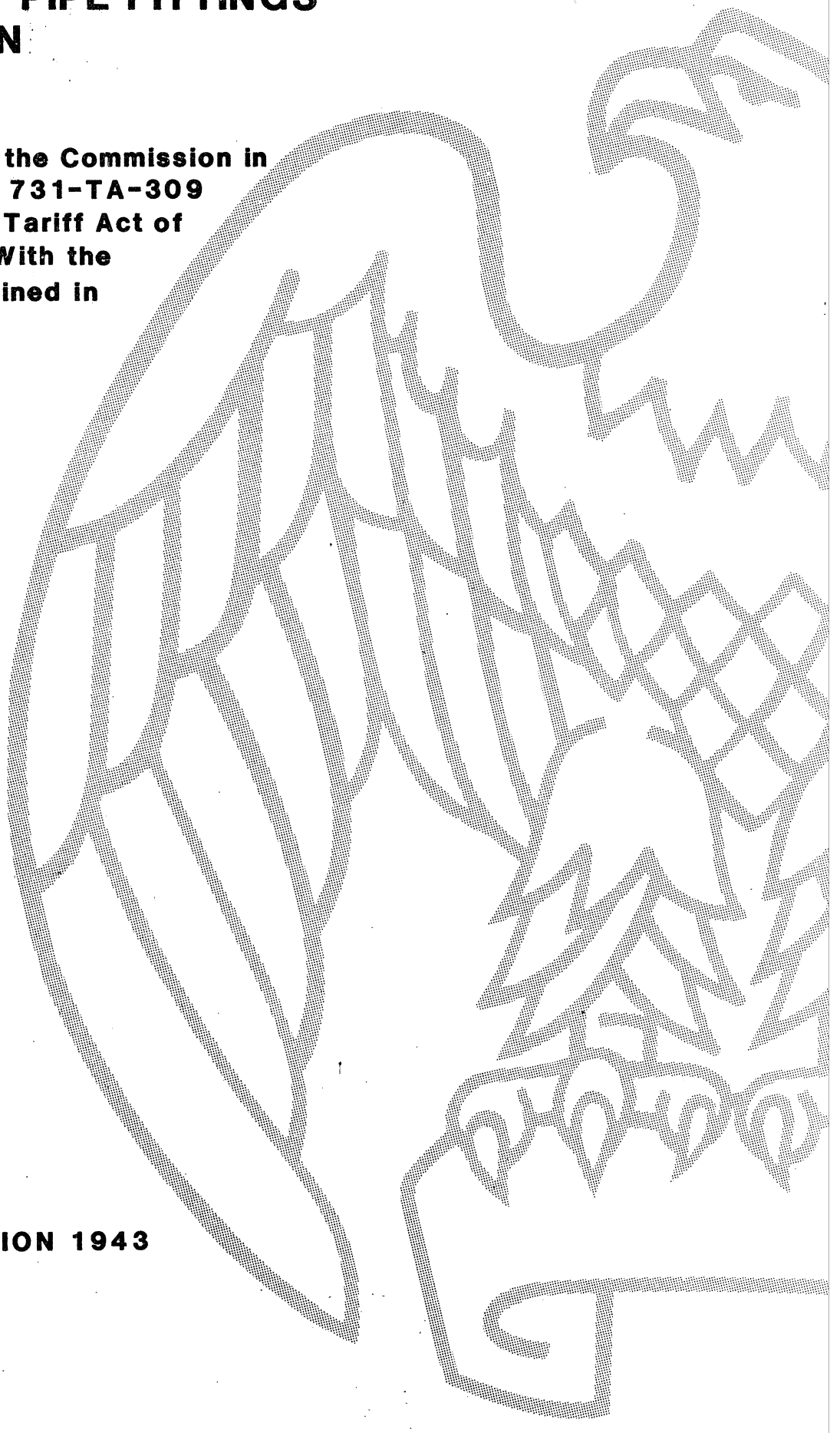
# BUTT-WELD PIPE FITTINGS FROM JAPAN

**Determination of the Commission in Investigation No. 731-TA-309 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation**



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# UNITED STATES INTERNATIONAL TRADE COMMISSION

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# C O N T E N T S


| | Page |
|---|---|
| Determination | 1 |
| Views of the Commission | 3 |
| Additional views of Chairman Liebeler | 13 |
| Information obtained in the investigation: | |
| Introduction | A-1 |
| Background | A-2 |
| Discussion of report format | A-2 |
| Nature and extent of sales at LTFV | A-3 |
| The foreign industry | A-4 |
| Appendix A. Commerce's final LTFV determination | A-7 |
| Appendix B. Commerce's notice of postponement | A-13 |
| Appendix C. The Commission's notice of institution | A-17 |
| Appendix D. List of witnesses | A-21 |
| Appendix E. Statistical tables | A-25 |


Table


| | |
|---|---|
| 1. Butt-weld pipe fittings: Selected data for certain producers in Japan, 1983-85, January-June 1985, and January-June 1986 | A-5 |


Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-309 (Final)

BUTT-WELD PIPE FITTINGS FROM JAPAN

## Determination

On the basis of the record 1/ developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of carbon steel butt-weld pipe and tube fittings, under 14 inches in inside diameter, 2/ provided for in item 610.88 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

## Background

The Commission instituted this investigation effective August 11, 1986, following a preliminary determination by the Department of Commerce that imports of butt-weld pipe fittings from Japan 3/ were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. § 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in

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1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

2/ For purposes of this investigation, such fittings may be finished or unfinished but, if forged, must be advanced beyond forging. Such advancements may include any one or more of the following: coining, heat treatment, shot blasting, grinding, die stamping, or painting. Such fittings do not include couplings (provided for in TSUS item 610.86). Also excluded from the scope of this investigation are induction pipe bends classifiable under TSUS item 610.88 which have at one or both ends tangents that equal or exceed 12 inches in length.

3/ The Commission also instituted investigations Nos. 731-TA-308 and 310 (Final) concerning imports of butt-weld pipe fittings from Brazil and Taiwan. The Commission made unanimous affirmative injury determinations in those investigations in December 1986.

the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 27, 1986 (51 F.R. 30557). The hearing was held in Washington, DC, on October 28, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## VIEWS OF THE COMMISSION

The Commission unanimously determines that an industry in the United States is materially injured by reason of imports of butt-weld pipe fittings from Japan that are being sold at less than fair value (LTFV). [1/] Our affirmative determination is based on essentially the same factors that led to affirmative determinations in our recently concluded investigations regarding butt-weld pipe fittings from Brazil and Taiwan. [2/] These factors include the domestic industry's poor financial performance, the significant volume and the significant market penetration of the imports, and the adverse impact of the imports on price trends for the domestic product.

### Like product and domestic industry

As a threshold matter in title VII investigations, the Commission determines the domestic industry against which to examine the impact of the subject imports. "Industry" is defined as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [3/] "Like product" is defined as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation[.]" [4/]

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1/ Material retardation is not an issue in this investigation and will not be discussed further.
2/ Butt-Weld Pipe Fittings from Brazil and Taiwan, Invs. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 (Dec. 1986) (hereinafter "Brazil and Taiwan").
3/ 19 U.S.C. § 1677(4)(A).
4/ 19 U.S.C. § 1677(10).

The imports subject to this investigation are butt-weld pipe fittings, both finished and unfinished. Although certain induction pipe bends from Japan were included within the scope of the preliminary investigation because they were reported under TSUS item 610.88, Commerce has excluded these pipe bends from the scope of its final determination. 5/

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5/ Petitions regarding butt-weld pipe fittings from Brazil, Japan, and Taiwan, were filed simultaneously. The article subject to an investigation is defined by the scope of the Department of Commerce's (Commerce) investigation. In its final determination regarding Japan, Commerce defined the scope of this investigation as "certain carbon steel butt-weld type pipe fittings, other than couplings, under 14 inches in inside diameter, whether finished or unfinished, that have been formed in the shape of elbows, tees, reducers, caps, etc., and, if forged, have been advanced after forging. These advancements may include any one or more of the following: coining, heat treatment, shot blasting, grinding, die stamping or painting. These fittings are currently provided for under item 610.8800 of the Tariff Schedules of the United States Annotated (TSUSA). Induction pipe bends classifiable under TSUSA item 610.8800 which have at one or both ends tangents that equal or exceed 12 inches in length are excluded from the scope of this investigation." 51 Fed. Reg. 46893 (Dec. 29, 1986). In Commerce's final determinations regarding butt-weld pipe fittings from Brazil and Taiwan, there was no exclusion of induction pipe bends. 51 Fed. Reg. 37770 (Brazil) and 37772 (Taiwan) (Oct. 24, 1986).

As we noted in Brazil and Taiwan, supra, at 4, n. 5:

> Evidence was introduced at the preliminary conference that some 'rough-formed' butt-weld pipe fittings, a type of unfinished fitting, were improperly imported under a forgings classification, TSUSA item 606.7120. Imports under TSUSA item 606.7120 are not subject to investigation. The classification problems were attributable to the confusion about what to call the manufacturing process by which rough-formed butt-weld pipe fittings are produced from seamless pipe. Some industry sources define the process as forging while others define it as forming. We define rough-formed butt-weld pipe fittings as butt-weld pipe fittings that have not been further processed beyond forming in the rough shape of an elbow, tee, or reducer, etc. . . . The U.S. Customs Service has recently adopted the position that all butt-weld [pipe] fittings made from pipe are classifiable under TSUS item 610.88 as butt-weld [pipe] fittings rather than under the forgings classification, TSUSA 606.7120.

