APPENDIX A:

UNITED STATES v. UNITED STATES STEEL CORP., ET AL.

CIVIL NO. 64-836-MP

JUDGMENT ENTERED: DEC. 8, 1967

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. UNITED STATES STEEL CORPORATION; SMITH-SCOTT CO., INC.; and U. S. INDUSTRIES, INC., Defendants.	Civil No. 64-836-MP Entered: Dec. 8, 1967

PARTIAL FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and each of the defendants United States Steel Corporation, Smith-Scott Co., Inc. and U. S. Industries, Inc., having appeared by its attorneys and each having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and defendants, by their respective attorneys, having severally consented to the making and entry of this Partial Final Judgment pursuant to a stipulation entered into on September 28, 1967, without trial or adjudication of or finding on any issue of fact or law herein, and without this Partial Final Judgment constituting any evidence or

admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of each party consenting hereto. The second amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Partial Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Partial Final Judgment:

A. "pipe" means "steel small diameter pressure pipe," which is thin walled welded steel pipe which is manufactured in diameters of 4 inches to 48 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

B. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

C. "person" means an individual, partnership, firm,

association, corporation or other legal or business entity.

III

The provisions of this Partial Final Judgment applicable to any defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such defendant who shall have received actual notice of this Partial Final Judgment by personal service or otherwise, but shall not apply to transactions solely between any defendant and its officers, directors or employees when acting in such capacity, or between any defendant and its parent company, or between any defendant and any of its subsidiaries or any subsidiary of its parent. This Partial Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by any defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

Each of the defendants is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

Each of the defendants is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

Each of the defendants is ordered and directed for a period of five years from the date of entry of this Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such defendant regularly having the authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of such defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of such defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by such defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit any of the defendants from:

A. Communicating to any other person, including any

of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between a defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith such defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

Each of the defendants is ordered and directed

within 60 days from the date of entry of this Partial Final Judgment to furnish a copy of this Partial Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Partial Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Partial Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Partial Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any matters contained in this Partial Final Judgment; and

B. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request such defendant shall submit such reports in writing with respect to any of the

matters contained in this Partial Final Judgment as may from time to time be requested for the enforcement of this Partial Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Partial Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Partial Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Partial Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: December 8, 1967

/s/ MARTIN PENCE
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

Signature of Officer or Employee
of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

Signature of Officer or Employee
of the Corporation