

Order

IN THE MATTER OF

CHICAGO BRIDGE & IRON COMPANY N.V.**ORDER GRANTING IN PART AND DENYING IN PART
RESPONDENTS' MOTION FOR *IN CAMERA*
TREATMENT OF MATERIAL PREVIOUSLY
DESIGNATED AS CONFIDENTIAL**

Pursuant to Commission Rule 3.45(b), Respondents Chicago Bridge & Iron Company N.V. and Chicago Bridge & Iron Company ("CB&I" or "the Respondents") have filed a Motion for *In Camera* Treatment of Material Previously Designated as Confidential ("the Motion"). The materials for which CB&I seeks *in camera* treatment consist of Attachment B to Complaint Counsel's Response to CB&I Respondents' Further Briefing on Specific Remedy Issues ("Response"), discussions on pages 7, 13, and 14 of the Response that were redacted from the public version of the Response, and portions of the Motion and Exhibit A of the Motion (Affidavit of David Bordages). CB&I seeks *in camera* treatment of these materials for a period of five years.

CB&I asserts that the public disclosure of this material would damage CB&I's business and the information meets the Commission's criteria for granting *in camera* treatment. Motion at 4. Complaint Counsel does not oppose Respondents' Motion to the extent it seeks *in camera* treatment for the material on pages 13 and 14 of Complaint Counsel's Response and portions of CB&I's Motion and Exhibit A of the Motion. However, Complaint Counsel point out that CB&I has not provided a justification for *in camera* treatment of the material on page 7 and Attachment B of Complaint Counsel's Response and thus argue that those materials should be placed on the public record.

The Commission finds that CB&I has satisfied the standard set forth in Commission Rule 3.45(b) for those materials on pages 13 and 14 of Complaint Counsel's Response and portions of CB&I's Motion and Exhibit A of the Motion and shown that the disclosure

Order

of this information would likely result in “clearly defined, serious injury.” 16 C.F.R. § 3.45(b). *See H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961); *Bristol-Myers Co.*, 90 F.T.C. 455, 456 (1977); *General Foods Corp.*, 95 F.T.C. 352, 355 (1980).

Although we recognize that Respondents have not established that Attachment B to Complaint Counsel’s Response meets this standard, the Commission believes this failure may have been inadvertent, and we have therefore granted *in camera* status for six months for this material. At the end of this period, CB&I may move to have the *in camera* period extended or, in the absence of such a motion, the material will be unsealed. The Commission has determined to make public the material on page 7, which merely references [REDACTED].

This material is available from public sources and therefore is not eligible for *in camera* status. *See* Tr. at 2957-58, 6869-73.

Finally, the Commission is not persuaded that *in camera* treatment should be granted for the five-year period requested by CB&I.

The information for which such treatment is being granted is temporal in nature, and its competitive sensitivity is likely to diminish over time. The Commission thus believes that a two-year period is appropriate.

Accordingly,

IT IS ORDERED THAT the material on pages 13 and 14 of Complaint Counsel’s Response that was redacted from the public version of the Response and portions of CB&I’s Motion and Exhibit A thereto that were redacted in the public version of the Motion shall be afforded *in camera* treatment for a period of two years from the date of this Order, at which time Respondents may show cause why those materials should not be made public; and

IT IS FURTHER ORDERED THAT Attachment B to Complaint Counsel’s Response shall be afforded *in camera* treatment for a period of one hundred and eighty days from the date of this Order, at which time Respondents may show cause why those materials should not be made public; and

Order

IT IS FURTHER ORDERED THAT Respondents' Motion is DENIED to the extent it seeks *in camera* treatment for the material on page 7 of Complaint Counsel's Response that was redacted from the public version.

Order

IN THE MATTER OF

CHICAGO BRIDGE & IRON COMPANY N.V.

**ORDER CLARIFYING RESPONDENTS' OBLIGATIONS
AS TO THE PITT-DES MOINES AND CB&I CORPORATE
NAMES**

I. Introduction

The Commission's Final Order in this matter required, among other things, Respondents Chicago Bridge & Iron N.V. and Chicago Bridge and Iron Company (collectively, "CB&I") to divest intellectual property for the Relevant Products and other complementary products.¹ On January 31, 2005, Complaint Counsel filed a petition for reconsideration that requested the Commission to modify its Final Order to make clear that only the divested entity will have rights to the PDM corporate names and CB&I will retain its rights in the CB&I corporate names.² Respondents CB&I did not oppose Complaint Counsel's Petition to the extent the petition sought to ensure that CB&I would retain all rights in its corporate name.³ However, CB&I pointed out that when it acquired PDM's Engineered Construction ("EC") and Water Divisions, it received only a "one-year, non-renewable,

¹ Final Order, ¶¶ I.P, IV.A.

² Petition for Reconsideration to Clarify Respondents' Obligations as to the Pitt-Des Moines and CB&I Corporate Names, filed January 31, 2005 ("Complaint Counsel's Petition").

³ Response to Complaint Counsel's Petition for Reconsideration to Clarify Respondents' Obligations as to the Pitt-Des Moines and CB&I Corporate Names, filed Feb. 10, 2005 ("CB&I's Response").