

UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
LIGHT-WALLED RECTANGULAR PIPE) Investigation Nos.:
AND TUBE FROM CHINA, KOREA,) 701-TA-449 and
MEXICO, AND TURKEY) 731-TA-1118-1121 (Final)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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Friday,
 April 11, 2008

Main Hearing Room
 U.S. International Trade
 Commission
 500 E Street, S.W.
 Washington, D.C.

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

APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

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 CHARLOTTE R. LANE, COMMISSIONER
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Washington, D.C.

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Assistance of the Unit for International Trade
Practices, Ministry of Economy

Salvador Behar, Legal Counsel for International Trade

In Support of the Imposition of Antidumping and
Countervailing Duties:

Schagrin Associates
Washington, D.C.

on behalf of:

Allied Tube & Conduit; Atlas Tube;
Bull Moose Tube Company;
California Steel and Tube; EXLTUBE
Hannibal Industries; Leavitt Tube
Company LLC; Maruichi American
Corporation; Searing Industries;
Southland Tube; Vest, inc.; Welded
Tube; Western Tube and Conduit

PARRY D. KATSAFANAS, President
Leavitt Tube Company LLC

JIM SEARING, Executive Vice President
Searing Industries

GLENN BAKER, Vice President, Sales and Marketing
Searing Industries

ED KURASZ, Vice President and General Manager,
Mechanical Tube Division
Allied Tube & Conduit

JACK MEYER, Chief Executive Officer
Bull Moose Tube Company

MIKE DUSTMANN, Vice President,
Business Development
Hannibal Industries

In Support of the Imposition of Antidumping and
Countervailing Duties: (continued)

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Hannibal Industries

JOHN R. MONTGOMERY, JR., Vice President and
General Manager
Southland Tube, Inc.

CHRIS KNOX, Vice President, Sales
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Welded Tube

ED RACHEL, President and Chief Executive Officer
U.S. Wholesale Pipe and Tube Company

ROGER B. SCHAGRIN, Of Counsel

JOHN W. BOHN, Of Counsel

In Opposition to the Imposition of Antidumping
and Countervailing Duties:

Vinson & Elkins LLP
Washington, D.C.

on behalf of:

Nacional de Acero, S.A. de C.V.

NEIL PSOBY, Purchasing and Sales Manager
Mueller Metals, Inc.

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In Opposition to the Imposition of Antidumping
and Countervailing Duties: (continued)

McKenna Long & Aldridge
Washington, D.C.

on behalf of:

Hylsa, S.A. de C.V. ("Hylsa")

JEFFREY M. WINTON, Of Counsel

ELISABETH CARRIGAN, Of Counsel

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 CHAIRMAN PEARSON: Good morning. On behalf
4 of the U.S. International Trade Commission I welcome
5 you to this hearing on Investigation Numbers 701-TA-
6 449 and 731-TA-1118 to 1121 (Final), involving Light-
7 Walled Rectangular Pipe and Tube from China, Korea,
8 Mexico, and Turkey.

9 The purpose of these investigations is to
10 determine whether an industry in the United States is
11 materially injured or threatened with material injury
12 by reason of subsidized imports of light-walled
13 rectangular pipe and tube from China, and less than
14 fair value imports of light-walled rectangular pipe
15 and tube from China, Korea, Mexico, and Turkey. The
16 schedule setting for the presentation of this hearing,
17 Notice of Investigation, and transcript order forms
18 are available at the Secretary's desk.

19 Prepared testimony should be given to the
20 Secretary. Please do not place testimony directly on
21 the public distribution table. All witnesses must be
22 sworn in before presenting testimony.

23 I understand that parties are aware of the
24 time allocations. Any questions regarding the time
25 allocations should be directed to the Secretary.

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

5 Mr. Secretary, are there any preliminary
6 matters/

7 (Witnesses sworn en banc.)

8 MR. BISHOP: Mr. Chairman, I would note for
9 the record that all witnesses for today's hearing have
10 been sworn.

11 CHAIRMAN PEARSON: Excellent. Will you
12 please announce our embassy witnesses?

13 MR. BISHOP: Isabel Paras, Chief of the
14 Department of International Assistance of the Unit for
15 International Trade Practices, Ministry of Economy,
16 Embassy of Mexico; and Salvador Behar, Legal Counsel
17 for International Trade, Embassy of Mexico.

18 CHAIRMAN PEARSON: Welcome, Ms. Paras and
19 Sr. Behar. Please proceed.

20 MR. BEHAR: Thank you, Commissioner Pearson,
21 Members of the Commission.

22 First of all we want to thank the --

23 CHAIRMAN PEARSON: Bring your microphone
24 just a little bit closer if you could please.

25 MR. BEHAR: Thank you.

1 First of all we want to thank the Commission
2 for the opportunity given to the Government of Mexico
3 to express our views on this case. Before getting
4 into the merits of it, which we believe are none, let
5 me provide you with an overview of the recent
6 developments within our steel industry in our
7 countries as well as the levels of coordination and
8 cooperation among the NAFTA parties.

9 Over the year of the implementation of the
10 NAFTA in 1994, the steel industry has become a success
11 story. As a result, the governmental partnership, as
12 well as their respective industries, have built a
13 close relationship and cooperation in order to achieve
14 the most intrinsic goals of NAFTA: create a market-
15 based competition, support fair trade policies and
16 strengthen the global competitiveness in North
17 America.

18 We believe that the steel industry is highly
19 integrated due to the implementation of various
20 mechanisms to address trade barriers and distortions
21 that have affected this particular sector.

22 A key element of success was the creation of
23 the North America Steel Trade Commission, the NASTC,
24 on December 2002, with participation of the
25 Governments of Mexico, Canada and the U.S. and their

1 industries. This committee shares information based
2 on production, size of imports and statistics,
3 cooperation in multilateral negotiations, policy
4 coordination and border-related matters. Mexico and
5 the U.S. have a border story on that. For the time
6 being, this group has met for nine occasions with
7 fruitful results, not only with regional issues but
8 also with critical global issues such as steel trade
9 with China, through its internal and external trade
10 working groups.

11 The NAFTA partners initiated the Security
12 and Prosperity Partnership of North America in March
13 '05. That was an announcement made by leaders of the
14 three countries. The arm of the SPP, or the Security
15 and Prosperity Partnership, is to promote growth,
16 economic opportunities and increase security. This
17 initiative enhances the work done by the NASTC by
18 including the North American Steel Strategy in its
19 Action Plan. The purpose of the strategy is to
20 innovate and develop the steel market through the
21 NASTC, aiming to improve the competitiveness of North
22 America's steel industry.

23 Moreover, the steel industry was not left
24 behind when the North American Competitive Council was
25 formed last year. It was a great achievement when

1 Tubos de Acero de Mexico, TAMSA, and Mittal Steel USA
2 became part of the board, representing the steel
3 industry members of the North American Competitiveness
4 Council.

5 Almost all the antidumping investigations
6 conducted in the U.S. against Mexican producers, where
7 allegations were made concerning dumped steel imports,
8 have been revoked. For example, I can quote the OCTG
9 investigation, Certain Circular Welded Carbon Quality
10 Line Pipe, Light-Walled Rectangular Pipe and Tube,
11 Certain Carbon Steel Product, Pressure Pipe, and
12 others. These actions clearly represent the fair
13 trade of the steel industry in North America.

14 Regarding the ongoing investigation in this
15 case of alleged dumping of light-walled rectangular
16 piping made by petitioners, Mexico is fully aware of
17 the rights and legal resources available to the U.S.
18 steel industry, as well as the right of the
19 International Trade Commission and the Department of
20 Commerce to conduct investigations based on the U.S.
21 legal standards and U.S. obligations under the General
22 Agreement on Tariff and Trade and the Antidumping
23 Agreement.

24 It is very important to emphasize that this
25 is not the first time we have heard about the alleged

1 injury of the U.S. steel producers as a result of
2 imports from Mexico of the subject merchandise. This
3 is the fourth time that the producers request an
4 investigation in this matter, in this subject
5 merchandise.

6 Mexico believes that repeated antidumping
7 investigations concerning the same product in a very
8 short period of time against the same country
9 constitutes an abuse and misuse of the trade laws.
10 The conditions of competition underlying the mutual
11 benefits of NAFTA for our light-walled rectangular
12 pipe and tube industries help to explain why it is not
13 likely that the imports from Mexico injured the U.S.
14 industry as the producers alleged.

15 We highly recommend to the Commission to be
16 consistent with previous determinations regarding
17 prior investigations against the same subject
18 merchandise, and prevent the misuse of legal trade
19 practices from petitioners that causes unnecessary
20 distortions to trade and a direct economic loss to
21 Mexican producers and exporters.

22 With this political overview introduction
23 let me be clear on one point our on view. The
24 Government of Mexico is not asking the Commissioners
25 to vote in the negative for Mexico based on the

1 regional situation of the steel industry nor on the
2 developments of the NASTC or the SPP or the
3 Competitiveness Council. Instead, we believe that
4 this investigation is a clear example of what George
5 Santayana's expression said, and I quote, "those who
6 forget the past are condemned to repeat it."

7 To provide you with our views on the merits
8 of the case I will direct the Commission's attention
9 to my colleague, Isabel Paras, who is the
10 representative of the investigation authority in
11 Mexico.

12 MS. PARAS: Thank you very much again.

13 We agree with the decision by the ITC staff
14 not to consider PROLAMSA's volume for its material
15 injury or threat thereof analysis since the DOC did
16 not find a dumping margin for these imports.

17 The WTO Agreement in Article 3.1 established
18 that a determination of injury or threat thereof
19 should be based on the examination of the volume of
20 dumped imports. PROLAMSA's imports were not dumped,
21 and the IC cannot base its analysis on PROLAMSA's
22 imports. The ITC has acted in this manner before when
23 it excluded imports from a Korean exporter for which
24 the DOC had found a *de minimis* margin in the case of
25 Certain Polyester Staple from Korea and Taiwan in

1 2000.

2 We believe that the ITC cannot find material
3 injury or threat attributable to subject Mexican
4 exports for the following reasons. We base this
5 discussion on the preliminary data since it is public,
6 because similar data sets are confidential in the
7 final investigation. We note that with PROLAMSA now
8 excluded, logically the final confidential data could
9 only be more favorable to the Mexican position:

10 The volume of imports from Mexico declined
11 from the beginning to the end of the period of
12 investigation.

13 Moreover, the performance of Mexican exports
14 of light walled rectangular pipe to the U.S. market
15 significantly differs from other subject imports:

16 Mexico's U.S. exports have declined in
17 proportion to total Mexican production. In 2004, 24
18 percent of production was exported to the U.S., while
19 only 21 percent in 2006. This figure fell further to
20 almost 17 percent in the first quarter of 2007.

21 Also, prices in the Mexican and U.S. markets
22 are equivalent, as demonstrated by the zero margin for
23 PROLAMSA and the very low margin for MAQUILACERO.
24 This is telltale evidence of NAFTA's market
25 integration, as reflected in the final staff report's

1 finding of a "structural difference" that NAFTA
2 exporters uniquely serve as their own importers.

3 The preliminary determination recognizes
4 that the overwhelming majority of Mexican production
5 is destined to the Mexican market, not other export
6 markets.

7 We agree with the ITC's final staff report.
8 And as petitioners have admitted, that Mexico's
9 capacity utilization is high, and that there have been
10 significant capacity expansions, but only minor
11 improvements to existing operations. Therefore,
12 increased U.S. exports cannot be implied.

13 With or without PROLAMSA, Mexico is and
14 remains a steady, reliable supplier to America's
15 Central Southwest region, in contrast to the trends in
16 distribution of light-walled rectangular pipe from
17 Turkey, China, and Korea.

18 Mexico should not be cumulated with other
19 subject imports for many reasons:

20 Mexico's calculated dumping margins, 0
21 percent and almost 5 percent, are much lower than the
22 other three countries.

23 Mexico's share of the total imports has
24 decreased and its prices are consistently higher than
25 those of the other subject countries.

1 Again, there is a declining imports volume
2 trend from Mexico during the period of investigation.

3 While Mexico has remained a consistent
4 supplier to a region in the U.S., the financial
5 indicators of the American industry have been
6 positive, especially now with data on full year 2007.
7 This is seen in the ITC's final staff report where the
8 ratio of operating income to net sales has improved in
9 comparison with the first quarter of 2007, from 5.9
10 percent to 6.4 percent. In the preliminary
11 determination there was only a threat finding, and
12 with improved profitability today there can be no
13 injury found.

14 Mexican exports historically have been
15 present in the U.S. market at steady, stable levels.
16 The Mexican industry does not have significant excess
17 capacity, and there are no expansion projects. There
18 is no reasonable basis to conclude that Mexican
19 exports to the U.S. will increase significantly over
20 the years. Mexico poses no threat to the light-walled
21 rectangular pipe industry.

22 Light-walled rectangular demand is expected
23 to increase in Mexico in the foreseeable future.
24 There are ambitious investment programs in
25 infrastructure under way in Mexico that will require

1 mass amounts of steel, including light-walled
2 rectangular pipe. Home market demand gives the
3 Mexican producers every reason to stay heavily focused
4 on the Mexican market.

5 This is proven by the Mexican Government's
6 "Programa Nacional de Infraestructura," National
7 Infrastructure Program. This program is already
8 recognized by the U.S. government and private sector
9 as a major opportunity for sales and investments by
10 American and Mexican manufacturers as well. This is
11 well documented by the publication funded by the U.S.
12 Trade and Development Agency, "U.S. and Mexico:
13 Building Partnerships in Infrastructure, Project
14 Resource Guide," part of a joint effort by our two
15 governments to ensure major participation in these
16 projects by the U.S. companies.

17 For the years 2007 to 2012, this program
18 provides for major infrastructure projects, mainly in
19 many sectors, including the construction of 45,000
20 rooms for the tourism industry, as well as
21 construction related to telecommunications,
22 transportation, energy and water sectors. The amount
23 of investment over the five years amounts to \$226.1
24 billion, for an annual average of \$37.7 billion.
25 These projects are certain to stimulate even greater

1 light-walled rectangular pipe demand in Mexico in the
2 coming years.

3 For these reasons the ITC should consider
4 Mexico separately in this case, and find neither
5 injury nor threat as a result of the imports of LWR
6 from Mexico.

7 Thank you.

8 CHAIRMAN PEARSON: Thank you for your
9 statement.

10 Am I correct to understand that you will be
11 participating in the respondent's panel this afternoon

12 MS. PARAS: Yes.

13 MR. BEHAR: Yes. Mr. Pearson, with this we
14 conclude our presentation but we are glad to stay
15 during the hearing for any questions the Commissioners
16 might have. So we will be.

17 CHAIRMAN PEARSON: Okay. Does any
18 Commissioner have a question at this point for the
19 representatives of Mexico?

20 (No response.)

21 CHAIRMAN PEARSON: Thank you very much. We
22 will look forward to hearing from you again later.

23 MR. BEHAR: Thank you very much.

24 MS. PARAS: Thank you.

25 CHAIRMAN PEARSON: Okay, let's proceed now

1 to the opening statement.

2 I should mention that this is I think the
3 first time I've had the opportunity to participate in
4 a Title 7 hearing on a Friday. And I can assure you
5 that I am looking forward to this brightly unique
6 experience.

7 Please proceed.

8 MR. BISHOP: Opening remarks on behalf of
9 petitioner will be given by Roger B. Schagrin,
10 Schagrin Associates.

11 CHAIRMAN PEARSON: Good morning, Mr.
12 Schagrin. Welcome back.

13 MR. SCHAGRIN: Well, good morning, Chairman
14 Pearson and Members of the Commission. I think the
15 last time I was here on a Friday was during 421 on
16 China. So I don't want to make this a regular thing
17 that all the Friday hearings involve me.

18 The domestic injury producing light-walled
19 rectangular pipe and tube has suffered injury over the
20 PROLAMSA. Production, shipment, employment were all
21 down, and down by more than the decline in demand.
22 Operating profits fell by 43 percent. And 30 percent
23 of this industry's members were losing money on an
24 operating basis in 2007.

25 What caused this injury? Subject imports

1 increased over the PROLAMSA by volume and market
2 share. They undersold the domestic industry
3 consistently and they were the cause of price
4 depression.

5 Contrary to the arguments in the Mexican
6 industry's pre-hearing brief, the record data clearly
7 show that cost of goods sold including steel, labor
8 and other factory costs increased between 2006 and
9 2007 but prices fell by nearly \$50 a ton which
10 resulted in a steep decline in profits. No one likes
11 Bratsk analysis, least of all me. But whether you
12 call it Bratsk, or more sensibly a condition of
13 competition, non-subject imports were sold at prices
14 much higher than subject imports and as a result non-
15 subject imports fell dramatically over the PROLAMSA.

16 Underselling was large and consistent over
17 the PROLAMSA and was large for all four subject
18 countries. For subject Mexican imports underselling
19 occurred in 43 out of 51 comparisons and averaged 10
20 percent of the PROLAMSA. Underselling was equally
21 pervasive and high for the other three subject
22 countries. The Mexican industry argues that the
23 underselling data are unreliable because the domestic
24 industry only made approximately 82 percent of its
25 sales to distributors, and Mexican channels of

1 distribution are claimed to be radically different. I
2 don't think that is what the data in the staff report
3 proves.

4 The data show common channels of
5 distribution for all four subject countries and the
6 U.S. industry, and this strongly supports stimulation.
7 I am pleased and honored that Mexican Embassy
8 officials are again joining us at this hearing.
9 However, with all due respect, their arguments and
10 those in the Mexican industry's pre-hearing brief that
11 NAFTA somehow makes Mexican imports different or
12 provides a reason to exempt them from cumulation
13 should ring hollow. Nowhere in the NAFTA agreement
14 are there changes in the application of the AD or CVD
15 laws, except at the appellate level.

16 Let me tell you from personal experience
17 that no one enforces their laws more vigorously
18 against imports from the United States than the
19 Government of Mexico. Feel free to ask me about the
20 Mexican case against U.S. line price exports.

21 While NAFTA should not even enter into your
22 thinking in today's hearing, I am still reminded of
23 that wonderful old phrase that what is good for the
24 goose should be good for the gander.

25 In the 2003 case this industry lost

1 unanimously in a final determination before this
2 Commission because first half 2004 profits were over
3 20 percent. That's fine, no complaints, there were no
4 appeals. But let's no rewrite history or rewrite that
5 final determination. In 2007 profit margins are down
6 to 6 percent, lots of companies are losing money, and
7 plummeting returns on assets are causing disinvestment
8 in this industry. This industry suffered injury over
9 the PROLAMSA and many of its member companies are,
10 unfortunately, in big trouble. It would have been
11 even worse but for the filing of these cases which
12 caused a steep reduction in fourth quarter imports.

13 Ask the witness from Mueller Metals later
14 today if he could keep buying subject imports freely
15 after September of last year.

16 This Commission usually does not find injury
17 based on just one quarter of data, but here you have
18 an entire year demonstrating that injury occurred
19 based on consistent production factor declines and
20 unmistakable evidence of price depression causing
21 declining profits. As we argued in the brief, all of
22 the cumulation criteria are met, so this Commission
23 should make an affirmative injury determination
24 against all subject countries.

25 Thank you.

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1 CHAIRMAN PEARSON: Thank you, Mr. Schagrín.

2 MR. BISHOP: Opening remarks on behalf of
3 respondents will be given by Kenneth J. Pierce, Vinson
4 and Elkins.

5 CHAIRMAN PEARSON: Welcome, Mr. Pierce.
6 Good to see you again.

7 MR. PIERCE: Thank you. It's good to be
8 here, Chairman Pearson. I am Ken Pierce of Vinson and
9 Elkins, counsel to Nacional de Acero.

10 The record has changed dramatically since
11 the preliminary determination. PROLAMSA is gone and
12 with it went the truncated 2007 record that allows
13 Mexico's preliminary cumulated affirmative
14 determination.

15 On this final full 2007 record, subject
16 Mexican import volumes declined from 2005 to 2007 and
17 their market share was essentially flat. Despite the
18 apparently unfixable customer mix bias in the pricing
19 product data, subject Mexican imports had
20 insignificant underselling margins for much of 2007,
21 the only year that really matters, since the
22 petitioners can see the obvious, that the domestic
23 industry was perfectly healthy in 2005 and 2006. And
24 virtually all of subject Mexican imports are
25 distinctly concentrated in the central Southwest.

1 A key fact is clear now from the purchasers
2 that the Commission had not heard from in the
3 preliminary determination: subject Mexico is a stable
4 and non-disruptive supplier to a limited geographic
5 area because it provides what customers have told the
6 Commission they value most: availability, reliability
7 and short lead time. There is every good reason to
8 decumulate Mexico in this threat case.

9 But first you will hear from the domestic
10 industry this morning. Here too the record has
11 changed; the domestic industry is more profitable than
12 it was in the preliminary determination for 2007.
13 This against the backdrop of 2007's 13 percent decline
14 in demand, a drop nearly twice the change in U.S.
15 shipments and production. Most tellingly, 2007 saw
16 the domestic mills gain a full four points of market
17 share as the market shrank. The market weakened over
18 2007 and the domestic mills got stronger, and so did
19 its workers, with higher wages, higher productivity,
20 and other confidential positive developments.

21 The domestic mills' price increases
22 obviously covered costs, that's why profits went up.
23 The alleged cost\price squeeze does not exist. No
24 logic can possibly find the stronger industry injured
25 today when it was only threatened in the prelim.

1 Subject Mexico is no threat, and we will detail why
2 this afternoon: a large and growing home market,
3 little available capacity, no diversion potential or
4 incentive, a demonstrated history as a steady, stable
5 supplier.

6 Many domestic mills are here to testify. I
7 suggest the Commission use this opportunity to probe
8 petitioners about their many price increases in 2008
9 that have not yet been put on the record. The
10 Commission should ask each mill for all of their price
11 increases since January 1, 2008, to fill this major
12 hole in the record. It can then compare what it is
13 told to the many price announcements now being
14 collected for inclusion in our post-hearing brief.

15 The Commission should also ask petitioners
16 why if this industry were really hurting or had a
17 gloomy future Maruichi Steel Tube, which presumably
18 knows the LWR market, just purchased Leavitt Tube.
19 And this following the 2006 merger of Atlas Tube into
20 John Maneely, followed by Maneely's acquisition by the
21 Carlisle Group. Someone is certainly betting on this
22 domestic industry with their wallets.

23 Since the Leavitt witness is here today he
24 should be able to tell the Commission whether the
25 Maruichi acquisition and its financing are legally

1 dependent on the continuation of the antidumping order
2 against Mexico. If so, provide the documentary proof.
3 If not, then that order is hardly consequential.

4 The Commission must seriously question the
5 veracity of petitioners' position when they make
6 bombastic claims like that found on page 15 of their
7 prehearing brief, "Industries clearly will not be able
8 to find capital for investment with only a 10 percent
9 return on investment." With all due respect, this
10 claim is a howler. Is anyone in this room getting a
11 10 percent return on investments today? Petitioners'
12 investment return expectations, like their claims of
13 injury and threat, are wholly unfounded and
14 unrealistic.

15 Finally, as you heard from the Government of
16 Mexico witnesses, please make note of the North
17 American Steel Trade Committee, of NASTC. This is a
18 relevant condition of competition. Uniquely for
19 Mexico, if there ever is a serious domestic industry
20 concern about a threat from subject Mexican mills this
21 vehicle exists to address it, a circumstance that
22 applies to no other country.

23 For these reasons and more, the Commission
24 should issue a negative final determination in
25 Mexico's case.

1 Thank you.

2 CHAIRMAN PEARSON: Thank you, Mr. Pierce.

3 We can now welcome the domestic industry
4 panel.

5 MR. BISHOP: Will the first panel, those in
6 support of the imposition of antidumping and
7 countervailing duties please come forward and be
8 seated.

9 CHAIRMAN PEARSON: While the panel is
10 getting organized I could mention that Commissioner
11 Pinkert is recused in this hearing. And Commissioner
12 Okun is necessarily absent.

13 Are you prepared to begin, Mr. Schagrín?

14 MR. SCHAGRIN: I think we are, Chairman
15 Pearson.

16 CHAIRMAN PEARSON: Okay, please proceed.

17 MR. SCHAGRIN: I'm very pleased that, as Mr.
18 Pierce mentioned, we do have an incredible array of
19 senior executives from all of the leading companies
20 producing this product in the domestic industry. I
21 won't mention how many collectively probably hundreds
22 of years of experience they have in this industry but
23 they will each let you know individually.

24 But before they start I would like to
25 comment on an issue that may be brought up during

1 today's proceeding, certainly a major issue in the
2 Mexican brief, and it was highlighted in Mr. Pierce's
3 opening statement when he referred to the "unfixable
4 product pricing data." And I am reminded because of
5 Vice Chairman Aranoff's presentation at a Georgetown
6 Law School paper that she presented of the importance
7 of counsel participating in the final questionnaire
8 process.

9 And I must admit, as someone who as I age
10 becomes more of a stickler for following the rules, I
11 am a little shocked when someone with all the
12 experience that both Mr. Pierce has and when I started
13 out in this practice many of his partners already had
14 a decade on me, that we get to a final hearing and the
15 opponents make the most important point that something
16 wasn't in the questionnaire when of course they had
17 the capability of, you know, making those comments if
18 they thought it was important. Certainly the data was
19 gathered in the same way in the preliminary
20 questionnaires.

21 And sometimes the Commission fixes this by
22 making everybody run around after the hearing and say,
23 Well, now why don't we do it differently and have
24 supplemental questionnaires? And I have to say, well,
25 I don't think that's appropriate. You know, that

1 train has left the station. And we will talk about
2 those issues today.

3 But we are going to argue based on the data
4 collected by the Commission. The staff has worked
5 extremely hard; I compliment them. There's a lot of
6 domestic producers in this industry, a lot of foreign
7 producers, a lot of importers, and a lot of
8 purchasers. And we think you have an excellent staff
9 report upon which to make your injury conclusions.

10 And with that I would like to ask Jack
11 Meyer, the CEO of Bull Moose Tube Company, to present,
12 to begin the domestic industry's testimony this
13 morning. Mr. Meyer.

14 MR. MEYER: Good morning, Chairman Pearson
15 and Members of the Commission. For the record, my
16 name is Jack Meyer and I am the Chief Executive Office
17 of Bull Moose Tube Company. I am accompanied by Mike
18 Dustmann, our company's Vice President of Business
19 Development.

20 I have been in the tubing business for over
21 40 years and have been the president of the company
22 for 11 years. For decades Bull Moose Tube has been
23 the largest producer of ornamental tubing in the
24 United States. We also produce structural tubing and
25 sprinkler pipe. We are an extremely competitive, low

1 cost producer in ornamental tubing, structural tubing
2 and sprinkler pipe. We have mills producing
3 ornamental tube product in Illinois, Ohio, Missouri
4 and Georgia. Unfairly traded imports of ornamental
5 tubing have clearly injured Bull Moose Tube and our
6 employees.

7 I would set the following the examples of
8 that injury:

9 First, as I mentioned, Bull Moose Tube has
10 three product lines: ornamental tubing, structural
11 tubing, and sprinkler pipe. all three product lines
12 are leading competitors in the marketplace with
13 historically relatively equal profit levels. Until
14 recently, ornamental tubing has been our largest
15 product line. Now it is our smallest product line.

16 Specifically, while our volumes for 2007
17 versus 2005 for structural tubing and sprinkler pipe
18 are up 37 percent, our volume for ornamental
19 rectangular tubing for 2007 versus 2005 is down 3
20 percent. During this same time we were able to
21 maintain consistent overall profit levels, gross
22 profit levels for structural tubing and sprinkler pipe
23 but have seen our gross profit margins on rectangular
24 ornamental tubing decline by 35 percent.

25 In spite of significant price cutting for

1 our ornamental tubing, we have seen our volumes
2 decline. We attribute the declining performance of
3 our ornamental tubing product line in comparison to
4 our improving structural and sprinkler pipe product
5 lines due to the impact of unfairly traded imported
6 ornamental tubing.

7 Second, in 2005 we opened a new facility in
8 Casa Grande, Arizona, to produce pipe and round
9 mechanical product with the expectation that we would
10 invest in tooling to make ornamental square and
11 rectangular tubing to further grow our business.
12 Since 2005 the West Coast market for ornamental tubing
13 has been devastated by unfairly traded imports which
14 have accounted for more than half and as much as two-
15 thirds of the market. Consequently, we have had to
16 indefinitely postpone the necessary investments to our
17 Casa Grande, Arizona facility to produce rectangular
18 ornamental tubing.

19 Third, Bull Moose Tube shut down one mill
20 dedicated to the production of ornamental tubing in
21 Gerald, Missouri, in 2006. This was because of our
22 inability to maintain acceptable operating levels on
23 the various mills in that facility due to not being
24 able to compete with low price foreign product. This
25 facility has seen a 34 percent drop in volume. This

1 mill has been in operation since 1964. And over the
2 years and until recently has been a very good source
3 of profits for the company.

