

THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
 CERTAIN WELDED STAINLESS) Investigation Nos.:
 STEEL PIPE FROM KOREA) 731-TA-540 and 541
) (Second Review)
 AND TAIWAN)

Tuesday,
 June 20, 2006

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

The hearing commenced, pursuant to notice, at 9:31 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DANIEL R. PEARSON, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

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

APPEARANCES: (Cont'd.)

Staff:

MARILYN R. ABBOTT, SECRETARY TO THE COMMISSION
WILLIAM R. BISHOP, HEARINGS AND MEETINGS
COORDINATOR
SHARON D. BELLAMY, HEARINGS AND MEETINGS ASSISTANT
ERIC LAND, INVESTIGATOR
GERRY HOUCK, INDUSTRY ANALYST
STEVEN TROST, ECONOMIST
CHARLES YOST, ACCOUNTANT/AUDITOR
ROBIN TURNER, ATTORNEY
DOUGLAS CORKRAN, SUPERVISORY INVESTIGATOR

In Support of the Continuation of the Antidumping Duty
Orders:

On behalf of Bristol Metals LP and Marcegaglia U.S.A.,
Inc.:

JOHN TIDLOW, Vice President, Marketing and
Strategic Planning, Bristol Metals LP
WILLIAM KLINEFELTER, Legislative and Political
Director, United Steel, Paper and Forestry,
Rubber, Manufacturing, Energy, Allied Industrial
and Service Workers International Union

ROGER B. SCHAGRIN, Esquire
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P R O C E E D I N G S

(9:31 a.m.)

CHAIRMAN PEARSON: Good morning. On behalf of the U.S. International Trade Commission I welcome you to this hearing on Investigation Nos. 731-TA-540 and 541 (Second Review) involving Certain Welded Stainless Steel Pipe From Korea and Taiwan.

The purpose of these second five-year review investigations is to determine whether revocation of the antidumping duty orders concerning Certain Welded Stainless Steel Pipe From Korea and Taiwan 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, list of witnesses and transcript order forms are available at the Secretary's desk. I understand that 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 this time. Parties are reminded to give any prepared testimony to the Secretary. Please do not place testimony directly on the public distribution table.

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1 All witnesses must be sworn by the Secretary before
2 presenting testimony.

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

7 Madam Secretary, are there any preliminary
8 matters?

9 MS. ABBOTT: No, Mr. Chairman.

10 CHAIRMAN PEARSON: Very well. Let us
11 proceed with opening remarks.

12 MS. ABBOTT: Opening remarks in support of
13 continuation of orders will be by Roger Schagrín,
14 Schagrín Associates.

15 MR. SCHAGRIN: Good morning, Chairman
16 Pearson, and congratulations on your appointment.
17 Good morning to you, Vice Chairman Aranoff, and
18 congratulations on your appointment. Good morning to
19 the rest of the members of the Commission

20 It is a pleasure to see you all again in the
21 context of another sunset review. It's fortunate that
22 the WTO and the Congress established these sunset
23 reviews or else I don't know what the Commission and
24 some of us members of the domestic trade bar would do
25 with our time. I know there are a few cases being

1 filed. Very few. The problem is they're not being
2 filed by me, so it's not as much fun for either me or
3 for you.

4 The industry being reviewed today, welded
5 stainless steel pressure pipes and tubes, is at the
6 pinnacle of the value hierarchy for steel products.
7 These are products selling for \$3,000, \$4,000 or
8 \$5,000 per ton.

9 From 2000 to 2005, market demand for these
10 products increased slightly, but all other imports,
11 i.e. not imports from Korea or Taiwan, increased by
12 two-thirds of 15,000 tons. Most of this import
13 increase was from China.

14 The domestic industry has seen a 15 percent
15 reduction in shipments. There have been companies
16 exiting from the industry, and there have been plant
17 closures by some continuing producers.

18 When the Commission focuses on just ASTM
19 A-312 products, which is a commodity product and which
20 is the product covered by the scope of the orders, and
21 it's certainly permitted within the context of the
22 Commission's analysis of the industry producing the
23 domestic like product as a condition of competition,
24 then the condition of the U.S. industry producing ASTM
25 A-312 is clearly in a deplorable state.

1 For these A-312 products, there was a 30
2 percent decline in shipments over the period of review
3 and a 38 percent decline in workers. The domestic
4 industry had losses over most of the period of review,
5 including losses in interim 2006. Thus, there really
6 are no questions on the record of today's proceedings
7 about the extreme vulnerability of the U.S. industry
8 to any increase in imports of subject products from
9 Korea and Taiwan in the event of revocation.

10 Will imports of ASTM A-312 stainless steel
11 products from Korea and Taiwan increase in the event
12 of revocation? There also can be no doubt as to this
13 question either. The Korean and Taiwanese subject
14 ASTM A-312 products are highly regarded in the
15 marketplace and are completely fungible with the
16 domestic industry's products. These products
17 undersell the domestic industry by significant
18 amounts.

19 In spite of the lack of participation of
20 these countries in this review, all available
21 information on the record demonstrates that the Korean
22 and Taiwanese industries producing ASTM A-312 are
23 large industries with both large capacity and ample
24 excess capacity.

25 They are being squeezed in their traditional

1 Asian markets by rapidly expanding excess capacity in
2 China. Therefore, they will need to find alternative
3 markets for their capacity, and the U.S. market is a
4 very desirable export market because large volumes of
5 dumped imports from Korea and Taiwan would enter the
6 market in the event of revocation and cause a
7 recurrence of injury to the domestic industry
8 producing stainless pressure pipe and tube products.

9 We urge the Commission to make an
10 affirmative determination today. Thank you.

11 MS. ABBOTT: Mr. Chairman, the panel in
12 support of the continuation of the antidumping duty
13 orders is seated, and all witnesses have been sworn.

14 (Witnesses sworn.)

15 CHAIRMAN PEARSON: Very well. Please
16 proceed, Mr. Schagrín.

17 MR. SCHAGRIN: Thank you, and good morning
18 to you Commissioner Hillman.

19 Let me first begin by explaining our very
20 unusual witness situation today. It is unfortunate
21 that instead of having two witnesses, including the
22 two presidents of two of the three largest companies
23 producing these products in the United States, that
24 the president of Bristol, as you will hear from John
25 Tidlow, who is the vice president, had a medical

1 emergency arise and will have to be hospitalized and
2 so is unable to attend the hearing.

3 As to the two witnesses from Marcegaglia,
4 they were at the Pittsburgh Airport at 2 p.m.
5 yesterday in order to catch a 3:30 flight to
6 Washington, and the flight was postponed and postponed
7 by U.S. Air 45 minutes here, another update coming in
8 30 minutes.

9 They boarded the plane once at about 5:45.
10 They disembarked the plane in Pittsburgh -- not in
11 Washington -- at about 6:15. They called repeatedly
12 saying we're delayed, but they tell us we'll be taking
13 off in a half an hour or 45 minutes.

14 At 9:45 p.m. on my drive home after having
15 dinner with Mr. Tidlow -- a very nice dinner at an
16 Italian restaurant in honor of Mr. Biagi and
17 Marcegaglia -- and driving through a pretty serious
18 thunderstorm on my way to Annapolis, I got the last
19 call from Mr. Biagi, which was they have now canceled
20 all flights. There are going to be no more flights
21 this evening to National or to Dulles, and the first
22 plane they can put us on tomorrow is 10 a.m. We could
23 get there at about 11:15.

24 Mr. Biagi offered to drive to Washington.
25 Now, I know because I did an ITC staff visit about six

1 weeks ago that Mr. Biagi's wife is expecting their
2 first child at the end of July, and for a rare
3 occurrence, as this Commission is well aware, I
4 thought rationally.

5 I said Mr. Biagi, and Mr. Cornelius, I do
6 not recommend you driving through various rainstorms
7 through part of the middle of the night to get to this
8 hearing and taking a risk of having an accident,
9 particularly since your wife is expecting next month.
10 Instead, we will handle the hearing, and I will ask
11 the Commission, which I will do shortly, to put your
12 testimony on the record.

13 I am responsible for these witnesses not
14 driving here and getting here at 3:00 or 4:00 in the
15 morning. I take full responsibility.

16 CHAIRMAN PEARSON: Mr. Schagrín, please give
17 the witnesses who were unable to be here our best
18 wishes and our complete understanding with the
19 situations that they are in.

20 MR. SCHAGRIN: I will do so, Chairman
21 Pearson, and at this point I would ask -- we have Mr.
22 Biagi's written testimony. We have given this to the
23 Secretary. I would ask that it be entered on the
24 record of the proceeding.

25 CHAIRMAN PEARSON: Without objection, so

1 ordered.

2 MR. SCHAGRIN: Thank you very much.

3 We are fortunate today in that we will hear
4 from Mr. Tidlow of Bristol Metals, which is the
5 largest U.S. producer. We will also hear a repeat
6 performance, even though Mr. Klinefelter told me he
7 doesn't like long good-byes, but he is here again I
8 guess maybe just 10 days or so before his retirement
9 actually begins, and we can all wish him well in that
10 retirement yet again on the record of this proceeding.

11 In addition to the testimony of these two
12 fine gentlemen, we have an excellent staff report, and
13 before I turn it over and introduce them to deliver
14 their testimony, because I plan on saying very little
15 today after this brief introduction, I would like to
16 compliment the staff for the quality of the staff
17 report.

18 I think we sometimes take these for granted,
19 but in this particular case from the supervisory
20 investigator through the entire staff they were able
21 with an industry that really is doing poorly and is
22 getting hammered by imports and has less than well
23 under half the market for A-312 products to get
24 probably about 90 percent industry coverage in the
25 prehearing staff report and I think at this point may

1 have completed the loop and the final staff report may
2 have 100 percent domestic industry coverage. I think
3 the staff should be complimented for that.

4 I would also say it's obviously been
5 difficult for them. It's clear from the note that
6 they have done everything possible to try to get
7 information from the Korean and Taiwanese industries
8 and from importers. A lot of those folks have chosen
9 not to participate by giving information to the
10 Commission, and yet the staff was able to gather a lot
11 of information from the previous sunset review, the
12 previous investigation, from other data sources to
13 give you a very complete staff report in spite of the
14 fact that the Korean and Taiwanese industries have not
15 participated.

16 In particular, because this is a fairly
17 complicated like product in this investigation and a
18 like product that is very different from the scope, I
19 think the Commission benefitted in reading over this
20 second sunset review staff report and comparing it to
21 the original investigation staff report and the first
22 sunset review staff report.

23 I think the fact that Mr. Houck was the
24 industry analyst and given his past employment in both
25 the stainless steel industry and specifically in the

1 stainless steel pipe and tube industry, I think that
2 enabled him to really flush out and elucidate a very
3 accurate description of the industry, and we are
4 thankful that that previous industry knowledge has
5 been transferred into the staff report and given the
6 Commission an excellent staff report and a record upon
7 which to make its decision in this investigation.

8 At this point I'd like to introduce John
9 Tidlow of Bristol Metals to present his testimony.
10 John?

11 MR. TIDLOW: Good morning, Chairman Pearson
12 and members of the Commission. For the record, my
13 name is John Tidlow, and I am Vice President of
14 Marketing and Strategic Planning for Bristol Metals.

15 As Roger alluded a moment ago, I must
16 apologize for Mr. Boling not being here as he had a
17 medical issue and is having a surgical procedure on
18 Thursday this week.

19 Bristol Metals is a division of a public
20 company called Synalloy Corporation. We are the
21 largest division of Synalloy Corporation. Our
22 division has only one location, and that is in
23 Bristol, Tennessee.

24 I have been with Bristol Metals for five
25 years and have 20 years' experience in the metals

1 industry. We have eight continuous welding mills in
2 Bristol that produce welded ASTM commodity grade A-312
3 products, as well as other stainless steel pipe and
4 tube products.

5 The sizes we produce in are one-half inch to
6 16 inch on these continuous mills. We also have a
7 number of presses in which we can produce batch type
8 products, which we call batch type, in sizes as large
9 as 96 inches in outside diameter.

10 The market for ASTM A-312 and other welded
11 stainless steel pipe and tube products has been
12 increasing since the end of 2001 recession, but the
13 amount of the market available to the domestic
14 industry has been declining as we have lost market
15 share to imports, especially China.

16 As the Commission staff report demonstrates,
17 the domestic industry has lost 15 percent of the
18 market in the past five years since 2001. Bristol and
19 other domestic companies have survived and have
20 benefitted by cannibalizing market share from other
21 producers who have exited the business.

22 For example, Acme/Romac exited the business
23 through Chapter 7 in 2003. This company had multiple
24 plants around the United States, including one that
25 produced A-312 pipe just 20 minutes from our location

1 in Bristol, Tennessee, and several other locations
2 that produced pressure tube products.

3 Trent Tube, a division of Crucible Metals,
4 basically exited the A-312 business when it closed a
5 plant in Carrollton, Georgia. It also closed and sold
6 off some equipment in East Troy, Wisconsin.

7 At a time when markets for our products are
8 increasing and mills are closing, the remaining
9 manufacturers in our industry should be increasing
10 production volumes and employment. In fact, the
11 opposite is occurring as imports continue to take
12 market share from domestic producers and our
13 production volumes continue to decline, as does our
14 employment level.

15 The A-312 market is basically a distributor
16 spot business in the continuous welded sizes up to 12
17 inches. This represents 80 percent or more of the
18 market in terms of total tonnage. Our product, like
19 that of our main U.S. and foreign competitors, is
20 quoted to stocking distributors who stock the entire
21 size range, including standard ODs and wall thickness
22 combinations.

23 Our customers buy mainly on price. These
24 stocking distributors in turn quote end users in
25 competition with each other based upon having the

1 available sizes of the requisite quality in stock and
2 quoting the lowest prices to these end users.

3 The end users usually solicit bids from
4 several distributors when making their welded
5 stainless steel pipe or tube purchase. In this
6 environment there is direct competition in the
7 marketplace every day between domestic producers and
8 importers for ASTM A-312 welded stainless steel pipe
9 and tube.

10 I can assure you that the domestic industry
11 has lost market share for only one reason. Foreign
12 producers have been offering lower prices to
13 distributors than domestic producers can offer.

14 Both Korea and Taiwan have large, well
15 established welded stainless steel pipe industries.
16 Their products meet the requirements of U.S.
17 distributors and consumers. Therefore, their products
18 would be a ready substitute for U.S. products sold at
19 dumped prices if these orders were lifted.

20 Michael Boling and I recently visited China.
21 It is amazing how much ongoing investment there is in
22 China at this point in terms of both stainless flat-
23 rolled steel and welded stainless steel pipe and tube.

24 Chinese welded stainless steel pipe and tube
25 products are already displacing Korean and Taiwanese

1 products in the Chinese and Asian markets. They are
2 already also displacing U.S. products in the U.S.
3 market. Therefore, as Chinese production of welded
4 stainless steel pipe and tube increase, even more
5 Korean and Taiwanese pipe and tube will be available
6 for the U.S. market.