In Brazil and Taiwan, supra, we described butt-weld pipe fittings and their characteristics and uses as follows:

> Butt-weld pipe fittings are used to connect pipe sections where conditions require permanent, welded connections. Under pressure, butt-weld pipe fittings provide a better seal than threaded, grooved, or bolted fittings. Further, installation and maintenance are easier and more cost effective than with other types of fittings. The principal industries that use butt-weld pipe fittings are construction, shipbuilding, energy, and oil refining. 6/

We also addressed the arguments that had been raised regarding the proper definition of the like product and the corresponding domestic industry. We determined that domestically produced butt-weld pipe fittings are like the imported product and that unfinished butt-weld pipe fittings and finished butt-weld pipe fittings constitute a single like product. 7/ 8/ We also determined that there is one domestic industry, which includes integrated firms, combination firms, and converters. 9/ 10/ Finally, we declined to exclude Tube Turns, Inc., a combination producer, under the related parties provision. 11/

Since those determinations, no new information has been brought to our attention that would justify a change in our prior findings. Moreover, we have received no suggestion that we change our like product determination in

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6/ Brazil and Taiwan, supra, at 4.
7/ Id. at 5-7.
8/ Commissioner Eckes refers to the views he expressed in Brazil and Taiwan, supra, at 7, n. 18.
9/ Brazil and Taiwan, supra, at 7-9.
10/ Commissioner Eckes refers to the views he expressed in Brazil and Taiwan, supra, at 7, n. 19.
11/ Brazil and Taiwan, supra, at 9-10. See 19 U.S.C. § 1677(4)(B).

light of the Commerce exclusion of induction pipe bends from the scope of investigation. 12/ Therefore, we adopt our prior findings of the like product and the domestic industry here.

Condition of the domestic industry

In evaluating the condition of the domestic industry, the Commission considers, among other factors, U.S. production, capacity utilization, domestic shipments, inventories, employment, and financial performance. 13/

In the present investigation, our data regarding the key indicators of the condition of the domestic industry are the same as those we examined in Brazil and Taiwan, supra, except that, due to Commerce's exclusion of induction pipe bends from the scope of the investigation, apparent domestic consumption figures are lower. 14/ The difference in apparent domestic consumption caused by that exclusion, however, is insignificant. Accordingly,

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12/ We note that during the course of this investigation and the investigations regarding Brazil and Taiwan, no party argued for the exclusion of induction pipe bends from our definition of the like product.
13/ 19 U.S.C. § 1677(7)(C)(iii).
14/ Compare Report of the Commission (Report) at Tables E-1, E-3, E-4, and E-6 with Brazil and Taiwan, supra, at Tables 1, 15, D-1, and D-4. The exact figures for induction pipe bends that were included in calculating apparent domestic consumption are confidential and, therefore, the exact consumption figures for butt-weld pipe fittings excluding induction pipe bends are confidential. Accordingly, we may discuss consumption only in general terms.
The data from the report in Brazil and Taiwan, supra, have been incorporated in this final investigation.

we again determine that the domestic industry is experiencing material injury. 15/ 16/

Cumulation 17/ 18/

The Commission must cumulatively assess the volume and effect of the imports if the imports (1) are subject to investigation, (2) compete with both other imports and the domestic like product, and (3) are marketed within a reasonably coincidental period. 19/ 20/

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15/ Commissioner Stern does not believe it necessary or desirable to make a determination on the question of material injury separate from the consideration of causality. She joins her colleagues in concluding that the domestic industry is experiencing difficulties. See Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 18-19 (Dec. 1985) (Additional Views of Chairwoman Stern).
16/ Commissioner Eckes believes that the Commission is to make a finding regarding the question of material injury or threat thereof in each investigation. See Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 20-21 (Dec. 1985) (Additional Views of Commissioner Eckes).
17/ Chairman Liebeler does not join in this section of the opinion. See Additional Views of Chairman Liebeler, infra.
18/ Commissioner Stern does not believe it necessary to consider cumulation when an affirmative determination may be reached by individually analyzing subject imports. In this final investigation, she has joined her colleagues in cumulation.
19/ 19 U.S.C. § 1677(7)(C)(iv); H.R. Rep. No. 1156 (Conf. Rep.), 98th Cong., 2d Sess. 173 (1984). See also, e.g., Brazil and Taiwan, supra, at 14.
20/ Vice Chairman Brunsdale notes that the third factor, whether the products are marketed at the same time, is just one factor in determining whether they compete.

In Brazil and Taiwan, supra, we cumulatively assessed the volume and effect of imports from Brazil, Taiwan, and Japan. 21/ 22/ Our examination revealed that imported and domestic butt-weld pipe fittings meet the same specifications and are used in the same markets, except perhaps for the nuclear power industry, where only domestic fittings are used. Moreover, the channels of distribution are the same or similar, with both the domestic producers and the importers selling overwhelmingly to distributors and jobbers. The products were all simultaneously present in the market. 23/ In the present investigation, we have received no new information regarding any of the three factors. We do note that the imports from Brazil and Taiwan are now subject to antidumping orders. 24/ However, those orders are so recent that we consider the imports to be subject to investigation. 25/ 26/ Accordingly, we find it appropriate to

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21/ Brazil and Taiwan, supra, at 14-16.
22/ Commissioner Eckes refers to the views he expressed in Brazil and Taiwan, supra, at 14, n. 53.
23/ Brazil and Taiwan, supra, at 14-16.
24/ Imports entering the United States after the issuance of an antidumping order are the equivalent of fairly traded and, therefore, are not considered in a cumulative analysis.
25/ Commissioners Stern, Eckes, and Lodwick have found that it is appropriate to cumulatively assess imports subject to recently concluded final investigations if the three criteria are otherwise met. E.g., Certain Welded Carbon Steel Pipes and Tubes from India, Taiwan, and Turkey, Invs. Nos. 731-TA-271, 272, and 273 (Final), USITC Pub. 1839 at 12 (Apr. 1986). Commissioner Rohr did not reach the question in these investigations. He generally concurs that cumulation may be appropriate in such situations.
26/ Vice Chairman Brunsdale and Commissioner Lodwick note that not only were the outstanding antidumping orders covering imports from Brazil and Taiwan imposed recently, but that petitioners brought all three investigations at the same time and that the final investigation regarding Japan was postponed at respondents' request. Under these circumstances, cumulation with imports covered by outstanding orders is appropriate. See Iron Construction Castings from Brazil, India, and the People's Republic of China, Invs. Nos. 701-TA-249 (Final) and 731-TA-262, 264, and 265 (Final), USITC Pub. 1838 at 51 (Apr. 1986) (Views of Commissioner Brunsdale).

cumulatively assess the volume and effect of imports from Brazil, Taiwan, and Japan for purposes of this final investigation.

Material Injury by Reason of LTFV Imports [27/]

In determining whether there is material injury by reason of LTFV (dumped) imports, the statute directs the Commission to consider, among other factors, the volume of the subject imports and their effect on U.S. prices for like products and on domestic producers of the like product. [28/]

Unlike Brazil and Taiwan, supra, the scope of this investigation excludes imported induction pipe bends. Induction pipe bends, however, are too small a proportion of imports [29/] to significantly affect the import trends we

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27/ Chairman Liebeler does not join in this section of the opinion. See Additional Views of Chairman Liebeler, infra.

28/ The statute provides that:

> . . . the Commission shall consider, among other factors--
> (i) the volume of imports of the merchandise which is the subject of the investigation,
> (ii) the effect of imports of that merchandise on prices in the United States for like products, and
> (iii) the impact of imports of such merchandise on domestic producers of like products.

19 U.S.C. § 1677(7)(B).

29/ Report at A-3-4 and Tables E-1 through E-6. As noted above, the figures for induction pipe bends are confidential. Therefore, discussion of volume of imports, to the extent that induction pipe bends are specifically excluded from the imports under consideration, must necessarily be in general terms.

observed in Brazil and Taiwan, supra. In those investigations, we found the volume of imports to be significant throughout the period of investigation. 30/

Our analysis of pricing in Brazil and Taiwan, supra, "reveal[ed] consistent underselling by the imports [from all three countries] throughout the period of investigation. Further, quarterly prices reported by U.S. producers generally decreased from January 1984-June 1986." 31/ 32/ 33/ We also noted that the choice of supplier for butt-weld pipe fittings, according to the firms listed in the lost sales allegations, is largely dependent on price, which further supports our conclusion of an injurious impact of the subject LTFV imports on the domestic industry. 34/ 35/ 36/

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30/ Brazil and Taiwan, supra, at 16-18. In Brazil and Taiwan, supra, we observed that market penetration by the cumulated imports rose from 47 percent in 1983 to 70 percent in 1984, before declining to 65 percent in 1985 and to 53 percent during January-June 1986. By value, market penetration of imports of butt-weld pipe fittings from Brazil, Japan, and Taiwan increased from 34 percent in 1983 to 50 percent in 1984 and 1985, and then declined to 44 percent during January-June 1986.