4 Fourth, in 2004 our company was unable to
5 successfully complete a debt offering. Financial
6 analysts involved for this potential offering
7 specifically raised our declining financial results in
8 ornamental tubing and the concern that this
9 deterioration would continue with the increasing level
10 of ornamental imports as reasons why we could not
11 complete this debt offering.

12 Fifth, with volumes and gross profit margins
13 falling precipitately in our ornamental tubing
14 business our company has slashed selling, general and
15 administrative expenses in 2007 by 27 percent.
16 However, as a company that has always been efficient,
17 we were not taking fat out of our system. Instead,
18 cutting our selling and administrative expenses
19 actually hurts our ability to grow and expand our
20 ornamental tube business in the future.

21 In sum, there is no reason that during the
22 period from 2005 to 2007 that our business suffered
23 this injury other than the significant presence and
24 growth of unfairly traded imports. Imposing unfair
25 trade duties to level the playing field against

1 several hundred thousand tons of unfairly traded
2 imports from China, Korea, Mexico, and Turkey will
3 allow Bull Moose Tube to resuscitate and expand our
4 ornamental tubing business. We can raise money and
5 invest again in our business. Perhaps we will
6 participate in industry consolidation. We will
7 certainly have an opportunity to introduce production
8 of this product at our Arizona facility, following up
9 on our original plans to produce ornamental tubing at
10 that location.

11 Denying unfair trade relief will mean that
12 we will see continued profit margin erosion, we will
13 close more tube mills, and we will reduce employment.

14 Therefore, on behalf of this company and its
15 employees I would ask that this Commission make
16 affirmative injury determinations. Thank you.

17 MR. KATSAFANAS: Good morning, Chairman
18 Pearson and Members of the Commission. For the record
19 my name is Parry Katsafanas and I am the President of
20 Leavitt Tube Company, LLC, located in Chicago,
21 Illinois. I have been with Leavitt for 34 years and I
22 have been president for 10 years.

23 Leavitt Tube Company was founded in 1956 and
24 marked its 50th anniversary in 2006. Since our
25 founding the company has already produced light-walled

1 rectangular or ornamental tubing. In our Chicago
2 plant we produce both light-walled rectangular tubing
3 as well as the heavier walled structural tubing. We
4 also produce round mechanical tubing and circular
5 pipe.

6 In 1985 Leavitt built a new plant in
7 Jackson, Mississippi, to take advantage of lower
8 freight costs by having a plant in a great location
9 with access to what was clear to the company to be
10 rapidly growing markets for these products in the
11 southeastern and southwestern United States. Jackson
12 is an idea location from a freight perspective. At
13 our Jackson plant we only produce ornamental or round
14 mechanical tubing.

15 I appeared at the 2004 final hearing in the
16 Turkey and Mexico cases. We had 6 mills then in
17 Chicago that produced ornamental tubing. After a good
18 year in 2004 our ornamental tubing business began
19 deteriorating again. After chronically underutilizing
20 the ornamental tubing mills in Chicago, with all six
21 of the mills running less than one shift per day on
22 average, we decided to sell the two smallest mills in
23 Chicago and utilize the other four mills more
24 efficiently. We completed that sale through a broker
25 to a buyer who moved those mills to South America.

1 That sale occurred in July 2007.

2 In a market where demand increased by
3 roughly 20 percent from 2004 to 2006, the idea that
4 one of the leading producers of these products had to
5 sell off capacity is a real indicator of the injuries
6 that we suffered.

7 In our Jackson, Mississippi plant we have
8 been devastated by imports from all four of these
9 countries entering the Gulf Coast and Texas markets.
10 We have decided to add a non-pipe and tube product
11 line in the same facility that our tube mills are
12 located in. Getting into the metal grating business
13 allows us to spread some of our fixed overhead of a
14 large building away from severely underutilized tube
15 mills and on to another product area. It also allows
16 us an alternative to layoffs of a very dedicated and
17 efficient workforce which would have occurred because
18 our ornamental tubing business is being devastated.

19 For years, one of the biggest domestic
20 competitors for our Jackson, Mississippi plant was a
21 Houston-based ornamental producer called Southwestern
22 Pipe. In the late 1990s through an unusual geographic
23 merger Southwestern Pipe was purchased by Northwest
24 Pipe. In mid-2006 Northwest Pipe ceased producing
25 ornamental tubing in Houston. Now, you would think

1 that when one of our largest regional competitors
2 stopped production that we would see an immediate gain
3 in our business. Instead, there was a greater
4 increase in import volume than the amount of volume
5 removed from the market when Northwest Pipe ceased
6 production at the Houston plant. And our Jackson
7 plant production continued to deteriorate.

8 Early last month Maruichi Tube Ltd. of Japan
9 announced the purchase of Leavitt Tube. I can assure
10 the Commission that the primary reason for the
11 purchase was our strong structural tubing business,
12 including the fact that we are one of the three
13 largest suppliers of very large structural tubing
14 sizes to the North American market. As a part owner
15 of the company I fully supported the sale. And I plan
16 on remaining with the company after the acquisition is
17 completed.

18 With or without the sale, if the Commission
19 makes a negative determination we will have to
20 reevaluate the future viability of producing
21 ornamental tubing in our Jackson facility. The
22 Jackson plant may be doomed to a loss making
23 enterprise given the massive unfairly traded import
24 share of the Gulf Coast ornamental tubing market.
25 That would be unfortunate because it is a good plant

1 with good machinery and a fine workforce. We
2 therefore request that you make an affirmative injury
3 determination.

4 Thank you.

5 MR. SEARING: Good morning, Chairman Pearson
6 and Members of the Commission. For the record, my
7 name is Jim Searing and I am Vice President and Chief
8 Operating Officer for Searing Industries. I am here
9 with Glenn Baker, our Vice President of Sales and
10 Market, who has been with the company for over 22
11 years.

12 Searing is located in Rancho Cucamonga,
13 California, in one of the outlying suburbs of Los
14 Angeles. Searing Industries is a family-owned
15 business founded by my father Richard Searing who
16 worked a number of positions in various pipe and
17 tubing companies in the L.A. area starting in the
18 1950s, owning a minority portion of a large tube
19 manufacturers in the '70s and early '80s, and finally
20 establishing his own with his two sons in 1985.

21 He has since passed away leaving my older
22 brother Lee and I, who worked with him from the
23 conception, to take over the management and ownership.
24 Lee, who is President, would certainly have been here
25 with us but for his first grandchild who is going to

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1 be born at any minute, maybe as we are speaking here.

2 I am here with Glenn Baker.

3 At Searing we have always treated everyone
4 like they are family. I know every single employee
5 personally and the majority of our employees have been
6 with us for over 20 years, such as Glenn. From 1985
7 until 2007 we had never laid off a single employee,
8 and that includes the two serious recessions we
9 experienced during that period. In early 2007, at
10 truly great pain an agony to everyone at our company,
11 we laid off over 25 percent of our workforce. Lee and
12 I had no other choice but to hurt some of our loyal
13 associates to make sure our company survived.

14 The reason for these historical layoffs was
15 due to the large volume of unfairly traded imports,
16 period.

17 At our company we have five mechanical tube
18 mills on which we can either produce round or
19 rectangular tubing. We have one large structural mill
20 which only produced structural tubing outside the
21 scope of this investigation. And we are presently
22 investing to expand that mill's size range.

23 Light-walled rectangular tubing is normally
24 made to an 8 by 13 specification. Our product and the
25 imported 8513 product meets the mechanical property

1 requirements and the wall thicknesses tolerances of
2 ASTM 8513 as they are one and the same products. Most
3 of what we produce is uncoated or black light-walled
4 rectangular tubing. However, we also produce
5 galvanized products using galvanized strip and then
6 regalvanizing the wall zone. And we also make LWR
7 with a pre-paint primer applied to the product.

8 On the West Coast LWR, or ornamental tubing
9 as we normally refer to it, is generally sold to
10 distributors who then in turn sell the product to end
11 users. Some end users are big enough to buy direct
12 from mills or directly from the importers The product
13 is generally used for ornamental fencing, window and
14 door security frames, metal furniture, store shelves,
15 display racks, automotive accessories, exercise
16 equipment, literally hundreds of other applications.

17 In earlier times trading companies and
18 importers always pre-sold imports to distributors
19 prior to shipment. However, in 2007 we saw large
20 quantities of imports arriving unsold and held in
21 inventory near the ports to be sold.

22 At the same time that we lost business on
23 the West Coast our business in states like Arizona,
24 Nevada, Utah, Colorado and New Mexico were adversely
25 impacted by imports from Mexico and Turkey which are

1 coming through Texas. Searing used to ship a lot of
2 product to Texas. Now that business has virtually
3 dried up. As a company we barely survived the import
4 onslaught in ornamental tubing until the preliminary
5 duties went into effect. However, now that imports
6 have hurt us while demand was good, we are facing a
7 huge drop in demand.

8 I have lived my whole life in California. I
9 have never seen a worse housing market. I am
10 estimating now a 30 percent decline in West Coast
11 demand for ornamental tubing. When they are not
12 building new homes they are not putting in ornamental
13 fencing, they are not buying metal furniture, they are
14 not buying exercise equipment, fewer stores being
15 built mean less shelves, less racks, and on and on.

16 If unfairly traded imports are allowed back
17 into this declining market then our ornamental
18 business is history. And this product is half of our
19 business. I plead with you not to let this happen to
20 a true American well-run family-owned business with a
21 good work force. Please support us and make an
22 affirmative vote.

23 Thank you.

24 MR. MONTGOMERY: Good morning, Chairman
25 Pearson and Members of the Commission. For the

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1 record, my name is John Montgomery, Jr. My father and
2 I own and operate Southland Tube located in
3 Birmingham, Alabama. Prior to 1995 we were principals
4 in Hanna Steel Corporation, another tube mill located
5 in Fairfield, Alabama, and along with my grandfather
6 have been active participants in this market since the
7 '60s.

8 Like Jim Searing's company, we are very much
9 a family-owned company and a family business. I know
10 most employees at the company. I know most of their
11 families as well. We do everything possible to
12 provide a safe, environmentally compliant workplace
13 with good wages, healthcare and retirement benefits.
14 We have several small mills which make only circular
15 mechanical or ornamental tubing and three large mills
16 that are dedicated to structural tubing.

17 With energy costs where they are today,
18 freight is a huge portion of cost for everyone in this
19 business, including our customers. We are fortunate
20 that over 90 percent of our steel purchases are from
21 Alabama or Mississippi mills, most located near
22 Birmingham or within 100 miles. Those include U.S.
23 Steel's Fairfield plant, which is only a few miles
24 away; Nucor Tuscaloosa, Nucor Decatur, and SeverCorr
25 in Columbus, Mississippi. Thus, we have relatively

1 low inbound freight costs and excellent quality steel.

2 At the outbound freight we can ship
3 competitively throughout a 500 mile radius of
4 Birmingham and sometimes further either by truck or
5 rail. Given that international shipping rates rose to
6 levels two or three times our labor costs and would
7 probably be four or five times our freight costs to
8 our customers, I was shocked in 2007 as ornamental
9 tubing arrived in large quantities in ports like
10 Houston, New Orleans and Mobile, at prices that were
11 approximately the same as our steel costs. Obviously
12 the lower freight costs to get to the U.S. market for
13 Mexican producers allowed them to obtain lower dumping
14 margins than exporters from other countries.

15 We suffered significant volume losses in the
16 latter part of '06 and the early part of '07. This
17 forced us to institute a pricing program in which we
18 offered certain quantities of product to certain
19 customers at deeply discounted prices, greatly
20 sacrificing our ability to make a profit on that order
21 in order to keep them competitive with imported
22 pricing. At least a few other U.S. producers did the
23 same thing. Fortunately, the preliminary relief
24 afforded by these trade cases reduced import offers
25 and allowed us to rescind these programs.

1 In conclusion, we are a proud family
2 business that continues to take great pride in the
3 quality products that we make for our customers. I
4 learned this business from my father, and he from his.
5 We have over 250 employees with an average tenure of
6 over 15 years in this industry. We have the most
7 advanced and efficient capital equipment available in
8 the marketplace. We can compete with anybody in the
9 world but we cannot compete against a stacked deck.

10 In the past we have not participated in this
11 process and we have never before asked the government
12 to intervene. However, I humbly come before you today
13 on behalf of all of our employees to ask you to do
14 what is right to restore fair trade to our
15 marketplace. If you can do that, I assure you we will
16 take care of the rest.

17 Thank you.

18 MR. KURASZ: Good morning, Mr. Chairman and
19 Members of the Commission. For the record, my name is
20 Ed Kurasz and I am the Vice President, General Manager
21 of Mechanical Tube Division at Allied Tube and
22 Conduit. I have been in the metals industry for 21
23 years and I have been with Allied Tube for 17 years.

24 We produce product subject to this
25 investigation at five different plants in the United

1 States. Those plants are located in Harvey, Illinois;
2 Philadelphia, Pennsylvania; Pine Bluff, Arkansas;
3 Phoenix, Arizona; and De Pere, Wisconsin. This gives
4 our company significant opportunity to save on freight
5 costs while covering the entire United States market.
6 We produce the subject square and rectangular tube
7 products on the same mill equipment which we produce
8 circular mechanical tubing and sometimes other
9 products.

10 The rectangular shapes start out as a
11 circular product and then are formed into rectangles,
12 including squares. We specialize in galvanized
13 ornamental tubing because our company has an in-line
14 process which we believe provides us a cost advantage
15 through great galvanizing efficiencies over both
16 domestic and foreign competitors.

17 Over the PROLAMSA of 2005 to 2007, unfairly
18 traded imports undersold our prices. As you will hear
19 from Ed Rachel, the president at one of our
20 distributors, our distributors have asked us to lower
21 our prices to try to keep them competitive with
22 imports. Whenever this happens we have two choices:
23 lower the prices or lose volume. Well, in 2007 I was
24 asked to do this quite a bit but all I did was lower
25 prices to keep our five plants operating. This really

1 hurt our profits but certainly less than the cost of
2 shutting down one of our plants.

3 As to end users, we lost a lot of business
4 and also cut prices to the carport producers. The
5 majority of our galvanized sales are to U.S. producers
6 of carports. With one carport customer we lost an
7 opportunity to sell over 5,000 tons of annual business
8 in 2007 when that customer shifted the entirety of
9 their annual purchase requirements to much lower
10 priced galvanized ornamental tubing imported from
11 China.

12 With the imposition of duties I thought we
13 would get this business back in 2008. But evidently
14 the customer brought in extra inventory before the
15 duties. I understand such information is a reason you
16 should make a critical circumstances injury finding
17 against this Chinese import surge.

18 The year 2007 marked the worst year I've
19 witnessed in this product line in 17 years. Unfairly
20 traded imports were way too high and the pricing
21 pressure was intense. Allied has seen big changes.
22 Allied has a new president for the first time in a
23 decade, and our Tyco division has a new president as
24 well. I just try to do my job everyday. And the same
25 is true for every worker in every plant at Allied.

1 Without relief against unfairly traded imports from
2 these four countries it is clear that we will have to
3 take mills out of production and we will be unable to
4 continue investing to remain one of the most efficient
5 pipe and tube producers in the world. You will not
6 see mills in Mexico, Turkey, Korea or China that are
7 more efficient than any of our five mills in the
8 United States.

9 On behalf of all the hardworking and
10 dedicated employees at Allied Tube and Conduit, I
11 would ask this Commission to make an affirmative final
12 injury determination and a critical circumstances
13 finding so that we can compete in a fairly traded
14 marketplace.

15 Thank you.

16 MR. MANDEL: Good morning, Chairman Pearson
17 and Members of the Commission. For the record, my
18 name is Butch Mandel and I am the Executive Vice
19 President of Welded Tube of Canada. I have been in
20 the pipe and tube industry for 29 years, all with
21 Welded Tube.

22 In 2004, my company purchased the assets of
23 AMS Tube, which had ceased operations on account of
24 its insolvency. The subject plant is located in
25 Huger, South Carolina, and is actually on the grounds

1 of the Nucor Berkeley campus, virtually adjacent to
2 the Nucor flat-rolled steel mill. AMS Tube had
3 focused on standard pipe product. And this Commission
4 knows only too well what the Chinese did to the
5 standard pipe industry.

6 Because we are a company focused on
7 mechanical and structural tubing, we decided to change
8 the focus of the mill to mechanical tubing products.
9 These include the ornamental mechanical products
10 subject to this investigation. We also have a plant
11 in Delta, Ohio, located next door to the Northstar
12 Bluescope Steel Mill which also focuses on ornamental
13 mechanical tubing.

14 At the time of the acquisition of AMS Tube
15 we publicly announced plans to increase capacity there
16 by installing a brand new mechanical mill, then in
17 crates, which we acquired to increase production and
18 employment. Unfortunately, as you can see from our
19 poor results in this product line, poor returns on our
20 initial investment kept us from making any further
21 investment and the mill has remained in crates,
22 uninstalled. I think the main reason for this poor
23 performance was the squeeze on margins caused by the
24 price pressures in the marketplace of unfairly traded
25 imports.

1 Not surprisingly, we source virtually all of
2 our steel from Nucor Berkeley and, therefore, have no
3 inbound freight costs. We get great steel quality
4 made to tolerances that are as good or better than any
5 steel mill in the world. But as this Commission well
6 knows, pricing in the marketplace is determined by
7 supply and demand and there has simply been too much
8 supply availability of very cheap imported tubing.

9 As a company that makes ornamental tubing in
10 both the U.S. and the Canadian marketplace I might be
11 able to give you some direct evidence on the issue. I
12 understand from Mr. Schagrin that you must now
13 consider the Bratsk case. With the huge change in the
14 value of the Canadian dollar in the last two years our
15 exports of ornamental tubing to the United States from
16 Canada have certainly declined. Unlike the currencies
17 of China and Korea which have increased moderately to
18 the U.S. dollar, the Canadian dollar's value is up
19 over 35 percent in the last three years.

20 I think that this situation is
21 representative of many tubing companies, and there are
22 several of us with operations in both Canada and the
23 United States that produce ornamental tubing. We
24 would much rather supply the U.S. market from our
25 operations in the United States than from Canada. Of

1 course, we are not going to be able to supply the U.S.
2 market from operations in the U.S. unless you make
3 affirmative injury findings. In a market in which
4 imports already take half or more of the market, and
5 in a market with a forecast for a declining demand,
6 relief from unfairly traded imports is going to be
7 critical for us to make a return on our investment in
8 South Carolina.

9 We hope to finally have the opportunity to
10 open those crates and install that new mill and invest
11 in improving quality, increasing productivity,
12 expanding output, and expanding employment so that
13 investments in the United States are serving the U.S.
14 market instead of unfairly traded imports.

15 For that reason I respectfully request that
16 this Commission make affirmative injury
17 determinations. Thank you.

18 MR. KNOX: Good morning, Chairman Pearson
19 and Members of the Commission, my name is Chris Knox,
20 and I am Vice President of Sales and Marketing for
21 Vest, Incorporated, located in Los Angeles,
22 California. I have worked in the industry for 34
23 years and have been with Vest for 23 years.

24 Vest was founded in 1972 as a Bernard Epps
25 Company of which Dick Searing, Jim's dad, was an

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1 original partner before he left and established
2 Searing Industries. Of the products that Vest
3 produces, ornamental tubing is by far the most
4 commodity type product that we make and sell. As much
5 as I would like to differentiate Vest with our
6 customers by offering superior service, quicker
7 delivery, the bottom line is the majority of
8 ornamental tubing sold is on the basis of price.

9 As Vice President of Sales during 2007, I
10 repeatedly lowered our prices in order to maintain
11 volume at our mills and to prevent layoffs. This
12 decision was entirely due to the price competition
13 from unfairly traded imports from both China and Korea
14 in our market on the West Coast in 2007.

15 Eventually the situation became almost
16 comical when foreign offers for finished ornamental
17 tubing became cheaper per pound than offers from the
18 same countries were for our raw feed stock. Our
19 customers would jokingly offer to re-sell their
20 foreign tubing for us so we wouldn't have to spend so
21 much for the coil. The sad part was that our position
22 as a domestic manufacturer was literally on the verge
23 of becoming irrelevant in the marketplace and obsolete
24 in the industry despite our state-of-the-art
25 machinery, skilled labor, and world class operations

1 and systems.

2 As you can see from our confidential
3 questionnaire response, I was cutting prices in spite
4 of the fact that our costs for steel, labor and energy
5 were going up. The results were devastating to our
6 profitability. Therefore, our tubing business, like
7 that of all our West Coast competitors, and as you
8 have heard, from other producers across the country,
9 is really dependent on our ability to get relief from
10 unfair trade practices. My owners will not allow me
11 to again cut prices in 2008 as I did in 2007; we
12 simply cannot afford to.

13 As Jim mentioned, the U.S. housing market
14 crisis has sharply reduced the demand for ornamental
15 tubing in the western market. Thankfully, unfairly
16 traded imports were eliminated due entirely to the
17 preliminary findings of this Commission and the
18 Department of Commerce. In short, the bounce that we
19 have seen as a result is allowing us to operate at the
20 same volume levels as last year with domestic tubing
21 replacing imports in the declining market.

22 I am sure that without this relief our
23 owners will have to make the difficult decision about
24 whether Vest continues operating our mechanical mills
25 or simply shuts them down. On behalf of our company

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1 and our employees we therefore ask you to make an
2 affirmative injury determination.

3 Thank you.

4 MR. LIND: Good morning, Chairman Pearson
5 and Members of the Commission. For the record, my
6 name is Richard Lind. I am the Vice President of
7 Sales and Marketing for Hannibal Industries, located
8 in Los Angeles, California.

9 I have been in the industry for 29 years. I
10 spent 14 years with Bull Moose Tube selling ornamental
11 tubing nationwide, and now I have been with Hannibal
12 for three-and-a-half years. I didn't realize how
13 tough it was to sell on the West Coast against imports
14 until I joined Hannibal. In 2006-2007 imports from
15 China and Korea were inundating our market at prices
16 that were at or even below our steel costs. We were
17 struggling to get business. You can also see from the
18 reduction in our volume in our questionnaire response.

19 Not only was the West Coast market
20 overwhelmed with presold imports but we saw more
21 unsold tubing arrive in the market than we had ever
22 experienced in the past. Our company sank into
23 operating losses. And I can tell you that without the
24 relief of the preliminary determination we would have
25 been in real trouble.

1 As a result of these losses and for other
2 reasons that I am not privy to, our owners at that
3 time, Mitsui and Company USA, decided to sell our
4 company. And a group of company executives, led by
5 our President, Blanton Bartlett, along with myself and
6 our employees, have now purchased the company through
7 the formation of an employee stock ownership program.

8 Ornamental tubing is one of the three key
9 product lines of our tubing business. Going forward
10 we hope to be able to attract additional capital and
11 expand into other product lines, possibly growing the
12 company someday through mergers or acquisitions with
13 companies in other parts of the country. However, if
14 we do not obtain relief from dumped ornamental tubing
15 then our new company is unlikely to survive. Not only
16 will I be impoverished but, more importantly, more
17 importantly, over 300 dedicated good people will lose
18 their jobs and their futures if our ESOP fails.

19 It is simply critical that we get relief so
20 that we can purchase hot and cold rolled coils at
21 these new, ever-higher market prices and be able to
22 increase our prices just to cover these raw material
23 costs. As bad as it was last year trying to find
24 volume by competing on price with dumped imports and
25 losing money, there will simply be no way possible for

1 us to operate the business with the current cost of
2 raw materials and compete against dumped imports at
3 the same time.

4 I thank you for the opportunity to ask you
5 for relief from dumped imports which is so vitally
6 necessary to our new company and our employees. Thank
7 you.

8 MR. SCHAGRIN: Thanks, Richard. Now, we're
9 pleased that, and it's fairly rare in these commodity
10 pipe and tube cases to get a distributor to come and
11 testify on the panel, but we're very pleased that Ed
12 Rachel, who is the President of a distribution
13 company, can come share with you the plight of the
14 very few distributors in the United States that are
15 domestic-oriented distributors. Ed?

16 MR. RACHEL: Good morning, Chairman Pearson,
17 and members of the Commission. For the record, my
18 name is Ed Rachel. I am President and Chief Executive
19 Officer of U.S. Wholesale Pipe and Tube Company
20 headquartered in Tampa, Florida. We have distribution
21 locations in Tampa, Atlanta, Dallas, Oakland and Los
22 Angeles.

23 I have been in this business for 26 years,
24 and U.S. Wholesale Pipe and Tube was founded in 1964.
25 U.S. Wholesale stocks most sizes of ornamental tubing

1 for resale to end users who are not big enough to buy
2 directly from the mills. We specialize in galvanized
3 ornamental tubing, but we do stock ungalvanized tubing
4 as well.

5 We have been doing business with Allied Tube
6 and Conduit for decades. I have personally visited
7 their mills, and I know that they are an extremely
8 efficient producer that either invents or acquires the
9 latest technology. The fact that they have five mill
10 locations reduces my inbound freight costs, as well as
11 ensuring prompt supply.

12 However, the galvanized ornamental tubing we
13 sell is still a commodity product. While I know that
14 we are not officially a member of this industry, our
15 business has also been injured by this flood of
16 unfairly traded imports. We have lost volume to mills
17 and distributors who undercut our prices to end users
18 with imports from these countries.

19 We have cut our own distributor mark ups,
20 costing us both revenue and profit, to compete with
21 distributors carrying these imports. We have bought
22 some import product, particularly the Chinese, in
23 order to try to compete with those distributors who
24 are selling imported product.

25 As Mr. Kurasz has testified, we are one of

1 many companies that have asked him repeatedly for
2 lower prices in order to try to stay competitive with
3 distributors who are carrying import product. Relief
4 against unfairly traded imports of ornamental tubing
5 will help U.S. Wholesale, and I believe in the long
6 run will help our customers.

7 Specific examples, while I understand that
8 imports from PROLAMSA are likely to be excluded from
9 this action, imports from the Galvite Division are
10 sold at very low prices in the southwest and southeast
11 markets, and so preventing them from dumping will
12 definitely benefit us.

13 We have also seen Chinese and Korean product
14 throughout our markets, but particularly on the west
15 coast. In particular, the Chinese really stepped up
16 their exports of galvanized ornamental tubing in 2007.
17 As a wholesaler, I do not want to see U.S. suppliers
18 go out of business. I do not want to see Allied or
19 any of them have to shut down some of their mills.

20 I also do not want to see increases in my
21 freight costs during a time period when higher gas
22 prices are already making freight costs surge. I
23 appreciate the opportunity to come and appear before
24 you today to let me tell you my story on behalf of my
25 company and its employees.

1 I join with the domestic producers in this
2 industry asking you to make sure that trade in these
3 products in the United States market is based on fair
4 trade. Thank you.

5 SPECIAL MASTER EDWARDS: Thank you, Ed.
6 Chairman Pearson, that completes our presentation this
7 morning, our direct testimony. We are ready to answer
8 the Commission's questions.

9 CHAIRMAN PEARSON: Thank you very much. I
10 appreciate the amount of experience that you panelists
11 have in this business. We're Commissioners. We don't
12 know all that much about pipe and tube, although with
13 Mr. Schagrin's help, over time we have learned more
14 about it.

15 You've taken time off from your business to
16 come here today, and I just want you to know that we
17 appreciate very much and understand that there's some
18 sacrifices to be made. Some of you may even be trying
19 to fly home on American tonight. I'm not sure. We're
20 glad that you're here.

21 By luck of the draw, I have to start with
22 the first round of questions today, so I'm curious
23 about apparent consumption and where it's headed. To
24 what do you attribute the apparent decline in
25 consumption that we saw in 2007?

1 MR. KATSAFANAS: I think this is indicative
2 of what is going on on the trade issues all over all
3 products. I know from personal experience some of our
4 customers that make a product are being inundated with
5 what they perceive as being and we perceive as being
6 unfairly traded finished goods that use tubing.

7 So I think that's a contributing factor into
8 the decline in the apparent consumption. In other
9 words, if someone is making a piece of furniture in
10 the United States, and that product is coming in from
11 a foreign country at a dumped price and at prices
12 below what they can compete at, they're going to have
13 less opportunity to buy tubing from us.

14 CHAIRMAN PEARSON: So you see the decline in
15 apparent consumption in 2007 as being largely related
16 to competition by your customers against imported
17 goods?

18 MR. KATSAFANAS: I think that's a part, but
19 the main contributing affect for us was the
20 competition against the raw material coming in from
21 countries supplying just raw tubing coming into the
22 United States. That was the main affect that affected
23 our loss in volume.

24 CHAIRMAN PEARSON: No, no, but I'm not
25 asking about your loss of volume. I'm asking about

1 the demand in the U.S. marketplace, the apparent
2 consumption of all light-walled rectangular
3 domestically produced or imported. That's what I want
4 to talk about.

5 Mr. Searing, did you have a comment?

6 MR. SEARING: Yes. I don't know unless you
7 get out to California. I know it's different maybe in
8 other parts of the nation, but when I tell you that
9 our state has been devastated by the loss of homes and
10 obviously was is transpiring from those affects, this
11 is a huge product that is connected almost entirely to
12 the home buyer, to the home owner.

