UNITED STATES
INTERNATIONAL TRADE COMMISSION

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In the Matter of:               )
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STEEL: MONITORING DEVELOPMENTS  )  Investigation No.:
IN THE DOMESTIC INDUSTRY        )  TA-204-9
(CARBON AND ALLOY TUBULAR       )
PRODUCTS)                       )
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Thursday,
July 17, 2003

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

The hearing commenced, pursuant to notice, at 9:32 a.m., before the Commissioners of the United States International Trade Commission, the Honorable DEANNA TANNER OKUN, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

DEANNA TANNER OKUN, CHAIRMAN
JENNIFER A. HILLMAN, VICE CHAIRMAN
MARCIA E. MILLER, COMMISSIONER
STEPHEN KOPLAN, COMMISSIONER

APPEARANCES: (cont'd.)

Staff:

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FRED FISCHER, INVESTIGATOR
NORM VAN TOAI, INDUSTRY ANALYST
CATHERINE DE FILIPPO, ECONOMIST
CHARLES YOST, ACCOUNTANT
WILLIAM GEARHART, ATTORNEY

Congressional Appearances:

THE HONORABLE JEFF SESSIONS, United States Senator, State of Alabama
THE HONORABLE MARK PRYOR, United States Senator, State of Arkansas
THE HONORABLE PETER J. VISCLOSKY, U.S. Congressman, 1st District, State of Indiana
THE HONORABLE PHIL ENGLISH, U.S. Congressman, 3rd District, State of Pennsylvania
THE HONORABLE MELISSA A. HART, U.S. Congresswoman, 4th District, State of Pennsylvania
THE HONORABLE JO BONNER, U.S. Congressman, 1st District, State of Alabama

PANEL ONE - DOMESTIC PRODUCERS

On behalf of the CPTI 201 Coalition:

ROBERT BUSSIERE, General Manager, Fire Protection Products, Allied Tube & Conduit Corporation
L. SCOTT BARNES, Vice President, Commercial, IPSCO Tubulars, Inc.
PARRY KATSAFANAS, President, Leavitt Tube Co., LLC
DONALD BOHACH, Vice President, Marketing and Sales, Stupp Corporation
MARK MAGNO, Vice President, Marketing, Wheatland Tube Company
ROBERT BLECKER, Professor of Economics, American University

APPEARANCES: (cont'd.)

On behalf of the CPTI 201 Coalition: (cont'd)

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

On behalf of Trinity Fitting Group, Inc.:

DON A. GRAHAM, President, Trinity Fitting Group, Inc.

CHERYL ELLSWORTH, Esquire
JOHN B. TOTARO, JR., Esquire
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On behalf of United Steelworkers of America, AFL-CIO-CLC:

LEO W. GERARD, International President, United Steelworkers of America, AFL-CIO-CLC

TERENCE P. STEWART, Esquire
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Washington, D.C.

PANEL TWO - RESPONDENTS

On behalf of Korea Iron & Steel Association; Pohang Iron & Steel Co., Ltd.; Union Steel Manufacturing Co., Ltd.; Dongbu Steel Co., Ltd.; Hysco Steel Co.; Husteel Co., Ltd.; SeAH Steel Corporation; Pohang Coated Steel Co., Ltd.; and Dongyang Tinplate Co.:

MARCUS A. KRAKER, Trade Analyst, Kaye Scholer LLP

DONALD B. CAMERON, Esquire
JULIE C. MENDOZA, Esquire
Kaye Scholer LLP
Washington, D.C.

I N D E X

I N D E X

P R O C E E D I N G S

(9:32 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the United States International Trade Commission, I welcome you to the second in a series of hearings on Commission Investigation No. TA-204-9 involving Steel: Monitoring Developments in the Domestic Industry. The subject of today's hearing is Certain Carbon and Alloy Tubular Products.

The Commission instituted this investigation for the purpose of preparing the report to the President and the Congress required by Section 204(a)(2) of the Trade Act of 1974 on the results of its monitoring of developments with respect to the domestic steel industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition since the President imposed tariffs and tariff rate quotas on imports of certain steel products effective March 20, 2002.

Our monitoring efforts to date have consisted of collecting and evaluating information through a variety of means. These include obtaining producer, importer, purchaser and foreign producer questionnaires, conducting literature research, encouraging written submissions, as well as obtaining information directly from witnesses through this series of hearings.

The calendar for this hearing is available at the Secretary's desk. Parties who participated in the prehearing conference are aware of the time allocations. Others should see the Secretary.

As all written material will be entered in full into the record, it need not be read to us at this time. All witnesses must be sworn in by the Secretary before presenting testimony. Please give copies of prepared statements or other documents to the Secretary as soon as they are available.

Transcript order forms are available at the Secretary's desk and also in the wall rack outside the Secretary's office. Finally, if you will be submitting documents that contain information that you wish to be treated as confidential business information, your requests should comply with Commission Rule 201.6.

Madam Secretary, are there any preliminary matters?

MS. ABBOTT: No, Madam Chairman.

CHAIRMAN OKUN: Very well. Will you please announce our first congressional appearance?

MS. ABBOTT: The Honorable Peter J. Visclosky, United States Congressman, 1st District, State of Indiana.

CHAIRMAN OKUN: Welcome back, Congressman.

MR. VISCLOSKY: Madam Chair, thank you very much. Commissioners, thank you very much for allowing me to be back.

I would open my remarks as I did last week by reiterating my sentiments that the Section 201 safeguard measures are working, and they must remain in place for the full three year term in order to insure the security in this instance of the pipe and tube sector of the domestic steel industry.

While the pipe and tube remedies under the tariffs were less than flat-rolled product, the industry has seen relief from imports. During the first year of relief from April 2002 to March 2003, imports of welded pipe from sources covered by relief declined to 809,000 short tons from 1.58 million short tons in the preceding 12 month period of time. In return, the pipe and tube industry has put in place a plan to adjust their industry to insure it is more competitive at the end of the remedy period, and they have worked hard to implement this plan.

Maverick Tube Corporation of Chesterfield, Missouri, acquired as part of the acquisition of the LTV Tubular and LTV Youngstown, Ohio, facility during consolidation, removed 170,000 tons of production annually. The Copperweld Corporation of Pittsburgh, Pennsylvania, has shut down two facilities.

I might parenthetically add that as people have talked about restructuring, as people have talked about the industry improving itself, I would reiterate my belief that during the generation long decline in steel in this crisis we have faced in the industry, and in this case pipe and tube, have done everything in their power to be world-class competitive. They must continue, however, to have this protection because of repeated violations of our trade laws, and I do think it's important that the Section 201 protection remain in place.

In the end, as far as these improvements being made, I think we have to again remember that this isn't an issue of tonnage. It's not an issue of capacity. It's not an issue of plants. It's not an issue of equipment.

When we talk about injury being found, the sum of that injury is on individual U.S. citizens who used to be employed, making a living for themselves and their families. In as far as the stress, as far as the discomfort, as far as the tragedy that has occurred during this period of consolidation, I would point to those who have lost their job.

Since the beginning of the President's steel program, Copperweld, currently in bankruptcy and once one of the nation's largest tubular producers, has begun shutdowns that have resulted in job losses. This includes 276 workers at an Ohio facility.

In June of 2002, Olympic Steel of Cleveland, Ohio, closed its doors, and 30 employees lost their job. Numerically it doesn't sound like a lot, but I bet for each one of those 30 individuals and their families it is a huge tragedy and a huge problem they are left to solve.

I also would point out to the Commission I do not have pipe and tube producers in my district. I used to. The reason I'm here today is to make sure that the United States has a pipe and tube industry in the future and does not nationally suffer the fate we have in the 1st Congressional District.

I trust in your judgment. I trust in your constant fairness and do ask that you consider this issue carefully and make a recommendation that the 201 safeguards remain in place for the duration.

CHAIRMAN OKUN: Thank you very much,

Congressman. The statement that you have submitted for the record will be included as a whole.

Let me see if my other colleagues have any questions for you.

(No response.)

CHAIRMAN OKUN: If not, we thank you again for your testimony today.

MR. VISCLOSKY: Thank you very much.

MS. ABBOTT: The Honorable Phil English, United States Congressman, 3rd District, State of Pennsylvania.

CHAIRMAN OKUN: Good morning, Congressman English.

MR. ENGLISH: Good morning, Madam Chair. Thank you very much for the opportunity to appear. For the record, my name is Phil English. I represent the 3rd District of Pennsylvania, and I'm chairman of the Congressional Steel Caucus.

I want to thank you for allowing me to appear before you today to share my observations on the opportunity the steel safeguard has provided the domestic steel industry and its workers to positively adjust to import competition.

Indeed, this provisional relief measure has provided a justified and legitimate method for the domestic industry to recover from damaging surges of steel imports, as well as restructure and rationalize in order to become more competitive in the international marketplace over the long term.

The safeguard, in my view, must be continued so as not to undermine restructuring efforts currently underway. A continued safeguard, in unison with multilateral negotiations on steel subsidies and global overcapacity, will yield a healthy domestic steel industry.

In the often heated debate surrounding the steel safeguard, the reasons which necessitated this action are often lost. It is critical that the reasons this safeguard were initiated, unanimously voted for by this body and implemented by the President, are kept in mind.

While the underlying factors which make the global steel market the most distorted in the world are not new, the domestic steel industry was reminded just how dangerous they are to a rules based trading system during the Asian financial crisis, as well as when the former Soviet Union collapsed.

Foreign producers and governments did and continue to produce far more steel than the global market needs, maintain import barriers in their home markets, illegally subsidize their domestic industries and dump their excess steel in the U.S. market at absurdly low prices.

The domestic industry attempted in the years following the first import surges to stop the hemorrhaging. U.S. steelmakers invested billions of dollars of their own capital to modernize their technology and become the cleanest, most efficient producers of steel in the world.

The industry laid off workers, voluntarily closed down mills and cut back on production in order to reduce the excess capacity in the global market. American companies made the difficult, but necessary, changes in order to remain competitive, but because foreign firms and governments have failed to make similar sacrifices it was simply not enough.

As a strong believer in the safeguard mechanism and all trade remedy laws, I cannot cite a stronger, clearer example in the case before you of when these laws must be utilized. The safeguard remedy allows for more than simply a suspension of damaging illegal imports. It allows necessary breathing space for positive adjustment by affected domestic industry.

In this case, Madam Chair, I would point out to the Commission that this safeguard action has already prompted more than just a positive adjustment for the domestic industry. It has initiated a dialogue on a global level to root out the underlying factors which led to the import surges, which in turn necessitated this action.

Additionally, the domestic steel industry is undergoing the most radical transformation of its kind in decades. This transformation is not over. Rather, it is still very much ongoing. With the stability that this safeguard has afforded, consolidation and rationalization are underway, inefficient capacity is going off line, and the industry has once again gained access to capital.

Of course, all of these changes have occurred with minimal disruption to steel consumers and in the face of the largest manufacturing crisis in recent memory. All of these steps toward completing a positive adjustment will be in jeopardy without the continued stability provided through this steel safeguard.

Unless this safeguard continues for a full three years as originally recommended by this Commission, the progress made by the domestic industry will be cut off at the knees. This will not only jeopardize all that has been accomplished thus far, but will send the final blow to a strategic industry at its most vulnerable time when it is negotiating in good faith within the law and, more to the point, when it is halfway through that effort.

I would say in addition to this that as you are focusing today on pipe and tube, and several of the largest domestic pipe and tube producers are within my district. I particularly want to emphasize to you today that since this part of the industry received, as the last speaker noted, somewhat significantly less relief than other steel production lines, it is particularly critical that those particular remedies aimed at pipe and tube be left in place for the full three years.

I appreciate the opportunity to appear before you again toady, and I want to thank you and the Commission staff for the diligent and thorough evaluation that you have provided. I look forward to your completed report.

CHAIRMAN OKUN: Thank you very much, Congressman, for your testimony. Your written testimony will also be included in our record.

There being no questions from my colleagues, I want to thank you again.

MR. ENGLISH: Thank you very much.

MS. ABBOTT: Madam Chairman, at this time we have no further congressional witnesses.

CHAIRMAN OKUN: Very well. Let us begin our opening remarks.

MS. ABBOTT: Opening remarks on behalf of the domestic producers will be made by Roger B. Schagrin, Schagrin Associates.

CHAIRMAN OKUN: Good morning, Mr. Schagrin.

MR. SCHAGRIN: Good morning again. I should know how to operate the microphones around here. I can't see anymore. That's the problem.

Good morning. My name is Roger Schagrin. I'm representing the CPTI 201 Coalition. That coalition is an ad hoc group of the Committee on Pipe and Tube Imports, and the members of that coalition represent the vast majority of U.S. production of welded pipe and tube other than OCTG.

We are not going to spend time during this hearing rearguing the Commission's injury or threat of injury decisions in the original investigation. We are not going to reargue the alternative remedies that the Commission suggested to the President. No, instead we are going to focus on the provisions of the Section 204 investigation that you have undertaken.

Our focus will be on the industry's adjustment efforts. We will also discuss the impact of the remedy and the need for the remedy to continue until its full term. Finally, we will by necessity focus on the importance of the flat-rolled remedy as it relates to the future long-term health of the U.S. pipe and tube industry.

There can be no question that the industry producing welded pipe and tube other than OCTG did poorly during the first year of 201 relief. This is not what we expect from 201 relief. In the Line Pipe 204 investigation, this Commission determined that the industry experienced a nearly $50 per ton positive swing in operating profits in the first year of relief. That's more like what we expect from 201 relief.

However, the U.S. welded pipe and tube industry saw a 38 percent decline in operating profits in the first year of relief. Domestic shipments are down. Productivity is down. As you will hear from industry witnesses, this industry is feeling pretty unhealthy. In spite of this, capital expenditures, which are the broadest measure of adjustment efforts for an industry, increased by 38 percent during the first year of relief.

Why has the pipe and tube industry performed so poorly during the first year of 201 relief? First, to use a somewhat technical term used in the pipe and tube industry, demand stinks. Second, imports from Korea, which averaged less than 33,000 tons per month in the first 10 months of 2001, surged to 220,000 or 55,000 tons per month in the four months between this Commission's injury determination and the President's remedy decision or between November 2001 and February 2002.

We would like to take this opportunity to personally and publicly thank the Korean pipe and tube industry for helping to ruin the first year of relief for the domestic industry by landing such massive quantities of inventories into the U.S. market prior to the beginning of relief.

Third, we have had surging imports from uncovered countries who were excluded from the relief. In particular, imports from India and Turkey have more than quintupled from the levels of 1998 through 2000, and in the first five months of 2003 they have been averaging 26,000 tons per month. They have accounted for 14 percent of U.S. imports thus far in 2003.

In comparison, in the 1996-1997 base period used by the Administration for excluding developing countries, these imports were approximately 5,000 tons a month, and they accounted for 2.5 percent of U.S. imports.

Why has the White House allowed so much of the benefits from 201 relief to be shifted from the U.S. industry to the industries in Turkey and India and done nothing about it? Your record clearly shows that these increased imports are undermining the relief to the industry.

To be honest, we don't have an answer to that question. We would have to ask the foreign policy professionals at the White House why the President's March 2002 directive to apply the duties to increased imports from developing countries which undermined relief has not in fact been applied as prescribed by the President.

However, what is clear from any rational economic analysis such as that performed by Dr. Blecker and that which will certainly be performed by the ITC Office of Economics is that this industry, given its current circumstances of weak demand, is better off with 201 relief in place than it would be without it.

As you can see from the questionnaire responses and will hear from witnesses representing many of the largest producers in this industry today, as well as the union, the pipe and tube industry has made significant adjustment efforts and will continue to implement its adjustment plan through the end of the period of relief.

Thank you very much.

CHAIRMAN OKUN: Thank you.

MS. ABBOTT: Opening remarks on behalf of the Respondents will be made by Julie C. Mendoza, Kaye Scholer.

CHAIRMAN OKUN: Good morning, Ms. Mendoza.

MS. MENDOZA: Good morning. Good morning to all the members of the Commission. My name is Julie Mendoza, for the record, with Kaye Scholer appearing on behalf of the Korean Respondents.

As you listen to the testimony of the U.S. industry today, it's important to keep in mind the Commission's original threat determination in this case and to actual data collected in this interim review. You will recall that a majority of the Commission and all the current members of the Commission found only a threat of injury, principally due to the industry downturns in the first six months of 2001.

The Commission recommended a TRQ at year

2000 import levels to prevent any further deterioration of the industry, but it's now clear that there are changed circumstances; that the apparent industry-wide downturn which appeared and looked dramatic in the first six months of 2001 was nothing of the sort.

On the current record, we can now see that the U.S. industry profits actually recovered prior to the imposition of safeguard relief. Although the actual figures are confidential, it can be said that imports recovered significantly through the rest of 2001 and through to March of 2002.

The strengths of those profits in the period before the safeguard measures were imposed is particularly noteworthy when you compare those profits to the profits in the year 2000 in the original investigation.

Whether that recovery after the first six months of 2001 was due to an overall recovery of the industry profits in the remainder of 2001 or the result of consolidations and bankruptcies of certain uncompetitive outliers, the facts remain. At the time the safeguard measure was imposed, the industry was doing remarkably well in the middle of an economic downturn.

With the benefit of hindsight, it's apparent that the industry was actually stronger and not facing any imminent injury when the safeguard measure was implemented. That's a changed circumstance apparent from the current record.

Mr. Schagrin is, therefore, incorrect when he maintains that: "Given how low these profits margins were, it is likely that losses would have been sustained had 201 relief not been implemented." In fact, profit levels remained healthy before the measures and presumably would have remained so if no measures had been imposed at all.

This kind of changed circumstance, as we said, is very relevant to the Commission's monitoring efforts in this investigation. Despite Mr. Schagrin's studious attempts to stay as far away as possible from the staff report and the U.S. industries' questionnaire responses, both confirm that safeguard relief on pipe and tube has had little positive effect on U.S. producers' production, sales or capacity utilization.

While Mr. Schagrin would like to attribute this in part to the effect of uncontrolled suppliers, the facts don't support that. Total imports are currently below the level of 2000, the reduction in imports sought by the Commission in its original remedy recommendation, yet the industry's current profit levels speak for themselves. If imports had caused the industry declines, why didn't import reductions improve the industry's condition?

It's clear that other factors are determining the health of this industry. Reductions in domestic flat-rolled capacity and flat-rolled imports have driven up cost for domestic producers. Since demand is also depressed, U.S. producers are simply limited in the price increases they can obtain. We saw that over and over again in the questionnaires.

Therefore, either raw material prices have to drop, which they are already doing, or the economy has to recover so that prices can be increased. In this regard, it should be noted that the cost/price squeeze referred to by Petitioners appears to have disappeared with the reentry of LTV and Trico hot-rolled capacity.

Regardless, fluctuations of industry profits due to changing raw material prices have nothing to do with pipe imports. We would also note you should look carefully at other costs besides raw material costs to see what effects those had on the profits of this industry during this period as well.

Mr. Schagrin would like to rely on an economic analysis to prove that safeguard measures have had some beneficial effects on the industry. That's understandable because there are none apparent in this record. However, whatever positive effects can be postulated through economic theory, the fact remains that U.S. producers confirm over and over that their customers will not accept further price increases. That's the reason that safeguard measures aren't going to increase prices either.

We are not saying that this industry does not face obstacles due to declining consumption and increasing raw materials, not to mention excess capacity, but the continuation of safeguard relief cannot be justified on that basis. The continuation of import relief cannot be justified on the basis of injury from other factors any more than the original finding of injury could be based on injury caused by these other factors.

One final word about adjustment. If Mr. Schagrin is correct, if there had been very significant capacity reductions in the U.S. industry and capacity rationalizations and that capacity is not brought back on line, then the industry is much better positioned to take advantage of any upturn in the economy. With significantly less excess capacity, they can pass on price increases in an improving market.

Moreover, if the downsizing of the industry also accounts for the discrepancy in the industry profitability between the original record and this record in the period prior to safeguard relief, that suggests that there are some very significant changed circumstances that should be brought to the attention of the President.

Thank you.

CHAIRMAN OKUN: Madam Secretary, I understand we have another congressional witness before we turn to our first panel.

MS. ABBOTT: That is correct, Madam Chairman. The Honorable Mark Pryor, United States Senator, State of Arkansas.

CHAIRMAN OKUN: Good morning.

SEN. PRYOR: Thank you for squeezing me in today. I know that you all are very busy and you have a huge schedule. I have a written statement I'd like to submit for the record.

CHAIRMAN OKUN: Without objection.

SEN. PRYOR: Also, I just wanted to come in and say how important this issue is for the people of my state. Many people don't realize this, but Arkansas now is one of the largest producers of steel in the country.

The heart of that industry in my state is in this little county called Mississippi County. A few years ago there was an air base there that shut down, the Aker Air Force Base. Really this steel industry has been critical for that county to come back and rebound. The quality of life there, the schools, et cetera, are so dependent on our domestic steel production, the subject of this hearing today.

In fact, university researchers have looked at our steel industry in Arkansas, and they've determined that for each one job that's created by the steel industry directly that there are eight additional jobs that are created, so this really has a ripple effect not just for the people who work in these plants and in these places, but for all of these communities and really for the whole state.

I know that's true nationally as well. There are a lot of statistics and numbers about how important it is that we have a healthy and vibrant steel industry in the state for a lot of different reasons, whether it's national security or just general economic reasons, et cetera, et cetera.

I just want to thank you all for taking up this very serious matter. It is something that's important at a lot of different levels and in a lot of different ways around the country. I know that you have your hands full trying to wade through all the testimony and all the facts and all the factors, but I just wanted to come in and say that it is important to my state that we make sure that things are on the up and up and that trade is done the right way and that there's no illegalities and nothing improper that's done out there internationally.

Thank you for your time. I'm going to get out of your way to allow you to get back to your hearing. Thank you.

CHAIRMAN OKUN: Thank you, Senator, for appearing here today and also for your written testimony.

SEN. PRYOR: Thank you.

CHAIRMAN OKUN: We appreciate that very much.

SEN. PRYOR: Thank you.

CHAIRMAN OKUN: Madam Secretary, will you please announce the first panel?

MS. ABBOTT: The first panel representing the domestic producers should come forward. All witnesses have been sworn.

(Witnesses sworn.)

CHAIRMAN OKUN: All right. It appears that we have almost everyone seated here. I see Mr. Gerard coming up here. We'll let you get seated and begin when you're ready.

MR. SCHAGRIN: Good morning again, Chairman Okun, members of the Commission. This is Roger Schagrin.

Before introducing our witnesses, I would like to spend a couple minutes now responding to some of the arguments advanced by the Korean pipe and tube industry in their brief since they are the only pipe and tube industry to appear here today.

As you could tell from Ms. Mendoza's opening statement, their view of what the Commission is supposed to be doing in this 204 investigation and our view are diametrically opposed. We are just not going to spend all of our time revisiting your original threat of injury determination and any allegations that through different factual periods now you should do something in the way of alchemy with different numbers and somehow tell the President that you were wrong two years ago. We're going to keep focusing on what the 204 is about.

It is, however, very thoughtful of the Korean pipe and tube industry after 20 years of battling the U.S. industry in trade litigation to tell our government that the best thing for the U.S. pipe and tube industry -- not the Korean industry, but really in their brief and their arguments to you today. They want you to submit a report to the President that tells the President that the best thing for the U.S. pipe and tube industry is to end 201 relief. As the old saying goes, with friends like that who needs enemies?

It does seem that the Korean arguments are somewhat self-serving. Unfortunately for everyone, most of all the Koreans, Korea is now in a recession again for the first time since the Asian crisis. They have experienced negative GDP growth in both the first and second quarters of 2003.

As is always the case with the Korean industry, I am sure they are eager to utilize their excess capacity to increase exports to the United States, given their own downturn in domestic demand. Since the 201 duties cost the Korean industry money, they would rather shift their excess capacity to the United States at lower cost.

Second, it must be very nice for the Korean pipe and tube industry not to have to have concerns about the well-being of their flat-rolled supply. They have Posco to rely upon. Posco is the third largest steel company in the world, and under Korean Government policies it has always sold hot-rolled sheet at prices lower than import prices to the Korean pipe and tube industry. These policies continue today.

Even more troubling is the fact that under what is essentially a cumulation exemption that the Korean hot-rolled industry obtained in the 1993 hot-rolled cases for their annual sales of nearly 1,000,000 tons of hot-rolled sheet transferred to their U.S. subsidiary, USS Posco, Posco refuses to sell hot-rolled sheet to U.S. pipe and tube producers either at the very low prices it charges the Korean pipe and tube industry or at the even lower prices reported in Customs values for its transfers to USS Posco.

Third, Korean Government policies continue to support overcapacity for flat-rolled steel in Korea. After Hanbo Steel, the poster child of the Asian financial crisis, was closed down in 1997, after an astounding $7,000,000,000 of almost outright theft from Korean Government controlled banks, the Korean

Government refused to allow the sale of any of its equipment to steel producers in China, the United States or elsewhere.

The company has recently been sold for an amazingly low $370,000,000 to a Korean company that promises to restart its operations of 9,000,000 tons of capacity, including 7,000,000 tons of flat-rolled capacity.

Contrast this to the recent sale of a Huntco cold-rolling mill from Arkansas and a former LTV 80-inch hot-roll mill from their Cleveland West facility to steel producers in China. Obviously our bankruptcy system and the Korean systems work differently.

Add it all up, and I think you can understand why the Korean pipe and tube industry would have a very different view than the U.S. pipe and tube industry in the importance of 201 relief to the pipe and tube industry and of maintaining flat-rolled production facilities in the United States.

Literally at the time of the original 201 investigation, the pipe and tube industry credibly believed that as much as half of the flat-rolled capacity of the United States would be permanently shut down. Since it could not source its steel from

Posco in Korea, the industry wisely supported and still supports relief that will enable the flat-rolled industry to rebound and be a quality, long-term, low-cost supplier of a raw material that accounts for roughly 70 percent of the production cost of the U.S. industry.

I would like to invite Mr. Bussiere to present his testimony.

MR. BUSSIERE: Good morning, Chairman Okun and members of the Commission. My name is Bob Bussiere, and I am General Manager of Fire Protection Products for Allied Tube & Conduit.

Allied is one of the largest producers in the United States of welded pipe and tube. We have plants in Pennsylvania, Illinois, Indiana, Wisconsin, Arkansas and Arizona. Since its inception in 1957, Allied has been a technological innovator in efficient pipe production and has obtained numerous patents for the in-line galvanization of pipe.

Before it became fashionable, we were already a leader in consolidation and rationalization in the pipe and tube industry. In the last 10 years, Allied purchased American Tube in Phoenix, Metalmatic in Wisconsin, Century Tube in Arkansas and Triangle Tube in West Virginia. We closed one American plant in Indiana, as well as the Triangle operation in West Virginia, and have rationalized capacity at the other purchases.