31/ Brazil and Taiwan, supra, at 18 (footnotes omitted).

32/ Vice Chairman Brunsdale does not find the data on underselling developed in this investigation to be helpful in determining causation. For a more general discussion on underselling, see Memorandum EC-J-010 from the Director, Office of Economics, "Title VII Causation Analysis," especially "Underselling" and "Lost Sales" at 8-21 (Jan. 7, 1986).

33/ Commissioner Eckes and Commissioner Rohr believe that evidence of underselling is ordinarily of significant probative value, and that used properly, as the Commission has used them in the past, price comparisons reflect an important aspect of competition in the marketplace.

34/ Brazil and Taiwan, supra, at 18 and, especially, n. 73.

35/ Vice Chairman Brunsdale refers to the views she expressed in Brazil and Taiwan, supra, at 19, n. 74.

36/ Commissioner Eckes and Commissioner Rohr believe that evidence of lost sales is ordinarily of significant probative value, and that used properly, as the Commission has used it in the past, evidence of lost sales may reflect an important aspect of competition in the marketplace.

During the present investigation, several parties argued that any injury being suffered by the domestic industry was not due to imports but due to other factors, including the "anticompetitive" pricing policies of one of the domestic producers, Weldbend. 37/ We find the argument unpersuasive.

As we noted in Brazil and Taiwan, supra, although there is evidence that the decline in prices may have been partially due to declines in demand and to a price war among domestic producers, our task is to determine whether the subject imports are a cause of material injury, not the only cause or even the predominant cause. We do not weigh the relative importance of causes of injury in antidumping or countervailing duty cases. 38/ In this

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37/ E.g., Posthearing brief, Nippon Benkan Kogyo, Co., Ltd.

38/ The legislative history states:

> Current law does not, nor will section 735, [19 U.S.C. § 1673d] contemplate that the effects from the less-than-fair-value [sic] imports be weighed against the effects associated with other factors (e.g., the volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, . . . ) which may be contributing to overall injury to an industry. Nor is the issue whether less-than-fair-value imports are the principal, a substantial, or a significant cause of material injury. Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; industries that are often the most vulnerable to less-than-fair-value imports.

S. Rep. No. 249, 96th Cong., 1st Sess. at 74-75 (1979). See Fabric and Expanded Neoprene Laminate from Japan, Inv. No. 731-TA-206 (Final), USITC Pub. 1721 at 10, n. 47 (July 1985); Tapered Roller Bearings and Parts Thereof from Japan, the Federal Republic of Germany, and Italy, Invs. Nos. 731-TA-120, 121, and 122 (Preliminary), USITC Pub. 1359 (1983) (compare Views of Chairman Eckes with Views of Commissioner Stern).

investigation, as in Brazil and Taiwan, supra, it is clear that the imports were a cause of material injury to the domestic industry throughout the period of investigation. 39/

Accordingly, as we found in Brazil and Taiwan, supra, we determine here that the domestic industry is materially injured by reason of dumped imports of butt-weld pipe fittings from Japan.

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39/ Respondents appeared to argue that we should restrict our examination of the domestic industry to the period following the decline in domestic prices. Posthearing brief, Nippon Benkan Kogyo, Co., Ltd. We reject the argument. In this investigation, examination of the whole period of investigation is appropriate. See American Spring Wire Corp. v. United States, 590 F.Supp. 1273, 1279 (C.I.T. 1984), aff'd sub nom. Armco Inc. v. United States, 760 F.2d 249 (Fed. Cir. 1985).

# ADDITIONAL VIEWS OF CHAIRMAN LIEBELER

## Certain Butt-Weld Pipe Fittings from Japan
## 731-TA-309 (Final)

Based on the record in this investigation, I determine that an industry in the United States is materially injured by reason of dumped imports of certain butt-weld pipe fittings from Japan. I concur with my colleagues in their definitions of like product[1] and domestic industry, and their findings with respect to related parties,[2] and the condition of the industry.

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[1] In many cases involving finished and unfinished goods, I have used a two product-two industry analysis. See generally Live Swine and Pork from Canada, Inv. No. 701-TA-224 (final), USITC Pub. 1733, 19-21 (1985) (Additional and Dissenting Views of Vice Chairman Liebeler); 64K Dynamic Random Access Memory Components from Japan, Inv. No. 731-TA-270, USITC Pub. 1862, 21-24 (1986) (Views of Vice Chairman Liebeler). The parties in this case are generally in agreement that there is only one like product and one industry. The data for evaluating one versus two industries is not significantly different. I thus join with the Commission in finding that finished butt-welded pipe fittings are like unfinished (rough and semi-finished).

[2] My determination in this case is based on the same factors as in Butt-Weld Pipe Fittings from Brazil and Taiwan, Invs. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 (Dec. 1986)(hereinafter cited as Butt-Weld I).

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that there is an indication that the dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. The Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury, and whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the import relief law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to

such statutory interpretation.[3]

The statutory language used for both parts of the analysis is ambiguous. "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."[4] As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price,

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[3] Sands, Sutherland Statutory Construction § 45.02 (4th Ed.).

[4] 19 U.S.C. § 1977(7)(A)(1980).

accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down, were all that were required for an affirmative determination, there would be no need to inquire further into causation.

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

> [T]he ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports.[5]

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."[6]

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination

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[5] Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 75 (1979).

[6] Id.

of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is a matter for the judgment of the ITC."[7] Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

> This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry.[8]

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

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[7] Id.

[8] Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

> [T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price.[9]

This "complex and difficult" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions of traditional microeconomic theory is that firms attempt to maximize profits.[10] Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."[11]

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a

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9 Id.

10 See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

11 Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."[12]

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12 Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit an affirmative finding under the law interpreted in light of the cited legislative history.[13]

> The stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping margins, (3) homogeneous products, (4) declining prices and (5) barriers to entry to other foreign producers (low elasticity of supply of other imports).[14]

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the general impact of imports on domestic producers.[15] The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. Each of these factors will be discussed in turn after a discussion of cumulation issues.

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13 Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebeler).

14 Id. at 16.

15 19 U.S.C. § 1677(7)(B)-(C) (1980 & cum. supp. 1985).

Cumulation

I have determined to cumulate the imports of pipe fittings from Brazil, Taiwan, and Japan. The imports from these countries compete with each other as well as with the domestic product.[16] The cumulation provision also requires that the imports be subject to investigation.[17] Although the investigations involving all three countries were instituted together, imports from Brazil and Taiwan are no longer subject to investigation because these imports were the object of a recent Commission final affirmative determination.[18] However, because the investigation concerning Japan was extended upon request of the respondents, I conclude that

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16 See Butt-Weld, supra note 2, at 14-15. For a discussion of my views on cumulation, see Oil Country Tubular Goods from Canada and Taiwan, Invs. Nos. 701-TA-255, 731-TA-276-277 (final), USITC Pub. 1865 (1986); Certain Carbon Steel Products from Austria, Czechoslovakia, East Germany, Hungary, Norway, Poland, Romania, Sweden, and Venezuela, Invs. Nos. 701-TA-225-234, 731-TA-218-217, 219, 221-226, and 228-235 (preliminary), USITC Pub. 1642 (1985).

17 19 U.S.C. § 1677(C)(iv) (1980).

18 See note 2, supra.

cumulation is appropriate in this case. To preclude cumulation where a respondent causes a very short delay would subvert the intent of Congress in passing the cumulation amendment.

Causation analysis

Examining import penetration is important because unfair price discrimination has as its goal, and cannot take place in the absence of, market power. The cumulated import penetration ratio was 47 percent in 1983. It then jumped to 70 percent in 1984 and 65 percent in 1985.[19] Import penetration dropped significantly during January-June 1986. Although this decrease could be viewed as part of a trend downward, it is more likely that the recent drop is attributable to the filing of these cases.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more

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19 These figures are from Butt-Weld I, supra note 2, at Table 15. Import penetration ratios in this investigation are confidential; however, they differ only slightly from those in Butt-Weld I.

likely it is that the product is being sold below the competitive price[20] and the more likely it is that the domestic producers will be adversely affected. The Commerce Department has determined the weighted-average dumping margins for Japan are in the 30 to 66 percent range.[21] The margins for Brazil and Taiwan were in the 50 percent range.[22] These margins are high and are not inconsistent with a finding of unfair price discrimination.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers. Although sometimes there may be a premium paid for domestic product,[23] because of the specifications applicable to pipe fittings, the domestic and the imported products are very similar.[24] I find that the products are homogeneous.

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20 See text accompanying note 9, supra.