13 I mean, these products are used almost
14 everywhere in the home. They directly are fueled by
15 someone that buys a home and wants to improve it,
16 whether it's window guards, fencing. I mean, it is
17 that product. I believe that, especially in 2007 and
18 even today as we speak, I mean, the demand has gone
19 down.

20 These people have nowhere to put this
21 product. When you have the flood of product in here,
22 and it is a commodity and the price shows it, it
23 really compounds the problem. I mean, we're really
24 faced with a tough time on the west coast. I can only
25 speak of the west coast and the outlying states that

1 we service.

2 CHAIRMAN PEARSON: Can you give me a sense
3 what percentage of all light-walled rectangular pipe
4 and tube is used directly in housing and related
5 activities?

6 MR. SEARING: Wow.

7 CHAIRMAN PEARSON: I mean, is it more than
8 half?

9 MR. SEARING: Absolutely.

10 MR. LIND: Mr. Chairman, I would just --
11 again, Richard Lind from Hannibal Industries in Los
12 Angeles, and I concur with what Jim from Searing has
13 said. I don't think that there's a definitive number
14 on the question you just asked, but I would say that
15 it's between 60 and 70 percent of the product is
16 utilized in the residential construction sector.

17 So that's had a major, as Jim said, impact
18 on the demand and the size of the overall pie of
19 what's available, but, as he also stated, it was
20 somewhat of a two-pronged situation that we faced
21 because the size of the pie for the domestic producers
22 was also diminished in size because of unfairly priced
23 import product coming into our marketplace at or below
24 our raw material costs.

25 So, you know, we have to look at a market

1 and say, you know, the market size is X. In 2006,
2 2007, we had to look at it totally different, and some
3 dramatic things happened within each of our companies,
4 which you've already heard this morning.

5 CHAIRMAN PEARSON: Okay. So can your
6 industry get its feet under it and be comfortably
7 positioned absent a rebound in the domestic housing
8 market?

9 MR. LIND: I would say not totally, but, you
10 know, it would be a significant improvement.

11 MR. SEARING: We were facing a tremendous
12 problem, and, I mean, you know, everybody can work as
13 hard as they want to, but, I mean, the deck has been
14 stacked. I mean, 2007, for my family business, was
15 really, I've never seen anything like it in the
16 history that I've competed against ever.

17 CHAIRMAN PEARSON: Mr. Meyer?

18 MR. MEYER: When you're talking about the
19 housing market, you're talking about every other thing
20 that goes around it. You're talking lawn mowers,
21 you're talking lawn furniture, you're talking boating
22 situations. All of those things that center around
23 the housing market are also affected.

24 So there's a lot more than just the house
25 itself, it's the lawn mower, it's the hammock, it's

1 all those type of things.

2 CHAIRMAN PEARSON: Okay. Looking ahead then
3 into the foreseeable future, what does your industry
4 anticipate as the outlook for housing? Mr.
5 Montgomery?

6 MR. MONTGOMERY: Well, I'm not an economist,
7 and I don't pretend to be, but most of the products
8 that we're talking about here are consumer-related,
9 whereas a structural product is more into
10 infrastructure and commercial construction. The state
11 of the consumer right now is fragile. Most people are
12 taxed, their mortgage rates are going up, their credit
13 cards are maxed out, so they're not buying anything.

14 I think housing has got the lion's share of
15 it, but I think it's much larger than that. As Mr.
16 Meyer mentions, hammocks, lawn mowers, anything that
17 has to do with consumer purchases is a tremendous
18 factor in the apparent decline in demand.

19 CHAIRMAN PEARSON: But you're not
20 anticipating a rebound in the housing sector in 2008?

21 MR. MONTGOMERY: Not any time soon. I think
22 we still have bad times ahead.

23 CHAIRMAN PEARSON: Are some analysts
24 suggesting we could see such an upturn in 2009?

25 MR. KNOX: Commissioner, from Los Angeles,

1 my name is Chris, and I think the housing market in
2 California is probably bottomed. New housing
3 construction is well off marks that in 2006, which was
4 considered a very strong year, and we did start to see
5 some decline in 2007.

6 We expect that will start to rebound in
7 later part of 2008, 2009. Obviously, not at the same
8 levels it was experiencing in the early 2000s, but
9 slowly. The housing market didn't go to zero. In
10 California new housing starts are probably off 50 to
11 60 percent.

12 There are still homes being built, there are
13 still people that want to remodel, as opposed to
14 buying different properties and things like that, so
15 there is activity, but the raw numbers are down
16 dramatically from previous levels, but the trend
17 should improve.

18 CHAIRMAN PEARSON: Mr. Meyer?

19 MR. MEYER: I think that any improvement in
20 the housing marketplace and everything around it will
21 be slower and smaller.

22 CHAIRMAN PEARSON: Okay. And before moving
23 on let me just mention Mr. Katsafanas. I apologize
24 for using terminology that's familiar to us and not --
25 apparent consumption has a meaning to us, and Mr.

1 Schagrin understands it, and it may not be apparent to
2 people in the real world, okay? So apologies for the
3 confusion that I created.

4 The reason for asking about what's going on
5 with apparent consumption or demand is to try to
6 understand the role that demand is playing in the
7 conditions that your industry faces vis-a-vis the role
8 that subject imports are playing because we're
9 required to make a finding that the injury that you're
10 suffering or that you are threatened with is by reason
11 of the subject imports.

12 Here, in this record, we see both things
13 happening with subject imports and things happening
14 with apparent consumption. It's not clear to me
15 exactly how we sort those out. My light is changing,
16 and I will come back to that. Mr. Schagrin, a quick
17 comment?

18 MR. SCHAGRIN: The quick comment is that
19 before the cases were filed demand was already
20 declining. When you did get interim data you already
21 saw last year that demand was declining but subject
22 imports were increasing even as demand was gone. The
23 only time that subject imports stopped increasing was
24 after the cases were filed.

25 So our argument is that, yes, this industry

1 would suffer from declining demand, but it suffered
2 more and will continue to suffer more because the
3 subject imports weren't responsive to the changes in
4 market conditions, they were only responsive to the
5 cases. Maybe if you're going to go back to that I'd
6 have some other comments, but the red light is on.
7 Thank you, Chairman.

8 CHAIRMAN PEARSON: Okay. Thank you very
9 much. Madam Vice Chairman, over to you.

10 VICE CHAIRMAN ARANOFF: Thank you, Mr.
11 Chairman. Good morning, and thank you to all of the
12 witnesses for making the time to be with us today.
13 The Chairman spent a lot of time on demand and what's
14 going on with demand in the market, and I wanted to
15 turn to another one of the things that's going on kind
16 of in the background here, and that has to do with
17 costs, especially steel and energy costs.

18 We know from hearing a lot of cases about
19 steel producers that there are surcharge mechanisms by
20 which they passed on to you, their customers,
21 increases in costs of raw materials and often energy.
22 What I wanted to ask you is to describe to me how that
23 works for you, whether you pass surcharges on to your
24 customers, whether you absorb them?

25 Sort of what's the mechanism by which you

1 usually deal with the changes in your costs of inputs?

2 MR. MANDEL: I don't think there's a clear
3 cut one avenue response to your question. I can state
4 for our company we buy most of our steel on the spot
5 market, which is on a noncontractual basis.

6 Surcharges tend to have a greater role when
7 a steel mill has contracted to supply you at a fixed
8 price for a given period of time, and then when they
9 encounter what they might call extraordinary costs
10 themselves they'll implement a surcharge and then pass
11 it along to you, as the other contracting party.

12 Whether you are able to then pass it on to
13 your customer is dependent upon what your contractual
14 relationship is with that customer. I would be I
15 think safely guessing that more people at these two
16 tables are spot market buyers than contractual buyers,
17 and that being the case, the surcharges don't play as
18 great a role.

19 On the other hand, what we are seeing, the
20 press is replete with coverage of dramatic steel price
21 increases over the last three, four months.

22 VICE CHAIRMAN ARANOFF: Okay. Does anyone
23 else want to comment on that?

24 MR. MEYER: I mean, the rising steel price,
25 as you're trying to pass those on to your customers as

1 quick as you can, with the amount of them, you know,
2 you can't absorb those. You've got to pass those on.
3 As the prices become so high that if you have unfair
4 trade it just makes it even worse from that
5 standpoint.

6 So, but you attempt to pass those prices on
7 as quick as you can. Again, Butch is correct, the
8 fact that there's two form of it, one is the spot
9 price and one is the contract price in which usually
10 is where you get into the surcharge situation. Those
11 are difficult to pass on.

12 VICE CHAIRMAN ARANOFF: Okay. So some of
13 you described 2006 as a good year, at least from a
14 demand standpoint. I guess I'm interested in how you
15 handled this in a good year. You had steel prices
16 going up, energy prices going up. Were you able to
17 pass on the higher prices that you were paying for
18 inputs, and what would normally be the mechanism for
19 that?

20 MR. MEYER: Normally, you would want to pass
21 those on as quick as possible, but when you have, as I
22 think there's been explained here, imports coming in
23 in tube form that are at the same price as our raw
24 material prices it becomes very difficult to do
25 something like that.

1 Quite frankly, we scratch our heads
2 wondering how that can happen, but it does happen.
3 Therefore, at that point in the juncture you absorb
4 those.

5 MR. KNOX: In 2007, steel prices actually
6 did two things. They went up, then they went down,
7 then they came back up again. Throughout that whole
8 timeline, speaking for our company, we continually cut
9 prices. So we did not pass, we actually absorbed and
10 then reduced beyond that.

11 MR. SEARING: I can also say obviously with
12 the energy costs, you know, this product has to be
13 delivered or it has to be picked up. Surcharging on
14 trucking, fuel, all of that, we wouldn't even think --
15 in that year it was impossible to try to get anything
16 extra on any order because the decisions were made if
17 you even have a chance of taking this you'll lose your
18 customers.

19 It was so competitive that we did. You
20 would look at it and go, how are they doing that? It
21 is impossible to compete with the pricing that was
22 flying around in that timeframe. It was impossible,
23 and so we switched to other product lines. That's why
24 we're investing in the structurals. It's clear what
25 the problem was. I mean, that's why we're all here.

1 VICE CHAIRMAN ARANOFF: Okay. Was there one
2 more comment?

3 MR. LIND: Perhaps I could just agree with
4 Butch for a moment that we also buy on the spot
5 market, and I think that is fairly traditional with
6 most of the people here where surcharges don't really
7 come into play.

8 I think to elaborate a little bit on what
9 Mr. Knox said, pricing on raw material steel inputs
10 for us in 2007, as Chris said, you know, they would go
11 up, they would go down, they would go up, but if you
12 look at it on an annualized basis that price had a
13 minuscule change in 2007, the raw material cost.

14 So, in essence, what we had to do, as was
15 mentioned in the testimony earlier by virtually every
16 company, is, you know, we had to combat what we
17 consider unfair traded imports that came into our
18 market area and simply reduce prices to try to hold on
19 to any amount of volume.

20 VICE CHAIRMAN ARANOFF: Okay. Well, let me
21 turn then to a related issue. In their brief, the
22 Mexican Respondents characterize your industry as
23 essentially fabricators with relatively small capital
24 equipment costs, presumably relative to those of a
25 steel mill, such that fixed costs are low, per unit

1 costs are not significantly reduced when production
2 volume increases.

3 Is that an accurate characterization of the
4 industry?

5 MR. SCHAGRIN: I'll let these folks answer,
6 but I think Mr. Pierce's comments are certainly
7 correct vis-a-vis a steel producer. They're obviously
8 not vis-a-vis let's say his law firm or my law firm
9 or, you know, in terms of understanding business. The
10 amount of assets in this industry are in the range of
11 about \$300 million, okay?

12 It's a pretty significant total amount of
13 assets to just produce light-walled rectangular
14 tubing, and that is why as business people if you talk
15 about investing in new assets and getting a 10 percent
16 return, I mean, I deal with business people every day,
17 maybe Mr. Pierce deals with people totally different,
18 nobody is going to make an investment that takes 10
19 years to get a return.

20 That doesn't exist in today's business
21 world. Everybody looks for three to five year
22 returns. I think you would also see, Vice Chairman
23 Aranoff, in the data that you have over \$100 a ton of
24 cost involved in kind of other costs, energy,
25 depreciation, use of the mills, and about \$50 a ton in

1 labor.

2 So if you look at it, yes, steel is about
3 70, 75 percent of the cost, but that other \$150 a ton,
4 \$100 in fabricating from steel to tubing, \$50 of
5 additional labor, those are still significant costs.
6 When you're trying to increase profit margins for
7 these companies the ability to run two shifts instead
8 of one shift and maybe reduce that cost from \$105 a
9 ton to \$95 a ton, that's significant.

10 It's not quite the same economy as the scale
11 of the steel mill, but when your profits have fallen
12 \$50 a ton the ability to get \$10 or \$15 a ton more
13 profit, that's really significant in this industry.
14 I'd invite any of the panelists to comment on the
15 other costs of fabricating versus just steel costs.

16 MR. MONTGOMERY: You know, I think it's
17 irresponsible to compare our fixed capital structure
18 to that of a steel mill. They're much larger in scale
19 than our operations. I would wager that if you look
20 at percentages of total costs, our fixed capital
21 equipment represents a proportionate level of cost
22 relative to the operation of any manufacturing
23 operation.

24 MR. MANDEL: I think one other note with
25 regard to the comparison to steel mills. Most of the

1 companies sitting, again, at these two tables are
2 privately owned companies, in many cases family owned
3 companies. The access to capital isn't quite the same
4 thing as it is for large steel mills, most of whom are
5 not only publicly trading entities but have become
6 actually global companies.

7 So when you start talking about relative
8 costs, I think we're in a whole different domain when
9 you talk about that.

10 VICE CHAIRMAN ARANOFF: Okay. Well, I
11 appreciate those answers. I was struck by the
12 testimony of many of you this morning that one of the
13 principal goals in trying to keep or increase sales
14 volume was to maintain employment, which obviously is
15 a very worthy goal but is distinct from affect on the
16 bottom line, and so I wanted to just parse that out a
17 little bit.

18 So I appreciate your answers on that, and
19 I'll come back the next round.

20 MR. SCHAGRIN: Can I just add, Vice Chairman
21 Aranoff, it's nice to be able to do business with nice
22 people still in the world who actually care about
23 their employees, not just money. It's a rarity.

24 CHAIRMAN PEARSON: Commissioner Lane?
25 You're also a nice person who cares about people.

1 COMMISSIONER LANE: Mr. Schagrín, everybody
2 that appears before us care about their employees.

3 MR. SCHAGRIN: I hope so, Commissioner Lane.

4 COMMISSIONER LANE: Okay. Thank you. I
5 have several questions for you, Mr. Schagrín. In
6 2004, the Commission made a negative determination
7 regarding light-walled rectangular pipe and tube from
8 Mexico and Turkey. I'm glad to hear you say in your
9 opening statement that you don't hold that against us.

10 As you know, subject imports from those
11 countries are also involved in these investigations.
12 In your view, what has changed since the 2004
13 investigations, and why should we therefore make a
14 different determination than we did at that time?

15 MR. SCHAGRIN: The biggest difference,
16 Commissioner Lane -- and I don't hold it against you
17 making a negative vote in that case. In fact, maybe
18 two months after that vote I may have been one of the
19 only counsel in the history of this Commission to
20 actually withdraw a petition. Actually, it was a
21 series of petitions. It was line pipe from China,
22 Mexico and Korea.

23 We saw that profit margins of that industry
24 were also in the 20s in 2004, and we said we're not
25 going to win, why should we waste the Commission's

1 time, our clients' time and their legal fees? Boy,
2 people around town said, are you crazy? Wasting legal
3 fees, that's what we're in this for. Anyway, what's
4 the big difference?

5 The biggest difference, and when the Mexican
6 prehearing brief talked about that case they never
7 mentioned the 2004 profits in that case once, and yet,
8 the profits in that industry in the first half, and I
9 have in my briefcase the Commission's final
10 determination, I believe they were 21 or 22 percent,
11 up from the low teens to into the 20s.

12 The Commission said an industry doing this
13 well is not suffering injury. Now, since that time,
14 in the prelim you did full year 2004. Full year
15 profits were 16 percent, they then went down to 10,
16 back to 11. Now, they're down to six.

17 I would also point out, you know, the point
18 that they've improved since the first quarter, I can
19 tell you we have one CFO in the group, I talked to
20 other accountants, you know, when you get a quarter of
21 data, you haven't gotten all these year end
22 adjustments, and this and that, and things happen in a
23 quarter.

24 When you get to a full year it's obviously
25 much more reflective. So I don't think that this

1 Commission should really place any gravatus at all
2 into the difference between first quarter profits and
3 full year profits. Here, profits declined. They
4 didn't decline because of the decline in demand
5 forcing an increase in per unit production cost.

6 Profits declined for one reason. It's
7 absolutely clear from the staff report profits
8 declined because prices fell. Prices fell because
9 large volumes of imports, subject, unfairly traded
10 imports, consistently undersold the U.S. industry, and
11 the folks around this table who make their pricing
12 decisions said we have to cut prices.

13 Mr. Montgomery said they instituted a
14 foreign fighter program. I think several companies
15 here did this foreign fighter program. Gee, we know
16 people are offering you these cheap imports. We'll
17 give you a special deal. Don't talk about it. We'll
18 give you an extra \$30 or \$50 off. We need some volume
19 or else I've got to shut down my mill.

20 So there's no question here that the
21 underselling caused the price depression, the price
22 depression caused essentially 95 percent of the
23 decline in profits. That's why this is a textbook
24 injury case. To be honest, in 2004, it wasn't. It
25 was a lousy injury case, and sometimes I lose those

1 lousy injury cases.

2 COMMISSIONER LANE: Okay. I have another
3 follow-up question. In the opening paragraph of the
4 Mexican Respondents' prehearing brief, they assert
5 that the domestic industry is healthier today than it
6 was in the preliminary phase of these investigations.

7 Respondents specifically point to increased
8 domestic industry market share between 2006 and 2007
9 and domestic industry profit rates increasing from 5.9
10 percent in first quarter 2007 to 6.4 percent for all
11 of 2007. Taking these numbers into consideration, do
12 you believe the domestic industry is healthier today
13 than it was during the preliminary phase of the
14 investigation? Why or why not?

15 MR. SCHAGRIN: I strongly disagree. That's
16 just not an appropriate characterization. I disagree
17 principally for two reasons. First, as the profits.
18 As I said, trying to compare the quarter of the year
19 is really not a good comparison when you have the
20 chance to compare 2007 to 2006 and 2005 and you do
21 have these adjustments.

22 I would say that you have deterioration in
23 the industry throughout the year. We went from I
24 think two or three producers reporting losses in the
25 first quarter to half a dozen producers reporting

1 losses for the full year. We have an industry that
2 is, you know, definitely struggling.

3 Even though they might have gotten some
4 modest recovery after imports started declining in the
5 fourth quarter we have an industry that displays the
6 fact that it had price depression throughout the year
7 and deteriorating profitability.

8 As to market share, you know, I started
9 representing this industry in about 1982 when we were
10 filing cases because our market share was declining
11 from 95 to 90 percent. Now, we're in the 60 to 65
12 percent range.

13 Essentially, the argument of Respondents is
14 that, gee, you know, as nonsubject imports plummeted,
15 and they really did decline significantly in 2007
16 thanks mostly to our wonderful disappearing dollar,
17 you know, the domestic industry got some market share
18 back. Unfairly traded subject imports didn't take all
19 of the decline in nonsubject imports.

20 It's almost as if U.S. industries are
21 supposed to benefit as nonsubject imports decline. As
22 the dollar declines and countries that trade fairly
23 say I'm not going to sell in the U.S. market given the
24 currency changes, the beneficiaries should be American
25 industry. That's what we're looking for. That's the

1 only chance this economy has of recovering.

2 If we allow unfairly traded imports to come
3 in and take the declines in nonsubject imports we're
4 never going to be able to dig in. So I strongly
5 disagree with the analysis in the Mexican prehearing
6 brief. One final comment. The Mexican brief seems to
7 read the Commission's preliminary determination as we
8 found no injury because, you know, we looked hard at
9 the first quarter data.

10 I read the Commission's preliminary
11 determination as saying we focused on 2004 to 2006,
12 and that's why we're not finding injury. Now, as we
13 look at the first quarter, we're seeing signs that
14 there's a threat of injury. I know, Commissioner
15 Lane, you found injury, the other members of the
16 Commission found threat of injury.

17 If the signs you saw that led you to the
18 threat of injury finding the first quarter of 2006
19 materialize for the whole year then there is injury.
20 So I think that counsel for the --

21 COMMISSIONER LANE: Okay. I have a quick
22 follow-up question on that. The Respondents seemed to
23 be saying that since the majority of the Commission
24 found threat in the preliminary case that we are
25 limited then to threat in this case. Do you agree

1 with that?

2 MR. SCHAGRIN: Of course not. You looked at
3 the final completely anew. I think the record here
4 makes it clear this is now an injury case. I think in
5 the prelim I even argued mostly for threat. I mean, I
6 recognize we've been at this a little while. You
7 know, you don't come into this Commission and say,
8 wow, look at this quarter!

9 I want you to make your whole decision based
10 on a quarter of interim data! You tend to put the
11 most weight on full years of data. Now, we're here
12 with three full years. Actually, now the Mexicans
13 want to extend the period into 2008.

14 I was just saying, and I didn't have a
15 chance to tell you earlier, Vice Chairman Aranoff, you
16 know, when they put in all these announcement by all
17 these companies with their price increases, we're
18 going to try, we're not as big as Vinson & Elkins, but
19 I imagine just weight-wise we might actually be able
20 to give you about 10 times as many steel price
21 increase announcements on flat-rolled steel as they're
22 going to be able to give you on announcements of
23 trying to increase the price of tubing to keep up.

24 So obviously, you know, profit is about the
25 difference between selling price and cost. Can't look

1 at one without the other, just as we always look at
2 supply and demand together.

3 COMMISSIONER LANE: Okay. Thank you, Mr.
4 Schagrin. Mr. Chairman.

5 MR. SCHAGRIN: Thank you, Commissioner Lane.

6 CHAIRMAN PEARSON: Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Thank you, Mr.
8 Chairman. I, too, want to express my appreciation for
9 all of the witnesses who have come here and for their
10 testimony that they've given. It's been very helpful.

11 Just to follow-up on this last point about
12 what has happened to the consumption and prices in
13 2008, and therefore, formally request and suggestion
14 that you give us, you know, each of the company's
15 price increases for the year, for 2008, as well as in
16 the increase in raw material costs or the increases in
17 prices from your suppliers. Mr. Montgomery?

18 MR. MONTGOMERY: Mr. Williamson, I can speak
19 for my company when I say that since the fourth
20 quarter of last year I have paid over \$380 a ton
21 increases for my flat-rolled steel, and my increase
22 announcements to the trade for tubing have amounted to
23 \$280, so I'm \$100 a ton behind the eight ball. I have
24 not recovered all my costs yet.

25 COMMISSIONER WILLIAMSON: Thank you. I

1 don't know if the others want to do it in posthearing
2 to have a more complete --

3 MR. SCHAGRIN: We'll certainly give you the
4 data that you've requested in the posthearing brief.
5 I don't know if anyone wants to comment now, but we'll
6 certainly give you the information you've requested in
7 the posthearing brief.

8 COMMISSIONER WILLIAMSON: I appreciate Mr.
9 Montgomery's quick picture there.

10 MR. SCHAGRIN: He's concerned about that.
11 He owns part of that company, and it's a family
12 company and being \$100 behind the eight ball is not
13 where you want to be right now.

14 COMMISSIONER WILLIAMSON: I can understand
15 that. Thank you. I want to go back to this question
16 of the affects of the consumption decrease in the U.S.
17 market. This question is going to be a little bit
18 complicated, but I hope I can get it out in a way that
19 would be helpful.

20 So between 2005 and 2007 the percentage
21 decrease in domestic capacity, production and
22 shipments and net sales were all approximately the
23 same as the percentage decline in apparent U.S.
24 consumption. So this is from 2005 to 2007.

25 Now, if you look at just from 2006 to 2007,

1 the percentage decline in domestic capacity,
2 production and shipments and net sales were all
3 significantly less than the percentage decline in
4 apparent U.S. consumption.

5 So while from 2005 and 2007 there seemed to
6 be the decline was the same for both the consumption
7 and these other factors, 2006 and 2007, capacity and
8 production all declined less than consumption. These
9 data raise the question of whether the industry's
10 declines in 2007 were merely the expected result of
11 the drop in the market that occurred from 2005 and
12 2007, and especially the drop in market from 2006.

13 Was that the affect or was it really because
14 of the affect of the subject imports? So I wonder how
15 we should evaluate the affects of subject imports
16 versus the changes in demand conditions?

17 MR. SCHAGRIN: I understood the question.
18 It was very clear to me, maybe because I know how this
19 system works, so let me answer it.

20 I would say on the production indicators, as
21 you mentioned, production, shipments, capacity
22 utilization, market share, and I think when you're
23 talking about sales you're probably talking about
24 sales quantities not sales revenues, which did fall
25 more than the decline in consumption, the reason for

1 the industry only essentially mirroring the decline in
2 consumption, clearly the change in nonsubject imports.

3 I mean, we had a very large decline in
4 nonsubject imports between 2006 and 2007. Those
5 nonsubject imports, as the Commission knows, are a
6 combination of Mexican producer that was excluded
7 based on the negative prelim, the Korean producer and
8 then imports from all other countries, most of which
9 are from Canada. Steep decline.

10 However, because subject imports were still
11 increasing in terms of market share, the domestic
12 industry still didn't get all the benefit. That's why
13 the domestic industry didn't fall further. It was
14 because of the big decline in nonsubject imports.

15 I would argue to you, as both a condition of
16 competition and/or Bratsk analysis, the fact that the
17 industry didn't benefit as nonsubject imports, because
18 of what was happening with subject imports supports an
19 injury determination.

20 Further, Commissioner Williamson, one item
21 that declined significantly greater than any declines
22 in consumption is the decline in average prices and
23 the decline in revenues. I think consumption was down
24 about seven percent. Revenues declined about 12
25 percent. That was because of the combination of lower

1 volume.

2 The pricing decline, and I think the record
3 in this case is overwhelming that when you, you know,
4 move on down the charts and you start looking at gross
5 units values having changed by \$50 a ton; costs of
6 goods sold, no change; reduction in profits, \$50 a
7 ton; reduction in profitability, 50 percent; that was
8 caused by the subject imports.

9 There was no reason without any of their
10 costs declining that folks around here would have had
11 foreign fighter programs if it weren't for the subject
12 imports. So that's the way I would explain the data
13 relative to the decline in consumption.

14 COMMISSIONER WILLIAMSON: Thank you for that
15 answer. On industry concentration, other domestic
16 steel industries have consolidated significantly in
17 the last five to 10 years often leaving a few dominant
18 producers. By contrast, there have been relatively
19 few combinations in this industry. The domestic LWR
20 industry still appears quite fragmented. Is there any
21 explanation for this?

22 MR. MEYER: Well, there has been some
23 consolidation with the Carlyle Group. And most things
24 that have happened, I'll be quite frank with you, when
25 you're looking at the decline in profits and whatever

1 it has to do with the imports that are bought in here
2 unfairly, if Roy does not, in some cases, make it
3 advantageous to look at these companies and purchase
4 these companies and make an investment in these
5 companies, just as you would look at your own capital
6 to improve in this marketplace when you have things
7 coming in that are unfairly traded, it makes it
8 difficult to make those decisions.

9 Therefore, that's probably why some
10 consolidation in this business has not happened.

11 MR. MANDEL: I would concur with what Jack
12 said. If you relate it again to the broader steel
13 industry and the consolidation that's taken place
14 there really since the start of 2001, it's somewhat
15 coincident in timing with the Section 201 case that
16 I'm sure you're both familiar with, and that, I don't
17 believe was about unfair trade.

18 It was about the incredible volume of
19 imports that were coming into the U. S. marketplace.

20 After relief was granted, under the 201
21 provision, was really when you saw the waive of
22 consolidations occurring. Here, what we have, is
23 unfair trade.

24 And nobody, in my view, would be willing to
25 put money into acquiring companies that have been

1 performing as ours have. My strongly held view is a
2 consequence of these injurious imports.

3 MR. DUSTMANN: I would just add that we've
4 looked at a number of distressed companies over the
5 past couple of years. Generally, the industry
6 operates very efficiently.

7 It's not a case that you can go in and look
8 at the company and say we're going to improve the
9 efficiencies of the operations.

10 The issue is: How do you acquire a company
11 when the selling price from many of their products is
12 controlled by what's coming in from off-shore?

13 As the examples that have been given, when
14 you have product arriving at pricing that's cheaper
15 than our steel sources, it's difficult to justify to
16 ourselves: How do you possibly consolidate at any
17 price, and even in particular to financing sources?