7 Based upon my business experience and our
8 very extensive knowledge of the U.S. marketplace,
9 there is no doubt in my mind that revoking the
10 antidumping duty order presently in place will lead to
11 significantly increased imports in the U.S. market
12 causing further injury to Bristol Metals and other
13 U.S. producers.

14 We would see our volume of production
15 decline even further leading to reduced capacity
16 utilization and even fewer jobs at our plant. We
17 would see additional pricing and profit pressures as
18 well.

19 Therefore, on behalf of our company and our
20 315 employees we respectfully request that the
21 Commission make an affirmative determination in these
22 sunset reviews and maintain the antidumping duty
23 orders against Korea and Taiwan.

24 Thank you for the opportunity to appear here
25 today.

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1 MR. KLINEFELTER: Mr. Chairman, Madam Vice
2 Chairman, let me add my congratulations. I know full
3 well that you will carry on the great tradition of the
4 ITC.

5 I am back here, and let me just explain.
6 Vice President Conway was supposed to do this, but we
7 are in tough negotiations with Goodyear because that
8 is also another one of our jurisdictions, and he had
9 to be at those negotiations.

10 No matter whether it's myself or someone
11 else in the union, we are always happy to be before
12 the ITC because the ITC is the Commission that means
13 something to American workers and has meaning and
14 delivers meaning for their jobs and so whether it's
15 myself or someone else in the future, the steelworkers
16 union will always be happy to be here.

17 This morning we are here to ask you to
18 continue the antidumping orders on ASTM A-312
19 stainless steel pipe from Korea and Taiwan. The USW
20 represents the vast majority of the workers in this
21 industry, including Bristol Metals and Marcegaglia
22 U.S.A. who could not be here today.

23 We also represent the workers at other major
24 U.S. facilities, including the Trent Tube Division of
25 Crucible Metals and DeFasco Tubular Products. We did

1 represent workers at Davis Pipe and Acme/Romac, but
2 those places have shut down.

3 This industry, as we have said time and time
4 again, is another example of an American steel product
5 where the producers have excellent production
6 facilities, good management and an efficient and
7 competitive workforce, yet again we see the plants are
8 closing, workers are losing jobs and the U.S. industry
9 losing market share because our government has failed
10 to institute any remotely sensible trade policies
11 towards China.

12 It is my understanding since the last sunset
13 review in this case that there has been a surge in
14 imports from China, and the domestic industry has lost
15 as much as 20 percent of its U.S. market to increased
16 imports in just five years.

17 As your staff report shows, the industry has
18 lost over 200 jobs or 38 percent of the workforce when
19 you look at only ASTM A-312 products or 175 jobs and
20 17 percent of the workforce when you look at the
21 overall welded steel tube products and pressure tube
22 markets. This occurred in spite of consumption growth
23 for these products.

24 The steelworkers are based in Pittsburgh,
25 Pennsylvania, and Marcegaglia occupies the place where

1 Homestead -- anyone who knows the history of the basic
2 steel industry in this country knows that Homestead
3 was the scene of perhaps the most bloodiest
4 confrontation between capital and labor in the history
5 of this country, but when you go there today it's very
6 different from what it was back in the days when those
7 mills were humming producing steel for the United
8 States. You see strip malls. You see box stores.
9 You see places that are filled with products from
10 China.

11 Sure, there's always change, and change is
12 what this country has always been about, but what we
13 need to also remember is that there is the need for
14 these basic industries in the United States. The
15 world is an uncertain place. We cannot depend totally
16 on our trading partners at all turns.

17 We need to in the future devise a trade
18 policy that is just and fair and fair to American
19 workers and American companies, as well as fair to our
20 trading partners or else all of these industries are
21 going to be wiped out.

22 I'm always hopeful. You know that's been my
23 thing, particularly when I've testified before this
24 committee. I think that our government can push
25 forward on 301 on currencies and labor standards, and

1 we're hopeful that they will do that.

2 Now, you can be very pessimistic about this
3 as to the track record, but I think in time these
4 things are going to become very clear to the policy
5 makers that there is a need to control this not only
6 for the domestic manufacturers, but the overall
7 national security of our country.

8 I thank you again for the opportunity to
9 appear today, and I ask you not to put in jeopardy our
10 union jobs producing welded stainless steel pipe and
11 tube products by allowing dumped products from Korea
12 and Taiwan to return to the U.S. market without the
13 imposition of dumping duties.

14 Increased imports from Korea and Taiwan on
15 top of large volumes of imports from China will only
16 result in more plant closures and job losses.

17 Thank you. I will have no problem appearing
18 before the ITC again if I have to.

19 MR. SCHAGRIN: Chairman Pearson, that
20 completes the domestic industry's testimony this
21 morning. We would be happy to answer your questions.

22 CHAIRMAN PEARSON: Allow me to compliment
23 the panel for its focused and time-efficient
24 presentations.

25 We will begin this morning's questioning

1 with Commissioner Koplan.

2 COMMISSIONER KOPLAN: Thank you, Mr.
3 Chairman.

4 Mr. Klinefelter, before I wish you well a
5 second time I just want to make sure. Is there any
6 possibility you're going to show up at the Metal
7 Calendar Slides hearing on Thursday?

8 MR. KLINEFELTER: Mr. Koplan, whose hearing?

9 COMMISSIONER KOPLAN: It's on Metal Calendar
10 Slides. I just didn't know.

11 MR. KLINEFELTER: I don't think so.

12 COMMISSIONER KOPLAN: Okay. Well, then I
13 wish you well again. You might want to go back and
14 check.

15 Mr. Schagrín, since I have you here today I
16 want to raise something with you. On the basis of a
17 three to three vote, the Commission determined to
18 conduct full reviews in these investigations. As you
19 know, it take a majority vote of the Commission to
20 conduct an expedited review. At the time I voted to
21 expedite. I don't believe that you took a position on
22 that.

23 I note that our notice of institution for
24 sunset reviews does not require and typically the
25 Commission does not receive such financial information

1 as net sales, cost of goods sold, SG&A and operating
2 income data from the aggregated domestic industry.

3 For the posthearing could you comment on
4 whether requesting such information prior to our
5 adequacy vote would better inform us as to whether to
6 expedite in those matters where we find that the group
7 response for those in opposition to continuation is
8 inadequate? That's inadequate.

9 Of course, I welcome any comments you wish
10 to make on that now.

11 MR. SCHAGRIN: We can elucidate further in
12 the posthearing brief, Commissioner Koplan, but I do
13 have thoughts on that issue at the present time and
14 did consider it particularly in the context of this
15 investigation and the three/three vote to continue. I
16 will have to go back and look.

17 COMMISSIONER KOPLAN: To have a full.

18 MR. SCHAGRIN: To have the full. Because
19 you stated that we didn't take a position on that, I'm
20 going to have to go back and look at the reg.

21 COMMISSIONER KOPLAN: I don't think so.

22 MR. SCHAGRIN: I don't know that counsel was
23 allowed to comment either before or after the
24 Commission's vote. Maybe you're referring to comments
25 on adequacy which can be filed.

1 COMMISSIONER KOPLAN: I am. Mr. Schagrín,
2 I've never found you unable to express comments.

3 MR. SCHAGRIN: Correct, and I think there
4 while the norm is to comment on the adequacy or
5 inadequacy of those in opposition to your perspective,
6 and since there were no filings I thought maybe it
7 would be a little redundant to claim that, the foreign
8 responses were inadequate because there were none.

9 I didn't think about commenting on the
10 adequacy of the domestic response. It did represent a
11 very significant portion of the industry, and we put
12 that in.

13 As to your other point, I think it would be
14 an excellent idea for the Commission to consider, and
15 I do not see any problem as counsel to industry in
16 providing additional information, including all the
17 financial information, sales revenues, cost of goods
18 sold, SG&A, operating profits, net profits.

19 I don't think there's any problem with
20 providing that for the industry either for the one
21 year which the Commission requested information for,
22 the year previous to institution, or for a longer
23 period.

24 Even in an industry such as this in which we
25 represent, as I said, two of the three largest

1 producers, and it's confidential how large a part of
2 the industry they are, but like many industries in
3 which counsel is involved if it would have been
4 helpful to the Commission besides gathering that data
5 from the parties represented by counsel I think in
6 most cases counsel can obtain data from other industry
7 members, you know, short of a complete questionnaire.

8 I think if the Commission either changed its
9 regulations or, in the alternative, just made
10 suggestions that such information would be welcome
11 even if not required that many counsel, particularly
12 faced with the possibility of it furthering the
13 Commission record for an expedited investigation,
14 where foreign parties did not enter information or do
15 not take a position in opposition, I think that
16 domestic counsel in general would welcome that
17 opportunity.

18 I personally can state that I would welcome
19 that opportunity and I think would be able to deliver
20 such information for the majority of industries in
21 virtually all the sunset reviews in which we
22 participate.

23 COMMISSIONER KOPLAN: Thank you. That's
24 most helpful, and I look forward to anything you might
25 want to add.

1 I should clarify. There was no question.
2 Everybody agreed that the domestic group response was
3 adequate.

4 MR. SCHAGRIN: Correct.

5 COMMISSIONER KOPLAN: This is the perfect
6 situation to raise a question with you like this I
7 think because obviously if we do end up expediting in
8 a sunset review it does save time and money for the
9 client.

10 MR. SCHAGRIN: And I also once again, and I
11 don't know if I can speak on behalf of the domestic
12 trade in general, but speaking on my own behalf I have
13 always welcomed throughout my 25 year career saving
14 money on behalf of clients.

15 These companies can do much better investing
16 in their facilities and helping provide benefits to
17 their employees than they can spending money on
18 counsel.

19 COMMISSIONER KOPLAN: Thank you for that,
20 Mr. Schagrin.

21 Mr. Tidlow, could you describe for me prices
22 for the subject product in what you consider to be
23 major third country markets and compare those prices
24 with those in the U.S. during 2005 and 2006?

25 In addition, what can you tell me about

1 likely pricing in those third country markets compared
2 to what you project pricing will be in the U.S. during
3 2007 and 2008?

4 Now, I don't know whether you would prefer
5 to do that for purposes of the posthearing. I'd
6 certainly welcome that, but I'd take anything you
7 could give me on that now.

8 MR. TIDLOW: I can take a stab at the
9 current markets. The future markets and pricing is
10 really dependent on the direction of change of so many
11 of our factor input prices that I really don't have a
12 view of it at this point.

13 Right now pricing in the U.S. market is
14 stronger than -- let me step back. Prices in the
15 developed market economy -- Europe and the United
16 States -- appear to be stronger than in the developing
17 market economy.

18 We have a very rapid response system in
19 place from our stainless steel suppliers to raise
20 prices against nickel and base costs of
21 transportation, energy, labor. It doesn't seem to be
22 as rapid a response coming out of the developing
23 countries. Their prices tend to lag ours, especially
24 in the upward movement.

25 These are real costs to us. Our basic raw

1 material represents a very large percentage of our
2 input costs, and as these go up we have to pass them
3 on. That currently is driving our pricing to be a
4 little stronger than it is in the developing economy.

5 As far as 2007, I think I'd rather address
6 that after I've had a chance to look at it a little
7 bit.

8 COMMISSIONER KOPLAN: And I'm also asking
9 you about 2008 as well, and you could do that.

10 MR. TIDLOW: Yes.

11 COMMISSIONER KOPLAN: And that's because, as
12 you know, we look into the foreseeable future and are
13 two years I'm very interested in.

14 MR. TIDLOW: Yes.

15 COMMISSIONER KOPLAN: I appreciate that.

16 Mr. Schagrín, on page 18 of your brief you
17 state, and I quote, "Performance data indicate that
18 the domestic industry is vulnerable to increased
19 unfair imports," but I notice the industry was
20 profitable in the final two years of the period
21 reviewed, as well as during the first quarter of 2006.
22 This is public.

23 Operating income in 2004 was 5.8 percent.
24 In 2005, it was 3.2 percent. Operating profits in the
25 first quarter of 2006 were 4.8 percent, and most of

1 the individual companies have also been profitable
2 since 2004.

3 I'd like you to respond to that. I'm
4 referring for that information to Table III-5 at page
5 312 of the public version of our staff report and
6 Table C-3 at C-5 of the public report of our staff
7 report.

8 MR. SCHAGRIN: Excuse me. I didn't realize
9 I turned my mic off.

10 I'm familiar with that data, Commissioner
11 Koplan. As we stated in our brief, we believe that
12 after a period of several years of losses that those
13 profit rates in 2004, 2005 and the first quarter of
14 2006 are not adequate for the industry to maintain a
15 healthy industry.

16 In particular the profits have been
17 declining since 2004, so 2004 was the first year of
18 profits, but since 2004 profits are down in 2005.
19 Profits in interim 2006 are less than the period of
20 interim 2005.

21 I believe while a number of the members of
22 the industry are profitable that the general data
23 which I think precedes that table or may be in the
24 table in the staff report shows that about -- well,
25 for interim 2006, looking at the table on III-12, that

1 five out of the nine reporting producers had operating
2 losses, so this is an industry in general that is not
3 performing very well, and they're facing cost
4 increases for raw materials. They're facing energy
5 cost increases, transportation cost increases and of
6 course increase in borrowing costs.

7 Levels of profitability in 2005 and in first
8 quarter of 2006 to us demonstrate an industry that is
9 not performing very well particularly in the context
10 of the very strong current demand for the product.
11 You would expect this industry to perform poorly in
12 recession years like 2001 and 2002, but the fact that
13 the industry has such low margins -- 3.2 percent as
14 you stated in 2005, 4.8 percent in the first quarter
15 of 2006 -- is inadequate.

16 I would make just one additional comment --
17 I realize the red light is on -- and that is in the
18 data for the overall profitability of the industry as
19 the Commission looks at the like product, there are
20 some products, and Bristol may be the leading producer
21 of this, that are in the like product in which they
22 have no import competition at all. Highly specialized
23 products, very, very profitable products.

24 The product areas that are commodity in
25 which they have a lot of competition like A-312 the

1 industry is losing money in the first quarter of 2006,
2 which I believe is on probably the information on
3 either C-2 or C-3. Thank you.

4 COMMISSIONER KOPLAN: Thank you, and thank
5 you for indulging me, Mr. Chairman.

6 CHAIRMAN PEARSON: I'm just returning a
7 favor that was extended to me.

8 Commissioner Okun?

9 COMMISSIONER OKUN: Thank you, Mr. Chairman,
10 and welcome to the witnesses. I have to say, Mr.
11 Tidlow and Mr. Klinefelter, after hearing what
12 happened to the other witnesses who were supposed to
13 appear here, I have to say I'm doubly glad to see that
14 you were able to make it.

15 Mr. Chairman, I thought for a moment this
16 may be an auspicious way to start your chairmanship.
17 We didn't have microphones working. I thought for a
18 minute maybe our former chairman may have been doing
19 some of the games that we see on the transition, but I
20 know that's not the case.