21 Report at A-3.

22 Butt-Weld I, supra note 2, at A-8.

23 Transcript of Public Hearing, at 13-14.

24 Memorandum from the Office of Economics, Economic Criteria in Inv. 731-TA-309 (final), 1 (EC-K-023); Butt-Weld I, supra note 2, at A-42-45 (imported product quality as high as domestic). The premium for a particular order might be due to service quality such as delivery time.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. Domestic prices decreased substantially for all the products investigated between 1984 and 1985.[25]

The fifth factor is foreign supply elasticity (barriers to entry). If there is low foreign elasticity of supply (or high barriers to entry) it is more likely that a producer can gain market power. A significant share of imports is accounted for by imports not subject

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25 I note that domestic labor productivity in this industry increased by approximately 20 percent between 1983 and 1984, Butt-Weld I, supra note 2, at Table 7, and that this could account for all or part of the price decrease. Since the data on unit labor costs only starts in 1983, however, it is unknown whether the relatively high unit costs in 1983 resulted from a temporary decrease in demand for the final product or whether these costs were even higher in previous years. See generally A. Rees, The Economics of Work and Pay 85-86 (1973). Because capacity utilization has been fairly stable over the period, it appears that at least part of the decrease in unit labor costs must be due to either real productivity gains or wage cuts. Some productivity gain may be attributable to a restructuring of the industry toward conversion and away from integrated manufacturing. Prehearing Statement of TSI Industries, Inc., Silbo Steel Corp., & Conforja S/A, 21 (Oct. 21, 1986).

to investigation. However, imports from West Germany, Italy, the United Kingdom, France and other countries decreased substantially, both absolutely and as a share of domestic consumption, between interim 1985 and 1986.[26] Nevertheless, this factor would, on balance, tend to weigh against a finding of unfair price discrimination.

These factors must be considered in each case to reach a sound determination. The high and increasing cumulated import penetration ratio is the major factor. The dumping margins are also high. Prices have decreased substantially. The products are fungible for the most part. On the other side, there do not appear to be significant barriers to entry. Because of the significant drop in imports from countries not subject to investigation, I find this one factor insufficient to outweigh the evidence supporting an affirmative determination.

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[26] Butt-Weld I, supra note 2, at Tables 14-15.

## Conclusion

Therefore, I determine that an industry in the United States is materially injured by reason of dumped imports of certain butt-weld pipe fittings from Japan.

# INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

As a result of a preliminary determination by the U.S. Department of Commerce that imports of certain carbon steel butt-weld pipe fittings 1/ from Japan are being sold in the United States at less than fair value (LTFV), 2/ the U.S. International Trade Commission instituted an investigation under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of such butt-weld pipe fittings. 3/

Notice of the institution of the Commission's final antidumping investigation concerning the subject imports was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on August 27, 1986. 4/ The hearing was held in the Commission's hearing room on October 28, 1986. 5/ The briefing and vote was held on January 21, 1987.

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1/ For purposes of the subject investigation, the term "butt-weld pipe fittings" refers to carbon steel butt-weld pipe fittings, under 14 inches in inside diameter, whether finished or unfinished, provided for in item 610.88 of the Tariff Schedules of the United States (TSUS) (TSUS Annotated (TSUSA) item 610.8046 prior to Apr. 1, 1984).

2/ Commerce published its preliminary LTFV determination in the Federal Register on Aug. 11, 1986 (51 F.R. 28734). A copy of Commerce's final LTFV determination, as published in the Federal Register on Dec. 29, 1986, is presented in app. A.

3/ The Commission also instituted final investigations concerning imports of butt-weld pipe fittings from Brazil and Taiwan subsequent to Commerce making preliminary LTFV determinations (51 F.R. 28733, Aug. 11, 1986, for Brazil and 51 F.R. 28735, Aug. 11, 1986, for Taiwan). In its preliminary LTFV determinations with respect to imports from Brazil, Japan, and Taiwan, Commerce set Oct. 20, 1986, as the date by which it would make its final determinations. Subsequently, Commerce published notice of postponement to Dec. 19, 1986, of its determination concerning subject imports from Japan. A copy of Commerce's notice of postponement, as published in the Federal Register on Sept. 9, 1986, is presented in app. B.

The Commission made unanimous affirmative determinations with respect to the Brazil and Taiwan cases, publishing notice of such in the Federal Register on Dec. 17, 1986 (51 F.R. 45188) and releasing a report (Butt-Weld Pipe Fittings From Brazil and Taiwan: Determinations of the Commission in Investigations Nos. 731-TA-308 and 310 (Final), Under the Tariff Act of 1930 . . ., USITC Publication 1918, December 1986). On Dec. 17, 1986, Commerce published notice in the Federal Register of its antidumping orders with respect to butt-weld pipe fittings from Brazil and Taiwan (51 F.R. 45152).

4/ A copy of the Commission's notice of investigation, as published in the Federal Register on Aug. 27, 1986, is presented in app. C.

5/ A list of witnesses appearing at the hearing is presented in app. D.

## Background

This investigation results from a petition filed with the Commission and the Department of Commerce on February 24, 1986, by counsel for the U.S. Butt-Weld Fittings Committee, 1/ an ad hoc organization consisting of three domestic producers of butt-weld pipe fittings. The petition alleged that an industry or industries 2/ in the United States was materially injured or was threatened with material injury by reason of imports from Japan 3/ of carbon steel butt-weld pipe and tube fittings under 14 inches in inside diameter, whether in finished or unfinished form, provided for in item 610.88 of the TSUS, which were alleged to be sold at LTFV. Accordingly, the Commission instituted preliminary antidumping investigation No. 731-TA-309 (Preliminary) under the provisions of the Tariff Act of 1930. Concurrently, the Commission instituted investigations Nos. 731-TA-308 and 310 (Preliminary) with respect to imports of butt-weld pipe fittings from Brazil and Taiwan. On the basis of the information developed during the course of those preliminary investigations, the Commission determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of carbon steel butt-weld pipe fittings from Brazil, Japan, and Taiwan (51 F.R. 12938, Apr. 16, 1986). As previously mentioned, as a result of the information developed during the final investigations concerning butt-weld pipe fittings from Brazil and Taiwan, the Commission determined that an industry in the United States was materially injured by reason of such imports.

## Discussion of Report Format

This report is designed to be used in conjunction with the staff report to the Commission dated November 20, 1986, on investigations Nos. 731-TA-308 and 310 (Final). That report includes information relevant to the investigation on imports from Japan as well as to those on imports from Brazil and Taiwan with respect to the product, its tariff treatment, the domestic market, the U.S. producers and importers, the question of material injury, the question of the threat of material injury, and the consideration of the causal relationship between LTFV imports and the alleged injury. This report includes information only on the nature and extent of Japanese sales at LTFV and the Japanese industry. Copies of the Commission's public report on

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1/ The member companies are Ladish Co., Inc.; Mills Iron Works, Inc.; and Steel Forgings, Inc.

2/ The petitions requested that the Commission find two like products--finished and unfinished butt-weld pipe fittings. In its preliminary determinations with respect to butt-weld pipe fittings from Brazil, Japan, and Taiwan, the Commission determined that there is only one like product consisting of both semifinished and finished fittings and in its final determinations with respect to butt-weld pipe fittings from Brazil and Taiwan, the Commission concurred that there is only one like product comprising both unfinished and finished fittings. Accordingly, the Commission determined that there was one domestic industry. For a further discussion of the issues of like product and domestic industry and the positions of the parties thereto, see Butt-Weld Pipe Fittings From Brazil and Taiwan . . ., pp. 3-8 and p. A-2.

3/ Concurrently, the petitioners filed similar petitions with respect to imports of butt-weld pipe fittings from Brazil and Taiwan.

investigations Nos. 731-TA-308 and 310 (Final), Butt-Weld Pipe Fittings From Brazil and Taiwan . . ., USITC Publication 1918, December 1986, may be obtained from the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

## Nature and Extent of Sales at LTFV

Commerce found that Nippon Benkan Kogyo K.K. (Nippon Benkan) and Awaji Sangyo K.K. (Awaji Sangyo) accounted for about 80 percent of the Japanese exports of butt-weld pipe fittings to the United States during the period of its investigation--September 1, 1985, through February 28, 1986. Details of Commerce's final LTFV determination are contained in the Federal Register notice presented in appendix A; the LTFV margins are presented in the following tabulation, in percent ad valorem:

| Firm | Final LTFV margin |
|---|---|
| Nippon Benkan 1/ | 65.81 |
| Awaji Sangyo 2/ | 30.83 |
| All others | 62.79 |

1/ Commerce examined sales of * * * pieces of butt-weld pipe fittings produced by Nippon Benkan during Sept. 1, 1985, to Feb. 28, 1986. These sales were valued at $*** and Commerce found that * * * percent of the sales were made at LTFV.

2/ Commerce examined sales of * * * pieces of butt-weld pipe fittings produced by Awaji Sangyo during Sept. 1, 1985, to Feb. 28, 1986. These sales were valued at $*** and Commerce found that * * * percent of the sales were made at LTFV.