18 On what basis do you justify investing money
19 when you have no control over the profitability
20 because of the imports coming in at such low prices?

21 COMMISSIONER WILLIAMSON: Thank you for
22 those answers.

23 I want to turn to another question. I was
24 very impressed. I think if was both Mr. Mandel and
25 Mr. Schagrin mentioned that many of your factories are

1 located near major steel producers, or right next I'm
2 saying. What about for the Los Angeles companies,
3 where do you get your steel raw material from?

4 MR. SEARING: For our company, literally,
5 maybe ten miles away. That's where we get the
6 majority of our product, that's CSI in Fontana,
7 California.

8 MR. LIND: I would concur that the majority
9 of our hot-rolled product coil comes from CSI out of
10 Fontana.

11 There is another steel producer located in
12 northern California that is our primary source for
13 cold-rolled steel coil; and that is a joint venture
14 between U. S. Steel and U. S. S. Posco in Pittsburgh,
15 California.

16 Those are not the only two suppliers that we
17 have, but those are the two primary.

18 MR. KNOX: I would have to echo Mr. Schagrin
19 and Mr. Lind. The California steel industry, which is
20 in Fontana, is our primary supplier for hot-rolled
21 products. The cold is pretty much split between U. S.
22 Steel and California Steel.

23 COMMISSIONER WILLIAMSON: So while you may
24 not have an SPA position, as some of your colleagues
25 in the east, you do have reasonable access to (not

1 audible)?

2 MR. KNOX: Yes, we do.

3 COMMISSIONER WILLIAMSON: Okay, thank you.

4 CHAIRMAN PEARSON: I'd like to anticipate
5 some of what the Respondents may tell us this
6 afternoon and ask questions that might be on their
7 minds.

8 This will follow-up on part of what
9 Commissioner Williamson was asking about. It gets
10 directly to causation. I look at this record and what
11 I see, painting with a broad brush, is that apparent
12 consumption rose, this is demand again, apparent
13 consumption rises in 2006 relative to 2005, and
14 operating income also rose for your industry.

15 Apparent consumption fell in 2007, and
16 operating income also fell. Then we look at what was
17 happening with subject imports.

18 Subject imports rose in 2006. Yet, your
19 operating income also rose. Then, in 2007, subject
20 imports fell and your operating income also falls.

21 Total imports are rising and falling in line
22 with apparent consumption. As I try to untangle this,
23 it is hard for me to make an argument that your
24 industry is affected directly by overall consumption
25 in the marketplace. I'm having a hard time making the

1 link with what's happening to your industry and what
2 is happening with subject imports.

3 Could you comment on that, please?

4 MR. SCHAGRIN: Yes, Chairman Pearson, I'll
5 start because it's apparent that you're not only
6 painting with a broad brush but the wrong brush
7 because, unfortunately --

8 CHAIRMAN PEARSON: I've done that before.

9 MR. SCHAGRIN: That's all right. We all
10 have, we all have. We all have to change our brushes
11 now and then. It's just the nature.

12 Because it's just too simplistic and it
13 escapes the effect of the imports even when the
14 industry's profit margins were decent, but they were
15 suffering on the production and volume factors. And
16 that's because of the fact that, while imports
17 increased between 2005 and 2006, and while consumption
18 was increasing, U. S. production shipments deployment
19 were already declining.

20 It didn't have an effect while they were
21 increasing directly on profit margins that year, maybe
22 because of stronger consumption, and this is pretty
23 apparent in the quarterly pricing data, but it appears
24 --

25 CHAIRMAN PEARSON: But, in fairness, Mr.

1 Schagrin, I'm seeing an increase in production
2 quantity for the U. S. industry between 2005 and 2006.

3 I apologize to those of you here who don't
4 have access to the confidential data, but we can talk
5 in broader terms.

6 MR. SCHAGRIN: You're right. I'm seeing a
7 1% increase in production quantity, but a .2% decline
8 in U. S. shipments between 2005 and 2006. And, then,
9 I'm seeing a 7.5% decline in production workers, and a
10 6% decline in hours worked more or less.

11 I know it's not your fault. It's printing
12 costs, but it just seems over the years the numbers on
13 these Schedule C pages keep getting smaller and
14 smaller.

15 CHAIRMAN PEARSON: Stop, I've got you.

16 MR. SCHAGRIN: Right, okay. Well, you can
17 tell they're hanging around my neck now because I
18 forget it too often.

19 But I would tie it into the pricing data.
20 And these folks can tell it to you because they're in
21 this business every day. I'm just really looking at
22 data, is that it's pretty apparent through 2006, while
23 demand was increasing, profits were fairly flat. I
24 recognize they increased a little bit, but that the
25 pricing for the industry was pretty flat and while

1 there was a lot of underselling, nobody was cutting
2 their prices until maybe the fourth quarter of 2006
3 for volume reasons.

4 Now, you and I could debate whether in 2007,
5 when you have for the pricing products let's say on
6 average \$70, \$80 declines whether that was a result of
7 just the decline in demand or the effect of the
8 imports?

9 But these folks answer that clearly because
10 at the beginning of 2007, as the imports were really
11 pouring in, and we had a 30% increase in imports in
12 the first quarter of 2007 of subject imports, you have
13 a lot of producers starting to cut prices in order to
14 try to maintain volume.

15 So they were cutting prices not because
16 demand was falling, but in response to import pricing.
17 So I would say to say that industry profits fell by
18 more than 50%,. even though imports were declining,
19 imports only declined because of the filing of these
20 cases in June.

21 It doesn't break the causation nexus, which
22 is: We have, and it's very nice that it just happens
23 to follow the statute passed by the Congress of the
24 United States. This Commission is supposed to
25 determine: Were the imports underselling the U. S.

1 industry? The clear answer: Yes. It's in page after
2 page here.

3 Did the underselling cause U. S. price
4 depression? I submit to you, no matter what my
5 opposing counsel makes up to try to explain it,
6 nothing will demonstrate, based on this record and the
7 testimony of ten witnesses with 300 years experience,
8 that it was the decline in consumption rather than the
9 price underselling that caused the steep price
10 depression and the drop in profits.

11 I think that's your causation story wrapped
12 up with bows on it. This is just not a: Gee, it's
13 other factors. It's demand that affects this industry
14 and not subject imports. The subject imports are also
15 large. You know that the actual numbers are
16 confidential, but they are a very large share of this
17 market.

18 CHAIRMAN PEARSON: Are you making an
19 argument that there is some lag effect between an
20 increase in subject imports in our record and the
21 effects that those imports have on the U. S. industry?

22 Because, of course, that's one of the things
23 that is difficult to discern when you divide that
24 period of investigation just into three years and,
25 depending on where the year lines are drawn, you may

1 or may not reach a different conclusion?

2 MR. SCHAGRIN: There's clearly some lag in
3 this industry, I mean given the way pricing is done to
4 customers and the reaction time between distributors,
5 like Mr. Rachel, who are seeing pricing, who are
6 losing business to distributors who are carrying
7 imports, who are hearing from customers: If you don't
8 reduce the prices you're selling me domestic product
9 for, I'm going to buy from a distributor who is
10 selling imports. It does take some time for that
11 information to go through the marketplace.

12 CHAIRMAN PEARSON: Right, for purposes of
13 this investigation, you haven't tried to develop an
14 argument along that line?

15 MR. SCHAGRIN: No, and I actually don't
16 think it's necessarily the causation. I think it's
17 normal.

18 The lag is just one or two quarters. It's
19 not a huge lag, and it would be more important if you
20 had interim data and you were trying to look at what's
21 happening in a quarter. But here, with three full
22 years of data, the fact that yes, the very high
23 imports -- by the way, the increase in 2006 imports
24 were mostly in the latter half of 2006.

25 They continued in the first part of 2007;

1 and, yes, the bulge in imports towards the end of
2 2006, obviously, would have more impact in 2007 than
3 they would have in 2006.

4 I'm making a lag argument. We'll expand on
5 it in the post-hearing brief.

6 CHAIRMAN PEARSON: Okay. Because I'm still
7 grappling, as you can imagine, with just the raw
8 numbers here that show that as subject imports rise,
9 the domestic industry does better, and vice versa.

10 MR. SCHAGRIN: Yes, they don't although --

11 CHAIRMAN PEARSON: As imports fall, the
12 domestic industry does worse. So, just looking at
13 that, it's hard to see the nice clean causation that
14 would allow us, with great comfort, to make an
15 affirmative finding on the basis of this record.

16 MR. SCHAGRIN: You just need to change your
17 brush, Chairman Pearson, because it's right there on
18 these same pages because of the fact that when you say
19 we see imports increasing, we're seeing the domestic
20 industry do better, then you're not taking into
21 account the fact that you also have a 7% increase in
22 consumption.

23 So, once again, I don't think you can just
24 look at: Well, gee, when imports are increasing, these
25 guys aren't. Because it's not just when imports are

1 increasing, it was when demand was increasing.

2 CHAIRMAN PEARSON: Well, that isn't the
3 point. It looks to me likes it's the changes in
4 demand that are driving this bus, and both the
5 domestic industry and imports are pulled along with it
6 with varying effects.

7 That's why it's not so clear to me that it
8 what's happening in the imports that are affecting the
9 domestic industry.

10 Please, Mr. Mandel, be mindful that my
11 yellow light is on.

12 MR. MANDEL: Okay, I'm on. You're talking
13 about causation, and I can tell you that our sales
14 staff, the people who are out in the field, I can't
15 ever remember them coming back to me and saying in the
16 period in question, that customers would say to them:
17 Gee, the price has to come down because we're not that
18 busy.

19 The price has to come down because the
20 Chinese or Mexican product is all the way down here.
21 And Unless you get your price over here, we're not
22 going to be able to do business.

23 In other words, it wasn't that the activity
24 level was necessarily dampened, the reference that
25 constantly, exclusively, was to where the imported

1 price was.

2 CHAIRMAN PEARSON: I appreciate that this
3 may well be far more a price case than a volume case,
4 in which case you might want to elaborate on that.

5 Madame Vice Chairman?

6 VICE CHAIRMAN ARANOFF: Thank you, Mr.
7 Chairman.

8 I'm tempted to follow-up on that question,
9 but I think I may actually do it in writing because
10 it's going to require some slicing and dicing anyway,
11 so it's probably more appropriate to the post-hearing.

12 Let me turn instead to a different question,
13 to benefit from the fact that we have producers in
14 front of us today who produce in some many regions of
15 the country.

16 Our data show that subject imports from
17 Mexico are highly concentrated in the central
18 southwest region. I wanted to ask the producers here
19 who are selling the product: Have you seen subject
20 imports from Mexico competing in other regions of the
21 country, so that means other than the excluded
22 producer PROLAMSA?

23 If so, can you give us any specific examples
24 of how competition from subject imports from Mexico
25 has affected your sales in parts of the country

1 outside that region, Mr. Montgomery?

2 MR. MONTGOMERY: Thank you. I see imports
3 from Mexico all the way up the east coast, as far
4 north as Baltimore.

5 I'm not very active in this market here in
6 D.C., but I see them in South Carolina, North
7 Carolina, Virginia, all up the east coast, at
8 ridiculous prices. Now, how can they get from there
9 in Mexico all the way up to the east coasts at those
10 costs, I don't know.

11 VICE CHAIRMAN ARANOFF: Okay, Mr. Meyer?

12 MR. MEYER: Our plant in Missouri actually
13 has, as I mentioned in my presentation, as I said,
14 caters to the Oklahoma, Texas, Mississippi area.

15 That is one reason why we have closed down
16 one of our mills in that plant because of the unfair
17 imports from Mexico. We have also seen this product
18 as much into Kansas and all the way into Chicago.

19 In fact, we haven't talked about it. I
20 didn't, but our plant in Chicago, which makes the same
21 product, is certainly not growing and is down from
22 where it has been in these struggling times.

23 VICE CHAIRMAN ARANOFF: Okay, Mr. Kurasz?

24 MR. KURASZ: All right. Our plants in
25 Philadelphia and Pine Bluff, Arkansas, support the

1 southeast market.

2 We see competition coming in from Mexico,
3 certainly in the galvanized products into the carport
4 industry, which is predominantly in the southeast.

5 VICE CHAIRMAN ARANOFF: Okay.

6 MR. BAKER: I'm Glen Baker with Searing
7 Industries. We see a lot of this product in Utah and
8 Colorado as well.

9 VICE CHAIRMAN ARANOFF: Okay. Well, I guess
10 I would ask, for the post-hearing, whatever you can
11 give me to sort of document how much Mexican product
12 you've seen; and the further from the Mexican border
13 you've seen it, I think would be very helpful to us in
14 assessing the issue of regional concentration and the
15 regional effect of that product.

16 In particular make sure that we're talking
17 about the subject Mexican product and not the non-
18 subject Mexican product.

19 Sort of the flip side of that same question:
20 Have any of you seen imports from the other subject
21 countries, China, Turkey, Korea, competing with
22 imports from Mexico in the central southwest part of
23 the country?

24 Pause.

25 MR. MONTGOMERY: Most certainly. The gulf

1 region is a hot bed for imports as is the west coast.

2 You have so many ports like Houston, Tampa,
3 Mobile, New Orleans. These ships come over from
4 whatever destination, be it Korea, Turkey, China and
5 they make a loop.

6 They stop at different ports and they all
7 float their material, and they discharge them there in
8 those different ports, so it's widespread.

9 VICE CHAIRMAN ARANOFF: Okay. Let me move
10 on to another question, though.

11 Mr. Kurasz, did you want to add something?

12 MR. KURASZ: The only thing that not in the
13 southwest, but in the southeast, we've seen imports
14 from China competing with the imports from Mexico.

15 VICE CHAIRMAN ARANOFF: Okay.

16 The Respondents have characterized subject
17 imports from Mexico as a steady presence in the U. S.
18 market in terms of volume and market share, so a
19 couple of questions.

20 One is: Would you agree with that that
21 they've had a fairly steady presence in terms of
22 volume and market share? Has that been your
23 experience?

24 If that is true, have their pricing
25 practices changed, or have those been fairly steady,

1 in your experience?

2 And: Is there something different about the
3 way that Mexican producers versus Canadian producers
4 do business in the U. S. market that essentially has
5 led you to put the Mexican producers in the case and
6 leave the Canadian producers out of the case?

7 But can we start with the business folks
8 that see the Mexican product and let me know. Do you
9 see them as a steady presence in the market?

10 MR. RACHEL: I'll start with that one. Yes,
11 we do. Having the locations that I have across the
12 southern tier of the United States and, then, also on
13 the west coast, the Mexican import product, it's a
14 daily occurrence for us.

15 We concentrate on two or three major
16 industries that have been mentioned here before. And
17 the amount of product that appears to be coming in
18 continues to rise.

19 I think that, as some industries have
20 matured, more of these producers have decided the only
21 way that they're going to survive is to actually
22 participate in buying some of this import product.

23 What has happened now is more and more of
24 that product seems to be coming in to the United
25 States, either as a full-length tube right off the

1 mill , or in a box that has already been partially
2 fabricated.

3 To that end, in one our industries in
4 particular, we have seen in the past six weeks that
5 prices have continued to decline on the finished goods
6 out in the marketplace.

7 So the practice continues even today when
8 all of us are struggling tremendously with rising
9 steel costs; domestically, we're still seeing the
10 other prices continuing to decline.

11 MR. MEYER: Our Gerald facility, as I said
12 in my brief, has been there since 1964; and our
13 average employees are 58 years old. They have 25
14 years expedience in the mill at least, and we're a
15 very efficient operation out of Gerald, Missouri.

16 We have shut down several mills at that
17 plant. One recently, as I quoted, in the last could
18 of years because of the fact that we can longer
19 compete in the Oklahoma-Texas-Mississippi area,
20 because of unfairly traded Mexican product coming in.

21 I know we all say this but we're one of the
22 most efficient manufacturers there. We find it very
23 questionable why this is happening except the fact
24 that the product is just unfairly traded in those
25 areas.

1 MR. MANDEL: I come to your question with
2 maybe a bit of a unique background being both a
3 Canadian producer and a U. S. producer.

4 With the U. S. plants that we now operate,
5 we have better visibility to what the Mexican pricing
6 policies are like.

7 I can tell you that, and hopefully my
8 competitors would not disagree but you might want to
9 ask them, when we priced the product out of Canada, we
10 first ascertain where is the U. S. price on any of the
11 given products? As needed, we try to get to that
12 price.

13 Our experience with the Mexican price is:
14 They try to ascertain where the U. S. price is and get
15 underneath it. To me, those are two dramatically
16 different policies.

17 I think it would be fair to say that in all
18 the time that I've been familiar with Mexican pricing
19 policies, they have always, always, been below the
20 U. S. price. The question now is a matter of degree
21 and having growth.

22 MR. SCHAGRIN: Maybe, Vice Chairman Aranoff,
23 by virtue of some history with, as the Mexican Embassy
24 officials having brought cases against Mexico on
25 several occasions, when we brought the first cases,

1 imports from Mexico were 20,000 tons annually.

2 These imports are up to 150,000 tons. I
3 recognize there is a difference between subject and
4 non-subject. I would point out, though, in contrast
5 to the decline in U. S. consumption and U. S. demand
6 between 2006 and 2007, look at the trend of subject
7 Mexican imports; and don't think they were following
8 the trends in U. S. consumption.

9 So, in general, to the extent that over the
10 POI, they are somewhat stable, they're remaining at
11 very high levels in a market that is now declining,
12 which is why their market share is increasing; and
13 they're very disruptive on pricing because they are,
14 on average, underselling the U. S. industry by 10% on
15 price just as was commented upon.

16 That is very significant and that causes
17 price depression.

18 VICE CHAIRMAN ARANOFF: Okay. Thank you all
19 for those answers.

20 CHAIRMAN PEARSON: Commissioner Lane?

21 COMMISSIONER LANE: I'm going to go back to
22 a statement Mr. Pierce made in his opening statement
23 that all of the industry had put price increases in
24 effect 2008. I would like to explore that a little
25 bit.

1 Were you able to put price increases in
2 effect; and, if you have, when did they actually go
3 into effect? Just explain to me a little bit more
4 about that issue.

5 MR. SCHAGRIN: The 2008, where you've seen
6 significant price increases on flat-rolled product,
7 which is 65-70% of our cost, and we've seen price
8 increases from our steel producers here over \$100 a
9 ton if not more, and we continue to see those.

10 There is just absolutely no place to go but
11 raise those prices accordingly. The increases, as
12 John said, are over \$300 a ton, if not more. Our
13 margins aren't even close to \$300 a ton. So you've
14 got to go ahead and price those through.

15 I also content or will say at the end of the
16 day, it really doesn't mean that much in regards to
17 the difference in profitability because we're looking
18 at the price that we're charged for the product and
19 the raw material cost.

20 At the end of the day, that probably won't
21 change very much.

22 MR. KATSAFANAS: I'd like to look at it in
23 just a little different way. We make three products.
24 We make structural tubing; we make the product that
25 we're discussing, the mechanical tubing; and we make

1 structural pipe.

2 Currently, our yield on mechanical tubing is
3 the lowest. It should not be that way from a common-
4 sense point of view because you pay the same for the
5 steel, but you don't get as much productivity per man
6 hour. The reason we can't is because of the
7 underselling of foreign products still.

8 Other than that, I would say, Commissioner
9 Lane, we'll put this in the brief is that there
10 information on the record that in 2007 members of the
11 domestic industry attempted price increases to stem
12 this hemorrhaging of price; and those 2007 price
13 increases were unsuccessful.

14 In 2008, there is no question that there
15 will be some success in increasing prices because
16 flat-rolled prices have probably gone up by now. As
17 of May, I think there was something in the paper, in
18 the last couple of days, that they finally hit the
19 \$1,000 a ton mark.

20 We were marveling last night at dinner: Did
21 anyone around this room, and some people had over 40
22 years experience, 35 years, 30. Did anyone ever think
23 they would ever think they would see hot-rolled sheet
24 at a \$1,000 a ton. Now that's what the base price is
25 for hot-rolled sheet.

1 Of course, we know that they're a lot of
2 cost pressures there in the steel industry as well.

3 So the real question going forward, which
4 there is very little information in this record, is:
5 With these cost increases, will the industry be able
6 to have any success in passing those along, or will it
7 just unleash, if you were to make negative
8 determinations, a mass of surging imports.

9 For example, there is a steel bench marker
10 service. It now shows that the difference between the
11 place of hot-rolled in China and the United States is
12 roughly \$250 to \$300 a metric ton.

13 So, as these costs are going up for the U.
14 S. industry, if you were to make a negative
15 determination, where is the flood of unfairly traded
16 imports? It is going to be so much worse than it was
17 during the period lodged.

18 COMMISSIONER LANE: Mr. Schagrín, to the
19 extent that we don't have the information in the
20 record right now, can you provide what kind of price
21 increases you are hoping to put into effect, and
22 provide the increased costs that go along with that,
23 so that we can see how the increase in prices compare
24 to the increase in your costs?

25 MR. SCHAGRIN: We will do that, Commissioner

1 Lane.

2 Commissioner Williamson, I think had make a
3 similar request. We will certainly give you, in the
4 post-hearing brief, an exhibit of the price-increase
5 announcements from these mills on their ornamental
6 tubing, and the price-increase notices that they have
7 received from their steel suppliers.

8 COMMISSIONER LANE: Okay.

9 MR. SCHAGRIN: I think you'll see that there
10 is a difference in that price increases on the tubing
11 as not as high, as Mr. Montgomery mentioned, as the
12 price increases on the steel.

13 COMMISSIONER LANE: Mr. Rachel, did you want
14 to say something?

15 No, I'm sorry. Mr. Mandel?

16 MR. MANDEL: If I may, just very hopefully.

17 The steel price increases, the raw material
18 cost increases, that we all in this room have incurred
19 since January 1st, to announced prices for June, is
20 essentially 100%.

21 So what you're talking about is an item in
22 your cost structure that represents, what did we hear
23 Jack say, 65 before. For some of us, it's higher than
24 that. Between 65 and 75% of your cost structure has
25 just doubled in costs in the last six months.

1 There is an inference that by putting your
2 prices up, there's something wrong here. If we don't
3 put our prices up, let me assure you, as candidly as I
4 can, that we will be out of business tomorrow. It's
5 beyond survival at that point.

6 COMMISSIONER LANE: Okay. I have a follow-
7 up question on something that Mr. Pierce said that you
8 should be satisfied with a 10% return on your capital
9 investment.

10 I would like you to give me your opinion as
11 to what kind of return on your capital investment is
12 really necessary for this industry in order to make
13 the improvements that you need to do?

14 MR. DUNCAN: The comment with regards to a
15 10% return on our investment --

16 COMMISSIONER LANE: That's right. Would you
17 start off again.

18 MR. DUNCAN: The comment with regards to a
19 10% return on an investment, and I think you
20 referenced it as an individual.

21 As an individual, I would love to receive a
22 10% return on an investment, in particular from a bank
23 with no risk. But, in our business, there is
24 significant risk.

25 We don't control that risk from a pricing

1 perspective. From our perspective, we look at a
2 minimum return on investment of 25%.

3 Why 25%?

4 Because of the level of risk of where this
5 market is going. And, in particular, when you look at
6 the trend of this market over the past couple of
7 years, you have to have that level of return going
8 into a project because you just don't know where it is
9 going to go in the next year or two.

10 That is why when we made the investment in
11 Cosa Grande, as Jack alluded to in his testimony, in
12 2005, we fully expected to be into this marketplace in
13 production in 2006 and 2007. It's well documented.

14 But what took place in the market since then
15 has basically said: No, you can't make that investment
16 at this point in time.

17 It's not that large of an investment in the
18 first place. We simply can't justify it because of
19 the level of risk, at this point in time.

20 COMMISSIONER LANE: Does anybody else want
21 to add to that?

22 MR. MANDEL: I do. Depending on the
23 investment, we, in fact, sometimes demand a faster pay
24 back, as we call it, or a faster return, as fast as
25 50%. In other words, two years on the spending of

1 major capital.

2 The acquiring of a facility of an entire
3 operation would be looked at differently. But if we
4 were all to adhere to a 10% return, nothing in this
5 country would ever get built. You'd just be parking
6 your money in equities, or in the bank.

7 As was just said: Nobody would build
8 anything today for that kind of meager return.

9 COMMISSIONER LANE: Mr. Katsafanas, you said
10 that in July of 1007, you closed some of your
11 facilities I think in Illinois.

12 MR. KATSAFANAS: Yes.

13 COMMISSIONER LANE: Could you tell me how
14 many employees actually lost their jobs because of
15 those closures?

16 MR.KATSAFANAS: Okay. We didn't close a
17 facility. We closed two mills within our facility.
18 Direct labor was probably ten people; and
19 indirect, probably another three.

20 COMMISSIONER LANE: I'm sorry. Indirect?

21 MR. KATSAFANAS: Indirect, probably three.

22 COMMISSIONER LANE: Okay.

23 MR. KATSAFANAS: So, thirteen people.

24 COMMISSIONER LANE: Okay. Now I have
25 another quick question for Mr. Knox. You all went to

1 an ESOP. I'm sorry.

2 CHAIRMAN PEARSON: That would be Mr. Lind
3 here.

4 COMMISSIONER LANE: Okay, I did have that.
5 I just wasn't looking correctly.

6 Did you do a business plan before you did
7 the ESOP, to show exactly what kind of return you are
8 going to have in order to make this a successful ESOP?
9 And, if you did, could you provide that to us post-
10 hearing?

11 MR. LIND: I would have to get back, through
12 counsel, and then get back to you on the response to
13 that.

14 We're trying to obtain what we can from
15 Hannibal, Commissioner Lane, and put that in a post-
16 hearing brief. We'll also comment having worked for
17 Weirton Steel for many years, which I know is an ESOP
18 you're familiar with. I was familiar with that even
19 at the time National Steel.

20 When companies create ESOPs, it's generally
21 because they can't sell them to anyone else in the
22 market, which was the case with Weirton, and likely
23 the situation with Hannibal. I hope that the
24 employees at Hannibal do better than the employees at
25 Weirton.

1 COMMISSIONER LANE: Okay, thank you.

2 Thank you, Mr. Chairman.

3 CHAIRMAN PEARSON: Commissioner Williamson?

4 COMMISSIONER WILLIAMSON: Thank you, Mr.
5 Chairman.

6 This will be for post-hearing. The Mexican
7 Respondents cite the role of maybe particular U. S.
8 producers having a significant effect on the price of
9 galvanized LWR. This is a BPI, discussed in pages 15
10 to 21, of Respondent's brief. Please respond in the
11 post-hearing to that.

12 MR. SCHAGRIN: We will do so, Commissioner
13 Williamson. I may have to check with the attorney
14 here. We use the data and we're sensitive to even
15 when an opposing party raises something about one our
16 clients, BPI information, even raising that with them.

17 I think we should be able to address it by
18 just looking at the already BPI information available
19 to us.

20 If not, I will talk to the attorney in the
21 case and see, based on your question, if we're allowed
22 to ask any information from a specific U. S. producer
23 about a point raised in the brief.

24 COMMISSIONER WILLIAMSON: Thank you.

25 Looking at 2008 developments, I was

1 wondering: What has been the effect of China's
2 imposition of an export tax on steel products,
3 including LWR?

4 MR. SCHAGRIN: We would have to say, in
5 terms of LWR, where they changed rebate policies
6 several times.

7 Once April 1st, then July 1st of 2007, and
8 then they just imposed the export tax on January 1,
9 2008 that we've already got the preliminary
10 countervailing duties.

11 In November of 2007, there was obviously a
12 lot of fear in the marketplace that dumping duties
13 would be high. Fortunately, in January 2008, very
14 high dumping duties were announced. Of course, there
15 were critical circumstances found as well that the
16 elimination of the rebates in July had no effect.

17 I think you can see from the public data on
18 imports from China, which is also in Exhibit 1 of our
19 brief, that imports actually increased significantly
20 even after the rebates were changed.

21 We don't think that one can really evaluate,
22 Commissioner Williamson, the effect of the export tax
23 since the impact of the unfair trade duties is so much
24 more significant.

25 I would just comment in general, though,

1 because this comes up very often. There is a lot of
2 debate about: Should we be asking China increased
3 import taxes on everything as a way to decrease their
4 exports to the United States?

5 In terms of the economics, they have a
6 higher export tax on flat-rolled steel than they do
7 have on pipe and tube.

8 If it does in fact reduce their exports of
9 steel because they have imposed this export tax. What
10 happens is: The difference, then, of having more
11 supply in their home market of steel compared to
12 demand, depresses prices further compared to the world
13 market.

14 So that, in effect, they're just increasing
15 the difference between their own home market prices
16 and the world market prices more than the new export
17 price on pipe and tube.

18 So that's what we're actually seeing in
19 products that are not covered by trade cases that the
20 exports of pipe and tube are still increasing.

21 COMMISSIONER WILLIAMSON: Thank you.

22 What about the other costs in China? Are
23 they going up relative to say the rest of the world in
24 other markets, particularly as regard to this product?

