CERTAIN CARBON STEEL BUTT–WELD PIPE FITTINGS FROM CHINA AND THAILAND

Determinations of the Commission in Investigations Nos. 731–TA–520 and 521 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations

USITC PUBLICATION 2401

JULY 1991

United States International Trade Commission
Washington, DC 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Anne E. Brunsdale, Acting Chairman

Seeley G. Lodwick

David B. Rohr

Don E. Newquist

Charles Ervin,
Director of Operations

Staff assigned:

Elizabeth Haines, Investigator
Joseph Baremore, Economist
Karen Laney–Cummings, Industry Analyst
Marshall Wade, Accountant
Stephen McLaughlin, Attorney

Vera Libeau, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

C O N T E N T S

CONTENTS

CONTENTS

Tables--Continued

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

DETERMINATIONS
AND
VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-520 and 521 (Preliminary)

CERTAIN CARBON STEEL BUTT-WELD PIPE FITTINGS FROM CHINA AND THAILAND

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from China and Thailand of certain carbon steel butt-weld pipe fittings,[2] provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 22, 1991, a petition was filed with the Commission and the Department of Commerce by the U.S. Fittings Group, alleging that an industry in the United States is materially injured by reason of LTFV imports of certain carbon steel butt-weld pipe fittings from China and Thailand. Accordingly, effective May 22, 1991, the Commission instituted antidumping investigations Nos. 731-TA-520 and 521 (Preliminary).

---

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

[2] For purposes of these investigations, certain carbon steel butt-weld pipe fittings are defined as carbon steel butt-weld pipe fittings having an inside diameter of less than 360 millimeters (14 inches), imported in either finished or unfinished form. These formed or forged fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are classified in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States (HTS). Unfinished butt-weld pipe fittings of subheading 7307.99 that are not machined, not tooled, and not otherwise processed after forging are not included in the scope of the investigations.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith 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 of May 30, 1991 (56 F.R. 24410). The conference was held in Washington, DC, on June 12, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF ACTING CHAIRMAN BRUNSDALE, COMMISSIONER LODWICK AND COMMISSIONER NEWQUIST

On the basis of the information obtained in these preliminary investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain carbon steel butt-weld pipe fittings from China and Thailand that are allegedly sold at less than fair value (LTFV).

I. Like product and the domestic industry

In order to determine whether there is "material injury" or "threat of material injury," to a domestic industry, the Commission must first determine the parameters of the "domestic industry." Section 771(4)(A) of the Tariff Act of 1930 defines the relevant domestic industry 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."[1] "Like product" is defined as a "product that is like, or in the absence of like, most similar in characteristics and uses with the article subject to investigation."[2]

The Commission's decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. In analyzing like product issues, the Commission generally considers a number of factors relating to characteristics and uses including (1) physical appearance, (2) inter-

---

[1] 19 U.S.C. § 1677(4)(A).

[2] 19 U.S.C. § 1677(10).

changeability, (3) channels of distribution, (4) customer perception, (5) common manufacturing facilities and production employees, and, where appropriate, (6) price.[3] No single factor is necessarily dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. Generally the Commission disregards minor variations between the articles subject to an investigation, and requires "clear dividing lines among possible like products."[4]

The imported articles subject to these investigations are finished and unfinished butt-weld pipe fittings having an inside diameter of less than 14 inches.[5] In prior investigations, the Commission has determined that there is one domestic like product consisting of both finished and unfinished pipe fittings of less than 14 inches in diameter.[6] The Commission's single like product determinations in those investigations were based primarily on the lack of any independent market for unfinished pipe fittings. No parties have argued for a different like product determination in these investigations, nor is there any evidence in the record that suggests that a different conclusion is appropriate at this time. Therefore we again determine that the like

---

[3] Torrington Co. v. United States, Slip Op. 90-90 at 10 (CIT Sept. 11, 1990), aff'd No. 91-1084 (Fed. Cir. July 3, 1991); Asociacion Colombiana de Exportadores de Flores v. United States, 12 CIT ___, 693 F. Supp. 1165, 1168 n.4, 1180 n.7 (1988)(Asocoflores).

[4] Certain Telephone Systems and Subassemblies Thereof from Japan, Korea and Taiwan, Inv. Nos. 731-TA-426-428 (Preliminary), USITC Pub. 2156 at 4 n.4 (Feb. 1989)(citing Asocoflores, 692 F. Supp. at 1170 n.8).

[5] Report of the Commission (Report) at A-3; 56 Fed. Reg. 27730 (June 17, 1991)(Commerce Notice).

[6] See Certain Carbon Steel Butt-Weld Pipe Fittings from Brazil and Taiwan, Inv. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 at 6 (Dec. 1986); Certain Carbon Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-309 (Final), USITC Pub. 1943 at 5-6 (Jan. 1987).

product is all domestically produced butt-weld pipe fittings of less than 14 inch diameter, finished or unfinished. We further determine that the domestic industry includes all domestic producers of the like product, regardless of whether they are integrated producers, converters of unfinished pipe fittings, or a combination of the two.[7]

II. Related parties

Petitioner requested that Weldbend, the largest domestic producer, be excluded from the domestic industry as a "related party." Weldbend is a combination producer that, in addition to integrated production, purchases a large volume of imported unfinished pipe fittings and converts them into finished pipe fittings. Weldbend appeared in these investigations and opposed the petition.

The related parties provision, 19 U.S.C. § 1677(4)(B), allows for the exclusion of certain domestic producers from the domestic industry. Applying the provision involves two steps.[8] First, the Commission must determine

---

[7] Petitioner argued in a conclusory fashion that the domestic industry should include only the petitioning companies because they are fully integrated producers and because they collectively constitute a major proportion of domestic production. Petitioners' Post-Conference Brief at 3-4 (citing 19 U.S.C. § 1677(4)). In prior investigations the Commission included in the domestic industry all producers, regardless of whether they were fully integrated producers, were converters of unfinished pipe fittings, or were combination producers. There is no information in the record or argument by the petitioner that suggests that converters should be excluded from the industry definition. Moreover, the provision of section 1677(4) that allows the domestic industry to be defined as a "major proportion of the total domestic production" does not provide a basis for excluding readily available data simply because the petitioning group represents more than half of domestic production and does not want the Commission to consider such additional data.

[8] See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, Inv. Nos. 731-TA-458-459 (Final), USITC Pub. 2383 at 17 (May 1991).

whether the domestic producer meets the definition of a related party. The statute defines a related party as a domestic producer who is either related to exporters or importers of the product under investigation, or is itself an importer of that product. Second, if a producer is a related party, the Commission "may exclude such producers in "appropriate circumstances."[9] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[10]

The basis for the related parties provision is the concern that domestic producers who are related parties may be in a position that shields them from any injury that might be caused by the imports. Thus, including these parties within the domestic industry causes the industry to appear healthier than it would be absent the "shielding" effect.[11]

Since it is usually clear whether a company has a corporate affiliation with an importer or exporter, or is an importer of record, most Commission considerations of the related parties issue have dealt with whether "appropriate circumstances" for exclusion exist. The critical issue here, however, is whether Weldbend is a "related party."

Petitioner concedes that Weldbend is not an importer of record of the product nor does Weldbend have any type of corporate relationship with an importer or exporter of the product. Nonetheless, petitioner alleges that

---

[9] 19 U.S.C. § 1677 (4)(B).

[10] Empire Plow Co. v. United States, ___ CIT ___, 675 F. Supp. 1348, 1352 (1987).

[11] See, e.g., Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989)(related party appeared to benefit from dumped imports), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, Inv. Nos. 731-TA-458-459 (Final), USITC Pub. 2383 at 17, 18 (May 1991).

Weldbend's purchases of imports and its relationship with certain importers make it a related party.[12] Petitioner argues that the Commission has rejected the distinction between "importers" and "purchasers of imports."[13] Petitioner points to the Commission determination in Certain Forged Steel Undercarriage Components from Italy, Inv. No. 701-TA-201 (Final), USITC Pub. 1465 (Dec. 1983) to support the contention that Weldbend and certain importers have adequate connections to be considered "related." However, as discussed below, the petitioner's reliance on this case is inappropriate.

Respondent Weldbend argues that it does not meet the statutory criteria of "related."[14] Respondent states that it does not import the products subject to investigation, nor does it have a corporate affiliation with an exporter or importer of the products. Rather, Weldbend states that, like some of the petitioning companies, it purchases unfinished fittings from importers.[15] Weldbend relies on two previous Commission determinations involving butt-weld pipe fittings to support its argument that it should not be excluded as a related party.[16] Butt-Weld Pipe Fittings from Brazil and Taiwan, Inv. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 at 10 (Dec. 1986); Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-309 (Final), USITC Pub. 1943 at 5 (Jan. 1987). In those determinations the Commission declined to exclude from the domestic industry the operations of combination producers and converters that used imported unfinished fittings.

---

[12] Petitioner's Post-Conference Brief at 6-9.

[13] Petitioner's Post-Conference Brief at 6.

[14] Weldbend's Post-Conference Brief at 7.

[15] Weldbend's Post-Conference Brief at 8.

[16] Weldbend's Post-Conference Brief at 8.

As mentioned above, respondent Weldbend is the largest U.S. producer of butt-weld pipe fittings and is primarily a converter. Weldbend asserts that it purchases imported unfinished fittings because there are not enough domestically produced unfinished fittings to meet its demand.[17] Weldbend points out, and the responses to the Commission's questionnaires confirm, that certain members of the petitioning group also use imported unfinished fittings and are importers of record.[18] Weldbend purchases imports principally from four importers.[19] Questionnaire responses from two of those importers indicated that they imported unfinished fittings from China and sold these fittings only to Weldbend.[20]

As indicated above, petitioner claims that in Certain Forged Steel Undercarriage Components from Italy, Inv. No. 701-TA-201 (Final), USITC Pub. 1465 (Dec. 1983), the Commission rejected the distinction between producers who import and producers who purchase imports. Petitioner's argument, however, is incorrect. In that investigation, the Commission considered whether Caterpillar should be classified as a related party.[21] In a footnote the Commission commented that Caterpillar was not only an importer of the products, but had an agreement with IMES Trading Company to import and

---

[17] Weldbend's Post-Conference Brief at 10, 11.

[18] Id.; Report at A-11 (indicating that three U.S. producers import unfinished fittings). Petitioner has not requested exclusion of any of these "related party" producers.

[19] Report at A-10.

[20] Report at A-10.

[21] Certain Forged Undercarriage Components from Italy, Inv. No. 701-TA-201 (Final), USITC Pub. 1465 at 5 (Dec. 1983). The Commission ultimately concluded that appropriate circumstances did not exist, and therefore, Caterpillar was not excluded from the domestic industry.

maintain a minimum supply in a warehouse solely to service Caterpillar. Thus, the Commission noted that the parties were acting "in concert."[22] Petitioner argues that the Commission's comments regarding Caterpillar's purchase of imports means that the Commission has decided a purchaser of imports can be considered an "importer."[23] However, while the Commission mentioned that Caterpillar purchased imports, the decision that Caterpillar could be considered a related party did not rest on that distinction. Rather, the Commission stated that Caterpillar, as a domestic producer that was both a purchaser of imports and an importer of record, was a related party.[24]

There is a Commission determination, however, which directly addresses the treatment of purchasers of imports under the related parties provision. In Certain Cast-Iron Pipe Fittings from Brazil, Inv. No. 701-TA-221 (Final), USITC Pub. 1681 (April 1985), the Commission addressed the question whether a company that was the sole domestic purchaser of the imported products could be classified as a related party. The Commission determined that since the domestic producer was neither an importer of record nor related to the

---

[22] Id. at 5 n.12.

[23] Petitioner's Post-Conference Brief at 6, 7.

[24] Certain Forged Steel Undercarriage Components from Italy, USITC Pub. 1465 at 5. Even if a purchaser acting "in concert" with an importer is enough to constitute a related party, the facts in Certain Forged Steel Undercarriage Components demonstrate a much closer tie between the parties than in the present investigations. In Certain Forged Steel Undercarriage Components, Caterpillar and IMES Trading had a specific agreement that IMES Trading would maintain a warehouse with a minimum supply of the products for Caterpillar. In this case, Weldbend has no such agreement with any importer. In fact, although two importers sell their imported fittings only to Weldbend, it does not appear that Weldbend has any relationship with them other than that of buyer and seller. Should these investigations proceed to final investigations, the Commission will seek additional information on Weldbend's connections to those two importers, as well as the other importers, to explore the extent of any possible "relationship" further.

importer, it must be considered part of the domestic industry.[25] In the present case, Weldbend is not the sole domestic purchaser of the imports subject to investigation. Thus, in an investigation that arguably presented stronger facts than the present one for concluding that a purchaser of imports was a related party, the Commission declined to do so.

Thus petitioner's argument that Weldbend should be defined as a "related party" is not in line with prior Commission determinations regarding this issue. The related parties provision does not apply to domestic producers who are also purchasers of imports. Accordingly, we determine that Weldbend is not a related party that may be excluded from the domestic industry.[26]

III. Condition of the domestic industry

In determining the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, domestic production, capacity, capacity utilization, shipments, inventories, employment, market share, domestic prices, profitability, the ability to raise capital, and investment.[27] In addition, the Commission evaluates all of these factors in the "context of the business cycle and conditions of competition that are

---

[25] Certain Cast-Iron Pipe Fittings from Brazil, Inv. No. 701-TA-221 (Final), USITC Pub. 1681 at 4 & n.7 (April 1985).

[26] Since Weldbend is not a "related party," consideration of whether appropriate circumstances exist for excluding Weldbend is moot. Although Weldbend is not a related party, its status as the principal converter of unfinished pipe fittings from China and the largest domestic producer of finished pipe fittings is a condition of competition that should be considered when evaluating its trade and financial data, and that of the industry as a whole. Should any final investigations occur, we will explore further the significance of Weldbend's unique role in the domestic industry.

[27] 19 U.S.C. § 1677(7)(C)(iii).

distinctive to the affected industry."[28]

During the period of investigation, apparent domestic consumption of butt-weld pipe fittings, by quantity, has declined irregularly. Apparent consumption dropped from 106.3 million pounds in 1988 to 96.8 million pounds in 1989, and then increased to 101.8 million pounds in 1990. In interim 1991, apparent consumption declined again to 24.6 million pounds, compared with 26.1 million pounds in interim 1990.[29] Aggregate domestic capacity to produce butt-weld pipe fittings has been relatively stable, at 127 million pounds, throughout the period of investigation.[30]

Domestic production increased irregularly during the period of investigation, resulting in an irregular increase in capacity utilization. Production decreased from 62.7 million pounds in 1988 to 61.6 million pounds in 1989, and then increased to 71.8 million pounds in 1990. Production declined slightly in interim 1991 to 17.3 million pounds, compared with 17.9 for interim 1990.[31] Capacity utilization initially dropped from 49.2 percent in 1988 to 48.4 percent in 1989, then increased to 56.3 percent in 1990. In interim 1991, capacity utilization dropped slightly to 54.4 percent, compared with 56.2 percent in interim 1990.[32]

Domestic shipments by quantity decreased irregularly by five percent from 1988 to 1990, and then increased by 18 percent in interim 1991, compared

---

[28] 19 U.S.C. § 1677(7)(C)(iii).

[29] Report at A-14, Table 2.

[30] Report at A-13, and Table 3.

[31] Report at A-13, and Table 3.

[32] Report at A-13, and Table 3.

with interim 1990.[33] The value of domestic shipments followed a similar, but less pronounced trend. End-of-period inventories of finished domestic pipe fittings more than doubled from 1988 to 1990, and continued to increase in interim 1991.[34]

Overall employment in the domestic industry fell irregularly by 8 percent from 1988 to 1990, but increased by 8 percent in interim 1991.[35] Hours worked and wages paid increased by 11 percent and 34 percent, respectively, from 1988 to 1990, and continued to increase in interim 1991. Similarly, total compensation and hourly compensation also increased throughout the period of investigation.[36]

The available data indicate that the volume and market share of subject imports more than doubled between 1988 and 1990 and that domestic market share declined slightly.[37] Coincident with this surge in subject imports, domestic prices for butt-weld pipe fittings declined irregularly during the period of investigation.[38]

While net sales increased irregularly throughout the period, operating income as a percentage of net sales declined consistently from 14.9 percent in 1988 to 11.6 percent in 1989 and then to 8.7 percent in 1990. Operating income declined further to 9.5 percent in interim 1991, compared with 10.9

---

[33] Report at A-13. The exact figures are confidential.

[34] Report at A-16, and Table 6.

[35] Report at A-16, and Table 7.

[36] Report at A-16, and Table 7.

[37] Report at A-27-A-29, Tables 15, 16.

[38] Report at A-31-A-34.

percent in interim 1990.[39] No domestic producers reported operating losses during the period of investigation. Capital expenditures by the domestic industry increased irregularly during the period of investigation.[40]

Based upon the data available in these investigations, we find a reasonable indication that the domestic industry is materially injured.[41] [42] The financial condition of the domestic industry has deteriorated during the period of investigation, notwithstanding an irregular increase in net sales. While domestic production and capacity utilization have increased somewhat, shipments have been flat and inventories have increased dramatically.