In its final determination, Commerce excluded induction pipe bends classifiable under TSUS item 610.88 that "have at one or both ends tangents that equal or exceed 12 inches in length" from the scope of its investigation. Such induction pipe bends were included in the import data provided in the Commission's report on butt-weld pipe fittings from Brazil and Taiwan. 1/ However, these products account for only a small portion of the imports of subject butt-weld pipe fittings; therefore, neither imports nor consumption is overstated to a significant degree. Likewise, the market penetration of both imports of butt-weld pipe fittings excluding induction pipe bends from Japan and the total imports of such articles, as presented in the report on butt-weld pipe fittings from Brazil and Taiwan, is understated by only a small amount--* * * or less in each period. 2/ Quantity data on apparent consumption, U.S. imports, and market penetration of imports of

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1/ Confidential footnote No. 4 to table 14 and confidential footnote No. 3 to table D-3 of the Commission's report on investigations Nos. 731-TA-308 and 310 (Final), Butt-Weld Pipe Fittings From Brazil and Taiwan, contains data on the imports of these induction pipe bends.

2/ Table 15 in the Commission's report on butt-weld pipe fittings from Brazil and Taiwan provided the shares of imports of butt-weld pipe fittings by types of fitting and by sources. No figure presented in the table changes by more than * * * as a result of the exclusion of induction pipe bends from the scope of the investigation.

butt-weld pipe fittings, adjusted to exclude induction pipe bends, are presented in appendix E, tables E-1, E-2, and E-3, respectively. 1/

## The Foreign Industry

The Commission requested quantitative data on production, capacity, capacity utilization, home-market shipments, and export shipments of butt-weld pipe fittings from counsel for Nippon Benkan, Awaji Sanyo, and Sumitomo. Counsel for Nippon Benkan and Awaji Sanyo submitted certain data that are presented in table 1. In each of the periods, the United States constituted * * * for Awaji Sanyo's shipments of butt-weld pipe fittings and * * * for Nippon Benkan's shipments.

Nippon Benkan submitted information obtained from the Japan Pipe Fittings Association on "current" capacity, production, and capacity utilization for six major Japanese firms that represent "close to 90 percent of the production" of fittings in Japan. Data provided were for one month--* * *. Annualized data for 1986 were prepared by the Commission's staff and are presented in the following tabulation:

| | |
|---|---|
| Capacity 1/----------1,000 pounds-- | *** |
| Production 1/----------do---- | *** |
| Capacity utilization------percent-- | 80 |

1/ Includes butt-weld pipe fittings 1/2 inch through 24 inches in inside diameter made of carbon, alloy, and high-tensile steels (excluding stainless steel).

1/ Such data on butt-weld pipe fittings on the basis of value are presented in tables E-4 (apparent consumption), E-5 (U.S. imports), and E-6 (market penetration of imports).

Table 1.--Butt-weld pipe fittings: 1/ Selected data for certain producers in Japan, 1983-85, January-June 1985, and January-June 1986

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Capacity: | | | | | |
| Awaji Sangyo-1,000 pounds-- | 2/ | *** | *** | *** | 3/ *** |
| Nippon Benkan 4/-----do---- | *** | *** | *** | *** | *** |
| Total----------do---- | 2/ | *** | *** | *** | *** |
| Production 5/ | | | | | |
| Awaji Sangyo---------do---- | 2/ | *** | *** | *** | *** |
| Nippon Benkan--------do---- | *** | *** | *** | *** | *** |
| Total----------do---- | 2/ | *** | *** | *** | *** |
| Capacity utilization | | | | | |
| Awaji Sangyo------percent-- | 2/ | *** | *** | *** | *** |
| Nippon Benkan--------do---- | *** | *** | *** | *** | *** |
| Average----------do---- | 2/ | *** | *** | *** | *** |
| Home-market shipments: | | | | | |
| Awaji Sangyo-1,000 pounds-- | 2/ | *** | *** | *** | *** |
| Nippon Benkan--------do---- | *** | *** | *** | *** | *** |
| Total----------do---- | 2/ | *** | *** | *** | *** |
| Exports to-- | | | | | |
| United States: | | | | | |
| Awaji Sangyo-------do---- | 2/ | *** | *** | *** | *** |
| Nippon Benkan------do---- | *** | *** | *** | *** | *** |
| Total----------do---- | 2/ | *** | *** | *** | *** |
| Third countries: | | | | | |
| Awaji Sangyo-------do---- | 2/ | *** | *** | *** | *** |
| Nippon Benkan------do---- | *** | *** | *** | *** | *** |
| Total----------do---- | 2/ | *** | *** | *** | *** |
| Total exports: | | | | | |
| Awaji Sangyo-----do---- | 2/ | *** | *** | *** | *** |
| Nippon Benkan----do---- | *** | *** | *** | *** | *** |
| Total----------do---- | 2/ | *** | *** | *** | *** |

1/ Figures for Awaji Sangyo include carbon steel butt-weld pipe fittings with inside diameters exceeding 14 inches in addition to subject products. Counsel for Awaji Sangyo reported that figures for home-market shipments are estimated to include * * * percent of subject fittings, and exports to the United States and third countries contain an estimated * * * percent and * * * percent, respectively, of subject fittings.

Most figures for Nippon Benkan include carbon, alloy, and high-tensile steel (excluding stainless steel) butt-weld pipe fittings with inside diameters 1/2 inch to 24 inches; home-market shipments, however, are for such fittings 1/2 inch to 16 inches in inside diameter. Counsel for Nippon Benkan reports that about * * * percent of the firm's shipments are of carbon steel under 14 inches in inside diameter.

2/ Not available.

3/ Counsel for Awaji Sangyo reports that * * *.

4/ Estimated by the staff of the U.S. International Trade Commission from shipments data provided and from capacity data provided for * * *.

5/ Production is estimated by the staff to approximate shipments since neither firm provided separate data for production. Also, * * *.

Source: Compiled from confidential information submitted in response to requests from staff of the U.S. International Trade Commission.

# APPENDIX A

# COMMERCE'S FINAL LTFV DETERMINATION

[A-588-602]

## Certain Carbon Steel Butt-Weld Pipe Fittings From Japan: Final Determination of Sales at Less Than Fair Value

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that certain carbon steel butt-weld pipe fittings (butt-weld pipe fittings) from Japan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from Japan that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Continuation of Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** December 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** Mary S. Clapp or Karen S. DiBenedetto, (202) 377-1769 and (202) 377-1778, respectively, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230..

**SUPPLEMENTARY INFORMATION:**

### Final Determination

We have determined that butt-weld pipe fittings from Japan are being, or are likely to be, sold in the United States at less than fair value as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The margins range from 0.13 percent to 270.20 percent, and the weighted-average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

### Case History

On February 24, 1986, we received a petition in proper form filed by the U.S. Butt-Weld Fittings Committee on behalf of the U.S. industry producing butt-weld pipe fittings, in compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigatin on March 17, 1986 (51 FR 10970, March 24, 1986), and notified the ITC of our action.

On April 2, 1986, the ITC found that there is a reasonable indication that imports of butt-weld pipe fittings from Japan are materially injuring a U.S. industry (U.S. ITC Pub. No. 1834, April 1986).

On April 28, 1986, we presented questionnaires to Awaji Sangyo K.K. (Awaji) and Nippon Benkan Kogyo Co. Ltd. (Nippon Benkan) which account for approximately 80 percent of the exports to the United States during the period of investigation. An extension of time in which to respond was granted to both companies.

On June 11, 1986, we received the narrative versions of the questionnaire responses. On June 20, 1986, we received the computer tape version of the responses from both companies. Both of the questionnaire responses were insufficient. They did not include full product descriptions. Thus, we were unable to make such or similar merchandise comparisons. In one response, we could not determine whether certain sales were to home market or third country customers. The responses also contained contradictory information. In addition, the computer data bases did not fully reflect the information in the response or printed data bases. We requested corrected responses. Also, respondents did not submit proper nonproprietary summaries on a timely basis. On August 4, 1986, we issued an affirmative preliminary determination (51 FR 28734, August 11, 1986).

On August 6 and 12, 1986, we received requests for postponement of the final determination from the respondents. We granted the request and postponed our final determination until December 19, 1986 on September 3, 1986 (51 FR 32117, September 9, 1986). On September 12, 1986, Awaji Sangyo K.K. submitted a revised response. On September 12 and 15, 1986, Nippon Benkan Kogyo

Company Ltd. submitted a revised response.

On October 27 through 31, 1986, we verified the information provided by the respondents at their facilities in Japan. On November 7, 1986, we held a hearing to provide all parties with an opportunity to comment on relevant issues.

**Standing Issue**

One U.S. producer, Tube Turns, Inc., opposes this investigation and maintains that the petition was not filed "on behalf of" a U.S. industry, as required by section 732(b)(1) of the Act.

As we have previously stated, neither the Act nor the Commerce Regulations requires a petitioner to establish affirmatively that it has the support of a majority of a particular industry. *See. e.g., Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada,* (51 FR 10041, 10043, March 24, 1986). The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case. Where domestic industry members opposing an investigation provide a clear indication that there are grounds to doubt a petitioner's standing, the Department will review whether the opposing parties, do, in fact, represent a major proportion of the industry. We determined that Tube Turns, the only member of the domestic industry to oppose the investigation, does not represent a major proportion of that industry.

