

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,

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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.  
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	)	

**PROPOSED ORDER**

Upon consideration of Respondents' Motion to Strike, the Court hereby grants Respondents' Motion to Strike. The Court will disregard the following unadmitted exhibits and findings of fact cited to and proposed by Complaint Counsel: CX 105; CX 190; CX 370; CX 822; CX 823; CX 1572; CX 1591; CX 1682; CX 1685; unidentified "interviews with industry participants;" CCFF 29; CCFF 33; CCFF 78; CCFF 260; CCFF 265; CCFF 384; CCFF 421; CCFF 449; CCFF 581; CCFF 589; CCFF 615; CCFF 642; CCFF 687; CCFF 750; CCFF 752; CCFF 776; CCFF 810; CCFF 822; CCFF 831; CCFF 849; CCFF 864; CCFF 868; CCFF 882; CCFF 883; CCFF 885; CCFF 906; CCFF 912-13; CCFF 928; CCFF 929; CCFF 930; CCFF 942; CCFF 954; CCFF 955; CCFF 968; CCFF 977-78; CCFF 981; CCFF 997; CCFF 1006; CCFF 1007; CCFF 1012; CCFF 1053-54; CCFF 1056-1070; 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.

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D. Michael Chappell  
Administrative Law Judge

Date: \_\_\_\_\_, 2003