---

[39] Report at A-17-A-18, and Table 9. We note, however, that the financial data from many of the firms contained internal inconsistencies. When contacted, the firms typically indicated that they had difficulty preparing financial data specific to butt-weld pipe fittings of less than 14 inches in diameter. Financial data on overall operations show higher and more stable operating returns than the data specific to the product at issue. Should any final investigations occur, we will seek more consistent financial data and further explanation for the differences between overall operations financial data and product specific financial data.

[40] Report at A-23, Table 11. For example, Weldbend stated at the conference that it had increased its investment in 1989 and 1990 to expand its integrated production. Conference Transcript at 56.

[41] Acting Chairman Brunsdale does not reach a separate legal conclusion concerning the presence or absence of material injury based on this information. While she does not believe an independent determination is either required by the statute or useful, she finds the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from the allegedly dumped imports is material.

[42] Since we determine that there is a reasonable indication of material injury for the purposes of these preliminary investigations, consideration of any threat of material is not necessary at this time. Should any final investigations occur, however, we will consider the threat issue in detail, especially given the evidence of material injury available at this time. In any final investigations, we would seek to obtain more complete information regarding the foreign producers, especially those in China.

III. Cumulation

In determining whether there is material injury by reason of the LTFV imports, the Commission is required to cumulatively assess the volume and effect of imports from two or more countries subject to investigation if such imports compete with one another and with the domestic like product in the United States market.[43] In determining whether there is a threat a of material injury by reason of LTFV imports, cumulation is discretionary.[44]

The only cumulation issue relevant to these investigations is whether the imports from China and Thailand compete with one another and with the domestic like product. In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

> (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
>
> (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
>
> (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
>
> (4) whether the imports are simultaneously present in the market. [45]

---

[43] 19 U.S.C. § 1677(7)(C)(iv); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1105 (Fed. Cir. 1990).

[44] 19 U.S.C. § 1677(7)(F)(iv).

[45] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (CIT 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

While no single factor is determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.[46] Furthermore, only a "reasonable overlap" of competition is required.[47]

All butt-weld pipe fittings must meet the same standards set by the American Society of Testing and Materials and the American National Standards Institute and can be used interchangeably.[48] While there is some evidence that Chinese pipe fittings are of inferior quality, that assertion appears to be based on the fact that there is a higher rate of failure when testing Chinese pipe fittings pursuant to those standards. Substandard pipe fittings are returned to the sellers. There is no evidence that pipe fittings from Thailand fail to meet industry standards. Nor is there any evidence that pipe fittings from any country that meet the industry standards differ significantly in quality.[49] Furthermore, much of the imports from China are

---

[46] See Wieland Werke, AG v. United States, 718 F.Supp. 50 (CIT 1989); Granges Metallverken AB v. United States, 716 F.Supp. 17 (CIT 1989); Florex v. United States, 705 F.Supp. 582 (CIT 1989).

[47] See Wieland Werke, AG v. United States, 718 F.Supp. 50, 52 (CIT 1989) ("Completely overlapping markets are not required."); Granges Metallverken AB v. United States, 716 F.Supp. 17, 21, 22 (CIT 1989) ("The Commission need not track each sale of individual sub-products and their counterparts to show that all imports compete with all other imports and all domestic like products . . . the Commission need only find evidence of reasonable overlap in competition"); Florex v. United States, 705 F.Supp. 582, 592 (CIT 1989) ("[c]ompletely overlapping markets is [sic] not required.").

[48] Report at A-7.

[49] There is evidence that certain end users, especially the petrochemical industry, do not buy Chinese imports due to the lack of vendor approval. Report at A-7-A-8. Petitioner estimates that this segment of the market constitutes only about 15 to 25 percent of the total market and note that unfinished pipe fittings from China, once finished by an approved domestic

(continued...)

unfinished pipe fittings that are finished by domestic producers, such as Weldbend, and sold as domestic product.

Imports from China and Thailand are sold in all parts of the country.[50] They have been sold in substantial quantities throughout the period of investigation.[51] Furthermore, they are marketed in a similar fashion, primarily by sale to distributors for resale to end users. Similarly, the domestic product is sold throughout the country and is distributed in the same fashion as the subject imports.[52]

Given the essentially fungible nature of butt-weld pipe fittings, the competition between subject imports and the domestic product throughout the country and in all relevant time periods, and the similarity in methods of distribution, the Commission in the prior investigations determined that cumulation was warranted.[53] These same factors exist in the pending investigations. We therefore determine that cumulation of imports from China and Thailand is warranted for the purposes of these preliminary investigations.

---

[49](...continued)
converter such as Weldbend, may then be sold as finished pipe fittings in this market segment. Petitioner's Post-Conference Brief at 21-22.

[50] Report at A-11-A-12.

[51] Report at A-28, Table 15.

[52] Report at A-11-A-12.

[53] See Certain Carbon Steel Butt-Weld Pipe Fittings from Brazil and Taiwan, Inv. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 at 14-16 (Dec. 1986); Certain Carbon Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-309 (Final), USITC Pub. 1943 at 7-9 (Jan. 1987).

V. Causation

In addition to finding material injury to a domestic industry, the Commission must also determine whether such injury is "by reason of" the allegedly less than fair value or subsidized imports.[54] In making this determination, the Commission is required to consider, inter alia, the volume of the imports subject to investigation, the effect of such imports on domestic prices, and the impact of such imports on the domestic industry.[55] Evaluation of these factors involves a consideration of: (1) whether the volume of imports, or increase in volume is significant, (2) whether there has been significant price underselling by the imported products, and (3) whether imports have otherwise depressed prices to a significant degree, or have prevented price increases.[56] In addition, the Commission must evaluate the impact of the imports in light of relevant economic factors bearing on the industry, such as actual and potential changes in profits, productivity, capacity utilization, and investment.[57]

The Commission may not weigh the various causes of material injury,[58] nor must it determine that LTFV or subsidized imports are the principal, a substantial, or a significant cause of material injury.[59] However, the

---

[54] 19 U.S.C. § 1673b(a).

[55] 19 U.S.C. § 1677(7)(B).

[56] 19 U.S.C. § 1677(7)(C)(i-ii).

[57] 19 U.S.C. § 1677(7)(C)(iii).

[58] S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979); La Metalli Industriale, S.p.A. v. United States, 712 F. Supp. 969, 971 (CIT 1989); Citrosuco Paulista v. United States, 704 F. Supp. 1075, 1101 (CIT 1988); Hercules, Inc. v. United States, 673 F. Supp. 454, 481 (CIT 1987); British Steel Corp. v. United States, 593 F. Supp. 405, 413 (CIT 1984).

[59] S. Rep. No. 249, 96th Cong., 1st Sess. at 74.

Commission may consider any information demonstrating possible alternative causes of injury to the domestic industry.[60]

The volume of cumulated imports has increased dramatically from 22.4 million pounds in 1988 to 40.5 million pounds in 1989 and then to 45.1 million pounds in 1990.[61] Cumulated imports declined from 13.2 million pounds in interim 1990 to 6.2 million pounds in interim 1991. The value of cumulated imports followed a similar tend, increasing from $13.0 million in 1988 to $25.6 million in 1989, and then to $28.3 million in 1990. Cumulated imports then declined from $8.3 million in interim 1990 to $4.1 million in interim 1991.[62]

Market penetration of cumulated imports, by quantity, also increased dramatically during the period of investigation, increasing from 21.1 percent in 1988 to 41.9 percent in 1989, and further to 44.3 percent in 1990. Market penetration then declined to 25.4 percent in interim 1991, compared with 50.7 percent in interim 1990.[63] Market penetration by value exhibited a similar trend, but at a lower absolute level reflecting the lower average unit value of import shipments compared with domestic shipments.[64]

---

[60] S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979). Such alternative causes may include "the volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry." Id. at 74.

[61] This rapid increase in subject imports occurred at a time when imports from other countries was dropping. Report at A-28, Table 15. Should any final investigations take place, we will examine this apparent shift in imports further and consider its relevance, if any, to the determination of material injury to the domestic injury by reason of the subject imports.

[62] Report at A-27-A-29, and Table 15.

[63] Report at A-29, and Table 16.

[64] Report at A-29, and Table 16. Compare the average unit values in Table 16 with those in Table 4.

The weighted-average prices for three selected U.S.-produced pipe fittings for which pricing data were obtained declined irregularly by between 3 and 6 percent during the period of investigation.[65] Prices of imports from China and Thailand followed similar trends, exhibiting irregular declines for all three products, but by higher percentages than for the U.S.-produced pipe fittings. Significantly, in each quarterly period for which price comparisons were possible, imports from China and Thailand were priced below the domestic product. Margins of underselling for the Thai products ranged from 2.5 percent to 34.4 percent. Margins of underselling for the Chinese products ranged from 16.7 percent to 43.8 percent.[66] [67]

Given the essentially fungible nature of butt-weld pipe fittings for most applications,[68] the rapid and significant increase in cumulated imports, their large market share, the declines in domestic prices, and the clear evidence of underselling, we determine that there is a reasonable indication the domestic industry is materially injured by reason of the allegedly LTFV imports from China and Thailand.

---

[65] Report at A-31-A-34.

[66] Acting Chairman Brunsdale believes that underselling margins are distorted beyond usefulness in the case of Chinese butt-weld pipe fittings because of evidence that it is of inferior quality. In fact, the Chinese product cannot be used in certain applications. See Report at A-7-A-8.

[67] Report at A-34-A-35, and Tables 17-19. Lost sales and lost revenue data were extremely sparse. Should any final investigations occur, we will seek further information from the domestic industry regarding lost sales and lost revenue, including an explanation of the significance of the lack of specific data.

[68] We note, however, that for many specialized applications, especially in the petrochemical and nuclear industries, Chinese pipe-fittings are not acceptable.

SEPARATE VIEWS OF COMMISSIONER DAVID B. ROHR FINDING THREAT OF MATERIAL INJURY IN CERTAIN CARBON STEEL BUTT-WELD PIPE FITTINGS FROM CHINA AND THAILAND

Inv. No. 731-TA-520 and 521 (Preliminary)

I set forth these separate views because I determine that there is a reasonable indication that the domestic industry in this investigation is threatened with material injury by reason of imports of certain carbon steel butt-weld pipe fittings from China and Thailand alleged to be sold in the United States at less than fair value (LTFV). I find there is clear and convincing evidence that the domestic industry is not currently experiencing material injury and there is no likelihood of contrary evidence in any final investigation. The evidence regarding the lack of threat posed by the imports subject to investigation is not clear and convincing and I cannot conclude that there is no likelihood that evidence establishing that such imports threaten this domestic industry would not be developed after further investigation.

I concur in the views of my colleagues about the proper definition of the like product and industry in this investigation. Additionally, I concur with my colleague's views on the related party issue. I disagree, however, with my colleagues with respect to present material injury because I cannot conclude, from my assessment of the condition of the domestic industry, that there is a reasonable indication that it is currently experiencing material injury.[1]

Condition of the Domestic Industry

In examining the condition of the domestic industry, I have considered all factors, including domestic production, capacity, capacity utilization, shipments, inventories, employment, financial performance, the ability to raise capital, investment, and market share. Moreover, I evaluated these factors in the "context of the business cycle and conditions of

[1] That is, harm that is not inconsequential, immaterial, or unimportant. Section 771(7)(A), Tariff Act of 1930, as amended.

competition that are distinctive to the affected industry."[2]

First, looking at production related indicators, I note that most key measures of the industry's performance are currently at levels that do not reflect material injury and also have shown significant improvements over the period of investigation. During the period of investigation, domestic production increased by 15% and then dipped only slightly in the interim period. Increases in capacity and capacity utilization followed similar trends.[3]

Apparent domestic consumption of butt-weld pipe fittings, by quantity, has fluctuated during the period of investigation. Apparent consumption dropped in 1989, increased in 1990, and dropped in the interim period.[4] Domestic shipments also fell in 1989 and rose in 1990. They continued, however, to increase in the interim period.[5] Changes in inventories do not support an affirmative determination as they are explained by factors exogenous to the LTFV imports.[6]

Turning to employment indicators, again I note there has been substantial improvement in the indicators during the period of investigation. Hours worked and wages paid increased by 11 percent and 34 percent, respectively, from 1988 to 1990, and increased by 19 percent and 23 percent, respectively, during the interim periods. Furthermore, total compensation and hourly compensation increased throughout the period of investigation. The number of related workers decreased from 289 to 267 from 1988 to 1990, but increased form 280 to 303 in the

---

[2] 19 U.S.C. § 1677(7) (C)(iii).

[3] Report of the Commission (Report) at A-13, and Table 3; 56 Fed. Reg. 27730(June 17, 1991)(Commerce Notice).

[4] Report at A-14, Table 2.

[5] Report at A-14, Table 2.

[6] Report at A-16, and Table 6.

interim period.[7]

The third set of indicators of the performance of the domestic industry are the financial indicators. Net sales have increased over the period of investigation by 5 percent and continued to increase in the interim period by 15 percent. Profit margins are down 3 percent and 2 percent, respectively, from 1988 to 1990 and the interim period. This drop is attributable to the cost of goods sold margins and general, selling, and administrative margins which have risen over the period of investigation. Operating margins have dropped from 14.9 percent in 1988 to 11.6 in 1989 and to 8.7 percent in 1990.[8] No domestic producers reported operating losses during the investigation period. Furthermore, capital investment has more than doubled from 1988 to 1990.

Domestic market share has been relatively stable from 1988 to 1990. The interim period, however, indicates an increase.[9] Concurrently, the percentage of imports from China and Thailand increased from 34.5 percent in 1988 to 65.4 percent in 1990 while the imports from all other sources fell from 65.5 percent to 34.6 percent in the same time period[10]. These three factors indicate that the investigated imports are taking market share from all other importers rather than from the domestic industry.

My overall evaluation of the condition of this industry based on the balance of the indicators is that there is clear and convincing evidence that it is not currently experiencing material injury. Many key indicators are rising and are at levels indicative of good operating performance. While some other indicators are falling, they remained, at the end of the period of investigation, above levels which I would view as indicative of material injury. Although

---

[7] Report A-16, Table 7.

[8] Report at A-17-A-18, and Table 9. I understand that the overall operations data may provide higher and more stable operating returns than the product specific data due to the difficulty of separating out certain products from internal records.

[9] Report at A-30, Table 16.

[10] Report at A-28, Table 15.

I conclude the indicators are not at levels indicative of current injury, the downward trends in certain key indicators indicate serious vulnerability to the potential effects of LTFV imports.

Threat of Material Injury by Reason of LTFV Imports[11]

While the conclusion that the industry is not currently experiencing material injury is clearly warranted on the basis of the evidence before the Commission, the evidence relating to the future of the industry does not permit such a conclusion with regard to threat. I cannot say that the evidence is so clear that imports do not threaten the industry or that additional evidence that may establish such a threat will not be obtained in any final investigation which the Commission may undertake. Thus, I have made an affirmative determination on the basis of threat of material injury.

Section 771(7)(F) of the Tariff Act of 1930, as amended, directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." [12] Such a determination may not be made on the basis of "mere conjecture or

---

[11] Due to the fact I make affirmative determinations as to the threat posed by imports from Thailand and China individually, I find there in no need to discuss cumulation in this section.

[12] The ten factors that the statute requires the Commission to consider are: (I) the nature of the subsidy (obviously applicable only to countervailing duty investigations), (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States, (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise, (V) any substantial increase in inventories of the merchandise in the United States, (VI) the presence of underutilized capacity for producing the merchandise in the exporting country, (VII) any other demonstrable adverse trends that indicate the probability that importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, (VIII) the potential for product shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation, (IX) in any investigation under this title which involves imports of both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and (X) the actual and potential

supposition." [13] In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry. [14] I consider each statutory consideration applicable to this investigation below.[15]

Looking first at imports and import penetration, items (II) and (III), several conclusions appear to be warranted by the facts in the Commission's possession. First, imports increased steadily from 1988 to 1990 with a large increase from 1988 to 1989.[16] Imports did decline by over 50 percent in the interim period, but the significance of this decline is questionable due to the unreliability of three month interim data. Data from a final investigation would give more adequate information pertaining to these levels.

Looking at import penetration levels, I note a large increase over the period of investigation.[17] It appears that over the period of investigation this increase in market share, particularly by the Chinese imports, was at the expense of other imports. It is clear that a continuation of the trends indicated in the annual data would also affect domestic market share. Interim 1991 market share provides some suggestion that such trends may not necessarily continue but more information about the interim period will be obtained should this matter return to the Commission for a final investigation. Finally, in view of the

---

negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

[13] 19 U.S.C. § 1677(7)(F)(ii).

[14] See 19 U.S.C. § 1677(7)(F)(iii), as amended by Section 1329 of the 1988 Act, Pub. L. 100-418, 102 Stat. 1107, 1206.

[15] Because this investigation does not concern either a subsidy or agricultural products. statutory factors (I) and (IX) are not applicable. Because the producers under investigation produce no other products subject to antidumping or countervailing duty investigations or orders, statutory factor (VIII) is also inapplicable.

[16] Report at A-14, Table 2 or A-28, Table 15.

[17] Report at A-14, Table 2 or A-30, Table 16.

increasing vulnerability of the industry I cannot say there is clear and convincing evidence that the current levels of the imports are not likely to be injurious in the future, even if they do not substantially increase.

