

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:
CAST IRON SOIL PIPE FITTINGS
FROM CHINA

) Investigation Nos.:
) 701-TA-583 AND 731-TA-1381
) (FINAL)

Pages: 1 - 235
Place: Washington, D.C.
Date: Tuesday, June 26, 2018



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UNITED STATES OF AMERICA
BEFORE THE
INTERNATIONAL TRADE COMMISSION

IN THE MATTER OF:) Investigation Nos.:
CAST IRON SOIL PIPE FITTINGS) 701-TA-583 AND 731-TA-1381
FROM CHINA) (FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, June 26, 2018

The meeting commenced pursuant to notice at 9:30
a.m., before the Commissioners of the United States
International Trade Commission, the Honorable David S.
Johanson, Chairman, presiding.

1 APPEARANCES:

2 On behalf of the International Trade Commission:

3 Commissioners:

4 Chairman David S. Johanson (presiding)

5 Commissioner Rhonda K. Schmidlein

6 Commissioner Meredith M. Broadbent

7 Commissioner Jason E. Kearns

8

9

10

11 Staff:

12 William R. Bishop, Supervisory Hearings and Information

13 Officer

14 Tyrell Burch, Program Support Specialist

15 Sharon Bellamy, Records Management Specialist

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17

18 Junie Joseph, Investigator

19 Mark Brininstool, International Trade Analyst

20 Andrew Knipe, International Economist

21 Emily Kim, Accountant/Auditor

22 Heng Loke, Attorney/Advisor

23 Craig Thomsen, Supervisory Investigator

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25

1 APPEARANCES:

2 Opening Remarks:

3 Petitioners (Christopher T. Cloutier, Schagrin Associates)

4 Respondents (Michael S. Snarr, BakerHosteler, LLP)

5 In Support of the Imposition of Antidumping and

6 Countervailing Duty Orders:

7 Schagrin Associates

8 Washington, DC

9 on behalf of

10 Cast Iron Soil Pipe Institute

11 Roddey Dowd, Jr., Chief Executive Officer, Charlotte

12 Pipe and Foundry Company

13 Hooper Hardison, President, Charlotte Pipe and Foundry

14 Company

15 Greg Simmons, Senior Vice President, Cast Iron

16 Division, Charlotte Pipe and Foundry Company

17 John Biggers, Vice President of Sales, Charlotte Pipe

18 and Foundry Company

19 Michael Lowe, General Manager and Vice President of

20 Sales, AB&I Foundry

21 Tom Leonard, General Manager, Wade Drains

22 Jim Bresnahan, Vice President of Sales, Pace Supply

23 Steve Miller, Vice President, SOLCO

24 Roger B. Schagrin, Christopher T. Cloutier and

25 Elizabeth J. Drake - Of Counsel

1 In Opposition to the Imposition of Antidumping and
2 Countervailing Duty Orders:

3 Baker & McKenzie LLP

4 Washington, DC

5 on behalf of

6 Zurn Industries, LLC ("Zurn")

7 Craig G. Wehr, President, Zurn

8 Scott Burnett, General Manager, Zurn

9 James W. Tharp, Jr., President, Tharp Plumbing Systems,

10 Inc.

11 Kevin M. O'Brien and Christine M. Streatfeild - Of

12 Counsel

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14 BakerHostetler

15 Washington, DC

16 on behalf of

17 Plumbing and Drainage Institute

18 Max Weiss, Executive Director, Plumbing and Drainage

19 Institute

20 Michael S. Snarr - Of Counsel

21

22

23

24

25

1 APPEARANCES (Continued):

2

3 Interested Party in Oposition:

4 New Age Casting LP

5 Wor-Biz Trading Co., Ltd.

6 Sugar Land, TX

7 Bikram Singh, President, New Age Casting LP

8 Patrick Mc

9 k McQuillan, National Sales Manager, New Age
Casting LP

10

11 Rebuttal/Closing Remarks:

12 Petitioners (Roger B. Schagrin, Schagrin Associates)

13 Respondents (Kevin M. O'Brien, Baker & McKenzie LLP)

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1 PROCEEDINGS

2 (9:30 a.m.)

3 MR. BISHOP: Will the room please come to
4 order?

5 CHAIRMAN JOHANSON: Good morning. On behalf
6 of the U.S. International Trade Commission, I welcome you to
7 this hearing on the final phase of Investigation Nos.
8 701-TA-583 and 731-TA-1381, involving Cast Iron Soil Pipe
9 Fittings from China.

10 The purpose of these investigations is to
11 determine whether an industry in the United States is
12 materially injured, or threatened with material injury, or
13 the establishment of an industry in the United States is
14 materially retarded by reason of imports of cast iron soil
15 pipe fittings from China.

16 Schedules setting forth the presentation of
17 this hearing, notices of investigation and transcript order
18 forms are available at the public distribution table. All
19 prepared testimony should be given to the Secretary. Please
20 do not place testimony directly on the public distribution
21 table.

22 All witnesses must be sworn in by the
23 Secretary before presenting testimony. I understand that
24 parties are aware of the time allocations. Any questions
25 regarding the time allocations should be directed to the

1 Secretary.

2 Speakers are reminded not to refer in their
3 remarks or answers to questions to business proprietary
4 information. Please speak clearly into the microphones and
5 state your name for the record for the benefit of the court
6 reporter.

7 If you will be submitting documents that
8 contain information you wish classified as business
9 confidential, your request should comply with Commission
10 Rule 201.6. Mr. Secretary, are there any preliminary
11 matters?

12 MR. BISHOP: Mr. Chairman, I have two
13 preliminary matters. First, I would note that all witnesses
14 for today's hearing have been sworn in. I would also like
15 to remind witnesses to please make sure that you speak
16 directly into your microphone, especially as we have the
17 construction across the street. Once they start pounding,
18 it's going to be difficult for the court reporter to pick
19 you up.

20 If you hear Tyrell or I say "microphone," that
21 means to please make sure you speak directly into the
22 microphone. There are no other preliminary matters.

23 CHAIRMAN JOHANSON: Thank you Mr. Secretary.
24 Let us begin with opening remarks.

25 MR. BISHOP: Opening remarks on behalf of

1 Petitioners will be given by Christopher T. Cloutier of
2 Schagrin Associates. Mr. Cloutier, you have five minutes.

3 OPENING STATEMENT OF CHRISTOPHER T. CLOUTIER

4 MR. CLOUTIER: Good morning Chairman Johanson
5 and Commissioners. I am Chris Cloutier of Schagrin
6 Associates, representing the Petitioner, Cast Iron Soil Pipe
7 Institute, which is comprised of AB&I Foundry, Charlotte
8 Pipe and Foundry and Tyler Pipe. You will hear from
9 representatives of these companies later this morning, as
10 well as from distributors. Like many industries that
11 petition the Commission for relief, casting is capital
12 intensive. Consequently, when confronted with unfairly
13 traded imports, many producers choose to cut prices before
14 losing volume. That's what happened here.

15 The Institute filed this case in 2017 after a
16 surge in imports. As the staff report shows, demand
17 generally increased over the Period of Investigation, but
18 substantial volumes of subject imports undersold the
19 domestic industry. This underselling robbed domestic
20 producers of the opportunity presented by an improving
21 market.

22 Sales lost to Chinese imports and sales made
23 at lower prices to maintain volume eroded profits for
24 domestic producers, and eventually led to losses. The fact
25 that most fittings are sold out of inventory is an important

1 condition of competition in this case. It's important
2 because inventories increased in 2017, prior to the
3 imposition of preliminary duties, and sales of imported
4 fittings continued out of inventory after the duties led to
5 decreased import volumes.

6 Thus, apparent consumption numbers based only
7 on entries of imports on their own don't present an accurate
8 reflection of the market in early 2018. That's it. Our
9 arguments are straightforward. The market was generally
10 improving over the POI, but increased volumes of dumped and
11 subsidized imports from China undersold the domestic
12 industry, causing falling prices, lower profitability and
13 losses.

14 Notwithstanding the simplicity of our case,
15 Respondents in the preliminary phase went to great lengths
16 to distract from the required analysis of import volumes,
17 price effects and impact on the domestic industry. The
18 staff should be commended for running these myriad issues to
19 ground.

20 The staff report demonstrates that none of
21 these arguments detract from our arguments. First,
22 Respondents blame the injury suffered by the domestic
23 producers on competition from plastic fittings. The switch
24 to plastic in residential applications occurred decades ago,
25 however, and the staff report confirms the current absence

1 of major competition between plastic and cast iron fittings.

2 Second, one importer claimed to be
3 revolutionizing the industry with epoxy-coated fittings, and
4 that increased imports were due to demand for this product.
5 The staff report makes clear, however, that epoxy-coated
6 fittings are not driving import growth, with only three
7 purchasers reporting that their customers actually want this
8 product.

9 Third, one witness argued that the
10 investigation was superfluous, because beginning in late
11 2016, subject merchandise was becoming unavailable due to
12 Chinese government efforts to close foundries for
13 environmental reasons. Of course, the very next month after
14 the staff conference had the highest volume of imports to
15 date, all likely ordered before the staff conference.

16 The staff report further confirms that a
17 majority of responding firms reported no supply problems.
18 Witnesses at the staff conference offered a variety of
19 wildly inaccurate assessments of antitrust proceedings
20 involving the domestic industry. One witness alleged, for
21 example, that McWane purchased seven domestic foundries and
22 shut them down for anti-competitive purposes. McWane,
23 however, only purchased one of these seven foundries, and
24 it later burned down.

25 While it's true that members of the domestic

1 industry were involved in some antitrust proceedings, none
2 of those proceedings resulted in findings that producers of
3 cast iron soil pipe fittings were engaged in wrongdoing.
4 One Respondent witness at the staff conference even admitted
5 that, in spite of his comments a class action lawsuit didn't
6 actually have any effect on the market.

7 The spurious nature of Respondents' claims is
8 borne out by industry questionnaire responses, in which all
9 of the domestic producers and almost all importers and
10 purchasers agreed that the 2013 FTC proceeding and the class
11 action lawsuit had no impact on their firms or the market in
12 general.

13 Based on the briefs of the Respondent
14 companies appearing today, I suspect much of this
15 afternoon's discussion will involve whether the word
16 "drains" really means a drain or something else. In this
17 regard, I will point out that the term "drains" was
18 included in the definition of scope from the beginning of
19 this investigation, and has been published in the Federal
20 Register on numerous occasions.

21 Drains are covered products and always have
22 been, and they are part of the same domestic like product as
23 other cast iron soil pipe fittings. So in closing, I turn
24 back to the analysis required by the statute. Based on
25 increased import volumes that undersold the domestic

1 industry and caused sharp declines in the domestic
2 industry's prices, in both net and operating profit, we
3 urge the Commission to make an affirmative determination.
4 Thank you.

5 MR. BISHOP: Thank you, Mr. Cloutier. Opening
6 remarks on behalf of Respondents will be given by Michael S.
7 Snarr of Baker Hostetler. Mr. Snarr, you have five minutes.

8 OPENING STATEMENT OF MICHAEL S. SNARR

9 MR. SNARR: Good morning Mr. Chairman, members
10 of the Commission. I'm Michael Snarr of Baker Hostetler,
11 appearing as counsel on behalf of the Plumbing and Drainage
12 Institute or PDI. PDI is an association of manufacturers of
13 engineered plumbing products, and is joined today by
14 representatives of one of its members, Zurn Industries.

15 PDI and Zurn are appearing here today not
16 because this case concerns cast iron soil pipe fittings from
17 China. PDI and Zurn are not in the fittings business. But
18 PDI and Zurn are concerned about the impact of proposed
19 orders on the drain business, which seems to have been
20 caught up more than anything else by some unfortunate syntax
21 in the text of the scope of the investigations.

22 A few weeks ago, some of PDI's members began
23 to receive notices from U.S. Customs and Border Protection
24 that the drain fixtures that they import from China were
25 subject to the cast iron soil pipe fittings investigations,

1 that liquidation of the Customs entries for those drains had
2 been suspended, and that duty deposits had to be paid in
3 accordance with the Department of Commerce's affirmative
4 anti-dumping and countervailing duty preliminary
5 determinations.

6 This news came as a surprise to PDI and its
7 members, because it is elementary to them that drains and
8 fittings are fundamentally different things. Drains are
9 plumbing fixtures designed to collect and disperse liquids.
10 Pipe fittings are used to join different pipes together.
11 They perform entirely different functions. They are
12 classified under different HTS-U.S. codes. In many cases,
13 drains are not even used with cast iron soil pipes or
14 fittings.

15 The news that drain fixtures might be part of
16 the investigation may have come as a surprise to the
17 Commission staff as well. To our knowledge, the Commission
18 originally did not send questionnaires to U.S. importers of
19 drain fixtures. Some members were able to request and
20 return questionnaires, just as the Commission staff were
21 finalizing the prehearing report.

22 But it otherwise would seem that no data have
23 been collected about the production, import volumes or
24 pricing of drains. The description of the scope of the
25 investigation says cast iron soil pipe fittings are

1 non-malleable iron castings of various designs and sizes
2 including, but not limited to, bends, T's, Y's, traps,
3 drains and other common or special fittings, with or without
4 side inlets.

5 The context of this language suggests that the
6 word "drains" was intended to refer to a type of pipe
7 fitting, and not "drains," the plumbing fixture, as U.S.
8 Customs and Border Protection had interpreted it. Last
9 Friday, in response to concerns about the ambiguity of the
10 scope language, the Department of Commerce requested
11 additional information on the definition of the word
12 "drains" and its relation to the other terms describing
13 pipe fittings.

14 Those submissions are being filed with the
15 Department of Commerce today, during this hearing. Our
16 purpose in appearing before you today is to explain why
17 drain fixtures are different products than the fittings,
18 which are the real subject of these investigations. By
19 applying the six factor criteria of physical
20 characteristics, interchangeability, channels of
21 distribution, customer and producer perceptions, common
22 manufacturing facilities and price, the Commission should
23 see that drain fixtures are a separate like product from
24 cast iron soil pipe fittings.

25 Because these proceedings really have been

1 about pipe fittings, and because until today the Petitioner
2 has only apparently represented domestic production of pipe
3 fittings, there is not substantial evidence on the record to
4 support an injury or threat determination with respect to
5 drain fixtures as a separate like product.

6 MR. BISHOP: Thank you, Mr. Snarr. Would the
7 panel in support of the imposition of anti-dumping and
8 countervailing duty orders please come forward and be
9 seated? Mr. Chairman, this panel has 60 minutes for their
10 direct testimony.

11 (Pause.)

12 MR. SCHAGRIN: Good morning Chairman Johanson
13 and congratulations on becoming the Chairman, and good
14 morning Commissioner Kearns and welcome to the Commission.
15 As your fellow Commissioners will explain to you, you may
16 get stuck seeing me more often than you did when you were on
17 the Hill. And good morning to the rest of the members of
18 the Commission.

19 For the record my name is Roger Schagrin of
20 Schagrin Associates, and we are counsel to Petitioner,
21 CISPI. The domestic industry presentation this morning will
22 begin with a PowerPoint presentation by my partner,
23 Elizabeth Drake.

24 STATEMENT OF ELIZABETH DRAKE

25 MS. DRAKE: Good morning Chairman Johanson and

1 members of the Commission. This is Elizabeth Drake of
2 Schagrin Associates. I'd first like to start on the issue
3 of drains. As we mentioned, drains have always been
4 included in the scope of these petitions since they were
5 filed last July, and there were not any objections to the
6 inclusion of drains in the scope until 10 to 11 months after
7 those petitions were filed.

8 The language quoted by those in opposition to
9 relief from the scope actually came from the CISPI Handbook
10 that was attached at Exhibit I-1 to the petition. So this
11 is a standard industry set of words, not unfortunate syntax
12 but a very commonly used definition in the industry handbook
13 attached to the petition.

14 Commerce's Notices of Initiation and
15 preliminary determinations all made clear that the scope
16 included drains. The Commission set out a deadline of
17 January 8th, 2018 for comments on draft questionnaires,
18 which contained the scope definition including the word
19 "drains," and no one submitted any comments regarding the
20 domestic like product.

21 Typically, the Commission requires that any
22 such comments be submitted by that time, to enable it to
23 investigate any concerns about domestic like product
24 definitions. Finally, in the scheduling notice in March of
25 this year, it again included the word "drains."

1 Our domestic producers here today will testify
2 to the fact that they do produce drains. Those drains were
3 included in their questionnaire responses. They're made on
4 the same equipment by the same employees. They've always
5 been included in this case, and the fact that those in
6 opposition to relief did not realize that in time to
7 participate in a timely manner is not something that should
8 be to the detriment of Petitioner.

9 The next page, again, is from the petition.
10 It shows that drains are an essential part of drain, waste
11 and vent systems as the name implies. At the top you will
12 see a closet flange. This is a drain that is included in
13 the relevant industry standards for fittings and produced by
14 the domestic industry as well as imported.

15 You will also see at the bottom two different
16 types of drains, a floor drain and a cleanout. Cleanouts
17 are also included in the standards for fittings. Floor
18 drains are more commonly in the drain standards, but as I'll
19 show you those standards cross-reference to the fittings
20 standards.

21 So again, these are all designed to fit
22 together in the same cast iron soil pipe and fitting system
23 to drain waste and vent from buildings.

24 The next slide shows more close-up examples of
25 these drains. Again, some of these were included in the

1 petition or are in common industry standards for fittings.
2 You'll see a closet flange, you'll see different types of
3 closet flanges with different fitting attachments. At the
4 far right is a cleanout, which is a type of drain and you
5 will see that in the CISPI Handbook it says that four inch
6 shower drains and similar slipover fittings connect to cast
7 iron soil pipe through the same methods.

8 The next slide looks at some of the standards
9 for drains that have been put on the record. As I
10 mentioned, there are some drains covered in the fitting
11 standards. There are other drains in other standards. Of
12 course, the scope itself did not limit the scope to which
13 standards the products fell under, but covered anything
14 meeting the physical description.

15 As you can see here, the ASME standard for
16 drains refers to hub, spigot and no-hub, and the hub is
17 sometimes called an inside caulk or an outside caulk, or
18 sometimes called a push-on drain. But all of those connect
19 to cast iron soil pipe, the same way any other fitting
20 would, and at the bottom there you'll see that in the
21 standard for drains it says that the spigot drains need to
22 comply with those two ASTM standards in terms of how they
23 fit to the pipe, and those of course are the ASTM standards
24 for cast iron soil pipe and fittings.

25 To the right is an excerpt from Zurn's own

1 catalogue, where you can see the different parts of drains.
2 If you'll look at the lower right one, which I think is more
3 helpful, you'll see the bottom is a drain body. That is the
4 cast iron piece of the drain. That is the piece that
5 connects to cast iron soil pipe or to other cast iron soil
6 pipe fittings, and those bodies are produced by Charlotte
7 here in the United States. They are also imported.

8 These other pieces that connect to it are
9 really strainers. They're made out of a totally different
10 material. That's the only part you see maybe at the bottom
11 of your shower, or at the top of a roof drain. That is not
12 part of the cast iron part of the product.

13 So for -- oh, the one last thing on drains.
14 The next page shows that consumers and producers perceive
15 these to be the same product. This is excerpts from Tyler's
16 catalogue that show that includes not only cast iron soil
17 pipe and fittings, but also special fittings and drains, and
18 there are numerous examples of drains that are included in
19 their catalogue, which is the same catalogue that covers
20 cast iron soil pipe fittings.

21 So we think all of the six factors clearly
22 support a determination of a single domestic like product
23 including drains, and that is only if the Commission decides
24 to entertain the untimely arguments of those on the other
25 side.

1 Moving to the merits of the case, the
2 conditions of competition and the market for fittings have
3 enabled a rapid increase in imports, which Chinese importers
4 were able to achieve through deep and pervasive
5 under-selling. There's a high degree of interchangeability
6 between domestic and imported fittings, all made to the same
7 standards and all designed to fit together in the same
8 systems with cast iron soil pipe.

9 This makes price a very important factor in
10 purchasing decisions. Nearly 90 percent of all firms
11 reported that Chinese and domestic product is always or
12 frequently interchangeable. Ninety percent or more reported
13 they usually or always meet minimum quality standards. 83
14 percent reported that price is a very important purchasing
15 factor. It was the most frequently cited top three
16 purchasing factor.

17 So in light of this strong record of direct
18 head to head competition of highly substitutable products,
19 those in opposition have tried to claim that various factors
20 attenuate competition, such as preferences for domestic
21 product, the CISPI trademark or the availability of
22 epoxy-coated product from China.

23 But the staff report data shows that none of
24 these factors are important in the market, and none of them
25 attenuate competition. More than 70 percent of purchasers

1 report that origin is not important, and only two purchasers
2 report that their customers actually require domestic
3 product.

4 Similarly, those reporting that the CISPI
5 trademark is very important only covered 30 percent of
6 purchasers, with the vast majority reporting that it's not
7 important or only somewhat important. And finally, only
8 three out of 22 purchasers reported that their customers
9 require epoxy-coated fittings. So every data point in the
10 staff report supports a finding of highly substitutable
11 products that compete primarily on the basis of price.

12 As the next slide will show, this has
13 permitted a large increase in Chinese imports over the
14 period. This is based on the data in the staff report and
15 in public. Import data may not include or does not include
16 some importers whose data is not yet included in the
17 prehearing staff report, but hopefully will be in the
18 post-hearing staff report.

19 But still, based on this data, you see an
20 increase in imports from 2015 to 2017 of 20 percent. While
21 there was a decline in entries of imports in interim 2018,
22 as we discuss, we believe that doesn't reflect the true
23 conditions in the market because of a large inventory
24 overhang that was built up prior to the issuance of the
25 preliminary determinations by Commerce, and there certainly

1 are no supply constraints that would explain that decline in
2 imports.

3 As the Commission staff report found, the
4 majority of importers reported no supply constraints at all,
5 and as this shows, the month after those in opposition to
6 relief testified that they could not get any Chinese product
7 because of foundries being shut down, imports peaked to
8 their highest monthly level of the year. That was in
9 September of last year, and then declined particularly when
10 the preliminary duties were put in place. But again, this
11 doesn't reflect inventory.

12 So we think by any measure, the volume of
13 subject imports is significant throughout the period, and
14 affected the market throughout the period.

15 Turning to price, imports have also had
16 significant adverse price effects. There's pervasive
17 under-selling accounting for nearly 85 percent of quarterly
18 comparisons, and nearly 90 percent of comparisons on a
19 quantity basis, and that an average margin of under-selling
20 of 22-1/2 percent.

21 This under-selling, as has been discussed, has
22 forced domestic producers to lower their own prices, leading
23 to a growing cost squeeze. So you see a price depression
24 and also to the extent they can co-exist, some price
25 suppression. So the adverse price effects of imports are

1 really the key to this case, and explain how they were able
2 to injure the domestic industry.

3 Turning to impact, you see the domestic
4 industry has suffered declines across a number of
5 indicators, even as demand was increasing. Due to the
6 increase in import volumes and import market share, domestic
7 producers lost market share and the only reason they did not
8 lose even more over the period was because they cut their
9 own prices to compete with Chinese imports. This led to
10 declining sales revenue, even as shipments were increasing
11 somewhat, and these declines in prices were particularly
12 injurious given the increase in costs that can especially be
13 seen after 2016.

14 That caused a growing cost-price squeeze and
15 declines in gross profits, operating income and net income
16 across the period for the domestic industry. And of course
17 we believe that the Chinese industry threatens further
18 injury if relief is not imposed, but we believe the record
19 strongly supports an affirmative material injury
20 determination. Thank you.

21 MR. SCHAGRIN: Thank you, Elizabeth. Our first
22 industry witness this morning will be Roddey Dowd, the
23 President of Charlotte Pipe. Mr. Dowd?

24 STATEMENT OF RODDEY DOWD, JR.

25 MR. DOWD: Good morning Chairman Johanson members

1 of the Commission. For the record, my name is Roddy Dowd,
2 Jr. and I'm Chief Executive Officer of Charlotte Pipe and
3 Foundry Company. We are located in Charlotte, North
4 Carolina and I have been employed by Charlotte Pipe for 36
5 years.

6 I am accompanied today by our President Hooper
7 Hardison who has been with us for 29 years, our Senior Vice
8 President of Sales John Biggers is here today as well. John
9 has been with us for 27 years. You will also hear from my
10 colleague Greg Simmons a Senior Vice President who has been
11 with Charlotte Pipe for 30 years.

12 Charlotte Pipe was founded in 1901 when my Great
13 Grandfather W. Frank Dowd built a small foundry to produce
14 cast iron pipe and fittings. The foundry originally had 25
15 employees. We have grown considerably in the intervening
16 years. Today, Charlotte Pipe is the largest manufacturer of
17 cast iron and plastic drain waste and vent fittings in the
18 United States.

19 We operate one foundry and six plastics
20 facilities in this country. We are constantly making
21 process improvements to better serve our customers and to
22 reduce our costs. We invest millions of dollars each year
23 to improve our manufacturing efficiency, productivity and
24 capacity. Continuous investment and the latest casting
25 technology has made our foundry one of the most modern in

1 the world.

2 We offer a complete line of service, extra heavy
3 and hubless pipe and fittings for drain waste and vent
4 applications which we refer to in the industry as DWV. This
5 includes cast iron drain bodies, carriers, cleanouts and
6 support, all of which function as drains and are produced in
7 our foundry in Charlotte.

8 Charlotte Pipe meets or exceeds all Federal,
9 State and Local environmental regulations and standards.
10 Since 1988, we've spent more than 30 million dollars on
11 environmental improvement projects. Our direct annual
12 environmental operating costs were 3.2 million dollars in
13 2017. We regularly and recently received the Blue Thumb
14 Award from our local water authority for our conservation
15 efforts.

16 Our primary melting process, The Cupola Melting
17 Process uses coke as the heat source and requires Charlotte
18 Pipe to operate under very tight air permit restrictions.
19 Our Chinese foundry competitors simply do not have anywhere
20 near the same environmental costs that we incur. In fact,
21 all of the foundries that I have personally visited in China
22 emit both untreated water and air.

23 In the preliminary conference on cast iron soil
24 pipe fittings where Respondents accused us of buying a U.S.
25 Importer that included a foundry in China in order to shut

1 that foundry down. I can tell you that we thought about
2 operating the Chinese foundry we bought to give us a
3 low-cost product to compete with other Chinese Imports in
4 other regions of the world where we sell our goods, but we
5 discovered that this foundry was significantly polluting the
6 air and water and had no safety standards in place for its
7 workers.

8 It would have cost us a fortune to bring that
9 foundry up to our level of environmental and safety
10 compliance so we shut it down. The idea that shutting down
11 one foundry out of approximately three hundred foundries
12 making similar goods in China would make any difference in
13 the level of Chinese Imports shipping into the U.S. is
14 preposterous and the import data shows that.

15 All of our products must conform to the
16 applicable ASTM standards. The same is true for our
17 domestic competitors AB&I and Tyler as well as our Chinese
18 competitors. It is important for the Commission to
19 understand that distributors will distribute and users will
20 use any cast iron sulfite fittings that meet
21 specifications.

22 You don't have to be a member of CISPI to meet
23 the ASTM or CISPI standards. The Chinese claim their
24 products meet these specifications and their quality is
25 accepted by distributors in the market. I know that Mr.

1 Lowe is going to tell you about distribution channels for
2 soil pipe and fittings. Naturally for a product that is
3 basically 100 percent iron the cost of scrap is a key
4 component of our cost of production. Scrap is a worldwide
5 commodity and the price is very transparent. When we saw
6 our scrap cost rising rapidly in late 2016, we announced a
7 price increase to cover our increased scrap costs through a
8 letter to our customers.

9 Our customers told us that they could buy Chinese
10 soil pipe fittings for so much less than our prices and that
11 they were not going to pay us the new higher prices.
12 Consequently we rescinded that increase. In fact, in spite
13 of high raw material costs for scrap iron coke and steel
14 shot plus other general operating expense, not only did we
15 not achieve price increases in 2017.

16 Our last price increase on cast iron soil pipe
17 and fittings was in 2015. In fact, between 2015 and 2017 we
18 attempted four price increases, none of which went through.
19 This had a significant negative impact on our bottom line.
20 In a construction market that is generally improving but
21 facing higher input costs the only reason for having to
22 lower our prices was to increase competition from unfairly
23 traded Chinese Product.

24 The only time we were able to increase our prices
25 was after the Department of Commerce imposed preliminary

1 duties on Chinese fittings. I think you can agree with us
2 that there was a direct correlation between unfairly traded
3 Chinese fittings and our prices.

4 The Commission Staff visited our foundry in May
5 of this year. We have been at our present location for over
6 100 years. Our foundry sits on 55 acres in Downtown
7 Charlotte. When my great grandfather moved the facility
8 there, Charlotte was a small town and we were in the
9 country. Now the city has grown to over a million people in
10 a metropolitan area of three million.

11 We are now in the heart of the city, adjacent to
12 a professional football stadium. It would be in our
13 interests to move our foundry operation to a rural
14 Greenfield site where we could achieve considerable
15 efficiencies. While the city has not pressured us since we
16 are at full compliance with environmental regulations they
17 would obviously love to have this downtown real estate for
18 other purposes.

19 Our employees would also enjoy not having to
20 drive 40 miles in many instances and sit in downtown
21 traffic. However, before our company can undertake such a
22 large investment, in excess of 200 million dollars, we have
23 to know that there would be adequate returns.

24 Until we know we don't have to compete with
25 imports of subsidized and dumped Chinese cast iron soil pipe

1 and fittings, we cannot make this move. I've seen a lot of
2 my fellow members of the American Foundry Society go out of
3 business over the course of my career as their utilization
4 rates went down to the point where their foundries were
5 losing monies and they had to close.

6 In fact, since the year 2000, more than 850
7 foundries in the U.S. have shut down. That's why on behalf
8 of our family business at Charlotte Pipe and our 1400
9 associates we are here today. If the Chinese foundry
10 industry takes more and more of our cast iron soil pipe
11 fittings business then we will lose the ability to operate
12 efficiently and profitably as our selling prices fall and
13 our fixed cost burden buries us.

14 Commerce has verified that our Chinese
15 competitors get government subsidies and that they are
16 dumping their products in the United States market. We are
17 asking you to level the playing field and we are asking you
18 on behalf of all of our folks at Charlotte Pipe to make an
19 affirmative final determination. Thank you very much.

20 STATEMENT OF MICHAEL LOWE

21 MR. LOWE: Good morning, Chairman Johanson and
22 members of the Commission, for the record my name is Michael
23 Lowe and I'm the General Manager and Vice President of Sales
24 for AB&I Foundry. I have been employed by AB&I for 17
25 years. First, let me tell you a little bit about my

1 company.

2 AB&I was founded in Oakland, California just
3 months after the great San Francisco earthquake of 1906. At
4 that time the company's primary products were decorative
5 light poles and iron and brass statuary to rebuild the city
6 of San Francisco. When WWII began, AB&I changed its focus
7 to making submarine net weights and other iron products for
8 the war effort.

9 After the war ended, AB&I changed its product mix
10 again to making cast iron soil pipe and fittings for the
11 post WWII housing boom. Today, our main products are cast
12 iron soil pipe and fittings. In 2006, AB&I Foundry became
13 part of the McClain Plumbing Group of companies. AB&I has
14 distribution centers in the City of Industry and Oakland,
15 California.

16 McClain also owns Tyler Pipe, another Domestic
17 Producer of cast iron soil pipe and fittings. Tyler pipe
18 began operating in the mid 1930's at its foundry located in
19 Tyler, Texas. In 1959, Tyler Pipe introduced the 1st ten
20 foot length of cast iron soil pipe. In 1964, Tyler Pipe
21 started manufacturing cast iron no hub pipe and fittings.
22 In 1986, Tyler pipe began producing its own no hub couplings
23 and gaskets. Currently the company also manufactures
24 couplings and gaskets in Marshfield, Missouri and Corona,
25 California. Tyler has distribution centers in Tyler, Texas

1 and in South Plainfield, New Jersey.

2 Now I'd like to offer some background on the
3 drain waste and vent products we're here to discuss. Cast
4 iron soil pipe and fittings are the preferred method for
5 joining waste from buildings to city and county water
6 purification systems and rainwater from roofs and storm
7 drains. Our products offer advantages such as strength,
8 corrosion resistance and noise reduction more effectively
9 than other products.

10 Cast iron soil pipe fittings are strong enough to
11 lie beneath building foundations and are resistant to the
12 expansion and contraction that can be caused by extreme
13 temperatures. They possess superior fire safety qualities
14 and can be buried or encased in concrete for decades of
15 trouble free service.

16 As you've already heard, cast iron soil pipe
17 fittings are a commodity product made to industry standards.
18 Fittings that meet these standards are highly
19 interchangeable and compete primarily on the basis of price.
20 All major distributors tell us repeatedly that the Chinese
21 products are priced up to 30-40 percent below our products
22 and ask us to cut our prices if we want to maintain
23 business.