25 MR. SCHAGRIN: I didn't say -- it's just

1 that steel is so much by far the largest cost element
2 in these products, even though with the U1 (ph) now
3 finally depreciating somewhat, they cost seven to the
4 dollar today, that the increases in labor costs where
5 commerce now uses an \$.83 per hour, maybe as the U1
6 (ph) changes, their real costs of labor now \$.90 an
7 hour. They are having increased costs. They're
8 having increased costs for energy.

9 But, in terms of competitiveness for this
10 industry, the steel cost component is so significant
11 that with the huge difference between Chinese steel
12 prices and world steel prices that none of the other
13 changes will have any impact on the U. S. pipe and
14 tube industry.

15 COMMISSIONER WILLIAMSON: Thank you.

16 I just want to turn to critical
17 circumstances.

18 Before you use critical circumstance
19 allegations, are you requesting that the Commission
20 look at a time period that is shorter than what we
21 traditionally consider, six months before and after
22 filing the petition.

23 If so, why should the Commission depart from
24 its usual practice in this case?

25 MR. SCHAGRIN: I believe the Commission,

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1 when you are looking at the six months before and six
2 months after, you're looking at the impact on the U.S.
3 industry and whether the failure to impose critical
4 circumstances will make the imposition of the order
5 less effective in repairing the injury.

6 So I think we're not disagreeing with you so
7 the six months is six months. That time period is
8 perfectly fine. Obviously, the Commerce Department,
9 in determining on their basis whether critical
10 circumstances exists or not, uses three months and
11 three months. But no, we are not asking for any
12 change in the Commission's normal analysis.

13 COMMISSIONER WILLIAMSON: Thank you; I have
14 no further questions at this time, Mr. Chairman.

15 CHAIRMAN PEARSON: I have a couple of
16 questions for the purposes of the post-hearing,
17 really. But let me put them out there now. Both of
18 these have to do with the question of, in a threat
19 determination, whether or not Mexico should be de-
20 cumulated.

21 The first one, comparing the decision we
22 have now to the decision in the prelim, is the case
23 for de-cumulating stronger or weaker than it was then?
24 I would note that PROLAMSA is no longer a subject
25 producer.

1 MR. SCHAGRIN: It's in closing brief, but I
2 can also give you some comments now, Chairman Pearson,
3 and it's stronger.

4 CHAIRMAN PEARSON: A quick response would be
5 fine.

6 MR. SCHAGRIN: Okay, it's stronger, and
7 we'll get into this as we do the work with the
8 confidential. But the main reason is because when you
9 take PROLAMSA out -- and, of course, I know we're
10 going to have an opportunity to add some briefing on
11 this as we get the Commerce final determinations as to
12 Mexico; whether in the end, PROLAMSA and Hu Steel are.

13 But now, because you have to vote on Turkey
14 first, we believe it is strengthened. Much of the
15 analysis of the majority of the Commission that did
16 cumulate Mexico for threat purposes, besides looking
17 at the statutory factors then, because threat is
18 discretionary, the Commission focused in its
19 discretion on the similarity pricing and under-
20 selling.

21 I would just say as a general
22 characterization that the similarity of pricing of
23 subject imports and under-selling by subject imports
24 now with other subject imports is a much stronger
25 correlation in the final than it was in the

1 preliminary.

2 CHAIRMAN PEARSON: Okay, and I'll note, too,
3 I think we may know more now about the geographic
4 concentration of Mexican shipments. So that would
5 also be something that I think is different than the
6 prelim.

7 The other question has to do with the
8 comment made this morning by representatives of the
9 Government of Mexico; that the North American Steel
10 Trade Committee exists.

11 The question that I have then, does this
12 present a different condition of competition,
13 something that's unique? I don't know that we've seen
14 something like this in pervious cases. Should that be
15 a factor that we might weigh in deciding whether to
16 exercise our discretion to cumulate Mexico for
17 purposes of threat?

18 MR. SCHAGRIN: I think most certainly not.
19 I'm actually a member of that committee; and gee, if
20 it has any impact, I'll withdraw immediately.

21 Because you know, I look at this, as all of
22 NAFTA; and to be honest, I personally, but more
23 importantly, most of the Petitioners here. are members
24 of a trade association called the Community on Pipe
25 and Tube Imports, supposed NAFTA.

1 I recognize, because I supposed NAFTA, that
2 means I can't be the Democratic nominee for President;
3 but that's okay.

4 CHAIRMAN PEARSON: I can't, either. You and
5 I have that in common.

6 (Laughter.)

7 MR. SCHAGRIN: That's okay. The country is
8 probably better off.

9 But you know, it's fine within NAFTA for
10 various NAFTA, steel industry, participants to say,
11 let's talk about ways to ease Customs entry, the truck
12 weighting time periods and things like that, which is
13 a lot of focus; or let's try to integrate import
14 licensing systems, so we can all see what imports are
15 coming into the NAFTA countries.

16 It doesn't change the competition between
17 U.S., Mexico, and Canada, and I don't think it's a
18 condition of competition which in any way affects the
19 way Mexican producers compete in the U.S. market, and
20 what their pricing is or price affect.

21 I heard that. As I say, I am a supporter of
22 NAFTA. But I'm absolutely certain that when Congress
23 passed the NAFTA and didn't change anything in the
24 trade laws except the addition of the Chapter 19
25 panels; that they didn't think anything coming out of

1 NAFTA in terms of cooperative agreements would ever be
2 considered by this Commission as a change in the
3 conditions of competition that would somehow let this
4 Commission exempt from cumulation, Canada or Mexico,
5 except in safeguards, where there was a specific
6 provision.

7 I would just read from that, where the
8 Congress wanted NAFTA countries treated differently.
9 They were very explicit; and where they didn't, I have
10 to assume that by that silence they had pretty clear
11 intent that they shouldn't have been.

12 CHAIRMAN PEARSON: Okay, well, I look
13 forward to reading a fuller elaboration in your post-
14 hearing brief. Mr. Mandel, did you have something to
15 add?

16 MR. MANDEL: Just a quick comment. It goes
17 back actually to 1988, with the forerunner to NAFTA,
18 the FTA.

19 CHAIRMAN PEARSON: Yes, U.S./Canada FTA.

20 MR. MANDEL: The U.S./Canada was struck --
21 and our former Prime Minister Brad Mulrooney -- during
22 the course of negotiations to a very reluctant, I
23 might say, a large constituency within the Canadian
24 population were very nervous about this agreement, and
25 insisted that before Canada would sign, they would get

1 unbridled, unassailable, inalienable access to the
2 U.S. market; in other words, from the trade laws.

3 We didn't get it; and that was carried over
4 into the NAFTA, and we're still living with it today.

5 CHAIRMAN PEARSON: Thank you for that. I
6 have no further questions. I reserve the right to
7 provide some in writing. But I turn now to Vice
8 Chairman Aranoff.

9 VICE CHAIRMAN ARANOFF: I have one question,
10 but it's a really complicated one. So it's
11 essentially for post-hearing. It follows-up on, I
12 think, what a number of my colleagues have been trying
13 tease out in this case.

14 You talked, Mr. Schagrin, about how we
15 prefer full year data, and so we're looking at full
16 year data for 2007. But I think in some ways, we're
17 disadvantaged by looking at full year 2007, and that's
18 what I want to kind of go into.

19 You're always the first to remind me that we
20 can't weigh causes, and so I want to assure you that
21 that's not my intention here. But we do have an
22 argument from the Respondents that there are other
23 causes, which fully explain the trends in the 2007
24 data and leave no room for an explanation that would
25 be based on the subject imports.

1 I think one of the ways we may be able to
2 tease out where the imports are the cause of what
3 we're seeing is by looking before and after the filing
4 of the case, or before and after the provisional
5 duties were put into effect.

6 Because specifically, we have a whole bunch
7 of other things going on in the market. We've got the
8 changes in the Chinese export tax rebate. We've got
9 trends in non-subject imports. We're got exchange
10 rate issues. Obviously, we've got economic downturn
11 in the U.S.; and perhaps because you talked
12 specifically about the fourth quarter, we have some
13 seasonality, I know, in terms of the housing industry
14 and then demand for this product.

15 So my question for you is, can you sort
16 through all those things and show me how all those
17 things don't fully explain what we saw in 2007? To
18 the extent you need to look before and after the
19 filing of the case to do that, that would help us with
20 the causation issue.

21 MR. SCHAGRIN: It is better addressed in the
22 post-hearing brief. It is complicated, of course, as
23 we try to address all of these different currents and
24 cross currents, and in some areas, we have data.

25 For example, we did put it in Exhibit 1,

1 because I thought it was important that the data on
2 imports from all subject countries on a monthly basis
3 now, because we don't have data. That's the Customs's
4 data that the Commission is using; that we're using.
5 We don't have that for subject imports by month.

6 You know, we do know in general what was
7 happening to such imports, and that's why I think we
8 referenced it. It would be even amplified if we did
9 have that.

10 But I really believe, and no cases are
11 simple. As I like to tell the clients, if they were
12 simple, they wouldn't have to hire me. The area in
13 which you have the most desegregated data, I think --
14 and Mr. Pierce is a very smart competitor. He knows
15 it as well as I do.

16 You have quarterly pricing data. The rest
17 of the data is annual. But you have quarterly pricing
18 data; and he knows that the quarterly pricing data
19 shows that there is consistent under-selling by the
20 Mexican producers, as well as others.

21 Then you have this evidence of price
22 depression. I think you've got to kind of make things
23 up to say, well, the price depression is really caused
24 by all these other things; when it's pretty consistent
25 over about five quarters, even when you don't have all

1 the other things happen like the filing of the case,
2 et cetera.

3 That's why I think he's doing his best to
4 try to convince the Commission that you should run
5 away from that quarterly pricing data, because you
6 didn't gather it separately on sales to distributors
7 and users and, of course, I don't think that's a valid
8 point.

9 So having said enough, which is usual for
10 me, we'll try to tie it together in the post-hearing
11 brief.

12 VICE CHAIRMAN ARANOFF: I appreciate that,
13 and I have no further questions at this time; thanks,
14 Mr. Chairman.

15 CHAIRMAN PEARSON: Commissioner Lane?

16 MR. LANE: I have two quick questions. But
17 whether the answers will be quick, I'm not so sure.

18 Mexican producers of subject light walled
19 rectangular pipe and tube claim that their inventories
20 cannot be sold commercially in the United States
21 market because they are all produced using the metric
22 system. Is it true that subject product manufactured
23 to metrics specifications cannot be sold commercially
24 in the U.S. market?

25 MR. MANDEL: We produce products to metric

1 dimensions and sell them in the U.S. market. If your
2 question is, can you sell metric, the answer is, we
3 do.

4 COMMISSIONER LANE: Okay, thank you.

5 MR. MEYER: I'll add that we do, as well.

6 COMMISSIONER LANE: Okay, and I guess you've
7 asserted in your prehearing brief that evidence of
8 specific lost sales is hard to gather, even though
9 such sales occur in large numbers. Why is that
10 difficult to explain?

11 MR. SCHAGRIN: I think, Commissioner, in
12 speaking for the group, it's because of the way that
13 we have over 80 percent of this product being sold
14 through distributors. There's literally hundreds of
15 distributors. Those distributors don't communicate.
16 They communicate pricing levels. But they don't
17 communicate how much they're ordering from any
18 specific country, be it Mexico, China, Turkey, or
19 Korea; vis-a-via, the domestic.

20 So it's tough on this kind of industry,
21 where it's all spot sales mostly to distributors to
22 get the information in the manner that the Commission
23 is used to collecting lost sales and lost revenue and
24 verifying it.

25 I think the fact here, to be honest, once

1 again having done this for a long time, showing the
2 pervasiveness in large volumes of unfairly traded
3 subject imports, we have many more lost sales and lost
4 revenue allegations on this product in these cases
5 than I've ever had before in any case on this product.
6 But it is very difficult.

7 I think we'll also, in the post-hearing
8 brief, to cause extra work for the economists -- but
9 the reference made in Mr. Kurasz's testimony of that
10 very large sale, when he was giving me his draft
11 testimony I said, this isn't in your allegations and
12 your questionnaire response. He goes, you know, we
13 just weren't ready there. So we're going to give some
14 more confidential information on that, as well, and
15 hope to answer your question quickly.

16 COMMISSIONER LANE: Okay, thank you; Mr.
17 Chairman, that's all I have.

18 CHAIRMAN PEARSON: Commissioner Williamson?

19 COMMISSIONER WILLIAMSON: Mr. Chairman, I
20 have no further questions, and I want to thank the
21 witnesses for their testimony.

22 CHAIRMAN PEARSON: Okay, are there any
23 further questions from the dias?

24 (No response.)

25 CHAIRMAN PEARSON: Do members of the staff

1 have questions for this panel?

2 MR. CORKRAN: Douglas Corkran, Office of
3 Investigations -- thank you very much, Chairman
4 Pearson. Staff has no questions.

5 CHAIRMAN PEARSON: Mr. Pierce, do
6 Respondents have any questions for this panel?

7 MR. PIERCE: No, we do not, Mr. Chairman.

8 CHAIRMAN PEARSON: Okay, well, permit me to
9 thank all members of this panel very much for being
10 with us this morning. As always, it's interesting
11 when we get to know more of Mr. Schagrins clients.

12 We will take a lunch break now. Be mindful
13 that this hearing room is not secure. So please take
14 things with you. Let's reconvene at 10 minutes past
15 1:00; thank you.

16 (Whereupon, a lunch recess was taken.)

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

2 (1:12 p.m.)

3 CHAIRMAN PEARSON: This hearing will come
4 back into order. Mr. Secretary, are we prepared to
5 begin with the panel for the Respondents?

6 MR. BISHOP: Yes, Mr. Chairman, those in
7 opposition to the imposition of anti-dumping and
8 countervailing duties have been seated.

9 CHAIRMAN PEARSON: And sworn.

10 MR. BISHOP: Yes, sir.

11 CHAIRMAN PEARSON: Okay, great; welcome, Mr.
12 Pierce, are you ready to begin?

13 MR. PIERCE: Yes, I am.

14 CHAIRMAN PEARSON: Okay, please proceed.

15 MR. PIERCE: Thank you, Mr. Chairman, and
16 good afternoon, Commissioners. I'm Ken Pierce, for
17 the record, counsel to Nacional de Acero. I'm joined
18 by Victor Mroczka and Andres Castrillon of my firm,
19 Vinson & Elkins.

20 Joining us on Respondent's panel are Mr.
21 Neil Pssoy, Purchaser Manager from Mueller Metals,
22 located in San Angelo, Texas. Mueller is one of the
23 largest, if not the largest importers of LWR from
24 Mexico. From Monteray, Mexico, on my right, we are
25 joined by Mr. Francisco Espinosa, Nacionale's Export

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1 Sales Manager.

2 Commissioners, this is a threat case, for
3 its negative determination should be reached for
4 Mexico on a decumulative basis. With PROLAMSA out,
5 the Commission is considering only about the amount of
6 Mexican imports that it considered in the preliminary
7 investigation. The remaining Mexican mills are no
8 threat.

9 Mr. Espinosa and Mr. Psooy are here to
10 explain why the subject Mexican mills operate under
11 distinct conditions of competition in this market.
12 The factors of geographic concentration, reliability,
13 and short-term delivery explain why subject Mexico is
14 a steady supplier to the Central Southwest market, not
15 pricing.

16 These factors and more compel discretion
17 decumulation. When we're looking at subject Mexico
18 alone, it is readily apparent that these mills pose no
19 threat to the domestic industry. These two gentlemen
20 are, of course, also available to answer the
21 Commission's questions.

22 Also here to answer any questions you may
23 have are the two Government of Mexico witnesses that
24 you heard from this morning: Ms. Isabel Paras and Mr.
25 Salvador Behar. In addition, Mr. Jeffrey Winton and

1 Ms. Lisa Carrigan, counsel to Hylsa, from the law firm
2 McKenna Long & Aldridge, are also available to answer
3 questions.

4 Mr. Mroczka will begin our substantive
5 presentations to explain why in 2007 and today, just
6 as Petitioners admit for 2004 through 2006, the
7 domestic industry has not been materially injured by
8 subject imports.

9 MR. MRO CZKA: Good afternoon, Chairman
10 Pearson, Vice Chairman Aranoff, members of the
11 Commission, and Commission staff. My name is Victor
12 Mroczka of Vincent and Elkins. I will discuss the
13 financial situation of the domestic industry and how
14 it is not materially injured by reason of subject
15 imports.

16 The Commission has already twice determined
17 that LWR pipe and tube imports, including Mexico, are
18 neither materially injuring nor threaten to injure the
19 domestic industry. The Commission also determined in
20 a 2006 sunset review that the U.S. industry is
21 stronger than it was during the 2004 investigation and
22 was, once again, not vulnerable.

23 In the preliminary determination, the
24 Commission voted in the affirmative on threat. As the
25 Commission staff report indicates, however, there have

1 been significant changes in the domestic industry that
2 now warrant a negative determination for Mexico.

3 Most importantly, the domestic industry
4 improved its profitability in 2007, while gaining
5 market share and with a decline in demand. Compare
6 this situation with past investigations. In the 2007
7 investigation, the domestic industry was in a state of
8 flux, and the Commission unanimously determined that
9 there was neither injury nor threat from subject
10 imports from Mexico.

11 U.S. demand declined in the final year of
12 that POI. The domestic industry was profitable and
13 had over 60 percent market share. Several domestic
14 production facilities had closed, yet capacity and
15 capacity utilization increased.

16 U.S. shipments increased, despite the
17 presence of increased imports from the subject
18 countries; and there was significant under-selling,
19 with margins ranging from 0.7 to 34.3 percent.

20 With this mixed bag of results, the
21 Commission determined that there was a lack of
22 correlation between subject imports and any financial
23 performance declines experienced by the domestic
24 industry, and made a unanimous negative determination.

25 Similarly, in the 2006 sunset review

1 involving Argentina and Taiwan, the Commission
2 examined a longer period. Again there were mixed
3 signals from the domestic industry. Capacity
4 fluctuated and capacity utilization fell towards the
5 end of the POI. The domestic industry's market share
6 also declined during this period.

7 Domestic producer prices fluctuated despite
8 increasing input costs, and the domestic industry
9 contended that it was in a vulnerable state.

10 However, the Commission denied these claims
11 by pointing to the domestic industry's consistent
12 profitability throughout the POI, and concluded that
13 the industry was strong in 2006.

14 In the preliminary determination, the
15 Commission was unsure whether the increasing volume of
16 subject imports or reduced U.S. demand were
17 responsible for price and output-related declines.
18 Productivity decreased during the interim period in
19 response to the decrease in U.S. demand. Yet, the
20 domestic industry continued to be profitable
21 throughout the period.

22 Specifically, the industry's profitability
23 improved from 2005 to 2006, and the domestic industry
24 remained profitable in the first quarter of 2007.
25 Therefore, the Commission, as it had in the previous

1 two LWR pipe and tube sunset reviews concluded that,
2 and I quote, "Notwithstanding the recent declines in
3 these domestic industry performance indicators, we do
4 not find the industry operated in a weakened state
5 during 2004/2006."

6 In other words, the domestic industry's
7 state at that time was not sufficient to constitute
8 material injury, and the case continued on the basis
9 of only threat.

10 Here we are today. All this background
11 leads to the facts and circumstances present in
12 today's market, with the addition of an increase in
13 domestic industry profitability and market share since
14 the preliminary determination. In other words, the
15 situation is better now than it was in August 2007,
16 and should lead the Commission to conclude, once
17 again, that the domestic industry is not being injured
18 by subject imports.

19 In 2007, the domestic industry continued to
20 be profitable and gained market share, despite a
21 significant decrease in U.S. demand. Specifically,
22 U.S. demand decreased 13 percent from 2006 to 2007.

23 As U.S. producers have stated, this decrease
24 in demand is a reflection of the overall economic
25 recession, the general decline of the U.S. housing and

1 construction sectors, customers moving production
2 abroad or outside the producers sales region, and an
3 increase in imports of downstream finished products or
4 fabricated components from countries such as China.

5 Let me state this again, so that this point
6 is perfectly clear. This is the U.S. producers' view
7 of U.S. demand, and subject imports are not mentioned
8 anywhere. As in 2004 and 2006, the financial
9 performance indicators in this investigation are
10 positive overall. While U.S. shipments, production,
11 hours, and total wages have decreased somewhat, hourly
12 wages and productivity have increased.

13 The declines, interestingly, coincide with
14 the decrease in demand mentioned earlier, but are much
15 smaller. For example, from 2006 to 2007, U.S.
16 shipments were down seven percent. But this is just
17 half of the decrease in demand for that period.

18 The same holds true for other key financial
19 indicators, such as U.S. production, hours worked, and
20 wages paid by the domestic industry. The decline in
21 demand, not subject imports, fully explains these
22 factors.

23 At the same time, other financial indicators
24 have gone up, despite the decline in demand. Hourly
25 wages are up 10 percent and were highest in 2007.

1 Capacity utilization is at or near an all-time high
2 for the domestic industry, moving from 50 percent in
3 2001 to 64 percent in 2007, an increase of 28 percent.
4 For the POI, capacity utilization remained essentially
5 the same.

6 As in the 2004 case, where the Commission
7 unanimously found no injury or threat with 60 percent
8 market share, market share now is up over 60 percent
9 and increased four points from 2006 to 2007. This is
10 not an industry that is injured, but one that is
11 increasingly dominating the U.S. market.

12 In terms of costs, it is no secret that the
13 main cost driver in the LWR pipe and tube industry is
14 raw material costs, particularly hot rolled steel.
15 These costs eventually dictate LWR pipe and tube
16 pricing and profitability.

17 As I stated previously, the domestic
18 industry's profitability increased over 2004. This is
19 demonstrated in the Commission's staff report, when
20 the ratio of operating income to net sales went up
21 from 5.9 percent for the first quarter of 2007, to 6.4
22 percent for the entire year.

23 This increase in profitability coincides
24 with the increase in hot rolled prices throughout the
25 year. Any alleged cost price squeeze by Petitioners,

1 therefore, does not exist.

2 With these conditions of competition in the
3 U.S. market, the impact of subject imports on the
4 domestic industry is nonexistent. In terms of price
5 comparisons, when under-selling is at its peak, it
6 coincides with the rise in U.S. prices.

7 For example, for product one, the largest
8 margins of under-selling by all subject imports occurs
9 during the first three quarters of 2006. During this
10 period, U.S. price increases by \$78 a ton. The same
11 pattern exists for product three, with U.S. prices
12 rising \$65 a ton during periods of high under-selling.
13 There is no correlation between instances of subject
14 import under-selling and U.S. prices.

15 This is also reflected in the profitability
16 of the domestic industry during the POI. The industry
17 remains profitable throughout the POI, with profits
18 ranging from \$25 million to \$55 million.

19 As mentioned before, 2007 also saw an
20 improvement as the year progressed. Cognizant SG&A
21 also remained stable over the POI. As a result, there
22 was an increase in profitability from sales for 2007.

23 There's one final point to make in terms of
24 pricing, and it involves galvanized product, where
25 subject imports are limited. Due to the proprietary

1 nature of this information, I cannot discuss any
2 specifics; but would simply refer Commission and staff
3 to our prehearing brief and the intervention of a
4 domestic industry price driver and the impact it has
5 had on U.S. galvanized pricing.

6 In conclusion, consistent with the
7 Commission's past determinations with regard to
8 domestic industry indicators, the record data
9 demonstrates that the domestic industry is not
10 vulnerable and is not being materially injured by
11 subject imports.

12 As a result, the Commission need only focus
13 on threat; and as the next witnesses will discuss in
14 greater detail, there is no indication of threat to
15 the U.S. industry from subject Mexican imports and the
16 Commission's final determination should conclude the
17 same; thank you.

18 MR. PSOY: Good afternoon, Chairman
19 Pearson, Vice Chairman Aranoff, and members of the
20 Commission. For the record, my name is Neil Psooy,
21 and I am the Head Purchaser for Mueller Metals, Inc.

22 We are a large importer of steel products
23 based in San Angelo, Texas. As a purchaser for one of
24 the largest importer of Mexican produced light walled
25 rectangular and square tube or LWR, I am in daily

1 contact with many Mexican mills, as well as our U.S.
2 sales staff.

3 I am here today, among other reasons, to
4 explain to you that our sales of Mexican LWR are
5 almost entirely concentrated in the Central Southwest
6 Region. In fact, over 80 percent of our sales of this
7 product are to customers located in Texas and
8 Oklahoma.

9 Typically, the materials the Mueller Metals
10 purchases from Mexican-based producers arrive on flat
11 bed trucks through the port of Loreado, Texas, and are
12 off-loaded at one of our Loreado warehouse locations,
13 where they await delivery.

14 Unfortunately for us, Mexican LWR is simply
15 not competitive outside of the Central Southwest
16 Region. We have previously attempted to sell this
17 product and many others in all 48 continental states.
18 But because of high shipping and transportation costs,
19 we remain mostly a regional operation, as it is
20 increasingly uneconomical to ship further into the
21 United States.

22 Therefore, it is my opinion that Mexican
23 produced LWR is simply not a competitive product in
24 the other regions. I should also note that
25 distributors of LWR from other regions would have

1 difficulty being competitive in the Central Southwest
2 Regions for the very same reasons.

3 Fortunately, our focus region is said to be
4 one of the recession-proof areas of the U.S., thanks
5 to the petroleum industry and strong growth in cities
6 like Dallas.

7 Occasionally, we experience competition with
8 LWR from Turkey, China, and other countries; but they
9 tend to be sporadic. Whereas, the Mexican produced
10 LWR products have a steady and reliable presence in
11 our sales region.

12 Although we do see Chinese and Turkish
13 imports enter through Houston at times, the LWR from
14 these countries appears to have a much wider national
15 distribution range than the LWR from Mexico. This is
16 likely because Chinese, Turkish, and other imported
17 LWR products can be ordered to arrive at any U.S.
18 port, giving them a much broader access to the U.S.
19 market.

20 In contrast, the Mexican products enter
21 almost exclusively through Loreado, Texas. Combined
22 with shorter lead times and a consistently reliable
23 product, Mexican produced LWR continues to be the
24 preferred product for distributors in the Central
25 Southwest Region. I should also mention that I have

1 never seen or heard of Canadian produced LWR competing
2 in our market area.

3 Aside from the sporadic shipments from
4 Turkey, China, and others, the bulk of the competition
5 we see in our sales comes from other distributors of
6 Mexican produced LWR, and often from the Mexican mills
7 themselves.

8 For example, PROLAMSA, whom we have not
9 purchased LWR material from for many years, is a
10 consistent competitor of ours when trying to maintain
11 our current clients and when trying to secure new
12 ones.

13 The assumption that LWR product we import
14 from Mexico would be replaced by American mills if
15 dumping duties were imposed is ludicrous, as PROLAMSA
16 would simply fill our shoes.

17 The primary reason that Mexican material is
18 preferred in the Central Southwest Region is its
19 consistency with respect to both availability and
20 reliability. Mexican producers stand behind their
21 products, and usually offer 30 day payment terms.
22 This means that if something is wrong with a shipment,
23 there is time to re-negotiate and rectify any
24 deficiencies.

25 This is certainly not the case with Chinese

1 and Turkish products. For example, Chinese companies
2 usually operate on letters of credit only; meaning
3 there's no real guarantee or means of recourse when a
4 defective or damaged product is received.

5 In addition, Chinese and Turkish materials
6 can take anywhere from three to eight months to
7 arrive, once an order has been placed. Whereas,
8 Mexican LWR is consistently available and generally
9 takes 30 to 60 days to arrive once an order has been
10 placed.

11 I have even had experiences when I was able
12 to place an order just days before rolling, and we
13 were able to receive the material in less than a week.
14 My understanding is that such prompt service is rarely
15 heard of, even from domestic mills.

16 I can't place a dollar value on the ease of
17 dealing with Mexican producers, when compared to
18 dealing with Chinese, Turkish, and other sources of
19 LWR. Certainly, Mexico gets a high priced premium for
20 this.

21 I am able to place orders in Mexico from my
22 cell phone, when need be. Whereas, it can take me two
23 or more full days of work, involving a number of
24 people, to place only one small purchase order with a
25 Chinese mill.

1 I should add that this two or three day
2 process can only be accomplished after traveling to
3 China to make contacts and attending many time-
4 consuming meetings.

5 Even after all the time and effort that goes
6 into making an overseas purchase, it is almost unheard
7 of that the materials arrived without at least minimal
8 damage, and in more cases than not, substantial
9 damage, which in most cases is not insured.

10 The LWR from Mexico arrives one truckload at
11 a time, and only needs to be unloaded and placed in
12 our warehouse while it awaits delivery. In contrast,
13 Chinese and Turkish material are wrapped in a heavy
14 protective plastic, which has to be unwrapped prior to
15 inspection or shipping.

16 Following the inspection, it is common that
17 damaged and undamaged materials have to be segregated.
18 This doubles the amount of warehouse space required to
19 store the material, and prevents us from shipping the
20 damaged materials.

21 Add to this that the materials had to be
22 paid for, in full, long before they arrived; and you
23 can just imagine the aggravation we are often forced
24 to endure.