As our questionnaire response illustrates, we have witnessed both declining production and declining profitability over the period that you are examining. Certainly the decline in demand in non-residential construction has had something to do with that. Nevertheless, our perception is that import competition has remained fierce even during the period of 201 relief.

First, as Roger previously pointed out, the Koreans piled up huge inventories at the beginning of 2002 before the program began, and it took time for those massive inventories to dissipate. Just as those inventories were coming down, we saw massive increased imports from Turkey and India directly into our main product line as they sought to take advantage of their exclusion from the 201 program.

Now we are seeing imports from China returning to the marketplace with renewed aggressiveness by the Korean companies as their home market has also weakened. You add it all up, and we're in a difficult circumstance.

As you can tell from our response, our

ability to significantly reinvest in our facilities has been hampered by our declining profitability. Our parent corporation makes the rules pretty clear. If you want to invest capital, you have to prove that those funds will self-generate.

Moreover, we must demonstrate that we will obtain a better return on that capital than other potential projects in other divisions of our parent corporation. In the current competitive environment, we have been unable to justify many otherwise worthwhile capital projects.

None of which is to say that we are standing still. In addition to some funding of more efficient production, we have also engaged in an unusual marketing campaign. We estimate that less than five percent of the U.S. market for our products is governed by the Buy American provision. Regardless, since imports are taking roughly half the market, the Buy American segment of the market can account for as much as 10 percent of domestic sales.

We have found that Buy American provisions for highways, federal prisons, Defense Department expenditures and other projects were routinely being disregarded by the distributors who bid on those projects. Distributors were saying that they were complying with Buy American requirements, but were illegally furnishing cheaper foreign pipe as U.S. origin and pocketing the difference.

We took out full-page ads in trade publications offering a reward of a $2,500 rebate on truckload sales for evidence that allowed us to document the agencies that Buy American certifications were being circumvented.

As the Commission is aware, I appeared recently as a witness in support of the domestic steel industry in the 332 investigation. As a purchaser of 1.4 million tons of steel in the United States, not only of the subject pipe and tube products, but also for conduit, strut, hangers and a variety of other steel products that Allied Tube produces, we rely on a large number of steel suppliers. We have been a major buyer from plants that were either shut down or might have been shut down, such as those of LTV, Acme and Bethlehem.

We are also a large buyer from numerous mini mills and also all of the other integrated mills. However, we are hopeful that it is not the intent of the President's steel program to create an oligopoly of three major flat-rolled producers in the United States market.

Our company has subsidiaries in the EU and Brazil, and I have been told that except in periods of unusual exchange rate fluctuations steel prices have normally been significantly less in the United States than in either the EU or Brazil. The reason for this is that in both the EU and Brazil the markets are dominated by oligopolies who can set and maintain high prices even when demand is weak. For example, steel in Europe now is $75 to $80 per ton more than in the United States in spite of the fact that demand in the EU is even worse than that of the United States.

Allied would like to see the 201 program result in a strong supply base, as well as a strong domestic pipe and tube industry. As I testified in the 332 hearing, we also need a strong customer base. Our customer base is seriously threatened by a U.S. trade policy that does not address the substitution of imports from China for domestic production. The export oriented aspects of Chinese industrial policy distort trade and confer unfair and artificial advantages on Chinese products.

Thank you.

CHAIRMAN OKUN: Thank you. Mr. Schagrin, before we go to your next witness, we have two Members of Congress who are here to testify.

Madam Secretary, if you could please announce the first one?

MS. ABBOTT: The Honorable Melissa A. Hart, United States Congresswoman, 4th District, State of Pennsylvania.

MR. ABBOTT: Madam Chairman, this is the Honorable Jo Bonner, United States Congressman, 1st District, State of Alabama.

CHAIRMAN OKUN: Welcome. You may proceed.

CONGRESSMAN BONNER: Thank you, Madam Chairman, and no, I am not my colleague. She will be in in just a few minutes.

I want to thank you. I know that today's hearing is ostensibly on the pipe and tube sector of the steel industry, but that subset is part of the larger U.S. steel industry and must be considered as part of the whole.

I want to speak to the importance of the President's steel program in the broadest possible terms. The pipe and tube industry consumes a large portion of the plate and coil that is produced in my district in south Alabama. Every type of steel is manufactured in Alabama. This is a commercially integrated industry, and all segments will be affected by any reduction in the time the 201 remains in place.

Sixteen months ago President Bush put a three-part program in place to stabilize the U.S. steel industry through tariffs, rationalization, and global steel talks. His actions were absolutely necessary given the attack on the U.S. industry by foreign competitors.

Despite the criticism from abroad, the U.S. remains the most open market in the world. This body did find injury from the import surge to the domestic industry, and that finding was unanimous.

And I trust the judgment, thoroughness and fairness of the United States International Trade Commission, quite frankly, more than I do the WTO. The breathing room the President gave to industry was attached to a demand for consolidation and modernization.

In my district, IPSCO has embarked on an initiative that will expand its capacity and capability to make high-grade steels that are used as the basic building blocks for our infrastructure. IPSCO, like all steel companies, is responding to the President's call for improvement.

All countries recognize that the global steel markets are distorted, but it was the initiation of the 201 that kick-started negotiations on steel subsidies. The negotiations at the OECD are important to the future of global steel trade, and we should not remove the 201 tariffs while the talks continue.

Steel is needed for our defense industries and for the basic infrastructure of the nation. We need this steel to be available at any time on short notice, and not dependent on foreign sources.

Pipe can be produced efficiently and quickly, and pipe mills need a reliable source of coil and plate. Plate fills and pipemakers have a symbolic and symbiotic relationship. The health of our entire steel industry, Madam Chair, is dependent on keeping both of them profitable. The two cannot be distinguished, and the 201 should continue in all segments of the industry.

We need to let the President's program run its course. It has brought stability to the marketplace, and as importantly, it has gotten the attention of our trading partners. The safeguard action by the President is providing an opportunity to consolidate and upgrade on the home front, and an opportunity to negotiate on the global scale. We must not reverse this course at this important time.

Thank you very much.

CHAIRMAN OKUN: And thank you both for your appearances here today and for the written testimony you have provided.

If there are no questions from my colleagues, we want to thank you again.

CONGRESSMAN BONNER: Thank you.

CHAIRMAN OKUN: Madam Secretary, now you can introduce Congresswoman Hart.

MS ABBOTT: The Honorable Melissa A. Hart, United States Congresswoman, 4th District, State of Pennsylvania.

CHAIRMAN OKUN: Good morning.

CONGRESSWOMAN HART: Good morning. Chairman Okun and members of the Commission, as a member of the House Steel Caucus, and a congresswoman from what many call my area the steel valley, I appreciate this opportunity to discuss the importance of maintaining the President's 201 tariff program for the full three-year period.

The area I represent in southwestern Pennsylvania has seen firsthand how damaging steel dumping has been to a local economy.

I testified at the original hearing on September 20th in 2001, asking the Commission to initiate the Section 201 protections to provide industry somewhat desperately needed breathing space.

And I thank you for you decision to support American steel jobs.

I believe you must allow this decision to run its course if we wish to ensure the 201 tariff's full effectiveness.

In my prior testimony I cited examples and statistics about the harmful effects that steel dumping had had on steel manufacturers and steelworkers, along with suppliers and other related businesses in my district. And LTV tin mill in Aliquippa, J&L Structural Incorporated in Ambridge were two examples that I had cited out of the many mills that had been with the effects of unfair trade.

At the time of my testimony the tin mill in Aliquippa had just laid off about 400 employees, and J&L Structural in the same time period laid off well over 120 from my district and neighboring communities. Not long after that they ended up shutting their doors.

In the 1960s, there were 15,000 steel-producing jobs in the city of Aliquippa alone. Currently there are 15,000 steel-producing jobs in all of Allegheny, Beaver, Butler, Fayette, Washington, and Westmoreland Counties combined.

On May 8 of 2001, I also submitted written testimony to the ITS for the hearing regarding the five-year sunset review on oil country tubular products on behalf of Kopple Steel, which is located in Beaver Falls, Pennsylvania. These companies, including Kopple, are the economic backbone of communities like Beaver Falls. Kopple Steel and its parent company, the NS Group, have closed portions of their operations and laid off employees due to imports, due to a number of other concerns regarding the 201.

The 201 relief didn't cover their product line, and the continue to shut their operations and lay off employees.

The 201 tariff program has provided critical breathing space for a major part of our steel industry however. The industry continues to take dramatic steps to reduce capacity and modernize its operations in order to become a low-cost quality producer. Necessary restructuring and consolidation have begun, such as U.S. Steel continuing attempts to merge with National and acquire facilities of LTV.

A recent success story in my district is the recent agreement of BVV acquisitions to buy the assets of Pittsburgh Tool Steel in Manaca, and reopen the former Republic Technology's cold finishing plant in

Beaver Falls. In short, the 201 decision is helping the American industry become more competitive, and it helped level the playing field internationally.

Contrary to the many worse case scenarios that were presented when the decision was made regarding the 201 relief, producers and consumers are not being driven out of business or out of the country by increased prices of the products they produce. We have seen former LTV mills being brought back on line to produce around 6 million tons a year of flat-rolled steel, and Nucor restarting 1.9 million tons per year of hot-rolling capacity at one of their plants in Alabama.

While there have been a modest increase in the price of steel from 2001 to 2002, it appears because of the drastic decreases the price took between 1997 and 2001. The rise in foreign steel costs have narrowed the gap with domestic prices, which has taken away any advantage of moving operations overseas, and enabled U.S. steel consumers to compete more effectively in both the United States and the export market.

Today, I'm sure you will hear testimony from U.S. pipe and tube producers who have come to offer testimony in support of the continuation of the 201 program. In my district there are two pipe and tube producers, and one of those plants, Wheatland Tube in the 4th District of Pennsylvania, the other, Sharon Tube Company, just outside of the district.

These producers who did not receive as much relief from the 201 as many other steel producers continue to be affected by imports. However, they do recognize the significance of the relief, and continue to work to show improvement throughout their industry.

Some of these successes include product rationalization at plants that had been over-producing, and consolidation of plants such as Alpha Tubes purchased by AK Steel, and Wheatland Tube's acquisition of the Sawhill Tubular Division of AK in Sharon, Pennsylvania.

These successes would not have been possible without this relief, and they would not advance unless this relief continues.

Chairman Okun, and members of the Commission, the steel industry has made great strides in the short period of relief. However, the industry is still in jeopardy, and any gains made could be reversed back to the conditions prior to this relief. Had U.S. producers been forced to endure the economic downturn absent any import relief, they would certainly be in a worse financial position than the current condition.

U.S. producers have cut costs. They have made their operations more efficient, as well as implementing new capital expenditures. By not continuing the full three- year period of the President's 201 tariff program I believe the United States will again become the steel platform it had been, and I think it severely undermine the administration's continuing efforts to address the global steel crisis.

Therefore, on behalf of myself and my constituents, our steel companies, suppliers, I ask that we stay the original course of the full three years of the 201 relief.

And in closing, also I would like to add that everyone knows that corporate planners have taken that 201 as a tool that they can use to plan for the future, and they have utilized and expected that to remain, and I think it's really only fair for us to allow it to continue through its full course.

I thank you for hearing me out today.

CHAIRMAN OKUN: Thank you very much for your testimony and for your appearance.

Madam Secretary, we will return to the

panels' presentation.

MR. SCHAGRIN: Mr. Katsafanas.

MR. KATSAFANAS: Thank you.

Good morning, Chairman Okun, and members of the Commission. My name is Parry Katsafanas, and I am President of Leavitt Tube Company. I have been in the tubing industry my entire career, for more than 25 years. We have plans in Illinois and Mississippi, and we produce structural and mechanical pipe and tube.

As you can see from our questionnaire response, we doubled our capital expenditures in 2002 versus 2001. We have also just committed to additional major capital expenditures for later this year. These investments led to savings and allowed us to significantly increase our productivity. Thus, we reduced our production workers while maintaining similar levels of production. On July 1st, we also announced the layoff 25 percent of our salaried workforce, a reduction of 15 people.

While 201 relief gave us an opportunity to pursue these programs, I am sure, as the Commission knows, survivors in a difficult industry must increase productivity. At our company in the past 10 years we have reduced our workforce by half while maintaining the same capacity and production capabilities. This means that we have doubled labor productivity over the last decade.

I know the Commission has to look at the entire welded pipe and tube industry other than OCT product area on an aggregated basis. While we are a major producer, our product lines are in certain segments of that market. Unfortunately for us in some of our main product sectors, the increased imports from uncovered countries is outweighed by the decreased imports from countries covered by the 201 program. In particular, we have seen imports from Turkey surge into the U.S. market at incredibly low price levels.

I would also like to comment on the issues of capacity in the U.S. industry. I understand that while the data in your staff report for the entire industry are confidential, they can nevertheless be characterized as demonstrating a trend of increased capacity for the pipe and tube industry over the past several years. But based on my experience in the industry, that can't possibly be true.

In fact, over the past two years I have seen more capacity come out of the industry than at any time since the integrated producer exited the welded pipe and tube business in the early 1980s.

For example, we were direct competitors of Excaliber Tube and Olympic Steel Tube. These producers are no longer in business, and to my knowledge no one is currently operating their mills.

Mark or Scott could tell you about the significant capacity taken out of the circular standard pipe marked by the closure of Leclete mills.

Without question, throughout my entire career with Leavitt Tube our biggest domestic competitor has been Copper Weld. At the time of the combination of LTV Tubular, Copper Weld and Welded Tube Company of America to form the LTV copper weld subsidiary of LTV Steel significant capacity rationalizing has occurred. That was in 2000 and 2001.

Since the LTV bankruptcy, the LTV tubular division's assets were sold to Maverick Tube which has since shut down the LTV tubular mill in Youngstown, Ohio. Copper Weld has already closed its structural tubing plants in Birmingham, Alabama and Portland, Oregon, as well as its mechanical tubing mills in Piqua, Ohio. We competed with all of these copper weld facilities.

Fortunately, we have enough additional capacity that we can easily furnish product to any customers that previously purchased product from these mills that have been shut down. But nevertheless, the contention that domestic pipe and tube capacity has increased is contrary to my observation of the industry.

In my view the domestic industry has rationalized and contracted in recent years. Of course, it is my hope that the 201 relief gives the benefit of this industry rationalization to U.S. companies. There is no reason that these benefits should go to producers in Turkey, Mexico, Korea or China.

Thank you for giving Leavitt Tube Company the opportunity to stay in business and remain competitive.

MR. SCHAGRIN: Thank you, Mr. Katsafanas.

Mr. Barnes.

MR. BARNES: Good morning, Chairman Okay, and members of the Commission. My name is Scott Barnes, and I am Vice President, Commercial, for IPSCO Tubulars, Inc., a subsidiary of IPSCO, Inc.

We operate three welded tubular plants located in Iowa, Nebraska and Arkansas. While OCTG is a significant segment of our tubular product mix, we are a major producer of standard pipe and structural tubing in our regional market.

Even thought our parent company has related subsidiaries that product hot-rolled steel, including coil plate that we would utilize as the feed stock for our production, we operate as a stand-alone subsidiary. We are a separate business unit, and negotiate our coil purchases on an arm's length basis, whether from IPSCO or Nucor or any of our other suppliers.

Indeed, our newest mill, which was installed in the last 1990s in Blyville, Arkansas, is adjacent to the Nucor plant in Hickman, Arkansas. For freight cost reasons, Nucor is by far the largest source of steel for that mill.

Our company has a history of continuously investing in our mills in order to make sure that they are efficient, low-cost producers of the products which we are making. The mill that I previously described going into Arkansas was a brand new, state-of-the-art, extremely fast, electric resistance weld mill for producing up to four and a half inches in outside diameter.

We believe that we have among the lowest conversions costs of any mill in the world for taking coiled steel and producing welded pipe at that plant.

In spite of being extremely low-cost converter of flat-rolled into welded pipe and tubes, our financial results over the past three years have been less than spectacular. While we have continued to invest in our plants, those investments must be scaled back until we are able to return to profitability.

I believe the reasons for our lackluster performance have been poor demand, continuation of too much import supply, and increased costs. Some of our cost increases have moderated, such as those for flat-rolled steel, while other costs, such as for health care insurance and energy costs, have continued increasing.

Like my colleagues at this table today, we believe we are the survivors of an industry which has seen lots of players fall by the wayside over the past few decades. It is our hope that we stay competitive and do a good job at what we are doing, if we continue to have a good supply base for our steel input, and if demand recovers, then we will have a bright future ahead of us with adequate returns on the investments that we have made in the pipe and tube industry in the United States.

Thank you.

CHAIRMAN OKUN: Thank you. Mr. Bohach.

MR. BOHACH: Good morning, Chairman Okun, and members of the Commission. My name is Don Bohach, and I am Vice President of Marketing and Sales for Stupp Corporation. I have been with the company for 12 years.

Stupp is located in Baton Rouge, Louisiana. We have one pipe mill. It was originally built in 1957, but was substantially upgraded in the period 1997 to 1998 at a cost of approximately $40 million.

I am stationed in Houston, Texas, where the company maintains its sales office because most of the oil and gas pipeline companies are based there.

We produce API line pipe in diameters from 10 inches to 24 inches. Given how much heavier the larger OD products are than the smaller OD products, the vast majority of our production by weight is in ODs from 16 inches to 24 inches. From 18 inches to 24 inches, there are only three mills in the United States producing ERW products: ourselves, American Cast Iron Pipe in Birmingham, Alabama, and U.S. Steel in McKeesport, Pennsylvania.

Given our location in Baton Rouge, we have traditionally exported a significant potion of our production, mostly to Latin America. However, the strong dollar over the past several years severely crimped our exports. The dollars decline is certainly very beneficial for us, though it has not improved our competitiveness with our Asian competitors since their currencies have not declined against the dollars.

We were very fortunate in 2002 to have secured a major contract with Duke Energy. Now that that pipeline has been completed there is very little business around.

As I believe Roger covered in our briefs, the pipeline industry has undergone one of the biggest shocks ever to its system in the past two years as a result of the fallout from the Enron collapse while the underlying gas transmission business for these companies has remained as strong as ever. Their forays into energy trading have caused them serious financial difficulties, and resulted in a significant reduction in their expenditures on pipeline activities.

This is indeed unfortunate given the high cost of natural gas, and the need to adjust the pipeline grid to changes in the geographic sources of supply.

If you were to look at the national pipeline grid, you would notice that most of the major pipelines run from the Gulf of Mexico to the northeast and midwest, or down from west Canada to the midwest. There are some pipelines that run from the Rockies to the west coast. However, in recent years the major natural gas discoveries in the U.S. have been in the Rocky Mountains, and there is significantly increased drilling for natural gas that is occurring in the Rocky Mountains.

However, we do not have pipelines running from the Rocky Mountains where the wellhead gas pipe prices are low to the northeast where there is significant increased demand for gas and selling prices are high.

If this situation had occurred during a period when the pipeline companies were financially stronger, there is little doubt in my mind that new pipelines would be built to address these imbalances. However, it may take an additional several years for the pipeline companies to straighten out their problems and for the market to return to normal.

While we want for demand to recover, our company is doing everything we can to cut costs and stay in business. One of the major issues that we addressed is investment for continued improvement in our quality, and reduction in our costs. We have also achieved major cost savings by not replacing management personnel who have left with new hires. Indeed, when our president left the company earlier this year, our owners decided to assume the responsibilities themselves rather than hiring a new president.

I would also like to comment on the Korean industry. As I mentioned earlier, in our size range there are only three U.S. companies that still produce these products. These three companies have more than adequate capacity to supply the U.S. market.

However, in Korea, two of the three major pipe and tube companies, Hysco and ScAH, now have mills that produce ERW pipeline up to 24 inches. This is amazing because there is no gas or oil in Korea and virtually no pipeline system. These mills exist for export.

While they may export to Asia and the Middle East, as well as to Latin America and the United States, we face competition with them in our export markets as well as in the U.S. market constantly.

I was very surprised when just after the 201 program went into effect to continue seeing the Korean mills bidding on pipeline projects, and telling customers they could eat the 15 percent 201 duties.

In summary, I hope that the 201 relief allows the U.S. industry to remain in existence during this period of poor demand. I am hopeful that the pipeline companies would like to see continued domestic sources for pipe after they have put their houses in order and demand returns.

Thank you.

MR. SCHAGRIN: Thank you, Mr. Bohach.

Mr. Magno.

MR. MAGNO: Good morning, Chairman Okun, and members of the Commission. My name is Mark Magno and I am Vice President of Sales and Marketing for Wheatland Tube Company.

Wheatland is a family-owned business begun in 1877 with currently its fourth generation of family management. We have pipe production facilities in Pennsylvania, Ohio, Arkansas, and Illinois. We also produce subject pipefittings at our seminal subsidiary in Ohio and Texas.

As the Commission can see from our questionnaire response, Wheatland has made huge strides in the efforts to adjust to import competition since the period of relief began. We have spent over $100 million towards these efforts, with the main expenditures involved in the acquisition of the assets of Sawhill Tubular Division of AK Steel, and the initial installation of a state-of-the-art five-inch OD mill at our Chicago plant. We honestly told the administration prior to the President's March 5, 20002 announcement that we would not make either of these major investments if pipe and tube relief was a tariff quota or if there was no relief on pipe and tube products and relief on flat-rolled products.

We meant it. The administration did their job. Even though we did not get the equivalent tariff treatment that we sought, and we are doing our job. We now have additional investments to make in Sawhill assets, and we have completed installation on our bringing on line the new mill in Chicago.

Sadly, the past 16 months has taken its toll on our staff and workers. In February 2003, we laid off almost seven percent of our salaried personnel, the most significant reduction in our 126-year history. Also, in May we closed the cold-rolled division we acquired from Sawhill and 125 employees lost their jobs.

We are also trying to make our company more efficient in terms of labor costs. We have always had a fine relationship with the United Steelworkers. However, since April 28th, we have had a strike at our largest production facility in Wheatland, Pennsylvania after we were unable to reach a new labor agreement.

There were numerous issues leading to this impasse. The three most critical being health care, retiree health, and future pension liabilities. The company has previously paid 100 percent of employee medical insurance for family coverage, but skyrocketing medical costs no longer allow us to do so.

In the past four years, our insurance costs have increased by 64 percent. Since 1992, salaried employees, like myself, have had to pay a portion of premium for health care insurance, and I currently pay a premium share of 20 percent of health insurance costs.

We're asking the union to agree to phase in premium sharing up to the same percentage. We have offered to maintain retiree health care insurance for all current employees, but to eliminate such coverage for all future employees. Finally, to manage pension liabilities, the company has agreed to maintain the pension plans it offers to all current employees. However, future employees will be able to enroll in an especially developed 401(k) plan with a higher match.

Our company, like almost all other U.S.

companies, had determined that in order for us to stay competitive in the future we must ask our workers to participate with us in reining in skyrocketing health care costs and pension liabilities while ensuring that our employees continue to receive these important coverages.

As a sign of just how poor market conditions are for our products, without the production of the largest facilities, we have had no problem keeping up with orders through increased production from our other facilities. This illustrates how far demand has declined.

Moreover, we do not anticipate any increase in demand in the near future from the non-residential construction sector, which is a sector where our products are primarily sold.

Because of this poor demand, it is critical that 201 relief continue to its full term. As we explained to you during the Section 332 investigation, we continue to also support the maintenance of that relief for the flat-rolled industry as well. As this Commission is aware, Wheatland Tube Company has supported 201 relief for the flat-rolled industry since the inception of the investigations.

While we do not think our flat-rolled

suppliers always fully appreciate the support we have offered, we are doing this as much for our benefit as theirs. Our largest suppliers of steel are Wherton, Wheeling Pittsburgh, WCI, Deferco Feral, but we also buy significant quantities from Nucor and other producers as well. Many of these major suppliers are companies struggling to reorganize, and their ability to reorganize will be negatively impacted by the end of 201 relief.

Accordingly, we believe continued 201 relief on flat product is essential to the maintenance of our domestic supplier base. Likewise, 201 relief for the welded pipe and tube industry is essential if our efforts to be competitive in the U.S. market are succeed. We are hopeful that with some upcoming recovery and demand all segments of the American steel industry will be better able to compete by the end of relief in 2005.

Thank you very much.

MR. SCHAGRIN: Thank you, Mr. Magno.

Dr. Blecker.

MR. BLECKER: Good morning, Madam Chairman, and members of the Commission. My name is Robert Blecker. I am a professor of economics at American University, and I am the economist representing the domestic producers of welded pipe product in this review.

According to my analysis, the welded pipe industry has benefitted from its Section 201 import relief. Nevertheless, this industry has been buffeted by other adverse factors during the period since the relief was instituted in March 2002, especially domestic producers of welded pipe have had to weather a veritable drought of demand during a severe and prolonged downturn in the industry's business cycle.

In addition, there were adverse supply side effects from the differential relief granted to upstream flat-rolled producers relative to downstream welded pipe producers, as well as some temporary closures of certain flat-rolled producers in 2002.

Moreover, the relief to all sectors of the steel industry was partial in terms of country coverage. The covered imports of welded pipe have surged, at the same time the covered imports have fallen. As a result, the total decrease in welded pipe imports since the relief went into effect has been relatively small compared with the large increases in imports during the original period of investigation.

Thus, the overall changes in the economic condition of the industry over the past few years have been mostly unfavorable as these other factors have more than offset the benefits of the relief.

In this context, economic analysis provides a valuable method for separating and distinguishing the benefits of the relief from the losses caused by other factors. In my pre-hearing economic submission, I use an empirical model of supply and demand for imports and domestic like products that was originally created by the distinguished economist and former ITC staffer, Dr. Kenneth Kelly, for escape clause investigation in the 1980s.

The model uses actual data of record for changes in prices and quantities during the period of investigation. It is not a counter-factual model like Tauses, nor is it an econometric model using data from outside the record.

The Kelly model identifies the parts of the changes in these variables that can be attributed to changes in four factors: domestic demand, domestic supply, import demand and import supply.

In a 201 injury investigation, the effects of the shift in import supply are identified as the injury caused by increased imports. In this 204 investigation, I am using a model in a new way; by applying it to the changes in industry variables during the period of a monitoring review.

In this case there is a decrease, albeit a small one, in import supply, and the model estimates how much the reduction in import supply has benefitted the domestic industry while controlling for and also estimating how the industry was affected by other shifts such as the decline in domestic demand.

My estimates using this model demonstrates that reduced import supply as a result of the 201 relief has had a significant positive effect on the industry's performance. Although the exact numbers are confidential, they show substantial gains to the domestic industry, especially on the quantity side that are attributed to reduced import supply.