21 COMMISSIONER KOPLAN: I wouldn't be that
22 visible.

23 COMMISSIONER OKUN: So we don't know what
24 else is yet to happen.

25 Also, Mr. Klinefelter, I think I was low

1 down in the questioning order so I didn't have the
2 opportunity when you were here the last time to say
3 thank you for all your appearances here and to wish
4 you well in your retirement. We very much have
5 appreciated your willingness to be here and take our
6 questions over the many years. We appreciate that.

7 Turning to the case, I was very interested,
8 Mr. Schagrin, in the response you gave to Commissioner
9 Koplan's first question about what other information
10 we may be able to collect in the adequacy phase.

11 It's something that has troubled me as we've
12 looked at particularly these second reviews and trying
13 to understand what information we can collect in the
14 first instance before we decide whether we need to go
15 to a full review, I think particularly the case often
16 when the orders are very old, but we know the world
17 has changed, and yet we get to adequacy and we have
18 very little information on anybody.

19 I think that your comments were well taken
20 and will help inform the Commission as we continue to
21 look at that, so we very much appreciate seeing that
22 and anything you would be willing to put in in
23 posthearing as well to help us with that.

24 MR. SCHAGRIN: Can I point out, Commissioner
25 Okun, that I will already guarantee that we would be

1 happy to provide that information for the third review
2 in this case.

3 COMMISSIONER OKUN: Now, why wouldn't that
4 surprise me?

5 I think that I also have to note that since
6 I was one of the Commissioners voting to go full in
7 this and in some of the other old reviews I recognize
8 the burden it places on the domestic industry to come
9 and the fact that you're willing to get your witnesses
10 here and balancing that against the fact of what our
11 duty is to investigate to make sure that orders should
12 stay in place.

13 It is always helpful to have more
14 information rather than less and so we very much
15 appreciate what you've been willing to do for your
16 side to get that information here.

17 If I could, Mr. Tidlow, start on the demand
18 and some of the comments that have been made about the
19 A-312 pipe? I'm trying to just make sure I understand
20 what's going on in the industry.

21 If I understand the briefs, the briefs seem
22 to argue that the demand for the A-312 pipes is
23 declining, and the domestic industry favors production
24 of different forms of welded stainless steel pipes and
25 pressure tubes that could be used in some of the same

1 applications.

2 I'm trying to understand if it's been a
3 shift in demand because when I look at the record the
4 apparent consumption is relatively flat. I mean, it's
5 declined somewhat on our record over the period of
6 review, but the U.S. production has declined a lot
7 more than apparent consumption and so I'm trying to
8 understand whether that's demand driven or whether as
9 Mr. Schagrin was just noting that there are other
10 products that you don't face the same competition in
11 and so it's more profitable to do so I'm just trying
12 to understand those demand trends if you could help me
13 out there.

14 MR. TIDLOW: Demand for A-312 pipe is a very
15 broad question. We produce two types of A-312
16 product. We produce a commodity product, which we
17 produce on a continuous basis. We take strips of coil
18 or plate, weld them together, run them through our
19 continuous mill, and we get pipe off foot after foot
20 after foot, miles and miles of it. That is what we
21 would call our commodity product. That makes up well
22 over 80, say 90 percent of the marketplace.

23 We also make what we call batch products,
24 which we make on press brakes. We use plate. These
25 are very special products. Typically they're x-rayed.

1 They're used in nuclear facilities, LNG facilities,
2 high end chemical plants. Those products have
3 qualification requirements such as ISO and all kinds
4 of testing requirements. They're project driven.

5 The commodity business is driven more
6 through the distribution market where we're competing
7 typically on a half-inch to 12-inch basis. All the
8 products meet the requisite requirement, and in that
9 case the demand for that product is probably flat.
10 I'd say it's actually growing slightly. That would be
11 my interpretation of the data.

12 We have basically exited the production of
13 that product, probably lost 75 percent of our market
14 share on that product, those smaller diameter
15 commodity products. We were running our mills at
16 three shifts a day. We're now down to one shift a
17 day. Some of the mills we're not running at all
18 because we can't produce it at the cost to be
19 competitive enough.

20 The demand for the commodity type products
21 is flat. The demand for some of the larger industrial
22 application products may be increasing slightly.
23 We've invested some money to be able to capitalize on
24 those pieces of business as well.

25 COMMISSIONER OKUN: And do you see anything

1 in terms of the trends or events in downstream markets
2 for stainless steel pipe that may be affecting that
3 product mix? In other words, some of the information
4 that was collected in the staff report about in terms
5 of the petroleum and automotive sector.

6 I understand that with biofuels there's also
7 an additional need for the infrastructure to support
8 it. Can you help me understand a little bit what you
9 see as a company looking forward on that?

10 MR. TIDLOW: We have a very good outlook as
11 far as our demand is concerned. The ethanol business
12 is doing very well, the biofuel business. We're
13 having a return of chemical investment in the United
14 States. It's gone offshore. It's coming back
15 somewhat.

16 We have a good looking demand structure.
17 Right now one of the things that's driving demand away
18 from the United States or away from stainless steel
19 pipe and tube would be conversion to other alloy or
20 other material based on the fact that our prices are
21 very high at this point.

22 Our product is used for its material
23 characteristics. It's hard to substitute for
24 stainless steel because of the requirement for
25 corrosion resistance, longevity, the capabilities of

1 the product.

2 As the demand increases in our end use
3 markets, we should see increased demand. Typically
4 right now those are project driven, large specialty
5 products, not commodity based products. With that it
6 does still pull some of the commodity products with it
7 so when we sell some of our larger diameter items we
8 also sell some of our commodity pipe.

9 MR. SCHAGRIN: Commissioner Okun, can I just
10 add in response to your first question --

11 COMMISSIONER OKUN: Sure.

12 MR. SCHAGRIN: -- because I think it was
13 addressed in the staff report saying that in general
14 the industry was shifting away from 312 to other
15 products.

16 I'm not sure whether the industry is
17 actually shifting away versus the fact that the
18 closures in the industry during the period of review
19 were in A-312. Those were the mills that were shut
20 down.

21 COMMISSIONER OKUN: So that explains the
22 production?

23 MR. SCHAGRIN: Exactly.

24 COMMISSIONER OKUN: The larger production
25 decline than in the demand?

1 MR. SCHAGRIN: Exactly.

2 COMMISSIONER OKUN: Okay.

3 MR. SCHAGRIN: And that is because the mills
4 that were closed, whereas mills were not closed in the
5 other pressure pipe and tube products.

6 In general, there's not a lot of overlap in
7 the production. There is some overlap in the
8 production facilities. There is very little overlap
9 on the actual welding lines in terms of the capability
10 of a producer to shift from A-312 to say an A-249
11 condenser tubing product or to an A-358 nuclear type
12 product. They tend to be made on separate weld mills
13 because they have different testing requirements,
14 different annealing requirements that tend to be built
15 into the mills.

16 As I say, it's not so much a shift on the
17 same equipment to other products. It's more that over
18 this period of review a lot of the domestic capacity
19 and, therefore, the production for A-312 has actually
20 been shut down whereas we haven't had that shutdown in
21 the other welded stainless pipe and tube products, and
22 that's why it looks like there's a shift.

23 COMMISSIONER OKUN: Okay. That's very
24 helpful to clarify.

25 MR. SCHAGRIN: Can I mention one other

1 thing?

2 COMMISSIONER OKUN: Yes. Sure.

3 MR. SCHAGRIN: I realize you have a light
4 on, but that is Mr. Klinefelter has informed me that
5 he does have to go to a major pension fight on Capitol
6 Hill so he's asked if it would be possible --

7 MR. KLINEFELTER: It's personal.

8 MR. SCHAGRIN: And now you can imagine it's
9 quite personal.

10 Chairman Pearson, if there is any way that
11 questions specifically for Mr. Klinefelter could be
12 asked sooner rather than later, the union movement
13 would appreciate that so he can wield his heavy
14 lobbying power on this pension issue on the Hill.

15 CHAIRMAN PEARSON: Before calling on
16 Commissioner Lane, let me ask whether any Commissioner
17 has a question they'd particularly like to address to
18 Mr. Klinefelter.

19 Commissioner Hillman?

20 COMMISSIONER HILLMAN: I do have only one
21 question and that relates to the Byrd Amendment
22 distribution because it is my understanding in this
23 case, in this product, that the union itself got I
24 think it was a whopping \$16 so we won't go into the --
25 some very small amount of money, but only for a couple

1 of years and then nothing thereafter.

2 I just was curious why distributions to the
3 union in this product for a couple years and then
4 nothing else, more out of curiosity than anything else

5 MR. KLINEFELTER: If I could defer to Mr.
6 Schagrin for the answer? I know that in other
7 products we did fairly well. The union did fairly
8 well.

9 COMMISSIONER HILLMAN: Well, it's more in
10 this instance the fact that there were some
11 disbursements early in the period that we've looked at
12 and then none in the subsequent years.

13 I didn't know whether that related to any of
14 these closures in terms of --

15 MR. SCHAGRIN: I'm not sure Mr. Klinefelter
16 would be completely familiar with it. I think I may
17 be more familiar with it, and I think just the reason,
18 Commissioner Hillman, because they continue to
19 represent a majority of the workers.

20 Even though the plants that closed down had
21 the USW, the union has continued to represent the
22 majority of the workers in the industry. I just think
23 probably based on the fact that they had gotten such
24 small distributions in the early years they just
25 decided to stop filing applications.

1 COMMISSIONER HILLMAN: Okay.

2 MR. SCHAGRIN: And that's why they didn't
3 get distributions in the later years when in fact the
4 distributions were greater. They simply had not
5 applied.

6 MR. KLINEFELTER: That is done through the
7 Office of the General Counsel and the secretary/
8 treasurer of the union. I'll find the exact answer
9 and submit it.

10 COMMISSIONER HILLMAN: Okay. No. I had not
11 understood whether there was an issue of the
12 facilities where USW was representing the workers were
13 the ones that had closed and whether there had been
14 any shift in that. Okay.

15 MR. SCHAGRIN: It wouldn't have been because
16 the union, A, was a petitioner in the original case,
17 so they were a listed party. Secondly, I know for a
18 fact that Bristol, which was the largest recipient, is
19 all USW so the union would have been able to still
20 keep applying.

21 I just think for whatever reason their
22 general counsel didn't contact me or discuss it with
23 me, and I think they just failed to continue applying
24 because somebody probably said gee, why should we
25 spend all the time filling out an application when all

1 we got was \$16 last year? Then they missed out when
2 it was larger and they might have gotten \$16,000 in
3 2005.

4 COMMISSIONER HILLMAN: All right.

5 MR. KLINEFELTER: I will definitely check
6 into that.

7 COMMISSIONER HILLMAN: Thank you.

8 MR. SCHAGRIN: It could have been spent on
9 Mr. Klinefelter's pension.

10 CHAIRMAN PEARSON: Any other questions for
11 Mr. Klinefelter?

12 (No response.)

13 CHAIRMAN PEARSON: In that case, Mr.
14 Klinefelter, I would just like to congratulate you for
15 your years of service to the men and women who are
16 members of your union and to the steel industry
17 broadly and also for your service to us here at the
18 Commission because I know you have certainly helped me
19 understand some of these issues better and so without
20 further ado if you need to escape, by all means feel
21 free.

22 MR. KLINEFELTER: Thank you very much.

23 CHAIRMAN PEARSON: Let me turn now to
24 Commissioner Lane.

25 MR. SCHAGRIN: Commissioner Hillman, I

1 apologize for interjecting that while your yellow
2 light was on instead of the red light, but Bill kept
3 yanking on my arm.

4 COMMISSIONER OKUN: It might have just been
5 a clever counsel just shutting me off without hearing
6 Mr. Klinefelter's viewpoint, but that's okay. I
7 always have an opportunity, Mr. Schagrín.

8 MR. SCHAGRIN: Thank you.

9 COMMISSIONER LANE: Mr. Schagrín, I was
10 going to start off by asking you if it was easier for
11 you to present your cases when you have no
12 Respondents, and now I'm going to add is it easier
13 when you get rid of all of your witnesses so that you
14 can just be your witness and a lawyer too?

15 MR. SCHAGRIN: Commissioner Lane, there's
16 probably a part of me, a large part of me, that would
17 agree with that. I think that luckily we understand
18 this industry pretty well and understand the
19 industries when we are representing folks.

20 Of course, there are additions by industry
21 members that counsel can never be fully aware of
22 because they know their industry better than others so
23 we do regret when it's unfortunate that witnesses
24 can't appear.

25 As to opposition, on my clients' behalf it's

1 better not to have opposition. Personally, I enjoy
2 opposition.

3 COMMISSIONER LANE: Okay. Mr. Tidlow, thank
4 you for coming. I'm sorry about all of the other
5 witnesses. It sounds like a horror story that I'm
6 sure they would have rather been here and be grilled
7 than go through what they went through yesterday.

8 Mr. Tidlow, in your opening remarks you
9 suggested that although the domestic industry's market
10 share as gone down in recent years, the industry is
11 surviving by cannibalizing the share of those
12 companies that have exited the market.

13 I'm not sure I see that in the data. Could
14 you expand on your statement please? For example,
15 which domestic companies have exited the market,
16 approximately when did they leave, and which companies
17 do you believe have been able to pick up that market
18 share?

19 MR. TIDLOW: Thank you for the opportunity
20 to talk again. Roger, I could leave if that would
21 make it easier.

22 COMMISSIONER LANE: Could you speak a little
23 bit closer there, please?

24 MR. TIDLOW: I was telling Roger that I
25 could leave if that would make it easier for him.

1 I think my comment about cannibalizing
2 market share is the only way we have survived is
3 because some of our competitors have gone out of
4 business. As they have gone out of business, we have
5 gained some of their production. What they were
6 producing has now fallen to us.

7 In the commodity type products I believe
8 that almost 100 percent of that went to the imports.
9 Their share of the commodity share business, almost
10 100 percent of that has gone to the importers. Where
11 we have gained is in the specialty products, the
12 A-358, the other pipe products that are listed in your
13 briefs and your reviews.

14 The people who have left were a company
15 called Acme/Romac, which is Davis Tube. They were
16 located in Blountville, Tennessee. They had several
17 pipe and tube plants, one located in Louisiana, one in
18 New Jersey and one in Statesville, North Carolina, I
19 believe. Those were the pressure tube plants. The
20 welded pipe plant was in Blountville, Tennessee.

21 Trent Tube exited. They had a large plant
22 in Carrollton, Georgia, that made A-312 plant.
23 Towards the end of their life as a producer of welded
24 stainless steel pipe at Carrollton they produced no
25 commodity grade products. They couldn't compete with

1 the imports, so the benefit to us has been in the
2 other items, the other products that have come to us.

3 What the exit of their production
4 capabilities to the industry has meant has been a gain
5 for us in specialty products or special alloys or
6 things not covered in this review typically.

7 MR. SCHAGRIN: And I would just add, and
8 it's only because they continue to exist, but if
9 Marcegaglia were here and just to paraphrase Mr.
10 Biagi's testimony, Marcegaglia, an Italian company,
11 bought two different U.S. companies, Damascus Tube and
12 Bishop Tube. One they bought out of bankruptcy.
13 Those companies each had separate mills in separate
14 facilities.