24 As you've also heard, foundries are big, fixed
25 cost capital investments that have a production process that

1 requires the continued maintenance of hot metal in our
2 cupola furnace. Therefore we have had no choice but to try
3 to maintain volume with our distributors in the face of low
4 price Chinese competition.

5 I would like to explain the market and channels
6 of distribution for cast iron soil pipe fittings. All
7 domestic and Chinese producers make pipe and fittings to the
8 same standards so they can be fit together in the same
9 drain, waste and vent operations. Manufacturers do not sell
10 to end users directly, but instead do so through
11 distributors.

12 Distributors stock both pipe and fittings for
13 sale to the users of these products. Those users are
14 generally plumbing contractors that install pipe and
15 fittings into buildings. Both Tyler and now AB&I make sales
16 to these distributors from the four major stocking centers
17 that we operate. Two of these are on the West Coast, one is
18 in Texas and the other is in New Jersey. Thus, as you can
19 tell, we cover a nationwide market.

20 We of course hope that all of our customers want
21 to buy products made in the United States. However, given
22 that this is a commodity product contractors can and will
23 buy either domestic or Chinese cast iron soil pipe fittings.
24 Distributors are not shy about telling us that they
25 constantly see offers from Chinese foundries, trading

1 companies and importers for Chinese fittings that we need to
2 lower our prices to compete with these offers.

3 While Domestic Producers use multipliers,
4 discounts and rebates to try to keep our distributors
5 competitive, importers of Chinese fittings have multiplier
6 programs and rebate programs just like we do. The idea that
7 Chinese make a product different from ours because some of
8 their product is epoxy coated is not a reality in the
9 marketplace.

10 Our pipe and fittings are covered in a bituminous
11 product. The product, when properly maintained and vented
12 generally lasts over one hundred years so the idea that our
13 customers will pay more for epoxy coating for more longevity
14 is not realistic. One would think, given additional cost of
15 epoxy coating that the Chinese fittings would sell for much
16 more than domestic fittings. In fact, they sell for less.

17 Conditions in our market have worsened sharply
18 over the past couple of years. It is astounding to me that
19 at a time when building construction is recovering and
20 therefore use of our products is increasing, we have been
21 forced to lower our prices to compete with unfairly traded
22 Chinese Imports. In fact, our average net sales price today
23 is significantly less than it was in 2016.

24 As raw materials began to rise in 2017 and 2018,
25 we were unable to increase prices to the same extent and in

1 fact continue to lower prices to fight Chinese Imports for
2 market share. These price cuts have significantly eroded
3 profitability. If relief is not imposed, we will face a
4 dire choice between operating at unsustainably low prices or
5 losing volume that is critical to covering our high fixed
6 costs.

7 I look at these cases as a battle for our
8 survival where we have reinvested in our company including a
9 million dollar investment to reduce our natural gas and
10 electricity usage and other costs however there are no
11 investments that we can make to reduce our costs for scrap
12 or coke or sand or limestone or bentonite or health care
13 costs for employees.

14 We need our employees to be able to benefit from
15 the investments that we have made and to retain their jobs
16 in order to keep supplying this vital product to the U.S.
17 economy. It's obvious to me and the rest of our company and
18 industry that we simply cannot compete with dumped and
19 subsidized imports from China.

20 On behalf of all of our employees in our Oakland
21 foundry as well as our employees at Tyler Pipe, Texas who
22 depend on us for a good middle-class living. We ask the
23 Commission to make affirmative injury determinations and
24 restore fair trade in the market for cast iron soil pipe
25 fittings. Thank you.

1 STATEMENT OF GREG SIMMONS

2 MR. SIMMONS: Good morning, Chairman Johanson
3 and members of the Commission. For the record, my name is
4 Greg Simmons, a Senior Vice President of Charlotte Pipe.

5 I have been in the foundry industry for 49 years,
6 the last 30 with Charlotte. I wanted to explain our
7 manufacturing process for fittings.

8 After melting iron scrap and coke in our Cupola
9 furnace, liquid iron is transported to sandcast molding
10 machines to be made into fittings. We have to make each of
11 these molds from a green sand mixture which is labor
12 intensive and energy intensive and has significant
13 environmental issues.

14 We have over 1,000 fitting sizes and shapes that
15 we have to produce and stock. After the cast iron is poured
16 into the mold, risers and gauge need to be separated from
17 the fittings, and then they are cleaned and coated. Because
18 of these risers and other scrap, yield losses on fittings
19 average 40 percent.

20 As Commissioner Broadbent and the ITC staff saw,
21 about 80 percent of our melted iron gets made into pipe, but
22 60 percent of our workforce is dedicated to making finished
23 fittings. Thus, this case is critical in maintaining hours
24 and pay in our plant.

25 Foundries have very high fixed costs. They are

1 expensive to start up each week, and you need to run hard
2 and produce as many tons as possible to spread your fixed
3 costs. You can't just turn foundries on and off because you
4 cannot get the metal--let the metal get cold.

5 We employ very skilled labor, maintenance, and
6 environmental and engineering help to ensure that we can
7 operate efficiently and comply with all regulations. Our
8 fittings production requires a number of different bag
9 houses and other environmental equipment separate from our
10 iron making to ensure environmental compliance.

11 Our coating operations are different for fittings
12 than for pipe, requiring more capital outlays and more
13 environmental costs.

14 I am nearing retirement, but Roddey and Charlotte
15 have built up a great bunch to take over. Charlotte Pipe
16 can continue to survive and thrive for another century.
17 Roddey has asked me to assist him in moving the plant and
18 constructing a new state-of-the-art foundry but, as he has
19 said, it is entirely dependent upon these cases.

20 I join him, our industry colleagues, and our
21 customers in asking you for an affirmative determination.
22 Thank you.

23 STATEMENT OF TOM LEONARD

24 MR. LEONARD: Good morning, Chairman Johanson
25 and members of the Commission. My name is Tom Leonard and I

1 am the General Manager of Wade Drains, a member of the
2 Plumbing and Draining Institute.

3 Wade Drains is owned by McWane which, as you have
4 heard, owns two domestic producers of cast iron soil pipe
5 and fittings, AB&I in Oakland, California, and Tyler Pipe in
6 Tyler, Texas.

7 I have been with McWane for 38 years. At Wade I
8 am responsible for all of their sourcing and sales of
9 drains. Wade Drains used to be manufactured in the United
10 States, and I was the plant manager of one of the foundries
11 that did so, Union Foundry in Anniston, Alabama, for a
12 number of years. Unfortunately, low-priced competition from
13 China pushed McWane out of the domestic drain manufacturing
14 a number of years ago.

15 McWane had no choice but to shut down drain
16 production in the United States, and it last produced drains
17 here in 2005. To compete with other import drains, Wade has
18 sourced all of its drains from China, but McWane has the
19 capacity and capability and the interest in producing drains
20 again in the United States if Chinese dumping and subsidies
21 are remedied, and pricing returns to a rational market
22 level.

23 Drains are a critical part of any cast iron soil
24 pipe system. For this reason, our Petition includes drains
25 among the fittings covered by the case from the very

1 beginning. That fact was clear from the scope language
2 included in the Petition the day it was filed. It is my
3 understanding that some importers of drains have argued that
4 they should not be included in the case. These arguments
5 should be rejected.

6 First, drains are very similar to other cast iron
7 soil pipe fittings. They are made of the exact same
8 material, by the same process, and on the same types of
9 machinery as other fittings. The only difference is the
10 mold used to produce the drain, but all fittings are made of
11 different molds depending on the specific size and shape.

12 Drains have the same end-use as other cast iron
13 soil pipe fittings, which is to carry water-borne waste
14 within the drain waste and vent system. Because they make
15 up part of the same cast iron piping system, drains are sold
16 through the same distributors as other cast iron soil pipe
17 fittings, and they are perceived as part of the same product
18 category by producers and consumers.

19 Second, inclusion of the drains within the case
20 is key to remedying the harm that domestic producers have
21 suffered. It is my understanding that Charlotte Pipe
22 continues to make drains at their facility in Charlotte,
23 North Carolina. Unfortunately, as I discussed, cut-throat
24 Chinese competition pushed McWane out of the domestic drain
25 manufacturing long ago.

1 MR. MILLER: Good morning, Chairman Johanson and
2 members of the Commission. For the record, my name is
3 Steven Miller and I am Vice President of SOLCO Plumbing
4 Supply, Incorporated, of Brooklyn, New York.

5 I have been in this industry for 30 years, and
6 SOLCO has been in the plumbing and heating supply business
7 since 1966. We primarily serve the five boroughs of New
8 York City and the surrounding areas. For this reason, our
9 soil pipe and fitting business is almost exclusively cast
10 iron, since the highrise construction of offices,
11 apartments, hospitals, and schools requires cast iron
12 instead of plastic.

13 Since our company slogan is "Always Putting
14 America First," you won't be surprised that we have only
15 carried U.S.-made cast iron soil pipe and fittings.

16 When I started in the industry, our major
17 supplier was Eastern Foundry. They have long since gone out
18 of business. For the last 10 or 12 years, Charlotte has
19 been our exclusive supplier.

20 We prefer to have exclusive vendors in each
21 product line because it is more efficient and cost effective
22 than dealing with multiple suppliers.

23 Let me tell you about the competition in our
24 market. Because all cast iron soil pipe and fittings are
25 made to the same CISPI and ASTM standards, they are

1 generally interchangeable regardless of th source. This
2 makes price a key factor in purchasing decisions. When a
3 contractor is looking to purchase fittings, it will contact
4 multiple distributors and compare bids based on price. A
5 contractor will come to us and ask for a--to go in with a
6 bid, or a contractor might ask for us to give us their
7 current discount off the list price.

8 In many cases, the lowest price wins. Even
9 contractors who might have a CISPI trademark requirement
10 from the builder will often accept Chinese imports because
11 of the cost savings.

12 Over the past several years we have lost a lot of
13 business to Chinese fitting importers based on their much
14 lower prices. In previous years, rebates from Charlotte
15 were a key part in our profit margin, but with deep price
16 under-cutting by Chinese importers we were forced to pass
17 these rebates on to our customers in order to compete. This
18 forced us to ask Charlotte to decrease the multiplier to our
19 company so I could stay competitive.

20 Every plumbing and heating distributor in New
21 York would have to agree that Chinese imports have been the
22 price leader in the market, consistently pushing prices
23 downward. Since the duties went into effect, I have been
24 hearing less about Chinese fittings. With duties offsetting
25 the subsidies and dumping that has occurred, it is harder

1 for importers to under-sell us as aggressively as they have
2 in recent years.

3 This means our sales volumes have been increasing
4 and thus Charlotte's sales to us have also been increasing.
5 SOLCO wants the foundry industry to survive, and we want to
6 be able to competitively serve the New York market with
7 Charlotte's cast iron soil pipe and fittings for decades to
8 come.

9 We therefore respectfully request that this
10 Commission make an affirmative injury determination. Thank
11 you for your time.

12 STATEMENT OF JIM BRESNAHAN

13 MR. BRESNAHAN: Good morning, Chairman Johanson,
14 and members of the Commission. My name is Jim Bresnahan and
15 I am the Vice President of Sales for Pace Supply, a leading
16 wholesale distributor of plumbing supplies on the West
17 Coast.

18 I have been in the industry for close to 40 years
19 and with Pace the past 10. Pace Supply has 20 branches,
20 primarily in Northern California, but also in Southern
21 California and three in Hawaii.

22 We have been an exclusive AB&I distributor for
23 the past few years. We handle both cast iron and plastic
24 pipe and fittings. Generally, in high-rise construction,
25 office, apartment, or hospital buildings code requires cast

1 iron. Residential construction moved to plastic years ago,
2 and two- or three-story buildings can use either.

3 Prices for Chinese fittings are so low that we
4 simply can't compete. We have head-to-head competition with
5 the distributors of Chinese fittings, and we just have to
6 walk away from the job.

7 In Northern California, distributors of Chinese
8 pipe and fittings have prices 20 to 30 percent below ours.
9 Though AB&I has cut its prices in an effort to keep us
10 competing, I can't realistically ask them to meet the
11 extremely low Chinese price. If they did cut their price by
12 that amount, they would be out of business.

13 If rational pricing is restored to the
14 marketplace, it will open up many more jobs where we will be
15 able to compete for that business. I understand that those
16 who oppose relief in this case have claimed that builders'
17 requirements to use fittings that have the Cast Iron Soil
18 Pipe Institute trademark limits competition between Chinese
19 and domestic fittings. That is simply not true.

20 In my 40 years in this industry, I have never
21 heard a contractor say that it will only use a CISPI
22 trademark cast iron pipe or fitting in their building. This
23 is just not an issue on the West Coast at all.

24 I understand the other side has also argued that
25 imports have been drawn in by demand for epoxy-coating

1 fittings. That is also not true. I would estimate that
2 epoxy-coated product is only 1 to 2 percent of the market.
3 Every distributor on the West Coast of Chinese fittings only
4 inventories standard-coated product like the domestic
5 product. I am not aware of any California distributor
6 inventorying epoxy-coated product at all. This is basically
7 a nonissue for Pace Supply and our ability to be
8 competitive.

9 Pace Supply supports fair trade, and the only way
10 Chinese fittings have been available at such low prices is
11 because they have been trading unfairly. As AB&I has
12 testified, their ability to keep their foundry open is
13 dependent upon fair trade.

14 For that reason, we support the imposition of
15 duties on Chinese cast iron soil pipe and fittings. Thank
16 you.

17 MR. SCHAGRIN: Thank you, Mr. Bresnahan, and to
18 all of our witnesses. Mr. Chairman, that completes the
19 domestic industry presentation this morning. We'd be happy
20 to answer the Commission's questions. Thank you.

21 CHAIRMAN JOHANSON: Thank you, Mr. Schagrin and
22 thanks also to all the witnesses who are appearing here
23 today. We will begin questions this morning with
24 Commissioner Broadbent.

25 COMMISSIONER BROADBENT: Thank you, Chairman

1 Johanson. I want to welcome the witnesses here today. I
2 had a good trip out to Charlotte. Mr. Dowd and Mr. Simmons
3 gave us a great tour and we really appreciate it. I
4 actually stayed for the weekend after that Friday and went
5 on a hike, so it was a great experience all the way around.

6 I guess starting out, just one point of
7 curiosity for Mr. Schagrín. Hang on one second here. Why
8 did the investigations on fittings precede investigations on
9 pipe?

10 MR. SCHAGRIN: It was primarily data-driven. We
11 think they are separate like products and shouldn't have
12 those cases together anyway, but it was primarily just
13 data-driven.

14 COMMISSIONER BROADBENT: So the fittings, the
15 import penetration was much higher or --

16 MR. SCHAGRIN: That's correct.

17 COMMISSIONER BROADBENT: Any other details on
18 that or --

19 MR. SCHAGRIN: No.

20 COMMISSIONER BROADBENT: Okay. Mr. Dowd, kind
21 of in the background of this case is some of the activity
22 that was going on at the Federal Trade Commission.

23 Actually, this'll be for Mr. Schagrín. I think
24 you argued in the preliminary phase that there was no
25 finding against, maybe McWane Corporation with regards to

1 the FTC investigation. Mr. Dowd said at the staff
2 conference that the FTC closed the investigation without
3 bringing any charges against anyone, and that nobody in this
4 industry ever engaged in any competitive activity. I think
5 that's from the Dowd Charlotte Pipe statement.

6 But it looks like Star Pipe, I guess which is
7 related to Charlotte Pipe, settled at some point during the
8 FTC investigation, and that the FTC's ALJ dismissed the
9 illegal conspiracy charges against McWane, but found that it
10 violated antitrust laws when it excluded competitors from
11 the market. And there was the 11th Circuit which upheld the
12 FTC's order. I mean that seems to be a finding to me. So I
13 guess we're mincing words here.

14 MS. DRAKE: Commissioner Broadbent, I think a
15 point of clarification may be helpful here. There was a
16 2012 FTC investigation involving McWane, Star Pipe and
17 SIGMA. But that was a completely different product. That
18 was on ductile iron pipe fittings, and that was the one that
19 had findings.

20 And that involved the 11th Circuit, so while
21 McWane was involved, my understanding is it's not AB&I and
22 Tyler, it's not the producers of cast iron soil pipe
23 fittings. It's kind of confusing because the staff report
24 has these different proceedings in one place. So while the
25 parent company, McWane, was involved in a proceeding on a

1 different product, it did not involve --

2 COMMISSIONER BROADBENT: And what product?

3 MS. DRAKE: Ductile iron waterworks fittings.

4 And so this is -- cast iron soil pipe fittings are
5 nonmalleable, so they are not ductile. So it's a separate,
6 different product made by different individual foundries.

7 And then I believe Mr. Dowd's testimony was
8 referring to the 2013 FTC proceeding that resulted in some
9 disclosures, but no findings of wrongdoing. And that was
10 the one that's relevant to this product area and to
11 Charlotte, specifically.

12 COMMISSIONER BROADBENT: Do you have more
13 details on that?

14 MR. DOWD: Ms. Broadbent, as Elizabeth stated
15 correctly, the first case involved ductile iron waterworks
16 fittings. Those are the fittings that would connect the
17 pipe bringing water down the street, entirely different than
18 soil pipe fittings that we manufacture at AB&I Tyler.

19 Now in the 2013 FTC investigation, the FTC
20 settled with us with no finding of wrongdoing. They just
21 didn't have anything. And the only thing that we acceded to
22 was we purchased a redistributor, an importer, who also
23 owned a foundry in China and we let a couple of people out
24 of noncompetes. But there was no finding of wrongdoing.

25 COMMISSIONER BROADBENT: Okay. I mean are your

1 consumers concerned with this kind of discussion? Now it
2 may be different products, but in the background, in light
3 of these FTC investigations, this kind of conduct, that
4 we're gonna get more anticompetitive behavior here with the
5 imposition of duties.

6 I mean, how do you address that in terms of -- I
7 think there's a bit of a, just a taint here, of really
8 trying to dominate the market. And I just would kind of
9 like to hear you talk about how your practices are
10 completely fair and competitive.

11 MR. DOWD: Yes, ma'am, that's very easy to
12 address. In the first case, our distributors and customers
13 were not confused at all between the 2012 waterworks case
14 and the FTC investigation on soil pipe. Because they don't
15 handle our distributors for the most part, ductile iron
16 fittings. So that conversation never comes up.

17 In the 2013 case, which as I've stated, the
18 government dropped the investigation, finding no wrongdoing.
19 Obviously there were questionnaires sent to our customers
20 and there was, you know, some knowledge of that in the
21 marketplace. But our customers took our side in that case.
22 When they were respondent, they knew it was an unfair
23 investigation. They knew there were rigorous and ferocious
24 competition. Not only with the importers, but between
25 Charlotte, Tyler and AB&I. So there wasn't any cloud that

1 we had to explain away just because the government went down
2 some rabbit hole.

3 MR. SCHAGRIN: Commissioner Broadbent, this is
4 Roger Schagrin. I'd also make two points. You don't have
5 to just believe Mr. Dowd or myself or anyone else. Because
6 the Commission staff appropriately put questions about this
7 issue into the purchaser questionnaire, and so, and I think
8 Ms. Drake had a point on that in her PowerPoint is that, I
9 think it was only three out of twenty-four purchasers even
10 checked the box that they thought that the investigation had
11 any impact in the marketplace. And you can ask these two
12 distributors as well.

13 The other thing, having studied antitrust law
14 for a long time and representing a lot of competitors and
15 looking at the origins of the Patterson Act, you know, the
16 days of Standard Oil, it would have to literally be the
17 dumbest price fixers in the world to lose money. You know?
18 I mean this industry's losing money.

19 As Mr. Dowd said, the FTC found there was no
20 anticompetitive behavior in this industry. Just to save
21 money on legal fees, Charlotte Pipe entered into a consent
22 decree in which they said they would agree to a lower number
23 than the regular number for Hart-Scott-Rodino filings, which
24 I believe is \$80 million.

25 And they said, "Well, we'll accept a lower

1 number," and they said they would let people from this
2 import company out of a noncompete and then because the
3 unfairly traded imports from China were so ferocious, to the
4 best of my knowledge--you can ask Mr. Singh this
5 afternoon--we don't believe the folks let out of that
6 noncompete ever went back into importing cast iron soil pipe
7 and fittings from China, even though they were allowed to do
8 that again.

9 So we think this record absolutely, 100%,
10 supports a conclusion that any allegations of
11 anticompetitive behavior, the settlement of a private
12 antitrust suit to get rid of extremely high antitrust fees,
13 have had no impact in this marketplace and no impact on the
14 data on the record that the Commission has collected in this
15 investigation.

16 COMMISSIONER BROADBENT: Just out of curiosity,
17 why is this market virtually supplied entirely by either
18 U.S. produced product or imported product from China? Why
19 is no other countries competing here?

20 MR. DOWD: The Chinese, as you well know, going
21 back to Mao decided that they needed to industrialize, A, to
22 employ people and, B, to produce defense goods. And one of
23 the goals that Mao had is a foundry in every backyard.

24 Because castings really are the backbone for
25 industrial growth, whether they're in auto wheel assemblies

1 or engine blocks or receivers for cannons or tanks. You
2 gotta have a foundry industry. So they have rapidly
3 developed and have the biggest foundry industry in the
4 world.

5 It was natural as they were growing that
6 industry that they would target all types of different
7 industrial goods, whether it could be textiles, it could be
8 furniture, but on the foundry front, it was easy to see that
9 there was a lot of tonnage on cast iron soil pipe fittings
10 and cast iron soil pipe.

11 So boom. They came after us. And it's been
12 ferocious. And they have a huge industry. We've presented
13 data in our submissions on the magnitude of their industry.
14 So in terms of competition from other parts of the world,
15 it's just not there. We're not seeing it.

16 COMMISSIONER BROADBENT: And that's my question
17 really. I mean I get the Chinese picture, but why other
18 countries aren't getting --

19 MR. LEONARD: The bottom line is the subsidies
20 offered by the Chinese government are greater than any other
21 country wants to give. So the Chinese government is
22 subsidizing their manufacturing of the castings more than
23 any other country, so they have the lowest prices in the
24 world.

25 COMMISSIONER BROADBENT: Okay, thank you very

1 much.

2 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

3 COMMISSIONER SCHMIDTLEIN: Okay, thank you. I'd
4 like to start with the issue of the drains. And I think Ms.
5 Drake, you spoke about this, and in your slide presentation,
6 you have a reproduction of a catalog picture from the Zurn
7 catalog?

8 The slides aren't numbered, but I think it's
9 about Page 5. And you said in the lower right-hand corner
10 that the bottom piece is something that Charlotte Pipe
11 produces, which I guess is up here on the counter.

12 So I guess my next question is, they don't make
13 the part that you're unscrewing? Okay, so are they selling
14 that piece to other than producers that either make this
15 stainless steel piece or buy it and assemble it and then
16 sell that as a drain fixture to distributors?

17 MR. SCHAGRIN: Before Mr. Simmons answers, I'd
18 just point out--and you can see it later--this product made
19 by Charlotte Pipe, has Smith's name on it. I believe they
20 are JR Smith. They're a competitor of Zurn's and so they
21 asked Charlotte to put Smith's name on this and Zurn would
22 presumably have any Chinese foundry making their drain body,
23 put Zurn's name on it.

24 So this is made by Charlotte, but with Smith's
25 name on it. And as you can see, contrary to even the

1 opening statement where they said, "Oh, drains don't connect
2 to any cast iron soil pipe and fittings." I mean this is
3 the real deal. This is what would be in the shower of a
4 building.

5 COMMISSIONER SCHMIDTLEIN: So is that bottom
6 piece a fitting? Or is that a pipe?

7 MR. SCHAGRIN: This is a fitting.

8 COMMISSIONER SCHMIDTLEIN: Yeah, the bottom
9 piece is a fitting as well?

10 MR. SCHAGRIN: And then it would go into the
11 piping systems. So the idea that the PDI is trying to sell
12 this Commission that drains don't ever connect to soil pipe,
13 we say, here's your evidence. This is the real thing. They
14 didn't make this up and create it out of thin air. This is
15 what goes in a building.

16 MR. SIMMONS: Yes, we produce fittings for both
17 Zurn and JR Smith to drain manufacturers and all those parts
18 that we make for them go into their product line and all
19 those products drain into the cast iron soil pipe system.

20 And unfortunately, I think the misunderstanding
21 is between the terms drains and fixtures. They're not
22 interrelated there. Cast iron soil pipe system, as you
23 know, handles the waste from the buildings, from the
24 sanitary and from the storm drain system. In order to get
25 effluent into that system, somewhere there has to be a drain

1 fitting of some sort that empties into the cast iron soil
2 pipe system.

3 So drains are not just an auxiliary fitting.
4 They are an integral part of the cast iron soil pipe system.
5 An example would be these black fittings up here on the
6 table in front of you. Those are fittings. They can also
7 be drains, a fixture, a sink, a bathtub, something like
8 that, which obviously is not part of this scope. We're not
9 talking about fixtures, like I say, bathtubs and sinks,
10 toilets, water closets.

11 Those collect the effluent and then they drain
12 into any of these fittings up here, and it could be sold by
13 a drain manufacturer such as that large gray one there which
14 we produce for JR Smith. We have almost identical items in
15 our catalog, which then would drain from, in that case, from
16 a wall-mounted commercial water closet and it would be
17 exactly the same product.

18 So there's a difference between the terms drains
19 which are part of the cast iron soil pipe system and a
20 fixture which sits outside the wall and is certainly not a
21 part of this scope.

22 COMMISSIONER SCHMIDTLEIN: Okay. So, one
23 question that I had that I wanted to get out before we go
24 into that, was -- is there other U.S. production of drains
25 that are within scope? Because I know you made the point in

1 the beginning that the Federal Register notice includes the
2 word "drain", but in the petition, we ask that you identify
3 all U.S. production and I think we asked for importers as
4 well?

5 And so what we've heard from PDI is they were
6 surprised when customers started notifying them that this
7 import--which I think is this part that Charlotte makes, I
8 guess, maybe they're importing the whole thing--was covered.
9 So is there other U.S. production? Were there importers
10 that weren't identified in the petition that weren't then
11 contacted by the ITC in the beginning?

12 MR. SCHAGRIN: So this is Roger Schagrin. At
13 the outset, we understood that the McWane Companies, no
14 longer during the period of investigation, made these drain
15 bodies. Charlotte did. We failed to note that Zurn
16 evidently made them in just 2015, then shut down their
17 foundry.

18 So the time we filed the petition, Zurn was no
19 longer making these products evidently, which I can share
20 with you now based on Department of Labor Trade Adjustment
21 Assistance finding, Zurn openly said they were shutting down
22 a foundry in Erie, Pennsylvania, which made cast iron
23 drains, in order just to import those products from China.

24 So we're not aware of other U.S. producers. And
25 in terms of importers, our assumption was that, if you were

1 importing this body, which is only cast iron soil pipe
2 fitting, separately from this grate or strainer, I guess two
3 terms are used, that you would classify it as a cast iron
4 soil pipe fitting. That's all this is. This is only cast
5 iron. This is not a plumbing fixture.

6 No one should tell the Customs and Border
7 Protection Service that the import of just this product,
8 normally subject to a 4.3% regular tariff, is a plumbing
9 fixture that should pay a much lower tariff. I believe that
10 is a misclassification.

11 So we did our searches, just as the Commission,
12 based on -- because all we're covering here in this scope
13 are cast iron soil pipe fittings, which include all the
14 fittings involved in drain waste and venting. It's called
15 the DWV industry for a reason. Drain is the first word. We
16 assume that the importers --

17 COMMISSIONER SCHMIDTLEIN: So how can we be sure
18 that there aren't others that have gone out of business?
19 And I don't know. Do we ask you in the beginning to
20 identify any producers that were in business during the POI?
21 Or is it just current?

22 MR. SCHAGRIN: I think it is, you know, it's
23 normally based upon current. But I guess U.S. found out, as
24 this has gone on -- and I can tell you that very early on
25 when customs contacted us and Commerce and said, "Are drains

1 covered?" we said, of course they're covered. And the idea
2 that, you know, all of a sudden, Commerce is reopening the
3 record to look at this again? It's not like it's because --

4 COMMISSIONER SCHMIDTLEIN: Are we missing
5 importer data then? So let's say -- I mean I assume that
6 you've done more research to determine whether or not there
7 were other foundries that were closed across the United
8 States within the POI that might've been producing this. Is
9 that correct?

10 MR. SCHAGRIN: That's correct.

11 COMMISSIONER SCHMIDTLEIN: Okay.

12 MR. SCHAGRIN: The good news, Commissioner, is
13 that it's a pretty small group. Any importers that would
14 have to be covered would be members of the PDI. And they
15 have counsel in this investigation. And I assume that they
16 are cooperating with the Commission, since you're asking for
17 a separate like product, to provide their import data on
18 drain bodies. We do not want them to report --

19 COMMISSIONER SCHMIDTLEIN: I don't think we have
20 that in the record yet though, do we? We have Zurn's, but
21 we don't have other importers.

22 MR. SCHAGRIN: Yeah, I won't comment, because I
23 think it's APO. But we'll address it in our post hearing.

24 COMMISSIONER SCHMIDTLEIN: Okay.

25 MR. SCHAGRIN: To the extent that you wouldn't,

1 you certainly could through the PDI. A party now to this
2 investigation.

3 COMMISSIONER SCHMIDTLEIN: Okay, all right. My
4 time is up.

5 CHAIRMAN JOHANSON: Commissioner Kearns.

6 COMMISSIONER KEARNS: Thank you all again for
7 appearing before us today. We appreciate your testimony.
8 I'll just continue on with a few more questions about
9 drains. One, Mr. Schagrín, the piece you're showing us
10 there with the body, I think, based on the slide you showed
11 us, that also still has the frame on it; is that right?

12 MR. SCHAGRIN: Yes.

13 COMMISSIONER KEARNS: Okay. And is that cast
14 iron?

15 MR. SCHAGRIN: Everything here is cast iron.

16 COMMISSIONER KEARNS: Yes.

17 MR. SCHAGRIN: Except for the bolts.

18 COMMISSIONER KEARNS: Okay.

19 MR. SCHAGRIN: Except for the bolts. Bolts
20 attach the frame to the body and then it's basically--I
21 know, 'cuz I looked in my shower last night, which is in a
22 high-rise building--and then the, um, so your plumber can
23 get in with his little Roto Rooter, this just adds always
24 just a couple of screws on it, so the plumbers can get into
25 the drain system.

1 COMMISSIONER KEARNS: Okay. So is that frame
2 included within the scope?

3 MR. SCHAGRIN: Yes.

4 COMMISSIONER KEARNS: Okay. Just because it's
5 made of cast iron?

6 MR. SCHAGRIN: Correct. It's a cast iron
7 fitting. It goes right with the body. You can't really --
8 my understand is, you can't really have a body without a
9 frame, right?

10 COMMISSIONER KEARNS: Okay. And then I think
11 I've seen in my basement, I think I've seen grates that are
12 cast iron. Would that then be included in the scope?

13 MR. SCHAGRIN: Yes. And you might have it both
14 in your basement and it would be on the roof of this
15 building. So those systems usually have something like
16 that, because they're meant to keep other kinds of things
17 out of going into the water or the waste system, they may
18 have other kinds of covers on them, like a stainless steel
19 contraption over it to keep things from flowing in from a
20 rooftop.

21 COMMISSIONER KEARNS: And so --

22 MR. SCHAGRIN: You want to add any technical
23 terms, Mr. Leonard's an expert in drains.

24 MR. LEONARD: I think the point here is that the
25 cast iron aspect of the drain system, as you saw in your

1 basement, is actually cast in the cement. And the cast iron
2 part, as is the fittings and the pipe, are below ground or
3 below your floor.

4 The part that you see, 99% of the time is either
5 the nickel-bronze or the stainless steel strainer or
6 clean-out cover that is screwed in and elevated to be level
7 with your tile, your carpet, your whatever, your wood floor,
8 whatever it happens to be.

9 I think one of the other key issues here is that
10 when someone's building a building and they receive their
11 product for their drain, waste and vent system, they receive
12 all the cast iron at once. So when someone's building a
13 building, they get the pipe, they get the fittings, they get
14 the drain fittings all at the same time because they put it
15 together all at the same time, just like you saw the
16 drawings.

17 The stainless steel and the nickel-bronze parts
18 are delivered weeks, months, years later when the building's
19 being finished. So we're talking the skeleton of the
20 building. And so the skeleton of the building starts with
21 that cast fitting, which would be on the roof and goes
22 through the entire frame of the building as one unit, as one
23 system.

24 COMMISSIONER KEARNS: Okay, thank you. But now,
25 if that grate were made of cast iron, you're saying it would

1 be included in the scope. But it's not connecting to any
2 pipe. It's connecting to a bucket, which is connecting to a
3 frame, which is connecting to a body, which is connecting to
4 a pipe. Do we still treat it as a fitting?