The volume of imports and import penetration level, while providing support for a finding of a causal connection between the imports and the condition of the industry, either in the present or in the future, are only one factor in an analysis of causation, which might be further supported or contradicted by other evidence, particularly information relating to price, which is a factor to be considered in making a threat determination under item (IV).

Prices (IV) of the imports under investigation have consistently undersold the U.S. producers in every quarter that data was available from 1988 to the first quarter of 1991.[18] This trend has yet to have the impact of materially injuring this industry, but as other importers are driven out of the market, these consistently low prices could have serious effects on the domestic market.

In regard to substantial increases in inventories (V), there has been a large upward shift in inventories in the U.S. market. However, s indicated earlier, this shift has occurred due to decisions of the domestic industry exogenous to the LTFV imports.

Looking at exporting countries, most specifically China, the capacity of the foreign industry to continue to supply additional imports, as indicated in the current import trends, items (II) and (VI) warrants further investigation because the data provided to the Commission is woefully incomplete and inconsistent. This makes it impossible for me to make any determination with regards to underutilization or increases in capacity for both Thailand and China. Furthermore, I expect additional information to be obtained if a final determination is necessary and if additional information is not acquired, I will use the best information available.

Other demonstrable adverse trends (VII) include the decreasing operating margins of the domestic industry. In 1988 the operating margin was at 14.9 percent, in 1989 it declined to

---

[18] Report at A-32-A-33-A34, Tables 17, 18, 19.

11.6 percent, and to 8.7 percent in 1990.[19] This indicates a very vulnerable industry that may well be threatened by LTFV imports because, although the evidence is clear and convincing there is not current material injury, if operating margins continue to decline the domestic industry may be unable to compete effectively with imports.

In regards to item (IX), the evidence demonstrates that at least for one domestic producer, Weldbend, there has been no actual or potential negative effects on the existing development and production efforts of the domestic industry. In fact, Weldbend has continued to be the domestic market leader while heavily reinvesting in its facilities to become a fully integrated production operation. Furthermore, they have made advancements in developing a more hardened steel to improve the current version of product under investigation.[20] The other domestic producers do not appear to have made other efforts to improve existing development and production operations. More information at this point will be sought should the matter return to the Commission for a final investigation.

Based upon the above analysis of the statutory threat factors and the vulnerability of the domestic industry, I find that there is a reasonable indication that the domestic industry is threatened with material injury by reason of imports of allegedly LTFV carbon steel butt-weld pipe fittings from China and Thailand.

---

[19] Report at A-20, Table 9.

[20] Official transcript of proceedings, Certain carbon steel butt-weld pipe fittings from China and Thailand, at p. 58

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

On May 22, 1991, a petition was filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by counsel for the U.S. Fittings Group (USFG),[1] alleging that an industry in the United States is materially injured and threatened with further material injury by reason of imports from the People's Republic of China (China) and Thailand of certain carbon steel butt-weld pipe fittings[2] that are alleged to be sold in the United States at less than fair value (LTFV). Accordingly, effective May 22, 1991, the Commission instituted antidumping investigations Nos. 731-TA-520 and 521 (Preliminary) under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

Notice of the institution of these investigations was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register of May 30, 1991 (56 F.R. 24410). Commerce published its notice of initiation in the Federal Register of June 17, 1991 (56 F.R. 27730). Copies of the Commission's and Commerce's Federal Register notices are presented in appendix A.

The Commission held a public conference in Washington, DC, on June 12, 1991, at which time all interested parties were allowed to present information and data for consideration by the Commission. A list of the participants in the conference is presented in appendix B. The Commission voted on these investigations on July 2, 1991. The statute directs the Commission to make its preliminary determinations within 45 days after receipt of the petition or, in these investigations, by July 8, 1991.

---

[1] The USFG is an ad hoc trade association consisting of five domestic producers of carbon steel butt-weld pipe fittings (Hackney, Inc.; Ladish Co., Inc.; Mills Iron Works, Inc.; Steel Forgings, Inc.; and Tube Forgings of America, Inc.).

[2] For purposes of these investigations, certain carbon steel butt-weld pipe fittings are defined as carbon steel butt-weld pipe fittings having an inside diameter of less than 360 millimeters (14 inches), imported in either finished or unfinished form. These formed or forged fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are classified in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States (HTS). Unfinished butt-weld pipe fittings of subheading 7307.99 that are not machined, not tooled, and not otherwise processed after forging are not included in the scope of the investigations.

PREVIOUS AND RELATED INVESTIGATIONS

On June 28, 1985, the Commission instituted investigation No. 332-216, Competitive Assessment of the U.S. Forging Industry.[3] The investigation was conducted in response to a request from the United States Trade Representative (USTR) at the direction of the President, that the Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning the competitive position of the U.S. forging industry in U.S. and world markets. Part of the investigation dealt with pipe fittings and flanges.

On January 13, 1986, the U.S. Butt-Weld Pipe Fittings Committee[4] filed antidumping petitions with the Commission and Commerce limited to finished carbon steel butt-weld pipe and tube fittings from Brazil, Japan, and Taiwan. On February 25, 1986, the Commission received notice from Commerce indicating that it was terminating the subject investigations at the request of the petitioner. Accordingly, effective February 25, 1986, the Commission terminated its investigations Nos. 731-TA-301 through 303 (Preliminary), and published notice of same in the Federal Register (51 F.R. 7342, Mar. 3, 1986).

On February 24, 1986, counsel for the U.S. Butt-Weld Pipe Fittings Committee filed antidumping petitions with the Commission and Commerce on carbon steel butt-weld pipe and tube fittings, whether in finished or unfinished form, from Brazil, Japan, and Taiwan. Effective October 24, 1986, Commerce issued final determinations that such fittings from Brazil and Taiwan were being sold in the United States at LTFV.[5] Subsequently, the Commission determined in investigations Nos. 731-TA-308 and 310 (Final) that an industry in the United States was materially injured by reason of such imports from Brazil and Taiwan and notified Commerce of these determinations on December 8, 1986. Effective December 29, 1986, Commerce issued a final determination that such fittings from Japan were being sold in the United States at LTFV.[6] Subsequent to that decision, the Commission determined in investigation No. 731-TA-309 (Final) that an industry in the United States was materially injured by reason of such imports from Japan and notified Commerce of this determination on January 26, 1987.

On August 3, 1989, the U.S. Butt-Weld Pipe Fittings Committee filed a petition with Commerce[7] alleging that manufacturers, producers, or exporters in Thailand of carbon steel butt-weld pipe fittings receive certain benefits which constitute bounties or grants within the meaning of the countervailing

---

[3] In April 1986, the Commission published its report Competitive Assessment of the U.S. Forging Industry, Report to the President on Investigation No. 332-216 Under Section 332 of the Trade Act of 1930, as Amended, USITC Publication 1833.

[4] This ad hoc organization was comprised of three domestic producers, Ladish Co., Inc.; Mills Iron Works, Inc.; and Steel Forgings, Inc.

[5] The weighted-average margin on all sales compared was determined to be 52.25 percent for Brazil and ranged from 6.84 to 49.46 percent for Taiwan.

[6] The weighted-average margin on all sales compared was determined to be 62.79 percent.

[7] As Thailand is not a "country under the Agreement," it is not entitled to an injury test in countervailing duty investigations.

duty law. Effective January 18, 1990, Commerce determined that the estimated net bounty or grant rate is 2.53 percent ad valorem. A copy of Commerce's Federal Register notice associated with the countervailing duty investigation is presented in appendix C.

THE PRODUCT

Description

Butt-weld pipe fittings (hereafter butt-weld fittings) are used to connect pipe sections where conditions require permanent, welded connections. The beveled edges of butt-weld fittings distinguish them from other types of pipe fittings, such as threaded, grooved, or bolted fittings, which rely on different types of fastening methods. When placed against the end of a beveled pipe or another fitting, the beveled edges form a shallow channel that accommodates the "bead" of the weld that fastens the two adjoining pieces. Butt-weld fittings come in several basic shapes, the most common of which are elbows, tees, and reducers. Elbows are two-outlet fittings that usually have either a 45-degree or a 90-degree bend in the pipe, tees are T-shaped fittings having three outlets, and reducers are two-outlet fittings that connect pipes of two different diameters.

Butt-weld fittings are produced from various materials: carbon steel, alloy steel, and stainless steel. Only those butt-weld fittings produced from carbon steel and under 14 inches in inside diameter are covered by these investigations.

Manufacturing Processes

The manufacture of butt-weld fittings typically begins with seamless carbon steel pipe. When manufacturing an elbow, the pipe is first cut to length. The pipe is then lubricated internally and fastened onto a draw bench, where it is heated until soft and then pushed over a mandrel. A mandrel is a metal rod whose diameter equals that of the desired interior diameter of the fitting. As the hot pipe is pushed over the mandrel, it stretches so that its outer diameter increases and its walls become thinner. The desired degree of bend in the fitting is achieved at this stage as well. The manufacture of tees and reducers also typically starts with cut-to-length pipe; however, instead of being formed over a mandrel, they are pressed or hammered into a die to achieve the desired shape. The pipe may or may not be heated prior to forming.[8]

Some industry sources define the above process as a "forging" process and say it encompasses both cold-forging and hot-forging. Other industry sources say it is a cold- or hot-"forming" process, because, in forging, a solid mass of steel would be the raw material that would be transformed by beating, hammering, or pressing into the shape of a fitting, whereas in the

[8] Some types of fittings, such as caps, begin with carbon steel plates. Other carbon steel materials used in minimal amounts include billets and bars used to produce reducers and tees.

case of fittings, the raw material is an already wrought product, e.g., seamless pipe, which has already undergone considerable shaping from the solid-mass-of-steel stage prior to the cold- or hot-forming process that will give it its characteristic shape as an elbow, tee, or reducer.

After forming, the pipe often must undergo a "reforming" or "sizing" operation in which it is placed in a vertical press and subjected to great pressure, bending the pipe slightly to achieve "true" circularity of its cross section and uniform outside diameter. This operation is necessary to ensure that the butt-weld fitting will match the pipe to which it is to be welded. Butt-weld fittings that are formed at a temperature under 1,200 degrees F or above 1,800 degrees F must also undergo a heat treatment which relieves stress buildup within the fitting during the forming process.

The finishing steps involved in the production of butt-weld fittings may include one or more of the following steps: shot blasting, machine beveling, boring and tapering, grinding, die stamping, inspection, and painting. Shot blasting removes oxidation and mill scale from the fittings. Ends are beveled to the specifications of the American National Standards Institute (ANSI), and inside diameters are bored and tapered to ANSI tolerances. The fittings are then ground to remove surface imperfections and stamped with an identification of each heat lot number, parent material, and size and wall thickness. Next, the fittings are inspected for flaws and defects, in addition to being checked for thickness, length dimensions, and inside and outside diameter tolerances per the specifications of the American Society for Testing and Materials (ASTM) and ANSI.[9] Finally, the fittings are painted with a protective coating.

Some manufacturers use semiautomated machinery that bevels, bores, tapers, and grinds in one operation. The manufacturing process may be continuous. That is, carbon steel pipe, or an unfinished fitting may be converted into a finished butt-weld fitting in one continuous operation, rather than the pipe being converted into a semifinished butt-weld fitting, inventoried, and subsequently finished in another operation.

The domestic industry includes integrated producers, converters, and combination producers. Integrated producers begin with seamless pipe as their raw material and perform both forming and machining operations. In conversion operations, producers begin with unfinished butt-weld fittings and perform only machining and finishing operations. Combination producers produce some fittings in an integrated process and other fittings in a conversion process.

Uses

The primary industries that use these butt-weld fittings include chemicals, oil refining, energy generation, construction, and shipbuilding. These industries use butt-weld fittings in piping systems that convey gases or liquids in plumbing, heating, refrigeration, air-conditioning, automatic fire

---

[9] ASTM sets standards for the chemical properties and physical tolerances that a certain material must have. ANSI sets standards for the actual dimensions of each type of fitting.

sprinkler, electrical conduit, irrigation, and process-piping systems for application in energy production, power generation, and manufacturing.[10] Butt-weld fittings are used to join pipes in straight lines, and to change or divide the flow of oil, water, gas, or steam in commercial, residential, or industrial piping systems. Structural uses include fences, guardrails, playground equipment, and scaffolding.

Imported and Domestic Product Comparison

Responses were mixed regarding quality comparisons between U.S.-produced and imported butt-weld pipe fittings. Three of five U.S. producers reported that Chinese butt-weld fittings are inferior in quality to the domestic product, while the remaining two indicated no quality differences between the two products. Among the three producers noting quality differences, one stated that there is a general perception in the market that the Chinese product is lower in quality, while the remaining two noted that butt-weld fittings from China often do not meet ASTM and/or ANSI specifications when tested by distributors and end users.[11] One of these three producers also noted that the date of delivery from China is very unpredictable and orders often arrive much later than expected. None of the domestic producers noted any quality differences between domestic and Thai butt-weld fittings, although one stated that the Thai product can sometimes take as long as 3 to 5 months between order and delivery.

Six of twelve importers reported that quality differences do exist between domestic and imported butt-weld pipe fittings, while six importers indicated that there are no differences. In the majority of cases where quality differences were noted, the quality of the Chinese product was described as inferior to that of the domestic product. As with domestic producers, importers noted that Chinese butt-weld pipe fittings often do not meet ASTM and ANSI specifications. One importer also stated that it is not possible to verify the purity of the raw materials used as inputs to production of Chinese butt-weld pipe fittings, so the Chinese product cannot be used in most applications in the oil, petrochemical, and nuclear power industries. Large U.S. companies which purchase butt-weld fittings often have approved vendor lists. Most major oil companies and petrochemical companies have not given an approval rating to Chinese butt-weld fittings. In addition, a number of U.S. distributors refuse to carry the imported Chinese product.[12] An importer of Thai fittings over the investigation period reported that Thai fittings are accepted and used by most of the major U.S. oil companies and are similar in quality to U.S.-produced fittings.

One U.S. producer who purchases imported butt-weld fittings *** reported that if the imported fittings can be reworked and brought up to standard it

---

[10] Competitive Assessment of the U.S. Forging Industry, Report to the President on Investigation No. 332-216 Under Section 332 of the Trade Act of 1930, as Amended, USITC Publication 1833, p. V-1.

[11] ASTM sets standards for the chemical properties and physical tolerances that a certain material must have. ANSI sets standards for the actual dimensions of each type of fitting.

[12] Transcript of conference (Transcript), pp. 70-71.

will do so and make a settlement claim with the supplier; otherwise, they are returned to the supplier.[13] Another U.S. producer and purchaser of butt-weld fittings (Weldbend) claimed that its rejected fittings were melted down.[14]

Substitute Products

Butt-weld fittings compete in all applications with threaded, grooved, or bolted fittings. However, welded connections provide a better seal than threaded, grooved, or bolted connections, which can give under pressure. In addition, installation and maintenance is easier and more cost effective than with other types of fittings. Ductile iron grooved fittings were listed by one questionnaire respondent as a suitable substitute for low-pressure and low-performance applications such as water supply in a commercial building.

Specialty pipe fittings, often made from alloy steel or stainless steel, are usually made to the specifications of the purchaser.[15] They can feature non-standard wall thicknesses, or special end details such as close-tolerance bevels, or uncommon shapes such as seamless crosses or reducing elbows. They are not considered by purchasers to be directly competitive with commodity carbon steel butt-weld fittings.

U.S. Tariff Treatment

Imports of carbon steel butt-weld pipe fittings with an inside diameter of less than 360 millimeters are classified in HTS subheading 7307.93.30; no distinction is made between forged, finished, or unfinished products, as was the case under the TSUSA.[16] The column 1-general rate of duty on butt-weld fittings (including those from Thailand and China) is 6.2 percent; the column 2 duty rate is 45 percent. Unfinished butt-weld pipe fittings that are not machined, not tooled, and not otherwise processed after forging are not included in the scope of these investigations. These products are classified in HTS subheading 7307.99.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

In order to obtain estimated dumping margins for carbon steel butt-weld pipe fittings imported from China and Thailand, the petitioner compared the United States price (USP) of the fittings to their foreign market value (FMV). In the case of China, the petitioner based the USP on November 1990 price quotations for butt-weld fittings produced in China, which were obtained from a representative of a trading company. The prices petitioner obtained were quoted CIF West Coast of the United States. Petitioner reduced the USP for ocean freight, marine insurance, and brokerage. The methodology petitioner

---

[13] Conversation of June 14, 1991, with ***.

[14] Transcript, p. 80.

[15] Transcript, p. 86.

[16] For a discussion of classification under the TSUSA system, see Butt-weld Pipe Fittings from Brazil and Taiwan, USITC investigations Nos. 731-TA-308 and 310 (Final), USITC Publication 1918, December 1986.

based FMV on employs the factors of production of one of the petitioning firms and values of those factors in India, and where surrogate information was not reasonably available for overhead and packing, those in the United States.[17] In recent cases India has been found to be more comparable to China than Thailand. Petitioner also included the statutory minimums of 10 percent for general expenses and 8 percent for profit. Based on this method, petitioner alleges dumping margins ranging from 30.8 to 182.9 percent.