15 When Marcegaglia had the opportunity to
16 purchase buildings in Homestead they took advantage of
17 that in order to move one plant from Frazier,
18 Pennsylvania, to Homestead, Pennsylvania. They
19 intended to continue to operate the other plant they
20 had purchased in Greenville, but within about two
21 years of moving one plant to Homestead they shut down
22 the plant in Greenville, Pennsylvania. I believe it
23 was in 2002 or 2003.

24 They moved some of the equipment to
25 Homestead so they added a little bit more to what they

1 had moved, but they just really used the remaining
2 mills, and there were several mills, just for parts so
3 they did significantly reduce their capacity when they
4 shut down one of their two plants.

5 I think that would be the other one that
6 John maybe didn't mention during the period of review
7 which got out.

8 MR. TIDLOW: There's one more thing I'd like
9 to bring up. Acme/Romac, the Davis plant, had exited
10 the commodity business. They were focusing on
11 specialty. Trent Tube, which exited about the same
12 time, 2002 to 2003, had exited the commodity business.
13 They were trying to focus on specialty products.

14 The problem with that strategy is we cannot
15 survive without the commodity pipe. It is 80 percent
16 of our volume. There's case study after case study
17 that says you can't save yourself into prosperity. If
18 you don't have the volumes to fill your plant, you
19 can't run the plant.

20 Their history showed that when they exited
21 the commodity they tried the specialty route, and
22 eventually it didn't work for them. When they hit the
23 next recession they were pushed out of the
24 marketplace.

25 We're at that point now where we've started

1 to focus more and more on the specialty. We are still
2 making commodity, very few and running a whole lot
3 less than we were before. Without the commodity pipe
4 business we can't continue to operate long term.

5 COMMISSIONER LANE: And I am assuming then
6 that in order for you to stay in the commodity
7 business you feel it's important that these orders
8 stay on?

9 MR. TIDLOW: Yes, ma'am.

10 COMMISSIONER LANE: Okay. Mr. Schagrín,
11 this is probably a question for you.

12 In the first review, the domestic parties
13 and Korean Respondents commented on the limited
14 substitutability between ASTM A-312 pipe and other
15 forms of welded stainless steel pipes and tubes. In
16 fact, the domestic parties raised the argument that
17 only A-778 pipe and A-312 pipe should be included
18 within the domestic like product.

19 Do you currently believe that the like
20 product definition should be narrowed by excluding
21 some types of pressure pipe or tubing? Explain your
22 answer.

23 MR. SCHAGRIN: The answer is yes, and I will
24 explain that it's because of what I've learned and
25 learned before the first review in these products, but

1 on the other hand when it came to saving clients money
2 and making that decision in your initial filing with
3 the ITC do we want to completely reargue like product
4 or, even with the same like product, will it not
5 affect the ability of the industry to continue the
6 orders, we chose not to raise the issue of like
7 product again.

8 However, we believe that Mr. Tidlow should
9 also share some of his expertise, which is very great
10 in this particular area, that really only A-312 and
11 A-778 are true pressure pipe products. The other
12 products are more specialized tubing products that
13 while they're made to an ASTM specification they tend
14 to be made more for end users' requirements than a
15 mere commodity product.

16 Even though half of them continue to go
17 through distribution and the amount that's going
18 through distributors keeps getting smaller and smaller
19 because distributors will carry A-249, A-269. I think
20 distributors may even carry some A-358, but those
21 distributors who are carrying "condenser" and "boiler
22 tubing" products still are tending to be more
23 specialized distributors taking care of a narrower
24 group of more specialized customers for those
25 products.

1 They are very different, and in general
2 A-312 and A-778 can be made on the same welding mills.
3 It would be very uncommon to make these boiler and
4 condenser tubing products on the same welding mills as
5 you would use A-312 and A-778.

6 Mr. Tidlow, do you have anything to add?

7 MR. TIDLOW: To correct one thing on the
8 A-312 and A-249, you can make A-249 on an A-312 mill
9 if it is set up to run A-249. If it is set up to run
10 A-312, if you buy it to run A-312, it will not have
11 all the equipment necessary to make the A-249
12 efficiently. You can do it in postoperative steps,
13 but can't do it on the mill.

14 Marcegaglia is one of the best producers of
15 A-249/A-269 in the country. We produce very little of
16 it because our mills are not set up for that. We
17 could buy the equipment. We could put it on. It
18 would be very expensive. We wouldn't be very
19 competitive in those products.

20 The reason that the product definition to me
21 is too broad is that the imports are not competing in
22 the size ranges that are covered by this. Size is
23 more important to me than the specification
24 particularly.

25 The imports are basically in the half-inch

1 to 12-inch market, and that's half-inch to 12-inch or
2 three-eighths inch to 12-inch on either the tubing or
3 the pipe sizes. That is where it's efficient to
4 transport the product into the United States market.
5 That's the market where the distributors stock the
6 inventory.

7 It's important on the imports that it is
8 sold through the stock distributors. It's not the
9 project business that's being imported. It's the
10 standard commodity items that they can order
11 repetitively.

12 I'm sorry. We have a red light.

13 COMMISSIONER LANE: Okay. Thank you.

14 Thank you, Mr. Chairman.

15 CHAIRMAN PEARSON: It's my turn to ask
16 questions, so let me start, Mr. Schagrin, by
17 supporting Commissioner Koplan's point regarding
18 information that's available in expedited reviews.

19 I was one of the Commissioners voting to go
20 full on this review, and it was driven largely by how
21 terribly vexing it can be to have to vote on an
22 expedited record where we know almost nothing about
23 either the imported product or the domestic industry.

24 In this review we have I think a really
25 solid record that the staff has put together so I

1 think I'll be able to vote on this with great comfort.
2 I don't see any problems here, and yet if we hadn't
3 gone through the review we might have had precious
4 little that would have given us a sense of comfort.

5 On the other hand, by going through this
6 exercise we have taken a lot of time and resources
7 from the companies -- I'm very sensitive to that -- as
8 well as our staff time, so if there's a better way to
9 get some basic information on the record in an
10 expedited review, in essence some process for
11 expedited reviews that would leave us more well
12 informed than we are now, I'd be eager to try to get
13 there.

14 MR. SCHAGRIN: Thank you. Because our
15 practice is focused on sunset reviews, I can assure
16 you that we think a lot about the sunset review
17 practice at the Commission.

18 I have thought that there are really two
19 alternatives because as counsel we can almost see as
20 we're preparing, and we normally prepare with clients
21 starting anywhere from six to nine months before the
22 review is initiated. We do not wait until the notices
23 come out in the Federal Register. We are lining up
24 clients, telling them the information we need,
25 discussing the way the issues will play out.

1 We have a pretty good sense right from the
2 beginning whether it's a review that might involve 10
3 countries you can assume that one or two or three or
4 four when you know the countries and their counsel and
5 their participation in the past, how many WTO reviews
6 they've asked for of the decision, how many NAFTA
7 panels. You can assume kind of that someone is going
8 to participate when you've got an eight or 10 country
9 group.

10 When you get to one or two countries those
11 assumptions change, and sometimes you're saying well,
12 there's a 50/50 chance we won't have participation.

13 I guess there might be two alternatives to
14 do this efficiently and save everyone's resources.
15 One might be to give the domestic industry and/or
16 foreign industries if they want to show adequacy
17 versus an inadequate domestic industry is maybe give
18 them the option of filing all that information at the
19 outset when you have your initial substantive filing.
20 Of course, that does come just 50 days after.

21 The second alternative would be for the
22 Commission to have maybe an in between phase. Instead
23 of just having a point in which you say we're having a
24 vote on adequate/inadequacy, having expedited review/
25 full review, is to say on an interim basis maybe

1 halfway between the substantive filing and your normal
2 vote on adequacy maybe vis-à-vis a preliminary
3 determination on adequacy.

4 You would say preliminarily we have
5 determined that domestic is adequate, foreign is
6 inadequate, and therefore we are requesting before we
7 make a final determination on adequacy, we are giving
8 the parties who have provided adequate information the
9 opportunity to provide more information, the following
10 information so that we can have a more reliable record
11 at the time of our expedited decision. That might be
12 a good middle alternative.

13 You know, one thing now is we believe in
14 terms of making argument in the substantive filings 50
15 days after initiation that when we know that there's
16 going to be a full review the thought for counsel that
17 want to save resources for their clients is there's no
18 need to really lay out everything you have on all the
19 foreign industries complete because you're going to
20 have to do all that again in the full review, so to
21 lay out everything that you have in the first
22 substantive filing is often a waste of resources. You
23 can use some of it again in the full review, but
24 sometimes things change over nine months.

25 So there's really a difference in the kinds

1 of reviews, and maybe having an oral preliminary,
2 because you know right after the substantive filing if
3 there's no filing by foreign participants there's no
4 chance you're going to find them to be adequate.

5 Maybe that's the time, because it's still
6 about 90 days before your decision on adequacy. Maybe
7 that's the time to make a preliminary determination
8 and give the adequate party the opportunity to
9 supplement the record before you make a final
10 determination on adequacy.

11 CHAIRMAN PEARSON: Okay. Thank you for
12 those suggestions. I look forward to what you might
13 provide us in the posthearing. It may well stimulate
14 us to consider this issue more fully.

15 Mr. Tidlow, you've answered some questions
16 already dealing with demand and apparent consumption,
17 but I was curious. On page I-33 of the staff report,
18 the public version, there is a little table that
19 compares apparent consumption of welded A-312 pipe and
20 other WSS pipe.

21 You know, if we look between 2000 and 2005,
22 this table is showing a decrease of about 14,000 tons
23 in the consumption of the A-312 pipe and an increase
24 of about 3,000 or 3,500 tons in the other WSS pipe.

25 What's going on in the market that has led

1 to that shift? Why are we seeing what appears to be a
2 move away from the A-312 pipe?

3 MR. SCHAGRIN: Excuse me, Chairman Pearson.
4 Can I just clarify, because you're probably using the
5 confidential staff report.

6 CHAIRMAN PEARSON: No. Actually, it's in
7 both.

8 MR. SCHAGRIN: Yes. I know it's in the
9 public. I think the pagination -- I'm just wondering.
10 Are you comparing Table I-7 to Table I-8? If you
11 could just give me the table numbers, because
12 sometimes the pagination is different.

13 CHAIRMAN PEARSON: I was looking in the
14 middle of page I-33, the very top, an unnumbered
15 table.

16 MR. SCHAGRIN: All right. Yes. I think
17 this is just U.S. producer shipments, the one with the
18 Item and Welded A-312 and Other. I don't think that's
19 consumption. I think that that data is just U.S.
20 producer shipments. That's why I was confused.

21 CHAIRMAN PEARSON: Okay. Well, then I was
22 too I guess.

23 MR. SCHAGRIN: Although it is important.
24 That table has a lot of important information. I
25 mean, the fact is it demonstrates that there's been a

1 nearly 15,000 ton decrease in the domestic producers'
2 shipments even though the market I think, if you look
3 back in the C tables, you'll see that the market had a
4 slight increase in demand of just really about 2,000
5 or 3,000 tons over the whole period of review.

6 Of course, it went down from 2000 to 2001
7 and 2002 because of the recession, and then it came up
8 and then leveled off, but at a level even higher than
9 2000. In spite of that you have a 15,000 ton
10 reduction in the domestic producer shipments of A-312.

11 In comparison you have a 3,000 ton increase
12 in the domestic producer shipments of the other
13 pressure pipe and tube, and I think it just
14 demonstrates how other imports largely from China have
15 taken not only the entire increase, but also 15,000
16 tons of domestic shipments away from the domestic
17 industry over the period of review because in fact
18 imports from China went from virtually zero at the
19 beginning of the review to 15,000 tons of A-312 at the
20 end of the review.

21 There's very, very little -- maybe not more
22 than 1,000 tons or so -- of probably other imports or
23 imports of other welded stainless steel pipes and
24 pressure tubes from China. That's why the domestic
25 industry was able to benefit from the growth and

1 consumption of the other pressure pipe and tube
2 because they didn't have this huge import competition
3 in the other pressure pipe and tube products.

4 CHAIRMAN PEARSON: Okay. So it's most
5 appropriate to see this small table as an indication
6 of the response of the U.S. industry to the dynamic
7 marketplace and a shift away from A-312 into something
8 that I assume was hoped to be more profitable?

9 MR. TIDLOW: Yes. This goes back to that
10 cannibalization question where we've actually been
11 able to maintain the products in the other welded
12 stainless steel category that were being produced by
13 the producers who are now out of business. We've
14 actually grown that market slightly. That's where our
15 products are specialty, where they're ordered special.
16 They're ordered for a project.

17 The first category, which is the production
18 number which shifted 14,000 tons, is basically the
19 commodity products, and that's where we have tried to
20 hang on and we're hanging on as best we can, but we've
21 lost market share even though that market is slightly
22 up. We've lost that much market share now.

23 CHAIRMAN PEARSON: Okay. Thank you.

24 Chairman Aranoff? Commissioner Aranoff?
25 Vice Chairman Aranoff? Sorry about that.

1 VICE CHAIRMAN ARANOFF: I'm getting used to
2 it myself. Thank you. Thank you, Mr. Chairman.

3 Mr. Tidlow, the current level of import
4 competition from both subject and non-subject products
5 does not appear, from looking at our staff report
6 tables, V-3 through V-6, to have prevented U.S.
7 producers from raising the prices of their A-312
8 welded pipe. In fact, the industry has generated
9 operating income since 2004 notwithstanding higher raw
10 material cost.

11 Given this fact pattern, why should the
12 Commission conclude that imports of subject
13 merchandise are likely to enter at prices that will
14 suppress or depress domestic prices if the orders were
15 revoked?

16 MR. TIDLOW: There's two factors occurring
17 in our markets right now. This is a period of rising
18 metal prices. Surcharges and base prices and our raw
19 materials are increasing significantly.

20 We've been able to raise our price, but our
21 raw material price has increased at a faster rate. I
22 suggested this earlier in one of my other responses.
23 In Europe and the United States, the stainless steel
24 mills are very quick to push forward price increases,
25 and they're very strong in their stance with those,

1 whereas it seems to be a little slower in some of the
2 developing economies.

3 The pricing has increased. It's moved up,
4 and at times we've actually made some money on some of
5 these commodity products, but there is a tremendous
6 risk when we make this money in a rising metal price
7 market.

8 We buy the raw material. We hold it for six
9 months or nine months. Then we make it into pipe.
10 Now it looks like a very good product. We actually
11 make money on that product, but if the metal price
12 should turn during that six to nine month period we
13 would have lost every opportunity to make money on
14 that, as well as the profit that we made on some of
15 our other specialties.

16 In a period of very fluctuating raw material
17 prices, and these are commodity prices that go up and
18 down \$1,000 every day, we are at very high risk to
19 hold inventory of these raw materials. The only way
20 that we have made money in the last two years on these
21 smaller commodity pipe products is because we've had
22 some raw material in stock, and the finished goods
23 prices have risen sufficiently that we've actually
24 made money on an inventory gain is what we call it.

25 It's not on our efficiencies. It's not on

1 our ability to buy. It's our good luck.