5 MR. LEONARD: Yes. I mean you will see in
6 garages and, like you say, potentially in your basement,
7 that the strainer or the grate in that case is made out of
8 cast iron. But it is still part of the system. It's cast
9 iron connected to cast iron connected to cast iron. There's
10 no other material in between there. So you can connect
11 stainless steel or nickel-bronze to cast iron, which is
12 majority of the time. But cast iron connected to cast iron
13 connected to cast iron is cast iron.

14 COMMISSIONER KEARNS: Okay. And so Charlotte
15 makes the body still. Does it make any of these other
16 components, the frame or cast iron grates or anything else
17 there?

18 MR. DOWD: So Charlotte makes drain fittings
19 for third party customers, in this instance J.R. Smith or
20 Zurn. So they ask us to make say a drain body or in that
21 case that's called a carrier fitting.

22 So we simply run those products through our
23 foundry, make them exactly that we would make this on the
24 same machine that we would make this cast iron fitting, and
25 in our plant you might see one vertical molding machine, and

1 I'm sure that may have happened when the staff visited, Ms.
2 Broadbent. I mean we may be making drain bodies on one
3 machine and fittings on another.

4 Now in the case of this carrier fitting, which
5 it would be in use. It would stand up and you would have a
6 wall hung water closet. You know, I didn't pay any
7 attention in here, but certainly in a hospital where you
8 need to scrub underneath the toilet bowl. So we would make
9 that product right there, that carrier, and then we would
10 ship it to Smith.

11 They would put bolt holes in it, and it would
12 connect to the pipe and fittings that we make. We have
13 exactly the same fittings in our catalogue. We offer, we
14 call the carriers, we call them starter fittings and
15 they're in our catalogue.

16 So it's kind of like a blue shirt/white shirt
17 thing. Some plumbers will buy those fittings from us; some
18 will buy them from a Zurn or a J.R. Smith.

19 MR. SCHAGRIN: This is Roger Schagrín, and
20 Commissioner Kearns, I just want to point out. So on that
21 carrier, which is part of that drainage system of the drain
22 waste and venting system, that's also got Smith on it. So
23 you know, you're looking at that, which is totally made out
24 of cast iron, which has, you know, all these things that go
25 into the water closet area, and then these other cast iron

1 soil pipe fittings.

2 I cannot figure out, having done some Customs
3 work now for about 37 years, how a Smith, Zurn, any other
4 drain company that might be importing those from China, how
5 they could not be entered and then given to the Commission
6 staff as something other than in a specific HTS category for
7 cast iron soil pipe fittings. I just can't figure it out.

8 COMMISSIONER KEARNS: Okay, and just to be
9 clear, this product here on your right, that's -- you would
10 consider that a drain? You call that a carrier?

11 MR. DOWD: Well, on the table?

12 COMMISSIONER KEARNS: Yeah, on the table.

13 MR. DOWD: That is the carrier fitting.

14 COMMISSIONER KEARNS: Okay, okay. And Mr.
15 Dowd, you explained how you produced these for others, but
16 have you produced grates for others as well, or buckets or
17 frames for others?

18 MR. SIMMONS: I'm going on memory right now.
19 We have produced cast iron grates for others, for J.R. Smith
20 and others. I don't think we do so right now. We just
21 could no longer compete on those castings. I don't believe
22 we make any more of these roof drains for other
23 manufacturers at this time. Again, it's super-competitive
24 and generally we're in all cases, in many cases we're not
25 able to produce them cheap enough to compete with the

1 Chinese imports.

2 COMMISSIONER KEARNS: Okay.

3 MR. SIMMONS: We would make them and perfectly
4 capable to make them for others, but we just have difficulty
5 competing.

6 COMMISSIONER KEARNS: And the data you all
7 have provided in terms of your U.S. production has included
8 drains?

9 MR. SCHAGRIN: Yes.

10 MR. DOWD: Average unit value when we sell
11 these things to Smith, they are unbelievable. We have to
12 sell them unbelievably cheap, and we still are only getting
13 a very small portion of their business, and the only reason
14 we get that is because there's some domestic content thing.

15 COMMISSIONER KEARNS: Okay, thank you. And I
16 guess that's a good segue into my last question here, which
17 I think is for Mr. Leonard. You had mentioned, I think,
18 that you all stopped producing drains in 2005 because of
19 Chinese competition?

20 MR. LEONARD: That's correct.

21 COMMISSIONER KEARNS: Why -- you know but
22 outside of drains, of course, we know that the U.S. is still
23 -- has a pretty good share of the market for other types of
24 fittings. Why is it that it's no longer -- you're no longer
25 able to compete vis-a-vis drains at all in terms of going

1 out of the business, but you still have a chunk of the
2 market for other types of fittings?

3 MR. LEONARD: Well, I guess that's just timing
4 for now. The fittings made by the drain manufacturers were
5 all made in their own foundries, you know. Zurn had a
6 foundry, Wade had a foundry, and we produce both soil
7 fittings and drain fittings in the same foundries. There's
8 six members, six or seven members of PDI where they all went
9 offshore. They all went to China, and where the
10 manufacturers of soil fittings are still producing both
11 some drains and primarily soil fittings.

12 But one of the other reasons is is that --
13 like I said, it's just a matter of timing. Very simply,
14 it's theoretical that some day no one will be making soil
15 fittings in the United States of America. As the Chinese
16 competition continues, as the subsidies continue, you know,
17 that's why we're here, so we don't become the drain
18 industry.

19 COMMISSIONER KEARNS: Thank you.

20 CHAIRMAN JOHANSON: I was wondering why did
21 domestic producers begin operating at a loss in the first
22 quarter of 2018?

23 MR. LOWE: In order to maintain volume, you
24 have to -- prices dropped significantly in 2017. In order
25 to maintain volume, you have to run the foundry and sell,

1 regardless of the unit cost.

2 CHAIRMAN JOHANSON: Were there other factors
3 as well such as labor, raw materials?

4 MR. DOWD: This is Roddy Dowd, Mr. Johanson.
5 This was a classic cost-price squeeze in the first quarter
6 of 2018. The record will show that our raw materials costs
7 escalated over 100 percent in the last 18 months. Our
8 prices continued to fall. In order to maintain volume, we
9 had to cut prices to meet unfairly traded Chinese product.

10 So price is down, input costs and raw
11 materials up. Boom, you're in a loss. But it's a -- which
12 is true. If you -- with high, fixed costs, you're almost --
13 if you want to not have your costs run away from you and
14 lose all your customers, you've got to reduce prices, and
15 that's where you come into a loss position.

16 MS. DRAKE: Chairman Johanson if I may,
17 Elizabeth Drake. I think that the situation the domestic
18 industry was facing in the first quarter of 2018 will also
19 be clearer if one were able to construct of a version of the
20 C table that included shipments out of inventory of imports,
21 rather than just entries of imports.

22 That would, we believe, would show continued
23 steady presence of imports at higher than the levels at the
24 beginning of the POI, and continuing to have the negative
25 price effects on the domestic industry. So we think that

1 would make, you know, the picture of injury clearer, looked
2 at in that way.

3 CHAIRMAN JOHANSON: Thanks for your
4 responses. Was there a post-petition effect in this
5 investigation?

6 MR. SCHAGRIN: Chairman Johanson, Roger
7 Schagrin. There was in terms of the impact at the time of
8 the preliminary imposition of duties by Commerce, which were
9 quite high, limiting continued import volumes. But as Ms.
10 Drake pointed out, this is a product categorized by
11 significant inventory levels. They're held by the members
12 of the domestic industry.

13 I think Commissioner Broadbent saw that at
14 Charlotte. They have boxes and boxes of all these different
15 fittings held on their grounds to ship to their
16 distributors, and the same is true of importers. I think
17 one of the things in your staff report, it shows that the
18 time line for shipments by importers to U.S. purchasers is
19 similar as that for U.S. producers to U.S. purchasers.

20 So there was an effect, post-petition effect
21 of the imposition of duties on the level of new imports, but
22 not on the level of importer shipments, because of their
23 high levels of inventories.

24 CHAIRMAN JOHANSON: All right. Thanks for
25 that clarification, Mr. Schagrin. Respondents claim that

1 Charlotte Pipe declined to supply drain fixtures to Zurn,
2 and this can be seen in Zurn's brief at pages 16 and 24.
3 Could you all please respond to this statement of the
4 Respondents?

5 MR. SIMMONS: Yes. This is Greg Simmons, and
6 I was very involved in that process. As Zurn was closing
7 their foundry in Erie, they -- the drain products that they
8 were producing, fittings in their foundry, they were
9 shopping around for other places to have those fittings
10 produced, both domestically and as increased imports.

11 They favored us with the opportunity to quote
12 on those parts, and unfortunately we didn't receive the
13 quotes. As in -- and this amounted to pages and pages of
14 different items. Many of these items had very old patterns
15 or patterns that did not fit our equipment, and/or that were
16 such low volume or other technical issues that we just
17 couldn't produce them using the equipment that they wanted
18 to use.

19 So there were a fair number of items on there
20 that we declined to quote on, but it was more technical
21 issues. We would have loved to have produced that work
22 because as we've said, we've got 450 folks at our foundry
23 making a lot of money and we'd like to keep those folks busy
24 and utilize our very expensive equipment.

25 We would have loved to have done the work, but

1 some of it just did not fit, and we just -- so it wasn't any
2 nefarious reason for not quoting. It's just part of that
3 process.

4 CHAIRMAN JOHANSON: Thanks Mr. Simmons, and
5 to follow up on that, as far as you know, has Charlotte Pipe
6 at any other time since 2015 refused to sell fittings to any
7 firm or other purchaser who has sought to buy them?

8 MR. SIMMONS: This is Greg Simmons. You're
9 asking other castings or fittings not within the fitting
10 industry?

11 CHAIRMAN JOHANSON: No. As far as you know,
12 has Charlotte refused to sell cast iron soil pipe fittings
13 to any other purchasers who have approached you?

14 MR. SIMMONS: Not to my knowledge. Generally,
15 if we don't -- if somebody favors us with a request for
16 quotes, if we can make it we'll produce it, and I don't know
17 of any that we just -- I can't imagine us ever just
18 refusing to sell to someone, other than just a financial
19 reason or an equipment reason.

20 MR. DOWD: Yeah. On the casting, the fitting
21 side or just castings, the reason to no quote is because it
22 doesn't fit our equipment, it doesn't fit the type of metal
23 we're producing. So we would no quote those.

24 CHAIRMAN JOHANSON: Okay. Thank you for your
25 response Mr. Dowd. Respondents allege that there's a number

1 of market patterns that secure the Petitioners' place in the
2 cast iron soil pipe fittings market, including the fittings
3 are most often sold in combinations with the connection
4 pipe, which the producer -- which the Petitioner produces
5 themselves, and also that the industry specifications limit
6 purchasers' ability to switch between supply sources. This
7 is all discussed at page of Zurn's brief.

8 Could you all please respond to these
9 statements of the Respondent?

10 MR. SCHAGRIN: Yeah, this is Roger Schagrin.
11 It's simply not true. So breaking it into two pieces, if
12 they're saying that producers in the U.S. industry have
13 traditionally had, like producers of many products in many
14 other industries, loyalty programs and rebate programs in
15 order to make sure distributors carry the full range of
16 products, that is true.

17 The importers of Chinese product like Mr.
18 Singh have exactly the same program. So everyone goes to
19 the market the same way. The same happens in many other
20 products where domestic producers have discounts, rebates,
21 loyalty programs and so do importers.

22 To the extent that I'm not aware of from
23 Zurn's perspective, I think they just -- their counsel just
24 picked this up from gripes from the preliminary conference
25 that any of the products that Zurn or the PDI have problems

1 with any CISPI trademark issues.

2 But it's true you have to be a member of CISPI
3 to have the CISPI trademark, but you can ask the two
4 distributors here, one of whom is the largest on the east
5 coast in the United States, another the largest on the west
6 coast of the United States, does the requirement of the
7 CISPI trademark affect the sale and distribution of fittings
8 in America. The answer is no, because even when engineers
9 would specify that they want a CISPI trademark product used,
10 the construction companies will change it to a Chinese
11 product which meets ASTM and CISPI standards.

12 So we don't think those claims are true, and
13 the Chinese importers, as you're going to hear from Mr.
14 Singh this afternoon, sell fittings, pipe and drains
15 altogether as well, just like the U.S. industry.

16 CHAIRMAN JOHANSON: Thank you Mr. Schagrín.
17 My time's about to expire, so I'm going to stop there.
18 Commissioner Broadbent.

19 (Pause.)

20 COMMISSIONER BROADBENT: For Mr. Schagrín and
21 Mrs. Drake, in your prehearing brief you state that
22 preferences for epoxy-coated fittings Buy America provisions
23 and Cast Iron Soil Pipe Institute trademarks do not limit
24 competition, and I think you kind of deal with these things
25 individually. Can you just discuss looking at the aggregate

1 of these three preferences, rather than individually? Why
2 aren't the combination of these factors a strong insulation
3 for the domestic industry?

4 MS. DRAKE: Thank you, Commissioner Broadbent.
5 Yeah, we'd be happy to do that post-hearing, so I can -- we
6 can think more about if it would be possible to do that. Of
7 course part of the issue is that the alleged preference for
8 epoxy would be a preference for Chinese product, while the
9 alleged preference for domestic product would favor
10 domestic. So we may need to disaggregate them to some
11 extent.

12 But for all of them it was very low, with
13 epoxy, you know, only three out of 22 purchasers saying
14 customers required it. Only two out of 22 purchasers saying
15 they required domestic product, and I believe it's about 75
16 percent of purchasers saying that there were no domestic
17 product requirements and similar levels in terms of the
18 CISPI certification.

19 But we'd be happy to try to see if there's a
20 reasonable way to put those together.

21 COMMISSIONER BROADBENT: Okay, thank you. Mr.
22 Dowd, can you talk a little bit about how reduced prices are
23 determined for distributors of fittings sold at a discount
24 from the list prices, and how does that work and do the
25 rebates change over time? Can you give us some more detail

1 on that?

2 MR. DOWD: This is Roddy Dowd, and I'll give
3 you a high level explanation. I might ask Mr. Biggers and
4 Mr. Hardison, who are closer to the sales activity on a
5 daily basis, to chime in.

6 So it's traditional in the plumbing industry
7 to have a list price catalogue, and to the list price there
8 is a discount. So just to use round numbers, you might say
9 that the list price is 100, and the discount would be 50
10 percent off or a 50 percent multiplier. So that would get
11 you a net cost of 50.

12 Now beyond that, there are also rebates and
13 other incentives, which we've outlined in our responses. So
14 that would take the \$50 price down further to a net price,
15 and the discount or multiplier, those are interchangeable
16 words, what would happen is we might be in a market and for
17 instance Mr. Miller might call Mr. Biggers up in New York
18 and say I'm getting my brains beat out by these Chinese
19 fittings.

20 I've got to tell you, over 37 years we've been
21 worn out by these things, and so it ain't a new discussion.
22 So he says I'm going to lose this project unless you will
23 give me an additional discount or a lower multiplier. So he
24 takes that to Mr. Biggers. Mr. Biggers would say that seems
25 like reasonable information, and then it basically gets down

1 to, since as you can see, particularly where we are now,
2 that's a painful conversation when you're upside down.

3 And maybe Mr. Biggers authorizes a lower
4 multiplier, so that we maintain volume in the foundry, or
5 maybe he turns it down and we lose volume. I mean these are
6 fungible products. I mean there's no difference. I mean
7 all that epoxy stuff is smoke and mirrors. You have the
8 exact numbers of stuff that comes in. It all looks like
9 ours from China.

10 So it's price, and that's what Ms. Drake's
11 opening presentation showed. But could I defer to them to
12 make sure I've been highly accurate?

13 MR. BIGGERS: This is John Biggers, Charlotte
14 Pipe. Mr. Dowd has explained it correctly. We get market
15 information, whether it's from a distributor or from a
16 distributor's customer, on what the competitive situations
17 are, and we make adjustments if we can to meet those
18 situations to obtain orders. So it's very fluid in the
19 marketplace, and moves very rapidly.

20 And so all those pieces work together to be
21 competitive against the imports that we're seeing in the
22 U.S.

23 MR. LOWE: This is Michael Lowe with McWane.
24 The reality is when you're facing subsidized dumped product
25 at such pernicious rates, you have to make business

1 decisions to keep partnerships with distributors, when to go
2 very, very low to hold onto a project or relationship. It's
3 a case-by-case basis.

4 If we were to do it entirely on the whole
5 marketplace, we'd be out of business. So it's as a result
6 of illegally dumped and subsidized products we have to make
7 business choices.

8 COMMISSIONER BROADBENT: But I think we need
9 to sort of just focus a little bit, to make sure that the
10 price declines aren't really correlated with all these
11 rebates and discounts and other loyalty programs that are
12 kind of independent of the market competition.

13 MR. DOWD: This is Roddey Dowd, Ms. Broadbent.
14 When you take the multiplier discount and the rebates,
15 that's all a way to get to get to a net number. So every
16 time you increase the rebate or you lower your multiplier,
17 you're coming to a lower net number.

18 The only reason you go to that lower net
19 number on cast iron soil pipe fittings is you find evidence
20 of competition that forces your hand. In the preponderance
21 of the cases on cast iron soil pipe fittings, the problem is
22 China.

23 MS. DRAKE: Commissioner Broadbent if I may, I
24 believe what we're trying to say is that the discounts and
25 the rebates do correlate to competition in the marketplace,

1 that they are implemented by producers precisely to respond
2 to that competition. So while there may be different
3 structures for reaching a competitive price, those
4 discounts, the multipliers, the rebates are all designed to
5 respond to price competition from China and others.

6 COMMISSIONER BROADBENT: Okay. Let's see.
7 Mr. Schagrin, looking at the C table, without going into any
8 confidential information, it appears that in the times when
9 subject imports are at their highest, the domestic
10 industry's performance is good, and when subject imports are
11 at their lowest, we see the domestic industry's performance
12 decline.

13 How do we reconcile this data with your
14 arguments that subject imports were the cause of material
15 injury to the domestic industry?

16 MR. SCHAGRIN: Commissioner Broadbent, I think
17 it's explained by two items. First is some lag effect, in
18 that imports arrive in inventories of importers first, and
19 they're then shipped. And so if you look at -- and one of
20 the tables in the staff report has monthly import levels
21 versus the C tables just have the annual and the quarterly,
22 is that you'll see the very high level of 2016 imports,
23 which as you say was a good year for the industry.

24 The vast majority of those came in at the tail
25 end of 2016. So it was the testimony of the industry, and I

1 think you see this in your quarterly pricing data, that
2 seeing a big loss of market share coming and hearing of all
3 these imports and inventory in the marketplace, the domestic
4 industry began cutting its prices then in the early part of
5 2017 to react to this big surge of imports that came in at
6 the end of 2016.

7 And then you see that initially curtailed the
8 imports, the domestic price cutting as imports were down
9 somewhat in the early part of 2017. And then the Chinese
10 producers, the importers reacted to the domestic industry
11 trying to regain market share by again lowering their
12 prices, and you see this surge again of imports in the third
13 quarter of '17.

14 And then you see shipments are actually --
15 shipments by importers are actually higher in 2017 than they
16 were in 2016. So I think the absolute truthful story is
17 that the reason that the industry performs worse in 2017
18 when imports were less than 2016 is the lag of having to
19 make these price cuts to stay competitive, and we're not
20 going to ask you to reorder your staff report, but we will
21 in our post-conference brief.

22 If you look at consumption in the United
23 States based on importer shipments instead of arrival of
24 imports, you'll see a much closer correlation with its
25 impact on the U.S. industry, than just looking at the timing

1 of when the imports arrived.

2 COMMISSIONER BROADBENT: Okay. Thank you very
3 much.

4 CHAIRMAN JOHANSON: Commissioner Schmidtlein.

5 COMMISSIONER SCHMIDTLEIN: Okay, thank you.
6 I'd like to go back to the question about the drains, and in
7 particular with Wade Drains, Mr. Leonard, just so I
8 understand what exactly Wade Drains does and what you used
9 to do. So in answering questions for Commissioner Kearns, I
10 understood that -- do you, are you still in the business of
11 manufacturing other fittings, cast iron soil pipe fittings?

12 MR. LEONARD: Yeah. This is Tom Leonard. I'm
13 the general manager of Wade Drains. So my sister companies
14 like AB&I and Tyler are manufacturing fittings. My role
15 with Wade is to source the product from China, and to sell
16 the product in the United States.

17 COMMISSIONER SCHMIDTLEIN: I see. So did you
18 -- I guess you completed an importer questionnaire for the
19 Commission?

20 MR. LEONARD: Yes.

21 COMMISSIONER SCHMIDTLEIN: Okay, okay, and how
22 long have you been there?

23 MR. LEONARD: Well, I've been with McWane for
24 38 years.

25 COMMISSIONER SCHMIDTLEIN: Okay.

1 MR. LEONARD: So I've worked in several of the
2 foundries themselves. I worked in the foundry in Iowa, I
3 worked in the foundry in Alabama, I worked in the foundry in
4 New Jersey, and but for the last ten years, one of my
5 primary responsibilities was to source and sell Wade Drains.

6 COMMISSIONER SCHMIDTLEIN: Okay. So when --
7 when the parent company or the sister company stopped
8 producing drains, were those -- was that its own foundry?

9 MR. LEONARD: Yes, that was --

10 COMMISSIONER SCHMIDTLEIN: It was closed down?

11 MR. LEONARD: It was its own foundry in Tyler,
12 Texas, and I say it's its own foundry. Tyler, Texas
13 actually had three foundries on the same site.

14 COMMISSIONER SCHMIDTLEIN: Okay.

15 MR. LEONARD: And the foundry which we refer
16 to as the match plate foundry manufactured soil fittings and
17 drain fittings. That's what it did. When we had no choice
18 but to go to China to source the drain fittings, we moved
19 the soil fitting production to another piece of equipment,
20 in what we call the North Plant, and to AB&I in Oakland,
21 California. And then we started sourcing the drain fittings
22 from China.

23 COMMISSIONER SCHMIDTLEIN: So this goes back
24 to what Commissioner Kearns was asking you before. What is
25 it about competition with the Chinese on drains that was

1 different, where you couldn't compete and you went out of
2 business, but yet with fittings, with these other fittings,
3 you've been able to continue in business since 2005, right?
4 You went out of business in 2005 for the drains?

5 MR. LEONARD: Yes. We stopped producing them
6 in 2005.

7 COMMISSIONER SCHMIDTLEIN: So 13 years ago.
8 So what's the difference between these two products that you
9 were able to compete at least until now, or let's say for
10 ten years?

11 MR. LEONARD: Yeah. The big difference is the
12 fact that the drain industry, whether it's Zurn, Watts,
13 Smith, Wade, the cast iron fittings we're talking about is
14 only 18-20 percent of the drain industry. So the nickel
15 bronze, the stainless steel, the steel, that's the bigger
16 portion of the industry. So when a drain company says I'm a
17 \$30 million company or I use ten million, that's easier.

18 If we're a \$10 million company, you know, only
19 18 percent of 20 percent of that is the cast iron fittings.
20 So that seems like a small amount, but it's enough that if
21 you're high, if your price is high on 18 percent of your
22 product line, you're not going to get an order.

23 So the drain industry all went to China, not
24 just for the cast iron. They went for the nickel bronze,
25 stainless steel, the steel and everything else. So Wade

1 Drains, which was sourcing everything in the United States,
2 the nickel bronze, the stainless steel from U.S. foundries,
3 and manufacturing our own cast iron in our own foundry, when
4 we had no choice but to go to China, we went with the whole
5 package and --

6 COMMISSIONER SCHMIDTLEIN: So you import the
7 entire -- with the stainless?

8 MR. LEONARD: Yeah, right. But you import
9 from different locations. So where we import our cast iron
10 is in Boto, China, just south of Beijing. But our nickel
11 bronze and our stainless steel actually is in northern
12 China. So they're two separate products, but because the
13 drain industry went to China, we couldn't be high on that 18
14 percent of the cast iron and still be competitive.

15 MR. SCHAGRIN: Commissioner Schmidtlein, this is
16 Roger Schagrin. So as we were asking the same kinds of
17 questions of Mr. Leonard, who has given me an incredible
18 education in the drains in a short amount of time, and we're
19 always looking to save American jobs, my question was: So if
20 Charlotte still makes these drain bodies and AB&I and Tyler
21 could but don't, I said, who makes these? This is stainless
22 steel. This looks like a pretty sophisticated, expensive
23 product. Who still makes these in the United States and
24 compete with the Chinese? And Mr. Leonard's answer is:
25 There's not a single U.S. producer of strainers, which is

1 like 85 percent of the cost of this--because this is
2 stainless steel; this is cast iron. No one makes this in
3 the United States. Everyone who used to make this in the
4 United States for the five or six members of the PDI, have
5 all gone out of business.

6 COMMISSIONER SCHMIDTLEIN: So you import those
7 from two different parts of China. Are they related
8 companies in China that you're importing from? Or you
9 assemble them here in the United States?

10 MR. LEONARD: Correct. It's two separate
11 companies--

12 COMMISSIONER SCHMIDTLEIN: Two separate
13 companies.

14 MR. LEONARD: And we buy them from different
15 locations. They come into the United States from different
16 sources, and then we actually inventory them as separate
17 products and we ship them out to our customers as separate
18 products.

19 COMMISSIONER SCHMIDTLEIN: Okay.

20 MR. LEONARD: Which is the whole reason that we
21 feel the cast iron is a fitting, and the drain is the
22 strainer.

23 COMMISSIONER SCHMIDTLEIN: Uh-huh, I see. Okay.
24 So would you say that the cast iron part that the strainer
25 attaches to is interchangeable with other types of cast iron

1 soil pipe fittings?

2 MR. LEONARD: Absolutely. Yes.

3 COMMISSIONER SCHMIDTLEIN: Which ones would you
4 say? Other drains, you mean? Or other--

5 MR. LEONARD: I mean each fitting has its own
6 purpose. I mean, a 90-degree bend is turned to order 90
7 degrees, and a 45-degree bend is turned to order 45 degrees.
8 And the same thing with a drain fitting.

9 I think the best example on the table is the
10 clean-out. So--can I pick that up?

11 COMMISSIONER SCHMIDTLEIN: Sure.

12 MR. LEONARD: So this is a cast iron fitting.
13 It's a clean-out. And basically this goes in the floor of
14 your basement, or the floor of your bathroom, wherever, and
15 then you're going to put either your nickel bronze or your
16 stainless steel strainer into it, and it connects directly
17 to a piece of cast iron pipe.

18 So this is a fitting that connects to a piece of
19 cast iron pipe. Charlotte makes it. AB&I makes it. And a
20 dozen people in China make it. There's absolutely no
21 difference between this one (indicating) made in the U.S.,
22 and the one made in China. And it has no purpose on earth
23 except to connect to a piece of cast iron pipe. It has no
24 other purpose in the world.

25 So it's a fitting. It can't be called anything

1 else. The other thing is is that when these are imported
2 from China, if there is a duty on a cast iron 90-degree bend
3 and there's no duty on this clean-out, how is someone
4 supposed to know the difference? A fitting is a fitting.
5 It's made of the same material. It's made in the same
6 process. It functions exactly the same way. So I don't
7 know how you could say this (indicating) is not a fitting,
8 and that 90-degree bend is a fitting. They do the exact
9 same thing.

10 COMMISSIONER SCHMIDTLEIN: Um-hmm. Okay. And--

11

12 MR. SCHAGRIN: Mr. Leonard's example is also made
13 for Smith, so it tends to go with the same parts of the
14 people who make drains.

15 COMMISSIONER SCHMIDTLEIN: Uh-huh. And Wade is
16 owned by McWane?

17 MR. LEONARD: Correct.

18 COMMISSIONER SCHMIDTLEIN: Okay. So is there a
19 related-party issue here that we haven't addressed? Was
20 that identified?

21 MR. SCHAGRIN: No, we don't think so. While
22 they operate as separate subsidiaries, we don't think that
23 the importation by Wade and other McWane subsidiary, which
24 started in 2005, has had any impact on the results of AB&I
25 and Tyler during the Period of Investigation.

1 COMMISSIONER SCHMIDTLEIN: And was that
2 disclosed by the time of the prelim? Did we know this?
3 Did the ITC know this?

4 MR. SCHAGRIN: No, that was not.

5 COMMISSIONER SCHMIDTLEIN: And why was that?

6 MR. SCHAGRIN: To be honest, we were not aware
7 of the fact that Wade was a separate drain manufacturer that
8 was importing cast iron fittings from China.

9 COMMISSIONER SCHMIDTLEIN: When you say "we,"
10 who do you mean? You, I guess?

11 MR. SCHAGRIN: Yeah, you know, the buck stops
12 here at counsel.

13 COMMISSIONER SCHMIDTLEIN: Yeah, okay. Okay, I
14 see my time is up.

15 CHAIRMAN JOHANSON: Commissioner Kearns?

16 COMMISSIONER KEARNS: Okay, thank you.

17 Right, so just to make absolutely sure I
18 understand, so the companies that you source from in China,
19 they are affiliated? They're part of your company? Or
20 they're just suppliers?

21 MR. LEONARD: They're just suppliers.

22 COMMISSIONER KEARNS: Okay. Okay. And, Mr.
23 Schagrin, the Petition includes an importer's list, but if
24 I'm not mistaken Zyrn is not included on that list?

25 MR. SCHAGRIN: That's correct.

1 COMMISSIONER KEARNS: And why is that?

2 MR. SCHAGRIN: That's because our research,
3 where we primarily use Pangeeva, Peers, we know the--and we
4 run it by basically HTS items, that those companies were not
5 showing up in the HTS items for cast iron soil pipe
6 fittings.

7 COMMISSIONER KEARNS: Okay. But Zyrn is a
8 pretty big player when it comes to drains?

9 MR. SCHAGRIN: I think one of the two or three
10 largest in the United States.

11 MR. LEONARD: Probably the largest in the United
12 States.

13 COMMISSIONER KEARNS: Okay. And then I was
14 going to ask about Wade Drains as well, but I guess
15 Commissioner Schmidtlein addressed that point.

16 So this is marked as APO, but Mr. Schagrín, or
17 Ms. Drake, the Respondents' brief on page 3 identifies a
18 couple of drain fixture companies in the U.S. I can't say
19 the names because it's proprietary, but how do you respond
20 to that? Do they produce the subject merchandise, or no?

21 MR. SCHAGRIN: Commissioner Kearns, why don't we
22 discuss that in our posthearing brief--

23 COMMISSIONER KEARNS: Okay.

24 MR. SCHAGRIN: --just because it's APO.

25 The only other comment I would make is, I think

1 based on Mr. Leonard's expertise and that of others in the
2 industry, and talking to the two distributors here, the
3 characterization by counsel for the Respondents that these
4 are drain fixtures, you know, like plumbing fixtures, not
5 drains like fittings, is really just kind of a figment of
6 the imagination.

7 So for example these two distributors, they
8 aren't--they would supply everything that gets used in
9 building systems, the mechanical sections. To my knowledge,
10 they're not distributing what we would call "plumbing
11 fixtures." i.e., toilets, urinals, shower heads, sinks,
12 faucets. Zurn does many of those things. Those are clearly
13 plumbing fixtures.

14 The idea that all of a sudden, you know, for the
15 first time in the history of this industry we start calling
16 drains, these are drain fixtures, just like plumbing
17 fixtures, it's just not the case in the industry. Drains
18 are part of a pipe and fittings system, and that's why
19 people are described as either "pipe valve and fittings
20 distributors," or "drain waste and vent distributors,"
21 because you call these products in a building. These are
22 drain, waste, and vent products. They're not plumbing
23 fixtures.

24 We don't want to cover these strainers from
25 China. We don't want to cover any faucets, or toilets, or

1 urinals from China. This is cast iron pipe made in the
2 exact same foundries in China that make a lot of other pipe
3 fittings.

4 In fact, I think you can ask Mr. Singh this
5 afternoon. He as an importer imports both drains, which
6 would include drain bodies, as well as other pipe fittings.
7 According to what Mr. Leonard told me, he imports them both
8 from the same Suns Foundry in China, which makes both the
9 drain bodies and other pipe fittings on the same equipment
10 just like Charlotte does.

11 So for all your traditional like-product factors,
12 to the extent you would even entertain looking at these
13 drain fittings separately from other fittings, you're going
14 to find that all of your like-product factors line up pretty
15 much together with the other pipe fittings.

16 COMMISSIONER KEARNS: Okay, thank you. And that
17 gets me to my next question for Mr. Leonard.

18 I think when you were describing Tyler's
19 operations back when they were still making drains, you
20 mentioned that one foundry--even though there's three
21 foundries in the area--one of them was producing both the
22 drain fittings and soil fittings I think is how you said it,
23 right?