In the case of Thailand, petitioner based USP on price quotations supplied in an affidavit by one of the U.S. producers which states prices at which a Thai producer sold the subject merchandise for export to the United States in September, November, and December 1990. These prices are CIF, duty paid, and include importer's mark-up. Petitioner reduced USP for ocean freight, marine insurance, brokerage, and customs duties. FMV was based on one of the petitioning firm's costs of manufacture, adjusted to reflect Thai costs for seamless pipe, electricity, labor, and fringe benefits. Petitioner valued overhead and packing on actual U.S. costs. Petitioner also included the statutory minimums of 10 percent for general expenses and 8 percent for profit. Based on this method, petitioner alleges dumping margins ranging from zero to 52.6 percent.

U.S. MARKET

Petitioners identify butt-weld fittings as a mature product with a modestly increasing demand in the U.S. market. The demand for butt-weld fittings in the U.S. market appears to be relatively stable throughout the year with no peak sales during any particular months or quarters. Petitioners noted a slight slowdown in sales at the end of each year, generally during the holiday season. An economic downturn in some key U.S. industries such as construction, petrochemicals, and oil refining would appear to have an adverse effect on the butt-weld pipe fittings industry. However, in answer to the effect of the decrease in economic activity in the United States, the petitioners at the conference indicated that their particular commodity never really follows the general trend of the economic recessions.[18]

U.S. Producers

There are currently seven U.S. producers of fittings.[19] All but one of the U.S. producers responded to the Commission's questionnaire, accounting for an estimated 95 percent of the U.S. industry. Five of the six reporting U.S. producers are petitioners. Table 1 presents the names of the producing firms,

---

[17] For further information on the methodology used by the petitioner, see Commerce's notice in app. A.

[18] Transcript, pp. 21-24.

[19] Several U.S. producers involved in the related 1986 and 1987 cases have since left the U.S. fittings market. ITT Grinnell, L.A. Boiler Works, and Tube Turns ended production of fittings in 1985, 1988, and 1987, respectively. Flo-Bend, Inc. now produces only specialty fittings made of alloy steel. In addition, some previously well known producers are no longer manufacturing the product--Babcock & Wilcox, Standard Fittings, Taylor Forge, and Crane.

producers are petitioners. Table 1 presents the names of the producing firms, type of producer, position on the investigations, share of total U.S. production, and share of total imports from China and Thailand that they purchased.

Hackney, Inc. (Hackney), a Dallas-based company, is ***. ***. Hackney, a petitioner, has three fittings production facilities in West Memphis, AR, Elkhart, IN, and Enid, OK. In the summer-fall of 1990, Hackney moved its Texas fittings line to Arkansas to reduce costs. Hackney is a combination producer with a ***. During the period of investigation, Hackney ***. Hackney was ***. These ***.

Ladish Co., Inc. (Ladish), based in Cudahy, WI, is ***. Ladish's principal products are technically advanced forgings of titanium, high-temperature alloys, steel, and aluminum for the aerospace industry. Ladish, a petitioner, has two fittings production facilities located in Cynthiana, KY, and Russellville, AR. Ladish is an integrated producer and does not purchase any imported fittings.

Mills Iron Works, Inc. (Mills), in Gardena, CA, is a petitioner and integrated producer. The only fittings produced by Mills are reducers and caps. In addition to reducers, Mills manufactures swedge nipples, which are longer than reducers and threaded rather than beveled, but perform a similar function. Mills does not purchase any imported fittings. Mills was ***. ***.

Steel Forgings, Inc. (Steel Forgings), in Shreveport, LA, is a petitioner and integrated producer that does not purchase imported fittings. Steel Forgings makes tees, reducers, and caps, but no elbows.

Tube Forgings of America, Inc. (Tube Forgings), in Portland, OR, is a petitioner and combination producer. Tube Forgings ***.

Tube-Line Co. (Tube-Line) is the only U.S. producer that did not respond to the Commission's questionnaire. Tube-Line, in Union, NJ, was exclusively a converter that imported unfinished fittings and finished them ***. ***. Tube-Line was ***.

Weldbend Corp. (Weldbend), located in Argo, IL, is the largest U.S. producer of butt-weld fittings and is the only reporting U.S. producer to oppose the petition. During the period of investigation, Weldbend constructed a new building and purchased new forging equipment in an effort to lower its cost of production.[20] Prior to this investment, Weldbend was mainly a converter of fittings; however, it now manufactures an increasing proportion of its fittings from pipe in an integrated production process. Weldbend purchases unfinished fittings that are both domestically produced and imported. Weldbend purchases its domestic unfinished fittings from Mills and its imported unfinished fittings principally from Bobbyco in Chicago, IL, Gerber & Co. in New York, NY, and Vallourec USA in Houston, TX.[21] The largest source of these imports is ***.

---

[20] Transcript, pp. 56-60.
[21] Transcript, p. 54.

Table 1
Butt-weld pipe fittings: U.S. producers, type of producer, position on investigations, share of 1990 U.S. production, and share of 1990 imports from China and Thailand purchased and/or imported

Firm	Type of producer	Position	Share of production	Share of Chinese imports	Share of Thai imports
Hackney.....	Combination	Supports	***	***	***
Ladish.....	Integrated	Supports	***	***	***
Mills.....	Integrated	Supports	***	***	***
Steel Forgings..	Integrated	Supports	***	***	***
Tube Forgings...	Combination	Supports	***	***	***
Tube-Line.....	Integrated	[1]	***	***	***
Weldbend[2].....	Combination	Opposes	***	***	***
Total.....			100	***	***

[1] Did not respond to the Commission's questionnaire.
[2] Weldbend's numbers are estimated.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and official statistics of the U.S. Department of Commerce.

U.S. Importers

The Commission sent importers' questionnaires to 51 firms and received 36 responses. Of these responses, 24 firms reported imports of fittings and 12 reported no imports. Of the 24 importing firms, 17 imported from China and/or Thailand. Ten firms imported finished fittings from China, three imported unfinished fittings from China, six imported finished fittings from Thailand, and three imported unfinished fittings from Thailand.

Three U.S. producers, ***, import unfinished fittings. During the period of investigation, ***. ***. ***.

Two U.S. importers of unfinished fittings, ***, reported that their imports are sold exclusively to Weldbend. ***. ***, three of the largest U.S. importers of butt-weld fittings from China and Thailand, did not respond to the Commission's questionnaire. For the purposes of this report, data are presented on imports both as compiled from official statistics of the U.S. Department of Commerce and as submitted in response to questionnaires of the U.S. International Trade Commission.

Channels of Distribution

Both domestic manufacturers and importers sell virtually all their finished fittings to distributors, who then resell to end users.[22] The

[22] Transcript, pp. 40, 89-90. ***.

product is not used as an input to any production process, and is instead used in initial construction or in the replacement of existing facilities. Consequently, the market is characterized by end users that purchase small quantities of fittings for these purposes as they are needed. Distributors usually maintain inventories of the most frequently used sizes and shapes of butt-weld fittings, such as 2-inch, 3-inch, 4-inch, and 6-inch elbows, and order from the importers or manufacturers those sizes and shapes which are less common. There also exists a specialty product market for butt-weld pipe fittings, which includes products of a unique size or shape, and/or those made from special high-alloy metals. These products, however, generally do not compete with standard-sized carbon steel butt-weld pipe fittings.[23]

Based on the questionnaire responses, both domestic production and imports appear to be sold to a national market. The four producers who identified the geographic make-up of their markets reported the majority of 1990 sales to distributors located more than 500 miles from production facilities. The market for imported butt-weld pipe fittings is somewhat more regional.[24]

As mentioned in an earlier section, the ability of building contractors to use Chinese fittings is restricted in the oil and petrochemical segment of the U.S. market. Due to quality problems, Chinese fittings have not been given an approval rating on the vendor lists of these industries. The oil and petrochemical industries represent a major segment of the U.S. market. There is no reported restriction on Thai imports.

Apparent U.S. Consumption

Data on apparent U.S. consumption of fittings were compiled from information submitted in response to questionnaires sent by the Commission and official statistics of the U.S. Department of Commerce. These data, presented in table 2, are comprised of U.S.-produced domestic shipments, and U.S. imports.

The quantity and value of apparent U.S. consumption of butt-weld fittings decreased, by 4 percent and 5 percent, respectively, between 1988 and 1990. Quantity and value decreased by 6 percent and 4 percent, respectively, from January-March 1990 to January-March 1991.

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

The information in this section of the report is based on data received from six of the seven producers of butt-weld fittings, except as noted, accounting for an estimated 95 percent of total U.S. production.

---

[23] Transcript, pp. 86-7.

[24] According to ***.

Table 2
Butt-weld pipe fittings: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March-- 1990	1991
	Quantity (1,000 pounds)				
Producers' U.S. shipments of finished fittings	***	***	***	***	***
U.S. imports of finished and unfinished fittings:					
China	9,593	24,004	32,730	9,256	3,453
Thailand	12,842	16,537	12,352	3,959	2,740
Subtotal	22,435	40,541	45,083	13,215	6,193
Other sources	42,648	25,290	23,853	7,793	3,656
Total	65,083	65,831	68,935	21,009	9,849
Producers' purchases of unfinished fittings from--					
China	***	***	***	***	***
Thailand	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption[1]	106,332	96,761	101,796	26,069	24,406
	Value (1,000 dollars)				
Producers' U.S. shipments of finished fittings	***	***	***	***	***
U.S. imports of finished and unfinished fittings:					
China	4,730	12,388	18,909	5,289	1,971
Thailand	8,312	13,158	9,421	3,027	2,082
Subtotal	13,042	25,546	28,330	8,316	4,053
Other sources	26,722	22,043	18,603	6,053	3,393
Total	39,763	47,589	46,933	14,370	7,445
Producers' purchases of unfinished fittings from--					
China	***	***	***	***	***
Thailand	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption[1]	92,406	93,311	87,842	23,635	22,620

[1] In order to avoid double counting, consumption has been reduced by producers' purchases of unfinished fittings; therefore, the shares of consumption accounted for by producers' shipments and imports, together, exceed 100 percent.

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

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

U.S. Producers' Capacity, Production, and Capacity Utilization

Data for production, capacity, and capacity utilization for the firms producing fittings are summarized in table 3. Capacity to produce fittings increased by 0.1 percent from 1988 to 1990, which reflects a ***. Weldbend reported capacity at ***.[25] ***.

U.S. production increased by 15 percent from 1988 to 1990, and decreased by 3 percent from January-March 1990 to January-March 1991. ***. ***.

Capacity utilization rose from 49.2 percent in 1988 to 56.3 percent in 1990, but decreased from 56.2 percent in January-March 1990 to 54.4 percent in January-March 1991. ***.

U.S. Producers' Shipments

U.S. producers' company transfers, domestic shipments, and export shipments of finished fittings are presented in table 4.

COMPANY TRANSFERS

There were no reported company transfers of finished fittings during the period of investigation.

DOMESTIC SHIPMENTS

U.S. producers' domestic shipments of finished fittings decreased irregularly by 5 percent from 1988 to 1990, and increased by 18 percent from January-March 1990 to January-March 1991. Similarly, the value of these shipments decreased irregularly by 1 percent from 1988 to 1990, and increased by 10 percent from January-March 1990 to January-March 1991. The unit value of finished fittings increased irregularly from $0.98 per pound in 1988 to $1.01 per pound in 1990. ***. Such shipments fell irregularly from ***.

EXPORT SHIPMENTS

***. These exports ***. ***. The quantity of ***. The unit value of these exports was ***.

TOTAL SHIPMENTS

Total U.S. producers' shipments of domestically produced fittings decreased by 5 percent from 1988 to 1990, and increased by 19 percent from January-March 1990 to January-March 1991. The value of such shipments

---

[25] Weldbend reported that ***.

Table 3
Finished butt-weld pipe fittings: U.S. capacity, production, and capacity utilization, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March-- 1990	1991
End-of-period capacity (1,000 pounds)	127,309	127,387	127,379	31,831	31,826
Production (1,000 pounds)	62,652	61,624	71,771	17,891	17,319
Capacity utilization (percent)	49.2	48.4	56.3	56.2	54.4

Note.--Capacity utilization is calculated using data of firms providing both capacity and production information.

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

Table 4
Finished butt-weld pipe fittings: Shipments by U.S. producers, by types, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March-- 1990	1991
*	*	*	*	*	*	*

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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

similarly decreased by 1 percent from 1988 to 1990, and increased by 12 percent from January-March 1990 to January-March 1991.

U.S. Producers' Purchases

Three U.S. producers of finished fittings import and/or purchase unfinished imports, or purchase domestically-produced unfinished fittings, to meet their needs. These U.S. producers ***, the amount they purchase and/or import, and the ratio to their 1990 finished fittings production are presented in table 5. In 1990, *** for finished fittings production was ***. In the case of ***.

Table 5
Butt-weld pipe fittings: U.S. producers' purchases and imports, and ratio to production, by firms, 1990

Item	***	***	***
*	*	*	*	*	*	*

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

U.S. Producers' Inventories

End-of-period inventories of finished fittings were reported by five of the six reporting producers (table 6). *** was unable to provide inventory data for fittings separately from its other products. Inventories increased by *** percent from 1988 to 1990, and increased by *** percent from January-March 1990 to January-March 1991. ***. Weldbend's policy is to stock inventory in large enough quantities so as to enable it to fill customer orders immediately.[26] It generally stocks sufficient inventory to ship fittings for most of the year. Weldbend's share of U.S. inventories ***. Inventories as a share of total U.S. shipments ***.

U.S. Employment, Wages, and Productivity

Data on employment and productivity for the U.S. producers of fittings are shown in table 7. The number of workers producing fittings fell by 8 percent from 1988 to 1990, and increased by 8 percent from January-March 1990 to January-March 1991. ***.

Hours worked and wages paid increased by 11 percent and 34 percent, respectively, from 1988 to 1990, and increased by 19 percent and 23 percent, respectively, during the interim periods. Total compensation and hourly wages increased by 31 percent and 11 percent, respectively, from 1988 to 1990, and increased by 21 percent and 6 percent, respectively, during the interim periods. Hourly total compensation and productivity increased by 8 percent and 3 percent, respectively, from 1988 to 1990, and increased by 5 percent and decreased by 19 percent, respectively, during the interim periods. Unit labor costs were stable from 1988 to 1990. However, during the interim periods, unit labor costs rose by 20 percent.

[26] Transcript, p. 91.

Table 6
Finished butt-weld pipe fittings: End-of-period inventories of U.S. producers, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March-- 1990	January-March-- 1991
*	*	*	*	*	*	*

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information.

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

Table 7
Average number of production and related workers producing butt-weld pipe fittings, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs,[2] 1988-90, January-March 1990, and January-March 1991[3]

Item	1988	1989	1990	January-March-- 1990	January-March-- 1991
Production and related workers (PRWs)	289	294	267	280	303
Hours worked by PRWs (1,000 hours)	546	603	607	265	316
Wages paid to PRWs (1,000 dollars)	3,359	3,947	4,513	1,031	1,263
Total compensation paid to PRWs (1,000 dollars)	4,442	5,048	5,834	1,335	1,621
Hourly wages paid to PRWs	$8.70	$9.29	$9.62	$9.29	$9.87
Hourly total compensation paid to PRWs	$11.51	$11.88	$12.44	$12.03	$12.66
Productivity (pounds of finished fittings per hour)	114.7	102.2	118.2	67.5	54.8
Unit labor costs (per pound)	$0.10	$0.11	$0.10	$0.10	$0.12

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.
[3] Firms providing employment data accounted for 95 percent of reported total U.S. shipments (based on quantity) in 1990.

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information.

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

Financial Experience of U.S. Producers

Financial information was provided on fittings operations in addition to overall establishment operations by all six reporting producers. These data, representing 95 percent of 1990 production of butt-weld pipe fittings, are presented in this section.

OVERALL ESTABLISHMENT OPERATIONS

Income-and-loss data on the U.S. producers' overall establishment operations are presented in table 8. In addition to the product under investigation, the U.S. producers indicated in their questionnaire responses that they also produce larger pipe fittings, flanges, and valves. Butt-weld pipe fitting net sales were 38 percent of overall establishment net sales in 1988, 36 percent in 1989, and 34 percent in 1990.

BUTT-WELD PIPE FITTINGS

Income-and-loss data for the U.S. producers' butt-weld pipe fitting operations are presented in table 9. Firms[27] contacted for apparent financial inconsistencies all indicated that they had extreme difficulty preparing financial data specific to butt-weld pipe fittings under 14 inches in inside diameter because their records did not segregate the data required from that for other pipe fittings and products produced in the same facilities. Although estimates were used extensively, the producers believe the data are within plus-or-minus 10 percent of the actual results. The same characteristics are probably generally applicable to the total reporting industry.

The U.S. company opposed to the petition, Weldbend, indicated that it had an excellent year in 1990, the biggest year in almost 40 years.[28] Weldbend's questionnaire response ***. ***. The industry as a whole reported increased net sales in 1990 from 1989, although profitability declined. None of the producers, however, experienced an operating loss during the period of investigation. Selected financial data for Weldbend and the other U.S. producers are presented in the tabulation below (in thousands of dollars, except where noted).