25 The delays and frustration with these and

1 other problems we have encountered when dealing with
2 overseas suppliers have convinced us that purchasing
3 Chinese and Turkish materials is no longer in our best
4 interests. In fact, we haven't purchased any LWR from
5 China or Turkey since the beginning of 2007.

6 I should note that even without all the
7 aforementioned problems, purchasing Chinese produced
8 LWR at this time is no longer a viable option for us
9 or anyone else in the U.S. market.

10 Increases in the cost of Chinese hot rolled
11 coil, the elimination of the export rebates and the
12 rapidly increasing cost of overseas shipping have
13 eliminated Chinese LWR from the U.S. market. None of
14 my contacts in the American industry are currently
15 importing Chinese LWR.

16 Contrary to the Petitioner's claims, the
17 availability and quality of Mexican LWR is much more
18 important in our market than its price. Based on my
19 past experience working for a Mexican LWR mill, I can
20 state that the hot rolled coil used to produce LWR is
21 generally equally priced or even more expensive in
22 Mexico than it is in the United States.

23 Therefore, it is highly unlikely that the
24 price of Mexican produced LWR will drop substantially
25 below the price of domestically produced LWR in the

1 future.

2 I would also like to point out that most, if
3 not all, of the Mexican LWR inventory currently
4 awaiting sale in the home market is unmarketable in
5 the United States. Mexican construction is based on
6 the metric system. So the LWR pipe and tube that is
7 kept in stock for the Mexican home market is typically
8 six meters in length; or 19.68 feet for the
9 metrically-challenged amongst us.

10 The United States continues to use the
11 imperial system of measurement, and bases its
12 construction and building codes around increments of
13 three, four, five, six, and eight feet, for the most
14 part.

15 When cutting up an LWR tube to make a
16 protective railing, for example, it would be very
17 common to cut a 24 foot tube into six foot lengths,
18 yielding four pieces of material and leaving no waste.
19 Attempting to cut the same foot long pieces from a
20 Mexican origin tube would yield only three pieces of
21 material and a substantial amount of waste.

22 This waste which would be incurred if the
23 Mexican origin, six meter long materials were sold in
24 the United States simply makes Mexican inventories
25 unmarketable.

1 It should be pointed out that none of the
2 Mexican mills I am aware of stock LWR for the U.S.
3 market. All export LWR is produced only after an
4 order is placed. Mexican home market LWR inventories
5 never have and never will pose a threat to the U.S.
6 market.

7 There are also important differences between
8 some of the LWR produced in Mexico and not produced by
9 the U.S. mills. For example, many U.S. consumers
10 insist on a .83 or 14 gauge wall thickness for their
11 LWR products. This wall thickness is not offered by
12 any of the Mexican producers I am aware of. Most, if
13 not all of the Petitioners offer this product. The
14 typical Mexican equivalent of this product is 10
15 percent lighter than its U.S. counterpart and may not
16 comply with the needs of many American consumers. But
17 for those who do not require the heavier domestic
18 product, the lighter Mexican product offers a number
19 of economic advances, more product can be shipped for
20 the same price, and you can achieve an overall higher
21 yield for less cost.

22 Key differences also exist between the
23 Mexican-produced LWR and the LWR from China, Korea,
24 and Turkey. Physically, steel products from China
25 have recently been under scrutiny for failure to meet

1 the advertised physical properties. Many of our
2 clients have expressed to us that they do not want any
3 Chinese LWR, mainly due to its inconsistent quality.
4 Some Turkish mills have also had quality issues with
5 their LWR not seen in the Mexican equivalence.

6 At times, distributors turn to imports not
7 out of choice, but out of necessity. I have heard
8 recently that some U.S. producers do not have or will
9 not sell the full amount of material requested by some
10 distributors due to the tightening supply of coil in
11 the U.S., forcing them to turn to imports. I say this
12 with confidence, because within the last six weeks, we
13 have received calls from American distributors, who
14 have previously been committed to carrying only
15 domestically-produced LWR.

16 As the current shortage of hot-rolled coil
17 continues to drive up prices of LWR, we continue to
18 see a strong and growing demand for these products in
19 the U.S., especially the smaller lighter products
20 historically made by foreign producers, as many U.S.
21 mills either do not want to produce these items or
22 charge exorbitant premiums for them. At this time,
23 Mexico is the only viable option, as the duty rates,
24 uncertainty, and unreliability of the other LWR
25 producing countries has made buying in those markets a

1 non-option.

2 The price of raw materials used to make LWR
3 has been increasing rapidly since January 1, 2008, as
4 evidenced by the recent price increase announcements
5 from U.S. hot-rolled coil producers. To the best of
6 my knowledge, the marketing price of LWR products is
7 simply determined by adding the cost of raw material,
8 labor, profit margin, and transportation costs. For
9 someone to state they cannot charge enough for their
10 product in a demand market such as the one we are in
11 today is illogical. With each increase to the price
12 of hot-rolled coil, we see the selling price of LWR
13 increase accordingly by an equal or even greater
14 amount, thereby maintaining and, in many cases,
15 increasing profit margins. In some cases, we have
16 based our selling price of LWR not on what the current
17 cost is, but on what we expect the replacement cost to
18 be when new supplies arrive, as raw material prices
19 continue to drive this market up. Those producers
20 with the foresight to maintain sufficient stock of
21 coil at the older and lower prices should be realizing
22 record profits at this time, just as they did in 2004.

23 In Mexico, domestic sales of LWR product
24 have set records thus far in 2008. Recent
25 announcements of government-sponsored infrastructure

1 programs, a strong housing market, and speculation of
2 further price increases have fueled a buying frenzy.
3 This increase in Mexican-domestic demand is now
4 beginning to cut into available export production,
5 giving cause for most Mexican producers to stop taking
6 on new export clients in the U.S.

7 There are allegations that Mexican material
8 is being sold in the United States far cheaper than is
9 the reality. I can tell you that if, in fact, the
10 Mexican LWR material is being considered to have a
11 selling price equal to that which is being reported by
12 the Mexican producers and importers, a true apples-to-
13 apples comparison is not being made.

14 Typically, the minimum we add to the current
15 cost of a short ton of LWR product is \$57, which
16 covers storage, handling, and profit. This price is
17 only given to what we refer to in our industry as the
18 'big dogs,' which consist of large distributors, large
19 manufacturers, and large retail chains, many of which
20 have more than 10 outlets. Smaller distributors
21 typically pay substantially more than the 'big dog'
22 clients.

23 Having spoken with some of our customers, we
24 know that most of them add significantly to the price
25 they pay us when selling to their customers. If you

1 add these values to the prices reported to you by the
2 Mexican producers and importers, you will see that
3 Mexican-produced LWR is being sold to the end users at
4 a much higher value than reports indicate.

5 The LWR from Mexico has become the
6 consistent and reliable choice in the central
7 southwest market. Its quality and availability make
8 it preferred to and distinct from China, Korean, and
9 Turkish materials. And as I stated earlier, the
10 Mexican domestic inventories are unmarketable in the
11 United States.

12 To impose duties on traditional sources of
13 LWR like Mexico will simply cause further distribution
14 in the market and open the door for other non-subject
15 producers, such as PROLAMSA, to take over that market.
16 This is not in the interest of our U.S. customers, who
17 would no doubt be subject to further shortages and
18 price increases that would undoubtedly have a ripple
19 effect on the entire central southwest economy.

20 Thank you, very much. That concludes my
21 statement and I look forward to answering any
22 questions the Commission might have.

23 MR. SIFUENTES: Good afternoon, Mr. Pearson
24 and members of the Commissioner. My name is Francisco
25 Espinosa, sales manager of Nacional de Acero, or NASA.

1 NASA is a Mexican foreign producer of light-walled
2 rectangular pipe and tube and is located in Nuevo
3 León, Mexico. We serve primarily to distributors and
4 end users, with higher prices to end users. And the
5 concentration in Mexico is higher for the end users,
6 while in the United States, we sell only to
7 distributors. I have come to Washington today to have
8 the Commission better understand Mexico's position in
9 the North American light-walled rectangular pipe and
10 tube market and where we see the market for the
11 future.

12 There are a number of differences between
13 Mexico's product and those of U.S. producers and the
14 other subject countries. Mexican producers' first
15 priority is to the home market. Over 80 percent of
16 our total light-walled rectangular pipe and tube
17 segments remain in Mexico and we expect this to
18 increase in the near future. In fact, this month
19 alone, we are projecting that 90 percent of our
20 production is for the Mexican market. Current and the
21 future market demand in Mexico comes primarily from
22 the construction, housing, and hotel sectors,
23 including the infrastructure surrounding them. For
24 example, the ceiling support and door frames in this
25 door are made of light-walled rectangular pipe and

1 tube. The primary reason for this continued focus in
2 the Mexican market is because of the continued growth
3 and development that has been and is growing in
4 Mexico. Mexico is undergoing increased organization
5 in traditional rural areas, so we now see more things
6 like shopping centers and restaurants in the country
7 that we did in the past.

8 Mexico also is a long time and consistent
9 supplier to the U.S. market. However, Mexican
10 producers only ship to the U.S. market in response to
11 fill order from our customers. As Neil mentioned,
12 Mexico normally uses the metric system in its
13 production process and Mexican producers make most of
14 the light-walled rectangular pipe and tube based on
15 metric measurements, including those inventory.
16 Therefore, even if we wanted to respond to U.S.
17 customer orders out of the inventory, it would not be
18 possible due to the difference in measurements. So,
19 instead, we wait until an order comes in from the
20 United States and, if possible, produce what it
21 requests, but in U.S. specifications and measurements.

22 We, also, do not have a desire to ship to
23 other export markets. We have worked a long time in
24 the U.S. market due to the stability of the market,
25 working with bigger and established customers, and

1 guaranteed payment by those customers. Leaning to the
2 other export markets would be a greater risk and this
3 is not something we want to do.

4 Mexico sells to the United States through
5 metals that are different from the other countries,
6 because of the close interaction between the Mexican
7 and U.S. market due to NAFTA. Mexico producers, like
8 in any producers, act as their own import of record
9 when shipping to the United States. This is
10 convenient for all U.S. customers. U.S. customers
11 prefer that the producer handle and deliver, including
12 working with trucking companies and brokers to get the
13 production to the customer. Because of the proximity
14 of the United States, we can do this. This is
15 something unique that Mexican producers provide.

16 In terms of market, Mexico exports to the
17 United States our primary source to customers in the
18 central southwestern part of the United States.
19 Mexican exports have traditionally been concentrated
20 in this region and will continue to be in the region
21 in the future. This is not true for the other
22 countries and we understand that they sell more
23 nationally with China and Korea being particularly
24 focused on the west coast.

25 Also, because of Mexican's regional focus,

1 our main competition comes from other Mexican
2 producers, not U.S. producers or other imports. If an
3 antidumping order is in place here, it is likely that
4 an exempt company will replace us in the region
5 instead of any U.S. producer.

6 Mexico's prices are also significantly
7 higher than the other subject countries due to the
8 proximity of our two main markets, the Mexican market
9 and the central southwestern market in the United
10 States. Our tendency is to follow the price trends of
11 U.S. producers and respond to increases and decreases
12 in U.S. demand. If U.S. producers raises prices, we
13 will normally follow. If U.S. demand increases and
14 this increase corresponds to an increase in orders
15 from the United States, we will try to fill those
16 orders. For example, in 2008, U.S. producers have
17 pushed through a number of price increases. NASA, in
18 turn, responded with its own price increases and has
19 continued to ship to the United States throughout the
20 deal. This is one of the reasons where the
21 Commissioners also see no or low antidumping margins
22 from Mexico for light-walled rectangular pipe and
23 tube.

24 Our experience is to always be a price
25 lower, not a price leader. As I mentioned earlier,

1 mostly as a result of NAFTA, the Mexican and the U.S.
2 steel industry are uniquely integrated. Between 2005
3 and 2007, Mexican producers, including NASA's,
4 PROLAMSA, imported key raw materials, such as iron
5 ore, gold, and scrap metal. This is over 1.2 billion
6 of vital steel import from the United States. The
7 steel made from these inputs in this turn is light-
8 walled rectangular pipe and tube. So, what you have
9 coming back to the United States is recycled U.S.
10 product. None of the other subject countries have
11 this experience.

12 These are all important reasons for the
13 Commission to consider when comparing Mexico to the
14 other subject countries and demonstrates that Mexico's
15 exports to the United States do not materially injure
16 or threat to injure the U.S. industry. I thank you
17 for the opportunity to testify today and I will be
18 pleased to answer any questions. Thank you.

19 MR. PIERCE: Commissioners, we see no basis
20 for finding material injury caused by subject imports,
21 making this, in our minds, a threat case. In a threat
22 case, Congress has entrusted each Commissioner with
23 the exercise of sound judgment to distinguish between
24 subject countries, allowing negative determinations
25 for some and affirmative ones for the rest. In other

1 words, cumulation is discretionary. It is a
2 discretion often employed by this discerning
3 Commission when, as here, there is a country like
4 Mexico that operates under distinct conditions of
5 competition and clearly poses no threat. As the data
6 show, Mexico is a stable and consistent supplier to
7 the U.S. market over the POI, with the Mexican mills
8 operating as non-resident importers of record for
9 nearby customer convenience.

10 Subject Mexican import levels fell slightly
11 from 2005 to 2007, essentially remaining flat like
12 their market share. The same cannot be said of the
13 other subject countries. Indeed, unlike the other
14 countries, this consistent Mexican supply has
15 continued even after Commerce's preliminary
16 determinations based on the latest import data through
17 February of this year. In other words, look at Mr.
18 Schagrin's Exhibit 1 with the monthly import figures,
19 as he mentioned. Look at what happens to the imports
20 from the other countries after the petition is filed
21 and after the preliminary determination and then look
22 at Mexico. Mexico's levels, although including
23 PROLAMSA, stayed about the same. They unaffected by
24 the petition and they're unaffected by the preliminary
25 determination. Every other subject country drops to

1 just about zero, as a result. There is something
2 going on different from Mexico and you need to
3 recognize that, please, in your determination.

4 Mexican prices are the highest among all
5 subject imports based on AUVs, even though Mexico has
6 a relatively low proportion of higher price galvanized
7 products. With respect to pricing products, there
8 apparently is a serious underselling bias in the data,
9 as sales to low-priced distributors and to high-priced
10 end users are not delineated and have been simply
11 averaged for the comparisons. These customer
12 concentrations are not proportional among the producer
13 sources, a bias that artificially inflates the
14 relative U.S. mills prices, resulting in false
15 underselling results. Yet, even the skewed data show
16 minimal underselling by subject Mexico in the latter
17 portion of 2007. These most recent data are, of
18 course, the most relevant for a threat case.

19 With respect to pricing, there have been
20 many domestic price increases since January 1st of this
21 year, well in excess of any increase in cost. These
22 are multiple month-on-month increases by single mills,
23 from \$60 to \$100 per ton each increase. Hot-rolled
24 prices have increased, but light-walled rectangular
25 price hikes are more than keeping pace. As was

1 portended in a recent earlier sunset case and is
2 occurring today, there is a pricing volcano going off
3 in the U.S. LWR market today. This is not just a
4 prediction of what is likely this time; it is
5 happening. In the LWR market today, we have
6 announcements collected of over 40 price increases
7 from nine different mills, six of them Petitioners,
8 just in 2008 and they are still coming in and they
9 will all be in our post-conference brief.

10 Subject Mexico is heavily concentrated in
11 the regional central southwest market. As such, for
12 example, Mexican imports had nothing to do with the
13 closure of Valmont Central Nebraska, which closed in
14 2007 and is discussed in Petitioners' brief. Instead,
15 subject Mexican sources are heavily focused on the
16 home market, to an ever increasing degree. That
17 market is booming and available capacity is extremely
18 tight. There are no appreciable shipments to other
19 export markets that could be diverted to the United
20 States.

21 Petitioners claim that the recent case on
22 standard welded pipe from China will cause a
23 threatening shift of Chinese circular pipe capacity to
24 light-walled rectangular. Well, at least for Mexico,
25 any shift would have happened long ago. There has

1 been an antidumping order on standard circular welded
2 pipe from Mexico since 1992, before the last two
3 negative determinations on light-walled rectangular
4 from Mexico. Since then, LWR exports from Mexico have
5 remained steady and stable throughout the POI. The
6 antidumping order on circular welded pipe from Mexico
7 is too old to cause any concern over future product
8 shifting and its effects played out long ago. Subject
9 Mexico isn't a threat. However, if an affirmative
10 determination on Mexico is still being considered, it
11 must yet fell on the Bratsk hurdle.

12 On Bratsk, yes, it is triggered. While not
13 strictly a commodity, LWR is close enough for trigger
14 one. Subject Mexico and non-subject imports from
15 PROLAMSA and Canada are price sensitive and in the
16 market in significant volumes. So, the Bratsk
17 benefits test must be applied.

18 An order against subject imports from Mexico
19 will not benefit the domestic industry. The only
20 winner would be PROLAMSA, which sits in exact replica
21 of subject Mexico's conditions of competition. There
22 is more than just Bratsk here. This is Gerald Metals
23 plus and it compels a negative determination for
24 subject Mexico.

25 As to Canada, an antidumping order against

1 subject Mexico would be inconsequential. The subject
2 Mexican imports are in the central southwest region,
3 not in the northern markets served by Canada. Neither
4 the U.S. nor Canadian mills would benefit from such an
5 order, only PROLAMSA.

6 One last final point of law, if the
7 Commission takes adverse inferences against the other
8 three subject countries, as requested in Petitioners'
9 brief, Mexico legally cannot be cumulated. This is
10 because adverse inferences may only be applied to the
11 detriment of the offending parties.

12 That concludes this panel's affirmative
13 determination and I would like to reserve the balance
14 of my time and we would please to answer any questions
15 from the Commission. Thank you.

16 CHAIRMAN PEARSON: Thank you to all members
17 of this panel. Once again, we appreciate, very much,
18 that you would take the time to be with us. You have
19 businesses to run. You have other things to do.
20 Perhaps, the springtime in Mexico is even more
21 pleasant than here in Washington, I'm not sure. But,
22 you didn't choose a bad day, but you shouldn't be
23 spending it inside.

24 We will begin the questioning this afternoon
25 with Vice Chairman Aranoff.

1 VICE CHAIRMAN ARANOFF: Thank you, Mr.
2 Chairman, and thank you to this afternoon's witnesses
3 for taking the time and for traveling to be with us
4 today.

5 A couple of questions starting first about
6 demand. Mr. Psooy, you testified that there are
7 shortages for this product in the region and I am
8 trying to reconcile that with what everyone knows
9 about the housing slump and the economic downturn in
10 the U.S. And I know you indicated that there are some
11 reasons why your region may be a little more recession
12 proof than others. They, also, say that about the
13 Washington region, but the housing slump has had an
14 effect here, too. How do you reconcile that and why
15 shouldn't I conclude there, if there really are
16 shortages, that they're related to the pendency of
17 this case and not to other economic conditions?

18 MR. PSOOPY: I thought maybe you did that
19 automatically for me. Well, I'm not an economist, but
20 there are a few things that I have ascertained over
21 the last while. One is that as far as housing goes in
22 this region, Dallas, I believe, is the fastest growing
23 U.S. city in America right now. I'm sure that that
24 isn't just focused in that city. It probably spreads
25 out throughout the region. The petroleum industry is

1 strong. And unlike the gentleman who was speaking
2 here earlier about the housing market consuming so
3 much of its product, I think a lot of our sales are
4 focused on the ag industry in our region. There is a
5 very high concentration of agricultural activity and a
6 lot of this product goes into that.

7 And if I understood the question correctly,
8 you are also asking about why there is a shortage and
9 I relate that back to the coil shortages that are
10 being experienced in Mexico and I understand in the
11 United States, at this time. The product that goes
12 into making this, that is what is causing the shortage
13 of this product.

14 VICE CHAIRMAN ARANOFF: Okay. If there's
15 anything that you can add for us in the post-hearing
16 that would help to substantiate that the demand
17 conditions in this region are really distinct from the
18 rest of the country, I think that would be helpful.

19 Let me turn to Mr. Espinosa and ask a
20 similar question. A lot of your argument is telling
21 us about booming demand in Mexico. And if we are
22 looking at a threat question in this case, we have to
23 look at what is likely to happen in the imminent
24 future. And I guess my question to you is how
25 protected is the building boom that you see in Mexico

1 from a delayed spillover effect from the downturn in
2 the U.S. economy, can we really expect that to
3 continue even if the U.S. economy, which is clearly
4 one of the Mexican's economy best customer, if that
5 demand for other products dries up?

6 MR. PIERCE: If I might respond in part,
7 while he is explaining the question to him in Spanish.
8 Part of what the evidence that we put on record and
9 part of what the government of Mexico testified to are
10 the major infrastructure projects that are being
11 funded by the government in Mexico. To start, in, I
12 believe it is 2007 through 2012, it is a quarter
13 trillion dollars, major development in many different
14 sectors, all involving construction. That's going to
15 drive demand tremendously in Mexico regardless of what
16 happens in the general economy that is linked to the
17 United States. That spending is still going to go on.
18 It is going to consume a lot of products, including
19 LWR.

20 MR. SIFUENTES: Ms. Aranoff, as I told you
21 in my document, we are getting a lot of increases of
22 the demand of the construction of houses and this kind
23 of demand is getting us to increase our demand in the
24 production of light-walled rectangular pipe in Mexico.
25 How can I protect my market in Mexico, if we are

1 taking the problems that are in the United States?

2 Well, the main reason it's just put more money in the
3 market, be strong in the market, and I think we can be
4 strong, if we can do that.

5 VICE CHAIRMAN ARANOFF: Okay. I appreciate
6 those answers. And if you want to add anything else
7 in the post-hearing on how I should look at future
8 demand in the Mexican market, that would be helpful.

9 There was a lot of testimony from this panel
10 about price increases in the U.S. market during 2008.
11 And I guess my question on that is even if I am
12 looking at a threat and not a present injury
13 determination, which is a question I haven't decided
14 yet, why should I be giving more weight to evidence of
15 things that happened well after this case was filed
16 and preliminary duties went into effect than I should
17 be what was going on with the prices in 2006 and the
18 first part of 2007? If you could put on the record a
19 stack this thick of price increases in the beginning
20 of 2007, wouldn't that have more weight?

21 MR. PIERCE: Price increases and price
22 movements up and down do correlate with hot-rolled
23 prices. And, also, remember zinc prices -- costs are
24 going in the other direction. And in a sunset review
25 in 2007, production was where were hot-rolled prices

1 going and they were coming down. So, you weren't
2 seeing price increases in 2007, because hot-rolled
3 prices were not going up.

4 A large part of Petitioners' argument had
5 been that this case was really a cost-price squeeze.
6 They were only focusing on one side of that equation,
7 that hot-rolled prices were going up. What was not
8 getting put on the record and what was not being told
9 to you, that we will document with a stack this thick,
10 is that in 2008, over the last just a few months, LWR
11 prices have gone up significantly, as much as hot-
12 rolled, costs have, and I think that's a relevant
13 consideration, because Petitioners' case rests on, to
14 a large extent, the increase in hot-rolled costs. And
15 what we are saying is the prices are going up just as
16 much, if not more, for the LWR product.

17 MR. WINTON: Commissioner, may I add
18 something from back here? I would just make two
19 observations. One is that the mandate of the
20 Commission in these cases is to make its decision
21 based on the most recent information available,
22 closest to vote day. Your issue is not whether there
23 was material injury in 2007. Your issue is, is there
24 a material injury now. Obviously, you use historical
25 data to make that determination. But, if you find

1 that there is no material injury now, then you are
2 required to make a negative determination.

3 The second point I would make is you will
4 undoubtedly hear from Mr. Schagrin that the only
5 reason prices have gone up in 2008 is because of the
6 preliminary relief that was imposed by Commerce. But,
7 if you look at the price announcements, you will see
8 that the price increases are identical for subject and
9 non-subject merchandise. I heard Mr. Katsafanas -- I
10 apologize, I'm going to butcher his name -- Katsafanas
11 of Leavitt say that his company was bought by
12 Maruichi, not because of light-walled rectangular
13 pipe, but because of its strong hollowed square
14 structure business, HSS. And, yet, if you look at
15 Leavitt's price increase announcements, the price
16 increases for HSS are exactly the same as the price
17 increases for light-walled rectangular. You don't see
18 any difference. And so what you see is a business
19 that is every bit as strong as the non-subject
20 products, which he described as a very strong
21 business. When you hear them say that they haven't
22 been able to recover their cost increases, that's not
23 a light-walled problem. If that is a problem, I don't
24 think the data supports it. But, if it is a problem,
25 it's a problem across the board and has nothing to do

1 with the alleged dumping in this case.

2 VICE CHAIRMAN ARANOFF: All right. I wanted
3 to go on from that. My light is yellow, so I may have
4 to come back to it. But, I will pose the question.
5 You pointed out that there really isn't a cost-price
6 squeeze based on coil prices. But, actually, if you
7 look at our data, looking at total cost of production,
8 it does show that the ratio of cost of goods sold to
9 net sales has increased over the period and it's not -
10 - oh, you're looking at raw material costs. In fact,
11 that doesn't seem to be the main factor at play. So,
12 it may be energy, labor, some combination of other
13 things. So, I would like to hear from you on that
14 subject, because I think it -- maybe you could argue
15 no cost-price squeeze on raw materials, but I'm not
16 sure you could overall.

17 MR. PIERCE: We would be happy to. And I
18 want to be a little careful about getting into the
19 confidential data, especially on the labor portion of
20 that. But, we would be happy to answer in our post-
21 hearing brief in detail.

22 VICE CHAIRMAN ARANOFF: Okay, thank you.

23 CHAIRMAN PEARSON: Commissioner Lane?

24 COMMISSIONER LANE: Thank you. Mr. Pierce,
25 could you, please, explain why you argue that subject

1 imports from Mexico should be decumulated from the
2 other subject countries? Do appropriate circumstances
3 exist to decumulate any other subject countries?

4 MR. PIERCE: Good afternoon, Commissioner
5 Lane. Well, the first threshold to that question is
6 we need to get to threat. We are arguing in the
7 threat context, so that it's discretionary vis-a-vis
8 Mexico. As to Mexico, I think you have a complete
9 record as to the conditions of competition. You have
10 questionnaire responses by virtually every product in
11 Mexico. And then when you look at Mexico, the fact
12 patterns, you have on a volume basis, you've got a
13 flat volume from Mexico in total volume and also on a
14 basis of market share for subject Mexico. I think
15 that is an important decumulation factor.

16 I think on price, you have a distinct
17 situation for Mexico, when looking at the pricing
18 products. And, again, I have to be careful of the
19 confidential data, but for the subject merchandise
20 from Mexico, look at the underselling margins in 2007,
21 as compared to the other countries, and you will see
22 distinct pricing there, as well. You, also, see it in
23 the AUVs, even though the AUVs are biased upwards for
24 the other countries by having a proportion of
25 galvanized product.

1 And, yet, you've got Mexico -- remember,
2 PROLAMSA is out. The picture changes. This is really
3 heavily focused on the central southwest region.
4 That's where these subject imports from Mexico
5 operating and are concentrated. Therefore, you've got
6 different conditions of competition operating. You've
7 got different types of competition against the
8 domestic mills and also against the other subject
9 imports.

10 So, on volume, price, and impact, you've got
11 a different situation with Mexico. And you can see
12 that most starkly, I think, in the import data from
13 Mexico. All of the other countries during the course
14 of this case, their import levels dropped to just
15 about zero or close to it. Mexico doesn't. It stays
16 constant through the filing of the petition, after the
17 filing of the petition, through the preliminary
18 determinations. You've got Mexico moving in a very,
19 very different direction. When you isolate Mexico and
20 look at it on its own and where subject imports are
21 concentrated, Mexico is a well-established stable
22 supplier. It's non-disruptive. It's non-injurious.
23 It's not a threat to the domestic industry. It's got
24 a very strong home market. That home market is
25 growing. It doesn't have much available capacity. It

1 doesn't have inventories it can ship to the United
2 States. It should get a negative determination, I
3 believe.

4 As to the other countries, the strength of
5 their case is made by their counsel, I guess, who is
6 not here today.

7 COMMISSIONER LANE: Okay. In your pre-
8 hearing brief, you argue that the subject imports from
9 Mexico are sold into the United States through
10 importing arrangements distinct from the other three
11 subject countries, reflecting a general structural
12 difference between the Mexican imports and those from
13 China, Korea, and Turkey. Please explain how Mexico's
14 importing arrangements are distinct from the other
15 subject countries.

16 MR. PIERCE: Yes, I would be happy to. Most
17 of the Mexican mills operate as non-resident importers
18 of record. The imports from the other countries are
19 in the traditional sense, you have a importer
20 physically located in the United States, the product
21 travels to them, they are then responsible for
22 clearing the product through the brokers, through
23 Customs, paying the Customs duties.