2 VICE CHAIRMAN ARANOFF: Thank you.

3 MR. SCHAGRIN: Commissioner, can I just
4 point out one thing on the pricing products because
5 you have very good coverage and you have mostly public
6 data for all the quarters for Products 1, 2 and 4.

7 One thing I would point out, which I'm not
8 sure that's completely addressed in the staff report,
9 and Mr. Tidlow can amplify this, is that when you look
10 at these product prices per 1,000 feet in the years
11 like 2004 and 2005 as much as 50 percent or more of
12 the final pipe price is on surcharges that are passed
13 along from the raw material suppliers.

14 So it's not so much that the industry is
15 "raising" its prices. It's passing along the nickel,
16 molybdenum, chromium surcharges it's getting from its
17 raw material suppliers, and yet I think it's also very
18 poignant that for at least Products 1, 2 and 4 where
19 there's this complete data that you see in 2005 and
20 2006 that the quantities the domestic industry is
21 selling every quarter is roughly a third to a half
22 less than it had sold in earlier time periods, so as
23 it's passing along all these surcharges it's also
24 producing a lot less product.

25 I think as John said, the industry's profits

1 unfortunately aren't based on good business, pricing
2 power. It's just been a temporary benefit of maybe
3 making some extra profit on the fact that when they
4 may have passed along the surcharge at the time of the
5 pipe sale the surcharges may be higher than the
6 surcharges were at the time they purchased the steel,
7 particularly recently.

8 The market for say nickel, it's amazing the
9 way it changes every day. You are literally talking
10 about a product that is now \$14,000, \$15,000, \$16,000
11 a ton, and yet in the past month or two you've had
12 changes of as much as \$300, \$400, \$600, \$800, \$1,000 a
13 ton on a daily trade on the LME. I mean, the
14 volatility in these commodities going into stainless
15 steel have just been incredibly volatile this year.

16 VICE CHAIRMAN ARANOFF: Okay. I appreciate
17 that answer, and I think it helps explain how what's
18 going on with this like the surcharges translates into
19 the financial numbers that we see, but I'm not sure it
20 quite answers the question on pricing so let me ask it
21 another way.

22 You mentioned in your brief I believe that
23 the Chinese product might be lower priced than the
24 Korean and Taiwanese product, so I guess my question
25 is if the order were revoked and Korean and Taiwan

1 products were permitted back into the market and were
2 higher priced than the Chinese product, what would
3 change?

4 What effect would that have both on market
5 share distributions and on the prices that the
6 domestic industry is able to or their ability to pass
7 on surcharges for raw materials?

8 MR. TIDLOW: I would say that the import
9 price for either Korean or Taiwanese or Chinese
10 products will equate if the import ban is lifted or if
11 the tariffs are lifted.

12 The Korean prices right now, there's not a
13 tremendous amount of volume. If they come in and go
14 back to the kind of volumes that they were doing on
15 the commodity product they will have to meet the
16 Chinese product price.

17 They will be able to do that, I believe.
18 They have the best quality in the world. They have
19 the best equipment in the world. They're very
20 efficient producers. They have very efficient
21 stainless steel mills in their end of the market.

22 They may not have market pricing on all of
23 their imports and things, which is what is affecting
24 us, especially out of China and out of Korea as well.
25 I believe they will meet the Chinese prices.

1 One other case. Many times they are
2 starting with the same Korean substrate, the same
3 stainless steel that the Korean mills will be using,
4 the Korean pipe mills will be using, to ship the pipe
5 over here as well.

6 MR. SCHAGRIN: And I would just add to put a
7 legal bent on it, I think what Mr. Tidlow is saying is
8 that it is the antidumping orders which are preventing
9 the Korean and Taiwanese producers from meeting the
10 Chinese prices in the U.S. market.

11 MR. TIDLOW: Yes.

12 MR. SCHAGRIN: In the absence of the orders,
13 the Korean and Taiwanese, in order to increase their
14 sales to the U.S., will meet the Chinese pricing.

15 Turning the question around a little
16 differently, of course, there's always the question of
17 if the Chinese prices are so low compared to the
18 domestic industry why are people buying domestic, and
19 I think the answer is only well, the Chinese just
20 haven't gotten their export levels up to the point
21 where they can take the whole U.S. market.

22 Give them time, and unfortunately they will
23 because they've gone from zero to 15,000 tons in a
24 70,000 ton market over the last just three or four
25 years, so they are certainly becoming a very

1 predominant import product in the market.

2 They're growing their presence in the U.S.
3 rapidly and growing their presence in the world
4 rapidly after many, many years of not only trailing
5 the Koreans and Taiwanese, but for many years China
6 was a major export market for the Koreans and
7 Taiwanese industries, which grew up as very large
8 export industries.

9 Korea and Taiwan are not very big users of
10 this material and so they were always export oriented.
11 They used to export a lot to China and to the rest of
12 the Asian markets and some to Europe and to the United
13 States. The Chinese are displacing them in those
14 other Asian export markets and have almost completely
15 displaced them in China.

16 VICE CHAIRMAN ARANOFF: Let me just ask you
17 as my light is turning, and you can get to this in the
18 posthearing if you need to.

19 If the expectation is that the Korean,
20 Taiwan and Chinese product would all be similarly low
21 priced if the order were revoked, that I assume would
22 mean they're fighting it out amongst each other for
23 commodity sales in the market.

24 With respect to the product that's within
25 the scope, the A-312, is there any portion of that

1 demand in the U.S. where the domestic industry has
2 some natural advantage or some protection other than
3 the order in getting the business in terms of delivery
4 times, customer relationships, product quality, or, I
5 mean, can we expect the three of them could
6 conceivably take 100 percent of that market?

7 MR. TIDLOW: Our customers buy based on
8 price, quality and delivery. Price is a given. It's
9 whatever we're willing to sell it for. The quality is
10 also a given in our market. To be able to compete
11 here you have to produce the requisite quality. The
12 Chinese quality is improving tremendously. The Korean
13 quality is world-class.

14 Delivery is one area where we sometimes get
15 a benefit where we have the raw material in hand, they
16 have a blip in their supply or they have a blip in
17 their pipeline to get it here to the United States,
18 they need it quickly, there's a project that needs
19 quick turnaround, so sometimes the delivery schedule
20 will help us.

21 That probably explains about half or 75
22 percent of why we still have any of this market left
23 because without delivery schedules, without short lead
24 times it takes them 90 days to get the product from
25 their mill to our customers. We can do it in much

1 shorter times if we have it in stock.

2 That probably explains why our mills haven't
3 shut down completely. We've gone from running three
4 shifts to running one shift. It's kind of a spot
5 basis. It's a hit and miss. On the other side there
6 are products which we have an inherent advantage. The
7 product we are shipping is air.

8 We're shipping a round product in a
9 transportation container and as it gets larger you're
10 shipping more air, so the larger the pipe size the
11 more the inherent advantage in the United States
12 market. There is not very much volume in those larger
13 sizes, though.

14 Again, 80 percent of the market is in the
15 half inch to 12 inch. Without that half inch to 12
16 inch most of our mills shut down and we try to save
17 ourselves into prosperity again.

18 VICE CHAIRMAN ARANOFF: Okay. Thank you
19 very much. That's really very helpful.

20 Thank you, Mr. Chairman.

21 CHAIRMAN PEARSON: Commissioner Hillman?

22 COMMISSIONER HILLMAN: Thank you, Mr.
23 Chairman.

24 Let me join my colleagues in welcoming you
25 and appreciate, Mr. Tidlow, your sticking it out here

1 throughout, notwithstanding the other witnesses.

2 MR. SCHAGRIN: What she's trying to say in a
3 nice way is otherwise they'd be subject just to me. I
4 can't tell you how much they appreciate you still
5 being here.

6 MR. TIDLOW: They'd probably be done by now,
7 though.

8 COMMISSIONER HILLMAN: Let me start, Mr.
9 Schagrin, with just one little follow-up to this
10 exchange that you have been having with a number of my
11 colleagues on the issue of full versus expedited
12 sunsets because the struggle that we've had somewhat
13 internally, and if you have thoughts on how to deal
14 with it, is the language in the statute that says that
15 if the interested parties provide inadequate responses
16 the Commission must make its determination, and the
17 difficult phrase is without further investigation.

18 So I'm asking you as you think about what to
19 do on this how you think we must read that phrase,
20 whether in other words we have to get all the data and
21 everything that we need up front before we make a
22 determination as to whether a review is going to be
23 full or expedited or whether you see any room
24 notwithstanding that phrase in the statute for us to
25 do anything else once we've made an adequacy

1 determination, once we've in other words initiated the
2 sunset review, whether there is any ability to collect
3 further data like the financial data that you were
4 describing in response to Commissioner Koplan's
5 question?

6 MR. SCHAGRIN: Commissioner, I'll address
7 the statute further in the post-hearing brief, but I
8 think within the statutory framework that you'd still
9 have the opportunity prior to making your final
10 decision to gather additional information. I think
11 that without further investigation is when you make
12 your final decision after you've made your "decision"
13 at that about 140, 150 day point on adequacy.

14 What I'm suggesting is I think Courts, you
15 know, would view it if a party complained and said
16 wait the statute restricts them, they can't gather any
17 additional information once they've made the decision
18 on adequacy is to make it possibly in a two-step
19 decision and say the Commission in order to achieve
20 efficiency in the administration of the sunset
21 provision has decided that it would be more efficient
22 for the parties and for the Commission for us to
23 interject a preliminary determination.

24 So that's one way. The other way would be
25 to ask for everybody to put it up front, would be to

1 change your initiation notices and say not require,
2 this is what we require, but on a not required basis
3 we give you the opportunity and encourage you to also
4 present the following information. So that would be
5 the alternative.

6 Then it would be up to counsel. You could
7 say well, since I know this is going to full review I
8 won't bother with that opportunity to take advantage
9 of the permitted additional data or you could say I
10 think there's a 50/50 chance farm producers won't
11 participate, so we ought to put in all the
12 information.

13 Put in six years of production shipments and
14 financial data as well as add in because we do make
15 arguments in the substantive responses about why
16 injury would be likely to recur. It's just the record
17 data is not there along with the argument.

18 COMMISSIONER HILLMAN: I appreciate that.
19 Like I said I think in trying to think this through
20 where we have cases like this where in the absence of
21 going to a full review the amount of data that you
22 have is extremely limited and on the other hand not
23 wanting to run afoul of the statutory requirement that
24 to the extent that we do an expedited review it is at
25 least, you know, Congress has said it's supposed to be

1 done without further investigation.

2 So it's getting over that hurdle that I'm --
3 I appreciate your answers and if there's anything
4 further you want to add. Let me go to this issue of
5 the A-312 versus the other pipe because I've heard the
6 answers, I'm just trying to make sure I understand
7 what this ought to tell us about the effectiveness of
8 the orders and/or what would happen if the orders are
9 revoked.

10 Mr. Tidlow, is it your sense that the
11 pricing for the A-312 has any effect on the pricing
12 for the non-A-312 pipe?

13 MR. TIDLOW: Really they're separate
14 markets. The A-312 pipe, there's categories inside of
15 the A-312 market that are other products. We have
16 other pipe included, the A-249, A-269, A-358. They
17 are really other markets than the A-312. They do not
18 interchange as far as you can offer A-312 or A-249 to
19 any customer's quotation. That's not what we do.

20 We offer A-312 to meet their specifications.
21 A-249, A-269 typically would not meet their
22 specifications, so the pricing on one does not
23 necessarily, it should not overlap the other.

24 COMMISSIONER HILLMAN: Okay. Because all
25 the non-A-312 is also not sold through the distributor

1 network that you described as the mainstay of how A-
2 312 is sold?

3 MR. TIDLOW: No. A-249 and A-269 is sold
4 through distribution. It could be sold by the same
5 distributors that sell A-312. It's typically used for
6 different applications, so it would be -- different
7 end users and different specifications. So it
8 wouldn't have the same pricing pressure that an A-312
9 pipe would have.

10 COMMISSIONER HILLMAN: Okay. So revoking
11 the order in your view would affect the pricing as
12 you've described it on A-312 because it will take
13 price discipline off of the Koreans and the Taiwanese
14 and allow them to move down to wherever the Chinese
15 price is, but that the price effects would be limited
16 to the A-312 not bleeding into other stainless pipe
17 products?

18 MR. TIDLOW: To the extent that there is A-
19 249 and A-269 importation. I am not as familiar with
20 A-249, A-269. We make very, very small quantities of
21 it. That would be a very good question for
22 Marcegaglia in further review, but to the extent that
23 they're importing the A-249, A-269 it would have
24 pricing in effect as well.

25 COMMISSIONER HILLMAN: Mr. Schagrin?

1 MR. SCHAGRIN: Two things, Commissioner
2 Hillman. First I will contact Marcegaglia, which does
3 make a lot of 249, 269, and I will get you an answer
4 from their perspective in the post-hearing brief to
5 that question. Secondly I would point out that is one
6 of the strange things about the scope versus like
7 product.

8 It is my understanding and it's in general
9 having visited Marcegaglia and discussed in a general
10 way these issues with Marcegaglia is that A-312 import
11 pricing or A-312 domestic pricing has no effect on the
12 A-249, A-269 market. They are really separate
13 markets.

14 When you get a request from an ethanol
15 manufacturer who is making ethanol plants and needs
16 this condenser tubing, which is A-249, A-269, they are
17 going to look at comparisons generally amongst
18 domestic producers of pricing. They may look at
19 import as well.

20 One of the reasons they may look more at
21 domestic is the manufacturer of the ethanol plant is
22 very likely to tweak the specifications. When I say
23 that they are unlikely to say I just needed to
24 schedule 40 or schedule 10 size -- that's a pipe term
25 -- they'll say I want it with this wall thickness, I

1 want it at this length because of the machine I'm
2 making whereas the A-312 is going in the piping
3 systems.

4 That's why it goes almost 100 percent
5 through distributors is because the refinery, the
6 petrochemical plant, the pharmaceutical, the
7 automotive plant, they're putting these into just
8 standard piping systems and that's why they go almost
9 exclusively through distribution.

10 That's always been the odd thing to me about
11 -- one of two odd things about the scope on like
12 product because while I didn't have familiarity with
13 stainless pipe and tube I had a lot of familiarity
14 with pipe and tube. I could never believe there was
15 no size range on this scope or like product.

16 This gentleman's company makes product up to
17 96 inches in outside diameter in A-312 which is in
18 their answer. There's probably no imports above 12.
19 If someone in the United States needs 96 inch OD pipe
20 he doesn't have import competition and yet it's in the
21 scope.

22 COMMISSIONER HILLMAN: Now, is there import
23 competition in the non-A-312? This 269 and --

24 MR. SCHAGRIN: There is some, but it is much
25 more limited than it is in A-312.

1 COMMISSIONER HILLMAN: Then what should that
2 say to us in terms of the financials? Because as you
3 say we have a scope here of A-312, but we have a
4 domestic industry definition that is broader than that
5 and therefore the financial data and everything else
6 that we have collected on the domestic industry is
7 arguably on this broader like product basis?