I also obtained estimates of the losses caused by other factors; that is, reduced domestic demand as well as adverse supply side shifts.

In the end, the model estimates quantify what should be plain from the data of record; namely, that the disappointing performance of the domestic industry since the relief went into effect is primarily the result of a sharp decline in demand, and that the domestic industry would be in substantially worse condition today were it not for the benefit of the relief.

The Korean respondents argue in their brief that because the condition of the industry has deteriorated in the last few years the Commission should conclude that the 201 remedy has provided no benefit to domestic producers of welded pipe.

This is completely illogical because it ignores the role of the other causal factors that have offset the benefits of the remedy. Given the severe demand decline that this industry has faced in the past two years, the only logical conclusion is that the industry's performance will be far worse if it also had to contend with higher levels of imports from the covered countries.

Accordingly, I would urge the Commission to conclude that the welded pipe industry is better off and more able to complete its adjustment efforts as a result of the import relief.

Thank you very much, and I would be happy to answer any questions.

MR. SCHAGRIN: I will turn things over to Ms. Ellsworth.

MS. ELLSWORTH: Thank you.

Good morning, Madam Chairman, Commissioners and staff. My name is Cheryl Ellsworth with the law firm of Harris Ellsworth & Levin. With me today are Don Graham, who is here today in his capacity as President of Trinity Fittings Group, and John Totaro from Harris Ellsworth & Levin.

To avoid any confusion that might arise from Ms. Mendoza's opening remarks, I must note that in a Section 201 investigation the Commission unanimously determined that the domestic industry that produces fittings and flanges had been seriously injured by reason of imports. There was no ambiguity as to the effect of imports of these producers at that time.

As the record in this investigation reflects and as Mr. Graham will testify today, the industry's performance has continued to decline during the relief period.

Don.

MR. GRAHAM: Good morning. My name is Don Graham, and I am here today in the capacity as President of Trinity Fitting Group.

Trinity is the largest U.S. integrated producer of carbon and alloy steel weld pipe fittings. In March 2002, the President imposed increased tariffs on imports from certain countries of weld pipe fittings. Trinity was gratified that President acknowledged the damage that these imports were inflicting on our industry, and that he imposed additional duties on imported fittings.

However, our enthusiasm was tempered by the fact that two of the largest sources of weld fittings, Canada and Mexico, were exempted from the Section 201 duties. Moreover, we were highly concerned that these tariffs beginning at 13 percent, now at 10 percent, were far too low to stem the flow of imported fittings from covered countries, and would not provide an effective adjustment period for domestic producers.

Unfortunately, we were right. Most importantly, these increased tariffs did not significantly reduce the quantity or increase the price of fittings imported into the United States market. Faced with continuing pressure from low-priced imports, Trinity was unable to fully implement its adjustment plan during this first year of the relief period, and actions we took to improve our competitiveness have only been marginally successful to date.

As we detailed in our questionnaire response and pre-hearing briefs, beginning in 2002 Trinity initiated radical and costly steps to consolidate its production and distribution operations. These steps included: closing and consolidating production in distribution facilities. Trinity took on these costs because we viewed this overhaul of our operations as a means to increase efficiency in the long term, and therefore secure a foothold against the tide of low-priced imports.

It must be noted, however, that Trinity elected to assume these costs based on assumption that demand for fittings in the United States would remain steady. That imposition and that the imposition of meaningful 201 duties would reduce the market share held by imports. Neither of these assumptions has been borne out.

Over the last year demand for weld fittings --

CHAIRMAN OKUN: Mr. Graham? I'm sorry to interrupt. Can you just pull your microphone a little closer?

MR. GRAHAM: Certainly.

CHAIRMAN OKUN: Yes.

MR. GRAHAM: Better?

CHAIRMAN OKUN: I think so. Can you hear him? Yes.

MR. GRAHAM: Yes. Over the past year U.S. demand for weld fittings has declined as activities stagnated in key consuming industries such as chemicals, construction, oil and gas. Consequently, Trinity and other domestic fittings producers experienced decreased sales. In addition, because the Section 201 duties were not sufficient to curtail imports, Trinity lost market share to imported fittings during the first year of the relief period.

In this environment where fittings imports continued to pour into the United States largely unaffected by the very limited relief measure, it's not surprising that Trinity's adjustment has done little to improve its market position to date.

Trinity's financial performance remained reduced but relatively stable in the periods immediately before and after the 201 duties went into effect. However, in the last quarter of 2002, the first two quarters in 2003, our production and sales have fallen significantly from that plateau. For example, Trinity's sales for the first half of 2003 were 23 percent below the first half of 2002.

These declines lead to a dramatic slide in our profitability. In light of our recent performance, Trinity is hard-pressed to justify further expenditures on adjustment actions even though we believe they would further enhance our efficiency. The climate is just too uncertain.

As was the case before the 201 duties went into effect, imports continue to undercut domestic prices for domestic weld pipe fittings by large margins. Trinity is doing its best to compete, but imported fittings beat every price reduction we undertake.

Every day Trinity is aware of the prices of which import fittings are sold into the United States as Trinity's largest customers purchase these fittings. Recently several customers reported to Trinity that a major distributor offered to sell them a full line of imported fittings presumably from Thailand at prices that are well below Trinity's price standard. We shaved our price to these customers as much as possible in an effort to retain at least a part of this important business, but are unable to match the price for imported fittings.

Even after the additional discounts that Trinity extended, with the 201 duty in effect for these imports, the import prices are still 10 percent or more below Trinity's prices. In fact, some of Trinity's customers also import fittings and these customers report to Trinity that they are not paying the additional 201 duty and that they have not had to pass on the duty to their customers in the form of price increases.

This indicates that foreign producers are absorbing fully the cost of the 201 duties, thereby eliminating any benefit to the domestic industry. Trinity continues to struggle to compete with imported fittings. Foreign producers and U.S. importers have a seemingly endless capacity to reduce prices and the relief measures that the President imposed in March 2002 have offered little, if any, breathing room for Trinity's adjustment actions taken to date.

That being said, while the increased duties have not made Trinity's path significantly easier, I ask the commission to recognize that Trinity has made substantial and costly efforts to take full advantage of what has been only limited relief. Consequently, the commission should recommend that the President maintain or better yet enhance the duties applied to fittings for the full three-year period. If the increased duties on import fittings are reduced or eliminated ahead of schedule, I am confident that imports will surge at even greater levels, effectively relying on price undercutting to seize even greater share of the U.S. market.

Whether Trinity and other U.S. producers can withstand the further encroachment by imports or the sustained drain on profits that has resulted is very doubtful. I regret all too much that I speak from experience in this matter.

In the earlier testimony in the Section 201 investigation, Trinity was in the steel flange business for nearly two decades until import competition forced us to exit the business. Basically, the price went down 25 percent in one day. Relentless competition from cheaply priced imports forced us to close flange production facilities in '98, 2000, 2001. We were forced to contract and eventually eliminate this important companion line of Trinity's fittings business and it was because it was losing too much money and too much market share due to price pressures from imports. If I had felt that Trinity could compete on a price basis with imports, we would have not exited the flange business.

I hope with the assistance of continued Section 201 duties that Trinity's fittings business can avoid this same fate.

Thank you.

CHAIRMAN OKUN: Thank you.

MS. ELLSWORTH: That concludes our presentation. I'll turn now to Mr. Stewart.

MR. STEWART: Thank you, Madam Chairman,

members of the commission. My name is Terry Stewart. I'm with the law firm of Stewart and Stewart here in Washington, D.C.

Mr. Gerard of the Steelworkers has a prepared statement that we would like to ask be made part of the record and he will be summarizing his statement for the commission this morning.

Law enforcement officer?

MR. GERARD: Thanks, Terry.

Chairman Okun, Vice Chairman Hillman, Commissioner Miller and Commissioner Koplan, let me say I am pleased to have another opportunity to appear before you. It feels a little bit like old home day. Before I go on with my testimony, I do want to again take the opportunity to ask a number of our rank and file folks who are here, you will be happy to know that we have a legislative internship program and a Women of Steel program and we have seven women who are part of our legislative intern program and activists in our Women of Steel program who are here as part of their training about how the legislative process in Washington works and I'd like them to be recognized.

CHAIRMAN OKUN: Welcome.

MR. GERARD: They're all here to report back to their membership.

Let me just say that I'm really here today to tell you that the United Steelworkers of America and our members are doing their part and are stepping up to the plate to make sure that there is a positive adjustment in the steel industry. In fact, as the President said in announcing his multi-lateral initiative in 2001, the U.S. steel industry has been affected by a 50-year legacy of foreign government intervention in the market and direct financial support of their steel industries. The result has been a significant excess capacity, inefficient production and a glut on world steel markets. And, quite frankly, in that area, not enough has changed. In fact, given the conditions the President referred to, I don't need to regurgitate but feel that I should. Thirty-nine steel companies were forced into bankruptcy, 26 million tons of U.S. steel making capacity were idled or shut down between January 2001 and January 2002. Steel prices fell to their lowest levels in 20 years.

Irregardless of what the CITAC tip sheet aid, price has not returned to even the average of that 20-year period in the steel industry and, in fact, in the pipe and tube industry, that is still the case.

Fifty-six thousand steelworkers have lost their job, 200,000 steelworker retirees, their widows and dependents have lost their pensions and health care.

Since the 201 relief was announced our union and our members have been on the front lines, both our active and our retired members, and we've not only participated in but have led a massive restructuring of the steel industry that is not yet completed. We've made significant progress. We are trying to be a participant in what could euphemistically be called a humane consolidation and in the process of our negotiations, attempting to balance the interests of all stakeholders.

In his multilateral initiative, the President not only called for the 201 investigation by the ITC, but he also called for a sharp reduction in global excess capacity and the elimination of "trade distorting government subsidies." As we speak today, there are meetings at the OECD that may or not be completed yet today on those subsidies.

For the President's initiative to be effective it is extremely, extremely essential that the 201 relief remain in place. The sacrifices that our members have made and that our members are making to participate in this humane consolidation would be all for nought if at the midpoint for some unforeseen reason the 201 remedy didn't see its way through to its completion.

The United Steelworkers of America through our collective bargaining process, as I say, have led the way in this humane consolidation. We established in September of 2002 a basic steel industry conference document that would, in large measure, based on the fact that we were anticipating a three-year 201 remedy as it was described in the various product lines, but we established a process to participate in the humane consolidation and we set forth a number of principles. Those principles have borne fruit.

After LTV shut down, the steelworkers fought to keep LTV's furnaces and coke operations on hot idle. We filled the bankruptcy court and convinced the bankruptcy judge to leave $15 million from the estate to leave it on hot idle while we sought a new buyer for the operation. This not only preserved the equipment, but it paved the way for a new company, ISG, to be formed and for the acquisition of LTV's assets.

When Bethlehem was on the verge of being dismantled and sold off to several separate steel companies and a number of the facilities would have been destroyed, we urged ISG to acquire all of Bethlehem's steel making facilities, which has since occurred.

We played a significant role in U.S. Steel's acquisition of National Steel. When U.S. Steel was in the process of selling off its raw materials, we persuaded U.S. Steel to suspend the sale pending negotiation of a new labor agreement covering both U.S. Steel and National employees. This labor agreement was critical to U.S. Steel's successful bid in bankruptcy court to acquire National Steel and thus prevent the further fragmentation of the steel industry.

Most recently, the steelworkers reached a tentative labor agreement with Wheeling Pittsburgh Steel and if this agreement is ratified, which we fully expect, Wheeling Pittsburgh Steel will be the first major integrated steel maker to successfully reorganize and emerge from bankruptcy since the crisis in 1998.

The fact of the matter is, ladies and gentlemen, that the consolidation efforts of this magnitude have not been seen in the U.S. steel industry since the days of Andrew Carnegie. They would not have happened without the relief of the 201 and the belief that it would offer a measure of protection. As we said at the time of the 201, although it was not all that the steelworkers union wanted, it provided a light at the end of the tunnel.

Our members have participated in this consolidation with a view that they will have an opportunity through this period of time to participate in a successfully reorganized steel industry.

While much of the consolidation that I'm talking about has taken place with flat rolled producers, this consolidation should significantly affect tubular producers as well and they are testifying today. As primary consumers of flat products, tubular producers consume approximately 8 million tons of flat rolled steel annually. Thus, the successful consolidation, restructuring and reinvestment in the flat rolled sector should inevitably lead to direct benefits for tubular producers as well.

As I said, the collective agreements that we've bargained are innovative. We will be providing a summary of those when we do the flat rolled hearings next week, but let me just say that we have streamlined job descriptions, gone from 34 to 5. We bargained investment commitments which has been unheard of. We bargained that the integrated producers had to commit themselves to the North American market and had to make reasonable and necessary capital expenditures in order to maintain their competitiveness. That is a part of the collective agreement. We bargained a transition assistance program that is extremely costly in up front payments to thousands of our members who are eligible for retirement benefits who will transition and leave the industry voluntarily so that we can have massive increases in productivity and the reports that we're looking for are a minimum of 20 percent productivity improvements. That will come as a result of our members knowingly voluntarily leaving the industry and our existing members knowingly and voluntarily changing the way that they've worked for the last 60 years.

In addition to that, as a condition of that negotiation, we've negotiated huge, huge reductions in unnecessary layers of management and through the collective bargaining process we are flat lining those layers of management.

In closing, let me make several observations. Our union and our members have played a critical role in helping the industry adjust to the changing global conditions in the industry. These efforts are far from over. There needs to be ongoing consolidation and reduction in fragmentation in every sector of the steel industry. Our union has said publicly for the last two and a half years the problem in the steel industry is not that we have too much steel or too many steelworkers. The problem in the steel industry is we had too many steel companies and too much illegal dumping and foreign steel activity in our markets.

No other nation on earth has been prepared to give up 20 to 25 percent of its market in such a basic industry as steel. No other nation has been willing to sacrifice its workers on the altar of some ideological concept that doesn't exist. The fact of the matter is that our members have made painful sacrifices. The fact of the matter is the job isn't done. The President needs to continue his multi-lateral trade initiative. There needs to be discussion on subsidy, there needs to be discussions on global over supply in several sectors of the economy. As one of the presenters said, it's unconscionable that we would be having steel that is hugely subsidized in the tubular business that has no market except in America targeting this market, to destroy ours. And then once we're put out of business in several sectors, whether it's fittings or tubes, then have no ability for us to launch actions because we have no market, we have no business.

Secondly, with the sacrifices that our members have made and the risks that our members and our retirees have taken, for the 201 to end at its midterm would be pulling the rug out from under them because the last point that I want to make is through the collective bargaining process, we've negotiated something that no other union has ever negotiated called the VEBA Trust and a certain percentage of each company's profits has to be allocated into a trust fund to try and provide some measure of health care to those 200,000 hard working people who have lost their health care as a result of those 39 bankruptcies. We have negotiated with companies like ISG and U.S. Steel that they will attempt through the level of profitability to put money into a fund to provide health care to people who are not their employees at the time they purchased the operation.

There will be a human consequence if the 201 is not extended to its fullest because the consolidation will not proceed, profitability will not return, there will be additional closures, there will be a lack of investment in what we bargained and that we bargained on, investment to modernize and keep these mills competitive.

We closed the door on importing raw materials. We've said that they have to provide the raw materials from their North American suppliers of iron ore and coke in order to facilitate the humane consolidation.

We took a ton of risk and our members have voted overwhelmingly in the 80 percent plus range for these collective agreements. They view that they are doing their part, the ITC has done their part, and they still want the President to do his part.

I know that this is not a series of recommendations but it's a report that you will give to the President, but I am also politically wise enough that I know that reports can lead you in a certain direction, and I would ask that your report point us in the direction of the continuation of the tariffs.

Thank you very much.

MR. STEWART: Madam Chairman, that completes the presentation of the domestic industry.

CHAIRMAN OKUN: Thank you very much.

Before we begin our questioning this morning, I want to again thank all the witnesses for appearing here, welcome back, I think, to most of you, and also, again, to say a special welcome to the Women of Steel legislative intern program who are with us today.

We will begin our questioning this morning with Vice Chairman Hillman.

I would remind witnesses that with a number of you out there it's easiest for the court reporter if you repeat your name and your affiliation when you answer questions.

And with that, Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Thank you very much.

I, too, would join the chairman in welcoming you, most of you are familiar faces to us, so welcome back and we do appreciate your taking the time yet again to be with us this morning. And I would also join the chairman in welcoming the Women of Steel in the back of the room. I would say, I think, for this commission in particular it's always a special pleasure, particularly on a hearing on steel, to look out into the audience and see women out there in the audience. So we very much appreciate your attendance here this morning.

I want to start, perhaps, just with one point for you, Mr. Schagrin, more as a post-hearing point. I was very struck by Mr. Katsafanas' comments with respect to the capacity numbers that are contained in the staff report.

I guess actually it shouldn't just be to you, Mr. Schagrin, if other counsel want to comment on this, obviously his testimony would go to the effect that our numbers show one thing and his perception is another and given that the numbers are not public, I would ask you in a post-hearing to try to help us understand why there is this discrepancy. I mean, if you think we are missing, you know, counting capacity that has closed or whether we are somehow over counting capacity numbers, I would ask you to do whatever you can to reconcile the impression that was given in his testimony with the numbers that we have before us.

MR. SCHAGRIN: This is Roger Schagrin. Vice Chairman Hillman, we will do that. We have gotten a start on that in our pre-hearing brief. We have a section in our pre-hearing brief addressing capacity and we will continue to do that in our post-hearing brief.

I would urge the commission, we have had conversation with staff, I think one of the most important things that the commission can do to solve an issue we've discussed previously with the commission, the old survivor bias problem, is that you do have circumstances in which companies that were open and able to supply questionnaire responses to the commission during your 201 investigation have since shuttered their facilities and they've gone through bankruptcy liquidation and they don't exist in order to file questionnaire responses in your 204 investigation, but we believe the commission has the authority because it's one connected record and you can keep the questionnaires, we're not allowed to under our protective order, but you, the commission, can keep questionnaire responses from the 201 investigation, that you ought to utilize whatever responses you received in the 201 segment of the investigation when you put together this 204 report, even though you are not able to obtain a questionnaire response in the 204 because the company is no longer in existence.

VICE CHAIRMAN HILLMAN: Fair enough. I appreciate that. I just want to make sure that I'm hearing this right, that the industry's perception is that in fact capacity -- and again, at this point, I'm speaking of welded tubular non-OCTG product -- that capacity in this industry is in fact less than what it was last year or the year before that. I'm just trying to make sure that everybody is in agreement that that is the understanding of the industry, that in fact capacity has come out the period that we're looking at here.

MR. SCHAGRIN: There's no question. And it's been very significant. And the other thing we'll urge the staff to do is some it's a little forward looking, for example, what Mr. Katsafanas was referring to with copper weld, one of those plants was closed in February. Your period ended in March. It was a plant with about 300,000 tons of capacity. Another plant closed, I believe, in April. That was a plan with 400,000 to 500,000 tons. Portland Mills is one of the largest pipe and tube mills in the United States. We'll get you the information on that. Maybe your report also ought to note that there's been significant closures of capacity for the period just after the end of your March 2004 investigation period. But we will certainly address that in our post-hearing brief, Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Mr. Stewart?

MR. STEWART: A quick follow-up. In your

questionnaire on the 201, the parties who sent questionnaires back indicated that they were authorizing the commission to use that data in an subsequent part of the 201 proceeding, including this midterm review, so the staff does have that ability. We're peculiarly not in a position to help, I think Roger is in the same position, because we no longer have the questionnaire responses that would have been generated in the original part.

VICE CHAIRMAN HILLMAN: I appreciate that. I just wanted to make sure again that we got on the record this issue since it does go against the pure data that is in our record.

I guess if I can then go to the industry, to the issue that sort of all of you touched on and it's obviously clearly noted in your briefs and that is the issue of the decline in demand. You've all commented on it. I think one of the briefs refers to it as a significant and persistent decline in demand.

Help me understand it. What is going on, in your view, that explains this significant and persistent -- and I'm concerned about the persistent end of it -- decline in demand. What is your sense of what's going on in the industry that would cause this level and this long length decline in demand?

MR. MAGNO: This is Mark Magno from Wheatland Tube Company. I'd like to address the standard pipe market. We have a couple of producers and a couple of other different types of products.

In marketing our products, we look at the non-residential construction market, both in buildings and industrial, capital spending in industrial and that market has been consistently been down 25 to 30 percent almost over the past year.

One concern also is that when the economy starts to recover then traditionally that construction lags by at least six, nine months or almost to a year. That's why we see this as a continuing slow down in construction and then consequently in consumption of the standard pipe markets.

VICE CHAIRMAN HILLMAN: Okay. Others?

Mr. Bussiere?

MR. BUSSIERE: I'm Bob Bussiere with Allied Tube. I don't have much to add there other than, you know, the percentage decline from 2001 in square footage, and that's primarily what we focus on, is down about 30 percent in total, according to Magraw Hill Dodge. So obviously smaller buildings, a lot less pipe and tube, whether it's structural or fire sprinklers or conduit or anything along those lines.

VICE CHAIRMAN HILLMAN: So the square footage, meaning the buildings are smaller?

MR. BUSSIERE: Correct. Correct.

VICE CHAIRMAN HILLMAN: Okay.

MR. KATSAFANAS: I'd like to add to that. Perry Katsafanas from Leavitt Tube. Our structural tubing product, that goes into non-residential construction and the reasons that my colleagues have stated are accurate. And also I think that the overall effect of just the general economy, 9/11, the recession, et cetera, et cetera, plans are on hold because the future is uncertain for people to put money into big capital projects.

However, I would say that it's not a decline in the perception or the use of the product because the United States lags the rest of the world in the per capita consumption of structural tubing use. And that issue is on the increase. The industry has spent a lot of money and effort to make engineers and architects aware of the product and the benefits versus other products, so we don't see as a matter of product preference the industry declining, it's an economic issue that may be temporary.

On the other product that we produce, which is mechanical tubing, a big market for that product is consumer products from a range from lawn mower handles, snow blower handles, bicycles, furniture, dinette sets, juvenile furniture, outdoor swing sets, et cetera. And, as you have heard, there has been a tremendous amount of loss in the sector of U.S. manufacturers to foreign producers, particularly from China, at this point in time.

VICE CHAIRMAN HILLMAN: Bringing in finished product?

MR. BUSSIERE: Correct. Bringing in finished product. And that is significantly affecting the potential for sales because those customers aren't here in the numbers that they were and that relates to the currency situation that was testified to also. That issue is a major factor.

VICE CHAIRMAN HILLMAN: Okay.

Mr. Gerard, did you have anything you wanted to add?

MR. GERARD: I was going to support the last comment, but also say that in the steelworkers union we have a range of members across almost every sector of the pipe and tube industry and there's been a particular drop in demand in what I call energy pipe, for the energy industry in that since the Enron debacle and in some ways almost the virtual collapse of investing in that sector of the economy, things that we knew that we were supporting that were in the pipeline to be considered for building pipelines just simply stopped. And because we're an international union, we see it whether it's in Canada or whether it's in the U.S.

The other thing that we have experienced is a huge loss in membership in sectors of the economy that use mechanical pipe that have simply closed their doors and moved to China. Contrary to what folks like Metaldyne and others say, they didn't move to China in the year since the tariff was introduced. Part of their business plan was to move to China and so that part of the U.S. market is gone, whether you're in auto parts or whether you're in lawn mower handles.

VICE CHAIRMAN HILLMAN: Okay.

Mr. BOHACH, I know you touched on this in your testimony, and my red light is on, but if there's something you wanted to add very quickly on this issue of demand, that's all right, just quickly.

MR. BOHACH: Well, having lived through it, and I'll follow up, we saw projects literally taken of the table. We track every project that's ever thought of in the United States and in other companies and what had happened is -- if you had seen our list, it was three our four pages long, today it's a page and a half. They just won't go after any project that has any chance of not giving back full value. They just don't have the financial wherewithal to take a chance. So it's just shrunken.

VICE CHAIRMAN HILLMAN: I appreciate those answers. Thank you.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you, Madam Chairman.

Let me also join in welcoming the many of you that have been back and anyone who is here for the first time. We appreciate your being here and join in welcoming the members of your internship group. I don't know if any of them were here last week for the stainless hearings --

I see heads shaking. I hope they're not going to make you sit through all four of these hearings.

If you do, Mr. Girard, they get some extra --

And you, you're going to do at least two of them, right?

Well, you missed the stainless one last week, so you've already got one short from your fellow workers back there. More power to you.

I have to sit through all four, so I appreciate it if somebody else out there is as well. We'll try to make them a little lively occasionally, although no promises. This is a tough forum for that.

I want to make sure -- I have a follow-up questionnaire to Vice Chairman Hillman's question about demand but I want to make sure everybody had an opportunity to respond to it.

Particularly, Mr. Graham. I don't know if you wanted to respond to Commissioner Hillman's question about elaborating on what exactly has been going on in terms of demand for your products.

MR. GRAHAM: In terms of demand?

COMMISSIONER MILLER: Yes.

MR. GRAHAM: We noticed a slowdown beginning in November and December of last year and it's been pretty consistent, dropping slightly each month into this year.

COMMISSIONER MILLER: Okay. Is there something specific to your markets other than general economic conditions that suggest that this a long-term phenomena or --

MR. GRAHAM: I just think it's a form of wearing the economy out a bit. It's just a slowdown that was bound to happen, considering everything that's been going on.

COMMISSIONER MILLER: Okay. All right.

My follow-up that I want to ask the panel to address is I view this proceeding, our mandate is to monitor developments with respect to the industry and specifically or most particularly the efforts to make adjustment, to take adjustment measures.

So my question to you, I know in your post-hearing briefs, you've talked about the fact that the demand conditions have, in many cases, forced you to scale back on the adjustment efforts and I just want to ask you to elaborate on that, perhaps in terms of how does the decline in demand affect where you may choose to spend whatever adjustment money that you do have? I mean, does it mean you choose more to aim at reductions in cost?

Mr. Bussiere, you mentioned your marketing efforts.

And I want to come back to you, Mr. Girard, because I think having the information about what you're doing on the union side is very important to our report, so it does say to monitor the adjustment efforts of workers and companies, so you're supplying us very important information, so I want to come back to as well.

In the context of this kind of economy, what do you choose to do or not do? I mean, how does it affect your decisions?

Does anybody care to start?

Mr. Banes?

MR. BANES: Scott Banes with IPSCO Tubulars. We're a company that's several business units, as I mentioned, owned by one parent company and similar to Allied Tube and Conduit, we compete for what available funds are there for capital expenditures. When we have a situation where the number of projects is larger than what the pot will allow for, then we have to go through a series of priorities.