Item	1988	1989	1990	January-March-- 1990	1991
*	*	*	*	*	*	*

[27] ***.

[28] Transcript, pp. 21-23.

Table 8
Income-and-loss experience of U.S. producers[1] on the overall operations of their establishments wherein butt-weld pipe fittings are produced, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March-- 1990	1991
	Value (1,000 dollars)				
Net sales	148,927	151,067	174,685	42,058	45,486
Cost of goods sold	111,057	110,047	127,911	30,424	33,746
Gross profit	37,870	41,020	46,774	11,634	11,740
Selling, general, and administrative expenses	17,428	18,985	21,246	5,347	5,619
Operating income or (loss)	20,442	22,035	25,528	6,287	6,121
Shutdown expenses	0	0	0	0	0
Interest expense	1,593	2,160	2,060	564	537
Other income or (loss), net	2,041	1,531	980	413	104
Net income or (loss) before income taxes	20,890	21,406	24,448	6,136	5,688
Depreciation and amortization included above	4,708	4,786	4,722	1,153	1,075
Cash flow[2]	25,598	26,192	29,170	7,289	6,763
	Share of net sales (percent)				
Cost of goods sold	74.6	72.8	73.2	72.3	74.2
Gross profit	25.4	27.2	26.8	27.7	25.8
Selling, general, and administrative expenses	11.7	12.6	12.2	12.7	12.4
Operating income or (loss)	13.7	14.6	14.6	14.9	13.5
Net income or (loss) before income taxes	14.0	14.2	14.0	14.6	12.5
	Number of firms reporting				
Operating losses	0	0	0	0	0
Net losses	0	0	0	0	0
Data	6	6	6	6	6

[1] ***.

[2] Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 9
Income-and-loss experience of U.S. producers on their butt-weld pipe fitting operations, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March- 1990	1991
	Value (1,000 dollars)				
Net sales	56,871	54,892	59,751	14,148	16,323
Cost of goods sold	41,427	40,487	45,397	10,430	12,349
Gross profit	15,444	14,405	14,354	3,718	3,974
Selling, general, and administrative expenses	6,973	8,059	9,148	2,173	2,422
Operating income or (loss)	8,471	6,346	5,206	1,545	1,552
Shutdown expenses	0	0	0	0	0
Interest expense	746	940	894	210	231
Other income or (loss), net	794	529	289	140	4
Net income or (loss) before income taxes	8,519	5,935	4,601	1,475	1,325
Depreciation and amortization included above	1,645	1,605	1,644	389	333
Cash flow[1]	10,164	7,540	6,245	1,864	1,658
	Share of net sales (percent)				
Cost of goods sold	72.8	73.8	76.0	73.7	75.7
Gross profit	27.2	26.2	24.0	26.3	24.3
Selling, general, and administrative expenses	12.3	14.7	15.3	15.4	14.8
Operating income or (loss)	14.9	11.6	8.7	10.9	9.5
Net income or (loss) before income taxes	15.0	10.8	7.7	10.4	8.1
	Number of firms reporting				
Operating losses	0	0	0	0	0
Net losses	0	0	0	0	0
Data	6	6	6	6	6

[1] Cash flow is defined as net income or loss plus depreciation and amortization.

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

INVESTMENT IN PRODUCTIVE FACILITIES

The value of property, plant, and equipment and total assets and the return on total assets for the U.S. producers are presented in table 10.

CAPITAL EXPENDITURES

The capital expenditures reported by the major U.S. producers are presented in table 11.

RESEARCH AND DEVELOPMENT EXPENSES

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of butt-weld pipe fittings from China or Thailand on their existing development and production efforts, growth, investment, and ability to raise capital. Their responses are shown in appendix D.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors[29]--
>
> > (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

---

[29] Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

Table 10
Value of property, plant, and equipment of U.S. producers[1] of butt-weld pipe fittings as of the end of fiscal years 1988-90, March 31, 1990, and March 31, 1991

(In thousands of dollars, except as noted)

Item	As of the end of accounting year-- 1988	1989	1990	As of March 31- 1990	1991
All products of establishments:					
Fixed assets:					
Original cost	48,518	52,033	55,915	53,028	57,085
Book value	29,500	30,301	29,973	30,598	30,466
Total assets[2]	87,561	91,168	103,047	96,480	106,866
Butt-weld pipe fittings:					
Fixed assets:					
Original cost	13,466	15,284	16,275	14,982	16,437
Book value	6,125	7,170	6,735	7,216	6,998
Total assets[3]	29,342	29,450	37,472	31,856	38,954
	Return on total assets (percent)[4]				
All products of establishments:					
Operating return[5]	15.3	15.4	16.0	14.4	15.7
Net return[6]	17.4	16.6	16.4	15.6	15.6
Butt-weld pipe fittings:					
Operating return[5]	18.8	11.2	9.0	10.0	10.5
Net return[6]	20.7	11.4	8.5	10.6	9.3

[1] ***.

[2] Defined as the book value of fixed assets plus current and noncurrent assets.

[3] Total establishment assets are apportioned, by firm, to butt-weld pipe fittings on the basis of the ratios of the respective book values of fixed assets.

[4] Computed using data from only those firms supplying both asset and income-and-loss information and, as such, may not be derivable from data presented. Data for the partial-year periods are calculated using annualized income-and-loss information.

[5] Defined as operating income or (loss) divided by asset value.

[6] Defined as net income or (loss) divided by asset value.

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

Table 11
Capital expenditures by U.S. producers[1] of butt-weld pipe fittings, fiscal years 1988-90, January-March 1990, and January-March 1991

(In thousands of dollars)

Item	1988	1989	1990	January-March-1990	January-March-1991
All products of establishments:					
Land and land improvements	***	***	***	***	***
Building or leasehold improvements	***	***	***	***	***
Machinery, equipment, and fixtures	***	***	***	***	***
Total	2,102	4,938	4,077	902	1,122
Butt-weld pipe fittings:					
Land and land improvements	***	***	***	***	***
Building or leasehold improvements	***	***	***	***	***
Machinery, equipment, and fixtures	***	***	***	***	***
Total	737	2,538	1,894	577	568

[1] ***.

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

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

> (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,
>
> (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,
>
> (IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and
>
> (X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.[30]

Items I and IX do not apply to this investigation. Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury to an industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows.

---

[30] Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

U.S. Inventories of Fittings from China and Thailand

End-of-period inventories reported by U.S. importers are presented in table 12. The end-of-period inventories of butt-weld fittings from China, on the basis of quantity, *** percent from 1988 to 1990, and *** percent from January-March 1990 to January-March 1991. Inventories of fittings from Thailand *** percent from 1988 to 1990, and *** percent from January-March 1990 to January-March 1991. The inventories of fittings from China and Thailand combined decreased by 23 percent from 1988 to 1990, and decreased further by 65 percent from January-March 1990 to January-March 1991. Inventories of fittings from all other sources decreased by 38 percent from 1988 to 1990, and decreased further by 45 percent from January-March 1990 to January-March 1991.

The ratio of U.S. importers' end-of-period inventories to their U.S. shipments of imports from China *** percent in 1988 to *** percent in 1990, and *** percent in January-March 1990 to *** percent in January-March 1991. The ratio of U.S. importers' inventories to their U.S. shipments of imports from Thailand *** percent in 1988 to *** percent in 1990, *** percent in January-March 1990 to *** in January-March 1991. The ratio of U.S. importers' inventories to their U.S. shipments of Chinese and Thai products combined decreased from 14.8 percent in 1988 to 2.9 percent in 1990, and decreased further from 2.3 percent in January-March 1990 to 0.8 percent in January-March 1991.

Ability of Chinese and Thai Producers to Generate Exports and the Availability of Export Markets Other Than the United States

The Commission requested counsel for the respondents in the subject investigations, China's Shen Yan Billiongold Pipe Fittings Co. (Billiongold) and Thailand's Thai Benkan Co., Ltd. (Benkan), and Awaji Sangyo Thailand Co., Ltd. (Awaji), to provide information on their clients' fittings operations (tables 13 and 14). Billiongold reported that for the period January-May 1991, sales of butt-weld fittings represented *** percent of their total sales. Billiongold's capacity *** percent from 1989 to 1990, and is projected to *** percent from 1990 to 1991. Its production *** percent from 1989 to 1990, and *** percent from January-March 1990 to January-March 1991. Capacity utilization *** percent in 1989 to *** percent in 1990, *** in the interim periods. End-of-period inventories *** percent from 1989 to 1990. Billiongold exports *** butt-weld fittings, with *** going to the U.S. market, *** the interim periods. Exports to the United States *** percent from 1989 to 1990, and *** percent in the interim periods. Exports to the United States are projected to *** percent from 1990 to 1991. Billiongold's U.S. exports represented *** percent of its total shipments in 1989, *** percent in 1990, *** percent in January-March 1990, and *** percent in January-March 1991.

Awaji reported that in 1990, sales of butt-weld fittings represented *** percent of their total sales, and that this would *** percent in 1991. Benkan reported that sales of butt-weld fittings represent *** percent of its total sales. Awaji's and Benkan's combined capacity *** percent from 1988 to 1990, and is projected to *** percent from 1990 to 1991. Their production *** percent from 1988 to 1990, *** percent from January-March 1990 to

Table 12
Butt-weld pipe fittings: End-of-period inventories of U.S. importers, by sources, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March-- 1990	1991
	Quantity (1,000 pounds)				
China	***	***	***	***	***
Thailand	***	***	***	***	***
Subtotal	892	710	686	525	184
Other sources	1,925	2,252	1,197	1,648	909
Total	2,817	2,962	1,883	2,173	1,093
	Ratio to total shipments of imports (percent)				
China	***	***	***	***	***
Thailand	***	***	***	***	***
Subtotal	14.8	3.6	2.9	2.3	.8
Other sources	9.8	15.1	7.3	7.2	16.3
Total	10.8	8.6	4.7	4.8	6.5

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information.

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

Table 13
Butt-weld pipe fittings: Billiongold's Chinese capacity, production, capacity utilization, end-of-period inventories, shipments, and exports, 1988-90, January-March 1990, January-March 1991, and projected 1991

(In thousands of pounds)

Item	1988	1989	1990	January-March 1990	January-March 1991	Projected 1991
*	*	*	*	*	*	*

Source: Data submitted by counsel for Billiongold in response to a request for information by the Commission.

Table 14
Butt-weld pipe fittings: Awaji's and Benkan's Thai capacity, production, capacity utilization, end-of-period inventories, shipments, and exports, 1988-90, January-March 1990, January-March 1991, and projected 1991

(In thousands of pounds)

Item	1988	1989	1990	January-March 1990	January-March 1991	Projected 1991
*	*	*	*	*	*	*

Source: Data submitted by counsel for Awaji and Benkan in response to a request for information by the Commission.

January-March 1991. Capacity utilization for both companies *** percent in 1988 to *** percent in 1990, but is projected to *** percent in 1991. End-of-period inventories *** percent from 1988 to 1990, and *** percent during the interim periods. Both companies exported *** their butt-weld fittings to the U.S. market in 1988 and 1989, but in 1990 this ***. Their combined exports to the United States *** percent from 1988 to 1990, but *** percent in the interim periods. For the full year, however, exports to the United States are projected to *** percent from 1990 to 1991. Conversely, their exports to other markets and their home shipments *** percent and *** percent, respectively, from 1988 to 1990. Awaji's and Benkan's combined U.S. exports represented *** percent of their total shipments in 1988, *** percent in 1989, *** percent in 1990, *** percent in January-March 1990, and *** percent in January-March 1991.

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

U.S. Imports

U.S. imports of fittings from China, Thailand, and the rest of the world are presented in table 15. Imports from China increased by 241 percent from 1988 to 1990, but decreased by 63 percent in the interim periods. The value of these imports increased by 300 percent from 1988 to 1990 and decreased by 63 percent during the interim periods. Imports from Thailand decreased by 4 percent from 1988 to 1990, and decreased further by 31 percent during the interim periods. The value of these imports increased by 13 percent from 1988 to 1990, and decreased by 31 percent during the interim periods. Combined, the quantity and value of imports from China and Thailand increased by 101 percent and 117 percent, respectively, from 1988 to 1990, and decreased by 53 percent and 51 percent, respectively, during the interim periods. Total U.S. imports of butt-weld pipe fittings increased by 6 percent from 1988 to 1990, and decreased by 53 percent during the interim periods.

Table 15
Butt-weld pipe fittings: U.S. imports, by sources, 1988-90, January-March 1990, and January-March 1991

Source	1988	1989	1990	January-March-- 1990	January-March-- 1991
	Quantity (1,000 pounds)				
China	9,593	24,004	32,730	9,256	3,453
Thailand	12,842	16,537	12,352	3,959	2,740
Subtotal	22,435	40,541	45,083	13,215	6,193
Venezuela	8,616	4,177	7,238	1,551	850
United Kingdom	4,093	3,323	2,902	1,171	515
Taiwan	8,942	5,262	2,850	1,363	232
France	3,166	1,541	2,830	1,635	144
Italy	5,659	1,838	2,334	537	178
Other sources	12,172	9,148	5,699	1,536	1,737
Total	65,083	65,831	68,935	21,009	9,849
	Value (1,000 dollars)				
China	4,730	12,388	18,909	5,289	1,971
Thailand	8,312	13,158	9,421	3,027	2,082
Subtotal	13,042	25,546	28,330	8,316	4,053
Venezuela	2,653	1,693	2,661	609	396
United Kingdom	3,458	2,795	3,190	1,210	552
Taiwan	6,791	5,484	3,191	1,380	253
France	1,781	1,173	1,753	889	106
Italy	3,277	2,044	2,210	568	277
Other sources	8,761	8,855	5,598	1,398	1,809
Total	39,763	47,589	46,933	14,370	7,445
	Unit value (per pound)				
China	$0.49	$0.52	$0.58	$0.57	$0.57
Thailand	.65	.80	.76	.76	.76
Average	.58	.63	.63	.63	.65
Venezuela	.31	.41	.37	.39	.47
United Kingdom	.84	.84	1.10	1.03	1.07
Taiwan	.76	1.04	1.12	1.01	1.09
France	.56	.76	.62	.54	.74
Italy	.58	1.11	.95	1.06	1.55
Other sources	.72	.97	.98	.91	1.04
Average	.61	.72	.68	.68	.76

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. Market Penetration by Imports

Data on penetration of imports of fittings from China and Thailand into the U.S. market are presented in table 16. Based on quantity, market penetration of imports from China increased from 9.0 percent in 1988 to 32.2 percent in 1990, and decreased from 35.5 percent in January-March 1990 to 14.1 percent in January-March 1991. Based on value, market penetration of imports from China increased from 5.1 percent in 1988 to 21.5 percent in 1990, and decreased from 22.4 percent in January-March 1990 to 8.7 percent in January-March 1991.

Based on quantity, market penetration of imports from Thailand was 12.1 percent in 1988 and 1990, and decreased from 15.2 percent in January-March 1990 to 11.2 percent in January-March 1991. Based on value, market penetration of imports from Thailand increased from 9.0 percent in 1988 to 10.7 percent in 1990, and decreased from 12.8 percent in January-March 1990 to 9.2 percent in January-March 1991.

Combined imports from China and Thailand accounted for 21.1 percent of U.S. consumption in 1988 and rose to 44.3 percent in 1990. During the interim periods combined imports fell from 50.7 percent in January-March 1990 to 25.4 percent in January-March 1991. Similarly, the value of these imports rose from 14.1 percent of U.S. consumption in 1988 to 32.3 percent in 1990, and fell from 35.2 percent in interim 1990 to 17.9 percent in interim 1991.

Prices

MARKET CHARACTERISTICS

Five domestic producers[31] and eleven importers provided information relevant to their selling practices for finished butt-weld pipe fittings in the U.S. market. Domestic manufacturers primarily quote prices on an f.o.b. factory or f.o.b. warehouse basis for their butt-weld fittings. However, most pay shipping charges within the continental United States on orders exceeding a specified value, usually list values of $30,000-$50,000. Eleven of twelve importers reported quoting f.o.b. port of entry or f.o.b. warehouse prices to their customers, while one reported selling on a delivered basis. That firm reported paying freight charges for orders greater than *** after discounts.[32]

Five domestic producers returning Commission questionnaires reported that price lists are distributed to their customers. These price lists are reportedly used by the purchasers to place orders, to compare prices among competing domestic and foreign products, and for end users to get a general estimate of the total cost of a particular project. However, discounts to distributors are almost always made from list price. The discount is based on the total quantity or total value purchased, and discount schedules are

---

[31] One domestic producer, Weldbend, is in opposition to the petition.

[32] Another respondent, Mark Beach, Vice President, I.S., Inc., stated that his company may help a purchaser find shipping, but the charges are paid by the purchaser. Transcript, p. 90.