8 MR. SCHAGRIN: You've collected it both ways
9 and as I suggested in my opening statement I believe
10 that the Commission -- I don't think there's a problem
11 with vulnerability or recurrence of injury when you
12 look at the like product as you have looked at it in
13 the investigation and in the first review.

14 However, given how dramatically different --
15 it's relatively dramatic particularly given the fact
16 that you have the A-312 data which then represents
17 because then you have the total data and if you look
18 at the numbers and it's all public information the A-
19 312 data subsumed in the total data is maybe 60 or 70
20 percent of it for the domestic industry.

21 When you look at how much better the total
22 industry is doing than A-312 that tells you that other
23 part is really doing much, much better than the A-312
24 because when you look at the total industry data
25 you've only got a small part of that that's non-A-312

1 and you look at how much better it is.

2 I think the answer for the Commission -- I'm
3 not sure it would affect your outcome, but if we ever
4 had another case boy, we'd really clean up this scope
5 like product problem -- is to look at that as a
6 condition of competition to maybe put more emphasis on
7 the A-312 because as John said the problem for
8 domestic producers is if they lose 100 percent of the
9 A-312 business it's going to affect their ability to
10 continue operations and make these small volumes of
11 other products by losing the commodity volume in their
12 plants.

13 COMMISSIONER HILLMAN: No. I appreciate
14 those answers. Thank you.

15 MR. SCHAGRIN: Thank you for the opportunity
16 to continue my answer in spite of the red light.

17 CHAIRMAN PEARSON: Commissioner Koplan?

18 COMMISSIONER KOPLAN: Thank you, Mr.
19 Chairman. I don't have any additional questions, but
20 I do have a request.

21 Mr. Schagrin, I find the dialogue not only
22 with me but with my colleagues regarding the process
23 in obtaining more information prior to our adequacy
24 vote very helpful. As a follow-up I ask you whether
25 in preparing your additional response for your post-

1 hearing submission you would be willing to take the
2 temperature of such other counsel in the trade bar on
3 this as you deem appropriate and include the results
4 of that with us as part of your submission?

5 I picked this particular investigation to
6 bring this up because I felt it's clearly illustrative
7 of the need to change in this aspect of our process
8 and I'd like to facilitate it moving along. Would you
9 be willing to do that?

10 MR. SCHAGRIN: I would be very willing to do
11 that and I will report in the post-hearing brief of
12 what that temperature is and whether people are
13 willing to tell me on the record that I can cite them
14 and what their positions are. I can certainly
15 distribute the questions to them by email.

16 We do have I'd say a pretty active through
17 our Committee to Support U.S. Trade Laws which
18 basically works on the WTO negotiation issues a pretty
19 well-defined group of attorneys who generally
20 represent the domestic industry.

21 COMMISSIONER KOPLAN: I realize that.

22 MR. SCHAGRIN: I'd be happy to distribute
23 that as early as this afternoon or tomorrow morning by
24 email to the members of that group -- it's about 15
25 attorneys at about maybe seven or eight, nine or 10

1 law firms -- and ask them if they could email me
2 information, include it in the response and I will
3 follow-up with phone calls as well and I'll report
4 whatever responses I have and the way I can categorize
5 those responses in the post-hearing submission.

6 COMMISSIONER KOPLAN: Very much appreciated.
7 Thank you, Mr. Schagrin. With that I have no
8 additional questions.

9 I also thank you, Mr. Tidlow, for your
10 responses to our questions.

11 Thank you, Mr. Chairman.

12 CHAIRMAN PEARSON: Commissioner Okun?

13 COMMISSIONER OKUN: Thank you, Mr. Chairman.

14 With apologies to the industry witness on
15 the adequacy issue let me just continue since we're
16 having a discussion on the dias here about this which
17 is appreciating what Commissioner Koplan just said I
18 do ask that the Commission get together and that
19 Chairman Pearson let's you know whether we think it's
20 appropriate to do this as part of post-hearing
21 because, again, I don't want your client to have to
22 pay for you to respond for the whole industry with
23 respect to something that the whole bar should care
24 about, and so it might be more appropriate to have a
25 Federal Register notice where we could seek comments

1 in a way that would allow everyone to comment on
2 behalf of their clients and not as just part of this
3 particular proceeding.

4 So, Chairman Pearson, if you could make a
5 comment on that?

6 COMMISSIONER KOPLAN: I just assumed he was
7 doing this pro bono.

8 COMMISSIONER OKUN: I'm not going to answer
9 for Roger.

10 MR. SCHAGRIN: No comment. All I say is
11 we've been very efficient so far and we had to pay for
12 three fewer dinners last night than we expected, so
13 we've saved a lot.

14 CHAIRMAN PEARSON: I would just say that I
15 think the Vice Chairman has made a useful suggestion.
16 I don't think it's entirely fair for the entire burden
17 of getting input from the trade partners fall on you,
18 although I have great respect for your ability to
19 answer these questions, so I have no doubt that you
20 could do it.

21 If you could you may have some things you
22 want to say in your post-hearing brief, but don't take
23 on yourself at this point the burden for responding
24 for the entire bar. I'll commit to as soon as
25 possible getting the Commission together and we will

1 discuss how to proceed and it may well mean a Federal
2 Register notice. Thank you.

3 MR. SCHAGRIN: Well, then I will take that,
4 Chairman Pearson, without offending Commissioner
5 Koplan and I will answer all the questions asked by
6 all the members of the Commission on the issue of
7 adequacy and providing further information on our own
8 behalf and that of our client's, but won't at this
9 time try to coordinate a domestic counsel response if
10 that's okay with you, Commissioner Koplan?

11 COMMISSIONER KOPLAN: I am not in the least
12 bit offended.

13 MR. SCHAGRIN: Okay.

14 COMMISSIONER KOPLAN: I think the process is
15 moving along. Thank you.

16 MR. SCHAGRIN: Thank you.

17 COMMISSIONER OKUN: This is my last comment.
18 That would be to say to you, Mr. Schagrin, which is I
19 had proposed a different solution to this which was
20 not accepted and now having heard yours you have a
21 much better interim solution I believe that the
22 Commission should consider, so thank you for showing
23 us another way to get over the hurdle that
24 Commissioner Hillman has identified and which we've
25 struggled with.

1 So I very much appreciate everything you've
2 said and I hope that does move us forward. All right.
3 Just back to the case before us. It might have been
4 your response with regard to the scope versus the like
5 product that the Commission has and I know in your
6 brief it said don't need to revisit like product
7 because no one disagreed, but I listen to that I think
8 well, maybe we should revisit like product because the
9 scope is where we see the import competition.

10 So I'm just going to ask you now do you have
11 any different thoughts on like product than what you
12 put in the brief in light of the discussion today?

13 MR. SCHAGRIN: Well, the answer is yes, and
14 I've had these thoughts for a long time. As I say in
15 part this was really cost saving versus as you know
16 addressing like product, all the six factors and
17 taking both size into account -- size can't be helped
18 because of the scope as I think Mr. Tidlow mentioned
19 in his testimony.

20 These break presses are completely different
21 from pipe welding mills. I mean, the way they
22 manufacture 30 or 40 inch pipe and A-312 pipe is just
23 completely different from making half inch pipe and of
24 course people have done carbon pipe case in the past.
25 I can't remember, in fact I know for a fact there is

1 no case on carbon or alloy pipe that doesn't have some
2 kind of size range.

3 That's a separate issue. As to this really
4 what I look at -- and we did cases back in the mid-
5 1990s in seamless pipe and I see a lot of similarities
6 here between the seamless sunset reviews you all did
7 recently and this product because here stainless is
8 just the next rung up for the petrochemical industry,
9 the refinery industry.

10 They will use seamless carbon or alloy pipe
11 before they have to use stainless and there what was
12 done in the cases that I brought in 1994, the first
13 case on small diameter stainless carbon alloy pipe, is
14 we included all the pipe and we excluded boiler
15 condenser and heat exchanger tubing, so the Commission
16 accepted like product because I think when we analyzed
17 it you said yes, boiler heat exchanger condenser
18 tubing is very much a different product from pipe for
19 piping systems.

20 I have always believed since I've been
21 acquainted with this that the same thing applies here
22 having visited mills, having talked to people in the
23 industry. To be honest you have a great expert on
24 your staff because as I say having -- I didn't realize
25 Mr. Houck's background until we did this plant visit.

1 I believe he had worked for Trent Tube back
2 in -- well, I don't want to indicate that Mr. Houck
3 has a few years on some of us, but he worked for Trent
4 Tube when they were a really active member of this
5 industry and before coming to the Commission and he's
6 been on the Commission staff for a while, so he has a
7 great deal of knowledge, in fact much greater than I
8 do.

9 So to wrap up my answer if the Commission
10 will consider setting the like product properly here I
11 think you probably have -- and that's why I really
12 meant it. I'm not much for buttering people up. I
13 really meant it at the outset when I said this staff
14 report is much, much better on a description of the
15 industry than the staff report from the first sunset
16 review or the investigation phase.

17 I mean, it's really there in the report.
18 There's a lot of information here on these products
19 and I think even just in the staff report it kind of
20 demonstrates the difference between boiler condenser
21 and heat exchanger tubing products. Then I would say
22 the A-358 which is basically -- John, correct me if
23 I'm wrong -- a largely nuclear standard which is very
24 different from A-312, so that A-312 and A-778 have
25 some overlaps.

1 They're both really piping system products
2 and the A-312 is just a higher grade than the A-778 --
3 if I were to bring a case I would obviously put those
4 two together -- and everything else is really
5 different.

6 COMMISSIONER OKUN: Did you want to comment,
7 Mr. Tidlow?

8 MR. TIDLOW: On the A-358 it's not
9 separately nuclear, it's specification for a higher
10 degree of application and it mentions more things like
11 special testing and wall thicknesses, et cetera, so it
12 is nuclear. There's LNG, there's chemical, but it
13 goes beyond industry definition. It is a
14 specification and it assumes what the engineers are
15 requiring.

16 COMMISSIONER OKUN: Okay. So, Mr. Schagrin,
17 for purposes of post-hearing since we've saved you the
18 time of collecting it for the domestic industry --

19 MR. SCHAGRIN: It's only fair. Only fair.

20 COMMISSIONER OKUN: -- and those dinners can
21 you comment on domestic like product and point us to
22 what you think in the staff report we could use if we
23 have sufficient information on that?

24 MR. SCHAGRIN: I will do so and that's a
25 very fair trade.

1 COMMISSIONER OKUN: Okay. Then I wanted to
2 go back on some of the answers that I heard with
3 regard to pricing and, Mr. Tidlow, in particular the
4 conversation about the Korean prices going back would
5 meet the Chinese product if the restraint of the order
6 was removed and I didn't hear much in that
7 conversation about Taiwan.

8 We do have now a nonsubject Taiwanese
9 producer and I wondered if there's anything that you
10 or Mr. Schagrín could add with respect to whether
11 there's anything we see with respect to that that
12 tells us what pricing would do if the order were
13 removed?

14 MR. TIDLOW: If I left the Taiwanese out of
15 my comments that was mistaken. The Taiwanese have the
16 same sort of equipment and capabilities as the Koreans
17 as far as their pipe manufacturer. They receive their
18 raw materials from the same mills that the Korean pipe
19 manufacturers receive it from. Their pricing is very
20 competitive with the Koreans.

21 I believe that if we lifted or revoked the
22 order that it would go the same way as the Chinese
23 pricing.

24 MR. SCHAGRIN: Commissioner Okun, I think
25 given that the information on nonsubject Taiwanese

1 product and pricing is confidential I would like to
2 address that with an answer in the post-hearing brief
3 confidential --

4 COMMISSIONER OKUN: Okay. That's great.
5 Appreciate saying that. All right. Well, my yellow
6 light has come on. I want to thank you very much for
7 all the comments that you've given, Mr. Tidlow and Mr.
8 Schagrin, and for your help not only on this case, but
9 on the adequacy issue.

10 Thank you, Mr. Chairman.

11 CHAIRMAN PEARSON: Commissioner Lane?

12 COMMISSIONER LANE: Much has been written
13 about the need for infrastructure to assist the
14 domestic energy industry moving from a dependence on
15 petroleum products for fuels to a greater dependence
16 on renewable bio-fuels such as ethanol. Have you seen
17 any increased demand for welded stainless steel pipes
18 and pressure tubes owing to such projects?

19 MR. TIDLOW: The bio-fuels and the ethanols
20 are one of the growing industries in the United States
21 for our products. They consume -- I cannot give you
22 quantities, I don't have that kind of information.
23 We've been very successful at landing some of those
24 projects. They typically are a wide variety of
25 product or requirements from larger diameter to small

1 diameter.

2 We see import competition on those projects
3 as well. So it's a lower end product for the special
4 projects. They buy some through distribution, they
5 buy some direct from mills who can make the products
6 that are required. The imports are aggressively going
7 after that because it is a growing market in the
8 United States. Yes, we have seen increased demand
9 there.

10 COMMISSIONER LANE: Do you see the
11 expectations of a continued increase in demand for
12 welded stainless steel pipes and pressure tubes owing
13 to these new infrastructural projects to be realistic?

14 MR. TIDLOW: We have several markets in the
15 United States that are growing and look like they'll
16 maintain their growth for the next several year. I
17 hope for the longevity of our company that our
18 expectations aren't ill-founded. The bio-fuels, the
19 chemicals, the liquid natural gas market is a very
20 important market for us, so yes, we expect to see the
21 demand grow in those areas for the next several years.

22 COMMISSIONER LANE: Okay.

23 MR. SCHAGRIN: Commissioner Lane, I'm sorry
24 to interrupt, but I just want to add as to your first
25 question I think I can also provide in the post-

1 hearing brief some information specific to Marcegaglia
2 on the bio-fuel and ethanol question. I would just
3 like to follow Mr. Tidlow because as a business person
4 he is supposed to forecast demand and be optimistic
5 and in a public company hope things are going to go
6 great.

7 I would just add because we discussed this
8 yesterday that if the economy were to go into a
9 recession then all bets would be off because this
10 product does tend to follow the economy. Even though
11 there's some extra energy emphasis it does tend to
12 follow the economy up and down which is why you saw
13 demand for this product fall so significantly during
14 the 2001 recession and it continued into 2002 and
15 demand didn't start back up until 2003.

16 So I would just temper that the forecasts
17 are the economy keeps growing at three to four percent
18 a year then demand ought to continue to grow. If the
19 economy really slows and we go into a recession then
20 demand for this product will fall.

21 COMMISSIONER LANE: Okay. Now, Mr. Tidlow,
22 there's a lot of interest in West Virginia, Virginia,
23 Ohio and Kentucky right now in possible coal
24 gassification projects related to large scale base
25 load electric generation plants. Would such shifts in

1 coal use technology result in increased demand for
2 welded stainless steel pipe and pressure tubes?

3 MR. TIDLOW: Those markets are another
4 growth opportunity. However, they would be generally
5 outside the scope of this A-312 standard or A-249, A-
6 269 standard. Typically they would be specified as a
7 special alloy which is outside of the alloys that
8 we're talking about in this study or as an A-358 or
9 other standard because of their use and requirement.

