

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
CHICAGO BRIDGE & IRON COMPANY N.V.,)	
a foreign corporation,)	
CHICAGO BRIDGE & IRON COMPANY,))	
a corporation,)	Docket No. 9300
and)	
PITT-DES-MOINES, INC.,)	
a corporation.)	
)	

RESPONDENTS' MOTION TO STRIKE

For the reasons set forth in Respondents' Post-Trial Reply Brief and Memorandum in Support of Their Motion to Strike, Respondents ("CB&I") respectfully request that the Court enter an Order striking the following exhibits and Complaint Counsel's Findings of Fact ("CCFF") from the record:

- Documents cited by Complaint Counsel in their CCFF and initial post-trial brief that are not in evidence: CX 105; CX 190; CX 370; CX 822; CX 823; CX 1572; CX 1591; CX 1682; CX 1685, and unidentified "interviews with industry participants." (*See* CCFF at 177).
- Findings replicating demonstrative exhibits that were not received in evidence in the form presented in these findings: CCFF 826; CCFF 882; and CCFF 913.
- Findings devoid of citation to record evidence or other authority: CCFF 29; CCFF 33;

CCFF 50; CCFF 78; CCFF 260; CCFF 265; CCFF 384; CCFF 421; CCFF 449; CCFF 581; CCFF 589; CCFF 615; CCFF 642; CCFF 687; CCFF 749; CCFF 752; CCFF 776-77; CCFF 810; CCFF 816; CCFF 822; CCFF 831; CCFF 849; CCFF 864; CCFF 868; CCFF 883; CCFF 885; CCFF 906; CCFF 912; CCFF 928; CCFF 929-30; CCFF 942; CCFF 954; CCFF 955; CCFF 968; CCFF 977; CCFF 978; CCFF 981; CCFF 997; CCFF 1006; CCFF 1007; CCFF 1012; CCFF 1053; CCFF 1056; CCFF 1057; CCFF 1075-76; CCFF 1085-1087; CCFF 1091; CCFF 1099; CCFF 1165; CCFF 1180; CCFF 1181; CCFF 1220-21; CCFF 1223; CCFF 1225; CCFF 1226; CCFF 1281; CCFF 1289; CCFF 1327; CCFF 1347; and CCFF 1351.

- All findings or argument relying on the testimony of Chung Fan, to the extent Complaint Counsel relies on Mr. Fan's testimony to establish that CB&I "has raised prices" (*e.g.*, CC Br. at 35), because the Court ruled that Mr. Fan's statistical analysis of CB&I's price was not admissible for the truth of the matter asserted. (Tr. at 1012). These findings include: CCFF 1053; CCFF 1054; and CCFF 1057-1070).

Dated: March 7, 2003

Respectfully submitted,

Duane M. Kelley
Jeffrey A. Leon
Greg J. Miarecki
Winston & Strawn

35 West Wacker Drive, Chicago, IL 60601-3605
Tel: 312.577.3100 Fax: 312.577.3101
E-mail: duane.kelley@winstonstrawn.com

Counsel for Respondents
Chicago Bridge & Iron Company N.V.
and Pitt Des-Moines, Inc.

CERTIFICATE OF SERVICE

I, Greg J. Miarecki, hereby certify that on this 7th day of March, 2003, I served a true and correct copy of Respondents' Motion to Strike, by hand delivery upon:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(two copies)

Rhett R. Krulla
Assistant Director
Bureau of Competition
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Room S-3602
Washington, D.C. 20580

Steven L. Wilensky
Federal Trade Commission
601 Pennsylvania Avenue, N.W.
Room S-3618
Washington, D.C. 20580

1225; CCFF 1226; CCFF 1281; CCFF 1289; CCFF 1327; CCFF 1347; and CCFF 1351.

D. Michael Chappell
Administrative Law Judge

Date: _____, 2003