**Scope of Investigation**

The products covered by this investigation are certain carbon steel butt-weld type pipe fittings, other than couplings, under 14 inches in inside diameter, whether finished or unfinished, that have been formed in the shape of elbows, tees, reducers, caps, etc., and, if forged, have been advanced after forging. These advancements may include any one or more of the following: coining, heat treatment, shot blasting, grinding, die stamping or painting. These fittings are currently provided for under item 610.8800 of the *Tariff Schedules of the United States Annotated (TSUSA).* Induction pipe bends classifiable under item 610.8800 which have at one or both ends tangents that equal or exceed 12 inches in length are excluded from the scope of this investigation.

**Fair Value Comparisons**

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value. The period of investigation is September 1, 1985 through February 28, 1986.

**United States Price**

As provided in section 772(b) of the Act, for sales by Awaji and Nippon Benkan, we based the United States price on purchase price because their butt-weld pipe fittings were sold to unrelated purchasers in the United States prior to importation. We made deductions from CIF prices for ocean freight, marine insurance, brokerage, and foreign inland freight, as appropriate.

**Foreign Market Value**

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value for both Awaji Sangyo and Nippon Benkan on sales in the home market. We compared sales of such or similar merchandise to U.S. sales. We established comparison groups on the basis of type of fitting, diameter, wall thickness, and the type of pipe used in the manufacture of the fitting. We made deductions from ex-warehouse and FOB prices for inland freight, discounts and rebates, as appropriate. We made an adjustment for differences in credit terms between the respective markets, in accordance with § 353.15(a) of our regulations. We made adjustments to Awaji's prices for differences in technical services, post-sale warehousing and advertising expenses which were shown to be directly related to the sales under consideration, in accordance with § 353.15(a) of our regulations. We rejected claims for similar adjustments for Nippon Benkan since the expenses were not shown to be directly related to the sales under consideration. Where commissions were paid to unrelated agents in one market, we offset them with indirect selling expenses in the other market, in accordance with § 353.15(c) of our regulations. Where appropriate, we made adjustments for differences in physical characteristics, in accordance with § 353.16 of our regulations. We also deducted home market packing costs and added U.S. packing costs.

In calculating foreign market value, we made currency conversions from Japanese yen to U.S. dollars using certified exchange rates in accordance with § 353.56(a)(1) of our regulations.

**Petitioner's Comments**

*Petitioner's Comment 1:* Petitioner claims that Nippon Benkan's sales of standard pipe fittings in the United States should be compared with its sales of standard pipe fittings in Japan because both products are manufactured from seamless pipe. Petitioner further argues that comparisons should not include fittings made from welded pipe because these fittings vary widely in price from seamless fittings and, are therefore, less similar than seamless fittings.

*DOC Response:* We agree. We determined that seamless fittings sold in the home market meet the requirements for such or similar merchandise under section 771(16)(B) of the Act since they are like the fittings sold to the United States in component materials, in purposes for which used, and they are approximately equal in commercial value. The fittings made from welded pipe fall under section 771(16)(C) of the Act since they are different in component materials and commercial value. Since the statutory preference is for comparisons to merchandise falling under 771(16)(B), we limited our comparisons to seamless fittings.

*Petitioner's Comment 2:* Petitioner claims that the "special rule" on exchange rates does not apply in this proceeding since fluctuations of exchange rates were not temporary and the respondents have not adjusted their prices to reflect sustained fluctuations in a reasonable period of time.

*DOC Response:* We agree. During the period of investigation, the value of the dollar declined steadily against the yen. During that period, the respondents did not demonstrate that they had revised their prices to the United States in response to the changes in the relationship of the dollar and the yen. Therefore, we have determined that respondents have not "acted within a reasonable period of time to take into account price differences resulting in sustained changes in prevailing exchange rates" as required by § 353.56(b) of our regulations.

*Petitioner's Comment 3:* Petitioner argues that the Department should calculate a single margin for finished and unfinished fittings.

*DOC Response:* We agree. See our response to Respondents' Comment 4.

*Petitioner's Comment 4:* Petitioner argues that respondents' inland freight and packing costs should be recalculated since they were based on average costs over a six month period.

*DOC Response:* We used actual verified costs incured in the period of investigation. These costs were recalculated on a month by month basis.

*Petitioner's Comment 5:* Petitioner argues that Nippon Benkan's claim for rebates should be denied because they are not directly related to sales of carbon steel butt-weld pipe fittings and,

therefore, are not directly related to the sales under consideration.

*DOC Response:* We disagree. We verified that the rebates are directly related to sales of butt-weld pipe fittings during the period of investigation and deducted the rebates.

*Petitioner's Comment 6:* Petitioner argues that Nippon Benkan's claim for credit adjustment should be denied because it did not provide the ITA with actual credit expenses on individual sales made during the period of investigation.

*DOC Response:* We disagree. Nippon Benkan calculated its credit costs based on average interest rates and number of days between shipment and payment. This is in accordance with established Department practice.

*Petitioner's Comment 7:* Petitioner argues that Nippon Benkan's claim for an adjustment based on earnings attributable to hedges on exchange rate fluctuation should be denied because the earnings are not directly related to sales of pipe fittings during the period of investigation and it is not the Department's policy to consider currency fluctuations in calculating credit expenses.

*DOC Response:* We agree. Nippon Benkan's practice of borrowing dollars in order to earn additional yen during a period of currency adjustment is not directly related to sales of butt-weld pipe fittings during the period of investigation. In addition, it is Department policy not to consider the effect of currency fluctuation in calculating credit expenses, even when the earnings derived from the changes in currency value are directly related to payment terms.

*Petitioner's Comment 8:* Petitioner argues that Nippon Benkan's claim for an adjustment for technical services should be denied since these services are not part of the terms of sale.

*DOC Response:* We agree. We verified that the nature of the services claimed is that of general sales promotion as opposed to technical services and cannot be tied to the sales under investigation.

*Petitioner's Comment 9:* Petitioner argues that Nippon Benkan's claim for warehousing expenses should be denied because it is not considered a condition of sale.

*DOC Response:* We agree. Nippon Benkan has not demonstrated that the warehousing costs were incurred pursuant to contractual requirements. Therefore, we determined that the costs are not directly related to butt-weld pipe fittings.

*Petitioner's Comment 10:* Petitioner argues that Nippon Benkan's claim for selling expenses should be denied because the expenses are not directly related to sales of carbon steel butt-weld pipe fittings.

*DOC Response:* We agree. The claim is based on indirect selling expenses such as salaries and travel expenses incurred by salesmen. As such, the expenses are not directly related to the sales under consideration.

*Petitioner's Comment 11:* Petitioner argues that Nippon Benkan has not provided sufficient detail concerning its allegation of ocean freight charges and insurance charges.

*DOC Response:* We verified that the charges tied to the shipments to the United States and that the costs were calculated on that basis.

*Petitioner's Comment 12:* Petitioner claims that Nippon Benkan should be required to provide actual customs brokerage fees instead of the averaged figures that were provided in the response.

*DOC Response:* The brokerage fees were verified and the allocation to individual pipe fittings based on average costs incurred during the period was used. We determined that this allocation was reasonable. Any revision of methodology would result in an insignificant change to individual calculations.

*Petitioner's Comment 13:* Petitioner argues that Awaji's claim for a loading charge should be denied because it is an element of warehousing expenses which are not a condition of sale.

*DOC Response:* We disagree. We verified that the warehousing costs were incurred pursuant to a specific contract requirement. We therefore, made an adjustment for the costs of warehousing and related loading activities to reflect the differences in circumstances of sale.

*Petitioner's Comment 14.* Petitioner argues that Awaji's claim for adjustments to account for physical differences in the merchandise is based on slight differences and that the claim should be examined critically.

*DOC Response:* We verified the claimed adjustments and found that they were calculated on the basis of differences in the direct costs of manufacture of the products being compared. Therefore, we have allowed Awaji's claim.

*Petitioner's Comment 15:* Petitioner argues that Awaji's claim for technical services should be denied if it is not directly related to individual sales of butt-weld fittings and that any adjustment should be made to individual sales, rather than to all sales.

*DOC Response:* Although we could not tie these services to individual sales, we verified that they were directly related to the sales under consideration and that the expenses were properly allocated to sales to specific customers receiving the services.

*Petitioner's Comment 16:* Petitioner argues that Awaji's claim for an advertising adjustment should be denied because it is plainly institutional advertising rather that specific advertising on butt-weld pipe fittings.

*DOC Response:* We verified that a portion of the advertising claimed is directly related to butt-weld pipe fittings and is directed at ultimate purchasers of the fittings. Other portions relate directly to other products. Therefore, we allowed that portion of the claim which is related to butt-weld pipe fittings.

*Petitioner's Comment 17:* Petitioner argues that Awaji should not include expenses for other products, not included in this investigation, in the commission offset adjustment.

*DOC Response:* We verified that the expenses included in the offset claim were general selling expenses and that these expenses had been allocated reasonably.

*Petitioner's Comment 18:* Petitioner argues that in determining whether Awaji is engaging in "trading company dumping" the Department should make product-by-product comparisons of acquisition costs to prices of the products Awaji purchases for resale from an unrelated supplier.

*DOC Response:* Since we did not know whether Awaji's supplier was aware that the merchandise was destined to the United States and these products constituted a small portion of Awaji's sales to the United States, we did not include these sales in our comparisons.