10 Typically it would be an A-358 standard or a
11 100 percent x-ray standard.

12 COMMISSIONER LANE: Okay. Thank you.
13 Sticking with the demand for your product I looked at
14 the operating income and have seen that is trending
15 downward and the return on investment for the industry
16 is also trending downward. How would you characterize
17 these trends, and what should we look at in terms of a
18 business cycle for this industry?

19 MR. TIDLOW: I would say at this point we
20 are close to the top of our business cycle. We've
21 seen the rebound from the economic activity. It may
22 continue to grow. If we have an economic recession as
23 we talked about it will throw us the other way. As
24 far as volumes and special projects the raw material
25 pricing is taking us to a pricing peak.

1 Typically at pricing peaks our profitability
2 is pretty good. Right now it's not nearly as good as
3 it was in the last several cycles. So we're on the
4 high side of the cycle with the future a little
5 uncertain as to investment and economic activity.

6 MR. SCHAGRIN: I would just add that I think
7 because of the fact that you have a mix here of use
8 for energy as well as a lot of this product going into
9 nonenergy applications, be it chemical, automotive and
10 other uses, food preparation being one major, is that
11 you would think in this industry in terms of cycles
12 and having been with an economy really growing at an
13 incredibly fast rate for the last three or four years
14 that this industry would be doing extremely well right
15 now.

16 I mean, this really is the good part of the
17 demand cycle for this industry and yet while they
18 achieved some modest profitability on the overall
19 operation those are pretty low levels. They're in the
20 range of slightly below five percent. If you're
21 hitting operating profit margins of five percent at
22 the peak of your cycle you're in real trouble because
23 you could see that in the trough they had operating
24 losses in the 10 or 12 percent range.

25 So if the trough if way down here in the 10,

1 12 percent negative margin rate and the peak is in
2 five percent that's simply not good enough and that's
3 one of the things that puts this industry in so much
4 jeopardy is that their profitability overall has been
5 quite weak and on A-312 they have continued to be
6 unprofitable and that's because of the very intense
7 import competition they have been facing particularly
8 from China while these orders have been in effect
9 against Korea and Taiwan.

10 COMMISSIONER LANE: Mr. Tidlow, do you have
11 the ability to manufacture other products using the
12 same machinery, equipment and workforce that you use
13 in the production of the WSS pipe and tube?

14 MR. TIDLOW: This is a question of we have
15 two very dissimilar production routes. The batch
16 equipment that we make, we can make pipe on the batch
17 equipment from very small diameter to very large
18 diameter, almost as big as this room. That is a
19 specialty product that really is outside of the scope
20 of what is being covered and we talked about with our
21 product definition.

22 On the smaller diameter, the half inch to 12
23 inch, the continuous mills is what we call them, we
24 make stainless steel welded A-312 pipe on those mills.
25 We make a very small amount of A-249, A-269 pipe on

1 those mills. We make a little bit of A-358. The
2 reason we don't make much more of those two products,
3 the A-249 and the A-358, is that our capabilities are
4 very limited and those markets are very limited for
5 what we're trying to produce.

6 If we were to invest in our equipment on
7 those smaller continuous mills we potentially could
8 make A-249 or A-269. It would be a significant
9 investment. We do not have the right annealing
10 facilities, we do not have the right cut to length
11 facilities, or handling, or packaging right at the end
12 of the mill.

13 If you're producing those two products you
14 set your plant up differently than our plant is set
15 up. We could go back and reinvest. We could actually
16 make the products. It would not be cost effective.
17 We'd have a lot of damage, a lot of handling and those
18 A-249, A-269 are a lot thinner walls, a lot more
19 delicate product than what we produce generally. So
20 we have very little cross-over capability.

21 COMMISSIONER LANE: Okay. Thank you.

22 Mr. Chairman, that's all I have.

23 CHAIRMAN PEARSON: Mr. Tidlow, there have
24 been some questions regarding construction for ethanol
25 or bio-diesel plants. Do you have some idea in an

1 ethanol plant what percentage of the stainless steel
2 tubing that would be going in would be A-312 and what
3 percentage might be other grades?

4 MR. TIDLOW: I'm sorry. I don't. I only
5 know about the market that we can produce to. I have
6 a very good feel for that. We can probably answer
7 that in our post-hearing brief with Marcegaglia's
8 information.

9 MR. SCHAGRIN: I think, Chairman Pearson, my
10 understanding is it's mostly A-249, possibly A-269,
11 not A-312 in the ethanol plants. Let me check with
12 Marcegaglia, which I know has focused on those
13 products and on the ethanol plant business, and answer
14 further in the post-hearing brief.

15 CHAIRMAN PEARSON: Okay. Mr. Tidlow?

16 MR. TIDLOW: To improve on that answer there
17 is an area in the plant that uses A-249 and A-269.
18 There is an area in the plant that uses A-312.
19 They're very separate areas. They don't overlap at
20 all. I see the inquiries for the A-312 and I'm sure
21 that Marcegaglia sees the inquiries for the A-249.

22 MR. SCHAGRIN: I think even though I'm not
23 an expert I explain the reason why is because what's
24 happening inside the ethanol production plant is that
25 they're taking the corn or whatever and they are

1 applying all this heat and changing it into ethanol
2 and for that they would use essentially condenser
3 tubing. That's the A-249 product.

4 Now, what you have to do then is take the
5 ethanol you've made and send it somewhere and for that
6 you'd use a piping system, which would be A-312. So
7 it's a combination. When we think of the production
8 of the ethanol that's a boiler condenser heat
9 exchanger kind of tubing, and when you think about
10 moving it or bringing things into movement that's a
11 piping system, which is A-312, so a combination.

12 When I was thinking about the A-312 plants
13 themselves and what's being done inside the ethanol
14 plant that's why I was thinking that it's the A-249 or
15 A-269 because the production of the ethanol needs the
16 condenser -- I think it's condenser rather than heat
17 exchanger -- kind of tubing. They're similar anyway.

18 CHAIRMAN PEARSON: Well, because you have
19 identified as a growth area for the stainless steel
20 pipe business tell us a little more about it so that
21 we have just a better understanding of the breakdown.
22 I have some appreciation for the technical
23 complexities of the plant, but not in appreciation for
24 what type of steel is going in.

25 Has there been some increase in consumption

1 of stainless pipe for rebuilding any of the hurricane
2 damage or expansion of chemical production facilities
3 in the Gulf? Refineries, that sort of thing?

4 MR. TIDLOW: That's a difficult question for
5 us to answer. The way we go to market is through
6 distribution and once our pipe hits the distribution
7 inventories we've lost some control and track of
8 what's happening and where it's going. The
9 marketplace for our product is predominantly in
10 certain regions and the region of Texas, Louisiana, is
11 one of the largest regions in the United States.

12 So I can't really answer the question
13 because of the way we go to market. We don't go
14 direct to the end users, so that would be more of a
15 question for the distribution.

16 CHAIRMAN PEARSON: Okay. Fair enough. I
17 was just trying to figure out whether a possible
18 increase in consumption for those purposes would be
19 strengthening your industry right now and it's not
20 obvious whether that would continue.

21 MR. TIDLOW: The answer is probably yes, but
22 it's not obvious that I can give you the reason. It's
23 the customers in a sense.

24 MR. SCHAGRIN: If it's like everything else
25 I know about Katrina rebuilding cement has its own

1 issue, but everything in pipe and tube it's all going
2 Chinese.

3 I mean, every time I hear about anything
4 being used to rebuild anything in the Gulf everybody
5 down there is using Chinese product and now the
6 Secretary of Commerce is putting out a notice in the
7 Federal Register to change the regulations so that the
8 Secretary of Commerce can suspend an anti-dumping or
9 countervailing duty order whenever the President
10 declares an area subject to a natural disaster.

11 That is really amazing. Talk about vigorous
12 enforcement of the trade laws. What a great excuse to
13 just get rid of anything anytime you want. I mean,
14 not that we all -- natural disasters are horrible, but
15 if the marketplace works then people will use product,
16 domestic and imported, with the duties.

17 The idea that you would open up that kind of
18 loophole for someone who practices it's worse than the
19 camel's nose under the tent. It tells me a lot about
20 what can happen in the WTO negotiations. Very, very
21 troublesome.

22 CHAIRMAN PEARSON: You keep raising China
23 and I deduce from that that China is a producer and
24 exporter of stainless pipe. It also must be a
25 consumer. Do you know anything about the demand

1 potential for stainless pipe in China? Is it possible
2 that the demand will grow faster than the production
3 of pipe in that country thus leading them to become
4 more of an importer?

5 MR. TIDLOW: As I mentioned we just recently
6 came back from China. They have some of the most
7 efficient -- efficient -- some of the largest plants
8 that have been put in. Efficiency is a very different
9 thing in China than it is here. We tend to be very
10 labor focused and they're not, but they have some of
11 the largest plants in the world for producing
12 stainless steel welded pipe and tube in A-249, A-312.

13 Generally it's a smaller bore. They well
14 exceed their domestic demand. They export to all
15 areas of the world. Europe and the United States have
16 become their predominant targets for export. They are
17 currently short on raw material supply, so that's one
18 of their limitations which will be eliminated in the
19 next year.

20 So in the next 12 to 18 months they'll
21 become very, very oversupplied on raw materials, hot
22 mills, cold mills, for stainless steel as well as
23 their pipe mills. Right now some of the raw material
24 that they're using is coming out of the Korean and
25 Taiwanese facility for stainless steel.

1 CHAIRMAN PEARSON: Okay. So your
2 expectation is that for the reasonably foreseeable
3 future the production in China will exceed the
4 consumption in that country?

5 MR. TIDLOW: I was at a conference last
6 month and there was a comment that was made by one of
7 the producers or one of the expert witnesses that
8 there's 200 continuous mills in China. We have eight
9 and we're about the largest for making A-312 pipe in
10 the United States. In my mind if they focus those on
11 making the A-312 standards and improve their quality
12 -- at some of the facilities their quality is world-
13 class, at others it's just not, but they'll get there.
14 If they focus their production on A-312 they have
15 enough to supply the entire world probably.

16 CHAIRMAN PEARSON: Are some of the pipe
17 mills in China foreign direct invested? Have they
18 imported expertise in marketing ability or are they
19 primarily domestic Chinese firms?

20 MR. TIDLOW: The information that we have
21 says that they're private firms, they're government
22 controlled firms as well as nationals who have
23 invested in Chinese facilities, so they're privately
24 held by Chinese management. So yes, to answer your
25 question is there are all sorts of different

1 ownerships going on right now.

2 CHAIRMAN PEARSON: I think I'll yield back
3 the balance of my time and turn now to Vice Chairman
4 Aranoff.

5 VICE CHAIRMAN ARANOFF: Thank you, Mr.
6 Chairman. I really only have one follow-up question.
7 I note that the period that we are reviewing today
8 includes the period during which the 201 investigation
9 was going on. In that investigation, the Commission
10 made a negative determination with respect to welded
11 stainless steel pipe, a decision for which I have no
12 responsibility at all. But one of the --

13 MR. SCHAGRIN: That's okay. We're not
14 blaming anyone, Vice Chairman Aranoff, so everyone is
15 absolved of responsibility.

16 VICE CHAIRMAN ARANOFF: In any event, one of
17 the things that the Commission cited as a contributing
18 factor, that while industry capacity utilization was
19 low, at least part of this could be attributed to
20 "mothball facilities". In more recent years, what do
21 you see as the primary factors that are contributing
22 to low capacity utilization, and how has that changed
23 since what the Commission observed in the 201?

24 MR. SCHAGRIN: I'm going to let John further
25 this answer, but I think it's important to point out

1 at the outset that the scope -- not the scope,
2 actually the like product definition for the purposes
3 of that 201 was even much, much larger than this
4 because it included all welded stainless pipe and
5 tube, much of which is mechanical.

6 So you have this very large market for
7 mechanical products. All the automotive exhaust
8 products, which is a huge market, all of your
9 catalytic converter stuff on your car is all forms of
10 stainless; welded stainless pipe and tube goes into
11 that. And so at the outset, I would just say that the
12 like product there was much, much larger than the like
13 product here.

14 Now then, as the capacity utilization -- and
15 by the way, had the like product -- and don't forget
16 that the steel 201 case was huge, so you had to have
17 broad. Had we had A-312 as a separate 201 like
18 product, the Commission probably would have made a
19 different determination. But notwithstanding that, I
20 think the problem with capacity utilization is a real
21 problem, and it is for Bristol and other producers
22 really cutting back the number of shifts on their
23 equipment.

24 Mr. Tidlow?

25 MR. TIDLOW: Our capacity, like I keep going

1 back to our two different production centers, our
2 capacity on our batch mill is very small compared to
3 our capacity on our continuous mills. Continuous
4 mills can run 21 turns every week. We do the
5 maintenance and stuff as we change our product line,
6 which product we're making. We do our maintenance as
7 we're doing that.

8 So our capacity is once you put that piece
9 of equipment in the ground, it doesn't change. We can
10 run it 20 turns. We can run it seven turns. Right
11 now we're running some of them 5 turns, some of them
12 12 turns.

13 During the scope of this period of this
14 investigation, between 2000 and 2006, we've run almost
15 every one of those continuous mills at some point 21
16 turns. That is our realistic capacity on that
17 equipment. Right now we're running some of them two
18 days a week. We're running some of them seven days,
19 one turn, some of them seven days, two turns. It just
20 depends on which product that they make. So our
21 capacity is real at the numbers that we've put in.
22 Our utilization is very low because of the way the
23 market has dried up for some of the sizes. I guess
24 that's it.

25 MR. SCHAGRIN: And just to translate from

1 pipe and tube speak into real speak, turns being an
2 eight-hour period, so they were literally operating at
3 times seven days a week, 24 hours a day, which the
4 mills are capable of, and are now presently operating
5 maybe on average five days, eight hours, but it
6 depends on the mill. Some mills may only be operating
7 16 hours a week, and other mills may be operating 64
8 hours a week, but nothing is operating seven days, 24
9 hours. But that's the basis of the capacity, because
10 they would like to run that way.

11 They do have some substantial fixed costs at
12 these properties where there's a real benefit to
13 running more. It's not just the electricity that is
14 utilized, but they have gases. They all have gas
15 facilities because unlike carbon welding, they have to
16 use gases while they're welding, and they have to use
17 their annealing lines, and they would like to utilize
18 those more. It does reduce their per unit costs of
19 production versus lower rates of utilization.

20 VICE CHAIRMAN ARANOFF: Okay. I appreciate
21 those answers. Thank you very much, Mr. Tidlow, for
22 making the effort to be here with us today. And I
23 have no further questions, Mr. Chairman.

24 CHAIRMAN PEARSON: Okay. Commissioner
25 Hillman.

1 COMMISSIONER HILLMAN: Thank you. I hope
2 just a couple follow-ups. One is on this issue of
3 whether there has in fact been a shift in production
4 in the U.S. industry out of A-312 and into the other
5 products that presumably are more lucrative.