24 MR. LEONARD: Correct.

25 COMMISSIONER KEARNS: Okay. So that was all on

1 the same equipment at that same foundry--

2 MR. LEONARD: Yes.

3 COMMISSIONER KEARNS: --with the same employees,
4 and so forth.

5 MR. LEONARD: Yes, sir.

6 COMMISSIONER KEARNS: Okay. But then that gets
7 me to my next question, too, which is you mentioned a couple
8 of times now, you've said soil fittings and drain fittings.
9 That makes it sound like drain fitting isn't a soil fitting,
10 and I wondered what do the two different terms mean?

11 MR. LEONARD: Well they're interchangeable. I
12 guess what--um, the DWV system, drain, waste and vent, I
13 guess it's just, you know, when I'm talking to our
14 manufacturers I use the words interchangeably, but when I'm
15 in China talking with them about drain fittings, they
16 understand that's what I'm talking about. And when I'm at
17 the foundry and I talk about soil fittings, you know, like I
18 said, I could say soil fittings in China. I could say drain
19 fittings in Oakland, California. But just for the
20 simplicity of the people I'm talking to, even though they're
21 like products, they do understand what I'm saying.

22 COMMISSIONER KEARNS: Okay, thank you.

23 Okay, moving off of drains, and going back to
24 something Commissioner Broadbent raised about the price
25 lists and the rebates and discounts and that sort of thing,

1 it looks to us like you all don't change your price lists
2 very often at all. Like very often at all. I don't know if
3 this is proprietary so I won't get into how often it looks
4 like they're changed, but is that right? And can you
5 explain that? And does that sort of indicate that, you
6 know, that the price lists are really very much a starting
7 point and that the rebates and so forth really are just more
8 of a function of market conditions at any given moment as
9 opposed to sort of, you know, loyalty policies or anything?
10 It really just depends on what's going on in the market, as
11 I think you had suggested with Commissioner Broadbent's
12 questions.

13 MR. BIGGERS. John Biggers, Charlotte Pipe. On
14 your question about the price lists, and they haven't
15 changed in a while, we've attempted to change them several
16 times to get increases. Since 2015, we've attempted four
17 times to increase our prices through our lists, and we've
18 been unsuccessful because of the competitive situations with
19 the imports.

20 And then you are correct on the multipliers and
21 the rebates; that they just are a function of getting down
22 to a net price to be competitive in a marketplace.

23 COMMISSIONER KEARNS: Okay, thank you

24 Alright, one question about the antitrust cases.
25 And I know that one of them doesn't involve the product,

1 and, you know, I heard what you all said. Can you just
2 describe, though, what the allegations are?

3 As I'm hearing you, it's really an issue of a
4 potential--the allegation was a lack of competition because
5 of your relationships with distributors, as opposed to price
6 fixing where, you know, there's collusion among the
7 producers of the product. Is that right? Can you just
8 describe exactly what the allegations are, and any changes
9 you've made to your policies going forward besides what
10 you're described with the consent decree?

11 MR. DOWD: I think what I'd like to do is have
12 our antitrust attorney bright-light this. But again, what
13 you're zeroing in on with the distributors, that was alleged
14 in the Waterwork Fittings case. It was in no way an
15 allegation in the FTC investigation concerning the soil
16 pipe. So that was about loyalty programs and stuff on the
17 waterworks side, which, you know, none of the people at this
18 table were involved with, the distribution or
19 manufacturing.

20 And we can give you a short summary of the
21 allegations that were investigated during the 2013 case,
22 none of which--none--were found to be persuasive. So
23 there's no finding of wrongdoing. And as the responses to
24 the questionnaires, they had no effect on the marketplace.

25 COMMISSIONER KEARNS: Okay. Thank you. I would

1 appreciate it if you would do that in the post-hearing
2 brief.

3 MR. LOWE: This is Michael Lowe with McWane.
4 What you're referring to is on the ductile fitting case.
5 Not an expert, but our corporate counsel in the post-hearing
6 brief could probably supply what was going on in that case.

7 But with respect to McWane in the FTC
8 investigation into soil pipe and fittings, there was no
9 wrongdoing found whatsoever. So it's mixing apples and
10 oranges, but we'll clarify that through legal counsel.

11 COMMISSIONER KEARNS: Yeah, if you could. I'm
12 sorry, just real quick, if you can just, all the allegations
13 and all the different cases, and any changes in your
14 behavior or your policies as a result of those cases, and
15 not just the consent decrees, but just otherwise any changes
16 you made. Thank you.

17 MR. SCHAGRIN: We'll do so, Commissioner Kearns,
18 in the post-hearing.

19 CHAIRMAN JOHANSON: Okay, I'm going to stick
20 with the issue of the issue of the antitrust cases. You
21 have characterized the \$30 million settlement in the
22 antitrust class action litigation as a "nuisance value"?
23 And this is on page 5 of Petitioner's prehearing brief. How
24 should the Commission view these investigations in view of
25 the total value of subject imports of cast iron soil pipe

1 fittings over the Period of Investigation of constituting
2 less than \$30 million?

3 MR. SCHAGRIN: Chairman Johanson, first I don't
4 think it should make any difference. Second, I think that,
5 you know, I'm sure that the vast majority of whatever was
6 distributed in the settlement, even though I'm sure most of
7 it was taken by lawyers, went to folks who purchased cast
8 iron soil pipe where the numbers are much, much larger than
9 for fittings. So that these same producers make both pipe
10 and fittings. And just because by weight there's so much
11 more pipe in a building than fittings, you know, there's a
12 lot more value in cast iron soil pipe imports than of pipe
13 fittings' imports. So you'd want to look at it across all
14 of those.

15 But in terms of, you know, nuisance values, I
16 would point out, Chairman Johanson, that in the steel cases,
17 which this Commission had probably upwards of a hundred in
18 the past four years across all the flat-rolled and long
19 products, the settlements made by the nine U.S. producers of
20 either blast furnace or electric furnace, flat or long
21 products, were in the nature of several hundred million
22 dollars, and yet those were still just nuisance fees because
23 the amount of litigation expenses in those cases were just
24 enormous. And those several hundred million dollar
25 settlements in the steel private antitrust cases were never

1 brought up by the Commission in any of those cases--I think
2 rightfully so.

3 I think unless there's a clear record
4 demonstration, as there was in some cases involving ferra
5 silicon, you know, where there were findings of antitrust
6 violations, that FTC investigations, or private antitrust
7 lawsuits where there's no record evidence that they have had
8 an impact on pricing or sales in the marketplace, should not
9 be take into account by this Commission as you do your
10 normal injury analysis.

11 CHAIRMAN JOHANSON: Thanks, Mr. Schagrin. And I
12 have one more question involving the antitrust litigation.
13 I think I know what the answer is going to be, but I'm going
14 to ask it anyway.

15 The settlement of the antitrust litigation
16 included payments or refunds to your customers, did it not?
17 Would it not be reasonable to conclude that domestic price
18 decreases were a necessary correction from having previously
19 allegedly overcharged clients?

20 MR. DOWD: Mr. Johanson--this is Roddey Dowd--
21 let me back up a second to this statement about nuisance
22 value.

23 The private-party lawsuit was a typical
24 plaintiff's lawsuit where it's a shakedown job. And this
25 was a treble-damage suit. And our company, along with the

1 other named parties, spent many, many millions of dollars in
2 legal fees, expert fees, economists, to prove what we knew,
3 that there was no wrongdoing.

4 It was a huge loss, that \$30 million, for the
5 plaintiff's lawyers. Remember, this covered pipe and
6 fittings. I mean they were gunning for treble damages.
7 Treble damages in this case--and they were alleging about
8 \$385 million of damages. So you do the math on that, and
9 you get pretty close to a billion two. So \$30 million, a
10 big part of that \$30 million settlement went to the
11 ambulance chasers, not to the ultimate customers. And in
12 fact, if you look at the record, the great majority of our
13 customers opted out of the suit. They did not even
14 participate in it because they knew it was junk.

15 Does that answer your question?

16 CHAIRMAN JOHANSON: It does.

17 MR. SCHAGRIN: In part, though, Chairman--this
18 is Roger Schagrín--I just want to clarify that I don't
19 believe--and we'll further clarify it in the post-hearing
20 brief--that any part of the private settlement of the
21 private antitrust suit involved rebates to customers. So I
22 think that once again there may be confusion. That might
23 have been something the FTC had done in the ductile case,
24 but we don't believe that any part of the settlement of the
25 private antitrust suit had anything to do with rebates to

1 customers. We think it was just a payment to plaintiff's
2 lawyers, and then they distributed it. But we'll clarify
3 that in the post-hearing.

4 So we don't think the Commission should make any
5 finding that there were any other impacts on pricing--in
6 price suppression and depression for the domestic industry
7 over this POI other than the underselling by unfairly traded
8 Chinese imports.

9 CHAIRMAN JOHANSON: Alright, thank you, Mr.
10 Schagrin and Mr. Dowd. I am going to now move to a
11 completely different topic.

12 The record shows that domestic producers and
13 producers from China use different types of raw material
14 inputs. Domestic producers use mainly iron scrap, and
15 producers in China use pig iron. This is discussed in the
16 staff report at page 5-1.

17 What is the rationale for choosing one over the
18 other? And does this impact prices?

19 MR. SIMMONS: This is Greg Simmons. Generally--
20 and I don't run a foundry in China, so I'll have to tell you
21 that the decision there is based upon the cost of the raw
22 materials.

23 Also in China historically there has not been a
24 large recycling industry. In other words, scrap metals just
25 aren't available, historically. I think more so now in

1 China. So all of the scrap metal, of they were to melt
2 scrap metal instead of pig iron, had to be imported to a
3 great extent. So the cost of that--and that's an
4 international market--would have been higher. Whereas in
5 the United States there's a tremendous scrap market. And
6 the same thing goes on with steel manufacturers in the U.S.
7 -- that they typically are going to use more recycled steel
8 than pig iron also. It's just the availability of scrap in
9 the U.S. versus not so available in China, and they're able
10 to import the raw material, the iron ore, or the blast
11 furnaces in a less expensive method.

12 MR. LEONARD: Mr. Johanson, this is Tom Leonard.
13 I think the point is that the final product is exactly the
14 same whether you use pig iron or scrap iron. The material
15 is identical. So all scrap iron started as pig iron. And
16 as Greg said very correctly, in China there's no scrap
17 industry yet. It's just starting to develop. And 25 years
18 from now they'll be using scrap.

19 But right now pig iron is cheaper, but I think
20 the point is the end result is exactly the same material.
21 It's cast iron, 94 percent FE, 4 percent carbon, and you've
22 got a sprinkling of magnesium, copper, all kinds of metals,
23 but the end result is the exact same product.

24 CHAIRMAN JOHANSON: Alright, thank you for your
25 responses. My time has expired.

1 Commissioner Broadbent?

2 COMMISSIONER BROADBENT: Yeah, I just had a
3 couple of extra questions left over.

4 Mr. Simmons, in terms of end uses and
5 substitutability, how practical is it that end users would
6 mix imported and domestic CISPI in a single project?

7 MR. SIMMONS: I'm probably less qualified to
8 answer that than some of the sales folks, but they're
9 completely interchangeable and the -- as I'm chairman of the
10 -- on the ASTM committee that oversees those standards and
11 they all over produced to the same standards.

12 They specified the inspection procedures to
13 sizing. Most of those standards are out there so that
14 specifically in the genesis of these standards, back when
15 there were dozens of U.S. foundries, and international
16 foundries producing this product so that you could buy a
17 fitting from Charlotte or you could buy it from Eastern
18 Foundry, who's no longer in business.

19 So the standards guarantee that you can
20 interchange those products. Did that answer your question
21 or --

22 COMMISSIONER BROADBENT: Yeah, it did. I seem
23 to remember vaguely that there was some issue that the
24 guarantee or the warranty wouldn't be the same if purchasers
25 mixed the product. And I just wondered whether there was

1 regulatory or safety considerations with respect to having a
2 common source that's required or not? And you're saying,
3 no, there's no --

4 MR. SIMMONS: No.

5 MR. SCHAGRIN: And Commissioner Broadbent, the
6 distributors might be able to also provide some information
7 on the mixing at job sites of Chinese pipe or fittings and
8 domestic pipe and fittings. So I'd invite them to answer
9 Commissioner Broadbent's question as well.

10 MR. BRESNAHAN: This is Jim Bresnahan.
11 Typically, the reasons contractors don't make a choice to
12 mix products is mainly so that they have one source if there
13 are issues on the job to go back to. The warranties are the
14 same, but it gets complicated because you got to finger
15 pointing at whose product is at fault when they're attached
16 to the same system.

17 COMMISSIONER BROADBENT: But the companies here
18 don't represent to their customers that they won't guarantee
19 or warranty if the product is mixed?

20 MR. BRESNAHAN: No, the warranty is up held
21 regardless of the installation. It's just what product
22 failed.

23 COMMISSIONER BROADBENT: Yeah. Yeah. Okay.

24 MR. MILLER: Steve Miller.

25 COMMISSIONER BROADBENT: Yeah.

1 MR. MILLER: I would agree with Jim. It's
2 really for ease that a contractor would choose to use one
3 manufacturer on a job to avoid the finger pointing as he
4 said.

5 COMMISSIONER BROADBENT: Yeah, okay. Thank you
6 very much.

7 Mr. Schagrín, in general it looks like prices
8 are either decreasing for both U.S. producers and subject
9 importers or they are converging with domestic prices going
10 down while subject import prices are going up. Domestic
11 producers also shipped increasing amounts of each one of the
12 pricing products over the period of investigation and
13 purchasers indicated that petitioners are the ones leading
14 the industry in announcing price changes.

15 How much of a domestic price decline can be
16 attributable to imports versus just intra industry
17 competition among domestic producers, particularly via this
18 rebate offering?

19 MR. SCHAGRIN: Commissioner Broadbent first, we
20 think all of the price depression, suppression can be
21 attributed to imports. The fact that a large U.S. producer
22 could be named by a purchasers as a price leader, price
23 leader means is this a company that is the most likely to
24 get out there and announce a price increase?

25 So Charlotte's testimony was during this POI,

1 they announced four price increases. All of them were
2 unsuccessful. It's not a surprise that purchasers wouldn't
3 say, gee, our really cheap import source of Chinese product
4 was the price leader by announcing price increases. So I
5 mean, I think that's perfectly compatible information that
6 you would have large domestic producers perceived as price
7 leaders while all your information on under selling shows
8 that during the POI. By you know over 90 percent by
9 quarters and like 98 percent by volume, Chinese imports
10 undersold.

11 And I think what this Commission has to decide,
12 what you have to decide in virtually all cases is are these
13 fungible commodity products made to the same specifications?
14 And do purchasers say the price is important? Once you
15 conclude that the Chinese and the domestic products are made
16 to the same specifications, distribute in the same way, sold
17 for the same uses to customers who say price is important,
18 then I think it's -- the conclusion is inescapable that the
19 underselling would have a price effect.

20 COMMISSIONER BROADBENT: Okay, I'd like to thank
21 the witnesses for being us today. That concludes my
22 questions.

23 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

24 COMMISSIONER SCHMIDTLEIN: Yes, okay. I'm
25 sorry, but I want go back to the drain issue one more time

1 because I'm a little bit confused now. So if I understand
2 correctly, even though drains was included in the Federal
3 Register Notice, Wade was not listed as an importer in the
4 petition. That's correct, right?

5 MR. SCHAGRIN: That's correct. And I mean -- I
6 don't --

7 COMMISSIONER SCHMIDTLEIN: So let me --

8 MR. SCHAGRIN: -- go ahead.

9 COMMISSIONER SCHMIDTLEIN: Let me -- thank you.
10 So when the petition was filed because the institute, which
11 I assume is made up of two members, right, McWane and
12 Charlotte or three, AB&I, Tyler, and Charlotte. ABI Tyler's
13 both owned by McWane, which also owns Wade. They came to
14 you and said we're being injured by fittings from China, but
15 they obviously didn't mention that they had actually closed
16 down part of their foundry because of Chinese imports with
17 regard to these drains and were now importing the very
18 drains at the time that they were explaining that they were
19 being injured.

20 So doesn't that sort of indicate that these
21 drains that Wade is importing and that the respondents are
22 importing were never originally considered to be included in
23 the scope by think petitioners because otherwise, one of the
24 two who was actually importing that very product and had
25 gone out of business in that line of business would have

1 brought that to your attention? Doesn't that seem -- I
2 mean, like that seems strange to me.

3 Right, this isn't a case where we've got the
4 petitioners have a very, you know, complicated scope and it
5 turns that like one of the items in that scope is actually,
6 you know, being produced in the United States and they
7 didn't know about it and there was imports of it. We would
8 -- like this is part of the actual -- one of the two
9 companies that are a part of this institute that is the
10 petitioner, right?

11 MR. SCHAGRIN: I think that's all correct. It
12 just doesn't seem as strange to me as it does to you in the
13 hub bub of 24 hours a day of doing trade cases everyday with
14 -- there's a big difference, I'll be the first one to admit
15 it, with a new case on cast iron soil pipe fittings than
16 there would be on my hundredth case on steel pipe or my 50th
17 case on flat roll steel, but you know, when you get into
18 something new and are putting things together, you know,
19 these questions on scope, relationships, they don't always
20 come up.

21 And I can you that in this case, just like a
22 case we filed a couple weeks on racks, you know, what we do
23 is we generally will start with company catalogs. Rather
24 than starting with an HTS, we'll start with who are the
25 people who are hiring us? What's in the CISPI handbook?

1 What's in the Charlotte pipe, the ABI?

2 What's in there is 14 rack manufacturers in the
3 United States. We're representing 10 of them besides going
4 to Home Depot and Lowes, I can't go into an Amazon
5 fulfillment center. I don't think they'll let me in, you
6 know. How do we describe this? Well, let's look at the
7 producers' catalogs?

8 And so I think as Ms. Drake pointed out
9 initially, in all of these catalogs, drains are a listed
10 product that doesn't make me say to the general counsel or
11 the executive director of CISPI. Please tell me if any of
12 your members have imports of anything in these catalogs. We
13 ask the same kind of question of them that you would ask in
14 your questionnaire, which is are you importing any of the
15 subject product?

16 We then rely on, I mean, the CISPI members. If
17 AB&I and Tyler and Charlotte say we are not importing the
18 subject product, we don't report it. If they are, we report
19 right in our petition to you domestic industry members --

20 COMMISSIONER SCHMIDTLEIN: Okay, I mean, I'm
21 surprised that you don't ask if related corporate entities
22 of the parties are importing, right? In all of these years,
23 you're not asking if the corporate entity that is your
24 client or the association, the two members of it, if they
25 have related entities importing. You don't ask that

1 question.

2 MR. SCHAGRIN: And we may even ask.

3 COMMISSIONER SCHMIDTLEIN: Right.

4 MR. SCHAGRIN: I think we do since your
5 questionnaire does.

6 COMMISSIONER SCHMIDTLEIN: Right.

7 MR. SCHAGRIN: Our questionnaire is modelled on
8 your questionnaires.

9 COMMISSIONER SCHMIDTLEIN: Right.

10 MR. SCHAGRIN: So we may ask, do you have
11 related parties as well as yourselves? And if the answer
12 comes back no, that's what --

13 COMMISSIONER SCHMIDTLEIN: Well, that suggests
14 to me that at least McWane doesn't consider itself injured
15 by imports from China of these types of drains, right?
16 Because otherwise, they would have been reporting it to you?

17 MR. LOWE: That's not true. Clearly an
18 inadvertent oversight and focusing on ABI and Tyler,
19 forgetting my brother here Wade.

20 COMMISSIONER SCHMIDTLEIN: You forgot that you
21 closed down a whole foundry in 2005 because of Chinese
22 imports?

23 MR. LOWE: Forgot that in the period of inquiry,
24 15 to 17, it wasn't relevant that action in 2005. When it
25 became like --

1 COMMISSIONER SCHMIDTLEIN: But you're currently
2 importing the subject product that you claimed within the
3 scope?

4 MR. LOWE: Absolutely.

5 COMMISSIONER SCHMIDTLEIN: From 15 to 17?

6 MR. LOWE: We were focused on AB&I and Tyler and
7 -- but we're not ascertaining that there was not damage.
8 There clearly is damage to the drain industry. Brought it
9 all up to light. Apologize for the over sight.

10 COMMISSIONER SCHMIDTLEIN: Okay. In PDI's brief
11 on page 1, it states that members of the Cast Iron Soil Pipe
12 institute have told PDI that the scope was not intended to
13 capture drains. Do you have a reaction to that? I'm sure
14 you that on page 1. It's not bracketed?

15 MR. SCHAGRIN: Oh, yes, we did. I mean, our
16 reaction was it was probably taken out of context and we can
17 clarify that for you in the post-hearing brief.

18 COMMISSIONER SCHMIDTLEIN: Okay. All right, let
19 me switch gears a little bit. In the staff report at page
20 2-8, the staff report notes that certain purchasers reported
21 that domestic producers refuse to sell them fittings unless
22 they agreed not to purchase imported product. And the
23 particular names of those purchasers are bracketed in the
24 staff report, but can you respond to that here?

25 MR. SCHAGRIN: Yeah, I mean, I'll respond as

1 counsel, Commissioner Schmidtlein. That's absolutely true
2 and the same would be true of importers of Chinese fittings
3 who would go to their distributors and say that in order to
4 qualify for our discounts or rebates, you can't carry
5 domestic fittings. That's just the nature of this business.

6 It's -- it happens in a lot of different areas
7 of U.S. commerce. I even think the Supreme Court sided with
8 American Express on kind of a similar thing about American
9 Express telling some of their customers what they could do
10 with other credit card companies and said that this is
11 appropriate behavior. Obviously, it's --

12 COMMISSIONER SCHMIDTLEIN: I assume you've had
13 that cleared with your anti-trust counsel I guess.

14 MR. SCHAGRIN: Yeah, and I think there's
15 anti-trust counsel for the CISPI. I'm not an anti-trust
16 counsel, but yeah, I believe that it's well accepted
17 practice in anti-trust that producers are allowed to have
18 exclusive dealing relationships with customers. That's not
19 a -- not only not a per se anti-trust violation, but it's
20 not even an anti-trust violation to have exclusive dealing
21 relationships.

22 COMMISSIONER SCHMIDTLEIN: Okay. All right, my
23 last question has to do with price transmission. So in the
24 staff report, at page V-8, the report notes that no
25 purchasers reported quoting competing prices during

1 negotiations. And then when you look at staff report at
2 page 226, where purchasers were asked to rate the importance
3 of different factors on price, they indicated that
4 "competition from subject imports" was ranked fairly low.

5 So my question is how are prices -- if prices
6 are being driven by the Chinese prices, why aren't the
7 purchasers reporting that there's quoting of other competing
8 prices during negotiations?

9 And maybe one of the distributors can --

10 MR. SCHAGRIN: Yeah, we'll let distributor --

11 COMMISSIONER SCHMIDTLEIN: -- speak to this.

12 MR. SCHAGRIN: I'm going to let both of them
13 answer, but I think there, it's a question of how the
14 question is asked. So if it's asked to the purchaser do you
15 ask about pricing from two different suppliers, then in this
16 industry, the answer's no because these two purchasers are
17 both aligned with domestics. Mr. Singh has purchasers
18 aligned with him. The distributors don't go out to
19 multiple people and say what's your price.

20 What happens, which I think was already in the
21 distributor's testimony, which they should answer to, is
22 that they are competing against other distributors who would
23 be carrying Chinese. And they go back to their domestic
24 supplier and ask for price decreases with the distributor.

25 MR. BRESNAHAN: This is Jim Bresnahan. We

1 compete in the open market with people that support the
2 Charlotte brand, as well as New Age on a regular basis.
3 Depending on the scope or the contractor's choice, some
4 contractors have chosen to stay domestic as a position of
5 installation for multiple different reasons. But it's open
6 competition and people will vie to utilize whatever source
7 they need to, to drive the price of the project to the
8 lowest point.

9 MR. MILLER: On the distributor level, the
10 choice is made basically whether you want to be an imported
11 or a domestic supplier. The decision on price is mostly on
12 the contractor level. At my point, I deal with my
13 manufacturer Charlotte Pipe and Foundry. That's who I'm
14 buying from.

15 When a contractor comes to me and is looking for
16 more competitive price in order to compete with a Chinese
17 manufacturer to buy the material, the domestic material at a
18 low rate, that's when I would go back to Charlotte and ask
19 for a better price.

20 So from my point of view, the Chinese import for
21 me is not a factor except in the fact that I'm competing
22 against it. It's not a decision making factor for me when
23 I'm going out to purchase it.

24 COMMISSIONER SCHMIDTLEIN: So does the exclusive
25 dealing aspect of this industry attenuate the competition

1 between domestic and subject imports since, as you said, the
2 -- there's a decision about whether you want to be domestic
3 or whether you're going to import. And so --

4 MS. DRAKE: Commissioner Schmidtelin, I think it
5 just -- it shifts the competition to a different level. So
6 I think if the purchasers' questionnaires had gone to the
7 ultimate purchasers, the contractors, they would say, oh,
8 yeah, we seek bids from all kinds of distributors,
9 distributors who distribute U.S., distributors who
10 distribute Chinese. And we compare those bids and decide
11 which to use. And often price is one of the very important
12 factors in those purchasing decisions.

13 But the Commission's questionnaires went to the
14 distributors, not to the contractors. And so I don't think
15 the exclusive dealing attenuates competition at all. It
16 just shifts it down to the distributors are competing with
17 each other for the bids.

18 And that flows back up to the domestic producers
19 who here from their distributors, you know, I need price
20 concessions to be able to compete with a distributor across
21 the street who's handling Chinese product even if that
22 distributor himself is not looking at handling Chinese
23 product at that time.

24 COMMISSIONER SCHMIDTLEIN: Okay. I just have
25 one more question before I finish. So my last question is

1 with regard to the manufacturer of these drains, is ABI or
2 Wade going to start producing these drains in the U.S. if
3 this were considered to be part of the same like product and
4 the commission goes affirmative?

5 MR. LEONARD: This is Tom Leonard and the
6 answer's yes. We have four foundries in the United States
7 of America that have the equipment and the capacity to
8 produce the fittings that would be used in the drain as a
9 drain. So absolutely, we would start producing. And we
10 would start immediately because we have tooling right now at
11 our foundries that we could start making drains and --

12 COMMISSIONER SCHMIDTLEIN: So have you -- do you
13 need to make plans for that? Have those already begun since
14 there's preliminary duties in place?

15 MR. LEONARD: Well, even in 2005 when we stopped
16 producing in Texas, we sent a lot of that tooling to
17 Alabama. So we have the ability to start producing. The
18 plans were made 12 years ago or 15 years ago.

19 Now there's -- the drains have changed over the
20 last 15 years. They've gotten a little lighter and the
21 drain fittings weight comes down. That's, you know, every
22 year, we try to reduce the weight of products.

23 So we'd have to do a little bit of tooling work,
24 but we would start producing drains immediately.

25 COMMISSIONER SCHMIDTLEIN: And when you say

1 immediately, how -- what does that mean?

2 MR. LEONARD: Today's Tuesday? Thursday.

3 COMMISSIONER SCHMIDTLEIN: Really? Okay, that
4 is immediate.

5 MR. LEONARD: Yeah.

6 COMMISSIONER SCHMIDTLEIN: All right, thank you
7 very much. I have no further questions.

8 CHAIRMAN JOHANSON: Commissioner Kearns?

9 COMMISSIONER KEARNS: Thank you. Just picking
10 up on Commissioner Schmidtlein's questions about
11 exclusivity, I guess. So just to be clear, is the incentive
12 that you need to purchase only domestic product or only from
13 one particular domestic supplier?

14 UNIDENTIFIED SPEAKER: The latter.

15 COMMISSIONER KEARNS: Oh, okay.

16 UNIDENTIFIED SPEAKER: And just --

17 UNIDENTIFIED SPAAKER: Go ahead.

18 MR. MILLER: Steve Miller. The incentive is to
19 purchase domestic product. I have never been told by
20 Charlotte Pipe and Foundry for example not to buy from Tyler
21 or AB&I. In fact, I've entertained deals from AB&I as
22 recently as two years ago. And you know, I just decided to
23 stick with Charlotte.

24 MR. SCHAGRIN: I would say if you look at these
25 rebate programs, and as I say, they're pretty common,

1 Commissioner Kearns across a lot of different product areas.
2 I -- some of the questions Commissioner Schmidtlein was
3 asking, I was having, you know, flashbacks to the mid-1980s
4 and the exact same issues came up.

5 Importer distributors of imported product were
6 coming up and saying, well, I can't get U.S. steel product
7 because they have a distributor in my area in West Texas
8 who's a U.S. steel only distributor. And the questions came
9 up, because the respondents raise it, people like Mr. Camron
10 and said, well that just shows there's attenuated
11 competition because not every distributor can buy
12 everybody's product. And the fact was it's just the
13 competition is one level down.

14 COMMISSIONER KEARNS: Right.

15 MR. SCHAGRIN: In fact, all these distributors,
16 whether if Chinese or domestic are one level down. And the
17 incentive for any distributor to stay with they can go out
18 and get other quotes from other people as Mr. Miller said,
19 but if the way the business is done whether it's in pipe and
20 pipe valves and fittings or in OCTG or in cast iron soil
21 pipe fittings is that if you're my distributor, I'm going to
22 reward your loyalty for stocking all my thousands of
23 different sizes by not only giving you the discounts
24 everybody gets in the marketplace, but some kind of volume
25 rebate at the end of the year. I have an incentive to not

1 keep switching every couple months.

2 COMMISSIONER KEARNS: Right.

3 MR. SCHAGRIN: Because if I, you know, don't do
4 a million dollars with A to get, you know, a 10 percent
5 rebate but do a half million dollars each and only get a 5,
6 I'm disadvantaged.

7 COMMISSIONER KEARNS: Right.

8 MR. SCHAGRIN: And that just seems the way
9 business is done in a lot of different areas.

10 COMMISSIONER KEARNS: Yeah. I want to move on,
11 but I mean, to me, it is a little bit different though. I
12 mean, I think you're right about American Express. It's not
13 unusual for a company to say we'll give you an incentive to
14 stick with us. I mean, that's my Subway sandwich card,
15 right?

16 But it's a little bit different to say and I
17 also give you the incentive I guess if you purchase from
18 another domestic producer, my competitor, just don't
19 purchase an imported product.

20 But I want to move on to the interim 2018 versus
21 2017 issue. At page 14 of your brief, you provide a
22 comparison of importers commercial shipments in interim 2018
23 to interim 2017. Can you provide in your post-hearing brief
24 the details of how you calculated that number because the
25 data I've seen look a little bit different.

1 Also, please just explain what imports by Zurn
2 are appropriate to conclude in that calculation.

3 MR. SCHAGRIN: We'll do that in the post-hearing
4 brief, Commissioner Kearns.

5 COMMISSIONER KEARNS: Okay, thank you. And
6 related to that same issue, it looks like the industry -- we
7 touched on this a bit already. The industry operated -- the
8 performance of the industry wasn't as good in the interim
9 2018 as it was previously. Can you provide more details
10 about cost increases you experienced in interim 2018 either
11 now or in the post-hearing brief?

12 MR. SCHAGRIN: Yes, we'll do in the post-hearing
13 brief, but I think a lot of those are certainly related to
14 the increase in scrap costs in early 2018.

15 COMMISSIONER KEARNS: Okay, what about energy by
16 the way? Because I know other factory costs, I think, are a
17 big part of production here. Is that an issue as well or is
18 it really just raw materials.

19 MR. SCHAGRIN: I think -- I'll let Mr. Simmons
20 comment. I think, you know, it's tough here because coke is
21 used as a source for both energy and carbon. So it's always
22 not clear whether coke is a raw material or an energy
23 source, but it's very important input here. And certainly,
24 those prices were increasing as well.

25 Mr. Simmons?

1 MR. SIMMONS: The main energy, pure energy
2 source of electricity and -- well, electricity has been
3 stable for us. I can't speak for the other folks. Natural
4 gas prices, which affect us also, if I'm not mistaken in
5 early 2018 were up versus 2017. Coke in our instance, just
6 because of when our contracts come due have been stable in
7 2018.

8 COMMISSIONER KEARNS: Okay, okay. Thank you.
9 And I'm going to end on the drains issue, just where I
10 began. Mr. Miller, you carry only U.S. made products. Do
11 you carry drains as well?

12 MR. MILLER: Yes, we do.

13 COMMISSIONER KEARNS: Okay. And are they made
14 in China then?

15 MR. MILLER: Let me clarify. According to our
16 most recent study, we sell 90 percent domestic product.
17 Where we have to, where product is not -- no longer made
18 domestically, we will buy imported, but only in a situation
19 where it is not made domestically any longer.

20 COMMISSIONER KEARNS: Okay, and is that
21 basically only drains in your business?

22 MR. MILLER: Drains, certain brass fittings that
23 are no longer made in this country.

24 COMMISSIONER KEARNS: Okay. Okay. That's all I
25 have. Thank you.

1 CHAIRMAN JOHANSON: I just have two, three
2 questions, which I think will be pretty short just to give
3 me -- the first one just to give me a picture of the -- what
4 the product is. U.S. producers have alleged that cast iron
5 soil pipe fittings perform better than plastic in fire
6 resistance and noise abatement. And this is in your brief
7 at page 7. How does it impact noise abatement?