In our company, the way the priorities come down are that RFEs, or requests for expenditures, are ranked by, number one, compliance and regulatory issues, things such as environmental or EPA requirements that have to be done or safety issues that need to be addressed, are the highest priority. And the ranking follows down the line into things that would be significant cost savings with very quick payback and on down. And then the longer term paybacks, obviously, fall to the lower end of the scale. That's how we do it at IPSCO.

COMMISSIONER MILLER: Okay. Thank you.

Mr. Katsafanas?

MR. KATSAFANAS: Thank you. I would go along with Scott. Our number one concern first is safety. No matter what our profit position is, we replace and invest in things to make sure that our workers are safe and also comply to regulatory issues. But when it comes to improving productivity, you have to look at the rate of return, what's the likelihood that you're going to get paid back for the investigation and in an area where we perceive declining demand, we try to look at what is the capacity issue versus what the potential demand is going to be because why would you increase capacity if there's already enough to meet the demand that exists and the future demand?

Now, you have to balance that to if you're going to increase capacity with new production, you are going to hopefully reduce your overall costs, but you still have to have a market to sell it. The adjustment, and I put this in my questionnaire responses, some of the adjustment relief is getting to us where we're basically breaking even or to keep our heads above water. Now, to take and go forward, you have to have profitability and right now our industry isn't there.

But we are still spending the money on a limited basis than if we were going gangbusters. I don't know how else to categorize that. I know that's pretty basic and not maybe detailed, but it's simple. If we can't see a return on our investigation, there's no business that just invests on a whim.

COMMISSIONER MILLER: Does anybody else want to --

Mr. Gerard, I'll let you if none of the others --

Mr. Bussiere?

MR. BUSSIERE: Bob Bussiere with Allied Tube. I really don't have that much to add except we're taking the opportunity to work with the union in order to enhance our quality as well as our changeovers, for example. Changeovers, when the mill is down, that's money, so the quicker that we can bring the mill back up, doing quick change along those lines, we work with the union to do -- it's called kaizon, for example, which is a method where we videotape them changing over the mill, they interact and they recognize watching themselves on the video as to what they can do better. So basically in a backhanded way that actually improves our efficiencies as well as increases our capacity because we can make more pipe because the mill is up more often. Those are the types of things that we're doing. But, again, we have to compete for a return on investment dollars and if the return on investment is not there as a result of demand or squeezed margins, for example, we're just not going to get as much money as we'd like to, so we have to focus some other ways.

COMMISSIONER MILLER: Thank you.

MR. GERARD: We've done through the collective bargaining process in what I call the first round, we're now moving to other rounds of that process through this consolidation and benchmarking of our collective agreements, we've done all kinds of innovative things. As I say, we've streamlined the workplace, we've helped delayer the workplace, both on the management side and the worker side. I'll give you an example.

At Cleveland's LTV works, we had 220-something shift foremen. We've now got 23. Workers schedule their own work, they schedule their own vacation, all of that stuff. We had 28 pages in a 60-year-old collective agreement on how to schedule two weeks vacation and it's now down to about two and a half paragraphs. We've done all these kinds of things.

We've bargained investment commitments, we've bargained, as I said, the transition allowance. We even went so far, to be so arrogant, as to bargain executive compensation. We've limited executive compensation and we've put in incentive programs that in the steel industry, at the senior level, steel industry executives can't get compensation in a way that's different than compensation that will be paid to workers. So a lot of folks that have read about what we've done at "ISG" want to cherry pick some of the things they hear about when we have limited job descriptions, but when it comes to limiting executive compensation, they want to pretend that didn't exist.

So we've done a lot of fun stuff and interesting stuff, but I think more importantly than anything our objective has been to work with the industry to lower man hours or person hours per ton. The industry is not going to get profitable by destroying people's retirements, by destroying people's retiree health care or by lowering hourly wages. The way industry is going to return to profitability and competitiveness is that through the transition period allowed by the 201 lowering man hours per ton, and we've done it, by giving our activities an opportunity to retire with an enhancement retirement prior to bankruptcies. So, for example, at U.S. Steel, an individual that retires on a voluntary retirement is pension eligible, they will get $40,000. And only a certain amount of those retirements are eligible.

At Bethlehem Steel, they got $50,000 and part of the reason they got that is that Bethlehem Steel had already terminated health care, so they get $50,000 plus a year of health care so they can transition that $50,000 into a health care purchase program.

These are pretty difficult things to do. As I said, these agreements have been ratified in the 80 to 85 percent range. And for the 201 to be pulled out in the middle of that would just destroy these companies. We've built these programs and we've negotiated and renewed collective agreements based on the belief that we're going to have the 201 for the duration and so these workers that have made these sacrifices will be left behind.

COMMISSIONER MILLER: I'm going to come back to you again because what I still haven't heard and I have to believe you would have an opinion on it is how having the 201 in place in a time of demand issues and recession and all has -- how has that affected the ability to make these adjustments? I mean, in other words, from your point of view, it may have -- I don't know, I'm not going to try to put words in your mouth. If you had been in times of higher demand and less economic pressure on the companies, would the adjustment efforts have looked different? But you're not going to be able to respond to that now, but that's what I want you to think about because that's really what I'm trying to understand, the effects of the recession on the adjustment efforts.

Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

And I, too, want to join with my colleagues in thanking the witnesses for their direct presentation this morning and for their answers to our questions thus far.

I will begin by a request of counsel.

As I have listened to testimony today and at our stainless hearing last week, it appears to me that a significant number of witnesses assume that the commission's mandate includes passing judgment on the probable economic effect of reducing, modifying, or terminating relief. However, Section 204(a) relating to our monitoring function includes the following language in (a)(4): "Upon request of the President, the commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any reduction, modification or termination of the action taken under Section 203 which is under consideration."

The President has not made such a request of the commission. For purposes of the post hearing, I would appreciate counsel briefing for me whether in the absence of such a request you can point to authority in the legislative history or otherwise for the commission to do that on its own.

Can I have an acknowledge from counsel that you will do that?

MR. SCHAGRIN: This is Roger Schagrin. We'll address that in our post-hearing brief.

COMMISSIONER KOPLAN: And Mr. Stewart?

MR. STEWART: Yes, Commissioner Koplan. We will do that.

COMMISSIONER KOPLAN: And Ms. Ellsworth?

MS. ELLSWORTH: Yes, we will address that.

COMMISSIONER KOPLAN: I don't think I've left anybody out on that. All right. Thank you very much. I appreciate that. That would be most helpful for me.

Mr. Schagrin, if I could start with you, I focus on a different timeframe than you when I attempt to evaluate the effectiveness of relief for both welded pipe and fittings flanges and tool joints. I refer to your analysis at pages 11 to 13 of your pre-hearing brief. I compare the level of imports for the 12 months since the relief went into effect to the 12 months prior. That is, a comparison of SY 2001 to 2002 to SY 2002 to 2003.

The result is that since March 20, 2002, for welded pipe total imports declined 660,736 short tons, or slightly over 22 percent. For fittings, flanges and tool joints, total imports declined 40,801 short tons, or nearly 24 percent. Those numbers include my netting covered with non-covered imports in both years.

Assume I did the math right, I would ask whether you consider my approach improper. I would note before you answer that that in his testimony today Congressman Visclosky made this statement, that during the first year of relief from April 2002 to March 2003, imports of welded pipe from sources covered by the relief declined to 809,695 short tons from 1,583,353 short tons in the preceding 12-month period. So he's using the same type of methodology that I am using here, so I want to know if we're both wrong.

The reason I'm asking you this is I assume that our purpose is the same and that's to evaluate how effective the relief has been since March 20, 2002, but the result I reach is that the relief has been more effective than what you have described.

MR. SCHAGRIN: This is Roger Schagrin. Commissioner Koplan, there's nothing wrong with your analysis and there's nothing wrong with the time periods that the commission has chosen to utilize in terms of looking at post-relief period, other than the fact that for the gentlemen sitting in this front row it doesn't comport with commercial reality. And the reason for that, to explain it briefly, is that in looking at how have their businesses done since March 20, 2002, the fact that in the first quarter of 2002 there was this just absolutely massive import surge ahead of the relief and then to say, but wait, imports went down so much after that, why didn't you immediately do better and it's because in the misrepresentation that they participate in, not myself as an attorney, not you as a commissioner, that massive import surge in the first quarter of 2002 was just horrible on their businesses in the second and third quarter 2002, as I think the commission is aware from other investigations. The fact that there is a lag effect of import surges is fairly well recognized.

And so in terms of your report, it's fine to say this is what happened to the data on imports. We recognize that the imposition of the 15 percent tariff helped reduce imports from covered countries, but the amount of reduction is overstated by the fact that the countries covered by that relief put in so much product ahead of the relief. They said why don't we just ship in 65,000 tons a month before the relief goes into effect rather than shipping 30,000 tons afterwards and then we'll just cut it back to 10,000 tons and it will save us money. Because as Mr. Graham and I think Mr. Bohach and many others have testified, several of the covered country producers have since the beginning of this program absorbed the duties themselves.

So I hope that answers your question. There is nothing wrong with the record. Obviously, your record for the data for the domestic industry is going to reflect what happened in their businesses during this first year after relief and I would just say the reason that the Koreans attempted a simple correlation --

COMMISSIONER KOPLAN: Let me just break in for a second, if I could, before you use my full ten minutes.

MR. SCHAGRIN: Okay. Any time. We can also respond in our post-hearing as well.

COMMISSIONER KOPLAN: It would seem to me, Mr. Schagrin, that one of the things that we're looking at is has the relief been effective, Are you down playing the relief to such an extent that you're taking away from a position that I think you would otherwise be making here?

MR. SCHAGRIN: No.

COMMISSIONER KOPLAN: What I'm saying here is that this relief has been working in a better fashion than what you describe in your brief and I've described to you how I get there.

MR. SCHAGRIN: And I understand that.

COMMISSIONER KOPLAN: And you're disagreeing with that?

MR. SCHAGRIN: Well, because of the fact that the industry's performance, which is mostly impacted by the decline and demand, has not improved in spite of the post-March 20, 2002 imposition of the

15 percent tariff. What I'm saying is a simple correlative analysis of, oh, if the imports caused injury to the industry, then when covered imports decline by 40 percent, you should see it.

COMMISSIONER KOPLAN: I understand. I've read your brief.

MR. SCHAGRIN: Correct.

COMMISSIONER KOPLAN: Mr. Stewart, could you jump in on this? I'd be interested in what you have to say.

MR. STEWART: To save time, Commissioner Koplan, why don't I just do it in a post-hearing brief so that I'm responding to the data.

COMMISSIONER KOPLAN: Fine. That's fine. I would appreciate that.

Let me stay with you, Mr. Schagrin, with another one. Let's see if we can get through this one a little more quickly.

MR. SCHAGRIN: I'll try to be as brief as possible.

COMMISSIONER KOPLAN: Did you say that would be a first? I didn't catch that.

CHAIRMAN OKUN: I don't think the reporter caught it.

COMMISSIONER KOPLAN: Okay. In SY 2002 to

2003, covered imports for welded pipe declined when compared to SY 2001 to 2002 by 773,658 short tons, a decline of 48.86 percent, while non-covered imports increased 112,922 short tons, an increase of 8.04 percent.

During the same period, fittings, flanges and tool joints of covered imports declined 36,591 short tons, a decline of 26.87 percent, while non-covered imports declined by 42,010 short tons, a decrease of 11.77 percent.

In sum, I view the impact of non-covered imports since the relief went into effect as far less significant than you do in your brief and, for that matter, far less significant than those in opposition to the continuation of relief do in their brief.

Can you comment on that with that short answer you promised?

MR. SCHAGRIN: I think it's fair enough for you to look at it that way in terms of those post-March 20, 2002 numbers. We would also say that the increase in non-covered imports in a market that's significantly declining have undermined the relief, but the numbers speak for themselves.

COMMISSIONER KOPLAN: Let me also mention that non-covered fittings declined in SY 2000 to 2001 as compared to SY 2001 to 2002 as well.

MR. GRAHAM: Say that one more time.

COMMISSIONER KOPLAN: Non-covered fittings, the imports in non-covered fittings, declined in SY 2000 to 2001 as compared to 2001 to 2002 as well. So that decline was continuing all the way, was going on all the way back.

MR. GRAHAM: When you say non-covered fittings?

COMMISSIONER KOPLAN: Fittings coming in from countries that were not covered by the relief, exempted countries.

MR. GRAHAM: Yes. That would be Mexico and Canada, which are non-covered, so their markets, I think, were on a different basis.

COMMISSIONER KOPLAN: And developing countries.

MR. GRAHAM: Pardon me?

COMMISSIONER KOPLAN: What I'm referring to are the developing countries and the ones that you've just mentioned.

MR. GRAHAM: I don't know about the developing countries, I know about Canada and Mexico. Their market did decline a bit.

COMMISSIONER KOPLAN: Did you have anything you wanted to say on that, Ms. Ellsworth?

MS. ELLSWORTH: Only to add that we've seen reductions in general because of the very depressed market conditions that we're experiencing right now and I think that we would be willing to concede that there has been a reduction from other areas, it's just that we feel that our reduction has been greater than in other areas.

COMMISSIONER KOPLAN: Thank you for that.

Thank you, Madam Chairman.

Thank you.

CHAIRMAN OKUN: Thank you.

And, again, Thank you to all the witnesses for being here and for your willingness to answer our questions. We very much appreciate it.

I'm going to just briefly begin with counsel for a moment to ask a question similar to what I asked during the stainless hearings and assume I'm going to continue to keep asking it, which is for post-hearing, if you can take a look at the 204 statute, because, as you know, we have not done that many of these 204(a)(1) reports, we've done some, I've looked back through them, and I think it's helpful for us to try to focus on what is we are actually being asked to do. And, in some instances, I know that a commissioner maybe is not prevented from doing other things because the statute doesn't tell them they can't, but I'm just trying to get counsel's best view on what the statute tells us to do with regard to 204(a)(1) monitoring, which to me focuses very much on developments with respect to the domestic industry, including progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

I've read the legislative history and I'm still struggling with some of the arguments I hear being made and some of the things that have been raised of whether it's really the proper role of the commission in this instance. So just for post-hearing, I will be taking a look at that specifically.

If I could go back to some of the points Commissioner Miller raised, the question Commissioner Miller had discussed with witnesses with regard to your adjustment efforts during this period and I wanted to be sure to see, Mr. Magno or Mr. Bohach, if you wanted to say anything more in terms of what I think is a very relevant question of what was it that you would view as being the most important things you did over this period. And I know you've covered some of this in your testimony, but because so much is in the confidential questionnaire responses, I really want a chance for you all to have something to say about that here.

MR. MAGNO: Thank you. Mark Magno from Wheatland Tube. As testified, we made a major acquisition, the largest in our 126-year history, and we decided to install a new, larger mill. So on the acquisition, similar when if in your personal lives you buy a house and you arrive there and then all of a sudden you have to some just regular maintenance and upgrades, those were the first priorities that we started spending on, increasing maintenance, fixing some immediate bottlenecks and spending money to improve productivity and quality. In addition, we had a new, very well trained workforce. We added some resources to improve training.

Then similar to many industrial companies when you are severe profit and loss issues, we had to restrict spending and we eliminated non-essential business expenses and really concentrated on maintenance and completing some of the projects that were in place.

CHAIRMAN OKUN: Okay.

Mr. Bohach?

MR. BOHACH: Don Bohach, Stupp Corporation. I'll reiterate that safety and regulatory improvements are what you're after in the beginning. You always want to have a productivity balance at the bottom, but the things that we chose to do had to be market drive and customer oriented. That means that we couldn't just fall in love with technology, we couldn't afford it. We had to make sure that what we did is what the customers were asking for. In our case, that meant heavier walls and it also meant having an edge and a welding capability that the market asked for. So in simple terms, market driven and customer oriented.

CHAIRMAN OKUN: Okay.

Mr. Graham, for the fittings industry, did you want to comment any further on just what you thought were the top two things -- I think you have enunciated a number of things that your company undertook to do during this period. I wondered if you could point to one or two that you think were the most important in terms of your adjustment efforts.

MR. GRAHAM: Well, early in the process, especially after the rulings in March of 2002, the size of the protection, we immediately set about consolidating our businesses. We had four facilities making fittings in March of 2002 and consolidated those now into two facilities. Over a million dollars worth of expenditures. We lost no capacity, no capability to produce the same number of fittings that we were producing in previous years and the cost effect of that has been substantial. But unfortunately, in the last eight months, as I said, the way the market has developed, we haven't shown the fruits yet. And, again, that's simply because we see a slowdown in the industries that are using our fittings, a slowdown that we hadn't anticipated prior to -- when it surfaced first in November and December of last year and it's continued along that way. So if you're comparing six months this year imported fittings to the first six months last year, it's a 23, 24 percent drop.

CHAIRMAN OKUN: Okay. Another question for you and also I guess I will direct this at Ms. Ellsworth which is, obviously, I think you have provided us with a lot of in on what Trinity has been doing during this period and I think our record is hampered by the fact that we do not have that type of information from, I think, a representative field of the fittings and I wondered if there was anything that you are aware of or that you could describe here of any adjustment efforts that you know of about other companies that we heard about in the 201 including Wellbend, Capital Manufacturing, Beck Manufacturing. If there's anything that you're aware of you could share here or point us to.

MR. GRAHAM: One thing I would say is that we're selling our competitors a lot of product right now, domestic competitors. And that would indicate to me that they're not producing them. I would consider that as a detriment to their business.

CHAIRMAN OKUN: And that's a change over this period? In other words, you're selling them product --

MR. GRAHAM: We're selling in the last six months more than we've ever sold them over a period of time. It's sometimes two and three times what we've been selling them.

MS. ELLSWORTH: I would add that that shows you that the production sales levels that you see for Trinity, even at the depressed levels they are, it's largely boosted by work that they're doing for other U.S. producers.

CHAIRMAN OKUN: Okay. Maybe for post-hearing if I could ask -- and I see Mr. Schagrin has his hand up.

MR. SCHAGRIN: Chairman Okun, we have Anvil as part of the CBTI 201 coalition, they're a major producer of fittings, and they purchased all the assets of Beck Manufacturing early in 2002 and in Anvil's questionnaire responses is public information as well.

They did a significant amount of rationalization of capacity similar to what was discussed by Mr. Graham in terms of they took fittings production that was occurring in three or four plants and closed plants and reduced that fittings production into fewer plants, so they both did an acquisition and they rationalized capacity through plant closure.

CHAIRMAN OKUN: Okay. I appreciate the information. And if there's anything else in post-hearing that you can help us out with, to direct us to better fill out this record on what's going on in the fittings industry, I think it would be greatly appreciated.

MS. ELLSWORTH: We'll do the best we can.

CHAIRMAN OKUN: Okay. And if I could come back up to you, Mr. Gerard, and I think I would just go back to the question that Commissioner Miller was posing to you and give you the opportunity to answer that now because I have some other questions just about what's going on with regard to labor adjustments in this particular industry, but I think she asked what is it that in this kind of demand downturn what is it that that's impacted in terms of adjustment efforts that you're making.

MR. GERARD: I guess if I think about the question in whole, let me just say that I think without the initial 201 our union would not have participated in the consolidation efforts because it would have been quite frankly having to give at the office twice. We would have had to do something in the cost reduction and then we would have had to do something again in the bankruptcy and we weren't going to do that. We don't intend to bleed to death that way.

Now that there is a process of low demand, I think the consolidation that's taken place so far has managed to improve productivity, but there's a high degree of uncertainty right now until we get some affirmation that the 201 process will continue to the end. There's a lot of folks that are skittish, both in view of future consolidation and in the collective bargaining process.

Profitability has not returned in any form prior to what it was in the start of the 1997-1998 surges and the crisis that followed.

I would say that since the 201 the rate of bankruptcies has declined. There have still been some, but never were able to recover and they've gone bankrupt and a couple have liquidated, but the rate of bankruptcy seems to have stemmed.

If the 201 was to be -- the term was shortened by the President, I would think that the import surge would be immense. A number of the companies that have consolidated would face financial difficulty. I think that there would be a decline, if not an abrupt stop, in future consolidation and, in fact, I wrote a note for myself that we would probably end up destroying the industry because I think a lot of them, both in the tube business and in the flat business, have tried to build business plans that built into that business plan is the 201.

The other piece that I wanted to say something about --

CHAIRMAN OKUN: I have some other questions with regard to labor and my red light has been on for some time, so let me come back to you and give you a chance to more fully enunciate that.

Right now, I'll turn to Vice Chairman Hillman, but thank you for those comments.

VICE CHAIRMAN HILLMAN: Thank you very much.

I think I want to make sure I understand again all of the -- trying to square the data on the record with the impressions here from the industry. And one of the issues I am struggling to make sure I understand is that our data combines standard pipe with the large diameter line pipe in one set of numbers.

I'm just trying to make sure I understand from the industry's perspective whether you think the trends in, you know, consumption, in imports, and in prices have done things different as between the sort of standard pipe and the large diameter line pipe.

And I realize this is a little bit hard for you in the sense that the numbers are confidential, but clearly our data, again grouping all of this together would show, you know, consumption down by, you know, more than 10 percent, would show imports down by more than 20 percent, would show prices up, you know, a little bit more than five percent. So that's the overall set of what the data is showing.

Help me understand whether there has been any significant departures in terms of those trends for standard pipe versus the large diameter line pipe. I realize, Mr. Bohach, you may be the only one here that's really doing the large diameter pipe. Okay. I don't know whether you want to start with that or whether we want to start on the standard pipe.

MR. BOHACH: Vice Chairman, could I ask you to repeat just the --

VICE CHAIRMAN HILLMAN: I'm trying to understand, our data, the data I'm looking at, you know, combines all of the information on the standard pipe side and all of the information on the large diameter line pipe.

MR. BOHACH: Okay.

VICE CHAIRMAN HILLMAN: I'm just trying to make sure whether, you know, the trends are the same or whether there has been some divergence, the fact that we have combined the data has somehow masked different things that are going on in these two kind of segments of pipe and tube. And again, the actual numbers are confidential but I can generally say our data would say, again, a decline in consumption, you know, on the order of 10 percent of more; a decline in imports in the order of 20 percent; and an increase in prices, you know, a little more than five percent increase in prices.

So I'm trying to understand from your perspective do you think that's what has happened in your segment of this business? Consumption down, imports down even more, and prices up. Is that what's happened in the year since relief has gone into place?

MR. BOHACH: Vice Chairman, Don Bohach, Stupp Corporation.

And the reason I had to ask you to clarify that is because I'm not familiar with what's going on particularly in the standard side of the business.

But on our side of the business notwithstanding that there can be significant fluctuations both in pricing and volume by OD demand in the marketplace, I would say that that generally characterizes the environment.

VICE CHAIRMAN HILLMAN: Okay. Prices are up modestly?

MR. BOHACH: Yes, ma'am.

VICE CHAIRMAN HILLMAN: Consumption down?

MR. BOHACH: Yes, ma'am. As I pointed out, the Enron fallout was significant.

VICE CHAIRMAN HILLMAN: Okay. Okay. On the standard pipe side, obviously that's the lion's share of the data so I would assume it's consistent. But maybe I can you all expand a little bit more on the issue of price.

I mean, in the earlier round of questions I asked a lot about demand. I am now trying to get from your perspective -- we haven't heard a lot of testimony about what you have really seen happening in the last year since relief has gone into effect with respect to prices.

MR. BUSSIERE: Commissioner Hill, Bob Bussiere with Allied Tube.

You are right, prices have risen just marginally. However, the only thing I would point out is that our steel cost has also gone up, and we're talking about the cost, the squeeze that we're in a little bit. And I think the data that we had submitted basically shows that we were not able to recover the price increases that we received in total on the flat-rolled side into the market.

So whereas prices were up a little bit, our margins did not reflect the same upward tick.

VICE CHAIRMAN HILLMAN: Okay.

MR. KATSAFANAS: I would like to add something on the price.

When we started the process, the price for tubular products that we sell were probably at 20 to 25 year lows, and they tracked the flat-roll pricing.

And subsequent to that, the flat-rolled pricing has increased at a faster rate than we have been able to increase tubular prices. And one of the issues that's a little, I think, difficult for me to understand, and I guess maybe others that aren't maybe as closely involved with it also, is sometimes even when the total number of import tonnage that comes in appears to be down, a lot of time it has a greater effect or disproportionate effect to the actual amount of tons that come in, timing, when it comes in, how much comes in at once, and the price level it comes in at drives the U.S. price maybe disproportionately to what it should.

Maybe people react disproportionately to the effect of what the tonnage is, and I think the reason for that is because you can't predict at the time that you have to make decisions what the future demand is going to be, so sometimes it can get distorted.

VICE CHAIRMAN HILLMAN: I mean, have those of you out there gone out for price increases that you have not been able to get?

MR. KATSAFANAS: Yes.

VICE CHAIRMAN HILLMAN: I mean, what was your expectation when the 201 duties were announced in terms of what prices would do, and help me understand what your sense is as what has actually happened in terms of pricing?

MR. KATSAFANAS: Oh, what we do is when we are presented with flat-roll increases, we obviously try to pass through those increases along with that. And our experience has been that we have recovered during this time frame about 67 percent of our increase, so our margins have shrunk, and part of that was due to the perception of how weak the economy is that customers refuse, and people do things to keep their plants running, and try to keep as many people working to weather the storm.

Sometimes they are not good mathematical business decisions.

VICE CHAIRMAN HILLMAN: Okay. Others? I mean, did others want to comment? Did you go out for price increases and what happened, and how much of an increase? Did you try to get increases, when, and what happened when you tried?

MR. MAGNO: Mark Magno, Wheatland Tube.

We do look at our raw material price and increases that would affect our price announcements into our customer base, and with the initial closure of the LTV facilities, even prior to tex President's announcement, we started seeing our raw material prices go up. And then this time last year we were getting significant price increases from our raw material suppliers, and in turn, passing some of those along or announcing price increases in the marketplace.

And last summer when lead times were extended because raw material lead times were extended, as we had testified at the 332, we did have limited success to get some of those -- pass along some of those increases.

But clearly, when we went into the fall as demand started to slow down dramatically, and raw material price stayed reasonably high, we weren't able to capture, as my colleagues have said, the increase.

And then since then raw material prices have pulled back somewhat, clearly not to the levels where they had started, and we have seen a similar effect on the marketplace. Our customers are very, very astute when it comes to the pricing of our raw material.

VICE CHAIRMAN HILLMAN: Okay. Mr. Barnes, and if you can add in terms of, again, the magnitude of the price increases that you were trying to get, and how much the market would actually give you in terms of a price increase.

MR. BARNES: Scott Barnes with IPSCO Tubulars.

Just as a point of clarification, I think the data that you referred to includes not only standard pipe, but also hull structural sections, squares and recs. as well.

