it both ways. You can't complain about imports from
20 China being \$300 a ton less than the U.S. producers
21 and then say a small volume from Mexico at \$5 a ton
22 less than the U.S. producers is going to suppress
23 prices. Those to me are two mutually inconsistent
24 statements.

25 If there was going to be price suppression

1 from lower priced imports with imports from China at
2 \$300 a ton less than U.S. producers, it's happened
3 already. It, you know, it's happened already. They
4 haven't identified a mechanism by which we're going to
5 suppress prices worse, you know.

6 CHAIRMAN KOPLAN: Okay, thank you. I have
7 one last one for you. And I'm going to switch you
8 over now to Siderar.

9 You argue at pages 10 and 12 of that brief
10 that the natural focus of Siderar is the domestic home
11 market, meaning theirs, and markets in the other
12 Mercosur countries. And I quote, "Siderar faces the
13 happy coincidence of growing demand and shrinking
14 supply in its domestic market."

15 I know you've argued that the production
16 standards are different. In addition though are there
17 any long-term contracts or other conditions that would
18 make it difficult to shift sales from the Argentine
19 domestic market or alternate export markets to the
20 United States? And if so, can you provide supportive
21 data or documentation in the post-hearing?

22 MR. WINTON: We will address that in the
23 post-hearing briefs.

24 CHAIRMAN KOPLAN: Thank you very much. With
25 that I have no further questions.

1 Let me see if there is anything else from
2 the bench?

3 (No response.)

4 CHAIRMAN KOPLAN: Apparently not.

5 Mr. Corkran, does staff have questions of
6 this panel?

7 MR. CORKRAN: Douglas Corkran, Office of
8 Investigations.

9 Thank you, Mr. Chairman. Staff has no
10 further questions.

11 CHAIRMAN KOPLAN: Thank you.

12 Mr. Schagrín, before I release this panel do
13 you have questions?

14 MR. SCHAGRIN: No, we do not, Chairman
15 Koplán.

16 CHAIRMAN KOPLAN: Okay, thank you.

17 With that, Mr. Winton, I appreciate very
18 much both your direct testimony and your answers to
19 our questions and I look forward to your post-hearing
20 submissions.

21 MR. WINTON: Thank you very much.

22 CHAIRMAN KOPLAN: With that we'll turn to
23 what's left. Mr. Schagrín, you have 20 minutes left
24 from your direct presentation and Mr. Winton has 35
25 minutes left from his direct presentation. In

1 addition, of course, you've got the five minutes, you
2 both have the five minutes for your closing remarks.
3 How do you all want to proceed with rebuttal, if any?

4 MR. SCHAGRIN: I am ready for rebuttal,
5 Chairman Koplan. And then I don't think there will be
6 a need for closing argument.

7 CHAIRMAN KOPLAN: Okay, go ahead.

8 I know who you are.

9 MR. SCHAGRIN: I'm putting this up there so
10 I know who I am.

11 Thank you, Chairman Koplan, Members of the
12 Commission. You know, first I want to thank Mr.
13 Winton because if he was not here I wouldn't have had
14 any rebuttal or made any closing argument. So I thank
15 him for his participation.

16 And at risk of approaching baseball since he
17 muffed that so badly I will say just one thing about
18 that, Chairman Koplan, and that is that we always
19 argue about correlations but I have found a high
20 degree of correlation between the Red Sox winning the
21 World Series and the steel industry doing very well.
22 So I hope that happens again in future.

23 Mr. Winton began by saying that all the
24 discussion this morning of China was irrelevant to the
25 issues before the Commission in a sunset review. I

1 think it's quite apparent since the Commission must
2 take conditions of competition into account, and since
3 you have taken the increase in the size of the Chinese
4 steel industry and their over capacity into account in
5 sunset reviews as to cut-to-length plate or hot-rolled
6 sheets, that the fact that China has become such a
7 major producer and exporter on a worldwide basis and
8 such a major presence in the U.S. market which has
9 resulted in injury to the U.S. industries that the
10 China issues are a very relevant condition of
11 competition.

12 In discussing the vulnerability of the
13 domestic industry Mr. Winton made a couple of points
14 as to Wheatland. First, he said it was somewhat
15 anomalous that Wheatland began closing their mill in
16 2004 which was such a good year for the domestic
17 industry. It's not what Mr. Magno's testimony was
18 today. In the middle of 2004 when in the midst of a
19 good year imports from China starting surging in in
20 the summer they began to scale back from seven days to
21 six days. They didn't actually shut the mill down.
22 They will shut the mill down in I think two-and-a-half
23 weeks' time. But it's not anomalous, it's really just
24 a sign of the fact that the industry went from a very
25 strong period and then because of an import surge they

1 have begun to suffer a significant downturn in their
2 businesses.