**Respondents' Comments**

*Respondents' Comment 1:* Awaji and Nippon Benkan argue that the Department must employ its ninety day "lag" rule and apply the exchange rate in effect during the fourth quarter of 1985 for calculations on sales during the first quarter of 1986.

*DOC Response:* We disagree. See our response to Petitioner's Comment 2.

*Respondents' Comment 2:* Nippon Benkan argues that the Department should use third country sales in its price comparisons.

*DOC Response:* We disagree. We determined that there were sufficient home market sales of such or similar merchandise to form an adequate basis of determining foreign market value.

*Respondents' Comment 3:* Nippon Benkan argues that the Department should take into account the effect of exchange rate fluctuations on its credit

A-10

expenses associated with U.S. sales when doing the LTFV calculations.

*DOC Response:* We disagree. See our response to Petitioner's Comment 7.

*Respondents' Comment 4:* Nippon Benkan argues that the Department should calculate separate margins for finished and unfinished fittings.

*DOC Response:* We disagree. We consider finished and unfinished fittings to be one class or kind of merchandise. In addition, we compared unfinished fittings sold to the United States to finished fittings sold in the home market since the finishing of the fitting was a very minor operation and did not negate their consideration as similar merchandise. We normally issue one rate for all products within the class or kind of merchandise.

*Respondents' Comment 5:* Nippon Benkan argues that the Department should include all fittings sold in its home market regardless of the type of pipe used in the manufacturing process in making fair value comparisons.

*DOC Response:* We disagree. See our response to Petitioner's Comment 1.

*Respondents' Comment 6:* Nippon Benkan argues that the Department should adjust home market prices by the amount of rebates paid to its customers.

*DOC Response:* We agree. See our response to Petitioner's Comment 5.

*Respondents' Comment 7:* Nippon Benkan claims that its allocation of average packing, inland freight, customs brokerage, and warehousing costs is appropriate.

*DOC Response:* See our response to Petitioner's Comments 4, 9, and 12.

*Respondents' Comment 8:* Nippon Benkan argues that the Department should take into account its actual cost of credit as provided in their response.

*DOC Response:* We agree. See our response to Petitioner's Comment 6.

*Respondents' Comment 9:* Nippon Benkan argues that the Department should take into account their technical service expense when making its price comparisons.

*DOC Response:* We disagree. See our response to Petitioner's Comment 8.

**Interested Parties' Comments**

*Interested Parties' Comment 1:* TSI Industries and Silbo Steel claim that the Department lacks jurisdiction to conduct these investigations since petitioner lacks standing.

*DOC Response:* We disagree. See the "Standing Issue" section of this notice.

*Interested Parties' Comment 2:* TSI Industries and Silbo Steel claim that the Department's acceptance of the refiled petitions was improper.

*DOC Response:* We disagree. See the "Standing Issue" of this notice.

*Interested Parties' Comment 3:* TSI Industries and Silbo Steel argue that induction pipe bends belong to the same class or kind of merchandise as butt-weld pipe fittings and that their exclusion would facilitate circumvention of any antidumping order.

*DOC Response:* We disagree. Petitioner has agreed to exclude certain induction pipe bends described in the "Scope of Investigation" section of this notice. We generally base the scope of an investigation on the petitioner's wishes. TSI Industries and Silbo Steel have not provided any convincing rationale as to why induction pipe bends should be included in the scope of investigation.

*Interested Parties' Comment 4:* Sumitomo Corporation of America (SCOA) argues that the Department should exclude induction pipe bends imported by SCOA because they are not of the same class or kind of merchandise as that covered by the antidumping petition.

*DOC Response:* We agree. Induction pipe bends described in the "Scope of Investigation" section of this notice have been excluded from the scope. The petitioner has agreed with this exclusion.

**Verification**

As provided in section 776(a) of the Act, we verified all information used in this determination by using standard verification procedures, including examination of all relevant sales and accounting records.

**Continuation of Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**.

The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice.

| Manufacturer/producer/exporter | Weighted-average margin percentage |
|---|---|
| Awaji Sangyo, K.K | 30.83 |
| Nippon Benkan Kogyo Limited Co | 65.91 |
| All others | 62.79 |

**ITC Notification**

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or are threatening material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or canceled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on butt-weld pipe fittings from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

**Paul Freedenberg,**

*Assistant Secretary for Trade Administration.*

[FR Doc. 86-29037 Filed 12-24-86; 8:45 am]

BILLING CODE 3510-DS-M

# APPENDIX B

## COMMERCE'S NOTICE OF POSTPONEMENT

## International Trade Administration

[A-588-602]

## Postponement of Final Antidumping Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings from Japan

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public that we have received requests from all of the respondents in this investigation to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Based on these requests, we are postponing our final determination as to whether sales of certain carbon steel butt-weld pipe fittings from Japan have occurred at less than fair value until not later than December 19, 1986. We are also postponing our public hearing from September 3, 1986 until October 7, 1986.

**EFFECTIVE DATE:** September 9, 1986.

**FOR FURTHER INFORMATION CONTACT:** Karen DiBenedetto, (202-377-1778) or Mary S. Clapp, (202-377-1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

On March 24, 1986, we published a notice in the **Federal Register** (51 FR 10070) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether certain carbon steel butt-weld pipe fittings from Japan were being, or were likely to be, sold at less than fair value. On April 10, 1986, the International Trade Commission determined that there is a reasonable indication that imports of certain carbon steel butt-weld pipe fittings from Japan are materially injuring a U.S. industry. On August 11, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchandise (51 FR 28734). The notice stated that if the investigation proceeded normally, we would make our final determination by October 20, 1986.

On August 6, 1986, Awaji Sangyo K.K., a respondent in this investigation requested a postponement of the final determination until not later than the 135th day after the date of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act. On August 12, 1986, Nippon Benkan Kogyo Co. Ltd., another respondent in this investigation, requested a postponement of the final determination until not later than 135 days after our preliminary determination. The respondents are qualified to make such a request because they account for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the requests. Accordingly, we grant the request and postpone our final determination until not later than December 19, 1986.

### Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on October 7, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's

name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 30, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 86-20280 Filed 9-8-86; 8:45 am]

BILLING CODE 3510-DS-M

# APPENDIX C

# THE COMMISSION'S NOTICE OF INSTITUTION

[Investigations Nos. 731-TA-308 through 310 (Final)]

## Butt-Weld Pipe Fittings From Brazil, Japan, and Taiwan

**AGENCY:** United States International Trade Commission

**ACTION:** Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations

**SUMMARY:** The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-308 through 310 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Japan, and Taiwan of carbon steel butt-weld pipe and tube fittings, under 14 inches in inside diameter,[1] provided for in item 610.88 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless the investigations are extended, Commerce will make its final LTFV determinations on or before October 20, 1986, and the Commission will make its final injury determinations by December 8, 1986 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

**EFFECTIVE DATE:** August 11, 1986.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Noreen (202-523-1369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

**SUPPLEMENTARY INFORMATION:**

### Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from Brazil, Japan, and Taiwan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in petitions filed on February 24, 1986, by the U.S. Butt-Weld Fittings Committee. In response to those petitions the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations,

[1] For purposes of these investigations, such fittings may be finished or unfinished but must be advanced beyond forging. Such advancements may include any one or more of the following: coining, heat treatment, shot blasting, grinding, die stamping, or painting. Such fittings do not include couplings (provided for in TSUS item 610.86).

determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 12938, April 16, 1986).

**Participation in the Investigation**

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the later entry for good cause shown by the person desiring to file the entry.

**Service List**

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Staff Report**

A public version of the prehearing staff report in these investigations will be placed in the public record on October 10, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

**Hearing**

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on October 28, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 14, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 21, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 21, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

**Written Submissions**

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 4, 1986. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 4, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: August 21, 1986.

**Kenneth R. Mason,**

*Secretary*

[FR Doc. 86-19399 Filed 8-26-86; 8:45 am]

BILLING CODE 7020-02-M

# APPENDIX D

## LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Butt-Weld Pipe Fittings From Brazil, Japan and Taiwan

Inv. No. : 731-TA-308, 309, 310 (Final)

Date and time: October 28, 1986 - 9:30 a.m.

Sessions were held in connection with the investigation in the Hearing Room of the United States International Trade Commission 701 E Street, N.W., in Washington.

In support of the imposition of antidumping duties:

Rose, Schmidt, Chapman, Duff & Hasley--Counsel
Washington, D.C.
on behalf of

U.S. Butt-Weld Fittings Committee

Richard Steele, Vice President and General Manager, Industrial Production, Ladish Co.

James Bamberger, Manager, Sales, Ladish Co.

Wayne Larson, Corporate Counsel

Peter Buck Feller)
Lawrence J. Bogard)--OF COUNSEL
Michael K. Tomenga)

Mayer, Brown & Platt--Counsel
Washington, D.C.
on behalf of

Weldbend Corporation (U.S. Producer)

Charles S. Levy--OF COUNSEL

- more -

In opposition to the imposition of antidumping duties:

Bergman, Abell, Kay & Simon—Counsel
Washington, D.C.
on behalf of

Taiwanese respondents Rigid Industries Co., Ltd.
and C.M. Pipe Fitting Mfg. Co., Ltd.