24 Mexico doesn't work that way. When you sell
25 from Mexico to the United States, the exporter

1 physically located still in Mexico is actually the
2 non-resident importer of record. They're taking care
3 of all the clearance of that product. They're taking
4 care of the duties, all the Customs formalities,
5 everything else, as a service to their nearby U.S.
6 customer. And we believe that's a reflection of the
7 integrations of the market driven, to a large extent,
8 by NAFTA, and the proof of that is that the Canadian
9 shipments to the United States also use non-resident
10 importers located in Canada.

11 If structural difference, that term --
12 that's from the staff report. That's my term -- it's
13 not my term. But, I think it's an accurate one.
14 You're seeing a very different relationship between
15 the markets: Mexico and the United States, Mexico and
16 Canada. You had Canadian witnesses here, a Canadian
17 witness, who was arguing about, well, NAFTA doesn't
18 mean anything and they went on to talk about how NAFTA
19 was such a big role in the Canadian election. But,
20 that aside, I think that structural difference is
21 real. It is a condition of competition. It does
22 explain how closely integrated the markets are between
23 Mexico and the United States and why and how Mexico is
24 such a steady stable supplier to the United States in
25 significant volumes. It's not price. It's that close

1 relationship and the supply relationship and
2 availability, which purchasers have told you is the
3 single most important factor to their purchasing
4 decisions.

5 COMMISSIONER LANE: Okay. Subject imports
6 from Mexico increased from 2006 to 2007 despite lower
7 apparent U.S. consumption in 2007. Could you, please,
8 explain how Mexican subject imports were able to
9 increase their volumes to the United States in this
10 type of market and could you explain the differences
11 in volume trends between subject and non-subject LWR
12 pipe and tube imported from Mexico?

13 MR. PIERCE: Sure. Mexico, 2005, 2006, 2007
14 was essentially flat. There are a few thousand ton
15 increase in 2006 of subject imports from Mexico. It's
16 been flat. The market share hasn't changed. In 2006
17 to 2007, it was 2/1000th of a -- 2/1000 was the
18 change. That's essentially flat, reflecting that
19 subject Mexican imports are stable, reliable supplier
20 to the United States on a consistent even keel. And I
21 think that's pretty clear.

22 Non-subject imports, there was movement.
23 Some of their shipments to the United States went
24 down, 2006 to 2007, while at the same time, the
25 domestic industry increased four points, 2006 to 2007,

1 on market share. So, the market got smaller, but the
2 domestic industry's piece of the pie got bigger.

3 COMMISSIONER LANE: In your pre-hearing
4 brief, you argue that the pricing data, although
5 problematic, further demonstrate the lack of material
6 injury. However, the staff report seems to tell a
7 different story. Specifically, Table D-7 indicates
8 that subject imports undersold the domestic like
9 product in an overwhelming majority of available price
10 comparisons. Please explain how the pricing data
11 demonstrates a lack of material injury, especially in
12 light of Table D-5 and why do you characterize the
13 pricing data as problematic?

14 MR. PIERCE: Well, as to not demonstrated
15 injury, the Commission has already determined that for
16 most of that period; 2004, 2005, 2006, the Commission
17 has already said there is no injury. The domestic
18 industry has said there is no injury. There is no
19 injury with those underselling margins determined
20 before. That's still true today.

21 The leaves us with 2007, looking at the
22 underselling data. And I posit to you, when you look
23 at the underselling margins for subject Mexico, they
24 are too small for most of 2007 and most of the main
25 products on a volume basis to be consequential.

1 They're not zero, but they're darn close. So, on that
2 basis, I would say subject Mexico, there's no pricing
3 case here for subject Mexico.

4 As to the problems with the data, you've got
5 two different levels of trade, sales to distributors
6 and sales to end users, being combined into a single
7 average price in the comparison. Distributors get
8 lower prices than end users. That's why normally, in
9 pricing product comparisons, the Commission breaks
10 them apart for a its separate underselling analysis.
11 Here, they've been conflated into one single average.
12 Well, when one group, the U.S. producers, have a
13 larger proportion of end user sales than do the
14 subject imports from Mexico, which is almost all
15 distributors, your averaging is skewed. So,
16 obviously, you get a higher U.S. average price than
17 you do for the subject imports. It's not reflective
18 of actual prices. It's reflected of the customer mix,
19 if you would, as opposed to the product mix in this
20 instance.

21 COMMISSIONER LANE: Okay. Thank you. Thank
22 you, Mr. Chairman.

23 CHAIRMAN PEARSON: Commissioner Williamson?

24 COMMISSIONER WILLIAMSON: Thank you, Mr.

25 Chairman. I do want to express my appreciation to the

1 witnesses for their testimony and for coming here to
2 give it.

3 Mr. Espinosa, I was wondering if you could
4 provide maybe a post-hearing record on the housing
5 construction in Mexico, what the trends are showing,
6 just so we have more data on this, since you mentioned
7 that of such a hot market. And I guess it might be
8 useful -- okay, I think that would be very helpful.

9 MR. PIERCE: Yes. We would be happy to
10 provide that.

11 COMMISSIONER WILLIAMSON: In reference of
12 the Mexican government this morning talked about --
13 someone talked about the national infrastructure
14 program. And I wanted to get further elaboration on
15 that from them and anyone else who wants to offer
16 testimony on exactly why there's so much LWR being
17 used and how significant it is, because infrastructure
18 projects are usually -- require heavier steel. And I
19 noticed there was mention this morning of, I guess,
20 tourism, construction for that. But, I just wondered
21 if you could elaborate further on why that should be
22 such a heavy -- we should take that into account in
23 considering demand in Mexico.

24 MR. PIERCE: It's going to be and it's a
25 large demand driver in Mexico for all construction

1 materials, to drill down from a quarter trillion
2 dollars investment to exactly what the LWR consumption
3 is going to be, we're not going to be able to do that.
4 But, we can provide you with the details by sector of
5 how much is being spent and we know some of them are
6 going to be significant consumers of LWR. There was
7 mention of construction of 45,000 new hotel rooms are
8 going to be constructed. Many of these projects,
9 whether they relate to energy, transportation,
10 distribution networks, are going to involve
11 construction using LWR. I can't drill it down to a
12 number specific to LWR, but I think you can, from what
13 we will give you and provide to you, it's obvious it's
14 going to have a huge construction impact and that's
15 generally the sector where LWR is consumed. You're
16 going to see LWR consumption, as a result.

17 COMMISSIONER WILLIAMSON: Thank you. I
18 don't think there was any testimony on where the
19 plants making LWR are located in Mexico. Are they
20 close to the border? Are they close to ports? How is
21 the distribution of that, the subject ones?

22 MR. PIERCE: They can give you the details
23 on it. They're primarily in Monterrey, which is about
24 125, 150 miles from Laredo -- 120 miles from Laredo.

25 COMMISSIONER WILLIAMSON: Okay. So, the

1 bulk of -- so that's why it's all -- the shipments to
2 the U.S. are almost all by truck?

3 MR. PIERCE: That's correct.

4 COMMISSIONER WILLIAMSON: Okay. Mr. Psooy,
5 you talked about the -- I guess the Mexican
6 competition in your region and I was just wondering to
7 what extent are U.S. producers competitors in the
8 market in the southwest central region.

9 MR. PSOOPY: In our particular region?

10 COMMISSIONER WILLIAMSON: Yes.

11 MR. PSOOPY: From what I've been told by our
12 sales staff, we rarely encounter them in our travels
13 in that region. I don't know to what extent they've
14 ever been a presence in the past; but in my years with
15 the company, they have not been.

16 COMMISSIONER WILLIAMSON: Okay. So, you
17 mean not in any sector of LWR in that area?

18 MR. PSOOPY: Perhaps in some of the
19 manufacturing sectors, where the hollow structural
20 requirements are used. But, in our sales to our
21 distributors, I'm not aware of having any continuous
22 competition with American suppliers.

23 COMMISSIONER WILLIAMSON: Okay. Thank you.
24 This morning, I asked the question about the
25 consolidation of the domestic industry in the U.S. and

1 I was wondering your views on that.

2 MR. PIERCE: Well, our views on it is that
3 it is starting to occur. We saw in 2006, there was an
4 acquisition by the Maneely Group that was then taken
5 over by the Carlyle Group. Most recently, I think
6 within the last month, Maruichi bought Leavitt Steel
7 and Pipe. So, there is consolidation starting, but it
8 certainly hasn't reached the level yet that we've seen
9 in the flat-rolled industry.

10 COMMISSIONER WILLIAMSON: Any explanation
11 for the delay there, in your view?

12 MR. PIERCE: I would be happy to give you a
13 view in the post-hearing brief.

14 COMMISSIONER WILLIAMSON: Okay, thank you.
15 What effect, if any, has the pendency of this
16 investigation had on subject import volumes?

17 MR. PIERCE: None with respect to Mexico.
18 If you look at imports from Mexico on a month-by-month
19 basis, as shown in Mr. Schagrin's Exhibit 1, and then
20 in the most recent import statistics that are
21 available through February, you're going to see no
22 change, significant change in imports from Mexico,
23 whereas the imports from the other subject countries
24 have fallen off significantly. That could be for
25 other reasons, particularly with respect to China,

1 where we have seen other reasons for imports
2 declining. There is also strong markets in other
3 countries. But, for Mexico, you're just seeing a very
4 distinctly different pattern. The petition didn't
5 have an effect. The preliminary determination didn't
6 have an effect. It's the same volumes. The markets
7 are that integrated. It's a distinct relationship
8 between the Mexican producers and their U.S. customers
9 in that particular region, which is interesting -- if
10 I may?

11 COMMISSIONER WILLIAMSON: Go ahead.

12 MR. PIERCE: Because, Petitioners and
13 Petitioners' counsel were talking about, oh, thank
14 gosh, we've got the relief from this preliminary
15 determinations and from the petition being filed,
16 that's the only reason they've gotten relief of late.
17 It just shows there's no causation with Mexico,
18 because the volumes haven't changed from Mexico, as a
19 result of the petition or the preliminary
20 determination. Thank you.

21 COMMISSIONER WILLIAMSON: What about the
22 costs for the Mexican producers, are you seeing the
23 same trends as in the United States or how is the cost
24 for them differ in recent months?

25 MR. SIFUENTES: Yes, Mr. Williamson. In the

1 case, the cost of production of light-walled
2 rectangular tubing around \$65 to \$70 per ton. And I
3 don't have any idea about the cost for the production
4 of light-walled rectangular tubing for American mills.

5 MR. PIERCE: We do know that the hot-rolled
6 coil prices in Mexico are at or above U.S. prices for
7 hot-rolled, as well. As to galvanized product, you
8 just don't see much of that coming in from Mexico, so
9 it's not a particularly relevant factor. On energy
10 prices, they've gone up in Mexico like they have here.

11 COMMISSIONER WILLIAMSON: Okay. Other
12 components, significant changes in labor cost or
13 anything like that?

14 MR. PIERCE: Nothing of particular
15 significance that I'm aware of, but we'll check that
16 in case there is anything there in the post-hearing
17 brief.

18 COMMISSIONER WILLIAMSON: Okay. Thank you.
19 I have -- something else you want to add to that?

20 MR. SIFUENTES: I don't think so. It is the
21 same. It's stable. It's stable, the same.

22 COMMISSIONER WILLIAMSON: The, what, labor
23 costs?

24 MR. SIFUENTES: Yes, the labor cost.

25 COMMISSIONER WILLIAMSON: Okay. Thank you.

1 I have no further questions at this time.

2 CHAIRMAN PEARSON: Mr. Psooy, you may have
3 mentioned this, but I missed it. Does your firm also
4 distribute U.S.-produced light-walled rectangular
5 pipe?

6 MR. PSOOPY: Very, very rare occasions,
7 usually not prime material, things, you know, bundles
8 cleaned up from Mexican mills and stuff -- secondary
9 market. Prime U.S.-produced material, I would have to
10 say none.

11 CHAIRMAN PEARSON: Okay. And that's in
12 large part because there simply isn't a supplier close
13 enough for it to be attractive from a transportation
14 standpoint?

15 MR. PSOOPY: That may have been the case at
16 one point. But, we've probably burned any bridge that
17 we had with the domestic producers quite some time
18 back. That may have a little bit to do with it. And
19 if not, my presence here today will ensure it.

20 CHAIRMAN PEARSON: You're not suggesting
21 that the commercial relationships can be complicated
22 and fraught with some difficulty?

23 MR. PSOOPY: Absolutely not.

24 CHAIRMAN PEARSON: So, your firm, then, is
25 primarily a distributor of Mexican product and then

1 you had indicated occasionally have dealt with product
2 imported from other origins.

3 MR. PSOY: Yes. We have purchased and
4 distributed products from many countries. Mexico is
5 the only country that has been a supplier for us for
6 over 20 years consistently. Everybody else comes and
7 goes, as the markets move and change.

8 CHAIRMAN PEARSON: Okay. There was some
9 discussion with the Petitioners about Mexican product
10 that was seen up and down the east coast. You've
11 indicated that your experience with Mexican product is
12 that it's not terribly competitive outside the central
13 southwest area. Can you provide any additional
14 comment on that or perhaps in the post-hearing, any
15 data to support your argument?

16 MR. PSOY: I can tell you now that I am
17 almost certain that the material that was being
18 discussed was of PROLAMSA origin. They tend to do
19 some work with railcars that I don't believe any of
20 the other producers in Mexico do. Everybody else
21 deals with platform trucks, which cannot be
22 economically shipped out to the east coast. So,
23 although I have no proof of it, I would very much so
24 suspect that that was PROLAMSA or non-subject material
25 that they were referring to.

1 CHAIRMAN PEARSON: Okay. So to the best of
2 your knowledge, no Mexican producers are putting any
3 light-walled rectangular pipe on vessels and shipping
4 them up the east coast that way?

5 MR. PSOOPY: Not that I'm aware of. We're
6 certainly not participating in anything like that.

7 CHAIRMAN PEARSON: Mr. Espinosa, does your
8 firm have any experience with exporting --

9 MR. SIFUENTES: No, I haven't. No, I
10 haven't.

11 CHAIRMAN PEARSON: -- on vessels? And you
12 don't know if any of this with other Mexican
13 producers?

14 MR. SIFUENTES: Well, we have some companies
15 in Monterrey, in northern Mexico, and those companies
16 are not sending the material by railcar, as Neil said,
17 and maybe PROLAMSA.

18 CHAIRMAN PEARSON: Okay. And then the
19 economics of shipping long distance, once you've got
20 it on a railcar, the economics can work okay and
21 potentially a product could make it as far as
22 Baltimore? Is this a plausible scenario?

23 MR. PSOOPY: I think I mentioned here before,
24 I did work for a Mexican tube mill at one time and I
25 did, in fact, make one rail shipment from there to

1 California and it was the last one and I think I've
2 sworn off ever attempting it again. It's extremely
3 complicated, expensive, time consuming, and certainly
4 not profitable. It was an experiment that ceased
5 after the first try. How others do it or would do it,
6 I can't comment. But, I'm quite certain that that
7 particular mill will never attempt it again.

8 CHAIRMAN PEARSON: Okay. Well, for counsel
9 on both sides, if there is material that we could know
10 about this in the post-hearing, that could be helpful,
11 whatever could be put on the record, because we have
12 representations that are somewhat different from the
13 Respondents and the Petitioners.

14 MR. PIERCE: Okay.

15 CHAIRMAN PEARSON: Mr. Espinosa, back to
16 you. Does Nacional de Acero export only to the United
17 States or in your role as export manager, do you have
18 some amount of product that moves to other countries?

19 MR. SIFUENTES: Currently, we just export
20 into the United States.

21 CHAIRMAN PEARSON: Okay. So, you kind of
22 have an exclusive assignment?

23 MR. SIFUENTES: Of course -- of course not.
24 Just, we prefer exporting to the United States,
25 because the United States have big customers, big

1 distributor companies, and we prefer to sell to those
2 companies and do not get any problems to the other
3 countries, because the other countries -- what I'm
4 talking about what I'm allowed to do instead of
5 others, those kind of companies have small distributor
6 centers. So, I prefer to sell 100 tons of whatever to
7 one person that is located in the States, to 100 tons
8 to 100 companies. This is the reason.

9 CHAIRMAN PEARSON: I understand that plight.
10 The economies of scale would indicate that it's
11 rational to sell in the United States, especially
12 given your location of Monterrey. Your production
13 facility also is in Monterrey or does your firm have
14 multiple facilities across Mexico?

15 MR. SIFUENTES: We just have one in
16 Monterrey. We just have one in Monterrey.

17 CHAIRMAN PEARSON: There has been some
18 discussion of the role that PROLAMSA might play in the
19 event that an antidumping duty order was to apply to
20 subject Mexican producers. Perhaps you could comment
21 a bit more on that, because we can see from the record
22 that during the period of investigation, there was --
23 just to characterize the trend of imports from
24 PROLAMSA, it was heading down, okay, and that was not
25 the case for the subject producers from Mexico. Since

1 we did not see PROLAMSA making aggressive efforts to
2 expand its sales in the United States during a time
3 when there was no order, do we think that would happen
4 if there was an order on the other companies?

5 MR. PIERCE: In a heartbeat. The
6 competitive advantage that PROLAMSA would have over
7 the other Mexican mills that would be subject to the
8 order and they would not be is apparent and obvious.
9 It's not just the magnitude of the dumping duties,
10 it's the retroactive effect of the dumping duties, as
11 well, where the importer really does not know the
12 liability to long after the importation. If you have
13 similarly situated -- you could not have more
14 similarly situated companies. That's why I thought it
15 was Gerald Metals Plus. Gerald Metals was a Ukrainian
16 and Russian producer. Here, you have two Mexican
17 producers, I believe in the same town, and the
18 competitive advantage that they would take to get into
19 the Mexican market, if the subject Mexicans were
20 knocked out, by PROLAMSA would be tremendous. There
21 is a reason that PROLAMSA led the preliminary defense
22 at the ITC and is not here today after the DOC
23 preliminary determination that is going to get them
24 out of the case.

25 CHAIRMAN PEARSON: They must have led a

1 defense at Commerce, as well.

2 MR. PIERCE: Yes, they did, they did. They
3 were the largest.

4 CHAIRMAN PEARSON: But, just looking at the
5 data that we have here, one could almost assume that
6 PROLAMSA had been building its relationships with
7 domestic customers in Mexico and that could be why we
8 see the downtrend of shipments to the United States.
9 And what is it that makes them want to abandon their
10 customers in Mexico, in the event an order is entered?

11 MR. PIERCE: Well, I don't --

12 CHAIRMAN PEARSON: Or are your clients going
13 to aggressively compete for their domestic customers,
14 leaving them no alternative but to ship to Mexico --
15 to the United States?

16 MR. PIERCE: I think all the mills are going
17 to continue to serve the growing Mexican market and
18 that's not just PROLAMSA. The Mexican market -- all
19 the mills are going to serve it. To the extent that
20 PROLAMSA has available capacity, that's available to
21 be used to replace subject imports in the U.S. market.
22 There may, at the margin, be shifting, as well, to the
23 U.S. market by PROLAMSA, if the other Mexican mills
24 are taken out of the market. Certainly, they're in a
25 much better position and will move quickly into this

1 market and they will benefit from the order. The U.S.
2 mills will not.

3 CHAIRMAN PEARSON: I understand they're
4 position potentially to benefit from an order. Just
5 given --

6 MR. PIERCE: They have available capacity.

7 CHAIRMAN PEARSON: Okay. And so,
8 potentially, PROLAMSA could step in, fill the entire
9 volume that's currently being filled in the United
10 States by other Mexican companies, and maintain the
11 nice stable supply of Mexican product that you've been
12 talking about?

13 MR. PIERCE: I would be happy to answer -- I
14 can't discuss their specific capacity data and that's
15 what that turns on.

16 CHAIRMAN PEARSON: Fair enough.

17 MR. PIERCE: And I would be happy to in the
18 post-hearing brief and answer it.

19 CHAIRMAN PEARSON: Okay. If you could tell
20 a little bit more about this, because, I mean, I
21 understand what you're saying, that, indeed, there
22 could be substantial shifting of one firm to another,
23 in terms of supplying the U.S. market. But, just what
24 we're seeing here doesn't make PROLAMSA look like that
25 aggressive a sales --

1 MR. PIERCE: Well, we know they're doing --
2 theoretically, one would think they're getting higher
3 prices in the United States. They did get a zero
4 dumping duty, right, so --

5 CHAIRMAN PEARSON: But, would PROLAMSA,
6 then, start selling to you, Mr. Psooy, if your
7 existing suppliers are bumped out of the U.S. market?

8 MR. PSOOPY: As I had stated, we have not
9 purchased any product from PROLAMSA for quite some
10 time. We view each other as competitors. Would they
11 perhaps begin to sell to us again? I don't know. It
12 might be speculation on my part to say either way;
13 but, at this time, we currently don't have a
14 relationship with them.

15 CHAIRMAN PEARSON: Okay. Well, my light has
16 turned red, so thank you, very much. Madam Vice
17 Chairman?

18 VICE CHAIRMAN ARANOFF: Mr. Psooy, I want to try
19 and tie together some of the things that you've said
20 in your testimony.

21 You had indicated for a number of reasons
22 that really only Mexican producers and U.S. producers
23 that have plants in the region can be competitive in
24 your region of the country because of transportation
25 cost issues and some other things. You suggested that

1 was the reason why you didn't see a lot of imports
2 from the other subject producers, you didn't see a lot
3 of imports from Canada, and you didn't even really see
4 a lot of competition from domestic producers with
5 plants outside your region.

6 That being the case, why, I guess I'm trying
7 to figure out why there have been these plant closures
8 of domestic plants, the ones in Texas in particular,
9 and I think there was some testimony for a few other
10 ones in the central Southeast or Southwest region that
11 have closed which Petitioners have indicated is
12 because they were unable to compete with the prices
13 and volumes of the subject imports. Is there another
14 explanation for why those plants have closed?

15 MR. PSOY: Having no relationship with the
16 American mills I'm forced to speculate in order to try
17 and answer that question.

18 The one thing that comes to mind might be
19 the transportation costs of shipping coil into that
20 area. I don't know if there are coil producers in
21 Oklahoma or Texas. If there are I have never heard of
22 them, and perhaps that could be a factor in making
23 them competitive or non-competitive.

24 VICE CHAIRMAN ARANOFF: If there's anything
25 you all want to add in the post-hearing, because we

1 obviously have some representations on the part of the
2 domestic industry about what the reason for those
3 closures are.

4 MR. PIERCE: We'd be happy to address it in
5 the post-hearing brief.

6 But just as a point of law, first you have
7 to look at the domestic industry as a whole, of
8 course. We can point to very profitable domestic
9 mills and you'll say no, no, no, you've got to look at
10 the domestic industry as a whole. You can't just
11 carve out some. And when we look at that you see a
12 profitable domestic industry.

13 You also have to look at timing. When did
14 these closures occur? They occurred during 2006, a
15 time that you've already determined there was no
16 material injury by reason of subject imports; or did
17 they occur more recently?

18 Then can you tie that causation directly to
19 the imports and have it be injury for the domestic
20 industry as a whole?

21 So to slice and dice and say well, they hurt
22 us here and they didn't hurt us there, the Commission
23 hears that all the time, usually from Respondents like
24 me pointing to a very profitable domestic mill and you
25 say no, it's the domestic industry as a whole. It

1 cuts the other way as well. You have to look at the
2 domestic industry as a whole. I think you also have
3 to look at timing issues. Anything that happened
4 before 2007 is frankly off the table. You've already
5 determined there's no material injury by reason of
6 subject imports.

7 VICE CHAIRMAN ARANOFF: Well, I take your
8 argument but I must say there have been closures of
9 mills in other parts of the country too which have
10 also been ascribed by the domestic producers to
11 subject imports, and I think it's your argument that
12 there's something different about this region, so I
13 want to know what that different something is.

14 MR. PIERCE: Absolutely. That's fair
15 enough. Again, we'll address it in the post-hearing
16 brief. To the extent that there are closures in
17 different regions, it could not have been by reason of
18 the subject imports from Mexico. I guess that's my
19 bottom line point. When you get out to the Nebraska
20 mill they were talking about closure in 2007, there
21 probably hasn't been a pound of light walled
22 rectangular in Nebraska in the last 20 years from the
23 subject mills in Mexico. The causal analysis just
24 cannot be made.

25 VICE CHAIRMAN ARANOFF: Okay.

1 We have some record evidence of some
2 consolidation in the Mexican industry with Ternium
3 acquiring Hylsa and Imsa during the period that we
4 look at or shortly before. Can anyone comment on what
5 the effect of these changes has been on the Mexican
6 industry and whether there are any other changes or
7 trends in terms of consolidation or ownership?

8 MR. WINTON: This is actually why I'm here
9 today, to answer this question. So thank you. I'm
10 the lawyer for Hylsa and have been working with them
11 actually, with Roger since 1991, and can speak more
12 than anyone would want to know about how the
13 acquisition has changed the company.

14 One of the things they've decided to do is
15 to put me out of business by reducing their exports.
16 It's really not the light walled rectangular pipe
17 function, it's really across the board, every product.
18 It's the Ternium philosophy, really is to focus on
19 domestic sales and domestic growth, and of course it's
20 working great because in Mexico there's a lot of
21 domestic growth to take their domestic sales. But
22 they don't see themselves as an exporting company.
23 They take a broader view, I think, of the market than
24 Hylsa did in the past when it was an independent
25 company, than Imsa did in the past. They look at,

1 Ternium has production spread across all of Latin
2 America, from Argentina to Venezuela, at least for
3 now, to Mexico. They look at what's the most
4 profitable use of their steel throughout all of the
5 regions they serve and they're not tied to making
6 sales to the United States. So it really has changed
7 across the board.

8 You will hear me make a similar point, but I
9 will actually have a Ternium witness next week when we
10 do steel wire rod because it's much the same story.
11 It's also the same story in flat product which is
12 thankfully not subject to any of these proceedings.
13 And as they've acquired Imsa, it's my understanding,
14 I'm not as familiar with Imsa's history, but it's my
15 understanding that with Imsa as well the focus is
16 going to be on domestic growth. That's where Ternium
17 sees the strategic focus of their operations.

18 VICE CHAIRMAN ARANOFF: I appreciate those
19 answers.

20 I'm trying to decide if I want to go to this
21 question or not. Mr. Pierce, I know you don't want us
22 to go back and look at the present injury issue,
23 although we might. If we were to do that, I've been
24 looking at the information that we have on the record
25 now, but I don't think we had in the prelim, about

1 geographic overlap and asking myself whether an
2 argument could be made not cumulate Mexico on the
3 basis of geographic overlap for present injury.

4 MR. PIERCE: We looked at that as well. In
5 looking at it, and based on the information on the
6 record where you do have some evidence of some
7 domestic mills and you've also got imports from Turkey
8 and China through the port of Houston, Galveston. I'd
9 love for you to do it, I'd love for you to cumulate on
10 that basis, and we'll defend you in court when that
11 gets taken up. But I think that would be, to say that
12 cumulation is not allowed in a material injury
13 context, that would be pushing that argument pretty
14 far. Not that I don't think there's great support for
15 it, but that would be pushing the argument far.

16 VICE CHAIRMAN ARANOFF: Okay, I appreciate
17 that honest answer.

18 Mr. Psooy, let me ask you. I asked this
19 morning the domestic producers to talk to me about how
20 raw material costs get passed down the chain in this
21 industry and they said that even though surcharges are
22 the usual method for passing on costs with respect to
23 more basic steel products further up the chain, that
24 they buy their coil on the spot market and then they
25 sell mostly on spot sales, and so there's no sort of

1 clear process by which a surcharge just gets passed
2 down the line. Is that your experience as well?

3 MR. PSOY: Typically we sell our product
4 based on replacement cost. Just as an example, if
5 we're told today that the price is a thousand dollars
6 per ton, we sell it based on a thousand dollars per
7 ton cost plus some of the cost values that I gave you
8 in my presentation.

9 If we get a call next week telling us that
10 it's a thousand and one hundred dollars, the same
11 applies. We change our price. This is used in an
12 upward market such as we're in today, and it's also
13 used in a downward market which of course is far less
14 profitable when you have to sell product you may have
15 paid a thousand dollars for say nine hundred dollars
16 because that is what the current market value is.

17 That's why I found it strange to hear that
18 they could not pass these costs on, especially with
19 such a high demand, at least that we're experiencing.
20 I found that very strange. We're not having that
21 problem.

22 MR. PIERCE: If I may, if you're a pipe mill
23 and you've got one or two months of inventory of hot
24 rolled that you bought at a cheap price and you're
25 pricing your LWR at replacement cost versus what the

1 current costs are for the hot-rolled, you're making an
2 upward market, you're making a lot of money. So these
3 pipe mills are doing very very well today with these
4 price increases. If for no other reason than the lag
5 in their raw material costs as against their price
6 increase.

7 VICE CHAIRMAN ARANOFF: Although our pricing
8 data do show that in 2007 the trends were otherwise,
9 and you would see the flip side of that.