3 It also said that it was anomalous that the
4 Carlisle Group would purchase Wheatland if they were
5 doing so poorly. I would point out two things about
6 that. First, I think upon further analysis, and we
7 can supply some confidential information in our post-
8 hearing brief, most of that purchase price, like most
9 purchases of businesses that aren't doing extremely
10 well, was based on inventory values. So most of that
11 purchase price was of inventory. The company has
12 multiple plants, has very significant amounts of both
13 steel inventory and finished product.

14 In addition, Wheatland does have some great
15 businesses in both conduit and mechanical tubing. I
16 don't think anybody would buy Wheatland's standard
17 pipe business. And that's unfortunate because
18 Wheatland is one of the largest producers in the
19 industry, you know, made a lot of investments in that
20 standard pipe business buying other companies,
21 consolidating industry, improving, investing in
22 efficiencies. But because of high import levels those
23 have not paid off.

24 Mr. Winton talked about the very high profit
25 levels of the industry even though he did admit that

1 those profits were declining. Of course, he neglected
2 any mention in discussing either standard pipe or LWR
3 of the tremendous production indicated declines. You
4 know, as your staff report shows, despite a growth in
5 consumption over the sunset review period standard or
6 CWP domestic production was down 23 percent, shipments
7 down 21 percent, employment down 24 percent. Those
8 are very relevant factors to vulnerability and
9 demonstrate a very vulnerable industry.

10 Same for light-wall rectangular, tremendous
11 increase in demand over the sunset review period, an
12 11 percent increase in demand. In spite of that, for
13 domestic producers 11 percent reductions in
14 production, 8 percent reductions in shipments.
15 They're not signs of health. You know, market share
16 losses over the period, 16 percent market share losses
17 in CWP and 11 percent in LWR. These are not signs of
18 healthy industries.

19 The real red herring argument in Mr.
20 Winton's presentation was his emphasis on overall
21 capacity utilization. How could these industries be
22 vulnerable if the OCTG industry is doing so well?
23 It's a red herring. As I said, a lot of producers
24 can't shift. They can't shift to OCTG. They can't
25 shift into line pipe. The extent they can shift into

1 mechanical tubing that's a finite market. We don't
2 even have import competition in wound mechanical
3 tubing so it's a finite market. You can't just shift
4 into products that have a finite market.

5 So the bottom line is, as this Commission
6 well knows, is that the Commission has to focus not on
7 the OCTG industry, not on the line pipe industry, the
8 mechanical industry, the conduit industry or the big
9 steel industry, the Commission has to focus on the CWP
10 industry and the LWR industry. And when you focus on
11 those industries you will find they're vulnerable.

12 To the extent that there is additional
13 capacity in the industry to produce standard pipe
14 products or LWR product, companies would still produce
15 more of those products if they could have sold them.
16 They wouldn't have given up 16 points of market share
17 in CWP when they had additional capacity available.
18 They wouldn't have given up 11 percent capacity in LWR
19 or 11 percent market share with the additional
20 capacity. They gave it up because it was taken from
21 them. It was taken from them by imports, in LWR
22 primarily non-subject, in CWP primarily non-subject
23 but subject as well that were underselling them.

24 I'd like to talk about the remarks that Mr.
25 Winton made today as to the Mexican industry because

1 he began his opening presentation with a pretty broad
2 statement: the Mexican industry is at full capacity
3 and has no ability to increase exports to the United
4 States if the orders are revoked. And I would say the
5 information, confidential, you've asked questions
6 about it, we'll address it in our post-hearing brief.

7 But first, just the information in the staff
8 report categorically refutes that statement that was
9 made.

10 Secondly, there's a number of Mexican
11 producers and exporters of standard pipe in the United
12 States who haven't responded. A company called IMSA
13 wasn't mentioned, a major producer of galvanized fence
14 tubing. Several other companies not mentioned, I'll
15 talk about it later. One of the most telling things
16 to me is either way Tuna can't shift into OCTG like he
17 talks about Hylsa's production method which means they
18 can make OCTG. To my knowledge Tuna doesn't make
19 OCTG. Prolamsa I don't think makes OCTG or Procarsa
20 or IMSA, these other Mexican producers don't make it.
21 I've been working on OCTG cases for over a decade for
22 Mexico, I've only heard of Tamsa, a seamless producer,
23 and Hylsa, a welded producer.

24 But very telling to me, you know, wants to
25 say, gee, these Mexican producers aren't interested in

1 the U.S. market. In December of 2005, that's six
2 months ago, Prolamsa asked for the first time since
3 this order went into effect 15 years ago, it asked the
4 Department of Commerce for an administrative review.
5 They hired a Wall Street law firm to have an
6 administrative review to try to get their dumping
7 margin reduced from the 32 percent all other rate to
8 whatever they get it reduced to.