Table 16
Butt-weld pipe fittings: Share of apparent U.S. consumption supplied by China, Thailand, and all other countries, 1988-90, January-March 1990, and January-March 1991

(In percent)

Item	1988	1989	1990	January-March-- 1990	January-March-- 1991
	Share[1] of the quantity of U.S. consumption				
Apparent consumption[1] (1,000 pounds)	106,332	96,761	101,796	26,069	24,406
Producers' U.S. shipments of finished fittings	***	***	***	***	***
U.S. imports of finished and unfinished fittings:					
China	9.0	24.8	32.2	35.5	14.1
Thailand	12.1	17.1	12.1	15.2	11.2
Subtotal	21.1	41.9	44.3	50.7	25.4
Other sources	40.1	26.1	23.4	29.9	15.0
Total	61.2	68.0	67.7	80.6	40.4
	Share[1] of the value of U.S. consumption				
Apparent consumption[1] (1,000 pounds)	92,406	93,311	87,842	23,635	22,620
Producers' U.S. shipments of finished fittings	***	***	***	***	***
U.S. imports of finished and unfinished fittings:					
China	5.1	13.3	21.5	22.4	8.7
Thailand	9.0	14.1	10.7	12.8	9.2
Subtotal	14.1	27.4	32.3	35.2	17.9
Other sources	28.9	23.6	21.2	25.6	15.0
Total	43.0	51.0	53.4	60.8	32.9

[1] In order to avoid double counting, consumption has been reduced by producers' purchases of unfinished fittings; therefore, the shares of consumption accounted for by producers' shipments and imports, together, exceed 100 percent.

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

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

usually distributed with the price list.[33] Eleven of twelve importers reported not using price lists. They base prices on their costs and the volume of their business, or negotiate prices directly with the purchaser.[34] The one importer that reported using a price list for sales to its customers uses it as a point of reference to compare prices with the competition. This importer reported slightly larger discounts to stocking distributors that carry inventories of butt-weld pipe fittings.

PRICE TRENDS AND PRICE COMPARISONS

The Commission requested 10 U.S. producers and 50 importers to provide quarterly pricing data for spot sales of the following three types of carbon steel butt-weld pipe fittings to distributors during the period January 1988-March 1991:

Product 1: Elbows: Carbon steel butt-weld, 4-inch nominal, 90°, long radius, standard-weight fittings.

Product 2: Elbows: Carbon steel butt-weld, 6-inch nominal, 90°, long radius, standard-weight fittings.

Product 3: Tees: Carbon steel butt-weld, 4-inch nominal, standard-weight fittings.

Specific pricing data requested for each product include the quantity and net f.o.b. price for each firm's largest single sale in each quarter to an unrelated U.S. distributor, as well as the total quantity shipped and the total net f.o.b. value shipped in each quarter to all unrelated U.S. distributors. Importers were also requested to report separately for each of these products imported from China and from Thailand. Three domestic producers and seven importers provided pricing data for sales of these three products in the U.S. market, although not necessarily for all three products or all quarters over the investigation period (tables 17-19).

Weighted-average prices for U.S.-produced 4-inch and 6-inch elbows sold to distributors ***, over the investigation period. Prices for 4-inch elbows *** percent from *** per piece, while prices for 6-inch elbows *** percent from *** per piece. Weighted-average prices for U.S.-produced 4-inch tees *** over the investigation period, *** percent overall from *** to ***. Prices *** per piece with *** sales volumes in the second quarter of 1989 and ***.

---

[33] Most discounts in the industry are made using multiplier factors ranging from 0.900 to 0.155, depending on the producer and the size or value of the order. The total list price value of any purchase is multiplied by the appropriate factor in order to arrive at an actual purchase price. The result of this policy is discounts from list price ranging from 10 to nearly 85 percent. *** this discounting policy was established in the industry a number of years ago and most manufacturers are reluctant to switch to price lists with lower prices and smaller discounts because they do not want to confuse their customers and cause them to switch to another supplier. ***.

[34] This was also noted by a respondent at the conference. Transcript, p. 89.

Table 17
Weighted-average net f.o.b. prices for sales to distributors of product 1 (4-inch elbows) reported by U.S. producers and importers and margins of underselling (overselling), by quarters, January 1988-March 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1988:								
January-March.....	***	***	***	***	35.8	***	***	***
April-June.....	***	***	***	***	35.5	***	***	***
July-September....	***	***	***	***	33.9	***	***	***
October-December..	***	***	***	***	32.1	***	***	***
1989:								
January-March.....	***	***	***	***	31.2	***	***	***
April-June.....	***	***	***	***	29.9	***	***	***
July-September....	***	***	***	***	33.8	***	***	***
October-December..	***	***	***	***	32.9	***	***	***
1990:								
January-March.....	***	***	***	***	28.9	***	***	***
April-June.....	***	***	***	***	33.2	***	***	***
July-September....	***	***	***	***	33.7	***	***	***
October-December..	***	***	***	***	43.8	***	***	***
1991:								
January-March.....	***	***	***	***	43.1	***	***	***

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

Table 18
Weighted-average net f.o.b. prices for sales to distributors of product 2 (6-inch elbows) reported by U.S. producers and importers and margins of underselling (overselling), by quarters, January 1988-March 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1988:								
January-March.....	***	***	***	***	34.1	***	***	***
April-June.....	***	***	***	***	31.5	***	***	***
July-September....	***	***	***	***	25.9	***	***	***
October-December..	***	***	***	***	25.1	***	***	***
1989:								
January-March.....	***	***	***	***	28.4	***	***	***
April-June.....	***	***	***	***	27.3	***	***	***
July-September....	***	***	***	***	27.5	***	***	***
October-December..	***	***	***	***	26.7	***	***	***
1990:								
January-March.....	***	***	***	***	21.5	***	***	***
April-June.....	***	***	***	***	27.3	***	***	***
July-September....	***	***	***	***	30.6	***	***	***
October-December..	***	***	***	***	25.7	***	***	***
1991:								
January-March.....	***	***	***	***	36.7	***	***	***

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

Table 19
Weighted-average net f.o.b. prices for sales to distributors of product 3 (4-inch tees) reported by U.S. producers and importers and margins of underselling (overselling), by quarters, January 1988-March 1991

Period	United States		Thailand		
	Price	Quantity	Price	Quantity	Margin
*	*	*	*	*	*	*

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

Weighted-average prices for 4-inch and 6-inch butt-weld elbow fittings imported from China *** the investigation period. Prices ***, when *** in price occurred. Prices for 4-inch elbows *** percent from *** per piece in the third quarter of 1990 to *** per piece in the first quarter of 1991, while prices for 6-inch elbows *** percent from *** per piece in the fourth quarter of 1990 to *** per piece in the first quarter of 1991. Prices for sales of 4-inch tees from China were reported by only one importer for one quarter during the investigation period. In the first quarter of 1991, the reported selling price was *** per piece with a volume of *** pieces.

One importer reported usable prices for sales of butt-weld pipe fittings from Thailand over the period of investigation.[35] Prices for 4-inch elbows were *** between the second quarter of 1988 and the second quarter of 1990, and then *** percent in the first quarter of 1991, the next quarter for which pricing was reported. Prices for 6-inch elbows ***, *** between the second quarter of 1988 and the first quarter of 1990. Prices *** percent in the first quarter of 1991, the next quarter for which pricing was reported. Prices for 4-inch tees from Thailand showed ***, between the second quarter of 1988 and the first quarter of 1991.

Price comparisons were possible between domestic and Chinese 4-inch elbows sold to distributors in each of the 13 quarters of the investigation period. In all 13 instances, the Chinese product was priced below the domestic product, by margins ranging from 28.9 percent in the first quarter of 1990 to 43.8 percent in the fourth quarter of 1990. Similarly, 13 quarterly price comparisons were possible between domestic and Chinese 6-inch elbows. In all 13 quarters, Chinese butt-weld fittings were priced below the domestic

[35] One other importer also reported sales of Thai butt-weld pipe fittings during the investigation period, but the data for these sales were not usable because the importer was only able to report totals for the year 1990 and was not able to identify the actual quarters in which the sales occurred. The average prices reported by this importer for sales in 1990 were *** for 4-inch elbows, *** for 6-inch elbows, and *** for 4-inch tees.

product, by margins ranging from 21.5 percent in the first quarter of 1990 to 36.7 percent in the first quarter of 1991. In the first quarter of 1991, the only quarter for which pricing for Chinese 4-inch tees was reported, the Chinese product was priced 16.7 percent below the domestic product.

Price comparisons between domestic and Thai 4-inch butt-weld elbow fittings were possible in nine quarters during the investigation period. In each of these nine quarters, the Thai product was priced below the domestic product, with margins ranging from *** percent in the first and second quarters of 1990 to *** percent in the first quarter of 1989. Nine quarterly price comparisons were also possible between domestic and Thai 6-inch elbows. In all nine quarters the Thai product was priced below the domestic product, with margins ranging from *** percent in the first quarter of 1990 to *** percent in the first quarter of 1989. Thai 4-inch tees were also priced below the domestic product in all nine quarters for which price comparisons were possible. Margins of underselling were somewhat more variable than for the other two products, ranging from *** percent in the first quarter of 1990 to *** percent in the second quarter of 1989.

Exchange Rates[36]

Quarterly data reported by the International Monetary Fund indicate that during January 1988-March 1991 the nominal value of the Thai baht fluctuated by a maximum of 2.5 percent, ending the period at its initial January-March 1988 value (table 20).[37] Adjusted for movements in producer price indexes in the United States and Thailand, the real value of the Thai currency showed an overall appreciation of 1.4 percent for the period January 1988 through the fourth quarter of 1990, the most recent period for which official price data are available.

Lost Sales and Lost Revenues

Among the six domestic producers responding to the Commission's questionnaires, *** reported that it has not lost sales or revenues on sales of butt-weld pipe fittings due to competition from imports from China or Thailand over the period of investigation. Three other producers alleged the loss of sales and/or revenues over the investigation period but could not provide documentation for these allegations such as the accepted and rejected price quotes, or the dates and quantities involved in each transaction.[38]

---

[36] The value of the currency of China is determined by the Government of China rather than the free market. Therefore, an accurate description of movements in the Chinese exchange rate cannot be presented.

[37] International Financial Statistics, June 1991.

[38] Among this group, *** commented that it has lost market share on the East Coast and in the Midwest due to butt-weld pipe fittings imported from China and Thailand, and that plumbing and industrial suppliers are now purchasing the cheapest material available in the market, which usually comes from one of the two subject countries.

Table 20
Exchange rates:[1] Indexes of nominal and real exchange rates of the Thai baht, and indexes of producer prices in the United States and Thailand,[2] by quarters, January 1988-March 1991

Period	U.S. producer price index	Thai producer price index	Nominal exchange rate index	Real exchange rate index[3]
1988:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	101.6	101.4	100.3	100.1
July-September.....	103.1	102.8	98.9	98.7
October-December....	103.5	103.5	100.2	100.1
1989:				
January-March.....	105.8	103.8	99.5	97.6
April-June.....	107.7	106.5	98.1	97.1
July-September.....	107.3	109.0	97.6	99.2
October-December....	107.7	107.1	97.8	97.3
1990:				
January-March.....	109.3	107.6	97.9	96.5
April-June.....	109.1	108.6	97.5	97.0
July-September.....	111.0	109.6	98.9	97.7
October-December....	114.4	115.4	100.6	101.4
1991:				
January-March.....	112.7[4]	([5])	100.0	([5])

[1] Exchange rates expressed in U.S. dollars per Thai baht.
[2] Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.
[3] The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and Thailand.
[4] Derived from U.S. price data reported for January-February only.
[5] Not available.

Note.--January-March 1988 = 100.

Source: International Monetary Fund, International Financial Statistics, June 1991.

***, the only U.S. producer with specific information pertaining to its alleged lost sales, provided four separate invoices from the first four months of 1991 for sales of a variety of sizes of butt-weld pipe fittings to one distributor, ***. *** alleged that due to competition primarily from Thailand, it lost revenues on these sales when it was forced to lower prices by more than *** percent below the prices which had already been discounted from list price. Although *** did not provide documentation of original price quotes, the invoices included were for sales totalling ***; *** on ***; *** on ***; and *** on ***. ***.

APPENDIX A

COMMISSION'S AND COMMERCE'S FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-520 and 521 (Preliminary)]

Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China and Thailand

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution and preliminary antidumping investigations Nos. 731-TA-520 and 521 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that 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 the People's Republic of China and Thailand of carbon steel butt-weld pipe fittings, under 360 millimeters (14 inches) in inside diameter,[1] provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by July 8, 1991.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and B (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202-252-1200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on May 22, 1991, by the U.S. Fittings Group, Washington, DC.

Participation in the investigations and public service list.—Persons (other than petitioners) 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 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public 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.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in these investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 12, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202-252-1200) not later than June 10, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 17, 1991, a written brief containing information and arguments pertinent to the subject matter of these investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

[1] For purposes of these investigations, such fittings may be finished or unfinished.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to these investigations must be served on all other parties to these investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: May 24, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-12898 Filed 5-29-91; 8:45 am]

BILLING CODE 7020-02-M

International Trade Administration

[A-570-814]

Initiation of Antidumping Duty Investigation: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: June 17, 1991.

FOR FURTHER INFORMATION CONTACT: David C. Smith, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3798.

Initiation

The Petition

On May 22, 1991, U.S. Fittings Group, an ad hoc trade association, filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing certain carbon steel butt-weld pipe fittings (butt-weld pipe fittings). In accordance with 19 CFR 353.12, the petitioner alleges that imports of butt-weld pipe fittings from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States as less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry. U.S. Fittings Group supplemented its petition on June 7, 1991.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the U.S. industry producing butt-weld pipe fittings. If any interested party, as described in 19 CFR 353.2(k) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

Petitioner based United States price (USP) on November 1990 price quotations for butt-weld pipe fittings produced in the PRC, which were obtained from a representative of a trading company. The prices petitioner obtained were quoted CIF West Coast of the United States. Petitioner reduced USP for ocean freight, marine insurance, and brokerage based on the difference between customs value and CIF value, as reported in the Department's IM-145 statistics for 1990.

Petitioner, alleging that the PRC is a nonmarket economy (NME) country within the meaning of section 773(c) of the Act, based foreign market value (FMV) on three methodologies. Method (1) bases FMV on the factors of production of one of the petitioning firms and values those factors in Thailand and, where surrogate information was not reasonably available for overhead and packing, in the United States. Method (2) employs the factors of production of one of the petitioning firms and values those factors in India and, where surrogate information was not reasonably available for overhead and packing, in the United States. Petitioner also included the statutory minimums of ten percent for general expenses and eight percent for profit in methods (1) and (2). Method (3) bases FMV on Thai export prices to the United States.

The Department has not accepted methods (1) and (3) contained in the petition as the basis for FMV because in recent cases India has been found to be more comparable to the PRC than Thailand, pursuant to section 773(c)(1)(B). We have accepted methods (2) for purposes of this initiation. Based on this method, petitioner alleges dumping margins ranging from 30.8 to 182.9 percent.

Initiation of Investigation

Under 19 CFR 353.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on butt-weld pipe fittings from the PRC and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of butt-weld pipe fittings from the PRC are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Pursuant to section 771(18) of the Act and based on prior investigations, the PRC is an NME. Parties will have the opportunity to comment on this issue and whether foreign market value should be based on prices or costs in the NME in the course of this investigation. The Department further presumes, based on the extent of central control in an NME, that a single antidumping duty margin is appropriate for all exporters. Only if NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific margins. (See, Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991) for a discussion of the information the Department considers in this regard).

In accordance with section 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the PRC government has selected which factories produce for the United States, for purposes of the investigation we intend to base FMV only on those factories in the PRC which produce butt-weld pipe fittings for export to the United States.

Scope of Investigation

The products covered by this investigation are carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (14 inches), imported in either finished or unfinished form. Unfinished butt-weld pipe fittings that are not machined, not tooled and not otherwise processed after forging are not inlcuded in the scope of this investigation. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Determination by ITC

The ITC will determine by July 8, 1991, whether there is a reasonable indication that imports of butt-weld pipe fittings from the PRC are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make

its preliminary determination on or before October 29, 1991, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 11, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-14356 Filed 6-14-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-549-807]

Initiation of Antidumping Duty Investigation: Certain Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: June 17, 1991.

FOR FURTHER INFORMATION CONTACT: Michelle A. Frederick, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-0656.

Initiation

The Petition

On May 22, 1991, U.S. Fittings Group, an ad hoc trade association filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing certain carbon steel butt-weld pipe fittings (butt-weld pipe fittings). In accordance with 19 CFR 353.12, the petitioner alleges that imports of butt-weld pipe fittings from Thailand 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 Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry. U.S. Fittings Group supplemented its petition on June 7, 1991.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the U.S. industry producing butt-weld pipe fittings. If any interested party, as described in 19 CFR 353.2(k) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

Petitioner based United States Price (USP) on price quotations supplied in an affidavit by one of the U.S. producers. The affidavit states prices at which a Thai producer sold the subject merchandise for export to the United States in September, November, and December 1990. These prices are CIF, duty paid, and include importer's mark-up. Petitioner reduced USP for ocean freight, marine insurance, and brokerage based on the percentage difference between customs value and CIF value, as reported in the Department's IM-145 statistics for 1990. Petitioner has no information on the amount of the importer's mark-up and thus made no downward adjustment to USP. Petitioner also reduced USP for customs duties in accordance with section 772(d)(2)(A) of the Act.