8 MR. LOWE: This is Michael Lowe. You've been in
9 a hotel where you can hear when the toilet is flushed. You
10 hear the whoosh sound, have you not?

11 CHAIRMAN JOHANSON: I guess not. I stay at nice
12 hotels maybe.

13 MR. LOWE: But --

14 CHAIRMAN JOHANSON: I don't know that.

15 MR. LOWE: But cast iron, you would not here it.

16 CHAIRMAN JOHANSON: Okay.

17 MR. LOWE: And in -- if you do here the upstairs
18 toilet and the whoosh, that's plastic.

19 CHAIRMAN JOHANSON: Okay, thanks.

20 MR. SIMMONS: And this is Greg Simmons. From a
21 metallurgist point of view, there's a distinct difference in
22 the structure of cast iron, not to get too deep in the
23 weeds, but it has graphite in the iron and that acts as a
24 dampening. So there's a strong physical reason why cast
25 iron dampens out the noise like a spring would dampen out

1 motion.

2 CHAIRMAN JOHANSON: Uh-huh.

3 MR. SIMMONS: So that's -- and it was proven in
4 the '50s. And we've done many tests on that and it's pretty
5 astounding difference.

6 CHAIRMAN JOHANSON: Okay, that's interesting.
7 And I have one more question involving the product. And
8 this might be good for Mr. Miller to answer since you're in
9 New York. I know there have been changes in the regulations
10 in New York involving the use of plastic. Why is plastic
11 not -- why is iron permissible, but plastic not permissible
12 to use into buildings over five stories?

13 MR. MILLER: To the best of my knowledge, that
14 has to do with fire codes.

15 CHAIRMAN JOHANSON: Okay. So it's not a
16 pressure issue, the plastic's probably not going to explode
17 or something?

18 MR. MILLER: It's -- the product isn't under
19 pressure. It's a drainage system, so it's not under any
20 kind of pressure at all. It does get pressure tested, but
21 it is not at any time in use under any kind of pressure. I
22 believe the answer to that is fire codes with buildings over
23 certain height, the fear is that if there's a fire to break
24 out, the plastic's melting and giving off fumes.

25 CHAIRMAN JOHANSON: Okay, thanks for answering

1 that question.

2 Now I have just one more question and I could go
3 on this all day long, but I don't think I will because it's
4 something which will be addressed by the respondents this
5 afternoon. Respondents have furnished a long list of
6 purported physical differences between cast iron soil type
7 fittings and drain fixtures that they allege support a
8 finding that there are two separate domestic-like products.
9 And this can be seen in Zurn's brief at page 8 to 9 and the
10 PDI brief at page 5.

11 Respondents claims that if asked, petitioner
12 would likely agree that drains and cast iron pipe fittings
13 have distinct physical characteristics and uses. Could you
14 all please respond to this?

15 MR. SIMMONS: This is Greg Simmons. From you
16 know the one perspective, the confusion still is fixtures.
17 Fixtures are going to be something which is outside of the
18 wall again, the toilet, water closet, sink, that's clear to
19 fixture, clear to noted drain.

20 The drains are anything that accept the fluid
21 from these fixtures and they can be whatever shape they are.
22 They can be sold by a drain manufacturer or sold by a
23 fitting manufacturer.

24 But there's a distinct difference between
25 fixtures and drain. Drain is all the standards say drain

1 waste and in vent in the descriptions. So drains have
2 always been a part of the drain, waste and vent system,
3 whereas fixtures are a different category all together.

4 MR. LEONARD: Yeah, this is Tom Leonard. And as
5 I said earlier, you know, we've got -- not to get confused
6 between a floor drain that is made of stain less steel or
7 steel or nickel bronze and the cast iron fittings that is
8 the part of the skeleton of the building.

9 So the cast iron material is exactly the same.
10 The process of manufacturing is exactly the same. They're
11 connected exactly the same way. So I said I think if you
12 want to present the drain system and you include the nickel
13 bronze, the stainless steel and steel and plastic and
14 rubber, you know, you have an argument that it's different.

15 But if you're talking the cast iron aspect, the
16 cast iron fittings, which we're talking about, there is
17 absolutely zero difference.

18 CHAIRMAN JOHANSON: All right, thanks for your
19 responses. That concludes my questions. Commissioner
20 Schmidtlein?

21 COMMISSIONER SCHMIDTLEIN: I just have one more
22 question. Mr. Miller just a few minutes ago, you said that
23 you will import if there's no American production of an item
24 and because of that, you're importing drains? Is that
25 correct or did I misunderstand?

1 MR. MILLER: I'm not importing drains. I --

2 COMMISSIONER SCHMIDTLEIN: You're --

3 MR. MILLER: -- would buy from a manufacturer
4 who is importing drains such as Wade, but that's only in
5 cases where a domestic product is not available.

6 COMMISSIONER SCHMIDTLEIN: So you do not
7 purchase drains from Charlotte?

8 MR. MILLER: Charlotte doesn't sell drains to
9 wholesalers like myself. They manufacturer them for OEMs
10 such as Zurn and JR Smith to the best of my knowledge.

11 COMMISSIONER SCHMIDTLEIN: Okay. And is that
12 correct, Mr. Dowd? You don't sell drains to distributors?

13 MR. DOWD: No, ma'am. We -- this is going to be
14 a little bit technical. We supply fittings, fitting drains,
15 certain fitting drains like this floor drain here, the cast
16 iron part. We would manufacture and cell that to a JR
17 Smith.

18 COMMISSIONER SCHMIDTLEIN: Which is -- you would
19 consider an OEM type --

20 MR. DOWD: Yes.

21 COMMISSIONER SCHMIDTLEIN: And original
22 government manufacturers.

23 MR. DOWD: Yes, ma'am.

24 COMMISSIONER SCHMIDTLEIN: Okay, so but not to
25 distributors?

1 MR. DOWD: Right, they're not producing.
2 They're imported.

3 COMMISSIONER SCHMIDTLEIN: Uh-huh.

4 MR. DOWD: So we'll provide this then. However,
5 here's a little bit of a technical nuance. And I know this
6 is going to sound weird. But that item right there that we
7 make for JR Smith --

8 COMMISSIONER SCHMIDTLEIN: This big one, yeah.

9 MR. DOWD: The big one, yes, ma'am. So we would
10 offer our version, our design of that fitting for sale to
11 Mr. Miller.

12 So what we offer in our catalog on what they
13 call in Zurn's catalogs, maybe call them that, or Smith
14 calling that a carrier, we may call it a carrier or we may
15 call it a starter fitting, but we offer that. We sell it to
16 Smith and Zurn with their design. We also sell some of our
17 design to them, but we also offer to the distributor and the
18 contractor that type of fitting and that type of cleanout,
19 so --

20 COMMISSIONER SCHMIDTLEIN: You do. So why? Why
21 the difference?

22 MR. DOWD: Well, there are contractors, and this
23 is kind of getting back a little bit about you all asking
24 about how does the price move? All the competition is
25 taking place, not all of it, but a lot of it with these

1 multiple bids, these contractors are getting from
2 distributors. So we're all the time calling on
3 contractors.

4 And certain contractors prefer our version of
5 that fitting versus what Zurn or Smith might offer for sale.
6 And that's just a personal preference, blue shirt, white
7 shirt.

8 So you can't say exclusively that we're not
9 making these fittings for sale, because many of them we do
10 and we can annotate those like fittings that are in our
11 catalog such as that cleanout.

12 There's a cleanout. What that really is is a
13 way for a plumber to get in and rot out a system in a
14 stoppage. And so we routinely sell those things by the
15 hundreds and thousands.

16 But certain people might want to buy them from
17 Zurn or Smith or Myfab or, you know --

18 COMMISSIONER SCHMIDTLEIN: But what you make for
19 Zurn and Smith, you don't sell to distributors?

20 MR. DOWD: We do sell to distributors a lot of
21 things that we make for Smith.

22 COMMISSIONER SCHMIDTLEIN: But not for Zurn?

23 MR. DOWD: We sell a very similar fitting. It's
24 kind of like a shirt's a shirt, but it could be different
25 colors or it could have a pattern in them. So we have very

1 similar fittings to what Zurn would offer. They may look
2 different, but they're used in the same application.
3 They're in our catalog.

4 COMMISSIONER SCHMIDTLEIN: Uh-huh.

5 MR. DOWD: Now we're also happy to make for Zurn
6 or Smith, we're happy to make their version of the shirt.

7 COMMISSIONER SCHMIDTLEIN: I see, so --

8 MR. DOWD: but --

9 COMMISSIONER SCHMIDTLEIN: -- they're giving you
10 the specifications that they want made and you just produce
11 what they ask you to produce?

12 MR. DOWD: Yes, ma'am.

13 COMMISSIONER SCHMIDTLEIN: I see and --

14 MR. DOWD: But that's the real distinction here
15 is that you can't throw the baby out with the bath water,
16 because we've got so many of these things, we would call
17 them fittings, in our catalog that we sell to distributors.
18 And they're also in the catalog of the drain folks. So you
19 can't say, well, they're totally different, because we make
20 them and sell them directly to distributors.

21 COMMISSIONER SCHMIDTLEIN: Okay. All right,
22 thank you very much. I have no further questions. No?

23 CHAIRMAN JOHANSON: Do any other commissioners
24 have questions? Okay, with that, we will conclude with this
25 morning's panel, but first, I wanted to ask if staff have

1 any questions?

2 MR. THOMSEN: Craig Thomsen, Office of
3 Investigations, the staff have no questions.

4 CHAIRMAN JOHANSON: Do Respondents have any
5 questions?

6 MR. SNARR: Mr. Chairman, Respondents have no
7 questions.

8 CHAIRMAN JOHANSON: All right, thank you for
9 your responses. Thank you again for this morning's panel.
10 We will now take a recess for lunch until 1:30. I would
11 like to remind everyone in the room, that being staff and
12 parties, that you should not leave confidential business
13 information here, because the room will not be secure. And
14 we'll see you all again at 1:30.

15 (Whereupon a lunch recess was taken to reconvene
16 at 1:30 p.m., this same day.)

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1 A F T E R N O O N S E S S I O N

2 CHAIRMAN JOHANSON: Mr. Secretary, are there any
3 preliminary matters?

4 MR. BISHOP: Mr. Chairman, I would note that the
5 panel in opposition to the imposition of the antidumping and
6 countervailing duty orders have been seated. This panel has
7 60 minutes for their direct testimony.

8 You may begin when you're ready.

9 STATEMENT OF KEVIN M. O'BRIEN

10 MR. O'BRIEN: Thank you. Good afternoon, Mr.
11 Chairman and Commissioners. My name is Kevin O'Brien. I am
12 with the law firm of Baker & McKenzie, and we represent Zurn
13 Industries, LLC.

14 Zurn is a member of the Plumbing and Drainage
15 Institute, or PDI as it's been referred to, and we
16 appreciate the opportunities to discuss the important issues
17 in this investigation.

18 If I can introduce the panel, to my immediate
19 left is Craig Wehr, the President of Zurn Industries. On
20 Mr. Wehr's left is Scott Burnett, the General Manager of
21 Zurn. On my far right is Jim Tharp, the President of Tharp
22 Plumbing Systems, Inc. And to my immediate right is my
23 colleague Christine Streatfield from Baker & McKenzie.

24 Our comments today will focus on the like-product
25 issues before the Commission, and in particular whether

1 drains are a separate like-product from the fittings
2 included in these cases.

3 Now as noted in our opening remarks, the Commerce
4 Department is today receiving briefs on whether or not
5 drains are properly within the scope of the subject
6 merchandise subject to its investigations. If the Commerce
7 Department concludes that drains are not within the scope of
8 the subject merchandise, then this issue may be fully
9 resolved. However, if Commerce finds that drains are within
10 the scope of the investigations, or that a scope decision
11 should be deferred until a later date, then the proper
12 definition of the domestic like-product or products will
13 remain before the Commission.

14 Drains, as we will explain, should be considered
15 a separate domestic like-product for purposes of any injury
16 analysis. Drains are produced in the United States by
17 companies such as those identified in Zurn's domestic
18 purchaser response. To our knowledge, these companies have
19 not participated in the proceeding at all.

20 In any case, the factors that the Commission
21 considers in deciding whether there are multiple domestic
22 like-products all point to the conclusion that drains should
23 be considered a separate and distinct like-product from soil
24 pipe fittings.

25 The factors generally considered by the

1 Commission in its like-product determinations include
2 physical characteristics and uses, interchangeability,
3 channels of distribution, customer and producer perceptions
4 of the products, common manufacturing facilities and, where
5 appropriate, price.

6 As will be explained, each of the factors
7 confirms that there is a bright-line distinction between
8 drains on the one hand and cast iron soil pipe fittings on
9 the other hand. As such, the Commission should analyze
10 these domestic industries separately, should drains not be
11 excluded from the scope of the case.

12 I would like to briefly reset the facts of this
13 case based on some of the testimony we heard this morning.

14 First, there was significant emphasis put on
15 inventories. And as will be explained by our panel, while
16 inventories may be an issue in the fittings industry, it is
17 simply not an issue in the drain fixtures industry. We do
18 business quite differently.

19 Second, regarding the HTS classifications which
20 were referenced several times, we included in our prehearing
21 brief, as did PDI, several Customs and Border Protection
22 rulings on the proper classifications of drains. These are
23 binding rulings. This is Customs' view of how drains should
24 be classified. Those classifications are not mentioned
25 anywhere in the Petition.

1 Third, we heard today words to the effect that
2 this is the first time drains have been referred to as a
3 "fixture." I would refer the Commission to the Petition,
4 Exhibit No. 1, Table 2, where--and I'm quoting, which is the
5 CISPI Handbook. That page states: "Fixture units in a
6 plumbing drainage system." And then lists "Bathtubs,
7 drinking fountains, floor drains" and then goes on, "Laundry
8 tubs." "Floor drains" listed very prominently in the
9 table from CISPI's handbook.

10 Fourth, we heard about the lack of importer
11 questionnaire responses, which is quite an important
12 omission from the record in this case, should drains be
13 included in the investigations. There were no PDI members
14 that responded to--that were even listed in the Petition, or
15 that provided importer questionnaires until the confusion
16 with Customs came to light. Now regardless of why that
17 came to be, as noted on page 17 of our prehearing brief,
18 this is a big issue. Imports of drains are quite sizeable.
19 And for the Commission to go forward without a full and
20 complete record on drains would be a very, very large
21 omission.

22 And then finally, we heard reference to the CISPI
23 trademark and whether or not that's of value. And whether
24 or not the CISPI trademark is of value, we will hear that
25 the drain industry is a highly differentiated brand-specific

1 business.

2 And with that, I will turn to our first witness
3 on the panel, which is Mr. Max Weiss.

4 STATEMENT OF MAX WEISS

5 MR. WEISS: Good afternoon, Mr. Chairman and
6 Commissioners. My name is Max Weiss. I am the Executive
7 Director of the Plumbing and Drainage Institute, or PDI.

8 PDI is an association of manufacturers of
9 engineered plumbing products in a business area commonly
10 referred to by the construction industry as "the drain
11 business."

12 Our members and licensees make products such as
13 floor drains, roof drains, sanitary floor drains,
14 waterhammer arresters, backwater valves, grease
15 interceptors, fixture supports, and other drainage
16 specialties.

17 PDI, through its staff and members, also
18 participates in the development of drainage-related
19 standards through the American Society of Mechanical
20 Engineers, ASME, and the ASME A-112 Main Standards
21 Committee, and the development of product standards in the
22 International Association of Plumbing and Mechanical
23 Officials, which is also the Code Congress for the Uniform
24 Plumbing Code, Canadian Standards Association, and American
25 Society of Sanitary Engineers.

1 PDI and its members are also active in the
2 development of model plumbing codes: the Uniform Plumbing
3 Code, the International Plumbing Code, the National Standard
4 Plumbing Code, and the Canadian National Plumbing Code.

5 I am a participant in or a member of all codes
6 and standards bodies nationally and in North America. I am
7 a contributing member in the European Union's standards
8 bodies for roof drains and interceptors. I am the chair of
9 seven of the ASME subcommittees on drains and drainage, and
10 I am a member of the remaining committees.

11 I have been participating in these committees for
12 approximately 20 years, drafting and revising standards and
13 plumbing codes. The Commission should understand that there
14 is a fundamental distinction within plumbing and
15 construction industries between fixtures and fittings.

16 Drains are plumbing fixtures. Fixtures are
17 either receptacles of water or a dispenser of water or
18 fluids. Drains are not fittings. The purpose of a fitting
19 is to join two or more segments of pipe, or to stop a pipe
20 either through a cap or a plug. That is their sole
21 function. There is no fitting that is a fixture, and there
22 is no fixture that is a fitting.

23 There is a clear delineation, except in common
24 usage or in sales parlance. They are distinctly different
25 objects with distinctly different uses. A fixture is

1 typically a composite of two or more elements. Floor
2 drains, roof drains, trench drains all have components such
3 as bodies, sumps, flanges, grates, and outlets.

4 A fitting, by contrast, is typically a single
5 object. Floor drains, roof drains, trench drains, and other
6 drain fixtures are fixtures in their function, in their
7 formal certification, and in their classification in the
8 American National Standards Institute lexicon of
9 classifications.

10 Plumbing codes require that materials meet
11 certain certification engineering standards. Fixtures and
12 fittings are certified in accordance with completely
13 different engineering standards. ASME Product Standards
14 apply to drain fixtures. There's approximately eight of
15 those standards.

16 When a code references a floor drain, for
17 example, it will usually say that it must be in accordance
18 with ASME A 1.12 6.3 In no instance is a fitting certified
19 by ASME. Petitioners' products are not ASME certified
20 because they are not drain fixtures. Fittings, instead, are
21 required to meet ASTM Property Standards and CISPI
22 Convention Standards. I might add to that, as well as the
23 Alloy A-74 Standard.

24 But in no instance is a drain fixture certified
25 by CISPI 301. There are three principle standards that

1 apply to the CISPI products. CISPI 301, which is the
2 convention standard; A888, which identifies the dominant
3 connection types, and A74, which addresses the alloy.

4 Drain fixtures are not interchangeable with any
5 other pipe fitting product subject to the scope of the
6 order. There may have been some confusion arising from the
7 fact that the word "drain" when used as an adjective may
8 describe a type of fitting such as a drain fitting would be
9 used to connect a drain to a pipe, but it would be a single
10 component that meets different standards and serves a
11 different purpose than drain fixtures.

12 In addition to my written testimony, I would like
13 to provide a couple of comments regarding some of the
14 statements you heard here this morning, and hopefully this
15 will clarify--further clarify the distinction between
16 fixtures and fittings.

17 You were given examples of fixtures such as water
18 closets, urinals, sinks, et cetera. Yes, those are
19 absolutely fixtures. But they are also the common fixtures.
20 You see those in everyday life. But that doesn't mean
21 that's the extent of fixtures.

22 Fixtures such as roof drains, floor drains,
23 trench drains, you see evidence of because they are at a
24 surface somewhere--the surface of a roof, a floor, a runway,
25 a street, wherever they may be applied. The distinction

1 between a fixture and a fitting is its use as certified, not
2 in its common material. Thank you.

3 STATEMENT OF CRAIG G. WEHR

4 MR. WEHR: Good afternoon, Mr. Chairman and
5 Commissioners. I truly appreciate the opportunity to speak
6 on behalf of Zurn and our industry today. I am Craig G.
7 Wehr. I am the President of Zurn Industries, LLC,
8 headquartered in Milwaukee, Wisconsin.

9 Zurn was founded in 1900 and is a recognized
10 leader in the highly specified engineered water solutions,
11 including a wide spectrum of sustainable plumbing products.
12 Zurn's major products in this area are drains, hydrants, oil
13 grease separators, and supports for water closets.

14 Zurn's objective is to deliver total building
15 solutions for new construction and retrofit applications.
16 Our principal markets include commercial, municipal, health
17 care, and industrial buildings.

18 Zurn has offices in seven states and employs
19 roughly 800 people. We have a strong U.S. brand that's been
20 around for a number of years. We are highly respected by
21 architects, engineers, contractors, and our distributors.
22 We have knowledgeable people and we provide very high
23 service levels to the industry.

24 I have been in the water-control industry for
25 more than 30 years. I began my career with Ferguson

1 Enterprises, which is the largest U.S. distributor of
2 plumbing supplies, waterworks, and associated products. I
3 was also an independent manufacturer's rep in the State of
4 Georgia where I represented Zurn and other related plumbing
5 products.

6 I have been employed by Zurn for the past 25
7 years. My prior positions at Zurn include Southeast
8 Regional Manager, Vice President of Sales and Marketing,
9 Vice President of Business Development, and General Manager
10 of our Specification Drain Operations.

11 Through these and other positions I have
12 experience with Zurn's full product line as well as those of
13 the Petitioner's. McWane, which includes Tyler and AB&I,
14 Charlotte Pipe. In addition, Zurn's independent U.S. sales
15 rep network in certain geographies represent Charlotte Pipe
16 Fittings and Tyler Pipe Fittings. We share the same line
17 card with the Petitioners.

18 If you step back and take a look at it, our
19 independent rep network sells products that are
20 complementary to one another, not products that compete with
21 one another. So the fact that those Petitioner's products
22 are on the same line card shows that they're two separate
23 industries that complement one another.

24 Petitioners have requested that drain fixtures
25 should be covered by any orders that issue as a result of

1 these investigations. Zurn strongly disagrees with that
2 request. Fittings and drains are two very different
3 industries and cannot properly be commingled.

4 I would like to explain my basis for these views.
5 In doing so I'll refer to drain fixtures simply as "drains."
6 But to be clear, when I refer to "drains" I am not talking
7 about the fitting that might connect a drain to a cast iron
8 pipe; I am specifically talking about the drain, per se,
9 which is a different product configuration made up of
10 engineering components, including the body, the strainer,
11 accessories such as clamping collars that attach roof
12 membranes and floor membranes. In some installations these
13 drains attach to fittings and then to cast iron pipe, but
14 the drains themselves are not fittings.

15 I understand that the Commission considers
16 several factors in deciding whether product manufactured in
17 the U.S. fall into separate like-products--namely, one, the
18 physical characteristics; two, the interchangeability;
19 three, the channel of distribution; four, customer and
20 producer perceptions of the product; five, common
21 manufacturing facilities, production, processes, and
22 production employees; and number six, price.

23 Each of these factors confirms that fittings are
24 separate from drains, as I will explain.

25 So first, regarding physical characteristics and

1 uses, the physical differences include the engineered flow
2 rate of a drain; the required load capacity of a drain; the
3 shape, the size, the accessories, the aesthetic features and
4 finishes; and the installation locations within water
5 control and support drainage systems.

6 These differing physical characteristics allow
7 drains to be purpose-built to specific engineering
8 requirements to perform in various applications intended for
9 drains versus pipe fittings.

10 Drains capture, collect, and regulate the flow of
11 fluids into drainage systems. In contrast, fittings simply
12 connect cast iron soil pipe. In addition, drains are
13 located in surface areas and are frequently used in visible
14 applications for vehicle and foot traffic, where
15 load-bearing or decorative finishes are required: parking
16 decks, restrooms, showers, promenades. This requires
17 various types of drain features to be used such as the size
18 of the strainer, the type of finish, the shape to match a
19 floor pattern, specific grading requirements to meet load
20 classifications.

21 Also drains differ fundamentally in that they can
22 also connect to plastic pipe. They are not indigenous to
23 cast iron pipe and other fitting drainage systems.

24 In contrast, cast iron soil pipe fittings are
25 dedicated to cast iron soil pipe.

1 I wanted to just briefly walk through what I
2 consider a drain fixture. If you take a look at this
3 particular drain (indicating), it's three--four major
4 components. There's a strainer on the top. There's a
5 clamping collar. There's a drain body. And then there's a
6 Neo-Lock gasket in this case to make a connection.

7 This is the simplest drain that we manufacture.
8 The strainer is engineered to work with the geometry of the
9 body. So when we look at flow rates in applications, they
10 have to work together. You can't just use a standard
11 strainer, especially as it relates to roof drains and roof
12 drain bodies. So it is an engineered product that is
13 designed to work together.

14 The other piece--this is not interchangeable with
15 our other manufacturers. So our components do not
16 interchange with the other people competing in the drain
17 industry. It is indigenous to our brand and our product.

18 This Neo-Lock gasket can push onto cast iron, but
19 absolutely pushes onto plastic. It is our observation in
20 the commercial market that plastic is entering into the
21 commercial market. It has already saturated the residential
22 market, but we're starting to see it move into our
23 marketplace as well. So we created a gasket in a drain that
24 works on both systems.

25 Regarding the second factor, drains not being

1 interchangeably with pipe fittings, the characteristics that
2 I just described make interchangeability impossible. Drains
3 are end-use devices for water control and support systems.
4 Drains are not part of a cast iron soil pipe drainage
5 system, they attach to one, and therefore are not sold in
6 combination with cast iron pipe nor marketed nor specified
7 as pipe fittings.

8 Rather, drains belong to a product category that
9 includes oil and grease separators, water closet and
10 lavatory carry support systems, and other such water control
11 accessories. Unlike drains, fittings are simply used to
12 connect cast iron soil pipe systems together.

13 Next, as to the third factor, fittings are
14 distributed and specified separately from drain fixtures.
15 Project specifications for pipe fittings and industry
16 standards for those fittings are similar for commercial
17 construction from building to building, allowing
18 distributors to stock products in inventory due to the
19 simple product skew selection.

20 In Zurn's experience, pipe fittings are
21 approximately 95 percent stock in distribution. Pipe
22 fitting manufacturers use select distribution and therefore
23 their distributors cannot sell competing brands efficiently.
24 This differs sharply from drains which are stocked in
25 distribution approximately five percent of the time,

1 therefore allowing distributors to sell competing brands.
2 In essence, we have a nonselect distribution strategy.

3 Drains are highly specified and engineered for
4 mission-critical applications. Building specification
5 requirements for drains differ from project to project.
6 These unique project requirements create significant skew
7 variations and complexity that precludes distributors from
8 stocking the drain package.

9 To give you an idea, Zurn has roughly 17,000
10 different skews variations in our catalogues for drain
11 fixtures.

12 Next, customer and producer perceptions.
13 Fittings differ from drains on numerous levels as just
14 described--specification, stocking, ordering, and inventory
15 management.. Also the additional value-add to drains
16 commands a higher price in part because drains require
17 additional machining and functional parts. Drains are
18 typically purchased as an integrated assembly with the
19 components noted previously--a body, strainer, clamp, and
20 accessories--as opposed to fittings which are purchased in
21 combination with pipe.

22 Further, drain installations come after the
23 installation of pipe and fittings. Typically you rough in
24 the pipe and fittings first, then you set the drains last.
25 The aesthetic design requirements for visible drains also

1 reflect different customer and engineer specifications.

2 A customer would not select a fitting to perform
3 as a drain fixture, or vice versa. For these reasons, in
4 Zurn's experience with architects, engineers, contractors,
5 and distributors, and suppliers and installers, they
6 consider fittings and drains to be entirely separate product
7 categories.

8 So when we create demand for drains, it starts
9 with an engineering specification. The engineering
10 specification differs from project to project, so a hospital
11 looks different than a school; a school looks different than
12 a stadium.

13 The engineers specify a drain for every
14 application, not just "the package of product," but every
15 application has a unique drain. When we submit this
16 specification, each drain is independently submitted on its
17 own merit, and the engineer and architect check the drain to
18 make sure it meets the flow requirement, the load
19 requirement, and the aspects that are most important to them
20 for the job, which is highly different than cast iron soil
21 pipe.

22 So we start with a specification. We also focus
23 on the contractor. We spend a lot of time around the cost
24 of installation. Fifty percent of the cost of install is
25 labor, 50 percent is product. Our products are more

1 intuitive and lower cost to install for our contractors, so
2 we compete on the value of the product, not the price. We
3 earn a fair price for our product.

4 The method of pricing drains further demonstrates
5 these differences. Drains are represented by a separate
6 group of drain manufacturers. They're catalogued
7 separately. They're quoted separately. And they're
8 invoiced separately to the distributor, from cast iron soil
9 pipe and fittings.

10 Fittings are priced in combination with soil
11 pipe. The time between the bids vary for fittings and
12 drains. They may be separated by weeks, months, and years,
13 depending on how the life cycle of the project works and how
14 the contractor is setting out their drains.

15 Number five, with respect to the manufacturing
16 facilities. If I step back and I look--and it was mentioned
17 that we closed our foundry, and we did--I'd like to walk
18 through a little bit about how I think about the
19 manufacturing of drains.

20 First of all, it was mentioned that there's high
21 fixed costs inside a foundry. The best way to run a foundry
22 is to have long runs and few changeovers, and a very smooth
23 production. And when you think about cast iron soil pipe
24 and fittings, you have the ability to do that.

25 The changes occur on drains. We have over 8,000

1 tools in different bodies. Technically, it's difficult.
2 Some drains are small. Some drains are large. Some have
3 different shapes. So it takes different types of machines
4 to run these drains.

5 The other thing that happens, because it's a
6 nonstock item and it is purpose-built, it is tough for
7 production planning. We never quite know what kind of job
8 is going to come through and what the drain needs to be for
9 that particular job. So there's a fair amount of scheduling
10 changes within the foundry.

11 So we see the short runs and the high variation
12 as a negative effect on our absorption within the foundry,
13 and it negatively affects profitability. We still do
14 manufacture domestically, and we've picked certain domestic
15 manufacturers that make sense for a varied amount of our
16 products, and we also global-source.

17 The differences are borne out in Zurn's direct
18 experience. We talked about Charlotte Pipe. We did solicit
19 Charlotte Pipe for a quote back between 2015 and 2016. They
20 declined. They declined for the technical reasons that it
21 didn't work well on all their equipment, the complexity, and
22 the scheduling.

23 It was also shared with me that they wouldn't be
24 able to provide the service levels that we would expect or
25 they would expect for their very best customers.

1 Price. As to the last factor, pricing on drains
2 command a much higher price than that of pipe fittings and
3 are also generally priced different according to the fit and
4 finish. Drains have much broader variation and
5 configuration, generally requiring bids based on specific
6 applications, specific type of projects.

7 On the other hand, pipe fittings are purchased
8 and sold more like traditional metallic pipe fittings. But
9 price varying by size, or shape, or volume, and are
10 considered an over-the-counter off-the-shelf product within
11 our industry.

12 The pricing on a drain package has no bearing on
13 the pricing of a cast iron soil pipe and fitting package.
14 They are viewed as separate product categories by the
15 distributor and/or the contractor.

16 As a final note, we have the greatest respect to
17 the Commission's job here today. We know the Commission
18 wants to get this one right. We've been trying to resolve
19 the related-scope issues with the Commerce Department and we
20 will continue to do so. In the event that drains remains in
21 this case, however improper that may be in our view, we
22 believe the Commission should review drains separate and
23 apart from any other products in these investigations.

24 We look forward to answering the questions of the
25 Commission and staff to allow for the proper outcome of

1 these investigations. Thank you.

2 MR. O'BRIEN: We'll now hear from Mr. James
3 Tharp.

4 STATEMENT OF JAMES W. THARP, JR.

5 MR. THARP: Good afternoon, Chairman Johanson
6 and other members of the Commission. I'm James W. Tharp,
7 Jr. I'm President of Tharp Plumbing Systems. We were
8 founded in 1976. I've been involved in this business for
9 over forty-two years. We currently have roughly 100
10 employees at work.

11 During my career in the plumbing industry, we've
12 been involved in a wide variety of commercial, institutional
13 and government facilities. At present, Tharp Plumbing
14 concentrates on commercial sectors which include restaurant
15 chains, big box stores, a lot of work at Disney, and at the
16 airports in our local area.

17 I've dealt with the products of most of the
18 companies that were present today. On one hand, we have
19 water control products of Zurn. On the other hand, we have
20 pipe and fittings supplied by Charlotte, ABI and Tyler. I
21 strongly agree with the position Zurn has and PDI that
22 drains are an entirely separate product category and it's
23 very different from pipe and fitting products.

24 Let me start by describing the way that we Tharp
25 Plumbing and Sources, the various products that go into a

1 commercial installation, the various stages of the
2 construction cycle. I will also describe how these products
3 are marketed and priced, which is very different as between
4 pipe and fittings versus drains.

5 As a threshold matter, pipe and fittings are
6 normally purchased from wholesale distributors. This is
7 true whether we are using plastic pipe and fittings or we're
8 using cast iron pipe and fittings, meaning pipe and fittings
9 are purchased together, always in combination.

10 We typically rely on the wholesalers to select
11 the upstream supplier of the pipe and fittings that they're
12 using, be it AB&I, Tyler or Charlotte. These items are
13 almost always produced with standard industry specifications
14 and we'll alternate among wholesalers depending on
15 availability.