9 Companies don't hire Wall Street law firms
10 to ask for administrative review because they have no
11 interest in getting duties down and they have no
12 interest in the U.S. market. That to me is very
13 telling and it's something that's on the record.

14 We do presently have subject imports from
15 Mexico. We have information on the record of \$1.3
16 million of CWSOA collections in 2004, \$550,000 in
17 2005. Obviously the Mexican industry has been
18 shipping and is interested.

19 It's not true that Mexican products remain
20 only in the Southwest. When I give you in our post-
21 hearing brief the information that we recently
22 submitted to Customs about dual-stencilled product not
23 meeting specifications for line pipe the photos were
24 taken in a plumbing supply yard in Michigan of product
25 that is stencilled Hylsa. So Hylsa product is making

1 it from Monterrey, Mexico, dual-stencilled product,
2 into plumbing supply house yards in the state of
3 Michigan. This is a company that has a lot of
4 geographic reach. And we can expect that if the
5 orders are revoked.

6 Now let me turn my attention to light-wall
7 rectangular from Argentina. The fact that Hylsa and
8 Siderar are now part of the same corporate group makes
9 it much more likely than it would have been before
10 that if the order as to Siderar is revoked that
11 Siderar could sell LWR to the same customers that
12 Hylsa has now. I don't know what Hylsa's shipments
13 are to the U.S., if I did it would be confidential,
14 but I do know what overall public data is on LWR
15 imports from Mexico. It was over 140,000 tons last
16 year. So obviously there's a lot of shipments from
17 LWR to Mexico. Siderar would be able to just come
18 right on the same train and get into the U.S. market
19 through the same customers.

20 Argentina did ship ASTM-500 and A-513
21 product to the United States at the time of the
22 original investigation. I'm guessing that when we do
23 the analysis of the specs we'll find that they are
24 very similar. Mr. Winton's brief talked about 30,000
25 tons from Argentina and Taiwan not being very

1 significant in a market that has grown to 750,000 tons
2 in the U.S. The fact that we now have 338,000 tons of
3 imports from other countries and that the U.S.
4 industry's market share is so much lower than it was
5 at the time of the original investigation and is a
6 much more vulnerable industry than it was at the time
7 of the original investigation means that that 30,000
8 tons, if that's what came back, and it could be much,
9 much more, would cause a recurrence of injury.

10 I will just mention on an aside, I was
11 hoping he'd come up and join Mr. Winton so you'd have
12 more people to ask questions of, I saw Bill Silverman
13 sitting in the back of the room before. I said, Bill,
14 I know you don't represent people in the domestic
15 industry. Which foreign producer are you representing
16 who is interested in increasing exports to the United
17 States? Of course he couldn't tell me but I presume
18 at his billable rate he didn't come here because he
19 was out taking a walk and wanted to see how the
20 hearing went. So I guess there's a lot of foreign
21 producers and importers who are interested in
22 increasing exports to the U.S. and increasing imports.

23 In conclusion, the condition of the U.S.
24 industries producing both circular welded pipe and
25 light-wall rectangular is much worse now than at the

1 time of this Commission's first sunset review. Really
2 no other factors have changed in this marketplace.
3 Had a little bit of consolidation, not very much. We
4 haven't had any changes in distribution except for a
5 lot of consolidation on the distribution chain. Sales
6 are made the same way through distribution. What's
7 changed the most is that the U.S. industry is more
8 vulnerable now. Their production has plummeted, their
9 shipments are plummeting. Their market share is
10 plummeting. They are getting forced out of their own
11 market. They are starting to shut down plants, that's
12 how bad things are. And that means they are a very
13 vulnerable industry.

14 And, you know, we don't exaggerate this
15 issue of plant closings. Plant closings are dramatic
16 for communities, for the workers who work there. It's
17 a horrible thing. I think you know I don't come
18 before this Commission every sunset case. I was here
19 recently in seamless pipe along with Mr. Narkin. We
20 didn't tell you in that case, oh, these industries are
21 so vulnerable that U.S. Steel or V&M Star might shut
22 down their plants if you don't continue these orders.
23 We wouldn't say that because it wasn't true. We said
24 there would be price effect, there would be volume
25 effects, there would be recurrence of injury but we

1 didn't exaggerate.

2 Here I am telling you honestly that if these
3 orders are revoked we are going to see an acceleration
4 of significant plant closings. That is a sign of the
5 vulnerability of the industry. And the disruption
6 that occurs will be dramatic for the industry and its
7 workers.

8 On a cumulative basis the foreign producers
9 of CWP have a massive amount of additional capacity.
10 We had subject imports of 290,000 tons last year. At
11 dump prices which you found will undersell the
12 industry it is very likely that those imports will
13 double, triple, and that they will cause a recurrence
14 of injury. The Chinese have not taken over the entire
15 U.S. market yet. The U.S. industry has about 50
16 percent. That 50 percent is vulnerable to increased
17 imports.