David Simon—OF COUNSEL

CCTF Inc., Seattle, Washington

on behalf of

Rigid Industries Company, Ltd.

Mark Beach, Marketing Manager, CCTF, Inc.

Grunfeld, Desiderio, Lebowitz & Silverman—Counsel
Washington, D.C.
on behalf of

Conforja S/A
TSI Industries, Inc
Silbo Steel Coporation

Bruce M. Mitchell)
Philip S. Gallas ) --OF COUNSEL

Wilmer, Cutler & Pickering—Counsel
Washington, D.C.
on behalf of

Tube Turns, Inc.

Robert C. Cassidy, Jr.)
Marcia C. Miller ) --OF COUNSEL

Akin, Gump, Strauss, Hauer & Feld—Counsel
Washington, D.C.
on behalf of

Nippon Benkan Kogyo Co., Ltd.

Warren E. Connelly )
Claude G.B. Fontheim) --OF COUNSEL

# APPENDIX E

# STATISTICAL TABLES

Table E-1.--Butt-weld pipe fittings: Apparent U.S. consumption on the basis of quantity, by types, 1983-85, January-June 1985, and January-June 1986

(In thousands of pounds)

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Finished butt-weld pipe fittings: 1/ | | | | | |
| Domestic shipments | *** | *** | *** | *** | *** |
| Imports | *** | *** | *** | *** | *** |
| Apparent consumption | *** | *** | *** | *** | *** |
| Rough-formed and semi-finished butt-weld pipe fittings: | | | | | |
| Domestic production 2/ | *** | *** | *** | *** | *** |
| Imports | *** | *** | *** | *** | *** |
| Apparent consumption | 42,486 | 67,760 | 58,276 | 30,927 | 21,983 |

1/ Apparent consumption of finished butt-weld pipe fittings on the basis of value is presented in table E-3.

2/ Domestic production of finished butt-weld pipe fittings from pipe, plate, bar, or billet in each period, plus production of unfinished fittings that are shipped in that stage, is assumed to approximate consumption of U.S.-produced rough-formed and semifinished butt-weld pipe fittings.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table E-2.--Butt-weld pipe fittings: U.S. imports on the basis of quantity, 1/ by selected sources and by types, 1983-85, January-June 1985, and January-June 1986

(In thousands of pounds)

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Rough-formed fittings: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan 2/ | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal | *** | *** | *** | *** | *** |
| All other sources 3/ | *** | *** | *** | *** | *** |
| Total | *** | *** | *** | *** | *** |
| Semifinished fittings: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal | *** | *** | *** | *** | *** |
| All other sources | *** | *** | *** | *** | *** |
| Total | *** | *** | *** | *** | *** |
| Finished fittings: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan 4/ | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal 4/ | *** | *** | *** | *** | *** |
| All other sources | *** | *** | *** | *** | *** |
| Total 4/ | *** | *** | *** | *** | *** |
| Total: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan 4/ | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal 4/ | *** | *** | *** | *** | *** |
| All other sources | 14,147 | 22,307 | 19,973 | 13,577 | *** |
| Total 4/ | *** | *** | *** | *** | *** |

1/ The values of these imports are presented in table E-5.

2/ All imports in 1984 and January-June 1986 were imported under TSUS item 610.88; imports in 1985 were imported under TSUS item 610.88 and TSUSA item 606.7120.

3/ All imports were reported as being entered under TSUSA item 606.7120.

4/ These figures exclude * * * of finished "bent pipe" imported by * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table E-3.--Butt-weld pipe fittings: Apparent U.S. consumption on the basis of quantity and market penetration of imports, by types and by sources, 1983-85, January-June 1985, and January-June 1986

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Finished butt-weld pipe fittings: 1/ | | | | | |
| Apparent U.S. consumption 2/---1,000 pounds-- | *** | *** | *** | *** | *** |
| Market penetration by imports of-- | | | | | |
| Finished butt-weld pipe fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | *** | *** | *** | *** | *** |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total---------do---- | *** | *** | *** | *** | *** |
| Rough-formed and semi-finished fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | *** | *** | *** | *** | *** |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total 3/------do---- | *** | *** | *** | *** | *** |
| Total finished and unfinished fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | *** | *** | *** | *** | *** |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total 3/------do---- | *** | *** | *** | *** | *** |
| Rough-formed and semifinished butt-weld pipe fittings: | | | | | |
| Apparent U.S. consumption 2/---1,000 pounds-- | 42,486 | 67,760 | 58,276 | 30,927 | 21,983 |

See footnotes at end of table.

Table E-3.--Butt-weld pipe fittings: Apparent U.S. consumption on the basis of quantity and market penetration of imports, by types and by sources, 1983-85, January-June 1985, and January-June 1986--Continued

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Rough-formed and semifinished butt-weld pipe fittings: | | | | | |
| Market penetration by imports of-- | | | | | |
| Rough-formed and semifinished fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | 27 | 37 | 39 | 31 | 45 |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total---------do---- | *** | *** | *** | *** | *** |

1/ Market penetration on the basis of value is presented in table E-6.

2/ See table E-1 for computations of apparent consumption.

3/ Differences in end-of-period inventory levels of unfinished butt-weld fittings were considerable during the period. Adjustments for fluctuations in reported inventories of purchased rough-formed and semifinished fittings would result in market penetrations of imports of the unfinished fittings of * * * percent in 1983, * * * percent in 1984, * * * percent in 1985, * * * percent during January-June 1985, and * * * percent during January-June 1986; market penetrations of total imports of butt-weld fittings would be * * * percent in 1983, * * * percent in 1984, * * * percent in 1985, * * * percent during January-June 1985, and * * * percent during January-June 1986.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--Because of rounding, figures may not add to the totals shown.

Table E-4.--Butt-weld pipe fittings: Apparent U.S. consumption on the basis of value, 1983-85, January-June 1985, and January-June 1986

(In thousands of dollars)

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Finished butt-weld pipe fittings: | | | | | |
| Domestic shipments | *** | *** | *** | *** | *** |
| Imports | *** | *** | *** | *** | *** |
| Apparent consumption | *** | *** | *** | *** | *** |

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table E-5.--Butt-weld pipe fittings: U.S. imports on the basis of value, by selected sources and by types, 1983-85, January-June 1985, and January-June 1986

(In thousands of dollars)

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Rough-formed fittings: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan 1/ | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal | *** | *** | *** | *** | *** |
| All other sources 2/ | *** | *** | *** | *** | *** |
| Total | *** | *** | *** | *** | *** |
| Semifinished fittings: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal | *** | *** | *** | *** | *** |
| All other sources | *** | *** | *** | *** | *** |
| Total | *** | *** | *** | *** | *** |
| Finished fittings: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan 3/ | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal 3/ | *** | *** | *** | *** | *** |
| All other sources | *** | *** | *** | *** | *** |
| Total 3/ | *** | *** | *** | *** | *** |
| Total: | | | | | |
| Brazil | *** | *** | *** | *** | *** |
| Japan 3/ | *** | *** | *** | *** | *** |
| Taiwan | *** | *** | *** | *** | *** |
| Subtotal 3/ | *** | *** | *** | *** | *** |
| All other sources | 7,571 | 10,837 | 10,064 | 6,742 | *** |
| Total 3/ | *** | *** | *** | *** | *** |

1/ All imports in 1984 and January-June 1986 were imported under TSUS item 610.88; imports in 1985 were imported under TSUS item 610.88 and TSUSA item 606.7120.

2/ All imports were reported as being entered under TSUSA item 606.7120.

3/ These figures exclude $*** of finished "bent pipe" imported by * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table E-6.--Butt-weld pipe fittings: Apparent U.S. consumption on the basis of value and market penetration of imports, by sources, 1983-85, January-June 1985, and January-June 1986

| Item | 1983 | 1984 | 1985 | January-June-- | |
|---|---|---|---|---|---|
| | | | | 1985 | 1986 |
| Finished butt-weld pipe fittings: | | | | | |
| Apparent U.S. consumption 1/--1,000 dollars-- | *** | *** | *** | *** | *** |
| Market penetration by imports of-- | | | | | |
| Finished butt-weld pipe fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | *** | *** | *** | *** | *** |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total---------do---- | *** | *** | *** | *** | *** |
| Rough-formed and semi-finished fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | *** | *** | *** | *** | *** |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total 2/------do---- | *** | *** | *** | *** | *** |
| Total finished and unfinished fittings: | | | | | |
| Brazil-------percent-- | *** | *** | *** | *** | *** |
| Japan----------do---- | *** | *** | *** | *** | *** |
| Taiwan----------do---- | *** | *** | *** | *** | *** |
| Subtotal------do---- | *** | *** | *** | *** | *** |
| Other sources---do---- | *** | *** | *** | *** | *** |
| Total 2/------do---- | *** | *** | *** | *** | *** |

1/ See table E-4 for computations of apparent consumption.

2/ Differences in end-of-period inventory levels of unfinished butt-weld fittings were considerable during the period. Adjustments for fluctuations in reported inventories of purchased rough-formed and semifinished fittings is not available on a value basis.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--Because of rounding, figures may not add to the totals shown.