6 I think I heard, Mr. Schagrin, earlier your
7 general sense that the data looks that way because the
8 facilities that have been closed were primarily or
9 entirely A-312 producers, but I want to make sure I
10 understand what you're really saying. Are those
11 companies that can make both, both the A-312 and the
12 other more specialized products, have they shifted out
13 of A-312, or you think the data is simply a reflection
14 of the closure of certain specific facilities?

15 MR. SCHAGRIN: First, I'd say it's primarily
16 an issue in terms of qualifying the answer, it's that
17 the facilities that were closed primarily produced A-
18 312. Some of the closed facilities such as I think
19 John mentioned earlier in an answer Davis Acme/Romac,
20 they closed facilities -- I think they closed four
21 facilities in the U.S., and at one or two of those
22 facilities, they made primarily A-312, and at the
23 other facilities, they made primarily or maybe even
24 exclusively other welded stainless pipe. So, in a
25 way, it's applied to both.

1 In terms of the present makeup of the
2 industry, I think the reason that it looks like
3 there's a shift isn't that on the lines that made A-
4 312, the producers are making other product. It's
5 that within a facility or in the case of maybe some
6 companies have multiple plants, but even at Bristol
7 where they only have one plant and in Marcegaglia
8 where they only have one plant but different welding
9 mills and different bays, it's the fact that they are
10 utilizing their A-312 equipment less and producing
11 less A-312 and not producing less of the other
12 products is what makes the shift apparent. They're
13 not utilizing the same equipment to make more non-A-
14 312 because they really don't utilize the same
15 equipment.

16 COMMISSIONER HILLMAN: Right.

17 Okay. Mr. Tidlow, did you want to add
18 anything?

19 MR. TIDLOW: On the like product, this is
20 again another like product question as far as I'm
21 concerned. There's an issue there. And right now for
22 some of our large projects, we are making very large
23 diameter, large tonnages of very large diameter. If
24 we were to address the like product, that information
25 would fall out, and it wouldn't be quite as confusing

1 if we were targeted more at the commodity products and
2 the smaller A-312.

3 The other issue is the demand for our
4 products has increased during this period, and our
5 production quantities have gone down. It's increased
6 modestly, but our production quantities have gone
7 down. So we've seen a slight shift in making other
8 products. That is growth in ethanol and liquid
9 natural gas. So there's been a little demand growth
10 on that side. There's been a little demand growth on
11 the welded
12 A-312, but we just haven't seen the same increase in
13 production for the U.S. facilities.

14 COMMISSIONER HILLMAN: Okay. All right.
15 Then the other issue that we obviously look at is the
16 relative attractiveness of the U.S. market. I don't
17 know whether you could help us understand what prices
18 for either A-312 or any of the other product that is
19 produced by the domestic industry as we've defined it
20 in this case, what are prices elsewhere? In Europe?
21 In Latin America? In Asia? Where would U.S. prices
22 fall vis-à-vis other countries that are consuming a
23 fair amount of A-312?

24 MR. SCHAGRIN: Mr. Tidlow, you can either
25 answer now. And then I believe that because the

1 sources of the information for the staff might have
2 been from some confidential sources, if the staff
3 report had some information on this.

4 I also believe that in confidential
5 questionnaire responses, there's also some
6 confidential information we could utilize in the
7 posthearing brief to address that, and we will do that
8 and break out all the information available to us
9 based on the confidential staff report as well as
10 questionnaire responses and answer that question.

11 Now, having said that, I'd invite Mr. Tidlow
12 to add any comments he has now, but we'll also address
13 it in the posthearing brief with some confidential
14 information, Commissioner Hillman.

15 MR. TIDLOW: We at this point, we see a
16 little bit of competition out of the Europeans, and
17 we're competitive with the Europeans, so I'd say our
18 pricing on that side isn't terrible. But outside of
19 that, we don't even get feedback from the other
20 markets because our pricing is so far out of line with
21 some of the pricing that they see as export business
22 that they don't even tell us what the pricing feedback
23 is.

24 COMMISSIONER HILLMAN: Meaning the U.S.
25 price is much higher?

1 MR. TIDLOW: And the European prices
2 generally. So our markets in that case I would say
3 would appear to be very attractive.

4 COMMISSIONER HILLMAN: Okay. All right.
5 And then on in essence the capacity of the Koreans and
6 the Taiwanese, obviously we got very little to no, you
7 know, direct questionnaire data, but I didn't know
8 whether there's anything further you wanted to say
9 about your sense of Korean and Taiwanese capacity.
10 Again, it's the relative attractiveness of the U.S.
11 market and the ability to actually make and ship
12 product that would be demanded here, whether there's
13 anything you wanted to say on that.

14 MR. TIDLOW: The quality of the product made
15 in Korea and Taiwan is adequate for any market in the
16 world effectively. They've qualified their products.
17 They've gone through all the phases to get to where
18 they need to be. They have several facilities that I
19 know are very large-scale and can produce product for
20 the world market and have in the past. I think they
21 would be there again.

22 COMMISSIONER HILLMAN: Okay. And no changes
23 that you know of? No major shutdowns or any of that
24 within Korea and Taiwan?

25 MR. TIDLOW: Additions. Additions rather

1 than subtractions.

2 COMMISSIONER HILLMAN: Okay. All right.
3 All right.

4 MR. SCHAGRIN: And I would just emphasize
5 there, A, we think there have been additions to the
6 capacity in those markets, and B, given the just
7 unbelievable growth in Chinese production and Chinese
8 exports, you know, which have grown from virtually nil
9 to as much as 45,000 metric tons last year of these
10 products, that while you don't have the information,
11 you're tending I think to have go back and rely on the
12 earlier sunset reviews.

13 To me, the information that is on the
14 record, maybe we need to interpolate this a little bit
15 more in our posthearing brief, is that they would have
16 much more excess capacity today because of the huge
17 growth in not only Chinese production for the Chinese
18 market but the huge growth in Chinese exports means
19 that the Korean and Taiwanese industries would have
20 more excess capacity than they would during the period
21 of the first review because Chinese industry barely
22 existed six years ago.

23 And so we don't think there's been plant
24 closures in Korea and Taiwan, and yet you've had this
25 huge growth in China. And there's no question of

1 displacing Korean and Taiwanese exports to other
2 markets, and that would give them more excess capacity
3 than had existed at the time of the first review.

4 COMMISSIONER HILLMAN: Okay. I very much
5 appreciate those responses. I have no further
6 questions, but thank you.

7 CHAIRMAN PEARSON: Are there any further
8 questions from the dais?

9 (No response.)

10 CHAIRMAN PEARSON: Okay. Do staff members
11 have any questions?

12 MR. CORKRAN: Douglas Corkran, Office of
13 Investigations. Thank you, Chairman Pearson. Staff
14 do have a few questions. First directed to Mr.
15 Schagrin, just to be very clear about things, the
16 domestic like product that you are arguing in favor of
17 is essentially A-312 pipe and A-778 pipe together?

18 MR. SCHAGRIN: That is correct. I don't
19 think they can be separated.

20 MR. CORKRAN: The second question goes to
21 the producers who manufacture A-778 pipe. Would you
22 characterize the share of such pipe that you think
23 Bristol and Marcegaglia might account for? Do you
24 think that you account for a substantial share of the
25 product of A-778 that's produced in the United States?

1 Are there other major producers that you would point
2 to?

3 MR. TIDLOW: The major producers in the
4 United States that make A-312 pipe can easily make A-
5 778 pipe. It is the same product generally as far as
6 specification except for an annealing process. So for
7 us, it would be just to simply turn our annealing
8 furnace off on our continuous mills or not run the
9 product through annealing.

10 The Respondents to your questionnaire should
11 cover all of the A-778, A-312. A-778 is a very small
12 percentage of the A-312, A-778 grouped market. And
13 yes, we do represent a large share of the production,
14 as would Marcegaglia. Several other producers that
15 could make it at any of the major producers that
16 you've asked for response from.

17 MR. SCHAGRIN: Did that sufficiently answer
18 your question, Mr. Corkran? Because I think it's
19 basically because Marcegaglia and Bristol represent
20 such a large portion of the industry, they also
21 represent a very large proportion of the industry that
22 would be producing A-778 as well as A-312. And then
23 the other major producers would be the Ottocampos (ph)
24 and probably Felker Brothers, because they're also to
25 our industry knowledge the other major A-312

1 producers, so they'd also be the other A-778
2 producers.

3 MR. TIDLOW: Yes. Yes. I routinely would
4 throw A-312 and A-778 in the same product category.

5 MR. CORKRAN: Thank you. That was indeed
6 very responsive. In terms of import competition that
7 you see in sales of grade A-778 or ASTM A-778 pipe,
8 how would you characterize the import competition that
9 you see for that particular type of pipe?

10 MR. TIDLOW: I don't know if I have an
11 answer for that. Typically the products that are
12 imported into the United States are standard stalkus
13 (ph) or distributors' inventory in standard length.
14 Generally that's A-312, but again, A-778 represents a
15 very small percentage of the market. So I don't think
16 I have an answer for whether there's even generally
17 much import of A-778.

18 MR. CORKRAN: That's very helpful. I
19 appreciate it. The last request then would be a data
20 request, and we can work with you in terms of the
21 format and the form of the data. But in essence, it
22 would be can you provide data for A-778 pipe similar
23 to the data that was requested for A-312 pipe? And
24 that would go for Marcegaglia as well.

25 MR. TIDLOW: The answer is absolutely. We

1 can break our products out in whichever way is
2 required or requested.

3 MR. SCHAGRIN: And we'll do that for
4 Marcegaglia as well in the posthearing brief.

5 MS. TURNER: Robin Turner, Office of the
6 General Counsel. In terms of that, when Mr. Corkran
7 asked you for the information, I believe he'd like all
8 of meaning financial information, anything that would
9 be needed for a separate domestic industry.

10 The follow-up to that and a follow-up
11 actually to Commissioner Okun's question, when you
12 brief the domestic like product issue, can you please
13 go through the six factors that we typically look at
14 looking at it as the A-312 and the A-778, comparing to
15 that versus all other WSS pipe and ensure when you're
16 discussing the domestic like product that you're not
17 discussing something that is actually smaller, more
18 narrow, than what the scope is? Because you've
19 discussed sizes, but the fact is the size is all
20 included in the scope.

21 MR. SCHAGRIN: I'm aware of that, Ms.
22 Turner. I will not discuss like products smaller than
23 the scope, and we will address the six factors for the
24 A-312 and A-778 distinct from the other welded
25 stainless steel pipe and tube products.

1 MS. TURNER: Thank you. And one follow-up
2 not to this. Actually one follow-up question. You've
3 noted in your posthearing brief at page 17 that the
4 Federal Circuit decision in Bratsk doesn't apply to a
5 five-year review, and my question, if you could
6 discuss in the posthearing brief if the Commission
7 should consider likely other factors in a five-year
8 review such as nonsubject imports and if so, how the
9 Commission should take those into account in a five-
10 year review.

11 MR. SCHAGRIN: I'd be happy to. And just
12 briefly, it's almost exactly the opposite of Bratsk,
13 which says in the investigation because you don't have
14 products or the assumption is that the nonsubject
15 products are not affected by duties, here you've got,
16 you know, in a sunset review, you've got the impact of
17 the orders, which is why we don't think Bratsk would
18 apply.

19 We do think just the opposite applies, and
20 not only do we think it, we think the Commission also
21 agrees, because you've utilized this as a condition of
22 competition in other sunset determinations that the
23 existence of large imports or already in the market
24 and potentially large future imports from other
25 countries can be used by the Commission to determine

1 that the industry is more vulnerable in the context of
2 a sunset review. So it's almost the reverse of
3 Bratsk, and that's what we think the Commission has in
4 fact done in sunset reviews. But we will address that
5 in our posthearing brief.

6 MR. CORKRAN: Thank you, Chairman Pearson.
7 Staff have no further questions.

8 CHAIRMAN PEARSON: Thank you, Mr. Corkran.

9 Let's see. Mr. Tidlow, normally at this
10 point in the proceeding, we would release the panel,
11 but given that you've been so gracious as to hang in
12 there with Mr. Schagrin so far and not abandon him,
13 feel welcome to stay.

14 Mr. Schagrin, more normally we would advise
15 that you have 42 minutes for rebuttal. However, I
16 understand that in a case where there are no
17 Respondents, that time is yielded back, so you have
18 five minutes for closing. Are you ready to proceed?

19 MR. SCHAGRIN: I am ready to proceed, and I
20 think I'll use just two minutes, less than two
21 minutes.

22 CHAIRMAN PEARSON: Okay. That would get us
23 out of here by noon.

24 MR. SCHAGRIN: That would be great. And
25 that is just to say that the Commission is lucky that

1 Mr. Tidlow cannot fly directly to Washington by plane,
2 or I might have been the only one. The airport near
3 Bristol, I guess you can only fly to Atlanta,
4 Cincinnati, and then catch another plane to
5 Washington, and that's why he drove yesterday, so we
6 are actually lucky, fortuitous that he was not
7 planning on flying here from Tennessee yesterday but
8 instead drove.

9 And I am glad that with age comes a little
10 better sense because in talking about these problems
11 with thunderstorms and flying, I was reminded of the
12 fact that during the 201 case, several Commissioners
13 and staff scheduled a plane visit to the Nucor
14 facility in Berkeley, South Carolina, and I was
15 supposed to fly I think a little later than the
16 Commissioners the night before from Washington-Dulles
17 to Charleston, and we had the same thunderstorms as
18 last night.

19 And what I did and there at least initially,
20 I said we're not flying on the East Coast tonight, and
21 I just jumped in my car and drove overnight in order
22 to get to the Commission's plant tour. And I think
23 given that I'm a few years older, I wouldn't do that
24 again. So I think with age comes wisdom.

25 My final comment is that we very much

1 appreciate the Commission's preparation for this
2 proceeding, the quality of your questions, and
3 entertaining our answers in spite of there being no
4 Respondents. And I don't think we will see you again
5 this summer for any other hearings, so I wish
6 everybody a very happy summer and pleasant summer
7 vacations. And that's my closing. Thank you.

8 CHAIRMAN PEARSON: Thank you, Mr. Schagrin.
9 Posthearing briefs, statements responsive to
10 questions and requests of the Commission, and
11 corrections to the transcript must be filed by June
12 29, 2006, closing of the record and final release of
13 the data to parties on July 25, and final comments,
14 July 27, 2006.

15 A comment to my colleagues. I may have
16 peaked too early. The high-water of my Chairmanship
17 might have been reached today, because I'm about to
18 gavel us out of here by noon. I hope to be able to do
19 this again sometime, but don't hold your breath.

20 With no further business, this meeting is
21 adjourned.

22 (Whereupon, at 11:59 a.m., the hearing in
23 the above-entitled matter was concluded.)

24 //

25 //

CERTIFICATION OF TRANSCRIPTION

TITLE: Certain Welded Stainless Steel
INVESTIGATION NOS.: 731-TA-540
HEARING DATE: June 20, 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: June 20, 2006

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: Christina Chesley
Signature of Court Reporter