16 When engineering allows for it, we will consider
17 plastics. And increasingly we are using those as an
18 alternate to cast iron and fittings. We also consider
19 availability, prior relationships and experience of the
20 wholesale community that we're buying from.

21 Pipe and fittings for the underground work are
22 generally purchased in the very beginning of the job. After
23 that we'll move to the above-floor needs. We may use cast
24 iron or we may use plastic in the entire building, depending
25 on the building specifications and the HVAC design.

1 The final product approvals normally come from
2 architects and engineers involved in the building design and
3 construction. These approvals are obtained through
4 submittals, which we normally group together and send for
5 underground materials, aboveground materials, including
6 drainage waste and vent. And fixtures and specialty items,
7 including the drains that will be used.

8 The submissions we made all at the same time, in
9 either case, they're normally grouped just as I described
10 for the review by the architects and engineers. As noted,
11 unlike pipe and fittings, drains are purchased along with
12 other engineering devices. Flush valves, carriers, other
13 water control products.

14 We never purchase from a general inventory
15 because the products need to be specified for each
16 individual project. Drains have several different product
17 potential specifications. As previously covered in 17,000
18 SKUs, we may, on floor drains, have as many as fifty choices
19 that we can make.

20 The engineers consider requirements, control
21 requirements, grating patterns, aesthetics such as nickel,
22 bronze, stainless, where they're going to be used, whether
23 if they're in hospitals, schools, whether there's going to
24 be foot traffic or back, forklift traffic.

25 All the different things that go into the

1 engineering so that the final, the final pattern to ensure
2 that the size and the shape will all match the grating that
3 was chosen. Very importantly, floor drains are often
4 constant and very different from underground all the way to
5 the fittings that go into the wall.

6 For all these reasons, the pricing of fittings
7 and pipe varies dramatically. For pipe and fittings, I
8 periodically receive a price list on a disk. I'll get that
9 disk from a wholesaler I have a relationship with, and that
10 price will be good until they have an increase of some sort.

11 Because the pipe and fittings are constant
12 across those three manufacturers you heard this morning, we
13 know that we always have those things for estimating
14 purposes using the same pricing. The pricing on drains, on
15 the other hand, differ sharply.

16 Each drain configuration has to be built from
17 scratch, starting with the base design and adding
18 accessories and features that are specific to that
19 particular installation. The price is not known without an
20 individual calculation of all the options that are
21 available.

22 The final point I'd like to make goes to the
23 lack of competition between the fitting suppliers and the
24 drain suppliers. Fittings suppliers such as AB&I, Charlotte
25 and Tyler compete with one another at the wholesale level.

1 They sell to the wholesaler and then he sells to us.

2 When I'm considering a pipe and fitting
3 combination, these are among the companies that I would
4 consider for either plastic or cast iron products. I would
5 never consider Zurn or any other drain company to supply
6 cast iron fittings, pipe or fittings in combination. In the
7 same way, I'll consider a drain purchase, I look to Zurn or
8 other water control or support companies the provide flush
9 valves, grease separators, fixture supports and other
10 drainage specialties. These companies are such as Zurn,
11 Josam, Smith, Mifab, and other members of the PDI group.

12 I would never consider a company such as AB&I,
13 Charlotte or Tyler for drains. They haven't been marketed
14 to me, they have not been shown to me. They haven't been in
15 an inventory situation, any place in the wholesale
16 distribution that we have.

17 In fact, in my forty-two years of business, I've
18 never been approached to even discuss these products by any
19 of the cast iron manufacturers. In short, for many reasons,
20 drains are different products from start to finish,
21 different than fittings. I'd be happy to answer any
22 questions. Thank you for your time.

23 MR. O'BRIEN: Mr. Chairman, that concludes the
24 direct statements from Zurn and from PDI.

25 STATEMENT OF BIKRAM SINGH

1 MR. SINGH: Good afternoon. I would like to
2 thank the board of Commissions for allowing us to present
3 our testimony today. My name is Bick Singh. I'm the
4 President/CEO of New Age Casting. New Age Casting is a 100%
5 American-based company. We were established in 2005. My
6 establishment is kind of a funny story that I'll keep very
7 short.

8 I used to be employed with a company called DWV,
9 which was an import manufacturer for cast iron soil pipe.
10 They were purchased by Charlotte Pipe and Foundry and shut
11 down after that purchase. After I was out of a job, I
12 searched very deeply internally to see what my strengths
13 were. And really understanding the manufacturing of cast
14 iron soil pipe was my fortitude.

15 And we incepted and formed New Age Casting in
16 2005. Today we have three distribution centers across the
17 country, one in Bayonne, New Jersey, one in Chicago,
18 Illinois and our headquarters in Sugar Land, Texas. We have
19 close to 200,000 square foot of indoor warehouse space
20 stocking cast iron soil pipe fittings and couplings.

21 New Age Casting is the largest importer of cast
22 iron soil pipe fittings in the United States. The import
23 share, however, is roughly less than 7% of the entire market
24 of cast iron soil pipe fittings. The petitioners, which are
25 comprised of two companies, McWane and Charlotte Pipe, claim

1 to have been injured by the importers in the market.

2 There are five major reasons on why this claim
3 of injury is purely fabricated by the petitioners. One,
4 there hasn't been a list price increase since 2015. This
5 was a deliberate and strategic move by the petitioners to
6 put us where we are today. This move by the petitioners
7 created an artificial ceiling on the selling price in the
8 market.

9 While all costs continued to spiral upwards,
10 costs such as raw material, coke, iron, scrap steel, not to
11 mention the exchange rate. And finally, which hasn't been
12 discussed today, the transportation costs, which have really
13 skyrocketed with many of the governmental regulations that
14 have changed the transportation industry, including both
15 shipping and trucking.

16 This ploy has deflated the selling prices in the
17 market by roughly 15%. Please study the historic trend and
18 annual execution of list price increase prior to 2015. It
19 is almost like clockwork. Come January 1 of a new year,
20 there is a new list price with an estimated increase of
21 roughly 5%. Always have been executed. We can provide
22 historical data of list price increases in our post hearing
23 brief.

24 They are trying to make the Commission believe
25 that imports are the reasons that there hasn't been a list

1 price increase for a three-plus year period. The fact is
2 that imports, being such an insignificant share of the
3 market, how could we possibly dictate the price in the
4 market? We actually followed suit.

5 Every time that there was a list price increase
6 instituted by the petitioners, New Age Casting also
7 instituted a list price increase. Unfortunately, because
8 the domestic producers rescinded all their price increase
9 notifications, New Age unfortunately also had to follow
10 suit. Again, the petitioners control 93%-plus of the market
11 share. Who do you think really controls the price?

12 In fact, it's important -- in fact, the import
13 presence was far superior in the past years, in particular
14 from 2008 to 2012, and the list price increase changed
15 annually. So the argument quite doesn't make sense that
16 their claim that China imports is the reason. It's quite
17 false and doesn't add up with the historic behavior of the
18 petitioners. This was purely a strategic play so they can
19 carry out this complaint.

20 STATEMENT OF PATRICK MCQUILLAN

21 MR. MCQUILLAN: Good afternoon, Commissioners.
22 My name is Pat McQuillan and I'm the National Sales Manager
23 at New Age Casting Company. I'm based in Chicago, Illinois.
24 A little bit about my background. I am a mechanical
25 engineer by training. And I have spent the vast majority of

1 my professional carrier in the plumbing, mechanical and fire
2 protection industry here in the United States.

3 The second reason we're stating that this injury
4 is unfounded is because of the CISPI requirement in
5 engineers' specifications. As the national sales manager at
6 New Age Casting and a mechanical engineer, I do not spend
7 the majority of my time with our distributors.

8 By far, approximately 75% of my duties as
9 national sales manager at New Age Casting is going directly
10 to the specifying engineering firms all throughout the
11 United States to fight to get New Age products accepted in
12 commercial construction projects. I also go directly to
13 building owners. Institutions like Children's Hospital here
14 in the District, MIT, Michigan State University,
15 Massachusetts Institute of Technology.

16 It is very important for the Commissioners to
17 understand that we fight on a daily basis for these
18 specifications. Who is CISPI? Understand who CISPI is.
19 The Cast Iron Soil Pip Institute. There is a CISPI
20 specification and it's a one-sentence piece in the Cast Iron
21 Soil Pipe specification, that eliminates New Age.

22 And it reads, "All cast iron soil pipe and
23 fittings shall have the collective trademark of the Cast
24 Iron Soil Pipe Institute." One sentence. That one sentence
25 has nothing to do with quality, manufacturing or standards.

1 I would highly encourage the Commissioners to survey these
2 commercial specifications which are legal documents over the
3 POA and just find out what the market share of that one
4 sentence is across the United States. It's extremely
5 strong.

6 And again, with that sentence, New Age Casting
7 is not allowed to bid on any projects. There are only two
8 members of CISPI, McWane and Charlotte. Plain and simple.
9 Yes. Does McWane have multiple divisions? Absolutely. It
10 is purely a closed-door organization used as a selling arm
11 for these two producers. It guarantees it's two CISPI
12 members will always retain 90%-plus market share.

13 We could provide numerous rejected submittals to
14 New Age from engineering firms where New Age products have
15 not been accepted, strictly because of that one sentence.
16 "All cast iron pipe and fittings shall have the collective
17 trademark of the Cast Iron Soil Pipe Institute."

18 Further, it is irrelevant of market pricing, so
19 it is really important to understand that the specification
20 has no bearing or factoring of the selling price in the
21 market. So if New Age is 30% lower or 30% higher, would we
22 not get an opportunity to bid the job as we would not meet
23 the specification of the project requirement?

24 If New Age material, the actual cast iron is a
25 higher quality cast iron. If the coating is better, if we

1 have a warranty that is twice as long as our competitors.
2 If our product is cheaper, would we not have a better market
3 share? Again, this further backs up our earlier point that
4 if the petitioners are guaranteed 90% of the work because of
5 the CISPI requirements and project specifications, then the
6 list price is in their total control.

7 To break the CISPI force, New Age epoxy-coated
8 cast iron soil pipe was introduced about five-plus years ago
9 and it meets or exceeds not only the U.S., very, very weak
10 U.S. standards, but the very stringent European standard,
11 which is EN877. And there's the actual reason for our
12 success. The petitioners do not even offer a like product
13 in the United States. So we are not even competing with an
14 equal product in the market as it is manufactured to a
15 different and significantly higher performance standard and
16 warranty.

17 This is the reason of our growth, our success in
18 the market and not their claims of subsidized Chinese
19 product being dumped into the U.S. market. Our goal is by
20 exceeding quality and bringing value to the building owners
21 nationwide here in the United States. Thank you very much.

22 MR. SINGH: Finally, we would like to address
23 the allegations made by the petitioners that China has ample
24 production capability and continues to ramp up supply to
25 enter and take over the U.S. market. This is so far from

1 the truth and the reality of the manufacturing picture in
2 China today.

3 As mentioned in the past, the Chinese government
4 has taken extreme actions for environmental control. This
5 has resulted in thousands of foundries being shut down
6 permanently across China. These environmental policies by
7 the Chinese government has had an adverse effect in our
8 production capability. Our fittings foundry in Guangzhou
9 Penan foundry has been given notice to shut down production
10 immediately and permanently.

11 We've been fortunate enough to open a new
12 foundry in an industrial production zone in China. This is
13 not an easy transition and one that involves tying up many
14 of our resources and time. This will be an ongoing
15 regulated affair by the Chinese government and one that will
16 continue to fight over the next ten years for our foundries
17 in China.

18 In addition the domestic producers have issued
19 allegations to their customer base since May of this year.
20 That means that they're limiting the order capacity.
21 Resulting in the demand of cast iron soil pipe not being
22 able to be met with the supply constraints in the
23 marketplace today.

24 We can provide notice of these allegations by
25 both manufacturers in our post-hearing brief. It is

1 industry knowledge that the domestic petitioners are
2 currently running double shifts and still are not able to
3 keep up the current demand needs for our building owners.
4 We don't see this position changing in the foreseeable
5 future.

6 In fact, Charlotte Pipe has announced that it is
7 building a state-of-the-art new foundry. It's not waiting
8 for a hearing determination. So please don't let that waver
9 on your head. The new foundry is supposed to increase their
10 production capability and inefficiencies.

11 So if, in fact, they're injured by Chinese
12 imports, why are they needing to build a state-of-the-art
13 new foundry to increase their production capabilities? So
14 we encourage the Commission to vote negative against these
15 allegations as U.S. building owners need product to fulfill
16 their supply needs.

17 These duties will, in fact, block a viable and
18 quality option for our national commercial building needs.
19 As demands can't solely be met by the domestic producers.
20 There is fundamental need for import product in the United
21 States for cast iron soil pipe fittings for today and for
22 the future. This concludes our presentation for today.

23 I just want to touch on the topic of drains. It
24 is 100% two separate categories. Cast iron soil pipe
25 fittings is a commodity. Drains are an engineered system

1 designed by each manufacturer. So they are totally two
2 different industries that the domestic guys are trying to
3 crowbar and take advantage of, as they've done in the past
4 in many instances. Thank you.

5 CHAIRMAN JOHANSON: Thank you all for your
6 comments today and thank you for appearing as well. We will
7 begin questions this afternoon with Commissioner
8 Schmidtlein.

9 COMMISSIONER SCHMIDTLEIN: Okay, thank you. I'd
10 like to thank all the witnesses for being here this
11 afternoon as well. So I was trying to understand your all's
12 argument with regard to the difference between drains and
13 fittings. And I'll refer them to as drains instead of drain
14 fixtures.

15 So my first question is, in general -- and this
16 might be best for you, Mr. O'Brien, as counsel. The scope
17 talks about two major types, classifying cast iron soil pipe
18 fittings as two major types, hubless and hub and spigot. Is
19 this how -- would you characterize drains as one or the
20 other?

21 MR. WEHR: So there's a no-hub, which is a
22 traditional type of cast iron, usually used in an interior
23 of a building, and then there's hub and spigot, which is
24 traditionally used underground. It's the way that the
25 connection is made.

1 So drains, as they affix to those systems, are
2 able to adapt to those particular type of connections. So
3 it's primarily underground versus aboveground, no-hub and
4 hub and spigot.

5 COMMISSIONER SCHMIDTLEIN: So is the drain
6 itself either hubless or hub and spigot, the way this is
7 described?

8 MR. WEHR: So as a drain, it's a engineered
9 component, right? A strainer and the body, right? How we
10 affix to a drainage waste or vent system made by the
11 petitioners is through the bottom of the drain. This will
12 change relative to, if it's a no-hub connection, this
13 particular drain will push onto no-hub. If it's a hub and
14 spigot, it'll fit inside and make the connection.

15 So it's simply the way that the connection is
16 made between a drain fixture and a drain waste and vent
17 system. And so they supply both ways. So as the
18 distributor, if you're stocking the petitioners' products,
19 you would have to carry both, hub and spigot and no-hub. So
20 it's just simply a connection type.

21 COMMISSIONER SCHMIDTLEIN: Okay. And for
22 drains, so for instance, the one that's sitting on that
23 counter right there, that we looked at this morning, that is
24 connected to a fitting, right?

25 MR. WEHR: That drain is connected to a sweep,

1 which is a fitting, and it is --

2 COMMISSIONER SCHMIDTLEIN: And the sweep is the
3 stainless steel part or the silver part?

4 MR. WEHR: Well, the black part is the sweep,
5 which is considered a cast iron fitting. That particular
6 Smith drain is attached with a no-hub coupling because that
7 is a no-hub sweep. So it's how you affix it to the cast
8 iron.

9 COMMISSIONER SCHMIDTLEIN: Okay.

10 MR. WEHR: And so the bright line for us is
11 where this drain intersects with their system. So we look
12 at this as an engineered component, whether we're connecting
13 it to a no-hub fitting and/or a hub and spigot type fitting.
14 Or occasionally an adapter is used to facilitate that.

15 COMMISSIONER SCHMIDTLEIN: So are there fittings
16 that are connected to other fittings before they are
17 connected to the pipe?

18 MR. WEHR: Usually straight line pipe is cut and
19 then connected to a fitting, depending on how it needs to be
20 configured. So certain drainage, waste and vent systems
21 have to be configured within a building behind the wall in
22 the roof. So there are a variety of types of cast iron
23 fittings, be it a Y, be it a combination, be it a sweep, and
24 then connecting to straight pipe. The fittings' only
25 purpose is to connect pipe together to make a non-leaking

1 system.

2 COMMISSIONER SCHMIDTLEIN: But my question is,
3 would you have multiple fittings connecting together before
4 you get to the pipe?

5 MR. WEHR: You may have a fitting and a fitting
6 adaptor connecting in some instances. But the fittings'
7 only purpose is to connect to pipe. Yeah, normally, you
8 wouldn't have the fitting connecting to a fitting, unless
9 you were making some kind of an adaption or you had a
10 difficult installation. Primarily they would connect to
11 pipe.

12 COMMISSIONER SCHMIDTLEIN: They would connect to
13 pipe? Okay. For the drain that you all manufacture or you
14 say you produce here in the United States, right? You're
15 not producing the body of that? The drain that you're
16 holding?

17 MR. WEHR: To step back, we have patented
18 designs that are ours. We have tooling that's ours. We use
19 domestic manufacturing vendors, much like Charlotte Pipe or
20 Atlas or Viking in the U.S. to make certain componentry.
21 And then we globally source. In our plants, we machine
22 these particular pieces to go together and assemble them
23 together.

24 COMMISSIONER SCHMIDTLEIN: I see.

25 MR. WEHR: We no longer have a founder --

1 COMMISSIONER SCHMIDTLEIN: A strainer in the
2 body?

3 MR. WEHR: Correct.

4 COMMISSIONER SCHMIDTLEIN: And would you ever
5 use a body of that for anything other than a drain?
6 Anything other than attaching a strainer to make a completed
7 drain.

8 MR. WEHR: A body by itself is not a fitting.
9 So a body installed without a strainer or clamping collar is
10 not a drain. So a body cannot be used to connect pipe
11 together or fittings together, if that's what you're asking.

12 COMMISSIONER SCHMIDTLEIN: Yeah.

13 MR. O'BRIEN: So the body is always used with a
14 drain. That's the --

15 MR. WEHR: It's always sold as an assembly.

16 COMMISSIONER SCHMIDTLEIN: With the strainer?

17 MR. WEHR: Correct.

18 COMMISSIONER SCHMIDTLEIN: Right, as one
19 piece, okay.

20 MR. WEHR: And an engineer would always
21 specify it as an engineered product. They would not specify
22 a body separate from a strainer, separate from a clamping
23 collar. This is considered a drainage fixture in the eyes
24 of an engineer.

25 COMMISSIONER SCHMIDTLEIN: And so when you say

1 these are all engineered, do you mean they're all made to
2 order for a particular project?

3 MR. WEHR: Our drains are configured to order
4 by application. So for example in a kitchen, you may have a
5 floor sync drain because it's different. In a shower, you
6 may have this type of drain. On a roof, there's various
7 roof drains depending upon rainfall and water flow, but it's
8 a different product as well.

9 In the wall, you may have a different looking
10 cleanout. You may have different types of drains. This is
11 just cast iron. We make this body in stainless steel, we
12 make this body in plastic, we make it in corrosive material
13 for corrosive waste. This is just one style of drain which
14 is a cast iron drain.

15 COMMISSIONER SCHMIDTLEIN: Okay. I lost my
16 train of thought there.

17 MR. O'BRIEN: If I could just add
18 Commissioner?

19 COMMISSIONER SCHMIDTLEIN: Yeah.

20 MR. O'BRIEN: Mr. Wehr noted that there are
21 over 17,000.

22 COMMISSIONER SCHMIDTLEIN: That was my next
23 question, thank you. Thank you. Okay, yeah. Well so all
24 right. So if you have 17,000 SKUs, how does that intersect
25 with they all have to be engineered to specification? So

1 are those just examples or what -- how does that work?

2 MR. WEHR: The SKU variations happen based on
3 the application. So for example in a government building
4 and you have a strainer, it would be vandal-resistant versus
5 standard. In certain instances you may want to have a trap
6 primer body versus not. In certain instances, you may want
7 to change the way the flow, the internal flow works on the
8 drain to support a strainer, to support flow.

9 So all those variations are basically in the
10 minds of an engineer and designer, and we build to suit.
11 That's how we've built and owned our market share. So there
12 is a fair amount of complexity.

13 COMMISSIONER SCHMIDTLEIN: So what do you use
14 the SKUs for then, because you're pricing it based on their
15 specifications, right? It sounds like it's made to order,
16 but it's -- is that correct? You're not carrying any of
17 these in inventory.

18 MR. WEHR: We carry the components in
19 inventory, and we carry assembled drains. So the components
20 basically stack up to a list price is how it works.

21 COMMISSIONER SCHMIDTLEIN: And the components
22 are the body?

23 MR. WEHR: The body, the clamping collar, the
24 strainer, and in this instance the connection gasket.

25 COMMISSIONER SCHMIDTLEIN: I see. And so when

1 they come to you with certain specifications, you can look
2 at what you have in inventory and then combine them together
3 to meet their requirements?

4 MR. WEHR: Correct. We have service centers
5 across the country that do late point assembly. So we'll
6 actually do assembly within our service centers. Sometimes
7 contractors want us to ship this most often complete, so
8 they don't lose those components. We also have a rough
9 network of over 400 reps, 67 warehouses. They also do late
10 point assembly. So it's a little bit like a Subway sandwich
11 in some instances, where they mix and match components to
12 get the configured product to ship to the end customer.

13 COMMISSIONER SCHMIDTLEIN: So when you're
14 importing from China, are you just importing the body
15 separately? Are you importing the strainer connected to the
16 body? What exactly are you importing?

17 MR. WEHR: I'm going to have -- I'm going to
18 have my sourcing manager and my GM specification of drains,
19 Scott Burnett, take that question.

20 COMMISSIONER SCHMIDTLEIN: Okay.

21 MR. BURNETT: This is Scott Burnett. We
22 import each of them individually. So we'll bring them into
23 the country, distribute them through our distribution
24 network, either or own service centers or our rep network
25 that Craig talked about, and have them assemble to order as

1 close to the customers that we can get it.

2 Because it's such an engineered product, each
3 one can be configured differently. But we're importing each
4 component or buying it domestically and getting it into
5 inventory as close to the customer as we can get it.

6 MR. O'BRIEN: Madam Commissioner, if I can
7 add, when for example the body is imported, it is dedicated
8 to be a drain. The only question -- it's not going to be
9 any other type of application. The only question is what
10 kind of grating will be applied and other features will be
11 part of it. But it's a drain body and it will always be a
12 drain body.

13 COMMISSIONER SCHMIDTLEIN: And the part of
14 this that conforms to AS -- you said it's this ASME
15 standard, right? So is this the entire fixture, or is that
16 one part of it? Yeah, in the back there, Mr. Weiss.

17 MR. WEISS: Excuse me. Max Weiss, PDI.

18 COMMISSIONER SCHMIDTLEIN: Yes, okay.

19 MR. WEISS: The answer to your question is
20 yes, it applies to the entire assembly, certification to the
21 entire assembly. Now in the case of roof drains, where
22 there's so many variations and flow through those is a
23 considered factor, each one of those variations can have an
24 effect on flow. In that circumstance, you would have a
25 multitude of certifications of a particular drain model, but

1 that drain model would have suffixes or prefixes to reflect
2 those variations.

3 COMMISSIONER SCHMIDTLEIN: And would those all
4 be ASME, or do those then --

5 MR. WEISS: Yes, ASME A-112 6.4 would be the
6 relevant standard.

7 COMMISSIONER SCHMIDTLEIN: Okay. So the other
8 category of standards, the AS -- I'm sorry, I can't keep the
9 acronym straight here. ASTM standards in no instances apply
10 to the body, the strainer, the combined fixture once it's
11 completed.

12 MR. WEISS: Except for the property
13 characteristics that may be reflected in the type of
14 connection or the particular alloy. As far as the utility,
15 the use, the application of the fixture no, those would not
16 apply.

17 COMMISSIONER SCHMIDTLEIN: But the particular
18 alloy. So the cast iron portion of the body could be
19 required to comply with an ASTM standard?

20 MR. WEISS: Not likely. That would likely --
21 well, let me rephrase that. Yes, in terms of the general
22 A-74 alloy. But that's a very broad, very common alloy.

23 COMMISSIONER SCHMIDTLEIN: Okay, okay. My
24 time is expired. Thank you.

25 CHAIRMAN JOHANSON: Commissioner Kearns.

1 COMMISSIONER KEARNS: Thank you all again for
2 being here today. I appreciate it. So looking again at the
3 exhibit we had this morning, I mean it looks to me like that
4 drain body is cast iron soil pipe fitting. I mean it looks
5 to me like, as one of the witnesses said this morning, you
6 know, the cast iron soil pipe fittings are part of the
7 skeleton of the building.

8 It looks to me like that body is part of the
9 skeleton and the grate and maybe the bucket, the things that
10 are on top of that that are made of different materials and
11 are not even cast iron, are not part of the skeleton and the
12 body. Why wouldn't we make that distinction as opposed to,
13 you know, including it all as one drain?

14 I heard what you said a minute ago about that,
15 and that's kind of the state of the industry. But if you
16 can just tell us more about that.

17 MR. WEHR: Yeah Commissioner Kearns, thanks
18 for the question. So first of all, the strainer and the
19 body are engineered to work together. So the openings in
20 the strainer and the geometry of the body make it a system,
21 and that's based on how much water needs to evacuate, how
22 many gallons per minute put in certain instances.

23 So first of all they belong together. If you
24 want to talk to a body in a fitting, this body is not
25 interchangeable with any Charlotte fitting and/or Wade

1 fitting or AB&I fitting or Smith or Watts or anyone. It's
2 not interchangeable. So therefore it's not considered a
3 fitting. It's considered an engineered product because the
4 strainer, the way the flange works, the way the body works
5 and the geometry and the way it drains is specified as a
6 system.

7 So engineers will look at different strainer
8 types, different inserts to drain and control water within
9 the body itself. So the body is as important as the
10 strainer, as a component. The bright line for me is where
11 it connects to that pipe. Oftentimes you'll walk on a job
12 and you'll see pipe stubbed up with no drains. The drains
13 go on afterwards.

14 So yes, it's considered part of a particular
15 rough-in, but it's a surface component and it's installed
16 most oftentimes after the pipe is stubbed up. So it's
17 engineered to work together would be my answer. The
18 geometry and the strainer create the flow, which creates the
19 specification.

20 COMMISSIONER KEARNS: Thank you, and did you
21 say you have 17,000 different SKUs?

22 MR. WEHR: 17,000 variations, yes.

23 COMMISSIONER KEARNS: How many -- presumably
24 not every single SKU has a different body, drain body?

25 MR. WEHR: That's right.

1 COMMISSIONER KEARNS: Do you know how many
2 drain bodies would you guess correlate to all your different
3 SKUs?

4 MR. WEHR: I'm going to have Mr. Burnett
5 answer that please.

6 MR. BURNETT: I can verify it and put it into
7 our post-hearing brief, but I think approximately 1,000.
8 Very modest, a thousand.

9 MR. O'BRIEN: And Commissioner Kearns, if I
10 could just add. This drain can be put onto plastic pipe as
11 well as cast iron pipe.

12 COMMISSIONER KEARNS: That was one of my next
13 questions.

14 MR. WEHR: And/or stainless leaders.

15 COMMISSIONER KEARNS: And just to confirm, I'm
16 sorry, go ahead.

17 MR. WEHR: I was going to say and/or stainless
18 leaders, Commissioner.

19 COMMISSIONER KEARNS: Okay, and Mr. Weiss?

20 MR. WEISS: Max Weiss, PDI. I would like to
21 add to Mr. Wehr's comments. Rather than refer to that large
22 segment that you're looking at there, the cast iron segment
23 as a body, it is more properly a sump or a bowl. In the
24 interior contours of that device, that segment, that
25 element, are usually designed in a fashion that is

1 proprietary. The angles of attack of the water coming in,
2 the angles of departure as it exits the sump all contribute
3 to its performance.

4 So it's unique in that respect, and generally
5 not interchangeable. Now within the category of roof
6 drains, there are some in which you can use a particular
7 sump and that sump won't be adaptable to various domes or
8 other types of grate adaptations. But only in the
9 circumstances in which it arrives in the same flow
10 requirement parameters.

11 COMMISSIONER KEARNS: Okay, okay. Thank you,
12 and I think you may have touched on this already, but I just
13 want to make sure I'm clear. So body can be attached
14 directly to a pipe without any fitting between the two?

15 MR. WEHR: In this instance with this gasket,
16 it pushes over pipe and connects. The delineation is the
17 gasket separating the drain body from the pipe. It can push
18 fit. It has to complete a system in a non-leaking system.
19 So a drain waste system and vent system requires inlets.
20 This is an inlet fixture.

21 COMMISSIONER KEARNS: Okay, and then on
22 pricing. There was some discussion of how the pricing for
23 drains is very different from the pricing for fittings. But
24 how much of that is due to material differences, differences
25 in costs and materials?

1 MR. WEHR: It's primarily based on how the
2 product is configured, the size of the configuration and the
3 types of material used. So when you make up a drain,
4 whether it's four, six or eight inch, the size of the drain,
5 the type of strainer that's used, the amount of suffix of
6 accessory that's put upon it, it all rolls up to a list
7 price.

8 COMMISSIONER KEARNS: Okay.

9 MR. WEHR: The other piece, and I'll take the
10 opportunity on price. There was a lot of discussion around
11 not having the ability to have price increases. We've had
12 annual price increases for the last three to four years.
13 We've earned more price year over year. So we have had no
14 issue with price. Quite frankly, Zurn is the leader in
15 price. We traditionally lead price increases, and we
16 traditionally lead market price.

17 COMMISSIONER KEARNS: Mr. Tharp, you said a
18 while ago that you would never consider Charlotte when
19 purchasing a drain. But didn't we hear this morning that
20 Charlotte makes some drains for Zurn? If that's right, then
21 I mean isn't there more of an overlap there than --

22 MR. THARP: Well where the sourcing that they
23 would get their drains isn't something that I normally would
24 know. But as far as their catalogues and the things that
25 they market to me, they use representatives, local

1 representatives, manufacturing reps.

2 Those people are selling us on the advantages
3 of whether it's quiet, fireproof and so on. But they've
4 never marketed, in my 42 years, anything that had to do with
5 drains. I mean it may be in there, but it isn't anything
6 that we've ever -- they've ever said oh, look at what we
7 have. Look at our new. It's never been a discussion. It's
8 just been the cast iron fittings and pipe.

9 COMMISSIONER KEARNS: Okay, and there's been
10 some talk, I'm not sure who on this panel would be most
11 familiar with this, but some discussion this morning about
12 how some building codes have been switching and have been
13 allowing more plastic pipe fittings.

14 When that's not the case, when a cast iron
15 fitting is required, is it required that the drain be cast
16 iron, in particular the body of the drain? Does it have to
17 be cast iron, or could it be made with plastic if the pipe
18 is required to be cast iron?

19 MR. WEHR: I would say in my experience, most
20 oftentimes cast iron goes with cast iron pipe, and you see
21 plastic drain bodies entering into the market with plastic
22 pipe. I'm sure there is an overlap, but in my experience
23 it's traditional materials go together.

24 COMMISSIONER KEARNS: That may be in practice
25 how it is, but do you know is it required in terms of the

1 building code? If it says that the fittings and that the
2 pipe itself must be cast iron, does that necessarily mean
3 that the drain or at least the body of the drain needs to be
4 cast iron? Do you know?

5 MR. WEHR: That's a great question. I can get
6 back to you with that.

7 COMMISSIONER KEARNS: Okay.

8 MR. WEHR: And/or I can defer to Jim, if Jim
9 would have an answer relative to what he's seen in building
10 code in his construction --

11 MR. THARP: Usually the engineer determines
12 the specification. If he allows for PBC in one section
13 because it's a completely different section or cast iron, if
14 he allows for that in the drainings, waste and vent, in
15 another section he'll talk about drains and he'll usually
16 have the cast iron type of drain put in there.

17 Now there are opportunities and have been more
18 since the recession, for value engineering, where they're
19 looking for dollars. They're looking for some savings. We
20 might offer a PBC equivalent if we felt like there were
21 savings that we wanted to pass onto them, because it was a
22 large number of drains and they could capitalize on some
23 savings there.

24 But otherwise we would normally keep it the
25 way it was specified by the engineer unless.

1 COMMISSIONER KEARNS: Uh-huh, okay. Go ahead.

2 MR. WEHR: Commissioner Kearns, I'd like to
3 restate, this Neo-Lock gasket on cast iron fits both plastic
4 and cast iron. So about 40 percent of what we sell is this
5 type of gasket. I'm not sure of the percentage that goes on
6 the plastic versus iron, but it does fit both. So there are
7 iron drains used on plastic, but I can get more clarity on
8 the code.