VICE CHAIRMAN HILLMAN: Again, our data would have aggregated everything.

MR. BARNES: Right.

VICE CHAIRMAN HILLMAN: -- in this welded non-OCTG category, so it does include a variety of products. So if there are distinctions in terms of what you think has been happening in the market in these different products, I would welcome any --

MR. BARNES: Well, I was going to comment on Don's market just a tad as he will more likely appear before other cases with energy-related products, and we make small amberline pipe, which is an associated product with the larger sizes, and the two markets indeed have been somewhat different because, as he testified, you know, the price of oil and natural gas have been quite high, and normally we would see a higher usage of those products in expanding pipelines and so on.

But because of the financial situation with the major pipeline companies, there have not been a lot of projects for his larger sizes which then would generate business of our smaller sizes.

On the square and rec., or the HSS product and the standard pipe products, which as we testified earlier, are more geared towards the industrial and construction segments of the business, the economy has been a factor in that.

The price increases that you heard previously we also attempted to raise prices to recover the cost of our raw material increases, and these increases were come, you know, 20 - 30 dollars a ton. Those had some success in the early months because of the limited amount of supply prior to and shortly after the 201 relief was imposed.

After the uncertainty of what the President's program was going to be, we began to see increase in supply come back both from the supply base for steel but also from the import side from uncovered countries. So naturally an increase in supply, both the supply and demand, a lot of those increases in our products that we were able to achieve retreated as the fall went on.

To pick upon Commissioner Koplan's earlier question to Roger Schagrin, I think from the market standpoint what we saw was a surge of imports prior to the President's decision. Those imports remained on the docks through the first six months of the year, and as -- and several products, such as standard pipe, there is a cosmetic effect to the product and its value.

And so as the summer months wore on, combined with what Mr. Magno said earlier about demand not recovering, the economic recovery had not fully taken place, that we saw owners of that product decide to cut their losses and began to quickly sell a lot of that product that had been inventory, which then, of course, drove our ability to maintain our price levels, and again forced to meet a competitive situation.

VICE CHAIRMAN HILLMAN: Okay.

MR. BARNES: Does that --

VICE CHAIRMAN HILLMAN: All right. No, I appreciate those answers. Thank you.

CHAIRMAN OKUN: Commissioner Miller.

COMMISSIONER MILLER: Thank you, Madam Chairman. Mr. Gerard, did you have the opportunity, when the Chairman gave you the opportunity to sort of finish my --

MR. GERARD: I am sure. I was just going to make this other point that in the consolidation that we have been encouraging, in order to do the consolidation primarily U.S. Steel and ISG had to go into figure out how to finance the consolidations. And in their attempt to raise capital, obviously one of the tools is the 201.

And if there is going to be additional consolidation, and the 201 was not to see its full life expectancy, the ability to raise the capital to do those consolidations would definitely be affected, and the cost of capital would go up. Share prices would be affected, and the consolidations that are already done would be put in jeopardy from the point of view of the consolidations have not been cheap on the financial side, and the union, as I said, has enclosed a price to do that in wanting to do a humane consolidation, and we have attempted to play our part in that by working with our membership to improve productivity and lower manhours per ton.

And so that the uncertainty, and a couple of folks have seen it already in the pipe and tube, the misinformation that the CTAC group continues to generate, and what certain editorials have said about the 201 and what the President should do has brought a lot of uncertainty to the financing of the consolidations, and to the collective bargaining process.

I can tell you that our bargaining with Wheeling Pitt. was much, much more affected by the uncertainty of what would happen going forward than our bargaining had been almost eight months ago with ISG/LTV, where there was some sense of certainty.

So in that this is a report you're making, as I said, I understand that the report could be written in such a fashion that it will lead towards a certain view of the world. And anything that would lead to uncertainty about the extension of 201 would add huge instability to what we're trying to do.

COMMISSIONER MILLER: Okay, but what I was still trying to get at is, is the effect of the economic conditions. For example, if the economy had been stronger, how would this adjustment process have looked different to you?

Would there maybe had been less of it because the economic pressure is obviously making it in some ways even harder, although on the other hand one could say it's stimulating, it is contributing to, you know, to the sort of momentum or whatever for the consolidation?

I'm trying to get at -- I'm not talking about any change in the 201. I'm just trying to understand in the context of the time we're looking at, because the -- understand the reason I'm asking this is because the history of this provision tells us that we should assess the industry's effort to adjust in the context of the business cycle.

So has the adjustment been more or less because of the business cycle?

MR. GERARD: I mean, I think that in that sense next week with CEOs of the larger companies being here, they might have a better position to that.

From the union's point of view, we have been on the program for two years now saying that there had to be less fragmentation in the industry, and that the ability to maintain stability was by improving productivity, not necessarily by lowering standards.

I think, had the demand stayed higher in the economy, I think we would probably see more consolidation than we do now. The experience that we're having at the bargaining process is the uncertainty has really slowed things down, and it's the uncertainty about the 201, it's the uncertainty about the economy, it's the uncertainty about imports. Imports are not down, they are up. It's the huge amount of misinformation about the industry that certain people are perpetuating in North America. It's all of those things that have led to the uncertainty.

And I'll just said it. We had pushed real hard for one steel company to acquire another, and they said we can't do it in this kind of environment. So we haven't given up our end, but people have just sort of stepped back and say we've got to wait to see what's going on.

COMMISSIONER MILLER: And we certainly have heard that from the company executives here today.

Mr. Stewart, you look like you wanted to say something.

MR. STEWART: Just to add to what Leo has said. Within the collective bargaining agreement there are, of course, provisions that are directly affected by demand because demand drives what type of price increases can be pushed through.

He mentioned the trust fund that is there to help the retirees who have lost their health care benefit. That obviously is affected. It affects the ability of the companies to meet their investment needs, and as he has indicated, it also generates less consolidation because the health of the companies to be consolidated is so bad it discourages the companies who would be in a position to make that effort. So there is a variety of things that a weak economy adds.

COMMISSIONER MILLER: Okay.

MR. GERARD: I should probably give you the number. In the range of $8 to $12 a ton in profitable period goes into these trust funds. So when you get groups like CTAC running around misinforming, that ability to generate profit doesn't go directly back to the company. In the new collective agreements, that ability of generating cash has to go back into the business, it has to go back in the form of putting that money into these trust funds. It then has to go back in the form of variable compensation based on levels of profitability to the work force, and to the management when we set the mode in priorities.

COMMISSIONER MILLER: Okay.

MR. SCHAGRIN: Commission Miller, one brief comment about looking at adjustments efforts in the context of the business cycle, as I think you heard from all the producers in the industry today, obviously profitability affects their ability to invest, and that is in turn related to the business cycle.

I think you can also see from the data or for the pipe and tube industry, and next week Tuesday when you look at the flat-rolled industry, that investment is once again occurs with a lag. So you see that even as profitability in the pipe and tube industry was declining, that investment was increasing because there had been prior profitability.

I think you will see the reverse when you look at the flat-rolled industry because the losses were significant in prior years. Even though the industry was returning to profitability, you see capital expenditures falling because first you have to generate the profits. Then it takes time, six months, 12 months, 18, 24 months to invest.

And so I think you have both got a business cycle context, and then you have to take into account kind of the lags between profitability and then capital expenditures.

COMMISSIONER MILLER: Okay. Mr. Gerard, your testimony today has helped remind me of some of the history of this provision in the sense that, as the Chairman said, we're still doing these cases. This is still a fairly new thing for us to do. We have done several at this point. I think this is the first time that I can remember having such a large issue related to the union position and the labor contribution to the adjustment process.

And it reminded me of some language that specifically tells the President to consider executive compensation as an issue in looking at the adjustment efforts. So what you are providing to us, I think, is very much on point.

I mean, the legislative history tells us to look at reductions in salaries and bonuses for management and labor, industry's progress in narrowing pay scales, the degree to which it's compensated executives in the form of salary increases -- you would love this language if you haven't seen it Mr. Gerard, but you probably have.

MR. GERARD: If I had known it was there, I would have used it in bargaining.

(Laughter.)

MR. GERARD: I didn't know it was there. I could have said you've got to do this to save yourself.

COMMISSIONER MILLER: Well, it is -- I want to say you have given us good information today. You have said you're going to provide even more next week.

MR. GERARD: We will provide the collective bargaining summaries for you.

COMMISSIONER MILLER: Great. That would be very helpful, and by then I may have looked at more at it and have even more questions for you on what you have been doing. It's been very helpful. Thank you very much.

My yellow light is on. I have further questions. They will be later.

CHAIRMAN OKUN: Commissioner Koplan.

COMMISSIONER KOPLAN: Thank you, Madam Chairman, and again I want to thank you for your answers to these questions.

Let me turn to you, Professor Blecker, if I could, and this is for the post-hearing. At pages 16 to 18 of Mr. Schagrin's pre-hearing brief he has argued that inventory overhang existed at the beginning of the relief period, and he cites the Table Tubular 2-5 at Chapter 2-8 of the staff report. That table refers to covered imports.

But when I view the ratio of the inventories listed in that table to U.S. shipment of imports as a percent also appearing in that table, it appears to me that you're working off a very small base.

Put another way, I believe the amount of short tons that are being pointed to would satisfy only about one week of demand.

And for purposes of the post-hearing, I would like you to look at the analysis on those pages of the brief and the table, and if you would give me your estimate, Mr. Blecker, of how much demand that overhang would satisfy.

Let me just say to you that I arrived at the estimate by taking the end of period inventory, that is, March of 2002, divided by total U.S. shipments of imports, and then multiplied by 365 days.

I also note that these covered inventories rose during the relief period to what I would estimate to be 10 days using that same methodology rather than declining.

So could you do that for me post-hearing.

MR. BLECKER: I will, but can I respond briefly here?

COMMISSIONER KOPLAN: Absolutely.

MR. BLECKER: Because I think in that same part of the brief after we go through those statistics we mention the fact that we recognize that this is a small part of the overall inventory picture that's picked up in those particular questionnaires at the importers, because the importers don't usually keep much in inventory. The pass it onto the distributors, and unfortunately, we don't have questionnaire responses of that.

I think some of the industry witnesses here have testified to the inventory overhang that they experienced in the distributor chain, and that's really where most of the excess inventories that came in right before the relief went into effect ended up.

So I don't know how much I can provide you because I don't think there is data of record on that. I think the industry witnesses have already spoken to this, and perhaps they could add more on where these extra imports were, where the inventories were held, because you are right, those amounts, and we acknowledge that, are only a small part of the picture.

We think that simply the fact they went up is indicative of something, because they are normally even smaller. But we didn't put too much stake on those particular numbers

COMMISSIONER KOPLAN: Okay. I appreciate that, and then anything else you can add would also be appreciated. Thank you.

If I could turn to the industry witnesses now. I believe this hearing is a critical part of the process for the Commission to gather information on the effectiveness of what you have done thus far to facilitate a positive adjustment to import competition, and where you're heading for the balance of the relief period.

In other words, beginning with your adjustment plan submitted to USTR prior to the relief granted, I need to gather as much information as possible as to exactly what each of you has accomplished from the beginning of SY-2002 to date; whether each of you are on schedule; what each of you plan to do between now and the time the relief is terminated, assuming that the President allows the relief to go full term.

I realize that we have a lot of that information now both in the form of business confidential submissions, your direct presentations today, and your responses to my colleagues' questions thus far.

In my opinion, obtaining that information goes to the heart of my mandate under Section 204. I would appreciate any further degree of specificity that each of the industry witnesses can provide now.

I recognize the argument that a continued decline in demand has hindered your ability to increase prices. But irrespective of such arguments, I must also obtained as detailed a picture as possible as to where you are and what you will do between now and the end of the relief period.

If you would prefer to do this post-hearing, I have no problem with that. I have a lot of information already summarized in our appendices to our staff report, but that information is business confidential, and so I can't get into the details of that with you in this proceeding. That information is company-specific.

But as I say, if there is anything further that you all can provide, that would be helpful. I note that in looking at that information some of the companies go into a lot of detail and some go into a bit less.

So if you could simply acknowledge making an attempt to provide even further information to what you have already, that would be helpful.

MR. SCHAGRIN: Commissioner Koplan. This is Roger Schagrin.

I think we will -- for antitrust reasons, we will attempt to provide a response to your question in the post-hearing brief. And I think as you acknowledge, and I would like to compliment my own clients, I think a lot of the member of the pipe and tube industry really put a tremendous amount of work into their responses to give the Commission as much detail as possible. And we will go back to these companies and provide further details in the post-conference brief.

COMMISSIONER KOPLAN: Thank you.

MR. SCHAGRIN: Post-hearing brief.

COMMISSIONER KOPLAN: Thank you.

Ms. Ellsworth, will you do the same?

MS. ELLSWORTH: Yes, we will do the same. In fact, Mr. Graham has just a general comment if he can put that in now.

COMMISSIONER KOPLAN: Absolutely.

MR. GRAHAM: Again, I alluded to spending -- an expenditure of over a million dollars to consolidate four facilities --

COMMISSIONER KOPLAN: Yes.

MR. GRAHAM: -- to two. That consolidation, we finished by the end of August. We have been receiving the benefits from that since I'd say April, some of the benefits, but none of that has allowed us to raise a single penny on the price.

COMMISSIONER KOPLAN: Thank you.

MR. GRAHAM: And from the competitive nature of where we are selling and who we are selling to, which is all across the country, it has not helped increase the price.

COMMISSIONER KOPLAN: I appreciate --

MR. GRAHAM: Actually, we're not expecting to increase the price anytime soon.

COMMISSIONER KOPLAN: I appreciate your putting that on the record.

If I could turn to Mr. Stewart and President

Gerard. I appreciate the detailed overview you provided both in your testimony today and in your pre-hearing brief, particularly at Sections 4 and 5, with regard to the commitments that the steelworkers made previously to help facilitate adjustment and the progress that you have made to date in implementing those commitments.

I am wondering whether you can carry that discussion a step farther by tying those commitments and corresponding efforts where appropriate to the particular sector we're examining today; the tubular welded pipe, and fittings, flanges and tool joints.

For example, I note that at pages 20 to 23 of your pre-hearing brief you do discuss the role that the steelworkers played in the recent acquisition of National Steel by U.S. Steel, whose products produced include tubular welded. That's the kind of thing I'm looking for, other such examples.

If I am correct, I believe that with the exception of IPSCO each of the other five tubular companies that are here today have Steelworker membership. I am correct with that, Mr. Gerard.

Your microphone, please.

MR. GERARD: We even have Steelworker membership at IPSCO. They are just not IPSCO in

America

COMMISSIONER KOPLAN: I didn't catch the last part of.

MR. GERARD: They are just not at IPSCO's American facilities yet.

COMMISSIONER KOPLAN: Oh, okay. All right. Good answer.

I'm asking this just because as our votes go in the 201 process centered on specific product categories, so are each of these 204 hearings. So could you go back and see if you could do that?

MR. GERARD: Sure, we can do some of that. There hasn't been the degree of union participation in consolidation that there has been in flat-roll, but there has been in almost every facility some union participation in productivity and HASMIT exercises, and we will try to gather that up with the companies.

COMMISSIONER KOPLAN: And then before my red light goes on, I thank you for that.

While I have both you and Mr. Magno here, let me ask how close are you to settlement of that strike? Any predictions as to when it might be done?

MR. GERARD: It depends on how quickly it takes Mark to say yes.

(Laughter.)

COMMISSIONER KOPLAN: I think I will close with that. Thank you very much, President Gerard.

CHAIRMAN OKUN: All right. Well, I was going to ask a few more labor questions, but actually I think a number of them were covered by Commissioner Koplan.

Mr. Gerard, I think we will have an opportunity next week to talk about a number of the things that you have put in your briefs and in your testimony which relate to the flat-rolled, and I understand your answer with regard to the impact on tubular. But I think some of the questions that Commissioner Koplan asked about any of the specific you can give us with regard to this industry, and focus on, and those adjustment efforts will be very helpful for the record for this portion as well.

Let me ask if I could, in terms of some of the other things that companies have considered, and I think you have responded in some way to some of these questions, which is, you know, you adjustment plans which anticipated doing, you know, X number of things. We have asked you to respond in terms of what have you been able to do, and with regard to what have you not been able to do why, and I think the question Commissioner Koplan asked about doing some of that post-hearing to counsel, I think is very relevant in helping us develop this record in terms of our mandate under the statute.

But I wondered if I could just -- just general comments on one thing that I seem to remember to hearing in some of our other -- you know, the other hearings we have had on tubular products is how complete product lines are and if there are other product lines that companies want to get into to be more competitive.

And I wondered if any of you here, because I don't have the specifics in front of me, could you comment on whether your adjustment efforts would include developing product lines, although this may be business confidential now that I'm saying this question?

Is there anything generally you could say here about product lines specifically? Mr. Magno, you look like you can answer.

MR. MANGO: Mark Magno, Wheatland Tube.

The two major components of our adjustment plans were again the acquisition of Sawhill Tubular which added -- extended our product line up to six-inch. Previously we only produced up to four-inch. It's important for us to be able to offer a broader range of products to our customers.

And then the second major project that we have going on and continues to go on is an installation of a new mill which again raises our product line up to five-inch OD. Currently it was two and seven-eights. It allows us to make different products to go into different sectors, and then also to again sell our customer, existing customer base a broader range of products.

CHAIRMAN OKUN: Okay, that's very helpful. Is there anyone else, any of the other companies? Mr. Katsafanas?

MR. KATSAFANAS: Yes. We are investigating filling out our product line. Even though we produce a product range from say two square to 10 square, there is some sizes and gauges in there that we do not produce that are used by industries that we are not currently pursuing, and we are seriously investigating that.

And like everyone else, we are trying to make sure that we are selling value added, not just a commodity. So we are using this period to investigate that, but so far we have not expended hard dollars on equipment or tooling in that area yet.

CHAIRMAN OKUN: Okay. Mr. Bohach.

MR. BOHACH: Chairman, in response to our promise to the Commission, we have instituted the ability or installed the ability to handle heavier walls. We have successfully produced product at 24 inches wide, 688 wall, and that's what we said we would do. We would go out and try to broaden our product line to do that. So we have done it to date.

CHAIRMAN OKUN: Okay. Very helpful. Anyone else?

Well, I appreciate those answers and again I know that for some of your you are answering questions that you also have in your questionnaire response and in terms of what your adjustment plans were and what you have done, but I think just for purposes of this report as much information that can be put in the public domain is extremely helpful in this, so that's the reason to ask you to do it in this session as well as filling out all the material that we asked you to do, and which is included in the record.

Let me, Mr. Mango, one thing I had meant to ask with regard to the acquisition of Sawhill which is, has that had an impact on your ability to lower raw material costs? I mean, have you had cost savings in that way?

MR. MAGNO: One would have thought that

purchasing X amount of tons and then almost increasing that to 50 to 75 percent we would have been able to lower through economies of scale and being larger buyers.

Unfortunately, the acquisition was closed at late April of last year, right when some of the large still supplier, raw material supplier issues were coming in place. In addition, we purchased a company that had dramatically decreased the raw material inventory, so we haven't yet been able to gain what we hope are some economies of scale by purchasing more material, more quantities from our vendors.

CHAIRMAN OKUN: Okay.

MR. MAGNO: We have not seen that yet though, we believe.

CHAIRMAN OKUN: Okay, but that is one of the expectations of economies of scale?

MR. MAGNO: We hope it to be, yes. Correct.

CHAIRMAN OKUN: Okay. Okay, that's helpful.

And I guess just more generally with regard to raw material costs, I believe in response to Vice Chairman Hillman you talked a little bit about what's been going on with your raw material costs and how that's related to whether you have been able to impact prices.

I believe that for purposes of our report it would be very helpful to have as much detail as we can about raw material cost, not just the hot-rolled input, but also what's going on in energy. And so I will ask counsel, Mr. Stewart and Mr. Schagrin and Ms. Ellsworth, to work with staff to make sure that we have a representative record in terms of what went on, and what portion of raw material costs, or what happened over the period, which I also think would be very helpful.

I wanted to turn back to Mr. Katsafanas with respect to Leavitt. You had mentioned, I believe, in your oral testimony that products that were not covered by the 201 were hitting particular product lines I believe I heard you say, and I wondered if you could elaborate on that for me, please?

MR. KATSAFANAS: Specifically, imports from Turkey on mechanical tubing are the ones that really affected us in the surge, and they particularly affected us in the southeast and southwestern United States in our plant out of Mississippi. We probably are off 50 percent in number of turns that we have run over this time frame, and it can be specifically attributed to the surge from Turkey.

CHAIRMAN OKUN: Okay. Okay, that's helpful.

I just wanted to understand exactly where that was.

The other thing that has struck me in reading all this information is, you know, I think there has been, obviously, a lot of activity out there, and I have been looking for the great chart that would just take for each industry put it out there, like what the company looked like, what they've produced, and I could visually see it.

So if an any steel conferences you have seen something like that, I would appreciate it. I haven't seen it in the brief yet, and I know our staff report so far is trying to make a chart of all these things going on, but I think it would still be more effective to have it in a slightly different form.

But I wanted to ask the companies here with regard to some of things that I have seen in the paper to see if you could help me understand what the impact may be on the operations of the tubular industry.

In June 2003, Durabond Industry purchased the idle large diameter line pipe facility in Stilton, Pennsylvania from ISG, with production anticipated in the, as I understand, 100 to 2,000 tons. Is that something that anyone here could comment on or tell me the significance?

MR. SCHAGRIN: This is Roger Schagrin.

And it probably falls to me because the Stupp's OD ends at 24, and I believe that mill is essentially a 24 to 60-inch mill. We do represent Berg Pipe, which has a mill of similar size, and we will comment in our post-hearing brief. You know, we always wish everybody a lot of luck in restarting facilities. That facility has been shut down for about three and a half years, and demand for those products in the U.S. market now is probably as bad as it's been in the last 10 or 15 years.

So starting it up and where to sell it, that's almost totally a business that is focused on projects only. So in order to start it up and sell that amount of tonnage, there has got to be the project out there for the size product that they would make, and I think there is very few projects around right now of that size and that size range. But we'll also address that in our post-hearing brief. We will be able to get some information from Berg on large diameter pipeline projects that are on the horizon that that mill could possibly supply.

CHAIRMAN OKUN: Okay. And what about the American-Canadian, as I understand it, acquired ISG's, half of Beth Novo Tube built in 2000 in Indiana for the production of mechanical and structural tubing?

Does anyone have any --

MR. SCHAGRIN: I believe that's primarily a hydroform tubing plant that's specifically oriented towards automotive contracts, so that would be an ongoing business that would be ongoing just as the purchase by DeFasco of a former LTV tubular plant in Marion, Ohio, would have been of an ongoing business.

Both of those mills are almost brand new. They've both been installed in the last three years, and it's part of the movement by the auto companies to move towards hydroform tubing components. That required new mills to be installed to produce those very specialized products.

CHAIRMAN OKUN: Okay.

MR. GERARD: We've reached collective agreements with both of them that are along the lines of what I talked about.

CHAIRMAN OKUN: Okay. My red light has come on. I had some other ones. I'll either have a chance in another round, or I will perhaps submit questions for the record and just have you, if you could, make sure that our record is complete with regard to some of the things that are out there.

Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you. I hope just a couple quick follow-ups.

One, there's been no mention this morning of the issue of exclusions, and by that I mean product specific exclusions, as opposed to countries that were exempted wholesale from the application of the duties.

Were there any product exclusions announced by USTR in the welded tubular or fittings area that went into effect after the initial decisions? If so, how significant are they?

MR. SCHAGRIN: This is Roger Schagrin. At the time of the March announcement, there were a number of them that had been agreed to by the industry mostly in the large diameter line pipe area similar to what this Commission addressed in your case on Large Diameter Line Pipe From Japan and Mexico of certain large OD heavy wall combinations that were not produced in the United States. Those were excluded in the President's initial announcement.

Since then, the total number of exclusions in welded pipe and tube other than OCTG has probably been in the range of about 12 to 15 products, maybe 15 to 20, not very significant, mostly some specialized automotive cold-drawn products and so not too significant other than -- I apologize. There's one significant exclusion, I believe, of 100,000 tons for

X-70 large diameter line pipe. That's probably the only really major one.

We can address that further in our post-hearing brief.

VICE CHAIRMAN HILLMAN: And that was specifically limited in quantity?

MR. SCHAGRIN: That was specifically limited to 100,000 tons of X-70 large diameter line pipe.

VICE CHAIRMAN HILLMAN: If there is anything that you would want to add in the post-hearing to help us understand the relative significance or not of any of these exclusions, I think it would be helpful.

Ms. Ellsworth, on the fittings side?

MS. ELLSWORTH: There were several exclusions granted for specialty products like hydraulic fittings and ball and coupler type fittings, none of which are products that Trinity produces.

VICE CHAIRMAN HILLMAN: Okay. Do you know whether they're produced by anyone in the domestic industry?

MS. ELLSWORTH: As far as I know, they were unopposed.

Don, do you know anything more?

MR. GRAHAM: No one in the fittings business makes them.

VICE CHAIRMAN HILLMAN: Okay. If you could just repeat that to make sure the reporter got that last statement?

MR. GRAHAM: No one else I know of in the fittings industry makes those products.

VICE CHAIRMAN HILLMAN: All right. That's helpful.

The second thing, a number of you have commented on what you perceive to be the surge in imports from a couple of the developing countries. I believe Turkey and India were mentioned on the welded side, and I believe Turkey was mentioned on the fittings side.

On either side, has there been any communication with USTR to see whether or not they are prepared to invoke the surge mechanism clause that was announced in the Presidential proclamation when the original duties were announced? If so, what has come of any communication with USTR?

MR. SCHAGRIN: This is Roger Schagrin. I don't want to risk my excellent relationships with all the various government agencies, but we will submit those to you in our post-hearing.

We have complained vociferously. We made several submissions. I think we got to the point where they would like to say Mr. Schagrin, you know, go home. I'm sure the Commission feels that way at times as well, but the result --

VICE CHAIRMAN HILLMAN: I won't comment, Mr. Schagrin.

MR. SCHAGRIN: Well, self-deprecating humor is better than other forms I know.

But, unfortunately while there have been some discussions with the Government of India, which has basically said look, we control the flat-rolled industry, but other products, we don't own them so we can't help you, there have been no discussions with Turkey ever to my knowledge as to any of the surge issues. That's all because of the National Security Council and the Iraq situation.

Bottom line is we have been extremely dissatisfied and do not believe that the Administration has taken the actions that they could have to invoke the surge mechanism.

VICE CHAIRMAN HILLMAN: Okay. Ms. Ellsworth, on the fittings side?

MS. ELLSWORTH: As I understand, your question is about Turkey and its coverage of potential surge during the period?