Petitioner states that it had no reasonable means of obtaining home market or third country prices. Therefore, petitioner based foreign market value (FMV) on constructed value (CV), in accordance with section 773(e) of the Act. Petitioner's estimate of FMV is based on one of the petitioning firm's costs of manufacture, adjusted to reflect Thai costs for seamless steel pipe, electricity, labor, and fringe benefits. Petitioner valued overhead and packing on actual U.S. costs, as these were the only costs reasonably available to it. Furthermore, petitioner added the statutory minimums of ten percent for general expenses and eight percent for profit.

Petitioner alleges dumping margins ranging from zero to 52.6 percent.

Initiation of Investigation

Under 19 CFR 353.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on butt-weld pipe fittings from Thailand and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of butt-weld pipe fittings from Thailand are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The products covered by this investigation are carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (14 inches), imported in either finished or unfinished form. Unfinished butt-weld pipe fittings that are not machined, not tooled and not otherwise processed after forging are not included in the scope of this investigation. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Determination by ITC

The ITC will determine by July 8, 1991, whether there is a reasonable indication that imports of butt-weld pipe fittings from Thailand are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before October 29, 1991, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 11, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-14337 Filed 6-14-91; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES

LIST OF WITNESSES

Investigations Nos. 731-TA-520 and 521 (Preliminary)

CERTAIN CARBON STEEL BUTT-WELD PIPE FITTINGS
FROM CHINA AND THAILAND

Those listed below appeared at the United States International Trade Commission conference on June 12, 1991, in connection with the subject investigations.

In support of the imposition of antidumping duties:

McKenna & Cuneo
Washington, D.C.
on behalf of

James A. Bamberger, Manager/Sales, Industrial Products, Ladish Co., Inc., Cudahy, WI

Peter Buck Feller)--OF COUNSEL
Lawrence J. Bogard)
Linda C. Menghetti)

In opposition to the imposition of antidumping duties:

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

James Coulas Sr., President and Owner, Weldbend Corp., Argo, IL

Simeon Kriesberg)--OF COUNSEL

Dorsey & Whitney
Washington, D.C.
on behalf of

George Wang, Deputy General Manager, Shenyang Billiongold Pipe Fittings, Ltd, China

James Taylor)--OF COUNSEL
Chidi Chen)

Mark Beach, Vice President, I.S. Trade, Inc., Kirkland, WA

APPENDIX C

COMMERCE'S FEDERAL REGISTER NOTICE

[C-549-804]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Thailand of carbon steel butt-weld pipe fittings ("pipe fittings") as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 2.53 percent and veloren for all

manufacturers, producers or exporters in Thailand of pipe fittings.

We are directing the U.S. Customs Service to continue suspension of liquidation on all entries of pipe fittings from Thailand 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 on entries of these products in an amount equal to 2.53 percent ad valorem.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kay Halpern or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0192 or 377-3217.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Short-Term Loans Provided under the Export Packing Credits Program.
- Tax Certificates for Exports.
- Business Tax and Import Duty Exemptions for Machinery under Section 28 of the Investment Promotion Act.

The estimated net bounty or grant is 2.53 percent ad valorem.

Case History

Since the last **Federal Register** publication pertaining to this investigation [Preliminary Affirmative Countervailing Duty Determination: Carbon Steel Butt-weld Pipe Fittings from Thailand, 54 FR 46438, November 3, 1989 (Preliminary Determination)], the following events have occurred. From November 6 through 17, 1989, we verified the responses of the Government of Thailand (GOT) and the three respondent companies, Awaji Sangyo Co., Ltd. (AST), Thai Benkan Co., Ltd. (TBC), and TTU Industrial Corp., Ltd. (TTU). We received amended responses correcting minor discrepancies found at verification from TTU on December 5, 1989, and from AST and TBC on December 6, 1989.

A public hearing was held on December 15, 1989. we received case briefs from petitioner and respondents on December 11, 1989; rebuttal briefs were submitted by all parties on December 14, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the "Harmonized Tariff Schedule" (HTS), and all merchandise entered or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number. The Department is providing both the appropriate "Tariff Schedules of the United States Annotated" (TSUSA) item number and the appropriate HTS item number with its product descriptions for convenience and customs purposes. The Department's written description remains dispositive as to the scope of the product coverage.

The products covered by this investigation are carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). These products are classified under HTS subheading 7307.93.30 and were formerly classifiable under TSUSA item 601.8800.

Analysis of Programs

For purposes of this investigation, the period for which we are measuring bounties or grants ("the review period") is calendar year 1988, which corresponds to the fiscal year of all three respondent companies. Based upon our analysis of the petition, the responses to our questionnaires, verification, and written comments filed by petitioner and respondents, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following programs:

A. Short-Term Loans Provided Under the Export Packing Credits Program

Export packing credits (EPCs) are short-term loans used for either pre-shipment or post-shipment financing. Exporters apply to commercial banks for EPCs. The commercial banks, in turn, must submit an application for approval to the Bank of Thailand (BOT). Under the "Regulations governing the Purchase of Promissory Notes Arising from Exports" (B. E. 2528), effective January 2, 1986, the BOT repurchases promissory notes issued by creditworthy exporters through commercial banks. To qualify for the repurchase arrangement, promissory notes must be supported by a letter of credit, sales contract, purchase order, usance bill or warehouse receipt. The notes are available for up to 180 days, and interest is paid on the due date of the loan rather than the date of receipt.

The BOT charges an interest rate of five percent per annum to commercial banks on repurchased packing credits issued in connection with export of goods specified in categories one and two of the "Notification of the Board of Investment No. 40/2521." Commercial banks are permitted to charge exporters no more than seven percent per annum for the purchase of such notes.

On the due date of the loan, the BOT debits the commercial bank's account for the principal amount and the interest charged the commercial bank. If the export shipment is not made by the due date (in the case of pre-shipment loans) or the foreign currency is not received by the due date (in the case of post-shipment loans), the BOT charges the commercial bank a penalty of eight percent over the full term of the loan.

Similarly, on the due date of the loan, the commercial bank debits the exporter's account for the principal amount and the maximun of seven percent interest charged the exporter. If a penalty has been assessed by the BOT, the commercial bank passes it on to the exporter.

The penalty is refunded to the commercial bank by the BOT and by the commerical bank to the exporter if the company can prove shipment of the goods took place within 60 days after the due date (in the case of pre-shipment loans), or the foreign currency was received within 60 days after the due date (in the case of post-shipment loans). Otherwise, the penalty is not refunded. If only a portion of the goods was shipped or only a portion of the foreign currency was received by the due date, the exporter receives only a partial refund, proportional to the value of the goods shipped or the foreign currency received. The purpose of the penalty charge is to ensure that companies take out EPC loans only to finance actual export sales.

On October 1, 1988, the GOT issued new regulations that coexisted with the prior regulations until December 31,

1988. Effective October 1, 1988, all first-time applicants for EPCs had to apply under the new regulations. Effective January 1, 1989, all applicants had to apply under the new regulations. EPCs received under the old regulations but still outstanding as of January 1, 1989, continued under the old regulations until their expiration dates. Under the new regulations, only pre-shipment financing is permitted. The maximum rate commercial banks can charge exporters was raised from seven to ten percent. In addition, commercial banks can now lend up to 100 percent of the shipment value, but can only rediscount up to 50 percent of the loan amount with the BOT, as opposed to the old regulations, under which commercial banks could lend up to 90 percent of the shipment value and the BOT rediscounted 100 percent of the loan amount. The penalty fee was lowered from eight to five percent and is charged only over that portion of the loan (*e.g.*, 50 percent) rediscounted with the BOT.

We verified that TBC and TTU received EPC loans on which interest was paid during the review period. Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

As the benchmark for short-term loans, it is our practice to use the predominant form of short-term financing or a national average commercial interest rate. In the absence of a predominant form of short-term financing in the Thai economy, we are using the weighted-average interest rate charged by commercial banks on domestic loans, bills, and overdrafts during 1988, and, where EPC loans were issued in 1987, the weighted-average interest rate of the same composition for 1987. This is the benchmark that we have applied in all previous Thai cases, most recently in Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order: Ball Bearings and Parts Thereof from Thailand; Final Negative Countervailing Duty Determinations: Antifriction Bearings (Other Than Ball or Tapered Roller Bearings) and Parts Thereof from Thailand, 54 FR 19130, May 3, 1989 (Bearings).

Comparing the weighted-average interest rates for 1987 and 1988, as verified at the BOT, to the seven percent rate charged on EPCs on which interest was paid during the review period, we find that the rate on EPCs is preferential, and, therefore, confers a bounty or grant on exports of pipe fittings.

To calculate the benefit from the EPC loans on which interest was paid during the review period, we followed the short-term loan methodology which has been applied consistently in our past determinations (see, for example, *Bearings*) and which is described in more detail in the *Subsidies Appendix* attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 49 FR 18006, April 26, 1984; see also, *Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT, 1985).

We compared the amount of interest actually paid during the review priod to the amount that would have been paid at the benchmark rate. Because interest is paid on the due date of the loan, together with any penalty payments charged, the benefit from loans on which penalties are charged is not realized unless or until the penalties are refunded. Accordingly, for each loan on which penalties were charged, we treated penalties debited but not refunded during the review period as interest paid and subtracted these penalties, along with the seven percent EPC interest paid, from the amount of interest that would have been paid at the benchmark rate. In those instances where the amount of interest paid exceeded the amount of interest that would have been paid at the benchmark rate, we have excluded those those loans from our calculations. Similarly, we included in our calculations all loans on which penalties were refunded during the review period, even though the interest on some of these loans was paid before the review period.

Because we verified that all EPC loans received by respondents were tied to specific export shipments, we calculated the amount of interest that would have been paid at the benchmark rate on loans covering exports of pipe fittings to the United States and subtracted the amount of interest that was actually paid. We then divided the result by the value of respondents' exports of pipe fittings to the United States during the review period to obtain an estimated net bounty or grant of 0.13 percent ad valorem.

TTU has argued that, in addition to subtracting the interest actually paid from the interest that would have been paid at the benchmark rate, we should also subtract an interest cost to the company associated with penalty payments which were subsequently refunded. TTU argues that because it had to forego use of these funds, the company had to borrow money and, therefore, incurred increased financing costs. TTU has calculated the increase in its financing costs by using the national average benchmark rate described above. We are not subtracting any costs due to subsequently refunded penalty payments because TTU has failed to demonstrate that such costs were actually incurred (see, DOC Position to Comment 6).

B. Tax Certificates for Exports

The GOT issues to exporters tax certificates which are freely transferable and which constitute a rebate of indirect taxes and import duties on inputs used to produce exports. This rebate is provided for in the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act" (Tax and Duty Act). The rebate rates under the Tax and Duty Act are computed on the basis of an Input/Output (I/O) study published in 1980, based on 1975 data, and updated in 1985 using 1980 data.

Using the I/O study, the Thai Ministry of Finance computes the value of total inputs (both imports and local purchases) used in a discrete range of sector-specific products at ex-factory prices. It also calculates the import duties and indirect taxes on each input. The Ministry then calculates two rebate rates. The "A" rate includes both import duties and indirect taxes. The "B" rate includes only indirect domestic taxes. The "B" rate is claimed when firms participate in Thailand's customs duty drawback program or duty exemption program on imported raw materials, or when firms do not use imported materials in their production process. New rebate rates, announced on February 5, 1988, were computed using the study published in 1985. Since 1988, the "A" rate applicable to exports of pipe fittings has been 8.11 percent and the "B" rate has been 4.98 percent. The "A" or "B" rate, as appropriate, is then applied to the FOB value of the export to determine the amount of rebate that will be provided.

Under the Tax and Duty Act, the rebates are paid to companies through tax certificates which can be used to pay other tax liabilities. These tax certificates can also be sold to third parties at a discount for cash.

Because this program is available only to exporters, it is countervailable to the extent that it confers an overrebate of indirect taxes. We verified that all three respondent companies earned the "B" rate on exports made during the review period. Because benefits under this program are (1) based on a fixed percentage of the FOB value of each export shipment, (2) not dependent on a company's ultimate income tax liability, and (3) available to any exporter who submits the proper export documents within one year of shipment, we

determine, in accordance with past practice, that these benefits should be assessed at the time they are earned, *i.e.*, on the date of export. *See*, for example, Final Countervailing Duty Determination and Countervailing Duty Order: Certain Steel Wire Nails from New Zealand, 52 FR 37196, October 5, 1987 (Nails from New Zealand). We therefore determined that all three respondents benefitted from this program during the review period.

To determine whether an indirect tax rebate system confers an overrebate and, therefore, a bounty or grant, we must apply the following analysis. First, we examine whether the system is intended to operate as a rebate of both *indirect taxes* and import duties. Next, we analyze whether the government properly ascertained the level of the rebate. This includes a review of a sample from the I/O study used by the Government to quantify the rebate. We analyze the documentation supporting the study to determine the accuracy of the sample on input coefficients, the import prices and rates of duty on imported inputs, the ratio of imported inputs to domestically produced inputs (when, for a given imported input, there is also domestic *production* of the input), and the exchange rates used to convert import prices denominated in a foreign currency to the local currency. Finally, we review whether the rebate schedules are revised periodically in order to determine whether the rebate amount reasonably reflects the amount of duty and indirect taxes paid.

When the study upon which the indirect tax and import duty rebate system is based is shown to bear a reasonable relation to the actual indirect tax rebate incidence, the Department will consider that the system does not confer a bounty or grant unless the fixed amount set forth in the rebate schedule for the exported product exceeds the amount rebated for duties and indirect taxes on inputs physically incorporated into the exported product. When the system rebates duties and indirect taxes on both physically incorporated and non-physically incorporated inputs, we find a bounty or grant exists to the extent that the fixed rebate exceeds the allowable rebate on physically incorporated inputs.

In the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Apparel from Thailand, 50 FR 9818, 9820, March 12, 1985, we examined Thailand's rebate system under the Tax and Duty Act. We found that the program was intended to rebate indirect taxes and import duties and that the rebate rates had been reasonably calculated. However, to the extent that the program rebates *indirect* taxes and import duties on non-physically incorporated inputs, we found that the *remissions* are excessive. In subsequent investigations involving products from Thailand, the most recent of which was Bearings, we undertook the analysis described above and reiterated that these rebates are countervailable only to the extent that the remissions are excessive. In the present investigation, we verified that rebates under this program continue to reasonably reflect the incidence of indirect taxes and import duties on inputs.

To determine whether, and the extent to which, the tax certificates confer an excessive remission of indirect taxes, we calculated the indirect taxes paid on physically incorporated inputs according to the most recent I/O table. We did not include import duties in our calculation of the tax incidence because the respondents earned the "B" rate on their exports. We divided the tax incidence on all items physically incorporated into all products classified in the secondary steel products sector, which includes carbon steel butt-weld pipe fittings, by the value of all domestically-produced finished goods in this sector. Given that the aggregated data used in the I/O study is broken down *only* by sector, and that each sector covers many individual products, it is impossible to isolate the value of domestically-produced pipe fittings.

Although the methodology described above is a deviation from that used in previous investigations involving products from Thailand (see, for example, Bearings), we believe that it more accurately reflects the amount of allowable rebate. In previous investigations we divided the tax incidence on all items physically incorporated in the subject merchandise only by the value of all domestically-produced finished goods in the sector to which the subject merchandise belongs, an apples-to-oranges comparison. In the present investigation we divided the tax incidence on all items physically incorporated in the sector by the value of all domestically-produced finished goods in the sector, a sector-to-sector, or apples-to-apples, comparison.

Furthermore, unlike previous investigations in which respondents either failed to provide a comprehensive list of all items physically incorporated into the sector, or failed to provide such information prior to verification, respondents in the present investigation have provided the necessary information in a timely manner.

In our preliminary determination we indicated that, by using the tax incidence on all inputs physically incorporated into secondary steel products, we may be including the tax incidence on inputs used in the production of pipe fittings but not physically incorporated into pipe fittings. However, at verification we found that, of the items which are used in the production of pipe fittings but not physically incorporated into pipe fittings, none of these items are physically incorporated into secondary steel products.

The value of all domestically-produced finished goods, as shown in the I/O tables, is an ex-factory value. However, because the rebate is applied to the FOB value of a company's exports, we must adjust the ex-factory value to reflect an FOB value. Due to the way in which the I/O tables are structured, it is impossible to isolate the wholesale margin and transportation costs applicable solely to domestically-produced finished goods. Therefore, as a surrogate, we divided the wholesale *margin* and *transportation* costs for all finished goods in the secondary steel sector, including imports, by the ex-factory value of imported and domestically-produced finished goods in the sector. We then multiplied the ex-factory value of all domestically-produced finished goods in the sector by this ratio. We added the result to the ex-factory value of domestically-produced finished goods in order to obtain the FOB-adjusted value.

In order to obtain the allowable rebate rate, we divided the tax incidence on all items physically incorporated into secondary steel sector products by the FOB-adjusted value of all domestically produced finished goods in the secondary steel sector. We then compared the authorized rebate rate of 4.98 percent, which is based on both physically and non-physically incorporated inputs, to the allowable rebate rate and found that there is an excessive remission of indirect taxes to exporters of pipe fittings. The difference between the two rebate rates equals the net overrebate. On this basis, we calculated an estimated net bounty or grant of 0.51 percent *ad valorem*.