9 COMMISSIONER KEARNS: Right, thank you.
10 That's my real question is regardless of what happens in
11 practice, you know, does the building code tend to require
12 cast iron from both. Mr. Weiss, did you --

13 MR. WEHR: We'll put that in our post brief.

14 COMMISSIONER KEARNS: Yeah, that would be
15 great. Thank you. Mr. Weiss, did you have something to
16 add?

17 MR. WEISS: Yes. Max Weiss, PDI. It's
18 correct that the specifying engineer sets the parameters
19 largely, not the code. The code will have a general
20 specification or requirement requiring say Schedule 40 for a
21 particular type of pipe. It's only in unique circumstances
22 such as acid waste or something in which they specify a
23 material.

24 COMMISSIONER KEARNS: Okay, my time is up.
25 Thank you.

1 CHAIRMAN JOHANSON: I'd again like to thank
2 you all for appearing here today. I'm looking at page three
3 of the Zurn Industries' brief, and towards the bottom, about
4 three or four lines from the bottom, you all write that
5 "U.S. producers of drain fixtures include companies such
6 as," and then you list some companies and those are
7 proprietary, and you note that those are identified in
8 Zurn's U.S. purchaser questionnaire at Question 24.

9 You go on to write that these U.S. drain
10 fixture producers have shown no interest in this case. Have
11 you all by chance contacted these producers? Do you know
12 why they have not shown an interest in the investigation?

13 MR. O'BRIEN: Well, let me defer to see if
14 anyone at Zurn has contacted them. All we know is they
15 haven't shown up personally.

16 CHAIRMAN JOHANSON: Okay. You just know
17 they're just not here.

18 MR. BURNETT: We have not contacted them. So
19 like in the example of one of our domestic foundries,
20 they've told us that we have capped out on the percentage
21 that they would like for us to have of their business. So
22 that they don't have all of their eggs in the proverbial
23 Zurn basket. So they haven't had interest in it, and the
24 others haven't as well, at this point.

25 CHAIRMAN JOHANSON: But they're aware of the

1 investigation?

2 MR. BURNETT: I'm not sure if they're aware of
3 the investigation.

4 CHAIRMAN JOHANSON: Okay. It just seems
5 interesting that we haven't heard anything from them. Okay.
6 Moving on, I think we heard this earlier, but I just wanted
7 to clarify with you. How and when were you -- did you all
8 become aware that drains were included in the scope of the
9 investigation?

10 MR. O'BRIEN: Mr. Chairman, it was after the
11 Commerce Department's preliminary determinations, and some
12 time after, and I'm putting it in the March-April time
13 frame. CBP, Customs and Border Protection, took the
14 position with some PDI member that the drain imports should
15 be included within the -- within the deposit requirements
16 of the preliminary determination.

17 That was the first -- we, Zurn, then heard
18 from that member, and that was the first time. So it's in
19 the March time frame that we became aware of -- that there
20 was a possibility that this case could apply to the imports
21 of drains.

22 CHAIRMAN JOHANSON: Okay. So I guess that
23 explains why you all were not here at the preliminary stage.

24 MR. O'BRIEN: It does, Mr. Chairman.

25 CHAIRMAN JOHANSON: Okay. Okay, thanks.

1 Could you all please describe the pricing schemes for drain
2 fixtures and the cast iron soil pipe fittings and the
3 differences between them?

4 MR. WEHR: Can I comment on the drain side?

5 CHAIRMAN JOHANSON: Sure.

6 MR. WEHR: On the drain side, it's based on
7 list price.

8 MR. BURCH: Mr. Wehr, can you pull your mic
9 up?

10 MR. WEHR: Oh, sorry. That's a couple of
11 times now. On the drain side, we do have list prices and
12 they use the list price multiplier. So basically if it's a
13 \$100 list and it's a .50 multiplier it's \$50, similar in
14 thought to the Petitioner.

15 Where the differences occur is if we're highly
16 levered in specifications, where we have very strong specs
17 here, and it's also based on how strong our specs are in the
18 market and how -- also based on the size of a project, is
19 typically how we price the drains.

20 CHAIRMAN JOHANSON: And what do you mean by
21 the "spec share"?

22 MR. WEHR: So traditionally if we're in the
23 specifications and we have a very strong position in those
24 specifications, our products are preferred, then we have the
25 ability to, you know, have a stronger brand preference. And

1 also the project size bear out, and that's how we price our
2 projects.

3 CHAIRMAN JOHANSON: Okay, and again you all
4 are stating that these are -- that the cast iron soil pipe
5 fittings are a commodity product and yours is more
6 specialized, a mixed and matched type of process; is that
7 correct?

8 MR. WEHR: Yeah. Our prices vary from job to
9 job and type of job and type of drain. So you know, it's
10 different pricing and it's different pricing at regional
11 levels as well. So we don't get a standard multiplier
12 because it's a non-stock product.

13 CHAIRMAN JOHANSON: Okay, thanks. Could you
14 all please explain how the underlying products and the
15 Commission's findings in Certain Aluminum Extrusions from
16 China, which is cited in your brief, how these are relevant
17 to the investigations? You see that as precedent I assume?

18 MS. STREATFIELD: We do, Chairman Johanson,
19 and the main reasons are that in that case, the Commission
20 and Commerce looked at finished heat syncs in the context of
21 a very general scope order that covers aluminum extrusions,
22 as you know very well. Because of a lot of key features and
23 with heat sinks, features like high product differentiation,
24 frankly a price differential that tied directly to these
25 additional features and the specifications and the wide

1 variation, they're -- those factors affected things like
2 customer perceptions and distribution channels, and that
3 resulted in a combined treatment as a separate like product.

4 CHAIRMAN JOHANSON: Okay. Can you all address
5 this in your prehearing brief? If you could elaborate it
6 further in your post-hearing brief, I'd appreciate it.

7 MS. STREATFIELD: Sure. I would be happy to
8 do that.

9 CHAIRMAN JOHANSON: Okay. Thank you, Ms.
10 Streatfield. Petitioner alleges that the majority of
11 purchasers report that the availability of epoxy-coated
12 product is not an important purchasing factor, and that only
13 one firm reported the availability of epoxy-coatings as a
14 top three purchasing factor, as opposed to 15 who reported
15 price as a top factor, and this is all page eight of the
16 Petitioners' brief.

17 In addition, Petitioners claim that only three
18 out of 22 purchasers reported that their customers required
19 epoxy-coated fittings. Could you all please respond to
20 these characterizations of the record put forward by the
21 Petitioners?

22 MR. McQUILLAN: Yeah. So number one,
23 epoxy-coated cast iron soil pipe is a very --

24 MR. BURCH: Can you please identify yourself?

25 MR. McQUILLAN: I'm sorry?

1 MR. BURCH: Can you please identify yourself?

2 MR. McQUILLAN: I'm sorry. Pat McQuillan,
3 National Sales Manager, New Age Casting Company.
4 Epoxy-coated cast iron soil pipe in the United States in a
5 new product line. It has been taken from zero knowledge,
6 zero concepts by the engineering community here in the
7 United States, the building owner community, the contracting
8 community, the distribution community to a million dollar
9 plus product line.

10 In working with these engineers all across the
11 country, and many of these firms are within blocks of this
12 location, they are very conservative on making changes. The
13 epoxy-coated product must be explained thoroughly to all
14 parties involved, not just the engineers but the
15 contractors, the building owners, the distributors and
16 anyone else who is in the construction chain.

17 So it's a very slow and deliberate process.
18 With this, yeah, it is an extremely long and arduous process
19 to get epoxy-coated cast iron oil pipe into specifications
20 for the correct application. But it has been a very
21 successful venture for us. Is it slow? Yes, extremely
22 slow. But it's been something that has differentiated New
23 Age Casting Company from the Petitioners from Day 1.

24 For example, Massachusetts Institute of
25 Technology will, in their current building projects, will

1 not accept any of the traditional cast iron oil pipe
2 products that are marketed by the Petitioners, based on
3 performance. It has nothing to do with any other factor.
4 Massachusetts Institute of Technology, the preeminent
5 technological institution in the world, demands
6 performance. All other factors are not an issue. It's a
7 very, very slow process.

8 CHAIRMAN JOHANSON: Mr. McQuillan, could you
9 just briefly discuss some of the performance issues?

10 MR. McQUILLAN: I would be happy to do that.

11 CHAIRMAN JOHANSON: I don't recall the exact,
12 the reasons why MIT would be so --

13 MR. McQUILLAN: Thank you for asking.

14 CHAIRMAN JOHANSON: --interested in this
15 product.

16 MR. McQUILLAN: Thank you for
17 asking. So the European Standard EN-877, mandates that all
18 epoxy-coated cast iron soil pipe meets or exceeds specific
19 performance criteria. These performance criteria include,
20 but are not limited to, chemical resistance testing.
21 Epoxy-coated cast iron soil pipe, based upon the EN 877
22 standard is submitted in sulfuric acid at a pH of 2,
23 ambient temperature for 30 days.

24 Our Petitioners' products wouldn't last hours
25 or minutes in sulfuric acid at a pH of 2 for 30 days. Along
with that, epoxy-coated cast iron soil pipe and fittings are

1 submitted in sodium hydroxide at a pH of 12 for 30 days at
2 ambient temperature. Sodium hydroxide, commonly known as
3 lye will, if you put your bare finger into a bucket of
4 sodium hydroxide, a pH of 12 will eat through all epidermis
5 and dermis, all muscle tissue, cartilage, ligament,
6 eventually dissolve your fingernails and all bone tissue.

7 That is significantly different than
8 traditional cast iron soil pipe fittings that you are
9 observing on the table up front. Along with that, New Age
10 Casting Company has tested epoxy-coated cast iron soil pipe
11 to hundreds and hundreds and hundreds of common liquids,
12 materials, mixtures, corrosives, chemicals, detergents found
13 all throughout the United States commercial construction
14 buildings.

15 Chemicals as simple as Coca-Cola, in the Cast
16 Iron Soil Pipe Institute Handbook, the traditional cast iron
17 soil pipe fittings that you see up in front are good on the
18 acid side down a pH of 4.3. Does anyone, any of the
19 Commissioners know what the pH of Coca-Cola is?

20 It's well beyond 4.3. Vinegar, red wine,
21 soapy water, common chemicals that you -- or liquids that
22 you find in your refrigerator at home are not intended for
23 the product that you see up there. It's based on
24 performance.

25 New Age epoxy-coated cast iron soil pipe

1 manufactured to EN-877 also is tested to 203 degree
2 Fahrenheit liquid. As a company, we test our product to 250
3 degree steam. Now it's not meant for pressurized
4 applications, but we have done that for certain institutions
5 across the United States.

6 We also test to make sure that the epoxy coating
7 adheres properly to the cast iron. We also test to make
8 sure that the epoxy coating can be -- is compatible with
9 other coatings.

10 If the building owner like across the street
11 where the pile driver is going chooses to paint the exterior
12 of the epoxy-coated pipe purple, go for it. Absolutely.

13 If you look at any of the New Age literature,
14 you will see all of these specific performance criteria for
15 EN-877, not to mention that epoxy-coated cast iron soil pipe
16 has a 10-year warranty.

17 I challenge you, I challenge you, find another
18 cast iron soil pipe product out there.

19 CHAIRMAN JOHANSON: So the bottom line is you
20 have a -- what you would characterize as a superior product?
21 And then I need to move on to --

22 MR. MCQUILLAN: The quick answer is yes, but I
23 would encourage you to go to some of these institutions
24 across the United States that demand only epoxy-coated cast
25 iron soil pipe like Children's Hospital of Philadelphia or

1 Prince George Hospital here in the D.C. area.

2 CHAIRMAN JOHANSON: Okay, thank you, Mr.
3 McQuillan.

4 Commissioner Broadbent?

5 COMMISSIONER BROADBENT: Thank you. Mr.
6 McQuillan, so that very sort of level of performance or
7 withstanding, you know, strength or whatever that your pipe
8 is capable of doing, is this -- are there -- this must be a
9 pretty specialized use for it, because the other pipe has
10 been doing pretty well in most uses; is that correct?

11 MR. MCQUILLAN: No, no, I disagree with that
12 premise. There have been a number of changes in the
13 commercial construction industry in the past 30 years. And
14 it's very important to understand these differences.

15 Since 1992, the U.S. government has mandated
16 that all commercial buildings like this drastically decrease
17 the amount of water that's going through the supply side.
18 When you flush the water closet or urinal, or when you use a
19 lavatory to wash your hands, the flow rate of the water has
20 drastically reduced since 1992 as mandated by the United
21 States government.

22 Typically, prior to 1992, a water closet would
23 flush three, four, five, six gallons of water per flush.
24 The maximum allowable today is 1.6 gallons.

25 Now what in the world does that have to do with

1 the DWV side where our product is included? Well, because
2 there's less water, all of that bad stuff stays in the cast
3 iron soil pipe longer and decays. So it's not just the
4 fluids that are decaying the product at an accelerated rate,
5 but the gases.

6 In many cases, when there is organic decay in
7 these drain lines, it's the methane and the hydrogen sulfide
8 gases that are more corrosive than the fluids. And it's a
9 result of the mandate by the United States government.

10 So it's not an apples to apples thing. If you
11 look at the situation 50 years ago, the amount of water
12 going through the DWV systems solved many, many problems.

13 COMMISSIONER BROADBENT: Right.

14 MR. MCQUILLAN: We don't have that luxury now.

15 COMMISSIONER BROADBENT: Do you have any
16 academic articles or scientific articles you could put on
17 the record --

18 MR. MCQUILLAN: We have documents --

19 COMMISSIONER BROADBENT: -- kind of comprising
20 the new issue that we have --

21 MR. MCQUILLAN: -- generated by New Age personnel
22 that get into this -- all of these different situations, the
23 change in the construction codes, and the allowable water
24 usage in commercial buildings like this, yes, we do.

25 Again, I would highly encourage this panel to

1 seek out those institutions that demand epoxy-coated cast
2 iron soil pipe and why they demand it.

3 COMMISSIONER BROADBENT: Okay.

4 MR. MCQUILLAN: Be happy to provide any of those
5 documents.

6 COMMISSIONER BROADBENT: Yeah, anything you can
7 put on the record that would be sort of objective
8 assessments of the new problem created by the regulations,
9 that would be good.

10 Okay, for New Age, excuse me, in the preliminary
11 phase of this investigation, you allege that the Cast Iron
12 Soil Pipe Institute is always changing the standards needed
13 to achieve A74, A88, CISPI 301. Can you elaborate on this
14 more? We heard this morning that subject imports are
15 readily interchangeable even in the same projects?

16 MR. SINGH: Bik Singh, New Age Casting. Yeah,
17 so I can definitely expand on that further. I think in the
18 preliminary, what I was referring to was the different
19 changes that were added in the AO4 committee that Bo Singh,
20 my father, was involved in, like the radiation gateway.
21 That was added in to kind of form as a hurdle for the import
22 manufacturers.

23 We were before able to use a handheld giga
24 counter to check the radiation of the raw materials. And
25 again, just these little things are added with really no

1 substance of improving the quality of the product, just to
2 kind of serve as hurdles for us and the radiation gateway
3 drive through is an example of that.

4 You had two questions. I'm sorry, what was the
5 second one you had?

6 COMMISSIONER BROADBENT: On whether the
7 petitioners were saying that subject imports are readily
8 interchangeable even in the same project.

9 MR. SINGH: Perfect, yeah, that's a great
10 question. Bik Singh, again, New Age Casting. So per
11 project, the contractor, the end user who the distributor
12 sells to will submit on a manufacturer. So typically, just
13 depending on the contractor relationship with his
14 distributor, he could submit Tyler, Charlotte, New Age,
15 AB&I. It could be New Age Black. It could be New Age
16 Epoxy.

17 Also depending on the engineering
18 specifications, he will submit accordingly. So if a
19 contractor submits New Age, our black cast iron pipe
20 fittings, they will use our New Age cast iron soil pipe
21 fittings. If he submits Charlotte, he's going to use
22 Charlotte. They're not going to really mix it at that
23 level.

24 Now just to add, though, they are all
25 manufactured to the ASTM 888 standards, and speak 301

1 standards. So from a -- I guess from a -- can they be --
2 work well next to each other? Of course they could. That's
3 a reason those standards are in place. It is a
4 commodity-based product.

5 However, a contractor who has submitted a brand
6 won't particularly mix it on the project.

7 COMMISSIONER BROADBENT: Okay. Are you aware of
8 any distributor that opts to supply both imported and
9 domestic fittings and forego the benefits of the loyalty
10 programs offered by the domestic industry?

11 MR. MCQUILLAN: Pat McQuillan, New Age Soil
12 Pipe. Of all of the commercial plumbing wholesalers across
13 the United States, I can think of two.

14 And I would also like to add that of those two,
15 they only participate with New Age epoxy coated cast iron
16 soil pipe, which is a totally separate and distinct
17 performance standard and application.

18 COMMISSIONER BROADBENT: Okay. Aside from the
19 limited instances of epoxy coating, why would someone choose
20 fittings from China instead of domestic product for reasons
21 other than price?

22 MR. SINGH: Bik Singh, New Age. So there's a
23 lot of things that we offer our distribution network and our
24 partners in the industry as far as the way we package. So
25 we could package a job site for a storm, vent, garage, floor

1 1, floor 2, ask for the specification requirement of the end
2 user, which actually helps in the cost of the labor.

3 As mentioned earlier, you know, labor's about 50
4 percent and 50 percent is a product cost. So there are a
5 lot of advantages in using the New Age product and our
6 packaging capability.

7 In addition to that, because of our -- we don't
8 have the largest distributors as our partners. We also ship
9 directly to job sites to really help be a good partner to our
10 distributors, who don't have the, you know, the large boom
11 trucks that can make the large deliveries. We offer that
12 service directly from New Age.

13 MR. MCQUILLAN: May I add to that?

14 COMMISSIONER BROADBENT: Uh-huh.

15 MR. MCQUILLAN: Thank you, Pat McQuillan, New
16 Age Soil Pipe. In addition to what Mr. Singh mentioned,
17 it's also important that the panel understands that we have
18 proudly taken specifying engineers from all over the country
19 to our foundry in China. We've done this for over four,
20 five years now. Dozens and dozens of engineers. We
21 specifically targeted those engineers who have been to
22 domestic foundries because we are demonstrating quality from
23 the raw material.

24 The fact that we use pure virgin pig iron as our
25 raw material is a significant difference and a major time

1 savers to the contracting community. The time savings is
2 how they cut the pipe and the quality of the cut,
3 significantly different than that of scrap iron.

4 Along with that, all of our coatings, whether
5 it's the bituminous asphalt coating that you see on the
6 table there, or our epoxy coating is sprayed on at a high
7 velocity, penetrating any porosity, any micro fissures or
8 any impurities in the alloy itself. So yes, there are
9 significant differences in all phases of the product.

10 COMMISSIONER BROADBENT: Can you supply
11 instances for the record in which despite subject import
12 prices being lower than domestic prices, purchasers still
13 choose domestic product?

14 MR. MCQUILLAN: That will go in New Age soil
15 pipe. Most recently, yes. University of Illinois Champaign
16 Urbana campus, dating back about three or four years ago,
17 two major, major projects involving hundreds and thousands
18 of dollars of cast iron soil pipe.

19 One project was the Ikenberry dormitory complex
20 at Champaign Urbana complex. The other project, which was
21 about the same time frame was the basketball arena. I think
22 it's known as the State Farm Assembly Hall at the University
23 of Illinois. We're talking about 3-, \$400,000 worth of cast
24 iron soil pipe to these two projects. Those two projects
25 were specified by an engineering firm in Rock Island,

1 Illinois, formerly known as KJWW, currently known as IMEG,
2 I-M-E-G.

3 The second project was specified by a Chicago
4 firm in the West Loop right near union station, I know him
5 very well. Environmental Systems Design, ESD. I'd be happy
6 to put you in contact with the engineers that worked on
7 those projects and the specifiers who put their names on
8 those documents.

9 Just recently, maybe two months ago max, there
10 was an additional project at the University of Illinois. It
11 is called the African-American History Museum. This project
12 was specified and engineered by a firm in St. Louis,
13 Missouri called Rawson Barzini.

14 Hundreds and thousands of dollars' worth of New
15 Age product is installed all throughout the University of
16 Illinois campus, but Rawson Barzini determined that New Age
17 cast iron soil pipe was not worthy of the University of
18 Illinois.

19 COMMISSIONER BROADBENT: Okay, thank you.

20 CHAIRMAN JOHANSON: Commissioner Schmidtlein?

21 COMMISSIONER SCHMIDTLEIN: Okay. I want to make
22 sure I understand some earlier testimony with regard to the
23 nature of the drain versus the fitting. And I thought I
24 heard you say, so correct me if I'm wrong, that the body,
25 that's what you're importing these things separately, the

1 body and the strainer.

2 The body is not used as a fitting in any other
3 way unless or for any reason being attached to a cast iron
4 soil pipe unless it has a strainer attached to it to be used
5 as a drain. Is that right?

6 MR. WEHR: The only intention of the body is for
7 a drain. It's not intended to connect soil pipe, that's
8 correct.

9 COMMISSIONER SCHMIDTLEIN: Okay. So and just as
10 an aside, has customs taken the position that the strainer
11 is also subject to the order?

12 MR. WEHR: Not that I'm aware of.

13 COMMISSIONER SCHMIDTLEIN: Not that you're aware
14 of, but it's the body.

15 MR. WEHR: The body, correct.

16 COMMISSIONER SCHMIDTLEIN: Okay. So I guess
17 this could be answered by the petitioners as well in the
18 post-hearing. If the Commission were to find that this is
19 an intermediate product, this is essentially an unfinished
20 fitting, like putting aside the argument of whether or not
21 it's a fitting, let's assume for the sake of argument that
22 this is an intermediate product, what would that do to the
23 analysis, right, in terms of being within the scope of this
24 order? And --

25 MR. O'BRIEN: We'll certainly address that.

1 COMMISSIONER SCHMIDTLEIN: -- I would invite you
2 to respond to that as well. Okay. I think this was covered
3 in the testimony, but if not, I will throw the question out
4 there. Can somebody talk about the pricing of drain
5 fixtures versus other fittings and how it differs?

6 MR. O'BRIEN: Yes.

7 COMMISSIONER SCHMIDTLEIN: Since we don't have
8 any pricing data on that.

9 MR. WEHR: I can answer that. So drains do have
10 a list price based on the configuration of the drain. The
11 drains are priced based on a list and discount and also
12 based on the project size.

13 Pricing may vary dependent upon how strong the
14 specifications in that given geography for our product.
15 That's how we create demand.

16 COMMISSIONER SCHMIDTLEIN: Uh-huh.

17 MR. WEHR: And that's how we control price.

18 From a pricing aspect, we've had annual price
19 increases every year. Our brand of drains sells
20 traditionally higher than our competitive set and we've been
21 able to get price year over year.

22 COMMISSIONER SCHMIDTLEIN: And who are your main
23 competitors?

24 MR. WEHR: So my main competitor is on the
25 table, JR Smith.

1 COMMISSIONER SCHMIDTLEIN: Okay.

2 MR. WEHR: Also, Joe Sam, Myfab, and Watts.

3 COMMISSIONER SCHMIDTLEIN: Okay. And in your
4 view, has demand generally gone up over the last three years
5 for drains?

6 MR. WEHR: Yes, demand increases with
7 non-residential construction. So we've enjoyed a nice
8 growth pattern.

9 COMMISSIONER SCHMIDTLEIN: Year over year.

10 MR. WEHR: Year over year, as well as we've been
11 able to beat that growth pattern in both volume and price.

12 COMMISSIONER SCHMIDTLEIN: Okay.

13 MR. WEHR: So we have a good industry.

14 COMMISSIONER SCHMIDTLEIN: Okay. Can you talk a
15 little bit about the production process and the equipment
16 that's used to make specifically the body? Is there an
17 overlap there with regard to fittings?

18 MR. WEHR: So -- it's Craig Wehr. I will speak
19 to the best of my ability. I'm not the foundry operator,
20 but the equipment used in our foundry, we had a Disa -- two
21 Disamatics. We had a Hunter machine. We had a Diddion
22 Tumbler and a sand system.

23 So some of the equipment used for the cast iron
24 soil pipe and fittings are similar, but what has caused the
25 problem for us, why we can't single source from one domestic

1 U.S. foundry is the complexity and the size.

2 So traditionally on a Disamatic, you want to run
3 as many fittings as you can and not have to change your
4 tooling. Every time you change your tooling and do short
5 runs, it caused your costs to go up. So because of the
6 drains and the variability of the mix coming through, it
7 hasn't been conducive for a foundry to accept all of our
8 product.

9 Also mentioned earlier by Charlotte Pipe, there
10 are technical differences in our patterns relative to the
11 equipment that they have and therefore, it wasn't
12 necessarily a fit for manufacturing.

13 So we do use domestic sourcing when we can and
14 where it makes sense, but we also globally source based on
15 the product.

16 The category's been around from 1900. Some of
17 the products haven't changed since 1900, which are very
18 large patterns. And there's still a heavy demand for that
19 particular product configuration. So I hope that answers
20 your question.

21 COMMISSIONER SCHMIDTLEIN: Uh-huh.

22 MR. O'BRIEN: Commissioner Schmidtlein, if I
23 could just add, the -- I believe it was Mr. Simmons'
24 testimony from Charlotte earlier this morning describing the
25 reasons that Charlotte declined Zurn's business was based on

1 technical considerations.

2 COMMISSIONER SCHMIDTLEIN: Uh-huh.

3 MR. O'BRIEN: It was not a price-based
4 determination. It was very much as Mr. Wehr just described.

5 COMMISSIONER SCHMIDTLEIN: Uh-huh. Okay. All
6 right, I have no further questions at this time. Thank you.

7 MR. O'BRIEN: Thank you.

8 VICE CHAIRMAN JOHANSON: Commissioner Kearns?
9 I'm sorry, commissioner -- yes, Commissioner Kearns?

10 COMMISSIONER KEARNS: So I think this may be my
11 last question about drains, but no promises. Okay, so we
12 heard this morning how the body of a drain, yeah, body of a
13 drain can be made on the same equipment and with the same
14 employees as other cast iron soil pipe fittings and that
15 that was the case in Tyler and so forth.

16 My question is given that I'm -- the body seems
17 to be kind of this in my mind, a bit of gray area, because
18 it looks a little bit like cast iron soil pipe fittings, but
19 it's part of a drain.

20 Can the body and the other components of the
21 drain, such as the great, can those be made on the same
22 equipment and with the same employees?

23 MR. WEHR: They cannot. So typically, the
24 strainer and/or whether it's cast iron and/or that body take
25 different types of equipment. And I think if you look at

1 the drain, it's all one color, right, versus a fitting. So
2 they do belong together, but it's different equipment
3 primarily. And I'll let Scott Burnett answer that as well,
4 as he is my operations leader.

5 COMMISSIONER KEARNS: Okay, I think Mr. Weiss
6 wanted to chime in, though.

7 MR. WEISS: Max Weiss, PDI. In the context of
8 the ASME standards certifying roof drains, floor drains, and
9 trench drains, there's a wall thickness requirement. The
10 wall thickness requirement is significantly thinner in those
11 projects -- products rather than cast iron soil pipe.

12 Therefore, the casting process is significantly
13 different as is the curing and molding and so on. It's --
14 it's more precise requirement than is required for cast iron
15 soil pipe and fittings.

16 COMMISSIONER KEARNS: Okay, thank you. Mr.
17 Singh, you had mentioned a moment ago that the U.S.
18 producers have not been increasing their prices. And I
19 think they agreed with that this morning. Why aren't they
20 increasing their prices, because you know what we -- we'll
21 hear -- what we have heard from them is they haven't
22 increased their prices because the subject import prices
23 are so much far below their prices, and that they aren't
24 able in order to compete with imports, they're not able to
25 increase their prices. So what's your view as to why they

1 won't increase their prices?

2 MR. SINGH: Bik Singh, New Age. Great question.
3 Again as mentioned earlier, I think that it's an artificial
4 way to keep our selling price lower, so we could fall I
5 guess attrition to this anti-dumping case.

6 So we're not able to actually raise our prices,
7 which would have -- if we had subsequent list price
8 increases in the last three years, our selling prices as an
9 industry would be roughly about 15 percent higher. So we
10 have literally eaten that 15 percent while our costs have
11 shot up accordingly based on raw materials, transportation,
12 the exchange rate, et cetera.

13 COMMISSIONER KEARNS: Are you saying they're
14 keeping their prices low in order to force you out of the
15 market or I'm not sure what you -- what you're saying?

16 MR. MCQUILLAN: Thank you, Mr. Kearns, Pat
17 McQuillan, New Age soil pipe. The New Age casting position
18 is yes, that this -- the fact the petitioners have not
19 raised prices in four years since 2015 and will raise prices
20 on July 1st conveniently, is a four-year thinly-veiled
21 strategy to artificially create distress.

22 It is a commonly held rule in the construction
23 product industry that that firm or firms that dominate the
24 market share, such as Sloan Valve or if you look at the tank
25 type water heaters that are dominated by just a couple of

1 companies, they control pricing, very very simple. And I'm
2 sure that same rule exists for any other product or service
3 in the United States.

4 COMMISSIONER KEARNS: Okay. A question for
5 Zurn, I guess Mr. Wehr or maybe the lawyers. On page 3 of
6 your brief, I referred to this this morning, you had
7 mentioned two companies that you believe make drains in the
8 United States. And I guess my first question is you all
9 identified that -- those companies as that being business
10 proprietary information. And I wanted to understand
11 better, you know why it is that you think that's BPI.

12 And if you continue to believe it's BPI, can you
13 in your post-hearing brief give us more information about
14 those two producers, why you believe they produce these
15 drains in the United States and any other information you
16 can tell us about them?

17 MR. O'BRIEN: Yes, Commissioner Kearns. And
18 I'll say their relationship to Zurn was the issue, but
19 however, those companies are well known foundries that make
20 drain bodies. Their websites are publicly available and we
21 have no issue whatsoever with them being discussed openly as
22 foundries and producers of drain bodies because that's clear
23 from their website.

24 COMMISSIONER KEARNS: Okay. And your
25 understanding is they produce only drain bodies, not other

1 parts of the drain?

2 MR. BURNETT: Scott Burnett with Zurn, that is
3 correct.

4 COMMISSIONER KEARNS: Okay, and they only
5 produce drain bodies, they don't produce cast iron soil pipe
6 fittings as you would define that term?

7 MR. BURNETT: To the best of my knowledge, they
8 do not produce cast iron soil piping fittings.

9 COMMISSIONER KEARNS: Okay, thank you. So I'm
10 not sure who will best be able to answer this question, but
11 how would you explain the increase in monthly imports in
12 July through September of 2017? And Mr. Singh maybe, I
13 don't know.

14 MR. SINGH: Bik Singh, New Age. So I think that
15 is just the peak production in China before the winter
16 season really kicks in. So it's really not reflective 100
17 of the actual sales essentially in the marketplace, but more
18 of a production to build up our inventories and planning
19 also for the Chinese new year and shut downs for winter
20 production.

21 And to add to that was the extended closures of
22 the foundries for the environmental regulations that we're
23 facing.

24 COMMISSIONER KEARNS: Okay, but your main point
25 is that it is essentially annual, cyclical phenomenon that

1 if I -- if we look back years before, would we see the same
2 increase in years past?

3 MR. SINGH: You know, it's hard for me to answer
4 that off of the top of my head. I would say in general
5 concept, yes, I think it's gotten more heightened because of
6 the environmental regulations. So it's maybe a little bit
7 more transparent in this recent year of 2017.

8 Whereas before, the environmental regulations
9 weren't as regulated and wasn't as much of a concern for our
10 production capability.

11 COMMISSIONER KEARNS: Okay, and one other point
12 on the environmental regulations, I mean, as petitioner said
13 this morning, if I'm remembering this correctly, they
14 pointed out that during the preliminary phase of this
15 investigation, that respondents were talking about how
16 Chinese environmental regulations were going to result in
17 sort of an immediate damper on imports from China when in
18 fact we saw an increase.

19 Would you like to respond to that? Why do we --
20 it looks like we saw an increase in imports from China
21 shortly after a prediction was made that you'd see fewer
22 imports due to Chinese environmental regulations?

23 MR. SINGH: Yeah, Bik Singh, New Age again.
24 Yeah, just my interpretation of that, I don't think it has
25 anything to do with the preliminary findings of Department

1 of Commerce. It is purely based on the environmental
2 regulations, and that it was still a good production period,
3 and there were orders that were kind of building up.
4 I think in particular he was referring to Mac Supply, who
5 was here for the initial testimony and it was more him in
6 particular and his company, not in general for New Age.

7 COMMISSIONER KEARNS: Okay thank you, and the
8 last question I think I have, you stated in your brief that
9 the petitioning companies informed PDI members that the
10 scope was not intended to capture drains. Do you have any
11 evidence on this that you could submit in your post-hearing
12 brief?