VICE CHAIRMAN HILLMAN: Correct.

MS. ELLSWORTH: Turkey is really not one of our significant suppliers.

VICE CHAIRMAN HILLMAN: Okay. I'm sorry. I thought I had heard Turkey mentioned.

Have there been any, again of the developing countries or the exempt countries, that you have perceived a surge in imports from that have been communicated to USTR as, you know, something that they should look into pursuant to this language in the Presidential proclamation with respect to surges from exempt countries?

MS. ELLSWORTH: No, there have not been any.

VICE CHAIRMAN HILLMAN: Okay. I appreciate that answer.

A couple questions on the fittings just to make sure I understand our data. One of the things that we show, and again I'm trying to make sure I understand from whence it comes, is a decline, a fairly significant decline in capacity since the relief went into effect.

I'm trying to make sure I understand, and again if it's something you cannot discuss publicly fair enough; please do so in the post-hearing, but if there is anything that you can put on the public record now that would point us to those capacity declines on the fittings side?

MS. ELLSWORTH: I think that it's fair to say that from the first to the second period there was a decline that's attributed to Trinity exiting the flange business.

VICE CHAIRMAN HILLMAN: Okay.

MS. ELLSWORTH: From the second to the third period, the reduction was largely a factor of Trinity dismantling machinery and moving it physically to consolidate its facilities. That would have resulted in some reductions in capacity during the period.

VICE CHAIRMAN HILLMAN: Okay. Go ahead, Mr. Graham, if you want to elaborate.

MR. GRAHAM: It didn't effect our shipments, though. We were still shipping --

VICE CHAIRMAN HILLMAN: Okay. No.

MR. GRAHAM: -- and supplying the marketplace fully.

VICE CHAIRMAN HILLMAN: Okay. It was the capacity numbers themselves that I was trying to focus on to make sure I understand what they were telling us. That's very helpful.

MR. SCHAGRIN: Vice Chairman Hillman, Roger Schagrin again.

As I stated earlier, there was a significant reduction in capacity through the combination of the Anvil & Beck and the shuttering of certain facilities. We'll reiterate that in our post-hearing brief. It is already in their questionnaire response.

VICE CHAIRMAN HILLMAN: That I had been aware of. I was just trying to make sure I understood the issue of the flanges versus the fittings and what was contributing to the overall numbers since again it's combined data for us. I appreciate those answers.

Lastly, I think you've touched on it, but I want to make sure I understand it. Our data would also show an increase in the industry's raw material costs -- again, this is on the fittings side of it -- since the relief went into effect.

Mr. Graham, can you tell me a little bit more about would have caused this significant increase in raw material costs?

MR. GRAHAM: We're not experiencing any increase in raw material costs.

VICE CHAIRMAN HILLMAN: Okay.

MR. GRAHAM: Speaking just for Trinity.

VICE CHAIRMAN HILLMAN: Okay.

MS. ELLSWORTH: Commissioner, we can certainly take a look at that, look behind the data and try to see what's behind that and what's driving that, whether there were some factors that we would want to explain. We'll do that in our brief.

VICE CHAIRMAN HILLMAN: Okay. Mr. Schagrin, I don't know whether there's anything. Again, you're welcome to join in this helping me understand the numbers here on the fittings side.

MR. SCHAGRIN: I think, Vice Chairman Hillman, because that's a combination of fittings and flanges data for the portion of the fittings industry that we represent, those are producers who at base their raw material is steel. If they're producing nipples or couplings, the raw material is steel, so that's probably why in your overall data you're seeing an increase in raw material.

It's the contribution of the pipe fittings producers' increased steel cost that went in there, which might be different raw material than the raw materials that Mr. Graham's company is using.

We can also address this in our post-hearing as well. We'll look at the actual data from the fittings producers that we represent.

VICE CHAIRMAN HILLMAN: Okay. I think with that I have no further questions, but I would very much thank this panel.

I would share, Mr. Gerard, the comments that Commissioner Miller and others have made in terms of, you know, we really appreciate your taking the time in particular to be with us because I think we are very clearly asked to comment both on the adjustment made by workers, as well as on the adjustment by firms.

We do appreciate both the extensive information in your brief, as well as your presence here. I thank all of the witnesses for the answers to my questions. I appreciate it.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: I have no further questions for the witnesses. I appreciate all your answers. Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I have one question left.

Mr. Barnes, IPSCO's website, when referring to products in process, contains in part the following reference to tubular products, and I quote: "What separates IPSCO from other pipe manufacturers is that it produces its own steel. This captive steelmaking capacity allows IPSCO traceability, allowing for immediate feedback on its pipe product. Companies in the IPSCO Group are the best customers for IPSCO

Steel."

Let's see. Can you just bear with me for a second? I read this to mean that while IPSCO Tubular might have been caught in a cost/price squeeze, the parent company, IPSCO, benefitted at the same time from its other subsidiaries' production of your steel inputs.

Am I correct? Does the vertically integrated nature of the parent company give it a leg up on those domestic producers who have to turn to unaffiliated suppliers?

MR. BARNES: Well, we hope it does.

COMMISSIONER KOPLAN: First Mr. Gerard, and now you.

MR. BARNES: Yes. This is in our annual report, which I can share with you public information. We do have three steel facilities, two in the United States and one in Canada.

COMMISSIONER KOPLAN: You talked about that in this portion I'm looking at.

MR. BARNES: Right. We can source our raw material for different what we call coil consuming industries, of which the Tubular Division can be one or the Tubular Business Unit. The Coil Processing Division is another, and, of course, the outright sale to third parties of coil or plate.

It is our business philosophy to try to maximize those steelmaking facilities to their complete utilization thereby amortizing the fixed cost over a high operating level, so as markets improve we will try to supplement our additional steel needs through third party purchases, which we've done quite a bit over the years, anywhere from 600,000 tons in a stronger steel market prior to the 201s, and then more recently we've had to reduce those third party sales to a smaller volume.

My testimony this morning indicated the Blyville mill that we have in Arkansas --

COMMISSIONER KOPLAN: Yes.

MR. BARNES: -- is located next to Hickman. Even though we have very good, efficient facilities in the U.S. and Canada to produce our steel, there is still the freight situation to overcome, so naturally having the pipe mill in Arkansas next to Nucor's facility there is essentially no inbound freight at all. It's on the inner Nucor campus there.

In a roundabout way, what we try to do is allocate steel needs to the highest and best use, so if we're making high strength steels for line pipe applications for companies such as Stupp or others we will make that on our own steel mills and purchase steel from other third party suppliers that is more generic, such as Nucor or Gallatin or others.

We think that, yes, we do have an advantage from some of our other competitors in the fact that the traceability aspect that you referred to is the fact that we know the birth to death, so to speak, of the steel being made from the raw scrap, who it was purchased from, through the manufacturing process to the melting and the rolling of the steel.

The different rolling temperatures will impart different physical properties into the steel for further intended use. Therefore, how it performed in the steel mill can be communicated to the Tubular Group as to what we might anticipate its performance in our tubular operation as we go forward.

Now, I might also add that when we buy steel from third parties, we buy it to a specification, which has very specific quality assurance parameters in it as well, so we do also maintain traceability of that steel that's purchased either from Nucor or Steel Dynamics or whoever is supplying the material. We have that quality assurance aspect covered, so to speak, on both sides.

Did I answer your question?

COMMISSIONER KOPLAN: Yes, you did.

MR. BARNES: Okay.

COMMISSIONER KOPLAN: I want to thank you for that very detailed response to my question. That's helpful. I appreciate it.

With that, I have no further questions. I just want to thank all of the witnesses for their contribution to this monitoring process today. Thank you.

CHAIRMAN OKUN: Seeing no further questions from my colleagues, let me turn to staff to see if staff has questions for this panel?

MS. NOREEN: Bonnie Noreen with the Office of Investigations. Staff has no questions.

CHAIRMAN OKUN: Do counsel for Respondents have questions for this panel?

Ms. Mendoza reports that counsel for Respondents have no questions, so this looks like a very good time to first thank this panel of witnesses for all your testimony, for all the answers you've given us, and for the post-hearing information you'll be submitting. We very much appreciate your contribution to helping us form this record.

It also looks like a very good time to take a lunch break, so we will be in recess. We will come back at 2:00. I will remind all parties that this room is not secure, so if there's any confidential business information please take it with you.

With that, we are in recess until 2:00 p.m.

(Whereupon, at 12:53 p.m. the hearing in the above-entitled matter was recessed, to reconvene at 2:00 p.m. this same day, Thursday, July 17, 2003.)

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

(2:00 p.m.)

CHAIRMAN OKUN: This hearing of the United States International Trade Commission will please come back to order.

Madam Secretary, I see that our second panel is seated. Have our witnesses been sworn?

MS. ABBOTT: Yes, Madam Chairman.

(Witnesses sworn.)

CHAIRMAN OKUN: You may proceed.

MS. MENDOZA: Thank you very much. For the record, my name is Julie Mendoza with the law firm of Kaye Scholer representing the Korean Respondents. I'm accompanied by someone I think you know, Don Cameron, and someone you may not, Marcus Kraker also of our law firm.

I'd just like to make a few comments on some relevant legal arguments before we release Mr. Cameron to discuss the comment by Mr. Schagrin with respect to the Korean steel industry. Let me just start by saying that Mr. Schagrin suggested that we were trying to reargue the original threat determination. Let me be clear. We have no intention of doing that. We understand what the Commission based its determination on in that investigation.

The issue now is that you have a new record, a much more complete record, and information in that record is going to be a part of your monitoring report. The question is on that record how was the industry doing before the relief was imposed, and that's a relevant inquiry because it tells us, you know, whether the industry was already competitive, it tells us what effect any changes in the modifications of the measure would likely be on the industry because that's the period before relief was imposed, and it also answers the question of whether in fact this relief has had any beneficial effect on this industry at all. The answer we think to that is no.

I also wanted to address just very briefly the way that we view the Commission's role in these 204 proceedings because I understand that that's an issue, and several Commissioners have raised it. We certainly understand that the Commission has not been specifically asked to give its advice or opinion as to whether the relief should be reduced or modified or eliminated, but the Commission obviously is charged with producing a monitoring report, and the President is statutorily required to take that report into account, as well as any advice you choose to give him, in making a determination with respect to the continuation of the measures.

In fact, the Commission's findings of fact are going to be very significant because the 204 report really is going to be the basis for the President, the information that the President is going to have on which he's going to base his decision making, and it would, therefore, be incumbent upon the Commission to provide as much information obviously to the President to support whatever decision he ultimately chooses to take.

The Commission's role is really important in this proceeding because basically the United States has an obligation under the safeguard agreement, a continuing obligation to make sure that the safeguard relief is actually necessary for the industry. In fact, 7.1 of the safeguard agreement specifically requires that safeguard relief "will only be applied for such period of time as necessary to prevent or remedy serious injury and to facilitate adjustment, and the United States must withdraw or increase the pace of liberalization if the midterm review indicates that this is warranted." These are very important obligations.

The appellate body of the World Trade Organization in U.S. Line Pipe clarified that the serious injury to be addressed by a safeguard measure was the injury from imports alone. Safeguard measures cannot be imposed to offset injury caused by factors other than imports. It is, therefore, logical that safeguard measures cannot be continued based on any injury that is being suffered as a result of other factors.

As the Commission evaluates the developments related to the imposition of safeguards in other welded pipe, you should keep in mind a few significant facts about this industry which are directly relevant and demonstrate why the relief is no longer necessary or justified.

First, imports have been a constant and significant presence in the U.S. market for many years, and the U.S. industry long ago adapted to those imports. On many occasions, the U.S. industry has sought and obtained relief from unfairly traded imports through dumping and countervailing duty actions. The result of those actions has been to reduce imports and eliminate unfair trade practices by targeted countries. Such actions continue to remain open to this industry if they feel that they are being impacted by unfair trade practices.

You will recall that in the <u>Steel</u> 201 injury year the U.S. industry made very clear that they had already undertaken substantial investments and were already quite competitive with fairly traded imports. The record revealed that in fact the industry had already undertaken substantial investments even before the injury investigation ever began.

We have not heard anything different today. However, what has never been clear from the record of this investigation or the earlier investigation is exactly how those adjustment proposals relate to safeguard relief or how and in what way these further investments are tied to or at least related to safeguard measures.

After all, the industry was competitive with imports at the time import relief was imposed, and the record does not support the proposition that these investments were anything other than the normal investments that the industry has always made to maintain its competitiveness and to maintain its compliance with environmental or other regulations.

Therefore, we disagree with Mr. Schagrin that the industry was headed for ruin and that these safeguard measures prevented it. The industry was actually in good shape and investing despite the economic conditions in which it found itself. The industry was not in imminent danger of being seriously injured. That's now clear from the record that has now been developed in this 204 proceeding, and that is very relevant to the inquiry of what will happen to the industry if the measures are reduced or eliminated.

The outlook for the industry in 2001 when the Commission was looking at it in the first six months of the period was actually much more positive later in the period than it had appeared. The interim data ended in June 2001 and appeared to show a decline of profits from 4.3 percent to 3.2 percent.

However, based on the full-year data through March of 2002 collected in this interim review, the industry's profits are confidential, but they actually remained very strong. Some producers had extremely high profits, as we detailed in our prehearing brief.

Moreover, we would like to reiterate again the arguments we made in our original brief before the Commission, our original injury brief before the Commission regarding the effects on industry profitability of a single U.S. producer. We have the same issue in this investigation.

We will do the calculations for the Commission in our confidential post-hearing brief, but that producer is significant in terms of U.S. production, and the performance of that producer will have significant implications for the profitability of this industry in the future. The Commission should look at the profits of the industry separate and apart from that producer both before and after the safeguard measures were taken.

The industry was not headed for ruin, and the safeguard measures didn't prevent ruin or really have much effect at all. In fact, the U.S. producers' questionnaire responses generally are quite compelling and suggest that the measures had little or no effect. The details are in our confidential brief, but the question is how can such an extraordinary level of relief, 15 percent duty levels, be justified if it has no appreciable effect on the U.S. industry?

What is readily apparent from the record in this case is that the fundamental problems facing this industry have nothing to do with imports. Total imports have unquestionably been reduced with the safeguard measures. Total imports in the final year ending March 2003 are even below imports in 2000, the level of the TRQ recommended by the Commission originally.

The effects of the economic downturn and the effects of the fluctuations in raw material prices and continued excess domestic capacity are such significant forces in terms of the industry profitability that import restraints had no effect on the industry.

This record makes very clear that even when imports are controlled and reduced significantly, the performance of the industry is unaffected because the influence of these other factors on the industry performance more than counterbalance any effect of import restrictions

The Commission should look carefully at these issues, in our opinion. It's now clear, based on this fuller record, that any threat of injury to the domestic industry was not and is not from imports. Rather, the performance of the industry was and is determined by these other factors. That's important because measures cannot be imposed, nor can they be retained to correct the effects of other factors of injury.

Frankly, given the poor market conditions, the only adjustment which is going to have any significant effect on this industry is a reduction in domestic capacity. I'm not sure whether Commissioner Miller was getting at that in her question when she asked them how has demand affected your adjustment plan.

Certainly Vice Chairman Hillman suggested that if you in fact are talking about persistent declines in demand, what does that mean for you in terms of adjustment? Well, it's persistent, and it's going to be longstanding, and you have so much capacity that you're pulling down prices. Even Mr. Schagrin's economist said that in his own report. Then the question is are these adjustment plans oriented toward what the problems are? We would submit that in fact they're not.

What we're trying to say is even if the Commission was correct in the original investigation and you said, you know, capacity increased to keep pace with demand, but the fact of the matter is that after 2000 that wasn't true anymore. The demand stopped. Demand dropped, and this industry did not react to that by reducing capacity in sufficient quantities.

Now, there have been capacity reductions which we'll talk about in a minute, but those are going to be critical to any level of competitiveness of this industry either tomorrow or a year or a year and a half from now. The fact of the matter is that the industry's capacity has fallen very significantly due to bankruptcies and capacity rationalizations and is expected to decline further according to Mr. Schagrin.

It is correct that perhaps the difference in the record of the original investigation and this investigation is due to changes in the structure of the industry; in other words, the amount of producers who have gone bankrupt or rationalized capacity. Now, Mr. Schagrin attempts to characterize these capacity reductions as indications of serious injury from imports, continuing effects of imports, but that's not really what they are. They are really adjustments to competitive market conditions.

If the market is characterized by excess capacity, which it has been and continues to be, the purpose of import relief is not to preserve that condition. The purpose of import relief is to allow the industry the room and opportunity to adjust, which means in part reducing excess capacity.

Clearly, there are members of the U.S. industry who agree with that analysis and are doing just that, and they have become more competitive. If excess capacity is removed, then this industry should be in shape to implement price increases and make sales when demand recovers. Their adjustment has significant implications for the future of this industry, and this adjustment, these reductions in capacity, are a significant changed circumstance which is important to note.

However, there is no evidence that the safeguard measures in any way contributed to these capacity reductions, and the U.S. industries' questionnaire responses do not suggest that further capacity reductions are related to or the result of the continuation of safeguard measures. In fact, most of the capacity reductions which have already taken place took place before the safeguard measures were imposed.

Now, Mr. Schagrin gives us a number of explanations about why the industry didn't receive any positive effects from the safeguard measures, and certainly none of those reasons are very compelling. As Commissioner Koplan pointed out, he blames inventory overhangs, but when we look at the inventory overhang chart for inventory levels for importers, in fact not only are they flat; they are minuscule over the entire period, so this argument just isn't supported in the record.

He also blames increases in non-covered

suppliers, but the fact of the matter is imports did decline, and measures on controlled suppliers in any event can't be justified by saying that there's injury from uncontrolled suppliers. In short, these arguments really don't explain why it is that the industry that got the significant import relief has had no positive benefits if in fact imports were ever the cause of the industry's downturn.

Dr. Blecker postulates the benefits that the industry might have received in the absence of the effect of these other factors, but Dr. Blecker agrees that due to "massive excess capacity" prices are unlikely to rise significantly in any event. Therefore, it's not surprising the price effects of the safeguard measures on pipe have not been noted.

Moreover, the measures actually have achieved the volume reductions in total price imports. They have worked on the volume side. Imports are now below the level of the period prior to the imposition of safeguard measures, and they're even below the level of 2000. The industry has regained market share, but look what happened to industry profits.

We don't dispute that any increase in flat-rolled prices would be harmful for the industry, but the blame can't be placed on pipe imports. We would note that the industry's cost problems are not exclusively found in their increases in raw material prices. If you look closely at their costs, there were also other problems that the industry faced, but we admit that raw material prices are a very significant component of pipe prices.

Whether the increase in raw material cost was due to shutdowns of domestic hot-rolled capacity or attributable to safeguard measures on flat-rolled, cost increases would have had a negative effect on this industry.

Given the depressed demand for pipe, it was very unlikely that the industry would be able to pass on price increases to cover the increased cost in hot-rolled prices, but the effect of that factor on the industry is likely to be diminished as more capacity is now coming on line as ISG has now restarted the capacity that LTV had shut down.

As Mr. Magno testified, his customers are keeping an eye on his raw material prices. The fact of the matter is that when raw material prices go up, U.S. producers can pass on some of those price increases, but when the raw material prices go down pipe prices also go down, again showing the relationship between raw material prices and pipe prices, not to imports. The point is that downward pull on profitability caused by raw material prices had nothing to do with imports of welded pipe.

In sum, there is nothing on this record which would suggest that the current relief continues to be necessary to prevent serious injury from imports alone. There is nothing on this record which supports the proposition that the investment and restructuring that has and is taking place is tied to or is enabled by the safeguard relief on other welded pipe and tube.

I would just like to make one final comment, which is I believe that the staff has been very diligent in trying to obtain information from the entire industry. We understand that there is data that the staff is still waiting to receive, and we believe, based on public reports, that some of that data could be quite significant.

Now I'll turn it over to Mr. Cameron.

MR. CAMERON: Thank you. For the record, my name is Don Cameron also on behalf of the Korean industry.

I cannot remember a hearing in which we have had so much time all to ourselves. Oh, my God. All right. If you guys don't want to take a smoking break, I'll just go and do this.

Madam Chairman, members of the Commission, I was struck this morning by the focus of Mr. Schagrin and his witnesses on the Korean pipe and tube industry and the Korean steel industry as a whole. It makes you wonder whether it's simply more convenient to focus on the Korean steel industry than it is to focus on the record in this investigation.

That said, we are more than happy to respond to any and in as much depth as this Commission desires with respect to questions that you may have concerning the Korean steel industry either here or in a post-hearing brief, but at this point we would like to make a couple of observations.

First, despite counsel's attempt to suggest that the Korean steel industry is subsidized, we would note that Posco, who was the main focus of the testimony, is privatized and has been found by the Commerce Department to be not subsidized in the last three -- it's either three or four -- countervailing duty investigations going back to at least 1999. Therefore, the idea that the pipe and tube industry in Korea is somehow subsidized by the Korean Government or by Posco is unsupportable.

It is correct, as Mr. Schagrin pointed out, that Posco has limited its exports of hot-rolled steel to captively supply UPI. It is also accurate that this Commission's 1993 decision, which was upheld by the CIT, was based upon the fact -- the decumulation decision was based upon the fact that virtually all of Posco's exports of hot-rolled were captively supplied to UPI.

It is also true that Posco continues the policy of exporting exclusively to UPI and not participating in the merchant market and supplying pipe and tube producers in the United States because of the importance to Posco and to UPI of that supply of hot-rolled steel.

They are not going to risk the decumulation decision of this Commission in 1993 in order to participate and compete against U.S. producers of hot-rolled steel, of which Mr. Schagrin does represent significant members of, who would be more than happy to file antidumping and countervailing duty cases against Posco. Therefore, Posco has strategically maintained a policy of limiting its supply of hot-rolled to UPI and not supplying the merchant market. We have no apologies to make for that policy.

Finally, unless I missed something, the exclusions granted by USTR for hot-rolled would have been unavailable to U.S. pipe and tube producers in any event because those exclusions were conditioned on rerolling by flat-rolled U.S. steel producers such as UPI, and they are not available for the use as merchant hot-rolled produced pipe and tube.

It is true that Korean pipe and tube producers purchase hot-rolled steel from Posco, again an unsubsidized and quite a good producer of steel in the world community. They also purchase significant quantities of hot-rolled from other import sources.

Finally, the composition of the Korean pipe industry has changed significantly over the past five or six years. A couple of years ago when we would be appearing before this Commission we represented five major producers of pipe and tube. There are now only three.

Did the Korean Government subsidize the two producers who exited the market in order that they would continue to supply pipe and tube and continue to have capacity that the companies did not feel was justified? No. Actually, those companies got out of the pipe business as part of the company restructuring plans and their own company decisions. That's the way it's supposed to be.

Finally, it was suggested by one of the witnesses this morning that because there is no oil and gas in Korea, Korean companies somehow should not be in the market to produce large diameter line pipe. Aside from the remarkable economic theory that is being suggested with respect to that statement, we would like to suggest that reference to a globe might show that there are a number of significant geographic areas close by to the peninsula of Korea where oil and gas is produced. China comes to mind.

Finally, we have a couple of other thoughts in response to the testimony this morning. In response to a question from Commissioner Miller concerning the use of capital expenditures, one witness testified that their priorities in this order were as follows:

First, compliance with regulations and safety. Now, call me crazy, but I don't think they only do that when we have safeguard relief. Second, significant projects that give us significant cost savings. Again, are you telling me that we only do those in times when we have safeguard relief? Third, longer term projects.

Another witness noted why would you increase capacity in a down market? Good point. Very good point. More the point is that the investments being referred to and the investments that are referred to in the questionnaire are not and have not been conditioned upon import relief.

They are normal investments, and that is precisely why during a time when other steel producers were losing massive amounts of money this industry has been, was and continues to be profitable. Why? Because they do make smart decisions. They maintain their competitiveness. That's what they're supposed to do. Safeguards had nothing to do with it.

In response to a question regarding the decline in import volumes, which is self-evident from the data, has not translated into improved industry performance, Mr. Schagrin responded well, that's because of other factors. For once we agree with counsel for the domestic industry. Moreover, that's the reason the imports really weren't the problem in the first place. It is and was the other factors.

We're not here, as Julie says. We're not here to relitigate the underlying decision, but it is legitimate for this Commission to note that controlling imports has not resulted in improvements because other factors caused the current condition of this industry.

With respect to the testimony by Mr. Gerard this morning, it appears, frankly, that most of the testimony relates to flat-rolled rather than pipe and tube, and we thought that the questions with respect to that are valid.

That said, we would agree, and this is not meant to be critical in this respect. We agree that the union has contributed significantly to the overall adjustment of the steel industry. I mean, we think that it's largely focused on flat-rolled rather than pipe and tube, but that observation I think is indisputable.

However, he made a statement that's interesting. He made a statement that there's a facility in Cleveland, the city that I know and love very well. A company had reduced the number of shift foremen from roughly 126 to 23. I may have my numbers wrong, but I believe that's the numbers that he stated, and I apologize if I recorded it incorrectly.

Our question is this. Are you seriously telling me that 100 additional shift foremen were justified were it not for imports and safeguard relief? That actually is part of the problem.

Now, I understand that he says look, I'm not going to pay twice, but the fact is that part of the reason for the problem was that they had and they knew they had and they knew they had for a long time that additional 100 shift foremen. When he talks about compensation for executives, he's absolutely right on. We don't disagree with a thing he said about that.

Finally, Mr. Blecker says that it's really distributor inventories that are the "inventory overhang." It's the elephant behind the tree. It's useful in this regard to refer to the testimony from the witness from IPSCO. The witness from IPSCO said in response to a question that they attempted to increase prices early in the period, and it was possible to an extent because of limited supply.

This presents a question. What inventory overhang are we talking about? The witness from IPSCO then noted that "imports were on the docks" through the first six months of the period. You can just see them now. They weren't on that Indian ship in the Gulf with the fax machine. We're not there anymore. It's all stacked up on the dock. It wasn't a wall of lumber. That's not true. It really was a wall of pipe and tube all on the dock.

Okay. That's fascinating because when I look at Table Tubular 2-5, I don't see them, and that's the problem. What he's talking about isn't distributor inventory. Unless I miss my mark, he talked about importer inventories that were stacked up.

That's the problem here. I mean, this story doesn't wash. That isn't what the problem is, and that hasn't been the problem, but the reason that they're resorting to a story about inventory overhang is that this record doesn't show anything about imports otherwise. Therefore, they've got to stretch it to say something. Fair enough. It just doesn't wash.

With that, I think that -- yes. I've just been given positive marks for my timeliness. With that, we would like to conclude, and we thank the Commission for taking the time to listen to us. Thank you.

CHAIRMAN OKUN: Thank you very much for those remarks and for keeping within your time, all of it.