C. Tax and Duty Exemptions Under Section 28 of the Investment Promotion Act

The Investment Promotion Act (IPA) of 1977 provides incentives for investment to promote development of the Thai economy. Administered by the Board of Investment, the IPA authorizes, among other incentives, the exemption

of import duties and domestic taxes with respect to qualifying projects. Section 28 of the IPA provides an exemption from payment of import duties and business taxes on machinery used to produce promoted products. We verified that all three respondent companies received exemptions under section 28 during the review period. We also verified that all three respondents are required to export a certain percentage of their output as a condition for receipt of benefits under this program.

Because benefits to the respondent companies under this program are contingent upon their export performance, and cover capital equipment (*i.e.*, machinery) which is not physically incorporated in the subject merchandise, we determine that the benefits provided to respondents under this program are countervailable.

We divided the total amount of exemptions received by respondents during the review period by the respondents' total export sales value during the review period. On this basis, we calculated an estimated net bounty or grant of 1.89 percent ad valorem.

II. Program Determined not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following program:

IPA Section 36(1)

Section 36(1) of the IPA authorizes exemptions from import duties and business taxes on "raw and necessary materials." All three respondent companies received exemptions under this section of the IPA during the review period. However, we verified that all exemptions were received for items physically incorporated into exported goods and, therefore, do not constitute bounties or grants within the meaning of section 771(5)(A) of the Act.

III. Programs Determined not to be Used

We determine, based on verified information, that manufacturers, producers or exporters in Thailand of pipe fittings did not apply for, claim or receive benefits during the review period for exports of pipe fittings to the United States under the following programs, which were listed in the Notice of Initiation (54 FR 35914, August 30, 1989):

A. Electricity Discounts for Exporters
B. Rediscount of Industrial Bills
C. International Trade Promotion Fund
D. Export Processing Zones
E. Additional Incentives Under the IPA
- Section 31
- Section 33
- Section 34
- Section 36(2)
- Section 36(3)
- Section 36(4)

For a complete description of these programs, see the Preliminary Determination.

Comments

All written comments submitted by the interested parties in this investigation which have not been previously addressed in this notice are addressed below.

Comment 1

AST and TBC argue that we should calculate the benefit under the Tax Certificates for Exports Program according to when the tax certificates are received by the company. In support of their argument, they cite the Court of International Trade's (CIT's) 1987 decision in *Can-Am Corp.* v. *United States*, 664 F. Supp. 1444, which affirmed our finding in Final Affirmative Countervailing Determination and Countervailing Duty Order: Lime from Mexico, 49 FR 35672, September 11, 1984, (Lime from Mexico). In Lime from Mexico we determined not to include in the calculation of the benefit tax certificates known as CEPROFIs that had been received by respondents prior to the review period. The CIT upheld the Department's position because of the Department's "consistent practice" of attributing tax benefits "to the year in which they are realized." Citing Lime from Mexico, AST and TBC state that the Department calculated the benefit from CEPROFIs according to when the CEPROFIs were received.

Petitioner counters that we should calculate the benefit according to when the tax certificates are earned, *i.e.*, on the date of exportation, as we did in our preliminary determination. Petitioner argues that the Department refined its tax certificate analysis after the Can-Am decision and now recognizes that all tax certificate programs are not alike. Petitioner cites our October 1987 final determination in Nails from New Zealand, in which we timed benefits under the Export Performance Taxation Incentive (EPTI) tax credit program according to when the credits were earned. Petitioner cites our reasoning behind this decision, in which we ascertained that, since EPTI credits are based on a fixed percentage of the FOB value of exports and are not dependent on a company's ultimate tax liability, the company knows what the benefit will be when it is earned, *i.e.*, at the time of export. Petitioner notes that this exception to the year-of-receipt rule was codified in our proposed regulations under section 355.48(b)(7): "* * * in the case of an export benefit provided as a percentage of the value of the exported merchandise (such as a cash payment or an overrebate of indirect taxes), the benefit shall be timed according to the date of export." Petitioner concludes that the Thai tax certificate program should be treated like the EPTI program in Nails from New Zealand because it, too, is based on a fixed percentage of the FOB value of exports and is not dependent on a company's ultimate tax liability. The CEPROFI program, by contrast, is not based on export value and is dependent on a company's tax liability. Unlike the Thai certificates, CEPROFIs are not transferable and can only be used to pay federal income taxes. Petitioner notes that we proceeded to apply this new EPTI rule in subsequent investigations. See, for example, Final Affirmative Countervailing Duty Determination: Aluminum Electrical Conductor Redraw Rod from Venezuela, 53 FR 24763, June 30, 1988.

DOC Position

We agree with petitioner. As stated above in section I.B. of this notice, benefits under the Tax Certificates for Exports Program are (1) based on fixed percentage of the FOB value of each export shipment, (2) not dependent on a company's ultimate income tax liability, and (3) available to any exporter who submits the proper export documents within one year of shipment. As with the New Zealand EPTI credits, the benefit amount from the Thai Tax Certificates for Exports Program is known at the time of export, even though the actual cash is received later. Therefore, the fact that two of the respondents did not actually receive the tax certificates until after the review period is not relevant.

Comment 2

With regard to the calculation of the allowable rebate of indirect taxes under the Tax Certificates for Exports Program, respondents argue that, since we cannot isolate wholesale margin and transportation costs applicable solely to domestically-produced finished goods in the secondary steel sector, we should use one of the two alternatives. The first is to inflate the ex-factory denominator by multiplying it by one plus the actual wholesale margin and transportation cost mark-up on exports of domestically produced finished goods in the sector. The second alternative is to inflate the ex-factory denominator by first deriving a figure representing wholesale margin

and transportation costs applicable to domestically-produced output and then adding this figure to the ex-factory denominator. The derived figure is obtained by multiplying the wholesale margin and transportation costs applicable to all output in the sector (both imported and domestically produced) by the ratio of domestically-produced output to total output.

Petitioner argues that we should reject both of these alternatives because they rely on unverified assumptions. Namely, the first alternative assumes that the wholesale margin and transportation cost mark-up on exports of domestic output is the same as the wholesale margin and transportation cost mark-up on all domestic output. The second alternative assumes that the mark-up on total output (both imported and domestically-produced) is the same as the mark-up on domestic output. In lieu of verified information isolating the wholesale margin and transportation costs specific to domestically-produced output, petitioner advocates using the calculation applied in our preliminary determination.

DOC Position

For purposes of our preliminary determination, we attributed a line item of the I/O study's output table for secondary steel products as being solely applicable to domestically-produced finished goods. We used the values in this line item for wholesale margin and transportation costs to adjust the value of total domestically-produced finished goods in the sector from an ex-factory value to an FOB value. However, at verification we found that the wholesale margin and transportation costs in this line item applied to both domestically-produced and imported finished goods. We also found that, due to the way in which the I/O study is structured, the wholesale margin and transportation costs applicable solely to domestically-produced finished goods in the secondary steel sector cannot be isolated. Therefore, to derive a surrogate amount that most closely approximates these two values, we applied the second alternative proposed by respondents, which is described in detail in section I.B. of this notice. We determined that this method more closely approximates the values sought than does a derivation using values solely attributable to exports because exports are likely to pass through fewer hands, and thus incur less mark-up, than items produced and sold domestically or imported for sale in the home market.

Comment 3

Petitioner argues that the law requires us to calculate the allowable rebate for the Tax Certificates for Exports Program based on the tax incidence on items physically incorporated into the subject merchandise only. Petitoner advocates that we return to our practice of dividing the tax incidence on items physically incorporated in the subject merchandise only by the value of all products in the sector to which the subject merchandise belongs.

Respondents counter that the law does not specify at what level of disaggregation the physical incorporation test must be performed, thereby allowing us to use the tax incidence on items physically incorporated in the entire secondary steel sector as a surrogate for the tax incidence on items physically incorporated into the subject merchandise.

DOC Position

The I/O study is structured on a sectoral basis and, therefore, it is impossible to isolate the indirect tax incidence attributable solely to the subject merchandise. Accordingly, we have determined that it is appropriate to use the tax incidence on all items physically incoporated into secondary steel sector products to calculate the amount of the allowable rebate of indirect taxes under this program. See, section I.B. of this notice.

Comment 4

Petitioner contends that if the Department recognizes that limestone and fluorite, which are used in the steel-making process to remove impurities, are not physically incorporated into secondary steel products, it should likewise conclude that aluminum chloride and zinc chloride, which are classified under the Thai I/O section for basic industrial chemicals, are not physically incorporated into secondary steel products. Petitioner argues that the Department should therefore not include the tax incidence on basic industrial chemicals in its calculation of the allowable rebate under the Tax Certificates for Exports Program.

DOC Position

In Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Malleable Cast Iron Pipe Fittings from Thailand, 54 FR 6439, February 10, 1989 (Cast Iron Pipe Fittings), the Department verified that aluminum chloride and zinc chloride are physically incorporated into malleable cast iron pipe fittings during the galvanizing process. We therefore determined that "[b]ecause these chemicals are classified in the 'basic (industrial) chemicals' I/O section . . . the tax incidence on this I/O sector is allowable." Since malleable cast iron pipe fittings, like carbon steel butt-weld pipe fittings, are classified in the I/O study as secondary steel products, we determine that the tax incidence on basic industrial chemicals should be included in the allowable rebate for purposes of this investigation.

Comment 5

With regard to tax and duty exemptions under section 28 of the IPA, respondents argue that the duty deposit rate for TTU and TBC should be set at zero to reflect current non-use of this program and their claim that these companies will not use the program in the future. Specifically, TTU state that it will not use the program for the following reasons: (1) The company could apply for another exemption period under its existing promotion certificate, but it has stated in an affidavit that it will not do so; (2) we verified that it is rare for the BOI to grant more than one section 28 extension, and TTU has already received an extension; (3) TTU could get another extension under a new promotion certificate if it expanded its production capacity, but the company has no plans to expand its production capacity at this time; and (4) a program-wide change requirement makes no sense for "one-time benefits" that terminate before the preliminary determination and are unlikely to be renewed. TBC states that if a zero deposit rate for this program is calculated for TTU, then a zero deposit rate must be calculated for TBC.

Petitioner argues that the duty deposit rate should reflect the subsidy rate found for the review period. Petitioner gives the following reasons: (1) there has been no "program-wide change" altering the nature or existence of section 28; (2) although we verified that an extension is likely to be granted only once, we also verified that there is nothing to prevent a company from applying for a new certificate or an amendment extending the exemption period; (3) the Department does not accept affidavits from a respondent, such as the one from TTU, claiming that it will not apply for another extension; and (4) TTU's claim that it has no plans to expand its production capacity, and thus receive a new certificate with a new section 28 exemption, is speculative and unverifiable.

DOC Position

In accordance with Department practice, we only calculate a separate duty deposit rate if there has been a program-wide change. See, e.g., Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Anti-friction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Singapore, 54 FR 19125, May 3, 1989 (Bearings from Singapore), in which we stated that "[w]e do not consider information from beyond the review period unless there has been a program-wide change." Although there may be a change in respondents' usage of section 28 of the IPA, there has been no program-wide change, *i.e.*, no government-mandated change in the nature of the program itself. Since there has been no program-wide change with regard to this program, we have not calculated a separate duty deposit rate. If TTU and TBC continue not to use the program, this fact would be reflected in an administrative review.

Comment 6

With regard to section 31 of the IPA, petitioner argues that we should calculate a duty deposit rate for this program to reflect the fact that it was calimed by two of the respondents on their tax returns filed after the review period. Petitioner states that we should do so because (1) the benefits were received (*i.e.*, the tax returns were filed) before our preliminary determination, and (2) the amount of the benefit for each company was verified. Petitioner adds that a country-wide duty deposit rate can be calculate for the program by dividing this benefit by the respondents' review period export sales, or by pro-rating the benefit (by 50 percent) and dividing it by the value of respondents' verified export sales for the first six months of 1989.

Petitioner cites our Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Circular Welded Carbon Steel Pipes and Tubes from Thailand, 50 FR 32751, August 14, 1985 (*Pipes and Tubes*), in which we stated that, "where benefits arising subsequent to the review period are being used for the first time and where the receipt of the benefit is verified, we deem it appropriate to adjust the cash deposit rate to reflect the level of benefits accruing to current imports."

Respondents argue that the duty deposit rate should remain at zero to reflect the non-use of this program during the review period. They argue that (1) the Department calculates income tax benefits based on the tax return filed during the review period, and benefits under this program were not claimed on the returns filed during the review period; (2) there has been no program-wide change; and (3) a duty deposit rate cannot be calculated because we do not have sales figures for the twelve months of 1989.

DOC Position

Although we verified that two of the respondents claimed benefits under section 31 of the IPA on their tax returns filed after the review period, there has been no program-wide change, as described above, with regard to this program. In addition, the Pipes and Tubes determination cited by petitioner was superseded by our more recent decision in Bearings from Singapore (See, DOC Position to Comment 5, above). Since there has been no program-wide change with regard to this program, we are not calculating a separate duty deposit rate.

Comment 7

TTU argues that we should subtract from the benefit calculated for EPC loans costs associated with penalty payments that were later refunded. TTU gives the following reasons in support of this argument: (1) The penalty charges represent an allowable deferral of the EPC interest rate under section 771(6)(B) of the Act because they are mandated by the Government of Thailand, and (2) payment of the penalty charges caused TTU to borrow more money and thereby incur increased borrowing costs and a decreased net interest benefit from the EPC loans. TTU states that it did not provide its actual borrowing costs because the Department does not use company-specific interest rates with regard to short-term financing. It asserts that we should use the benchmark rate to calculate a borrowing cost and notes that, should we wish to use a company-specific rate, we have verified the rates charged TTU on its non-EPC financing.

Petitioner argues that any costs associated with penalties that are charged and subsequently refunded should not be taken into account. Petitioner states that EPC penalties charged and refunded are not an allowable offset under section 771(6)(B) of the Act because "the penalty assessment does not defer the subsidy; it merely assures that the terms of the benefit's availability are met." Petitioner claims that any costs associated with penalty charges are due to failure of the company to comply with the terms of the EPC loan and, as such, represent a secondary economic effect of the EPC program. Citing the CIT's 1987 decision in *Fabricas el Carmen, S.A.* v. *United States*, and our Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Canada, 51 FR 15037, April 22, 1986, petitioner notes that we have consistently refused to consider the secondary economic effects "of participating in a subsidy program as offsets to the program's benefits."

DOC Position

In all previous Thai cases we have treated EPC loans on which penalties were charged and never refunded as not countervailable because the penalty charge raised the interest rate over the benchmark. We have treated EPC loans on which penalties were charged and subsequently refunded no differently than EPC loans on which no penalties were charged. The issue of costs associated with EPC penalty charges that were later refunded has only been raised in the two most recent Thai investigations, Bearings and Cast Iron Pipe Fittings. We did not have to make a decision in these investigations because either the costs were shown to be negligible or respondents failed to provide adequate information.

The issue raises two questions: (1) Whether opportunity costs associated with penalties that were subsequently refunded are an allowable offset under section 771(6)(B) of the Act; and (2) whether the penalty payments themselves are an allowable offset under section 771(6)(B) of the Act.

With regard to the first question, TTU argues that we should take into account the opportunity costs associated with subsequently refunded penalties by subtracting these costs from the benefit. Although TTU has suggested calculations based on the benchmark for deriving costs associated with such penalties, and we have verified alternative financing rates charged TTU, the company has not demonstrated that it actually incurred costs associated with subsequently refunded penalties. According to the legislative history of section 771 of the Act, "[i]n determining the amount of offsets which are permitted, it is expected that the administering authority will only offset amounts which are definitively established by reliable, verified evidence." (S. Rep. No. 249, 96 Cong., 1st Sess. 86 (1979).) Because TTU failed to demonstrate that it has borrowed more than it would have borrowed had it not been charged penalties, we have not accepted TTU's argument.

As to the second question, the EPC penalties are an allowable offset under section 771(6)(B) of the Act because they are mandated by the Government of Thailand and they do in fact delay or negate any cash-flow benefit arising

from the preferential EPC interest rate. Moreover, they are verifiable and measurable. Therefore, we have included this offset in our calculations. *See*, section I.A. of this notice.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, inspecting internal documents and ledgers, tracing information in the responses to source documents, accounting ledgers and financial statements, and collecting additional information that we deemed necessary for making our final determination. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (B-099) of the Main Commerce Building.

Suspension of Liquidation

In accordance with section 706 of the Act, we are directing the U.S. Customs Service to continue suspension of liquidation on all entries of pipe fittings from Thailand which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register and to require a cash deposit for each such entry equal to 2.53 percent ad valorem. This suspension will remain in effect until further notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Dated: January 10, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-1152 Filed 1-17-90; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX D

IMPACT OF IMPORTS ON U.S. PRODUCERS' GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT AND PRODUCTION EFFORTS

Response of U.S. producers to the following questions:

1. Since January 1, 1988 has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts as a result of imports of butt-weld pipe fittings from China or Thailand?

* * * * * * *

2. Does your firm anticipate any negative impact of imports of butt-weld pipe fittings from the subject countries?

* * * * * * *

3. Has the scale of capital investments undertaken been influenced by the presence of imports of the subject merchandise from the subject countries?

* * * * * * *