18 As I've stated, both of these industries are
19 vulnerable. The subject imports will increase.
20 Injury will recur. For that reason I respectfully
21 request that this Commission make affirmative
22 determinations in these reviews. Thank you.

23 CHAIRMAN KOPLAN: Thank you, Mr. Schagrin.
24 Mr. Secretary?

25 THE SECRETARY: Rebuttal remarks on behalf

1 of those in opposition to continuation of the orders
2 will be by Jeffrey Winton, Preston Gates Ellis &
3 Rouvelas Meeds.

4 MR. WINTON: Thank you. I don't know if
5 this is my rebuttal or my closing. I think they're
6 the same.

7 CHAIRMAN KOPLAN: If 35 minutes are left
8 you're into closing.

9 MR. WINTON: I have 35 pages -- 35 minutes
10 worth of notes to talk about. No. Let me, as I said
11 before, I came here really to talk about Argentina and
12 Mexico.

13 There are problems with the U.S. industry's
14 data. I've pointed out what they are. I don't really
15 hear an answer from Mr. Schagrin. I'm sure he's not
16 happy with my arguments either. And we will continue
17 this debate in the post-conference brief. I don't
18 know that I will add much to this.

19 I do think when you look at the numbers it's
20 very clear what's happening here. The additional
21 production by the standard pipe producers of non-
22 subject merchandise, of non-subject mechanical tubing,
23 which has gone up by I believe 300 -- I'm sorry,
24 other, not mechanical tubing, whatever falls into the
25 other category has gone up by about 500,000 tons.

1 Line pipe has gone up about 300,000 tons. Not to
2 mention OCTG. I think we need to remember there are
3 other products besides OCTG. And so when you hear
4 somebody say, you know, the U.S. producers can't make
5 OCTG or the Mexican producers can't make OCTG, that
6 isn't an answer. You have to talk about mechanical,
7 yo have to talk about line pipe, you have to talk
8 about conduit, you have to talk about other product
9 besides OCTG because this is an industry that has
10 flexibility and it can channel its production capacity
11 to where it makes more money. And that's what good
12 businessmen do and that's what all these businesses
13 are doing.

14 But I, you know, didn't come here really to
15 talk about that. And I have to resist the urge to
16 offer my services to the U.S. industry which seems
17 desperate to bring a dumping case against China but
18 can't seem to find a lawyer to do it. But I think it
19 would be a conflict for me so I won't make that
20 comment either.

21 I'd just finished with, you know, coming
22 back to what I see as the key issues for my clients is
23 a Mexican producer of standard pipe, an Argentine
24 producer of light-walled rectangular. Those are
25 different products, of course. And the question

1 before the Commission is, is there any evidence that
2 these, that the Mexican producers or the Argentine
3 producers is there a likelihood that they would expand
4 their exports to the United States if the orders are
5 revoked?

6 And we've given you our discussion of what's
7 going on in Mexico and what's going on in Argentina.
8 And we will supplement that in response to your
9 questions that you've asked, all of which were very
10 good questions. And I apologize for not being the
11 industry expert to answer all of them. I think when
12 you look at this at the end of the day with all the
13 evidence before you you will have to come to the
14 conclusion that the problems facing the standard pipe
15 industry are not Mexico and Argentina and are not
16 going to be Mexico and Argentina. And while I wish
17 them well in dealing with the problems that they have,
18 I don't see why my clients should be punished for
19 complaints they have against other countries or
20 against other government officials.

21 So again, I understand why they're upset
22 about China but my issue is what's going on in
23 Argentina and what's going on in Mexico. And I don't
24 see based on the evidence we have that there is any
25 likelihood that those countries are going to export

1 additional quantities that are going to harm the U.S.
2 industry in the future or have a discernable adverse
3 impact.

4 Thank you very much.

5 CHAIRMAN KOPLAN: Thank you, Mr. Winton.
6 And thank you to everyone who participated today. It
7 was extremely helpful. I look forward to the post-
8 hearing submissions as well.

9 Post-hearing briefs, statements responsive
10 to questions and requests of the Commission and
11 corrections to the transcript must be filed by May 18,
12 2006.

13 Closing of the record and final release of
14 data to parties by June 14, 2006.

15 And final comments are due June 16, 2006.

16 And with that, this hearing is concluded.

17 (Whereupon, at 4:40 p.m., the hearing in the
18 above-entitled matter was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Pipe and Tube from Argentina

INVESTIGATION NO.: 701-TA-503, 731-TA-132, 252, 271
273, 409, 410, 532-534 536 (Second
Review)

HEARING DATE: May 9, 2006

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: 5/9/06

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: Tammy Brodsky
Signature of Court Reporter