MR. CAMERON: We still have 30 minutes left.

CHAIRMAN OKUN: I'm waiting for that rebuttal.

Anyway, thank you very much for your testimony and for your prehearing briefs and the other information, and welcome to you, Mr. Kraker. I guess this is your first appearance here. Is this your first appearance with Mr. Cameron, or did you know what you were in for?

We will start our questioning this afternoon with Commissioner Miller.

COMMISSIONER MILLER: Thank you, Madam Chairman. I thought I already heard the rebuttal, so get rid of that 30 minutes.

MR. CAMERON: Glad you were listening.

COMMISSIONER MILLER: Mr. Cameron, welcome back. It's been almost two years since I felt the need for that blood pressure machine that's no longer upstairs anyway. We appreciate both of your testimonies, Mr. Cameron and Ms. Mendoza.

Let me start I think by, you know, you keep saying you're not trying to relitigate the original 201, but that's pretty much what I hear you doing. In part, the way I hear you reaching these issues is by virtue of what I read in your brief. You read the U.S. law, Section 204, sort of in tandem with two articles out of the WTO, and the two articles that you reference out of the WTO speak to the issue of to the extent necessary to prevent or remedy serious injury.

It strikes me that much of your discussion is actually aimed more at the articles that you're citing of the WTO than to Section 204. Please, am I right in that? How do I get through 204?

MS. MENDOZA: Well, actually, you know, we're not trying to imply and we're certainly not stating that the U.S. law is in any way in conflict with the WTO agreement. In fact, we don't think it is.

In other words, the reason that the President has the authority to reduce or modify or eliminate the safeguard relief and the reason that was put into the law, we believe, is because that is what the safeguard agreement requires. In other words, you have to look at it in the midpoint if it's going to last more than a year, and you have to make a decision as to whether the continuation of relief is warranted or not.

Certainly under U.S. law this midpoint review and the President's subsequent decision reflects those provisions of the WTO. I don't see any conflict between the two at all. You know, whether U.S. law is elaborate and uses the exact same words as the WTO agreement I don't think is relevant.

I think the President has an obligation as a result of this monitoring and any reports you give him to make a decision about whether or not relief continues to be warranted. I think that that's what the WTO agreement is saying that you're supposed to do.

You know, I understand what you're saying about us seeming like we're trying to relitigate it. You know, it is very possible, and I think it's actually logical, that one of the reasons that you have a midpoint review is that you do have better information upon which to make a decision.

I mean, I think the general view is that safeguards is an extraordinary remedy because you're putting on very high duty levels at a time when everybody else is reducing duty levels worldwide, so the question is, you know, you can't just sort of say okay, I made a decision on day one, and that's going to be the way it's going to be for three years or three years and a day, and I'm never going to look at it again.

I think the monitoring actually contemplates that in fact you will look at it again, and so what I'm saying is that if you look at it, the entire record that you've collected in this investigation, I mean, after all you have also gone back for the monitoring collected prior to the measure.

It's relevant to look at that period and say okay, now based on what I now know and my continuing obligation to keep looking at this and making sure that it's still necessary, I realize now that in fact what I may have observed could have been due to two things.

Either there was a temporary downturn in the industry and then a recovery, or it may well be that right before those measures were imposed this industry actually went through a very big restructuring and eliminated a lot of capacity and uncompetitive producers.

You know, if you in the course of your monitoring encounter that that in fact explains it, then it seems to me that that's important information. You can't just say well, I'm going to put on blinders. I'm not going to look at that. I'm just going to say well, you know, I made that decision once, and I'm not going to reexamine it. I mean, the whole point of monitoring under U.S. law or the safeguard agreement or anyplace is to say we have to always continue to make sure that it's necessary.

I really am not trying to say that you didn't make the -- you know, you know my opinion on your decision, but what I'm saying is if you made that decision on the first six months of 2001 and what we're trying to say is you now under your own rules have collected information since then, you know, and you can look at it more fully and you actually have the opportunity in a safeguard context that you don't have in some of these other contexts like dumping to actually look and see what happened on a more complete level.

That's all we're saying that we think you should do. We don't think there's anything about that that is contradicted by U.S. law or the safeguard agreement.

I went on too long. I apologize.

MR. CAMERON: Can I just add one thing? Sorry.

Commissioner Koplan pointed out this morning that he is interested in comparing -- sorry; I know it's difficult to hear me. That he is comparing the year before the relief and the year after the relief. This is the comparison.

What we have attempted to do, and I grant you that, yes, you can look at it in one way and say gee, I mean, it looks like you're relitigating the issue. Well, no. What we're trying to do is provide factual context for exactly this comparison that you're looking at, and to the extent that that first year, and you also have some context because you have asked for three years. Now, they're broken up in a different way, but you have three years.

Now, to the extent that that three year period both, A, gives a more complete picture, as Julie says, of the interim period upon which this decision was originally based, and, number two, then links that period up and puts it into a different context and then links that up to the current period, that is a changed circumstance, at least in our opinion, but even if you don't think it's changed it is relevant to the examination of exactly what it is that you're about here.

You obviously are capable of drawing your own conclusions from it, but in that sense it is relevant to reach back into that period because it's part of the record that you have collected data on in this investigation.

As you yourselves have noted, with respect to certain indicators there's differences between what we see now and what we had at the end of the period in the original investigation. Okay. Do we just say okay, we're just going to go on because clearly we're just looking at this? No. You're saying okay, it's relevant for us to ask why. That's what we are asking, and that's what it is about.

We do think that it's legally relevant. The conclusions that you draw from that obviously, that's your job.

COMMISSIONER MILLER: Well, actually it's the President's job.

MR. CAMERON: Yes, but you're monitoring. Sure. Sure.

COMMISSIONER MILLER: But what forms the basis of the President's decision is obviously forming much of the debate we're hearing.

You just referenced the changed economic circumstances language that's not in 204(a) where we are right now, but it is in 204(b). I did want to ask you how you read that provision and if that was the basis that you saw in U.S. law for some of this.

I mean, Ms. Mendoza, your answer a moment ago to my first question maybe sort of supersedes that point, but --

MS. MENDOZA: No, no. I think it is related. I mean, I think again I don't think the wording of U.S. law and the wording of the WTO are identical, but I think that they're getting at the same thing. The President clearly has the statutory authority to take that into account.

We do think that this is a changed circumstance. When you have a more complete record and you know more about what's really going on with the industry and what happened to the industry, you can make a judgment then about whether or not the circumstances have in fact changed.

I mean, that's the whole of doing the monitoring; not to say you did it wrong the first time, but to say okay, based on more complete and adequate information, how healthy was the industry? How likely was it that this industry was going to have a downturn?

It bears on the question of, you know, how well the industry is going to do in the future if they don't have relief.

COMMISSIONER MILLER: I did want to give you an opportunity. The legislative history does speak to looking at the adjustment efforts of the industry and the context of the general economic condition.

Clearly, we have the circumstance here where the economic conditions, the demand issues, have not been favorable to the industry. I just wonder if you had any comments about what that means for our analysis?

MS. MENDOZA: I mean, it seems to me, and I'm not sure that this is what you're actually getting at, but it seems to me that one of the things is that, and it goes back to the persistency of this declining demand issue, and that is that if you have to look at the adjustment program in light of what's going on in the industry, it may well mean that the industry has less money to invest.

But, it also may mean that the industry's adjustment plans have to be looked at carefully to see if they're really addressing what's going on in the economic situation because if in fact they're not, you know, and they're just adding capacity, they're not reducing capacity, and yet you're looking at sort of a long-term decline in demand, then the question is whether those investments are really going to make a difference in the long term.

MR. CAMERON: There's also a question when you think about it. All right. Let's take your postulation about the economic conditions. My response would be these guys are doing pretty well given the economic conditions -- that actually is one thing that comes out of this record -- and they were doing well in poor economic conditions prior to this time.

COMMISSIONER MILLER: I appreciate your answers.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman.

Let me just start by saying it's good to have you back. I think I've missed that.

MR. CAMERON: It's good to be back.

COMMISSIONER KOPLAN: Now let me just start if I could, by making the same request that I made of counsel this morning. You've touched on this, Ms. Mendoza, in your opening, but I'm going to just put a slight twist on it.

The President did not make a request of the Commission under 204(a)(4) for us to advise him of our judgment as to the probable economic effect on the domestic industry concerning any reduction, modification or termination of the action taken under 203 which is under consideration.

In the absence of such a request, if for the purposes of the post-hearing you can point me to any authority in the legislative history or otherwise for the Commission to gratuitously do that I'd appreciate it.

MS. MENDOZA: I think that maybe the difference is between advice and findings of fact, which was one of the distinctions we were trying to draw as well.

COMMISSIONER KOPLAN: I appreciate that. Yes. No, I do appreciate that. And I'm not saying that I might not gratuitously have something to say, I'm just saying what's the significance, the legal significance, of the fact that he hasn't made that request of us.

MS. MENDOZA: Understood. We'd be happy to do that.

COMMISSIONER KOPLAN: That's what I'm wrestling with.

Now, I guess all of my questions are going to be of you all. Like you say, you've got the whole floor this afternoon, so Mr. Cameron and Ms. Mendoza, at the end of your brief, you have a short discussion at pages 23 and 24 dedicated to the argument that the domestic industry has not made adequate efforts to make a positive adjustment to import competition and you've talked about that again, obviously, this afternoon.

Now, you heard me indicate this morning that I consider this issue as one that goes to the heart of my mandate under Section 204. Appendix F of the staff report at pages F-29 through 38 focuses on the domestic industry's efforts to compete more effectively in the U.S. market and is company specific. The details as to the type of information they were asked to identify are set forth on page F-3. All of the information on those pages contains confidential business information to which you have access.

I would like you to take your critique of the industry's efforts to a higher level by commenting on that information for me as specifically as you can for the post-hearing and thereby expand on the pages of your brief that I just noted.

Would you do that for me?

MR. CAMERON: We'd be glad to. While we're doing that, can we say one thing about that in response to your question?

COMMISSIONER KOPLAN: Absolutely. Sure.

MR. CAMERON: This is exactly the point that we were getting at in response to the response of the witnesses this morning concerning how they prioritize their investments and what do they do and the issue of whether or not the investments that have been made are at all related to safeguard relief or are the investments that they have made actually what they do and the reason that this industry has been successful and that's what we're saying.

In other words, okay, XYZ company bought a new line. Hey, that's great. Let me ask you a question. In the absence of safeguard relief, are you telling me that XYZ company never did that? And the answer that we would say to you is that, yes, they do, they did and that's the reason that this industry actually is quite competitive.

At the same time, what is the real problem that has been identified with this industry that is somewhat persistent? That issue is one of over capacity and that is what we are referring to in the pages in our brief, which is that if we look at the data in the tables, that is also confidential, but that capacity data and the capacity utilization data doesn't exactly show that this industry has been taking out all of the inefficient capacity and therefore that raises a question, that question being whether the continued maintenance of artificial safeguard relief is delaying that part of the adjustment and query: is that part of the adjustment the critical part of the adjustment, especially given new conditions of demand? That's the question.

So we will be happy to respond to your question, but that really was the focus of the brief and that was the point we were getting at and we apologize if it was not specific enough, but the post-hearing brief will clarify that.

COMMISSIONER KOPLAN: I appreciate that. As I say, it's company specific, that's why I would imagine you have a fair amount of work in front of on it, but I assume you're not --

Hello, Mr. Kraker. Welcome to the commission.

MR. KRAKER: Thank you.

COMMISSIONER KOPLAN: All right. Your response was a segue for my next question, actually, Mr. Cameron, when you started talking about over capacity. I was going to note that you make the argument in your brief that the industry's problems were and are caused by a sluggish economy and significant over capacity, page 3, and it's throughout your brief and, of course, you've talked about that today.

When you refer to over capacity, I don't know the answer to this, is it your position that global over capacity exists for welded pipe and fittings, flanges and tool joints as well?

MR. CAMERON: Well, first of all, we are only referring to other welded pipe, we're not discussing flanges and fittings because they are separate industries and this commission has recognized that in their like product determinations.

COMMISSIONER KOPLAN: Okay.

MR. CAMERON: And the over capacity that we were referring to was domestic over capacity, not global.

COMMISSIONER KOPLAN: I appreciate that, but what I'm asking is do you say as well that there is global over capacity in the welded?

MR. CAMERON: We'll be glad to look at that, but I'm not sure that we do have an answer to that. I'm sure there is some over capacity, but this is somewhat of a canard. When we looked at it previously -- and the reason I say that is quite simple. If you look at domestic capacity and then you look at the percentage of domestic capacity that's devoted to the United States market, it's a huge number. I mean, it's in the 95, 97, whatever, it's a very high number. If you look at the amount of foreign capacity that comes to the United States market, you're talking a very small number, single digit, and therefore the issue of global over capacity is relevant, but it's not as relevant in pipe and tube, which is a fabricating industry, as opposed to steel making, which supplies the raw material. This is where you get to the relationship of hot rolled prices with pipe and tube prices, the raw material and whatever.

One of the reasons that the main focus of the OECD steel talks had been steel making capacity, and I grant you that pipe and tube is there, fair enough, but --

COMMISSIONER KOPLAN: Well, let me tell you why I'm asking. Because if that issue does exist as well, if it exists, then what I point to is that on March 5, 2002, in the presidential memorandum accompanying his proclamation he stated that in determining whether to reduce, modify or terminate the safeguard measures he would consider as a pertinent factor actual and planned permanent closure of inefficient steel production facilities in countries other than the United States as well. And so if that does exist, then my question to you would be the same kind of question that I'd be asking of the domestic industry: what steps, if any, have your clients taken to that end since the relief went into effect?

MR. CAMERON: Well, as we noted in the direct testimony, the steps that our clients have taken preceded the relief.

COMMISSIONER KOPLAN: I heard that.

MR. CAMERON: And those steps were two major pipe and tube producers exiting the market. Why did they exit the market? Frankly, the determined that the pipe and tube business wasn't really all that good worldwide and they decided that they wanted to focus on flat rolled steel primarily and that's what they've done and so they exited the market. Otherwise, our producers, this is no secret, our producers are world class, always have been world class, and they are constantly upgrading their equipment. They don't do it with government subsidies, they do it with their own.

COMMISSIONER KOPLAN: Thank you. One additional --

MR. CAMERON: And they are participating in the OECD steel committee meetings.

COMMISSIONER KOPLAN: I appreciate that.

At pages 21 and 22 of your pre-hearing brief you make an argument similar to Mr. Schagrin that imports from non-covered countries merely caused a shift in imports supplied during the relief period.

Now, you heard my analysis of that argument when I disagreed with Mr. Schagrin this morning. My point at that time was the total imports of welded pipe have declined during the relief period by about 22 percent and for fittings, flanges and tool joints by nearly 24 percent.

Would you respond?

MS. MENDOZA: Well, if we gave the impression that we didn't believe overall imports declined, that was a mistake and we stand correct.

COMMISSIONER KOPLAN: Okay.

MS. MENDOZA: I think what we were trying to say was simply that one of the effects of the safeguard relief -- obviously this is something that our clients care about very much -- has been to distort who has been supplying it. I mean, that's not to say that overall they still haven't declined in a significant way, they certainly have, but one thing that has happened is that there has been a shift in supply and some other countries have obviously taken market share away from Korea to some extent.

COMMISSIONER KOPLAN: But that shift in supply, at least I would term it, as rather minuscule.

MS. MENDOZA: Oh, yes.

COMMISSIONER KOPLAN: And I went through that this morning.

MS. MENDOZA: Yes. No, no, no. Absolutely. Absolutely.

COMMISSIONER KOPLAN: Okay.

MS. MENDOZA: I mean it was only meant to stand for that proposition, but, overall, definitely we would agree, imports have obviously declined very significantly with very little effect.

COMMISSIONER KOPLAN: Okay. I noticed you got that in. Thank you.

Thank you, Madam Chairman.

CHAIRMAN OKUN: Thank you.

And thank you again for your testimony and your willingness to be here with us this afternoon and answer questions.

I'll start with the same question that I did this morning, although Commissioner Miller has already touched on it, and that is just trying to understand the arguments you make with regard to what we should be looking at, what the statute, what the 204(a) statute on monitoring, asks us to do and I guess I would just make the request that I did this morning, which is to have you go back and look at the legislative history along with us to help us try to determine what that means because I take your point about what you're saying that the safeguard agreement says and its incorporation into U.S. law and what that contemplates, although I think in that instance the member is the U.S. Government, it is the President and he has his obligation. I'm just having a hard time making that link, looking at what legislative history I have so far, that we are supposed to be at this point looking at the effectiveness of the measure, that we should be doing this look, because to me it really focuses on this idea of promises made, promises kept, what was the industry, what did they say they needed to do adjust to import competition and then take a look at what they've done, take a look at the economic circumstances to determine if they didn't do it, why not, and put that in there for the President to evaluate.

MS. MENDOZA: I would agree that in fact the statute does say including the industry's efforts to adjust, but it doesn't say exclusive. And therefore I think that it makes the general statement that you're supposed to be monitoring what's happening to this industry, so therefore all of it's relevant.

I would also just like to make one --

CHAIRMAN OKUN: But monitoring developments, which to me is different than a lot of what I hear about, was it effective or not and why not, I think that's what I'm saying. I don't see the -- I mean, monitoring developments to me is we're looking at what happened during this period, we're describing them, and so you put in there what happened with demand, that's clearly relevant, but no so much you got the relief and this is what's happened and this is -- do you hear what I'm saying?

MS. MENDOZA: Yes, I do, but I guess the practical point from my point of view is that this section, this 204 section is a section. In other words, you can't really just read the part that deals with the commission by itself. I mean, you have to sort of read it as a part of this whole section of the law, which basically lays out the procedures under which the President ultimately makes a decision as to whether the relief should be reduced or terminated. And there's also a practical point, which is that the commission is actually the fact finding arm of the President in these 201 or 204 decisions. The President when he made his decision as to the relief to recommend, he made that decision based on the commission's report. In the same way when the President makes his decision one of the things that he's specifically supposed to take into account is your report. And I'm not sure how the President would be able to make findings of fact with respect to the specifics here without having the benefit of you conducting this investigation and telling him what the fact finding was that you came to. I mean, I don't know how the President -- and it's certainly not contemplated here -- the President is going to conduct his totally own investigation to be able to figure out whether the industry has made adequate efforts or if there's been any change in economic conditions. I mean, presumably the reason that he wants the report is so that he can make a reasoned decision on these factors. If he doesn't have the commission's report telling him all of these things, I don't know exactly how or what purpose it would serve.

CHAIRMAN OKUN: As I said, I understand what you're saying, reading that in the context of this whole thing, and I'm reading it and it's still not clear to me that that is exactly -- you know, how broad the commission's role is meant to be because he is also seeking other advice, and he could make a request to us to do a probable economic assessment on termination or modification, which he hasn't, and so I'm just trying to get some -- I guess asking people to take a closer look at it because I don't think it's, for whatever reason, it's not completely self-evident to me how broad our reach should be, even though, again, I understand what you're saying in terms of what our report is and isn't. I'm just trying to --

MS. MENDOZA: Right. And I think, you know, it's certainly the case if you look at the subsection that you're talking about, that it really does refer to something quite broad, which is monitoring developments with respect to the domestic industry and I think that all the things that we've been talking about are things that have happened to this industry which bear directly on the question of whether any continuation of relief is necessary.

I agree with you it would be nice if the statute said specifically what specific things the commission was supposed to look at in this, but I think that it's pretty broad authority. I mean, monitoring of elements related to the industry when viewed in light of the section as a whole is pretty broad authority.

MR. CAMERON: Which is another way of saying reporting and stating your opinion as to what the factual situation is with regard to whatever part of the developments you are examining and making recommendations are two separate issues and we're not suggesting that it's the job of this commission to make recommendations. We are suggesting that it is part of the function of this statutory scheme to make valid observations of the data which the commission is observing and if they conclude that -- I man, we're not saying that this industry doesn't invest in itself. Again, they clearly do, which is the reason that this industry really has been as successful as it has been. But there is a question as to, well, okay, so what is the impact of this relief? It gets to your question of, well, why is it that the clear reduction of the imports is not translated into, as Roger says, in line pipe we had X percent increase in profitability and why hasn't that happened? Well, it's because of other factors.

Well, if it's this commission's observation that in fact the condition of this industry has very little to do with imports and has a lot to do with other factors, that is a valid observation and relevant for this commission to pass on. Obviously, it's up to the President to decide what to do with that, but that's relevant. And we would argue that as a matter of law, the President ought to be taking that and forming his own conclusion that, well, if imports are not the cause of what's going on and if this relief is not having the desired impact, then it no longer should be in place. That clearly is a decision of the President and not this commission, though, and we agree with that, but we'll try to expand further.

CHAIRMAN OKUN: Well, that did lead me to my next question, though, which is both you and Ms. Mendoza, Mr. Cameron, had referred to this issue, the investments the industry has described being just normal investments that a company makes. When we talked about health and safety, that everyone would be doing that. And I guess I tend to agree with that, but I guess my question would be what adjustments would you put in the category of adjustments that companies would make to adjust to import competition? I mean, wouldn't cost reductions be in there? Wouldn't capacity reductions be in there? I mean, if they're trying to be a leaner, meaner, fighting machine which is sometimes --

MR. CAMERON: I'd love to see it. I'd love to see the leaner, meaner fighting machine. That actually is the point of our testimony. That's exactly right. But the investments on cost savings? Sure. That's always part of it. But, again, is there anything that they have done out of the ordinary in that regard? We would say no.

CHAIRMAN OKUN: That's what I'm saying. Why is it -- that's what I'm trying to understand. The out of the ordinary to me, I'm trying understand what you're saying, which is -- I mean, a company in the regular course of doing business without safeguard relief would look to do cost reductions and would look at its markets and say we need to do this. The statute here is looking to what adjustments they made to import competition.

To me, I'm not sure that I think it's one category is this and one category is not and that's what I'm trying to get your sense of.

MS. MENDOZA: Just to answer a little bit, I don't think it inherently is, but the question really is for the industry to tell you why this extraordinary remedy is necessary so that they can undertake the investments that they undertook. In other words, nobody's disagreeing the industry should invest. The question is, okay, you've now been given this extraordinary remedy, what exactly have you done with it that you would not have otherwise done? And that seems to me to be an appropriate question for the industry.

And I also think it's rather remarkable that this industry has continued to make the level of investments they have, even despite the economic downturn. I mean, it seems as though -- and they have always made. The other point -- it isn't just, well, what about these particular investments is so unique, it's also the point we're making is they've always been making this level of investment. There's not a change that now has occurred, so the question arises naturally enough, well, all right, but isn't the adjustment supposed to be made possible by these remedies, by the safeguard remedies, and isn't it incumbent upon the industry to in fact come forward and say these are the investments I undertook because of safeguards and this is the way in which I believe those investments are going to make me more competitive with imports. I'm not sure it's up to us to be able to identify exactly which is in which category.

MR. CAMERON: I realize the red light is on, so I'll make this really short, and that is --

CHAIRMAN OKUN: I've heard that before.

MR. CAMERON: Yes, I know you have. I know you heard it this morning, too, so I apologize. Okay? I lied.

Look. One way to address the issue, the question that Commissioner Koplan asked with respect to Appendix F, all right? And we addressed this in the brief, there is also another question that is asked company by company which is so what's been the impact of import relief on your company? And, yes, we agree that there are -- if you look at the answer to the one, there are various investments that are in there. If you look at the other with respect to the impact of import relief, there are a lot of companies that are saying not much and so we are relating these two things.

Now, again, we will do so company by company and go through that. This is not to say that there have not been individual companies that have undertaken some of these things and we will discuss them in detail. Mr. Schagrin refers in his brief to Copperweld and they just closed something and they're going to close something else. Well, good. I mean, that's good. And that goes to the issue of whether or not -- is that positive adjustment? And our answer to that is yes, that is positive adjustment. But when we looked at the overall figures with respect to capacity, we really didn't see this issue translated. And, if you look at the capacity and capacity utilization, we would say that that and not the investment in the new line is where the adjustment ought to be focusing and we haven't seen a lot of that.

CHAIRMAN OKUN: Let me --

MR. CAMERON: That was a long way -- sorry.

CHAIRMAN OKUN: Vice Chairman Hillman?

VICE CHAIRMAN HILLMAN: Thank you very much. I would join my colleagues in welcoming you back, and we appreciate all of the efforts to enliven this proceeding. Much appreciated.

Let me start I guess basically following up where the Chairman left off. I have to say, as I've heard all of your arguments on this issue of the adjustments that the domestic industry has made, it strikes me that, you know, everything that you're arguing is that the domestic industry, what they haven't done is shown that their adjustment efforts are directly dependent on the safeguard relief.

I guess my question is is that at all relevant to our task? I mean, I read the statute as saying we're supposed to just say what have they done in terms of their adjustment efforts. It's this issue that it must somehow be linked to safeguard relief.

I'm not sure where I'm finding in the statute the notion that I have to find this effort was made as a result of the safeguard relief and this one would have been made anyway regardless of whether there were duties in place.

I heard your answer, but I'm just not sure where in the statutory scheme, you know, I'm finding any notion that we have to specifically say this step was taken directly as a result of the safeguard relief and this one wasn't. What difference does it make? Why is that relevant?

MS. MENDOZA: Well, we have to remember that safeguard relief is temporary, right? I mean, it's only going to last for three years so you're not going to put safeguard relief on fairly traded imports unless that is going to produce a more competitive industry. If you look at the entire 201 statute, I think if you look at that statute in fact that's what it talks about.

In other words, it's a temporary measure that would allow the industry to adjust to import competition because that's the whole purpose.

VICE CHAIRMAN HILLMAN: I understand that.

MS. MENDOZA: Okay.

VICE CHAIRMAN HILLMAN: I mean, there's definitely this kind of quid pro quo. You get the relief if you adjust.

MS. MENDOZA: Right.

VICE CHAIRMAN HILLMAN: I understand that. There's no question.

MS. MENDOZA: And that's why the ruling is there.

VICE CHAIRMAN HILLMAN: It's this idea that you're in essence saying these adjustment efforts count, if you will, and these don't count because they haven't been sufficiently proved to be related to the safeguard relief. That's the part I'm having trouble with.

MS. MENDOZA: I guess what we're trying to say is that if the industry tomorrow, if you take away the relief of this industry would this industry continue to invest at the same levels it's investing now? We're saying yes.

VICE CHAIRMAN HILLMAN: Okay.

MS. MENDOZA: Therefore, the question is do they need safeguard relief.

VICE CHAIRMAN HILLMAN: Well, all right. Let me go back then.

MS. MENDOZA: Maybe that's a Presidential decision.