10 MR. WINTON: I think if you look at the raw
11 material prices you see a decline in raw material
12 prices from 2006 into 2007 which means that during
13 2007 the costs are higher than the current price would
14 be. Then as you come into 2008 the prices go up. You
15 see the prices going up faster than the costs because
16 the costs you're seeing are from past --

17 If you want, we argued this endlessly in the
18 2004 case because it has to do with how you account
19 for your material costs. If you're using a first
20 in/first out method, which as the Europe producers
21 mostly were, what you see is the costs that they'll be
22 recognizing today are the low cost coils they got in
23 2007. But they'll be taking the prices that are
24 higher because they immediately pass through the price
25 increases. Last year it was the opposite, exactly as

1 you say.

2 VICE CHAIRMAN ARANOFF: Okay. My red light
3 is on, so I'll stop right there. Thanks.

4 CHAIRMAN PEARSON: Commissioner Lane?

5 COMMISSIONER LANE: Thank you.

6 You state that the Commission must reach the
7 same finding of no material injury that it reached in
8 the preliminary determination because since that time
9 the domestic industry has increased profitability and
10 market share. However, at the time of the preliminary
11 determination the Commission was presented with only
12 one quarter of 2007 data showing some declines from
13 2006, and now we have a full year of 2007 data which
14 show declines in profitability, production, capacity,
15 sales and workers among others.

16 With this full year's worth of data, please
17 explain your position on page five of your brief that
18 the Commission must reach the same no injury
19 determination in the final phase, noting of course
20 that I did find affirmative present injury.

21 MR. PIERCE: Yes, I know you did.

22 As for the Commission entirely, it must as a
23 matter of logic not must as a matter of law.

24 The Commission and Petitioners for the
25 affirmative preliminary determination leaned extremely

1 heavily on that first quarter of 2007. Nobody was
2 dismissing it then. Nobody was saying well, don't
3 take a look at it. That was the basis for a
4 determination of threat. So you say okay, what
5 happened throughout the rest of 2007? Take it on the
6 annual average. Profits went up, market share went up.
7 If that quarter didn't constitute injury, then by
8 logic a full year with better performance doesn't
9 constitute material injury. That leaves you with the
10 threat determination. Logically, for those who voted
11 in the affirmative based on threat. I recognize that
12 you based your vote on actual material injury.

13 COMMISSIONER LANE: Did I hear you
14 correctly, that as a matter of law the Commission has
15 to find threat --

16 MR. PIERCE: No, no, no, no.

17 COMMISSIONER LANE: -- because it did that
18 in the preliminary?

19 MR. PIERCE: No, that's not correct. I
20 don't think that's what I said and if it was, it's not
21 what I meant to say. It's as a matter of logic, not
22 as a matter of law.

23 COMMISSIONER LANE: Thank you.

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

25 CHAIRMAN PEARSON: Commissioner Williamson?

1 COMMISSIONER WILLIAMSON: I'm not sure on a
2 Friday afternoon I want to get into logic and
3 philosophy, so I won't. Let me go to another
4 question.

5 This may have to be done post-hearing.
6 Could you please respond to the Petitioner's estimates
7 of subject foreign LWR capacity as set out in 21 of
8 their brief, and I think it's Appendix 4, but it's
9 something I'd like you to address in post-hearing.

10 MR. PIERCE: We'd be happy to address that
11 in post-hearing. For subject Mexico in particular,
12 there's not much available capacity at all. Capacity
13 utilization rates are quite high. And to the extent
14 that there's an argument about product shifting,
15 there's been an order on standard circular pipe for
16 Mexico since 1992. Any product shifting that was
17 going to occur would have occurred a long time ago.
18 It isn't going to occur now.

19 So with respect to subject Mexico, there is
20 not available capacity sufficient to cause material
21 injury to the U.S. industry. But we'll also address
22 that particular exhibit you mentioned in our post-
23 hearing brief.

24 COMMISSIONER WILLIAMSON: Did you say
25 earlier that you thought the non-subject Mexican

1 producers did have capacity? You said something about
2 being able to take advantage of it?

3 MR. PIERCE: We know that they have
4 available capacity PROLAMSA, but how much and how much
5 is available to ship to the United States, that's a
6 confidential number and I'd be happy to address that
7 in a post-hearing brief.

8 COMMISSIONER WILLIAMSON: Particularly as
9 compared to the subject producers.

10 MR. PIERCE: Yes, Commissioner.

11 COMMISSIONER WILLIAMSON: I have no further
12 questions at this time, Mr. Chairman.

13 CHAIRMAN PEARSON: Mr. Pierce, going back to
14 an issue that's been kicking around here now for a
15 little while, we don't have anyone else coming before
16 us really prepared to explain to us why we shouldn't
17 make a present injury determination here. I know the
18 other Commissioners have been touching on that, but I
19 would hope that either now or in the post-hearing you
20 could lay that out with some degree of thoroughness or
21 perhaps ask Mr. Winton to do it, I don't know. We've
22 been hitting you today more than him.

23 But as you know, I was one of the
24 Commissioners that did make a threat finding in the
25 prelim, but I'm not comfortable myself starting with

1 that assumption, looking at a new case, or a
2 substantially new case. So I would want to understand
3 with considerable clarity why this is not a material
4 injury case.

5 MR. PIERCE: We will detail that more in the
6 post-hearing brief. We tried to address it in our
7 pre-hearing brief and Mr. Mroczka's testimony hit upon
8 it. You don't have the causation, primarily. To the
9 extent that there was a downturn in 2007, it was a
10 downturn in demand. A downturn in demand is twice the
11 magnitude of the downturn in domestic sales, twice the
12 magnitude of the downturn in production, and market
13 share still increased for the domestic industry. But
14 we'd be happy to detail those causal factors in our
15 post-hearing brief for why there is no material injury
16 that can be found by reason of subject imports in this
17 particular final determination.

18 CHAIRMAN PEARSON: I appreciate that. It
19 needs to hinge on issues other than just we went
20 threat in the prelim.

21 MR. PIERCE: Understood.

22 CHAIRMAN PEARSON: Mr. Winton, do you have
23 any thoughts on that?

24 MR. WINTON: My instructions from my client
25 were not to duplicate Mr. Pierce's efforts, and I

1 didn't think anybody wanted to read two briefs saying
2 the same thing. But we will work out how best to
3 respond jointly to those questions.

4 CHAIRMAN PEARSON: Okay. I know you already
5 are building the best case on why, if we reach the
6 issue of threat, why Mexico should be decumulated, and
7 I look forward to seeing a fulsome exposition there as
8 well, because as you know in the prelim not all
9 Commissioners who went threat did see fit to cumulate
10 Mexico. That might be an issue we discuss again, who
11 knows.

12 MR. PIERCE: Will do.

13 CHAIRMAN PEARSON: I actually have found
14 your testimony very helpful. I can't think of other
15 questions for right now.

16 Madame Vice Chairman, do you have any more?

17 (No audible response).

18 Commissioner Lane?

19 (No audible response).

20 Commissioner Williamson?

21 (No audible response).

22 Well enough.

23 Do members of the staff have questions for
24 the Respondents' panel?

25 Mr. CORKRAN: Douglas Corkran, Office of

Heritage Reporting Corporation
(202) 628-4888

1 Investigations. Thank you, Chairman Pearson, the
2 staff has no questions.

3 CHAIRMAN PEARSON: Mr. Schagrín, does the
4 domestic industry have questions for the Respondents'
5 panel?

6 MR. SCHAGRIN: No, the domestic industry
7 does not have any questions for this panel, Mr.
8 Chairman.

9 CHAIRMAN PEARSON: Thank you.

10 Once again let me express my appreciation
11 for your participation here today. It's been very
12 interesting with a focus on certain issues that are of
13 importance to us, and I appreciate it.

14 The time check. There must have been
15 collusion between the parties, that's all I can say,
16 because the Petitioners have 19 minutes left from
17 their direct presentation plus five for closing, 24
18 minutes total. The Respondents also have 19 minutes
19 left from the direct presentation, five for closing, a
20 total of 24.

21 How do you wish to proceed? If you wish to
22 use all 24, of course you may. If you prefer to do a
23 slightly truncated version, that would be fine.

24 The floor will be yours first, Mr. Schagrín.
25 Are you prepared to go directly to closing or do you

1 want to do some rebuttal first? How would you like to
2 proceed?

3 And the panel may be dismissed. Thank you
4 very much.

5 (Whereupon the panel was excused).

6 MR. SCHAGRIN: For purposes of getting this
7 on the transcript, Mr. Chairman, I'm happy to combine
8 both. I don't see a need to do rebuttal and then have
9 Mr. Pierce do rebuttal and then do closing. If that
10 is acceptable to the Chair and to the Commission and
11 to Mr. Pierce, I would just suggest we proceed with a
12 combination of rebuttal and closing. I leave that to
13 the Chair.

14 CHAIRMAN PEARSON: That would be fine. I
15 look forward to your wrap-up comments regardless of
16 how you structure them.

17 Find a name tag and come up to the front
18 here, or from the podium, as you wish.

19 I can hear my fellow Commissioners thinking,
20 does Mr. Schagrín really need a name card?

21 I'm advised it's for the court reporter.

22 (Laughter).

23 The problem is we wrapped up so quickly you
24 didn't have a chance to get yourself organized.

25 MR. SCHAGRIN: That's all right. The mind

1 was working even if the paperwork wasn't organized.

2 Thank you Chairman Pearson and members of
3 the Commission for sitting through which, maybe
4 because it's a Friday, seems to be at least a somewhat
5 faster than normal final injury investigation. Of
6 course it might have been a little quicker because we
7 didn't have any representatives from Korea, Turkey or
8 Chinese industries. I don't want anyone on the
9 Commission to think that the domestic industry in any
10 way is leaving them out, but of course because the
11 Mexicans were here with their witnesses, we're glad
12 they were, with their embassy representatives, and
13 with a major distributor of Mexican product, I will at
14 least initially focus most of my comments on Mexico.

15 Of course as part of closing and rebuttal we
16 still believe this is a very strong injury case. We
17 do believe there's a difference between the weight the
18 Commission gave the interim period of the first
19 quarter of 2007 and the weight that of course must be
20 accorded a full year 2007. Not only were there all of
21 the declines in production indicators, production
22 shipments, capacity utilization, and of course major
23 declines in employment as well as certain mill
24 closures in 2007, but of course we saw this very sharp
25 reduction in domestic prices. I submit to you that

1 this record is completely clear, and I'm going to use
2 a lot of my rebuttal to clarify the information on the
3 excellent underselling information that it was the
4 underselling by the imports that caused domestic
5 producer prices to suffer.

6 And probably there is no better explanation
7 for that, although it is quite contrary to the
8 testimony of Mr. Psooy from Mueller Metals, but than
9 to have Mueller Metals speak to this issue. It
10 happens, and I guess Mr. Psooy would be part of what
11 the I presume owner as well as president of Mueller
12 Metals refers to as "the gang" because he's quite a
13 prolific writer. And in preparing for the hearing we
14 went on the Mueller Metals web site. Basically every
15 couple of weeks there's a letter to "valued customers"
16 from Fred Mueller and "the gang" talking about what's
17 going on in the ornamental tubing market. They're
18 clearly a major distributor, as they said, of Mexican
19 product. I would point out that they said they did
20 not distribute PROLAMSA product as the sales
21 geography, he did testify that while 80 percent of
22 their sales were in Texas and Oklahoma, that must mean
23 that 20 percent of their sales are outside Texas and
24 Oklahoma. I submit that's probably a lot of tons
25 because they seem to be, based on their own

1 literature, a very major distributor.

2 They also really make the cumulation case
3 because it's clear from an April 4, 2007 letter, and
4 that's two months before the case was filed, that they
5 were getting prices from Turkey and China, and I think
6 this gentleman said they were buying product from
7 Turkey and China. So they say, and I quote, "I'm
8 getting price on tubes from Turkey and China through
9 trading companies," and those countries are normally
10 the more reasonable ones price wise. They have to be
11 cheaper than Mexican tube, in my opinion, since the
12 delivery date is totally undependable. With Mexico it
13 could be four to six week delivery, I don't think it's
14 three to four days as was mentioned, but with these
15 guys it could be four to six months. So it makes
16 sense they get a little lower price from China and
17 Turkey and in fact we see that in the underselling
18 information.

19 We see the Mexicans undersell by ten
20 percent, these other countries undersell by fifteen
21 percent. Okay, it's a difference in lead times. But
22 the key is, they do know about competition with
23 domestic producers. They obviously do even in Texas
24 and Oklahoma, last time I checked, two of our great 50
25 states north of the Rio Grande, still part of our

1 country, and there are U.S. producers who want to sell
2 into those states.

3 Texas is a huge state. There's huge demand
4 in Texas. The idea that somehow 20 American mills, a
5 number of whom are located in neighboring states like
6 Mississippi, Alabama, Arkansas, Kansas, et cetera,
7 Missouri, they're not that far from Texas, would just
8 give up the Texas market to Mexicans is in fact
9 somewhat preposterous.

10 But as to domestic tube I think they really
11 tell the story about what was going on in 2007. I
12 quote again, "I talked to one of the major players
13 today," this is referring to domestic tube, "and they
14 announced a \$40 per ton or two cents per pound
15 increase yesterday on top of 1.5 cents at the end of
16 February. They also indicated a proposed increase at
17 the end of April as well. I am still selling well
18 below them."

19 Wow. We've got cumulation. The same
20 distributors selling from China, Turkey, Mexico.
21 These guys say I don't really compete with the
22 domestics.

23 Well the president of the company is telling
24 every customer they have, don't worry, my prices are
25 well below domestic prices. That shows competition.

1 It makes the cumulation case. It shows the
2 competition with domestics. It shows that they forced
3 prices down.

4 Now obviously this is very important under
5 the Commission because this forms the basis of your
6 determination. Let's parse it out a little bit.

7 They talk about the domestic producers
8 announcing \$40 a ton in April, announcing \$30 a ton in
9 February, and maybe another increase on top of that.
10 Look at the data you have for the domestic industry.
11 Do you see \$70 a ton of price increases in the data in
12 the first and second quarter of 2007? No, you don't.
13 I submit to you that even though steel prices were
14 going up at that time that you don't see the domestic
15 industry realizing their price increase in 2007 and
16 that's because folks like Mueller Metals were
17 consistently underselling the domestic industry every
18 day in the states of Texas, Oklahoma and there's
19 people like Mueller Metals all over the United States,
20 distributors who specialize in selling unfairly traded
21 import material who are underselling the domestic
22 industry and they force domestic prices down. It's
23 clear from the data that you have collected.

24 Once again as to what will happen if, as the
25 Mexicans say, they really argued in kind of two ways.

1 On the one hand they say this case really has no
2 impact on us. We're not even a threat. You were
3 different from anybody else. They made a big point
4 out of saying you really shouldn't be cumulating us
5 either for injury or threat because we come to the
6 market differently. The argument is Mexican mills
7 sell directly to distributors. Well, I think Korean
8 mills go directly to distributors. They've been in
9 this country for 25-30 years. They may go to
10 importers who go to distributors. The Turkish mills
11 can go directly to distributors. They may go to
12 importers who go to distributors. The Chinese mills
13 do go to importers who go to distributors. Where's
14 the difference in the way these folks go to market?
15 What does it matter whether a Mexican mill contacts a
16 distributor and says I'll give you a price less than
17 domestic, or whether the distributor is contacted by
18 an importer who says I have product on a boat that's
19 going to be landing in Houston and I'll give you a
20 price that's lower than the domestic price? It's all
21 the same way of going to market. That's why it gets
22 into the nature of competition. It's the same.
23 That's why your pricing data is actually good.

24 Mr. Pierce makes the argument but I think
25 without foundation that if you have sales to

1 distributors and sales to end users, sales to end user
2 prices must be higher. But there's a very small
3 portion of this market where sales are direct end
4 user. The few end users who are buying direct from
5 domestic mills are really big folks. Some of these
6 carport guys are very big. Tehre's a couple of other
7 big end users in certain manufacturing operations.
8 They get pretty good prices because they're big enough
9 to go direct. So tehre's really no foundation for the
10 argument that the underselling information isn't
11 credible.

12 Let's go to that underselling information.
13 They pointed out gee, it doesn't seem to be matching
14 up that when you have higher margins of underselling
15 in '06 than you do in '07 when more injury is
16 occurring. Well, I would say this. If you look at
17 the averages on one of the charts in the staff report,
18 you'll really see pretty consistent on an annual basis
19 underselling. And to the extent tehre's any
20 differences in quarters, I think it's clearly
21 explained by the fact that as testified to by the
22 domestic industry, under oath, very truthfully that
23 they were discounting from maybe the end of the first
24 quarter on. In 2007 they were seeing their volume
25 dissipate. They had foreign fighter programs, they

1 lowered their prices to close the gap and try to
2 regain the volume. It's obvious that didn't happen
3 with non-subject imports.

4 One other thing about Mexico, about the idea
5 that they're going to come on no matter what. These
6 trade cases don't scare them. But of course they're
7 here telling you please don't impose the duties on
8 them.

9 The reason we're here as to Mexico is
10 because it's clear to us that the subject imports from
11 Mexico are A, the cause of the injury and need to be
12 cumulated; and B, we wouldn't be here arguing for
13 including the Mexicans if we didn't think if we got
14 relief against the other countries that imports from
15 Mexico which are unfairly traded would increase
16 significantly. And in fact I would say it supports
17 both the causation and the threat from Mexico.

18 If you look at the imports in the fourth
19 quarter of 2007, the imports from Mexico were about
20 35,000 tons compared to 24,000 tons in the fourth
21 quarter of 2006. So unlike imports from Canada,
22 unlike non-subject imports from Mexico. As imports
23 from other countries started going down because of the
24 filing of the cases, the Mexicans started going up.

25 It also really undercuts their threat

1 argument. These folks are saying we don't have the
2 ability to increase imports. We're at high capacity
3 utilization, the housing market's booming,
4 infrastructure spending, et cetera, et cetera, et
5 cetera. Well wait a minute. How did you turn the tap
6 on in the fourth quarter of 2007 as the other imports
7 started going down, that somebody like Mueller Metals
8 says in September 2007, oh, my other imports sources
9 aren't offering me product any more because of these
10 trade cases, but don't worry the Mexicans still are
11 because the Mexicans could ramp it up.

12 If you go on Nacional de Acero's web site
13 you won't see that they're offering everything in
14 metrics. Their own web site. It's amazing the magic
15 of Blackberry. My clients are sitting there going on
16 web sites as I'm sitting there. I can't do it, I'm a
17 klutz. But they're doing it and they're going look at
18 this web site. Everything on their web site, even in
19 Spanish, which I do read, is in OD is in inches.
20 What's the thickness? It's in inches, not in
21 millimeter. It's how many inches of OD you want.
22 These guys are ready to sell to the Americans.

23 Now let's talk about the reverse. Let's
24 move on to Bratsk thoughts as to Mexico. I find it a
25 little contradictory on Mr. Pierce's part that he says

1 in general you don't have to worry about the Mexican
2 mills. There's no threat, high capacity utilization,
3 housing, infrastructure. But boy, if you made an
4 affirmative determination as to us, PROLAMSA's going
5 to come rushing in here. Wait. Same things you're
6 talking about with the Mexican industry don't apply to
7 PROLAMSA? One thing we know is PROLAMSA's not selling
8 to Mueller. They said they haven't done business
9 together in years. They're probably the biggest
10 problem with imports from Mexico.

11 It just doesn't add up. It seems a little
12 contradictory to me to say you don't have to worry
13 about us, but if you do anything about us, wow,
14 PROLAMSA is going to be rushing in.

15 I think the Commissioners already point out
16 in their questions, wait a minute. We have data. You
17 can make up stories, but in the end data is data. The
18 data shows that while these imports from these other
19 countries were declining, imports from PROLAMSA
20 weren't going up. So I would rely on the data, not
21 the story. When I'm going to watch gymnastics I don't
22 want to see numbered gymnastics here, I'll watch the
23 gymnastics over the summer on TV.

24 Let's also talk about the Mexicans in the
25 market. One of their arguments seems to be yes,

1 Northwest Pipe shut down in Houston; you can look at
2 what's happening to Longhorn in Dallas. Maybe they
3 can get the LEavitt mill in Jackson, next. I looked
4 also on a map no a Blackberry. Jackson, Mississippi
5 is as close to Dallas as Laredo, Texas. I kind of
6 thought that but I didn't know until I looked at the
7 map on the Blackberry.

8 So they don't have an advantage. I've been
9 to Laredo, Texas. They're not using a lot of this
10 product in Laredo. There is nothing in Laredo except
11 a trucking port.

12 What they're doing is bringing product into
13 Laredo and shipping it to the big markets in Texas --
14 Houston, Dallas, San Antonio. You know, there's no
15 reason U.S. mills can't ship to those places. I don't
16 want to see them keep putting U.S. mills out of
17 business and then saying you shouldn't grant us relief
18 or else the U.S. mills won't be able to serve these
19 markets.

20 Let's talk about, we already talked about
21 the correlations. I think we've hit most of the
22 issues. I'm trying to read all of these notes.

23 Let's get back to the bottom line in this
24 case because this is a really strong injury case. A
25 little bit of correlation questions, we'll get to

1 those further in the post-hearing brief, but the
2 strongest part of this case that the Commission can
3 and should rely upon in making a unanimous
4 affirmative cumulated determination is that the
5 imports from the subject countries and the subject
6 imports were consistently underselling the domestic
7 industry. They went through the same channels of
8 distribution, we put it in our brief, we got lots of
9 overlap all across this marketplace. We have overlaps
10 on geography. Most importantly we have overlaps on
11 pricing and underselling. it's a commodity product,
12 everybody admits that. And they force domestic prices
13 down. And they force domestic prices down in 2007
14 where contrary to some of the statements, steel
15 prices weren't falling in 2007. Steel prices were
16 going up and down. For the year you've got the data.
17 They were flat over the year.

18 You also have information on pricing for
19 each quarter and you have information on average
20 selling prices for the whole year. And those average
21 selling prices collapse. I submit to you that the
22 testimony of ten honest business executives from the
23 vast majority of the U.S. industry, that they cut
24 their prices to compete with imports is
25 uncontrovertible. It is what happened. That's the

1 injury case.

2 The underselling caused the price
3 depression, the price depression caused the drop in
4 profits.

5 Looking forward, if you even have to
6 consider threat there is no question that we're going
7 to face declining demand. I think it's going to spread
8 worldwide, I'm pretty pessimistic. I think it's going
9 to be a long time until it picks up significantly in
10 the housing market. These folks were losing money, 30
11 percent of the industry. They are not going to
12 survive if you don't make an affirmative injury
13 determination. They're struggling to pass along
14 current cost increases with price increases, but they
15 are very vulnerable, and one thing about all these
16 countries is there is more product that can come to
17 this market quickly, and it will.

18 So if you do get to threat, we briefed it
19 quite a bit. We didn't have the other countries here
20 to talk about it, but there's threat from all these
21 countries.

22 With that, I thank you very much for your
23 time and patience today and I hope for the benefit of
24 this industry that you make an affirmative
25 determination.

1 Thank you.

2 CHAIRMAN PEARSON: Thank you, Mr. Schagrín.

3 And let me clarify for the Petitioners that
4 we do not have to make a determination on the question
5 of whether or not you're esteemed counsel is a klutz.

6 (Laughter).

7 Welcome back, Mr. Pierce. Please proceed.

8 MR. PIERCE: Thank you, Mr. Chairman. I
9 won't take a lot of time on this. We'll cover
10 everything in our post-hearing brief and I think
11 you've heard enough today.

12 On the question of injury, there is no
13 material injury by reason of the subject imports on a
14 cumulated basis. You've already made that
15 determination through 2005 and 2006.

16 There simply is no correlation on a volume
17 basis. Imports go up, profits go up.

18 There's no correlation on an underselling
19 basis. When you have your largest underselling
20 margins you have the most profitable year of the POI
21 by the domestic industry.

22 What happened in 2007? Demand cratered.
23 Demand dropped 13 percent. Demand dropped twice as
24 much as domestic industry sales dropped. Demand
25 dropped twice as much as domestic industry production

1 dropped. That had a major impact on the domestic
2 industry, yet they still made profits of 6.5 percent.
3 That is a profitable industry. It's not the record
4 profits of 2006, but it is still a profitable
5 industry. While they gained market share in 2007
6 despite the sharp drop in demand and despite Mr.
7 Schagrín's claims about underselling.

8 There is no material injury that can be
9 found in this case based on the final record, on the
10 facts of the final record, and I submit to you based
11 on the logic of the prelim there wouldn't be either,
12 but on the full year basis of 2007 compared to 2006,
13 you simply don't have a basis for finding material
14 injury by reason of subject imports. The causal nexus
15 is broken, and fundamentally the 6.5 percent profit
16 margin, they are not suffering material injury.

17 That takes us to threat. In threat,
18 cumulation is discretionary. We think there are
19 strong factors for not cumulating subject Mexico in
20 this case. In particular for the subject imports,
21 just the subject imports, are heavily concentrated in
22 the geographic area of the central, southwest United
23 States. Not enough to prevent cumulation in a
24 material injury context but certainly enough to b a
25 significant factor for consideration of decumulation

1 in the threat context.

2 Also with respect to subject Mexico, you
3 have different import volumes. Imports are
4 essentially flat. Market share is flat. You have
5 very different prices from subject Mexico than you do
6 from the rest of the import sources, whether on an AUV
7 basis, but especially in 2007. Look at the
8 underselling margins for Mexico in 2007, especially
9 for the major products one and two. There simply
10 isn't correlation with that drop in profits in the
11 domestic industry in 2007 and the minimal amount of
12 underselling going on.

13 Other factors include delivery and the
14 importance of availability and reliability as
15 expressed by the purchasers. The purchasers are
16 telling you there's non-price reasons why we're buying
17 from Mexico. We're explaining this to you both on the
18 non-resident importer basis and on the delivery terms.

19 Therefore, subject Mexico should not be
20 cumulated. In our view you should exercise your
21 discretion and consider subject Mexico separately.

22 Keeping in mind also that subject imports
23 from Mexico are half of what they were, half of what
24 they were from the preliminary determination in terms
25 of volume.

1 On threat you have large capacity
2 utilization in Mexico. You have a large and growing
3 home market. You have no other export markets. Again,
4 you have flat volume from subject Mexico. You have no
5 market share gain. You have inventory -- the question
6 is inventories that are made to metric lengths are not
7 going to be shipped to the United States because you
8 can't lengthen them to a multiple of six foot lengths.
9 That's what the metric issue is about. It's not the
10 circumference of it, it's the length. And it only
11 goes to the inventory issue sitting in Mexico not
12 being sold to the U.S. market. That doesn't mean they
13 don't sell to the U.S. market or advertise for the
14 U.S. market in inches. Of course they do. Nobody's
15 saying they don't. But you produce to order for the
16 U.S. market, you don't sell from inventory.

17 Also with respect to Mexico, you have no
18 confirmed lost sales allegations. The allegations
19 that were made with respect to Mexico, lost sales,
20 purchasers say they weren't truer, denies them, said
21 it didn't happen. You have no confirmed lost sales
22 allegations. You don't even have a lost revenue
23 allegation with respect to Mexico.

24 And it always mystifies me, they come in and
25 they make these wild claims about subject imports, how

1 everybody knows this and everybody knows that, and how
2 we know that's what's causing material injury, but
3 there is such a paucity of lost sale and lost revenue
4 allegations on a country specific basis it makes you
5 doubt their entire case.

6 The domestic industry also in the threat
7 context, it is not vulnerable today. What we're
8 seeing are massive, major and many price increases,
9 one right after another starting with January 1, 2008.
10 We'll be putting those on the record. They cannot be
11 ignored. They are raising prices rapidly and quickly.
12 They are not vulnerable. They're responding very
13 well, becoming more profitable in the face of using
14 the hot rolled cost increases as an excuse to raise
15 their prices quickly to their customer base in the
16 United States.

17 With that, Mr. Chairman and Commissioners,
18 I'd conclude our presentation and my closing remarks.

19 CHAIRMAN PEARSON: Thank you very much, Mr.
20 Pierce.

21 For sake of balance let me clarify that we
22 also will not determine whether you are a klutz, and I
23 need to let that topic off or my fellow Commissioners
24 will reach that conclusion about me.

25 Moving now to the closing statement.

1 In accordance with Title 7 of the Tariff Act
2 of 1930 post-hearing briefs, statements responsive to
3 questions and requests of the Commission and
4 corrections to the transcript must be filed by April
5 18, 2008.

6 Closing of the record and final release of
7 data to parties, May 6.

8 Final comments on May 8.

9 This hearing is adjourned.

10 (Whereupon, at 3:20 p.m. the hearing was
11 adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: Light-Walled Rectangular Pipe and Tube

INVESTIGATION NOs: 701-TA-449 & 731-TA-1118-1121
(Final)

HEARING DATE: April 11, 2008

LOCATION: Washington, D.C.

NATURE OF HEARING: Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: April 11, 2008

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Carlos E. Gamez
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Christina Chesley
Signature of Court Reporter