13 MR. O'BRIEN: Yeah. We will address that in
14 the post-hearing brief.

15 COMMISSIONER KEARNS: Okay, thank you. I have
16 no further questions.

17 CHAIRMAN JOHANSON: This is a question for New
18 Age. The record of this investigation suggests significant
19 under-selling, with prices for products imported from China
20 well below those for U.S.-produced products in 66 out of 78
21 instances, with margins of under-selling of up to 41
22 percent.

23 Is it your position that this pattern of
24 under-selling has not had an impact on domestic prices and
25 the overall domestic performance, and these numbers that I

1 just gave are found at page V-29 of the staff report?

2 MR. SINGH: Sure. This is Bik Singh, New Age. You know, I
3 just want to add to that. I mean I think that we're making
4 the price the focus as they determined also with the two
5 distributors that they brought. You know, they're focusing
6 on price. If price was the issue and we're underselling by
7 that much, why are we such a small segment of this market
8 share?

9 So it can't be price as the reason that we
10 don't -- if it was price, wouldn't we have 97 percent of the
11 market share or 93 percent of the market share, rather than
12 the reversal role? So you know, I just -- I want to kind of
13 pose that question back, that it's definitely not price as a
14 determining issue or factor here.

15 MR. McQUILLAN: Mr. Chairman, if I could add
16 to that. Pat McQuillan. To really build upon that, at
17 different points in the whole construction process we've
18 been told numerous times by institution owners, by
19 contractors, by engineers, hey if you don't have local
20 distribution of New Age product, I'm not going to spec you.

21 Or if a contractor offers an institution an
22 incredible deduct to go with the traditional product as
23 opposed to the New Age product, we see that happening all
24 the time. Price is just one very small component of this
25 entire process. We sell this product to four distinct

1 groups: the distributor, of course, the building owner, the
2 engineer and the contractor.

3 If any one of those four groups has the
4 slightest hesitation, we're sunk, and in the vast majority
5 of the cases, over 90 percent of the construction in the
6 United States, yeah, we're sunk, because one of those four
7 groups is going to raise their hand and say no way.

8 MR. SINGH: Bik Singh, New Age. Can I comment
9 a little bit further on pricing? Another thing that I think
10 has not been factored in from our Petitioners' account is
11 the contractor rebates. So they brought in the distributors
12 and they have the very open and transparent rebate programs
13 for the distributor.

14 But what they fail to mention is the end
15 users, the distributors' customer. Charlotte, Tyler, AB&I
16 has direct programs with these end users, and I'm not
17 talking three to four percent where it could be for certain
18 guys, and it could be as upwards of 25 percent for certain
19 contractors that I've seen.

20 So it's very important to really understand
21 the true number that was presented by the Petitioners, to
22 see if all factors were included, like the end user rebates.

23 CHAIRMAN JOHANSON: All right. Thank you Mr.
24 Singh and Mr. McQuillan for your responses. I have a
25 question for the drain producers or the drain industry.

1 Have -- and Mr. Wehr, you touched upon this, but I wanted to
2 get a bit further into it.

3 Have domestic producers refused to sell to
4 you, and if so can you submit in your post-hearing brief any
5 documentation? You mentioned problems that you'd
6 encountered before. But I was wondering, you mentioned one
7 problem time. I was wondering if it had happened at any
8 other times?

9 MR. BURNETT: Yeah. This is Scott Burnett
10 with Zurn. We can, in our post-hearing brief --

11 MR. BURCH: Can you pull your mic a little
12 closer?

13 MR. BURNETT: Yeah. This is Scott Burnett
14 with Zurn. In our post-hearing brief, we can give a couple
15 of examples where domestic foundries have turned down our
16 business because of technical issues, equipment capacity and
17 capabilities. We've frankly been unsuccessful securing
18 domestic capacity for our product. But we can provide those
19 examples.

20 CHAIRMAN JOHANSON: All right. Thank you, Mr.
21 Burnett. That concludes my questions. Commissioner
22 Broadbent?

23 COMMISSIONER BROADBENT: Thank you. This is
24 for New Age. There seems to be a disagreement between sort
25 of the theoretical and practical ability to interchange

1 imports and U.S. product. Can you speak to your experience
2 on the reality of a purchaser switching between imports and
3 domestic product, and all the factors that are involved?
4 What happens as a practical matter when purchasers switch,
5 and why are they doing it?

6 MR. SINGH: Bik Singh, New Age. Just to
7 clarify, when you mean "purchaser," are you referring to a
8 distributor?

9 COMMISSIONER BROADBENT: Well both really.
10 What's the dynamics of the products switching in and out?

11 MR. SINGH: Great question. So the distributors typically
12 align themselves with one manufacturer for cast iron soil
13 pipe fittings, as mentioned by the Petitioners. So
14 typically they will sign a rebate program, which really
15 qualifies them for loyalty for that specific manufacturer.
16 What happens is they'll stick with that manufacturer until
17 the year-end, and they'll reevaluate if, for example,
18 they're not getting the right number, they're not being able
19 to compete against another competitive distributor and they
20 feel that they're not getting the right pricing or they're
21 not getting the right service, or they're not getting the
22 right package deal.

23 When it comes to the serviceability for cast
24 iron soil pipe fittings, then they'll kind of reevaluate
25 with their outside sales team to say hey guys, okay what's

1 the plan? We're not getting our mark. When it comes to
2 cast iron soil pipe fittings what can we do? And then
3 they'll say okay, well we can go to Tyler, we can go to AB&I
4 or there's New Age.

5 There are all these different options, and
6 then they will either solicit with the local representatives
7 and get programs from these different manufacturers and make
8 a decision. You know, our competitors like Charlotte Pipe,
9 they use the leverage of plastics along with the iron
10 together for a package deal.

11 We don't have that luxury. So we are -- we
12 are solely only supplying cast iron soil pipe fittings. So
13 there's a difference to that. But the distributor is where
14 we're blocked out of, to be very honest. So a lot of the
15 leg work, like Patrick McQuillan mentioned, is on us. We
16 don't have the luxury of having the Fergusons, the Wynn
17 Wholesales, the Hajocas.

18 These are large national chains of commercial
19 plumbing distributors that are servicing these high level
20 commercial buildings. We don't have that luxury. So we're
21 working with a lot of the independent commercial
22 distributors, to really make them compete, to be able to go
23 after these projects, because they're not getting the right
24 number from our domestic competitors, because they are
25 protecting their partners.

1 So they're going to make sure that their
2 partner is getting the right price in that marketplace. So
3 you know, it's funny, you know. From here we had Pace
4 Supply. He was the largest Star Pipe distributor in the
5 country, and Star Pipe was the, you know, the one that
6 Charlotte acquired, and that's what led to the Federal Trade
7 Commission.

8 So it was funny. I recall the questions that
9 were being asked, you know. How come the distributors'
10 persona didn't change after the Federal Trade Commission
11 ruling, and where he's here with the Petitioners, and he was
12 the largest Star Pipe distributor in the country, and now
13 he's an ABI distributor and obviously very happy because
14 he's here with the Petitioners.

15 So I hope that kind of gives you guys an idea
16 of what we're facing on the distribution side, and our
17 challenges with distribution.

18 MR. McQUILLAN: If I could follow up with that, a real life
19 example? Pat McQuillan, New Age Soil Pipe. About three or
20 four years ago, a distributor, independent distributor in
21 New Orleans, Louisiana, Southland Supply, owned by the
22 Vinturella family, was a stocking distributor of New Age
23 cast iron pipe and fittings.

24 After about a year, the principals of the
25 organization, Allen Vinturella, came to New Age and just

1 said guys, I can't sell it. Can't sell it. Can't get an
2 engineer to approve it, nor could they get a university or a
3 hospital system to approve it, nor could they get any of the
4 big, medium or small contractors to take a chance with it.
5 I said Alan, do you have a good price? He's like damn good
6 price. Damn good price. But I can't sell it. We're being
7 denied all throughout the greater New Orleans, Louisiana
8 area. We experienced that in every market in the United
9 States.

10 MR. SINGH: Bik Singh, New Age, and that has
11 to do with the CISPI trademark, which they made mention of
12 earlier, that it's very, you know, non-apparent in the
13 marketplace. We differ quite a lot, because we don't have
14 that luxury of having the CISPI trademark, and we can
15 definitely show cases in our post-hearing brief of
16 rejections left and right throughout the country for not
17 bearing the CISPI trademark or being a member of the CISPI
18 club.

19 COMMISSIONER BROADBENT: Okay. Mr. Wehr from
20 Zurn, there seems to be some interplay between fittings and
21 drains, even if we find that they are separate like
22 products. To what extent has the activities of the domestic
23 fittings industry impacted the drains industry?

24 MR. WEHR: Well, it's had no bearing on our industry.

25 COMMISSIONER BROADBENT: Mr. O'Brien and Mr.

1 Snarr, if drains are excluded by Commerce before the final
2 vote on this investigation, do you oppose the order in the
3 in scope fittings?

4 MR. O'BRIEN: Commissioner Broadbent, clearly
5 drains are the primary reason we are here. That's a matter
6 of fact. But stepping back from that, we don't believe an
7 injury case has been established in any event.

8 COMMISSIONER BROADBENT: Where do you think
9 it's the weakest?

10 MR. O'BRIEN: Well, the lack of correlation
11 between volumes of import and the alleged financial
12 difficulties, to us strongly suggests that the financial
13 difficulties are caused by factors other than the imports.
14 There simply isn't any causation that we can see.

15 COMMISSIONER BROADBENT: And you think what
16 are the financial difficulties caused by? What would you
17 speculate?

18 MR. O'BRIEN: Well, there are other big
19 expenses that are noted in the staff report: capital
20 investments, the settlement, which is in -- given the
21 financials at issue, the settlement of \$30 million is quite
22 a significant amount of money.

23 I believe that is what's attributed to the
24 financial difficulties, because simply the imports have not
25 shown any impact since the beginning of the Period of

1 Investigation through the latest period. The volume is --
2 neither by volume nor by price.

3 COMMISSIONER BROADBENT: Okay. For New Age,
4 in the preliminary phase of this investigation, you took
5 considerable issue with the domestic industry's
6 anti-competitive conduct, as you mentioned, and it was
7 exercised in various forms. Was there anything in their
8 testimony this morning that you were particularly concerned
9 with regarding anti-competitive practices?

10 MR. McQUILLAN: Pat McQuillan, New Age Soil
11 Pipe. Yes. I would encourage the Commission here to
12 possibly go beyond the POI for the past ten years or so, and
13 look at the number of cast iron soil pipe firms here in the
14 United States that have been acquired and subsequently put
15 out of business, year after year after year.

16 Right off the top of my head, I probably know
17 six or seven, for no other reason than to put them out of
18 business. Not to expand capacity, but to put them out of
19 business. Now as we all know, in 2013 the FTC ruled that
20 Charlotte Pipe's acquisition of Star Pipe for approximately
21 \$19 million brought upon a couple of conditions.
22 Number one, Charlotte was ordered that the -- per the press
23 release by the Federal Trade Commission, Charlotte was
24 ordered that any non-compete agreement was null and void.
25 They were ordered to tell every one of their customers that

1 they did in fact acquire Star Pipe and put them out of
2 business. They actually show that information right on
3 their website.

4 And finally, for a period of ten years,
5 they're not allowed to purchase any other cast iron soil
6 pipe company in the United States. I'm paraphrasing the
7 press release from the Federal Trade Commission website.

8 MR. SINGH: Bik Singh, New Age. Just to
9 further add, why Star Pipe didn't get back into the business
10 I think is very simple. They netted \$19 million, they had a
11 handshake, and there's no reason for them to get back in the
12 cast iron soil pipe fittings business.

13 My second point was also brought up earlier in
14 questionnaires. They were going back and forth why no other
15 manufacturer or any other country has entered into the U.S.
16 cast iron soil pipe fittings market. I'm going to just cite
17 two examples. One is St. Cobain, which is probably the
18 largest manufacturer of cast iron soil pipe fittings in the
19 world today. They are based out of France.

20 The other is Dukher. They're based out of
21 Germany. They're probably third. They're probably behind
22 Charlotte as far as size goes. The reason they have not
23 entered into this market, in my opinion, is because of the
24 CISPI market share control that has been in place for over
25 125 years.

1 COMMISSIONER BROADBENT: Okay. All right.
2 Well, I want to thank the witnesses for being with us today.
3 I really appreciate your testimony, and I have no further
4 questions.

5 CHAIRMAN JOHANSON: Do any Commissioners have
6 further questions?

7 (No response.)

8 CHAIRMAN JOHANSON: All right. That concludes
9 the Commissioner's questions? Do staff have any questions
10 for the panel?

11 MR. THOMSEN: Craig Thomsen, Office of
12 Investigations. Staff have no questions for this panel.

13 CHAIRMAN JOHANSON: Do Petitioners have any
14 questions?

15 MR. SCHAGRIN: Petitioners have no questions.

16 CHAIRMAN JOHANSON: Okay. We will now --
17 this panel is dismissed. We will now move on to
18 Petitioners' rebuttal and closing and then Respondents'
19 rebuttal and closing.

20 I'd like to note that Petitioners have 18
21 minutes of direct and five minutes of closing for 23
22 minutes, and Respondents have 12 minutes of direct and five
23 minutes of closing for a total of 17 minutes.

24 MR. BURCH: Closing and rebuttal remarks on
25 behalf of the Petitioners will be given by Roger B. Schagrin

1 of Schagrin Associates, so Mr. Schagrin you have 23 minutes.

2 CLOSING STATEMENT OF ROGER B. SCHRAGIN

3 MR. SCHRAGIN: Thank you Mr. Chairman, members of
4 the Commission. Thank you for your patience today. It's a
5 long hearing -- they all are but we'll try to make it out of
6 here. First, a couple of overviews, let's talk about injury
7 first.

8 The United States industry and virtually all of
9 the purchasers who responded to purchaser questionnaires all
10 agreed on the interchangeability and the fungibility of
11 Chinese imported fittings and U.S. domestically produced
12 fittings. This is not surprising because they're all made
13 to the same specifications -- either ASTM specification or
14 the CISPI specification.

15 Now with that as background, Mr. Singh complained
16 to you and said, "Yeah, we all make the same specification
17 but CISPI keeps tricking us because they keep changing their
18 specs."

19 And then he used as his one example in response
20 to a question from Commissioner Broadbent, that CISPI
21 changed the specification on radioactivity testing. Well, I
22 asked the experts and they said yeah, that happened before
23 the POI, but I mean we saw this at Charlotte as they have to
24 examine their scrap. A lot of different spec groups like
25 ASTM's, CISPI, I'm sure AISI and others -- a number of years

1 ago changed their requirements to require more testing of
2 radioactivity in the products that were produced because
3 there was radioactive material getting into the scrap
4 supply.

5 This is a safety issue. You don't want your --
6 the bathroom and your kid's bathroom to have radioactive
7 cast iron pipe in it for them to get cancer from it --
8 neither do I. So I mean the idea that somehow this horrible
9 trade association is doing things like other associations
10 and requiring radioactivity testing -- that's not to prevent
11 import competition, that's a simple safety measure but it's
12 just an example of the types of issues brought up.

13 It's a lot of don't look at your record, listen
14 to us. We're going to make things up to make you believe
15 that there really isn't the ability for there to be
16 competition between domestic and Chinese product.

17 The second area is the CISPI trademark. Now very
18 few purchasers in response to the purchaser questionnaires,
19 said the CISPI trademark was important, but you heard again
20 from New Age -- "Oh, we can't compete in the U.S. market
21 because everybody -- all these engineers are requiring the
22 CISPI trademark."

23 Well the biggest west coast distributor of the
24 subject products said it's not even an issue on the west
25 coast. One of the largest New York distributors said that

1 most contractors will value engineer around that so it's
2 obviously not keeping imports out of the market.

3 The fact is imports increased over this period of
4 investigation. They increased by volume, they increased by
5 market share. Your staff report shows that imports
6 undersold the U.S. industry consistently and that the import
7 surges led to price decreases.

8 This is a very high fixed cost industry. The
9 gentleman from Zurn said that the problem they had in their
10 foundry is it's a high fixed-cost industry. So these
11 foundries have to hold on to volume or they'll get eaten up
12 by higher individual unit costs if they don't cover their
13 fixed costs.

14 In the fact even of increasing costs for their
15 raw materials, but with the prospect of losing volume to
16 imports the industry cut its prices in early 2017 and this
17 led to eventually losses for the industry.

18 Now in just kind of a side attack on the
19 industry's basic case, Mr. O'Brien says, "Well even if you
20 let our product out which I got hired to do, let me just --
21 because I'm a Respondent's lawyer, let me just try to slam
22 the domestic industry's case." You know they don't have an
23 injury case here because the only reason they lost money was
24 their settlement costs for the anti-trust case.

25 Well of course those are spread over both the

1 pipe and the fittings, but the amazing thing is those
2 settlement costs were in 2016. They were making the best
3 year look worse. They weren't in 2017 or the first quarter
4 of 2018, so it's just not the facts.

5 What's before you is a textbook injury case. Let
6 me also discuss threat and the way some of it relates to
7 injury as well. First this industry is extremely
8 vulnerable. That's clear -- it's losing money. Several
9 more 1,200 ton months like we had in September of last year
10 will probably put one or more of the member's industry out
11 of business.

12 Second, like any good officer of the court,
13 someone who practices a lot here before the ITC, we all
14 depend on everyone in these cases cooperating with the ITC.
15 And yet in spite of the best efforts of Mr. Corkran and your
16 excellent staff, most of the Chinese foundries who answered
17 your questionnaires at the preliminary conference stage did
18 not answer your questionnaires at the final stage.

19 So you only have questionnaire responses from
20 Chinese foundries that represent about one-third of Chinese
21 exports to the United States in 2017. Those Chinese
22 foundries thumb their nose at the Commission. Now what do
23 you do if you wind up having to look at threat?

24 Do you believe Mr. Singh who testified last
25 August that because the Chinese were shutting down all the

1 foundries, importers like himself couldn't obtain product so
2 there couldn't possibly be a threat at the preliminary
3 phase? Is that what you believe in the absence of
4 information about how much massive excess capacity there is
5 in China?

6 In fact, in response to the need to reduce
7 pollution in China, many foundries in China are changing
8 from floor casting. There's a lot of smoke -- they're
9 pouring the iron into the ground inside these molds to make
10 them to the same kinds of disamatics that Zurn used to have
11 and all the U.S. foundries have. So in fact in response to
12 needing to clean up their environment, many of the Chinese
13 foundries are actually becoming more productive, more
14 efficient, higher capacity foundries as they're also
15 reducing pollution which is a good thing.

16 Now let me -- let's talk about those import
17 numbers again. There's a question about how come the
18 imports went up in the third quarter of last year? Mr.
19 Singh said, "Well they always go up, you know it's because
20 of the Chinese New Year, et cetera."

21 But, at page 4-17 Table 4-8 of your staff report
22 you have 39 months of monthly imports. In the year of 2015
23 it wasn't July, August, September that were the biggest
24 months of that year. In 2016 it wasn't July, August,
25 September that were the biggest months of the year. In

1 fact, May was bigger than any of those three months.
2 October was bigger than two of the three months. December
3 was bigger than two of the three months.

4 And most importantly, November was the biggest
5 month of the year. So as was the testimony of the domestic
6 industry, it wasn't the third quarter that's traditionally
7 the big quarter. In 2016 the fourth quarter far and away
8 had the most imports.

9 And so in fact of the three years of the POI the
10 only year in which the largest quarter was the third quarter
11 was 2017. And let's face it why did that happen? A lot of
12 that was probably going on already and then they rushed in
13 this product even though these foundries were shutting down,
14 you couldn't get product. They were able to rush in a lot
15 of product before the prelim and as you know a lot of it
16 went into inventory and it was sold against the domestic
17 industry.

18 So the threat is real. The injury was real. All
19 these other side shows about how there's not competition and
20 the domestic industry did this or that bad thing and is
21 trying to tank themselves so they can do worse -- no. I
22 mean basically what we heard from the drain industry is
23 yeah, non-residential construction's going up and we're
24 doing better.

25 Why are they doing better -- because it seems

1 like for virtually every drain produced in the United
2 States, everything they sell is a mix of components that
3 they import from China. When your market is improving the
4 United States and all you do is put together things that you
5 import from China, you bet you're going to do better.

6 You know it's a pity we don't have anybody who
7 makes these strainers in the United States anymore and while
8 Zurn might say in their testimony, "Oh yeah, we source
9 domestically as well as import." You have information from
10 them, you decide on your own how much they actually source
11 domestically versus import.

12 Now let's talk about the like product issue.
13 Everyone in this case from day one has talked about drain
14 waste and vent systems. And the scope was clear that drains
15 were covered. So now you start looking at what really is a
16 drain. It's obviously not the strainer -- a lot of these
17 custom's rulings that were in the brief of the Respondents
18 -- they were about the classification of the strainers --
19 clearly products made out of the stainless steel, bronze, et
20 cetera shouldn't be classified as cast iron fittings.

21 Look at how the products are made. First of all
22 Zurn used to have a foundry. They said in their testimony
23 we had a disamatic just like Charlotte, ABI, Tyler. And
24 then somehow they say, "But these products really aren't
25 made the same way as other fittings," although they're made

1 in the same kind of foundries like the foundry they had for
2 100 years.

3 And so they are made the same way. And the fact
4 that this drain body may have a somewhat thinner wall than
5 some of these other fittings doesn't prevent Charlotte from
6 making it just about every day for Smith.

7 So there's -- these products are made out of the
8 same iron in the same way as every fitting. The questions
9 are do these drains really connect to other fittings? They
10 say, "Well these drains only connect to strainers, they
11 don't connect to fittings."

12 Charlotte didn't just make this up, they bought
13 this from a distributor. You know, this drain clearly
14 connects to this fitting and that's what happens in your
15 shower in a multi-story building. So that's not the way
16 we're going to differentiate it that well fittings don't
17 connect to other fittings, they only connect to pipe.
18 There's plenty of ways when you're changing direction that
19 fittings connect to other fittings. Sometimes drains
20 connect to other things, sometimes drains connect to
21 fittings. Sometimes drains go right into pipes -- all these
22 things interact with each other.

23 The fact is, as I mentioned earlier today, I was
24 told that Mr. Singh gets from the same foundry in China both
25 his cast iron soil pipe fittings and his drain bodies. He'd

1 have to buy these from other manufacturers in China because
2 this is a different product.

3 There was a question about are these products all
4 specialized or are any of them inventoried? So I asked the
5 two distributors as the folks from Zurn were talking because
6 they kind of gave you the impression we have 17,000 kinds of
7 drains and every time anybody is building a building they
8 notify us and we'll make one of those 17,000.

9 The fact is there's a few specialized products
10 but trust me the bathrooms in office buildings -- at least
11 in Washington, D.C. they don't differ that much from
12 building to buildings. So the distributor said, "Look we
13 inventory drains because usually builders use the most
14 popular. When we don't have what we need, companies like
15 Zurn and Smith they inventory drains and we get what we need
16 within a couple of days."

17 So don't think that cast iron soil pipe fittings
18 other than drain fittings are always inventoried and all
19 these distributors keep inventories, that somehow drains are
20 different and are super specialized made to order product
21 and aren't inventoried.

22 Once again, luckily it was clarified -- no one in
23 CISPI is asking that the strainers which represent about 85%
24 of the value of the drain be assessed with any duties.
25 CISPI members do not make these strainers. Stainless steel

1 is real expensive, so is bronze -- we just want the body
2 covered in the other kinds of fittings that are part of
3 drain systems.

4 While the customers for the drain bodies are only
5 the manufacturer of drains, the drain company's customers
6 are the same distributors as the CISPI member's customers.
7 The paces, the SOLCOs, the Ferguson's -- all of these
8 distributors of drain waste and vent products buy all these
9 products either from drain manufacturers or CISPI
10 manufacturers and then they usually ship these bodies
11 separately to the work site with the fittings and the pipe
12 and later, after the floors are completely finished, et
13 cetera, the strainers are shipped separately for the final
14 installation.

15 Finally, Zurn is kind of actually the poster
16 child in this case for injury to the U.S. industry including
17 those producing drains. When they shut down their foundry
18 in 2015, the steel workers applied for TAA and that was
19 granted in April of 2016 on the basis that the statutory
20 criteria had been met, that the shutdown of this facility
21 which was termed an iron -- a facility for the production of
22 iron casting products for water management applications had
23 been shut down because the firm had acquired from a foreign
24 country articles like or directly competitive with the
25 articles produced by the workers which contributed

1 importantly to worker group separations at Zurn Industries,
2 a subsidiary of Rexnord-Zurn Holdings of Erie, Pennsylvania.

3 Now you also heard that the testimony of the
4 representatives of Wade and I apologize again for not
5 letting the Commission know that they were an importer at
6 the outset of this case -- I'll take the responsibility for
7 that -- said that AB&I and Tyler are starting to make these
8 products like everybody else.

9 They have a lot of inventory of this product from
10 China. They all inventory a lot of these products. There
11 are inventories running out. They're starting to make to
12 make those at AB&I and Tyler. They're not going full out.
13 They're waiting for your decision in this case.

14 So if you decide that these are in, there's going
15 to be more workers at AB&I and Tyler making these drain
16 bodies. There will be more workers at Charlotte making
17 these drain bodies. Maybe Zurn will purchase more of them
18 from these other unnamed BPI manufacturers who can make
19 drain bodies.

20 You know they say they didn't want to make these
21 and no U.S. industry wants to make all the variety of the
22 hundreds of different types because it's too tough, but why
23 do the Chinese foundries have a problem with small
24 production runs -- maybe the specialized drain bodies? It's
25 probably because they get so much in Chinese government

1 subsidies that they don't care about the extra costs like
2 U.S. producers do, but that's no reason that they should be
3 allowed to import dumped and subsidized products.

4 So in closing, we urge you first to find one
5 domestic-like product that contains drains as well as all
6 other cast iron soil pipe fittings and we urge you to make a
7 finding that the industry's making these products have
8 suffered injury by reason of these imports that have
9 undersold them causing price depression and losses.

10 And I actually think if you were to decide that
11 this was a separate-like product you'd probably make an
12 affirmative injury determination on the drains as
13 separate-like product as well because it's pretty clear that
14 the U.S. industry has lost most of this business to the
15 Chinese and has not done well over the POI when the
16 principal producer of this product at the start of the POI
17 shut down their foundry.

18 I thank you very much for your time today.

19 MR. BURCH: Closing and rebuttal remarks on
20 behalf of Respondents will be given by Kevin M. O'Brien of
21 Baker and McKenzie. Mr. O'Brien you have 17 minutes.

22 CLOSING STATEMENT OF KEVIN M. O'BRIEN

23 MR. O'BRIEN: Mr. Chairman, Commissioners on
24 behalf of Zurn and PDI we thank you for taking the time and
25 attention to listen to our statements and for the

1 consideration that you'll give to our positions on this very
2 important case.

3 As has been mentioned, as we presented our
4 arguments to the Commission today we also submitted briefs
5 to the Commerce Department on whether drains should be
6 within the scope of the investigations in any case. To put
7 it mildly, this is a highly unusual situation where
8 literally one week before the Commerce Department is to
9 issue its final determination there is no clarity on what
10 the meets and bounds of the subject merchandise is.

11 Now as we step back, the possibilities are
12 Petitioner says that drains have been in the case from the
13 beginning but that immediately raised the question of why
14 wasn't the drain companies named in the Petition?

15 Why wasn't Zurn, as a largest -- if not the
16 largest importer of drains named in the Petition as an
17 importer? Indeed why weren't any of the plumbing and
18 drainage institute members named as importers in the
19 Petition as required by the Department -- by the
20 regulations?

21 Similarly, the U.S. producers of drain components
22 of which we've referred to several times today, why were
23 they not listed? So if in fact there was the intention to
24 include drains, then the Department has a woefully
25 inadequate record on drains.

1 If they -- and the alternative explanation is
2 that they weren't intended to be covered by the scope of the
3 case. It's only in the last minute since Custom's started
4 applying deposit requirements and the importers of drains
5 became aware of the situation and went to the Commerce
6 Department and Commerce reopened the record for new
7 briefing, that the Petitioners have decided let's try and
8 get drain fixtures in the case.

9 That -- whichever is the proper explanation of
10 the motives, the record is very, very inadequate with
11 respect to drain imports. What we do know is that the drain
12 imports are large. The numbers are in our pre-hearing brief
13 and this is a very big set of data. It's a very large issue
14 if they are in fact included in the decisions that have to
15 be made by the Commission.

16 We know that the drain from a pricing standpoint
17 -- the drain industry is doing very well. We know the
18 prices are rising. They've risen every year since the POI.
19 We know that the major drain competitors are Zurn, My-Fab,
20 Watts, Joe Sam, J.R. Smith and other companies that simply
21 have not been part of the record in this case to date or if
22 they have with no -- with no prominence whatsoever.

23 Now we respectfully submit that the
24 responsibility for the state of the record lies squarely on
25 the Petitioners. It's their responsibility to identify all

1 known U.S. producers. It's their responsibility to identify
2 all known importers. It is simply implausible for
3 Petitioners to claim it did not know one of its affiliated
4 companies was importing subject merchandise. That cannot
5 possibly be an acceptable explanation, nor in fact, were any
6 of the PVI members listed.

7 So we don't know what a full record on this issue
8 would show, but we do know -- and has been explained in our
9 briefs and today, that there are major differences in
10 physical characteristics, in the engineering involved, in
11 industry standards, in accessories, esthetic features, the
12 location in the construction projects, et cetera in general,
13 the physical characteristics and uses of the products.

14 The Petitioner has said and said it just a few
15 minutes ago that all the fittings are made to CISPI or ASTM
16 specs, but that's not true with drains -- at least the specs
17 for operation. The drains are made to ASME specifications.
18 There may be an ASTM spec having to do with the materials
19 but they are subject to ASME specifications, not CISPI, not
20 ASTM.

21 We heard from our witnesses that the drains are
22 distributed fundamentally differently and that in part is
23 because of the more than 17,000 skews for drain products for
24 Zurn alone -- we're not talking about the competitors.
25 We're not talking about all the skews in the drain industry

1 which naturally would be much more. That's compared to the
2 relatively very small number of skews in the fittings
3 industry which is why to a large extent they are
4 interchangeable.

5 Interchangeability is simply not -- it simply
6 just does not apply in the drain industry. We heard Mr.
7 Tharp discuss customer and purchaser perceptions from his
8 first-hand knowledge and 42-years of experience. Mr. Tharp
9 noted that drains command a higher price because they
10 require additional machining and functional parts.

11 Mr. Tharp noted that a customer would not select
12 a fitting to perform a drain fixture function or vice-versa
13 and he noted importantly that in his 42-years, no member of
14 CISPI ever has approached him to sell him drains.

15 We heard about the different manufacturing
16 requirements and it's not enough to say that you can use a
17 same or similar machine -- the point is with the thousands
18 of different skews, it is simply a different manufacturing
19 operation to be making drains than it is to be making a
20 small number of skews on high volume runs in the fitting
21 industry.

22 Finally, with respect to the Custom's
23 classifications again these are -- these are rulings made by
24 USCVP and we included some in our briefs and we'll discuss
25 that further but whether drains are imported in whole or in

1 kit form, Custom's has looked at several different kinds of
2 drains and they are in a different tariff classification for
3 a reason.

4 Now in the event that the Commission agrees that
5 drains should be considered separately from fittings, then
6 there has been no injury case whatsoever made and there
7 simply -- there's no data, there's no substantial evidence
8 supporting that importations of drains have caused injury to
9 any U.S. producer. Indeed the record is characterized by
10 the absence of evidence not the evidence itself.

11 And for -- with respect to the fittings as a
12 whole as we mentioned, we don't believe an injury case has
13 been made for the reasons stated that while the imports have
14 been relatively stable, relative no very large differences
15 over the period of investigation, the large market share and
16 the variation in the domestic industry is due to reasons
17 other than imports.

18 So in summary, we again thank the Commission. We
19 request that you agree with us on our like product position
20 and in any event, find that there's no injury or threat
21 caused by imports of the subject merchandise, thank you.

22 CHAIRMAN JOHANSON: I will now proceed with the
23 closing statement. Post-hearing briefs, statements
24 responsive to questions and requests of the Commission and
25 corrections to the transcript must be filed by July 9th,

1 2018.

2 Closing of the record and final release of data
3 to parties occurs on July 27th, 2018 and final comments are
4 due on July 31st, 2018 and with that this hearing is
5 adjourned.

6 (Whereupon the meeting was adjourned at 4:07
7 p.m.)

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CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Cast Iron Soil Pipe Fittings from China

INVESTIGATION NOS.: 701-TA-583 and 731-TA-1381

HEARING DATE: 6-26-18

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

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: 6-26-18

SIGNED: Mark A. Jagan

Signature of the Contractor or the
Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings 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 proceedings.

SIGNED: Duane Rice
Proofreader

I hereby certify that I reported the above-referenced proceedings 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 proceedings.

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