VICE CHAIRMAN HILLMAN: Right. All right. I mean, as I heard your testimony, you I think, Ms. Mendoza, said very directly that the industry is already competitive with imports.

Okay. Now again as I read the statute, and I will look forward to reading the briefs in response to the question that the Chairman has been asking for you to brief because as I read the statute it is basically saying the relief stays on for three years and one day unless -- unless -- two things are true.

Either the industry has not made positive adjustments, so it's more the kind of they get the relief, they are entitled to it for the entire period unless they have not made an adjustment to import competition or unless there are economic conditions that have impaired the effectiveness of the relief; not just a change in economic circumstances, but changes that have impaired the effectiveness of the relief.

Okay. I'm trying to understand exactly what you're arguing with respect to the first point. If you're saying they've already adjusted to import competition, they're already there, okay, can you at the same time then be saying that the President can actually find that this is an industry that has not made an adequate adjustment to import relief such that there is a legal basis to take away their relief?

MR. CAMERON: Commissioner, I think that part of the answer to that is let us pose another hypothetical question to you. What if it was found that the industry has completed its adjustment process and it has done so within the one year or year and a half; in other words, at the point that we are today.

Let's say that we have made a determination that it's done. Now, the question that I have is as a statutory matter does that mean that even though they have adjusted, even though it's a done deal and even though we are stating that -- this is hypothetical. I'm not trying to put words in anybody's mouth here. I think it's true, but I'm not trying to put any words in anybody's mouth.

If we then assume that no further steps are going to be taken, does that mean that well, there's going to be found money there for another year and a half? We would suggest to you that as a matter of statute the answer to that is no, as a matter of WTO law it is certainly no, and that it is a relevant observation and it's a relevant thing to ask as to whether or not yes, it did it. It's adjusted.

VICE CHAIRMAN HILLMAN: As I read the statute, I mean, it clearly provides for that, provided the domestic industry petitions the President and certifies yes, a majority of the representatives of the domestic industry submit to the President a petition requesting the reduction, modification or termination on the basis that the domestic industry has made a positive adjustment.

In that sense, the statute contemplates this notion that, you know, this adjustment would get done faster than the three year period, but I don't see the President having the authority --

MR. CAMERON: Fair enough.

VICE CHAIRMAN HILLMAN: -- to do it absent a petition from the industry saying yes, we've finished it. I'm still back to my question of --

MS. MENDOZA: Right, but if you look at the effectiveness of the action has been impaired by changes in economic circumstances.

Now, you're suggesting that there isn't a broader way to read that, which is in effect that when you determine that the industry is no longer in need of adjustment the effectiveness of the relief is impaired. In other words, the relief is not going to achieve what the relief was set out to do, i.e. help this industry adjust. There's no longer any need for it.

I would say that it is encompassed here. It's also encompassed in change of economic circumstances, i.e., right before the measure was imposed we didn't know it, but right before the measure was imposed a large part of this industry, the most inefficient part of this industry, disappeared.

Therefore, when we made our decision we thought the relief was going to be effective based on the industry that we had before us at that time, but that's not the same industry that we have before us today.

VICE CHAIRMAN HILLMAN: Okay.

MS. MENDOZA: I think that that can be read broadly enough to encompass that.

VICE CHAIRMAN HILLMAN: Like I said, I would encourage you to help us look at the legislative history on this because I will say when I look at the legislative history of this phrase, you know, that the effectiveness of the relief has been impaired by changed economic circumstances, what you'll see are loss of references to changes in currency, efforts to circumvent the relief, things of that nature --

MS. MENDOZA: Right.

VICE CHAIRMAN HILLMAN: -- that really do go to this issue of the impairment, as opposed to kind of economic changes that have helped the industry.

MS. MENDOZA: Right.

VICE CHAIRMAN HILLMAN: You know, if you read the legislative history, at least to me it much more goes to this issue of things that again have undercut the relief.

Like I said, I mean, it specifically refers to negative shifts in exchange rates, efforts to circumvent, product shifts that would have brought in imports that would not have been contemplated when the relief was originally put in.

MS. MENDOZA: Right.

VICE CHAIRMAN HILLMAN: Anyway, my question is --

MS. MENDOZA: No. I totally agree. Those are the examples.

VICE CHAIRMAN HILLMAN: I hear your argument. I would like to see it tied to, you know, the legislative history.

MS. MENDOZA: But the legislative history includes the safeguard agreement. In other words, you have to read them together.

VICE CHAIRMAN HILLMAN: Do I have to go down this route --

MR. CAMERON: No.

MS. MENDOZA: No, no.

VICE CHAIRMAN HILLMAN: -- of is Petitioners' agreement relevant to this proceeding?

Maybe we have to because I will say there's a part of me in reading your brief and in listening to the argument, this concept of, you know, whether the relief continues to be warranted. Continues to be warranted. You've used that phrase. You've kind of used that phrase.

Do you find grounding for that in the safeguard agreement sort of read into 201, or do you think there really is grounding for this concept that the industry has to prove that continuation of relief is warranted again at the midpoint?

I understand if we were talking about continuing it beyond three years that's a whole different situation, but for a midterm, you know, I'm trying to understand if you could read this notion of continues to be warranted absent the safeguard agreement because clearly in your brief you're kind of tying the two together and reading the obligations that we have, that the U.S. Government has, under the safeguards agreement into this piece of 204.

I'm trying to ask independent of the safeguards agreement, leaving that aside, you know, where in 204 do we find this notion of the need to prove the continuation is warranted?

MR. CAMERON: Well, how about (a)(1), which says monitor developments, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition, and to the extent that your observation is that that adjustment has indeed been made, that is a relevant observation and a fact that you are capable of making an observation on.

It may be that the President decides I don't care. I'm going to continue it. Indeed, I do think that it would be relevant to the President if he knew, you know, that industry undertook the following developments. We did monitor it. They did the following, and in fact this industry has accomplished what it set out to do. Is that beyond the statutory --

VICE CHAIRMAN HILLMAN: Are you arguing that that is the case; that they have completed their adjustment?

MR. CAMERON: That's a good question, Commissioner, because in our view the one thing that they have not done is they have not eliminated all of the excess capacity, and, in our opinion, the continued maintenance of import relief is a hindrance rather than an assistance to finishing that job.

VICE CHAIRMAN HILLMAN: Leave that aside. As a factual matter, though, you're saying they have not completed their adjustment because they have not shuttered what is, in your view, inefficient capacity?

MS. MENDOZA: We believe that they're competitive with imports and that they have completed their adjustment process.

There are other things that they could do to put themselves in a better position vis-a-vis other factors that are causing them injury, but if we're talking about imports and that's all we're talking about, yes, we do believe they're competitive with imports.

VICE CHAIRMAN HILLMAN: Thank you.

CHAIRMAN OKUN: Commissioner Miller?

COMMISSIONER MILLER: Thank you, Madam Chairman. It's been a very interesting debate about Section 204. It's taken me back in time to read things I hadn't read for some time, but I'm not going to prolong it at this point.

I appreciate your interpretation. I look forward to anything you submit as you look back at the legislative history on the provision, and I have no further questions. Thank you.

CHAIRMAN OKUN: Commissioner Koplan?

COMMISSIONER KOPLAN: Thank you, Madam Chairman. I do. I do have a little bit.

I think I'm on the same page that Vice Chairman Hillman is on when she was going through this line of questioning with you. Let me ask this of Mr. Kraker if I could. Mr. Kraker, welcome back.

I'm trying to understand. I've heard this business about what they would have done without the relief versus extraordinary things that they might be doing because of the relief. What I'm trying to understand is is there a way that you would be able to identify objectively actions that the domestic industry takes that are extraordinary rather than ordinary?

I mean, how do you apply measurement techniques or econometric techniques that can be employed to distinguish ordinary from extraordinary action? If you can do that in the post-hearing, I'd be very interested to see it.

I would also say that when you look at these appendices, when you look at F it's not just talking about what the industry has done. They also talk about what they feel remains for them to do, and they're talking about things that are still on the table.

If what they're saying there is valid that they're going to go forward with these additional things that they've described in F, then I don't understand the basis for arguing for termination or reduction at this point or modification unless as you go through and analyze that, Mr. Cameron, these are unnecessary things that they're talking about.

I would make the same request of Mr. Schagrin for the post-hearing that I made of you all, and that is that I'd like him to go through Appendix F and perform the same kind of analysis I asked Ms. Mendoza and Mr. Cameron to do.

Will you do that for the post-hearing, Mr. Schagrin?

MR. SCHAGRIN: Yes, we will, but we won't be able to provide any econometric analysis on the difference between extraordinary and ordinary because it doesn't exist, but we'll answer your other question.

MR. CAMERON: Commissioner, we concede that we're not going to be providing an econometric analysis of the difference. We do believe it's a matter of --

COMMISSIONER KOPLAN: Judgment?

MR. CAMERON: It's a matter of judgment, and it's a matter of analysis. That's exactly the reason --

COMMISSIONER KOPLAN: Okay.

MR. CAMERON: That is precisely the reason that we have tried to present our analysis in the context of the three years and in the context of the original investigation, in the context of what was before the Commission at the time it made its original recommendation and when we overlapped the period what conclusions are legitimate to draw from that and then the data that we have collected here.

Yes, we absolutely agree with you it is a matter of judgment. It is not a matter of -- what do they term it -- economic rigor. Yes, we concede that. Thank you.

COMMISSIONER KOPLAN: I appreciate that. What I'll be looking for is the argument from both sides with regard to that.

Now let me stay with you for a moment. You mentioned that we asked U.S. producers as to the significance of the President's 203 relief -- that's Appendix E -- and with regard to other welded and fittings and flanges.

I realize tool joints aren't part of this review, but as to those other categories that's in Appendix C as far as this particular aspect or investigation at pages 25 to 30.

Since you brought that up, I would ask if you would be willing to perform an analysis of those pages as well?

MR. CAMERON: Absolutely, although we will be limiting it to other welded if that's okay with you --

COMMISSIONER KOPLAN: Sure.

MR. CAMERON: -- because we're not involved in the fittings --

COMMISSIONER KOPLAN: Absolutely.

MR. CAMERON: -- that I'm sure you would like the domestic fittings people to do that same analysis on.

COMMISSIONER KOPLAN: You just asked the second part of my question.

MR. CAMERON: Thank you.

COMMISSIONER KOPLAN: Would you do that as well, Mr. Schagrin, for the post-hearing?

MR. SCHAGRIN: Yes, we will.

COMMISSIONER KOPLAN: Thank you. With that, I don't think I have any additional questions. I want to thank you all very much.

CHAIRMAN OKUN: I guess I will just reiterate that I, too, have listened with interest to all the comments you have made with respect to interpreting this section, and I will look forward to the information that you're going to provide and that the domestic counsel will do as well because I do think it raises a number of interesting points of how we prepare this report and evaluate it.

I did have one other question, though, although I think it's probably going to be more relevant to next week's hearing on flat. Mr. Cameron, since you talked about labor's efforts, I thought I would just ask this question, which is I think you had said that union efforts had contributed significantly to consolidation, mostly focused in the flat.

My question is having looked over the Steelworkers' brief, is there anything in there that you look at and say are efforts that do not help labor adjust or companies that did the efforts do not help them adjust to import competition?

MR. CAMERON: Madam Chairman, we will actually try to respond to that in the Flat-Rolled. The question is that it actually does arise, and we heard some discussion of it this morning, and I think it's relevant to this whole question of adjustment.

Mr. Gerard was referring to the agreement to invest in North America. Now, we will put aside many of the domestic flat-rolled industry's investment in Eastern Europe, I think possibly even Korea. Put those aside for the moment.

The question that is raised is is there or is there not as part of this agreement an agreement as well to limit the capacity that is shut down. I will confess to you that it's not clear to me at this time. We just got the agreement. We'll look at it.

It's a relevant question because, frankly, if part of the deal in the restructuring, and, as you know from the joint Respondents' brief in Flat-Rolled we do know that joint Respondents in the original investigation had urged affirmative action to address legacy costs. That was not something that you heard, by the way, out of the mouths of the domestic industry. You did hear it from joint Respondents.

Frankly, we heard it from members of this Commission that part of the role of government under these conditions is not to simply allow the pension and labor costs or pension and health care to be handled by the bankruptcy proceedings, but actually to take affirmative steps.

That was not the choice that was made by the Administration. As a result, we do think that retirees of bankrupt companies bore a disproportionate role in this restructuring, a heck of a lot more than the companies did. That's not due to imports either, to be honest with you.

That being said, that's not our role either, and we understand that's not your role, but when you start talking about the deal that has been struck if indeed part of the deal restricts the ability and the flexibility of the producers, and again I don't think that it affects the pipe and tube products, to shut down inefficient capacity based upon otherwise commercial judgments then that is not positive adjustment to import competition, and it's not the kind of positive adjustment that's contemplated by this statute, but we will look at it.

I concede that I don't fully understand it, but I think that it's an important question for this Commission to be asking both the companies and the unions as to whether or not the agreement, and, frankly, you have people here that are more expert in labor relations that I will pretend to be, but I think that it's an important and relevant question to ask whether or not that is a part and parcel of the deal because if it is that ought to be highlighted because that is not going to enable full positive adjustment.

That's the question that really was raised. I'm sorry.

CHAIRMAN OKUN: No, no. Your response, Mr. Cameron, implies that some of our questions are not important and relevant.

MR. CAMERON: I did not mean to imply that. I apologize.

CHAIRMAN OKUN: I'm just kidding. I know they are all very important and relevant, but I will tee that one up for next week because I think it is much more relevant in the Flat, and I will be asking it there as well.

With that, I don't have any more questions. Let me turn to Vice Chairman Hillman.

VICE CHAIRMAN HILLMAN: Just a couple, and maybe more on the factual side. One goes to this issue of capacity. I mean, you heard, I think, my discussion this morning with the petitioners, or with the domestic industry, in terms of what is their perception of whether domestic capacity has increased or declined over the period of this review.

Obviously, we have our data, and I think you heard their answer was that they believe that over this period of review that in fact domestic capacity in welded tube has declined.

What is your take on it? Do you have any sense of whether -- as a factual matter whether there is more capacity or less today in terms of production of welded tubular products.

MS. MENDOZA: Well, I guess, I mean, our information is that, to the extent that there are certain producers that are no longer in existence, i.e., the ones the petitioner identifies in their brief, clearly then for all the period the capacity would look like it's less.

I think the more fundamental question is why is the capacity flat, you know, within the period that you're looking at.

In other words, it's not -- it's understandable that the capacity may be different from what it was in the original investigation, but if we look at what's gone on, there has been no significant change over this three-year period. And so as far as we can see there haven't been any capacity reductions based on that record.

MR. CAMERON: I mean, really all we have is the record, and the only thing that we have seen that petitioner referred to with respect to -- the counsel referred to, I apologize -- was he referred at the end of the brief to steps that Copperweld had made recently, the announced shutdown. I think that he said that it was earlier this year, and then they have something contemplated, I guess.

But that was really about all that we were able to see from the record. I mean, we'll be glad to go back, but that really then becomes the issue because what we are looking at is the capacity that is reported in your tables and the capacity utilization, and current economic conditions.

And this is an issue that we made at the beginning of -- I mean, in the original investigation, and we believe that the issue is still there, which is, existing overcapacity in the domestic industry which then has a price depressing effect, and as Julie had said in her original testimony this afternoon, it appears that their economist doesn't disagree with the issue of domestic industry overcapacity. So I mean that still appears to be the case.

VICE CHAIRMAN HILLMAN: Okay. Then sort of a follow-up question. Our pricing data does indicate rising prices since the relief went into place despite a very substantial decline in consumption.

If the import relief as you have argued has had no effect, I mean, to what do you attribute the price increases?

MR. CAMERON: Raw materials.

VICE CHAIRMAN HILLMAN: Okay.

MR. CAMERON: Raw material developments, and that's exactly what you had found that domestic pipe and tube pricing was tied to in the original investigation, and that indeed appears to have been consistent with the testimony this morning from the domestic -- witnesses from the domestic industry.

VICE CHAIRMAN HILLMAN: Okay. So your view is, you know, is at the end of the day notwithstanding these price increases that you would not describe those as having had, you know, again this issue of whether the relief has had what effect, that it not had overall a positive effect given the cost/price squeeze continues?

MR. CAMERON: Frankly, the cost/price squeeze, let's say you had doubled the tariff from 15 to 30, which I'm sure there were some in the administration would have liked to have done, and petitioners, I'm sure, they were urging that originally, and we don't think that the data that you would be seeing today would be appreciably different, because the import tariff and the way that translated in import prices has little or nothing to do with current pricing by this industry, and that actually is the point.

I mean, it's interesting. When I look at the data in the staff report, it really is not all that striking. It doesn't appear that the import relief has had much, if any, effect, frankly.

MS. MENDOZA: And we heard at least one of the witnesses this morning testify that basically his customers have their eye on their raw material costs, and when those costs go up, prices go up. When those cost go down, prices go down with it, and that, you know, those two are linked together.

VICE CHAIRMAN HILLMAN: Okay, I'm not sure that's quite what I heard, but in any event, I appreciate those answers. Thank you.

CHAIRMAN OKUN: If there are no further questions from my colleagues let me turn to staff and see if staff has questions for this panel.

MS. NOREEN: Bonnie Noreen with the Office of Investigation. Staff has no questions.

CHAIRMAN OKUN: Do you counsel for the domestic industry have questions for this panel?

MR. SCHAGRIN: No, we do not.

CHAIRMAN OKUN: Very well. Then I want to thank you again for your testimony, and for all the questions, and for the post-hearing brief that you will be submitting, and the information you will be providing.

Let me just go over the time. The domestic industry has a total of eight minutes remaining, that includes five for closing. Respondents have a total of seven, they will make up 37 minutes.

(Laughter.)

COMMISSIONER KOPLAN: You can make that figure.

(Laughter.)

CHAIRMAN OKUN: Including the five for closing, and it looks like Mr. Schagrin is ready to proceed. So if you want to -- do you want to give these guys a moment to go back or do you want to speak from the podium.

We're going to let them go sit. Wait until next week. Okay, you can proceed, Mr. Schagrin.

MS. ELLSWORTH: Actually, I'll start off at this point. For the record, my name is Cheryl Ellsworth.

The safeguard measures implemented in March 2002 fell well short of Trinity's estimation of effective relief both in terms of countries covered and the magnitude of the increased duties.

Trinity had structured an adjustment plan assuming that the relief measures would be much more extensive. Nevertheless, when the President announced that a duty of 13 percent would apply to fittings imports, Trinity launched and successfully implemented major elements of its plan. These were not "normal" changes undertaken in the ordinary course of business, but instead involved a wholesale consolidation of Trinity's production and distribution facilities.

Thus far these extensive efforts have not significantly improved Trinity's performance. The Section 201 duties failed to significantly reduce import market penetration, and imports from countries covered by the relief measures are still able to undersell domestic fittings by substantial margins.

These circumstances have impeded the effectiveness of Trinity's adjustment actions, and have severely limited the anticipated effect on Trinity's bottom line.

Trinity elected to pursue its costly restructuring program because it believed that this effort, combined with the effective relief measures, was the key to its survival. As it turns out the relief measures were far less effective than Trinity had hoped, and its position has deteriorated since the relief was imposed. Consequently, Trinity's survival remains in jeopardy.

I request that the Commission identify in its report Trinity's ambitious and ongoing efforts to adjust to import competition and that despite these actions Trinity remains extremely vulnerable to imports. I also urge you to identify the critical importance to Trinity and the fittings industry of maintaining the existing duties on fittings for the full three-year period.

Thank you.

CHAIRMAN OKUN: Thank you.

MR. SCHAGRIN: This is Roger Schagrin.

As Ronald Reagan said to Walter Mondale in one of those debates, "You know, oh, God, there you go again."

I just couldn't help listening to my colleagues from the Korean side of the aisle, you know, say again and again they were not going to reargue the injury and threat of injury case, and I think the reargued it about 35 times, so there they went again.

Obviously, on that record, which is somewhat different from this record, imports have increased rapidly 70 - 80 percent. Profits had fallen from 8.6 to 3.2 percent in a market that was increasing. Clearly, imports were a large part of the problem.

Now we have profits falling, but as everyone admits and as the record shows, the main reason for that is because of declining demand. The way for this industry to improve itself and continue its adjustment programs is not to have more imports coming into the market at a time of declining demand, but instead to continue to have lower imports than prior to the period of relief.

Thank goodness this Commission is not bound to follow the safeguards code in the first place instead of U.S. law, but particularly WTO jurisprudence, because it's the folks in Geneva interpret the WTO codes the same way that Don and Julie interpret the U.S. statute. They read all kinds of things into everything. They are constantly in Geneva reading things into the codes that aren't there just the way the two of them want to read things into this statute and legislative history that no way possibly could exist, and that's the whole problem in Geneva.

And when WTO jurisprudence does control everything in the U.S., that's when I hang up my boots because, you know, they will keep reinterpreting things in Geneva no matter how much we adjust in the U.S. in order to get their desired outcome. It's outcome determinative.

Now, talking about arguing apples and oranges. How can they possibly compare the first half, 2001 data to the data for April '01 through March '02? My God, there is only one quarter overlap of the data, and clearly there is different records in terms of who submitted the data in terms of different database.

But talk about databases. One thing that is good about this you do have a good record here on the domestic industry. It needs some fixing. We're working with the staff to fix it, and we will continue that work both with the staff and in post-hearing brief.

But I was going back at the lunch break and looking at the data on the inventories and trying to figure it out. And it really doesn't matter about the data on the inventories.

But the fact is compare the importer data in Table 2-5 to the data on imports in Table 2-7, and it looks to me like the Commission has less than one-quarter coverage in terms of importer responses.

What -- you know, I'm working my tail off to make sure you guys get good domestic industry responses. What is Don and all the rest of the people, counsel of foreign producers and importers, what are they doing? Where are the importer responses so the Commission can use them to figure out what's going on here?

And the fact is importers are not giving this Commission the benefit of their participation in this proceeding. That's very unfortunate.

Now, industry adjustment plans, certain industry adjustment plans were completely dependent on 201 relief, not many of them, but certain of them. They obviously were not listening to Mr. Magno's testimony this morning.

He testified, and I know for a fact that it's true because I was in the meetings between the Wheatland executives and the administration personnel, that they would not have made their acquisition of Sawhill or put in their new mill in Chicago if they did not get relief on pipe and tube. That was major industry adjustment. After they purchased Sawhill, as they testified this morning, they have recently reduced some of the Sawhill capacity through the closure of a mill. That was specific to the adjustment.

But I agree with all the commissioners. There is nothing in the statute that requires that the industry's adjustment plans be dependent upon the 201 relief. That for a family-owned company making a huge amount of loans for a family, or taking out a lot of loans, that was dependent.

The majority was not dependent. But as the industry has testified to, these adjustment plans are not finished. These adjustment plans mostly do not add any capacity at all. They are focused on reducing costs, improving quality. Their work is not complete. They need the rest of the relief in order to continue those adjustment plans, and that's what they have told the Commission, and I'm sure what the Commission will report to the President.

Now, the industry's profitability is down, way down during the period of relief, and we know that is largely because of decreased demand. Dr. Blecker has documented this, and everybody in the industry agreed, and it is the relief which is probably presented losses.

The Korean analysis is pretty facile. Imports are down, industry indicators are down, therefore relief is bad for the industry. I wouldn't even run that by my young children.

You know, I would analogize it to a fire. The Koreans' focus here seems to be, oh, there is a fire going on. The firemen don't have enough water to put out the fire. What should we do? Oh, well, instead of them continue to put water on the fire, let's put more fuel on the fire because that's what they are trying to say.

Demand is down. They are trying to say that this industry will actually do better if the relief is ended and there is more imports from Korea and other countries subject to this relief? It's beyond nonsensical.

I think you have a good record here. I'm sure you will do a nice report to the President. We all know he actually doesn't have to take any action or comment on your report. He can do nothing, and he doesn't have to say why he decided to do nothing, and he can just let the relief continue.

Thank you very much. We enjoyed it.

CHAIRMAN OKUN: Thank you.

Now we will hear from Mr. Cameron.

MR. CAMERON: Boy-oh-boy.

CHAIRMAN OKUN: You can sit up here one through seven.

MR. CAMERON: Well, this is going to be so short it will shock you.

At the end of counsel's remarks I wasn't sure whether he was suggesting that this whole proceeding is irrelevant given the fact that the President doesn't really have to read or listen to or look at anything anyway.

And I grant you that the President makes the final call, but excuse us, we do think that these proceedings are relevant, and I am sure that the inference that I had drawn from counsel's remarks were not what he intended to say.

We think this industry was competitive before relief was imposed. We think this industry is competitive now. And if the issue and if the debate comes down to whether or not this Commission has the statutory ability to make a factual observation concerning the relevance of import relief to the continued condition of this industry, and whether or not this industry has indeed adjusted, then we're willing to have that be the point of the debate because, frankly, we don't believe that this Commission is about irrelevant business.

And the point of the statute has to be something, and you have not collected all of this data in order to then take it and say, oh, well, that's interesting, here, and I'm not going to make logical observations from what I see. You all are intelligent people. You guys have all been in this business for quite a long time. Your input into this process is relevant, and that's all we're asking is that you look at the data, and make your observations.

We are willing to stand on the data. We have no apologies to make for our clients, and we have no apologies to make for the data. Frankly, as far as we're concerned, this relief for this industry is found money.

I mean, good for them. I think that's great. But that is in fact what this is. And to the extent that some of the members of that industry have taken the opportunity to make adjustments, we think that's a good thing, and we congratulate Wheatland for their acquisition, and it is a matter of the past, and it has been accomplished.

And the question is, is import relief needed in order to continue the adjustment process. And all we are saying is that if this Commission concludes that the real adjustment that is further needed is reductions in capacity, then it is also relevant to observe that continued import relief is not going to contribute to the voluntary elimination of excess capacity.

And yes, we do believe that this industry is actually quite competitive. They have done quite well, especially given the current economic downturn, and we're confident that they will continue to do well whether or not this relief remains in effect.

With that, I would like to close, and we would like to, July and I and Marcus on behalf of our clients would like to thank the Commission for their time and their patience, and apologize for yelling so loud. Thank you.

CHAIRMAN OKUN: Thank you.

Post-hearing briefs, statements responsive to questions, and requests for the Commission, and corrections to the transcript must be filed by July 25, 2003.

With no other business to come before the Commission, this hearing is adjourned.

(Whereupon, at 3:44 p.m., the hearing in the above-entitled matter was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Steel Monitoring Developments in the Domestic Industry (Carbon and Alloy Tubular Products)
INVESTIGATION NO.: TA-204-9
HEARING DATE: July 17, 2003
LOCATION: Washington, D.C.

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: July 17, 2003

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

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I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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Signature of Court Reporter